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HOUSE OF REPRESENTATIVES—*Thursday, September 29, 1977*

The House met at 10 o'clock a.m.

Rev. William R. Harvey, Woods Memorial Presbyterian Church, Severna Park, Md., offered the following prayer:

O Gracious and Loving God, in these quiet moments of faith and love, we look beyond ourselves to You from whom comes our help and our strength. Thanks to You O God for the heritage and the hope You have given us in this great republic.

As another day of work begins, we take these moments to remember we cannot go this way alone. In the formality of this moment, permit us to know the intimacy of Your spirit. Hear our prayer:

We pray for truth! Give us minds to discern it.

We pray for justice! Give us wills to do it.

We pray for peace! Give us determination to build it.

We pray for courage! Give us the arena in which to live it.

We pray for healing! Give us patience to permit it.

O Lord, help us to be whole so that what we do may be more than what we say.

And to You, O God, be all honor and glory. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

TRIBUTE TO REV. MR. WILLIAM R. HARVEY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, I am pleased to introduce the Reverend Mr. William R. Harvey, who delivered the stirring opening prayer. Mr. Harvey is the pastor of Woods Memorial Presbyterian Church in Severna Park, Md., where he has served his community for the last 12 years.

Woods Church has a well-deserved reputation as an active and community-oriented church. Involvement is a key word where Woods Memorial is concerned—no community issue is too small or too large for the church to get involved in. Besides a busy regular church program, Woods Memorial also operates an adult day center, a child development center, and a daily food service operation.

Leading the way and assisting in the coordination of these activities is Reverend Harvey. He also has served as president of Youth Sanctuary, Inc., a program offering group homes for youth, and he is currently the president of the board of directors of St. Andrews House, Inc., a corporation providing housing for the elderly in Baltimore City.

Mr. Harvey graduated from Muskingum College in New Concord, Ohio, and he completed his studies with two masters degrees from Pittsburg Seminary. Here with him today are his mother, Mary Snyder; his wife, the former Lynn Eyrich, and his four children.

VYRON W. MITCHELL, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with both pride and sadness that I speak today in the House of Representatives regarding a longtime friend and supporter of mine, Vyron W. Mitchell, Sr.

Mr. Mitchell, publisher of the Fulton Daily Leader, serving both Fulton, Ky., and South Fulton, Tenn., died last Monday at age 55 and his funeral is today. His unexpected and untimely death saddens thousands of his friends who admired Vyron Mitchell.

Mr. Mitchell served as president of the Fulton Lions Club, as a dedicated leader of the administrative board and chancel choir of Fulton's First United Methodist Church and as an active member of the American Legion.

The Fulton Daily Leader, a respected newspaper edited by Mrs. Vyron M. Mitchell, Sr., was the first newspaper to endorse my candidacy for State senator in 1967 and again the first to support me editorially in my initial campaign for Congress in 1974.

I extend my sympathy to Mr. Mitchell's widow, Eunice, and their 6 children—Vyron Mitchell, Jr., Mary Elizabeth Mitchell Tomlin, Becky Mitchell Brush, William Mitchell, Cindy Mitchell Boyd, and John Mitchell—and also to their 11 grandchildren.

The family and friends of Vyron W. Mitchell, Sr. can be justly proud of this great American whose love for his God and country was evidenced by his life's activities.

TRAGIC DEATH OF SON OF REPRESENTATIVE MARLENEE

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I think it is appropriate to state to my colleagues in the House that we share a terrible tragedy this morning in having learned that the son of our colleague from Montana (Mr. MARLENEE), a 19-year-old son, died last night in a terrible accident and that will undoubtedly bring about the sorrow that such an incident brings to the family of one of our hard-working colleagues.

I know all of us here sympathize with this tragedy.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO CONTINUE DELIBERATIONS UNDER THE 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to continue its deliberations while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING AND SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING THE 5-MINUTE RULE TODAY

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Subcommittees on Mines and Mining and on Indian Affairs and Public Lands of the Committee on Interior and Insular Affairs may be permitted to sit during the 5-minute rule today for the consideration of the Coal Pipeline Act of 1977, H.R. 1609.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RONCALIO. Mr. Speaker, reserving the right to object, has the Journal of yesterday been approved?

The SPEAKER pro tempore. It has been. The gentleman from Wyoming could make a motion for a call of the House.

CALL OF THE HOUSE

Mr. RONCALIO. Mr. Speaker, I would like to make a motion for a call of the House. I had hoped to make a call on the approval of the Journal.

Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 606]

Abdnor	Foley	Moss
Akaka	Frenzel	Nolan
Ambro	Gephardt	Oakar
Ammerman	Giaimo	Patterson
Anderson, Ill.	Glickman	Pepper
Archer	Guyer	Poage
Ashley	Harkin	Pressler
Baldus	Harris	Price
Beard, R.I.	Harsha	Quayle
Bellenson	Heckler	Richmond
Bingham	Jenkins	Rose
Bowen	Johnson, Calif.	Santini
Brown, Calif.	Jones, N.C.	Sarasin
Burton, John	Jones, Tenn.	Satterfield
Cederberg	Kastenmeier	Scheuer
Chappell	Kemp	Sebelius
Chisholm	Koch	Skelton
Clausen, Don H.	Lehman	Smith, Nebr.
	Lent	Steed
Clawson, Del	Long, La.	Taylor
Coleman	McClory	Teague
Conyers	McCloskey	Thone
Cornwell	McDonald	Tucker
Cotter	McEwen	Volkmer
Crane	McKinney	Whalen
Cunningham	Marks	Whitten
de la Garza	Marlenee	Wiggins
Dent	Marriott	Wilson, Bob
Derrick	Mathis	Wilson, Tex.
Diggs	Meeds	Wolff
Dornan	Mikva	Young, Alaska

The SPEAKER pro tempore. (Mr. WRIGHT). On this roll call 342 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING AND SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING THE 5-MINUTE RULE TODAY

The SPEAKER pro tempore. At the time of the call of the House, the pending business was a unanimous consent request that was offered by the gentleman from Arizona (Mr. UDALL).

Will the gentleman restate his request?

Mr. UDALL. Mr. Speaker, I had requested permission for the Subcommittee on Mines and Mining and the Subcommittee on Indian Affairs and Public Lands of the full Committee on Interior and Insular Affairs to meet today, notwithstanding proceedings under the 5-minute rule, on the bill, H.R. 1609, the Coal Pipeline Act of 1977.

Mr. RONCALIO. Mr. Speaker, I had reserved the right to object.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) had reserved the right to object.

Mr. RONCALIO. Mr. Speaker, I would like to yield to the gentleman from Arizona (Mr. UDALL).

PARLIAMENTARY INQUIRY

Mr. SKUBITZ. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SKUBITZ. Mr. Speaker, does it not take 10 Members to support a reservation?

The SPEAKER pro tempore. It does not. The Chair would respond to the gentleman from Kansas that it does not take anyone to support a reservation of objection.

The gentleman from Wyoming (Mr. RONCALIO) on his own is reserving the right to object.

It would take the objection of 10 Members to deny the request made by the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would say to my friend, the gentleman from Kansas (Mr. SKUBITZ), if he will give me just a moment, that I think we have worked out a compromise here, during the quorum call, with the gentleman from Wyoming.

Mr. SKUBITZ. Reserving the right to object, Mr. Speaker, I do not know anything about a compromise. If the gentleman is going to withdraw his request, then I will object.

Mr. UDALL. Mr. Speaker, I can explain the situation if the gentleman will permit me to do so.

Mr. SKUBITZ. Mr. Speaker, I withhold my reservation of objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) has the time under a reservation of objection. Therefore, the gentleman from Wyoming is recognized.

Mr. RONCALIO. I thank the Speaker.

I would like to ask the Members of the House to please permit me to yield to the gentleman from Arizona (Mr. UDALL), the chairman of the Committee on Interior and Insular Affairs, so that all of us in this august body can be apprised of what is taking place.

After the gentleman's explanation, the time will be mine; and we may want to proceed with the understanding that any Members may take exception or make objection to the gentleman's request.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I propose, in a moment, to withdraw my request for permission to sit; but I would like to say that I am doing so because of an arrangement that I have made with one of the principal persons involved, the gentleman from Wyoming (Mr. RONCALIO).

This bill involves his State and involves him very directly. He is one of the most conscientious Members of this House; and we have agreed that on Wednesday next, when the full Committee on Interior and Insular Affairs meets, we will support a motion to withdraw this bill from the joint subcommittees and put it in the full committee. We will further agree that there may be a markup if we should have a markup session in November in the full committee, but that we will not complete the markup. We have agreed that in January there will be hearings at which witnesses will appear, perhaps including the Governor of Wyoming and others who may wish to be heard.

There will be no reporting of the bill until after January 20, 1978.

With that understanding, Mr. Speaker, I am prepared to withdraw the request to mark up the bill in both subcommittees today. I think we have worked out a very good arrangement.

Mr. RONCALIO. Mr. Speaker, I understand that and will abide by the agreement, providing the markup in January will be open to any amendment at any point in the bill.

Mr. UDALL. That is correct. That is my intention.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Texas (Mr. KAZEN), my cochairman on the two committees.

Mr. KAZEN. Mr. Speaker, I thank the gentleman for yielding.

It it my understanding, Mr. Speaker, that the 1-day hearing in January will be just that, a 1-day hearing, and that we will not open up the hearing continuously since we have already had hearings in the past?

Mr. UDALL. If the gentleman will yield further, Mr. Speaker, that is my understanding and that is the agreement.

Mr. KAZEN. Is that the understanding of the gentleman from Wyoming?

Mr. RONCALIO. The understanding of the gentleman from Wyoming is that we will have 1 day of hearings in January. We will be holding a markup session in January.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Speaker, referring to the gentleman's statement, he indicated that there would be a markup session in January, on the 20th of that month.

Does that mean that we anticipate having the Office of Science and Technology Assessment study in by that date, or are we going to move ahead on January 20 regardless of whether we have the report or not?

Mr. RONCALIO. It is my understanding that the report will be printed and distributed far before that date; but this is not conditioned upon completion of the report. If it is not ready by that time, we will go ahead nevertheless.

Mr. RUPPE. It seems odd to wait until the report is just about due and then say that we will mark up the bill regardless of whether it is prepared. It would appear that the proponents of the bill are a little bit nervous about the findings of the report.

Mr. RONCALIO. We have given them sufficient time for the report. It has been promised for us in November. It is bound

to be there in December. We cannot hold this up.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my request.

The SPEAKER pro tempore. The Chair will state that the gentleman from Arizona does not need unanimous consent for that.

Mr. UDALL. I thank the Speaker.

Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) withdraws his request.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE TODAY

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit during the 5-minute rule today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TORRIJOS FRIENDLY DICTATORSHIP

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, it is not often that people in public office speak with the candor displayed by Omar Torrijos, Panamanian dictator, during a news conference reported by columnist Robert S. Allen.

On Monday, September 26, the News of Lynchburg, Va., printed an excerpt from this news conference, without editorial comment.

None was in fact needed. General Torrijos leaves no doubt on where he stands with regard to political freedom. What happened on the road to and goal of human rights for all people.

The excerpt follows:

TORRIJOS: "FRIENDLY DICTATORSHIP"

(By Robert S. Allen)

Sure, my government is a dictatorship, but it's a friendly one. We try to be nice about it. Political parties were dissolved, but what of it? They were just the tired leftovers of old oligarchist regimes . . .

We maintain tight censorship for the very good reason that there is a big difference between cosmetic freedom and fundamental freedom. In Panama, people aren't muzzled. You can hear plenty of complaints and grumbling. We don't object to that.

But we do not permit any dissent about how we go about getting things done and getting the Canal. That embarrasses me and I don't tolerate it.

Because of distortions in the international media, people have gotten the idea I'm a sort of Latin Idi Amin. Well, I am tough, but not that way.

We want the Canal because it belongs to us and we never gave up our rights. If the U.S. doesn't turn it over, I can assure them the Canal and the Zone will be without water, without lights, and without a canal and without gringoes in very short order.

ERDA AUTHORIZATIONS FOR NATIONAL SECURITY PROGRAMS, FISCAL YEAR 1978

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON).

The question was taken; and on a division (demanded by Mr. SYMMS), there were ayes 163, noes 28.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 7, not voting 66, as follows:

[Roll No. 607]

YEAS—361

Addabbo	Burleson, Tex.	Ellberg
Alexander	Burlison, Mo.	Emery
Allen	Burton, Phillip	English
Ambro	Butler	Erlenborn
Ammerman	Byron	Ertel
Anderson, Calif.	Caputo	Evans, Colo.
Anderson, Ill.	Carney	Evans, Del.
Andrews, N.C.	Carr	Evans, Ga.
Andrews, N. Dak.	Carter	Evans, Ind.
Annunzio	Cavanaugh	Fary
Applegate	Cederberg	Fascell
Archer	Chappell	Fenwick
Armstrong	Clausen, Don H.	Findley
Aspin	Clay	Fish
AuCoin	Cleveland	Fisher
Badham	Cochran	Fithian
Badillo	Cohen	Flippo
Bafalis	Collins, Ill.	Flood
Barnard	Collins, Tex.	Florio
Baucus	Conable	Flowers
Bauman	Conte	Flynt
Beard, R.I.	Corcoran	Ford, Mich.
Beard, Tenn.	Corman	Ford, Tenn.
Bedell	Cornell	Forsythe
Beilenson	Cornwell	Fountain
Benjamin	Coughlin	Fowler
Bennett	Crane	Fraser
Biaggi	D'Amours	Frenzel
Bingham	Daniel, Dan	Frey
Blanchard	Daniel, R. W.	Fuqua
Blouin	Danielson	Gammage
Bolling	Davis	Gaydos
Bonior	Delaney	Gephardt
Bonker	Dellums	Giaimo
Brademas	Derrick	Gibbons
Breaux	Derwinski	Gilman
Breckinridge	Devine	Ginn
Brinkley	Dickinson	Goldwater
Brodhead	Dicks	Gonzalez
Brooks	Diggs	Goodling
Broomfield	Dingell	Gore
Brown, Mich.	Dodd	Gradison
Brown, Ohio	Dornan	Grassley
Broyhill	Drinan	Gudger
Buchanan	Duncan, Oreg.	Hagedorn
Burgener	Duncan, Tenn.	Hall
Burke, Calif.	Eckhardt	Hamilton
Burke, Fla.	Edwards, Ala.	Hammer-schmidt
Burke, Mass.	Edwards, Calif.	Hanley
	Edwards, Okla.	Hannaford
Hansen	Metcalfe	Sawyer
Harrington	Meyner	Scheuer
Harris	Michel	Schroeder
Harsha	Mikulski	Schulze
Hawkins	Milford	Seiberling
Heckler	Miller, Ohio	Sharp
Hefner	Mineta	Shipley
Hightower	Minish	Shuster
Hillis	Mitchell, N.Y.	Sikes
Holland	Moffett	Simon
Hollenbeck	Mollohan	Sisk
Holt	Montgomery	Skubitz
Holtzman	Moore	Slack
Horton	Moorhead, Calif.	Smith, Iowa
Howard	Moorhead, Pa.	Snyder
Hubbard	Mottl	Solarz
Huckaby	Murphy, Ill.	Spellman
Hughes	Murphy, N.Y.	Spence
Hyde	Murphy, Pa.	St Germain
Ichord	Murtha	Staggers
Ireland	Myers, Gary	Stangeland
Jacobs	Myers, John	Stanton
Jeffords	Myers, Michael	Stark
Jenkins	Natcher	Steed
Jenrette	Neal	Steers
Johnson, Colo.	Nedzi	Steiger
Jones, Okla.	Nichols	Stockman
Jordan	Nix	Stratton
Kasten	Nowak	Studds
Kastenmeier	O'Brien	Stump
Kazen	Oakar	Symms
Kelly	Oberstar	Thompson
Ketchum	Obey	Thornton
Keys	Ottinger	Traxler
Kildee	Panetta	Treen
Kindness	Patten	Trible
Krebs	Pattison	Tsongas
LaFalce	Pease	Tucker
Lagomarsino	Perkins	Udall
Latta	Pettis	Ullman
Le Fante	Pickle	Van Deerlin
Leach	Pike	Vander Jagt
Lederer	Preyer	Vanik
Leggett	Price	Vento
Levitas	Pritchard	Waggonner
Livingston	Pursell	Walgren
Lloyd, Tenn.	Quie	Walker
Long, La.	Quillen	Walsh
Long, Md.	Rahall	Wampler
Lott	Railsback	Watkins
Lujan	Rangel	Waxman
Luken	Regula	Weaver
Lundine	Reuss	Weiss
McCormack	Rhodes	White
McDade	Rinaldo	Whitehurst
McDonald	Risenhoover	Whitley
McEwen	Roberts	Wiggins
McFall	Robinson	Wilson, C. H.
McHugh	Roe	Winn
McKay	Rogers	Wirth
McKinney	Rooney	Wright
Madigan	Rosenthal	Wydler
Maguire	Rousselot	Wylie
Mahon	Roybal	Yates
Mann	Rudd	Yatron
Markey	Runnels	Young, Alaska
Marriott	Ruppe	Young, Fla.
Martin	Russo	Young, Mo.
Mattox	Ryan	Young, Tex.
Mazzoli	Santini	Zablocki
Meeds		Zeferetti

NAYS—7

Ashbrook	Kostmayer	Mitchell, Md.
Burton, John	Lloyd, Calif.	
Edgar	Miller, Calif.	

NOT VOTING—66

Abdnor	Harkin	Pressler
Akaka	Heftel	Quayle
Ashley	Johnson, Calif.	Richmond
Baldus	Jones, N.C.	Rodino
Bevill	Jones, Tenn.	Roncalio
Boggs	Kemp	Rose
Boland	Koch	Rostenkowski
Bowen	Krueger	Sarasin
Brown, Calif.	Lehman	Satterfield
Chisholm	Lent	Sebelius
Clawson, Del	McClory	Skelton
Coleman	McCloskey	Smith, Nebr.
Conyers	Marks	Stokes
Cotter	Marlenee	Taylor
Cunningham	Mathis	Teague
de la Garza	Mikva	Thone
Dent	Moakley	Volkmer
Downey	Moss	Whalen
Early	Nolan	Whitten
Foley	Patterson	Wilson, Bob
Glickman	Pepper	Wilson, Tex.
Guyer	Poage	Wolff

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6566, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House on Wednesday, September 28, 1977, title I had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from New York (Mr. WEISS).

(By unanimous consent Mr. BAUCUS was allowed to speak out of order.)

THE UNTIMELY DEATH OF THE SON OF REPRESENTATIVE MARLENEE OF MONTANA

Mr. BAUCUS. Mr. Chairman, it is with deep regret that I join with the gentleman from Wyoming (Mr. RONCALIO) in informing the House of the death of the 19-year-old son of our colleague from Montana, RON MARLENEE.

RON's son Mike has been handicapped for several days. He was involved 2 years ago in a swimming accident. Two nights ago, he fell out of his wheelchair and, due to complications, he died just last night.

It is with deep regret and sorrow that I inform the House, and I know that all of us in the House wish to extend our deepest sympathies to RON and to his family for this tragic loss.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman and members of the committee, I thought we had an excellent debate yesterday, and I hope we can maintain that quality. The gentleman from New York (Mr. WEISS) made a very important point, which is that we already possess very effective nonnuclear weapons such as the TOW missile, which for the same amount of money would be just as effective in knocking out tanks without any of the bad side effects of nuclear weapons. Now, on that point he may be right and he may be wrong. However, I would suggest that we try to discuss this in the overall context, which is not the just military aspects. There is an old axiom that says that war is too important to be left to the generals. It recognizes that there are political aspects of warfare.

I suggest that some of our most thoughtful and conscientious colleagues on the Armed Services Committee may have become so immersed in the military and tactical aspects that they have overlooked important political and diplomatic aspects.

For a fleeting tactical advantage—and it would be fleeting because the history of warfare is that every weapon produces a countervailing defense—the administration, if it goes ahead with neutron bombs, and if this Congress supports them, will be supporting another technological escalation in the strategic arms race. The implications of that, with respect to the Nuclear Nonproliferation Treaty, the proposed Comprehensive Test Ban Treaty, SALT itself, as well as our general political posture versus the rest of the world, will be devastating.

Mr. Chairman, we have recently experienced difficulty in our SALT negotiations with the Russian Government because they had some doubts as to our Government's sincerity with respect to SALT. Let me analyze a little bit the effects on the Comprehensive Test Ban Treaty. A high neutron emitting warhead is one of the easiest types of atomic weapons to construct. Every atomic warhead produces neutrons. Basically, all you have to do to produce a neutron warhead is to eliminate some of the shielding that ordinarily goes into a warhead.

Let us take a look at the effects on the Nuclear Nonproliferation Treaty. And I am now going to read from the arms control impact statement. It says:

Some governments might couple a decision to deploy ER—

That is enhanced radiation weapons—

with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation.

If we are going to develop cheap and easily used tactical nuclear weapons, other countries are going to say they would like to have them too. For one thing they are going to realize that if we can use them tactically in Western Europe, we might well use them in other situations in other parts of the world.

Such a decision could also have an adverse effect on our efforts to negotiate a Comprehensive Test Ban Treaty. While it is possible that the Soviets have been pursuing enhanced radiation techniques, it is almost certain that they will do so if the United States goes forward with the production and the testing of these weapons.

The history of our experience in the arms race today shows that every time we come up with a new weapon, the Russians insist on doing that, too. And any idea that it will make Russia more amenable to reasonable SALT agreements runs in the face of all of our experience. Our experience is that when we act tough, they act tough.

So it does seem to me that if the President—and I believe him—is sincere in saying he wants to move ahead with a Comprehensive Test Ban Treaty, this goes in the opposite direction.

Another point that was made was that the people did not have all of the facts since there are military facts that we cannot make public. And I suggest to the Members that that in itself is an important fact. From the standpoint of our relations with the rest of the world, what is important is not whether they have all the facts but what are they going to perceive? They are going to perceive that the United States is embarking on a policy which, first, escalates the nuclear weapons race and, second, involves a purely antipersonnel weapon.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, the population density in Germany is 650 people per square mile, one of the highest in the world. We are now asked to tell the people of Germany that we are going to develop a weapon for deployment in their country that is more effective in killing people, including civilians, who cannot escape the effects of the neutron even as well as people in tanks.

Mr. Speaker, yesterday I inadvertently referred to the report made by the Congressional Research Service on the arms control impact statement on this weapon, which the committee on International Relations obtained and which its chairman placed in the RECORD, as a report of the committee. This is on page 31367, and I hereby correct the RECORD.

Now let me read again from the report by the Congressional Research Service to the Committee on International Relations. It states:

The Arms Control Impact Statement stresses that, in the long run, interpretations of U.S. intent in deploying ER weaponry will be more significant than "judgments based on hard analytical criteria or weapons characteristics." Thus regardless of U.S. efforts to emphasize ER weaponry's positive contribution to deterrence, the Arms Control Impact Statement suspects that a large body of public opinion within the United States, Allied nations, and the third world (as well as the Soviet government) will perceive an intent to change U.S. doctrine "so as to make the use of nuclear weapons more likely in a tactical situation."

The arms control impact statement (ACIS) enumerates several adverse effects of such perceptions, including gains for Soviet propaganda, a lessened NATO receptivity to the weapons, and increased difficulty in preventing further nuclear proliferation.

This is why the point made by the gentleman from California in yesterday's debate about the humanitarian aspects of this becomes so important. People relate to people and effects on people, and this is a weapon aimed at killing people in very large quantities.

Finally, I made the point, when the gentleman from Alabama (Mr. DICKINSON) was speaking, about how we ought to be debating the question of how we can insure that NATO is going to deter by conventional weapons. The problem is how to give NATO sufficient nonnuclear deterrent capability, and this weapon does not add one iota to that capability.

So on all those counts, it seems to me—the humanitarian, the political, and our goals in preventing nuclear proliferation—this proposal is counter to everything we are trying to do.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I thank the gentleman for yielding.

I feel very strongly that most of this debate has been based upon a misunderstanding of just what the neutron warhead is. When the gentleman from Ohio (Mr. SEIBERLING) used the term, "neutron warhead," I thought he had an understanding of the weapons system.

The gentleman from New York (Mr. WEISS) definitely does not have an understanding of the system, because his letter states, "production deployment of the neutron bomb."

We are not building a neutron bomb.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield further to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I wanted to correct the gentleman from Ohio (Mr. SEIBERLING) when he stated that we are developing a weapons system that will more effectively kill people. That is not the case, I would state to the gentleman from Ohio.

Any nuclear weapon has three killing effects. We can visualize, first of all, a small circle, which is the initial radiation area. That has a damaging effect. Outside that area, there is another circle which extends a greater distance, a greater radius, and that is the blast area. Then outside that circle, there is even a greater area, and that is the heat area.

All three areas will produce damaging effects. All we are doing with a neutron warhead is to enhance the first inner circle and decrease the blast and the heat circles. What we are doing is reducing collateral damage.

I cannot understand how the gentleman from Ohio, who I know deplored all the collateral damage in the bombing in Vietnam, could be against the development of a weapons system which can only be used as a defensive system.

Mr. SEIBERLING. I understand the technical points the gentleman has made, and I agree with them.

Mr. ICHORD. Then why did the gentleman say this will more effectively kill people? It will not effectively kill more people.

Mr. SEIBERLING. I did not say it will kill more people. I said its primary purpose is to kill people rather than destroy facilities, and that is obviously the intent of it; is that not correct?

Mr. ICHORD. Unfortunately, I must agree with the gentleman, because the purpose of war is obviously to kill people. I hate war and the killing of people just as much as the gentleman from Ohio does.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, would the gentleman agree with me, that the word "bomb" has been used interchangeably in this situation with the words "weapons" or "weapons system," as it relates to the neutron bomb or neutron weapon?

Mr. SEIBERLING. Yes. Actually this warhead will be equally adapted to use in bombs or cruise missiles, as well as other weapons.

Mr. WEISS. Yes. That may include bazookas and artillery shells or whatever else we may be talking about.

Second, the gentleman from Missouri (Mr. ICHORD) may not have read some of the material on this subject himself, because the fact is that the effects of irradiation are much broader in the use of this weapons system, the neutron weapons system, than they are with the use of the so-called dirty bomb.

There is, in fact, a clear description as to the difference in the nature of the attack and the effect that it has on individuals who are subjected to this irradiation. Indeed, it has been compared by many, in very many ways, to chemical and biological warfare because what it does, in fact, is to affect the cellular system.

Finally, it should be remembered—and this is from the National Security Council's own impact statement—that even if one assumes there is less blast and less collateral damage by the neutron weapon, it is not intended to be fired as a single warhead but in "packages" of 30 or 50 at a time.

The National Security Council says that the Russians do not have these weapons and therefore they are going to retaliate with the conventional blast tactical nuclear weapons. They say that anyone who thinks otherwise about collateral damage should forget it because those conventional tactical nuclear weapons are going to bring about the same devastation as would be brought about if we had started using the dirty nuclear weapon.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I just rise to simply say that I think the argument is valid on both sides.

I think we should not say that because my friend, the gentleman from Ohio (Mr. SEIBERLING), is not a member of the Committee on Armed Services, that he does not know what he is talking about; he does know what he is talking about. There are few Members in this Chamber whom I respect more than I do the gentleman from Ohio.

We may not agree on this particular subject, but I respect his position in the matter, and his expertise.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I believe the gentleman conceded too much when he said that he agreed with the statement made by the gentleman from Missouri (Mr. ICHORD), because there is nothing, is there, in this bill or in the nature of this weapon or missile or warhead that would limit it to defensive use; isn't that correct?

Mr. SEIBERLING. That is correct, but I agreed with his technical description of the effects of the weapon. He is right on that, but that is beside the point.

Ms. HOLTZMAN. Mr. Chairman, I would say to the gentleman from Ohio that the gentleman from Missouri said in effect that this is a clean weapon. However, the actual radiation certainly depends on the size of the bomb; is that not correct? The square mileage that would be affected immediately by radiation depends on the size of the weapon; is that correct?

Mr. SEIBERLING. That is correct.

Ms. HOLTZMAN. The gentleman also knows that the detonation of a neutron weapon creates a radioactive cloud of carbon 14; is that correct?

Mr. SEIBERLING. That is correct.

Ms. HOLTZMAN. And that the size of that radioactive cloud is dependent on the number of neutron weapons exploded; is that correct?

Mr. SEIBERLING. Obviously.

Ms. HOLTZMAN. The gentleman is also well aware that this radioactive carbon 14 cloud, which is lethal, has a half life of 5,700 years; is that not correct?

Mr. SEIBERLING. That is correct.

Mr. HOLTZMAN. The gentleman would also agree, would he not, that it is certainly possible for this radioactive carbon 14 cloud, depending on the direction of the winds, to be blown right back on our troops who are firing this weapon is that correct?

Mr. SEIBERLING. Of course.

Ms. HOLTZMAN. And it could be blown back on cities within Germany, France, and other parts of Western Europe; is that correct?

Mr. SEIBERLING. That is true of any nuclear weapon, that it has fallout effect.

Ms. HOLTZMAN. I am not discussing fallout effect. That is created by radioactive Earth particles thrown into the air by the bomb's explosion on the ground. That is another probable effect of the neutron bomb. I was just discussing the lethal effect on our own troops and on Western Europe of a radioactive carbon 14 cloud.

Mr. SEIBERLING. That is fallout also.

Ms. HOLTZMAN. This is not a clean weapon. Nor are its "collateral effects" limited.

Mr. SEIBERLING. It is not a clean weapon. It is just not as "dirty" as some.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentlewoman from New York (Ms. HOLTZMAN) is putting words in my mouth. I did not state that it was a clean weapon, and I think the record will so indicate.

Mr. SEIBERLING. Mr. Chairman, I agree that that was not really the gentleman's point, but my point is this——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. To continue, Mr. Chairman, let us concede, just for purposes of argument, that this weapon will not lower the nuclear threshold. Let us concede that tactically it may give us an advantage, however fleeting that may be or however long it may be. Nevertheless, the proponents of this weapon are totally disregarding the effect of it on our political posture in the world, on our image as a nation, on the proposed comprehensive ban on further nuclear testing, on our efforts to get a treaty through the SALT talks, and on the effect on other people as far as the nuclear nonproliferation treaty is concerned.

Those are effects which go far beyond all the arguments about the tactical and nuclear strategy aspects of this weapon, and those are the things we ought to be talking about.

Mr. Chairman, I yield back the balance of my time.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there have been very few issues in this House that have given me more trouble than this one. And my friends—and I use that word cautiously, and I hope they are after my arguments are over—are opposing this weapons system strongly and vigorously. I cannot help but feel that the gentleman from New York (Mr. WEISS) is correct in one plane of thought. I think the argument that somehow the mindless effort of our defense establishment to create weapons of destruction, has taken us just one step further, that it has managed to produce a weapon that reduces collateral damage that really, in many ways, can and would be used in a war and is more than likely that that weapon would be used. On that plane of thought his logic is clear and equitable, and the critics of the weapon are correct.

I serve on the Committee on Armed Services and have served 3 years there, with my colleague, the gentleman from Michigan, BOB CARR. I think we run the risk in serving on that committee of looking at the technical arguments, and forgetting some of the points that my friend the gentleman from Ohio (Mr. SEIBERLING) has used, and that is that when you learn, as technicians, what weapons will work and what weapons will not work, that you tend to obfuscate the broader questions that are involved, such as the way the world will view this country when we take this arms race one step further.

But, let me, for a moment—and I suspect that I will be subject to some criticism as I proceed, and I welcome it—let me offer my technician's argument as to why this weapons system should be introduced into our arsenal.

We have had a history in Europe of attempting to achieve some balance of power with the Soviet Union. I do not subscribe to the view that is commonly held by my friends on the Republican side that the Russians are poised and waiting to attack us across the border. That is timorous prattle at best. What the Russians attempt to do with their buildup of troops and putting more tanks on the border, is to exercise some sort of political leverage and we respond to that game by countering it with additional tanks, and additional TOW missiles and additional troops.

Within that framework of gamesmanship that we both play with one another, we continue to add to our arsenal and they continue to add to their arsenal. It is not because the Russians are going to launch an attack on West Germany and engage the world in nuclear conflagration because we know that is ridiculous, they are not going to do that. But we have got to respond to a certain extent, on that same level, and argument our forces and increase our arsenal so that we can insulate ourselves to a Soviet political advantage in that section of the world. And the neutron bomb, like the A–10, like the F–14, and like the F–15, makes our arsenal stronger and more credible, not only in the eyes of the Soviet Union, but in the eyes of the world. This weapon helps maintain that balance of power.

Let me continue with the need for the neutron bomb. It will be placed on our Lance missile, and in the 8-inch shell, and the howitzer; it will replace the existing tactical kiloton warhead. The neutron bomb is a damage limiting, to the extent that any weapon is damage limiting, warhead.

The gentleman from Michigan (Mr. CARR) wanted to make the point yesterday, and I think he did, but fleetingly, and I want to emphasize it again, with the theory of the second fire break—and I hope that I am not considered in the same school with Robert MacNamara or Henry Kissinger, with their theory that you can have a limited nuclear war, because their theory of limited nuclear war and mine are completely different.

But yet this theory of the second firebreak at least merits criticism, and merits the anvil of criticism in the hammering out, if you will, of a position, and I want to offer it to the Members. That position is, very simply, that given the games of the battlefield and the technicians' argument, and given this theory of the second firebreak, we could contain nuclear war and the neutron bomb plays a significant role in that theory.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DOWNEY was allowed to proceed for 4 additional minutes.)

Mr. DOWNEY. It goes something like this—and I might add parenthetically before I begin to explain it that I hope that we can have a dialog, because I am not sure I am right, and I am not sure the others of the neutron bomb are. But I am going to offer it to the Members. It is important. That theory is that if the Russians invaded West Germany, we could by either tacit or formal understanding explain to them that the introduction of nuclear weapons, in this instance low collateral nuclear weapons, would be introduced on our soil, and that if they did not in turn introduce nuclear weapons, the weaponry, the battle—the nuclear war—could be limited to the battlefield. I know that probably shocks and makes many Members recoil, the suggestion that we could wage such a war. It is a theory. Within the context of that theory, the neutron bomb makes sense, because if you decide only to use it on your soil against invading enemy troops, and that they understand that, and that the introduction of them precludes the concomitant use of nuclear weapons on their soil, it is conceivable that the firebreak could be contained, however remote. In that sense the neutron bomb does make some sense, because it reduces the collateral damage to the Western population.

If the Members reject that theory of the second firebreak, then, of course, they should oppose this weapon. If they believe it is possible to do something as I suggest, then in that sense the neutron bomb makes a little bit of sense.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding. I have the greatest respect and affection for him, although we do disagree on this issue.

I have one question that I would like to ask the gentleman. He uses the term "credible" as far as this weapon is concerned. To me that means it is more credible because we are more apt to use that than one of the big nukes. What does it mean to the gentleman?

Mr. DOWNEY. I think it probably means the same thing. The Schlesinger theory propounded before our committee on many occasions—and remember where the former Secretary of Defense came from; he was a product of the Rand Corp., an expert on nuclear tactics and a brilliant man—was that if you talked about the use of nuclear weapons, the other side had to think to themselves and say, "Here they are, the United States, talking about using these weapons. We do not know what their doctrine is."

The more credible your weapons become and the more we talked about using them, the more of a deterrence—whether we use them or not—it becomes for the other side, because, you see, we are in their minds, going to use them, and we are going to reduce the damage. So the other side knows that this theory, by those words and by those actions and by the fact that this country has used nuclear weapons before and might be likely to use them again, provides a deterrent, a very strong deterrent.

Mr. JOHN L. BURTON. It is more likely we will use these weapons. I believe the gentleman will agree that is the credible thing, and we will use the weapons we have. That is why I am against it.

Mr. DOWNEY. It is more likely that we would use a weapon like this on the battlefield than to launch a Minuteman from our silos against the Soviet Union, absolutely.

Mr. JOHN L. BURTON. Again, and

then I will not take any more time, it would be more likely we would use this on a battlefield. In my judgment, it would be more likely we would have to wash the Minuteman, because I do not think we can limit the war.

Lastly, I do not know that if we had had these weapons available, when the big push for tactical nuclear weapons was on, in Southeast Asia, we may not have used them. I do not think there is anything that is going to limit this to Warsaw and NATO.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DELLUMS. I appreciate the gentleman's yielding, and I appreciate the nature and quality of the gentleman's debate, although we are in total opposition on this particular issue.

I would like to enter into colloquy with my colleague. First of all, will the gentleman agree with me that war is too important to leave to the generals?

Mr. DOWNEY. I agree with the gentleman.

Mr. DELLUMS. Therefore, the question of military issues needs to be perceived within the framework of our total politics, foreign policy.

Mr. DOWNEY. That is correct.

Mr. DELLUMS. We are talking about deploying this weapon in Europe. Let us now discuss the reality of Europe. Will the gentleman agree with me that at present there is a gross imbalance in the nature of conventional forces with respect to NATO and the Warsaw Pact?

Mr. DOWNEY. If I might take just one second back of my time that I have given to the gentleman from California, let me just say that I think there is an imbalance. I am not so sure as to the grossness of the imbalance.

Mr. DELLUMS. Would the gentleman agree that the balance favors the Warsaw Pact nations at this point?

Mr. DOWNEY. I believe so.

Mr. DELLUMS. Would the gentleman agree with me that there is a considerable body of thought in this Government that if the Warsaw Pact nations, if the Soviets came across Europe we could not repel them?

Mr. DOWNEY. It is difficult to answer that question yes or no. It depends on two situations. If they were to respond from a maneuver and come across by surprise, I think they would be able to gain more of an advantage than if they were to amass their troops and give us more opportunity to prepare.

Mr. DELLUMS. The gentleman and I serve together on the Armed Services Committee. Would the gentleman tell me on a scale of 1 to 100 at this moment what does the gentleman see as the possibility or the probability of the United States and the Soviet Union coming to conventional war in the foreseeable future?

Mr. DOWNEY. From 10 to minus 7 to 1.

Mr. DELLUMS. Which means that the possibility or probability at this moment is miniscule.

Mr. DOWNEY. Yes.

Mr. DELLUMS. Since there is no potential danger of assault or confrontation at this moment, even though we have agreed that there is an imbalance favoring the Warsaw Pact nations, then my question is this. If the MBFR—the mutual balance of force reduction—talks, which ostensibly are designed to gain some parity with respect to conventional forces, are not taking place in that the issues in Europe are presently so complicated we cannot move the talks off dead center, I would ask my distinguished and learned colleague from New York this question.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(On request of Mr. DELLUMS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, do we not complicate that situation even further by the introduction of a so-called clean nuclear weapon while we at this moment do not even have the ability to come together to figure out the withdrawal of our own conventional forces? How does the gentleman argue that with this weapon we somehow enhance the probability of peace in Europe, when we cannot even do it with the conventional forces? Does it not complicate the situation further?

Mr. DOWNEY. Let me try to respond to the gentleman. I mentioned before that in the broadest context the White House and others have argued that this is a new weapon that essentially shows the rest of the world that we are interested in and involved in making better weapons for future use. I cannot argue with that. All I am suggesting to the gentleman and the Members of the House is that unfortunately there is another reality. I am not talking about the two truths which existed in Galileo's time.

I am talking about the game of who is ahead and who is not ahead. The gentleman may say to me: "Why do you bother yourself with that?" Certainly again the fact is that in Europe and the rest of the world that game is the biggest game in town. Hopefully some day we will be able to argue on the gentleman's terms about the meaning of nuclear war and the reduction of nuclear weapons. Until we do reach that point, the neutron bomb gives us an advantage over the existing nuclear warhead, which is just another edge in which we excel so that the Russians do not get the edge. The possibilities are we will gain an advantage and we want to maintain our advantage, not only to prevent war but to maintain the balance of forces in that part of the world.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair would advise the Members it is against the rules to use first names and would advise the Members not to further use first names.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. DOWNEY) be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DOWNEY. Mr. Chairman, I thank the Chair and I stand corrected.

I yield further to my friend, the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, just one additional thought. Within the framework of the NATO structure at this very moment leftist governments are emerging.

Question: How then does the continued escalation of a military presence in Europe, playing these kinds of so-called political games the gentleman mentioned, how does that influence friends for the United States, when I see country after country in Europe moving to the left, having nothing to do with the deployment of neutron bombs, dirty bombs, clean bombs or anything else, having to do with the fact that governments are emerging in those nations where people feel there is a different course that needs to be taken in order to deal with the quality of their lives?

I have the notion we are here playing all these military games, stacking weapons on top of weapons, and people are living desperate lives in Europe and they are embracing political views and philosophical perspectives that have nothing to do with these neutron bombs. It has nothing to do with the firing of weapons. We have not fired a shot in Europe in 20 years, but governments are not becoming democratic and that is what we ought to be debating and not this inane neutron bomb.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for an additional 2 minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding and I appreciate the gentleman's patience and the patience of all the other Members; but I hope another 15 or 20 minutes will not matter, when we are talking about the fate of the world.

Mr. DOWNEY. I could not agree with the gentleman more.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's tone in this debate. I think the gentleman has kept it at a very, very high level.

I also appreciate the fact that he has expressed his agreement with those of us who support this amendment, that deployment of the neutron bomb will probably lower the threshold of nuclear war.

May I ask a question directed to the

one possibility the gentleman raises that the gentleman says he is not convinced of but is just throwing it out; the so-called second fire break argument.

I would like to see if I can get from the gentleman a scenario as to how this would work. Let me put my hypothesis. I assume the gentleman is projecting a situation where the Russians crossed from East Germany into West Germany. The allied and American forces would at some point conclude there is no way to stop the advancing enemy tanks and rather than use conventional weapons, they decide they want to use neutron weapons; for whatever reason, to impress the Russians with their credibility or whatever, and they then apply for permission to the President of the United States, "Can we use the neutron weapon?"

The President wires back, "Yes, go ahead and use it."

How much time this takes, I do not know. I will allow the gentleman to answer that question.

In the meantime, assume the enemy tanks keep moving forward. Finally, the word comes and in Germany or Belgium or someplace else, the neutron weapon is used by us. At that time the Russians know we have only used this on friendly soil and will have the good sense to think about this.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for an additional 2 minutes.)

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, at that point I assume that we are now going to rely on the Russian's good sense in recognizing that we really do not mean their ground any harm. All we mean by using these neutron weapons is to kill their troops and stop the tank attack.

Will the gentleman agree that the very use of those neutron weapons draws another consequence, that it totally disrupts the communication system that the enemy has and perhaps even the communications we have. If that is so, given the confusion and the chaos that then exists on the field of battle, how do we expect the field commander of the Russians to be in a position to decide to use the kind of restraint that the teller theory asks them to accept?

Mr. DOWNEY. Mr. Chairman, the gentleman raises an excellent point. I hesitate to try to offer the answer, not because I do not want to, but because I see my friends that want to speak. I am afraid I have outworn my welcome. It would take me no less than 7 minutes to even begin to answer the question. I want to answer it thoroughly.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further to me, I am sure the gentleman agrees that we need to debate this serious question on nuclear war. I would hope the House would yield the gentleman the 7 minutes that it will take.

Mr. DOWNEY. Let me just begin to reply to that question.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that the gentleman from New York be allowed to proceed for an additional 7 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. CHARLES H. WILSON of California. Mr. Chairman, reserving the right to object, and I will attempt to qualify it in every way possible, there are eight other Members here who have been waiting for the opportunity to speak. I think the gentleman from New York has exceeded the time. I would say that until the other Members have had their opportunity—and I want everyone to have his opportunity—that the gentleman has had more than his share in comparison with others. I am just as interested as he is in hearing everyone.

I will withdraw my reservation of objection, but I hope we can give others their opportunity.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, since this would be a very involved answer, I would like to ask the gentleman from New York (Mr. WEISS) if he would agree simply to ask that the gentleman from New York (Mr. DOWNEY) have the opportunity to respond by making a response in the RECORD, since this is a rather involved and elaborate matter, one that most of the Members are not going to hear in person anyway. I think it would be an appropriate way to get it in the RECORD, and not try to take up further time. I would ask the gentleman from New York if he will agree to that.

Mr. WEISS. If the gentleman will yield, my good friend from Ohio raises an important question, and I appreciate the Chairman's concern about time.

The CHAIRMAN pro tempore. The time of the gentleman from New York has again expired.

Mr. SEIBERLING. Mr. Chairman, I have reserved the right to object.

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized.

Mr. SEIBERLING. I would just like to ask the gentleman from New York if he would agree to handle it as I have suggested.

Mr. WEISS. With all due respect, I would not.

Mr. SEIBERLING. I will not object, but I do feel that is a more appropriate way to answer that kind of question.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, just let me say under my reservation of objection at this point—and I will not object—I cannot help but feel as the Chairman does, that everyone should be given an opportunity to be heard within some reasonable limitation. I would hope that in deference to other Members and those of us who would like to conclude this particular amendment, that we would constrain ourselves to a reasonable time and stop the interminable requests for continuation of time.

If we do not get some reasonable restraints, then I am going to start objecting on every one.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MILLER of California. Mr. Chairman, reserving the right to object, I do not think the 400 Members who are not here are terribly disturbed that we are taking up time. I would like to hear the answer to the question. Many Members on the floor who are not members of the Armed Services Committee are deeply concerned about this issue and would like to hear the answer to this question and to other questions. I would hope that both the proponents and opponents would not move to call for time.

I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request for 7 additional minutes for the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. DOWNEY) is recognized for 7 additional minutes.

Mr. DOWNEY. Mr. Chairman, let me try to frame an answer without using the whole time. The gentleman from New York (Mr. WEISS) has asked me whether or not, in the confusion on the battlefield, whether rational decisions can be made.

As I mentioned before, there are a number of situations in which a European war might start. One of them might be a massive grouping of troops of the Warsaw Pact nations and then swinging across northern East Germany against the British forces, which are the weakest forces, weaker than those of the United States. Let us assume that the Russians do not do that, but choose to land a surprise attack.

We have an understanding, either formally or informally, with the Soviet Union that if they are interested in coming across and invading West Germany—which, by the way, are our allies, and our NATO allies, and this would put us in a state of war—if they were to do that, to invade with tanks, other armor and troops, that we would use all the weapons we have in the theater in this instance in West Germany. That would be our tactical nukes, tanks, what soldiers we could, and that using a weapon such as the neutron bomb or tactical nuclear weapons in that theater should be understood that as long as they are fighting on our territory and we are using a weapon, nuclear or otherwise, on our territory, that should not mean that a nuclear war, either global or strategic or limited tactical, should happen; that, in fact, they do not respond to a use of a nuclear weapon, even a neutron bomb.

We decide, for instance, that this tentative understanding should remain. There is a tremendous amount of confusion, obviously. There is a war going on. There is a city. The Russian troops are

advancing upon the city. The President of the United States is told, "Mr. President, it looks as though there are several breaks in our ranks, we are moving back, we request the use of tactical nuclear weapons."

I would think at that point that the President of the United States would say that not until they get to the Rhine are they going to use these things.

Let us assume that the President says, "Go ahead and use it." Against an advancing Russian force you would deploy the neutron weapon, you would destroy, hopefully, if you had to, the advancing forces, do a little damage to the town, and you would be able to deter them.

Teller's theory is very simply this, that the attacking side has absolutely no advantage in the introduction of nuclear weapons against hostile territory because the response would be nuclear weapons against the Warsaw Pact nations or the Soviet Union, and if one side or the other can gain the advantage on the battlefield with a limited nuclear strike, that that in itself can become a self-contained entity, that you might wage a war on the battlefield with nuclear weapons without the other Warsaw Pact nations being struck or with other European nations being struck.

That is the theory. And I know the gentleman from New York has a great deal of trouble understanding that because the gentleman talks about the confusion of nuclear war. So do I. But I am not ready to admit that the theory is not without merit, and I am not willing to say that we should discount it. It is as the gentleman from California so eloquently stated yesterday, nuclear war, strategic, tactical, or otherwise, is unthinkable. And if this theory of a second fire break makes any sense, and I believe, it does make some sense, and it could preclude a global war, then it is certainly an option we cannot ignore.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, I think this House owes a great debt of gratitude to the gentleman from New York (Mr. DOWNEY) and to his colleagues on the Committee on Armed Services who have consistently tried to approach every issue of this sort from a rational, objective point of view, to really understand the issue instead of just having a simplistic reaction to every issue which usually boils down to arguing, "We cannot let the Russians get a jump on us," without any effort to ask whether the weapon is in the overall national interest. This is a good example of the depth and clarity and the cogency of the gentleman's thinking. He has done, as always, an outstanding job. However, I think it does bring out that the comment, in the International Relations Committee's Congressional Research Service study of the arms control impact statement, on this weapon is correct. I want to read it again.

> The problem with the Arms Control Impact Statement's conclusion that ER weapons could enhance deterrence but would not affect the nuclear threshold is that one cannot argue the former unless the latter is also believed to be true.

What the gentleman says seems to confirm that; is that right.

Mr. DOWNEY. Not really, I will say to the gentleman from Ohio. I think the theory of the second fire break has been propounded, and I know the gentleman from Ohio does not agree with the theory, but let me leave it at this. I really think there are other Members who want to speak, and I really overstayed my welcome.

Let me simply say that all weapons of destruction merit this sort of criticism and concern that we have expressed today, but the realities of the situation, I think, merit that we take a harder look at this as an additional item to our arsenal, because, to me, what we should be concerned with is that it does not import the same kind of concern the gentleman has expressed.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I would simply like to say to my colleague that once we make the assumption that the theory he discussed is credible, then I would say the gentleman's logic and rationale are impeccable. I would not argue with that.

The gentleman from New York is probably superior to any other Member of this Congress on this subject. The gentleman will probably go down in history as knowing more about military weaponry than any other Member who has served. I do not challenge the fact that my colleague has reached that high level.

I would simply bring the Members back to seeking an answer to my question with respect to the issue of risk, which is also involved in the issue of credibility. I ask the Members, what do we perceive as the possibility or the risk of the United States and the Soviet Union going to war in Europe? Within the framework of the gentleman's statement, he said that the probability of that is very low.

I say that once the gentleman takes that position, his argument floats away. That is all I have to say on that matter.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to speak for the amendment and against the neutron bomb.

When I began to study this issue, I was struck by words that seemed rather abstract and did not convey much of a picture of its effects on people. It was referred to as a "clean bomb." Words such as "tactical limitations" were used.

So what I wanted to ask was this: What does this really mean to a human being when one is struck by a neutron bomb? Again words were used that seemed abstract—words such as "severe leucopenia," "disturbance of electrolyte balance," and "collapse of circulatory systems."

Again, that did not give me the picture. It was my firm conviction that the more abstract the language, the more cavalier we will be in our decisionmaking. So I wanted to know in plain, everyday terms, when one is irradiated by this bomb, what does it mean?

The source of the material to which I referred is Dr. Edward Buddemeyer, a nuclear physicist of the University of Maryland Medical School, and this is what he says:

> If you are irradiated by a neutron bomb, it "will kill you in any of three ways. If you are very close, you are lucky because you will die by quick kill."

He said that the neutron bomb explodes and blows so many holes in your nerve cells that your brain ceases to function. If it does not, you will collapse and you will lose control of your body functions; you may get violent. You will die within minutes or perhaps hours, and while you are lying there waiting for death to call, you lie in your own waste, in your own feces, with rapid convulsions and shaking, just waiting for death.

This is how this humane bomb will affect you.

The second cause for death, if you are a little further away, will come from something called the GI syndrome. The GI syndrome refers to the gastrointestinal tract. The tissues that line your mouth, throat, stomach, and intestines are made of a complex genetic system. This will be destroyed by the neutron. At first you will retch and then vomit. Then the nausea will pass, but you will not feel like eating because the cells in your digestive tract, extending from your mouth, down through your throat and down into your stomach and into your intestines, will continue to divide and die, and by that time your digestive tract will become an open sore. Your heart will weaken, your kidneys will fail, your fever will climb, and you are going to hallucinate. Then you will die within a second. As you lie there dying, the very insides of your body will be rotting.

The third way to death will be from the blood syndrome. If you are lucky, you will die of anemia. That will be the most peaceful option, because the neutron will attack the blood cells so that they will no longer be able to reproduce. Your system will be defenseless against disease; you will not have those white corpuscles coming to your defense. A mere hangnail will become a green ulcer. Your gums will bleed and your mouth will hemorrhage. Microbes will grow in your lungs, and they will lose their elasticity. Fluid will begin to gather, and in effect your own lungs will become a swamp within your own body. As you gasp and struggle for breath, your liver will fail and your skin will turn yellow. You will then perhaps die or drown from your own contaminated body fluids contained in your lungs and your liver. This will take 4 to 5 weeks while you are lying there.

Is this price we are willing to pay to devise a "clean bomb," a more "humane bomb," one that will not destroy buildings but only destroys people?

Mr. Chairman, I think it is inhumane to support this type of amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think what the gentlewoman has just outlined is extremely important for the Members of this body to hear, because this is what the German people are going to be hearing and this is what other people who live in the area immediately affected by a confrontation between NATO and the Soviet Union will be hearing. They are going to be told that we are planning to save them by destroying them, and destroying them in the horrible manner the gentlewoman described.

I suggest that this further dramatizes the political stupidity of a decision to go ahead with this weapon.

Ms. MIKULSKI. Mr. Chairman, I thank the gentleman.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am particularly glad to follow the gentlewoman from Maryland (Ms. MIKULSKI), not only because of my respect for her, but because of her remarks.

The gentleman from California (Mr. DELLUMS) yesterday made a very impassioned, emotional statement, most of which I agreed with. However, one of the things the gentleman said was that this particular bomb, if approved, would make it thinkable, possible, and ultimately inevitable that we would have nuclear war.

Mr. Chairman, the reason I disagree with that statement, I would say to the gentleman—and I have told him this since the speech—is because it seems to me that almost every day in this Chamber or at least every week, and certainly in the Committee on Armed Services, we make decisions and approve projects for weaponry and make it thinkable, possible, and this Member believes ultimately inevitable that we will have a nuclear war and destroy ourselves. We do it in a most dispassionate way. We do it in a most unemotional way.

Mr. Chairman, I might say that this does not diminish my respect for the members of the Committee on Armed Services. Further, as an aside, I must say that I appreciate the fact that the distinguished chairman and the gentleman from Alabama have been so tolerant in not asking for a limitation of time on this debate. It has been a very important debate.

Mr. Chairman, what I usually do—and I think this may come as no surprise to anyone—is to rely on our friends on whom I think we can rely for knowledge in these areas. I rely on the gentleman from New York (Mr. DOWNEY) and on the gentleman from Michigan (Mr. CARR) and on others to advise me on defense matters.

Generally I think they are right, but they are involved in this dispassionate, unemotional attempt to be architects of a defense policy.

What this debate has done, Mr. Chairman, it seems to me, is to remind some of us that we cannot rely on the gentleman from New York (Mr. DOWNEY), the gentleman from Michigan (Mr. CARR), and the other Members as much as we have been relying on them in the past. I do not mean that with any disrespect.

All I am saying, Mr. Chairman, is this: These issues are too important to be left to what Theodore Roszak called the "regime of experts." They are much too important for us to go about our committee business and come in and ask the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) how they would suggest that we vote.

Mr. Chairman, I speak to my progressive friends. I know there are others here who would not ask the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) for advice on how to vote.

In any event, what has happened in the last 2 days is that we have talked about the insanity of this weapon. We have talked about this weapon not being a weapon of power but a reflection of powerlessness and not of security, but of insecurity, not of strength, but of weakness.

We have talked about things, as the gentlewoman from Maryland (Ms. MIKULSKI) has just demonstrated, like its effect on people.

Mr. Chairman, I do not remember a debate like this in this House.

I hope that not only will we support this amendment because this layman Member feels the weapon would represent an escalation and that we could accomplish the same ends by beefing up conventional forces. Also, symbolically, it goes backward with respect to what the President has been trying to do in sending a message around the world that we are not going to rely primarily on our big-bully image and that our main aim is to show compassion and humanity.

Mr. Chairman, it seems to me that the adoption of this amendment, in the perception of the world, would represent a turning back on the kind of symbol we like to represent and the kind of message we want to send.

What will happen here, Mr. Chairman, is that we will get 70 or 80 votes. I think everyone in the Chamber knows that. We will have 70 or 80 votes in favor of this amendment, and we will send that signal that once again the United States is moving to develop yet another new weapon.

I say this in recognition of the fact that in technical terms, Mr. Chairman, this weapon might be quite routine especially when other factors are considered. However, the nice thing about this debate, if we can find some solace and comfort from it, is that we will also send another message. That message is, hopefully, that those of us who are elected to come here and to try to represent a half million people or so are not going to be so casual, so routine, so dispassionate, and so unemotional in the future about putting our stamp of approval on weapons of war.

Mr. Chairman, we should urge the Russians and the Chinese to follow the example of the greatest democracy on Earth and its people in giving close attention to these kinds of matters which are of overwhelming importance.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman from Connecticut (Mr. MOFFETT) has put it exactly right. This weapon is totally counter to the one thing that the President of the United States said when he became President that involved a greater favorable response in this country and abroad than anything else he said, and that is that he wants to start moving the world toward a reduction and eventual elimination of nuclear weapons. This flies in the face of that. In the words of another famous quotation—

It is worse than a crime, it is a a blunder.

Mr. MOFFETT. I thank the gentleman.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a falling out, of course, of the "birds" obviously in this amendment, and it comes about not by design, but because many of us have arrived at a conclusion that a so-called neutron bomb is not as lethal or as diabolic or a change in position as some might think.

To begin with perhaps, as has already been pointed out by our colleagues, the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR) this is not a bomb. What we are talking about is a tactical weapon in the field, that is, it is a shell, it is a mortar shell. It goes into a Lance missile capability, it goes into a cannon. The W70–3 Lance missile warhead and the W79, 8-inch artillery-fired atomic projectile also under development have been considered by many military strategists for some time now as development alternatives to existing high-yield tactical nuclear weapons for deployment in such civilian-congested potential areas as Europe.

There are all kinds of things going on all over Western Europe. We do not know exactly what they are, but we do know that both sides currently possess large numbers of tactical nuclear weapons. If the Department of Defense were to come in and say that we can reduce our megatonnage from ten to half a kiloton, it would raise no fuss or fanfare on this floor at all. But because some reporter having reviewed the testimony that has come before the Committee on Appropriations and the authorizing committees for a number of years, and the Committee on Foreign Affairs early this year has come up with a so-called scare headline. And what they said, and I think this was in June of this year, was:

Neutron killer warhead buried in ERDA budget.

The second was:

Pentagon hopes to keep neutron bomb a secret.

So, we picked up that challenge and that set the parameters of this debate.

It looked like, therefore, that we had moved with the hydrogen bomb and we had moved with some other equally important MIRVed vehicles and therefore we were moving into a totally new field.

It so happens that thermonuclear fusion which is the nuts and bolts of enhanced radiation warheads, was first exploded in 1952. It has been the warhead of the Nike X which was developed in late 1950, and it has been the warhead to the Spartan and it has been the warhead to the Sprite. There has been an enhanced radiation device on the ABM missile all through the years, when many of us were making the argument on the floor of this Congress that led to the détente which we currently have on the ABM's.

The question really comes down to what are we trying to do? Are we getting involved in a radically new overall system? We have got to keep in mind exactly what we are doing.

The bottom line in all of this really is a thing called "balance of power."

We have got to keep a balance of power in the world between potential adversaries. At one time we thought that the Red Chinese were our adversaries. Now we find out that the Red Chinese cannot even penetrate the Formosa Strait that is totally dominated by the so-called Republic of China on Taiwan, and we do not really look for much from the Red Chinese anymore. But the Soviets, until we reach that millenium that was talked about by President Kennedy in his American University speech better than 15 years ago, are our potential enemy.

Today we have chosen not to provide a balance with the Soviets in conventional weaponry. Mark that. This was a conscious decision. We have decided we do not want 58 divisions. We cannot support it. We do not want 30,000 tanks. To begin with, we could not build them. We do not want 5 million men under arms in the central theater of Europe. We cannot afford it and neither can our NATO allies.

So what we decided to do is to confuse the defense. We have said it is our national policy not to start a war. The Soviets have said it is their national policy not to start a war. Some people revert back to Khrushchev's statement that "We will bury you," and they draw all kinds of diabolical conclusions from that so-called threat.

It remains a fact that the Soviets today do have 30,000 tanks. They are the ones that build all the pontoon bridges that cross all the rivers; we are not. They are the ones developing all the mechanized vehicles; we are not. If it comes to another World War III or IV, we are not going to be able to have the support line of ships we had during World War II, because all of the ships are going to be sunk in just about the first 3 to 6 months of any kind of war.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. So what we need, then, is a credible balance of power.

I brought the folks in to find out what they were doing with this so-called crazy new nuclear neutron bomb weapon. I found out what they are doing is merely for the last 300 Lance launchers that they are developing, instead of putting the big bang in where we can only use the bottom third of the nuclear blast as part of the K factor, they are developing a limited nuclear capability. We determined that they are going to put them in, and the question is, "Are you going to put in a big warhead, or are you going to put in a small warhead? Are you going to put in the big kilotonnage in the cannon, or are you going to put in something smaller?"

There is no effort on this floor in any of the appropriations bills or authorization bills to limit nuclear warheads going into cannons, or to limit nuclear warheads going into our Lance missiles—nothing like that at all. They are going in.

Next, I would like to explore with you for a moment the often-heard proposition that a weapon designed solely for killing people while minimizing collateral damage to property is morally indefensible. On the surface, such a statement is irresistible. However, let us face it, all nuclear weapons can kill; all wars and indiscriminate killings for political ends are morally repugnant.

But let us look at this issue more closely. Published statements indicate that we have about 7,000 conventional tactical nuclear warheads forward deployed in NATO, primarily along the central front in West Germany. Most of these warheads are within the 10- to 50-kiloton range. Although these tactical nuclear weapons represent immense striking power, grave doubts exist over whether or not these weapons could ever be used to accomplish their mission. It is true that our existing tactical nuclear weapons have the power to stop a Soviet thrust along the central front if used in quantity; however, even if our own response were limited to 10-kiloton artillery projectiles, the collateral damage to friendly territory, troops, and civilian population would be immense. Cities and towns would be destroyed or badly damaged. Large and persistent radioactive zones would be created, rendering a piece of territory uninhabitable for months afterward. And civilian casualties would most certainly run into the millions. What we contemplate, then, is throwing a large medicine ball over our shoulder when all that is actually required is a well-aimed dart. In effect, we would be destroying NATO in order to save it. Thus, our tactical deterrent does not appear credible in Europe today.

While existing tactical nuclear warheads kill primarliy by blast and heat with downwind radioactive fallout as an unwanted byproduct, enhanced radiation warheads kill by generating a sudden intense pulse of high-energy neutrons. Blast and heat effects are limited to a relatively small area. In addition, since these improved warheads achieve their effects by airburst, there is little significant fallout, and harmful radiation dissipates in a matter of hours. In the case of the W–79 artillery-fired atomic projectile, this very low yield warhead is being designed specifically to maximize its tactical counterforce role with an 80-percent reduction in collateral damage along with a 50-percent increase in capability to destroy enemy armor battlefield units with approximately one-tenth the yield of existing tactical nuclear warheads. This has the obvious advantage of making it particularly effective against military targets while minimizing unintended damage to nearby civilian areas and population centers.

Many critics of the enhanced radiation warhead would have us believe that a cleaner, more precisely targetable nuclear weapon that kills fewer civilians is somehow less moral than our present dirtier and more indiscriminate tactical nuclear warheads. This strikes me as sheer idiocy. In another sense, though, it is all madness since there appears to be little comfort or kindness in the manner of killing with nuclear weapons—whether with dirty weapons that kill indiscriminately over wide areas or clean weapons that incisively kill battlefield troops with a lethal bombardment of high energy neutrons. At issue, however, is which weapon presents the most credible threat to an enemy contemplating a surprise attack. I do not think there is any serious disagreement over the fact that the enhanced radiation warhead is clearly the greater deterrent to Soviet and Warsaw Pact planners. After all, this warhead is designed to make it possible for NATO forces to defend Western Europe against a Soviet or Warsaw Pact invasion without having to destroy Europe in the process.

In turn, this leads to my next discussion area which concerns the charge that enhanced radiation devices are more useable, and therefore increase the likelihood and possibility of all-out nuclear war. On the surface, this appears to be true. It is a part of the classic deterrence dilemma. By minimizing deadly nuclear effects on civilian populations, we make tactical nuclear weapons more readily useable and increase their deterrent value. On the other hand, according to critics of the enhanced radiation warhead, this very attractiveness tends to lower the nuclear threshhold, thereby making strategic holocaust that much more possible.

This possibility warrants closer scrutiny and examination. Admittedly, it is entirely within the realm of human possibility that the temptation to unleash enhanced radiation devices which appear less frightening is greater than with high-blast tactical nuclear weapons. However, we must not lose sight of the fact that these are purely defensive weapons which make NATO's threat to use tactical nuclear weapons that much more plausible. This is their real value since in so doing, they make it less likely that we will ever use nuclear or conven-

tional weapons in the first place. In addition, it must be borne in mind that the decision to use any nuclear device—including the enhanced radiation warhead—can only be made by the Commander in Chief. The permissive action link can be unlocked only by transmission of appropriate codes from headquarters above field commanders after explicit approval by the President.

Moreover, while it has been argued that enhanced radiation warheads tend to blur the distinction between conventional and nuclear warfare, they in fact provide us with greater flexibility along with increased deployability and decreased vulnerability. At the present time, we lack credible options between the use of conventional forces and existing high-blast tactical nuclear weapons. However, the highly surgical nature of improved battlefield nuclear systems like the W–79 artillery-fired atomic projectile and the enhanced radiation Lance missile offer the possibility of controlling escalation and terminating the conflict quickly at terms acceptable to both the United States and its allies with a lower level of collateral damage.

The enhanced radiation warhead can be a flexible defensive weapon. If deterrence fails, its availability in inventory can permit us to respond with a smaller incremental increase in the overall level of violence and damage. Furthermore, its clearly limited capabilities cannot be perceived by the Soviets or Warsaw Pact as a potential direct strategic threat.

In addition, and more importantly, it is not clear to me that we reduce the overall probability that nuclear weapons will ever be employed by reducing our options without similar or concurrent Soviet reductions.

This quite logically leads me to another area that I would like to discuss with you today, and that is the mistaken notion that development of enhanced radiation weapons will render ongoing and future SALT talks meaningless. Again, this is simply not true. To begin with, this weapon is a tactical—as opposed to strategic—nuclear weapon which is purely defensive in nature. It is only effective against massed troops, tanks, and artillery in the theater of operations. The only time that Warsaw Pact forces will be susceptible to such weapons is if they are actually amassing an offensive or attempting to break through the central front of NATO in places like the Fulda Gap.

Additionally, since enhanced radiation warheads will be deployed as tactical nuclear weapons, they do not fall within the present scope or definition of SALT-related weapons. The only international forum for considering proposals to reduce theater nuclear forces is the presently bogged-down MBFR negotiations which have been more or less in progress in Vienna since November of 1973. And even if SALT should be expanded to include longer range tactical nuclear weapons, it appears unlikely that any such expansion would encompass battlefield nuclear weapons such as the W–79 artillery-fired atomic projectile. The range of this weapon is just too short to offer realistic strategic potential.

Moreover, it is doubtful that continuation of the Lance missile program and W79 warhead would ever influence the Soviet or Warsaw Pact position at MBFR. And actual deployment of enhanced radiation weapons hardly creates a significant disadvantage to Warsaw Pact members since their ultimate use would in all likelihood be on NATO territory. Similarly, because of their limited range, neither proposed weapons system presents a direct nuclear threat to the Soviet homeland.

Regarding our likely deployment, these weapons will not add to the existing inventory of tactical nuclear weapons. Rather, weapons designed to substantially reduce collateral damage are intended as replacements for such existing tactical nuclear weapons as the Army's M422, 8-inch projectile first deployed in the 1950's. Thus, it appears the bottom line is that we will be replacing existing indiscriminate tactical nuclear weapons with more accurate and less destructive devices. I find it hard to believe that such action will have a destabilizing or adverse impact on SALT talks as so many critics of these weapons would have us believe.

Finally, enhanced radiation warheads are not new devices which, in and of themselves, will accelerate the arms race. In reality, this weapon is merely a hydrogen weapon based upon a thermonuclear fusion reaction rather than a fission reaction as in the case of existing tactical nuclear warheads. It is interesting to note that our first fusion weapon was test detonated on October 31, 1952. With respect to the enhanced radiation technology itself, as a matter of fact, the Sprint missile developed in the 1960's for our now terminated ABM system contained an enhanced radiation warhead designed to destroy enemy ballistic missiles by a burst of neutrons. Thus, the technology involved is not new; only the miniaturized packaging is new. Lastly, it goes without saying that the Soviets have also possessed a fusion capability for some years now.

In concluding my remarks today, I would like to list for you what I feel are the key arguments in favor of continued development and eventual deployment of the enhanced radation warhead. Do not misunderstand me though. I am not extolling the virtues of enhanced radiation devices. The use of all nuclear weapons is, in the final analysis, reprehensible in a civilized world. However, this weapons concept possesses some distinct advantages over existing tactical nuclear arrangements. These are:

Its warhead design will provide for a significant reduction in collateral damage of nonmilitary structures and unintentional killing of civilians, while at the same time increase the lethality against personnel in tanks and armored personnel carriers.

It significantly increases the potential geographical area of employment in the European theater since it can be employed within 2,000 meters of friendly troops and civilian villages.

Its clinical, surgical advantage over less controllable and more widely destructive warheads makes it a more plausible threat and therefore a more credible deterrent.

It provides additional options and permits greater flexibility in planning our defensive posture in Western Europe.

It has improved security against unauthorized use by terrorist groups and overly ambitious Allies.

It offers the chance of building up our nonstrategic NATO capabilities at less cost both in a resource and political sense than that which would result from securing the same military capabilities from conventional forces alone. Thus, it can be considered a cheap technological substitute for an expensive, politically unpopular conventional military buildup.

It makes possible a future reduction in the total number of tactical nuclear warheads in the U.S. inventory due primarily to increased battlefield lethality. In addition, reduced numbers will diminish the storage and security problems associated with both maintaining and deploying tactical nuclear warheads in Western Europe.

Lastly, it will produce tactical nuclear weapons which are less destructive overall than those in current inventory, thereby satisfying the arms control objective of reducing the destructiveness of a war into which tactical or theater nuclear weapons have been introduced.

Consequently, I strongly oppose any amendment which would delete authorization of the enhanced radiation warhead at this time.

Thank you.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Weiss amendment to delete funding for the neutron bomb. I do so with the hope that this body will not simply defer to others on the fate of this weapon but will examine and debate the matter and decide for itself whether producing this new family of nuclear weapons is in the interest of world peace.

We live today with the rhetoric of peace. World leaders profess peace. We advocate and extol it. Indeed, the basis of our foreign policy is the pursuit of peace in an age in which "mutually assured nuclear destruction" is a terrifying reality. But behind the rhetoric of peace is a double standard. On the one hand we are told that to have peace we must "remove nuclear weapons from the face of the Earth" while on the other hand we build more nuclear weapons ostensibly to preserve peace.

I invite my colleagues to closely examine what our new era of peace will be like. Will it be a time during which more nuclear weapons are built placing greater strain on the slender thread that holds the sword of Damocles over our head or will it be a time of reduction and dismantling during which we eliminate nuclear weapons and create a true and lasting peace?

We must realize that we are not talking about merely a new technical development in military weaponry. We are talking about the development and de-

ployment of a new family of nuclear weapons and we must take into consideration the military, diplomatic, and moral ramifications of our decision.

The neutron bomb is an enhanced radiation device that releases upon detonation an incalculable number of high-energy subatomic particles able to penetrate and destroy living organisms while doing little damage to physical structures. These bombs are to replace the nuclear fission warheads on 7,000 Lance missiles and it is rumored that 8-inch artillery shells which will allow the use of neutron bombs in howitzers are under development.

The fundamental military question is whether these new weapons will make nuclear war less likely. Only if it can be clearly demonstrated that they will should we agree to their production. The burden of proof must rest with the proponents of the weapons.

It is argued by some that less destructive nuclear weapons are more creditable and therefore greater deterrents to full-scale nuclear war. But they achieve their credibility and hence their deterrent effect by the ease with which they can be used. But I submit that it is this very ease of use that increases the risk of nuclear holocaust. Deterrence is based on fear—not on comfort of using nuclear weapons.

It has also been argued that the nuclear threshold will not be lowered because the President has emphasized that he regards the neutron warhead as a nuclear weapon and that he realizes its use would carry with it the gravest risk of escalation. This assertion may well be true for the moment, but it fails to take into consideration shifting realities. Who can devine how changing alliances and perceptions of future world leaders will affect the likelihood that neutron bombs will be used and whether their use will lead to a nuclear holocaust? If we accept the assertion, then the deterrent advantage resulting from its greater credibility of use is lost.

While the neutron bomb undoubtedly causes less collateral damage than a conventional nuclear bomb, it has certain effects that may prove more destructive, of ourselves and our allies than we have yet anticipated. For instance, outside the central zone in which neutrons would kill almost immediately, there is a large area in which the radiation dose will cause a slow lingering death. Consider for a moment the possible behavior of those troops and tank operators who survive the initial neutron explosions knowing that they will die within a few hours or days.

In addition to its many military faults, the neutron bomb poses serious diplomatic problems as well. The imminent expiration of our 1972 strategic arms limitation agreement with the Soviet Union as well as reported reluctance on the part of our NATO allies to officially condone or condemn our development of the neutron bomb are factors that must be taken into consideration. In addition, we must gauge the effect our actions will have on the efforts of Euro-Communists who are seeking popular support by condemning the U.S. development of this weapon.

The specter of a full-scale nuclear arms race is a very real threat at every turn. With our arms limitation agreement drawing to an end with no new treaty in sight and with our new commitment to the development of the cruise missile, we would be extremely foolish to pile on top of all this a decision to proceed with the production of a whole new family of nuclear weapons. We have the opportunity to demonstrate clearly to the world our willingness to curb the arms race. Indeed, at the very moment negotiations on SALT II seem to be improving, the United States would be plunging ahead on arms escalation. It is that kind of double standard that would undermine the trust necessary for agreement.

Last Thursday a 92-page study prepared by a group of experts from 13 countries belonging to the United Nations and including the Soviet Union and many of our allies as well suggested that more energy could be applied in reversing the arms race and thus sustaining détente. I believe this report signifies a willingness on the part of other nations to recognize and applaud affirmative actions toward arms reduction. Let us take advantage of this opportunity to demonstrate our commitment to ending the arms race.

Finally we must address the moral ramifications of the decision we are about to make. At the beginning of this year we undertook as a nation a new commitment to human rights. We have voted in this Chamber on more than one occasion to deny aid to various regimes that have demonstrated a lack of concern for the human rights of their people. If we are to hold others to such a high standard, is it not also true that we strive to hold ourselves to those standards as well?

The neutron bomb is the very antithesis of human rights. It is analogous to the inhuman devices of war that have already been banned by international treaty. There is reason to believe that the neutron bomb may well constitute a violation of the 1925 Geneva protocol which prohibits both biological warfare and the use of "asphyxiating, poisonous, or other gases, and of all analogous liquids, materials, or devices." Certainly the neutron bomb is analogous to a poisonous device. There is little doubt that the 1907 Hague Convention on the rules of land warfare rules out the employment in war of "materials calculated to cause unnecessary suffering."

The fundamental moral question is whether we are willing to bear responsibility for taking one more step down the road toward Armageddon. For that is where the inevitable escalation of risk and uncertainty inherent in the production of neutron bombs will lead us.

It is for these reasons that I oppose plunging ahead with the production of this weapon. It will represent a tragic signal to the world—a signal that regardless of our moral commitment to peace and arms control, we are willing to add another senseless chip in the gamble for war. It is "brinkmanship" at its finest.

Let us draw the line now—for the world, for ourselves, for our children.

Mr. EDGAR. Mr. Chairman, I move to strike the last word and I rise in support of the Weiss amendment. As you know, I made some comments yesterday for the record. I think the debate has been articulate. It has been well developed. People on both sides have had an opportunity to make their points.

No one in this Congress has made their points better than the gentleman from California (Mr. DELLUMS). Certainly he captured in his statement yesterday the human dimension of what we are about. I believe that while we can raise the question of the balance of power, we also have to raise the questions of the balance of human dimensions, of the balance of brotherhood, and of the balance of commitment to how we react in the international community in the rest of the world.

So I would like to urge my colleagues to support the Weiss amendment and to stand firm in that commitment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for yielding.

Mr. Chairman, I would first like to thank my colleague for his compliment and I am deeply appreciative.

I will not reecho the arguments that I made last night. I think those arguments are clear.

I would now like to take a different tack and to simply challenge the several arguments that have been made in the intervening speeches.

One of the arguments implicit in this debate is the "good guy" argument. I would like to speak to that. The "good guy" argument goes in this fashion: We need to build this bomb because the Soviets are building their bomb. Those bad guys are threatening us. Therefore we ought to escalate.

Consider for a moment what we would do if we were a nation with the resources and intellectual capacity to build the bomb when another nation of great power and great capacity not only built the bomb but, I would remind my colleagues, we are the only nation on Earth that has actually used that bomb. So whatever we say, that will hang in the minds of the rest of the world: That the United States not only developed the bomb but it actually dropped that bomb and killed tens of thousands of human beings.

No other nation in the world has dropped a nuclear bomb, only the United States; so I would suggest perhaps we ought to begin to rethink the "good guy" concept.

I would suggest that the Soviet Union is running to catch up with us. It is not the reverse. We were the first to have it and that is perhaps the darkest day in the history of this Nation and we ought to be reminded of it.

The second issue is that this, in fact, does not reduce the nuclear threshold. The gentleman from New York conceded that it does; for those that still believe that it does not reduce the nuclear threshold I offer this response. With the Soviet Union on the one hand and us on the other, each with awesome nuclear power, with the combined explosive capability equaling between 10 and 12 tons of TNT for each man, woman, and child on the face of the Earth, together, we now have enough destructive power to destroy all life on the face of the Earth. And they tell us they are dirty bombs; therefore, they are useless. Each nation has developed an arsenal so awesome they cannot even use it because they are dirty bombs.

The interesting thing is we are not lobbing bombs back and forth across the water.

I would suggest we already have deterrents. Why would one decide to build another generation of bombs?

"Well, Mr. DELLUMS, we have dirty bombs that are useless. Therefore, we ought to build clean bombs."

Logic would imply in building clean bombs, we are building more useful bombs. We are lowering the nuclear threshold, which means we are making nuclear war more thinkable, more possible and, I believe, more inevitable.

Now, I would like to go to the third argument that this is, in fact, useful. As I said to the gentleman from New York (Mr. DOWNEY), the gentleman argued with eloquence and extraordinary intellectual capability, if you accept the assumption of his argument of credibility to the scenario, but I remind you, based on the gentleman's service in the Committee on Armed Services and all the information we have access to, what do you believe is the potential risk of the United States and the Soviet Union going to war? I forget the number used, but it was minuscule.

I would point out, how can you start with the premise that the risk is almost nonexistent and then build a very powerful urgent argument for the development of a weapons system to deal with the scenario of building a weapons system for a war that will never happen?

I simply believe that the logic is, in fact, irrational.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. EDGAR, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield further?

Mr. EDGAR. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, if we look at the issue of credibility and balance of power, we already have it. The bombs are so dirty they are useless. If we want to preserve life, we ought to keep the bombs dirty and useless, and work toward moving back from the brink of destruction.

We should say to the President of the United States, because I have been critical of the President on many domestic questions, I would like to say, whatever one feels about President Carter at this moment, there is one real point we need to understand. He has, indeed, sent a message throughout the world that all of us feel makes some possible difference. I believe with all the breath in my body that it is possible for this President to move the world closer to a safer place to live.

I would simply suggest that you think very carefully about the statement made by my colleague, the gentleman from New York. The gentleman made the point very eloquently, raised the issue of symbolism. Can we saddle the President of the United States, the first President in modern times who appears to have the potential for gaining confidence to move us back from the brink of disaster and move us to some place where peace is real, that if we gave him this neutron bomb it will endanger it?

So if we look at the argument, is it necessary? My answer is no.

Does it give us a more credible balance of power? We already have it.

Are we the good guys and they the bad guys? I would like to point out that we are the only ones that dropped the bomb.

Let us give the President some credibility. Let us help the President move away from these bombs. It is the height of absurdity to create a new generation of acceptable bombs that again have to be negotiated. Let us not complicate the problems of the world. Let us simply correct them.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this is one of the most disturbing debates I have heard since I was first elected to the House of Representatives. I say this because the words the supporters of the neutron bomb use in no way accurately communicate or describe what we are really talking about, namely the possibility of destroying not only ourselves, not only our enemies, but life itself.

We already have, I am told by the Library of Congress, 10,000 weapons that have a nuclear capacity—10,000 nuclear weapons. We have the ability to destroy the world many times over. So, why do we need these neutron bombs?

Almost everyone has agreed that the neutron bomb can create the added possibility of nuclear war, that it lowers the nuclear threshhold. The so-called "Teller" doctrine was raised as an argument against that view. Dr. Teller, a physicist whose expertise in European history, politics and human behavior have yet to be demonstrated, claims that in the midst of a war we are going to reach an understanding whereby the Russians will allow us to use nuclear weapons first, and they will not use them. The irrationality of that argument is immediately evident.

Is it not ironic that we, the United States—the country that for the past 200 years has been the symbol of human opportunity, the symbol of human liberty—are going to be the first ones to use nuclear weapons in a war. That is what we are endorsing here. The neutron bomb is to be used only as a response to an attack with conventional, nonnuclear weapons. Thus, we, the United States, are claiming and insisting on the right to be the first ones to use nuclear weapons.

What is even more astounding—and horrifying—is that we want to use this nuclear weapon to fight a tank.

Nobody has really talked on this floor about the other problems, about the security of these weapons, about whether they are safe from terrorists. Nobody has even addressed, much less refuted, the point I raised earlier about the lethal impact that these weapons may have on our own troops. We may be exposing our very own troops to radioactive clouds of carbon-14 which result from the detonation of the neutron warhead. We may well kill the advance enemy soldiers, but we may have none of our own alive to continue the fight.

People say this is a "clean" weapon, but there will also be fallout because some of these warheads will hit the ground, explode and cause radioactive dust particles to collect in the air. When this happens, we will poison the air in Europe and poison the air over our own country.

And, in any case, the argument that this weapon is "clean" is absurd. If we use it, the Russians will attack with their "dirty" nuclear bombs and the destruction these bombs were designed to avoid will happen anyway.

The question is not whether the neutron bomb is better or worse than what we already have, but why, at this time, there is any reason for us to reaffirm, reendorse, and recommit ourselves to a policy of nuclear holocaust.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I hope that we would not bring this debate to an end too soon. I know that Members are impatient to vote. One of the problems I have encountered since coming to the House of Representatives only 9 months ago is that we really do not pay sufficient attention to the subjects we deal with, that we tend to move too quickly, too speedily, and not to become acquainted with legislation to the extent that we should. This is a serious question not only for my own constituents in Pennsylvania, not only for the people of this country, but for people all around the world; some who never heard of us, who do not speak our language.

I am not a member of the committee and I am not an expert in this subject, but I do feel compelled to rise on behalf of the amendment offered by my friend, the gentleman from New York (Mr. WEISS). It seems to me that despite the lengthy debate, that the basic question still remains unanswered.

And that is: Why build the bomb? We are told: Because it will do less damage and, therefore, it becomes a more acceptable alternative to all-out nuclear war and it is, therefore, a deterrent to nuclear devastation.

I think the opposite is true.

Because it is somewhat less horrible than all-out nuclear war, it seems to me it is more likely to be used by those who seek to rationalize its use. And once it is used, Mr. Chairman, all bets are off. Who has the audacity to say that once this bomb is used, nuclear war does not immediately become a much more immediate possibility? I think it does.

The neutron bomb increases, not decreases, the chances of war in which there will be only losers. And while it increases the chances of war, it actually diminishes our own security by spurring the arms race once again. In our effort to deter nuclear war, we actually bring it closer.

The gentleman from New York (Mr. DOWNEY), who has spoken so eloquently today on behalf of his point of view, suggests the bomb has some advantages because it could be used by NATO powers, perhaps Germany or France, that it could be dropped on enemy troops invading their territory. I think once this bomb is introduced into the international arsenal of weapons, who knows who will gain control of it and who will use it? The gentleman from California (Mr. LEGGETT) suggested that because there are more Soviet troops in Western Europe, this bomb is required as part of the balance of power. The gentleman may be right that the Soviets have more troops and tanks there, but the United States has very sophisticated antitank weapons there and I do not think he has justified the neutron bomb in Western Europe. I think the bomb presages a very dangerous escalation in the arms race. I think we must assume that the Soviets will feel compelled to counter the development of neutron weapons with enhanced radiation weapons of their own.

The gentlewoman from Maryland (Ms. MIKULSKI) has spoken eloquently on the terrible nature of the weapon and how it kills. It does cause a painful death by blowing microscopic holes in the cells of the human body. Death is not always immediate. Mr. Chairman, this weapon counters the leadership our country has shown in prohibiting worldwide the use of chemical and biological weapons. The neutron bomb affects its victims in much the same way as chemical or biological warfare. I think our approval of the enhanced radiation weapon could be interpreted as a betrayal of our commitments never to engage in these types of warfare.

The neutron bomb should be eliminated from the ERDA budget. We have enough weapons—weapons which have a destructive force greater than we could ever need or use. This weapon is not needed for our security and, in fact, actually reduces our security and our standing in the international community.

Mr. Chairman, I ask my colleagues to join the gentleman from New York (Mr. WEISS) in supporting the amendment.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Weiss amendment.

Mr. Chairman, I have been somewhat amazed in the use of the English language, or should I say the abuse of the English language, as it relates to this debate. I have heard a bomb or shell or warhead, whatever term one prefers, being described as moral, efficient, clean, and civilized. But the term that has struck me as most ironic is the term "humane," when describing the neutron bomb. Where is indeed the humanity of a weapon that preserves buildings but kills people?

My colleague, the gentlewoman from Maryland, described specifically the effect of the so-called humanity of this weapon on people. It systematically causes the destruction of a person's body and causes considerable suffering. The writer, George Orwell said, and he is being proved to be more and more prophetic every day, that when language diminishes, so too do ideas; when ideas diminish, so too does civilization.

I think that we could add three examples of "doublethink" to George Orwell's book, "1984," based on this discussion: Killing equals humanity; morality equals war; the neutron bomb equals civilization.

I find that we are in a state now where those kinds of equations are becoming for some people realities, and I find that this is a sure sign of what is happening in Congress. If we do not approve the amendment offered by the gentleman from New York (Mr. WEISS), we in this Congress will show the American people that we are indeed not interested in improving the human condition, not interested in America's paving the way toward a civilized world, and certainly not interested in life. I support the Weiss amendment which would prohibit the use of moneys to produce the neutron weapon.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the gentlewoman has posed a question: Where does the humanity lie in this weapon?

To me it is very clear where the humanity lies. It lies in limiting the destructive capability of the weapon to its use against the enemy forces toward whom it is directed, and it lies in its limited destructive capabilities against the forces of our allies and innocent civilians.

Ms. OAKAR. Mr. Chairman, I wonder if it ever occurred to my distinguished colleague that the manner in which our country can most help the world is certainly not to produce weapons of this devastating nature and authorize taxpayers' dollars to destroy people or to assume we are going to be engaged in warfare, but to act positively for a change and set an example for the world.

Our example to the world should be that we are interested in peace and we will no longer produce these "humanitarian" weapons that have as a direct motive the destruction of people.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, if the gentlewoman will yield further, I share the gentlewoman's desire for peace. Peace in the world is something for which I pray, it is certainly what I want, but if war should be forced upon us, I believe we should have weapons that will operate with some effectiveness against the enemy.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentlewoman from Ohio (Ms. OAKAR) for stating her point. What she is saying in effect is that at some point, if we are ever going to get out of this nuclear nightmare the world is in, we are going to have to stop the continued escalation of nuclear technology in the strategic nuclear weapons race.

This is just as good a place to start as any. We do not have this weapon now, and yet the Russians have not attacked Western Europe. We might as well start here and see if we cannot get somewhere with freezing the development of new nuclear weapons, instead of having one more round and saying to the world that despite all the President's proclamations of his goals, when it gets right down to action, we are going to go in the opposite direction.

Mr. DODD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to join with those of my other colleagues who have stood here in the last 4 hours in debate on this amendment, and I compliment the Members of this House for the caliber of debate that has been conducted. I think it is certainly the highest I have seen during the 3 years I have served in this Congress.

I would also like to underscore a point that was made earlier, and that is that we are here truly as a stroke of fortune—journalistic fortune. Had it not been for the reports of some of the media, we would not even be debating this issue. This issue would probably have passed right on through, as so many of the amendments do that arise from this particular budget. So it is fortuitous that we are even discussing this issue.

I would also like to compliment my colleagues who serve on the Committee on Armed Services. I have been told—and this may not be completely accurate—that I am the only nonmember of the Committee on Armed Services who has spent 2½ to 3 hours trying to plow through the classified information that surrounds this particular issue.

I was overwhelmed by the voluminous material that exists concerning just this one issue. I do not know how the members of the committee could possibly, within the time constraints within which we practice here, deal with these sophisticated issues. There is so much material to consume.

I do want to associate myself with the remarks of the gentleman from Michigan (Mr. CARR), the gentleman from New

York (Mr. DOWNEY), and the gentleman from California (Mr. LEGGETT). I think what really is at stake here in the Weiss amendment is not a question of at least providing some option in the future. We are foreclosing the option.

I will be offering an amendment after this amendment has been dealt with, assuming it does not pass—if it is passed, I will obviously not be offering the amendment—which I feel will at least allow for some option to exist until the President and our NATO allies make some decisions themselves about whether or not they want to go forward with this particular kind of weapon. I think that is far more responsible than just making a decision here today, considering the level of rhetoric and argument that has been made.

I think we must look at this not just over the long term. I think the debate on this issue is certainly meritorious and worthwhile, but realistically, we have to look at exactly what this weapon is, what it is capable of doing, and what its ultimate effect will be on Armageddon, because that is what we are talking about.

So I would suggest that this pending amendment be defeated, although I appreciate the intention of the offeror of the amendment, the gentleman from New York (Mr. WEISS), that we should not go ahead at this particular time. I support that conclusion, but the amendment itself would preclude the opportunity or the option for going ahead if it is determined by the President or by our NATO allies that this is a vital element in our arsenal to protect against that which we all fear the most, and that is another world war.

I believe the Weiss amendment signals the wrong approach at this time for several reasons, and I urge support instead for the amendment I will later offer to title II of this bill.

Mr. Chairman, I believe that the House should defeat the amendment offered by the gentleman from New York for two major reasons. First, his amendment goes too far by cutting out all funds for research and development of enhanced radiation warheads. Although I agree with the gentleman that we should not give the go-ahead at this time for full production of enhanced radiation warheads, I strongly feel that we should not preclude that option by deleting R. & D. funds. I for one would not want to deny us or our NATO allies any military or deterrent advantages possibly offered by production and eventual deployment of these tactical nuclear weapons, if it is reasonably established that such advantages are obtainable. I believe the gentleman's amendment would foreclose an option that we should leave open. Instead, I believe we should continue research and development while at the same time we closely examine the impact that production and deployment of enhanced radiation warheads would have on both our war fighting and deterrent posture in Europe.

Secondly, I believe that passage of the gentleman's amendment while consultations are proceeding with our NATO allies might have a devastating impact on the sensitive negotiations that are taking place today. On the other hand, I also believe that we should not give the appearance of full support for production and deployment of these weapons until we have had the opportunity to study this decision thoroughly in light of additional information which I think the Congress requires.

For these reasons, Mr. Chairman, I will be offering an amendment to title II which will allow our Government to proceed with research, development, and testing of enhanced radiation warheads while it requires that the executive branch provide Congress with additional information concerning the utility of these weapons prior to a final production decision. I urge my colleagues to defeat the amendment offered by the gentleman from New York and support my amendment at the appropriate time.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New York.

Mr. WEISS. Am I right in understanding the gentleman's proposed amendment, which he would offer if this amendment were defeated; would it in essence, say that the production of these neutron weapons could not proceed unless the President certified that it was in the national interest that it be done, and that when he makes such a certification, he would then forward that to the two Houses of the Congress, and that if within 45 days both Houses replied in the negative or passed a resolution not approving the certification, that then the President could not go ahead because there would be a two-House veto?

Mr. DODD. That is correct.

Let me respond, if I may just reclaim my time, by saying this to the gentleman: This debate here for the last 2 days, I think, should once and for all obliterate the argument that we in this Congress are not capable of discussing the most sophisticated and delicate issues that face the future of this country and the world. I think it is vitally important that this institution and the Members of this institution be allowed to participate in the debate.

As I mentioned earlier to the members who serve on this committee, I am somewhat hesitantly standing here because after reading some of the classified information, I have trepidation that I am about to make some catastrophic mistake by mentioning some innocuous number or acronym that would force me to stand before the Committee on Standards of Official Conduct.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from Connecticut (Mr. DODD) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield further?

Mr. DODD. I yield to the gentleman from New York.

Mr. WEISS. Is it not a fact that those two provisions which I cited before, which the gentleman had agreed were the substance of the first two provisions of his proposed amendment, are, in fact, appended now to the appropriations measure on this item?

Mr. DODD. That is correct.

Mr. WEISS. And that, in fact, it is a body of law as far as the appropriations are concerned?

Mr. DODD. I would suggest to my colleague one thing. First of all, I do not think that the language which the gentleman correctly cited as being in my amendment really belongs in an appropriation bill. In fact, it has been suggested by some that had a point of order been raised against that language, it would have been sustained.

What I am suggesting is that this language ought to be in the authorizing legislation.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, is it not a fact, though, that, it is possible that if my amendment is defeated and production goes forward without the negative response of these two Houses, by the time the study which the gentleman's amendment calls for is completed, we may, in fact, see the use of the neutron weapon and the nuclear war which we hope to avert?

Mr. DODD. I would not go so far as to suggest that that would be the natural conclusion.

We have asked here—and I have no reason to suspect that the President would provide otherwise—for him to outline specifically his reasons for going into production of these weapons. That certainly is a step that he would have to take before he could get to the deployment stage.

Therefore, even before we could get to that point, this institution would be involved in that debate if my amendment were to be sustained.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, because of my duties in the Committee on Rules this morning, I have not been privileged to attend the debate. However, I was here during all of the debate that took place on this issue yesterday.

I think that the gentleman from Connecticut (Mr. DODD), in making the suggestion that he just has made of an alternative procedure for dealing with this very difficult and complex problem, has suggested something that would be very helpful in getting us out of the dilemma in which we find ourselves.

It has been suggested that really all that we would be doing in arming the Lance missile with a neutron warhead is to substitute one tactical weapon in the inventory for another tactical weapon. I think that the question, however, goes somewhat deeper than that. True, we are dealing with a tactical weapon, and, as the gentleman from Michigan (Mr. CARR) correctly pointed out, a weapon that is suited for defensive rather than offensive purposes. Yet it seems to me that very fundamental questions of

strategic policy are involved in the determination that we make on this issue.

Does it lower the threshold of nuclear war? Will it be more efficient or will it improve the deterrent capacity of this country to keep the Russians from launching a nuclear war?

Those are fundamental, strategic questions that are certainly not just subsidiary but they are at the very heart of the decision that we make on this issue.

There is one other issue that has been raised. Perhaps it was commented upon earlier in the discussion: Would a comparable expenditure be more effective in using conventional capability to deal with the threat of the Soviet tanks in Western Europe in the event of an attack on Western Europe? I am not an expert in this field, but I am informed, without having all of the precise guidelines, that the Soviet tanks are becoming more vulnerable than they once were to high explosive munitions, and the neutron bomb budget could add more than 100,000 precision antitank weapons to the NATO arsenal. And that those weapons, if they were deployed in place of the neutron warhead for the Lance missile would avoid some of the operation difficulties that might obtain in the case of the deployment of nuclear weapons.

So I think we do have some very important questions that we must answer before we make a final decision in this matter.

In the requirements that are contained in the amendment that will be offered by the gentleman from Connecticut (Mr. DODD)—and those were raised and fully set forth in the "Dear Colleague" letter of September 14, 1977, which was sent to each Member of the House, which I cosigned with the gentleman from Connecticut (Mr. DODD) along with the gentleman from Wisconsin (Mr. ASPIN). And in there is a procedure by which Congress would require a Presidential certification for each neutron warhead, accompanied by an arms control impact statement submitted by the ERDA Administrator for every such weapon that the President personally directs that those weapons be produced.

I think it should be pointed out that there was, very definitely, an oversight on the part of the administration when it came time to look over the fiscal year 1978 budget for ERDA and send it to the Congress. Admittedly they were in some rush to do so after their advent to power on the 20th of January. But there was an oversight of this extremely important matter. I have the very uncomfortable feeling that the administration has not fully considered the magnitude of the decision confronting them on the neutron weapon.

We cannot go back and rewrite history. There is no point in rearguing or relitigating, as the gentleman from California (Mr. DELLUMS) did in his speech yesterday, as to whether or not we should have nuclear weapons. The decision to go ahead with the Manhattan project was made back in 1942.

Nobody likes to stand in this well and advocate that we produce yet another destructive weapon. But the gentleman from Alabama (Mr. DICKINSON) pointed out yesterday that the Soviets do enjoy this 6-to-1 advantage in military manpower in Western Europe. They have, I believe, tripled their megatonnage in the last 10 to 15 years as far as stratigec weapons are concerned, so we have a right to be concerned that in the arsenal of weapons that this country has, we do have the sophisticated technology, the capacity to deal with this Soviet threat, particularly as it might be directed against Western Europe.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of Illinois. Mr. Chairman, I am not going to take the position that the gentleman from New York (Mr. WEISS) has taken that we should simply cut out these funds. But I think that it makes significant sense, indeed, to vote down that amendment and then adopt the amendment that will be offered by the gentleman from Connecticut (Mr. DODD).

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think it is time in the House for us at this time to acknowledge the patience of the chairman of this committee. I think it is tremendous the way he has let this debate proceed. In my opinion, it has been the finest debate I have heard. I think we have earnestly tried to find answers to this problem, and I find no effort to pursue the parochialism that I frequently see in our debates.

I was tremendously impressed by the gentleman from Michigan as he spoke last night, and I went back to my office and told my people about how well I felt he had presented his arguments. Then as I went home last night I became more and more troubled as I thought about what we had talked about, and, as the gentlewoman from Ohio said, I had a harder time trying to accept the fact that we would say this is morally preferable, as we talk about some of this weaponry. I came back convinced that I had to say something here on the floor of the House.

Then when my friend, the gentleman from New York, (Mr. DOWNEY) spoke—I thought so eloquently and so well—he acknowledged that there are, indeed, arguments both ways on this issue. Further than that, when he acknowledged that experts do not necessarily have a monopoly on logic, I felt that we heard one of the better talks that we have heard here.

I would like to speak a little bit on the statement that the last speaker made which was that this is a defensive weapon. I have great difficulty with that, because it appears to me that most advancing armies would want to preserve what is in front of them and the property they expect to take. I think it is readily acknowledged that most retreating armies want to destroy the bridges and to destroy that which the advancing armies are going to take. I think the mistake we make in this debate is assuming that only one country, America, is going to have this particular weapon. I think we have seen from history how when we get something, indeed, the other nations follow suit as they do.

I would like to talk a little bit about what was mentioned by the gentleman from Ohio as he talked about our perception in the world. Rightly or wrongly, as the world looked at chemical warfare, the world agreed that we should have a treaty which would prohibit the use of chemical warfare. Chemical warfare is warfare which does not destroy the collateral; it is warfare that kills people—sometimes quickly, sometimes slowly. Now we are debating whether we should go ahead with the neutron bomb, which is a bomb that does not destroy collateral to any great extent but which destroys people—sometimes quickly, sometimes slowly. It would appear to me that if we move forward with this, what we are saying to the world is we agree we should not have chemical warfare, but we are going to develop a bomb that does roughly the same thing, even though it is not a chemical weapon.

I believe that we do need to worry about our perception in the world. I believe the perception in the world is looking at our next vote, and I hope that we will not think that by voting down the Weiss amendment and voting for the Dodd compromise that we are telling the world that we do not believe we should have a neutron bomb. I believe we would be telling the world we should go ahead with that. I believe it is going to affect our image in the world. I believe we have to be concerned about that image.

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. NOLAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. There are those here today who have said—and who are going to say again—that this neutron bomb is just a little bomb. A limited bomb for limited wars. I submit there is never going to be a limited nuclear war. The very notion is unthinkable and horrifying. The only limitation on the next nuclear war is going to happen when the last citizen of the world is dead and there is no one else to continue. Should there be a few survivors, they will look back and see that a world perched on the brink of nuclear annihilation—a world which had used up all its other options—had chosen to settle its problems by killing a few people with a few nice, clean, limited little bombs. How does a limited war end? Let me ask my colleagues who support this neutron bomb—when do we decide—in the midst of a limited nuclear war—that enough people have been burned and radiated to death? What will constitute a limited war in the end—Washington for Moscow? Des Moines for Peking?

There is never going to be a limited nuclear war!

Now there are also those who say that this is a good bomb because it kills only people. Think about that, people, families, are we really saying that we have come to a point here on Earth when human beings are the most expendable commodities we have? Are we really saying that after a war it's going to be more desirable to have a world full of empty buildings? Let me ask you this. Who is going to live in these buildings we are so delighted about preserving with these smart bombs? Who are we leaving them for? If we are thinking that we are leaving a legacy for the survivors of a limited war, we are tragically mistaken.

Ladies and gentlemen—what we need is not a neutron bomb. What we need in this country and in this world is a commitment to the kind of sensible, humane policies which will assure peace and dignity and justice. I say we put an end to the neutron bomb here today and get on with human development not human destruction.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like briefly to respond to the gentleman from Iowa about the defensive nature of the enhanced radiation weapon. He seemed to concentrate on bridges. When you fire an offensive weapon, you want to destroy the enemy's factories, railroad yards, and structures that provide the capability to make war, to generate war. A defensive weapon you would use on your own cities in those areas that would be occupied by the enemy, to kill their personnel but not to destroy your own buildings.

In West Berlin or in Paris when the Nazis marched in, a nuclear weapon would have killed Nazis but not destroyed the Louvre, whereas if you were going to use a bomb on the enemy—if you were lucky enough to penetrate their territory—you would want to destroy their structures as well as their personnel. So in that sense it is a defensive weapon, not an offensive weapon.

I also want to compliment the gentleman from Michigan (Mr. CARR), because I think we have seen a very rare thing here. We have seen a keen intelligence overcome a strong ideology, and that is rare. I think it is very creditable when that happens. I do not mean that the other disputants in the debate were not keenly intelligent, but I think they succumbed to ideology rather than opposing it.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I would simply point out that there is one flaw in the gentleman's logic. He says it is a defensive weapon, that offensively you want to destroy buildings and factories. I would suggest to the gentleman that if you kill all the people, you can have all the buildings and factories that you want, but there will be nobody there to run them. That is the point, and that is the flaw in the gentleman's agreement.

Mr. HYDE. I would respond to the gentleman that we may not want to kill all the people, but we might want to destroy their capacity for making war. I think that is the response to the gentleman's statement.

Let me continue with my statement, please.

I just returned from Hungary, and I drove in the vicinity of Budapest, and I learned that there are 40,000 Soviet troops surrounding that beautiful city. I just returned from Czechoslovakia, and I learned there are 70,000 Soviet troops occupying Czechoslovakia. I just returned from Rumania, where if one speaks to a stranger on the street he has to report it to the police department.

With that background, let me read to you briefly from a Washington Post article of the 16th of this month, September:

> Defense Secretary Harold Brown disclosed last night that U.S. intelligence had discovered four new intercontinental ballistic missile systems under development in the Soviet Union.
>
> Pentagon officials confirmed that he was referring to a completely new generation of ICBM's, not the presently strategic nuclear missiles going into Soviet underground silos.
>
> ". . . To give you just one indication of the effort and of the momentum behind it, the Soviets are now deploying a fourth generation of ICBMs at a rate of 100 and 150 a year. These missiles are almost uniformly first class iu terms of accuracy and payload.
>
> ". . . Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain."

In connection with this weapon we have heard phrases about insanity. I submit in the fact of mounting Soviet offensive weapons capability that in awesome and fearsome, when do we get a gesture from the Soviets that our eagerness to kill them with kindness will deter them from weapons production, from nuclear weapons production, from intercontinental nuclear weapons production?

In the face of this sort of thing, for us to cease and to desist from developing what is essentially a defensive weapon, what is essentially a weapon that would lack the collateral damage capability that the intercontinental ballistic missiles have and that the Soviets are building generation after generation while they smile at us in the SALT talks, it seems to me that has a little touch if not of insanity then of unreality.

William Bullitt, our first Ambassador to the Soviet Union wrote a book years ago called "The Great Globe Itself," in which he said:

> To beat our swords into plowshares while the spiritual descendants of Ghengis Khan stalk the earth is to commit national suicide.

He served as Ambassador in 1933.

Then just last week we have the developments revealed by Secretary Brown. I think we owe it to our children and to our children's children at least to be in a posture to resist successfully and credibly the advances of the Soviet Union.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I must yield to the gentleman from Iowa (Mr. BEDELL) first.

Mr. BEDELL. Mr. Chairman, the gentleman probably saw World War II from the same advantage I did. Would the gentleman feel we were fighting an offensive or a defensive war as far as our participation in that war was concerned?

Mr. HYDE. In World War II, the last war we won, it was an offensive war. In the last 2 wars, it was defensive.

Mr. BEDELL. The gentleman thought we were in an offensive war in World War II?

Mr. HYDE. Yes.

Mr. BEDELL. It took a long time.

Mr. HYDE. We did not start it. I really do not understand what the gentleman means. But we ultimately fought offensively in that war. That is why we won.

Mr. SEIBERLING. Mr. Chairman will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The gentleman from Illinois is a leading proponent of protecting the unborn. I do not believe the gentleman from Illinois was here when the gentlewoman from Maryland (Ms. MIKULSKI) gave her description of the biological effects of this weapon. Not only would this weapon injure people who are now born, not only would it destroy their unborn fetuses, but it would have genetic effects producing deformed human beings for at least ten generations.

I ask the gentleman how that is compatible with his position on protecting the unborn.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, in response to the gentleman from Ohio, let me say that I am against all weapons. I fought in World War II. I have been under combat fire, but I just want to say this. The surest way to get killed and the surest way to start a fight is to be weak in front of an aggressive enemy. In my judgment, having in our arsenal weapons that are credible and effective is the way to protect life and not to kill it.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I suggest if the gentleman is against all weapons, this is a good place to start.

Mr. HYDE. I am also for preserving America.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, does the gentleman believe if we use the neutron weapon that the Russians would not retaliate with another nuclear weapon?

Mr. HYDE. When the time comes that a nuclear war begins the eggs will have

hit the fan and the war will have begun. It is not, "You punched me and I will punch you" when that times comes. They will have started an invasion and for that reason we have to use every weapon we have.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the Weiss amendment.

Mr. Chairman, on many occasions I have strenuously opposed the development or deployment of new types of lethal weapons. In this particular case, I have listened carefully to the arguments presented in favor of the Weiss amendment, and I have also listened carefully to the arguments presented in opposition to the amendment by the gentleman from New York (Mr. DOWNEY) and the gentleman from Michigan (Mr. CARR). While the choice is an agonizing one, I come down on the side of Messrs. DOWNEY and CARR.

The arguments in support of the Weiss amendment fall generally into two categories, which are, to some degree at least, inconsistent.

On the one hand, we have heard vividly portrayed the horrors of death by exposure to neutrons, and the implication is that the neutron bomb represents a new and more-than-ever horrible form of nuclear weapon which we should reject because it is so horrible and because we do not need it.

On the other hand, supporters of the Weiss amendment have argued cogently that the neutron bomb is less destructive and less horrible than the tactical nuclear weapons hitherto deployed, that therefore a President would be less reluctant to use it and so the nuclear threshold is lowered.

With regard to the first argument, clearly no lethal weapon is benign. Weapons used in all wars have caused untold agony and horrible, lingering death. Because of their long-range effect, nuclear weapons may achieve a level of horror more obscene than their predecessors. The world well knows the sufferings of the nuclear bomb victims of Hiroshima and Nagasaki. To argue that the sufferings of neutron bomb victims would be even worse seems to me to be arguing the immeasurable.

Hence. I am more impressed by the second line of argument, to the effect that the availability of neutron bombs may lower the nuclear threshold, because they are less destructive and less horrible than previous nuclear weapons.

However, to the extent that this argument is valid, it also supports the conclusion that the deployment of neutron bombs in Western Europe will provide a more effective deterrent against a Soviet attack. And the more effective that deterrent, the less the likelihood of war in Western Europe and the less the likelihood of a nuclear holocaust growing out of such a war.

I agree with those who have argued that a Soviet attack in Europe is unlikely. But who among us can be sure? Can we guarantee that such an attack will not be seriously considered by the present or some future regime in Moscow? Obviously we cannot.

That being so, I believe that any step that will make such an attack seem more unattractive as an option for the Soviets, and hence less likely, is a step that we should take. And I believe that the deployment of neutron bombs in Western Europe is such a step.

Mr. WHITE. Mr. Chairman, not too long ago Members of the House Armed Services Committee had the occasion to visit the Fulda Gap, which is the traditional entry point for invaders into Europe. We talked to those troops of the American forces there about what their fears were relating to the opponents facing them and they stated very clearly that they understood the opposing artillery tubes outnumbered them 10 to 1 and the tanks 4 to 1, plus vast chemical warfare capability by the opposing forces.

The facts are the Russians rely on mass. If the attack begins, it will begin by mass, massive artillery and massive attack by armor.

Why the neutron bomb? Whether or not you use the neutron bomb, the neutron bomb effectively neutralizes mass, because in the event they should mass their troops to make that punch through to try to get to the English Channel in 2 weeks, as some predict they could, the neutron bomb can impede them and stop them in their tracks.

The last point is there is minimum fallout. It principally affects the offenders and not the defenders. So I say, whether you use it or not, this will compel the Russians to change their tactics, for with the danger of the neutron bomb those tactics of mass will not accomplish the objectives and can easily and technologically be nullified.

Those today who talk about the alternative of developing our conventional forces, often are the very ones that would vote against the necessary funds in order to bolster our conventional forces, to offset that 4-to-1 ratio in tanks and 10 to 1 in artillery.

So the facts are this neutron bomb is a very wise investment in an effort to alter the thinking of the enemy.

I hope the House will reject this amendment and adopt the development of the neutron bomb.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment. Many of my constituents have asked me to voice their deep moral revulsion against the neutron weapon on the floor of the House of Representatives. I do so willingly, because I am deeply and morally in opposition to such a concept, because I believe that it goes against man's deepest nature. If, indeed, such a weapon came out of man's deepest nature, then we are all doomed and damned, for eventually such a nature will use this weapon.

I serve in the Congress because I believe man's nature is different. I serve here because I believe that man can survive and live well. If I did not believe that, then I certainly could not make the effort that we all need in this Congress to make this world a better place to live.

Mr. CAVANAUGH. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I have not often been in the well in my 9 months as a Member of this House, but after witnessing the debate last evening and today, I felt that I would be extremely remiss in my responsibilities to my constituents in the Second Congressional District of Nebraska if I did not rise and express my views on this issue. I came to this House last evening to listen to this debate undecided on how I would vote on this issue and willing to listen to the arguments on both sides.

I must take issue with those of my colleagues who have complemented the debate on this issue. I have found the discussion of this issue in this House extremely deficient in terms of what is relevant, important to this country and to the world. It is on that basis that I rise in support of the Weiss amendment.

It seems to me that given the consequences of the development of this weapon it should be approved only upon demand by the American people; after rich debate and thorough examination in which the people have concluded that there was a necessity for this weapon to protect and preserve this society. I think we often forget why we have come here, why we were elected here. We probably forget it because it is so simple. We were elected to protect the life, the liberty, and the property of those who chose us. This weapon does none of that. In fact, it is a threat to all of that.

The arguments that have been put forward are the arguments against it. It is a replactment for our deficiency in conventional forces in Western Europe, and all concede that its employment could only result in total nuclear holocaust. So, we delude ourselves into a deployment of a conventional weapon that is usable, that is thinkable, the result of which is total nuclear holocaust. We all agree on that, and yet we have not discussed it in those terms. I do not think that we really understand it in those terms or the consequences of those terms.

Probably my greatest disappointment is the participation of the Members of this House in this debate. I can remember the pay raise, when the House was full and the galleries were full and the press were all here. But, when we talk about a weapons system whose deployment can only result in the destruction of this world, it is empty. Where are the lions of the House? They leave it to the young Members to raise the issue and talk about the issue. I think we all should have been here; I think we all should have been participating, and it is a shameful day for this House when we

authorize a weapons system without that full discussion.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word, and rise in support of the amendment.

Mr. Chairman, members of the committee, I rise to add my voice to those who are in support of the effort by Mr. WEISS to knock out the neutron bomb. I cannot argue it on the basis of the technological studies and implications, as many have here, but I appreciate their argument because I think it gives a growing understanding of the complexities of the problem. But, I can only argue it from very deep in my stomach, because for the first time since I decided to enter public life I find myself somewhat pessimistic about our future.

I sat here last night reading the recent Carnegie study on the future of our children and what is happening to the children of this country, and what we might do to reverse that. Today, I convened a colloquy downstairs in the Speaker's dining room on the future of our children, and for the first time I had to tell people with whom I have worked for many, many years that here in the House Chambers we were doing something that was probably far more detrimental to the future of our children than any of the positive things those of us who are concerned about them could do. For the first time, I am pessimistic that we have now created the ability to make nuclear war thinkable, to make it possible, to make it probable.

Whether it is on a tactical basis, whether it is on a defensive basis or on an offensive basis, I suggest to the Members that it makes no difference to the victims of that war. I think for the first time we made the possibility. Somebody said that the last two wars we won. I suggest that after the next one, that statement will not be made by anyone. There will be no winners. There will be no survivors.

Whether we start with clean or dirty ones, we are going to end up with dirty ones and we are going to end up with the total destruction of the populace. I am very concerned about what that says about our future, about our capability, because it does make it easier. I remember when this program first came to light and the San Francisco Examiner had on the front page on Sunday morning the headline which said, "The Neutron Bomb, The Nuclear Weapon That Makes It Easier To Start Nuclear Warfare But Gives You Time To Kiss Your Loved Ones Goodbye." And I thought that was somewhat funny, until my son asked me what it meant.

I think one of the great pressures that we place on our children—and I believe the people of my generation grew up under those pressures—is the thought that somewhere out there there is a weapon that, with no warning, could blow you off the face of the Earth. I think now we are bringing a new generation of people up with the thought that it is even more sophisticated now. I read this story to my son, about people wiggling for a number of hours. They had a map of downtown San Francisco, and where we live you had a chance, if you get to some medicine within 3 days, or something, but the people down at the Transamerica Building, it was all over with them. But the building does not pay property taxes, so I do not know why you would want to save it. But I think we place that pressure on the children, the grating pressure, that somehow their lives can be wiped away, that somehow they will be relieved of life by people they do not know and with such swiftness that they will not have a chance to protest.

I remember the discussions, when I was small, about what was going to happen in Korea, were they going to use the bomb. And I believe that is what we are doing again. We are exposing a whole new generation to the possibility that all we have created can be annihilated, all of those who you love can be devastated in one fell swoop. I think that is an incredible burden to ask the people of the world to carry.

When the gentleman says we cannot go back and litigate, we cannot go back to the Manhattan project, I submit he is right. But what we can do is say "No more." Sometimes you have to say, "Enough is enough."

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. We have to be able to wind it down. We have to be able to disarm it. As the President said, you have to be able to rid the world of nuclear weapons.

I am not terribly convinced by the argument that this weapon will leave a building standing. I do not give a dam about the buildings. I do not give a dam about the holes in the ground. Maybe Caterpillar Tractor or John Deere, and others, will make the machines to put the dirt back in the holes. I care about the people and I care about the psychological burden that we are going to place on future generations in trying to contain this menace once we have created it. I do not think we will be able to. I think the logic the gentleman from New York makes in his argument about the battlefield denies political realities. It denies the fact that many of us will make the decision of war and peace and we will not understand that logic.

That is what scares me. I stand in this well in front of the Members, 255 pounds and 6 feet 4, scared—scared to death about what we are doing here with this weapon.

I think this is a quantum leap toward the loss of containment in nuclear weapons. I think the signal that has been sent by so many people and that we are sending around the world is a devastating one in light of the President's statement on the day he was inaugurated. I think people have only to look at the United States and remember that at one time we used these weapons when they were dirty.

Now we have a rationale that they are clean, and when other people look at us, when the rest of the countries around the world look at us, they remember that we used it once. We used it once.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to take the well. I am going to be extremely brief, because we have had, I believe, a very thorough and exhaustive discussion of the neutron bomb issue. And so we should.

I want to join with one of my predecessors in the well who complimented the chairman of the committee for the patience he has demonstrated during this debate. This issue is extremely important, and I share the concern that has been expressed here today on both sides of the aisle.

My colleague, the gentleman from California, indicated that he is concerned about people. Every Member in this Chamber is concerned about people. I do not think we have a colleague who is not concerned about the potential threat to mankind, and I think we all pretty much fully appreciate the ramifications of the decision that we are about to make. It is a troubling matter. This is perhaps the first of a series of decisions that will be made relating to the neutron bomb. I pray we make the right decision.

I will oppose the Weiss amendment because I am satisfied in my own mind that we are not lowering the threshold. I am satisfied that we made nuclear war a possibility thinkable when we engaged ourselves in the Manhattan project. The bottom line, as far as I am concerned, in trying to protect our children, our country and mankind is that we have the option available to us so we can meet any threat. That, in my judgment, is the overriding consideration.

A number of my predecessors have come to the well and talked about what some other person or what some other country would do or react under a given set of circumstances. I submit to my colleagues that we cannot predict what sometimes irrational people will do. Human behavior is just not fully predictable. That is why I think it is so important that we preserve the option that is available to us with this weapons system.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I take this moment, having spoken yesterday, only to say that there are a number of us in this Chamber who deeply appreciate the decision of the managing leader of this bill, the gentleman from California (Mr. CHARLES H. WILSON), who determined that there should be full debate and an opportunity for all the Members to participate in this debate that took place here yesterday and is taking place today. I for one am deeply grateful to the gentleman for making his decision, and I know that there are many other Members who feel the same way.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, I will not take a full minute. I just want to say that in the some 2 years and 9 months I have been privileged to be a Member of this House, I have never heard a more enlightening debate. We have seen a very fine, high-level discussion of the issue and I compliment all my colleagues for keeping it on such a plane.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have had a long but, I think, a very worthwhile debate on this matter. It was my intention to allow every Member who had something to contribute to the subject to express himself or herself and to do so as freely as possible. I think we have accomplished that.

I would agree with the Members who have questioned some of the language in the descriptions of the weapons systems we are talking about. I do not think it is so important as to whether it is a dirty bomb or a clean bomb, and I do not think it makes any difference whether we call it a bomb or an artillery shell. I would agree that any weapon cannot be regarded as humane. I doubt if there are any weapons that could be referred to as moral.

I think that the fears that have been expressed here by those who support the Weiss amendment are certainly valid and worthwhile.

However, I think that what we come down to is the sincerity of the strong belief of those of us in this body who oppose any use of nuclear power, whether it be for weapons systems or for energy resources, plus the strong feeling that many of us have that the defense and security of our country and of our allies are dependent, in part, upon the most sophisticated, the most advanced weapons systems that can be made available, and that the health and vitality of our country and the solution of many of our energy problems can be made possible by the use of nuclear energy or even by the development of nuclear weapons.

Mr. Chairman, I think this is a sincere belief in the minds of those Members who have their respective views about this very serious problem.

The President has been mentioned on several occasions, and he has been commended for the statement he made about the elimination, eventually, of all nuclear weapons. He enunciated his hope in that respect at the end of his inaugural address.

Mr. Chairman, we have expressed concern here today and last night about the effect of the further development and possible production of the neutron bomb and the enhanced radiation weapons system on the President and whether it would be putting him in a position that would be unfair to him in view of the position he took on inaugural day.

Mr. Chairman, let me read a letter from the President dated July 21, 1977, to the chairman of the committee, the gentleman from Illinois (Mr. PRICE), in which the President expressed complete support for this program. Let me preface that by saying that the President has reviewed and amended the budget request that is now before us on two different occasions since it was first submitted to the Congress by the administration.

Mr. Chairman, in the President's letter he says as follows:

The Honorable MELVIN PRICE,
Chairman, The Armed Services Committee, House of Representatives, Washington, D.C.

THE WHITE HOUSE,
Washington, July 21, 1977.

TO CONGRESSMAN MEL PRICE: I would like to express my appreciation to you for your efforts in support of the enhanced radiation weapons program which was recently approved by Congress. Even though I have not yet made a final production decision, the supportive Congressional action in which you were so instrumental ensures that I will have the flexibility to make that decision based on my analysis of the benefits and liabilities of the weapons system.

I believe that tactical nuclear weapons have strongly contributed to deterrence of conflict in Europe and that we must retain the option they provide. Further, we must ensure that our theater nuclear forces are appropriately structured to support NATO's deterrent strategy of flexible response. Although the enhanced radiation concept has generated a great deal of controversy, I believe it is imperative that we retain and modernize our theater nuclear capabilities.

I am grateful for your continued support on the enhanced radiation weapons program and would deeply appreciate any future help that you might be able to give when I make my final production decision.

Sincerely,

JIMMY CARTER.

Mr. Chairman, I think this letter expresses very fully how the President feels about this matter, including the fact that he would like to have the option himself to determine the production and, if necessary, the deployment of the weapons system.

There is no deployment of the system in this bill. ERDA cannot deploy weapons systems.

In the history of our country, Mr. Chairman, six or seven Presidents, I believe, have had control over our nuclear weapons systems. At no time in any of the previous administrations has the Congress taken action to deny the President the authority to make the decisions on these nuclear systems.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CHARLES H. WILSON) has expired.

(By unanimous consent, Mr. CHARLES H. WILSON of California was allowed to proceed for 1 additional minute.)

(On request of Mr. DON H. CLAUSEN and by unanimous consent, Mr. CHARLES H. WILSON of California was allowed to proceed for 2 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) is recognized for 3 additional minutes.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. CHARLES H. WILSON), and in particular, to commend him for reading the contents of the President's letter. I too have a copy of that letter, and if my colleague had not read it, I intended to do so.

The neutron bomb is a highly emotional issue. However, I would ask my colleagues to consider that it represents some tactical advantages which are not commonly considered. Both conventional and tactical nuclear weapons have a blast effect which destroys everything within range, and in so doing creates a tremendous amount of rubble. This rubble is a very real handicap to advancing forces. Destroyed bridges, trees knocked across roadways, buildings falling into streets, huge craters in roads and highways all slow down an army on the the move. As a result the ability to quickly capitalize on a tactical advantage is lost. And the loss of that advantage gives the enemy time to regroup, and to delay the ultimate end of the fighting, and in the long run means even more suffering.

This new weapon is being attacked, not because it causes damage that other weapons do not, but because it is highly selective in its target. I would suggest to my colleagues that we need more weapons which are selective, instead of those which inflict wholesale destruction of entire communities.

Mr. Chairman, I yield to no one when it comes to having a concern and a Christian conscience about the whole question that is involved here. Most of the debate thus far has been essentially on the basis of the emotional issues involved. Many Members in this Chamber have had military service, many of them before some of the other Members were here in Congress. However, I would like to put this on a different plane.

First of all, let us put this in the context of what the people in the Soviet Union do to put forth their views at the SALT negotiating table: They do not have to adhere to public opinion. There is no opportunity for debate when they come to make a decision. Then let us analyze the process here in the United States: We have an authorization process, we have an appropriations process and an allocation and a deployment process.

Let me refer the Members back to the ABM decision. There the same emotional debate took place on the AMB issue when it was before us for authorization. The ABM system was not fully deployed as was authorized, if I remember correctly. As a consequence, those of us who believed very strongly in peace through strength hoped we would never have to use it. We have not had to use the ABM system and we hope we do not have to use the neutron bomb.

Nevertheless we must continue to keep our defense forces modern and up to date, so that we are always able to go to the negotiating table in a position of strength.

But the key issue here is whether or not Congress and the executive branch in

dealing with defensive posture and policy can provide the necessary options at the negotiating table at some point in the future.

Mr. UDALL. Mr. Chairman, I think that the proposed neutron weapons program would be ill-advised for the following reasons:

First, it would lend credence to the idea that nuclear war can be limited to the battlefield without escalation to destruction of strategic targets;

Second, it would give undue prominence to those parts of the national security establishment which believe in the usefulness of nuclear weapons; and

Third, it would tend to legitimize nuclear weapons when we should be going in the other direction.

In sum, in buying off on the argument that neutron weapons increase the credibility of our deterrent, we move toward acceptance of the proposition that nuclear war does not necessarily equate with disaster. A vote against this program would be a statement by the Congress that we believe security lies in arms control and not in a never-ending spiral of weapons and counter weapons.

Mr. CONYERS. Mr. Chairman, I want to take this opportunity to express my deep appreciation to my colleagues who have indicated in the last 2 days of debate on the neutron bomb that they are concerned about the possible annihilation of Western society. I have heard genuine expressions of fear and mortification about the incredible potential of this weapon for triggering nuclear holocaust. The conclusion that many of my colleagues have reached is that a decision to proceed with the neutron bomb moves us another major step toward a no win situation. We seem to be prepared to create a future for ourselves and our children where there will be no winners—no survivors—no options for recovery—no imaginable future. A debate about the relative merits of the clean or dirty annihilation of Europe and this Nation can be characterized as the strategic insanity debate. The fact that the same kind of debate took place on the ABM only means that we continue to escalate the cycle of insanity with recycled rationalizations about establishing strategic weapons superiority. The fact that the House Chamber was largely empty during this debate on the future of the world only accentuates the grotesque unreality of it all. As my colleague from Nebraska pointed out, if the discussion had involved congressional pay raises, the floor would have been packed as well as the balcony. The emptiness of the Chamber and the overwhelming rejection of the Weiss amendment signify how far those of us have to go to produce a consensus on new priorities that lead away from amassing weapons of destruction and toward using our national resources for establishing peace in the world and well-being in this Nation.

Mrs. HOLT. Mr. Chairman, I am frequently surprised, and often distressed, by the opinions expressed by some of our colleagues regarding our national security programs and our efforts to maintain a common defense with our allies. In my remarks in the RECORD of September 20, I pointed out why and how conventional weapons systems sales to our allies benefited this country militarily, and questioned how such sales could be considered immoral.

I have listened carefully to my colleagues. I have shared their unhappiness at even discussing new and more sophisticated weapons systems, their sense of horror at the potential use of these systems. I have also thought of the many letters I have received from Members of this House to ask for my signature on petitions to foreign governments to honor the human rights of their citizens.

We have all received thousands of letters from people who have lived under governments that do not respect those rights. We have been loyal to our heritage of supporting the human quest for freedom against despotism.

But just how effective would we be if we had no military strength? As the gentleman from Alabama (Mr. DICKINSON) said: "Where would our friends the Israelis be today if we had not been able to draw weapons from our own arsenal and air lift them to Israel during the Yom Kippur war?"

I believe we must continue negotiating to discontinue the arms race, but civilization has not advanced to the stage at which nations can resolve disputes by having their leaders Indian wrestle, 1-on-1.

Now we have an amendment which opts for weapons that will not harm people or other living things. Should we call these unweapons? Perhaps it will be helpful to recall the history of warfare.

In the beginning, only people were involved in battle and only people were damaged. From the days of 1 on 1—Cain versus Abel, David versus Goliath—cutting tools and slingshots were the inweapons. Only in the case of Samson and Delilah do we note extensive property damage. Homer and Caesar, and subsequent authors, have led us from the phalanx of Greek warriors through the Gallic wars, in which increasingly sophisticated weapons were used. In the time of Richard the Lionhearted there was the catapult, the bow, hot oil and hot lead, the battering ram, as well as improved cutting weapons. Except for the battering ram, as well as improved catapults, which destroyed property, most inventions were prompted by new ways to eliminate the enemy. Fire was the only good weapon against most structures, but it did not work well against stone.

The Chinese solved that problem. They invented gunpowder. Shakespeare pointed out another use of the "stone breaker." I quote:

"And it was a great pity, so it was,
This Villainous saltpetre should be digg'd
Out of the bowels of the harmless earth,
Which many a good tall fellow had destroy'd
So cowardly."

One of our colleagues now wants to invent the "unweapon" which cannot destroy things, only property. He would proceed to the era of the unweapon, an era that has never existed in the history of mankind. A fiction as ludicrous as the Orwellian "unperson."

I share the compassion for human beings and for the flora and fauna of the world. But, as was demonstrated in Czechoslovakia and Hungary, the Soviets do not equip their army in Central Europe with rubber bullets. I would have my colleagues extend their compassion for humans to those who are trying to maintain a peaceful and free existence in Western Europe; people who would have long ago been overrun had it not been for the protection of the NATO alliance and the deterrent effect of nuclear weapons.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 297, not voting 28, as follows:

[Roll No. 608]

AYES—109

Addabbo	Fraser	Obey
Akaka	Glickman	Ottinger
Anderson, Calif.	Goodling	Panetta
AuCoin	Hannaford	Pease
Badillo	Harkin	Pursell
Baldus	Harrington	Rahall
Baucus	Hawkins	Rangel
Beard, R.I.	Hefner	Reuss
Bedell	Heftel	Richmond
Beilenson	Holtzman	Rodino
Blouin	Jacobs	Roe
Bonior	Kastenmeier	Rosenthal
Bonker	Keys	Roybal
Brodhead	Kildee	Schroeder
Brown, Calif.	Kostmayer	Seiberling
Buchanan	Krebs	Sharp
Burke, Calif.	Leach	Simon
Burton, John	Lundine	Skubitz
Burton, Phillip	McHugh	St Germain
Cavanaugh	McKinney	Stark
Chisholm	Maguire	Stokes
Clay	Markey	Studds
Collins, Ill.	Mazzoli	Thornton
Conyers	Metcalfe	Tsongas
Corcoran	Mikulski	Udall
Cornell	Mikva	Van Deerlin
Dellums	Miller, Calif.	Vanik
Diggs	Mineta	Vento
Drinan	Mitchell, Md.	Volkmer
Early	Moakley	Walgren
Eckhardt	Moffett	Waxman
Edgar	Moss	Weaver
Edwards, Calif.	Myers, Gary	Weiss
Eilberg	Nolan	Wirth
Ford, Tenn.	Nowak	Wylie
Forsythe	Oakar	Yates
	Oberstar	

NOES—297

Abdnor	Bingham	Cederberg
Alexander	Blanchard	Chappell
Allen	Boggs	Clausen, Don H.
Ambro	Boland	Cleveland
Ammerman	Bolling	Cochran
Anderson, Ill.	Brademas	Cohen
Andrews, N.C.	Breaux	Coleman
Andrews, N. Dak.	Breckinridge	Collins, Tex.
Annunzio	Brinkley	Conable
Applegate	Brooks	Conte
Archer	Broomfield	Corman
Armstrong	Brown, Mich.	Cornwell
Ashbrook	Brown, Ohio	Coughlin
Ashley	Broyhill	D'Amours
Aspin	Burgener	Daniel, Dan
Badham	Burke, Fla.	Daniel, R. W.
Bafalis	Burke, Mass.	Danielson
Barnard	Burleson, Tex.	Davis
Bauman	Burlison, Mo.	de la Garza
Beard, Tenn.	Butler	Delaney
Benjamin	Byron	Derrick
Bennett	Caputo	Derwinski
Bevill	Carney	Devine
Biaggi	Carr	Dickinson
	Carter	

Dicks	Jones, Okla.	Quie
Dingell	Jones, Tenn.	Quillen
Dodd	Jordan	Railsback
Dornan	Kasten	Regula
Downey	Kazen	Rhodes
Duncan, Oreg.	Kelly	Rinaldo
Duncan, Tenn.	Kemp	Risenhoover
Edwards, Ala.	Ketchum	Roberts
Edwards, Okla.	Kindness	Robinson
Emery	Krueger	Rogers
English	LaFalce	Roncalio
Erlenborn	Lagomarsino	Rooney
Ertel	Latta	Rostenkowski
Evans, Colo.	Le Fante	Rousselot
Evans, Del.	Lederer	Rudd
Evans, Ga.	Leggett	Runnels
Evans, Ind.	Levitas	Ruppe
Fary	Livingston	Russo
Fascell	Lloyd, Calif.	Santini
Fenwick	Lloyd, Tenn.	Satterfield
Findley	Long, La.	Sawyer
Fish	Long, Md.	Scheuer
Fisher	Lott	Schulze
Fithian	Lujan	Sebelius
Flippo	Luken	Shipley
Flood	McCormack	Shuster
Florio	McDade	Sikes
Flowers	McDonald	Sisk
Flynt	McEwen	Skelton
Foley	McFall	Slack
Ford, Mich.	McKay	Smith, Iowa
Fountain	Madigan	Smith, Nebr.
Fowler	Mahon	Snyder
Frenzel	Mann	Solarz
Frey	Marks	Spellman
Fuqua	Marriott	Spence
Gammage	Martin	Staggers
Gaydos	Mathis	Stangeland
Gephardt	Mattox	Stanton
Giaimo	Meeds	Steed
Gibbons	Meyner	Steers
Gilman	Michel	Steiger
Ginn	Milford	Stratton
Goldwater	Miller, Ohio	Stump
Gonzalez	Minish	Symms
Gore	Mitchell, N.Y.	Taylor
Gradison	Mollohan	Thone
Grassley	Montgomery	Traxler
Gudger	Moore	Treen
Hagedorn	Moorhead, Calif.	Trible
Hall	Moorhead, Pa.	Tucker
Hamilton	Mottl	Ullman
Hammer-schmidt	Murphy, Ill.	Vander Jagt
Hanley	Murphy, N.Y.	Waggonner
Hansen	Murphy, Pa.	Walker
Harris	Murtha	Walsh
Harsha	Myers, John	Watkins
Heckler	Myers, Michael	White
Hightower	Natcher	Whitehurst
Hillis	Neal	Whitley
Holland	Nedzi	Whitten
Hollenbeck	Nichols	Wiggins
Holt	Nix	Wilson, C. H.
Horton	O'Brien	Wilson, Tex.
Howard	Patten	Winn
Hubbard	Pattison	Wright
Huckaby	Perkins	Wydler
Hughes	Pettis	Yatron
Hyde	Pickle	Young, Alaska
Ichord	Pike	Young, Fla.
Ireland	Poage	Young, Mo.
Jenkins	Pressler	Young, Tex.
Jenrette	Preyer	Zablocki
Johnson, Colo.	Price	Zeferetti
Jones, N.C.	Pritchard	

NOT VOTING—28

Bowen	Lehman	Sarasin
Clawson, Del	Lent	Stockman
Cotter	McClory	Teague
Crane	McCloskey	Thompson
Cunningham	Marlenee	Wampler
Dent	Patterson	Whalen
Guyer	Pepper	Wilson, Bob
Jeffords	Quayle	Wolff
Johnson, Calif.	Rose	
Koch	Ryan	

The Clerk announced the following pairs:

On this vote:

Mr. Lehman for, with Mr. Dent against.

Mr. Koch for, with Mr. Thompson against.

Mrs. COLLINS of Illinois, Mr. AKAKA, and Mr. ROYBAL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committees on Armed Services and on Appropriations of the House of Representatives and the Senate of notice given by the Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administrator") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, and each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Administrator is authorized to start any project set forth in sections 102 (1) through (3) which has an estimated cost of $5,000,000 or more only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project in justifying documents provided the Congress. In addition, the total cost of any such project shall not exceed by more than 25 per centum the estimated cost set forth for such project in the justifying documents provided to the Congress for such project unless and until additional appropriations are authorized.

SEC. 203. The Administrator is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Administrator determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 per centum.

SEC. 204. Subject to the applicable requirements and limitations of this Act and when so specified in appropriations Acts, amounts appropriated for the Administration under section 101 or 102 of this Act may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 205. When so specified in appropriations Acts, amounts appropriated under section 101 or 102 of this Act may remain available until expended.

SEC. 206. Subject to the provisions of section 201(2), amounts appropriated pursuant to this Act for activities under sections 102 (4) and 102(5) are available for use, when necessary, in connection with all national security programs of the Administration.

SEC. 207. Subject to the provisions of section 201(2), the Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administrator determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 6, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 209. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read title II.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I will make the request again. I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of title II.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 21, after line 19, insert the following new section:

SEC. 210. (a) None of the funds authorized to be appropriated under this Act shall be obligated or expended for production of any enhanced radiation weapon, unless and until—

(1) the President certifies to Congress that production of such weapon is in the national interest;

(2) the Administrator submits to the Congress a complete statement analyzing the impact the production and deployment of such weapon would have on arms control and disarmanent policy and negotiations;

(3) the President, in accordance with section 91 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)(2)), personally directs that such weapon be produced;

(4) the President studies (A) the overall concept for use of tactical nuclear weapons, including particularly enhanced radiation weapons, in Europe, (B) how the use and deployment of such weapons, and particularly enhanced radiation weapons, relates to deterrence and to a strong conventional defense, (C) how deployment of such weapons, particularly enhanced radiation weapons, relates to the development of a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces; (D) the feasibility and desirability of reductions in the number and type of nuclear warheads which would not be essential for the defense structure of Western Europe because of the deployment of enhanced radiation weapons, and (E) any steps that can be taken, because of the deployment of enhanced radiation weapons, to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces;

(5) the President submits a detailed report to the Congress (A) stating the reasons for his decision under paragraph (3) that the enhanced radiation weapon involved be produced, and (B) reporting the results of the study required under paragraph (4); and

(6) a period of 45 calendar days passes after the report referred to in paragraph (5) is submitted to Congress during which Congress does not adopt a concurrent resolution disapproving the obligation or expenditure of such funds.

If before January 1, 1978, the President does not expressly direct that an enhanced radiation weapon be produced, a report stating the complete reasons for not directing production of such a weapon shall be submitted to the Congress not later than January 31, 1978.

(b) In conducting the study referred to in subsection (a)(4), the President shall review and take into consideration the results of the study conducted by the Secretary of Defense pursuant to section 302(d) of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365; 88 Stat. 402), and shall include in the report referred to in subsection (a)(5) any modification of the study conducted by the Secretary of Defense as may be necessary to bring the results of such study up to date.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the amendment.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the amendment.

Mr. McKINNEY (during the reading). Mr. Chairman, as a courtesy to my colleague, the gentleman from Connecticut (Mr. DODD), I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

Mr. DODD. Mr. Chairman, before I begin a discussion of the particulars of this amendment. I would like to suggest to my colleagues, those who were not able, for whatever reason, to be present during the past 4 or 5 hours of legislative activity on the floor, that they missed a unique opportunity to hear one of the finest debates I have heard in the 2 years I have been in the House. It was certainly a debate on the highest level. It was the debate surrounding this issue that is best known as the neutron warhead or neutron bomb.

This is an issue that has evoked very strong emotional responses on the part of many people. I can truly appreciate the significance of this issue. I can truly understand and appreciate the hesitancy on the part of many Members of this body in not wanting to make a decision that would appear to our allies and our friends in the world that we are in some way escalating nuclear armaments in the world at a time when world peace and peace in so many places in the world seems in jeopardy.

I hope it will not be necessary for us, in the consideration of this amendment, to go through the elaborate and long debate that occurred at the time of the offering of the amendment by the gentleman from New York (Mr. WEISS).

Having said that, let me try as clearly and concisely as I can, to explain exactly what my amendment is intended to do. This amendment has six parts to it. Some of the parts in this amendment are already law. Some have been included already in the appropriations bill on this matter.

The effort of this amendment is to try to consolidate all these things, not only to protect our interests and to protect the interests of those who are so concerned—and I think every Member of this institution is concerned with this matter—with the questions involving the production and the deployment of this kind of weapon, but also to try to emphasize to the President and to the administration our concern in this institution for decisions that are as monumental as this one is.

Let me say once again, as I said at the time of the offering of the last amendment, that if anyone has any question or any doubt about the ability of this institution and the Members of this institution to conduct a debate as sophisticated as the one that surrounds the production and deployment of a nuclear warhead, then I would commend the attention of that person to the RECORD of yesterday and today to see how sophisticated and how intelligent the Members of this institution can be when it comes to discussing an issue of this magnitude.

This amendment in effect gives us the opportunity to continue in the future our further consideration when this issue surfaces again. Let me just spell out the parts of this particular amendment and explain what it does.

My amendment is not intended to express congressional opposition to neutron warheads. I believe such opposition is premature at this time, because the pros and cons involving these tactical nuclear weapons do not now present us with a clear and convincing choice as to whether to approve or halt production of this weapon.

Congressional opposition or support should be the outcome of intensive hearings and debates. We have not had those hearings, and although the debate we have had the last 2 days, has been illuminating, I do not believe we are ready yet to reach a final decision.

My amendment is designed to give us the opportunity to deal with these weapons in that most responsible manner. It is intended to focus congressional debate on these warheads and to allow proper time for a full airing of the issues on both sides. It is intended to signal to President Carter that we are concerned with what appears to have been this administration's initial superficial examination of these weapons.

I might add at this point that the distinguished gentleman from Illinois (Mr. ANDERSON) made reference to this in the previous debate, and I think rightfully so. I do not mean by this that there was some malfeasance on the part of the present administration. I think this was merely a question of a new administration and this kind of a decision slipping by without receiving the proper attention it deserved.

My amendment is intended to demonstrate that the Congress expects to be a full and equal partner in our Government's decisionmaking process.

Mr. Chairman, my amendment also is intended to allow us to correct the many misimpressions on both sides of the issue, misimpressions which, unfortunately have appeared in the news media and which only serve to frighten the public rather than leading to enlightened debate.

Specifically, my amendment would require the following actions by the executive branch and the Congress before any fiscal year 1978 funds could be obligated or expended for production or long-lead procurement for production of neutron warheads.

The CHAIRMAN pro tempore (Mr. SIMON). The time of the gentleman from Connecticut (Mr. DODD) has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 5 additional minutes.)

Mr. DODD. Mr. Chairman, to continue, first of all, the President must certify to the Congress each type—and I emphasize the word "type"—of enhanced radiation warhead whose production is in the national interest. This provision is similar to that placed in the Senate and House fiscal year 1978 ERDA-Public Works appropriation bill.

I think this provision should be reiterated in the authorization act which, I would submit to my colleagues, is the far more appropriate place for it.

Second, ERDA's Administrator must submit a complete arms control impact statement to Congress for each type—and again I emphasize the words "each type"—of neutron warhead to be produced with fiscal year 1978 funds.

Mr. Chairman, as my colleagues, I am sure, are well aware, an impact statement was submitted in July of this year. However, I would suggest to my colleagues that that impact statement was only submitted as a result of pressures brought to bear after stories about this particular weapons system surfaced in the news media. I place this requirement in here so that there will no longer be any question in this administration's mind as to the requirement or necessity for an arms control impact statement. It is not clear whether ERDA had originally intended to do so, but I emphasize that we should put that kind of language in.

Mr. Chairman, let me go on to point 3. My amendment requires that the President or a President personally direct the production of enhanced radiation warheads if he decides they should be produced.

This provision reiterates a requirement already in law, and it might be suggested by some that this is unnecessary, but I think it is important to put this kind of language in here so that there is not any doubt that this is an essential requirement for the President to comply with in this kind of development of a weapons system.

Mr. Chairman, I am hopeful that this will serve to calm many of my colleagues who have been concerned that a decision involving this particular weapon would be made by staff and not by the President himself, as it should be.

Therefore, my amendment requires that the President study and report to the Congress how production and deployment of neutron weapons fit into our overall policies regarding tactical nuclear weapons with respect to NATO and in our strengthening NATO's possibility of reducing the number of tactical weapons in Europe.

Mr. Chairman, the last time policy questions about tactical nuclear weapons were addressed in a comprehensive manner was in fiscal year 1975 in what is known as the Nunn report, which was mandated under Public Law 93–365 in the 1975 Defense Authorization Act. Many Members have seen this report. This report is now going on 3 years old, and I would suggest that this report be updated. In fact, it has been suggested by some that it should be done either annually or bi-annually.

In any event, Mr. Chairman, this amendment would require the updating of this report, which I understand is to some extent going on already.

With respect to the language in the amendment, Mr. Chairman, some may raise questions as to where this language comes from. All that language is, is the language that is to be found in the preface of this report, with the added language of particular reference to be made to the enhanced radiation weapons. This is not some language concoted by my staff. It is language that comes from this report, including specifically the conclusions or the items discussed in this so-called 1975 Nunn report.

Fifth, Mr. Chairman, if the President decides to produce neutron warheads, my amendment further requires him to fully inform Congress as to the reasons for this decision. This provision makes this reporting requirement much more specific than the information-sharing arrangements which presently exist under current laws or agreements between Congress and the Executive.

If the President decides not to produce such weapons, my amendment also calls for him to explain the reason for that decision as well.

Lastly, Mr. Chairman, my amendment would require that Congress have 45 days after being informed about a new neutron warhead production decision to decide whether to disapprove of such production by a concurrent resolution.

This provision, I might also add, is similar to that contained in the ERDA public works bill. And I might suggest the same argument I offered earlier that an appropriation bill is not the proper place for that language to be located, it belongs in the language of an authorizing bill. This would allow the Congress to have a say and to make its decision when more information becomes available to it.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. DODD. Mr. Chairman, I might point out to the Members for their information that in trying to deal with this issue, back in the early part of this summer when this issue began to surface, I decided it was important to find out as much information as I possibly could about this entire issue. One of my concerns was the reaction of our NATO allies, and how would they respond. I personally wrote to every single NATO country, to their respective defense departments, asking for their analysis and decision on this weapon. Approximately half of them responded and, despite the press reports to the contrary in the last several weeks, there is not yet a decision by our NATO allies. The Dutch provided a typical reaction. Their reaction was that "We need more information. We would like to discuss it more."

The British were the same way. Canada said, "We would like further consultation before we would make a decision on this."

I think this amendment will allow the President to make his decision, discuss it with our allies in NATO, because, believe me, it is in their countries, their territories that this weapon would be used. They should have the right to have full consultation and decisionmaking in this process in this important area.

Given these responses by NATO, they have not made their decision, they are not against it and they have not come out publicly for it, either.

I think my colleagues should know all of this information in reaching a decision to go forward with this particular weapon.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding. I am somewhat troubled with the gentleman's amendment. How would this work? As I see this, it is not a privileged resolution, which means it could be called up by any Members of the House for a vote of disapproval, but it is a resolution that would go through the sponsoring committee, the Committee on Armed Services, from which I am reasonably sure it would probably not be reported out. Therefore, I do not think this is much of a control.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. DODD was allowed to proceed for 3 additional minutes.)

Mr. DODD. Mr. Chairman, I would suggest to my colleague, in having far more tenure here in the House than I do——

Mr. JOHN L. BURTON. Six months.

Mr. DODD. Six months. That the procedure to be followed here would be the normal procedure with a resolution of disapproval. It is my understanding, and I will stand corrected, that this resolution would go to the Commitee on Rules and would not have to go through the normal legislative committee in order to be considered here on the floor.

Mr. JOHN L. BURTON. If the gentleman will yield further, all I am doing is reading the resolution. I remember that with the President's reorganization plan, you can have a resolution of disapproval, then after 45 days it can be taken up by any Member of the House. This does not say it is a resolution of privilege. I am just afraid that it is not going to do anything. I mean, we had a vote the last time, that we could have said we do not know enough about it. Let us not spend any money until we find out the facts, do not do anything until it is reported back.

Mr. DODD. Just on that one point, I am not saying that. I feel, even despite the fact that I have spent time with the Committee on Armed Services looking over classified information, and despite the fact that my staff has spent the last few months on this, I do not feel fully qualified to stand before this body today and say I think absolutely, uncategorically, we ought to go forward with this weapons system.

Mr. JOHN L. BURTON. That is how I felt.

Mr. DODD. The reason I opposed the Weiss amendment is because the Weiss amendment foreclosed the option to go forward with production if after that study we decide we would like to go forward. I think we ought to have that option, despite the fact that the 45-day requirement may require some procedural maneuvering in order to get it here on the floor. I think it is deeply in our interest to have that right.

Mr. JOHN L. BURTON. The result would be a majority vote by the com-

mittee to disapprove a weapon that they spent more time and had more classified documents on than the gentleman and I and our staffs combined. We cannot parliamentarily maneuver something out of a committee. It is not a privileged resolution. It does not say that the committee will be discharged for 45 days and any Member of the House could take it up so at least we would have a vote. Under the worst of circumstances, we could have a majority of the committee not favoring a disapproval and everybody else in the House favoring it, and we still cannot have it. For that reason, although I understand the motives and I think they have merit, I would be constrained to oppose the amendment because it really does not do anything except have the President tell us why he went ahead with it. As far as his telling us why he did not go ahead with it, I will take him for his word on that because I know he is going to.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

I wonder if the gentleman from Connecticut (Mr. DODD) would answer my question. It relates to the supposition that if war breaks out tomorrow—God forbid—or the day after we pass the bill with this amendment in it, as I read it, there is no particular exemption for wartime. Could the gentleman comment on that?

Mr. DODD. If the gentleman will yield, I would probably suggest two things to my colleague. One, if war breaks out tomorrow, the President probably would not sign the bill.

Mr. STEERS. Suppose the day after he signs the bill war breaks out?

Mr. DODD. There are already provisions in this amendment which are requirements of law. We can create a frightening scenario, I suppose, that would necessitate obviating a lot of things that we feel are important. But I do not think that creating a hypothetical situation which does not seem to have much likelihood is a good rationale or reason to defeat an amendment which is designed to include, as constitutionally I think we are required to, our being directly included in the decisionmaking process over something as monumental as the production and deployment of a nuclear weapon. So despite the fact that war could potentially—and I will not bicker over that point—break out at any time, I do not think that is a good reason for not including this kind of language in this legislation in order to protect our rights in this institution and ultimately, I think, the rights of the people of this country, who are deeply concerned about the ultimate decision whether to go forward.

Mr. STEERS. If I understand the gentleman correctly—and we both agree that war is remote in this short-time period, nevertheless, it cannot be ruled out—it seems to me that the gentleman is saying that I am creating a hypothetical situation. But it seems to me that the gentleman's amendment—I am not saying that this is any reason that it should be defeated, but it might be a reason why it should be further amended—creates the hypothetical situation whereby it might well be that the President of the United States would find his hands tied preparing a report that the gentleman has called for, and then waiting for 45 days before he could respond to nuclear bombs being dropped on Washington.

Mr. DODD. Will the gentleman yield?

Mr. STEERS. I yield to the gentleman.

Mr. DODD. I thank the gentleman for yielding.

First of all, we are at a particular stage now where we are talking about research and development, and we are talking about, if war breaks out the, fact that we do not have the capability to really deploy at any rate this kind of system as it is. So we are talking about a production decision, and when that production decision is made, the President would have at the same time to comply with what is required in the amendment so that if, God forbid, that scenario arose, we are already talking about this language of the amendment being complied with by the executive branch. Therefore, if war did break out, we would not have to go through all of these steps, other than within that period the Congress could respond.

Mr. STEERS. I thank the gentleman. I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DODD. Mr. Chairman, I am constrained—I hesitate to do it—to demand a recorded vote on this.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: Page 21, after line 19, add the following new section:

SEC. 210. None of the funds authorized to be appropriated under section 101 of this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation (neutron bomb) warhead, or for research, development, testing, or evaluation with respect to any such warhead, unless such warhead is designed to destroy property without causing harm to human beings and other living things.

Mr. JOHN L. BURTON. Mr. Chairman, this Congress has long been concerned about the depressed state of our construction industry. Earlier this week we have shown our profound concern with the right to life, the right of things to exist and have life. This amendment addresses both problems. It says that neutron bombs, instead of preserving property and killing human beings, will destroy the property and let the people live.

One of my colleagues, the gentlewoman from Maryland, whom I do not see on the floor, said she thought this was kind of a stupid amendment. My only comment is that it is not as stupid as the bomb itself.

I ask for an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The question was taken; and on a division (demanded by Mr. JOHN L. BURTON) there were—ayes 6, noes 31.

So the amendment was rejected.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Obviously a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. SIMON). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to vote against this authorization, and I urge all those who voted for the amendment to delete all funding for the neutron bomb to do the same.

I would like at this time to place the debate that took place yesterday and today on this measure into historical perspective. But first, I want to express my deep appreciation to the chairman, the gentleman from California (Mr. CHARLES H. WILSON), for the gentleman's patience and cooperation, and his insight in determining at the outset that this was such an important matter that the debate ought to be allowed to go the full length.

The vote itself was very encouraging. There were 109 votes cast in favor of the amendment. When the debate started, those of us offering the amendment did not believe we would get more than 50 votes. We were content to raise an issue that we believed was, without exaggeration, crucial to the future of mankind. But the final tally shows we did more than merely raise an issue; we showed the President, the Congress, the American people and the world that there is considerable sentiment against the neutron bomb. I hope this sentiment will continue to grow and result in a final decision against this horrible weapon.

To the best of my knowledge, the 5 hours of debate we devoted to this issue was the first time the House has ever openly debated the use of tactical nuclear weapons. I am proud of this achievement, but I think it is a sad commentary that this subject has never before been debated. I hope the strength we demonstrated in the vote will insure that it will not be the last time such a discussion takes place.

My positive feelings must, unfortunately, be tempered by the knowledge that the House today authorized a weapon that will inevitably result in the terror of a nuclear holocaust. In doing so, this body has drifted into the militarily and

morally vacuous position of equating conventional and nuclear weapons. I shudder at the thought of what the next step in this direction will be.

Fortunately, this weapon can still be stopped. Under the appropriation measure, the President has to come back to both Houses with a certification that production of the neutron bomb is a necessity and that it is in the national interest. At that point, each House has the right to consider a resolution of disagreement.

Mr. Chairman, this is simply the beginning of an educational and legislative effort to take us back from the point of being perilously close to an all-out nuclear war. I hope this debate will encourage us to take a second look at the neutron bomb and move away from the brink of a nuclear holocaust.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I would like to commend the gentleman for taking the leadership on this issue. I think he has done an excellent job. I hope the educational benefits of the debate will continue to grow until we are in the majority.

Mr. PRICE. Mr. Chairman, I want to commend the gentleman from California (Mr. WILSON) for the effective manner in which he managed this legislation on the floor.

Mr. WILSON, in the three sessions during which this issue was under consideration exhibited great skill and patience and I am certain every Member of the House will join me in complimenting him.

He was extremely considerate in allocating time for debate. At no time did he seek to limit debate and I am certain the membership join me in commending him for his leadership.

The CHAIRMAN pro tempore. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore (Mr. SIMON). Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. STUDDS) having assumed the chair, Mr. SIMON, chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration a bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes, pursuant to House Resolution 640, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. FENWICK. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. FENWICK moves to recommit the bill H.R. 6566 to the Committee on Armed Services.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 78, not voting 26, as follows:

[Roll No. 609]

YEAS—330

Abdnor	Breaux	Daniel, R. W.
Addabbo	Breckinridge	Danielson
Akaka	Brinkley	Davis
Alexander	Brooks	de la Garza
Allen	Broomfield	Delaney
Ambro	Brown, Calif.	Derrick
Ammerman	Brown, Mich.	Derwinski
Anderson, Calif.	Brown, Ohio	Devine
Anderson, Ill.	Broyhill	Dickinson
Andrews, N.C.	Burgener	Dicks
Andrews, N. Dak.	Burke, Fla.	Diggs
Annunzio	Burke, Mass.	Dingell
Applegate	Burleson, Tex.	Dornan
Archer	Burlison, Mo.	Downey
Armstrong	Butler	Duncan, Oreg.
Ashbrook	Byron	Duncan, Tenn.
Ashley	Carney	Eckhardt
Aspin	Carr	Edwards, Ala.
Badham	Carter	Edwards, Okla.
Bafalis	Cederberg	Emery
Barnard	Chappell	English
Baucus	Clausen, Don H.	Erlenborn
Bauman	Cleveland	Ertel
Beard, R.I.	Cochran	Evans, Colo.
Beard, Tenn.	Cohen	Evans, Del.
Benjamin	Coleman	Evans, Ga.
Bennett	Collins, Ill.	Evans, Ind.
Bevill	Collins, Tex.	Fary
Biaggi	Conable	Fascell
Bingham	Conte	Findley
Blanchard	Corcoran	Fish
Blouin	Corman	Fisher
Boland	Cornwell	Fithian
Bolling	Coughlin	Flippo
Bonker	Crane	Flood
Brademas	D'Amours	Florio
	Daniel, Dan	Flowers
		Flynt
Foley	Lloyd, Calif.	Rogers
Ford, Mich.	Lloyd, Tenn.	Roncalio
Ford, Tenn.	Long, La.	Rooney
Fountain	Long, Md.	Rostenkowski
Fowler	Lott	Rousselot
Frenzel	Lujan	Rudd
Frey	Luken	Runnels
Fuqua	Lundine	Ruppe
Gammage	McCormack	Russo
Gaydos	McDade	Ryan
Gephardt	McDonald	Satterfield
Giaimo	McEwen	Sawyer
Gibbons	McFall	Scheuer
Gilman	McHugh	Schulze
Ginn	McKay	Sebelius
Glickman	Madigan	Sharp
Goldwater	Mahon	Shipley
Gonzalez	Mann	Shuster
Goodling	Marks	Sikes
Gore	Marriott	Simon
Gradison	Martin	Sisk
Grassley	Mathis	Skelton
Gudger	Mattox	Slack
Hagedorn	Meeds	Smith, Iowa
Hall	Meyner	Smith, Nebr.
Hamilton	Michel	Snyder
Hammer-schmidt	Milford	Solarz
Hanley	Miller, Ohio	Spellman
Hannaford	Minish	Spence
Hansen	Mitchell, N.Y.	Staggers
Harkin	Moakley	Stangeland
Harris	Mollohan	Stanton
Harsha	Montgomery	Steed
Heckler	Moore	Steiger
Hefner	Moorhead, Calif.	Stockman
Heftel	Moorhead, Pa.	Stratton
Hightower	Mottl	Stump
Hillis	Murphy, Ill.	Symms
Holland	Murphy, N.Y.	Taylor
Hollenbeck	Murphy, Pa.	Thone
Holt	Murtha	Thornton
Horton	Myers, Gary	Traxler
Howard	Myers, John	Treen
Hubbard	Myers, Michael	Trible
Huckaby	Natcher	Tucker
Hughes	Neal	Udall
Hyde	Nedzi	Ullman
Ichord	Nichols	Van Deerlin
Ireland	Nix	Vanik
Jeffords	Nowak	Vento
Jenkins	O Brien	Waggonner
Jenrette	Patten	Walker
Johnson, Colo.	Perkins	Walsh
Jones, N.C.	Pettis	Wampler
Jones, Okla.	Pickle	Watkins
Jones, Tenn.	Pike	White
Jordan	Poage	Whitehurst
Kasten	Pressler	Whitley
Kazen	Preyer	Whitten
Kelly	Price	Wiggins
Kemp	Pritchard	Wilson, C. H.
Ketchum	Pursell	Wilson, Tex.
Kindness	Quillen	Winn
Krueger	Railsback	Wright
LaFalce	Regula	Wydler
Lagomarsino	Reuss	Wylie
Latta	Rhodes	Yatron
Le Fante	Rinaldo	Young, Alaska
Leach	Risenhoover	Young, Fla.
Lederer	Roberts	Young, Mo.
Leggett	Robinson	Young, Tex.
Levitas	Rodino	Zablocki
Livingston	Roe	Zeferetti

NAYS—78

AuCoin	Fraser	Ottinger
Badillo	Harrington	Panetta
Baldus	Hawkins	Pattison
Bedell	Holtzman	Pease
Beilenson	Jacobs	Quie
Bonior	Kastenmeier	Rahall
Brodhead	Keys	Rangel
Buchanan	Kildee	Richmond
Burke, Calif.	Kostmayer	Rosenthal
Burton, John	Krebs	Roybal
Burton, Phillip	McKinney	Schroeder
Caputo	Maguire	Seiberling
Cavanaugh	Markey	St Germain
Chisholm	Mazzoli	Stark
Clay	Metcalfe	Steers
Conyers	Mikulski	Stokes
Cornell	Mikva	Studds
Dellums	Miller, Calif.	Thompson
Dodd	Mineta	Tsongas
Drinan	Mitchell, Md.	Volkmer
Early	Moffett	Walgren
Edgar	Moss	Waxman
Edwards, Calif.	Nolan	Weaver
Eilberg	Oakar	Weiss
Fenwick	Oberstar	Wirth
Forsythe	Obey	Yates

NOT VOTING—26

Boggs	Lehman	Santini
Bowen	Lent	Sarasin
Clawson, Del	McClory	Skubitz
Cotter	McCloskey	Teague
Cunningham	Marlenee	Vander Jagt
Dent	Patterson	Whalen
Guyer	Pepper	Wilson, Bob
Johnson, Calif.	Quayle	Wolff
Koch	Rose	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Del Clawson.
Mr. Teague with Mr. Guyer.
Mr. Koch with Mr. Marlenee.
Mr. Lehman with Mr. Bob Wilson.
Mr. Pepper with Mr. Lent.
Mr. Cotter with Mr. McClory.
Mr. Dent with Mr. Whalen.
Mr. Wolff with Mr. McCloskey.
Mr. Bowen with Mr. Cunningham.
Mr. Patterson of California with Mr. Sarasin.
Mr. Santini with Mr. Skubitz.
Mr. Rose with Mr. Vander Jagt.
Mr. Johnson of California with Mr. Quayle.

Mrs. SPELLMAN and Mr. HEFNER changed their vote from "nay" to "yea."

Mr. YATES and Mrs. BURKE of California changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes."

A motion to reconsider was laid on the table.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Research and Development Administration Authorization Act of 1977 and 1978—Military Applications".

TITLE I—NATIONAL DEFENSE PROGRAMS—FISCAL YEAR 1977

AUTHORIZATION OF FUNDS

SEC. 101. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for operating expenses and plant and capital equipment as follows:

OPERATING EXPENSES

SEC. 102. For operating expenses for the fiscal year beginning October 1, 1976, $1,363,535,000 as follows:

(1) Weapons Activities, $999,500,000.

(2) Special Materials Production, $362,735,000.

(3) Nuclear Explosives Applications, $1,300,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 103. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition, and acquisition and fabrication of capital equipment not related to construction, $379,401,000 as follows:

(1) Weapons Activities:

(A) Project 77–11–a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $8,300,000.

(B) Project 77–11–b, safeguards and site security improvements, various locations, $13,500,000.

(C) Project 77–11–c, 8-inch artillery fired atomic projectile production facilities, various locations, $22,600,000.

(D) Project 77–11–d, tritium confinement system, Savannah River, South Carolina, $3,500,000.

(E) Project 77–12–e, fire and safety project, Lawrence Livermore Laboratory, California, $2,300,000.

(F) Project 77–12–b, life safety corridor modifications, Bendix Plant, Kansas City, Missouri, $3,100,000.

(G) Project 77–12–c, modifications to comply with the Occupational Safety and Health Act, Y–12 Plant, Oak Ridge, Tennessee, $6,400,000.

(H) Project 77–12–d, upgrade reliability of fire protection, Bendix Plant, Kansas City, Missouri, $7,800,000.

(I) Project 77–12–e, sludge disposal facility, Y–12 Plant, Oak Ridge, Tennessee, $3,000,000.

(2) Special Materials Production:

(A) Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A–E and long-lead procurement), $15,000,000.

(B) Project 77–13–b, improved confinement of radioactive releases, reactor areas, Savannah River, South Carolina, $6,000,000.

(C) Project 77–13–c, seismic protection, reactor areas, Savannah River, South Carolina, $3,000,000.

(D) Project 77–13–d, high level waste storage and waste management facilities, Savannah River, South Carolina, $56,000,000.

(E) Project 77–13–e, high level waste storage and handling facilities, Richland, Washington, $40,000,000.

(F) Project 77–13–f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico (A–E, land acquisition, and long-lead procurement), $28,000,000.

(G) Project 77–13–g, safeguards and security upgrading, production facilities, multiple sites, $16,400,000.

(H) Project 77–13–h, personnel protection and support facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $10,500,000.

(3) Project 77–14, General Plant Projects, $31,210,000.

(4) Capital Equipment Not Related to Construction, $102,791,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 104. Section 101(b)(1) of Public Law 93–276 as amended, is further amended by striking out "$27,500,000" in the item relating to project 75–1–c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, and inserting in lieu thereof "$65,000,000".

TITLE II—NATIONAL DEFENSE PROGRAMS—FISCAL YEAR 1978

AUTHORIZATION OF FUNDS

SEC. 201. Funds are hereby authorized to be appropriated to the Energy Research and Development Administration for operating expenses and plant and capital equipment, as follows:

OPERATING EXPENSES

SEC. 202. For operating expenses for the fiscal year beginning October 1, 1977, $1,578,800,000, as follows:

(1) Weapons Activities, $1,161,400,000.

(2) Special Materials Production, $416,400,000.

(3) Nuclear Explosives Applications, $1,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 203. For plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, and for acquisition and fabrication of capital equipment not related to construction, $411,344,000 as follows:

(1) Weapons Activities:

(A) Project 78–16–a, cruise missile production facilities, various locations, $18,100,000.

(B) Project 78–16–b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

(C) Project 78–16–c, high explosive flash radiography facility, Lawrence Livermore Laboratory, California, $5,000,000.

(D) Project 78–16–d, weapons safeguards, various locations, $28,000,000.

(E) Project 78–16–e, new weapons production installations, various locations, $2,000,000.

(F) Project 78–16–h, Tonopah Test Range upgrade, Sandia Laboratories New Mexico $4,000,000.

(G) Project 78–17–d, Steam Plant Improvements, Oak Ridge, Tennessee, $2,000,000.

(2) Special Materials Production:

(A) Project 78–18–a, high level waste storage and waste management facilities, Richland, Washington, $27,000,000.

(B) Project 78–18–b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

(C) Project 78–18–c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

(D) Project 78–18–d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

(E) Project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

(F) Project 78–18–f, powerhouse emission control improvements, Richland, Washington, $6,500,000.

(G) Project 78–18–g, fan house and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

(H) Project 78–18–h, plantwide-fire protection, Savannah River, South Carolina, $6,300,000.

(I) Project 78–18–i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

(J) Projects 78–18–j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(3) Capital Equipment Not Related to Construction, $113,124,000.

(4) Project 78–21, General Plant Projects, $36,000,000.

(5) Capital Improvement Planning Program, $30,520,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 204. (a) Section 101(b)(9) of Public Law 91–273, as amended, is further amended by striking out "$240,000,000" in

the item relating to project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, and inserting in lieu thereof "$280,000,000".

TITLE III—GENERAL PROVISIONS

PROJECT COST VARIATION PROVISIONS

SEC. 301. (a) No project authorized in section 103 (1) or (2) or section 203 (1) or (2) may be started if the current estimated cost of such project exceeds by more than 25 per centum the amount authorized by law for such project.

(b) At any time the current estimated cost of any project under construction exceeds by more than 25 per centum the total amount authorized by law for such project, the Administrator of the Energy Research and Development Administration shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed unless and until additional funds for such projects are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

AUTHORITY TO MERGE FUNDS

SEC. 302. Subject to the applicable requirements and limitations of this Act and to the extent specified in appropriations Acts, amounts appropriated to the Energy Research and Development Administration pursuant to this Act for operating expenses or for plant and capital equipment may be merged with any other amounts appropriated for operating expenses or for plant and capital equipment, respectively, pursuant to any other Act authorizing appropriations for the Energy Research and Development Administration.

FUNDS TO REMAIN AVAILABLE UNTIL EXPENDED

SEC. 303. To the extent specified in appropriations Acts, amounts appropriated pursuant to this Act for operating expenses or plant and capital equipment may remain available until expended.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 304. The Administrator of the Energy Research and Development Administration is authorized to perform construction design services for any construction project of the Energy Research and Development Administration in support of military applications in amounts not in excess of the amount specified in section 203(5).

AUTHORITY TO USE CERTAIN MONEYS AND FEES

SEC. 305. To the extent specified in appropriations Acts, any moneys received by the Energy Research and Development Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 (42 U.S.C. 2031) and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98) and fees received for tests or investigations under the Act of May 16, 1910 (30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

AUTHORITY TO TRANSFER FUNDS TO OTHER AGENCIES

SEC. 306. To the extent specified in appropriations Acts, funds appropriated to the Energy Research and Development Administration for operating expenses may be transferred to other agencies of the Government for the performance of work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which transferred.

MOTION OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES H. WILSON of California moves to strike out all after the enacting clause of the Senate bill S. 1339 and to insert in lieu thereof the provisions of H.R. 6566, as passed, as follows:

TITLE I—FOR NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. There is hereby authorized to be appropriated for the use of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration") for fiscal year 1978 for operating expenses for national security programs—

(1) for weapons activities, $1,205,000,000,

(2) for special materials production, $416,400,000,

(3) for laser fusion, $116,200,000,

(4) for naval reactor development, $211,700,000, and

(5) for program management and support, $40,800,000,

in all, $1,991,100,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. There is hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, for national security programs the following amounts:

(1) For laser fusion:

Project 78-4-a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California, $9,000,000.

(2) For weapons activities:

Project 78-16-a, cruise missile production facilities, various locations, $18,100,000.

Project 78-16-b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

Project 78-16-c, high explosive flash radiography facility, Lawrence Livermore Laboratory, California, $10,900,000.

Project 78-16-d, weapons safeguards, various locations, $14,000,000.

Project 78-16-e, new weapons production installations, various locations, $5,000,000.

Project 78-16-f, replace 10-inch water main, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, $12,500,000.

Project 78-16-h, Tonopah Test Range upgrade, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 78-16-i, laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (A-E only), $2,000,000.

Project 78-17-a, production component warehouse, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 78-17-b, surface water control system, Rocky Flats Plant, Colorado, $2,800,000.

Project 78-17-c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California, $12,300,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $10,000,000.

Project 78-17-e, high explosive machining facility, Pantex Plant, Amarillo, Texas, $5,000,000.

(3) For special materials production:

Project 78-18-a, high level waste storage and waste management facilities, Richland, Washington, $17,000,000.

Project 78-18-b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

Project 78-18-c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

Project 78-18-d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

Project 78-18-f, powerhouse emission control improvements, Richland, Washington (A-E only), $500,000.

Project 78-18-g, fanhouse and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

Project 78-18-h, plantwide fire protection, Savannah River, South Carolina, $6,300,000.

Project 78-18-i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

Project 78-18-j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(4) For project 78-21, General Plant Projects—

(A) for weapons activities, $24,000,000,

(B) for special materials production, $12,000,000, and

(C) for naval reactor development, $2,800,000, in all, $38,800,000.

(5) For project 78-22, construction planning and design, $5,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $81,000,000,

(B) for special materials production, $36,700,000,

(C) for laser fusion, $13,200,000,

(D) for naval reactor development, $15,150,000,

(E) for program management and support, in all $146,350,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. There are hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for projects previously authorized additional amounts as follows:

(1) For project 71-9 fire, safety, and adequacy of operating conditions projects, various locations, $47,000,000, for a total authorization of $287,000,000.

(2) For project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $28,500,000, for a total authorization of $65,000,000.

(3) For project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $31,900,000, for a total authorization of $54,500,000.

(4) For project 77-3-a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $4,400,000 for a total authorization of $13,500,000.

(5) For project 77-11-a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $4,300,000, for a total authorization of $8,300,000.

(6) For project 77-11-b, safeguards and site security improvements, various locations, $7,800,000, for a total authorization of $13,500,000.

(7) For project 77-11-c, 8-inch artillery fired atomic projectile production facilities, various locations, $12,600,000, for a total authorization of $22,600,000.

(8) For project 77-13-a, flourinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement), $5,000,000, for a total authorization of $15,000,000.

(9) For project 77-13-d, high level waste storage and waste management facilities, Savannah River, South Carolina, $31,000,000, for a total authorization of $56,000,000.

(10) For project 77-13-e, high level waste storage and handling facilities, Richland, Washington, $22,000,000, for a total authorization of $40,000,000.

(11) For project 77-13-f, waste isolation pilot plant (A-E, land acquisition, and long-lead procurement), Delaware Basin, Southeast New Mexico, $22,000,000, for a total authorization of $28,000,000.

(12) For project 77-13-g, safeguards and security upgrading production facilities, multiple sites, $8,700,000, for a total authorization of $16,400,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committees on Armed Services and on Appropriations of the House of Representatives and the Senate of notice given by the Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administrator") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, and each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Administrator is authorized to start any project set forth in sections 102 (1) through (3) which has an estimated cost of $5,000,000 or more only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project in justifying documents provided the Congress. In addition, the total cost of any such project shall not exceed by more than 25 per centum the estimated cost set forth for such project in the justifying documents provided to the Congress for such project unless and until additional appropriations are authorized.

SEC. 203. The Administrator is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Administrator determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 per centum.

SEC. 204. Subject to the applicable requirements and limitations of this Act and when so specified in appropriations Acts, amounts appropriated for the Administration under section 101 or 102 of this Act may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 205. When so specified in appropriations Acts, amounts appropriated under section 101 or 102 of this Act may remain available until expended.

SEC. 206. Subject to the provisions of section 201(2), amounts appropriated pursuant to this Act for activities under sections 102(4) and 102(5) are available for use, when necessary, in connection with all national security programs of the Administration.

SEC. 207. Subject to the provisions of section 201(2), the Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administrator determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 6, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98th; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 209. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

Amend the title so as to read: "An Act to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for the use of the Energy Research and Development Administration for national security programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6566) was laid on the table.

APPRECIATION TO HON. MELVIN PRICE

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, the only reason I have taken this time is so that I may express my appreciation to the members of the Committee on Armed Services who served on the subcommittee having to do with the ERDA authorization bill. In particular, I want to express my appreciation to the chairman, the gentleman from Illinois (Mr. PRICE) who, as chairman of the full committee and the subcommittee, permitted me to handle this bill in his stead. The gentleman from Illinois (Mr. PRICE), as the Members of the House know, is probably the only real expert we have on nuclear energy as a result of his many years on the Joint Committee on Atomic Energy. I feel that it was a very gracious thing for him to have given me this great privilege.

GENERAL LEAVE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill H.R. 6566, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4297, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AUTHORIZATION, 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-646) on the resolution (H. Res. 798) providing for consideration of H.R. 4297, to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8410 TO AMEND THE NATIONAL LABOR RELATIONS ACT

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-647) on the resolution (H. Res. 799) providing for consideration of H.R. 8410 to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9354, STAFF ALLOWANCE FOR FORMER PRESIDENTS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-648), on the resolution (H. Res. 800) providing for consideration of H.R. 9354 to amend the act of August 25, 1958, with respect to staff allowance for former Presidents, which was referred to the House Calendar and ordered to be printed.

MESSAGE FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 3199, FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1977

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

The Chair hears none, and appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, ANDERSON of California, ROE, BREAUX, GINN, OBERSTAR, NOWAK, STUMP, HARSHA, CLEVELAND, DON H. CLAUSEN, and SNYDER.

THIRD BUDGET RESCISSION BILL, FISCAL YEAR 1977

Mr. MAHON. Mr. Speaker, I call up the bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority proposed in the message of the President of July 19, 1977 (H. Doc. 95–188), are made pursuant to the Impoundment Control Act of 1974, namely:

CHAPTER I

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY CREDIT SALES

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1977, $21,090,000 are rescinded.

CHAPTER II

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

ALTERATIONS AND MAJOR REPAIRS

Of the funds appropriated under this head in the Supplemental Appropriations Act, 1977, $75,000,000 are rescinded.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill contains two rescissions. The items total $96,090,000, the same amount as recommended and proposed by the President in his message of July 19, 1977, to which reference has already been made. Two appropriations subcommittees have been involved in this legislation, the Foreign Operations and Treasury—Postal Service—General Government. The committee recommends a rescission of $21,090,000 in foreign military credit sales and $75 million in the General Services Administration Federal Building Fund. Insofar as I know, there is nothing controversial about the proposed rescissions, which were approved last Friday by the full Committee on Appropriations on a voice vote.

The chairman of the Subcommittee on Treasury—Postal Service—General Government, the gentleman from Oklahoma (Mr. STEED), and the chairman of the Subcommittee on Foreign Operations, the gentleman from Maryland (Mr. LONG), are here and will explain the items in the bill under the jurisdiction of their respective committees. I would suggest that the House listen to an explanation of the bill from these two gentlemen.

Mr. Speaker, I reserve the remainder of my time.

Mr. STEED. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the item that I am in charge of has to do with the General Services Administration. Earlier this year in the supplemental we had included $125 million for the alterations and major repairs of Federal buildings. There were some delays, and as a result the General Services Administration has only been able to obligate a portion of that amount. Starting on October 1, which is immediately before us, they will have $200 million for this same purpose in their regular fiscal year 1978 budget. They do have a big backlog in alterations and major repairs and there is a 5-year cycle of maintenance and repair on Federal buildings. The $50 million they have available from the supplemental, plus the $200 million in the new bill starting October 1 will keep them on base with their work. We are assured that in the 1979 budget there will be another substantial amount to continue this work until the backlog is significantly reduced. So there is no longer any need for this $75 million, and our subcommittee is unanimous in agreeing to the rescission.

Mr. LONG of Maryland. Mr. Speaker, I move to strike the last word.

The committee recommends the rescission of $21,090,000 in budget authority available to the foreign military credit sales program. The $21,090,000 in excess budget authority results from changes in program plans that place increased reliance on guaranteed loans rather than on direct credits during fiscal year 1977.

Under the guarantee program, funds equal to 10 percent of the face value of the loans are obligated to guarantee loans provided to foreign aid recipients by the Federal Financing Bank or private lending institutions. In contrast, the full face value of the loans is obligated by the U.S. Government in direct credit transactions. The program would still operate at its full authorized level ($2,022.1 million) if the rescission is accepted because the proposal is concerned only with a change in the method of financing the loans and not in the level of loans.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Florida (Mr. YOUNG), the ranking minority member of our subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, I would like to say the chairman has explained this rescission bill very well. The Members of the minority support the rescission. It certainly would have no effect on this program. It really was excess budget authority. It would have no effect whatsoever on the program. We are certainly in support of the resolution.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I would like to explain that as far as the section of this bill which says that $75 million are rescinded from GSA, we on the Republican side only wish it could be $500 million. But at least it is money being turned back into the Treasury. We have no objection.

Mr. LONG of Maryland. I thank the gentleman from Ohio (Mr. MILLER).

Mr. BEDELL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, as a result of some of the visits I made to the agencies I have come upon a problem I would like to point out to the committee. If I might have the attention of the gentleman from Oklahoma, I would like to be sure that he understands the problem as I see it. I am a little disturbed about the bill in that the report says:

> In view of these conditions, the Committee reluctantly agrees to the proposed rescission, but with the clear understanding that the Administration will continue a high rate of funding for the alteration and repair of public buildings sufficient to bring this problem under control within the foreseeable future.

I find that the contracts entered into with building owners by the GSA provide that all changes that are made will be made by the building owner. There is no opportunity whatsoever for the occupant, if he wishes to make those changes or if he wants to contract with some other party to make those changes, that there be any competitive bidding. So always these repairs go to the owner. If then the agency feels the bill is noncompetitive or unreasonable they can go back to the GSA and negotiate, but there is never a competitive bid taken to check to see whether the changes are correct or not.

So it is only natural that the building owner would always submit a high bid for the changes that are to be made, because all that would happen is that he would have to renegotiate it downtown. I would hope that the committee would look into this matter and give consideration to the possibility of requiring that there be a provision where we could make it possible, whenever it seemed that the charge was unreasonable, that there be competitive bids. Certainly the checks I have made would indicate there are many cases when these charges are considerably greater than they would be if they abided by the normal practices of competitive bidding within the industry.

Mr. STEED. Mr. Speaker, if the gentleman will yield, of course, I agree with the gentleman in the gentleman's purposes; but as I understand, this program is just now beginning. They have permitted this backlog to pile up over the

last several years. We have tried to insist that they stay on the current basis, but for budgetary reasons they never did; so now we have a backlog of need of about 10,000 buildings that the Government occupies and over $900 million for maintenance and repair. They have reduced this to what they call a priority list on a 5-year cycle and at the $200 million level as we are going into for the new fiscal year, they ought to be able to acquire the maintenance and repair that they want in that 5-year cycle.

Now, the detail the gentleman goes into is a matter that will be of great interest to the subcommittee when we have our new hearings. If the gentleman would like to, we would be delighted to have the gentleman join with us when the Public Building Service comes before the committee and perhaps the gentleman can help us establish an even more thorough record than we would otherwise make.

I think we will find that the new program down there is going to be on the money and very well run. Of course, we are anxious to have it come out right, because a lot of this maintenance and repair has to do with changing the property we have so that it can be better utilized for the needs of space and save a lot of money. Also, it means that we can do a lot of insulation and other things that will make it more efficient; so we are anxious to have this program succeed and go on to fruition so that we get rid of this backlog.

In a lot of ways we are losing more money instead of making repairs than it costs to make them.

Mr. BEDELL. Mr. Speaker, I thank the gentleman and support the gentleman in making repairs. As I understand, there will be an opportunity to come before the committee to consider whether or not these repairs should allow for competitive bidding, at least in those cases where it seems the quotation is unreasonable.

Mr. STEED. Mr. Speaker, if the gentleman will yield further, we will be able to give the gentleman all the details the gentleman wants, plus a spreadout of the work underway and the next work coming in.

Mr. BEDELL. I have the information. I have the printouts. The concern I have is the policy followed by GSA, which is a policy that it will not have competitive bidding, that there will be no effort to see that those costs are held down in those cases where there is no bidding or in cases where it appears unreasonable.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, is the gentleman speaking of buildings owned by the Federal Government, owned by GSA, or speaking of buildings owned by private individuals and leased by the GSA?

Mr. BEDELL. I am speaking of the latter.

Mr. MILLER of Ohio. Of the latter?

Mr. BEDELL. Yes.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

At the request of Mr. MILLER of Ohio, and by unanimous consent, Mr. BEDELL was allowed to proceed for an additional 2 minutes.)

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, the gentleman is requesting that the bidding procedure for the Federal Government would control it on private buildings; is that what the gentleman is saying?

Mr. BEDELL. No, sir; I am saying when the occupant of a building wants to hang a picture or wants to put up a temporary partition in a building, that if it appears that the building owner is overcharging, the only way they can get the picture hung is contract with the building owner to hang the picture; I am saying if it appears the building owner is charging what appears to be several times the normal charge to do that work, then there should be an opportunity to get competitive bids, so that we do not, indeed, give the building owner a lock on everything that is done and remove the competitive pressure to hold down the costs to the Government.

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, I am sure the answer is, and as the chairman of the committee stated, we will look into it; but at least we have identified the problem.

Mr. MITCHELL of Maryland. Mr. Speaker, I am strongly opposed to the rescission contained in chapter II of this bill. I believe it is highly unwise.

There has been one common thread running through the actions of the Congress during the recent period of economic distress. We are concerned about unemployment. Many of us are concerned about unemployment among blacks and other minority groups. Many of us are concerned about unemployment among young adults and teenagers.

Every budget resolution that has come before this House has focused on the need for stimulating the economy and creating jobs for the 7 million unemployed. We included economic stimulus in each of our budget resolutions—probably not enough stimulus to reach the truly desperate and disadvantaged, but as much as we could get—and, by and large, we have enacted the authorizations and appropriations to make that economic stimulation and job-creation really effective.

Now, we are asked to backtrack. We are asked to rescind a large portion of the appropriation we made only last spring to create jobs.

Mr. Speaker, the appropriation for alteration and major repair of public buildings was a particularly attractive proposition when it was presented to us by the Appropriations Committee in the spring supplemental. Repair jobs are most useful in putting people to work in a hurry; the time-consuming planning phase is substantially reduced, most contracts are relatively small and hence get under way quickly.

Mr. Speaker, I invite your attention to the statements about the condition of public buildings in the committee report accompanying this bill. On page four of House report 95–625 the Appropriations Committee states that the backlog or required alterations and major repairs has reached $1.1 billion. There is no lack of demand for this work; there is no lack of people to do the work.

There apparently is, however, a lack of will to do the job.

I cannot see, Mr. Chairman, with national unemployment still hovering around the 7-percent rate and with minority unemployment almost 15 percent, how we can rescind these funds in the face of a backlog of $1.1 billion of needed repairs and alterations.

Far better that we send a clear message downtown that Congress meant what it said when we appropriated an additional $125 million last Spring for job-creating repairs and improvements to public buildings.

The need is there. The unemployment workers can be put to work. Let us get on with it.

Mr. MAHON. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 403, nays 1, not voting 30, as follows:

[Roll No. 610]

YEAS—403

Abdnor	Bennett	Carney
Addabbo	Bevill	Carr
Akaka	Biaggi	Carter
Alexander	Bingham	Cavanaugh
Allen	Blanchard	Cederberg
Ambro	Blouin	Chappell
Ammerman	Boggs	Chisholm
Anderson, Calif.	Boland	Clausen, Don H.
Anderson, Ill.	Bonior	Clay
Andrews, N.C.	Bonker	Cleveland
Andrews, N. Dak.	Brademas	Cochran
Annunzio	Breaux	Cohen
Applegate	Breckinridge	Coleman
Archer	Brinkley	Collins, Ill.
Armstrong	Brodhead	Collins, Tex.
Ashbrook	Brooks	Conable
Ashley	Broomfield	Conte
Aspin	Brown, Calif.	Conyers
AuCoin	Brown, Mich.	Corcoran
Badham	Brown, Ohio	Corman
Badillo	Broyhill	Cornell
Bafalis	Buchanan	Cornwell
Baldus	Burgener	Coughlin
Barnard	Burke, Calif.	Crane
Baucus	Burke, Fla.	D'Amours
Bauman	Burke, Mass.	Daniel, Dan
Beard, R.I.	Burleson, Tex.	Daniel, R. W.
Beard, Tenn.	Burlison, Mo.	Danielson
Bedell	Burton, John	Davis
Beilenson	Burton, Phillip	de la Garza
Benjamin	Butler	Delaney
	Byron	Dellums
	Caputo	

Derrick	Kazen	Rangel
Derwinski	Kelly	Regula
Devine	Kemp	Reuss
Dickinson	Ketchum	Rhodes
Dicks	Keys	Richmond
Diggs	Kildee	Rinaldo
Dingell	Kostmayer	Risenhoover
Dodd	Krebs	Roberts
Dornan	Krueger	Robinson
Downey	LaFalce	Rodino
Drinan	Lagomarsino	Roe
Duncan, Tenn.	Latta	Rogers
Early	Le Fante	Roncalio
Eckhardt	Leach	Rooney
Edgar	Lederer	Rosenthal
Edwards, Ala.	Leggett	Rostenkowski
Edwards, Calif.	Levitas	Rousselot
Edwards, Okla.	Livingston	Roybal
Eilberg	Lloyd, Calif.	Rudd
Emery	Lloyd, Tenn.	Runnels
English	Long, La.	Ruppe
Erlenborn	Long, Md.	Russo
Ertel	Lott	Ryan
Evans, Colo.	Lujan	Santini
Evans, Del.	Luken	Satterfield
Evans, Ga.	Lundine	Sawyer
Evans, Ind.	McCormack	Scheuer
Fary	McDade	Schroeder
Fascell	McDonald	Schulze
Fenwick	McEwen	Sebelius
Findley	McFall	Seiberling
Fish	McHugh	Sharp
Fisher	McKay	Shipley
Fithian	McKinney	Shuster
Flippo	Madigan	Sikes
Flood	Maguire	Simon
Florio	Mahon	Sisk
Flowers	Mann	Skelton
Flynt	Markey	Slack
Foley	Marks	Smith, Iowa
Ford, Mich.	Marriott	Smith, Nebr.
Ford, Tenn.	Martin	Snyder
Forsythe	Mathis	Solarz
Fountain	Mattox	Spellman
Frenzel	Mazzoli	Spence
Frey	Meeds	St Germain
Fuqua	Metcalfe	Staggers
Gammage	Meyner	Stangeland
Gaydos	Michel	Stanton
Gephardt	Mikulski	Stark
Giaimo	Mikva	Steed
Gibbons	Milford	Steers
Gilman	Miller, Calif.	Steiger
Ginn	Miller, Ohio	Stockman
Glickman	Mineta	Stokes
Goldwater	Minish	Stratton
Gonzalez	Mitchell, N.Y.	Studds
Goodling	Moakley	Stump
Gore	Moffett	Symms
Gradison	Mollohan	Taylor
Grassley	Montgomery	Thompson
Gudger	Moore	Thone
Hagedorn	Moorhead, Calif.	Thornton
Hall	Moorhead, Pa.	Traxler
Hamilton	Moss	Treen
Hammer-schmidt	Motti	Trible
Hanley	Murphy, Ill.	Tsongas
Hannaford	Murphy, N.Y.	Tucker
Hansen	Murphy, Pa.	Udall
Harkin	Murtha	Ullman
Harrington	Myers, Gary	Van Deerlin
Harris	Myers, John	Vanik
Harsha	Myers, Michael	Vento
Hawkins	Natcher	Volkmer
Heckler	Neal	Waggonner
Hefner	Nedzi	Walgren
Heftel	Nichols	Walker
Hightower	Nix	Walsh
Hillis	Nolan	Wampler
Holland	Nowak	Watkins
Hollenbeck	O'Brien	Waxman
Holt	Oakar	Weaver
Holtzman	Oberstar	Weiss
Horton	Obey	White
Howard	Ottinger	Whitehurst
Hubbard	Panetta	Whitley
Huckaby	Patten	Whitten
Hughes	Pattison	Wiggins
Hyde	Pease	Wilson, C. H.
Ichord	Perkins	Wilson, Tex.
Ireland	Pettis	Winn
Jacobs	Pickle	Wirth
Jeffords	Pike	Wright
Jenkins	Poage	Wydler
Jenrette	Pressler	Wylie
Johnson, Colo.	Preyer	Yates
Jones, N.C.	Price	Yatron
Jones, Okla.	Pursell	Young, Alaska
Jones, Tenn.	Quie	Young, Fla.
Jordan	Quillen	Young, Mo.
Kasten	Rahall	Young, Tex.
Kastenmeier	Railsback	Zablocki
		Zeferetti

NAYS—1

Mitchell, Md.

NOT VOTING—30

Bolling	Johnson, Calif.	Pritchard
Bowen	Kindness	Quayle
Clawson, Del	Koch	Rose
Cotter	Lehman	Sarasin
Cunningham	Lent	Skubitz
Dent	McClory	Teague
Duncan, Oreg.	McCloskey	Vander Jagt
Fowler	Marlenee	Whalen
Fraser	Patterson	Wilson, Bob
Guyer	Pepper	Wolff

The Clerk announced the following pairs:

Mr. Dent with Mr. Del Clawson.
Mr. Teague with Mr. Marlenee.
Mr. Koch with Mr. Lent.
Mr. Lehman with Mr. McClory.
Mr. Pepper with Mr. Cunningham.
Mr. Cotter with Mr. Whalen.
Mr. Wolff with Mr. McCloskey.
Mr. Bowen with Mr. Kindness.
Mr. Patterson of California with Mr. Guyer.
Mr. Rose with Mr. Pritchard.
Mr. Johnson of California with Mr. Quayle.
Mr. Duncan of Oregon with Mr. Skubitz.
Mr. Fraser with Mr. Bob Wilson.
Mr. Fowler with Mr. Vander Jagt.

So the bill was passed.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 9019.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REQUEST FOR COMMITTEE ON JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain what the great necessity is for meeting tomorrow?

Mr. DANIELSON. Mr. Speaker, if the gentleman will yield, I will be glad to.

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, tomorrow the Committee on the Judiciary will be considering general debate on a bill relating to the subject of financial disclosure.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, financial disclosure of what?

Mr. DANIELSON. On the part of the executive branch and the judicial branch of the Government.

Mr. ROUSSELOT. Is this the ethics in Government bill similar to the one that was sequentially referred to the Committee on Post Office and Civil Service and the Armed Services Committee? I have forgotten?

Mr. DANIELSON. It is the bill which has been referred to that committee as well as to the Committee on the Judiciary.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will advise the gentleman from California (Mr. ROUSSELOT) that it takes 10 Members to object. The objectors will have to remain standing.

(Messrs. HANSEN, SYMMS, BAUMAN, ROUSSELOT, MARTIN, KEMP, SNYDER, JOHNSON of Colorado, CONABLE, and McEWEN also objected.)

The SPEAKER pro tempore. A sufficient number have objected. Objection is heard.

VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 33, noes 19.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 17, not voting 40, as follows:

[Roll No. 611]

YEAS—377

Abdnor	Breckinridge	Coughlin
Addabbo	Brinkley	D'Amours
Akaka	Brodhead	Daniel, Dan
Alexander	Brooks	Daniel, R. W.
Allen	Broomfield	Danielson
Ambro	Brown, Calif.	Davis
Ammerman	Brown, Mich.	de la Garza
Anderson, Calif.	Brown, Ohio	Delaney
Anderson, Ill.	Broyhill	Dellums
Andrews, N.C.	Buchanan	Derrick
Andrews, N. Dak.	Burgener	Derwinski
Annunzio	Burke, Calif.	Devine
Applegate	Burke, Fla.	Dickinson
Armstrong	Burke, Mass.	Dicks
Ashbrook	Burleson, Tex.	Diggs
Ashley	Burlison, Mo.	Dingell
Aspin	Burton, John	Dodd
AuCoin	Burton, Phillip	Dornan
Badham	Butler	Downey
Badillo	Byron	Drinan
Bafalis	Caputo	Duncan, Tenn.
Baldus	Carney	Early
Barnard	Carr	Eckhardt
Baucus	Carter	Edgar
Bauman	Cavanaugh	Edwards, Ala.
Beard, R.I.	Cederberg	Edwards, Calif.
Beard, Tenn.	Chappell	Edwards, Okla.
Bedell	Chisholm	Eilberg
Beilenson	Clausen, Don H.	Emery
Benjamin	Cleveland	English
Bevill	Cochran	Ertel
Biaggi	Cohen	Evans, Colo.
Bingham	Coleman	Evans, Del.
Blanchard	Collins, Ill.	Evans, Ga.
Boggs	Conte	Evans, Ind.
Boland	Corcoran	Fary
Bonior	Corman	Fascell
Breaux	Cornell	Fenwick
	Cornwell	Findley
		Fish

Fisher	Long, La.	Rodino
Fithian	Long, Md.	Roe
Flippo	Lott	Rogers
Flood	Luken	Roncalio
Florio	Lundine	Rooney
Flowers	McCormack	Rosenthal
Flynt	McDade	Rostenkowski
Foley	McHugh	Rousselot
Ford, Mich.	McKay	Roybal
Ford, Tenn.	McKinney	Ruppe
Forsythe	Madigan	Russo
Fountain	Maguire	Ryan
Fraser	Mahon	Santini
Frenzel	Mann	Satterfield
Frey	Markey	Sawyer
Fuqua	Marks	Scheuer
Gammage	Marriott	Schroeder
Gaydos	Martin	Schulze
Gephardt	Mattox	Sebelius
Giaimo	Mazzoli	Seiberling
Gibbons	Meeds	Sharp
Gilman	Metcalfe	Shipley
Ginn	Meyner	Sikes
Glickman	Michel	Simon
Goldwater	Mikulski	Sisk
Gonzalez	Mikva	Skelton
Goodling	Milford	Smith, Iowa
Gore	Miller, Calif.	Smith, Nebr.
Gradison	Miller, Ohio	Snyder
Grassley	Mineta	Solarz
Gudger	Minish	Spellman
Hagedorn	Mitchell, Md.	Spence
Hall	Mitchell, N.Y.	St Germain
Hamilton	Moakley	Staggers
Hanley	Moffett	Stangeland
Hannaford	Mollohan	Stanton
Harkin	Montgomery	Stark
Harrington	Moore	Steed
Harris	Moorhead, Calif.	Steers
Harsha		Steiger
Hawkins	Moorhead, Pa.	Stokes
Heckler	Mottl	Stratton
Hefner	Murphy, Ill.	Studds
Heftel	Murphy, N.Y.	Stump
Hightower	Murphy, Pa.	Taylor
Hillis	Murtha	Thompson
Holland	Myers, Gary	Thone
Hollenbeck	Myers, John	Thornton
Holt	Myers, Michael	Traxler
Holtzman	Natcher	Treen
Horton	Neal	Trible
Howard	Nedzi	Tsongas
Hubbard	Nichols	Tucker
Huckaby	Nix	Udall
Hughes	Nolan	Ullman
Hyde	Nowak	Van Deerlin
Ichord	O'Brien	Vanik
Ireland	Oakar	Vento
Jacobs	Oberstar	Waggonner
Jeffords	Obey	Walgren
Jenkins	Ottinger	Walker
Jenrette	Panetta	Walsh
Johnson, Colo.	Patten	Wampler
Jones, N.C.	Pattison	Watkins
Jones, Okla.	Pease	Waxman
Jones, Tenn.	Perkins	Weaver
Jordan	Pettis	Weiss
Kasten	Pickle	White
Kastenmeier	Pike	Whitehurst
Kazen	Poage	Whitley
Kelly	Pressler	Whitten
Kemp	Preyer	Wiggins
Ketchum	Price	Wilson, Tex.
Keys	Pritchard	Wirth
Kildee	Pursell	Wright
Kostmayer	Quie	Wydler
Krebs	Quillen	Wylie
Krueger	Rahall	Yates
LaFalce	Railsback	Yatron
Lagomarsino	Rangel	Young, Alaska
Latta	Regula	Young, Fla.
Le Fante	Reuss	Young, Mo.
Leach	Rhodes	Young, Tex.
Lederer	Richmond	Zablocki
Leggett	Rinaldo	Zeferetti
Levitas	Risenhoover	
Livingston	Roberts	
Lloyd, Tenn.	Robinson	

NAYS—17

Bennett	Hansen	Shuster
Collins, Tex.	Kindness	Symms
Conable	Lloyd, Calif.	Volkmer
Crane	Lujan	Winn
Erlenborn	McDonald	
Hammer-schmidt	McEwen	
	Rudd	

NOT VOTING—40

Archer	Brademas	Cunningham
Blouin	Clawson, Del	Dent
Bolling	Clay	Duncan, Oreg.
Bonker	Conyers	Fowler
Bowen	Cotter	Guyer
Johnson, Calif.	Moss	Stockman
Koch	Patterson	Teague
Lehman	Pepper	Vander Jagt
Lent	Quayle	Whalen
McClory	Rose	Wilson, Bob
McCloskey	Runnels	Wilson, C. H.
McFall	Sarasin	Wolff
Marlenee	Skubitz	
Mathis	Slack	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7010, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 14, 1977, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 7010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RAILSBACK: Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Elderly Victims of Crime Act of 1977".

ADMINISTRATION

SEC. 2. (a) The Attorney General of the United States (hereinafter in this Act referred to as the "Attorney General") shall administer the provisions of this Act. The Attorney General shall not delegate primary responsibility for administering the provisions of this Act unless such delegation is made to an individual who is compensated at the rate provided for level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5 of the United States Code.

POWERS OF THE ATTORNEY GENERAL

SEC. 3. (a) Subject to the availability of amounts appropriated and subject to the limitations imposed by section 5 of this Act, the Attorney General shall make an annual grant and may make supplemental grants to each qualifying State program, and the total of all grants made to a qualifying State program under this Act with respect to a Federal fiscal year shall equal an amount which includes 100 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for qualifying crimes which are described in section 7(8)(B), and 25 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for other qualifying crimes. Grants under this section may be made in advance or by way of reimbursement. The Attorney General shall not have the power to modify the disposition of any individual claim which has been processed by any State program.

(b) The Attorney General shall, for the purpose of carrying out this Act, have the power to do the following:

(1) Make such rules as are necessary to carry out this Act.

(2) Deny, revise, or agree to any request for an annual or supplemental grant under this act.

(3) Promulgate rules and regulations regarding the data to be kept by State programs receiving funds under this Act and the manner in which this data shall be reported to the Attorney General.

SEC. 4. A State program for the compensation of elderly victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program meets the following criteria:

(1) The program offers—

(A) compensation to eligible elderly individuals for injury resulting from qualifying crimes; and

(B) compensation to the surviving dependent or dependents of eligible elderly individuals whose deaths were the result of qualifying crimes; and

(C) compensation to eligible elderly individuals who suffer loss of, or damage to, any item of necessity as a result of a qualifying crime, except that such compensation shall not exceed a total amount equal to $1,000 for each incident of related qualifying crimes, nor shall such compensation be subject to any minimum amount.

(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

(3) The program requires as a condition for compensation that elderly claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.

(4) There is in effect in the State a requirement that appropriate law enforcement agencies and officials inform elderly individuals who are the victims of qualifying crimes of—

(A) the existence in the State of program of compensation for injuries or losses sustained by such victims; and

(B) the procedure for applying for compensation under that program.

(5) There is in effect in the State a law or rule that the State is subrogated to any claim the elderly victim, or a dependent of such victim has against the perpetrator of the qualifying crime for damages resulting from the qualifying crime, to the extent of any money paid to such victim or dependent by the program.

(6) The program does not require an eligible elderly claimant to seek or accept any benefits in the nature of welfare, unless such claimant was receiving such benefits prior to the occurrence of the qualifying crime which gave rise to the claim.

(7) There is in effect in the state a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim, or victim's surviving dependent for that crime.

LIMITATION ON FEDERAL GRANTS

SEC. 5. In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 3, there shall be excluded from such cost, except as provided in section 3(a)(3), any amount for administrative expenses incurred in carrying out the program and any amount representing State compensation awards—

(1) for pain and suffering;

(2) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $25,000:

(3) to any claimant who has received or who is entitled to receive compensation from any source, other than a compensation program under this Act or the perpetrator of the qualifying crime, up to the amount of that compensation.

(4) to any claimant who failed to file

claims under the State program within one year after the occurence of the qualifying crime, unless good cause for such failure to file has been found by the appropriate State agency: and

(5) to any claimant who failed to report the qualifying crime to law enforcement authorities within seventy-two hours after the occurrence of that qualifying crime, unless good cause for such failure to report has been found by the appropriate State agency.

(6) for lost earnings of more than $200 per week per individual.

REPORT OF THE ATTORNEY GENERAL

SEC. 6. Within one hundred and thirty-five days after the end of each Federal fiscal year in which State programs were given financial assistance under this Act, the Attorney General shall publish a report and submit such report to the House and Senate Judiciary Committees. The report shall contain as a minimum the following information:

(1) Information in regard to each qualifying State program:

(A) The number of elderly persons compensated.

(B) A statistical presentation with regard to such elderly persons of—

(i) the kinds of loss compensated;

(ii) the range in monetary value of claims awarded;

(iii) the reason for denial of claims, including the number of claims denied for failure to qualify under a State-imposed means test; and

(iv) the types of crimes which resulted in claims.

(C) A description of the administrative mechanisms and procedures used by the State program in processing claims by elderly individuals, including claims for emergency assistance.

(D) The time required for the State program to process claims by elderly individuals, including claims for emergency assistance.

(E) Efforts taken by each State to publicize its program.

(F) Administrative expenses attributable to elderly individuals.

(G) The number of qualifying crimes described in section 7(8)(B) which are compensated under the State program.

(2) Information in regard to the activities of the Attorney General in carrying out this Act as follows:

(A) An itemized statement of expenditures.

(B) Copies of rules made under section 3(b).

(C) Projected expenditures for the Federal fiscal year in which the report is required to be submitted.

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "claim" means a written request for compensation made by or on behalf of a victim or any surviving dependent of a victim.

(2) the term "dependent" means, with respect to any State compensation program, dependent as defined by that State for purposes of such program;

(3) the term "eligible elderly individual" means any individual who has attained age sixty-two;

(4) the term "item of necessity" means any item which the State determines for the purposes of a program assisted under this Act is a necessity for an individual who has attained age sixty-two and shall include items relating to communication, health, and safety;

(5) the term "personal injury" means actual bodily harm and includes mental distress and nervous shock;

(6) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory of the United States;

(7) the term "compensation for personal injury" means compensation for loss which is the result of personal injury, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the State.

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

(8) the term "qualifying crime" means—

(A) any act or omission occurring in a State which is criminally punishable therein and which such State designates as appropriate for compensation under its program; and

(B) any act or omission which would be a qualifying crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction; and

(9) the term "administrative expenses" includes any fee awarded by the State agency administering the program to any claimant's attorney if such fee is paid in addition to, and not out of, the amount of compensation.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated for the fiscal years ending September 30, 1978, 35 million dollars; September 30, 1979, 38 million dollars; September 30, 1980, 42 million dollars; and September 30, 1981, 47 million dollars.

EFFECTIVE DATE

SEC. 9. Grants may be made under this Act with respect to the fiscal year which ends September 30, 1978, and succeeding fiscal years.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois may withhold the amendment in the nature of a substitute while we consider the committee amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAILSBACK. Mr. Chairman, in offering the amendment in the nature of a substitute, do I lose my right to offer that substitute if the gentleman from South Carolina (Mr. MANN) has the opportunity to deal with the committee amendments first?

The CHAIRMAN. No; it could be offered at the end of the bill once the entire bill has been read.

Mr. RAILSBACK. But it could not be offered after the committee amendments are dealt with?

The CHAIRMAN. The committee amendments would not change the whole bill, so an amendment in the nature of a substitute could be offered.

Mr. RAILSBACK (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment in the nature of a substitute.

Mr. RAILSBACK. Mr. Chairman, at the outset may I make it very clear that I have only the greatest respect for the chairman of this subcommittee which reported out the bill under consideration. I have a great deal of respect for the gentleman from Illinois (Mr. HYDE), who, I understand, is supportive of the bill, and I have great respect for all the members of the Committee on the Judiciary who supported the bill before us.

I offer an amendment in the nature of a substitute, however, to accomplish the following things: First, the substitute would apply only to the elderly, those who are 62 years of age or older, who are the victims of crime. The Mann bill is unlimited as to the class of eligible crime victims.

Second, the substitute would require that States have some form of offender restitution programs available as a sentencing alternative before they qualify for Federal funds. The Mann bill has no such requirement.

Finally, the substitute does provide compensation for stolen or damaged items of necessity. The Mann approach only applies to personal injury expenses such as medical bills and wage losses. This is the one area where my substitute would go further than the Mann bill.

Why am I introducing this substitute? First, and, I think, very significantly, H.R. 7010 fails to recognize that criminals create victims and, therefore, should bear some responsibility for alleviating the consequences of their wrongdoing. Instead, this legislation would go in exactly the opposite direction. It would provide a rather onerous burden on the general taxpayer for criminal injuries to the victims of crime.

In my view, the focus of the bill should be altered to encourage the further development of restitutional programs that not only recognize offender responsibility but have positive rehabilitative value as well.

Why not do what some States and local jurisdictions are doing and have the offender who commits the offense make some kind of restitution?

Right now the Law Enforcement Assistance Administration is currently involved in developing and expanding the kind of restitution programs which I believe should be a part of this legislation. LEAA is now spending almost $2 million to help fund and evaluated seven projects in California, Georgia, Colorado, Connecticut, Oregon, Massachusetts, and Maine. These programs have provided an innovative and useful approach toward victim compensation. In Georgia, for example, 504 offenders have participated through fiscal year 1976 in a work program that has produced not only $62,500

for their victims but nearly $1 million for society in the form of taxes, family support, and contributions to the local economy.

By shifting the emphasis almost exclusively to public taxpayer compensation, as H.R. 7010 would do, I fear that we are preempting a field of promising alternatives such as the programs that I have mentioned.

My amendment would precondition Federal funding of State compensation programs on the existence of some provision for offender restitution which would be available as a sentencing alternative within the State.

Mr. Chairman, the second deficiency which I see in the concept underlying this legislation—and I think this is most important—relates to its cost. In my opinion, the potential for drastically spiraling costs under any crime-victim compensation program warrants a more cautious initial entry by the Federal Government in this area than that which is mandated by H.R. 7010.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. To continue, Mr. Chairman, even the committe's high cost estimate is based upon the precarious assumption that only 3.4 percent of all violent crime victims would receive compensation.

Certainly, whatever statistics are used, a federally funded compensation program has the potential for increasing the number of persons receiving awards far beyond the figures used in the committee's cost determination. In view of this unknown potential for spiraling costs, my amendment would initially limit the Federal Government's involvement in this area to those victims who are 62 years of age or older.

Mr. Chairman, once victimized, older Americans suffer more than any other group because they are the least able to cope with the financial loss or injury that results from a crime. By limiting the Federal Government's participation in State crime compensation programs to the elderly, we can gain valuable data concerning the actual cost of such potential Federal involvement. As the taxpayers' trustee, we have a duty to proceed carefully with their money. I think that a pilot program relating to the elderly would provide extremely valuable experience in determining just exactly what the potential cost would be were we to expand it to coverage of those other than the elderly.

Mr. Chairman, I sincerely hope that the substitute will be adopted.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from South Carolina.

Mr. MANN. Mr. Chairman, does the gentleman have any cost estimates from any reliable source as to the cost of this bill?

Mr. RAILSBACK. As far as I know, the cost estimates under either the committee bill or under the amendment that I am offering right now are extremely conjectural and speculative. Therefore, I think the answer, even though I have some high-cost and low-cost figures, is that we really do not have anything that I would want to say has any great degree of accuracy.

Mr. MANN. Mr. Chairman, I rise in opposition to the substitute amendment.

I would address a further question to the gentleman from Illinois (Mr. RAILSBACK).

Would the gentleman agree that the highly conjectural cost estimates made with reference to the committee bill and the highly conjectural cost estimates that the gentleman might have with reference to the coverage of the elderly only are almost exactly the same?

Mr. RAILSBACK. If the gentleman will yield, I would ask him to repeat the question.

Mr. MANN. I will give the gentleman the figures. The Congressional Budget Office estimated the high cost of the committee bill as being $29 million for 1978. It estimated the high cost for the substitute, which would cover that very small segment of the population known as the elderly, at $28.2 million.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MANN. I certainly will yield to the gentleman.

Mr. RAILSBACK. Mr. Chairman, I wonder if I have made it clear, and I believe I did not, that we have reduced both the percentage and the maximum dollar figure from $50,000 to $25,000, reduced it down to 25 percent. I do not know if the gentleman knew that. The other thing is there was one witness that submitted a statement that indicated, according to my recollection, that the cost of your bill could be as much as $200 million.

Mr. MANN. The gentleman is correct. Actually I think it was $400 million.

Mr. RAILSBACK. I will tell the gentleman right now what it says. It says, at the conclusion of his figuring—and this is a statement of Dr. Roger E. Meiners of the University of Miami—he comes to the conclusion that, multiplying the figures above, would yield a total compensation bill of $400 million annually.

Even cutting that in half, I believe that we really do not have a handle on it at all.

Mr. MANN. It just so happens that we certainly do not have a handle on the cost on household goods and property, which we do not allow in the committee bill.

I will make another rather unusual assertion, and that is, what a blessing it would be if this bill did cost $200 million because that might mean that we will have accomplished our whole purpose that we set out to accomplish, and that is that the rest of the 50 percent of the violent crimes that are not reported in this country will now be reported, and think what a blessing to convict all of the other 48 percent of the violent crimes committed in this country. That would be a great blessing to have 90 percent of the people brought to justice who are not now brought to justice because of the loopholes in our criminal justice system.

Mr. RAILSBACK. Will the gentleman yield?

Mr. MANN. No, I will not yield at this point.

I do not say that this bill is the solution. It is a bandaid to the entire criminal judicial system that is not now adequately attending to the problem of violent crime in this country.

We have tried to prepare here a modest bill, one that protects, as much as we can, the principles of federalism. One that deals only with violent crime. One that compensates only for loss of wages and medical expenses, across the board, from infancy to death. And one that does not compensate for property loss, the cost of which surely might go out the roof.

Concerning the elderly, of all the classes of people, they suffer the least. And that is a statement that my friend, the gentleman from New York (Mr. BIAGGI) will not agree with because he is interested in the elderly, but he is also interested in this bill.

This bill, as designed originally, is going to take care of those people who now fall through the cracks of the many proliferating social programs that exist in this country. The elderly do not fall in that category of people who fall through the cracks. They, more than any others, are covered by the medical programs for the elderly, and by retirement or continuing type incomes.

But we have designed a bill that is, in its narrow parameters, attempting to try to eliminate in this country some of the disenchantment with the law enforcement system, some of the disenchantment with being a witness, some of the disenchantment of being involved.

A witness does not want to go to court and sit there and lose his wages, in spite of the fact that he lost 2 or 3 weeks pay at the time he was hurt.

That is the kind of situation we are trying to take care of.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MANN was allowed to proceed for 2 additional minutes.)

Mr. MANN. We have provided certain minimum qualifications on the States. As to whether or not they have to change their laws and do things of that sort, we try to avoid that.

Regarding restitution, do the Members think that a State is going to pay 60 percent of the cost—and that is roughly what they are going to have to pay? I might as well say that this bill provides for payment of 50 percent of the claims only. It pays no cost of the administration by the State, which traditionally is considered to be about 15 percent. So if we broke it right down, that would be 57.5 percent being paid by the State, or if we take it another way, as much as 65 percent by the State and 35 percent to 50 percent by the Federal Government in this matching program. Restitution is a highly desirable technique. It is so highly desirable that everybody seeks a way to do it, and they seek to do it by way of rehabilitating the criminal;

they seek to do it by way of compensation to the victim; but how effective is it?

In California they were able to recover by restitution one-third of 1 percent. In New Jersey they are saying it is hardly worthwhile.

We are dealing with two different ideas here, the idea of victim compensation and the idea of restitution as a sanction or rehabilitative technique toward the defendant. They are really two different principles, and it is inappropriate and unnecessary for the Federal Government in assisting State victim compensation programs to tell the States that we must go into other parts of the criminal justice system and tell them how to run it. That is Federalism. I believe in it. I want to protect it. I do not want to direct the States to do any more than is absolutely necessary under simple rules and bookkeeping to prevent excesses under this program.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

First of all, Mr. Chairman, might I state that I believe that what the gentleman who preceded me in the well stated is very important and is something that apparently many of us have lost sight of. The gentleman called attention to the fact that one of the purposes of this legislation is to insure that those citizens who are useful members of society but who are presently turned off because of the Government's inability to deal with crime, are protected. We rightly and justly insure the rights of every criminal defendant but we sometimes ignore the fact that there are people who are victimized by these crimes. And when we neglect the individual who is an innocent victim, we badly alienate that citizen. We signal, in effect, that society is completely unconcerned with whether or not a useful, productive member of society, who wants to make a contribution, suddenly gets victimized, becomes disabled, is no longer able to contribute to his family and to its welfare, and may ultimately find himself having to go to the welfare rolls. Naturally, that individual is turned off. That person, along with others, no longer even reports crime, and as a result we find more and more people who say, "It does not matter. I don't want to become involved."

Let me go beyond that point, however, and ask the gentleman why is not a victim a victim in any case where a crime is committed and a citizen is assaulted and disabled, whether or not the person is a minor or an adult.

I would like to ask the gentleman from Illinois if he would then exclude the individual such as—and I refer him to the recent case—the Son of Sam. In one of those crimes, unfortunately, an individual was victimized, lost the sight of his eyes and is no longer able to be a productive, contributing member of society. Will his case be covered by the gentleman's proposal?

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. It would depend on his age.

Mr. RODINO. His age is much under 62, so the gentleman would exclude him?

Mr. RAILSBACK. Mr. Chairman, if the gentleman from New Jersey would yield for just a second, I would like to explain why.

Mr. RODINO. I yield to the gentleman.

Mr. RAILSBACK. A member of the Committee on Aging I believe is going to seek recognition to really explain the results of a study that they made about the tremendous effects that victimization can have, particularly on the elderly.

Mr. RODINO. I recognize that, and that is precisely why the legislation I have introduced over the years is designed to help victims of crime, whether they be young victims or older victims. We do know that the elderly are victimized in great numbers. But I would like to call attention, too, to another recent case that occurred in New York only some time ago. Another innocent victim happened to come to the aid of an officer while an attack was taking place. That individual was injured, injured to the extent that he was disabled. He will have to look to society for some help, probably go onto the welfare rolls.

Let me refer to the newspaper report. "Crime does pay if you are the criminal," the victim came away saying. But this victim actually came to the assistance of an officer to prevent a crime and he is disabled; and the gentleman's proposal turns its back on him.

I just cannot possibly understand what the philosophy is behind wanting to protect only the rights of the person who is a criminal, who becomes a defendant, and surely we must protect his every right, and insure that if convicted he goes to a humane prison, and insure that everything is just, and yet, when we have a person who is a good contributing member of society, we turn him off by ignoring his plight.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am not enamored of this program at all, but I do rise in support of the Railsback amendment, because it is better than the bad bill now pending before us. The choice is the substitute or the present bill. The substitute is the better of the two choices, and this is why.

The Railsback amendment is clearly a limited program, much more limited than the committee bill. Mr. Chairman, so long as we are about to embark upon a new Federal adventure of uncertain cost, I suggest we proceed cautiously and that we proceed on a limited basis, at least at first. That is the primary virtue of the Railsback substitute.

The substitute, of course, does not affect the rights of any State to go forward with any program that they see fit. If a State compensation program wish to cover youngsters as well as oldsters, the State are fully permitted to go forward with those programs. However, in the substitute we say at the Federal level that we are only going to involve ourselves to the extent of compensating the elderly.

Because it is limited in its scope, it is limited in its cost. As was pointed out in the colloquy a moment ago, the cost of the committee's program is very uncertain. The figures in the bill authorizing sums for appropriation are taken from the Congressional Budget Office estimates, and I want the Members to know that the Railsback proposal also adopts estimates from the Congressional Budget Office. Both have the same source for their information.

But it is also true, as was admitted by my friend, the gentleman from South Carolina, that witnesses before the committee in estimating the cost of the committee bill spoke in terms of hundreds of millions of dollars.

I think the Railsback proposal is even less costly than appears on the surface because many of the medical expenses of senior citizens are covered now under medicare regardless of whether that medical expense is incurred as a result of criminal or noncriminal conduct.

The Railsback proposal has the virtue of restitution as one of its principles. I realize that the subcommittee chairman spoke in terms of restitution being immaterial, but I do not agree with that assessment. Compensation is restitution. The Railsback substitute points to the cause of the trouble and says that the perpetrator should bear a part of the load in providing that restitution.

Mr. Chairman, I want to correct a statement made by my friend, the gentleman from South Carolina, that the committee bill is addressed to violent crime. The words "violent crime" do not appear in the bill. The key words are "qualifying crimes" and a qualifying crime is any crime which the States determine are subject to compensation. The States may, if they wish, include nonviolent crimes; they may, if they wish, include violent crimes. I notice counsel shaking his head and if I am in error, I would be happy to have him point out my error, but I know that I am not in error with respect to this point.

The argument has been made, and I will touch on it only briefly, that the committee bill intrudes very gently into State prerogatives because of our faithful allegiance to the principle of federalism. If we are true federalists, we will not enact the bill at all. We will leave compensation programs up to the States. If we are going to surrender part of the principle of federalism, let us do so grudgingly and let us do so on a limited basis. That, too, is a virtue of the substitute recommended by my friend, the gentleman from Illinois.

Finally, Mr. Chairman, I want to speak to the argument of compassion. That was an argument made by the chairman of the full committee, the gentleman from New Jersey (Mr. RODINO). The gentleman was critical of the approach taken by the gentleman from Illinois (Mr. RAILSBACK) because it would exclude certain victims for whom we all have an infinite compassion. But the bill itself excludes many for whom we have compassion. It covers only victims of

crime. Now, if a beautiful young lady were to lose the use of her arms or legs as the result of a skiing accident and becomes a vegetable as a result of the accident, have we no compassion for her? Of course we do, but the committee bill does not touch her injuries.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, does it make much difference what caused the injury when we speak in terms of compassion? I can be compassionate for a person who slips and falls and loses the sight of his eyes as the result of brain damage. But I do not regard it to be an absence of compassion to fail to enact a special Federal program geared to that unique cause of injury. That argument really goes to the heart of the irrationality of this bill. It is irrationally selective in its application.

Mr. Chairman, I want to conclude by saying, however, that we are a compassionate Government. There are any number of Federal programs that provide for the sick and the disabled without reference to age and without reference to the cause of their illness or their disability. We are a compassionate society and we do not need an additional program to prove it.

Mr. Chairman, I urge that we accept the Railsback substitute.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the arguments that have just been made by the proponents of the amendment, really miss the point. First of all, let us get one thing straight. The large numbers that have been discussed may be hypothetical costs of this program, but this is not an open-ended entitlement program. This is a program that has specific authorization limits and the program exists for only 3 years. So I say to my friends here, there is nothing in this bill that would require or allow, authorize or permit, the Federal Government to pay 1 cent more than the amounts specifically contained in this bill.

This is not an open-ended entitlement bill and there simply cannot be any boomeranging costs of the program.

Second, this program has extensive reporting requirements. At the end of 3 years we will have a good sense of how well this program has worked or not worked. Many of you on the floor have supported sunset legislation. This bill gives you the opportunity to get the facts and figures on how well it works before it is authorized again 3 years from now.

Let me talk finally to the point about the scope of the substitute amendment. The motivation for this is not just compassion. The Committee on the Judiciary, as well as other committees and other Members of this House have compassion. But, this program has a criminal justice purpose as well.

This program is designed to fight crime in two respects; first, by encouraging the reporting of crime, and we know very well that crime is not always reported. The States are hindered in their ability to fight crime because many crimes are not reported; so this bill will help the fight against crime by encouraging the reporting of crime.

Second, we have heard testimony time and again that there are witnesses who will not cooperate in the prosecution of crimes. To the extent that this program requires that cooperation, we will be assisting the States in fighting crimes. We will be giving the victim a sense that he or she has a stake in the prosecution of crime.

It makes no sense at all, I say to my friends in the House and to my very respected colleague from Illinois, to restrict the scope of the program to the elderly people alone, and thereby undermine the criminal justice implications of this program and severely restrict the ability of States to fight crime.

Mr. RAILSBACK. Mr. Chairman, will the gentlewoman yield for a quick clarification?

Ms. HOLTZMAN. I am delighted to yield.

Mr. RAILSBACK. I just want to point out that our bill also contains all the reporting cooperation requirements.

Ms. HOLTZMAN. Yes, but only for a certain segment of the population. I wish my colleague would tell me how a police officer is supposed to determine the age of the victim.

Mr. RAILSBACK. I wanted to make it clear that our bill does track that language.

Ms. HOLTZMAN. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I take second place to no one in my respect and admiration for the author of this amendment, the gentleman from Illinois (Mr. RAILSBACK). He is not only a useful member of the Judiciary Committee; he is almost an indispensible member. But, I reject his amendment, and I would like to explain briefly why.

The gentleman from California used an interesting term, "selective compassion." I find selective compassion all over the place when I think of Son of Sam. He will get psychiatric care; he will get counseling; he will get rehabilitation; if he needs some methadone, the taxpayers will pay for that, too, but some of his victims will sit there, and if they are blinded, in the dark, maybe a volunteer neighbor will read from the Reader's Digest to them in the evening. If he has no insurance, he will sit there without any attention being paid to him.

This society has selective compassion for the criminal. The criminals get counseling and halfway houses. LEAA is going to fund a $5,000 grant for poetry seminars in jail and to teach some of the criminals finger painting. That is wonderful. I say, right on, but let us look at their victims as well and let us concern ourselves slightly with them.

Now, the gentleman from California talks about an accident where somebody loses his limbs, and why do we not have compassion for that person. It would be nice if we could, if we could afford to take care of every one of society's dispossessed, people who have no insurance, and whose lives are touched by a tragedy, whether it is an automobile accident or a boat accident or as the victim of a crime. The difference, I submit, is that society, the Government, has an obligation to promote domestic tranquility, to protect its citizens as much as possible from crime, from the ravages of criminality. We have police departments to do that, and when we have failed, maybe we owe a slight obligation to the victim, because we certainly have undertaken a great obligation to the criminal.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I want to congratulate the gentleman for his comments, because they are exactly my thoughts. We have for too long ignored the victim and have opened the coffers of Government to the perpetrator of crime. This bill, on balance, after much deliberation, provides what I think is an answer to a serious problem. Society has a debt to the victim. Society has failed to protect the lawful person who has been victimized.

Yes, I address myself to the elderly, and I am delighted that the gentleman from Illinois has also done that. I have done that, but not in the same fashion. But as a form of compromise, the committee has responded by providing emergency procedures so that there can be an immediate part payment to the elderly, or to those crime victims generally, including the elderly, to pay for the temporary discomfort.

But I simply have to compliment my colleague for his most salient and significant remarks.

Mr. HYDE. I thank the gentleman for his remarks.

Mr. Chairman, I simply say that if you are victimized and you are poor, whether you are young or old, you need some help.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Mr. RAILSBACK's amendment in the nature of a substitute for H.R. 7010.

In the debate on H.R. 7010, 2 weeks ago, there was clearly some reluctance to begin Federal legislation in the area of victim compensation—particularly fears of runaway costs caused by rising crime rates. I am therefore, suggesting that instead of H.R. 7010 we consider Mr. RAILSBACK's amendment in the nature of a substitute.

This amendment, applying only to the elderly, will give the Federal Government a chance to enter into this area in a smaller and more manageable way. This bill will also allow us to impact on the group of people most severely affected by criminal victimization—older Americans. As the ranking minority member of the Housing and Consumer Interests Subcommittee of the Select Committee on Aging, I am proud to say that the subcommittee has just completed the first national study on elderly crime victimization. The major findings in that study entitled "In Search of Security: A National Study on Elderly Crime Victimization," are directly related to the issue of victim compensation. I would like to briefly mention these relevant conclusions:

First. Although available data do not establish that the elderly are victimized disproportionately to their population, the elderly have a significant crime problem. One out of ten will be the victim of a crime in a 1-year period.

Second. The rate of crime against the elderly is increasing. Americans over 65 experienced the greatest overall increase in crimes of violence except for males 16 to 19.

Third. Persons over 65 have an increase in more kinds of household crimes (burglary, household larceny, and motor vehicle theft) than any other group in the population except the small number of households headed by persons 12 to 19.

Fourth. There is substantial evidence that older Americans suffer more than any other group in qualitative measures of victimization. Physically and emotionally they are the least able to cope with losses or injury that result from a crime.

Fifth. The elderly are more frequently the victims of property crimes (burglary, robbery, and larceny with contact) than they are victims of violent crimes. A national survey undertaken by the Law Enforcement Assistance Administration disclosed that the elderly are victims of violent crimes at a rate of 8 per 1,000 (robbery, rape, assault, and personal larceny), they are victims of theft at a rate of 22 per 1,000 and household crimes at a rate of 107 per 1,000.

H.R. 7010 has many commendable features and, I laud the chairman, Mr. RODINO and Mr. MANN, for the efforts they have put into this legislation. My problems with this bill are primarily in three areas:

First. Because this is a new area of Federal involvement I believe that we should enter into it slowly so that we might assess the needs, the accruing costs, and any problems that arise in its application.

Second. This bill does not adequately address the needs of the group most severely debilitated by criminal victimization—older Americans. H.R. 7010 reimburses for loss of income—but the majority of the elderly are unemployed. H.R. 7010 compensates for medical losses but the majority of medical expenses of the elderly are subsumed by medicare and medicaid. H.R. 7010 does not compensate for property losses—and those are the primary crimes experienced by the elderly. Only 8 in 1,000 are the victims of violent crimes. Whereas 129 in 1,000 are the victims of property crimes. Almost half of the population 65 and over are retired, and live on a fixed income at or below the poverty level. In 1973, the poverty threshold for a couple was set at $2,505 and at $1,974 for an individual. In all older families, 12 percent were below the poverty level: for the older person living alone or with nonrelatives, 37 percent were below the poverty level. The theft of $20 from an elderly person on a fixed income can represent a much greater relative loss than the same amount stolen from an employed person. Many older people have no bank accounts from which they can withdraw funds in an emergency; for example, if robbed. They must often wait until their social security, pension, or supplemental security income checks arrive in the following month. This protracted loss also occurs when an older person's property is stolen or damaged. The elderly generally do not have the financial capability to replace or repair the property.

Third. My third concern is that cost projections for this bill are based on questionable evidence. Even the committee report states that the costs are "difficult to project due to several unknown variables." The estimate is based on the experiences of three States, New York, New Jersey, and Maryland. The average grant made in these States is to 1.7 percent of the actual violent crime victims. The high estimate is based on a 100-percent increase in claims with 75 percent of the States participating. The low estimate is based on a 25-percent increase in the claims and 60 percent of the States participating. A 100-percent increase actually means that only 3.4 percent of the eligible crime victims would apply for compensation. National legislation would give greater exposure to the State programs and could therefore, increase the number of claims far beyond the projected amount. I believe that one reason that the costs to the States have been as low as they have been is that most States have given their programs a "low profile." Most States have not attempted to reach the eligible victims. I do not believe that any level of Government should create pro bono programs and then minimize their exposure to keep the costs down. If we establish a program because we believe that it provides a necessary social benefit, then we must not conceal it.

The substitute amendment offered by Mr. RAILSBACK speaks to many of the concerns brought up by my colleagues during the earlier debate. It reflects our desire to assist the victim in a concrete, substantial way. It addresses itself to the most needy. It also requires that each State begin some type of restitution program so that the cost can be borne, to some degree, by the offender.

I know that there are a variety of social programs but there are none that focus on the innocent victims of crimes. Seventeen billion dollars are spent each year in the criminal justice system but less than 1 percent is utilized to assist the victims. The convicted offender may receive psychological counseling, education, and vocational training. The victim, who may have lost his health, his valued possessions, his job, and suffer emotional damage, receives nothing.

I do not believe that we can base victim compensation legislation on the concept that the taxpayer owes restitution to the victims of crimes. We should recognize this legislation for what it is—an act of social justice. Social justice, although subject to various interpretations, includes "equity in the distribution of benefits and obligations of society, and compensation for losses and injuries for which one cannot be held personally responsible." The essence of social justice is equality. This must not be confused with the concept of "identical treatment" for that fails to take into account important differences in individual needs and capacities. Justice, therefore, requires that differential treatment be dependent upon the needs and capabilities of the individual or group. Modern industrial society requires a variety of services as first-line supports to enable individuals to cope successfully with our unpredictable and frequently precarious environment.

I recognize that there are dynamic tensions between what is economically and politically feasible and what is morally desirable. As you know I am a man who is very concerned about balancing our ledgers, but I would not wish to be associated with a social policy that ignored the cry of the injured and needy victims of crimes.

I include the cost estimates for the Railsback substitute except it is based on 50 percent Federal contribution rather than 25 percent proposed in the now pending amendment:

PRELIMINARY COST ESTIMATE OF AMENDMENTS TO RODINO BILL H.R. 3683

The table below presents the five year costs for the proposed amendments:

	Thousands
Fiscal year 1978:	
High costs	$35,000
Low costs	7,500
Fiscal year 1979:	
High costs	38,000
Low costs	8,400
Fiscal year 1980:	
High costs	42,000
Low costs	9,500
Fiscal year 1981:	
High costs	40,000
Low costs	10,600
Fiscal year 1982:	
High costs	45,000
Low costs	12,000

BASIS OF ESTIMATE

The cost estimate is based on the following assumptions:

All elderly victims of crime will be compensated for property loss and those victims of non-violent crimes will be compensated for property loss, medical expenses and loss of wages.

All elderly victims would be eligible to qualify for compensation since the amendments imply no minimum loss requirements for the elderly victim.

Between 60–75 percent of the states will participate in such a program.

Between 25–75 percent of the eligible elderly victims would apply for compensation.

These four assumptions are the crux of the cost estimate. Compared to the Rodino bill the scope of coverage of crimes is significantly greater and the amendments restrict the state's qualifying criterion, i.e. limits on property loss or medical damages.

The costs of the bill were based on an elderly eligibility pool of 11,679,000 individuals and 5,965 elderly households. These estimates were obtained from Sources and Structure of Family Incomes [1] and income adjusted to exclude non-taxable income, i.e. social security benefits. The elderly victims crime rate was based on the LEAA survey. An average property loss of $150 was assumed for personal crimes with injury and $200 for personal crimes without injury ($50 for other types of coverage, i.e., medical bills, etc.). The average property loss for burglary and household larceny victims was assumed to be $400. The high costs were based on 75 percent coverage of all elderly crimes and 75 percent state participation while the low costs were based on 25 percent coverage of

[1] U.S. Department of Commerce, Social and Economic Statistic Administration, Bureau of Census.

all elderly crimes and 60 percent state participation.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I would like, very briefly, to make some significant reference to the statements made by proponents of the amendment. One of the strongest arguments made is that there will be a limitless or extraordinary expenditure by the Government. The estimates are as high as $400 million. The gentlewoman from New York made this point very clear.

The authorization here is limited. It is as simple as that. Hence it clearly negates the argument made by the proponents of the amendment.

With relation to restitution, in some areas that policy is in place, but in my judgment it is a fanciful recommendation. It is still in the laboratory stage. It is not sufficiently productive to be worthy of consideration at this point. We should wait until we have additional experience with it.

With relation to the elderly, the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. RAILSBACK) confines compensation only to the elderly, whereas the committee bill deals with all the victims of crime. The elderly are included among them, and in fact they comprise a greater percentage or if in fact they are victimized to a greater degree than their younger counterparts, then it reasons that they will benefit to a greater extent by simply submitting more claims.

These are the very significant points that were made. But I think it is essential that all of us know that the $200 million and the $400 million argument is really a strawman that has no place in these deliberations, because the limitation, according to the bill, is a $40 million authorization in 1978 and no more.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the chairman of the committee.

Mr. RODINO. Mr. Chairman, the gentleman from New York (Mr. BIAGGI) is pointing out rather clearly what some of the defects are in the substitute. The gentleman, however, should point out as well that the substitute provides not only that the elderly may be compensated for injuries, but that they may also be compensated for loss of property. That is not contained in our bill, because assuredly what we seek to do is to be considerate of the disability suffered by the individual. We are talking about simple compassion, helping compensate an injury resulting from whatever assault is committed on an individual by the criminal, exclusive of whatever property losses there may be.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BIAGGI. The issue of property recovery was one that was under serious consideration by the committee; and although it might appeal to advocates of crime-victim compensation, the realistic approach was that the cost would skyrocket completely out of bounds. Even the most vigorous advocate of crime-victim compensation could not countenance that.

However, more importantly, we are dealing with a criminal justice piece of legislation, one that has many components and should be enacted. Society has failed in its responsibility to protect its citizens, society has an obligation to measure up to that responsibility. It does it in some small measure in this legislation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and on a division (demanded by Mr. RAILSBACK) there were—ayes 10, noes 25.

Mr. RAILSBACK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from Illinois (Mr. RAILSBACK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 253, not voting 48, as follows:

[Roll No. 612]

AYES—133

Abdnor	Devine	Lott
Anderson, Calif.	Dickinson	Lujan
Anderson, Ill.	Dingell	McDade
Andrews, N.C.	Dornan	McDonald
Archer	Duncan, Tenn.	McEwen
Armstrong	Early	McKinney
Ashbrook	Edwards, Ala.	Madigan
Badham	Emery	Marriott
Bafalis	Erlenborn	Martin
Bauman	Evans, Ind.	Meeds
Beard, Tenn.	Flynt	Michel
Bevill	Foley	Miller, Ohio
Blouin	Forsythe	Montgomery
Breaux	Frenzel	Moore
Brooks	Frey	Moorhead, Calif.
Brown, Mich.	Giaimo	Myers, John
Brown, Ohio	Goldwater	Nichols
Broyhill	Gradison	O'Brien
Burgener	Grassley	Pettis
Burke, Fla.	Hagedorn	Pickle
Butler	Hammer-schmidt	Pike
Byron	Hansen	Pressler
Carter	Harsha	Pritchard
Cederberg	Holt	Quillen
Clausen, Don H.	Huckaby	Railsback
Cleveland	Ichord	Regula
Cochran	Kastenmeier	Reuss
Cohen	Kelly	Rhodes
Collins, Tex.	Ketchum	Robinson
Conable	Kindness	Rousselot
Conte	Lagomarsino	Rudd
Corcoran	Latta	Runnels
Crane	Leach	Ruppe
Daniel, Dan	Leggett	Satterfield
Daniel, R. W.	Livingston	Schulze
	Lloyd, Tenn.	Sharp
Shuster	Stratton	Whitehurst
Skubitz	Stump	Whitley
Smith, Nebr.	Symms	Wiggins
Snyder	Taylor	Winn
Spence	Thone	Wydler
Stangeland	Treen	Wylie
Stanton	Waggonner	Young, Alaska
Steiger	Wampler	Young, Fla.
Stockman	White	

NOES—253

Addabbo	Fountain	Murtha
Akaka	Fowler	Myers, Gary
Alexander	Fraser	Myers, Michael
Allen	Fuqua	Natcher
Ambro	Gaydos	Neal
Ammerman	Gephardt	Nedzi
Andrews, N. Dak.	Gibbons	Nix
	Gilman	Nowak
Annunzio	Ginn	Oakar
Applegate	Glickman	Oberstar
Ashley	Gonzalez	Obey
Aspin	Goodling	Ottinger
AuCoin	Gore	Panetta
Badillo	Gudger	Patten
Baldus	Hall	Pattison
Barnard	Hamilton	Pease
Baucus	Hanley	Perkins
Beard, R.I.	Hannaford	Poage
Bedell	Harkin	Preyer
Beilenson	Harrington	Price
Benjamin	Harris	Quie
Bennett	Hawkins	Rahall
Biaggi	Hefner	Rangel
Bingham	Heftel	Richmond
Blanchard	Hightower	Risenhoover
Boland	Holland	Rodino
Bonior	Hollenbeck	Roe
Bonker	Holtzman	Rogers
Brademas	Horton	Roncalio
Breckinridge	Howard	Rooney
Brinkley	Hubbard	Rosenthal
Brodhead	Hughes	Rostenkowski
Brown, Calif.	Hyde	Roybal
Buchanan	Ireland	Russo
Burke, Mass.	Jenkins	Ryan
Burleson, Tex.	Jones, Okla.	Santini
Burlison, Mo.	Jones, Tenn.	Scheuer
Burton, John	Jordan	Schroeder
Burton, Phillip	Kasten	Seiberling
Caputo	Kazen	Shipley
Carney	Kemp	Sikes
Carr	Keys	Simon
Cavanaugh	Kildee	Sisk
Chappell	Kostmayer	Skelton
Chisholm	Krebs	Slack
Clay	Krueger	Smith, Iowa
Coleman	LaFalce	Spellman
Collins, Ill.	Le Fante	St Germain
Conyers	Lederer	Staggers
Cornell	Levitas	Stark
Cornwell	Lloyd, Calif.	Steed
Coughlin	Long, La.	Steers
D'Amours	Long, Md.	Stokes
Danielson	Luken	Studds
Davis	Lundine	Thompson
de la Garza	McCormack	Thornton
Dellums	McFall	Traxler
Derrick	McHugh	Trible
Derwinski	McKay	Tsongas
Diggs	Mahon	Tucker
Downey	Mann	Udall
Drinan	Markey	Ullman
Duncan, Oreg.	Marks	Van Deerlin
Eckhardt	Mathis	Vanik
Edgar	Mattox	Vento
Edwards, Calif.	Mazzoli	Volkmer
Edwards, Okla.	Metcalfe	Walgren
Eilberg	Meyner	Walker
English	Mikulski	Walsh
Ertel	Mikva	Watkins
Evans, Colo.	Milford	Waxman
Evans, Del.	Miller, Calif.	Weaver
Evans, Ga.	Mineta	Weiss
Fary	Minish	Whitten
Fascell	Mitchell, Md.	Wilson, C. H.
Fenwick	Mitchell, N.Y.	Wilson, Tex.
Findley	Moakley	Wirth
Fish	Moffett	Wright
Fisher	Mollohan	Yates
Fithian	Moorhead, Pa.	Yatron
Flippo	Moss	Young, Mo.
Florio	Mottl	Young, Tex.
Flowers	Murphy, Ill.	Zablocki
Ford, Mich.	Murphy, N.Y.	Zeferetti
Ford, Tenn.	Murphy, Pa.	

NOT VOTING—48

Boggs	Cunningham	Heckler
Bolling	Delaney	Hillis
Bowen	Dent	Jacobs
Broomfield	Dicks	Jeffords
Burke, Calif.	Dodd	Jenrette
Clawson, Del	Flood	Johnson, Calif.
Corman	Gammage	Johnson, Colo.
Cotter	Guyer	Jones, N.C.

Koch	Patterson	Sawyer
Lehman	Pepper	Sebelius
Lent	Pursell	Solarz
McCIory	Quayle	Teague
McCloskey	Rinaldo	Vander Jagt
Maguire	Roberts	Whalen
Marlenee	Rose	Wilson, Bob
Nolan	Sarasin	Wolff

Mr. UDALL and Mrs. FENWICK changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Victims of Crime Act of 1977".

ADMINISTRATION

SEC. 2. (a) The Attorney General of the United States (hereinafter in this Act referred to as the "Attorney General") shall administer the provisions of this Act. The Attorney General shall not delegate primary responsibility for administering the provisions of this Act unless such delegation is made to an individual who is compensated at the rate provided for level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5 of the United States Code.

(b) There is established an Advisory Committee on Victims of Crime (hereinafter in this Act referred to as the "Committee") which shall advise the Attorney General with respect to the administration of this Act and the compensation of victims of crime. The Committee shall consist of nine members one of whom shall be designated the Chairman, all appointed by the Attorney General. Seven members of the Committee shall be officials of States with programs qualifying under section 4. The Committee shall meet at least two times a year, and at such other times as the Attorney General may direct. The term of office for each member of the Committe shall be one year. The Committee shall remain in existence as long as this Act is in effect.

(c) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel and transportation expenses, including per diem allowance, in the same manner and to the same extent as persons employed intermittently in the Government service are allowed travel and transportation expenses under subchapter I of chapter 57 of title 5 of the United States Code.

Mr. MANN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk completed the reading of section 2.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning in line 19, strike out "The Committee shall remain in existence as long as this Act is in effect." and insert in lieu thereof "The Committee shall remain in existence until September 30, 1980."

AMENDMENT OFFERED BY MR. MANN TO THE COMMITTEE AMENDMENT

Mr. MANN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MANN to the committee amendment: Page 2, line 21, before "shall", insert the following: "shall not come into existence until on or after October 1, 1977 and".

Mr. MANN. Mr. Chairman, section 2(b) of the bill establishes a committee which, if the Attorney General so desired, could be appointed before the start of the next fiscal year. It is highly unlikely that this would occur, but it is theoretically possible. If it were to be appointed before then and if it were to meet prior to the start of Federal fiscal year 1978, its members would be entitled to be reimbursed for travel, transportation, and per diem expenses.

Section 401(1) of the Congressional Budget Act of 1974 prohibits consideration of any new spending authority to take effect prior to the start of the next Federal fiscal year. My amendment provides that the committee established by section 2(b) of the bill shall not come into existence until on or after the start of the next Federal fiscal year, October 1, 1977.

I am offering this amendment in compliance with House Resolution 601, the rule adopted for the consideration of H.R. 7010. House Resolution 601 contains a waiver concerning section 401 (b)(1) of the Congressional Budget Act of 1974, and that waiver was conditioned upon the offering of an amendment to cure the technical defect giving rise to the need for the waiver. My amendment, which was drafted with the assistance of the Legislative Counsel's Office and the staff of the Budget Committee, will cure the technical defect.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, today I rise in support of the Victims of Crime Act of 1977. In 200 years our country has run the spectrum of criminal law, going from a system of punishment for punishment's sake to one where the goal of punishment is rehabilitation. I suspect that neither extreme is a solution. However, that problem is still to be solved.

For too long we have neglected to assist those who, in many cases, have had their lives ruined by violent crime. It is a shame that people who have been victimized have been forgotten and left to become victims once again, this time of our system. I look upon this bill as a positive step toward solving our crime problem, one which will help to ease the traumatic experience accompanying a violent attack. In addition to the financial assistance it will provide to crime victims, there will be a small measure of comfort in realizing that their Government cares about their well-being.

Mr. Chairman, for over a decade now Congress has considered victim compensation legislation in various forms. Yet a bill has not been passed. Last year Pennsylvania enacted a victim compensation program. I am pleased to say that Delaware County, which includes my district, has recently begun to participate in that program. However, the States are strained financially and need help from the Federal Government. It is essential that we pass this bill, for our actions here today will not only assist states with existing victim compensation programs, but I believe they will encourage those States that do not, to establish their own.

Mr. RINALDO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is sometimes said that our laws tend to help the criminal but do nothing to help the victims of crime.

That observation may not be entirely accurate. But it reflects the way many Americans are thinking and it underscores the need for changes in our system of criminal justice.

My esteemed colleague from New Jersey (Mr. RODINO) is to be commended for introducing H.R. 7010.

This bill encourages compensation for victims of crime by authorizing Federal grants to qualified State-operated crime victim compensation programs. The Federal grants would equal 50 percent of outlays to State crime victims and 100 percent of compensation to victims of analogous Federal crimes.

Mr. Thomas Kaczmarek, a member of the New Jersey Violent Crimes Compensation Board and a constituent of mine, has repeatedly pointed out the necessity for Federal grants to aid victims of violent crimes, and we have an opportunity today, Mr. Speaker, to acknowledge society's responsibility for those victims by voting for a meaningful compensation program.

I urge my colleagues to join me in supporting this very worthwhile legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. MANN) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

Mr. MANN. Mr. Chairman, I ask unanimous consent that the remaining committee amendments to the bill be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there further amendments to section 2?

Mr. PATTISON of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me start off by telling the Members where I come from and where I stand on this legislation. We have a program of this nature, a victims of crime program, in New York, so this legislation would financially assist New York State.

First, let me state that the chairman of that program is Edward Morrison, and he is a very good friend of mine. He is a person for whom I have great respect. He is also a constituent of mine, and he is one of the major figures in the Liberal Party of New York. I might add that in my election last year the margin of my victory was less than 5,000 votes, and I received 5,000 votes, or perhaps a little more than that, on the liberal line.

In spite of all that, I oppose this legislation because I think it is not wise. Let me make it very clear that I do not deal with the merits of this legislation. I deal only with the process.

Mr. Chairman, I am an advocate, as some Members might know, of the notion of appropriate technology. Quite simply, appropriate technology says that one should use a tack hammer when he is driving a tack and not a pile driver.

The same principle is relevant in government, particularly in a federal system. In other words, in the federal system each problem we face has a theoretical appropirate level of government to which that problem should be addressed. That is not to say that that is always easy to determine. Sometimes it is difficult to determine what that appropriate level is. Further, it is not to say that we are always consistent about choosing that appropriate level. Certainly, we are not always consistent. To make it more complicated, that appropriate level is different at different times, depending upon different circumstances. In the past, there were some things that ought to have been done in this country, which the States ought to have done, but which it was clear the States would not do. They were, therefore, done at the national level because they had to be done. However, Mr. Chairman, that is no longer the case. The States and the localities do have the ability to act today. They do have the wherewithal. We provide through the general revenue sharing system no-strings money for the States and localities to do what they want, setting their own priorities, depending upon their own circumstances.

Mr. Chairman, it is very clear to me in this particular case where the appropriate level is. Regardless of the merits of the program, whether we believe there should be a victims of crime program or should not be a victims of crime program, and even if we think a victims of crime program is a very good program, it is clear to me that the funding, the decisions, and the administration should be done at the State level. We are, through this legislation, essentially saying to every State in the Union, "You really have to have a victims of crime program." We are not mandating it, but we are saying that they are going to get 50 percent from us and the other 50 percent will come from them, which means that if Oklahoma does not want to do it, then Oklahoma is really sort of a sucker because Oklahoma is going to pay for the New York program.

Mr. Chairman, I think that is a mistake. I think it is wrong. I think that this is exactly the kind of program that simply is driving local officials to distraction.

Mr. Chairman, I am part of a group funded by the German Marshall plan. We met just the other night, and the topic that we were discussing was this very topic: What is the appropriate level of government for various programs to be conducted?

I can say, Mr. Chairman, that those local officials who were there could not agree with me more that it is time—even though they themselves sometimes come to us and are forced by their constituencies to come to us to ask for help—to say no, and they would appreciate it if we did say no.

The CHAIRMAN. The time of the gentleman from New York (Mr. PATTISON) has expired.

(By unanimous consent, Mr. PATTISON of New York was allowed to proceed for 1 additional minute.)

Mr. PATTISON of New York. To continue, Mr. Chairman, in my judgment, whenever we are moving a program from one level of government to another level of government, there is a burden of proof to be established, to be overcome, before we move it upward. I simply do not see what argument can be made to even begin to satisfy that burden of proof in this case; but even if one thinks that this is a reasonable program, that burden has to be satisfied.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I thank the gentleman for yielding.

I would like to say to the gentleman in my opinion I think the State of Oklahoma should do all it can without the help of the Federal Government.

Mr. PATTISON of New York. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to say "Hear, hear" to the remarks of the gentleman from New York (Mr. PATTISON) and I think it is appropriate for me to follow him because I come from a State which does not have any such compensatory laws and I am just as strongly opposed to this measure as the gentleman from New York.

At the risk of sounding hard-hearted, Mr. Chairman, I just cannot believe that this absurd piece of legislation on the Federal level is brought to us for vote. The Government's duty is to promote lawfulness, pursue and punish criminals, and prevent crime. Instead, H.R. 7010 proposes more bureaucracy, more strains on State budgets as well as our own budget, and an interminable compensation program, whose costs we do not know, and, without a doubt, I do not think there is anyone in this Chamber who thinks we are going to keep this program to $150 million.

Does this bill do anything to prevent people being victims of crime? Does it serve any purpose toward furthering our goal of crime reduction? The answers to these questions, Mr. Chairman, are no.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I will not yield at this time, I will yield later.

The bill merely sweeps the problem of crime prevention under the rug. It only serves as a sop to our conscience by plugging in another never-ending tap at the Federal fountain. When will it stop, Mr. Chairman? At the edge of national bankruptcy when everyone will be a victim of crime—the crime, perhaps, Mr. Chairman, of an overly compassionate Congress, unable, I would state to the gentleman from California, to manage public funds at the risk of having to make tough decisions?

I am seriously disturbed, Mr. Chairman, about our spending actions. We can pass all of the budget management and control bills we want and speak loftily of priorities, but where we are failing is at the basic level of decisionmaking. We cannot right every wrong. Members of the House, given the limited resources of this Nation, we must select priorities and we must make decisions. However much we would like, we simply cannot continue to expand our public largesse to encompass everyone.

H.R. 7010 is one small example of a serious problem which this body must confront. Are we to continue to play the benevolent provider, capitalizing every cause but leaving the concern of fiscal management to future generations of Congressmen? Or will we wake up in time and recognize our true responsibilities to the American public?

Mr. Chairman, we treat our constituents like expansive parents. Give all. Never say no. Meet every need and whim. But, like the expansive parent, it is our children who will pay and, quite simply, they cannot afford this bill and I doubt if they can afford us.

Now, Mr. Chairman, I yield to the gentleman from California (Mr. JOHN L. BURTON) for, I hope, one of his humorous commentaries.

Mr. JOHN L. BURTON. No, I am very serious. I remember the gentleman on several occasions talking about our society as always being too concerned with the rights of the criminals that we never worry about the rights of the victims. And yet here is something in which we are trying to correct that situation and compensate the victims of the crimes, crimes caused many times because of the judges who let the rapists and the murderers run rampant in society. This is to compensate those victims.

Mr. ICHORD. I will state to the gentleman from California in reply that there are areas in this Nation today where we might be promoting crime by merely setting up compensation for the crime.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. JOHN L. BURTON. If the gentleman will yield further, there are some people who are talking about putting together a nonprofit corporation to encourage people to perpetrate crimes on victims so that they can come under this program.

Mr. ICHORD. I do not doubt that.

Mr. JOHN L. BURTON. But I do not really believe that, and the gentleman

does not believe it either. We are talking for once about taking care of the victims. That is something that everybody believes in. Regarding crimes and penalties, we always say we worry about the criminals and not the victims, and here we are trying to do something for the victims.

Mr. ICHORD. The gentleman served in a State legislative body.

Mr. JOHN L. BURTON. For 10 years with the State.

Mr. ICHORD. We do have State governments.

Mr. JOHN L. BURTON. Our Government has this program.

Mr. ICHORD. What is the gentleman trying to do, then, let the Federal taxpayer pay for the program?

Mr. JOHN L. BURTON. The State of California contributes more money to the Federal Treasury than any State in the Union.

Mr. ICHORD. I am sure the gentleman's State would spend more of this money, too.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

POWERS OF THE ATTORNEY GENERAL

SEC. 3. (a) Subject to the availability of amounts appropriated and subject to the limitations imposed by section 5 of this Act, the Attorney General shall make an annual grant and may make supplemental grants to each qualifying State program, and the total of all grants made to a qualifying State program under this Act with respect to a Federal fiscal year shall equal an amount which includes 100 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for qualifying crimes which are described in section 7(7)(B), and 50 percent of the then current cost, as determined by the Attorney General, of paying compensation for such fiscal year for other qualifying crimes. Grants under this section may be made in advance or by way of reimbursement. The Attorney General shall not have the power to modify the disposition of any individual claim which has been processed by any State program.

(b) The Attorney General shall, for the purpose of carrying out this Act, have the power to do the following:

(1) Make such rules as are necessary to carry out this Act.

(2) Deny, revise, or agree to any request for an annual or supplemental grant under this Act.

(3) Promulgate rules and regulations regarding the data to be kept by State programs receiving funds under this Act and the manner in which this data shall be reported to the Attorney General.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 3, line 16, strike out "50" and insert "25" in lieu thereof.

Mr. WIGGINS. Mr. Chairman, it is my rare privilege at this time to carry and sponsor an amendment which is proposed and endorsed by the administration. The administration is not happy with this bill because it pays 50 percent of State claims up to a maximum of $50,000. The administration, speaking through the Attorney General, favors instead a 25-percent Federal involvement, with a $25,000 limitation.

My amendment coming at this time in the bill addresses itself only to the 25-percent limitation. I do not think it is necessary to expand on the amendment greatly, but I want all of the Members to know that the whole purpose of this bill is to limit the Federal contribution from 50 percent of the claims to 25 percent of the claims. It obviously impacts the cost of the bill, and it is wholly consistent with the notion that a new Federal categorical social program unrelated to crime should be one upon which we should embark very cautiously and very tentatively. This is, therefore, a tentative approach and one which I hope will enjoy the support of the Members.

Mr. Chairman, I will be happy to yield to the gentleman from North Carolina (Mr. GUDGER) who I believe wanted to indicate his support for my amendment, if the gentleman would like to have me yield to him.

Mr. GUDGER. If the gentleman will yield, I feel that the gentleman in the well is misinformed as to my support on his proposition. I do support an amendment which I will shortly advance. I do acknowledge that the Attorney General had indicated that a 25-percent contribution was deemed adequate by that office. Beyond that I cannot speak.

Mr. WIGGINS. I am sorry that I put the gentleman on the spot and I am disappointed that evidently the cause of the administration is worth only 50 percent rather than 100 percent support.

In any event, I think the amendment is understood and I urge an affirmative vote on the amendment.

Mr. MANN. Mr. Chairman, I rise in opposition to the amendment.

For those Members who were not here earlier, I explained that the Federal Government is to pay 50 percent of the claims under this program, with the States bearing the cost of their own administration. Administration costs being calculated as roughly 15 percent, it would mean that the Federal contribution would run somewhere in the neighborhood of 40 percent and the State contribution somewhere in the neighborhood of 60 percent under the 50-percent matching formula.

Now if we drop down to the 25-percent level and with the qualifications and conditions we have put on the States for paying their administrative costs, and every time we add a qualification it will increase that administrative cost, we now have the States down to the point where they will get perhaps 15 percent or 20 percent of the program from the Federal 25 percent match.

If this program is worth anything, it is worth having a viable program that is attractive enough to either cause States to opt for it or to encourage continuance in those States that have developed programs to date.

So, if we want to kill the program, the way to do it is to adopt this amendment. If we want to make the program ineffective, the way to do it is to adopt this amendment.

There has been a good bit of talk about whether or not this program has any criminal justice contribution to make. If the Members are satisfied with the alienation of the public with reference to our law enforcement system, if they are satisfied with the lack of reporting of over 50 percent of violent crimes in this country, if they are satisfied with the roughly 1 percent of convictions for crimes in this country, if they are satisfied with the sentencing processes in this country, if they are satisfied that the criminal justice system is working well, then do nothing, do not adopt this program, because after all this is only one plan to make it better, only one plan to cause witnesses to cooperate, only one plan to bring justice to this system.

In a poop sheet not long ago I saw this cartoon. It has got what looks like a thug standing here and a prosperous looking businessman. And the caption over the thug says:

Mr. A: feeling deprived by society, decides to lash out by mugging Mr. B in a dark alley.

The caption over Mr. B says:

Mr. B: as a result of the beating loses his health, his job, his family and takes up window washing and begging.

Then in the next scene of the cartoon, Mr. A, the thug, is dressed well and the caption says:

Mr. A: is caught and sentenced to business management courses that enable him to become independently wealthy.

And then the cartoon shows Mr. B as ragged and the caption over him says:

Mr. B: is waiting for Mr. A in a dark alley.

How satisfied the citizens of this country feel when they go to court and involve themselves, when they sit there and lose their jobs because of the scheduling we do in our courts, when they are subjected to all kinds of problems because they have cooperated in the criminal justice system. If we do nothing but send them a signal that we are interested in them, we are interested in their involvement, we are interested in their testimony, we are interested in their cooperation, then we have done them and the criminal justice system a service.

I have talked to many district attorneys in this country. I have experienced this witness neglect problem as a prosecuting attorney. We can have an effective program if we will stop breast-beating and do something affirmative, do something that will bring more criminals to the bar of justice, do something to insure that they are subject to the greatest of all deterrents, getting caught, and funds for that effort can well be taken from the hundreds of millions being expended in the failing effort to rehabilitate the few that are caught.

Now, you will not find a States rights man in this Hall any more dedicated than I am. I sometimes in half jest say let the Federal Government guard the coastline and deliver the mail; but we know the Federal Government has assumed major responsibility to insure domestic tranquility and has accepted by its programs, such as LEAA, what Cicero has said:

The safety of the people is the highest law.

Now, is that a Federal nexus? If law enforcement is not a Federal nexus, I do not know what is; so let us not let

the disenchantment with other programs make us overlook our responsibility for the Federal Government to take care of its citizens.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I thank the gentleman from Virginia for yielding.

I simply could not sit here without taking the well once again to respond to arguments which have no basis in fact or reality in terms of this bill. It has been said on several occasions that this bill has something to do with the criminal justice system. It does not. It has nothing to do, clearly, with the prevention of crime, since the bill is not invoked at all until after a crime occurs. The only possible argument that might be made with some legitimacy is that it will encourage citizens to come forward; but there has never been a problem about the bloody victim coming forward. The problem is with respect to the bystander who is not covered by this bill, the one who does not wish to become involved and is not already involved as a victim. With respect to that innocent bystander, what we do here is create another administrative burden to him by compelling his attendance at an administrative hearing, besides the criminal trial, to adjudicate the compensation claim. It is a further interference with those who do not wish to become involved. It is truly counterproductive with respect to the criminal justice system, rather than supportive of it.

Mr. Chairman, I thank the gentleman from Virginia for yielding.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would like to say that the gentleman from California, with all his eloquence, cannot in any way obscure the fact that this bill has mandatory crime reporting requirements. States, in order to obtain funds, must advise the victims of crime in this program and the victims in order to obtain funds have to report their crimes to the police.

There is also no question that one of the most serious handicaps to the prosecution of crimes is that they are not reported.

Another serious handicap is that many victims will not cooperate in the prosecution and will not testify. This bill will make an enormous difference in that respect.

Mr. Chairman, I yield to the gentleman from South Carolina in this respect.

Mr. MANN. Mr. Chairman, I think the gentlewoman has expressed it well. You know, the National District Attorneys Association has a witness program that is a creature comfort type program, whereby in paying just a little bit of attention to witnesses they have enhanced their prosecutorial ability. They have stopped the cases from dropping through the cracks, which happens to a large portion of those cases that are reported.

In many cases the witnesses would become disenchanted. They had no hold on them. They do not come back, or they are subject to job problems or something of the sort. This program will tend to eliminate that and, as I say, if we are willing to do nothing, then we can talk about symptoms and revision of criminal law all we want to, but the criminal justice system will continue to deteriorate.

I urge the rejection of the amendment.

Mr. PIKE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would vote for this bill and against this amendment if it were not for a vote that we had here yesterday. On the vote that we had here yesterday, 202 Members of this body voted against increasing the debt ceiling. We have awful problems with our Federal budget. We are here embarking on a new program, another new program.

I do not believe the statistics which have been given us about what this program is going to cost. I think that more crimes are going to be reported. I think crimes that may not even have happened are going to be reported. I think there is going to be a tremendous increase in the reporting of crimes. But, I think that this is going to develop into a terribly expensive new program.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentlewoman.

Ms. HOLTZMAN. I would share with the gentleman his concern about the cost of the program, if this were an entitlement program. But I would say to my friend that this is not an entitlement program. It is not an open-ended program. There is a specific limit on the size of the program.

Mr. PIKE. This I understand, and those who report those crimes first are going to get the money, and there will be a rush to get in and report their crimes. I simply say to the 202 Members of this body who yesterday voted against increasing the debt ceiling—I voted to increase the debt ceiling, do not get me wrong—but for those who voted against it, this is what they are doing if they vote to start this new program on top of the pension for the World War I veterans, on top of the tax credits for college students. At least, if they vote for this new program, the next time the debt ceiling comes around, they should be willing to vote to increase the national debt.

Mr. BINGHAM. Mr. Chairman, I am pleased to rise in support of H.R. 7010 which would provide grants to the States for the payment of compensation for crime victims. I have long supported this concept and have worked for passage of this type of legislation for 4 years.

Under the program established by this bill, the Federal Government would contribute 50 percent of the cost of a State's compensation to a victim of crime up to $50,000. In cases where the crime occurs on Federal property, the Federal Government will pay 100 percent of compensation up to $50,000.

New York State, which has its own compensation program, will be eligible for funds under the Federal aid program. The Federal aid will make it possible for New York's program to reach far more people than it does today. Although the committee did not accept my suggestion that this bill authorize payment for administrative costs of State programs so that processing time of applications for assistance could be reduced, it is clear that Federal assistance will greatly increase the impact of this assistance program.

For too long we have shirked our responsibility to the victims of crime who suffer our inability to protect them from harm. I hope that in this Congress the Senate, which has never acted on this legislation, will finally approve a similar measure and this new source of aid to victims of crime can finally be established.

Mr. SCHEUER. Mr. Chairman, in considering this very important piece of legislation, we are addressing one of the most urgent questions in our criminal justice system: What we are prepared to do for the victims of the thousands of violent crimes that are committed each year in the United States.

The victims of crimes are the forgotten heroes of our justice system. I applaud and endorse my colleagues for introducing this much needed piece of legislation.

While the compensation of violent crime victims will fill a void in our criminal justice system, this is only a short-term, stopgap measure. Only by truly appreciating what motivates individuals to go out and commit violent crimes can we ever hope to deter and prevent the ever-rising rates of crime and violence in the United States.

The Committee on Science and Technology's DISPAC Subcommittee, of which I am chairman, plans to hold hearings early next year on the causes of violent behavior in America. Topics to be considered include rape, crime against the elderly, household violence including child abuse and wife beating, treatment of mentally disordered offenders, and violent crime deterrence.

I urge my colleagues to pass this bill, this critical first step in the fight against violent crime in the United States.

Mr. GONZALEZ. Mr. Chairman, I am very pleased that the House is considering the Victims of Crime Act of 1977 which I have cosponsored. A little over 4 years ago, I first introduced a similar measure and have continually worked for the passage of this bill.

Unfortunately, we have seen a tremendous increase in crime over the last decade and with it a huge expenditure of public funds to apprehend, imprison, rehabilitate, and study the criminal, while problems confronting the victims of crime have been overlooked. For him society has failed in its duty to protect him, and a Government which pledged to protect its citizens cannot disavow all responsibility when it fails in its job.

Ancient history shows us that as far back as 4,000 years ago there existed the concept that society has an obligation to help meet the needs of victims of criminal violence. The Code of Hammurabi evoked communal responsibility for certain crimes and, surely in this 20th century, we should be able to include in our code of justice some relief for those victimized by crime.

I believe the measure we have before us today is an equitable one. The States

will share in the cost, as well as administer and shape their own program the best way they see fit. Today there are 20 States that have their own programs compared with less than half that number 4 years ago when I first introduced my bill.

The main purpose of the legislation before us today is to aid the innocent victim of a crime, but there is the possibility that we might also be helping to reform our correctional institutions. As the English penal reformer Ms. Margaret Fry has said:

> A rational system of correction can only be achieved when victims, satisfied financially, no longer press for revenge but rather favor rehabilitation.

Nothing would be more satisfying to many of us, I am sure, than to be able to help both the victim and the accused.

I strongly urge my colleagues to support this bill as reported by the Judiciary Committee and hopefully before too long show our concern for those victimized by crime. While we cannot pass legislation that will remove the shock and trauma associated with a criminal attack we can help to ease the victim's economic losses.

Mr. KOSTMAYER. Mr. Chairman, I rise in support of H.R. 7010, the Victims of Violent Crimes Act of 1977.

This legislation would extend Federal funds to States that have instituted programs providing payments to the victims of violent crimes. These payments include compensation for hospital and related expenses not covered by insurance, and for loss of income not otherwise compensated. My own State of Pennsylvania, along with 20 other States, has already instituted programs to help victims of violent crimes. To have an effective compensation program the Federal Government must also contribute.

For too long the victims of crime have been neglected by government. Mr. Chairman, H.R. 7010 is designed to alleviate the suffering of so many Americans. It seems ironic that while a criminal may receive Government-funded rehabilitation treatment oftentimes his victim may suffer severe economic hardship as a result of the crime and receive no help at all.

The situation is especially serious for senior citizens, most of whom are on fixed incomes. According to a report by the Select Committee on Aging a significant number of the elderly are victims of violent crime, the victimization rate is rising, and older citizens in urbanized areas are victimized more than any other group. If government can provide aid to the criminal in the form of rehabilitation, it can surely provide aid to the innocent victim.

Some form of legislation relating to victims of crime has been introduced in every Congress since the 92d, but this is by far the most workable.

One important aspect of H.R. 7010 is its requirement that victims give full cooperation to the police. This will encourage citizen-police cooperation. In this way two aims are served, the citizen is helped by receiving necessary financial aid, and law enforcement officials benefit from the resulting information and support.

Mr. Chairman, I urge my colleagues to vote in favor of H.R. 7010, the Victims of Violent Crime Act of 1977.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 7010, the Victims of Crime Act of 1977 and urge my colleagues to join me in support of this important piece of legislation.

This measure will establish a source of Federal grants to be made available to States in their operation of programs to provide compensation to victims of crime. The bill authorizes a total of $150 million in grants over the next 3 fiscal years. These grants are to pay up to 50 percent of the compensation amounts of up to $50,000 paid by States to crime victims.

Currently, there are 20 States with compensation programs; each of which has details somewhat different from the other; but seeking to compensate a victim for personal injury and loss of wages resulting from criminal activities.

The idea of Federal involvement in programs of this sort is supported by the American Bar Association, the National District Attorneys Association, and the U.S. Conference of Mayors, and many other respected groups. Indeed, the President's Commission on Law Enforcement and the Administration of Justice endorsed Federal support of these compensation programs.

I, like my colleagues from urban surroundings, feel strongly about this program because we often see first-hand the suffering experienced by the victims. Older urban communities have great difficulties, not the least of which is the problem of safeguarding those who may fall victim to criminal actions. It is a sad occurrence to learn of a citizen who has suffered a loss of money and costly, traumatic injury as the result of a ruthless attack. It seems that no matter how hard we try we cannot, as a society, offer those who are the easy targets of crime the assurance that they will be spared this victimization. Therefore, in addition to our efforts to curtail violent crime we must, I believe, offer some compensation for those who suffer such tragedies.

I urge all my colleagues to join in supporting H.R. 7010, the Victims of Crime Act of 1977, as a reasonable measure to aid the helpless victims of criminal activity.

Thank you.

Mr. FRASER. Mr. Chairman, I would like to take this opportunity to express my support for the Victims of Crime Act, H.R. 7010. I am cosponsoring this measure which would provide aid to victims of crime.

In 1974, my home State of Minnesota established the Minnesota Crime Victims Reparations Board. The board is empowered to pay up to $25,000 to compensate victims for personal injury, medical expenses, lost wages, and death. The maximum benefit in Minnesota was increased from $10,000 to $25,000 last July 1. The same coverage applies to a person who is injured or killed preventing a crime or assisting in the apprehension of a person suspected of engaging in a crime. With enactment of this legislation, Minnesota would be able to award crime victims up to $50,000 without increasing the cost to the State.

H.R. 7010 establishes a Federal grant program to States, like Minnesota, which have instituted programs to benefit victims of crime. There are presently 20 States which have such programs. The Federal Government, under this bill, would be allowed to provide up to 50 percent of the cost of State awards to victims. In other words, a victim in Minnesota could receive up to $50,000 for injuries sustained or death. Each State would have discretionary authority to set maximum benefit levels, but this bill would only reimburse States for 50 percent of an award up to $50,000. Thus, the Federal share limit is $25,000.

The bill does not compensate for pain and suffering, property loss, cost for which the victim will be reimbursed from another source, and States' administrative costs are not covered. Also, compensation begins after the victim has absorbed an initial loss of $100 or 5 days' loss of wages.

Too often, victims of crime are those who can least afford to be—the elderly, poor, blacks, native Americans, and Chicanos. The Federal program established by the measure we are debating today relates to need. Victims are reimbursed for out-of-pocket expenses which are not otherwise reimbursed by medical insurance or disability payments.

Mr. Duane Woodworth, executive director of the Minnesota Crime Victims Reparations Board, outlines the need for the program in a recent letter to my office. Mr. Woodworth explains:

> I am writing this letter not only on behalf of the Minnesota Crime Victims Reparations Board, but also on behalf of victims of crime everywhere who, as you know, suffer sometimes most grievously at the hands of criminals. Murder victims who leave families behind in emotional and financial disaster, rape and assault victims who suffer not only the effects of the assault but sometimes have staggering medical bills that are not covered by insurance, and elderly victims who often end up in extended care nursing homes because of injuries received from purse snatchers and muggers. Medicare and Medicaid do help some, but for the most part these elderly suffer dire financial hardship.

A year ago, Congress passed the Public Safety Officers' Benefits Act which provides a $50,000 tax-free Federal payment to specified survivors of State and local public safety officers killed during the line of duty. This law covers police, firefighters, and corrections, probation and parole officials.

I believe passage of this legislation will go a long way toward strengthening the States' role in providing protection and compensation for victims of crime. In Minnesota, passage will mean an increased level of benefits for victims. I support passage by the House to insure that this step toward lessening the burdens innocent victims bear is realized.

Mrs. MEYNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia (Mr. BUTLER) and to urge its acceptance.

The sensationalism of modern criminal activities has led to windfall profits by the very people who commit heinous crimes against individuals and society. The fault lies not with the publishing and motion picture industry, but with a

society that is obsessed with the gruesome details of mental illness and violence. This obsession leads to the financial exploitation of criminal behavior in a manner that not only continues the publicity of a specific crime, but that works to perpetuate the high degree of violence that we are exposed to when we turn on our television sets, browse through bookstores, and spend an evening at the movies. The degree of violence alone is disturbing, but the fact that convicted criminals are benefiting financially from this exploitation is unconscionable.

A well established common law maxim dictates that one should not benefit from his wrongdoing. While the courts labor to uphold this principle, the "entertainment world" continues to market counterproductive appeals to the public's appetite for sensationalism. Financial benefit for the deviant behavior of mass murderers should not be condoned by this House. Defeat of this amendment before us today would not only permit the perpetuation of this practice, but it would serve as a congressional signal of endorsement. I do not believe that this is the posture that the House of Representatives should assume in this situation. Rather, as we consider this bill to provide compensation to the victims of violent crime, I find it only proper that we include in this legislation an amendment that would finance further compensation at no increased cost to the taxpayers. This is precisely what Mr. BUTLER's amendment would successfully accomplish. A tangential and natural consequence of this amendment would be the successful deterrence of publication by criminals. The fact that the resulting revenues will be held in escrow in order to compensate further the victim of the crime, would serve as a disincentive to the writing of a book, or the selling of motion picture royalties. Perhaps my colleagues share my belief that this effect is as attractive as the primary result—further compensation to victims or their survivors.

Mr. Chairman, defeat of this amendment aids only convicted criminals. Acceptance of the amendment makes an important financial, legal, and moral commitment to the victims of violent crime and to society. I urge my colleagues to carefully consider the implications of condoning this behavior and to join me in my support for this amendment.

Thank you.

Mr. ZEFERETTI. Mr. Chairman, over the years the Federal Government has poured billions of dollars into programs designed to prevent crime. While this effort has been partially successful in reducing the number of serious crimes in some areas of the country, it is apparent to me that the crime problem is foremost in the minds of the American people, particularly those residing in urban areas.

What happens to the victims of these crimes? The offender—the criminal—has the benefit of free legal representation, counseling and job training, but in most cases the victim is pitied and then simply ignored. In addition to the physical and mental anguish suffered, the victim must also face up to the fact that he or she is confronted with hospital and medical bills as well as time lost from work.

This economic hardship is particularly severe for our senior citizens, most of whom live on a fixed income. I know that in my hometown of Brooklyn, and in other urban centers around the country, crime against the elderly is on the increase. When these victims are bodily harmed, as is often the case, they face enormous hospital and medical costs. Although medicare and medicaid cover much of the expense, these bills can deal a staggering blow to their already stretched budgets.

Several States have taken the initiative in setting up programs to provide some financial assistance to these victims by reimbursing these innocent people for medical expenses and lost wages. However, most of these State programs are both underfunded and understaffed and, as a result, the overwhelming majority of victims eligible for assistance are unaware that such programs even exist.

Mr. Chairman, this compensation for victims of crime legislation would not handcuff these State agencies with burdensome regulations and redtape but would merely require them to meet seven basic requirements in order to qualify for Federal funds. In fact, it is designed to encourage diversity in the various programs so that each State retains the flexibility to design its own crime compensation program.

Hundreds of people are killed and injured each day as a result of violent crimes, and many of these innocent victims suffer not only physically but also economically from their misfortune. While we must continue with an all-out effort to crack down on crime and criminals, it is time for the Federal Government to direct its attention to the victims as well.

Mr. MANN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair. Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, had come to no resolution thereon.

REQUEST TO CONCUR IN SENATE AMENDMENTS WITH AN AMENDMENT ON H.R. 6550, AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment numbered 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes."

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER pro tempore. The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain this? This is a rather complicated-sounding chain.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, the Senate accepted the omnibus bill with the amendments that we sent over to them the other day, with one exception, and the exception was to refine, as I viewed it, changes as they viewed it, the proposal that we had, and which had been in the bill all along, on title II regarding award claims. We reconciled this apparent difference by stating that the Commission could award no claims. The Commission already finished its work a couple of years ago. They could award no claims that were not authorized under the law. That is no more than we had

intended. I do not understand why the Senate thought it was any different, because we were merely restating the premise upon which the House acted in the beginning.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, in other words, the gentleman is satisfied that the position of the House is still preserved?

Mr. PHILLIP BURTON. If the gentleman will yield, yes. It is inexplicable to me as to what the quarrel was in the first instance. We did not change the law at all, and they wondered if we had or had not. We agreed, finally, by just restating what the current base law was. So I am satisfied that the House's view is sustained, and I think that is the view of my colleagues.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I would like to agree with what the gentleman from California (Mr. PHILLIP BURTON) is saying. Although this is not too clear, apparently the Senate or the Senate managers of this bill did not know what the law was with regard to interest on these particular claims that were taken care of in the bill.

Both sides agree that the law should be that there should be no interest on the award.

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. That is the law that has been in effect since 1971, and the amendment the gentleman is offering to the Senate language merely states the law will remain what it was in 1971.

Mr. PHILLIP BURTON. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I wish to yield to my colleague, the gentleman from California (Mr. DON H. CLAUSEN), who, I know, has had a substantial interest in this legislation.

Is the gentleman satisfied that the House position is basically preserved?

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. The House position is preserved, I might first state one of the reasons for this unusual procedure. We would normally work these things out in conference, but as the gentleman knows, the Senators who are involved in this are presently involved in very extensive debate on the energy bill.

So in consequence the gentleman from California (Mr. PHILLIP BURTON) has been communicating with the principals involved on the Senate side, and in their communications with me and the gentleman from California (Mr. LAGOMARSINO), the conferees on the House side have been kept informed. So we are in concurrence with the objectives, and I think we have sustained the House position.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's comments, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object let me ask this: Has this been printed in the RECORD?

I am under the understanding, with the Committee on Rules bringing out new rules, that we have a new way of handling things and we are going to require these things be printed in the RECORD. Has this been printed in the RECORD?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield so that I may respond to the gentleman?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I must first observe that we have appropriations contingent on this legislation, and the fiscal year ends on September 30, and we have some hope that the bill can be signed into law by September 30.

On the gentleman's point, I would share the gentleman's concern that it should have been printed in the RECORD, but this amendment does no more than restate the current law. If it were not for that, I think I could concur with the observations I might anticipate from my colleague, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I must say that I am really shocked at what the Committee on Rules did today, and if that is the way the rules are going to be conducted, as far as I am concerned, this gentleman is not going to make any concessions on the rules.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REPORT ON COMPARABILITY ADJUSTMENT ORDERED FOR FEDERAL STATUTORY PAY SYSTEMS IN OCTOBER 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-233)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

In accordance with the provisions of section 5305 of title 5 of the United States Code, I hereby report on the comparability adjustment I am ordering for the Federal statutory pay systems in October 1977.

The Secretary of Labor, the Director of the Office of Management and Budget and the Chairman of the United States Civil Service Commission, who serve jointly as my agent for Federal pay, have proposed a 7.05 percent across-the-board increase in pay rates for the Federal statutory pay systems. The Advisory Committee on Federal Pay has concurred with this recommendation.

While the Federal Employees Pay Council recommended a larger increase, I have decided that the 7.05 percent increase fully satisfies the principles set forth in the Federal Pay Comparability Act of 1970 that Federal salaries be comparable with those in private enterprise for the same levels of work.

I am transmitting herewith the reports of my Pay Agent and the Advisory Committee, as well as a copy of the Executive order I have promulgated to put this pay adjustment into effect.

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

ADJUSTMENTS IN LEVELS OF COMPENSATION FOR MEMBERS OF UNIFORMED SERVICES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, without objection, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

In accord with 37 U.S.C. 1009(c), I am hereby advising the Congress that I plan to exercise the discretionary authority provided by 37 U.S.C. 1009(c), as added by section 303 of the Department of Defense Appropriation Authorization Act, 1977 (Public Law 94-361), with respect to adjustments in the levels of compensation for the members of the uniformed services.

The amendments to 37 U.S.C. 1009 made by that act provide discretionary authority to apply the adjustments (based on the overall average percentage increase in General Schedule rates of basic pay, in accord with 37 U.S.C. 1009(a)) to the basic pay, quarters allowances and subsistence allowances of the uniformed services on a percentage basis other than an equal percentage basis. Those amendments also provide discretionary authority to pay a partial quarters allowance to bachelors in government quarters, on field duty and on sea duty.

The current levels of the military allowances for quarters and for subsistence are less than the costs of the services they are intended to procure. Because of this deficiency in the current level of these allowances, it is my considered judgment that a reallocation of the October 1, 1977 military basic pay increase is appropriate. However, in consideration of the negative impact of reallocation on some military members, I am not going to reallocate the full 25 percent which I am authorized by law to do. I plan to reallocate 12 percent of the basic pay increase, by grade, all to the basic allowance for quarters, and to increase the partial quarters allowance to bachelors in government quarters, and to those on sea duty or on field duty, by an amount equal to that reallocated from the basic pay increase. This action takes a positive step toward improving the current relationship of the quarters allowance to the costs of off-post housing and, at the same time, recognizes the adverse impact of reallocation on some military members by limiting it to a moderate amount.

Specifically, the amount allocated to

the element of monthly basic pay for each grade shall be 88 percent of the amount that would have been allocated to that element under 37 U.S.C. 1009 (b)(3); the elements of monthly basic allowance for subsistence and monthly basic allowance for quarters for each grade shall be increased by an amount which is of the same percentage as the overall average percentage increase in the General Schedule rates, except that the element of monthly basic allowance for quarters shall be increased by an additional amount by grade equal to 12 percent of the amount that would have been allocated to the element of monthly basic pay under 37 U.S.C. 1009(b)(3). Members without dependents, who, under 37 U.S.C. 403(b) or (c), are not entitled to receive a basic allowance for quarters, shall be paid an increase in the monthly partial basic allowance for quarters in an amount equal to the additional amount allocated by grade to the element of monthly basic allowance for quarters under 37 U.S.C. 1009(c).

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

DAY OF BREAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, next Tuesday, October 4, is the International Day of Bread. I will again deliver to each of my colleagues a complimentary loaf of bread provided to you by the National Day of Bread Committee, made up of wheat growers, millers, and bakers.

For the past 8 years, we have delivered bread to each Member of Congress on this Day of Bread. Many States are also sponsoring Day of Bread activities. This observance has as its purpose to bring the people of the world together in spirit and to express thanksgiving for the annual harvest and to continue the commitment to win the war against hunger and malnutrition.

We have come full circle since I first advised my colleagues in this House as a freshman Member, in less than eloquent language, to let their appetite help us out of our wheat surplus problems. At that time we were burdened by costly surpluses and farm production was being curtailed. Then we entered into a short lived era in which the American farmer produced at full capacity, harvested record breaking crops, and received what many considered to be a fair return from the marketplace.

Today, however, we find ourselves once again back down that road to over-production, surplus, depressed prices and curtailing crop production through Government controls. It seems to me there is a lesson to be learned from all of this. The importance of a fair price for farm production is no less important today than it was then. The only way we will achieve the necessary production levels to feed a hungry world is to be fair to the farmer in the pricing and marketing of his products.

The President has now signed the farm bill into law. Let me point out, however, that wheat producers are still in the midst of an economic crisis that doubtlessly will have serious repercussions throughout our entire economy. This year, many young farmers who found it economically feasible to get into the business of family farming during the good years, will see their dreams shattered. The question remains on the Day of Bread in 1977, who will produce the food and fiber for our Nation and a hungry world? Who will take their place?

Let me also point out to my colleagues that contrary to what many think, bread represents an excellent choice for nutrition and calorie conscious consumers. A whole kernel of wheat contains all but six of the 40 essential nutrients, and wheat fiber plays an important role in preventing colonic cancer, the second most frequent cause of cancer mortality in this Nation.

One final word for weight watchers such as myself. Those prominent in the nutrition field recommend an increase in bread consumption in the American diet. Again, contrary to what many think, bread represents our best chance to lower the fat content of the American diet and take an effective step in lowering cholesterol levels.

I ask my colleagues to join me in breaking bread in thanksgiving and in commiting our resources to world peace, understanding and a better tomorrow for all mankind through agriculture.

CONGRESSIONAL BLACK CAUCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, last weekend, September 24, 1977, it was my pleasure to attend the Congressional Black Caucus dinner at the Washington Hilton Hotel. Gathered there were the leaders of the Nation's black community and those of us who join with them in the struggle for racial, economic, and social justice both at home and abroad.

I would like to share with my colleagues a speech that was delivered at the banquet by our distinguished colleague, the Honorable PARREN MITCHELL, who has served as chairman of the Congressional Black Caucus for the past year.

His eloquent words speak for themselves but they were given added force by the stature of the man who delivered them. A distinguished member of an equally distinguished American family, PARREN MITCHELL gave voice to the hopes and aspirations of black America as he has done so effectively and forcefully so many times in the past.

I am pleased to associate with those remarks and to share them with my colleagues.

REMARKS OF THE HONORABLE PARREN J. MITCHELL

It has been my honor to serve as Chairman of the Congressional Black Caucus for almost one year. I wish I could convey to you tonight the deep appreciation I have for the work of the Caucus Members. I wish I could convey to you in adequate fashion, their unyielding commitment to make life better for those whose lives are miserable. The staff of the Caucus and the Caucus Members work impossible hours, sacrifice time, yes, even money, and their personal lives.

You who are here, and the thousands who are not present, have made sacrifices to support, undergird, and sustain this Caucus. We are profoundly grateful to you.

Such sacrifices will more and more be required. We are surrounded by the clear signs that efforts are underway to block the forward progress of Black Americans. "Preferential treatment;" "quotas;" and reverse discrimination are the ugly slogans of those who are unwilling to accept the fact that Blacks in America have yet to gain full equality.

Of course there has been progress, but I submit to you tonight that the lives of the masses of Blacks have not undergone any significant, positive change in the last decade. If you doubt me, walk but a few blocks from this Hotel, where we dine and celebrate in luxury, and you will find Black citizens living out their lives in hopelessness, alienation and despair.

Of course there has been progress. But, in reality, Secretary Patricia Harris cannot really be separated from the woman on welfare, held in contempt as she desperately tries to hold her family together on less than a poverty income.

Of course there has been progress. But, in reality, our beautiful Black Ambassador, Andrew Young, cannot be separated from the more than 400,000 men in America's prisons, most of whom are young, most of whom are Black; and most of whom are desperate.

Of course there has been progress. But, Parren J. Mitchell, Chairman of the Black Caucus cannot, in reality, be separated from that Black father, unemployed for months, despite his everyday search, who sees his manhood, his fatherhood, even his personhood destroyed because he has no work.

The poet, Benét, writing against slavery, defined our present condition when he wrote:

> That great slave driven bark
> Full-oared upon the dark
> With fetters for the crew
> And spices for the few
> The passion that is dead
> The pomp we never knew
> Bury this too.

There cannot and must not be an artificial separation of "Black Elites" and "Black Masses." Our destiny is one. There must not be and cannot be an imposed division between Black "haves" and Black "have nots." Our destinies are inextricably entertwined.

Yes the time for sacrifice on the part of all who care is at hand.

We cannot permit joblessness to remain as a massive rock around the necks of Black communities dragging us down into the depths of frustration, bitterness and anger.

I pray that our leaders would plan and execute, massive, regional employment rallies around this country in the fall and in the winter. I would hope these massive regional jobs rallies would be put in preparation for an enormous rally for jobs to take place in Washington in the spring.

It is immoral to keep people out of work. A moral society should permit no person able to work to suffer the stigma and the degradation of joblessness.

We cannot permit the attacks on affirmative action to continue without launching our counterattack. All are needed in this counterattack—the youth, the Black Church and the Black Press. Those who embrace the slogan "reverse discrimination" refuse to admit, refuse to see that racism is not dead in America. Its insidious touch hits every aspect of our lives. It denies us jobs. It denies us business opportunities. It denies us upward mobility on our jobs. It denies us the freedom to live where we want; to go to

school where we want; to even pray where we want.

And for as long as racism is deep and endemic in this Nation, affirmative action programs must be required for the physical and psychological survival of Black Americans.

I believe we shall come together in unity and strength as we move to achieve social and economic justice and we shall do this not just for ourselves but also for our children. We shall do this in order to build a society that offers every child a chance to imagine a decent and fulfilling future, irrespective of color or inherited life situation.

We shall leave this place and return to our homes, our jobs, our private lives. But as we leave let us once again commit ourselves to the struggle. Let us never conciliate with discrimination. One does not conciliate with evil. Let us never compromise with racial discrimination. One does not compromise with venality. Let us never capitulate to racism. To do so would be to bow to wickedness.

If, if indeed the children of Soweto dare against naked racism, dare we do less against the American style racism?

JUDGE DANIEL BRANNEGAN RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I would like to take this opportunity to officially note the retirement, after 29 years of public service, of a dear friend of mine and of the people in my district, Probate Court Judge Daniel Brannegan of Stonington, Conn.

I have known Judge Brannegan all my life. He is one of the finest people I have ever known. A tremendously popular and respected figure, admired by all who know him, "the Judge," as he is known, has served his community in both public and private life. He has had a tremendous career, helping anyone in whatever way he could.

Judge Brannegan was elected nine times as probate judge. The fact that he was routinely endorsed by both political parties is testament to the high esteem and regard in which he is held by all. Despite the fact that he is not a lawyer, not one of Judge Brannegan's decisions was ever overturned by a higher court—a truly remarkable record—and the envy of any judge. Judge Brannegan applied his decisions with a great sense of equity, guided by a deep compassion and understanding for his fellow man. He let his conscience be his guide, and his human instincts never once failed.

Judge Brannegan's service to people extended far beyond the courtroom to all aspects of life. Often, people went to his office following the death of a loved one. He always found the extra time to try to make people feel a little better in difficult circumstances.

Judge Brannegan is a credit not only to himself and to his community, but the way in which he lives should be an inspiration to all of us.

We will miss "the Judge" around the town hall. He has hung a "gone fishin'" sign on the door. But even though we will miss him, we are happy that he is taking some time to enjoy himself, and whether a public official or not, Judge Brannegan will always be our friend.

PLUS CA CHANGE, PLUS CA RESTE LA MEME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, Dumas Malone, the famous biographer of Thomas Jefferson spends several pages in his second volume, "Jefferson and the Rights of Man," describing Jefferson's difficulties as Ambassador to the French Monarchy. Jefferson worked for nearly a year to conclude a commercial treaty with France to provide more favorable tariff treatment for the export products of the various new American States. After a great deal of work, he obtained agreement from the French Court for lower tariff rates on a number of items such as tobacco, whale oil, et cetera. Jefferson wrote home to his countrymen, telling them of the good news, and urging that they begin increasing shipments to France.

Unfortunately, when the cargo vessels began arriving, the local French customs agents at the various ports had not received the word from the French Court about the new, liberalized trading rules. Jefferson's hard work at the French capital was sabotaged by the redtape and bureaucratic delays, which may have been intentional, at the French Customs Service.

In recent months, some American exporters, particularly textile and apparel manufacturers, have encountered similar problems. French customs agents, through insistence on redtape procedures and the requirement that every "t" be crossed and every "i" dotted, have stranded large shipments by a number of manufacturers. It appears to be more than coincidence that this sudden "vigor" at the French ports coincides with a series of unilateral actions by the French to cut off imports of textiles and apparel from developing countries in North Africa and Asia. American shipments are not being prohibited; however, they are being nitpicked to death.

The French should be advised that two can play this game—and I would hope that our exporters would receive more polite consideration in the future. The only other explanation is that the French bureaucracy is no better now than it was in the days of Louis the XVI.

Following are some interesting quotes from Malone's masterful biography.

Jefferson summed up the possibilities as follows:

. . . We can furnish to France (because we have heretofore furnished to England), of whale oil and spermaceti, of furs and peltry, of ships and naval stores, and of potash to the amount of fifteen millions of livres; and the quantities will admit of increase. Of our tobacco, France consumes the value of ten millions more. Twenty-five millions of livres, then, mark the extent of that commerce of exchange, which is, at present, practicable between us. We want, in return, productions and manufactures, not money. If the duties on our produce are light, and the sale free, we shall undoubtedly bring it here, and lay out the proceeds on the spot in the productions and manufactures we want. . . . The conclusion is, that there are commodities which form a basis of exchange to the extent of a million of guineas annually; it is for the wisdom of those in power to contrive that the exchange shall be made.[9]

* * * * *

The duty on fish oils was reduced, for one thing, and Jefferson was hopefully considering the prospects of new trade in furs and rice.[21] The activities of the committee had broadened out so as to include the whole subject of American commerce, and Jefferson continued to arm Lafayette with facts and figures. The American gave his friend and willing helper an estimate of the exports and imports of the United States, based partly on such figures as had been made public, partly on information he himself had collected in many of the states—especially during his trip (1784) to the seaports of New England.[22] The net result of these continuing activities was a letter from Calonne to Jefferson, dated October 22, 1786, in which the various dispositions taken to favor American commerce were summed up.[23]

This letter did not embody all the recommendations of the committee, such as the entire removal of all duties on oils, but Jefferson described it as almost a verbal copy of one drafted by the committee. It repeated past promises about free ports and the reduction and simplification of port charges, reaffirmed the decision about tobacco, and granted for ten years the temporary privileges already given to whale oil, spermaceti, and other products of the sort, while removing entirely the heavy duty on fabrication. It removed the considerable duties on potash, beaver skins and raw leather, and on all woods used for shipbuilding as it did on some other things which were of special interest to Jefferson—shrubs, trees, and seed, and all kinds of books and papers.

* * * * *

Calonne's letter was duly reported to the States and well received there, and Jefferson scattered copies of it in France, but no instructions seem to have been sent by the French authorities—because of bureaucratic stupidity, Lafayette thought.[33] American ships arrived, only to find that the supposed changes in regulations had not gone into effect, and they bore back to their own country the news that French promises had not been kept.

EXIM'S COTTON CREDIT TO JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, on September 7 the Eximbank submitted to me, as chairman of the Banking Committee Subcommittee on International Trade, Investment and Monetary Policy, a proposed transaction to assist in the purchase of U.S. raw cotton by Japan which I would like to insert in the RECORD at this point:

DEAR MR. SPEAKER: Pursuant to Section 2 (b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton.

2. Identity of parties

The Bank of Tokyo is Japan's ninth largest commercial bank and was established in 1947 as successor to the Yokomama Specie Bank, Ltd.

By a law enacted in 1954, the Bank of Tokyo was specifically authorized to special-

ize in foreign trade financing. Although other Japanese banks are authorized to engage in foreign transactions, the 1954 law established the Bank of Tokyo as the official foreign exchange bank of Japan.

In Japan, the Japan Spinners Association, under the administrative guidance of the Ministry of International Trade and Industry, allocates foreign loan funds available for cotton imports to mills wishing to purchase cotton. Thereafter, loan funds are made available to the mills through Japanese commercial banks acting as agents of the Bank of Tokyo.

The indebtedness of the Bank of Tokyo to Eximbank will be evidenced by twelve month drafts drawn on and accepted by the Bank of Tokyo. The Bank of Tokyo will hold the obligations of the Japanese foreign exchange banks issuing letters of credit at the request of the mills which purchase the cotton, and these banks in turn will hold the obligations of the mills.

3. Nature and use of goods

The Eximbank Credit will finance the purchase of raw cotton of all grades and staples for use in the Japanese spinning industry.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reason

Since the early 1950's, Japan has been a steady purchaser of U.S. cotton, and each year since then Eximbank has provided loans to Japanese banks to enable Japanese cotton spinning mills to finance a significant portion of their U.S. cotton requirements. In the past five years, Japan has imported an average of approximately 3,447,000 bales of cotton each year from all sources. Thirty percent of this total has come from the United States, making the United States the largest supplier of cotton to Japan. It is anticipated that the proposed Eximbank credit for the 1977–1978 cotton year will support between 20 percent to 35 percent of Japan's cotton imports from the U.S. As has been the case in the past, these exports will have a favorable impact on many important sectors of the U.S. economy such as cotton growing, processing and transportation. Eximbank perceives no adverse impact on the United States economy from this transaction.

Eximbank's proposed credit is especially appropriate in view of developments anticipated in the world cotton market over the next few months. During the 1977–78 crop year total world production is expected to increase by 10 percent, from 58 to 64 million bales. As a result, competition among cotton exporting nations for sales to Japan, the world's largest importer, should be intense. The Soviet Union, the world's largest cotton grower and second largest exporter behind the United States, is expected to harvest 12.5 million bales—a 3.3 percent increase over their 1976–77 output. Due to this increase, the Soviets are expected to strengthen their marketing efforts in Japan. Substantial production increases in Mexico, Japan's third largest cotton supplier, could produce the same result. The offer of continued Eximbank support could avoid giving the Japanese any reason to decrease the purchases of United States cotton in the light of mounting international competition.

It should also be noted that the United States has been experiencing a trade balance deficit of unprecedented magnitude throughout 1977. For the first six months of this year, the deficit amounted to some $12.5 billion; a full-year deficit of $20–25 billion has been predicted. Our trade deficit with Japan was some $1.4 billion during the first quarter alone. The proposed Eximbank credit will have a favorable impact on the United States' trade balance with Japan.

2. The financing plan

The Eximbank Credit of $75,000,000 will bear interest at a rate of 8 percent per annum. The credit will be repaid one year from each respective drawdown. Drawdowns will take place periodically during the 1977–78 cotton year through July 31, 1978.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank.

Section 2(b)(3) of the Export-Import Bank Act of 1945, requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, since many questions were raised regarding the appropriateness of the proposed credit and since Chairman Moore of the Eximbank was out of the country, Eximbank extended the 25-day consideration period for 2 additional weeks, at our request, until October 14.

After meeting with Chairman Moore last week, and with my colleagues in the other body—Senators PROXMIRE, STEVENSON, and HEINZ, and discussing this proposed transaction with the members of our subcommittee, including Representative STANTON, our ranking minority member and others of the minority, I would like to report on what I have found to be a consensus opinion of this transaction.

The proposed credit of $75 million to assist Japanese cotton mills in the purchase of raw cotton from the United States is not the type of transaction we believe the Bank should be supporting. It represents a very recent, and rather abrupt, change of heart by the Bank itself, which originally denied the credit when first approached last year. As of June 23 of this year, Eximbank had concluded that this loan did not meet the general criteria that should govern the granting of Eximbank credit. Its reasons were set forth in a fact sheet it prepared, which I would like to insert in the RECORD at this point:

FACT SHEET: EXIMBANK'S COTTON CREDIT TO JAPAN

History of the Japanese Cotton Credit

Beginning in 1948, Eximbank has authorized 29 separate loans to finance U.S. cotton sales to Japan. The first credit of $29 million was authorized pursuant to a decree by the Joint Chiefs of Staff in 1948. The next cotton loan was independently authorized by Eximbank in 1951 and similar loans have been authorized consecutively since 1953. (Two credits each were authorized in 1953, 1957 and 1966.) Prior to 1963, the value of these loans never exceeded $60 million annually. Thereafter, the amount of the credit increased to $75 million until 1976 when the amount was reduced to $50 million. Except for three credits authorized in the early 1950's, these credits have carried a one year repayment term with interest rates ranging from 2½ to 9 percent. The loans have all been promptly repaid.

In 1976, after comprehensive analysis and discussion, Eximbank concluded that direct credit support for U.S. agricultural exports could not be justified on the basis of identifiable market imperfections—e.g. need for long-term financing, relative transaction size or exaggerated perceptions of risk by private lenders—or because of foreign government export credit competition. Furthermore, Eximbank could determine no basis on which to exclude the Japanese cotton credit from this general policy conclusion.

Based on its comprehensive analysis, Eximbank reduced the amount of the Japanese cotton credit from $75 to $50 million and advised the Japanese that this credit would not be renewed for the 1977–78 cotton year. In reaffirming last year's decision to terminate this credit, Eximbank considered the factors set out below.

Factors Influencing Eximbank's Decision To Terminate The Japanese Cotton Credit

Cotton sales to Japan can easily be financed in the private market; U.S. banks are willing and eager to increase their Japanese exposure primarily because Japan's economy is so strong. Moreover, a recent Bureau of Census survey on how U.S. exports are financed revealed that 68 percent of U.S. agricultural exports are purchased for cash and most of the remaining 32 percent are financed on terms of less than one year. Consequently, U.S. cotton sales to Japan do not encounter the risk, maturity, or volume problems that Eximbank direct credits typically overcome.

Japan's other major cotton suppliers—USSR, Mexico, El Salvador, Nicaragua, and Guatemala—do not provide official export credit financing to facilitate their cotton sales to the Japanese. Hence, there is no known significant export credit competition for Eximbank to meet.

Despite last year's notice to the Japanese that Eximbank would not extend its credit in 1977, this year's forward-sales of U.S. cotton to the Japanese are 75 percent ahead of last year's. This trend would appear to contradict the claim that availability of Eximbank support is essential to the Japanese decision to purchase U.S. cotton. Moreover, U.S. cotton exporters have increased their share of the Japanese market without any increase in Eximbank credit. Since 1969, the value, volume, and market share of U.S. cotton exports to Japan have all increased while the proportionate share of Eximbank financing has consistently decreased.

The Department of Agriculture has responsibility for export support and market stabilization actions for U.S. agricultural products. There is no economic basis for cotton, or Japan, to benefit from the additional support of an Eximbank credit. To the extent that Eximbank activity overlaps with that of the Agriculture Department, inefficiency and government duplication of effort are promoted.

Other agencies of the United States Government—especially the U.S. Treasury and the Office of Management and Budget—have consistently opposed the Japanese cotton credit.

I found the reasoning in this factsheet to be compelling. It seems to me that normal trade credit, of only 1 year maturity, to an exceptionally creditworthy client, is precisely the kind of loan the private credit market of the United States can and should provide. Indeed, I know that commercial lenders in the United States would be eager to make this kind of loan to Japan, some at rates below Exim's 8 percent. We must remember that the Export-Import Bank is required by law to "supplement and encourage, and not compete with, private capital." This cotton loan to Japan is clearly in competition with private capital.

The Eximbank initially offered the Japanese an unconditional guarantee on private financing to cover up to $75 million of sales in the cotton year 1977–78. I believe this offer was quite appropriate, as it clearly "encourages" private capital, and does not compete with it. The Japanese did not, however, accept the offer and indicated they wanted nothing

less than direct Eximbank credit. They relied on a provision of their own law which allows their importers a 12-month repayment period if the credit is a direct Eximbank loan and only 4 months for repayment in all other cases—including an Eximbank guarantee.

Relying on Exim's own factsheet, I felt this transaction was simply not appropriate for the Bank, nor in its best interest in the long run. Most of my subcommittee colleagues were prepared to join me in a bipartisan resolution objecting to this transaction. Similar action was planned in the Senate.

After speaking with Chairman Moore, however, we decided to withhold our objection to this particular cotton credit, with the understanding that we will oppose any future cotton credits to Japan similar to this one. We are withholding our objections at this time partially because of predictions of a substantially increased U.S. and worldwide cotton crop and a weakening demand which could cause Japan to decrease its purchase of U.S. cotton if no Eximbank credit were available. In part we are not objecting now because foreign competition for the Japanese market is expected to intensify. Primarily, however, we are not objecting to this transaction only because we do not want to take an abrupt unilateral action that might cause economic hardship to those who have planned for so long on this particular credit. But we want it clearly understood that we will not look favorably on any future cotton credits for Japan or other loans which are similarly inconsistent with the Eximbank charter.

PERSONAL STATEMENT

(Mr. ALLEN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ALLEN. Mr. Speaker, as I was not in attendance on the floor of the House on September 26, 1977, due to a meeting with a constituent organization in my district. I would like to indicate in my would have voted had I been here. My votes would have been cast in the following fashion:

S. 1060, George Washington University charter, "yes."

H.R. 5813, Federal payment for District of Columbia water and sewer services, "yes."

H.R. 7766, airspace use in District of Columbia, "yes."

H.R. 6530, borrowing authority for District of Columbia, "yes."

H.R. 7747, pretrial release or detention, "no."

H.R. 6693, child abuse prevention, "yes."

H.R. 6214, Center for the Book, "yes."

House Concurrent Resolution 60, Martin Luther King, Jr., statue, "yes."

Senate Concurrent Resolution 25, Senator Gruening statue, "yes."

House Concurrent Resolution 277, Saturday mail delivery, "yes."

H.R. 7132, Postal Service Arbitration Board, "yes."

TOWARD CURING PARAPLEGIA

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, the scientific advancements which have come to light just in the past year toward curing paraplegia has greatly shortened the timeframe to which an actual cure can be realized.

As some of my colleagues know, on May 3 of this year, Senator WARREN MAGNUSON and I hosted the fifth annual paraplegia luncheon which was sponsored by Paraplegia Cure Research. In attendance this year, were 125 persons, comprised of eminent scientists, lay leaders, and Members of Congress each with a demonstrated concern for liberating paraplegics from their wheelchairs through neuroscientific research. This year, we were all stunned by the results of Dr. Kao's work with peripheral nerve grafts to the central nervous system; Dr. Grossman's work with electronic bypass; Dr. Aguayo's work with glial cells transplanted to peripheral nerves of the central nervous system; Dr. Young's work with nerve growth factor and Dr. Sidman's new plan to integrate the results of the basic research discussed here, and others' work, and to properly provide the resources and organizational setting which would bring about an early solution to the problem.

It was a pleasure to see these major advancements that were considered by the Appropriation Committee's deliberations on the fiscal year 1978 budget for the National Institute of Neurological and Communicative Disorders and Stroke. Both the House and Senate indicated their support for expanding research on central nervous regeneration and neuroprostheses with the ultimate goal of curing paraplegia.

Because these findings, discussed in detail at the luncheon, represent such importance in the fight to liberate paraplegics from their wheelchairs, the attention of each Member of Congress is invited to them:

The first speaker, Donald B. Tower, M.D., is Director of the National Institue of Neurological and Communicative Disorders and Stroke (NINCDS), the Federal agency charged with leading the basic research. Dr. Tower has a distinguished background in medicine, scientific research, and administrative leadership.

Dr. Tower's report follows:

A BRIEF PROGRESS REPORT ON THE IMPLEMENTATION OF RECOMMENDATIONS BY THE NINCDS ADVISORY COUNCIL SUBCOMMITTEE ON REGENERATION IN THE CENTRAL NERVOUS SYSTEM

(By Donald B. Tower, M.D.)

At Mr. Frenzel's kind invitation, it is again my pleasure to bring you up to date on our progress in implementing the various recommendations by the ad hoc Subcommittee of the NINCDS Advisory Council in the field of central nervous system regeneration. You will recall that these recommendations are of three types: funding of high priority research areas; meeting increased needs for research manpower; and improving planning and coordination efforts in these areas. Within the usual constraints on budget and manpower that continue to confront us, solid progress is evident in each of the three groups of recommendations.

Research on central nervous system regeneration and related fields is one of the most rapidly growing areas of investigation. Last year I gave you some figures for the whole spinal cord research program. Now I can focus more specifically on the targeted regeneration subprogram. In FY 1976 the NINCDS funded 39 such research grants for a total investment of $2.55 million. We expect that figure to increase to $2.93 million in this fiscal year (FY. 1977) and to an estimated $3.37 million in FY 1978. These figures do not include a roughly equal number of research grants on development or plasticity of the nervous system with varying degrees of relevance to central regeneration.

The number of funded grants will not go up proportionately to the dollar increases noted because inflation factors have significantly raised the costs of each grant. For the same reason our ability to fund grants recommended for approval as a result of scientific merit review by NIH Study Sections has not improved, despite modest increases in the NINCDS appropriations. Currently we are able to fund only about 28% of the total approved competing grants. Thus, last year there was $0.5 million worth of approved grants on central regeneration which we were unable to fund and this year we anticipate the figure will be close to $0.9 million. Nevertheless, every grant application recommended for approval which deals with central regeneration is regularly brought to the attention of the NINCDS Advisory Council for special consideration in this high priority program area.

One important additional note deserves mention here. The NINCDS has awarded a contract to repeat the enzyme-therapy regeneration studies reported to us last year by the Soviet scientist, Dr. Levon Matinian. In addition through our research grant program, several other investigators are utilizing Dr. Matinian's concepts for additional studies.

In the area of research manpower, the NINCDS has been able to initiate this year a modest beginning once the authorization for training programs was renewed by the Congress. There are presently 16 institutional fellowship awards (training grants) in the program areas of developmental neurology (7 awards), neurobiology (5 awards) and neuropathology (4 awards), providing opportunities for postdoctoral training in these scientific disciplines directly relevant to problems of central nervous system regeneration. In addition the NINCDS is currently supporting 65 individual fellowships and 17 research career development awards (RCDA) that are related to this research area. The NINCDS gives high priority to such training and proposes to add a specific program for training in central regeneration and plasticity if additional training funds become available.

The NINCDS intramural regeneration research program in our Bethesda laboratories continues to be active. At a recent review by the NINCDS Board of Scientific Counselors this program received high marks on the types and progress of research projects being carried out. However, training opportunities in this program are still limited because of the continued constraints on personnel ceilings.

With regard to planning and coordination, the NINCDS has set up a program advisory committee for the Stroke and CNS Trauma Program to monitor the progress of research on problems of acute spinal cord injury and on central regeneration. As research progress indicates the needs, special task forces can be considered for help in planning special targeted efforts. With the establish-

ment during the past year of the NINCDS Office of Program Planning and Evaluation (OPPE) it is now possible and in fact mandatory for each program activity of the Institute to develop annual budget projections, describing in detail minimal and optimal requirements for each of its areas of responsibility. Projections in the area of central regeneration developed for FY 1978 and formulated for FY 1979 have been forwarded to the Director, NIH, for submission to the DHEW.

NINCDS staff meet regularly with the leaders of national organizations concerned with paraplegia and with central regeneration. Among these are the Paralyzed Veterans of America and the National Paraplegia Foundation and the Society for Neuroscience. In addition through research workshops and technical reports, the NINCDS regularly supports state-of-the-art analyses. A recent example is the workshop held last May in Columbus, Ohio by the directors of the acute spinal cord injury clinical research centers supported by NINCDS at which the Soviet experts on clinical management of acute spinal cord injury and on central regeneration research presented and discussed their work.

Another example is the current survey on incidence, prevalence and cost estimates for head and spinal cord injury in the United States being conducted by probability sampling techniques for the NINCDS Office of Biometry and Epidemiology. Preliminary results indicate nearly half a million new cases each year of central nervous system trauma (head and spinal cord) requiring hospitalization in the United States. Some 70 percent of these cases are less than 36 years old, and two-thirds are males. In 1974 there were almost 1.1 million patients with central nervous system trauma alive in this country, most of them victims of automobile accidents. For spinal cord injuries alone these patients represent at least a $1 billion economic loss to society. From data like these, more effective planning and setting of priorities can be developed.

At this stage research progress in the very difficult area of central regeneration is understandably slow. However, rather than limit discussions of progress and new approaches to a selected few meetings, the NINCDS is encouraging research symposia on central regeneration, development, plasticity and related subjects as part of the regular scientific sessions of the many relevant societies and groups. Thus, scientists from many disciplines are encouraged to give attention to these problems.

Clearly the report and recommendations of the NINCDS Advisory Council *ad hoc* subcommittee have been very helpful to the Institute in identifying and implementing needed activities. The NINCDS response has perforce been tempered by the research opportunities available and by limitations of resources. Nevertheless, these recommendations serve as a solid basis for an active research program on central nervous system regeneration.

Again I must thank Bill Frenzel and the many good people gathered here today for the opportunity to discuss our program and our progress with you. This must be a concerted effort of all of us together to solve this most challenging and important problem.

Beginning the discussion of new scientific approaches is Chun C. Kao, M.D. Dr. Kao is chief of the neurology service at Veterans' Administration Hospital in Madison, Wis. He is also assistant professor at the University of Wisconsin. It is unfortunate that Dr. Kao's film and slide presentation could not be duplicated for the RECORD.

Dr. Kao's report follows:

SPINAL CORD REPAIR USING NERVE GRAFTS

(By Chun C. Kao, M.D.)

At the paraplegia research laboratory at the Madison VA Hospital, we have pursued the possibility of spinal cord repair since 1972. The entire mission is based on the belief that the spinal cord axon will regenerate if conditions permit. Today, we have enough convincing evidence to say that this hypothesis, in which we see our hope, is in fact correct.

If a spinal cord is transected, the cut ends become quite far apart and are difficult to bring together. In order to repair the spinal cord, we have implanted many varieties of tissues into the gap. After a long period of trial-and-error, we found that the peripheral nerve is the best material to use. The intrinsic axons and myelin of the nerve disappear in two weeks. By the end of the second week, the implanted nerve will contain millions of Schwann cells lined up in thousands of tiny chains, through which the regenerating axons may pass.

The idea of using the peripheral nerve to repair the spinal cord is about 70 years old. Cajal first suggested it. Many researchers have done it. They have transected the spinal cord including its covering membranes and placed pieces of nerve in between the spinal cord stumps. Months later, when the spinal cord was examined, they found the nerve had been expelled or was separated from the spinal cord by scars, cavities, muscles or even bones.

When we addressed the problem, we found the surgical technique can be improved. With the aid of a surgical microscope, the spinal cord can be transected without cutting across the membrane. The membrane so remaining will help retain the nerve graft. With this new technique, the nerve grafts were nicely held in place. We thought we had it made!

Examination one week later told another story. There were two cavities, one above and the other below the grafted nerve, separating the nerve from the spinal cord! We saw a layer of Schwann cells at the end of the nerve, but they couldn't reach the spinal cord because of these cavities. What can we do about this? Simple! Just reverse the sequence. This time, we put the horse in front of the wagon. Instead of transection and grafting, which would be followed by cavitation, we transected the spinal cord, allowing the spinal cord to deteriorate for one week, then grafted the spinal cord. By then the dead tissue had separated from the viable spinal cord and the nerve could be approximated to the viable portion of the spinal cord. This time, since no further spinal cord necrosis took place, there was a rush of Schwann cells into the spinal cord. It could be seen, under electron microscopy, the Schwann cells wrapped around the regenerating axons. Later, the axons became myelinated.

At one month after the repair, the nerve had fused to the spinal cord. As I pointed out previously, the intrinsic axons and myelin of the grafted nerve were completely degenerated in two weeks. Therefore, if one subsequently finds axons within the grafted nerve, these axons obviously invaded from elsewhere, are therefore regenerated axons.

Electron misroscopic examination showed that indeed there were many axons present within the grafted nerves. As the axon bridged the spinal cord and the grafted nerve, a junctional node of Ranvier was formed. On the spinal cord side, the axon was myelinated by an oligodendrocyte, whereas across the node, the same axon was myelinated by a Schwann cell.

Are these axons spinal cord axons? The answer is yes, or at least a portion of them are. Myelination of the axons in the grafted nerve precludes their origin as autonomic nerve fibers accompanying the blood vessels of the spinal cord. Furthermore, because the pia-arachnoid membrane was closed, there was a continuous sheath of the pia-arachnoid membrane separating the spinal cord from the dorsal root. A dorsal root contribution to the grafted nerve was never seen in serial sagittal longitudinal sections.

In conclusion, what the grafted nerve has provided was a chain of Schwann cells. It appeared that the axons were myelinated by these existing Schwann cells while they traveled within the grafted nerve. After that, as the axons left the grafted nerve, they were myelinated by the oligodendrocytes of the spinal cord.

The next step in our research was to simulate the spinal cord injury to the type of injury seen in civilian life. For this purpose, we simply crushed the spinal cord by the blades of a pair of hemostatic forceps. Because the spinal cord is more extensively destroyed by subsequent necrosis following the injury, it really doesn't matter whether the spinal cord was cut or crushed in the first place, as long as the injury produces complete anatomical transection of the spinal cord.

Indeed, forceps-crushing does produce a complete, immediate, anatomical transection of the spinal cord. If the spinal cord was not repaired, an even larger cavity would form. Thick connective tissue scar may extend into the cavity.

The control dogs in this series were unable to stand or to walk at 1 year. Their legs were, however, constantly twitching and frequently ended in mass spasm with defication and urination. Absence of functional recovery in the control dogs suggests that forceps-crushed spinal cord injury is complete.

Functional recovery was seen in repaired dogs. Physiological study showed both motor and sensory conductions across the repair. No mass spasm was observed. Re-crushing of the spinal cord proximal to the repair resulted in the loss of the ability to stand and to walk. The fact that re-crushing eliminates the function suggests that the functional recovery was not due to reflex walking. One important observation from this preliminary experiment was that there was a repaired dog who had no functional recovery but physiological study showed conduction. It seemed that in this dog there was axonal regeneration, but the dog did not know how to use these axons to walk.

In short, we have spent five years just to bring the spinal cord axons across the injury into the other side of the spinal cord. We now see another ever challenging problem ahead of us. And that is: How are we going to tell the dogs to use the regenerated axons to walk again? I would be happy to spend the next 100 years of my life on this problem.

Thank you!

The next speaker, Robert G. Grossman, M.D., is professor and chief of neurosurgery at the University of Texas in Galveston and the University of Texas in Houston.

NEURAL SUBSTITUTION IN OVERCOMING PARAPLEGIA

(By Robert G. Grossman, M.D.)

For paraplegics and those who care for them—care in the sense that their families and friends care for them—and in the medical sense as well—there is no more urgent problem than finding a cure for paraplegia. There have been two major approaches to achieving a cure—inducing regeneration in the nervous system and building neural prostheses to bypass the damaged area of the spinal cord. It is very likely that the application of both regenerative and prosthetic techniques when applied to individual patients will be the key to successful treatment of paraplegia.

The concept of applying electrical signals to muscles, spinal cord, and the brain to control them is a very old concept. The first interface of the dawning sciences of electricity and biology was the experiment of Galvani about 300 years ago in which a frog's leg was made to twitch when the nerve and muscle were brought into contact with metals that formed a primitive battery. When, in this century the nervous system was found to generate electrical signals, scientists began to think of harnessing these signals to control functions, and applying signals to the brain and spinal cord to control motion.

However, the technical problems were formidable, and the conceptual problems were even greater. They might be compared to trying to activate a modern computer by applying shocks to its circuit boards, instead of current through its normal circuits. Many neurophysiologists, myself included, were sceptical of the value of trying to interface electronic circuitry with the spinal cord and brain.

However a number of very encouraging findings have been reported this year, representing the fruition of many years of work by many investigators, which illustrates the truth of the proverb quoted by Alan Reich at last years luncheon, "all things yield to patience and persistence". I would like to tell you about some of these developments. Although not all deal directly with paraplegia their relevance is obvious and provides a very exciting prospect. I must say that most of the work I'm going to tell you about has been supported by the National Institute of Neurological, Communicative Disease and Stroke, and the fundamental neuroscience program directed by Dr. Karl Frank has been particularly important in this regard.

The first problem to be in part solved is that of miniaturing electrodes, coupling them with tissue and preventing tissue reaction and reiection. Miniature electrodes have been developed that "float" in tissue and remain in proximity to single neurons for many months. For the deaf, electrodes have been developed that can be implanted in the inner ear, resulting in improved recognition of sounds and, interestingly, in the quality of the individuals voice. For the blind, stimulation of the visual brain, resulting in sensation of light, has been accomplished. For spastics, stimulation of the cerebellum, a part of the brain controlling muscle tone and balance, that improves freedom of movement. For paralyzed patients, stimulation of the spinal cord and nerves to control pain; stimulation of the phrenic nerve to the diaphram that controls breathing; stimulation of any muscles under computer control to produce useful movements, and stimulation of the spinal centers controlling bladder emptying.

At the University of Texas Medical Branch, my colleagues, Doctor William D. Willis, Jr., Doctor Richard Coggeshall, Doctor Robert Feinstein, and I have embarked on a program of investigation of regeneration and neural substitution in paraplegia. What encourages us are recent findings that in some paraplegic patients there is residual transmission across the area of damage, although voluntary activity and conscious sensation may not be supported by the reduced activity. In addition, we now know that certain activities such as bladder and bowel emptying and sexual activity are organized on a segmental basis. These segments are generally preserved distal to the site of injury, and only a releasing stimulus is required for the execution of these activities. Therefore, it appears reasonable that for certain functions amplification of residual function, or even direct bypass of the injured area of the spinal cord may be achieved.

We must accelerate the pace of these research efforts. The Paraplegia Cure Research affiliate of the National Paraplegia Foundation has been acting as a catalyst to integrate the advances of individual research groups. Interaction of basic scientists and clinicians, and training of individuals who have both scientific and clinical ability is the key to application of basic research to cure individuals with paraplegia. We must try to develop the environment that will accelerate these research efforts.

For spinal injury research as for all medical research, the impetus springs from a desire to cure and a desire to understand nature. Close association of basic neuroscientists with medical personnel caring for paraplegic patients is the best way to stimulate this attitude. If basic research is to be used for paraplegia cure, clinicians caring for paraplegics must also be trained as basic neuroscientists to be willing and able to understand and use the findings of basic research. The goals of basic research, of training, and of application of medical knowledge to cure can best be fostered by the development of comprehensive CNS trauma centers. The proper elements of a comprehensive center for the cure of paraplegia should include basic neuroscientists, an acute treatment center staffed by neurosurgeons, orthopedic surgeons, neurologists and psychiatrists, and a rehabilitation facility.

The basic scientific and clinical services must be large enough to provide the needed clinical experience for evaluating therapy, and, to provide scientific training. It would require only a small additional effort to develop truly comprehensive centers. The understanding of the nervous system that could be gained and the alleviation of human suffering that could be achieved are the types of achievement that are the goals of our national effort in biomedical research.

The fourth speaker, Albert J. Aguayo M.D., FRCP (C), is a professor of neurology at McGill University of Montreal. He is also a member of the Neurosciences Committee of Medical Research Council of Canada. Dr. Aguayo's slide presentation could not be reproduced for the RECORD.

STUDIES OF NERVE REGENERATION AND TRANSPLANTATION: POTENTIAL SIGNIFICANCE FOR HUMAN DISEASE

(By Albert J. Aguayo)

The nervous system is composed principally of two types of cells: nerve cells and glial cells. Nerve cells are capable of generating electrical signals. Information in the form of these electrical impulses is transmitted within the peripheral and central nervous system along axons, which are branches of nerve cells. All axons are surrounded by glial cells (oligodendrocytes in the brain and spinal cord and Schwann cells in the peripheral nerves).

Alterations in the normal relationship between axons and glial cells cause important disturbances of the function and structure of nerve fibers. It is well known, for instance, that cutting a nerve fiber will lead to the breakdown of the axon and of the myelin sheath in the portion of the injured fiber that has been separated from the cell body. Because injuries to the spinal cord or to peripheral nerves result in a similar degeneration of nerve fibers, surgeons and biologists have attempted to assist fiber regeneration by bridging gaps or scars caused by injury by means of nerve tissue grafts.

One of the major problems in nerve tissue grafting is that we know so little about the fate of the transplanted tissue and also that we are so ignorant of the tissue matching requirements between the donor that provides the graft and the host that receives it. Information and techniques relating to nerve tissue transplantation lags certainly far behind what is known on the replacement of other organs and tissues; blood, kidney, heart, skin etc.

Because I have been asked to talk about my own research I shall attempt to outline some of the studies that my associates and I have carried out at the Montreal General Hospital Research Institute of McGill University.

The aim of these studies has been to investigate problems related to: (1) the selection of glial cells for transplantation, (2) the behaviour of glial cells in the host and grafted nerve and, (3) methods to assure the survival of glial cells within the graft.

For technical reasons our experiments have centered on the study of axons and glial cells in grafted animal peripheral nerves. However, some of the methods used are presently being extended to the investigation of spinal cord regeneration.

One of the questions we initially investigated related to the fate of the glial cells transplanted within a segment of a peripheral nerve grafted between the two stumps of a cut nerve. Did the cells from the donor nerve remain within the graft and become the bridge for the regenerating axons growing from the proximal stump towards the distal end of the injured nerve or, did other structures in the nerve, the basal membrane tubes for instance, provide the pathways for migrating Schwann cells originating in the host?

Using radioactive and natural markers we were able to show that the cells transplanted within the graft at the time of grafting did not disappear but survived, multiplied and myelinated the axons from the host. This observation of the survival and persistence of the transplated Schwann cells provided background knowledge needed for subsequent investigations on possible sources of glial cells for purposes of nervous tissue replacement and repair. It was possible to demonstrate that Schwann cells from muscular, sensory, or autonomic nerves could be grafted to axons in nerves of a different structure and function than those of the donor nerve. Also, any one of the two types of fibers (myelinated or unmyelinated) had Schwann cells, that, when grafted, were capable of myelination when they ensheathed axons from the recipient nerve. The demonstration of such multipotentiality in Schwann cells makes unnecessary the precise surgical matching of myelinated to myelinated fibers or of unmyelinated to unmyelinated fibers at the time of grafting. The need for such a fine matching would have been a difficult, if not impossible, technical problem for the surgeon.

It has been known for some time that nerve grafting can be a successful aid to regeneration if the graft is obtained from the same individual. Because this kind of graft requires sacrificing other nerves, efforts have been made to find alternative sources for nerve grafting. In experimental animals this can be done by using animals of different strains (allo-transplantation) or from other species (xeno-transplantation). The main limitation with either of these types of transplantation techniques is that the immune system in the host recognizes the grafted cells as foreign and will destroy them within a few days. Rejection may be avoided in two ways: (a) the most convenient manner would be to have a proper system of tissue matching between donor and host nerves, similar to the kind that is used for blood transfusion typing or in organ transplantation (kidneys, heart, etc.), but unfortunately we know next to nothing about the cell surface factors (antigens) responsible for nerve tissue compatibility; (b) the second way of circumventing the problem of tissue rejection is by depressing the immune response of the host against the transplanted cells. There are several forms of immuno-suppression—the one we have chosen to use is to administer anti-

lymphocytic serum, twice weekly to the host animal.

Under these experimental conditions, regenerating axons successfully bridge the graft of both allo- and xeno-transplants and are ensheathed by the donor's Schwann cells. In allo-transplants the Schwann cells in the graft that ensheath the axons of the host originate in a different strain of mice while in the xeno-transplants human Schwann cells have been shown to ensheath mouse axons. The demonstration that we can transplant human Schwann cells into experimental animals and that these cells behave very much as they did originally in the human, provides a promising tool to help us define better some of the properties of human Schwann cells and their responses to a number of experimental manipulations that would be difficult or impossible to do while these cells are still in the human nerve.

Finally, do glial transplants serve only to bridge gaps in injured nerves and guide axons across into a peripheral field of innervation, or could transplants of normal glial cells also help correct abnormalities in nerve fibers that result from injury or disease: in other words, could glial transplants be used for replacement of abnormal glial cells?

To attempt to find an answer to this question we used experimental animals with a hereditary neuropathy that affects Schwann cells: a strain of mice called Trembler. In this strain of mice there are two striking abnormalities in peripheral nerves: (1) most Schwann cells fail to produce myelin in normal quantities and (2) the axons in their nerves have a calibre which is nearly half normal. When segments from the sciatic nerve of normal mice were transplanted to sciatic nerves of Trembler mice with this deficiency, both the myelin deficit and the axonal size were corrected along the segment where axons from the host (Trembler mouse) were ensheathed by transplanted normal mouse Schwann cells.

This observation in this and other strains of mutant mice as well as more recent studies of Schwann cells from human peripheral nerve diseases grafted into normal host mice demonstrate that the transplanted Schwann cells in regenerated grafts reproduce the features these cells had while in the donor's original nerve. Thus, transplated Schwann cells may help correct segmental peripheral nerve disorders, not only by providing Schwann cells for the bridging of traumatic gaps but also by replacing abnormal segments of nerve.

The objective of the experiments I have described has been to develop methods for the transplantation of animal and human Schwann cells. These combinations of transplanted Schwann cells and host axons, each originating from a different animal or from human and animal sources, together with the techniques developed for the in vitro separation of pure glial cells and neurons reported recently by Wood and Bunge (1975) and McCarthy and Partlow (1975) should help delineate more precisely the individual role of nerve and glial cells in regeneration as well as to improve our understanding of the transplantation requirements for the use of glial cells in the treatment of nerve and spinal cord injuries.

Recent accomplishments in the experimental transplantation of mammalian nerve cells and in the characterization of cell markers for glial cells and other cells, as well as a better understanding of factors that influence glial cell division are steps which should be important in the development of a scientific approach to the problem of nervous tissue repair and replacement.

Major areas of clinical and basic research into development and regeneration of the nervous system must be encouraged and supported in order to fulfill this role. To suggest a few important areas I would like to mention those related to the study of (a) cell interdependence in the nervous system; (b) the development of better techniques for the culture and storage of glial and nerve cells; (c) nerve transplantation immunity and nerve tissue matching techniques; (d) factors that influence the growth of axons and guide them towards their target organs; (e) carefully designed and controlled experiments on Schwann cell and central glial transplants in the spinal cord of experimental animals.

As a physician and as an investigator, one is often faced with a mixture of frustration and hope. The frustration arises from the realization, as a physician, that there are so many human beings who remain permanently disabled by neurologic damage after spinal cord or peripheral nerve injury. Hope on the other hand, comes from the awareness that never before have there been so many advances in the clinical and basic neurosciences studying regeneration and functional restitution of the nervous system.

Completing the discussion of new scientific approaches is Michael Young, M.D., head of the Laboratory of Biochemistry at Massachusetts General Hospital:

REMARKS BY DR. MICHAEL YOUNG ON MAY 3, 1977

Nerve growth factor (NGF) is a protein, discovered nearly thirty years ago, which has the capacity to stimulate the growth of sensory and sympathetic nerves. A major source of NGF is the mouse submandibular gland (for reasons unknown), and recent studies in one laboratory have shown that many different kinds of cells also secrete NGF. This finding led us to compare the chemical properties of cell-secreted NGF with those forms of the protein (from submandibular gland) which have been well-known for many years. The results of these studies indicate that the naturally occurring, naturally secreted form of NGF has not been heretofore recognized. We have now succeeded in purifying this protein, and it may well be that it possesses biological actions on elements of the nervous system which have so far not been appreciated. Experiments to test this possibility are currently underway in our laboratory.

Discussing the balance between cooperating and competition in research begins with Richard L. Sidman, M.D., Bullard professor of neuropathology at Harvard Medical School. Dr. Sidman is also chairman of the Department of Neuroscience at Children's Hospital Medical Center.

BALANCE BETWEEN COMPETITION AND COOPERATION IN RESEARCH, RICHARD L. SIDMAN, M.D., HARVARD MEDICAL SCHOOL AND CHILDREN'S HOSPITAL MEDICAL CENTER, BOSTON

First, let me deal briefly with the "competition" theme. The research policy of the National Institutes of Health, the National Science Foundation, and even the Veterans' Administration has been quite deliberately *not* to direct research, but to receive more or less passively what the individual scientists around the country choose to propose, and then to judge their proposals in competition with one another by peer review. *This is free-enterprise competition at its best.* It has given the NIH an unparalleled record in the annals of government for disbursement of large sums of money for more than a quarter century without scandal and with immense positive results in terms of improved health of U.S. citizens.

This very success has made the NIH sometimes uncomfortable with line items in its budget or even with guidelines from its own advisory groups to the effect that this pressing medical problem or that pressing problem needs special attention. But the public and the Congress come at this from another angle; they *know* what ails them, or think they know. Their concern stems from the fact that there are 5 to 10,000 new cases of major spinal cord injury per year in this country. The direct cost for the first 200 days averages about $40,000 ($200 per day) per patient. Thus, the acute care *for new cases alone* is about $3,000,000/year. Members of the public who live with or near a quad or paraplegic, and the patients themselves, recognize that a cure is far off, but that every month of delay in implementing a research program is a tortured month longer for all patients. It is time for *cooperation,* in addition to competition.

All of us at times tend of think of research as "basic versus applied," "non-directed versus directed" (or even "good guys versus bad guys"—which is which depending on where one sits). Yet we all know that biomedical science is a continuum. Toward one end of this continuum, basic non-directed Neuroscience research is vital. Unless it goes on, we might as well all quit now; we simply do not yet have all the fundamental information we need to crack this problem of regeneration in the central nervous system. Fortunately, basic Neuroscience is one of the healthiest wavefronts in all science today. For example, at this summer's 27th International Congress of Physiological Sciences in Paris, of the 71 topics with broad perspective titles, 38 (56%) address problems in Neuroscience. At the annual meetings of the Society for Neuroscience in 1975 there were no papers in the Spinal Cord category, and in 1976 there were 45.

On the key topic of Plasticity, the number of reports increased from 19 in 1975 to 58 in 1976. From all this vigorous activity, we have gained a handle on the shape of the research problem. Powerful methods are available for a cooperative attack on what initiates growth of a nerve fiber, what sets its direction of growth, how does it recognize an appropriate target cell and make functional connections with it, and what are the chemical and physical properties of cell surfaces that allow selective cell recognition. These issues are somewheres toward the middle of the continuum of non-directed and directed research, and are now ripe for special emphasis and financial support.

Who and where are the scientists trained and willing to work on these and related problems? Some are in this room, and each of us working on the topic easily could name another 30 or more. One of the facts of life is that very few of them currently work directly in Clinical Trauma Centers or Spinal Cord Injury Centers. Clinical Centers have not been very successful, historically, in producing new ideas; they serve a different and extremely valuable function of setting high standards of clinical care. So we have to take the support money, and lots of it, to where the key investigators work—in university, hospital, and industrial research departments that are capable and willing to mount a major research attack on CNS growth and regeneration. My informal opinion is that between $15 and $20,000,000 could be used with profit right now, and that by planned increases over the next three years the figure would plateau at about $35,000,000. This figure is more than Dr. Tower's current estimate, but is less than 10% of the annual cost of new cases alone.

Cooperation should be fostered on two additional levels. One of these is between universities and industrial technology. It is my belief that industry offers an untapped reservoir of skill that could contribute immensely to therapeutic progress for the handicapped at many levels—from computer graphics technology that we need to extract useful data from our pictures of the very complex interior of the spinal cord, to materials technology that could provide new

biodegradable substances for prosthetics that might guide regenerating nerve fibers toward the described targets within the spinal cord.

The final area of cooperation I should like to suggest, and here I am a layman simply posing an issue beyond my competence to discuss in any depth, is cooperation with and from the accident insurance, automobile, and small firearms industries. Each of them has a considerable stake in reducing the costs of the chronic care consequent to nervous system trauma. Let me close with a question. Since even Congress cannot go on creating new funds out of thin air for worthy medical causes, I wonder if Congressional wisdom and leadership could generate a sensible and practical formula that the pentinent industries—with their own futures in mind—would agree to as a means of partially underwriting the cost of this research effort?

The final speaker, Donald H. Yarborough, is vice president of Paraplegia Care Research. Mr. Yarborough has had several years of experience in mobilizing scientific research in compressing time between the development of an idea and the application of other scientific endeavors in a number of health areas.

REMARKS BY DONALD H. YARBOROUGH ON MAY 3, 1977

Today, May 3, 1977, can represent a turning point in regeneration and neuroprostheses research as they relate to finding a cure for the chronic condition of paraplegia. I say this not based solely upon what you and I have heard today as exciting as that has been, but also because of the way it has affected us. Without question, all of us have a new awareness that neuroscience has transcended a subtle but significant threshold and emerged at a new plateau. A plateau when realistically we can hope, where realistically we should expand our efforts to stimulate and energize the lay and scientific members of the community to a greater mutuality of commitment toward curing the condition of paraplegia.

But what is it about this new stage of the science, or as scientists say the "state of the art" that makes things so potentially different? I would say it is because we are entering, if I perceive correctly, the "competitively stage"—that point where knowledge begins its self generating phase, where the interplay of the practical and the theoretical cause functions of insights. It is the turning point where time which often seems to stand still in basic research begins to move rapidly under the impetus of new realizations. Today, when the competitive point is reached in science, numbers of people begin to realize a new horizon of possibilities, and the scientists perceive that the limiting factor remaining in their own willingness to seek out colleges whose capabilities will enhance their own. In that sense, it becomes as much a function of personality inclination as scientific perception.

The competitive stage is frequently the preclude to a breakthrough. In the instance of the regeneration research today, a critical mass is forming because of the predecessor scientists like: James B. Campbell, who demonstrated in the 1950's that fibers could grow across an injury in the spinal cord and could transmit stimuli; and Leslie Freeman, who with bacterial polysaccharides and enzymes demonstrated partial recovery of function. For the last 20 years the search has continued for the clues, the pieces of knowledge, vital to provide an intellectual grasp of the field. This work has supplied a beginning foundation. Now independent investigators are taking steps to not only demonstrate what a single approach can do but are looking toward collaborative efforts with the justified expectancy of greater effectiveness through combined research. Inevitably, as a science sophisticates, the outlines of the larger problems with multifactorial aspects become clear.

Therefore, through necessity it becomes increasingly critical for scientists to work together on a specific piece of the larger problem. The competitive stage, despite ushering in the atmosphere of a race, often gives rise through necessity to many jointly conceived and jointly pursued projects. It is often realized that it is necessary to collaborate to win. The competitive stage had been reached for example when Watson and Crick collaborated to make the collossal discovery of the structure of D.N.A., which over-night converted biology into the potentially dominating scientific force of this century.

Yes, the time for highly significant breakthroughs quite possibly has arrived. Sometimes it takes years to realize when a breakthrough has occurred. In the case of penicillin, it took approximately 15 years. We have heard about experimental findings today, that when looked at by future scientific historians, may be classified as major breakthroughs. What have these candidates for major breakthroughs told us?

We heard Dr. Kao say, and exhibit through film, things that seem incredible. Obviously, if his experiments are again successfully performed with monkeys (Dr. Ommaya of NINCDS is performing these operations now), and then in a higher order of simians, such as chimpanzees, then we can look at the central nervous system nerve graft program as having unquestionably achieved a major milestone on the way to curing paraplegia in the near, rather than distant, future. To a layman, the very fact that you could have regeneration occur by taking a piece of peripheral nerve from the leg of a dog and implant it in the central nervous system, and that after an appropriate recovery period (two months) the dog could walk in the manner in which you saw today and have restored function, is truly remarkable.

The question remaining for the scientists is whether this is actually regeneration we have seen or the action of the highly developed reflexes of the lower spinal column of the dog. Dr. Kao said today, that using sophisticated techniques of observation at the point of graft showed obvious and considerable regeneration. He further indicated to me that he has performed highly sophisticated neurological experiments which involve appropriately placed stimulation of the brain by electrodes and thereby excited responsive muscular action in the subject dogs. This would seem to be very persuasive proof of regeneration.

Obviously, the nerve graft field may be on the threshold of a major breakthrough—certainly we would all agree that it deserves great emphasis and support to move this vital research along as rapidly as possible. Hopefully, Dr. Kao will find new collaborative opportunities where he can work with other scientists whose work can enhance the chances for success. Here is a golden opportunity for time compression in the search for a cure to paraplegia.

Another fascinating area of research that we heard about today was glial transplants (these cells surround the nerve cells). Glial cells probably play a key role in regeneration and guidance of nerve fibers back to the point of reconnection where a break has occurred. Here again we heard a most impressive success story. The glial cells of the peripheral nervous system (in the limbs) based upon recent discoveries seem to be none too specific and therefore can be transplanted from one point to another in the peripheral nervous system. Dr. Aguayo's work has now reached the point where he is taking central nervous system glial cells and attempting to transplant them into the peripheral nerves of animals. It is my impression that if this current series of experiments is successful, then the reverse could probably have a realistic chance of being successful. Dr. Aguayo, I hope you will attempt the transfer of peripheral glial cells into the central nervous system as soon as possible. Dr. Aguayo, if you are successful in your experimental steps, perhaps this is a rare opportunity to establish collaborative efforts between yourself and other groups in this country whose work could advance and speed up your own. Hopefully, the NINCDS would respond favorably to this kind of trans-institutional type of proposal that would have the promise of consolidating the findings of several groups in a manner that would lead effectively toward restored function.

Dr. Michael Young, from Harvard, stated that nerve growth factor as we have known it for the past 30 years is only a small remnant of what the real nerve growth factor as it occurs in of what really consists the natural state. When you take an entire molecule (of which you previously had only 1/10), as is in effect the case here, and then consider by virtue of this increased surface area the possibility of other active sites being discovered on the molecule, it could quite possibly have enormous impact in terms of motor nerve regeneration. Up to the present time, there has been no success in using nerve growth factor (as we previously knew it) to stimulate motor nerves despite its obvious and demonstrated effect on sensory nerves. The explanation could be that the smaller remnant of the naturally occurring large molecule only contained the active site for sensory nerves. Now that the new molecule has been fully defined, it is quite plausible that the active site for motor nerve regeneration may be identified—thus making extensive motor nerve regeneration a distinct possibility.

The suggestion that Dr. Grossman made concerning the possible by-pass of injury through electrical devices, perhaps is one of the most important health research developments which has been advanced in this decade. If such a by-pass of injury is attempted, it will probably involve six to eight disciplines. In essence what is involved is an insight into our present capacity to interrelate capabilities of two great areas of science—electronics and neurobiology. The relationship could not be more obvious but the subtle ability to join the two has only become a possibility in the last year. Now the question is whether the pieces to be assembled from diverse disciplines are sufficiently hard and their outlines definable enough that the assembly can be appropriately and effectively made.

Examples of these disciplines are: mini computers (a field which is exploding currently), new transduction techniques, biologically compatible chronic implants, nerve mapping, gate analysis, and amplification of nerve signals. Now if such a pilot type program is launched in the near future, and it certainly appears that the time has come to seriously consider such a program, then, we can gather the essential information necessary to decide the feasibility of a NASA type integrated program. This program would be designed to interface technology and neurobiology in a major undertaking to solve the problems of paraplegia through an electronic cure.

Obviously, to launch such a program we must be convinced that the time is ripe. To make the correct decision we need to begin exploring the possibilities for effective interfacing of disciplines and ferreting out the problems in pilot project trials—locating where intensified basic research should be concentrated, and where targeted applied research should effectively commence. The action steps leading toward such a decision seem obvious and I shall set forth a few, but first there must be an overview management component provided capable of dealing with the interrelated facets of the problems which will arise.

The HEW and the NIH (and its respective institutes) have not yet utilized the high management capability to move basic into applied research programs. This capability has emerged as a major force in the business, defense, and the other sectors of our government and economy to full advantage. Hopefully, now, under a new technology transfer approach they are beginning to move in the proper direction. But, if this lack of managerial utilization continues, it will be extremely unfortunate for the country because the stakes, as they are in the case of defense, are life and death.

So, what we have witnessed here today, is several outstanding scientists who have come before us, including Dr. Sidman, telling us in effect that we are perhaps farther along than we thought—that there are possibilities on the horizon that can make significant differences in paraplegia cure research in a relatively short period of time.

I have found that things happen quickly or slowly based upon the degree of determination involved. I remember asking a West Texas black dirt farmer once how he had made such an incredible fortune in farming. I will share his answer with you. He said "a sign I read changed my life. When I was a boy sitting in a dentists chair, I saw a sign on the wall that was written in old English script and it said 'to him that sitteth it cometh, but to him that goeth after it, it cometh a darn sight faster'." As simple as that truth is, often our brightest educated people forget to apply it.

The time can be compressed enormously. I was recently told by one of America's most eminent neuroscientists that the time frame in regeneration research can be squeezed down to one fifth of the present time frame if the proper measures are taken immediately, such as the proper financial support, the proper leadership, and if the proper scientific energies are focused collaboratively (program project grants) on the problem in a realistic way. In science circles, there is a dictum called "Clarks law" which states, "if the most eminent scientist in a field, whose age is over 50, comes forward and states a particular problem is insolvable, then, without exception, within a surprisingly short time, that will be the next big problem solved. There is not one scientist here that is eminent enough or smart enough to tell whether the problem of paraplegia will be solved in the next six months or the next sixteen years. Perhaps the greatest challenge of science is this uncertainty, the chance of the big breakthrough around every corner. No one here is sure who might announce tomorrow a breakthrough of momentous proportions.

There is one more scientist who we heard from today who should be particularly mentioned, Dr. Richard Sidman of Harvard, one of the true leaders on paraplegia cure research. He heads up the only program project grant investigating regeneration (several scientists in a collaborative effort) funded by the NINCDS and he was also a member of the 1975 Task Force which reported its findings to NINCDS. The Task Force report called for intensified expanded efforts in eight fields of research which related to regeneration. The report also stated the field is "now ready for a push"—obviously such a major push has not occurred despite very exciting developments in the field. The present level of regeneration research support has been wholly inadequate to comply with the mandate of the task force. It now stands at approximately $2,146,000 per year. Dr. Sidman has called for a realistic expansion of this sum. He states that regeneration research should be financed to the tune of $15 million annually, and in the beginning, it should be expanded to approximately $35 million annually within the next three years. Obviously, if the Task Force report is to have any meaning, the present program must be significantly expanded and I feel Dr. Sidman has made a great contribution by setting forth his views that the time has come for action in this critical field.

I am sure all of you were most interested to hear from Dr. Tower, the Director of NINCDS, who provided us with figures which highlight the seriousness of the paraplegia problem to the entire nation. In this connection, I would like to comment that in recent testimony before the Senate Labor H.E.W. subcommittee Dr. Tower testified that he could effectively use an additional $6,000,000 for paraplegia research.

At this time some acknowledgements are in order. First let me express the thanks of Paraplegia Cure Research to these scientists who have traveled long distances to tell us of their exciting work. Second, I would like to thank our host Congressman Bill Frenzel. Bill, you have been magnificent, your selfless efforts to make this luncheon a magnificent success has gone far beyond any commitment you assumed to co-host this affair. I think, Bill, you would agree, we are all exceedingly fortunate that Pat Browne is a member of your staff. She has made this occasion run smoothly and efficiently. She has been a delight to work with. Pat, you have done a grand job and, we are all deeply appreciative.

I would like to also commend Steve Thomas and Nancy Haynes of P.C.R. for helping so selflessly in the arrangements and certainly I would like to express our particular appreciation to Bill Auberger, who made the financial arrangements that made this luncheon possible.

You know that time and time again, once the light of emphasis shows upon a particular field, then that field will move forward. I think we have great and good reasons to see to it that the condition of paraplegia is cured. Together, we will see to it that it happens in the shortest possible time.

In closing, I would like to paraphrase from the words of Robert Frost "We have promises to keep and miles to walk before we sleep."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WOLFF (at the request of Mr. WRIGHT), for an indefinite period, on account of serving as U.S. Representative to the U.N. General Assembly session.

Mr. MARLENEE (at the request of Mr. RHODES), for today and the balance of the week, on account of a death in the family.

Mr. MONTGOMERY, for the balance of the week, in connection with Missing in Action, when 22 more Americans' remains will be returned to the United States on October 1 in Hanoi.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) and to revise and extend their remarks and include extraneous matter:)

Mr. SEBELIUS, for 10 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous material:)

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. NEAL, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHEUER, to revise and extend his remarks at the end of the debate and immediately before final passage.

Mr. FRENZEL, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,690.50.

(The following Members (at the request of Mr. MARKS) and to include extraneous material:)

Mr. ARCHER.
Mr. SARASIN.
Mr. DERWINSKI.
Mr. WHITEHURST.
Mr. GILMAN in two instances.
Mr. SNYDER in two instances.
Mr. GRADISON.
Mr. SHUSTER in two instances.
Mr. RINALDO.
Mr. COHEN.
Mr. REGULA.
Mr. DORNAN.
Mr. SYMMS.
Mr. STEERS.
Mr. HYDE.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. MINETA.
Mr. DE LUGO.
Mr. ROBERTS.
Mr. LUNDINE.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. KILDEE.
Mr. BLOUIN.
Mr. EILBERG.
Mr. WEISS.
Mr. RICHMOND.
Mr. PHILLIP BURTON.
Mr. VANIK.
Mr. WOLFF.
Mr. MATHIS.
Mr. MILFORD.
Mr. MITCHELL of Maryland.
Mr. MAZZOLI.
Mr. MOTTL in two instances.
Mr. SOLARZ in two instances.
Mr. SIMON.
Mr. DE LA GARZA.
Mr. DODD.
Mr. LEVITAS.
Mr. BAUCUS.
Mr. LEDERER.
Mr. ALEXANDER.
Mr. NEDZI.
Mr. RANGEL.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Friday, September 30, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2475. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Emergency Livestock Credit Act; to the Committee on Agriculture.

2476. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by O. Rudolph Aggrey, Ambassador-designate to Romania, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2477. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period April–June 1977 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories, pursuant to section 11(c)(2) of Public Law 93–319; to the Committee on Interstate and Foreign Commerce.

2478. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to make certain technical amendments with respect to the pretrial services agencies established under title II of the Speedy Trial Act of 1974; to the Committee on the Judiciary.

2479. A letter from the Administrator, General Services Administration, transmitting a report on the feasibility and need for construction of a courthouse and Federal office building (CT-FOB) in Springfield, Mass., in response to a resolution of the House Committee on Public Works and Transportation; to the Committee on Public Works and Transportation.

2480. A letter from the Secretary of Commerce, transmitting the sixth annual report of the National Advisory Committee on Oceans and Atmosphere, pursuant to section 4 of Public Law 92–125; jointly, to the Committees on Merchant Marine and Fisheries, and Government Operations.

2481. A letter from the Comptroller General of the United States, transmitting a report on the agreement reached between the Department of the Treasury and the General Accounting Office to facilitate GAO reviews of international monetary and trade matters by providing for access to information relating to certain uses of Exchange Stabilization Fund resources; jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

SUBSEQUENT ACTION ON A RESOLUTION INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following action was taken by the Speaker:

The Committee on House Administration consideration of referred portions of the resolution (H. Res. 766) for providing the reform of the administrative organization and legislative management services of the House of Representatives extended for a period not later than September 30, 1977.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Sept. 28, 1977*]

Mr. MAHON: Committee on Appropriations. A report on subdivision to subcommittees of budget totals agreed to in Second Concurrent Resolution on the Budget (H. Con. Res. 341) for fiscal year 1978 (Rept. No. 95–643).

Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Sept. 29, 1977*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 7320. A bill to revise miscellaneous timing requirements of the revenue laws, and for other purposes; with amendment (Rept. No. 95–645).

Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 798. Resolution providing for the consideration of H.R. 4297. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978. (Rept. No. 95–646). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 799. Resolution providing for the consideration of H.R. 8410. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act. (Rept. No. 95–647). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 800. Resolution providing for the consideration of H.R. 9354. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents. (Rept. No. 95–648). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 266. An act to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes; with amendment (Rept. No. 95–649, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Omitted from the Record of Sept. 28, 1977*]

By Mr. MAHON:

H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

[*Introduced Sept. 29, 1977*]

By Mr. APPLEGATE (for himself, Mr. GUYER, Mr. BOWEN, Mr. PRICE, Ms. MIKULSKI, and Mr. YOUNG of Alaska):

H.R. 9376. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. PEPPER, Mr. AKAKA, Mr. BADILLO, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. FRASER, Ms. HOLTZMAN, Mr. HUGHES, Mr. GLICKMAN, Mr. LE FANTE, Mr. LEHMAN, Mr. MIKVA, Mr. MOAKLEY, Ms. OAKAR, Mr. OTTINGER, Mr. OBERSTAR, Mr. PANETTA, Mr. SCHEUER, Mr. TRIBLE, Mr. VENTO, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, and Mr. KOCH):

H.R. 9377. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop and provide for the enforcement of standards relating to the rights of patients on certain medical facilities; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DENT (for himself, and Mr. ERLENBORN):

H.R. 9378. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans; to the Committee on Education and Labor.

By Mr. KEMP:

H.R. 9379. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for amounts contributed to certain organizations the primary purpose of which is the support of the arts and humanities, and to allow an additional deduction for certain charitable contributions; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 9380. A bill to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities; to the Committee on Ways and Means.

By Mr. METCALFE (for himself and Mr. LEGGETT):

H.R. 9381. A bill to amend title 18 of the United States Code to establish an Office of the U.S. Correctional Ombudsman; to the Committee on the Judiciary.

By Mr. MOAKLEY (for himself, and Mr. CHARLES H. WILSON of California):

H.R. 9382. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. ROE (for himself and Mr. LE FANTE):

H.R. 9383. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. ST GERMAIN (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ALLEN, Mr. BADILLO, Mr. CONYERS, Mr. CORMAN, Mr. CORRADA, Mr. DRINAN, Mrs. FENWICK, Mr. GORE, Mr. HAWKINS, Mr. HOWARD, Mr. KOCH, Mr. LE FANTE, Mr. MATTOX, Mr. MCCLOSKEY, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MUR-

PHY of Pennsylvania, Mr. MURPHY of Illinois, and Mr. RAHALL):

H.R. 9384. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WEISS:

H.R. 9385. A bill to amend the Hazardous Materials Transportation Act of 1975 to prohibit the transportation of radioactive materials in densely populated areas; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. WINN (for himself and Mr. COLEMAN):

H.R. 9386. A bill to amend the National Gas Act to provide certain limitations on gas curtailment plans; to the Committee on Interstate and Foreign Commerce.

By Mr. GOODLING:

H.J. Res. 607. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. MINISH:

H.J. Res. 608. Joint resolution requesting the President to proclaim the second week of May as Municipal Clerks' Week; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE (for himself, Mr. STRATTON, Mr. MILLER of Ohio, Mr. WALSH, Mr. FLOOD, and Ms. MIKULSKI):

H. Res. 801. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

279. By Mr. QUILLEN: Petition of J. R. Bowman, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

280. Also, petition of Joe Horton, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

281. Also, petition of Sammy K. Keesecker, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

282. Also, petition of S. Lee Vance, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8309

By Mr. BLOUIN:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty day of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Carlo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity

of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

H.R. 3816

By Mr. LEVITAS:

Page 36, line 9, insert ", subject to paragraph (3) (B)," after "then".

Page 36, line 25, insert "(A)" after "(3)".

Page 37, line 1 ,insert ", other than a class action," after "action".

Page 37, line 3, insert the following:

"(B) Any person, partnership, or corporation which intends to commence a class action under paragraph (1) shall notify the Commission in writing of such intention. No such action may be commenced if the Commission, during the 60-day period following the receipt of such notice—

"(i) commences a civil action, based upon the rule violation or cease and desist order violation which is alleged by the person, partnership, or corporation giving notice to the Commission, against the person, partnership, or corportion which would be the defendant in the action which the person, partnership, or corporation giving such notice intends to commence; or

"(ii) transmits notice to the person, partnership, or corporation giving notice to the Commission that the class action which such person, partnership, or corporation intends to commence would interfere with, or would be inconsistent with, any policy or activity of the Commission in enforcing or otherwise carrying out the provisions of this Act.

H.R. 7010

By Mr. ICHORD:

Page 3, line 19, strike the period in said line and insert the following: "*Provided*, That such grants shall not be made if the Federal revenue sharing funds received or to be received by the state during the fiscal year in which the grants are to be made exceed the amount of the grants for which the state qualifies under this section.".

SENATE—*Thursday, September 29, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Our Father-God, we come to Thee, not in our merit but in our need of Thy grace, wisdom, and strength. We pause to renew our vows that we may lift our service beyond ourselves to the higher order of Thy kingdom.

We are burdened by problems yet unsolved, by duties yet to be performed. Shed Thy light upon our pathway.

Take from us, O Lord, all pride, all self-seeking, all pretensions to perfection, all false piety. Take away all that blocks finding and doing Thy will. Put truth on our lips, joy in our hearts, and on our faces put the radiance of divine grace. May goodness and mercy follow us all our days that we may abide in Thy kingdom forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 29, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 26, 1977; Tuesday, September 27, 1977; and yesterday, Wednesday, September 28, 1977; be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING HOUR OF SENATE TOMORROW AND SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow, it stand in recess until the hour of 10 o'clock a.m. on tomorrow and 9 a.m. on Saturday, respectively, it being understood that both times may be changed later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes of my time to Mr. ABOUREZK.

Mr. ABOUREZK. Mr. President, I shall use my own time.

Mr. ROBERT C. BYRD. The Senator does not have any at this moment. I was thinking of yielding from the majority leader's time under the standing order.

Mr. ABOUREZK. Yes, I would appreciate that.

Mr. ROBERT C. BYRD. Mr. Allen has a 15-minute order backed up behind the two leaders.

I yield 2 minutes to Mr. ABOUREZK and 2 minutes to Mr. METZENBAUM.

COMPREHENSIVE NATURAL GAS POLICY

Mr. ABOUREZK. I thank the majority leader.

Mr. President, I asked for the time merely to clarify my position and that of Senator METZENBAUM—and he will speak for himself—on the compromise proposal that was offered last night by the distinguished majority leader. We have discussed this overnight and have come to the conclusion that, even though it is not the kind of compromise that we would ordinarily agree with, we think that it is time that the stalemate in the Senate come to an end in a satisfactory manner to most people. It may not make all of us happy. It will not make me happy; I know it will not make HOWARD METZENBAUM happy. But I think most people will be happy with it.

Not with any great degree of enthusiasm, I wish to state that I am able to support the compromise offered by the distinguished majority leader if it remains intact. I do want to say that, if there are efforts made to put deregulation amendments on that and revert the situation back to where we have had it, then it is understandable that I personally would not be able to support it and will use whatever means are available to me to prevent the deregulation of natural gas, as I have announced earlier.

I thank the majority leader for giving me this time. I want to congratulate him, incidentally. I think the majority leader is due a tremendous amount of congratulation for his tremendous leadership in breaking out of a very difficult parliamentary and issue situation that we have been in. I think he is due a great deal of thanks and congratulations on the part of all of us.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend from South Dakota for a very generous compliment.

Mr. METZENBAUM. Mr. President, I think it has been evident for a number of days that the only person who could possibly bring some resolution of this issue is the majority leader of the Senate, because only he, with the prestige and respect and affection that the Members of the Senate have for him, would be able to resolve—hopefully—the strong differences that presently exist between the various factions on this subject.

Senator ABOUREZK and I have made our views known. We really do not approve of the $1.46 price that is presently in the law. We do not approve of the increase to $1.75 that the administration proposes. But we went along with that in committee in an effort to bring the matter to a resolution and also to include intrastate gas.

We certainly do not agree and do not approve of the $2.03 figure that is included in Senator JACKSON'S proposal, the leadership for which is being provided by

the majority leader. We do not agree with the new definition of natural gas, which I am told will cost the American people something in the area of $6 billion between now and 1985. We do not agree with the exclusion from regulation of exotic fuels, which is provided for under the compromise.

Having said all of that, as Senator ABOUREZK has so well stated, we are prepared to support the compromise in an effort to break the stalemate—not because we approve of it, but because we think that it is far better than total deregulation.

I wish the majority leader well and wish him success in his efforts, because not I, nor Senator ABOUREZK, nor any of the rest of us really has the enthusiasm or desire to continue to make the battle over total deregulation. But absent a compromise, I am certain our resolve would be no different than that we have evidenced in the past couple of days.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Ohio for his very kind and good remarks.

Mr. BAKER. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think this is an important time. I think that what we have just witnessed is a statement by the distinguished Senator from Ohio and the distinguished Senator from South Dakota saying that if the Jackson amendment, as proposed in the motion on yesterday, is adopted, they will not filibuster any more.

As I understood their remarks, they said that if the Jackson amendment as proposed in the motion to recommit with instructions is amended to include Pearson-Bentsen, they will filibuster some more.

But I do not know if that really changes things too much, and I am not sure that beyond the good work of the majority leader in bringing us to a place where we can get at these issues without going through the remaining 400 amendments at the desk, we have done much.

But I think it is worth looking into, Mr. President. I think all of us owe the Senate and ourselves that responsibility. We will take a look at it and see where we are going and how it might develop.

While I have this time, and I see the majority leader on the floor, I would like to explore a possibility.

We are in cloture, of course, and we have limitations on time for speeches and on the procedural aspects of the amendments at the desk, but we also have a very new element, and that is the question of dealing with this motion.

I have people who have deep, vital interest in this matter, as there are on the other side.

I wonder what the majority leader would think of trying, notwithstanding the restrictions of cloture, to set a time late this afternoon, say, to consider this matter, to give us all time to work through it.

Maybe by unanimous consent to abrogate just the debate provisions of the situation as it relates to this motion, not change the amendment situation, we can have some general debate on this motion during the day. Later this afternoon we can try to decide upon a time certain to vote on amendments, if there are amendments to the instructions, on the motion itself, or on the motion to table the motion, if there is one, and other dispositive matters we would need to consider.

Mr. ROBERT C. BYRD. Mr. President, I am delighted that the distinguished minority leader has asked this question.

I would be equally delighted to work with him and others on both sides of the aisle in attempting to reach an agreement as to a time on tomorrow for a vote or votes on the motion, on the instructions, on amendments to the instructions, and so on. I believe that we ought to do that because, as the distinguished minority leader has accurately stated, there are Senators on both sides who are vitally interested in this whole question, and if we can arrive at those times for votes, then all Senators will know when such votes are going to occur.

So, let us strive to work out an agreement.

Mr. BAKER. Mr. President, I thank the majority leader for that general expression.

It is 10:15 now. I wonder then, for the time being, until 12 o'clock, if we could agree as a preliminary matter that the restrictions on time limitations for general debate for individual Senators would be abrogated as to debate relating to this motion.

That would give us time to try to get together to see what we can do.

Mr. ROBERT C. BYRD. I would be very agreeable to dividing the time between the hour of 10:30, or some such, when Senator ALLEN completes his statement under the order, having the time under the control of Mr. JACKSON and Mr. PEARSON for general debate only until 12 o'clock, if this is agreeable to those Senators, and others.

Mr. BAKER. With the understanding that at 12 o'clock, all that would happen is that the abrogation of the time limits would end and be back where we started.

Mr. ROBERT C. BYRD. Exactly.

Mr. BAKER. And by then we could know if we could establish a time certain on the motion or any amendments to it.

Mr. ROBERT C. BYRD. Exactly.

TIME ALLOCATION AGREEMENT

Mr. President, I ask unanimous consent that upon the conclusion of Mr. ALLEN's remarks under the order that has previously been entered and when the Senate resumes consideration of the unfinished business, that no motion, amendment, point of order, or appeal, be in order whatsoever until the hour of 12 o'clock; that that intervening time be open only to debate on the motion to recommit with instructions to report back forthwith, or on the general subject matter of the bill which we have been discussing; and that the time be under the control of Mr. JACKSON and Mr. PEARSON, and equally divided, and not charged against any Senator under the cloture rule.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, the first few minutes of this day have been devoted, to some extent, to a declaration of intentions. I do welcome the statement of the distinguished Senator from South Dakota and the distinguished Senator from Ohio indicating that they would cease a filibuster after cloture if the Jackson amendment, as it is now, would be adopted by the Senate.

Let me just say that I do not have to exhibit my dedication to a concept, or what I think to be the long-range solution to a very critical energy problem in this country, through any use of the rules, or dilatory tactics, or a filibuster, whatsoever. I have not done so in the 16 years in the Senate and I shall not do so in my remaining days here.

As a matter of fact, a great deal of the controversy that I have been involved in has been seeking to do something about rule XXII and the alleviation of unlimited debate where the minority rights are protected, but the majority have a right to make a judgment, and where we have free debate, but where we have the right to make a decision at some time.

The Senate in 1975 gave some expression to what it thought ought to be the solution to the regulation or deregulation of natural gas. A free expression, a good expression.

Today, we have been involved in that same process. If one will look back through the record votes we have had heretofore, while the margin is narrow as a result of the kind of lobbying that is going on from the White House and the Secretary of Energy—proper in every respect—the indications still favor those who have a conviction that the long-range, best interests of this country are in the ultimate deregulation of natural gas. Thus, to accommodate that, the distinguished Senator from Texas and I, once again, introduced a measure which is phased in nature, and then introduced a modification which is phased in nature, both for domestic onshore and for offshore gas.

I do not mind getting beat, Mr. President, but I do not have any intention of giving up.

It will be my intention either through the vehicle of the motion to recommit, or at some other time in the proper way, to continue to push what I think is in the best interests of this country.

Mr. BAKER. Mr. President, I thank the Senator from Kansas.

I think we have made progress since yesterday, and that the procedural device suggested by the majority leader has extracted us from the filibuster that kept us here all night, all day yesterday, and all the previous day.

Wholly aside from creature comfort considerations of health and welfare of the Senate, I think that is great.

I think that the temptation to torture the souls, or to suspend the rules, or to create new precedent, has been avoided.

I think the parties are in a position to exercise their full rights and opportunities to express their points of view. I believe that by the unanimous-consent agreement that was entered into this

morning, we have time to decide calmly and dispassionately how to proceed next, without diminishing any right of any Senator.

I should like to say for my own part at this point—and it is not meant to be anything other than my own statement—that within that framework, it seems to me that we are faced with the prospect that the Jackson amendment, as amended, may indeed give us the worst of both worlds; that it may cause high prices and no incentive; that it may give us the price but not the product.

I agree with the Senator from Kansas that we are dealing here with a principle and not just a price.

That is not my final judgment, Mr. President, I am a practical man, and I intend to meet with my colleagues who support this point of view, and we are going to discuss it between now and noon. However, I think the Senate should be on notice that there are many matters to be discussed, many heads to be counted, many risks to be evaluated, and many prospects and potentials to be realized. I think there is a real chance that finally we will prosper and succeed in this argument.

The ACTING PRESIDENT pro tempore. The time of the two leaders has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each leader be allowed an additional 3 minutes before the order for the recognition of Mr. ALLEN begins.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Texas (Mr. BENTSEN) wishes to say something. I yield to him.

Mr. BENTSEN. I thank the Senator.

Mr. President, I wish to add to what my distinguished friend from Kansas—inasmuch as I am a cosponsor with him of this piece of legislation—has said as to what we see as a basic philosophical difference.

We have tried from time to time to work out a compromise between the forces that we have seen at work in the U.S. Senate. We have seen the free market system work in Texas. We saw the price go to $2.25. We saw it bring on additional drilling. We saw it bring on a surplus of natural gas. Then we saw the price ease and get down to $1.60 on new contracts.

Frankly, the fact that prices have gone to $2.03 is really not what we are striving for. We are trying to see the free market system prevail in this kind of situation.

We see a situation in which we are going to have a deficit in trade of $25 billion to $30 billion this year and a further attack on the dollar. Yet, we say that we are not going to let the market system work in developing the incentives for bringing on the new supplies of gas in this country; that we are going to visit on the producing States the kind of regulation that has led to the problems and the shortfalls we have seen in natural gas; that has seen the incentives to utilize a finite resource instead of some of the alternative types of energy that are available.

This all goes back to 1952 or 1953, when we saw the natural gas bill vetoed at that time over an extraneous matter, not really on the issue, and that is where this kind of shortage began to develop. That is when they cut back on utilization of coal, when they could have brought coal on full stream if it had been a competitive fuel in price.

Now a continuation is what is proposed, a bad regulation, a determination that Washington could make a better decision than the marketplace as to where we should commit our resources. I certainly will continue to oppose it on the basis of that principle.

Mr. BAKER. Mr. President, do I have 3 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes.

Mr. BAKER. I yield such part of that time as the distinguished Senator from Wyoming may require.

Mr. HANSEN. Mr. President, I am sorry that I could not be in the Chamber earlier this morning. We are having a markup on social security in the Committee on Finance.

As I have reflected and had an opportunity earlier today to talk with those persons who were on the floor yesterday—and that includes almost everyone—I do not really think that we have found the way out of the containment in which we put ourselves when we started this argument. I appreciate the good efforts of everyone who participated and worked hard to try to see if there was a way out. But, basically, I am constrained to believe that the issues are still these: Are we going to let free enterprise operate in this area, to provide answers and to supply gas for the American people? Or are we still going to play around with the system that keeps a control pricewise on natural gas, despite the fact that the price may have gone up?

I think the issue still is that we still will have control. I see nothing to incline me to believe that this offers any permanent solution.

Certainly, we do want to get on with some votes, and I hope we can; but I have to think that basically the issue still is this: Are we going to let the free enterprise marketplace system work in order to give the incentive that has been pointed out time after time will be there and can provide more gas and will generate the sort of activity that can bring this about?

On that basis, I salute those who have worked hard and assiduously in trying to get us out of the problem we are in, but I do not think that the amendment offered by the distinguished majority leader last night gives us that way out.

I yield back the remainder of my time to the minority leader.

Mr. BAKER. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute.

Mr. BAKER. I yield 1 minute to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, in the 1 minute available, I should like to add my words of commendation to the others that have been expressed for the efforts the leadership has made to resolve this problem.

I come down to exactly the same place that others who have spoken earlier have arrived at, and that is that we are making a basic decision, as we deal with this legislation, as to whether or not the politicians and the bureaucrats are going to set gas prices and thus assure continuing and worsening shortages so far as the Nation's fuel supply is concerned.

The other route that is open to us is to find a system of turning loose American ingenuity so that we can begin to develop the abundant natural resources we still have in this country and put an end to shortages, so that we will have plenty of fuel for those who need it, not only for our generation but also for generations to follow.

To me, this is one of the most important decisions Congress is going to be called upon to make in this century, and we should make it to the very best of our ability. We should look not only at the political attractiveness of trying to hold down prices temporarily for consumers, but also, we should take into account the long-range needs of consumers.

We are going to leave a legacy of constant shortages and ultimately drastic increases in price, or we are going to find a way to bring on more supplies. I am not going to be in favor of taking the short-range path, even though it may be politically attractive at the moment.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Alabama is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, I appreciate the distinguished majority leader and the distinguished minority leader arranging for me to speak from time to time, at the start of the Senate hearings, on the subject of the Panama Canal treaties.

This is the 10th speech I have given in the Senate on the Panama Canal treaties since the announcement was made that an agreement had been reached between our negotiators and the Panamanian negotiators, and from time to time in the future while this issue remains before the Senate I do plan, with the acquiescence and assistance of the distinguished leaders, to make speeches here in the Senate pointing out the defects, as I see them, in the Panama Canal treaties.

Mr. President, I am obviously greatly troubled with the substantive provisions of the proposed Panama Canal Treaty and the proposed so-called Neutrality Treaty—since there are two treaties—but beyond my strong objection to the substance of both treaties, I am also greatly concerned that the treaty drafters saw fit to include so much of the meat of these proposed arrangements not in the body of the treaties themselves—by the way, which is not a very voluminous document—but rather in the associated executive agreements, protocols, and minutes. We have agreements and annexes to agreements and annexes to annexes; we have minutes; we have exchanges of

notes between the negotiators; we have protocols, and all of these form a part of the treaties. But the catch is, Mr. President, that these executive agreements can be modified from time to time by executive agreement requiring no assent by the Senate.

So once the treaties are approved, the provisions of the treaties can be greatly altered by executive agreement over which the Senate has no control whatsoever. I am particularly concerned, Mr. President, that the major substantive defense provisions are not actually set forth in the canal treaty in its article IV, which is entitled "Protection and Defense," but appear instead in the proposed executive agreement in implementation of article IV—which is several times as large as the entire treaties themselves. I have that in my hand. Article IV itself does not cover a complete printed page, yet the agreement in implementation of article IV is some 53 pages long excluding annexes and an additional 22 pages of agreed minutes, the minutes themselves having their own annexes.

So if we are going to find out what the Panama Canal treaties really provide, we are going to have to do a whole lot of research, because it is not contained just in the body of the treaties themselves.

Admittedly, some of the provisions contained in these very lengthy documents implementing this very short article IV are provisions which ought not to burden the treaty itself. But, Mr. President, much is in these additional pages which in my judgment should have been set forth in the treaty text rather than in these executive agreements. The Canal Treaty reads:

> The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date.

Mr. President, recognize that the rights that are being talked about here are rights to move, station, and train military forces within what is now the Canal Zone. By this one sentence, if ratified, the Senate would turn over entirely to the executive department all future arrangements regarding our defense rights in the Canal Zone, even during the duration of the treaty.

So, Mr. President, in its present form, what does this agreement in implementation of article IV now provide? Already, the executive department proposes in this executive agreement to surrender 10 out of 14 bases—we have 14 bases down there and we are going to surrender 10 of them right at the outset and to have our forces hemmed in at four relatively small enclaves—and I would encourage Senators, if they have not done so already, to have a look at some of these maps that are contained in the annexes to these executive agreements to get some idea of just how hemmed in our forces are going to be if this treaty is agreed to and implemented.

But, Mr. President, beyond this immediate surrender of 10 military bases, what lies down the road? If we turn to article I of the executive agreement in implementation of article IV of the canal treaty, under the heading "Definitions" is the following explanation:

> Defense Sites: Those areas, and the installations within them, which the Republic of Panama by this Agreement permits the United States Forces to use for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree, a list of which is set forth in paragraph (1) of Annex A of this Agreement.

In other words, they can wipe it all out by subsequent agreement. So these defense sites are already on pretty tenuous ground. If this thing is ratified, a couple of years from now or sooner, the Department of State could agree—and they seem to be pretty agreeable with this dictator down there in Panama—the Department of State could agree that it was time to shut down another base. Would they have to come to the Senate for ratification of that decision? No. Would they go to Congress for permission to turn over some more U.S. property to a foreign government? Well, Mr. President, they have shown no inclination to do that with this proposal to give away virtually the entire Canal Zone, notwithstanding the Constitution, so I doubt congressional authorization would be sought for simply shutting down one more base. After all, we would have already closed down 10.

I cannot understand, Mr. President, why it is thought if we have 14 bases now to defend the canal and the Canal Zone, why 4 would be sufficient. Is the thought that we no longer have to defend it from the Panamanians and, therefore, we can cut down from 14 to 4 bases? Why is it that the defense of the canal will be so easy after the treaty is implemented? Why does it become so easy unless the bases are there for the defense of the canal against the Panamanians?

I would assume they are not the ones we are defending the canal against, that is, the Panamanians. But under the agreement, the bases would be cut from 14 down to 4.

Now, Senators may not think that this process is contemplated, but I would call attention to executive agreement article IV, entitled "Use of Defense Sites," which is not a part of the treaty but is a part of this proposed executive agreement in implementation of article IV of the canal treaty. Paragraph (1) of this executive agreement article IV reads this way:

> The United States Forces may use the defense sites listed in paragraph (2) of Annex A of this Agreement. . . .

So we have permissive use of these four defense sites, but let us not be fooled into thinking that that use is contemplated throughout the term of this proposed treaty. Paragraph (2) of this article IV of this executive agreement contains the following language:

> Annex A of this Agreement shall be examined every two years or upon the request of either Government, and shall be revised to reflect any agreed elimination or change in areas. The United States Forces may notify the Republic of Panama at any time that the use of a defense site or a military area of coordination or of a specified portion thereof, or other right granted by the Republic of Panama is no longer required. Under such circumstances, said use or right shall cease on the date determined by the two Governments.

This is astonishing, Mr. President. We have already agreed in the body of the executive agreement that we are going to renegotiate it every 2 years or at the request of either government. This treaty is for a proposed term of 23 years. We are going to need negotiators to negotiate this deal if we want to hang onto these defense sites for a term of 23 years with our Government already proposing to negotiate the matter on a biennial basis or upon request.

Would Congress have any say in this matter? No, Mr. President, we will have relinquished effectively any say whatsoever in our military operations in defense of the canal. The Department of State could simply with the stroke of a pen more or less at will wipe out what little they propose to retain.

You know, Mr. President, I am amused by this language in this paragraph (2) in which we are given permission to notify Panama at any time that the right they have granted us to use one of our defense sites is no longer needed. Apparently, someone down at the Department of State thought it was necessary to give us the option to renounce this so-called right of use given to us by the Panamanians in the event pressure was on to move out before the anniversary date of a biennial renegotiation. Of course, on the other hand, it is conceivable with the political turbulence in the Republic of Panama that some new government in Panama might at a future date wish the United States to stay, but the Department of State has been careful to retain the unilateral right to leave anyway.

The more I review this material that is in the treaty and a whole lot more that is not contained in the treaty, but would nevertheless bind our Government the more I am of the opinion that the Department of State is seeking both to obtain ratification of this proposed treaty and at the same time get absolute control of all future dealings with the Republic of Panama inasmuch as the real substance of our relations with Panama can be modified simply by amending these executive agreements with no need for consultation with Congress and no need for approval by the Senate.

But, Mr. President, another motive of the Department of State may have been to bury in these executive agreements some of the more embarrassing terms of this proposed arrangement with Panama. I think that also could well be the case. For example, do the American people know that we would renounce forever the right to place any type of nuclear armament in what is now the Canal Zone? I doubt that they do know that, Mr. President, because that particular provision—this critical major provision—is buried away in paragraph (6) of article IV of the agreement in implementation of article IV of the Panama Canal Treaty.

So it takes some pretty careful reading to find out just what is afoot. Fortunately, we do have time to give complete study to these proposed agreements, and I am confident that the Senate will discharge its responsibilities in ferreting out fully the substance of this proposed deal regardless of how fine the print.

Mr. President, I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The ACTING PRESIDENT pro tempore. Under the previous order there will now be debate until the hour of 12 noon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to make that 12:15 p.m., because we are starting about 15 minutes later than I think even the minority leader and I had anticipated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The time for control of this debate will be equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from Kansas (Mr. PEARSON).

No motions, amendments, appeals, or points of order are in order during this period of time.

Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call with the time to be equally divided between the parties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I yield such time as may be required by the distinguished Senator from Wyoming.

Mr. WALLOP. I thank the Senator.

NATIONAL WATER POLICY

Mr. WALLOP. Mr. President, earlier this month the Interim Joint Agriculture Committee of the Wyoming State Legislature held hearings concerning the issue papers recently published by the Water Resource Council in pursuit of a national water policy. My good friend and distinguished colleague, the senior Senator from Wyoming, while unable to appear personally before the committee, did prepare and submit to the State legislature a statement concerning national water policy.

In his statement, Senator HANSEN eloquently and succinctly detailed the fears and concerns of the people of Wyoming and the West with regard to the options proposed by the Water Resource Council as published in the Federal Register. I find his presentation an excellent one, one well worth the time and consideration of the Members of this body. I ask unanimous consent that the statement of Senator HANSEN be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CLIFFORD P. HANSEN

Mr. Chairman, Committee members, people of Wyoming: It is indeed a privilege for me to be permitted this opportunity to join with the Wyoming State Legislature's Interim Joint Agriculture Committee in commenting on the five issue papers prepared by the Water Resource Council in pursuit of the National Water Policy. I wish to extend to the Committee and to the Legislative Service Office, my appreciation and congratulations for providing to the people of Wyoming a forum before which they might present their views concerning the 110 options contained within the Water Resource Council's July 15 and July 25 publications in the Federal Register.

While hearings were conducted and testimony taken in late July and early August in Denver and Seattle and a number of other cities, I am afraid that the short period between publication and those hearings as well as the time constraints on those presenting testimony may have made a full, complete delineation of the fears and concerns of Wyoming's citizens an impossibility.

Fortunately, this forum, by permitting a more detailed examination of those issue papers as well as coming a few thoughtful weeks after the scheduling of the original hearings, will deliver a clear message to the President and his advisors on water policy.

I must admit that there were few of us who, on hearing the President's May 23 Environmental message, suspected the manner in which those words would be interpreted by the President's advisors or the extent to which they would carry their examination and recommendations.

On July 6, some 40 days after the President's statement, Secretary of the Interior Cecil Andrus announced that a major revision of national water policy was under way, that issue papers reviewing the options available would be prepared upon which comments would be accepted, that hearings would be held across the nation for the presentation of such comments, and that on November 1 the President would announce his final decisions.

On July 15 and then again on July 25, the five issue papers were published in the Federal Register. Contained within these papers were some 21 perceived problem areas and 110 possible options. For the first time, it became very clear that the Water Resource Council was considering massive revisions in the Federal-State relationship in treating our nation's water.

On July 27 and 28 and again on August 1 and 2, a very short time indeed following the publication of such revolutionary recommendations, hearings were held in Denver, Seattle, and other cities. The comment period was to remain open until August 20, permitting those unable to appear to have some impact upon the option papers as published.

Or would it? According to the time table as announced on July 6, the Policy Committee of the WRC was to begin to redraft the option papers on August 1. On August 16, the members of the Task Forces were to select preferred options and preliminary agency positions. Between August 17 and September 1, the final option papers were to be drafted.

It became very apparent to many of us that the WRC would have little time to read, let alone examine and consider the testimony and comments that it was to receive.

On August 3, members of the U.S. Senate's Western Coalition met to discuss the thunderous speed with which the Administration was developing a National Water Policy. A letter was drafted for delivery to the President requesting a 90 day extension to the comment period. In excess of twenty Senators, both Republican and Democrat, signed that letter. On August 26 Secretary Andrus announced that the current period was extended.

I am greatly pleased by the unity and quick action evidenced by the Western Senators. I am sure that the solidarity demonstrated over this issue will not go unnoticed in the continued development by the WRC of a National Water Policy.

I sincerely believe that this extended comment period, combined with the type of forum provided by this committee today will allow more and more Western citizens to comment upon and hopefully influence the direction taken by the WRC. I must say, that since the days of the publication of the issue papers in the Federal Register, my office has been inundated with cards and letters expressing the greatest concern over the objectives of the President's study. I hope that Wyoming people will continue to articulate their attitudes concerning water policies for submission to this committee as well as to the WRC.

Mr. Chairman, today, I would join with Governor Ed Herschler and other distinguished Wyoming leaders who have expressed their objections to and concerns over the very thrust of this proposed National Water Policy.

Ever since gold was panned in California, the concept of prior appropriations has been the system upon which the West has relied in the utilization and development of its water. Based upon this system and the State Water laws developed around it, farms and ranches were created from the frontier. Based upon this system, industry developed. And based upon this system, cities and towns grew up. For over one hundred years the arid West has relied upon this system and developed in accordance with it and grown strong and economically prosperous because of it.

Of the positions advocated and advanced in these issue papers, the one of the most concern to me is the one which appears to advocate a federal takeover or at least the imposition of a heavy federal hand to alter the system of prior appropriations as it exists in the West.

Despite the success which we as a State and as a region have enjoyed with our system of water law, and despite the constant improvements which we have made to that system, the WRC finds our system somehow deficient, somehow lacking, filled with, in the words of issue paper number three, "inflexibility, inefficiencies and inequities."

Governor Herschler, in his testimony in Denver on July 28, gave an excellent point by point refutation of rather general imprecise and inaccurate conclusions drawn in the issue papers concerning the state of western water law. It is not necessary to engage in further discussions on that subject. Suffice it to say that, Wyoming water law does take cognizance of the relationship between ground and surface water, does allow for an expanded definition of beneficial use in order to meet public policy, does prohibit waste, does encourage conservation in the marketplace, does permit transfer of water rights and does provide for instream flow needs.

Ignoring these matters, the WRC proposed that, notwithstanding the fact that these issues be within an area over which "there is not direct federal control," the United States government make use of its many water rights as "proprietor and trustee" in order to oversee the advances of state water law. Additionally, it is proposed that the federal government purchase rights to water and reallocate them to the "most socially desirable and economically productive" use. Another available tool to the thinking of the WRC is that denial of certain water related federal programs to those states whose water law has failed to meet the federal standard.

It is my belief that the concern of the WRC is less with the adequacy of state water laws than with the likelihood or ability of various states to achieve the objectives considered desirable by those in the Administration.

My gravest concern is the threat I see implicit within these policy papers, the threat that, should state governments fail to undertake the changes recommended by the WRC, the administration will, by means of an ever expanding Reservation doctrine, enforce such changes. Thus, by means of the reservation doctrine, it would appear to be the intent of the WRC to bring the West to its knees in forced compliance with these policies or objectives favored by the Administration. Its

ability to do so seems clear, since 61 percent of the flowing water in the 11 western states originates on National Forest and National Park reservations.

It would appear that the reservation doctrine, described by some as a purely "financial doctrine" since it permits a federal taking of water without compensation, is to become a "political doctrine" used by the federal government, as a means of achieving federally desirable objectives.

Professor Frank J. Trelease, writing of Federal-State relations in water law in a paper released six years ago tomorrow, described the scope of state water law:

"State water law is primarily concerned with local conditions, with water rights held by individuals and corporations for commercial purposes, with public water supplies for cities and in general with promotion of state prosperity. State water law is adapted to locate water supply, climate, and demand. Although there is much variation in the laws of different states, there is a uniformity of purpose behind all state water law and all seem directed toward the same goal—a system of certain and secure water rights that will promote and protect investments and provide through the market the flexibility needed to accommodate growth and change, and that are subject to state control to protect the interests of the public. . . . This is the traditional and unquestionable proper sphere of state action."

To my way of thinking, this is the proper area of state action and must continue to be so. I believe that a spirit of cooperation between the federal government and the states should exist and that efforts should be made in an attempt to achieve even greater cooperation. Yet the most fundamental starting point is that of allowing to the states stability of state water rights and the undisturbed administration by each state of its water.

There is another related matter of equally grave concern to Wyoming, that of the status of the reservation doctrine as discussed in issue paper number five.

I am greatly pleased that the WRC feels that there is a need to quantify the amount of water allocated under the reservation doctrine. It is imperative to western states that this sword of Damocles which now hangs above us be at last removed in order that the certainty which is a hallmark of the prior appropriation system may be returned to western water law.

In order that state water law may be carefully administered, in order to achieve the objectives so earnestly sought in issue paper number three, it is imperative that the matter of unquantified and unrecorded reserved water rights be finally resolved.

Yet while I fully support such efforts, I object to an abrogation of the McCarran Amendment, an amendment which since its enactment in 1952 has permitted the adjudication in state courts of the extent of federal reserved waters. The best means of quantifying such rights is to have them determined by state judges and administrators to whom such a process is a routine business. To those who would say that the state courts would subject the federal government to discriminatory treatment, I would answer that the United States Supreme Court has warned specifically that it will permit no unsympathetic or discriminatory treatment of the federal rights by the State Court.

There is one other matter of concern on which I feel comment is necessary at this time although this discussion by no means disposes of all my concerns regarding this Water Resource Policy Study.

That additional matter relates to Section 404 of the Federal Water Pollution Control Act and the proposal that phase II and phase III be turned over to State administration when the State's Water Pollution Control program is found adequate.

It is my position that Section 404 has been taken far beyond the original intent of the Congress. I believe that given that Congress should amend the P.L. 92-500 to return Section 404 to its original application to only "navigable" streams.

With this in mind I supported and cosponsored Senator Bentsen's amendment to the Clean Water Act, an amendment which failed by a vote of 51 to 46.

However, it should be noted that the language of the Bentsen amendment was adopted by the House and that this entire matter must yet be resolved in conference.

Once again, I wish to thank the Wyoming State Legislature for the opportunity to present my testimony today. It is my hope that the comments which this body and others forward to the Water Resource Council will cause President Carter's policy makers to recommend the adoption of those options which will preserve the most fundamental aspects of the federal-state relationship—the ability of each state to govern its own water.

I would also hope that the comments received by the Administration will allow the beginning of a new spirit of cooperation between the federal government and the states in dealing with one of our most precious natural resources.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

Yesterday a factsheet was placed on my desk by Senator KENNEDY which showed the alleged State and regional costs of the Pearson-Bentsen amendment.

The figures used by the Senator from Massachusetts are only the latest in a series of misleading computations that opponents of deregulation have tried to palm off on the Senate. The Kennedy factsheet appears to be based on a study recently done by the Congressional Research Service which is derived from assumptions that simply are not true.

I would like to point out that all of the State figures being quoted derive their validity only from the study's national figure of the $69 billion cost to consumers over the next 7 years. Let us look at the specific errors. The specific study from which these numbers are apparently taken, which Senator METZENBAUM placed in the CONGRESSIONAL RECORD on September 24, has only the sketchiest explanation of how these numbers are arrived at. In fact, the study notes that:

Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be . . . Calculation of the differential economic impacts of the Pearson-Bentsen plan versus the Administration plan should be carried to lengths of sophistication and detail which time does not permit us.

In any study, the details of computation and a clear statement of the method is extraordinarily important. As an example, I recently received a purported study from my own State which contained a flat arithmetic error of $20 million, thereby wildly inflating the alleged cost of deregulation.

As nearly as one can gather from the statement in the RECORD, the study does allow for the assumption that considerable additional gas will be produced under deregulation. However, it assumes that the cost of alternate fuel is $3/Mcf, while the price of deregulated gas will be greater than that under either of the two price studies, the CBO and AGA, it purports to follow. Therefore, according to this study, the more we produce under deregulation, the worse off we will be. This is, of course, preposterously counter to all of our knowledge. It simply shows how important it is to examine carefully the details of any such purported study. In truth, the cost of alternatives in the form of synthetic gas is likely to be in the range of $5/Mcf, and the cost of electricity is far, far more.

I would like to make an additional point on the effects of deregulation on the different regions. We in the Northeast are likely to have the highest costs of alternative energy. We do not have extensive deposits of fossil fuels. Our electric costs are the highest in the Nation and transportation costs mean that oil and coal are more expensive for us. Thus, we have the most to gain through deregulation. Yet, to illustrate the ludicrous lengths to which the document of the Senator from Massachusetts goes, his study attempts to allocate all of the national costs that he cites to States that do not produce gas. He assumes that despite the vast price increases that his studies erroneously assume, none of these will affect the gas being consumed in the producing States. For this to be true, we would have to assume that none of the consuming States will purchase new natural gas. This is, of course, ridiculous.

Finally, Mr. President, I would simply point out to all those who may be confronted by studies from other sources that every study that has attempted to assess the full range of costs and benefits from deregulation in a careful and consistent manner has found a large benefit to consumers from the additional supplies to be produced by deregulation. Any similar scare stories that are being floated should be discussed and examined, and when they are, their fallacies will, I believe, be glaringly apparent.

Mr. President, I would also like to make further comment on this matter of cost as it relates to energy in this country. The Kennedy study and, indeed, those of any Senator on this floor, are speculative in nature as to what will occur, either with or without deregulation. But I will tell you what is not speculative. It is the record of the last 4 years without deregulation, with controls, and without mandatory conservation. One might have been able to float these scare stories in Connecticut, because I come from a consuming State, not a producing one, 4 years ago, before we had any track

record. But it is now 4 years later, 4 years basically lived under controls and without mandatory conservation. So one can speculate as to what will happen with deregulation, but I know what has happened without it, and so do the people of my State and the United States.

What has happened in the past 4 years in the sense of employment in the United States of America since the Arab oil boycott? Soaring unemployment due to the failure of this Nation to resolve the crisis presented to it in the terms of that OPEC boycott. I stated, at the time that the embargo was lifted, that sure, the gasoline lines will go away, but the unemployment lines will start. And they started, and they have grown and grown, and, indeed, now, with a $25 billion to $30 billion deficit in balance of payments facing us for this year, probably more for next, they will continue to grow. Because that is $30 billion that is not going to American firms but, rather, to foreign firms. They do not employ Americans. It is $30 billion that will not be in the pockets of Americans to spend to create jobs for other Americans.

That is a fact. All this has been achieved under controls.

Let us talk about the cost on energy. What has happened to the cost of energy in the United States under controls for the last 4 years? It soared. The fact is that we cannot control what is not within our grasp to control. The price has been forced upon us by the OPEC cartel and we cannot respond, in terms of production, and we certainly have not responded in terms of consumption.

I understand the toughness of what is involved with deregulation. It is not a popular cause to espouse in the Northeast, where we are consuming States. But sooner or later, in terms of production and conservation, an honest answer has to be given to the American people, which honest answer, if it takes hold, yes, will have a price to be paid but which, eventually, will get us out of the woods of continually soaring prices, soaring unemployment, and shortage of supply.

I noticed the other day a comment made by the President of the United States that those of us who are for deregulation are in the hands of special interests. I was a little bit more than saddened to see that the arguments on this issue had taken that kind of turn. It is quite well known, I think, and nobody needs a geography lesson to see, that the State of Connecticut does not produce any gas or any oil. We are strictly a consuming State. So, indeed, I would say that my own motivation in this is to try to eliminate the problems that are ours, that is, unemployment, staggering energy costs, and shortage of supply. That is what motivates me. But if we are going to start to point fingers, I think it is very necessary to point out to the President of the United States that what he advocates in the way of taxation is, in its impact on the consumer—on the consumer—whom my friend from South Dakota spoke so eloquently for last night—is exactly the same as deregulation.

But there is one big difference: The money thus gathered, rather than going to exploring for and discovering more oil and gas, goes into the hands of the politicians here in Washington to dispense among the people of this country, as they see fit or as suits their political cause. I do not care whether it is a Democratic President who advocates such a system or a Republican President that advocates it, I stand on this floor and say, "No."

I could understand the President wanting to advocate such a tax if he saw to it that those moneys guaranteed alternate forms of energy and Federal research and development of solar and nuclear energy. All of this would make sense. But, no, this money which is to be collected by the President's wellhead tax is to go into the coffers of the Treasury of this country, to be dispensed by Congress and by the President as they see fit.

Indeed, then, I look upon his advocacy of this program not merely as deceptive, which it clearly is, but directly against any possibility of freeing ourselves from total dependence on the OPEC cartel for our energy.

There are only two ways that I know to achieve a competitive position to the OPEC cartel: Use less and produce your own. But the United States, when it comes to the consumption of energy right now, is not unlike a drunk walking into a whiskey store and asking for a discount on a bottle of booze. I realize deregulation is an unpopular stand in the Northeast, and my oil- and gas-producing State colleagues appreciate that the position I take on it is taken in order to achieve greater production; but they, as everybody else does, run away from my advocacy of mandatory conservation such as gasoline rationing. But, unless these unpopular acts are done, there will be no meaningful resolution to the energy crisis which confronts us now.

As unpopular as my deregulation vote might seem in terms of traditional political contest insofar as it relates to the State that I represent, the State of Connecticut, like the United States, Connecticut also will come out of this problem when, indeed, we are producing American oil and gas and, indeed, when we cut down our present consumption, which is disgusting and which has proven the worthlessness of a voluntary conservation program by Americans.

I know we are great in responding to crises as a Nation. But, believe me, we are no darn good just by the prospect of being down on the deck. We have to be down on the deck before we start coming back up.

People such as those on a fixed income are the ones who have had to conserve thus far. Because oil and gas prices are so high, they are unable to heat and cool their homes and unable to drive. But the rest of America sits there, in the most piggish possible way. They consume more and more, drive more and more, and so our dependency on the OPEC cartel is all the greater.

However, conservation is a subject for another day. I lost that fight on reaching the floor 2 weeks ago. We ended up with a "nothing" conservative package. But I do not want to end up with a "nothing" production bill. That is why I am out here. Having lost the fight for conservation, I have hopes of at least winning the fight in producing more of our own energy.

But what is not fair is to cloud the real position with demagogery. We are in a position of leadership. What we say here very definitely forms opinion in this country.

So I am not going to fight this demagogery with speculation of my own. I ask every American to tell me what the price of gasoline was 4 years ago, tell me what it is today. There is only one answer. It has gone sky high.

Then understand, that has all been achieved under controls.

Tell me what the unemployment was 4 years ago in this country. Tell me what it is today in our own States. It is running around 8 or 9 percent in Connecticut. That has all been achieved under controls and the failure to deal with the energy crisis.

Tell me what the balance-of-payments deficit was 4 years ago when we had a surplus, and today when $30 billion is going offshore, most of which is attributable to our purchase of foreign energy. That is not speculative. That is a matter of record. We cannot live with that record very much longer.

I hope that all this demagoguery and, as I say, speculation and scare tactics, is achieving some local success, in terms of allegations for those within and without this Chamber. But sooner or later it seems to me, the greater interest lies in the people we represent, not our own election.

This is not directed, I might add, at those on the other side of this particular issue because, believe me, the entire Senate, Republican and Democrat, showed their lack of guts on the conservation issue. There were seven of us that voted for any form of conservation.

But I know nothing that is going to work that is not going to be a bitter pill to swallow, and the more comfortable everybody feels with what is resolved on the floor of this Chamber, believe me, the worse the disaster that lies ahead.

Mr. President, I yield the floor.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from South Dakota?

Mr. ABOUREZK. Mr. President, I am the designee for Senator JACKSON at this time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. WEICKER. I say to the Senator from South Dakota, Senator JACKSON and I have agreed the time will be divided. In other words, on both sides. So the Senator can take whatever time he needs.

Mr. ABOUREZK. Mr. President, I yield myself whatever time I might consume on Senator JACKSON's share of the time.

Mr. WEICKER. Also Senator PEARSON's share. In other words, all time is equally divided.

Mr. ABOUREZK. Yes.

Mr. President, I want to respond to the remarks made by the Senator from Connecticut (Mr. WEICKER). Before I do that, I want to make a couple of disclaimers.

First of all, I am not one who believes that my colleague from Connecticut is in the pockets of the oil and gas industry, and if he took whatever the President said to mean that he was, I think, that is probably wrong.

I happen to know Senator WEICKER is not from a gas-producing State. So for whatever reasons he supports deregulation of natural gas, they are reasons that come from the conviction of his conscience and I believe they do not come from anywhere else.

But the fact is that it makes it all the more strange if he is neither from an oil- and gas-producing State, nor is he allied with any oil and gas interest, which I believe he is not, that makes it very strange that he would support a proposal to deregulate natural gas.

I want to make one other disclaimer, if I might. He described whatever "speechifying," on the natural gas issue on our side there is as demagoguery in an effort to help somebody get reelected.

I want to answer right now, I am not going to run for reelection next year, so that wipes out that part of it. So we are even on both scores.

Now, I want to get to the issue of deregulation or regulation of natural gas.

The Senator said that prices have gone up, unemployment has gone up, that we have suffered all kinds of economic travesties as a result of regulation of natural gas. He said that we are bent on our knees to the OPEC oil cartel, that they forced the price of gasoline, oil, and natural gas up, and that is why we are in the tragic economic condition that we are in today.

Let us just examine everything that he has said in that regard. If we go back to 1973 when the Arab oil embargo—and we should call it the OPEC oil embargo because it was done by all of the OPEC nations—the embargo was imposed at a time when we were importing less than 30 percent—less than 30 percent—of our oil and about 8 percent of that oil came from the Arab oil-exporting countries. About 8 percent at that time. I do not think the Senator would argue with those figures.

But let us talk about the embargo and the price increase at that time. The 400-percent price increase came from all the OPEC nations and, in addition, the non-OPEC nations from which we imported oil. That includes Canada and some others that do not belong to OPEC.

Now, if we imported 30 percent and that price went up 400 percent per barrel—by the barrel—what happened to the price of the other 70 percent that was being produced by the domestic American oil companies?

Why did the price of gasoline and petroleum products in this country have to go up overall?

Why did the 70 percent that is produced in this country that was not subject to the Arab oil embargo go up 400 percent? I will answer my own question. The reason why it went up 400 percent in this country was that the oil and gas industry operates on a basis of greed and greed and more greed, and it has absolutely nothing to do with shortage of oil, with the Arab oil embargo, or anything else.

If we can take the second part of his argument, concerning natural gas itself, the argument on behalf of the proponents of deregulation is that we have lost our reserves, that we are unable to produce natural gas because the price is regulated and it is not high enough. Aside from admitting—and they all have admitted it one way or the other—that the oil and gas companies are going to withhold the production of natural gas unless they get the price they want, that is an absolute confession and admission on the part of the proponents of deregulation. They say it over and over again.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ABOUREZK. I do not want to yield until I am finished, and then I will be happy to yield.

They continue to say that they will withhold production until they get the price they want.

If you go back 5 years, natural gas was regulated, under the Federal Power Commission, at 22 cents per thousand cubic feet. At that time, there were statements by people in the oil and gas industry that if they got as high as 32 cents per thousand cubic feet, they would be deliriously happy. So the Federal Power Commission kept increasing the rates. They went from 22 to 52 to 72. Now they are up to $1.45 or $1.46, and that is not enough.

The oil and gas people want total deregulation so they can get the price of gas up to $4 or $5 per thousand cubic. They do not want $1.45, which is twice as much as they said was more than sufficient 5 years ago. In that 5-year period what has happened to the production of natural gas in the location of known reserves? In the 5-year period that natural gas prices at the wellhead went up 500 percent, production increased. It went down. It did not go up.

So what does that do to the argument that increasing prices will increase production? It cuts the ground right out from under it.

What has happened to known reserves in that time? Known reserves have gone down in the 5-year period. What does that mean? That means that the oil and gas boys are saying, "We're going to wait until we get deregulation, which is promised to us by people in Congress and by people in the White House, in the Nixon and Ford administrations, and the people in the Federal Power Commission, who were appointed by Nixon, who kept promising Nixon that they were going to get deregulation."

So they have waited, and they would be crazy not to. If I were in the gas or oil business, I would say, "You bet your life I'm going to withhold the reserves. I'm not going to sell that gas cheap. I'm going to wait until I can sell it high. I'm going to wait until I can get in and pass a law and legitimize the plunder I want to perpetrate on the American people."

I wish the Senator would quit staring at me; he is making me nervous. He is much bigger than I am. [Laughter.]

If the Senator is going to continue that, I will bring JOHN CULVER here. [Laughter.]

Mr. President, I will summarize, and then I will yield, because we want to try to share the time for debate this morning.

The argument that we need to take the lid off prices, to assist in the rape and plunder of the American consumer's pocketbook and bank account, is totally fallacious. It has been demonstrated, with statistic after statistic, that increase in prices has done nothing but hold down production and hold down the known reserves, so that the oil and gas boys can come back later on and take everything they want and take it at will.

One other thing: What would you expect the oil and gas boys to do, being in the business for profit, as they are? I do not think we should call profit a dirty word. Every time I say that they are doing it for too much profit, one of the defenders of the natural gas industry says, "Just a minute." Why are they so defensive about profits? There is nothing wrong with making profits. There is only something wrong with exorbitant profits. So you would expect those people to operate on the basis of profit and on the basis of greed as well.

I fully understand what they are trying to do to the country, and I think the country is beginning to understand it. But what I do not understand is why the U.S. Senate would go along with it and aid and abet it. It is totally unreasonable for those of us who represent the American consumer to go along with it and support deregulation of nautral gas.

The costs of that measure have been repeated time and again in this body: $162 billion to the American consumers by 1990. That does not include the rippling effect of inflation that will be visited upon the economy if natural gas deregulation takes effect. I cannot imagine that the economy of this country would be able to recover from a blow of that nature.

What is it for? Is it to increase production? We can amply demonstrate that it will not increase production. Is it to increase the known reserves? We have demonstrated that it will not increase the known reserves. Do Senators know what it is for? It is for nothing more than to transfer $162 billion and the additional sums from the pocketbook of the American consumer into the bank accounts of the oil and gas industry. Is it worth it? Is it worth it at all? I do not think anybody who has examined this issue carefully could ever answer that, "Yes."

Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, will the Senator from Connecticut yield me 5 minutes?

Mr. WEICKER. I yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, I say to my good friend from South Dakota that I have examined the facts and I have come to the conclusion that what he says is impossible to arrive at.

I do appreciate that my good friend the Senator from South Dakota has not shared in the personal attacks upon those who may have reached a conclusion different from his.

I appreciate the fact that he would set the record straight that, in spite of

what the President of the United States has said about the Senator from Connecticut or any of the rest of us who happen to take a different view, we are not controlled by some special vested interest. We have reached a different conclusion as to how is the best way to serve the interests of the consumers of this country.

Mr. ABOUREZK. Mr. President, will the Senator yield for 30 seconds, for a comment?

Mr. McCLURE. I yield for 30 seconds.

Mr. ABOUREZK. I have to say to my good friend and colleague from Idaho that I say the same thing about him. If there is an accusation of being in anybody's pocket, I would reject it. But I have to say that his side has not helped very much by the stories that appear in the Washington Post this morning, which tells about a bench being laid out here for the gas lobbyists. They set aside a $600,000 lobbying fund, and they have their books and papers and a computer in the office to feed their friends on the floor. It does not do a lot of good for the side of the Senator from Idaho, and I do not think he has much to do with it.

Mr. McCLURE. I say to the Senator from South Dakota that occasionally it helps to have some facts from which to argue. I know he has never been burdened by that problem.

[Laughter.]

Some of the rest of us would like to have some facts from which to argue. Sometimes, emotions are not enough, and we do have strong feelings concerning how to protect the consumers of this country, just as other people do.

There is only one other way to rip off the consumers of this country and that is to artificially create a shortage. If you artificially create a shortage, the price in the long run will go up. I know we have argued that ad infinitum, and I do not mean to go through all these facts again.

I think we can show that increased price brings about increased drilling activity, and increased drilling activity eventually will bring about increased supply. The fact that the price has gone up and the reserves have gone down is simply a result of 22 years of price control that cannot be turned around in 2 months or 6 months or 8 months or even a year.

It takes time to discover reserves and get them to the market, and it is only after the reserves have been discovered that you can then get ample supply with reasonable prices.

One thing that my friend from South Dakota and others have forgotten is that what they are really doing is indulging in an exercise in nostalgia. They want to turn back the clock to the good old days when they could waste all the energy because it was cheap and abundant. That day is over. Whether we like it or not we cannot go back to horsepower. Maybe they can in South Dakota, but I doubt it. I suspect out there the farmers use gasoline and diesel in their tractors in producing the great abundance of produce that comes off the farms. They do not do it with horses any more no matter how nostalgic that might be, no matter how we might like the idea of the good old days of the times when we could do things the easy way, when times were different, when natural gas was abundant. It was a throwaway fuel. It was flared, it was wasted, and it is still wasted. It is wasted because compared to other energy it is cheaper than they are, and, therefore, its use is stimulated, and the conservation of that commodity is not stimulated.

Now others may be comfortable with the idea that Government can control, will control, the price, will control the use, will control the production, will control the distribution, and will control the utilization; and yet a great many of the people who are on this floor making that argument now are precisely the same people who joined in what may have been only the political demagoguery of an election year, calling for reform of the Government and reduction of bureaucratic oppression.

If you are going to get away from the control by Government, and get away from bureaucratic oppression, you are going to have to recognize that the Government cannot do it all. If we are going to meet our needs in energy in the less than a decade from now until 1985 we somehow have to find investment capital to produce energy, and those needs have been estimated over the next period from now until 1985 as $1.350 trillion, and no matter how you run the printing presses of the Government, the Government cannot provide that kind of investment capital. You have to find ways to generate that activity in the private sector—$1.350 trillion, and I do not think there is anybody on the other side of the aisle who is really prepared to have the Government try to do all that.

I see my good friend, the Senator from North Dakota (Mr. YOUNG) who reminded me just a moment ago of the arguments that were made in 1946 when OPA was going to be extended. There were people who were saying "You can take off price controls, and the prices will go up exorbitantly," and there was a bitter debate in the Congress of the United States at that time on that issue.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to my friend.

Mr. YOUNG. The big issue in 1946 election campaign was OPA, the Office of Price Administration. Many wanted to keep it on, they claimed prices would go up if ceilings were removed. We kept running into more and more shortages. I built a house in 1946 when my sons came back from the service, and I had to have a house. Much of the material that went into that house was bought from the black market by the dealer I bought from.

They used exactly the same argument argued on the floor now that if you took off price controls prices would go up. But they took off controls, and production increased, and everyone was satisfied.

History has a way of repeating itself. From the liberals I heard the arguments on this floor almost exactly the same as they are now, that if you take off controls prices will go way up and everybody will be unhappy. But the reaction of the whole thing in the election of 1946 was that the Republicans gained control of the Senate and the House solely on that one isse of OPA. That may happen again.

Mr. McCLURE. I thank the Senator for that contribution, and I hope some of the people on the other side of this issue will listen to that in terms of politics as well as in terms of this particular issue because the people of this country are sick and tired of the idea that Government alone has the answer to all our problems. I think they are seeking a leadership that has confidence in the free enterprise system and in the freedom of institutions in our country rather than in Government-controlled institutions.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. McCLURE. Will the Senator yield me 5 additional minutes?

Mr. WEICKER. Mr. President, how much total time is there? I am here, as is the Senator from Arkansas instructed to allocate time on behalf of the Senator from Washington, and I want to be fair. How much total time is left?

The PRESIDING OFFICER. There are 31 minutes remaining. The Senator from Connecticut has 12 minutes; the Senator from Washington has 19.

Mr. WEICKER. I yield 3 additional minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

We are presented this morning with what is said to be a "compromise." We are told by the administration that it is a compromise. We are told by the morning papers and the electronic media that it is a compromise. But is it?

A compromise should mean that each side is going beyond its previous position. And the Jackson proposal certainly does not do that on the pricing issue. The members of the media may simply have been duped by the shiny tinsel surrounding the new proposal, but I am sure that the members of the administration know that this is no improvement, but are content to spread the word that it is.

Let us look at the facts.

When anyone looks at a possible investment—whether it is you or me or an independent gas driller—he wants to know first, what is the cost, second what is the risk, and third, what is the probable return. No one will invest a dollar if he does not expect to get the dollar back plus a return that is equal to what he could get elsewhere at a comparable risk.

And you have to look at that comparison over the whole life of an investment. Suppose you had a 15-year bond that paid 5 percent. And a sharp salesman comes to you and says, "I can do better for you than that. I've got a bond that pays 6 percent under the same conditions." You might think this was a good deal. But if you read the fine print, and find out it pays 6 percent for the first 5 years, and then falls to 4 percent for the last 10 years, what would you do?

Well, you would go to your financial tables and calculator, and see what is the

present value of what you would get under the two alternatives. And if you found that the present value of your current investment was actually higher, you would give the sharpie the bum's rush.

Well, this is exactly what is involved here. This so-called compromise does offer a higher price for the first several years, but a lower price thereafter. So, when a driller is evaluating whether to explore a certain area he will know that he is no better off, and usually worse off under the new plan.

A person who is investing his own money will not be fooled by the news coverage in the Washington Post, or by the statements of proponents of regulation. He will look at the facts, and look at the words of the bill and the conditions in the world. Let us do the same.

When the Senator from Washington moved his amendment, and placed supporting material in the RECORD you were told what the ceiling price would be under the Carter plan, and under the new Jackson plan. Unfortunately, there were a few things he did not tell you.

The prices given under the Carter plan are from material sent to the Energy Committee, and reflect accurately the expected Btu-related price through 1990, assuming 5½ percent inflation. The Carter price rises both with the rate of inflation, and because of the changing mix of oil in the national inventory.

The price under the Jackson plan begins at $2.03, but rises only with the rate of inflation. But the figures put in the record for the Jackson ceiling price escalate at 6 percent as the assumed rate of inflation, not 5½ percent, and so overstate the price under Jackson.

This is, of course, a flat error. I assume that this mistake was made in good faith at the staff level, but you cannot compare plans unless the inflation adjustments are the same. So, first we have to do that.

Second, the investor wants to look at the whole time span of the investment. In all recent FPC proceedings, that common term of evaluation, stemming from the average life of a well, is 15 years, and 15 percent rate of return is used as the appropriate discount rate.

So, just as in the case of the bond we talked about earlier, we have to look at the current value of what you would get over the whole term of the investment. And when you do all the arithmetic, you find that the Jackson plan gives a lower return for any well that starts to flow gas after January 1, 1979, and is only 4 cents an mcf better for a well that starts to flow on January 1, 1978. So, anyone who is watching what the Congress will do on pricing to increase drilling will be discouraged, not encouraged, by the Jackson price.

Why is this? As the proponents of the new plan admit, their price ceiling rises less rapidly than Carter's. After the early 1980's, the producer is receiving less every year under Jackson. I include at this point in the RECORD a complete table showing the prices per year, and on a current value basis, for wells drilled through 1981.

In short, this "compromise" on pricing is a mathematical hoax. They may fool the reporters with it, and they may fool the television with it, but it certainly will not fool the people who are putting their own money on the line. And I am confident that it will not fool the Senate.

SUMMARY

The Jackson plan allows a slightly higher price today, but lower prices for every year after 1983. When you look at the overall return from a new well, Jackson provides less incentive than the Carter plan.

Even the average Jackson price for all of 1978 is below the price right now, on 30 percent of all new intrastate contracts, and 50 percent of all new intrastate contracts in Texas.

Finally, the Carter plan is at least pegged to a known physical quantity—all domestic oil purchased. The Jackson plan is tied to a legal construct "upper tier oil," which may be altered by decree.

So, any way you look at it, Jackson's plan is inferior to Carter. For the same reasons the Senate did not endorse the Carter plan then, reject this even less satisfactory alternative today.

ROLLBACK OF INTRASTATE PRICES

Any ceiling price has the potential to outlaw some of the contract prices that have produced the gas that has come forth in the intrastate market.

At first glance, a ceiling price of $1.75 as in Carter's plan, would outlaw the 56 percent of new contracts now above that price in the intrastate market from April to June 1977. A price of $2.03 would outlaw about 30 percent of all new contracts, including 53 percent of new contracts in Texas, our strongest intrastate market. So, the Jackson substitute will still be a rollback for much of the intrastate market.

Even more importantly, any analysis of price and incentive must look at the price, not just in one year, but over the life of the well or contract. As an example, the latest FPC pricing decision set an initial price of $1.42, rising evenly to to $2.02 after 15 years.

Thus, the potential producer is not looking at a price of $1.42 when he decides to drill. Nor is he looking at a price of $1.72, which would be the average of the prices over the 15 years. This is because $1 today is not the same as $1 15 years from now. Using the 15 percent discount rate used in most calculations, including FPC decisions, the current value of the stream of payments over 15 years with the $1.42 to $2.02 price rise is equivalent to a constant price of $1.63. To compare different pricing schedules, they must be reduced to a common denominator of the current-value equivalent constant price.

Turning now to the comparison of the Jackson substitute and the original Carter bill, we see that the Jackson substitute offers very little more incentive for wells drilled in 1978, and less incentive for all wells drilled thereafter:

First, there is an error in the chart presented yesterday by the Senator from Washington. The analysis of the price trajectory under the Carter plan—labeled amendments No. 868 on chart—is copied from table 1 supplied to the Energy Committee on July 30, 1977 by FEA, which goes through 1990. It assumes 5.5 percent inflation. However, the chart shown by the Senator from Washington assumes 6 percent inflation. Thus, the "substitute" chart must be adjusted to a 5.5 percent inflation rate to make a fair comparison. With this correction, the figures for the chart are shown below, also taken out to 1990.

In order to assess a full 15-year well life, we need to project figures out to 1995. Because the Jackson plan price only increases by inflation, we simply continue the 5.5 percent increase postulated. The Carter plan will continue to escalate a bit more rapidly as the domestic oil mix changes. To be conservative, we took a 6.5-percent increase, which is lower than the increase in any year through 1990.

Mr. President, I ask unanimous consent to print in the RECORD a table containing these projected figures.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Average price for year	Carter price trajectory (present value in 1978 of this year's price at 15-percent rate of return)	Jackson price trajectory (Present value in 1978 at this year's price at 15-percent rate of return)
1978	1.86 (1.86)	2.14 (2.14)
1979	2.02 (1.72)	2.26 (1.92)
1980	2.20 (1.59)	2.38 (1.72)
1981	2.39 (1.47)	2.51 (1.54)
1982	2.58 (1.35)	2.65 (1.38)
1983	2.79 (1.24)	2.80 (1.24)
1984	3.01 (1.14)	2.95 (1.11)
1985	3.23 (1.04)	3.12 (1.00)
1986	3.48 (.95)	3.29 (.90)
1987	3.72 (.86)	3.47 (.80)
1988	3.97 (.78)	3.66 (.72)
1989	4.24 (.71)	3.86 (.65)
1990	4.52 (.64)	4.07 (.58)
1991	4.82 (.58)	4.30 (.52)
1992	5.13 (.53)	4.53 (.47)
1993	5.46 (.48)	4.78 (.42)
1994	5.81 (.43)	5.04 (.37)
1995	6.19 (.39)	5.32 (.34)

We now take the stream of payments under each plan, and discount to present value and find the constant price equivalent:

For wells beginning to flow Jan. 1—	Carter schedule is equivalent to a constant price of—	Jackson schedule is equivalent to a constant price of—
1978	2.70	2.74
1979	2.85	2.83
1980	2.99	2.92
1981	3.14	3.01

And the disparity gets steadily worse for the Jackson schedule.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Mr. President, I thank the Chair.

Mr. BELLMON. Mr. President, will the Senator yield me 5 minutes?

Mr. PEARSON. Yield the Senator 10 minutes.

Mr. WEICKER. No, I have to make sure there is sufficient time remaining at the disposal of the Senator from Arkansas.

How much total time remains?

The PRESIDING OFFICER. There are 28 minutes remaining. The Senator from

Connecticut has 9 minutes remaining and the Senator from Arkansas, as a designee of the Senator from Washington, has 19 minutes remaining.

Mr. WEICKER. I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. I thank my friend from Connecticut.

Mr. President, I begin my remarks by saying for the record that the Senator from Oklahoma has never been in the gas or oil business but in spite of that fact, coming as I do from a State which produces abundant quantities of both oil and gas, I have probably had about as long an association with these industries as anyone else. As a matter of fact, I grew up in the oil and gasfields of northern Oklahoma and have watched oil and gas being produced for as long as I can remember.

I recall vividly when hundreds, probably thousands of natural gas flares burned every day of the year disposing of natural gas which no one wanted.

This was associated gas produced with oil. There was no way to haul it. There was no way to market it. There were no pipelines. So the gas had to be burned at that time in order to make production of the oil possible.

It was back in the mid-1930's when an Oklahoma Governor, a Democrat, by the way, named Bill Murray, better known as Alfalfa Bill, recognized that natural gas burning was an unconscionable waste of a valuable and precious natural resource and took action to bring this burning to a halt.

Under Governor Murray's urging Oklahoma adopted the Nation's first complete body of oil and gas conservation laws. These laws put an end to natural gas wasting and made it necessary for the producers of oil to find a market for the gas before they could produce the oil which they could sell.

So in order to find a market for natural gas, these producers desperately sought for anyone who would take the gas and put it to any kind of a productive use. At that time producers were not in any way concerned with the cost of gas. The production of gas was an accident because it came in with the oil. The gas was worthless. No one wanted it. It was sort of a dangerous nuisance. It was oil that people were after, and it was the oil that they could market and for which they could get some kind of a price.

So at that time when the natural gas marketing first developed no one was concerned with the pricing of gas. A producer would take any price he could sell in any market just to get rid of the gas. Gas then began to be used heavily for boiler fuel. In fact, even at this time practically all the electricity produced in our State is produced by burning gas under boilers.

It was used as a substitute for coal in many parts of the country, including, of course, the east coast.

Pipelines were built to any place where gas could be sold, and gas prices at the wellhead were of no consequence since the objective was to dispose of the gas and make it profitable to produce the oil.

It was at this time, of course, that the Federal Power Commission got into the picture. They set prices for natural gas which both producers and consumers considered to be fair at first and certainly this control was needed. But as time went on, the production of associated gas ended, and it became necessary to drill gas wells to find gas, then the FPC prices were found to be inadequate to bring on new supplies.

At that time, the commission realized it was necessary to raise the prices of gas to reflect the true cost of production, and they tried to take these actions, but when they did they were stopped by court actions and as a result natural gas prices have been held down to far below cost of other fuels on a Btu basis.

The result is that the cheap gas, the gas that is found with oil, the gas that is inexpensive to produce, the shallow gas, has all been or practically all been produced and consumed. Now in order to find more natural gas we have to go into the deeper zones, we have to drill wells that produce only gas and no oil, and many of these wells have to be drilled to great depths.

It is not at all uncommon in our State and in most of the gas-producing area to find wells that are being drilled down to 20,000 feet. This is something like 4 miles. That gas is being produced for the intrastate market since few producers can afford to drill those wells and sell them for the controlled prices on the interstate market. In fact we have wells in Oklahoma now that go down to 30,000 feet, which is more than 6 miles, and some of these wells cost millions of dollars. They all cost millions of dollars. Some of them cost between $5 and $10 million at the present time.

Then there are no investors who can afford to take the risks involved in drilling those kinds of wells and expend millions of dollars unless they have the opportunity to earn a fair return on their investment.

Those investors have a choice. They can invest in many things, and gas and oil production is only one. If there is no chance for a return on their investment they simply will turn elsewhere.

So the fact is, then, that if we are going to have gas we can not any more expect that we are going to get it accidentally or cheaply from the wells that produce oil and gas but rather we are going to have to turn to drilling for gas and pay the cost of producing this one product.

It is also, I believe, inescapable that we are going to need to accept the time when the production of natural gas will be inadequate to meet our requirements and that our pricing is going to have to be adequate to make it possible to produce gas from coal and in that way to supplement the gas that comes from wells.

The PRESIDING OFFICER. The 5 minutes of the Senator from Oklahoma have expired.

Mr. BELLMON. Mr. President, will the Senator yield me 1 additional minute?

Mr. PEARSON. Mr. President, I will yield the Senator additional time.

Mr. BELLMON. Will the Senator yield 1 additional minute and then I will be willing to yield the floor.

Mr. PEARSON. Mr. President, I yield the Senator 2 additional minutes.

Mr. BELLMON. Mr. President, the question has been raised here repeatedly as to who is more concerned about consumers. The fact is there are only two courses open to the Senate. First is the political course, which is to go on with controls to provide temporarily cheap gas and produce some kind of feeling of well-being among consumers, but if this course is followed it is only a few years until the country will face chaos. We have only had curtailment. Curtailments will certainly get worse if this course is followed. We will have blackouts, increased unemployment, and tremendous hardship on a lot of people who will be without fuel.

On the other hand, I believe this is the wiser course: The Senate can face reality. We can have an orderly decontrol program that will make it possible to bring on more production first from deeper wells and later from coal, liquefaction and gasification, and some perhaps other fuel sources that are not yet known.

I believe that we can strike a balance between supply and demand that consumers can make the rather minor adjustments that are going to be required if we do go in for orderly decontrol and that we should face the fact that we have a choice not between cheap gas and high-cost gas but between gas that reflects its cost of production or do without gas of any kind.

I think the Members of the Senate should remember that we do not have in this country States that produce gas and States that consume gas. We all consume gas and those from the intrastate market know that we can make these adjustments. We have made them successfully, and we have gas.

I believe the time has come to expect the rest of the country to do no less.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use. I understand I have 19 minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Mr. President, there are two or three facets to this whole problem of deregulation that have not been discussed on this floor. That is always regrettable, because there are probably only half a dozen Senators here who can really vote either way on it. As always, it is regrettable that we do not have more Senators present for the debate.

About 3 days ago, I said on this floor that I thought the arguments that are being made for deregulation are the typical specious arguments that are always made when you want to distract somebody's attention.

Last winter, the oil and gas companies fell into a real demand situation. We had the hardest winter in history, and a large number of industries had to be

curtailed. As a result, a lot of people were thrown out of work. What a wonderful opportunity that was for the gas companies to point out to the American people that it was that terrible Congress that had brought this whole thing on. You would have thought Congress gave them the weather.

So what did they do? They said, "If you want to keep your job, if you do not want to be laid off any more, write your Senator and Congressman and tell them you are for deregulation, and we will produce all the oil and gas you want—no more economic dislocation."

So small businesses in my State, and the employees of small businesses, began to write me and say, "I wish you would vote for deregulation, so I will not lose my job next winter." That is an emotional appeal that any politician is going to be responsive to, unless commonsense and statistics dictate otherwise.

As I said the other day, this whole thing reminds me of Lucy and Charlie Brown. Every fall when the football season starts, Lucy holds the ball for Charlie to kick, and Charlie Brown always says, "I know at the last minute you are going to snatch the ball away, and I am going to fall down again," and Lucy always says, "No, I am not going to do it this year." But every fall, as long as I have been reading Peanuts, Lucy always pulls the ball away.

Mr. BAKER. Mr. President, will the Senator yield to me for an inquiry as to the status as to time?

Mr. BUMPERS. I can answer that. The time on that side is all gone.

Mr. BAKER. I admire the Senator's prescience, but that was not the question I had in mind. Will the Senator yield for that purpose?

Mr. BUMPERS. I yield.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. There was a unanimous-consent agreement this morning, as I understand it, for uncontrolled time to end at 12 o'clock; that until that time the debate of Members would not be charged against the time allocated under rule XXII.

I understand now that may have been extended to 12:15; would the Chair advise me whether that is correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Sometimes I think my colleagues interrupt me when I am making my best points. I know that the Senator from Tennessee would not deliberately do that, but I thought that was a great story about Charlie Brown.

Mr. BAKER. All the Senator's points are good points. I do not expect the interruption to diminish the impact of his statement.

Mr. BUMPERS. Mr. President, I will make a prediction on the floor of the U.S. Senate right now that under deregulation or under controlled prices, and for the foreseeable future, if we have another winter like last winter, there will be curtailments and economic dislocations, and people will lose their jobs. But these oil and gas producers seem to think people will believe in, and buy their argument the way Charlie Brown buys Lucy's every fall: "If you will just believe in us, everything is going to come up roses."

Mr. President, we have to make certain assumptions in order to debate this issue, because no one knows how much gas there is remaining under the ground.

Mr. STEVENS. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. I yield.

Mr. STEVENS. What happened to the football this year?

Mr. BUMPERS. I have not seen it this year, but I am sure it will be coming out, and Lucy will pull the ball out from under him again.

Mr. STEVENS. Is that what you are about ready to do to me?

Mr. BUMPERS. Hopefully.

We have to make certain assumptions, and the only statistics we have to live with are the ones we have asked for from the services we rely on most: first, the Congressional Budget Office, and second, the Congressional Research Service.

The CBO says, "If you deregulate gas completely right now, by 1985 we will have 5 percent more than we would otherwise have."

It does not say we will find 5 percent more that we would not have found otherwise. It simply means we would be accelerating production, but not really accomplishing anything. Everybody here knows it is a finite resource. There is just so much of it. God in his infinite wisdom just put so much there, or allowed so much to develop there. "That's all there is, and there ain't no more."

We all also know that we have just been lucky to stay even in gas production, even with the exorbitant prices we have right now. Oil production has been declining by 500,000 barrels a year, and I see no reason to expect that that could be reduced materially for any period of time.

What did the Congressional Research Service say? They forecast a cost of $162 billion out of the American consumers' pockets by 1985, right into the pockets of a very few major gas companies which happen to own these reserves.

Do you think if I were a gas company, I would not be championing the same thing they are? Why are they for deregulation? Because they own it. They own it.

If deregulation were to occur, there would be the most insidious, massive transfer of wealth from middle-class America into a few select pockets ever to occur in the history of this country.

Mr. President, I happen to be one of those people who feels that this body, in a sense, owes a debt of gratitude for what I see in today's Washington Star referred to as the "gruesome twosome," the Senator from Ohio (Mr. METZENBAUM) and the Senator from South Dakota (Mr. ABOUREZK). I think it is really interesting. I think we ought to send those two to Geneva, to help break the Middle East deadlock. When we can have a Jewish-Arab coalition in the U.S. Senate that has worked effectively as those two have, they would have to be good at the Geneva Conference.

I know that the American people and most of the Members of this body deplore filibusters, and they probably deplore the techniques that have been used here. But I will tell you something else the American people are getting out of this. They are being taught there is a lot more here than they had been led to believe, if they understood anything about it at all.

They are bound to begin to wonder, "Why is the U.S. Senate meeting around the clock, 24 hours a day, and why are these two Senators leading this crusade?" And it is causing them at least to inquire what is at stake.

What is at stake is their pocketbooks. There is not a soul in this body who would suggest for a minute that if it would increase the supply of gas and if it would give the oil and gas companies a fair return which they were not now getting, there is not a soul in this body who would be contesting this bill. But the facts just happen to be 180 degrees from that. The returns are exorbitant.

If we had told the gas companies in this country a year ago that the U.S. Senate would be seriously considering a cap of $2.03 on gas prices, they would have thought they had died and gone to Heaven. I can remember 2 years ago when they said, "Senator we have got to get the price of gas up to a dollar," and that sounded exorbitant at the time. Now they have a price, under the present law, of $1.46. The President said $1.75; I had a difficult time choking that one down. I finally agreed to it, and now here we are, in order to get a bill out of here, saying we think they are entitled to $2.03.

One of the most specious arguments I have heard in this body about this whole subject is, why in the world do I want all these American dollars to go to Canada, Mexico, and Arabia; had I not rather that these American dollars stay in American hands?

Why should we want to deprive our own poor embryonic oil and gas industry of the amount of money we are willing to pay Mexico and Canada?

Well, the Senaator from South Carolina yesterday hit it right on the head. What does the price they charge us have to do with what is a fair return on gas found in this country? What does the price in Mexico have to do with what we are going to charge the Ameircan consumer for gas in the United States?

Mr. STEVENS. Will the Senator yield to me to answer that question?

Mr. BUMPERS. Not yet.

Mr. STEVENS. I will be glad to answer it for the Senator.

Mr. BUMPERS. I heard the Senator's answer yesterday. He talked about the free enterprise system. The only thing about the free enterprise system as the oil and gas industry sees it is that they are afraid competition will interfere with it.

The whole question is are we going to control the price of oil or are the Arabs going to control the price? That is what we are talking about.

We are right now keying the price of gas to the price of oil. When we key the price of gas to even the composite domestic prices of oil, we are moving right into the hands of what the cartel

says it is worth. It is a fixed price. We do not hear the oil companies condemning the OPEC nations. Why would they? The OPEC nations have made the oil companies filthy rich. They have raised the price four times. Oil companies in in this country have enjoyed protective tariffs for years under the name of free enterprise.

Now they are getting rich on fixed prices, and they say, "We have to let these prices reach the supply and demand level in the free market process because we believe in free enterprise."

If one wants to find out how cogent somebody's argument is just listen to the little jingo, knee-jerk words. Sure, everybody is for free enterprise, but the cornerstone of free enterprise is competition, and there just is not much of that in the gas industry.

I might add, incidentally, that the Canadian oil coming into this country has a $7 a barrel tax on it. It is the OPEC price, but $7 of it is going into the pockets of the Canadian Government.

Concerning Mexican gas coming into this country, if we were going to export gas to Mexico I would want $10 an Mcf for it. I would not even consider exporting to any country a finite resource, I do not care what it was, copper, bauxite, name it, without getting a premium for it, because we would be taking it away from the American people.

The Mexican Government does not charge their people $2.50 an Mcf for gas. The Canadians do not charge their people $15 a barrel for oil. They charge the United States because they know we will pay it.

I am simply saying this body has an absolute, high responsibility and duty to be evenhanded in deliberations on subjects such as this. We have the obligation in the minimum wage bill to consider the rights of small businesses, especially when we raise the minimum wage, which we are going to do. We have the highest duty to protect the American people, even though they may not understand detailed arguments made in this body. They may not understand that they are being distracted and diverted with some of these arguments so that the oil and gas companies can finally get what they have wanted ever since the OPEC embargo in 1973.

I want to be objective about it. I want the oil and gas companies to have enough incentive to drill. They have, because there has not been a drilling rig idle in this country for 2 years. If we deregulate the price of gas today and it goes to $20 an Mcf, they could not drill one well because there is not another rig available to drill one with. At the end of August there were 2,350 rotary rigs in this country, and the only ones not working were the ones in the shop for maintenance or in transit to another city.

Talk about incentive? How much incentive do they have to have?

If we deregulate the price of gas, we will be responsible for one of the most outrageous betrayals ever perpetrated on the American people.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. NELSON). The Senator from Arkansas has 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, would it be agreeable to the other side to extend the debate for another half-hour? That would be 15 minutes to a side.

Mr. STEVENS. Would the Senator extend it 15 minutes until I check and find out? I understood our leader has a proposal to make to the majority leader. It is my understanding that 2 minutes are left on either side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HART. Will the majority leader yield?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the previous issues be extended 20 minutes, with 10 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Reserving the right to object, the Senator from Colorado merely wants to find out if we are under the cloture time.

Mr. ROBERT C. BYRD. Not at the moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Has the Senator from Arkansas yielded the floor?

Mr. BUMPERS. I yield the floor, Mr. President.

Mr. STEVENS. Mr. President, I find it very interesting to have the Senator from Arkansas join my good friend from South Carolina, whom I wish were here so that I might answer some of the comments he made yesterday.

I will say this: The policies that we have followed since the 1950's have led to an ever-decreasing supply of natural gas, and an ever-increasing import position with regard to oil and natural gas. The people of this country will realize that when the price they pay for energy goes up, following this long filibuster, because they will have to buy more foreign oil and gas. I am realistic enough to understand that when the administration announces its position, the House announces its position, and the total position comes from the other side that it is unlikely that we will see very much deregulation, if any at all.

The American people are going to have to pay more for gas due to the fact that the people who have opposed deregulation have opposed the restoration of the free enterprise system. The American people will pay more because they will have to turn to Canadian gas at two to three times the amount they would pay to get more American gas.

They are going to get Mexican gas at an equivalent higher price. As the Senator from Arkansas says, if he were a Mexican official, he would sell it to us at $10. I would not be surprised if we are not paying $10 for Mexican gas in a few years, particularly after the invitation to do so from the floor of the Senate.

We are already paying in excess of $3.50 an Mcf for LNG from Indonesia and Algeria. The price of gas is going to continue to go up and up and the supply in this country is going to go down and down. The bills which are going to be paid by the American consumer for foreign natural gas or for foreign oil will increase because even the LNG which comes into this country is limited by the facilities which are available to liquefy the natural gas to bring it in—in the ultimate we are going to pay more for energy from abroad than we would ever pay if we developed our own sources, particularly the sources from my great State.

Will this Senate propel us further and further toward socialization of the oil and gas industry, as it already has started in my State? Only the Federal Government can explore the former Naval Petroleum Reserve No. 4; only the Federal Government may be able to explore the Outer Continental Shelf of my State if the Senate has its way.

Incidentally, 70 percent of the Outer Continental Shelf is off my State and only the Federal Government can explore it under the proposition this Senate has already announced. That is nationalization. It is socialization. It is a step toward absolute Government decision in the risk-taking areas.

My good friend, the Senator from West Virginia, and I happen to serve on the Appropriations Committee where these matters will be submitted and I would ask the Senator from Arkansas if he can imagine a bureaucrat from the Department of Energy coming before us for the 15th time to get another $40 million to drill a wildcat well on the same lease in the Outer Continental Shelf? How many times are the taxpayers going to take the risks of exploration? Are we really going to put up the money for risk capital from the Treasury? Are we going to take those risks of exploration?

Does he know that the last well that was just capped in the Outer Continental Shelf off Alaska cost $42 million and it is dry? How many wells are we going to drill with taxpayers' money?

Does the Senator know that in the Powder River Basin they drilled again because one geologist had the idea in his mind that there was hydrocarbon capacity for that structure to produce?

And it became, after, I think, somewhere around the 26th well, the third largest producing reservoir in the south 48 States.

Now, when that bureaucrat came before me, as a member of the Appropriations Committee that considers the requests for money for these purposes, for about the 20th time, how long do you think I would remain in the Senate if I went home and told my people that I put up another $40 million to drill on some isolated tract in Montana for the 20th time?

The taxpayers of this country are not there to take risks; they pay taxes to maintain Government. It is a process of

the free enterprise system to take risks. But we have so stifled the free enterprise system that it is no longer productive in the oil and gas areas. Are we going to stifle it more and squeeze it more, until we get to the conclusion, as I think many people want to come to, that only the Federal Government can do it better?

Mr. HART. Will the Senator yield for a question?

Mr. STEVENS. I am happy to yield.

Mr. HART. Does the Senator believe that the world price of oil has been established by free market principles?

Mr. STEVENS. No, it is an edict price. I have tried to fight it. It has nothing to do with supply and demand. But I say it is the only alternative supply available today because we are not producing more oil, we are not producing more gas. We have no reason to be involved in this. I say to the Senator, had the Alaskan oil pipeline not been delayed, the oil embargo would not have resulted in this massive increase in prices in foreign oil. I do not at all support the concept that our prices ought to be equal to the OPEC price. I never have and I do not believe in the OPEC price.

Mr. HART. Will the Senator yield for a further question?

Mr. STEVENS. Yes.

Mr. HART. Would not the result of total and immediate deregulation of natural gas have that effect?

Mr. STEVENS. No.

Mr. HART. Why not?

Mr. STEVENS. It would not because, if the market price were established by supply in this country, we would have more exploration, more discovery, and more production. If we have more supply, the OPEC people have to compete with us for our markets. We are taking steps now, and we are all trying, to decrease our consumptive demands. We are going to succeed in that.

The demand in the United States is going to go down. But the supply in the United States is not going to go up unless the pricing system changes. That demand that remains is going to be met by foreign sources unless we do something to restore the productive capacity of the United States.

I firmly believe that the policies being announced by the Senators from Ohio and South Dakota will lead us more toward total dependence upon the OPEC pricing system than away from it.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. BENTSEN. The Senator from Texas is on the Committee on Finance. The other day, I supported a subsidy for the conversion of coal to gas for gasification. That subsidy will amount to about 20 percent, because I want to see us develop the supplies in this country when we are facing a $25 to $30 billion deficit in trade. I understand that, economically, it costs more to accomplish that, but I think that is important in retaining the soundness of the dollar.

The question is, how can we justify doing that on the one hand and then, on the other hand, cutting out the marginal drilling requirements, cutting out the deep wells, cutting out the expensive wells, in the production of our own oil and gas? Should we not be having the same kinds of incentive to find oil and gas as we try to bring on coal and other alternative sources of energy? Is there any reason why we should discriminate against the increased production in the marginal supplies of oil and gas, the expensive production? Should we not bring that in line with the Senator from Texas support for a coal subsidy, where we might put a 20-percent subsidy on in the Finance Committee to try to bring it in line?

Mr. STEVENS. I agree with the Senator from Texas and his policy.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. What is the time frame now?

The PRESIDING OFFICER. The Senator from Alaska has 1 minute remaining. The Senator from Arkansas has 10 minutes remaining.

Mr. STEVENS. I thought we started off with 12 minutes on each side and that was at 15 minutes, 16 minutes after the hour. How could I possibly have used 10½ minutes in 9 minutes?

Did we start with a new agreement for 10 minutes on each side at quarter after?

The PRESIDING OFFICER. That is correct. The 2 minutes were subsumed in the original 10.

Mr. STEVENS. I realize that now. I yield the control to the Senator from New Mexico.

Mr. DOMENICI. I shall use our minute, then yield to the Senator from Arkansas.

I want to answer for the record Senator HART's question. I hope that the Senator from Texas will verify what I say.

If I understand his reasoning in his question, he is saying that, under deregulation, our natural gas would follow the market price dictated by the cartel price of crude oil. Mr. President, I submit that we do not have to speculate about that, because we have a market. We have a huge intrastate market. It has been unregulated and the truth of the matter is that, in the normal intrastate market, the Btu price equivalent for natural gas in that market has not followed and has not reached the price of the cartel. I think it is logical to assume—that is a supply-demand market to be imposed upon by the cartel prices as some kind of equivalent to shoot at, and it just did not reach that.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself as much time as I may use.

Mr. President, I was looking through the committee report. The Senator from Alaska, a while ago, took rather silent issue with the statement that I made that all the rotary well drilling rigs in this country were busy. As I say, we have to rely on somebody for information, and all I know is what some of our informational sources say. But the Federal Energy Administration says exactly what I said a moment ago, that the Senator took issue with. It is very precise. It says 2,350 rotary well drilling rigs were in existence in this country in the last week of August.

It further says that all but 305 of them were actively engaged in drilling on that day. It further says that the only reason those 305 were not in operation and drilling is that they were either in the shop for maintenance or they were in transit from one site to another. I just wanted to be sure of my figures, but that is what FEA says, and that is the only information I have.

When it comes to incentive, I just made a little calculation a while ago. The calculation is based on the figures of the Federal Energy Administration, which say when you are drilling in what they call proven reservoirs, the rate of find is 1 chance in 2, or 50 percent. For every two wells you drill, you hit one. The percentage for wildcatting is 1 in 5—1 in 5, 20 percent.

Now, if we want to go a little further and get into the specifics, let us assume that you drill five wells and it costs $1 million apiece. You can drill, in some areas in this country, between 10,000 and 15,000 feet for $1 million. But if you did that, and you had four dusters and one find and that find was good for 10 million cubic feet—which is not a barn burner by any stretch of the imagination. Little old Franklin County, where I come from, struck gas in 1947. It was not uncommon for us to hit 30 and 50 million cubic foot wells. That is a heck of a good well, but it is not uncommon.

Out in the Anadarko Basin, it is not uncommon to hit 50 to 100 Mcf wells. But I am talking about a well that hits 10 million cubic feet, and you invest $5 million in hitting one well. Mr. President, under the proposed Jackson substitute, do you know what the rate of return on that well is the first year? Almost $7.5 million. Why, you get all your money back and then some the first year. I consider that a fair return.

What are we talking about for the consumers of America? The Congressional Budget Office, Mr. President, says that the impact of deregulation is an inflation rate of one-half of 1 percent. One item, just natural gas, will raise the inflation rate in this country, which the President is trying to get down to 4 percent—natural gas deregulation alone is going to raise the inflation rate by one-half of 1 percent annually, at least for the first 2 or 3 years of deregulation.

And how about cost? Even the President's proposal raising the price of $1.46 to $1.75 will raise the price of the home heating gas bills in this country by 20 percent in the winter of 1978.

And what will those bills be increased by under deregulation? Raised another 30 percent.

Mr. President, I was back in my hometown, Charleston, Ark., population 1,751, 3 weeks ago. I went up to the coffee shop, as I used to do before I became famous. [Laughter.]

To sit with all those people I used to sit with and solve the world's problems that were so simple. We never had trouble back then settling problems. We solved them all around that coffee table every morning.

The other morning when we were there, I said, "I can't believe that in my home here in Arkansas, that I am not in more than 4 or 5 days a month, I get an electric bill for $111." A fellow across the table from me who makes just about one-fourth of my Senate salary said, "Senator, I'll trade with you."

I said, "You've got to be kidding." I knew his house is not as big as mine, and mine is a fairly modest one. He said that his was $157.

Mr. President, I submit that if we continue in this vein we are demonstrating, we are manifesting, a disdain and an insensitivity toward middle America, which is the backbone of this country.

I never agreed very much with the Governor of Alabama, but when he says that the middle class in America is being wiped out, I could not agree with him more.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for an additional half-hour under the same conditions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BUMPERS. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BUMPERS. As I said earlier, if it were a question of the oil and gas companies in this country failing, if it were their inability to raise capital to drill wells, if it were a question of actually running out of gas if we did not give them these monumental increases in their prices, I would try to be as fair with them as I have been—I think I am being fair with them.

I think all those people who are going to support the Jackson substitute are leaning over backwards to give more than they think is good politics or policy.

Mr. President, I have been chagrined from time to time in this body about some of the legislation that passes through here virtually unnoticed. I remember not too long ago when we debated the strip mining bill. I am sorry we did not have some 24-hour-a-day sessions while that was going on.

There was a very good bill that, in my opinion, is so seriously flawed, the President should have vetoed it, sent it back, and so started all over again.

There was not one soul in the press gallery while that veto provision was being debated on that bill.

Mr. President, I made a prediction then, I say again today, unless we reverse that provision in that bill, the American taxpayer, the American consumers, are going to get ripped off by having to buy their own coal, the coal that belongs to them.

Over the next 30 years, it will cost them $50 billion to $1 trillion, depending on what the price of coal does.

It slid through the House of Representatives and the Senate in its good wisdom defeated it and said they would not buy it, but we lost in conference, and on a motion to recommit we lost again.

The President does not like the provision and he said so the day he signed it. But I have not seen one word, one voice raised, even the great consumer advocates in this city, and they are abundant, not a one of them was over here saying that this was a monumental ripoff of the American people.

Then, less than a month ago, there slid through the Agriculture and Energy Committees and there came on this floor, a provision to provide for oral bidding in the national forests—oral bidding.

In Arkansas, which has 2½ million acres of national forests, and Tennessee, Louisiana, Mississippi, and States like that that have millions and millions of acres of timber in the national forests, we never heard of an oral bid.

When I was Governor of my State, if somebody suggested to me that to do something about oral bidding, I would assume I would wind up in the slammer. We took sealed bids on everythir.g.

It is the only sensible, correct way to sell any public property. There might be some isolated exceptions somebody could think of.

But that bill slid through here despite my efforts and the efforts of the Senator from Massachusetts (Mr. KENNEDY) in a 3-hour debate. We got beat 2 to 1, and why? Because the timber industry was all over this place, wall-to-wall, saying that the cost of houses will go up some fantastic amount.

The only time I ever visited with the President of the United States, Lyndon Johnson, was after he left office. But in the long conversation with him, he said:

> I called in all the members, the bigger members of the National Association of Manufacturing, and said, "You people have been paying $200,000 a year for these high-priced lobbyists to keep you scared to death.

And he said:

> I'll save you a lot of money. You can fire them all. From now on I'll keep the hell scared out of you.

That is what happens in this body almost daily. They come in here with all these scary stories and the herd instinct sets in, it is pervasive, and the first thing we know, like Henny-Penny, up and down the corridors, calling that the sky is falling, and that is what has been happening on this bill we are now debating.

The oil and gas companies have been unbelievably successful in scaring this body into believing that next winter and the winter after that when these curtailments occur, if we do no deregulate, there will be a march on Washington and we are going to be blamed because people lost their jobs. What will happen next year and the next year and the next year and the next year?

And from now on, no matter what this Congress does, if we have a winter like last winter, or one close to it, there will be curtailments, economic dislocations, but nobody is going to remember the promises.

They are not promising anything. They are not promising to solve all these problems. Do we hear anybody saying, "You'll have all the gas you want next winter, or the following winter"?

Of course we have not, because they cannot. They are just saying, "Deregulate, deregulate."

They say, "If you don't give us more money, which would you rather have, freeze to death because the price is too low and there is not any gas, or would you rather have gas?"

The sequel to that story is that we can freeze to death because there is not any or we can freeze to death because it is too high to buy. I do not think it makes any difference as long as we freeze to death.

Mr. HART. Will the Senator yield?

Mr. BUMPERS. I yield to the Senator from Colorado.

Mr. HART. The Senator from Arkansas has talked about scare tactics. I think he is absolutely right.

But what interests and even amazes the Senator from Colorado is the ability of the petroleum industry to scare itself.

We have heard a lot around here about competition and how many companies are producing oil, and that is all right. There are 9,000 or 10,000 companies. About a dozen or a dozen and a half of them control that through a whole variety of ways that some of us have tried to point out through the years.

But I think I have seen it demonstrated in the last couple of weeks around here more than I ever have before.

The dominant elements of this industry have terrified the other elements. The 9,000 or 9,500 or almost 10,000 companies are terrified of doing anything separate from those top dozen or two dozen companies. I have documentation of that which I will share with the Senate at the appropriate time.

I have an amendment here that I have not had a chance to bring up yet, but I hope I will, which would do what those 9,000 or 10,000 companies say they want. It takes them off the price controls, the regulated price, for those companies, those so-called independents. That is what they have told me for 2 years, they wanted, since I have been in the Senate.

Do you think I can get them to support that? No. Do you know why? Because the major elements of the industry that would continue to be regulated have terrified them.

There is a bill that takes the price controls off for 99 percent of the companies in the industry or more. Do you think they will support it? No. They are terrified. They are terrified of the majors and the misinformation that has flowed out of this town by the majors and by their trade associations. They have mischaracterized it and lied about it. They say, "If you buy this bill, it is going to ruin the industry. It is going to destroy the relationships we have had over the years." It has terrified them.

They do not have the access to the Senate of the United States that the major oil companies have. The major oil companies wave them at us like this: "There is competition in our industry. Look at the independents."

If you give the independents what they have been asking for, do you think they will take it? They run for cover.

The Senator from Arkansas has rightly talked about scare ta tics. But I think we should talk about the scare tactics going on inside the so-called free enterprise petroleum industry in this country.

Mr. BUMPERS. I thank the Senator from Colorado.

Mr. President, I should like to make two other points, and then I will sit down.

Sometimes, when I become a little overexuberant in my oratory, it would be easy to conclude that I am antibusiness, anti oil company. I was a small businessman. One of the reasons I sold my business was not that it was losing money but because I could see the handwriting on the wall. It is going to be difficult to compete with Sears and Walmart and the other big chains. Yet, I honestly believe that the people of this ccuntry are enjoying the benefits of competition and the free enterprise system so far as retailing in this country is concerned.

However, when you start comparing that kind of competition with the kind of free enterprise that the Senator from Alaska alluded to a minute ago, you are talking about apples and oranges. He said that he wanted us to get into the free enterprise system with natural gas and oil, and the Senator from Colorado asked the salient, cogent question: Do you feel that the price of oil in this country has been set by the free enterprise system? He honestly answered "No", of course it has not.

We all know why we are in this pickle right now. It is because of that embargo in 1973 and the OPEC cartel, the most insidious economic unit the world has ever known. Not that particular one—any cartel.

The oil companies have enjoyed the benefits of that, and they want the Arabs to be able to set the price of oil in this country, regardless of what kind of return it gives, regardless of what it does to the American taxpayer and the American consumer.

What do you think would happen if Mexico or Canada raised the price of gas to us to $10 an Mcf? I promise you that the arguments still would be made over and over that we should be getting $10 an Mcf for American gas, even though nobody could afford to buy it.

Of course, the free enterprise system is not at work in this field. Nobody suggests that it is. It is a patronizing, deprecating argument of people who have the slightest knowledge. For anybody who ever had college economics 103A, it is an insult to their intelligence.

There was some mention a little earlier about how in the world we ever are going to get the price of synthetic natural gas up. The Jackson proposal and the Burton proposal do not control synthetic natural gas. It is deregulated.

Exxon, to their eternal credit, have a great program going for making oil from coal, and I am glad to know that ERDA is going to assist them with it. I think that is fine. When you have Government and industry working on research and development for the benefit of the people of this country, who could deplore that? I do not.

All I am saying is that if we are going to pay Mexico $2.50 or $3.50 for gas, or pay Algeria $3.50 for liquid natural gas, and there is no control on SNG under this bill; is that not enough incentive? I certainly hope so.

All the synthetic natural gas we can produce in this country at $3 or $4, or whatever, will just be that much less we will have to buy from Canada, Mexico, Algeria, Indonesia, or wherever.

All I am saying, Mr. President, is this: For God's sake, let us be sensible and let us talk about this matter in sensible, intelligent, and objective terms and call it and see it for what it is.

Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes remaining.

Mr. BUMPERS. And how much time does the other side have?

The PRESIDING OFFICER. The other side has 15 minutes remaining.

Mr. BUMPERS. Mr. President, I do not see anybody on this side of the aisle to yield to, and I am about out of steam, so I suggest the absence of a quorum.

The PRESIDING OFFICER. To be charged to whose time?

Mr. BUMPERS. I ask unanimous consent that, unless there are speakers on the other side who wish to be heard, it be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WALLOP. I yield.

RECESS UNTIL 1:45 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the time expires for debate under the arrangements by which we have been moving forward all morning, there then be a 30-minute recess.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that no Senator wishes to get recognition for debate at the moment.

I ask unanimous consent, therefore, that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 12:49 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

RECESS UNTIL 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 o'clock p.m. today.

There being no objection, the Senate, at 1:45 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

10-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 3:04 p.m., recessed until 3.14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

Mr. ZORINSKY. Mr. President, I sug the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ZORINSKY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO CALL OF MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the majority leader.

There being no objection, the Senate, at 3:54 p.m., recessed subject to the call of the majority leader. The Senate reassembled at 4:54 p.m. when called to order by the Presiding Officer (Mr. ZORINSKY).

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not seek the floor at this time.

AUTHORIZATION FOR GOVERNMENTAL AFFAIRS COMMITTEE TO FILE REPORT BY NOVEMBER 1, 1977

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have until November 1, 1977, to report the results of its review together with a recommendation on the desirability of establishing rules

and regulations for the establishment and maintenance of blind trusts under section 311 of Senate Resolution 1959.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, during the time we were in one of our numerous recesses today, I am told by my staff that the President of the United States went on television and castigated those people in this Congress and in this Senate who are in favor of deregulation of wellhead prices. He stated, in effect, that this building was creeping with oil lobbyists; that those of us who favored deregulation were under the control of the oil lobby.

Mr. President, I have been used to some dirty politics in my life. In fact, some people, if they stay in this business long enough, seem to think that is the only way to run it. I know both the distinguished Senators from Georgia. I know them to be perfect gentlemen. I would suspect that in Georgia the tendency is to raise gentlemen in the jobs calling for politicians. But I am beginning to have my doubts, Mr. President, when the President of the United States goes on national television to deride those of us who favor deregulation. This is dirty politics and I resent it.

Mr. President, in the campaign, the then candidate for election said to the Governor of Oklahoma, Gov. David Boren, and I am reading from a letter dated October 19, 1976:

> First, I will work with the Congress, as the Ford Administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital.

I do not know who is double-crossing who, Candidate Carter double-crossing President Carter or President Carter double-crossing Candidate Carter.

Mr. President, we do not have an oil well in Arizona. I wish we did. We do not have a gas well in Arizona. I wish we did. We have a little helium gas, but it leaks out all by itself and does not need some politician standing around telling it whether to go up or down.

Mr. President, I personally resent the attack by the President on my honesty, and I think I represent many people in this body. I would not know an oil lobbyist if I saw one. I do not know many people in the oil industry. I happen to have been a businessman during a large part of my life, and I know a little bit about the marketplace, and I know a little bit about this free enterprise system, which is a lot more than some of my colleagues can say.

So when I say that I am for the deregulation of natural gas, it stems from years of experience in the business field that says the only way you can get cheaper prices to the American people, the only way you can get production of anything in quantity to the American people, is to allow the free marketplace an opportunity to operate.

I have heard the oil industry castigated on this floor today. I have heard of the tremendous profits they make, that we ought to vertically divest the oil companies and horizontally divest.

Let me say, Mr. President, in this country whether we like it or not when you get successful you get big. We have made over 2,500 different kinds of automobiles in this country and we only have four or five automobile companies left.

All I am asking my President to do is to play fair. I want to play fair with him, but I do not want my President going on the tube making dishonest statements about Members of this Senate.

Mr. ROBERT C. BYRD. Mr. President, I did not hear what the President said, nor have I been able to watch the press conference on television. I have been very busy for the last 5 hours trying to talk with Members on both sides of the aisle, and on all sides of this question, to see if we could reach some kind of agreement.

I do not know that the President castigated the Members of the Senate. I would suggest to my friend, the Senator from Arizona, that if he knows this to be a fact that he read the transcript into the RECORD. I do not say this, Mr. President, in a spirit other than that of seeking the truth.

For the President to say something about the oil interests, gas interests, coal interests, or whatever it may be, is one thing. But I would be surprised if the President castigated Members of the Senate. I would be shocked and I do not want to believe that the President has played "dirty politics" by "castigating" Members of the Senate until I see it in writing. I want to see the transcript of where he said this. I want proof of it. When I see that proof, then there will be plenty of time to react to that. But simply to get up on the floor and say that I have been informed that he did this or that, I am not quite willing to say that the President has played "dirty politics."

Now, if the Senator from Arizona has the transcript and that is true, then let us read what the President said. Let us lay it all out here precisely as the President said it and let all Members see it and read it, and they can react in their own way by silence or they can say whatever they wish.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. But I personally think that when we charge the President of the United States with playing dirty politics, let us see the proof.

Yes, I yield.

The PRESIDING OFFICER. Does the Senator yield on his time?

Mr. GOLDWATER. This is not the first time, I might say to the majority leader. I have just been on the phone, and I am trying to get a transcript of what he said this afternoon. I said it was reported to me, but I heard him before it was reported to me.

I am getting a little tired of it. If I am wrong, I will be glad to apologize.

Mr. ROBERT C. BYRD. Mr. President, there is no bigger man in the Senate, as far as principle and integrity are concerned, than the Senator from Arizona. There is no man in the Senate who is more willing to stand up and say he is wrong if he is wrong than is the man from Arizona. I have the utmost respect for the Senator from Arizona.

I also believe that we ought to see in writing—I want to see in writing the transcript, because I did not hear the news conference. I have no way of knowing what the President said. But I am not going to be willing, myself—Mr. President, I ask unanimous consent that this colloquy not be charged to anybody.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I am not willing, at this point, to stand silent when the President of the United States is charged with playing dirty politics and castigating the Members of the Senate without something as proof of it.

Mr. President, I suggest the absence of a quorum, because I think that Members ought to know that we are back in session and they have no way of knowing it.

The PRESIDING OFFICER. Out of whose time?

Mr. ROBERT C. BYRD. There is no time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

Mr. METZENBAUM. Objection. I object only because I did not hear what the unanimous consent was.

Mr. ROBERT C. BYRD. I asked unanimous consent to proceed for 1 minute.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that certain Senators have gone to the desk to inquire as to how much time I have left under the cloture rule.

Now, I have been told this has occurred two or three times. I was told it yesterday, and I am pretty sure I now have no time left. But I am willing to abide by the cloture rule.

The PRESIDING OFFICER. The Senator has 6 minutes remaining. It was yielded to him by the Senator from New Hampshire.

Mr. ROBERT C. BYRD. But that 6 minutes is gone, I took that last night.

So what I want to say to those Senators is, you do not need to go to the desk and inquire as to how much time I have left, just ask me. I do not have any time left and I am willing to abide by the cloture rule.

I am a little bit surprised, I must say, a little amused, as fair as I have been to Members on both sides of the aisle. Time after time I have stood up here and I have stood up for the minority—their right to be recognized when they were not recognized.

I have bent over backwards to be absolutely fair with every Senator, and with both sides, and I am really amused when I am told that Senator So-and-so and Senator So-and-so and Senator So-and-so came to the desk and asked how much time the majority leader has left.

Now, Mr. President, I do not have any time left and the only way I can get any time is by unanimous consent under the cloture rule, and I am prefectly willing to abide by the cloture rule because I expect everybody else to do so.

So there it is. Do not go to the desk any more and ask whether the majority leader has any time left. I do not, and that is all right with me.

I talked too long when I had a little time; else I probably would have had some time now.

Enough said on that subject.

Mr. MATHIAS. Will the Senator yield on that subject?

Mr. ROBERT C. BYRD. Yes.

Mr. MATHIAS. I just want to say to the majority leader that I have observed that he has been very careful in protecting the rights of all Members, and, as far as I am personally concerned, if there is a way under the rules that I can yield some of the time that I have under the cloture procedure to the majority leader, I would be glad to do so.

Mr. ROBERT C. BYRD. The Senator has always been more than fair, and I appreciate it. This is typical of him. I appreciate it more than I can say.

I wonder if the Senator who for 16 years was an outstanding majority leader, and whose fairness and integrity were never questioned, if he were majority leader in my place today, I wonder if those same Senators would have gone to the desk to inquire, "How much time does Senator Mansfield have left?"

Now, what else can I do than what I have done to bend over backwards to protect the rights of the minority, time after time after time? And I expect to continue to do it when I think their rights are not being observed.

The other night, I put the Vice President of the United States in a very embarrassing position. I did not intend to embarrass him. I was upset because I thought that the minority leader had not had his rights observed under the customs and traditions and practices of this Senate. After I talked to the Vice President, he said, "Well, I had recognized Mr. McGovern and I was in a tough spot. I didn't know how to derecognize him after I had recognized him."

So I said, "Well, this is what I would suggest in a future instance."

Mr. LONG. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Just a second.

The more I thought about it, I thought I had the Vice President at a disadvantage, and after I went home that night, I called him and I said, "I want to tell you how sorry I am for what happened, and I didn't want to go to bed tonight until I had called you to say so. The next time a similar situation occurs, if it ever does, I will ask unanimous consent that the Vice President of the United States be allowed to address the Senate so that he can defend his position."

I want to be absolutely fair with every individual, even sometimes to my own disadvantage.

The PRESIDING OFFICER. The majority leader is out of order right now. The Presiding Officer has no choice except to tell the majority leader to sit down or have some other Senator yield to him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 47 minutes remaining.

Mr. BAKER. Mr. President, is it in order to yield all that 47 minutes to the majority leader?

The PRESIDING OFFICER. It takes unanimous consent to do it.

Mr. BAKER. Mr. President, I ask unanimous consent——

Mr. ROBERT C. BYRD. I would object to that.

Mr. BAKER. Well, I am not going to do that.

Mr. President, I ask unanimous consent that I can yield to the majority leader so he can continue with his presentation to the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I have finished, and I compliment the Chair on enforcing the rules under cloture.

Mr. GOLDWATER. Will the Senator yield?

Mr. BAKER. If I could for just a minute—yes.

Mr. GOLDWATER. I ask unanimous consent that the colloquy that took place between the majority leader and myself be all charged to my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his generosity.

Mr. BAKER. Mr. President, I was not here at the beginning of this colloquy, this presentation, so I missed the opening adjectives and verbs, and I do not know how it started.

Let me simply say, on the basis of my incomplete understanding of it so far, that I gather that some inquiry is made from time to time about how much time the majority leader has remaining under his hour allocated under rule XXII.

Speaking for every member of the minority, I am sure that inquiry, if it was made, was only to ascertain that there was still ample time for us to hear the good advice the majority leader gives. [Laughter.]

I am sure that it was in no way calculated to reduce or diminish his opportunity to conduct the operations of the Senate.

The majority leader is right: He always has been jealous of the prerogatives of the minority and has guarded them as if he were guarding his own life, and we are grateful for that. I reciprocate in kind: I will never, as long as I have the opportunity to speak and act, permit anything to occur that will impair his opportunity to present his views to the Senate and arrange and schedule the activities of the Senate.

From time to time, we necessarily are in conflict. Frequently, we are not, and sometimes the joint leadership can produce a good result. We try to achieve that goal, with varying success.

Mr. President, there never has been a man I have dealt with in public life who has been more fair, more devoted to the concept of equity, or with whom I have found it easier to work. I admire him and value the opportunity to work with him.

Mr. HANSEN. Mr. President, speaking on my own time, let me say that although no one else may admit it, I was the one who made the inquiry of the Parliamentarian as to how much time the distinguished majority leader, my very dear friend, had.

I also made the statement that no one would ever hear a word from me. The reason I made this inquiry was that other people had asked me about it.

It seems to me that if we are going to conduct the business of the Senate in an orderly fashion, it is absolutely imperative that the majority leader and minority leader each have an opportunity, whenever they choose to avail themselves of it, to speak on any subject. I find no reason to say that that privilege—if it is a privilege; I do not think it should be—has been abused.

It probably could be said of me that it takes me much longer to make a point than it would take others in this Chamber. But that is not the point.

Obviously, the majority leader and the minority leader, as the two persons in whom we have reposed confidence, to whom we have given authority, must have the opportunity and the ability to respond to questions, to point out situations that may occur. I hope that if we get around at some later date to revising the rules of the Senate, recognition will be given to the essentiality of their being able to speak on any subject under cloture, with no restrictions on time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wyoming yield me 1 minute?

Mr. HANSEN. I yield whatever time I may have remaining.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized for 1 minute.

Mr. ROBERT C. BYRD. Mr. President, I merely rise to thank the distinguished Senator from Wyoming and to say that it takes a big, big man, in my judgment,

to say what he has said. I have always considered him to be fair and scrupulous in his dealings, a man of integrity, a man who has the courage to stand up for what he believes in, and a man who affords the same privilege to those who differ with him.

Mr. President, I will abide by the cloture rule. I do not think I will have any difficulty getting time, but I want it to be yielded to me only by unanimous consent.

Mr. MATSUNAGA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATSUNAGA. Is it not proper, if I wish to do so now, so as to eliminate all questions as to how much time the distinguished majority leader may have, to yield by unanimous consent 30 minutes of my time, to be used at any time the majority leader sees fit?

The PRESIDING OFFICER. The Senator from Hawaii may do so, but only by unanimous consent.

Mr. MATSUNAGA. Then, I ask unanimous consent that I may yield 30 minutes of my time to the majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may yield 30 minutes of my time to the distinguished minority leader, Mr. Baker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, for the record, I should like to make the point that we have sought under cloture not to yield time to other Senators or to have other Senators yield to other Senators so that the filibuster may be carried on in that method. That, obviously, is not the purpose of this yielding.

Whatever precedent has been set by this action, we should note for the record the fact that this only related to transferring time to the majority leader and the minority leader for the orderly conduct of the Senate business and to give them the opportunity to provide the very fine leadership both these leaders provide to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii for his thoughtfulness and generosity to me, and I thank the distinguished Senator from Nebraska for his thoughtfulness and generosity to the minority leader, because I think that was only fair, also.

Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion to recommit, with instructions.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Is there any rule of the Senate that requires the Parliamentarian or others at the desk to log requests that have been made of them and report to people who are involved in those requests?

Mr. ROBERT C. BYRD. Mr. President, that is a fair question.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. There is no rule.

Mr. McCLURE. I thank the Chair.

Mr. ROBERT C. BYRD. I will take 1 minute.

Let me say, on behalf of the Parliamentarian, that the people who told me were my own aides. I would expect them to tell me. I would be disappointed if they did not.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

Mr. BAKER. Mr. President, I do not wish to gain recognition if someone else has business to transact in this respect. I want to make sure, as I look around the Chamber, that we are present and here and know that we are about to take an important step, either by voice vote or rollcall vote.

There is a quorum called for, and I assume that all interested parties are here and speak for themselves.

Mr. LONG. Mr. President, will the Senator yield at that point? I want to make a brief statement.

Mr. BAKER. I yield.

Mr. LONG. I yield myself 5 minutes. Mr. President, I believe I shall vote against the motion for the simple reason that I do not want to be regarded as being committed to the course of action that the motion suggests.

If the motion is agreed to, Mr. President, it will be my intention to offer every one of these amendments that is at the desk, other than the Pearson-Bentsen amendment, before we come to a final vote on the Pearson-Bentsen proposal.

So far as I am concerned, I would be perfectly willing to agree as of now that the Senate will have its choice between the Robert C. Byrd proposal and the Pearson-Bentsen proposal, and that the Senate can do whatever it wants to do about that.

But I am not willing, when I favor one proposal over another proposal, to agree to a situation whereby if the proposal I favor should be agreed to I will then be subject to the kind of torture this Senate has gone through during the course of this filibuster; but, on the other hand, if the other side prevails, I am not expected to filibuster.

I am willing to play by any rulebook someone wants to hand me, provided it is reciprocal, provided I have the same rights as the other fellow.

In days gone by, Mr. President, I proved my ability in a filibuster, and I think I have the same ability as the other fellow in a filibuster, and I would say if the Robert C. Byrd motion carries, we then ought to arrive at a parliamentary situation where we agree that both sides will leave their pistols outside the room so that we will not be in a situation where those who vote on my side have a pistol to their temples, if the side I agree with should prevail, that they will be pushed through more nights of around-the-clock voting every 15 minutes on rollcall votes, but the other side will not.

In other words, I can play it either way. I am somewhat like that fellow who tried to get a job down at Dry Prong, La., teaching geography. He went before the school board and they said, "This school board is equally divided. Half of us think the Earth is round and half think the Earth is flat. We want to know what is your opinion." He said, "Gentlemen, I came prepared to teach it either way."

[Laughter.]

So I want to arrive at a parliamentary situation where both sides have the same chance, the same advantage, and before we arrive at a final vote between the two contending positions, I want to arrive at a parliamentary situation where either both sides have the right to filibuster or neither has the right to filibuster.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield to the Senator for a question.

Mr. HART. I understand the proposal made by the Senator from Louisiana to have certain logic and fairness. Unfortunately, there are some of us here who do not consider themselves on either side who have their own proposals.

I hope in his judgment and wisdom if he is prepared to do that he would protect some of us who would like to see some of our amendments brought up and considered on their merits, amendments by those who are not part of the filibuster or the antifilibuster.

Mr. LONG. I am willing to play the Hart game by the Hart rule, and the Metzenbaum game by the Metzenbaum rule. I do not want to be in the situation of a fellow who is out trying to fight by the Marquis of Queensbury rules while the other fellow is fighting by the rule of tooth and nail.

It just seems to me we ought to have the same chance, and we ought to all be on the same footing. I just think it would be unwise and, frankly, I do not like to feel that those represented by the Senator from Louisiana are represented by persons of less capability or dedication than those represented by Senators from other States.

That being the case, if the motion carries, and I assume it will, I will seek to work out an agreement with the Senator from Colorado whereby he gets his chance to have his vote on his proposition and the other fellow gets a chance to have a vote on his proposition. But in any event I would like to arrive at a situation where if the other guy is going to be a poor loser, I want to be a poor loser.

[Laughter.]

If he wants to be a good loser I am willing to be a good loser, but I do not want to, having heard what a decent guy the majority leader is, and how poorly he is appreciated—I do not like to be that way. A filibuster is by definition an act of piracy, and I do not want to be a gentleman doing business with pirates. So if I am going to trade with pirates I want to be a pirate, too.

So I want to make it clear that my intentions are that we all play by the

same rulebook after this vote is over, and I want the majority leader to understand that.

I will yield to him for such time as he requires. [Laughter.]

Mr. ROBERT C. BYRD. I heard what the Senator said, and I know when I am put between the rock and the hard place.

Mr. BAKER. Mr. President, last night I indicated that I thought the majority leader's parliamentary device for bringing us closer to a resolution of this problem had great merit, and I think the parliamentary technique does, and I think so today.

I would like to say when the motion to recommit with instructions is presented for a vote I intend to vote for it. There are some on this side who will vote against it, and I understand their point of view.

Mr. President, I also share a desire to see this matter treated fairly. I would hope then, Mr. President, that without any further extensive debate we could proceed to a vote on this motion.

I, for my part, would just as soon see it disposed of without the necessity of a rollcall vote. I do not intend to ask for the yeas and the nays, and I am ready at this time to proceed.

Mr. JACKSON. Mr. President, will the Senator yield? I think we can dispose of this matter on a simple voice vote, and I would hope we could proceed without delay. There will be ample opportunity, Mr. President, for all points of view to be expressed under the rules in connection wtih the various amendments and substitutes that will be offered. I would hope we would go right to a vote.

Mr. ROBERT C. BYRD. Mr. President, if I may be recognized, in fairness to other Senators, I think we ought to put out hot lines saying that a vote is going to occur on the motion and is about to occur by voice vote, and we will put in a short quorum call, and if any Senator wants a rollcall vote, and will notify the cloakrooms, we will get it, otherwise we will call for a voice vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has the minority leader had any word from any Senator of his side requesting a rollcall?

Mr. BAKER. I have no requests on this side for a rollcall vote.

Mr. ROBERT C. BYRD. I am not aware of any indication from our cloakroom that we have had any requests for a rollcall vote. Of course, this does not deprive any Member who is here from yet asking for one if he wishes to do so before the Chair announces the results of the voice vote.

VOTE ON MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit the bill with instructions to report forthwith.

[Putting the question.]

The ayes appear to have it.

The ayes have it.

The motion was agreed to.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion to recommit the bill with instructions was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I report the bill back to the Senate forthwith as instructed by the motion just adopted by the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) reports the bill back to the Senate as instructed by the motion of Mr. BYRD of West Virginia.

AMENDMENT NO. 1073

Mr. LONG. Mr. President, I call up amendment No. 1073.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1073.

On page 11, line 1, strike "annually" and insert "biannually".

Mr. LONG. Mr. President, it does not make the slightest bit of difference whether the Senate votes yea or nay. I just want the Senate to vote on it.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

Mr. CRANSTON. Mr. President, if the Senator will withhold, why do we need to go through the yeas and nays at this point?

Mr. LONG. Mr. President, as far as I am concerned we can have the yeas and nays on all of them.

Mr. ABOUREZK. OK.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Hold on, Mr. President, I want to make this clear. We can have the yeas and nays on every one of them. If Senators want to take that much time, it is perfectly all right with me. Let us vote.

Mr. JACKSON. What is this?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, if I am wrong I hope someone will correct me, but I think the Senator from Louisiana announced that at some point he is going to call up the Bentsen-Pearson deregulation amendment and attempt to attach it on to the clean bill that was just reported back from the committee. If he wants to go ahead and call up the several hundred amendments that are printed at the desk, that is fine with me. I think we should go through that if he wants to. However, I suggest we attempt to work our way out of this parliamentary situation that we were in by the majority leader's recommittal motion to bring back out a clean bill, but if he wants some sort of a vote on the deregulation amendment I think we should do it now.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ABOUREZK. I do not yield yet. I will when I am through here.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. ABOUREZK. Mr. President, as I started to say, it is fine with me if he wants to do it. He can just go on and on and on.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will yield in a minute.

If we are going to come to some kind of a final decision on this, I suggest that he call up the deregulation amendment now and let us get a vote on it and see what happens.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana is not in order. The amendment is not in order. It is imperfectly drafted.

Mr. LONG. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The vote recurs on the appeal of the ruling of the Chair.

[Putting the question.]

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. JACKSON. Wait a minute. Wait a minute.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, a quorum is here. We established that precedent twice already.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, we established that already twice that when a quorum is here the Senator is not entitled to have that.

The PRESIDING OFFICER. No quorum has been established.

The clerk will call the roll.

Mr. LONG. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. [Putting the question.]

Mr. ABOUREZK. Mr. President, a quorum is in progress. That is out of order.

Mr. LONG. No one answered.

The PRESIDING OFFICER. The first name had not been called and responded to, so a quorum was not called.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, I appeal

from the ruling of the Chair and I ask the Chair to put the question.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The question is on agreeing to the appeal. There has not been a response to a call for a quorum. The question is on the appeal.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, point of order. One cannot suggest the absence of a quorum when there is clearly a quorum present. That has been decided twice by the Senate. The Chair can rule however he wishes to. In any event, I suppose, there will be an appeal.

Mr. CHILES. Mr. President, if the Senator will yield, I understand the point of order is that the request for a quorum is a dilatory motion.

Mr. LONG. That is my point.

The PRESIDING OFFICER. Under the precedents of the Senate the Chair has no right to count a quorum to ascertain the presence of a quorum.

Mr. LONG. Mr. President, I make the point of order.

QUORUM CALL

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. I make the point of order that a quorum is clearly present, which there is, and this has been voted on before.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 47 Leg.]

Abourezk	Hansen	Melcher
Allen	Hart	Metzenbaum
Baker	Hatfield	Moynihan
Bartlett	Hathaway	Nelson
Bellmon	Hayakawa	Packwood
Bentsen	Heinz	Pearson
Burdick	Huddleston	Proxmire
Byrd, Harry F., Jr.	Inouye	Ribicoff
	Jackson	Roth
Byrd, Robert C.	Javits	Schmitt
Case	Johnston	Stennis
Chiles	Kennedy	Stevens
Cranston	Laxalt	Talmadge
Curtis	Leahy	Tower
DeConcini	Long	Wallop
Domenici	Mathias	Young
Garn	Matsunaga	
Goldwater	McClure	

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. DANFORTH) the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the appeal from the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, there is obviously not a quorum present. I suggest the absence of a quorum.

The PRESIDING OFFICER. There is a quorum. The clerk has just ascertained the presence of a quorum. The question is on the appeal from the ruling of the Chair by the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, has there been intervening business between the ascertainment of a quorum and the request for a quorum call?

The PRESIDING OFFICER. There has been—the denial of the yeas and nays.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. CHILES. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Florida will state his point of order.

Mr. CHILES. The request for a quorum call is a dilatory motion.

The PRESIDING OFFICER. The Senator from Florida is correct. The point of order that a quorum is not present is a dilatory proceeding at this point. We have just ascertained the presence of a quorum.

Mr. LONG. Mr. President, I want to make it clear that I do not disagree at all with the ruling of the Chair that this amendment is not in order, but I appeal because I want to dispose of the amendment. I hope the Senate will vote my appeal down.

The PRESIDING OFFICER. The question is on the appeal from the ruling of the Chair. [Putting the question.] The "nays" appear to have it.

The decision of the Chair stands as the judgment of the Senate.

Mr. LONG. Mr. President, I thank the Chair.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. I withdraw my inquiry at this point.

AMENDMENT NO. 1116

Mr. LONG. Mr. President, I call up amendment No. 1116.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1116.

Mr. LONG read as follows:

On page 10, line 1, strike "1982" and insert "1983".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The call of the roll was resumed and concluded and the following Senators entered the Chamber and answered to their names:

[Quorum No. 48 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Hansen	Moynihan
Baker	Hatch	Muskie
Bartlett	Hatfield	Nunn
Bayh	Hathaway	Packwood
Bellmon	Hayakawa	Pearson
Bentsen	Heinz	Proxmire
Burdick	Inouye	Ribicoff
Byrd, Harry F., Jr.	Jackson	Roth
	Javits	Sparkman
Case	Laxalt	Stennis
Chiles	Leahy	Stevens
Cranston	Long	Talmadge
Curtis	Mathias	Tower
DeConcini	Matsunaga	Wallop
Domenici	McClure	Young
Durkin	McIntyre	
Ford	Melcher	

The PRESIDING OFFICER. A quorum is present.

The amendment is not in order.

Mr. LONG. I appeal the ruling of the Chair.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the appeal of ruling of the Chair.

The PRESIDING OFFICER. The yeas and nays are requested on the appeal of the ruling of the Chair that the amendment was not in order. Is there a sufficient second? There is not a sufficient second.

The question is, Is the appeal well taken——

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. There is obviously not a quorum on the floor, Mr. President. I suggest the absence of a quorum.

Mr. CRANSTON. Mr. President, it would just establish that there is a quorum.

The PRESIDING OFFICER. The Chair will rule that the point of the Senator from South Dakota is not well taken. It is a dilatory motion. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

(Putting the question.)

The ayes appear to have it. The ayes have it.

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, that disposes of amendment 1116, is that correct?

The PRESIDING OFFICER. The appeal was sustained. Therefore, the amendment is in order. That was established by the Senate vote.

Mr. LONG. I do not think the appeal was sustained. The question should be whether the Chair should be upheld, but I want to vote with the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is correct. The Chair was in error. The Chair overrules the Chair. The Senator from Louisiana is correct. The amendment is not in order.

Mr. LONG. Then it has been disposed of.

AMENDMENT NO. 1083

Mr. LONG. Now, Mr. President, I call up amendment No. 1087.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1087.

The amendment is as follows:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1988".

The PRESIDING OFFICER. The Chair will state the amendment is not in order.

Mr. LONG. I appeal the ruling of the Chair.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, that is dilatory. A quorum is present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentee Senators.

The call of the roll was resumed and the following Senators entered the Chamber and answered to their names.

[Quorum No. 49 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Glenn	Morgan
Anderson	Goldwater	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stennis
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
DeConcini	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ford	Melcher	Zorinsky

The PRESIDING OFFICER (Mr. MATSUNAGA). A quorum is present.

The question is on the ruling of the Chair that the pending amendment is not in order.

Mr. ABOUREZK and Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on that appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BAYH. A parliamentary inquiry, Mr. President. I am sorry to inconvenience the Chair, but how many Senators have to be present under the present situation in order to get a rollcall vote?

The PRESIDING OFFICER. Eleven will have to second the request for a rollcall.

Mr. BAYH. For the edification of the Senator from Indiana, how many were present this last time?

The PRESIDING OFFICER. Nine had their hands up.

Mr. METZENBAUM. I think the Chair missed a couple on that side.

Mr. ABOUREZK. May we ask for another count?

The PRESIDING OFFICER. If the request is made, the Chair will count again.

Mr. ABOUREZK. I renew the request.

Mr. STEVENS and Mr. BARTLETT addressed the Chair.

Mr. LONG. Mr. President, I say it is dilatory.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS addressed the Chair.

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, I was under the impression that while 11 votes were sufficient to get the yeas and nays on the first vote of the day, thereafter, it took 20 percent of those voting on the last vote.

The PRESIDING OFFICER. There was no vote.

Mr. METZENBAUM. Regular order.

Mr. ABOUREZK. Regular order.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CULVER. Regular order.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Under the procedure that the majority leader has just brought about, the bill has been reported back from committee and has been reprinted as a new bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The amendments that were at the desk at the time cloture was voted were amendments that were addressed to a bill with a different page and lineage as far as the content is concerned, is that correct?

The PRESIDING OFFICER. The Chair will state that it is not a bill, it is an amendment in the nature of a substitute, which has been recommitted to the committee and returned to the Senate.

Mr. STEVENS. Mr. President, is it not the prior precedent of this body that, in order to be considered, an amendment would have to be at the desk and would have to be in order as far as the matter before the Senate is concerned? That is, it would have to be an amendment which would be in order, addressed to the line and page of the text of the subject before the body.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I make the point of order that it is the duty of the Chair to determine whether or not the amendments that are before the desk at this time are, in fact, in order.

The PRESIDING OFFICER. Does the Senator mean en bloc?

Mr. STEVENS. No, I mean it is the duty of the Chair to examine each amendment presently before this body to determine, under the circumstances that we are now operating—with a new provision, a new bill in effect, although in the form of an amendment—that each of those amendments must be examined now to determine, assuming they were offered, whether those amendments would be in order, and to so rule.

The PRESIDING OFFICER. The amendments have no status until they have been called up, and, as the Senator well knows, amendments are called up and reported one at a time. At that time, the Chair will determine.

Mr. STEVENS. Mr. President, rule XXII says "No dilatory motion, or dilatory amendment, or amendment not germane shall be in order."

I again make the point of order that it

is the duty of the Chair to determine what amendments before the body would, in fact, be in order under rule XXII.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The Chair will respond to the Senator's parliamentary inquiry by saying that an anticipatory point of order is not in order.

Mr. STEVENS. I appeal the ruling of the Chair.

The PRESIDING OFFICER. There is an appeal pending.

Mr. ABOUREZK. Yeas and nays, Mr. President.

Mr. STEVENS. Mr. President, I state, as a point of order, that it is the duty of the Chair to determine whether or not an amendment before the body is in order after cloture has been invoked.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. STEVENS. I appeal the ruling of the Chair.

Mr. ABOUREZK and Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. Regular order has been called for and the regular order is the taking of the yeas and nays on a prior appeal. The clerk will call the role.

The legislative clerk called the roll.

Mr. FORD. Mr. President, may we have order? May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The clerk is unable to hear the response of Senators.

The Senate will be in order. Senators will please take their seats. Senators will please cease conversations. The Senate will be in order.

The clerk will proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—95

Abourezk	Curtis	Hollings
Allen	Danforth	Huddleston
Anderson	DeConcini	Inouye
Baker	Dole	Jackson
Bartlett	Domenici	Javits
Bayh	Durkin	Johnston
Bellmon	Eagleton	Kennedy
Bentsen	Eastland	Laxalt
Biden	Ford	Leahy
Brooke	Garn	Long
Bumpers	Glenn	Lugar
Burdick	Goldwater	Magnuson
Byrd, Harry F., Jr.	Gravel	Mathias
	Griffin	Matsunaga
Byrd, Robert C.	Hansen	McClure
Cannon	Hart	McGovern
Case	Haskell	McIntyre
Chafee	Hatch	Melcher
Chiles	Hatfield	Metzenbaum
Church	Hathaway	Morgan
Clark	Hayakawa	Moynihan
Cranston	Heinz	Muskie
Culver	Helms	Nelson
Nunn	Sarbanes	Stone
Packwood	Sasser	Talmadge
Pearson	Schmitt	Thurmond
Percy	Schweiker	Tower
Proxmire	Scott	Wallop
Randolph	Sparkman	Weicker
Ribicoff	Stennis	Williams
Riegle	Stevens	Young
Roth	Stevenson	Zorinsky

NAYS—0

NOT VOTING—5

Humphrey	Metcalf	Stafford
McClellan	Pell	

So, the ruling of the Chair was sustained as the judgment of the Senate.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. LONG obtained the floor.

Mr. LONG. It occurs to me that later on this evening or tomorrow or next week, some of us might not be happy about the way things are going and might decide that they would like to reoffer some of the amendments that have been voted down, but rather than offer them as amendments, simply offer them as a motion to recommit and report back. In my opinion, that might be ruled dilatory, but that would give a person the opportunity to anticipate 450 more rollcall votes. So, in order to find out whether I have that right or not, I am going to test it, and I am going to move that amendment No. 1073, which was ruled out of order, might achieve that same purpose by moving to recommit the bill as it stands and report it back with the substance of amendment 1073 in the bill. That would be to strike the word "annually" where it appears and insert the word "biannually."

I move to recommit it and report back forthwith.

The PRESIDING OFFICER. The Chair requests that the Senator from Louisiana put that motion in writing and send it to the desk.

Mr. LONG. I appeal from the ruling of the Chair. Here is the amendment. I am talking about amendment 1073. I move that the bill be recommitted, with instructions to report back forthwith, incorporating amendment 1073.

The PRESIDING OFFICER. The Chair calls the attention of the Senator to the fact that rule XXI provides that any motion shall be reduced to writing, if desired by the Presiding Officer or any other Senator. The Presiding Officer is going to withdraw his request that the motion be in writing, but the Presiding Officer was acting within the provisions of rule XXI when he made that request.

Mr. LONG. All I want to do is to make a request and find out if it is dilatory. I want to move that the bill be recommitted and that the bill be reported back forthwith, with amendment No. 1073 incorporated at the appropriate place in the bill.

Mr. ABOUREZK. I ask for the yeas and nays on the motion.

Mr. LONG. First, I would like to have a ruling on it.

The PRESIDING OFFICER. At this time, the Senator has made a motion. No point of order has been raised, so the Chair would put the motion—no one having raised the point of order.

Several Senators addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. HANSEN. Mr. President, I make a point of order.

The PRESIDING OFFICER. State the point of order.

Mr. GRAVEL. Mr. President, this motion is dilatory.

Mr. HANSEN. I make the point of order that the motion by the Senator from Louisiana is dilatory.

Mr. ALLEN. Mr. President, a point of order. The point of order against the motion, of course, is that you cannot do indirectly by this method what can be done by offering an amendment separately. It would be out of order for that reason.

The PRESIDING OFFICER. The point of order is well taken.

Mr. LONG. I appeal.

The PRESIDING OFFICER. The motion is out of order.

Mr. LONG. I appeal from the ruling of the Chair.

The PRESIDING OFFICER. The question occurs on the motion appealing the ruling of the Chair.

Mr. GRAVEL. I ask for the yeas and nays.

Mr. LONG. The question is, Shall the ruling of the Chair be sustained?

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question recurs: Shall the ruling of the Chair be sustained? (Putting the question.)

The PRESIDING OFFICER. The ruling of the Chair is sustained.

Mr. LONG. Mr. President, that saves us 450 rollcall votes. [Laughter.]

AMENDMENT NO. 1077

I now call up amendment No. 1077.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1077.

The PRESIDING OFFICER. That amendment already has been tabled, so it would not be in order to call it up at this time.

AMENDMENT NO. 1103

Mr. LONG. I call up amendment No. 1103.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1103:

On page 9, line 24, strike "January 1, 1977" and insert "the date of enactment".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair rules that that amendment is out of order and is not properly keyed to the bill.

Mr. LONG. I call up amendment——

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. A quorum is present.

The PRESIDING OFFICER. The Senator will state his point.

Mr. LONG. A quorum is present.

The PRESIDING OFFICER. The Chair will state the request for a quorum is dilatory.

Mr. METZENBAUM. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. METZENBAUM. Do not the rules provide there has been intervening business?

The PRESIDING OFFICER. The rules do provide that. But the rules also provide under rule XXII once you are in cloture a proper point being placed, dilatory motions will not be in order, and the Chair has ruled that is a dilatory motion.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. State the inquiry.

Mr. ABOUREZK. How does the Chair determine whether it is dilatory or not if he does not know, if he cannot observe the presence or absence of a quorum, and if he does not know there is the presence of a quorum how can it be dilatory?

The PRESIDING OFFICER (Mr. CHILES). It is kind of like the umpire. Until he calls it "it ain't nothing." After he calls it, that is what it is.

[Applause and laughter.]

The question is on the appeal of the ruling of the Chair.

Mr. ABOUREZK. Mr. President, a further parliamentary inquiry. Does that mean it is always in the judgment of the Chair as to whether or not a quorum is present or a motion is dilatory?

The PRESIDING OFFICER. No; it means that under rule XXII the Chair has the right to rule as to whether motions are dilatory or not.

Mr. ABOUREZK. I am curious to know, Mr. President, under rule XXII, under a cloture situation, if all quorum requests are dilatory or are some of them dilatory, and which one does the——

The PRESIDING OFFICER. Only dilatory quorum requests are dilatory.

Mr. ABOUREZK. What is dilatory?

[Laughter.]

The PRESIDING OFFICER. I wonder if the Senator is aware that the time of the parliamentary inquiries is being charged to him on his time?

Mr. ABOUREZK. Yes. I am trying to determine from the Chair if we are seeking the presence of a quorum to do business here, how can we do business when there is not a quorum obviously in this Chamber? How can we do business, and how can the Chair continue to do business in the absence of a quorum?

The PRESIDING OFFICER. It seems to me that what the Senator is saying is because he cannot get the yeas and nays, there is not a quorum present.

Mr. ABOUREZK. The Senator did not say that. The Senator said it is obvious the Chair cannot observe it according to the rules. So, therefore, how does he know that a quorum is present? The only way to determine it is to call the roll.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The question is whether the motion is dilatory or not, and that is within the judgment of the Chair. The Chair has rendered that decision.

Mr. LONG. Mr. President, the Senate has twice in the course of this debate voted that with a quorum present it is dilatory to suggest the absence of a quorum, and we have a quorum present.

The PRESIDING OFFICER. The appeal of the Chair is not debatable. The question recurs on the appeal of the ruling of the Chair, the previous appeal from the ruling of the Chair.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Should the appeal from the ruling of the Chair be sustained. Is there a sufficient second? There is not a sufficient second. (Putting the question.)

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HART. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HART. The Senator from Louisiana raised a point of order, I believe, or a parliamentary inquiry earlier about amendments that have already been offered.

I would like the Chair to restate the Chair's ruling on that question or that point of order.

The PRESIDING OFFICER. The ruling of the Chair was that amendments that had previously been disposed of could not be placed as an instruction to the committee to report back forthwith with that amendment in it.

Mr. HART. A further parliamentary inquiry. The ruling of the Chair, of course, does not affect any amendments that have not been disposed of; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1057

Mr. LONG. I call up amendment No. 1057.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1057:

On page 3, line 13, after the comma after the word "chemicals" insert the following: "animal feed,".

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. LONG. I believe that has already been voted on, Mr. President. That has already been agreed to.

All I want the Chair to do is to say that it is dilatory to offer an amendment that has already been offered.

Mr. HART. Parliamentary inquiry. I think the Chair has already ruled on that issue.

The PRESIDING OFFICER. There is another amendment, and we have to look at it.

Mr. LONG. It was disposed of.

The PRESIDING OFFICER. This amendment was in a modified form——

Mr. LONG. I want to get shut of it.

The PRESIDING OFFICER (continuing). Agreed to in another matter. It was not in its present form. But it is out of order because it is not properly tied to the bill.

AMENDMENT NO. 1113

Mr. LONG. Mr. President, I call up amendment No. 1113.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1113:

On page 4, line 6 after (8), strike through line 13 and insert the following: "'Old natural gas' means natural gas other than new natural gas.".

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1119

Mr. LONG. Mr. President, I call up my amendment No. 1119.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as folows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1119:

On page 10, line 3, strike everything after "(1)" through line 20, and insert the following: "This national ceiling shall not exceed the average per barrel domestic refiner cost of acquiring domestic crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaskan pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended) divided by a Btu conversion factor of 5,800,000 Btu's per barrel.".

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1074

Mr. LONG. I call up amendment No. 1074.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1074:

On page 11, strike lines 5 through 10.

The PRESIDING OFFICER. The amendment has already been disposed of.

AMENDMENT NO. 1299

Mr. METZENBAUM. Mr. President, I call up amendment No. 1299.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1299:

SEC. 8. (a) Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract shall be:

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977—

(A) the product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or,

(B) the current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG. That is dilatory.

The PRESIDING OFFICER. The point of order has been made that the suggestion for a quorum call is dilatory, and the Chair so rules.

Mr. METZENBAUM. Mr. President, will the Chair be good enough to explain how he arrives at the conclusions that most quorum calls are dilatory, and what are the precedents he uses? Merely saying because he is the umpire and because it is dilatory makes it dilatory is not in accordance with the precedents of the Senate.

The PRESIDING OFFICER. Under the rules of the Senate, under rule XXII any motion, amendment, or other matter that is put that is dilatory can be ruled out of order. The Chair makes that judgment.

SEVERAL SENATORS: Vote! Vote!

Mr. ABOUREZK. That is not the answer.

Mr. METZENBAUM. That is not the answer. On the Chair's time I would like to have the answer.

I yield the floor so the Chair may answer.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to table.

The motion was agreed to.

AMENDMENT NO. 1134

Mr. LONG. Mr. President, I call up amendment No. 1134.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1134.

The PRESIDING OFFICER. The amendment is out of order.

AMENDMENT NO. 1259

Mr. ABOUREZK. Mr. President, I call up amendment No. 1259 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1259.

The PRESIDING OFFICER. The amendment is out of order.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Will the Chair when ordering amendments out of order state the reasons why they are ruled out of order?

The PRESIDING OFFICER. The Chair will. The last amendment, amendment No. 1259, was out of order because it is not properly keyed to the bill.

Mr. HART. I thank the Chair.

Mr. LONG and Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. MUSKIE addressed the Chair.

AMENDMENT NO. 1102

Mr. LONG. Mr. President, I call up amendment No. 1102 and ask for its immediate consideration.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. The Chair said if an amendment is not "keyed." What does that mean? I have just moved in here and what I see in operation here is a steamroller of a kind I have not seen in the 19 years I have been in the Senate. I do not know what arrangement has been struck but I do not like the smell of it.

I wish to know what it means when the Chair rules this amendment is not "keyed." I wish to have that spelled out.

I have not used a second of my hour, since I have sat here for the last 3 days listening to this discussion. But what I see here is not my idea about the way the Senate should be operating. I am not going to be part of the steamroller, and I am not going to let it go over me without protesting and asking what does the Chair mean when the Chair says that the amendment is not "keyed" to something. I have heard the word "keyed" used in football. When somebody keys in on somebody in football it means somebody is being rolled over.

[Laughter.]

That is what I see going on here, and I would like the Chair to explain.

The PRESIDING OFFICER. The Chair rules that by saying "It is not keyed," amendment 1259 was drafted to amend 862. All the references, all the paragraphs are set with that amendment. We are now working on amendment No. 862 but with a different text as reported out of the committee pursuant to the motion to recommit which the Senate agreed to. So this amendment does not fit the new text, and, therefore, it is out of order.

Mr. MUSKIE. Mr. President, I remember very well a parliamentary inquiry put by the distinguished Senator from Alaska, Senator STEVENS, in which he raised this risk, that the motion of the Senator from West Virginia, the majority leader, might result in a different pagination, which would then make some amendments which had qualified under the cloture rule out of order. I want to know whether or not the answer that the Senator from Alaska got last night is no longer relevant and whether or not the conditions which the Senator from Alaska put as the basis of his question are now being used by the Chair to rule amendments out of order.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MUSKIE. Yes, I yield to my good friend from Alaska.

Mr. STEVENS. The Chair's ruling today is the same ruling stated last night: that if amendments are still keyed to the same pages and lines, they are in order. If they are not, then they are not in order. If the Senator will yield to me just 1 further minute without losing his right to the floor? The effect of changing amendment No. 862 so it incorporates the language of amendment No. 1022, as amended by amendment No. 1043, is to so change the pages and lines that I venture to say that 99 percent of the amendments at the desk could be ruled out of order.

Mr. MUSKIE. So if I understand the Senator what he is saying is that he did not get a straight answer last night.

Mr. STEVENS. No, I got a straight answer last night.

Mr. MUSKIE. But not applicable today.

Mr. STEVENS. No; the Senator checked amendments and checked with the desk and only one of them is still in order.

Mr. MUSKIE. I will say to the Chair, and I guess I will have to put it in the form of a parliamentary inquiry, if this is the kind of precedent we are going to set to operate, once cloture is imposed, I will never again vote for cloture. I have been against filibusters from the day I first came in this Senate. I do not like dilatory tactics, and I voted against some of those that I thought were dilatory in the course of this debate. But now what I see is a determined majority—and it is not a big majority—using one of the most astute parliamentarians that I have known in my experience in the Senate, Senator LONG, to convert this operation into a steamroller.

I heard it said last night that because the tabling motion was carried by 52 to 46, and I think it was my good friend from Texas, Senator TOWER, who said that, somehow those 52 had rights fixed in concrete which eliminated the rights of the 46 to have any influence on the final legislative result. That was an amazing concept of the legislative process. I did not rise to challenge it at that point, but the Senate is an institution where one Senator has a right to influence the final legislative results.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. May we have order?

Mr. MUSKIE. I see the steamroller in operation.

I yield.

Mr. ABOUREZK. Regular order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maine has the floor.

Mr. HANSEN. Is the Senator from Maine posing a question or making a speech?

The PRESIDING OFFICER. The Senator from Maine has the floor at this time.

Mr. MUSKIE. I think I have an hour under the cloture motion, may I say to my good friend from Wyoming. I have not said a word for the 9 days of debate, and suddenly the Senator thinks I am talking too much. That is the kind of majority arrogance of which I have heard the Senator from Wyoming criticize my side of the aisle for the years he has been in the Senate. But now that he is in a majority he finds it a tempting kind of arrogance to embrace.

That is what I heard last night. That tabling motion, may I say to my friends, was interesting if you analyze it. There were 39 Democrats who voted for that tabling motion; there were 2 Republicans who voted for it. There were 30 Republicans who voted against the tabling motion and 15 Democrats who did. So on a party division, this side of the aisle voted overwhelmingly for that tabling motion.

The Senator from Texas said that the 52, which included the 15 Democrats, had a right, in effect, to demand that these stalling tactics, as they described them, these stalling tactics should be terminated so that their will could determine the final legislative results.

All this session I have watched my good friend and distinguished minority leader protect the rights of what—a minority of Republicans. And if we were to embrace the philosophy expressed by the distinguished Senator from Texas last night they would not have a voice in the shaping of legislation on this floor. Yet on that tabling motion the real division of forces in this Senate was disclosed.

It is not the Democratic majority that is writing this legislation; it is the Republican minority, and so it does not speak well for one of that Republican minority to complain that a minority of 46 on this issue is taking the time to make its voice heard.

What are we talking about? I had hoped that the distinguished majority leader had found a way to convert the legislative process that was in disarray to a legislative process that would, in an orderly fashion, move to a final result. If he had succeeded in doing that—and it is obvious that he did not—I would have accepted Pearson-Bentsen as the final result, provided we could do it in an orderly fashion, and I would have opposed dilatory tactics.

But I am just as opposed to steamroller tactics as I am to dilatory tactics, and I rise to protest; and I do not like the kinds of rulings that are being made here to implement that kind of tactics. That is the only reason why I rise.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I wish to make a parliamentary inquiry, if I may.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator will state it.

Mr. FORD. Under the present situation, if an amendment has been propounded to amendment No. 1022 to amendment No. 862; is that amendment in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, in line with what the Senator from Maine has been saying, I would like to refer to the RECORD of last night, and the discussion of a question raised by the Senator from Alaska and the response by the Vice President.

SEVERAL SENATORS. What page?

Mr. HART. On page 31471 of the RECORD. It reads as follows:

> Mr. STEVENS. Let me clarify that a little further. By having filed at the desk an amendment No. 1022 with specific pages and lines such as the amendment No. 1059 of the Senator from Alaska, to page 9, line 20, the adoption of amendment No. 1043, which adds four lines to the bill on page 6, will change the lineage of all succeeding pages. Do the amendments that were on the desk to amendment No. 1022 even though they were not affected by amendment No. 1043 automatically become disqualified because they refer to the original page and line number of amendment No. 1022?
>
> The VICE PRESIDENT. It is unlikely that will happen because the bill is not being reprinted, and the same pagination would hold. The prior amendments, however, might rule out an amendment.

It is clear from the ruling of the Chair that the Vice President contemplated the pages and lines would not be changed. That is extremely important to this proceeding.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HART. I yield on the Senator's time.

Mr. STEVENS. On my time. We are all debating on our time.

I did not necessarily agree with that ruling, but what happened was that the matter was reprinted, and I have it here in my hand. So what I predicted and the Vice President ruled on in fact happened. I tried to protect against it, but it has happened.

Mr. HART. Are the pages and line numbers the same, or not?

Mr. STEVENS. In very few instances.

Mr. HART. The Vice President's ruling in response to the inquiry of the Senator from Alaska was based on the fact that those pages and lines would be the same. If they have been changed in reprinting, I think the ruling is wrong, and the Senator from Maine is actually correct when he states what is happening here is a steamroller.

Mr. MATSUNAGA. Mr. President, will the Senator from Colorado yield for a question?

Mr. HART. I yield.

Mr. MATSUNAGA. Was the Vice President referring to the original bill, not a word of which has been changed by the reprinting of the amendment, or the Jackson amendment which is now before the Senate?

Mr. HART. I would suggest that the Senator from Hawaii direct that question to the Chair.

Mr. MATSUNAGA. May I put that question to the Chair, Mr. President?

The PRESIDING OFFICER. Will the Senator from Hawaii direct his inquiry to the Chair?

Mr. MATSUNAGA. Mr. President, a question has been raised by the Senator from Colorado relative to the ruling of the Vice President, while he was presiding last night, based on the questions of the Senator from Alaska. The reference is to the statement made by the Vice President that it was very unlikely that the wording of this bill, or whatever it is, whether you use the term "amendment" or the term "bill," the question I am reaching is that it seems to me that the Vice President was referring to the original bill, not a word of which has been changed since last night.

Mr. STEVENS. Since the comments of the Senator from Alaska are being referred to, will the Senator yield?

Mr. MATSUNAGA. I am happy to yield to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Hawaii for yielding. Let me refer further to what went on last night. The colloquy continued:

> Mr. STEVENS. But the bill as it comes back as the original text subject to two amendments in two degrees and amendments at the desk if they refer to amendment No. 1022 or amendments to amendment No. 1043 will be subject to consideration on the basis of their submission to the original page and lineage of the amendments that they seek to amend.
>
> The VICE PRESIDENT. The Senator is correct.

Again, if the Senator from Colorado, the Senator from Hawaii, and the Senator from Maine are raising the question that the Vice President's answer to me has been violated by what has gone on here so far, I have been watching very closely, and it has not been. But I say, what we feared might happen did in fact happen. However, none of the amendments raised so far have been ruled out on the basis of what I said last night, in my opinion, effectively.

Several Senators addressed the Chair.

Mr. MATSUNAGA. If I may make my final comment, then——

The PRESIDING OFFICER. The Chair would like to make a statement. The Chair wonders whether it would be relevant to the concern of the Senator from Hawaii and other Senators to know that that there are, in round numbers, some 385 amendments pending, of which a very large portion are in order, and, of course, before the Senate in the course of this debate.

Mr. HART. Would the Chair read which amendments are in order?

The PRESIDING OFFICER. The Chair will read them by classification, if you will.

All perfecting amendments to S. 2104 are in order.

All amendments drafted to amendment No. 1022 are in order.

And any amendment to amendment 862 which is in the nature of a substitute, or which is designated "at the end of the amendment" or "at the appropriate place," or, finally, which has a page and line citation—all such amendments to amendment 862 are in order.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is my understanding correct that the Chair just ruled that amendment 1022 was out of order because the page and line were wrong? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HART. That ruling is out of keeping with what the Chair just stated.

The PRESIDING OFFICER. Will the Senator suspend for a moment while I consult with the Parliamentarian?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Will Senators suspend while the Chair consults with the Parliamentarian?

The Chair wishes to state in response to the parliamentary inquiry of the Senator from Colorado, that amendment 1259, which proposes to strike all on page 13, line 6, through page 14, line 19, is in order.

Mr. HART. Then the Chair's ruling on the last amendment was wrong; is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator might have chosen to say that the Chair's ruling had changed. [Laughter.]

Mr. HART. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HART. Will the Chair review all previous rulings which have been made this evening to find out how many others are incorrect?

The PRESIDING OFFICER. The Chair does not review rulings. Senators may request such.

Mr. HART. I am just requesting the Chair to review the rulings made that amendments have been out of order.

The PRESIDING OFFICER. The Senator's request is denied. The Chair will review any specific ruling that the Senator desires to be reviewed. The Chair cannot entertain a class action. [Laughter.]

Mr. HART. May we have order?

The PRESIDING OFFICER. The Senate is in order.

The Senator from Colorado.

Mr. HART. Will the Chair rule on the amendment just previous to the one it ruled upon?

The PRESIDING OFFICER. I am informed by the Parliamentarian that while there is an amendment pending; namely, 1259, any review on a previous ruling would not be appropriate.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is it the understanding of the Senator from Colorado that the Chair has just ruled that amendments to the bill S. 2104, amendment No. 1022, regardless of whether the page and line references are accurate or not, are in order?

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

The Chair restates the previous comment upon those amendments which are now in order, to wit, all amendments to S. 2104, perfecting amendments, but to 862 only those amendments which fall into one of four categories: Amendments in the nature of a substitute; second, amendments at the end; third, amendments at the appropriate place; and finally, amendments by page and line. This, may I say, is precisely what was stated.

Mr. HART. Would the Chair restate the last qualification?

The PRESIDING OFICER. This is with reference to amendment 862. Amendments which have a page and line citation.

Mr. HART. Which have a page and line citation?

The PRESIDING OFFICER. Where the amendment attempting to amend has that page and that line.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SARBANES. What other amendments, in addition to amendments to the bill and amendment 862 which meet the criteria just stated by the Chair, are in order?

The PRESIDING OFFICER. As previously stated, all amendments to 1022.

Mr. HART. And 1043?

The PRESIDING OFFICER. Not 1043. I am informed by the Parliamentarian not to 1043.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado is recognized for a parliamentary inquiry.

Mr. HART. Are amendments to either S. 2104 or S. 1023, which are inaccurate as to page and line and otherwise qualify at the desk, substitutes or perfecting amendments, in order? Yes or no?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from North Carolina wish to comment?

Mr. MORGAN. This is relative to the Chair's decision.

Mr. President, I sat here last night and thought about this very problem being discussed. I listened very intently to the several parliamentary inquiries. From the rulings of the Chair, I concluded it would be all right. For the Chair's benefit in ruling on this parliamentary inquiry, I would like to refer——

The PRESIDING OFFICER. Does the Senator from North Carolina have a substitute parliamentary inquiry? That will be agreeable, and then the Senator from Colorado can restate his inquiry.

Mr. MORGAN. If he would withhold his parliamentary inquiry, I would comment that last night a number of the Members of the Senate raised parliamentary inquiries which I thought related to this very question. I would like to call the Chair's attention to the RECORD on page 31467, where the distinguished Senator from Tennessee (Mr. BAKER) raised this question:

Mr. BAKER. Mr. President, I will not be much longer. I want to reserve my time until a little later so I can have a brief colloquy with the majority leader on housekeeping details, and let other Senators propound whatever parliamentary inquiries they wish.

Mr. President, I want to make sure I understand the situation that will obtain if the motion of the majority leader is adopted, and if the bill is reported back forthwith.

It is my understanding, then, that that bill would be amendable in two degrees. It is my further understanding that that bill would be subject to the provisions of rule XXII as in cloture, meaning, in this case, that the amendments, to qualify for offering to the bill as reported, would have to be at the desk and qualified.

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. But notwithstanding that they could be drafted to the amendment which is pending now before the Senate, which is Pearson-Bentsen, just prior to the making of the motion by the distinguished majority leader, they also would qualify?

The VICE PRESIDENT. That is correct, if properly drafted.

Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?

The VICE PRESIDENT. The Senator is correct.

I may not have understood properly what the question was or the Vice President's ruling, but I interpreted it to mean that if the amendments were at the desk, and if the substitute were reported back and recommended by the majority leader, those amendments at the desk would qualify. That was my interpretation.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will note that "if properly drafted" was the qualification.

The Senator from Tennessee.

Mr. BAKER. I thank the Chair for recognizing me. I will not take but just a moment. I will say to the Senator from Colorado, who wishes to pursue this point further. I am not sure that what I have to say adds much to the legislative history, so to speak, of this debate.

I want to confirm what the Senator from North Carolina said. I think a fair reading of the colloquy, I had last night and the parliamentary inquiries propounded to the Vice President, clearly show that it was the intention to establish that notwithstanding the rule that page and paragraph numbers must correspond and affect a single part of the bill, and notwithstanding that they might be changed in this recommittal and reporting back, that if they qualified under cloture in the first instance when they were reported back, they would still qualify.

Mr. President, that was the intention of the speaker when that question was put. It was the understanding of the Senator from Tennessee that that was the ruling of the Vice President.

Mr. HART. Mr. President——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I thank the distinguished Senator from Tennessee. I would call to the Chair's attention again the subsequent question and an-

swer after the Vice President made the statement, "If properly drafted." When he said that, the distinguished Senator from Tennessee was not satisfied. He pursued it further. He said:

Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?

It certainly was the theory that I had, and for that reason I had no objection to the bill being rereferred.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I will restate my parliamentary inquiry. Are amendments at the desk which are otherwise in order still in order even though they do not refer to the proper page and line?

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

To the Senator from Colorado's question the answer is that they are.

Mr. HART. Was the Chair's ruling on amendment No. 114 proper? That is a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The question is on amendment 1259. While action on amendment 1259 is pending, it is not proper to inquire as to previous rulings. Subsequent to action on 1259 it will be.

Mr. HART. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. If the Chair had ruled incorrectly on previous amendments, is it in order for the Senate to take up other amendments until those amendments incorrectly ruled upon are corrected?

The PRESIDING OFFICER. That is what President Roosevelt called an "iffy" question. [Laughter.] The fact of the matter is that we are where we are and the issue before us is amendment 1259.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I do not think this will affect the Chair's ruling that he does not intend to rule retroactively or to rule prospectively. For the guidance of anyone who wishes to raise the question for reconsideration from past rulings, I propound this parliamentary inquiry to the Chair: Mr. President, if an amendment at the desk and qualified as under rule XXII relating to all of its provisions, including pagination, was in order at the time of the recommittal and reporting back, is that amendment still in order with respect to the provisions of rule XXII at this time, subsequent to reporting back?

The PRESIDING OFFICER. It is still in order.

May the Chair take the liberty to say that at this point he has tried his best to make it clear.

Mr. HART. Mr. President, the point of order of the Senator from Colorado is if it is correct to take up business if, in fact, the Chair has ruled, in fact, incorrectly that previous amendments were out of order.

The PRESIDING OFFICER. The Chair wishes to state that it has not been determined that the Chair has ruled incorrectly, nor yet that it has ruled correctly. The presumption ought to be that the Chair has been correct, and there is an amendment before the Senate that no doubt we should proceed to.

Mr. ABOUREZK. I temporarily withdraw 1259 and reserve the right to reoffer it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota has withdrawn the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield myself 3 minutes.

I would like to discuss with the Members of the Senate where we are at this moment. The Members of the Senate are well aware of the fact that a small group of us have indicated strong opposition to the deregulation measure, the Pearson-Bentsen bill. We have indicated that we do not support the $1.75 proposal of the President, but we indicated in committee we would go along with it.

Then, after much discussion and debate having previously indicated we were opposed to the Byrd-Jackson compromise, we indicated that we would support the leadership in order to bring this matter to a conclusion.

Now, I say without any fear of contradiction that I think $2.03 is too much. I think the new definition of new gas which picks up $6.5 billion for the gas industry is wrong. I say that the release from regulation of so-called exotic fuels is wrong.

But we indicated a willingness to support the leadership in order to bring this matter to a conclusion, and so when the proposal was made to recommit the bill and bring it back with those amendments in it, we said we would support it, although yesterday we had said we would not.

The fact is that what has been proposed and suggested to us is this: "If you can't get the Byrd-Jackson amendment, the Byrd-Jackson compromise, then will you agree not to offer any new amendments?" And we said, "No," we would not.

Now, the Senator, who is a very able Member of this body, and a very well-respected one, whom I consider to be my good friend from Louisiana, has started to call up a group of amendments because he says, "Well, if they won't agree not to continue the debate, then I'm not going to agree not to continue the debate."

I respect him for that. But I want to say to the distinguished Senator from Louisiana that I think he is out of order, not really from the rules, but I think from the standpoint of when he makes his point.

Nobody has suggested to the Senator that if the compromise is approved that he not have the right to call up these amendments, which he still would have the right to do, and we would have the right to do it if Pearson-Bentsen is adopted.

But there is not any reason under the sun for the distinguished Senator from Louisiana to be calling up my amendments and bringing them before us to be ruled out of order by some decisions that were made on a willy-nilly basis and maybe have to be reconsidered.

I think we all want to bring this matter to a conclusion, and I would not care, for myself, if we voted down the whole bill, because I think $1.46 is more than enough for the gas industry.

Mr. President, I yield myself 1 more minute.

But if we really want to follow the leadership, follow the majority leader, who has attempted to resolve this matter, then I think we ought to bring up the Pearson-Bentsen amendment to the Byrd-Jackson compromise and see whether or not the votes are or are not there.

After that, if the distinguished Senator from Louisiana then wants to offer amendments, that is his privilege. But why now? And if I want to offer amendments thereafter, that is our privilege. But why now?

I believe if the Senate is not to continue upon this road of just bringing up amendments and arguing parliamentary procedure and getting some rulings we have to change 15 minutes or a half-hour later, that we ought to get on about our business and vote for the Pearson-Bentsen amendment to the Byrd-Jackson compromise and see who has the votes, and each respective side can make their own decision at that time.

Mr. LONG. Mr. President, let me make clear why I did it. Point 1 is that I was not consulted about the Byrd-Jackson compromise, nor was Mr. PEARSON consulted about the Byrd-Jackson compromise, nor a great number of us who support the Pearson-Bentsen amendment.

We thought we were in the majority at that time. Maybe we were not. But we were not consulted about that Byrd-Jackson compromise.

Mr. BYRD compromised Mr. JACKSON, and I thought they were both on the same side. [Laughter.]

I came in to hear them say, "Here's the compromise, the Byrd compromise," and that is one I did not know we had to begin with.

I thought I made it clear I was not going to vote for it, even to vote to recommit, although I thought it would help.

I want everybody to understand I was not committed to all that.

I wish Mr. MUSKIE had been here to hear this. Well, I understand he is available to hear me. I appreciate that.

Here is my point. I want the same advantage Mr. METZENBAUM has. I want the same advantage Mr. ABOUREZK has. I want it to be one way or the other. I do not want people to vote and think, "Well, gee, I can't agree with Senator LONG because if I do I've got a pistol at my temple; if I agree with Mr. LONG and vote for the Pearson-Bentsen position, then that means that I'm going to have to go through 24 hours of torture. I'm not sure I can survive that."

That would be a very unfair advantage over anybody when we vote on something.

Mr. METZENBAUM at this moment has filibustered and Mr. ABOUREZK has fili-

bustered. Everyone respects their threat to do more filibustering. That is something those of us on the other side do not have. They have something we do not have—credibility.

They have proved they would filibuster and they have blessed well done it until fair thee well. They have developed new techniques and, as new Senators, they are to be congratulated, especially the Senator from Ohio. I never saw a man become an ace filibusterer so fast.

But I just want to establish, Mr. President, it ought to be one way or the other way. As far as I am concerned, I have not yet established my credibility to offer all these Metzenbaum amendments. But I propose to do it, and we can dispose of it then one way or the other.

I want my friend Mr. MUSKIE to understand this, that I do not care whether we rule the amendment out of order, vote it up or down. As far as I am concerned. I merely want the Senate to dispose of them up or down.

Here is the next one I want to offer, to limit this thing to small companies, only the very small producers of gas would get any benefit out of it.

I am not for the amendment, but I hope it is agreed to because it will further louse up the Byrd compromise. So if we agree to it, that is great, because while it makes it better for Mr. METZENBAUM's point of view, it would hurt the chances for the Jackson amendment which I do not favor. It is perfectly all right, too. I merely want to vote it up or down. Just vote.

Now, may I offer an amendment now, Mr. President?

The PRESIDING OFFICER. The Senator may offer his amendment.

AMENDMENT NO. 1134

Mr. LONG. Mr. President, I offer amendment No. 1134 that I just mentioned.

Mr. METZENBAUM. Mr. President, did I not understand that 1259 was pending?

The PRESIDING OFFICER. It was withdrawn.

Mr. METZENBAUM. I am sorry.

Mr. LONG. I offer——

The PRESIDING OFFICER. The Chair is having difficulty hearing.

Mr. LONG. As far as I am concerned, Mr. President, this is not dilatory. I would be willing to let the Senator modify it so that it would fit inside the Byrd-Jackson substitute.

Mr. McCLURE. Will the Senator yield before offering the amendment, just briefly?

The PRESIDING OFFICER. Would the Senator from Idaho suspend?

Is the Senator from Louisiana offering his amendment, in which event, the clerk will state the amendment?

Mr. LONG. Yes.

The PRESIDING OFFICER. The amendment will be stated.

Mr. LONG. I will read it, Mr. President:

On page 5, line 23, after the word "company" add the following: "(C) in any case where a natural gas company's annual production exceeds 200 BCF per year.".

The PRESIDING OFFICER. The Chair thanks the Senator for his patience.

The question has elicited whether this has not been previously—this amendment which had been previously offered and was ruled out of order.

Mr. LONG. It has been ruled out of order?

The PRESIDING OFFICER. Since it attempts to put in after the word "company," on page 5, line 23, and no such word appears on page 5, line 23.

Mr. LONG. It has been ruled out of order?

The PRESIDING OFFICER. It has been correctly ruled out of order.

Mr. LONG. Is it ruled out of order now?

The PRESIDING OFFICER. The Chair repeats——

Mr. LONG. I now call up amendment——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President, was that ruling made on the basis of pagination?

The PRESIDING OFFICER. Not on the basis of pagination, but on the text of the amendment. The text did not exist to which the amendment referred.

Mr. METZENBAUM. That sounds like a good reason.

The PRESIDING OFFICER. Well, the Chair——

Mr. LONG. I will give consent to modify that amendment, if the Senator would like to modify it. I will give consent so that the Senate can agree to it. It is perfectly all right with me for the Senate to agree.

Mr. METZENBAUM. I do not intend to help the Senator with his filibuster. It is his filibuster.

Mr. McCLURE. Mr. President, will the Senator yield briefly?

Mr. LONG. I yield the floor.

Mr. McCLURE. Mr. President, I understood the Senator from Ohio (Mr. METZENBAUM) to indicate that he had expressed a willingness earlier to expedite what the majority leader had attempted to do by way of getting a resolution of the issue.

It had been my understanding that at some point in the consultations that have been going on in various little groups all day, an attempt had been made to arrive at a time certain when we could vote on the Pearson-Bentsen substitute, up or down.

Did I correctly understand the Senator from Ohio to indicate that he would be willing to enter into such an agreement, so that we could get to the Pearson-Bentsen substitute?

Mr. METZENBAUM. I would be willing to do more than that. I would be willing to vote on it.

Mr. LONG. I object.

Mr. METZENBAUM. I am ready to vote now.

Mr. LONG. I have explained, Mr. President, that I do not want a filibuster that might favor my side. I would like to filibuster when both sides have the same advantage. So far as I am concerned, do whatever you want to do with these amendments, but do it.

AMENDMENT NO. 1102

I call up amendment No. 1102.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1102:

On page 4, line 11, strike "January 1, 1977" and insert "the date of enactment".

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Chair regrets that this amendment attempts to strike a date on page 4, line 11, which is not there and does not exist. Therefore, the amendment is not in order.

Mr. FORD. A point of information, Mr. President. Is that in order?

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Is this an amendment of a certain line on a certain page?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. And the line and page are not there?

The PRESIDING OFFICER. The line is there and the page is there, but the date is not there.

Mr. FORD. Is that because of the recommittal and coming back to the floor—that changes the line and the date?

The PRESIDING OFFICER. The recommittal and coming back to the floor changed the wording of the amendment.

Mr. FORD. It changes the wording of this amendment?

The PRESIDING OFFICER. The Chair observes that any amendment addressed to the wording of 862 very likely will not be in order because of the changes having been made.

Mr. FORD. This refers to 862 or 1022?

The PRESIDING OFFICER. Any amendment drafted to 862.

Mr. FORD. The Senator's amendment which he offered—which one does it go to, 862 or 1022?

The PRESIDING OFFICER. 862.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LONG. I do not have the floor at the moment.

Mr. STEVENS. Mr. President, is the Senator from Ohio still here?

Mr. METZENBAUM. I am here.

The PRESIDING OFFICER. The Senator from Alaska is recognized. The Chair understands that the Senator from Louisiana yielded the floor.

Mr. STEVENS. Is it possible that the Senator from Ohio and those who are with him would now agree that we would list a series of amendments which would be voted upon, including the Byrd-Jackson and the Pearson-Bentsen and such other amendments that the Senator from Ohio selects at this time, and have a unanimous-consent agreement which would give us a time certain to vote on this bill tomorrow?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum, in order that the matter may be discussed.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1167

Mr. LONG. Mr. President, I was going to call up another amendment. I do not want to prejudice the sponsor of the amendment, the principal sponsor, and in view of the fact that he is not here at this point, I would suggest someone else who might have an amendment offer his amendment.

Here is one, Mr. President. I call up amendment No. 1167.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment numbered 1167:

On page 19, line 12, strike "$40,000" and insert "$100,000".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection. Objection. Objection.

The PRESIDING OFFICER (Mr. LEAHY). Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1367

Mr. LONG. Mr. President, I call up amendment No. 1367.

The PRESIDING OFFICER. May we have order? The Chair is finding it impossible to hear the Senator from Louisiana.

Will the Senator use his microphone?

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is amendment No. 1367 the pending business?

The PRESIDING OFFICER. Amendment No. 1167 is the pending business.

Mr. LONG. I thought I called up amendment No. 1367.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1367.

The amendment is as follows:

In lieu of the language thereof insert the following:

"TITLE I—NATURAL GAS"

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop all natural gas and oil resources on Federal lands to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further to assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYERS OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agree-

ment by representatives of employees and employers.

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

"(d) In the appointment of officials and the selection of employees for the Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given, and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal by-laws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided*, That exploration on State lands shall be in accord with leasing or other State land disposition or utilization program;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commercially valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C.

335), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights. to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provisions of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and indentifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinity and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting

all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINES AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title.".

Mr. LONG. That is an amendment by Mr. ABOUREZK to strike all in the substitute and to——

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. This amendment is to an amendment which is not before the Senate and, therefore, it is not in order.

Mr. METZENBAUM. Mr. President, the amendment has not been read at the desk. The amendment has not been read at the desk. The regular order of the Senate calls for the amendment to be read at the desk.

The PRESIDING OFFICER. The Chair rules that the amendment is out of order and, as the amendment is out of order on its face, the Chair has to rule it out of order, if it is out of order on its face, and the Chair has ruled this is an amendment to an amendment not before the Senate. Therefore, it is out of order.

Mr. METZENBAUM. Mr. President, I appeal the ruling of the Chair.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. CRANSTON. Mr. President, I would like to suggest to Senators that the yeas and nays be given at this point. We have refrained from giving them when quorums were present. If we do not give them now, we are going into a quorum call which could go live.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, would the Chair tell us what the issue is before the Senate?

The PRESIDING OFFICER. The vote is in progress, debate is not in order during a rollcall.

Mr. METZENBAUM. I am not asking for debate. What are we voting on?

The PRESIDING OFFICER. The vote is whether the ruling of the Chair should be sustained.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. As the decision of the Senate.

The clerk will continue to call the roll.

The legislative clerk resumed and concluded calling the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—90

Abourezk	Ford	Metzenbaum
Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Sparkman
Church	Johnston	Stevens
Clark	Kennedy	Stevenson
Cranston	Laxalt	Stone
Culver	Leahy	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
DeConcini	Magnuson	Wallop
Dole	Mathias	Weicker
Domenici	Matsunaga	Young
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	
Eastland	Melcher	

NAYS—1

McClure

NOT VOTING—9

Griffin	Metcalf	Stafford
Humphrey	Packwood	Stennis
McClellan	Scott	Williams

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The judgment of the Chair stands as the decision of the Senate.

Mr. METZENBAUM. Mr. President, what is the pending business?

AMENDMENT NO. 1167

The PRESIDING OFFICER. Amendment No. 1167 is the pending business.

The question is on agreeing to the amendment.

Mr. HANSEN. Has the amendment been stated?

The PRESIDING OFFICER. The amendment has been stated.

The clerk will report the amendment again for the benefit of the Senate.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment No. 1167:

On page 19, line 12, strike "$40,000" and insert "$100,000".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the amendment? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to lay on the table? There is a sufficient second on the motion to lay on the table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay on the table amendment No. 1167. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—58

Allen	Ford	Morgan
Baker	Garn	Muskie
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Percy
Bentsen	Gravel	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Haskell	Schmitt
Byrd, Robert C.	Hatch	Schweiker
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stevens
Chiles	Heinz	Stevenson
Cranston	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	McClure	Young
Eastland	McIntyre	Zorinsky
	Melcher	

NAYS—34

Abourezk	Culver	Leahy
Anderson	Durkin	Magnuson
Bayh	Hart	Mathias
Biden	Hathaway	Matsunaga
Brooke	Hollings	McGovern
Bumpers	Inouye	Metzenbaum
Case	Jackson	Moynihan
Church	Javits	Ne'son
Clark	Kennedy	Nunn
Pell	Riegle	Williams
Proxmire	Sarbanes	
Ribicoff	Sasser	

NOT VOTING—8

Griffin	Metcalf	Stafford
Humphrey	Packwood	Stennis
McClellan	Scott	

So the motion to lay on the table amendment No. 1167 was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

COMPARABILITY ADJUSTMENT FOR FEDERAL EMPLOYEES—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the provisions of section 5305 of title 5 of the United States Code, I hereby report on the comparability adjustment I am ordering for the Federal statutory pay systems in October 1977.

The Secretary of Labor, the Director of the Office of Management and Budget and the Chairman of the United States Civil Service Commission, who serve jointly as my agent for Federal pay, have proposed a 7.05 percent across-the-board increase in pay rates for the Federal statutory pay systems. The Advisory Committee on Federal Pay has concurred with this recommendation.

While the Federal Employees Pay Council recommended a larger increase, I have decided that the 7.05 percent increase fully satisfies the principles set forth in the Federal Pay Comparability Act of 1970 that Federal salaries be comparable with those in private enterprise for the same levels of work.

I am transmitting herewith the reports of my Pay Agent and the Advisory Committee, as well as a copy of the Executive order I have promulgated to put this pay adjustment into effect.

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

ADJUSTMENT OF COMPENSATION FOR UNIFORMED SERVICES—P.M. 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committeee on Armed Services:

To the Congress of the United States:

In accord with 37 U.S.C. 1009(c), I am hereby advising the Congress that I plan to exercise the discretionary authority provided by 37 U.S.C. 1009(c), as added by section 303 of the Department of Defense Appropriation Authorization Act, 1977 (Public Law 94–361), with respect to adjustments in the levels of compensation for the members of the uniformed services.

The amendments to 37 U.S.C. 1009 made by that act provide discretionary authority to apply the adjustments (based on the overall average percentage increase in General Schedule rates of basic pay, in accord with 37 U.S.C. 1009 (a)) to the basic pay, quarters allowances and subsistence allowances of the uniformed services on a percentage basis other than an equal percentage basis. Those amendments also provide discretionary authority to pay a partial quarters allowance to bachelors in government quarters, on field duty and on sea duty.

The current levels of the military allowances for quarters and for subsistence are less than the costs of the services they are intended to procure. Because of this deficiency in the current level of these allowances, it is my considered judgment that a reallocation of the October 1, 1977 military basic pay increase is appropriate. However, in consideration of the negative impact of reallocation on some military members, I am not going to reallocate the full 25 percent which I am authorized by law to do. I plan to reallocate 12 percent of the basic pay increase, by grade, all to the basic allowance for quarters, and to increase the partial quarters allowance to bachelors in government quarters, and to those on sea duty or on field duty, by an amount equal to that reallocated from the basic pay increase. This action takes a positive step toward improving the current relationship of the quarters allowance to the costs of off-post housing and, at the same time, recognizes the adverse impact of reallocation on some military members by limiting it to a moderate amount.

Specifically, the amount allocated to the element of monthly basic pay for each grade shall be 88 percent of the amount that would have been allocated to that element under 37 U.S.C. 1009(b)(3); the elements of monthly basic allowance for subsistence and monthly basic allowance for quarters for each grade shall be increased by an amount which is of the same percentage as the overall average percentage increase in the General Schedule rates, except that the element of monthly basic allowance for quarters shall be increased by an additional amount by grade equal to 12 percent of the amount that would have been allocated to the element of monthly basic pay under 37 U.S.C. 1009(b)(3). Members without dependents, who, under 37 U.S.C 403(b) or (c), are not entitled to receive a basic allowance for quarters, shall be paid an increase in the monthly partial basic allowance for quarters in an amount equal to the additional amount allocated by grade to the element of monthly basic allowance for quarters under 37 U.S.C. 1009(c).

JIMMY CARTER.

THE WHITE HOUSE, *September 29, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:30 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill.

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

At 12:28 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the bill (S. 904) to provide for the efficient and regular distribution of current information on Federal domestic assistance programs, with an amendment in which it requests the concurrence of the Senate.

At 3:26 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. ANDERSON of California, Mr. ROE, Mr. BREAUX, Mr. GINN, Mr. OBERSTAR, Mr. NOWAK, Mr. STUMP, Mr. HARSHA, Mr. CLEVELAND, Mr. DON H. CLAUSEN, and Mr. SNYDER were appointed managers of the conference on the part of the House.

The House has passed the following bills and joint resolutions in which it requests the concurrence of the Senate:

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes;

H.R. 7744. An Act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes;

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietam, Laos, or Cambodia;

H.R. 8638. An act to provide for more efficient and effective control over the proliferation of nuclear explosive capability;

H.R. 9290. An act to increase the temporary debt limit, and for other purposes; and

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

The House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 204. A concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document;

H. Con. Res. 205. A concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document; and

H. Con. Res. 241. A concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act.

The enrolled bill was subsequently signed by the President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

Mr. LONG and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana, having observed the Senator from Louisiana on his feet first.

AMENDMENT NO. 1380

Mr. LONG. Mr. President, I call up amendment No. 1380.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1380.

Mr. METZENBAUM. Regular order, Mr. President. May we have the amendment read?

The legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. If the amendment is going to be read in its entirety, the Senate is going to hear it. We will have order in the Senate while it is being read, or we will suspend.

The clerk may proceed.

The legislative clerk continued the reading of the amendment.

The PRESIDING OFFICER. The Senate is not in order. The clerk will suspend. The regular order has been called for, and we will have the regular order. The Senate is still not in order. Senators are conversing in the Chamber.

The Senate is in order; the clerk may proceed.

The legislative clerk continued the reading of the amendment.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed and concluded reading the amendment.

On page 1, delete all after the enacting clause and insert in lieu thereof the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under rollover contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Special pricing provisions.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedures, enforcement and judicial review.
Sec. 13. Intrastate contracts and transactions.
Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2)(A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discoverd reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Secretary may, by rule, prescribe one or more maximum lawful special prices, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special prices may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special prices are necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing liquefaction, or transportation of such natural gas, the Secretary may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural

gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distributing company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority use" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or ordered issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful

price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" whenever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. LONG addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Louisiana.

Mr. LONG. Mr. President, I am perfectly willing to vote on this amendment. In fact, I will be happy to vote for the amendment if we can have unanimous consent to have a direct vote on it. Otherwise, I would be compelled to move to table the amendment.

I ask unanimous consent that we now proceed to vote on the amendment.

Mr. METZENBAUM. Objection. Just a moment. I do not really know what the Senator asked. I did not understand what he said.

Mr. LONG. I asked unanimous consent that we now proceed to vote on the amendment.

Mr. ABOUREZK. Which amendment?

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I move to table the amendment.

Mr. CRANSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1380. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. LEAHY assumed the Chair)

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is called for.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 30, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—62

Allen	Garn	Melcher
Baker	Glenn	Morgan
Bartlett	Goldwater	Moynihan
Bellmon	Gravel	Muskie
Bentsen	Griffin	Nunn
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Hart	Percy
	Haskell	Randolph
Byrd, Robert C.	Hatch	Roth
Cannon	Hatfield	Schmitt
Chafee	Hayakawa	Schweiker
Chiles	Heinz	Sparkman
Cranston	Helms	Stevens
Curtis	Huddleston	Stone
Danforth	Johnston	Talmadge
DeConcini	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eagleton	Mathias	Weicker
Eastland	Matsunaga	Young
Ford	McClure	Zorinsky

NAYS—30

Abourezk	Durkin	McIntyre
Anderson	Hathaway	Metzenbaum
Bayh	Hollings	Pell
Biden	Inouye	Proxmire
Brooke	Jackson	Ribicoff
Bumpers	Javits	Riegle
Case	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Stevenson
Culver	McGovern	Williams

NOT VOTING—8

Humphrey	Nelson	Stafford
McClellan	Packwood	Stennis
Metcalf	Scott	

So the motion to lay on the table amendment No. 1380 was agreed to.

AMENDMENT NO. 866

Mr. METZENBAUM. Mr. President, I call up amendment No. 866.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 866:

On page 19, after line 18, insert the following new section:

SEC. 18. Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended to read as follows:

"OIL PRICING POLICY

"SEC. 8. (a) (1) Not later than the first day of the second calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of the Act which regulation, as amended, shall provide that the ceiling prices applicable to first sales of old crude oil and new crude oil shall be the prices specified by the Federal Energy Administration in crude oil price schedule numbered 8 issued September 1, 1977, for first sales of such crude oils for the month of November 1977, as adjusted pursuant to paragraph (2) of this subsection.

"(2) The amendment promulgated pursuant to paragraph (1) of this subsection shall further provide for adjustments to the prices specified therein for first sales of old crude oil and new crude oil beginning November 1, 1977, and continuing each month following, which adjustments shall increase the ceiling prices applicable to first sales of old crude oil and new crude oil at the rate of 10 per centum per annum or the rate of inflation as measured by the adjusted GNP deflator, whichever is greater.

"(3) For purposes of this subsection:

"(A) The term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce.

"(B) The terms 'old crude oil' and 'new crude oil' mean those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(b) If the President finds that an amendment to the regulation promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) to allow first sale prices higher than the ceiling prices specified in subsection (a) of this section would provide positive incentives for—

"(A) the development of high cost and high risk properties (including wildcat properties and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of tertiary enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells; the President may amend the regulation under section 4(a) to provide such incentives except that the effect of any such amendment shall not, in any calendar year, result in first sale prices higher than the ceiling prices specified in subsection (a) of this section for a volume of crude oil production in excess of 5 per centum of total crude oil production in the United States.

"(c) (1) The first sale price of new crude oil produced from a property from which new crude oil was first produced after April 20, 1977, shall be exempt from the regulation promulgated under section 4(a) of this Act, as amended.

"(2) For purposes of this subsection, the terms 'new crude oil' and 'property' mean those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(d) (1) The first sale price of stripper well crude oil shall be exempt from the regulations promulgated under section 4(a) of this Act, as amended.

"(2) For purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, does not exceed ten barrels.

"(3) To qualify for the stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.".

Mr. CRANSTON. Mr. President, I make the point of order that the amendment is not germane because it is an amendment to the Emergency Petroleum Allocation Act.

The PRESIDING OFFICER. If the deputy majority leader will indulge the Chair for a moment the Chair will rule on his motion.

The Chair would note parenthetically that the time is not running against any Senator.

There is nothing in the bill or in the substitute about the price of oil. Therefore, the point of order is well taken. The amendment is not germane.

AMENDMENT NO. 1104

Mr. LONG. Mr. President, I call up amendment No. 1104.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1104:

On page 9, line 24, strike ", through December 31, 1982".

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. If the Senator will withhold, the Chair would note that the amendment seeks to strike words which are not there, and thus the Chair would rule that the amendment is out of order.

AMENDMENT NO. 1082

Mr. LONG. Mr. President, I call up amendment No. 1082.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the amendment, and then the Senator can make that observation.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1082:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1983".

The PRESIDING OFFICER. The Chair would observe that the figure "1982" does not appear, and therefore the amendment is not in order.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 50 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Glenn	Morgan
Anderson	Goldwater	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stevens
Cranston	Laxalt	Stone
Culver	Leahy	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
DeConcini	Magnuson	Wallop
Dole	Mathias	Weicker
Domenici	Matsunaga	Williams
Durkin	McClure	Young
Eagleton	McGovern	Zorinsky
Eastland	McIntyre	
Ford	Melcher	

The PRESIDING OFFICER. A quorum is present.

The Senator from West Virginia.

May we have order in the Chamber?

Mr. ROBERT C. BYRD. I just wondered if Senators who may be near the Chamber would come in for a moment.

The PRESIDING OFFICER. The Chair will state that if there are Senators within the area they may very well want to attend the session here in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, as Senators know, efforts were made all through the early afternoon over a period of 4 or 5 hours to see if we could come to an understanding that would allow us to vote on the Pearson-Bentsen amendment at a time certain. It became obvious that consent would not be given. So I decided to proceed to see if the Senate wished to adopt a motion I offered last evening, and then if that motion were agreed to, to let the Senate proceed to work its will.

It has been a long evening already. Some amendments have been disposed of. I expect to be coming in in the morning at 9 a.m. It is certain now that we have to have a Saturday session unless this bill is disposed of between now and Saturday. At the moment, that does not appear to be worthy of much hope, but sometimes it is darkest before dawn.

Mr. President, sooner or later I do not have any doubt that the Senate is going to be asked to vote on the Pearson-Bentsen substitute, whether it is tonight or whether it is tomorrow.

Mr. President, I ask unanimous consent that a vote occur on the Pearson-Bentsen substitute, up or down, at 11 o'clock tomorrow morning.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I have not cleared this with anybody, I have tried all afternoon and I failed, I have not cleared any of these requests with anyone.

I ask unanimous consent that a vote occur up or down at 4 o'clock tomorrow afternoon.

Mr. ABOUREZK. Reserving——

Mr. ROBERT C. BYRD. On the Pearson-Bentsen amendment.

Mr. ABOUREZK. Reserving the right to object, would the majority leader yield for just a question?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Is there a special reason why the majority leader by his request seeks to foreclose a motion to table on the Pearson-Bentsen substitute?

Mr. ROBERT C. BYRD. If the Senator will allow me to proceed, I think this may all be cleared up.

Mr. ABOUREZK. I object to that request.

Mr. ROBERT C. BYRD. Or become clearer.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that at 11 o'clock tomorrow morning the Senate proceed to vote on the Bentsen amendment with the rights of Senators to move to table to be observed.

Mr. LONG. Reserving the right to object, Mr. President, and to be just as unreasonable as the other side, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, would——

Mr. ROBERT C. BYRD. Well, the Senator objected a moment ago.

Mr. LONG. I want to keep pace. I do not want to fall behind.

The PRESIDING OFFICER. Indeed, the objection is heard.

The Senator from West Virginia.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that we vote on the Pearson-Bentsen substitute tonight.

Mr. ROBERT C. BYRD. Well, now——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Just leave this up to the man who is between two rocks and who has tried all afternoon to get some kind of agreement.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. If the Senator has a proposal, I will be glad to talk to him and then attempt to present it. But I believe that I will proceed as I am attempting to do.

Is there a time tonight or tomorrow, that we can agree upon tonight, at which time we would vote on the Pearson-Bentsen amendment, either up or down, or with the right to move to table——

Mr. LONG. Reserving the right to object.

Mr. ROBERT C. BYRD. Is there a time?

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I am perfectly willing to vote on the Pearson-Bentsen amendment after we dispose of another 200 amendments. I am not willing to agree to give anybody any advantage one way or the other.

Now, the Senator knows how to get a unanimous-consent agreement. He knows he can make any sort of a reasonable proposal where both sides agree to vote on the amendments which to both sides agree to be fair, and he will find this side to be the one that is more accommodating, because this has been the one that has been accommodating and willing to take our chances on these rollcalls. It has been the other side that is determined to have an unfair advantage in holding to the threat of the filibuster. Two can play that game.

It was not my intention to engage in this kind of activity. I just resent being one-sided when I come to a filibuster party and come without ammunition. I am compelled to use the other man's ammunition.

But I am willing to enter into a unanimous-consent agreement to vote on the Pearson-Bentsen amendment, to vote on anybody else's amendments he wants to offer, and then vote on the bill.

The majority leader is fair. He is a great leader. He is trying to do what is right. But he knows as well as I do what we really ought to do with that consent request is see if we can get Mr. ABOUREZK and Mr. METZENBAUM to agree to something that those on the other side would agree to and, as far as I am concerned, anything that is fair, we are willing to agree to. But to have a game between two evenly matched teams and spot one side 20 points is ridiculous.

That is what those on the other side have been insisting on and I, for one, will not agree to it.

Or where certainly, both sides have a common purpose, to have the Senate decide which side is going to go this way and which side it wants to vote, without one side or the other putting a pistol to the temple of opposing senators.

In my judgment, they are claiming that.

I am not willing to agree in that situation where it would work out that way.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to my distinguished friend from Louisiana, I have been working out time agreements now for over 10 years and I have learned a long time ago to try to work out, as he says, reasonable time agreements. I learned a long time ago to try to get representation from both sides, and I did that today.

I talked with Mr. METZENBAUM, I talked with Mr. ABOUREZK not once, but a number of times, and I have talked with others.

I have done everything I know to try to reach some kind of an agreement—and I have been unable to do it—and I will continue to try to reach an agreement.

But I thought that before I recessed for the evening that at least I ought to lay it out in the Senate and let Senators have a right, if they want to object, and let everybody know who is objecting; and if they do not object, we can get on with our business and vote up or down on this amendment, or vote to table it. Either way is fine with me.

Mr. LONG. Mr. President, if the Senator wants to ask unanimous consent for 10 o'clock, let us say 11 o'clock tomorrow, or at any point during the working hours on Monday, or on Tuesday, or Wednesday, or Thursday, if he wants to ask unanimous consent at any point along that line, that we vote simply on the Pearson-Bentsen substitute for the Jackson amendment, as it stands at this moment, and that we then proceed to vote on the amendment, as amended, or as not amended, to the bill, I would have no objection, because, as I understand it, that would mean we would have then settled it, would we not?

If he wants to move we do that tomorrow, the day after, the day after, the day after, that is all right with me, but I do not think we will find the other side willing to agree to that.

That would be reasonable. If they are not willing to agree to something reasonable then we should not either. We are willing to take our chances. They should be willing to take theirs.

Mr. ROBERT C. BYRD. Why not approach it like this?

There may be Senators here who want to offer some perfecting amendments to

the Byrd-Jackson substitute. Why do we not include them? Give them a chance to perfect that, if they seek to, and let us find out what those amendments are. There may be two, or three, or half a dozen. Perhaps Mr. JOHNSTON would want to bring up his phased deregulation amendment.

But I do not think I would be treating everyone fairly if I suggested that we vote just on the Pearson-Bentsen amendment and then immediately on the bill.

That is all right with me. I will ask that unanimous consent right now.

I ask unanimous consent that on tomorrow at 4 o'clock p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, or amendment, whatever it is, up or down, or leaving rights open to move to table, and that immediately after that amendment is disposed of, the Senate then vote on the Byrd-Jackson substitute, as amended—it is already amended, so as amended—whether or not it is amended further by the Pearson-Bentsen substitute.

Mr. HART. Reserving the right to object.

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Would the leader rephrase the request to permit a certain period of time for possible amendments to the Jackson-Byrd, or Byrd-Jackson, compromise, between those two votes.

Mr. ROBERT C. BYRD. Well, yes. I would be very agreeable to that. But I wanted, first of all, to try in the way that Senator LONG himself has suggested. I think it is a fair suggestion.

I felt that the Senators might want to have a chance to perfect the substitute, and they can do that, in the meantime.

They can do it still tonight, and they can do it tomorrow up until 4 o'clock.

But first make that request because the Senator from Louisiana suggested it, and I am trying to be a mediator here in working out some agreement that will get us on to some other bill.

Mr. ABOUREZK. Is that made in the form of a request or is the Senator suggesting it?

Mr. ROBERT C. BYRD. I made the request.

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. But one thing, I think I better do that, I will put it in the alternative, either up or down or tabling. I should not make a request like that.

So, Mr. President, I ask unanimous consent that tomorrow at 4 o'clock p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, up or down, no tabling motion, and upon the disposition of that amendment the Senate proceed immediately, without further amendments, debate, intervening motions, points of order, or appeals, to vote up or down on the Byrd-Jackson substitute, as amended, if amended.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Let me take the next step.

Mr. President, I make the same request, except for including the right to table each of the two amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HART. Reserving the right to object, I missed the first part of the request. Will the leader repeat that?

Mr. ROBERT C. BYRD. In this instance, I ask unanimous consent that tomorrow at 4 p.m. the Senate proceed to vote on the Pearson-Bentsen substitute, with the rights of Senators to move to table reserved, and that immediately upon the disposition of the amendment, the Senate then vote on the Jackson substitute, with the rights of Senators to table reserved.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, let me try two other courses.

I ask unanimous consent that beginning at 9 o'clock tomorrow morning, Senators begin voting on perfecting amendments to the Jackson substitute——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Let me finish my request. Let me at least try. I do not want the Senator to get so much in the habit of objecting that he is not open to anything. [Laughter.]

Mr. President, can Senators give me an indication of what perfecting amendments they would like to call up? For example, Mr. JOHNSTON, if he has a perfecting amendment, or Mr. HART.

Mr. HART. I have a substitute which I may want to call up, depending upon the disposition of other amendments, but I do not know that until I see how the other amendments go.

Mr. ROBERT C. BYRD. How many other Senators have amendments?

Mr. JOHNSTON. Mr. President, I am supporting the Pearson-Bentsen amendment. My substitute amendment is to the main bill and would be in order. It would not only be in order, but also it would be desired to be brought up by me only in the event that Pearson-Bentsen should fail, but I do not believe it will. I am supporting the Pearson-Bentsen amendment completely. However, it would be in order, and only upon defeat of both Pearson-Bentsen and the Jackson substitute.

Mr. ROBERT C. BYRD. So the Senator would not call it up, except in the event that both of those went down to defeat?

Mr. JOHNSTON. That is correct.

Mr. ROBERT C. BYRD. When would Senator Hart wish to call up his amendment?

Mr. HART. On the disposition of Pearson-Bentsen.

Mr. ROBERT C. BYRD. Is there any other Senator who has an amendment he wishes to call up upon the disposition of the Pearson-Bentsen amendment, if it is disposed of, and before a vote on the Jackson substitute?

Mr. LONG. Mr. President, I have about 200 I would like to call up. They do not bear my name.

Mr. ROBERT C. BYRD. The Senator knows I am not talking about the 200. I am talking about serious amendments that we in good faith—

Mr. LONG. Mr. President, I resent that inference about my friend from Ohio. [Laughter.]

Mr. JOHNSTON. I am advised that Senator FORD is on his way over, and he has eight serious perfecting amendments to 1022.

Mr. ROBERT C. BYRD. I apologize to the Senator from Ohio.

Mr. METZENBAUM. The Senator need not do that.

Mr. ROBERT C. BYRD. Senator Ford has how many?

Mr. JOHNSTON. I understand he has eight perfecting amendments to 1022.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, then, that tomorrow at 4 p.m. the Senate proceed to vote on the Pearson-Bentsen amendment. Say, from 9 o'clock until 4 o'clock, Senator HART and Senator FORD may call up their perfecting amendments or others. Other than the 200 that Senator LONG has in mind, are there other amendments Senators wish to call up?

Mr. BARTLETT. I have a perfecting amendment.

Mr. ROBERT C. BYRD. Senator BARTLETT and Senator STEVENS.

Mr. STEVENS. I have an amendment to the Byrd-Jackson amendment in the event the other amendment fails.

Mr. BENTSEN. I have five amendments to 1022.

Mr. ROBERT C. BYRD. Senator BENTSEN has five, and Senator GLENN has one.

Let us do it this way: Obviously, one in my position cannot say at this time where those amendments are geared to—to which amendment they would be offered by the perfecting amendments to the Jackson substitute, so I would suggest that tomorrow morning at——

Mr. HANSEN. Mr. President——

Mr. ROBERT C. BYRD. I am not going to make a request now.

That tomorrow morning, at 9 o'clock, the Senators who have indicated that they have perfecting amendments or substitutes meet in my office with the minority leader and others whom he may wish to bring, and the majority whip and minority whip, and let us see if we can arrive at some agreement in connection with the sequence of bringing up these amendments, and get some time agreement overall that at least will see us get through the Jackson substitute.

Mr. ABOUREZK. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ABOUREZK. First of all, there were a lot of half-hanging requests, and I make a general objection to whatever is left hanging—just in case.

Second, I ask this—I tried to do so a few minutes ago: Why is it that we cannot vote on Bentsen-Pearson tonight on tabling? We do not need an agreement. We can just vote. Let them call it up, and we will move to table, and we will vote.

Mr. ROBERT C. BYRD. That suits me.

Mr. ABOUREZK. Why do we need time agreements?

Mr. CURTIS. We have done that twice.

Mr. ABOUREZK. Try doing it a third time.

Mr. ROBERT C. BYRD. Let me be just as fair to the Senator from North Dakota as I was to the Senator from Louisiana.

I ask unanimous consent that at 11:30 p.m. tonight, so that Senators will get notice in due time, the Senate proceed to vote on the Pearson-Bentsen amendment. That leaves all rights reserved. That the Senate proceed to dispose of the Pearson-Bentsen amendment——

Mr. LONG. I object.

Mr. ROBERT C. BYRD. That the Senate proceed to vote on the Pearson-Bentsen amendment, with rights to table reserved.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. At 11:30?

Mr. ROBERT C. BYRD. At 11:30 tonight.

I make the same request that at 11:30 tonight the Senate proceed to vote on the Pearson-Bentsen amendment, up or down.

Mr. LONG. I object.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. Will the leader be willing to phrase the question to indicate the request for unanimous consent to vote on the Pearson-Bentsen amendment, with the right to table at 4 o'clock tomorrow afternoon, which would be satisfactory to those who do not wish to vote tonight at 11?

Mr. ROBERT C. BYRD. I think I did that.

Mr. METZENBAUM. No.

The PRESIDING OFFICER. It is the Chair's recollection that the majority leader did make that request earlier.

Mr. LONG. It will be objected to. If it has not been objected to, it will be.

Mr. METZENBAUM. We are willing to vote this evening at 11:30 or tomorrow at 4 o'clock.

Mr. ROBERT C. BYRD. Up or down?

Mr. METZENBAUM. Up or down, with the right to table reserved.

Mr. ROBERT C. BYRD. I have asked before, but I will ask again.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I think I have made a good faith effort to try to arrive at an understanding as to when we could vote tonight or tomorrow.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I think I sense the mood of the Senate quite correctly at this point. I also have been able to ascertain the identity of certain Senators who want to call up amendments tomorrow.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. Does the Senator intend to still have a meeting tomorrow morning at 9, to try to find out what substantive, good amendments are going to be offered, and try to get an agreement on that?

Mr. ROBERT C. BYRD. I am just coming to that, I say to my good friend from Kansas.

Instead of setting a time at the moment, the minority leader and I, in the morning, will converse about it. We have a pretty good idea now of the Senators who do have amendments, other than the 200 that the distinguished Senator from Louisiana is talking about. I hope that by the morning, all of us will have profited by our experience tonight and will be in the mood to sit down and reason together and see if we can reach some agreement, in an orderly fashion, as to voting on the amendments which Senators have indicated they desire to call up. Those Senators will be asked to visit with me; and if we get a general agreement among them, we will proceed to see what the Senate wants to do about it.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Did the distinguished minority leader wish me to yield to him?

Mr. BAKER. I would prefer that the Senator yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I just wanted to indicate that with the situation as uncertain as it is, and obviously as difficult to get a unanimous consent as it is, I wanted to say that I too may have some amendments that I would like to offer.

Mr. ROBERT C. BYRD. All right.

If any other Senator who is not here, and reading the RECORD, knows we are going to have such meeting and wishes to come to the meeting, why, I will be glad to have him do so.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. Mr. President, I appreciate the Senator's yielding. I do not intend to object to anything at all that the Senator is going to offer, but I do want to make this suggestion to our distinguished majority leader.

He speaks of a meeting at 9 o'clock in the morning. I would like for us to vote during the daytime and sleep during the nighttime. That seems like a reasonable thing to do. [Laughter.]

We have had meetings all day today among people trying to work out some sort of an agreement. Why cannot those who want to argue and to work out an agreement meet now while the rest of us go home and go to bed? [Laughter.]

I say that with this in mind: I had a speaking engagement. The distinguished minority leader asked me to forgo a speaking engagement 100 miles or so from here in Virginia that I had made more than a month or so ago. I went home at 8:30 when it appeared there were not going to be any votes. I was called to come back here and vote tonight. Why can you not meet now and have these people who want to fight with one another try to resolve their differences and then tomorrow we will be here and vote and discuss this matter on the floor during the daytime and go home tomorrow night and sleep? It just seems like a reasonable request to make.

Mr. ROBERT C. BYRD. Mr. President, in the morning I will meet with Senator BAKER and we will attempt to set up a meeting at which Senators who have indicated they have amendments they want to call up will either be asked to come or to notify their respective leaders as to what their wishes are, and the minority leader and I will get in touch with them, and we will go from there.

I thank all Senators for their indulgence tonight. I regret that we have had another long evening. I do not think that much would be accomplished by going longer tonight because I would like to explore the possibilites I have outlined in the morning. I wanted to go home tonight and think about it and sleep on it.

Mr. HANSEN. Mr. President, if I could ask the distinguished majority leader to yield, the distinguished minority leader has indicated for some several minutes past that he would like to make some observations. I regret that Senators have been leaving the floor. It seems to me as though we are sort of imposing on him just a little bit when we started drafting away and do not have the benefit of his observations. I would hope the Senators might stick around.

Mr. McCLURE. Mr. President, will the Senator yield very briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I thank the Senator for yielding.

I take the time only to comment. I think the effort of the distinguished majority leader tonight is an illustration of the way he has been operating all day. He has been trying in fairness to achieve some agreement between the parties, and I think we all owe him a vote of thanks even though it did not work.

Mr. BAKER. Mr. President, does the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BAKER. I thank the majority leader.

I watched with great eagerness the development of events tonight and the unfolding circumstances.

I have been party to most, I guess all, of the negotiations today, and I just report to everyone they were energetic negotiations and done in good faith, and I am sorry they have not worked out.

To be frank with you, this morning I thought they had worked out. Toward midday the majority leader and I, I believe both, thought we had an arrangement to get us quickly to a joinder of issues and a determination of the major amendments. But that did not work out that way, and all for good reasons.

I must say, Mr. President, that as the day wore on and other points of view were expressed, it was clear there were other and divergent positions that had to be taken account of, and that is the reason the negotiations broke down.

I do not know anybody who tried harder than Senator ROBERT C. BYRD did to bring them together, but there were just too many complex factors to deal with.

I am still hopeful we can deal with them. I am sure the Senators will recall we voted with near unanimity for the procedural device to recommit and report. I think that is good and sufficient evidence that the Senate wants to deal with the issue at hand.

I have nothing else to say except I

think it is worthwhile to try again tomorrow, and I will be glad to participate.

Mr. GLENN. Mr. President, will the majority leader yield just for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. On the amendments to be considered tomorrow, these apply to all the substitutes and the original bill across the board, any amendments, all of these now?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. The ones already at the desk, of course.

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. The Senator was not referring just to Pearson-Bentsen, which was the main subject matter?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GLENN. I thank the Senator.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with the understanding there will be no rollcall votes, and Senators who wish to stay may stay, and those who wish to go may go.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object. There is not anything going to occur during the period for the transaction of routine morning business that will affect the Senator, I can assure him of that. But we need to have a period for the transaction of routine morning business. The Senator can stay.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a brief period for the transaction of routine morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. ROBERT C. BYRD. I thank the Senator.

Now, Mr. President, if the Chair will indulge me, I will wait until there is order in the Chamber.

The PRESIDING OFFICER. The Chair reminds Senators the Senate is still in session, and the Chair would remind the galleries also that the Senate is in session, and we will have order.

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from New York (Mr. MOYNIHAN), to amend the Employee Retirement Income Security Act, be jointly referred to the Committees on Finance and Human Resources. This has been cleared with Mr. LONG and Mr. CURTIS on the Committee on Finance, and Mr. WILLIAMS and Mr. JAVITS on the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced eariler today by the Senator from Washington (Mr. JACKSON), for himself and others, to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation, be jointly referred to the Committees on Energy and Natural Resources and Banking, Housing, and Urban Affairs.

This has been cleared with the chairman and ranking members of those committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

S. Res. 274. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582. Referred to the Committee on the Budget.

By Mr. LONG, from the Committee on Finance:

With an amendment:

(H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duties on synthetic rutile (title amended) (Rept. No. 95–456).

By Mr. LONG, from the Committee on Finance:

A special report entitled "Allocation of Budget Totals for Fiscal Year 1978—Third Concurrent Resolution of the Budget" (Rept. No. 95–457).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 29, 1977, he presented to the President of the United States the following enrolled bill:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were each read by title and referred to the Committee on Rules and Administration:

H. Con. Res. 204. A concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document;

H. Con. Res. 205. A concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document;

H. Con. Res. 241. A concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were each read twice by title and referred as indicated:

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from the Federal procurement relationships, and for other purposes; placed on the Calendar.

H.R. 7744. An act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; to the Committee on Environment and Public Works.

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia; held at the desk.

H.R. 8638. An act to provide for more efficient and effective control over the proliferation of nuclear explosive capability; held at the desk.

H.R. 9290. An act to increase the temporary debt limit, and for other purposes; held at the desk.

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789; to the Committee on Banking, Housing and Urban Affairs.

BILL PLACED ON THE CALENDAR

The bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, was ordered placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 2154. A bill for the relief of Anita Tavares Dy; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 2155. A bill for the relief of Jose Mendes Duarte, Maria Duarte, and Paula Maria Duarte; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. NUNN, Mr. WEICKER, and Mr. TOWER):

S. 2156. A bill to amend the Small Business Investment Act of 1958 to increase the availability of venture capital for small businesses owned by economically and socially disadvantaged individuals, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Select Committee on Small Business.

By Mr. NELSON (for himself, Mr. MCINTYRE, and Mr. WEICKER):

S. 2157. A bill to amend the Small Business Investment Act of 1958 to increase the availability of equity capital to small business; to the Select Committee on Small Business.

By Mr. INOUYE:

S. 2158. A bill to amend section 4311 of the Revised Statutes, relating to and prescribing the privileges of vessels of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. EAGLETON, Mr. RIEGLE, Mr. STAFFORD, and Mr. HATCH):

S. 2159. A bill to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–1979 as a condition to medical schools' receiving capitation grants under section 770 of such act; to the Committee on Human Resources.

My Mr. MOYNIHAN:

S. 2160. A bill to amend the Employee Retirement Income Security Act of 1974 to provide additional time to study salary reduction and cash and deferred option profit-sharing plans; to the Commitee on Finance and the Committee on Human Resources jointly, by unanimous consent.

By Mr. JACKSON (for himself, Mr. MOYNIHAN, Mr. JAVITS, Mr. RIBICOFF, Mr. WEICKER, Mr. PELL, Mr. CHAFEE, Mr. WILLIAMS, Mr. CASE, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HEINZ, Mr. RIEGLE, and Mr. KENNEDY):

S. 2161. A bill to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; to the Committee on Banking, Housing and Urban Affairs and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. NUNN, Mr. WEICKER, and Mr. TOWER):

S. 2156. A bill to amend the Small Business Investment Act of 1958 to increase the availabiilty of venture capital for small businesses owned by economically and socially disadvantaged individuals, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Select Committee on Small Business.

Mr. NELSON. Mr. President, when S. 1815, the Small Business Venture Capital Act of 1977, was introduced, I noted that a blue ribbon panel had been convened by the Small Business Administration to evaluate the condition of venture capital markets for small business. It concluded that—

It is alarming that venture and expansion capital for new and growing small businesses has become almost invisible today.

While the venture capital situation is grim for all small business, it is especially grim for minority small businesses, those owned by socially or economically disadvantaged individuals. MESBIC's first came into being in 1969 by administrative regulation. Legislation introduced in 1971 and enacted in 1972 gave organic recognition to the program by adding section 301(d) to the Small Business Investment Act of 1958 to provide special help for MESBIC's and in turn, minority firms. Unlike regular SBIC's, MESBIC's are restricted to making venture capital available only to minority owned small businesses.

Recognizing the special problems involved in making venture capital investments in minority firms, MESBIC's have been provided certain borrowing advantages over regular SBIC's. The first 5 years of a MESBIC's 15-year debenture receives an interest deferment. Instead of paying at a rate equal to the cost of money to the Federal Government, as SBIC's do, they pay the higher of 3 percent or 3 percent below SBA's cost of money. After 5 years, the MESBIC's pay interest equivalent to the cost of money to SBA and are also obligated to repay that portion deferred earlier.

SBA can also purchase preferred stock of the MESBIC's which bear a 3 percent cumulative dividend rate. But this dividend also represents a deferred cost of money to the MESBIC's as SBA has the option to require the MESBIC's to pay a dividend equaling the Government's full cost of money prior to retirement of the preferred stock or payment of dividends to the MESBIC's shareholders.

MESBIC's have fared none too well under these provisions. At the end of 1976, only $48 million from the private sector had been invested in MESBIC's. SBA had invested about $54 million in them, most of which was in the form of preferred stock.

Of 66 reporting MESBIC's in 1976, there was an average net loss of $38,461 or 4.1 percent of total capital. Of 29 reporting MESBIC's in 1975, there was an average net loss of $23,220 or 2.2 percent of total capital.

In light of President Carter's recent official statements calling for a major expansion of opportunities for minority small businesses, such poor performance should not be accepted. To improve the environment in which MESBIC's operate and to substantially enhance the availability of venture capital for minority firms, I am introducing the Minority Enterprise Venture Capital Act of 1977.

An important purpose of this bill is to provide improved borrowing terms for MESBIC's to create a favorable venture capital investment environment for minority small businesses. Instead of providing an interest deferment on debentures. MESBIC's would pay a 3-percent interest rate for the entire term of the debenture. With regard to preferred stock, the dividend rate would remain at 3 percent, but SBA will be precluded from ever requiring MESBIC's pay the differential between the 3-percent dividend and the actual cost of money to the Federal Government.

The measure will also permit MESBIC's having more than $1 million of private paid-in capital and surplus to sell up to three times the amount of their capital and surplus in preferred stock.

While MESBIC's will enjoy improved borrowing terms. this bill also will assure that only financially strong MESBIC's will be formed in the future. All MESBIC's and SBIC's licensed after December 31, 1977 will be required to have a minimum private paid-in capital and surplus of $500,000. This figure compares to the present minimum capital base of $150,000.

This bill also clarifies the resposibilities of the Associate Administrator for Investment as provided for in the Small Business Investment Act of 1958. Upon enactment, the Associate Administrator's sole duties will be to develop, execute, and administer the SBIC and MESBIC programs.

It is my belief that this bill will increase the viability of the MESBIC program through a combination of improved borrowing terms, stricter eligibility requirements, and better management.

And in the process of improving conditions for MESBIC's, it will also make much needed additional venture capital available for minority firms. Mr. President, I ask unanimous consent that a copy of this bill and a section-by-section analysis be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Enterprise Venture Capital Act of 1977".

SECTION 1. Section 201 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "The Associate Administrator so appointed shall be the Associate Administrator for Investment and he shall be responsible to the Administrator solely for the development, execution, and administration of the investment program specified in title III of this Act.".

SEC. 2. Section 303(b) of the Small Business Investment Act of 1958 is amended by striking the period after the words "toward covering other costs of the program as the Administration may determine to be consistent with its purposes" and adding the following: ", or, in the case of small business investment companies operating under authority of section 301(d) of this Act, such debentures shall bear interest at a rate of 3 per centum per annum.".

SEC. 3. Section 303(b) of the Small Business Investment Act of 1958 is amended by inserting before the sentence beginning with the clause "The debentures shall also contain such other terms as the Administration may fix," the following new sentence: "The Administration is directed to apply the interest rate of 3 per centum per annum retroactively to any debenture previously purchased by the Administration from a small business investment company under authority of section 303(c) and to apply any interest in excess of 3 per centum per annum previously paid to the Administration by such company prior to the effective date of this section, to interest payable after such effective date.".

SEC. 4. (a) Section 303(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities (or other securities having similar characteristics) of any small business investment company operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments, as scheduled, on debentures issued by any small business investment company operating under such authority. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase from such companies shares of nonvoting stock (or other securities having similar characteristics): *Provided,* That—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid such dividends to the extent retained earnings shall permit;

"(iii) the purchase price shall be at par value; and,

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company licensed on or before October 13, 1971, 200 per centum of such capital and surplus, (B) from any company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus, and (C) from any company having a combined private paid-in capital and paid-in surplus of $1,000,000 or more, 300 per centum of such capital and surplus.

"(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided*, That—

"(i) such debentures are issued for a term of not to exceed fifteen years,

"(ii) the interest rate is determined pursuant to sections 303(b), and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having a combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of such capital and surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).".

(b) Section 317 of the Small Business Investment Act of 1958 is amended to read as follows:

"The authority heretofore vested in the Administration to require payment of the difference between the dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) is hereby rescinded.".

Sec. 5. Section 302 of the Small Business Investment Act of 1958 is amended to read as follows:

"(a) Each company authorized to operate under this Act before January 1, 1978 shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $150,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles. Each company authorized to operate under this Act on or after January 1, 1978 shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $500,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and prudently in accordance with its articles.

"(b) Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event may any such bank acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 10 percent of its capital and surplus.

"(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.".

SECTION-BY-SECTION ANALYSIS

Section 1. This section clarifies the duties of the Associate Administrator for Investment, a position which is already provided for in Title III of the Small Business Investment Act of 1958. The Associate Administrator for Investment will be responsible solely for the development, execution, and administration of the small business investment company program.

Section 2. This section sets at 3 percent per annum the interest rate payable on debentures purchased by SBA from section 301 (d) small business investment companies.

Section 3. This section directs SBA to apply the debenture interest rate of 3 percent retroactively and to apply any excess interest previously paid to interest payable after enactment of this section.

Section 4. This section sets at 3 percent per annum the dividend rate on the preferred securities purchased by SBA from section 301 (d) small business investment companies. It also sets the limits on the amount of preferred securities that SBA can purchase from section 301(d) small business investment companies. If a 301(d) company was licensed by SBA before October 13, 1971, SBA can purchase preferred securities equaling up to 200 percent of the company's private paid-in capital and surplus. If a 301(d) company was licensed after that date and has a combined private paid-in capital and surplus of over $500,000, SBA can purchase preferred securities equaling up to 200 percent of such capital and surplus. If a 301(d) company has a combined private paid-in capital and surplus of $1 million or more, SBA can purchase preferred securities equaling up to 300 percent of such capital and surplus.

This section also establishes limits on the amount of debentures that may be purchased by SBA from 301(d) small business investment companies. If a company has less than $500,000 of private paid-in capital and surplus, SBA can purchase debentures equaling up to 300 percent of such capital and surplus. If a company has a private paid-in capital and surplus of $500,000 or more, SBA can purchase debentures equaling up to 400 percent of such capital and surplus.

For any 301(d) small business investment company, the combination of debentures and preferred stock purchased by SBA cannot exceed 400 percent of the company's private paid-in capital and surplus.

Authority previously given SBA to require a 301(d) small business investment company to pay the difference between the 3 percent dividend on the preferred securities and the actual cost of money required by SBA to purchase the preferred securities is rescinded.

Section 5. This section requires that any small business investment company authorized to operate under the Small Business Investment Act of 1958 after December 31, 1977 have not less than $500,000 of private paid-in capital and surplus.

In addition, up to 10 percent of a bank's capital and surplus may be used to purchase shares in small business investment companies.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. EAGLETON, Mr. RIEGLE, Mr. STAFFORD, and Mr. HATCH):

S. 2159. A bill to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–1979 as a conditioin to medical schools' receiving capitation grants under section 770 of such Act; to the Committee on Human Resources.

Mr. KENNEDY. Mr. President, I rise on behalf of myself and my distinguished colleagues from the Committee on Human Resources, Senator JAVITS, Senator EAGLETON, Senator RIEGLE, Senator STAFFORD, and Senator HATCH to introduce legislation to amend a provision of the Health Professions Educational Assistance Act of 1976.

That act attempts to use the leverage of Federal dollars to encourage the Nation's medical schools to improve their social priorities without compromising their integrity or impairing the traditon of academic freedom. The premise of the legislation is that the American people, who pay the bulk of medical school bills, have an interest in the priorities and direction of health manpower policy. The legislation is complicated and, I believe, in the main, successful. However, there are some notable failures.

In the closing days of the joint House-Senate conference on the legislation, the House of Representatives insisted on a provision requiring U.S. medical schools, as a condition for receiving capitation grants, to enroll U.S. citizens who have completed 2 years of training in foreign medical schools and who have passed part I of the National Board of Medical Examiners' Examination.

The Senate initially opposed this provision. However, a decision was made to agree to it upon the realization that the only alternative was the death of the entire legislation. At that time, no one, including the Association of American Medical Colleges, anticipated the full impact of the provision on the Nation's medical schools nor the flood of criticism that it has produced. Critics believe that the provision is an unwarranted intrusion by the Federal Government into academic medicine. After close and careful examination, I agree that the provision violates a basic academic freedom—the freedom of a medical school to select its own students in a nondiscriminatory way according to its own publicized standards. It also discriminates against every American student who failed to be admitted to an American medical school, but who could not, for whatever reason, enroll in a foreign medical school.

The purpose of the legislation that I am introducing today is to modify this provision to correct its major failing. Basically, the amendment requires that all U.S. medical schools increase their third-year enrollments by 5 percent for the 1978–79 school year. The bill allows the medical schools to choose among competing students for these positions. However, by placing some restrictions on those who are eligible to be considered for these positions, it allows most of those students who have qualified to transfer under the existing law to do so. Thus, a delicate balance is achieved—the ability of the schools to make choices is restored and, at the same time, the majority of those U.S. citizens studying abroad who have qualified to transfer under the present provision, can do so.

There are other deficiencies in the manpower legislation. These include technical problems with the student loan program and with the formula for determining places in primary care residency programs. I would like to see these other areas addressed next spring, when the Subcommittee on Health and Scientific Research reevaluates the entire manpower legislation.

I believe the legislation I am introducing today is needed to correct a mistake in a basically sound piece of legislation. I urge my colleagues to support it.

Mr. JAVITS. Mr. President, today I am introducing with my distinguished colleague, Senator KENNEDY, an amendment to the Health Professions Educational Assistance Act of 1976.

The amendment pertains to a provision which requires medical schools as a condition of capitation to enroll students who are U.S. citizens in foreign medical schools, who have completed 2 years of training in such schools—and were enrolled by October 12, 1976—and who have passed part I of the National Board of Medical Examiners' Examination. By including this provision in the law, it was believed that the quality of care in the United States could be significantly upgraded if this particular group of students was provided with the opportunity of finishing their medical education in U.S. schools where, it is believed, the quality of education exceeds that of schools anywhere else in the world.

This provision, however, has met with severe criticism by the medical schools on the grounds that it violates the principle of academic freedom which guarantees the right of these institutions to determine without interference who shall be admitted to study. This objection is well substantiated, since the law does not allow the schools to use their own academic standards or admissions policies to determine which of these students shall be admitted. In my opinion, it was not the intent of Congress to vitiate this principle; consequently, I believe the law should be modified to conform to the individual standards of the educational institutions.

In this way the proposed amendment has the effect of addressing the medical schools' concerns while still providing an opportunity for many of the students to transfer. Basically, the amendment requires that all medical schools increase their third year enrollments by 5 percent of their first or third year classes, whichever is less, during the 1978–79 school year. Furthermore, it places some restrictions on who is eligible to be counted under the enrollment increase in order to insure that most of these newly created slots are filled by young men and women who are students in foreign medical schools. I believe this approach has the effect of removing the objectionable provisions in the current law while still allowing many of the students who have already qualified under the existing law to transfer.

Also I believe the amendment will be useful in addressing the original concerns of the Congress relating to quality of care. I urge my colleagues to support this amendment.

Before closing, I would like to add that several special problems relating to programs in preventive medicine, preventive dentistry and dental public health, and nutrition have been brought to my attention—problems which directly affect established programs and appeal to my judgment of need. Because prevention and nutrition are vitally important to the health of Americans, I feel it is particularly important to address these problems as soon as possible. Therefore, I will be evaluating alternative solutions to these problems with the purpose of offering the appropriate amendments to this bill as it progresses through the subcommittee and committee stages.

By Mr. JACKSON (for himself, Mr. MOYNIHAN, Mr. JAVITS, Mr. RIBICOFF, Mr. WEICKER, Mr. PELL, Mr. CHAFEE, Mr. WILLIAMS, Mr. CASE, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HEINZ, Mr. RIEGLE, and Mr. KENNEDY):

S. 2161. A bill to create the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; to the Committee on Banking, Housing, and Urban Affairs and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. JACKSON. Mr. President, on behalf of myself and Senators MOYNIHAN, JAVITS, RIBICOFF, WEICKER, PELL, WILLIAMS, CASE, STAFFORD, SCHWEIKER, HEINZ, RIEGLE, and KENNEDY, I am introducing today legislation to establish the Energy Corporation of the Northeast.

Mr. President, the concept of a regional energy corporation has been developed by the Coalition of Northeastern Governors under the leadership of Governor Hugh Carey of New York.

The purpose of such a corporation is very simple. It is designed to bring together the States, the Federal Government, and private industry in a creative effort to deal with the energy problems of the Northeast.

Mr. President, the increasing dependence of the Northeast on imported oil is a problem of critical importance, not only for the Northeast, but for the Nation. The security implications of this dependence are national in scope. The economic consequences of the largest trade deficits in our history—caused mainly by oil imports—run nationwide. The national interest dictates that the Northeast region make a concerted effort to reduce its need for energy imports as soon as possible.

The Energy Corporation of the Northeast would provide technical and financial assistance to projects designed to increase the supply or promote more efficient use of energy in the Northeast. Using State and private financing, backed by Federal guarantees of its obligations, the Corporation could help support: facilities for the production of energy including, for example, coal gasification plants or hydro-electric facilitits; energy transportation or distribution projects; facilities for the manufacture of equipment or materials necessary for energy production and conservation.

Mr. President, the proposed new Corporation is not a revolutionary concept. It builds on our experience with the Bonneville Power Administration and Tennessee Valley Authority. It borrows from the approach of the Reconstruction Finance Corporation.

It is increasingly clear that we will not solve our economic or energy problems through conventional, marketplace solutions. We need to be creative in devising new mechanisms that will foster energy investment. The Energy Corporation of the Northeast could enlist the public and private sectors to achieve energy development which will otherwise not occur.

The President, I ask unanimous consent that a brief summary of the bill be included in the RECORD together with an article supporting the concept of such a corporation by Felix G. Rohatyn and John C. Sawhill. The concept was put in national perspective by Prof. W. W. Rostow in a New York Times earlier this month. I ask unanimous consent that this article, entitled "A Fusion Solution," be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGIONAL DEVELOPMENT ACT

SUMMARY

I. Purposes (Sections 1–3).

Congress authorizes the creation of a regional energy development corporation to provide technical and financial assistance to projects designed to increase the supply or promote more efficient use of energy in the Northeast and to promote regional cooperation on energy problems. The corporation is conceived as an entity capable of joining the federal government with the states and private sector in meeting the energy problems affecting the region.

The Corporation is to be known as the Energy Corporation of the Northeast.

II. Organization, Management, Powers (Sections 4–14).

The Corporation will be established by incorporators appointed by the President, who will also appoint five directors. CONEG states may join by enacting state legislation for that purpose, and contributing initial capital in the amount of $1 per capita. The Governor of each member state will appoint one director. Private investors will jointly select two additional directors. All directors serve part-time.

The Corporation becomes operational if at least three states become members before December 31, 1978. States may withdraw as members by subsequent legislation. States contiguous to member states are also eligible to join the Corporation in the same manner.

The Board selects its chairman, and appoints a President who shall serve at its pleasure as Chief Executive of the Corporation. A quorum consists of at least two Federal Directors and ⅔ of the State Directors.

The Corporation is authorized to participate in joint ventures with public or private groups and to operate through subsidiaries. Its own activities, as opposed to projects it finances, are tax-exempt. It does not have powers of eminent domain, but must request that the State consider the exercise of its powers of condemnation.

The Corporation is required to submit annual reports and audits to the President, Congress, Governors and Legislatures of member states. In addition, the Governors, on a rotating basis, shall designate independent persons to evaluate the performance of the Corporation every two years.

III. Projects (Sections 15–22).

The bill authorizes a regional corporation

The Corporation may participate in financing any project related to solving the energy needs of the region including projects relating to coal development or transportation, energy conservation or storage; power production or transmission; manufacturing new energy-related products or equipment necessary to energy production or conservation.

The Corporation may assist projects by loans, guarantees or equity investments. Before any financial assistance is provided, the Board must find that the project is expected to have a beneficial impact on the energy problems of the region; the investment together with other Corporation activities will not materially impair the credit of the Corporation; private capital is unavailable or insufficient; and, unless this limitation is specially waived, the Corporation will not operate the project on a continuing basis or invest more than 50 percent of the total cost.

Each project may also be rejected by the Governor of the Member State in which it is located. The Board is charged with reviewing periodically the allocation of Corporation resources among the Member States to assure a measure of equity in the distribution of benefits. To further this end the Corporation may not concentrate its *total* assets—its investment in any one project is limited to the greater of 10% of its borrowing authority or $200 million.

IV. Financing (Section 23–32).

Capital subscriptions from the States ($1 per capita initial contribution) and private investors determine the borrowing authority of the Corporation according to a formula of $15 borrowing backed by federal guarantees for each $1 capital contribution. After the initial subscription, additional state capital is authorized but not mandatory. Thus, the Corporation's capacity will expand to the extent its performance justifies additional subscriptions from any source.

Capital securities may be issued both to States and private investors in a form determined by the Board.

The Corporation may issue its own obligations which shall be general obligations payable out of any revenues. In general the specific terms of Corporation borrowing are left to the Board. Similarly, the security and priority for Corporation loans and other financing will be determined by the process of market negotiation. The Corporation's obligations are limited in term to a maximum of 40 years.

Neither the credit of the United States nor the credit of Member States can be pledged by the Corporation.

V. Federal Guarantee (Sections 33–39).

The Secretary of Treasury is authorized to guarantee obligations of the Corporation. The Secretary may review and approve the terms of any financing before providing the guarantee. In the event of default, a holder of Corporation obligations may seek payment from the Secretary after 30 days and the Secretary must pay within 60 days after such demand. This is the standard procedure for federal bond guarantees. Income on guaranteed obligations are taxable to the holder.

The Secretary is also authorized to agree with the Corporation that the United States will purchase the product of its projects, if necessary, in the event market conditions preclude private sale. This type of agreement offers an alternative form of federal backing for the Corporation's activities.

VI. Other Provisions.

Upon joining the Corporation, the Member State is required to pass legislation assuring expedited (90 days) decisions on permits required for Corporation projects. The Governor may except specific types of permits from this schedule. In all respects, the Corporation projects will be subject to federal, State and local laws and regulatory procedures, including environmental standards, zoning and planning laws and rate-making procedures.

for the Northeast. The findings, however, make clear the Congressional intent to authorize similar regional entities for other regions.

Urgently Needed—A Northeast Energy Development Corporation

(By Felix G. Rohatyn and John C. Sawhill)

Each day the states in the Northeast corner of the U.S. burn up more than 3 million barrels of oil and gasoline on an annual basis. Most of it is purchased in the Middle East. It costs more than $17 billion and equals two-thirds of America's mounting trade deficit.

These are the key figures that make us believe that Congress should act now on a proposal to establish a special public corporation that would work as a catalyst to cut the energy knot that is particularly damaging to the economy of the Northeast and threatening the economy of the country.

The proposal, which originated with Governor Carey of New York, has become a cornerstone of the program of the Coalition of Northeastern Governors which includes, in addition to New York, the governors of Connecticut, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and Vermont. The proposed authority, the governors would call it the Energy Corporation of the Northeast (ENCONO), would be a partnership among the states, private industry, and the federal government.

The major focus of ENCONO would be financial: It would provide federally guaranteed start-up loans to energy development and conservation projects that for, one reason or another, are not being tackled.

The governors—witnesses to four years of economic erosion since the start of the energy crisis and the rise of OPEC oil—say that it will take enormous investments of capital to do the kind of things that will have to be done to find and use alternatives to oil and gas. They know that investors' dollars—like water—do not run uphill.

The governors are right. At present there are very few investors willing to put up the sums that will be necessary to meet the country's objective for conversion of plants to coal or to build the required nuclear power plants, even if we assume all technological and environmental questions can be resolved quickly.

We are talking about at least $70 billion just to convert utilities to coal between now and 1985, a target date in President Carter's National Energy Plan. The Edison Electric Institute recently estimated that conversion costs would push up capital requirements of utilities to $416 billion from $346 billion. (That figure assumes a seven percent annual inflation rate over the nine-year period.) Virtually all of the additional capital for conversion would have to be raised outside the normal funding areas of the utilities if present rate and regulatory practices are maintained.

We do not believe that the financial marketplace, given the confusion of conflicting voices heard on any issue involving both energy and the environment, can be expected to come up with such sums without governmental prodding or guarantees.

The governors understand this. They know that their states cannot by themselves or even together bring in the necessary infusions of capital.

Beyond this, there is the race against time. The date 1985 is significant. Several recent world oil supply and demand analyses have concluded disturbingly that there will be no major supply shortages and sharp, unmanageable oil price increases, unless all governments act quickly to reverse existing production and consumption trends. Specifically, a recently published report from the Workshop on Alternative Energy Strategies noted that the supply of oil will fail to meet increasing demands, most probably between 1985 and 1995, even if energy prices rise 50 percent above current levels in real terms. The long lead times on energy projects require that work on these projects begin now to meet that 1985 deadline.

We can understand the skepticism with which the Northeast governors' proposal might be met in other parts of the country. Why should the federal government be a party to a scheme that on the surface appears to benefit only one region, albeit one that includes a quarter of the nation's people? If even sound bankers will not step in, why should the government?

There is a good reason. The Northeast's dependence on foreign oil—while it lasts—is costing the entire nation a fortune. Not in taxes. In the inflated costs of everything. Inflation is the silent partner of the nation's foreign trade deficits. And, inflation hurts the people of Los Angeles, Seattle, Chicago, and Atlanta, as well as the people of New York, Boston, Philadelphia, and Baltimore.

President Carter recently noted that the U.S. would have a positive trade balance of $20 billion this year, were it not for oil imports. Instead, the country will import an estimated $45 billion worth of oil and the trade deficit will hit an unprecedented $25 billion. That deficit holds alarming inflationary potential.

What the governors of the Northeast want—and need— is a mechanism that will help them end what one can only call a Catch–22 situation. High energy costs in the region drive away industry and jobs which erode the Northeast's tax base. That makes the investment community less and less willing to commit the capital to convert the Northeast to lower cost energy. And, all the while, the nation's trade deficits keep mounting and everyone's cost of living goes up.

A recent Brookhaven National Laboratory study predicted that the Northeast—which gets 70 percent of its energy from petroleum-based fuels, two-thirds of which are imported—will use twice as much oil by the year 2000, if present consumption trends continue.

The financial woes these oil deficits impose on the region are compounded by the complexities of substituting coal and nuclear power for oil; conflicting procedures of state, local, and federal regulatory agencies with firm, but narrow mandates; and, of course, the public's blind faith—or hope—that, as in the past, American technological ingenuity will come up with some new and miraculous substitute for oil.

Nothing we have seen to date allows us to share the public's optimism. There are only tough and costly choices ahead, and the American lifestyle is going to have to adjust itself dramatically and quickly.

The question the Northeast governors raise is this: if and when all the disputes over energy and the environment are settled, who will pay for weaning the nation away from foreign oil? It is a basic question. And, it is there that the governors see a role for the federal government as a guarantor of ENCONO loans. ENCONO, which could serve as a model for similar corporations elsewhere in the country, would be the middleman to bring together all the interested parties and prod them into action.

ENCONO's top draw would be its ability to go into the money markets to get the loans that are essential to retooling the Northeast for oil substitutes. A federal guarantee of such loans would make for better prospects and lower costs.

While no one really can predict the amounts of money that must be found to realize this massive conversion away from Arab oil, money must be obtained to begin. The leaders of the seven states feel that they might be able to raise as much as $1 billion themselves from the taxpayers and industries in their region. To get more—they estimate a potential of as much as $15 billion—they will need federal guarantees. That start-up money, they believe, would be the lever

to induce the private sector to invest the rest.

The governors are not asking for blank checks or even handouts. The guarantees would cost the federal government nothing and the governors will even forfeit exclusive local control. We can imagine an ENCONO-style public corporation working through a board of directors representing all interested parties—the federal government, state governments, and the private sector.

The financial carrot, however, should not be ENCONO's only lure. It is also important, we feel, that ENCONO have the power to screen prospects for funding. While this would be a protection for investors and the public, it also would accelerate and coordinate the efforts to come to grips with energy problems.

ENCONO financial clout will give it the leverage needed to end the paralyzing din of disputes between all the interested agencies, the varying organizing groups, the money market, the public and private power producers, and the states themselves. For instance, licensing nuclear power plants and other energy facilities today may require the okay of up to 50 different regulatory bodies. Getting all these approvals takes inordinate amounts of time; time that ultimately costs consumers vast sums of money and that drives investors to alternative opportunities. ENCONO—if it could speed things up—would reduce construction costs. Its tripartite board must have the financial clout to encourage regulators to cooperate more effectively than they have in the past and get energy projects moving.

But, ENCONO should not be a "lender of last resort" to promoters of projects with little or no chance of becoming profitable. Safeguards are necessary. For instance, the corporation's participation in any one energy project should be limited to no more than 50 percent. The U.S. Secretary of the Treasury, who would issue the federal guarantees, would review financial operations to insure corporate integrity. The governors are mindful of this: They are proposing that the Treasury Secretary and the chief executive of each member state have veto power over every project to be funded.

ENCONO would provide obvious benefits to the Northeast by attracting the massive capital investment to create reliable energy sources that would in turn attract industry and provide jobs. By doing so, it would obviate the need for more expensive—and we believe less effective—public employment programs, and thereby save the nation's taxpayers several million dollars. And, the nation would gain in other important ways as well. There are three strong national arguments for special federal involvement in an energy corporation for the Northeast:

It would decrease the national trade deficit and inflationary pressures in the U.S. by reducing the Northeast's reliance on imported oil.

It would make the country less vulnerable to sudden price hikes and supply disruptions of foreign oil.

It would enable the nation to pursue a more independent foreign policy, not one dominated by concern for OPEC oil.

Furthermore, if major projects are directed through ENCONO, we just might create a unique investment vehicle to recapture petro-dollars from OPEC countries, which to date have refused to make long-term investments in projects unrelated to the energy sphere. Some of these nations now say they want to invest in the development of alternative energy sources to prolong the life of their own petroleum reserves. ENCONO would give them a way to do it.

Without an ENCONO-like mechanism to stimulate investment, we regard the goal of energy self-sufficiency as an impossible dream. Consider the costs of meeting just one of the National Energy Plan's objections: increasing the nation's use of coal by more than 400 million tons per year by 1985. Just who will spend the untold billions to reactivate and expand the nation's coal mines? Who will rehabilitate the rail and barge transportation systems to move that coal? Who will build new coal-fired utility and industrial boilers and convert existing ones to use that coal? Who will take the risks of putting new technologies such as coal gasification and desulphurization processes into commercial use so that the switch to coal does not do irreparable damage to the nation's environment? These are the types of projects we envision ENCONO tackling in the Northeast.

Europe and Canada have recognized already that quasi-public entities are necessary to supplement private capital in developing energy sources. The European Coal and Steel Community, for instance, has been successful in financing and coordinating energy projects there. It also has given member governments expertise in the energy business as well as a means for making government priorities part of the private sector decision-making process.

There are precedents here, too, for federal participation in regional development. Most notably, the Tennessee Valley Authority in the South and the Bonneville Power Authority in the Northwest, are both federally-backed regional energy projects. The federal government also has lent a hand to other regions such as Appalachia by establishing regional commissions to solve the economic problems of those areas. The Marshall Plan even provides an example of such federal involvement on an international level.

Those precedents must be applied to the Northeast. Other regions in the country will benefit from the current and proposed energy investments of government and the private sector, but not the Northeast. Most of the funds that will be spent on coal development are targeted for development of Western reserves. The Western part of the country also gains from massive investments that will be made in oil shale and synthetic fuel technologies, and in large solar thermal and geothermals sites. The West Coast reaps the benefits of the Alaskan oil and gas fields.

The Northeast clearly needs the innovative approaches that ENCONO offers. It does not spend so much for fuel because it is profligate. On the contrary, the high energy cost in the region makes it one of the most energy efficient areas in the country. But the area lacks indigenous lower cost fuels and the capital to convert to those fuels even if they were available.

The Northeast cannot control the cost of foreign oil, but it can control its dependence on it through conservation measures, the development of coal reserves within its own states and the conversion of plants and utilities to coal. To do so, it needs capital. ENCONO, at no cost to the federal government, may be the link to provide capital for implementing the National Energy Plan at the regional level.

Washington must provide incentives at once. Not to do so will lead to even greater costs a few years down the line. The nation's oil deficits create trade deficits which keep the inflationary pot boiling. On a global scale that chain reaction is even more frightening for, coupled with the concentration of the world's money supply in the hands of a few OPEC nations, it threatens to bring down the international financial system like a gigantic house of cards.

We hope that President Carter and the leadership of Congress will give Governor Carey and his fellow Northeastern governors serious and thoughtful consideration of this vitally needed proposal. The predicament of the Northeastern states, as the governors by their joint action recognize, is not political. Their energy needs are real, and the price of inaction on the governors' proposal—or something very much like it—will be paid not just by the people of these states. It will be borne by the entire nation.

A Fusion Solution

(By W. W. Rostow)

Austin, Tex.—Since their meeting last November, the Northeastern governors have been pressing forward the concept of a Northeast Regional Energy and Development Corporation. It may be useful to put that concept into a national perspective.

On Aug. 8, the Midwestern Governors Conference passed a resolution supporting such public/private investment institutions for all the regions.

The governors all suggested extending the scope of such regional banks beyond energy-related investment to the "modernization of the transportation system, water resource development, land rehabilitation, rural development, and other tasks."

On Aug. 19, the National Conference of Lieutenant Governors passed a resolution supporting regional development banks to perform the same array of tasks.

Clearly, the Northeastern governors' leadership has had a major national impact. There are three reasons this concept is gathering momentum.

First, an awareness is growing, around the country that the United States is in a rather desperate race to bring its oil imports under control before the Organization of Petroleum Exporting Countries' production capacity peaks out in the 1980's.

We are already feeling the pressure of a weakened balance of payments. If we fail to accelerate investment in energy production, conservation, and conversion to coal, our oil-import requirements will continue to grow and we shall find ourselves competing with Western Europe and Japan for limited supplies. This would have explosive economic and strategic consequences. Studies done at the Massachusetts Institute of Technology and by the Organization for Economic Cooperation and Development in Paris confirm this broad conclusion of a Central Intelligence Agency report released by President Carter in April.

The acceleration of energy-related investment requires intimate public and private collaboration, which the regional banks could foster.

Second, with the slowdown of the national economy, it is increasingly apparent that we shall not achieve full employment by the conventional devices of fiscal and monetary policy operating alone.

Full employment in the 1970's and 1980's will have to be triggered and sustained by the enlarged investment required to solve the resource problems that have moved in recent years to the center of the stage—that is, investment in the directions listed by the Midwestern governors, to which I would add the control of air and water pollution and enlarged outlays for research and development.

It is an important fact that practical men and working politicians are making a connection that has not yet penetrated the redoubts of academic or bureaucratic economists—namely, the solution to our resource problems is also the solution to our problem of excessive unemployment and slow growth.

Third, sustained full employment and rapid growth is the only context within which we are likely to make a dent in the hard-core problem of central-city unemployment and render viable the kind of reforms in the national welfare system that President Carter has proposed An America wallowing along with 7.1 percent unemployment is unlikely to be able to sustain its existing welfare commitments, let alone enlarge them.

Two caveats:

The danger inherent in regional development banks is that funds might be used for low-productivity projects under short-run political impulse or to provide jobs at any cost.

On the other hand, somewhere in the nation, there must be as able bankers like

Jesse Jones, found by Franklin D. Roosevelt, who ran the Reconstruction Finance Corporation for many years, to the public profit.

If we get the hang of how to weave public/private enterprise together by regional banks and other devices, we shall not only enjoy full employment but also have to face up squarely to the problem of inflation. The current steady, corrosive rise in unit labor costs is likely to accelerate if we move to full employment.

Business, labor and government would, therefore, have to come together to design an equitable system that would accommodate wage increases to the average increase in the nation's productivity in ways that do not bring about an excessive shift to profits.

Mr. JAVITS. Mr. President, I am pleased to introduce today the Regional Energy Development Act of 1977, which is the culmination of almost 1 year's work by the Coalition of Northeastern Governors and their Senate counterparts. This bill that addresses the energy needs of the Northeast region in the context of the Nation's energy program. It is a bill that must be enacted if the Northeast region is to be able to attract and utilize the enormous amounts of capital needed to supply our future energy needs.

The Northeast region imports almost all its energy from other regions of the country and from abroad. This objective fact is no fault of the Northeast region. With the possible exception of offshore finds or reserves, the Northeast region is not rich in energy resources. It has very limited amounts of oil and gas, and somewhat more of coal. If the region is to become more energy independent, and therefore help the Nation toward energy self-sufficiency, it must develop the facilities to produce energy from regional sources, utilize energy more efficiently, and conserve energy wherever possible.

It is the purpose of this act to ease the transition of the region from an oil and gas economy, to an economy fueled by coal, nuclear power, and renewable new energy sources. It is also its purpose to aid in financing the enormous conservation and retrofit costs that are associated with energy transition. The transition from wood to coal and from coal to oil took about 60 years. We do not have those 60 years to move from gas and oil to alternative sources. We must move quickly, and this takes coordinated action, planning and large capital investment. The Regional Energy Development Corporation, established by this act, would facilitate all of those actions.

The Corporation would work in the interests of all of the member States; hopefully all of the States of the Northeast region. Once a State joined, by enacting appropriate legislation and making its initial capital contribution of $1 per capita population, it would be eligible to participate in and benefit from all Corporation activities. Such activities could include: First, project financing for coal conversions, and development of new industry related to coal; second, financing of industrial cogeneration projects for the combined production of electricity and process steam; third, stimulation of waste energy recovery projects; fourth, infrastructure investments related to long-term coal supply, such as commercialization of new environmental technology for coal; coal transportation, handling and storage investments as well as aggregation of coal demand to secure large long-term contracts that generate new mine openings; fifth, financing of residential insulation programs and development of an integrated retrofit industry, capable of supplying the region's retrofit materials and services; sixth, stimulating the construction of resource recovery facilities; and seventh, coordinating the support activities for a growing regional solar energy industry.

In all of these areas, the Corporation could provide financing as well as data, commercial marketing assistance and aid with regulatory requirements at the State and Federal level. It is my belief that a Regional Energy Development Corporation could cut in half the time it will take to get many of these projects going.

The Corporation would function exclusively for the benefit of the member States. All significant projects would be subject to a veto of the Governor of the affected State. Moreover, the Corporation's projects are required to be allocated proportionately among all of the member States, although many projects could be multi-State in nature.

Why must the Federal Government be involved in such a regional undertaking? For two reasons: First, the establishment of this Corporation amounts to an interstate compact, which must be approved by Congress; and second, the Corporation needs the support and backing of the Federal Government.

The sole Federal commitment in this bill is a guarantee of the Corporation's obligations. There is no Federal equity money requested or envisioned; all equity will come from the member States. The maximum level of obligations is about $5.8 billion, barely a drop in the bucket of the Nation's capital needs in the energy area, sometimes estimated at near $1 trillion over the next decade. But this relatively modest effort could provide the spur needed to provide regional needs which are different from national priorities.

While the bill as drafted is based on the Northeast region's needs, I believe it can serve as a model for similar efforts by other regions of the country which have common energy needs. We simply cannot expect that national administrations running national programs will meet all regional needs. The regional corporation idea is a cost effective mechanism for supplementing national efforts with regional planning, cooperation and development. It is a concept that returns power to the area closest to where it will be applied, so that it can serve needs that might otherwise go unfulfilled. It complements our national energy program both qualitatively and quantitatively, and has already been warmly received by the administration. I commend it to the Senate and hope my colleagues will act promptly and favorably upon it.

Mr. MOYNIHAN. The Regional Energy Development Act of 1977 was introduced today by my distinguished colleague the Senator from Washington, chairman of the Energy and Natural Resources Committee. This proposal, of which I am a cosponsor, represents a truly constructive and innovative step toward a solution of the Nation's energy problem.

The bill contains enabling legislation for regional energy corporations, for-profit entities which will initiate planning and development to meet the energy needs of the various regions. I want to emphasize that the Federal involvement in this corporation is minimal: The directors of the corporations will be appointed by the President, with the advice and consent of the Senate; and, a portion of the obligations of the corporations will be guaranteed by the Federal Treasury. Other than for these limited ties, the corporations will be on their own.

The legislation is also drafted to limit the control that the corporations can exert over private energy development projects. Specifically, the corporations are prohibited from operating any of the energy development projects which it supports financially. This is important: we are not advocating governmental control of energy development; rather, we are establishing a partnership whereby publicly established, but privately owned, corporations will work with private enterprise to promote solutions to regional energy problems.

There have been other proposals for energy financing corporations and for energy development banks. The regional corporations established by this bill are, however, unique. First, the obvious distinction is that the focus of our proposal is on the region, while the other proposals would have established national energy banks. This concentration on regions is important since energy problems vary appreciably from one region to another. The Northeast, for example, is a region that lacks sufficient energy sources of its own. The Northeast's energy corporation would, therefore, strive to increase its sources of energy and to plan for their optimal use on a regional scale. Energy rich regions, such as the Southeast, the Northern Mountain States, and the Appalachian States, have problems of their own: the impact of intense resource development and exploitation on the region's economy and environment. In all of these cases, the regional energy corporations could address those energy problems that are most important to the particular region.

Another aspect of the proposal which I feel is of particular significance is its emphasis on planning and on a development process which is consistent with that plan. To be truly effective, to be a positive force in the resolution of the region's problems, the corporations' activities must be coordinated with a plan for the region's energy future. The legislation specifically requires that a systematic analysis of the region's energy problems, leading to a plan for action, be conducted, and that all investments of the corporation be consistent with that plan.

Governor Carey of New York and his colleagues in the Coalition of Northeast Governors deserves our thanks for their efforts to develop this proposal. I am enthusiastic about the potential of regional energy corporations, as a blend of planning and financing and as a cooperative effort by the public and private sectors. I am hopeful that this legislation will quickly be passed by Congress and will, when implemented, contribute greatly to

the solution of energy problems the Nation now faces.

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished chairman of the Senate Energy and Natural Resources Committee, Senator JACKSON, and several of my colleagues from the Northeast in introducing a measure which marks an important step in helping this Nation meet its energy challenges.

For over a year the Governors of Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont have focused on the energy problems and opportunities which are unique to our region. Particular attention has been given to the available energy resources, the residential, commercial and industrial energy demands, the soaring cost of all forms of energy and the impact of the National Energy Plan on the Northeast. Several studies revealed that the Northeast's energy position is marked by:

The lack of indigenous energy sources, with the possible exception of coal from the Appalachian section of the region;

A significant dependence on imported petroleum;

High and rising energy cost; and,

Energy consumption patterns which mirror the economic structure of the area, climatic conditions (which are often severe), the number of high-density urban areas, and the age of capital stock.

Once the dimensions of the region's energy problem were clearly identified, the seven Northeastern Governors proceeded to develop the framework of a regional energy corporation—the Energy Corporation of the Northeast (ENCONO)—to tackle the many aspects of our section's energy condition.

The regional energy corporation seeks to promote both the production and conservation of energy. It can play an important and integral role in carrying forward the National Energy Plan by helping to forge a public/private partnership on a regional basis, by bringing together regional resources and talent, and by more effectively focusing on the special needs of our region on a continual basis. Through its various programs ENCONO can help to alleviate the shortages and high costs of energy which have contributed to serious economic dislocation and the lack of economic growth and development in the Northeast.

The proposal for a regional energy corporation has already gained widespread support. In Connecticut, for example, Gov. Ella Grasso assembled a distinguished panel of citizens from the public and private sector to review the ENCONO proposal and to submit recommendations. Governor Grasso's entire advisory task force on the creation of the energy corporation of the Northeast agreed that ENCONO has merit for our State and the entire Northeast.

Last month the Midwestern Governors' Conference and the National Conference of Lieutenant Governors passed resolutions supporting the development of regional agencies to focus on the many and varied energy problems which confront the United States. These actions reflect the growing realization that we must accelerate investment in energy production, alternative energy sources and conservation, especially in light of future OPEC price increases and diminishing worldwide reserves of oil and natural gas.

Although I have discussed this legislation in the context of the Northeast, it has applicability to all sections of the country. The bill would permit States in other regions to develop similar corporation charters and present them to the Congress for approval. It would enable these other regional bodies to receive limited Federal aid through guarantees of their obligations. With this backing, the Northeastern and other regional energy corporations could proceed with increased coal utilization and energy conservation programs, the active development of alternative energy sources, the design and implementation of regional marketing programs, and projects to insure that the quality of the environment is not impaired and that renewable resources are utilized to the most practicable extent. Mr. President, the potential for these regional energy corporations is virtually limitless, both in terms of meeting the specific needs of the particular areas in which they are established as well as in aiding in the national effort to resolve the energy crisis.

Governor Grasso has observed that:

The creation of a regional energy corporation is the keystone to our efforts to revitalize the economy of the Northeast.

The enactment of this legislation and the creation of ENCONO can also have an important impact on the entire nation. The ENCONO concept recognizes the fact that our current energy sources, in most instances, are not limitless. It urges the cooperation of public and private capital in resolving the energy dilemma and its impact on the entire economy.

I commend the Northeastern Governors for taking the initiative in proposing the regional energy corporation concept and for the considerable amount of effort which went into this undertaking. I am honored to join in sponsoring the Regional Energy Development Act and will do all that I can to expedite its enactment.

ADDITIONAL COSPONSORS

S. 2144

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2144, to establish a program for drug benefits for the aged.

AMENDMENT NO. 876

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of amendment No. 876, intended to be proposed to S. 2108, to amend the Indochina Migration and Refugee Assistance Act.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from Idaho (Mr. MCCLURE) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 986, to be proposed to H.R. 8444, the energy tax bill.

AMENDMENT NO. 1018

At the request of Mr. WILLIAMS, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of amendment No. 1018, to be proposed to S. 1871, to amend the Fair Labor Standards Act.

AMENDMENT NO. 1399

At the request of Mr. HART, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of amendment No. 1399, to be proposed to S. 2114, the Public Utility Regulatory Policy Act.

SENATE RESOLUTION 274—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1582

(Referred to the Committee on the Budget.)

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution:

S. RES. 274

Resolved, that pursuant to section 402(c) of the Congressional Budget Act of 1972, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1582. Such waiver is necessary because it would provide relief for the emergency water crisis facing the Ak-Chin Indian Community. The waiver would only be required for the sum of five hnudred thousand dollars for the engineering and hydrological studies. It is crucial that the studies start in fiscal year 1978 to begin the process in time to deliver water to the Ak-Chin reservation before their aquifer is depleted.

The Ak-Chin rely on farming for their economic sustenance. The farming is dependent upon ground water from wells. Non-Indians surrounding the reservation are pumping from the same water basin. Because of the extensive pumping, the aquifer cannot sufficiently recharge itself, and the water level is declining at a rate which will prohibit farming on the reservation within the next few years. Starting now it will take at least two years to undertake the proper feasibility studies and construct the federal well-field and water delivery system needed by the Ak-Chin Indians.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1405

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, on behalf of myself and the distinguished Senator from Florida (Mr. STONE) I am sending to the desk, for printing, an amendment to S. 1871, the Fair Labor Standards Amendments of 1977. This amendment would establish a "youth opportunity wage" set at 85 percent of the existing minimum wage.

I would ask unanimous consent, Mr. President, that the text of this amendment and an accompanying fact sheet be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1405

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained 20 years of age for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5 (c), at a wage rate not less than 85 percentum of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or for a period of time longer than that specified by this subsection, or is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to section 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.".

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or"

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

FACTSHEET: YOUTH OPPORTUNITY WAGE AMENDMENT TO S. 1871

The amendment would:

Establish a "youth opportunity wage" of 85 percent of the minimum wage during a six-month "training period" for young job seekers 19 and under.

Prohibit the substituting of teenage workers covered by this amendment for older employees earning the minimum wage or above.

Encourage the use of the existing full-time student rate (also 85 percent) by simplifying the procedure.

The rationale for the amendment:

1.8 million (24 percent) of the 7½ million individuals currently unemployed in this country are between the ages of 16 and 19.

345,000 young would-be job seekers have become discouraged and are no longer actively seeking employment.

Since 1975, 6,300,000 new jobs have been created but only 700,000 of these new slots went to teenagers.

40.2 percent of non-white teenagers are currently unemployed.

Lack of job opportunities creates an environment that is conducive to crime and social unrest.

Economic growth alone is incapable of significantly reducing youth unemployment. It would take an economic growth rate of 10.1 percent to reduce the minority teenage jobless rate 1 percent.

In 1966, the minimum wage was increased from $1.25 to $1.40 per hour and teenage employment declined 3.3 percent.

In 1974 the minimum wage was increased by 25 percent which led to an estimated 13-percent rise in youth unemployment.

AMENDMENT NO. 1406

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER. Mr. President, together with Senators CHAFEE, GARN, HATCH, HAYAKAWA, HOLLINGS, MCCLURE, SCHMITT, and TOWER, I submit an amendment for printing which we intend to propose to S. 1871, the Fair Labor Standard Amendments of 1977, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1406

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment an employer may employ any youth who has not attained 20 years of age for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 75 per centum of the otherwise applicable wage in effect under 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth employment, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or at a wage rate lower than the applicable wage rate under section 6 after the period of time specified by this subsection, or is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.".

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(b); or".

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

PUBLIC UTILITIES REGULATORY POLICY ACT—S. 2114

AMENDMENT NO. 1407

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (S. 2114), the Public Utilities Regulatory Policy Act of 1977.

NOTICES OF HEARINGS

NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, October 6, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky vice C. Rhodes Bratcher, deceased.

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York vice Orrin G. Judd, deceased.

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York vice John F. Dooling, Jr., retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

NOMINATION

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Thursday, October 6, 1977, at 8 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of:

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor;

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board; and

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

Persons wishing to testify or submit statements, please contact: Martin Jensen of the committee staff, room 4230, Dirksen Senate Office Building.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce a change in the scheduled hearing of the Committee on Human Resources on the cost, management, and utilization of human resources program evaluation.

The hearing will be held from 9 a.m. until 12 noon on Thursday, October 6, and Friday, October 7, 1977. Witnesses will include the Office of Management and Budget, the General Accounting Office, the Urban Institute, the Departments of Health, Education, and Welfare and Labor, and representatives of the private and academic communities.

Persons wishing to submit statements or obtain information may call Franklin Zweig of the committee staff at (202) 224-9285.

ADDITIONAL STATEMENTS

OUR HOMETOWN BOY MAKES GOOD

Mr. PERCY. Mr. President, we all like success stories and we had a success story published in the September 25 issue of the Chicago Tribune which I think should particularly please my Senate colleagues. One of our "hometown boys" is making good. Our former colleague Mike Mansfield, now serving as U.S. Ambassador to Japan, has brought to his new diplomatic career the same acuteness of judgment, capacity for hard work, forthrightness, and dry sense of humor that he displayed during his long and distinguished Senate career. We are proud of him. I ask unanimous consent that the Chicago Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 25, 1977]

NOW, AMBASSADOR MANSFIELD

(By Andrew Malcolm)

TOKYO.—Mike Mansfield, the new United States ambassador to Japan, was presiding over a recent staff meeting here when one embassy bureaucrat began pontificating.

"Mr. Ambassador," he said, "it would take me several hours to adequately outline the full detailed ramifications of this policy."

The ambassador from Montana puffed on his pipe once or twice and replied, "I don't think you could do it if you had several years."

The remark, spoken plainly without rancor, demonstrated the new tone that the 74-year-old former Senate majority leader has brought here in his diplomatic saddlebags.

"He has a very low tolerance," an embassy officer said, "for uh, how can I say it politely, barnyard bunk."

In his first hundred days in this new career he has also had a number of adjustments to make. During recent informal conversations and a meeting with resident American correspondents, Mansfield said that he had less personal freedom as an ambassador than as a Senator, but that he and his wife, Maureen, now had more time together although she was busy managing the large embassy household.

Mansfield added that he felt that leaving the Senate last January was a wise move. "It was the best decision I ever made," he declared. "I don't miss it one bit."

Commenting on his duties, the ambassador said that there were many problems in United States-Japanese relations, and he added: "I'm finding they are mostly economic."

The seeds of another problem, a potentially serious one, rest in the fame and prestige that Mansfield has among the average Japanese. The appointment of a well-known congressional elder, with vast Asian experience, to the Tokyo post was widely interpreted here as recognition by President Carter of Japan's importance to the United States.

In the Japanese mass media Mansfield is known as an "omono taishi," or a "big-name ambassador." The implication is that his basic sympathies and understanding rest with Japan.

Mansfield has sought at times since his arrival on June 7 to explain sympathetically the Japanese side to Americans—how vulnerable they feel over natural resources, for instance.

In recent weeks he used his personal relationship with President Carter to explain the seriousness of an American rejection of Japan's nuclear reprocessing plans.

And on the question of trade difficulties with Japan, it was a speech by Mansfield on July 19, in which he lectured the Japanese on the realities of American politics and growing protectionism, that led up to an intensifying United States assault on Japan's whopping trade surpluses.

Asahi Shimbun, Japan's most influential newspaper, even cautioned editorially that overestimating Mansfield's sympathies would lead to disillusion and disappointment.

The Ambassador's basic interest in Asia springs from a 1920–21 tour of duty in China as a marine. "I've always felt," he says, "that while the pull on Americans was toward Europe, the push has always been westward across the continent and the Pacific. The future of the U.S. lies in the Pacific and in the rim of Asia."

As ambassador, Mansfield presides over the largest American embassy in the world. It has 700 employees in a modern 12-story structure next door to a palatial ambassador's residence.

Mansfield, always with pipe in hand, has stuck fairly close to the embassy during his first three months. He does less entertaining than previous ambassadors and arrives at his ninth floor desk sharply at 7:30 a.m.

"I'm just feeling my way around and getting my toes wet," he says. But he appears well briefed and has a wealth of facts and figures in mind for any conversation, except those idle ones about the weather, which seem to cause his eyes to glaze.

He says he now has less control over his own time. "I feel a compulsion to meet with so many people," he says. "It's a compulsion I didn't feel in politics except in campaign years."

But he and his wife do have more time together. "She doesn't have to cook anymore," the ambassador said. "But she's turning into a certified public accountant keeping more household accounts than you can shake a stick at."

"I've never been busier in my life," Mrs. Mansfield tells visitors.

Mansfield was asked whether she liked the life of an ambassador's wife. He puffed twice on his pipe. "I think so," he replied.

"And do you like it?" Two more puffs. "I think so."

COMPETITIVE PRACTICES IN THE COMMUNICATIONS INDUSTRY

Mr. JACKSON. Mr. President, it has been brought to my attention that a large number of public and private organizations have taken formal positions expressing concern that the Congress should review recent FCC decisions introducing certain competitive practices into the communications industry to assure that they do not have any adverse impact on residential and rural telephone users.

I ask unanimous consent that the list of organizations which has been brought to my attention be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Association of Washington Counties.
Washington Association of Wheat Growers.
Washington Collectors Association.
Washington State Grange.
Washington State Labor Council.
Western Conference of Governors.
American Association of Retired Persons, Port Angeles.
Asotin County Senior Citizens Gerontology Council.
Auburn Area Chamber of Commerce.
Castle Rock Chamber of Commerce.
Cathlamet Junior Women.
City of Aberdeen.
City of Auburn.
City of Hoquiam.
City of Issaquah.
City of Renton.
Clallam County Democratic Club.
Clallam/Jefferson Counties Advocates for the Aging.
Clark County Board of Commissioners.
Clayton Senior Citizens Club.
Cowlitz County Co-ordinating Council of Senior Citizens.
CWA, Local 9107 of Aberdeen.
CWA, Local 9109, Centralia.
CWA, Local 9110, Olympia.
CWA, Local 9112, Vancouver.
Ephrata Senior Center.
Foundation for Chicano Education.
Golden Age Club, Port Angeles.
Good Housing for Low Income Citizens, Bellingham.
Grays Harbor Central Labor Council.

H.E.L.O. Club of Centralia.
High Point Senior Citizen Center, Seattle.
Kent Chamber of Commerce.
Kitsap County Board of Commissioners.
Kitsap County Pomona Grange No. 21.
Kiwanis Club of Central Seattle.
Lacey Area Chamber of Commerce.
Lacey Jaycees.
Lewis County Credit Womens Association.
Lewiston-Clarkston Kiwanis Club.
Longview Senior Center Operating Committee.
Lower Elwha Tribal Council, Port Angeles.
Madison-Jackson Economic Development Council, Seattle.
Moses Lake Chamber of Commerce.
NAACP–Seattle Chapter.
Newcastle Grange No. 1100, Renton.
Okanogan Senior Citizens Center.
Older Citizens Inc., Longview.
Port Angeles Central Labor Council.
Port Angeles Senior Citizens Drop-in Center.
Randolph Carter Industrial Workshop Association, Seattle.
Seattle City Council.
Seattle Jaycees.
Senior Opportunity and Services, Moses Lake.
Shoreline Jaycees, Seattle.
South King County Multi-Service Center.
Tacoma Area Task Force for the Needs of the Handicapped.
Tacoma Credit Women.
Thurston County Credit Women International.
Town of Ridgefield.
Wedgewood Community Club.
Whatcom County Board of Commissioners.
Whatcom County Opportunity Council.
Whatcom County Washington Central Labor Council.
Yakima Chamber of Commerce.

Mr. JACKSON. Mr. President, I simply want to state my support for the efforts of the Senate Commerce Committee to review FCC policies in this area and to determine whether legislation is necessary or appropriate. These efforts are reassuring to the many individuals and groups which have expressed interest in the subject.

RAYS OF HOPE: A NEW BOOK ON ENERGY POLICY

Mr. PERCY. Mr. President, a recently published book by Denis Hayes of the Worldwatch Institute proposes solar power as the best alternative for our dwindling supply of petroleum. In "Rays of Hope: The Transition to a Post-Petroleum World," Hayes suggests that nuclear power and coal will play no long-term energy role, due to adverse economic and environmental factors. He advises us to turn to the clean and renewable resources of sunlight, wind, falling water, and green plants to maintain our energy supply.

Social change inherently accompanies energy transition. Such changes must be taken into account in planning our energy strategies. Mr. Hayes argues that a solar-powered world would be more equitable and more culturally pluralistic than a world centered around ever larger and more complex nuclear and coal generators. "A solar society would be thrifty, decentralized, simple and safe," he says. Mr. Hayes then demonstrates the practical potential for a solar transition.

In less than one generation world petroleum production will peak, then begin to decline. An energy transition will take place. It will be productive or destructive, depending on our foresight and commitment. According to Mr. Hayes, there is enough waste in the current U.S. energy budget to permit continued economic growth during the transition to reliance on energy from the Sun. Strong commitments to energy conservation and development of solar power will enable us to proceed smoothly into the post-petroleum era. Mr. Hayes' advice is timely and thought provoking. I recommend his book as challenging reading.

Mr. President, I ask unanimous consent that the Worldwatch Institute's news release of September 10, 1977, on "Rays of Hope" be printed in the RECORD at this point.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

RAYS OF HOPE

"Two years ago the world appeared to have three energy alternatives on which to build a sustainable post-petroleum world: coal, nuclear power and solar energy. Today we have one clear-cut option: the sun," says Denis Hayes, author of the new book "Rays of Hope: The Transition to a Post-Petroleum World," published by W. W. Norton, September 12, 1977.

Developments over the last 24 months suggest there is no long term role for atomic power or coal. The nuclear dream is fading fast, due to environmental, economic and national security concerns, Hayes says. In the United States new reactor orders plunged from 36 in 1973 to 2 in 1976, and official projections of nuclear power capacity by the end of the century have been reduced by nearly two-thirds. The obstacles facing coal are equally intractable. A study by the National Academy of Sciences warns that continued heavy reliance on coal could lead to profound and irreversible alterations in global climate.

"Within two decades, world oil production will begin to decline, as American production already has," notes Hayes. "By that time society must be well on the road to reliance on sunlight, wind, falling water and green plants, to minimize the inevitable economic and social disruption caused by the end of the oil era."

Historically, social change has accompanied each energy transition. In the eighteenth century, the substitution of coal for wood as a power source brought on the industrial revolution. The later shift to a petroleum-based economy made possible the jet plane and the automobile, shrinking the planet and reshaping its cities. The choices between solar and non-solar energy development being made today in Washington, Paris and New Delhi will similarly describe society's shape and limit its possibilities.

"In spending research dollars and in building new energy facilities, we must be guided by a vision of what we want in the decades ahead," Hayes comments. "Above all, we must strive to achieve a society in which average citizens will have a greater opportunity to participate in the making of energy decisions which affect their everyday lives."

"A solar-powered world would permit such a society to blossom, one with greater equity, freedom from cultural pluralism. A solar society would be thrifty, decentralized, simple and safe. Continued reliance on ever larger, more expensive and technically complicated nuclear and coal facilities would make a better world far more difficult to achieve."

In *Rays of Hope*, Hayes, a Senior Researcher with the Washington-based Worldwatch Institute, documents the potential for a solar transition. About one-fifth of all energy used around the world now comes from the sun. Forty percent could come from renewable solar resources within twenty-five years.

Sunshine is already in use for much heating and cooling. More than two million solar water heaters have been sold in Japan and thousands are in use in Israel. The Solar Energy Industries Association estimates that 11 million heaters could be installed in the United States by 1985. The towns of Mejannes-le-Clap in southern France and Jubail in Saudi Arabia plan to obtain most of the energy they use from the sun. There remains an untapped potential for use of solar heating in agriculture to dry crops and in industry, where about half of all industrial heat could be provided by solar collectors, says Hayes.

Sunlight is also being harnessed directly to produce electricity through photovoltaic cells. In remote settings, photovoltaics are already the cheapest form of electrical generation.

"If solar cells received a total investment equal to the cost of just one nuclear power plant, production costs should fall to 50 cents per watt," according to Hayes. "At this price, photovoltaic cells would enable many buildings to become energy self-sufficient."

The wind is one of the world's largest renewable energy resources. More than 150,000 old windmills still spin productively in the United States, and new windmill sales have increased 500 percent since 1974. The Danes, the Canadians and groups in a number of developing countries are engaged in innovative wind power research.

The potential of harnessing falling water has long been underutilized, Hayes says. The U.S. Army Corps of Engineers reported in 1977 that more power than the U.S. gets from nuclear energy could be generated at existing dams. New interest in hydroelectric development is focusing on small turbines of the sort employed extensively by Japan, Switzerland, Sweden and China at dams built for flood control or agricultural irrigation.

The energy that could be harvested around the world each year from organic sources probably exceeds the energy content of all fossil fuels currently consumed annually. Brazil is investing $400 million in an effort to convert sugar cane and cassava into ethanol for fuel. In many developing countries, firewood accounts for more than three-fourths of all commercial energy, and this valuable resource is generally used with dreadful inefficiency.

Fuel from waste powers a number of cities in Europe and industries in the United States. Sweden now obtains 7 percent of all its energy from the waste of its forest products industries. Anaerobic digestion, which can be used to convert human excrement, cow dung and inedible agricultural residues into methane gas is now widely used throughout the developing world. The Republic of Korea has 30,000 small digesters, India has more than 60,000 and China claims to have over 4,000,000.

Energy conservation provides the base upon which a solar economy can be built, says Hayes. There is enough waste in the current U.S. energy budget to permit continued economic growth while the transition is made to reliance on energy from the sun. In other countries, efficient use of energy is critical, whether it be in the selection of building materials for homes in Latin America or in the design of industrial projects in Asia.

"By the year 2000 the petroleum era will be ending," concludes Hayes. "Nuclear power and coal will not be able to replace oil. The timetable for the solar transition is already far behind schedule. Current short-sighted energy policies will only make that transition more costly, difficult and socially disruptive."

GOOD-BYE, DR. McKELVEY

Mr. DOMENICI. Mr. President, as we debate the pros and cons of deregulation of new natural gas, we frequently find ourselves at odds over the basic question of how much natural gas remains to be found.

We know that independent studies, like that done by the Colorado School of Mines, shows that trillions of cubic feet of gas remain to be exploited for the Nation.

However, the charge is frequently made by opponents of deregulation of new gas that very little gas is still under ground.

Independent geologists, working as scientists at universities or with their own firms, have always been interested in this question. They have often worked for, or with, the U.S. Geological Survey in attempting to find answers.

The USGS has an excellent reputation for independent, objective analysis. And, now, in a move that greatly disturbs these independent scientists in the field of geology, the head of the USGS, Dr. Vincent McKelvey has been removed from office.

Geologists in my State, ranging from independent businessmen to scholars at our State's universities have protested this move with obvious political overtones. They see it as an attempt to do away with independent scientific thought at USGS and to substitute, during this inflamed emotional debate over energy for the future, a political appointee who will be less independent and more sensitive to the political stance of the administration in power.

Mr. President, the removal of Dr. McKelvey will not be noticed by most Americans. But, to those of us who depend upon the USGS for independent analysis, he will be sorely missed, indeed. And, for those thousands of scientists who in the past have had great confidence in the precision of the work of the USGS, and its dedication to sound scientific principles, there will always be that nagging doubt about the validity of its future projections about natural gas and oil reserves and resources.

I have asked President Carter to review the decision to remove Dr. McKelvey and I hope he does so. I know that I speak for the many geologists in this Nation who also wish an extension of the kind of independent, nonpolitical analysis that the USGS has provided under Dr. McKelvey's leadership.

At this time, Mr. President, I ask unanimous consent that a Wall Street Journal editorial, "Good-Bye, Dr. McKelvey," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD. as follows:

[From the Wall Street Journal, Sept. 16, 1977]

GOOD-BYE, DR. McKELVEY

Dr. Vincent E. McKelvey for the last six years has been the director of the United States Geological Survey. The 61-year-old career scientist has been with USGS since 1941. In the tradition of the 98-year-old agency—which has had but 9 directors in that time—Dr. McKelvey was nominated by the National Academy of Sciences and appointed, pro forma, by President Nixon.

Now, in an unprecedented move, Dr. McKelvey has been bounced by the White House. Technically, Interior Secretary Cecil Andrus pulled the trigger, USGS being an Interior line agency. The administration, he was told, "wanted its own team." But it is inconceivable that Mr. Andrus would take this step without orders from above, any more than we can imagine the Attorney General deciding on his own hook to replace the FBI Director.

In a way, it makes even less sense to fire Dr. McKelvey, because the administration will not replace him with one of its own team anyway, unless it violates tradition and does not accept the nominee of the National Academy of Sciences. Nor is he being fired for incompetence, being too distinguished for that charge to stick. In fact, he's getting back his old desk down the hall.

What's it all about? Plainly, this is Washington: Behind Closed Doors. Dr. McKelvey does not now and never has suited the Malthusian regulators who designed Jimmy Carter's energy plan. While you are trying to bulldoze a $100 billion tax/energy conservation program through Congress, it does not help to have the government's top expert on such matters running around talking about the vast resource base in the United States.

In his early years as USGS director, Dr. McKelvey incurred the displeasure of Rep. Morris Udall, who last year ran for the Democratic presidential nomination on the Club of Rome platform, i.e., the planet is doomed. Mr. Udall and his friends carried on a running debate with USGS over its estimates of natural-gas reserves, insisting that USGS was too optimistic.

In July, just as the Carter energy people were bulldozing the energy bill through the House, Dr. McKelvey was giving a speech in Boston, observing that as much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the geopressured zones underlying the Gulf Coast region. That's 3,000 to 4,000 times the amount of natural gas the United States will consume this year.

"This is an almost incomprehensibly large number," said Dr. McKelvey, noting that "even the bottom range represents about 10 times the energy value of all oil, gas and coal reserves of the United States." In the same speech, he also observed that "a large amount of oil is still to be found in the United States."

Tsk, tsk. Dr. McKelvey does not understand politics. Had he not seen what happened when the scientists of the Energy Resources Development Administration came to similar conclusions in April? The MOPPS I team estimated that if natural gas was deregulated, the nation would be drenched with the stuff at $2.50 per thousand cubic feet. The MOPPS I team was promptly dismantled and their findings adjusted posthumously.

At the same time, the White House thumped up a report of the Central Intelligence Agency that forecast the Russians would run short of energy in 1985 and have to import it from the Middle East. This, we were told, is further reason why Americans must conserve in a hurry by paying a lot more taxes.

Once again, Dr. McKelvey did not know enough to keep his mouth shut. The Russians, he said, are floating on a sea of oil. The Washington Post now reports that Energy Secretary James Schlesinger, who used to run the CIA, privately pooh-poohs the CIA report, saying the Russians wouldn't let themselves get boxed into a position where they'd have to buy oil from anyone.

The Carter people insist that the USGS will not be politicized. They will take just about anyone the National Academy of Sciences nominates, but withhold the right not to do so. Which means the NAS had better come up with a geologist who understands politics. If only Galileo had not been so impolitic as to insist that the earth revolves around the sun, think of the trouble he would have spared the Inquisition.

MEMORIAL TO CONGRESS BY THE MAYOR AND CITY COUNCIL OF TUCSON, ARIZ., URGING ACTION TO RELIEVE THE PLIGHT OF THE COPPER INDUSTRY

Mr. GOLDWATER. Mr. President, it is disappointing for me to have to lay before you a memorial approved by the mayor and council of the city of Tucson relative to the depressed state of the U.S. copper industry. I am greatly disturbed that conditions have reached such a stage that it is necessary for our local governments to petition Congress for help.

But help we must. For the unfortunate truth is that the copper industry is in its worst plight in many decades. In Arizona alone, there are almost 9,000 unemployed mine workers in an industry that provides 1 out of every 8 jobs in the State.

Mr. President, the major source of this condition is the foreign glut on the copper market caused by essentially Government-owned or Government-operated mines that are producing at maximum capacity without regard to market conditions.

This means our private companies are not facing traditional free enterprise competition. The excess foreign production overhangs the market by about 1 million tons above the normal inventory level. Although domestic consumption is on the rise and may equal the fourth best year on record this year, the foreign excess inventory is so enormous it has forced copper prices below the point where our mines can be operated profitably.

Now, I would ask, Mr. President, why must the entire burden of reducing the overhang, which they did not cause, be put on American mines? Our industry has cut production back to about 60 percent of capacity. Yet, foreign producers, who supplied 22 percent of refined copper in the United States last year, are running at or near 100 percent!

On top of foreign government competition, which is severely distorting normal market conditions, our industry is saddled with the costs of compliance with environmental controls and employee safety regulations which do not exist abroad. Since our Government is responsible for these costs, which add about 8 cents a pound to the cost of smelting and refining copper, it is only logical that our Government help to restore the American industry to the competitive position it has lost on account of those regulations.

Now, I am not saying existing environmental and safety rules are all bad. I am suggesting that the Government should assume part of the burden of expensive new environmental requirements that give a great cost-of-production advantage to foreign producers.

And I believe it is proper that our Government should react to practices of other governments which endanger the

health of a vital domestic industry. Private U.S. companies alone can hardly be expected to prevail in uneven competition with foreign governments.

Mr. President, in order that my colleagues may be better informed on this issue, which is gaining greater and greater importance, I ask unanimous consent that the memorial adopted by the mayor and city council of Tucson, Ariz., be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

A MEMORIAL

To the President and Congress of the United States of America:

Your memorialist respectfully represents that:

Whereas, numerous copper mining enterprises have been closed in Pima County and in other portions of Arizona resulting in the laying off of thousands of copper mining company employees; and

Whereas, the closure of these mining activities and the layoff of thousands of copper mining company employees constitutes a serious threat to the economy of the City of Tucson, Pima County, and the State of Arizona; and

Whereas, the layoff of thousands of copper mining company employees is dramatically increasing unemployment in the City of Tucson, Pima County and the State of Arizona:

Wherefore, your memorialist, the Mayor and Council of the City of Tucson, Arizona, prays:

That the President and the Congress of the United States take all appropriate and necessary steps to cause the mining companies to re-open their operations in Pima County and other portions of Arizona affected by the shutdowns.

That the President and the Congress of the United States take all appropriate and necessary steps to relieve the growing unemployment burden being placed on Pima County and the State of Arizona through emergency jobs programs, or by whatever means lawful and proper.

That the City Clerk is hereby directed to send copies of this Memorial to Jimmy Carter, the President of the United States, all members of Arizona's delegation to the United States Congress, the Secretary of the Department of Labor, the Governor of the State of Arizona, the President of the Arizona State Senate, and the Speaker of the Arizona State House of Representatives.

NORTHERN IRELAND—MEETING BETWEEN THE PRIME MINISTERS OF GREAT BRITAIN AND THE REPUBLIC OF IRELAND

Mr. KENNEDY. Mr. President, a significant current development on the situation in Northern Ireland took place yesterday—the first meeting between Prime Minister James Callaghan of Great Britain and Prime Minister Jack Lynch of the Republic of Ireland since Mr. Lynch's recent election.

At the conclusion of their talks in London, the Prime Ministers issued a joint statement reflecting their areas of agreement. Perhaps the most significant portion of the statement is the third paragraph, which sets out their views on the political situation in Northern Ireland.

In their statement, the Prime Ministers emphasized their commitment to seeking the earliest possible peaceful settlement. They also spoke of their desire for a devolved system of government in Northern Ireland which would include the fair participation of all sections of the community and in which the rights of all citizens would be protected.

As President Carter's statement of August 30 on Northern Ireland makes clear, the Government of the United States wholeheartedly supports this effort to reach a peaceful settlement, and stands ready to help encourage job-creating investment in Northern Ireland once a settlement is achieved.

Of particular significance is the suggestion in the Prime Ministers' statement that, if it is acceptable to both the majority and the minority in Northern Ireland, progress toward such a system of government might be reached in stages, with partial powers of government devolved at this time to an elected assembly in Northern Ireland.

Mr. President, I welcome the progress represented by the joint statement. This early meeting between the two Prime Ministers was essential to a continuation of the search for peace, and I am pleased that they were able to reach these broad areas of agreement on a common policy toward Northern Ireland. I welcome their joint statement, and I look forward to a new and successful effort toward a peaceful settlement.

Mr. President, I believe that the joint statement of the Prime Ministers will be of interest to all of us who share the desire for peace in Northern Ireland, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the joint statement was ordered to be printed in the RECORD, as follows:

MEETING BETWEEN THE TAOISEACH AND THE PRIME MINISTER: AGREED COMMUNIQUE, SEPTEMBER 28, 1977

1. The Taoiseach, Mr. Jack Lynch accompanied by the Minister for Foreign Affairs Mr. Michael O'Kennedy had talks at No. 10 Downing Street today with Prime Minister Mr. James Callaghan. The Prime Minister was accompanied by the Secretary of State for Northern Ireland, Mr. Roy Mason and the Minister of State at the Foreign and Commonwealth Office, Mr. Frank Judd.

2. The talks took place in the context of Anglo-Irish relations, the European Community and international developments generally. The Taoiseach and the Prime Minister discussed the world economic situation and in particular the problems of inflation and unemployment. They agreed that the growth of world trade was disappointing and that more should be done to secure a higher rate of growth and reduce unemployment. A further stimulus to the world economy was required and both countries must continue to work for stabilization and for growth. The European matters discussed included the application of Greece, Portugal and Spain for membership of the E.E.C., direct elections, the common fisheries policy, the common agriculture policy and the future of J.E.T. The talks also covered bilateral matters including economic prospects of the two countries and the Continental Shelf.

3. The Taoiseach and the Prime Minister were united in reaffirming their commitment in the immediate future to achieving the earliest possible restoration of peace and political stability in Northern Ireland. The Taoiseach welcomed the Prime Ministers statement that the British Governments policy was to work towards a devolved system of government in which all sections of the community could participate on a fair basis and in which the rights of all citizens are fully safeguarded. In the meantime, if there was a general desire, the British Government would be ready to devolve a range of powers to a locally-elected body under arrangements acceptable to both sides of the community.

4. The Taoiseach and the Prime Minister emphasised the importance which they attached to security co-operation between the authorities on both sides of the border and expressed satisfaction at the degree of co-operation under the present arrangements. They agreed that in the context of further Anglo-Irish meetings, there should be continuing consultation about how this co-operation could be developed and improved.

5. It was agreed by the Taoiseach and the Prime Minister that it would be of mutual advantage to improve practical co-operation between the Republic and the United Kingdom on economic matters. Officials of the two governments, would, therefore, meet in the near future to review the arrangements and opportunities for economic co-operation with particular reference to Northern Ireland. They would review current and proposed cross-border studies and identify subjects and areas for further examination, with EEC assistance where appropriate.

6. The talks took place in a friendly and relaxed atmosphere. The Taoiseach and the Prime Minister agreed to maintain contact on a regular basis.

PUBLIC TELEVISION TO AIR STORY OF FATHER DAMIEN

Mr. MATSUNAGA. Mr. President, there stands in Statuary Hall a moving tribute by famed artist Marisol Escobar to a truly remarkable man, Father Damien de Veuster. Commissioned by the State of Hawaii as one of its two statues in the U.S. Capitol, Marisol's statue of Father Damien has been admired by millions of visitors. Inquiries about the statue were so numerous that, in 1973, at my request, a plaque was added to tell the story of the Belgian missionary's work with victims of leprosy on the Hawaiian island of Molokai.

Now, at last, Americans all over the country will be inspired by the story of Father Damien. In January, the Public Broadcasting Network will air an original television drama based on his life by playwright Aldyth Morris of Hawaii. Directed by Nino Martin, of Hawaii's public television station, KHET, "Damien" will be shown for the first time in Hawaii tonight. It promises to become a television classic. A monolog, the play depends primarily on actor Terence Knapp, of Hawaii, who plays the title role. He and director Martin, according to early reports, have achieved unusual success in bringing the audience into the play.

The production of "Damien" at this time is particularly significant in that a decree citing the "heroic virtues" of Father Damien de Veuster was approved in July by Pope Paul VI. It is believed to be the first step on the road to sainthood for the Belgian priest who gave up his own life in the service of others.

With the thought that my colleagues will find it of interest, I am submitting for inclusion in the RECORD an interest-

ing article about the KHET production of "Damien" which appeared in a recent edition of the Honolulu Advertiser. I ask unanimous consent that the text of the article be printed in the RECORD following the inscription from the plaque on the Father Damien statue. The inscription reads as follows:

"Greater love has no man than this, that a man lay down his life for his friends."—John 15: 13.

Born a farmer's son at Tremeloo, Belgium, on January 3, 1840, Damien joined the Missionary Congregation of the Sacred Hearts and was ordained a Roman Catholic priest at the Cathedral of Our Lady of Peace in Honolulu in 1864. In 1873 he volunteered to serve alone at the leprosy settlement on the Island of Molokai. For sixteen years, he lived and worked among leprosy victims of all faiths and races. He ministered to their doomed bodies and, by his presence, gave them the reassurance they so desperately needed that they had not been forsaken either by God or by men. On April 15, 1889, Damien died among his people, of leprosy.

The sculptress Marisol Escobar, working from photographs of the dying priest, saw in Damien "the mystery of physical transformation—as if he had become what he wanted to become."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUTTING DAMIEN ON TELEVISION

(By Mary Cooke)

Nino J. Martin, KHET-TV director of the soon-to-be premiered "Damien," started the interview with a flashback to early this summer:

Martin pondering his production problems.

"How," he asked himself, "do you put one man on the screen and leave him there for 90 minutes?"

Aside to reporter: "It's a hell of a thing you face."

Cut to studio preview of the finished show:

"Damien" is a winner. Probably an award winner.

The telefilm, Hawaii Public Television's most ambitious project to date, will have its first airing Sept. 29 at 8 p.m. on Channel 11.

It will be shown on national public television channels beginning in January.

The "one man on the screen" is Father Damien, the leper priest of Molokai.

The playscript is a monologue through which Damien re-enacts his life story from childhood to the grave—and beyond—and ponders the meaning of it all.

The actor, Terence Knapp, and the playwright, Aldyth Morris, have worked together before.

Both got rave reviews when the University Theatre staged "Damien" last summer.

Martin, who has never directed a TV drama before (he's done mainly musicals and documentaries), converted the script to a teleplay, produced and directed it.

"With a stage play," he said, it's the responsibility of the actor to take the play out from the proscenium, out into the audience.

"What we've done with television is just the opposite. We've brought the audience into the play.

"The entire production is choreographed. It's designed very, very carefully in such a way that it takes you into every sequence and allows you to fantasize.

"That's why we use very sparse sets."

The drama of Damien flows continually between four sets, each of which is symbolic of the motivating forces of his life.

When he retreats to his humble study, the monologue reflects his inner self.

A small black crucifix, which Damien held when he died, hangs on the wall of his study.

The host maker he used for communion services at the leper settlement is propped up in a window casement.

We see him kneel at the prie dieu he built for himself on Molokai.

The cathedral set, manifestation of Damien's religious passion, is marked by a 14-foot sculptured crucifix.

Antagonistic, authoritative forces are represented in set pieces symbolizing the bishop's office (a bishop's chair, cope and miter) and the Board of Health of the Hawaiian monarchy (a stained glass crown).

The sets themselves become "characters," as when Damien's image becomes distorted when viewed through the stained glass crown.

Or when Damien, pleading for food and shelter for the lepers, is seen through the ribs of chairs and railings, symbolic of the barriers set up by indifferent officialdom.

"Camera movement, acting, lighting, set pieces, props, music and sound effects were absolutely vital forces to bring out the essence of the drama," Martin said.

"If this thing were staged with full sets and a location, I don't think it would have the drama, the impact, the involvement.

"In a fully dressed television show you don't have to use your imagination. It's all there.

"This whole production is 'feeling' as opposed to "intellectualizing."

* * * * *

"It was as if we were isolated there and did not know of anything else that existed.

"Because of space limitations, we could set up only one position at a time. So we shot all the sequences for a particular set at one time, wherever they might be in the script.

"We didn't have the luxury of running in sequence. I had to remember most of the energy levels in my head. Terry (Knapp) had to do the same thing.

"Probably the most important element in the entire production is that all the people involved were together from an artistic point of view."

Martin said the "Damien" telefilm is the work of all local artists, technicians and students, with one exception: Lighting specialist Mikel Neiers from Hollywood.

Underwriters for the project were the Hawaii Committee for the Humanities, Bank of Hawaii, Foodland Super Market Ltd. and Meadow Gold Dairies.

"I think this is going to open up a great many doors," Martin said, "We can do high caliber productions in Hawaii.

"It's something I've always pushed for, because quality lasts. This telefilm will be a classic in Hawaii."

NATIONAL CATHEDRAL DAY

Mr. MATHIAS. Mr. President, today in Washington there is cause for rejoicing. It is the Washington Cathedral's 70th birthday. On September 29, 1907, with President Theodore Roosevelt participating, the foundation stone of that great edifice which plays such a significant and creative role in the spiritual and cultural life of this city, was laid. Today, with the nave complete and the great rose window in place, only the twin west towers remain to be built.

Credit for the miracle of this magnificent edifice being so near to completion belongs to many devoted men and women. But, for the past 25 years, The Very Reverend Francis Bowes Sayre, Jr., has been the driving force behind this great work. Because Dean Sayre has done so much to make this a happy birthday for the cathedral, I would like to include here thoughts evoked by the celebration earlier this year of Dean Sayre's 25th anniversary as dean of the Washington Cathedral.

When the great building bishops of the Middle Ages created their magnificent monuments to God, enormous fortunes were at their disposal. William of Wykeham had King Edward III as his patron when he embarked on Winchester Cathedral. When Fulbert, bishop of Chartres, was rebuilding that cathedral after it had been destroyed by fire, we are told that: "Many kings, princes, barons, and gentlemen, vied with each other in their contributions to this cathedral * * *.

It has been quite otherwise for Dean Sayre. He has depended in his great work on small contributions from thousands and thousands of ordinary people. They came slowly, sporadically; sometimes not enough, sometimes not at all. Still, he persevered and his achievement is the more extraordinary.

Today the National Cathedral, like its medieval prototype, is a vibrant, living institution. There Cesar Chavez finds equal welcome with the Archbishop of Canterbury; there the late Jose Limon danced his final "Moor's Pavane" and there the first notes of Gian-Carlo Menotti's "The Unicorn, the Gorgon and the Manticore" were heard. There too the late Dr. Martin Luther King, Jr., preached his last inspired sermon.

I ask now that my colleagues join me in wishing the Washington Cathedral a very happy birthday and many happy returns of the day. And I invite them to join with thousands of other celebrants at the Cathedral Open House on October 1 which will feature, in addition to tours of the usually off limits central tower, puppet and mime shows, demonstrations of flower arranging and stone carving, peal bell ringing, carillon concerts, and music of organ, choirs and large choral groups.

This festive open house is the Cathedral's annual gift to the city. But this year, in honor of the Cathedral's birthday, the city has given something in return. The City Council of the District of Columbia has proclaimed October 1, 1977, as "National Cathedral Day." It has invited all citizens of all faiths "to take note of this great structure and its meaning to the religious life of our community and the Nation, and of the significance of our common belief in Almighty God".

Mr. President, I ask unanimous consent that the text of the City Council proclamation of "National Cathedral Day" be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

NATIONAL CATHEDRAL DAY: OCTOBER 1, 1977

Whereas, two hundred years ago, President George Washington called for the establishment of a great national church in the Nation's Capital; and

Whereas, in 1893 Congress of the United States authorized the establishment of the Protestant Episcopal Foundation of the District of Columbia; and

Whereas, President Theodore Roosevelt assisted at the laying of the Foundation Stone on September 29, 1907; and

Whereas, the seventieth anniversary of that event will be celebrated at Washington National Cathedral on October 1, 1977, with

prayers offered for the work and welfare of all peoples of this great city and of the nation; and

Whereas, it is appropriate that the nation have a visible symbol, prominent on the skyline of its capital, calling the people to God:

Now, therefore, we the City Council of the District of Columbia, do hereby proclaim October 1, 1977 as "National Cathedral Day" in the Nation's Capital and invite all citizens of all faiths to take note of this great structure and its meaning in the religious life of our community and the nation, and of the significance of our common belief in Almighty God.

FOREIGN RELATIONS COMMITTEE: DIRECT SPENDING ALLOCATIONS

Mr. SPARKMAN. Mr. President, in compliance with section 302(b) of the 1974 Congressional Budget Act, I am submitting on behalf of the Committee on Foreign Relations its report on direct spending allocations under the committee's jurisdiction as provided by the second concurrent resolution on the budget for fiscal year 1978.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE FOREIGN RELATIONS COMMITTEE

FISCAL YEAR 1978 ALLOCATION

	Budget Authority	Outlays
Full Committee:		
National Defense (050)		
Liquidation of foreign military sales		−$4,500,000
Advances, foreign military sales	$6,916,499,000	8,800,000,000
Subtotal, full committee, national defense	6,916,499,000	8,795,500,000
International Affairs (150)		
Technical assistance trust funds	11,200,000	11,200,000
Subcommittee on International Operations:		
International Affairs (150)		
Payment to the Foreign Service retirement & disability fund	66,000,000	66,000,000
Dept. of State, conditional and unconditional gift fund	837,000	837,000
Gifts & bequests, Nat'l Commission on Education, Scientific and Cultural Cooperation	50,000	45,000
Int'l Center, Washington, D.C.	3,254,000	2,507,000
Other educational exchange trust funds	225,000	254,000
USIA trust funds	76,000	76,000
Subtotal, Subcommittee on Int'l Operations, int'l affairs	70,442,000	69,719,000
Commerce and Transportation (400)		
Educational & cultural exchange trust fund	4,309,000	5,064,000
Income Security (600)		
Foreign Service retirement and disability fund	161,187,000	98,834,000
Subcommittee on International Development:		
International Affairs (150)		
Peace Corps trust fund	195,000	195,000
Total allocation to Senate Foreign Relations Committee [1]	7,163,832,000	8,980,512,000

[1] All of the items allocated to the Foreign Relations Committee are trust funds or other permanent budget authority items which do not require periodic reauthorization. Under the terms of the Congressional Budget Act of 1974, such amounts are "uncontrollable."

NOTE.—On September 16, 1977, the Department of the Treasury submitted draft legislation to authorize U.S. participation in the Supplementary Financing Facility of the International Monetary Fund in an amount not to exceed the equivalent of $1,450 million Special Drawing Rights (approximately $1,700 million). According to the Department, no appropriations are required for such participation.

COMPREHENSIVE NATURAL GAS POLICY

Mr. GARN. Mr. President, it is easy to see why Senators METZENBAUM and ABOUREZK are willing to accept the so-called compromise proposal of the distinguished majority leader: It gives them practically everything they want. What they consistently fail to understand is that the Pearson-Bentsen bill is a compromise. It is not what we consider desirable. We have already given up far more than is justified in the public interest. Let me just list the things a satisfactory natural gas policy should include, so that Senators can see for themselves how far we have already gone in compromising.

First, new natural gas should be decontrolled. All proposals under consideration recognize that the price of new natural gas should be allowed to rise, but many do not permit a free market. The price of new gas would be tied to some other figure, either a real one, such as in the old Jackson amendment, or an artificial construct, as in the new Byrd proposal. There are proposals for setting an "average" price of new and old gas, which implies some sort of cap on the price of new gas.

Second, the decontrol should be immediate. There is a great desire to cushion the impact of deregulation, and so there are proposals to "phase-in" the decontrol. I am very sympathetic to the plight of homeowners who have been lied to by the Government for so many years, and who have installed gas furnaces, relying on those lies. Such homeowners are going to catch it in the neck, as prices shoot up, but that is the fault of the Government's policy, and not the fault of the gas producer or pipeline. I would like to protect the homeowner from sudden increases, and so I am willing to support a phased deregulation, even though I fear that phasing in higher prices will encourage some withholding of gas from the market. Even President Carter recognized that there is an incentive to withhold in expectation of a higher price, and that yielding to that incentive was only natural. That problem can be solved by moving to a free-market price immediately.

Third, the price of old gas should be decontrolled. I am well aware that in many cases "old" gas is produced as a byproduct of oil production, and that there are essentially no "costs of production." Under those circumstances, it is a very tempting course of action to say that such gas should be sold at essentially no cost. It is unfashionable to do it, I know, but let me remind the Senate that the idea of cost-related pricing was one of Karl Marx's favorite notions, expressed as "the labor theory of value." Incidentally, it was an idea that Marx may have gotten from Adam Smith, directly or indirectly, but no one can be perfect.

Unfortunately, the labor theory of value, and its cousin, cost-related pricing, does not produce good economic results. The fact is that however cheap that gas is to produce now, when it is exhausted, as it surely will be, it must be replaced, or homeowners will go cold. Gas to replace it will not be produced as a byproduct of oil production. That gas is all gone. New gas to replace it will have to be searched for, and searched for with great care and at great cost. In order for a company to have the capital to make that search, not only must he have the promise of a higher price for that new gas, he must have money derived from the sale of his existing gas. That means that old gas should be decontrolled, immediately as well.

Now it should not be thought that such

decontrol of old gas would immediately result in higher prices to consumers. To begin with, production costs are not the only component of retail gas prices, and decontrol would not affect these other components. More importantly, gas contracts are long-term contracts, as long as 40 years. Decontrol of old gas would affect the price only gradually, as contracts expire and are renegotiated.

Fourth, a rational gas policy should include the dismantling of the Federal bureaucracy which has grown up to smother the industry. The administrative costs involved in dealing with the Federal Government are great, and are increasing.

Fifth, an acceptable policy would have to include the preservation of the one strong component of the gas market, the intrastate market. The only segment of the industry that is operating properly now is the intrastate market. It seems to me to be madness to suggest that the blessings now afflicting the interstate market be visited on the intrastate market. That is a perversion beyond belief.

Now any reasonable analysis of the Pearson-Bentsen proposal, and a comparison with the new Byrd-Jackson compromise ought to make clear that we have already compromised from what is desirable. Pearson-Bentsen decontrols new gas, but only gradually; old gas remains controlled; the Federal bureaucracy is not dismantled; the intrastate market is left free of Federal meddling.

By contrast, none of these things is accomplished by the Byrd-Jackson "compromise." Now I ask the Senate: What kind of compromise is it when one side gets everything it wants, and the other side gets absolutely nothing? It is not a compromise, and what is incredible, is that we had the votes. The Pearson-Bentsen amendment is supported by a majority of the Senate. Well, this Senator will not support the Byrd-Jackson "compromise," and he urged all Senators to join in defeating it, and assuring real decontrol of natural gas prices, as promised by President Carter during the campaign.

VOLUNTEER CONCEPT WORKS IN THE ARMED FORCES

Mr. MATSUNAGA. Mr. President, the All-Volunteer concept is working in the Nation's Armed Forces, according to a report prepared by the highly-respected RAND Corp. and published this week.

The report leaves no doubt that volunteer military forces are better military forces in every way. Today's volunteer is both better educated and more able than the draftee of the 1960's.

Fears that the All-Volunteer Force would be all black or all poor should be dispelled once and for all by the RAND report. RAND concluded that the Volunteer Force is a socially representative mix. Young people from middle and upper income brackets are enlisting in numbers equal to those drafted during the early 1970's.

Perhaps most importantly, the RAND report establishes conclusively that the cost of the Volunteer Force has been practically negligible. Reliance on volunteers instead of draftees has added only two-tenths of 1 percent to the defense budget. Moreover, the report points the way to substantial savings through improved military personnel management policies.

Mr. President, the RAND report merits the attention of all my colleagues who, 4 years ago, decided to restore the American tradition of volunteer military service. An excellent summary of the report's conclusions was published in the Washington Post on September 26, 1977, and I ask unanimous consent that the Post article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOLUNTEER MILITARY SAID WORKING

(By George C. Wilson)

The great American experiment of filling the ranks of the military with volunteers rather than draftees "has worked," the Rand Corp. said yesterday.

The all-volunteer force, said Rand in its 407-page report, has proved in its first 4½ years to be at least as fair to young people as the draft.

The services have attracted smarter people through recruiting than the draft brought them, the study said. Fears that ending the draft would mean a poor, black Army have not been realized, it added.

"The military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft," it concluded.

The nonprofit research firm, based in Santa Monica, Calif., said the extra cost of relying on volunteers has been modest, adding only two-tenths of 1 per cent to the defense budget.

While "for the most part, the story of the volunteer force has been one of success," Rand said, it warned that the experiment "can be made to fail" if Pentagon and congressional leaders do not improve the way they manage military and civilian personnel on the defense payroll.

The study was commissioned by the Defense Department's Advanced Research Projects Agency.

Other conclusions in the report, entitled "Military Manpower and the All-Volunteer Force," included:

The shortage of jobs for teenagers is not the main reason people have been volunteering for the military since the draft ended, "but rather the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth."

Today's black young people are better educated than those of 20 years ago and thus more can meet military entrance requirements, one of two main reasons for the increased number of blacks in the services. The other reason is "the unusually high" unemployment rate among young black men.

There are just as many youths from middle- and high-income areas enlisting as were taken in under the lottery draft system late in the Vietnam war. (The draft ended in 1973.)

The proportions of country and city youths volunteering "are remarkably similar" to what they were under the draft.

It "is plainly incorrect" to blame the volunteer experiment, which started in January, 1973, for the biggest increases in military manpower costs. Higher pay and better benefits preceded the experiment.

Looking ahead, the Rand study said that "the key all-volunteer force issue" is not the size of the manpower pool for the military but the number of people the services will need to sign up each year.

Because the services limit the number of enlisted people that can enter the senior pay grades, partly in response to congressional restrictions, the flow of people entering and leaving the military is faster today than it was under the draft.

Yet, said Rand, "the long-run success" of the volunteer force hinges on reducing this personnel turbulence through better management of enlisted manpower.

"Shifting from the current mix of 60 per cent first-termers and 40 per cent careerists to a 55–45 mix or a 50–50 mix," said the report, would result in a better matchup between people and jobs and reduce the need for new volunteers. The combination could save "up to $1 billion to $2 billion per year," said Rand.

Additional automation an more reliance on civilians within the military establishment would save significant sums, according to Rand.

The study faulted the military's system of requiring a person to advance or leave the service, even though "a recent survey shows that nearly 50 per cent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities."

The report said pay and related compensation for the military have risen to the point that officers "earn about 70 per cent more and enlisted personnel about 30 per cent more than comparably aged and educated civilian workers."

HIGHWAY SPEED LIMITS RELATED TO TRAFFIC DEATHS AND INJURIES

Mr. MATHIAS. Mr. President, the Maryland Institute for Emergency Medicine was set up in 1961 to treat the critically ill and injured. Initially funded through Federal grants, the center is now funded by the State of Maryland.

The institute operates out of a building constructed in 1969 on the campus of the University of Maryland Medical Center in Baltimore.

Staffed by 400 medical personnel, 350 of whom are at the institute in Baltimore, the Maryland Institute for Emergency Medicine is the hub of shock and trauma treatment throughout the State. There a staff of highly qualified medical professionals, dedicated to efficient, effective emergency medical care, provide expert treatment.

My colleagues may have read from time to time in local newspapers of car accident victims being helicoptered to the Shock Trauma Center at the institute for emergency medical treatment. Over 80 percent of the patients treated by the institute are highway accident victims.

For this reason, the doctors at the institute are exceptionally well qualified to discuss the subject of highway accidents and national speed limits. I have recently received a letter from three doctors on the staff of the Institute for Emergency Medicine in which they express their growing concern over magazine articles encouraging motorists to ignore the national speed limit of 55 miles per hour.

I think their point of view should be heard and I would like to share it with my colleagues. Therefore, I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARYLAND INSTITUTE
FOR EMERGENCY MEDICINE,
Baltimore, Md., September 1, 1977.

Senator CHARLES MCC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Motor vehicle accidents caused 46,000 deaths and 1.8 million injuries in 1975.[1] In the last two years (1975 and 1976), 1,681 critically injured victims of automobile accidents were treated at the Maryland Institute for Emergency Medical Services, Shock Trauma Center, The Regional Trauma Center for Maryland.[2] Mortality exceeded 20 percent. Recently, two cover stories in magazines, one with local and one with national circulation have ridiculed the 55 mile per hour speed limit and have offered advice on "Getting on Top of Old Smokey" [3] and "The State of Beating the State of the Art",[4] i.e., how to avoid police speed detection devices. They outline driving techniques designed to mask speeding from speed detection devices. In addition, equipment to detect speed traps and facilitate communication between drivers to avoid being caught by "smokies", "bears", and "county mounties" are described and promoted.[5]

These driving "tips" are offered in one article that also acknowledges that, "as nationwide speeding arrests nearly doubled from pre-55 mph days in 1973 to 1975, fatalities dropped better than 17 percent", and, "during Maryland's 1975 no-holds-barred war against speeders, there was a 'very significant reduction' in the actual accident rate versus what had been projected." [4]

The National Safety Council states that "in fatal accidents, the principle driving error is speed." [1] And, the 55 mile per hour speed limit "affected traffic accidents and fatalities in two ways. First, by reducing speed, the chance of death or serious injury, if involved in an accident, was lessened. Second, by causing traffic to flow more uniformly, the chance of being involved in an accident was also reduced." [5]

We view with alarm irresponsible journalism which portrays a cat and mouse type of game between speeders and police officers with the loser supposedly receiving only a ticket. Loss of life and physical disability, often suffered by innocent victims who are not "playing the game" is ignored. Concerned lay and professional persons, organizations, and media must devote greater effort to informing the public of the real dangers of speeding.

CARL A. SODERSTROM, M.D.
KAZUHIKO MAEKAWA, M.D.
ROBERT W. DUPRIEST, Jr., M.D.

TESTIMONY ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal treaties. The witnesses today were the Honorable Griffin B. Bell, Attorney General, Department of Justice; the Honorable Herbert J. Hansell, Legal Adviser, Department of State; the Honorable Clifford L. Alexander, Secretary of the Army; Maj. Gen. H. R. Parfitt, U.S. Governor of the Canal Zone; and the Honorable William J. Jorden, U.S. Ambassador to Panama.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE
GRIFFIN B. BELL

Mr. Chairman: I am pleased to appear before your Committee to testify on and discuss with you a problem arising in connection with the Panama Canal Treaty. The question is whether the treaty-making power of the United States vested by the Constitution in the President, by and with the advice and consent of two-thirds of the Senate, can dispose of the proprietary interests of the United States in the Panama Canal Zone by treaty alone, or whether such action requires in addition legislation authorizing, approving, or actually effectuating such transfer.

The principal provisions governing the rights of the United States in the Panama Canal Zone are to be found in Articles II and III of the Hay-Bunau Varilla Treaty of 1903. Pursuant to those Articles, the Republic of Panama granted to the United States—

"* * * in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed." Art. II.

And—

"* * * all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." Art. III.

Additional provisions relating to the interests of the United States in the Canal Zone are to be found in Articles VI, VIII and XXII of the 1903 Treaty, which concern the rights of private landholders in the area granted to the United States by the Republic of Panama, and the property of the Panama Railroad Company and the New Panama Canal Company.

It is recognized that under these provisions the Republic of Panama retained titular sovereignty over the Canal Zone. The United States is not the sovereign, but it has jurisdiction over the Canal Zone, that is to say that the United States has all the rights, power, and authority which it would possess and exercise if it were the sovereign of the Canal Zone. In addition, the United States has title to substantial lands, buildings, and facilities in the Zone.

According to Article II, section 2, clause 2 of the Constitution, the President has the power to make treaties by and with the advice and consent of the Senate provided two-thirds of the Senators present concur, and Article VI, clause 2 provides that such treaties shall be the supreme law of the land. It has been established since *Foster* v. *Nielson*, 2 Pet. 253, 314 (1829), that whenever a treaty operates of itself and does not merely constitute an undertaking to enact legislation it is the equivalent of an act of the legislature.

Geofroy v. *Riggs*, 133 U.S. 258, 266–267 (1890), and *Asakura* v. *Seattle*, 265 U.S. 332, 341 (1924), have taught that the treaty-making power of the United States extends "to all proper subjects of negotiation between our government and other nations * * *," although it does not extend "so far as to authorize what the Constitution forbids." To the same effect are *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 204, 320 (1936); *Reid* v. *Covert*, 354 U.S. 1, 5–10, 16–19 (1957). Foremost, among those constitutional provisions are those designed to protect rights of citizens from enroachment by the Government (*Reid* v. *Covert*, *supra*).

The question raised in the present context is whether a treaty would do something "prohibited by the Constitution" if it seeks to be self-executing in an area in which Congress has legislative jurisdiction. Here the problem posed is whether a treaty can dispose of the territory and property of the United States in the face of Article IV, section 3, clause 2 of the Constitution, which gives the Congress power to do so.

Even brief reflection shows that the application of the supreme law of the land clause in Article VI to treaties would be extremely limited, if it were restricted to those areas in which Congress did not have power to legislate. The courts have concluded that this is not so and that the mere existence of a congressional power to legislate in the field does not preclude a treaty from being self-executing. *Foster* v. *Nielson*, *supra*, recognized this by equating a treaty to an act of legislature. The courts have given self-executing effect to a number of treaties which dealt with matters over which Congress has legislative jurisdiction under Article I, section 8, such as claims against the United States, customs inspection, and trademarks.

On the other hand, it is generally assumed that the specific powers granted to the House of Representatives and the Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriation power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings.

It is our conclusion that this consideration does not apply to Article IV, section 3, clause 2 of the Constitution. In other words the power of Congress to dispose of the territory and property of the United States does not have the same unique and prominent status as the fiscal powers of Congress.

To begin with, Article IV, section 3, clause 2 uses the same phraseology "Congress shall have power" as does Article I, section 8, and we have shown above that the legislative powers vested in Congress under that section do not preclude the making of self-executing treaties. The conclusion that this clause is not designed to foreclose the conclusion of self-executing treaties disposing of the territory and property of the United States gains strong support from the records of the proceedings of the Constitutional Convention. The pertinent debates indicate that the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States. Much of the opposition to the treaty power of the United States and the requirement of a two-thirds majority in the Senate were based on fears that the Senate might give away territorial right of the United States.

I wish to mention a few of the pertinent remarks. Thus, Col. Mason observed "that the Senate by means of a treaty might alienate territory, etc. without legislative sanction." Farrand, *Records of the Federal Convention* Vol. 2, p. 297. Later, Messrs. Williamson and Speight moved "that no Treaty of Peace affecting Territorial rights should

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[1] National Safety Council (Chicago, Illinois): *Traffic Accident Facts*, 1976 Edition.
[2] *Annual Report*, 1975–1976. Maryland Institute for Emergency Medicine. (Baltimore, Maryland).
[3] Taylor, R: "Getting on Top of Old Smokey", *Car and Driver* 23: 41–51, 1977.
[4] Peddicord, L: Gotcha Chump!, *Baltimore* 70: 23–29, 1977.
[5] National Safety Council (Chicago, Illinois): *Traffic Accident Facts*, 1975 Edition.

be made without the concurrence of two-thirds of the [members of the Senate present]." *Id.* at p. 543. Mr. Gerry felt that—

"* * * in treaties of peace, a greater rather than less proportion of votes was necessary than in other treaties. In treaties of peace, the dearest interests will be at stake, as the fisheries, territories, etc. and there is more danger to the extremities of the Continent of being sacrificed than in any other occasion." Warren, *The Making of the Constitution* 656.

Sherman and Morris proposed but did not formally move the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the U.S. may be contracted, or by which the common rights of *navigation* or *fishery* recognized to the United States by the late treaty of peace, or accruing to them by virtue of the laws of nations may be abridged." Warren, *op. cit.*, p. 657, Farrand, *op. cit.* Vol. 4, p. 58.

The awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States also appears from the following amendment to the Constitution proposed by the Ratifying Convention of Virginia:

"7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, on their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively." Elliot, *Debates on the Federal Constitution* Vol. 3, p. 660.

A letter from Hugh Williamson, a delegate to the Convention from North Carolina dated June 2, 1788, reminded James Madison of the background of the treaty clause and the requirement of a two-thirds majority in the Senate:

"* * * It is said that some antifed in Maryland on the last Winter fastened on the Ear of Genl. Wilkinson who was accidentally there and persuaded him that in case of a new Govt. the Navigation of the Mississippi would infallibly be given up. Your Recollection must certainly enable you to say that there is a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate or of the States which is considered as the same thing from giving up the Mississippi. It is provided that two thirds of the Members present in the Senate shall be required to concur in the making Treaties and if the southern states attend to their Duty, this will imply ⅔ of the States in the Union together with the President, a security rather better than the present 9 States especially as Vermont & the Province of Main may be added to the Eastern Interest and you may recollect that when a Member, Mr. Willson objected to this Proviso, saying that in all Govts. the Majority should govern it was replyed that the Navigation of the Mississippi after what had already happened in Congress was not to be risqued in the Hands of a meer Majority and the Objection was withdrawn." Farrand, *op. cit.*, vol. 3, pp. 306–307.

The text of the Constitution and its history thus support the proposition that a treaty disposing of the territory and property belonging to the United States can be self-executing.

I am aware of a number of decisions of the Supreme Court holding that Article IV, section 3, clause 2 of the Constitution is of an exclusive nature, and that some have argued from those decisions that treaties disposing of property of the United States must be implemented by legislation enacted under that clause of the Constitution. It should be noted, however, that the decisions declaring Article IV, section 3, clause 2 to be exclusive related to the authority of the Executive and Judicial Branches to dispose of the territory or property of the United States. None of them dealt with the question here involved, the power of the treaty-making authority to make such disposition. To the contrary, as shown in my opinion, there is a substantial body of Supreme Court decisions dealing with Indian treaties which holds that a treaty may dispose of territory belonging to the United States without implementing congressional legislation under Article IV, section 3, clause 2.

Of those cases, *Holden* v. *Joy*, 17 Wall. 211 (1872), appears the only one in which the question was raised whether Article IV, section 3, clause 2 of the Constitution precludes such a treaty from being self-executing. The Court conceded that the question was immaterial in the case at bar because Congress had actually implemented and ratified that particular treaty. Nevertheless, it rendered the following strong dictum:

"* * * [S]till it is insisted that the President and Senate, in concluding such a treaty, could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political. Much reason exists in view of those authorities and others which might be referred to, for holding that the objection of the appellant is not well founded, but it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid." At 247.

In addition to the Indian treaty cases, in *United States* v. *Percheman*, 7 Pet. 51, 88–89 (1833), the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory. Those provisions of the treaty thus came within that part of Article IV, section 3, clause 2 which gives Congress power to make all needful rules and regulations respecting the Territory of the United States. If a treaty which deals with that part of Article IV, section 3, clause 2 can be self-executing, the same reasoning applies to a treaty coming within another part of that clause.

The final point which I wish to make is that throughout our history Presidents acting with the advice and consent of the Senate have made numerous self-executing treaties transferring territory or property belonging to or claimed by the United States. One example, cited in the Opinion, is the 1819 Florida Treaty with Spain. Under that treaty the United States ceded all its territory beyond the Sabine River in Texas to Spain in return for the cession of the Spanish territories of East and West Florida. While there had been some dispute over some of the relevant boundaries, the congressional debates, as well as President Monroe's annual message to Congress, make it clear that many considered the action to be an outright cession of American territory in exchange for Spanish territory. 36 *Annals of Congress* 1719–38, 1743–81; 2 J. Richards, *Messages and Papers of the Presidents* 55 (1896). There was no statute authorizing this cession of American territory. There have been numerous other treaties which have transferred U.S. territory or compromised U.S. claims. See, e.g., United States-Great Britain Treaty of 1842 (Webster-Ashburton), 8. Stat. 572, T.S. No. 119; United States-Great Britain Treaty in regard to limits westward of the Rocky Mountains of 1846 (Oregon Treaty), 9 Stat. 869, T.S. No. 120.

In conclusion, the text and history of the Constitution, as well as the decisions of the Supreme Court and historical treaty practice all support the opinion I recently rendered that property of the United States may be transferred by treaty absent statutory authorization.

Thank you, Mr. Chairman. If you or the members of this Committee have any questions, I shall be pleased to answer them.

STATEMENT OF HERBERT J. HANSELL

Mr. Chairman, Members of the Committee: I appreciate the opportunity to appear before you today to discuss the new Panama Canal Treaties.

Judge Bell's statement has explained the Administration's view with reference to the Constitutional issues that have been raised concerning transfer of property by treaty. The State Department is in full accord with the view expressed by Judge Bell. If the Committee wishes any additional information or expression of views from the Department of State on this subject, we will be happy to provide it.

I believe that it would be helpful to you if I focus on four additional aspects of the Treaties:

1. The timing and manner of transfers of U.S. property to Panama;
2. The legal structure that will replace the Canal Zone;
3. The organization of the new Canal Commission; and
4. The necessary implementing legislation.

1. PROPERTY TRANSFER

First, as to property transfers, Article XIII of the Panama Canal Treaty provides for the transfer of property by the United States to the Republic of Panama in stages.

Upon entry into force of the Treaty, the United States will transfer to the Republic of Panama its interests in real property, including non-removable improvements, not to be used by the United States under the Treaty. This transfer includes the Panama Railroad and some of our facilities in the port areas of Balboa and Cristobal.

Title to housing owned by the Panama Canal Company prior to the entry into force of the Treaty will also pass to the Republic of Panama at the outset of the Treaty. However, the United States will retain, without cost, the use of the housing deemed necessary for the accommodation of United States citizen employees of the Canal Commission during the life of the Treaty. Housing occupied by United States Armed Forces will not be transferred at that time, except a few units which are made available to the Panamanian forces.

Real property not transferred to Panama upon the entry into force of the Treaty will pass to Panama during the term of the Treaty, if the United States agrees to discontinue the use of the area in which the property is located. During that period specified military housing units will likewise be transferred to Panama.

Upon termination of the Treaty, the Panama Canal shall be turned over to Panama in operating condition and free of liens and debts, except as may be otherwise agreed upon by the Parties. At that time, all remaining United States interests in real property and non-removable improvements used by the United States under the Treaty and related agreements, and all equipment remaining in Panama related to the management, operation and maintenance of the Canal, will pass to the Republic of Panama.

2. THE NEW LEGAL SYSTEM

Mr. Chairman, I now turn to the new legal system that will supplant the Canal Zone.

A. General structure

Upon entry into force of the Treaty, the Canal Zone will cease to constitute a separate area governed by the United States, and the Canal Zone Government will end its operation in Panama. The Republic of Panama reassumes plenary jurisdiction throughout its territory, subject to the privileges, immunities and arrangements established pursuant to the Panama Canal Treaty to protect the interests of the United States Government and American citizens serving the Panama Canal. Special provisions will apply during the first 30 months to ensure a smooth transfer of the various jurisdictional functions to the Republic of Panama.

B. Criminal jurisdiction

During that 30-month transition period, the United States will have primary jurisdiction over criminal offenses committed within areas used by the United States by United States citizen employees of the Panama Canal Commission, members of the United States Armed Forces, the civilian component of the Armed Forces and dependents of those groups. During the transition period, the U.S. police and courts continue to exercise criminal jurisdiction and U.S. criminal law continues to be applicable. During that period, the United States may continue to incarcerate individuals in the areas used by the United States or to transfer them to penal facilities in the United States to serve their sentences.

Upon the end of the transition period, while Panama will acquire primary criminal jurisdiction over United States citizen employees regardless of the place of the offense within Panama, Panama will, as a matter of general policy, waive its jurisdiction at the request of the United States in cases of offenses committed by United States citizen employees or their dependents that are punishable under the laws of both nations. In cases of waiver of its jurisdiction by Panama, the accused must be tried outside Panama, since the U.S. courts in Panama will cease to function in all cases after the expiration of the transition period.

Upon the end of the transition period, the United States retains primary jurisdiction over criminal offenses committed by members of the United States Armed Forces, including civilian component and dependents, within the defense sites, and over offenses committed by such persons outside the defense sites arising out of performance of official duty and in certain other cases.

An accused United States citizen employee, a member of the United States Forces or its civilian component or a dependent tried by Panama is entitled to special rights, specified in detail in the Implementing Agreements. Among these are the right to a prompt and speedy trial, the right to be informed in advance of trial of the charges made, the right to confrontation and cross-examination of witnesses, the right to legal counsel and the privilege against self-incrimination.

C. Privileges and immunities

Installations owned or used by agencies and instrumentalities of the United States operating in Panama, and their archives and documents, are to be inviolable. The Parties are to agree upon procedures to be followed in the conduct of any criminal investigation by Panamanian authorities at such locations.

Agencies and instrumentalities of the United States operating in Panama pursuant to the Treaty are immune from the jurisdiction of the Republic of Panama. In addition, the United States may designate up to twenty officials of the Panama Canal Commission who with their dependents shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice.

D. Continuation of activities and ownership rights

The Treaty contains provisions protecting established business enterprises and non-profit activities, and private ownership rights. Business and non-profit activities conducted in the Canal Zone for at least six months prior to the signing of the Treaty may be continued. They will have 30 months to come into compliance with Panamanian law. Thereafter they will be subject to all Panamanian laws applicable to similar enterprises in Panama, without discrimination.

Existing private ownership rights in buildings and other real property improvements located in the Canal Zone will be recognized in conformity with Panamanian law. The Treaty assures to the owners of improvements the use of the land upon which the improvements are located, upon specified terms.

If Panama requires persons protected by the Treaty to discontinue their activities or to vacate their property for public purposes, they shall be compensated by Panama at fair market value.

E. Exemption from Panamanian taxes

The Implementing Agreements provide exemptions from Panamanian taxes for United States agencies and their personnel, including dependents, and contractors.

3. ORGANIZATION OF THE PANAMA CANAL COMMISSION

Next, Mr. Chairman, I want to provide to the Committee a brief summary of the basic organization of the new Canal Commission. As the Committee members know, the operation of the Canal will be transferred from the Panama Canal Company to a new U.S. Government agency to be known as the Panama Canal Commission.

The Commission is to be supervised by a Board composed of nine persons, of whom five will be nationals of the United States and four nationals of the Republic of Panama proposed by their government.

Until December 31, 1989, the Administrator will be a national of the United States and the Deputy Administrator a national of the Republic of Panama. After that date, the Administrator will have Panamanian nationality and the Deputy Administrator will be a U.S. national. If the Republic of Panama requests the removal of a Panamanian national from membership on the Board, the United States shall honor the request and the Government of the Republic of Panama shall propose the replacement. If the United States wishes to remove a Panamanian national, the two governments shall consult in advance to reach an agreement on such removal. The United States has the right to remove an Administrator or Deputy Administrator of Panamanian nationality. In such case, Panama shall propose another Panamanian national to replace the removed official.

In addition to the participation of Panamanian nationals at the top management level just described, there shall be an increasing participation of Panamanian nationals at all other levels and fields of employment.

A Panama Consultative Committee, composed of an equal number of high-level representatives of both nations, shall be appointed to advise both governments on matters on matters of policy affecting the Canal's operation.

4. IMPLEMENTING LEGISLATION

Finally, Mr. Chairman, I am pleased to have this opportunity to report to this Committee on the proposed legislation to implement these Treaties that is being prepared for submission to Congreess in the near future. That legislation of course will be an essential component of the overall program of implementation of the Treaties. Among the subject matters on which legislation will be needed are:

A. Organization and activities of the new Panama Canal Commission, including arrangements for establishing and collecting tolls and payment of the stipulated sums to Panama;

B. Employment practices of the Panama Canal Commission, and the special retirement program envisaged in Article X of the Treaty;

C. Adjustments of the jurisdiction of U.S. courts and law enforcement authorities during the transition period; and

D. Certain diplomatic aspects of United States-Panama relationships under the Treaty, and other matters relating to Panama's assumption of various governmental functions.

The Executive branch looks forward to working with both houses of Congress on this important legislation.

In conclusion, Mr. Chairman, I would like to assure the Committee of our conviction that these treaties establish the legal structures and relationships necessary to assure fair and just treatment of United States citizens, a smooth and effective transition to Panamanian authority and continued efficient and peaceful operation of the Canal.

STATEMENT BY HONORABLE CLIFFORD L. ALEXANDER, JR.

INTRODUCTION

Mr. Chairman, members of the Committee on Foreign Relations, I appreciate the opportunity to appear before you today as you receive testimony regarding the impact of the proposed new Panama Canal treaty on future Canal operations.

As you know, my primary responsibility as Secretary of the Army is the head of the Department of the Army. However, the Secretary of the Army has also a major responsibility for overseeing the effective and efcient operation of the Panama Canal. Specifically, the Secretary of the Army has been designated by the President:

"As the officer of the United States to Supervise the administration of the Canal Zone Government . . . and to act as stockholder of the Panama Canal Company. In performing his functions . . . the Secretary of the Army shall act as the direct representative of the President of the United States, and not in his capacity as head of the Department of the Army."

I want to assure you that I do not take this duty lightly. I firmly believe in the importance of the Canal to our country and will be the first to identify myself with those who believe that the Canal will continue to be a valuable asset in the foreseeable future. However, I am equally firm in my support for restructuring our treaty relationship with Panama.

By negotiating a new treaty relationship with Panama, our country has shown that it can be sensitive to and respectful of Panama's needs and desires as a sovereign state, while continuing to insure United States interests and the continued effective use of the Canal by world commerce. I believe that through these treaties our country can insure that protection of its vital interests while, at the same time, put to rest the old conflicts and frustrations that have impeded the development of a cooperative partnership between our country and Panama.

The Canal treaties provide our country with an excellent opportunity to do justice to our real accomplishments in Panama, correct past inequities, protect the legitimate needs of the United States and international shipping, and rightly take into account the aspirations of the people of Panama. We can

achieve all this in a spirit of cooperation and accommodation that has previously been known on few occasions in the history of US-Latin American relations.

I would like to present a short opening statement outlining my views with regard to th future operation of the Canal, after which Governor Parfitt will provide additional and more detailed data. We will then be glad to answer any questions which you might have regarding current and future Canal operations.

GENERAL

Over the past 63 years the Panama Canal enterprise has provided a valuable service to world shipping. This exceptional performance by the Canal organization has often been recognized by members of Congress as well as by the users of the Canal. Under the new treaty we will continue to operate the Canal utilizing, to the greatest extent possible, tried and proven procedures—those which have been accepted by the users and the Congress. Required deviations from proven practice and established managerial procedures will be held to the minimum necessary to conform to the letter and spirit of the treaty. In my view this is most desirable, and certainly achievable under this new treaty.

I would like to comment briefly on three general aspects of Canal operations under the proposed new treaty: activities of the Panama Canal Company, the functions of the Canal Zone Government, and finally caring for our employees.

THE PANAMA CANAL COMPANY

The treaty calls for the Panama Canal Company to be replaced by a successor agency to be known as the Panama Canal Commission. The Commission will be a self-supporting United States Government agency with the same broad mission as the Panama Canal Company: The movement of ships between the oceans and the conduct of supporting functions incident thereto.

While the Commission, will control the lands and waters necessary to the transit of ships and will not be precluded from conducting any activities which are directly related to that function, it will not perform certain supporting activities which are now conducted by the Canal Company. Examples of the latter are: commercial port operations, commercial bunkering, commercial ship repair and retail sale of goods and services.

Although the existing Panama Canal Company retail store system will be discontinued, Commission employees will be authorized use of military exchanges and commissaries for the first five years of the treaty. I will propose that after that period an additional compensation be provided to employees in order to offset the associated increase in their cost of living.

There will be an increase in toll rates at the beginning of the treaty period as a result of the increased payments to Panama. This toll increase will insure that adequate revenues are available to cover additional costs at the outset of the new relationship. We are now conducting a detailed analysis to determine the exact toll increase which will be necessary to meet expenditures. In subsequent years we would hold tolls to the minimum necessary to meet costs, as has been past practice.

I recommend that the future Canal organization continue to be operated under the provisions of the Government Corporation Act thus enabling us to utilize business and management practices which will best provide efficient operations at minimum costs to the user.

THE CANAL ZONE GOVERNMENT

Under the new treaty the Canal Zone and its Government will cease to exist six months after the exchange of ratifications. Nevertheless, in those cases where a Governmental service is essential to the well being of our employees we have retained the necessary rights for the United States to provide the needed service. Thus, health and educational functions now provided by the Canal Zone Government, which include over 67% of the Canal Zone Government's employees, will be transferred to the Department of Defense. United States citizen employees of the Commission will, of course, retain the right to use these facilities for the life to the treaty.

The Governmental functions of police, courts, customs and immigration will be assumed by the Republic of Panama on the effective date of treaty. It should be noted; however, that for United States citizen employees and their dependents, police and court activities will be continued by the United States for a period of three years after the exchange of ratifications.

While the Canal Zone postal system will be discontinued, its services will be assumed in part by the U.S. military post offices in Panama. The fire protection division will be reduced in strength and transferred to the Commission.

RIGHTS AND BENEFITS OF EMPLOYEES

One of the most important issues to be considered regarding the new treaty is how the rights and benefits of current employees of the Canal enterprise will be protected. Let me list just a few of the many actions which we will take or propose be taken in order to adequately deal with this matter.

Provision of a priority job placement program.

Provision of an early optional retirement program which would be designed to ease the impact of necessary force reductions while at the same time providing an incentive for employees with essential skills to remain with the Commission.

Assurance of the continued availability of adequate housing.

Provision of adequate educational and medical services.

Terms and conditions of employment no less favorable than those existing on the effective date of the treaty.

In short, Mr. Chairman, the treaty will provide us with all the rights necessary to adequately care for both the Panamanian and United States citizens of our dedicated work force.

CONCLUSION

Mr. Chairman, under the new treaty we would retain all of the specific rights necessary to efficiently operate the canal and adequately care for our employees.

Governor Parfitt will now provide you with more detailed information on Canal operations.

PRESENTATION BY H. R. PARFITT

Mr. Chairman and members of the Foreign Relations Committee, you have asked that I outline to you my impressions on how the Panama Canal organization will operate under the new treaty, and I will attempt to do so.

First, however, I should note that my remarks are based on an initial review of the recently signed treaty documents. Considerable further analysis must be made before precise implementation plans can be developed. This effort is underway.

A prime consideration in the determination of method of operation under a new treaty should be an assessment of how well the existing organization has functioned. On that score, one need have no reservations. From the completion of the canal in 1914, and continuing today, the canal has been operated efficiently, safely, and has provided excellent service at reasonable cost.

CURRENT SITUATION

At this point it might be helpful to briefly review the current situation. The agencies known as the Panama Canal Company and the Canal Zone Government have existed since July 1, 1951, when Public Law 811 became effective. Business operations, including operation of the waterway, are separated from the functions associated with civil government, but both organizations function as an integrated enterprise. By law, the Panama Canal Company is required to finance its operating costs, and in addition, to pay annually to the U.S. Treasury, the following: (1) interest on the net direct investment of the U.S. Government in the Company; (2) the net cost of the Canal Zone Government; and (3) a portion of the annuity to Panama. Thus the Company is required to be self-sustaining. Although appropriations are authorized to cover operating losses or for capital improvements, this has not been necessary to date.

Major contributing factors toward this success have been: (1) a stable and well qualified workforce; (2) sound preventive maintenance practices; and (3) the financial and operational flexibility of this Government corporation.

Some measure of the success of the Panama Canal Company since its formation in 1952 can be gleaned from the few highlights of FY 1952 through FY 1976 results which follow:

A. Although transits increased 70 percent and Panama Canal tonnage increased 274 percent during the period, the full-time workforce was reduced 35 percent.

B. Net revenues of $90 million were generated.

C. Capital investment of $284 million was made from internally generated funds.

D. Although general, inflation indexes increased 230 percent over the period, tolls were in effect raised only 50 percent. It should be noted, however, that this increase has been required in the last three years.

Operating losses during the past four years due to rampant inflation, worldwide recession, and the reopening of the Suez Canal have been overcome by management improvements, cost cutting, and the recent adjustments to tolls. As a result we are again in the black in FY 1977.

Traffic growth is expected to continue, but at a moderate rate; and even without treaty impacts, periodic increases in tolls may be necessary to absorb the increase in costs resulting from inflation. In the short run, North Slope oil movements through the Canal could temporarily alter our growth pattern and need for tolls increases. However, these movements are not expected to last more than a few years as pipeline alternatives appear to be more economical.

Given the success of the present agency, it seems logical to model the Canal Commission after it, making adjustments consistent with the requirements imposed by the new treaty but avoiding unnecessary change in the interest of operating stability.

TREATY PROVISIONS

With this in mind, I will now briefly review the most significant provisions of the treaty likely to influence the structure of the new organizational entity and its ability to perform the basic mission of transiting ships safely and efficiently through the canal.

The dominant and all encompassing change under the treaty is immediate recognition of Panamanian sovereignty and general territorial jurisdiction over the present Canal Zone. This provides a back drop against which all other changes must be viewed.

Given this basic change, the status of the new Canal Commission takes on the semblance of a business enterprise operating in a foreign country. Obviously, it is somewhat more than that since the new operating agency, the Panama Canal Commission, will be a United States Government agency and will be granted extensive rights, particularly as they pertain to the management, operation and maintenance of the Panama Canal.

More specifically, the treaty would eliminate the Canal Zone Government and the Panama Canal Company and substitute therefor the Panama Canal Commission. This agency will have no authority to perform most governmental or commercial functions. Many of these functions will be performed after the effective date of the treaty by Panamanian government agencies or private interests in Panama. These include: the operation of the ports of Balboa and Cristobal; the operation of the railroad; provision of bunkering services; licensing of vehicles, vessels, and aircraft; customs and immigration services; and partial police and fire protection; street maintenance; and garbage collection. The total police function, the operation of the prison system, and the provision of postal, commissary and post exchange services (available initially from the U.S. military) will likewise be provided by Panamanian sources after prescribed phase-out periods. Other functions—the operation of schools and hospitals—will be transferred immediately to the U.S. military forces.

Aside from these changes in functional authority and responsibility, there are major changes in areas and facilities made available to the commission. These are identified in great detail on maps and in descriptive language in the agreement in implementation of the treaty. Briefly they fall into three categories: the Canal operating area consisting of a continuous area following the Panama Canal and generally contiguous to it, plus certain limited non-contiguous areas; specific installations and facilities; and housing areas for U.S. citizens.

The housing areas are to be administered in accordance with a regime of civil coordination, that is, a set of rules established in the implementing agreement. This regime provides that title to this housing will pass to Panama with the Commission having rights, without cost, to use, manage, maintain, improve, and rent such housing. Houses not required for U.S. citizen employees will pass exclusively to Panama and must, as a minimum, be relinquished in accord with a prescribed schedule.

The reduction in functions, activities, and area of responsibility of the Commission will have a significant financial impact. There will be substantial reduction in expenses although this will be offset in part by a reduction in revenues from transferred activities. It is also anticipated that the Commission will be relieved of the requirement to pay interest on the net direct investment of the United States in the Canal.

On the other hand, the Commission will be obliged to pay $10 million per annum to Panama as reimbursement for certain specified public services to be provided in canal operating areas and housing areas. At the same time, the Treaty imposes obligations to pay Panama the following out of revenues: 30¢ per Panama Canal net ton transiting the canal, to be adjusted periodically for inflation; a fixed sum of $10 million annually; and an additional $10 million per year to the extent revenues exceed expenditures. The latter $10 million has a provision that in the event canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed. The resulting difficulty in accumulating surpluses for application in lean years would appear to significantly restrict the flexibility of the new organization.

In net, these additional obligations are certain to necessitate an immediate toll increase of an as-yet-uncertain amount. A new study of toll economics is now underway, with results due by mid-January. This study will update traffic projections, including the likely extent and duration of North Slope oil movement, and will provide an analysis of the sensitivity of canal traffic to various levels of toll increase. The initial toll increase might range from 25% to 40% depending on several variables, key among which is the amount of revenue realized from transits of North Slope oil through the canal. If no such oil were to materialize—the worst case—the toll increase required to cover costs could be about 40%. If $25 million in annual revenue materialized from North Slope oil—the most optimistic current projection—then tolls might only have to be raised by about 25%.

The Treaty provides that the Panama Canal Commission will be supervised by a Board of Directors comprised of five United States nationals and four Panamanian nationals. Until 1990 the Canal Administrator (the Chief Executive Officer) will be a United States national and the Deputy Administrator will be a Panamanian national. There will be a Consultative Committee comprised of an equal number of representatives from the United States and Panama which will advise the two governments on such questions as general tolls policy and on employment policies aimed at increasing Panamanian participation in canal operation. There will also be a Coordinating Committee which will establish rules and procedures necessary to implement a number of provisions of the Treaty and their related agreements.

The conditions of employment are of paramount importance, and in recognition of this, the Treaty and Implementing Agreements contain considerable detail on this subject. Unfortunately, there is no way that a change as major as the one contemplated can be accomplished without some adverse impact on employees and their families. Thus, efforts are being made to ameliorate any hardships. Those individuals displaced from employment will be placed, to the maximum extent feasible, in other appropriate jobs. Those employees continuing with the Commission will have, in general, terms and conditions no less favorable than those existing just prior to the Treaty effective date. Furthermore, an early-optional retirement program will be provided for all persons employed by the Company/Government immediately prior to the entry into force of the Treaty.

As a final point, the Treaty enters into force six calendar months after exchange of instruments of ratification and terminates at noon, December 31, 1999. The major effects are felt on the effective date of the Treaty; however, there will be changes through the life of the Treaty with the most important taking place during the 30-month transition period. At the end of this period the limited jurisdictional authority granted to the United States will cease.

ENABLING LEGISLATION

The impact discussed so far has been limited to that which would result from the Treaty terms themselves. In addition, enactment by Congress of implementing legislation will be necessary. Such legislation will also have a definite impact on our operations, and we have been assisting in its preparation. In my view, the legislation should incorporate changes in the Canal Zone Code, so as to:

Establish the Panama Canal Commission as the successor to the Panama Canal Company and the Canal Zone Government with respect to whatever property and functions of the government are retained;

Generally conform the toll provisions and other fiscal provisions of present law to the new Treaty;

Conform present personnel laws to the Treaty and provide special benefits to those affected by the Treaty, including liberalized retirement; and

Amend provisions concerning court jurisdiction and related law enforcement matters to conform to the treaty provisions that would govern the 30-month transition period following the effective date of the treaty.

PLANNING FOR THE FUTURE

Thus far our participation in the Treaty process has primarily been in the area of providing to our negotiators detailed technical information as well as our views on Treaty initiatives. Now that the Treaties have been made available, our first task, which we are well into, is to review and analyze the lengthy and complicated Treaty documents. We have briefed the employees and the general public in the Canal Zone on the Treaties; are identifying areas that need clarification and problems that will require resolution; and have begun detailed planning to position ourselves to implement provisions of the Treaty at the appropriate time.

More specifically, we are identifying activities which must be shed on a specific timetable and estimating their cost and revenue impacts; further identifying in the same terms the secondary impacts of shedding functions and facilities; considering required organization changes; and planning for the myriad of personnel actions that will ensue to include establishment of reduction-in-force and bumping rights and procedures, extra efforts to aid displaced employees and their families, and development of plans and programs for priority placement and training of Panamanians; planning for modification of capital programs consistent with changed responsibilities; and planning for financial changes with major emphasis on the extent to which toll rate increases are required and projected traffic sensitivity to any such increases. We are planning to pattern the new organization as closely as possible after the existing one. We are, of course, very mindful of the fact that all of this work must be done without adversely impacting on current mission accomplishment.

I want to emphasize that these essential planning efforts are only that, and no pre-implemenation is involved. Finalization of plans would follow Senate approval of the Treaties. Implementation of such plans will proceed in accord with the Treaties and the related implementing legislation.

FUTURE OUTLOOK

As indicated previously, we have not yet had adequate opportunity to identify and fully address the myriad of matters involved in implementing the Treaty. We have, however, accomplished much and have a good start on the job at hand. Based on our evaluation to date, the tentative conclusions are as follows. Minimum change needs to be made in staffing and operation of activities involved directly in the operation of the waterway. There are some potential problems here stemming from interface with port operations and certain general support activities transferred to others. Some erosion in efficiency can be expected, particularly in the early days, but this can be minimized by close coordination and the wholehearted cooperation of Panama. There is no doubt, however, that transfer of support services from the direct control of the canal administration will create some problems in obtaining services at the same level that we enjoy now.

On the basis of force projections, it appears that the shedding of activities is likely to reduce the size of the work-force by between 5,000 and 6,000 employees on the effective date of the Treaty, of which between 2,100 and 2,400 will be transferred to the Department of Defense. A further reduction of approximately 500 will occur by the end of the 30-month transition period.

SUMMARY

To summarize, the treaty eliminates the Canal Zone and recognizes sovereignty and

jurisdiction of Panama. The new agency (Panama Canal Commission) will operate within a reduced area, with reduced assets and functions, but with extensive rights related to the movement of ships through the Panama Canal. The transitional period will be especially challenging. The key to success, especially at that time, but as well throughout the Treaty period, will be the ability to maintain a technically qualified and highly motivated workforce, as well as successful efforts to establish and nurture a spirit of cooperation with Panamanian officials. Legislation consistent with the spirit of commitments made to employees will be critically important. Equally important will be the ability to provide for the financial needs of the Commission, including capital requirements whose cost is apt to increase continuously due to inflation.

Mr. Chairman, in the short time available, I have only been able to touch generally on those major areas where I feel there will be a significant impact on the way the canal would be run under the Treaty. As we proceed with our large task of planning to dischange major responsibilities for the operation of the canal until the year 2000, we are mindful of the extraordinary strength of the existing canal organization—of its sound flexible financial structure and, most imporr ntly, its personnel. We are blessed with employees who feel a deep relationship to the canal; their dedication to keeping it well maintained and smartly run, and their willingness to go the extra mile in any emergency are truly extraordinary. To the extent these strengths can be retained, our ability to meet the challenges in the months and years ahead will be enhanced. We shall lend our every effort to insure that our performance will not falter and that we shall conclude that chapter of history of U.S. presence on the Isthmus of Panama on a high note.

STATEMENT BY THE HONORABLE WILLIAM J. JORDEN

Mr. Chairman and distinguished members of the Foreign Relations Committee: It is a pleasure and an honor to appear again before this Committee. The Panama Canal treaty which you have before you for your advice and consent is a document of historic importance. I hope I will be able to provide information and insights that will be of use to you in your momentous deliberations.

A few brief biographic notes might be in order. I have been the U.S. Ambassador in Panama since April 1974. Before that, I was a senior member of the staff of the National Security Council dealing with Latin American affairs in general. Before that, I was a special assistant to former President Lyndon Johnson, helping him to organize his presidential library and write his memoirs. I have been in the foreign affairs area of government for 16 years, in the Department of State and the White House. Before that I was a newspaperman, for 14 years, almost wholly in the foreign policy area—first for the Associated Press and then for the New York Times.

Let me say at the outset, Mr. Chairman, that I have followed the course of the treaty negotiations fairly closely over recent years. I am also generally familiar with the history of our relations with Panama over the years since the 1903 treaty was adopted. Based on my own observations of the situation in Panama and my awareness of our deep interest in the Canal, I wish to say that I am wholeheartedly in favor of the proposed treaty and the related treaty concerning the permanent neutrality and operation of the Panama Canal. I believe they represent the best, the wisest, the most statesmanlike course we can follow at this juncture of history.

When I was invited to appear before this Committee. I asked myself what I could provide that would be most useful. I knew you would have heard from the Secretary of State regarding the foreign policy implications of the new treaties. You would have heard a detailed report on the treaties themselves from my two distinguished colleagues who negotiated the agreements, Ambassadors Bunker and Linowitz. You have explored the security and military implications of the treaties with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. As for the technical operations of the Canal itself, now and in the future, my colleagues at this session—Secretary Alexander and Governor Parfitt—can provide more detailed information than I can.

What I would like to do is to look at this matter from the vantage point of the Isthmus of Panama. How did we get where we are? Where do we go from here? What course best serves our fundamental interests? How do Panamanians look at all this? What are the prospects for a reasonable working relationship between our countries? These are some of the questions I would like to address with you.

I am sure the members of this Committee are familiar with the dubious history of the treaty of 1903 which the present agreements would replace. That treaty, written and signed in unseemly haste, is what Panamanians call "the treaty no Panamanian ever signed." As you know, it was developed and approved by a Frenchman who—it is fair to say—had little interest in the future of Panama, but a great interest in salvaging what he could of the financial interests of the defunct French Canal Company. It gave the United States rights it would have "if it were sovereign of the territory"—and it gave us those rights "in perpetuity." We agreed to pay Panama $10 million and the munificent sum of $250,000 a year and in the debate in the Senate which followed, one member of this august body said: "We have never had such a concession so extraordinary in its character as this. In fact, it sounds very much as if we wrote it ourselves." Incidentally, the payment to the French Company was $40 million—four times what we paid Panama.

It was an arrangement, Mr. Chairman, greatly advantageous to the United States, and vastly profitable to the French Canal Company. But it was not much of a deal for Panama. It was an arrangement which—as the Secretary of State admitted at the time—was "we must confess, with what face we can muster, not so advantageous to Panama."

"You and I know too well," he wrote his senatorial friend, "how many points there are in this treaty to which a Panamanian patriot could object." And object they did. There is a notation widespread among our fellow Americans that Panamanian resistance to the 1903 treaty is something of recent origin, a development of the last few years. And some have portrayed opposition to the 1903 treaty as merely a product of "leftists" and "extremists." That, Mr. Chairman, is the wildest kind of distortion of history. If one takes the trouble to go back to the files of the Panamanian press of the period, you quickly find that resistance to the 1903 treaty began in 1903. And it has never ceased since.

This is an issue—probably the only issue—which brings Panamanians together in a kind of national unanimity that is rare in history. Some members of this Committee have been in Panama; I urge those who have not to make the trip. Talk with Panamanians. You will find that whether they are rich or poor, city men or campesinos, university graduates or day laborers, they are as one in their dream of a Panama that is unified and sovereign, a country that is no longer divided in half by a foreign enclave.

And this brings me, Mr. Chairman, to one of the central points I wish to make today. For us Americans, the key goal in this situation—it seems to me—is to assure that the Panama Canal is open and efficient, available to us and to world commerce, and that it be properly protected against external attack. I believe the treaties before you give us that assurance. Opponents of those treaties would have you believe that Panama's key role is to take over the Canal. That, I submit, misses the whole point, the whole explanation of Panamanian attitudes. They want a canal that works well as much as we do. They have pride in it; they benefit from it. The issue, as seen through Panamanian eyes, is not the canal at all. Rather it is the presence in a friendly country of a zone governed by the United States. It is an area over which Panama—the country in which it is located—has absolutely no control of any kind. If a Panamanian is caught speeding or is involved in an accident, he gets a ticket from a foreign policeman. If the offense is serious enough, he is tried in a foreign court, under a foreign code of laws.

You and I can well imagine what the reaction would be of Americans faced with such a situation. Suppose, for example, that history had dictated that the Mississippi River and a strip of territory on each side were controlled by a foreign power. Suppose that in going from Illinois to Missouri, or from Louisiana to Texas you had to cross that strip. And imagine, if you will, that you broke the law in some fashion—by speeding or having a tail light out, or whatever—and you were arrested by a French gendarme or a Mexican policeman. It does not take great imagination to know what our reactions would be. Yet that is the situation that our Panamanian friends have found themselves in for the past 70 years.

That is what they have for so long wished to see changed. That is what the treaty now before you will change. And I for one say that it is high time for such change.

What is our central interest in Panama? I submit that it has not changed essentially since President Theodore Roosevelt's day. It is to maintain between the two great oceans a passageway that is open, efficient, safe and neutral. Our commercial interest in that waterway continues to be significant—though in a world of changing trade patterns and changing technology, it is less than it once was. Our military interest, too, continues—though, again, it is not what it once was. I think that all of us are agreed that the maintenance of the Canal in an efficient and open way is a great advantage—to us and to the other nations of the world.

How do we best achieve that end? Not, I think by being inflexible and bull-headed. Not by simplistic formulas like "it's ours and we're going to keep it." No waterway or road, no military base or business can long remain open and efficient if it is surrounded by a sea of public hostility and resentment. But, you may well ask, don't the Panamanians realize that the Canal is a major resource that produces great benefits for them? Of course they do. They want to have the Canal open and operating well just as much as we do, perhaps more. They know better than we do what it means to them and their country.

Their feelings—and I share it—is that the best guarantee of a canal that is working well and serving us all is one in which the American people and the Panamanian people are working as partners. And that is precisely the goal of the treaty that is before you. There can be no better security for the Panama Canal than to have the people who live around it, who work on it feel that it is part of them—and that any effort to attack it or disrupt its operation is an attack on them and on their best interests.

I am sometimes asked, Mr. Chairman, whether we can "do business" with Panama? My answer is Yes"—at least if in dealing with this small country we try to understand what it is really like and if we treat

it as a powerful yet fair nation must treat a neighbor. I believe it is fair to say that Panama has deeper and closer ties with the United States than has any other country in Latin America. In large part that is because of the presence of the Canal and because of the many ties that have developed between us stemming from that fact of geography.

Thousands of Panamanians have attended our colleges and technical schools. They have come to know us well and to develop a respect for our way of life, for its freedom and its fairness. And if they feel some bitterness over the historical record, it is, in part, because they see such a gap between what we have sometimes done and what we have professed.

Despite some rhetorical outbursts and occasional incidents and demonstrations, there is remarkably little anti-Americanism in Panama. The vast majority of Panamanians harbor warm and friendly feelings toward our country and our citizens. They want us as friends, not enemies.

Nonetheless, I realize that some Americans living in the Canal Zone feel otherwise. They are nervous and concerned. I think we can all understand that. For they see in a new treaty an end to the very special and protected way of life they have enjoyed. They have gone through a very trying period in which they felt their future was being changed, and they were not at all sure in what direction. In the absence of hard information, many of them imagined the worst. They became vulnerable to every rumor and exaggerated prediction. And there has been no shortage of rumors and exaggerations!

Now, I think, the situation is changing drastically. With the publication of the text of the treaties, Americans in the Canal Zone realize they have not been sold down the river. They understand that their basic employment rights, job security and the like are preserved. Thanks to the efforts of Governor Parfitt and Secretary Alexander, there is a vastly better perspective as to what a new treaty means—and will not mean.

One thing that has greatly bothered many people in the Zone is the prospect of being subject to Panamanian laws and jurisdiction. To meet this concern, the treaty negotiators reached agreement on certain procedural guarantees—set forth in an annex to the treaty—that assure certain special protections to any American who, in the future, may face prosecution. Those protections include the right to a speedy trial, to a lawyer of choice, to full disclosure of charges, to have a representative of the U.S. Government present at any trial, etc., etc., down a very long list. I believe the Government of Panama has every intention of living up to these guarantees. I am sure they would not have agreed to these special features at all if they had no intention of abiding by them. Moreover, it is clear that the Panamians want as many Americans as possible to remain in their country for some time—to provide the skills needed to keep the Canal operative and to train Panamanians to do those jobs.

My clear impression is that, as these various features of the new treaty have become known, the outlook among Americans in the Zone has moderated. I believe that the vast majority—are ready to see how such a treaty works in practice, to give it a fair chance.

In this connection, I should point out to this Committee that there are some 3,000 American employees of the Canal Company who will be affected by a change in their life style and in the rules of the game. At the same time there are some 6,000 Americans living and working peacefully in Panama—in banks and businesses, selling and buying, teaching and preaching, in short doing all the things that Americans are doing in most other countries around the world, day in and day out—without special privileges or special rules. With time—and with good will on both sides—I think our citizens now in the Zone will find that it is not that difficult to live and work in another country.

I have been asked by friends here and in Panama how the various joint boards and committees provided for in the treaty will work out. As you know, there is provision for a consultative committee to act as a kind of policy advisory board to the Panama Canal Commission. There will also be a coordinating committee of both Americans and Panamanians to help see that the provisions of the treaty are carried out in an orderly and reasonable fashion. Similarly, on the military side, there will be a combined board of senior military representatives as well as a joint committee to help carry out the military provisions of the treaty. I cannot say, of course, how these various bodies will conduct their business. They will be breaking new ground and carrying out functions that have not previously existed.

What is clear, of course, is that the working of any body of men and women depends on the quality of people selected to do the job—and on the spirit in which they undertake their tasks. I have been assured by the highest levels of the Panamanian Government that they want these various groups to be efficient and to work in harmony. For that purpose, they have told me, they intend to pick the best possible and most highly qualified people available. Given that spirit, I see no reason why these joint groups should not work in harmony and in the best interest of both countries.

A related question is whether the Panamanians will ever be able to run the Canal. There is a kind of arrogance in the very question that I do not like. It reminds me of the way some people used to talk of the impossibility of Egyptians ever running Suez. In an earlier period, you will recall how unthinkable it was in London that a bunch of ragtag colonists could ever run their own affairs. The short answer, Mr. Chairman, is that of course Panama will be able to run the Canal. 70 percent of the work force now operating the Canal is Panamanian.

They could doubtless fill many of the administrative and technical jobs tomorrow. As for some of the more highly developed skills, there is no reason why Panamanians cannot acquire them in a reasonabe time. And we can help greatly in providing the necessary technical training.

One final question that is frequently asked: In giving the Canal to Panama, wouldn't we be turning it over to a left-wing military dictatorship? My answer to that loaded question is, first, to note that under the treaty we are discussing, the United States retains the responsibility for operating and the primary responsibility for defending the Canal for the remainder of this century. The government that finally will take control of Canal operations will not be the present government. And we cannot know precisely what form of government that will be—any more than we know what our own condition will be in the year 2000.

But more than that, I would say that the American people have been given a quite distorted picture of the present Government of Panama. It is not a full-blown democracy as you and I understand that term. Frankly, there are things I would like to see changed in the system. But I am not a Panamanian and it is not for me to prescribe what is good or bad for others. That is a judgment only the Panamanian people can make—as they will over time. We can perhaps explore these matters more fully if you like. One thing I do know, Mr. Chairman: if we wish to encourage change in what we regard as a positive and constructive direction—in Panama or in any other country—we can only do so in an atmosphere of friendship and trust, of cooperation and mutual advantage. We cannot hope to see our valus flourish, we cannot expect to have our suggestions heeded, we cannot work effectively with others toward the goals we cherish if we try to do so in an atmosphere of bitterness and frustration.

It is to the goal of eliminating the bitterness of the past and the frustrations of the present that the treaty now before you is so largely aimed. I hope it will receive your thoughtful and favorable consideration.

ILLEGAL ALIEN EMPLOYMENT AND SMALL BUSINESS; WHERE DO WE STAND AND WHERE DO WE GO FROM HERE?

Mr. PACKWOOD. Mr. President, in November of 1976 the Senate Small Business Committee held 2 days of hearings on the question of illegal alien employment legislation and how it would affect small business. The hearings were based on studies done by the committee staff meeting with small businessmen in California, Ohio, and New York. Further meetings have been held in my home State of Oregon and there has been significant interest by groups throughout the country concerning the way that legislation banning the employment of illegal aliens, often referred to as undocumented workers, would be implemented.

This statement today, drawn from the hearings, is designed to show what the effects will be if we pass a form of legislation to stop illegal alien employment; what I believe is the best way to do it; and further work that needs to be done before the Senate takes up such legislation.

THE PROBLEM OF ILLEGAL ALIEN IMMIGRATION

Illegal immigration into the United States is increasing dramatically. There are estimated to be between 6 and 12 million illegal alien residents of the United States today, according to studies done for several Government agencies, including the General Accounting Office and the Immgiration and Naturalization Service of the Department of Justice. INS currently estimates the figure at over 6 million but is working on a revision. About 400,000 illegal immigrants enter the United States every year.

Illegal immigrants can be divided into two categories: Those who enter the Nation without Immigration and Naturalization Service inspection, generally by avoiding the Nation's ports of entry; and those who overstay tourist visas or work with a visa which does not provide for employment, such as some types of student visas.

The cost to the U.S. taxpayer for the illegal alien population has been estimated by a Washington, D.C., consulting firm at $13 billion annually. This estimate, which is very rough, includes money lost by nonpayment of taxes, welfare costs, and adverse flows in the balance of payments, because U.S. dollars are often sent to the alien's home country.

Most aliens come to the United States in search of employment. While many hold jobs that are low-paying by U.S. standards, others, in significant numbers, hold jobs that pay in excess of

$10,000 per year, according to several Government and private studies.

Illegal aliens do hold some jobs which could be made available to U.S. citizens and legal residents. Substantial cuts could be made in the U.S. unemployment rate if the numbers of illegal aliens could be stabilized or cut.

Several methods can be used to cut or stabilize the illegal alien population of the United States. They include better surveillance of the Nation's borders and our visa issuance process; better surveillance of areas of high concentration of illegal aliens; issuance of cards which provide for the right to employment in the United States, or use of existing identification methods used by Government agencies; and, finally, enforcement by the Nation's businesses, labor unions, and government agencies of new laws designed to make it an offense to employ illegal aliens.

In hearings which I chaired, the Small Business Committee examined the use of existing identification and enforcement by the Nation's private and public institutions of proposed laws designed to make it an offense to employ illegal aliens.

Enactment of legislation to stem the increase in illegal aliens could cut national unemployment, cut the national welfare costs, and end a drain on the Nation's balance of payments. However, insuring compliance by the Nation's private institutions, including small business, could be difficult. The costs of a national program to insure that those employed in the United States are legally entitled to employment will fall heavily on the Nation's business community.

Therefore, any system devised to identify illegal aliens in the United States must include provisions to make it easy for businesses to comply with the law. Examination of the Social Security Administration account card, which already is used as one form of identification for employment purposes, could provide one compliance method. But the Social Security Administration will need to upgrade its identity card issuance procedures. Businesses may also need to use other identification in tandem with the social security card to provide reasonable assurance that businesses employ only those legally entitled to live in the United States.

THE EFFECTS OF PROPOSED LEGISLATION PROHIBITING EMPLOYMENT ON SMALL BUSINESS

It is not a breach of existing Federal statutes to employ illegal aliens. But several bills have been introduced in recent Congresses, including the 94th and 95th, which would place restrictions or outright bans on the employment of illegal aliens. Some States, such as California, have already forbidden the employment of undocumented workers, a term applied to illegal aliens. Other States are considering similar moves in light of a recent U.S. Supreme Court decision upholding the California law as constitutional in the absence of preemptive Federal legislation.

Bills introduced in the Senate and the House of Representatives during the 94th and 95th Congresses would place the responsibility for not employing illegal aliens on the Nation's employers, including the 13 million small businesses in the country. Such a responsibility would impose substantial burdens on small business inasmuch as there is no truly reliable way of checking the legality or illegality of an alien's identity, immigrant status, or place of birth, nor in some cases his or her citizenship. This sometimes includes American citizens who may have no record of birth.

Despite the clear advantages in cutting the $13 billion annual national loss, the Small Business Committee staff estimated that the U.S. business community could possibly spend in excess of $225 million per year screening the 3 million applicants for jobs who appear every day.[1]

Because of the heavy burden facing small business, I looked for some practical way to assess the effects on the American business community that passage of bills limiting or prohibiting employment of undocumented workers would have.

In a series of meetings in New York City, Cleveland, Ohio, and Orange County, Calif., the Small Business Committee staff and my staff met with groups of businessmen to discuss and implement a short study of how legislation would work.

The staff divided all the various bills before the Senate and the House into three different types:

First. The first would provide that an employer could not hire an illegal alien, but would provide no method for checking on a job applicant's right to employment. The method an employer would use would be developed by the employer himself, probably in consultations with Federal, State, and local bodies governing employment and employee rights, including various commissions concerned with the rights of minorities such as the Equal Employment Opportunity Commission.

Second. The second would provide that every job applicant sign a statement that he or she has the right to employment in the United States, either as a resident alien, an immigrant with appropriate documents, including documents for temporary employment, or United States citizens.

Third. The third type of legislation would provide that an employer check specific pieces of identification, including the social security card, before employment could be granted.

The specific purpose of the study was to try to find out how an employer could discover who illegals are; in effect, screen his job applicants, and what would be the best way for an employer to do this. I wanted a "real world" test of how illegal alien employment legislation would affect business.

THE "REAL WORLD" FIELD TEST

The first test began in New York City on August 23, 1976. The second began in Cleveland, Ohio, on October 5. The third began in Orange County, Calif., on October 7, 1976. Each test or study ran for approximately 1 month.

For purposes of the study, committee staff consolidated different legislative proposals into three categories:

First. Those which would prohibit the employment of illegal aliens without further instructions to the employer as to how that employer should demonstrate good faith compliance with the law.

Second. Legislation establishing a presumption of legality for any employee who signed a statement that he or she was legally entitled to employment in the United States.

Third. Proposals permitting an employer to hire employees after conducting a specific identification screening process.

Each field study tested employer experiences with these proposals under actual hiring conditions. Employers were selected with the help of national and regional business groups. Those who participated met with committee staff prior to the study's initiation. At these meetings, employers were divided into three groups which corresponded to the three types of legislative proposals outlined above. Each employer assumed that the proposal assigned to that employer's group had been enacted into law and he/she designed the firm's hiring practices accordingly.

At the conclusion of each study, experiences of the employer-participants were tabulated by the committee staff. Employers were then invited to present their comments and findings to the Small Business Committee either in person, through their representative associations, or in writing at a November 22–23, 1976 hearing in Washington, D.C.

PROPOSAL A

Employers working with proposal A were to assume that Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. The legislation made no guidelines available as to what affirmative acts, if any, might be necessary to satisfy the implied responsibility to screen applicants for their legal right to employment in the United States.

Since the law neither required nor suggested affirmative action, an employer on one hand could choose to do nothing at all. Other employers, on the other hand, could choose to implement affirmative secreening action to demonstrate good faith should actions be brought against them by the Government for hiring employees found to be not legally entitled to employment.

PROPOSAL B

Employers in this group were to assume the Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. However, the legislation provided that an employer could show good faith toward compliance with the law if he obtained a statement from a job applicant that the applicant is entitled to work in the United States. Practically speaking, this legislation

Footnotes at end of article.

would require an employer to ask each employee such a question as part of a formal employment application process.

For purposes of the study, employers in this group were to prepare a form to be signed by each job applicant that stated the applicant's legal right to employment. These forms were to be retained by the employers for use by the committee at the end of the study.

The following sample form was provided to group B participants:

To applicant:

This form is furnished as a part of the application process for the position for which you are applying. If you do not understand it, please inquire further before signing your name.

Do you have the legal right to employment in this country?

Yes ------ No ------

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Date Applicant's Signature

PROPOSAL C

Employers working with Proposal C were to assume that Congress had passed a law making it unlawful to knowingly hire illegal aliens or those not entitled to employment in this country. However, the legislation further provided that an employer could show good faith compliance with the law by completing the attached form for each job applicant. The form would be completed either by viewing the required identification or certifying that the employee or applicant was unwilling or unable to present the identification.

Group C employers were instructed to retain their forms for use by the committee at the end of the study. The following form was provided to the employers:

Name of Applicant

To Employer:

Please check the applicant's social security card and any two of the following documents if the applicant is willing to submit them:

Social Security number———
Driver's License (state and number)———
Birth Certificate (state)———
Voter's registration (state)———
Draft card or military ID———
U.S. passport (number)———
Other identification———

I, the undersigned employer, certify that:

— the above-referenced applicant presented the foregoing identification.

— the above-referenced applicant was unable or unwilling to present any of the foregoing identification.

Employer

To Applicant:

You have no legal obligation to participate in the completion of this form. You will not be refused employment if you are unable or unwilling to present the foregoing identification. This form is intended to provide evidence of an applicant's legal right to employment in the U.S. If you wish to complete this form, please submit the required identification and sign your name in the space provided below:

I, the undersigned applicant, certify that I am legally entitled to employment in the U.S. and that the foregoing identification which I have presented is valid and has been issued to me.

Applicant

RESULTS OF THE STUDY

The results of each field test were assessed by the staff. Although the tests were not carried out under conditions which would permit a detailed statistical analysis of the findings, they have provided us with knowledge about the practical effects on the business community of complying with legislation to prohibit the employment of illegal aliens.

NEW YORK STUDY

The New York City experiment was coordinated by the committee staff with the assistance of the New York Chamber of Commerce and Industry. Five large employers, including Macy's and Consolidated Edison, participated in the test.

Each employer chose to operate under Proposal A, devising their own methods of screening for undocumented workers. Most, in fact, already had questions on their application forms asking for a social security number, citizenship of the jobseeker, and alien registration or visa information if not a U.S. citizen.

Among the five New York employers, 6,732 job applications were submitted over a month's period. Although it was not difficult for these firms to adjust to the task of requesting a social security number, citizenship information and evidence of alien status (if pertinent), a total of 666 job applicants—10 percent of the total—could not or would not provide acceptable identification or documentation. Only one such applicant was identified by the employer as an "illegal alien."

In a report from Macy's personnel office, which provided the most thorough, analytical information in the New York study, it was found that—

Less than 10% of the applicants during this period were not U.S. citizens; 16% of that group could not produce documentation of their legal right to work in this country. That number represented 1½% of the total number of applicants during the period.

CLEVELAND STUDY

In order to implement legislation to prohibit illegal alien employment that would not result in discrimination against minority citizens, such a law would have to be applied equally with each job applicant in each part of the country. Because the Cleveland area is representative of many areas in this country which are not considered to have illegal alien "problems," it was selected as the site for the second field test as a form of control area. The test was conducted with the cooperation of the Council of Smaller Enterprises of the Greater Cleveland Growth Association.

A total of seven small businesses agreed to participate in the month-long experiment. Thirteen job candidates were interviewed, and three (or 23 percent) were unable to present satisfactory identification.

The difficulties experienced by smaller firms in complying with a hypothetical law prohibiting the employment of illegal aliens surfaced early in the test. Mr. James Schattinger, president of Pioneer Manufacturing Co., volunteered to participate under Proposal A requiring him to establish his own method of guarding against the employment of illegal aliens. Mr. Schattinger reported:

As a small firm we do not have the legal staff to determine the exact hiring requirements of each of the individual 30 states in which we operate. As a result, we are unable to determine a general questionnaire that might be helpful to us in identifying "illegal aliens," and be assured that we are not violating a state law ... If such a law is to be passed anyway, I would strongly recommend that the legislation specifically state what kinds of information have to be requested from the prospective employee and that this legislation pre-empt any other legislation that exists.

Mr. Daniel W. Rutledge, president of another small Ohio firm, Pumps, Inc., volunteered to participate under Proposal B requiring that an employer should show good faith compliance with the law by obtaining a statement from each job applicant that he or she is legally entitled to employment in the United States. Despite the fact that Pumps, Inc., did not have the occasion to interview any job hunters during the study period, Mr. Rutledge made pertinent comments to the committee which echo the sentiments of many other employers. He wrote:

We, frankly, do not feel that a form such as this would provide us with adequate protection against the possibility of our unknowingly hiring illegal aliens, and feel that the burden somehow should be placed upon the Federal Government and not upon employers, especially small businessmen who do not normally employ full-time personnel directors.

In Cleveland, five firms participated under Proposal C requiring that a form be filled out verifying that the employer has seen the applicant's social security card and two other pieces of identification, such a driver's license or voter registration card. Two of these firms were unable to provide results, because they interviewed no applicants during the study period. Of the others, one reported that the identification requirements took an additional 5 to 7 minutes of interview time, that two pieces of identification were easy to obtain, but that the third was more difficult. Another employer comments on the paperwork involved in complying with Proposal C:

For record keeping purposes, my own method would be to keep a current applicant file. However, if I were forced to compile the data for reports to Washington such as OSHA, etc., I am not sure just how accurate we could be with a limited staff.

CALIFORNIA TEST

The final field test, conducted in Orange County, Calif., had the active participation of seven small business employers. The committee had the assistance of the National Federation of Independent Business in soliciting participants for the experiment. Among the seven firms, 188 job applications were filed—107 of which contained insufficient identification.

One firm opted for Proposal A. The employer's method for determining each applicant's right to work consisted of requiring the presentation of a birth certificate or an alien "green card." Because of the ease with which such documents can be forged, the employer contacted the Immigration and Naturalization Service for verification of green cards and the home county clerk at the applicant's place of birth for verification of

birth certificate records. This cumbersome, time-consuming process proved less than 50 percent successful in confirming the validity of such documents—out of nine job applications, identity could be confirmed in only four cases. In the other cases, three different obstacles were encountered:

First. One State (New York) prohibits release of a person's birth certificate information to a third party without notarized authorization from that person.

Second. Another State (California) requires a $2 fee be paid before birth records can be searched and confirmed.

Third. The U.S. Immigration and Naturalization Service, in response to a request for verification of green card information, sent back to the employer a one-page form to be filled out, with one page of instructions and a $5 fee to be paid.

Between the two Orange County employers operating under Proposal B, there were 26 job applications made and four instances of applicants refusing to sign the statement claiming the right to employment in the United States.

Among the firms working under Proposal C, there were 153 applications made—98 of which lacked the required three pieces of identification. Nearly all jobseekers were able to present two, however, usually a social security card and a driver's license.

CONCLUSIONS

The study has shown that many regulations already affect the hiring processes of the Nation's small businesses. They must comply with regulations from Federal, State, and municipal, and county governments which assure equality of employment, and in many cases businessmen cannot ask certain questions which could be considered discriminatory.

In the study, the committee had the support of the New York State Division of Human Rights, the U.S. Equal Employment Opportunity Commission, and the Orange County and California State agencies concerned with equal employment.

HEARINGS

On November 22 and 23, 1976, I convened hearings [2] and called in witnesses who had participated in the study from California, New York City, and Ohio. Government witnesses came from the U.S. Equal Employment Opportunity Commission, the New York Division of Human Rights, the Orange County, Calif., Human Rights Commission, the Social Security Administration, and the Immigration and Naturalization Service. The New York City Human Rights Commissioner was invited to appear but did not testify nor submit a statement. Several interested parties also submitted statements for these hearings.

BUSINESS WITNESSES

Generally the business community witnesses, from both small and large concerns, recommended that any legislation proposed in Congress prohibiting the employment of illegal aliens should spell out in detail what steps should be taken by an employer to ascertain the right of prospective job applicants to employment.

Without specific guidance, they noted, many businesses would be faced with compliance problems exacerbated by State and local regulations.

Charles A. Brewer, Jr., president of Charles A. Brewer Co., Anaheim, Calif., a member of the group of employers who used Proposal A and checked for illegal aliens without specific guidance, said he assumed for the purposes of the study that he would face a $5,000 fine and 3 months in jail for each apprehended illegal alien he employed.

Mr. Brewer outlined the steps he took when faced with such a law:

I returned to my plant. I told my secretary and my supervisors that there was going to be a $5,000 fine if we hired an illegal alien, and that they were to set up a system; the only thing is that they could not use a person's surname, sex, or age for discriminatory purposes.

Two days later I went back and found out that we had hired no aliens. We also hired no one that even looked like an alien.[3]

I asked Mr. Brewer to describe an illegal alien:

Mr. BREWER. We think of the Mexican American as being an alien, so we would be discriminated against in our area. He is the one most likely to be illegal.

We set up certain rules and requirements for employment.

A detailed form was to be filled out by all applicants, which included age, birth date, birth place, and grammar and high school attendance. Persons born within the United States were asked to supply birth certificates. Naturalized citizens were asked to present the naturalization papers. Photocopies of these were made and filed. After approximately 3 days we suddenly realized that we did not know for sure what a "legal" green card looked like. We contacted the Immigration Service office in Los Angeles approximately eight times. Finally, on the 15th of October, we were told to contact Mr. Seitz, regional officer at (213) 548–2375. Mr. Seitz was out of town at that time. His secretary said that she would send us a booklet that would show us what a "legal" green card looked like. On October 19, 1976, the booklet, "Documentary Requirements for Aliens in the United States" M 97 (rev. 1–1–74) arrived at our plant. After inspecting the booklet, I was still uncertain how a "legal" green card should look. I contacted a fellow businessman, who was known to regularly hire Mexican-Americans. He showed me a legal green card. He also showed me a forged green card. It was hard to decipher the difference between the two. He stated that he had five persons working for him whom he knew were illegal aliens. That is how he was able to show me forged green cards. Yet, so long as they possess green cards, illegal or not, he hires them. After this bit of research, I realized that the courts would have no way of proving whether the employer was aware of the validity of the green card or not.[4]

Mr. Brewer also encountered difficulties in verifying the information contained on a green card:

We then sent a letter to the Immigrations Service asking them to verify a green card submitted to us by a job applicant. They replied that they could not verify from the copy enclosed; but if the prospective employee would fill out form No. OMB 043–R0570 and pay a fee of between $3 and $5 they would certify his green card. The fee was unclear on the form. This seemed an inefficient method to us. If a legal alien was job hunting and applied several different places, this could cost him anywhere from $30 to $50 just to apply. It could take up to 2 months for his certifications to be returned, just so the employer was certain of the legality of it and could hire him.[5]

Another witness, Robert Neville from the National Restaurant Association, noted that some employers faced with the prospect of hiring a person who could be an illegal alien, would back away and avoid hiring anyone who could be questionable:

He would be reluctant to hire applicants who do not have clear documentation and would be particularly wary of applicants with foreign accents and racial characteristics. . . . The inevitable result would be discriminatory hiring practices against those who could not easily prove that they are legally entitled to work. This, of course, would be totally unfair to the groups being discriminated against, but it would also place the small businessman in a precarious position. In his effort to comply with his responsibilities in the illegal alien area, he would find himself facing charges by those government agencies charged with enforcement of our laws prohibiting discrimination in employment. It is simply not fair to place our small businessmen in this Catch 22 predicament.[6]

Charles MacDonald, speaking on behalf of the Cleveland-based Council of Smaller Enterprises, noted that there are problems associated with all types of legislation prohibiting the employment of illegal aliens. He noted that as a member of Group C of the study, which required presentation of documents to provide right to employment, some prospective job applicants had trouble providing documents. He said:

All applicants had a driver's license, because it was necessary for them to drive to our location as there is no public transportation. One person had to return home to obtain a social security card.[7]

He also noted that proposed legislation could put an employer in the position of policeman and pseudo-law enforcement officer.

MacDonald further noted that his area of the country had few illegal aliens. Therefore, he suggested that a trigger mechanism come into place when the number of illegal aliens estimated to reside in such a locale increases. He noted that there could be recordkeeping associated with screening that used any form of identification, because businessmen are reticent about leaving themselves open to any prospective problems. However, under questioning, he did agree that if a fraudproof social security card could be developed it could be used as a screening mechanism and would not provide an excessive burden to businessmen.

George J. Piccoli, vice president of the New York Chamber of Commerce and Industry, testified on behalf of the New York City employers who participated in the committee study.

He observed that New York faces several illegal alien problems.

Piccoli noted that employers in New York not only face Federal difficulties if they screen for illegal aliens, but also State and city regulations. He suggested that Federal legislation consider the use of universal social security registration at birth, and correlation of deaths and

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the removal of such numbers from records to prevent fraud.

At the present time, Piccoli said:

Employers with the best of intentions have no way of knowing if a prospective employee has legitimate identification or not. While control has been tightened in the issuance of new social security cards, the only way to establish absolute control is through universal registration at birth and cancellation at death.[8]

Mr. Piccoli recommended that labor organizations also be required to employ a screening process which may be enacted for businesses.

GOVERNMENT WITNESSES FROM AGENCIES REGULATING EMPLOYMENT

Three witnesses at the hearing on November 23 came from agencies regulating equal employment opportunity at the Federal, State, and local levels.

They included Abner Sibal, general counsel of the U.S. Equal Employment Opportunity Commission; Werner H. Kramarsky, Commissioner, New York State Commission on Human Rights; and James Sanchez, executive director of the Orange County Human Relations Commission in California. Mr. Sanchez's organization enforces regulations issued by the State of California.

I noted that the witnesses from these three organizations would dramatize the tremendous amount of Government regulation that already exists regarding employment discrimination, showing that an employer who attempts to look for illegal aliens has the potential for violating the regulations of Government agencies at Federal, State, and local levels.

In general, the witnesses from the equal employment opportunity agencies testified that what an employer requires of one prospective employee he must require of all prospective employees. Passage of much legislation designed to stop the employment of illegal aliens, noted Mr. Sanchez of Orange County:

Will have a direct discriminatory effect on minority persons seeking employment, whether they are citizens or aliens authorized to work in the United States.[9]

Other concerns were voiced by Mr. Kramarsky. He wondered whether or not use of an identity card for prospective employees would not be an infringement of a citizen's rights, or would lead to excessive invasions of privacy.

The witnesses, however, agreed that use of a card, such as the social security card, issued to everyone, and not specifically used for identification but merely to show right to employment, could provide a method for screening that would be amenable to both the commissions and the employers.

However, all three witnesses from the equal employment opportunity commissions stressed that there must be stringent safeguards that the social security card not be used for identification other than right-to-employment if such a system were to be adopted.

IMMIGRATION AND NATURALIZATION SERVICE WITNESS

Leonard Chapman, then Commissioner of the INS, testified on the number of illegal aliens, the geographic distribution, and attempts that the INS has made to reduce forged alien registration cards by use of new coded electronic cards for aliens.

Commissioner Chapman in his statement supported the position that an employer need only ask a prospective job applicant to sign a written statement that he is legally entitled to work in the United States. I asked specifically whether anything would stop illegal aliens from signing that kind of statement. James Greene, INS Deputy Commissioner, answered that—

I returned to my plant. I told my secretary lying when they realize this is an official procedure and it would psychologically, I think, induce them to be honest. This would not work 100 percent of course.[10]

But illegal aliens have broken the law in getting into this country, so serious questions remain whether just the signing of a form would be a sufficient deterrent, encouraging any of them to go back to where they came from.

Commissioner Chapman said he thought so:

Experience has shown that that has happened, and of equal importance, maybe more important is that it would deter the millions and millions who are intending to come in the future.[11]

Commissioner Chapman noted that the INS is currently updating its alien registration cards, showing a magnetic strip-encoded alien registration card with picture. He claimed that the card was virtually forgeproof. The total cost to the Government of issuing the cards for the 5 million legal aliens and 400,000 newcomers every year, is estimated at $15 million over a 5-year period.

SOCIAL SECURITY ADMINISTRATION WITNESS

The Social Security Administration, according to Walter D. Rubinstein, Director of the Division of Retirement and Survivors Policy, Office of Policy and Regulations, revealed that the social security card is used for identification in a number of cases. But, he noted that a social security number is issued for more reasons than employment. Several categories of students, and transient aliens are also issued cards for tax purposes.

While Mr. Rubinstein was not familiar under questioning with the Social Security Administration master plan, a copy was made available and included in the record of the hearings.[12] In its master plan, the SSA, which has heretofore not endorsed the concept of use of the social security card for identification purposes, specifically declares that one of the goals of the plan is to provide "use of the social security number as the primary identification and reference number."

CONCLUSIONS

As a result of the hearings held on November 22 and 23, 1976, I have reached several conclusions concerning the need to limit the employment of illegal aliens, or undocumented workers, in the United States. However, conclusions reached as a result of these hearings show that special care must be shown to insure that Government paperwork required of any screening process to limit employment of illegal aliens must take into consideration the problems that could be encountered by the 13 million small businesses in the United States.

As we develop our legislation, I hope we will keep these points firmly in mind:

First. Because illegal aliens are entering the United States at a heavy rate, the United States should institute a system to end the employment of illegal aliens and to increase the employment possibilities of American citizens and legal resident aliens.

Second. The United States needs to institute a system that would provide that every prospective employee provide for employers evidence of his right to employment in the United States.

Third. Because the social security card is currently the most widely circulated Government form and is issued under existing laws to American citizens and legal aliens, with few exceptions, the card could become the basis for a national right-to-employment card to be shown at time of employment.

Fourth. Issuance of fraud proof social security cards could be undertaken within the next 5 years to those who have bona fide rights to live in the United States. Such cards could be similar in makeup, but limited as to specific information, to the new alien registration cards currently being issued by the Department of Justice. Such cards would be compatible with the Social Security Administration master plan provided planning is undertaken now. Such cards could also show that holders who do not have the right to employment may not be employed; that is, social security numbers issued for tax purposes.

Fifth. The Federal Government needs to implement this system quickly. However, as an interim measure, it could provide that a person's right to employment could be provided beyond reasonable doubt if more than one type of identity card is shown at time of employment.

Sixth. The U.S. State Department offices abroad will need to mount a major campaign to inform prospective travelers to the United States that such cards will be needed before employment can be gained, and that such cards will be issued only to those with permission from the U.S. Government to reside permanently in the United States or are U.S. citizens.

Seventh. Small businesses, currently harassed by numerous government regulations concerning employment, will need to see such types of right-to-employment cards and retain statements that such cards have been examined, but need only hold the information for examination in employment files rather than transmit such information to Washington, except in cases where an illegal alien applies for a position.

Eighth. An agency of the U.S. Government will need to set up a system for examining such employment files from time to time to insure that businesses, unions, and government offices do not employ illegal aliens, and that employers have not circumvented a law enacted to end illegal alien employment.

Ninth. The U.S. Immigration and Naturalization Service will need to increase

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its surveillance of the U.S. borders to dissuade illegal immigrants.

Tenth. The United States, State, and local agencies concerned with the rights of minorities to employment in the United States will need to work closely with employers to encourage them to screen all prospective employees, thereby ending a bias against those who may appear "foreign" or do not speak English.

RECOMMENDATIONS

Nothing that any legislation enacted to prohibit the employment of illegal aliens in the United States could have a significant effect on small business, I hope that whatever legislation passes the U.S. Congress and is signed into law, should consider that small businesses often do not have the ability to enforce complex employment screening mechanisms.

Therefore any system of screening illegal aliens should provide in detail exactly what steps an employer must take to enforce any law of the United States dealing with the problem.

The social security card and two supporting pieces of identification should be used to provide beyond reasonable doubt that a prospective employee has a right to employment in the United States until such time as the Social Security Administration issues fraudproof cards to show right to employment.

The Social Security Administration, as noted in its master plan, if it moves quickly to change the social security card to a form of identification, should place strict limits on the information which is contained in the files or on a magnetic strip, if such a strip is used on a newly designed card, to protect the privacy of American citizens and residents.

The Immigration and Naturalization Service should strongly increase its control of the American borders to insure that aliens entering the country do so with proper documentation.

The Department of State should better use its public information capabilities abroad—especially in countries that are the greatest source of illegal aliens—to discourage aliens from seeking jobs in the United States. This effort should be coordinated with continuing U.S. economic aid programs to developing countries to stimulate labor-intensive projects; and to provide population education programs to countries that request them.

Paperwork required for the employment screening process should be kept to a minimum by insuring that employers have examined right-to-employment documentation and recording the information on existing Government forms, such as those issued by the Internal Revenue Service of the U.S. Department of the Treasury. Such forms should be held for examination in an employee's file at place of employment. Such a provision would eliminate the need to transmit such information to Federal agencies except in cases where a prospective employee is known to be an illegal alien, because he does not possess appropriate identification or cannot sign an affidavit that he is legally entitled to employment in the United States.

Whatever system is enacted into law must provide for the protection of an individual's rights and also provide for the protection of employers who have complied with the specific screening steps as laid out in the laws of the United States as enacted by Congress.

The recommendations I have made in this statement, however, show that much remains to be done. For instance, in discussions I have had with some of Oregon's orchardists and farmers, there are clearly serious problems with the Labor Department's alien labor certification program. At various times this year, our fruit crops came perilously close to going unharvested completely or in part for a lack of field help. The problem is not peculiar to the Northwest by any means, but has the same implications for the Southwest and several States in the East.

I am hopeful that whatever legislation we enact will be sensitive to these problems. We cannot just forbid the entrance of short-term labor into the country, but must tailor our programs to insure that the unscrupulous who knowingly hire illegal aliens and deprive Americans of jobs are punished. We also must not penalize American citizens and resident aliens who look "foreign," nor slam the door against our farmers and ranchers who may have to look outside our borders for the workers they need at harvest times. I simply urge every Member of the Senate to consider these issues carefully and thoughtfully as we decide what course we will take.

FOOTNOTES

[1] Twenty-Seventh Annual Report of the Select Committee on Small Business, United States Senate, for the 94th Congress, Second Session, S. Rept. 95–30, 95th Congress, First Session (1977), p. 73.

[2] Hearings before the Select Committee on Small Business, United States Senate, on "The Effects of Proposed Legislation Prohibiting the Employment of Illegal Aliens on Small Business," 94th Congress, Second Session, November 22 and 23, 1976. (Hereinafter cited as *Hearings*.)

[3] *Hearings*. Statement of Charles A. Brewer, Jr., President, Charles A. Brewer Co., Anaheim, Calif., pp. 14–15.

[4] *Ibid.*, p. 15.

[5] *Ibid.*

[6] *Hearings*. Statement of Robert B. Neville, Washington Counsel, National Restaurant Association, Washington, D.C., p. 20.

[7] *Hearings*. Statement of Charles R. McDonald, President of The McDonald Equipment Co., Willoughby, Ohio, on behalf of the Council of Smaller Enterprises, p. 3.

[8] *Hearings*. Statement of J. George Piccoli, Vice President of Human Relations of the New York Chamber of Commerce and Industry, p. 9.

[9] *Hearings*. Statement of James Sanchez, Executive Director, County of Orange Human Relations Commission, Santa Ana, Calif., p. 63.

[10] *Hearings*. Statement of James Greene, Deputy Commissioner, Immigration and Naturalization Service, p. 35.

[11] *Hearings*. Statement of Leonard F. Chapman, Jr., former Commissioner, Immigration and Naturalization Service, Department of Justice, Washington, D.C., p. 35.

[12] *Hearings*. Position paper, "The Social Security Administration's Master Plan for the Development of the Future SSA Process," Commission on Federal Paperwork, September 24, 1976. See Appendix, p. 371.

THE GENOCIDE CONVENTION AND THE DEVELOPING NATIONS

Mr. PROXMIRE. Mr. President, because the United States has just celebrated 200 years of successful and stable democracy, I feel that we in the Senate sometimes forget that we do not live in an unchanging world of global politics, and that there are many nations which are either actively seeking greater self-rule or have recently achieved this freedom. Many of these nations are located in Africa, and in particular on the southern part of the continent. These are nations which are constantly in the news because of wars, revolutions, and protest, and in which widespread unrest is now normal.

Mr. President, whether we like it or not, the United States as a superpower is inevitably involved in the future of these nations. Our behavior is closely watched, and it is seldom that an act of our Government does not exert an influence somewhere overseas. This is a weighty responsibility, and one which we, as the Senate, have not always lived up to. One example of this is our failure to ratify the Genocide Convention, which leaves a glaring gap in our announced policy of upholding human rights.

All in all, only one-fourth of the African nations have ratified this convention, and none of these are located south of the Equator. This is by far the worst percentage of compliance anywhere in the world. Regardless of how my colleagues view the political situation in Africa, I am confident that not one of them would ever condone genocidal acts by any party.

Our failure, as an influential world power, to take a strong stand opposing such acts and to emphasize that the protection of such basic human rights is an international responsibility for which there is wide concern encourages mindless acts of emotional terrorism and undermines the calmer voices which should prevail. I urge my colleagues to take seriously our role as a world power and call for the immediate ratification of the Genocide Convention.

THE BATTLE TO SAVE LORING AIR FORCE BASE

Mr. HATHAWAY. Mr. President, many Members of the Senate are aware of the reservations I have expressed about the wisdom of the Air Force's intention to reduce the strength of Loring Air Force Base in Limestone, Maine.

In the October 3 issue of the Times Magazine—a supplement to Army/Navy/Air Force Times—the cover story is devoted to the questions involved in the Future of Loring AFB.

Because it provides a useful summary of the issues in this matter, I believe that Members of the Senate would be interested in reading it.

I should also point out, Mr. President, that it is high time we in the Senate took a closer look at Department of Defense procedures on domestic—not to mention foreign—base closings and reductions.

Even the threat of such a unilateral action of the Department amounts to the cruelest form of unwarranted economic punishments to the citizens of the affected communities.

Too often savings that the Department of Defense estimates shall result from base reductions fail to materialize. What does result is frequently increased costs to other departments in welfare payments, unemployment compensation, and so forth, which far exceed the estimated savings to the Department of Defense.

I do not believe that the Air Force has made a responsible case, on strategic or economic grounds, for reducing Loring and so I ask unanimous consent that "The Battle to Save Loring AFB," by Marianne Lester, be printed in the RECORD at this point as significant background on this and other base reductions.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BATTLE TO SAVE LORING AFB

(By Marianne Lester)

It seems ridiculous now. Sirens screamed, and while the men raced to their alert posts, dependents scurried to evacuate the base. The school doors were flung open, and we'd hurry home, half running past the security policemen stationed along the paths to the housing areas. There, our mothers would be waiting by the cars, hastily throwing suitcases full of food and survival gear into the trunks. And within minutes, the long convoy of dependents would stream out the base gates, running away from the nuclear holocaust.

We had a head start on the Cold War. It would be a few years before every one else in the country began building bomb shelters and hoarding canned goods in case of attack. But at Loring AFB, Me., in the mid-1950s, we learned early about the threat of nuclear war.

Huge stockpiles of nuclear weapons were stored just outside the main base. It was a common platitude that Loring, with its B–52s poised so close to targets in Europe and the Soviet Union, was the second enemy target scheduled for extinction in the event of war—second only to New York City.

People in New York, of course, weren't preparing by racing out to Connecticut to escape simulated destruction. But at Loring we practiced. Each time "Operation Alert" came around—it was always in summer; no one was foolish enough to schedule a mass evacuation during the freezing winters in northern Maine—we poured off the base, heading in a long convey for the nearby Canadian border.

The line of more than 1000 cars was an unbroken chain 20 miles long, crawling along the 126-mile two-lane route to the border town of Fort Kent, Me. Inside the cars, it was a nightmare of screaming babies, fighting children, vomiting dogs.

I sat in the back seat, my mother and a neighbor up front. We drove for hours to reach Fort Kent, then parked in a field in front of a small timber blockhouse, built in 1840 during a border dispute with Great Britain over the Maine-New Brunswick border. There, the evacuation became a base picnic, and we kids would clamber inside the old blockhouse, peering out the musket holes where federal soldiers once watched for Redcoats. Some of our names are still faintly scratched in the smooth wood.

There was something wonderfully ironic about it—running away from the atom bomb to hide in a 19th century pine fortress. It's hard to imagine what those Maine frontiersmen would have thought if they could have seen the carloads of Air Force families, munching tuna sandwiches on the fortress grounds until the signal to return to the base, while overhead the B–52s, loaded with nuclear weapons, had already soared toward their targets.

There are no more dependent evacuations at Loring now, though its Strategic Air Command crews are still on alert 24 hours a day. And soon, if the Air Force has its way, there will be very little left of what once was considered one of the most strategically important military bases in the world.

The Air Force came to this remote corner of northern Maine in 1946. Until then, the economy of Aroostook County had rested solidly on a single foundation—potato farming. It was a sparsely populated area, and it still is—less than 100,000 people in a county larger than Connecticut. In fact, today base personnel and their dependents make up 20 percent of the total population in the surrounding area.

Limestone, where the Air Force decided to build its big SAC base, is less than two miles from the Canadian border, almost as far north as you can go within the continental United States. The area's largest town, Presque Isle, with a population of 12,000, is 23 miles from the base.

Winters in northern Maine are long and severe. Temperatures of 30 and 40 degrees below zero are not uncommon. Last year's snowfall amounted to 188 inches, and base residents sometimes had to go upstairs to their second floors to be able to see out the windows over the snow. For obvious reasons, Loring was never a popular place to be stationed. "Boring Loring," they called it when I was growing up there.

But whether or not the Air Force families liked it, the base was considered necessary. Precisely because of its remote location—the northeastern-most base in the country—Loring had strategic importance. An old base guide summed up the AF view:

"Today, Loring is SAC's right hand covering a direct path to an aggressor over the polar regions or across the Atlantic. It is 300 miles closer to targets in Communist Europe than any other base in the United States. At present speeds, 300 miles nearer the target means the target can be obliterated 30 minutes earlier . . . 30 minutes that may decide our fate."

It took seven years to carve a base out of the thick virgin forest near Limestone. Loring would be the first air base different in layout from the older converted Army posts—an Air Force base designed for jets, with runways more than two miles long. The B–36s arrived in 1953, were replaced by B–52s in 1956.

The tanker fleet of KC–135s, designed to refuel the bombers in flight, was doubled as recently as 1968. When the SRAM (Short Range Attack Missile) was introduced in 1972, Loring's 42d Bomb Wing was selected as the first in SAC to receive the new weapon. These actions, the people of Maine were told, were taken because Loring was still perhaps the most indispensable base in SAC.

That's why, just four years later, when the Air Force announced it planned to reduce Loring to a small "forward operating base" and pull out the B–52s, the local people were in shock. Suddenly Loring was superfluous.

LORING, THEN AND NOW

Damon Elementary School was a great place for recess. Loring averages 114 inches of snowfall a year, and a lot of it seemed to fall on the school parking lot. Snowplows came every day to clear it away, piling it in a long mound at the end of the asphalt. By midwinter, it must have been 10 or 12 feet tall and packed hard as a rock. It was perfect for playing King of the Mountain.

Better yet, someone discovered that you could carve out caves in the high embankment. We worked feverishly every day at recess, noses running in the cold, snow caking our gloves. Each of us made our own house cut into the side of the frozen snow. The rooms were tall enough to stand up in. Inside it was stunningly white. We were Eskimos. We smoothed the interior walls with our hands, like plaster, and cut doorways from room to room until it became a connecting village like the towns the Pueblos carved into the cliffs.

It was at Damon Elementary School that Dexter found out his father was dead. Dexter was my boyfriend in third grade. He was a Cub Scout and he played the accordion in all the school programs.

I think they just came into the classroom and got him one afternoon. Nobody had to ask why. When they came and yanked you out of school in the middle of the day it meant your father had been in a plane crash.

I saw Dexter one more time. I stood in the doorway facing out on the playground and watched him. He sat down by himself next to a tetherball pole and cried. I can see him now, a small blond figure hunched over on the concrete. His mother moved to California that week and I never saw him again.

I don't know if Loring had an unusual number of plane crashes in those days. Maybe so, because in the mid-1950s the B–52s were new to SAC. To me, it seemed as if my father or a neighbor were always coming home, shaken, from an accident investigation. I remember one night when my father came home late from a crash site, looking sick. Out of his pocket he took all that was left of some guy—a few scraps of burned ID card and a wedding ring. I think my mother gave the ring to his wife.

We took all this for granted. One quiet winter afternoon we were sitting in school when a loud explosion shook the windows. We looked outside. There were three huge balls of flame falling to the ground. The B–52 had exploded several miles from the base, but from where we sat it seemed to be right outside the window. It took forever for the fiery balls to float down out of sight.

We were very quiet. The teacher, knowing that chances were it was one of our fathers, was determinedly calm. "That was probably a missile," she lied. "A Nike missile, practicing shooting something down."

Her voice sounded cheerful but strained. We couldn't look at each other. We knew better.

There hasn't been a fatal B–52 crash at Loring since 1969, though the base's mission has been relatively unchanged over the past 20 years. B–52 and KC–135 crews are on ground alert 24 hours a day, ready to sprint to their planes in case of an alert. For a week at a time, the crews must remain in the alert facility, a modern, barracks-like building which can house dozens of men. Like firemen, the crews have things organized methodically so they can be in their aircraft within minutes of the Klaxon warning; even their flight jackets are hung on specific hooks, so a man can reach unthinkingly for his coat as he races for the door.

It is a difficult life for the crews and their families. Though there are small rooms where husbands and wives can have private visits, the men can make only infrequent scheduled trips outside the building, always within earshot of the Klaxon. The base hospital is too far from the flight line for the men to go there; one crewman recently missed the birth of his son because he was on alert.

Most of the crews will be glad to leave Loring if the AF's proposed reduction takes place. A few men believe the action is long overdue. Twenty years later, they still call it "Boring Loring."

WHY WAS LORING PICKED?

On March 11, 1976, the Air Force announced its plans for Loring AFB. The service would study a plan to disband the 42d Bomb Wing at Loring and transfer its 14 B–

52s to other SAC bases. The 30 KC-135s would be relocated and transferred to the Air Force Reserve.

Loring would be reduced to a "forward operating base" for the tankers in case of an emergency deployment to Europe or the Middle East. A few KCs would rotate through the base on regular exercises. But manpower would be reduced by 83 percent—from more than 3,000 military and 600 civilians to about 600 military and 200 civilians.

The reason for the proposed reduction was clear, the Air Force said, Congress repeatedly had told the service to reduce expenses and streamline its support forces. With the Vietnam War over and a smaller Air Force, the service simply had too many bomber and tanker bases. Millions of dollars could be saved by consolidating SAC's forces, while combat capability would be maintained.

But why Loring? How is a base selected for closure or reduction? According to the Air Force, all SAC installations in the continental U.S. were screened initially. But the greatest savings could be realized at "single mission bases"—bases which had *only* a B-52/KC-135 mission. Bases with fighter units, training centers or other major missions in addition to their SAC wings would still require people and money for support, so little would be saved by moving out just their SAC wings.

There were only four such "single mission bases" in SAC. Blytheville AFB, Ark., Kincheloe and Wurtsmith AFBs in Michigan, and Loring. Kincheloe had already been singled out for closure. Blytheville was a possible alternative. But of the remaining three bases, the Air Force had decided, Loring was the best choice.

Ironically, the reason was the base's location—the same location which had made it so valuable when it was built. The severe winters and heavy snowfall in northern Maine made the base extremely expensive to operate. The base's location made it a great place for an emergency deployment overseas, but an awful place for day-to-day missions.

Base commander Col. Russell Morton says, "The cost of operating this base is approximately twice that at some other bases because of the climate—the costs of snow removal, of utilities, even additional clothing for our people." It costs roughly $250,000 a year to heat just one large arch hangar at Loring, another $300,000 for another large hangar.

Base closings or reductions used to be a relatively simple matter. But the process has been more complicated since the enactment in 1969 of the National Environmental Policy Act. That law requires the Pentagon to submit a detailed report (called an Environmental Impact Statement) of the effects any major base closing or reduction would have on the surrounding civilian community.

A draft of the Environmental Impact Statement (EIS) must be sent to all interested parties for public comment before a final EIS is made. Then the service secretary, in consultation with the Secretary of Defense, can make a final decision.

The Air Force's first draft of the EIS for Loring was released in the fall of 1976. As required, it asked for public comment. And the Air Force got it.

The study had used only statistics available for Aroostook County as a whole. It was normal procedure. What it overlooked was the fact that Aroostook County is a huge county, the largest county east of the Mississippi, consisting mostly of trees. According to the draft EIS, a reduction at Loring would have only minimal effect on the economy of the county.

But what about the immediate area around the base, the towns of Limestone, Caribou, Presque Isle, which would be affected most by the proposed reduction? Howls went up from citizens around Loring and from the Maine delegation to the U.S. Congress. Maine's Democratic Sen. WILLIAM D. HATHAWAY called the EIS an "erroneous and fatally flawed document."

By November 1976, when public hearings on the EIS were held in Maine, the Air Force itself admitted the first draft of the statement was incorrect. Embarrassed AF officials promised to start from scratch and submit a new one.

A revised draft of the Environmental Impact Statement was released in April 1977. This time, the Air Force study considered only the area immediately surrounding the base—the "primary impact area." And the AF conclusions now supported what the people of northern Maine had been saying all along—that the local economy would be devastated by a reduction at Loring.

Without Loring's annual payroll of more than $40 million, dozens of businesses would be forced to close. Unemployment, already 12 percent in the rural area, would skyrocket to 22 percent. Tax losses from revenue sharing and sales taxes would be severe. The real estate market would be hopelessly depressed, flooded with hundreds of vacant houses and no buyers.

The Limestone School District would lose most of the $850,000 it receives from Federal Impact Aid for the military children in the district; at lease 58 teachers would be laid off. People who owned apartment houses, restaurants, shops would be ruined. In sum, the Air Force admitted drily, "the economy would suffer severely."

THE CIVILIANS GO INTO SHOCK

Statistics, no matter how shocking, don't tell the story. The people of northern Maine are in shock, frightened that their already fragile economy will be shattered. As one farmer's wife wrote in a letter protesting the cutback, "Life was a real struggle before Loring came here and that's no lie."

At the shopping centers in Caribou, in the restaurant in tiny Limestone, every conversation turns to the possible disaster of a pullout at Loring. With anguished faces, storekeepers and salesmen, waitresses and teachers talk about what will happen if their only "industry" in the area suddenly vanishes.

At Plourde's Furniture in Caribou, Dan Plourde manages a business started 50 years ago by his father. Seventeen years ago Plourde's showroom was moved to the Caribou shopping center to be closer to Loring. "A minimum of 50 percent of our business is from the base," Dan Plourde says. "The base is the reason we moved to this location, the reason we expanded our showroom, even changed our merchandise somewhat to appeal to the military families.

"I've got 10 employees now; if the base closes I'll have to cut that in half. Still, I hope I'll be able to stay in business, which is more than a lot of small shops and restaurants will."

Abraham Etscovitz, owner of Northern Car Sales in Caribou, tells a similar story. "We never dreamt anything could happen to Loring," he says quietly. "We assumed—we'd always been told by the Air Force—that this was one of the most permanently needed bases in the U.S. A reduction like they're proposing would cut our sales volume by at least 30 percent. I've got close to 38 employees, and I'll have to lay off at least a dozen. Oh yes, people are frightened."

Already the proposed cutback is having an effect on the local economy. The housing market is dangerously depressed. "Who the hell is going to buy a house around here now?" asked one realtor.

Even the local potato farmers say they would be affected by an 83 percent reduction of Loring's personnel. John Chapman is a Limestone potato farmer who owns nine farms totaling 700 acres. It's a harsh life, and like many other farmers Chapman supplements his farm income by working at the base every winter.

"I've worked in snow removal for three to five months there every year since 1959," he says. "I don't know what we farmers would do without that extra income. And in the busy seasons, I employ a lot of military wives and moonlighters from the base to plant and harvest. Of course, if they leave I guess I'll be able to replace them—unemployment will be so high I can hire some of the people who'll be laid off.

"You know, before the base came here, all we knew was potatoes. Now the base is so much a part of our lives. I know lots of people who left their farms and went to work at Loring. What will they do? Seems like the Air Force just comes in, changes our lives, and then leaves when it suits them. I guess we expected something better."

THE SAVE LORING COMMITTEE FIGHTS "CITY HALL"

The people of northern Maine are not the kind of people to sit back and quietly allow their livelihoods to be ruined. They are a proud, hardy people, and their first reaction when the proposed reduction was announced was to fight back. Almost immediately, they formed a Save Loring Committee, and selected Paul Haines, a Limestone realtor and insurance salesman, as chairman.

The committee was determined not to be just another bunch of unsophisticated citizens launching ineffective protests against their government, the local businesses and city governments, and hired top-notch Washington lawyers and a respected consulting firm of their own to counteract Air Force arguments.

Haines is a thoughtful man who is surprisingly efficient for someone who says he's never before "fought city hall." Like most of the people in northern Aroostook County, he has a personal stake in keeping Loring as it is. "If the reduction went through, I'd be happy if I lost only 25 percent of my business," he says bluntly.

The Save Loring Committee had three main arguments against the Air Force proposal: (1) the disastrous economic impact on the local economy, (2) evidence that a cutback at Loring, rather than saving money, would actually cost the government money, and (3) the belief that Loring is as strategically important as ever.

"The Air Force itself has finally agreed with us on the first point," Haines says. But the latter two questions have been subjects of intense debate between the Air Force and the Save Loring forces. The service claims its proposed reduction at Loring will save an estimated $12 million the first year, $19 million each year after that.

But the committee's Washington, D.C., consulting firm, BKW Associates, did its own study of the cost effectiveness and came up with some startling figures.

For the first year, the study claims, the cost of the reduction to the Air Force will be $24 million—mainly in relocation costs, and increased fuel costs from flying aircraft to deployments from bases farther away from their targets. For the following five years BKW says these and other costs to the Air Force will be $15 million.

Then there's the question of total taxpayer dollars. According to the BKW analysis, any savings the Air Force realizes by a cutback at Loring will be more than offset by increased costs to other sections of the federal government. It doesn't make sense to Paul Haines.

"What good does it do for the Air Force to save some money if the rest of the government has to pay out more—in increased unemployment benefits, and food stamps and defaults on Small Business Administration loans and mortgages? BKW estimates the total cost to the federal government for these and other programs if Loring is reduced would be at least $105 million over the next five years.

Haines and others wonder how the service

can save money by keeping the base partially operational. "It hasn't gotten any colder here since they built the base in 1946," he says indignantly. "The base is still sitting in the same place—it hasn't moved farther from its targets. Will reducing the manpower by 83 percent reduce the snowfall? They admit they'll still have to plow the runways just as often for the tankers to rotate through. So where are the savings?"

But saving money was not the only consideration in proposing the cutback of the base, according to the Air Force. Strategic factors also played a part. "When this base was built," says base commander Col. Russell Morton, "our aircraft were more range-limited. The closeness to potential enemies was more important.

"Today, the closeness is still valuable, but now we rely on what's called a 'triad' concept of defense—a three-pronged defense of bombers, land-based ICBMs, and submarine-launched missiles. And with the advent of an all-jet fleet, the location is not as important as it once was."

"To a layman," answers Save Loring chairman Paul Haines, "their points don't make much sense. To have the same amount of bombers on fewer bases? It sounds like reverting to the old Pearl Harbor concept of putting all your weapons in one place. Doesn't that make it easier for an enemy to knock them out?"

Other experts on defense agree with Haine's layman's assessment. BKW Associates has two directors with expertise in defense strategy.

One is Albert W. Blackburn, a Naval Academy graduate who was principal consultant to President Nixon's Blue Ribbon Defense Panel in 1969 and 1970. He also has served in top-level jos in the Defense Department where he dealt with issues and policies involving strategic and tactical weapons. A former Navy test pilot, Blackburn also has worked on the Polaris missile and the B–70 bomber.

A second director of BKW is Dr. Robert Kilmarx, who is also director of business research for Georgetown University's Center for Strategic and International Studies. Kilmarx is the author of several books and studies on Soviet air power and arms control. "I served the Air Force as an officer and a consultant for 20 years," laughs Kilmarx, "and all the arguments I'm throwing at the Air Force they taught me!"

Both Blackburn and Kilmarx strongly oppose any reduction of the bomber-tanker force at Loring AFB. Their study for BKW has been the committee's strongest strategic argument against the AF proposal.

Simply put, the BKW study makes the case that a cutback at Loring would seriously hamper the U.S. nuclear deterrent. "Despite the 'triad' concept," Kilmarx told the Times Magazine, "bombers remain uniquely important. They offer flexibility. They can be used in limited wars as well as a major conflict. They can be used to signal intent. And, unlike a missile, a bomber can be called back."

Particularly without the B–1 in our arsenal, BKW's analysis argues, the B–52 fleet's closeness to targets is more important than ever, because the bombers would be the launch platforms for the proposed cruise missile. "All other SAC manned bomber bases are at least 200 and as much as 2000 miles more distant than Loring from SAC's most important target areas," Blackburn testified at public hearings on the subject in July.

What about the AF argument that Loring's location is no longer as vital as it once was? "I've seen the war plans—there are still routes going across the North Atlantic," answers Kilmarx.

"Look, we've had an all-jet fleet for 20 years, but as recently as February of 1976 [a month before the proposed reduction was announced] the AF brass were still saying how important Loring was. You want bombers to be as close as possible to targets because it gives more flexibility in selecting penetration routes, a better chance of reaching the targets, and lower fuel costs."

From a defensive posture, Loring poses significant problems for potential enemies, argue the BKW experts. "Closing of Loring simplifies an enemy's strike plan and increases its probability of success by eight percent," according to the BKW study.

"You could put all your bombers at SAC headquarters at Offutt AFB, and all your tankers somewhere nearby," says Kilmarx. "And you'd probably realize some cost savings. But you'd so simplify Soviet targeting that you'd defeat the purpose of the SAC fleet. There are only 20-odd bases with B–52s left. We still need to disperse our aircraft."

IS THE PROPOSED CUTBACK JUST POLITICS?

The arguments have gone on for months, with the Air Force and the Save Loring forces each producing its own set of contradicting statistics and analyses. In the minds of many observes, there are still unanswered questions about the economic and strategic advisability of a cutback at the base.

And unless these questions are put to rest convincingly by the Air Force, the people of northern Maine will remain suspicious that the real reason for the AF proposal is political. Throughout the communities around Loring, citizens talk with almost paranoid intensity about a "vendetta" against the Northeast.

The facts give their belief some credence. The proposed cutback at Loring is just the latest in a series of Pentagon reductions in New England in recent years. Among the installations closed or drastically reduced have been the Boston Navy Yard, Westover and Otis AFBs in Massachusetts, the Navy prison in Portsmouth, N.H.

"There is an unduly heavy concentration of military installations, personnel and DoD spending in the South and Southwest," says Sherwood Boehlert, executive assistant to Rep. Donald J. Mitchell (R.-N.Y.), who is one of a coalition of 104 House members concerned about the problem. Between 1964 and 1974, military spending across the country increased by about 92 percent, but it increased by only 27 percent in New England, the smallest gain in any region.

As military people may have noticed, there are more and more assignments in the so-called "Sun Belt"—the South and Southwest—and fewer bases in the Northeast. There has been an increasing sense of alarm over the trend among Northeastern governors and legislators, and the fight over Loring is an example of that political reality.

Though few military people give much thought to the matter, where they are stationed can be as much a political decision as a strategic one. Says Sherwood Boehlert, "During the big build-up period for military installations, Southerners and Westerners controlled the Congress.

"In 1961, for example, two-thirds of the Senate committee chairmen and half of the House chairmen were from the South or West." When Rep. L. Mendell Rivers (D.-S.C.) was chairman of the House Armed Services Committee, a fellow congressman once remarked, "If you build one more military installation in Charleston, it's going to sink into the harbor."

Civilian communities and politicians routinely object when a base closure or cutback is announced. But in northern Maine, the objections go beyond economics, revealing the people's close emotional tie to Loring.

In the little towns and farms around Loring, people speak proudly of their friends from the base, noting the contributions the military families make to charities and churches, the cultural impact Loring has had on this remote corner of the country.

"Having the base here has given us the opportunity to meet people from all over the country," says Paul Haines. "It's given our kids a chance to grow up in a different atmosphere. Loring has made us feel like a part of the country, not just an isolated region.

"We like the Air Force and its people. People from the base have told me they've never been welcomed into a community like they have here. We want them here. I just hope they want to stay."

THE QUICKER THE DECISION, THE BETTER

"Boring Loring." Nothing has changed much in 20 years. You *can* go home again, if you're going back to a military base. Civilians who visit the cities where they grew up find high-rise apartments where they once played baseball, their favorite Dairy Queen razed for a shopping center. Bases change little.

344 Duncan Court, where I lived for almost four years, is still the same green and white Wherry housing, still in need of a coat of paint. The long row of garages behind the houses are a shambles of sagging roofs and peeling shingles.

Some people I met at Loring complain the base should be classified as an "isolated tour." They should have seen it in the mid-1950s. There wasn't even commercial TV in Aroostook County then. The Air Force established its first military television station at Loring in 1954, a five-watt channel with broadcast studios in a 10 by 13-foot shack on top of the base hospital. The TV station was a much-needed morale booster. RCA built it and provided free technical assistance after SAC Commander Gen. Curtis LeMay begged help from RCA chairman David Sarnoff.

When the base station, Channel 8, went on the air, there were no TV sets for sale in the entire county. Almost immediately, a new industry was born in the surrounding towns—selling and repairing TV sets. It's an example of how drastically Loring has changed life in northern Maine.

Adults may have bemoaned their isolation, but it was a fine place to grow up. Each September, schools closed down for a few days during the potato harvest, and we swarmed into the fields to pick potatoes. We learned to say "ba-day-das" like the natives.

In winter, our fathers flooded the back yards with hoses, making huge ice rinks. We skated until our toes were nearly frozen. When my family got a piano, the truckers delivering it had to haul it 200 feet across the snow on a toboggan. It was a ludicrous sight, and people on Duncan Court laughed about it for days.

On Duncan Court today, and all over the base, Loring residents are filled with uncertainty. "When the proposal was first announced, the initial reaction was humorous," says base commander Morton. "People assumed the 'candidate action' meant they would definitely close the base. Everyone was asking, 'When will we get orders?' But the schedule has changed so much, the general population is apprehensive. They need a decision. Should they buy a carpet, a stereo?

"Morale has been pretty poor since this thing's dragged on so long," says a young airman. "People get their hopes up that they'll be leaving, and then the decision is postponed again. No one knows whether to take out a loan, move in and decorate. And of course there's the uncertainty about who will be left behind."

The Air Force hopes to announce a final decision about Loring's fate sometime this fall, but no one familiar with the situation has much hope that the schedule can be kept. People in Limestone and Caribou are holding their breaths, hoping their arguments will prevail.

There's a wooden sign on the highway as

you enter Limestone: "Welcome to Limestone. Home of the world's best potatoes, largest bombers, fastest fighters and mightiest tankers." The townspeople want to keep the sign as it is.

PANAMA CANAL ISSUE

Mr. MATHIAS. Mr. President, we are in the process of posing questions to the Carter administration on its proposed Panama Canal Treaty. Whether or not we ratify this treaty will depend largely on how effective the President is in making his case to us and to the country. As a very useful contribution to the ongoing debate, I should like to insert in the RECORD an editorial by the Cleveland Press together with the very useful response written by one of my constituents, Reed I. Irvine of Silver Spring, Md. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PANAMA CANAL ISSUE

After bloody riots in the Canal Zone that left 25 dead in 1964 and after tortuous negotiations since then, the United States and Panama at last have agreed "in principle" on the future of the Panama Canal.

In a historic and sensible step toward decolonialism, the Carter administration wishes to yield control over the waterway and the 533 square mile Canal Zone to Panama in the year 2000.

The negotiators no doubt feel they have accomplished a difficult feat, but the hardest part lies ahead: to convince the required 67 U.S. senators that it is in the national interest to ratify a new canal treaty.

While we may change our mind after a word-by-word reading of the treaty—it has not yet been written—the outlined agreement seems fair to both sides and we hope the Senate approves it.

The Panamanians made major concessions: Letting the Americans run the canal for 23 more years; accepting a U.S. military presence until 2000; agreeing that U.S. forces could return after that date to defend the canal, and scaling down their annual rental demands to $50 million, which can be covered by canal tolls.

Unfortunately the canal issue is an emotional one in this country and a violent debate can be expected. Ronald Reagan and other conservatives are fond of declaiming, "We bought it, we paid for it, we built it and we ought to keep it."

In fact, "we built it" is about the only accurate part of the statement. We didn't buy it; Teddy Roosevelt used to admit proudly that he "took" the Canal Zone and all but blackmailed Panama into ratifying the one-sided 1903 treaty giving the United States rights there "in perpetuity."

However, it's pointless to argue about ancient history. What this country got away with in an era of imperialism is not what it should practice today. It makes more sense to argue about the canal's value, which is much exaggerated by its admirers.

Diplomatically it is a handicap. It is seen throughout Latin America as proof of "Yankee imperialism" and thus harms the nation's interests in the hemisphere.

Strategically it is obsolete. Big aircraft carriers, large naval vessels and modern tankers cannot fit through it. That is why this country built a two-ocean Navy. Also, the canal is indefensible; in wartime one Soviet submarine could close it with one nuclear missile.

Economically the canal is overrated. It now carries only 2 percent of this country's coast-to-coast trade. And by the year 2000 its military and economic value will be less than today's.

Americans ought to try to look at the canal through Panamanian eyes. It was stolen from them. It is an open wound dividing their country, diminishing their nationhood. It is their main natural resource—held by foreigners.

There are only 1.7 million Panamanians but they are united in their determination to regain the Canal Zone. If the Senate succumbs to demagoguery and jingoism and defeats the treaty, one can expect guerrilla warfare and sabotage of the canal.

In their struggle the Panamanians will have the backing of all Latin America. Should this country risk a nasty little tropical Vietnam over a waterway that isn't worth much anymore?

SEPTEMBER 3, 1977.

EDITOR,
The Cleveland Press,
Cleveland, Ohio

SIR: Your editorial on the Panama Canal on August 12 was flawed by several factually inaccurate statements.

1. You said that we "built" the Panama Canal but we didn't "buy" it. Of course, the United States paid both for the construction of the canal and for the territory through which it was built. We built the canal at a cost of $375 million, a figure which would amount to some $2.5 billion at today's prices. We paid Panama $10 million for the rights to the Canal Zone and we paid individual landowners nearly $5 million for title to their property in the zone. We subsequently paid $25 million to Colombia to compensate it for its claims on the zone. In addition we paid $40 million to the private French company that had tried and failed to build the canal for its rights and equipment. The Canal Zone has been called our most expensive territorial acquisition.

2. You state that the Panama Canal is obsolete strategically, arguing that "large naval vessels and modern tankers cannot fit through it." Two former chairmen of the Joint Chiefs of Staff and two former chiefs of Naval Operations have sent a joint letter to the President in which they say: "As long as most of the world's combatant and commerical tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States . . . Under the control of a potenial adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil." These experts note that all naval vessels except the largest (13) carriers can transit the Canal. Modern tankers carrying Alaskan oil are now transiting the Canal. Only huge supertankers cannot make the passage, and the U.S. does not have ports that can accommodate supertankers.

3. You say that the Canal is overrated economically. The New York Times says that it saves $1.5 billion on the prices of American imports and exports. Higher prices for our exports caused by higher transportation costs could drive our already excessive trade deficit even higher, as our ability to compete with other countries weakened. The Canal is of even greater economic importance to several Latin American countries, who use the Canal for the majority of their shipping.

4. You say the Canal "was stolen" from the Panamanians. Rubbish! How could we have stolen the Canal when it was we who built it? As noted above, we paid a high price for the land, and Panama was delighted that we built the canal there and not in Nicaragua. They have reaped enormous benefits from it, including the attainment of a per capita GNP of over $1,000 a year.

REED IRVINE.

EGYPT'S ECONOMIC SITUATION

Mr. CASE. Mr. President under the headline "Sadat's Rule Has Seen Little Material Gain for Egypt," the Washington Post today carried a rather gloomy background article on Egypt's economic situation.

I cannot endorse all the findings or observations in this article. But I do support the view that it remains in the interest of the United States to assist Egypt in ways which will really bring about a better way of life for the people of that country and thus lead to political and ideological stability in Egypt and in the Middle East.

Over the past 3 years the point has been made that if a peace agreement is somehow reached in the Middle East it will give a major boost to countries like Egypt. This is true—but on certain conditions.

Improvement in the political climate in the area will help a great deal in stimulating the economic recovery of states like Egypt. But the peace must be a real peace and one that can last and must be a web of mutually beneficial relationships between the parties so it is not in anyone's interest to break the peace.

The Sinai agreements produced momentum and progress and some confidence was built up in the Middle East. But this confidence was insufficient to overcome the dreadfully difficult economic conditions within Egypt or to stimulate an overhaul of the structure of Egypt's economic apparatus sufficient to attract foreign investment. In real terms, little Western capital has been put into Egypt's business structure or into services that can stimulate the business and industrial sectors and provide more jobs. Western capital, by and large, comes either from private investors or from the international banking institutions. Both have so far balked at large-scale investments in Egypt.

Egypt is a nation with inadequate resources and with a spiraling population growth. Money alone will not solve Egypt's difficulties since it would be quickly consumed by its expanding population. Yet, many of us, among them Senator HUBERT HUMPHREY, chairman of the Subcommittee on Foreign Assistance of the Foreign Relations Committee, believe that, with the variety of resources we have, we can do a better job in demonstrating to Egypt that real help can be given.

To accomplish this, we have to shift the emphasis of our economic assistance program, which has already amounted to over $5 billion. We have to get away from aid to Egypt chiefly in the form of consumer goods which are quickly used up and forgotten and also from aid to failing government-run industries which are inefficient and unproductive. What we know best how to do, as Senator HUMPHREY has pointed out, is to help develop the private sectors of a country—industrial, business, and agricultural. It is that endeavor we should pursue here.

Under the Humphrey amendment to this year's foreign assistance bill we have asked the Agency for International Development to get outside experts from

the private sector to come up with firm suggestions on how we might bring this about. We have in mind people with real, on-the-job experience; people who have been successful in the United States and in developing countries. It is well to bear in mind that Egypt suffered through over 10 years of Russian socialism which wreaked havoc on its economy. It is in our interest to turn the situation around, and to show the people of Egypt we have a better way. If we fail in doing this then I have serious doubts about the future and about Egypt remaining committed to the West.

In this respect I am worried that AID is off to a bad start in carrying out the Humphrey amendment. We are trying to work out our differences with the Agency, but so far there seems to be an institutional bias running against us. Their current approach in Egypt still seems too concerned about large-scale, long range public projects which will not do the immediate job at all.

For example, we understand that AID is considering spending one-third of the limited funds available under the Humphrey amendment for a "macroeconomic study" which is unrelated to the specific goals we have set. We already have a good idea of what is wrong in Egypt—what we want to do is to set it right. I doubt whether we should spend such a large part of the study funds to show to be true what we already know to be true. Instead, the focus ought to be the working out of new and more effective ways to help Egypt.

There remains great good will in the Congress, and certainly among the members of the Foreign Relations Committee of the Senate, toward Egypt and its needs. We want to help to bring real prosperity to Egypt. But the effort and the cause of peace is not helped if the United States continues on the current path which has yet to bring affirmative results in Egypt. It would be a great shame, given our strenuous efforts to bring stability and peace to the Middle East, if we should fail because some officials are too frightened of tomorrow to break out of the bureaucratic habits of yesterday.

I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SADAT'S RULE HAS SEEN LITTLE MATERIAL GAIN FOR EGYPTIANS

(By Thomas Lippman)

CAIRO, September 28.—The seventh year of his presidency has not been a good one for Anwar Sadat or for Egypt.

On the anniversary of his accession to power at the death of Gamal Abdel Nassar, Sadat presides over an impoverished, disease-ridden nation beset by political turmoil and religious strife.

Despite grand promises, he has delivered neither prosperity at home nor peace abroad to his 39 million people. His abrupt change from the inept socialism of the Nasser era to a half-hearted capitalism has done little to alleviate the poverty or ignorance of the masses, whose numbers continue to grow by a million persons a year.

Sadat's rupture with the Soviet Union has cut off his military supplies and broken the country's well-established trading patterns but has not brought the American-sponsored Middle East peace on which he has been counting.

Today, in a major speech, Sadat intensified the rupture, making clear that he plans to postpone repayment of $4 billion that Egypt owes the Soviet Union for military equipment purchased in the 1950s and 60s. "I am asking the Soviet Union for a 10-year grace during which we repay nothing," he said, indicating that no money would be paid even if Moscow objects.

The euphoria that followed the successful crossing of the Suez Canal in the 1973 war has given way to restive grumbling in a year when the armed forces have been used to put down food price riots in the cities and to administer a spanking to Muammar Qadaffi's Libya.

The economic and political ineptitude of Sadat's government, headed by a former police officer, is a constant source of worry to Sadat's supporters, Egyptian and foreign. They fear that if the situation deteriorates further he might be ousted by an extremist of the left or the right.

Yet, in the view of Egyptian intellectuals, foreign diplomats, government officials, journalists and other observers here, there appears to be no immediate danger that the government will fall. Circumstances that would bring down any government in Western Europe, they argue, mean little in a country where the president can suppress opposition with a stroke of his pen.

None of the dissident elements taking advantage of Sadat's political liberalization to oppose him has the strength to bring him down, these observers agree.

Only the army could do that, they say, and Egypt's armed forces have one of the best records in the Third World of keeping hands off government. Under the command of the rigidly apolitical Gen. Mohammed Abdel Ghani Gamassi, a Sadat loyalist, the army has so far followed orders and stayed out of politics.

Sadat has not yet given the armed forces reason to withdraw their support, informed observers say. The question is whether the failure to achieve peace, the flickering hopes for economic prosperity and the mushrooming, overt political opposition throughout the country might induce the military to act.

"The longer the situation goes on this way without any solution, the longer Sadat's American connection fails to produce a peace settlement, the greater the chance that something will happen," said Boutros Boutros-Ghali, head of the potential science faculty at Cairo University.

"All these dissident elements, the Moslem Brotherhood, the leftists, could create an atmosphere in which the army would feel obliged to step in," he said.

"It's been two years since Sadat has had a policy success," said a concerned diplomat from a friendly country, referring to the Sinai peace accord that involved a pullback of Israeli troops from the Suez Canal and return of captured oil fields to Egypt.

"He needs something or the situation will continue to deteriorate. When you have the appearance of a political vacuum, you get people moving to protect their own interests first and you risk chaos."

One possibility feared by political activists, students and intellectuals here is that the armed forces might act not in opposition to Sadat but in concert with him, restoring order by the imposition of military rule, as happened in the Philippines—ending the country's "democratic experiment." Sadat has repeatedly pledged that this will not happen.

He renewed that pledge in his speech today commemorating Nasser's death. As he has before, he acknowledged the difficulties facing the country and errors of the past. He promised better times if the people work hard and end their divisions. He said Egypt had passed the "bottleneck" from economic stagnation toward progress that would give Egypt "breathing room" by 1980.

Many Egyptians argue that in the Egyptian context, the situation is not as bad as it seems to Western eyes. Corruption, poverty, disease, religious tensions and political extremism have exisited in Egypt for centuries, they argue, and are no more likely to bring upheaval now than they did in the past.

Sadat, however, does often seem like one of those besieged swordsmen in the costume epics—no sooner does he skewer one foe than three others appear behind him, and by the time he finishes them off, the first is back on his feet.

In January, under pressure from the International Monetary Fund and other lenders concerned about Egypt's mammoth balance of payments deficit, the government slashed subsidies that held down the prices of basic commodities. After two days of bloody riots, the subsidies were restored.

Yet, the problem will not go away. An IMF team is due here next month and it is expected to demand an end to the subsidies as a condition for the granting of standby credits that Egypt needs to pay its existing debts. The government is looking for ways to make the inevitable price increases more palatable to the citizenry.

Today he said that the subsidy system would be reorganized so that the aid would reach only "those who really need it." But he also promised that "subsidies for bread and basic commodities will never be touched," a balancing act that the government will find difficult to bring off.

Sadat blamed the Communists for the January riots, which most observers believe attributed far more power to the Communists than they really have. As an antidote the government began quietly encouraging the activities of Moslem conservatives and fundamentalists.

In quick succession, a fanatic band of Moslem extremists kidnapped and murdered a former religious affairs minister and launched a antigovernment terrorist campaign in the name of Islam; fundamentalist legislators in the People's Assembly sought enactment of an Islamic code, frightening the country's 2.5 million Christians, and the outlawed Moslem Brotherhood reemerged in public with a prayer rally in a downtown square.

The attempt to rewrite the country's laws to conform with Islamic code, as in Saudi Arabia, was finally cut off by the prime minister, but only after it led to violent clashes between Moslems and Christians, mostly in upper Egypt. At least five church burnings and one death were reported. Last week Sadat arranged for prominent press coverage of meetings he held with leaders of both faiths in an effort to halt the religious feuding.

In an attack that some saw as aimed at the Soviet Union, Sadat said today that the religious conflicts were the product of a conspiracy hatched in some dark corner and were "alien to our nation, shunned by people who know their national responsibility." He warned that "those who want to fish in troubled waters are the enemies of freedom" and said he would have "no mercy on anyone trying to spread chaos."

Behind all these events are the continuing rumors about personal corruption by the president, his family and his political friends. It has reached the point where one Cabinet minister is openly described

at diplomatic receptions as the prime minister's "bagman."

Sadat and his wife, Jehan, certainly live very well in their many houses, but then the upper classes in general are prospering under Sadat's economic "open door" policy. After years of circumspection under Nasser they are again flaunting their fancy cars and European clothes and expensive appliances in full view of the masses scraping by on a diet of beans and bread.

"It is a dangerous thing, in a country like this, for any leader to cast his lot with the bourgeoisie," a sophisticated political analyst said. "But who is going to push him out? The government is weak, but would another one be any better? Unless there were someone who could offer immediate solutions to the question of the Sinai and the economy, things are likely to go along as they are for a few more years."

SEA CADETS AT 15

Mr. MATHIAS. Mr. President, I wish to commend to my colleagues an excellent article by Adm. John S. McCain, Jr., USN (ret.) entitled "Sea Cadets at 15" which recently appeared in the Veterans of Foreign Wars magazine. Admiral McCain is a former Commander in Chief Pacific and a Washington area resident. As a former Navy liaison officer he has many friends and admirers on Capitol Hill. He describes the very valuable contribution that the U.S. Naval Sea Cadet Corps has made in training American youth over the past 15 years since its establishment. I ask unanimous consent that this excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEA CADETS AT 15

(By Adm. John S. McCain, Jr., USN (Ret.))

This year the United States Naval Sea Cadet Corps is marking its 15th anniversary as a federally-chartered training program for American youth from 13 through 17 and officially supported by the United States Navy.

In this 15th year of the Sea Cadets more than 6,000 young men and women across the nation are learning to be sailors. But that is not all they are learning. They are being steeped in the heritage and traditions of our 200-year-old nation.

They are learning the many disciplines needed for all Americans to serve their nation either in the military forces or as civilians.

Legislation incorporating the Naval Sea Cadet Corps was passed by Congress in 1962, expressing its objects and purposes, "through organization and cooperation with the Department of the Navy, to encourage and aid American young people to develop an interest and skill in basic seamanship and in its naval adaptations, to train them in seagoing skills and to teach them patriotism, courage, self-reliance, and kindred virtues."

I served for 45 years in the United States Navy and I believe the United States Naval Sea Cadet Corps (NSCC) is providing the naval service and the nation with young people whose vital interests are in their nation and in keeping its free heritage strong and viable for future generations.

You have never seen a more dedicated group of young people than those of the Sea Cadet Corps. Their 153 units for seniors meet at naval bases and Naval Reserve centers across the nation.

The Navy League, which sponsors NSCC through its local councils and within the corporate structure of the Sea Cadets, has established a junior training program for youths 11 through 13, the Navy League Cadet Corps. It is a supportive program for the NSCC, with its regulations and curricula designed to provide a foundation for NSCC training.

The secretary of the navy has authorized naval activities across the nation to provide maximum cooperation and support in training Sea Cadet units.

Sea Cadet training parallels that of the Navy itself. Many of the cadets after their 18th birthday begin lifetime careers in the Navy, the Marine Corps, the Coast Guard and other national services. During the past several years approximately 70% of age eligible cadets have either enlisted or entered a training program leading to active service in a branch of the Armed Forces. So far, some 100 cadets have gone on to the Naval Academy at Annapolis. Considering NSCS objectives and the results achieved, the program warrants the full support of all Americans.

General administration of the NSCC is vested in its board of directors, appointed by the president of the Navy League. Day-to-day administrative duties of the national organization are conducted by an executive director, Capt. Nicholas Brango, USN (ret.), and his staff at national headquarters in Washington, D.C. Local administration of NSCC units is vested in a committee which represents the local Navy League council and in unpaid civilian volunteer NSCC officers, men and women who provide guidance, training and supervision. Local Navy commanding officers are urged by the secretary of the navy and the chief of naval operations to provide full cooperation and assistance to NSCC units in their areas. Close liaison is maintained at all times between NSCC units and the Navy, which provides cadets with training aboard naval vessels and shore facilities.

The cadet wears a modified Navy enlisted uniform during active-duty sessions, which usually are held on weekends. They use the same texts, classrooms and training aids and are given the same written examinations offered Regular Navy personnel. All cadets are eligible to attend a two-week training period at naval facilities and participate in summer cruises abroad ships of the Atlantic and Pacific Fleets as well as aboard Naval Reserve ships.

The young people and the nation gain an advantage when these youngsters graduate from the Sea Cadets. They are, upon graduation from the NSCC, eligible to enlist in an advanced pay grade in the Navy, Navy Reserve and Coast Guard.

During their time in the program they are made thoroughly familiar with the educational opportunities available through the Navy, such as the Naval Academy, the Naval Reserve Officers Training Corps, the Reserve Officer Candidate program and Officer's Candidate School.

By training with Regular and Reserve Navy personnel, the young Sea Cadet is able to determine from exposure the desirability of choosing the Navy as a career.

The cost of becoming a Sea Cadet is at most minimal. Annual $15 enrollment fee includes accident insurance. The uniform deposit fee of $10 is returned when the cadet graduates or leaves the program and returns his or her uniforms. Expenses incurred in cruising and summer training are the responsibility of the cadet and parents, the Sea Cadet unit and the sponsoring Navy League council.

Sea Cadet Corps officers are active duty and retired. Navy, Coast Guard and other military service personnel and civilian volunteers, who must be American citizens, over 21, and of good character. Midshipmen are between 18 and 21.

As a former commander of men in war and peace, I know firsthand the value to our nation and its future in our young men and women. NSCC is teaching our future military and civilian leaders the disciplines they will need to lead our nation in the years to come. The corps is training them to know about themselves and other young men and women.

It is teaching them that duty and honor are still basic to growing to the responsibility and the uncertain future they are facing. Through their Sea Cadet training, they are learning to face fully the problems of today and more importantly, the problems that will face them tomorrow and the day after. There can be no greater training for our nation's young people. They go with an advantage, God bless them.

REFORM OF THE FEDERAL CRIMINAL CODE

Mr. KENNEDY. Mr. President, during the next few weeks the Senate Judiciary Committee will consider S. 1437, the Criminal Code Reform Act of 1977, introduced by the distinguished Senator from Arkansas, Mr. MCCLELLAN, and myself. This comprehensive legislation is an attempt to reform, modernize, and streamline the entire Federal Criminal Code, a code characterized today as "archaic," "unfair," and "confusing." The bill is a major undertaking, of critical importance to the American people, and I am hopeful that it will promptly be reported to the Senate floor so that the full Senate can consider it early next session.

Mr. President, with the decision of the House Subcommittee on Criminal Justice to begin hearings last week on the companion bill, H.R. 6869, we find the Congress considering the first major piece of substantive criminal law legislation in almost a decade. This fact should not go unnoticed. For too long the Federal Government has been unable or unwilling to turn its attention to the national problem of crime and the crisis confronting our criminal justice system. S. 1437 signals a change in this attitude, an attempt by the Federal Government to put its own house in order. The legislation is bipartisan and has the complete support of the administration. Attorney General Bell in particular has played a major role in the fashioning of the bill.

In urging enactment of S. 1437, it is also important to point out what the legislation does not accomplish. It is not a cure-all for crime in America. No one should labor under the misapprehension that the passage of S. 1437 will eliminate the violent crime which plagues our local communities. The distinguished and highly respected chief judge of the District of Columbia Federal Court of Appeals, David L. Bazelon, has reiterated this fact in recent months. He has pointed out that S. 1437 will not deal with the social causes of crime in American society, causes well known to all of us—a troublesome unemployment rate, especially among the young and minorities; inferior housing and education for too many of our citizens; the breakdown of the family unit; a criminal justice system which, inundated by a mounting caseload, tells the would be criminal that "crime pays." I agree with Chief Judge Bazelon that S. 1437 will not solve these

problems—problems which must not, cannot be ignored. I will continue to fight for better education, improved health care and equal opportunity for all Americans.

But, although S. 1437 will not have a major impact in reducing local crime, it can be an important vehicle for reducing injustice. And, to the extent that S. 1437 acts as a model, to be considered by local legislatures in enacting new laws to deal with criminal injustice, its impact will be felt at the local level.

Mr. President, in recent months newspapers throughout the Nation have commented on the importance of S. 1437. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Sept. 7, 1977]

KENNEDY BILL: IMPROVEMENT IN CRIMINAL JUSTICE

(By Louis B. Schwartz)

One of the most important bills of the decade is Sen. Edward Kennedy's S. 1437, now being put into final shape in the Senate Committee. The bill is a major advance in civil liberties and law enforcement.

It prevents arbitrary sentencing and paroling. It repeals threats to free discussion such as the Smith Act (penalizing advocacy of overthrow of the government).

It moderates existing law in the area of sex offenses. It cuts back on prosecution of petty marijuana offenses. It provides effective sanctions against the crimes of big business, and makes the penalties for tax and other frauds proportionate to the size of the illegal gain.

It facilitates prosecution of criminals who leave the country. These are only samples among hundreds of improvements.

This excellent bill, which would give us a magnificent improvement of the criminal justice system, is endangered, paradoxically, by the unthinking and petulant opposition of certain civil liberties groups who should be its friends. These groups have taken an all-or-nothing position.

Disregarding the hundreds of civil liberties reforms embodied in the Kennedy bill, the civil liberties establishment wants to kill any bill that does not include every single amendment they've ever conceived.

I speak as a long-time active member of some of these groups. My lifetime career in criminal law has been identified with advocating civil liberties positions.

I am therefore all the more appalled at the short-sightedness of their opposition to the Kennedy bill, and the misleading character of opposition propaganda. Members of the public may find it helpful to bear the following points in mind in coming to their own conclusions.

(1) "Son of S. 1". This catchy phrase is intended to smear the Kennedy bill by association with the infamous and tyrannical S. 1, which was fortunately defeated in previous Congresses. The Kennedy bill could more properly be labelled "Son of the Brown Commission."

The Brown Commission, a bipartisan statutory reform agency appointed by President Johnson and dominated by liberals, drafted a reform code on the basis of four years' study. The Kennedy bill largely tracks the Brown Commission recommendations and even adds civil liberties features that conservative members of the Brown Commission resisted.

(2) "Defects of the Kennedy Bill." The opposition falsely attributes to the Kennedy bill shortcomings of existing law. Defeat of the Kennedy Bill would leave these defects in force without the improvements which, even in these areas, the Kennedy bill offers.

Wiretapping is an example. Many of us believe that wiretapping should be abolished. It is an abominable un-American intrusion on privacy. Experience shows that it yields virtually nothing to aid law enforcement against the crimes of violence by which we are terrorized.

But the politically powerful groups which legalized wiretapping only a few years ago, like the politically powerful groups that prevent adoption of effective handgun control, will block any change in the present legal situation. That the Kennedy code defers the struggle over such issues for separate later political battle is realism.

To condemn the Kennedy code for failing to achieve every conceivable reform is self-defeating paranoia. The civil liberties establishment has no power to bring about the enactment of its own "ideal" code. It has only the power to defeat a splendid though incomplete set of improvements.

(3) First Amendment and the Press. One of the greatest threats to freedom embodied in the now defunct S. 1 were the provisions penalizing "leaks" of news from government sources. And, of course, the Kennedy bill eliminates those provisions.

Nevertheless, the intense fears generated by the S. 1 attempt and the natural preoccupation of the press with that subject have produced a rash of far-fetched legal imaginings of dangers to the press which might be found in existing law or the Kennedy bill. There is absolutely no basis for opposing the bill on these grounds.

Congress' intent in the Kennedy bill to protect the press is clear from its action deleting the anti-press provisions and from the committee reports to accompany the bill. If any fear persists, it can be assigned by very minor verbal changes in the text.

In any event, the First Amendment, as part of the Constitution, would override any infringement of freedom of the press that can be dreamed up from the language, of existing law or any reform bill.

All criminal law has potential for abuse, and the price of liberty is eternal vigilance. But, as Alexander Hamilton wrote in The Federalist of opponents to the constitutional proposal for an independent judiciary, the guardians of liberty should not give themselves up to "the rage for objection which disorders their imaginations and judgments."

[From the Boston Sunday Globe, Sept. 18, 1977]

PROGRESS ON THE CRIMINAL CODE

With the opening of a new round of hearings Thursday, the House has now joined the Senate in addressing one of the most complicated, controversial and important pieces of legislation on Capitol Hill, the redrafting and codification of the present cumbersome and outmoded Federal criminal code. The bill before the Congress is not perfect, but its strengths clearly outweigh its deficiencies and it offers an unprecedented opportunity to streamline the criminal code, to abandon some of the most abhorrent features of the current law and to undertake some truly laudable reforms of the nation's legal system.

The bill now under consideration is a successor to last year's Senate Bill 1 (S. 1), a bad piece of legislation that was appropriately buried. It is not fair to characterize the current legislation as the "Son of S-1." It is in the same family, but it more resembles a second cousin twice removed than a direct descendant of last year's abomination.

Missing—and laudably so—from the current version are expansions of the applicability of the death penalty, elimination of the insanity defense, inclusion of an official-secrets act and authorization of a so-called "Ehrlichman defense" by which government officials excuse commission of illegal acts on grounds they were ordered by higher authority.

Included in the current bill is a banquet of reforms: repeal of the Smith Act, which penalizes the mere advocacy of overthrowing the government; repeal of the Logan Act, which prohibits private communications with foreign governments; expansion of the Civil Rights Act of 1968 to make it a crime to discriminate on the basis of sex; extension of rape laws to cover homosexual rape; decriminalization of possession of small amounts of marijuana.

And, in what is potentially the most important reform in the whole 360-page package, the bill establishes a Federal sentencing commission to establish standards for sentencing, end the disparity in sentences for seemingly similar crimes and phase out the parole system, with its inequities.

Moreover, of course, the bill accomplishes the purposes of codification, an ordering of the nation's criminal law. Some 80 different standards of culpability—ranging from "lasciviously" to "corruptly"—are reduced to four and defined. Eighty separate theft offenses and 70 for counterfeiting and forgery are simplified. And archaic laws—such as the one making it a crime to seduce a woman (but not a man) on a riverboat—are removed.

Of course, any member of Congress can draft a bill and submit it. What makes this legislation remarkable is that it is sponsored in the Senate by two senators on the opposite ends of the political spectrum, Kennedy of Massachusetts and McClellan of Arkansas. For Kennedy it is an opportunity to take a leadership position on the crime issue; for McClellan, it is an opportunity to cap his Senate career by authoring a monumental piece of criminal legislation. And in the artful negotiating and compromising over the past year, McClellan has clearly given up the most. Almost every modification tilts toward Kennedy.

It is not, of course, an ideal bill. Some liberal groups see the whole codification issue as a once-in-a-bicentennial opportunity for wholesale redrafting and reorienting of Federal criminal law. That position was stated forthrightly by officials of the American Civil Liberties Union in testimony earlier this year: "Our approach is to seek the best criminal code that can be conceivably obtained."

A worthy objective. But hardly the stuff of politics, which is the art of the possible, not the conceivable.

As the ACLU correctly contends, use of immunity ought to be repealed. Various "speech crimes" ought to be stricken from the books. Federal obscenity laws should not include a "community standard." Certain conspiracy statutes would still be subject to prosecutorial abuse. Wiretapping in all cases ought to be sharply restricted, if not, as the ACLU advocates, outlawed. Yet, the fact is the Kennedy-McClellan bill either leaves intact, or slightly improves, the current law in most of these areas. And, of course, each of these areas can be further considered—and many are now under review—in separate legislation.

The Kennedy-McClellan bill has also drawn fire from some segments of the press, notably the Reporters Committee for Freedom of the Press. Given the press's experience under the Nixon Administration, fears that various general provisions of the bill on the handling of government records and the protection of suspected criminals could be turned against the press are understandable. However, the same First Amendment rights that could justify special treatment for the press in the legislation will provide its ultimate protection before the courts.

And on what is maybe the key issue on

court-press relations, the press's obligation to honor "gag orders" that are later ruled invalid. Kennedy has included provisions which he believes give more protection to the press than is now available by law, a position supported by the American Newspaper Publishers Association.

The Kennedy-McClellan bill could be improved, and we hope amendments will be accepted—amendments that ensure that a wide range of views are represented on the Federal sentencing commission, secure more iron-clad protections for the press and strengthen the right to assemble peaceably to protest government policy.

But as it is now written, the bill is wholly laudable legislation. It has produced the first broad consideration of Federal criminal laws in more than a decade, the first politically realistic attempt ever to codify the nation's laws, and the potential for major reforms and improvements. A well-conceived bill should not fall victim to the "best that is conceivable."

[From the New York Times, Sept. 23, 1977]

CRIMINAL LAW AND THE OTHER 5 PERCENT

Some liberals, President Carter observed drily last spring, are hard to please: "If they get 95 percent of what they want, they can only remember the other 5 percent." That problem seems to be afflicting the patient effort to revise and reform the Federal criminal laws.

This major undertaking would streamline into 350 pages the 1,500 pages of law that have piled up, with no more logic than coral, since 1789. It would chip away some of the worst encrustations and introduce some progressive provisions—notably a sensibly designed system of criminal sentencing. And, after a checkered 11-year history, the undertaking looks practical. It has, after all won support from spokesmen for such divergent views of crime as Senator McClellan, Senator Kennedy and Attorney General Bell.

And yet, just as the criminal law reform bill has at last begun to make headway in Congress, some rifle fire is heard. Lawyers sensitized by the protests of the 1960's fear some of the new provisions. Civil liberties advocates express concern about others. Our colleagues at The Los Angeles Times have come out against the reform bill, arguing that it "directly threatens and potentially threatens many areas of American freedom."

Such hard words surely applied to the law reform bill that preceded the present one. The 800 pages of the old "S. 1" were studded with repressive inspirations from the Nixon years; that bill deserved to die. But we find ourselves puzzled by the heat of some of this criticism of the new reform measure, S. 1437. The new bill is needed and deserves to be enacted.

S. 1437 is not perfect; that's impossible in an undertaking of such size and complexity. We have our own doubts about some provisions, such as a benignly intended limitation on press gag orders. Or a new provision requiring obedience to the public safety orders of any Federal employee in time of fire, flood or riot. Fires and floods are rarely political, but alumni of, say, the New Mobe are entitled to wonder who decides what is a riot. The Senate Judiciary Committee is now marking up the bill, and ample time remains for such detailed objections to be heard and addressed.

But not even attentive concern to such details can meet a different kind of objection raised by some critics. This might be called the "lost opportunity" objection: That is, since criminal code revision is rare, objectionable current laws should not be allowed to pass into a new code without improvement.

Civil liberties lawyers criticize S. 1437, for example, because it provides for overbroad prosecutions for conspiracy; and because it creates an ostensibly new offense called "criminal solicitation." But these provisions are similar to present law—deliberately so. The bill's sponsors believe the only way its benefits can be enacted is to bypass as many other controversies as possible.

What are these benefits? There are many specific ones, such as the enlightened proposal to narrow judges' discretion in sentencing so as to minimize gross disparities in prison terms. Other provisions would abolish the Smith Act, which still makes it a crime merely to advocate overthrow of the Government, and improve laws dealing with rape, civil rights, sex discrimination and the mentally ill. More important than any specific provision is the overall revision. S. 1437 would for the first time give the Federal Criminal Code a logical format with consistent definitions, a uniform scale of sentences and a clearer array of offenses.

Some may deprecate the whole reform effort as an exercise in empty, perhaps even risky, tidiness. We disagree. S. 1437 is not ideal. By all means let the critics and Congress seek to eliminate problems that cause even 5 percent concern. But let that concern not obstruct achieving the other 95 percent.

[From the Washington Star, Sept. 23, 1977]

LET US REFORM THE CONTRADICTORY CRIMINAL LAWS

(By Carl T. Rowan)

Would you believe it is illegal to trap or detain a federal carrier pigeon?

Or that you can rob a bank in one city and be sentenced to one year in prison, but get 20 years if you commit precisely the same crime in another place and are sentenced by a different judge?

Or that there are 80 different federal forgery and counterfeit statutes, 70 varieties of theft and 80 definitions of criminal culpability, ranging from "wantonly" and "lasciviously" to "maliciously" and "corruptly"?

All of this—and a lot more—is the result of outmoded, duplicative, contradictory and unfair federal criminal laws. These statutes have been passed piecemeal over two centuries and have never been overhauled in that time.

Two years ago an attempt was made to update, reform and tie them all together into a new federal criminal code—the famous (or infamous) S.1. But the bill ran into trouble with civil libertarians who objected to several repressive provisions, and it never got out of the Senate Judiciary Committee.

A new version, dubbed "Son of S.1," was introduced this year under the joint sponsorship of an unlikely twosome, Sens. Edward M. Kennedy, D,-Mass., and John L. McClellan, D.-Ark.

Many of the provisions which troubled liberals in 1975 have been eliminated from the Federal Criminal Code Reform Act of 1977—expansion of the death penalty, prison terms for publishing classified government information such as the Pentagon Papers, protection of public officials who commit crimes in the name of "national security."

In addition to the not insubstantial task of pulling together federal criminal laws, ending duplication and contradiction, the measure would:

End all punishment for mere possession of up to 10 grams of marijuana.

Repeal the Smith Act (which prohibits advocating violent overthrow of the government), the McCarran Act (requiring registration of "Communist front" organizations) and the Logan Act (limiting a citizen's diplomatic contacts with foreign governments).

Give the government new tools for fighting organized crime and white collar crime and increase fines for white collar crimes.

Outlaw "dirty tricks" in political campaigns.

One of the major reforms deals with sentencing in federal courts. The present system has been called a "national scandal" by Sen. Kennedy and "barbaric," "erratic" and "unprincipled" by other critics. It is neither fair nor effective.

Because most sentences are indeterminate, judges have vast leeway in imposing punishment. For example, the judge who sentenced Lynette Fromme for attempted assassination of President Ford could have given her anything from probation to life in prison (she got life). Moreover, parole authorities decide in the end how long a person actually stays in prison.

Judges and parole boards are not entirely to blame for the inconsistencies. They have few guidelines to follow.

The result is that sentencing in federal courts is imposed in an arbitrary, unfair manner. To a large extent a sentence depends on a defendant's color, wealth, age, sex, appearance, the geographic location of the court, and the whims, biases and quirks of the judge.

And so you find that offenders found guilty of robbery get an average sentence of three years, three months in one federal judicial district and 20 years in another. Within a single district in New York, one judge sends all 10 convicted defendants in Selective Service cases to prison while another judge sends none of six.

In addition to being unfair—or perhaps because of it—our sentencing system is also ineffective. Would-be criminals look at the likelihood of going to prison and regard punishment as a game of chance in which they might as well gamble.

What is needed, say penal authorities, is certainty of punishment. The new criminal cade would stress this. It provides for fixed or narrow-range sentences that must be imposed, and for a sentencing commission to set guidelines. It would also establish appeal and review of federal sentences (the U.S. is the only free-world country in which sentences cannot be appealed). And the present parole system would be phased out.

The aim of sentencing reform is to achieve a process that is fair and efficient. On a larger scale, that is also the goal of the entire criminal code revision.

The new version is not perfect. It still contains provisions which trouble civil libertarians. But it is virtually impossible to come up with a code that will please everyone and get past Congress.

The reform bill of 1977 at least promises to improve law enforcement and increase respect for our entire system of justice.

[From the New York Times, June 7, 1977]

SENTENCES TO FIT THE CRIME

(By Tom Wicker)

The Senate Judiciary Committee is about to begin hearings on a bill that would all but eliminate the parole system, with its demonstrated inequities, while providing an innovative means of giving fixed but fair sentences to Federal criminal offenders.

Sure to serve as a model for similar reforms in the more progressive states, the parole reform is part of S. 1437, the lineal but much-purified descendant of that bugaboo of past Congresses, S. One. The aim of the new bill is still to recodify and bring up to date the entire Federal criminal code, but the new bill has been shorn of the hard-line excesses—an Official Secrets Act, for instance—that produced so much liberal opposition to S. One.

Strange-bedfellow sponsorship, with liberals like Senators Edward Kennedy and Gaylord Nelson joining conservatives like Senators John McClellan and Strom Thurmond, suggests that the new version has an excellent chance for passage by this Congress. Attorney General Griffin Bell is expected to

lend Administration support and the director of the Federal prison system, Norman Carlsen, will strongly back the parole reform in testimony later this week.

The legislation would establish a Federal Sentencing Commission, which would be instructed to develop and promulgate criminal sentencing guidelines for Federal judges. In most cases, these guidelines would make no provision for parole; instead, they would provide, say, "four to six years" for a specified crime.

For that crime, judges would then hand down a sentence within the specified range, stating in writing their reasons for the sentence selected. That sentence would have to be served in full, but the offender would know from the start precisely how long his term would be, and that it would be approximately the same as that of anyone else convicted of the same crime.

In some cases, the sentencing guidelines might provide, say, "four to six years, with parole after four." The offender still would know that he would be out in four years, assuming only his good conduct while in prison. He would not have to qualify in any other way, or persuade a parole board that he was "rehabilitated." Even if he got into disciplinary trouble while in prison, he would still know that he would get out in six years—a far cry from the broadly indeterminate sentences (such as four to twelve years) and the uncertainties and arbitrary decisions of today's parole system.

If a sentencing judge departed from the guidelines, he would have to state his reasons in writing and the offender could then obtain appellate review of the sentence—an important safeguard against the kind of sentencing inequities that are now commonplace.

Under this system, the Federal Parole Board would be almost entirely removed from the chancy business of determining when inmates should be released—functioning in that way only in cases where judges imposed a sentence within the guidelines but still indeterminate, such as "four to six years," with no mention of parole.

The Parole Board also would retain counseling functions for the relatively few inmates who would occasionally be paroled, as well as the power to return parole violators to prison for the remainder of their terms. For the most part, however, after the new system is phased in, Federal criminal offenders would serve fixed terms within the limits set by the guidelines.

The aim is not only to limit, without altogether removing, the sentencing discretion of judges. It is also to eliminate the uncertainties and inequities of Parole Board action, which are the cause of much hardship and bitterness among inmates; to reduce the necessity for judges and parole officers to "predict behavior," and to remove from inmates the burden of proving themselves "rehabilitated" to unsympathetic prison and parole officials.

The Sentencing Commission, moreover, would take the provision of sentences for crimes out of the hands of legislators, who tend to overreact to pressures from a frightened public. Thus, the makeup of the commission is crucial; S. 1437 now provides that it would be appointed by the Federal Judicial Conference, which might limit membership mostly to judges; and an effort will be made to insure a more varied commission by having it appointed at least partially by the President.

"De-criminalizing" the possession of small amounts of marijuana, another feature of the bill, may get more headlines; but the parole and sentencing reform—especially if emulated by the states—might prove the longest step yet toward a sensible and equitable American corrections system.

TUITION TAX CREDIT ACT

Mr. PACKWOOD. Mr. President, on Monday, Senator MOYNIHAN and I along with 41 other Senators introduced S. 2142, the Tuition Tax Credit Act of 1977. Since then, I am happy to report that similar legislation (H.R. 9332) has been introduced in the House of Representatives by Congressmen FRENZEL, RAILSBACK, and JAMES BURKE.

Mr. President, at this time, I would like to ask unanimous consent that the text of S. 2142 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tuition Tax Credit Act of 1977."

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the sum of the amounts paid by him during the taxable year to eligible educational institutions as tuition for the attendance of the taxpayer, of the taxpayer's spouse, or of any dependents with respect to whom he is entitled to a personal exemption under section 151(e).

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The amount of the credit allowed under subsection (a) to all taxpayers for the taxable year with respect to amounts paid on behalf of any single individual as tuition shall not exceed $500.

"(2) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for the education of the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(3) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS TUITION.—If the tuition of an individual is paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) with respect to that individual shall be the same portion of the sum of the amounts of the credit of each such taxpayer with respect to that individual determined under subsection (a) (subject to the limitation of paragraph (1) which the amount of tuition of such individual paid by the taxpayer during the taxable year is of the total amount of the tuition of such individual paid by all taxpayers during the taxable year.

"(c) DEFINITIONS.—For the purpose of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTIONS.—The term 'eligible educational institution' means—

"(A) an institution of higher education;

"(B) a vocational school;

"(C) a secondary school; or

"(D) an elementary school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in sections 1201(a) and 491(b) of the Higher Education Act of 1965 and includes such similar institutions for graduate study as are certified by the Commissioner of Education for purposes of this section to the Secretary.

"(3) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational school as defined in section 195(2) of the Vocational Education Act of 1963 (as in effect on and after October 1, 1977).

"(4) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary school' and 'secondary school' mean, respectively, any elementary or secondary school (as defined in section 801 (c) and (h) of the Elementary and Secondary Education Act of 1965)—

"(A) of a local educational agency (as defined in section 801(f) of such Act); or

"(B) which is privately operated but only if it is—

"(i) accredited or approved under State law, and

"(ii) exempt from taxation under section 501(a) as an organization described in section 501(c)(3).

"(d) DISALLOWANCE OF EXPENSES AS SECTION 162 DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any tuition which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to any tuition incurred by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year."

(b) REFUND OF EXCESS CREDIT. (1) Section 6104(b) of such Code (relating to amount treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof", 43 (relating to earned income credit), and 44C (relating to tuition credit)", and

(B) by striking out "and 43," and inserting in lieu thereof", 43, and 44C,".

(2) Section 6201(a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "39 and 43" in the caption and inserting in lieu thereof "39, 43, or 44C", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof", section 43 (relating to earned income), or section 44C (relating to tuition credit),".

(c) The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following:

"SEC. 44C. Tuition.".

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after December 31, 1979.

SENATOR HOWARD CANNON SPEAKS ON AIRLINE REFORM TO THE NATION'S AIRPORT OPERATORS

Mr. KENNEDY. Mr. President, Senator HOWARD CANNON has been in the vanguard of the movement to modernize and reform the way in which the Federal Government regulates commercial airline service in the country. I have the privilege of cosponsoring with Senator CANNON the Airline Regulatory Reform Act of 1977 which has been the subject of extended consideration by the Senate Committee on Commerce, Science and Transportation. Under HOWARD CANNON'S leadership, the committee has met on several occasions to decide the precise direction reform legislation should

take. His painstaking efforts have piloted the reform bill through the various markup sessions so that the legislation is now ready for final committee action.

Last week, Senator CANNON spoke about the legislation in his own hometown of Las Vegas, Nev. He spoke before a skeptical and questioning audience comprised of the Nation's airport operators. The Airport Operators Council International has followed the reform issue for several years. Senator CANNON's remarks to the airport operators deserve careful consideration by my colleagues, Mr. President. Senator CANNON explained how the proposed legislation will relax some of the stifling controls now imposed on airline pricing and market entry. These controls have restrained competition unnecessarily and have not benefited the country's travelers, airports or even the airlines themselves. It is interesting to point out that the Airport Operators Council International voted to endorse reform legislation shortly after considering Senator CANNON's statement on the Senate bill.

I ask unanimous consent for Senator CANNON's remarks to be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE REMARKS OF SENATOR HOWARD W. CANNON

It is a real pleasure to see and meet with the Nation's aviation leaders here in my own home town of Las Vegas today. I hope your visit here will be both instructive and entertaining.

As you know, the Congress is now in the last 30 days or so of the first session of the 95th Congress with a scheduled recess date for between the 8th and 22nd of October. In the field of aviation policy and law it has been a year of excitement, change, and for many, considerable concern. The year 1977 has seen the creation of a bold, new Civil Aeronautics Board which appears to be welcoming the challenges of the next decade in commercial air transportation. We have also seen a host of new policy makers take the stage in the executive branch of government following the Carter election victory and the change from a Republican to a Democratic Administration. The Nation, through a special Ambassador, has reached a far-reaching and in my opinion unsatisfactory bi-lateral air transport agreement with the United Kingdom which signals some major changes in both world and U.S. international aviation policy.

The airlines, enjoying robust traffic and strong vacation travel demand, have in many instances been acting as if the domestic air transportation system had been deregulated, due in part to the pressures imposed by the regulatory reform proposals to permit the carriers to compete in the arena of lower fares. A plethora of new low cost air fare experiments have been initiated in 1977, and in some of the major travel markets, prices have never been so low.

In Congress, the two Aviation Committees of the House and Senate have been moving ahead throughout the year developing major new legislation in the field of aircraft noise control and in the economic regulation of the airline industry.

In my own Subcommittee we have been developing, since April, a new piece of legislation designed to create a more competitive environment for air transportation services and to provide the airlines with a much greater degree of flexibility, absent regulatory constraints, in managing their own affairs. I would be less than honest if I said that getting this legislation out of Committee has not been a struggle.

The House Aviation Subcommittee has devoted nearly a year of effort to the question of revising U.S. law and policy on the aircraft noise question as well as holding preliminary hearings on the issue of regulatory reform. Both that committee and my own have also announced plans to begin an investigation into international aviation affairs because of interest developed after the U.S.-U.K. bi-lateral agreement. In short, it has been a busy and productive year with the foundation having been laid for important and far reaching changes in U.S. aviation policy.

I have devoted considerable effort to spearheading the Congressional interest in regulatory reform. When I addressed this group last fall, I outlined my views on the need for major changes in the airline regulatory structure. Since that time, after long hearings and considerable discussion in the Committee, we have developed a comprehensive piece of legislation for a phased and gradual relaxation of the airline regulatory structure. I am hopeful that our Committee will meet on Thursday to give the bill its final approval.

The key features of the new bill deal with entry into the airline business and pricing. On entry we have provided a formula for automatic market entry which will allow a phased, moderate approach for new entry with adequate protections against precipitous entry or against excessive entry on the system of the smaller air carriers.

As you have heard, many of the airlines have contended that the automatic entry feature of the bill would result in a dog-eat-dog world where carriers would seek to cut each other's throats on the dense routes while abandoning less traveled routes. They have also contended that traffic overall would diminish.

I believe the contrary is true. I believe, as do all the independent economists who have testified on this matter, that traffic under such a system will increase as new and existing carriers come up with innovative and low priced services that will attract a wider portion of the traveling public. In addition, I believe that the airlines will act as prudent businessmen in seeking to strengthen and round out their route structures in a businesslike way and they will not, willy-nilly, start flying all sorts of adventures which don't make business and competitive sense.

In the area of pricing, the airlines will have a pricing zone of freedom within which they make pricing decisions free of CAB intereference. The zone will extend 35 per cent below today's fares and up 5 percent.

In developing the final draft of this legislation we have been particularly mindful of the problems of airport operators and have worked with the AOCI staff in Washington to seek areas of compromise which will ease airport concerns with the new regulatory structure.

I know one of your principal concerns has been that the federal preemption section of the new bill not affect or nullify the historical proprietor rights of airport operators. Working with Senator Ed Zorinsky of Nebraska and your staff we have fashioned new language making it clear that the federal preemption of economic regulation of the airlines will in no way diminish or obviate the proprietary rights of airport operators.

Another issue of concern to airport operators has been the dormant authority held by a number of airlines which often serves to prevent new air carrier services. While in general my bill provides very expedited procedures requiring the CAB to deal with dormant authority when applications are made, I will support an AOCI amendment which provides nearly automatic action on applications for new authority in markets which a carrier is serving on a monopoly basis or in markets where no service is being provided by any air carrier.

The question of air carrier exit has also concerned airport operators in that in some cases, service between two points might be suspended or abolished by an airline without any advance notice to the communities affected.

While under present law or regulation there is no requirement that the airlines give notice on schedule changes, I will agree to an amendment on exit which will require that if an airline proposes to abandon services between any two communities that it provide 60 days notice in advance to the CAB and the communities so that both will have an opportunity to seek replacement services by another air carrier.

The current draft bill contains extensive provisions for the guarantee and improvement of service to small communities. The bill creates a new class of certificated air carriers that will come from the ranks of today's commuter airlines. These carriers will be free of most of the restrictions which burden today's public convenience and necessity certificates, but these carriers will be limited to small—36 seat—aircraft. These new certificated airlines will, and I know this is important to airport operators who have seen commuters come and go in the past, be required to prove to the CAB that they are fit, willing, and able.

The bill will also change the federal subsidy system. Today's subsidy system provides funds based on the carriers system needs, rather than on the communities' needs. Under today's system, airlines are actually paid to provide scheduled service at midnight and 5 a.m. because that is the pattern which the airline wants to provide. Under the proposed bill's new subsidy system the CAB, community, and state will decide a community's essential air service needs, and subsidy will be provided if those needs cannot be met without federal payments. Subsidy will be provided based upon the needs of the individual community for good, reliable air service.

Subsidy will be paid under the proposed system for the operation of whatever size aircraft the CAB, community, and state determine is appropriate for that community.

Finally, all communities currently listed on a certificate will be guaranteed service for the next 10 years under this bill. In addition, new communities will be eligible for federal subsidy in appropriate instances. Compared to the record over the last 10 years in which our certificated airlines have deleted service to more than 70 cities, I find it difficult to swallow the carriers' claims that the regulatory reform bill would be disastrous for small community air service.

In short, I and the Committee have devoted a great deal of effort to solving the legitimate problems associated with a transition to less regulation and more airline initiative governed by market forces rather than regulatory forces. We believe we have achieved a fair and balanced bill which will provide for an orderly, methodical and well-timed transition to less regulation.

We feel that in particular we have been responsive to the problems and concerns expressed by airport operators, both big, medium and small. I know that in the past many of you have been either unwilling or uncomfortable in supporting regulatory reform, but I hope that now that we have put forth our best efforts to meet your concerns, you will join forces with us in seeking Senate passage of our bill. As you know, our opponents on many fronts have been focal and shrill in their opposition to new legislation because of unfounded fears or because they prefer the cozy predictability of regulation.

You as airport operators can do much to dispel the misinformation and sometimes

hysteria that we have heard from communities across the nation as you are looked upon as the aviation experts at the local level. I hope that you will assist us as we have tried to assist you in moving to a more modern, a more fair and a more responsive air transportation system. I look forward to your help in assuring that the Senate pass a regulatory reform bill this year and I thank you very much for inviting me here to speak with you today.

MISS CONSERVATION FOR NORTHEAST IOWA

Mr. CULVER. Mr. President, over the last decade every American has become more aware of the strong need to have conservation of our natural resources play a key role in our way of life. Though we remain one of the most fortunate nations in the world, we now realize that our natural endowment is not infinite and that we must strive to live more in harmony with nature.

Many of my fellow Iowans have long felt that resource protection is among our highest priorities and one of the best known conservationists in Iowa today is Sara Smerud of New Albin. An exceptionally active individual who carries the unofficial title of "Miss Conservation for Northeast Iowa," Miss Smerud is deeply devoted to helping others as well as to her interest in conservation. In this regard, she has been past president of her county historical society, helped establish a nursing home in Lansing, Iowa, and is a member of the Iowa State Advisory Committee for Adult Education.

Miss Smerud, whom I have known for many years, believes that conservation is the "correct utilization of resources" and has been seriously promoting the need for sound conservation of our natural resources.

Mr. President, Sara Smerud is an outstanding citizen, and I wish to commend her for the active role she has undertaken to protect many of Iowa's beautiful and unique natural resources. The article in the Des Moines Register by Larry Stone describing her activities is a worthwhile testament to Sara Smerud's dedication, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"MISS CONSERVATION OF NORTHEAST IOWA"—SHE FIGHTS BACK

(By Larry Stone)

NEW ALBIN, IOWA.—Frustration. It's the conservationist's constant companion.

What word can better describe the feeling when one sees the loss of a wetland or other natural area before the march of "progress"?

Sara Smerud knows the feeling better than most. She regularly mourns the resource abuse occurring around her.

But Sara doesn't just grieve—she fights back. She knows the cause of the problem: Ignorance. She's convinced the cure is education.

"The more you learn about resource conservation the more you understand it and the more you love it, and the more it fits right in with your life," she said.

Sara has been learning about and understanding and loving her natural surroundings ever since she began fishing with her father and picking up Indian artifacts on his farm more than half a century ago.

Conservation now is such an inseparable part of her life that she's earned the unofficial title of "Miss Conservation for Northeast Iowa."

But her conservation work doesn't eliminate other interests, Sara notes. She's also a social worker, historian, mineralogist, amateur carpenter and foster parent. (Her foster son, Billy, 10, has lived with her for seven years. He's part Winnebago and Chippewa Indian.)

Officially, Sara is social worker for the Eastern Allamakee Community School District. But in that position she manages to "do a little bit of everything."

Her list of credentials in service to people and natural resources is so long as to be almost unwieldy:

Served on planning groups for the Upper Mississippi and Upper Iowa Rivers;

Worked (futilely) to establish Allamakee County Conservation Board;

Past president of county historical society;

Aided efforts to establish a nursing home in Lansing;

Vice-president of area association for handicapped;

Member of state advisory committee for adult education;

Established computerized list of resource people and places for teachers to use in conservation education;

Member of area consumer agency;

Member of recreation committee for regional planning commission;

Holds memberships in numerous education and conservation groups.

But Sara's behind-the-scenes efforts—writing letters, prodding government agencies, gathering information—probably contribute as much as her "official" duties.

"That's how a conservationist works—through every angle there is," she chuckled.

One "angle" Sara hopes to pursue is to persuade the school district to establish an outdoor education center. The school took a small step in that direction last year when an outdoor study area was set aside.

The one-acre tract had almost been abandoned to an adjoining farmer before Sara discovered the school owned it and convinced officials to preserve it.

Sara pleads for more money for environmental education and wishes for the day when conservation courses will be required for teachers and administrators to maintain certification.

She feels environmental education is being slighted.

"If we spent one-half the time on environmental education, with one-half the setup, that we spend on physical education, we'd have the problem licked," she declared.

But environmental education shouldn't just be tacked onto the curriculum, she cautioned. It should be integrated with other subjects, to stress its importance in everyday life.

When she talks of conservation, Sara is careful to talk of "correct utilization of resources" as opposed to strict preservation. But she also stresses the need for preservation in some cases.

"We've got to save some things, like our soil—every precious inch of it," she said.

Northeast Iowa's timber resources also must be protected, she said, though this does not preclude wise harvest.

The Mississippi River is especially dear to Sara's cause. The river valley in northeast Iowa is unique because it is a transition zone between several different ecosystems: northern and southern species overlap here as do eastern and western species.

The plants and animals also change from the river bottom to the bluff tops. The result, she said, is an incredible variety of plants and animals.

"The Upper Mississippi is a wilderness resource we should keep this way. I'd like to see it declared a national wilderness," she said.

She would not keep people out of the area, however.

"After all," she said, "the people are here, too.

"As far as I'm concerned, conservation is people living with the air and water and plants and animals. It doesn't do any good to lock it away."

Conservation is more than just preserving a natural area—it's also a lifestyle. And Sara lives conservation. She's of the don't-throw-anything-away ethic a trait that might relate to her upbringing with 10 brothers and sisters, when frugality was essential.

Sara yearns that the time will come again when people are frugal and share her concern for the environment, though she admits that day is still in the future.

"Sometimes people almost think I'm subversive when I suggest some of these things," she laughed. "Change is very, very slow."

But she's confident that environmental education will produce the change she's seeking.

"If you know it, you like it," she said, "and if you like it, you want to take care of it. You don't spoil the things you love."

HANDGUN CONTROL

Mr. KENNEDY. Mr. President, Nelson "Pete" Shields and his family have felt the pain caused by handgun violence. As a result of this personal tragedy, Pete organized the National Council to Control Handguns and has in a relatively short period of time enrolled a national "grassroots" membership of 11,000.

On Sunday evening, September 25, Pete Shields was featured on "Sixty Minutes" program on guns. Also, in the September 18, 1977, Parade magazine, there was an article on Pete. I believe that his story will be of interest to my colleagues and readers of the RECORD and I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE FATHER'S CRUSADE AGAINST HANDGUNS

(By Robert Bender)

Late one night in April 1974 someone fired a .32 caliber pistol and 22-year-old Nick Shields, a visitor to San Francisco, died. Like 21 other previous random targets of the city's Zebra Gang, he just happened to be in the wrong place at the wrong time.

"At first it was difficult to comprehend our loss," his father, Pete Shields, recalls. "Nick was so sensitive, so peaceful, so very special. How could such a thing have happened?"

In their grief Pete Shields and his wife Jane reacted much like other families struck by senseless tragedy. During the first bad days they considered how they could pick up the familiar pieces of their comfortable suburban lives again. The cocktail parties, the formal dinners and even the executive job with E. I. duPont in Wilmington, Del., became meaningless.

All the time the button-down businessman—his square name is Nelson T. Shields III, Hotchkiss School and Yale University—sat brooding about his son's death, he kept asking himself the same bleak question:

Why? Finally, he decided on a course of action.

If there was no really effective influential organization capable of waging a persuasive campaign for national handgun controls, then Pete Shields might do something about it himself. There wasn't. He did.

After discussing the matter with his family and friends, Shields went into the spare-time business of lobbying for hard-hitting federal handgun legislation. Operating out of a little office in Washington, D.C., strapped for money, its goals far beyond the capacity of limited personnel, the National Council to Control Handguns (NCCH) was emphatically in business all the same.

"It was a beginning," Shields said not long ago. "It was only a beginning—nothing more. But we were marketing a concept the great majority of Americans agree with."

In letters and pamphlets, in speeches and radio appearances, the 53-year-old Shields and a growing number of converts hit the same powerful notes: well over a million handguns are manufactured in America every year, more than 40 million handguns are in our homes and on the streets, handguns account for more than half the nation's murders. Yet we remain the only developed country without an effective national handgun control law, despite a hodge-podge of some 20,000 city and state statutes.

"It's not long guns we're rallying against, remember," Shields says. "After all, I'm a hunter with three shotguns. Nick had a merit badge in marksmanship. We, all of us, are working to bring some realistic controls to the sale of handguns—cheap, available over-the-counter in many parts of America, easy to conceal, pocket-sized murder machines."

GAINS SUPPORT

After only a few months the potluck lobby began to pick up grass-roots support. A Chicago man signed up 12 friends for membership at dues of $15 a year. In Baltimore a mother whose son was murdered offered to join the staff as an unpaid volunteer. In California an elderly couple went right through the Congressional Directory writing persuasive letters to Representatives and Senators. And two women raised more than $10,000 in contributions.

Meanwhile, Shields realized that it wasn't enough merely to take an unpaid leave of absence from his $40,000 a year job as marketing manager for duPont. Once he saw the potential of the movement he left the company.

NEW LIFE-STYLE

Forced to live almost entirely on savings, Shields, a wartime Navy fighter pilot, resigned from the country club, cut back on dinner parties and other entertainment, took the family on modest vacations instead of holidays abroad. If his wife and three surviving children ever felt short-changed, they never showed it.

For all his interviews, his talks with people in government, and speeches, however, Shields saw that what was essentially a one-man band wasn't sufficient—especially with the powerful, well-financed National Rifle Association (NRA) beginning to take notice of his efforts. So the letterhead of the National Council to Control Handguns filled with names of prominent directors, advisers and sponsors: Dr. Milton Eisenhower, Arthur Ashe, former Gov. Pat Brown of California, William Ruckelshaus, Ann Landers, Will Rogers Jr., Steve Allen, Margaret Mead, Neil Simon, and former police commissioners of Boston and New York City.

The council stepped up its fund-raising and recruiting efforts, scheduled more and more close-up meetings with executives from the White House, the Treasury and Justice Departments. The crusade gained momentum.

The number of dues-paying Americans signed up at last count came to more than 11,000, which exceeds the most optimistic early forecasts. Better still, new members are now coming in at a rate of 500 each week.

STAFF OF FIVE

Shields, who now has a total staff of five, works with missionary zeal. Fortified with an abundance of alarming facts and figures—another new handgun is sold in America every 13 seconds, for example—he is willing to speak wherever he can draw a crowd. And he often reaches an eloquence that touches the nerve ends.

Hear him: "An 8-year-old girl was shot dead with a handgun because she refused to come down out of someone's peach tree. A man with a .45 caliber killed two men trying to lift his television set. Was a trespass worth an 8-year-old's life? Was a TV worth two lives?

"But death need not be just an ending." Shields paused briefly. "To me, it can be and has been a beginning. In contrast to many, Nick's death acted to catalyze a complete change in my life. I didn't bury my feelings with the dead. Instead I went public with our loss—to make it America's loss, in the hope that through this I might reduce the probability of some other young man suffering his same fate."

What Shields and his grass-roots lobby eventually want are federal laws that will restrict the possession of handguns to police, the military, licensed security guards, licensed pistol clubs and registered collectors. Yet he has scaled that long-term dream down to realistic dimensions by campaigning for more modest interim objectives.

Generally, he favors any measures that will slow down the increasing number of handguns being produced, assembled and sold in America. Specifically, he wants national registration of handguns, a ban on multiple sales to individuals, tough screening procedures for every purchaser.

REVERSE THE TREND

Nobody, not even Shields, is under any illusion that legislation will magically keep criminals from acquiring guns. He is sure, however, that "effective new laws can reverse the trend" of a serious national problem.

While the NCCH's goal is to create a national climate favorable to such legislation, it already has helped bring about two dramatic victories. It was a major factor in a handgun control bill passed by the House Judiciary Committee in the last session of Congress—and it defeated the NRA in court in defending the constitutionality of handgun control legislation in the District of Columbia.

The growing impact of Shields and his lobby has not been lost on bureaucrats and elected officials. White House aides are working closely with NCCH people, while an encouraging number of legislators are considering how forceful a law can be put to Congress.

"Your organizational efforts of a national constituency for handgun control will go far to help fill the void that has been a hindrance to positive legislative efforts," Sen. Edward M. Kennedy wrote Shields recently.

Meanwhile, an increasing volume of material pours out of Shields' small office at 810 18th Street N.W. in Washington. He emphasizes that handguns are used in 150,000 robberies, 100,000 serious assaults and nobody knows how many accidental deaths—loved ones mistaken for prowlers, children who find loaded guns in bureau drawers—every year.

Progress? Yes and no. Pete Shields is pleased at how well his campaign has done, frustrated that it hasn't done better still. But he's optimistic about the future and proud of his role.

"This wasn't intended as a memorial to my son," he says. "But if some people want to look at it that way, well, I can't think of a finer tribute to our Nick."

NATIONAL SCIENCE FOUNDATION

Mr. KENNEDY. Mr. President, as chairman of the Subcommittee on Health and Scientific Research, it is my view that these candidates are well qualified for the positions to which they have been nominated. I have reviewed the materials they submitted to the Committee on Human Resources, together with their past records.

I have also contacted a number of scientists and representatives of institutions which will be directly affected by the policies the nominees will develop. There is enthusiastic agreement that they come to the Foundation with unquestioned professional credentials and with a fresh perspective on the programs they will direct.

It is my further understanding that the nominees were selected with the full participation of the National Science Board, the Director of the Foundation, and the Director of the Office of Science and Technology Policy. This coordinated approach is an important step toward the development of a coherent Federal policy for science and technology.

I believe this approach will serve the best interests, not only of the Nation's scientists and engineers, but of all our citizens who will be affected by the policies and programs in which the Federal Government plays such an important role.

I recommend their confirmation and look forward to working closely with the nominees throughout their tenure at the Foundation.

KISSINGER ON FOREIGN POLICY

Mr. PERCY. Mr. President, on September 19, 1977, at New York University, former Secretary of State Henry A. Kissinger delivered an important and thought-provoking speech entitled "Continuity and Change in American Foreign Policy." His comments on the relationship between human rights and foreign policy are of special interest and are worthy of careful study by all who are interested in American foreign policy.

I ask unanimous consent that the text of Dr. Kissinger's speech be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Distinguished guests, ladies and gentlemen: Your request that I deliver a "major appraisal" of current American foreign policy presents me with a dilemma—a difficult choice between your interest in the subject on the one hand and the imperatives of responsibility on the other. Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guess-

ing. Eight months is after all but an instant in the life of nations.

President Carter and Secretary of State Vance are on the verge of several weeks of delicate and important negotiations—with the Soviet Union on strategic arms limitation, with the Middle East foreign ministers on peace in that crucial area, and with other leaders attending the United Nations General Assembly on a variety of complex issues. The hopes of all Americans go with them. The success of the Administration in promoting peace and progress will be a success for the nation. Any setbacks of the Administration would affect the lives and prosperity of all Americans. When a performer is taking careful and complicated steps on a high wire, it is profoundly inappropriate, not to say dangerous, for a spectator in a seat far below to shout at him that he is putting his toe in the wrong place.

So I would like to speak to you today about some of the philosophical underpinnings from which tactical decisions derive: the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage.

THE NATURE OF BIPARTISANSHIP

The world marvels at America's extraordinary rebound from the agony of Vietnam and the constitutional crisis of Watergate. We have emerged from these traumas with our democratic institutions flourishing, our public debates vigorous, our economy expanding, our pride in our country intact. Our friends around the world were heartened by this, for they know better perhaps even than we do how vital a stake they have in America's confident leadership.

That leadership is not—nor should it be—the esoteric concern of specialists; it is the means by which the nation serves its interests and pursues its highest goals and it affects all other nations. For thirty years the world balance of power, the cohesion of the democracies, the health of the world economy, the prospects for growth in Africa, Asia and Latin America, and the hopes for freedom everywhere have been sustained by the United States.

We have learned through many crises that upheavals thousands of miles away can threaten American lives or jeopardize American prosperity. The 1973 Middle East war ultimately forced us into a military alert. The oil embargo, lasting six months, cost half a million jobs and ten billion dollars in national output; it set the stage for a serious recession, in this country and worldwide. And the abrupt quadrupling of oil prices which followed added at least five percentage points to the price index, contributing to our worst inflation since World War II. We have not yet returned to the high growth rate and relatively low inflation which we enjoyed before 1973.

Now that the bitter passions of the foreign policy debate of the last ten years are hopefully behind us, it is time for thoughtful deliberation on what are, or should be, our basic premises about the world in which we find ourselves today.

Our foreign policy difficulties are often described as the legacy of Vietnam. But the Vietnam ordeal was not a cause but a symptom. The late 1960's, coinciding with Vietnam, marked the end of the period when America was overwhelmingly more powerful than any other nation, when we could assault problems alone and entirely with our own resources, when American initiatives were accepted without serious debate, when we could believe that our own domestic experiences, like the New Deal, were the automatic blueprint for economic development and political progress abroad. It marked above all the end of the era when we could imagine that any problem could be resolved once and for all and that solutions once achieved would permit us to end our international exertions.

Vietnam was a catharsis. It taught us that our power while great is finite, that our influence though crucial can be effective only if we understand our priorities and the world in which we live.

For a century and a half geography and resources combined to give us the luxury of waiting until threats became almost overwhelming before we committed ourselves. We always had the opportunity to compensate for our tardy involvement by the massive deployment of physical power. We could largely leave to others the burden of the day-to-day decisions that over time spelled war or peace, security or fear, for the global system and even for ourselves. We were spared the continuing agony of inescapable decisions that other nations always faced to assure their survival and their values. More than any other nation in history, we could avoid the dilemma of reconciling the ideal with the practical, of accommodating to limited means and contingent ends.

The post-World War II era was a remarkably creative period of American foreign policy. But our initiatives were explicitly justified as temporary measures to restore an underlying equilibrium. The Marshall Plan, our alliance commitments overseas, our international economic programs were all conceived as dealing with temporary emergencies which once overcome would excuse us from permanent direct involvement abroad.

The world of today is not the world of a generation ago. Geography no longer assures security. The American nuclear monopoly has given way to nuclear balance and to proliferating weapons capabilities. The United States is now as vulnerable as any other nation; indeed nuclear weapons confront all peoples everywhere with a threat to their survival unknown to any previous generation.

The world economy has become interdependent; our prosperity is to some extent hostage to the decisions on raw materials, prices and investment in distant countries whose purposes are not necessarily compatible with ours.

And the structure of relations between nations has fundamentally altered. In 1945, fifty-one nations joined to create the United Nations; today it comprises nearly 150 nations—many ideologically hostile. Just as two world wars shattered the Europe-oriented order of the last two centuries, so the postwar system of Cold War bipolarity has come apart—and a new pattern of world order must be shaped to take its place.

An increasing responsibility has fallen upon the United States. Without our commitment to international security, there can be no stable peace; without our constructive participation in the world economy there can be no hope for economic progress· without our dedication to human liberty the prospect of freedom in the world is dim indeed.

For the first time in American history we can neither dominate the world nor escape from it. Henceforth this country will be engaged in world affairs by reality and not by choice. America must now learn to conduct foreign policy as other nations have had to conduct it—with patience, subtlety, imagination, and perseverance.

The most fundamental challenge is thus not to our physical resources but to our constancy of purpose and our philosophical perception. Precisely because we can no longer wait for dangers to become overwhelming, they will appear ambiguous when they are still manageable. The case for ratifying the Panama Canal Treaties, for example, is not an immediate present danger in Panama but the need to forestall a united front of all the countries of Latin America against what they consider an American attempt to maintain inequity by force. The issue in Angola two years ago was not a direct threat to our security, but the long-term danger of allowing Soviet surrogate forces to intervene globally to tip the scales in local conflicts. The argument for a forthcoming American attitude in the North-South Dialogue is not to yield to the admittedly limited strength of the less-developed nations but to prevent the polarization of the world into a small minority of the rich isolated in an ocean of poverty and resentment.

It is a paradox of the contemporary world that if we wait until these dangers become realities we will lose the chance to do anything about them. At the moment when we still have great scope for creativity the facts are likely to be unclear or ambiguous. When we know all the facts, it is often too late to act. This is the dilemma of statesmanship of a country that is irrevocably engaged in world affairs—and particularly of one that seeks to lead.

America, therefore, can no longer afford the luxury of oscillating as it once did between brooding isolation and crusading intervention. Our biggest foreign policy challenge is to shape a concept of our international role that the American people will support over the long term; we must avoid dramatic swings between exuberance and abdiction. Our responsibility is unending; our accomplishments are likely to be ever-tenuous. We must change our approach to international affairs from the episodic to the permanent; from the belief in final answers to the realization that each "solution" is only an admission ticket to a new set of problems.

In such an environment the conduct of foreign policy requires a fine balance between continuity and change. This is not easy for our democracy. Our two-party system, our constitutionally mandated balancing and separation of powers, our open political process create temptations for the simplified answer, the nostalgic withdrawal, or the moralistic sense of superiority.

Yet this free and open political process is also our greatest source of strength. The alternation of parties in office by free elections guarantees constant renewal, the infusion of fresh ideas and new blood into our national life. It presents a striking contrast with the gerontocracies that run the Communist world. These systems have no lawful regular process for replacing leaders; it is no coincidence that the stagnation of their ageing leadership goes hand in hand with plodding bureaucracy and intellectual sterility, punctuated by periodic crises over succession.

The problem which our society faces is on the whole a far happier one. Insuring continuity amidst the constant process of renewal turns bipartisanship from a slogan into an imperative.

To be sure, all Administrations sooner or later appeal to the spirit of bipartisanship. This is partly because they come to share much the same perception of the nation's permanent interests as their predecessors and partly because bipartisanship can be a useful shield against excessive criticism. There is a natural tendency for the party in power to consider any criticism as excessive. I know these tendencies from experience, having indulged them myself. But the fact that there are also tactical benefits to the appeal to bipartisanship does not change the reality that to the world at large we are one nation which can have only one government.

And we are not just any nation. Our country cannot uproot its whole foreign policy every four or eight years—or imply that it is doing so—or else America will itself become a major factor of instability in the world. We must understand that foreign leaders who design their programs around our policies are staking their domestic posi-

tions on our constancy. Radical shifts in our course inevitably affect the stability of especially friendly governments. If these changes are seen to occur largely for domestic effect, if our elections come to determine as well the stability of foreign governments, no nation that has a choice will readily cooperate with us.

Of course a foreign policy that stresses continuity above all else would be stultifying and would in time be overwhelmed by events. A new Administration is obviously not elected to carry out all the policies of its predecessor. But change in our policy should be seen as reflecting new circumstances and not change for its own sake. By the same token, critics have an obligation to see to it that our foreign policy debates reflect disagreements on major substance, not a quest for partisan advantage or tactical second-guessing.

If our foreign policy is well conceived, it must reflect fundamental national purposes and not personal idiosyncrasy. Neither the Administration nor the opposition should nurture differences to score debating points. Both have an obligation to make clear that our foreign policy is a shared national enterprise. I might add parenthetically that bipartisanship would come easier if each new Administration resisted the quadrennial temptation of implying that conceptual insight, creativity and moral awareness begin anew every four years on January 20. Nor should history be rewritten in ways more suitable to faculty debates than to serious national dialogue.

The Administration, when it pursues the national interest, is entitled to the full measure of support from all who cherish the future of the country. For its challenges are great. The new Administration assumed responsibility when hopeful progress was being made in most areas of foreign policy—the Middle East, SALT, relations with both the industrialized and the developing world. But it faces a tremendous task in each, and in continuing to shape the new international order. We are on a journey no single Administration can possibly complete, whose beginning is an understanding of reality and whose goal is a better and more peaceful life for future generations.

MORALITY AND PRAGMATISM IN AMERICAN FOREIGN POLICY

In this spirit, I would now like to turn to one of the basic challenges of foreign policy, the perennial tension between morality and pragmatism. Whenever it has been forced to wield its great power, America has also been driven to search its conscience: How does our foreign policy serve moral ends? How can America carry out its role as humane example and champion of justice in a world in which power is still often the final arbiter? How do we reconcile ends and means, principle and survival? How do we keep secure both our existence and our values? These have been the moral and intellectual dilemmas of the United States for two hundred years.

From the time of the Declaration of our Independence, Americans have believed that this country has a moral significance for the world. The United States was created as a conscious act by men and women dedicated to a set of political and ethical principles they held to be of universal meaning. Small wonder, then, that Santayana declared that "being an American is, of itself, almost a moral condition."

At the same time, since Tocqueville, it has been observed that we are a pragmatic people, commonsensical, undogmatic, undoctrinaire—a nation with a permanent bent to the practical and an instinct for what works. We have defined our basic goals—justice, freedom, equality, and progress—in open and libertarian terms, seeking to enlarge opportunity and the human spirit rather than to coerce a uniform standard of behavior or a common code of doctrine and belief.

This duality of our nature is *not* at war with reality. For in international politics, our morality and power should not be antithetical. Any serious foreign policy must begin with the need for survival. And survival has its practical necessities. A nation does not willingly delegate control over its future. For a great power to remit its security to the mercy of others is an abdication of foreign policy. All serious foreign policy therefore begins with maintaining a balance of power—a scope for action, a capacity to affect events and conditions. Without that capacity a nation is reduced to striking empty poses.

But equally, our nation cannot rest its policy on power alone. Our tradition and the values of our people ensure that a policy that seeks only to manipulate force would lack all conviction, consistency, and public support.

This is why America has been most successful in our relations with the world when we combined our idealism and our pragmatism—from the days when our Founding Fathers manipulated the monarchical rivalries of Europe to secure our independence and launch the great democratic experiment to the creative American initiatives after the Second World War such as the Marshall Plan. Our modern efforts to achieve strategic arms limitation, peace in the Middle East and Southern Africa, the opening to China, recasting international economic relations based on the principle of interdependence—have also served both moral and practical ends and can be sustained only by a combination of moral conviction and practical wisdom.

THE ISSUE OF HUMAN RIGHTS

These considerations come to bear powerfully on the question of the relationship between human rights and foreign policy. The world needs to know what this country stands for. But we cannot rest on this; we must know how to implement our convictions and achieve an enhancement of human rights together with other national objectives.

Neither the issue nor the concern are new: It was under the two previous Administrations that Jewish emigration from the Soviet Union was raised from 400 a year in 1968 to 35,000 by 1973. This resulted from a deliberate policy, as a concomitant to the process of improving US-Soviet relations.

The release of the courageous Soviet dissident Bukovsky in exchange for the Chilean Communist leader imprisoned in Chile was arranged in 1976 through American intercession. It was but one of many such acts which were not publicized in order to be able to continue to assist hardship cases.

American diplomatic action in the same period brought about the release of hundreds of prisoners from jails all over the world.

American foreign policy of the past decade helped enshrine basic principles of human rights in the Final Act of the Helsinki Conference on Security and Cooperation in Europe—providing the indispensable political and legal basis for pursuing the issue of human rights in East-West relations.

We also worked to improve the efforts of the United Nations Human Rights Commission; to upgrade the Commission on Human Rights of the Organization of American States. Common human rights policies were forged with the other democracies, and steps were taken to improve the institutional response of the international system to the challenge of human rights.

The accomplishment of the new Administration is not that it originated the concern with human rights but that free of the legacy of Vietnam and Watergate it has seized the opportunity to endow the policy with a more explicit formulation. The aim of the Carter Administration has been to give the American people, after the traumas of Vietnam and Watergate, a renewed sense of the basic decency of this country, so that they may continue to have the pride and self-confidence to remain actively involved in the world.

Having had to conduct American foreign policy in a period of national division and self-flagellation, I applaud and support this objective. The President has tapped a wellspring of American patriotism, idealism, unity, and commitment which are vital to our country and to the world. He has focused public concern on one of the greatest blights of our time.

The modern age has brought undreamt-of benefits to mankind—in medicine, in scientific and technological advance, and in communication. But the modern age has also spawned new tools of oppression and of civil strife. Terrorism and bitter ideological contention have weakened bonds of social cohesion; the yearning for order even at the expense of liberty has resulted all to often in the violation of fundamental standards of human decency.

The central moral problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces—witness aberrations of terrorism in even the most humane societies. Yet when the demand for order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of civil government. Respect for the rights of man is written into the founding documents of almost every nation of the world. It has long been part of the common speech and daily lives of our citizens.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy man during World War II vividly and ineradicably impressed on the world the enormity of the challenge to human rights. It was to end such abuses and to provide moral authority in international affairs that new institutions and legal standards were forged after that war—globally in the United Nations and in this hemisphere in a strengthened inter-American system.

The fact remains that continuing practices of intimidation, terror, and brutality, fostered sometimes from outside national territories and sometimes from inside, mark the distance yet to be travelled before the community of nations can claim that it is truly civilized. This is why the distinguished junior Senator from New York, Senator Moynihan, is surely right in stressing that human rights should be not simply a humanitarian program but a political component of American foreign policy.

For the difference between freedom and totalitarianism is not transient or incidental; it is a moral conflict, of fundamental historical proportions, which gives the modern age its special meaning and peril. Our defense of human rights reminds us of the fundamental reason that our competition with totalitarian systems is vital to the cause of mankind. There is no reason for us to accept the hypocritical double standard increasingly prevalent in the United Nations where petty tyrannies berate us for our alleged moral shortcomings. On this issue we are not—and have no reason to be—on the defensive. "The cause of human liberty," the poet Archibald MacLeish has written, "is now the one great revolutionary cause. . ."

And yet, while human rights must be an essential component of our foreign policy, to pursue it effectively over the long term we must take the measure of the dangers and dilemmas along the way.

First, any foreign policy must ultimately

be judged by its operational results. "In foreign relations," Walter Lippmann once wrote, "as in all other relations, a policy has been formed only when commitments and power have been brought into balance."

To be sure, the advocacy of human rights has in itself a political and even strategic significance. But in the final reckoning more than advocacy will be counted. If we universalize our human rights policy, applying it undiscriminatingly and literally to all countries, we run the risk of becoming the world's policeman—an objective the American people may not support. At a minimum we will have to answer what may be the question for several friendly governments: How and to what extent we will support them if they get into difficulties by following our maxims. And we will have to indicate what sanctions we will apply to less well-disposed governments which challenge the very precepts of our policy.

If, on the other hand, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results, we run the risk of demonstrating that we are impotent and of evoking a sense of betrayal among those our human rights policy seeks to help. Such a course could tempt unfriendly governments to crack down all the harder on their dissidents, in order to demonstrate the futility of our proclamations—this indeed has already happened to some extent in the Soviet Union.

Nor can we escape from the dilemma by asserting that there is no connection between human rights behavior and our attitude on other foreign policy problems—by "unlinking," as the technical phrase goes, human rights from other issues. For this implies that there is no cost or consequence to the violation of human rights, turning our proclamation of human rights into a liturgical theme—decoupled, unenforced, and compromised. Or else we will insist on our values only against weaker countries, in Latin America or Asia, many of which may even be conducting foreign policies supportive of our own. This would lead to the paradox that the weaker the nation and the less its importance on the international scene, the firmer and more uncompromising would be our human rights posture.

Second, precisely because human rights advocacy is a powerful political weapon we must be careful that in its application we do not erode all moral dividing lines. We must understand the difference between governments making universal ideological claims and countries which do not observe all democratic practices—either because of domestic turmoil, foreign danger, or national traditions—but which make no claim to historical permanence or universal relevance. In the contemporary world it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men.

In recent decades, no totalitarian regime has ever evolved into a democracy. Several authoritarian regimes—such as Spain, Greece and Portugal—have done so. We must therefore maintain the moral distinction between aggressive totalitarianism and other governments which with all their imperfections are trying to resist foreign pressures or subversion and which thereby help preserve the balance of power in behalf of all free peoples. Our human rights policy owes special consideration to the particular international and domestic setting of governments important to our security and supportive of free world security interests. There are, of course, some transgressions of human rights which no necessity—real or imagined—can justify. But there are also realities in the threats nations face, either from terrorism at home such as in Argentina or aggression across borders such as Iran or Korea. And we must keep in mind that the alternative to some governments that resist totalitarianism with authoritarian methods may not be greater democracy and an enhancement of human rights but the advent of even more repression, more brutality, more suffering. The ultimate irony would be a posture of resignation towards totalitarian states and harassment of those who would be our friends and who have every prospect of evolving in a more humane direction.

We must take care, finally, that our affirmation of human rights is not manipulated by our political adversaries to isolate countries whose security is important for the future of freedom, even if their domestic practices fall short of our maxims. The memberships of the UN Human Rights Commission, composed as it is of a number of nations with extremely dubious human rights practices, does not augur well for an objective approach to this issue in the United Nations. Cuba and other Communist governments as well as the more repressive regimes of the less developed world have no moral standing to bring other nations to international account. We should not hesitate to say so.

Third, there is the ominous prospect that the issue of human rights if not handled with great wisdom could unleash new forces of American isolationism. This could defeat the Administration's goal of using it to mobilize support for continued American involvement in world affairs. That the human rights issue could develop a life of its own, regardless of the Administration's prudent sense of its aims and limits, is already evident from some developments in the Congress.

A distorted or misunderstood human rights policy can become the basis and justification of a modern isolationism. What appeals to many as a useful impetus to resistance to the Communist challenge can be used by others to erase all the distinctions between totalitarians and those that resist them, to induce indifference to European Communist Parties' accession to power, or to disrupt security relationships which are essential to maintaining the geopolitical balance. Excuses can be found to deny help to almost any friendly country at the precise moment when it faces its most serious external challenge. If conservatives succeed in unravelling ties with nations on the left and liberals block relations with nations on the right, we could find ourselves with no constructive foreign relations at all, except with a handful of industrial democracies. The end result ironically could be the irrelevance of the United States to other nations of the world. A policy of moral advocacy that led to American abdication would surely condemn countless millions to greater suffering, danger or despair.

Fourth and most fundamentally, we should never forget that the key to successful foreign policy is a sense of proportion. Some of the most serious errors of our foreign policy, both of overcommitment and withdrawal, have occurred when we lost the sense of balance between our interests and our ideals. It was under the banners of moralistic slogans a decade and a half ago that we launched adventures that divided our country and undermined our international position. A few years later young people were parading in front of the White House carrying coffins and candles and accusing their government of loving war; the national leadership was denounced as excessively, indeed imperialistically, involved in the internal affairs of other nations. A few years later still, the government was attacked for sacrificing our ethical values on the altar of détente and being insufficiently concerned with the domestic behavior of other nations. Neither we nor the rest of the world can any longer afford such extreme fluctuations.

Human rights policy in this period of American responsibility must strengthen the steady purpose and responsible involvement of the American people. It can do so only if it is presented in the context of a realistic assessment of world affairs and not as the magic cure for the difficulties and shortcomings of mankind's contemporary experience.

The Administration is surely right in insisting that human rights is a legitimate and recognized subject of international discourse; it is an object of international legal standards—importantly as a result of American initiatives by Administrations of both parties. At the same time we must recognize that we serve the cause of freedom also by strengthening international security and maintaining ties with other countries defending their independence against external aggression and struggling to overcome poverty, even if their internal structures differ from ours.

We cannot afford to subordinate either concern to the other. Morality without security is ineffectual; security without morality is empty. To establish the relationship and proportion between these goals is perhaps the most profound challenge before our government and our nation.

There is every indication that within the Administration rhetoric and capacity for action are being brought increasingly into balance. In an important speech in Athens, Georgia on April 30, 1977, Secretary Vance has wisely pointed out that "a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment. No mechanistic formula produces an automatic answer."

THE LINKAGE OF FOREIGN POLICY ISSUES

The inescapable relationship of our human rights objectives with other foreign policy goals is an example of a broader, virtually universal phenomenon of our contemporary world. Foreign policy issues are interrelated—"linked"—as never before. A consistent, coherent and moral foreign policy must be grounded in an understanding of the world in which we pursue our goals.

The concept of linkage—the suggestion that we should design and manage our policy with a clear understanding of how changes in one part of the international system affect other parts—was first put forth in 1969 in the context of US-Soviet affairs. We proceeded from the premise that to separate issues into distinct compartments would encourage the Soviet leaders to believe that they could reap the benefits of cooperation in one area, using it as a safety valve, while striving for unilateral advantages elsewhere. We considered this a formula for disaster.

So strong is the pragmatic tradition of American political thought that linkage was widely debated as if it were an idiosyncrasy of a particular group of policy makers who chose this approach by an act of will.

But linkage comes in two forms: first, when policymakers relate two separate objectives in negotiations, using one as pressure on the other; or by virtue of reality, because in an interdependent world the actions of a major power are inevitably interrelated and have consequences beyond the issue or region immediately concerned.

Of these two concepts of linkage, the latter is by far the more important. It says, in effect, that significant changes of policy or behavior in one region or on one issue inevitably affect other and wider concerns.

Our policy toward the Soviet Union cannot be treated in isolation from our relations with China; our relations with China, in turn, cannot be effective except to the extent that we maintain the geopolitical balance around the world, by which the People's Republic of China measures our ultimate relevance. Displays of American impotence in one part of the world, such as Southeast Asia or Africa, have a direct effect on our credibility in other parts of the world, such as the Middle East. Our policy toward Rhodesia and Namibia will inevitably deter-

mine the prospects of a peaceful evolution in South Africa, and vice versa. Our posture toward Korea cannot be separated from our interests in Japan and China, and the measures we adopt for one inevitably affect the other. The decision on the B-1 bomber resulted from complex and painful budgetary and technical considerations. I am not here arguing the merits of these considerations, but in the context of the Strategic Arms Limitation talks, the B-1 bomber decision did represent a unilateral unreciprocated concession. Finally, either our human rights policy has relevance to other areas of national policy—or it has no meaning at all.

Perception of linkage is, in short, synonymous with an overall strategic view. We ignore it only at our peril. It is inherent in the real world. The interrelationship of our interests, acoss issues and boundaries, exists regardless of the accidents of time or personality; it is not a matter of decision or will but of reality. And it cannot be ended by an act of policy. If we are to have a permanent conception of American foreign policy there must be an appreciation of the fact that merits of individual actions can be judged only on a wider canvas.

As you know I strongly support President Carter in his fight for ratification of the Panama Canal Treaties. I do so on their merits but also because of the profound consequences of a failure to ratify far beyond Panama. A defeat of the treaties would weaken the President's international authority at the beginning of his term. It would suggest to friends and foes around the world that the United States could not deliver on an agreement negotiated by four Presidents of both political parties over a period of thirteen years, that it could not perceive its own interests in Western Hemisphere cooperation, and that shifting emotions and institutional stalemates produced erratic behavior in the most powerful country in the world.

Linkage is not a natural concept for Americans, who have traditionally perceived foreign policy as an episodic enterprise. Our bureaucratic organization, divided into regional and functional bureaus, and indeed our academic tradition of specialization, compound this tendency to compartmentalization. And American pragmatism produces a penchant for examining issues separately: to deal with issues individually as if they existed as abstractions without the patience, timing, or sense of political complexity which are so often vital to their achievement; to display our morality in the proclamation of objectives rather than in a commitment to the operational consequences of our actions in an inherently ambiguous environment.

A recognition of the importance of linkage—of the significance and role of the strategic vision to our future foreign policy—thus brings us back to where we began—to the need for patience, continuity, and, above all, for national unity in the conduct of international affairs. This responsibility must be shared by the Administration, the opposition, and the public. Modern foreign policy, by its very complexity, does not lend itself to instant successes. In domestic affairs the timeframe of new departures is defined by the legislative process; dramatic initiatives may be the only way to launch a new program. In foreign policy the most important initiatives require painstaking preparation; results may be months and years in becoming apparent.

Therefore, we should not demand of the new Administration instant results or an unbroken string of early successes; nor should the Administration seek such goals if it wishes to avoid a series of stalemates or worse. Foreign policy, if it is to be truly an architectural endeavor, is the art of building for the long term, the careful nurturing of relationships, the elaboration of policies that enhance our options and constrain those of potential opponents. It requires the coherence that can only come from national unity, a strong leadership and a political process that reflects the recognition that we are all—the Administration as well as its opponents—part of a permanent national endeavor.

This country has no greater contribution to make in the service of its ideals than to help the world find its way from an era of fear into a time of hope. With our old idealism and our new maturity, we have the opportunity to fulfill the hopes as well as the necessities of a peaceful world. A century ago, Abraham Lincoln proclaimed that no nation could long endure "half slave and half free" and stirred the conscience of the nation. With a combination of lofty idealism and tough pragmatism, he saved the freedom of this nation. With a similar dedication—in a world that is "half slave and half free"—we in this era can be the champion and defender of the cause of liberty.

CRUDE OIL TAX

Mr. CURTIS. Mr. President, I ask unanimous consent that an article and an editorial that appeared in the Wall Street Journal on September 28, 1977, be printed at the end of my remarks.

There being no objection, the editorial was ordered to be printed.

(See exhibit 1.)

Mr. President, the article, authored by Mr. Charles E. Phelps and Mr. Rodney T. Smith, economists with the Rand Corp., points up the basic flaw in Mr. Carter's so-called energy program. The crude oil equalization tax, admittedly the heart of the President's program, will not accomplish any of the publicized objectives, but will result in over $12 billion a year being drained out of the energy companies.

The crude oil tax is nothing but a huge transfer of funds from the only ones who can find new sources of oil, to the politicians who could not find a barrel of oil if they were sitting on it.

This feature of the President's program has been noted before. But now it appears that this transfer of funds is destined not to solve the energy crisis, but to be an integral part of the President's tax reform package.

This is not an energy plan but the first half of a tax reform plan. If the Senate is to act intelligently on tax reform, it must be able to consider the plan as a whole. It makes no sense to approve a revenue measure like the crude oil tax until we know how this money will be spent. The Senate should delay further consideration on this tax until the President presents the rest of his tax package.

EXHIBIT 1

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Carter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the Senate Finance Committee to vote against the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, the chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependence on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, established the rights of refiners to the lower-priced, domestic crude oil—on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits

from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the marginal cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products, because prices will continue to be determined primarily by the world market.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall will have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

FACING THE BOGYMAN

The U.S. Senate is saving us from President Carter's tax increase/energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy they burn. Happily, the Finance Committee has its own notions of responsibility, and had been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparently congenital inability to apply this simple lesson to petroleum.

In the US. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the acocmpanying entitlements program, is merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penalty.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years vice Allen L. Donielson, resigned.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years vice Richard N. Moore.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years vice Evan L. Hultman.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, October 6, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PRESS CONFERENCE OF THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a transcript of the press conference of the President of the United States which was held earlier today be printed at this point in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

PRESS CONFERENCE NO. 16 OF THE PRESIDENT OF THE UNITED STATES

The President: Good afternoon, everybody.

After the last press conference I had an uneasy feeling that I had not adequately covered the question about energy and some foreign affairs, so I thought we would have another press conference fairly soon after that one.

About five months ago, in April, I spoke with the American people and with the Congress about one of the most pressing national needs, to develop a comprehensive energy policy. The reason that we have to act is not because we have crises or emergencies at this present time, but because they are imminent and we need to begin preparing now to protect our own economic and our national security well-being for the future.

With every passing day our energy problems become more severe. We have almost

unbelievably spent $23 billion so far this year on imported oil, and we are likely to spend almost $45 billion before the year is over. This is by far more than we have ever bought before. Gasoline consumption was higher this summer than it has ever been before, and now half of the oil that we use, much of it wastefully, came from foreign countries.

No matter how hard we try to ignore it, our energy problem is not going away. There is no easy way to establish a comprehensive energy policy. No interest group or organization can be totally satisfied with every part of our plan. But the House of Representatives has met this very difficult and controversial issue courageously and has adopted almost all of the program that was proposed to them last April.

This proposal is balanced, fair and comprehensive. It contains incentives for adequate production and also protects the interests of consumers.

By relying on incentives rather than prohibitions and regulations, it keeps to a minimum the direct government involvement that would otherwise be necessary to control our energy problems and which exist at the present time.

Oil producers will receive the equivalent of the world price for newly discovered oil, and between now and 1990 oil and gas profits from domestic exploration and production, under my own program, will exceed $430 billion.

We accept these incentives knowing that they are necessary to guarantee future supplies of oil and natural gas. What we do not accept is the argument that we hear from the oil and gas companies that we need to provide incentives for wells that were drilled in 1970 or 1972 or even earlier when oil prices were about one-fourth of what they are now. We do not accept windfall profits for efforts that the producers have already made and for oil and gas already discovered.

I do not support complete deregulation of natural gas prices which would provide windfall profits without significantly increasing supply. Deregulation would cost consumers an extra $70 billion by 1985 but would increase supplies very little, if any. Gas prices have already risen by 500 percent over the last six years, but we are producing less natural gas than we did in 1972, six years ago.

Along with production incentives, the national energy plan also contains vital measures to conserve energy and to replace our precious oil and gas with more abundant fuels, such as coal. Let me mention quickly in closing three of the most important of these conservation measures.

Unless we pass the oil equalization tax, we will in effect continue to subsidize, with an extremely complicated Government program, imports of oil. The gas-guzzler tax is crucial because it provides a continuous economic incentive for consumers to buy, and automobile makers to produce more efficient automobiles.

The large industrial users of oil and gas must be persuaded to convert to coal and to other fuels. This effort alone could account for about 40 percent of the total oil savings that we project in the energy program.

And, finally, the rate structure for electric power must be modified to discourage waste. We are now at a turning point in establishing a comprehensive energy program. The House of Representatives has acted. The Senate is still in the process.

I would like to take this opportunity to thank the Majority Leader and many of the Senate leaders for their work toward resolving the difficult questions that now face the Senate. It is a difficult job, I know, and at times an unpleasant one, but the price of failing to enact a comprehensive energy program is just too high for our Nation.

I think the American people are expecting their government, the Congress and the President, to establish an energy program. And I sincerely hope that the Senate will not let the American people be disappointed.

Thank you very much.

Mr. Cormier?

QUESTION. Mr. President, the Senate hasn't obviously completed action but on the basis of their votes in committee and elsewhere so far the difference between them and the House is so marked, how do you account for it?

Are they less representative? Are they more susceptible to lobby pressures? How do you figure it?

THE PRESIDENT. First of all, I would like to point out that no final action has been taken by the Senate and there were times several weeks ago when we were quite disappointed at the progress that had been made in the House.

As the Members of the House of Representatives began to realize the enormity of the consequences of their timid action and as the Speaker and other leaders moved forward to assert their influence, the House acted responsibly after giving us a disappointing time for a few weeks.

I think the Senate is now in that posture. I think the Senate realizes that this is the major domestic legislative product that we expect this year. And for us to devote a full year of work and come out with an inconsequential or inadequate energy program is something that I don't believe the Senate will face. They have their own reputations to protect.

I think they want to act responsibly and I think that it is obvious in my own experience in the Legislative Branch in Georgia that the focusing of the powerful lobby pressure is always on the second legislative body that has to act, the final body that has to act.

So there is a tremendous pressure on the Members of the Senate now from the lobbyists, many of whom are well-meaning people.

I am not criticizing them necessarily but I think as they hear the voice of the American people as they realize the consequence of the absence of courageous action, then I think they will move to adopt the major parts of the program.

The last thing I would like to say is that when the Senate acts, we still have what is in effect the third branch of government to consider and to exert its will and that is the Conference Committees. And I think the House is going to be very adamant in maintaining their position and the likelihood now is that I would be much more inclined to support the House position which is compatible with my own.

So we still have a long way to go. I am not discouraged but I think my own voice is helpful in encouraging the American people to let the Senators know what their duties are and to encourage them to act objectively and I am sure they will.

QUESTION. There have been a lot of confusing statements from the White House and from leaders who have seen you recently on where exactly the United States stands in terms of Palestinians, PLO participation in a Geneva Peace Conference if one comes about. Can you really clarify this point?

The PRESIDENT. I doubt it. (Laughter) But I would be glad to try. What we are trying to do now is, as a first and immediate goal is to bring all the parties in the Mideast dispute to Geneva for a conference. We are dealing with Israel directly; we are dealing directly with Lebanon, Syria, Jordan and Egypt. We are trying to act as an intermediary between Israel and each one of those Arab countries that border their own country.

There are some differences among the Arab nations which we are trying to resolve concerning a unified Arab delegation or individual Arab delegations, and the format which might be used to let the Palestinian views be represented.

At the same time, we have a further complicating factor in that we are joint chairmen of the Geneva Conference along with the Soviet Union. So in the call for the conference and the negotiations preceding the format of the conference we have to deal with the Soviet Union as well. So on top of all that, and perhaps preeminent in my own mind, is we are not an idle observer or bystander, we are not just an intermediary or mediator. We have a vital national interest in the ultimate peace in the Middle East. It is obvious to me that there can be no Middle Eastern peace settlement without adequate Palestinian representation.

The Arab countries maintain that the PLO is the only legitimate representative of the Palestinian interests. The Israelis say they won't deal with the Palestinians, certainly not the well-known PLO members, because they have been identified in the past as committed to the destruction of the nation of Israel.

So we are trying to get an agreement between the Israelis and the Arab countries with widely divergent views about the format of the meeting, and also who would be welcomed to the conference to represent the Palestinians.

This is something that is still in the negotiating stage. And I cannot predict a final outcome. We have no national position on exactly who would represent the Palestinians or exactly what form the Arab group would take in which the Palestinians would be represented. I just can't answer that question yet because the question has not been answered in my mind.

QUESTION. Does the United States recognize—"recognize" is the wrong word—but accept the PLO as a representative of the Palestinians?

The PRESIDENT: We have pledged to the Israelis in the past, and I have confirmed the pledge, that we will not negotiate with, nor deal directly with the PLO until they adopt United Nations Resolution 242 as a basis for their involvement, which includes a recognition of the right of Israel to exist. We have let this be known to the PLO leaders through various intermediaries, through intermediaries through the United Nations, leaders in Saudi Arabia, Syria, Egypt, Jordan, and so forth. They know our position.

If the PLO should go ahead and say, "We endorse UN Resolution 242," we don't think it adequately addresses the Palestinian issue because it only refers to refugees and we think we have a further interest in that. That would suit us Okay.

We would then begin to meet with and to work with the PLO. Obviously they don't represent a nation. It is a group that represents, certainly, a substantial part of the Palestinians. I certainly don't think they are the exclusive representatives of the Palestinians. Obviously there are mayors, for instance, and local officials in the West Bank areas who represent Palestinians. They may or may not be members of the PLO. So we are not trying to define an exact formula that we would prescribe for others. We are trying to find some common ground on which the Israelis and Arabs might get together to meet in Geneva.

I think, by the way, that both groups, the Israelis and the Arabs, have come a long way. They are genuinely searching for a formula by which they can meet. They want peace. I think they are to be congratulated already because in the past number of years they have made very strong and provocative statements against one another. And now to move toward an accommodation is a difficult

thing for them and we are trying not to make it any more difficult.

QUESTION. Mr. President, what are the assurances given to the PLO in the event of accepting 242?

The PRESIDENT. If they accept UN 242 and the right of Israel to exist, then we will begin discussions with the leaders of the PLO. We are not giving them any further assurance of that because we are not trying to prescribe, as I said, the status of the PLO itself in any Geneva Conference. But it would give us a means to understand the special problems of the Palestinians. And, as you know, many of the Israeli—some of the Israeli leaders have said that they recognize that the Palestinian question is one of the three major elements. But I can't and have no inclination to give the PLO any assurances other than we will begin to meet with them and to search for some accommodation and some reasonable approach to the Palestinian question if they adopt 242 and recognize publicly the right of Israel to exist.

QUESTION. Mr. President, this morning a group of Republicans who came over here to meet with you reported that you told them that on certain matters you perhaps worked with them even more closely than the Democratic majority. I wonder if, noting what has been happening to some of your programs in the Congress, that you feel more comfortable with the Republicans now and what effect do you think those words this morning will have on the eventual outcome of certain energy matters in the Senate which, of course, must receive support from the Democrats?

The PRESIDENT. Energy was not one of the examples I used. I did point out the almost unanimous approval of the Republicans, for instance, for the AWACs sale to Iran, which I think is important and advisable, and I pointed that one out.

I also pointed out the extreme inadvisability of the Congress trying to put tight controls over our international financial institutions allotments. For instance, the Congress has said, in a very serious mistake, that we could not contribute to the World Bank or to the international regional banks if any of the money was to be used in a country that produces citrus fruits or palm oil or sugar, or if it was to be used for loans to, I think, eight different nations.

This is an unprecedented encroachment on the independence of the World Bank and it would mean that our contribution to the World Bank could not be made. This is another item where the Republicans see the matter much more clearly in my opinion than do some of the Democrats.

But in general, of course, I am a very loyal Democrat. I appreciate what the Democrats have done, but in some areas the Republicans have helped me more.

I would say another example would be the reorganization effort. I think as a matter of philosophy the moderate to conservative Members of the Congress and I see compatibly a need for strict Government reorganization, but this means certainly that many Democrats have cooperated just as well.

QUESTION: Mr. President, you have been underscoring of late how very important the Vice President—very important role he is playing in your Administration. And I was just wondering whether the Vice President has become in actuality as well as in effect your deputy, the Deputy President or Assistant President?

The PRESIDENT: I probably meet with the Vice President on a daily basis more than all the other staff members that I have combined. He brings to my own inner circle of advisers an experience in the Congress and in Washington. He, obviously, has a stature, political stature inherent in his office itself and his wide-ranging interest that I have welcomed and encouraged include domestic politics, our relationships with the Congress, domestic matters like tax reform, and sensitive civil matters like the Bakke case; international matters like Southern Africa or the Middle East. He has a detailed knowledge of the SALT negotiations now and the history of the SALT negotiations in the past.

So there is no aspect of my own daily responsibilities as President that are not shared by the Vice President. He has a unique background in the Congress of having been both a Member simultaneously of the Senate Finance Committee and also the Senate Budget Committee. So here again he has had a broad range of experience.

I would say without derogating the other members of my staff that there is no one who would approach him in his importance to me, his closeness to me and also his ability to carry out a singular assignment with my complete trust.

QUESTION. Mr. President, it is said we have modified our SALT position somewhat and on the basis of that we may be very near an agreement. And on the basis of that you may be meeting with Mr. Brezhnev in a few weeks or months.

Is any or all of that true? [Laughter.]

THE PRESIDENT. I will resist the temptation to comment on the accuracy or veracity of past comments made in the news media and by you, I understand. [Laughter.]

I think some of those statements are fairly accurate. We have been encouraged recently by the cooperative attitude of the Soviets. I have met several hours on two occasions with Foreign Minister Gromyko, and they have been fairly flexible in their attitude and we have tried to match their cooperative stance.

There has been no decision made about a time or place for meeting between me and Mr. Brezhnev. In fact, the meeting itself is certainly not a sure thing at all. It is, as a matter of record, his time to come to the United States, if and when a meeting does take place, and he has that permanent standing invitation which he can accept as he sees fit.

Our purpose in the SALT negotiations this year has been generally two-fold. One is to reduce the overall level of nuclear armaments; and secondly, to have an assurance that there is an equivalent capability in the future to give a reasonable sense of security to both nations. And I think at the same time, integrally with this is to let the Soviets know that we are negotiating in good faith; that we are not trying to pull a trick or take unfair advantage over them.

At the same time, I recognize that progress on SALT leads to further progress on comprehensive test ban, on the matter of nonproliferation on general reductions in armament sales around the word. And I think it would lessen tensions between us and the Soviets that have existed historically.

So we are making some progress. An immediate agreement is not in prospect. We have narrowed down the differences to a relatively small number which could take quite a long time to resolve. Our negotiators are now going back to Geneva to try to eliminate as many of the differences as possible. So reasonable progress has been made.

I wouldn't be too optimistic about an early settlement. And there is no plan at this time for a meeting with Mr. Brezhnev.

QUESTION. Mr. President, important segments of the steel and television manufacturing industries have been laying off thousands of workers recently because of foreign competition, some of which they allege is unfair. What, if anything, do you plan to do about that?

The PRESIDENT. We have already negotiated in the television industry a voluntary constraint on the Japanese who are the major exporters to us. This was worked out this year by Robert Strauss, working even directly with Prime Minister Fukuda. I think this will alleviate the increasing imports of color televisions which were causing a problem.

The steel question is one that is obviously a highly complex question. I would not be willing to lay all the blame on imports. We have obviously some elements in the steel industry where the plants themselves are older; they are not quite as efficient as some of the more modern plants overseas. We have a problem that the steel industry points out frequently in compliance with fairly strict environmental quality standards which I certainly would not change.

But I think it is fair to point out the Japanese and the West Germans have the same degree of quality constraints now on air pollution and water pollution. So this is not an unnecessary advantage for them.

I might add quickly that we are addressing the steel industry with a multi-departmental approach. This is under the control of an Assistant Secretary in the Treasury Department, Mr. Solomon, who is an expert in the steel industry. He is working with Robert Strauss, our Special Trade Representative, and with Charles Schultze, my Council of Economic Advisers Chairman, with the Secretaries of Commerce and Labor, where large unemployment has been a factor with the closing of at least one steel mill.

We have already moved to provide retraining and economic assistance for those workers involved. And within the next few weeks, I plan to receive the report of this group whose work was begun several weeks ago and then to meet with labor and industry leaders in the steel industry and also with Congress Members who have large steel interests in their own areas.

But we believe that the problems are chronic. I don't think any basic changes need to be made in our import laws or the national statutes, and I think perhaps my own involvement in it can cause some alleviation of the problem, but some of the problems are chronic.

The worldwide economic structure is not growing as rapidly as it has in the past. Ours is better off than most of the other nations'. And when the growth rate in our country drops down to 6 percent this year and many other major nations' drop to 4 percent or less, there is just not as many orders for steel. It is complicated. We are moving on it and when I receive this report and decide what to do, I will make it public.

QUESTION. Mr. President, Admiral Turner of the CIA did a speech this week at Annapolis in which he said that the Attorney General would have to make a decision as to whether it would further the national interests to prosecute the case of Mr. Richard Helms, or whether it would be better to waive the case in order to save the secrets.

But the Attorney General said that he was going to consult you on this. I wonder if you can tell us your views on how you are reaching this decision as to whether certain material should be declassified for a possible trial in this case?

THE PRESIDENT. He has not consulted with me, nor given me any advice on the Helms question. I am familiar with it through reading in the press. I have no way to know yet the strength of the possible indictment or charges. I have no way to know yet the seriousness of the offense with which he will be charged (instead of "he will be charged", the President meant "may be charged".) And I have no way to know yet the seriousness of possible damage to our own national security if massive revelations of intelligence techniques and documents are made either to ourselves or to our friends and allies.

When I get all of this information, then I would certainly consult with the Attorney General as to what action should be taken. I think it is a very serious thing for anyone to commit perjury (instead of "commit per-

jury" the President meant "commit alleged perjury") before a Congressional committee or anywhere else, and the matter would not in any case be treated lightly.

My understanding is that the Attorney General is now going over the data that has been presented to him. I think he will make a report to me and possibly a recommendation fairly soon, but until this moment he has not yet done so.

I promised Marty.

QUESTION. Mr. President, pardon me, I would like to go back to the subject of last week's press conference. You told us twice that you had learned on December 1st, which was just two days before you appointed Mr. Lance, nominated him—

THE PRESIDENT. Yes.

QUESTION. That aspect of the Lance case had been referred to the Justice Department. Jody Powell has told us that you didn't know at that time, you didn't learn until much later. Who is right, is Jody right, or are you?

The PRESIDENT. I don't recall—I did say it in the last press conference and when Jody asked me about it afterwards, I told him I was mistaken—I don't recall at all ever knowing that the Justice Department itself was involved in the Bert Lance overdraft or other problems last year. Bert Lance told me that he did not know that the Justice Department was involved in it until December the 1st. The information that I got from Bert Lance—I now know that it was November 15th—was derived from Lance himself and he stated to me—and my memory confirms it, that he only referred to me the problem with the Comptroller's Office.

My guess is that on December 1st they did not specifically point out to me that the Justice Department was also involved. My memory of it is that they said that the problem that had been described to me had been resolved, and that a press statement would be made then.

So I would believe—certainly my memory confirms—that I did not know anything about the Justice Department itself anytime in 1976 and that Bert Lance did not know anything about the Justice Department being involved until the 1st of December.

If you have a follow-up, you can ask it.

QUESTION. Just to follow up on that—

The PRESIDENT. Please.

QUESTION. Would it have made a difference to you if you had known at that time that there had been a Justice Department investigation?

The PRESIDENT. No.

QUESTION. Would you have delayed your appointment perhaps to see what the investigation had been about?

THE PRESIDENT. No. I doubt it because on the 1st of December when Lance himself found that the Justice Department was involved, it was also to learn that same day or the day after that the Justice Department had determined that there were no grounds for a further pursuit of the case.

QUESTION. Mr. President, on the strategic arms situation.

THE PRESIDENT. Thank you.

QUESTION. In the absence of an agreement as of next Monday, could you tell us what your attitude will be toward major American weapons systems that have been under research? For example, where do we stand now after this five-year agreement expires on the MX missile, what is your attitude toward it, and how about on the cruise missile? During the period after the agreement expires, will you be observing any constraints or do you think contraints ought to be reserved, for example, on the range of the cruise missile, the air-launched cruise missile?

The PRESIDENT. We are proceeding with our research and development program on the items that you described. As you know, under the present agreement with the Soviets, there is no restraint on the mobile missiles nor on air-launched or ground- or sea-launched cruise missiles. Pending an agreement with the Soviets, we are free to proceed with those matters.

We are continuing to conduct active tests with the cruise missile. And I might say, the tests have been very successful so far. We have not proceeded that far along with the MX. We are negotiating with the Soviets on those two items for the so-called SALT II agreement. We have not completely resolved those two questions yet.

QUESTION. Mr. President, may I ask you something about your energy program? When you started talking about a wellhead tax, as I understood it, virtually all the money collected on that tax would be rebated back to consumers.

The PRESIDENT, That is correct.

QUESTION. Do you think, given Senator Long's attitude, that kind of a wellhead tax is possible if you still give that tax? Or are you going to have to put part of that revenue into government programs to spur energy exploration and development?

THE PRESIDENT. This was a matter that was debated very thoroughly among my own advisers and myself before we presented our proposal to the Congress on April 20. Our judgment was that the tax ought to be rebated directly to the American consumer. It is a fair and equitable way to dispose of that money. It would lessen greatly the American Government involvement in the oil industry. It would remove the very complicated entitlements program and also it would not withhold large sums of money from an already kind of dormant economy.

If you gave the money immediately back in reduced payroll taxes, then the money would be circulated and you would not hold it in the reserve fund. I would have to retain some flexibility on that subject.

The thing I don't want to do is to take the money from the American consumers in the increased price of gasoline and other products and give it as a reward to the oil companies. Now, matters that might relate to better transportation systems or mass transit or better insulation of homes, combined with tax rebates to consumers, I would consider all those as options.

QUESTION. So, in other words, it wouldn't all be coming back to the consumers now?

THE PRESIDENT. My preference is it would all come back to the consumers. And, as you know, that is the version that was passed by the House of Representatives. If I had my preference and could write the bill without Congressional involvement, that would be my choice.

But I can't say that I would veto or fail to support any alternatives. There are some alternatives that I could accept without too much reluctance.

FRANK CORMIER (AP). Thank you.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the calendar that have been cleared for passage. I ask unanimous consent that the Senate proceed to the consideration of the following Calendar orders numbered 406, 407, 409, 410, and 411.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, before the Chair rules, could the clerk read which items those are?

Mr. ROBERT C. BYRD. They are on the calendar. Calendar order numbers beginning with 406, 407, 409, 410, and 411.

Mr. BAKER. Mr. President, I am sorry; would the majority leader read those again?

Mr. ROBERT C. BYRD. Yes, indeed. Calendar order numbers 406, 407, 409, 410, and 411.

Mr. BAKER. I thank the majority leader. Mr. President, there is no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLED SUBSTANCES ACT EXTENSION

The Senate proceeded to consider the bill (H.R. 5742) to amend the Controlled Substance Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 6, strike through and including page 2, line 4, and insert in lieu thereof:

(2) by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,", and

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–444), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The amendment changes the period of reauthorization from 3 to 2 years and reduces the amount authorized by $2 million.

SUMMARY OF LEGISLATION

H.R. 5742, as reported, would extend the authorization of appropriation for the Drug Enforcement Administration for 2 years through fiscal year 1979. It provides for an authorization of $188 million for fiscal year 1978 and $215 million for fiscal year 1979. The proposed legislation would also repeal the additional $6 million annual authorization under section 103 of the Controlled Substances Act.

BACKGROUND

The committee reported a similar bill, S. 1232—Report 95–151—May 12, 1977, which provided for a 2-year extension of the Comprehensive Drug Prevention and Control Act. Prior to Senate passage of this bill, June 6, 1977, the House passed H.R. 5742, May 17, 1977, which provided for a 3-year extension of the Act.

As amended, this Act conforms with the Senate-passed version.

The committee recognizes that the new administration is currently carefully examining the Government's activity in drug control. It is felt that the 2-year reauthorization, which has been urged by the administration, will provide time for it to fully develop goals and standards for a comprehensive drug control and prevention program.

Upon introduction to the administration bill, its sponsor, Senator Bayh, commented as follows:

The President has called for sound drug prevention and control policies. In his Feb-

ruary message to the United Nations Commission on Narcotic Drugs he stressed that while we must curb traffic "we must combine deep compassion for the victim of addiction with a vigorous attempt to eliminate the world supply of illicit drugs through international cooperation. Toward that end, I am making the curtailment of drug abuse a high priority in my administration."

I was especially pleased by the President's sensitivity to the special impact on our young people. He said:

"Much of this abuse occurs with young people and with this increased drug use comes the attendant family disruption and the sapping of strength from our youth."

Public Law 91–513, the Controlled Substances Act of 1970, which is being extended by this bill, was designed to improve Federal efforts toward the elimination of illegal drug traffic and the reduction of drug-related crime. At that time, the primary enforcement rule was under the aegis of the Bureau of Narcotics and Dangerous Drugs (BNDD) within the Department of Justice.

Reorganization Plan No. 2 of 1973 expanded substantially the role of BNDD. The plan was designed to place primary responsibility for Federal drug law enforcement in a single, new agency, the Drug Enforcement Administration (DEA), in the Department of Justice.

At that time, 10 Federal agencies in five Cabinet departments performed drug enforcement functions. Budgeting for these agencies in fiscal year 1974 was proposed at $257 million, a sevenfold increase in funding from $36 million in fiscal year 1969. Several other agencies had related functions. There was no overall coordination.

As specified in the reorganization plan, the new DEA assumed responsibility for the following activities:

(1) All functions of the Bureau of Narcotics and Dangerous Drugs (BNDD), which was abolished as a separate entity in Justice;

(2) All functions of the Customs Bureau related to drug investigations and intelligence, which were transferred from the Secretary of the Treasury to the Attorney General;

(3) All functions of the Office of Drug Abuse Law Enforcement (ODALE), which was abolished in Justice by Executive order; and

(4) All functions of the Office of National Narcotics Intelligence (ONNI), which was abolished in Justice by Executive order.

The Drug Enforcement Administration (DEA) of the Department of Justice is the primary agency to which is assigned the enforcement of the Federal satutes as contained in the Controlled Substances Act.

The initial period following DEA's creation was marked by the rapid development of illicit opium cultivation and processing in Mexico. Within 2 years heroin from Mexico was supplying 90 percent of the U.S. illicit market. The average retail purity of heroin reached 6.6 percent with a price of $1.26 per milligram pure recorded early in 1976. But since early 1976 several major changes have been instituted in DEA which are having a successful effect:

1. Implementation of more stringent criteria for classifying violators was accomplished to assure that the agency directed its efforts at the most important violators. While total arrests declined in 1976 over 1975, the arrests of class I and II violators, the major traffickers, increased 43 percent.

2. Centralized control of major investigations has been established. Operation Heroin B was a centrally directed effort targeted at six cities which had been identified as key distribtuion centers for brown heroin. These cities were Detroit, Chicago, San Antonio, Phoenix, Los Angeles, and San Diego. Five months of investigation resulted in the arrest of approximately 1,900 individuals, of which 30 percent were class I or II violators and the seizure of 600 pounds of heroin.

3. Interagency working relationships have been strengthened. Through mutual agreements with the Bureau of Customs and the Internal Revenue Service, and the creation of various interagency working groups, better utilization of resources and a reduction in duplication of effort has resulted.

The key indicators of heroin availability are reflecting the results of DEA efforts over the past year. By the end of December 1976, the average retail purty of heroin was down to 6.1 percent as compared to the 6.6 percent of March 1976. Interim reports indicate that the March 1977 figure will continue the trend of decreasing purity. At the same time price has increased from $1.26 per milligram pure to $1.40.

Most important has been the dramatic decline in heroin-related deaths. In the most recently reported quarter, heroin-related deaths numbered 392 as compared to 546 for the previous quarter. This is a sharp decrease of 28 percent. This data is provided to DEA and the National Institute on Drug Abuse from reports of the chief medical examiners of 21 major metropolitan areas. The continuation of the present enforcement directions of DEA should further these accomplishments.

The Controlled Substances Act created mechanisms by which the legitimate commerce of controlled substances could be regulated to assure the avaliability of these substances for medical need and to prevent their diversion for abuse. DEA's administration of these regulatory provisions has proven to be most vigilant and effective. Since May 1971, DEA has controlled 28 drugs, moved 9 drugs to another schedule and has decontrolled 5 drugs. The most recent action, effective March 14, 1977, placed dextropropoxyphene under schedule IV controls.

DEA presently has registered more than 540,000 legitimate handlers of controlled substances in the United States. DEA has a specialized force of compliance investigators who preform on-site investigations of each registered manufacturer and distributor at least once every 3 years. During calendar year 1976, 1,643 compliance investigations were completed, 638 administrative actions of varying degrees were imposed, as well as 22 arrests. Because of DEA's efforts in the administration of the regulatory provisions of the act, diversion of controlled dangerous drugs at the manufacturing and wholesale levels has been virtually eliminated.

As a result of the Narcotic Addict Treatment Act of 1974, DEA conducted in-depth investigations of methadone clinics to assure their compliance with the regulations of that act. Approximately 875 methadone clinics are registered by DEA and each of these clinics is reaudited every 3 years.

DEA is also directing considerable effort to increase the abilities of the States to police the practitioner level of distribution. The total elimination of diversion of legitimate dangerous drugs will depend on the results of these efforts.

The committee is of the belief that the DEA should be continued in existence. It recognizes that a new administration is currently carefully examining the Government's activity in drug control. This bill which is now being reported by extending the life of the DEA for only 2 years will provide appropriate time for the administration to fully develop its goals and standards for a drug control and prevention program.

PUEBLOS LAND TRANSFER

The Senate proceeded to consider the bill (S. 1509) to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico and for such land to be held in trust by the United States for such tribes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 23, strike "range/west" and insert "right-of-way";

On page 3, line 5, strike "south/west line" and insert "south right-of-way";

On page 3, line 17, strike "states and such" and insert "States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code";

On page 4, line 4, strike "Nothing in this Act shall terminate or otherwise alter the rights or interests, if any," and insert "Nothing this Act shall terminate or diminish the rights or interests";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duly authorized officials of each of the Indian pueblos of New Mexico are hereby authorized to convey to the United States all the right, title, and interest of such pueblos in the land located in Albuquerque, County of Bernalillo, State of New Mexico, which was conveyed to to such pueblos on behalf of the United States and the Secretary of the Interior by the quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, and by the correction quitclaim deed executed July 30, 1970, by the Commissioner of Indian Affairs, and which is described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the city of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station 1–40–15 having established coordinates of Y–1494103.76, X–378204.72 of the New Mexico coordinate system, central zone, bears S. 16 degrees 02 minutes 03 seconds E., 989.43 feet.

Thence north 59 degrees 58 minutes 22 seconds west, 281.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a northwesterly direction 212.69 feet along the range/west curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the range/west curve concave of the south having a radius of 716.20 feet to corner No. 1, a point on the west range/west line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said range/west to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

Corner Coordinates of Tract "C"

Corner:	Y— Coordinate	X— Coordinate
1	1496295.97	378116.98
2	1495054.70	377931.43
3	1495196.41	377688.55
4	1495316.87	377513.58
5	1496171.41	377649.72

(b) Upon approval by the Secretary of the Interior, the Secretary shall accept such conveyances on behalf of the United States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code. The Secretary shall cause a description of such trust land to be published in the Federal Register.

(c) Nothing in this Act shall terminate or diminish the rights or interests of the Indian Pueblo Cultural Center, Inc., as an assignee or subleasee of the lease of such land to the All Indian Pueblo Council, Inc., approved on August 27, 1974, by the Bureau of Indian Affairs.

(d) Nothing in this Act shall alter the rights or interests, if any, in the adjacent lands previously conveyed to the County of Bernalillo for Four-H Club use by deed dated March 22, 1960.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–445), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

S. 1509 would authorize each of the 19 Indian Pueblos of New Mexico to convey to the United States all of their rights and interests in 11.6 acres of land located in Albuquerque, N. Mex. Upon receipt of these conveyances, the Secretary of the Interior is to accept the land and hold it in trust jointly for the Pueblos.

BACKGROUND

The 19 Indian Pueblo groups in New Mexico now hold as tenants in common the fee title to an 11.6 acre tract of land in the City of Albuquerque, N. Mex. This land used to be part of the federally owned site of the Albuquerque Indian School, administered by the Bureau of Indian Affairs. After several years of negotiations with Federal officials, the land was conveyed to the 19 New Mexico Pueblos under a quitclaim deed executed by the BIA on June 17, 1969. A corrected deed was executed by the BIA on June 30, 1970, to correct an error in the land description in the original deed.

The Indian Pueblo Culture Center, one of the most popular public facilities in the city of Albuquerque, is located on this land. The Center is dedicated to the preservation of Pueblo culture and arts and crafts and will serve to enhance business opportunities for the Indian people.

The purpose of the conveyance in 1969 and 1970 was to enable the Pueblos to develop the Indian Pueblo Cultural Center on the land which was no longer needed for BIA school purposes. The All Indian Pueblo Council, Inc. (AIPC), an umbrella organization for the 19 Pueblos, subsequently sought and received a grant from the Economic Development Administration (EDA) to construct and equip the Indian Pueblo Cultural Center. As a condition to approving the grant, the EDA required AIPC to obtain a lease from the 19 Pueblos covering the tract of land. The 19 Pueblos leased the land to AIPC on February 6, 1973, but this lease was never approved by the BIA. Subsequently, AIPC assigned its interest in the least to the Indian Pueblo Cultural Center, Inc. (IPCC), a non-profit corporation wholly owned and controlled by the 19 Pueblos.

It is the position of the Interior Department, however, that the title to the land conveyed by the BIA to the 19 Pueblos in 1969 and 1970 is subject to restrictions on alienation imposed by certain statutory provisions. This position casts doubt upon the validity and extent of the lease of the land to AIPC and its subsequent assignment of the lease to IPCC.

The present title situation is further compounded by a quitclaim deed executed by the Pueblo of Santo Domingo to the other 18 Pueblos on July 22, 1974. Notwithstanding Santo Domingo's efforts to legally divest itself of its interest in the land, there appears to be no existing statutory authority for the BIA to approve such action. If Santo Domingo's quitclaim deed executed in favor of the other 18 Pueblos has no legal basis, it would appear that neither AIPC nor IPCC has the one-nineteenth undivided interest owned by that Pueblo under the lease.

On March 11, 1977, the Aubuquerque City Council unanimously adopted Resolution No. R–290 supporting AIPC's request to have the Pueblo Cultural Center site taken in trust by the United States for the 19 Pueblos.

The administration testified before the committee in support of the legislation and stated that in their opinion the conveyances would not raise questions of Federal, tribal, and state jurisdiction. As trust lands, they are exempt from state taxation, but otherwise subject to state police and judicial authority.

NEED

Enactment of S. 1509 would clarify the status of the title to the land involved and eliminate any question or ambiguity concerning prohibition against alienation or encumbrance of the land.

Extending trust title to the 11.6 acres would make the Pueblos eligible to seek loans and grants from Federal agencies authorized to assist Indian tribes in the development of projects and activities which are based on the tribe's ownership of such lands. Trust status would also enable the Pueblos to utilize the land for a variety of other purposes.

LEGISLATIVE HISTORY

S. 1509 was introduced by Senators Domenici and Schmitt on May 13, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on August 4, 1977. Testimony was received from Senator Domenici, the Administration, and tribal representtaives, all of whom supported enactment of S. 1509.

A companion measure, H.R. 8873, was introduced in the House on August 5, 1977, by Congressmen Runnels and Lujan.

EFFECTIVE DATE FOR PUBLIC FINANCIAL DISCLOSURE

The resolution (S. Res. 265) amending Senate Resolution 110, 95th Congress, to establish January 1, 1978, as the effective date for public financial disclosure by Senate Members, candidates, officers, and certain employees, and for other purposes, was considered and agreed to, as follows:

Resolved, That section 313 of S. Res. 110, Ninety-fifth Congress, agreed to April 1, 1977, is amended by deleting subsection (b) and inserting in lieu thereof the following:

"(b)(1) Rule XLIV of the Standing Rules of the Senate (as such rules existed prior to the amendments made by title I) shall remain in effect for the period through December 31, 1977, except that a statement containing the information covering calendar year 1977 and required to be reported under that rule shall be filed on or before May 15, 1978.

"(2) Rule XLII of the Standing Rules of the Senate (as amended by title I), relating to public financial disclosure, shall take effect on January 1, 1978.

"(3) Individuals required to file a report during calendar year 1978 pursuant to paragraph 1(c) of rule XLII of the Standing Rules of the Senate (as amended by title I) shall only have to file a report containing the information (as of January 1, 1978) required by subparagraphs (e), (f), (i), (j), and (k) of paragraph 2 of that rule. In filing such report, all of the provisions of paragraphs 3, 4, 5, 6, and 7 of that rule shall be applicable.

"(4) In addition to the reports, if any, required by rule XLII of the Standing Rules of the Senate (as amended by title I) and rule XLIV of such rules (as such rules existed prior to the amendments made by title I), each individual (1) who for a period in excess of sixty days between January 1, 1978, and May 1, 1978, is a Senator, or an officer or employee of the Senate who is compensated at a rate in excess of $25,000, or (2) who, at any time during the period beginning January 1, 1978 and ending May 1, 1978, is an employee designated under Rule XLIX to handle campaign funds, shall, on or before May 15, 1978, file a report pursuant to paragraph 2 of rule XLII containing information (as of January 1, 1978) required by subparagraphs (e), (f), (i), (j), and (k) of paragraph 2 of that rule. In filing such report, all of the provisions of paragraphs 3, 4, 5, 6, and 7 of that rule shall be applicable.".

SEC. 2. Rule XLII of the Standing Rules of the Senate (as amended by S. Res. 110, Ninety-fifth Congress, agreed to April 1, 1977) is amended by striking paragraph 3(d) and inserting in lieu thereof the following:

"(d)(1) Except as provided in clause (2), each reporting individual shall report, in accordance with the provisions of paragraph 2, the identity of the holdings of and the identity of the source of income from a trust or other financial agreement from which income is received by, or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents.

"(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

"(A) any qualified blind trust (as defined in clause (3)); or

"(B) a trust—

"(i) which was not created directly by such individual, his spouse, or any of his dependents,

"(ii) with respect to which such individual, his spouse, and any of his dependents have no knowledge of the holdings or sources of income of the trust, and

"(iii) with respect to which such individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information,

but such individual shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under paragraph 2(a)(3).

"(3) For purposes of this subparagraph, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements:

"(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

"(i) is independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

"(ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or

involved in any joint venture or other investment with, any interested party, and

"(iii) is not a relative (as defined in paragraph 7(j)) of any interested party.

"(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Select Committee on Ethics.

"(C) The trust instrument which establishes the trust provides that—

"(i) except to the extent provided in subclause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(iii) the trustee shall promptly notify the reporting individual and the Select Committee on Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(iv) the trust tax return shall be prepared by the trustee or his designee and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return) shall not be disclosed to any interested party;

"(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by paragraph 2(a)(3) of this rule but such report shall not identify any asset or holding;

"(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(D) The proposed trust instrument and the proposed trustee shall be approved by the Select Committee on Ethics.

For purposes of this subparagraph, the term "interested parties' means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust and the term 'broker' is used as defined in section 78 of title 15, United States Code.

"(4) An asset placed in a trust by an interested party (within the meaning of clause (3)) shall be considered a financial interest of the reporting individual, for the purposes of any conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(5)(A) The reporting individual shall file within thirty days after a qualified blind trust is approved by the Select Committee on Ethics a copy of—

"(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under paragraph 3(a), with the Secretary of the Senate.

"(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Select Committee on Ethics of the identity of each such asset and the category of value of each asset as determined under paragraph 3(a).

"(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

"(i) notify the Select Committee on Ethics of such dissolution, and

"(ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under paragraph 3(a) of each such asset with the Secretary of the Senate.

"(D) Documents filed under subclauses (A), (B), and (C) of this clause shall be made available to the public in the same manner as a report is made available under paragraph 5 and the provisions of paragraph 5, as appropriate, shall apply.

"(E) A copy of each written communication with respect to the trust under clause (3)(C)(vi) of this subparagraph shall be filed by the person initiating the communication with the Select Committee on Ethics within five days of the date of the communication.

"(F) Any trust which is in existence prior to the effective date of this rule shall be considered a qualified blind trust if—

"(i) the Select Committee on Ethics determines that the trust was a good faith effort to establish a blind trust;

"(ii) the previous trust instrument is amended, or if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of clause (3)(C) of this subparagraph and a trustee is (or has been) appointed who meets the requirements of clause (3) of this subparagraph; and

"(iii) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under clause (5) of this subparagraph.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-448), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Senate agreement to this resolution would accomplish the following:

1. Rule 42, public financial disclosure would "take effect" on January 1, 1978 (rather than October 1, 1977).

2. Each person covered by old Rule 44 would make financial reports under its provisions for all of 197" (rather than the first three quarters of 1977).

3. Each person covered by Rule 42 would disclose by May 15, 1978, the same information required for the first filing under title III of S. 555 as passed by the Senate, namely, as of January 1, 1978, real property holdings, personal property holdings, personal liabilities, patent rights or interests in patent rights, outside positions held and post Government employee agreements.

4. Senators and others who become in 1977 or 1978 candidates for nomination or election to the Senate as defined in rule 42 would disclose the same information a Senator or other covered person who is not a candidate is required to disclosure (rather than disclose for all of 1977—or all of 1976 in some cases) under rule 42.

5. In addition to a person who is a candidate after January 1, 1978, rule 42 also would apply to a Senator, officer, or employee (compensated on any day at a rate in excess of $25,000) who is employed for 60 days between January 1 and May 1, 1978, and any employee designated under rule 49 to handle campaign funds between January 1 and May 1, 1978. Such persons would file by May 15, 1978, the same disclosure of property and liabilities required by S. 555 as it passed the Senate. S. 555 requires a covered person to file such a statement within 30 days of taking the covered position unless the person made such disclosure in his previous position. Senators, officers, and employees (compensated on any day at a rate in excess of $15,000) for 90 days or more in 1977 and employees designated for political fund activity in 1977 also would file a financial report for 1977 with the Comptroller General, under rule 44. But persons not employed 90 days or more in 1977 would not file under old rule 44. This definition of persons covered under rule 42 prior to the May 15, 1978 reporting date is required because the effective date is moved from October 1 to January 1. It also closes a possible gap in the application of the disclosure rule which might result in an employee hired late in 1977 or early in 1978 filing no disclosure until May, 1979.

6. The blind trust provision (Danforth amendment) adopted in S. 555 pursuant to S. Res. 110 would be incorporated in Senate rules, stating requirements of a "qualified blind trust" which if met would remove the need to dissolve a blind trust in order to comply with rule 42.

NEED FOR THE RESOLUTION

The Senate in this session has agreed to both a Senate rule and a bill providing for public financial disclosure by Senate Members, candidates, officers, and certain employees. The different effective dates established for the two similar disclosure measures have created uncertainties, ambiguities and complexities for those charged with implementing disclosure and those required to disclose.

On June 27, 1977, the Senate approved S. 555, title III of which provides for Government-wide financial disclosure. It set January 1, 1978, as the effective date for the disclosure act. Earlier, on April 1, 1977, the Senate agreed to S. Res. 110 which establishes a new Senate rule 42 on public financial disclosure. S. Res. 110 sets an effective date of October 1, 1977, for rule 42, and for the initial year of transition from the old disclosure rules to new ones requires a report under old rule 44 for at least the first three quarters of 1977 and another report under rule 42 for at least the last quarter of 1977.

Enactment of the disclosure statute this year would resolve the difficulties addressed by this resolution, but it is uncertain whether S. 555 or a similar statute will be enacted before the adjournment of this session. It is impossible for such to be enacted before

October 1. Senate adoption of this resolution would establish the same effective date for public financial disclosure under rule 42 as the Senate agreed to for the statutory provision, namely, January 1, 1978, and thus would:

1. allow the Select Committee the time needed to develop and pretest the reporting form, procedures, regulations and bookkeeping system required to implement financial disclosure;

2. give adequate notice to covered persons just what reporting procedures will be followed;

3. simplify the public report required during the period of transition; and

4. resolve an ambiguity in rule 42 which appears to require Senators and others who qualify as candidates in 1977 and 1978 to file public disclosure reports which are not required of Senators who are not candidates.

In addition, Senate adoption of the resolution would clear up the present uncertainty regarding the status of blind trusts, allow time for the Select Committe to issue regulations on blind trusts, and give to those who must take action with respect to blind trusts time to dissolve or amend them.

ESTATE OF PATRICIA A. MORTON

The resolution (S. Res. 266) to pay a gratuity to the First National Bank of Nevada, Las Vegas, Nev., as guardian of the estate of Patricia A. Morton, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to the First National Bank of Nevada, Las Vegas, Nevada, as guardian of the estate of Patricia A. Morton, daughter of Jean N. Morton, an employee of the Senate at the time of her death, a sum equal to five months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

ERNEST G. CATUCCI; ENRICO G. CATUCCI; PETER G. CATUCCI; GERARD CATUCCI; ANGELO CATUCCI; ANTHONY CATUCCI; KENNETH N. CATUCCI; GERALYN HUMPHREYS; CHRISTINE REAVES; AND TINALYNN CATUCCI

The resolution (S. Res. 267) to pay a gratuity to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; Kenneth N. Catucci; Geralyn Humphries; Christine Reaves; and Tinalynn Catucci, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ernest G. Catucci; Ernest G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; and Kenneth N. Catucci, sons of Pietro G. Catucci and Geralyn Humphries; Christine Reeves and Tinalynn Catucci, daughters of Pietro G. Catucci, an employee of the Senate at the time of his death, a sum to each equal to one-tenth of nine and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may move to reconsider, en bloc, the votes by which the various measures were passed.

Mr. BAKER. I am sorry; I was involved in another conversation.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may be permitted to move to reconsider, en bloc, the votes on the various measures that have been passed.

Mr. BAKER. I have no objection.

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion was agreed to.

TRANSFER OF MEASURES TO THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, Calendar Order Nos. 414 and 415 have been cleared for transfer to the Unanimous Consent Calendar. I ask the clerk to make those transfers.

The PRESIDING OFFICER. They will be so transferred.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, several nomiantions are pending on the Executive Calendar which have been cleared on both sides. I move that the Senate proceed to the consideration of those nominations.

Mr. BAKER. Mr. President, reserving the right to object, I have no objection. I note on my calendar that we have cleared for consideration and confirmation one nomination in the Department of State, one nomination for Arms Control and Disarmament Negotiations, eight nominations for International Atomic Energy Agency Conference Representatives, two more for the Department of State, and one for ACTION Agency.

Mr. METZENBAUM. Mr. President, are we talking about Mr. John D. Negroponte, Mr. Ralph Earle, II, and Mr. Fri?

Mr. CRANSTON. Yes, plus some more on the back.

Mr. METZENBAUM. At this point I would ask the majority leader if he would mind holding up the name of Robert Fri.

Mr. BAKER. Then, Mr. President, I withdraw my agreement to their confirmation, if we are going to hold up one of them.

LEGISLATIVE SESSION

Mr. CRANSTON. Mr. President, I move the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON NOMINATIONS

Mr. CRANSTON. I wish to express my regret that we did not confirm the nomination of Esteban Torres, a valued friend and former constituent of mine, and that we did not proceed to confirm the nomination of Ralph Earle of Pennsylvania, who is doing outstanding work at Geneva in the SALT negotiations. I have observed his careful and capable work, having personally met with him recently.

Mr. METZENBAUM. Mr. President, may I make an inquiry of the minority leader? I did not quite understand why he made a further objection to all of the nominations.

Mr. BAKER. I did not state a reason.

Mr. METZENBAUM. All right. I had the feeling we ought to withhold just this one temporarily.

Mr. BAKER. I have no objection, Mr. President, ever to proceeding in the normal and ordinary way to the consideration and disposition of the Executive Calendar, but I do not like particularly to single out either one who may be on the calendar, or to remove one from the calendar. So I would like to suggest that we defer the matter until later, and then return tomorrow to the consideration of the Executive Calendar.

Mr. METZENBAUM. I understand the Senator from Tennessee.

INCREASE OF THE DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the House of Representatives on H.R. 9290 be held at the desk pending further disposition.

Mr. ABOUREZK. Reserving the right to object, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. What is the status of H.R. 9290 at this point?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, this is an extension of the debt limit, and it is something that the national interest requires that we extend right away; otherwise the Government will be fiscally embarrassed.

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) wants to offer an amendment, which he explained to the Finance Committee, which would make this a 6-months extension rather than a 1-year extension, and in view of the fact that he is not here at this moment to offer his amendment, I think we ought to hold it.

But I would like to ask unanimous consent that we might call that up whenever the leadership is ready to call it up.

Mr. ABOUREZK. Mr. President, I object to whatever requests were made concerning that legislation.

Mr. LONG. It does not require unanimous consent to hold it at the desk; is that not correct?

The PRESIDING OFFICER. It does require unanimous consent to hold it at the desk. However, it does not require unanimous consent to have it placed on the calendar.

Mr. LONG. On the what?

The PRESIDING OFFICER. It does require unanimous consent to hold it at the desk, but it does not require unanimous consent to have it placed on the calendar.

Mr. LONG. I move that it be placed on the calendar.

Mr. ABOUREZK. I object.

Mr. LONG. Well, it does not require unanimous consent.

The PRESIDING OFFICER. If the Senator wishes to have it placed on the calendar, it would have to have first reading.

Mr. LONG. I ask for first reading.

The PRESIDING OFFICER. The clerk will read it.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ABOUREZK. For any business to be conducted during cloture requires unanimous consent. I object to anything being done with that piece of legislation.

Mr. LONG. I object to the bill going to the committee.

The PRESIDING OFFICER. We are now in a period of morning business, and the clerk will report the bill.

Mr. METZENBAUM. Mr. President, a point of order. I call for the regular order.

The PRESIDING OFFICER. If the Senator will withhold for a moment, the Chair would remind Senators that we are in morning business by unanimous consent.

Mr. METZENBAUM. That is the point that I wish to raise.

The PRESIDING OFFICER. The Chair will now recognize the Senator from Ohio.

Mr. METZENBAUM. We went into morning business by unanimous consent for a period of 5 minutes. The 5 minutes have expired.

Mr. ABOUREZK. That is right; regular order.

Mr. LONG. A point of order, Mr. President.

Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. The Senator's point is well taken. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Louisiana that I recognize the importance of this legislation, and the Senator has stated its importance to the Nation. I would hope that the Senators would allow the House message to be left at the desk, at least.

I ask unanimous consent that it be held at the desk pending further disposition.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. It is my understanding that a bill does not ordinarily go to a committee if there is objection to it going to a committee.

The PRESIDING OFFICER. The Senator is incorrect. If there is objection to it being held, and it cannot be read the first time, then it goes to a committee.

Mr. LONG. Mr. President, it is my impression, and I have been through some of this before, that if there is objection to a bill going to a committee, the bill is held at the desk.

Mr. ROBERT C. BYRD. That is correct.

The PRESIDING OFFICER. If there is objection after second reading.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House message be read the first and second times.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Now, Mr. President, it will lie over, will it not, until it has been read twice?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 110

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate agree to the following modifications of sections 307 and 308 of Senate Resolution 110, which was agreed to by the Senate on April 1, 1977: First, that the time for filing the reports required to be made by the Committee on Rules and Administration pursuant to sections 307 and 308 of Senate Resolution 110 be extended from September 28 to October 17, 1977; second, that the reports filed on October 17 consist of the committee's review of existing law in the areas delineated in sections 307 and 308; and third, that the report serve as the basis for a continued review of these matters, with a view toward subsequent hearings and consideration of specific proposals and recommendations by the Committee on Rules and Administration as one of its priority items at the beginning of the 2d session of the 95th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that the letter from Senator CANNON addressed to me on this subject be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR BOB: As you are aware, the Committee on Rules and Administration was requested by Sections 307 and 308 of Senate Resolution 110 to:

(a) "Study laws relating to contributions solicited from or made by officers and employees of the Senate, and report the results of their review, together with their recommendations," and

(b) "Report proposals to prohibit the misuse of official staff by holders of public office in campaigns for nomination for election, or election, to Federal office."

Although the Committee is required to report the results of this review by September 28, 1977, it does not appear that we will be able to discharge our responsibilities in a constructive manner by that deadline.

The Committee has received testimony and written statements on these issues from only a few Senators, and these have been most constructive and informative. Regrettably, however, we have not received the views of the Department of Justice, nor have we received statements from many Senators who have indicated they would like to share their opinions with the Committee at a later date. The Senate's commitment to the consideration of the pending energy legislation, among other matters, has made it extremely difficult for Members to give the items referred to in Sections 307 and 308 of S. Res. 110 the careful attention they deserve.

Consequently, the Committee, at its meeting today, decided to request your support for its continuing review of these issues in the following manner: First that unanimous consent be requested for the Committee to file a report, pursuant to Sections 307 and 308 of Senate Resolution 110, no later than October 17, 1977, setting forth the results of its review of existing law in each of these two areas, and reflecting the positions of the Department of Justice and the Federal Election Commission. Second, this report would also review recent actions of the Senate, and identify areas of uncertainty or confusion in either statute or agency interpretations. Such a report would be of valuable assistance to Senators who may wish to submit recommendations to the Committee, and would serve as a helpful guide to Senators and staff in these areas.

Technically, such a report, taken together with this Committee's recommendations reflected in Senate Resolution 188, could be considered a discharge of the Committee's responsibilities under Senate Resolution 110. The report, however, would serve as the basis for the Committee's continued review of these matters, with a view toward holding subsequent hearings and considering specific proposals and recommendations as one of the priority items on the Committee's agenda at the beginning of the second session of the 95th Congress.

The Committee believes that this approach will permit a more constructive review and resolution of the issues before it, and hopes you will be able to support its request.

With every good wish, I am

Sincerely,

HOWARD W. CANNON,
Chairman, Committee on Rules and Administration.

AUTHORIZATION FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO FILE REPORT BY FEBRUARY 28, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs may have until February 28, 1978, to report the results of its study, together with its recommendations, of the subject of handling employment discrimination complaints under section 310 of Senate Resolution 110, 95th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 7769 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7769 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 361

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 361. This House concurrent resolution would provide for the correction of the enrollment of the juvenile delinquency bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 361) was considered and agreed to.

ORDER VITIATING THE ORDER TO HOLD H.R. 7769 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order entered into earlier, to hold H.R. 7769 at the desk pending further disposition, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INTERNATIONAL LABOR ORGANIZATION AND HUMAN RIGHTS: ONE STRONG REASON WHY THE UNITED STATES SHOULD STAY IN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. HUMPHREY, that his statement on the International Labor Organization and human rights be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY ON THE INTERNATIONAL LABOR ORGANIZATION AND HUMAN RIGHTS: ONE STRONG REASON WHY THE UNITED STATES SHOULD STAY IN

The United States is nearing its critical decision as to whether or not it should remain in the International Labor Organization. News accounts covered the disappointing vote of the ILO June Conference on a key report from one of its main committees. In the wake of our frustration over that vote, talk of withdrawal has been rife.

However, little effort has been made to call to public attention the significant, constructive accomplishments and potential of this organization. These accomplishments warrant the most serious consideration by the public and those officials of government, labor and business who will draw up the balance sheet of assets and liabilities in determining the U.S. decision on this matter.

On the asset side of the ledger is one of the organization's least publicized, but most timely, continuing activities—the ILO's record on human rights. A review of current examples of the organization's operation and potential in this area seems to me not only relevant, but also essential to an intelligent decision. One must ask whether our attachment to human rights will be considered merely rhetoric if we abandon the most effective international enforcement machinery for certain of our central human rights objectives. Here, then, is a review of the recent ILO record as seen against the background of our announced goals.

In his Inaugural Address, President Carter said that "Our commitment to human rights must be absolute." In June he reiterated that this emphasis was "central to our foreign policy." Secretary of State Cyrus Vance has stressed that the Administration is eager, in view of this concern, "to strengthen the human rights machinery within the United Nations."

Yet, nowhere in the U.N. system are there procedures comparable in scope, experience and impact to those of the ILO. Whereas the U.N. Covenants on Human Rights were adopted a decade ago and have just begun to operate, the ILO has, over the half century of its existence, developed a series of human rights conventions and a system for promoting their implementation which would be impossible to duplicate elsewhere. Not only are these instruments specific in spelling out the rights of workers, in outlawing forced labor practices, and in defining job discrimination, but union and employer representatives also are fully associated in the ILO's efforts to detect and eliminate violations of the rights and freedoms which fall within its sphere of competence.

Rather than describe in detail the system of reporting, supervision, complaints, and special inquiries whereby the ILO carries out its human rights mandate, the operation of its procedures can best be illustrated by a few concrete examples taken from the cases examined during the current year. These cases cover the major areas of ILO concern and involve countries from all parts of the world.

FREEDOM OF ASSOCIATION

The ILO Committee on Experts on the Application of Conventions—which celebrated the 50th anniversary of its establishment this year—reported in its March meeting on the infringements of the Freedom of Association and the Right to Organize Convention by almost 40 countries which have ratified this instrument. When the experts' report was submitted to the ILO's annual meeting in June, the conference committee responsible for monitoring compliance with conventions singled out for "special mention" five of these countries, thus indicating that it deemed these violations to be particularly serious. The findings in each of these cases were based on discussions, often lasting several hours, in which the governments were questioned in detail, primarily by the workers and employers in the committee.

In the case of Argentina, the committee "expressed its concern at the present situation," i.e., the suspension of the activities of labor and management organization in the country in an effort to bring them under government control. The Committee urged that "measures to rectify the situation and to bring it into conformity with obligations under the Convention be taken as rapidly as possible." Echoing this strong appeal, the Colombian, West German, and British workers' delegates at the Conference lodged (on behalf of the International Confederation of Free Trade Unions) a formal complaint under the ILO Constitution, asking for the appointment of a commission of inquiry into Argentina's violations of the international labor conventions Freedom of Association. This demonstrates how, under the ILO system, exceptionally serious violations can be dealt with, both through the regular supervisory procedure (periodic examination by the experts and conference committees), and through other constitutionally available means.

In the case of another Latin American country, Bolivia, the conference committee noted "some improvement" as well as a government promise of new labor legislation to comply fully with ILO requirements. As stressed by the workers' members on the committee, here also regular supervision is reinforced by other ILO procedures: in this instance the ILO's machinery for dealing with violations of trade union rights has been and will continue to be closely involved (through meetings of a special committee on freedom of association several times a year, through on-the-spot contacts with the government, etc.).

In the case of Ethiopia, the committee expressed its "grave concern" at the domination of the labor movement by the new regime, and decided in a record vote to bring this to the special attention of the Conference.

In the case of Liberia, the committee voiced "extreme disappointment" that new legislation on trade union rights, long pending, had still not been adopted.

One of the longest discussions in the conference committee related to violations of the ILO's freedom of association convention by the Soviet Union. In March, the experts committee had noted that members of collective farms were now permitted to establish and join unions of their own (a result of previous ILO criticism); but the experts had found no evidence of progress on two other related issues: workers are unable to set up unions of their choice and the Soviet Constitution makes existing unions totally subservient to the Communist Party. After detailed questioning in the conference committee, the USSR government member did not oppose a formal expression of "concern" by the committee that changes were needed in the new draft Constitution of the USSR "to bring the legal position more closely into conformity" with the ILO's freedom of association convention. Where else in any international forum has the Soviet Union ever subjected itself to critical comments and demands such as these?

FORCED LABOR

In regard to the two major ILO conventions outlawing forced or compulsory labor, the experts committee had this year made critical comments to some 30 countries. Three of these cases were given special mention by the conference committee after its discussed them with the governments concerned.

In the case of Liberia, the committee noted "slight progress," but urged that "the legislation promised over many years should be expedited," in order to prevent compulsory labor for public works and to introduce penal sanctions for the illegal exaction of forced labor.

In the case of Uganda, the committee appealed to the government to maintain and respect its obligations under the ILO's Abolition of Forced Labor Convention through "urgent measures to bring its law and practice into conformity with it."

In the case of the Soviet Union, two major sets of violations were documented by the experts and discussed at length in the conference committee: the use of anti-parasite and vagrancy legislation to silence political dissenters; and the denial of freedom of movement and of choice of employment to the members of collective farms. In response the Soviet representative pleaded translation and interpretation difficulties (a defensive technique used when no substantive arguments are available); gave assurances that collective farm legislation would be brought "formally into line" with ILO requirements; and promised that his government would supply fuller information for examination next year. Here again, this low-keyed response contrasts with the sharp way in which the USSR has increasingly rejected human rights criticism elsewhere, whatever the source.

JOB DISCRIMINATION

In March, the experts committee had addressed comments to 20 countries in regard to the ILO convention against discrimination in employment. The two major violations of these requirements highlighted by the conference committee involve discrimination on the basis of political opinion practice in Chile and in Czechoslovakia. Though

at opposite ends of the ideological spectrum, both regimes have been equally guilty of dismissing workers on the sole grounds of their political views and independence.

In the case of Chile, some workers fired after the military coup of 1973 have since been rehired, but the conference committee voiced "grave concern regarding the further action required" and called for "further evidence of real progress."

In the case of Czechoslovakia, dismissal of political dissenters has been a major tool of control during the post-Dubcek era. Following severe ILO criticism, some repressive features of the labor legislation were changed in 1975, but the government has failed to supply information on actual cases of dismissal and reinstatement. The experts committee had also referred to Penal Code provisions which define "incitement . . . against the Socialist State and social system" as "a crime against the Republic."

The conference committee concluded in June that this raised doubts as to the government's promises and practice. As if in substantiation of such doubts, the International Confederation of Free Trade Unions formally filed with the ILO earlier this year a constitutional "representation" containing a list of persons whose civil and political rights have been violated and "who have been discriminated against in their employment." Immediately after the June conference, the ILO decided to establish a committee to examine these allegations, a further illustration of how the ILO human rights machinery can combine regular supervision with special investigative action, whenever this is requested by its constituents.

U.N. COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Over the 50 years of its existence the ILO's machinery has dealt with literally thousands of cases where the social and human rights of workers have not been respected, and in a significant proportion of these cases remedial measures have been documented. With the entry into force last year of the U.N. Covenant on Economic, Social and Cultural Rights, a functional extension of ILO action has now become possible.

Under the terms of the Covenant, the Economic and Social Council of the U.N. is to receive from the ILO information on the observance, by the 40-odd ratifying countries, of such key provisions as those dealing with freedom of association, trade union rights and the safeguarding of fundamental political and economic freedoms to the individual, when full employment policies are pursued. The ILO decided in November 1976 (over the determined opposition of the Soviet bloc) to entrust this new task of examination to its experts committee, beginning in March 1978.

HELSINKI AGREEMENT

In the Declaration of Principles, which is part of this Agreement, participating States promise "respect for human rights and fundamental freedoms" and undertake to "fulfill their obligations as set forth in the international agreements in this field."

As a result, the findings of the ILO in regard to its human rights conventions could afford a unique and comprehensive basis for determining compliance or otherwise with the terms of the Helsinki Agreement.

WHAT ARE THE PROSPECTS FOR THE FUTURE?

The ILO's record on human rights has taken decades to build up. It has required the framing of meaningful instruments, action to secure their ratification (each of its major human rights conventions now binds from 80 to 100 countries) and the gradual emergence of comprehensive arrangements to supervise and promote their implementation.

No tangible results would, however, have been possible without the patient, often painful, repetition year after year of expert scrutiny and tripartite discussion. In all this, the role of labor and management has provided an added dimension and an element of strength, unmatched in any other global context; without a doubt, the active participation of employers' and workers' representatives in the International Labor Conference has been decisive in getting governments to come and discuss alleged violations and steps for their elimination.

But the crucial element of effective human rights action has been the persistent support given to this aspect of the ILO's work by the United States, by its fellow democracies and, indeed, by labor and employer representatives from a surprisingly broad range of other countries. The Conference's failure this year to give its formal endorsement to an admittedly first-rate report of its committee on conventions was due not to a breakdown in the human rights machinery but to an alliance of various forces centered on an extraneous political issue (the application of conventions in the territories occupied by Israel. This failure will not cause the ILO's machinery to grind to a halt, since the same machinery easily survived a similar mishap three years ago.

It is a more sinister scenario which could pose a serious threat to the ILO's human rights activities: attempts by the Soviet Union to seize control could prove successful when—and only when—the United States is no longer present and able to throw its unequalled weight behind a system which, though 50 years a building, could be turned into an empty shell in a fraction of that time.

COMPREHENSIVE NATURAL GAS POLICY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. HUMPHREY, that a statement by him on Senate action on S. 2104, a bill to establish a comprehensive natural gas policy, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY ON COMPREHENSIVE NATURAL GAS POLICY LEGISLATION

Due to my recuperation from recent surgery, I have been necessarily absent from the Senate during consideration of S. 2104, a bill to establish a comprehensive natural gas policy. However, I have endeavored to remain informed on the substance of Senate floor action on this highly important legislation. Moreover, I have been periodically in telephone contact with the President, the Majority Leader, the floor manager of this legislation, and other Senators in an effort to assist in the resolution of Senate action on this bill.

Numerous votes have been recorded on this measure and on parliamentary procedure, including 80 votes over a three-day period, once a motion to close further debate on the Pearson-Bentsen amendment No. 862 was agreed to by the Senate on September 26. Whenever possible, on the basis of sufficient information at hand on the immediate issue to be resolved in these votes, I have requested that my position be announced. Moreover, I have greatly appreciated the courtesy extended to me on certain key votes by Senator John Stennis in withholding his vote on the other side of the issue on my behalf, under the procedure commonly referred to as a pair vote.

The substantial majority of amendments called up after cloture was invoked have been tabled, leaving the basic issue of natural gas pricing regulation versus deregulation still to be resolved.

I strongly support a compromise substitute amendment developed by Senators Robert C. Byrd and Jackson, in lieu of the Pearson-Bentsen amendment and other substitute amendments, and on which Senate floor action is anticipated on September 29 or shortly thereafter.

I believe this compromise amendment provides a sufficient price incentive to producers to increase critically needed natural gas supplies, particularly with the further provision in this amendment relating to the definition of so-called "new" gas.

Of great importance to Minnesota is the fact that this compromise amendment also provides that agriculture requirements, as well as the needs of schools and hospitals, will be given allocation priority in the event of natural gas supply curtailments.

It is essential that the Senate pass, without further delay, comprehensive natural gas policy legislation that basically maintains the principle of price regulation in the public interest, adequately protecting consumers at the same time that gas supplies are increased and made readily available across the nation.

In the absence of this action, it will be impossible to achieve agreement in House-Senate conference on the final version of this legislation to be sent to the President. And without the enactment into law of legislation along the lines of the Byrd-Jackson compromise substitute, the existing and totally unacceptable situation with respect to natural gas supply availability will be continued throughout the nation into the coming winter.

POSITION ON VOTES ON S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. HUMPHREY, that a statement by him announcing his position on certain rollcall votes in the Senate on September 28, 1977, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY: POSITION ON VOTES ON S. 2104

Regretfully, through inadvertence, my position on several RECORD votes on Sept. 28, 1977, relating to S. 2104, a bill to establish a comprehensive natural gas policy, was not announced. Had I been present and voting, I would have voted as follows:

Rollcall vote No. (Leg.)	*Position*
469	nay
470	nay
471	nay
474	nay
475	nay
476	nay
477	nay
478	nay
479	nay

H.R. 7769

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a House message on H.R. 7769 be read the first and second time.

Mr. BAKER. Mr. President, reserving the right to object, I can say at this hour and under these circumstances I am not sufficiently familiar with the subject matter of this bill to agree, and it is with great reluctance and having no bearing on the merits of the proposal that I must now interpose an objection.

The PRESIDING OFFICER. Objection is heard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. It has been closed.

Mr. ROBERT C. BYRD. It has been closed.

Mr. President, before we recess, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question before the Senate is amendment No. 862, as amended.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, first, thanks to all Senators, let me say that.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and at 11:27 p.m. the Senate recessed until tomorrow, Friday, September 30, 1977, at 10 a.m.

EXTENSIONS OF REMARKS

FROM NORWALK WITH LOVE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SOLARZ. Mr. Speaker, for nearly 3 years now, I have been actively involved in the effort to publicly pressure and privately persuade Soviet officials to release Leib Khnokh from Vladimir Prison.

Mr. Khnokh is but one of the multiude of Jews who have been sentenced to lengthy terms in labor camps, because he attempted to freely execute his religion and sought to emigrate to Israel. He is currently serving a 10-year sentence on a number of trumped up charges. I was deeply honored when the Greater New York Conference on Soviet Jewry asked me to adopt Mr. Khnokh as my prisoner of conscience.

Unbeknownst to me, however, 12 couples who reside in Norwalk, Conn., began their own efforts recently for the release of Leib Khnokh and his fellow prisoners. At this time, I would like to insert in the RECORD their story which appeared in the New York Times August 7:

FROM NORWALK WITH LOVE

(By Anne Anable)

NORWALK.

If Leib Khnokh, a Soviet Jew, is released from Vladimir Prison, where he has spent the last seven years, he may owe his freedom, in part, to the efforts of 12 couples in Norwalk he has never met.

The core of the group was formed six years ago when 12 couples who were dissatisfied with the leadership of their local synagogue decided to strike off on their own.

"We've met every Tuesday and Friday night since that time," said Ellen Donen. She and her husband, Charles, are one of the original couples involved. "On Tuesdays we have a discussion or study group, and on Fridays, the Jewish Sabbath, we form our own prayer group. At whatever house we meet, that couple leads the services. We celebrate religious holidays together, go to the weddings of each other's children and take courses together. We are very good friends."

"Eventually we decided we were meeting our own needs, but wanted to help others," said Ruth Miller. Mrs. Miller and her husband Philip are also one of the founding couples.

The group decided to adopt two children in Israel through Save the Children Federation of Westport, and donated money for an old people's home. Last winter they learned of Leib Khnokh and his plight through the New York Conference on Soviet Jewry.

"I have a friend who is a vice chairman," said Mrs. Donen, "and we became interested in the plight of these people. There are about 50 prisoners of conscience in Soviet jails. The most famous is probably Anatoly Shcharansky, who is truly a leader, and is facing trial for treason.

"We chose Leib Khnokh because we were impressed by his heroism. He is an Orthodox Jew and even in prison wouldn't eat unsuitable food. It was surely very difficult to practice his religion in the Russia of today. We are not Orthodox ourselves, but we don't feel this is just a Jewish problem. The issue is human rights. We are all involved."

In 1968, Mr. Khnokh and his wife, Meri, began applying for exit visas to Israel. In June 1970, together with two friends and his pregnant wife, Leib Khnokh tried to escape. They were arrested within 40 miles of the Finish border. Mrs. Khnokh was allowed to emigate to Israel, where she lives with her son, Yigal, 6 years old, and is studying to be a hospital technician. Mr. Khnokh's brother, Pinchas, a doctor, was also given permission to leave and he practices in Israel.

As the organizer of the escape attempt, Mr. Khnokh was sentenced to 13 years in prison, but the term was later reduced to 10 years. Word has filtered out that he is dangerously ill with a stomach ailment.

"We have been told our letters and cards are a sort of insurance policy on his life," said Mrs. Donen. "We've no way of knowing if he sees our correspondence, but we do know the Soviet Government reads every word. They are very sensitive to pressure from the outside world."

Every Friday after the evening prayers, the group sends letters—to Mr. Khnokh himself, to his wife and son, to President Carter and to Connecticut senators and congressmen.

"We are trying to get friends outside Norwalk—even in other parts of the country—who will write, so the geographic distribution will be wider," said Mrs. Miller.

The group has compiled a letter-writing fact kit, distributed through the Jewish Community Council of Norwalk, establish communication with Mrs. Khnokh in Israel, and managed to interest Mayor Jennie Cave of Norwalk, who declared April 8 Leib Khnokh Day.

Through some friends from Norwalk who were going to Israel, Irving and Rita Schwartz, they sent money to Mrs. Khnokh and some presents for Yigal, who has never seen his father. "We wanted to send the money through an intermediary so we wouldn't offend," said Mrs. Donen. "She understood completely and wrote us what a help it would be to be able to buy things for Yigal's school year."

The meeting was particularly emotional, largely because Mrs. Khnokh had no idea such efforts were being made on her husband's behalf by a group of strangers thousands of miles away.

"We aren't seeking publicity for ourselves," said Mrs. Donen with evident sincerity. "We are acutely aware we may not see the results of our efforts for a long time. It's easy to get people involved in short-term projects where their work is rewarded. We know our campaign helps, but there's no way of being certain whether Lieb Khnokh will serve a shorter prison sentence because of these efforts.

"We can only hope and pray we are keeping him alive, so he'll be reunited with his family one day."

Those who wish to write are invited to contact Mrs. Donen or Mrs. Miller in Norwalk, or write to Leib Khnokh, Vladimir Prison, POB. OD 1. ST 2, Vladimir, U.S.S.R.

BETTER PREVENTIVE HEALTH CARE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ARCHER. Mr. Speaker, a good friend of mine in Houston, Dr. R. O. Brennan, chairman of the board of trustees of the International Academy of Preventive Medicine, has proposed a series of measures he feels will stimulate better health care.

While there is room for discussion about these specific proposals, the need for better preventive health care is indisputable:

BETTER PREVENTIVE HEALTH CARE

The International Academy of Preventive Medicine presents the following proposals as innovative policy changes for the consideration of President Carter:

Proposal: A graduate school of preventive medicine must be established to assist doctors in practice to become interested and oriented into a total, holistic, preventive medical health care program. A curricula should be established to allow the shortest possible time that could be given to training the average practitioner. (This would include how many attendance hours and how many correspondence hours would be needed, as well as setting up an International Preventive Medicine Board, so that certificates and diplomas could be given to those physicians who have studied and become proficient in the preventive medicine approach.) An International Institute of Preventive Medicine could provide short seminars, and offer cassettes and written instructions by mail. The Institute could then conduct Board Examinations that would enable those who qualified to receive an International Board of Preventive Medicine Certification that would make them an International Diplomate.

Proposal: A meaningful nutritional program must be instituted for the dietitians who are in charge of the feeding of patients in hospitals, residents in rest homes, inmates of correctional institutions, members of the military, school children, and employees who eat in company cafeterias, so these dietitians could establish adequate programs to give all these people optimum nutrition for a better state of health.

Proposal: A better Food Stamp Program must be initiated so that food stamp recipients will receive the foods they need to rebuild their bodies and re-establish better mental acuity, so that they would have the ambition to work and lift themselves up out of their present condition. Stone-ground whole grain flours should be a basic food with milk products and soybean products stressed.

Proposal: A special program must be initiated for junior and senior high school students so that they will learn enough meaningful nutrition that they can learn to eat as they should. They must learn the components of food, and recognize the fact that they will have to take extra concentrated nutrients to keep their bodies healthy enough to stay slim and have a healthy baby when they get married and pregnant. Proper pre-natal nutrition can prevent so many of the problems seen in so many children today—birth defects, poor health, hyperactivity, and learning disabilities.

Proposal: Special emphasis should be placed on foods which contain the nutrients necessary to sustain health.

Proposal: Special awards and considerations should be given to people who remain healthy and do not use up a lot of "hospital credits." We are seeking, in other words, an incentive for staying well, and a penalty for becoming sick.

Proposal: The direction of the insurance companies should be changed to provide emphasis on preventive health care, providing a method of catching and dealing with overweight and the early stages of the chronic degenerative diseases. Insurance companies must be made to realize that preventive medicine is far less expensive than crisis medical and hospital care.

Proposal: A gigantic informational campaign must be instituted to inform the citizens of our country of the critical crisis that confronts us all in the sick-care area. It must be pointed out that our personal energy and internal environmental problems are more dangerous and appalling than the so-called "fuel energy crisis." It must be pointed out that everyone is essentially responsible for his own health and, eventually, his own sickness. Then it will become every person's duty to keep himself healthy by doing the things that are necessary to supply the cells of his body with what they need to maintain good health. Only the maintenance of good health can keep down the escalating medical and hospital bills.

PANAMA CANAL TREATY—A GIVEAWAY

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SHUSTER. Mr. Speaker, many arguments have been espoused by many sources on both sides of the Panama Canal Treaty. However, I commend to my colleagues an excellent article written by Anthony Harrigan of the Parkersburg, W. Va. Sentinel.

I sincerely hope that the American people are aware of the absurd nature of this treaty, which in effect has the United States paying a dictatorship to take territory that is legally part of the United States. Mr. Harrigan's comments clearly point out the administration's serious error in giving away what is considered a key strategic zone for our national defense:

[From the Parkersburg, W. Va. Sentinel, Aug. 15, 1977]

A PANAMA CANAL GIVEAWAY

Much to the surprise of the American people, it now appears that the Carter administration is very close to concluding a treaty that would relinquish a great part of the U.S. position in the Panama Canal Zone.

Though the administration has sought to present itself as an "open door" administration, negotiations with the dictatorial regime in power in Panama have been conducted in great secrecy. Only recently did Congress learn that the principal remaining issue in the negotiations is the amount of money the United States will provide as an annual payment to Panama between now and the year 2000.

Though the Carter administration is on the point of concluding a treaty satisfactory to the Panamanian strongman, Gen. Torrijos, the domestic struggle over the treaty is only beginning. More than 30 senators have gone on record as opposing a new treaty that would involve relinquishment of a sovereign control by the United States. U.S. Sen. Strom Thurmond (R-S.C.) is the leader of Senate opposition to a Panama Canal giveaway. Sen. Thurmond recently declared: "I intend to fight the treaty with all my strength."

As the new treaty would involve a transfer of U.S. property, the House of Representatives also will have an opportunity to block the giveaway.

The Panamanian treaty debate in Congress is likely to be one of the most important and intense debates in the history of the United States made the Louisiana Purchase or the treaty of 1867 which formalized the purchase of Alaska from Russia. If U.S. control of the Canal Zone is invalid, as an outdated act of colonialism, then America's title to Alaska is equally invalid.

The fact is, however, that the U.S. Supreme Court, in the case of Wilson vs. Shaw, handed down the ruling that the 558 square miles of the Panama Canal Zone is United States territory. This is the law of the land.

There is much more to the Panama Canal situation than legal issues, to be sure. Firm control of the canal by the United States is vital to U.S. Security and the well-being of friendly nations in this hemisphere and the world. Fourteen thousand ships transit the canal each year, making the waterway a key element in the global maritime lifeline.

Advocates of a canal surrender argue that the waterway is outmoded in terms of the needs of the U.S. Navy. In point of fact, fewer than 15 U.S. Warships are too wide to use the canal. The canal easily accommodates the remainder of the fleet."

Furthermore, continuing U.S. control of the Panama Canal is essential in view of America's energy requirements. In the event of another Arab oil embargo, the Eastern seaboard would have great need of oil from Alaska. Much of this oil would be transported in small and medium-size tankers.

In trying to sell the idea of a new treaty, the Carter administration promotes scare talk about a violent upheaval in Panama if America fails to yield.

It's possible that the Torrijos regime may stage riots to engender fear of a mini-Vietnam at the Isthmus. The U.S. public should recognize such riots, if they occur, as political theater, designed to weaken the resolve of the American people.

A TRIBUTE TO MR. RICHARD "DICK" HUBER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Richard "Dick" Huber of company No. 2 of the Mineola, N.Y., Fire Department. Mr. Huber will be honored on October 14, 1977 at a dinner given by his colleagues for 50 years of distinguished and loyal service to the department.

Mr. Huber began his career of dedicated assistance to the department and community in October 1927 when he was accepted as a fireman by the village of Mineola. In 1930 he was elected as treasurer of company No. 2. From that point on he continually rose in the ranks of public service, from treasurer, second lieutenant, first lieutenant, captain, warden, first assistant chief, chief of the department in 1957, and ultimately to president of company No. 2 in 1964.

In addition to Mr. Huber's service to the fire department as an officer, he has also been a member of numerous committees and supportive affairs in the department. He is a charter member of the Exempts Benevolent Association where he has served as past president and presently holds the position of trustee.

Mr. Huber's career has been highlighted by his dedication and leadership in the fire department and the community. I extend my heartiest congratulations to an outstanding public servant on this his golden anniversary.

JAPANESE PARLIAMENTARIANS SHOW CONCERN ON POPULATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SIMON. Mr. Speaker, a number of us in the House and Senate met with a delegation of Japanese parliamentarians in the Capitol on September 15, 1977, to formulate plans for an informal international working group of parliamentarians concerned with population and development issues.

In a luncheon session I cochaired with Senator BOB PACKWOOD, we agreed on plans to visit some of our counterparts from Canada, Great Britain, and Germany later this year as a first step toward this goal.

The proposed group was initiated by the Japanese legislators, led by the distinguished former Prime Minister of Japan, Mr. Nobusuke Kishi. A member of the Japanese Liberal Democratic Party and president of the Japanese Parliamentary Federation for Population, Mr. Kishi headed the delegation we met with on September 15.

At the conclusion of our meeting, we issued a statement expressing our concern about population and development issues and outlining proposals for enlisting the support of other parliamentarians from around the world in dealing with problems in these areas.

We would like to share that statement with other Members. The complete text follows:

As individuals who are members of national legislative bodies, we share a common interest in problems of economic and social develop-

ment and a concern for the role of population factors in development. We recognize that world population has been increasing at an unprecedentedly rapid rate and that this increase threatens many national and international goals which our governments endorse. We believe there is undisputed recognition of the need to address population and development problems at the local, national and international level, through a variety of voluntary health, education, family planning and rural development programs, and with the active assistance of private organizations, governments and international agencies.

In order to promote humanitarian solutions to the problems of population and development and to carry out and to emphasize the spirit of voluntarism and international interdependence, we propose to take the following measures:

(1) To encourage more communication among interested legislators in order to foster greater understanding and support of population programs and development needs.

(2) To encourage the establishment of informal and unofficial working groups of parliamentarians who will meet and confer from time to time on population and development issues.

(3) To propose and work for adoption of policies and regulations which will assure the basic human rights of all individuals and couples "to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so", as agreed upon at the 1974 Bucharest World Population Conference.

(4) To stimulate interest of national governmental bodies in increased support for bilateral and multilateral population assistance programs designed to assist developing countries in socio-economic development.

(5) To work for increased research by private and government agencies in reproductive biology to develop and test improved methods of voluntary fertility regulation.

(6) To encourage cooperative programs between governments in training, medical research and technical assistance.

(7) To invite interested legislators from all nations to participate in population and study visits to learn about and review population and development policies in other nations.

(8) To consider an international conference for legislators on population and development where current data, issues and programs could be discussed in depth with national policy makers and internationally recognized experts.

Through these measures, we hope to contribute to the common goal of social and economic development to improve the well-being of all peoples throughout the world.

Also participating in the luncheon meeting at the Capitol Thursday were House Speaker THOMAS P. O'NEILL and Patsy Mink, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Hosting the Japanese delegation were former Senators Joseph Tydings and Robert Taft, Jr. Tydings is cochairman and Taft is a director of the Population Crisis Committee.

In addition to Kishi, the Japanese delegation included: Mr. Takashi Sato, secretary of the Japanese Parliamentary Federation for Population (JPFP) and a member of the Liberal Democratic Party (LDP); Mr. Shogo Abe, chairman of the Committee on Family Planning, Maternal and Child Health and Contraception of the JPFP and a member of the Socialist Party (SP);

Mr. Yoshito Fukuoka (SP), of the Construction Committee of the House of Representatives; Mr. Eisaku Sumi (LDP), of the Social and Labour Affairs Committee of the House of Representatives; Mr. Hiroshi Kodera, of the Social and Labour Affairs Committee of the House of Representatives and a member of the Komeito Party (KP); Mr. Kosaku Wada, of the Social and Labour Affairs Committee of the House of Representatives and a member of the Democratic Socialist Party (DSP);

Mr. Kazuo Tamaki (LDP), of the Social and Labour Affairs Committee of the House of Councillors; Mr. Tokicho Abiko (LDP), of the Foreign Affairs Committee of the House of Councillors and exdirector general of Food Agency;

Dr. Saburo Ohkita, president of Japan Economic Research Center; Mr. Nihachiro Hanamura, vice chairman of the Federation of Economic Organizations; Mr. Hisatsune Tokunaga, vice president of Nippon Steel Corp.; Mr. Kazutoshi Yamaji, chairman of the Japanese Organization for International Cooperation in Family Planning, Inc. (JOICFP);

Dr. Eiichi Wakamatsu, chairman of the Japan Public Health Association; Prof. Masaaki Yasukawa, professor of Keio University; Prof. Shuzaburo Takeda, professor of Tokai University; Mr. Shozo Koyama, secretary, Ministry of Finance; Mr. Katsuhiko Tsunoda, director of the Immigration Division of the Ministry of Foreign Affairs; Mr. Ichitaro Tamatani, chief-director of the Culture Department of NHK (Japan Broadcasting Corp.);

Mr. Chojiro Kunii, executive director, JOICFP; Mr. Tameyoshi Katagiri, director, JOICFP; and Mr. Shigeyoshi Yoshida, project manager, JOICFP.

HON. WILLIAM R. HULL, JR.

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. FLYNT. Mr. Speaker, I join with the gentleman from Missouri (Mr. COLEMAN) in paying tribute to the life and service of our deceased, former colleague, Hon. William R. Hull, Jr., of Missouri.

It was my privilege to have served with Bill Hull from the beginning of his service in Congress on January 3, 1955, until his voluntary retirement at the end of the 92d Congress. During much of this period, he and I served on two separate committees together. The first committee on which we served together was the Committee on Interstate and Foreign Commerce on which he served with distinction. He was a valuable member of the committee and his contributions to the work of the committee were manifold. Upon the death of the chairman of the Committee or Appropriations in 1964, Mr. Hull was elected to fill the vacancy on the Committee on Appropriations. We served on that committee from 1964 until the end of the 92d Congress.

We knew Bill and his family well and we especially remember the pleasant friendship between Susan and Billy with our own children. Bill's sister, Mrs. Margaret Hull Lynch, came to Washington when Bill, Billy, and Susan came and made her home with them during the period of Mr. Hull's service to this body.

There are many good things which I remember with great pleasure about my friendship with Bill Hull. He was an able Member of this body and a dedicated public servant of the people of his district and State. He was a man who possessed the very highest moral principles, character, and reputation. From his first election he was overwhelmingly reelected to the eight succeeding terms for a period of 18 years. He served his district, State, and Nation honorably, capably, and well. He was my warm and close personal friend and one by whom I felt privileged to be called a friend.

Patty and our children join me in extending our affection and heartfelt sympathy to his sister, Mrs. Lynch, and his children, William R. Hull, III and Mrs. Susan Hull Hudson.

WELFARE REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GRADISON. Mr. Speaker, on September 19, 20, and 21, administration officials appeared before the Welfare Reform Subcommittee, of which I am a member, to testify on the President's proposed welfare reform package. From their testimony and the ensuing questions from committee members, it appears to me that there exists sharp disagreement as to the meaning of "welfare reform."

It is my impression that most First District residents and citizens across the country view meaningful welfare reform primarily as providing income producing employment or job training, if needed, to able welfare eligibles. Such an approach would stimulate independence from a growing welfare system, providing more equitable income opportunity for the recipient and lessened program cost to an already overburdened American taxpayer.

For too long, the hodgepodge of welfare programs has been wrought with fraud and abuse while many truly needy families were frustrated at the inequities in benefit entitlements. Lack of job opportunity coupled with the difficulty of providing for a family on fixed income has created a situation of entrapment for too many. President Carter's plan, entitled, "Better Jobs and Income Act," promised to address these concerns at a net cost increase of $2.8 billion over existing expenditures. After these preliminary hearings, I am not convinced that the President's program is truly directed at these goals.

It is my belief, from cost figures provided by administration officials, that the net increase in program cost will be closer to $14.5 billion over present expenditures rather than the $2.8 billion increase outlined by the President in August. This $14 billion figure, in my estimation, is conservative and could go higher still.

Rather than reducing the number of those dependent on welfare benefits, the plan now before the subcommittee seeks to cover groups of people never before

eligible for welfare benefits: single individuals, childless couples, and two-parent families with a current wage earner.

The earned income tax credit (EITC) would be expanded under this proposal to reach families at the national median income level and higher. For a family of four, a graded credit against tax due should be applied up to a family income of $15,400. For a family of seven or more, the phaseout point would reach $22,000. While I feel that tax relief is badly needed for middle-income families, by providing such relief as part of the welfare package rather than through meaningful tax reform, our country would be in a position where close to 50 percent of all families in America would be receiving assistance, in whole or in part, under this plan. Frankly, I am troubled by the implications to our society if we accept the notion that half the American people are going to take money out while the other half puts in.

The adequacy of the jobs component of this bill most certainly needs to be questioned further. Under the President's plan 1.4 million jobs would be provided by the Federal Government for those with dependent children who cannot find employment in the private sector. The 1.4 million figure, designed to meet job opportunity demand, is based on computer projections which attempt to define economic conditions in 1981, the year in which this bill would take effect. That computer projection includes an unemployment figure of 5.6 percent. I certainly hope that such a figure or one even lower is possible. However, should the 5.6-percent figure prove to be incorrect, creating 1.4 million jobs will not provide enough employment opportunities to reduce the dependence on direct cash assistance in the manner which I think the American people, both jobseeker and taxpayer alike, are looking for this plan to provide.

Our State and local governments are badly in need of assistance with present welfare programs. Needy families are seeking simplification of program eligibility guidelines and meaningful job opportunities. The American taxpayer is looking for relief from the financial and social burden of a costly, self-defeating system of welfare dependence. All of these concerns need to be met in any comprehensive welfare reform package.

The Subcommittee on Welfare Reform will continue to work on the President's program through December. I am hopeful that many of these very serious problems can be fully addressed and a welfare reform package which meets the standards of the American people can be agreed upon.

LET US PROTECT OUR OWN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MOTTL. Mr. Speaker, in my area of Ohio we have been severely impacted by many kinds of imported goods. Many of my constituents are employed in the steel industry, in the auto industry, and also the knitted outerwear industry.

More than 250 domestic knitting mills have gone out of business in the last 2 years. Just recently in the Cleveland area, a company which employed over 450 people, was liquidated due primarily to trade displacement from cheaply manufactured garments.

I have received numerous letters from constituents of mine who work for knitted outerwear industries. The companies cannot compete with cheap imported goods. This poses a severe threat to our economic well being.

I would further point out that the domestic companies must pay social security, have established pension plans, and comply with U.S. Government regulations. Although they pay substantially higher wage rates than our minimum wage, their foreign competition has little or no wage or work condition regulations.

In the best interest of our country, of our knitted outerwear industry, and of the workers in that industry, I urge my colleagues in the House to take a long, hard look for possible remedies to this import problem.

OIL FUND SHIFTS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. WHITEHURST. Mr. Speaker, the following three items were sent to me by Rear Adm. C. C. Andrews, USN, retired, and I am pleased to take this opportunity to share them with my colleagues.

The first two items, entitled "West 'Fails To Cope' With Oil Fund Shifts" and "Arms Shopping," appeared in the September 19, 1977, issue of Kayhan International; the third, an editorial by Publisher Julian S. Lake, comes from the August 1977 issue of Military Electronics/Countermeasure. Having just returned from the meeting of the North Atlantic Assembly in Paris, to which I was a Delegate, and having been a member of the Military Committee and its subcommittee on weapons standardization, I can attest to the accuracy of many of Mr. Lake's comments, particularly with regard to the concept of the "two-way street."

As Admiral Andrews pointed out in his cover letter to me, "These people are anxious to return our oil dollars but, if we don't want them, others do." I hope that my colleagues will find an opportunity to read these three articles.

[From Kayhan International, Sept. 19, 1977]

WEST "FAILS TO COPE" WITH OIL FUND SHIFTS

WASHINGTON.—Industrialised countries have shown no evidence they are prepared to tackle seriously their total denendence on OPEC, a Senate staff report said Saturday.

Reviewing problems of international debts resulting from the six-fold increase in the price of oil, the report said the fact that the world was coping with disequilibrium "does not mean that is has countergrips with the ultimate economic, social and political consequences of this massive transfer of resources, which is only now beginning to be felt."

It added there was no evidence that the U.S. Government or the governments of other industrial major countries were prepared to tackle seriously dependence on the Organisation of Petroleum Exporting Countries.

It said oil-producing states now held about $50 billion in assets in the United States and in overseas branches of U.S. banks.

The surplus states, it said, had so far been careful not to destablise Western capital markets in disposing of their surplus funds.

But in another major outbreak of hostilities in the Middle East "can one be sure that they will continue to act in the best interest of the Western financial system?" the report asked.

It said there was no guarantee that Saudi Arabia, which did not hestitate to use the oil weapon against the United States in the last Middle East war, would not wield the money weapon in a new war.

The report, prepared for the Senate Foreign Relations Subcommittee on Foreign Economic Policy, expressed concern at the role of major American banks in making loans to the less developed countries which found themselves in desparate need of money because of oil payments.

In a "doomsday scenario," the report said the banks are worried those nations are so broke they "will find it more in their interest to simply default or repudiate their external debts rather than to have to continue borrowing just to repay old loans," the report said.

"And if this happens, a domino effect could take place in which other debtor countries follow suit, the banks panic and start calling in their international loans, the stock market drops precipitously, and the international capital market collapses," the report said.

"This doomsday scenario may be extreme in its pessimism, but it is being taken seriously enough by responsible officials that a concerted international effort is now underway to prevent that first domino from falling," the report said.

"Not only developing nations are hard pressed by the oil price increase. Such American allies as Britain, France, Italy, Turkey, Greece, Mexico and Brazil also are under severe financial strain," the report said.

"The United States can hardly afford to stand by and watch the economies of these countries collapse, or to have their governments undermined politically by financial difficulties," it said.

ARMS SHOPPING

KUWAIT, Sunday, AFP.—A military delegation from Kuwait will begin a tour of France, Britain and Italy on Wednesday to negotiate the purchase of sophisticated weapons with leaders of these countries, well-informed sources said here today.

[From Military Electronics/Countermeasures, August 1977]

THE REAL MOOD OF PARIS

(By Julian S. Lake, Publisher)

Despite the platitudes and glowing reports on the success and excellence of the Paris Air Show, many reports fail to describe the true mood of the international marketplace represented by this biennial event. While the flight demonstrations were precise and excellent, the display of weaponry awesome, the accomplishments of technology stimulating, the weather much better than it could have been and the chalet cuisine superb, the real mood of the international participants was one of stark contrast.

Most of U.S. industry was confused and discouraged, brought about by contradictions and inconsistencies in U.S. policy. Guided by moral principles which do not

seem to have universal application, these naive and idealistic policies ignore the fundamental issues of situations and work against the best interests of our country. In contrast, European manufacturers, particularly British and French, are encouraged and revitalized as they prepare to step into the vacuum caused by the forced withdrawal of U.S. firms. The pattern of "Yes" to some and "No" to others is accompanied by vascillations before every decision. This creates a lack of confidence in the eventual outcome of every U.S. proposal, and places our industry in a difficult selling climate. This understandably extends into a reluctance by European firms to accept or continue with U.S. firms as partners in joint ventures.

It is an unfortunate coincidence that the politically motivated decision not to accept the Leopard tank for the U.S. Army and dropping the badly managed PHM has produced a new level of outrage and sales resistance to U.S. weapons programs. There is increased resentment to the U.S. version of the "two-way" street between the U.S. and Europe. As one official puts it, "One-way, a super highway to Europe for the U.S. goods and the other way, a foot path by which the money is carried back." He further states that "Our politicians have to look credible. They want to be re-elected just like yours. When joint programs are not stable or dependable, they will not take the risk of cooperating with you. Our factories and workers must be kept busy, with or without you." The reality of this situation is that it would occur regardless of the President's current policies. The U.S. has long dominated the Western world in weapon systems. Usually the only competition is among the several U.S. systems under consideration. There is bound to be a strong motivation to reverse this subordinate role.

One clear fact comes out of Paris: the U.S. technology lead is stronger than ever. The Europeans have again failed to keep pace in cost or system effectiveness. It is a bitter prospect that the U.S. will relinquish by default a position of leadership in this marketplace.

A further manifestation of the erosion of the international market for U.S. industry is in the growing difficulty in obtaining export licenses. Although the administration is generally interested only in major programs, the trend of these decisions now pervades the bureaucracy in the Departments of State and Defense. Left to its own devices, any bureaucracy tends to be cautious and conservative, but in the face of the present leadership, this attitude is becoming increasingly nit-picking and negative. Low level "interpretation" of administrative policy abounds and licenses are almost impossible to obtain.

One hears frequent references to the dangers of exporting U.S. technology by overseas sales. "We will give away the store," is the familiar comment. Mere possession of an advanced technology article in no way gives its owner the ability to duplicate it. Anyone familiar with the "intelligence process" knows the formidable task of reverse engineering.

Even drawings and blueprints are frequently not enough; witness the trials and tribulations of co-production or second source transfer within U.S. industry. It is hard to do even when everyone wants it to happen. Yet secrets and knowhow do slip away—usually a key individual is responsible. One design engineer or production expert is worth a room full of blueprints. Have we forgotten the Free World dilemma of the past two decades: the "brain drain?" The flood of scientific and technical talent to the U.S. from abroad has greatly benefitted our industry and has contributed immeasurably to our present leadership. What happens when one of these talented gentlemen decides to return home?—worse than a hundred export licenses. The fact is, our technology leadership is due to a strong and vigorous industry which will continually progress and advance when it is constantly stimulated by a strong market for its products.

Nevertheless, the realities of world economics create a severe challenge to the U.S. in international trade given the best of White House policies. It is ironic that—because of the continuing stream of blunders and bloopers on export policy, human rights and aggressive challenge to the Communists—the highly sought moral issues are going begging. We are interested in human rights in certain countries only, and our refusal to be the "world's arms merchant" does not stop the arms race, it only gives business away. Eager suppliers from other countries gladly fill the gaps we leave. Not only do we lose business, but our industry will be weaker because of a diminished demand while that of other countries will be strengthened. The damage to our present position of leadership may well be irreversible, for already we are hearing pronouncements that Europe will buy European systems of lesser capability and higher cost regardless of the availability of better and cheaper U.S. systems.

Aerospace industry is vital to the world's economy, apart from the contributions it makes to the arms race. In the face of the competition this generates, why must we cut our own throats?

A CASE OF OVERKILL ON GAS-GUZZLERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DERWINSKI. Mr. Speaker, as the Senate continues the debate over the various provisions of the energy bill, we recognize that this legislative conflict will require a vote in both bodies before the issue is totally resolved.

I commend an editorial, appearing in the Chicago Daily News of September 14, to the attention of the Members. I believe this community accurately reflects practical judgment rather than the bureaucratic scheming too prevalent in Washington:

A CASE OF OVERKILL ON GAS-GUZZLERS

The Senate has voted a flat ban on the manufacture of gas-guzzling autos and, while we admire its zeal for conservation of energy, we question its judgment. To us the action looks like another case of federal overkill.

President Carter's approach to the problem of the gas-guzzlers was to tax them toward oblivion, and the House went along. The energy bill it passed would continue to require that manufacturers maintain specified fuel consumption averages in the fleets they produce. Big cars would keep coming off the lines so long as enough fuel-efficient cars were manufactured to maintain specified, annually rising averages—27.5 miles per gallon by 1985.

This approach tended to appease those who insist they need big cars because they have big families or because they do a lot of hauling—those who might otherwise be driven to buy unregulated vehicles with truck chassis, which guzzle even more gas. But they would have to pay dearly for the privilege. The House bill calls for taxes of $553 on cars averaging less than 13 m.p.g. in 1979, rising to $3,856 in 1985. And these proceeds would go to a fund to reduce the national debt where, heaven knows, it could be used.

Now the Senate wants to forbid the production in 1980 of any car that can't do 16 m.p.g.—21 by 1985.

Was this trip really necessary? From our vantage point, all it does is impose an unnecessary regulation on the auto industry and, at the same time, confound the legislative process. The conference committee that will have to deal with the House-Senate differences in an already complex piece of legislation now will have one more problem to deal with.

ST. THOMAS-ST. JOHN CHAMBER OF COMMERCE COMPLETES 50 YEARS OF SERVICE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DE LUGO. Mr. Speaker, the St. Thomas-St. John Chamber of Commerce in my District of the Virgin Islands has reached the ripe old age of 50. It was founded just 10 years after the United States took control of the Virgin Islands from Denmark.

The growth of the Virgin Islands over these 50 years is tied directly to the good work done by the Chamber. Given the history of the Chamber, I am confident that it will be able to meet future needs as it has conquered past problems.

Its anniversary has not gone unnoticed in the islands, as the following editorial from the September 23d Virgin Islands Daily News shows. I commend this article to my colleagues as an example of the civic mindedness of some of America's businessmen.

50 YEARS OF SERVICE

This week marks the 50th anniversary celebration of one of this community's most outstanding organizations, the St. Thomas-St. John Chamber of Commerce. The actual anniversary occurred on March 21, 1977.

We are proud to have had a long association with this group and to have observed it grow along with the business of the islands, taking an active role in this increasing prosperity.

From the very beginning there was a small group of businessmen who had faith in the future of the islands—and, happily, some of them are still with us—and their faith proved to be justified.

From the very beginning, they took an active part in the affairs of the islands and, although there were times when interest in the organization waned for various reasons, it always came back, stronger than before.

Before there was a Chamber, the men who formed it were doing their utmost to promote tourism in the islands. The organization would retain this interest but would also expand its interest in recognition of the need to diversify the economy.

Through the years, they have taken an active interest in such matters as the minimum wage, taxation, the environment and investment incentives. The Chamber has founded the Humane Society, the Junior Chamber of Commerce, a hotel training program, scholarships and the U.S.V.I.-B.V.I. Friendship Day. Chamber members have branched out to form such organizations as the V.I. Taxi Association, the Hotel Association and the Gift and Fashion Shop Association.

The original small group grew into the organization we know today with almost 400 members and a voice that commands respect in the councils of the territory.

Often, we hear that Chambers of Commerce are merely exclusive clubs composed of the more prosperous members of the com-

munity banded together only for the purpose of furthering their own prosperity.

Such is not the case with the St. Thomas-St. John group for, when it takes a position, we have noticed that this position is arrived at with full consideration of the good of the community as a whole.

In addition, there have been occasions when our government, either through penury or apathy, has failed to do the research necessary to arrive at conclusions relating to changes in our laws—made either here or in Washington—and the Chamber members have generously given of their time and talents to perform this service to the good of all of us.

Fortunate is the government and the people who have a body of public-spirited businessmen and women to draw on and foolish is the government and people which ignores such citizens.

So long as the Chamber consists of people who are willing to devote their time to the greater good and the government consists of people willing to seek their counsel, we will all have a better, more prosperous life.

THE CURIOUS MARRIAGE OF OSAKA AND ARKANSAS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ALEXANDER. Mr. Speaker, earlier this month the Washington Post published an article dealing with the adjustments of Japanese and Americans to each other's lifestyles in Forrest City, Ark., in my district. The "curious marriage of Osaka and Arkansas" as the Post terms it, has come about as a result of the Japanese purchase of a color television factory in this east central Arkansas city. I commend the articles to my colleagues:

[From the Washington Post, Sept. 2, 1977]

OSAKA-ARKANSAS SUCCESS

(By T. R. Reid)

FORREST CITY, ARK.—In every way but one, the color television factory in this pleasant country town is a classic American success story.

A year ago, the Warwick Electronics Co. plant, faced with falling sales and rising losses, cut its force to fewer than 400, adding more than 1,000 names to the unemployment rolls in this low-income region of rice and soybean fields.

Then a new management team took over, bringing innovative techniques and strict quality control. Today, the same plant has 1,300 full-time workers, productivity is at an all-time high and sales and profits are growing monthly.

All of which sounds like a standard chapter in the textbooks of American business acumen. In this chapter, though, the acumen came from Sanyo Denki Kabushki Kaisha, the Japanese firm that bought out Warwick late last year, and the small squadron of Japanese managers and technicians sent here to set things straight.

In addition to the promising financial figures since Sanyo's takeover, the curious marriage of Osaka and Arkansas seems to be a striking social success.

Despite severe language problems, the Japanese newcomers say they have been overwhelmed by the country hospitality (but not the country cooking) of this quiet community.

They have been assiduously studying Southern culture and visiting the region's leading tourist spots. "We had a wonderful trip through Mississippi and Tennessee," said Kazuko Watanabe, wife of a Sanyo vice president. "The best part was Memphis—it was Elvis' home, you know."

The Watanabes had difficulty on their trip, however, deciphering the Deep South's particular brand of English, and their own pronunciation of the language. "We had a terrible time finding Biloxi," Mrs. Watanabe says. "We kept asking people how to get to 'Burokshi,' but nobody seemed to know."

The easy-going Arkansans here seem equally pleased with their new neighbors. "Even if they weren't giving us all jobs, I'd have to say they were real good people," a leader in the union local at the Sanyo plant said.

Although the Japanese takeover came as something of a thunderbolt here in the northeastern corner of Arkansas, the Forrest City situation is hardly unusual. In the past five years Japanese firms have taken over or built dozens of factories in the United States, producing everything from airplanes to zippers for American and foreign markets.

The new pressure for import quotas against foreign goods—as reflected in the "orderly marketing agreement" on Japanese color television sets that went into effect last month—may well lead more Japanese manufacturers to seek American plants.

The impending television quota largely prompted Sanyo to buy the Forrest City plant from Warwick which was a subsidiary of Whirlpool Corp.

Warwick for years had held a lucrative contract to produce private label sets for Sears, Roebuck & Co., the nation's largest television retailer. But in the early 1970s Warwick ran into serious quality problems. Its rate of rejected sets went far over the industry average, and Sears asked Sanyo to provide technical help.

But Sanyo officials, guessing that a quota system was in the offing, offered instead to buy Whirlpool's interest in the Warwick plant—and its Sears contract. The sale was consummated in December, 1976.

Sanyo quickly dispatched a team of technical experts from its Osaka headquarters, and the Japanese set out to tighten work standards in Forrest City.

"They're pretty picky people, you know?" says Shirley McGuire, a long-time forewoman on a final assembly line. "They want everything done their way."

"They just stand there," says Dennis McGuire, a hefty high school football veteran who lifts 70-pound picture tubes into sets coming down the line.

"They stand there and look over your shoulder—except they're too short to see over my shoulder. They get about one inch away and don't move. I mean, I like them, they gave me my job back, but sometimes it gets to you."

In addition to regular observation along the assembly line, Sanyo installed numerous inspection stations to check sets moving through the plant.

The factory boasts its own broadcasting booth, to send test signals, and a "tumbler" device that flips completed sets 360 degrees through the air. If a screw falls out, it is traced back to the worker who was supposed to install it.

In the Japanese corporate style, Sanyo set out to create a "big happy family" atmosphere to enhance morale at the plant.

Among other things, the management brought along a variation of the Japanese concept of lifetime employment. Unlike U.S. television firms, which lay off most of the work force when production for the Christmas rush is finished, Sanyo says it will not cut employment in slack seasons.

In the paneled offices just off the sprawling factory floor, Sanyo is struggling to institute another Japanese tradition—management by committee.

In Japan, where group consciousness is a transcendent social value, corporate decisions are normally made by concensus among a team of top managers.

Sanyo has transferred that notion to Forrest City by establishing a six man "operating committee," half American and half Japanese, which is supposed to resolve business decisions ranging from where to buy millions of dollars worth of parts to the weekly salary of an interpreter to aid Japanese employees at the plant.

"For some people, it's been a hard adjustment," says Tanemichi Sohma, an Osaka native who is one of three Japanese on the committee.

"These people in Arkansas are pretty independent. Some of them couldn't stand making decisions in the committee. Of course, they had to leave."

Although the six committee members are supposed to have equal authority, several observers have concluded that Sohma is more equal than the rest. Language is his secret; he is the only person here who is fluent both in Japanese and English.

The amiable, energetic Sohma first came to the United States in 1951 to take a job in Hollywood as Hedda Hopper's butler. (He recently published a memoir, "The Hollywood I Knew," that is selling briskly in Japan.) As a result, he speaks a clear, if somewhat nondiplomatic, English ("If people mess up, I will tell them hell" he says).

The other Japanese, most of whom have come to America for the first time, are doing their best to adjust despite two ubiquitous problems: language and food.

Although Arkansas is justly proud of its home-grown hogs, the Japanese here have not enjoyed the local bounty. Forrest City butchers don't cut meat in the slim pieces needed for Japanese cooking. The local delicacy, pork barbecue, finds little favor with the Japanese palate.

The Japanese, who eat fish daily at home, complain that they can't get seafood here, either. That seems strange to Arkansasans, who can point out a cat fish emporium on almost every major corner. The Japanese, though, universally say they find the taste of "catofishu" repulsive.

Those problems have been outweighed, however, by the friendly greeting the Japanese have received from the people of Forrest City.

"People here smile all the time," says a surprised Sumo Nakamura, a young electronics engineer.

"In the grocery store, people I've not met wave and say 'Hey—how's everything?'"

Forrest City natives have clearly been impressed with the Japanese devotion to the job. "They're in there before the shift starts in the morning," says Dennis McGuire, "and even when I work another half [shift] they're there after me."

VOTE NOT RECORDED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. KILDEE. Mr. Speaker, it has come to my attention that somehow my vote was not recorded September 27 on the motion to suspend the rules and pass the Senate bill S. 213. I have a clear recollection of having voted "aye" on rollcall 599 on that bill, despite the computer-tabulated tally having no record of my vote. I was advised today by members of the House of Representatives staff that the voting machines do occasionally malfunction, and I must conclude that I have lost this round in the

battle of man against machine. The staff also advised me that I should always verify the recording of my vote by inserting my computer voting card into a second voting station. I shall certainly do that in the future.

UPDATE ON ROCKDALE APARTMENTS MESS—CONGRESS-HUD BEGIN TO MOVE

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LEVITAS. Mr. Speaker, last week on September 19, I called to the attention of the Members the sad tale of a HUD-subsidized public housing project in Atlanta which had to be razed less than 6 years after its construction. I have been following this story since I first read about the demolition in August 1976. As I explained last week, the Inspector General of HUD has written a report on the investigation of this case, which I have just received.

To keep the Members up to date, I would like to insert a copy of my letter to the chairman of the Appropriations Subcommittee on HUD/Independent Agencies, Congressman EDWARD BOLAND, and the chairman of the Housing and Community Development Subcommittee, Congressman LUD ASHLEY; a copy of the letter I received from the Under Secretary of HUD, Jay Janis, and a copy of an active memorandum from Mr. Janis to the regional administrator of HUD:

SEPTEMBER 16, 1977.

Hon. EDWARD P. BOLAND,
Chairman, Subcommittee on HUD-Independent Agencies, Washington, D.C.
Hon. THOMAS L. ASHLEY,
Chairman, Housing and Community Development Subcommittee, Washington, D.C.

DEAR ED AND LUD: This is in reference to our earlier correspondence and conversations about the Rockdale Apartments project in Atlanta, Georgia. As you will recall, the Department of HUD, Office of the Inspector-General, has conducted an in-depth investigation concerning the HUD subsidized project which had to be torn down less than six years after its construction at great loss to the American taxpayers and to the detriment in living conditions of over 1000 tenants.

The Office of the Inspector-General has completed its investigation and prepared an extensive report which has been reviewed by the U.S. Attorney in Atlanta. While I have not as yet received a complete copy of the Inspector-General's report, I have received a copy of a letter prepared by the U.S. Attorney who analyzed this report in great detail. I enclose a copy of this letter for your information and consideration. I expect to receive a copy of the full Inspector-General's report very shortly.

It is clear from the analysis of the U.S. Attorney that very serious problems and violations occurred in connection with this project. Had it not been for the fact that the U.S. Attorney determined that the statute of limitations had run, the letter indicates that there were prosecutable offenses involved. (I should point out that I initially called this matter to the attention of the former Secretary of HUD on August 24, 1976, and perhaps if prompt action had been taken, the statute might not have expired on all of the violations.)

I believe that a perusal of the U.S. Attorney's letter will bring you to the same conclusion I have reached, that, at the very least, a thorough and complete Congressional investigation of the entire matter is warranted, with the hope that problems of this sort can be avoided in the future so that the taxpaying American public is not victimized again in this way.

I personally believe the letter of the U.S. Attorney is an excellent and compelling document and, together with the full report of the Office of the Inspector-General, should form the basis of the necessary hearings which I believe should be initiated as soon as possible.

Your consideration of this request would be greatly appreciated.

With best personal regards, I am,

Very truly yours,

ELLIOTT H. LEVITAS,
Member of Congress.

WASHINGTON, D.C.,
September 20, 1977.

Hon. ELLIOTT LEVITAS,
Cannon House Office Building, Washington, D.C.

DEAR MR. LEVITAS: This letter is to bring you up to date on the results of the investigation of the circumstances surrounding the construction and, four years later, the demolition of the Rockdale Apartments in Atlanta.

This is the multi-family assisted-housing project which was originated, through this Department, in October, 1968; completed in July, 1972, and demolished, by this Department, in December, 1976.

The Department received a letter from you on September 16, 1976, which was the basis on which Mr. James L. Young, then Assistant Secretary for Housing in the previous Administration, asked the HUD Inspector General, on November 24, 1976, to make an investigation, which was begun immediately and continued over the next six months.

In June of 1977, the Inspector General, in keeping with standard Departmental procedures when there are possible criminal violations, submitted the report of its completed investigation to the United States Attorney for the Northern District of Georgia.

On Friday, September 16, my office received a copy of a September 14 letter from the United States Attorney, Mr. William L. Harper, to the HUD Regional Inspector General for Investigation in Atlanta, Mr. R. R. Reusche, a copy of which you also received.

In that letter, the United States Attorney said he would have prosecuted certain HUD employees and architects if the statute of limitations had not run out and called on this Department to take appropriate administrative steps.

I cannot speak for those responsible for the conduct of this Department prior to this Administration's advent, but I want you to know we appreciate your having taken such a helpful interest in this matter.

As you are further aware, we could take no administrative steps which might have jeopardized any possible legal prosecution until the Department of Justice, through the United States Attorney in Atlanta, had determined what legal recourse was open to the Government.

In keeping with those procedures, the Inspector General's report was not distributed to anyone within the Department but was sent directly to the United States Attorney, who determined no criminal prosecution could be taken because the statute of limitations had expired. It was only at this point that the Inspector General's investigation files could be—and, indeed, were—made available to us in the Department.

We are moving as swiftly as we can to take the appropriate administrative steps indicated by the facts uncovered, now that we have received the determination, in the United States Attorney's letter of September 14, and have been able to review the Inspector General's report. I have, effective Monday, September 19, instructed that the following Department actions be taken immediately:

1. The Assistant Secretary for Administration and the General Counsel (who is responsible for Departmental standards-of-conduct enforcement) are reviewing the files to see what disciplinary and other actions may be appropriate to initiate regarding HUD employees;

2. The Assistant Secretary for Housing is reviewing the files to see what actions may be appropriate regarding debarment of those contracting to do business with HUD, and

3. The Assistant Secretary for Administration, the Assistant Secretary for Housing, the General Counsel, and the Inspector General as a team are to recommend to me within two weeks, specific procedures the Department may put into effect to prevent such abuses of the public trust and waste of taxpayers dollars from taking place again in this Department.

Again, let me thank you for your timely interest in this problem and for bringing it to the attention of the proper authorities.

Sincerely,

JAY JANIS.

WASHINGTON, D.C.,
September 29, 1977.

Memorandum for Alfred R. Marane, Regional Administrator, Region IV, Atlanta.

Subject: Rockdale Apartments—Atlanta, Georgia.

This will confirm our conversation of yesterday concerning the steps you should take with respect to the Rockdale Apartments matter.

As you are aware, a HUD Inspector General Report of Investigation has identified certain employees from our Atlanta Regional and Area Offices who may have acted improperly in connection with the construction and management of the Rockdale Apartments Project.

I have convened a Task Force consisting of the Assistant Secretaries for Administration, Housing and Legislation and Intergovernmental Relations; the Deputy Under Secretary for Field Coordination; the General Counsel; and the Inspector General. That Task Force will be responsible for recommending to me specific corrective procedures to prevent the reoccurrence of abuses such as those revealed by the Rockdale situation. Also, I am asking the General Counsel to recommend legal action which can be taken against those involved—whether they are employees of HUD or are doing business with the Department. Copies of my charge to the Task Force members will reach you shortly.

I am asking you to serve as my personal representative in this matter. You will have a special outside team to assist you in accomplishing the following:

Take immediate steps to assure that there is no further participation in approving or disapproving Department actions by those HUD employees implicated in the Rockdale matter by the Inspector General's investigation. Should you find later that others are implicated, please take similar measures.

Immediately cease referral of further Department business to fee inspectors, fee architects or others who are involved in the Rockdale Investigation. This should include those paid directly by the Department and those paid by others.

You should take the steps necessary to assure that until we have determined that debarments are in order all work of individuals in the preceding category is fully reviewed and is to your satisfaction. This should occur immediately.

Investigate and propose to me any adverse

actions you believe are warranted against HUD employees. This should include violations of standards of conduct (as determined by the General Counsel). These proposals should be in my hands, with substantiating background materials by October 7, 1977. You should call for the assistance of the Office of the Inspector General as may be necessary to accomplish this task.

Provide me with your overall assessment of the Rockdale Apartments matter and your recommendations for corrective action. Please send this to me by October 5, 1977.

Assess all projects in the Atlanta Region involving those HUD employees who were implicated by the Inspector General's report. Conform to all Department policies, procedures and regulations. This review should begin no later than October 7, 1977.

To assist you in this undertaking, I am assigning a team of Headquarters staff specialists from the Housing Program, General Counsel's Office, and the Personnel Office.

I believe it essential that we move immediately in this matter. Concurrently, however, you must be certain that your review is complete and impartial and that we provide full due process for all involved.

It is essential that we remain in close and constant contact on your progress. Therefore, I would like a daily report on your status.

I know I need not stress the importance of this critical assignment. I am determined that we do all that is necessary to take action against those responsible and to assure that there are no such future abuses.

JAY JANIS.

A FINE VETERAN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MOTTL. Mr. Speaker, as a member of the Committee on Veterans' Affairs, I have had the privilege and honor to serve with a most distinguished Member of this body who served as chairman of the House Veterans' Affairs Committee for 25 years before he took over as chairman of the Science and Technology Committee. I am referring to OLIN E. "TIGER" TEAGUE of Texas, a highly decorated veteran of World War II who came home from that war on a stretcher. In fact, he campaigned for Congress in 1946 while still confined to a hospital bed.

For the majority of veterans, war wounds healed and the bad memories faded. For TIGER TEAGUE it was to be a different story. His right leg was badly shattered in 1945 by gunshot wounds inflicted by the enemy in Europe. This was the third time that TIGER TEAGUE was wounded, and it was so serious he was no longer fit for military duty and was subsequently separated.

Over the years, TIGER TEAGUE learned to live with his shortened leg, but the malady never went away. When I came to Congress in 1974, I learned his leg was causing increasingly acute pain and that drastic surgery would be necessary. I was flattered when TIGER TEAGUE asked me to chair some oversight hearings because he was physically unable to attend to all his congressional duties because of his worsening leg condition. This year he finally consented to having his leg amputated at Bethesda Naval Hospital. I am pleased that he has returned and is more active than ever in all veterans' legislation.

I mention all this because of a recent article in the local media which made an oblique attack on TIGER TEAGUE's war record by indicating it was something that happened in the distant past—long forgotten. To the contrary, TIGER TEAGUE can never forget—he will always be reminded of that day an enemy shell hit him during World War II.

Mr. Speaker, I have the highest regard for OLIN E. TEAGUE who has done so much for his country in both war and peace. Some may not know he was awarded three Purple Hearts, the Silver Star with two clusters, Bronze Star with two clusters, Combat Infantryman Badge and a number of other decorations. This is a most impressive record which should provide a basis for understanding what war is about from the standpoint of a person who took up arms against the enemy far from his homeland in Texas.

Mr. Speaker, the tenor of the comments on TIGER TEAGUE's war record in the article referred to previously is unfair and unjustified and serves to malign the reputation of a great American.

COMMEMORATION OF THE 70TH ANNIVERSARY OF THE BIRTH OF GEN. ROMAN SHUKHEVYCH-TARAS CHUPRYNKA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GILMAN. Mr. Speaker, on September 4, thousands of Ukrainian Americans from the Eastern United States assembled at the Ukrainian American Youth Association estate near Ellenville, N.Y., to commemorate the 70th anniversary of the birth of the commander in chief of the Ukrainian Insurgent Army, Gen. Roman Shukhevych-Taras Chuprynka, and the 35th anniversary of the formation of the Ukrainian Insurgent Army, as well as to mark the tragic events of 1972 when over 200 Ukrainian intellectuals were arrested in the U.S.S.R.

I had the pleasure of participating in this event—not only a commemoration of those courageous individuals, but an effort to promote and protect international human rights and to nurture the spirit that emerges when free people commit themselves to change the repressive policies in totalitarian governments in other parts of our world. Though the nations of Eastern Europe have refused to change their policies on the freedom of information and human rights activists, the momentum reflected by the 10,000 young people gathered near Ellenville was illustrative of this Nation's commitment to internal human rights and a sincere concern with the development of peace and security in the nations outside of the free world.

As the leader of the Ukrainian Insurgent Army, General Chuprynka sought to reinstate those rights to freedom and independence every nation inherently deserves, just as our own Revolution's objective was to free the 13 colonies living under colonial subjugation.

But unlike our own Nation, the freedom of the Ukrainian people was destroyed by the tyranny of the Soviet Union. Today, Ukrainia, under Soviet domination, is not free nor do its citizens enjoy the blessings of freedom and independence. On behalf of the 47 million citizens of the Ukraine—the inhabitants of the largest and, economically, most important captive non-Russian nation in Eastern Europe—I urge my colleagues to join me in observing the plight of these people and their hope of one day expelling the yoke of Soviet domination.

It is hoped that the commemoration held on September 4 served as an inspiration to the Ukrainian people and as a reminder that their descendants in the United States have not forgotten them and that at some future date their right of self-determination will be restored. Although in theory the Ukraine is an independent state, in reality, it is a colony of the Soviet Union. The so-called government is a puppet government imposed upon the Ukrainian people; it has no separate army or foreign policy, nor its own financial or intellectual freedom. The Ukraine, once an independent state, has been reduced to a colonial dependent of Communist Russia.

It is imperative that at the time of an upsurge of public expression and moral support for human rights abroad, which is strongly supported by our present administration, that we pay tribute to those who have sacrificed too much to Communist tyranny, those who have resisted the oppression of a totalitarian regime for almost three generations, those who must bear the burden of trade and travel restrictions, internal religious persecution, and literary and press censorship, those who can only look with hope to the future for those liberties which we in this Nation take for granted.

This assembly of Ukrainian-Americans was only another example of the new revolution on the condition of human rights which has arisen during the past year, exposing to the conscience of the world those patterns of repression which violate internally accepted standards of human thought and action. This Nation has publicly denounced the repressive forms of government which exist in other nations and stated that a respect for basic human rights must be woven into our foreign policy as an integral part of its diplomatic fabric. Contrary to what the Soviet Union or other totalitarian regimes may charge—that human rights is now being used as a carrot dangling on a stick in front of "good" or "bad" countries—the United States has been reinstating human rights as a basic part of any international framework of agreements, with the same import in decisionmaking as trade, foreign aid, arms control, defense, and monetary policies. It is illustrative of the great concern in Congress and throughout this country of that double standard in the international community in which individuals enjoy inherent rights and privileges in one

country, but not in another. Certainly, genuine and constructive channels of communication between the East and West cannot long remain open when governments attempt to keep entire peoples locked inside ideological ghettos, fearing an honest exchange of ideas and persons between nations.

The suppression of the citizens of the Ukraine is merely a reflection of an absence of freedom which exists on a much larger scale throughout the world. As Walter Lippmann so aptly observed:

> The deepest issue of our time is whether the civilized people can maintain and develop a free society or whether they are to fall back into the ancient order of things, when the whole of men's existence, their consciences, their science, their arts, their labor, and their integrity as individuals were at the disposal of the state.

This was the central question that I faced during the commemorative ceremonies at Ellenville—the question which every nation and every individual must face as we seek to correct those transgressions men commit against men, not only among our adversaries, but among ourselves and our friends.

LT. SAL FEDUCIA RETIRES

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SARASIN. Mr. Speaker, Lt. Sal Feducia of the Seymour Police Department is retiring after serving the citizens of that town for over 40 years. He began his career with the force in 1937 as a constable and as the town and the police force grew, he was made a regular patrolman. In 1965, with the creation of a detective division in the Seymour Police Department, he was made detective sergeant, and 1 year later became lieutenant of the division. This final position made him second ranking officer on the force, next in line after the chief of police.

In addition to his duties on the police force, "Sam," as he is affectionately know by his friends and colleagues, is an active member of many organizations in his community. He is a member of the Masonic Lodge, the board of deacons of the First Baptist Church of Ansonia, and several associations related to his police activities, such as the Seymour and the State of Connecticut Police Associations.

There is probably no task more difficult, yet more necessary to a stable society than that of police service. As a close friend of both Sal and his wife, Claudia, I am aware of the many long, difficult, and often lonely hours of dedicated effort he contributed to law enforcement in his town. It takes a maturity acquired through years of experience to deal with the problems encountered in police work, and Sal Feducia developed his abilities on the streets of Seymour.

Society invests billions of dollars in law enforcement; yet it is the single agent of the law who must utilize personal judgment and skill and courage in carrying out the will of the people. Lieutenant Feducia has always demonstrated those qualities in his work.

Seymour will sorely miss Sal Feducia's valuable contributions, both as a member of the community and as a public servant.

AMENDMENT TO H.R. 8309

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. BLOUIN. Mr. Speaker, I have joined three of my colleagues in sponsoring an amendment to the House bill calling for the replacement of Mississippi River locks and dam No. 26 at Alton, Ill.

I would like to say right from the start that this amendment in no way alters the bill's provisions calling for a replacement lock and dam nor in its provisions setting up a barge fuel user tax.

What it does do is attempt to strike a balance between the many forces concerned about the future and the use of the Mississippi River.

The Mississippi is vitally important to many diverse groups of people as commercial waterway, as a recreational area and as a wildlife area.

What we are attempting to do in this amendment is strike a balance between these people.

Briefly, the amendment expressly forbids any deepening of the Mississippi River's 9-foot channel above Cairo, Ill., and prevents any Federal agency from even studying the idea without express congressional approval.

It also establishes an Upper Mississippi River Systems Council to come up with a comprehensive masterplan for the management of the upper Mississippi River system to be presented to the Congress.

I would like to add that both of these provisions in amendment have already been approved by the Senate.

Therefore, Mr. Speaker, I would like to submit the text of the amendment my colleagues and I will offer to title I of H.R. 8309.

AMENDMENT TO H.R. 8309

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such process. Approval of the fianl master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System,

(b) the long, and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendatoins to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and continguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deemes necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

CHARLES GRASSLEY OF IOWA—YOU KNOW WHERE HE STANDS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. HYDE. Mr. Speaker, our distinguished colleague, Congressman CHARLES GRASSLEY of Iowa, is well-known for his ability to sift through the pros and cons of any issue and come out foursquare on the side of commonsense and decency. We always know where CHARLES GRASSLEY stands, and that he is a man willing to fight for his beliefs.

Congressman GRASSLEY's support of the highly controversial Hyde amendment to prohibit the use of Federal funds to pay for abortions has been unwavering and courageous, and of great encouragement to me. For the past 2 years, he has helped wage a successful battle in the House to keep the Hyde amendment alive and preserve the lives of hundreds of thousands of innocent unborn children.

In an article published in the Des Moines Register recently, CHARLES GRASSLEY states the case for my amendment in his usual thoughtful and sensitive manner. I am proud to count him among the supporters of this important movement in the House, and I take great pleasure in sharing his article with our colleagues:

MEDICAID FOR ABORTIONS?

(By CHARLES GRASSLEY)

The question raised by the Hyde amendment is not whether abortions should be permitted. That matter was resolved, at least temporarily, in 1973 when the Supreme Court ruled that, under certain circumstances, pregnancies may be prematurely terminated. The issue is not whether some women will be prohibited from having an abortion because they can't afford it, since the 1973 decision has largely pushed abortion out of the back alley and into low-cost, if not free, clinics which openly compete for the business.

The question is whether the taking of preborn life ought to be encouraged and financed by the federal government. I think it should not. A majority of my colleagues in Congress agree. And recent public opinion surveys indicate that a majority of the American people feel the same way.

Prior to enactment of the Hyde amendment, the federal government was spending approximately $50 million a year to pay for nearly 300,000 Medicaid abortions. Last year, more than a million unborn children were aborted in the United States. In Washington and in New York City the number of abortions exceeded the number of live births. It would appear that a great many people are using abortion as a method of birth control—hardly the intent of the 1973 Supreme Court ruling.

When a pregnant woman, the sole protector of her unborn child, instead becomes its potential adversary, then a decision must be made as to what action the government should take. Should it remain neutral, as some have suggested? Or should the duty of the government be to assist the mother in seeing to it that her wishes are carried out, no matter how spurious or temporary those wishes might be? Or should the government intervene on behalf of the innocent unborn?

Until the law is changed, by constitutional amendment or otherwise, the only option open to persons opposed to abortion on personal, philsophical, or religious grounds is to discourage it and to deny government sponsorship and sanction. Every abortion funded by Medicaid carries with it an invisible stamp of approval by the American people.

The Constitution could no more be interpreted as providing a right to a federally-paid abortion than it could be argued that the First Amendment guarantee of free speech means taxpayers must buy printing presses for those too poor to purchase their own.

Some argue that the Hyde amendment deprives poor women of something that more affluent women can pay for. That imbalance, it would seem, applies in almost all matters except that of abortion. The number of clinics now available to poor women at extremely low cost, on a deferred-payment basis, or at no cost, argues against the assertion.

The Supreme Court in 1973 did not automatically make abortions safe—it only made them legal. Dr. Mathew J. Bulfin, a Florida gynecologist and president of the American Association of Pro-Life Obstetricians and Gynecologists, reports a remarkable increase recently in the number of his own patients suffering from severe medical complications following legally-obtained abortions.

A vote for the Hyde amendment is a vote against the proposition that life is only for the planned, the privileged, the perfect. Despite the Supreme Court's 1973 ruling, it is not the responsibility of the federal government to ensure that only those children whose arrival will not conflict with their parents' wishes or social convenience will be permitted to be born.

ENERGY TRANSPORTATION SECURITY ACT OF 1977

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. PHILLIP BURTON. Mr. Speaker, one of the major problems facing this country is jobs. Particularly hard hit are the young and members of minority groups.

With the Energy Transportation Security Act of 1977, we have a chance to expand the role of the maritime industry as employer and to expand and protect jobs associated with that industry.

By reserving to U.S.-flag tankers 4.5 percent of incoming oil—rising to 9.5 percent in 5 years—it is estimated that some 2,500 new seagoing jobs will be created. The impact on industries which support our maritime will be corresponding.

To our people, this will mean more jobs

and to our economy, more stimulus. To the port cities of the Nation, it will mean relief from pressing unemployment and the social ills which unemployment breeds.

There is no agreement on what the cost of cargo preference will be but against that price tag, the creation of jobs and the high price in terms of human resources and dollars that we are paying for unemployment must be weighed.

This legislation has been studied carefully by the House Committee on Merchant Marine and the Senate Committee on Commerce and reviewed by the administration. It is a thoughtful proposal and a modest approach which contains reasonable safeguards should there be an adverse impact on shipping rates.

The task of creating jobs has been a repeated goal of this body and it is a most worthwhile goal. The opportunity to meet this Nation's energy import needs in greater part on U.S.-flag tankers is also a worthwhile goal.

THE PLIGHT OF THE BOWHEAD WHALE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. STEERS. Mr. Speaker, in recent years the United States has taken a commanding role in the International Whaling Commission with respect to the preservation and protection of whales. The United States has been instrumental in getting the IWC to become a more viable international organization and to lower its quotas on the number of whales that can be harvested. At the present time, however, the United States is in real danger of having all of these gains virtually nullified by our filing an objection to the IWC zero-quota on the harvest of bowhead whales. This action would severely tarnish our image as a world conservation leader.

Because of my concern for the bowhead's plight, I have signed a letter written by Congressman PETE MCCLOSKEY to Secretary Vance calling for the administration to refrain from filing such an objection. I am including, for the benefit of my colleagues, an article from the Baltimore Sun from Sunday, September 25, 1977, which clearly elucidates the problem of trying to save the bowhead from extinction:

PUT IT ON THE PRESIDENT'S LIST:
THE BOWHEAD WHALE

(By Ernest B. Furgurson)

WASHINGTON.—While the President has been bedeviled by Bert Lance, Ronald Reagan, Leonid Brezhnev, Menachem Begin and others who dominate the nightly news, his own appointees are toying this week with a recommendation that could hurt Mr. Carter's international credibility as much as any more noticeable move he has made to date. It deals not with bank overdrafts, canal treaties, the west bank or cruise missiles.

The subject is whales. Bowhead whales.

Before Mr. Carter was elected, he had a consistent record of opposing the hunting of the increasingly endangered great whales. He said in a campaign position paper that he supported the 1972 act protecting them, but that, "so far, implementation has been slow and timid. Under the Carter administration that will not be the case."

Even under the preceding administration, the United States had taken the lead in limiting whale hunting around the world. American economic muscle forced the Japaness and Russian fleets to cut their take so deeply that it has cost both countries hundreds of millions of dollars and thousands of jobs. South Africa is now phasing out of the whaling industry. Peru and South Korea are under heavy U.S. pressure.

Our weapon has been a threat to end American imports of seafood from those countries. The effect has been a heartening reprieve for whale species that have been hunted for centuries, but whose reproduction rate could not match the mechanized efficiency of modern whaling fleets.

This has been a cheap exercise for the United States, itself no longer a major whaling power. It has taken a high moral stand in leading a world environmental awakening, and has been able to make its sermons stick because it is the best customer for many of the nations involved.

But now the International Whaling Commission has moved to protect the most seriously endangered great whale of all, the bowhead. And that will wipe out the exception to international commercial whaling agreements which has been allowed for native Alaskans. That exception came into being because the Eskimos of Alaska's northwest coast always had taken bowheads, for their own subsistence, by primitive means. Their take was considered unimportant in the international scale.

However, since oil was drilled in Alaska many Eskimos have the cash to buy modern power boats, explosive harpoons and other equipment never contemplated by their elders. They also have the time to put into whaling. What many of these new whalers do not have is the skill to do the job cleanly, or the inclination to take only what they need.

Last year's take of bowheads in Alaska went up to 48 animals, from only a handful each year before 1970. Conservationists say three times as many were wounded but escaped to die under the ice.

So scientists of the whaling commission, to protect a species already decimated to less than 10 per cent of its original numbers, voted unanimously for a flat ban this year on bowhead hunting. The Eskimos have reacted loudly, their leaders declaring that they will go right on hunting bowheads and dare any authorities to stop them. And at the State Department, there is serious consideration of filing a U.S. objection to the bowhead ban, opting this country out of its coverage.

The Eskimos' tactic of making this a native-rights issue has won the sympathy of Patsy Mink, the former congresswoman from Hawaii, now assistant secretary for oceans and environment, although her own staff is said to oppose her. If she recommends filing an objection and her position prevails, it will put the State Department in direct contradiction of its own historic reverence for the sanctity of treaties.

Before any U.S. move is made officially, it will have to be approved by Cyrus R. Vance, secretary of state, and Juanita Kreps, secretary of commerce. If they should concur in filing an objection, the issue might be bucked up to the President himself. And if that happens, Mr. Carter and his advisers should be mindful of the unequivocal statements he has made earlier about whale hunting, as recently as this summer.

A turnabout on a position taken so clearly and publicly not only would destroy the base from which the United States has led the effort to save the world's whales, sending other countries back to sea to resume their wholesale slaughter. It also would say clearly and publicly that when domestic arguments intervene, the President's word on international matters does not amount to a pound of blubber.

MEDICAID MONEY FOR ABORTIONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SOLARZ. Mr. Speaker, as a member of the New York State Assembly and now as a Member of this body, I have been actively involved in the fight to give all women the right to obtain abortions under safe and sanitary conditions. The Supreme Court has ruled that women have a clear constitutional right to terminate pregnancy by abortion, at least through the first 3 months. In addition, it has handed down a decision that the Government cannot stop any woman from having an abortion for any reason she may judge valid in her case. But the Court's decision is somewhat ambiguous as to whether a government can deny funds and facilities that make abortions financially possible for many women.

Due to a recent court ruling by Judge John Dooling of the U.S. District Court in New York the 9-month-old injunction against the Hyde amendment has ended. As a result of this decision, the Secretary of Health, Education, and Welfare, Joseph Califano, has ordered the immediate implementation of the 1976 law. For over 30 years, the Citizens Committee for Children of New York has been an active advocate for this Nation's younger generation. In a letter I recently received from them, they address the highly volatile issue of medicaid money for abortions. I commend this letter to my colleagues' attention:

CITIZENS' COMMITTEE FOR
CHILDREN OF NEW YORK, INC.,
New York, N.Y., August 29, 1977.

DEAR CONGRESSMAN SOLARZ: Citizens' Committee for Children, which has been an active children's advocate for over 30 years, challenges the view of President Carter and Secretary Califano that eliminating Medicaid money for abortion maintains the government's neutrality on this sensitive issue. Genuine neutrality means a free choice, based on the availability of service. Clearly, no choice is possible for poor women who are denied Medicaid money for abortion. (We note that such federal subsidies are available for other elective medical treatment, including sterilization.)

Ours is not a theoretical position. We deal on a daily basis with the tragic problems faced by children who are not wanted by their parents; who are neglected and abused; who must receive care outside their homes; who are dependent on public support of all kinds. We know first-hand the almost insurmountable hardships facing children born into families that lack the financial and personal resources to support and nurture them. We therefore re-emphasize our long-standing policy in support of free access to abortion for all women, rich and poor, who decide they do not wish to bear a child.

The Administration's policy means:

That a 2-class system of medical care will be perpetuated at the very time serious consideration is being promised for a long-overdue national health insurance program that

is designed to insure quality health care for *all* Americans.

That poor women who know, through prenatal tests, that their babies will be born with serious diseases or birth defects, such as mongolism, Tay Sachs, and spina bifida, will have to bear those children, many of whom will spend a lifetime in institutional care.

That the numbers of children born to teenagers—currently 600,000 babies each year—will increase. Many of the one million teenagers who become pregnant each year lack their own financial resources, and will effectively be denied abortions if Medicaid money is not available.

The immediate consequences of the Administration's policy are grim indeed. But even more tragic is the President's astonishing abdication of responsibility for promoting social equality. The President has observed that life is unfair. The question is, who will fight to right the wrongs of inequality? If President Carter truly believes that the "buck stops here," he will reverse his policy of eliminating Medicaid funds for abortion, and uphold the right of free choice for all women, rich and poor.

We call on all New York Representatives and Senators to vote to allow Medicaid funds to be freely available for abortions.

Very truly yours,

MRS. JESSE D. WOLFF,
President.
FRANCES LEVENSON,
Chairwoman of the Board.
LAROLD K. SCHULZ,
Executive Director.

BUREAUCRATIC DELAYS, INDECISION DEPRIVE PHILADELPHIA OF VISTA PROJECT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. EILBERG. Mr. Speaker, last May the city of Philadelphia submitted an application for VISTA for a project that would have put VISTA volunteers to work, at a cost to the city of $57,863 and a cost to the Federal Government of $80,500.

The interesting thing about this application, Mr. Speaker, is that it was solicited by ACTION's Philadelphia district office. These Federal employees went to the city of Philadelphia, proposed the project and asked the city to submit it for Federal funding. The city, of course, readily complied.

In the ensuing months, the city went to considerable time and trouble to write, revise and rewrite this application. During that time, they were assured by ACTION that the project was worthwhile, that money was available, and that funding would be forthcoming. Somewhere along the line, though, somebody changed signals on the city. Someone in the bureaucracy decided that applications of community groups would take preference over applications from the communities, themselves.

After the passage of 4 months, the city withdrew its application. It was disgusted with the way ACTION had handled the application, and there simply was not time, before the expiration of the current fiscal year, for the city to encumber its share of the funds.

So the project is dead, Mr. Speaker, killed by the delays and indecision of the bureaucrats who urged Philadelphia to get into this picture to begin with. Obviously, it is too late to do anything to revive the Philadelphia application; hopefully, it is not too late to instill in the bureaucrats at ACTION some sense of efficiency and effectiveness in the way they do their job.

It is in this interest of spurring the bureaucrats to be more responsible and responsive, Mr. Speaker, that I am placing in the RECORD a copy of a letter which I have received from Mr. Hillel S. Levinson, managing director of the city of Philadelphia, a copy of Mr. Levinson's letter to the Honorable Sam Brown, Director of ACTION; and a copy of a letter which I, too, have sent to Mr. Brown on this subject.

I commend this correspondence to my colleagues. It is just one more example of the problems with which we, in the Congress, must wrestle because the bureaucrats downtown don't, won't or can't do their jobs.

The correspondence follows:

PHILADELPHIA, PA., *September 15, 1977.*

Hon. JOSHUA EILBERG,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE EILBERG: Four months ago the City of Philadelphia applied to ACTION, at their request, for VISTA volunteers for a total project cost of $137,863.00, $80,000.00 of which would be Federal funding. Since then, we have had delays in the review process, changes in the guidelines, and indecision about whether to award the grant. The problems are outlined in the attached letter to Sam Brown.

The amount of time spent writing, revising and re-writing this application was as great as that required for much larger projects. For ACTION to remain undecided to the point of making it impossible for us to encumber the money before the end of the fiscal year, even if a grant were awarded, is unacceptable. At this point, we are no longer interested in the project and are withdrawing our application. I urge you to prevent ACTION from treating our nation's other cities in this manner.

Thank you for your interest in this matter.

Very truly yours,

HILLEL S. LEVINSON,
Managing Director.

PHILADELPHIA, PA., *September 15, 1977.*

Mr. SAM BROWN,
Director, ACTION,
Washington, D.C.

DEAR MR. BROWN: After submitting an application to VISTA in May, my office still has not had official word of whether the proposal has been approved or rejected. Considering that the money must be encumbered by the end of this fiscal year (September 30) and that we must recruit and hire 17 VISTAs before that date, time has run out.

The application sat in the regional office until mid-July, when it finally was reviewed before being sent to the national office. After the reviews in the district and region we were told that our program was worthwhile, that there was money available, and that all they thought would be needed was clarification of a few points. We knew there would be a review in Washington, but we did not know that the guidelines would be changed in mid-stream.

It now appears that preference will go to community groups over cities. Our application was *solicited* by ACTION's Philadelphia district office. If they did not want applications from cities, they should have decided that before requesting our application. We invested much time and money in this project only to have it handled in a completely uninterested manner.

We no longer want this grant, but we do think you should be aware of the situation so that you may avoid it in the future.

Sincerely,

HILLEL S. LEVINSON,
Managing Director.

WASHINGTON, D.C., *September 27, 1977.*

Hon. SAM BROWN,
Director, ACTION,
Washington, D.C.

DEAR MR. BROWN: On September 15, 1977, Mr. Hillel S. Levinson, Managing Director of the City of Philadelphia, wrote to you withdrawing the City's application for 17 VISTA volunteers for a project which would have involved $80,500 in Federal funding and $57,363 in City funding. A copy of Mr. Levinson's letter is enclosed for your reference.

The purpose of my letter is to protest, in the strongest possible terms, the manner in which this application was handled. The aplication was originally solicited by your Philadelphia District Office; it was filed with your agency more than four months ago; and in the interim the application apparently was not only submitted to interminable bureaucratic paper shuffling, but was also subjected to changes in the guidelines somewhere along the way.

On the basis of the solicitation by your District Office, the City of Philadelphia invested a large amount of time writing, revising and rewriting the application—the amount of time involved was, in fact, just as great as would have been required for a much larger project.

ACTION's indecision made it impossible for the City to encumber the money before the end of the fiscal year, even if a grant were to be awarded. It was for that reason that the City lost interest in the project and withdrew its application.

I find it most regrettable that bureaucratic indifference and inefficiency made it impossible for 17 VISTA volunteers to contribute their services through the program put forth by the City of Philadelphia. I find it intolerable that an agency of your size should be so mired in its own paperwork that it could not expeditiously handle a project of this nature.

Philadelphia has withdrawn its application, and I am asking for nothing on the City's behalf. I am asking you, however, for some reasonable assurances that situations like this will not occur again. Our nation's cities deserve better treatment at the hands of their Federal government.

Sincerely,

JOSHUA EILBERG.

MEDICAL PROFESSION HAS CAUSE TO COMPLAIN

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MILFORD. Mr. Speaker, at a time when the public esteem of the American Government is at an all-time low, it would seem imperative that every committee, agency, and holder of public office be impeccable in the gathering of

information, the compilation of statistics, and the reporting of data. Facts on Government operation—even when scrupulously gathered—are still rather skeptically received by a cynical people. Even when the governmental body has been meticulous in its investigation, data is subject to being misinterpreted, mishandled, and misquoted.

A letter from Dr. John Smith of the Texas Medical Association containing a news article and an editorial from the Houston Chronicle arrived in my office. Dr. Smith points out that the report of the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee contained statistics that within the Texas medicaid program the surgical procedures on medicaid participants in Texas was 91,430 procedures per 100,000 eligibles for the medicaid program. According to the Texas Department of Human Resources which administers the program in the State of Texas, the figure is 9,932 per 100,000 eligibles. In other words, the subcommittee's report exaggerates the rate by nine times the Texas experience.

I will concede that errors are frequently made through no mal-intent. But I would question the credibility of an entire report in which such significant and flagrant errors exist. Certainly, I would hope that there would be full publication of the corrected data in order that the Texas program's good name be vindicated and whatever misunderstandings and ill-will that have resulted, absolved.

Mr. Speaker, I would like for a copy of the letter from Dr. Smith and the news article and editorial from the Houston Chronicle to appear in the RECORD:

AUSTIN, TEX.
September 20, 1977.

HON. DALE MILFORD,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE MILFORD: It is quite possible that you have received a copy of the report of the House Subcommittee on Oversight and Investigation, Interstate and Foreign Commerce Committee, which states that the rate of surgical procedures under the Medicaid program in the United States is 23,100 per 100,000 eligibles—more than twice the rate of surgery for the general population. The report has received nationwide news coverage as reflected by the enclosed article written by Richard D. Lyons for the New York Times News Service and published in the Houston Chronicle.

The report states that the surgical procedure rate in Texas is 91,430 procedures per 100,000 eligibles for the Medicaid program. Those figures are grossly inaccurate according to officials of the Texas Department of Human Resources, which administers the program in our State. It seems evident that the Texas experience has been exaggerated by nine times.

Actually, the rate of surgical procedures in Texas is 9,932 per 100,000 eligibles under the Medicaid program. That is appreciably below the national average. We have a good program in Texas. We are proud of it and the physicians who render that care to Medicaid beneficiaries.

Officials of the Texas Department of Human Resources have explained that the inaccurate total cited in the Subcommittee Report represented not only surgical procedures by physicians, but the number of hospital days, procedures by assistant surgeons, and services by anesthesiologists.

Understandably, Welfare Officials have expressed concern that the misuse of the data in the Subcommittee Report will cause undue criticism of the Medicaid program in Texas. They also have raised questions about the validity of the entire report.

You also may be interested in an editorial published just recently by the Houston Chronicle. It emphasizes that the "medical profession has legitimate cause to complain about some of the apparently unwarranted black eyes it has been getting from federal studies and statistics."

In the interest of fair play, we hope that you will help us to set the record straight, and very importantly, to lend your influence to the publication of authentic studies and accurate statistics by those in government. We will be most grateful for your assistance.

Best wishes.

Sincerely,

JOHN M. SMITH, Jr., M.D.,
President.

MEDICAL PROFESSION HAS CAUSE TO COMPLAIN

The medical profession has legitimate cause to complain about some of the apparently unwarranted black eyes it has been getting from federal "studies" and "statistics."

In three cases within the past year someone in government has released information with quite damaging impact on doctors.

In one case it was a study which purported to show a large amount of unnecessary surgery was performed in the country each year. In another it was a listing of doctors who received enormous fees from the government's medical-care programs. In the latest it was a survey which showed more surgery being performed on poor people (where the taxpayers footed the bill) than the national average of such operations.

Within varying periods of time after their initial highly publicized release, it turned out that each of these cases was, to say the least, badly flawed.

The congressional staff report on more-surgery-on-poor-patients was just flat not true because of use of bad statistics. It even claimed, and partially admitted, that the authors knew they were dealing with suspect statistics.

A careful check on the huge individual Medicare fees shows a wholesale foul-up with such things as payments listed to long-retired doctors and many big fees paid individuals when in reality they went to large groups of doctors or to hospitals.

The report on unnecessary surgery turned out to be an extremely suspect survey from which a prudent person would not have tried to extrapolate such conclusions.

Three instances, one on top of the other and each following the same general pattern, are a little strange. That this sort of thing is unfair and irresponsible is obvious.

What makes it all the more irresponsible is the well known fact that much of the bureaucracy—in both the executive and legislative branches—is engaged in an effort to convince Congress and the public that the medical profession needs to be controlled by the federal government. Under such circumstances it is elementary fairness to the public that the government should be careful and sure of the information it releases.

Honest debate on the nation's health-care problems and their solution is ill-served by "facts" which turn out not to be facts after all.

SURGERY ON POOR TWICE NATIONAL RATE, STUDY SAYS

(By Richard D. Lyons)

WASHINGTON.—A study made by a House investigations subcommittee of people receiving Medicaid benefits has found that surgery is performed on the needy and near poor at twice the rate of the general population.

With some forms of elective surgery that involve operations for conditions that are not life-threatening, the disparity was found to be even greater.

Conducted by the investigations subcommittee of the House Commerce Committee, the study also found wide differences in the rates of surgery and types of operations in the various state Medicaid programs.

Rep. John E. Moss, D-Calif., subcommittee chairman, noted that the current cost of Medicaid surgery is $7 billion a year to the federal government, and urged that the Department of Health, Education and Welfare place tighter controls over the types of operations performed and their cost.

Medicaid uses a mix of federal, state and local governmental funds to cover some of the health-care expenses of the poor and the near poor. The cost this year will be about $38 billion, of which the federal share will be about $20 billion.

The study is expected to rekindle charges that surgeons are performing thousands, if not millions, of unnecessary operations in the United States each year at tremendous financial cost and some loss of lives.

A similar study made public by the subcommittee last year caused controversy when it charged that the American public had spent $3.92 billion on unnecessary surgery in 1974. This figure was assailed as absurd by officials of the American Medical Association and other organizations representing doctors.

But the subcommittee's new report, a copy of which was made available to The New York Times, concluded that the surgical rates among Medicaid beneficiaries were even higher than had been previously reported.

The new study was based on data on 3.3 million operations paid by Medicaid collected by the subcommittee from 22 states, the District of Columbia and the Virgin Islands in 1976.

In a companion conclusion, the subcommittee's study reiterated that the date varied widely in quality with some states, such as Connecticut, failing to provide any statistics at all.

One of the main conclusions of the study was that:

"The surgical procedures rate per 100,000 eligibles from reporting Medicaid programs was 23,100, more than twice the rate of surgery for the United States as a whole. The 23,100 rate per 100,000 eligibles reported in 1976 was an increase over the 18,700 reported in 1975. However, the inconsistencies in the data compiled by states make conclusions about the precise rate of surgery tentative only."

Both Moss and his subcommittee aides shied away from extrapolating from the data what amount of governmental funds might have been wasted because of unnecessary surgery.

Instead, the study sought to document that some elective surgery procedures were much more frequent among Medicaid beneficiaries than among the general population.

Dealing with hysterectomies, as an example, the study said that data supplied by 17 states had yielded a rate of 436 hysterectomies per 100,000 women eligible. This, according to subcommittee aides, was twice the national rate.

HOUSE NUTRITION HEARINGS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SYMMS. Mr. Speaker, Congressman FRED RICHMOND, chairman of the House Subcommittee on Domestic Mar-

keting and Nutrition, is focusing on a subject that is important to all. Americans have access to the best quality and quantity of clean, healthful food in the world, yet health problems related to poor nutrition are rampant. Americans often eat too much of the wrong kinds of foods. Mr. RICHMOND is trying to shed some light on the problem of poor nutrition education and acknowledging a prbolem is the first step toward finding a solution.

Chairman RICHMOND of food stamp fame and I have many philosophical differences; however Mr. RICHMOND is now heading in a direction that should be encouraged. As the hearings continue, it is my hope that both the producer and the processor are allowed their day in court, just as consumers are given their's. It is entirely possible that no new Government agencies on spending will be advocated—only increased emphasis—as a result of awareness.

I commend to my colleagues, Mr. RICHMOND's opening remarks from the House Nutrition Committee hearings now underway.

FRED RICHMOND'S STATEMENT ON NUTRITION

Six out of ten of the leading causes of death in this country have been linked to the way we eat. Our diet, over-rich in fat, cholesterol, refined sugars and starches, salt and alcohol is associated with epidemic rates of heart disease, cancer, high blood pressure, stroke, hardening of the arteries, and cirrhosis. In the United States today, one out of three men and one out of six women can be expected to die of heart disease or stroke before the age of 60. Twenty-five million adults suffer from high blood pressure. Approximately five million others are victims of diabetes. At least one-fourth of all adults in the United States are overweight to a degree that jeopardizes health and longevity.

The American way of eating has undergone dramatic change in the last 50 years. Nutrition and health experts consider these changes poorly suited to a national lifestyle which is typically sedentary and filled with emotional stress. The pattern of breakfast on the grab, lunch on the run, drinks and snacks, and late dinners of meat, starches and sweets is in sharp contrast with the way Americans lived and ate in the early decade of the century. The average consumer of this period ate a simple diet with few rich frills, only occasional meat and heavy reliance on fresh fruits, vegetables and grains. Last year, however, we consumed an average of 125 pounds of fat, 129 pounds of beef, 100 pounds of refined sugar, 5 pounds of additives, and the equivalent of 295 twelve ounce cans of soft drinks.

Foods in the marketplace have undergone a technological revolution in the last decade. An average of 7,000 new food products are introduced into our markets annually. Unlike conventional foods, these processed items tend to contain excessive amounts of fats, sugar, and salt.

Changes in the food marketplace parallel changes in our social environment. One out of five American meals are now eaten out of the home. By 1980, the industry predicts that it will be one out of every three.

The nutritional impact of television commercials on the food habits of children is devastating! Forty million children under 12 watch an average of 8,500 to 13,000 food commercials each year. Instead of containing nutrition information, these commercials promote sweet, sticky, gooey, fun-foods and drinks that have serious consequences on the health of our children. The most heavily advertised foods are the least nutritious. Research conclusively shows that children 7 years and younger subjected to junk food ads cannot discriminate advertising "fancy" from fact, and tend to believe that "Happiness is eating a sweet cereal or snack."

Consumers, assaulted by a barrage of commercial food claims, dire health warnings, and conflicting and contradictory advice, are either falling victim to panic or throwing their hands up in utter befuddlement. In the absence of reliable guidance, they are spending $10 billion a year on fad diets which may do more harm than good. Billions more are spent on vitamin supplements and so-called "health" foods. Anxious homemakers study newspapers and magazines for advice and food columns are as avidly scanned as "advice to the lovelorn."

Turning away from the loud shrill voices of hucksters, vendors, and unhealthy persuaders, consumers are looking to the Federal Government as a reliable, unbiased source of knowledge about the food they are eating.

And what is the Federal Government doing to respond to these consumer needs? Ladies the Gentlemen, it is exactly this question that I asked the Library of Congress to investigate last year. After conducting a landmark study of the entire Federal Government, do you know what they found?

We are spending more than $70 million a year on a patchwork of more than 30 uncoordinated and unfocused programs administered by 11 different agencies which are going blithely about their business in splendid isolation from each other and the contemporary world in which we live.

If one were to judge by some of the pamphlets we print and the lectures and demonstrations we support on canning and home freezing, we could conclude we have not changed in the past two genertions. What an illusion! We are, of course, living in the age of electronic media. Instant replay brings us from one corner of the globe to the other.

Yet when we want answers to our nutrition questions from the Federal Government, we must wait six weeks or more to receive a pamphlet from the Government Printing Office. Or even worse, we may have to suffer through a demonstration on cake decorating from our county agent before we can learn how to reduce fat and sugar in our diet.

Today we are doing something unique in the history of this Committee. Instead of having producers, technocrats and marketers tell us what is good for the consumer—we are going to hear consumers and their representatives tell us directly of their concerns, demands and needs.

In our survey of federal activities in nutrition education, not once did we find that consumers had been consulted in shaping the programs which are so vital to their health and well-being. I can understand how consumers cannot hear the whispered voice of the government in the marketplace but for the life of me I cannot comprehend how bureaucrats can so completely ignore the rising voice of consumers.

Today and tomorrow this voice shall prevail in our Committee room. In fact, it is not one voice we shall hear, but many voices. Although these voices like our population are diverse representing middle class and poor, young and old, majority and minority, rural and urban, the concerns are remarkably similar.

Be assured that this Subcommittee shall deliver your message next week to the Government policymakers whom Congress has mandated to inform and counsel the public. This Subcommittee takes its jurisdiction very seriously. Our charge is to protect the interests of the consumer in matters pertaining to food and nutrition. You have the right to receive answers to your questions when you want them, where you want them, and how you want them. We promise you who have come to participate in our hearings that your words will guide us.

THE "MEESTERS" LIKES TO KEEP IT SIMPLE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DE LA GARZA. Mr. Speaker, dedication to your fellow man is a recognized virtue. Mr. Frank Ferree of Harlingen, Tex., has been helping his fellow man for more years than anybody can remember.

Recently USTED—a publication financed through funds provided by State and Federal grants from HEW's Administration on the Aging and the Texas Governor's Committee on Aging—carried an article on this gentleman, because the Nation should know about men like Frank Ferree. I want to share this article with my colleagues:

THE "MEESTER" LIKES TO KEEP IT SIMPLE

HARLINGEN.—Frank Ferree, a tall slender man, has had no time to let senility catch up to his age. He has been called a holy man, Santa Claus and the Albert Schweitzer of the Rio Grande Valley. But to the thousands of poor people he has helped in the Mexican border towns of Reynosa and Matamoros, he is simply "Meester."

Ferree, 82, lives in a shack in Harlingen and administers the Border Volunteer Relief. Without a thought to his own needs, he asks for food, medicine, clothing and other supplies which he delivers and distributes to poverty-stricken families on both sides of the border.

Guadalupe Gonzalez de Rosia, 20, of Reynosa has known Ferree since she was six years old.

"He helped my family with medicine and many other things," said Guadalupe, "and he was a father to us. Though we are not in need now, we did not forget that he once helped us. Now we help him to help others."

Ferree was born in Valley, Neb., 24 miles from Omaha. Previous to coming to the Rio Grande Valley, he lived in Denver, Colo. Though old and weathered by many standards, he is not dominated by time, as evidenced by his remarkably erect posture.

"I've been doing this type of thing for 30 years," he said.

Ferree came to the Valley 35 years ago and bought a 20-acre tract of land on the north side of Harlingen. Then he saw some Mexicans picking up banana peelings from the street and eating them.

"I thought something ought to be done about that," he said.

So he did something. He sold his 20 acres and gave the money away to help the poor. One thing led to another, and now he's into it over his head.

"It's a big job," he admits, "but I just do what I can and try not to worry about the tremendous needs which I can't get to."

Ferree's right hand, interpreter and helper is Julia Rodriguez, 15, of Matamoros. She has been making the rounds with him for a year and a half. Her mother before her, Esperanza Hernandez, had done the same thing for 19 years.

Dionicio Barba of Reynosa is another of Ferree's faithful helpers. He says he has been with Ferree for about 23 years. He remembers when Ferree operated immediately across the bridge on the Mexican side of the river, then later located himself in front of a cold storage building.

"About 20 years ago, Samuel Tijerina saw him come and make his deliveries out in the open and let him use his place," Barba said.

Ferree operates in Reynosa from an old

site of what was once a women's hospital, now his health and relief center.

The van in which he delivers food and clothing strains and groans at each bump and seems to keep functioning only because it has a commitment to those needy people. Each day Ferree makes the rounds through back alleys of Harlingen, loading wilted fruit, day-old bread and miscellaneous medicines from merchants.

Six days a week, after loading assorted cardboard boxes, end rolls from newsprint and pieces of discarded lumber, he heads for Reynosa and Matamoros where he is anxiously awaited.

He has also located and obtained medical attention for hundreds of children. When he finds persons who need operations, Ferree takes them to three or four wealthy benefactors he has located along the border and obtains funds for their surgery.

During 1974, five children who were totally blind received their sight, along with another dozen who were partially blind, thanks to Ferree's efforts. More than 100 harelipped children have received corrective operations, along with dozens with other facial defects.

Ferree's work has not gone unnoticed. He has been honored by having an article about him introduced into the Congressional Record by Sen. George McGovern. Each month he receives bread, candy and medicine from several grocery and medical chains in the United States which are convinced of the value of his work.

As Meester lurches into the courtyard at the Reynosa center around noon, the people who have been waiting since 9 a.m. greet him in their sincere warm manner.

A hustle and bustle starts climaxing into murmurs and greetings. A first time observer might occasionally hear fragments of the great deeds the Meester has done.

"Remember during Hurricane Beulah when he helped us get supplies and medicine and clothing . . . ?"

"Remember how at Christmas the Meester gave candy to all the children?"

But Ferree keeps it simple.

"I don't try to be a big deal or anything like that," he says. "I simply know the teachings of the Bible and apply the teachings of Jesus. It's that simple."

TESTIMONIAL AGAINST AIR BAGS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. SHUSTER. Mr. Speaker, the air bag lobby has seen fit to cite personal testimonials from individuals "saved" by air bags as evidence of their effectiveness. While testimonials may be illustrative to a point, they should not be confused with hard statistical evidence and should not form the basis for mandating one system over another.

Nevertheless, we have heard stories, in print and in film, about people walking away from a crash involving an air bag. It may come as a shock to the air bag lobby, but there are ample testimonials against the air bag as well.

I commend my good friend and colleague, Congressman CHARLES E. GRASSLEY of Iowa, for bringing one such case to the attention of the Congress through a "Dear Colleague" dated September 27, 1977. I ask that it be reprinted in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1977.

DEAR COLLEAGUE: A number of testimonials from persons who have been "saved" by airbags have received considerable attention. There is another side to the coin and I would invite you to consider the case of one airbag car owner who opposes the device.

Dorothy R. Schuler of Jesup, Iowa, whose 1974 Oldsmobile is equipped with an airbag, wrote me recently, "I'm certainly one who says 'thumbs down' on those darned airbags."

On August 18, 1976, Mrs. Schuler's car, traveling 40–50 mph, ran off an Iowa highway into a ditch, bounced twice, and slid to a stop. The airbag did not deploy. Said Mrs. Schuler, "I hit dead center, my license plate is proof enough . . . I felt that I was the one who deployed." She broke three ribs and her clavicle, chipped her teeth, and numbed her face. A year later, she is still under doctor's care. "I have a permanent injury, just because I had faith in the airbags," she wrote.

An investigation of the crash for the Department of Transportation revealed that the bag failed to inflate either because "the longitudinal forces in the accident were not large enough to cause deployment" (but still large enough to cause serious injury) or "there may have been a malfunction in the system." (Mrs. Schuler said her car dealer had been unable to figure out why the bag's warning light was on continuously. Will every garage mechanic and dealer know what to do with those millions of airbags DOT wants on our highways?)

In any event, Mrs. Schuler wrote, "I was fooled once, but not again. My deceased husband and I paid $250 extra for what we thought was protection. Baloney."

Mrs. Schuler concluded her letter with a plea against mandated airbags which I hope all of Congress will hear: "Please, Chuck, try not to let it happen." That seems an appropriate way of concluding this Dear Colleague.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

ADEQUACY OF THE GI EDUCATION PROGRAM

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. ROBERTS. Mr. Speaker, I am sure most Members of the House read the article by Colman McCarthy that appeared in Wednesday's Washington Post in reference to the adequacy of the current GI education program.

Mr. McCarthy personally attacked the distinguished gentleman from Texas, TIGER TEAGUE, a man who has worked harder for veterans than any single Members of this body. He criticized the current program and directed most of his criticism at the chairman of our Subcommittee on Education and Training. There is no basis for this attack and I will not take the time of the House to respond to the article except to say had Mr. McCarthy attempted to get the facts either from the Veterans' Administration, our own Subcommittee on Education and Training or any number of other sources, he might not have written the article. For reasons of his own, he apparently decided not to put forth any effort to get the facts.

Mr. Speaker, there have been several Post editorials in reference to the "inadequacies" of the current GI education program. All have a familiar ring. The argument is always the same. The inequities as seen by the Post editorial writer are the same as those being pedaled around Capitol Hill in a document apparently endorsed by the National League of Cities. The same line has been pedaled by another veteran well known to many members of our committee, and certainly every member of our committee staff. Hardly a day passes when he is not by the committee office. I am beginning to wonder who is writing the editorials for the Post. On at least two occasions, the above-mentioned individual has informed the committee staff that the Post would soon be "coming out" with an editorial against the committee leadership. Sure enough, the next morning there it appears. On September 14, he informed us that the Post would have an editorial critical of Mr. TEAGUE and myself prior to a subcommittee hearing scheduled on September 15. He was on target again. When it comes to predicting publication of a Washington Post editorial in opposition to the current education program, this particular Vietnam veteran is almost as accurate as Jeane Dixon.

Mr. Speaker, I would remind Mr. McCarthy that the policy and structure of the current GI program has been strongly supported by several administrations during the past 25 or 30 years, including the present administration.

CONTRIBUTIONS IN AID OF CONSTRUCTION TO REGULATED ELECTRIC AND GAS UTILITIES

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LEDERER. Mr. Speaker, in the Tax Reform Act of 1976, Congress recognized that regulated public utilities have for many years received substantial amounts of capital needed for the construction of facilities in the form of contributions-in-aid-of-construction. Traditionally, under long standing case law, these amounts have been treated as contributions to capital and not included in income of the utilities. Because these contributions are not income, the utilities have not claimed depreciation or investment tax credit on these amounts. In section 118(b) of the Code, Congress confirmed that this treatment would continue to apply in the case of utilities providing water and sewerage disposal services. The same situation, however, also exists in the case of regulated natural gas and electric utilities.

Mr. Speaker, this bill would extend the application of the rules provided by Congress in section 118(b) for water and sewerage utilities to natural gas and electric utilities. In so doing, it would merely continue the treatment of contributions-

in-aid-of-construction that has existed for over 50 years.

In the case of natural gas distribution and transmission companies, the contributions of concern principally involve contributions by customers for gasoline extensions and contributions by governmental units for gasline relocations in connection with urban renewal and road relocations. They do not include normal customer connection fees and other service fees, which as a general practice have been included in income by the industry.

It is important to note that this bill would not result in a revenue loss. The Government is not now collecting and never has collected taxes on contributions in aid of construction of regulated public utilities. To forego the collection of new taxes is not a revenue loss.

Moreover, if these contributions were to become taxable, the utilities would have to charge their customers additional amounts to cover the income taxes on the contributions—in some cases up to $2 for every $1 needed for construction—$1 for actual construction and $1 to pay the tax. This further increase in customer rates would be most unfortunate.

ELDERLY QUESTIONNAIRE RESULTS

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. LUNDINE. Mr. Speaker, in late July of this year, I sent questionnaires to senior citizens throughout the southern tier of New York State in an effort to learn their opinions about a number of issues and problems confronting the elderly. Over 2,000 senior citizens responded, with many people enclosing helpful information about specific problems they have encountered. Ninety-five percent of the people who responded to our questionnaire indicated that they are retired. Of those, 64 percent had retired voluntarily and 36 percent were mandatorily retired.

On August 17, 1977, the House Select Committee on Aging held a special regional hearing in Jamestown, N.Y., primarily to examine the special housing needs of senior citizens. Although the results of this questionnaire will be included in the record of those proceedings, I would like to also enter these findings into the CONGRESSIONAL RECORD, for I am confident that my colleagues will find these results interesting and useful.

Among the issues raised in the questionnaire, I asked for opinions about H.R. 5383, legislation which would abolish the mandatory retirement rule for all Federal employees and extend the Age Discrimination Act to cover persons up to age 70. Of the respondents, 66 percent indicated their support for H.R. 5383, while 34 percent disagreed with the provisions of this bill. H.R. 5383 was recently passed by the House, and I voted in favor of this legislation because I believe it will provide a useful test to help us more adequately evaluate the possible effects of an overall ban on mandatory retirement which may be enacted at a future date.

I would like to express my sincere appreciation to all of those who took the time to complete and return the questionnaire. The information obtained as a result of this effort will enable me to be a more effective advocate for the interest of senior citizens in the southern tier.

Following are the results of the questionnaire broken down by percentages:

1. During this past winter, what was the biggest problem you faced due to the heavy snow and extreme cold weather?

Increased utility rates—63 percent.

Insufficient insulation/inadequate heating—16 percent.

Transportation difficulties—10 percent.

Damage to your home/problems in making repairs—9 percent.

Delays in receiving Social Security checks or nutritional assistance—1 percent.

2. Which of the following options would provide the most useful financial relief from soaring energy costs?

Emergency assistance plan to provide help to the elderly during times of crisis and severe weather conditions—39 percent.

A fuel stamp program similar to the food stamp program which would provide assistance in paying utility bills—35 percent.

A special weatherization program for use in elderly housing—17 percent.

Other—10 percent.

3. Have you ever encountered difficulty in obtaining any of the following medical appliances or services because of limited Medicaid or Medicare coverage?

Dentures—23 percent.

Eyeglasses—22 percent.

Prescription drugs—20 percent.

Hearing aids—18 percent.

Preventative medical check-ups—12 percent.

Hypertension screening—4 percent.

4. Do you find transportation a problem when going from your residence to doctors, shopping facilities or other services normally in the central business district?

No problems—73 percent.

Transportation usually available—20 percent.

Transportation rarely available—6 percent.

Never leave residence—1 percent.

EQUAL TREATMENT FOR PREGNANT WORKERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. FRASER. Mr. Speaker, the Employment Opportunities Subcommittee of the House Education and Labor Committee has completed hearings on H.R. 6075, a bill to amend title VII of the Civil Rights Act to specify that discrimination on the basis of pregnancy is sex discrimination. Mark-up is planned, but not scheduled, for early October.

This legislation is a direct response to the Supreme Court decision in G.E. against Gilbert, December 7, 1976, in which the Court ruled that employers could choose to deny disability payments to pregnant workers.

The Senate passed S. 995, its version of the bill, on September 16, by a vote of 75 to 11. In speaking for the bill, Senator WILLIAMS noted:

The entire thrust behind the litigation which led to the Gilbert decision and behind this legislation is to guarantee women the basic right to participate fully and equally in the workforce, without denying them the fundamental right to full participation in family life.

Twenty-five States now prohibit sex discrimination based on pregnancy. Minnesota is one of these States. A bill to amend our State human rights act, introduced by State Representative Ann Wynia, was passed in May. However, Minnesota's new law has been challenged on the grounds that it is superseded by ERISA, the Pension Reform Act of 1974. Similar challenges have occurred in other States with similar laws. These challenges point to the need for passage of H.R. 6075, to protect the rights of pregnant workers.

At this point I would like to share a recent letter from Representative Ann Wynia:

MINNESOTA HOUSE
OF REPRESENTATIVES,
September 23, 1977.

Hon. DONALD M. FRASER,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN FRASER: The United States Congress now has under consideration legislation which would nullify last December's Supreme Court decision in *G.E. versus Gilbert*. That decision, you may recall, permitted employer disability insurance plans to deny benefits for disabilities to pregnant women.

That decision, which has been widely criticized, stated "that an exclusion of pregnancy is not a gender-based discrimination at all." The court's reasoning came as a shock to many government agencies, civil rights groups, and other organizations which have been working to secure equal treatment for women.

In Minnesota the response was swift and clear. Last May legislation was approved changing the State Human Rights Act to clarify that sex discrimination included discrimination on the basis of pregnancy. This change in the state law was approved overwhelmingly by a vote of 127 to 1 in the House and 44 to 3 in the Senate.

It is vital, however, that Congress now enact such legislation as well if the equal rights of pregnant women are to be protected. The Minnesota law has been challenged on the grounds that language in ERISA, the pension reform act of 1974, may supercede state requirements of non-discriminatory treatment and workers disability insurance plans. Only Congress can now clearly and uniformly provide protection for all women in the United States. I ask your support at the national level.

If you have questions about this matter please contact me.

Sincerely,

ANN WYNIA,
State Representative.

REFLECTIONS OF A WASHINGTON REPORTER

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. NEDZI. Mr. Speaker, a few days ago I read a candid and refreshing newspaper column which drew an apt parallel between the job of a Congressman and

the job of a Washington correspondent for a back-home paper.

The author was Al Blanchard, a veteran newspaperman and new chief of the Washington Bureau of the Detroit News. Those of us who deal with him know Al as a solid, straightforward professional who displays a refreshing frankness. He is free of the affected airs and know-it-all attitude sometimes found in the Washington press corps.

Accordingly, I am pleased to set forth in the RECORD the following column from the September 16, 1977, Detroit News:

CAPITAL REPORTER: UPS AND DOWNS

WASHINGTON.—A reporter who has since departed The Detroit News Washington Bureau used to philosophize that "happiness is in direct proportion to the distance from the home office."

While the other six newsmen in the present bureau may occasionally be enraptured by that thought, they are brought sharply to earth by the admonition that "the diner who is farthest from the kitchen is a nervous eater."

Those two bits of homily illustrate the mixture of euphoria and depression that are part of a distant correspondent's baggage.

But the larger problem for those of us who serve in the field is journalistic. We live in Washington, our friends are in Washington, our kids go to school in Washington, we shop and entertain ourselves in Washington. Yet, like the politicians, we serve a constituency that is distant and whose needs and interests may vary from our own.

Our job is to constantly project our efforts to that distant constituency. What is hometown news in Washington is national news everywhere else. And it has to be sorted out, properly digested and then turned into understandable, meaningful reports for readers in Michigan.

The magnitude of that job becomes quickly apparent when one arrives as a correspondent in Washington for the first time, as I did two years ago when I became Washington Bureau chief. The first impression—and a lasting one—is that no one really knows what is going on here. The place is an international as much as a national capital. It swarms with events. Some sub-agencies are larger than whole local governments back home. Within each of these pieces of government and the industries bordering government, there is talent and expertize as well as untalent and ineptness. It's all grist for news.

The News Washington Bureau serves only one newspaper, and it is small compared with the bureaus of large news chains. There are seven of us—not enough even to pretend to cover all that happens here. So why then a Washington Bureau?

The Detroit News subscribes to several news services, including that provided by the Washington Post. Thus, daily coverage is well provided. What we in the bureau try to do is to step beyond daily coverage to provide insightful stories which anticipate major developing events or help to illuminate and explain the issues of the moment.

Because we write for a single paper, we are able to address ourselves to a single constituency, complement its reading habits and its particular needs for information. For example, we may do more energy news because Detroit, as an automobile city, is so affected by the actions of government in that area; the same goes for news. We, as one would expect, pay special attention to the work of Michigan's congressmen and senators.

In a sense, because we live at the scene, we are editors, as well as reporters, sifting through the torrent of "news" generated in this town each day in search of those things that improve, rather than confuse, our readers' understanding of government workings. In the sorting process, a lot is discarded—or put aside for later scrutiny.

My own roots are at Wayne State University, where after a beginning career as a trombonist, I fell under the spell of the journalism school and the late W. Sprague Holden, who was a guiding hand to many byliners on The News.

Twenty-five years ago I began at The News as a copyboy, which many of my peers consider to be the most productive period of my life. I then did some police reporting and traveled the courts circuit, evolving eventually into a general feature writer and, in the 1960s, into a correspondent, both national and foreign.

Late in the decade, I became a columnist, sharing the back page with Doc Greene. One of the blessings of my life is that I am not well remembered as a columnist, except for an innocent creation of the imagination called the Last of the Zug Indians, which brought more fame to Zug Island than it deserves.

After my pubescent columning period, I disappeared behind a desk as national editor of The News. When I emerged five years later, I was shipped off to Washington, to succeed Jerry terHorst as bureau chief. Jerry went off, you will recall, to become President Ford's press secretary when Mr. Ford replaced Mr. Nixon. terHorst resigned a month later in protest of the Nixon pardon and returned to the bureau as The News national columnist.

This is a town in which greatness is always just around the corner and, though it has eluded me so far, I am not discouraged. Anyway, after watching the rise and decline of Bert Lance, and knowing my own problems with overdrafts, I've decided that it's more comfortable being a chronicler of events than a maker of them.

CHANCES FOR A LATIN NUCLEAR AGREEMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. GILMAN. Mr. Speaker, in August a congressional delegation led by Chairman GUS YATRON, Inter-American Affairs Subcommittee, Committee on International Relations, visited six countries in Latin America—in Colombia, Peru, Chile, Ecuador, Brazil, and Argentina. Our delegation discussed with top government officials a variety of issues of vital interest to the Western Hemisphere. One of the more compelling of concerns and, indeed, perhaps one of the most critical was nuclear proliferation and the potential impact on Latin America of uncertain national nuclear aspirations.

Recognizing the importance of a cooperative approach to dispel the threat of nuclear proliferation, Congressman PAUL FINDLEY, a colleague of the International Relations Committee and a member of our delegation, fashioned a proposal for a bilateral nuclear verification agreement between Argentina and Brazil. The crux of the agreement would be mutual onsite monitoring of the nuclear facilities of each country. Designed to reduce suspicion and hostility between neighbors, this proposal is intended to supplement rather than supplant other ongoing arrangements.

In further meetings in Washington with President Videla of Argentina and Vice President Adalberto Pereira dos Santos, Congressman FINDLEY has continued to generate interest in an idea whose acceptance would greatly benefit international tranquility.

For the benefit of my colleagues in the House, I am placing in the RECORD Congresman FINDLEY's proposal as it was reprinted by the Washington Post on September 1, 1977:

CHANCES FOR A LATIN NUCLEAR AGREEMENT

(By Paul Findley)

A bilateral, on-site, nuclear verification agreement betwen Argentina and Brazil could help to arrest mounting suspicion over the ultimate nuclear aspirations of these two important states. There is no reason to believe that such a proposal would not be rejected out of hand, and there are many reasons why both sides should find such an arrangement in their best interest.

I reached that conclusion during a congressional study mission that included discussions with top officials in Brazil, Argentina, Chile, Peru, Ecuador, and Colombia.

The agreement I envisage would be one in which Brazil and Argentina renounce any intention of developing a nuclear explosive device and agree to accept continuing, mutual, on-site monitoring of their respective nuclear facilities. Each nation would let nuclear officials of the other move freely throughout its nuclear facilities.

Argentina and Brazil have been natural competitors on many planes over the years and probably will remain so in the future. They have a long common border. Each has a great diversity of resources, technical competence and a burgeoning economy.

Argentina is presently the most advanced nuclear power in Latin America, with several natural-uranium-fueled power plants in operation and under construction. Its technology includes a laboratory-size plant for reprocessing spent fuel.

Brazil, although behind Argentina in nuclear development, has contracted with West Germany to buy a complete nuclear fuel technology based on the use of enriched uranium and including equipment for reprocessing spent fuel. The latter, of course, will yield substantial quantities of plutonium usable for weapons.

Neither country is currently a party to the non-proliferation treaty, though both have taken some steps toward entering into the Treaty of Tlateloco. However, this treaty, important as it is, accepts the distinction between peaceful and military nuclear explosive devices, a distinction that the United States and other supplier states now prudently recognize to be artificial and meaningless.

Both Brazil and Argentina have frequently renounced any intention of building or otherwise acquiring nuclear weapons, but apprehension persists that, in the absence of solid safeguards, future circumstances might impel one of them to go the weapons route. If so, the other would surely follow. With the giants of South America armed with nuclear weapons, a chain reaction might bring them swiftly to other Latin nations.

A Latin America bristling with nuclear weapons is hardly a pleasant prospect.

The bilateral pledges and inspection arrangements I have described would not be a substitute for International Atomic Energy Agency safeguards nor for specific individual supplier-state provisos, but rather would provide an important additional element of assurance and protection between two states whose past relations have at time been quite troubled. The agreement in question would strengthen the web of checks and decrease any incentive for abuse and diversion. The agreement by rivals to check themselves should be doubly reassuring to neighboring states and to the world at large. There are other situations in other parts of the world where tensions among regional powers are so

great as to require checks beyond those inherent in customary safeguard arrangements. This kind of bilateral verification could serve as a model for such situations, helping, by means of the added protection it would provide, to assure that traditional safeguards are not subjected to intense or unbearable strain.

The agreement would have these advantages:

It would elicit worldwide applause for the two neighboring counties whose governments would consummate the agreement entirely on their own without participation or pressure by the nuclear-weapons states.

It would be the first major agreement between the countries in many years and might create an atmosphere that would be supportive of agreements in other fields as well.

It would not involve concessions or cost by either state. Brazil and Argentina already have a cordial, informal, cooperative relationship among their nuclear officials and, inasmuch as both have renounced nuclear weapons, neither would be disadvantaged by accepting continuing on-site inspection.

It would help to restore an atmosphere of cordial nuclear cooperation that likely would spread beyond Argentina and Brazil. Hopefully, it would generate a mutually beneficial spirit to the advantage of supplier states, including the United States, West Germany and Canada.

No single method exists for dealing with the threat of nuclear proliferation. Agreements can always be broken in times of stress, and safeguard inspectors sent packing. That is why it is still of the greatest importance to create fuel cycles in which ready access to weapons-usable materials is denied. Still, the institutional arrangements described here, coupled with other controls and hoped-for technological advancements, could be an important breakthrough in the quest for a truly secure development of nuclear power.

OIL CARGO PREFERENCE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. VANIK. Mr. Speaker, the House will soon consider H.R. 1037, the Energy Transportation Security Act of 1977, more commonly and indeed more appropriately known as the cargo preference bill. I am very concerned about this bill because of its inflationary impact and its implications for U.S. foreign economic policy. I am also concerned that the White House strongly supports this bill in spite of widespread controversy among executive branch agencies. For example, although the prime rationale for H.R. 1037 is national security, neither the Department of Defense nor the State Department has supported the bill on those grounds. Though the bill purports to create additional jobs, the Council of Economic Advisers has indicated that it would reduce both national employment and the gross national product. The State Department has voiced opposition on grounds that the bill's language will violate approximately 30 treaties of friendship, commerce, and navigation with our trading partners. The bill is also not supported by the National Security Council, the Office of Management and Budget, and the President's special adviser on energy.

Mr. Speaker, H.R. 1037 is unjustifiably expensive to the American economy at a time when the Congress and the administration are agonizing over important economic decisions, such as how to reduce inflation, how to cut unemployment, and how to reduce the tax burden on the middle-class citizens of our country.

The General Accounting Office, the Federal Trade Commission, and the Commerce Department, have come up with some very startling cost estimates. These agencies conclude that a 9.5-per cent cargo preference would cost consumers a minimum of $240 million a year. Looking ahead, if oil imports are 10.3 million barrels per day as expected by the mid-1980s, a 9.5-percent cargo preference requirement is more likely to cost from $550 to $610 million annual. In estimating its adverse impact on GNP and employment, the CEA concludes that total costs—including a wellhead tax increase—in 1985 at the above levels will be $640 to $884 million. What would these astronomical costs mean to maritime industry employment costs? The Commerce Department—where the Maritime Administration supports this bill—estimates that the annual cost per seagoing job would be in excess of $100,000.

Mr. Speaker, in addition to the obvious inflationary impact of H.R. 1037, as chairman of the Subcommittee on Trade of the Committee on Ways and Means, I am particularly concerned about the bill's implications for our international trade relations because it is completely contrary to longstanding policy of the United States to promote an expansionist trade policy worldwide based on fair and equitable rules. I certainly agree with the Treasury and Commerce Departments in their statements that cargo preference legislation would be totally contrary to the London Summit pledge to reject protectionism. It is therefore inconsistent with U.S. objectives in the current Multilateral Trade Negotiations in Geneva. It would also reverse U.S. policy favoring free competition for commercial cargoes. Further, preference legislation would probably trigger the adoption of similar or more stringent measures by other countries. Currently, cargo preference imposed by other countries applies to only 5 percent of world oil trade. Finally, as I have noted, U.S. treaties with at least 30 countries would be contravened.

Mr. Speaker, for the reasons I have outlined. H.R. 1037 is even less meritorious today than in 1974, when President Ford had the courage to veto a similar bill.

A TIME TO REASSESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. RANGEL. Mr. Speaker, the situation in the Middle East has now reached a critical stage where compromise is inevitable if further bloodshed is to be avoided. The latest peace initiative of Secretary Vance leads me to believe that the Arab States are now willing to begin serious talks with Israel on how both can live in peace in that corner of the world. Certainly not all the principals in the conflict have set aside their differences which have caused the Middle East to be the center of many violent acts over the last three decades.

However, I think the United States and Israel would be missing a golden opportunity for exploring a potential avenue of peace if we both did not recognize that the statement by the Foreign Minister of Egypt to the effect that Arab nations are now willing to accept Israel and live in peace may signal an important shift in Arab policy towards their neighbor.

I have always been one of the most vocal supporters of Israel and have recognized the need for her to be secure in a traditionally hostile environment. However, I do not believe that the cause of peace is served by clinging stubbornly to concepts that may no longer hold. We must recognize the need to move forward and seize any opportunity to bring about peace.

Anthony Lewis has written what I believe is a very fair and concise statement of the need for Israel and her friends to compromise and meet the Arab States halfway, especially when the latter signals that they may want to lay aside their differences. As one who is committed to the survival of Israel and who has voted consistently with Israel here in Congress, I believe that she must cautiously begin to explore just how much the Arabs have changed. The conditional agreement reached to allow Palestinian representatives to participate at Geneva was a first step. Another indication is needed in order to make certain that the conference in Geneva does move off center and thereby enhance the cause of peace.

I would hope that my colleagues would review the column written by Lewis in today's New York Times and consider carefully his views. The Congress will continue to deal with this question and therefore his views are quite timely. His remarks follow:

AMERICANS AND ISRAEL

(By Anthony Lewis)

Sympathetic public opinion in America has always been vital to Israel, and never more so than in her diplomatic near-isolation these days. The sympathy is natural: It is right that Americans should care about a country of shared ideals and so compelling a history. But the support should reflect not only human feelings but a realistic sense of Israel's long-term interests.

The question of American public attitudes is made acute by the growing possibility that the Geneva Conference on the Middle East will be reconvened before the end of the year. That prospect emerges from Israel's agreement, albeit with prickly conditions, to a Palestinian presence at the conference. There is a momentum for Geneva.

Considering all the brickbats thrown at President Carter and Secretary of State Vance for their Middle East policy—the charges of muddling and amateurism—they could take considerable satisfaction in a Geneva meeting. But of course that would only be the beginning: of negotiation and of American responsibility. For everyone recognizes that only U.S. leadership has any chance of closing the still enormous dis-

tance between Israel and the Arabs on substantive issues.

That is where public opinion, its understanding and its steadiness, will matter. It is no secret that American supporters of Israel have been extremely sensitive to any suggestion of U.S. pressure on Israel—sometimes more sensitive than the Israelis. President Carter has not yet applied any significant pressure. But when he has spoken aloud on something as evident as the necessity for a Palestinian homeland, he has been denounced as "provocative."

It is Menahem Begin, not Jimmy Carter, who has been provocative. Since becoming Prime Minister he has taken the unyielding position, at least publicly, that the West Bank territory occupied by Israel in 1967 is hers by right going back to the Bible. Until an ambiguous halt this week, he has allowed further Jewish settlements in the area. His Minister of Agriculture, Ariel Sharon, has produced a grandiose plan to settle 2 million Jews in the occupied territories.

Those positions are fantasies: dangerous fantasies. Ancient history is deeply meaningful as a source of Israel's vision, but it is entire inadmissible as a definition in international law or diplomacy. What would happen to the peace of the world if every nation insisted on biblical boundaries or its own scriptural equivalent?

The Begin Government has suggested that the problem of the West Bank can be solved by improving the Arab's social and economic conditions and giving them a degree of local autonomy. That is another fantasy. Paternalism, however beneficial, will not work there any more than, it did for the French in Algeria. Even the most moderate Palestinians want to run their own society.

Americans who visit Israel often speak of the vulnerability of the country's pre-1967 waist: the narrow area between the Mediterranean and the West Bank. That is a fact, but it was also a condition of the compromise that allowed the creation of Israel in 1948 with world support. The world as it is today cannot accept unilateral boundary changes for reasons of perceived security.

In any case, territory is not security for Israel in the light of modern weapons systems. Minor adjustments to the 1967 borders are imaginable. But can it really increase Israel's security to hold on to the West Bank and thus assure continuing hostility from the Arabs and disapproval from the rest of the world?

In our concern for Israel's survival, we tend to forget an important part of the dream that accompanied her creation and development. That was the dream of peace with her neighbors. Israelis and American supporters both envisioned a time when people with so much in common could live together, and Israel would no longer need to be an armed camp.

After the 1967 war, that vision of peace was the declared reason for holding on to the occupied territory. Apart from such particular areas as Jerusalem, the land would be held temporarily, it was said, as a lever to bring the Arabs to genuine peace. But now security is sought in territory, not peace.

The Arabs are talking of peace now in terms that would have been regarded as astounding in 1967. Secretary Vance came back from his last Middle East tour with undertakings by the neighboring Arab states to conclude peace treaties with Israel. The Foreign Minister of Egypt, Ismail Fahmy, said the other day that "the Arab countries are ready for the first time to accept Israel as a Middle Eastern country to live in peace."

Words can deceive, and it is wise to be wary after the bloody history of Arab opposition to Israel's existence. But it is foolish to pretend that there has been no change in Arab attitudes. There has been a significant change.

Americans must remain committed to Israel, but not in the blinkered vision of survival in hostility. The aim is a stable relationship with her neighbors, and that requires the mutual abandonment of extravagant claims. We help Israel by supporting American leaders when they point out the price of fantasy.

YUGOSLAV TERRORISM IN THE UNITED STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. DORNAN. Mr. Speaker, on July 21 and July 27, I inserted in the CONGRESSIONAL RECORD the published reports of a murder which has frightening implications.

This murder took place on Sunday, June 19. The editor of the anti-Communist newspaper Liberty and his 9-year-old daughter were brutally tortured and murdered. Horrible as this murder is, there are far-reaching ramifications which should cause additional concern among all Americans who treasure their liberty and the safety of our society.

As Dr. Slobodan M. Draskovich, internationally noted author and professor of economics, stated:

There can hardly be any doubt that the murder was politically motivated and that the perpetrators are the agents of the Communist regime of Josip Broz Tito.

More of the story has come to light in recent weeks. The News World newspaper published two articles on August 8, which detail the facts discovered up to that time and which trace Tito's ruthless rise to power. The first article was written by Mr. Miles Costick and the second by Mr. Hal McKenzie. I insert both in the CONGRESSIONAL RECORD:

TITO'S AGENTS LEAVE TRAIL OF BLOOD IN AMERICA

(By Miles Costick)

On Sunday, June 19, 1977, about 4:00 a.m., an editor of the Serbian anti-Communist newspaper Liberty and his 9-year-old stepdaughter were found beastially murdered in the Chicago newspaper office.

According to the police officers investigating the murder, sometime after 11:30 p.m. on Saturday, June 18, Dragisa Kasikovich, 45, and Ivanka Milosevich, 9, were murdered by use of blunt instruments and by being repeatedly stabbed with a sharp object.

The girl's mother arrived at 4:00 a.m. on Sunday, June 29, finding the door to the editor's office open, with Mr. Kasikovich's body in the chair behind his working desk, his face bludgeoned beyond recognition; the dead child with the slashed throat was on his lap. The little girl's gouged eyes and lower ear lobes with earrings in them were in the ash tray on the desk. Several human teeth were under the desk chair. The murderers, apparently, used the office scissors, to cut and torture the victims. There were signs of struggle around the office; the desk lamp and the ceiling were covered with blood spots.

According to Dr. Slobodan M. Draskovich, one of the most eminent members of the Serbian community in the United States, "There can hardly be any doubt that the murder was politically motivated and that the perpetrators are the agents of the Communist regime of Josip Broz Tito."

POLITICAL MURDERS

A spokesman for the Serbian National Defense Council of America—the publisher of the anti-Communist weekly Liberty—Col. Voya Pantelich, also blamed the deaths on Yugoslav agents. The newspaper has been a harsh antagonist of the Communist regime of Tito.

A Chicago Police Department spokesman said that the murders are suspected of being politically motivated.

Ever since the Communists came to power in Yugoslavia—owing to Stalin who sent the Red Army divisions under command of Soviet Marshal Tolubhin to install Tito in power in October of 1944—the free Serbian anti-Communist emigres in the West have been an embarrassment and a thorn in the side of the Yugoslav Communists. They are this simply by reason of their opposition to Tito's Communist dictatorship and by reason of their activities to inform the free world of the true nature of the Yugoslav Communist regime.

According to the former U.S. Deputy Attorney General and former U.S. Ambassador to Yugoslavia Laurence Silberman (see his study "Yugoslavia's 'Old' Communism: Europe's Fiddler on the Roof," in Foreign Affairs, No. 26, Spring 1977), "Perhaps the most sensitive of all bilateral issues (between the U.S. and Communist Yugoslavia) involves Yugoslav emigres in the United States." Ambassador Silberman further writes, "Indeed, for Yugoslav purposes, an occasional incident provides a useful lever to press in pursuit of the larger objective—the marshaling of U.S. government efforts against political activity (violent or not) aimed against the present regime."

For this report, however, the most pertinent pronouncement by Ambassador Silberman is that ". . . Tito gives the Interior Ministry [ministry of police] unchecked power to root out all real or imagined enemies in Yugoslavia and to pursue them in European cities . . ."

WORK OF THE SDB

In the past decade, the agents of the Yugoslav secret police, the SDB, have been accused of more than three dozen assassinations and kidnapings of political opponents in Western Europe. To name only the most prominent ones:

(1) Andra Loncaric, murdered with an ax in Paris, France, on March 6, 1969. His killer—a former convict recruited by the SDB—Bosko Paraskijevic, lives today in Yugoslavia under a different name.

(2) Sava Cubrilovic, murdered in Sweden on December 25, 1969. His assassin—Milan Sop Djokic—lives in Yugoslavia. Djokic has been clearly identified by Swedish authorities as an agent of the Yugoslav secret police, the SDB.

(3) Miroljub Lazic, kidnaped by Yugoslav agents from Austria on July 2, 1970. Later tried in Yugoslavia and sentenced to 12 years of hard labor.

(4) Ratko Obradovic, editor of the Yugoslav emigre newspaper, Iskra, shot to death in Munich, Germany, in 1970. The perpetrators escaped to Yugoslavia.

(5) Borivoje-Bora Blagojevitch, former officer of Gen. Dragja Mihailovich's Chetnik guerrilla force, maimed by Nazis in 1943, shot to death on March 8, 1975 in Brussels, Belgium. Assassins escaped to Yugoslavia. A year prior to Blagojevitch's murder, one Slavko Trbic was sought in Paris by SDB agents and recruited to assassinate Blagojevitch. He was given a Yugoslav passport in a fictitious name, a Walther 7.65 mm pistol with ammunition and a silencer. Trbic, however, turned himself in to the French police authorities.

(7) Pierre Valitch, editor of the Serbian emigre newspaper, Vaskrs Srbije, shot to death in his apartment on May 13, 1975 in Brussels, Belgium. Valitch was 72 years old.

(8) Slobodan-Bata Todorovic, prominent

economist, was kidnaped from Milan, Italy, in December 1975. Now in Yugoslav prison.

(9) Col. Vladimir-Vlado Dapcevic, leader of the anti-Tito Communists. Belgian citizen. On visit to Bucharest, Rumania, last August, he was kidnaped by SDB agents, brought to Yugoslavia and sentenced to 20 years of hard labor.

(10) Miodrag Boskovic, a prominent antique dealer in Brussels, Belgium, considered to be one of the Serbian leaders in Western Europe. He was also a president of the Association of the Free Entrepreneurs in Exile. Boskovic was shot to death in his office on August 6, 1976 in Brussels, Belgium.

(11) Uros Milicevic, Boskovic's bodyguard (former bodyguard to the French actor Alain Dallon) was murdered together with Boskovic.

(12) Yvan Tuksor, 42 years old, secretary general of The Croatian Federalist Union. A bomb was planted in his car. The bomb exploded as the car was halted at a traffic light in Nice, France; Tuksor was trapped in the blazing vehicle and burned to death. Seven other persons, unrelated to Tuksor, were injured by the same blast. The perpetrator of the crime returned to Yugoslavia and ended up in a lunatic asylum.

A SELF-DEFENSE CASE

On June 15, 1976, the district court in Amsterdam sentenced *Slobodan Mitric*, a professional karate teacher from Yugoslavia, to imprisonment for 15 years. His crime: murder of three Yugoslav secret agents and wounding of another two in a restaurant in Amsterdam. His sentence was relatively a light one, because the court established that he acted in self-defense. Mitric himself was a trained SDB assassin who did not carry out his latest assignment, since he found out that upon completion of this task the other SDB assassins were ordered to liquidate him. His trial in Amsterdam revealed a wide net of Yugoslav terrorist and assassins network in Western Europe.

The cases of assassinations and kidnapings differed from another in important details. However, the common trait and purpose seemed to be to silence the political opposition of Serbs and other Yugoslavs throughout the world and especially in Western Europe.

Dr. Draskovich, former professor at the University of Belgrade, and president of the Serbian Cultural Club St. Sava of Chicago, Ill., made a statement to us: "I had the occasion several years ago to bring this to the attention of then Attorney General John Mitchell, predicting that unless these criminal activities of the Yugoslav secret police, the SDB, were stopped, they would spread to the United States."

Dr. Draskovich also said, "I think that the most important aspect of the murder of Dragisa Kasikovich is precisely that—emboldened by the unconditionally friendly policies of our State Department—the Communist regime of Josip Bros Tito has decided to cross the ocean and to silence by terror the anti-Communist Serbs in the United States.

CHURCH ALSO INFILTRATED

Dr. Draskovich continued, "For not only that no attention at all was paid to the machinations of Tito's agents in the United States, but their infiltration into the Serbian Orthodox Church has gone unhindered and was even facilitated."

The Yugoslav Communists caused a split in the Serbian Orthodox Diocese of the United States and Canada in May 1963. The diocese was opposed to the Communist rulers in Yugoslavia.

The free Serbs in the United States rallied in defense of their diocese against the dictates of the Religious Commission (the arm of the Yugoslav Communist regime for religious affairs).

The litigation before various U.S. courts of justice lasted for 14 years.

The most damning single event was the majority opinion of the Supreme Court of the United States of June 21, 1976, which deprived the American Serbs of protection under the First Amendment of the U.S. constitution, and forbade U.S. courts even to examine and pass judgment on the rulings of the ecclesiastical courts under Communist control in Yugoslavia.

In a letter to Chief Justice Warren Burger on July 19, 1976, Dr. Draskovich predicted that such a majority opinion would entail very grave consequences, among which would be to give the green light to the Communist terrorists from Yugoslavia.

This has now come to pass.

What Dr. Draskovich did not know, while writing Chief Justice Warren Burger, was that, last year in Washington, D.C. a hired Yugoslav agent surrendered to the Federal Bureau of Investigation, turned over the special poison which she received from the counselor in the Yugoslav embassy in Washington and admitted that her assignment was to poison five Serbian political emigres in Washington, D.C.

REGIME AIDED BY U.S. FRIENDSHIP

Whatever the details of the murder of Dragisa Kasilovich, the most ominous aspect is that the Communist regime of Josip Bros Tito was emboldened by our unconditional friendship and the obsequious attitudes of Vice President Mondale.

Only a few days before the Belgrade Conference on Human Rights, Mondale praised Tito and expressed the admiration of the United States government for this Communist tyrant. This gave another mighty shot in the arm to the Yugoslav regime's subversion and terrorism in the United States.

At this point a Serbian editor and his stepdaughter were bestially murdered in free America. The Serbs feel that behind this ominous event is the Communist regime of Tito.

The Yugoslav policy towards the United States, both multilaterally and bilaterally, is obviously asymmetrical. The recent events have demonstrated it. This, in turn, calls for reassessment of American policy towards Tito's Yugoslavia as suggested by the former Ambassador Silberman.

It was George Kennan, a distinguished former ambassador to Yugoslavia, who states, "Yugoslavia sees the United States as a milk cow rather than a bull—all teats and no horns." And this cannot be tolerated any longer.

TITO'S RUTHLESS RISE TO POWER

(By Hal McKENZIE)

In the Western press, Yugoslavian President Josip Broz Tito is depicted as one of the "good guys" on the international scene because of the independent line in regards to the Soviet Union he adopted in 1948, and some domestic economic policies which seemed to moderate the harsher aspects of Communist rule. However, in achieving and maintaining his power, Tito has been as ruthless and bloody as any Communist dictator ever.

The population of the rugged country of Yugoslavia consists of a number of distinct peoples with kindred but separate languages and cultures, causing age-old ethnic rivalries which have complicated the process of nation-building and remains a problem even under Tito. These nationalities, according to the 1971 census, include the Serbs (40 per cent), Croats (22 per cent), Slovenes and Bosnian Muslims (8 per cent), Macedonians and Albanians (6 per cent each), Montenegrins and Hungarians (2 per cent), and Turks (one per cent).

SERB-CROAT RIVALRY

Yugoslavia first emerged as a unified state in 1918 called the Kingdom of the Serbs, Croats, and Slovenes under the Serbian house of Karadjordjevic. However the Croats became an increasingly disaffected minority in this Serb-dominated state. Their rivalry with the Serbs continued even after the Fascist Germans and Italians invaded and occupied the country in 1941. Some Croations (called Ustasi), collaborated with the Nazis and adopted the facist ideology in order to gain autonomy for their region.

Resistance to the German-Italian occupation was led by two rival groups—the Serb nationalist Chetniks under Gen. Draza Mihailovic, and the Marxist Partisans led by Tito. Tito himself is a Croat, but called for unification of the various Yugoslav nationalities.

BETRAYAL OF MIHAILOVIC

In the earliest stages of the resistance, Tito's Partisans launched a campaign of terror and assassination against Chetnik leaders in order to insure their dominance of the resistance movement. In the ensuing civil war, the Partisans were temporarily defeated. However, through a combination of world-wide Communist propaganda and faulty Allied intelligence, the Allied forces began to accept the fiction that the Partisans were the only ones carrying out active resistance against the Nazis, and that Mihailovic's forces were collaborating with the Germans. In fact, captured German intelligence indicated that they considered the Chetniks to be by far the worst threat to the German occupation. Tito's forces launched some sabotage operations and ambushes which led to frightful reprisals and massacres of the local population, sometimes involving the killing of 100 Yugoslavs in reprisal for a single German death. Mihailovic's forces refrained from such activities in order to protect the lives of the people, but as a result the word spread abroad that Tito was the most active against the Germans.

The effect of this propaganda was that the Allied forces gave its full support to Tito, and Mihailovic was denied Allied assistance. This, together with the depradations of Nazi, Ustasi, and Partisan killings of Chetniks, allowed Tito to emerge the dominant force after the Germans were driven out. Mihailovic's Chetniks were defeated by the Partisans, rounded up and most were executed. Mihailovic himself was executed in July 1947 after a highly publicized trial in which he was condemned as a "Nazi collaborator."

The Serbs who escaped to the United States still keep alive the memory of Mihailovic. They continue to be a thorn in the side of Yugoslavian communism, and a prime target of Tito's international intelligence agents. Also Croat nationalists continue to carry out terrorist activities against the Tito regime, some of which took place recently in New York.

WHY INFLATION PERSISTS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MITCHELL of Maryland. Mr. Speaker, all of us are cheered by the fact that inflation has tapered off in recent months. But underlying monetary developments indicate that this may be the lull before we are hit with still another inflation storm later next year or early in 1979; and if recent history is any guide, another recession will follow shortly after. The problem building up

beneath the surface is another explosion of money growth as in 1971, 1972, and 1973. For the past 6 months, the Federal Reserve has caused or allowed our basic money supply (M1) to grow at an annual rate exceeding 9 percent, which is 40 percent above the 6½-percent upper limit of the target range set by the Federal Reserve itself for 1977.

In this regard, I would like to call my colleagues' attention to an article by Milton Friedman on "Why Inflation Persists" which appeared in the October 3, 1977, issue of Newsweek. Dr. Friedman, a Nobel Laureate in economics, states that there is "one and only one basic cause of inflation: too high a rate of growth of money," and "one and only one basic cure for inflation: slowing monetary growth." He points out, as I did in a hearing my Subcommittee on Domestic Monetary Policy held on September 27, that Chairman Arthur Burns and other Federal Reserve Board governors have many times stressed the importance of moderating money growth. Dr. Burns and other members of the Board also have given many reassuring statements about lowering monetary growth, but their performance has been in the opposite direction.

I concur with Dr. Friedman's fears that the Federal Reserve's performance will lead to another bout of inflation and subsequent recession. I am personally anxious to prevent, to the greatest extent possible, this scenario from occurring, as I am sure all of my colleagues are. I ask my colleagues to read Dr. Friedman's timely and provocative article:

WHY INFLATION PERSISTS

(By Milton Friedman)

Nearly three years ago, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (NEWSWEEK, Nov. 4, 1974.)

ABANDONING THE CURE

As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.

There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources of temporary blips of inflation.

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.

Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):

"The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note; with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."

Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.

THE PERFORMANCE OF THE FED

The following table documents Chairman Burn's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery; the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.

Recent rates of monetary growth

	Per cent per year	
	M_1	M_2
December 1971 to January 1973	9.3	11.4
January 1973 to February 1975	4.5	7.7
February 1975 to June 1975	9.5	12.0
June 1975 to December 1975	2.8	7.0
December 1975 to June 1976	5.8	10.5
June 1976 to August 1977	7.1	10.9

M_1=currency plus adjusted demand deposits; M_2=M_1 plus commercial bank time deposits other than large CD5's

Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.

Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank":

"Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considered by those who initiate them."

FISH OR CUT BAIT

It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to *report* its "projections" or "targets" for monetary growth, let the Congress require the Fed to *achieve* specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

PANAMA CANAL ISSUE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. MATHIS. Mr. Speaker, with both sides of the Panama Canal issue presenting knowledgeable and renowned experts on international policy to express the pros and cons of the controversial treaty, I feel that my colleagues should share the thoughts of one of my constituents on this issue. Hopefully, Cuckoo Harry's remarks will blunt a little the sharp edge of the highly emotional issue and lend a little homefolks humor to the controversy. I think we all agree it is needed:

ATLANTA, GA., *August 26, 1977.*

Hon. DAWSON MATHIS,
Congressman, Second District of Georgia,
Cannon House Office Building,
Washington, D.C.

DEAR DAWSON: The other night you asked for advice on the Panama Canal Treaty. With this in mind, I sought out the sound socio-psychological analysis of the wiregrass philosopher, Cuckoo Harry, on this important question of national concern.

I don't know whether you know Harry or not, but he is a fellow unencumbered with the rudiments of education and so poor that he is completely devoid of any influences of the special interest in big business. All in all, he is a knowledgeable, interesting, delightful and completely charming fellow whose advice is not to be taken lightly or ill-advisedly.

Cuckoo said that he had no reservations at all that the treaty was in the best interest of the nation, but he did have deep and serious reservations as to what nation and whose best interest.

The sage philosopher of South Georgia

pointed out that a lot could be learned by examining the nature of the author of the treaty. In the case of Mr. Ellsworth Bunker, he noted that the slang of bunk is humbug or talk that is misleading; hence, Mr. Bunker, as his name indicates, is a person, by definition, who practices the art of misleading talk or humbug.

Our dear friend, Mr. Harry, alleged that the Panama Canal treaty of 1977 would set a bad precedent inasmuch as we had stolen it fair and square 73 years ago. (Quote attributed to Senator Hayakawa). He visualized the Russians demanding Alaska be returned; the French suing for Louisiana; the Spanish pleading for Florida and Puerto Rico; the Indians wanting either Manhattan or another $24.00; the Mexicans demanding New Mexico and California; the English entreating for New England: the Portuguese urging the return of the Philippines; and the descendants of Captain Cook clamoring for Hawaii. In short, someone would be claiming all of the United States with the exception of Texas which nobody wants and Alabama which is already owned, in fee simple, by George Wallace.

Cuckoo Harry said, further, and I believe him, that no trade should be made that would not pass the scrutiny of the loan officer of a small loan company. He further alleged that General Torrijos of Panama was either a loan shark himself, or a descendant of a long line of loan sharks.

You can imagine that at this stage of the conversation, I was in a state of hysteria bordering on apoplexy at the seriousness of the situation. Having the utmost confidence in this friend known as Cuckoo, I asked him to prepare a summary of what was in the treaty. This is what he said:

We give them the canal:

We loan them $75,000,000 for housing investments;

We guarantee a $200,000,000 Export-Import Bank;

We loan them $20,000,000 to start the bank;

We continue to pay $20,000,000 annual rent;

Our ships continue to pay to use the canal;

We continue to subsidize the $7,500,000 yearly operating loss;

We consider building another sea level canal.

This seems to be an unbalanced agreement in a world that recognizes that possession is nine parts of the law, mused my associate.

Cuckoo is also astute enough to have recognized that General Torrijos is a non-elected official who came to power through force, and that the average life of a Banana Republic dictator is only ten years, so after he moves on to Switzerland, there will be another strong man wanting us to give them the Canal again. This could go on forever. I gently suggested to my philosopher friend that his observations, to this point, had been those of criticism, and that before you criticize, you should suggest constructive alternatives.

He was full of them. They are as follows:

Dove Approach—Give them the zone and place it in its original condition. (To do this would require the destruction of locks, filling in the Gillard Cut and reintroducing the anopheles mosquito.)

Hawk Approach—Move out with all personnel and not let any ship move through the canal until the Panamanians agree to keep their bargain.

Lawyer Approach—Ask for a continuance and keep putting the resolution day off. (This seems to me to be the most sensible approach. A good lawyer could get us another hundred years.)

Business Approach—Sell it to them for what we gave plus cost of improvement and interest. They could go up on the rates by 1000% and still be competitive with the alternate routes. This would bring them in $1,343,000,000 less $136,900,000 yearly cost of operation or $1,207,000,000 yearly profit. This would be a guaranteed annual income of $600.00 per capita for the 2,000,000 population or one billion dollars annually to the General, according to who got the money.

I kept plying him for more suggestions, but at this point, my good friend had dropped off to sleep, and I couldn't rouse him.

I feel confident that if you need additional information, you can request it through me, and Cuckoo Harry will be glad to advise you after his nap.

Sincerely,

FRANKLIN SUTTON.

(P.S. I understand that Columbia had filed suit claiming that they were the original owners, and their claim supersedes that of Panama, but this claim is being contested by Chief Pain in the Posterior (a direct descendant of Emperor Montezuma) who contends that his people, the Aztec Indians, have a legal claim that predates that of General Torrijos, Panama, Columbia or Spain. He claims that when the Aztecs ceded that region to Spain in 1519, they excepted the hunting, fishing, mineral and canal rights for perpetuity.)

CIVIL SERVICE PERSONNEL REFORM URGENTLY NEEDED

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. UDALL. Mr. Speaker, I am increasingly concerned about the harm being done to the thousands of dedicated Federal employees by our present civil service rules and regulations.

As the following article illustrates, the cumbersome procedures and redtape involved in attempting to remove an incompetent employee make it almost impossible to rid our system of those who do not perform their assigned functions and who make it impossible for others to do their jobs as well.

By contrast, conscientious employees who speak out against waste and malfeasance are ignored, or reprisal action is taken against them. This article illustrates vividly the crying need for reform of Federal personnel procedures. We do not need to return to the spoils system, but we can and must find an effective way to weed out incompetents from the Federal service and to reward those who are courageous and dedicated:

The article follows:

[From the Wall Street Journal, Sept. 26, 1977]

CIVIL SERVICE RULEBOOK MAY BURY CARTER'S BID TO ACHIEVE EFFICIENCY

(By Karen Elliott House)

WASHINGTON.—As things go in the bureaucracy, the confrontation was particularly grim.

A top Carter appointee at the Department of Housing and Urban Development discovered that a $25,000-a-year economist was actually doing no work and called him in for a dressing-down. The economist blandly admitted doing nothing except writing personal free-lance articles, but warned his new boss that civil service regulations make it almost impossible to fire him.

"I'll spend whatever time it takes," the HUD official recalls saying. "You'll see," the economist confidently replied, "I'll wait you out just like I did all the others."

Whether he does or not, the dialogue is a vivid illustration of why government experts believe President Carter's promise to reorganize the bureaucracy faces deep trouble.

Reorganization, the President has said, will mean a wholesale shifting of the 2.8 million federal workers to eliminate duplication and to make the best use of their talents. Yet tangled civil service regulations almost prevent reassignment of employees according to talent. Indeed, so complex are the regulations that a manager seeking to reduce his staff often must use a computer to sort out who is entitled to stay and who must go.

MASSIVE REGULATIONS

As the regulations have ballooned to fill 21 volumes some five feet thick, government managers have found it increasingly difficult to fire employees. At the same time, promotions and merit pay raises have become almost automatic. The result is a bureaucracy nearly devoid of incentives and largely beyond anyone's control—even the determined Jimmy Carter.

"The civil service system makes managing government very difficult," says Jule Sugarman, vice chairman of the Civil Service Commission, which writes the regulations and oversees their administration by other government departments and agencies. "We must simplify the system."

But that won't be easy. Underlying the regulations are 400 laws enacted by Congress and an unknown number of executive orders, possibly 600. Any major changes in the system aren't likely to breeze through Congress, where federal workers' unions are influential.

To complicate reorganization further, President Carter has promised to do the job without firing or demoting anyone, a promise that leaves government managers aghast. "If reorganization means reducing duplication and inefficiency, someone has to get hurt," says Raymond Jacobsen, executive director of the Civil Service Commission.

ASKING THE IMPOSSIBLE

Adds one Commerce Department official: "The President is asking the impossible. He wants efficiency, but he's tied our hands by saying no one can be demoted."

Considering these shackles, the only way to reorganize experienced government managers say, is to go around the system—a practice already common. For instance, almost every department has a "turkey farm," a special division created to pool many of the department's incompetent workers where they can do minimum damage.

"You have to know how to legally circumvent the system to get anything done," says Albert Dimcoff, Deputy Executive Director at the Consumer Product Safety Commission, who has worked in five other government agencies. "People like myself have built careers on knowing how" to do this, he says.

White House officials concede reorganization is going to be much tougher than President Carter imagined when he campaigned against the "horrible, disorganized and wasteful bureaucracy in Washington."

Privately, these officials say Mr. Carter may be able to do little more in his current four-year term than reshuffle organizational boxes. "We can move the boxes," says a member of the Carter reorganization team, "but getting rid of the incompetent or unwilling workers will be very difficult without major reforms in the system, and those could take years to push through Congress."

IRONICAL HISTORY

Ironically, the civil service system was created 94 years ago to bring merit to federal hiring. Previously, each new President swept out federal workers and replaced them with his own cronies. But over the years, regulations grew until workers not only are protected from the spoils system but from almost any managerial direction.

Today, life is pleasant in the bureaucracy, the average annual salary is $15,343, and most employes are due to get a 7.05 percent pay raise in October. Of the one million people eligible last year for merit raises, only 600 didn't receive them. Almost no one is fired; less than 1 percent of federal workers lost their jobs last year. In fact, firing isn't even in the government vocabulary: The term is "removal action."

To this bureaucracy, reorganization is nothing new. Managers constantly are reshuffling people, often in an effort to work around unsatisfactory employes they can't fire. What's new is President Carter's promise that his reorganization will result in more efficient and responsive government. That would mean, officials say, weeding out bad employes and rewarding good ones. But the civil service system now thwarts such efforts.

In recent weeks, the White House and the Civil Service Commission have begun ways to overhaul the system. One of the few proposals made so far is aimed at getting around the President's promise of no demotions. The administration has asked Congress for authorizing to downgrade jobs during a reorganization yet guarantee employees their present salaries for the duration of their government service.

Overpaying some federal workers is a small price to pay for more flexibility to reorganize, says Alan Campbell, the Carter-appointed chairman of the Civil Service Commission.

Even if Congress goes along with this plan, hulking obstacles to efficient reorganization will remain.

Many government administrators, anxious to preserve their power, prestige and pay, will resist any remodeling that threatens to shrink their empires. Civil service seniority rules and special preferences for veterans also will interfere with change for the better. If a reorganization results in fewer jobs, the most senior employes get those jobs, and veterans have priority over non-veterans. Talent counts little: An outstanding rating from a supervisor is worth only four years' experience in counting seniority.

So, if an agency head wants to reorganize one of his bureaus to reduce the number of workers from 300 to 250, an employe who loses his job may displace someone less senior in another job of the same rank. That employe in turn may "bump" another more junior employe and so on until possibly everyone in the bureau is changing jobs—a giant game of musical chairs. In the process, the bureau may lose some of its best workers and end up with others in important jobs for which they aren't suited. A recently completed reorganization of the Environmental Protection Agency's Research and Development Office took two years to carry out, and all 300 employes wound up changing jobs, some of them several times.

ENDLESS APPEALS

Beyond the headaches of seniority is the that begins in his agency and may proceed agony of appeals of government personnel decisions. Almost any decision by a manager may be challenged in a lengthy process through two Civil Service Commission units and wind up in federal court. Among other things, a worker may appeal his supervisor's decision to fire him, to rate his performance unsatisfactory or to deny him a merit pay increase. Because these appeals take months or even years, most managers simply work around incompetent employes, rate everyone satisfactory and hand out the pay increases.

The case of Albert G. Tase Jr. indicates how nightmarish the appeals delays can be. Mr. Tase was fired in December 1974 for allegedly mishandling his job as a personnel officer for a U.S. Navy office in Norfolk, Va. Nearly three years later, his case still isn't resolved.

With a lawyer's help, Mr. Tase charged numerous violations of civil service regulations surrounded his dismissal. Among other things, he said he wasn't given time to make an adequate answer to his supervisor's charges, which were supported by a 2,000-page record. The hearing before the commission's Federal Employe Appeals Authority dragged on for 29 days, creating more than 4,000 pages of transcript. In April 1976, the FEAA ruled he shouldn't have been fired. The Navy asked the commission's nine-member appeals board to review the decision. After another year of delay, the board decided in June to remand the case to the FEAA for reconsideration on several issues. Now Mr. Tase is asking the three civil service commissioners to review the appeals board decision.

"To fire an employee you've got to be willing to spend most of your time for several months documenting and defending your decision," say Don Wortman, Deputy Commissioner of the Social Security Administration. "If it's a woman or black, you have to be extra-careful because of the suspicion you're a white chauvinist honky. And there's always a risk of procedural error."

For example, former Federal Energy Administrator Frank Zarb last year demoted his chief press spokesman, Robert Nipp, for among other things, allegedly fabricating a document given to a congressional subcommittee. Recently, the commission's appeals authority upheld Mr. Zarb's findings but reversed his decision on a procedural technicality: Notice of the effective date of Mr. Nipp's demotion arrived 12 hours too late to comply with civil service rules. The energy agency is appealing the decision.

Because civil service regulations make personnel management so difficult, many managers resort to subterfuge to get rid of incompetent employes. Trading them to other agencies is a favorite technique. For instance, the general counsel of one major department has prevailed upon two former assistants now in other agencies each to take on for one year a lawyer whom he believes is incompetent but who would be difficult to fire.

USING USELESS JOBS

Kicking unsatisfactory employes upstairs is another device for getting them out of the way. If a bureaucrat in a key position can't handle his job, his boss may promote him to "special assistant," where he may have little if any responsibility. Or he may be given a year off for training. "It's far better for the taxpayer if I abuse the system by sending a nonperformer to school for a year than allow him to foul up an important job," says a top official at the Department of Health, Education and Welfare.

The Carter administration almost certainly will have to resort to such subterfuges to reorganize the bureaucracy for more effective performance. It may find the task eased slightly by Chairman Campbell's promise that his agency will review reorganization plans with an eye toward helping an administrator carry them out rather than telling him why the regulations make them impossible.

"But," Mr. Campbell says, "there are inhibiting rules, and neither we nor the President can change them."

PROBLEMS WITH ATTRITION

President Carter also hopes the natural attrition in the federal work force—due to deaths, retirement and other departures—will further ease reorganization problems. But the number of employees leaving the government each year amount to only about 10% of the total. "Attrition can't be the universal solvent," Mr. Jacobsen says, "because it occurs unevenly at various levels of government."

Even if Mr. Carter does achieve some success in reshaping the machinery of government, he may well find that no magical gains in efficiency result.

"There is so much that reorganization doesn't accomplish," says John Cole, director of the Civil Service Commission's Bureau of Personnel Management. "It creates new boxes on organizational charts and new stationery, but the history of reorganization is simply reshuffling."

THE AMERICAN DIET

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1977

Mr. RICHMOND. Mr. Speaker, the American diet has changed in recent years. We are becoming more and more adjusted to processed foods of questionable nutritional value. Barraged with conflicting commercial food claims, the consumer is often frustrated when searching for reliable, unbiased nutrition information. I would like to share with my colleagues the last article in a series that recently appeared in the Wall Street Journal.

[From the Wall Street Journal, June 30, 1977]

THE WAY WE EAT: TOO FAT? THIN? TIRED? FAD DIETS ARE PUSHED FOR CURES FOR OUR ILLS—DISILLUSIONED WITH "EXPERTS," MORE PEOPLE EXPERIMENT; CAUTION FROM THE AMA—LET'S HEAR IT FOR THE YUCCA

(By Joseph M. Winski)

Over here, seated before a dish of mashed lentils and corn bread, we find Nellie Shriver. The gentle-voiced Miss Shriver is the vegetarian movement's chief lobbyist. She wants everybody in the world to be a vegetarian.

And over here, sitting down to a thick steak oozing blood-red juices, we find David Stroud. He is president of the National Live Stock and Meat Board, an organization striving to preserve meat's good name and sales. "She goes around telling everybody, 'Don't eat meat, meat is killing you,' and that's hogwash," Mr. Stroud says. "That's all there is to it."

We seem to have a slight disagreement here. But considering the subject, that isn't surprising. Bedeviled by claims about the value of this food or the harm of that one, many Americans these days are taking a hard second look at what they have been eating. In a Gallup poll conducted for Redbook magazine last year, 88% of those surveyed said they wanted to know more about nutrition. A Harris poll earlier this year Chicago's Mount Sinai Hospital found that only 14% of those questioned thought Americans ate properly

No doubt some of this skepticism stems from the frequent disagreements on nutritional matters among the "experts" themselves: The science of determining food's relationship to health is still, it seems, an evolving one. In any case, many people now feel free to follow the dietary advice of their own choosing, seeking that combination of foods that will reduce weight, nourish the psyche as well as the body, or cure everything from impotence to cancer.

Catering to this market for alternatives to conventional eating habits is a multibillion dollar industry that includes book publish-

ers, health-food emporiums and fasting clinics. Leading the way are the specialty-diet advocates themselves. "For millions of Americans," says Dr. Frederick J. Stare of Harvard University's School of Public Health, "the road to utopia is paved with fad diets."

There is, for example, Adelle Davis, who believed that no one who drank a quart of milk daily ever got cancer. Miss Davis, author of books such as "Let's Get Well," died of bone cancer in 1974. There are the folks at Rodale Press Inc., who through their Organic Gardening and Farming magazine and other publications have persuaded thousands to eat only "organic" foods—even though many food scientists say there's no evidence that foods grown with chemical fertilizers are more dangerous or less nutritious than "organically grown" foods.

SARDINES VS. WRINKLES

Among the newcomers to the field is Dr. David Reuben, who a few years ago told us everything we wanted to know about sex. Now, in a book entitled "The Save-Your-Life Diet," Dr. Reuben advises that many of the "dread diseases of civilization" can be prevented by eating more fibrous foods and having large and easy bowel movements. Another physician, Dr. Benjamin Frank, in a book called "Dr. Frank's No-Aging Diet," suggests that sardines and other foods high in nucleic-acid content can erase wrinkles.

Vegetarianism is a more traditional alternative eating philosophy based both on the belief that meat is harmful to health and the personal conviction that animal life including that of cattle and hogs is sacred. As Nelli Shriver sometimes tells followers, "We must never rest. Every day the slaughterhouses grind out their victims. Every day people die of cancer."

The 34-year-old Miss Shriver heads American Vegetarians Inc., a group she helped form and which now devotes its efforts to lobbying politicians on behalf of the vegetarian cause. "The movement is exploding," Miss Shriver says. She estimates there may be as many as 15 million vegetarians in the U.S. today compared to less than five million a decade ago. (The Meat Board's Mr. Stroud says those figures are greatly exaggerated.)

BOOM IN DIET BOOKS

Being a vegetarian is also supposed to help one lose weight. Others, however, offer easier ways to reduce, usually in both paperback and hardcover editions. These are the diet books, a phenomenon that probably began with the 1961 publication of Dr. Herman Taller's "Calories Don't Count."

Dr. Taller's book, which advocated heavy doses of polyunsaturated fats, sold two million copies. It also earned him the nearly universal disapproval of the medical establishment (calories do count, many doctors say) and a 1967 mail-fraud conviction in a Brookyln federal district court for promoting a safflower product that was among the fats that the diet recommended. Other weight-loss books, offering different prescriptions from their authors followed. One of them, Dr. Irwin Stillman's "The Doctor's Quick Weight Loss Diet," describes 63 quick-loss diets; it's now in its 42nd printing.

There are a number of diets that stress foods that, because of the enzymes in them, supposedly burn up more calories than they contain. The food usually called for is grapefruit, with eggs added for nutrition's sake. Fifty-one grapefruit and eggs diets were turned up in a 1973 Senate committee hearing on fad diets. These regimens often circulate as "mayo" diets. The reason isn't clear, but keeps the prestigious Mayo Clinic busy denying there is a connection.

Nutritionists say a lot of the popular diets do work, at least for a while. But they also warn that because many of these diets often require either too much or too little of the foods that the human body needs, otherwise healthy individuals can't—and shouldn't—stick to them for long.

Others suspect that diet-book promoters time the publication of books purporting to reveal new nutritional "finds" to coincide with the waning popularity of the previously published "discovery." One who does is Philip A. White, director of the American Medical Association's Department of Foods and Nutrition, which keeps up with new diets and alerts the public to the ones it believes are dangerous. "We can't get involved with every diet that comes along," he adds, "or we'd do nothing else."

The AMA did take issue with "Dr. Atkins' Diet Revolution," a book that has become a publishing-industry legend. It didn't appear until October, 1972, but it still made the Publishers' Weekly annual best-seller list both for that year and for 1973. Demand at one point was so great that five printers were involved: nearly a million hardcover editions were sold, and another four million paperback copies have been printed thus far.

In the book, Dr. Robert C. Atkins wrote he had developed a diet that lets "you eat as much as you want, as often as you want," including "heavy cream, butter, mayonnaise, cheese, meats, fish, fowl." Such claims prompted the AMA to issue a press release calling the diet "a bizarre regimen" that was "neither new nor revolutionary" and "without scientific merit."

Dr. Atkins says he is "chagrined" by the "savage" attacks from his peers. (He successfully sued the New York County Medical Society when it tried to censure him for "self-laudation.") And he disagrees with physicians who say he has made a fortune in the diet-book business.

DISCOVERING THREE CHINS

"I would say I made, at most, two hundred and some thousand on that book," Dr. Atkins says. A cardiologist by training, he explains he became interested in diet when he saw a picture of himself and realized, apparently for the first time, that he had three chins. Indeed, undaunted by the criticism his first book provoked, Dr. Atkins has written a second, "The Superenergy Diet," which advocates eating to gain energy (though one who follows it can supposedly lose weight, too) and advises megavitamin therapy, or the regular consumption of large doses of vitamins.

Joan Lappin, Dr. Atkins' assistant, is a believer in the "superenergy" diet. She takes five vitamin pills a day, each of which contains, among other ingredients, 1,388% of the recommended daily allowance of vitamin B6. She says this has given her not only a lot more energy, but also a "phenomenal memory" and resulted in "not a stretch mark on my body." (Physicians who eschew megavitamin therapy say it may be harmful to internal organs such as the kidneys.)

One thing neither "Diet Revolution" nor "The Superenergy Diet" promises is nirvana. The so-called Zen Macrobiotics diet literally does. First popular among food cultists in the early 1960s, Zen Macrobiotics calls for gradually reducing one's daily diet to brown rice, supposedly the "perfect" food.

In addition to leading the user to progressively higher stages of mental serenity, this diet also has been touted as a cure for cancer. "No illness is more simple to cure than cancer," George Ohsawa, developer of the diet, wrote. "Simply return to the most elementary and natural eating and drinking," as called for in one of Zen Macrobiotic diets.

According to the AMA, at least three people have starved to death on the Zen Macrobiotics diet. One woman was a 24-year-old New Jersey woman who died in November, 1965, of what the official autopsy report said was "emaciation due to starvation." Even today, nutritionists say, this diet is attracting devotees, some of whom urge the diet on their children. Last March, the American Academy of Pediatrics listed the diet among "the recent increase in nutritional practices that are potentially hazardous to the health of children."

Sandy Goldberg never tried Zen Macrobiotics, but she concedes she tried dozens of other diets before finding one that, she says, really works. Here she is in a meeting room of Chicago's Palmer House Hotel, telling about 100 people, mostly large women, about her discovery:

"My name is Sandy Goldberg, and I am a member of the Weight Watchers organization. I lost 115 pounds on the Weight Watchers program, and that was four years, one month, two days and 37 minutes ago." Loud applause follows.

Miss Goldberg is a "lecturer" for Weight Watchers International Inc., a publicly held company that earned more than $2 million last year by conducting thousands of weekly meetings like this one. What Weight Watchers sells, nutrients say, is a good low-fat diet (it calls for a lot of fish) packaged in the tenets of group motivation pioneered by Alcolohics Anonymous.

CLAPPING FOR ROSEANN

The highlight of Miss Goldberg's presentation is what she calls "cards," the reading from index cards of the name and weekly progress of each student. "Eileen . . . five and a quarter pounds lost last week! Let's all clap for Eileen." But Roseann has gained two pounds. "What happened, Roseann?" "My daughter baked me a surprise birthday cake." "Let's all clap for encouragement for Roseann!" They do.

Weight Watchers says it has registered nine million students in its 13 years of existence. Many of them have shed pounds, although Dr. William Sebrell, the company's medical director, concedes. "You simply can't get anybody to lose weight if they aren't really motivated to." An example of motivation, Dr. Sebrell says, is the man who joined the program after having trouble getting out of a telephone booth.

There are, of course, many people who don't adhere to anyone's diet except their own. One is Bonnie Swearingen. Right now, she tells a visitor to her Chicago apartment, she is fasting on tea and honey to correct recent "excesses." More typically, Mrs. Swearingen simply makes substitutions in her diet, using fresh lemon juice as a flavoring instead of salt, whole-grained bread instead of white, and "absolutely no sugar." Occasionally, she also substitutes champagne for hard liquor and low-calorie caviar for red meat. (The caviar comes from Iran, "where my husband's company has a plant." Her husband is John E. Swearingen, chairman of Standard Oil Co. of Indiana.

These habits, Mrs. Swearingen says, have given her good health. "But vanity comes before the health considerations," she adds. "I eat the way I do because I am too vain to let myself go." Chicago society columnists frequently assure the 43-year-old willowy blond that she hasn't let herself go.

Although some of Mrs. Swearingen's alternative foods may be only for the well-to-do, others, such as honey, have long been popular among health-food buffs everywhere. There's also Korean ginseng, whose rumored aphrodisiac qualities have helped boost U.S. imports to $3.5 million last year from only $67,000 in 1971. Yogurt continues to sell well, and bee pollen has become popular among athletes because it supposedly increases endurance. Nobody knows what tomorrow's big sellers will be, but some health-food advocates are predicting a welcome reception for the yucca plant.

HOUSE OF REPRESENTATIVES—*Friday, September 30, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Seek good and not evil, that you may live; and so the Lord will be with you.—Amos 5: 14.

Almighty God and Father of us all, we come before Thee with words of praise and the worship of grateful hearts for the guidance Thou hast given us in the present time and to our fathers in times past. May the blessings Thou hast so abundantly bestowed upon us be used for the welfare of our people and the well-being of all Thy children. Sustained by Thy presence may we do our work this day and moved by Thy Spirit may we realize anew that right is stronger than wrong, good is better than evil, love will overcome hate, and truth will triumph over falsehood. Grant that moral values may live in our hearts and strengthen us to be truehearted and wholehearted in our endeavors on behalf of our land, and other lands, and all lands; for Thine is the kingdom and the power and the glory forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 11, answered "present" 1, not voting 105, as follows:

[Roll No. 613]

YEAS—317

Abdnor	Bevill	Clausen, Don H.
Addabbo	Biaggi	Clay
Akaka	Bingham	Cleveland
Allen	Blanchard	Cochran
Ambro	Blouin	Coleman
Ammerman	Boland	Collins, Tex.
Anderson, Calif.	Bonker	Conable
Andrews, N.C.	Brademas	Conte
Andrews, N. Dak.	Breaux	Corcoran
Annunzio	Brinkley	Corman
Armstrong	Brodhead	Cornell
Ashley	Brooks	Cornwell
AuCoin	Brown, Ohio	D'Amours
Badham	Broyhill	Daniel, Dan
Bafalis	Burgener	Daniel, R. W.
Baldus	Burke, Mass.	Danielson
Barnard	Burleson, Tex.	Davis
Baucus	Burlison, Mo.	Delaney
Bauman	Burton, Phillip	Dellums
Beard, R.I.	Butler	Derwinski
Beard, Tenn.	Byron	Devine
Benjamin	Carney	Dickinson
Bennett	Carr	Dornan
	Carter	Downey
	Cavanaugh	Drinan
	Conyers	Duncan, Tenn.
	Cotter	Early
	Coughlin	Edgar
	Crane	Edwards, Ala.
	Cunningham	Edwards, Calif.
	de la Garza	Edwards, Okla.
	Dent	Eilberg
	Derrick	Emery
	Dicks	English
	Diggs	Erlenborn
	Dingell	Ertel
	Dodd	Evans, Colo.
	Duncan, Oreg.	Evans, Del.
	Eckhardt	Evans, Ind.
	Evans, Ga.	Fary
	Findley	Fascell
	Ford, Mich.	Fenwick
	Gammage	Fish
	Gaydos	Fisher
	Giaimo	Fithian
	Gilman	Flippo
	Goodling	Flood
	Guyer	Florio
	Hammer-schmidt	Flowers
	Harrington	Flynt
	Harsha	Foley
	Hillis	Ford, Tenn.
	Holland	Fountain
	Jeffords	Fowler
	Johnson, Calif.	Fraser
	Johnson, Colo.	Frenzel
	Kemp	Frey
	Koch	Fuqua
	Krueger	Gephardt
	LaFalce	Gibbons
	Le Fante	Ginn
	Leggett	Goldwater
	Lehman	Gonzalez
	Livingston	Gore
	Long, Md.	Gradison
	McClory	Grassley
	McCloskey	Gudger
	McEwen	Hagedorn
	Madigan	Hall
	Marlenee	Hamilton
	Metcalfe	Hanley
	Mitchell, Md.	Hannaford
	Moffett	Hansen
	Moss	Harkin
	Murphy, Ill.	Harris
	Nolan	Hawkins
	Patterson	Heckler
	Pattison	Hefner
	Pepper	Heftel
	Preyer	Hightower
	Pritchard	Hollenbeck
	Pursell	Holt
	Quayle	Holtzman
	Railsback	Horton
	Rinaldo	Howard
	Roe	Hubbard
	Rose	Huckaby
	Roybal	Hughes
	Sarasin	Hyde
	Sawyer	Ichord
	Scheuer	Ireland
	Sebelius	Jenkins
	Spellman	Jenrette
	Stark	Jones, N.C.
	Teague	Jones, Okla.
	Tsongas	Jones, Tenn.
	Vander Jagt	Jordan
	Weaver	Kasten
	Whalen	Kastenmeier
	Wilson, Bob	Kazen
	Wilson, C. H.	Kelly
	Wolff	Ketchum
	Wydler	Keys
	Young, Alaska	Kildee
	Young, Mo.	Kindness
		Kostmayer
		Krebs
		Lagomarsino
		Latta
		Leach
		Lederer
		Lent
		Levitas
		Lloyd, Tenn.
		Long, La.
		Lott
		Lujan
		Luken
		Lundine
		McCormack
		McDade
		McDonald
		McFall
		McHugh
		McKay
		McKinney
		Maguire
		Mahon
		Mann
		Markey
		Marks
		Marriott
		Martin
		Mathis
		Mattox
		Meeds
		Meyner
		Michel
		Mikulski
		Mikva
		Milford
		Miller, Calif.
		Miller, Ohio
		Mineta
		Minish
		Mitchell, N.Y.
		Moakley
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Mottl
		Murphy, N.Y.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nix
		Nowak
		O'Brien
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Pease
		Perkins
		Pettis
		Pickle
		Poage
		Pressler
		Price
		Quie
		Quillen
		Rahall
		Rangel
		Regula
		Reuss
		Rhodes
		Richmond
		Risenhoover
		Roberts
		Robinson
		Rodino
		Rogers
		Roncalio
		Rooney
		Rosenthal
		Rostenkowski
		Rousselot
		Rudd
		Runnels
		Ruppe
		Russo
		Ryan
		Santini
		Satterfield
		Schroeder
		Schulze
		Seiberling
		Sharp
		Shipley
		Shuster
		Sikes
		Simon
		Sisk
		Skelton
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Steed
		Steers
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Thone
		Thornton
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walsh
		Wampler
		Watkins
		Waxman
		Weiss
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Tex.
		Winn
		Wirth
		Wright
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—11

Aspin	Glickman	Steiger
Bonior	Jacobs	Traxler
Broomfield	Lloyd, Calif.	Walker
Forsythe	Pike	

ANSWERED "PRESENT"—1

Mazzoli

NOT VOTING—105

Alexander	Breckinridge	Clawson, Del
Anderson, Ill.	Brown, Calif.	Cohen
Applegate	Brown, Mich.	Collins, Ill.
Archer	Buchanan	Conyers
Ashbrook	Burke, Calif.	Cotter
Badillo	Burke, Fla.	Coughlin
Bedell	Burton, John	Crane
Beilenson	Caputo	Cunningham
Boggs	Cederberg	de la Garza
Bolling	Chappell	Dent
Bowen	Chisholm	Derrick

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 361. Concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 6111.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5742. An act to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for today and next week, if he is in a position to inform the House.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield.

Mr. WRIGHT. Mr. Speaker, it is the plan immediately to resume and complete consideration of H.R. 7010, providing compensation for victims of crime.

When that bill is completed, we hope to bring to the House H.R. 9354, the former Presidential staff allowance bill, which applies only to former President Ford and members of his staff.

Following that, there is scheduled a joint resolution, House Joint Resolution 573, providing a Kosciuszko Memorial Plaque, which should not take a great deal of time.

Then we plan to go to the consideration of H.R. 6951, Council on Wage and Price Stability, under an open rule, with 1 hour of debate.

In the time remaining, we would go to the consideration of H.R. 3816, the FTC Amendments of 1977, with the rule and general debate only on that bill.

Then, if time remains, we will take up H.R. 2176, the Federal Banking Agency Audit Act, with votes on the amendments and the bill. We plan to rise at 3 o'clock this afternoon.

On Monday next, the House will meet at noon. There are no bills scheduled on the suspension calendar for Monday.

We will have perhaps two bills to complete on Monday: H.R. 695, the Council on Wage and Price Stability, and H.R. 3816, FTC Amendments of 1977.

Then we will go to H.R. 8309, the Navigation Development Act involving locks and dams and taxes on the use of navigable waters.

On Tuesday the House will meet at noon again. The Private Calendar will be taken up on that day, but there are no bills on the Suspension Calendar.

Tuesday will also be devoted to the consideration of H.R. 8410, the Labor Reform Act. It is under an open rule, with 2 hours of general debate.

On Wednesday the House will meet at noon, with two bills scheduled, H.R. 9375, supplemental appropriations, subject to a rule being granted, and H.R. 1037, the Energy Transportation Security Act of 1977. That is the Cargo Preference Act, which will come up under an open rule, with 2 hours of general debate.

On Thursday the House will meet at 10 o'clock. If we have not already reached it, we will first take up H.R. 2176, the Federal Banking Agency Audit Act, with votes on the amendments, and H.R. 4297, the marine protection authorization providing a prohibition against ocean dumping, with an open rule and 1 hour of general debate.

The House will adjourn at the close of business on Thursday, October 6, until noon on Tuesday, October 11.

We will adjourn by 3 p.m., if possible, today. We will adjourn by 5:30 p.m. on all other days except Wednesday.

Of course, conference reports and privileged matters of that type can be brought up at any time.

Subject to change, this is our plan and schedule for the next week.

Mr. RHODES. May I ask the distinguished majority leader if he is proposing a new definition for "open rule."

As I understand it, the rule on H.R. 8410, the so-called Labor Law Reform Act, is not an open rule in accordance with the usual definition. As I understand the definition of an open rule, it is a rule in which any amendment which is germane may be offered. It is my understanding that that is not the rule which the Committee on Rules proposes on H.R. 8410.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I think it is quite probable that I inadvertently misstated the situation. It is not precisely an open rule. It might best be described as a modified open rule.

Mr. RHODES. For the information of the majority leader, and the House, the minority is not pleased with the rule which is proposed by the Committee on Rules on H.R. 8410. We think that it is a gag rule. We think that the proposed substitutes which would be offered, if they were made in order by the minority, should have been made in order, and we will do all we can, mustering whatever power we can, to defeat this rule.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield still further, it is my understanding, although this may be in error, but I think it is not, that the proposal is that any germane amendment if it were printed in the RECORD one day prior to consideration, would be eligible.

Mr. RHODES. I agree with the gentleman that is a provision of the proposed rule which we think is not necessary and not desirable in this situation.

THREATS RECEIVED ON INDEPENDENT TRUCKERS LEGISLATION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise, regretfully, to make it a matter of public record that this week I have received a series of threats attempting to coerce me into supporting H.R. 2443, the independent truckers bill. Anonymous telephone calls were received in my Washington office, my Altoona office and by my friends. We were informed in crude and abusive language that if I did not support H.R. 2443 we could expect retribution.

This matter has been turned over to the FBI and the police, along with evidence indicating the identity of one of the persons involved.

I have previously stated that as ranking member of the Surface Transportation Subcommittee and Chairman of the National Transportation Policy Commission, I believed it was proper for me to keep an open mind on this legislation until our transportation hearings were completed. In the past I have vigorously supported efforts to give independent truckers a fair shake. I know that these incidents in no way reflect the attitude of the vast majority of independent truckers. It is unfortunate that these coercive attempts by a few individuals will make it more difficult for me to justify my support of H.R. 2443 should the merits of the legislation lead me to a positive opinion at the conclusion of our hearings.

ORWELLIAN ERA IS UPON US

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I dare say the Orwellian era is upon us. It was George Orwell, you will remember, who gave us "1984" and those descriptive examples of how history was constantly being rewritten to suit the whims of Big Brother.

Orwell's State of Oceania is alive and well within our shore. History is being rewritten by the White House. How else can you account for President Carter's proclamation, quoted in the Washington Post the other day, which decrees that Leif Ericson was not in fact a Norseman. The President has declared that Ericson and all his countrymen, excuse me, countrypersons, were Norsepersons.

If this is indeed a sign that history is being rewritten, I must express grave concerns. What is it going to cost to rewrite all those history books and reprogram those of us already educated in the old-fashioned way of doing things?

I think our President ought to explain this new application of his power. He is ultimately responsible. One of his first actions as President was to proudly display on his desk a reminder that "the buck stops here," a reminder first made famous by that great leader and great President, Harry S. Truperson.

VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The SPEAKER pro tempore (Mr. MOAKLEY). The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7010, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 29, 1977, the Clerk had read through line 8 of page 4, and pending was an amendment offered by the gentleman from California (Mr. WIGGINS).

The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 144, not voting 74, as follows:

[Roll No. 614]

AYES—216

Abdnor	Beard, Tenn.	Buchanan
Anderson, Calif.	Bedell	Burgener
Andrews, N.C.	Benjamin	Burleson, Tex.
Annunzio	Bennett	Burlison, Mo.
Archer	Bevill	Butler
Armstrong	Blouin	Byron
Ashbrook	Boland	Carter
Ashley	Breaux	Cavanaugh
AuCoin	Brinkley	Cederberg
Badham	Brooks	Chappell
Bafalis	Broomfield	Clausen, Don H.
Barnard	Brown, Mich.	Cleveland
Bauman	Brown, Ohio	Cochran
	Broyhill	

Coleman	Huckaby	Pritchard
Collins, Tex.	Ichord	Quie
Conable	Ireland	Quillen
Conte	Jenkins	Rahall
Corcoran	Jones, N.C.	Regula
Cornell	Jones, Okla.	Rhodes
Coughlin	Kastenmeier	Roberts
Daniel, Dan	Kazen	Robinson
Daniel, R. W.	Kelly	Rogers
Davis	Ketchum	Rousselot
Derwinski	Keys	Rudd
Devine	Kindness	Runnels
Dickinson	Krebs	Ruppe
Dodd	LaFalce	Sarasin
Dornan	Lagomarsino	Satterfield
Duncan, Tenn.	Latta	Schulze
Early	Leach	Sharp
Edwards, Ala.	Leggett	Shuster
Edwards, Okla.	Lent	Sikes
Emery	Levitas	Skelton
English	Lloyd, Calif.	Skubitz
Ertel	Lloyd, Tenn.	Slack
Evans, Ind.	Lott	Smith, Nebr.
Findley	Lujan	Snyder
Fish	McDonald	Spence
Fithian	McHugh	Stangeland
Flowers	McKay	Stanton
Flynt	Madigan	Steed
Foley	Mahon	Steiger
Forsythe	Marriott	Stockman
Fountain	Martin	Stratton
Fowler	Mathis	Stump
Frenzel	Meeds	Symms
Frey	Michel	Taylor
Fuqua	Milford	Thone
Gaydos	Miller, Calif.	Traxler
Gephardt	Miller, Ohio	Treen
Giaimo	Mitchell, N.Y.	Trible
Gibbons	Mollohan	Tucker
Ginn	Montgomery	Udall
Glickman	Moore	Volkmer
Goldwater	Moorhead, Calif.	Waggonner
Gore		Walker
Gradison	Mottl	Walsh
Grassley	Myers, Gary	Wampler
Hagedorn	Myers, John	Watkins
Hall	Natcher	White
Hamilton	Neal	Whitehurst
Hannaford	Nedzi	Whitley
Hansen	Nichols	Whitten
Harkin	O'Brien	Wiggins
Harsha	Obey	Wilson, Tex.
Heckler	Panetta	Winn
Hefner	Pattison	Wylie
Hightower	Pease	Yates
Hillis	Pettis	Yatron
Holt	Pike	Young, Fla.
Horton	Poage	Young, Mo.
Hubbard	Pressler	Zablocki

NOES—144

Addabbo	Flood	Moorhead, Pa.
Akaka	Florio	Murphy, Pa.
Allen	Ford, Tenn.	Murtha
Ambro	Fraser	Myers, Michael
Ammerman	Gonzalez	Nix
Andrews, N. Dak.	Gudger	Nowak
	Hanley	Oakar
Applegate	Harrington	Oberstar
Baldus	Harris	Ottinger
Baucus	Hawkins	Patten
Beard, R.I.	Heftel	Pickle
Biaggi	Hollenbeck	Preyer
Bingham	Holtzman	Price
Blanchard	Howard	Rangel
Bonior	Hughes	Reuss
Bonker	Hyde	Richmond
Brademas	Jacobs	Risenhoover
Brodhead	Jenrette	Rodino
Brown, Calif.	Jones, Tenn.	Roe
Burke, Mass.	Jordan	Roncalio
Burton, Phillip	Kasten	Rooney
Caputo	Kildee	Rosenthal
Carney	Kostmayer	Rostenkowski
Carr	Le Fante	Roybal
Chisholm	Lederer	Russo
Clay	Long, La.	Ryan
Conyers	Long, Md.	Santini
Corman	Luken	Schroeder
Cornwell	Lundine	Seiberling
D'Amours	McCormack	Shipley
Danielson	McDade	Simon
Delaney	McFall	Sisk
Dellums	McKinney	Smith, Iowa
Downey	Maguire	Solarz
Drinan	Mann	Spellman
Eckhardt	Markey	St Germain
Edgar	Marks	Staggers
Edwards, Calif.	Mattox	Stark
Eilberg	Mazzoli	Steers
Evans, Colo.	Meyner	Stokes
Evans, Del.	Mikulski	Studds
Fary	Mikva	Thompson
Fascell	Mineta	Thornton
Fenwick	Minish	Ullman
Fisher	Moakley	Van Deerlin
Flippo	Moffett	Vanik
Vento	Weiss	Zeferetti
Walgren	Wirth	
Waxman	Young, Tex.	

NOT VOTING—74

Alexander	Erlenborn	Murphy, Ill.
Anderson, Ill.	Evans, Ga.	Murphy, N.Y.
Aspin	Ford, Mich.	Nolan
Badillo	Gammage	Patterson
Bellenson	Gilman	Pepper
Boggs	Goodling	Perkins
Bolling	Guyer	Pursell
Bowen	Hammer-schmidt	Quayle
Breckinridge		Railsback
Burke, Calif.	Holland	Rinaldo
Burke, Fla.	Jeffords	Rose
Burton, John	Johnson, Calif.	Sawyer
Clawson, Del	Johnson, Colo.	Scheuer
Cohen	Kemp	Sebelius
Collins, Ill.	Koch	Teague
Cotter	Krueger	Tsongas
Crane	Lehman	Vander Jagt
Cunningham	Livingston	Weaver
de la Garza	McClory	Whalen
Dent	McCloskey	Wilson, Bob
Derrick	McEwen	Wilson, C. H.
Dicks	Marlenee	Wolff
Diggs	Metcalfe	Wright
Dingell	Mitchell, Md.	Wydler
Duncan, Oreg.	Moss	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Florida for, with Mrs. Boggs against.

Mr. Quayle for, with Mr. Mitchell of Maryland against.

Mr. Del Clawson for, with Mr. Lehman against.

Mr. Crane for, with Mr. Koch against.

Mr. Erlenborn for, with Mr. Pepper against.

Mr. Gudger for, with Mr.. Murphy of New York against.

Mr. Marlenee for, with Mrs. Burke of California against.

Mr. McClory for, with Mr. Dent against.

Mr. Bowen for, with Mr. Wolff against.

Mr. Sebelius for, with Mr. Metcalfe against.

Mr. Teague for, with Mr. Badillo against.

Mr. Dingell for, with Mrs. Collins of Illinois against.

Mr. BEARD of Rhode Island changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 3, line 19, strike the period in said line and insert the following: *"Provided,* That such grants shall not be made if the Federal revenue sharing funds received or to be received by the state during the fiscal year in which the grants are to be made exceed the amount of the grants for which the state qualifies under this section."

Mr. ICHORD. Mr. Chairman, as I believe I conveyed yesterday, I am deeply, adamantly and irrevocably in opposition to the underlying philosophy of this piece of legislation. I must be frank to admit to the members of the Committee that I will not vote for the legislation even if this amendment passes. Mr. Chairman, although I am just about the average age of the membership of this body, I was born and reared in an era when the law and the punishment that was more certain to follow did constitute somewhat of a deterrence to the commission of crime against the person of our fellow man. Although I have just as much compassion, I believe, for the victims of crime as any Member of this body, I sincerely believe, I will say to the members of the Committee, that we cannot solve the problem by sweeping it under the rug. We cannot solve the problem by soothing our consciences, so to speak. Somehow, some way we must restore the credibility of the law.

Mr. Chairman, I remember one time as a small lad leaving my home with my mother for a 2-week period of time. She decided that, since we were going to be gone for 2 weeks, we should lock the house. After a long search for the key to the house, she finally found it, because it had not been in use.

I remember very vividly walking down the walk of the front yard and my mother turning around and saying, "I think I should go back and unlock the house, because the neighbors might think that we do not trust them if we lock the house." That she did.

Today I state to the members of this Committee that we are in serious danger of losing the freedom and the liberty which we all cherish so much, regardless of our philosophies, because there are too many people today who feel a sense of loss and wonder—what does liberty mean?

Does freedom really mean anything? Does liberty or does freedom mean anything to those people who have to lock themselves in at night in order to protect themselves from the animals in the streets? Does it really mean anything to them when they are denied the streets after dark?

This is why we should not be taking the approach we are taking today in this legislation. We should be taking steps to restore the deterrence of the law.

Even with a limitation of 25 percent, Mr. Chairman, there is no Member in this body who can get a reasonable handle on what this bill will cost. The $150 million that is authorized is just a beginning. As the gentleman from New York (Mr. PIKE) stated yesterday, there will be crimes reported about which we would have no records at the present time.

Mr. Chairman, how can we possibly go into a program of this type when we do not know what it is going to cost and when we are approaching a national debt of $775 billion?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman when I first came to this body in 1961, I remember the tremendous fight we had when we increased the national debt in excess of $200 billion. Now, only 16 years later, we are in the area of 800 billions of dollars.

Are we going to solve our problems of crime in this country by in effect merely printing up more money in order to sooth our consciences?

This amendment, Mr. Chairman, will, I believe, effectively kill the bill.

As the former Speaker of a State legislature, even I have made this argument many times: "Oh, we have got to pass this bill in order to get the Federal money." And I am sure, if we pass this bill, those arguments will be made on the floors of many State legislatures, just as I made the same argument many, many years ago.

But this language says in effect to the States: "If you want this program, take it out of your Federal revenue-sharing funds, because as long as the Federal revenue-sharing fund program continues in effect, there will be no States getting any Federal money under this legislation."

Mr. Chairman, I hope the Members of the House will adopt the amendment.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this bill, 11 pages in length, represents the work product of a very serious and earnest subcommittee chaired by a very dedicated member. It is a bill introduced by the chairman of the Committee on the Judiciary after serious thought and deliberation. It has had some work in the preceding session, and it has had intensive work in this session. It is a carefully thought out document.

Now we confront an amendment which proposes to relate to this bill the revenue-sharing receipts of a State, and that is something totally irrelevant to the concept which the bill addresses.

The concept of the bill is to bring into existence some system, some standard, some uniformity in the approach to the various States to the awarding of compensation to victims of violent crime.

Mr. Chairman, it will require that for any State to participate, there must be three characteristics in its program. One is that the victim of crime must cooperate. The second is that the State must have a system of subrogation so as to go after the offender and recover its contribution. And the third is a provision whereby the innocent victim of crime alone can benefit.

Mr. Chairman, these concepts need to be drawn into the statutes of the 20 States that already have such programs, and certainly these concepts need to be a part of any approach of new States hereafter undertaking the development of systems to provide this form of compensation.

I am a former district attorney, and I know how hard it is to get cooperation from witnesses. I am also one who does not believe in compensating someone who has participated in any way in a criminal offense. This bill takes care of these problems.

Mr. Chairman, I submit that we can impose reasonable limitations upon the amount of the Federal contribution. This was done in an amendment which I introduced to put a threshold or a floor on the amount which the Federal Government would contribute so that in small claims the State would carry the burden.

Mr. Chairman, there is a provision in this bill that the States must bear all administrative costs. There are also provisions here which limit to $50,000 now the maximum single-claim recovery, which I propose to amend hereafter when we reach that section of this bill. However, I do submit to the Members that this is a good bill. It deserves the Members' consideration.

Mr. Chairman, in view of the comment of the gentleman from the "Show me" State, I think he is not yet convinced. He needs to read and study the bill more closely and more carefully. But I submit that he has conceded that the purpose of this amendment is to defeat the legislation, and no such purpose should be honored by the vote of this assembly.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, first of all, I want to commend the gentleman from North Carolina (Mr. GUDGER), who is a member of the Committee on the Judiciary, for his very enlightened remarks.

I would like to point out that as diverse a group of people as any of those I know have endorsed this bill after serious consideration over a period of time.

Those organizations include the National Conference of State Legislatures, the National District Attorneys Association, the National League of Cities, the U.S. Conference of Mayors, the American Bar Association, the National Council on Crime and Delinquency, the National Retired Teachers Association, the American Association of Retired Persons, the International Conference of Police Associations, the Fraternal Order of Police, the United Automobile Workers, Americans for Democratic Action, the International Association of Chiefs of Police, the National Moratorium on Prison Construction, and Americans for Effective Law Enforcement, plus an individual who I know served for a period of time as Administrator of the Law Enforcement Assistance Administration.

Mr. Chairman, that individual, Mr. Donald E. Santarelli, had this to say:

> We are now feeling, at this time in our history, the terrible pains of an alienated society—a society that feels the institutions are not being responsive to its needs—and one that overwhelmingly believes the criminal justice system not to be responsive to its needs . . . people who become victims of crime or who are potential victims don't participate in reporting or preventing crime; they stay home behind their locked doors, do not testify, will not appear, and feel helpless and alienated, a problem that this legislation is specifically directed to deal with.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has expired.

(By unanimous consent, Mr. GUDGER was allowed to proceed for 1 additional minute.)

Mr. GUDGER. Mr. Chairman, in response to the statement of the gentleman from New Jersey (Mr. RODINO), I would like to say that I chaired the criminal justice committee of the State senate of my home State, and I served as a prosecuting attorney. I look upon this act as sincerely directed toward the improvement of the enforcement of criminal laws in America.

Mr. Chairman, the very list of associations that has been read by the gentleman from New Jersey (Mr. RODINO) indicates positively that the force, the strength, and the support of this bill lie in the bar associations, the law enforcement agencies, and those who are dedicated to enforcement of law throughout this land.

Mr. Chairman, I yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I was told yesterday and today by Members that they do not think much of this legislation but are a little bit reluctant to vote against it since it has the politically appealing title of "innocent victims of crime."

This amendment provides an opportunity to vote against the bill by supporting this tiny and perhaps obscure amendment. Make no doubt about this; if this amendment is accepted, it guts the bill, it kills the bill. It performs what I would regard as a therapeutic abortion on this bill and since I regard such a medical procedure to be warranted in this case, I support the gentleman's amendment.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I am somewhat surprised and chagrined at the attitude of the opponents of this bill because I have witnessed their contribution to the legislative process over the last number of years without relation to law enforcement and criminal fighting and I share their sentiment. I am just a little bewildered at their present positions and the logic and reasoning that brings them to their present position.

As most of the Members know, I have had several careers in my lifetime. One of those was 23 years spent in the police department of the city of New York and I shared many heartbreaking moments with my colleagues in law enforcement when we looked at the victims who were left oftentimes desolate or despairing, certainly agonizing through the trauma of the situation, we said, "What can we do?" At the time nothing could be done. That was a sentiment shared by all law enforcement officials.

When I arrived here in the Congress, I heard time after time, even including the gentleman who is the maker of this amendment, rise in stalwart criticism of the inadequacy of our criminal justice system and rightly so as it relates to our law and justice efforts. And I was delighted to hear and to receive that support.

But now I wonder if these were simply words that were said for political profit or were merely timely in our Nation's troubles with the criminal procedure? Because now we have an opportunity, at long last, to deal with the victims of crime. You just heard the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), recite a litany of responsible organizations who support this legislation. To support this amendment which effectively guts the bill is to say the least, shocking, and most surprising, because of the strongly established law enforcement position of its maker. For years I have listened to the gentleman advocate effective law enforcement proposals, and I shared his sentiment and then continue to share that sentiment which included concern for the victim. Here we have the first real opportunity to deal with this problem. This legislation does several things, one, it places a limit on the amount of money that can be spent. Disabuse yourselves of the notion that this has an unlimited entitlement, there is a $40 million authorization, which could

be cut down through the appropriation process if necessary. Second, it encourages the victim to stay with the prosecution. We in law enforcement know that many victims become discouraged and will have no part in the prosecution, permitting the perpetrator to go out unpunished.

Mr. ICHORD. Mr. Chairman, will the distinguished gentleman yield?

Mr. BIAGGI. I will be glad to yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I have the greatest respect for the gentleman from New York. I know of his long career, a distinguished career, in law enforcement, but I would point out to the gentleman that my amendment does not prohibit the States from going into such program. I think it is quite certain that the revenue-sharing program will continue for some time to come, and they can go into the program and use the revenue-sharing funds for the purpose of supporting the particular reimbursement program they have.

Mr. BIAGGI. I understand the nature of the gentleman's amendment, and he understands the nature of his amendment. We all understand the nature of his amendment and why object to it. It is clearly his stated objective to effectively kill the bill via this amendment.

If the gentleman is genuinely concerened—and I have no doubt in my mind that he is—about the wherewithal to provide the funding, let me suggest that we would do better to review the disposition of the funds with LEAA. I will tell the gentleman I do not beileve that all the moneys in LEAA are being properly spent.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I thought for a moment, but rather frivolously I must admit, that the gentleman from Missouri had his priorities right. I agree that States should be spending more of their revenue funds on law enforcement. I am sure that they probably will not agree that they should take those capital improvements and those fire stations and those garbage trucks and those other social-type programs and exchange them for what you and I might consider the highest duty of local government, and that is law enforcement. But because they do not do that, we adopted another revenue-sharing type of program, LEAA, and that is what it is. It is a revenue-grant type program. It sought to put the greenback poultice on part of the problem, and so does this.

The gentleman says, or he implies, that he thinks that if this money were spent to take steps to enforce deterrents to crime, that is where the money should be spent. That is where the money should be spent, and I agree 100 percent. The greatest deterrent is getting caught. Nothing beats it. The way the rehabilitation program is—the television day room—the chances are only about one percent of getting convicted even after one is caught—maybe they are a little bit better than that after being caught. But certainly the overall is not any better. Getting caught, that's the stigmatizer, that's the deterrent.

So what happens in 1975? Forty-seven point two percent of the victims of violent crime reported the crime to the police. I repeat, 47.2 percent of the people reported to the police. The 52.8 percent of the perpetrators hardly ran the risk of getting caught. So we have that over 50 percent erosion of the system immediately. Then the remainder, after being subjected to a little delay and waiting on a court, jeopardizing their jobs, and maybe receiving compensation from some other source—and we know how that works—a large portion of the remainder kind of faded away.

The two biggest problems of law enforcement—and this is from a former prosecutor's viewpoint—are catching the defendant and then having the witness cooperate. Those are the two biggest problems.

I would like to know of the gentleman's program to do those two jobs. I would love to know of the gentleman's program to do those two jobs. I would love to know of the gentleman's program to do 1 percent of those two jobs. If this program does 1 percent of those two jobs—and I submit it will—then we are going to see some improvement. We are going to see some enforcement of deterrents.

We are going to see what we fail to see now, someone doing something, somebody making some change, somebody taking some initiative, somebody doing something to try to bring about less alienation and more involvement.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, from what reports do we get the statistics that 57.8 percent of crimes are not reported?

Mr. MANN. I will hand the report to the gentleman.

Mr. PIKE. I accept that. I do not say that I accept the findings, but I accept that the gentleman has handed it to me.

What are the present State programs costing in total?

Mr. MANN. The figure is really much more modest than we might assume. California has the most expensive program. It is $9 million.

Mr. PIKE. It is how many million?

Mr. MANN. $9 million.

Mr. PIKE. $9 million?

Mr. MANN. Yes.

Mr. PIKE. And California represents about 10 percent of the population of the United States of America?

Mr. MANN. Correct.

Mr. PIKE. Mr. Chairman, I thank the gentleman. As the gentleman knows, at least I have tried to make clear my concern about this is that, like revenue sharing, it is a growth program and I think it is going to encourage the reporting of crime.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

(At the request of Mr. PIKE, and by unanimous consent, Mr. MANN was allowed to proceed for an additional 3 minutes.)

Mr. MANN. Mr. Chairman, I share the gentleman's conern. I am glad the gentleman brought up this subject. Let me make a few comments about it. The estimates we had, contrary to the implications of the gentleman from Missouri, are not so inaccurate or unreliable. The Congressional Budget Office has been fairly satisfactory in its projections for most of our purposes and they estimate that the cost could run as low as $16 million and as high as $29 million for the first year of the program, 1978.

An independent study, an independent estimate using different methodology, by the Department of Justice came up with a figure slightly less than that. The entitlement feature of the program, let us make it very clear, is not built in. This is not an entitlement program. This is a funded program on a matching basis and next year or the year after we can cut that 50 to 40, to 25.

Mr. PIKE. Mr. Chairman, if the gentleman will yield further, we could do these things, but we do not do these things.

Mr. MANN. But in this case, we also require an annual report, an evaluation. I know about the problem of evaluation of LEAA programs. It is my biggest beef.

Mr. PIKE. Mr. Chairman, will the gentleman yield further?

Mr. MANN. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, is there any program in which there is not, or the gentleman does not require an annual report and nobody agrees and we do not do anything about programs that are worthy, like LEAA?

Mr. MANN. If there is anything wrong with LEAA, it is that we did not require evaluation reports. That is what is wrong with LEAA. The committee recognized it and did something about it last year.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, the gentleman has made a telling point. The two main problems in the criminal justice system are apprehension of the criminal and for his successful prosecution by the cooperation of affected witnesses.

I want to observe that the Federal Government is aware of those problems and has made a massive commitment to their solution. We are spending now approximately $600 million each year given to the States to enhance their criminal justice capability. The fact that the States given that money have not chosen to utilize it for the purpose of a victims' program is an implication of their own sense of priorities.

Mr. MANN. Mr. Chairman, the gentleman is absolutely correct, and it is very understandable that until they have what they consider to be adequate radio systems and adequate automobiles and adequate hardware and adequate programs for their own mutual use, that they are not going to think in terms of more philosophical and necessarily innovative approaches to the restoration of faith, confidence, and effectiveness, in

the law enforcement system, and this is the approach we need, and one that I think we are taking in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was rejected.

(3) The program requires as a condition for compensation that claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.

(4) There is in effect in the State a requirement that appropriate law enforcement agencies and officials take reasonable care that victims of qualifying crimes be informed about—

(A) the existence in the State of a program of compensation for injuries sustained by victims; and

(B) the procedure for applying for compensation under that program.

(5) There is in effect in the State a law or rule that the State is subrogated to any claim the victim, or a dependent of the victim, has against the perpetrator of the qualifying crime for damages resulting from the qualifying crime, to the extent of any money paid to the victim or dependent by the program.

(6) The program does not require claimants to seek or accept any benefits in the nature of welfare, unless such claimants were receiving such benefits prior to the occurrence of the qualifying crime which gave rise to the claim.

(7) The program requires denial or reduction of a claim if the victim contributed to the infliction of the death or injury with respect to which the claim is made.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

QUALIFICATIONS OF STATE PROGRAMS

SEC. 4. A State program for the compensation of victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program meets the following criteria:

(1) The program offers—

(A) compensation for personal injury to individuals who suffer personal injuries which were the result of qualifying crimes; and

(B) compensation to the surviving dependent or dependents of individuals whose deaths were the result of qualifying crimes.

(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

Mr. MANN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD at this point and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded reading section 4.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 3, strike subsection (8).

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 6, immediately after line 5, insert the following:

(8) There is in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim or victim's surviving dependent for that crime.

Mr. EDWARDS of California. Mr. Chairman, I wish to offer an amendment to section 4 of the bill adding the qualification that States receiving funds under the Victims of Crime Act have on their books a provision allowing their courts to require that the perpetrator of the crime be made to pay restitution to the victim or the victim's survivors.

This additional qualification does not place a heavy burden on States participating in this program. States are asked merely to give their judges the option of requiring that some payment be made from the criminal to the victim. I want to stress that this amendment is intended to give maximum flexibility to the States regarding how they wish to apply the principles of restitution.

A great many States already have laws allowing their courts to require restitution in appropriate cases. In addition, all judges have the implied authority to grant restitution under the common law. In fact, the practice of requiring criminals to make reparations to their victims has been in use ever since civilization progressed beyond brute retaliation and blood revenge as a means of settling disputes. The ancient Babylonians practiced restiution as did the Hebrews under the Mosaic Dispensation.

More recently, many of our own States have found that restitution, where properly utilized in the correctional process, can contribute significantly to the rehabilitation of the offender. In several States where these programs are part of the correction process, authorities have found that participants not only pay restitution to their victims, but are also able to support their own families, pay State and local taxes, and even build savings toward the time they are completely released.

I want to emphasize, Mr. Chairman, that my amendment would not interfere with or delay the payment of compensation to victims of crime as provided for in this legislation. Payments under this bill by the governments concerned will be paid pursuant to the laws involved.

In those States which presently have provisions for restitution, no delay in medical payments or other payments results from the restitution provision. Payments are made promptly by the Government, and the arrangements for restitution follow.

Encouraging States to adopt a provision whereby criminals may be required to pay restitution is an important addition to the Victims of Crime Act. Hopefully States which have not already adopted such a provision will be encouraged to do so. I also hope that in 3 years, when this act comes up for reauthorization, the Members reviewing the effectiveness of the program will examine to what degree the State courts have ordered restitution in appropriate cases.

I have discussed this amendment with the distinguished New York criminologist and philosopher, Thomas Rand, and am grateful to him for advice and wise counsel.

I urge approval of the amendment.

Mr. GUDGER. Mr. Chairman, I rise to speak very briefly in opposition to the amendment.

I have the greatest respect and admiration for the gentleman from California (Mr. EDWARDS), and I know the sincerity of his motives. But I know of no State in the Union that does not have in its common-law tort concepts or in its statutory law concepts some method whereby recovery can be realized for injuries sustained by any individual as a result of an assault or other criminal conduct on the part of another. It seems to me that this concept which the gentleman's amendment addresses is implicitly involved in subsection (5) of section 4 of the act, which appears on page 5. In that language which is in the Act there is, I think, inherent acknowledgement of the fact that there is a right of recovery for tort injury. That language contains a requirement that, for a State to qualify to participate in the program, there be in effect in the State a law or rule, not only creating a right of recovery, but which goes beyond that and provides that the State is subrogated to the claim of the victim or the dependent of the victim when that individual claimant or his dependents have a right of action against the perpetrator of the qualifying crime.

It may be that I misunderstand the sense of the amendment, but if it is the sense of the amendment to require the State to create a right of action, such right of action we suggest already exists and the subrogated right of the State, to stand in the shoes of the claimant and recover back what the claimant would otherwise be entitled to recover in his own name and in his own right, is already written into the act. Therefore, I look upon the proposed amendment as surplusage.

I submit, Mr. Chairman, that the bill has been very carefully drawn and scrutinized by the subcommittee of the Committee on the Judiciary which presents it, and I believe that this was thought to be encompassed in the language of the bill as it is now drafted.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, I certainly have great respect for what the gentleman from

North Carolina said, but I must say that this is a new idea that he espouses, because certainly neither the chairman of the subcommittee or any member of the staff indicated to me that the subcommittee had my amendment in mind when it wrote this particular section. So I would suggest that what the gentleman is saying is that it is already in the bill. My amendment is going to make it much clearer as to what the intentions are, so I would think that the gentleman would support the amendment.

Mr. GUDGER. I am afraid I cannot respond to the gentleman's suggestion other than to say that I cannot support what I think is unnecessary. Therefore, I must vote against the amendment.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I want to join in commending and saluting my distinguished colleague, the gentleman from California (Mr. EDWARDS), for his concern about this problem. Everybody, I think, is interested in the notion of restitution and the theory of having the perpetrator of the crime account to the victim for his misconduct.

But let me say that there are serious problems, in my judgment, with this amendment, not the least of which is that programs on restitution are still experimental. Yesterday the gentleman from Illinois (Mr. RAILSBACK) had a restitution component in his amendment, and he frankly conceded that under LEAA a variety of restitution programs were being tested and evaluated in a number of States.

It seems to me it would be wrong to impose a requirement on States that they actually adopt some specific kind of restitution programs until we know whether or not these programs can work.

I also think that this amendment does violence to the notion of federalism which is at the heart of this bill. It would force States—which are not in favor of such programs or ready to adopt them in their still experimental state—to enact them in order to obtain Federal funds under this program. The Federal Government, as a result of the recently adopted amendment, is contributing only 25 percent—a minor contribution—to the cost of State programs to help victims of crime. The small share we contribute makes it additionally inappropriate to adopt it.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is somewhat troublesome to me. On the surface, restitution—the concept that offenders ought to repay their victims for the losses caused—is appealing. But this surface appeal tends to mask things somewhat, so I think it important to set forth exactly what is involved.

To begin with, it is necessary to recognize that restitution and victim compensation are different in theory. Each serves fundamentally different social objectives. As Prof. Burt Galaway, one of the leading authorities on restitution, noted in a statement submitted to the Subcommittee on Criminal Justice—

> Victim compensation is victim oriented and designed to provide reimbursement to victims of selected classes of crime who have experienced financial loss resulting from the crime. Eligibility for victim compensation does not depend upon apprehension and conviction of an offender. Restitution is offender oriented and is a sanction which can be imposed upon offenders. . . . Victim compensation is addressed to meeting the needs of the crime victims, restitution is addressed to sanctioning the offender.

Restitution and victim compensation are also different in practice. Victim compensation programs address themselves to the innocent victims of violent crimes. Restitution is primarily directed at property crimes. See Edelhertz, "Legal and Operational Issues in the Implementation of Restitution Within the Criminal Justice System," in Hudson & Galaway, editions, "Restitution in Criminal Justice" 63, 69–70, 1977.

Since restitution and victim compensation differ in theory and differ in practice, they are not alternatives that a criminal justice system must choose between. They are complementary concepts.

It has been suggested by some that restitution is a substitute for victim compensation. The sad fact, I am afraid, is that restitution is unable to help a significant number of crime victims. Most offenders are not caught. Not all of those who are caught get convicted, and most of those who get convicted do not have the resources to pay restitution. The notion that restitution will substitute for victim compensation has been rejected not only by academic experts but also by those actively involved in law enforcement. Three experts, for example, have stated that—

> Restitution is generally not an effective mechanism for providing compensation to crime victims because most crimes are not solved by an arrest, and many do not result in convictions. Even when convictions are secured, restitution may not be an appropriate sanction. In short, restitution is likely to provide compensation for only a very limited number of crime victims. (Hudson, Galaway & Chesney, "When Criminals Repay Their Victims: A Survey of Restitution Programs," Judicature, February 1977, p. 314.)

Their conclusion was echoed by the Attorney General of New Jersey, who testified before the Subcommittee on Criminal Justice, that—

> In our experience . . . only one in 10 criminals are caught and only one-quarter to one-half of those are convicted Thus, restitution would be available from less than 5 percent of offenders, and most of them would turn out to be judgment proof.

This legislation deals only with victim compensation. Since restitution and victim compensation serve fundamentally different social objectives, it is inappropriate and unnecessary for the Federal Government, in assisting State victim compensation programs, to tell the States what they must do in other parts of their criminal justice system.

There has recently been a renewed interest in restitution, and this amendment no doubt has popular appeal. I would like to issue a cautionary note about restitution. Some people believe that the benefits of restitution are so great and so obvious that it is incomprehensible why restitution has not been more widely used. It seems to me that the fact that it has not been more widely used indicates that the matter is not as simple, logical, and uncomplicated as it seems.

In primitive society, criminal acts were punished by the victim by means of personal retaliation—inflicting personal injury upon the wrongdoer and taking from him whatever he wanted. As primitive society developed, personal retaliation was replaced by a process called "composition." The victim and the wrongdoer would negotiate and agree upon the payment of a certain amount of goods or money that would make the victim whole.

In addition to the amount paid to the victim, the wrongdoer also has to pay a sum of money or goods to the king or the lord—more broadly, to the community, since the king or lord was the sovereign. This sum constituted a recognition that the sovereign had an interest in the resolution of the matter. In return for this payment, the offender received the sovereign's protection from attempts at personal retaliation by the victim.

Over the course of time, the sovereign's share grew. Finally, the victim's right to recover from the offender became largely separated from the criminal law and was made a part of the civil law.

What all of this indicates is a growth in the notion that crime is not simply a personal matter between two individuals. Society as a whole has something at stake whenever a criminal act is committed. For one thing, we make it Government's obligation to apprehend and prosecute wrongdoers, and we establish instrumentalities—police, prosecutors, and courts—to do this. Even more important, society as a whole has an interest in protecting itself from further criminal wrongdoing.

Because people in general, as well as the victim, have an interest at stake whenever a crime is committed, society has developed sanctions for criminal acts. These sanctions are imposed to achieve certain ends—such as deterrence of further criminal conduct by the offender—"specific" deterrence—and by others—"general" deterrence; rehabilitation of the offender; and incapacitation of the offender so that he is unable to commit other offenses. There is, of course, no unanimity as to what ends should be served by criminal punishment. In particular, rehabilitation has been undergoing some rethinking, but it is still fair to say that rehabilitation is one of the ends as far as some people are concerned.

The concept of restitution, therefore, cannot be evaluated solely from the standpoint of the individual's interest. It must also be evaluated from the standpoint of society. Restitution must not be used in such a way as to be destructive of other ends that society is trying to achieve. In concrete terms, a judge, in determining whether to order restitution, must consider a whole range of factors, not just whether the victim will benefit.

For example, the judge would have to consider the impact that ordering restitution would have on the offender's family. It may be unwise to order an offender to make restitution where doing

so would result in putting the offender's family on welfare. It may also be unwise to order restitution where it is clear that the offender would pay it only by going out and stealing.

The judge also has to consider habitual offenders. Society is responsible for apprehending, prosecuting, and trying them. Should society permit an habitual offender to avoid other sanctions by repaying a victim each time he is caught? Should the police and prosecutors become collection agents? If the offender cannot make the payment, is he put in prison, and if he is, have we not set up a debtor's prison?

The judge also has to consider the wishes of the victim. Not all victims want restitution from the offender. Here is a report from Time magazine about a rape/murder case:

> Watson will be eligible for parole in 15 years, but whenever he is released, said the judge, he must pay 40 percent of his income for the rest of his life to the two sons of the housewife he killed. [The husband] said the payments could only serve to remind his sons of their mother's murder, and might even put them in physical danger from Watson or his friends. [The husband] was going to be forced into the . . . position of hiring a lawyer to have the payment of reparations removed from the sentence of his wife's killer.

Restitution is deceptively appealing and seems to be a simple concept. The reality, however, is that restitution is not so simple a concept and for that reason is not widely imposed. A survey of 850 California superior and municipal court judges conducted by the Joint Legislative Audit Committee of the California Legislature disclosed that while 94 percent of the judges would consider imposing restitution—or a special fine to benefit that State's victim compensation program—a majority of the judges saw problems in doing so. The problems most cited were the inability of defendants to pay and collection and enforcement problems. In the period 1967 to 1976, the California victim compensation program has paid some $9.7 million to victims. In that same period, restitution recoveries by victims that went to the victim compensation program totaled only $28,250. The conclusion seems clear that while California judges will consider imposing restitution, the problems involved with imposing it in actual cases are such that restitution is not widely ordered.

I think the amendment is largely unnecessary. It will have no significant impact on what courts can now do. Most, if not all, States have statutes specifically authorizing restitution, and I suspect that every judge believes that he possesses a common law right to impose restitution. It should be remembered that it is in the interests of the State to impose restitution whenever possible, for when restitution is used in crimes of violence it means that the victim cannot recover from the State's victim compensation program.

The amendment adds another qualification that a State must meet in order to be eligible for Federal reimbursement. I am fearful that some ingenious bureaucrat might be able later on to use it to compel a State to change its restitutionary practices in order to continue to be eligible for Federal reimbursement. I am a realist, however, and expect the amendment to carry. Of all of the restitution amendments I have heard about, it is the least dangerous and meddlesome and, therefore, is preferable to them.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I find that I agree with much of what the gentleman from South Carolina has said about restitution. Nevertheless, I believe that this amendment is worthy and deserving of support.

I will not repeat what the gentleman has said about the history of restitution. As society has developed, the idea that a criminal wrongdoer owes a debt only to the victim of his misdeed has disappeared. The wrongdoer also owes a debt to society. The gentleman from South Carolina is entirely correct in observing that while restitution may discharge the wrongdoer's debt to the victim, it does not necessarily discharge the wrongdoer's debt to society. There may be circumstances when restitution would be inconsistent with other important social policies.

This does not mean however that restitution is never appropriate or that a criminal wrongdoer can never discharge his debt to society by discharging his debt to the victim. What it means is that restitution must be used carefully recognizing the interests and needs of the victim and society, and recognizing as well that the interests of society may include some concern for the rehabilitation of offenders and the well-being of their dependents.

I have heard it asserted that victim compensation and restitution are incompatible—that if we enact Federal crime victim compensation legislation we will preclude States from utilizing restitution as a criminal sanction. Nothing could be further from the truth.

The fact of the matter is that victim compensation and restitution are entirely compatible. The best evidence of this is to look at a State like Minnesota, which not only has a fine victim compensation program but is also a modern pioneer among the States in the use of restitution.

The focus of victim compensation programs is on the crime victim. Victim compensation programs are designed to help innocent crime victims pay for unreimbursed medical expenses and lost wages. The focus of restitution programs is on the criminal offender. Restitution is a sanction for crime, a type of punishment—a criminal offender is compelled to make payments or provide some form of service to the victim of his crime or, in some instances, the community at large. As such, restitution is imposed to achieve one or more of the various social ends served by criminal sanctions—such as deterring further crimes by the particular offender or by others, rehabilitating the particular offender, or imposing a "just" sentence.

Victim compensation programs operate whether or not an offender is caught—they will compensate innocent crime victims in situations where the offender is not apprehended. Restitution programs are operable only when the offender is apprehended and convicted. Victim compensation programs are limited to crimes that injure people. Restitution programs are nearly always limited to crimes against property.

Since victim compensation programs serve different social policies from those served by restitution programs, neither program is a substitute for the other. We cannot expect a victim-oriented program to serve any of the social purposes behind imposing criminal penalties. Similarly, we cannot rely upon a restitution program to do an adequate job of compensating innocent victims of crime. To begin with, most reported crimes are not solved. Further, not everyone arrested and tried is convicted, and many of those who are convicted are judgment-proof. In his testimony or H.R. 7010 before the Subcommittee on Criminal Justice, the attorney general of my own State noted that—

> In our experience . . . only one in 10 criminals are caught and only one-quarter to one-half of those are convicted. Thus, restitution would be available from less than 5% of offenders, and most of them would turn out to be judgment proof.

Mr. Chairman, I do not view restitution as a panacea for our criminal justice system. A restitution program will not lead to a dramatic increase in the number of offenders who are rehabilitated, nor will it provide a systematic means of assisting innocent victims of crime. A restitution program is good to have available and to use when the circumstances warrant it.

The amendment of the gentleman from California amends section 4 of the bill, which sets forth the qualifications that a victim compensation program must meet in order to be eligible for Federal assistance. His amendment adds an additional qualification that there be "in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim."

This amendment recognizes that restitution can, under appropriate circumstances, be an effective criminal sanction and serve socially useful ends. At the same time, however, the amendment recognizes that a state ought to have maximum discretion to shape its own restitution program. A State can comply with the qualification by means of a statute, administrative regulation, or court practice and procedure. The restitution requirement can be imposed at the time of sentencing, in addition to or in lieu of any fine or term of years imposed; it can also be imposed after sentencing, as a condition of parole, for example.

The amendment will not give unnecessary emphasis to restitution and encourage its widespread use in unwarranted circumstances. It will serve as a reminder that restitution, in appropriate circumstances can be a useful criminal sanction.

The gentleman from California is to be commended for his interest in this mat-

ter, and I am happy to join him in supporting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 18, noes 17.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to this section?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 6, after line 2, add the following new paragraph:

(8) There is in effect in the State a law or rule requiring any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, or article, relating to such crime to deposit any proceeds owing to such individual under the terms of the contract into an escrow fund for the benefit of any victims of such qualifying crime or any surviving dependents of any such victim, if such individual is convicted of that crime,

to be held for such period of time as the state may determine is reasonably necessary to perfect the claims of such victims or dependents.

Mr. BUTLER. Mr. Chairman, this amendment inhibits criminals from profiting from crimes which leave their victims wards of State compensation programs.

My concern arises from the recent experience of New York's so-called "Son of Sam" slayer, where it was reported that an attorney representing the accused attempted to sell interviews with his client to the media. Fortunately, a statute had previously been enacted in New York requiring any payment under such an agreement to be deposited with the State Victim Compensation Board to be held in escrow for the benefit of the victim or victims of the crime.

Since the notoriety occasioned by that case, I am pleased that other States have undertaken to follow New York's example. However, it is not the purpose of this amendment to enshrine New York language or procedure. My purpose is to implement the well-settled equitable principle that a man cannot profit by wrongdoing at the expense of others.

Due process for the accused, of course, motivates the requirement that he must be convicted of the crime before the money in question can be actually applied to the victim.

It is anticipated that a civil judgment against the criminal will have to be obtained, but the language of the amendment is drafted generally enough to accommodate the criminal and civil procedures of individual States. The amendment is also intended to permit the use of literary proceeds for the legal defense of the accused, as is provided for in the New York statute.

It may be true now that a victim can file a tort action against the criminal. However, the action may take many years to resolve and by that time, the criminal's assets most likely have been depleted. This amendment attempts to preserve ill-gotten gains so at least these will be available for the victim. It can thus be analogized to the filing of lis pendens—only with more efficacious results.

Due process has never recognized an unqualified property right in ill-gotten gains. On the contrary, Professor Scott's authoritative treatise on thrusts is replete with examples of the law summarily parting a wrongdoer from his evil riches.

There are those who might object to the inclusion of another requirement for States to meet in order to qualify for Federal funds. But, ladies and gentlemen, now is the time to establish the shape of the Federal program. After enactment of Federal legislation, States will have an adequate opportunity to conform their individual programs. We might just as well tell them now what we expect rather than adding requirements piecemeal at a later time when they cannot so easily conform. You do not wait until a house is built to tell the contractor where you want the windows.

We are not talking here about an insignificant benefit to the Federal Government. Remember that under the provisions of H.R. 7010, the Federal Government could be liable for as much as $25,000 for every crime committed in America. A single mass slayer thus could conceivably cost the Federal Government hundreds of thousands of dollars in victim benefits alone. Since society seems to bestow its curiosity on the bizarre and the infamous, the story of a notorious felon can be a highly sought after possession. It, therefore, is unconscionable for the Federal Government to pick up the tab for a criminal's victims while permitting him to become a millionaire with the movie rights to his crime.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I state my reason for opposition, I would like to make it clear that the gentleman's amendment would operate, if adopted, prospectively only, and would apply to contracts entered into after the effective date of the State law or rule which is required by this amendment. Is that true?

Mr. BUTLER. If the gentleman will yield, that is true, yes, sir.

Mr. WIGGINS. Yes. Let me tell the Members what troubles me about this whole matter of restitution, of which this amendment is an aspect. I want to begin by saying that I think that the perpetrator of a wrong should bear a part of the compensation which may be paid under some formula to the victim of that wrong, but it is troublesome to me to utilize the concept of restitution, in a legal sense, to reach that result.

The victim of crime is the State. It is incidental that there is an individual who may also be victimized. Restitution is a civil concept, personal to the individual victim rather than the State. It represents a right to recover such damages as may have been sustained as a result of tortious conduct. Any time that we give to a judge in a criminal trial the power to award an unliquidated sum representing perhaps pain, suffering, and other matters, to an individual victim at the expense of another person, we surely are denying that other person property without due process, unless the State law that we conceive provides for that process. Of course, an individual can waive his fifth amendment right under the coercive pressure of an offer of probation, that is to say, he may consent to the payment of a sum of money in order not to go to jail, although I wonder about the constitutionality of the waiver under the circumstances I am describing.

This whole problem of restitution, although well intended, has a lot of problems in it that ought to be thought through. This particular amendment is one narrow aspect of restitution. It says that if the perpetrator of a wrong enters into a contract by the terms of which the wrongdoer receives money, the money that would come under that contract to the wrongdoer will be impounded by the State in escrow.

The amendment was helped a great deal by the addition of a last line which permitted the claimant to perfect his claim, and I take that to be in a civil action. This is better than the vague general restitution amendment proposed by my friend, the gentleman from California (Mr. EDWARDS). But I am troubled by confusing civil remedies in a criminal proceeding, and that is what we are doing. The coercion present in a criminal sentencing proceeding is inherent and presents a fair consideration of the civil issues involved in restitution.

I am not sure of the extent to which we may be exacting a forfeiture from the defendant, over and above that which the State can require for the commission of his crime, without a due process procedure to protect him. That issue has not been thought through.

I think the better part of wisdom is to vote down these restitution amendments at this time. In order, however, to be faithful to my support of the principle that the criminal ought to do something, the bill should require that a fine, not a damage sum but a fine, be imposed and contributed to the general victim's fund. That approach is constitutional. I suggested in the committee that we start with $5. Unfortunately, the committee rejected the proposal. But this amendment has nothing to do with a fine; rather it deals with a right of action by a criminal victim. I think it is inappropriate to put such considerations into a criminal trial.

Mr. MANN. Mr. Chairman, I urge rejection of the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield the 5 minutes to my colleague, the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding.

I will not take up the time of the House for very long, but I simply want to suggest that all we are trying to do here is to do what New York has already done and other States are doing. We do not

want a person to profit from his crime and not have the proceeds of that profit be made available for the victims of his crime. I must confess that I have a great deal of difficulty worrying about the due process rights of a criminal to profit from his crime.

As a lawyer and a Member of Congress I realize we have to respect the rights of everyone. Therefore, I have very carefully tried to cast this amendment in as broad language as I could to give the States the broad discretion to meet a general guideline that to me is clearly constitutional. If a State government is going to participate in a Federal victims of crime program, we ought to have some way to tie up the criminal's profit from his crime so the victim of the crime can get at the profit before it is dissipated. It was done by statute in the State of New York. It kept "Son of Sam" from profiting by $150,000 before his victims could get at the money. I think that is the appropriate, logical, and constitutional approach.

Mr. ASHBROOK. Mr. Chairman, I rise in strong opposition to H.R. 7010, the Victims of Crime Act of 1977. This bill would cost the American taxpayer millions, perhaps billions, of dollars every year.

We all know how Federal programs have a tendency to grow beyond all expectations. Expenditures for the food stamp program, for example, have undergone a 30-fold increase in only a decade.

H.R. 7010 is especially susceptible to this problem. One can only guess at how high expenditures might go. Cost estimates run all the way from $20 million to $1 billion or more. This is hardly reassuring.

The Congressional Budget Office, for instance, predicts an annual cost between $32 million and $64 million within the next 5 years. Other predictions go far higher.

I want to emphasize that I am deeply concerned about the problem of crime in America. Every year millions of our citizens are the victims of criminal acts. Congress has a responsibility to find solutions to the crime problem.

H.R. 7010, however, is not crime control legislation but another piece of social welfare legislation. The real victims of this bill will be the American taxpayers.

Instead of paying out millions of dollars to crime victims, our efforts should be aimed at reducing crime. One such approach is mandatory sentencing of criminals. We need to get the repeat offender—the career criminal—off the street.

Another legitimate crime control measure is capital punishment. Unfortunately the death penalty has remained virtually unused for about a decade because of adverse court rulings. That is why I am sponsoring a constitutional amendment specifically unholding the power of a State or Congress to impose the death penalty for any crime involving the deliberate taking of human life.

These are the types of anticrime measures we should be talking about here today, not H.R. 7010. I urge the defeat of this legislation.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say to my good friend, the gentleman from Virginia, that I appreciate the gentleman's kind words about the State of New York. Such words are very rare these days.

But, I must nonetheless oppose the amendment.

Mr. Chairman, I yield to the subcommittee chairman, the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Chairman, the gentleman indicated that States are responding to this situation, and they are. The work of this committee has been with an emphasis on preserving State autonomy. We had a concern with the States' flexibility to shape their own programs. Surely the 75 or 85 percent contribution by the State will give them the necessary incentive to promote programs for the recovery of funds in which they are subrogated for any claims arising.

Now, one can think of a thousand ridiculous situations where this act would be very difficult to apply; but, you know, in the first place, due process would require that he be convicted before he is deprived of his property, which this does not require.

The opinion of the Congressional Reference Service on the constitutionality of this was requested by the minority and this report raises serious constitutional questions of due process under the 14th amendment and the 1st amendment protection of freedom of speech. If the States want it, fine; it is a worthy objective; but I think it is just as unworthy that the Federal Government should seek to impose this thing affecting other parts of the judicial system and that the questionable constitutionality should bear the seal and requirement of the Federal Government. Of course, as we know, 49 States would have to enact such legislation before they become qualified, if they so participate. It is just an unnecessary and no doubt unconstitutional requirement.

Mr. Chairman, I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken: and on a division (demanded by Mr. BUTLER) there were—ayes 12, noes 17.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 113, not voting 76, as follows:

[Roll No. 615]

AYES—245

Abdnor	Fish	Miller, Ohio
Addabbo	Fithian	Minish
Allen	Flippo	Mitchell, N.Y.
Ambro	Florio	Moakley
Anderson, Calif.	Flowers	Mollohan
Andrews, N.C.	Flynt	Moorhead, Calif.
Andrews, N. Dak.	Foley	Moorhead, Pa.
Annunzio	Forsythe	Moss
Applegate	Fowler	Mottl
Archer	Frenzel	Murphy, Pa.
Armstrong	Frey	Myers, Gary
Ashbrook	Fuqua	Myers, John
Ashley	Gaydos	Neal
AuCoin	Gephardt	Nichols
Badham	Gibbons	Nowak
Bafalis	Ginn	O'Brien
Barnard	Glickman	Oakar
Baucus	Goldwater	Ottinger
Bauman	Gradison	Pettis
Beard, R.I.	Grassley	Pickle
Beard, Tenn.	Hagedorn	Pike
Bedell	Hanley	Poage
Benjamin	Hansen	Pressler
Bennett	Harkin	Pritchard
Bevill	Harsha	Quie
Blanchard	Heckler	Quillen
Boland	Hefner	Rahall
Breaux	Hightower	Rangel
Brinkley	Hillis	Regula
Brooks	Hollenbeck	Reuss
Broomfield	Holt	Rhodes
Brown, Mich.	Horton	Risenhoover
Brown, Ohio	Hubbard	Roberts
Broyhill	Huckaby	Robinson
Buchanan	Hyde	Roe
Burgener	Ichord	Rogers
Burleson, Tex.	Ireland	Roncalio
Burlison, Mo.	Jacobs	Rostenkowski
Butler	Jenkins	Rousselot
Byron	Jones, N.C.	Rudd
Caputo	Jones, Tenn.	Runnels
Carter	Kasten	Ruppe
Cederberg	Kazen	Russo
Chappell	Kelly	Santini
Clausen, Don H.	Ketchum	Sarasin
Cleveland	Keys	Satterfield
Cochran	Kildee	Schroeder
Coleman	Krebs	Schulze
Collins, Tex.	LaFalce	Sharp
Conable	Lagomarsino	Shuster
Conte	Latta	Sikes
Corcoran	Le Fante	Sisk
Cornell	Leach	Skelton
Coughlin	Lederer	Slack
D'Amours	Lent	Smith, Iowa
Daniel, Dan	Lloyd, Calif.	Smith, Nebr.
Daniel, R. W.	Lloyd, Tenn.	Snyder
Davis	Long, La.	Solarz
Delaney	Long, Md.	Spellman
Derwinski	Lott	Spence
Devine	Lujan	St Germain
Dickinson	Luken	Stangeland
Diggs	McDade	Stanton
Duncan, Tenn.	McDonald	Steed
Early	McHugh	Steers
Edwards, Ala.	McKay	Steiger
Edwards, Okla.	Madigan	Stratton
Emery	Markey	Studds
English	Marriott	Stump
Erlenborn	Martin	Symms
Ertel	Mathis	Taylor
Evans, Del.	Meeds	Thone
Evans, Ind.	Meyner	Treen
	Michel	Trible
	Milford	Udall

Vanik	Weiss	Wylie
Waggonner	White	Yatron
Waigren	Whitehurst	Young, Alaska
Walker	Whitley	Young, Fla.
Walsh	Whitten	Young, Mo.
Wampler	Winn	Young, Tex.
Watkins	Wright	Zeferetti

NOES—113

Akaka	Fountain	Natcher
Ammerman	Fraser	Nedzi
Aspin	Gonzalez	Nix
Badus	Gore	Oberstar
Beilenson	Gudger	Panetta
Biaggi	Hall	Patten
Bingham	Hamilton	Pattison
Bonior	Hannaford	Pease
Brademas	Harrington	Perkins
Brodhead	Harris	Preyer
Brown, Calif.	Hawkins	Price
Burke, Mass.	Heftel	Richmond
Burton, John	Holtzman	Rodino
Burton, Phillip	Howard	Rooney
Carney	Hughes	Roybal
Carr	Jenrette	Ryan
Cavanaugh	Jones, Okla.	Seiberling
Chisholm	Jordan	Shipley
Clay	Kindness	Simon
Conyers	Kostmayer	Stark
Corman	Leggett	Stockman
Cornwell	Levitas	Stokes
Danielson	Lundine	Thompson
Dellums	McCormack	Thornton
Dodd	McFall	Traxler
Downey	McKinney	Tucker
Drinan	Maguire	Ullman
Eckhardt	Mann	Van Deerlin
Edgar	Marks	Vento
Filberg	Mattox	Volkmer
Evans, Colo.	Mazzoli	Waxman
Fary	Mikulski	Weaver
Fascell	Miller, Calif.	Wiggins
Fenwick	Mineta	Wilson, Tex.
Findley	Mitchell, Md.	Wirth
Fisher	Moffett	Yates
Flood	Moore	Zablocki
Ford, Tenn.	Murtha	

NOT VOTING—76

Alexander	Ford, Mich.	Murphy, N.Y.
Anderson, Ill.	Gammage	Myers, Michael
Badillo	Gilman	Nolan
Blouin	Goodling	Obey
Boggs	Guyer	Patterson
Bolling	Hammer-schmidt	Pepper
Bonker	Holland	Pursell
Bowen	Jeffords	Quayle
Breckinridge	Johnson, Calif.	Railsback
Burke, Calif.	Johnson, Co.o.	Rinaldo
Burke, Fla.	Kastenmeier	Rose
Clawson, Del	Kemp	Rosenthal
Cohen	Koch	Sawyer
Collins, Ill.	Krueger	Scheuer
Cotter	Lehman	Sebelius
Crane	Livingston	Skubitz
Cunningham	McClory	Staggers
de la Garza	McCloskey	Teague
Dent	McEwen	Tsongas
Derrick	Mahon	Vander Jagt
Dicks	Marlenee	Whalen
Dingell	Metcalfe	Wilson, Bob
Dornan	Mikva	Wilson, C. H.
Duncan, Oreg.	Montgomery	Wolff
Edwards, Calif.	Murphy, Ill.	Wydler
Evans, Ga.		

Mr. LE FANTE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. PIKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the debate yesterday and during the debate this morning we were told that one of the reasons for this bill was that it would cause crimes which have not been reported to be reported. I agree that it will cause some crimes which have not been reported to be reported, but we were given a statistic that 52.8 percent of all crimes of violence were not reported.

I asked the distinguished chairman of the subcommittee where did the gentleman get the reports that show that crimes are not reported. The gentleman gave it to me. It is a document titled "Criminal Victimization in the United States," done through the LEAA and the U.S. Department of Justice. The trouble is that the document does not substantiate what the gentleman said.

Mr. Chairman, I now have had an opportunity to read the document. It just does not indicate that that number of crimes of violence are not reported. Of crimes which would be reimbursed under this legislation, robbery with injury is 65 percent reported.

For serious assault under that category, it is 66.8 percent.

For minor assaults, it is 62.5 percent.

Aggravated assault with injury, 65.1 percent.

So the statistics seem to indicate that about two-thirds of all of the crimes which would be reimbursable under this legislation are already reported.

Of all of the crimes listed in the so-called crimes of violence, only one falls under the average of 47.2 percent, which the gentleman referred to.

This one so-called crime of violence which drags the average down to that figure is under the category of simple assault, and it is defined as attempted assault without a weapon. Well, what does attempted assault without a weapon mean as a violent crime? It means that I swing at somebody and I miss him, or he swings at me and he misses me.

It is because crimes of this nature are not reported that the statistics which the gentleman gave us earlier about all of these crimes of violence not being reported are so low. Now, frankly, there have been times in my more tempestuous youth when I might have committed that crime of swinging at somebody and missing, and I am glad that it was not reported; and I know there have been times when people have swung at me, and sometimes they have missed and sometimes they have not, but I did not report those crimes. I just think that to use that kind of a crime as the basis for a statistic that only 47.2 percent of all crimes of violence are reported in this country is trying awfully hard to sell this bill.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield to me?

Mr. PIKE. I am happy to yield to the gentleman from Illinois.

Mr. FINDLEY. Just for clarification, may I assume from the gentleman's comments that in his latter days, when he swings, he swings only to hit, not miss?

Mr. PIKE. In my latter days I have had sense enough never to swing at all. I am afraid I am too old to be a swinger.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LIMITATIONS ON FEDERAL GRANTS

SEC. 5. In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 3, there shall be excluded from such cost any amount for administrative expenses incurred in carrying out the program and any amount representing State compensation awards—

(1) for pain and suffering;

(2) for property loss;

(3) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $50,000;

(4) to any claimant who has received or is entitled to receive compensation from any other source up to the amount of that compensation;

(5) to any claimant whose award would be for an amount less than $100 or for lost earnings computed on the basis of less than five work days;

(6) for lost earnings of more than $200 per week per individual;

(7) to any claimant who failed to file a claim under the State program within one year after the occurrence of the qualifying crime, unless good cause for such failure to file has been found by the appropriate State agency; and

(8) to any claimant who failed to report the qualifying crime to law enforcement authorities within seventy-two hours after the occurrence of that qualifying crime, unless good cause for such failure to report has been found by the appropriate State agency.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 20, strike out "other source" and insert in lieu thereof "source other than a compensation program assisted under this Act or the perpetrator of the qualifying crime,".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDGER

Mr. GUDGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDGER: Page 6, line 18, strike out "50,000" and insert "25,000" in lieu thereof.

Mr. GUDGER. Mr. Chairman, ladies and gentlemen. I commend Congressman MANN for his effective presentation of this important bill and for the judicious and effective manner in which he conducted the hearings and directed the markup which presents to the 95th Congress a very carefully thought out and well designed proposal to provide Federal support to the States for the payment of compensation to persons sustaining personal injury in consequence of qualifying crimes as defined in the act. I also commend Congressman RODINO, chairman of the Judiciary Committee, for introducing this bill and for the effective way in which he has developed, explained, and supported it in committee hearings. I am persuaded that H.R. 7010 is a good bill and that it should pass. I do feel, however, that the amendment that you have just heard read improves the bill and that it should be adopted.

Wednesday, we issued to Members a brief "Colleague" letter providing a list of the 20 States which presently have statutes providing for compensation to victims of violent crimes and listing the maximum amounts presently recoverable under each of these State programs. I call to your attention that Alaska, North Dakota and Pennsylvania authorize a maximum single claim recovery of $25,000; that California's maximum is $23,000; that Kentucky and Michigan provide for only $15,000; and that in Delaware, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Tennessee, Virginia, and Wisconsin the maximum amount recoverable is $10,000, whereas the State of Nevada allows only $5,000. The State of Ohio is the only State in the union which specifies a maximum recovery in excess of $25,000, although, as

shown on the list mailed to you, three States (Maryland, Washington, and New York) provide no specific limits on portions or all of the amounts recoverable. New York, for example, allows $20,000 recovery for loss of earnings, but has no limit on medical payment recovery. As suggested in the material mailed out to you, the amendment which I offer proposes a maximum limitation of $25,000, which I contend is reasonable and adequate and consistent with the experience and the limitations imposed by the vast majority of the States which has victims of crimes compensation systems.

I suggest that their experience is our best chart and guide and to establish a much higher maximum than those States presently approve suggests a largess which this Congress cannot indulge without public criticism.

In the Criminal Justice Subcommittee which marked up H.R. 7010 I offered and secured adoption of the amendment which sets the threshold limitation contained in section V, subparagraph 5 of the bill. That is the provision in the bill which excludes Federal participation in awards of less than $100. And in the full Judiciary Committee I offered the amendment now before you which was rejected there by our vote. I believe that many people in this land will look upon H.R. 7010 as liberal, extravagant, and irresponsible if we authorize here more than double the recovery now authorized by the vast majority of existing State systems without any more evidence than has been offered to show that their limits are unreasonable.

In addition to the proof of the adequacy of the $25,000 maximum provided by the legislative judgment of the 20 States now having compensation for victims of crime programs, I suggest to you that the 30 States which have not yet adopted a program to compensate victims of crime will be more strongly encouraged to establish similar programs if the Federal guidelines in H.R. 7010 are moderate and practical and clearly provide a sound and logical minimum threshold and a maximum ceiling consistent with the State compulsory automobile liability insurance maximums, and the maximum recoveries allowed by the workman's compensation acts with which they are familiar. I remind you that H.R. 7010 is wisely drawn so as to allow the States to administer their victims of crimes compensation programs either through their courts, through their industrial commissions, or through other State administrative agencies. I point out that H.R. 7010 does not compensate for loss of earnings in a fractional amount as do most workman's compensation acts, but will not prohibit the States from doing this if so advised. I feel that imposing a total maximum recovery of $25,000 as provided by this amendment will assure that the States now providing compensation for victims of crimes will have adequate inducement to conform their statutes to the standards H.R. 7010 will require if they are to share in Federal funding and that those States which enact crime victims compensation plans hereafter will look upon this bill as providing financial limitations which are practical, reasonable, and sensible, as will be the case if this amendment is adopted.

Mr. Chairman, I am aware, of course, that the adoption of the Wiggins amendment earlier has perhaps weakened the necessity of this amendment, but the thrust and the purpose and the justification for the amendment is still present, in that there is no valid reason for our going far beyond the present plan of existing systems which now by and large impose a $25,000 or less limitation.

Mr. Chairman, it is for this reason that I offer this amendment, and I urge adoption of the amendment.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I take up the substance of the amendment, I want to reemphasize the policy that underlies the structure of this bill.

The major goal and the prime facet of this legislation would permit each State the maximum amount of flexibility to shape its own program. This approach is based in part on the notion of federalism. Each State should be able to experiment with different systems and methods in order to find the program that best meets its needs and conditions. This approach is also based on a recognition of the fact that the State will be paying for most of the program. The State would certainly be paying in excess of 75 percent.

This amendment will affect five States with existing programs. It will result in a modest savings to the Federal Government of about $2 million, but its impact on the idea of giving maximum flexibility to the States and its adverse impact on the various States that have higher levels will be substantial.

Moreover, this adverse effect will be felt in situations where the need for help is most acute, for example, in situations where the victim is rendered paraplegic and incurs huge, unreimbursed hospital and medical expenses.

Mr. Chairman, for those reasons, I urge the defeat of the amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this is the second part of an amendment which was suggested by the administration. As I stated earlier, the administration requested that the subcommittee amend its bill to limit the Federal participation to 25 percent, and that it impose a maximum cap of $25,000 on the size of any individual claim.

The subcommittee rejected that advice and, instead, provided for a 50 percent contribution by the Federal Government and a $50,000 cap.

Earlier today an amendment was approved overwhelmingly by the House to accept the 25 percent contribution limitation. I now ask the House to adopt the balance of the administration's recommendation and reduce the maximum amount payable to any claimant from the $50,000 sum represented in the bill to $25,000.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition on the amendment.

Mr. Chairman, I rise to speak in opposition to this amendment, which would limit the maximum payment for victims of crime to $25,000.

What is $25,000 today? What self-respecting damage lawyer would take a case for $25,000?

I was surprised at this. I thought the gentleman from South Carolina (Mr. MANN), being a member of the majority party, would speak for the majority or for the administration, not the distinguished gentleman from California (Mr. WIGGINS), who is a member of the minority party. But, of course, the way things are going around here, I do not know.

This is a new concept in taking care of people. When I was in the Ohio Legislature a number of years ago, we determined that to keep one prisoner in the Ohio State Penitentiary cost at that time—and this is 10 or 15 years ago—in excess of $6,000. That is considering all costs. At that time one could send a child to any Ivy League college in the country for $6,000.

We have got to live with the times. If we do not want to go along with this, the Members should vote against the bill, but let us not kill this by adopting silly amendments.

My State has a $50,000 amendment. I am proud of that. I think we should go even higher in the future. But let us not limit States that are fairminded, if we believe in the principle.

If Members believe in this principle, they should vote for the bill, and if they do not, they should have the guts to vote against it, but let us not kill the bill by adopting silly amendments.

Please vote no on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. GUDGER).

The question was taken; and on a division (demanded by Mr. GUDGER) there were—ayes 27, noes 18.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

REPORT OF THE ATTORNEY GENERAL

SEC. 6. Within one hundred and thirty-five days after the end of each Federal fiscal year in which State programs were given financial assistance under this Act, the Attorney General shall publish a report and submit such report to the House and Senate Judiciary Committees. The report shall contain as a minimum the following information.

(1) Information in regard to each qualifying State program:

(A) The number of persons compensated.

(B) A statistical presentation of—

(i) the kinds of loss compensated;

(ii) the range in monetary value of claims awarded;

(iii) the reason for denial of claims, including the number of claims denied for failure to qualify under a State-imposed means test; and

(iv) the types of crimes which resulted in claims.

(C) A description of the administrative mechanisms and procedures used by the State program in processing claims, including claims for emergency assistance.

(D) The time required for the State program to process claims, including claims for emergency assistance if the State program provides for such assistance.

(E) Efforts taken by each State to publicize its program.

(F) Administrative expenses.

(G) The number of qualifying crimes described in section 7(7)(B) which are compensated under the State program.

(2) Information in regard to the activities of the Attorney General in carrying out this Act as follows:

(A) An itemized statement of expenditures

(B) Copies of rules made under section 3(b).

(C) Projected expenditures for the Federal fiscal year in which the report is required to be submitted.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 12, after "assistance" insert: "if the State program provides for such assistance."

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6? If not, the Clerk will read.

The Clerk read as follows:

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "claim" means a written request for compensation made by or on behalf of a victim or any surviving dependent of a victim;

(2) the term "dependent" means, with respect to any State compensation program, dependent as defined by that State for purposes of such program;

(3) the term "personal injury" means, with respect to any State compensation program, personal injury as defined by that State for the purposes of such program;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory of the United States;

(5) the term "compensation for personal injury" means compensation for loss which is the result of personal injury, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accorance with a method of healing recognized by the appropriate State agency;

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

(6) the term "property loss" does not include expenses incurred for medical, dental, surgical, or prosthetic services and devices;

(7) the term "qualifying crime" means—

(A) any act or omission whch is criminally punishable and which the State designates as appropriate for compensation under its program; and

(B) any act or omission which would be a qualifying crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction; and

(8) the term "administrative expenses" includes any fee awarded by the State agency administering the program to any claimant's attorney if such fee is paid in addition to, and not out of, the amount of compensation.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, line 14, insert "occurring in such State".

The committee amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to make a reference in support of the committee amendments that are now being reported, and would like to address an inquiry to the gentleman from California (Mr. WIGGINS).

During consideration of H.R. 7010 by the Committee on the Judiciary, the gentleman from California (Mr. WIGGINS) offered an amendment to add language to section 7(7)(A) and section 7(3) of the bill. That amendment was agreed to, and the language added appears on page 10, lines 16–17, and page 9, line 14, of the Union Calendar version of the bill.

Since the committee's adoption of the amendment and filing of its report (House Report 95–337), two questions have been raised about the meaning of section 7(7)(A) and 7(3) as amended by the committee. These questions, I might add, were raised by persons involved in the administration of the California victim compensation program. For the sake of the legislative history of this bill, I would like to indicate the answers to the questions and ask the gentleman from California if he concurs in them.

The first question is whether section 7(7)(A) and 7(3), as amended, require a State to compensate victims of crime who are otherwise eligible for assistance where the victims are in the country illegally. The answer is "No." A State must offer compensation to victims without regard to the victim's residency, but it need not offer compensation to victims who are in the country illegally.

The second question is more complicated. Some State programs will follow State residents and compensate them when they are the victims of crimes occurring outside of the State. As made clear in the committee report, this is permissible and the State may include such awards in its cost of paying compensation for the purpose of calculating the Federal grant. California is a State that will compensate its residents when they are victimized outside the State. When a California resident is victimized outside of California, but in another State with a victim compensation program, which State—State of residency or State where the crime occurred—is responsible for paying compensation?

Sections 7(7)(A) and 7(3) make it clear that a State may not discriminate in its program between residents and nonresidents. A State, to have a qualified program, must offer compensation without regard to the victim's State of residency, although as I indicated earlier, it is not required to compensate victims who are in the country illegally. There is no language in the legislation that permits the State to escape this obligation because a victim is from a State that has its own victim compensation program. Thus, the State where the crime occurred, not the State where the victim resides, is responsible for paying compensation.

Does the gentleman from California (Mr. WIGGINS) concur in the answers to these two questions?

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Yes, I concur in the answer to the first question that a State need not provide compensation to a victim who is illegally in this country.

With respect to the second question, the answer is "yes," the intent of the amendment was to prevent States with compensation programs from making arbitrary distinction based upon the residency of the victim. In the criminal law, it is established that generally it is the lex loci delicti that applies to criminal acts, rather than the lex loci domicilii. Since H.R. 7010 depends upon the existence of criminal conduct, it would only be logical to assess primary compensation responsibility as among two States by applying this accepted principle of criminal law. The problems inherent in a contrary interpretation only reinforce this conclusion. For otherwise, the State of residency would be saddled with the burden of extra-territorial investigation.

Some States choose now to "follow" their citizens; but their choice should not relieve the State of the crime from its superior responsibility, consistent with the general principle of criminal law, which my amendment sought here to effectuate.

I thank the gentleman for yielding.

Mr. MANN. I thank the gentleman from California for his answers.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 10, line 4, strike out "appropriate State agency" and insert "law of the State;"

The committee amendment was agreed to.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The clerk read as follows:

Committee amendment: Page 10, line 15, strike out "which is criminally punishable and which the" and insert "occurring in a State which is criminally punishable therein and which such"

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 10, after line 23, insert the following new subsection:

"(c) any act or omission which would be a qualifying crime under subparagraph (A) except that where such crime is any robbery, assault, rape, burglary, kidnaping or homicide (other than involuntary manslaughter)

and the commission of which involves the use of a firearm, the offense be punishable by a term of imprisonment of not less than five years and the execution or imposition of the term of imprisonment cannot be shortened by suspension, probation or parole, and which such State designates as appropriate for compensation under its program; and".

And, reletter the succeeding subsection accordingly.

Mr. GOLDWATER. Mr. Chairman, one of the nicest things we can do for the victims of violent crime is to reduce their numbers.

And, one of the nicest things we can do for the taxpayers in connection with this bill is to do something about stunting the program's growth at the beginning.

Mr. Chairman, we can accomplish both of these lauditory purposes with my amendment. It merely stipulates that certain crimes which are committed with a firearm cannot qualify for Federal compensatory money for the victims unless such crimes are punishable by at least 5 years in prison, without possibility of suspension of sentence or parole, except in the case of involuntary manslaughter. Thus, we reduce crime and the dollar amount which will be appropriated for this program in the future, since there will be fewer people who need payments.

For those of my colleagues who are concerned over 10th amendment implications, I would point out that my amendment is no more a limitation on State programs or a dictation of State laws than those seven provisos set down in section 4 of the bill.

Additionally—and in anticipation of possible concern over hapless victims who may not collect benefits because State law does not comply with the Federal qualifier—I would observe that any State which fails to punish criminals whose intention toward the victim is obvious since they used a gun, by at least 5 years behind bars, does not deserve Federal tax dollars to relieve their State tax burden because they are not doing enough at their end to solve the real problem—the perpetrators of violent crime.

My amendment would encourage States to do something about this obvious oversight in their criminal law—although it certainly does not dictate that the States must do so.

In this regard, I do not believe we would be dictating criminal statutes any more than we would be dictating tort liability statutes through the passage of the bill, itself. Participation is not mandatory.

In fact, the committee has already noted in its report that we would encourage States which have not enacted victims compensatory programs to do so. I see my amendment as a logical extension of this sort of Federal encouragement program.

Finally, and most importantly, I believe we are all aware of the shocking percentages of repeat offenders, and the situation in Washington is illustrative of the problem. Consider the following:

One out of every three persons arrested for a serious crime in Washington is convicted;

And if that is not bad enough, only half of those convicted serve any time in prison; and

Yet, 60 percent of those arrested for felonies in Washington have prior criminal records and 25 percent of those arrested for felonies are, at the time of arrest, free on probation, parole, or pretrial release on a pending charge.

Mandatory penalties offer a realistic and much needed solution to such problems, and the records of States which have enacted mandatory penalties bear out my contention. For example:

Florida has enacted a mandatory penalty for the use of a firearm in the commission of a crime. That law is credited by enforcement officials with a 38 percent drop in armed robberies in its first year. Murders involving handguns dropped 21 percent in the same period, and aggravated assaults involving handguns fell 14 percent. In Dade County, murder dropped 36 percent, and the police credited this to the fact that the law removed armed robbers from the streets.

In Arizona, a mandatory penalty for armed robbery committed with a firearm resulted in a 27-percent decrease in gun robberies in Tucson in the first 6 months.

These statistics give us ample reason to believe that mandatory sentencing helps reduce crime and thus its victims. Therefore, if we are going to encourage States to help the victims of crime through compensatory programs, then we ought to really help them by encouraging the States to get their criminals off the streets by adopting my amendment.

Mr. MANN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is a State's right and responsibility to define State crimes and provide punishments for them. I realize that all wisdom resides in Washington and that we have got all the answers to mandatory sentences and probation and parole and the size of sentences and the like. But if this bill is used as a vehicle to impose that wisdom upon the States and to rewrite their criminal laws, then it is a monster, indeed, and this Committee will have striven in vain to limit the requirements of this bill to qualifications that are directly related to the operation of victim compensation programs. It represents a minimum of Federal intrusion into the State's criminal justice systems. But this amendment would destroy that feature of the bill and deeply involve the Federal Government in the operation of the State criminal justice systems.

I can appreciate the gentleman's remarks about the need for strong penalties when a firearm is used in the commission of certain offences. However, these arguments are better addressed to the State legislatures which are rightly charged with providing punishment for such crimes or that committee which is involved with Federal jurisdiction in rewriting the Federal criminal code.

I strongly urge defeat of this amendment.

Mr. WIGGINS. Mr. Chairman, I rise in brief opposition to the amendment.

I will not repeat the Federalism arguments. They are all clear.

This does involve a very significant intrusion into the normal authority of a State to define and punish crimes committed within its own jurisdiction. It is an attempt to move toward mandatory sentences. As a matter of policy I have a certain aversion to mandatory sentences and do not support them in general. But if this Congress were so ill advised as to proceed in that direction, a statute must be carefully drawn. This amendment raises many questions which are unanswered.

What is a firearm? It is not defined.

What may be its use in the commission of a crime is not defined.

Whether or not the firearm was visible to the victim, whether it was used to injure the victim, and whether it was loaded or not are all questions which are quite revelant with respect to sentencing if we seek to do justice, and a mandatory sentence denies a judge the opportunity to consider those factors.

I urge a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 7? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION

SEC. 8. There are authorized to be appropriated to carry out the purposes of this Act $40,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, and $60,000,000 for the fiscal year ending September 30, 1980.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER. On page 11, strike section 8 in its entirety, and insert in lieu thereof the following:

"SEC. 8. There are authorized to be appropriated to carry out the purposes of the Act $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980."

Mr. VOLKMER. Mr. Chairman, briefly, after the amendments of the gentlemen from California and North Carolina have been adopted, basically all this amendment does is now reduce the program authorization in half, while leaving the administration costs intact. That is the basic purpose of the amendment.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from South Carolina.

Mr. MANN. Mr. Chairman, I think the gentleman's point is well made. I recommend adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 8? If not, the Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 9. Grants may be made under this Act with respect to the fiscal year which ends September 30, 1978, and succeeding fiscal years.

Mr. BLANCHARD. Mr. Chairman, I am pleased today to note the passage by the House of Representatives of H.R. 7010, the Victims of Violent Crime Act of 1977. This act helps States that have programs to compensate the innocent victims of crime by providing financial assistance to the States, and thus crime victims.

As a cosponsor of this bill, and as the author of a similar victim compensation bill introduced in December 1975, I believe this legislation is a significant step toward dealing with a problem which affects many, many individual citizens.

Most importantly, of course, H.R. 7010 marks a shift in the focus of our thinking about crime—a shift toward concern about the innocent victim, and toward the question of what we can do to help him deal with the injustice he has suffered. Over the years, we have seen much attention and theorizing about the motives and problems of criminals; a new emphasis on the problems of their victims is long overdue, and I welcome it.

Because of this shift in focus, H.R. 7010 has a symbolic importance far beyond its immediate practical effect. It is evident that Congress, and the Federal Government, can and will respond to the problem of crime with constructive legislation.

H.R. 7010 contains a number of safeguards to insure good use of the funds it provides. It is limited to actual, out-of-pocket expenses or loss incurred by those who have suffered physical injury or death as a result of a crime; and it does not provide payment to those who are compensated from some other source, such as insurance. Nor does it provide for property loss.

Not only does it provide some remedy for the victim of a violent crime, or his family, but it contains provisions to require those who have been victimized to cooperate fully with the authorities. Hopefully, this will have a positive effect on the actual crime rate as well.

The concept of compensation to victims of crime is one which has already proven workable at the State level. H.R. 7010 seeks to build on that success by funneling Federal funds through the working State programs rather than setting up a duplicative, bureaucracy-ridden Federal program. In all likelihood, it will therefore result in swifter and more efficient help for the people it is designed to serve.

My own State of Michigan is one which will benefit from the assistance H.R. 7010 provides. Michigan has a crime compensation program which will go into effect next week and which, because of the State's problems with unemployment and crime, it will very likely have difficulty in funding fully. The funds which H.R. 7010 will supply may well make the difference for hundreds of families who would otherwise be left helpless, even destitute, through no fault of their own.

I am hopeful that with this legislation moving toward enactment, Congress will be able to turn to other proposals in the area of crime which I have introduced or cosponsored, and which I support.

It is my view that Federal efforts to stop crime should be sharply upgraded, and that they should focus on swift, certain, and stiff punishment of criminals.

To that end, I have supported measures to:

Help States and major local units of governments speed up the trial and disposition of criminal cases.

Restrict bail to those convicted who are awaiting sentencing or appeals, particularly when a violent crime or a repeat offender is involved.

Enact mandatory minimum sentences for certain serious crimes, including the commission of a crime with a firearm and the selling, exporting, or importing of drugs.

Increase funding for the Law Enforcement Assistance Administration, which is the Federal Government's one unique contribution to the fight against crime.

Mr. Chairman, we will not solve the crime problem unless we are willing to invest time and money. Let us follow H.R. 7010 with a tough, balanced series of measures designed to take the initiative away from the criminal element in our society and make our neighborhoods and streets safe again.

Mr. FRENZEL. Mr. Chairman, H.R. 7010, the Victims of Crime Act, is a bad idea carried to ridiculous lengths.

First, it puts unbearable pressure on States to adopt such legislation, or increase existing limits, when they really don't want to do so. If they do not adapt them, the States put their own citizens in the position of paying for other States benefits, but not their own. If the States do adopt such laws, they must conform to federally inspired conditions, and bureaucratically inspired regulations to qualify for those Federal grants.

One of the very worst of all our mistakes here is that what we continually succumb to the temptations to enact legislation that is forced on the States. They know their problems and their resources better than we do. Let us stop being heros for a while, and leave the States alone.

Second, it redistributes wealth in a haphazard or whimsical manner. Victims of accidents or sickness or recessions or droughts do not get these benefits. I believe the Federal Government has a responsibility to protect its citizens from catastrophes beyond their control, but I believe that protection should be afforded on a uniform basis. If a member of our society cannot pay his or her medical bills, we have a program to help. If a wage loss is sustained, there is in most cases a Federal remedy. I think it a grievous mistake to set up another in a series of special interest remedies to special classes.

Third, H.R. 7010 would be unfairly described as an incentive to crime, but it surely is no deterent. The bill will generate more money only if there is more crime. Would it not be better to spend our Federal resources on preventing crime. I believe it would.

Fourth, it ties a Federal grant program to a problem over which we have no control. Most of the crimes are against State and local laws which are supposed to be enforced by State and local governments.

Fifth, it puts another large hunk of Federal money, contributed by all the taxpayers, into the large cities. It is essentially a regional, or, at worst, a big city grant program.

Sixth, H.R. 7010, even though it has some limits, establishes what will come to be an open-ended program subject to annual or biennial increases depending on how popular our members want to be with crime victims. As the committee's dissenting views state: "Clearly, this is a growth program . . ." Estimates of costs range up to $64 million annually after 5 years. There is no way our constituents would want us to vote for this program at a time of high taxes and higher deficits.

In conclusion, it is difficult to find good reasons, other than sympathy to the victims, for this bill. It is the wrong idea, at the wrong level of government. The needs of victims can be handled in other more rational ways. I hope it will be defeated.

Mr. RUSSO. Mr. Speaker, I rise in support of the victims of crime bill, H.R. 7010. The House of Representatives has delayed passage of this important legislation much too long. Our colleagues in the Senate have passed victim compensation proposals before only to watch them languish and die in our Chamber. But this session the House will act first and show the Senate our concern for the innocent who have suffered financial loss from excessive medical bills because of some criminal activity.

Since entering the House of Representatives at the beginning of the 94th Congress, I have actively promoted victim compensation legislation. As a freshman Member of Congress I was the original sponsor of a combined victim compensation/witness assistance proposal. Today's measure differs from mine in its method of distributing financial assistance to the States for their programs. But, the goals both proposals attempt to reach are the same—helping the innocent victim meet his financial obligations and encouraging citizen participation in the criminal justice system.

Victims of crime often suffer much more than the physical pain associated with a knock on the head, a gunshot or knife wound. Medical bills pile up while the victim receives doctors' care and recuperates from his attack, especially when he lacks adequate insurance coverage. The elderly are many times placed in the most financial jeopardy because they have only a little money put away and the cost of a hospital visit will severely cut into their funds, even if they are covered by medicare or medicaid.

Doctor bills and hospital costs are not the only financial problems facing a victim. Time off from work costs money also, the more so when the victim is an hourly wage earner. The greatest loss, though, occurs when the victim dies. How can the surviving family carry on if it loses one of the parents, particularly if the deceased was the breadwinner? The need for a victim compensation law is truly there.

This bill should also encourage citizen participation in the criminal justice sys-

tem. Before a victim becomes eligible for compensation, he must fulfill two important qualifications—report the crime within 72 hours and cooperate with the law enforcement authorities. Immediate reporting of all crimes would greatly assist police in apprehending criminals. As we have all been told, the hotter the trail, the more likely the police will arrest a suspect. But merely reporting an attack is not where the victim's responsibility stops.

Cooperation with law enforcement authorities after a suspect is arrested is also vital. Suspects must be brought to trial and the guilty convicted if the criminal justice system in this country is to again deter criminals. Only citizen cooperation with the police and the district attorney's office will accomplish this goal.

The bill establishes a fairly simple mechanism to distribute Federal money to qualifying State victim compensation programs. A nine member committee, composed of at least seven people from qualifying State programs and two others, chosen by the U.S. Attorney General will oversee the program. These committeemen will serve without pay but will be reimbursed for travel expenses connected with their work.

As the bill was reported from the Judiciary Committee, the Federal Government would have paid 50% of any award made by a State, up to a maximum of $50,000. Thus, the highest Federal payment to any victim would have been $25,000. However, the House adopted an amendment on the floor which reduced the maximum award to $25,000 and, thus, the Federal share to $12,500. Some Members might view this as fiscally responsible but, in my view, Congress may be saving a few cents now only to spend much more to attack crime through conventional, but not always the most productive, methods. A $50,000 award is a lot of money, but this would be the rare case, the exception, but the case that also requires the higher sum.

I would like to emphasize that the program is not an insurance program. Windfall claims whereby a victim would collect compensation from a private organization and also a State program are eliminated. Any other source of compensation will serve as an offset against a State award. In addition, States may not compensate a victim for "pain and suffering" but only provable out-of-pocket expenses. Property losses are not covered either. This is not an open pocket program but one designed to assist the unfortunate who also help the police.

I know my colleagues will show their support for this proposal and give it the backing it so richly deserves.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have now concluded consideration of this bill and in a moment or two we will be asked to vote upon its adoption. I have maintained from the outset that this bill reflects bad governmental policy; but now as the result of an amendment adopted by the House with respect to a special category of restitution, it also contains some bad law, in my opinion.

I have two reasons now for opposing the bill.

I contrast my concern with that, for example, of the chairman of the full committee. The gentleman from New Jersey (Mr. RODINO) has told us that this bill reflects good policy and sound governmental principles; but if I understood the gentleman correctly, the gentleman felt that the Butler amendment was unconstitutional; so the gentleman now, too, has a reason for opposing the bill.

In short, Mr. Chairman, everybody has a reason now to oppose this bill and on the vote which will occur in just a few moments, I urge that the bill be defeated.

The CHAIRMAN. Are there further amendments to section 9? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, pursuant to House Resolution 601, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 173, not voting 69, as follows:

[Roll No. 616]

YEAS—192

Addabbo	Boland	Danielson
Akaka	Bonior	Davis
Allen	Bonker	Delaney
Ammerman	Brademas	Dellums
Anderson, Calif.	Breaux	Derwinski
Andrews, N. Dak.	Brodhead	Diggs
Annunzio	Brown, Calif.	Dodd
Applegate	Burke, Mass.	Drinan
Aspin	Burlison, Mo.	Eckhardt
Badillo	Burton, John	Edgar
Baldus	Burton, Phillip	Edwards, Calif.
Baucus	Caputo	Eilberg
Beard, R.I.	Carney	Ertel
Bedell	Carr	Evans, Colo.
Beilenson	Chisholm	Evans, Del.
Benjamin	Clay	Fary
Biaggi	Coleman	Fascell
Bingham	Conyers	Fenwick
Blanchard	Corman	Findley
	Cornwell	Fish
	Coughlin	Fisher
	Flippo	McCormack
	Flood	McDade
	Florio	McFall
	Flowers	McKinney
	Foley	Madigan
	Ford, Tenn.	Maguire
	Forsythe	Mann
	Fraser	Markey
	Gaydos	Marks
	Gibbons	Mattox
	Gonzalez	Mazzoli
	Gore	Meyner
	Gudger	Mikulski
	Hagedorn	Mikva
	Hanley	Mineta
	Harkin	Minish
	Harrington	Mitchell, Md.
	Harris	Mitchell, N.Y.
	Hawkins	Moakley
	Heckler	Moffett
	Hefner	Moorhead, Pa.
	Heftel	Moss
	Hollenbeck	Motti
	Holtzman	Murphy, Pa.
	Howard	Murtha
	Hughes	Myers, Gary
	Hyde	Myers, Michael
	Jacobs	Neal
	Jenrette	Nix
	Jordan	Nowak
	Kasten	Oakar
	Kazen	Oberstar
	Keys	Obey
	Kildee	Ottinger
	Kostmayer	Patten
	Le Fante	Perkins
	Lederer	Preyer
	Leggett	Price
	Lent	Pritchard
	Lloyd, Calif.	Quie
	Long, La.	Rangel
	Long, Md.	Regula
	Luken	Richmond
	Lundine	Rodino
		Roe
		Rooney
		Rosenthal
		Rostenkowski
		Roybal
		Russo
		Ryan
		Santini
		Schroeder
		Schulze
		Seiberling
		Shipley
		Simon
		Sisk
		Smith, Iowa
		Solarz
		Spellman
		Stark
		Steers
		Stokes
		Studds
		Thompson
		Thornton
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Walgren
		Walker
		Walsh
		Waxman
		Weaver
		Weiss
		Wilson, Tex.
		Wirth
		Wright
		Yates
		Yatron
		Young, Tex.
		Zeferetti

NAYS—173

Abdnor	Frey	Pattison
Ambro	Gephardt	Pease
Andrews, N.C.	Giaimo	Pettis
Archer	Ginn	Pickle
Armstrong	Glickman	Pike
Ashbrook	Goldwater	Poage
Ashley	Gradison	Pressler
AuCoin	Grassley	Quillen
Badham	Hall	Rahall
Bafalis	Hamilton	Reuss
Barnard	Hannaford	Rhodes
Bauman	Hansen	Risenhoover
Beard, Tenn.	Harsha	Roberts
Bennett	Hightower	Robinson
Bevill	Hillis	Rogers
Blouin	Holt	Roncalio
Brinkley	Hubbard	Rudd
Brooks	Huckaby	Runnels
Broomfield	Ichord	Ruppe
Brown, Ohio	Ireland	Sarasin
Broyhill	Jenkins	Satterfield
Buchanan	Jones, N.C.	Sharp
Burgener	Jones, Okla.	Shuster
Burleson, Tex.	Jones, Tenn.	Sikes
Butler	Kastenmeier	Skelton
Byron	Kelly	Skubitz
Carter	Ketchum	Slack
Cavanaugh	Kindness	Smith, Nebr.
Cederberg	Krebs	Snyder
Chappell	LaFalce	Spence
Clausen, Don H.	Lagomarsino	Stangeland
Cleveland	Latta	Stanton
Cochran	Leach	Steed
Collins, Tex.	Levitas	Steiger
Conable	Lloyd, Tenn.	Stockman
Conte	Lott	Stratton
Corcoran	Lujan	Stump
Cornell	McDonald	Symms
D'Amours	McHugh	Taylor
Daniel, Dan	McKay	Thone
Daniel, R. W.	Mahon	Traxler
Devine	Marriott	Treen
Dickinson	Martin	Volkmer
Downey	Mathis	Waggonner
Duncan, Tenn.	Meeds	Wampler
Early	Michel	Watkins
Edwards, Ala.	Milford	White
Edwards, Okla.	Miller, Calif.	Whitehurst
Emery	Miller, Ohio	Whitley
English	Mollohan	Whitten
Erlenborn	Moore	Wiggins
Evans, Ind.	Moorhead, Calif.	Winn
Fithian	Myers, John	Wylie
Flynt	Natcher	Young, Alaska
Ford, Mich.	Nedzi	Young, Fla.
Fountain	Nichols	Young, Mo.
Fowler	O'Brien	Zablocki
Frenzel	Panetta	

NOT VOTING—69

Alexander	Gammage	Nolan
Anderson, Ill.	Gilman	Patterson
Boggs	Goodling	Pepper
Bolling	Guyer	Pursell
Bowen	Hammer-	Quayle
Breckinridge	schmidt	Railsback
Brown, Mich.	Holland	Rinaldo
Burke, Calif.	Horton	Rose
Burke, Fla.	Jeffords	Rousselot
Clawson, Del	Johnson, Calif.	Sawyer
Cohen	Johnson, Colo.	Scheuer
Collins, Ill.	Kemp	Sebelius
Cotter	Koch	St Germain
Crane	Krueger	Staggers
Cunningham	Lehman	Teague
de la Garza	Livingston	Tsongas
Dent	McClory	Vander Jagt
Derrick	McCloskey	Whalen
Dicks	McEwen	Wilson, Bob
Dingell	Marlenee	Wilson, C. H.
Dornan	Metcalfe	Wolff
Duncan, Oreg.	Montgomery	Wydler
Evans, Ga.	Murphy, Ill.	
Fuqua	Murphy, N.Y.	

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Burke of Florida against.

Mr. Koch for, with Mr. Del Clawson against.

Mrs. Boggs for, with Mr. Crane against.

Mr. Dent for, with Mr. Cunningham against.

Mr. Murphy of New York for, with Mr. Dornan against.

Mr. Pepper for, with Mr. Guyer against.

Mrs. Burke of California for, with Mr. Livingston against.

Mr. Lehman for, with Mr. McClory against.

Mr. Gilman for, with Mr. Quayle against.

Mr. Jeffords for, with Mr. Rousselot against.

Mr. Rinaldo for, with Mr. Sebelius against.

Mr. Whalen for, with Mr. Teague against.

Mr. Gammage for, with Mr. Montgomery against.

Mr. Metcalfe for, with Mr. Bowen against.

Until further notice:

Mr. Cotter with Mr. Sawyer.

Mr. Fuqua with Mr. Anderson of Illinois.

Mrs. Collins of Illinois with Mr. Brown of Michigan.

Mr. de la Garza with Mr. Pursell.

Mr. Holland with Mr. Wydler.

Mr. Murphy of Illinois with Mr. Hammerschmidt.

Mr. Nolan with Mr. Goodling.

Mr. Patterson of California with Mr. Horton.

Mr. Rose with Mr. Marlenee.

Mr. Scheuer with Mr. Krueger.

Mr. St Germain with Mr. Bob Wilson.

Mr. Staggers with Mr. McCloskey.

Mr. Tsongas with Mr. Railsback.

Mr. Charles H. Wilson of California with Mr. Vander Jagt.

Mr. Alexander with Mr. Crane.

Mr. Breckinridge with Mr. McEwen.

Mr. Johnson of California with Mr. Duncan of Oregon.

Mr. Dicks with Mr. Derrick.

Mr. Evans of Georgia with Mr. Dingell.

Mr. HILLIS and Mr. CAVANAUGH changed their vote from "yea" to "nay."

Mr. HUGHES changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7010, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment No. 10 thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendment to the House amendment to the Senate amendment No. 10.

The Clerk read the Senate amendment to the House amendment to the Senate amendment numbered 10, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes."

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: ": *Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall preview such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER. The Clerk will report the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10.

The Clerk read the House amendment to the Senate amendment to the House amendment to Senate amendment No. 10, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: ": *Providing further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and I shall not object, I just wanted to ask the gentleman in the well whether this particular amendment, as introduced, is the one worked out with the gentleman from Louisiana, Senator JOHNSTON?

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. Mr. Speaker will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding, and I would like to ask whether this is exactly the same provision as we explained last night.

Mr. PHILLIP BURTON. That is correct, with the addition of the clarifying word "such."

Mr. Speaker, this amendment authorizes the full payment of the awards of the Micronesian Claims Commission under title II of the 1971 act with the exception that the Secretary of the Interior shall exclude from payment that part, if any, of an award which constitutes interest which the Commission was not authorized to award under the 1971 act.

The Commission in determining the amount of its awards in those claims for the taking, use, and damage to privately owned land by the United States, exhaustively reviewed and weighed a multitude of evidence, records, appraisals, and reports to determine the value of the loss as of the date that the loss occurred. It rejected use of present day values which would have been much higher. To these values it added interest from the date of the loss to the date of the award to determine the amount of just compensation to which claimants were entitled.

This method of arriving at a just award was not only authorized by the Micronesian Claims Act, but was required by the act.

The act by its terms authorized the Commission to adjudicate claims and render final determinations" in accordance with the laws of the Trust Territory of the Pacific Islands and international law."

So that there could be no doubt as to the import of this language in the act, House Report 92–226 accompanying the bill stated:

A reference in the bill to international law is useful in furnishing guidance to the Commission on the measure of damages to be applied in meeting claims; . . .

This was a clear directive from the Congress to the Commission to be guided by trust teritory law and international law in determining damages.

At the time this act was passed it was the established law of the trust territory that interest from the date of taking to the date of award or judgment had to be included in determining just compensation where private property had been taken by the trust territory government. The high court had so ruled in 1969 in

the leading case of *In re Ngiralois*, 3TTR 303, affirmed 4TTR 517.

It was equally well established under international law that interest is a necessary part of a just indemnification for taking private property. This rule of international law is supported by all the authorities and is universally accepted throughout the free world.

Therefore the law to which the act directed the Commission, required the Commission to include interest in determining just compensation in its awards.

Nowhere within the statute was any contrary direction given to the Commission.

Reference has been made to two sentences contained in Senate Report 92–76. No language, no matter how strong in any congressional report, can be relied upon to rewrite and change the specific language contained within a statute as passed. Only by amendment may a statute be changed.

However, examination of these two sentences confirms that the Commission carried out to the letter the recommendation of each sentence.

The first sentence reads as follows:

The Committee wishes to make clear that the Special Commission shall only consider the valuation placed on these claims as the value of the property at the time of its loss or destruction.

This the Commission clearly did. Its leading decision shows that the Commission painstakingly sought out evidence of the value of property at the time of its loss or destruction. It rejected contentions made to it that present day replacement costs should have been used as a basis for its awards.

The final sentence in the Senate report to which reference has been made reads:

Payment of interest *on awards* is not authorized. (Emphasis added.)

This sentence refers to the duty of the Secretary of the Interior, whose role was defined throughout the act, as being responsible for the payment of the awards determined by the Commission.

The respective roles of the Commission and the Secretary were clearly and consistently defined in the act. The Commission was given authority to determine the amount of awards in accord with trust territory and international law, and was given no authority over the payment of its awards. The Secretary was given the duty and authority to pay the awards of the Commission and was given no authority to interfere or be involved in the determination of the awards.

This last sentence in the Senate report referring to payment in no way can be construed to affect the authority given in the statute to the Commission to adjudicate and determine the awards.

Furthermore, and extremely important to the issue, are the precise words used by the Senate which specifically refer to interest "on awards." No reference is made to the inclusion of interest in determining just compensation in an award. Yet this is a distinction universally recognized in the law.

Use of interest from the date of taking or loss to the date of award is termed "compensatory interest" and its inclusion is required to determine just compensation.

Interest running on an award from the date the award is issued until the date of payment is termed "moratory" interest. The leading authority on the international law of claims makes this unequivocal statement:

It is necessary to differentiate between interest as a part of an award and interest on an award. The cases show a marked difference in the handling of these situations. *III Whiteman, Damages in International Law, pp. 1913.*

The same authority has pointed out that even where a treaty expressly states that interest shall not be payable on awards, this does not preclude the allowance of interest to affix just compensation as a part of the award.

The Commission followed this rule of international law and properly differentiated the two classes of interest. The Commission in its leading decision on the issue quoted the language in the Senate report verbatim, and on the basis of that language ruled that interest was not to be paid on its awards.

The Commission carried out its mandate given by the 1971 act to follow the law in determining the amounts of its awards. This required the inclusion of interest in its awards on claims where private property had been interfered with by the Government. It followed to the letter the recommendation of the Senate and denied interest on its awards.

The Commission's formula in determining just compensation by using the values of property at the time of the loss and adding interest to the date of the award followed its authorization under the act. Therefore this amendment allows the Secretary to determine that no unauthorized interest was actually awarded because the formula used—which included interest—actually represented just compensation based on fair value at the time of loss.

There is no rational basis to conclude otherwise.

In 1971, it was the Foreign Affairs Subcommittee on International Organizations and Movements which held the House hearings on the Micronesian Claims Act and approved what ultimately was the final language in the bill. My colleague, DON FRASER, chaired that subcommittee and it was he who also served as floor manager in the House for the bill. He has written to me a letter which sets forth his view of the issue at stake here. I concur with his conclusions and insert into the RECORD at this point a copy of his letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1977.

HON. PHILLIP BURTON,
Chairman, Interior Subcommittee on National Parks and Insular Affairs. Longworth House Office Building, Washington, D.C.

DEAR PHIL: I am informed that a question has arisen concerning the intended authorization given to the Micronesian Claims Commission in determining its adjudication and final determinations.

The Act by its terms gave specific authorizations to the Commission to adjudicate and render final decisions, "in accordance with the laws of the Trust Territory of the Pacific Islands and international law . . ."

In the House Report 92–226 accompanying the resolution, we made the following recommendation concerning this: "A reference in the bill to international law is useful in furnishing guidance to the Commission on the measure of damages to be applied in meeting claims; . . ."

It is clear from this language that we directed the Commission to be guided by trust territory and international law in determining damages.

The law of the Trust Territory is clear that interest from the date of taking to the date of judgment must be included in determining damages where private property was taken by the Trust Territory Government.

The rule of international law has been summarized as follows: "Interest according to the usage of nations is a necessary part of a just national indemnification." This is universally recognized in the Free World.

Therefore the law to which the Commission was directed for guidance clearly required the inclusion of interest from the date of loss to the date of award in those cases where government interference with private property was at issue.

Neither the Act itself nor the House Report made reference to whether the Secretary of the Interior should compute and pay interest on the awards issued by the Commission from the date the award was issued until payment was finally completed. Under 28 USCA 2411 such interest does run on judgments against the United States. In Senate Report 92–76 a recommendation was included that "Payment of interest on awards is not authorized." The Commission quoted this statement and based on this language determined that interest would not be paid on the awards, and, in fact, no interest has been paid on any award issued by the Commission.

As pointed out clearly by the authorities on international law, interest included in an award to fix just compensation is very different from interest paid on an award, and these two matters have consistently been differentiated and treated differently.

Therefore, it is clear that the Commission followed the law to which it was directed by including interest in its determination of the amounts of its awards; and it followed the direction of the Senate Report in denying payment of interest on awards.

Sincerely,

DONALD M. FRAZER.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

A motion to reconsider was laid on the table.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 800 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 800

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) to amend the Act of August 25, 1958, with respect to staff allowance for former Presidents. After general debate, which shall be confined to the bill and shall continue

not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule, At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 800 provides for the consideration of H.R. 9354, to amend the Former Presidents Act of 1958, with respect to staff allowances for former Presidents. It is an open rule providing for 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. The rule is noncontroversial and it was reported from the Committee on Rules by a voice vote.

The purpose of H.R. 9354 is to increase the authorization for staff assistance for the 30-month period immediately following the expiration of Transition Act funds from the present $96,000 per year to $150,000 per year. According to the Committee on Post Office and Civil Service, the authorization for former President's staff assistance was last increased in 1970 to the present $96,000 from $80,000. Recently, former President Ford communicated to the House leadership the need for this additional funding pending the expiration of the Transition Act funds on September 30, 1977.

An earlier bill, H.R. 9278, which would have provided annual comparability pay increases for staffs of former Presidents as well as the increased staff allowance for 30 months, failed on September 27, 1977 to receive the necessary two-thirds votes needed to suspend the rules.

Mr. Speaker, I urge the adoption of House Resolution 800 so that the House may proceed to the consideration and passage of the bill, H.R. 9354. I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman has stated that this is a straight 1-hour, open rule permitting the consideration of H.R. 9354, legislation providing staff allowances for former Presidents.

The bill increases the funds authorized to pay salaries for staff of former Presidents for the 30-month period following expiration of Transition Act funds from $96,000 per year to $150,000 per year. Since the General Accounting Office has determined that funds under that act for former President Ford are available only until September 30, 1977, this bill becomes effective October 1, 1977.

A similar but, I emphasize, not identical measure, H.R. 9278, failed to pass under suspension of the rules on September 28, earlier this week. That legislation contained a cost of living escalator clause for the Presidential staff which has been deleted from the bill we are about to debate, H.R. 9354.

Mr. Speaker, we are only talking about, as I figure it, $81,000, and if we get into a protracted debate, it will cost us more money to talk about it than to provide funds for the former President in order to answer his letters. There are no funds in this bill for former President Nixon. For the life of me, even if the President were to respond to inquiries on something like the Panama Canal I cannot understand why, when he has not been out of office for 1 full year, he should not have these funds.

Therefore, I urge the adoption of the rule and the ultimate passage of the legislation.

Mr. YOUNG of Texas. Mr. Speaker, I concur with the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman has said that there are no funds in this bill for former President Nixon. Was the staff of the former President, Mr. Nixon, taken out of this legislation for the simple purpose of getting votes to get this passed?

Mr. LOTT. I cannot say for sure that that was or was not the case. However, that was one of the objections that was raised, as I understand it, in discussion on the floor on the 28th. So it was felt that it would be necessary to make this change to get the necessary funds for the former President to have a staff to answer the mail, and that maybe there should not be this escalator clause for cost-of-living increases for staff, for either staff. It is not discriminatory because it applies equally to all former Presidents.

Mr. BAUMAN. I tend to agree with the gentleman that if either former President, or any former President, has a right to these additional funds for their staffs based upon a cost-of-living increase, they all should get it. I think it is the height of politics to single out one former President and make a political judgment about whether he should be treated differently. If that was the basis for Mr. Nixon's staff being removed, it seems to me Mr. Ford's activities dealing with the Panama Canal are also a relevant political consideration.

Mr. LOTT. I personally regret that it was done, but it was my understanding that it would apply equally to both, so I think there is no discrimination to these two former Presidents and to future former Presidents. So it is equally applied to all of them.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9354) with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. UDALL. Mr. Chairman, earlier this week a similar bill obtained a majority on a record vote here in the House, 211 to 203, but did not have a two-thirds majority under the suspension-of-the-rules procedure, so we bring the bill back today with one minor change.

Let me put this in perspective, if I may. Until the Kennedy, Johnson, and Nixon years, there were not even any transition funds for former Presidents. Prior to that time, when Presidents left office, with all of the burdens and all of correspondence and all of the contacts to keep up, they were on their own.

Late in the 1950's, we passed transition legislation which gave some money, some funds, both to the incoming President to make arrangements before he took office, and to the outgoing President for a period of time. The transition funds available to former President Ford expire today. He is our ex-President. He is a former member of this House. He is an outstanding American, and he has a right to have some kind of reasonable staff support.

There is existing in the law today a provision which gives all former Presidents $96,000, not for themselves but for staff. So effective tomorrow, President Ford would get, as former President Nixon now gets, $96,000 a year for staff.

This bill makes one minor change. It says that for 30 months from the time transition money runs out for any ex-President, the period when the demands are most severe, the period when the most correspondence is coming in, we will increase that from $96,000 to $150,000. That is all this bill does.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

I read in the paper that the former President was getting a good deal of mail in recent weeks. Could the gentleman give me some information on how much mail he is receiving?

Mr. UDALL. I do not have the precise

information, but we were told that President Ford today is handling about 250 pieces of mail a day, plus 25 invitations, and has had other requests, and that the postage used in the transition period amounted to about $11,000.

Mr. STRATTON. Does the gentleman know what percentage of that increase in mail is due to the stand that the former President took on the Panama Canal?

Mr. UDALL. I would suppose that a considerable part of it is due to that. But I would hope that we would view our ex-Presidents as outstanding citizens and that we would not judge this legislation, or the necessary staff allowances, on what controversies might be current today or in 6 months or in a year and 6 months.

Mr. STRATTON. If the gentleman would yield to me 1 minute further, the practical effect would be, would it not, that we would be financing his replies in support of the Panama Canal treaty, which I believe is contrary to the views of most of the Members of this body.

Mr. UDALL. The gentleman can take a different position from the views expressed by former President Nixon or former President Johnson, when he was alive, and say each year that we are going to look very carefully at the positions they have taken or the things they have said and then, based on those positions, we are going to deny them or not deny them their staff allowances. I think it would be ridiculous, but we can take the same position here. Where there are Members we do not agree with, such as on the Panama Canal treaty, we should cut off their allowances. I think it is equally ridiculous to take that position with the ex-Presidents.

Mr. STRATTON. I think in this case we are financing propaganda on this particular subject. It is not the kind of mail a former President would ordinarily get. It is because he has injected himself into this particular controversy.

Mr. UDALL. I do not know an ex-President in my memory who did not take a position on current issues. I think it would be an appalling precedent to say that any time funding or staff support for a former President is to be considered, we are going to raise the question whether his positions are in accordance with our own.

We give former Members of this House the franking privilege for 90 days after they leave the House. We provide that in closing out his business, including handling of his mail, he should have some franking privileges. Should I ask, when the gentleman from New York leaves this House, that he should have this privilege only if his views are in accordance with mine?

Mr. STRATTON. The gentleman just indicated that the limitation runs out in 90 days. The time has run out, and I think we have met our obligations to the ex-Presidents.

Mr. UDALL. There is a law on the statute books, which has been there for more than a decade, which says that any former President gets funds for staff. We are seeking to change that in one respect and create an initial period of 2½ years right after the transition act funds expire in which we give them a little extra staff support.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to have the gentleman's opinion. There has been a considerable question about the ownership of a President's papers after he has left his office. Does that still apply when public funds are used to administer that correspondence, or what is the position of the House with respect to this correspondence which has been financed by Federal funds?

Mr. UDALL. I cannot respond to the gentleman except to say this legislation has nothing to do with that separate and important problem. We simply say to an ex-President:

> You may have a reasonable amount of extra staff within 30 months after your transition money runs out.

I do not think it has anything to do with the question the gentleman from Pennsylvania raises.

Mr. GARY A. MYERS. If the gentleman will yield further, it seems to me the House has not adequately addressed that problem in that a former President was dealt with much differently than other former Presidents recently with respect to property rights, and perhaps or maybe we are not on firm ground in not indicating to the Presidents as they move out what the implication is of their accepting these funds.

Mr. UDALL. The House may want to address that problem. What I am saying is I do not think this is the forum in which we should do so.

Let me quickly make one other point. The other day there was great confusion and we had only a few minutes in which to vote on this matter. Some of my friends thought we were doing something to solve the Panama Canal problem by kicking Jerry Ford.

The other thing I heard was we were rewarding former President Nixon somehow. Thus, we made one change. In that earlier bill the $96,000 allowance to former President Nixon was augmented by the annual cost-of-living allowance all Federal employees will receive tomorrow.

In this bill that has been removed, so we can say flatly that former President Nixon, however we might feel about him, will not get a dime of extra staff support or postage or anything else out of this legislation; so I hope that old bogey can be put to rest today.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I congratulate the gentleman from Arizona on what I consider to be a very enlightened statement. His view reflects my position on this issue.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Chairman, it seems to me that the argument that Mr. Ford might use some of this money to answer his mail about the Panama Canal is probably the best argument in favor of the bill, because if that is what the case is, then clearly he is continuing the business that he carried on when he was President. As President, Mr. Ford played a leading roll in bringing this treaty to a conclusion but, he was not able to finalize it as he wished; but it really was his effort and he is carrying on that effort, as we would expect him to do as an honorable man who carrys out his commitments. Since that is the case, I am going to vote in favor of the bill.

Mr. UDALL. Mr. Chairman, I commend the gentleman for that.

Mr. Chairman, I think there is a time for partisanship and certainly all of us go through those periods and stages when partisanship rears its head and that is necessary in our system; but this is not the time nor the place. President Ford is an honorable man. He was chosen President of the United States and for his former colleagues to be vindictive and deny him an adequate staff allowance, really, would be a poor decision for us to make.

Let me put it in perspective. Each Member of this House has a staff allowance, something like $255,000 to $260,000 a year. Here for a former President of a nation of 215 million people, we are going to give him for the next 2½ years an annual staff allowance of less than two-thirds of what a Member of the House of Representatives has. I think it would be a shame if we did not vote this through today. It is strongly supported by the Speaker and by the leadership on both sides.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I was going to inquire as delicately as I know how why the bill was not referred to the committee and why it did not have proper committee action on it before it was brought to the floor.

Mr. UDALL. Mr. Chairman, I say to my friend, I agree that it is a lousy procedure. I have said in the past that I do not like to bypass committees.

We had a time problem. The transition money runs out today, so we are trying to act quickly, because the former President continues to need an adequate staff. That was the purpose of bypassing the committee.

I also thought this was noncontroversial and no one would raise that issue.

Mr. HARRIS. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. I yield to the gentleman.

Mr. HARRIS. Mr. Chairman, I would note for the record that the full committee was, in fact, having its full committee meeting on Wednesday, the same day the revised bill was introduced. I just wonder why it was not brought to the full committee.

Mr. UDALL. There is a further complication. The passage of a bill does not do a bit of good unless you get an appropriation. There is a supplemental bill in process and we wanted to get this passed so it would be included in the appropriation bill.

Mr. HARRIS. Mr. Chairman, I will cast my vote against H.R. 9354 today, a bill to increase the funds for retirement, clerical assistance, and free mailing privileges for former Presidents. I am not necessarily opposed to the bill, but I am very much opposed to the way this bill has been brought before the House.

We have in the House of Representatives a well-established deliberative procedure that has proved itself over many years to be a responsible way of developing public policy. Quite simply, that is the hearing, markup, reporting process of our House committees. As we all know, this bill was not the subject of hearings in the House Post Office and Civil Service Committee, on which I serve, or any other committee. The bill was not marked up; it was not reported.

An almost identical bill, H.R. 9278 was introduced on September 23. Last Tuesday, September 27, it was brought before the House on the suspension calendar. It failed on a 211-to-203 vote—not the two-thirds majority required under the suspension calendar's expedited procedures. Then, just 2 days ago, H.R. 9354 was introduced. The Post Office and Civil Service Committee met that very day, but there was no discussion of this bill. It was not on the committee's agenda.

I understand that today's bill differs from the previous bill because it does not include comparability allowances for staff. Quite frankly, I am not sure how it is different because I just got the bill this morning. And now today, we are being asked to vote on it again.

I do not know whether this bill is meritorious or justified. Since there have been no hearings, since there is no committee report, I, as a member of the committee and the House, do not have sufficient information to make a judgment. I understand that the last time the former Presidents' allowance was increased was in 1970 because I have read the debate of last Tuesday. But I do not know how many staffers our former Presidents have or need, what their salaries are, whether those salaries are appropriate; what our former Presidents' mailing expenses are and whether they are justified. According to the House debate on Tuesday, former President Ford will receive $64,600 and former President Nixon will receive $6,800, that is, under the bill we considered Tuesday, H.R. 9278. Very simply, I cannot vote for this bill until some of my questions are answered in the committee forum.

I am not opposed to compensating former Presidents and their staffs. And I am sure that had an emergency been presented to the committee, we could have had a hearing and acted promptly. Our system is such that we are able to handle emergencies; we can act quickly if need be.

Former President Ford's request is probably reasonable. The bottom line here, however, is that this is no way to legislate. The legislative process is orderly, careful, sound, and responsible. I am disappointed it has not been adhered to today.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in view of the dissatisfaction shown Tuesday with legislation to update the staff allowance for former Presidents, it was obvious some adjustments had to be made. The bill before us, H.R. 9354, is a streamlined version which deserves the prompt approval of the House.

This bill amends the former Presidents Act of 1958 in one simple manner: It provides an increase in the staff allowance of former Presidents from $96,000 to $150,000 for a 30-month period, whereupon the staff allowance reverts to its current level of $96,000.

As written, the bill amends the staff allowance for only one former President, that is President Ford. The official duties attendant to him and the demands which require adequate staff assistance for his official functions were well detailed earlier and I will not dwell upon them.

This bill amends the Former Presidents Act for the first time in 7 years. It is obvious the $96,000 staff allowance written into law in 1970 has depreciated through inflation to the point where it does not sufficiently provide the necessary staff assistance. An increase of $54,000 at this time is I believe justified in terms of current Federal salaries.

It should be clearly understood that none of these funds are used for the personal benefit of the former President. It is for staff assistance only. And, further, this sum is authorized only for a 30-month period, at which time it will drop back to $96,000.

I therefore urge my colleagues to accept this modest adjustment in the law.

Mr. Chairman, I have one or two more statistics for the Members. Ex-President Ford's staff will be reduced from 14 to 11 members effective October 1. I am also advised that in addition to the funds in this bill, it is necessary for the former President to underwrite expenses of approximately $60,000 over and above what is allocated under this measure. So, it is not a situation where we are providing an exorhibitant sum of money which is wasted. As a matter of fact, the five secretaries employed by Mr. Ford receive a salary of $8,300 per year each. I would daresay that it would be difficult to find a secretary on Capitol Hill earning less than $8,300.

Mr. Chairman, I also wish to commend the gentleman from Arizona (Mr. UDALL) for his great statesmanship this afternoon. As far as I am concerned, he is always one of the great statesmen of the House. If he had been less of a statesman and more of a partisan he probably would have done better in Democrat primaries and would today be our President, but because of his great statesmanship he is merely one of the unsung leaders of the House of Representatives.

Now, in a spirit of bipartisanship, I yield to another great Member of this body from the State of Arizona, the distinguished minority leader (Mr. RHODES), for whatever time he may consume.

Mr. RHODES. I thank the gentleman from Illinois.

Mr. Chairman, I certainly hope and I trust that this bill will be adopted. The former President of the United States, Gerald Ford, has been in contact with me and with the Speaker, and he assures us, No. 1, that the money is needed; and No. 2, that the staff is not excessive.

I would like to inform the House as to just what this money would be used for by reading information which has been provided by the President's staff. The budget for the President's transition office and his personal staff is as follows:

Robert Barrett, chief of staff, $47,500;

Richard Wennekamp, $39,600;

Two staff people, one of which is office manager at $26,600 and one of which is staff assistant at $22,800;

Five secretaries at $8,300 each;

Assistant office manager, $12,100;

And one staff person to handle liaison with archives, logistics and scheduling, $16,000.

The total staff compensation is $206,000.

Mr. Wennekamp has budgeted $145,700 beginning October 1 out of Former Presidents Act funds. The remaining $60,000 would come from Mr. Ford's funds. The $4,000 remaining of the $150,000, should this bill be enacted, would be set aside for appropriate staff pay increases.

Mr. Wennekamp will stay on another 6 months, so that the fiscal year 1978 annual payroll expense is $186,400.

I thought it important to put these amounts in the RECORD so that the Members of the House will be aware of the pay schedule of these individuals. I think we will see that the former President is no more willing to spend the taxpayers' money willy-nilly now than he was as a distinguished member of the Appropriations Committee of the House. Any Member who served with him when he was a member of that committee will certainly recall, as I do, that he was far from being a big spender; in fact, he was often thought to be rather penurious. I think he probably still is.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. KREBS. I appreciate the gentleman yielding to me.

Mr. Chairman, let me say that I will vote for this legislation. I think it is only fair, and I am basing it, frankly, as a Member of this House to which the distinguished former President referred to as a "billion-dollar Congress." I really would hope that, in light of the former President's own experience, in the future he might want to think twice before he criticizes this Congress as being a billion-dollar Congress, because we have some problems too.

Mr. DERWINSKI. I thank the gentleman for his contribution.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, I certainly hope this bill is adopted. The former President was in town quite a few days ago, and we talked about this great problem. He told me that he is averaging 8,000 letters a week.

He is the former President of the United States. The office of President of the United States is the highest position in the world today. There are many

things that we do not do for our former Presidents. We should keep up the prestige of the Presidency.

We should not be influenced by the statements that the gentleman from California (Mr. KREBS) just mentioned. These were made at the height of political activity.

Let us consider the individual, and the office of the Presidency. We are only dealing with a matter of 6 months during this transition period.

I certainly urge that the bill be passed.

Mr. DERWINSKI. Mr. Chairman, it is a pleasure to listen to the tender Irish brogue of the Speaker.

I now yield to the possessor of a Midwestern melodious voice, the gentleman from Illinois, (Mr. MICHEL) the distinguished whip.

Mr. MICHEL. Mr. Chairman, I rise in support of this bill and hope to allay any feelings that may rest in the mind of the gentleman from New York (Mr. STRATTON) as a result of the exchange he had earlier with the gentleman from Arizona (Mr. UDALL). I took the occasion to phone Mr. Dick Wennekamp to find out for sure just how many letters the former President has received with respect to the Panama Canal. I did this because it just so happens that this gentleman is at odds with the former President's position on this issue. It would concern me, too, if taxpayers' money in great amounts were being used to influence unduly the general public.

I discovered as a result of our conversation that there have been only 600 letters that the President has received concerning the Panama Canal issue. Ninety percent of them came within the 14-day period immediately following his announced support of the canal treaty, which suggests that it has trailed off considerably since then.

I would think that the argument that these funds would be used to sell the treaty certainly would not hold water as reason to oppose this bill. I am sure the gentleman from New York, as reasonable as he is, would also have to concede that our former President's position on the Panama Canal Treaty ought not be a factor here today.

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 9354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of the first section of the Act of August 25, 1958, entitled "An Act to provide retirement, clerical assistance, and free mailing privileges to former Presidents of the United States, and for other purposes", as amended (3 U.S.C. 102 note) is amended by inserting after "$96,000 per annum" the following: except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum".

SEC. 2. The amendment made by the first section of this Act shall take effect October 1, 1977.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that the text be printed in the RECORD, and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have come a long way from the days when Ulysses S. Grant sat on the front porch of his home in New York, dying of throat cancer, writing out his memoirs in longhand so that his family would not be left in poverty.

I do not think any of us disagree with upholding the honor of former Presidents and the office that they once held. Nor do we disagree with providing them with sufficient funds that they may need to conduct their legitimate public activities. In a different context, I think this legislation is a case history in something that the leadership of this House never seems to learn; that if you try to sneak something through, you usually get into trouble.

The gentleman from Virginia raised the question why, if a former President had legitimate need to increase his official expenditures, he could not have a bill introduced by whomever he wished, have hearings, if necessary, and treat it in the usual manner with the subcommittee action, committee action, and floor action, all with due notice. But every time you try to sneak a goody through here, something like this happens.

The other day when it was brought up, without notice, the gentleman from Arizona (Mr. UDALL) said, and I quote:

For instance, I understand that President Ford has received and will respond to tens of thousands of letters on the issue of the Panama Canal Treaty alone.

Now the gentleman from Illinois (Mr. MICHEL) has just corrected that. I assume that the latest information, as in a court of probate, is the best information, and I will accept that. But it did give pause to a great many of us to know that that might be the sole purpose for increasing the funding. I do not believe the former President's stand is either consistent with the Panama Canal position of the Republican Party's national platform nor do I think it is proper for us to finance propaganda on this issue, however much others might feel that way.

I might add that I hope the former President understands any opposition that any of us may have expressed was not directed at him personally nor in any way impugns the loyalty we have for him or the friendship we have for him.

Mr. Chairman, I hope the former President will adopt the attitude that he had toward another former President, and I can only ask him to pardon me.

The CHAIRMAN. Are there any amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents, pursuant to House Resolution 800, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 95, not voting 77, as follows:

[Roll No. 617]

YEAS—262

Abdnor	Delaney	Le Fante
Addabbo	Dellums	Leach
Akaka	Derwinski	Lederer
Ambro	Devine	Leggett
Ammerman	Dickinson	Lent
Andrews, N.C.	Dodd	Levitas
Andrews, N. Dak.	Downey	Lloyd, Calif.
	Drinan	Long, La.
Annunzio	Duncan, Tenn.	Long, Md.
Archer	Eckhardt	Lott
Armstrong	Edgar	McCormack
Ashley	Edwards, Ala.	McDade
Aspin	Edwards, Calif.	McFall
Badham	Eilberg	McHugh
Badillo	Emery	McKay
Bafalis	Erlenborn	McKinney
Baldus	Evans, Colo.	Madigan
Baucus	Evans, Del.	Mahon
Beard, Tenn.	Fary	Mann
Bedell	Fascell	Marks
Beilenson	Fenwick	Marriott
Biaggi	Findley	Martin
Bingham	Fish	Mattox
Blanchard	Fisher	Mazzoli
Blouin	Flippo	Meeds
Boland	Flood	Meyner
Bonior	Flowers	Michel
Bonker	Foley	Mikva
Brademas	Ford, Mich.	Milford
Breaux	Ford, Tenn.	Miller, Calif.
Brodhead	Forsythe	Miller, Ohio
Brooks	Fountain	Mineta
Broomfield	Fowler	Minish
Brown, Calif.	Fraser	Mitchell, N.Y.
Brown, Mich.	Frenzel	Moakley
Brown, Ohio	Gephardt	Moffett
Broyhill	Giaimo	Moore
Buchanan	Goldwater	Moorhead, Calif.
Burgener	Gonzalez	
Burke, Mass.	Gradison	Moorhead, Pa.
Burleson, Tex.	Gudger	Murphy, Pa.
Burton, John	Hagedorn	Murtha
Burton, Phillip	Hamilton	Myers, John
Butler	Hanley	Myers, Michael
Carney	Hannaford	Natcher
Carter	Harrington	Nedzi
Cavanaugh	Hawkins	Nix
Cederberg	Heckler	Nowak
Chappell	Hillis	O'Brien
Chisholm	Hollenbeck	Oakar
Clausen, Don H.	Howard	Oberstar
	Huckaby	Obey
Cochran	Hyde	Ottinger
Coleman	Ichord	Panetta
Conable	Jenrette	Patten
Conte	Jones, N.C.	Pattison
Conyers	Jordan	Pease
Corcoran	Kasten	Perkins
Corman	Kastenmeier	Pettis
Cornell	Kazen	Pickle
Coughlin	Ketchum	Pike
Daniel, Dan	Kindness	Poage
Daniel, R. W.	Krebs	Preyer
Danielson	LaFalce	Price
Davis	Lagomarsino	Pritchard

Quie	Sharp	Vento
Quillen	Shipley	Waggonner
Rangel	Sikes	Walker
Regula	Simon	Walsh
Reuss	Sisk	Wampler
Rhodes	Skubitz	Waxman
Risenhoover	Slack	Weaver
Robinson	Smith, Iowa	Weiss
Rodino	Solarz	White
Roe	Spence	Whitehurst
Rogers	Stanton	Whitten
Roncalio	Stark	Wiggins
Rooney	Steed	Wilson, Tex.
Rosenthal	Steiger	Winn
Rostenkowski	Stokes	Wirth
Roybal	Taylor	Wright
Rudd	Thompson	Yates
Runnels	Traxler	Young, Alaska
Ruppe	Treen	Young, Fla.
Russo	Tucker	Young, Mo.
Ryan	Udall	Young, Tex.
Sarasin	Ullman	Zablocki
Schulze	Van Deerlin	
Seiberling	Vanik	

NAYS—95

Allen	Grassley	Mottl
Anderson, Calif.	Hall	Myers, Gary
	Hansen	Neal
Applegate	Harkin	Nichols
Ashbrook	Harris	Pressler
AuCoin	Hefner	Rahall
Bauman	Heftel	Richmond
Beard, R.I.	Hightower	Roberts
Benjamin	Holt	Santini
Bennett	Holtzman	Satterfield
Bevill	Hughes	Schroeder
Brinkley	Ireland	Shuster
Burlison, Mo.	Jacobs	Skelton
Byron	Jenkins	Smith, Nebr.
Caputo	Jones, Okla.	Snyder
Carr	Jones, Tenn.	Spellman
Cleveland	Kelly	Stangeland
Collins, Tex.	Keys	Steers
Cornwell	Kildee	Stratton
D'Amours	Kostmayer	Studds
Early	Latta	Stump
Edwards, Okla.	Lloyd, Tenn.	Symms
English	Lujan	Thone
Ertel	Luken	Thornton
Evans, Ind.	Lundine	Trible
Fithian	McDonald	Volkmer
Florio	Maguire	Walgren
Flynt	Markey	Watkins
Gaydos	Mikulski	Whitley
Ginn	Mitchell, Md.	Wylie
Glickman	Mollohan	Yatron
Gore	Moss	Zeferetti

NOT VOTING—77

Alexander	Fuqua	Montgomery
Anderson, Ill.	Gammage	Murphy, Ill.
Barnard	Gibbons	Murphy, N.Y.
Boggs	Gilman	Nolan
Bolling	Goodling	Patterson
Bowen	Guyer	Pepper
Breckinridge	Hammer-schmidt	Pursell
Burke, Calif.		Quayle
Burke, Fla.	Harsha	Railsback
Clawson, Del	Holland	Rinaldo
Clay	Horton	Rose
Cohen	Hubbard	Rousselot
Collins, Ill.	Jeffords	Sawyer
Cotter	Johnson, Calif.	Scheuer
Crane	Johnson, Colo.	Sebelius
Cunningham	Kemp	St Germain
de la Garza	Koch	Staggers
Dent	Krueger	Stockman
Derrick	Lehman	Teague
Dicks	Livingston	Tsongas
Diggs	McClory	Vander Jagt
Dingell	McCloskey	Whalen
Dornan	McEwen	Wilson, Bob
Duncan, Oreg.	Marlenee	Wilson, C. H.
Evans, Ga.	Mathis	Wolff
Frey	Metcalfe	Wydler

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Sawyer.
Mr. Wolff with Mr. Anderson of Illinois.
Mr. Bowen with Mr. Goodling.
Mr. Montgomery with Mr. Horton.
Mr. Koch with Mr. Marlenee.
Mr. Dent with Mr. Bob Wilson.
Mr. Murphy of New York with Mr. McClory.
Mr. Pepper with Mr. Railsback.
Mr. Lehman with Mr. Vander Jagt.
Mr. Teague with Mr. Crane.
Mr. Cotter with Mr. McCloskey.
Mr. Fuqua with Mr. Burke of Florida.
Mrs. Collins of Illinois with Mr. Cohen.
Mr. de la Garza with Mr. Dornan.
Mr. Nolan with Mr. Frey.
Mr. Patterson of California with Mr. Gilman.
Mr. Rose with Mr. Sebelius.
Mr. Staggers with Mr. Del Clawson.
Mr. Evans of Georgia with Mr. Rousselot.
Mr. Dingell with Mr. Pursell.
Mrs. Burke of California with Mr. Cunningham.
Mr. Derrick with Mr. Stockman.
Mr. Diggs with Mr. Quayle.
Mr. Murphy of Illinois with Mr. Wydler.
Mr. Alexander with Mr. Whalen.
Mr. Breckinridge with Mr. Guyer.
Mr. Clay with Mr. Hammerschmidt.
Mr. Dicks with Mr. Harsha.
Mr. Gammage with Mr. Livingston.
Mr. Gibbons with Mr. McEwen.
Mr. Holland with Mr. Barnard.
Mr. Hubbard with Mr. Johnson of California.
Mr. Mathis with Mr. Kemp.
Mr. Metcalfe with Mr. Krueger.
Mr. Charles H. Wilson of California with Mr. Tsongas.
Mr. St Germain with Mr. Scheuer.
Mr. Duncan of Oregon with Mr. Rinaldo.

Messrs. MARKEY, COLLINS of Texas, and NICHOLS changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 9354

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the bill, H.R. 9354, be authorized and directed to make such technical corrections as may be required.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COMMEMORATING GEN. THADDEUS KOSCIUSZKO BY PRESENTATION OF A MEMORIAL PLAQUE TO POLAND

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 573) commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, I rise in support of the resolution. This is a worthy undertaking, long overdue, and historically accurate. I commend the gentleman of the House Committee on International Relations for bringing the measure to the floor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I was going to ask my friend, the gentleman from Illinois, how large a delegation would be required to take this plaque to Warsaw, in view of the fact that it took a rather large delegation to go to England to receive the Magna Carta. Does the gentleman have any information on that?

Mr. DERWINSKI. All I can say to the gentleman from Ohio is that the delegation that went to England excluded our illustrious Speaker and he deserved that trip. Any of us who make the trip to Warsaw deserve the same courtesy.

Mr. ASHBROOK. I thank the gentleman from Illinois for his usual very lucid reply.

Mr. BOLAND. Mr. Speaker, I strongly support the authorization of the presentation of a plaque honoring Gen. Thaddeus Kosciuszko as a gift to the people of Poland from the people of the United States. The selflessness and devotion to the principles of freedom and honor which so characterized the life of this gallant soldier have long served as an inspiration to many of our citizens.

During the Revolutionary War, when the needs of our Nation were so great, General Kosciuszko volunteered to leave his native Poland and join the Continental Army. His important contribution to the victory over the British at the battle of Saratoga was a significant factor in the ultimate triumph of the Continental forces. It seems appropriate that as the 200th anniversary of that battle approaches, we who have enjoyed the fruits of victory should honor those who were its architects.

Just as General Kosciuszko is a symbol of freedom in the United States, so too is his memory an expression of that ideal in Poland. Twice taking up arms on behalf of Polish liberty, he attempted by word and deed to lead his people in their struggle against domination by other nations. His humanitarian actions on behalf of serfs in Poland and slaves in the United States is further proof that his belief in the freedom of men was deeply held.

Mr. Speaker, as a cosponsor of the legislation authorizing the presentation of this gift, I want to commend the American Council of Polish Cultural Clubs for reminding us of our debt to General Kosciuszko. I hope that the plaque expressing our appreciation to him will serve not only to honor his memory but to further strengthen the bonds of friendship which he forged between the people of Poland and the people of the United States.

Mr. HOLLENBECK. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 573. This resolution authorizes a commemorative plaque for the people of Poland on behalf of the people of the United States in memory of Gen. Thaddeus Kosciuszko.

General Kosciuszko fought bravely in our Revolutionary War. As a 30-year-old engineer, he was engaged to help fortify the city of Philadelphia immediately upon his arrival in America in 1776. His engineering genius was soon noticed and he was requested to build fortifications along the Hudson River that held off the British for Maj. Gen. Horatio Gates at Fort Ticonderoga.

But, Mr. Speaker, the American people owe our greatest tribute to General Kosciuszko for his fortification of Saratoga, N.Y. The defeat of British Gen. John Burgoyne there on October 17, 1777, represented the turning point in the war, for it was then that the American defense was recognized as secure by the French who entered the war in our support.

For 6 years Thaddeus Kosciuszko strengthened and fought side by side with American troops. He was shot several times and did not receive a promotion to general until after the war.

Mr. Speaker, General Kosciuszko played an important role in our struggle for independence. In passing House Joint Resolution 573 we are recognizing his memory on behalf of the people of Poland and all of us Americans who are free people today because of the efforts of Thaddeus Kosciuszko.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 573

Commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

Whereas October 17, 1977, marks the two-hundredth anniversary of the historic battle of Saratoga;

Whereas General Thaddeus Kosciuszko served in the Continental Army from 1776 through 1783, and played a vital and significant role in the battle of Saratoga;

Whereas the American people are indebted to Thaddeus Kosciuszko for his role in American independence; and

Whereas the American Council of Polish Cultural Clubs has made the arrangements for the erection of a memorial plaque near the sarcophagus of Thaddeus Kosciuszko in the Wawel Cathedral in Krakow, Poland, commemorating his dedication to the principles of freedom, and has obtained the approval of the Governments of Poland and the United States and the appropriate Polish ecclesiastical authorities for the erection of the plaque bearing the words both in Polish and in English: "On the Bicentennial Anniversary of the victory at Saratoga October 17, 1777, grateful America remembers General T. Kosciuszko fighter for your freedom and ours"; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in an expression of esteem and gratitude by the American people, the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of General Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland.

Mr. ZABLOCKI. Mr. Speaker, House Joint Resolution 573, commeorates Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

As the Members know October 17 marks the bicentennial anniversary of the Battle of Saratoga. The contributions of Gen. Thaddeus Kosciuszko in this battle are enormous, and as Americans we are indebted to his service in our revolution.

Thaddeus Kosciuszko fought for American independence for 6 years without a furlough. On October 17, 1977, he courageously held off the British Army at Saratoga causing their surrender and the turning point of the American Revolution.

The American Council of Polish Cultural Clubs under the able leadership and direction of its president, Mr. Walter Zachariasiewicz, has offered a memorial plaque to be erected at the tomb of Gen. Thaddeus Kosciuszko at the Wawel Cathedral in Krakow, Poland, commemorating his role in our independence.

Americans are indebted to General Kosciuszko for his role in preserving the principles of freedom, and the American Council of Polish Cultural Clubs wish this gift to be deemed a gift of the American people to the people of Poland.

House Joint Resolution 573 would provide that, in an expression of esteem and gratitude by the American people, the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of Gen. Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland.

Therefore, in order that this memorial may be presented as scheduled, I urge my colleagues in the House to approve the joint resolution pending before them.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 573) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 703 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 703

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 703 provides for the consideration of H.R. 6951, a bill to amend the Council on Wage and Price Stability Act, extending it as amended for 2 years. The act is currently due to expire today, and H.R. 6951 would extend its provisions until September 30, 1979.

The Council on Wage and Price Stability, created by this act, monitors inflationary price and wage movements in the private sector of the economy. The Council also monitors inflationary activities of the agencies and departments of the Federal Government.

The Council on Wage and Price Stability has been given a key role in the administration battle against inflation, and it is most important that the act be extended for 2 years since it is instrumental in warning against inflationary developments in our economy.

The rule before us is an open rule which would provide 1 hour of debate. I know of no opposition to the adoption of this rule, and I urge its adoption.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this rule is to provide for the consideration of H.R. 6951, the Council on Wage and Price Stability Extension. The rule provides for 1 hour of general debate. The bill will be open to all germane amendments under the 5 minute rule. There are no waivers of points of order included in this rule.

Mr. Speaker, the purpose of the Council on Wage and Price Stability is to monitor inflationary price and wage movements in the private sector of the economy, as well as inflationary activities of the agencies and departments of the Federal Government.

This act is due to expire on September 30, 1977. H.R. 6951 extends the act until September 30, 1979.

The bill authorizes $2,210,000 for fiscal year 1978 and $2,210,000 fiscal year 1979. This represents an increase of approximately $500,000 per year.

Mr. Speaker, it would appear that there has been some inflation in the cost of monitoring inflation.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6951, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

In view of the time, Mr. Chairman, I will be very brief.

I urge support and a favorable vote on H.R. 6951, which merely extends the Council on Wage and Price Stability for an additional 2 years, a very necessary part of the President's overall anti-inflation package.

The bill was reported by the Committee on Banking, Finance and Urban Affairs, by a vote of 36 to 2. In the other body, it was reported by the committee 15 to 0 and passed by a voice vote.

It is part of the President's reorganization plan number one. I believe that the issues are well known to the Members.

Mr. Chairman, I urge a favorable vote on H.R. 6951, a bill to amend the Council on Wage and Price Stability Act, to extend its termination date for 2 years and for other purposes.

The passage of this legislation will assist us in our efforts to fight the inflation that keeps extracting its toll on our economy and our society. H.R. 6951 would extend the life of the Council on Wage and Price Stability for 2 years, authorize a modest level of funding for the Council, and provide additional congressional direction to the Council.

In previous legislation in 1974 and 1975, the Congress has provided authority to the Council to monitor and analyze inflationary activity throughout the economy. In the past, the Council has carried out this authority through comprehensive studies of selected major industries as well as investigations of specific price and wage increases. The Council also reviews the activities and programs of the departments and the agencies of the Federal Government to discover if they have any inflationary impact.

The administration has made the Council on Wage and Price Stability an essential part of the President's anti-inflation program. The Council has three important responsibilities in that program. First, the Council will be expected to provide an early warning of potential bottlenecks and shortages or other inflationary developments in the private sector. Second, the Council will analyze and evaluate trends in prices and costs. Third, the Council will analyze the inflationary implications of specific Government regulatory and legislative actions.

Indeed, Mr. Chairman, by letter to me dated April 29, 1977, Messrs. Blumenthal, Lance, and Schultze made the point that the Council is the only agency of the Federal Government that is in a position to provide the information necessary to implement the President's anti-inflation program. I quote a portion of their letter:

> The Council has, over a period of time, developed extensive knowledge of the workings of industry and markets that are most important to price stabilization and other factors that affect our economy. That expertise is not duplicated elsewhere in the government and would take years to rebuild if the Council were disbanded.

They went on to say:

> No other agency or agencies of government are in a position to perform the role of the Council. It is an independent agency. It is free from political and bureaucratic pressures that would face bureaus within other agencies, if they tried to perform similar tasks.

Mr. Chairman, the Subcommittee on Economic Stabilization, of which I am chairman, conducted 3 days of oversight hearings on the Council last fall and this past winter, and 6 days of hearings in April on bills to extend the Council on Wage and Price Stability and for related purposes. A wide range of witnesses appeared before the subcommittee or submitted written views. Each of these witnesses documented the need for an effective anti-inflation program.

One concern was that extension of the Council could foreshadow price and wage controls. Mr. Chairman, in this connection, I wish to emphasize that the Council on Wage and Price Stability Act specifically precludes the imposition of price controls through the act, which states:

> Nothing in this Act (1) authorizes the continuation, imposition or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends or any similar transfers . . . (section 3(b)).

In response to another concern which has been expressed—that the administration may be considering the adoption of wage/price guidelines or standards—Mr. Stuart E. Eizenstat recently wrote to me on behalf of the President that—

> A program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy of inflation.

The authorization proposal, $2.210 million, is a modest one and represents only a very small increase over the funds appropriated to the Council to the present time. In accepting the conference report on H.R. 7552, the Treasury, Postal Service appropriations bill, the Congress appropriated $2.1 million to the Council for fiscal year 1978. It is, however, contingent upon this authorization being enacted before September 30, 1977.

In the Committee on Banking, Finance and Urban Affairs, a total of 36 votes were cast for reporting favorably on H.R. 6951; only 2 votes were cast against reporting the bill. Support in the committee for H.R. 6951 was bipartisan. In the other body the Banking Committee voted in favor of the bill 15 to 0 and it was subsequently passed on the floor by voice vote. In his message transmitting Reorganization Plan No. 1, the President stated:

> The Council on Wage and Price Stability (COWPS) is a necessary weapon in the continuing fight against inflation and will be retained.

Reorganization Plan No. 1 was approved by the House Government Operations Committee on Thursday, September 29.

Mr. Chairman, I have discussed several reasons for an approving vote on this legislation. Let me quickly review them once more: First, hearings have been held, by which it was determined to be clearly in the public interest that the life of the Council be extended for 2 years; second, the administration, from the President directly through his chief economic advisers, has made it very clear that this is a critical part of its anti-inflation program; third, the Committee on Banking, Finance and Urban Affairs, in an overwhelming bipartisan vote, has reported this legislation favorably; fourth, both the House and the Senate, in accepting the conference report on appropriations, have appropriated for the Council's extension; and finally, fifth, the Senate has passed S. 2056, which contains the language of H.R. 6951 and extends the authorization for the Council on Wage and Price Stability for 2 years.

I urge the passage of H.R. 6951.

Mr. Chairman, I attach the following for the information of the House:

THE WHITE HOUSE,
Washington, D.C., September 26, 1977.

Hon. WILLIAM MOORHEAD,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOORHEAD: On behalf of the President, I would like to inform you that recent newspaper accounts suggesting a favorable Administration attitude toward formal numerical guidelines or standards as an anti-inflation tool were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman from Ohio (Mr. LATTA) referred to the fact that the Council is increasing its authorization by approximately $500,000; is that correct?

Mr. MOORHEAD of Pennsylvania. The figure in the authorization bill is $2,200,000. In the appropriation bill already passed by both Houses of Congress, the appropriation is $2,100,000.

Mr. BAUMAN. That is an increase from last year of approximately $500,000?

Mr. MOORHEAD of Pennsylvania. I believe it is not that much of an increase. In real terms, it is actually a reduction in the amount of money for this Council.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, the gentleman says that this is a simple extension. Having just read the bill I notice it expands the area in which the commission may review matters that include, among other things, short- and long-term weather changes in the world. We just passed a bill the other day that costs half a million dollars that accomplishes the same thing.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, let me assure the gentleman this is not to get the Council into the weather business. It is merely to permit them to use data prepared by other agencies in making their predictions; for example, on farm prices and the like.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. McKINNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, considering the time of the day, I will insert my remarks; but I would simply say, this is one tool we found very handy to check on the inflationary trends within the economy and where they are coming from.

I am particularly interested in the fact that we allow the Council to move into the regulatory agencies of our Government to show Congress and report to Congress on the inflationary impact of regulatory movements on the part of the executive branch.

Mr. Chairman, recently the Economic Stabilization Subcommittee has held hearings on a variety of issues that have had a common issue consistently surfacing in our discussions. Whether the hearings focused on the food price outlook, capital formation or international trade, a most serious problem that we found ourselves addressing was inflation. New polls indicate that rising prices have also become the main concern for most Americans. This uncertainty about our economy is driving the stock market down to levels not seen in 2 years.

The House of Representatives has today an opportunity to demonstrate to the American people that we share their concerns about inflation. We have before us a bill, H.R. 6951, which extends for 2 years the Council on Wage and Price Stability. COWPS, as it is known, is unique in the executive branch of our Government. It is the only Federal body authorized to monitor, analyze, and identify the inflationary aspects of our economy.

Our subcommittee hearings demonstrated the important role that the administration has assigned to the Council in pursuing an anti-inflationary policy. In recent weeks COWPS has been called upon to investigate steel pricing practices and the basis for several increases in plywood prices. When wages or prices go up abnormally, the instinctive reaction is to ask the Council on Wage and Price Stability to review the increase. COWPS' role as inflation watchdog has been recognized throughout the Federal Government as well as in business and labor circles.

A major benefit of the 2-year extension will be the ability of the Council to focus on analysis of the inflationary potential of anticipated private sector price and wage decisions rather than respond with after-the-fact analysis. This does not imply a policy of guidelines, but a case by case examination of the facts and public notification of the role an increase would play in the economic scheme. Public response to unreasonable increases is the best weapon, but the public needs to be informed. That is the role played by the Council.

A committee amendment to this bill directs the Council to focus on the effect on the U.S. economy of several factors such as our participation in international trade, world commodity developments, American capital invested in foreign countries, world energy developments, interest rates and capital formation. I support this amendment which underlines numerous areas of increasing importance and concern within our domestic economy. Although their international character may have resulted in less attention in the past, the world's trading relationships require us to include these elements in our consideration of economic developments.

I understand that a technical amendment to the act may be introduced at the request of the Council. That amendment would relate to the voluntary submission of data and the confidentiality of information given to the Council. The amendment would reduce the amount of bureaucratic involvement which, by itself, makes it appealing.

Mr. Chairman, now is not the time for Congress to retreat from fighting inflation. The Council on Wage and Price Stability represents the strongest weapon for fighting inflation in the Federal Government's arsenal. If the American economy is going to regain its strength and if American and world confidence in the free enterprise system is going to be restored, Congress must pass H.R. 6951 and extend the term of COWPS for 2 years. A syndicated cartoon appeared recently in newspapers showing three bureaucrats in a meeting. One is telling the others: "The good news is the war on inflation is over * * * the bad news is we lost." If we fail to pass this bill today, the House will be surrendering to inflation.

I believe that we can win this war and I urge my colleagues to make that same statement by voting for H.R. 6951.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I express my gratitude to the gentleman from Pennsylvania (Mr. MOORHEAD) and to the gentleman from Connecticut (Mr. McKINNEY) for their leadership on this measure.

I pronounce my full and utter support for it.

Mr. Chairman, I join my colleague, Chairman MOORHEAD of the Subcommittee on Economic Stabilization, in urging Members to continue the Council on Wage and Price Stability for 2 more years.

The administration has strognly requested this authorization. Spokesmen for the executive branch—particularly those who are most closely involved with the development of overall economic policy—have impressed on us the importance of the role of the Council in flagging potentially inflationary developments in both the private and public sectors of the economy.

No other agency of Government performs the functions of the Council on Wage and Price Stability. Its reviews and reports represent a key tool in educating the public and the administration on the causes of rising prices. This information enables the various sectors of our economy to deal voluntarily with the causes of inflation.

Mr. Chairman, the House Banking Committee reported H.R. 6951 by a vote of 36 to 2. The committee is convinced we should retain this integral part of the administration's anti-inflation program. I urge my colleagues in the House to support H.R. 6951.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, the bill before us extends the Council on Wage and Price Stability for 2 years and broadens slightly the scope of the Council's powers to research and analyze the causes of inflation and to publish their findings so that the public and governmental policymakers can concentrate their attention on inflationary forces.

While the Council's powers have been limited to "jawboning," it is a watchdog agency which alerts the country through published reports and public filings on situations which it has closely reviewed. Its task is to educate the participants in the economy as to the causes of increasing prices and to get the public involved in the process of voluntary restraints on factors which feed inflation.

I think the amendments which the House Committee on Banking, Finance and Urban Affairs and the Senate have adopted, will give the Council a new important dimension in that the new provisions would include full employment as one objective of the anti-inflation program. They would emphasize the control

of inflation and would direct the Council to review data about and analyze the effects on the U.S. economy and its role in the world economy.

I am sure I do not have to remind my colleagues of the impact of the world petroleum situation or the coffee shortages on the American household budgets. Our newspapers and the electronic media are filled with reports of international commodity supplies and prices and the effects of the exportation of American capital.

Rising interest rates and their influence on capital investment are no longer just the arcane concerns of pin-stripe financiers, but of all of us who need housing, automobiles, or any big-sale-tag items.

The Council for the first time will be directed to examine these economic matters from a perspective that will highlight the inflationary effects.

The Senate, with the approval of the administration, has also added provisions to the House version of the bill which protect the confidentiality of proprietary and other private information. I am sure no one has serious objection to the addition.

I believe H.R. 6951 will make it possible to get important economic information with which we will be better able to shape policies to combat inflation and its causes in the crucial days ahead.

I strongly urge the adoption of this bill.

Mr. McKINNEY. Mr. Chairman, I yield such time as he may require to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Chairman, today I rise in support of H.R. 6951, which extends the life of the Council on Wage and Price Stability until September 30, 1979, and incorporates several relatively minor provisions into the act. This bill was considered by the Economic Stabilization Subcommittee in 6 days of hearings with an impressive array of witnesses. Four of the administration's top economic officials—Charles Schultze, Chairman of the Council of Economic Advisers, Robert Crandall, the then-Acting Director of the Council on Wage and Price Stability, Treasury Secretary Michael Blumenthal, and Secretary of Labor Ray Marshall—testified about the need for a strong anti-inflationary policy and the importance of the role CWPS plays in implementing that policy.

This bill extends the life of the Council by 2 years. This represents a significant step for the Council. This alone strengthens the ability of the Council to combat inflationary pressures. The suggested 1-year extension would severely hamper the Council's ability to attract the highly qualified people required to perform the technical analyses requested by Congress and Federal agencies. In many cases where prospective implications are being analyzed, the work may require a full year or more before completion.

A Banking Committee amendment also amends the original act to underline the Council's role in controlling inflation and reducing unemployment. In addition, the Council is directed to review information about, and to analyze the effects on, the U.S. economy of U.S. participation in international trade and commerce, the changing patterns of supplies and prices of commodities in the world market, the investment of U.S. capital in foreign countries, short- and long-term weather changes in the world, interest rates, capital formation and changing patterns of world energy supplies and prices.

We need not dwell upon the impact these points play in the direction of our economic well-being. The Council on Wage and Price Stability has the responsibility to monitor inflationary wage and price movements in the private sector as well as inflationary activities of Federal agencies and departments. The committee amendment would simply underline the importance of these factors in addressing our inflationary problems.

There is one fear that haunts most supporters of the free enterprise system: the specter of wage and price controls. I share those fears, but I emphasize that this bill is not a precursor of controls. In fact, when similar legislation was being considered by the other body, the senior Senator from Texas, Senator TOWER, included in the debate correspondence between himself and the White House reiterating the administration's formal opposition to mandatory wage and price controls. I understand that the same reassurance has been given to the Economic Stabilization Subcommittee by the administration. I am satisfied that we are not about to return to a controls policy which history has proven ineffective. Government-mandated controls are not the solution to our problem and I am encouraged by the rejection of this approach by the President. In recognizing that there are no simple solutions to this problem, the least we can do is reject previous failures.

Inflation is beating down the will of the average American. He is finding it more and more difficult to keep up and thinks it is impossible to get ahead. As the administration's inflation watchdog, the Council on Wage and Price Stability has a unique role to play if confidence is to be restored. If this Congress is going to play its part in winning the battle against rising prices, it should pass H.R. 6951 as amended and give its support to every effort to bring inflation under control.

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, we have heard a series of speakers address the subject matter of this legislation, and it would lead one to believe that there is only good that can follow from our adoption of this bill. I would like to suggest to the Members that this is not only an unnecesary piece of legislation and an unnecesary council, but indeed that this is a very bad piece of legislation.

What we should do is let this council, this so-called Council on Wage and Price Stability, which is costing the taxpayers more than $2 million, go out of existence because it has no purpose, it serves no function, and indeed is a sham and a fraud to let the American people think that we are doing something about inflation when we are not.

The Council on Wage and Price Stability also sits there as the promising skeleton on which wage and price controls can soon be pinned, an idea reprehensible to both labor and management.

Now, what is the history of this organization? Well, in August of 1974, just before the elections, Congress and the administration at the time, in an effort to tell the American people that they were going to do something about double-digit inflation, created a high-sounding organization called, a Council of Wage and Price Stability. Of course, prices and wages have continued to go up since that time, but nevertheless this organization was intended to have an impact on inflation. It is staffed with some very able people, but it cannot do anything. It does not do anything. It has never done anything.

As the economy has recovered, inflationary pressures have grown. Although the rate of inflation remained fairly high, but stable, during the recent recession in February of this year, the Consumer Price Index rose 1 percent, or an alarming 13 percent annual rate. Although this rapid rate of increase dropped off during the summer months due primarily to farm prices, the substantial increase of last winter indicates that we may be heading in the direction of double-digit inflation that persisted during 1974.

In April, President Carter outlined an 11-point program aimed at reducing inflation. I commend the President for taking prompt action to address this problem before it is exacerbated. One of the proposals President Carter made was a 2-year extension of the Council on Wage and Price Stability. The President requested that the Council's authority be extended in the same form with a modest increase in funding so that it could fulfill an enlarged analytical role in the price stabilization effort. H.R. 6951, the bill we are considering today, responds to the President's request of a 2-year authorization and increases the funding level for the Council by $0.5 million.

Mr. Chairman, even with the proposed increase in appropriations, the Council on Wage and Price Stability will not be able to fulfill its mandate, as described in Public Law 93-387, the original law creating the Council. Section 3 of that act sets forth seven duties for the Council to perform:

First, reviewing and analyzing industrial capacity, demand, supply, and the effect of economic concentration and anticompetitive practices and supply in various sectors of the economy;

Second, working with management and labor, as well as with appropriate Government agencies, to improve the structure of collective bargaining and the performance of those sectors in restraining prices;

Third, improving wage and price data bases;

Fourth, conducting public hearings;

Fifth, focusing attention on the need to increase productivity in both the public sector and the private sector;

Sixth, monitoring the economy as a whole by acquiring reports on wages, costs, productivity, prices, sales, profits, imports and exports; and

Seventh, reviewing and appraising the various programs, policies, and activities of Government agencies for the purpose of determining the extent to which those programs and activities are contributing to inflation.

In brief, the Council has the responsibility of monitoring and impacting upon all decisions in the private sector and all decisions in Government which may have an inflationary consequence.

This is a pretty tall order, but it borders on being ridiculous when you look at the Council's budget and the size of its staff. To support the Council's activities, $1 million was originally appropriated in fiscal year 1975. This was later increased to $1.7 million by Public Law 94–78 which reauthorized the Council with no major changes in its original mandate until September 30, 1977. H.R. 695 again increases the funding level to $2.2 million. Given the limits of this appropriation, the Council operates with a permanent staff of 40 persons, of which only 30 are considered professionals, including research assistants. There are 12 professional staff persons for monitoring all wage and price decisions in private business, 10 for monitoring all Government activities and 8 for other responsibilities, such as general counsel, public affairs, and the Director's office. From time to time, the Council has employed the services of outside consultants, though in one 10-month period only 6 such consultants were used.

This, Mr. Chairman, is the total capability of an agency that is supposed to watch over the total activities of Government and the entire private sector to determine their inflationary impact in an economy whose GNP last year was $1,691.6 billion. When one considers that 535 Members of Congress with over 3,000 staff members cannot even keep up with the Government end, not to mention the private sector, can you really believe that the Council is doing its job—that the Council checks into all those Government and private sector decision which may be inflationary? How can they really do this?

I must point out here that the Council has some excellent people on its staff, including the present and past Directors. They are able, dedicated and articulate men, but they could never and can never accomplish the task that was set out for them. It is not their failure I condemn; it is the failure of the Council's statutory charter. They were beaten before they were started.

Despite the impossibility of their legal task, the Council has issued several excellent reports. I understand that their recent report on health care costs has met with much favor and has resulted in innovative approaches being taken by both labor and management to stem the rising tide of health care costs. Yet for every report the Council issues or every comment it files with Federal agencies, thousands of other inflationary decisions go unnoticed.

During the last Congress, my Subcommittee on Commerce, Consumer, and Monetary Affairs of the Government Operations Committee conducted oversight hearings on the Council on Wage and Price Stability. At that time, representatives of the Council stated that the work of the Council was initiated by reading newspapers, reviewing the Federal Register, and receiving letters from the public and Members of Congress, all on a haphazard, catch-as-catch-can basis. I was assured by the Acting Director of the Council this year that a more systematic approach has been devised to determine what areas of the economy need to be focused on and studies made, though the criteria or scientific system now supposedly used for making such determinations was not spelled out to me. Nevertheless, in the face of constraints of staffing and funds, the Council has no choice but to be highly selective—indeed arbitrary—in performing its monitoring functions and in most instances can only give cursory glances to inflationary developments.

As of last April, the Council had conducted 36 studies of wage and price monitoring and filed approximately 102 formal comments with Federal agencies in the then over 20 years of its existence, all in the name of stopping inflation. Who is kidding whom? Though Council activities may have had some impact on some few of the millions of price decisions in certain industries and on some few of the thousands of certain Government activities considered inflationary, the Council has not had and cannot be expected to have a major impact on the behavior of wages and prices.

Any respite we have experienced from the ravages of double-digit inflation has not been because of the existence of the Council on Wage and Price Stability, but because of the economic downturn. Now that the economy is on an upswing, so is inflation and continued soaring Federal budget deficits adding fuel to these fires which the Council cannot do one darn thing about.

What have we succeeded in doing by creating the Council on Wage and Price Stability? We have succeeded in beguiling the public into believing that something significant is being done by some Government agency about inflation. The public may feel better knowing that the Council is monitoring inflation and the politicians certainly are happy to have the Council on Wage and Price Stability to point to as an example of what is being done to fight inflation, but it is the prices at the supermarket that are telling the truth.

The Council, with its few accomplishments among the millions of problems, is basically an image or a mere symbol worthy of the creation of Doonesbury's Secretary of Symbolism.

The Council has obviously not been able to do its statutory job. Yet, we continue to spend the taxpayers' money on it. In correspondence with me, the Acting Director of the Council asserted that in the area of making Federal agencies more aware of the costs of Government regulations, the Council saved the taxpayer far more than the $1.7 million a year it cost to operate the Council.

That is very good, and I am pleased that the Council has at least attained that success. But, is this what we are trying to do—merely recoup operating expenses? I think that we should be trying to stop inflation.

I suggest that the existence of this Council with its high-sounding mission of monitoring the entire economy for inflationary impact is nothing more than a sop to the public to make people think that the Government is doing something, when, in fact, the Council is inherently incapable of any meaningful functions. It is a cosmetic agency. It should be terminated as a useless body. It is like disguising the pain with an opiate and letting the cancer go untreated. As long as we have this merely symbolic Council, we will not have to face the real and difficult task of fighting inflation since we can point to this agency as a solution. As long as we have this Council, we have the skeleton on which wage and price controls could be pinned, an idea reprehensible to both labor and management.

In all fairness, the Council has never claimed to be the be-all and end-all cure to inflation. Yet, the statutory responsibilities of the Council are just that. To continue to let the public believe that the Council is capable of doing what its statutory charter provides is misleading and counterproductive.

Many of the useful functions of the Council are easily transferrable to other Government agencies. Indeed, each of these functions is already being performed elsewhere. The Justice Department and the Federal Trade Commission monitor economic concentration and anticompetitive practices; the Department of Labor, the National Labor Relations Board, and the Department of Commerce work with labor and management to improve collective bargaining and restrain prices; the Bureau of Labor Statistics, the Federal Trade Commission, and the Federal Reserve Board work to improve wage and price data bases; all Federal agencies conduct public hearings for public scrutiny; the National Commission on Productivity was specifically created to focus attention on the need to increase productivity; all Federal agencies monitor the economy as a whole through reports on wage and price costs and the Departments of Commerce and Labor do so by statutory requirement; and the Office of Management and Budget is already required by the President to collect information on the inflationary impact of Government programs and policies.

If there should be some sort of special inflation monitoring group, then it would seem to me to be more appropriately done as a division of the Council of Economic Advisors, not as a separate "inflation-fighting" agency. The present staff of the Council, properly utilized elsewhere, could be a great help in a meaningful fight against inflation.

Now, who is on this wage and price council? The chairman at present is Mr. Schultz; Secretary Blumenthal; Secretary Vance; Secretary Krebs; Secretary Marshall; Secretary Harris; Presidential Advisor Eisenstadt. Advisory members are Attorney General Griffin Bell; Secretary Andrus; Secretary Califano, and Ambassador Strauss.

I would like to ask the gentleman from Pennsylvania how many times in the last

year has this august council met and discussed the matters for which it is responsible.

Mr. MOORHEAD of Pennsylvania. Will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. MOORHEAD of Pennsylvania. I know of some of the actions taken by the Council which I think have been very effective. One was a rollback of 20 percent in an increase in steel prices. I come from a steel community, so I remember that very well.

Mr. LEVITAS. I have no information that this council has ever met. Looking at its members and the many other responsibilities they hold, I would, indeed, be surprised if they met often. So, why do we have this council? If we have staff people trying to do the job, gathering data, that is one thing, but we do not need a phony council to mislead the American people into thinking that we are doing something about inflation.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks.

As the gentleman well knows, this is the only separate office which was left in the President's Reorganization Plan No. 1. I am wondering if the gentleman has any information as to why this office was left by itself, when certainly other offices, such as the Office of Drug Abuse Policy, which has indicated it is doing an excellent job, was brought under the Domestic Policy Council.

Mr. LEVITAS. Mr. Chairman, I have no idea what the answer to that question is, except I feel it should have been reorganized out of existence. Indeed, I am going to offer an amendment under the 5-minute rule which will let the Sun set upon the Council at the end of this 2-year period and have its functions, if they are useful, transferred to those other agencies of Government which can perform them just as well. I think it should have been reorganized out of existence.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. McKINNEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would suggest that since the gentleman has asked a question as to why this agency was left standing in the President's reorganization plan, I would refer the gentleman to the White House communique of April 15 of this year on inflation. In that it very clearly states the President intends to use this agency as an early warning signal on inflation and as a check on inflation.

Far more important than that, this is the only agency—and I will talk about this further when we discuss the gentleman's amendment—the only independent agency that can interfere with or protest about actions of other agencies, and can appear in front of other agencies when they pass regulations that are inflationary to the economy.

On the question of merging this agency into another agency, the President's own statement, as well as statements by the Secretary of the Treasury and OMB, point out that they want this agency to be uniquely independent so it can criticize the other agencies, even OMB, if need be. If it is folded into the OMB or CNB or anything else, how is it possibly going to protest the actions of its own counterpart?

We have seen this happen before when we tried to set up control boards before the different agencies. They have been a total failure because they do not criticize their bosses. One of the main reasons why we should keep this is so we may have an effective independent agency that can have a voice against the Government's own inflationary tendencies.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would simply like to point out to the gentleman that he is making a very good point, and it is one which some of us have supported in the field of narcotics abuse.

I think this is a point that should be made in the near future so that this body will have an opportunity to work its will with regard to Reorganization Plan No. 1. I think certainly a much better use can be made of the Office of Drug Abuse Policy than can be made with an agency that is not meant for that purpose.

Mr. LEVITAS. Mr. Chairman, I would like to respond to the gentleman from Connecticut (Mr. McKINNEY) in this fashion.

The effectiveness of this Council in intervening in the private sector or in public bodies, as far as inflationary effects are concerned, really does not exist. Their effectiveness only exists because it speaks with the authority of the President himself.

The reason steel prices were rolled back was because it had the backing of the President, not because this Council did anything.

I happen to believe this: that if OMB or the Department of Commerce or any other agency in Government identifies a regulation that is inflationary, I would hope that the President of the United States, who is supposed to be running the administration, could call this to the attention of the appropriate department and do something about it without having Dr. So-and-So, who is the director of this agency, take the credit for it. It is the President who is going to be able to do this, and not this Council.

Mr. Chairman, we ought not to get ourselves in this confusing situation. My position addresses two matters that have become increasingly important during the past several years: first, the credibility of Government to deal with vital national problems, in this case, inflation; and, second, the creation of an ineffective bureaucracy despite the best intentions surrounding its creation.

Let us stop kidding the public into believing that something is being done about inflation by the Council on Wage and Price Stability. Let us begin instead to do something about inflation by reducing the Federal bureaucracy and wasteful Government spending.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield further, I suggest to the gentleman that we ourselves cannot keep hold of the Federal Register, let alone keep hold of the monitoring of agencies, since the tendency is for Federal agencies and the administration to grow. This is one agency that can monitor these matters, keep us abreast of the situation, and bring it to our attention.

Mr. ROUSSELOT. Mr. Chairman, a little more than 2 years ago, in dissenting views on a bill to extend the Council on Wage and Price Stability Act, I made the following statement:

The time has come to say goodbye to the Council on Wage and Price Stability. If the Council were to continue to exist and to play the role which its title implies, it would be working to keep prices up, for the economy is now displaying an unmistakable trend toward a lower rate of inflation. There will certainly be temporary breaks in this trend, such as that which occurred in June, but unless Congress and the Federal Reserve depart more drastically from responsible fiscal and monetary policies, the rate of inflation should decline to the 5%–6% range by the latter part of this year.

Rather than add subpoena power and the power to require periodic reports by product line to the Council's authority, Congress should allow the Council on Wage and Price Stability Act to expire on August 15, 1975, and it should not permit wage and price controls to survive in any form or guise. There is no justification whatever for imposing controls upon the general economy when the cause of inflation is not to be found there but rather is to be found right here, in the Congress, and at the Federal Reserve.

When Congress persistently runs huge deficits, these deficits must be financed by Federal borrowing, which creates upward pressure on interest rates, and, in periods of expansion, tends to crowd out private demand for funds. Pressure then builds for the Federal Reserve to "accommodate" these competing demands by increasing the money supply. In 1972 and 1973 the Federal Reserve yielded to this pressure and increased the money supply at record peacetime rates.

A rapidly increased money supply causes inflation. Inflation is not created by citizens making their daily economic decisions. These decisions affect the allocation of resources, but they cannot raise prices generally. Inflation has its genesis in the Congress; therefore, any action to control inflation must come in the form of meaningful control over our own profligacy. It is a cruel trick to play on the victims of the irresponsible fiscal and monetary policies of the Federal government to use the natural consequences of these policies, including inflation, as an excuse to increase governmental control over their activities.

Nor should there be any mistake as to the basic nature of the "monitoring" and "jawboning" activities which are supposed to be the primary functions of the Council. There is a distinction only in degree between economic controls on the one hand and "monitoring" and "jawboning" on the other. All such activities constitute attempts to influence economic events by the application of varying degrees of governmental coercion.

If the "sunset" concept, that agencies should be disbanded when their usefulness has ended, means anything at all, then it is now past time to put the Council out of businenss. If the research capability of the Council staff is deemed to be unique and indispensable, we should adopt the amendment of my distinguished colleague from Georgia (Mr. LEVITAS), which sets a deadline, March 31, 1978, by which another place must be found for the staff and another deadline, September 30, 1979, by which the switch must be implementned.

As long as the Council continues to exist, it will continue to divert the attention of the American people from the real causes of inflation. The committee report on this bill contains a section entitled "Nature of the Inflation Problem" which calls for "a comprehensive anti-inflation program that operates directly on prices, costs, supplies, and expectations." The fact is that we do not need a complicated, "comprehensive" program to combat inflation. The program can be quite simple—keep the growth of the monetary aggregates within bounds which are commensurate with the ability of the economy to increase production. What seems to be difficult is to summon the will to implement this program.

The great monetary economist, Milton Friedman, described our present economic predicament very succinctly in a column entitled "Why Inflation Persists," which appeared in the October 3, 1977, edition of Newsweek:

There is one and only one cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. . . .

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. . . .

Fortunately, it is possible to cure inflation without perpetuating the existence of this bureaucracy and without sacrificing our economic and political freedom, if we have the will to do so. If we do not have the will to cure inflation, all of the bureaucracies that we can establish to put out press releases saying nasty things about inflation will do no good at all.

WHY INFLATION PERSISTS

(By Milton Friedman)

Nearly three years ao, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (Newsweek, Nov. 4, 1974.)

ABANDONING THE CURE

As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.

There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System, of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources or temporary blips of inflation.

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.

Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):

"The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note: with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."

Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.

THE PERFORMANCE OF THE FED

The following table documents Chairman Burns's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery, the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.

Recent rates of monetary growth

[*Percent per year*]

	M_1	M_2
December 1971 to January 1973	9.3	11.4
January 1973 to February 1975	4.5	7.7
February 1975 to June 1975	9.5	12.0
June 1975 to December 1975	2.8	7.0
December 1975 to June 1976	5.8	10.5
June 1976 to August 1977	7.1	10.9

NOTE.—M_1=currency plus adjusted demand deposits; M_1=M_2 plus commercial bank time deposits other than large CD's.

Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.

Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank";

"Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considerd by those who initiate them."

FISH OR CUT BAIT

It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to report its "projections" or "targets" for monetary growth, let the Congress require the Fed to achieve specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1979".

SEC. 2. Section 6 of the Council on Wage and Price Stability Act is amended by inserting "not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal years ending September 30, 1979," immediately after "October 1, 1977.".

SEC. 3. Section 3(a)(5) of the Council on Wage and Price Stability Act is amended by inserting "and focus attention on the need to move toward full employment" immediately before the semicolon.

SEC. 4. Section 3(a)(4) of the Council on Wage and Price Stability Act is amended by inserting "for the purpose of controlling inflation" immediately before the semicolon.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of section 4.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 9, insert:

SEC. 5. Subsection (a) of section 3 of the Council on Wage and Price Stability Act is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) review information about and analyze the effects on the United States economy of—

"(A) the participation of the United States in international trade and commerce;

"(B) the changing patterns of supplies and prices of commodities in the world market;

"(C) the investment of United States capital in foreign countries;

"(D) short- and long-term weather changes in the world;

"(E) interest rates;

"(F) capital formation; and

"(G) the changing patterns of world energy supplies and prices.".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: Page 3, immediately after line 6, insert the following:

SEC. 6. Section 4(f) of the Council on Wage and Price Stability Act is amended—

(1) by inserting in paragraph (1) after voluntarily pursuant to a Council request "section 2(g)" the following: "or submitted and judged by the Council to be confidential";

(2) by striking out all that follows "United States Code" in paragraph (1) and inserting in lieu thereof a period and the following sentence: "Neither the Director nor any member of the Council may permit anyone other than sworn officers, members, and employees of the Council to examine such data."; and

(3) by inserting after "section 2(g)" in paragraph (2) the following: "or submitted voluntarily pursuant to a Council request".

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment is a simple and noncontroversial amendment which strengthens the confidentiality provisions of the Council on Wage and Price Stability. It is included in the bill passed by the other body.

Presently, Mr. Chairman, the Council can obtain information by subpena or by ordering periodic reports; and the law is quite clear that this information must be kept confidential. It is not so clear under the law what should be the case, for example, when a corporation voluntarily submits information.

Mr. Chairman, the purpose of this amendment is to make it clear that this information voluntarily submitted is protected by the confidentiality procedures under the act. It will also expedite the work of the Council. It is much less expensive to deal on a voluntary basis than on a subpena or on a periodic-report basis.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I will be happy to yield to the gentleman from Connecticut, the ranking minority member of the subcommittee.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I urge my colleagues to support this amendment offered by Mr. MOORHEAD, the chairman of our subcommittee. The amendment was requested by the Council as a means of reducing the paperwork and bureaucratic involvement that often accompanies attempts of COWPS to gain information from the private sector.

Much of the analytical work done by the Council depends on the voluntary submission of data by businesses. Understandably, these companies are concerned about their records becoming available to their competitors; and they, therefore, seek the protection of a legal subpena to provide them with confidentiality.

The obvious expense, delays, and inconvenience to all concerned can be eliminated by the adoption of this language which will give the business data voluntarily submitted at the Council's request the desired confidential nature. Improving the ability of the Council to function more efficiently and in a manner that is more agreeable to the private sector can hardly be deemed controversial.

A final consideration in adopting this amendment is the fact that it has been included in the Senate version of the bill which was passed by that body on September 21. This language amended to H.R. 6951 will make the bills identical and expedite the completion of our work on this matter.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in listening to the amendment, it sounds as though it goes a little bit against the concept of openness, the Sunshine Act, and so forth.

Could the gentleman dissuade me of any concern I have in that area?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment does not amend any Sunshine Act or the Freedom of Information Act. As the gentleman knows, I am very much interested in that, but it does say that if a corporation, for example, has a trade secret which has some bearing on wages and prices under existing law, if the Council subpenas that material, it must be protected.

If the corporation voluntarily submits that trade secret the law is a little unclear and this is a clarifying amendment.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I would say that the real secret to many of us seems to be what the Council has accomplished over the years. Are they going to make that more open or is this going to be further plunged down into the recesses of this particular committee?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have in my hand a report of the Council listing some nine pages, just by title, of the reports that have been issued. These are, of course, available publicly to any Member of the Congress or any member of the public who would like to read those reports.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. MOORHEAD) for his reply.

This reminds me of the old alligator story where the guy keeps drinking and drinking to keep the alligators away. Maybe this is what they have done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 32, noes 4.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote, and, pending that, make the point of order that a quorum is not present.

PARLIAMETARY INQUIRY

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, would it be in order to move that the House do now rise?

The CHAIRMAN (Mr. SEIBERLING). The Chair will state that it would be.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if that is the case, then I am prepared to so move.

The CHAIRMAN. The Chair will state that the rights of the gentleman from Idaho (Mr. SYMMS) will, of course, be protected on his request.

Mr. SYMMS. Mr. Chairman, on the statement and agreement of the gentleman from Pennsylvania (Mr. MOORHEAD) I would withdraw my request for a recorded vote.

So the amendment was agreed to.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, do I understand that the amendment has been agreed to?

The CHAIRMAN. The gentleman is correct.

Mr. MOORHEAD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MCFALL, having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes had come to no resolution thereon.

REQUEST TO DISPENSE WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, OCTOBER 3, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COAL AND THE COURTS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I want to call to my colleagues' attention a very important editorial in the Washington Post this morning.

This editorial brings into sharp focus the disturbing decision of a Federal judge to delay Federal coal leasing at least 18 more months. Frankly, I would not be surprised to see a 3-year delay unless something is done.

Mr. Speaker, this decision could have severe impact right in my congressional district as it will on many, many Americans. If one assumes that the coal conversion tax as passed by the House survives the Senate, then the consumers in my district would pay about $35 to $50 million dollars more for electricity unless we can lease some Federal lignite.

Mr. Speaker surely the American people are going to wonder what is going on when the Government makes them pay a steep tax for not burning coal while another branch of the Government does not let them get the coal or lignite to avoid the tax.

The Washington Post editorial is not strident in tone; it does not demagog; it recognizes legitimate concerns on the part of all parties. But the Post does say to the Congress—our national energy policy cannot be decided in courts where narrow issues are the focus. Congress has to take the necessary steps to insure coal is available without having court delays. In the meantime, I would like the courts to recognize that the ivory judges' chambers are not the place to say lightly that plenty of private coal is available when the ability to mine much of this coal is not feasible and getting it to the right places is impractical. Besides the Federal coal is the people's coal, and it would seem we could agree that the people get to use that coal to avoid stiff Federal taxes.

I ask that the Washington Post editorial be placed in the CONGRESSIONAL RECORD, as follows:

COAL AND THE COURTS

Contrary to the belief of the judge who wrote it, this week's decision on federal coal leasing is a serious setback to President Carter's energy plan. Under the plan, the country is to double its coal production by 1985. That target was unrealistically high to begin with, and now Judge John H. Pratt of the Federal District Court here has forbidden any more coal leases until the environmental-impact statement is rewritten. The Interior Department foresees a delay of one to two years.

The courtroom is the wrong place to settle these broad issues of energy and the environment. That is increasingly clear. The collision of values is real, and the questions being pressed by environmental advocates—like the four organizations who brought the coal-leasing suit—are important. They need to be heard and resolved. But the procedures of a civil suit are not well adapted to do it. They are designed to narrow the issues down to a few points, very often excluding, as in this case, matters of great national interest. The courts, in any event, are not well equipped to deal with the range of technical and economic controversy that environmental cases typically generate.

This disruption of the plans for coal leasing means that the country will have to import more oil over the coming years. Importing more oil means, in turn, increasing the country's dangerous dependence on foreign sources. Neither national security nor the omnious size of the U.S. trade deficit was an issue in the case before Judge Pratt. But they are certainly issues, and pressing ones, before President Carter as he develops American energy policy.

The evidence presented to Judge Pratt seemed to him to prove that the government has already leased more than enough coal-rich federal land to mining companies. That's why he concluded that an 18-month delay in leasing, to permit further environmental studies, would have no significant effect on actual coal production. He was counting tons of "potentially recoverable" coal, and the trouble is that some of it is inaccessible. Some is in checkerboard patches of leaseholds that will have to be filled out with new leases before it can be mined economically. Some of the old leases were granted under poor environmental controls, or none at all, and mining them would threaten far greater damage than the government today considers tolerable.

It's wrong, certainly, to heap all of the blame for this decision on the judge. Congress wrote the National Environmental Protection Act loosely, in a fashion that invites endless litigation. Government agencies—in this instance, the Interior Department—have not been uniformly skillful in responding to these suits. There has been a tendency to carry on the defense of department prerogatives rather than national interests. If this decision reflects no sense of the injunction's consequences as the Carter administration sees them, that is the administration's fault.

The new Department of Energy—which, incidentally, opens for business on Saturday—has an urgent responsibility to take hold of these suits and see to it that judges at least understand the President's purposes. The trade-offs are sometimes difficult. There is no such thing as strip mining without environmental damage. But there are good reasons to keep mining where the damage can be limited. Some of these reasons involve foreign policy and the protection of the American economy from foreign disruption, although you won't find mention of that kind of thing in an environmental-impact statement. A further 18-month delay now in leasing coal reserves is not a necessity but a luxury—to be bought at a price that no one can predict.

SALT I AGREEMENT CONSIDERATIONS

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, on October 3, 1977, the "Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms" technically expires. This agreement, commonly referred to as Salt I, has been in effect for 5 years. In our consideration of future strategic arms limitations we should take into account what has developed in these 5 years.

A good starting point in appraising the effect of the 5 years of Salt I on peace and security is to review section 3 of the joint resolution we passed which outlined the views and conditions under which the Congress approved the Salt I arrangement (Public Law 92-448, 92d Congress, House Joint Resolution 1227, September 30, 1972). I quote this section:

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Each of us must reach our own decision on the worth of SALT I in advancing the cause of peace and security. The 5 years of experience we now have should be a primary source of guidance in determining our future course of action.

My own evaluation of this record gives me concern about the posture of our security as a result of the past 5 years under SALT.

One area is related to the reference in section 3 of the joint resolution to the need to assure the survivability of our strategic deterrent forces. Several witnesses, including the Secretary of Defense, have expressed the view that in the past 5 years the threat to the survival of these forces has increased.

Section 3 of the resolution, you will also note, recognizes the importance, in this fast-developing field of technology, of

maintaining "a vigorous research and development and modernization program." Here again the Secretary of Defense's announcement that the Soviets have developed a fourth generation of missile systems in this period. Such technological modernizations are, of course, permissible under the SALT I agreement. I am concerned over what has happened to our relative position in this technological field.

I intend to continue examining very closely what has actually transpired during the 5 years of SALT I. We must all give this matter our most critical attention.

PANAMA—ANOTHER BAD DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 10 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, I would like to call to the attention of my colleagues some items of interest regarding the Panama Canal and the treaties being proposed by the President to alter our control of the canal and the Canal Zone. The Foreign Affairs and Defense Subcommittee of my Congressional Advisory Committee, in their report to me, compiled much of this information.

Before I begin, though, let me say that I am aware that the other body has the primary jurisdiction in this matter. The Constitution requires that the Senate ratify any treaty to which the United States is a party. We, however, have a role in this affair as well. Since the treaty calls for payments of several billion dollars to the Government of Panama, we will be required, if the treaties are approved, to consent to this expenditure. Additionally, the Constitution requires that:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

More important, though, is our duty to express the opinions of those we represent. On a matter of such great national import, we cannot be silent while the interests of the United States are debated, and while the will of the people is ignored. For that reason, and the others which I mentioned, I am joining those of my colleagues who wish to express their views and those of their constituents on this matter.

Mr. Speaker, the Carter administration has argued that it is important to the United States that these treaties be ratified. I suggest that the opposite is true. The administration says that if these treaties are not approved, the canal will be open to sabotage and terrorist attacks. The administration says that this will result in an unstable situation in the Canal Zone, and that traffic through this waterway will be disrupted. It seems to me, Mr. Speaker, that this is a specious argument for two reasons. First, there is no greater chance for disruption if the present system continues than there would be if the canal is turned over to a military dictator with strong ties to Cuba and the Soviet Union. What sense does it make to give these nations, which are our opponents in international affairs, proxy control over the Panama Canal through a Marxist government? Second, this argument is faulty because such sabotage, on the part of General Torrijos, would be like cutting off one's nose to spite one's face. Much of Panama's gross national product is related to the canal. In 1974, for example, 21 percent of the Panamanian GNP was directly attributable to the canal. For the United States to accept this treaty for these reasons would be submitting to international blackmail on a grand scale.

Another argument raised in support of the new treaties is that American control of the Canal Zone brands the United States as a colonial, imperialistic power, and that the nations of South and Central America hate our presence in the Canal Zone. If this is true, then why after attending the Inter-American Conference on Freedom and Security in September 1975, did our distinguished colleague from Pennsylvania (Mr. FLOOD) say:

> The overwhelming views expressed during the sessions of the Conference were in opposition to surrender of the Canal Zone to Panama and a general desire for the United States to continue its undiluted sovereign control. (CONGRESSIONAL RECORD, 9/29/75.)

In addition, Lt. Gen. V. H. Krulac, USMC (retired), in an article called "Panama: Strategic Pitfall" in the 1976 edition of Strategic Review, says:

> At a recent meeting of the Inter-American Press Association . . . the attitude of Latin American editors and publishers was cold and clear. It was best expressed by a Chilean who said, "You would be doing yourself and us a major disservice if you were to back off one centimeter from your present position in Panama."

A third argument is that the Panama Canal is outdated, outmoded and militarily unimportant. The facts dispute this contention, though. An average of 14,000 ships a year travel through the canal, saving billions of dollars worth of fuel and other transportation costs. The operation of the canal is especially important to the economies of Latin American nations. Seventy-seven percent of Nicaragua's trade goes through the canal, as does 50 percent of Ecuador's trade and 80 percent of Peru's and Chile's. As far as the military value of the canal, the loss of the Panama Canal would add approximately $20 million in fuel costs and 35 days' transit time in moving ships from the Atlantic to the Pacific. In addition, as of 1976, only 13 of the Navy's 470 active ships were too large to use the canal. Finally, as Adm. Thomas Moorer, former Chairman of the Joint Chiefs of Staff, so pointedly reminded us,

> In military affairs, there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace.

It is this control which gives me the greatest cause for concern. The Carter administration claims that article 4 of the Neutrality Treaty gives the United States the right to protect the neutrality of the canal after the year 2000. The administration may believe that, but Panamanians most certainly do not. Panamanian Foreign Minister Dr. Romulo Escobar Bethancourt has been quoted as saying,

> The treaty does not establish that the United States has the right to intervene in Panama.

In addition to the discrepancies between the claims of the administration and the facts, there are other factors which weigh against ratification of the treaties. Chief among these is the administration's stand on human rights. This stand is admirable in its intent, but in practice it is an arbitrarily applied standard. While violations are condemned in Chile, the Philippines and other friendly nations, the Government of Panama, to which we plan to turn over the canal and Canal Zone, is listed in the "Comparative Study of Freedom" as being outdone in repression only by Idi Amin's Uganda. According to this study, published by Freedom House in New York, even Cuba and the Soviet Union are less repressive than Panama.

In summary, Mr. Speaker, this is the situation we face with these treaties. The United States is being asked to give control of an important economic and military waterway to an unfriendly military dictator with ties to Cuba and Russia, a man who has nearly driven his country into bankruptcy. We are being asked not only to give up this control, but also to pay for the privilege—to the tune of $2.3 billion! We are asked to ignore the danger of covert Communist control of this waterway, and to ignore the feelings of our Latin American neighbors. Most importantly, we are being asked to ignore the will of the American people who, in a June opinion poll by Decision Making Information of Santa Ana, Calif., oppose the treaties by more than 3 to 1.

Mr. Speaker, the people in my district do not want appeasement in American foreign policy; they do not want to go ahead with this treaty to give away the Panama Canal. The members of my Congressional Advisory Committee who prepared the report on this issue put it this way:

> It is the considered opinion of the subcommittee on Foreign Affairs and Defense . . . that from every conceivable point of view—be it financial, political, military, historic, or strategic—there is no justification for our country to relinquish control and ownership of the Panama Canal to the Government of Panama.

I can only add that I agree wholeheartedly with that conclusion.

CONGRESS BAILS OUT THE BIG BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, each and every year this body and our sister body are responsible for disbursing and allocating hundreds of billions of dollars collected from citizens of America as taxes.

The men and women of this country work hard for their money and do not like to part with it. Frankly, I do not blame them. And when the truth is told, as it was in a recent Wall Street Journal editorial which described the pro-

posed Witteveen Facility as a big bank bail out, I am surprised that the American people do not get even angrier about how their hard-earned taxes are spent by a profligate and fickle Congress.

This year we in Congress appropriated $5.2 billion as the American "contribution" to various international development banks. Where do these tax dollars go? They go to countries in Africa and South America and elsewhere as loans, some with interest rates as low as three-fourths of 1 percent. Thus, about $25 for every man, woman and child in America is channeled out of this country.

Was there much of an outcry when this bill was passed? Hardly any.

Now we are being asked to contribute to a new "International Credit Company" called the Witteveen Facility. This pool of money would be used to help countries pay their short term debts for oil and other deficits. However, because one of the major cash flow problems in the Third World is paying their loans from big banks like the New York City banks. this "facility" would allow governments to meet the interest payments they could otherwise not meet, and bail out the banks. The fact is that these banks should never have lent these countries money in the first place because they simply were not credit worthy. Still the Third World has almost $200 billion in debt that must be repaid, or else, we are told, something horrible will happen. What is that? Simply that some banks will lose money they never should have risked at all, become a little smaller, and a little smarter.

This is exactly what the Wall Street Journal of September 26 says in an editorial. It suggests further that Congress address the problem directly and pass a bill called the "Bankers Relief Act of 1977" and let the American taxpayer know exactly what his tax dollars are paying for. The editorial is reprinted below.

We all want to help the poor around the world help themselves. But the proposed Witteveen Facility would not do this. Instead it would continue to help the big banks help themselves to big profits as the result of unreasonable loans made partly because they knew the Federal Government would bail them out, just as it bailed out New York City 2 years ago. Who are the losers in such a situation? Both the citizens of these underdeveloped countries who are overburdened with debt, and the American public whose tax dollars are yanked out of this country.

Perhaps the most gruesome aspect of this deception is the hypocrisy of this Congress. In appropriating such large sums for such questionable purposes there was as was mentioned before virtual silence. Yet, when the farm bill came to the floor, objections were heard as to how much this bill was going to cost and even the chairman of the Budget Committee urged caution on the cost of the farm bill.

It seems that we really do not appreciate our farmers, their productivity and efficiency and our reliance upon them. Their debt financing is high partly because so much capital has gone overseas. Their land prices are inflated, and their profits are the lowest in years. The capriciousness of commodity prices forces them to live in a world of financial insecurity unmatched by any other class of employed people in America. Money that could help them goes by the billions overseas, and much of it to salvage the mistakes of powerful groups here in America.

It would seem that we have a pressing responsibility to help the American farmer. That we could do so without unwarranted complaining seems only reasonable since this Congress has spent so many billions more in aid abroad which has obviously benefited America's big bankers more than helpless poor in less developed countries.

Though some of my colleagues do not seem to believe it, Congress only has so much money to spend. Therefore decisions have to be made about where we can best spend that money and in what amounts. I have not always been happy about the budget, but never have I been more sad than when I am forced to listen to complaints about relatively small budget allocations to help this Nation's farmers whose efficiency and productivity are being rewarded with disinterest and neglect while at the same time a multi-billion-dollar bailout of the big banks is deceptively mislabeled and breezes through Congress without even minor objection.

It is no wonder that the activities of Congress are questioned by the American people.

The Wall Street Journal editorial follows:

THE WITTEVEEN FACILITY

The annual meeting of the International Monetary Fund starts today in Washington, D.C., which gives us an opportunity to lecture the whole gang of finance ministers all at once. The plain fact is, the IMF is among the chief sources of the planet's economic problems and it shows no sign of reforming.

The main topic of mischief this week no doubt will be the care and feeding of the Witteveen Facility, named after its creator, Johannes Witteveen, the IMF chairman. What is the Witteveen Facility? First we will tell you the problem the W-F seeks to correct.

Over the last 25 years, a lot of poor countries around the world came to the IMF and asked what they had to do to get ahead. The IMF advised them to borrow lots of money in the world's capital markets—the big New York and London banks, mainly—and use this capital to build "infrastructure." Dutifully, the little countries did so, but this has not proved the key to development.

So today, throughout the Third World, there is an abundance of rusting infrastructure, creaky steel mills, potholed roads. The cumulative debt now ranges around $200 billion, and the little countries have had to jack up their taxes to pay the debt service.

From time to time a team of IMF economists drops by to recommend "austerity," mostly meaning higher taxes. By now the little countries have raised taxes on their miserable citizens to levels that can only be called "grinding." How can they now be further squeezed so the banks can be paid off?

Enter, the Witteveen Facility. The industrial countries should put $5.2 billion into the W–F, and the Arab oil sheiks will put up $4.8 billion. American taxpayers, in other words, will be asked to cough up a few billion for the IMF to loan to the poor countries so that they can pay off the banks.

This indirect approach is necessary in order to fool the taxpayers into thinking they are really helping the poor. Imagine the flap if the problem were solved honestly and directly: The Bankers Relief Act of 1977. How much more heartwarming it is to hear Sen. Jacob Javits, who represents Manhattan, including lower Manhattan, warning that there will be an economic collapse unless we bail out the Third World (banks).

We doubt that such terrible things will happen if we fail to bail out the banks. though the big banks with the most infrastructure loans will no longer be quite so big unless they and the IMF can figure out another way to salvage their loans. We note that their problems can be solved by economic growth in the Third World, and see no reason why the IMF economists couldn't tell the little countries that what they need is not infrastructure but lower taxes, lower government expenditure, lower taxes, freer markets and lower taxes.

DEMOCRATS SAY STAY IN ILO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, the American Democrats abroad in Switzerland have joined the increasing number of groups and individuals that are committed to the United States staying in the International Labor Organization. In their critical Issue Review Paper on the Future of American Membership in ILO they point out the ILO's important relation to the upcoming Belgrade Conference to American business, and to U.S. human rights posture in the Carter administration.

I include the issue paper and the cover letter from Mr. Andrew P. Sundberg, chairperson, to be inserted in the RECORD:

DEMOCRATIC COMMITTEE,
Switzerland, September 5, 1977.

Hon. DONALD M. FRASER,
U.S. House of Representatives,
Washington, D.C.

DEAR FELLOW DEMOCRAT: Within the next few weeks, the United States faces a very serious decision. What shall we do about continued American membership in the International Labor Organization, a specialized agency of the UN located in Geneva?

We of American Democrats Abroad in Switzerland feel that we have a unique perspective on this issue. We feel that it is of such importance to the United States and the entire free world that we have a responsibility to speak out and inform you what we feel is at stake. We have therefore prepared a brief Critical Issue Review Paper on the Future of American Membership in the ILO which we are enclosing with this letter.

We feel that it is in the great tradition of the Democratic Party to consider leadership a collective process, and to want to work together to solve problems, defend our ideals and promote the general welfare of our fellow man. We therefore invite you to reflect with us for a few moments about how important and complicated this ILO issue is. If, as we hope, you will agree with us that the United States should not abandon the ILO, we urge you to communicate your concern directly to the White House, as well as to the Departments of State and Labor.

Our kindest regards and best wishes.

Most sincerely,

ANDREW P. SUNDBERG,
Chairperson.

CRITICAL ISSUES REVIEW PAPER

THE FUTURE OF AMERICAN MEMBERSHIP IN THE INTERNATIONAL LABOR ORGANIZATION

A policy decision of major importance to the Democratic Party, the United States, and the entire free world

Within the next few weeks, the United States will have to decide whether or not to remain a member of the International Labor Organization in Geneva. In November 1975, the ILO was informed by letter that the United States was dissatisfied with certain perceived developments at the ILO, and if there was no progress in these matters the United States would withdraw from membership effective November 6th, 1977.

The ILO in a nutshell

The International Labor Organization, almost totally unknown in the United States, is the oldest of the specialized agencies of the United Nations. It dates back to the end of the First World War when it was established as a vehicle for international cooperation in seeking an improvement in the rights and the standard of living of working people throughout the world.

Almost automatically the ILO became the most important major international organization working in the field of human rights. It has been universally recognized in this role and has received many international honors. On its 50th birthday in 1969, the ILO was awarded the Nobel Peace Prize for its contributions to human rights.

The ILO consists of three basic components. There is an annual conference at which delegates assemble from all over the world to: adopt international standards protecting the rights, health, safety and welfare of workers, vote resolutions on various matters, and to set the overall policy guidelines for the ILO. There is a governing body, composed of governmental, worker and management delegates, which gives general executive direction to the organization throughout the rest of the year. Finally, there is the secretariat which serves the annual conferences and governing body, carries out research, and supervises a vast array of activities in the field in countries throughout the world.

The ILO provides practical training to workers in many skills, to trade-union leaders, to government officials, to managers, and even to entrepreneurs, the latter much criticized by the Soviet Union. It provides essential data on world employment, searches for new methods of creating employment, seeks harmonious adaptation to technological change and new approaches to development. It works closely with other UN agencies to promote improvements in human welfare.

The Charges Against the ILO

The letter sent by the United States in 1975, signed by Henry Kissinger, expressed dissatisfaction with four points. These were that there had been a drift away from tripartism, selective concern for human rights, abandonment of due process, and too much politicization at the ILO. However, the letter also stated that the United States did not want to leave the ILO, and did not expect to leave the ILO. It finally promised that the United States would make every possible effort to promote conditions which would facilitate our continued participation.

Events Since the Kissinger Letter

The American threat to leave the ILO was taken seriously. Many efforts were made to find out what exactly the United States wanted to see done at the ILO by way of improvement. No fully satisfactory response was ever given to these requests, many of which came from our closest friends and allies.

Part of this failure to give an adequate response stems from a continual problem that the United States has had in taking the ILO seriously. In 1970, and again in 1977, the GAO reported to the Congress that the Executive branch had not been acting responsibly toward the ILO. The 1977 report of the GAO stated:

"U.S. participation in the Organization has been one of crisis management alternated with periods of low interest levels." The report further stated: "Today, more than 1 year into a 2-year waiting period before withdrawal becomes final, and having stated the United States will do all it can to resolve its problems with the Organization, the Federal agencies responsible for U.S. participation have not developed an overall statement of U.S. objectives for the Organization."

Without the benefit of knowing what exactly the United States wanted to see done, the ILO has taken steps to meet each of the American criticisms.

The first issue is tripartism which addresses the fundamental uniqueness of the ILO in the UN. Each member country is represented at the ILO by three separate voices, that of labor, management and the government. It has been charged that the universality of membership in the ILO embraces countries whose political philosophies do not allow independent voices to labor and management. This of course is true. Nevertheless, the tripartite principle is still the major ideal of the ILO.

To reaffirm its commitment to tripartism, the ILO in June 1977 voted a unanimous resolution concerning the Strengthening of Tripartism in ILO Supervisory Procedures of International Standards and Technical Cooperation Programmes. Tripartism is alive, active and working well at the annual conferences, the governing body and the secretariat.

The other three issues of the Kissinger letter, selective concern for human rights, failure of due process, and the politicization of issues, were largely based upon actions perceived to have been inimical to Israel.

During the last two years, major efforts have been made to dispute the validity of these charges and demonstrate that to the extent that there was any validity that progress was indeed being made. During the last 15 months, the ILO has hosted 4 world conferences, 2 annual conferences, a World Employment Conference and a World Maritime Conference. At no time did any of these conferences adopt a resolution attacking Israel, or any other member state, nor did they mention Zionism, racism or the Middle East.

Ironically, it is at the ILO that Israel has been given the most favorable treatment by any of the UN family organizations. An Israeli worker delegate was elected to the governing body in 1975 continuing a long tradition of Israeli participation in the leadership of the ILO. Israel has not given any notice of intention to withdraw from the ILO.

To further meet the American criticisms, the ILO at the June 1977 conference voted unanimously to adopt two resolutions, the one previously mentioned on tripartism and a second concerning the promotion, protection and strengthening of freedom of association, trade union and other human rights. To meet the U.S. points one by one the resolution on tripartism stated:

The Conference "Invites the Governing Body of the International Labor Office to consider all measures—constitutional as well as informal to ensure not only full compliance with ILO instruments but also promotion of the application in all countries of standards concerning human rights."

This same resolution also stated: "political issues outside the competence of the ILO shall not be a proper subject of inquiry by the ILO, and that member States shall cooperate fully in all investigations of allegations of violations under this section, and the ILO shall conduct such investigations, according all parties due process."

In June 1977, the governing body established a tripartite committee to investigate charges made against Czechoslovakia that it had violated an ILO convention prohibiting discrimination in employment by having dismissed persons who signed the "Charter of 77".

The ILO has taken the American charges seriously and has made a significant attempt to meet the charges, and to reply in a responsible manner.

Arguments in Favor of American Withdrawal From the ILO

Proponents of withdrawal from the ILO state that there has been no progress on the four points in the Kissinger letter and that we must therefore leave the ILO or lose credibility in the eyes of the world. They further contend that the United States is maligned at the ILO and we should not have to tolerate this.

Arguments Against American Withdrawal From the ILO

A very good case can be made for the fact that there has been substantial response by the ILO to the four points of the Kissinger letter.

But, beyond this question of the adequacy of progress on the four points, there are many other considerations which should make the United States want to remain a member of the ILO. American withdrawal from the ILO now would complicate our commitment to human rights, embarrass us at Belgrade, weaken the UN, be a disservice to American business, disappoint our allies, given an undeserved gift to our foes, and be totally out of character with decades of tradition of the United States and the Democratic Party.

Our Commitment to Human Rights

The credibility of the American commitment to the cause of human rights is directly related to the actions we take in their behalf. The ILO is universally recognized as one of the most useful vehicles there is today for observing how well human rights are being observed throughout the world. For example, the 1977 ILO report on the applications of standards cited human rights violations in the Soviet Union, Czechoslovakia, Cuba and elsewhere.

During the 1977 June conference of the ILO there was a noticeable shift in the behavior of the Soviet Union. Responding to their evident vulnerability to the effectiveness of the ILO machinery in the supervision of human rights, the Soviet Union started taking initiatives to force the United States to leave the ILO.

Embarrassment at Belgrade

The Belgrade Conference starts soon to discuss how well the agreements signed at Helsinki are being applied, and how well human rights are being protected. Here again, the ILO report on the application of standards will provide much useful information on how the Soviet Union and other totalitarian countries have been fulfilling previous such agreements.

An American decision to withdraw from the ILO at the same time that ILO documents are being shown to be of prime importance can only lead to major embarrassment of the United States. Furthermore, if the United States leaves the ILO, what guarantees will we have that there will be such useful reports in the future?

The Future of the UN

The charges made against the ILO could be easily repeated in a similar form against all of the other bodies in the UN system. Indeed, if credibility, logic and consistency are at stake these charges must be made. Since the charges against the ILO relate to abuse of Israel we should now be planning our withdrawal from the WHO, FAO, UNESCO and even the UN itself since at all of these bodies Israel has been more badly abused than at the ILO.

Disservice to American Business

The ILO is now drafting a voluntary code of conduct for multinational companies in their social and labor practices throughout the world. It would be a disservice to American business to have the United States leave the ILO while this code is being debated. Contents of the code could have a major impact on the future operations of American business overseas for many years.

Research on multinational companies carried out by the ILO has been seen to be fair and balanced, particularly when compared to similar research carried out by other organizations. In keeping with the tripartite principle, ILO reports allow American companies to speak up in their own behalf, in their own words.

Abandonment of Our Allies

The allies of the United States want very much for us to remain in the ILO. They have repeatedly said so in public and in private. They pointedly ask, on the credibility imperative to withdraw, "Credible in whose eyes?"

A Victory to Our Foes

The Soviet Union and other countries vulnerable on human rights issues would like to see us leave the ILO. It would relieve them of much of the threat that the ILO could be used to make their life very uncomfortable. Our withdrawal gives them a totally undeserved reprieve from this threat. What we really need to do is to start taking advantage of the ILO instruments and to use them responsibly to move forward toward progress on human rights.

Against the Traditions of America and the Democratic Party

One of the great traditions of the United States and of the Democratic Party is the continual recognition of our obligation to play a responsible role as a world leader. Withdrawal from the ILO goes against this tradition.

In 1934, Franklin Roosevelt told the ILO in his letter thanking the ILO for its welcome of American participation: "I share with you the hope that American participation will assist both in giving an impetus to general social progress and in speeding economic recovery in all countries."

In 1963, John Kennedy stated at American University, "World Peace, like community peace, does not require that each man love his neighbor, it requires only that they live together with mutual tolerance, submitting their disputes to a just and peaceful settlement."

In 1976, the Platform of the Democratic Party claimed: "We can't give expression to our national values without continuing to play a strong role in the affairs of the United Nations and its agencies."

In 1977, Jimmy Carter stated at Notre Dame, "We can no longer expect that the other 150 nations will follow the dictates of the powerful, but we must continue, confidently, our efforts to inspire, and to persuade, and to lead."

What Must Be Done?

We, American Democrats Abroad, share Jimmy Carter's sentiments from the Notre Dame speech. We think they are particularly appropriate in relation to our present decisionmaking on the ILO. What the world deserves, and the ILO desperately needs is a responsible American effort to inspire, and to persuade, and to lead.

We ask you to reflect upon the profundity of the importance of the ILO decision. If you agree with us that it would not only be unwise, but irresponsible for the United States to abandon the ILO, we urge you to join us in communicating this conviction to the President.

We believe that not only should the United States withdraw the letter of 1975, but should also at the same time make a bold new declaration of intent to work with renewed vigor at the ILO.

MEMBERS OF CONGRESS TO CONDUCT VIGIL FOR FAMILIES DIVIDED BY SOVIET UNION'S DISCRIMINATORY EMIGRATION POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

Mr. HANLEY. Mr. Speaker, I am pleased to join my distinguished colleague, Representative DRINAN, in a project he inaugurated entitled "Helsinki's Unfulfilled Promise." The 35 nations which signed the Helsinki Final Act, in August 1975, pledged to facilitate the reunification of families separated by political boundaries. It would appear, however, that the Soviet Union's promise is virtually meaningless as evidenced by the number of families who have been divided because of the Soviet's harsh and discriminatory emigration policies. For the second consecutive session, Members of Congress are conducting a vigil on behalf of the families which remain separated to show that the free world does sympathize with the plight of these people and will forge ahead in a positive direction to insure human rights for all.

Mr. Speaker, I would like to call your attention to the tragic story of two brothers—Alexander and Arkady Yampolsky—who have spent 4 years in limbo, alternating between hope and frustration in their efforts to obtain permission to emigrate to Israel. The Yampolsky brothers have repeatedly applied for visas since 1973, and they have repeatedly been refused even though they have never been given a valid reason for the refusals. Arkady who is an economist by trade is unemployed now because he found it impossible to work at his job after applying for permission to emigrate. This oppression is obviously retaliation by the Russian authorities as a result of the Yampolsky's request to emigrate.

My colleagues and I want to make known to the Soviet Union and to the rest of the world that we strongly oppose oppression of this nature. As Representatives in a nation which is dedicated to the principle of freedom to pursue life, liberty, and happiness, we hope that our opposition will be noted and will lend impetus to a change of philosophy on the part of the Soviets toward those wishing to begin life anew in another land. I encourage every Member of Congress to express his concern by participating in this vigil.

STATEMENT ACCOMPANYING THE INTRODUCTION OF H.R. 9395, AN ACT TO IMPROVE THE ADMINISTRATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND FOR OTHER PURPOSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, it is now 7 years since the establishment of the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce. It began as an agency whose primary mission was to provide scientific and technical services relating to the oceans and the atmosphere. Since then its statutory responsibilities have been considerably enlarged by the enactment of such statutes as the Coastal Zone Management Act of 1972, the Mammal Protection Act of 1972, the Endangered Species Act of 1973, the Fisheries Conservation and Management Act of 1976, and the Coastal Zone Management Act Amendments of 1976.

Today NOAA has responsibilities that are far wider than the provision of weather services and the mapping of our coasts. It is active in fundamental ways with the management of our marine fisheries, which are vital for our Nation and for the world at large, and with the management of the environment of the coastal zone of the United States, which contains half of the American population and 40 percent of its industrial complex. It has new responsibilities for the protection of the oceanic environment and is actively concerned with the development of new uses of the oceans for the benefit of the American people.

Unfortunately, the administrative structure of NOAA has—because of statutory limitations—not been modified to keep pace with NOAA's enlarged role. The bill I am introducing today is designed to redress the balance. Its purpose is to establish policy-level positions for the top administrative positions of NOAA and a number of new civil service positions at the highest level. With this statutory authorization, the Secretary of Commerce will have the flexibility to recruit for NOAA the kinds of experienced and able people needed if NOAA is to carry out its statutory responsibilities efficiently and imaginatively.

In summary, the bill I am introducing would do the following:

First, the bill abolishes the three existing civil service level positions and replaces them with five new policy-level positions. This will assure the administrator of the agency that he has the flexibility to form a team capable of vigorously confronting the challenges NOAA now faces. This change is consistent with the trend exemplified in the Coastal Zone Management Act Amendments of 1976 to exempt these types of policy positions from the classified civil service. Persons occupying the present level V positions, if not appointed to one of the new positions, would have the rights granted by title 5 of the United States Code to persons in the classified service effected by the abolition of an existing position.

Second, the bill would make a technical change in the Coastal Zone Management Act Amendments of 1976 to alter the title of the head of that program to match the title of others of the same rank.

Finally, the bill would authorize the Secretary to appoint eight new positions in NOAA at pay rates not to exceed GS–18. While NOAA has been able, by

virtue of special legislative provisions, to add high-level scientific personnel, it is unable to add top-level career personnel with backgrounds in fields like economics, political science, resource management, law and regulatory policy. These skills are essential if NOAA is to respond to its increased responsibilities for enforcement, management, and policy development under the new legislation of the last 4 years.

NEW HOUSE FINANCIAL DISCLOSURE REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, as chairman of the Select Committee on Ethics, I recently sent a Dear Colleague letter to the personal attention of each Member to remind them that the new House financial disclosure requirements take effect October 1, 1977.

Some Members apparently believe that the first filing under the new rules must be made by October 1, 1977. This is not the case. The first disclosure statement under new House Rule XLIV must be filed by May 1978 to cover the time period from October 1, 1977 through December 31, 1977.

I will not take the time here to repeat the text of my letter of September 21, but I would like to reply to a few of the concerns which have been brought to my attention. First, some Members are concerned with the possible difficulty in placing an accurate value on their business or investment holdings. The rule requires that the fair market value of holdings be disclosed only by "category of value," rather than by specific dollar amounts.

These categories of value are: less than $5,000; between $5,000 and $15,000; between $15,000 and $50,000; between $50,000 and $100,000; and over $100,000. Therefore, one would not have to obtain an expert appraisal in order to ascertain exact values of holdings. Rather, the value of a holding need only be listed, for example, as between $50,000 and $100,000. Let me also remind you that securities transactions and capital gains are exempted from the first filing.

Additionally, there has been some concern about determining the exact value of those gifts that need to be disclosed. Let me point out again that with respect to the specificity of the information required to be disclosed, a "rule of reasonableness" should apply. It is not necessary that exact dollar figures be reported in every case. Often the exact value of gifts may not be readily ascertainable. In such instances, a good faith estimate, along with a brief description of the gift, would be sufficient for disclosure purposes.

I am sure that Members will continue to have many questions concerning applicability of the new disclosure rules before they make the first filing next spring. But let me assure you that the requirements of the new rule can be met for the most part with information that Members already keep for other purposes. Please do not hesitate to talk to me personally, or to call the select committee staff on extension 58461. Additionally, the Clerk's office will be making available a sample disclosure form to Members within the next few weeks, so that you will be able to "graphically see" what will need to be done next year.

RENT-A-TEEN PROGRAM—SOUTH BEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I would like to bring to the attention of Members of the House a remarkably effective job referral program, in the congressional district that I represent, which has meant constructive summer employment for hundreds of young people eager for work.

The program is called Rent-a-Teen, and, in 3 years of operation, it has helped more than 450 teenagers in the South Bend, Ind., area find part-time jobs. Rent-a-Teen has also provided a valuable service to local homeowners and to commercial firms seeking workers on a short-term basis.

Rent-a-Teen was formed in 1975 as a summer employment service for several neighborhoods in South Bend. Sponsored by the Portage Avenue Youth Group and the National Bank and Trust Co. of South Bend, and directed by Jim Klemczewski, it is a completely voluntary program which receives applications from teenagers age 13 or older and matches them with prospective jobs near their homes. It is that simple, Mr. Speaker. The jobs usually involve handyman-type chores such as window washing or lawn mowing. The prospective employer and the job seeker get together and make their own arrangements with respect to salary and other details of the work.

Rent-a-Teen has become so popular in South Bend that it is being expanded into surrounding communities and hopes to extend operations beyond the summer. The manager of the program often receives 20 to 30 calls a day with job offers for local youths. The administrative costs are minimal—only $190 for an entire summer, with most of that going for telephone rentals and application forms.

Mr. Speaker, Rent-a-Teen is in the best tradition of American initiative and innovation in finding a solution to a difficult problem—how to bring jobs and workers together. It is a significant stimulus to the employment of young people, who often have little experience in locating part-time jobs and sometimes give up out of frustration.

I strongly believe that voluntary programs of this type, which involve no Government expense and provide great benefits to a community, should be widely encouraged. I hope that other Members will want to encourage similar programs in their own districts.

I insert in the RECORD two articles from the South Bend Tribune on the achievements of the Rent-a-Teen program:

[From the South Bend (Ind.) Tribune, May 3, 1977]

PORTAGE AVENUE TEENS READY TO PUSH BROOMS

(By Wayne Falda)

Once again this year, the Portage Ave. Youth Group will be arming its members with brooms, shovels, rakes, washrags and hedge clippers to resume its annual summer war in South Bend against unkempt lawns, weed-choked gardens, dirty windows, cluttered basements, and the like.

And equally important, these teens will be waging the battle against a nemesis of a more personal nature—an empty pocketbook.

Launched in 1975, this teen-age summer employment program, called Rent-A-Teen, was an immediate success in providing jobs for hundreds of youths willing to work over the summer, according to James Klemczewski, adult adviser and founder of the group.

"In the two years we have operated the program, we have found approximately 500 jobs for over 200 kids," he said. "Some were temporary jobs, like cleaning basements or taking down storm windows, but others evolved into jobs that lasted throughout the summer."

The program is so successful that Klemczewski envisions organizing similar youth employment programs in other parts of South Bend and Mishawaka.

"The concept is really very simple," he said. "The Rent-A-Teen program is, in effect, a referral service. People needing work done call the program's telephone number, leave their name, address and telephone number and the kind of work to be done. All we do is try to match that job with a kid who can qualify for it."

"Then we give the kid the person's telephone number and from that point on all the arrangements—including the pay involved—are made between the person and the kid," Klemczewski added.

But the youth group's founder said that a great deal of help will be needed to organize many such neighborhood programs. So he is calling upon individual neighborhood organizations or churches to sponsor similar Rent-A-Teen-type programs in their areas. Based on what he has observed over the past two years, the demand for this kind of program is great everywhere.

Though the Portage Ave. Youth Group concentrates its activities in the northwest part of South Bend, some of its members have been put to work as far away as Lakeville or Osceola. "If anyone has any questions about organizing a program, all he or she has to do is to contact me or an adviser of the group," Klemczewski said.

In re-establishing the Portage Ave. program, youth group members have distributed employment forms in schools within the Washington-LaSalle high school districts.

Youths 13 years and older will be put on file for employment, he said.

One of the strengths of the program, he noted, was its success in providing youths with an opportunity to take part in something constructive over the summer while given money.

At the same time it provided residents a source of youths eager to help with whatever job that needed to be done, he added.

Klemczewski said the cost of the program for the two years was amazingly low, with most of the cash outlay provided out of his own pocket or through the PAYG.

The greatest cost is that of installing a telephone, he said. Youth group members man the phones and keep the books.

Klemczewski pointed out with pride that not a cent of public money has been used to run the program. "It's a private program and will remain that way. We will not be used for personal or political gain," he said.

One item that still remains on the Rent-A-Teen agenda is the location of the phone, but Klemczewski said the headquarters and the telephone number will be made public prior to the end school.

[From the South Bend (Ind.) Tribune, July 14, 1977]

SUCCESS BREEDS EXPANSION FOR JOB SERVICE

(By Wayne Falda)

Rent-A-Teen has gone citywide.

Based on the overwhelming response to the job referral service for teenagers, the program is expanding from its headquarters at the National Bank and Trust's Postage Banking Center to all National Bank branches in the city.

According to James Klemczewski, advisor to the Portage Ave. Youth Group which initiated the program, applications will be available at the branches to all youths wanting work for the summer.

The National Bank is sponsoring the program this year and so far the response has been tremendous, Klemczewski said, "We've put over 150 kids to work so far—and we've been in business for less than a month," he said. "Some of the kids have already made over $300 working on a steady basis pumping gas," he said.

About 250 applications have been turned in by teenagers looking for work.

Klemczewski is hoping to receive other applications in other parts of the city to handle requests that have been coming in from everywhere. "We've been getting calls from places like Mishawaka, Granger, New Carlisle and even as far as North Liberty," Klemczewski said.

Since more than half of the teenage applicants now on file are from the Portage Ave. and Northeast Side, the uneven distribution has caused some placement problems, Klemczewski said.

Many of the jobs called in by homeowners are of the "around-the-house" variety, Klemczewski said. "We've had a lot of calls to wash windows, trim hedges, mow lawns, babysit, wash cars, and the like," he said. "But we're also getting some calls from businessmen who are looking for temporary help of one kind or another. Anyone seeking help should call 289–5446.

"In the first few days we had so many calls, our telephone answering recorder couldn't handle the load. Now we've got a larger machine to take care of the calls," he said.

Applications will be available starting today at the National Bank's branches in New Carlisle, at 1711 S. Micyhigan, 2317 Western. 4400 S. Miami, 2926 Mishawaka Ave., 16489 Cleveland, 112 W. Jefferson, and 127 W. Wayne.

JERRY L. PETTIS MEMORIAL VETERANS HOSPITAL DEDICATED

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker. I can think of no more fitting memorial to the life and work of our late, much-respected colleague, Jerry L. Pettis, than to dedicate in his name the magnificent new Veterans Hospital in Loma Linda, Calif.

Last Sunday, Jerry's dream of a hospital to serve the health needs of veterans in the area he represented with such dedication and vigor became a reality. Jerry had played a key role in building two hospitals in his hometown to meet the medical needs of its citizens. He used his talents as an inventor to assist in the education of needy medical students throughout the country and to help doctors expand their knowledge of modern medical techniques. The Jerry L. Pettis Memorial Veterans Hospital will serve as a training and research center to expand medical knowledge that may someday save lives and restore the health of future Americans.

Jerry Pettis would have been proud to know that his name will be forever linked to such a worthwhile and needed facility.

It was a privilege for me to have served with him in numerous capacities in Congress. We worked together on the Science and Astronautics Committee. Later, we served together on the Ways and Means Committee and on the Health Subcommittee. His concern in the areas of health matters, as well as all his other areas of interest, sprang from a deep and sincere desire to be of service to his fellow man in whatever way he could.

We traveled together on many occasions, and I got to know Jerry well. He was the kind of man that makes one proud to say about him: "He was my friend."

I know that his wife, SHIRLEY, who accepted the challenge of continuing his work in Congress and has gone on to earn the respect and admiration of this body by her own dedication to high principles and hard work, is as proud of the tribute as we are. Our dear friend and colleague, RAY ROBERTS, was at the dedication and characterized Jerry Pettis in a few words we all know to be true:

Jerry Pettis was truly a remarkable individual, a humanitarian with strong Christian ideals.

I insert the full text of Congressman ROBERTS' statement following my remarks:

STATEMENT OF THE HONORABLE RAY ROBERTS

Thank you Mr. Ross. My Dear Friend, Congresswoman Pettis; distinguished guests; distinguished veterans; ladies and gentlemen.

Today is a very special day for me. It brings to fruition a long period of planning and construction of this magnificent institution that looms so impcsing behind this platform. It also culminates in the dedication of this splendid hcspital in the name and memory of the late Congressman Jerry L. Pettis, who fought so long and valiantly in concert with the veterans' organizations of this area, to bring about its construction.

I would be remiss if I did not also mention the unstinting support of this entire community for this new VA hospital.

Let me at this point mention for those who are now or will become involved in the operation of this hospital, the road ahead is not going to be an easy one. There are forces abroad that would destroy this fine hospital and the other 170 similar institutions operated by the Veterans' Administration throughout the Nation. A good example of such forces is the recent 6 million dollar study produced by the National Academy of Sciences entitled, "Health Care for American Veterans."

The conclusions and recommendations of this study, if carried out, would completely destroy the entire veterans' medical program. Even worse than these recommendations was the press release put out by the Academy. It was replete with untruths and half-truths calculated to destroy this program that has not only done much for veterans but has been unequaled since the end of World War Two in its contributions to medical education and medical research in this country.

As chairman of the House Committee on Veterans' Affairs, I want to go on record that we will do everything in our power to see that this VA hospital, as well as all others, are not only maintained as a separate and distinct program for tne American veteran, but that they are strengthened in every way possible.

Jerry Pettis, if he were alive today, would join in this fight with us.

I am sure that Jerry Pettis requires no eulogy among the members of this community which he loved and held in such high regard. His contributions to public service, business and education, building and supporting Loma Linda University—especially the school of medicine—are well known. It was his foresight, untiring energy and driving force that brought this veterans' hospital to this community to heal and restore to health the sick and disabled veterans of the area.

He also had the foresight to realize that such an institution would provide educational and research opportunities to young physicians and allied health professionals in affiliation with the Loma Linda University school of medicine—one that not only would improve the level of health care in this area but a much broader geographical base in the Nation.

Jerry Pettis was truly a remarkable individual, a humanitarian with strong christian ideals. He was dedicated to making this great Nation a better place in which to live. He never asked of his fellow man more than he was willing to give of himself.

He served this great university in many capacities including vice president and chairman of its board. He and his charming wife managed several successful business enterprises, one of which was donated to the California Medical Association for the support of needy medical students throughout the State of California. He and his wife accomplished all of this while raising a fine family.

Immediately following World War Two, in which he was a pilot and a flight instructor with the Air Transport Command in the Pacific theater of war, he became a commercial airline pilot for United Airlines.

He later served as a special assistant to the president of that airline.

By this brief sketch of this man's active and varied background, one readily sees that he stood tall in every endeavor he undertook. Yet in every venture he was motivated to help his fellow man in any way possible. Truly this man's accomplishments throughout his life more than justify the label, if you will, as a "giant among men."

Many of you may not know that to name a Veterans' Administration hospital in memory of an individual requires an act of Congress.

So popular was Jerry Pettis among his colleagues in the House of Representatives that four identical resolutions were introduced to name this hospital after him as a lasting memorial. These resolutions were sponsored by no less than 87 individual Members of the House. In my memory of service in that body, I cannot recall a measure so widely sponsored. Of course when it was considered on the floor of the House, it passed unanimously. The Senate passed the bill in a similar manner.

Thus, when the President signed it into Public Law 94–246 on March 25, 1976, this institution became only the sixth to be named in memory of an individual. I felt a sense of personal fulfillment in introducing one of the four bills and to have been the floor manager in the House of the bill that finally became law.

With the loss of this great Member in the tragic accident on February 14, 1975, the 37th District of California and the American veteran came up with an equally strong advocate in the election on April 29, 1975 of Jerry Pettis' widow—the Honorable Shirley Pettis—to fill his vacancy in the Congress. As you know, she was reelected to the 95th Congress last November. In this election Congress-

woman Pettis received 71 percent of the vote in this, the 37th District of California. Very few elected officials at any level of Government can boast of receiving such an overwhelming majority of the vote. It expresses in a very tangible way the confidence and affection the electorate has for this most capable and charming lady.

I can assure you that the voters of this district are not the only ones who have affection for her, as well as admiration for her outstanding ability as a legislator. She is serving with distinction on the Committee on International Relations and the Committee on Education and Labor as well as representing the 37th District of California in an exemplary manner.

It is indeed an honor for me to be chosen to introduce this outstanding lady to you on this momentous occasion—the dedication of this great VA hospital as a memorial to her late husband, Jerry L. Pettis.

Ladies and gentlemen, the Honorable Shirley N. Pettis.

DEREK WEDDING WINS NATIONAL TITLE

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, one of my young constituents recently achieved a great honor, both for himself, his family, and for the State of Texas, by being crowned the Grand National Champion of the National Motorsport Association; 14-year-old Derek Wedding, competing as the youngest entrant in the expert division against racers up to 18 years of age, won the 250cc stock expert class and placed high enough in other categories to win the overall title. I include at this point an article from the Marshall News Messenger of September 4 which describes the work and perseverance displayed by Derek as an example to all of what can be accomplished by a small town youngster with drive, determination, a dream of excellence, and 100-percent backing of his entire family.

DEREK WEDDING WINS NATIONAL TITLE

(By Ferrell Foster)

A 14-year-old Marshall youth saw a dream come true in August when he was crowned Grand National Champion of the National Motorsport Association (NMA).

Derek Wedding proved he was No. 1 by winning the 250cc Stock Expert class at the national moto-cross championships of the largest youth racing association in the United States.

Wedding competed in three categories at the nationals in Houston, but in the most prestigious class of the competition he achieved the best overall record after three separate races through the mud of Rio Bravo moto-cross track to bring home the title.

The "Texas Dynamo," as the young champion is known on the racing circuit, said the national crown has been his goal for four-and-a-half years, but admitted it took a lot of hard work in getting there.

Derek's mother, Sue Wedding, said, "Derek is not a natural, he has had to work to acquire the skills.

"It shows that any kid can do it if he will work hard enough and sacrifice and has the support of his parents," she added.

Wedding's victory was even more rewarding considering he was the youngest entry in the expert division which had competitors ranging up to 18 years of age.

James Wedding, father of the champ, said Derek's ability to win can be attributed 60 per cent to the rider and 40 per cent to the bike.

However, he said, "It comes down to the rider at the championship."

The father pointed out that his son studies the other riders. "He knows most of the riders, their quirks and weaknesses," he said.

Derek added that in the expert class he trusts the guy in front of him.

He said he has to trust the other fellow when they are racing along only a few feet apart and many times even bumping into one another as they go through the turns.

Mrs. Wedding agreed and said, "They have a tremendous respect for one another. It is a very mature type relationship these kids have," she added.

Derek's father also said his son knows exactly where he is going from turn to turn.

"He has a knack for picking lines on a track that are the fastest and smoothest," Wedding said.

The proud parents emphasized Derek's ability by pointing out that many professional riders ask for their son's advice in determining where the best lines are in the track.

Derek said motor-cross racing requires total concentration, both physical and mental.

Although it may come down to the rider during the championship, the 14-year-old takes pride in doing all his mechanic work.

According to his dad, "Derek has an advantage because he does his own work. If something goes wrong, he knows what it is immediately," he said.

As a matter of preventive maintenance, Derek tears each bike down after racing it.

When he breaks the engines down we find little things that might have cost us a race if they had gone unnoticed, Wedding said.

Although Derek is "alone" as he goes through the rigors of a motor-cross race track, he and his parents insist that it is strictly a family sport.

James Wedding said that the sport has brought their family much closer together as they have traveled across the country.

"Everyone goes along, Derek, Brant (the youngest Wedding), their mother, myself and even the dog," Wedding said.

Marshall attorney added that he probably has more fun at the races than Derek.

Over 1,100 regional NMA champions from across the country converged on Rio Bravo to compete in 33 riding categories.

Wedding achieved the best overall record in his winning 250cc class by posting two second place finishes and one first in the three individual races.

The Marshall amateur beat out a professionally licensed rider from California, who came in second overall with two first place finishes and a fourth in the three races.

In other activity, Derek finished 10th in the 100cc Modified Expert class after suffering a fall and engine problems.

The young rider did not place in the 125cc Modified Expert class after an opening day accident that resulted in his being carried off on a stretcher.

He said he went down in the mud and riders kept piling into him from behind until he thought he was going to choke.

Wedding said he didn't expect to do as well in the 250 as in the 100 and 125.

However, his mother said, "After they threw the pro in that is the one (the 250) we really wanted to win."

But even though he has a national title under his belt, life for Derek Wedding continues on much as it did before. He still goes to school each day, plays football and races on the weekend.

Mrs. Wedding summed it up this way, "Every little kid dreams about it, but never thinks he will do it. But when it does happen it doesn't really make that much difference."

GENERAL LEAVE

Mr. MARKS. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may be permitted to revise and extend their remarks and include extraneous material on the bill H.R. 6951, Council on Wage and Price Stability.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RAILSBACK (at the request of Mr. RHODES), for today, on account of official business.

Mr. GUYER (at the request of Mr. RHODES), for September 30, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN of Illinois, for 10 minutes, today.

Mr. SYMMS, for 60 minutes, today.

Mr. GRASSLEY, for 10 minutes, today.

(The following Members (at the request of Mr. VENTO) to revise and extend their remarks and include extraneous material:)

Mr. FRASER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HANLEY, for 5 minutes, today.

Mr. MURPHY of New York, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MOORHEAD of Pennsylvania, to revise and extend his remarks and include extraneous matter during consideration of H.R. 6951.

(The following Members (at the request of Mr. MARKS) and to include extraneous matter:)

Mr. SHUSTER in two instances.

Mr. ASHBROOK in two instances.

Mr. COLLINS of Texas in two instances.

Mr. CORCORAN of Illinois.

Mr. BURGENER.

Mr. QUIE.

Mr. FINDLEY.

Mr. WALKER.

Mr. LAGOMARSINO in three instances.

Mr. HOLLENBECK.

(The following Members (at the request of Mr. VENTO) and to revise and extend their remarks and include extraneous matter:)

Mr. EDWARDS of California in two instances.

Mr. SIMON.

Mr. VANIK in two instances.

Mr. GORE.
Mr. MAZZOLI in two instances.
Mr. RICHMOND.
Mr. ST GERMAIN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. SKELTON.
Mr. BEARD of Rhode Island.
Mr. CARNEY in two instances.
Mr. STUDDS.
Mr. BLANCHARD.
Mr. SOLARZ.
Mr. SISK.
Mr. ZABLOCKI in two instances.
Mrs. MEYNER.
Mr. OBERSTAR.
Mr. WAXMAN.
Mr. BONKER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

ADJOURNMENT

Mr. VENTO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 1 minute p.m.), under its previous order, the House adjourned until Monday, October 3, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2482. A letter from the General Counsel, Commodity Futures Trading Commission, transmitting notice of proposed changes in the Commission's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2483. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of International agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2484. A letter from the Chairman, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, transmitting a report and recommendations concerning research involving children, pursuant to section 202(a)(2) and section 204(d) of Public Law 93–348; to the Committee on Interstate and Foreign Commerce.

2485. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend section 3006A of title 18, United States Code relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States; to the Committee on the Judiciary.

2486. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on the Central Oklahoma Urban Study, pursuant to resolutions of the House and Senate Committees on Public Works; to the Committee on Public Works and Transportation.

2487. A letter from the Secretary of Health, Education, and Welfare, transmitting a plan of implementation for the Indian Health Care Improvement Act, pursuant to section 703 of Public Law 94–437; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.

2488. A letter from the Comptroller General of the United States, transmitting a report on the inefficiencies of the supply operations of the District of Columbia; jointly, to the Committees on Government Operations, and the District of Columbia.

2489. A letter from the Comptroller General of the United States, transmitting a report on the effects that veterans' preference and apportionment is having on job opportunities available for affirmative action plan goals under the Equal Employment Opportunity Act; jointly, to the Committees on Government Operations, Education and Labor, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEDZI: Committee on House Administration. H.R. 8358. A bill to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications (Rept. No. 95–650). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 766. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; with amendment (Rept. No. 95–651, Pt. I). Ordered to be printed.

Mr. BOLLING: Joint Economic Committee. A report on the 1977 midyear review of the economy. (Report No. 95–652). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself, Mr. STANGELAND, Mr. FINDLEY, Mr. BROWN of California, Mr. KINDNESS, Mr. DUNCAN of Tennessee, Mr. BUTLER, Mr. YOUNG of Alaska, Mr. LOTT, Mr. KILDEE, Mr. WINN, Mr. KETCHUM, Mr. SEBELIUS, Mr. TREEN, Mr. BALDUS, Mr. MINETA, Mr. HORTON, Mr. SISK, Mrs. SPELLMAN, Mr. CORNWELL, Mr. ROE, Mr. ABDNOR, Mr. REGULA, Mr. JOHN T. MYERS, and Mr. RONCALIO):

H.R. 9387. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide persons who own farm operations and businesses with more equitable compensation when they are displaced from such farm operations and businesses by the Federal Government; to the Committee on Public Works and Transportation.

By Mr. BEARD of Rhode Island:

H.R. 9388. A bill to establish a program whereby the Secretary of Housing and Urban Development shall make payments for the purpose of assisting certain low-income homeowners in meeting increasing costs related to the operation of their homes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BEARD of Tennessee (for himself and Mr. ICHORD):

H.R. 9389. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes; jointly, to the Committees on Armed Services and Post Office and Civil Service

By Mr. BREAUX:

H.R. 9390. A bill to provide a voluntary self-help program which is designed to assist producers of agricultural products to protect themselves against loss of cost of production when natural or uncontrollable conditions adversely affect production and which will assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. CONABLE (for himself, Mr. ANDREWS of North Dakota, Mr. EVANS of Delaware, and Mr. STANGELAND):

H.R. 9391. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. AKAKA, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. FAUNTROY, Mr. LE FANTE, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MOLLOHAN, Mr. MURPHY of New York, Mr. MICHAEL O. MYERS, Mr. PRICE, Mr. ROONEY, Mrs. SPELLMAN, Mr. VENTO, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, and Mr. WON PAT):

H.R. 9392. A bill, Full Employment and Balanced Growth Act of 1977; to the Committee on Education and Labor.

Ms. MIKULSKI (for herself and Mr. BYRON):

H.R. 9393. A bill to repeal the changes made by the Tax Reform Act of 1976 in the exclusion for sick pay; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. AMMERMAN, Mr. BROWN of Ohio, Mr. COHEN, Mr. HYDE, Mr. ROUSSELOT, Mrs. SPELLMAN, Mr. TREEN, and Mr. VENTO):

H.R. 9394. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain amounts paid to a reserve for payment of product liability losses; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself and Mr. BREAUX):

H.R. 9395. A bill to improve the administration of the National Oceanic and Atmospheric Administration and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9396. A bill to amend title 5, United States Code, to revise civil service retirement provisions as they apply to Federal mine inspectors; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE:

H.R. 9397. A bill to amend the Tariff Act of 1930 with respect to the marking of wearing apparel assembled abroad from U.S. products exported for purposes of such assembly; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. ROONEY):

H.R. 9398. A bill to amend the Department of Transportation Act and the Regional Rail Reorganization Act of 1973 to extend the eligibility for financial assistance under the rail service assistance programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALKER (for himself, Mr. MOAKLEY, Mr. LENT, Mrs. LLOYD of Tennessee, Mr. PRICE, Mr. CONTE, Mr. RAHALL, Mr. MURPHY of Pennsylvania, Mr. LEHMAN, Mr. DUNCAN of Tennessee, Mr. HYDE, Mr. LAGOMARSINO, Mr. EILBERG, Mr. WINN, Mr. CAPUTO, Mr. EVANS of Georgia, Mr. HARKIN, Mr. RAILSBACK, Mr. BADILLO, and Mr. NOLAN):

H.R. 9399. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. DANIELSON, Mr. DRINAN, and Mr. RAILSBACK):

H.R. 9400. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States; to the Committee on the Judiciary.

By Mr. BONKER:

H.J. Res. 609. Joint resolution to authorize the President to enter into discussions and negotiations with Canada concerning the transportation of crude oil by pipeline through Canada to markets in the United States, and for other purposes; jointly, to the Committees on International Relations, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. CORRADA (for himself, Mr. MCDONALD, Mr. LAGOMARSINO, Mr. AKAKA, Mr. MOAKLEY, Mr. WHITEHURST, Mr. PEPPER, Mrs. SPELLMAN, Mr. YOUNG of Alaska, Mr. LEDERER, Mr. KETCHUM, and Mr. LLOYD of California):

H. Con. Res. 366. Concurrent resolution expressing the sense of Congress that the value of military exchange and commissary privileges should not be considered by any Federal agency in determining the entitlement of any retired or former member of the Armed Forces to any other Federal benefit or in determining the amount of any other Federal benefit; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 367. Concurrent resolution objecting to proposed sales to Egypt of certain defense articles and services (transmittals 77–80 and 77–83 submitted by the President); to the Committee on International Relations.

By Ms. KEYS:

H. Res. 802. Resolution relating to use of funds made available for district office space for Members of the House of Representatives; to the Committee on House Administration.

By Mr. LUKEN:

H. Res. 803. Resolution relating to the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. ZEFERETTI introduced a bill (H.R. 9401) for the relief of Patrick A. and Wayne L. Thomas; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. BREAUX:

Strike all after the enacting clause and insert the following:

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Sec. 404. Natural gas distribution.
Sec. 405. Antidiscrimination provisions.
Sec. 406. Sunshine in Government.
Sec. 407. Investigation of availability of oil and natural gas from the Outer Continental Shelf.
Sec. 408. State management program.
Sec. 409. Relationship to existing law.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of the Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to

achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of more and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local government, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) ensure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the Outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the Outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or as a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the Outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the Outer Continental Shelf of the United States;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring in the Outer Continental Shelf of the United States;

"(j) The term 'Governor' means the Governor of a State, or the person designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the Outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the Outer Continental Shelf off Southern California, including the Santa Barbara Channel.

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the Outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the Outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the Outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the Outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States,

and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the Outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the Outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other deivce."

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the Outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this approach with the Secretary of the department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operations, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragragh shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the Outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits, or to the marine, coastal, or human environment. In the enforcement of safety, environmental and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph

(other than a lease canceled for reasons of national security or defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease canceled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with clause (I) of subparagraph (ii) of this paragraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the United States Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State; and

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the Outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial, shrouding, and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator for the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provisions of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the Outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the Outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

"(i) In the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question.

REVISION OF BIDDING AND LEASE ADMINISTRATION

"SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at no less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule

on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(1) The bidding systems authorized by subparagraphs (B) through (I) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection;

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph; and

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding system used under this Act.

"(6) (A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracks selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J).

(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.".

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973."

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirements for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the Outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision

of this Act, the Secretary shall impound in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the Outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and on the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

"SEC. 11. (a)(1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continential Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment: *Provided, however,* That budget requests for any funds to be used by any agency of the United States in conducting geological and geophyscial explorations shall be displayed as a separate line item and appropriately justified, as part of such agency's annual budget request: *Provided further,* That no funds shall be appropriated for such explorations prior to the fiscal year beginning October 1, 1978.

(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in a conventional offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential permittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided,* That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: provided further, that budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the Outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

ANNUAL REPORT BY SECRETARY TO CONGRESS

"SEC. 15. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the Outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of Outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized: tion 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) is amended by adding at the end thereof the following new sections:

OUTER CONTINENTAL SHELF LEASING PROGRAM

"SEC. 18. (a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be reared and maintained in a manner consistent with the following principles:

"(1) Management of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the Outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed,

including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the Outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination.

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the Outer Constinental Shelf; and

"(J) relevant baseline and predictive information for different areas of the Outer Continental Shelf.

"(3) The Secretary shall elect the timing and location of leasing, to the maximum extent practicable, so as to obtain a paper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1967 (42 U.S.C. 4332(2)(C); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same amount as originally developed.

"(f) The secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the Outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. (Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested.) The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information and may provide the Secretary with any proprietary information he requests to assist him in preparing the leasing program. Information of a proprietary nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

COORDINATION AND CONSULTATION WITH AFFECTED STATES

"SEC. 19. (a) Any Governor of any affected State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act, and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both on and offshore.

BASELINE AND MONITORING STUDIES

"SEC. 20. (a)(1) The Secretary shall conduct a study of any area or region included

in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary may, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duities in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(e) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

SAFETY REGULATIONS

"SEC. 21. (a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production, and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, production, and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations."

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the head of other appropriate Federal agencies and departments for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"(e) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS

"SEC. 22. (a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an on-site inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single tweny-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

CITIZEN SUITS, COURT JURISDICTION, JUDICIAL REVIEW

"SEC. 23. (a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary, any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary, or his authorized representatives, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, any other appropriate Federal official or, the Attorney General, if not a party, may intervene as a matter or right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if

a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) all suits challenging actions or decisions, allegedly in violation of, or seeking enforcement of the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the Outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the Outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of the Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

OIL AND GAS DEVELOPMENT AND PRODUCTION

"SEC. 25. (a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the Outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any confidential or privileged information (as such term as is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carred out in accordance with a plan which complies with the requirements of this session.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed:

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the Outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once, prior to approving a development and production plan in any frontier area declare approval of a plan for a lease or set of leases to be a major Federal action. For the purposes of this section, such approval shall be deemed to be a major Federal action.

"(2) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate entity for review, and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section,

the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modification of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act. Any modification required by the Secretary which affects land and water uses shall be consistent with the coastal zone management programs of affected States which have been approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455) unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii), of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph and of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat to harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2) If a plan is disapproved under clause (A) of paragraph (1), or if a lease was issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), and a plan is disapproved under clause (B) of paragraph (1), the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) or (D) of paragraph (1), or under clause (B) of paragraph (1), where a lease was issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, as amended, and after the lessee submitted to the Secretary a development and production plan, the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease issued after the date of enactment of this section, the leasee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (A) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (B) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all considerations paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). In the case of any lease issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (A) of this paragraph. The Secretary may, at any time within the five-year period describe in this paragraph, require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, cancelled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(k) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION ACT

"SEC. 26. (a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of such data, which the Secretary may request. Such data and interpretation shall be provided in accordance wtih regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequences of the use of or reliance upon such intepretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permitee, the Secretary shall pay the reasonable cost of processing and reproducing such data, pursuant to such regulations, as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necesary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and in-

terpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the possible location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defense set forth in subsection (f)(2) of this section.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of this employment in revealing such information.

"(g) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS

"SEC. 27. (a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) Except as otherwise provided in section 12(b) of this Act, the Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish note of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with provision of law or regulations.

"(C)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1978 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price)

for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifes as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

LIMITATION ON EXPORT

"SEC. 28. (a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

RESTRICTIONS OF EMPLOYMENT

"SEC. 29. No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties of responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.

FISHERMAN'S GEAR COMPENSATION FUNDS

"SEC. 30. (a) As used in this section, the term—

"(1) 'commercial fishermen' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the Outer Continental Shelf for the purpose of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lesse for a tract in an area of the Outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this Act.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which such fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas explorations, development, and production activities, including all obstructions on the bottom throughout the water column, and on the surface; and

"(C) establish regulations for the materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from any fishermen's gear compensation fund established for any area of the Outer Continental Shelf ot compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment—

"(i) may be made by any fishermen's gear compensation fund when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) shall not exceed $10,000 per claimant for any incident; and

"(iii) shall be made to the extent that damages were caused by negligence or fault of the commercial fishermen making such claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance of testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest cir-

cuit, or in the United States Court of Appeals for the District of Columbia.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenances related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))) and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Production Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the explanation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw uopn the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, or a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2)(A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were

the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be pointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity).

(c)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this setcion, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligence or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308 (b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purposes he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be

brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. (a) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b)(1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegations, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c)(1) If a denial is not made pursuant to subsection (b)(1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d)(1) Any claim presented to any person under subsection (c)(1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be slated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e)(1) Except as provided in subsection (j) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submited to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attor-

ney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorney, appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing in the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes of other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—MISCELLANEOUS PROVISIONS

DISPOSITION OF REVENUES

SEC. 401. Section 9 of the Outer Continental Shelf Land Act (43 U.S.C. 1338) is amended to read as follows: (a) beginning June 5, 1950, and ending September 30, 1977, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b)(1) For the period beginning October 1, 1977 all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 percentum shall be paid by the Secretary or the Secretary of the Treasury in annual grants to affected states in accordance with the provisions of this subsection; *provided*, that any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities and (C) provision of public services; except that the State shall first apply any monies received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 145A(d)(1)) as amended.

"(2) The amounts granted to affected states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected States under this section for each fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such State and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continental Shelf acreage which is newly leased by the Federal Government in the immediately preceeding fiscal year.

"(B) An amount which bears to one-fifth of the amount granted to affected States for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such State and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-fifth of the amount granted to affected States each fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such State in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected States in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected States each fiscal year, the same ratio that the number of individuals residing in such State in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal States in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary of the Treasury such assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2)(i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any state may not exceed 30 percent of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected states in accordance with paragraph (2). No state in the area in which outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than one per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1978 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1978, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1977.

"(c) Any funds paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), to whether the lands with respect to which payment of such funds are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section, and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit, or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the outer Continental Shelf.

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 402(a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 403. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 404. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 405. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Amendments of 1964.

SUNSHINE IN GOVERNMENT

SEC. 406. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function of duty under this Act or the Outer Continental Shelf Lands Act, or amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of MER (maximum efficient rate) and MPR (maximum production rate in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate component of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this Act, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 408. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1436(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such State with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or."

RELATIONSHIP TO EXISTING LAW

SEC. 409. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Acts.

H.R. 8410

By Mr. BUCHANAN:

Beginning on page 5, beginning with line 20, strike section 4 which includes lines 20–24 on page 5 and lines 1, 2, and 3 on page 6.

Renumber the subsequent sections of the bill accordingly.

By Mr. GLICKMAN:

Amends section 3 of the bill to delete the word "twenty-one" on page 17 line 23 and to insert in its place the word "thirty-six". Amend section 5 of the bill to delate the word "fifteen" on page 20 line 15 and to insert in its place the word "thirty," and to delete the word "forty-five" on page 20 lines 22 and 23 and to insert in its place the word "sixty".

SENATE—*Friday, September 30, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Bless the Lord, O my soul: and all that is within me, bless His holy name.

Bless the Lord, O my soul, and forget not all his benefits:

Who forgiveth all thine iniquities; who healeth all thy diseases;

Who redeemeth thy life from destruction; who crowneth thee with loving kindness and tender mercies;

Who satisfieth thy mouth with good things; so that thy youth is renewed like the eagle's.—Psalms 103: 1–5.

O Thou King of Kings and Lord of Lords come upon us this day to heal our brokenness, to renew our strength, and to save us from self-destruction. The gravity of the problems and the enormity of the task drives us to Thy everlasting arms. Hold us firmly in Thy embrace that we fail Thee not. By Thy pervasive presence give us the light which removes obstacles, clarifies the vision, brings an anodyne to the spirit, and moves us to accomplish great deeds for the people of this Nation.

And to Thee shall be the thanksgiving of our hearts. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 30, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee, Mr. BAKER, is recognized.

JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, September 29, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BAKER. Mr. President, I seek recognition under the standing order.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

COMPREHENSIVE NATURAL GAS POLICY

Mr. BAKER. Mr. President, we have, of course, a situation today that is as difficult as it was on yesterday and the day before. My purpose in rising at this time is simply to say I am still hopeful that we can find a way to arrange to present a schedule of activities that will lead us to a resolution of the situation before us.

I must say, in all candor, that I am not totally optimistic in that respect, but I am hopeful.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BAYH). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I, too, am hopeful; one always has to be hopeful, looking up and looking ahead, and optimistic. I have seen these times come and go. I join with my distinguished friend, the minority leader, in expressing the hope that today will see good reason for new hope.

Mr. ABOUREZK. Mr. President, will the distinguished majority leader or the distinguished minority leader yield just a minute or two of their time?

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from my time.

Mr. ABOUREZK. I thank the Senator.

Mr. President, I appreciate the words of the leadership this morning that they are hopeful some break will come in the apparent stalemate that exists now over the issue of natural gas prices. I agree with them.

I thought that on yesterday or starting the day before when the compromise was developed and when it was brought out on the Senate floor and when seemingly everybody had agreed to a compromise, one that I was not perfectly happy with, one that my colleague, Senator METZENBAUM, was not happy with, one that the other side was not happy with, we thought that would break the impasse.

But that has not happened. Now what we are seeing is a filibuster proceeding from the other side of the issue. Our colleague from Louisiana, Senator LONG, announced that he is going to do exactly the same thing that he perceived our side doing which is fine. But what it does it comes on the heels of an ostensible compromise. I think the world ought to know that we were ready to vote last night, we are ready to vote today on this issue.

But I just think the world also ought to know that the other side is not ready to vote. What they ought to do is to get time agreements to foreclose the rights of Senators and then they say they will vote under those conditions.

But we have not asked them to foreclose their rights. They are asking us to foreclose our rights. I think that is wrong.

I would hope that also the world would know that the filibuster that is now being conducted is being conducted in behalf of the oil and gas interests. The filibuster is being conducted so that the gas bills of homeowners will be increased. The filibuster that has been conducted by those who agree with us was conducted in behalf of lowering the gas bills of consumers and trying to keep them low to try to protect their interests because if we cannot protect them there is nobody left to afford that kind of protection.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, there will be ample time to debate this matter later today.

I think I should at this moment reserve the remainder of my time, and I hope the Chair will recognize the distinguished minority leader.

The PRESIDING OFFICER (Mr. CULVER). The Senator from Tennessee.

Mr. BAKER. As under the standing order I yield now to the distinguished assistant minority leader.

WHALING IN ALASKA

Mr. STEVENS. Mr. President, I noticed with some anguish a full page ad in a local paper that urged our citizens to write the Department of State to protest against taking action to protect the rights of our Alaskan Eskimo people who conduct subsistence whale hunting. These are people who live on the remote coastline of Alaska in very small villages who still follow the traditions of their predecessors and hunt for bowhead whales annually.

Those people who put out this ad are those who support the concept that all whaling should stop, which is wrong. We do support the total cessation of commercial hunting for whales. But for the people whose ancestors and all of those who have come before them from since time immemorial still hunt for bowhead whales for the purpose of subsistence, it is entirely wrong to turn loose the total propaganda machine of the environmental organizations to destroy the rights of a very few people. Those people at Point Hope, Point Lay, Wainwright, and Barrow, cannot come down here and take full page ads. I certainly hope that our good friends from the Department of State and the Department of Commerce will take that into consideration as the onslaught of mail generated by these expensive full page ads starts hitting their desks.

COMPREHENSIVE NATURAL GAS POLICY

Mr. STEVENS. Mr. President, on a separate subject, I must take exception to the statement by the Senator from South Dakota. There is no filibuster being conducted and no one has asked them to agree to anything that the proponents of deregulation would not agree to and if he heard the radio as I did this morning when I was shaving he would have heard that the bills of all Maryland gas consumers will go up at least $2 next month. Those bills are going up because of actions taken by the Senator from South Dakota and his predecessors in tinkering with the economic systems of the United States.

Those bills are going to go up even further if they win.

They are going to go up because the supply of gas is going down, and the utilities must rely more and more upon expensive foreign oil. As we get into this situation, I am certain that the homeowners who have to pay more for their individual gas to heat their own homes will realize what is happening.

But there is no filibuster and Senator LONG, to my knowledge, is not filibustering. What he is trying to do is to eliminate all of the roadblocks that could be raised by the opponents of deregulation. We intend to get every one of those amendments off the desk and then vote on the two principal issues.

If it is at all possible to do it. If the Senators from Ohio and South Dakota are unwilling to enter into an agreement to prevent this dilatory delay, this total delay, then there is no alternative but to find a way to vote on the principal amendment and to assure that once those votes are taken there will be no post-filibuster delay. I think that the American people ought to realize that we ended the filibuster last week. We voted cloture. We said the Senate intends to limit debate. And under those circumstances, those Senators who are prolonging this at this time are in fact abusing the rules. They are using the rules in a way they they were not intended for dilatory tactics in delay after the Senate has announced its intention to the country that this debate would terminate and terminate in an honorable and gentlemanly way with every Senator having equal right of 1 hour.

Mr. METZENBAUM. Mr. President, will the Senator from Alaska yield at this time?

Mr. STEVENS. No. I do not intend to yield.

I intend to use up the remainder of the leadership's time and leave it go at that because I do not intend to speak too much on this today. But I do take umbrage at the fact that the Senator from South Dakota has said there is a filibuster going on here. There is no filibuster because under the rules of the Senate there cannot be a filibuster now. The filibuster was terminated.

Mr. ABOUREZK. Mr. President, will the Senator yield since he mentioned the Senator from South Dakota.

Mr. STEVENS. The Senator has plenty of time when the time comes.

I reserve the remainder of the leadership's time.

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. STEVENS. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No, do not do that.

Mr. STEVENS. I withdraw that.

Mr. ABOUREZK. Mr. President, will the majority leader yield to me just 30 seconds?

Mr. ROBERT C. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield to the Senator for 1 minute.

Mr. ABOUREZK. I thank the majority leader. We are under the 1-hour limit, and I think that if the distinguished Senator from Alaska is going to use leadership time to debate the issue, we ought to be entitled to additional time as well. That is the only thing I am asking.

CORRECTIONS IN ENROLLMENT OF BILL TO EXTEND AND AMEND THE EXPORT-IMPORT BANK ACT OF 1945

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator PROXMIRE of the Committee on Banking, Housing and Urban Affairs, I send to the desk a concurrent resolution to instruct the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945. The correction is necessary because a provision not in dispute between the House and Senate was inadvertently included in the conference report on H.R. 6415. If the bill were to be enrolled as it stands, two identical and duplicative provisions would appear in the statute. I ask unanimous consent for the immediate consideration of this resolution.

I have cleared it with the distinguished minority leader and people on his side

and with the staff of Mr. ABOUREZK and Mr. METZENBAUM on my side.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 46) providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 46) was agreed to.

The concurrent resolution reads as follows:

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, shall make the following corrections:

At the beginning of the bill, strike out "That".

At the end of the bill, strike out "8 of the Export-Import Bank Act of 1945 is amended by striking out 'June 30' and inserting in lieu thereof 'September 30'.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—H.R. 9005

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and again this agreement has been cleared all around, that at such time as the District of Columbia appropriations bill, H.R. 9005, Calendar order No. 399, is called up and made the pending business before the Senate—of course, that will not occur under the cloture rule except by unanimous consent, I have no intention of attempting to bring that up without unanimous consent and no intention of bringing it up until we complete our business that we are on, but at such time as it is called up and made the pending business—I ask unanimous consent that there be a 1-hour limitation on the bill, to be equally divided between Mr. LEAHY and Mr. WEICKER; that there be a time limitation on any amendment in the first degree of 30 minutes, with these exceptions: That on an amendment by Mr. MATHIAS, there be 2 hours; on an amendment by Mr. WEICKER, there be 2 hours; that on an amendment by Mr. HOLLINGS, there be 2 hours—in each case, of course, to be equally divided, and, in the case of the amendments, of course, the time on this side would be under the control of Mr. LEAHY; and that there be a time limitation of 20 minutes on any second degree amendment, debatable motion or appeal or point of order; and that the agreement be in the usual form with respect to the control and division of time.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. ALLEN. Reserving the right to object.

Mr. BAKER. I shall not object, Mr. President. The request is fully cleared on this side and, with the information of the majority leader, the time, except in the case of amendment, will be generally under the control of the Senator from Maryland (Mr. MATHIAS).

Mr. ALLEN. Reserving the right to object, and I shall not object, does the Senator know whether the Hollings amendment is the amendment regarding SBA?

Mr. ROBERT C. BYRD. That is correct. I am informed it is from the Budget Committee.

Mr. ALLEN. The Senator's name having been mentioned in the unanimous-consent agreement, that would make the agreement in order, would it not?

Mr. ROBERT C. BYRD. Yes, it would.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I have cleared this request with Mr. ABOUREZK and Mr. METZENBAUM.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 9005 (Order No. 399), the District of Columbia Appropriation Bill for 1978, debate on any amendment in the first degree (except on three amendments to be offered by the Senator from Maryland (Mr. Mathias), the Senator from Connecticut (Mr. Weicker), and the Senator from South Carolina (Mr. Hollings), respectively, each of which shall be in order and on each of which there shall be 2 hours) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Vermont (Mr. Leahy) and the Senator from Connecticut (Mr. Weicker): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I thank all the Senators for their cooperation. I yield back the remainder of my time.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, there is an order, I believe, for the Senate to come in at 9 o'clock tomorrow morning following a recess, is there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. BAKER. Mr. President, I yield back the remainder of my time under the standing rule.

COMPREHENSIVE NATURAL GAS POLICY

The Senate resumed consideration of S. 2104.

The PRESIDING OFFICER. The clerk will state the pending business.

The second assistant legislative clerk read as follows:

Amendment No. 862, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that that action be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, in the first place, without any reflection on the Chair, it is always, I think, the understanding here that the Chair, in announcing the vote, will say, "The ayes appear to have it; the ayes have it." That gives any Senator, who may be distracted by thinking about something else for the moment, an opportunity to ask for a division or to ask for the yeas and nays. I protected my friends the other day when they were caught in a similar situation and I ask—again with no disrespect for the Chair. The Chair does his duty when he puts the question. If nobody seeks to get recognition, he did his duty. Sometimes it catches some of us a little unawares, but the Chair ought to do his duty in that respect.

Mr. METZENBAUM. Will the leader yield his time for a moment, please?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I have no objection to vitiating this ruling. I understand full well what the Senator is saying. It is a fact that the leader protected our side on this issue in a similar situation the other day.

I would like to say, however, that I think it is important that the leadership advise those who are presiding, on all sides, because people do have opinions, that that is not, really, what either side wants to have transpire. I actually had one of the Members of the Senate who was sitting in the chair yesterday indicate to me, "You had better be on guard or that is what may occur."

I do not want to win that way and I do not want to lose that way. I am sure that the Members of the Senate want us to proceed in an orderly manner. I, therefore, hope that whoever takes the chair is advised that a quick call should not be the order of the day.

Mr. ROBERT C. BYRD. Mr. President, I do not want to be put in the position of advising the Chair. Any of us has recourse. Even if the vote had not been vitiated, somebody could move to reconsider. It is not that there is not recourse. Of course, on a motion to reconsider, and a motion to table, one has to have, sometimes, a vote to carry.

I am glad the matter has been resolved if the Chair can now put the question.

Mr. METZENBAUM. I thought he had ruled.

Mr. HANSEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending busines is a unanimous-consent request to vitiate the previous ruling of the Chair, an announcement of a vote by the Chair. The Chair is now going to put the same question once again.

All those in favor of the amendment, vote "aye"; all those opposed, vote "no."

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on behalf of both sides.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. A parliamentary inquiry: How many seconds are needed for the yeas and nays at this point?

The PRESIDING OFFICER. One-fifth of those present.

Mr. ABOUREZK. I ask for the yeas and nays on the question.

Mr. ROBERT C. BYRD. Mr. President, 11 are needed at this time.

The PRESIDING OFFICER. A quorum is presumed. Therefore, 11 are required.

Mr. BAKER. Mr. President, a parliamentary inquiry. Is there a quorum call in progress?

The PRESIDING OFFICER. A quorum call has been called for and it begins when the Chair directs the clerk to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

THE PANAMA CANAL TREATIES—11

Mr. ALLEN. Mr. President, Senators are always glad to receive letters from constituents. This morning I received a most interesting letter from a constituent from Guntersville, Ala., a long-time friend, now some 85 years of age. In his letter, he gives some interesting history about the financing of the Panama Canal.

At the suggestion of the distinguished majority leader, I do ask unanimous consent that I may speak, irrespective of the rule of germaneness.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLEN. I thank the Chair. I thank the distinguished majority leader.

This is some information that I did not have on the early financing of the Panama Canal. This letter comes from Mr. J. P. Willis, Sr., who was formerly the president of the First National Bank of Guntersville, Ala. He is retired from that position, though he and his family still own the bank. He speaks of Senator John T. Morgan, one of Alabama's greatest Senators, who served for a period of 30 years in the U.S. Senate, and who has been called the father of the Panama Canal.

The prominent part that Senator Morgan played in the planning of the Canal and the great work that he did over the years in advocating an Isthmian Canal is related pretty fully in a most interesting book that has recently been published. It is called the "Path Between the Seas," published by Simon and Schuster this year, written by McCullough. I think it ought to be required reading for everyone who is interested in the proposed Panama Treaties. It is a most interesting book, going back to the early days of the concept of the Isthmian Canal. It speaks of the De Lesseps efforts, taking it on down to the completion of the canal.

It tells about the great work of three great Alabamians in the planning of the canal and the advocacy of the canal. Of course, Senator John T. Morgan took, possibly, the leading part in the entire Congress in pushing for the Isthmian Canal. He recommended Nicaragua, by the way, rather than Panama. We might have to go the Nicaraguan route yet, but we cannot do it if we approve this treaty, because it provides that we cannot even negotiate with another country about an Isthmian Canal without the permission of Panama. So we are going to have to defeat the treaty if we are ever going to have a sea-level canal anywhere other than Panama in this century.

Dr. William Crawford Gorgas and Colonel—later General—William L. Sibert were the two other Alabamians that played important roles in the great story of the building of the Panama Canal.

Going on about the financing of the canal, Mr. Willis writes:

> As I remember the United States sold $200 million 2 percent consoles (sic) to the National Banks of that day to use in the construction of the canal. That is they issued the amount in National Bank notes and only paid 2 percent interest on the bonds In turn the banks had to maintain 5 percent of the amount with the Government—

I guess we would call that a compensating balance today——

> to guarantee the assurance that they would repay for the bills destroyed and reissued, and would have to pay all costs of reissue and postal expense for shipment to the banks. So most of the 2 percent interest was taken up in expense, but gave some measure of publicity to the National Banks. We would receive about two shipments of renewal bills all in tens and twenties each month. We had to sign the bills as Presidents and cashiers of the banks, then cut them apart ready to put in circulation. That was no small job itself. Thousands and thousands of those bills are now in the hands of former bank officials and friends who hold them as keepsakes. I have one myself.

I am quoting Mr. Willis, not speaking for myself:

> I have one myself with my name on it, and I gave some to friends. I think our bank still has a few of them. All this means the government is in that much as it is just a piece of paper but the government will have to redeem them if ever presented.
>
> But Mr. Roosevelt redeemed the bonds—

I am sure that is Teddy Roosevelt——

> and they have not have any more 2 percent money bonds. And now all currency is issued by Federal Reserve Bank.

There is a postscript to his letter, a little sheet attached. This former president of the First National Bank of Guntersville said:

> I do not owe any money. I have not paid any interest in 20 years. They could not use me in Washington.

I think probably that is correct.

An interesting feature of the letter is reference to the word "consols." I must admit that my familiarity with Government securities or my lack of familiarity did not cause me to be familiar with the word "consol" as being a security. I ask unanimous consent that an excerpt marked here from the Webster's International Dictionary, second edition, which is in the Marble Room, be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> con'sols (kŏn'sŏlz; kŏn-sŏlz'), *n. pl.* [Contr. of *consol*idated (annuities).] The British funded government securities. In 1751 a considerable part of the public debt of Great Britain, consisting of various public securities, chiefly representing debt contracted in the form of annuities at various rates of interest on the sum borrowed, was consolidated into one fund at 3 per cent interest, the account of which is kept at the Bank of England. Since 1903 the interest has been 2½ per cent. Before the World War consols constituted more than half of the national debt, and the market price was regarded as a gauge of the national credit. ☞ *Consols* is also sometimes applied to obligations of the United States government which may legally be deposited to secure national-bank notes.

Mr. ALLEN. It is a very, very interesting bit of information. I am indebted to Mr. Willis for making me familiar with this word. Possibly other Senators are familiar with it, "consol," or the plural c-o-n-s-o-l-s, a contraction of the word "consolidated":

> The British funded government securities. In 1751 a considerable part of the public debt of Great Britain, consisting of various public securities, chiefly representing debt contracted in the form of annuities in the various rates of interest on the sum borrowed, was consolidated into one fund at 3 percent interest, the account of which is kept at the Bank of England.
>
> Since 1903, the interest has been 2½ percent. Before the World War, consols constituted more than half the national debt, and the market price was regarded as a gauge of the national credit.

Then the second definition:

> Consols is also sometimes applied to obligations of the United States Government, which may legally be deposited to secure national bank notes.

Since national banks no longer issue bank notes, this type of security apparently has gone out of use. I call that to the Senate's attention as an interesting sidelight of the Panama Canal issue.

I might say, also, that the Panama Canal was built at less than the estimated cost, even though they ran into

all sorts of difficulties in the construction of the canal. That could not happen today in this day of cost overruns.

I ask unanimous consent that this letter from Mr. Willis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FIRST NATIONAL BANK,
Guntersville, Ala., September 10, 1977.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: It is Great to note that you expect the Panama Canal to have your best effort to prevent the Give Away.

Glad that you have brought the name of John T. Morgan back to the memory of our people.

I think I am correct that his very early home was just over the Clay County line in Talladega County near Clairmont Springs. My visit to the old home place probably some 70 to 75 years past. A very small three or four room house such as so many people lived in at that time.

John T. Morgan deserves the name ascribed to him as father of the Canal. As I remember that the United States sold $200, Million 2 percent Consoles to the National Banks of that day to use in the construction of the Canal. That is they issued the amount in National Bank notes and only paid 2 percent Interest on the bonds. In turn the banks had to maintain 5 percent of the amount with the Government to Guarantee the assurance that they would repay for the bills destroyed and re-issued, and would have to pay all costs of reissue and postal expense for shipment to the banks. So most of the 2 percent interest was taken up in expense, but gave some measure of publicity to the National Banks. We would receive about two shipment of renewal Bills all in 10's and 20's each month. We had to sign the bills as Presidents and Cashiers of the banks, then cut them apart ready to put in Circulation. That was no small job itself. Thousand and Thousands of those bills are now in the hands of former bank Officials and friend who hold them as keepsakes. I have one myself with my name on it, and I gave some to friends. I think our bank still has few of them. All this means the government is in that much as it is just a piece of paper but the Government will have to redeem them if ever presented.

But Mr. Roosevelt redeemed the bonds and they have not had any more 2 percent money Bonds. And now all currency is issued by Federal Reserve Bank.

I hope you are successful in defeating the give away. I tell all my friends that your conservative stand is natural as it is the Allen families that I always knew. Chesley B. Timothy and John all of Clay County. Also, Columbus C. of Gadsden. I attended court a number of times when he was attorney on the cases. However I never knew him as I did those who continued to live in Clay County.

I spoke to you a few days ago when you visited at the courthouse and as I said then I have no complaint of your record as our Senator. I know I can depend on you taking the right stand.

I am now 85 and most of all the organizations I belong to have issued life Membership.

Just this moment 2 fellows came by and will take my picture for the VFW Hall of which I am a life member.

If I am wrong on the birthplace of John T. Morgan I would like to know as my Memory is not too good anymore.

Sincerely,

J. P. WILLIS, Sr.

Mr. ALLEN. I reserve the remainder of my time.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1141

Mr. HANSEN. Mr. President, I call up amendment No. 1141 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment:

On page 10, line 12, strike "April 20, 1977" and insert "the date of enactment of this Act".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. Amendment No. 1141.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, just before the rollcall is called, I ask unanimous consent that Margo Carlisle and Sylvia Castellanos, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, if the Senator will yield, I ask unanimous consent that Ben Dixon be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Wyoming, amendment No. 1141.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 56, nays 32, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—56

Allen	Ford	Pearson
Baker	Garn	Percy
Bartlett	Glenn	Proxmire
Bellmon	Goldwater	Randolph
Bentsen	Griffin	Roth
Burdick	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hatfield	Scott
Cannon	Hayakawa	Sparkman
Chafee	Helms	Stennis
Chiles	Huddleston	Stevens
Cranston	Johnston	Stevenson
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Tower
Dole	Melcher	Wallop
Domenici	Morgan	Weicker
Eagleton	Nunn	Young
Eastland	Packwood	Zorinsky

NAYS—32

Abourezk	Hart	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Heinz	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Pell
Bumpers	Javits	Ribicoff
Byrd, Robert C.	Leahy	Riegle
Case	Magnuson	Sarbanes
Church	Matsunaga	Sasser
Clark	McClure	Williams
Culver	McGovern	

NOT VOTING—12

Durkin	Humphrey	McIntyre
Gravel	Kennedy	Metcalf
Haskell	Mathias	Stafford
Hollings	McClellan	Thurmond

So the motion to lay on the table Mr. HANSEN's amendment (No. 1141) was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Louisiana is recognized.

AMENDMENT NO. 1082

Mr. LONG. Mr. President, I call up amendment No. 1082 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HANSEN. What was the number?

Mr. LONG. Amendment No. 1082 by Mr. METZENBAUM.

The PRESIDING OFFICER. The amendment attempts to strike a figure on a page and line which is not there. Therefore, the amendment is not in order.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG addressed the Chair.

Mr. METZENBAUM. Mr. President, a point of order.

Mr. President, I appeal the point of order.

AMENDMENT NO. 1122

Mr. LONG. Mr. President, I call up amendment No. 1122 and ask for its immediate consideration.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized.

Mr. METZENBAUM. Mr. President, there is a point of order on the floor. The Senator cannot call up another amendment while a point of order is on the floor.

Mr. LONG. I just did.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1122.

On page 10, strike lines 3 through 5.

Mr. ABOUREZK addressed the Chair.

Mr. LONG. Mr. President, I move to lay that amendment on the table.

Mr. ABOUREZK. Mr. President, I am seeking recognition.

Mr. LONG. I move to lay that amendment on the table.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized.

Mr. LONG. I move to lay that amendment on the table.

Mr. ABOUREZK. He lost recognition when he called up the amendment. I sought recognition before he did.

Mr. LONG. I move to lay that amendment on the table.

The PRESIDING OFFICER. The Chair will conclude the ruling on this amendment that is before the Senate.

I recognize the Senator from Louisiana.

Mr. LONG. I move to lay that amendment on the table.

Mr. BUMPERS addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BUMPERS. Is a point of order in order at this point?

The PRESIDING OFFICER. Does the Senator seek recognition?

Mr. BUMPERS. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, has this amendment not been previously ruled out of order?

The PRESIDING OFFICER. The previous amendment was ruled out of order. This amendment No. 1122 has not been.

Mr. BUMPERS. It has not been previously considered by the Senate?

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The clerks will check for an answer to the question of the Senator from Arkansas.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota has not been recognized.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. In answer to the question of the Senator from Arkansas, the amendment has not been previously ruled out of order.

Mr. BUMPERS. I thank the Senator.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, a point of order. That is dilatory.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. BAYH. Mr. President.

The PRESIDING OFFICER. We are in a quorum call.

Mr. LONG. I object, Mr. President.

Mr. HANSEN. Mr. President, there was objection.

The PRESIDING OFFICER. The objection was heard.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

[Quorum No. 51 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BENTSEN. I object.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF), are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 76, nays 17, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—76

Abourezk	Griffin	Nelson
Allen	Hansen	Nunn
Baker	Hart	Packwood
Bartlett	Haskell	Pearson
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Roth
Byrd, Robert C.	Helms	Sasser
Cannon	Huddleston	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Curtis	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Long	Stone
Domenici	Lugar	Talmadge
Eagleton	Mathias	Tower
Eastland	Matsunaga	Wallop
Ford	McClure	Weicker
Garn	McGovern	Williams
Glenn	McIntyre	Young
Goldwater	Melcher	Zorinsky
	Morgan	

NAYS—17

Anderson	Cranston	Moynihan
Bayh	Culver	Muskie
Biden	Durkin	Ribicoff
Brooke	Inouye	Riegle
Church	Magnuson	Sarbanes
Clark	Metzenbaum	

NOT VOTING—7

Gravel	McClellan	Thurmond
Hollings	Metcalf	
Humphrey	Stafford	

So the motion to lay on the table amendment No. 1122 was agreed to.

Mr. ABOUREZK. Mr. President.

Mr. LONG. Mr. President.

The PRESIDING OFFICER. On my previous recognition, the Chair was questioned as to the validity of the recognition. In recognizing the Senator this time, I want to point out that, at 11:41, the Senator from Louisiana rose to his feet in preparation for seeking the floor. It was not until 11:46 that the Senator from South Dakota rose to seek the floor. At 11:47, the Senator from Louisiana placed the microphone in his lapel in preparation for seeking the floor. The voices were simultaneous, therefore the Senator from Louisiana is recognized.

Mr. LONG. I call up amendment No. 1101.

Mr. ABOUREZK. Point of order, Mr. President.

Mr. LONG. I do not yield for a point of order.

The PRESIDING OFFICER. The Senator is recognized for a point of order.

Mr. ABOUREZK. On the amendment previous to this one, the Chair made a ruling that it was out of order. I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. LONG. Point of order, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. If one is going to make a point of order on an amendment, he has to make it before the amendment is disposed of.

Mr. ABOUREZK. I ask for the yeas and nays on the appeal.

The PRESIDING OFFICER. The question that the Senator from South Dakota raises at this point is moot.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. HANSEN. Regular order.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

AMENDMENT NO. 1101

Mr. LONG. Mr. President, I call up amendment No. 1101.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment,

On page 3, line 25, strike "January 1, 1977" and insert "the date of enactment".

Mr. BUMPERS. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. According to the information I have in front of me, the amendment which has just been called up, 1101, says "On page 3, line 25." There is no line 25 in the bill. Therefore, the question is, is this amendment in order?

The PRESIDING OFFICER. This amendment does attempt to strike a date, January 1, 1977, which is not in the version numbered 862. Therefore, the amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President.

Mr. LONG. Mr. President.

Mr. ABOUREZK. I appeal the ruling of the Chair.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. A quorum is present. We have had four precedents on that now. It is dilatory.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. The point is dilatory.

The PRESIDING OFFICER. The Chair is ruling that we have just had a rollcall and a quorum is present. This would be dilatory.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. How can the Chair determine whether or not a quorum is present in the absence of a record call at this time?

The PRESIDING OFFICER. From the rollcall vote which has just been had.

Mr. ABOUREZK. Does that presume that everybody stays in the Chamber immediately after a rollcall?

The PRESIDING OFFICER. There is presumption that a quorum is present in the Senate at all times.

Mr. ABOUREZK. Is there any way for a Senator to attempt to overcome that presumption?

The PRESIDING OFFICER. He may suggest the absence of a quorum.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. LONG. Point of order.

The PRESIDING OFFICER. The Chair has ruled that a quorum is present.

Mr. LONG. There is a quorum present, Mr. President.

The PRESIDING OFFICER. The Chair has so ruled. The question is on the appeal, on sustaining the judgment of the Chair.

Mr. ABOUREZK. I ask for a division.

The PRESIDING OFFICER. The division request has been heard.

Those Senators in favor of sustaining the judgment of the Chair will stand until counted.

Mr. ABOUREZK. I ask that the Chair announce the vote.

The PRESIDING OFFICER. This is on the judgment of the Chair as to the amendment being out of order.

(After a pause.) Those opposed will now rise and stand until counted.

On a division, the judgment of the Chair was sustained.

Mr. ABOUREZK. Mr. President, I ask for a count. How many Senators were voting?

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. It is not in order to ask for a count.

Mr. ABOUREZK. Mr. President, are we not entitled to know what the count was on the vote on the division?

Mr. INOUYE. No.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator is correct. We are not allowed to know what the count was.

[Laughter.]

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ABOUREZK. Mr. President, a point of order.

AMENDMENT NO. 1086

Mr. LONG. Mr. President, I call up amendment No. 1086.

Mr. ABOUREZK. A point of order, Mr. President. I ask for a point of order.

The PRESIDING OFFICER. The amendment will be stated.

The Senator has not been recognized.

Mr. ABOUREZK. A point of order, Mr. President.

Mr. LONG. I ask the clerk to state the amendment.

Mr. ABOUREZK. A point of order.

Is the Chair saying I cannot make a point of order?

The PRESIDING OFFICER. That is correct.

Mr. CURTIS. Regular order.

Mr. ABOUREZK. Mr. President, this is the best railroad job I have ever seen, one of the best. It probably is the best.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ABOUREZK. Mr. President, I make the point of order and I ask for recognition.

The PRESIDING OFFICER. The Senator from Louisiana has called up an amendment, and the regular order is for the clerk to state the amendment.

Mr. ABOUREZK. Mr. President, is it not the regular order to recognize a Senator who has made a point of order?

The PRESIDING OFFICER. The regular order is not to recognize a Senator who has made a point of order.

Mr. ABOUREZK. Mr. President, are we going to throw out the rule book? That is my next question.

Mr. CURTIS. Regular order.

The PRESIDING OFFICER. Regular order has been called for. The amendment will be stated.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The amendment called up has been tabled previously and is not in order.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will be heard on a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, my parliamentary inquiry is this: Does the Chair intend to just abandon the rules of the Senate altogether in an effort to shut me off?

The PRESIDING OFFICER. The Senator from South Dakota has been recognized for a parliamentary inquiry and the Chair awaits the inquiry.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 1285

Mr. ABOUREZK. Mr. President, I call up amendment No. 1285 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1285.

(b) The term "Commission" means the

Federal Power Commission prior to October 1, 1977, and thereafter the Federal Energy Regulatory Commission.

Mr. BUMPERS and Mr. ABOUREZK addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK addressed the Chair.

Mr. BUMPERS. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table the amendment?

There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. Senators in favor of the motion to table the amendment will rise and stand until counted.

[After a pause.] Those opposed will rise and stand until counted.

On a division, the motion to lay on the table amendment No. 1285 was agreed to.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1121

Mr. LONG. Mr. President, I call up amendment No. 1121 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes amendment No. 1121.

On page 9, line 24, after "1977", strike the remainder through "1982" on line 1, page 10.

The PRESIDING OFFICER. The amendment attempts to strike language which is no longer in the amendment and therefore is not in order.

Mr. LONG and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1109

Mr. LONG. Mr. President, I call up amendment No. 1109.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 1109:

On page 3, line 7, strike "January 1, 1977" and insert "the date of enactment".

The PRESIDING OFFICER. The amendment attempts to strike matter no longer in the amendment and is not in order.

AMENDMENT NO. 1288

Mr. ABOUREZK. Mr. President, I call up amendment No. 1288.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1288:

Strike section 3(1) and insert in lieu thereof the following section 3(1):

(1) The term "new natural gas" means natural gas—

(1) which is produced from a new lease on the Outer Continental Shelf; or

(2) which is produced from a new well the completion location of which—

(i) is 2.5 statute miles or more (horizontal distance) from any old well; or

(ii) is 1,000 feet or more deeper than the deepest location of an old well, if any, which is within 2.5 miles (horizontal distance) of such new well; or

(iii) is in a newly discovered reservoir.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. A point of order, Mr. President. That is dilatory.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 52 Leg.]

Abourezk	Ford	McClure
Allen	Glenn	Melcher
Baker	Griffin	Morgan
Bartlett	Hansen	Muskie
Bayh	Hart	Nunn
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Brooke	Hayakawa	Schmitt
Bumpers	Heinz	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
	Huddleston	Stennis
Cannon	Inouye	Stevens
Case	Jackson	Stevenson
Chiles	Johnston	Stone
Culver	Leahy	Talmadge
Curtis	Long	Tower
Danforth	Lugar	Weicker
Durkin	Magnuson	Young
Eastland	Mathias	Zorinsky

The PRESIDING OFFICER (Mr. HASKELL). A quorum is present.

Mr. McCLURE. Mr. President, I move to table the pending amendment.

Mr. BAYH. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. (Putting the question.)

So the motion to lay on the table amendment No. 1288 was agreed to.

AMENDMENT NO. 1144

Mr. McCLURE. Mr. President, I call up amendment No. 1144 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes amendment No. 1144:

On page 6, line 2, strike "April 20, 1977" and insert "the date of enactment of this Act".

Mr. McCLURE. Mr. President, I move to lay the amendment on the table.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. BAYH. Mr. President, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 53 Leg.]

Abourezk	Garn	Metzenbaum
Allen	Griffin	Muskie
Bayh	Haskell	Nunn
Bumpers	Hayakawa	Percy
Burdick	Inouye	Randolph
Byrd, Robert C.	Laxalt	Ribicoff
Cannon	Leahy	Scott
Chiles	Long	Stennis
Curtis	Mathias	Stevenson
DeConcini	McClure	Tower
Ford	Melcher	Young

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 81, nays 10, as follows:

[Rollcall Vote No. 495 Leg.]

YEAS—81

Abourezk	Clark	Heinz
Allen	Cranston	Inouye
Anderson	Curtis	Jackson
Baker	Danforth	Javits
Bartlett	Dole	Johnston
Bayh	Domenici	Kennedy
Beamon	Durkin	Laxalt
Bentsen	Eagleton	Leahy
Brooke	Eastland	Long
Bumpers	Ford	Lugar
Burdick	Garn	Mathias
Byrd, Harry F., Jr.	Glenn	Matsunaga
	Griffin	McClure
Byrd, Robert C.	Hansen	McGovern
Cannon	Hart	McIntyre
Case	Haskell	Melcher
Chafee	Hatch	Metzenbaum
Chiles	Hatfield	Morgan
Church	Hathaway	Moynihan

Muskie	Riegle	Stevens
Nelson	Roth	Stevenson
Nunn	Sarbanes	Stone
Packwood	Sasser	Tower
Pearson	Schmitt	Williams
Percy	Schweiker	Young
Proxmire	Scott	Zorinsky
Randolph	Sparkman	
Ribicoff	Stennis	

NAYS—10

Biden	Helms	Wallop
DeConcini	Huddleston	Weicker
Goldwater	Pell	
Hayakawa	Talmadge	

NOT VOTING—9

Culver	Humphrey	Metcalf
Gravel	Magnuson	Stafford
Hollings	McClellan	Thurmond

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have a few comments to present on this matter.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that a motion to table is pending and is not debatable.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1144. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 496 Leg.]

YEAS—61

Abourezk	Chafee	Goldwater
Allen	Chiles	Hansen
Anderson	Cranston	Haskell
Baker	Curtis	Hatch
Bartlett	Danforth	Hatfield
Bellmon	DeConcini	Hayakawa
Bentsen	Dole	Helms
Brooke	Domenici	Huddleston
Burdick	Eagleton	Johnston
Byrd,	Eastland	Laxalt
Harry F., Jr.	Ford	Leahy
Byrd, Robert C.	Garn	Long
Cannon	Glenn	Lugar
Mathias	Roth	Stone
McClure	Schmitt	Talmadge
McIntyre	Schweiker	Tower
Melcher	Scott	Wallop
Packwood	Sparkman	Weicker
Pearson	Stennis	Young
Percy	Stevens	Zorinsky
Randolph	Stevenson	

NAYS—31

Bayh	Inouye	Nelson
Biden	Jackson	Nunn
Bumpers	Javits	Pell
Case	Kennedy	Proxmire
Church	Magnuson	Ribicoff
Clark	Matsunaga	Riegle
Culver	McGovern	Sarbanes
Durkin	Metzenbaum	Sasser
Hart	Morgan	Williams
Hathaway	Moynihan	
Heinz	Muskie	

NOT VOTING—8

Gravel	Humphrey	Stafford
Griffin	McClellan	Thurmond
Hollings	Metcalf	

So the motion to lay on the table amendment No. 1144 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Ohio.

AMENDMENT NO. 1289

Mr. METZENBAUM. Mr. President, I call up amendment No. 1289.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1289:

Strike section 3(m) and insert in lieu thereof the following new section 3(m):

(m) The term "new well" means a well which was completed after April 20, 1977.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. Mr. President, is this amendment in order?

The PRESIDING OFFICER. A point of order has been raised.

This amendment is to the bill and is in order.

Is there a sufficient second?

Mr. LONG. I move to table the amendment.

The PRESIDING OFFICER. There is not a sufficient second.

The motion has been made to table the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BARTLETT. Point of order.

QUORUM CALL

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Point of order.

Mr. METZENBAUM. Mr. President, regular order, a rollcall has commenced.

Mr. LONG. Nobody answered that.

Mr. METZENBAUM. Regular order, Mr. President.

Mr. LONG. That is dilatory.

The PRESIDING OFFICER. The Senator from Louisiana will state his point of order.

Mr. LONG. The motion is dilatory, Mr. President. The last vote established a quorum.

Mr. METZENBAUM. Mr. President, there is not a quorum present.

The PRESIDING OFFICER. The Chair ruled with regard to ascertaining whether a quorum is present. The clerk will call the roll.

Mr. BARTLETT. Point of order.

The PRESIDING OFFICER. The Senator from Oklahoma will state his point of order.

Mr. BARTLETT. Mr. President, it is my understanding this amendment was misdrafted. It is not drafted correctly.

Mr. METZENBAUM. Mr. President, that point of order is not in order at this point because a quorum call has been called with respect to whether or not a quorum is present.

The PRESIDING OFFICER. The Chair has already ruled the amendment is in order. The quorum call has been sought and the clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. What is the purpose of the Senator from Oklahoma?

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 54 Leg.]

Abourezk	Domenici	Lugar
Allen	Durkin	Magnuson
Anderson	Eagleton	Mathias
Baker	East'and	Matsunaga
Bartlett	Ford	McClure
Bayh	Garn	McGovern
Bellmon	Glenn	McIntyre
Bentsen	Goldwater	Melcher
Biden	Griffin	Metzenbaum
Brooke	Hansen	Morgan
Bumpers	Hart	Moynihan
Burdick	Haskell	Muskie
Byrd,	Hatch	Nelson
Harry F., Jr.	Hatfield	Nunn
Byrd, Robert C.	Hathaway	Packwood
Cannon	Hayakawa	Pearson
Case	Heinz	Pell
Chafee	Helms	Percy
Chiles	Huddleston	Proxmire
Church	Inouye	Randolph
Clark	Jackson	Ribicoff
Cranston	Javits	Riegle
Culver	Johnston	Roth
Curtis	Kennedy	Sarbanes
Danforth	Laxalt	Sasser
DeConcini	Leahy	Schmitt
Dole	Long	Schweiker

Scott	Stone	Williams
Sparkman	Talmadge	Young
Stennis	Tower	Zorinsky
Stevens	Wallop	
Stevenson	Weicker	

The PRESIDING OFFICER. A quorum is present.

Mr. BARTLETT. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state the point.

Mr. BARTLETT. Amendment 1289 which amends Senate bill 2104 strikes section 3(m). There is no section 3(m).

The PRESIDING OFFICER. The Senator is correct. On further reflection, the amendment is not in order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1090

Mr. BARTLETT. Mr. President, I call up amendment 1090.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes amendment No. 1090:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1991".

Mr. CULVER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BARTLETT. I yield.

ENVIRONMENTAL PROTECTION AGENCY AUTHORIZATIONS

Mr. CULVER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5101.

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CULVER. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP conferees on the part of the Senate.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. BARTLETT. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will advise the Senator that this amendment is not in order. There is no such date in the bill.

AMENDMENT NO. 1091

Mr. BARTLETT. I call up amendment No. 1091.

The PRESIDING OFFICER. Will the Senator from Oklahoma repeat his request?

Mr. BARTLETT. I would then call up amendment 1091 to amendment 862.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment 1091:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1992".

The PRESIDING OFFICER. This amendment is out of order for the same reason as the previous one. The date is not in the bill.

AMENDMENT NO. 1092

Mr. BARTLETT. I call up amendment No. 1092 to amendment 862.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes amendment 1092:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1993".

Mr. METZENBAUM. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio will state the parliamentary inquiry.

Mr. METZENBAUM. Does the Senator from Oklahoma continue to hold the floor for a series of amendments or does he not lose it each time he calls up an amendment?

The PRESIDING OFFICER. The Senator from Oklahoma loses his position on the floor after each amendment, but he can get it back by seeking recognition.

Mr. BARTLETT. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The Chair will advise that this amendment is out of order because there is no such date.

AMENDMENT NO. 1297

Mr. METZENBAUM. Mr. President, I call up amendment 1297.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment 1297:

Strike section 7 and insert in lieu thereof the following new section 7:

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas sold under a new contrast shall be $1.45 per million Btu's multiplied by the inflation adjustment.

Mr. HART. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state his parliamentary inquiry.

Mr. HART. Mr. President, since it is important, I think, for the record when amendments are ruled out of order the record clearly reflect the reason why, I think it would be extremely helpful for the record and for the Senators to know in each case the reason why the amendment is out of order.

The PRESIDING OFFICER. The chair has so stated in each case.

Mr. HART. Except the last one.

The PRESIDING OFFICER. In each of the last three cases the amendments sought to amend something, a date, which was not in the bill.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay the amendment on the table.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1297. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 497 Leg.]

YEAS—89

Abourezk	Danforth	Javits
Allen	DeConcini	Johnston
Anderson	Dole	Kennedy
Baker	Domenici	Leahy
Bartlett	Eagleton	Long
Bayh	Eastland	Lugar
Bellmon	Ford	Magnuson
Bentsen	Garn	Mathias
Biden	Glenn	Matsunaga
Bumpers	Goldwater	McClure
Burdick	Griffin	McGovern
Byrd, Harry F., Jr.	Hansen	McIntyre
	Hart	Melcher
Byrd, Robert C.	Haskell	Metzenbaum
Cannon	Hatch	Morgan
Case	Hatfield	Moynihan
Chafee	Hathaway	Muskie
Chiles	Hayakawa	Nelson
Church	Heinz	Nunn
Clark	Helms	Packwood
Cranston	Huddleston	Pearson
Culver	Inouye	Percy
Curtis	Jackson	Proxmire

Randolph	Schweiker	Talmadge
Ribicoff	Scott	Tower
Riegle	Sparkman	Wallop
Roth	Stennis	Weicker
Sarbanes	Stevens	Williams
Sasser	Stevenson	Young
Schmitt	Stone	Zorinsky

NAYS—3

Brooke	Durkin	Pell

NOT VOTING—8

Gravel	Laxalt	Stafford
Hollings	McClellan	Thurmond
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1297 was agreed to.

AMENDMENT NO. 1305

Mr. ABOUREZK. Mr. President, I call up amendment No. 1305.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1305:

Strike section 11 and insert in lieu thereof the following new section 11:

SEC. 11. (a) It is the intent of this section to provide for the establishment of incremental pricing of natural gas covered by the pricing provisions of this Act to low priority users (1) to reflect more clearly the commodity value of natural gas (2) to spread the impact of such incremental pricing in as fair and equitable manner as possible among the same categories of natural gas users, and (3) to achieve maximum conservation of natural gas sold to low priority users without undue disruption of the balance of market revenue for the distribution of natural gas to high and low priority users.

(b) As soon as practicable after the date of the enactment of this Act, but in no event later than 60 days after such date, the Commission shall institute proceedings to determine the feasibility of an incremental pricing plan under which increases in the average cost of natural gas covered by the pricing provisions of this Act can to the maximum extent practicable first be allocated to low priority users until the rates or charges for low priority users equal the reasonable cost of substitute fuels to such low priority users. In conducting such proceedings, the Commission shall publish notice of the proceeding and shall afford all interested parties an opportunity to participate therein and shall invite regulatory agencies having jurisdiction over local distribution company sales of gas to low priority users to participate.

(c) Within 180 days after the date of enactment of this Act, the Commission shall file a report with both Houses of Congress containing the results of the proceedings conducted under subsection (b) hereof and the Commission's recommendation to the Congress as to the feasibility of an incremental pricing plan and the appropriate method for implementation of such plan, if determined to be feasible.

Mr. BUMPERS. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1305) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 498 Leg.]

YEAS—90

Abourezk	Garn	Muskie
Allen	Glenn	Nelson
Anderson	Goldwater	Nunn
Baker	Griffin	Packwood
Bartlett	Hansen	Pearson
Bayh	Hart	Pell
Belmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Biden	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Sarbanes
	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stennis
Church	Leahy	Stevens
Clark	Long	Stevenson
Cranston	Lugar	Stone
Culver	Magnuson	Talmadge
Curtis	Matsunaga	Tower
Danforth	McClure	Wallop
DeConcini	McGovern	Weicker
Dole	McIntyre	Williams
Domenici	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	
Ford	Moynihan	

NAYS—1

Durkin

NOT VOTING—9

Gravel	Laxalt	Metcalf
Hollings	Mathias	Stafford
Humphrey	McClellan	Thurmond

So the motion to lay on the table amendment No. 1305 was agreed to.

CONSIDERATION OF A CERTAIN MEASURE ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is an item on the calendar which should be disposed of. It would only take 5 minutes, in the opinion of the distingushed chairman of the committee (Mr. TALMADGE). I ask unanimous consent that the Senate proceed to the consideration of H.R. 3, with a time limitation thereon of not to exceed 5 minutes.

Mr. BAKER. Mr. President, reserving the right to object, just for a moment.

Mr. President, I have a notation here on my calendar that I would like to check. If the majority leader will bear with me for just a second, I may be able to expedite the proceedings.

Mr. TALMADGE. According to Senator JAVITS, he has withdrawn that, I inform the distinguished minority leader.

Mr. BAKER. I thank the distinguished Senator from Georgia. If he will give me a moment on it, I can check the notation on my calendar.

Mr. President, I am happy to say that the two notations on my calendar have been cleared, and we have no objection to proceeding with consideration of this item.

The PRESIDING OFFICER (Mr. MORGAN). Is there objection? Without objection, it is so ordered.

MEDICARE AND MEDICAID ANTI-FRAUD ABUSE AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Presiding Officer of the moment if it is understood that the time limitation is 5 minutes—no more than 5 minutes.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. BAKER. It is also understood that this 5 minutes is not charged to anybody's time under the rule?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. With that understanding, the bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The PRESIDING OFFICER. Is there any objection to the present consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Committee on Finance: Jay Constantine; Mr. DOLE, Shiela Burton; Mr. CURTIS, David Swope.

Mr. TALMADGE. Mr. President, H.R. 3 is the House counterpart of the Medicaid-Medicare Antifraud and Antiabuse Amendments, cosponsored by several Senators. S. 143 has been considered and reported by the Committee on Finance and appears on the calendar as No. 416. On behalf of the committee, I move to strike all after the enacting clause of H.R. 3 and to substitute therefor a single amendment for consideration as an original text, the text of S. 143 as reported.

UP AMENDMENT 357

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an amendment in the nature of a substitute.

The amendment is as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977".

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842 (b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B) (ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon, the actual collection of any such payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 95 per centum of claims for payment made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program."; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, XIX, and XX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII, XIX, and XX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, or a renal disease facility;

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX;

"(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX;

"(D) a health maintenance organization as defined in section 1301 of the Public Health Service Act; or

"(E) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services with respect to which payment may be claimed by the entity under a State plan or program approved under title XX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity a person who—

"(A)(i) has directly or indirectly(as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized os a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

"(c) A disclosing entity shall also include in the information supplied under subsection (a)(1) full and complete information as to the identity of each person with an ownership or control interest in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 per centum or more ownership interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had,

during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act) is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d)(1) Section 2003(d)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) provides that any entity (other than an individual practitioner or a group of practitioners) receiving payments for the provision of health-related services complies with the requirements of section 1124, and supplies (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (i) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (ii) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) No payment may be made under this section with respect to any expenditure for the provision of any health related service if such service is provided by an entity which has failed to comply with a request made by the Secretary or State agency under section 2003(d)(1), for so long as such entity remains in noncompliance with such request.".

(e) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by titles V, XVIII, XIX, and XX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by subsections (c) and (d) shall become effective January 1, 1978.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever knowingly and willfully, after having accepted any assignment described in section 1842(b)(3)(B)(ii), charges an amount in excess of the reasonable charge with respect to services furnished to individuals on whose behalf payment is made under any such assignment, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickbacks, bribes, or rebates) directly or directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94–505 (42 U.S.C. 3542) (relating to annual reports of the Health, Education, and Welfare Inspector General) is amended by adding at the end thereof the following sentence: "Such report shall also include an evaluation of the performance of the Attorney General in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and shall include any recommendations with respect to improving the performance of such activities.".

(d) The amendments made by subsections (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," after "perform" in the first sentence; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved in" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for";

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after "to such organization" in subsection (f)(2) the following: ", in a manner similar to that provided for under section 1816(c),";

(D) by inserting after subsection (f)(2) the following new paragraph:

"(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement."; and

(E) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154), but any such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154), but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility. However, the Secretary may not require such an organization to perform such review responsibility prior to the date the organization is designated as a Professional Standards Review Organization (other than under section 1154).".

(2) Section 1101(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner) —

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months, or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301 of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

"(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings become effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

"(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum if the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the quality of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the quality of care received by individuals under the State's plan approved under such title, he may immediately suspended such organization's authority in whole or in part under section 1158(a) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) pending a reevaluation of such organization's performance of the responsibilities involved and any appropriate action the Secretary may take as a result of such reevaluation. Any such action taken by the Secretary shall be final and shall not be subject to judicial review.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and

such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by striking out "of a hospital or other operating health care facility or organization" and inserting in lieu thereof "of a hospital (including any skilled nursing facility, as defined in section 1861(j), or intermediate care facility, as defined in section 1905(c), which is also a part of such hospital) or other operating health care facility or organization (other than a skilled nursing facility which is not a part of a hospital)".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, except that the provisions of this paragraph shall not apply with respect to an intermediate care facility which is also a skilled nursing facility (as defined in section 1861(j)).".

(e) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" each time it appears therein and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization".

(f) Section 1163(a)(2) of such Act is amended to read as follows:

"(2) Members of the Council shall be appointed for a term of three years, except that of the members appointed in 1977, four shall be appointed for a term of only two years, and three for a term of only one year. Members of the Council shall be eligible for reappointment.".

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member or employee related to the performance of any duty or function of such organization, member or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to the Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(4) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(8) recommendations for legislative changes.".

(l)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS REVIEW PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101(a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(m) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(n) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations"; and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS".

(o)(1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

(p) Section 1155(a)(5) of such Act is amended by striking out all that follows "Professional Standards Review Organization" and inserting in lieu thereof a period.

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by section 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on January 1, 1978.

DISCLOSURE BY PROVIDERS OR OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the program established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency,

is a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and, notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act (as amended by section 3(d) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(16) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and may terminate any such contract, arrangement, or approval if it determines that the provided did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements intered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION ON FEDERAL MEDICAID PAYMENTS; ASSIGNMENT OF RIGHTS OF PAYMENT; INCENTIVE PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsections:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

"(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSIGNMENT OF RIGHTS OF PAYMENT

"SEC. 1912. (a) For the purposes of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this title, a State plan for medical assistance may—

"(1) provide that, as a condition of eligibility for medical assistance, each applicant or recipient who has legal capacity to execute an assignment for himself, or on behalf of another individual who is eligible to receive medical assistance by reason of the requirements of this title and lacks such legal capacity to make an assignment for himself, will be required—

"(A) to assign the State any rights to support which is specified as support for the purpose of medical care by a court or administrative order, and any rights to payment for medical care from any third party, which such applicant or recipient may have (i) on his own behalf or in behalf of such eligible individual lacking such legal capacity, and (ii) which have accrued at the time such assignment is executed; and

"(B) to cooperate with the State (i) in establishing the paternity of the eligible individual lacking such legal capacity if such eligible individual is a child born out of wedlock, and (ii) in obtaining such support and such payments for himself and for the eligible individual lacking such legal capacity, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and "(2) provide for entering into cooperative arrangements with any appropriate agency or appropriate organizational unit of any agency of the State, or of another State, and with appropriate courts and law enforcement officials (i) to assist the State or local agency, including the entering into of financial arrangements with such agency, organizational unit, courts, and officials in order to conduct or assist in the conducting of the enforcement and collection of rights to support or payment assigned under this section, and (ii) with respect to any other matters of common concern to such agency, organizational unit, courts, or officials and the State or local agency.

"(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made to such individual on whose behalf such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.".

(c) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and part B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

FISCAL INTERMEDIARIES

SEC. 14. Section 1816 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) The Secretary may not disapprove a proposed agreement under this section, terminate an agreement under this section, or make a determination with respect to whether an agreement or proposed agreement is consistent with the effective and efficient administration of this part under subsection (b)(1)(A) or (e)(2)(B), solely on the grounds that the agency or organization requesting such agreement, or having such agreement, serves providers located only

in a single State, or on the grounds that any provider in such single State is served, or could be served, by another agency or organization which serves providers located in more than one State.".

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need), whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage supplies of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) subject to subsection (b)(3), an amount equal to 100 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1977, 90 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1978, and 75 per centum of the sums expended during each quarter of the fiscal year beginning October 1, 1979, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (p)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sum expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title."

(c) Section 1903 of such Act is further amended by inserting after subsection (p) (added by section 11(a) of this Act) the following new subsection:

"(q) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal proceedure, approved by the Secretary, which (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) is an entity which has formal procedures and a formal working relationship, approved by the Secretary which provide effective coordination with the Office of the State attorney general with respect to activities toward detection, investigation, and prosecution of suspected criminal violations relating to the program under this title, including referral of such suspected violations to the Office of the State attorney general.

"(2) The entity is separate and distinct from the title XIX operating agency or (if different) single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments made under the State plan to health care facilities and discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d) Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92-603) is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.".

(e)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under the different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles;

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certification of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by providers of such services in order to determine the reasonableness of such costs and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the prevention of fraud and abuse in the delivery of such services under such titles, the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services

and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facilty or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act. However, hospitals shall employ the chart of accounts, definitions, principles, and statistics, prescribed by the Secretary, in order to reach a uniform reconciliation of financial and statistical data for specified uniform reports to be provided to the Secretary.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting system described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the systems described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period,

beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply, with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facity, nor an intermediate care facity, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraphs (5) and (6), with respect to";

(2) by striking out "by 33⅓ per centum thereof" in paragraph (1) and inserting in lieu thereof "as determined under the provisions of paragraph (3)";

(3) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(4) by adding after paragraph (2) the following new paragraphs:

"(3) In the case of a State with respect to which a reduction in the Federal medical assistance percentage is required under the provisions of paragraph (1), such Federal medical assistance percentage shall be reduced by a percentage equal to 33⅓ per centum multiplied by a fraction, the denominator of which is equal to the total number of patients with respect to whom the provisions (as contained in paragraph (1)) relating to the making of a satisfactory showing are applicable, and the numerator of which is equal to the number of such patients with respect to whom such a showing was not made in accordance with such paragraph (after application of paragraphs (4) and (5)).

"(4) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(5) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

"(A) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning prior to January 1, 1978;

"(B) unless a notice of such decrease has been provided to the State at least thirty days before the date such decrease takes effect; or

"(C) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after December 31, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(6) The Secretary is authorized to waive the application of all or part (as is appropriate) of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) in any case in which the Secretary determines that the unsatisfactory or invalid showing made by the State is of a technical nature only, or is due to circumstances beyond the control of the State.

(b) Section 1902(a)(26) of the Social Security Act is:

"(7) The Secretary shall submit to Congress, not later than sixty days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

Section 1902(a)(26) of the Social Security Act is amended by inserting after "social service personnel" the following: ", or, in the case of skilled nursing facilities, composed of physicians or registered nurses and other appropriate health and social service personnel".

(c) The amendments made by this section shall be effective on October 1, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Se-

curity Act to reflect the changes made by such amendments.

PROTECTION OF PATIENT FUNDS

SEC. 21. (a) Section 1861(j) of the Social Security Act is amended by striking out "and" at the end of paragraph (13) and inserting immediately after such paragraph (13) the following new paragraph:

"(14) establishes and maintains a system which shall assure a full and complete accounting of patients' personal funds, including the use of a separate account for patient funds which shall preclude any commingling of such funds with facility funds or with the funds of any person other than another such patient; and".

(b) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under the provisions of title XVIII, or under a State plan approved under the provisions of title XIX, of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for extended care services as determined under the provisions of title XVIII, or for skilled nursing care or intermediate care as determined under the provisions of title XIX.

(c)(1) The amendments made by subsection (a) shall be effective on the first day of the first calendar quarter which begins more than six months after the date of enactment of this Act.

(2) The Secretary of Health, Education, and Welfare shall issue regulations as required under subsection (b) within ninety days after the date of enactment of this Act.

PAYMENT FOR INSTITUTIONAL CARE BEYOND DATE DETERMINED MEDICALLY NECESSARY

SEC. 22. (a) Section 1158 of the Social Security Act is amended—

(1) in subsection (a), by inserting "and subsection (d)" immediately after "section 1159"; and

(2) by adding after subsection (c) (as added by section 5(d)(1) of this Act) the following new subsection:

"(d) In any case in which a Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.".

(b) The amendment made by subsection (a) shall be effective on the date of enactment of this Act.

PROSECUTION OF CIVIL FRAUD BY INSPECTOR GENERAL

SEC. 23. (a) Section 203(a) of the Act of October 15, 1976 (Public Law 94-505), relating to the Office of Inspector General is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) to bring civil actions on behalf of the United States in cases of alleged civil fraud relating to any health related program established or totally or partially funded under any provision of the Social Security Act, if no such civil action has been initiated by the Department of Justice within a period of six months following a formal referral of such case of alleged fraud by the Department to the Department of Justice and when such action is appropriate in the opinion of the Inspector General.".

(b) The amendments made by this section shall be effective on the date of enactment of this Act.

UTILIZATION REVIEW DEMONSTRATION PROJECTS

SEC. 24. (a)(1) The Secretary of Health, Education, and Welfare is authorized and directed, upon application of any eligible State, to establish in such State a demonstration project for the purpose of evaluating the effectiveness of Professional Standards Review Organizations (as defined in part B of title XI of the Social Security Act) in comparison with the effectiveness of alternative State methods for utilization review of providers under the State's plan approved under title XIX of the Social Security Act.

(2) In order to be eligible for demonstration projects established under this section a State must—

(A) have had in operation on August 5, 1977, one or more Professional Standards Review Organizations (including an organization conditionally designated under sectio 1154 of the Social Security Act) within such State;

(B) have had in operation on August 5, 1977, a program under which State employees assigned to and located within given hospitals routinely review, on site, the medical necessity of inpatient hospital care and services in general short-term hospitals for which payments are made under a State plan approved under title XIX of the Social Security Act; and

(C) submit an application for such a demonstration project, in such manner, and containing such information, as the Secretary may prescribe, prior to May 1, 1978.

(3) Demonstration projects established under this section shall be established in Professional Standards Review Organization areas the population of which are representative of the statewide population of recipients of assistance under the State plan approved under title XIX of the Social Security Act and which represent a significant proportion of the statewide total of patient days for which payments are made under such plan.

(4) Not more than four Professional Standards Review Organization areas in any single State shall be utilized in a demonstration project established in such State under this section.

(b)(1) For purposes of carrying out the demonstration projects established under this section the Secretary shall select, with the concurrence of the State in which the project is established, an independent organization which shall—

(A) establish a study design by which to evaluate the comparative effectiveness of the Professional Standards Review Organization and the alternative State method of utilization review; and

(B) monitor, evaluate, and report the findings of the project.

(2) In evaluating the effectiveness of the Professional Standards Review Organizations and the alternative State methods of utilization review, the independent organization shall examine—

(A) the number of admissions to institutions;

(B) lengths of stay in institutions;

(C) the number of patient days;

(D) operating costs of institutions;

(E) the quality of patient care;

(F) the medical appropriateness of the approval or denial of care and service;

(G) the timeliness of decisions;

(H) administrative considerations;

(I) changes in the number of providers;

(J) the number of available beds in institutions; and

(K) any other factors which may affect the statistical validity of the project.

(3) In establishing the study design for projects the independent organization shall assign the title XIX review responsibilities, with respect to given hospitals within the Professional Standards Review Organization demonstration area, as equally as possible, with respect to which hospitals each party shall review, between the Professional Standards Review Organization and the State involved.

(c) During the course of any demonstration project established under this section the decisions of the Professional Standards Review Organization and the State shall each be binding for payment purposes (subject to other applicable provisions of law) with respect to the group of providers for which each has review responsibility under the demonstration project.

(d) A project established under this section shall operate for a period of two years unless terminated at an earlier date by the Secretary or by the State involved. A determination by the Secretary to terminate such a project shall be final and shall not be subject to judicial review.

(e) Professional Standards Review Organizations within a State which is participating in a demonstration project under this section, but which are not involved in such project, shall be subject to applicable provisions of law without regard to the provisions of this section.

(f)(1) Payments for expenses incurred by Professional Standards Review Organizations which participate in demonstration projects established under this section shall be made in the manner prescribed in section 1168 of the Social Security Act.

(2) Amounts expended by a State on account of participation in demonstration projects established under this section shall be considered, for purposes of section 1903 of title XIX of the Social Security Act, to be expenses necessary for the proper and efficient administration of the State's plan approved under such title.

(3) Amounts expended by an independent organization selected under the provisions of subsection (b)(1) which are necessary and proper for carrying out the requirements of such subsection shall be reimbursed by the Secretary from funds authorized under section 1901 of the Social Security Act.

(g) The Secretary shall submit to the Congress and to the President reports with respect to the results of any projects established under this section. An interim report on each such project shall be submitted at the end of one year of operation of such project, and a final report shall be submitted within three months after the completion (or termination) of such project.

(h) Except as otherwise specifically provided under the provisions of this section, review and evaluation of care provided under title XVIII and under State plans approved under title V and title XIX of the Social Security Act shall be undertaken in demonstration projects under this section in the same manner as prescribed under such titles.

PAYMENT FOR CERTAIN HOSPITALS SERVICES PROVIDED IN VETERAN'S ADMINISTRATION HOSPITALS

SEC. 25. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" immediately after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital

or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though such hospital is a Federal provider of services if (A) such individual was not entitled to have such services furnished to him free of charge by such hospital, (B) ofc harge, (C) the authorities of such hospital in the reasonable belief on the part of the admitting authorities that such individual was a person who was entitled to have such services furnished to him free of charge, (C) the authorities of such hospital, in admitting such individual, and the individual, acted in good faith, and (D) such services were furnished during a period ending with the close of the day on which the authorities operating such hospital first became aware of the fact that such individual was not entitled to have such services furnished to him by such hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove such individual from such hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual).".

(c) The amendments made by this section shall be applicable in the case of inpatient hospital services furnished on and after July 1, 1974.

HOSPITAL INSURANCE FOR INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

SEC. 26. (a) Title XVIII of the Social Security Act is amended by adding after section 1818 the following new section:

"HOSPITAL INSURANCE FOR INDIVIDUALS AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

"SEC. 1819. (a) Every individual who—

"(1) has attained the age of 60, but has not attained the age of 65; and

"(2) is either—

"(A) an individual entitled to monthly insurance benefits under section 202 or benefits under the Railroad Retirement Act of 1937, or

"(B) the wife or husband of a person entitled to benefits under this part, or

"(C) an individual entitled to benefits under—

"(i) section 223(a), or

"(ii) subsection (e), (f), (g), or (h), of section 202 based on disability,

but who has not met the conditions of section 226(b)(2); and

"(3) is enrolled under part B of this title shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll only once under this section and only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) In the case of an individual who satisfies paragraph (1) of subsection (a) of this section and either subparagraph (A) or (C) of paragraph (2) of such subsection, his enrollment period shall begin with whichever of the following is the latest:

"(A) April 1, 1978, or

"(B) the date such individual first meets the conditions in such paragraph (2), or

"(C) the date the Secretary sends notice to such individual that he is entitled to any monthly insurance benefits as specified in subparagraph (A) or (C) of such paragraph (2),

and shall end at the close of the—

"(D) 90th day thereafter, if such enrollment period begins on the date specified in subparagraph (B) or (C) of this paragraph, or

"(E) 180th day thereafter, if such enrollment period begins on April 1, 1978.

"(3) In the case of an individual satisfying paragraph (1) and paragraph (2)(B) of subsection (a) of this section, his enrollment period shall begin on whichever of the following is the later: (A) April 1, 1978, or (B) the date such individual first meets the conditions specified in such paragraphs, and shall end at the close of the (C) 90th day thereafter, if such enrollment period begins on the date specified in clause (B) of this paragraph, or (D) 180th day thereafter, if such enrollment period begins on April 1, 1978.

"(c)(1) In the case of an individual who enrolls pursuant to the provisions of this section, the coverage period during which he is entitled to benefits under this part shall begin on the first day of the second month after the month in which he enrolls, or July 1, 1978, whichever is later.

"(2) An individual's coverage period shall terminate at the earlier of the following—

"(A) for failure to make timely premium payments, at such time as may be prescribed in regulations which may include a grace period in which overdue premiums may be paid and coverage continued, but such grace period shall not exceed 30 days; except that it may be extended to not to exceed 60 days in any case where the Secretary determines that there was good cause for failure to pay overdue premiums within such 30-day period; or

"(B) at the close of the month following the month in which an individual files a notice with the Secretary that he no longer desires to be enrolled under this section; or

"(C) with the month before the month he no longer meets the conditions specified in subsection (a).

Notwithstanding the preceding provisions of this paragraph, an individual's coverage period shall terminate at such time as such individual becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such month the application required to establish such entitlement.

"(d)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1, 1979, shall be the amount of the premium charged to individuals enrolling under section 1818.

"(2) The Secretary shall, during the last calendar quarter of each year beginning in 1978 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums chargeable to individuals for months occurring in the 12-month period commencing July 1 of the next succeeding year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period; and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1, or if midway between multiples of $1, to the next higher multiple of $1.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or other arrangement is administratively feasible.

"(f)(1) The provisions of section 1840 shall apply to individuals enrolled under this section if such individuals are entitled to monthly insurance benefits under section 202 or 223. The provisions of subsections (e), (f), (g), and (h) of such section 1840 shall apply to any other individual so enrolled.

"(2) Where an individual enrolled under this section meets the provisions of paragraph (2)(B) of subsection (a) (but does not meet the provisions of paragraph (2)(A) or (2)(C) of such subsection) and the person referred to in such paragraph (2)(B) is entitled to monthly insurance benefits under section 202 or section 223, the provisions of section 1840(a)(1) shall apply to such benefits as though such husband or wife were entitled to such benefits, unless such person files a notice with the Secretary that the deductions provisions of such section 1840(a)(1) shall not apply.

"(g) The term 'wife', or 'husband' as used in this section shall have the meaning assigned to those terms by subsection (b) and subsection (f) of section 216, as the case may be, except that the provisions of clause (2) of such subsection (b) and clause (2) of such subsection (f) shall not apply.".

(b) Title XVIII of such Act is further amended by adding after section 1844 the following new section:

"ELIGIBILITY OF INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HOSPITAL INSURANCE

SEC. 1845. (a) Any individual who meets the conditions of paragraph (1) and paragraph (2) of section 1819(a) shall be eligible to enroll in the insurance program established by this part. The provisions of subsections (b), (c), (e), (f), and (g) of section 1819 shall apply to individuals authorized to enroll under this section.

"(b) An individual's coverage period shall also terminate when (A) he no longer meets the conditions specified in paragraphs (1) and (2) of section 1819(a), or (B) his enrollment under section 1819 is terminated. Where termination occurs pursuant to this subsection, the coverage period shall terminate with the close of whichever of the following months is the earliest: (C) the month before the month the individual attains the age of 65, or (D) the month following the month in which such individual no longer meets the conditions of paragraph (2) of section 1819(a), or (E) the month in which his enrollment under section 1819 terminates.

"(c)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1979 shall be 300 per centum of the premium payable by an individual who has attained age 65 for such month.

"(2) The Secretary shall, during December of each year beginning in 1978 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period, and such amount shall take into consideration under-

writing losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1 or if midway between multiples of $1, to the next higher multiple of $1.

"(d) All premiums collected from individuals enrolled pursuant to this section shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.".

TREATMENT OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS FOR PURPOSES OF INTERNAL REVENUE CODE

SEC. 27. (a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS.—For purposes of this title, a Professional Standards Review Organization designated as such by the Secretary of Health, Education, and Welfare under the provisions of part B of title XI of the Social Security Act (including an organization designated under section 1154 of such Act) shall be treated as an organization organized and operated exclusively for charitable purposes.".

(b) The amendments made by this section shall be effective with respect to taxable years beginning on or after January 1, 1977.

Mr. TALMADGE. Mr. President, almost from their inception, medicare and medicaid have been plagued with widespread fraudulent and abusive practices.

Year after year, Congress has investigated and repeatedly been shocked by the ripoffs in the health care programs designed to help our poor and older citizens.

The bill we are now considering, the medicare and medicaid antifraud amendments, is designed to slow down, if not halt, many of the fraudulent practices in the $47 billion medicare and medicaid programs.

But, if we cannot stop fraud, under these amendments we will have new capacity to detect and punish wrongdoing, for example, instead of medicare fraud being a misdemeanor as it is now, it would be classified as a felony punishable by up to 5 years imprisonment and a fine of up to $25,000.

But, once again, while Congress can enact laws which support virgorous investigation and prosecution, we cannot administer those laws. Much will depend upon the skill and dedication of those charged with enforcing the law. At this point, all we can do is provide every possible means of support to those committed to law enforcement.

Last year, I was pleased to introduce, joined by many of my colleagues, the original medicare and medicaid antifraud bill.

We were able to secure both Finance Committee and Senate approval of the measure as an amendment to H.R. 12961. Unfortunately, due to the lateness of the congressional session, the House was unable to complete action.

During the adjournment period, Congressman DAN ROSTENKOWSKI, chairman of the Ways and Means Health Subcommittee, and Congressman PAUL ROGERS, chairman of the Health Subcommittee of the Commerce Committee, along with their staffs, worked with us to improve and expand the original antifraud proposal. That work culminated in the introduction, at the beginning of this session, of H.R. 3 on the House side and S. 143 here in the Senate.

It should be noted that 40 Senators joined in sponsoring this vitally needed legislation.

H.R. 3 benefited significantly from the extensive work devoted to it in hearings and markup by the House Committees on Ways and Means and Interstate and Foreign Commerce. They have made a good bill even better.

Both H.R. 3 and its companion bill, S. 143, reflect in their provisions the extensive time and effort devoted by several committees of the Congress in exposing fraud and abuse in medicare and medicaid. For example, the Senate's Special Committee on Aging has, for years, vigorously and imaginatively exposed the fastbuck artists and the exploiters who prey on our older Americans. That committee has sought, as we on the Finance Committee have, to keep the Federal programs for the poor and the sick and the old from being corrupted and subverted.

The permanent Subcommittee on Investigations of the Senate Government Operations Committee has also invested many months of hard—and often unpublicized—effort designed to reveal and remedy shortcomings in the multibillion-dollar medicare and medicaid programs. The permanent subcommittee deserves the thanks and commendation of all of us.

When I introduced the medicare and medicaid antifraud bill in the last Congress, I described it as an opportunity for the Congress to give a clear, loud signal to the thieves and the crooks and the abusers that we mean to call a halt to their exploitation of the public and the public purse.

Well, somehow we missed the opportunity to give that signal last year. But now, Mr. President, with enactment of this legislation that signal will be heard in unmistakable tones.

Mr. President, I ask unanimous consent that the summary of S. 143, included in the committee report, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

As reported, the provisions of S. 143, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, are focused on six major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and other medicaid and medicare amendments. The summary presented below briefly outlines the principal features of the bill as reported.

PROGRAM PENALTY SANCTIONS

1. The bill modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid. Most fraudulent acts now classified as misdemeanors are to become felonies. Penalties are to be increased to a maximum $25,000 fine, up to five years imprisonment, or both. The types of financial arrangements and conduct to be classified as illegal have been clarified. In addition, States will now be permitted to suspend the eligibility of medicaid recipients convicted of defrauding the program. However, the misdemeanor penalty presently provided under existing law for conviction of such individuals is retained, as is the misdemeanor penalty for the conviction of a beneficiary under the medicare program. The bill also requires the Health, Education, and Welfare In-spector General to include in his annual report an evaluation of the effort of the Department of Justice in the investigation and prosecution of fraud in the medicare and medicaid programs and his recommendations for improvement of that effort. (Section 4)

2. The bill requires the Secretary of Health, Education, and Welfare to suspend, for such period as he deems appropriate, from participaton under medicare and medicaid, an individual practitioner who has been convicted of a criminal offense related to such individual's involvement in medicare or medicaid. When the Secretary suspends an individual, he must also notify the appropriate State licensing authorities, requesting that investigation be made and sanctions invoked in accordance with the State's law and public policy. (Section 7)

DISCLOSURE OF INFORMATION

1. (a) The bill requires, as a condition of participation or certification in either medicare, medicaid or the maternal and child health program, or health-related entities providing services under title XX, the annual disclosure to the Secretary or the appropriate State agency by the participating entity of the identity of any person who has a five percent or more ownership interest in the entity. These disclosure of ownership provisions will apply to medicare and medicaid providers of services (including independent clinical laboratories, health maintenance organizations and renal disease facilities), entities furnishing services for which payment may be claimed under medicaid or the maternal and child health program (but not including any individual or group of practitioners), and medicare carriers or intermediaries and medicaid fiscal agents. Providers of services would also have to disclose similar ownership information about any subcontractor, five percent or more of which is owned by the provider. (Section 3)

(b) Furthermore, the bill modifies existing medicare and medicaid provisions relating to termination of medicare provider agreements or suspension of medicaid payments to health care entities by adding a requirement that a provider must comply with a request specifically addressed to it by the Secretary or the medicaid State agency for full and complete information as to any significant business transactions between it and any subcontractors or between it and wholly-owned suppliers. Finally, in the case of subcontractors having more than $25,000 in annual business transactions with a provider, compliance would be required with similar requests related to ownership information pertaining to the subcontractor. (Section 3)

2. The bill requires all institutional providers of services, or other agencies, institutions, or organizations, as a condition of participation or certification in medicare, medicaid or the social services programs under title XX of the Social Security Act to disclose, in the application for participation or certification, the names of owners, officers, directors, agents, or managing employees who have been convicted of fraud against the medicare, medicaid, or State social service grant programs. When an application contains the name of any such previously convicted individual, the Secretary or the State agency can refuse to enter into an agreement or refuse to contract with

the applicant. The Inspector General of the Department of Health, Education, and Welfare must be informed of the receipt of any such applications and of any action taken on them. (Section 8)

3. The bill authorizes the Comptroller General of the United States to sign and issue subpenas in order to obtain necessary information and facilitate review of Social Security Act health programs. The Comptroller General will also be authorized, upon resistance or refusal by an individual to obey a subpena, to request a court order requiring compliance with the subpena. (Section 6)

4. The bill requires any provider of services participating in medicare to promptly notify the Secretary of its employment of an individual who, at any time during the preceding year, was employed in a managerial, accounting, auditing, or similar capacity by a medicare fiscal intermediary or carrier that services the provider. (Section 15)

5. The bill allows Federal access to the records of persons or institutions providing services under medicaid in the same manner that such access is presently provided to State agencies. (Section 9)

6. The bill authorizes prosecution of civil fraud cases under the Social Security Act health care programs by the Inspector-General of HEW where U.S. attorneys have not initiated proceedings within six months of formal referral of a case. (Section 23)

PROFESSIONAL STANDARDS REVIEW

The bill includes several provisions designed to clarify the nature and scope of PSRO review responsibilities, to enhance the capacity of PSRO's to perform reviews of the necessity and appropriateness of services more effectively, and to improve the administration and coordination of review activities so as to assure that program funds are properly expended. Thus, the bill provides:

(1) for the termination of other duplicative review activities when the Secretary determines that a PSRO is competent to perform its review responsibilities; that the determinations of PSRO's so recognized by the Secretary with respect to the necessity and appropriateness of care are conclusive for purposes of program payment; and that the role of the State in the process of establishing and evaluating PSRO review of services provided through the medicaid program will be increased and made more specific (Section 5(a) and 5(d));

(2) for the establishment of demonstration projects for the purpose of evaluating the effectiveness of PSRO reviews compared to alternative State review methods. The bill authorizes the establishment of such projects in States which had operating onsite State evaluation systems in place on August 5, 1977, and which make application to the Secretary prior to April 1, 1978. The purpose of the projects will be to evaluate the effectiveness, both in terms of the quality and appropriateness of medical care as well as the impact on State budgets, of PSRO hospital review compared to alternative State hospital review systems. Demonstration projects would be conducted in PSRO areas which are representative of a State's medicaid population and comprise a significant proportion of medicaid patient days (Section 24);

(3) that a PSRO may be conditionally designated for a period not to exceed 48 months (with authority for the Secretary to extend the period for an additional 24 months where warranted by unusual circumstances); and that PSRO's must assume review responsibilities for institutional services during this period (Section 5(b));

(4) that the Secretary shall require a PSRO, where he finds it is capable of undertaking ambulatory care review, to undertake such review no later than 2 years after it becomes fully operational (but not during such organization's conditional phase), and to give priority to requests by PSRO's to review services in "shared health facilities" (Section 5(c));

(5) that the Federal Government may assume the defense costs incurred by a PSRO in a liability suit related to the performance of its functions (Section 5(i));

(6) for the disclosure of information with respect to evidence of fraud to designated Federal and State law enforcement agencies (with a prohibition against access to PSRO records in the case of subpena or discovery proceedings in a civil action), and for the disclosure of aggregate statistical data to Federal and State health planning agencies (Section 5(h));

(7) for the annual submission to the Congress by the Secretary of a comprehensive report on the administration, cost, and impact of the PSRO program (Section 5(k));

(8) for the modification of current law provisions pertaining to payment for institutional services after a PSRO has determined that such services are no longer required. The current three day grace period would be reduced to one, with the PSRO permitted to authorize up to 2 additional days on a case-by-case exception basis where the facts in the case indicate that the additional time is needed to arrange for the necessary postdischarge care (Section 22);

(9) to amend the Internal Revenue Code to specifically include PSRO's as organizations eligible for section 501(c)(3) tax status (Section 27); and

(10) for several clarifying administrative and technical changes designed to enhance a PSRO's operational capacity (Section 5).

ADMINISTRATIVE REFORM

1. The bill requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data. This reporting system would be mandated for use of medicare and medicaid providers and such use would be phased in by type of provider. (Section 19)

2. The bill repeals the program review team provisions of present law. The functions formerly performed by such teams with respect to the quality and utilization of services will be performed by Professional Standards Review Organizations. (Section 13)

3. The bill would encourage each State to establish an office separate from the medicaid program agency to prepare and prosecute cases of suspected fraud and abuse in the program by providing for 100 percent Federal matching funds in fiscal year 1978, 90 percent in fiscal year 1979 and 75 percent in fiscal year 1980 for expenditures to establish and operate State medicaid fraud control units. The bill also authorizes the Secretary to arrange for demonstration projects designed to develop improved programs for detection, investigation, and prosecution of fraud and abuse. (Section 17)

4. The bill requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 95 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 90 days. The State would not be cited for noncompliance if the Secretary found the State was acting in good faith to achieve this goal. (Section 2)

5. The bill directs the Comptroller General to conduct a comprehensive review of the administrative structure for the processing of medicare claims. (Section 12)

6. The bill would prohibit the Secretary from refusing to enter into an agreement with a nominated intermediary under medicare solely because of the fact that such intermediary does not operate regionally or nationally. (Section 14)

7. The bill establishes a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State. Incentives would be provided for localities to make collections for States and for States to secure collections in behalf of other States. (Section 11)

8. The bill requires that as a condition for participation in the medicaid and medicare programs, a skilled nursing or intermediate care facility must establish and maintain a system to assure the proper accounting of personal patient funds. The system must provide for separate and discrete accounting for each patient with a complete accounting of income and expenditures so as to preclude the intermingling of other funds with patient funds. (Section 21)

OTHER MEDICAID AND MEDICARE AMENDMENTS

1. The bill modifies the requirements of current medicaid law concerning review of care delivered in institutional facilities. The section waives application of the penalties for noncompliance for calendar quarters ending prior to January 1, 1978. For subsequent calendar quarters, the required reductions in Federal matching would be imposed only in proportion to the number of patients whose care was not reviewed compared to the total patient population subject to review.

The bill further specifies procedural requirements for the Secretary to carry out the required validation requirements in a more timely fashion. (Section 20)

2. The bill modifies the requirements pertaining to the composition of medical review teams in skilled nursing facilities so as to conform them with those requirements applicable to intermediate care facility review. (Section 20)

3. The bill would permit spouses of medicare beneficiaries aged 60–64 as well as certain other persons in that age group to buy into medicare at a premium rate equal to the cost of their protection. In order for such persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. (Section 26)

4. The bill would authorize, under certain circumstances, reimbursement to a Veterans' Administration hospital for care provided to a nonveteran medicare beneficiary. (Section 25)

5. The bill requires the Secretary of Health, Education, and Welfare to report to the Congress within 12 months after enactment of this legislation with an analysis and recommendations relating to all aspects (including the availability, administration, provision, reimbursement procedures and cost) of the delivery of home health services under medicare, medicaid and the title XX social services program. (Section 18)

TECHNICIAN REVISION

1. Your committee's bill clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition in existing law against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs. (Section 2)

2. The bill modifies the provisions of existing law related to the rental or purchase of durable medical equipment to mandate that the Secretary requires the purchase of such equipment where purchase will be less costly than extended rental payments. (Section 16)

3. The bill increases individual State's incentives to adopt a computerized medicaid claims processing and information retrieval system by modifying one current requirement for higher Federal matching funds for the development and operation of this system. The bill would require such systems to provide explanation of benefits information to only a sample group of medicaid recipients rather than to each recipient as is currently required. (Section 10)

4. The bill would preclude Federal matching of State medicaid expenditures that result from State laws or contracts which exclude or limit insurance benefits because an individual is eligible for medicaid. (Section 11)

Mr. CURTIS. Mr. President, the Senate Finance Committee, in completing its work on S. 143, the medicare-medicaid antifraud and abuse amendments, has taken some very important first steps in dealing with the question of fraud in our public assistance programs. The bill, as the Members of this body know, is very similar to that which we passed last year and sent to the House under the able leadership of the distinguished Senator from Georgia, Mr. TALMADGE.

Mr. President, S. 143 contains changes which should have a very salutary effect upon the operation of the Nation's medicaid and medicare programs. Among other things, the bill provides for:

A prohibition against the use of a power of attorney to circumvent the existing ban on "factoring" arrangements in being reimbursed for Medicaid and Medicare claims.

More timely claims payment procedures to be required of the States under medicaid, so that 95 percent of clean claims are to be paid within 30 days and 99 percent within 90 days.

Disclosure of ownership interests, corporate or partnership status, past program records or hiring of former intermediary employees, by medicare and medicaid provider entities and individuals related thereto.

Strengthening of penalties for defrauding the programs, chiefly by changing a number of specified misdemeanors to felonies.

Subpena authority for the Comptroller General for programs authorized under the Social Security Act.

Suspension penalties and procedures following a criminal conviction for a medicare or medicaid program-related offense.

Increased Federal matching for the establishment and operation of State medicaid fraud control units.

In addition, the measure includes some highly desirable provisions modifying the section 1903(g) utilization review penalties imposed upon the States, and I am indeed hopeful that the substitute formula—reducing Federal matching only in proportion to the number of patients not reviewed, waiving reductions in matching for the period prior to January 1, 1978, and proceeding for more timely validation surveys by HEW—will prove to be a permanent solution to the problem which last came before the Congress in June.

The legislation contains, as well, numerous provisions relating to professional standards review organizations: For example, extending the time period for the operation of conditionally designated PSRO's; requiring that priority be given to review of "shared health facilities;" requiring operational PSRO's to undertake ambulatory care review no later than 2 years after achieving operational status; modifying certain restrictions on physician participation; rendering PSRO findings as conclusive for payment purposes, subject to State participation in PSRO designation, monitoring, a memorandum of understanding, and suspension of authority procedures related to the medicaid program; and facilitating Federal funding for PSRO's without State or local matching and for part B reviews. In my opinion, professional standards review organizations have a long way to go to prove themselves, and I am not at all convinced that a measure dealing principally with fraud and abuse is an appropriate vehicle for attempting to provide them with additional viability. In this instance, however, the changes proposed appear to move in the direction of greater flexibility, and given these changes PSRO's must now establish a record as to whether their role is one that should be continued. I am particularly pleased to see the call in section 5(k) of S. 143 for a detailed report annually to the Congress on the activities, cost, and impact of the PSRO program.

Finally, S. 143 contains certain provisions relating to confidentiality of medical records. Section 5(b) of the bill clarifies circumstances and procedures under which PSRO's may release data to Federal or State agencies having responsibility for the identification or detection of fraud and abuse or to agencies having responsibility for health planning and related activities. Section 9 gives the Secretary the same access to records of persons providing medicaid services that States presently have.

I have no quarrel with these two specific sections, but the bill does fail to address a more central question; under what circumstances should PSRO's, or other Federal agencies, have unrestricted access to private medical records in the first place? There have been a number of alternatives offered on this issue, but I for one am hopeful that we will see early enactment of a provision which insures that patients who have no fiscal relationship to medicare or medicaid whatever—other than paying the tax bill that these programs incur—will not have their private medical records released in an identifiable fashion to the Federal Government without their consent. I am hopeful that we will have early hearings and action which guarantees this level of confidentiality.

In closing, Mr. President, the measure we have before us is a desirable bill. It contains some loopholes, and some steps with which I do not agree, but on balance it should strengthen our administration of the medicaid and medicare programs. I would add two caveats, however: First, we should be careful that honest, extremely dedicated medical providers are not tarred with the brush of alleged abuse or the ink of massive new Federal regulations. More harm can be and has been done in the name of alleged good, and we should be vigilant against both administrative excesses and undesirable or unwarranted policy implications. Secondly, let no one think we are doing the entire job through our enactment of S. 143. We have only begun to examine the questions of recipient fraud and abuse, which deserves greater attention in succeeding considerations of this issue. We need to determine much more thoroughly if there are structural flaws in the medicare and medicaid programs which invite fraud, abuse, and overutilization. We can build upon this record, however, and prove our determination to complete the job.

UP AMENDMENT NO. 858

Mr. TALMADGE. Mr. President, the distinguished Senator from Kansas has an amendment proposed by the distinguished Senator from Oklahoma which I am prepared to accept.

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator BELLMON and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 858.

Mr. TALMADGE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

DELAY IN EFFECTIVE DATE FOR IMPLEMENTING CERTAIN METHODS OF DETERMINING REASONABLE COSTS FOR SKILLED NURSING FACILITY SERVICES AND INTERMEDIATE CARE FACILITY SERVICES

SEC. 28. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1979".

(b) Notwithstanding the provisions of section 1902(a)(13)(E) of the Social Security Act, a State plan for medical assistance shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under title XIX of such Act, and the amount payable to any State under such title shall not be decreased, solely because of the failure of such State to meet the requirements of such section during any calendar quarter ending prior to January 1, 1979.

Mr. BELLMON. Mr. President, H.R. 3 (S. 143) is intended to reduce fraud and abuse in the medicare and medicaid programs. I believe that this bill will make a major contribution to more effective administration of these programs and I congratulate my distinguished colleagues on the Finance Committee for their excellent work. The amendment proposed is a relatively simple one which will further reduce potential for fraud and abuse by postponing the cost-related reimbursement requirement for nursing homes for 1 year or until January 1, 1979. In addition, the amendment would absolve State medicaid programs of possible fiscal liability stemming from HEW's postponement of the original date of implementation of July 1, 1976.

Mr. President, there is very little chance that States will be able to implement cost-related reimbursement by January 1, 1978. Currently, only 30 States—including D.C.—have submitted plans to the central office of HEW. Of these 30 plans, 2 have been approved, 11 are pending minor modifications, 14 are pending major modifications, 3 are still undergoing review.

Thus, Mr. President, although the deadline for mandatory implementation

is only 3 months away, only two plans have been approved. Almost half—24—have either not submitted plans or are still undergoing review and have no idea what revisions may be necessary. In light of this record, there is little chance that effective cost-related reimbursement plans can be implemented by January 1, 1978.

It is vitally important also, Mr. President, that the issue of fiscal liability of States be resolved. This threat of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement by July 1, 1976. HEW regulations, however, while technically requiring implementation by July 1, 1976, stated that plans had to be in effect on January 1, 1978. Although the requirement was enacted in October of 1972, HEW did not issue implementing regulations until June of 1976 or shortly before the July 1, 1976, effective date. Recently, the Middle District Court of Alabama ruled that the regulations were not in compliance with the law. I have been informed that a similar suit has been filed in Illinois and that others may follow. State welfare administrators are greatly concerned about this issue and have expressed support for this amendment. I have a letter from the American Public Welfare Association to this effect and ask that it be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, it is clear that it will be virtually impossible for the States to develop and implement approved plans for cost-related reimbursement of nursing homes by January 1, 1978. In addition, it is imperative that we clarify the position of the States concerning the issue of retroactive liability. This amendment will provide time to reexamine the cost-related reimbursement requirement and allow for the development of well-developed reimbursement plans. Plans developed in a last minute rush to meet the January 1, 1978, deadline are likely to encourage opportunities for fraud and abuse. Thus, Mr. President, this amendment will assist in achieving the objectives of S. 143, and I urge its adoption.

EXHIBIT 1

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section 249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

Mr. TALMADGE. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Will the Senator yield?

Mr. TALMADGE. I yield.

Mr. DOLE. Mr. President, I would like to begin by commending my colleague, Senator TALMADGE, for his commitment, concern, and hard work. The bill we have before us today is due in great part to his persistence and diligence.

Medicare and medicaid fraud and abuse are diseases, and are insidious and potentially fatal processes that may serve to destroy these programs.

Those who are adversely affected by these abuses are the recipients, the health care providers, and the taxpayers.

The recipients, those who are the poor, the aged, and the disabled of our society, suffer because fraud and abuse takes the money needed for services to these people, and puts it into the hands of the unscrupulous whose sole purpose is an increase in their own wealth.

The health care providers suffer because the names of many good practitioners are needlessly blackened, and their professionalism questioned, because of a few who are unethical. The taxpayers suffer because they expect that the money they have put into the system will be used for the purposes it was intended. But instead, the money is abused and the taxpayers are cheated.

The extent of fraud and abuse in these programs is widespread. In the past, our attempts to control these problems have met with limited success. This bill provides us with an opportunity to wage a stronger battle, with stronger weapons at our disposal.

Medicare and medicaid are taking an increased amount of the Federal budget. Health care costs are rising. Evidence of this can be found in another matter pending before both the Finance and Human Resources Committees, the cost containment measures. In the future, I anticipate there will be some form of national health insurance to consider. But before we can consider these major changes in the health care policy of our Nation, we need to gain a greater control over the existing programs.

It is not our intention to cast aspersions on those members of the health profession or on those health facilities who have provided responsible, qualified care. We are concerned about the small percentage that have taken advantage of their positions.

The control of fraud and abuse is a responsibility that cannot be borne solely by the Federal Government. The burden must be shared by the States, the local governments and even more importantly by the providers and the patients. We must all work together to help make these programs work.

I am hopeful each of my colleagues will join us in this effort.

Mr. President, I again thank my colleague, Mr. TALMADGE, and join him in urging passage of this bill.

Mr. President, I ask unanimous consent that a letter from the distinguished Senator from Oklahoma (Mr. BELLMON) be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 28, 1977.

DEAR COLLEAGUE:

Recently, I introduced legislation (S. 2005) to amend Section 249(a) of the Social Security Act (P.L. 92-603). Section 249(a) requires that states develop plans for reimbursing skilled nursing and intermediate care facility services on a cost-related basis. The purpose of my bill would be to delay implementation of the Section 249(a) requirement for one year (until January 1, 1979) and to protect states against liability for retroactive payments.

The threat of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement by July 1, 1976. HEW regulations, however, while technically requiring implementation on July 1, 1976, stated that plans had to be in effect on January 1, 1978. (Although the requirement was enacted on October 30, 1972, HEW did not issue implementing regulations until June of 1976, shortly before the July 1, 1976 effective date.) Thus, states have operated under the good faith assumption that they had until January 1, 1978 to initiate cost-related reimbursement. This assumption has been challenged by a recent decision of the Middle District Court of Alabama (*Nursing Home Association of Alabama vs. Califano, et al*), which ruled that the January 1, 1978 implementation date was not in compliance with the law. I have been informed that a similar suit has been filed in Illinois and others may be pending.

The cost-related reimbursement provision is potentially a costly requirement which could undermine state efforts to limit the escalation of the cost of nursing home care. When the bill was passed in 1972, HEW estimated first year costs to be from $152-300 million. There is no way to obtain precise cost estimates, however, as the specific implementation approach can vary from state to state. In Oklahoma, preliminary discussions with auditors indicate costs to the state will increase by 20-30 per cent or $18-28 million in FY 78. This increased cost will not result in significant improvements in services to nursing home residents.

Cost-related reimbursement systems such as those in Section 249(a) have been major contribution factors to the unacceptable rate of inflation in health care costs. It is imperative that new financing approaches be established which reduce these inflationary incentives. Even with cost saving incentives, expenditures for long-term care will increase dramatically in the next three decades because of the increased proportion of older persons in the population (Congressional Budget Office estimates that total private and public spending for long-term care will increase from $11.6-13.5 billion in 1975 to $26.31 billion in 1980).

The problems with Section 249(a) are also clearly indicated in the fact that few states have been able to develop acceptable plans for implementation of the cost-related requirement. Currently, 30 states out of 51 (in-

cluding District of Columbia) have submitted plans to the central office, HEW. Of these 30 plans,

2 have been approved
11 are pending minor revisions
14 are pending major revisions
3 are still undergoing review

Thus, although the date for implementation is approximately three months away, only two plans have been approved. Almost half (24) have either not submitted plans or are still undergoing review and have no idea what revisions may or may not be necessary. In light of this record, there appears to be little chance that the Section 294(a) requirement can be implemented by January 1, 1978 in most states. Failure to do so, however, could greatly increase the risk for states of extensive litigation with nursing home operators. State officials responsible for administering these programs are greatly concerned about these legal issues, the costs of implementing cost-related reimbursements and the lack of progress in development and approval of state plans. This concern was expressed by the National Council of State Welfare Administrators which endorsed this amendment on September 20, 1977 (see attached letter).

In view of the factors which I have outlined and of the fact that there is probably little chance that S. 2005 (my bill to delay implementation of Section 249(a)) can be reported during this session of Congress, I have decided to offer the bill as an amendment to S. 143, the Medical Fraud and Abuse Bill.

The amendment which I offer will give states greater flexibility in negotiating appropriate reimbursement rates with nursing home operators and permit more orderly consideration of the entire reimbursement issue. If you would like to co-sponsor this amendment, or if you wish more information, please call me or Dr. Barry Kinsey at extension 4-8935.

Thank you for your interest in this matter which is so important to our older citizens.

Sincerely,

HENRY BELLMON.

Enclosure.

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section 249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

Mr. KENNEDY. Mr. President, the Senate today is considering S. 143, the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977. I want to commend my colleague from Georgia, Mr. TALMADGE, who chairs the Health Subcommittee of the Finance Committee, and my colleague from Louisiana, Mr. LONG, chairman of the full committee, for their efforts in assuring that the medicare and medicaid programs are administered as free of fraud and abuse as is possible. I believe that many of the amendments to medicare and medicaid which this legislation proposes will assist the administration in controlling what appears to be a major problem in these two health care financing programs.

Mr. President, S. 143 is a major piece of health care legislation which, because of the way the Senate committees are organized, has not been referred to or considered by the Subcommittee on Health and Scientific Research of the Committee on Human Resources. The amendments proposed by S. 143 are not just limited to controlling fraud and abuse in medicare and medicaid, they also extend significantly the authority and scope of the professional standards review organizations. PSRO's, which were established under Public Law 92-603 in 1972, are organizations of physicians charged with responsibility for regulating the quality, efficiency, and economy of health care purchased by medicare and medicaid. PSRO's may eventually perform similar functions under national health insurance.

The fiscal year 1978 estimated budget for PSRO's is almost $150 million, for the some 200 local organizations currently in the developmental stages. However, a study of selected PSRO-type programs that have been in operation for several years was recently conducted by the Institute of Medicine of the National Academy of Sciences. The Institute of Medicine concluded that there is no evidence that these kinds of organizations, and the peer review they conduct, are cost-effective.

PSRO's in essence give physicians a Federal license to regulate themselves. This further extends the already pervasive domination which physicians exert over the entire health care industry including: Physician control of medical and other professional health education; physician control of licensing of professional health practitioners and faciilties; physician control of hospitals and their accreditation, operation, and utilization; physician control of laboratories and other health care facilities and their accreditation, operation, and utilization; physician control of such financing mechanisms as Blue Shield plans; physician control, both directly and indirectly, of health planning agencies, health care technology, and most other elements of the health care industry.

At the same time, physicians by their nature resist efforts at cost control and cost containment by continually arguing against innovation, competition, and controls, using the spectre of lowering of quality of care. The profession appears to feel it can keep any public controls on the defensive and thereby neutralize them.

The professional standards review organizations now give physicians further scope to their monopoly over the health care industry.

Mr. President, I believe the entire role of the medical profession in the health care industry needs examination from the standpoint of potential antitrust restraints on trade. With the 1975 Goldfarb decision, the Supreme Court has ruled that professions are indeed subject in part to antitrust concepts. But the scope to be given the professions is the biggest unanswered question, since the Court has suggested that some special powers are implicit in professionalism itself. What precise scope will be permitted to the professions depends upon assessments of public benefits and need.

To begin exploring these pertinent issues, we will initiate hearings jointly between the Subcommittee on Health and Scientific Research and the Subcommittee on Antitrust and Monopoly, on October 10. A close examination of the professional standards review organizations will be the focus of hearings scheduled for October 18.

It seems clear that the health care industry is not like those other industries where an open and competitive market serves the best interests of the consumer. In health care the consumer can never be fully informed, and thus the physician induces much of the demand for services. The incentives, given insurance coverage without controls, are to provide or induce more and more services, although in medical care, more services may not always be in the best interest of the patient. In this situation, some degree of regulation is essential to protect the consumer and society. The joint hearings will therefore explore the relationship between regulation and competition, seeking answers initially to such questions as:

What is the role of the medical profession in determining and controlling the regulatory as well as the competitive aspects of the health care industry? How pervasive is the role of the medical profession vis a vis other professional groups, consumers, the Government? What are the effects of the medical profession's domination of the industry on consumer knowledge, choices, and rights? What are the effects on competition in the industry? What are the effects on social objectives such as equity in access to services and containment of costs and inflation?

In the particular example of the regulatory mechanism of professional standards review organizations, the Government has given physicians almost exclusive control of decisions on utilization, quality, and, by implication, costs of services. What are, or will be, some of the effects of this control on consumers, the industry, and society? What role should consumers, other professionals, or elected officials play in the governance of PSRO's? Should information from practitioner and facility profiles be made available to consumers to help inform their choice of source of care? What are

the effects on consumer rights and protections of the immunity from civil liability granted practitioners and providers as a result of the PSRO program? Is peer review itself an effective mechanism of social control, and if so, are there methods to assure that such review and PSRO's can be accountable to the public?

What legislative changes, if any, might be appropriate to improve the balance between competition and regulation in health care? Is self-regulation adequate to protect consumers and society? Should there be a broader regulatory approach, perhaps on the public utility model? Should there be a move toward less regulation, less professional domination, and more open and competitive practices in the industry? How should we change present laws to assure that regulation does not stifle appropriate competition, as for example between health maintenance organizations and fee-for-service practice?

Mr. President, I believe that these issues need full and complete public discussion, and I intend that they will receive such during the joint hearings that have been scheduled.

MEDICARE/MEDICAID REFORM LONG OVERDUE

Mr. CHURCH. Mr. President, I am pleased to join with the members of the Senate Finance Committee in urging the enactment of this bill to combat fraud and abuse in medicare and medicaid.

I am grateful to the distinguished senior Senator from Georgia for his kind remarks concerning the role the Senate Committee on Aging has played in disclosing the extent of fraud and abuse and in formulating the reforms we are considering today. We have worked closely with him and several other committees in the House and Senate to achieve this important goal.

This year the combined expenditures for medicare and medicaid will equal almost $50 billion, and these costs will probably continue to grow at an alarming rate, without necessarily increasing benefits for those the programs are meant to serve. There has been growing realization in the Congress that fraud and abuse are intensifying the problem; perhaps 8 to 10 percent of our Government health care dollars may thus be lost. Witnesses before the Committee on Aging have suggested in fact that as much as 25 percent of medicaid funds may be diverted by the unscrupulous. If we can eliminate some of the embezzlement from these health care programs we may well serve yet another objective: To implement more effective cost and efficiency controls.

S. 143 is an essential bill. Many of its provisions and its companion, H.R. 3—which passed the House on September 23—were suggested at hearings conducted by the Committee on Aging or in reports we have issued, including:

First. Prohibition against factoring. Physicians and other providers who have large accounts receivable from medicare and medicaid can recover cash by selling these accounts receivable to a factoring, or brokerage, firm for cash while the firm takes 12 to 24 percent for collecting them. Medicaid payment can take 6 months or longer in some States, and so many providers have little choice but to go to factors. Congress did not intend that money appropriated for the care of the sick and aged to be diverted into the hands of such "middlemen."

Congress attempted to ban this practice in 1972 but factoring firms were able to escape through a loophole which allowed physicians to give their power of attorney to such firms. In our hearings in September 1975 we learned that factoring firms commonly increased the amount of the physician's bill before submitting them for payment often without the knowledge or approval of the physician. In 3,569 cases studied by Chicago's Better Government Association, 1,711 of the bills were raised to larger amounts.

S. 143 now precludes the use of power of attorney as a device to circumvent the existing ban on the use of factoring firms.

Second. Disclosure of information. Several of our investigations have been frustrated by inadequate information about the ownership or financial structure of health care facilities. S. 143 would require disclosure of ownership, financial information, and prior criminal convictions as a precondition of a provider's participating in medicare and medicaid. The bill also authorizes direct access to such information by Federal authorities.

Third. Suspension of providers for criminal violations. In a related provision, the bill would require suspension from medicare and medicaid of any provider guilty of "program-related criminal offenses." As things stand now, those convicted of felonies in medicare could continue providing services under medicaid. In other instances the convicted medicare provider simply moved into a different State, obtained a new provider number and began billing medicare again. S. 143 would prohibit this practice by requiring the Secretary to suspend providers who have committed serious criminal offenses.

Fourth. Increasing the penalties for fraud and abuse. U.S. attorneys testified at our hearings that penalties for medicare and medicaid fraud—now misdemeanors punishable by a maximum $10,000 fine, a year in jail, or both—should be made more severe. They also testified that the language of the medicare/medicaid fraud statute needs clarification.

S. 143 meets both objectives. Henceforth, fraud in Government health care programs will be a felony punishable by a maximum $25,000 fine, 5 years in jail, or both. New language will help better define what constitutes an illegal "kickback" or rebate.

Fifth. Encouraging physicians to fight fraud. Medicare should be encouraged to clean its own house to prevent having the Government step in to do so. One of our recommendations in the report relating to so-called medicaid mills would permit professional standards review organizations (PSRO's) to evaluate the quality of care offered in these medicaid outpatient clinics and to detect possible fraud and abuse.

At present, PSRO functions are limited to monitoring institutions, such as hospitals and nursing homes. Under this bill, groups of physicians could petition the Secretary of HEW for permission to evaluate medicaid mills. The Secretary of HEW, under the bill, must give priority consideration to such requests. I believe the result will be great improvement in the quality of care and reduced fraud in the shared-health facilities so numerous in the low-income areas of major cities.

Sixth. Subpoena power for GAO. The Comptroller General of the U.S. General Accounting Office, and the GAO itself have performed admirably in their role as "watchdog" for the Congress. However, GAO lacks subpoena power. A particular need for such power has been demonstrated in the GAO's recent audit and investigation at the request of the Senate Finance Committee in Illinois. S. 143 authorizes subpoena power for GAO with respect to its oversight responsibility for the Social Security Act. I believe this is an important and needed provision.

Seventh. Improving functions of intermediaries. At our March 8, 9, 1977. hearings, we discussed problems which arise when employees of intermediary insurance companies leave their posts and go to work for providers whom they have been serving. The reform bill would rectify the problem by requiring the provider to notify HEW immediately upon hiring an individual who had been employed by an intermediary within the previous year. The Secretary would thus be on notice of any potential conflict of interest. The bill also requires the Secretary to select intermediaries in some circumstances and not to rely totally on the nomination by providers. Specifically, preference is given in the selection to agencies that function within the same State or geographical area as the provider.

Eighth. New controls on patients' funds. Last year we released an audit by the General Accounting Office which proved significant problems in the handling of patients' trust funds in nursing homes in five States. Since that time the committee has received an audit of Kane Hospital, a 2,200-bed nursing home in Allegheny County, which suggests the need for new controls to protect the integrity of the $25 a month in personal spending money allotted to medicaid patients. Earlier this year, I presented these audits to Senator TALMADGE. I am pleased to see that the reforms as suggested by GAO have been incorporated in S. 143.

There is a related provision in the House-passed bill which I hope the Finance Committee will accept in conference. It, too, is the result of an audit which GAO conducted at our request. The audit disclosed that some nursing homes are requiring family members to make financial contributions as a precondition of admitting them to the facility. There was some evidence of this practice in our hearings on Kane Hospital. Commonly, relatives are told that there is no room in the home, but if they would care to make a contribution to the home's building fund, something can be worked out. Congressman CLAUDE PEPPER introduced and the House ac-

cepted an amendment which would bar this practice; he cited our work in this area as the basis for his proposal. Voluntary, that is freely offered contributions, would still be permitted.

Ninth. State medicaid fraud control units. In my statement to the House Ways and Means Committee I suggested that we should find ways to assist the States; by law they carry the greater part of the burdens associated with the administration of medicaid. What I suggested was 100 percent funding to the States to help establish units similar to the successful office of the special prosecutor for nursing homes in New York State. Assistant Attorney General Charles J. Hynes testified before our committee and described his amazing record. From 1970 to 1975 there had been no conviction for medicaid fraud in New York nursing homes. From 1975 until the present, Mr. Hynes has obtained 113 indictments and 44 convictions; he has identified more than $70 million in fraudulent payments over the past 5 years. Each year he recovers more than the cost of his operation. In fact, auditors recover $2,500 for every day they are in the field.

The provision in this bill offers 100 percent funding to the States to set up investigative units associated with the Attorney General's office for the first year, 90 percent funding for the second year, and 75 percent funding for the third year. Thereafter the Federal support would revert to the 50 percent match available for all medicaid administrative costs.

In a recent report on "Kickbacks in the Medicaid Program," the Committee on Aging adopted my recommendation that following the 3 years of start-up moneys, States be allowed to retain 100 percent of any funds recouped from their investigation and prosecution of medicaid fraud cases. I believe that this additional incentive is needed to encourage the States to take on this enforcement burden. I believe that it will become more important after the third year when Federal start-up funds phase out. I offer this suggestion for the consideration of my colleagues. I intend to study the progress in implementation of these State medicaid fraud control units and may want to offer an amendment along these lines next year or thereafter if there is not sufficient State interest in establishing viable fraud control units.

Tenth. Direct prosecution by HEW. Another recurrent problem is the assertion that the Department of Justice has not accepted medicare and medicaid fraud cases in timely fashion and has failed to carry out both prosecution and civil recoveries. U.S. attorneys explain the lack of prompt prosecution by pointing to inadequate manpower and what they consider to be higher priorities. I share the Finance Committee's view that this low priority must change.

S. 143 would authorize the Inspector General of the Department of Health, Education, and Welfare to initiate prosecutions for civil fraud on his own authority if no action is taken by the Department of Justice within 6 months following the formal referral of a medicare or medicaid fraud case. This provision is not contained in the House-passed bill. In my opinion it should be. I urge the Senate to accept this provision; conferees should insist on the Senate amendment.

In summary, Mr. President, I believe that the bill we consider today is an extremely important step in efforts to eliminate fraud and abuse. No one should have the impression that the bill will solve all problems which still cry out for close inspection and early solution. Our failure to enact this legislation, I believe, would jeopardize any chance of the enactment of national health insurance legislation. I pledge my best efforts to work for still other reform measures.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute as amended.

The amendment, as amended, was agreed to.

Mr. KENNEDY. Mr. President, on Monday, September 26, Senator THURMOND and I, together with Senators HATHAWAY, PELL, CULVER, METZENBAUM, MAGNUSON, CLARK, and INOUYE introduced S. 2144, the bill to provide prescription drug benefits for the elderly. Such legislation is needed now, because so many of the elderly suffer the combination of chronic illness and need for drugs, while facing the skyrocketing costs of such medications since medicare does not provide drug benefits coverage.

We do not feel it is necessary that we hold hearings on this legislation since the Senate has passed very similar legislation three times in the past. It was, therefore, our intent to amend S. 143, the medicare-medicaid antifraud and abuse amendments in order to include S. 2144 and to assure that the elderly did get the drug benefits they need.

However, I understand the urgency of passing this important bill on fraud and abuse in medicare and medicaid. I certainly do not want to cause any undue delay in its passage. If the Senator from Georgia will assure me that the drug benefits for the elderly bill will be considered either this session or early next year, as part of another medicare bill, then I will defer to his agreement and not offer any amendments at this time to S. 143. And I will, of course, welcome his cooperation and support in assuring passage of a drug benefits bill for the elderly at a later date.

Mr. TALMADGE. I thank my friend from Massachusetts. As the Senator knows, the Senate has passed that bill, but it has never been passed by the House. When we have our hearings for additional benefits on medicaid and medicare, the Senator has my assurance that we will hold hearings on that matter.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3) was passed.

Mr. TALMADGE. I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I move that the Senate insist on its amendments to H.R. 3 and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. MORGAN) appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. CURTIS, and Mr. DOLE conferees on the part of the Senate.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the bill, H.R. 3, be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, et cetera, designations, and cross-references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT S. 143 BE INDEFINITELY POSTPONED

Mr. TALMADGE. Mr. President, I move that S. 143, calendar No. 416, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn, and the order for the quorum call is rescinded.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 5645, with the understanding that the discussion thereon will not exceed 3 minutes.

Mr. BAKER. Mr. President, reserving the right to object, I understand there will be an objection, but I wanted to say, in advance of the objection, that the distinguished majority leader and the distinguished Senator from Indiana have previously consulted with me about clearing this matter for consideration today; and it was our understanding that we could proceed with it, on condition that there be a rollcall vote.

I think now there is some indication that there is another problem with it, and I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, on behalf of a Senator who is absent from the Chamber, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. METZENBAUM. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 862 is the pending business.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 55 Leg.]

Abourezk	Ford	Moynihan
Allen	Garn	Muskie
Anderson	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
	Huddleston	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Matsunaga	Tower
DeConcini	McClure	Wallop
Dole	McGovern	Weicker
Domenici	McIntyre	Williams
Durkin	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	

The PRESIDING OFFICER. A quorum is present.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 1093

Mr. HANSEN. Mr. President, I call up amendment No. 1093 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes amendment No. 1093.

On page 12, line 13, strike "1982" and insert in lieu thereof "1994".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The amendment attempts to amend a figure which is not in the bill and therefore it is not in order.

AMENDMENT NO. 1306

Mr. ABOUREZK. Mr. President, I call up amendment No. 1306 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1306.

Strike section 12(b) and insert in lieu thereof the following new section 12(b):

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States court of appeals for any circuit wherein the person to whom the order relates has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

Mr. LONG. Mr. President, I move to table that amendment, and I ask for the yeas and nays.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "yea."

The result was announced—yeas 85, nays 6, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—85

Abourezk	Garn	Nelson
Allen	Glenn	Nunn
Anderson	Goldwater	Packwood
Baker	Griffin	Pearson
Bartlett	Hansen	Pell
Bayh	Hart	Percy
Bellmon	Haskell	Proxmire
Bentsen	Hatch	Randolph
Biden	Hayakawa	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Huddleston	Sarbanes
	Inouye	Sasser
Cannon	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McClure	Tower
Dole	McGovern	Wallop
Domenici	McIntyre	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Young
Eastland	Moynihan	Zorinsky
Ford	Muskie	

NAYS—6

Brooke	Case	Magnuson
Byrd, Robert C.	Hathaway	Melcher

NOT VOTING—9

Gravel	Humphrey	Metcalf
Hatfield	Mathias	Stafford
Hollings	McClellan	Thurmond

So the motion to lay on the table the amendment (No. 1306) was agreed to.

Mr. GOLDWATER. Mr. President——

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I yield myself such time as I might require.

Mr. President, yesterday on the floor of the Senate I made a statement relative to the comments the President of the United States made regarding those of us who may not agree exactly with his position on the deregulation of natural gas. During a subsequent colloquy in the Chamber with the distinguished leader, he suggested I get the context of what the President said and maybe I might change my mind.

I have not changed my mind, Mr. President. I might have been a little bit bitter but I get a little bit bitter when people suggest I have not been playing ball exactly square.

I have what the President said yesterday. I will read the important part of it.

As the Members of the House of Representatives began to realize the enormity of the consequences of their timid action and as the Speaker and other leaders moved forward to assert their influence, the House acted responsibly after giving us a disappointing time for a few weeks.

I think the Senate is now in that posture. I think the Senate realizes that this is the major domestic legislative product that we expect this year. And for us to devote a full year of work and come out with an inconsequential or inadequate energy program is something that I don't believe the Senate will face. They have their own reputations to protect.

I think they want to act responsibly and I think that it is obvious in my own experience in the Legislative Branch in Georgia that the focusing of the powerful lobby pressure is always on the second legislative body that has to act, the final body that has to act.

So there is a tremendous pressure on the Members of the Senate now from the lobbyists, many of whom are well-meaning people.

I am not criticizing them necessarily but I think as they hear the voice of the American people as they realize the consequence of the absence of courageous action, then I think they will move to adopt the major parts of the program.

Mr. President, this is not the first time the President has been critical of Members of this body, or of people interested in a position opposite to his own.

In the New York Times of September 26 he said:

The lobbying efforts of oil and gas industries on deregulation itself show how the special interests are trying to block enactment of the entire energy program.

Mr. President, I do not know what the experience of other Members of this body has been, but I have yet to hear from anybody representing an oil company anyplace. As I said yesterday, we have no oil wells or gas outlets in Arizona. I wish we did, but we do not.

Mr. President, the President does not seem to be too eager to end this filibuster. If he would send some of his representatives up here, such as Dr. Schlesinger, who, by the way, is lobbying the daylights out of this, and other members of the White House who are lobbying all over

the place, they could start to try to impress my good friend from South Dakota and my good friend from Ohio that the major reason we are not getting someplace with this bill is a continuation of this 23rd century filibuster, something we have never experienced before.

I might say parenthetically, having lived through filibusters conducted by the Southerners, I wish we were back in those days of the filibuster by the Southerners. It was a gentlemanly experience. We were only awakened maybe once a night, and really staying in session all night did not mean too much.

On top of that, the food was better at that time. [Laughter.]

Mr. President, I have never heard this President or any President complain of the labor lobbying that goes on in these halls. Some days, Mr. President, when I get off the elevator to try and vote, it is literally impossible for me to beat my way through the hordes of labor lobbyists who are telling everybody how to vote. Even once in a while they will tell me how to vote. I do not always follow it, but I do listen.

Mr. President, I just wanted to make those statements because I am getting a little sick and tired of the President criticizing those of us who disagree with him, accusing us of listening to lobbyists.

The President went on, for example, to say that:

> Removal of natural gas from price controls would cost the average American family heating with gas an extra $150 a year by 1985 or a total of almost $10 billion annually, while producing little if any new supplies.

I will remind the President again if these words were not the words he used during the campaign. However, no responsible economist that I have listened to comes up with these figures. The most responsible figure that I get is an increase in the family user of gas of something like 3 to 5 percent. That might produce $10 billion annually. I do not think that would be unexpected with a population of 230 million people.

I am putting together some figures in economic form that will try and put this in a proper perspective.

Mr. President, there are those of us who live in States which depend on natural gas for our existence. Mind you, in my State of Arizona heating has not been a problem; we have God's sunlamp up there going all day and it is warm at night. But we do have to have gas for the smelting of copper. We smelt 52 percent of all the copper in this country. So we are looking forward to maybe having to cut down on the production of copper. We are already having to do that because of the competition we are receiving now from third world countries whose copper mines are owned and operated by the governments.

Mr. President, I would hope that in the future the President will recognize that those of us who oppose his plan, those of us who are for deregulation, are for it for economic reasons.

As I stated yesterday, I spent a large part of my life in the economic system, in the market system. I can tell you again, Mr. President, as I said yesterday, there is only one way that Americans ever enjoy cheaper prices. That is when we are able to make more of whatever it is they want to buy. When we do that, we provide jobs; we provide cheaper prices on everything. In every instance of Government control, such as the regulation of the price at the wellhead, it results in higher prices. We are seeing it now as we are hearing compromises offered that even go above what some of my friends in the gas industry seem to feel would be a fair increase of around, say, 15 percent at the wellhead.

Mr. President, this country could not enjoy the things we enjoy today in a material ways unles we had bigness in our enterprise, bigness and smallness. We have had, as I said yesterday, over 2,500 different automobiles made in this country and because you cannot make automobiles in your garage, we see most of the automobiles made by a relative handful of companies. But that is the way this country of ours and our economic system works.

What we are listening to here, if what the opponents are saying against deregulation is what I think it is, I think is prelude to the nationalization of our fuel supplies, which only means a few months or years from the nationalization or socialization—we may as well call it what it is—of transportation and every other industry in this country that has provided so much for us.

I close this particular part of my remarks, Mr. President, by merely asking my President to practice a little prudence in his remarks, not going off half-cocked just because he does not get everything he wants down here. I can assure him that the leadership is trying their best, but they are not getting the full cooperation they deserve from their own party. For once, that gives this old Republican a sort of smile.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 1094

Mr. HANSEN. Mr. President, I call up amendment 1094.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes amendment No. 1094.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1995".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the Chair is informed, the amendment is not in order.

AMENDMENT NO. 1095

Mr. HANSEN. Mr. President, I call up my amendment No. 1095.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment on page 12, line 13, strike "1982" and insert in lieu thereof: "1996".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the amendment is not in order.

AMENDMENT NO. 1096

Mr. HANSEN. Mr. President, I call up my amendment No. 1096.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1997".

The PRESIDING OFFICER. There is no such figure to be stricken. Therefore, the amendment is out of order.

AMENDMENT NO. 1098

Mr. HANSEN. Mr. President, I call up amendment No. 1098.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "2000".

The PRESIDING OFFICER. The Chair is informed that there is no such figure to be stricken. Therefore, the amendment is out of order.

AMENDMENT NO. 1097

Mr. HANSEN. Mr. President, I call up amendment No. 1097.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1998".

The PRESIDING OFFICER. The Chair is informed there is no such figure. Therefore, the amendment is out of order.

Mr. ABOUREZK addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, unless the Senator wanted to address himself to this particular point of order——

Mr. ABOUREZK. No; I want to call up an amendment.

IN TRIBUTE TO FORMER SENATOR CARL T. HAYDEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GOLDWATER be authorized to proceed for not to exceed 2 minutes to call up a resolution which has been cleared on all sides.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object.

Mr. ROBERT C. BYRD. It has nothing to do with the present business.

Mr. ABOUREZK. Will the leader describe what it is?

Mr. GOLDWATER. I shall be glad to.

Mr. President, I send a resolution to the desk and ask that it be read. It is very short.

Mr. ABOUREZK. If I could reserve my right to object, I would like to.

Mr. ROBERT C. BYRD. It is self-explanatory.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 275) of tribute to former Senator Carl T. Hayden.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from West Virginia? Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. GOLDWATER. Mr. President, I have sent the resolution to the desk for myself and my colleague (Mr. DECONCINI).

It is my deep honor to offer this resolution in tribute to the memory of Carl Hayden, who served in the Senate and Congress longer than any other person and who died on January 25, 1972.

This Sunday, October 2, will mark the 100th anniversary of the birth of Carl Hayden. I believe all Senators will want to join with me on this occasion to pay tribute to his memory.

Carl Hayden served in Congress 57 consecutive years, with 42 in the Senate. This is an unparalleled record that will probably never be matched.

Mr. President, Carl Hayden was born in Haydens Ferry, now Tempe, Ariz., on October 2, 1877. After serving as a member of the Tempe Town Council and as sheriff of Maricopa County, he was elected Arizona's first Congressman upon statehood in 1912. He served in the House for eight successive terms from February 1912 to March 1927, and then was elected to seven succeeding terms in the Senate, from March 1927 to January 1969.

Now, I might say that Carl Hayden's great accomplishments are not as well known as they shall become in time, largely because of his modest character.

Carl Hayden was not a show horse; he was a work horse.

But his accomplishments were of national stature and included joint authorship of the constitutional amendment giving the vote to women and the original law setting up the Interstate Highway System.

It is fitting that we take this occasion to honor his memory and I urge approval of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 275) was agreed to as follows:

S. RES. 275

Resolved, That in commemoration of the occasion of the one hundreth anniversary of the birth of the late Carl Trumbull Hayden on this Sunday, October 2, 1977, and in memory of his great achievements and distinguished service to the people of Arizona and the United States throughout a career which included the unmatched accomplishment of having served longer in the United States Congress than any other person in the history of our nation, the Senate hereby marks such anniversary by expressing its highest tribute to the memory of the Honorable Carl T. Hayden.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1307

Mr. ABOUREZK. Mr. President, I call up amendment No. 1307.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Strike section 12(f), paragraph (3).

Mr. METZENBAUM. Mr. President, I move to lay that amendment on the table.

Mr. HANSEN. Mr. President, I make the point of order that the amendment is improperly drawn.

The PRESIDING OFFICER. There is no 12(f) paragraph (3). Therefore, the amendment is out of order.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The bill does not have a paragraph 3? This is an amendment to the bill.

The PRESIDING OFFICER. The bill does not have such a section and paragraph.

Mr. ABOUREZK. Mr. President.

Mr. HANSEN. Mr. President.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1308.

The PRESIDING OFFICER. I think from the viewpoint of where I am sitting, the Senator from Wyoming was first to seek recognition.

AMENDMENT NO. 1099

Mr. HANSEN. Mr. President, I call up amendment No. 1099.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment.

On page 12, line 13, strike "1982" and insert in lieu thereof: "1999."

The PRESIDING OFFICER. Since there is no such figure in the amendment, the amendment is out of order.

Mr. ABOUREZK. Mr. President.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1308

Mr. ABOUREZK. I call up amendment No. 1308.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Strike section 12(f), paragraph (3), and insert in lieu thereof the following new paragraph (3):

(3) The Commission may require the purchaser in any first sale to which the provisions of section 5, 7, 8, or 10 apply to file with a copy of the contract under which such gas is purchased but shall not otherwise have any power over any such first sale.

The PRESIDING OFFICER. Since there is no section 12(f), paragraph (3), the amendment is out of order.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 1100

Mr. HANSEN. I call up amendment No. 1100.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment: On page 4, line 9, strike "January 1, 1977" and insert "the date of enactment".

The PRESIDING OFFICER. There is no such date in the amendment; therefore, the amendment is out of order.

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1316

(Purpose: Amendment to require an annual report from the Secretary of Energy with respect to natural gas production.)

Mr. ABOUREZK. Mr. President, I call up amendment No. 1316.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

At the end of the bill insert a new section as follows:

SEC. . The Secretary of Energy shall, after the termination of each year following the date of enactment of this Act, report to the Congress—

(1) the amount of new natural gas produced in the United States during such year;

(2) the amount of new natural gas reserves discovered in the United States during such year;

(3) the number of new exploratory natural gas wells drilled in the United States during each year; and

(4) the amounts and number reported pursuant to clauses (1), (2), and (3) compared with the average annual such amounts and number for the five-year period preceding the date of enactment of this Act.

Mr. HANSEN. I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1316.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

The result was announced—yeas 69, nays 25, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—69

Abourezk	Garn	Pell
Allen	Glenn	Percy
Anderson	Goldwater	Proxmire
Baker	Griffin	Randolph
Bartlett	Hansen	Ribicoff
Bayh	Haskell	Riegle
Bellmon	Hatch	Roth
Bumpers	Hatfield	Sasser
Burdick	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Scott
	Hollings	Sparkman
Cannon	Huddleston	Stennis
Chafee	Jackson	Stevens
Chiles	Johnston	Stevenson
Church	Laxalt	Stone
Clark	Lugar	Talmadge
Cranston	Matsunaga	Thurmond
Culver	McClure	Wallop
Curtis	McGovern	Weicker
DeConcini	McIntyre	Williams
Domenici	Metzenbaum	Young
Eagleton	Morgan	Zorinsky
Eastland	Muskie	
Ford	Nelson	

NAYS—25

Bentsen	Hathaway	Moynihan
Biden	Heinz	Nunn
Brooke	Inouye	Packwood
Byrd, Robert C.	Javits	Pearson
Case	Kennedy	Sarbanes
Danforth	Leahy	Schweiker
Dole	Long	Tower
Durkin	Magnuson	
Hart	Melcher	

NOT VOTING—6

Gravel	Mathias	Metcalf
Humphrey	McClellan	Stafford

So the motion to lay on the table amendment No. 1316 was agreed to.

Mr. ROBERT C. BYRD obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, I hold in my hands a number of amendments that remained to be called up about an hour ago. Of course, a good many of them are out of order, but it is not a majority of them, by any means. There are several in there that could be ruled out of order, and some of them are being ruled out of order as we are going along. But that is a pretty representative number and volume of the amendments that remain to be called up and disposed of, if they are called up.

I have had a number of meetings today. The distinguished minority leader has been with me in a good many meetings. I have met with Members on my side of the aisle, and he has met with Members on his side of the aisle, and we have met together in bipartisan groupings, and so on.

I ask unanimous consent, as a result of those meetings, that at 4:30 today, the Senate vote, up or down, on an amendment which is offered by Messrs. PEARSON and BENTSEN.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I realize this is rather short notice to some Senators, not all. I ask unanimous consent that a rollcall vote—I ask unanimous consent that a vote up or down occur on the Pearson-Bentsen amendment today at 5 p.m.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, I had promised some Senators to attempt to get agreements on some——

Mr. LONG. Mr. President, if the Senator wants to ask unanimous consent that we vote on 5, 10, or 50 dilatory amendments he just held up I will give consent to that.

I ask unanimous consent that we vote on 50 of those dilatory amendments.

The PRESIDING OFFICER. En bloc?

Mr. LONG. Yes. I ask unanimous consent that we be permitted to vote on 50 dilatory amendments en bloc.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, let us put it this way: I ask unanimous consent that all amendments which are not properly qualified—and I think it would be fairly easy, I have a list of amendments against which points of order can be raised for one reason or another, and if the unanimous-consent request that I shall make is agreed to it will take only a few minutes to designate these by number and to know exactly how many there are—I have them enumerated here, and some of them have been called up and ruled out of order since this listing was made—so I ask unanimous consent that all amendments at the desk which, for one reason or another, would be subject to a point of order be now ruled out of order.

Mr. ABOUREZK. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I think it would only be appropriate they be done as they are called up. I think it would be inappropriate to rule any number of amendments out of order en bloc. I object.

Mr. ROBERT C. BYRD. Mr. President, there are some other amendments which, using Mr. LONG's adjective of dilatory amendments, and dilatory is the word of Mr. LONG—there are some amendments which, I am sure, he would not put into that class, and by reason of the fact that several Senators last night held up their hands in any case that they would like to call up certain amendments today—and I have met with these Senators through today, and I am about to ask unanimous consent that each of their amendments be limited to the following time agreements which have been cleared with those particular Senators: Mr. FORD has eight amendments that are eligible, and he has indicated he would be willing to agree to a 30-minute time limitation on each.

I make that unanimous-consent request that at such time as Ford amendments are called up, if they are called up, there be a 30-minute time limitation on each to be equally divided in accordance with the usual form.

Mr. ABOUREZK. Reserving the right to object, Mr. President, may I ask the leader a question? When you attempt to set such time agreements does that mean a vote has to occur at the time that the 30 minutes are done or the debate will be limited at that time?

Mr. ROBERT C. BYRD. No, it would be assumed the debate would occur once it had been called up, and when the time had run there would be a vote to occur, and a tabling motion would be in order.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. —I would like to explore a thought that occurs to me with the majority leader in this particular case. It has no reference to these particular amendments. But if we have eight amendments and we are going to have 30 minutes apiece, and the distinguished Senator from Kentucky calls them up, when we certainly have reached the hour of cloture rule, I wonder how we are going to accommodate to that situation? I wonder if the unanimous-consent agreement would be changed to avoid that so that the request was not to extend the time otherwise available to the Senator from Kentucky under rule XXII?

Mr. ROBERT C. BYRD. Well, Mr. President, we have done this before. We have invoked cloture at times, as you know, and then resolved the whole matter by unanimous-consent agreement after a while. Unanimous-consent agreements were worked out that, in effect, vitiated the cloture and, of course, I know that is not going to happen in this instance at this particular time. This is just an effort at this point to carry through on my commitment to these Senators to attempt——

Mr. BAKER. I understand. If the Senator will permit me one more point. let me point out what will happen in that particular respect. I will not object, but just to make sure I have the picture clearly in my mind, assuming the distinguished Senator from Kentucky does not call up his amendment. For some reason or another, he decides not to do that, then they are at the desk, and eight of them at 30 minutes apiece means 4 hours additional time somebody can use and, of course, anybody in the Senate can call up those amendments. So, Mr. President, while I do not object, I point out we are potentially lengthening the time in which we can consider this measure.

Mr. ROBERT C. BYRD. Mr. President, I would include in my request provided the author of the amendment calls them up.

Mr. FORD addressed the Chair.

Mr. ROBERT C. BYRD. I yield to Mr. FORD.

Mr. FORD. I hope my colleagues will understand what is attempted to be done here. My amendments are very close to being called up by another Senator. Every amendment that we developed prior to cloture and every area we worked hard to see that these amendments would fit. The Parliamentarian has advised that the amendments do fit within the legislation. I would hate to see some that I worked very hard at—and I am sure it applies to other Members of this body, because if the Pearson-Bentsen substitute should not pass, then I think it is imperative that several of

my amendments be applied to the so-called Jackson-Byrd substitute, because if it is not one it has to be the other, and there are some corrections.

I understand what the distinguished minority leader has said, and I do not want to prolong this agony any longer, but I do want to protect my interest because I think 1308 was the last amendment that was called up by the distinguished Senator from South Dakota, and you are within 10 of mine and mine are in sequence, 1319 through 1328, I believe, and I would be very hopeful that I would at least have an opportunity to take a few moments to explain the amendments that I feel very sincere about.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, reserving the right to object, with the modification just made by the distinguished majority leader, I think he has reached the point, or at least one of the points, that concerns me. He appears to have reached the point made by the Senator from Kentucky, which was a very good point, and I reiterate what I said before. Although I said I think there is a potential for lengthening the time of debate, I do not feel now it will be a serious threat. and I will not object.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, the Senator from Ohio has objected.

Mr. FORD. Does the Senator from Ohio object?

Mr. ROBERT C. BYRD. He objected to my request.

Mr. President, for the further information of the Senate, let me say, as I said before, I met with the Senators who indicated last night they had amendments, and I think it is generally agreed that not one of the Senators is offering his amendments for any dilatory purpose, and it was in the hope that we could get some kind of an agreement worked out that when such amendments were called up, of course, the intent was that the author of the amendment would call it up.

I discussed this, all of this, with Mr. BAKER earlier today, and I think he has brought up a good point. It certainly ought to be tied into the request, but certainly it is the intent of this Senator, and I would have defended that position had any question arisen, but I am committed to proceed. Otherwise what is the use of my having a meeting with Senators. So I have to proceed, and I want to proceed.

I ask unanimous consent that upon any of four amendments which Mr. GLENN has at the desk, at such time as such amendments are called up by Mr. GLENN, there be a time limitation on each amendment of not to exceed 30 minutes to be equally divided and controlled in the usual form.

Mr. ABOUREZK. Mr. President, reserving the right to object, I shall ask the leader a question. Does that request contemplate that additional time will be granted to the Senator from Ohio or anyone else who might debate on that amendment over and above what they are allowed under the cloture rule?

Mr. ROBERT C. BYRD. No. It only would contemplate the time to be specified in this request which we have made. Once that time has expired, the vote would occur on the amendment or on a tabling motion.

Mr. ABOUREZK. But it does not grant additional time to any one Senator?

Mr. ROBERT C. BYRD. No, it would not.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. BIDEN. Mr. President, reserving the right to object, may I ask a question along those lines?

Mr. ROBERT C. BYRD. Yes.

Mr. BIDEN. How many amendments does the Senator's request contain?

Mr. ROBERT C. BYRD. He has four amendments.

Mr. BIDEN. So that is 2 hours on his side, is that right, or equally divided?

Mr. ROBERT C. BYRD. It is 15 minutes to his side on each of the four amendments.

Mr. BIDEN. And would that use up his full hour in terms of responding?

Mr. ROBERT C. BYRD. No, it would not have anything to do with the hour under cloture.

Mr. BIDEN. If I wanted to respond to him on each of those amendments for a period of 1 hour total would I still have an hour remaining under cloture?

Mr. ROBERT C. BYRD. No.

Mr. BIDEN. Only he would, is that correct?

Mr. ROBERT C. BYRD. No. The 30 minutes on his amendment would be all the time on that amendment. He would control 15 minutes of it and under the usual form the distinguished manager of the bill would control the other 15 minutes unless he is in accord with it, in which case the minority leader, or his designee, would control the time in opposition.

Mr. BIDEN. But in the event I wanted to respond to that and were granted time to respond to that amendment would that be taken off my 1 hour?

Mr. ROBERT C. BYRD. No.

Mr. BIDEN. I thank the majority leader.

Mr. ABOUREZK. Mr. President, I misunderstood the leader, then, in my earlier question. The leader says the debate during that 30-minute period on any one of those amendments would not be taken out of any Senator's hour.

Mr. ROBERT C. BYRD. No. It is 30 minutes that we are taking out from the manna that falls from heaven. It does not come under this cloture.

Mr. ABOUREZK. I will object if that is going to be it. But if the leader would give me an extra hour I would be happy to let that go.

Mr. ROBERT C. BYRD. No. I am making the requests. If the Senator objects, that is the end of it.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and these are what I take to be the very serious amendments that will be called up in good faith by the authors of those amendments, and that is the reason why I am seeking to get a time agreement on it because——

Mr. GLENN. Mr. President, will the Senator yield?

Mr. METZENBAUM addressed the Chair.

Mr. GLENN. Will the Senator yield for a comment?

Mr. ROBERT C. BYRD. If I may complete my sentence first, then I shall yield.

At some point in time, I would assume that these Senators intend to call those amendments up and when someone calls them up, some of these amendments are subject to points of order.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Of course, if a point of order were made the whole time agreement is out and so is the amendment.

Yes, I yield.

Mr. GLENN. Mr. President, so there will be no misunderstanding, for those who were not on the floor last night, I wish to make it very clear that some of us spoke up for these amendments. They are constructive amendments. They are not alined with either side. We are trying to perfect whatever legislation comes out up and down, the substitute, the original, or whatever, so that what we come out with is really something that will do the people of this country some good. We are sincerely trying to make these perfecting amendments into constructive legislation, and it was not in any way tied up with whatever dilatory tactics may be on either side.

I make that clear. We are trying to do something constructive for a change over what has happened here in the last week.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I intend to object to any of these extra allowances of time because there is an implication to the question, and it is the implication that I cannot tolerate. I do not believe that any Senator, who has proposed these amendments, whether it is one of the Senators on the Republican side who proposed 28 amendments or one back here on this side who proposed 30 or 35 amendments, or I who have proposed substantially more than that, had anything other than serious motives in proposing them, and I think they have substance to them.

I say to the leader if we are to accept the leader's premise that our amendments are dilatory, which I do not accept, and that the other amendments are amendments that are to be considered because they have some special kind of a merit and we will, therefore, give additional time, I cannot accept that premise, and it is for that reason that I think it is demeaning to these other amendments which we have proposed to treat them in that manner; therefore, I must object to anyone getting any special kind of treatment in the Senate. I think we are equals among equals.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator was present last night when I asked Senators to identify any amendments that they wanted to call up, and he knows why I

intended at that time to try to get to those amendments. I thought there might be some chance of progress being made. I am sorry. I mean to cast no aspersions on any Senator.

Mr. FORD. Mr. President, will the Senator yield for a comment?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. I wish to say to the Senator from Ohio that an amendment that is called up that is not eligible to be considered under this legislative period is dilatory, and they know it. Then there is an objection heard, and we turn over and get another amendment. We have seen it on both sides.

We have a very few limited number of amendments that are drafted properly where there is not any question about it, and we want a little time to discuss those properly drafted amendments.

If the Senator has an abandonment on his lines to his distributors in Ohio and he does not let this abandonment amendment get on, when they cut him off I am going to remind him of it.

Mr. ROBERT C. BYRD. Mr. President, on the five substitutes by Mr. HART, I ask unanimous consent that on each of the substitutes there be 2 hours to the side to be divided and controlled in the usual form.

Mr. LONG. I object.

Mr. ROBERT C. BYRD. The Senator objects.

Mr. HART. Mr. President, will the Senator yield?

Mr. LONG. I object.

Mr. ROBERT C. BYRD. The Senator already objected. Does the Senator still wish me to yield to him?

Mr. HART. It is probably academic, but, nevertheless, I point out that I will not offer all six of these. I will offer at most probably not more than two depending on the parliamentary situation and under probably any set of circumstances would not use all the time on either of those two.

Mr. ROBERT C. BYRD. The Senator is being very gracious in his typical way.

I renew my request now that we have a better understanding.

Mr. LONG. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on a substitute by Mr. JOHNSTON there be a time limitation of 1 hour to be equally divided in accordance with the usual form and 30 minutes equally divided on a perfecting amendment to his amendment which he, of course, is very well aware of.

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not object to the time limit, but like Senator METZENBAUM I think there is something in the time requested this time and that implicitness is that I might call up this amendment in advance of a general time agreement on all amendments which I would not do because I am a supporter of the Pearson-Bentsen amendment, and I think in my view that should be called up and voted on and then, in turn, if that is rejected, then the Jackson amendment, and then if that is rejected, then I would be prepared to consider those same time limitations on my amendment.

Mr. ROBERT C. BYRD. All right.

Mr. JOHNSTON. So at this time I would have to reluctantly object.

Mr. ROBERT C. BYRD. All right.

Mr. President, I will make one blanket request and I will be glad to go through it in detail again if any Senator objects simply because I am saying it is a blanket request.

I ask unanimous consent that the foregoing time limitations on the specified amendments be in accordance with the cloture rule which would mean that the time on each amendment comes out of the Senator's hour under the cloture rule.

A moment ago all the amendments at the time would be in addition to the time allotted to each Senator under the cloture rule.

Mr. HANSEN. Mr. President, if the distinguished majority leader will yield for an observation, I did not catch exactly what he said.

Mr. ROBERT C. BYRD. This would, of course, mean that Mr. HART would not have 2 hours on his side, not any one of the substitutes. He just would not have that much time.

Mr. HART. Mr. President, if I could ask the leader a question, what is the effect if this request is not made? Is not that the state of affairs at the present time?

Mr. ROBERT C. BYRD. As far as the Senator's initial statement is concerned, but by putting an overall cap there, I would not expect the Senator from Colorado to agree to this request, because I did not discuss it with him. I just thought——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Will Senators allow me to get my explanation out?

Let me just say that ordinarily, under the cloture rule, if there is an agreement, let us say, that Mr. FORD will have 40 minutes, or 30 minutes, on an amendment which he will call up, 15 minutes on a side, when the 30 minutes is up we vote, but Mr. FORD's 15 minutes on that amendment would come out of his 1 hour under cloture. So I thought I would begin again, if I had any hope of getting anywhere with that request.

Mr. LONG. Mr. President, I object. Might I suggest to the distinguished majority leader that if he wants to start out by getting unanimous consent on the Ford amendments, I will not object. Maybe someone else will, but I will not.

Mr. ROBERT C. BYRD. Mr. President, I do not know how much time the Senator from Kentucky has left under the cloture rule.

The PRESIDING OFFICER. The Senator from Kentucky has 59 minutes remaining.

Mr. ROBERT C. BYRD. If he would be willing to limit his eight amendments to four, I would ask unanimous consent that Mr. FORD be authorized to call up four amendments, and that there be a time limitation of 30 minutes, to be equally divided in accordance with the usual form.

Mr. FORD. Mr. President, reserving the right to object, one of the amendments that I prepared is very important to some other Senators. It so happened that the drafting of my amendment would fit, and now they are very much interested in these amendments, and so it goes to the Northeast. I cannot agree to this at the moment, because I have given word to them that I would try to protect their benefit, and I shall keep my word until they say it is all right.

One question I might ask the majority leader: If I have the hour, and the only stipulation is that no one else can call up my amendments——

Mr. ROBERT C. BYRD. That would be the understanding.

Mr. FORD. Then I would have the right to call up my amendments; no other Senator could call up my amendments, and that the opposition, if any, to my amendments would come out of the time of the opponents, so that then I would have 59 minutes to lay against my eight amendments.

I will help as best I can to try to clear these other amendments, but certainly, if one of my colleagues wished to discuss one of the amendments that I bring up, and there is no time limit except the cloture hour, can I yield the floor to him for the discussion of that amendment, so he might get in, or several of them might get in their opportunity as relates to these amendments, because there is no time limit of 15, 20, or 30 minutes to use whatever we need, within the 59 minutes I have left?

Mr. ROBERT C. BYRD. We are getting into some mathematical computations. Under cloture, of course, a Senator can yield only for a question. But I would be glad to try to get into effect an order that the Senator could yield on his time.

Mr. FORD. I would not want it on my time, but it would be to a favorable Senator, and the favorable Senator would use part of his hour to support my amendment.

Mr. ROBERT C. BYRD. It would be fine with me.

Mr. FORD. We would not be losing any time, nor would anybody be giving any——

Mr. ROBERT C. BYRD. Certainly no time would be thrown away, because it is chargeable to the Senator who would call up the amendments.

Mr. FORD. I do not want anybody calling up my amendments and moving to table them without my concurring.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I yield first to the Senator from New Jersey.

Mr. CASE. Mr. President, reserving the right to object, is it implicit in the request that the majority leader is attempting to formulate that until the time allotted expires, no motion to table these amendments would be in order? That is a special privilege that is most unusual.

Mr. ROBERT C. BYRD. Until the time had expired. Then it would be in order.

Mr. FORD. Mr. President, as I understand the Senator, the only privilege I have here is that I am granted permission to call up my own amendments.

Mr. CASE. I understand the munificent purpose that the Senator has, but I see no reason why such a very special consideration should be given to any man, no matter how honest his purpose or how well-intentioned.

Mr. FORD. I do not want to get any

benefit from being honest, but all I want is the ability to bring up my amendment, instead of having another Senator bring it up because of a steamroller. My amendments are qualified at the desk. The amendments that are being called up and are being tabled are out of order.

Mr. CASE. I must say, Mr. President, that this is such a modification of the position under which we started out to do business that I am afraid we are getting into very deep water, and I would think it would be better, for example, as I suggested informally to the majority leader, that perhaps we take it in bites, and begin by asking unanimous consent that during this proceeding, that is, the balance of the proceeding under rule XXII on this bill, no Senator be permitted to bring up any amendment except his own. It seems to me that is absolutely the right thing to do under any circumstances. Then perhaps we could make a little headway.

Mr. LONG. I object. I object to that.

Mr. CASE. I know. I understand. I see no reason why the Senator should object except for purposes of delay, but nevertheless I understand his point.

Mr. LONG. Mr. President, I would like to vote on all the dilatory amendments right now. In fact, I would like the Chair to refuse to receive them. But that is not how it is; and if the rule is going to be that way, I will live with it. But understand, I am not the one demanding the yeas and nays. I am not the one demanding the quorum calls while there are 60 Senators in the Chamber.

Mr. CASE. Mr. President, all the Senator is doing is showing me he is an operator in the Senate. I will concede that, and he can have all the publicity he wants back home, here, and from here to Timbuktu. But the point is that it is only fair that only the proposer of an amendment should have the right to bring it up, and it seems to me to be very clear that we might make some headway if we agree to that.

Mr. ROBERT C. BYRD. Mr. President, I think I have done the best I can at the moment. I certainly appreciate the indulgence of Senators, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Rhode Island.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. PELL. I will just take about 2 minutes, if I may.

Mr. BUMPERS. Well, is it urgent?

Mr. PELL. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, would it be appropriate, under a unanimous-consent request or a motion, for the Parliamentarian—characterizing an amendment as dilatory is not exactly complimentary to the author of that amendment, but would it be in order for the Parliamentarian to rule on which amendments are out of order when they are called up, and then request the Senator to withdraw them, or the ones he would so rule on, and then list them publicly in the Chamber, so that the Senator from Ohio, the Senator from South Dakota, the Senator from Louisiana, and everyone will hear? Because the only option you would then have would be to appeal the ruling of the Chair. It seems to me that everybody's rights would be protected.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. PELL. I have the floor, and I have yielded to the Senator from Arkansas.

Mr. PELL. I am glad to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, in response to my friend from Arkansas, I did not carve the word "dilatory" out of the dictionary. That word is in the cloture rule. The Chair, under the rule, is authorized to declare amendments or motions dilatory, or a quorum call.

I think the distinguished Senator from Arkansas has made a good suggestion. A moment ago I sought to get unanimous consent to have the Chair rule out of order en bloc all of the amendments that have already been selected by the Parliamentarian and his staff, at my request.

I could simply enumerate them by number and, with a little time, could name the author, if that were important.

If there were no objection, the Chair could rule them out of order en bloc.

Concerning the further suggestion that the Senator has made, I would be willing to do that, and any Senator would have the right to appeal the ruling of the Chair on that particular amendment.

If the Senator will allow me to make a request, I ask unanimous consent, Mr. President, that the Chair be authorized to rule out of order en bloc amendments against which points of order would lie, and that at no later than 5 p.m. today the Chair state those amendments by number, and that if any Senator wishes to appeal that he be given that right to appeal. If the Senator wishes to appeal he could state so at the time his amendment was so named. Following the Chair's complete enumeration, those points of order which had not been appealed would be effective immediately.

Mr. METZENBAUM. I would object to that, but I would not object to the leader having the Parliamentarian or——

Mr. PELL. Do I still have the floor, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. PELL. I yield to the Senator from Ohio without losing my right to the floor.

Mr. METZENBAUM. Mr. President, I would suggest that the Chair prepare the appropriate list. If the procedure outlined by the leader were to be followed, the time sequence would be so short it would be difficult to determine whether or not an appeal should or should not be made. After that information is made available to all Members of the Senate who have pending amendments, thereafter such matters would be brought up for a vote.

Mr. BUMPERS. That would be part of my statement, that everyone would have a chance to look at the list the Parliamentarian would make up, and then they would have prior notice as to the ones they wanted to object to. If the leader will make that a unanimous-consent request, I believe it will be agreed to.

Mr. ROBERT C. BYRD. Mr. President, I have a feeling that a good many of these will be appealed in any event, but I sought to try to phrase my request in accordance with my understanding of the suggestion of the distinguished Senator from Arkansas and his earlier suggestion that I make a motion to that effect. I wanted to prepare such a motion some days ago which would allow the calling up of amendments en bloc which are out of order, and vote on the amendments. At that time, however, there was not enough sentiment in the Chamber to support that kind of motion.

Mr. President, does anyone else have a suggestion?

Mr. PELL. I have the floor, Mr. President, and I would like to make a statement.

The PRESIDING OFFICER. The Chair will state that there has been no objection to the motion of the majority leader.

Mr. METZENBAUM. Mr. President, I thought I made one.

Mr. ABOUREZK. Objection.

Mr. PELL. The Senator from Rhode Island has the floor.

What we are coming to here is legislation by stamina, not by reason or even by emotion.

I have always believed that in any legislative body, even in our august body, after a reasonable period of time a minority should not be able to thwart a majority from voting its will. That is why, no matter my own position, I have never voted against cloture. In this case, I even signed the cloture petition and voted for cloture even though I was of the minority at the time.

For whatever it is worth, we are making a spectacle of ourselves.

What we have done, too, is to create a new, tortuous, 21st-century form of filibuster wherein the filibuster does not even start until after cloture is voted.

One conclusion I hope we have all come to is that there must be a change in the rules so that this kind of action may not be repeated.

In this regard, my colleague from North Dakota (Mr. BURDICK) has the good idea that once cloture is voted, the hour limitation per Senator should include all time used in voting, quorum calls, amendments, and the like. I hope he will put it in legislative form, and get it to the Rules Committee. I just wanted to get this statement off my chest.

I yield to the majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair be authorized to compile a list of the amendments against which points of order would lie. This can probably be done in 15 minutes. The list is already made and the Parliamentarian can quickly have someone on his staff decide which have already been called up.

At 4:30 p.m., or shortly thereafter, the

Chair will get the opportunity to announce to the Senate the amendments which are at the desk which are out of order by virtue of points of order that could be raised; that the Chair state those amendments to the Members of the Senate, and that Senators who are authors of such amendments may have an opportunity then to indicate which of their amendments against which they would appeal points of order. I am led to understand that in the opinion of Senators who ought to know perhaps no appeals would be raised in 90 percent of the instances.

Mr. METZENBAUM. I would suggest if a list is made available by 4:30, no disposition of the matter would be made until 5:30.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Mr. President, before I express my view on this unanimous-consent request, I want the Senate to know what I think. It does not mean anything except the opinion of one Senator. I think that what we have learned so far is some way we have to modify rule XXII. I would say, for the information of anybody who is interested, I have asked three Members of the minority to serve as an informal committee to make recommendations in that respect. I will pass those on, in due course, to my conference and, I expect, to the majority leader.

Next, Mr. President, by way of reservation, I would like to say that I would like to see us find some way to deal with the amendments which are at the desk. There are about 350 of them there.

I think this is a pretty good suggestion. I would like to go further than the request of the majority leader, and I will speak to that in a moment.

The majority leader pointed out that earlier in the week, I believe, he had wanted to make a motion to consolidate the amendments to deal with them in that way. I would like to be identified as one who indicated I thought that was not a good idea because I thought the rules do not provide for that. I thought there was no way to reach that result in any way that would not do violence to the rules. That is a matter that the majority leader and I have discussed at length and I need not dwell on that here. But there ought to be a way.

It is my hope that rule XXII in the future will deal with that problem.

By way of reservation, Mr. President, I wonder if the majority leader, either in this request or in a subsequent unanimous-consent request, would ask the Chair to list the amendments at the desk, as he has suggested, to designate those which appear to the Chair to be out of order for whatever reason, and to give Members of the Senate today an opportunity to have that list, and to be advised of its contents. It is increasingly apparent to me that we are not going to finish this thing tonight and that the first thing in the morning to have a period for us to decide whether there is going to be an appeal from that determination of the Chair or not would be a reasonable and logical way to proceed.

If the majority leader wants to incorporate that additional provision, I will be glad to support it. If he does not, I will not object.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I would not proceed in that fashion because this is a matter that can be disposed of, if the Senate is willing to proceed, within 40 minutes. The amendments are listed on this sheet of paper. I would simply guess that there are 55 amendments. They are listed. Some of them have already been ruled out of order. So I assume that we have about 45 amendments left that could be immediately wiped from the desk at the hour of 5 p.m. and only 10 percent of them would be appealed, if any were.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON, Mr. BUMPERS, and Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Before the majority leader yields the floor and while he has a good audience, could he give us some idea about how long we are going to stay tonight and about tomorrow's session?

Mr. ROBERT C. BYRD. There is no question that there will be a session tomorrow. I see no alternative to having a session tomorrow. I think the Senate has to come in and work on the bill. I would say we ought to go a while yet today. I had hoped that I could have something better than that, something more optimistic, to offer.

Mr. JOHNSTON. Will the majority leader yield?

ROBERT C. BYRD. Yes.

Mr. JOHNSTON. For those of us who have to make plans—in my case for three kids for the weekend—could the majority leader let us know how long we might be in tonight and approximately how long tomorrow? And while we are at it, whether we might have 30 or 45 minutes to sneak away without the threat of bells this evening?

Mr. ROBERT C. BYRD. I do not know about sneaking away without the threat of bells. I cannot say at this point that we will be out by 6 o'clock, 5 o'clock, or 7. I think we ought to go a while and see if we make some progress.

As to tomorrow, we will be coming in at 9 o'clock and I would think that a reasonable hour tomorrow would be 6 p.m., unless tomorrow, there are some developments that might indicate that, by staying in longer, we can make progress.

Mr. JOHNSTON. Would the majority leader think I might safely make plans to eat with my children tonight, or should I make plans to have them come down here?

Mr. ROBERT C. BYRD. I would make plans for my children to eat. [Laughter]

I mean to be serious now. I am in no position to say, because I do not know. We might get started here and, who knows what progress may be made in the next 4 or 5 hours? I cannot say that the Senate could not be home by 7 or 8 o'clock. I do not know the answer to that.

I am sorry. I meant to be facetious, but I knew the Senator would understand. Then I meant to be serious.

Mr. ABOUREZK. Mr. President, while the leader is still——

Mr. ROBERT C. BYRD. If I may yield to Senator YOUNG, he has been seeking the floor.

Mr. YOUNG. Mr. President, with the hard work of our leadership on both sides, I know they have done all they possibly could. We have been working at least 14 hours a day all this week, some more than that. I think we are worse off now with respect to passage of this bill than we were last Monday. I think some of our Senators are beginning to enjoy this filibuster business. So I ask unanimous consent that I may be absent from the Senate from this evening at 9 o'clock until 8 a.m. Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, might I just speak for about 2 minutes?

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, may I yield to the distinguished majority whip first, then I shall yield to others.

Mr. CRANSTON. I would like to say one thing to the Senators present about what we might accomplish tomorrow. We do not know but that we might break the logjam now and resolve the matter, though prospects do not look bright for that. But I suggest that all Senators who can, come tomorrow and stay on the floor so we clearly have a quorum present at all times. We could dispose of a great many amendments during the course of the day and reduce the necessity for all of this going all the way through next week with late night sessions or conceivably all-night sessions if we are going to stay on any kind of schedule. We would not deal in that summary fashion or with a steamroller approach on any of the amendments where offerers of those amendments have stated that they consider them to be substantive and important. But for those the majority deems dilatory or those deemed out of order by the Parliamentarian, it seems that, if we keep a majority on the floor at all times for a clear quorum, we could dispose of many amendments in the course of the day without losing all the time we will lose if we have to get quorums on the floor and have yeas and nays on all of them. I would suggest that to withhold yeas and nays on that sort of amendment would also be in order, not the amendments that are serious.

Mr. SCOTT. Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I commend the distinguished majority leader for the efforts that he has put forth, many of them unsuccessful, in trying to resolve the dilemma that we find ourselves in. I wonder if, in his judgment—and apparently, since he is continuing his efforts, it must be—he feels that this impasse can be resolved. It would appear to me, as one

of the more junior Members, that with the lack of cooperation that he seems to be receiving from a number of the Senators, and with consideration that whatever we do will go to a conference and then will come back to the floor of both bodies, it does not look like we are going to get a bill passed this session of Congress.

I wonder if the distinguished majority leader is considering or has given consideration to lifting this bill and going onto something else, and perhaps coming back to it after the first of the year? Because this is just making a spectacle of the Senate. I wonder to what extent the distinguished majority leader has thought of this.

Mr. ROBERT C. BYRD. The answer is no.

Mr. SCOTT. The Senator does not care to amplify on this?

Mr. ROBERT C. BYRD. The Senator had asked if I had considered taking it down. I said no.

Mr. SCOTT. My thought is, Mr. President, that I would like to see a bill passed. I have my own personal preference, as each Member of the Senate has. But I hate to see us tied up in such a tangle as we are today. I do not see any daylight here.

Maybe that is pessimism on my part, and perhaps the daylight is a little closer than it appears to be. But to me, this is an alternative, because it looks to me like some of the Members would rather have no bill at all than to have a bill with which they do not agree. It may be that I am one of those Members.

Mr. ROBERT C. BYRD. I do not share that view myself. I think that the Senate is under a duty to pass a bill. I think that the energy problem confronting our country is so serious that we have that responsibility. The President has stated that we have that responsibility. Each of us knows that we have a responsibility to address the energy problems of the country. There are differences of opinion as to how we should address it.

We have spent, now, 11 days on this bill. I am of the firm determination to proceed with the bill. I think it may appear that we are not making any progress, but perhaps we are. I do not mean to speak in derogation of the Senator's suggestion; I have heard those suggestions made around the Chamber, but I do not share that viewpoint at all. I have responsibility to stay with this bill and to get Senate action on it.

I do not know what the Senate will do with it. They may vote it up or down. But for us to spend 11 days and then for me to turn around and take it down, I could not justify that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. SCOTT. Mr. President, I share the distinguished majority leader's desire to take action on this bill.

But the point I was attempting to make was that it is going to take time, not only while the bill is under consideration now, but we may well be faced with the same situation after the bill comes from conference.

I think there has to be a change of attitude if we are going to get the bill passed that the distinguished majority leader speaks of.

I heard the President on radio today and he was expressing his own point of view, a point of view with which I disagree.

The President indicated that his point of view was the right point of view. I believe all of us in this Chamber know that there is no one way that is the right way and everybody else is wrong. And that is the way I heard it over the radio today.

I would hope we would be able to resolve our differences and pass a bill. But there must come a time if we keep this wrangling up when it does not look like anything further constructive can be done.

I hope we have not reached that point.

Mr. ROBERT C. BYRD. Mr. President, I am not going to give any shred of hope in that direction.

Mr. SCOTT. I appreciate the distinguished Senator's response.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, in my judgment, the Senate is not even trying to break this filibuster. For example, the Senate is acting as though it does not know who is filibustering.

It says in the rule book, after cloture, no dilatory motion or dilatory amendment, or amendment not germane, shall be in order.

Now, no dilatory motion or dilatory amendment, or amendment not germane, shall be in order.

Mr. President, I have been here trying to move to table, or to move to dispose of dilatory amendments. It is perfectly all right with me for the Chair to refuse to accept them. But no, the Chair repeatedly acts as though the Chair does not know that these amendments were made for the purpose of delay.

I know what a filibuster is. I have been in filibusters. But those doing business in the Senate and filibustering go outside before the television, with comeras on them, justifying before the Nation why they are waging a filibuster and then come inside and act as though we do not know who is filibustering.

It says, "No dilatory motion or dilatory amendment, or amendment not germane, shall be in order."

Mr. President, the Chair does not have to accept all those dilatory amendments and dilatory motions. It can look at somebody else.

Now, the majority leader chastised the Vice President just the other day. The Vice President recognized a man who shouted first for recognition. He said that he should have recognized the minority leader because that is a tradition.

If we want to break a filibuster, the old Senate would not have thought of letting a man in the chair in favor of a filibuster, to put in the Vice President or the President pro tempore, or somebody against it, and he would only recognize filibusterers when it served his purposes.

To pretend he does not know that a filibuster is going on just shows how ridiculous it is.

So far, we do not know whether the President of the United States is for the filibuster or against it. All we know is that the President wants us to vote on his side. Whether that means it is the filibusterers, or supporting the filibusterers, nobody knows.

Will somebody please tell me that?

We are doing a job as though we do not know a filibuster is going on. Everybody else in the country knows. But we act as though we do not know who is filibustering. Any schoolchild might pick up a daily newspaper to see the picture of the men who are filibustering.

How long will we do business that way? I mean, we are not making much headway. But if we want to make headway, we can.

In the old days, my father used to be a Senator, they would make a few new precedents when they wanted to break a filibuster. When they were filibustering, for example, and he was the Presiding Officer if someone suggested the absence of a quorum, that came out of his time, just as it does with the unanimous-consent requests.

I have not seen it suggested around here.

The majority leader talked to the minority leader and said, "Look, we have a filibuster on our hands, what will we do about it? Oh, we musn't create a new precedent. We can't do anything that hasn't been done before."

With that, we might as well forget about it.

And against that resistance to a filibuster, all I can do is demand the right to filibuster as well. Just call up these amendments these people would call up themselves.

But I am willing, Mr. President, to vote. I wish the majority leader would quit coming in with these piecemeal little surrender agreements and say that we will vote on Pearson-Bentsen, and preserve the filibuster, keep on filibustering, which is to say if we vote for Pearson-Bentsen we will keep you here around the clock, break your health, wake you up every 15 minutes, all hours, day and night, but if you will bend your knee to those filibusterers, then you will be saved. [Laughter.]

Then we get the Byrd-Jackson compromise. All we have to do is vote down the Pearson-Bentsen and vote for the compromise and we can sleep tonight.

That is the kind of thing I resent. As far as I am concerned, we could pull the bill down now and see what the President wants to do about it.

So far, I have no idea whether the President wants me to do anything except the way he wants me to vote. I understand what the President's position is and the filibuster is probably closer to his position than mine. But I am curious. What does the President think about the filibuster, that we ought to get on with the business or keep on filibustering here forever?

As far as I am concerned, I am not

asking for any advantage. I can play it either way.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I think the distinguished majority leader has been working very well trying to get an agreement worked out that is fair and equitable.

It seems to me that if we were to incorporate in the idea he had the thoughts propounded by the distinguished minority leader, so as to give the Parliamentarian an opportunity the rest of today to look these bills all over and to indicate the ones that he finds against which a point of order might lie, and to indicate that, and then give all Members tomorrow a chance to plead their case here on the floor, we should be prepared to get through with a lot of bills that I think do not deserve to take the time of this body.

By noon, I would think we ought to be in a position to clean up what remaining amendments do lie.

Mr. BUMPERS. May we have order, Mr. President?

The PRESIDING OFFICER. Will the Senate be in order?

Mr. HANSEN. Then we could proceed in the manner that has been suggested by my friend from Louisiana so as to get votes on these bills without having hanging over the heads of some of us, that if we vote on a certain amendment, that is all right, everything is going to be broken. If we vote on Pearson-Bentsen, the whole ballgame, insofar as filibusterers are concerned, would be reenacted.

I would like to ask the distinguished majority leader if he might consider that approach, which would mean we give the Parliamentarian this afternoon to indicate at some later time those bills against which a point of order would lie, to give Members of the Senate a chance tomorrow to look them over and to plead their cases so no one can say he has been denied a hearing, and be prepared Monday to go through the balance of the amendments that are in order, that are substantial, to clean those up with the expectation that by late Monday afternoon we could take final action on this bill.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the majority leader is not here. Of course, the question can be directed to him in private or in the Chamber when he returns.

AMENDMENT NO. 1039

Mr. BUMPERS. Meanwhile, Mr. President, I call up amendment No. 1039.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BUMPERS. Mr. President, while the Senators are milling around——

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Before the amendment is stated, I should like to say that this is a fairly important amendment, and I hope Senators will take their seats, and perhaps we can get a vote on a very substantive amendment.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1039.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BAKER addressed the Chair.

Mr. BAYH. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I simply wanted to say for the benefit of my colleagues that the reason for the objection in the first instance was that everybody was not in place and ready to vote, a simple housekeeping chore. We had no advance notice that the majority would call up his amendment which, of course, is Pearson-Bentsen No. 2. But now that there has been an opportunity to make sure that everybody has adequate notice of that fact, I have no objection to calling off the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas would be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from off-shore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12 "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and

charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly basis an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of No. 2 fuel oil, landed in New York, New York as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal Lands.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas suppliers are required to maintain natural-gas service to residential users,

small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provision of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"'SEC. 28. (a)(1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by an interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

"'(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

"'(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'Any contractual provision—

"'(1) prohibiting the sale of commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

"'(2) terminating or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

INCREMENTAL PRICING

"'SEC. 29. The Commission shall—

"'(a) Require all natural-gas companies with certificated facilities for the transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

"'(b) Consistent with the provisions of Sections 4, 5, and 7 of this Act, requires that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal the reasonable cost of substitute fuel oil.

"'(c) In cases where the users identified in subsection (b) obtain natural-gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

"'(d) The Commission shall report to Congress annually on the effect of incremental pricing.'.

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 5(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as epeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977' and inserting in lieu thereof 'April 20, 1979; and, and January 1, 1979,' ".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. CRANSTON. Mr. President, I would like to say on behalf of Senator JACKSON, who is not present, that it is his desire and intention to have those Senators who wish to speak for a reasonable time on both sides of the issue have full opportunity to do so. At the end of what is generally, I think, deemed to be a fair and not too lengthy discussion of the merits or demerits of the pending amendment or proposal, if there is not an up or down vote he will then plan to move to table, but there would be no rush about it.

Mr. JAVITS. Would it be tonight?

Mr. CRANSTON. Not too late today.

Mr. JAVITS. But not tonight.

Mr. CRANSTON. Today.

Mr. BAKER. Mr. President, if there is anything on Earth the Senate does not need right now it is more talk. I think we have all discussed Pearson-Bentsen and Pearson-Bentsen No. 2 until every drop of blood has been squeezed out of it. I think everybody knows where he stands and, so far as we are concerned, we are ready to vote.

Mr. CRANSTON. Since the amendment was not called up by its proponents, those who do not look with favor on the amendment do not want to be precipitate in moving to table.

Mr. BAKER. I am assuring the distinguished majority whip that he is not being precipitate. The author of the amendment is on the floor, and he is ready to vote.

SEVERAL SENATORS. Vote! Vote!

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I would take just a couple of minutes of my time so that the chairman of the Committee on Energy will have an opportunity to move to table if he chooses or to vote up or down on it, I presume, and I think the minority should know that is an option, and since he is not around right now, and since the minority side is, I just want to make sure that everybody has said whatever they want to say on the matter, and assuming they have I will move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1039, and the clerk——

Mr. BAKER. Mr. President, what was the last motion? Did the Senator make a motion to table?

Mr. BUMPERS. Yes.

Mr. BAKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. We have the yeas and nays, and the clerk will call the roll.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BENTSEN. The rollcall has not started.

Mr. METZENBAUM. Regular order.

Mr. BUMPERS. The yeas and nays were ordered, a sufficient second was noted, and the clerk was instructed to call the roll.

Mr. BENTSEN. No one has answered the rollcall, and my understanding is that I can suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Texas is correct. The clerk will call the roll to establish a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table amendment No. 1039.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The Vice President assumed the chair.

Mr. FORD. Mr. President, could we clear the well? This is the first time I ever saw Senators leaning all over the clerk.

The VICE PRESIDENT. Senators will clear the well. The clerk will suspend. Clear the well, please. The Senate will be in order.

The clerk may proceed.

The call of the roll was continued.

The VICE PRESIDENT. The Senate will be in order. Senators will please clear the well.

The call of the roll was concluded.

Mr. TOWER. Regular order, Mr. President. Regular order.

Mr. BUMPERS. Mr. President, have 15 minutes expired?

The VICE PRESIDENT. Fifteen minutes have expired, but the regular order is for the clerk to tabulate the vote.

Mr. MORGAN (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Arkansas (Mr. MCCLELLAN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ZORINSKY (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—44

Anderson	Hart	Moynihan
Bayh	Haskell	Muskie
Biden	Hathaway	Nelson
Brooke	Hollings	Nunn
Bumpers	Huddleston	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser
Cranston	Magnuson	Sparkman
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams
Glenn	Metzenbaum	

NAYS—50

Abourezk	Ford	Melcher
Allen	Garn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Percy
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
	Hayakawa	Scott
Chafee	Heinz	Stennis
Chiles	Helms	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Eastland	McClure	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Morgan, for
Zorinsky, against

NOT VOTING—4

Humphrey	Metcalf	Stafford
McClellan		

So the motion to lay the amendment (No. 1039) on the table was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there objection?

Without objection, it is so ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. What is the pending question?

PENDING QUESTION

The PRESIDING OFFICER. Amendment No. 1039 to amendment No. 862 to S. 2104.

Mr. BAKER. Mr. President, I have no strong feelings on what we ought to do at this point. I think now we could proceed to try and dispose of the whole issue, if that is the will of the Senate, or we could try to arrange a time certain to proceed in the next step, or some other variation of that.

We have been in an equivalent of recess now for about an hour and 45 minutes and I am perfectly willing to get our people back in place, if we want to transact further business tonight.

I think, Mr. President, if I may ask the majority leader, there may be one matter that we ought to take care of tonight that is not within the scope of the pending measure, and that is the extension of the life of the Civil Rights Commission which expires tonight, I believe.

I see the Senator from Indiana on the floor.

Mr. BAYH. Will the Senator yield?

Mr. BAKER. And I am willing to do that now.

Mr. BAYH. The matter needs 2 minutes to do so, and we have pledged the Senator from North Carolina a rollcall vote on that, and that is the end of it.

The Commission's life expires at the witching hour of midnight tonight.

Mr. ROBERT C. BYRD. What is the number of that measure?

Mr. BAYH. That is H.R. 5645.

It is a message from the House.

Mr. ROBERT C. BYRD. Yes.

UNANIMOUS-CONSENT REQUEST—H.R. 5645

Mr. President, I ask unanimous consent—of course, under cloture this requires unanimous consent—I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 5645.

Mr. ALLEN. Reserving the right to object, Mr. President, would the debt limit bill follow this? Would the Senator put that in his request?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. ALLEN. What about the debt limit bill, which would seem to me should have precedence over this bill? Would the Senator make a request to include both measures?

Mr. ROBERT C. BYRD. I can. I would be glad to make that one next, or make the request that immediately upon the disposition of this House message the Senate proceed to that House message. But I would want to put a time limit on both of them.

Mr. ALLEN. I have no objection to——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I will propound the unanimous-consent request and then Senators may reserve the right to object.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5645, with a time limit thereon of 6 minutes, to be equally divided between Mr. BAYH and the minority leader or his designee, and——

Mr. ALLEN. I object, unless the other is included.

Mr. ROBERT C. BYRD. Well, I have the conjunction.

Mr. HANSEN addressed the Chair.

Mr. ROBERT C. BYRD. Wait.

And that upon the disposition of that measure, which I understand would be by rollcall vote tonight, the Chair then lay before the Senate the message from the House of Representatives on H.R. 9290, and with a time limit thereon of 10 minutes, the time to be equally divided between Mr. LONG and Mr. CURTIS.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, reserv-

ing the right to object, I do need to clear this. Temporarily, I will have to raise an objection to both unanimous-consent requests. If I could, I would like to suggest the absence of a quorum with the understanding——

Mr. BAKER. Will the Senator withhold that?

While we are doing the checking, I would like to extend the colloquy with the distinguished majority leader a little more to see how we might proceed with the natural gas pricing.

Mr. HANSEN. Mr. President, then if I may, with this understanding, I would not object, with the understanding that I have reserved the right to object on both of these issues in order that the distinguished leaders may engage in their colloquy while I am checking.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I withdraw my unanimous-consent request for the time being.

COMPREHENSIVE NATURAL GAS POLICY

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, these are two matters that ought to be disposed of tonight. While the distinguished Senator from Wyoming is checking for his clearances on them, I wonder if I could ask the majority leader and others what their plans might be, what the leadership might suggest for further disposition of matters relating to the natural gas pricing bill.

Mr. ROBERT C. BYRD. Mr. President, I will respond, and if any of my colleagues wish me to yield so that they may participate in the response, they may do that.

I think I should say that I am willing, if no Senator wishes to make any motion at this time, or offer any amendment at this time, or debate at this time on the bill, I would move to recess over until tomorrow at 9 o'clock a.m. But I do not want to shut off any Member on either side who may want to move, make certain motions—and I will not suggest any—but who may want to take any action whatsoever on this bill tonight. I do not want to attempt to shut that off at this moment.

If there is no disposition, of course, for anything on the part of any Senator, to make any motion, or take any action, or debate the measure, why I would see no—unless the Chair wanted to put the question on the bill, on the substitute. If he wants to do that he can, and Senators can vote one way or the other.

Mr. SCOTT. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I am just looking around now to see if I find anyone.

Mr. SCOTT. Mr. President, will the distinguished leader yield?

Mr. ROBERT C. BYRD. I am answering the distinguished minority leader. As Senator LONG says, I can stay and we can continue to work on the legislation that is before the Senate, or I can move to recess.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. I appreciate the leader yielding.

The thought in my mind—it may be in the minds of others—is when we might have a vote on the Pearson-Bentsen amendment. I am wondering if the leader would anticipate having that right after we convene at 9 o'clock or later in the day, and if he might comment on that.

Mr. ROBERT C. BYRD. Frankly, I do not know what to anticipate at this point, and I am not being facetious. I just do not know what to anticipate.

Every Member here has a right, if he wishes, to debate this measure further, to move to do certain things, if he wishes to, in connection with it. I know of nothing else to say to the distinguished Senator.

Mr. SCOTT. I appreciate the Senator's response.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Vermont.

Mr. LEAHY. A question to the majority leader, Mr. President:

I am blessed with a lovely wife and three lovely children; and several months ago, when we had a short break in the Senate's schedule I had a chance to see them, and I was very impressed with them. [Laughter.]

The children all walk and talk. I am sure there are still just three children. But I would like to go home and make sure none of them has grown up and left home since that time.

I am wondering about the schedule for tomorrow. If we come in at 9, will there be a particular time we will start voting, or is there a time certain? I am perfectly willing to be here tomorrow, and I will be here tomorrow and Sunday, and whatever other days, as required. But for planning purposes, I make this request on behalf of my four favorite constituents.

Mr. ROBERT C. BYRD. I know that some Members have canceled other engagements tonight.

Mr. LEAHY. I have, also.

Mr. ROBERT C. BYRD. Expecting to have some votes.

Of course, I cannot force a vote, except by making certain motions, which I will not; and even then I could not force a vote tonight.

Mr. TOWER. Mr. President, if the Senator will yield, I thought he was propounding a unanimous-consent request earlier which would result in our having a vote. It was my understanding that the distinguished majority leader was propounding a unanimous-consent request to take up a measure which would result in our having a vote tonight.

Mr. ROBERT C. BYRD. That is correct—if there is no objection.

At the moment, I cannot assure Senators that there will be votes tonight, nor can I assure them that there will not be. I have been silent, waiting to ascertain whether any Senator wished to make a motion in connection with the pending business. If no Senator wishes to make any motion or debate that measure, then we will try to take up the debt limit ceiling and the extension of the civil rights measure. One of those measures will result in a vote and the other might, also. But that will have to be done by unanimous consent.

So until we are able to contact the manager of the debt limit measure, Mr. LONG, I will not proceed with asking that unanimous-consent request.

Mr. LEAHY. I assure my good friend the distinguished majority leader of my respect for the leadership. If the leadership wants to stay here all night or all weekend, I will be here. It is simply for four others that I make this request. I would like to see them in between.

Mr. ROBERT C. BYRD. The Senator has stated his question, and he is one of the most cooperative and hard-working Members of the Senate, and I know he will be here if we stay all night. He, like everyone else, wants to know what is going to happen next. At this moment, I cannot say.

Mr. LONG is here, but the minority leader wanted to be recognized.

Mr. BAKER. I will withhold seeking recognition while the majority leader pursues the question of clearance for the two measures he identified in the previous colloquy.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. BIDEN. I think I understand the majority leader's dilemma in not being able to assure us whether or not there will be votes. He has been very cooperative in that. I question why we have to come in tomorrow.

Mr. ROBERT C. BYRD. I am sorry—I was talking to the distinguished Senator from Louisiana.

Mr. BIDEN. Obviously, the reason why the majority leader cannot assure us that there will or will not be votes tomorrow is that both sides of this very hot issue have not finalized their game plan. What I am wondering is this: What is the necessity of coming in tomorow, if that is the case? Why not let it settle, let people try to work this out, and come back to do battle on Monday? Why tomorrow?

Mr. ROBERT C. BYRD. I do not think we should go home and not come in tomorrow. I would love to do that. I had hoped that we could dispose of this measure today. Of course, it was a forlorn hope—as of now, at least—that we would not come in tomorrow. I said that if it was disposed of today, we would not. If it is not disposed of today, I think we have no alternative but to come in tomorrow.

I thank the distinguished Senator for his understanding.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. The distinguished Senator from Delaware indicated that neithe side had firmed up its game plan. and I want to reiterate what I said before.

If you want to vote tonight, we will vote tonight. If you want to do something else, we will do something else.

But I want to make it clear that we are ready to proceed, if that is the will of the Senate.

It is some time now since we recessed, but we can get our people together again. If it is the desire of the leadership to proceed, we will do that.

On tomorrow, if we are in and have not concluded deliberations on the natural gas bill, which appears likely, I would expect a number of rollcall votes; because I would expect now, particularly, that we would try to get a number of amendments out of the way, so that when we do come to final consideration of the major issue, it will be free of as many extraneous amendments as possible.

I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. I share the minority leader's viewpoint. If we are coming in tomorrow, we would not be coming in just to debate matters. I would expect votes.

Senators know as well as I that it has been impossible to anticipate what might occur. Anything can happen fast in this situation, and sometimes it takes many days for it to happen. But I would anticipate rollcall votes tomorrow, and I hope the Senate would find a way to reach its final decision tomorrow. But I have been hoping that for several days.

UNANIMOUS-CONSENT REQUEST

I ask unanimous consent, Mr. President, that the Chair lay before the Senate a message from the House on H.R. 5645, with the understanding that there be a 5-minute limitation thereon, to be equally divided between Mr. BAYH and the distinguished minority leader or his designee; that upon the disposition of the measure, which I understand will be by rollcall vote, the Senate resume its consideration of the present measure.

I say to Senators that if there is not going to be any action on that tonight, I will not keep the Senate in long.

Mr. ALLEN. Mr. President, reserving the right to object, does it include the debt limit bill?

Mr. ROBERT C. BYRD. After talking to Mr. LONG, I understand that another Senator should be here when the measure is taken up. Mr. LONG would not want it take up while that Senator is not here.

Mr. ALLEN. Is there any chance that the Senator from a nearby State will be here today?

Mr. ROBERT C. BYRD. I do not have any way of knowing that.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Senator BYRD of Virginia has an amendment on that bill.

Mr. ALLEN. Would the agreement then state it would come up tomorrow, the debt ceiling bill?

Mr. ROBERT C. BYRD. I ask unanimous consent and see how we come out on this.

Mr. LONG. Mr. President, we have to contact Senator BYRD of Virginia to see whether he is going to be here.

Mr. ROBERT C. BYRD. Would there be any objection to my proceeding to get a vote on the extension of the Civil Rights Commission tomorrow in any event? May I ask the Senator from Alabama?

Mr. ALLEN. I object unless there is a definite time set on the debt ceiling bill. I plan to vote against it myself, but I feel it should be considered. I object.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. I would just like to urge once again, as I did earlier today, that presuming we are in session tomorrow, and presuming that we are unable to proceed rapidly in dealing with the many pending amendments, and that they are used by one side or another or one part of one side or another to delay a final decision on this bill, that Senators who come in tomorrow stay on the floor so that when appropriate, when it is not a serious matter that is entitled to a rollcall and there should be some debate before that rollcall, we will dispose of frivolous or dilatory points of order type amendments by voice votes, and that can be done if we keep a majority on the floor.

So I urge we seek to do that tomorrow while having rollcalls on serious substantive issues that come up where that is appropriate.

Mr. ROBERT C. BYRD. Mr. President, I will seek to ascertain from Senator BYRD of Virginia his situation insofar as tomorrow is concerned. I will try to do that within the next few minutes.

I would intend, if it is agreeable with the Senate, to shortly ask unanimous consent that the Senate transact some routine morning business. That would give me an opportunity to contact Senator HARRY BYRD, and if it would be agreeable then with the parties who are most closely concerned in the event he is going to be here, I would then seek unanimous consent during the period of routine morning business tonight to take up that matter tomorrow at whatever time he would like, but I would like to have it as early as possible tomorrow so that Senators can dispose of that, together with the other House message. If there is any other routine morning business to transact, I will do nothing that would have any impact on the pending business tonight. I will assure all Senators of that.

I want to underscore what Senator CRANSTON said. The business is still before the Senate and it is still as urgent as it has been heretofore, and I would fully anticipate rollcall votes tomorrow.

I do not want anyone to be under any illusion that just because it is Saturday we are going to stay 3 hours and go out or 4 hours. All Senators are tired: They worked hard and came here last Saturday and worked a long day, and we had votes, and we worked one night, and I take this opportunity to express my appreciation to all Senators on both sides of the aisle. But I say again expect rollcall votes tomorrow.

Now, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

Mr. LONG. Mr. President, I understand that Senator BYRD of Virginia is on his way here and may be here in short order. If that is the case perhaps we could dispose of that bill tonight.

Mr. HANSEN. We are unable to hear the Senator. Will the Senator please use his microphone?

Mr. LONG. Senator HARRY BYRD of Virginia is on his way here. He has an amendment to offer to this bill, and I think that, perhaps, he might be here in time to dispose of it.

Mr. ROBERT C. BYRD. Very well.

I suggest the absence of a quorum—I withhold that suggestion.

Mr. ABOUREZK. Mr. President, to save the time of Senators, and I know everybody would like to recess and go eat dinner—until tomorrow, I assume—I just want to tell the leader that I would object to bringing up any of those bills, and I would object to routine morning business being conducted.

Mr. LEAHY. Object to what?

Mr. ABOUREZK. Object to routine morning business being conducted.

Mr. ROBERT C. BYRD. Perhaps this could be satisfactory to the Senator. We could get unanimous consent to take up the debt limit extension this evening and vote on it the first thing tomorrow.

Mr. ABOUREZK. I would object.

Mr. BAKER. Mr. President, I only wonder—if the majority leader will yield to me——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Since the obstacle to consideration of the debt ceiling limitation, and the Civil Rights Commission, which will expire tonight, may be in some way intertwined with natural gas prices, I wonder if we could get a time certain to vote on the Pearson-Bentsen amendment tomorrow or Monday or Tuesday?

Mr. ROBERT C. BYRD. It is agreeable with me. I would like to hear from my colleagues.

Mr. METZENBAUM. I did not wish to speak. I thought the majority leader was speaking to us and the whip gave me a nudge and said, "Pay attention."

Mr. ROBERT C. BYRD. Well, I ask unanimous consent that the vote—on what?

Mr. BAKER. Pearson-Bentsen.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate on tomorrow at 11 a.m. vote up or down on the Jackson substitute.

Mr. ABOUREZK. On the Jackson substitute?

Mr. BAKER. Pearson-Bentsen.

Mr. ROBERT C. BYRD. I see. I thought the Senator said Jackson. On the Pearson-Bentsen substitute.

Mr. ABOUREZK. I object to that.

Mr. BAKER. Mr. President, if the majority leader will yield further, I reiterate that most of us have been here tonight, and within 30 minutes or an hour we could get up to full strength on both sides. If we cannot do it tonight or tomorrow, I wonder if the majority leader would object to having an up-or-down vote on Pearson-Bentsen on Monday of next week?

Mr. ROBERT C. BYRD. I just do not want at this point to feel we are that far along the line of disposing of that amendment. If we are not going to vote tonight on my motion or any amend-

ment to the measure, I would prefer that we go over until tomorrow morning and let everyone think about the situation and tomorrow, perhaps, a good sleep will have helped, a good night's sleep will have helped, in the meantime. So I will not make that request, may I say with the greatest respect to my friend, the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader, and I am inclined to think, maybe I am an eternal optimist, but I am inclined to think, one way or another we can find a way to set a time certain to vote on Pearson-Bentsen, so I will not press it any further at this time.

But I would like to say for the convenience of all Senators, not just the Senators on this side, I wish we could establish a time certain for it so we can plan accordingly.

Mr. ROBERT C. BYRD. I think the minority leader and, perhaps, we can.

Mr. President, I am going to propound another unanimous-consent request, if I may have the attention of the minority leader.

Mr. MAGNUSON. Mr. President, can we have order in the Senate?

The PRESIDING OFFICER. Senators will please cease their conversation. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT—H.R. 9290 AND H.R. 5645

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290 with the understanding that there be a——

Mr. ALLEN. Time limit.

Mr. ROBERT C. BYRD. Ten minutes.

Where is Senator HARRY BYRD?

What kind of time limit would the Senator suggest?

Mr. HARRY F. BYRD, JR. Ten minutes.

Mr. ROBERT C. BYRD. That there be a time limit of 10 minutes on the measure and all amendments thereto.

Does the Senator expect to have a rollcall vote on this?

Mr. HARRY F. BYRD, JR. Not necessarily, from my point of view.

Mr. BAYH. Mr. President, reserving the right to object, what is the leader's disposition so far as the disposition of the civil rights measure?

Mr. ROBERT C. BYRD. I would like to see that disposed of tonight, also, because the expiring deadline is midnight tonight.

Mr. BAYH. Inasmuch as the unanimous consent that he proposed somewhat earlier included the disposition of that would he feel a mind to have a double-barreled unanimous consent instead of a single-barreled unamimous consent.

Mr. ROBERT C. BYRD. I was thinking about it. I ask unanimous consent that—let me start over again.

I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290, that there be a time limit thereon of 10 minutes to be equally divided between Mr. LONG, Mr. HARRY F. BYRD, Jr., and who on the other side?

Mr. BAKER. Who on our side?

Mr. ROBERT C. BYRD. Mr. CURTIS?

Mr. BAKER. Mr. CURTIS.

Mr. ROBERT C. BYRD. The minority leader or his designee and that immediately upon the disposition of that measure the Chair lay before the Senate a message from the House of Representatives on H.R. 5645, that there be a time limit thereon of 5 minutes to be equally divided between Mr. BAYH and the distinguished minority leader or his designee, and it is my understanding that there will be a rollcall vote upon the disposition of that measure.

Mr. BAYH. If the leader will just yield for a question, reserving the right to object, I support his unanimous-consent request. For the convenience of our brothers, if he would turn that around, I do not think there is necessity of having a rollcall vote on the debt limit, unless he has contrary information, and we did make a pledge to the Senator from North Carolina that we would have a vote on the Civil Rights measure.

Mr. ROBERT C. BYRD. I think the Senator has made a good point, but we have absolutely no assurance that there will be no rollcall vote on the extension of the debt limit.

Mr. BAYH. All right. I do not object.

Mr. ROBERT C. BYRD. Does the Senator object?

Mr. BAYH. No; I do not object.

I was thinking if we would have the rollcall first everyone could go home.

Mr. DECONCINI. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DECONCINI. Could we consider a 10-minute rollcall vote on both measures?

Mr. ROBERT C. BYRD. Yes. I do want to include that in the request.

May I get to this order first?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any further rollcall votes this evening be limited to 10 minutes on the rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

INCREASING THE TEMPORARY DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9290.

The PRESIDING OFFICER laid before the Senate H.R. 9290, an act to increase the temporary debt limit, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

UP AMENDMENT NO. 859

Mr. HARRY F. BYRD. JR. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr HARRY F. BYRD, JR.) proposes an unprinted amendment No. 859;

On page 1, line 4, strike "September 30, 1978" and insert in lieu thereof "March 31, 1978".

On page 1, line 7, strike "$373,000,000,000". and insert in lieu thereof "$352,000,000,000".

The PRESIDING OFFICER. Will Senators please take their seats or refrain from conversations?

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, as of midnight tonight the temporary ceiling on the Federal debt expires.

The total current Federal debt subject to statutory ceiling is now $700 billion. Of this $700 billion, $300 billion is subject to a temporary limitation which expires on September 30, 1977, and the Senate is now confronted with legislation which increases and extends the temporary debt limit.

The increase in our Federal debt is not a phenomenon which occurs in isolation from other congressional and governmental actions. It is, instead, a direct result of the repeated failure of Congress to confine expenditures to a level which can be financed by a tolerable rate of taxation.

Federal deficit spending has accelerated.

During the brief span of 7 years from fiscal year 1971 through fiscal year 1978, Federal funds spending has more than doubled—from $164 billion in fiscal year 1971 to $344 billion for fiscal year 1978.

The cumulative Federal funds deficit for the 4 fiscal years ending next September will be $251 billion. This is more than double the combined Federal funds deficit for the preceding 4 fiscal years—$101 billion.

The unfortunate result of the steady increase in the Federal deficit has been a doubling of the national debt from $383 billion in fiscal year 1970 to an estimated $787 billion at the end of fiscal year 1978.

To put it another way, 50 percent of our total national debt will have been accumulated in this 8-year period, ending next September.

The Federal funds deficit for fiscal year 1978 is estimated to be $74.6 billion. This huge deficit is the reason for the pending legislation which seeks to increase the debt ceiling.

Several weeks ago, the Carter administration requested that the ceiling on the national debt be increased from $700 billion to $783 billion, this latter figure being the amount the debt is estimated to be on September 30, 1978.

The House of Representatives on September 28, voted for an increase in the debt ceiling of $73 billion from $700 billion to $773 billion, such extension to expire September 30, 1978.

The legislation now before the Senate calls for an increase of $52 billion, from $700 billion to $752 billion in the debt ceiling for a 6-month period ending March 31, 1978.

Thus, the Senate Finance Committee is recommending to the Senate that the increase in the debt ceiling be for only

a 6-month period instead of a 1-year period as recommended by the administration and approved by the House.

The committee believes that this shorter extension in the increase in the debt ceiling would give Congress greater oversight as to debt management, and would serve the additional purpose of forcing more frequent attention to the ever higher national debt.

As chairman of the Subcommittee on Taxation and Debt Management of the Finance Committee, I want to emphasize to the Senate that the estimated $74.6 billion Federal funds deficit for fiscal year 1978 is an increase of $18.8 billion over the fiscal year 1977 deficit.

In hearings before the Subcommittee on Taxation and Debt Management, W. Michael Blumenthal, Secretary of the Treasury, admitted under questioning by me that this is the biggest Federal funds deficit in our Nation's history.

I ask this question of the Carter administration: How are you going to achieve a balanced budget 3 years from now when the deficit for the current year will be the largest in the Nation's history?

To me the reoccurring and accelerating Federal deficits are cause for pessimism—and, I believe, one of the reasons for declining confidence in the Government itself.

But there is an optimistic note as a result of two votes taken in the House of Representatives during the past 2 weeks.

On September 19, the House voted down an increase in the debt ceiling as recommended by its Ways and Means Committee. The committee proposal was to increase the ceiling by $75 billion or $8 billion less than the Carter administration requested. The House refused to accept such an increase and voted against the committee bill by 180 in favor to 201 against.

On September 28, after reducing the figure to $73 billion the House approved the proposed increase by a narrow margin of only 11 votes, 213 yeas and 202 nays.

A change of six votes would have defeated this measure in the House.

The fact that two attempts in the House were necessary to increase the debt ceiling, and the closeness of the second vote, suggests a growing concern about the swollen Federal debt.

The House action demonstrates that the newer, younger Members are looking more closely at the disturbing yet relentless policy of our Government to keep spending more than it collects.

The House votes suggest that more are beginning to realize that the key to reducing inflation, which is continually eroding the value of the wage earner's dollar, is fiscal discipline—an attribute totally lacking in the Congress.

In summary let me emphasize these points:

First, One-half of our total national debt will have been accumulated in the 8-year period ending next September;

Second. The Federal funds deficit for the current fiscal year (1978) will be the biggest in our Nation's history;

Third. The interest on the national debt—just the interest charges—will cost the taxpayers $46 billion in the current fiscal year, or 19 cents of every personal and corporate income tax dollar paid into the Federal Treasury.

Although I am reporting to the Senate the debt ceiling bill on behalf of the Finance Committee, I cannot support the increase in the debt ceiling. I am opposed to the deficit spending policy which has caused our Federal debt to double since 1970.

As a protest, I shall vote against the proposed debt ceiling increase and thus against the pending legislation.

At this point, I ask unanimous consent to print in the RECORD: First, table showing the national debt in the 20th century beginning with the year 1900 and going through 1978; Second, a table showing the deficit in Federal funds and interest on the national debt during the period 1959–1978; Third, U.S. gold holdings, total U.S. reserve assets and U.S. Government liabilities to foreigners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL DEBT IN THE TWENTIETH CENTURY

TOTALS AT THE END OF FISCAL YEARS 1970–78

(Rounded to the nearest billion dollars)

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	20
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	40
1940	43
1941	49
1942	72
1943	137
1944	201
1945	259
1946	269
1947	256
1948	251
1949	252
1950	256
1951	254
1952	258
1953	265
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
*1977	706
*1978	787

* Estimated figures.

Sources: 1900–1976, U.S. Treasury Department: 1977–1978, Office of Management and Budget (September, 1977 estimates).

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT 1959–78, INCLUSIVE

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[Billions of dollars]

Year	Receipts	Outlays	Surplus (+) or deficit	Debt interest
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.7
1970	143.2	156.3	−13.1	20.0
1971	133.7	163.7	−30.0	21.6
1972	148.8	178.0	−29.2	22.5
1973	161.4	186.4	−25.0	24.2
1974	181.2	198.7	−17.5	29.3
1975	187.5	238.5	−51.0	32.7
1976	200.3	269.2	−68.9	37.1
Transition quarter	54.0	65.0	−11.0	10.4
1977 [1]	242.0	298.8	−56.8	42.0
1978 [1]	270.2	344.8	−74.6	46.6

[1] Estimated figures.

Source: Office of Management and Budget and U.S. Department of the Treasury.

U.S. GOLD HOLDINGS, TOTAL U.S. RESERVE ASSETS, AND U.S. GOVERNMENT LIQUID LIABILITIES TO FOREIGNERS

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1959	22.8	24.8	19.4
Dec. 31, 1970	10.7	14.5	47.0
Dec. 31, 1973	11.7	14.4	92.6
Dec. 31, 1974	11.6	15.9	119.1
Dec. 31, 1975	11.6	16.2	126.6
Dec. 31, 1976	11.6	18.7	151.4
June 30, 1977	11.7	19.2	163.1

Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, I move adoption of the amendment.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays on passage of this.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Will the Senator from Arizona yield for a question?

Mr. GOLDWATER. I yield.

Mr. HARRY F. BYRD, JR. Wait a few minutes.

Does the Senator from Arizona want the yeas and nays on passage of the bill itself?

Mr. GOLDWATER. That is right.

Mr. HARRY F. BYRD, JR. Or the amendment?

Mr. GOLDWATER. No. Just on the bill.

Mr. HARRY F. BYRD, JR. Mr. President, I move the adoption of the amendment.

Mr. LONG. I ask for the yeas and nays on the amendment.

Mr. JACKSON. What is the amendment?

The PRESIDING OFFICER. There was a sufficient second for the yeas and nays on the bill.

Mr. HARRY F. BYRD, JR. The yeas and nays on the amendment is what he has been asking.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays on the amendment?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I think there has been an error here.

The Senator from Arizona wants the yeas and nays on the bill.

The Senator from Virginia wants the yeas and nays on the amendment. Now do we have both?

The PRESIDING OFFICER. Yes.

Mr. JAVITS. I thank the Chair.

Mr. ALLEN. Mr. President, will the Senator yield for one question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ALLEN. May we have order?

The PRESIDING OFFICER. Let us please have order in the Senate.

Mr. ALLEN. Do I understand the Senator to say that the House bill provides for an increase of $72 billion and the period to be 1 year?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. ALLEN. And the amendment has it $52 billion for 6 months?

Mr. HARRY F. BYRD, JR. For 6 months, that is correct.

Mr. ALLEN. I am trying to rationalize in my own mind. If we allow $52 billion in 6 months, is that less conservative than $72 billion in 1 year?

Mr. HARRY F. BYRD, JR. No. It is more conservative for this reason. The peak period is prior to the receipt of the April income tax funds which are received, for the most part, in April, and then the need for money decreases from there on through the rest of the year.

Mr. ALLEN. I thank the Senator for that explanation.

Mr. HARRY F. BYRD, JR. That is for most of the year.

Mr. ALLEN. I thank the Senator for the explanation and I think the explanation needed to be made.

Mr. HARRY F. BYRD, JR. I think it is a very important point that the Senator from Alabama raised, and I am glad he did. The principal purpose for the shorter extension in the Senate Finance Committee's amendment is to provide closer and more frequent oversight over the growth and mangement of the public debt.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. If the Senator will yield 1 additional minute, I commend the Senator. I will support his amendment. I will vote against the bill as amended.

Mr. BENTSEN. Mr. President, I ask recognition for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we vitiate the request for rollcall vote on the amendment.

Mr. JAVITS. No. Let us vote. Let us have a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Now I move adoption of the amendment.

SEVERAL SENATORS. Vote! Vote!

Mr. HARRY F. BYRD, JR. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. The yeas and nays have been ordered on the bill itself; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JACKSON. Let us vote.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Does the Senator from Tennessee yield back the remainder of his time?

Mr. BAKER. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 30, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—58

Anderson	Glenn	Nelson
Baker	Hart	Packwood
Bayh	Haskell	Pearson
Bellmon	Hathaway	Pell
Bentsen	Heinz	Percy
Biden	Inouye	Randolph
Brooke	Jackson	Ribicoff
Burdick	Javits	Riegle
Byrd, Robert C.	Johnston	Sarbanes
Case	Kennedy	Sasser
Chafee	Long	Schmitt
Church	Magnuson	Schweiker
Clark	Mathias	Sparkman
Cranston	Matsunaga	Stevens
Culver	McGovern	Stevenson
Curtis	McIntyre	Stone
DeConcini	Melcher	Weicker
Domenici	Metzenbaum	Williams
Durkin	Moynihan	
Eagleton	Muskie	

NAYS—30

Abourezk	Hansen	Nunn
Allen	Hatch	Proxmire
Bartlett	Hatfield	Roth
Bumpers	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Stennis
	Hollings	Thurmond
Danforth	Laxalt	Tower
Dole	Leahy	Wallop
Ford	Lugar	Zorinsky
Garn	McClure	
Goldwater	Morgan	

NOT VOTING—12

Cannon	Griffin	Metcalf
Chiles	Huddleston	Stafford
Eastland	Humphrey	Talmadge
Gravel	McClellan	Young

So the bill (H.R. 9290), as amended, was passed.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, was the motion to reconsider made in connection with the debt limit?

The PRESIDING OFFICER. No, it was not.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(This concludes proceedings which occurred later.)

APPROPRIATIONS FOR THE U.S. COMMISSION ON CIVIL RIGHTS

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate a message from the House on H.R. 5645.

The PRESIDING OFFICER laid the following message before the Senate:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5645) entitled "An Act to raise the limitation on appropriations for the United States Commission on Civil Rights", with the following amendment:

Line 8 of the Senate engrossed amendment, strike out "$10,420,023", and insert "$10,480,000"

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Will Senators please refrain from conducting conversations until they are recognized?

The Senator from Indiana.

Mr. GLENN. Will the Senator yield?

Mr. BAYH. Yes, I will yield.

Mr. GLENN. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Senators please take their seats?

Mr. SCOTT. Mr. President, I feel it is essential to have order because there are a lot of questions about this bill. If we do not have order, we cannot respond to questions.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. GLENN. Mr. President, I would appreciate it if everyone in here would listen for just one moment. This statement will not be over 1 minute long.

Today we have heard requests put in a very logical vein by the leadership that we stay on the floor so we can vote on the amendments.

I think people tend to let this sort of roll over their heads. Yet in all of the consideration, trying to work out compromises, and so on, there is only one certain way that we will still not be considering this bill at Halloween, Thanksgiving, or even Christmas, potentially.

One sure way out of this is that we do stay on the floor so time can be better controlled, and so that people can use their time, their 1 hour that they have under cloture, to speak for or against the amendments as they are brought up, one by one. If we do that, we can work our way through this.

I just want to take this time to support very fully what the leadership has asked us to do. It is the only one sure way out of the quagmire that we have gotten ourselves into.

There are no other compromises which will work. If we take it upon ourselves to talk up some support and keep each other alert to being on the floor, that is the one sure way we have out of this.

It seems to me it is not up to the leadership now, but it is up to the rest of us to organize this and stay on the floor.

I hope we can do that tomorrow so we can start what will undoubtedly be a lengthy process to work our way through these amendments one by one. It is the one sure way we have of getting this behind us so we can get to the other business which is waiting.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, since the Senator from Indiana has the floor, and we only have 5 minutes on this legislation, could I ask unanimous consent that the remarks of the Senator from Ohio be taken out of his time on the previous debate and not out of this 5 minutes?

Mr. GLENN. That will be fine with me.

Mr. CASE. Will the Senator yield for 1 minute on my time?

Mr. BAYH. I yield.

Mr. CASE. I want to comment on what Senator GLENN has said. I think he has said a sensible thing. There is only one way to go through this, and that is one by one and get it done. I think that is absolutely right.

Further to his suggestion, I would add that the leadership, I hope, will now begin to schedule a daily routine of about 12 hours and no more so that we can stick at it, and stick at it without ups and downs, all the fireworks, and all the rest of it, so that we can keep a schedule and keep it on indefinitely, as long as we need to.

We cannot go all night one night and then until 11 or 12 o'clock the next night, and have anything done at all.

This is not the same as the old-fashioned filibuster when we wore out one or two men. Now we have to wear out the whole Senate, in effect. The only way to do it is one by one on a schedule that everybody can keep indefinitely. I hope the leadership will do that.

Mr. GLENN. Mr. President, I agree with the remarks of the Senator completely. I only add one thing: I am not trying to foster any steamroller. I am saying if we start taking these things up, the people who feel strongly for or against can use their time and we will work ourselves through these things. We will go through them one by one and determine the will of the Senate. That is the only way out of this thing.

I appreciate the remarks of the Senator from New Jersey.

Mr. President, I ask that this time be charged against me and not the Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield before he begins?

Mr. BAYH. I yield.

Mr. BAKER. There is one matter which will require 30 seconds of my time, and I think it is better to do it now rather than interrupt the Senator from Indiana.

I yield to the Senator from Alaska.

JOINT REFERRAL OF A BILL

Mr. STEVENS. Mr. President, I have a bill I am introducing, a substitute for Senator METCALF's bill.

His bill has been referred to the Committee on Commerce, Science, and Transportation and to the Committee on Energy and Natural Resources.

I have checked this out with both sides. I ask that my bill be referred to both committees as his bill was referred.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I assured the Senator there would be no further morning business.

Mr. STEVENS. I checked this with Senator ABOUREZK.

Mr. ROBERT C. BYRD. When?

Mr. STEVENS. Right after the last vote.

Mr. ROBERT C. BYRD. Then I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

TERRITORIAL AUTHORIZATIONS

Mr. JOHNSTON. Mr. President, H.R. 6550, the Micronesian claims bill, a message from the House, is at the desk. I ask unanimous consent that the Chair lay the message before the Senate. The distinguished Senator from Idaho (Mr. MCCLURE) and I have both worked this out together.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has this been cleared all the way around?

Mr. JOHNSTON. Yes.

Mr. MCCLURE. It has been cleared on this side.

Mr. ROBERT C. BYRD. How much time would the Senator require?

Mr. JOHNSTON. Twenty seconds.

Mr. METZENBAUM. Reserving the right to object, may I inquire what the bill is about?

Mr. JOHNSTON. Micronesian claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER laid the following message before the Senate:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 10 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", with the following

AMENDMENT

In lieu of the matter proposed to be inserted by the said amendment, insert:

Provided further, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest not authorized to be awarded under the said 1971 Act and shall exclude from his payment such amounts as he determines constitute such interest. The Secretary's determination of the proportion of any award which constitutes such interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.

Mr. JOHNSTON. Mr. President, I move that the Senate concur with the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

APPROPRIATIONS FOR THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The Senate resumed consideration of H.R. 5645.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is it now appropriate to proceed with a message from the House on H.R. 5645?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. Mr. President, I apologize for bringing this matter before the Senate——

Mr. HELMS. Mr. President, may we have order? Nobody can hear anything.

Mr. McINTYRE. Mr. President, let us have some order in the Chamber.

The PRESIDING OFFICER. Senators will please take their seats.

The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, H.R. 5645, a bill to authorize funds for the U.S. Commission on Civil Rights for fiscal year 1978, the final year the Commission is authorized to exist, is a bipartisan effort by the Senator from Maryland (Mr. MATHIAS) and myself to provide adequate funding for the Commission. As I said to the Senate when we originally considered the bill, I believe the Commission is one of the best investments in Government today. There is not another agency that comes to mind whose ratio of spending to output is as high as the Commission's. On an extremely small budget, in relative terms, it has been able to produce impeccably researched, scholarly works on a whole range of civil rights topics. The series on the Federal civil rights enforcement effort, the succession of reports on school desegregation capped by the August 1976 publication of "Desegregation in the Nation's Public Schools," the hearings on the civil rights problem of American Indians, the investigation of the question of course, the work on voting rights, especially the Voting Rights Act—10 years after show just part of the Commission's diversity of studies that help point the way—for the President and the Congress—toward a more equitable society in the United States.

It seems to me that we in the Congress owe a debt to the Commission for their fine work in the past. We need to support and encourage such activities in the future. It is especially important at this time—a time when the President has made a commitment for human rights internationally and set America out as the best example for all people to follow. However, our commitment to human rights should not lull us into thinking that the United States is now free of civil rights violations or threats. We must not falter here by ending our own battle for equality for all Americans. If this occurred, we would betray both the world's trust in America and our heritage of freedom itself. Therefore, we still need a watchdog to tell us exactly where the vestiges of racism and discrimination lie so we can rid the country of them. This, gratefully, is what the Commission has been doing since 1957 and is uniquely qualified to continue to do.

When the Senate first took up this bill in June, we agreed to a committee amendment which reduced the authorization by a little less than $120,000—which is the subject of our disagreement with the other body. This amendment, which was proposed in committee by my friend, the Senator from Virginia (Mr. SCOTT), was accepted in order to put on the record in a concrete form the objections of the Senator from Virginia to the Commission's plans for expanding its staff—to which the money was slated to go as salaries and other benefits—during the last year of its current existence. I do not believe that I could urge the Senate to agree to this House amount, $60,000, cut by the Senate, unless I went on record reaffirming the understanding of the Senator from Virginia, the Judiciary Committee, and the Senate that, as the committee report says:

"[N]o spending by the Commission is authorized for employee monetary compensation or other benefits for newly created staff positions in fiscal year 1978." (S. Rept. 95–223, P. 5).

Mr. President, I believe this is a fair compromise for us to reach with the House; they have given half and we have given half. While I hoped the House would have agreed to our amendment and, thus, spared us another legislative step over so simple a matter, they felt they could not do so. In fact, they were going to insist that the Senate agree to their language. However, to avoid a long drawn-out conference, we reached an agreement to compromise and cut the difference down the middle. I think this was a wise solution. I hope the Senate will agree and accept this compromise and vote favorably on the House amendment to the Senate amendment to H.R. 5645, the Civil Rights Commission Authorization Act of 1977.

Mr. President, I apologize for bringing this to the Senate's attention at this time of night, but because of what we have been through, I have been unable to do that over the last 2 days.

The question right now is the authorization for the Civil Rights Commission, which expires at midnight tonight. The difference between the House and the Senate positions is now a matter of $60,000. They wanted $120,000 more than the Senate. However, we negotiated and arrived at a compromise which: First, split the monitary difference and second, included the Senate position, insisted upon by our distinguished colleague, the ranking Republican member of the Subcommittee on the Constitution, that there be no new staff members. So this additional $60,000 will be used, not to employ new staff, but to meet other agency expenditures which arise during the next fiscal year.

Mr. SCOTT. Mr. President, will the Senator stay on his feet for a moment? I do want to pose a few questions for clarification.

Mr. BAKER. Mr. President, I ask unanimous consent that I might yield control of the time in opposition to the distinguished Senator from Virginia, who is ranking on the subcommittee involved.

Is that agreeable to the distinguished ranking member?

Mr. THURMOND. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I understand that the authorization for the continuation of the Civil Rights Commission will expire next year. Is that correct?

Mr. BAYH. This is the last year of the current authorized period.

Mr. SCOTT. And all this relates to is additional funds for a period of 1 year for the Civil Rights Commission.

Mr. BAYH. Yes. The Commission is authorized to continue operation for 1 more year. At the end of this period, we have to make a determination as to whether we are going to extend the life of the Commission for an additional 5-year period.

Mr. SCOTT. The head of the Civil Rights Commission wanted to employ additional people, and in the committee, we agreed that he would not have the right to employ any additional people on the Commission.

Mr. BAYH. That is accurate, with the assistance of the Senator from Virginia.

Mr. SCOTT. Mr. President, I have agreed, on behalf of the subcommittee, to accept the views that have been espoused by the Senator from Indiana. Since we are going to have a rollcall vote, I am going to vote against this measure because I feel that we should terminate the Civil Rights Commission. But I think our debate is next year, not this year, so I am not really soliciting votes from any of my colleagues. But I am going to vote "nay" since we are going to have a rollcall vote.

I am glad to yield to my friend from North Carolina.

Mr. HELMS. I thank the Senator.

May I ask the distinguished Senator from Indiana, to put this into perspective, what is the total cost of this Commission? The Senator talked about a $60,000 increase. What is the total cost?

Mr. BAYH. The total cost is $10,480,000.

Mr. HELMS. $10 million for a useless Commission, on which we have not one scintilla of printed information, and we are supposed to give away $10 million to it.

Mr. DECONCINI. Will the Senator from Indiana yield?

Mr. BAYH. Not at this time, because I want to have an opportunity to respond to the Senator from North Carolina.

Mr. JACKSON. Put it in the RECORD.

Mr. BAYH. Let me respond briefly, then I will yield to my friend from Arizona. The Senator from North Carolina could not be more wrong. The Commission, in my opinion, has made a tremendous contribution to society over the last 20 years. If the Senator from North Carolina would like, I will ask the Commission to supply him with the evidence of the large amount of work it does each year. However, I would not like to leave the Senator with the impression, even for 1 minute, that the Commission is "useless." I would like to quote from the testimony of the Chairman of the Commission that was made before the Subcommittee on the Constitution on April 27 of this year:

TESTIMONY

Throughout the 20 year history of the U.S. Commission on Civil Rights, this nation has evinced a growing concern for disparities between the promises contained in the Declaration of Independence and the Constitution and the realities of our society. We believe the Commission's reports have helped the American people appreciate not only the

progress we have made but have also identified the remaining obstacles that stand in the way of the attainment of justice and equality. In addition, our reports have made available to the Congress and the President, factual information which has been used in designing and implementing legislation in the areas of voting rights, equal opportunities in the field of education, housing, employment, and credit, and equal access to the benefits of programs financed in whole or in part by Federal funds. Commission reports have also incorporated the results of investigations into the manner in which Federal departments and agencies have discharged their responsibilities in the area of civil rights enforcement.

The Commission has a longstanding concern about school desegregation. In June 1975 we had a five-day hearing in Boston, Massachusetts on that issue and in Fiscal Year 1976 we undertook a program to document the facts relative to the issues that were confronting the nation in the area of school desegregation. We held additional public hearings in Denver, Tampa, Louisville and Corpus Christi; case studies were conducted by our State Advisory Committee in 29 cities; open meetings were conducted by State Advisory Committees in 4 cities; we held a consultation on the causes of white flight; and we conducted a national survey of school superintendents. We weighed the evidence made available to us, and reached agreement on findings and recommendations to the President and the Congress. We then released a report to the public in August 1976. As a result of our investigations the Commissioners are convinced that although there are problems, school desergregation is working and will work in any community where the educational, business, political, religious and other civil leaders are determined to make it work.

Recently, we issued a report on metropolitan school desegregation. This report was the result of a three year study by the Commission.

Also recently we released a report dealing with the status of Puerto Ricans on the mainland of the United States. This was the first comprehensive report dealing with this minority group, and was a follow-up to the hearing on Puerto Rican problems held in New York City several years ago. Toward the end of the year we will issue our first statutory report on civil rights problems of Asian Americans. This report follows several State Advisory Committee open meetings and reports by those Committees dealing with that minority group.

In June we plan to issue Volume VII of our Federal Civil Rights Enforcement Effort. This will be an oversight report dealing with policymaking at the highest levels of the Executive Branch of the Government. Also scheduled for release during the fiscal year is a report dealing with equal employment opportunities in the television industry.

The age discrimination study now underway as a result of a directive incorporated by the Congress in the 1975 Amendment to the Older Americans Act will be completed in November and phased out in Fiscal Year 1978.

Mr. President, I believe this statement shows that the Commission is far from a useless organization, but on the contrary, a vital, functioning agency that does more than its share to protect the American people's civil rights.

I yield to the Senator from Arizona.

Mr. BENTSEN. Mr. President, I thought we have a 5-minute limitation.

Mr. DECONCINI. Yes; I have been yielding the floor.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired. The Senator from Indiana has 30 seconds remaining.

Mr. BAYH. I yield all 30 seconds to my friend from Arizona.

Mr. DECONCINI. I thank the Senator.

Mr. President, I only want to say one thing: $10 million to protect the civil rights of the people in this country is a minimal amount of money to invest for the assurance that each one who has expressed his views here today has the right to express those views, whether we agree or disagree with him. I think it is wise to concur with what the House has approved and the conference has put forth.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. I ask for the yeas and nays.

Mr. BAYH. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment to H.R. 5645.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. TALMADGE), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 80, nays 4, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—80

Abourezk	DeConcini	Johnston
Anderson	Dole	Kennedy
Baker	Domenici	Leahy
Bartlett	Durkin	Lugar
Bayh	Eagleton	Magnuson
Bellmon	Ford	Mathias
Bentsen	Garn	Matsunaga
Biden	Glenn	McClure
Brooke	Hansen	McGovern
Bumpers	Hart	McIntyre
Burdick	Haskell	Melcher
Byrd, Robert C.	Hatch	Metzenbaum
Case	Hatfield	Morgan
Chafee	Hathaway	Moynihan
Church	Hayakawa	Muskie
Clark	Heinz	Nelson
Cranston	Hollings	Nunn
Culver	Inouye	Packwood
Curtis	Jackson	Pearson
Danforth	Javits	Pell
Percy	Sasser	Thurmond
Proxmire	Schmitt	Tower
Randolph	Schweiker	Wallop
Ribicoff	Sparkman	Weicker
Riegle	Stevens	Williams
Roth	Stevenson	Zorinsky
Sarbanes	Stone	

NAYS—4

Allen	Helms	Scott
Byrd, Harry F., Jr.		

NOT VOTING—16

Cannon	Huddleston	Stafford
Chiles	Humphrey	Stennis
Eastland	Laxalt	Talmadge
Goldwater	Long	Young
Gravel	McClellan	
Griffin	Metcalf	

So the motion was agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

In an executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:44 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents, in which it requests the concurrence of the Senate.

At 1:50 p.m., a message from the

House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 10 to the bill (H.R. 6550) to authorize certain appropriations for the Territories of the United States, to amend certain acts relating thereto, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NELSON, from the Select Committee on Small Business:

Without amendment:

S. Res. 272. A resolution increasing the amount which may be expended by the Select Committee on Small Business for the procurement of the services of individual consultants or organizations thereof. Referred to the Committee on Rules and Administration.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Res. 238. A resolution to express the sense of the Senate that the U.S. delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging (Rept. No. 95–458).

S. Res. 278. An original resolution to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries (Rept. No. 95–459). Referred to the Committee on Rules and Administration.

S. 1582. A bill relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States (Rept. No. 95–460).

S. Con. Res. 47. Original concurrent resolution expressing the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments. Placed on the Calendar.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources: Bertram R. Cottine, of the District of Columbia, to be a member of the Occupational Safety and Health Review Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The bill (H.R. 9019) to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974, was read twice by its title and referred jointly to the Committees on Appropriations, the Budget, Foreign Relations, and Environment and Public Works, pursuant to the order of January 30, 1975.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WALLOP:

S. 2162. A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes.

By Mr. ANDERSON:

S. 2163. A bill for the relief of Virginia J. Mariano; to the Committee on the Judiciary.

By Mr. ZORINSKY (for himself, Mr. ANDERSON, and Mr. HART):

S. 2164. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail and highway crossings in certain energy impacted cases; to the Committee on Environment and Public Works.

By Mr. MAGNUSON (by request):

S. 2165. A bill to revise and improve the laws relating to the documentation of seamen; to the Committee on Commerce, Science, and Transportation.

S. 2166. A bill to revise and improve the laws relating to the documentation of vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 2167. A bill to assist in increasing the depressed price of copper in the United States by authorizing the purchase of a quantity of such metal for inclusion in the national stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. STEVENS:

S. 2168. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 2162. A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes.

Mr. WALLOP. Mr. President, today I am introducing legislation to establish a Jackson Hole Scenic Area in the State of Wyoming. I am pleased to be sponsoring this bill, as it sets forth a radically new and locally developed concept of scenic preservation through easement acquisition. This approach to preservation is designed to protect the singular esthetic values of the Jackson Hole area, and may become the model for the future protection of other valuable areas in America.

Jackson Hole is a mountain valley in northwest Wyoming known the world over for its unique scenery, geology, wildlife, and recreation. It lies within the Greater Yellowstone Area, surrounded by national parks, national forests, wildlife refuges, and wilderness areas. Grand Teton National Park sits in the north end of the valley, bordered on the west by the magnificent Teton Range, and sliced by the Snake River which rises to the north in Yellowstone National Park. In the southern end of the valley the National Elk Refuge hosts the largest elk herd in the world, while Bridger-Teton and Targhee National Forests lie to the east and west, with Caribou and Shoshone Forest just beyond.

Scattered through Teton County are 75,000 acres of private lands, ranches, and settlements. Although 4 million visitors come annually to the area to see the Tetons, they also leave with vivid impressions of rounded haystacks, grazing cattle, elk and bald eagles on the privately owned ranches and pastures. The ranchers of Jackson Hole have sought to hold onto their lands and preserve their western way of life. Increasing pressures to develop lands worth up to $50,000 an acre may soon force many to sell. With a depressed cattle market and outrageously ill-conceived tax policies making a living in ranching impossible, this valley known as the last of the Old West will soon lose its special character to the relentless pressures of growth and commercial clutter.

In 1975 the National Park Service, aware of these problems, initiated a study to determine how to preserve the esthetic qualities of the valley. They subsequently recommended the creation of a Jackson Hole Scenic Area. A group of concerned local citizens and landowners drafted a similar proposal in conjunction with local officials. Today I am introducing the result of their joint efforts.

This bill establishes a framework within which the Federal Government may purchase development rights from private landowners. It will fairly compensate the owners of these values and preserve the lands in their present state. The legislation establishes a Jackson Hole Scenic Area, and authorizes Federal funds to be used to acquire scenic easements. A nine-member commission of Federal, State, and local representatives will devise a scenic area plan defining the existing public values in those areas. It will then determine proposed land uses which are incompatible with these values, and recommend which lands or more particularly lesser interests should be acquired to sustain the values of the Jackson Hole Scenic Area.

In the plan the scenic area would be divided into three interest areas. Those areas of primary concern to the National Park Service and Fish and Wildlife Service would be in the Interior Department interest area; those of primary importance to the Forest Service would be included in the Department of Agriculture interest area. In their respective interest areas these Departments could acquire lands or preferably lesser interests therein as indicated by the plan. The remainder of the plans would fall into State and local interest areas, and the acquisition of appropriate interests by those

agencies could be accomplished after a recommendation by the Commission. Funding would be equally divided among the three interest areas.

The bill authorizes the appropriation of not more than $200 million to accomplish its objectives. While the cost is undeniably high, the price of inaction will be prohibitive. Land prices in Jackson Hole continue to rise tremendously because of the very desirable qualities this legislation seeks to protect and complement. If Congress does not act now to preserve these values, the pricetag will soar beyond the reach of even the Federal Government. Undeniably the result will be that ranchers are priced out of a livelihood and a heritage, and the Nation will lose a superb natural area of value to very single citizen.

Both Federal and local interests have been carefully preserved in this bill. It has been endorsed by the Teton County Board of Commissioners, whose letter of endorsement follows the bill. Scenic or conservation easements allow the land to remain in private ownership and productive use. They maintain a way of life and the county's tax base. The intent of this legislation is clearly to keep land titles in the private rather than the public sector, and actual fee title purchase is limited to 5 percent of the private lands. Therefore, no new bureaucracy is needed, and none created in this bill. The bill rather depends on cooperative Federal, State, and local input, and addresses only these lands determined to be of particular value to the public.

Development pressures on rural and scenic lands are not, of course, unique to Jackson Hole. Other natural areas of national significance are experiencing similar problems; agricultural lands are being lost to development. The use of scenic, conservation, or open space easements and development rights may prove the single preservation concept which can be applied successfully in other areas.

Jackson Hole is a treasure of national and indeed international popularity which deserves careful consideration. I hope that the Congress will act with vision and foresight by adopting the measures proposed in this bill, and thereby preserve one of our most cherished American natural areas and a vanishing heritage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with a letter from the chairman of the Teton County Board of County Commissioners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds:

(1) that the area known as Jackson Hole and its environs in the County of Teton, State of Wyoming, possess extraordinary scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values;

(2) that these values are shared by both private and public lands in the area;

(3) that the public interest in these lands has resulted in and will continue to foster increasing visitation with its attendant pressure for development and provision of public service which has resulted, and will continue increasingly to result, in impairment of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values on private lands and adjacent public lands;

(4) that there is national, state and local interest in, as well as responsibility for, the preservation and enhancement of these values.

SEC. 2. The purposes of this Act are:

(1) to provide for the preservation and enhancement of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values of Jackson Hole and its environs;

(2) to establish a framework within which such preservation and enhancement may be accomplished with the cooperation of all affected public and private entities; and

(3) to provide sufficient authority to achieve such preservation and enhancement without undue interference with the prerogatives of participating public agencies and private property owners.

SEC. 3. (a) The Jackson Hole Scenic Area (hereinafter referred to as the "Area") is hereby established.

(b) The Area shall be comprised of all privately owned lands in Teton County, except those lying within Grand Teton National Park, as indicated on map No. and on the map designated as "Greater Yellowstone Area", date , both of which shall be on file and available for public inspection in the offices of the governmental agencies and entities which are members of the Commission hereinafter established.

(c) Acquisition of lands or lesser interests therein, including, but not limited to, scenic, conservation or open space easements and development rights, may be by donation, purchase with donated and appropriated funds, exchange, bequest, purchase and resale with deed restrictions, or otherwise throughout the Area: *Provided, however,* that the Federal agencies shall not utilize funds authorized by this Act to acquire by acquisition of fee title more than five percent (5%) of the total acreage which is privately owned upon the effective date of this Act.

(d) Nothing in this Act shall diminish, enlarge or modify any existing rights or authorities of the State of Wyoming or the United States in regard to hunting, fishing or the management of wildlife.

(e) Nothing in this Act shall diminish, enlarge or modify any right of the State of Wyoming, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests in or on lands or waters within the Area.

SEC. 4. (a) The Jackson Hole Scenic Area Commission (hereinafter referred to as the "Commission"), is hereby established.

(b) The Commission shall be composed of not more than nine (9) members to be appointed by the Secretary of Interior, with concurrence of the Secretary of Agriculture, as follows:

(1) the representative of the Secretary of the Interior;

(2) the representative of the Secretary of Agriculture;

(3) the Governor of Wyoming or his designee;

(4) a member of the Teton County Board of County Commissioners to be chosen by the County Commission;

(5) the Mayor of the Town of Jackson;

(6) four (4) civilian members-at-large selected from among residents of Teton County by the County Commission.

(c) The representative of the Teton County Board of County Commissioners shall act as Chairman until a Chairman is elected by vote of the Commission. Chairman shall serve two (2) year terms, no more than two (2) of which may be consecutive. Members of the Commission, other than those who serve in their official capacities as representatives of Federal or State governmental entities, shall serve two (2) year terms, no more than two (2) of which may be consecutive. No limitations on serving consecutive terms shall be imposed on those members of the Commission who serve in their official capacities as representatives of Federal or State governmental entities.

(d) The Commission shall act by affirmative vote of the majority of a quorum thereof; a quorum being a simple majority of the voting membership, unless otherwise required by this Act.

(e) The frequency, time and place of meetings shall be determined by the Commission. All meetings for the conduct of business shall be open to the public and shall be preceded by reasonable notice thereof.

(f) The Commission shall have the power to appoint and fix compensation of such additional personnel and such temporary and intermittent services as may be necessary to accomplish the purposes of this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) The Commission shall have the power to hold hearings and administer oaths.

(h) Members of the Commission not otherwise in the employ of the United States shall be compensated at a rate of not to exceed $100 for each day that such member is actually engaged in the business of the Commission, and while away from their homes or regular places of business in performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 (b) of title 5, United States Code.

SEC. 5. (a) The Commission shall within three hundred (300) days of the effective date of this Act, develop a Scenic Area Plan (hereinafter referred to as the "Plan") which includes:

(1) a description of the lands within the Area,

(2) an evaluation of the values present in such lands,

(3) determination of land uses incompatible with above values,

(4) recommendations for acquisition of lands or lesser interests therein,

(5) identification, mapping and designation of all lands or interests therein, the acquisition of which is principally the concern of:

(A) the National Park Service and U.S. Fish and Wildlife Service as Department of the Interior Interest Areas; and

(B) the U.S. Forest Service as Department of Agriculture Interest Areas,

(6) designation of the remainder of the Area as State and Local Interest Areas, within which the acquisition of lands or interest therein shall be the concern of State and local agencies which have authority to acquire or hold lands on behalf of the public.

(b) Prior to adoption of the Plan, the Commission shall hold at least one public hearing within the County of Teton for the purpose of receiving public comment on the proposed plan. Notice of the date, time and location of such hearing shall be published in a local newspaper of general circulation at least once a week for four consecutive weeks, and shall contain information as to where a copy of the proposed Plan may be inspected. The final Plan shall not be adopted until thirty days after the last hearing.

(c) The Commission shall, upon adoption of the Plan by a two-thirds vote of the entire Commission, submit the Plan concurrently to the Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretaries") for their review and approval or rejection. If neither Secretary has informed the Commission of his disapproval within one hundred (100) days from the date of submittal, it shall be deemed to have been approved. If either Secretary disapproves the Plan, he shall advise the Commission of the reasons therefor together with his recommendations for revision. The Plan shall be re-submitted by the Commission within sixty (60) days with corrections. This process shall be repeated until the Plan is approved. Upon the two-thirds (⅔) vote of the entire Commission, modifications of the approved Plan may be made. Such changes shall likewise be subject to the approval of both Secretaries. Failure to purchase lands or interest therein as recommended by the Plan shall not constitute a change under this Subsection.

(d) Upon approval of the Plan, the Secretaries may proceed to acquire such lands or interest therein as are indicated by the Plan within their respective Interest Areas without concurrence of the Commission: *Provided,* That the Commission is notified of the proposed acquisition.

(e) Upon approval of the Plan and upon recommendation of the Commission, the state and local agencies identified in the Plan may proceed to acquire land or interests therein within the State and Local Interest Areas.

(f) The power of condemnation shall not be used to further the purposes of this Act, except in the event a land use is proposed which is determined to be incompatible with the Plan in accordance with the provisions of Section 5(k).

(g) Such lands or interests in lands as may be acquired in the Area shall be held by the governmental agency or entity effecting the acquisition, and the land itself shall remain nominally within the Scenic Area and be managed accordingly: *Provided,* That lands or interests in lands within the boundaries of the National Elk Refuge or Bridger-Teton and Targhee National Forests acquired by such surrounding reserves shall be excluded from the Area and shall become part of such reserves.

(h) The Commission shall advise the State of Wyoming, County of Teton and the Town of Jackson to assist in coordinating the use of their respective authorities in the implementation of the Plan and may advise the Secretaries concerning their activities within their respective areas or request the assistance of either Secretary outside his respective Interest Area.

(i) No governmental agency or entity shall be bound by any recommendation of the Commission: *Provided, however,* no such agency or entity shall have access to any funds appropriated for accomplishing the purposes of this Act without the recommendation of the Commission except that the Secretaries may act without the consent of the Commission within their respective Interest Areas, except as provided in subsection (l).

(j) The Commission may recommend that governmental agencies or entities enter into agreements with private organizations or interests if such agreements are advantageous to the implementation of the Plan and in no way prejudice further actions of the Commission, or any governmental agency or entity.

(k) The Commission shall review major land use actions proposed by public or private interest within the Area and reach a formal determination as to compatibility with the Plan as described under the provisions of section 5(a)(3).

(l) if the action is proposed for private purpose, the Commission may recommend acquisition of the land, or preferably, acquisition of the incompatible interest by the appropriate Secretary within his respective Interest Area or by State and local agencies elsewhere in the Area. The power of condemnation shall be used to acquire such lands or interest therein only upon a two-thirds (⅔) vote of the Commission;

(2) if the action is proposed for a public purpose, the Commission may upon two-thirds (⅔) vote, delay the action in question for up to one hundred (100) days in order to hold a public hearing. Subsequent to such hearing, the action in question must be publicly reconsidered by the proposing party. If no hearing is held within one hundred (100) days, the planned action may proceed.

SEC. 6. (a) There is hereby established a special account in the Treasury of the United States of America for the purpose of holding moneys to be used by the Secretary of the Interior and the Secretary of Agriculture in making grants to further the purposes of this Act.

(b) There are hereby authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture such sums as may be necessary to accomplish the objectives of this Act, but not more than $200,000,000 in the aggregate.

(c) Withdrawals from the special account may be made by the Secretary of Agriculture and the Secretary of the Interior for the purpose of making grants to their agencies in support of projects indicated by the Plan within their respective interest areas: *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized by either Secretary for this purpose, nor more than one-third of the amounts specified under subsections (f) and (g) of this section.

(d) In addition, either Secretary may make grants from the special account to the Governor of Wyoming for the use of his agencies and local units of government or to their own agencies in support of projects indicated by the Plan and specifically recommended by the Commission: *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized for this purpose, nor more than one-third of the amounts specified under subsections (f) and (g) of this section.

(e) Governmental agencies or entities may continue to acquire privately owned lands or interests therein by exercising existing authorities and funding without concurrence of the Commission.

(f) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for development of the public access or improvements within the Area. However, governmental agencies or entities may continue to exercise existing authorities and sources of funding for this purpose without concurrence of the Commission.

(g) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for the removal of structures or improvements detrimental to the purpose of this Act.

(h) There are authorized to be appropriated to defray the expenses of the Commission established pursuant to section 4, including salaries and other expenses incident to the preparation of the Plan, and enforcement of easements, such sums annually as may be necessary up to one hundred thousand dollars ($100,000). Expenditures from this fund must be approved by the Commission.

STATE OF WYOMING,
COUNTY OF TETON,
Jackson, Wyo., September 7, 1977.

Senator MALCOLM WALLOP,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: On behalf of the Teton County Board of County Commissioners, I am pleased to forward to you the final draft of the Jackson Hole Scenic Area bill, which we endorsed at a meeting yesterday. As you know, this bill is the result of more than a year of deliberation by the Teton County Study Group, which the Commissioners appointed to recommend ways of preserving our valley's scenic resources.

We are grateful to you and your staff for taking time to meet with us last week to give us your views on the bill. You will notice that we have added the provision, suggested at that meeting, that condemnation authority be limited to those situations where a proposed land use is incompatible with the approved Scenic Area Plan. We think this change responds very well to some concerns which have been raised locally.

We appreciate the support you are giving this bill and your willingness to introduce it into the Senate this fall. We stand ready to work with you and your staff in any way we can to strengthen its chances of success.

With best personal regards, I am

Sincerely yours,

WILLIAM H. ASHLEY,
Chairman, Teton County Board of County Commissioners.

By Mr. ZORINSKY (for himself, Mr. HART, and Mr. ANDERSON):

S. 2164. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail and highway crossings in certain energy-impacted cases; to the Committee on Environment and Public Works.

Mr. ZORINSKY. Mr. President, I am introducing today, on behalf of myself, Senator HART, and Senator ANDERSON, a bill which will authorize as part of the highway trust fund, a new program to separate rail and highway crossings in certain energy-impacted cases.

This legislation is necessitated by our Nation's present and expected greater reliance on coal as an energy source. Unfortunately the largest portion of this Nation's coal is not geographically located near present and prospective users. Coal will only be a valuable national resource if it can be delivered to the user. While downplaying the impact of the coal transportation problem and citing conservative figures, Richard J. Barber Associates in a copyrighted report entitled "The Railroads, Coal, and the National Energy Plan: An Assessment of the Issues," dated 1977 nevertheless concludes:

Forecast-Flow Pattern for Rail Coal Traffic to All Consuming Sectors:

Vital to a pragmatic assessment of the impact of growing coal traffic on the railroads is the anticipated overall flow pattern between production areas and regions of consumption. Table 5 provides a detailed matrix for the estimated rail shipments of coal in 1985 compared with 1975 to all consuming sectors.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FIGURE 5

RAIL SHIPMENTS OF COAL, BY MAJOR PRODUCING AREAS AND CONSUMER REGIONS, 1975 AND FORECAST FOR 1985

[In millions of tons]

Destination By census regions	Origin, by BOM producing districts: Appalachia (1–4, 6–8, 13)	Interior Basin (5, 9–12)	South Western (14, 15)	Northern Great Plains (19, 21–23)	Rockies (16–18, 20)	U.S. total
New England	1.4 1.8					1.4 1.8
Middle Atlantic	44.6 75.6				(*) (*)	44.6 75.6
East North Central	85.0 142.8	43.3 83.6	(*) (*)	13.9 24.0	(*) (*)	142.8 250.4
South Atlantic	109.9 173.0	5.5 6.2		0 1.3		116.4 180.5
East South Central	26.5 54.9	14.5 20.6		(*) (*)	0 1.8	41.2 77.4
West North Central	1.1 3.1	12.5 24.1	5.3 6.4	16.7 64.2	(*) 1.4	36.0 99.2
West South Central	1.5 2.6	0 3.0	2.0 18.1	(*) 70.2	(*) 6.2	3.8 92.1
Mountain			(*) (*)	3.8 11.8	13.4 29.8	17.4 42.1
Pacific			(*) (*)	(*) 4.0	1.7 4.7	2.1 8.7
U.S. total	270.1 454.0	75.8 137.5	7.5 25.2	35.0 167.6	16.3 44.5	408.0 837.0

*Less than 1,000,000 tons.
Key: 1975 actual.
1985 National Energy Plan.

Source: Appendix B.

Mr. ZORINSKY. Although not discussed previously, the coal export market is included as a consuming sector in these figures. With almost all export coal mined in Appalachia and over 70 percent of it exported through Atlantic ports, the projected 24-million-ton increase in export coal by 1985 will have a concentrated effect on eastern rail coal volume. The upper number in each cell of figure 5 shows the tons transported by rail in 1975 from the identified producing areas to consumers in the nine census regions. The lower number is the projected rail tonnage based on the plan's 1985 consumption levels.

Examination of figure 5 shows that of the 25 cells showing tonnage increases, 11 indicate a forecast level in 1985 10 million or more tons greater than in 1975. As can be seen in the following table four of these flows are from Appalachia—to the middle Atlantic, south Atlantic, east-north-central, and east-south-central regions—two are from the interior basin—to the east-north-central and west-north-central regions—three radiate south and eastward from the northern Great Plains, and two are primarily intraregional flows within Southwestern and Rocky Mountain States. Combined, these 11 flows account for more than 90 percent of the incremental tonnage that is predicted to move by rail in 1985 as compared with 1975.

I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ANTICIPATED INCREASE IN RAIL COAL TRAFFIC TO ALL CONSUMING SECTORS IN 9 SELECTED CORRIDORS, 1975–85

Production region	Consuming census region	Tonnage increase (millions)	Percent of total gain in rail coal traffic
Appalachia	Middle Atlantic	31.0	5.6
Do	East North Central	57.8	11.3
Do	South Atlantic	63.1	14.7
Do	East South Central	28.4	6.4
Interior Basin	East North Central	40.3	9.0
Do	West North Central	11.6	2.7
Southwestern	West South Central	16.1	3.8
Northern Great Plains.	East North Central	10.1	2.4
Do	West North Central	47.5	11.1
Do	West South Central	70.2	16.4
Rockies	Mountain	16.4	3.8

Source: Appendix 3.

Mr. ZORINSKY. In only 5 of the 11 cases—from Appalachia to the East-South-Central States, from the northern Great Plains to the west-south-central and west-north-central areas, and within the southwestern and Rocky Mountain areas—does the level of traffic double over the 10-year period.

In broad summary, then, the following points characterize forecast rail coal traffic for the period ending in 1985 as compared with 1975, assuming that the plan's projected coal demand target materializes:

Total coal tonnage moving by rail will increase to about 837 million tons in 1985, up 105 percent from a 1975 level of slightly over 400 million tons;

Movements of coal via rail to electric utilities will account for about 50 percent of the projected increase;

Though the uncertainties are many, coal moving by rail to industrial users is likely to increase to about 286 million tons, almost triple that carried by rail in 1975;

Rail movement of coal from the West will increase substantially, with marked gains expected in shipments to utilities in the west-south-central and west-north-central areas; and

Significant gains in rail coal traffic will also take place in several traffic corridors in the East, with industrial and export coal being of greater relative consequence there than in the rest of the country.

Clearly, the Durkin amendment which authorized $100 million for rehabilitation of branch rail lines to transport coal and coal products an amendment to the S. 977 The Coal Conversion Act of 1977 which was adopted by a vote of 60 to 21 on September 7, 1977, will help facilitate the transportation of the coal. However, as my good colleague from Minnesota, Senator WENDELL ANDERSON so clearly pointed out during the debate of the Durkin amendment:

But there is a serious additional problem resulting from the increase in coal-carrying railcars which should, at least be recognized here today. I refer to the rail-highway grade crossing conflicts aggravated by the increased production of Western coal.

The economics of rail transport necessitate the use of exceptionally long trains to carry coal from the mines in the West to the markets in the East. These trains often reach 1 or 2 miles in length. Rural communities which once prospered as they grew adjacent to the mainline tracks now find their highway traffic severely disrupted by unit coal trains. Population centers dependent upon one major highway in the countryside are severed from emergency services and medical assistance. The county engineer in Lancaster County Nebraska reports that some rural Nebraska communities are suddenly exposed to 80 trains traveling at 60 miles per hour each day.

I say to my colleagues that this problem is only going to grow with time. All this body can do is to attempt to preclude and/or mitigate some of the human suffering that will arise from this transportation of coal. I do not believe that it is necessary to recite the litany of tragedies that will occur across the countryside as people are cut off from their essential and emergency services while unit coal trains are moving through highway rail crossings. The railroads' main worry and main thrust of the report I previously cited is to answer "Yes" to the question of whether or not they have the capacity to deliver the expected requisite coal demanded by the marketplace. Both Congress and the railroads must begin to solve the problem before we get behind the power curve. This is an issue which we as Senators can manage from an initiative posture rather than a reactive posture. Future legislation will probably be necessary but this legislation is an important step in beginning to solve this national problem.

The recent "Report to Congress, U.S. Coal Development—Promises, Uncertainties" from the Energy and Mineral Division of the Comptroller General states:

WESTERN RAIL COAL TRAFFIC

Most western coal output will be handled by 10,000-ton-capacity unit trains dedicated to continuous service between the mine and the user.[38] FEA reported in its May 1976 "Coal Rail Transportation Outlook" that the four major western coal carriers were operating an average of 138 unit trains a week.

TABLE 9.—*Weekly unit train traffic of principal western coal carriers*

Railroad:	
Burlington Northern	55
Chicago and Northwestern	35
Denver & Rio Grande Western	25
Union Pacific	23
Total	138

By 1985 unit train traffic is expected to expand several-fold The Burlington Northern, for example, expects to operate about 200 unit trains per week by 1985.

Increased unit train traffic could have a major impact on communities en route, interrupt motor vehicle traffic, and subject community residents to increased noise and air pollution. Some Wyoming communities could experience coal traffic of between 30 and 48 unit trains a day in addition to other rail traffic.

Public concern over the environmental impacts of increasing unit train traffic is causing citizens' and environmental groups to seek closer Federal scrutiny of coal traffic buildup. The Sierra Club, for example, has filed suit in the U.S. District Court to require ICC to more closely examine the environmental impact of a proposed 116-mile coal route to be jointly constructed by the Chicago and Northwestern and the Burlington Northern through the Wyoming coalfields. According to the Sierra Club, the route could carry as many as 48 trains daily through a number of small towns.

Action will be required to reduce the safety hazards and disruption of vehicular traffic and community services that may be caused by unit train operations. Grade crossing improvements such as overpasses, crossing gates, and warning lights will be needed.

Mr. ZORINSKY. Next week, the Department of Transportation Task Force on Coal Transportation is expected to release its report. During the first week of August the task force upon my request conducted field hearings in Nebraska. I believe this report will confirm the need for action regarding separated grade crossing problems.

If any of my fellow colleagues desire to help sponsor this legislation, please contact my Legislative Assistant, Chip Terrill.

By Mr. MAGNUSON (by request):

S. 2165. A bill to revise and improve the laws relating to the documentation of seamen; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce, by request of the Department of Transportation, a bill to revise and improve the laws relating to the documentation of seamen. I ask unanimous consent that the text of the bill and the section-by-section analysis prepared by the Department be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Seamen Documentation Act."

SEC. 2. DEFINITIONS. As used in this Act—

(1) "master" means the person having command of a vessel;

(2) "seaman" means a person employed or engaged on board a vessel in any capacity; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 3. MERCHANT MARINER'S DOCUMENTS. Under regulations he may prescribe, the Secretary shall issue merchant mariner's documents for the identification of seamen and the certification of ratings for which they have qualified.

SEC. 4. MERCHANT MARINER'S DOCUMENTS; CONTENTS. Each merchant mariner's document shall identify the person to whom it is issued, state his nationality, and specify the ratings for which he has qualified. It may contain any additional information prescribed by the Secretary.

SEC. 5. VESSELS REQUIRING MERCHANT MARINER'S DOCUMENTS AND SHIPPING AGREEMENTS. (a) Unless otherwise provided, this Act applies to—

(1) vessels documented under the laws of the United States;

(2) undocumented vessels belonging in whole or in part to a citizen of the United States or to any corporation created under the laws of the United States, or of any State, territory, or possession thereof, or of the District of Columbia, the Commonwealth of Puerto Rico, or the Canal Zone; and

(3) public vessels of the United States operating in commercial service.

(b) Unless otherwise provided, this Act does not apply to—

(1) vessels of less than 100 gross tons;

(2) vessels on which the crew is entitled by custom or agreement to share in the profit or result of the voyage;

(3) fishing vessels; or

(4) vessels engaged exclusively in trade on the rivers of the United States.

SEC. 6. ENGAGEMENT AND DISCHARGE OF SEAMEN. (a) A seaman may not be engaged in the crew of a vessel to which this Act applies unless he holds a merchant mariner's document and exhibits it at the time he is engaged.

(b) Subsection (a) of this section does not apply to the engagement of a seaman outside of the United States for the crew of a vessel to which this Act applies, when a seaman holding a merchant mariner's document is not reasonably available. For those occasions, the Secretary shall, after consultation with the Secretary of State, prescribe regulations for the engagement of such seamen.

(c) The Secretary shall, after consultation with the Secretary of State, prescribe regulations for the discharge of seamen outside of the United States.

(d) Whenever in his judgment the public interest requires, the Secretary may extend the provisions of subsection (a) of this section to such additional classes of vessels, other than warships and public vessels which are not operating in commercial service, as he designates.

SEC. 7. SHIPPING AGREEMENTS; REQUIRED. (a) The master of each vessel to which this Act applies, before proceeding on a voyage—

(1) between the United States and a foreign country;

(2) between places in one or more foreign countries; or

(3) between a place in any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Canal Zone and a place in another of those jurisdictions not adjoining; shall make an agreement in writing with each seaman in the crew, signed by the master and each seaman.

(b) The agreement required by subsection (a) of this section shall state:

(1) the nature, and so far as practicable, the duration of the intended voyage and the port or country in which the voyage is to terminate or the term of time for which each seaman is engaged, as the case may be;

(2) the number and description of the crew, specifying their respective employments;

(3) the capacity in which each seaman is to serve;

(4) the amount of wages which each seaman is to receive; and

(5) any other matter not contrary to law to which the parties may agree.

SEC. 8. COLLECTIVE BARGAINING NOT IMPAIRED. This Act does not affect the right of seamen to bargain collectively.

SEC. 9. ENGAGEMENTS VOID WITHOUT AGREEMENT. The engagement of a seaman contrary to section 7 of this Act is of no legal effect. A seaman so engaged may leave the service of the vessel at any time and is entitled to compensation at the highest rate being paid at the port where he was engaged for the position for which he was engaged, or the rate agreed to at the time he was engaged, whichever is higher.

SEC. 10. FOREIGN AND CERTAIN INTERCOASTAL VOYAGES. (a) In the case of a vessel on a voyage between the United States and a foreign country (other than Canada, Bermuda, the West Indias, or Mexico), or a voyage between a place on the Atlantic Ocean and a place on the Pacific Ocean, the written agreement required by section 7 of this Act shall be in the form and contain the items of information that the Secretary may prescribe and, additionally, shall state—

(1) that each seaman agrees to perform his duties to the best of his ability and to obey the lawful orders of the master, or any person who may lawfully succeed him, and those of the vessel's officers and supervisory personnel acting under the authority of the master and by whom the seaman is supervised in matters relating to the vessel;

(2) that the master agrees to receive, consider, and accord appropriate action to the legitimate complaint of any seaman presented in a reasonable manner and at a reasonable time; and, as the agent of the owner or operator of the vessel, to pay each seaman compensation at the agreed rate; and

(3) any rules of conduct that may be agreed upon which may include the time each seaman is to report on board.

(b) A qualified person designated by the Secretary shall supervise the engagement and discharge of the crew—

(1) for each voyage to which subsection (a) applies; and

(2) if the master or owner of the vessel so requests, for any other voyage on which a written agreement is required by section 7 of this Act.

(c) Before a crew is engaged, the master shall exhibit on the vessel at a place accessible to the crew, a copy of the agreement to be entered into, less the items pertaining to individual seamen.

(d) Notwithstanding any other law, the first clause of section 4529, and sections 4526 through 4528, 4530, 4535, 4546, 4547, 4542 through 4545, 4552, and 4554 of the Revised Statutes of the United States, as amended, apply in the case of a seaman whose engagement is supervised by a qualified person under subsection (b) (2) of this section.

SEC. 11. WRITTEN EVIDENCE OF SERVICE UPON DISCHARGE. Each master required by section 7 of this Act to make a written agreement with a seaman shall, upon discharge of the seaman, provide him with written evidence of his service prepared in the manner and form prescribed by the Secretary. However, it may not contain any reference to the ability or conduct of the seaman.

SERVICE RECORDS

SEC. 12. The Secretary shall maintain a service record for each holder of a merchant mariner's document.

PUBLICATION OF STATISTICS

SEC. 13. Service records maintained by the Secretary are not public records. However, the Secretary may—

(1) provide information from the record of a seaman to the seaman or his designee, or to any organization established by an employer and a collective bargaining agent of the seaman to provide the seaman with welfare, pension, vacation, training, or other benefits; and

(2) prepare and publish statistics and other data extracted from the records that he considers pertinent or useful.

CREW REPORTS

SEC. 14. To ensure compliance with the laws and regulations relating to the engagement and discharge of seamen and the manning of vessels, and to provide information

necessary to maintain service records for holders of merchant mariner's documents, the Secretary may require masters of vessels to submit reports in the form and manner he prescribes.

OFFICIAL LOG BOOK; REQUIRED ENTRIES

SEC. 15. (a) An official log book shall be carried on board each vessel on a voyage to which section 10(a) of this Act applies. The Secretary may prescribe the form of the official log book. The master of the vessel shall make, or cause to be made therein, entries concerning the following matters:

(1) each conviction of a member of the crew by civil authority and the punishment imposed;

(2) in the manner specified in section 4597 of the Revised Statutes of the United States, as amended, each offense committed by a member of the crew for which it is intended to prosecute or to enforce a forfeiture;

(3) each offense for which punishment is imposed on board, and the punishment imposed;

(4) a statement of the conduct, character, and qualifications of each seaman in the crew or a statement that the master declines to give an opinion of those particulars;

(5) each case of illness or injury occurring to a seaman in the crew, which results in his incapacitation for 72 hours or longer, and a description of any treatment given to him on board;

(6) each death on board and the cause thereof;

(7) in the case of collision, a statement thereof, and the circumstances under which it occurred;

(8) the name of every seaman who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof;

(9) the wages due to any seaman who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(10) the sale of the effects of any seaman who dies during the voyage, including a statement of each article sold, and the sum received for it; and

(11) any other matters required by law or by regulations of the Secretary.

(b) Completed official log books shall be retained, transferred, or otherwise disposed of as prescribed by the Secretary.

SEC. 16. OFFICIAL LOG BOOK; MODE OF MAKING ENTRIES. Unless otherwise required by law, each entry required to be made in the official log book—

(1) shall be made as soon as possible after the occurrence; but if it cannot be made on the day of the occurrence, shall be dated and indicate the date of the occurrence; and

(2) shall be signed by the master, and by the chief mate or some other seaman.

SEC. 17. VIOLATIONS; PENALTIES; PROCEDURES. (a) A person who violates any provision of section 6, 7, 10, 14, 15 or 16 of this Act, or any regulation thereunder, is liable for a civil penalty of not more than $5,000 for each violation.

(b) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed until the person charged shall have been given notice and opportunity for a hearing. Upon failing to collect or compromise a penalty assessed under this section, the Secretary may request the Attorney General to commence in any district court of the United States an action for the penalty prescribed by this section.

SEC. 18. DELEGATIONS; REGULATIONS; FEES. The Secretary may—

(1) delegate, and authorize successive redelegations, of any of the duties or powers conferred on him by this Act;

(2) prescribe regulations to carry out this Act; and

(3) prescribe a reasonable fee for any document issued or any report, statistics, or other data provided under this Act.

SEC. 19. AMENDMENTS TO OTHER LAWS. (a) Section 4612 of the Revised Statutes of the United States, as amended (46 U.S.C. 713), is further amended by striking the schedule and tables following the text.

(b) Section 10 of the Act of June 26, 1884, as amended (23 Stat. 55; 46 U.S.C. 599), is further amended—

(1) by amending subsection (b) to read as follows:

"(b) At the time he enters into a shipping agreement, a seaman may stipulate in writing for the allotment of a portion of the wages he may earn:

(1) to his grandparents, parents, wife, sister, brother, or children; (2) to an agency duly designated by the Secretary of the Treasury as authorized to handle applications for United States Savings Bonds, for the purpose of purchasing such bonds for the seaman; (3) for deposits to be made in an account opened by him and maintained in his name at a Federal or State credit union or at a savings institution in which accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; or (4) to any other allotee that the Secretary may authorize by regulation.";

(2) by amending subsection (c) to read as follows: "(c) No allotment is valid unless in writing. It shall be the duty of a qualified person, designated by the Secretary, to examine allotments made under this Act and to verify compliance therewith. All stipulations for an allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall state the amount and time of any payment to be made, or shall direct the payment to be made to a Federal or State credit union, a savings institution, or any other authorized allottee in an account maintained in the seamen's name."; and

(3) by striking out the second paragraph in subsection (e).

(c) The Act of August 19, 1890, as amended (26 Stat. 320; 46 U.S.C. 563, second paragraph) is further amended to read as follows:

"The clothing of a seaman is exempt from attachments and liens. A person who detains a seaman's clothing or any license, certificate of registry, or merchant mariner's document issued to a seaman by the Secretary of the department in which the Coast Guard is operating shall be fined not more than $500 or imprisoned for not more than six months, or both."

(d) Section 434 of the Tariff Act of 1930, as amended (46 Stat. 711; 19 U.S.C. 1434), is further amended by striking the words "crew list, its".

(e) Section 435 of the Tariff Act of 1930, as amended (46 Stat. 711, 19 U.S.C. 1435) is further amended by striking the words "that a list of the crew need not be delivered, and".

(f) Section 4 of Public Law 89–99 (79 Stat. 424; 46 U.S.C. 444) is amended by striking the period at the end thereof and inserting the words "or the Seamen Documentation Act." in lieu thereof.

(g) Section 5 of Public Law 89–99 (79 Stat. 424; 46 U.S.C. 445) is amended by inserting the words "or the Seamen Documentation Act," immediately following the words "or supplementary thereto,".

(h) Whenever used in any other law with reference to documentary evidence of a seamen's rating, the terms "certificate of service", "certificate of service or efficiency", and "certificate" are considered to a mean a certification of that rating on a merchant mariner's document issued under this Act.

SEC. 20. *Repeals.* The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

Revised statutes section		
4290	4510	4522
4291	4511	4523
4292	4512	4548
4501	4513	4549
4502	4514	4551
4503	4515	4553
4504	4516	4568
4505	4517	4573
4506	4518	4574
4507	4519	4575
4508	4520	4576
4509	4521	4595

Date	Chapter	Section	Volume	Page
Feb. 27, 1877	69	[1] 1	19	250
June 26, 1884	121	19, 20, 27	23	58
June 19, 1886	421	2	24	80
Aug. 19, 1890	801	----------	26	320
Feb. 18, 1895	97	1	28	667
Mar. 3, 1897	389	1, 3, 19	29	687
Dec. 21, 1898	28	1, 2, 14	30	755
Feb. 14, 1900	19	1	31	29
Apr. 26, 1906	1875	----------	34	137
Mar. 4, 1915	153	1	38	1164
June 25, 1936	816	3	49	1934
Mar. 24, 1937	49	1, 2	50	49
June 16, 1938	467	3	52	754
Oct. 17, 1940	896	1, 2	54	1200

[1] (Only the part amending R.S. 4290, 4513, 4522, 4575)

SEC. 21. EFFECTIVE DATE. This Act is effective on the first day of the twelfth month following the month in which it is enacted.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of seamen.

(Related sections of existing sections of title 46, United States Code, that would be amended or replaced are indicated in parentheses following the analysis of the corresponding section of the bill.)

Sec. 1. This section contains the short title.

Sec. 2. Definitions. This section defines certain terms used in the Act. The definitions are consistent with those in closely related existing statutes.

Sec. 3. Merchant Mariner's Documents. This section permits the issuance of a single standard document for the identification of United States seamen and for the certification of their ratings. Provisions for the licensing of qualified ship's officers have been part of the Federal statutes for over 100 years. It was not until 1936 that American seamen received any form of certificate that would identify them as members of the United States Merchant Marine. Also, commencing in 1936, unlicensed seamen were issued "certificates of service" as evidence of their special shipboard qualification. In 1937, "certificates of identification" came into being. Several years later, without statutory change, these two "certificates" were combined in a single document called a "United States Merchant Mariner's Document." The Merchant Mariner's Document in use today also serves as a passport for American seamen on vessels engaged in the foreign trade.

The 1937 Act that created the certificate of identification gave the seaman an option. In lieu of a certificate of identification he could receive the "continuous discharge book" which served him both as a means of identification and a cumulative record of his shipboard employment. Over the years, this option has been exercised by a very limited number of seamen. Today, the Merchant Mariner's Document is not only issued in place of the certificates but also as a companion document to the seaman electing to receive a continuous discharge book. In addition to giving statutory recognition to the Merchant Mariner's Document as a replacement for both the certificate of identification and the certificate of service, this section discontinues the issuance of continuous discharge books. (46 U.S.C. 643(a) (part) and (h)).

Sec. 4. Merchant Mariner's Documents; Contents. This section prescribes the minimum information to be included on Merchant Mariner's Documents. (46 U.S.C. 643(a) (part) and (b)).

Sec. 5. Vessels Requiring Merchant Mariner's Documents and Shipping Agreements. This section identifies the kinds of vessels for which crew members must be holders of Merchant Mariner's Documents and for which written agreements of employment are required for certain voyages. Subject to the specific exemptions listed in subsection (b), these requirements apply generally to United States flag vessels, regardless of whether or not they are Federally documented, and to public vessels that operate in commercial service. The tonnage of vessels required to have a shipping agreement is raised to a uniform 100 gross tons, from 50 gross tons in the coastwise trade and 75 gross tons in the intercostal trade (Atlantic to Pacific). This makes the requirement for Merchant Mariner's Documents and shipping agreements uniform. (46 U.S.C. 566 (part) and 643(a) (part) and (1)).

Sec. 6. Engagement and Discharge of Seamen. This section requires the possession of a Merchant Mariner's Document for employment in the crew of commercial vessels of 100 gross tons or over (except those specificially exempted by § 5(b)). Subsections (d) and (c) apply to the engagement and discharge of seamen in foreign ports where seamen holding merchant mariner's documents are not available. Regulations will be promulgated by the Secretary to govern this situation after consultation with the Secretary of State. Subsection (d) authorizes the Secretary to extend the requirements of subsection (a) to certain other vessels when the public interest requires. (46 U.S.C. 569, 643(c) (part), 643b).

Sec. 7. Shipping Agreements; Required. This section requires that a written and signed agreement be executed between the master and each seaman in the crew of commercial vessels of 100 gross tons or over on foreign voyages and coastwise voyages between non-neighboring States.

Subsection (b) specifies the minimum information that must be stated in the shipping agreement and provides that it may contain any other lawful terms to which the parties agree. (46 U.S.C. 564 (part) 574 (part)).

Sec. 8. Collective Bargaining Not Impaired. This section recognizes the existence of "collective bargaining" and its relationship to the shipping agreements required by this Act.

Sec. 9. Engagements Void Without Agreement. This section provides legal remedies for the seaman who is improperly taken into a vessel's employ in violation of section 7. (46 U.S.C. 578).

Sec. 10. Foreign and Certain Intercoastal Voyages. This section requires that shipping agreements for: (1) foreign voyages (except for those to certain nearby countries), and (2) intercoastal voyages, by prepared in the format prescribed by the Secretary and contain the provisions specified. (46 U.S.C. 564 (part), 713 (Table A)).

Subsection (b) requires a qualified person, designated by the Secretary, to supervise engagements and discharges on voyages covered by subsection (a). (46 U.S.C. 565, 641 (part), 643(e) (part), and 643(k) (part)). It also permits the same supervision of engagements and discharges on coastwise and nearby foreign voyages at the option of the master or owner of the vessel (46 U.S.C. 563 (1st paragraph)).

Subsection (c) requires public display of the terms of an agreement before a crew is actually engaged under the supervision of a qualified person. (46 U.S.C. 577).

Subsection (d) provides for the application of certain enumerated laws pertaining to seamen's wages to coastwise and nearby foreign voyages when a master or owner exercises his option to have the engagement and discharge of his crew supervised by a qualified person under subsection (b)(2). (46 U.S.C. 563 (part of 2d paragraph)).

Sec. 11. Written Evidence of Service Upon Discharge. This section requires masters of vessels on voyages for which written agreements are required, to provide crew members with documentary evidence of their service on his vessel in a form to be prescribed by the Secretary. Masters are prohibited from including on the document any evaluation of the crew members' conduct or performance. (46 U.S.C. 643(e) (part) and (k) (part)).

Sec. 12. Service Records. This section requires the Secretary to maintain a service record for each documented seaman. (46 U.S.C. 643(f) (part)).

Sec. 13. Publication of Statistics. This section prohibits publication or disclosure of information about a named seaman from his record of service except to the seaman and certain of his identified representatives. It authorizes the Secretary to use such information for statistical purposes and to publish useful data derived therefrom. (46 U.S.C. 643(f) (part)).

Sec. 14. Crew Reports. This section authorizes the Secretary to require the submission of reports to assist him in the proper enforcement of the laws relating to the engagement and discharge of seamen, the manning of vessels with qualified crews, and will provide information necessary to maintain seamen's service records. In cases where the engagement and discharge of crews are supervised by qualified persons under section 10(b) of the Act most of the necessary information will be obtained through that person. This section provides a means for collecting the information from vessels not serviced by qualified persons under section 10(b). (46 U.S.C. 643(k) (part) and (1)).

Secs. 15 and 16. Official Log Book; Required Entries; Mode of Making Entries. These sections replace the existing statutes (46 U.S.C. 201; 202) relating to official log books. Section 15 requires log books to be maintained on voyages on which engagements and discharges are supervised by a person designated by the Secretary (e.g., foreign and intercoastal). It prescribes required entries and authorizes the Secretary to specify other matters about which entries should be made in addition to certain matters prescribed elsewhere by statute. Two entries previously required (births and marriages) would no longer be required. Section 16 requires entries to be made in a timely manner and to be signed by the master and the chief mate or some other seaman. (46 U.S.C. 201, 202).

Sec. 17. Violations; Penalties; Procedures. This section prescribes civil penalties for violations of the principal provisions of this Act. It also prescribes the means for enforcement of those penalties and vests the Secretary with discretionary power in their disposition. (46 U.S.C. 203, 567, 568, 575, 577, 641, 643(k) and (1)). Existing suspension and revocation authority under 46 U.S.C. 239 is also available as a means of enforcing the provisions of this Act.

Sec. 18. Delegations; Regulations; Fees. This section authorizes the Secretary to delegate responsibility for administration of the Act and to prescribe regulations for its implementation. (46 U.S.C. 643(j)). It also authorizes a reasonable fee to cover the cost of issuing Merchant Mariner's Documents and providing the informative reports and statistics authorized by section 13 of the Act.

Sec. 19. Amendments to Other Laws: Sec. 19. (a) eliminates the statutory form for "Shipping Articles" in the foreign and intercoastal trade. Under section 10(a) the Secretary will, subject to the specific requirements of that section, prescribe the form. (46 U.S.C. 713 (schedules)).

Sec. 19. (b) amends the statute relating to seamen's allotments by—

(1) providing for allotments to be made "at the time" a seaman enters into a shipping agreement rather than requiring it to be included in the formal agreement;

(2) eliminating the no longer existent "postal savings" from the list of approved allottees and by adding "brothers" and "Credit Unions";

(3) authorizing the Secretary to add to the list of approved allottees; and

(4) eliminating the requirement that shipping articles be presented to Customs for their examination before they clear the vessel to depart on a foreign voyage. (46 U.S.C. 599).

Sec. 19(c) amends the statute relating to: (1) the engagement of seamen in the coastwise trade by shipping commissioners, at the option of the vessel, and (2) the exemption of seamen's clothing from liens. It eliminates the former, now covered by section 10(b), and continues the latter. This section extends the penalty for wrongful detention of a seaman's clothing to include wrongful detention of a seamen's documents and licenses. (46 U.S.C. 563 (proviso)).

Secs. 19(d) and (e) amend the statutes pertaining to the entry of vessels from foreign voyages to eliminate the requirement that the master deliver a crew list to the customs house. Under the International Convention on Facilitation of International Maritime Traffic and its Annex (TIAS 6251), "a crew list dated and signed by the master or some other ship's officer duly authorized by the master" may serve the function of "providing public authorities with information relating to the number and composition of the crew on the arrival and departure of a ship." To meet the requirements of this multilateral agreement that became effective with respect to the United States on May 16, 1967, and to provide for our own domestic needs, the Bureau of Customs, the Immigration and Naturalization Service, and the Department of Transportation have jointly developed a standard form for crew lists, which, when filed with a vessel's inward manifest, meets the operational needs of the Bureau of Customs.

Secs. 19(f) and (g) amend the statutes relating to scientific personnel on oceanographic research vessels so as to preserve the application of those statutes in cases where this Act replaces provisions of title 53 of the Revised Statutes of the United States, or laws amendatory of supplementary to that title.

Sec. 19(h) makes it clear that a notation of a seaman's rating on the Merchant Mariner's Document issued to him is the official documentary evidence of his qualification for that rating in lieu of the separate certificates issued under prior statutes.

Sec. 20. Repeals. This section repeals existing statutes replaced by this Act and several related statutes superseded by Reorganization Plan No. 3 of 1946. The 1946 Reorganization Plan transferred the statutory functions of individual "Shipping Commissioners" to the Commandant of the Coast Guard. Through Reorganization Plan No. 26 of 1950 and section 6(b) of the Department of Transportation Act (49 U.S.C. 1655(b)), those functions are now vested in the Secretary of Transportation. It also repeals existing statutes requiring a crew list to be delivered to the customs house before clearance maybe granted for a foreign voyage.

TABLE SHOWING WHERE SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES AND THE STATUTES AT LARGE THAT WOULD BE REPEALED BY THIS SECTION MAY BE FOUND IN THE U.S. CODE

Revised Statutes section	*Title 46, U.S. Code section*
4290	201
4291	202
4292	203
4501	541
4502	542
4503	543
4504	546
4505	547
4506	548
4507	549
4508	545
4509	451
4510	562
4511	564
4512	565
4513	566
4514	567
4515	568
4516	569
4517	570
4518	571
4519	577
4520	574
4521	575
4522	576
4523	578
4548	605
4549	641
4551	643
4553	645
4568	665
4573	674
4574	675
4575	676
4576	677
4595	542a

Date	Statutes at Large: Chapter	Section	Volume	Page	Title 46, United States: Code, section
1877, Feb. 25, 676	69	1	19	250	201, 566, 576
1884, June 26	121	19	23	58	572.
		20			573.
		27			541.
1886, June 19, 646	421	2	24	80	563 (1st paragraph).
1890, Aug. 19	801		26	320	563 (2d paragraph).
1895, Feb. 18	97	1	28	667	563 (proviso).
1897, Mar. 3	389	1	29	687	549.
		3			677.
		19			564.
1898, Dec. 21	28	1	30	755	569.
		2			576.
		14			665.
1900, Feb. 14	19	1	31	29	201.
1906, Apr. 26	1875		34	137	542.
1915, Mar. 4	153	1	38	1164	569.
1936, June 25	816	3	49	1934	643.
1937, Mar. 24	49	1	50	49	643.
		2			643.
1938, June 16	467	3	52	754	643a.
1940, Oct. 17	896	1	54	1200	643.
		2	54	1201	643b.

Sec. 21. Effective Date. This section provides for an effective date twelve months after enactment to allow for the implementation of modernized engagement, discharge, and reporting procedures.

By Mr. MAGNUSON (by request):

S. 2166. A bill to revise and improve the laws relating to the documentation of vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce, by request, a bill to revise and improve the laws relating to the documentation of vessels, and for other purposes, which has been requested by the Department of Transportation. I ask unanimous consent that the text of the bill and a section-by-section analysis prepared by the Department be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vessel Documentation Act".

SEC. 2. DEFINITIONS. As used in this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this Act; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 3. PORTS OF DOCUMENTATION. The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 4. VESSELS ELIGIBLE FOR DOCUMENTATION. Any vessel of at least five net tons, which is not registered under the laws of a foreign country, is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the law of the United States, or any State, territory or possession thereof, or of the District of Columbia, or of the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are non-citizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 5. HOME PORTS. (a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

SEC. 6. NAME OF VESSEL. (a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

SEC. 7. CERTIFICATE OF DOCUMENTATION; APPLICATION; ISSUANCE; FORM; EXHIBITION. (a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 10, 11, 12, 13, or 14 of this Act.

(b) The Secretary may prescribe the form of, manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this Act.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination by such persons and at such times and places as the law may require or as the Secretary may prescribe.

SEC. 8. NUMBERS; LETTERS; IDENTIFICATION MARKINGS. (a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary, the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

SEC. 9. PURPOSE OF DOCUMENTATION. A certificate of documentation issued under this Act is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) evidence of qualification to be employed in a specific trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 10. CERTIFICATE OF DOCUMENTATION: REGISTRY. (a) A registry may be issued for any vessel which is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with the Islands of Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel which qualifies for a coastwise license under section 11 of this Act, a Great Lakes license under section 12 of this Act, or a fishery license under section 13 of this Act, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

SEC. 11. CERTIFICATE OF DOCUMENTATION: COASTWISE LICENSE. (a) A coastwise license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;
(2) was built in the United States; and
(3) qualifies under laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and
(2) the fisheries.

SEC. 12. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE. (a) A Great Lakes license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;
(2) was built in the United States; and
(3) qualifies under the laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;
(2) trade with Canada; and
(3) the fisheries.

SEC. 13. CERTIFICATE OF DOCUMENTATION: FISHERY LICENSE.

(a) A fishery license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;
(2) was built in the United States; and
(3) qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries; a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

SEC. 14. CERTIFICATE OF DOCUMENTATION: PLEASURE VESSEL LICENSE. (a) A pleasure vessel license may be issued for any vessel which—

(1) is eligible for documentation, and
(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel is authorized to proceed from port to port of the United States and to foreign ports without entering or clearing at the customs house.

(c) Notwithstanding any other provisions of law, the Secretary may prescribe reasonable fees for measuring a pleasure vessel; for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

SEC. 15. VESSEL LIMITED TO TRADE OR USE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY. (a) A documented vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel, and a documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a documented vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel together with its equipment, is liable to seizure and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 16. FALSIFICATION IN DOCUMENTATION; FRAUDULENT USE OF DOCUMENT; PENALTY. (a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this Act, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

SEC. 17. CERTIFICATE OF DOCUMENTATION; TERMINATION OF VALIDITY. (a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection O of section 30 of the Act of June 5, 1920, as amended, (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 18. PROVISIONAL REGISTRY. (a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a provisional registry for any vessel procured outside the United States which meets the ownership requirements of section 4 of this Act.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which a provisional registry is issued may proceed to the United States and engage en route in the foreign trade or trade with the Islands of Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the provisional registry shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a provisional registry is issued is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend the application of any vessel inspection law administered by him, or any regulation thereunder, if he considers the suspension to be in the public interest.

SEC. 19. RECORDING OF UNITED STATES BUILT VESSELS. The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 20. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS. The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 21. LIST OF DOCUMENTED VESSELS. The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

SEC. 22. REPORTS. To ensure compliance with this Act and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any form and manner he may prescribe.

SEC. 23. VIOLATIONS; PENALTY. (a) A person who violates a provision of this Act, or a regulation thereunder, is liable to a civil penalty of not more than $500 for each violation.

(b) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed until the person charged shall have been given notice and an opportunity for a hearing. Upon failure to collect a penalty assessed under this section, the Secretary may request the Attorney General to commence an action for the penalty prescribed by this section in any district court of the United States.

SEC. 24. DELEGATIONS AND REGULATIONS. The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this Act; and

(2) prescribe regulations to carry out this Act.

SEC. 25. RELATED TERMS IN OTHER LAWS. With respect to the documentation of a vessel whenever used in any law, regulation, document, ruling, or other official act—

(1) "certificate of registry", "registry", and "register" means a registry as provided for in section 10 of this Act;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 11 of this Act;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 12 of this Act;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 13 of this Act; and

(5) "yacht" means a pleasure vessel vessel whether or not documented.

SEC. 26. AMENDMENTS TO OTHER LAWS. (a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows:

"Only citizens of the United States shall serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy."

(b) Section 4148(a) of the Revised Statutes of the United States, as amended (46 U.S.C. 71(a)), is further amended to read as follows:

"(a) Before a vessel is documented or recorded, or where the application of the law of the United States to a vessel is otherwise determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section."

(c) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first sentence of subsection (a).

(d) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(e) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(f) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be docu-

mented and not so documented, is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and

(2) striking the last sentence.

(g) Section 2 of the Act of March 3, 1897, as amended (46 U.S.C. 660–1), is further amended by striking the second paragraph.

SEC. 27. REPEALS. The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act:

Revised statutes section

4132	4167	4315
4136	4168	4318
4137	4169	4319
4138	4170	4321
4139	4171	4322
4141	4174	4323
4142	4176	4324
4143	4177	4325
4414	4178	4826
4146	4179	4327
4147	4180	4328
4150	4182	4329
4155	4183	4330
4156	4187	4331
4157	4189	4333
4158	4190	4335
4159	4191	4337
4160	4214	4338
4161	4215	4339
4162	4217	4372
4163	4312	4384
4164	4313	4385
4166	4314	4495
		4498

Date	Chapter	Section	Statutes at Large Volume	Page
Apr. 17, 1874	106	----------	18	30
Feb. 27, 1877	69	[1] 1	19	251
June 30, 1879	54	----------	21	44
June 26, 1884	121	21	23	58
July 5, 1884	221	4	23	119
June 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4, 5	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
June 24, 1902	1, 155	1, 2	32	398, 399
Mar. 3, 1905	1, 457	9	33	1, 032
Apr. 24, 1906	1, 865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47	----------	37	70
July 9, 1912	220	----------	37	189
Aug. 24, 1912	390	[2] 5	37	562
Aug. 18, 1914	256	1	38	698
Feb. 24, 1915	57	----------	38	812
Mar. 4, 1915	172	1	38	1, 193
Mar. 4, 1915	184	5	38	1, 218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20, 1936	434	----------	49	1, 367
May 24, 1938	265	----------	52	437
May 31, 1939	159	----------	53	794
May 31, 1939	160	----------	53	795
June 2, 1939	168	----------	53	798
Aug. 17, 1961	[3]	----------	75	392
Sept. 29, 1965	[4]	10	79	892

[1] Only the part amending R.S. 4315, 4318, and 4319.
[2] Only the part amending R.S. 4132.
[3] Public Law 87–157.
[4] Public Law 89–219.

SEC. 28. EFFECTIVE DATE. This Act is effective on the first day of the twelfth month following the month in which it is enacted.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of vessels, and for other purposes.

Sec. 1. Short Title. This section cites the Act as the "Vessel Documentation Act".

Sec. 2. Definitions. This section defines the terms "documented vessel" and "Secretary" for the purpose of their use in this Act.

Sec. 3. Ports of Documentation. This section provides for the designation by the Secretary of ports of documentation in the United States where vessels may be documented and instruments of title recorded and for the designation of the geographic area to be served by each designated port. It also authorizes the discontinuance and relocation of ports of documentation and the designation of additional ports of documentation. This section is a general restatement of the existing law concerning the authority of the Secretary in regard to ports of documentation. The authority of the Secretary in regard to ports of documentation derived through reorganization plans, implication from related statutes, intradepartmental delegation orders, and transfer of functions from other governmental agencies is made more explicit.

Sec. 4. Vessels Eligible for Documentation. This section is a clarification and general restatement of existing law.

It provides that vessels of at least five net tons, not registered under the laws of a foreign nation, are eligible for documentation if owned by citizens, partnerships, or corporations of the United States or by the Federal or State Governments. It expressly prescribes the five net ton limitation on vessels eligible for documentation rather than leaving it to implication.

Sec. 5. Home Ports. This section defines a vessel's home port as the port of documentation selected by an owner for the documentation of his vessel with the approval of the Secretary and provides that a vessel's home port may only be changed with the approval of the Secretary. It is a general restatement of existing law but leaves the detailed procedures for fixing and changing a vessel's home port to regulation.

Sec. 6. Name of Vessel. This section provides that the name of record of the vessel to be documented will be the name provided by the owner subject to the approval of the Secretary and that the name may only be changed with approval of the Secretary. It is a restatement of existing law except to the extent that the procedural details of the transactions now in the statute, such as the publication of notices of change of name in newspapers, will be governed by regulation. The authorization for a reasonable fee, to be prescribed by the Secretary, for changing a documented vessel's name of record takes the place of the graduated fee schedule now set forth in detail in the existing statute and allows the fee to be specified by regulation.

Sec. 7. Certificate of Documentation; Application; Form; Exhibition. This section provides that a certificate of documentation shall be issued upon application by the owner of any vessel eligible for documentation on the form and in the manner prescribed by the Secretary and that such certificate of documentation shall be available for examination. The entire text of registers, enrollments and licenses, and licenses are now set forth at length in existing statutes. To provide flexibility and take advantage of savings afforded by modern forms and record keeping procedures this section provides only that each certificate of documentation shall contain the name, the home port, the description of the vessel, identity of its owner, and be in such form and contain such additional information as the Secretary may prescribe. The provision in this section that the Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation will provide a means for updating vessel documents through the submission of occasional reports rather than continue the presently required annual endorsement of renewals of licenses and enrollments and licenses and the endorsements of changes of master.

Sec. 8. Numbers; Signal Letters; Identification Markings. This section provides for continuing the present system of assigning official numbers, signal letters, and identification markings to documented vessels.

Sec. 9. Purpose of Documentation. This section does not modify existing law but for clarity contains express provisions that a certificate of documentation is conclusive evidence of nationality but not conclusive evidence of ownership in any proceeding in which ownership, determined by State law, is in issue. It also gives express recognition to the special nature of "license" type documents.

Sec. 10. Certificate of Documentation: Registry. This section provides that the issuance of a certificate of documentation in the form of a registry may be issued to any vessel meeting the requirements of section 4 entitling it to be employed in the same foreign trade in which it may now be employed under existing law.

Sec. 11. Certificate of Documentation: Coastwise License. This section provides for the issuance of a certificate of documentation in the form of a coastwise license for any vessel which is eligible for documentation, is built in the United States, and qualifies under the laws of the United States to be employed in the coastwise trade. This license takes the place of the "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under Twenty Tons" now issued under existing law for the coastwise trade and also for the "Coastwise Trade and Mackerel Fishery" when appropriately endorsed.

Sec. 12. Certificate of Documentation: Great Lakes License. This section provides for the issuance of a certificate of documentation in the form of a Great Lakes license to take the place of the "Consolidated Certificate of Enrollment and License (Northern and Northwestern Frontiers of the United States Other Than by Sea)" now issued under existing law.

Sec. 13. Certificate of Documentation: Fishery License. This section provides that a certificate of documentation in the form of a fishery license may be issued for any vessel which is eligible for documentation, was built in the United States, and qualifies under the laws of the United States to be employed in the fisheries. This license takes the place of a "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under Twenty Tons" now issued under existing law for the trades of whale fishery, cod fishery, and mackerel fishery.

Sec. 14. Certificate of Documentation: Pleasure Vessel License. This section provides for a certificate of documentation for pleasure vessels. As in existing law, to be eligible for documentation a pleasure vessel must be larger than 5 tons, must be used exclusively for pleasure, and must be owned by a United States citizen. A documented pleasure vessel has all the rights of a vessel documented under the laws of the United States as well as the privilege of proceeding from port to port of the United States and to foreign ports without entering or clearing at the customs house. Although no fee is charged for documentation of commercial vessels, a fee will be charged for documentation of pleasure vessels. Since only the larger pleasure vessels may be documented, this is a benefit enjoyed by relatively few vessel owners and others directly involved in the pleasure vessel industry. The cost of this service should be borne by those who receive the benefits. Therefore, section 14 gives the Secretary the power to set fees, based on the cost of providing the service.

Sec. 15. Vessel Limited to Trade or Use Covered by Certificate of Documentation; Exemption; Penalty. This section, which is a restatement of existing law, provides that a vessel is limited to the trade covered by her

certificate of documentation; exempts certain non-self-propelled vessels from documentation; requires that the master must be a citizen of the United States; and continues the present penalty for violations.

Sec. 16. Falsification in Documentation; Fraudulent Use of Document; Penalty. This section continues the existing penalty of seizure and forfeiture for false statements or representations in connection with the documentation of vessels and for fraudulent use of a certificate of documentation.

Sec. 17. Certificate of Documentation; Termination of Validity. This section continues the existing provisions that a certificate of documentation becomes invalid if the vessel for which it is issued no longer meets the requirements for issuance of the certificate or is placed under the command of a person who is not a citizen of the United States. It also continues the requirement for the surrender of invalid certificates but recognizes the protection accorded preferred mortgages by section 961(a) of title 46, United States Code.

Sec. 18. Provisional Registry. This section authorizes the Secretary of Transportation and the Secretary of State to provide for the issuance of a provisional registry for a vessel procured by a citizen outside of the United States. This enables the vessel to proceed directly to the United States and to trade en route, with the requirement that the provisional registry be surrendered upon the vessel's arrival in the United States. The present statutory authority of Consular Officers and persons designated by the President to issue provisional registries which are automatically valid for a period of six (6) months or until arrival in the United States is eliminated. This section does not continue the present automatic statutory exemption of a vessel with a provisional registry from laws relating to officers, inspections, and measurement; but it authorizes the Secretary to suspend application of those vessel inspection and measurement laws if he considers the suspension to be in the public interest.

Sec. 19. Recording of United States Built Vessels. This section authorizes the Secretary to provide for the recording and certifying of that information pertaining to vessels built in the United States he considers to be in the public interest. It thereby continues provisions in the existing law providing for the recording and certifying of essential information pertaining to vessels built in the United States for foreign owners.

Sec. 20. Registration of Funnel Marks and House Flags. This section continues the provisions of the existing law providing for the registration of funnel marks and house flags by owners of vessels.

Sec. 21. List of Documented Vessels. This section continues the requirement for publication of a list of all documented vessels.

Sec. 22. Reports. This section authorizes reports to be required of owners and masters of documented vessels to ensure compliance with the Act and the laws governing the qualification of vessels to engage in the coastwise trade and fisheries. These reports will also keep the vessel data current and certificates of documentation up to date, and they will take the place of annual endorsements of renewals of enrollments and licenses and endorsements of changes of masters on the certificate of documentation.

Sec. 23. Violations; Penalty. This section provides a civil penalty of not more than $500 for each violation of the Act. It takes the place of numerous specific statutory penalties now included in the individual statutes. This section also authorizes the Secretary to assess and collect any penalty and, in his discretion, to compromise, remit, or mitigate any civil penalty to ensure that only the appropriate penalty is assessed. The assessment of the maximum penalty in minor cases where the penalty will later be mitigated is no longer required.

Sec. 24. Delegations and Regulations. This section retains the provisions of existing law by authorizing the Secretary to delegate and authorize successive redelegations of any of the duties or powers conferred in him in this Act. It also authorizes the Secretary to prescribe regulations to carry out this Act.

SEC. 25. Related Terms in Other Laws. This section defines the new types of certificates of documentation provided for in this Act to ensure that their changed names have no legal effect.

Sec. 26. Amendments to Other Laws.

Sec. 26(a) restates the existing 46 U.S.C. 221 in terms of "vessels documented under the laws of the United States" to conform to the terminology of this Act.

Sec. 26(b) states when a vessel shall be measured and authorizes the Secretary to prescribe conditions under which a vessel may be documented before being measured until such time as the vessel is available for complete measurement. This amends the existing statutory requirement that a vessel must be measured before being documented.

Sec. 26(c) eliminates the references in 46 U.S.C. 251 to statutes pertaining to documentation that will be repealed by this Act and eliminates the provisions in that statute that only documented vessels shall be deemed vessels of the United States.

Sec. 26(d) eliminates the detailed statutory language prescribing oaths now required for the issuance of licenses.

Sec. 26(e) eliminates the provision of 46 U.S.C. 325 that vessels licensed for the "mackerel" fishery be employed in other fisheries since section 13 provides for a single fishery license covering all fisheries.

Sec. 26(f) restates the first sentence and eliminates the last sentence of 46 U.S.C. 319 to conform to the terminology of this Act.

Sec. 26(g) eliminates an outdated requirement that so-called hospital spaces be provided on certain vessels for the benefit of the crew. Because the crew is now regularly provided with private accommodations, this provision is obsolete. Its removal will allow some savings in the construction or conversion of vessels while not affecting requirements regarding medical equipment and supplies to be carried on vessels.

Sec. 27. Repeals. The corresponding sections of the United States Code are listed below for each of the Revised Statutes of the United States and Statutes at Large repealed by this section.

Revised Statutes section:	*Title 46, U.S. Code section*
4137	15
4138	16
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4141	17
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4147	24
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4183	56
4187	58
4189	60
4190	61
4191	62
4214	103
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4217	105
4312	252
4313	253
4314	254
4315	255
4318	258
4319	259
4321	263
4322	264
4323	265
4324	266
4325	267
4326	268
4327	269
4328	270
4329	271
4330	272
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4372	318
4384	334
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STATUTES AT LARGE

Volume 18, page 30, title 46, U.S. Code, section 270.

Volume 19, page 251, title 46, U.S. Code, sections 255, 258, 259.

Volume 21, page 44, title 46, U.S. Code, section 332.

Volume 23, page 58, title 46, U.S. Code, section 47.

Volume 23, page 119, title 46, U.S. Code, section 55.

Volume 24, page 81, title 46, U.S. Code, section 45.

Volume 26, page 765, title 46, U.S. Code, section 46.

Volume 28, pages 624, 625, title 46, U.S. Code, sections 23, 108.

Volume 29, pages 491, 492, title 46, U.S. Code, section 46.

Volume 32, pages 398, 399, title 46, U.S. Code, section 20.

Volume 33, page 1032, title 46, U.S. Code, section 496.

Volume 34, page 136, title 46, U.S. Code, section 260.

Volume 35, page 426, title 46, U.S. Code, section 49.

Volume 37, page 70, title 46, U.S. Code, section 260.

Volume 37, page 189, title 46, U.S. Code, section 63.

Volume 37, page 562, title 46, U.S. Code, section 11.

Volume 38, page 698, title 46, U.S. Code, section 11.

Volume 38, page 812, title 46, U.S. Code, section 14.

Volume 38, page 1193, title 46, U.S. Code, section 12.

Volume 38, page 1218, title 46, U.S. Code, section 496.

Volume 41, pages 436, 437, title 46, U.S. Code, section 51.

Volume 43, page 947, title 46, U.S. Code, section 18.

Volume 49, page 528, title 46, U.S. Code, section 60.

Volume 49, page 1367, title 46, U.S. Code, section 263.

Volume 52, page 437, title 46, U.S. Code, section 11.

Volume 53, page 794, title 46, U.S. Code, section 276.

Volume 53, page 795, title 46, U.S. Code, section 267.
Volume 53, page 798, title 46, U.S. Code, section 496.
Volume 75, page 392, title 46, U.S. Code, section 35.
Volume 79, page 892, title 46, U.S. Code, section 74.

Sec. 28. Effective Date. This section prescribes the effective date of the Act as the first day of the twelfth month following the month in which it is enacted.

By Mr. DOMENICI:

S. 2167. A bill to assist in increasing the depressed price of copper in the United States by authorizing the purchase of a quantity of such metal for inclusion in the national stockpile, and for other purposes; to the Committee on Armed Services.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to assist in increasing the depressed price of copper in the United States by authorizing the purchase of this metal for inclusion in the national stockpile.

The domestic copper industry is faced with serious problems brought about by the decreased demand for copper in world copper markets coupled with increased production by foreign countries which supply a substantial percentage of our imports. This is causing curtailed domestic production which results in reduction in employment.

The U.S. Government's strategic materials stockpile has been without copper since 1974, when the administration sold the last of the stockpile's copper. Subsequent to this disposal the executive branch made a major study of the strategic stockpile. This review recommended a new long-range program for acquisitions and disposals for the strategic and critical materials stockpiles, and the copper stockpile objective was set at 1,299,000 tons. The present administration is studying the Nation's strategic stockpile objectives. However, since there is no copper in the stockpile at present it would seem reasonable to assume that the tonnage required will be great enough to prompt a purchasing program.

Unfortunately, it may be some time before this study is completed and it would appear prudent to allow the Government to purchase copper to assure national security at the current market price. This measure will provide for the sell of 30,000 tons of tin from the national stockpile which is excess to our national security needs and to use this money for the purchase of 250,000 tons of copper.

Mr. President, I urge the Congress to consider this measure at the earliest possible date.

By Mr. STEVENS:

S. 2168. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. STEVENS. Mr. President, today I am introducing the Deep Seabed Mineral Resources Act of 1977, a bill to facilitate the development of a U.S. flag capability to utilize the resources of the deep ocean bottom. This legislation is destined to become a landmark law in the field of ocean policy.

The United States has, since the late 1960's, been engaged in a great international negotiation known as the Law of the Sea Conference. One of the most contentious issues at that negotiation was the nature of the international regime which would manage the resources of the deep ocean bottom. In the interest of international cooperation, the United States has not conducted deep seabed mining operations during the pendency of the negotiations.

The Law of the Sea Conference is now conceded by all responsible parties to be near collapse. There are still some of us, however, who hope that the passage of this legislation will provide the needed incentives for serious negotiations to begin again.

Mr. President, I cannot claim the credit for much of the material in the bill. Large sections are borrowed from the work of Senator METCALF, Senator WEICKER, and Congressmen MURPHY and BREAUX. I have attempted to take the best provisions of all the pending bills on this subject, add my own material, and create a bill which would establish a prudent U.S. management regime for the resources of the deep seabed.

I would like to thank Senator METCALF for his long-standing role as another proponent of deep seabed legislation. I am sure the entire Senate joins with me in wishing him a speedy recovery from his present illness.

Although it is expected that all deep seabed mining operations will take place far beyond the edge of the Continental Shelf margin, it is theoretically possible that some operations could take place within the U.S. Fishery Conservation Zone between the edge of the continental margin and the 200-nautical-mile limit. Since the United States exercises exclusive fishery management authority in these areas, any deep seabed mining operation within the fishery conservation zone of the United States cannot be issued a permit without the concurrence of the affected regional fisheries council. This safeguard is a unique feature of the Stevens bill designed to afford maximum environmental protection for the fisheries resources of the United States.

Mr. President, the time has come for the United States to pass deep seabed mining legislation. The Law of the Sea Conference cannot continue without it. I hope each of my colleagues here in the Senate will join with me in supporting this legislation.

My remarks today are too brief to describe the substance of this bill. I have instead prepared a summary and ask unanimous consent that the summary and the bill, in that order, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STEVENS BILL

The Stevens bill follows the general organizational pattern of H.R. 3350 as reported out by the House Committee on Merchant Marine and Fisheries, and borrows some of the excellent features of the Metcalf bill, S. 2053, but differs from them in several important respects.

The bills are similar but not identical in their findings (sec. 2) and statements of intent to enable deep sea mining to proceed expeditiously, pending the entry into force of a superseding international agreement. However, as Ambassador Richardson has made clear, the treaty draft produced at the last session of the Law of the Sea Conference was "so bad" that it is "totally unacceptable" with respect to deep sea mining, and in the view of many members of Congress this situation (which has become steadily worse during the past seven years of negotiations) is not likely to turn around.[1]

The jurisdictional basis of the legislation, as stated in all three bills (sec. 101) is the power of Congress to regulate the activities of U S. nationals on the high seas. The bill specifically disclaims any assertion of sovereignty or sovereign rights over the ownership of any area of the deep seabed (sec. 101).

The bill thus places restrictions on the presently existing freedom of the seas, under which any company can mine the minerals of the deep seabed. The State Department is firm in its representation to Congress that this is the existing international law, and research confirms this. This has not been changed by anything that has happened in the United Nations General Assembly, or in the Law of the Sea conferences; they have no power to legislate, nor have their deliberations affected the status of customary law.

The scheme of the bills is that a company desiring to engage in deep sea mining must obtain recognition of its rights from the Secretary of Commerce, in two stages (sec. 103). The first is a license for exploration; the second is a permit for commercial recovery. These must conform to detailed criteria stated in section 104, which must be included in regulations, licenses, etc.

The Stevens bill provides for its immediate effectiveness, as does H.R. 3350. Both bills provide that no permits for commercial recovery may be issued under the Acts until 1 January 1980. It is thus the intent of the draftors to give the Secretary two years to gear up his regulatory process and to accomplish required environmental studies. S. 2053, on the other hand, provides that it shall not become effective until 1980. Aside from the dampening effects this provision would have on industry, it unnecessarily delays the creation of regulatory authorities related to resource management and environmental protection. For these reasons we have attempted to cure S. 2053 by providing for the bill's immediate effectiveness.

The Stevens bill (sec. 103(a)(b)), unlike the House bill or the Metcalf bill, recognizes the investment requirement, plainly stated in industry testimony, that before spending scores of millions of dollars in discovering

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[1] We are aware, of course, of the U.N. General Assembly Resolution No. 2749, in 1970, that declared the principle that the mineral resources of the deep seabed are the common heritage of mankind. But this principle remains to be legally defined under the terms of the treaty, which in turn would require the advice and consent of the Senate before it enters into force with respect to the United States. The difficulty with this expression, "common heritage of mankind," is that it means one thing to Anglo-Saxon lawyers and quite another to Latin lawyers. "Common heritage" is translated as "patrimonio" in the Spanish text (which is equally as authoritative as the English text), and "patrimonio" has been used as the "buzz word" to denote State ownership of minerals, for several centuries, at least as far back as the decree of Charles the III of Spain in 1787 declaring the minerals of the new world to be the "patrimonio" of the Crown and available only under license of the King.

and exploring a particular seabea area, and designing the machinery to operate in the peculiar topography of that mine site, and in designing processing plants to utilize the ores from that particular site, the company must be assured that if its tests prove that ore can be mined there in commercial quantities, and economically processed, as a result of these expenditures, it shall have the right to continue on into commercial production. This is a key feature of the successful mining laws of the world. To do otherwise, *i.e.*, to simply grant a license for exploration with no assurance that if ore is found it can be exploited, is like giving a building permit to excavate and put in the foundations for a building with no assurance that when that is done, the building itself can be built. Deep sea mining will be killed in the bud if the investor does not have this assurance. The business is risky enough as it is.

The Stevens bill requires that all regulations and the terms of all licenses and permits shall be uniform, and non-discriminatory.

All three bills agree that a licensee or permittee shall have an exclusive right as against all other U.S. citizens (the Stevens bill expands this to say "all persons subject to the jurisdiction of the United States") and against all nationals of "reciprocating states". (More about this later.) But the Stevens bill goes further. Section 103(b)(3) gives assurance that every U.S. licensee and permittee whose operations are in conformity with the Act and regulations shall be entitled to the diplomatic protection of the United States and, in the event of interference with such operations, the Secretary of State shall utilize all peaceful means to resolve the controversy by negotiation, conciliation, arbitration or resort to agreement reached by Tribunals.

The Stevens bill requires that, before issuing a license, the Secretary make certain important determinations including the finding that the licensee's operations will not unreasonably interfere with the exercise of other freedoms of the seas by other States or conflict with any international obligations or pose unreasonable threat to the quality of the marine environment. Authority is reserved to require the suspension of operations that conflict with the quality of the marine environment, or of international obligations of the United States, or pose a risk to the security interest of the United States.

We have modified the provisions of S. 2053 which require environmental impact statements for each license application. While supporting the need for environmental assessment, it has seemed that efficiency may be promoted at no loss to protection if the work done on prior environmental impact statements is made available for use in subsequent studies and formal assessment is required of significant variances in conditions only.

The bill, while granting the Secretary necessary discretionary powers to draft regulations and contract terms, would subject this discretion to effective conditions of due process and judicial review.

The Stevens bill differs from the other two bills in that the Secretary (or the President, in some cases) may order a suspension of operations, deleting authority to unilaterally modify the contract. We regard the reservation of power to unilaterally amend a contract as being totally unacceptable.

The Stevens bill also fixes the duration of the license to ten years with one permissible extension of five years (sec. 102(B)(2)). The other bills leave this to the discretion of the Secretary, which again is too broad a grant of authority.

Within the 15 year period, the licensee may apply for a permit for commercial recovery. If he does not, he loses the license.

The Stevens bill also provides that the permit for commercial recovery shall remain in effect until the recovery of all minerals in the permit area has been effected (sec. 104(B)(2)). A fixed duration for commercial recovery invites "high grading," i.e., the extraction of the better grade ores, leaving the lower grade ores impossible to recover at acceptable cost. It authorizes the Secretary to impose diligence requirements, which, however, must be uniform for all permittees and licensees, including the fixing of minimum annual expenditures by licensees per unit of area (sec. 104(b)).

The Stevens bill contains important provisions in title II, relating to the transition to an international agreement.

Taking Ambassador Richardson at his word that he hopes to obtain "grandfather rights," in his treaty negotiations, which will protect U.S. investments made in the interim before a treaty comes into force, the Stevens bill provides in section 201(a) that this Act and regulations issued thereunder which are not inconsistent with a future treaty shall remain in effect, but no new exploration licenses shall be issued under the Act after the date when that agreement does enter into force with respect to the United States. Exploration licenses theretofore issued and in good standing shall remain in effect unless the international agreement specifically provides otherwise. It logically follows, and is provided in the bill, that permits for commercial recovery pursuant to exploration licenses which were in good standing on the date the treaty goes into effect shall continue to be issued in accordance with this Act unless the international agreement specifically provides otherwise.

If the treaty does provide otherwise, so that licensees and permittees are not permitted to continue under the new agreement with the same rights and the same duties and without additional cost, as compared with the rights, duties, and cost imposed upon them by this statute, then section 202 comes into play.

This deals with insurance against political risks occasioned by a treaty or its implementation. It does so by virtue of government insurance, comparable to OPIC, and charging the same premiums as OPIC. The licensee may elect to obtain this insurance, up to 75% of the insured's investment, paying premiums therefor. However (and this is new), the reimbursement is limited to the investment in U.S. assets, i.e., the purchase and construction of machinery, equipment, etc., manufactured in the United States, or vessels documented in the United States, or services contracted to be furnished from sources in the United States. The Stevens bill defines the loss of investment as including any treaty-imposed reduction of value or usefulness of the investment in consequence of the imposition of financial or other obligations or restrictions in excess or in addition to those applicable under this Act. This is important, because the treaty, in its last several texts, has required the holder of a contract with the International Seabed Authority to discover and tender two mine sites to the authority (at a cost of scores of millions of dollars), the Authority to keep one and allow the contract holder to develop the other, but under production controls and other restrictions which may greatly reduce the usefulness of the investment. The treaty text also authorizes the Authority to impose production controls, to subject the miner's production to international commodity agreements, and so on. Moreover, there is as yet no solution to the problem of double taxation, *i.e.*, imposition of exactions of the Authority in addition to U.S. income and other taxes.

As in the case of the other two bills, the Stevens bill directs the Secretary to report back to Congress with his recommendations as to the creation of a fund, of which part of the U.S. revenues from deep sea mining will be deposited for the ultimate benefit of the less-developed countries. The decision can be made later by Congress, in light of the status of the treaty negotiations, as to how to commit these funds.

H.R. 3350 was amended during mark-up to impose enormously exaggerated penalties for violation (i.e., $50,000 per day as a civil penalty, $250,000 per day as a criminal penalty. These numbers compare to the penalty of $2,000 per day established by the Outer Continental Shelf Lands Act. It is difficult to see just what activities a thousand miles from shore and under water three miles deep could justify such penalties. The Stevens bill (secs. 301(a), 303(b)) restores these penalties to those that appeared in H.R. 3350, as introduced, namely, $10,000 as a civil penalty for each day of violation, $25,000 per day as a criminal penalty.

The Stevens bill (sec. 103(c)(2)) contains the same requirements as H.R. 3350 with respect to U.S. documentation of mining and processing vessels. This is understood to be satisfactory to both industry and labor. S. 2053 added "transport vessels." The House Committee on Merchant Marine and Fisheries deleted this additional language.

The Stevens bill (sec. 109), like the other two, provides for recognition of licenses and permits issued by "reciprocating States," that is, States which enact legislation comparable to this Act, and which recognize U.S. licenses and permits. The bill adds the requirement that their licenses and permits be issued under constraints substantially similar to ours, including environmental protection. It adds also authority for an international clearing house of information on such licenses and permits.

S. 2168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act of 1977."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States requirements for hard minerals to satisfy national industrial needs, and for national defense, will continue to expand and that the demand for such minerals will increasingly exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and that the acquisition of such minerals from foreign sources is a significant adverse factor in the national balance-of-payments position;

(3) the present and future national interests of the United States requires the availability of hard mineral resources which are independent of the export policies of foreign nations;

(4) there is an alternate source of supply of certain hard minerals, including nickel, copper, cobalt, and manganese, which are significant in relation to national needs, contained in the nodules existing in great abundance on the deep seabed;

(5) major deposits of such nodules have been proven to exist in areas of the deep seabed which are seaward of the limits of national seabed resource jurisdiction recognized by international law;

(6) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(7) given the necessary investment climate, including security of tenure, United States mining companies are prepared to undertake programs for the commercial recovery and processing of hard minerals from the deep seabed;

(8) it is in the national interest to establish a program to encourage the exploration and commercial recovery of the hard mineral resources of the deep seabed by United States citizens, and that such activities be regu-

lated in a manner to protect the quality of the environment;

(9) any deep seabed mining activities which take place within the Fishery Conservation and Management Zone of the United States must be conducted in a manner consistent with the desires of the affected regional fisheries council.

(10) deep seabed mining is a freedom of the high seas, subject to a duty of reasonable regard to the interests of other States in their exercise of that and other freedoms of the high seas recognized by the general principles of international law;

(11) the United States executive department supported (by affirmative vote in the General Assembly) United Nations General Assembly Resolution 2749 (XXV) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind, but this principle remains to be legally defined under the terms of a Law of the Sea Treaty to be agreed upon in the future, and this will require the advice and consent of the Senate if it is to enter into force with respect to the United States;

(12) since the parties currently attempting to negotiate a comprehensive international Law of the Sea Treaty have been unable to come to a final agreement, and since their failure to reach agreement may retard the development of the technology necessary to commercially recover and process the hard mineral resources of the deep seabed, interim domestic legislation is required to encourage the development of such technology.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to establish an interim program to encourage the development of hard mineral resources of the deep seabed by United States citizens without further delay, pending the entering into force with respect to the United States of a superseding international agreement relating to such activities;

(2) to insure that the development of hard mineral resources on the deep seabed is carried out in a manner which will protect the quality of the marine environment;

(3) to encourage the continued development of technology necessary to develop the hard mineral resources of the deep seabed as soon as possible; and

(4) to encourage the effectuation of an international agreement or agreements relating to development of the hard mineral resources of the deep seabed which will adequately protect the interests of the United States.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) The term "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate (without regard to profit or loss) for the primary purpose of marketing or commercially using such resource; and, if such recovered resource will be processed at sea, such processing.

(2) The term "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

(3) The term "deep seabed" means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

(4) The term "development" means exploration and commercial recovery.

(5) The term "exploration" means—

(A) any onsite observation and evaluation activity, after prospecting, which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, and tenor of a hard mineral resource, and

(ii) the economic, environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, installation, and testing of equipment which is intended to be used in the commercial recovery of such resource.

(6) The term "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

(7) The term "international agreement" means any Convention, which may be ratified by and become binding upon the United States relating to the development of hard mineral resources of the deep seabed.

(8) The term "licensee" means any United States citizen who is issued a license under title I to engage in exploration.

(9) The term "permittee" means any licensee who is issued a permit under title I to engage in commercial recovery.

(10) The term "person subject to the jurisdiction of the United States" means any national of the United States, any United States citizen as defined in this Act, any foreign corporation doing business in the United States, and any officer, agent, or employee, department, agency, or instrumentality of the United States, or of any State or local unit of government.

(11) The term "prospecting" means engaging, on a nonexclusive basis, in the taking of bottom samples and photographs, acquisition of hydrographic, geophysical, geochemical, and other data, taking soundings, mapping, and similar activities which do not significantly alter the surface or subsurface of the deep seabed, for the purpose of determining whether or not the potentials for existence of seabed minerals in commercially recoverable quantities justify an application for an exploration license.

(12) The term "reciprocating state" means any foreign nation designated as such by the President under section 108.

(13) The term "Secretary" means the Secretary of Commerce.

(14) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth territory, or possession of the United States.

(15) The term "United States citizen" means—

(A) any individual who is a citizen of the United States; and

(B) any corporation, partnership, association, or other entity organized or existing under the laws of any of the United States.

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

SEC. 101. DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.

By the enactment of this Act, the United States—

(1) exercises its jurisdiction to regulate United States citizens in the carrying out of development of hard mineral resources of the deep seabed as a freedom of the high seas; but

(2) does not thereby assert sovereignty or sovereign rights over, or the ownership of, any area of the deep seabed.

SEC. 102. PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS: EXCEPTIONS.

(a) IN GENERAL.—No United States citizen may engage in exploration or commercial recovery unless authorized to do so—

(1) under a license for exploration or permit for commercial recovery issued pursuant to this Act by the Secretary; or

(2) under a license, permit, or equivalent authorization issued by a reciprocating state; or

(3) pursuant to an international agreement which is in force with respect to the United States.

(b) EXISTING EXPLORATION.—Subsection (a)(1) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the date of the enactment of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(d) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to carry out section 103(d) are issued, as the Secretary shall prescribe; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of the issuance of such license.

The timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(e). In any case in which more than one application referred to in paragraph (1) is filed with respect to all or part of the same area of the deep seabed, the Secretary, in taking action on such applications, shall apply principles of equity based on the date on which each applicant commenced exploration activities and the amount of funds expended with respect to such activities by each applicant regarding the area concerned.

(c) INTERFERENCE.—It shall be unlawful for any person subject to the jurisdiction of the United States to interfere with the carrying out by any licensee or permittee of any activity authorized to be undertaken pursuant to the license or permit.

(d) EXCEPTIONS.—The prohibitions of subsection (a) shall not apply with respect to any of the following activities carried out by any United States citizen:

(1) Scientific research with respect to hard mineral resources;

(2) Prospecting;

(3) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing does not involve commercial recovery;

(4) The furnishing of machinery, products, supplies, services, or materials in support of any exploration or commercial recovery operation engaged in by a licensee or permittee; or

(5) Any onshore activity.

SEC. 103. LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY.

(a) AUTHORITY TO ISSUE.—Subject to the provisions of this title, the Secretary shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery. He shall maintain a public registry showing names and addresses of all licensees and permittees, and the geographical boundaries of such licenses and permits.

(b) NATURE OF LICENSES AND PERMITS.—(1) An exploration license issued under this Act recognizes the right of the holder thereof to explore for hard mineral resources in the area described in the license. It shall entitle the holder, if in compliance with the Act, to a permit for commercial recovery, if application is made therefor while the exploration license is in effect, in an area, selected by the applicant, equal to one-half of the area encompassed by the license. A permit for commercial recovery recognizes the exclusive right of the holder to recover, own, take away, use, and sell the hard mineral resources produced from the area encompassed by the permit. That portion of an area encompassed by an exploration license which is excluded from

a permit for commercial recovery shall be relinquished. Licenses and permits shall be consistent with the provisions of this Act, the regulations issued by the Secretary to carry out the provisions of this Act, and the specific terms, conditions, and restrictions stated in the license or permit by the Secretary.

(2) Any license for exploration or permit for commercial recovery issued under this title shall be exclusive with respect to the holder thereof as against all persons subject to the jurisdiction of the United States and against any citizen, national, or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(3) Every licensee and permittee whose operations are in conformity with this Act and regulations issued hereunder shall be entitled to the diplomatic protection of the United States, and, in the event of interference with such operations by nationals of other States, the Secretary of State shall utilize all peaceful means to resolve the controversy, by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(1) license shall encompass a work area of uniform size determined in accordance with the criteria set forth in section 106(b)(1).

(2) A licensee whose operations are in conformity with this Act, upon application made to the Secretary at a time when his license is in force, shall be entitled to the issuance to him of a permit for commercial recovery with respect to one-half of the work area of his license, consisting of one or more areal units, their location within the licensed area to be selected by the licensee.

(d) STATUTORY RESTRICTIONS AND CONDITIONS.—(1) The Secretary may not issue—

(A) any license for exploration or any permit for commercial recovery after the date on which an international agreement, ratified by the United States, enters into force with respect to the United States to the extent such agreement prohibits such issuance;

(B) a permit authorizing commercial recovery within any area of the deep seabed to other than the licensee for such area;

(C) any permit which authorizes commercial recovery before January 1, 1980; and

(D) any license for exploration of, or permit for commercial recovery within, any area of the deep seabed which is covered by any pending application to which priority of right for issuance applies under this Act; any existing license or permit; or any existing license, permit, or equivalent authorization issued by a reciprocating state.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing of such resources at sea unless the vessel is documented under the laws of the United States. For the purposes of the shipping laws of the United States, transportation of hard mineral resources shall be deemed to be in the foreign trade.

(3) No permittee may process at any place which is not located either in the United States or on a vessel documented under the laws of the United States any hard mineral resource recovered by him pursuant to a permit for commercial recovery; except that the Secretary may allow the processing of any such resource at a place other than in the United States or on such vessel if the Secretary finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of the resource at a foreign location is necessary for the economic viability of the commercial recovery operations of the permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein will be returned to the United States for domestic use if the Secretary so requires after determining that the national interest demands such return.

(e) ELIGIBILITY.—Any United States citizen may apply to the Secretary for a license for exploration.

(2) Any licensee may apply to the Secretary for a permit for commercial recovery with respect to an area encompassed by his license.

(3) Applications for such licenses and permits shall be made in such form and manner as the Secretary shall prescribe, by general and uniform regulations, and shall contain such relevant financial, technical, environmental, and other information, as such regulations require as being necessary or appropriate to enable the Secretary to make determinations required by this section.

(f) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 102(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements prescribed under subsection (d)(3), are filed with the Secretary. Priority of right shall not be lost in the case of any application filed which is not in full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Secretary shall provide.

(g) ACTION ON LICENSE APPLICATIONS.—(1) Before the Secretary may approve any application for a license the Secretary must determine that—

(A) the applicant has priority under this Act;

(B) the applicant is financially responsible to meet all obligations which may be required to engage in exploration and commercial recovery;

(C) the applicant has the technological capability to engage in such exploration and is likely to acquire the technological capability to engage in such commercial recovery; and

(D) the exploration activity proposed in the application will not—

(i) conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, and

(ii) pose an unreasonable threat to the quality of the environment, and in making such determination the Secretary shall take into account any applicable programmatic environmental impact statement prepared under section 105(a);

(E) the issuance of the license will not be in violation of the antitrust laws; and, to facilitate this determination, the Secretary shall submit the application to the Attorney General for comment, who shall respond within 60 days thereafter;

(F) the license will be in conformity with the requirements of section 105 relating to environmental impact assessments.

(2) Upon making the determinations required under paragraph (1) and payment by the applicant of the fee required under subsection (h), the Secretary shall promptly tender a license to the applicant, containing such terms, restrictions, and conditions as the Secretary finds to be required by this Act. Such terms, restrictions,and conditions shall be uniform, insofar as physical conditions permit, with respect to all licenses. The applicant, within 60 days thereafter, may file with the Secretary written exceptions to the tendered license, and if their differences are not resolved by negotiation shall be entitled to an agency hearing, on the record, and to judicial review of the Secretary's determination after such hearing, in accordance with section 706 of title 5, United States Code.

(3) Upon acceptance by the applicant of the tendered license, as proposed or modified by the Secretary or as modified by final judicial determination, the Secretary shall promptly issue the license to the applicant.

(h) ACTION ON APPLICATIONS FOR PERMITS FOR COMMERCIAL RECOVERY.—(1) The holder of an exploration license, at any time while that license is in effect, may apply for a permit for commercial recovery conforming to section 103(c).

(2) The Secretary shall grant the permit application unless he determines that—

(A) the licensee's exploration operations are not in conformity with this Act or regulations issued hereunder or the provisions of his license;

(B) the applicant is not financially responsible to meet all obligations which may be required to engage in commercial recovery proposed in the application;

(C) the applicant does not have, or is not likely to acquire the technological capability to engage in such commercial recovery; or

(D) the commercial recovery activity proposed in the application will—

(i) conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, or

(ii) pose an unreasonable threat to the quality of the marine environment, and in making such determination the Secretary shall take into account any applicable programmatic environmental impact assessments required by section 105(a).

(i) UNIFORMITY.—Terms, restrictions, and conditions of licenses and permits shall be uniform and nondiscriminatory, taking into account differing characteristics of the various areas of the deep seabed to which licenses and permits would apply.

(j) FEES.—(1) No application for a license or permit may be approved under this section unless the applicant pays to the Secretary an administrative fee. The amount of the administrative fee imposed by the Secretary on applicants shall, to the extent ascertainable, be limited to the reasonable administrative costs incurred by the Secretary in processing applications.

(k) EMERGENCY MODIFICATION AND SUSPENSION OF OPERATIONS.—(1) After issuance of any license or permit, the Secretary, proceeding in accordance with section 104, may require the emergency modification or suspension of operations (A) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the marine environment and if such modification is consistent with the regulations promulgated to carry out section 109 (b); or (B) to avoid a conflict with any international obligation of the United States, established by any existing treaty or convention in force with respect to the United States, as determined by the President; or (C) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined by the President. No modification may be made under clause (A) if the Secretary determines, on the basis of substantial evidence and after affording the opportunity of an agency hearing, that the national interest in obtaining hard mineral resources from the area to which the license or permit applies outweighs the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification. In determining whether operations under a license or permit shall be modified under clause (A), the Secretary shall also consider whether the proposed modification would result in significant economic loss to the licensee or permittee which would substantially outweigh the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification or suspension.

(2) If operations are required to be modified or suspended pursuant to paragraph (j), and the effect is to make it difficult or impossible for the licensee or permittee to comply with any time limitation or performance obligation under his license or permit, the Secretary shall extend such time or modify such performance requirements accordingly.

(l) During the term of a license or a permit, the licensee or permittee may submit to the Secretary in application for a revision of the license or permit. The Secretary shall not approve such application unless he finds that the revision will comply with the requirements of this Act and regulations promulgated hereunder.

SEC. 104. DENIAL OF APPROVAL OF APPLICATIONS AND SUSPENSION AND REVOCATION OF LICENSES AND PERMITS FOR CAUSE

(a) DENIAL, SUSPENSION, AND REVOCATION.—(1) The Secretary may—

(A) deny approval of any application made for a license or permit if the Secretary finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(g); and

(B) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or order suspension of particular operations thereunder if the licensee or permittee, as the case may be, willfully fails to comply wtih any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit.

(2) No action may be taken by the Secretary to deny approval of any application or to suspend or revoke any license or permit or suspend operations unless—

(A) the Secretary gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, or revoke and the reason therefor, and

(B) if the reason for the proposed denial, suspension, or revocation is a deficiency which the applicant, licensee, or permittee can correct, the Secretary gives the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice (or such longer period as the Secretary may establish for good cause shown), to correct such deficiency.

(3) The Secretary shall deny approval of any application and suspend or revoke any license or permit—

(A) on the 30th day after the date of the notice given to the applicant, licensee, or permittee under paragraph (2)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, or revocation; or

(B) on the last day of the period established under paragraph (2)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATION REVIEW OF DENIAL OR PROPOSED SUSPENSION OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request for review of a denial or a proposed suspension or revocation of a license or permit, or suspension of operations, is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON OPERATIONS.—The issuance of any notice of proposed suspension of revocation of a license or permit shall not affect the continuation or exploration or commercial recovery activities by the licensee or permittee under the license or permit pending judicial review of such notice. The provisions of subsection (a) (2) and (3) and the first sentence of this subsection (c) shall not apply when the President determines by Executive order than an immediate suspension of a license or permit, or particular activities thereunder, is necessary to avoid any such conflict with an international obligation of the United States or to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, or the Secretary determines than an immediate suspension is necessary to prevent a significant adverse effect on the marine environment, and the Secretary issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Secretary under subsection (b) to deny approval of any application for a license or permit, suspend or revoke any license or permit, or require modification or suspension of operations thereunder, is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code. Any suspension imposed pursuant to subsection c shall also be subject to such judicial review.

SEC. 105. ENVIRONMENTAL IMPACT ASSESSMENTS.

(a) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.—(1) The Secretary shall with respect to the area of the oceans in which any United States citizens will likely undertake development under the authority of this Act—

(A) prepare and publish a draft programmatic environmental impact statement which assesses the environmental impact of development on such area;

(B) afford all interested parties 60 days after such date of publication to submit comments to the Secretary on such draft statement; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish a final programmatic environmental impact statement regarding such area.

(2) With respect to the area of the oceans in which development by any United States citizen will likely first occur under the authority of this Act, the Secretary shall prepare draft and final programmatic environmental impact statements as required under paragraph (1) except that—

(A) the draft programmatic environmental impact statement shall be prepared and published within 120 days after the date of the enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days after the date on which the draft statement is published.

(b) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The approval of any application for a license under section 103(f) shall be deemed to be a "major Federal action" for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). In preparing any environmental impact statement which may be required by the National Environmental Policy Act of 1969 the Secretary shall utilize the information contained in any other environmental impact statement prepared pursuant to this section and shall supplement such information only to the extent of a demonstrable change in circumstances. Any environment impact statement which is required shall be prepared within the 6-month period following the date on which the application for the license or permit concerned is approved by the Secretary.

SEC. 106. REGULATIONS: CRITERIA.

(a) IN GENERAL.—

(1) PROPOSED REGULATIONS.—As soon as practicable after the date of enactment of this Act, but not later than 180 days after such date, the Secretary shall publish in the Federal Register such proposed regulations as are required by, or are necessary and appropriate to implement, this Act. The Secretary shall hold a public hearing, on the record, on such proposed regulations.

(2) FINAL REGULATIONS.—As soon as practicable after publication of proposed regulations pursuant to section 401(a), but not later than 90 days after such date, the Secretary, after considering the comments received during the public hearing required in subsection (a) and any written statements on the proposed regulations received by him, and publishing his decision responding to such comments, shall promulgate such regulations.

(3) UNIFORMITY.—The Secretary's regulations shall be general, uniform, and nondiscriminary.

(b) CRITERIA WITH WHICH REGULATIONS SHALL CONFORM.—Said regulations shall implement the following criteria:

(1) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(A) The Secretary shall identify in each license and permit the area of the deep seabed in which the licensee or permittee may undertake exploration or commercial recovery in conformity with section 103(c).

(i) The area for exploration shall be sufficient to allow for intensive exploration activities.

(ii) The area for commercial recovery shall be selected by the applicant, within the area encompassed by his exploration license, and shall be sufficient to satisfy the permittee's stated production requirements, taking into account the state of the technology then available for ocean mining and the relevant physical characteristics of the area but shall not exceed one-half of the of the related exploration license.

(B) When a licensee obtains a permit for commercial recovery, the area not covered by the permit shall be relinquished.

(2) DURATION.—(A) The term of any exploration license shall be 10 years subject to one extension of 5 years for good cause shown.

(B) A permit for commercial production shall remain in effect until completion of commercial recovery of the hard mineral resources in the area covered by the permit, provided that the permittee conforms to the performance requirements stated in subparagraph (3).

(3) PERFORMANCE REQUIREMENT.—(A) The Secretary, by general uniform and non-discriminatory regulations, shall establish such periodic reasonable expenditures for exploration by the licensee as the Secretary shall establish, taking into account the size of the area of the deep seabed covered by the license except that such required expenditures shall not be established at such high levels as to discourage exploration with less costly technology than is currently in use, or discourage deep seabed mining by new entrants into the industry.

(B) The Secretary shall establish, upon issuing a permit for commercial recovery, a maximum time interval within which commercial recovery must commence. Such interval shall take into account the time necessary for the design construction and testing of mining and processing systems, with allowance made for unavoidable delays.

(C) Once commercial recovery is achieved, the Secretary shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit: *Provided*, That the Secretary shall, for good cause shown, including force majeure and adverse economic consequences beyond the control of the permittee, authorize the temporary suspension of production.

(4) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(A) surrender a license or a permit issued to him; or

(b) relinquish in whole or in part, any area of the deep seabed covered by the license or permit.

Any licensee or permittee who surrenders a license or permit, or relinquishes any area of

the deep seabed, shall remain liable with respect to all violations and penalties incurred by him, and damages to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(5) RECORDS AND AUDITS.—(A) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Secretary shall be regulation prescribe. Such records shall include information which will fully disclose expenditures for development and onshore processing of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the licensee or permittee that are necessary and pertinent to verify the expenditures referred to in subparagraph (A).

(6) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Secretary such necessary and reasonable data or other information as the Secretary may need for purposes of making determinations with respect to the issuance, denial, or revocation of any license or permit; complying with the reporting requirement in section 109, and evaluating the exploration or commercial recovery operations engaged in by the licensee or permittee.

(7) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Secretary containing data or information required under this title shall be made available to the public, upon identifiable request therefor, at reasonable cost, unless—

(A) such data or information relates to trade secrets or other confidential matter referred to in section 1905 of title 18 of the United States Code; or

(B) the public release of such data or information is prohibited under any provision of law, including, but not limited to, section 552(b) of title 5 of the United States Code,

(8) PREVENTION OF INTERFERENCE WITH REASONABLE USES OF THE HIGH SEAS.—Each license and permit shall include such restrictions as may be necessary and appropriate to insure that exploration or commercial recovery operations carried out by the licensee or permittee do not conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States.

(9) PROTECTION OF THE ENVIRONMENT.—Each license and permit shall contain such terms, conditions, and restrictions wtih respect to the carrying out of exploration and commercial recovery operations authorized thereunder as are necessary to protect the quality of the environment. Before establishing, by uniform regulation, such terms, conditions, and restrictions the Secretary shall give due consideration to the information contained in any final environmental impact statement prepared with respect to such license pursuant to section 105(b).

(10) MONITORING OF OPERATIONS.—Each license and permit may require the licensee or permittee—

(A) to allow the Secretary to place officers and employees of the United States aboard vessels used by the licensee or permittee in exploration or commercial recovery operations for the purpose of monitoring such operations at such time, and to such extent, as the Secretary deems reasonable and necessary to assess the effectiveness of, and to determine compliance with license or permit terms, conditions, and retrictions relating to protection of the quality of the marine environment; and

(B) to cooperate with such officers and employees in carrying out monitoring functions.

(11) NAVIGATIONAL SAFETY.—The Secretary's regulations, in accordance with international law, shall specify conditions regarding lights and other warning devices, safety equipment, operating procedures, and other requirements relating to navigational safety and the promotion of safety of life and property at sea.

SEC. 107. APPLICATION OF CERTAIN LAWS.

In the administration of the laws of the United States relating to export control, customs, duties, and taxes, there shall be no discrimination between hard mineral resources taken incidental to exploration recovered under a permit and similar minerals recovered within the United States. For the purposes of such laws, all hard mineral resources recovered under a permit shall be deemed to have been recovered in the United States.

SEC. 108. RECIPROCATING STATES.

(a) DESIGNATION.—The President may designate any foreign nation as a reciprocating state if the President finds that such foreign nation—

(1) regulates the carrying out of development of hard mineral resources of the deep seabed in a manner similar to that provided for in this Act and the regulations issued thereunder.

(2) recognizes existing licenses and permits issued under this Act to the extent that such nation prohibits any person engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit; and

(3) recognizes, under its procedures, priorities of right for applications for licenses or permits that are consistent with those provided for in this Act and the regulations issued thereunder.

(b) EFFECT OF DESIGNATION.—If any foreign nation is designated as a reciprocating state under subsection (a), no license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any prior license, permit, or equivalent authorization issued by such reciprocating state.

(c) The Secretary, in cooperation with the appropriate administrative officers of reciprocating states, shall establish a public registry which shall show the geographical boundaries of each license or permit (or equivalent document) issued by every reciprocating state, including the United States, and the names and addresses of the holders thereof.

SEC. 109. ANNUAL REPORT BY SECRETARY.

The Secretary shall submit to the Congress on or before October 31 of each year after 1977 a report on the administration of this Act during the period covered by the report. Such report shall contain, but is not limited to, the following information with respect to the reporting period:

(1) The number of licenses for exploration and permits for commercial recovery issued, denied, suspended, or revoked under section 103 or 104 with related names and addresses, and geographical boundaries. Such data shall be kept current in a public register.

(2) A description and evaluation of the exploration and commercial recovery operations undertaken; including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) A description and estimate of any damage to the quality of environment resulting from such operations.

(4) The number and description of all civil and criminal proceedings instituted under title III, and the current status of such proceedings.

(5) Such recommendations as the Secretary deems appropriate for amending this Act to further carry out its purposes.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

SEC. 201. EFFECT OF INTERNATIONAL AGREEMENT.

(a) ISSUANCE OF LICENSES AND PERMITS.—If an international agreement regulating the exploration for and commercial recovery of deep seabed minerals shall be ratified by, and come into force with respect to, the United States—

(1) All provisions of this Act, and regulations issued thereunder, which are not inconsistent with said agreement shall remain in effect.

(2) No new exploration licenses shall be issued under this Act after the date when such agreement enters into force with respect to the United States.

(3) Exploration licenses theretofore issued and in good standing shall remain in effect unless said international agreement specifically provides otherwise.

(4) Permits for commercial recovery, pursuant to exploration licenses theretofore issued and in good standing, shall continue to be issued in accordance with this Act unless said international agreement specifically provides otherwise.

(b) To the extent that the provisions of such international agreement permit, the United States shall sponsor applications from United States citizens who are licensees and permittees at the time such agreement so enters into force and shall insure that such licensees and permittees receive the same rights, and have the same duties, under such agreement, as are provided for under this Act, and at no additional cost.

SEC. 202. INSURANCE AGAINST LOSS OF INVESTMENT OCCASIONED BY AN INTERNATIONAL AGREEMENT.

(a) DEFINITION.—For purposes of this section, the term "investment" means expenditures, and any irrevocable legal obligation to make expenditures (together with the reasonable interest costs thereof), for the purchase or construction of machinery, equipment, and facilities manufactured, or vessels documented, in the United States, or for services contracted to be furnished from sources in the United States, utilized for exploration or commercial recovery pursuant to licenses or permits issued under this Act, or for processing of hard mineral resources in the United States or on board vessels documented in the United States, if such expenditure is made or such obligation incurred, on or after the date of enactment of this Act. Such term does not include (1) funds expended for research on, and the development, testing, and evaluation of, the technology necessary for such exploration, recovery, or processing; or (2) the potential value of hard mineral resources.

(b) IN GENERAL.—The Secretary shall enter into a contract of insurance with any licensee or permittee under title I who requests it, in accordance with the terms and conditions specified in this section. The purpose of such insurance is to provide compensation for loss incurred by an insured upon the agreement by the United States, after the effective date of this Act, to an international agreement if—

(1) by reason of the international agreement so entering into force, or the implementation of the provisions of such agreement—

(i) such license or permit is rendered void, or

(ii) such licensee or permittee is permitted to continue exploration or commercial re-

covery but under terms and conditions not substantially the same as the terms and conditions of such license or permit; and

(2) such insured suffers a loss of investment as a result of the circumstance described in subparagraph (1) (i) or (ii); and

(3) such insured has paid all premiums assessed against him by the Secretary pursuant to subsection (d).

(c) TERMS AND CONDITIONS.—The terms and conditions of any contract of insurance under this section shall be determined at the time of the issuance of a license or permit, or as soon thereafter as it is possible to reasonably determine the investment of the insured in the commercial recovery operation. All such terms and conditions must be consistent with the requirements of this Act. Except as authorized by this section, or as agreed to by all the parties thereto, a contract of insurance under this section shall be binding on all the parties thereto for a period of 20 years from the effective date of the contract, and may not be cancelled or modified during that period, except as provided in subsection (f) of this section.

(d) PREMIUMS.—In order to be eligible for insurance under this section, an insured must agree, as consideration for such insurance to pay annually to the Secretary for deposit in the Ocean Mining Fund established by subsection (j), a premium in an amount equal to not more than three-quarters, or less than one-quarter, of 1 percent of the amount of the insurance provided by the contract.

(e) LIMITATION ON INSURANCE.—No contract of insurance may be issued under this section which provides insurance in excess of 75 percent of the insured's investment as defined in subsection (a) or the actual loss of investment calculated in accordance with subsection (g), whichever is less. No compensation shall be awarded under this section for any element of loss incurred by any insured in carrying out exploration or commercial recovery operations under a license or permit or processing of hard mineral resources so recovered if such loss is attributable to failure of technology, variation in market values of recovered hard mineral resources, force majeure other than said international agreement, administrative fees, or events which are within the coverage of usual and customary insurance or for which remedy may be available under the admiralty laws.

(f) PERMISSIBLE MODIFICATIONS OF INSURANCE CONTRACT.—Prior to the commencement of commercial recovery, the insured shall be entitled to increase the amount of his insurance coverage. At any time during the term of the insurance contract, the insured shall be entitled to reduce the amount of his insurance coverage or cancel the insurance contract, except that coverage so reduced or canceled may not be increased, or reinstated, as the case may be, unless specifically agreed by the Secretary, and any amounts paid as premiums with respect to periods before the insurance coverage was reduced or canceled shall not be refundable.

(g) DETERMINATION OF LOSS AND COMPENSATION THEREFOR.—In the event of a loss for which there is a contract of insurance under this section, the Secretary shall determine the amount of the loss and shall pay compensation in such amount to the insured pursuant to the contract. The loss shall be calculated by subtracting from the insured investment an amount equal to the remaining commercial market value of the equipment, facilities, materials, and supplies used in exploration or commercial recovery under the license or permit and the processing in the United States or on board vessels documented in the United States of hard mineral resources so recovered.

(h) CANCELLATION OF CONTRACT.—Any failure of an insured who has a contract of insurance under this section to carry out the requirements of subsection (d) of this section shall be cause for the Secretary to cancel the contract of insurance and to seek any other remedy which the law provides.

(i) JURISDICTION AND VENUE.—The Court of Claims and the district courts of the United States shall have jurisdiction over cases and controversies involving claims for compensation under this section, without regard to the amounts involved. Actions in district courts with respect to any such claim may be instituted in (1) a district court of the United States for a judicial district in which the plaintiff resides or transacts business, or (2) the United States District Court for the District of Columbia.

(j) OCEAN MINING FUND.—There is established in the Treasury of the United States the Ocean Mining Fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary as a revolving fund for purposes of paying compensation which is provided pursuant to contracts of insurance under this section. The fund shall consist of—

(1) any annual premiums deposited by the Secretary under subsection (d) (1);

(2) any sums appropriated to the fund pursuant to section 306(b) of this Act; and

(3) any interest earned on sums invested pursuant to this subsection.

Sums in the fund which are not currently needed for the payment of compensation shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

SEC. 203. CONTRIBUTIONS FOR IMPLEMENTATION OF INTERNATIONAL AGREEMENTS.

No later than the 180th day after the date of the enactment of this Act, the Secretary shall submit to the Congress specific legislative recommendations for establishing contributions to a special fund the proceeds of which shall be used for the payment of United States contributions to an international regime (established under an international agreement if such agreement enters into force with respect to the United States) for sharing with the international community pursuant to such agreement. Such recommendations shall include such provisions as the Secretary deems necessary and appropriate, including, but not limited to, provisions relating to the source, amount, and computation of the contributions recommended, the structure of the special fund, the tax treatment of the contributions (if contributions are required of licensees or permittees), and the disposition of the fund in the event that an international agreement does not enter into force with respect to the United States or United States contributions of the kind referred to in the preceding sentence are not required.

TITLE III—CIVIL PENALTIES, CRIMINAL OFFENSES, AND MISCELLANEOUS PROVISIONS

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person subject to the jurisdiction of the United States to violate any provisions of this Act, any regulation issued pursuant to this Act, or any term, condition, or restriction of any license or permit issued to him under section 103.

SEC. 302. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any person subject to the jurisdiction of the United States against whom a civil penalty is assessed under subsection (a) may obtain review thereof in any district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(c) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(d) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to the jurisdiction of the United States fails to pay an assessment of a civil penalty after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who is authorized to maintain an action to recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 303. CRIMINAL OFFENSES.

(a) OFFENSES.—Any person subject to the jurisdiction of the United States is guilty of an offense if he willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of not more than $25,000 for each day during which the violation continues.

(c) JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

SEC. 304. ENFORCEMENT.

The provisions of this Act, any regulation issued pursuant to this Act, and any term, condition, and restriction of any license or permit issued under section 103 shall be enforced by the Secretary. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency in the performance of such duties. The Secretary shall issue such regulations as may be necessary and appropriate to carry out his duties under this section.

SEC. 305. LIABILITY OF VESSELS.

Any vessel, except a public vessel engaged in noncommercial activities, used in any violation of this Act, any regulation issued pursuant to this Act, and any term, condition, or restriction of any license or permit shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. And deep seabed mining activities which take place with the Fishery Conservation and Management Zone of the

United States may be conducted only with the concurrence of the affected regional fisheries council.

SEC. 402. AUTHORIZATION FOR APPROPRIATIONS.

(a) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 1977, such sums as may be necessary for the administration of this Act.

(b) FOR COMPENSATION.—To the extent that the moneys in the Deep Seabed Mining Fund established pursuant to section 203 are not sufficient to pay compensation awarded under section 202, there are authorized to be appropriated to such fund for any fiscal year beginning after September 30, 1977, such sums as may be necessary for such payments.

(c) FOR ENVIRONMENTAL ASSESSMENT.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 1977, such sums as may be necessary to carry out the responsibilities assigned to him in section 109.

SEC. 403. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or of any other applications, shall not be affected thereby.

ADDITIONAL COSPONSORS

S. 80

At the request of Mr. BURDICK, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 80, to restore to Federal civilian and Postal Service employees certain rights in political processes.

S. 247

At the request of Mr. GOLDWATER, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1487

At the request of Mr. BELLMON, the Senator from Florida (Mr. CHILES) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1487, to eliminate racketeering in the distribution of cigarettes.

S. 1587

At the request of Mr. STONE, the Senator from North Carolina (Mr. HELMS) and the Senator from Missouri (Mr. DANFORTH) were added as cosponsors of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain state and local government retirement systems from taxation, and for other purposes.

S. 1812

At the request of Mr. NELSON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1812, the Reclamation Lands Family Farm Act.

S. 1990

At the request of Mr. ROTH, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1990, a bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment.

S. 2009

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2009, the Home Care Services bill.

S. 2014

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2014, to protect consumer creditors in bankruptcy proceedings.

SENATE RESOLUTION 238

At the request of Mr. CHURCH, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Resolution 238, calling for a World Assembly on Aging.

SENATE RESOLUTION 244

At the request of Mr. STEVENS, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Resolution 244, calling for a study of the Federal retirement system.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 264, continuing expenditures for the Select Committee on Nutrition and Human Needs.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Concurrent Resolution 26, relating to amyotrophic lateral sclerosis.

AMENDMENT NO. 1019

At the request of Mr. TOWER, the Senator from Indiana (Mr. LUGAR) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of amendment No. 1019, to be proposed to S. 1871, a bill to amend the Fair Labor Standards Act.

AMENDMENT NO. 1020

At the request of Mr. TOWER, the Senator from New Mexico (Mr. SCHMITT) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of amendment No. 1020, to be proposed to S. 1871, supra.

AMENDMENT NO. 1025

At the request of Mr. PERCY, the Senator from Delaware (Mr. BIDEN), was added as cosponsor of amendment 1025 to S. 2114, the Public Utilities Policy Act of 1977.

AMENDMENT NO. 1398

At the request of Mr. ROTH, the Senator from Kentucky (Mr. FORD) and the Senator from Texas (Mr. TOWER) were added as cosponsors of amendment No. 1398 to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

SENATE CONCURRENT RESOLUTION 47—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO LIMITATION OF STRATEGIC ARMAMENTS

(Placed on the Calendar.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following concurrent resolution:

S. CON. RES. 47

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms will expire on October 3, 1977;

Whereas a temporary further observance of the limitations of the Interim Agreement will provide time for further negotiation, consistent with Public Law 92-448, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States national security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the Executive and Legislative Branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the Administration has stated its unilateral intent that, while the Strategic Arms Limitation negotiations are being completed, the United States intends not to take any action inconsistent with the Interim agreement, provided that the Soviet Union exercises similar restraint; and

Whereas the Administration has expressly represented to Congress that the aforesaid declaration of intent is non-binding and non-obligatory upon the United States, Now, therefore, be it

Resolved, that the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977 and the Senate and the House of Representatives of the United States concur.

Mr. SPARKMAN. Mr. President, this concurrent resolution was approved by the Committee on Foreign Relations at a meeting this morning. It expresses the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments. The resolution expresses the support of the Senate and the House of Representatives for the administration's stated intention not to take any action inconsistent with the provisions of the interim agreement on certain measures with respect to the limitations of strategic offensive arms which expires October 3, 1977, and with the goals of these ongoing negotiations provided that the Soviet Union exercises similar restraint.

The Committee on Foreign Relations decided to approve this resolution upon careful deliberation, which was, of necessity, conducted over a period of several days. Having received word from the executive branch last week of its intention to maintain the status quo, the committee met on Monday afternoon with the Honorable Paul C. Warnke, Director of the Arms Control and Disarmament Agency to review the present state and prospects of the strategic arms limitation talks, and to explore the implications of the administration's stated intention.

I believe that the President has ample

authority to maintain the status quo following the expiration of the international agreement. This resolution merely recognizes and gives congressional endorsement of that fact. I believe that the mutual involvement of the Congress and the executive branch will demonstrate the shared interest in preventing the collapse of strategic arms limitation efforts so that the two sides may have a continued opportunity to proceed expeditiously to achieve broad and comprehensive strategic arms limitation.

The following Senators share my interest in this resolution and, were it not against the rules to add cosponsors to resolutions originally reported, would join as cosponsors of it: Senators CHURCH, CASE, PELL, HUMPHREY, STONE, SARBANES, JAVITS, PEARSON, PERCY, BAKER, GLENN, BYRD of West Virginia, JACKSON, CRANSTON, and WILLIAMS.

Mr. PELL. Mr. President, as chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans and International Environment, I wish to add my support to the concurrent resolution introduced today by Chairman SPARKMAN, I am, in fact, a cosponsor of that resolution.

In this resolution, the Congress would endorse the administration's statement of September 23, declaring the intention of the United States not to take any action inconsistent with the provisions of the SALT I agreement, which expires on October 3, and with the goals of the ongoing SALT II negotiations provided that the Soviet Union exercises similar restraint.

This resolution is the culmination of considerable discussion within the Foreign Relations Committee; between members of the committee and Mr. Paul Warnke, the Director of the Arms Control and Disarmament Agency; and among several interested Members of the Senate, including the leadership on both sides of the aisle.

I believe that it is important that the SALT I agreement not be allowed to lapse without there being some provision for a follow-on approach regarding restraint in the field of strategic nuclear weapons. I also believe that the Congress has an important role to play in such an approach. The administration's statement together with the resolution introduced today accomplish both objectives, and I urge its adoption.

SENATE RESOLUTION 276 AND SENATE RESOLUTION 277—SUBMISSION OF RESOLUTIONS AUTHORIZING CERTAIN PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. RIBICOFF submitted the following resolutions:

S. RES. 276

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such document for the use of the committee.

S. RES. 277

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" be printed as a Senate document and that there be printed one thousand five hundred additional copies of such document for the use of the committee.

SENATE RESOLUTION 278—ORIGINAL RESOLUTION REPORTED RELATING TO CERTAIN EXPENSES OF THE COMMITTEE ON FOREIGN RELATIONS

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 278

Resolved, That, effective September 1, 1977, subsection (b) of Senate Resolution 91, 94th Congress, agreed to March 18 (legislative day March 12), 1975 (as amended by Senate Resolution 459, 94th Congress, agreed to June 24 (legislative day, June 18, 1976), is amended—

(1) by striking out "1976" and inserting in lieu thereof "1977"; and

(2) by striking out "$15,000" and inserting in lieu thereof "$20,000".

(b) Effective October 1, 1977, such subsection is amended—

(1) by striking out "1977" and inserting in lieu thereof "1978"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$25,000".

SENATE RESOLUTION 279—SUBMISSION OF A RESOLUTION RELATING TO UNFAIR COMPETITION BY FOREIGN INDUSTRIES

(Referred to the Committee on Finance.)

Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. GLENN, Mr. METZENBAUM, Mr. BAKER, Mr. SCHWEIKER, Mr. STEVENSON, Mr. ALLEN, Mr. BAYH, Mr. MATHIAS, Mr. LUGAR, Mr. PERCY, and Mr. SARBANES) submitted the following resolution:

S. RES. 279

Whereas, the American steel industry is facing an unprecedented crisis, in the last several weeks having suffered layoffs of more than 12,000 workers;

Whereas, a major contributing factor to the problems facing the American steel industry is the dumping of imports subsidized by foreign governments into this country;

Whereas, such imports have adversely affected the United States balance of payments and have contributed substantially to reduced employment opportunities in the American steel industry;

Whereas, the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion, thus permitting the continued sale of imported products below cost; and

Whereas, the Office of the Special Trade Representative has failed to resolve a complaint alleging a violation of section 301 of the Trade Act of 1974 by the European Coal and Steel Community and the Japanese Ministry of International Trade and Industry filed on October 6, 1976, by the American Iron and Steel Institute:

Resolved, That the Senate reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

AMENDMENTS SUBMITTED FOR PRINTING

RESIDENCES OF STATE LEGISLATORS—H.R. 4007

AMENDMENT NO. 1408

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes.

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1409

(Ordered to be printed and to lie on the table.)

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

Mr. NELSON. Mr. President, when the Senate takes up S. 1871—the minimum wage bill—I intend to offer an amendment that will cut the paperwork burden faced by small businesses seeking to give jobs to full-time students under the provisions of the Fair Labor Standards Act.

Under the existing law, our Nation's retail stores, service firms, farms, and institutions of higher education may hire full-time students for up to 20 hours per week and pay them 85 percent of the minimum wage.

The amendment would require the Labor Department to prepare a short application form that would be used by small businesses wishing to participate in the program. The short form, which need be no longer than a standard IBM computer card, would simply require that the employer list his name, address, business, and the proportion of total hours of employment in his business that will go to students—not to exceed 10 percent—and then certify that no students will displace current workers.

This amendment does not make any changes in the program. It does not alter in any way the number of students that are eligible or the number of businesses that can hire them. It doesn't permit anything that businesses can't already do by filing the existing long and complex application.

What it does do is eliminate the unnecessary paperwork of the program that has been thrown up as a barrier to small business participation. It will take a load off the small businessman's back and make it possible for thousands of small businesses to provide jobs to deserving students.

The student hiring program could make a big dent in youth unemployment, but it just isn't working very well.

There are more than 3,200,000 retail and service firms in the United States that could participate in this program. But during the year ending June 1977, only 18,674 of these businesses had applied to the Labor Department to participate. They asked for 144,728 student positions and probably filled only half—or about 75,000—of these.

Only 900 small businesses applied.

Of our Nation's 3,000,000 farms, only 132 applied for 1,025 student jobs.

All told, our businesses were able to create only 75,000 student jobs last year, just a drop in the bucket compared to the more than 1,000,000 full-time students who are looking for part-time jobs and can't find them.

And it is all because of the paperwork burden.

Currently, business firms that want to participate in the program can apply to the Labor Department for a special certificate. For businesses that want to hire no more than four students and do not plan to devote more than 10 percent of their total payroll hours to students, permission is automatically granted when the employer files the current application form. For businesses that desire to hire more than four students or want to devote more than 10 percent of total hours to student employment, the application must first be approved.

It all sounds very easy, until you take a look at the application form. The application form takes up four full pages. It is almost as bad as the income tax form. It requires businesses to compute student employment as a percentage of total employment for a base period which goes back as far as 1961. It requires the completion of a seven-column table with headings that are virtually incomprehensible.

Although small businesses do not have to fill out the entire application, it is impossible to tell what they do have to fill out. The form itself is just too imposing and intimidating.

When a businessman requests the application form, he not only receives the form in quadruplicate, he also receives two pages of incomprehensible single-spaced instructions written in the worst bureaucratese and, to top it all off, a booklet that contains seven pages of Labor Department regulations for the program.

As Mr. Donald F. White, vice president of the American Retail Federation, said of this in a recent letter to the Small Business Committee:

> It is a paper work monstrosity. It is the main reason why most retailers never have taken advantage of this provision in the existing law. The larger stores, with sophisticated personnel and equipment, can handle the necessary documentation; small stores wouldn't touch it with a ten foot pole because of its complications.

What businessman—who needs to keep track of his payroll, supervise his employees, and run his store—wants to wade through seven pages of Government regulations just to hire one or two students? What businessman wants to fill out four pages of computations and documentations to be a good samaritan to young people? The wage savings just do not make up for the added time and trouble.

The average businessman takes one look at the application form and the information package and says "forget it."

Almost 1 million of the young people who are jobless today are full-time students looking for part-time work. These are high school and college students, your children and mine, who need to work after school and on weekends to earn their tuition money, their spending money, and the money they need simply to stay in school. They do not want, and could not handle, the career-oriented full-time jobs sought by adults. They want part-time work to meet their necessary expenses.

Many of these young people could be productively employed by our Nation's small businesses, without taking away adult jobs, under the provisions of the Fair Labor Standards Act.

For these young people, who want and need to work to stay in school, this is a tragic example of what is rapidly becoming the first law of Government—What Congress creates by legislation, the agencies destroy by regulation.

The amendment will simplify the application process for small businesses. Without changing a single provision of the current law, it will make it possible for thousands of small businesses to hire students.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1409

On page 12, between lines 17 and 18, insert the following:

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

SEC. 5. Section 214 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D) respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use the short form application specified in this subparagraph for any employer to employ not to exceed four students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each short form application shall only contain provisions—

"(i) listing the name, address and business of the employer;

"(ii) listing the expected proportion of student hours of employment to the total hours of employment of all employees for the employer on a weekly, monthly, or annual basis, which shall not exceed ten percent; and

"(iii) certifying that the employment of such students will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, line 24, strike out "section 4" and insert in lieu theerof "sections 4 and 5".

NOTICES OF HEARINGS

EDUCATIONAL AMENDMENTS OF 1977

Mr. PELL. Mr. President, the Subcommittee on Education, Arts, and Humanities will hold 5 days of hearings on S. 1753, the Education Amendments of 1977.

The hearings will be held on October 4, 1977, in room 4232, Dirksen Senate Office Building; on October 12, 1977, in room 4232, Dirksen Senate Office Building; on October 13, 1977, in room 6202, in the Dirksen Senate Office Building; on October 14, 1977, room 6202, Dirksen Senate Office Building; and on October 20, 1977, in room 4232, Dirksen Senate Office Building. All hearings will begin at 10 a.m.

Persons desiring further information or persons wishing to submit written testimony, should contact Jean Frohlicher, counsel, Subcommittee on Education, Arts, and Humanities, 4230 Dirksen Senate Office Building, Washington, D.C. 20510.

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 11, 1977, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation of the Department of Justice.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

THE BENEFITS OF NATURAL GAS DEREGULATION

Mr. STONE. Mr. President, I support the deregulation of wellhead prices for "new" natural gas because I am convinced that this will provide incentives for increased domestic production of natural gas. Natural gas will continue to be one of the most important energy resources for America. It is imperative that our energy policy encourage the exploration and development of domestic natural gas supplies so that we will not have to increase our dependence on unreliable foreign sources. A recent editorial in the Tallahassee Democrat outlines the benefits Americans can expect from the deregulation of natural gas.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION MAY BRING BIGGER SUPPLY

The South American coffee cartel appears on the verge of breaking up, and it is the world's (mostly the United States) coffee drinkers who are responsible.

The situation offers some lessons our nation should ponder in deciding about control of natural gas pricing and production.

Colombia, the world's second largest grower has urged fellow producing countries to lower prices to attract the average buyer and stop the flight of coffee drinkers to cheaper beverages.

The glory days for the producers of runaway coffee prices are over and latest figures show there will be a probable loss in coffee consumption of 10 to 15 percent. In terms of dollars, that amounts to a loss of more than $1 billion for coffee producers.

The Council of the International Coffee Organization is attempting to hold prices at an agreed to fixed high level, but such action is merely leaving them with a growing sup-

ply of coffee beans and falling sales and income.

Here is the lesson for all Americans, including President Carter. Just as coffee drinkers set the price when the free market is allowed to operate so would fuel users set the price if the government would remove the controls it has imposed.

If natural gas goes to a price that provides producers a higher profit it will also provide an incentive to search for more gas. If it goes to a price most consumers feel is too high there will be incentives to provide cheaper substitutes. And with the development of alternative energy sources much of the strain on our oil and natural gas resources would be removed.

The government through its price control programs got the nation into this mess of an over-dependence on natural gas brought about by artificially low prices. And Carter's energy program, which is really more of a gigantic tax program, will not get us out of it.

If we are to look after our long-range interests rather than an easy to take, but poor, short-range solution, we must bite the bullet today. Reduce government interference as much as possible and at least deregulate the price of new-found supplies of natural gas.

Yes we will pay more for it. President Carter says $150 a year more by 1985. But higher prices will stimulate the search for more gas desposits, plus encourage better utilization of the fuel and development of substitutes.

We can have a bountiful supply of energy or we can buy the Carter plan which promises low prices, but which will also assure less and less gas, with increased dependence on higher priced fuels and the eventual creation of an energy-starved economy. That will cost far more than $150 a year by 1985.

DO WE HAVE RIGHTS TO EVERYTHING?

Mr. GARN. Mr. President, if the Senate can tear itself away from this fascinating debate on natural gas for a moment, I would like to remind Senators that the process of turning our society into a moot courtroom is continuing. Fortunately, some voices are being raised against the notion that there are legal remedies to all our problems, and some of them are raised by lawyers themselves. A recent issue of the Washington Star carried one such voice, that of John C. Houston, a young lawyer recently graduated from the International School of Law. Mr. Houston discusses a number of cases that have recently been decided by the Supreme Court, and finds a healthy trend there, a trend away from too much legalism. While I think his view is a bit optimistic, he has worthwhile things to say, and I hope Senators will take the time to read his remarks. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 24, 1977]

DO WE HAVE "RIGHTS" TO EVERYTHING?

The Supreme Court has recently begun tacking a new course after a string of good decisions which demonstrate that good sense should prevail over non-sense.

As Oliver Wendell Holmes wrote, "The life of the law has not been logic; it has been experience."

After a decade and a half in which the Warren court ventured into the endless sea of making the Constitution the remedy for all the ills known to mankind, the Burger court has returned the court's focus to the proper role of the Constitution.

The primary function of the Constitution is to regulate the affairs of the federal government and to preserve the right of local government. Beyond this the individual rights protected by the Constitution are primarily those which the government had a tendency to infringe.

For example, these protected rights include quartering troops in the homes of private citizens, no government interference with individual religious belief and protection against unreasonable arrests and searches by police.

The Constitution does not protect against personal infringement of these rights, although the 14th Amendment makes them applicable to state and local governments.

The recent Congresses since Lyndon Johnson have aggressively encouraged the poor and minorities through prolific federal spending. Both such political decisions are reversible by public opinion and later congressional action, and do not have the status of eternal constitutional rights.

Inventive lawyers have attempted to stretch the Constitution, already straining to carry the new duties from the Warren court's decisions, totally beyond recognition or reason.

Recently the court heard a case based upon a novel argument by a group of prisoners who claimed that they had a constitutional right to negotiate with parole and prison officials through a union. The court reasoned that convicted felons forfeit many rights that non-felons may enjoy.

While that strikes the average person as an understatement of the obvious, numerous bleeding hearts did not see it that way. The court pointed out that the need for security and discipline in the prison system outweighed the interest of individual freedom of association and expression given the circumstances of being in prison.

Subsequently, the court heard a suit brought against General Electric to require the payment of maternity benefits to mothers as a constitutional right. While motherhood is traditionally safe political turf, it does not follow the Founding Fathers ever envisioned that the Constitution was transferring the cost of having children to the public at large. To have decided that maternity benefits are a constitutional right would have set a dangerous precedent for courts to dictate to private individuals and businesses how they must treat their employees without the intervention of Congress or state legislatures.

More recently, abortion has raised many of the same issues. A federal judge in New York City ordered Congress to pay for the abortions of poor women after Congress had specifically voted not to pay for them. This federal judge went along with the pro-abortion lawyers who cited an alleged Constitutional right to force the federal government to pay for them.

The Supreme Court recently turned down this argument in suits brought to force states to pay for abortions. But the rather grave question is: When did federal judges have the authority to order Congress to do or pay for anything?

The Constitution does not guarantee a middle class life style to all citizens. The 13th Amendment repealing slavery did not repeal all the other circumstances that we are born into.

If we the people are to be taxed to pay for services of any kind, then our elected representatives are the proper and final authority as to the disposition of money. To allow a federal judge to require Congress to appropriate money under Congress' "general welfare" power is to turn the Constitution on its head.

Had the court ruled otherwise, it would have been a death blow at the separation of powers which the Constitution guarantees the three branches of our federal government and is guaranteed therefore to the people.

But more importantly, every judicially created right is the basis of creating additional parallel rights. Therefore, while the need presented could be quite real or valid, the theory that court intervention is based upon is repugnant to the sovereignty of the people to act through their elected representatives.

If we are to relinquish our government to "enlightened" judges, there should at least be some evidence that Congress has relinquished its formal powers to act, or that the populace as a whole wished it to be that way.

In these cases the Burger court has quite rightly marked the limits of personal constitutional rights and excluded mere vicissitudes of life from being the basis of deforming the Constitution.

If such items are to be paid for or allowed, then it is appropriate that the issues be freely argued in and out of the legislature. And when and if Congress or state legislators appropriate money for such things it may be accepted only because our collective consensus has been enacted to authorize it to be so.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MAGNUSON. Mr. President, pursuant to section 302(b) of the Congressional Budget Act I am submitting to the Senate the subdivided amounts the Committee on Commerce, Science, and Transportation has allocated to the various programs within our jurisdiction.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions]

Function/subfunction categories	Fiscal year 1978			
	Direct spending jurisdiction		Entitlement programs that require appropriation action	
	Budget authority	Outlays	Budget authority	Outlays
150 Payment to Republic of Panama	2	2	----	----
Miscellaneous trust funds	1.6	1.6	----	----
300 Natural resources, environment and energy:				
306 Other natural resources, NOAA—Miscellaneous trust funds	10	10	----	----

Function/subfunction categories		Fiscal year 1978			
		Direct spending jurisdiction		Entitlement programs that require appropriation action	
		Budget authority	Outlays	Budget authority	Outlays
400	Commerce and transportation:				
403	Other advancement and regulation of transportation, promote and develop fishery products and research	8	8		
	Other miscellaneous funds	.587	.482		
	Science and technical research	16	16		
405	Air transportation grants-in-aid for airports	540,000			
406	Water transportation, operating differential subsidies	384,716			
	Federal ship financing fund		−19,675		
	St. Lawrence Seaway Development Corporation		−2,000		
	Other	.562	.559		
	Coast Guard retirement pay			157	157
600	Regional rail transportation, protection amounts			50	50
800	General Government, Corps of Engineers, permanent appropriation	5	5		

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement which I delivered yesterday in Chicago.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ERISA

ERISA was a giant step forward in improving our private pension system. There is, however, much that still needs to be done because private pension plans are but one part of our diverse but interrelated system for providing retirement income. What the country urgently needs is an integrated national retirement income system.

A "universe" approach to retirement income is necessary for a number of reasons.

By the end of this century, an unusually large number of retirees will place tremendous pressures on our retirement systems. The increase in the number of retirees is expected because of lower mortality and fertility rates coupled with the maturation of the post war baby boom. A comprehensive approach will be better able to deal with these pressures.

Coordination of policy will also achieve the most effective delivery of benefits by our various retirement systems. Policy decisions on Social Security can negatively impact on private pension plans. Federal, state, local and private pension plans, Social Security, ESOP's, TRASOP's, IRA's and Keogh plans must be viewed as part of the same continuum. Demographic changes and inflation should be viewed as affecting this continuum.

A coordinated policy approach can best anticipate the effects of economic downturns on the providing of retirement income. There is a real danger that crippling disorders in the international economic system will have a debilitating effect on the domestic economy and on the funding of our retirement systems. Economic depression could ultimately cause the termination of many private pension plans and result in claims of potentially staggering unfunded liabilities being addressed to the federal government.

Finally, a national pension policy can deal with the related problems of capital shortages, overconcentration of capital holdings by institutional investors, and employee stock ownership. The large and relatively homogeneous assets of pension trusts inevitably link retirement systems to these issues.

A national retirement income policy would be primarily concerned with assuring retirement income security, but would also facilitate such other important goals as increasing capital formation and expanding employee stock ownership. Retirement income policy is a matter of high priority which deserves creative Presidential and legislative attention. We are working toward a national energy policy, and should be doing the same for retirement income security.

I would like to turn now to those areas which may be of legislative concern within the foreseeable future.

EMPLOYEE RETIREMENT INCOME SERURITY ACT OF 1974 (ERISA)

My August 4th speech on ERISA served its primary function, that is, to accelerate action on what has been called "ERISA II." Other Members of Congress have since spoken out on ERISA. The press has picked up the coming debate, and different interest groups have formulated their positions. The Department of Labor has recently adopted the portfolio interpretation of the prudent man rule, which was one of the alternatives I suggested.

Beginning on October 11, the Committee on Human Resources Subcommittee on Labor, of which I am the ranking Minority Member, will hold wide-ranging oversight hearings. We hope to hear from the agencies involved with ERISA and from a broad cross section of those involved with employee benefits. These hearings will serve as a prelude to ERISA amendments.

I am also pleased to observe that a consensus appears to be developing in support of the basic idea of my bill, S. 2019. This measure delays for one year the Pension Benefit Guaranty Corporation's (PBGC) mandatory termination insurance coverage of multiemployer plans. The one year delay will give PBGC time to develop a permanent solution to the multiemployer termination problem. The PBGC has indicated that failure to delay the January 1 date could result in the dumping of possibly $350 million in unfunded liabilities on the federal government. Senator Williams has since introduced another bill in this regard, and I am confident that a common approach can be worked out before the end of this session of Congress.

As I indicated in my August speech, I am deeply concerned about the dual jurisdiction problem as well as the lack of policy coordination between the three principal agencies administering ERISA. I have concluded that the Administration approach, which may involve a limited division of jurisdiction between IRS and DOL, may be a satisfactory short-term approach to the problem. I believe, however, that the establishment of an independent SEC-style pension agency—the Pension Security Administration (PSA)—on or about January 1, 1980 is the best long term solution. I understand that the Administration is working toward finalization of its proposal, which may be presented as part of the President's government reorganization program. I urge the Administration to expedite its efforts and be prepared to state its position at our oversight hearings in October.

One suggestion I made in my speech was to establish two federal employee benefit plans to which employers with 25 employees or less could make tax-deductible contributions. The suggestion was aimed at encouraging those small employers who have terminated their plans to contribute once again to their employee's retirement income. The program I envision would be completely voluntary and would possibly be administered by the Small Business Administration. Of course, if there are practical and fair ways of promoting the establishment of small plans without creating a federally-sponsored program, I will certainly be willing to consider them.

Since my August speech, I have come to the conclusion that there are a number of other ideas which merit discussion.

One of these is the modification or elimination of the excise tax on prohibited transactions. It is my understanding that the Internal Revenue Service has not assessed this tax very often and that many view it as an unnecessary and ineffective deterrent. Some practitioners have complained that the automatic nature of the tax makes the settlement of cases very difficult. I am of the view that we should take a hard second look at the justifications for this excise tax.

I also think we in the Congress should study the need for a Pension Claims Review Board. Like the National Labor Relations Board, a Claims Review unit would have authority to investigate, try and decide participant claims relating to Parts 2 and 3 of Title I of ERISA (participation, vesting, benefit accrual and funding). Participants presently may bring court actions regarding such matters, and the Labor Department, if requested by the Treasury or by the participant, may also go to court. With older workers who are generally not well-off, the filing of a suit may not be a realistic means of redress. In addition, the Labor Department may not have the interest or the resources to file suit. A Claims Review Board, which should be a division of the new centralized Pension Security Administration, could provide an expedited, affordable way for retirees to assert their rights. The relationship of arbitration to Claims Review Board procedures should also be thoroughly analyzed.

In addition, I think the definition of "employee pension benefit plan" should be amended so that certain supplemental and severance pay arrangements will not constitute "pension plans." Generally, such arrangements are made on an individual basis, are not required by law, and are not part of a pension plan. Employers should be permitted to continue such beneficial practices without having to comply with ERISA's rules for employee benefit plans.

PENSION REFORM FOR STATE AND LOCAL SYSTEMS

When the Congress passed ERISA, we realized that there were serious problems with state and local pension systems. We excluded governmental plans from Title I, however, because we simply did not have sufficient information on which to act.

Since ERISA's passage in 1974, we have been assembling information on public pension plans. Some time this year, the House Pension Task Force is expected to release the final version of its comprehensive study. The staff of the Senate Human Resources Committee will also release its report in the near future.

Even though these studies may demon-

strate a need for federal legislation, I believe we should not take immediate action on a Public Employee Retirement Income Security Act (PERISA), I still consider the perfecting of ERISA as the highest legislative priority with respect to pensions. There is much that needs to be done with ERISA, and we should finalize the legal framework for private pension plans before we turn to public pension plan regulation.

I also think the states and their subdivisions have started getting their shops in order and should be given the chance to do the job without federal intervention. Over one-half of the states have started comprehensive reviews of their pension systems. In 1976, for example, New York State passed the Coordinated Escalator Retirement Plan. This law provides, among other things, for integration with Social Security and requires employee contributions of 3 percent of salary. It is estimated that these two measures will save approximately $2 billion in the course of the next decade.

In addition, President Carter has announced his intention to establish a blue-ribbon retirement commission which will study public pension systems. It would be very useful to have the input of the commission before we enact a public pension reform law. It is my understanding that the Administration presently views the proposed commission as an ongoing entity which will itself set deadlines for the study of various pension issues. I, for one, am not interested in spending years waiting for the proposals of such a commission, and I recommend that the Administration set reasonable deadlines for the completion of the Commission's studies. If such time limits are not set, I do not think the Congress will delay legislative action indefinitely.

Finally, I am concerned about the implications of The National League of Cities v. Usery which held that the extension of minimum wage coverage to state employees was unconstitutional. The Congress must be extremely wary of imposing responsibilities on the states.

EMPLOYEE STOCK OWNERSHIP

My interest in broadening capital ownership goes back over thirty years. I strongly believe that our free-enterprise system must expand stock ownership, particularly employee stock ownership, if it is to be in accord with modern times. Expanded employee stock ownership is vital for raising necessary capital, attaining adequate productivity, and broadening our people's participation in the stock market. The more workers who have "a piece of the action," the better will be our nation's productivity, and therein is our true national strength.

Over the years, I have found that it is easier to state the general principle than to develop a workable means of achieving it. I have grave doubts about the practicality and prudence of the Employee Stock Ownership Plan (ESOP) and its variant, the Tax Reduction Act Stock Ownership Plan (TRASOP), but one cannot replace something with nothing.

The ESOP and the TRASOP, I feel, discriminate against lower-paid employees because the size of a worker's interest is tied to his compensation. Both plans lack asset diversification, and with respect to the TRASOP, the tying of "Uncle Sam's gift of stock" to the investment tax credit favors workers of capital intensive corporations. As was pointed out in the debates on the Tax Reform Act of 1976, 72 percent of the labor force would receive no benefit from TRASOP's. The average salaries of those who would receive benefits were 20 to 100 percent higher than those who would not.

I shall introduce shortly in this Congress the Employee Stock Ownership Fund Act which Senator Humphrey and I sponsored last year. The bill would amend the National Labor Relations Act to provide a framework for the establishment, by way of collective bargaining, of jointly managed employee stock ownership trust funds. The bill will contain provisions designed to meet my objections to ESOP's. A private pension plan will have to be in effect before such an ESOP is adopted, and no more than 30 percent of the ESOP assets can be invested in the employer's stock. In addition, participant benefits will be fully vested after three years.

My staff and I are working on other possible ways of broadening stock ownership, and as soon as viable approaches are devised, I intend to introduce legislation embodying new ideas.

SOCIAL SECURITY

In recent weeks, the tax-writing committees of Congress have been working on amendments to restore the fiscal soundness of the Social Security system.

Proposals have included raising tax rates, boosting the wage-base, decoupling the automatic benefit adjustment mechanism, and increasing or completely phasing out the present $3,000 earnings limitation.

A House Ways and Means Subcommittee surprised many observers by voting to require Social Security coverage of all Federal, State, and local government employees and to phase out the present Federal retirement system. The Republicans on Ways and Means announced support of gradually advancing—from 65 to 68—the age at which full retirement benefits would be payable. I oppose this last proposal at this time.

These changes will doubtlessly have some effect on the private pension system. Recent studies indicate that rapid expansion of the social security system reduce private savings and adversely affect the growth of the private pension system. Yet, I wonder whether any in-depth analysis was given to the relationship between Social Security amendments and private pension plans. And, of course, the proposal to mandate coverage of all State and Federal employees, which will have far-reaching effects on public pension plans, seems to have sprung up rather quickly.

What I am driving at is that the congressional tax committees' actions regarding Social Security typify Congress' piecemeal approach to retirement income security. Now, in all fairness, retirement income is an intrinsically difficult area, the full magnitude and elements of which are only now coming into focus. I think our experience with ERISA has resulted in a more sophisticated and mature awareness of employee benefit systems and their interrelationships.

As I stated earlier, what we need is a national retirement income policy. This policy should cover the areas regulated by the existing or proposed statutes I have mentioned as well as the Age Discrimination in Employment Act of 1967 (including amendments hereto) and the various statutes on Federal retirement systems.

I should add that the recent GAO study on Federal retirement systems highlights many glaring problems, including large unfunded liabilities and inconsistent provisions from system to system. I agree with the study's conclusion that Congress establish an overall Federal retirement policy and centralize committee jurisdiction over all such Federal programs.

CONCLUSION

In conclusion, I sincerely hope the Carter Administration will give retirement income policy the kind of serious attention it deserves.

The appointment of a Presidential commission to study these matters is a first step. Of course, those of us who have been in Washington for years have seen many a Presidenial study group come and go. In fact, President Kennedy appointed a committee to study retirement income matters back in 1962. Such groups have occasionally been used in the past to delay meaningful change, and we must all see that this does not happen now.

In the energy field, the President has proposed sweeping legislation and has centralized the administration of energy matters into a new agency. I think the President should give similar high priority to retirement policy, particularly regarding centralized administration. In my view, we will not have a meaningful national retirement income policy until we have some such centralized administration.

To this end, I urge the Administration to support my proposal that a new pension agency be targeted for establishment on or about January 1, 1980. Such an agency could administer not only ERISA, but also a PERISA for State and local pension plans, employee stock ownership legislation, Federal pension system statutes, and possibly even the Social Security Act.

Such centralized administration will not solve all our problems but will give us a better chance of developing a reasoned and farsighted approach to retirement income security.

PANAMA CANAL TESTIMONY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal Treaties. The witnesses today were the Honorable Brock Adams, Secretary of Transportation, the Honorable Richard N. Cooper, Under Secretary of State for Economic Affairs, the Honorable Anthony M. Solomon, Under Secretary of the Treasury for Monetary Affairs, and Mr. Howard F. Casey, Deputy Assistant Secretary for Maritime Affairs in the Department of Commerce.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF BROCK ADAMS

Mr. Chairman and Members of the Committee: I am pleased to be here to discuss with you the Panama Canal treaties. I strongly support the ratification of these treaties.

As the Secretary of Transportation, I am concerned about whether the Panama Canal will serve this Nation's short term and long term transportation needs. In the short run, the treaty serves those needs, by settling long standing disputes which could have resulted in conflict hampering Canal traffic and by assuring that the U.S. will continue to manage the Canal for the next 25 years. In the long run the treaty provides a series of mechanisms whereby we can both study needed changes in the Canal to meet increased demands and then build any needed improvements together with Panama.

Decisions concerning the future role of the Canal will depend to a great extent on the demands of the market place. A shipper's decision to use the Canal will depend on the competitiveness of alternative routes and modes of transportation. These alternatives include shipments around the Horn

in supertankers, new oil or slurry pipelines, railroad transport or future "land bridge" or "minibridge" developments.

These market place decisions should be made in a climate of "certainty" regarding that waterway. If potential users of the canal are assured that the canal will continue to be operated efficiently and that its capacity will be increased if economically justified, then the canal has the potential to become an increasingly important transportation link. If not then usage will be uncertain. Ratification of the treaties will provide this assurance.

You have heard testimony from Secretaries Vance and Brown, Ambassadors Linowitz and Bunker, and others on the diplomatic and national defense aspects of these treaties. Today, I would like to speak to the transportation consequences of the treaties before you and in this regard I would like to present to you factual data concerning the use of the existing Canal for commercial shipping. That data is contained in the charts appended to my prepared statement, and I would like now to have that data presented to you by Mr. Edward Scott, Assistant Secretary for Administration, who has been involved in Canal matters affecting the Department.

The treaties permit the United States to retain effective control over Canal operations until the year 2000, when as was highlighted in Mr. Scott's presentation, according to the estimates of most informed observers, traffic through the present lock Canal will be approaching the Canal's capacity.

I think that the time has come to reappraise the future of the Canal and to plan for that future. As Mr. Scott has pointed out, one of the problems of the existing Canal is that supertankers and other large specialty ships are too large to transit the Canal. The treaties give us the capability to address this problem. They commit both the United States and Panama to study the feasibility of a sea-level canal. A sea-level canal could be used by these very large ships. Further, the treaties contemplate the building of any such canal in Panama where our studies suggest it could be most economically constructed.

The treaties further grant the United States the right to construct a third lane of locks beside the present Canal. While there is much debate about the technical wisdom of such an undertaking, a third lane of locks could increase the capacity and extend the useful life of the present Canal. In any event, it is clear that the next 25 years are critical and during that time the United States and Panama must jointly make some very important decisions regarding the future of the Canal.

I believe these treaties create a climate for a technological review that will permit these decisions to be made in an orderly manner. We must take the Canal and its operation out of the political arena and undertake these next 25 years of redirection in a context of mutual respect and cooperation.

So, in summary, it is not solely a question of whether the treaties are good foreign policy or defense initiatives, which I believe they are, but I submit that they are important to the transportation vitality of the present Canal and of any future Canals.

The Department of Transportation will have an important role to play in the examination and evaluation of options for the future development of the Panama Canal. We welcome that challenge and I believe it is one which we will be able to carry out effectively in the context of the treaties which you have before you for ratification. I therefore urge, without qualification, your prompt ratification of the treaties which I believe are consistent with a framework for strengthening the overall fabric of our national transportation system.

I will be pleased to answer any questions you may have.

[Appended charts not printed in the RECORD]

THE PANAMA CANAL
CANAL TRAFFIC

Panama Canal commercial ocean traffic

Fiscal year	Transits	Average ships per day
1915	1,108	3.0
1921	3,371	9.2
1936	6,453	17.6
1951	7,751	21.2
1966	11,925	32.6
1967	12,412	34.0
1968	13,199	36.2
1969	13,146	36.1
1970	13,658	37.4
1971	14,020	38.4
1972	13,766	37.7
1973	13,841	37.9
1974	14,033	38.4
1975	13,609	37.2
1976	12,157	33.3

SOURCE.—Panama Canal Company, Annual Reports.

U.S. oceanborne cargo through Panama Canal

Year	Millions of tons
1958	27.2
1959	28.9
1960	34.8
1961	37.5
1962	40.5
1963	35.5
1964	40.7
1965	44.1
1966	48.6
1967	53.1
1968	57.8
1969	63.9
1970	74.8
1971	77.9
1975	85.6

In 1975, 14% of U.S. oceanborne tonnage passed through Panama Canal.

SOURCES.—Based on Paddleford, Norman J., and Stephen R. Gibbs, *Maritime Commerce and the Future of the Panama Canal*, Cambridge, Md.: Cornell Maritime Press, 1975; and Panama Canal Co., *Annual Report, 1976.*

Major trade routes in Canal traffic

Trade route	1976 Panama Canal [1]	Percent of total [2]
East Coast United States-Asia	40,610	31.8
Europe-West Coast United States/Canada	12,293	9.6
Europe-Asia	9,639	7.5
East Coast United States-West Coast America	8,940	6.9
Europe-West Coast South America	7,206	5.6
U.S. Intercoastal (including Alaska and Hawaii)	5,213	4.0
Europe-Oceania	4,314	3.4
East Coast United States/Canada-Oceania	3,991	3.1
East Coast Canada-Asia	3,777	2.9
South American Intercoastal	3,217	2.5
West Coast South America-West Indies	2,867	2.2
West Coast United States-West Indies	2,556	2.0
Subtotal	104,623	----
All other routes	23,161	18.1
Total	127,784	100

[1] In thousands of tons.
[2] 57.4% of Canal traffic originates or terminates in U.S. ports.

SOURCE.—Panama Canal Co., *Annual Report, 1976.*

Increase in ship size

Fiscal year	Vessels [1]	Percent [2]	Vessels [3]	Percent [2]
1976	3,071	25.0	4,010	32.7
1975	3,120	22.6	4,000	29.0
1974	3,201	22.4	3,843	26.9
1973	2,581	18.1	3,205	22.5
1972	2,085	14.6	2,428	17.1

[1] Vessels of 600-foot length and over.
[2] Percent of total.
[3] Vessels of 80-foot beam and over.

SOURCE.—Panama Canal Co., *Annual Report, 1976.*

FUTURE TRAFFIC PREDICTIONS ALSO SUGGEST CANAL REACHING CAPACITY

Projected canal transits

(All types)

1976 (Actual)	13,201
1980	15,400
1985	16,100
1990	17,600
1995	19,400
2000	21,300
Theoretical canal capacity	26,800

SOURCE.—Based on Paddleford, Norman J., and Stephen R. Gibbs, Maritime Commerce and The Future of the Panama Canal, Cambridge, Maryland: Cornell Martime Press, 1975; and Panama Canal Company, Annual Report, 1976.

CONCLUSIONS

There are decisions that need to be made concerning Canal capacity and size.

Future Canal development needs to take place in context of national transportation plans.

The treaties will provide the framework for rationally addressing these decisions.

STATEMENT BY RICHARD N. COOPER

Mr. Chairman and Members of the Committee: I appreciate the opportunity to discuss with the Committee the plans for improved economic cooperation between the United States and Panama which will complement the process of implementing the new Canal arrangments. The programs that Under Secretary Solomon and I will discuss today are entirely separate and independent from the new treaty, although the idea of having this associated package arose during the last few weeks of the treaty negotiations. Secretary Vance and Ambassadors Bunker

and Linowitz have already described for the Committee the provisions within the Treaty which will provide for Panamanian participation in Canal revenues. The arrangements we discuss today are not directly related to the Canal but, rather, are an expression of our friendship and cooperation with the people of the Republic of Panama and reflect our interest in the economic well being of that country.

As this Committee is aware, the discussion of economic arrangements associated with the Treaty were among the most difficult issues encountered in the negotiations. Panama's negotiators proposed that the United States pay Panama a large initial lump-sum payment and a very sizable annuity, either of which far exceeded the most optimistic estimates of gross Canal revenues. The Panamanian negotiators sought to justify these proposals by assigning high economic value to the economic and security benefits derived by the United States from the Canal, without comparable benefits to Panama. They further suggested that, as a counterpart to United States investment in the Panama Canal, Panama had provided its unique geographic location, much of its prime land and water resources, as well as the labor of its people to the Canal effort. Panama also cited the low remuneration received by Panama under the present treaties and the value to our security interests of the military bases and the new neutrality arrangements. In a more compelling argument, Panama's negotiators maintained that Panama's national priority lies in the rapid social and economic development of its people with wide distribution of the benefits.

Both the economic provisions within the Treaty and the economic arrangements outside it are based on our shared recognition of the special relationship created by the interest in the Canal. Panama's development would serve the interests of the United States by fostering the stability which is the underpinning for an open, safe, efficient and accessible Canal before and after the expiration of the treaty which you are now considering.

Giving the Panamanians a stake in the operation of the Canal makes political and economic sense—it will ensure Panamanian cooperation in the efficient running of the Canal operation while also building broad political support for the enterprise in Panama. The broader program for improved economic cooperation with Panama rests on a similar assumption—that improving the welfare of an increasing number of Panamanians will result in a stable political climate in which the sound administration of the Canal can continue.

As was covered in earlier testimony, for the purposes of the annuity payments in the treaty, the economic provisions in the treaty reflect the United States position that the Canal operating revenues would be the source of financing. The purpose of this formula is to give Panama an equitable share of Canal benefits and assure a vital Panamanian interest in the efficient operation of the Canal.

The arrangements outside the treaty also reflect the perception that Panama and the United States have mutual interests, specifically, in fostering economic development and the well being of the Panamanian people. Since we believe that Panamanian development during the new treaty period could serve as a means of promoting an environment helpful in the operation of the Canal during and after the new treaty period, the United States Negotiators arranged for the Panamanian negotiators to meet with representatives of the Departments of State and Treasury, A.I.D. and the Export-Import Bank to discuss Panama's development needs. Out of these discussions emerged a program which will be undertaken outside the treaty; which will introduce no special assistance devices and which is subject to all applicable procedures under existing programs. Its contents were outlined to the Panamanian Government in the form of a diplomatic note signed by Secretary Vance on September 7, the date of the signing of the two treaties concerning the Panama Canal. I understand that a copy of this diplomatic note has already been provided the Committee.

The note outlines a program, to be undertaken on a best efforts basis, which seeks to enhance Panamanian development with the participation of the private sector in the United States as well as Panama. It is composed of the following elements:

Up to $200 million in Export-Import Bank loans, loan guarantees or insurance over a 5-year period subject to approval by the Bank;

Up to $75 million in A.I.D. Housing Guarantees over a 5-year period; and

A guarantee by the Overseas Private Investment Corporation of $20 million in United States private capital to the Panamanian National Finance Corporation (COFINA) for use in productive projects in the Panamanian private sector.

The Secretary's note of September 7 also proposes issuance of repayment guaranteed under our Foreign Military Sales Program not to exceed $50 million over a 10-year period. This aspect of the program is to assist Panama in assuming its increased responsibility for Canal defense during the new treaty period. It too is designed to further the spirit of cooperation between the two countries. Like the other parts of the program outside the treaty, the Military Sales Program is not a grant to be financed by the American taxpayer. The only appropriations required would be to cover 10 percent of the annual program in the form of deposits in a special reserve account.

Under Secretary Solomon will discuss the Overseas Private Investment Guarantee and the Eximbank program. I would like to expand on the rationale for the A.I.D. housing guarantee program proposed in the Secretary's note.

The purpose of the A.I.D. housing program is to provide housing to lower-to-medium income groups in less developed countries. The program provides a full faith and credit U.S. Government guaranty to private U.S. lenders who make loans for housing projects in less developed countries. The program demonstrates the valuable contribution of private capital and foreign investment to the social and economic development of such countries.

The 5-year program proposed for Panama in the economic cooperation proposal would—as other elements of the package—fit within existing statutory authorization. The guarantee program was proposed in the early 1960's and is designed to be self-sufficient and has not required Congressional appropriations. Total current housing guarantee authority is $1.055 billion. The proposed Panama program would conform to the statutory limitations of $25 million per year to any one country and an average annual face value of $15 million. In other words, we are using existing programs—which are proven tools for furthering U.S. interests in many overseas economic areas—to strengthen Panamanian development and the cooperative relationship between the two countries.

Panama has had several successful A.I.D. housing guarantee projects. To date, A.I.D. has guaranteed a face amount of approximately $26 million in loans. Another $15 million project is now under consideration. This represents an 11-year course of activity involving 8 projects.

* * * * *

The United States and Panama have agreed that the Canal should continue to be operated in an efficient manner and every effort should be made to ensure that the Commission is designed to run in a business-like fashion. This is an important shared interest since the economic provisions of the new treaty as well as the operating cost of the Canal are to be sustained from Canal revenues. The Commission should be structured as a self-sustaining business which would finance the payments to Panama under the treaty as operating expenditures. The Executive Branch will submit to the Congress implementing legislation to the treaty which will execute these requirements.

Finally, I would like to say a few words about the treaty provisions concerning the sea-level Canal. Both Panama and the United States are committed to study jointly the feasibility of such a canal. Any arrangement for the construction of a sea-level canal must be agreeable to both countries. Panama agreed that no third country be permitted to build a sea-level canal in Panama except with our consent. In exchange, Panama asked the United States to agree to limit any sea-level canal construction to Panama. This was an acceptable stipulation—as the Committee is aware—in light of the 1970 study by the Interoceanic Canal Commission which concluded that the two preferred routes for a sea-level canal excavated by conventional means are both in Panama. Again, it appears to us that the interests of both countries are secured by the outcome of the negotiation.

That concludes my statement. I welcome your questions.

STATEMENT BY THE HONORABLE ANTHONY M. SOLOMON

I am pleased to be here to discuss the economic aspects of the Panama Canal Treaty and the economic cooperation arrangements.

You have already heard testimony on the annuity and royalty payments Panama will receive according to the new treaty. My understanding is that these payments represent Panama's share of the benefits from operation of the Canal: they will be paid out of Canal revenues, and not out of U.S. tax revenues. These payments provisions will also serve U.S. interests by enlarging Panama's stake in the secure and efficient operation of the Canal.

In addition to the payments provisions of the treaty, we have extended to Panama, as Under Secretary Cooper has noted, an offer of economic cooperation involving as much as $295 million in U.S. loans, guarantees, and insurance, which I will presently discuss in detail.

The benefits to Panama from the financial provisions of the treaty and the economic cooperation arrangements will be significant and timely. In the decade prior to 1974 Panama's GDP increased at an annual average rate of 7.3 percent. In 1974, however, economic growth abruptly slowed to 2.6 percent, and last year there was no growth. A major cause of Panama's economic slowdown was uncertainty over the future of the Canal, resulting in a marked decrease in private investment (which increased only slightly in 1974 and 1975 and fell by 25 percent in 1976). In addition, worldwide recission, the increase in the price of oil, and the recent decrease in sugar prices also contributed to Panama's large current account deficits.

The Government of Panama attempted to maintain overall investment levels by increasing public investment to offset the de-

cline in private investment. As a result, the central government budget deficit increased from $69 million in 1973 to $122 million in 1976. This, combined with borrowings to finance Panama's current account deficits, caused total public sector debt to rise from $0.6 billion in 1973 to $1.4 billion in 1976.

There is reason, however, for some optimism about the future of Panama's economy. Panama has negotiated two stabilization agreements with the IMF (one last year and one in March 1977), and has taken steps to reduce the government deficit and limit public sector debt. World economy recovery will help to narrow Panama's current account deficit. Above all, the single most important factor in bringing returned vigor to the Panamanian economy will be settlement of the Canal issue, and the resulting restoration of a favorable investment climate in Panama. We expect that, as a consequence, foreign and domestic private investment will rise appreciably, leading to increases in employment, reduced budgetary pressure on the Panamanian government, and improvements in its external accounts.

Panama's new economic program and settlement of the Canal issue are the fundamental requirements for returning Panama to its former path of economic growth. The payments provisions of the new treaty and the economic cooperation arrangements are ancillary to these developments, but we believe they will provide the extra boost to contribute to Panama's long-term economic development.

This is of importance to the United States, in the sense that economic stability and an improved standard of living in Panama will strengthen the ability of Panama to act as our partner in the Canal enterprise, bearing its share of the responsibilities. We have designed arrangements for economic cooperation with this goal in mind, selecting financial assistance programs which are nonconcessional, befitting Panama's stage of development, and directed at meeting Panama's present economic needs for low-income housing and a revived private sector. The U.S. will benefit additionally from these economic arrangements, through participation by U.S. investors and business in the Eximbank, OPIC and housing investment guarantee programs the arrangements entail.

I would now like to turn to the two aspects of the treaty effort in which I had a direct role. Treasury did not directly participate in the treaty negotiations. My contribution was to recommend economic cooperation arrangements, and to provide advice on the financing arrangements for the new Panama Canal Commission.

ECONOMIC COOPERATION ARRANGEMENTS

The proposed economic cooperation arrangements consist of: (1) an offer by the Overseas Private Investment Corporation to guarantee up to $20 million in borrowings in the U.S. capital market by the Panamanian development bank, (2) an offer by the Export-Import Bank to provide up to $200 million in loans, loan guarantees and insurance for individual U.S. export sales over a five-year period; and (3) a pledge by the Administration to consider providing up to $75 million in housing investment guarantees over a five-year period. In addition, we will provide up to $50 million in guarantees over a ten-year period under our Foreign Military Sales program.

These particular arrangements were selected not only for the benefits they are expected to bring to both the U.S. and Panama, but also for the reasonable level of risk they present and their compatibility with the financial assistance programs involved. All of these offers are subject to compliance with legal and managerial requirements, and, as necessary, availability of funds.

The housing guarantee aspect of the economic cooperation arrangements and the FMS offer have been addressed by Under Secretary Cooper.

As for the offer by Eximbank to provide up to $200 million in loans, guarantees and insurance, I would like to point out that the portfolio risk to Eximbank as a result of its offer will be small. With an additional $200 million to Panama over five years, exposure in Panama will amount to less than 1.37 percent of Eximbank's total existing portfolio. Project risk will be controlled in the usual manner, since each transaction will be subject to the normal Eximbank's financial, legal and engineering criteria—including Eximbank's statutory requirement to find a reasonable assurance of repayment.

Once the Canal issue is settled and investment in Panama accelerates, Panama will become an expanding market for U.S. exports. This projected market expansion is expected to give rise to more applications for Eximbank support, and Eximbank has indicated that its business in Panama could well amount to $200 million over the next five years.

A guarantee by the Overseas Private Investment Corporation of $20 million in borrowing by the Panamanian development bank would raise OPIC's exposure in Panama to only 8.5 percent of its total existing portfolio, a reasonable level of portfolio risk. The risk to OPIC will be further reduced by a Government of Panama guarantee. OPIC has also stipulated that its offer to Panama depends on terms being negotiated which are acceptable to the OPIC Board.

This will be the first time OPIC has participated in financing the expansion of a government-owned development bank, although OPIC is permitted to do so by longstanding OPIC Board policy guidelines. The Panamanian development bank, COFINA, is engaged in supporting the development of private enterprises in Panama through project lending. This function is both wholly compatible with OPIC's mission and in accord with our view that it should help strengthen the private sector of Panama's economy.

FUTURE FINANCING OF THE PANAMA CANAL COMMISSION

Turning now to the financial aspects of the Canal operations, an essential point in negotiating the treaty was that any new entity established to operate the Canal must be self-financing over the life of the treaty. Our negotiators made it clear to the Panamanians that any arrangements which did not conform to this principle would not be acceptable to the U.S. I assure you that we will continue to be guided by that principle. The Administration will make every possible effort to see that costs of the Canal operation are contained and that revenues are sufficient to cover liabilities. However, as a normal provision for management flexibility, I feel it is appropriate for the Panama Canal Commission to have the authority to borrow, as does its predecessor agency, the Panama Canal Company. Thus, the Administration will request a continuation of this authority in the implementing legislation.

I believe the following guidelines should be followed by the Commission in its borrowings. First, any borrowing by the Panama Canal Commission should be strictly limited to an amount sufficient to support the Commission's operations. The Commission should not have the authority to borrow for any other purpose, such as the general economic development of Panama. Second, all borrowing should be at a rate of interest equal to the cost of money to the U.S. Treasury for the period of time under consideration. Third, the repayment schedule will be tailored so that all borrowings will be fully repaid before the expiration date of the treaties.

Mr. Chairman, this concludes my formal statement. I will be happy to answer any questions the Committee may have.

STATEMENT OF HOWARD F. CASEY

Mr. Chairman and Members of the Committee, I am Howard F. Casey, Deputy Assistant Secretary of Commerce for Maritime Affairs. I appreciate this opportunity to appear before the Committee on behalf of the Department of Commerce and the Maritime Administration to assist you in your deliberations on the recently signed Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

Our interest in the two treaties relates primarily to the provisions regarding the commercial operation of the Canal and their potential effect on the U.S. Merchant Marine. Although both treaties contain articles that will govern future Canal operations, it is the Panama Canal Treaty that relates most directly and substantially to our concerns.

The Panama Canal has great economic significance for the United States and, in particular, the U.S. Merchant Marine. Indeed, this significance has been increased by the present necessity of shipping Alaskan crude oil through the Canal. Moreover, the Canal is beneficial for our Latin American neighbors and many other nations of the world. The Panama Canal Treaties are evidence of this national and international economic significance. One of their principal purposes is to assure for all nations the uninterrupted use of an efficiently operated canal. Implicit, too, in the treaties is an assurance of reasonable and equitable tolls for users. This assurance is firmly provided by the Panama Canal Treaty until its expiration on December 31, 1999. Until that time, tolls will continue to be established and modified by the United States through a new U.S. Government agency, the Panama Canal Commission. Thereafter, Article III (c) of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal commits the Republic of Panama to the continued establishment of tolls and service charges that are "just, reasonable, equitable and consistent with the principles of international law." Because such conditions, if achieved, can only enhance the value and significance of the Canal for the U.S. Merchant Marine and all other users, we support these treaties.

Of course, the Canal offers significant advantages to vessel operation in terms of time, distance traveled, fuel consumed, and net delivery or laydown capability. Thus, use of the Canal on the Indonesia to U.S. Gulf trade saves 28 percent in distance and steaming time over a trip around Cape Horn. Similarly, the Canal routes from Valdez, Alaska, to the Gulf or from El Segundo, California, to the Gulf save 57 and 67 percent, respectively. The reduced shipping time that the Canal makes possible has resulted in significant reductions in the cost of intercoastal shipments and the size of the U.S. merchant fleet required for their carriage.

Both the U.S.-flag and world merchant fleets rely substantially on the Canal. In FY 1976, over 12,000 transits were made through the Canal by vessels flying the flags of 65 nations. U.S.-flag vessels made over 1,000 of these transits. Of the 117 million tons of commercial cargo transported through the Canal in FY 1976, 78 million tons or 67% were either part of the U.S. foreign or the U.S. domestic trades. This rep-

resents 9.1 percent of total U.S. oceangoing trade, a highly significant portion. Should Canal usage cease to be economically feasible for any reason, the increased costs and shipment times would undoubtedly cause many U.S. and foreign markets to face serious economic hardship. Some markets, such as the U.S. East Coast market for Ecuadorian bananas and Colombian coffee would probably disappear, while other movements such as ores and concentrates from Peru and Chile would tend to be captured by operators of larger vessels. While the loss of such markets might not be significant for U.S. consumers, the net impact on many U.S.-flag operators would be a serious loss of business.

We believe that the advantages of Canal usage to U.S. shipping will be substantial through the remainder of this century. Even though the U.S. and world economies are expected to continue to recover and to expand, Canal capacity is expected to remain adequate through the year 2000. The anticipated increase in traffic will include, at least for the next few years, the transshipment of the West Coast surplus of Alaskan crude oil to the Gulf and East Coasts.

Many of the other nations of the world rely on the Canal relatively much more than does the United States, and that reliance will continue. In 1974, approximately 73 percent of Ecuador's foreign trade and almost half of Peru's transited the Canal. In fact, most Central American and West Coast South American countries rely heavily on the Canal. The Maritime Administration sees this reliance as a stabilizing influence under the new treaties, one which should work toward the continuing availability of the Canal at reasonable toll rates for all nations.

This brings me to what I regard as my principal comment in these hearings.

The chief concern of the Maritime Administration with any change in the status of the Panama Canal centers on those factors which suggest the possibility of increased operating costs and, hence, possible economic hardship for many U.S. ship operators.

The possibility of toll hikes is of course one of those concerns; but above and beyond that is the concern that the Canal remain open and accessible to the many U.S. operators who depend on it. On balance, the Maritime Administration supports the new Panama Canal treaties as far and away the best means to assure this.

Obviously if tolls were to increase too greatly many markets would be hurt severely in much the same manner, if not to the same degree, that they would be if the Canal were completely closed.

But it is not certain what toll increase applied over what period of time would be too great. Under the new Panama Canal Treaty, we are faced with the possibility of an immediate toll hike to cover various provisions for reimbursement to the Republic of Panama, and, under paragraph 4, Article XIII, we are committed to an indexing scheme for further adjustment of payments to Panama after five years and every two years thereafter until the expiration of the treaty on December 31, 1999.

The prospective toll hikes to cover these payments would of course be in addition to the roughly 50 percent effective rate increase that has already taken place since July 1974. The latter did not destroy the markets that I have voiced concern about, and, to the extent that future toll hikes reflect general inflationary pressures, to which all competing markets are subject, U.S. operators will very likely be able to operate under those too.

One way to look at the possible effect of any immediate substantial toll hike is to consider the price elasticity of demand for commodities that are moved through the Canal. The Maritime Administration performed such a study in 1974, and its results were mainly applicable to a short-run outlook. The Department of State, with the Department of the Army, I should note, have recently commissioned a much more comprehensive study which will address the relationship of toll hikes to Canal transits, cargo and revenue in considerable detail. The approach taken in our own earlier study, however, helps to show what the net effect of a toll hike might be. The thread of the analysis is as follows:

The average delivered value of the various commodities of U.S. trade that are moved through the Canal is about $300 per ton. Suppose, to take an extreme case, that the Canal tolls were to be raised 100 percent, that is, from about $1.29 per Canal ton to $2.58 per ton. That would mean that about forty-three hundredths of a percent (0.43%) would be added to the average landed price of a Canal transported commodity. Consider the "price elasticities" of the commodities. Price elasticities are numbers which characterize the marketplace for commodity sales. They usually represent the percentage drop in quantity sold for a given percentage increase in price and are expressed as a constant ratio. A commodity price elasticity of 1.0 for example, would mean that if the price were increased by some percentage, the quantity sold would drop by an equal percentage.

According to a study done at the Maritime Administration a few years ago, the average price elasticity of the commodities that are transported through the Canal in U.S. trade is less than 1.5, meaning that the quantity of those commodities that is actually sold tends to drop by less than 1.5 percent for each 1 percent rise in price. Therefore, if tolls are raised 100 percent, thereby adding 0.43 percent to the average landed cost of a commodity, we can expect a drop in the U.S. tonnage that transits the Canal of under sixty-five hundredths of a percent (0.65%). According to the Panama Canal Company's FY 1976 figures, this translates into a tonnage drop of about 500,000 long tons. Since U.S.-flag shipping carries about 10 percent of U.S. Canal trade, U.S.-flag operators might expect to lose no more than about 50,000 tons of cargo per year overall under a 100 percent toll hike.

Should toll increases immediately following ratification of the new treaties be about 30 percent, as some have suggested, the same line of reasoning would lead us to conclude that U.S.-flag operators would lose less than 15,000 tons of cargo.

The elasticity approach helps us to illustrate arithmetically what we have understood from the start: that tolls do in fact make up only a small part of the total cost to the consumer of Canal-transported commodities, and, given that they are always adjusted to represent the fair economic value of Canal service to general users, their increase will result in only a small loss of cargo overall to ship operators. In fact, the effect on U.S. export and import trade transiting the Canal that I have noted is essentially a short-term effect. All of the economic studies we have reviewed indicate that reductions in tonnages through the Canal, for toll increases approaching 100%, tend to be more than offset over a longer term by increased Canal traffic due to trade growth.

Unfortunately, the elasticity type of analysis doesn't necessarily describe the effect of increased costs on small, differentiated markets. To return to my earlier examples, if toll hikes were to make Ecuadorian bananas and Colombian coffee more costly on the U.S. East Coast than bananas and coffee from other sources—by whatever amount—these markets, far from suffering a mere small percentage decline, would be seriously affected, possibly even destroyed. The total size of these markets is currently about 500,000 long tons per year. Of this, U.S.-flag ships typically carry 20–25 percent or 100,000 to 125,000 long tons. These figures serve to illustrate that smaller segments of a market can be affected to a greater extent than the overall, consumer oriented market analysis might suggest.

Similar economic dislocations can of course occur in any industry or in any part of an industry whenever there is a change in the price or in the pricing structure of a major service to that industry. If the pricing structure is—and remains—reasonable and equitable, however, such dislocations can be minimized.

The principal issue, then, that I see for the U.S. Merchant Marine in the new Canal treaty is the alteration in the pricing structure of Canal services that might be forced by the requirement to make payments to the Republic of Panama out of operating revenues and produced surpluses. Henceforth, if this treaty is ratified, Canal tolls can be expected to change frequenty, but with an established regularity and in highly predictable increments. This predictability should help to minimize any possible adverse effects on our industry. In addition, we can look forward to some immediate offsets to the new Panama payments which should help to reduce the amount of any new toll increases needed. I refer again to the transit of Alaskan oil and the increase in revenues that will result. Furthermore, the overall outlook for increased usage of the Canal for all commodity transport promises increased revenues at least through the year 2000.

Given the assurances for the continued availability of the Canal to all users, and the continued practice of establishing reasonable and equitable tolls and service charges, as set forth in both treaties, the risks to the maritime industry appear, on balance, to be minimal and justified. We, therefore, recommend ratification.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer as best I can any questions that you or other members of the Committee may have.

COMPREHENSIVE NATURAL GAS POLICY

Mr. CULVER. Mr. President, for reasons which are obvious to all of us, the Senate debate on natural gas pricing policy has attracted wide attention as an exercise in strategy and parliamentary procedure. Certainly these have been notable elements of the debate.

We must not lose sight of the fact, however, that such parliamentary maneuvers are, at best, tangential to the issues which this legislation addresses. I know that the people of the State of Iowa do not look on S. 2104 as some sort of procedural testing ground.

To Iowans, this is an energy issue. It is an economic issue. It is a consumer issue.

As a Senator from Iowa, I have therefore listened to the debate on S. 2104 with one overriding question in mind: Of the various proposals before the Senate, which one can best provide continued supplies of natural gas at prices which are fair to consumers?

I have concluded that the administration's proposal is the best way of balancing the need to encourage additional energy supplies with the importance of assuring the consumer fair prices for those supplies.

That proposal allows an increase of moderate proportions in the price of natural gas. The increase would be keyed to equivalent prices of competing fuels

and would mean approximately a 20 percent rise in natural gas prices under existing conditions. This should provide incentives to producers to explore and develop new fields of gas. Frankly, Mr. President, I am reluctant to vote for a measure which places even this additional burden on consumers, who already have difficulty making ends meet. But I believe that producers should be offered this opportunity to test their repeated claims that price increases will call forth new supplies of this important energy source. Any such incentive needs to be strictly defined. In the past 6 years, the federally regulated price of natural gas has been allowed to rise over 500 percent. In these circumstances, giving producers a blank check for future price increases simply cannot be justified.

What figure would be filled in if a blank check were offered? According to the Congressional Research Service, the cost of the major deregulation proposal, the Pearson-Bentsen amendment, would be an additional $69 billion over the period from 1978–85 when compared to the plan proposed by the administration.

Because Iowa is a heavy user of natural gas, the additional costs would fall particularly heavily on the citizens of our State. According to a study of regional and State impacts of deregulation, Iowans would pay $2.34 billion of the $69 billion total over that same 8-year period. That amount is staggering. It is equivalent to $100 a year for every man, woman, and child in our State. I am told that only one other State would pay more than Iowa per capita under deregulation. Of course, these figures measure only direct costs. The secondary inflationary effects as they ripple through other sectors of the economy cannot be calculated.

I am well aware, Mr. President, that Senators PEARSON and BENTSEN have modified their original deregulation amendment so that some of these costs would be reduced somewhat. It seems to me, however, that the modifications would affect the costs significantly. Deregulation is simply not in the best interest of the citizens of our State.

I do not wish to imply that I am inflexibly opposed to any changes in the administration proposal. This is a complicated issue on which the Senate is fairly evenly divided. I intend to keep an open mind on the merits of proposed changes to the bill before us. But before I support any amendment, I will have to be convinced that it will foster legislation equitable to the people of Iowa.

HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, my office regularly receives letters from from Minnesotans and from people all over the country, in support of Senator HUBERT H. HUMPHREY, expressing warmth and affection for our dedicated colleague. I recently received a note from Mr. Einer H. Tostenson of Minneapolis, enclosing a poem written by Mr. Tostenson, who is 80 years old, about HUBERT H. HUMPHREY. His letter to me said, "I won't get mad at you if you read this poem of mine at rollcall some morning."

Mr. President, I want all of my colleagues to read Mr. Tostenson's thoughts on Senator HUMPHREY, and I ask unanimous consent that "Hubert H. Humphrey," a poem by Einer H. Tostenson, be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

HUBERT H. HUMPHREY

Hubert H. Humphrey—a giant Intellect—
We all have used—his great mind,
A Pharmacy graduate—of Minnesota U—
To him—Politics was a great find.

A South Dakotan—chose Minnesota—
A good state—to work in and live,
His desire to be of service to people—
In Politics—he had something to give.

A great Mayor of renowned Minneapolis—
Left his mark—on that beautiful City,
Voters sent him—to the U.S. Senate—
A place—where he had to be gritty.

To Washington with his Muriel and Family—
His Constituency—the whole USA,
In that great body—found his nitch—
With him good legislation had its way.

His speeches—more than mere orations—
His American English we all understand,
When he travels—all over the Nation—
His messages—always—in demand.

Hubert H. Humphrey—a man of the people—
People world over—call him by name,
Has proven himself—year in year out—
Hubert Humphrey—has won lasting fame.

CANADA AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, our recent negotiations and agreement with the Canadian Government over the construction of the natural gas pipeline once again underscore the exceptionally friendly and cooperative relationship which has existed between our two countries. In fact, in light of the many similarities between our governments and peoples, I often wonder why they were one of the first nations to ratify the Genocide Convention and we will be one of the last.

First, the United States and Canada maintain the longest peaceful and unguarded border in the world. As a matter of fact, our Nation's tendency to minimize the importance of international border disputes is often attributed to the fact that, due to our experiences in North America, we are unable to understand that high tension and saber-rattling are more often the norm. The relaxed attitudes that surround the Canadian-American border are indeed a source of envy.

More importantly, the United States and Canada share a similar economic base and way of life. We both enjoy relaxed trade relations, advanced technology, and the high standard of living that accompanies these blessings. Small wonder, then, that the Canadian people's gift to the United States during last year's bicentennial celebration was a commercial and cultural museum exhibit entitled "Between Friends-Entre Amis".

Finally, the United States and Canada share an abiding commitment to both democracy and the protection of human rights. Here, however, the two countries differ, for although Canada ratified the Genocide Convention only 1 year after its drafting in 1948, we have yet to do so. Although, our failure to ratify the treaty has always been a puzzle to our friends and allies, this is especially true for our neighbors, for probably no nation on earth shares as many similarities with the American people or cooperates as closely with our Government as they.

Mr. President, I commend the Canadians for being one of the first nations to ratify this important convention and urge my colleagues not to let us be the last.

NATIONAL ENERGY CONSERVATION CHALLENGE

Mr. HART. Mr. President, a group of students at Western State College in Gunnison, Colo., have issued the National Energy Conservation Challenge to institutions across the country in an effort to reduce energy waste, and increase "conservation consciousness." This is a volunteer effort by the students of this Colorado college to tackle the energy conservation problem at the grassroots level.

The National Energy Conservation Challenge is aimed at educating Americans to the need for energy conservation, while providing participants insight into the serious energy shortages awaiting us if we continue at our current consumption levels. The concept and forum will be unique for each participant in the challenge, but the common goal and overarching concern is to increase awareness of the energy problems facing us and, more importantly, reduce energy waste.

The National Energy Conservation Challenge was proposed by students on April 7, 1977, and more than 150,000 Americans are now involved. The students have challenged any institution to match or better, reduce its savings in energy from October 1, 1977, through April 30, 1978. This challenge is endorsed by numerous concerned and energy conscious individuals, organizations, government agencies, and businesses across the Nation.

NECC believes a cooperative effort by all Americans is needed to curb our energy waste. A change in our state of mind is the essence of the challenge. And, a conference to study the problem, methods, and results will be held at Western State College in January 1978.

Mr. President, I am pleased that citizens from Colorado have prompted this challenge, and I urge individuals and institutions across the Nation to answer the call for energy conservation and accept the challenge.

Mr. President, I ask unanimous consent that the newsletter be printed in the RECORD.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

NATIONAL ENERGY CONSERVATION CHALLENGE

Widespread national interest in the National Energy Conservation Challenge has prompted the students of Western State College to broaden the aims and invite all institutions, public or private, to join this conservation-consciousness effort. Originally a challenge from the liberal arts college high in the Rockies for any institution to match

its savings in energy from October 1, 1977, through April 30, 1978, we now urge groups anywhere to beat their own previous records, or challenge any comparable institution, in lowering the output of BTU's, kilowatts and gallons.

W.S.C. will serve as a clearinghouse and issue a newsletter for all participating groups. There is no charge for joining NECC; no donations will be asked from paritcipants. If any institution wishes to have its savings rated competitively nation-wide, it should simply figure out its energy output per employee, students, or staff member for the past several years (average), and rate that on the same scale for the output this year. Institutions with already-established programs may use NECC to re-affirm or extend such conservation activities.

NECC is dedicated to the idea that waste is a state of mind, and saving can also be a state of mind. If all Americans can stop using unnecessary lighting, heat, air conditioning and gasoline, the output can be cut 20 per cent. NECC recognizes that there will have to be further energy production to meet the nation's growing needs, but if personal conservation can be instituted, there need not be an energy crisis with its huge disruptions of employment, health, social order, and profits.

NECC is a volunteer effort begun by students and operated by students. It is not sponsored by conservation organizations, energy producers, or government leaders; however, representatives of all of those have endorsed it, and other such groups are invited to do so. We feel the time has come for a cooperative effort by all Americans, conservationists, and energy producers to pull together in the common interest and get along with solving what is an obvious problem. That is the essence of the challenge. A major conference for that purpose is being planned for the W.S.C. campus in mid-January of 1978.

NECC believes saving need not be a Spartan and masochistic denial rite. It can, and should, be fun, free from hassle and nagging. Students, staffs, and employees are urged to work out their own ideas for symbols, shows, and competitions to bring about constant reminders and make saving a habit. While interested in technical experiments and adjustments, NECC is aimed at the state of mind of people. It has proven to be a very morale-boosting and unifying force where programs are already underway. Employees and their supervisors; students, teachers and administrators; men and women; different races; all seem to be able to work together in harmony on this issue.

You have nothing to lose, and everything to gain by joining the NECC movement. Energy savings are also economic savings. This is a concrete action program on the national level; a positive response to the President's request for a volunteer conservation program by the people. NECC is grass-roots.

Become a part of NECC today! People want action, some positive things to do, rather than more talk. We're tired of "they oughta"; we're gonna! Call, write, or wire NECC, WSC, Gunnison, Colorado 81230, now; let us include your institution.

The following telephones are available to receive your calls for any further information. If there is no answer on one, or the line is busy, please call another. We're trying to keep one or another active at all times.

Student Chairman Jim Zulevich: 303–641–3903;

Assistant Chairman Jim Douglas: 303–641–0813;

Faculty Coordinator Abbott Fay: office: 303–943–2039; receptionist: 303–943–2091; home: 303–641–0931;

Student Government Office: 303–943–2185; and

Washington, D.C. Area Volunteer NECC office: 703–860–3697.

Western State is located in Gunnison, Colorado, often the coldest spot in the contiguous 48 states. It is a college of 3,000 students who have been very active in conservation projects, solar energy experiments, and Western water problems. We urge you to join with us and other institutions throughout the nation and become a part of NECC. We believe Americans still have the spirit and strength to solve this problem without severe regulation.

Look around you. Are there any unnecessary lights burning? Turn them off. Then write NECC, W.S.C., Gunnison, Colorado 81230. That's all there is to it!

PRESIDENTIAL COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

Mr. BAYH. Mr. President, I want to take this opportunity to comment briefly on Senate Resolution 271, a resolution which I have joined several of my colleagues in cosponsoring to establish a Presidential Commission on Domestic and International Hunger and Malnutrition. The purpose of this Commission would be to assess, correlate, integrate, recommend, implement, educate, and focus public attention on food and hunger issues in order to develop a cohesive national policy.

What is not needed is another commission to research problems. A large number of private and public agencies have undertaken comprehensive studies to determine the causes of hunger at home and abroad as well as the national and international capability on hand to eliminate the starvation and malnutrition faced every day by 469 million human beings. The task of the Presidential Commission established by Senate Resolution 271 would be to evaluate what has already been done and make specific recommendations within a definite period of time.

Six months from date of its creation the Commission will issue a report outlining goals and at the end of the first year a final report to the President and Congress will be forthcoming containing findings, conclusions, and recommendations for actions. If we act during this session of Congress, we could look forward to reviewing a cohesive and authoritative program supplied by the Commission by the beginning of the next Congress. The Commission would continue to exist for an additional year in order to follow up on its own findings. At the present time, the myriad of reports from a number of authoritative sources each year provides more reading material than most of our schedules can bear.

Freedom from the gnawing pain of hunger is a basic human right. As our own Ambassador to the United Nations Economic and Social Council stated in June of this year, "A human rights foreign policy is necessarily anti-hunger and famine foreign policy." Like our concern about the political and civil liberties which we cherish, we can be no less concerned about developing an appropriate role to assist the developing nations of the world in feeding their own populations. A hungry world is a dangerous world. Despite the healthy spurt in grain production in most of the developed world, food output continues to lag in the developing nations. As one study objective of the Commission, I would like to see a full evaluation made and program proposed as to how American technology can best be utilized to help the nations of the third and fourth worlds help themselves. This question will necessarily involve a judgment as to the appropriate role of population control assistance to hold growth rates at a level that will not defeat increased rates of food production.

The Commission should also evaluate the performance of our domestic programs in terms of the delivery of food services to the underprivileged, the elderly and the institutionally confined.

The nature of the world now requires us to understand how our efforts at home can have a real impact on the success of food policies abroad. I think the establishment of this Commission is an overdue step in that direction and I urge the Senate to approve this legislation before the end of this session of Congress.

TESTIMONY BY THE IOWA CONSERVATION COMMITTEE

Mr. CULVER. Mr. President, on August 3, 1977, the Senate Subcommittee on Resource Protection, which I chair, conducted a hearing on the merits of S. 1140, the Federal Aid in Nongame Wildlife Conservation Act of 1977. Though we recognize the significance of all fish and wildlife species, most fish and wildlife conservation efforts are directed primarily toward game species, and there is little funding specifically earmarked for nongame species—those species which are not hunted, fished, or consumed. The Wildlife Management Institute reported in 1975 that the 36 States which have nongame conservation programs use only 2 percent of their total wildlife budgets for nongame resources.

S. 1140, which I have cosponsored, authorizes $90 million through fiscal year 1980 for a Federal grant-in-aid program for nongame fish and wildlife conservation. It directs the Secretary of the Interior to cooperate with and provide financial assistance to States for nongame species conservation programs. The Secretary may fund up to 75 percent of the cost of approved projects, or, when two or more States are jointly involved, up to 90 percent of such costs.

Numerous local and national conservation organizations testified at the August 3 hearing in support of establishing a separate source of funding for nongame species. Among the witnesses from the various State fish and wildlife agencies at this session was Mrs. Carolyn Lumbard. Speaking on behalf of the Iowa Conservation Commission, Mrs. Lumbard stated that the Commission gives "its wholehearted support to the concepts embodied in S. 1140." She estimated that roughly 85 percent of the 400 vertebrate species in Iowa would be eligible for

funding under S. 1140, and like many other States, Iowa is anxious to participate in a Federal nongame conservation program.

Mr. President, I am very pleased that Mrs. Lumbard could appear before the Resource Protection Subcommittee, and I believe her statement provides valuable insight into the merits of the Federal Aid in Nongame Wildlife Conservation Act of 1977. I commend her remarks to my colleagues and ask unanimous consent to have it and my opening statement from the hearing printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY SUBMITTED FOR THE RECORD TO THE SUBCOMMITTEE ON RESOURCE PROTECTION OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, BY COMMISSIONER CAROLYN LUMBARD OF THE IOWA CONSERVATION COMMISSION

This statement was approved by the Iowa Conservation Commission at their regular July meeting.

Like many other state wildlife agencies, the Iowa Conservation Commission's fish and wildlife programs are funded exclusively by the sale of hunting, fishing, and trapping licenses and cooperative Pittman-Robertson and Dingle-Johnson programs of the Federal Government. Because of this funding base, most of our efforts in the conservation of nongame fish and wildlife have been coincidental to the management of game species. Programs of land acquisition and habitat development have been beneficial to nongame wildlife but the nongame species were peripheral recipients. To date we have one individual devoting one-third time to nongame wildlife. We recognize the ecological, educational, and aesthetic importance of Iowa's nongame species but thus far have not had financial support for this program.

Passage of S. 1140 would provide Iowa the impetus necessary to pursue an active nongame program. We feel the enactment of this legislation would stimulate the Iowa Legislature to appropriate money for nongame conservation and enhancement, something that has not been accomplished in the past other than in a coincidental manner.

There are approximately 400 different vertebrate species extant in Iowa. Of these about 85 percent are species which meet the definition of nongame as given in S. 1140. It would be our intention to develop a well-rounded nongame program. Basic to this program would be research investigations into distribution, population status, and habitat requirements of selected nongame wildlife. Initially the research efforts would concentrate in the following five areas with the stated goals of determining population status and habitat requirements:

1. To conduct a statewide survey of nongame fish species: 3 years—$300,000.

2. To conduct a statewide survey of reptile and amphibian species and complete detailed studies on two reptilian and two amphibian species: 5 years—$80,000.

3. To conduct in-depth research on six species of native birds other than raptors: 5 years—$175,000.

4. To conduct a statewide survey of summer and winter raptor numbers and complete in-depth research on four species: 5 years—$125,000.

5. To conduct detailed research on ten species of nongame mammals: 5 years—$300,000.

The results of these investigations would provide the basis for habitat acquisition and development, management, and public information and education aspects of the nongame program.

After the initial five years the program would be a better balance of research, habitat acquisition, and public education. The annual cost of the program would be approximately $250,000.

The Iowa Conservation Commission wishes to be recorded as giving its wholehearted support to the concepts embodied in S. 1140. Programs initiated because of the enactment of this legislation may well serve to prevent many wildlife species from becoming endangered in the future. Preventive programs are always desirable.

There is one area in the bill where we respectfully request consideration be given to changing the bill as written. This is in Section 9, entitled Additional Regulations. We have had experience with federal programs that were based on clear, straightforward legislation but were made complex and cumbersome by rules added by the administering federal agency. Many times the rules do not account for conditions in the individual states but are set with a regional or national view. Perhaps this legislation can be safeguarded from these ills by providing clear guidelines for the administering federal agency in the promulgation of rules. Iowa and other states would be glad to assist in the development of such rules. Also, there is no mention in this bill of the life of the proposed nongame program. We recommend that it be a continuing program.

We urge the Committee to proceed vigorously towards enactment of this important and long overdue piece of legislation. Thank you for your attention in this significant matter.

OPENING STATEMENT OF SENATOR JOHN CULVER, CHAIRMAN, SUBCOMMITTEE ON RESOURCE PROTECTION

I want to welcome all of you to this hearing by the Senate Subcommittee on Resource Protection on S. 1140, the Federal Aid in Nongame Fish and Wildlife Act. As you may know, this legislation was introduced by Senator Hart and cosponsored by several other members of this subcommittee.

Traditionally, most fish and wildlife conservation programs have been directed primarily toward game species. Since Earth Day in 1970, however, we have begun to recognize the importance of all fish and wildlife species and the need to manage each species as an integral and interrelated component of our ecosystem. Yet, despite the wide acceptance of this concept, most fish and wildlife conservation programs are still devoted primarily to a minority of domestic species—game animals.

According to a 1975 report by the Wildlife Management Institute, the 36 States which have nongame conservation efforts use only 2 percent of their total wildlife budgets for nongame species. The problem is not a lack of willingness to conserve nongame species—those species which are not hunted, fished, or used for other consumptive purposes—but a lack of funding to institute such programs.

Established funding sources generally place a tax on consumptive users of wildlife—for instance, hunting and fishing licenses and excise taxes on hunting equipment States question—and rightly so—the equity of using this income for nongame programs. Accordingly, in its 1975 study the Wildlife Management Institute recommended that a "nongame fish and wildlife Federal matching grant-in-aid program be authorized by the Congress . . ."

This is the purpose of S. 1140. The bill recognizes the need to conserve nongame fish and wildlife by directing the Secretary of the Interior, acting through the United States Fish and Wildlife Service, to cooperate with and provide financial assistance to States for nongame species conservation programs. Such programs may be in the form of a long-term, comprehensive management plan or specific nongame conservation projects. Eligible projects might incude, for instance, habitat acquisition and modification; research, educational, and interpretive programs; and law enforcement activities. The Secretary may fund up to 75 percent of the cost of approved plans and projects, or, when two or more States are jointly involved, up to 90 percent of such costs. A total of $90 million would be authorized through fiscal year (FY) 1980.

Responsibility for the conservation of nongame wildlife should not be limited only to the States. Therefore, S. 1140 directs all Federal land management agencies to determine whether their programs can be reasonably modified to include nongame wildlife conservation. These agencies are also authorized to enter into cooperative agreements with Statese to carry out these programs.

The concept of this legislation has received overwhelming support from the conservation community, the States and the administration. I am pleased to note that my own State of Iowa has placed a high priority on nongame wildlife conservation and believes that a Federal grant-in-aid program would provide the necessary incentives in this area. Mrs. Carolyn Lumbard, who is a member of the Iowa Conservation Commission, will testify today about the urgent need for a nongame wildlife cost-sharing approach.

However, there are several aspects of S. 1140 which must be fully examined before the subcommittee takes final action, and we expect to have a thorough discussion of these points this morning. For instance, opinions are varied as to how a Federal grants-in-aid program should be financed: whether by general authorization as in the legislation before us today; by an excise tax on certain outdoor recreational and hunting equipment; or through existing Federal-aid conservation programs. Another consideration involves exactly which species should be covered under the program. Should there be greater emphasis on urban wildlife? Should the program be restricted only to native species? Hopefully, the testimony presented this morning will provide the subcommittee with answers to these questions.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 27, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on

Foreign Relations, room S-116 in the Capitol.

Mr. President, I ask unanimous consent to have the notification printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 27, 1977.

MR. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

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I wish to inform Members of the Senate that such a notification was received on September 30, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

Mr. President, I ask unanimous consent to have the notification printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

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The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

FEDERAL GOVERNMENT ACCESS FOR THE DEAF

Mr. WEICKER. Mr. President, in the United States there are over 13 million people with severe or total hearing loss. More people suffer from it than heart disease, cancer, blindness, tuberculosis, venereal disease, multiple sclerosis and kidney disease put together. At least 1 out of every 10 Americans is affected according to the National Institute of Health.

Members of this enormous community are able to communicate over ordinary telephone lines through the use of a telegraph device called a TTY. They "speak" back and forth by typing on a keyboard which prints on a similar device at the other end of the telephone. There are over 20,000 TTY's in use around the United States and that number is increasing rapidly. Federal, State and local agencies and organizations have begun installing them to better serve their deaf constituents. Yet while hundreds of thousands of deaf people have instant access to TTY's, we, their elected representatives, cannot communicate with them nor can they communicate with us.

When a hearing person has a pressing problem, question, or request concerning the Federal Government, he can pick up the telephone and call the district office of his Senator or Representative. The deaf must commit their thoughts to paper and wait days, perhaps even weeks, for a reply. Often it is then too late.

Government must be accessible to all its citizens. I firmly believe the deaf community should be able to contact their elected representatives as quickly and easily as everyone else. We have the responsibility to help them.

The Legislative Branch Appropriations Act of 1978 provides for the installation of TTY's in the Capitol to receive messages from deaf people that will then be relayed to whichever Senator or Representative they designate. This is wholly inadequate for several reasons:

First, no legislative provisions have been made for the installation of either incoming or outgoing WATS lines. According to a test conducted by Representative PAUL FINDLEY and reported in the RECORD earlier this month, a TTY phone call can take at least two to four times longer to complete than the same spoken conversation. Without WATS lines the cost of placing frequent telephone calls would be prohibitive to a congressional office and impossible for a constituent.

Second and most importantly, the TTY system as approved would completely disrupt normal congressional operations. The deaf would have to dial a special number and leave a message for a congressional office to call back. A staff member would then have to walk to the communications center and place the phone call away from all his or her office resources. Return phone calls would often be necessary. If our deaf constituents call at the same rate as everyone else, staffers will be running to the communications center all day long. This clearly unacceptable burden might preclude a member from even offering the service to his constituency. It makes as little sense as installing several telephones in the Capitol and pulling the rest out of every office. Mr. President, it just does not have to be that way.

For that reason I have today instructed my staff to install TTY's in both my Bridgeport and Hartford State offices. These devices take up approximately the same room as a desk calculator, weigh about 3 pounds and cost less than an office typewriter. Deaf constituents will be able to call in on my local and WATS telephone lines and communicate with the same people and receive the same service as everyone else.

Careful usage records will be kept and I plan to report back to my colleagues with the results at the end of a 6-month test period. If things go as I expect, I will urge the Senate Committee on Rules and Administration to make these TTY units available to all Senators upon request and I invite any interested member to contact my office for further information on the project.

The deaf have the right to be a normal functioning part of society. They are doing their part, now let's do ours.

I ask unanimous consent that two articles concerning the history and applications of the TTY be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the American Banker, Dec. 3, 1975]

HARTFORD NB OFFERS IN-HOME HOOKUP FOR DEAF

HARTFORD, CONN.—Connecticut residents who are deaf or have a hearing impairment are being offered a service by the $1.5 billion-deposit Hartford National Bank & Trust Co., which allows customers to ask questions about their accounts from their own homes by a teletype link-up with the bank.

Hearing-impaired individuals often find it difficult or impossible to use a telephone for inquiries of any sort and are frequently dependent on a third party to handle routine banking question, said Walter A. Morrissey, senior vice president and manager of consumer banking. By teletyping inquiries either from their own homes or from a center for deaf people, the individual can be assured of accuracy, speed and privacy.

Mr. Morrissey said Hartford National believes that there is a real need for this service, and stressed that it is not an advertising gimmick. Both he and William Taylor of the customer service department said there are no plans for a hard marketing campaign.

According to Mr. Morrissey, telephone company estimates show that there are approximately 38,000 deaf and hearing-impaired people in the state of Connecticut; 15 percent are located in the greater Hartford area, he said.

The teletype system at Hartford National, Mr. Morrissey explained, was installed with the cooperation of the Converse Communi-

cations Center, a Hartford-based, nonprofit organization which transmits messages for the deaf. Teletype machines are donated by Western Union Corp. and reconditioned by Converse.

Mr. Morrissey said that the idea for the service originally came from Converse, which approached the bank and explained that other businesses offer similar services to deaf customers, and suggested that there was a market which the bank might reach. The bank officer said the Hartford National looked into the suggestion and found it to be a "worthwhile effort. We felt that it made a lot of sense," he stated. Teletype-banking for the hearing impaired is a good project for any business to get into, he said, and noted that G. Fox, a Hartford department store, offers a similar service for its customers, whereby they can teletype-in an order for merchandise just as people with normal hearing can call in orders.

The bank's teletype has been operating two to three weeks, Mr. Morrissey said. He said the bank will shortly send letters to families with hearing-impaired members, notifying them of the Hartford National Bank service. The consumer banking manager said that the bank has already received approximately 25 inquiries about the service, from people who have seen advertisements about it in the Hartford newspapers.

Hartford National B&T said that to use the service, the customer calls the bank's special number for the teletype inquiry, 728-4600. The bank will respond immediately that the transmission has been received and will supply any information requested, including consumer loans, Master Charge and checking credit. Data on checking and savings accounts are available, a bank spokesman said, although a slight delay is involved. If the question posed cannot be answered within a few minutes, the bank will contact the customer by teletype as soon as possible.

There is no charge to the customer for the service, Mr. Morrissey said. He explained that although inquiries are initiated by the customer, the system utilizes normal telephone lines and each "call" is paid for by the bank. The only expense which the customer realizes is the one-time installation charge for the teletype, if he chooses to have one in his home. The price is approximately $300.

In addition to the Hartford National service, deaf individuals can also receive newscasts, weather reports, schedules of events for the deaf and other services, all provided by Converse Communications Center.

Services like the Hartford one are really needed, according to Barbara Olmert, a supervisor of publications for the National Association of the Deaf, Silver Spring, Md. Citing a 1974 study undertaken by the National Census of the Deaf, she said that nationally, there are 13,362,842 hearing impaired Americans, 1,767,046 deaf individuals and 410,522 prevocationally deaf people, which are those who were deaf before the age of 19.

[From the Los Angeles Times, Dec. 7, 1975]

LINKED TO PHONES: TELETYPE CONNECTION PUTS THE DEAF IN TOUCH

(By Charles Hillinger)

A Pasadena dentist who has never heard a spoken word has made it possible for 14,000 deaf people to carry on conversations over the telephone.

Dr. James C. Marsters inspired the development of a communications system that combines the telephone with the teletypewriter machine.

Deaf persons "talk" to one another by punching teletypewriter keys. Their messages are carried back and forth from one teletypewriter to another via the telephone.

An orthodontist, Marsters, 51, is but one of three totally deaf persons in this country ever to become a dentist.

Since birth he has lived in a world of complete silence. Yet, like many born without hearing, he has learned to master speech, using in daily conversation, words he has never heard himself or others utter. He "hears" others by lipreading.

"A telephone for those deprived of hearing is often a matter of life and death," Marsters explains.

"Imagine waking up at 2 in the morning and finding your wife having a heart attack. You are deaf. You run to a neighbor and start pounding on his door.

"The neighbor has no idea who's at the door. He shouts out—'Who is it? Who is it?' You can't hear him, you don't answer. He doesn't open the door. He doesn't know who it is.

"What do you do? You are stuck.

"Multiply that by 1,000 times. It gets serious. You can't reach out when there's a need to reach out."

In 1963, Marsters sought out Robert Weitbrecht, a deaf astronomer and electronics engineer.

"I was so frustrated trying to use the telephone," recalled the dentist. "I had heard of Bob Weitbrecht's expertise in electronics. So I flew up to San Francisco to talk with him and see if we could come up with a telephone for the deaf.

"We worked together for months and finally came up with the equipment we now have after researching many different ways of accomplishing what we set out to do.

"Teletype machines were being phased out by the telephone companies, Western Union and other firms and being replaced with computers. We found a way to put the Teletype machines to work for the deaf.

"Combining the Teletype machine and the telephone seemed to be the most practical and economic way to enable the deaf to use the normal telephone."

The two men formed an all-deaf-owned and operated company, Applied Communications Corp. (Apcom), headquartered in Belmont in the San Francisco Bay area. Marsters is president and Weitbrecht is vice president of research and development. Out of their research came the Phonetype, a device that converts telephone signals into teletypewriter signals and vice versa.

When the phone rings in the home or office of a deaf person with a teletypewriter machine and Phonetype, lights go on and off.

If the person is both blind and deaf, fans go on. The deaf-blind person uses a Braille teletypewriter.

When the phone is lifted off its cradle and placed on a recess in the Phonetype—a small black box—the teletypewriter is activated.

Then a message from the caller begins to appear on the receiver's teletypewriter. The message is punched out by the caller.

The person receiving the message responds by punching out his message on his teletype teletypewriter keyboard. And the conversation goes back and forth throughout the length of the call.

In 1968 the Marsters-Weitbrecht project was given a boost when American Telephone & Telegraph Co. agreed to donate surplus teletypewriter machines to deaf people through the Alexander Graham Bell Assn. for the Deaf, Inc. (Alexander Graham Bell's wife was deaf.)

That same year Marsters and Weitbrecht along with others from the National Assn. of the Deaf and the Alexander Graham Bell Assn. for the Deaf formed Teletypewriters for the Deaf, Inc. (TDI), a nonprofit organization.

TDI buys teletypewriters, and receives donated ones. TDI and Apcom work together to place teletypewriters and Phonetypes in homes of the deaf.

It costs a deaf person $100 to have the teletypewriters brought to top working condition, delivered and installed, and $155 for the Phonetype. The deaf person becomes sole owner of the equipment.

Across the nation 130 deaf people serve as agents for Apcom and TDI. They pick up the used teletypewriters, and the Phonetype devices.

Neither Marsters nor Andrew Saks, operating vice president of Apcom and a member of the Saks 5th Avenue family, has ever received any compensation from the firm they head. Saks is also deaf.

Teletypewriters for the Deaf published its first directory of people with teletypes and Phonetypes in 1968. There were 174 listings.

Today the directory carries more than 14,000 listings including an international network of telephones for the deaf with teletype and Phonetype equipment now in use in South Africa, Canada, Sweden, the Philippines, New Zealand, Australia, Switzerland and England.

ARTS GRANTS AND OUTRAGE

Mr. LEAHY. Mr. President, the Senator from Wisconsin gives a monthly "Golden Fleece" award for the biggest, most ironic, or most ridiculous example of wasteful Government spending he has detected during each month.

I am a strong supporter of the arts, and of the National Endowment for the Arts in particular. However, I must admit that a recent article by the noted syndicated writer, James J. Kilpatrick, regarding Senator PROXMIRE's most recent Fleece Award struck a chord in me, and I believe it would be of interest to my colleagues and the general public. Therefore, I ask unanimous consent that this item be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 15, 1977]

ARTS GRANTS AND OUTRAGE

(By James J. Kilpatrick)

Senator William Proxmire of Wisconsin, our town's leading practitioner of the gadfly profession, sank his teeth last week in the National Endowment for the Arts. In the process, he once again raised a fundamental issue of constitutional government.

The senator was upset—justifiably so—at the award of $6,025 in tax funds to Le Ann Wilchusky of Pittsburgh. The award financed the production of a 20-minute film depicting, in part, the dropping of crepe paper from two small planes. In times past, though not at public expense, the same artist has dropped bouquets of plastic streamers, tire rubber, and even 35 rolls of toilet paper from airplanes.

The National Endowment for the Arts, in the year of this remarkable award, was financed chiefly by $82 million in tax funds. Most of this was paid out in federal-state partnership programs, and in large grants to museums, orchestras and public bodies. But the foundation also made 1,107 individual grants in fiscal '76 amounting to $4,863,000. These went, by way of example, to 78 poets, 45 novelists, 26 playwrights, and to whole flocks of artists, sculptors, printmakers, photographers, and even to 24 art critics.

The grant to Ms. Wilchusky came under the category of Public Media, Programming in the Arts. Such grants are intended "to encourage quality programming on film, television and radio." When Senator Proxmire complained to Nancy Hanks, chairman of the Arts Endowment, she amplified this explanation. Such films as the Wilchusky film, she said, are designed "to document an event designed to alter an audience's immediate environment for a short period of time."

This was how the taxpayers had their immediate environment altered for a short period of time: Ms. Wilchusky spent $1,424 on air fare and lodging for herself and her husband for a week's stay on the resort island of St. Maarten in the Caribbean. This was in February 1976, when things were a little bleak in Pittsburgh. Ms. Wilchusky told Proxmire's staff that she needed to go to St. Maarten in order to film one of the environments that had influenced her development as an artist. Her husband served as cameraman. The finished film shows various scenes of the artist posing in St. Maarten.

In August 1976, the artist, her husband, two sky divers and two of her children assembled in El Paso. They spent $1,713 for travel expenses on this venture. While the children stayed on the ground, the others went aloft. The sky divers then unreeled four rolls of crepe paper as they fell toward the ground. The camera whirred away. The artist told Proxmire's staff that her work calls attention to the higher spirit of mankind and the coming era of peace and harmony on earth.

A spokesperson at the foundation further explained that transitory works of art, such as this one, are as creative in their way as objects made of clay or bronze or stone. It is, she said, kind of like filming a fireworks show.

The $6,025, said Proxmire, represented the total annual taxes paid by a factory worker in Milwaukee, a cleaning woman in Madison and a dairy farmer in Marathon County, Wis. Proxmire termed the award "an outrage."

This sort of thing is indeed outrageous, but such payments from public funds also raise grave questions under the Constitution. Where is the authority for this nonsense? Even if the general welfare clause is cited, it is absurd to contend that grants to individual artists and writers are for the general welfare. Such grants smack of monarchical largesses, of purses bestowed by wealthy patrons to their proteges.

Forget the Wilchusky film. What of these 76 poets and 45 novelists? For every poet who received a $6,000 fellowship, it is a fair assumption that ten applicants were turned down. The 19 members of the advisory panel on literature simply gave away public funds on their subjective judgment of the applicants' talent.

A few years back, the foundation paid our tax money for a poem that read, more or less in full, "liigghhhttt!" I would like six grand, if you please, for my own poem of protest: "Arrggghhhh!"

THE FILIBUSTER AS A USEFUL PUBLIC INSTRUMENT

Mr. McGOVERN. Mr. President, I ask unanimous consent that an editorial on the filibuster in today's Baltimore Sun be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ON FILIBUSTERS

"They feel very deeply about it. They shouldn't be criticized." So said Senator Strom Thurmond, record-holder for the longest speech in Senate history, as he observed this week's filibuster over natural gas deregulation. The *they* in this instance were two dedicated Senate liberals, James Abourezk and Howard Metzenbaum, who can be counted to be on opposite sides from Mr. Thurmond on most issues. They were on this one. While the conservative Mr. Thurmond was all for ejecting government from the business of controlling natural gas prices, Messrs. Abourezk and Metzenbaum were passionately for it lest the public be "ripped off."

And so, in the great tradition of senators trying to avoid sure defeat on a floor vote, they decided to filibuster. They went beyond Thurmond-like marathon speeches, a tactic somewhat undermined by recent rule changes requiring only a three-fifths instead of a two-thirds majority to close off debate. Rather, they introduced a huge number of amendments, more than 500 of them, each requiring a roll call averaging 40 minutes. This soon forced the Senate into its first all-night session in thirteen years, with scenes reminiscent of an old movie; army cots in anterooms, senators in stocking feet, some as bleary-eyed as James Stewart playing "Mr. Smith Goes to Washington." What's more, the filibuster may have partially achieved its objective. Instead of total deregulation, the Senate may yet adopt a compromise that would retain price controls, though at substantially higher levels.

The Abourezk-Metzenbaum effort is an instructive reminder that the filibuster can be a valuable protection to those with minority views on any number of questions. While government in as diversified a country as the United Sttaes must of necessity seek consensus near the ever-shifting political center, issues do come along on which minority views are passionately held. Whether these views are left or right, or wrong or right, is beside the point. If the Senate is to remain a bastion of free speech, those with unpopular minority views must remain free to bring their positions dramatically to the attention of the country. This does not mean total obstruction. But it can and should mean delay and discomfort if that is the price that must be paid to halt government by majority steamroller.

This newspaper was never convinced that Southerners were correct in opposing the great civil rights bills of the Kennedy-Johnson era. It is not convinced that Senators Abourezk and Metzenbaum are wholly correct in opposing gas deregulation. But it is convinced that the essence of American free government will be preserved only so long as the Thurmonds and the Abourezks can have their days—and nights—on the floor of the United States Senate.

DENNIS C. WALKER: VA'S OUTSTANDING HANDICAPPED EMPLOYEE—1977

Mr. CHURCH. Mr. President, the citizens of Idaho, and especially the city of Boise, are very proud that Dennis C. Walker of the Boise Veterans Administration Regional Office will receive one of the Outstanding Handicapped Federal Employees of the Year Awards from First Lady Rosalynn Carter on October 6.

Mr. Walker's story is one of courage, determination and pride. I offer it as an inspiration to all persons and a salute to the accomplishments of this young man.

The 30-year-old veteran was a member of "A" Company, 116th Combat Engineers of the Idaho National Guard. The unit was activated for combat in Vietnam in May 1968, one of only two Reserve units to be so activated during the entire war. Upon arrival in South Vietnam, the 116th was immediately committed to a battle in the central highlands. While engaged in direct combat, Walker was gravely wounded on January 11, 1969. The result was instant and permanent blindness from shrapnel wounds to his eyes and multiple wounds to his chest, back, arms, and face.

After a year of hospitalization, Walker, who was awarded the Bronze Star and the Purple Heart, went to the VA Blind Rehabilitation Center in Palo Alto, Calif., for a 26-week course. He completed the course in 3 months.

He enrolled in Ricks College in Rexburg, Idaho; then transferred to Boise State University where he graduated in 1974 with a degree in business administration with an average grade of 3.6.

On July 1, 1974, Walker became the first blinded Vietnam veteran appointed as a veterans benefits counsellor in the VA. He attained this position with the Boise regional office through his own efforts and by receiving the maximum score in a highly competitive Federal service entrance examination.

A detailed account of Walker's duties and responsibilities in an average day would be voluminous. As a veterans benefits counselor, he must be fully familiar with the full range of benefits and services for veterans and their dependents. He handles these demanding tasks by telephone and by personal interviews. At times, he works as a veterans representative on campus at his alma mater.

In 1975 Walker volunteered and was selected to be an instructor in a VA pilot project to train blinded veterans as veterans benefits counsellors. He received a VA commendation for his outstanding performance.

Mr. President, one of the unsung functions of a legislator is the constituent service provided as a liaison between the individual and government agencies. It is easy for me to understand why the VA would want Dennis Walker to help train others and to commend him for his efforts because of the excellent assistance he has offered to our fellow Idahoans who have been referred to him after being in contact with me on problems they had encountered with the VA.

I can well remember the first such occasion. A call was placed to the Boise VA about a constituent's problem, and another employee said, "Let me give this matter to a new employee. He is a blind Vietnam veteran, and he is doing an outstanding job. I know he can be helpful to you." The obvious pride and pleasure that his fellow employees had in having him on board was manifest, and I was delighted with his efforts.

Dennis Walker is an example of one of the most striking phenomena of recent years, the increasing self-reliance and independent spirit displayed by the handicapped. He is a cheerful, bouyant man with an exuberant outlook on life. Recently, in bestowing on him one of the VA's highest awards, Max Clelland, the VA Administrator, said of Dennis Walker: "His determination and spirit in overcoming his handicap stand as an inspiration to all handicapped persons and a wonderful example of what can be achieved in spite of heavy odds." I wish to add my personal congratulations to him, and my thanks.

QUARTERLY REPORT REQUIREMENTS FROM CANDIDATES FOR FEDERAL OFFICE AND POLITICAL COMMITTEES

Mr. ROBERT C. BYRD. Mr. President, the Federal Election Campaign Act requires that quarterly reports from can-

didates for Federal office and political committees must be filed on April 10, July 10, October 10, and January 31.

The Secretary of the Senate's Office of Public Records will be open Monday, October 10, 1977 from 8 a.m. to 6 p.m. to receive the October 10 quarterly filings of reports and statements as required by that act and the Federal Regulation of Lobbying Act. The Public Records Office is located in room A–623, 119 D Street NE., Washington, D.C. Reports submitted after the close of business may be placed in a clearly identifiable depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224–0322.

REPORT REQUIREMENTS BY ANY SENATOR WHO MAINTAINS AN "OFFICE ACCOUNT"

Mr. ROBERT C. BYRD. Mr. President, pursuant to rules and regulations promulgated by the Federal Election Commission under the authority of the Federal Election Campaign Act, any Senator who maintains an "office account" is required to file a report with the Secretary of the Senate on April 15 and October 15 of each year. As defined in part 113 of the rules and regulations, an "office account" means "an account established for the purpose of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated . . ."

The report should be filed with the Secretary of the Senate's Office of Public Records, 119 D Street NE., room A–623, Washington, D.C. 20510. That office will be open to receive such reports on Saturday, October 15th from 9 a.m. until 5 p.m. Reports submitted after the close of business may be placed in a clearly identified depository located in the lobby of that building. Additional information may be obtained from that office at (202) 224–0322.

THE HUMAN DIMENSION OF DEREGULATION

Mr. KENNEDY. Mr. President, as we stand here hour after hour debating various amendments to the natural gas bill, it may be that some of us lose sight of the human dimensions of what we are considering. Last night on NBC News, Tom Petit had a report on what the impact of the various plans now under consideration would be on the average American.

I think that his report lends some human perspective to our debate and is well worth considering. We are not, as he points out, just debating the price of natural gas. We are also debating, quite literally, the price of bread for our people.

I ask unanimous consent that a transcript of Tom Petit's report be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

Nobody seems to know exactly how people will be affected by natural gas bills. But as an example, take the price of bread. It takes a lot of gas to bake bread. It takes billions of cubic feet a year. Under the Carter plan by 1985 the national bread bill would increase $27.5 million a year. Under the Jackson plan about the same or more. Complete deregulation: 1985 bread prices up $38.5 million. Just for baking bread with no inflation figured in. These estimates are by consumer advocates. The gas industry said it didn't know.

As for heating, St. Louis is considered the average American city with an average gas heating bill of $260 a year. By 1985 under the Carter plan it would go up to about $300 a year. Under the Jackson plan about $350 a year. Complete deregulation: about $455 a year. Those figures are from congressional sources and do not include an inflation factor.

All three proposals would raise prices which is why some Senators talk of a compromise which would be to change nothing at all, including prices.

A RESPONSE TO THE BURGER COURT

Mr. MATHIAS. Mr. President, over the past 2 years the Supreme Court has handed down a perplexing series of decisions raising the barriers to the courts for plaintiffs bringing claims that their constitutional rights have been violated. These decisions have been particularly troubling to those who believe, as I do, that the great accomplishment of the Warren court was that it opened up the Federal judicial system to many whose only previous means of appeal had been to the legislative and executive branch, where the cries for justice by the poor, racial minorities, advocates of unpopular causes, and victims of official misconduct had fallen all too often on deaf ears.

At the beginning of this Congress, I joined with Senator BROOKE to introduce S. 35, the Civil Rights Improvements Act. S. 35 was designed as a vehicle to strengthen 42 U.S.C. 1983, the principal statute permitting groups and individuals to challenge Government actions they believe violate their constitutional rights, and the statute most consistently hobbled by the court's restrictive decisions. This legislation has received encouraging support from the public, the legal community, Members of the House of Representatives, and the media, and I am hopeful that Senate hearings on S. 35 scheduled for this fall will provide strong impetus for adoption of the legislation early next year.

Hand in hand with the Supreme Court decisions on section 1983 have been decisions restricting access to the Federal courts for those seeking writs of habeas corpus under the Federal habeas statutes, 28 U.S.C. 2254, 2255. The "Great Writ" of habeas corpus—which for centuries has protected constitutional rights by serving as a swift and effective instrument by which courts could review the legality of the detention of a person—has been seriously weakened.

To reassert the full scope of Federal habeas relief, I joined with Senator NELSON on April 20 to introduce S. 1314, legislation to overrule the court's two most damaging decisions on habeas. It is to Senator NELSON's great credit that he took the lead on this vital—and controversial—issue, despite the fact that he is not a member of the Senate Judiciary Committee. He has also been active in pressing for legislation to curb warrantless national security wiretapping, establish legislative oversight of the intelligence community, and protect the privacy of telephone records. His record squarely places Senator NELSON in the forefront of those Senators who have consistently pushed for full recognition of the fundamental civil rights and liberties secured by our Constitution.

Early this year, Senator NELSON discussed his legislation and the court's habeas decisions in a speech to the National Conference on Access to Justice. I commend Senator NELSON's speech to my colleagues as a lucid and eloquent statement concerning the vital part played by the Federal courts in our society, and the obligation of Congress to take legislative action to preserve easy access to the courts.

Mr. President, I ask unanimous consent that the text of Senator NELSON's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR GAYLORD NELSON

We meet today to consider responses to a disturbing series of Supreme Court decisions. Some of these decisions are explicable in terms of precedent and defensible on the merits and some are not, but the overall pattern is unmistakably: access to the federal courts for claims based on the Constitution has been deliberately and substantially restricted. And that's serious enough to justify a Saturday meeting.

It is not my intention to enumerate the cases or try to separate those which can be overruled legislatively from those establishing constitutional holdings. Such remarks would merely duplicate the work of the panels, and the caliber of those participants is extremely high. If legal virtuosity could solve the problem before us, we could all rest more easily with the knowledge that it would soon be done.

I would prefer to focus on two cases which are particularly troubling to me. *Stone* v. *Powell* and *Francis* v. *Henderson* limit the rights of those in state custody to seek habeas corpus relief from the federal courts. In my view, these cases illustrate clearly the Supreme Court's approach to all these cases, and what is at stake. They also impel me to the conclusion that although profound issues of constitutional rights are involved, the problem facing us is political in nature.

In *Stone* v. *Powell*, the Supreme Court held that a federal court could not grant a petition for habeas corpus relief by a person claiming his conviction resulted from the use of illegally seized evidence, even if that claim was valid, if the petitioner had received a full and fair litigation of his Fourth Amendment claim in the state courts. In *Francis* v. *Henderson*, the Court held that failure to raise a constitutional claim in timely fashion in state court would bar the constitutional claim from being raised in a habeas petition even though such failure was caused by inadvertance or negligence of counsel.

Several points must be made about these decisions.

First, they are lawless decisions. Stone disregards the plain language of the habeas statute which says that relief is available to those in custody "in violation of the Constitution" by creating an unprecedented hierarchy of constitutional rights. *Francis* surprisingly and shockingly disregards a long list of precedents, reaffirmed as recently as 1975, establishing that a constitutional claim can be raised in a habeas corpus petition,

even if it was not raised in a timely fashion in state court, as long as state procedures were not deliberately bypassed. It also makes a mockery of the time-honored rule that constitutional rights can be waived only knowingly and intentionally.

Second, these decisions encroach on the power of Congress to define the jurisdiction of the federal courts. Article III of the Constitution grants Congress the power to create the lower federal courts. From that power flows the power to define the jurisdiction of the federal courts. There is no doubt that Congress has acted over the years to liberalize the common law procedure of habeas corpus. Until these cases, there was also no doubt that it was the Court's responsibility to give full effect to the habeas jurisdiction enacted by Congress. As Justice Brennan observed in *Stone*, it is the Court which defines the substantive scope of constitutional rights, but "it is for Congress to decide what the most efficacious method is for enforcing Federal constitutional rights and asserting the primacy of Federal law." For years, Congress has considered—and rejected—restrictions on the rights of state prisoners to petition for habeas similar to those now imposed by the Court. For this reason, Justice Brennan charged the majority in *Stone* with "nothing less than an attempt to provide a veneer of respectability for an obvious usurpation of Congress' Article III power to delineate the jurisdiction of the Federal courts," and that harsh judgment was unfortunately accurate.

Third, the Court abandoned its role as defender of individual freedom to balance the individual's interests against the social costs of letting him vindicate them—a task more befitting a legislature. *Stone* and *Francis* are not based on a reading of the habeas corpus statute, or a review of the history of habeas corpus. Rather, they are premised on a number of other competing factors: the need for finality in criminal cases; the desire for comity between the state and federal courts; the efficacy of the exclusionary rule; and the unspoken, but perhaps, overriding concern with the burden which habeas petitions impose on the workload of federal judges.

Fourth, these decisions demean the "great writ" of habeas corpus. Throughout history, habeas has been shaped to guarantee the most fundamental of rights, to provide a swift and effective instrument by which the courts could inquire into the legality of the detention of a person. It is the "most celebrated writ in the English law . . . and a writ antecedent to statute, throwing its root deep into the genius of our common law." As the Supreme Court has stated, in better years, "we repeat what has been so truly said of the federal writ: there is no higher duty than to maintain it unimpaired."

These words ring hollow against the background of *Stone* and *Francis*. As discussed by the majority in *Stone* and *Francis*, habeas corpus emerges as a nuisance, a burden on the federal judge, a source of tension between state and federal judges, just another appeal. The "great writ" is nowhere to be found.

I criticized these decisions at the end of last Congress and introduced legislation to overrule them. Thanks to the helpful comments of some of the people here, that legislation has been improved, and it will be reintroduced again soon, with the cosponsorship of Senator Mathias. Which brings us to the political problem. *Stone* and *Francis* are not the kind of decisions which will prompt a groundswell of public demand for legislation. Many who become casually familiar with the decisions may be satisfied with the Supreme Court's decision—because habeas corpus petitions impose a serious burden on the courts; because about 96 percent of the petitions prove unsuccessful; and because, after all, the petitioners are usually poor, black, and convicted felons.

It is the responsibility of those who oppose *Stone* and *Francis*—and the other decisions which bring us here today—to insist they not be casually accepted. I fully believe that if most of the public studied these decisions, a clear majority would reject the Court's reasoning. They would cut through the talk about "comity" and "federalism" and get to the essence of the case. Under the federal habeas corpus statute, a person in custody in violation of his constitutional rights should be able to obtain his freedom from the federal district court by petitioning for a writ of habeas corpus. How is it relevant that the state court considered his Fourth Amendment claim, if the Court denied it incorrectly? Similarly, why should it matter if the prisoner failed to raise his valid claim in a timely fashion if the failure to do so is attributable to an oversight by his lawyer? What is accomplished by such a rule except, as Justice Brennan put it, to trap the ignorant in "an airtight system of forfeiture."

Legislation to overrule *Stone* and *Francis* only solves part of the problem. We need a comprehensive approach to the problems of federal court jurisdiction. It is no secret that the federal courts are seriously clogged. In fiscal year 1970, there was an average of 317 cases filed for each federal district court judge. Only five years later, the average was 402, an increase of 27 percent. The appellate workload has increased even more dramatically, rising from 282 appeals per judge to 515 in seven years, an increase of 85 percent.

The relationship of the Supreme Court to the caseload problem is extremely delicate. As Justice Black pointed out five years ago, the Court "stands at the pinnacle of a judicial system many believe to be near collapse." The Chief Justice is the natural spokesman of the concerns of the judges, and the Court cannot be insensitive to problems which threaten the effective functioning of the federal judiciary. At the same time, the Court is obligated to resolve cases before it on the merits of the controversy, without being influenced by possible repercussions that decisions will have on judicial administration. Decisions like *Stone* and *Francis* convey the impression of being justified, at least in part, by the Supreme Court's desire to cope with the increased caseload crisis in the courts. But under Article III of the Constitution, Congress defines the jurisdiction of the federal courts; it is Congress which must determine how scarce judicial resources should be allocated. However serious the caseload problem may be, the remedy must come from Congress, and not from the Court in the guise of decisions on the merits.

But with power must go responsibility. Where the problems of the federal courts are concerned, Congress' response has been insensitive, inadequate, and occasionally hypocritical.

At the same time, however, Congress has shown its respect for the federal courts in statute after statute, by adding to the court's jurisdiction and responsibilities. As Judge McGowan has written, "the prevailing passion of Congress for judicial review is the central fact of life at the moment for federal judges at all levels of the system." We have enacted complex regulatory schemes, often the product of compromise and accommodation, granting administrative agencies great discretion and left the courts with the task of curbing possible administrative excesses and deciphering what we meant. The Speedy Trial Act of 1974 responded to an enormous practical problem of constitution dimensions, but the effect on the operations of the courts has been traumatic. As the Chief Justice pointed out in his year end report, in some districts, the civil trial has become a thing of the past. Moreover, Congress has not hesitated to include in its statutes a provision that judicial review should be forthcoming on an expedited basis. Some of these provisions are desirable, most are defensible, but all of them together seriously affect the ability of the court to control its docket.

In short, the federal judges often find themselves between "a rock and a hard place," and Congress, by its actions and its inaction, has helped put them there. These facts do not excuse decisions like *Stone* and *Francis*, but they do suggest the advantage of approaching the problem of federal court jurisdiction comprehensively. We need to create additional judgeships; pay federal judges salaries needed to attract and keep our finest lawyers on the bench; reduce or eliminate diversity of citizenship as a basis for federal jurisdiction; and generally focus more attention on the impact that our legislation will have on the operation of the courts—perhaps by incorporating a sort of "court impact statement" in committee reports dealing with relevant legislation. If the caseload crisis can be defused, public support for legislation facilitating access to the federal courts will be enhanced.

But if comprehensive reform cannot be accomplished, decisions like *Stone* and *Francis* should still be overruled swiftly and unequivocally. The assertion of constitutional rights—and the existence of a federal forum to review those claims—is vitally important for the society, as well as for the petitioner. Our willingness to use scarce judicial resources in this way reflects again the high priority this society places on constitutional liberties and individual freedom.

We must not be blinded by caseload statistics. When the Supreme Court restricts access to the lower courts, the impact falls disproportionately on the poor, minorities, and those seeking to challenge the political, economic, and social status quo. Most often, those who find the courthouse door closed are precisely those individuals and groups most in need of "heightened judicial solicitude," in the words of Justice Stone's famous footnote in *Carolene Products*.

Moreover, in a society committed to peaceful change through the rule of law, full and direct access to the courts is a necessity. ACLU director Neler expressed the importance of the federal courts in the 50's and 60's in this way:

It was a turbulent period in American history; there were wide-ranging pressures for social change; many groups of people previously disenfranchised by reasons of race, sex, status, dependency or youth sought the full protections of citizenship. The federal courts were a forum open to them to accommodate those pressures. While the federal courts did not always side with the people who were seeking changes, the very openness of the federal courts and their willingness to hear the claims for full citizenship, had a profound impact. This produced very substantial and very beneficial social changes. The courts channeled the activities of people seeking redress of their grievances into orderly and lawful paths in which claims for benefits became claims for rights. Grievances were adjudicated in the context of the U.S. Constitution.

These principles may seem far-fetched when juxtaposed with some frivolous habeas corpus petition by a convicted felon. But these are constitutional rights that we deal with. We balance them away—by whatever rationalizations—at our peril. As Justice Frankfurter wrote in the landmark habeas corpus case, Brown v. Allen:

The meritorious claims are few, but our procedures must ensure that those few claims are not stifled by discriminating generalities . . . For surely it is an abuse to deal too casually and too lightly with rights guaranteed by the Federal Constitution, even though they invoke limitations upon state power and may be invoked by those morally unworthy.

Too often in the past, politicians have

conveyed the message that full respect for the constitutional rights of those who commit crimes frustrates effective law enforcement. The inference is that we could somehow reduce the constitutional rights of "bad" people, while leaving intact the rights of law abiding Americans. Surely this is a dangerous delusion. When constitutional rights are shortchanged in the name of the law and order or judicial efficiency, the rights of the innocent will be lost as surely as the rights of the guilty. We maintain a constitutional system only by protesting infringements on constitutional rights—whatever the source, and whoever the target.

We can have a judicial system that accords full respect to constitutional rights and operates efficiently. But to the extent we must choose, I would not dilute the "great writ" of habeas corpus, or the other individual rights guaranteed by the Constitution. As the Supreme Court wrote in a 1971 decision, "This basic law and the values that it represents may appear unrealistic or extravagant to some. But the values were those of the authors of our fundamental constitutional concepts. If times have changed, reducing every man's scope to do as he pleases in an urban and industrial world, the changes have made the values served by [the Constitution] more, not less, important."

REORGANIZATION PLAN ABOLISHES CRUCIAL DRUG ABUSE OFFICE

Mr. PERCY. Mr. President, next week the Governmental Affairs Committee will report to the full Senate its approval of the President's Reorganization Plan No. 1. Although I support most provisions of this plan, I have very serious objections to abolishing the Office of Drug Abuse Policy (ODAP). In addition, I do not believe that the procedure of transferring functions to the President for later delegation—even if they remain within the EOP—is consistent with the provisions of the Reorganization Act of 1977 (P.L. 95–17).

I have chosen not to seek defeat of this reorganization proposal, since I believe that, as a general rule, the President should be granted broad latitude to organize the Executive Office of the President to meet his own needs. But I do feel compelled to express my deep reservations concerning certain aspects of this proposal.

THE NEED FOR ODAP

Oversight of Federal drug abuse policy poses difficult problems, as responsibility for this area is spread among twenty different agencies, including the National Institute on Drug Abuse (NIDA) in HEW, the Veterans' Administration, the Agriculture Department, and the Drug Enforcement Administration (DEA) in the Justice Department. Conflicts inevitably arise because the various agencies have widely differing programmatic missions and divergent interests—the very problem which led to consolidating fragmented energy policy in a new Department of Energy. However, in the drug abuse field an even more fundamental dilemma exists: the irreconcilable split between law enforcement functions in the Justice Department and treatment, prevention, and rehabilitation functions within HEW.

These problems can only be resolved by a single, high-level coordinating body with broad statutory authority over Federal drug abuse policy and its implementation. As Peter Bourne, the current Director of ODAP, stated in a recent internal memo opposing the reorganization proposal:

> There is no reason at the departmental level for the agencies performing these functions to cooperate or coordinate with each other, for they will not facilitate their own programs by doing so. They can be made to complement each other, but only by an organization with Executive Office perspective and oversight.

The Federal drug abuse effort has long been characterized by duplication, inconsistencies, and interagency squabbles—the most notorious being the long-standing strife between Customs and the DEA. Although I have the greatest confidence in the abilities of Dr. Bourne, I am concerned that he will be unable to bind these programs together into a coherent whole once he is stripped of his broad-ranging statutory authority and adequate resources, as is proposed in Reorganization Plan No. 1.

As a Presidential assistant without a statutory office and mandate, Dr. Bourne—in his own words—"would have no formal authority in the drug area as I do at the present time, but would serve as an advisor to the President." Instead of acting directly to settle disputes or to reconcile inconsistencies, he will be confined to advising the President, whose attention will necessarily be distracted by his many more urgent duties. The vital coordinative role of Dr. Bourne will be significantly diminished.

Moreover, under the OMB proposal, Dr. Bourne's resources will fall far short of those needed to fulfill the original goals of ODAP. At present, the office has 11 staff members, of which 7 are highly trained, experienced professionals. They include the former police chief of Berkeley, Calif., who is an expert in drug law enforcement; a specialist in international law, formerly with the UN International Narcotic Control Board in Geneva; the former head of the CIA unit on narcotics intelligence; the director of a San Diego treatment program; and individuals from diverse backgrounds in government organization, management, and budgetary functions. Under the reorganization plan, this highly competent staff is likely to be disbanded. In his limited capacity as Presidential adviser, Dr. Bourne will have a single full-time staff member with professional experience in this field, with only part-time assistance from the new domestic policy staff.

At the same time that he is stripped of staff, Dr. Bourne will be given a number of additional duties in the areas of health, world hunger, and international human needs. As a result, in response to an inquiry from Senator HATHAWAY, chairman of the Senate Subcommittee on Alcoholism and Drug Abuse, Dr. Bourne has estimated that he will be able to spend only 25 percent of his time on drug-related matters.

The reorganization task force claims that it abolished no functions, but only reassigned them to other units. Yet by dismantling ODAP and transferring most of its duties to an inadequately staffed Presidential adviser, this reorganization will do away with the functions of ODAP—in effect if not in theory—by denying the responsible official the authority and resources necessary to perform those functions.

CONGRESSIONAL ACCOUNTABILITY

My concerns are not limited to the question of whether the Federal drug abuse effort can function effectively under this proposal. Indeed, my greatest opposition to Reorganization Plan No. 1 is that congressional participation in the formulation and execution of Federal drug policy will be seriously impaired with the demise of ODAP.

Although Congress has jurisdiction over the individual offices and agencies, this authority is meaningless without correspondnig jurisdiction over those responsible for coordinating the line agencies' programs—the point where policy differences must be reconciled. This is especially critical in the drug abuse field, where so much depends on the meshing of treatment and prevention.

It was precisely because of this lack of accountability to Congress that I made the following remarks on the Senate floor just prior to Senate passage of legislation creating ODAP:

> Where we in the Congress want to know about administration policy on any health or welfare plan, we can turn to the Secretary of HEW. Where we want to know about Federal policy relating to the economy, we can turn to the Secretary of Treasury or to the Chairman of the Council of Economic Advisers. Where we want to know about Federal policy relating to international affairs or national security, we turn to the Secretary of State; and so on down the line.
>
> In the case of Federal drug policy, the Congress has no one to turn to. Basically, that policy is not being determined by the Federal officials whom we confirm and who are available to testify to the Congress on the results of their programs. Neither Peter Besinger, the just-confirmed head of DEA, nor his predecessors, really set Federal policy on drug law enforcement or international narcotics control. Nor does Dr. Robert DuPont, as head of the National Institute for Drug Abuse—NIDA—in HEW, have overall charge of prevention/treatment policy.
>
> Accordingly, in the drug abuse area, there is no single responsible office-holder to whom the Congress can turn for answers to the very serious questions relating to the formulation of Federal policy and priorities—and, more importantly, to the lack of such policy in certain key areas.

During the previous two administrations, Congress was unable to play a satisfactory role in the formulation and implementation of drug abuse policy because responsibility for this area was assigned to Presidential advisers—Egil Krogh in the Nixon administration and James Cannon in the Ford administration. In accordance with a long-established White House policy, these officials consistently declined to testify before congressional committees—let alone work closely with Congress in the formulation of policy.

In setting up ODAP, Congress considered and rejected several alternatives before arriving at the current solution. Only through a separate statutory office, headed by an official subject to Senate

confirmation, could we be assured of access to decisionmaking as it occurs, information on the entire Federal drug effort which is so crucial to effective oversight, and timely answers to the multitude of questions that were sure to arise in the future. As Senator JAVITS put it at the time:

A solely executive coordination approach provides no focal point for Congress to question and examine what is being done . . . this is deeply troubling when Congress has taken a positive role in regard to problems of drug abuse . . . I believe that such a limited office, headed by a director who shall be appointed by the President, by and with the advice and consent of the Senate, is essential.

During its brief existence, ODAP proved entirely satisfactory in this regard. For example, when congressional staff were alerted to possible hazards from U.S.-backed chemical spraying of drug crops in Mexico, ODAP responded fully and expeditiously. Within a matter of days, ODAP was able to coordinate a seven-agency research effort designed to resolve these uncertainties.

Similarly, ODAP has been responsive to Congress in formulating Federal policy toward the decriminalization of marihuana. I am deeply disturbed and disappointed that President Carter has chosen to abolish this agency and, by reassigning its duties to the domestic policy staff, effectively return to the unsatisfactory situation that existed under the Nixon and Ford administrations.

The intent of the Congress is clear. The amendment authorizing ODAP was passed by both Houses over the strenuous objections of the Ford Administration, which preferred to vest this responsibility in a low-level arm of OMB. The present structure of ODAP is already the result of a compromise between the executive and legislative branches. It should not be abolished without an adequate opportunity to demonstrate its worth, and then only in the context of extensive congressional oversight and deliberation.

The economic cost of drug abuse to the Nation is estimated to be between $18 and $27 billion each year, a devastating loss which is compounded by the untold misery and human suffering resulting from drug addiction and abuse. President Carter has long stated that ending this problem is one of his highest priorities. In a February 1977 message to the U.N. Commission on Narcotic Drugs, the President stated:

I am making the curtailment of drug abuse a high priority in my Administration. I have designated a highly competent staff in the White House to give the problem special attention. I intend to take a personal interest in this program and will monitor its progress.

One month later he said:

Drug abuse continues to drain our human resources, especially from our youth, with no end in sight. I am determined that we make every effort to reverse this trend, and, therefore, effective with the date of issuance of this memorandum, do hereby establish the recently-enacted Office of Drug Abuse Policy.

Thus, as recently as March, the President considered the creation of ODAP a major link in his effort to control and contain the drug abuse problem. Nothing he has said since then has suggested a lessening of this interest. And clearly the problem has not diminished sufficiently to justify a reduction in effort.

To do away with the only Federal agency able to effectively coordinate the effort against a problem costing so many billions of dollars in order to achieve an alleged savings of some $300,000 is, as Senator HATHAWAY has suggested, "penny-wise and pound-foolish."

I do recognize that a unit of the Exective Office of the President can only be as effective as the President chooses to make it. Since President Carter has clearly stated that he does not wish to retain ODAP, it would not be fruitful for us to attempt to force it upon him.

But I cannot in good conscience support this measure, despite my agreement with virtually all of the other substantive provisions. Congressional adoption of the amendment authorizing ODAP was a clear rejection of the very arrangement proposed in this reorganization plan, an arrangement which has failed in the past.

As recently as August 2 of this year, President Carter made the following comments on the drug problem:

Drug abuse continues to be a serious social problem in America. The lives of hundreds of thousands of people are blighted by their dependence on drugs . . . My goals are to discourage all drug abuse in America—and also discourage the excessive use of alcohol and tobacco—and to reduce to a minimum the harm drug abuse causes when it does occur. To achieve these goals with the resources available, effective management and direction are essential. Because the federal effort is currently divided among more than twenty different, and often competing agencies, I have directed my staff to coordinate Federal action and to formulate a comprehensive national policy. This will end the long-standing fragmentation among our international programs, drug law enforcement, treatment and rehabilitation, prevention, and regulatory activities.

I could not agree more completely with the President on these goals. I only differ with him as to how they can best be achieved. Back in February 1976 in urging passage of the ODAP legislation, I stated:

The type of office spelled out in this amendment would be the most desirable mechanism for assuring that Federal drug abuse policies and priorities are formulated and established at the highest levels of government, and that the persons responsible for those decisions are held accountable to the Congress and to the American people.

Those are still my sentiments.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years vice Benjamin F. Butler, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary.

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years vice Donald J. Stohr, resigned.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California for the term of 4 years vice William D. Keller, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of both measures on the Unanimous Consent Calendar, Calendar Orders numbered 414 and 415.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF SUPERVISION OF U.S. CAPITOL POLICE TO CERTAIN LEASED FACILITIES

The bill (S. 2052) to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supervision of the United States Capitol Police shall extend over that part or parts of the premises located at 600 Pennsylvania Avenue, Southeast, Washington, District of Columbia, leased by the Office of Technology Assessment. In carrying out such supervision, the United States Capitol Police shall have within such part or parts jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for the personnel and property of the Office of Technology Assessment within such leased premises, and to make arrest therein for the violation of the laws and regulations of the United States and the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–451), expanding the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

S. 2052 would provide needed police protection for employees and property of the Office of Technology Assessment at their leased facilities, located at 600 Pennsylvania Avenue SE., Washington, D.C. These facilities are located outside the area presently included in the Capitol Grounds for purposes of jurisdiction by the Capitol Police.

The Technology Assessment Board feels that, because of the irregular working hours of staff and general security considerations, reliance on the expertise of the Capitol Police in providing the protection necessary for congressional employees and facilities will provide more effective protection than dependency on conventional police and guard services alone could provide.

Supporting letters addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Edward M. Kennedy, and Senator Clifford P. Case, chairman and ranking minority member, respectively, of the Board of Technology Assessment, and by Chief James M. Powell of the Capitol Police, follow:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Board of the Office of Technology Assessment (OTA), we request that the Committee on Rules and Administration favorably consider S. 2052, a bill to extend the supervision of the U.S. Capitol Police to facilities leased by OTA at 600 Pennsylvania Avenue SE.

The OTA staff are congressional employees and are currently housed in the Senate and House facilities under the jurisdiction of the Capitol Police. The protection required at the 600 Pennsylvania Avenue facility would require security for personnel and property of OTA within this leased premise, with authority for the Capitol Police to arrest therein for the violation of the laws and regulations of the United States and the District of Columbia.

The OTA staff, like most congressional employees, work long and irregular hours. This requires the presence of small numbers of individuals in the building at times which are not readily supportable by conventional police or guard services. In addition, the security for the prevention of the public from bringing unauthorized or dangerous items into a congressionally leased facility can be best attended to by the Capitol Police who have unique experience in this area.

OTA's leased facility is in a single, electronically protected, building, and the Capitol Police feel that the level of security required will not pose any undue burdens or liabilities.

Since OTA is planning to occupy this building during October and November of this year, your early consideration is greatly appreciated.

Sincerely,

EDWARD M. KENNEDY,
Chairman.
CLIFFORD P. CASE,
Ranking Minority Member.

U.S. CAPITOL POLICE,
OFFICE OF THE CHIEF,
Washington, D.C., September 12, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request I have prepared a brief summation of justification for the proposed legislative authority provided in S. 2052.

As you are aware, the authority of the U.S. Capitol Police force is generally recognized as being restricted to the confines of the Capitol Buildings and Grounds.

Since the premises at 60 Penn. Ave., S.E. is located outside the boundary limits of Capitol Grounds, in order for the U.S. Capitol Police to be properly assigned to provide the appropriate security for the portion of the said building, which is to be used by the Office of Technology Assessment, it is necessary for this legislative authority.

On the basis of the information furnished to date, the additional requirements for police personal would seem to be at least three officers.

I would prefer not to request additional personnel at this time however, as we are in the process of reassessing our total personnel deployment in an effort to make any appropriate changes consistent with the maintenance of adequate security but with a view toward conservation of manpower.

Sincerely,

JAMES M. POWELL,
Chief of Police.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 269) authorizing supplemental expenditures by the Committee on Rules and Administration, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 189, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "399,300" and inserting in lieu thereof "$437,700".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–452), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 269 would amend Senate Resolution 189, 95th Congress, agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Rules and Administration) by increasing by $38,400—from $399,300 to $437,700—funds available to the committee for inquiries and investigations through February 28, 1978.

The committee is seeking this authorization in order to discharge its new responsibilities with respect to operation of the Placement Service and preparation and publication of the Congressional Handbook and judicial cases affecting the Congress—currently functions of the Joint Committee on Congressional Operations, which Joint Committee pursuant to Senate Resolution 4, agreed to February 4, 1977, and S. 1608, passed by the Senate on July 12, 1977, will expire on September 30, 1977.

APPORTIONMENT OF FUNDS FOR THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of my senior colleague, Mr. RANDOLPH, that the Senate proceed to the consideration of Calendar No. 417.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 282) making apportionment of funds for the National System of Interstate and Defense Highways.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, there is no objection, and this matter not only has been cleared on this side, but also, I join in the request that it be adopted.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. This authorization of $3,002,500,000 is for fiscal 1979. This money, which is necessarily provided to the States under the authorization will become available tomorrow, on October 1.

I take occasion to indicate that the Interstate Highway System of the United States is 92 percent completed and open to traffic. I add that in the latter part or the middle of October, the Committee on Environment and Public Works will hold hearings on a new highway bill, and it is our hope that when that legislation becomes law, we will have added another important chapter to the strength and mobility of the highway system in America and serve well the people of this country.

Mr. BAKER. Mr. President, I commend the distinguished chairman of the committee on which I serve. I have great admiration for him. If anybody is responsible for the efficiency of the American highway system, it is the distinguished senior Senator from West Virginia, and I pay him tribute for that.

Mr. RANDOLPH. I appreciate the Senator's remarks.

Mr. ROBERT C. BYRD. Mr. President, so far as I am concerned, I salute the man whom I consider to be Mr. Federal Highways.

Mr. RANDOLPH. I thank my able colleague from West Virginia.

Mr. ROBERT C. BYRD. I compliment him and thank him for the service he performs daily.

Mr. RANDOLPH. I thank the Senator.

The three of us who are now talking about this subject have all been identified with this development, which is important to the strength of America.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 282) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–454), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

The Senate Environment and Public Works Committee continues to be concerned with the expeditious completion of the National System of Interstate and Defense Highways. Under current legislation, the Federal-aid Interstate System program is authorized through fiscal year 1990; however, as mandated in section 104(b)(5) of title 23, United States Code, the funds for fiscal year 1979 cannot be apportioned or obligated until the Congress approves an updated cost estimate for completion of the Interstate System which specifies each State's relative share. Interstate funds by statute are available to the States up to 12 months prior to the beginning of the fiscal year for which they are authorized. Thus, fiscal year 1979 funds would be available to the States on October 1, 1977 upon approval of the current cost estimate. The shares are based on the ratio of the cost of completing the system within each State to the cost of completing the entire National System. As stipulated in section 104(b)(4) of title 23 of the United States Code, the minimum apportionment for any State other than the District of Columbia is one-half of 1 percent.

Cost estimates are furnished biennially by the Department of Transportation and compiled in tabular form. The most recent compilation was transmitted to the Congress in July of 1977 and is cited in table 5 (revised) of the House Committee on Public Works and Transportation Print No. 95–16.

Many States have already obligated large percentages of their fiscal year 1978 apportionments. Those States which have moved ahead in interstate construction will have their programs seriously curtailed if the apportionment of fiscal year 1979 funds is not made on October 1, 1977.

House Concurrent Resolution 282 approves table 5 (revised) as printed in this report and directs the Secretary of Transportation to apportion the $3.25 billion authorized for the Interstate System for fiscal year 1979. This resolution is intended to prevent disruption of State's interstate obligation schedules.

APPORTIONMENT FACTORS

The 1977 interstate cost estimate (which reflects 1975 unit prices) for completion of the 42,500-mile system designated as of July 1, 1977, is $30.8 billion. Table 5 (revised), to be used as the basis for apportioning the fiscal year 1979 $3.25 billion authorization, follows.

TABLE 5 (REVISED).—ESTIMATED FEDERAL-AID AND STATE MATCHING FUNDS TO COMPLETE THE SYSTEM, AND APPORTIONMENT FACTORS FOR DISTRIBUTION OF 1979 FISCAL YEAR AUTHORIZATIONS CONTAINED IN HOUSE COMMITTEE PRINT 95–16

[Dollar amounts in thousands]

State	Estimated Federal aid [1]	Estimated Federal share [2]	Apportionment factors (percent)
Alabama	$788,576	$709,718	2.548
Alaska			
Arizona	630,585	594,706	2.135
Arkansas	155,122	139,610	.501
California	1,993,578	1,823,925	6.547
Colorado	623,360	567,756	2.038
Connecticut	855,232	769,709	2.763
Delaware			
Florida	$942,563	$848,307	3.045
Georgia	759,826	683,843	2.455
Hawaii	402,280	362,052	1.300
Idaho	120,495	111,217	.399
Illinois	1,679,882	1,511,894	5.427
Indiana	276,181	248,563	.892
Iowa	403,414	363,073	1.303
Kansas	377,889	340,100	1.221
Kentucky	663,565	597,209	2.144
Louisiana	945,584	851,026	3.055
Maine	47,563	42,807	.154
Maryland	1,237,436	1,113,692	3.998
Massachusetts	987,304	888,574	3.190
Michigan	790,144	711,130	2.553
Minnesota	704,054	633,649	2.275
Mississippi	296,317	266,685	.957
Missouri	677,256	609,530	2.188
Montana	249,876	227,887	.818
Nebraska	56,659	50,993	.183
Nevada	258,829	245,888	.883
New Hampshire	124,957	112,461	.404
New Jersey	673,508	606,157	2.176
New Mexico	293,306	271,249	.974
New York	1,581,819	1,423,637	5.110
North Carolina	609,397	548,457	1.969
North Dakota			
Ohio	987,496	888,746	3.190
Oklahoma	222,210	199,989	.718
Oregon	527,132	486,227	1.745
Pennsylvania	1,616,962	1,455,266	5.224
Rhode Island	284,646	256,181	.920
South Carolina	317,938	286,144	1.027
South Dakota	51,137	46,555	.167
Tennessee	619,628	557,665	2.002
Texas	1,571,663	1,414,497	5.078
Utah	324,495	305,837	1.098
Vermont	52,534	47,281	.170
Virginia	1,280,077	1,152,069	4.136
Washington	967,695	877,119	3.149
West Virginia	699,601	629,641	2.260
Wisconsin	302,982	272,684	.979
Wyoming	190,926	176,702	.634
District of Columbia	487,549	528,794	1.898
Total	30,811,229	27,856,901	100.000

[1] Estimated Federal aid and State matching funds required to complete system.
[2] Estimated Federal share of funds required to complete system.

COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the committee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency.

While this concurrent resolution authorizes no funds in addition to those already authorized under the Federal-Aid Highway Act of 1976, it provides authority for the Secretary of Transportation to expend the $3.25 billion authorized for fiscal year 1979 for the Interstate System. The resolution directs that these funds be immediately released.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill reported to contain a statement of the cost of each bill prepared by the Congressional Budget Office. The required report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 26, 1977.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed House Concurrent Resolution 282, to provide apportionment of funds for the National System of Interstate and Defense Highways, as ordered reported by the Senate Committee on Environment and Public Works, September 23, 1977.

Based on this review, it appears that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Environment and Public Works require that any rollcall votes be announced in the report. The motion to report the bill was adopted by a unanimous vote of the committee.

FEDERAL GRANT RELATIONSHIPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 422.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

Mr. BAKER. Mr. President, reserving the right to object, I have a notation on my calendar that the distinguished junior Senator from Pennsylvania wishes to be present at the time of the consideration and passage of this measure. If we can withhold for a moment, I will check and see if he is still within the vicinity of the Senate Chamber.

(The following proceedings occurred subsequently:)

Mr. ROBERT C. BYRD. Mr. President, earlier I called up Calendar No. 422, H.R. 7691. I ask unanimous consent that that action be vitiated for the present.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. THURMOND), I ask unanimous consent that John Napier and Mike Musho, of the Senator's staff, be granted the privilege of the floor during the consideration of and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR REPORTING S. 897

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the Governmental Affairs Committee, the Energy and Natural Resources Committee, and the Foreign Relations Committee to have their deadline for reporting S. 897 extended to midnight, October 3, 1977.

I make this request on behalf of Mr. GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENTER FOR BOOKS IN THE LIBRARY OF CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1331.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1331) entitled "An Act to provide for the establishment of a Center for Books in the Library of Congress", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. The Congress hereby finds and declares—

(1) that the Congress of the United States on April 24, 1800, established for itself a library of the Congress;

(2) that in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) that the Congress of the United States in recognition of the importance of printing and its impact on America purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) that the Congress of the United States has through statute and appropriations made this library accessible to any member of the public;

(5) that this collection of books and other library materials has now become one of the greatest libraries in civilization;

(6) that the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two-hundred-year history;

(7) that in the year 1977, the Congress of the United States assembled hereby declares its reaffirmation of the importance of the printed word and the book and recognizes the importance of a Center for the Book to the continued study and development of written record as central to our understanding of ourselves and our world.

It is therefore the purpose of this Act to establish a Center for the Book in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term Center means the Center for the Book;

(2) the term Librarian means the Librarian of Congress.

ESTABLISHMENT OF THE CENTER

SEC. 3. There is hereby established in the Library of Congress a Center for the Book.

The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 4. The Librarian through the Center shall stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISIONS

SEC. 5. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without reference to Federal disposal statutes; and

(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate accept the amendments of the House of Representatives.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

ORDER THAT A MESSAGE FROM THE HOUSE ON H.R. 9354 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on H.R. 9354 be held at the desk, pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. ALLEN NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Tuesday, Wednesday, and Thursday, Mr. ALLEN be recognized for not to exceed 15 minutes, daily, following the recognition of the two leaders under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Tuesday, after Mr. ALLEN has been recognized under the standing order just entered, Messrs. SCHMITT, GLENN, MATHIAS, and GOLDWATER each be recognized for not to exceed 15 minutes, in whatever order they wish to arrange this presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate, before we go out.

The PRESIDING OFFICER. The Senate resumes consideration of the unfinished business, S. 2104.

The pending question is the amendment of the Senator from Arkansas in the nature of a substitute for the amendment in the nature of a substitute reported by the committee.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS ON SATURDAY UNTIL 10 A.M. MONDAY MORNING NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent when the Senate completes its business tomorrow it stand in recess until the hour of 10 o'clock on Monday morning. I would hope that the order could be changed tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:21 p.m. the Senate recessed until Saturday, October 1, 1977.

NOMINATIONS

Executive nominations received by the Senate September 30, 1977:

FEDERAL MARITIME COMMISSION

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1978, vice Bob Casey, resigned.

DEPARTMENT OF JUSTICE

Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation for the term of 10 years, vice Clarence Marion Kelley resigning.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years, vice Thomas A. Olson.

Archie P. Sherar, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years, vice George A. Locke.

DEPARTMENT OF STATE

The following-named persons for appointment as Foreign Service officers of class 4, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

John H. C. Gervers, of New Mexico.
John H. St. Denis, of California.

For appointment as Foreign Service officers of class 5, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Virginia S. Carson, of Oregon.
Nancy A. McKee, of Oklahoma.
Kenneth L. Wayman II, of Arizona.

For appointment as a Foreign Service information officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Patricia R. Ezell, of California.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

J. Loretta Baker, of Florida.
Reginald James McHugh, of Wyoming.
Sue Ford Patrick, of Florida.
George Louis Summers, of California.
Felix C. Vargas, Jr., of Washington.
Patricia A. Woodring, of California.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Donald Bruce Andrus, of South Carolina.
Edward D. Booth, of Nebraska.
Frank H. Day, of California.
William Terrell Fleming, Jr., of Florida.
Daniel Fried, of California.
Anne Maria Galer Ryan, of Iowa.
Dennis Patrick Harrington, of Wisconsin.
Robert Joseph Higgins, of New Jersey.
W. Andrew Osterman, of Pennsylvania.
Michael Christian Polt, of Tennessee.
Robin Lynn Raphel, of New Jersey.
Charles Parker Ries, of the District of Columbia.
Josiah Blumenthal Rosenblatt, of Pennsylvania.

Charles R. Ryan, of Colorado.
Judith Allison Ryan, of Maine.
Jack David Segal, of Maine.
Richard J. Shinnick, of New York.
Cynthia G. Smith, of the District of Columbia.
Douglas Gordon Spelman, of Ohio.
Laurie Jane Tracy, of Virginia.

For appointment as a Foreign Service information officer of class 7, a consular officer, and a secretary in the diplomatic service of the United States of America:

Charla Saylor, of Ohio.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Eileen Ann Riley, of the District of Columbia.
Tanya M. Russ, of Florida.
Michael James Senko, of Maryland.
Stuart Lee Spoede II, of Texas.
Laurence D. Wohlers, of Washington.

Foreign Service Reserve officers to be consular officers of the United States of America:

Kenneth A. Cohen, of Virginia.
Barbara T. Wilson, of Maryland.

Foreign Service Reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Donald T. Aubin, of Virginia.
John C. Baxter, of New Jersey.
John Brereton Bestic, of Virginia.
Patricia L. Bradley, of the District of Columbia.
Daniel F. Cameron, of Maryland.
Wilfred J. A. Charette, of Rhode Island.
Christian C. Chatfield, of California.
William R. Cooper, of California.
Kathleen M. Daly, of Maryland.
William B. Dyer, Jr., of Virginia.
Elizabeth A. Dziatkiewicz, of Wisconsin.
Cynthia G. Hanson, of California.
Peter T. Hanson, of Washington.
Robert W. Hoggan, of California.
Kent E. Holmes, of Virginia.
Lance G. Hopkins, of California.
Donald K. Kanes, of South Carolina.
John P. Kennedy, of Maryland.
Davis D. Knowlton, of New Hampshire.
Lawrence Y. Locke, of Virginia.
George Lu, of Maryland.
Anne W. S. MacNeil, of Virginia.
Thomas J. Maholchic, of Virginia.
James D. Massey, of Georgia.
Michael McGinnis, of Virginia.
Raul A. Mendez, of Puerto Rico.
Stephen E. Montgomery, of Texas.
James L. Morris, of Florida.
Joseph A. Murray, Jr., of Washington.
Paul G. Nyhus, of New Jersey.
Gayle L. Oechslin, of Illinois.
William R. Perkins, of Maryland.
Thomas A. Pluta, of Massachusetts.
Peter Poltun, of Virginia.
Paul J. Redmond, Jr., of the District of Columbia.
Caroleen L. Silver, of California.
Charles O. Skellenger, of Iowa.
John P. Sontag, of the District of Columbia.
Rufus Stevenson, of Georgia.
Fred C. Thomas, Jr., of Pennsylvania.
Patricia A. Weber, of Virginia.
Sally Werner, of New York.
Stephanie A. Weston, of California.
Harry Lon Wetherbee, of Virginia.
Jeffrey A. Whiteman, of Connecticut.
Suzanne E. Ziemer, of Maryland.

Foreign Service Reserve officers to be secretaries in the diplomatic service of the United States of America:

Ronald L. Faucher, of Virginia.
John V. Granger, of California.
Robert M. Klein, of Virginia.
Henry A. Miller-Jones, Jr., of New Jersey.
David P. Reimuller, of California.

Foreign Service staff officers to be consular officers of the United States of America:

Alfred J. Pelland, of Pennsylvania.
Verna E. Smith, of Maine.
Jay S. Stricklin, of Illinois.

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of captain:

John R. Ehrmann	Edward B. Holtzman
Neal G. Nelson	Floyd A. Rice
George P. Asche	Benjamin S. Beach
John F. Dunn	Ara E. Midgett, Jr.
Charles S. Wetherell	Russell E. Sawyer
Charles S. Niederman	Richard B. Eldridge
Robert A. Johnson	Rudolph T. Sommer
John I. Maloney, Jr.	Robert C. Nichols
Douglas B. Thurnher	Robert Farmer
Henry J. Harris, Jr.	John C. Hanson
James C. Osborn	Richard H. Wight
Harold E. Fallon, Jr.	Donald P. Nachtwey
Arnold B. Beran	Theottis Wood
Thomas P. Nolan	Phillip P. Coady
Peter J. Rots	Robert A. Janecek
Everett L. Crowell	Franklin E. Thrall
Ralph Z. Delgiorno	John J. Janda, Jr.
Thomas T. Matteson	Charles H. Leckrone
Harry J. Reckitt	Albert D. Super
John P. Flaherty	Gennaro S. Duca
Carol E. Conry	Martin H. Daniell, Jr.
Richard J. Marcott	Michael J. O'Brien

IN THE NAVY

Rear Adm. Levering Smith, U.S. Navy, retired (age 67), for appointment to the grade of vice admiral on the retired list pursuant to article II, section 2, clause 2 of the Constitution.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Mario M. Ecung.
Ronald G. Keim.
John D. Niermeier.

The following-named temporary Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W-3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

*George W. Reel.

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent captain in the Dental Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Walter J. Gorman, DC, USN (ret.).

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant (junior grade) in the U.S. Navy, subject to the qualifications therfor as provided by law:

Lt. Calvin D. Lipscomb, USN (ret.).

The following-named temporary Chief Warrant Officer to be appointed a lieutenant (junior grade) in the U.S. Navy, for limited duty for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

*George W Reel, electronics (surface).

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a temporary lieutenant in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Calvin D. Lipscomb, USN (ret.).

The following-named (Naval Reserve officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr. Robert M. Giasi, MC, USNR.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Archie R. Traynor, Jr., MC, USN.

IN THE MARINE CORPS

The following-named chief warrant officer, U.S. Marine Corps Reserve, for appointment to Chief Warrant Officer (W-2) in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 555, subject to the qualifications therefor as provided by law:

Hunt, Mark C.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of Title 10, U.S. Code, Section 5911:

Olen S. Akers	Enrique Hernandez
David M. Alfredson	James H. Jeffries III
John P. Arms	Alvin W. Jennings
David H. Askey	John E. Jordan
Richard F. Baker	Gardner S. Kendrick
Charles S. Barrett III	Frank P. Kolbe, Jr.
Thomas W. Baxter	Donald G. Kravitz
Victor E. Bianchini	Walter J. Lawson
James H. Bowman	Cecil P. Lewis
James J. Brady	Donald T. Lund
Paul P. Brutch	Robert D. Mahoney
Arthur B. Burke, Jr.	Michael W. Manzer
John M. Burke	Leonard W. Martin
Richard J. Burke	Ralph T. McLean
Cole J. Buxton	Andrew J. Mehalick
Thomas J. Campbell	David L. Menzdorf
Harry G. Carpenter, Jr.	Lowry J. Miller
Robert F. Christie	Ronald G. Miller
Arthur L. Clark	W. S. Miller
James J. Cleary	Phillip M. Mitchell
William A. Coti	George E. Mosakowski
John D. Councilman	Frederick G. Muesegaes
John F. Cronin	Fred E. Nichols
Leonard D. Culp	Frank Ottinger, Jr.
Harold R. Curtis	Robert F. Peterson
Robert C. Detweiler	Charles R. Petty
Michael G. Dickerson	Clarence D. Powell
Ralph S. Dilullo	Ronald K. Price
Richard D. Dowling	James L. Riggs, Jr.
Lawrence L. Downey	John F. Rivers
Bobby G. Downing	Charles S. Robb II
Brooks C. Dyer	Milton B. Rogers
John S. Elekes	Brian W. Rolfe
Donald R. Fariss	Gordon Rule
Frank E. Farmer	Charles W. Sampson
Darrell S. Fitts, Jr.	Albert J. Sattler, Jr.
Paul B. Fraser, Jr.	Gary S. Schroeder
Phillip C. Frey	Todd M. Sloan
Neil D. Frumkin	John B. Snowden III
John J. Gannon	Samuel A. Staples III
Michael R. Gardner	Cecil I. Stell, Jr.
Winston W. Gardner, Jr.	Gene P. Taylor
James T. Golden, Jr.	John F. Thompson
David Hallett	James R. Vogel
John P. Halvorsen	Terry P. Wallace
George F. Hanke R.	Scott J. Wilcott
George E. Harper	Raymond E. Wilder
Albert C. Harvey, Jr.	George C. Wilkinson, Jr.
James P. Heffernan	Edd K. Wright

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W-4 under the provisions of title 10, U.S. Code, section 563:

Charles W. Adams	Gary W. Bisplinghoff
James L. Anderson	Roy H. Bixler
Ferdinand J. Appl, Jr.	Luther A. Bolenbarker
Ronald H. Asmus	Gilbert H. Bolton
James E. Bailey	Lawrence C. Brinkman
Charles M. Banks	James J. Brisson
John E. Baughman	William C. Brown, Jr.
James A. Belfiore	Walter J. Bruderer
Kenneth C. Bickley	Joseph A. Bryant

*Appointment sent out ad interim (during the recess of the Senate). Senate recessed on 6 August–6 September 1977.

Donald N. Bush
Christopher P. Butler
Everett J. Campbell, Jr.
James T. Chaffee
Marion L. Cotten
Patrick C. Coulter G.
Frederick M. Cunningham
Charles A. Dankmyer, Jr.
Raymond L. Dedual
Oscar Delagarza, Jr.
Acie N. Derossett
Armand H. Desjardin
Joe H. Driver
Orlando Fernandez
Franklin A. Field W.
Donald H. Finley
Carl J. Fisher
Clyde L. Fisher
Jack W. Flynn
Robert W. Forsberg
Edgar Franklin, Jr.
Eugene T. Franklin
Carl H. Gassoway
Louis P. Glassburner
Johann Haferkamp
David L. Harris
Franklin R. Hester
Michael P. Hudson
Donald W. James
William J. Janning
Richard C. Jonely
Charles J. Julian
John J. Keenan, Jr.
John S. Keene
Albert Lane, Jr.
Enrique Lariosa, Jr.
Ronald J. Lauzon
Bernard L. Lee
Redmond J. Loftus, Jr.
Gary A. Lucus
William S. Maire
Michael T. Mallick
Thomah H. Marino
Larry A. Martin
John L. Matlack
Thomas J. McIntyre
Benjamin H. McNutt
Kenneth H. Medeiros
George A. Miller
John N. Miller
James R. Milner
Jimmy Miranda
Kenneth L. Mitchell
Patrick J. Mongoven
William R. Moody
David D. Moore
John V. Morris,
James E. Mulloy, Jr.
Louis N. Panchy
Roger L. Peterson
Eugene L. Polderdyke
Raymond G. Prefontaine
Ivan D. Puett
James S. Rayburn
Thomas T. Renau
Albert A. Reynolds
Wade A. Robinson, Jr.
Alfred R. Rocheleau
Gerald L. Rodden
Mack I. Rogers
William H. Rosser
Efrain F. Sanchez
Stephen A. Sandwich
Ray H. Scott
John R. Shultz, Jr.
Coburn L. Sergent
Henry L. Singer
Billy W. Smith
John A. Steward, Jr.
William M. Stewart
Donald R. Syring
Richard A. Teeter
Leonard J. Tevebaugh
William T. Troutner
John E. Ubah, Jr.
Bruce W. Vance
Cullen R. Vinson
William J. Walker
Frederick M. Waller, Jr.
Napoleon K. Weaver
John Whitley, Jr.
Dennis Wilczewski
Francis O. Williams
Nathaniel C. Wilson
Larry L. Wino
James W. Wofford, Jr.
Rudolph E. Woltner, Jr.
Billy E. Wright

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W–3 under the provisions of title 10, U.S. Code, section 563:

Homer L. Allen
Clarence T. Anthony, Jr.
Paul T. Ashe
Jewel F. Bain
James V. Branum
Curt C. Buss
Nearlin Carter, Jr.
James D. Churchman
Wayne R. Cote
George F. Deckert III
Thomas W. Dolman
Fritz G. Franz
Michael L. Furgal
Joseph F. Gomes, Jr.
Michael B. Graddy
Robert I. Hall
William Hohnhorst, Jr.
Charles A. Johnson
Lorenzo G. Jordan
Carl M. Jozaitis
Ernestine A. Koch
Larry R. Krouse
Paul L. Labarge
Jerry L. Lamerson
Jerome F. Lawson
Jack D. Mathis
Ellory M. Medor
Gerald B. Moore
Robert G. Neely
Roland N. Pannell, Jr.
Jack C. Parker
Kenneth D. Roebuck
James E. Russell
John B. Samples
Roger A. Sherman
Lloyd D. Songne
William L. Steigner
David W. Streagle
John M. Sweeney, Jr.
Gary O. Thompson
Donald R. Troutt
Marcelo J. Tyler
Daniel Vallee
Paul R. Weigley, Jr.
John D. Yarbrough

The following named officers of the Marine Corps for appointment to the grade of chief warrant officer W–2 under the provisions of title 10, U.S. Code, section 563:

Thomas E. Adams
John H. Alderson, Jr.
Geza J. Anasagasti
William A. Andrews
Donald P. Angely
Eugene N. Apel III
Terry L. Armstrong
Charles W. Bailey
Craig L. Bauer
Kurt T. Barnes
Karl P. Beehler
Robert C. Benbob, Jr.
Franklin O. Benjamin
David C. Berryhill
Douglas L. Bishoff
Henry Black, Jr.
Eldon E. Blair, Jr.
Jimmie L. Blick
Hendrik A. Blume
Michael W. Bohlen, Sr.
Steven D. Borgeson
Kenneth E. Boyer
Patrick J. Brake
William O. Brenek
Joseph O. Briscoe
Robert D. Brookins
Randy P. Brown
James D. Buck, Jr.
Steven R. Burgess
Fred L. Burpo
Edward L. Burwell, Jr.
Richard E. Byrd
Walter D. Calvert
Stephen E. Cecil
Jesus S. Chacon
Michael W. Chadwick
Jerry W. Chatelain
Vernon J. Chute III
William L. Clyde
Melvin L. Cochran
Merritt L. Cogswell
Joe N. Cole
Richard G. Cole
Matthew W. Conley
John R. Connelley
Barton D. Consford, Sr.
Neely H. Cook
Charles L. Cornwell, Jr.
James F. Cox
Larry D. Cox
Alan T. Cripps
George M. Crouch
Paul D. Cyr
Otto A. Daly III
David Davis
Jere K. Detwiler
Walter S. Dickerson
Robert D. Dorsey
Paul F. Dossin
Roger W. Douthit
Michael E. Doyle
Thomas J. Dunphy
Dale A. Dye II
Charles L. Fay II
Samuel L. Flores, Jr.
Samuel P. Flournoy
Donald K. Foltz
Stephen H. Foreman
Richard A. Foster
Thomas A. Fox
Rodney Frazee
Ronald H. Freeman
Jack D. Frost
Johnny G. Frost
Roland J. Fryer, Jr.
Gary M. Fuhrman
Clarence R. Fussell, Jr.
John J. Gallagher
Thomas H. Gardner
Ronald R. Gaskell
Johnny E. Gebaide
Raymond S. Giradin
Bruno J. Giri, Jr.
Eric A. Glass
Frankie D. Gonzales
Jon D. Gosnell
Arvis O. Graham, Jr.
Edward Green
Ronald E. Grindle
Harold J. Guillory
Clinton W. Gunter
Louise M. Haebig
Douglas W. Hagee
Loren E. Hajduk
Walter S. Hakala
Thomas H. Hall
Ronnie E. Hanna
John C. Hannaford
Donald R. Hansen
Patrick J. Hardy
Stephen L. Harrington
Charles A. Harris
James B. Harris
Gary L. Harvey
Selvin E. Harvey, Jr.
David A. Healy
Daniel A. Henry
William H. Herndon
Edward W. Holder
Roger L. Hoot
Seybourn E. Hopper, Jr.
Steven R. Hulland
Dory B. Hux
James A. Inman
George L. Jackson, Jr.
David F. Jacobus
Charles R. Jarrett
Larry E. Jellison
Percie V. Johnson, Jr.
Robert R. Jones
Douglas R. Keene
Ray C. Kenens, Jr.
John J. Kierepka
Kathleen J. Kincaid
Michael S. Kinsella
Garry N. Klaus
Henry L. Klepac
Arthur C. Koon
Dennis G. Kozlesky, Sr.
Dennis E. Kush
Michael D. LaBonne
Leonard P. Ladue
Billy G. Lamar
Stephen C. Lambeth
Gerald L. Languell
Stanley R. Lemley
Arthur E. Leone
Edward B. Lewis
Jesse Lewis
Alan J. Lirette
John M. Longshore
Ronald J. Lucinski, Jr.
Stephen E. Lusk
Michael R. Lynch
Allen L. Maddox
William R. Mahoney
William H. Martin
Jacabo L. Martinez
Tyrone L. Mason
Richard W. Masterson
Edward G. McDaniel
Robert R. McDonald, Jr.
Donald D. McGuire
Barry L. McLemore
Layton A. McLeod
Donald R. McMann
Jack S. McNutt
John W. McRae
Gary P. Meienhelder
Robert E. Melton
James O. Mick
Charles S. Miller
Montelle E. Miller, Jr.
Robert B. Miller
Michael B. Mitchell
William M. Monroe
Donald A. Moore
Willus L. Morgan
Hershall W. Morse, Jr.
Thomas M. Mulloy
William J. Murphy
Kenneth J. Murray
Levance Myers
James H. Neal, Jr.
Cecil L. Nelson
Richard C. Ortiz
Bobby E. Ott
Gary R. Parsons
William L. Payne
Douglas J. Pelko
Thomas L. Penn
Bradford M. Perkins
Wayne M. Poore
Sammy Popwell
Glen E. Porter
Donald H. Post
Kenneth B. Poteet
Michael Pozzolungo
Charles M. Puckett
Guadalupe E. Reyes
David W. Rinker
Jerry D. Ritchie
William J. Roberge
James C. Roberts
Richard L. Robinson
Joseph M. Rodriguez
Thomas C. Rose
Martin L. Ronsenfield
Terry D. Ruhter
Thomas M. Rutherford
Leroy E. Sanderson
Duane F. Sansome
Russell F. Scanlan, Jr.
Michael C. Shaefer
Robert A. Schatz
Gary E. Schmidt
William W. Schrader
Frank L. Scott, Jr.
Joseph D. Scott
Clyde D. Sheldon
Paul L. Smith
Paul W. Smith
Victor J. Smith
Joseph J. Snow, Jr.
Lawrence R. Soloy
Gerald R. Sorensen
Robert L. Spencer
Roy W. Starks
Keith D. Stevens
Terry G. Stevens
James A. Stone, Jr.
Jerry D. Stovall
Gary W. Stuck
Jonathan H. Sylvester
Mario H. Tamayo C
Melvin Thomas
Wayne H. Thomas, Jr.
Stewartson C. Thompson
Ronald Throckmorton
Paul J. Tomecek
Jerrel R. Townsend
John T. Trosper
Donald T. Troublefield
John L. Trudo
John M. Vanderursen
John J. Varelli
Charles A. Vaughan
Daniel G. Walczak
Joseph J. Walden
Jake Walker, Jr.
William M. Whittington
Charles B. Wilson, Sr.
Jerry L. Wilson, Sr.
Alva R. Windham
Durwood M. Wingfield
Ronnie J. Wood
James E. Yale
William E. Zimmerly

EXTENSIONS OF REMARKS

STATEMENT ON RESOLUTION OF DISAPPROVAL TO THE SALE OF MILITARY EQUIPMENT TO EGYPT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LONG of Maryland. Mr. Speaker, the proposed sale of 14 C–130 aircraft and 12 "Firebee" remotely piloted vehicles to Egypt should be strongly opposed by Congress. The logic behind this sale, which has received little attention, is highly questionable and should be reexamined before we lock ourselves into progressively larger arms deals. A military commitment is easier to prevent than to end.

Assistant Secretary of State Atherton has argued that "We clearly have a major interest in helping Egypt meet its legitimate defense needs." But against whom? Israel?

Why is it our responsibility or in our interest to help Egypt build up an even stronger military establishment? Supposedly to demonstrate our support for President Sadat. But is this not amply demonstrated by a projected economic aid package of $2 billion?

Will this sale increase our influence over the Egyptians during future peace negotiations? Has not past experience,

especially that of the Soviets in Egypt, shown that military equipment once sold and put in place loses its political leverage?

Will it prevent Egypt from turning again to the Soviet Union for military assistance? Indeed, it seems likely that the Soviet Union will continue to supply Egypt with spare parts through third parties such as Yugoslavia, Czechoslovakia, and North Korea. The British and French are also actively involved in helping maintain Egypt's military. The French have already agreed to coproduce with Egypt 150 Mirage F–1 fighter bombers beginning in 1980. There is, therefore, no military or political reason for the Egyptians to realine themselves with the Soviet Union.

Some argue that we should sell the C–130's and the RPV's because they are supposedly "nonlethal" and "defensive." Is not, however, an improved logistics and intelligence capability as militarily significant as additional tanks or fighters?

Have we not also ignored the intra-Arab implications of establishing a military relationship with the Egyptians? Could not such a relationship adversely affect our relations with Saudi Arabia? Throughout the 1960's Egypt and Saudi Arabia were bitter enemies. Their rapprochement is of recent origins and may turn out to be as temporary as most alliances in the Middle East.

Any sale of military equipment to Egypt is shortsighted. One day we could be watching Israelis and Egyptians kill each other with American weapons. Haven't we learned anything from arming both sides in the India-Pakistan and Greek-Turkish conflicts? Would not this sale create expectations among the Egyptians that we will eventually sell them sophisticated military equipment—sales to which the Congress will likely object.

The burden of proof should be on those who advise arms sales to Egypt. The administration has failed to explain what kind of long-term relationship it envisions with Egypt and why it is in the interest of the United States to pursue such a relationship. Given the failure of the administration to justify the precedent we would be setting, I stand firmly opposed to the sale of military equipment to Egypt.

TIME HAS COME FOR FEDERAL SELECTION OF OIL PORT PROJECTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BONKER. Mr. Speaker, Congress and the President have a responsibility to facilitate selection of the oil port and pipeline systems that will best serve the public interest in transporting crude oil from the west coast to inland U.S. markets.

Proposals made to date involve as much as 2,200 miles of supertanker travel and nearly 1,600 miles of pipeline that physically involve 10 States and 2 Canadian Provinces. The decisions made will affect millions of consumers in other States and Provinces throughout the United States and Canada and will have major implications for the energy policies of both nations. The issues, in short, transcend State, regional and, even, national boundaries and can be properly resolved only with the overview that only a Federal involvement in the process can provide.

A joint resolution I have introduced today takes a step toward asserting Federal leadership by authorizing and directing the President to initiate negotiations with Canada to determine the circumstances under which a Canadian oil port and pipeline system might serve the needs of both nations. The resolution also prohibits the issuance of any Federal permits, licenses, or other authorities required for construction of crude oil transportation facilities in the State of Washington until June 30, 1978, when the President is required to report to Congress on the progress of the negotiations in Canada.

Evaluation of all four current alternatives—the oil tanker off-load facilities envisioned at Port Angeles and Cherry Point, Wash., Long Beach, Calif., and Kitimat, British Columbia—can only be enhanced by better information on Canadian view and needs.

Federal involvement in selecting one or more crude oil transportation systems would promote a more rational and orderly decision than might otherwise occur. Many agencies are now involved in the process, but none compares the alternatives on an averall national basis by examining their relative costs or their comparative ability to supply markets where crude oil is needed.

Canada quite possibly might hestitate to approve a system within its borders at least until the U.S. Government concludes that a Canadian project is superior to U.S. alternatives. Similarly, the United States is in no position to make decisions on projects with its borders until the Canadian perspective is fully understood.

Some very real—and unnecessary—risks could develop if the Canadian considerations are not adequately addressed.

The west coast could, for example, end up with more oil ports than are optimally necessary. Sohio could proceed to build an oil port in California to handle the initial western surpluses of Alaskan oil. A case might then be made for a new oil port in Washington State to transport the remainder of the Alaskan surplus inland and to serve refineries in States to the east. That could leave Canada with no option other than building its own oil port at Kitimat when a need for imported oil in western Canada develops in the early 1980's.

One west coast oil port-pipeline system appears inevitable, and two may be necessary. Three, however, would be both unfortunate and unnecessary.

The importance of future oil imports by Canada should not be underestimated. Western Canada has never needed foreign oil, but, according to the Canadian National Energy Board, that fortunate circumstance will disappear between 1981 and 1983. Projected domestic shortfalls are 450,000 barrels per day by 1985 and 600,000 barrels per day between 1990 and 1995.

These projections intensify Canadian interest in an oil transshipment system that can serve their import requirements, and they guarantee either that the winner in the current competition for a northern route will ultimately become a major transshipment facility or that another west coast oil port-pipeline system will eventually be needed.

Accommodating a new west coast oil port is not the sole responsibility nor the exclusive concern of any one locality, State or region. The issues are broader than that: How should crude oil be supplied to refineries from Montana to Minnesota that have relied on Canadian oil exports that are now ending? Can increased U.S. domestic oil production from Alaska benefit the populous east coast that remains dependent upon costly and uncertain supplies of imported oil? How will western Canada obtain foreign oil when demand exceeds domestic supply in the early 1980's? And what, if any, revisions in Federal laws regulating coastal development and oil tanker traffic may be dictated by oil port and pipeline decisions?

These interrelated issues deserve comprehensive consideration. Initiating negotiations with Canada on the Kitimat alternative is a key step in that process.

The text of the resolution is as follows:

HOUSE JOINT RESOLUTION

To authorize the President to enter into discussions and negotiations with Canada concerning the transportation of crude oil by pipeline through Canada to markets in the United States, and for other purposes.

Whereas the Government of the United States of America and the Government of Canada have concluded a treaty concerning pipelines transiting each country to markets in the other country; and

Whereas it is critically important to supply refineries in the Midwest of the United States with new supplies of crude oil due to the impending cessation of exports of Canadian crude oil to the United States; and

Whereas Congress has requested negotiations in the past with Canada to assess the feasibility, consistent with the needs of other sections of the United States, of arranging for additional energy and energy transportation systems which reduce or eliminate the need to ship oil by tanker into Puget Sound in the State of Washington; and

Whereas, the National Energy Board of the Government of Canada has determined that imported crude oil will be required in the early 1980s in western Canada for markets now served by indigenous crude oil; and

Whereas the construction of a west-to-east crude oil pipeline across Canada may be found by the Government of Canada and the Government of the United States may be in the longterm interests of both countries; and

Whereas there are proposals now being considered by the National Energy Board of the Government of Canada which would achieve Canadian and United States objectives: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the President is authorized and requested to enter into further negotiations with the Government of Canada to determine—

(1) the desirability of a protocol to the United States-Canada Transit Pipeline Agree-

ment, signed January 28, 1977, in regard to the construction of a crude oil pipeline system originating at Kitimat, British Columbia, and serving refineries in the Northern Tier of the United States, including refineries in the State of Washington; and

(2) the possibility of United States-Canadian crude oil exchanges, pending the completion of an adequate pipeline to serve Northern Tier refineries, in order to alleviate potential Northern Tier petroleum supply problems following the expected cessation of Canadian crude oil exports to the United States.

SEC. 2. (a) The President shall report to the Congress not later than June 30, 1978, on the progress of negotiations pursuant to this resolution.

(b) Notwithstanding any other provisions of law, on and after the date of enactment of this Act until June 30, 1978, no officer, employee, or other official of the Federal government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility related to transportation of crude oil in, on, or immediately adjacent to, or affecting the navigable waters of the State of Washington.

FEDERAL PROGRAM INFORMATION ACT

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. CORCORAN of Illinois. Mr. Speaker, on September 27, the House of Representatives considered a piece of legislation which I believe will be an important step toward providing efficient and regular distribution of current information on Federal domestic assistance programs. H.R. 6257, or the Federal Program Information Act, which was unanimously reported out of the House Government Operations Committee and adopted on the House floor by a voice vote, will transfer the Federal assistance program retrieval system (commonly known as FAPRS) from the Department of Agriculture's rural development service to the Office of Management and Budget. A similar Senate bill, S. 904, was passed by that body on May 17.

I am especially pleased that the House has acted on this bill since I had an opportunity during May to sponsor a local government seminar in my district where local officials were able to hear from representatives from various Federal agencies regarding Federal programs of interest to localities. One of the high points of the program was a computer demonstration of FAPRS. FAPRS is a system by which localities can very easily gain access to the latest information about the various Federal programs for which local communities may qualify.

The user needs only to provide very basic information—such as name of the local unit of government and population. The user is then provided with a printout of programs for which the community may qualify. The printout is keyed to the Catalog of Federal Domestic Assistance and considerably simplifies the local official's use of the catalog because he or she has only to consider 8 or 12 programs rather than the more than 1,000 Federal programs available for domestic assistance.

Finally, Mr. Speaker, I held a Hill briefing for Members and their staffs on June 9, in order to acquaint them with the excellent program which FAPRS can provide. Hopefully, this bill will be enacted into law very soon.

A TRIBUTE TO DR. JOSEPH S. ADAMKIEWICZ

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ZABLOCKI. Mr. Speaker, I was profoundly saddened to learn of the recent death of a distinguished surgeon, friend, and prior to his retirement in 1967, our family physician, Dr. Joseph S. Adamkiewicz. While I have already expressed my sympathy and condolences to his wife and family, I would like to publicly pay tribute to Dr. Adamkiewicz's long career in the medical profession and his extensive contributions to the community he served so well.

In the course of serving more than 50 years as a doctor and 40 years as a professor at Marquette School of Medicine, Dr. Adamkiewicz's accomplishments include helping to establish St. Francis Hospital. He held the title of emeritus assistant clinical professor of surgery at Marquette. Dr. Adamkiewicz was an American Medical Association 50-year club member and a life member of the American College of Surgeons.

In the community he was known as an energetic man who trained over 1,000 students in anatomy, surgery, and orthopedics and was also known for his commitment and dedication to the medical profession by often seeing patients into late hours of the night. Surely, Dr. Adamkiewicz's passing is a substantial loss not only to those of us who knew him but also to his profession of medicine as well.

Mr. Speaker, at this point I include an article in the September 18, 1977, edition of the Milwaukee Journal which noted the dedication and accomplishments of Dr. Adamkiewicz:

ADAMKIEWICZ, S. SIDE SURGEON, DIES

Dr. Joseph J. Adamkiewicz Sr., for many years considered one of the leading surgeons on the South Side, died Saturday at St. Luke's Hospital after a long illness.

Adamkiewicz, 80, served for more than 50 years as a doctor and for more than 40 years as a professor at Marquette School of Medicine.

He also helped found St. Francis Hospital and was the hospital's first chief of staff from 1956 to 1958. Later he was chief of surgery and chief of staff at St. Luke's Hospital.

Adamkiewicz had his office at 1403 W. Lincoln Ave. He retired in 1967.

"He was one of the premier surgeons on the South Side of Milwaukee," said Dr. Steve L. Chojnacki, first a student and later a colleague of Adamkiewicz. A short, stocky, energetic man, Adamkiewicz trained more than 1,000 students in anatomy, surgery and orthopedics.

"He was a very exuberant speaker and always willing to teach," Chojnacki said.

"He had a large practice and would see patients . . . sometimes until midnight," said Merton Elihu Knisely, a former vice chairman at St. Luke's. "He (Adamkiewicz) was well trusted by the Milwaukee community as a surgeon."

In the mid-1950s, the doctor was included in a Reader's Digest Who's Who article on "Poles in America."

Adamkiewicz, who lived at 3062 S. Superior St., held honors including the title of emeritus assistant clinical professor of surgery at Marquette. He was an American Medical Association 50 club member and a life member of the American College of Surgeons.

Survivors include his wife, Sylvia; a son, Dr. Joseph J. Adamkiewicz Jr., Milwaukee; two daughters, Mrs. Thomas Kozina of Franklin, and Mrs. Marcia Kircher of Cedarburg; and a sister, Mrs. Cornelia Marlewski of Stone Lake, Wis.

STATEMENT BY THE HONORABLE H. M. PATEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SOLARZ. Mr. Speaker, I would like to share with my colleagues a most interesting and informative statement given by the Honorable H. M. Patel, Minister of Finance and Governor of the Bank and Fund for India. The speech was delivered at the annual meeting of the World Bank and the International Monetary Fund.

Mr. Patel's views on the world economic situation are both realistic and encouraging. I share his genuine concern over the problems of poverty in the world, and his desire for an increasing role for developing countries in the international economic sphere.

The text of the statement of September 27, 1977, follows:

STATEMENT BY HON. H. M. PATEL, MINISTER OF FINANCE AND GOVERNOR OF THE BANK AND FUND FOR INDIA, AT THE JOINT ANNUAL DISCUSSION, SEPTEMBER 27, 1977

It gives me great pleasure to participate again in the Annual Meeting of the World Bank and the International Monetary Fund after a lapse of nearly two decades. During this interval, I am happy to note that the activities of the two institutions have greatly expanded. This is both a recognition of the increasing interdependence of the world economy as well as a tribute to the growing spirit of international economic cooperation.

The international economic crisis of the early 1970s dealt a severe blow to an orderly expansion of the world economy. The collapse of the Bretton Woods system of fixed exchange rates, the strong upsurge of inflation, and a radical change in the pattern of international payments in the wake of the oil crisis had profoundly disturbing implications for the health of the world economy. We were all very fortunate that at the time of this massive crisis, these two institutions were led by two men of great vision, courage and devotion in the person of Mr. McNamara and Mr. Witteveen. Both of them have made an outstanding contribution in reshaping the policies of their respective institutions and in promoting the cause of interna-

tional economic cooperation against heavy odds. The news of Mr. Witteveen's decision not to seek a second term came as something traumatic. The remarkable qualities of leadership displayed by Mr. Witteveen as the Managing Director of the IMF have made a deep impact on the evolution of the international monetary system in recent years. We as a developing country will always remember with gratitude his deep understanding of our problems and sympathy for our aspirations.

The world economy has no doubt recovered from the recession of 1974–75. However, we cannot but be seriously concerned about the underlying weakness of this recovery. There was a welcome revival of growth rates in major industrial countries in 1976 which contributed substantially to the growth of 11 per cent in the volume of world trade in that year. On current indications, there is likely to be a considerable slowing down of the rate of growth of both the national income and the volume of world trade in 1977. Rates of inflation as well as unemployment still remain at intolerably high levels. The structure of international payments still displays an unsustainable abnormal trend. It is all the more disturbing to note that no immediate solutions are in sight to resolve problems of unemployment and inadequate capacity utilization coexisting with unusually high rates of inflation. In such an environment, the growth prospects of developing countries, notwithstanding vigorous self-help measures by them, are bound to be highly uncertain. The fact that despite a significant deterioration in their terms of trade, the current account deficits of non-oil developing countries are no higher in real terms than in 1967–72 is an indication of the harsh adjustment measures which they had to adopt in the face of unsustainable imbalances. Their capacity for further adjustment is severely limited and insistence on such adjustment will greatly affect their ability to deal with the massive problems of underemployment and unemployment that are facing them. This vital fact must not be lost sight of when we consider international monetary issues this week.

We are no doubt living in highly uncertain times. But there are also great opportunities if we have the vision to seize them. At a time when there is a sizeable excess capacity in the industrial countries, the real cost of increased transfer of resources to developing countries would be very small. When other internal stimuli to increased economic activity in industrial countries seem to be rather weak, increased transfer of real resources to developing countries could well act as a powerful means of stimulating employment and greater capacity utilization in the developed countries. Thus both enlightened self-interest and the spirit of international solidarity suggest that an adequate transfer of real resources to developing countries should constitute an essential component of any viable international strategy for achieving world prosperity. I sincerely hope that our deliberations this week will be animated by this spirit.

In the uncertain climate for their economic growth, the non-oil producing developing countries had placed much hope on the outcome of the Conference on International Economic Cooperation which concluded in Paris last June. The results of the Conference have been described as being "more limited than had been hoped for at the outset." This could very well be the understatement of the year. No progress was made on the important and urgent question of alleviating the heavy debt burden of the developing countries. With regard to the establishment of a common fund for raw materials, there was agreement merely to continue further negotiations for its establishment in the United Nations Conference on Trade and Development where no progress seems to have taken place so far. The only outcome of any substance from the Conference was the agreement among developed countries to provide an amount of $1 billion in a Special Action Program for low-income countries. Viewed in the context of the total flow of assistance to the developing countries, this agreement can only be considered as very disappointing.

The latest Development Assistance Committee figures show that Official Development Assistance declined once again as a percentage of gross national product of donor countries from 0.36 per cent in 1975 to 0.33 per cent in 1976. In real terms also it was lower. In any global strategy for the alleviation of poverty, the role of international cooperation through adequate resource transfers from the rich to the poor countries can scarcely be overemphasized. It is, therefore, essential that each developed country adopts a time bound program to fulfill the internationally agreed official aid target of 0.7 per cent of GNP. Simultaneously, adequate attention must be paid to the need for untying of aid as a means of improving the quality of development assistance. There is also an urgent need to adopt a new bold and imaginative generalized approach to the solution of the chronic debt service problem of developing countries. A failure to find an effective solution for this problem will greatly add to the uncertainty and difficulties already faced by the developing countries in implementing their development plans in an orderly manner.

We welcome the completion of negotiations for the Fifth Replenishment of IDA. However, it must be recognized that periodic uncertainty about the future of assistance from the IDA is potentially very disruptive of orderly planning processes in poor countries. I would, therefore, urge that the international community applies its mind without delay to the problem of finding ways and means of replenishing IDA in the future on a more secure and longer-term basis. This is a matter which ought to be studied by the management of the World Bank on a priority basis.

I welcome Mr. McNamara's proposal to provide its member developing countries between $30 billion and $35 billion in net financing over the next five years. I have no doubt that the main focus of the Bank will always remain on the special problems of low-income countries and the absolutely poor sections of their people. I am most appreciative of the fact that Mr. McNamara has placed before us such an imaginative and practical program when he is about to begin his third term as President of the Bank. I hope that during the coming years the Bank Group will not only have the resources that Mr. McNamara has indicated but its policies, programs and style of operations will be appropriately improved to ensure optimum results out of these resources. Time has also come for serious thought to be given to amending suitably the Bank's Articles of Agreement which were drawn up more than three decades ago under quite different circumstances. In particular, there is urgent need to adopt a more liberal attitude toward program lending. Excessive reliance on project financing is neither the most appropriate means of transferring real resources to developing countries nor is it an effective insurance against misuse of funds.

I welcome the proposal to set up a high-level International Commission under the chairmanship of so distinguished a statesman and internationalist as Herr Brandt. It is to be hoped that the Commission will not only focus world attention once again on the various developmental issues but also help create a strong political will among all members of the international community to seek an early and effective solution to the scourge of poverty. It is not merely enlightened self-interest but a higher purpose which should motivate all of us to take up this challenge here and now.

Notwithstanding the need for increased transfer of real resources to developing countries, it is our belief that development cannot be simply imported. It is for this reason that the bulk of resources needed for India's development have always been raised domestically. We fully recognize that in matters relating to development, the primary responsibility is our own. We in India are now engaged in redefining the priorities of development with a view to eradicating poverty and destitution in the minimum possible time. Our strategy will be to pay much greater attention to the rural areas where much of the poverty exists, through the development of agriculture, infrastructure and small and village industries. We share Mr. McNamara's realization that prosperity may not trickle down and that growth has to take place at the source of poverty if it is to be eliminated rapidly. The task will require not merely resources but organization and management, a fact that has not been fully recognized. This will, however, not be at the expense of the modern industry, power, transport and other important sectors, all of which have their own complementary and mutually reinforcing role to play.

Earlier I referred to the persistence of large imbalances in international payments. In this context, we welcome the outcome of the initiative taken by the Fund's Managing Director, Mr. Witteveen, to set up a Supplementary Financing Facility of the order of SDR 8.6 billion, that is, about $10 billion. I wish to congratulate those who have made this possible through their contributions, in particular Saudi Arabia. Member countries with balance of payments difficulties whose requirements cannot be met through the Fund's regular credit tranches will now be able to draw on this Supplementary Financing Facility. I hope this Facility will be administered in such a way as to benefit as many needy developing countries as possible without unduly rigid conditions. There should be an urgent examination of the need to provide an interest subsidy for drawings from this Facility by the low-income developing countries. It is also necessary to complete at an early date negotiations on the Seventh Quota Review. In our view, there is ample justification for a minimum increase of 50 per cent in the Fund quotas. Furthermore, in any process of quota revision, there should be no reduction in the share of non-oil developing countries in the decision-making processes of the IMF. The temptation to turn the IMF into a rich man's club must be firmly resisted.

While on the subject of international monetary questions, I can scarcely avoid referring to the gold question. The Interim Committee has already agreed to a phased removal of gold from the center of the international monetary scene. In pursuance of this objective, the Fund has been auctioning a part of its gold holdings through monthly auctions making the profits realized available to a Trust Fund for the use of developing countries in need. We believe that the time has come when the member countries of the IMF should agree to sell all the remaining Fund holdings of gold and earmark the profits thereof for providing assistance to the developing countries.

The international monetary scene in recent years has been characterized by a number of cooperative endeavors to deal with the emerging problems. However, the measures adopted so far have fallen far short of the needs of the international community. They have been piecemeal in nature without the mark of a genuine reform. We need to take an integrated view of monetary reform, trade and development. Any worthwhile international monetary reform must fully take into account the imperative need to move

toward a New International Economic Order. An essential element of such a monetary reform must be, as the Interim Committee has already agreed, the making of the SDR the main international reserve asset. Recent events have clearly shown that resort to floating exchange rates does not necessarily diminish the need for additional international liquidity. In the last few years, the world's requirements for increased liquidity have been met largely by reliance on the private financial markets. This is neither a very satisfactory nor a very equitable arrangement. We therefore strongly support a substantial fresh allocation of SDRs at an early date.

I must also voice my concern at some recent restrictive tendencies on the trade front. It is disturbing to note that new restrictions are being imposed on goods exported from developing countries. For instance, the exports of textiles and garments from developing countries are facing stringent quota restrictions. These will surely tell on their export earnings and worsen their balance of payments difficulties. It would be particularly unfortunate if the first attempt to diversify exports away from primary commodities meets with barriers at the very moment of its success. The burden of adjustment to changes in the international economic situation should not, through ill-conceived protectionist policies, be transferred from the stronger to the weaker shoulders, particularly when developed countries have far greater resilience. Let not free trade lose all the virtues, which have been so vociferously preached to the developing countries, at the first whiff of some need for internal adjustment. Poorer countries in the international community need a congenial trade atmosphere in order to pursue policies which could result in faster rates of growth for their economies and thus ensure a reasonable standard of living for their populations.

In an interdependent world, there are important linkages between money, trade and development. It is essential that in any reform of the international monetary and trading systems, the interest of developing countries are not lost sight of. Our deliberations must be informed by the spirit that true integration of the world economy is unthinkable unless there is a conscious effort to narrow the gap between the rich and the poor countries. This is no doubt not an easy task. But we cannot give up the struggle simply because the journey ahead is rough and difficult. Surely, without a certain sense of adventure and vision, nothing worthwhile has ever been achieved in human affairs. Modern science and technology have made it possible as never before to ensure that chronic poverty need not be the inevitable lot of the majority of mankind. It is up to us to accept the challenge of devising appropriate institutional arrangements to convert what is feasible into a living reality. That is why we were deeply moved by President Carter's firm commitment in his remarks yesterday to the goals of world development and his concern for some one billion people who suffer from absolute poverty.

TRIBUTE TO MRS. BEULAH STARK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SKELTON. Mr. Speaker, recently the State of Missouri lost a fine public servant, an exemplary citizen, and a good friend. The death of Beulah Stark, Cass County Auditor, was a sad event for those who knew and loved her. Mrs. Stark was one of those rare people who are able to balance a full and rewarding family life with an active life outside the home.

Mrs. Stark was elected auditor of Cass County in 1974. She had been active in politics and served as treasurer of the Cass County Central Democratic Committee. She was a member of the Business and Professional Women's Club. She was also a member of the First Christian Church of Harrisonville, Mo.

Mrs. Stark leaves her husband, B. W. Stark; two sons, Robert and Michael, and a daughter, Mrs. Dana Kay Stephens. She is also survived by her mother, Mrs. Edith E. Kornhaus; a brother, Don Kornhaus; and two sisters, Mrs. Arline Wright and Mrs. Mary Lee Haynes.

Beulah Stark was a beloved member of her community—both for her warm personality and for her good works. She will be sorely missed by her friends and family.

ADDITIONS TO UNIVERSITY OF JUDAISM IN LOS ANGELES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. WAXMAN. Mr. Speaker, it is a special privilege to bring to your attention the dedication of the new Isadore and Sunny Familian campus at the University of Judaism in Los Angeles, on Sunday, October 16, 1977. The first building on the new campus is already complete, and is known as the William and Freda Fingerhut Academic Building. Construction will start shortly on the Samuel A. Fryer Administration Building and the Jack M. and Bel Ostrow Library. The master plan for the university includes student residence as well, to make it possible for out-of-town students to live and study in a Jewish atmosphere. The new facilities will suffice the university for generations to come. It is a tribute to the University of Judaism, which had its inception only 30 years ago as the West Coast School of the Jewish Theological Seminary of America, that its growth and vigor have already required additional space. People of all religious, ethnic, and racial groups are welcomed as students at the University of Judaism.

The university's dedicated officers are Jack M. Ostrow, chairman of the board of directors; Benjamin Seewack, chairman of the Greater University of Judaism Committee; Isadore Familian, founders chairman, Dr. Victor Goodhill, chairman of the board of overseers; Julius Flingelman, honorary chairman of the board of overseers and Albert A. Spiegel, chairman of the board of governors.

Its distinguished directors are headed by Jack M. Ostrow, chairman; Jack E. Gindi, Nathan Krems, and Arthur Whizin, vice chairman; Max Zimmer, treasurer, and Cyrus Levinthal, secretary. The eminent faculty is under the direction of Gerson D. Cohen, chancellor; David Lieber, president; Max Vorspan, vice president; and David M. Gordis, vice president.

The University of Judaism is the foremost center of higher Jewish education in the West, is accredited by the Western Association of Schools and Colleges, and grants degrees through the university college, the two graduate schools, and its adult college. Joint programs with several University of California facilities extend its curriculum and its usefulness to students at every level.

The university reflects credit on itself and on the Jewish community of the Western United States. I ask the Members to join me in honoring the University of Judaism on the occasion of the dedication of its new campus.

TWO CHANCES TO ACT ON WORLD HUNGER

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mrs. MEYNER. Mr. Speaker, this is a significant time for the House of Representatives in a way that many of us may not realize. We will have two major opportunities in the next week to register our concern about a very real and human issue: the continuing problem of world hunger and malnutrition.

On Tuesday, a resolution was introduced by Representative RICHARD NOLAN and others urging the President to create a Commission on Domestic and International Hunger and Malnutrition. This resolution has been cosponsored by a majority of the House of Representatives. This response is a welcome indication to the President, the American people, and other nations that we are indeed concerned about hunger at home and abroad.

A vote is expected early next week on a second item dealing with world hunger: the conference report on the foreign assistance and related agencies appropriations bill, H.R. 7797. There are numerous points in disagreement between House and Senate conferees, four of them with far-reaching implications for the efforts of the United States to deal with chronic hunger and poverty in developing countries through such international agencies as the World Bank's International Development Association (IDA) and UNICEF.

Three amendments, agreed to by the House but rejected by the Senate, would prohibit U.S. contributions to such multilateral institutions from going to seven particular countries. A fourth amendment would prevent U.S. funds from assisting in the production of certain agricultural commodities in developing countries.

Because international organizations cannot accept funds from the United States—or any other donor—which are restricted in their use, the House-supported amendments, if they become the law of the land, would make further U.S. participation in such multilateral

development agencies impossible. They would hamstring the work of those agencies and deal a serious blow to the hopes of hungry people for help in solving their chronic malnutrition problems.

I therefore urge those who, like myself, are cosponsors of the World Hunger Commission resolution to study with care the amendments in disagreement on the foreign assistance appropriations conference report, especially the ones that I have described.

It would be a fitting sequel to our endorsement on Tuesday of a Presidential Hunger Commission for us to reaffirm, in the upcoming appropriations vote, our commitment to the developmental work of international agencies dealing with hunger in poorer nations around the world.

LABOR REFORM—LACK OF BALANCE

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. QUIE. Mr. Speaker, the National Labor Relations Act has over the years presented a fairly balanced approach in the field of labor-management relations. The National Labor Relations Board, which administers that act, operates in an efficient, equitable manner. I believe the Members of the House should take a hard look at the legislation reported from the Education and Labor Committee. The bill has the real potential for tilting that balance and interfering with the presently successful operations of the Board.

Basically, H.R. 8410 is a bill designed to ease the election procedures regarding union organization. Further, the proposal would provide broad new penalty provisions regarding unfair labor practice charges against employers.

The Labor Reform Act of 1977 is hailed by its sponsors as a necessary step to counteract employers who allegedly circumvent NLRB procedures during union organization drives.

I am concerned that H.R. 8410 is not written in a manner to provide equal treatment for employees, employers, and labor organizations. The bill legitimately seeks to protect an employee's right to join a union. However, the bill from what I have heard does not adequately protect an employer's rights to due process during an organization drive.

While the bill provides penalties against employers who commit unfair labor practices, it does not provide comparable penalties for labor unions who commit unfair labor practices. In a like manner, an employer could be debarred from Federal contracts for committing an unfair labor practice, yet a union would not be subject to comparable penalties. Also, an employer would be subject to "making whole" the loss of economic benefits of employees lost due to an employer's refusal to bargain. The bill does not address itself to the loss of employee wages and benefits caused by illegal union activity.

It is this lack of balance of the Labor Reform Act of 1977, H.R. 8410, that concerns me. I urge my colleagues to consider the bill carefully and to assure themselves that any labor reform bill considered by this Congress be equal and fair to employees, employers, and labor organizations.

NATIONAL HEALTH INSURANCE

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. WALKER. Mr. Speaker, my constituent, Mrs. Barbara Pearman of Lancaster, Pa., is a naturalized American citizen, originally a British subject, and for the benefit of my colleagues I would like to share her thoughts on national health insurance as she has had firsthand experience living under such a system in her native country and is very well aware of such a program's implications and consequences:

A PERSONAL VIEW OF NATIONAL HEALTH INSURANCE

(By Barbara Pearman)

The idea of National Health Insurance (NHS) has long had a surface but misleading appeal. The misleading appeal is that the government can do better for us at less cost to us. That there is a need to help those who cannot meet the inflated costs of health care cannot be denied, but that government programs are the best or only solution is not borne out by the facts. In 1946 the National Health Act was born in Britain establishing a Comprehensive Health Service, universal in scope and free at the time of service, but paid for by National Insurance contributions. The contributions were paid partly by the employee through payroll deductions and partly by the employer. Most of the major cost burden of NHS, however, is borne by the General Taxation Fund and amounts to approximately 5.8 percent of the national expenditure. In the U.S., the national expenditure on health programs now in operation is quoted at approximately 9 percent and rising steadily.

Overall control on Britain's Health Service is vested in the Minister of Health who operates the service through area Health Boards which coordinate the General Medical and Dental Service, Hospital Service and public Health Services in each region. It is considered that one level of these boards is superfluous and accounts for more administrative expense, inefficiency and delays.

A small number of hospital beds are reserved for private patients within the NHS structure. The Minister of Health is involved in a bitter struggle with the medical profession in an effort to abolish private beds in the NHS, thus forcing specialists to decide between the NHS and private practice. A few fully private hospitals have already been built and are filled to capacity. Many specialists rely on private practice to supplement their incomes, and keeping them in the NHS means higher income must be provided out of tax money. Many more affluent patients are paying for private health insurance plans to insure top-notch medical care.

Hospitals are antiquated and understaffed. A few years ago there was a waiting list of more than 540,000 people for admission to hospitals and it has grown much longer since then. The average delay for someone needing his tonsils removed is not less than 22 weeks and can extend to several years in some areas. The same applies to a hernia or varicose vein operation. Although the specialists name appears on the case sheet it is not uncommon for the operation to be performed by a resident. Although able to choose their general practitioner, the patient does not choose the specialist. This responsibility is left to the general practitioner.

Outpatient clinics are generally crowded and it is not uncommon for a patient with an appointment to wait two or three hours before seeing a doctor, often after having waited three to six months for the initial appointment.

The hospital buildings in Britain are the oldest in the western world. Two-thirds were erected before 1891. They are overcrowded and understaffed. The shortage of nurses, technicians, as well as doctors, coupled with the depressing physical condition in which they have to work have been the major factors in persuading young doctors to emigrate. Physicians leaving for the U.S. and other countries say financial compensation is one reason but they also blame insufficient funding of the NHS and government plans to curtail private practice. One doctor stated the NHS has declined in efficiency to the point where hospital services are not adequate in most areas of the country and that the situation will only worsen. An entire seven member professional team (unit) left a London hospital to carry on their research at Harvard because the funds were running out in England. In other words, the standard of health care has gone down drastically under the socialized system. Doctors cannot handle the workload, hospital beds are in short supply, hospitals lack the latest equipment and funds for research have dwindled. The people no longer have the freedom to choose a doctor and the taxes are exorbitant. The 28 year old NHS is in deep and continual crisis because of perennial shortages of money, complex political pressures, bureaucratic chaos, and the ravages of inflation which are now at 27 percent, far exceeding that of other major industrialized countries. The government, committed to curtailing inflation, has begun cutting some of the ambitious social-welfare programs that have necessitated a taxation level exceeded only by that of Sweden.

There is a great deal of waste in the NHS as in other government controlled services. A new hospital estimated to cost $11,700,000 now will probably cost $48,000,000. An experimental computer initiated at an expense of $1,400,000 for a London hospital designed to feed patients' records directly into a computer was scrapped. It was discovered junior doctors did not have time to write up their own notes and provide information for the computer. A breakdown of the NHS is very apparent with an embittered medical profession as the public becomes aware of its many deficiencies. The actual health of the nation has been little improved. While teaching and research centers have an effective treatment program the general practice fails to be an effective form of primary care.

Prior to the NHS, help for the poor came from the operation of the Elizabethan Poor Law (local taxes), private charity and mutual aid. It is interesting to note that in Sweden's socialist economy and health services, 1 child in 10 studies to be a doctor. Still, they have difficulty finding doctors for rural areas. Also, much of the general practice type of work is done by nurses in 24 hour health centers with the doctor working a strictly 40 hour week.

In the Soviet Union, two thirds are women. Again, much of the general practice type work is done by feldshers who receive a two year education and are allowed to deliver babies and treat fractures among their other duties The men there are treated mainly by factory doctors.

To pay off cradle to grave comprehensive medical care has meant taxation in Europe ranging from 48 percent to 51 percent of income approaching a point where there comes

a discentive to work. A nationalized medical system will always in a democracy run short of money because the politicians balancing so many different demands and pressures will never make it enough of a priority to become a really first-class service.

People are simply not willing to be mulcted through taxation for a standard of medical service as high as they would be willing to buy directly for themselves. Britain spends a significantly lower proportion of her national income on health than in America and the discrepency is growing wider.

The cost of the NHS was first estimated at $400,000,000. By 1951 it had risen to one billion dollars and by 1969 it was more than 5 billion. In 1974 it was approximately 7 billion without any improvement in the facilities provided.

Britain, for those that would learn, offers a mobile study in how to ruin a once vigorous nation. The formula is simple. You begin by putting upon a nation an economic burden it cannot bear. In Britain's case it was the all encompassing welfare program with its best known example being the free medical program. One way or another this must be paid for and that means higher taxes or a resort to the government printing presses to create money. Higher taxation means less incentive for a person to work harder leading to less productivity. America is the power of the western world, the nation to whom everyone looked for help. If the United States follows Britain, where will the rest of the free world turn? If the United States slides to a position of no power, the result will be one half the world at war and the other half starving.

We need greater productivity and more emphasis on private enterprise. We need more democracy not bureaucracy. Health is a big problem. Everyone would like free health care. I sympathize, but it can never be free. Someone has to pay.

There has been so great an exodus from Britain of her native born doctors that Indian and other foreign trained doctors have been widely employed. Due to the lack of suitable applicants there are more than 1,200 unfilled vacancies in the NHS for specialists in all fields resulting in skilled work being done by unskilled people. Trained personnel can earn more in industry than in the NHS.

It has been estimated that an NHS in the United States would mean an increase in taxation of more than one thousand dollars per family. This is only an initial estimate however. The final bill could be much more. An example is the original estimate for the British NHS was $400 million per year but it is now more than $7.2 billion and the service is still woefully inadequate. At least another $2.5 billion needs to be spent now to bring it up to minimal standards of acceptability.

LOW INCOME HOMEOWNER BILL

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am introducing a bill today that would be of timely help to those who own homes and are threatened with the loss of those homes due to steeply rising property taxes, utility bills, and insurance costs.

This bill would assist low-income persons who have either completely paid off a mortgage or have paid off a minimum of 60 percent of it. The object of this legislation, Mr. Speaker, is to help hard-working people enjoy the fruits of their own labors. The amount of Federal assistance would be the difference between certain homeowner expenses and approximately 25 percent of the household's income.

This is no outright gift. The bill would authorize the Secretary of Housing and Urban Development to insure that the Federal Government will be reimbursed for all financial assistance when the property is transferred to other ownership. In effect, the Government would be making an interest-free loan to these individuals to help them cope with the high costs of home ownership in their later years.

Eligibility for this proposed homeowner assistance would be measured by income levels as determined by the Secretary of Housing and Urban Development and determination that the recipient is not receiving assistance under section 235 of the National Housing Act.

I think this legislation will answer the needs of quite a number of individuals who have borne the costs of both Federal and local government through the years but who now find themselves in financial difficulties because of such things as job layoffs, retirement, and especially, the spiralling rates of property taxes that are taking a serious toll among low- and fixed-income property owners everywhere. I emphasize that this is not a give-away program but one that will assure that most of the money will be returned to the Federal Government.

LAWYERS VACATION AT TAXPAYERS EXPENSE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. VANIK. Mr. Speaker, I was shocked by a recent advertisement in a legal magazine for the American Trial Lawyers Association's midwinter convention in Monaco. This elaborate 4-page ad proves the urgent need to close a gaping loophole in our tax laws that allows a select few to go on vacation to Europe, partly paid for by the American taxpayer.

In a one-inch box in the advertisement was a notice that under the landmark case of Coughlin against Commissioner and Treasury regulation 1-162-5, tuition, travel, hotel, and living expenses of attending continuing legal education programs are deductible—implying that this vacation will pass as an educational expense deduction. However, directly below were pictures of boating, dining, sightseeing, tennis, and golf and a description of Monte Carlo as "the most exciting square mile on Earth." The ad then proceeded to describe the site chosen by the American Trial Lawyers Association as "The jewel of the Riviera—with sun and sports by day—opera, ballet, concerts, and clubs by night—the glittering international playground of the fun loving and sophisticated."

Clearly, there are instances when professionals need to attend seminars and conventions to maintain and improve skills and when certain businesses need to hold conventions in foreign countries. However, it defies fairness and reason to allow a deduction as an educational expense for a trip by American trial lawyers to a foreign vacation spot described as the "Jewel of the Riviera."

Section 602 of the 1976 Tax Reform Act attempted to limit deductions for attending foreign conventions. In a situation like this, a gaping loophole has been left open.

Next week the Ways and Means Committee will be deducting a 1-day public hearing on the rules applicable to the deductibility of foreign convention expenses. It may be appropriate to address this shocking situation at that time. It is this type of abuse that the average citizen can turn to as evidence that he is not getting a fair deal from our tax laws.

THE AMERICAN WAY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. COLLINS of Texas. Mr. Speaker, America is great not because of what Government did for people, but because of what the Government permitted a free people to do for themselves. Our free enterprise system—more than anything else—has produced greater wealth, and distributed that wealth more widely, to a greater percentage of our people, than any economic system in any nation in the history of the world. In America today, two-thirds of the people who live below the so-called poverty line live lives of luxury compared to the better-than-average family in most of the nations of the globe.

We need to remind ourselves that even with our current problems, we have more energy per capita, more food per mouth, more clothing per body, more homes per family, more cars per driver, more freedom per individual, and more opportunities per dream than any people who ever lived on the face of this Earth.

However, there has gradually been in this country a steadily increasing erosion of freedom, as citizens are allowing big government to be so dominant as to regiment every phase of our lives. The liberal bureaucrats in Washington seem to have forgotten the advantages of private enterprise compared to a nationalized state of socialism. The liberals and the Socialists forget that all human progress throughout history has owed its origins to talented, enterprising, and hard-working individuals. If America is to continue moving forward in freedom, we must preserve the individual liberties and the competitive spirit that have made this Nation great.

Here are some of the advantages of freedom which Americans have been taking for granted for decades, but which are very rare in any other country on Earth:

First. We can worship in the church of our choice.

Second. We can live with our own families.

Third. The right to work or quit work for any business we choose.

Fourth. A free and independent press.

Fifth. The best medical facilities in the world.

Sixth. Independent education for our children.

Seventh. No one in our community truly goes hungry.

Eighth. Living in any city, village, or farm where we choose to locate.

Ninth. Opportunity to have your own home, automobile, television, or telephone.

Tenth. Opportunities for promotion on merit, and success to those who work for it.

In many countries, these simple freedoms which we take for granted are unheard of. In many nations, the government tells people where to live, where to work, what to read, what to buy, sell, or produce, and at what price; and who can own an automobile, telephone, or house, usually after many years of waiting. When government starts to tell its citizens how to run their private lives, a great danger arises. As the noted philosopher David Hume once observed, freedom is seldom lost all at once, but rather is lost in small degrees, almost unnoticeable until they all add up to government control taking the place of personal responsibility and individual liberty.

Texans have always recognized the fact that there is no free lunch—people in Texas have pride in the fact that we work harder on our own, to earn what we deserve, rather than waiting for government to do it for us. Unfortunately, the big-spending liberals in Washington still have not learned some of these fundamental facts of life. Big government supervision of our lives gives us nothing but headaches, and threatens the very ideals of personal freedom upon which this country was founded. The best benefits and joys of life come from our families and living in a free society where we can do things for ourselves.

TRIBUTE TO THOMAS F. POLICASTRO

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ST GERMAIN. Mr. Speaker, on August 11, the State of Rhode Island lost a man who, for more than a quarter century defended the cause of the working man.

Thomas F. Policastro will long be remembered as one of the most highly respected men the State has ever known. During his 25 years of active service as a spokesman and representative of the workers of the State, he was known for his uncompromising conviction.

He was an outspoken man of strength and vision. As president of the Rhode Island AFL–CIO for the past 19 years, he brought about changes that raised the standard of living for virtually every worker in the State.

He was the driving force behind the establishment of the State's group health association; he promoted the rights of all persons through his support of minority causes; and he represented the voice of the members of his union with distinction.

Not enough can be said about the deeds he accomplished. He was a community leader and a highly respected public servant.

In the passing of Thomas Policastro, the people of Rhode Island mourn the loss of an outstanding individual.

PANAMA CANAL AND NEUTRALITY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following dialog I had with General Brown of the Joint Chiefs of Staff and Secretary of Defense Harold Brown. As the following discussion indicates, the United States and Panama differently interpret article IV, which deals with the maintenance of the permanent neutrality of the Panama Canal, and article VI, which discusses U.S. rights to "expeditious" passage through the canal:

Mr. LAGOMARSINO. Let me ask you, in fact both of you, I would hope we could keep the answers rather brief, so I can finish the line of questioning if I might.

Would you support the treaties if they did not contain the right of this nation to intervene in Panama to protect the neutrality of the Canal even against Panama?

General BROWN. I would not.

Secretary BROWN. I would have to think very carefully about what exactly it said, Mr. Lagomarsino, but I believe that the assured neutrality is the key to my support.

Mr. LAGOMARSINO. Do you read the agreements to give the United States the right to determine if and when the neutrality is violated?

Secretary BROWN. I read the treaty to provide the US the right to determine by itself the need to assure the neutrality, yes. I believe that both Panama and the United States are under the arrangements of the neutrality treaty empowered to determine separately for themselves.

Mr. LAGOMARSINO. General, do you agree with that?

General BROWN. I do, as I understand Article IV, while I am not a lawyer, since it does not limit the responsibility, in time or condition, therefore it is open ended that the United States and the Republic of Panama agree to a regime of neutrality, to do exactly as you said.

Mr. LAGOMARSINO. Now, as you may know, Panamanian negotiator Escobar Bethancourt recently stated, quote, "The pact does not establish that the United States has a right to intervene in Panama". And he also said, "The Neutrality pact does not provide that the United States will say when neutrality is violated".

Apparently he at least does not believe that they agreed to allow the US to intervene for the protection of the Canal and you can make the determination when the neutrality has been broken.

We had a discussion with Ex or former Secretary of State Kissinger last week on this and he expressed some concern about this apparent abiguity, the US Government saying one thing and apparently at least some Panamanians saying exactly the opposite, and it would seem to me that being as fundamental an issue as it is, and I certainly agree with what you said, that it is fundamental, that we can't afford to have an agreement that is ambiguous, and my question is why don't we spell this out, if there is such a disagreement?

Secretary BROWN. Mr. Lagomarsino, since we are quoting, let me quote what General Torrijos said.

Mr. LAGOMARSINO. I understand what he said.

Secretary BROWN. He is a man of some influence there.

Mr. LAGOMARSINO. A little bit, which bothers me also, incidentally.

Secretary BROWN. Perhaps what he says about this will then reassure you. He says that the treaty does not enjoy the approval of all our people because, among other things, he said we are agreeing to a treaty of neutrality which places us under the protective umbrella of the Pentagon, which is a fairly strong statement.

I would also add that what we need to do is compare the situation now with the situation under the Neutrality treaty. I would be very surprised if Panamanians who believe that our ability to intervene is limited under the Neutrality treaty would consider it unlimited now. I think that this is the comparison that has to be made.

Mr. LAGOMARSINO. As long as you are quoting General Torrijos I will quote him back to you, a statement he made after the one you mentioned.

This was to the opening of the Tenth Congress of the Panamanian Students Federation at the Agusto Samuel Boyd National Agricultural Institute in Panama.

"I am not afraid nor am I denying we signed a clause which if misinterpreted by future U.S. generations could give place to intervening but I am not afraid, I know the youth we are producing, and in order for there to be intervention there must be a people willing to accept intervention, and these people have no intentions of accepting it."

All I am suggesting is there appears to be ambiguity, as Secretary Kissinger said, I think that if we are going to have a treaty we should certainly not have one that starts out in an ambiguous way.

He suggested that the Senate, he didn't use the word, reserve, but I guess that is what it amounts to, they make it very plain if they do ratify the treaty, we do have the right to intervene militarily.

Would you oppose that?

Secretary BROWN. I consider that we do have the right to intervene to preserve the neutrality of the Canal and that is clear so far as I am concerned.

Again, I would urge that we make a comparison not between what some people say now and what they might say then, but between our rights now and our abilities now and our abilities under those circumstances. That is, if the treaty is signed and if it is not signed, sorry, approved and ratified.

My judgment is that the need to intervene would be much less if the treaty is approved and that our right to intervene is fully preserved by the Neutrality treaty.

Mr. LAGOMARSINO. We have apparently a disagreement between the two sides. Again, my point is I think we should not have ambiguities when we know about them. They are bad enough when they come up later.

With regard to the right of expeditious passage, I believe that is a term used in the treaty, for our ships, not only our commercial ships but our warships. Apparently again there is some ambiguity there in the

statement, Mr. Secretary, let's see if I can find it.

You say the US is given a preferred position with respect to use of the Canal, a position which no other country except Panama will enjoy.

Apparently, again Mr. Bethancourt has said when they, US, saw there was no way we would allow privileged passage, then they told us, we have to seek a formula so the Pentagon will see we are somehow taking them into consideration. This is how the expeditious passage came about. We do not believe that when they explain the expeditious passage term they will give the same explanation I . giving here. They have to sell their merchandise. It is the same merchandise but with different wrapping, they do not think as we do. They have to sell this treaty to their country, and for this reason you see that both of us give different information on the same provision".

Are you maintaining that we have preferred position or only expeditious passage which could indicate only that if we get in line they will take us when our turn comes?

Secretary BROWN. I will read the article which undoubtedly you have read. It says, "In recognition of the important contributions of the US and of the Republic of Panama to the construction, open rates, maintenance and protection and defense of the Canal, those vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this treaty, be entitled to transit the Canal irrespective of their internal operations, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal, expeditiously."

I can't read that any way except as a preferred position for the US and Panamanian vessels.

Mr. LAGOMARSINO. Well, again, apparently we have a different interpretation on the part of the Panamanians. Again if these things are as important as we all agree, why aren't they spelled out in the treaty?

Secretary BROWN. Well, this is spelled out.

Mr. LAGOMARSINO. But there apparently is a dispute as to what the term expeditious means. The Panamanians, at least Mr. Bethancourt, who is one of the negotiators says it does not mean privileged passage.

STELLA BRUNT OSBORN RECEIVES INTERNATIONAL AWARD

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. FINDLEY. Mr. Speaker, few people have given more of themselves to the cause of Atlantic unity and cooperation than Mrs. Stella Brunt Osborn. For as long as I can remember, Mrs. Osborn has been one of the leading exponents of developing stronger ties among the Atlantic allies for the purpose of meeting the challenge posed by the Soviet Union. Her tireless work, often at great personal sacrifice, has done much to advance the unity of purpose which today underpins western civilization. In that accomplishment, Mrs. Osborn has earned the gratitude of many, including some who are not even known to her.

I am therefore doubly happy to report that at a recent international meeting of the International Association for Federal Union, Mrs. Osborn received the first F. Cyril James Award for citizen participation in international affairs. No one is more deserving. I count it a distinct privilege just to know her.

Text of the award follows:

RESOLUTION

Whereas Stella Brunt Osborn has been active in the federal union movement for three decades; and

Whereas she has given of her time and her self in a manner reflective of the deepest commitment; and

Whereas she was a founder of the International Movement for Atlantic Union; and

Whereas she was an active participant in the Atlantic Union Committee; and

Whereas she long has served as a member of the board of directors of Federal Union, Inc., and

Whereas she was a member of the Organizing Committee which planned the creation of the International Association for Federal Union; and

Whereas she is the Honorary Vice President of the International Association for Federal Union; and

Whereas she has done more to enlist leading statesmen of the world in the federal union movement than perhaps any other person;

Now therefore be it resolved That the Governing Council of the International Association for Federal Union does recognize the invaluable contributions of Mrs. Osborn to the advancement of a secure and peaceful world and does hereby designate her as the first recipient of the F. Cyril James Award for citizen participation in international affairs.

Passed unanimously by the Governing Council at Reykjavik, Iceland, September 18, 1977.

THEOPHILUS TAYLOR,
President.

PANAMA CANAL ESSENTIAL TO UNITED STATES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement by Adm. Thomas H. Moorer before the House Committee on International Relations. His statement points out the importance of the Panama Canal to our naval and maritime activities.

STATEMENT BY ADM. THOMAS H. MOORER

Mr. Chairman and Distinguished Members of the International Relations Committee,

I am honored to be here as a witness. I would like to emphasize at the outset that I am not here representing a particular group, an organization, or a political party. Rather, I am here as a concerned citizen who has had far more than average involvement in the Panama Canal as it relates to the vital security of the citizens of these United States.

My military experience during the last twelve years of active duty, from 1962 to 1974, offered me some extraordinary and unique opportunities to assess the importance of the Panama Canal to the United States, as well as its value to our Allies and friends and, indeed, to all maritime nations.

My evaluation of this waterway as an invaluable possession of the United States was intensified in 1962. At that time I was Commander, Seventh Fleet, operating in the Western Pacific. Frequently my fleet's capabilities depended on the prompt arrival of supplies from the Atlantic seaboard, supplies loaded aboard ships which were utilizing the Panama Canal.

From the Seventh Fleet I went to Commander-in-Chief, Pacific; from there to Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, Atlantic; from there to Chief of Naval Operations and from there to Chairman of the Joint Chiefs of Staff. Each of these commands provided unique opportunities, and sometimes urgent reasons, to evaluate the Panama Canal. I saw this strategic waterway from many vantage points and under stressful circumstances.

As Commander-in-Chief, Pacific, I recall in some detail the Tonkin Gulf era of 1964. During that period I saw the Panama Canal as a conduit for rapid reinforcement from the Atlantic Fleet should the naval forces of the Soviet Union or mainland China become involved in the Vietnamese War. The U.S. high command was never sure during those early phases of the war of the intentions of either the Soviet Union or mainland China. We knew they had the naval and air capabilities to make trouble and therefore we had to draw up contingency plans for such eventualities. In order to equalize the wartime exposure and hardship throughout the entire Navy, large numbers of Atlantic Fleet units were continuously rotated through the Canal to the combat theater in the Pacific. In addition, as the Pacific Fleet Commander I looked to the Atlantic side for rapid logistics support. The U.S. Army, the U.S. Air Force, the U.S. Marine Corps and the U.S. Navy all required a continuous and heavy flow of logistic support; such necessities as fuel, ammunition, spare parts and food. Our allies fighting with us in Vietnam also required considerable support from the United States. If the Panama Canal had not been open and available, the war in Vietnam would have been much more difficult and costly to conduct. This conclusion is also true for the war in Korea. Going back a few years, there is no question but the availability of the Panama Canal shortened World War II by many months.

To give you some idea of the magnitude of Panama Canal usage and its relationship to military operations, in 1963 there was a total of 300 U.S. Government transits through the Panama Canal. As the Vietnam war escalated, the number of government ships transiting by 1966 had almost doubled. The records show for that year—1966—a total of 591 Government ships transited the Canal. Most of these ships were carrying critically needed logistics support to the forces operating under my command.

As Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, I saw the situation at Panama in another perspective. That was for the period 1965 to 1967. The war in Vietnam was still expanding, but now I was looking at the Canal not only as a means of sending support to the Commander-in-Chief, Pacific, but also from the Atlantic perspective. I saw the possible need to reverse the flow of ships through the Canal, particularly if the situation deteriorated in the Middle East or in the Caribbean during those volatile months of tension and conflict in both these areas.

Both in our U.S. planning and in our NATO planning we envisioned contingencies calling for reinforcements from the Pacific areas to the Atlantic. We clearly foresaw the need for transfer of combatant tonnage, Army and Marine divisions, and in particular we saw the need for transfer of amphibious lift.

As Chief of Naval Operations I had to look at the Panama Canal as an essential means of equalizing the strength and providing the balance between the Atlantic and Pacific fleets. The Canal made it possible to preposition certain types and tonnages, but always with the knowledge that the balance could be shifted to meet unforeseen situa-

tions. The Panama Canal gives the naval planner much flexibility and versatility that he would be deprived of without it.

As Chairman of the Joint Chiefs of Staff I became even more sensitive to the strategic value of this U.S. Canal as a means of protecting the security of the United States. My job as Chairman involved all of the Armed Forces of the United States—their collective requirements—and I was primarily responsible to the President for their ability to carry out their roles and missions as assigned by the Congress. Any Commander acting in that capacity will immediately perceive that it is vital to U.S. interests to retain complete ownership and control of the Panama Canal.

In view of the above I am very much concerned about the proposals to surrender the Panama Canal to a leftist oriented government allied with Cuba. There exists the potential danger for giving this U.S. advantage to a man who might allow or might be persuaded that it was in his best interest to permit Soviet power and influence to prevail by proxy over the Canal, in much the same manner as happened in Cuba. I was convinced as Chairman of the JCS—and I remain convinced today—that if the Soviet Union ever gained even proxy sovereignty and control over the U.S. Canal Zone and Canal through Cuba, U.S. security as well as U.S. prosperity would be placed in serious jeopardy.

The United States would be placed in jeopardy because interocean mobility would be threatened. The mobility of allied commercial shipping and naval forces would face the same threat. The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized, and the point is: there is no point in surrendering this vital interest. Also, by relinquishing control of the Canal Zone and the Canal, we would force all those nations who depend on our power and leadership to accommodate to the adverse implications of such action on our part. Recent history clearly indicates that the Canal Zone could quicky become the satellite base of an adversary. The advocates of this proposed treaty do not appear to take this factor into account.

The Panama Canal is one of the four maritime gateways of the world, together with the Malacca Straits, the Suez Canal, and the Gibraltar Straits. Anyone who reads Soviet literature concerning maritime affairs soon learns that the Soviets fully understand the strategic importance of the Panama Canal, even if some here in Washington do not. In my view, the prime reason for the burdensome support of Cuba by the Soviet Union is related directly to the interest in the Canal as they greatly expanded their maritime capabilities, both warships and merchant ships. We have in fact a Torrijos-Castro-Moscow Axis. Castro has sent thousands of troops to Africa aboard Soviet ships. He has been to Moscow where he was greeted with open arms. Torrijos has been to Havana where he has been decorated by Castro while both extolled the success of their respective revolutions. When Torrijos overflew Havana on his return from Washington to Panama, he sent the following message to Castro: "On my return trip to my country and flying above the sky of Cuba, I salute you with friendship always. I wish that the Cuban people under your skillful leadership, continue its ascendent march toward progress. In Latin America your name is associated with feelings about dignity that have been channeled toward the ending of a shameful period of colonialism."

In addition, a large Russian commission has recently visited Panama seeking concessions and offering economic assistance.

Mr. Chairman and Members of the Committee, do not be surprised that if this treaty is ratified in its present form to see a Soviet and/or Cuban presence quickly established in the country of Panama. Such a presence will seriously complicate the exercise of the implied "right" of the United States—I can find no such specific right contained in the treaty. In any event, any confrontation then becomes one with the Soviets rather than with the Panamanian guerrillas or terrorists. With the Soviets already on the scene, fighting our way in will not be simple. A permanent U.S. presence on the other hand is the only feasible posture.

In view of the above, Mr. Chairman, I have yet to hear any justification advanced as to why the United States should willingly sacrifice the strategic and economic advantages afforded the United States and, for that matter, all the nations in the Western Hemisphere by our exercise of full control of the Panama Canal as provided for in the current treaty. In fact, stripped to the essence I have heard only three reasons put forward in support of the proposed treaty: (1) by signing the new treaty we will divest ourselves of the stigma of colonialism harped on by Mr. Torrijos and thereafter everyone will love us; (2) if we do not surrender the Canal some unknown individuals in the Isthmus of Panama will blow it up; (3) the Canal is of not much use anyway. Traffic between oceans is a convenience but not vital. Further, the big ships of the Navy cannot use the Canal and only about 10 percent of the merchant ships passing through the Canal are U.S. flagships—so why the concern?

Let me briefly discuss each of these reasons in turn.

First, the United States does not have to apologize to anyone for its generous outpourings of blood and treasure in an effort to assist the underprivileged and make life more peaceful and more livable for everyone. This great Committee has participated and masterminded our aid program for years. However, from observing the attacks on the United States in the United Nations and other places, it is apparent that a great nation such as ours cannot buy affection. One more move in this direction in my view will have little or no effect. What we should strive for is not affection but respect. I am seriously concerned about the trends in recent years wherein we have withdrawn from Vietnam, are planning to withdraw from South Korea, have lost considerable influence following the Angola affair, and overall are suffering a gradual change in the perception by the nations of the world of the will and determination of the most powerful democracy in the world.

(2) Ever since the negotiations were initiated with Panama in 1964 the rationale has been advanced that if the United States did not divest itself of the Canal the Panamanians would sabotage it. To respond to this concept to me would be a retraction under threat. If this is to be our course of action in the future we might as well throw in the international towel. One should note from a practical point of view that the Panamanians enjoy the highest per capita income of any of the contemporary Latin American countries because of the presence of the Canal. The activities surrounding the presence of the Canal contribute about one third of the employment and one third of the gross national product to Panama. If they were to attempt to damage or sabotage the Canal they would be doing nothing more than cutting off their nose to spite their fiscal face. Furthermore, they would be the ones who would be committing violence, not the United States. To me a pulling back under threat will simply lay our country open to additional threats and we will lose the respect of which I spoke. Under such a condition one could expect many of the nations of the world to tilt toward those who they know are willing to take a firm stand in their national interest.

(3) So far as the question of a two-ocean navy and the passage of aircraft carriers through the Canal is concerned, let me say first that we do not have a two-ocean navy. In recent years the Navy has been rapidly reduced from over 900 ships to less than 500. All war plans and all contingency plans are infeasible unless one assumes that full use of the Canal will be available. With respect to the large carriers, the Navy has only 13 of these ships. The vast majority—well in excess of 90 percent—of the ships of the Navy can transit the Canal and will be required to transit the Canal. I should note that the other alternative, namely going around Cap Horn, will add 8,000 miles, 25 to 30 days and a considerable increase in the cost of fuel to naval operations. In wartime the 30 days could well be vital.

As far as the big merchant ships are concerned, it is true that only about 10 percent of the ships flying the U.S. flag transit the Canal. But that is not the point. It is well known that the United States has a very small merchant marine and that the shipping interests in our country, for various legal and fiscal reasons, resort to what is known as a "flag of convenience." What really counts is the tonnage which transits the Canal enroute to and from ports in the United States. It so happens that out of about 14,000 ships that transit the Canal, 8,000 are either enroute from or bound for U.S. ports.

So much for these three reasons. Finally, Mr. Chairman, there are several questions somewhat outside my purview but troublesome nevertheless, and I will simply list them for you.

(1) Do the negotiators for Panama and the United States have the same perception as to the real meaning of the language in the treaty? Public statements by both sides subsequent to the negotiations seem to indicate otherwise. Certainly this matter should be cleared up without delay.

(2) If the O.A.S. nations so strongly support the treaty, how do we account for the absence of the presidents of the two largest and most influential countries at the signing ceremonies in Washington a couple of weeks ago? (I refer, of course, to Brazil and Mexico.)

(3) What will Panama do with a 2,000 percent increase over the 2.3 million dollars she received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit? Where will the money really go?

(4) In the event that the tolls are raised 30 percent resulting in serious impact on the economies of the other Latin American countries—particularly those on the west coast of South America—will these countries continue their strong support of the proposed treaty or will in the final analysis the U.S. taxpayer be asked to foot the bill in order to make certain that everyone loves us?

There are other questions which concern me, Mr. Chairman, but I think I will simply close by saying that regarding the question of control and ownership of the U.S. Canal Zone and the Canal I am satisfied with the Supreme Court's decision in the famous Wilson vs. Shaw case to the effect that the United States does in fact have legal control and ownership as if she has sovereignty for the purposes enumerated in the Treaty of 1903. This ruling was reaffirmed as recently as 1972. Also, our Constitution states in Article IV, Section 3, Clause 2, that only Congress has the authority to dispose of U.S. territory and other property of the United States. The language in the Supreme Court's decision of 1907 is quite precise. It is not ambiguous. So is the language in our Constitution. Since the Supreme Court's decision of 1907 still stands—it has never been overruled—and since the Constitution in my opinion is still the soundest governing document in existence, I can only conclude that we would be well advised to abide by such

documents in our negotiations with other countries.

Thank you Mr. Chairman.

ANOTHER LOOK AT THE FUEL ECONOMY/AUTO EMISSION DEBATE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BROWN of California. Mr. Speaker, when the House debated the issue of Federal automobile emission standards, the debate seemed to center around fuel economy, and what effect stricter emission standards would have on fuel economy. At the time of this debate, I said this was a "red herring" issue, irrelevant to the question of auto emission standards for protecting the public health and welfare. It was known at the time of the debate, although it was denied by the auto industry, that both fuel economy and auto emission standards can be met.

A recent article from the Los Angeles Times documents, better than anything I could say, that the fuel economy arguments against auto emission standards were phony. In the hopes that Members can avoid being fooled in the future, I ask that this article be inserted in the RECORD at this time.

The article from the September 29 issue of the Los Angeles Times follows:

SOME CARS BEAT FUEL ECONOMY PENALTY

(By Harry Anderson)

The fuel economy penalty which California cars have suffered because of the state's tougher pollution control laws may soon be a thing of the past.

According to Environmental Protection Agency mileage estimates, some 1978-model Ford and General Motors cars equipped with a new smog device achieve exactly the same miles per gallon as identical models sold in states where pollution limits are not as strict.

In the past, California's cars frequently obtained as much as 15% fewer miles per gallon. Use of the new, three-way catalytic converter system, which was first installed on 1976 four-cylinder Volvos in California, may mean the elimination of the California penalty once all cars are equipped with it.

The system will be standard equipment on all 1978 California Ford Pintos and Mercury Bobcats with 2.3 liter, four-cylinder engines, and on all Pontiac Sunbirds, Chevrolet Monzas and Oldsmobile Starfires with 151-cubic-inch, four-cylinder engines.

It is also expected to be available in several months as an extra-cost option on Buick Skyhawks with 231 cubic-inch V-6 engines.

The EPA estimated that the Ford cars with automatic transmission would achieve an estimated 24 m.p.g. in combined city/highway driving. Manual transmission versions were estimated to get 29 m.p.g. Both estimates are identical with those for Pintos and Bobcats sold elsewhere without the new system.

On 1977 models, there was a penalty of 2 m.p.g. on California cars.

The GM four-cylinder engine, which is available only with automatic transmission in California, was estimated to get 26 m.p.g.—which also is identical to out-of-state cars with the same engine. There was a 4 m.p.g. penalty for California cars in 1977.

"The three-way catalytic converter offers us the opportunity to achieve better emissions control while greatly reducing the fuel economy penalty normally associated with tighter pollution limits," said Alex C. Mair, general manager of GM's Pontiac division, in an interview.

GM had previously indicated it plans to expand the use of three-way catalytic converters to all its California cars in 1980 and to all cars nationwide in 1981.

California air pollution officials had praised the new system when Volvo introduced it, but U.S. auto makers initially were reluctant to use three-way converters because they require an expensive rare element called rhodium. Also, the Detroit companies said they were concerned because the Volvo system used expensive fuel injection.

The three-way catalytic converter is so-named because it acts to reduce all three chemical components of exhaust emissions, while converters used on most cars since 1975 act on only two.

The new system improves fuel economy and performance because a car's engine no longer needs an exhaust gas recirculation device, and other engine adjustments can be made to make the car run smoother and more efficiently than with conventional pollution control gear.

Both Ford and GM use a less expensive electronically controlled conventional carburetor in their three-way systems.

Mair said the extra charge to meet California emissions standards would be $100 on a Pontiac Sunbird with the new device compared with $75 on Pontiacs without it.

Ford said although its 1978 pricing has not been fully set it would not charge extra for the system.

CAP ON PRICING FOR ENRICHMENT SERVICES

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. BURGENER. Mr. Speaker, on Wednesday, September 21, 1977, the House passed, by a division vote, an amendment to title V of H.R. 6796, ERDA authorizations for civilian research and development, that places a cap on pricing for enrichment services. It had previously been expected that a motion would be made to strike the entire title V. Unfortunately that motion was not made. Had it, however, been made, I would have supported it.

Mr. Speaker, the Government is the only source of enrichment services and should not take unfair advantage of those already under contract to buy such services nor of those committed to cooperative arrangements for power reactor demonstration program projects. By striking title V from the ERDA authorization for fiscal year 1978 the Congress would allow the proposed price change to be considered separately by the committees of jurisdiction in both Houses of the Congress. In that way, Congress could exercise complete and thorough oversight for all proposed pricing changes prior to enactment by the ERDA. It is estimated that in my own district, the San Diego Gas & Electric Co. would be compelled to pay an additional $23,000,000 for enrichment services over the next 10 years if the new criteria were to be approved. Surely, such a dramatic impact should receive the indepth consideration that all changes to enrichment services pricing criteria have received since enactment of the Atomic Energy Act more than 20 years ago.

BUCKEYE FARM NEWS SUPPORTS CONSUMER COMMUNICATIONS REFORM ACT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. ASHBROOK. Mr. Speaker, one of the important pieces of legislation I am sponsoring is H.R. 151, the Consumer Communications Reform Act. This legislation is aimed at preventing a major increase in residential telephone rates.

I was pleased to see an editorial in support of the act in the July issue of the Buckeye Farm News. The article stresses the danger of a major cost increase in telephone service for farmers and rural residents should the Consumer Communications Reform Act not be adopted. According to the editorial:

Should farmers and rural residents be forced to a cost-of-service basis you can imagine the price tag! Some have said it would be $100 a month for every farm home.

Farmers and rural residents can ill afford these additional costs. Congress should move to prevent a major increase in residential telephone rates by enacting the Consumer Communications Reform Act.

Following is the text of the editorial from the Buckeye Farm News.

COMMUNICATING COULD BE COSTLY

We need to keep telling the farmer's story at every opportunity in whatever manner seems best! Included in that story should be the tremendous benefit from having agriculture included in the main stream of communication, transportation, and other important public areas of concern on an affordable basis; rather than a total cost-of-service basis. There is a strong trend in recent months to force public services to a cost-of-service basis. People in agriculture and in rural areas will be subjected to high-cost service, and probably poor service, if this is permitted to happen.

Consider the impact of the decision of the federal regulators to allow the entry of new organizations furnishing so-called "specialized services" into the telephone business. The FCC policy when adopted probably seemed designed to increase competition. It permits independent companies to install their own equipment in office buildings, and then requires interconnect with the Bell System and all other independent telephone systems. It also permits these private companies to cream off the high-volume areas of business, which results in lower-cost telephone communication for high-usage areas.

In contrast, prior to the FCC ruling requiring interconnect, the entire telephone system used a variety of pricing methods to assure low-cost service to every home, and relatively low-cost service to rural residences. Charges were higher than necessary for long distance calls between large cities and fancy equipment. These extra costs helped provide home service at less than cost.

An independent study made for AT&T indicates that these changes will cause resi-

dential service costs to increase by 79 per cent, an average, in order to accommodate this drastic change in pricing. Should farmers and rural residents be forced to a cost-of-service basis you can imagine the price tag! Some have said it would be $100 a month for every farm home.

Full impact of the new rules has not been felt. And now Congress has proposed Consumer Communications Reform Act which would return us to the system affirmed in the Federal Communications Act of 1934, and maintained for these last 40 years, which was then the policy of Congress to assure adequate service to all at reasonable rates.

Your Congressman should hear from you on this one, and your response need not be technical or lengthy. If you are alarmed at this new policy, that's all they really need to know, and further, they need to know your support of the Consumer Communications Reform Act.

Both the Ohio and American Farm Bureaus have expressed support of this act and have consistently worked on it—but it will take member involvement for effectiveness. In fact, why not use the telephone service you want to protect by calling a Public Opinion Message to Western Union and having them deliver it for you. The cost is only $2 for 15 words or less—and that should be sufficient for your message. The toll-free number is (800) 325–5300.

Eliminating sixth-day service for rural mail delivery is another one of the cost-of-service moves, as is the elimination of many rural post offices. Farmers now get the local paper one day late, and if Saturday delivery is eliminated the Friday paper will be received three days late.

Even the PUCO makes noises like cost-of-service is the only basis for regulating public utility prices.

Many of you can recall when roads were assessed on a front-foot basis to farmers who had virtually no need for the road, compared to others who want to reach a far destination. Surely we are not going to return to the old days when the public benefits greatly from a highly productive agriculture. Your Farm Bureau will attempt to protect the rural interests in all ways possible, but it's only when members are concerned that it can represent you. Let's not let them isolate us by pricing us out of the market for public services.

POTENTIAL OF AUTOMATIC CRASH PROTECTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. MAZZOLI. Mr. Speaker, recent data collected by the U.S. Department of Transportation indicates the life-saving potential of automatic crash protection.

I commend to the attention of my colleagues the details of this study:

AUTOMATIC CRASH PROTECTION SHOWS DRAMATIC RESULTS

Newly compiled accident data collected by the U.S. Department of Transportation indicates a dramatic reduction in highway deaths in cars equipped with automatic crash protection.

The lastest survey by the Department's Fatal Accident Reporting System (FARS) shows the death rate for Deluxe Model Volkswagen Rabbits equipped with the automatic shoulder belt is about one-third the rate for other VW Rabbits equipped with ordinary seat belts.

The VW Rabbits provide for the first time a direct comparison between automatic restraint systems and regular seat belts because the cars are otherwise identical. The automatic shoulder belt automatically goes into place when the door is closed.

FARS, operated by DOT's National Highway Traffic Safety Administration, keeps a comprehensive file of fatal accident reports obtained from the states. The latest data show:

There are approximately 79,000 Rabbits with automatic crash protection on the nation's highways. These cars have traveled about 1.2 billion miles.

Nearly 300,000 Rabbits with regular seat belts have traveled about 4.8 billion miles.

There have been only six reported fatalities in the cars with automatic crash protection—a rate of .50 per 100 million miles—compared with 81 deaths in regular seat belt cars, for a rate of 1.7 per 100 million miles.

The VW type automatic crash protection is one system that can be used by auto manufacturers to meet the requirements of the Transportation Department's recently announced standard on occupant crash protection.

The standard, issued by Transportation Secretary Brock Adams on June 30, 1977, requires the installation of automatic restraint systems to protect front seat occupants in crashes beginning with all full-size passenger cars in model year 1982. All intermediate and compact cars will have to have such equipment by model year 1983, and all passenger cars will be required to provide passive protection systems by model year 1984.

"We are seeing a preview of the expected improvement in highway safety that will come when all cars on the road have automatic occupant crash protection systems," said Joan Claybrook, the NHTSA administrator. "The information gleaned from accident reports from across the nation confirms the department's expectation of the enormous payoff of automatic restraints in reducing deaths and serious injuries in automoblie crashes."

She said a recent agency study showed that only 20 percent of vehicle occupants wear their safety belts and that restraints such as automatic belts or air bags could save 9,000 lives and prevent tens of thousands of injuries a year once they are installed in the entire U.S. auto fleet.

The NHTSA noted that there have been other indications of the improved safety in Volkswagen Rabbits with automatic restraints. In a preliminary analysis of insurance claims data released last July, the Highway Loss Data Institute found a reduction of between 19 and 27 percent in the frequency of claims in these Rabbits compared with Rabbits having only seat belts, both overall and as a function of collision claims associated with injury.

INCREASE IN MINIMUM-INCREASE IN HOSPITAL COSTS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SHUSTER. Mr. Speaker, I commend to my colleagues an article written by Mr. James M. Underwood of Latrobe, Pa. in regard to the effects the increase of the minimum wage will have on the hospital industry. I think the article makes some interesting points about an aspect of this issue of which we have had very little information.

The article follows:

INCREASE IN MINIMUM-INCREASE IN HOSPITAL COSTS

With all the space daily and weekly publications devote to government programs, little mention is accorded the minimum wage and its implications. One concludes it is a subject closely akin to motherhood, the American flag and apple pie. In other words, it seems to be the popular opinion that he who questions any part of it is unfeeling and unpatriotic, with no thoughts of helping his fellow man.

The minimum wage now stands at $2.30 per hour. The current increase proposed is $.35 to a total of $2.65. Built-in provisions are included to raise it $.85 to $3.15 by 1980. Anyone paying less than the current legal minimum is in violation of the federal law, and an individual choosing to work at a lesser rate would be in violation as well.

The minimum wage, however, is not all peaches and cream. Past increases have had some detrimental impacts upon the American economy. The higher it goes, the more continued effect it must have, particularly in such sensitive areas as new enterprises, teen-age employment and soaring hospital costs.

Too few articles have been written about the damaging effect of a minimum wage increase would exert upon new enterprise. New employers are needed for the new jobs only such enterprise can provide. It is important to provide a small base at the beginning to permit unproved and untried ideas to grow and prosper. With constant wage increases, a lot of these new ideas are never going to get off the ground.

Much more has been written about the effect of the increase on teenage unemployment. Teenage unemployment significantly exceeds the national average, and runs as high as 40 and 50%. If youths are not employable at $2.30 an hour because they are unskilled, or not permitted to take jobs at this or lower rates to learn a skill that will eventually pay them a higher rate, the increase in the minimum wage will simply make the situation worse. These young people need productive opportunities, not government created jobs to be supported by the taxpayers.

Admittedly, in these two areas the increase in the minimum wage will create serious problems. However, there is another area—hospital costs—where the effect of the minimum wage has received very little notice.

About one and one-half million beds are available in acute care hospitals in the United States. At a 70% occupancy rate, hospitals have a daily average of 1,050,000 occupied beds. By actual count made in 1976, 3.26 employees were required to service each occupied bed.

Almost every hospital has workers at a minimum wage. These are orderlies, kitchen help, people to push wheel chairs, or help with a great variety of other menial services. Many employ the handicapped where there are jobs they are able to do. When a hospital increases those at the lowest rate, the same percentage increase will follow through the entire payroll. This occurs every time there is an increase in the basic rate of any employment, in industry, hospitals, or whatever.

In addition, at least a third will be added to the basic wage increase for fringe benefits. Thus, the $.35 increase becomes $.46 an hour and the $.85 increase to $3.15 becomes $1.13 an hour. With 3.26 employees for a patient day, 26 hours are expended for each bed patient each day. . . . As a result, the federally-mandated increase to $2.65 will increase hospital costs. . . .

$12,558,000, each day.

$4,583,000,000, each year.

When the $3.15 base becomes mandatory, hospital cost will have increased to . . .

$30,846,000, each day.

$11,259,000, each year.

On a per day basis for a more comprehensible figure, the increase to $3.15 will mean

added hospital costs of $29.38 per patient day.

This almost $30 per day mandated increase considerably exceeds the 9% some legislators have proposed as a limit to increased hospital charges. What kind of reasoning tells a hospital it cannot raise bed prices, when compliance with government rules will cost more than the permitted price increase? Only governments operate at deficits; a hospital, like any individual, must at least break even with revenue and expenses.

This all must come back to the enormous impact of the proposed cost to hospitals, and to the payment of $12 billion in additional costs annually. Medicare pays ever increasing percentages of hospital cost. If 50% is a conservative figure when the share of medicare in total hospital cost is considered, this minimum wage increase will force another $6 billion into the Federal budget to fund increased hospital cost. It will create another massive obstacle to balancing the Federal budget, if balanced it ever will be. With such unmentionable hidden increases in annual governmental costs, budget makers may well have another unsolvable problem.

Certainly, $6 billion added to the Federal budget each year will give inflation another tremendous push. Everyone is concerned with the purchasing value of the dollar, so real and cautious consideration should be given to the minimum wage proposal if for no other reason than its effect upon inflation. With the purchasing power of the dollar declining, deterrents, rather than inflationary boosts are needed for inflationary control.

So, the increase in the minimum wage is not all apple pie, motherhood and the American flag. The subject of the minimum wage is long overdue for plain talk and cold analysis. It's time we all began to be concerned about the serious problems it can create. On balance, the arguments against it may well have the greater weight.

JAMES M. UNDERWOOD,
Latrobe, Pa.

BOSTON GLOBE OPPOSES STATE DEPARTMENT INTERFERENCE IN FISHERY ENFORCEMENT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. STUDDS. Mr. Speaker, on September 10 the Coast Guard apprehended the Polish fishing vessel *Laskara* conducting illegal fishing activities in the water off New England. Although the Coast Guard, the National Marine Fisheries Service, and the Justice Department—the agencies charged by the Congress with responsibility for enforcement of the Fishery Conservation and Management Act of 1976—all agreed that the vessel should be arrested and seized, the State Department and the National Security Council staff at the White House intervened to prevent arrest of the vessel for its violations of the law.

The lead editorial from the Boston Globe of Friday, September 23, presents a very thoughful discussion of the need to end this interference in what are basically matters of domestic law enforcement, and I commend the editorial to my colleagues. The editorial follows:

INTERFERING WITH THE LAW

The Fisheries Conservation and Management Act of 1976, which established the United State's 200-mile fishing limit, is the law of the land, and it seems reasonable to expect that it be enforced like any other law. However, that view is apparently not shared by the State Department and the National Security Council.

About two weeks ago, it's now been confirmed, the Coast Guard, the National Marine Fisheries Service and the Justice Department all recommended that a Polish trawler found to be carrying 17 tons of squid in an area of the Atlantic designated for herring fishing be seized. However, the State Department objected, its position was upheld by the National Security Council staff and the trawler was released, its sqid in hold, with simply a citation.

The State Department, in a statement yesterday, based its intervention in the matter on "foreign policy considerations" and cited specifically the nature of the violation, the fact that it was the first for the particular trawler and the generally good record of compliance with the law by the Polish fleet.

Certainly every seizure of a foreign boat involves some foreign policy considerations. Yet, both the nature of the offense and the fact that it was the first such violation seem more law enforcement considerations than foreign policy matters. And the fact that the Polish record is generally clean is a factor a judge might weigh in imposing penalties, not a matter of foreign affairs.

The State Department and the National Security Council are brought into fishing vessel-seizure questions by a classified four-year-old White House policy. It predates the 200-mile legislation and was drafted at a time when fishing policy in the near northwest Atlantic was regulated by an international treaty, not a domestic law.

Under the former circumstances, routine State Department involvement was probably appropriate. That is no longer so.

As with any law, exceptional circumstances could in the future warrant a decision to waive normal enforcement. But a policy governing those exceptions should be crafted, together with more up-to-date procedures for routine enforcement, and the whole thing should be made public. The State Department and the National Security Council promised just this six months ago but have thus far failed to deliver.

If Congress were concerned primarily with foreign policy considerations in legislating a fishing policy, it would never have enacted the 200-mile limit, but would simply have permitted foreign fleets unlimited access to these waters.

Clearly, however, the congressional intent was to protect the domestic fishing industry and to manage better the northwest Atlantic fisheries. Unnecessary State Department interference with enforcement of the 1976 legislation can only undermine that intent.

PRESIDENT'S 11-NATION TRIP

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SISK. Mr. Speaker, next week our President embarks on an 11-nation trip to Latin America, Africa, Asia and Europe. An editorial in the Washington Post on Sunday, September 25, 1977 discussed what might be the purpose of Mr. Carter's trip. Said the Post: "Anyone who can detect a theme in this pudding gets to stay home as an award."

I must say that I was, at first, puzzled. These 11 nations seemed to have little in common; two are major non-Arab oil producers; three are European nations with different types of government; two are military dictatorships whose internal policies have raised serious questions among human rights advocates.

A second look at these nations, however, indicates that there is, in fact, a common problem among them: population growth. Nigeria, Brazil, Venezuela, Iran, and India contain a total of nearly 900 million people or 20 percent of the world's 4.3 billion inhabiltants. Each of these nations is growing at 2.8 percent a year or more, with the exception of India which is still doubling its population every 30 years or so. By the year 2000, these five nations will contain over 1.5 billion people if current trends continue. In contrast, in 1950 these same nations contained approximately 500 million people.

Thus, in the span of 50 years, the number of people living in these five nations will have tripled. As a result of the enormous growth in human numbers since 1950, Nigeria, India, and Brazil have only about one-half an acre of arable land to support each of its citizens.

Instead of importing about 4.3 million metric tons of grain in 1950 (1948–52), these five nations imported nearly 10 million metric tons of cereal grains in 1974 according to the U.N. Food and Agricultural Organization.

In addition, while Iran and Venezuela have about 1 acre of arable land per person, their annual imports of cereal grains have increased by nearly 3 million metric tons between 1950 and 1974, largely because of their nearly 150 percent increase in population.

I would hope, Mr. Speaker, that this sad story will not be repeated in these countries in the next few decades. In the short 23 years left until the beginning of the 21st century the nations of the world must come to grips with this tragic problem. We have no other alternative.

Interestingly, Mr. Speaker, one of the nations on the President's agenda—Belgium—has just achieved zero population growth. Another, France, has a 0.4 percent growth rate, even though it is a heavily Catholic nation.

Just this Wednesday the House of Representatives passed House Resolution 70, to create a Select Committee on Population, which I strongly supported. This is a good first step toward the goal of world population stabilization. The President's trip is perhaps a good second step in that direction.

I strongly urge the President to speak to the leaders of these nations about the seriousness of the population problem facing them as well as the rest of the world. I believe that Congress is increasingly concerned that U.S. economic assistance can only be effective if population growth is brought under control. Sound economic policy would dictate that the industrialized nations of the world also must stabilize their populations. Together, the rich and poor nations of the world can solve this problem, but only if action is taken now.

BRONKO NAGURSKI: "OUTSTANDING MINNESOTAN"

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. OBERSTAR. Mr. Speaker, Minnesota's Bronko Nagurski is a legend in his own lifetime. Often called the "greatest football player of the era from 1900 to 1950," Nagurski was one of the original inductees of the College Football Hall of Fame and the pro Football Hall of Fame. Yet he never sought fame; he disdained public recognition; and, above all, never "cashed in" on his gridiron achievements.

But recognition has come at last to Bronko Nagurski who, on September 22, 1977, was voted "Outstanding Minnesotan" by the Minnesota Broadcasters Association during their annual meeting. It is recognition truly deserved and earned, and maybe all the more appreciated that it comes late in life, and perhaps takes on an even greater significance when we consider the many other great men and women of our State against whose achievements those of "The Bronk" must be measured.

A native of International Falls, Minn., and current resident of the Falls area, Nagurski played football for the University of Minnesota Gophers in the late 1920's and for the National Football League Chicago Bears in the 1930's. The memory of Nagurski's extraordinary exploits in those pioneer days of football still quickens the pulse of true football fans as well as pro football enthusiasts.

As a University of Minnesota Gopher, "The Bronk" first played tackle on offense and defense and later fullback, becoming the first player ever named All-American at two positions.

From our perspective of the 1970's it is difficult to measure the greatness of Bronko Nagurski, but not less football all-time great than Red Grange, himself, summed up Bronko's career in terms football fans of the 1970's can best appreciate. Grange said:

> I was asked once if I could describe the Bronko's player abilities in modern terms and I said, "He played offense like Larry Czonka and defense like Dick Butkus."

To me, that says it all.

I am honored to call Bronko Nagurski my friend of many years and am deeply pleased for him that he has won this long-overdue recognition.

I would like to share with my colleagues an article which appeared on Friday, September 23, 1977, in the Bronk's hometown newspaper, the International Falls Daily Journal, the fine daily newspaper in the Eighth Congressional District serving the borderland of the United States and Canada.

BRONKO HONORED AS OUTSTANDING MINNESOTAN

(By Keith Christensen)

WORTHINGTON.—Bronko Nagurski, Falls favorite son who went on to become a football legend with the University of Minnesota and the Chicago Bears, was named Outstanding Minnesotan Thursday by the Minnesota Broadcasters Association.

Accepting the award, Nagurski gave a brief speech to the large gathering of state radio and television personnel. He told them his two most memorable games were with the University in the late '20's.

In 1927 Bronko led the Gophers to a tie against another legend—Knute Rockne, coach of Notre Dame. Minnesota was playing the highly touted Irish on their home field. Nagurski recovered a Notre Dame fumble to preserve the tie.

As a senior in 1929, Bronko moved from tackle to fullback after being fit with a special brace to protect torn ribs. He rushed six consecutive times and scored a touchdown giving the Gophers a 6-0 win over Wisconsin in his final college game.

Nagurski wasn't sure why he received the award 34 years after his playing days. "A lot of people have done more than I have in that time," he said.

In past years the broadcasters have honored other Minnesotans who made it big such as Senator Hubert Humphrey and Vice President Mondale. Mondale gave a speech to the group Thursday via tape from Washington.

The former all-everything star was revered throughout and after his illustrious career. As a Gopher, Nagurski was named an All-American. In fact, he was the first player ever to receive the award at two positions—tackle and fullback. In nine seasons with the Chicago Bears, Bronko teamed up with the immortal Red Grange. He summed up Bronko like this: "A lot of times reporters ask me who I think was the greatest football player of all time and there is only one—the Bronk. I was asked once if I could describe the Bronk's player abilities in modern terms and I said—'he played offense like Larry Csonka and defense like Dick Butkus.'"

Nagurski can now put this award among his many others. Even now, in 1977—34 years after he retired, it is again appropriate to honor this giant of a man.

AWARD PRESENTATION BY REV. BEN CHAVIS AND THE "WILMINGTON 10"

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. EDWARDS of California. Mr. Speaker, last Saturday, September 24, the Congressional Black Caucus held its seventh annual dinner. The evening was the occasion for the granting of the George W. Collins Award for Community Service to the Wilmington 10. This award was created after the untimely death of the Chicago Congressman and late husband of our distinguished colleague, Representative CARDISS COLLINS. The award gives recognition to an individual or group on the local level who exemplifies the dedication and work styles of the late George Collins.

Wilmington 10 attorney James Ferguson and Dr. Charles Cobb accepted the award on behalf of Reverend Ben Chavis and the other members of the Wilmington 10. Mr. Speaker, I wish to include in the RECORD the fine words of my colleague, Congressman JOHN CONYERS, who made the presentation of this distinguished award.

AWARD PRESENTATION TO REV. BEN CHAVIS AND THE "WILMINGTON 10"

Rev. Ben Chavis was not able to be here tonight to receive the George W. Collins award for Community Service because all efforts to get him out of prison for the occasion failed. I even offered to personally escort Rev. Chavis here but that obviously was not good enough for the North Carolina correctional authorities.

The "Wilmington 10" case, with Rev. Chavis as the central figure, fully symbolizes the injustice of the so-called justice system in America for blacks and other minorities. Convicted 5 years ago this month and sentenced to a total of 280 years in prison, Ben Chavis, 8 black youths and a mother of 2 experienced political rather than criminal prosecutions. Federal, state and local authorities all are implicated in this travesty of justice.

The only significant different between Rev. Chavis and Steve Biko, the probable victim of political homicide in a South African prison, is that Ben Chavis is still alive. The parallels between the Chavis and Biko cases should be noted. Both were marked men from the start. Lawless suppression that failed to achieve its aim for both black men led to supposedly lawful repression—the trumped up charges, the flagrant violations of human rights and protections under constitutional and international law.

The irony of it all is that, as the Congressional Black Caucus was informed by Vice-President Mondale this morning, this nation's ability to exercise moral authority for human rights in international forums stems directly from the legacy of the civil rights movement. And yet, a leader in the struggle for civil and human rights in America languishes in a North Carolina prison apparently beyond the reach of the United States government's legal and, more important, moral authority.

On behalf of the Congressional Black Caucus and all of our brothers and sisters here tonight and across the nation, we acknowledge with this award the historic contribution of the "Wilmington 10" to the cause of justice and human rights for blacks everywhere.

WILMINGTON TEN

In 1971, ten people, a young Black minister (Ben Chavis), a white peace corps worker (Ann Sheppard), and eight high school students (Marvin Patrick, Connie Tindell, Jerry Jacobs, James McCoy, Reginald Epps, Wayne Moore, Joe Wright, and William Earl Vereen) brought needed leadership to a troubled Wilmington, N.C., Black community concerned and upset over discrimination in their public schools. Today these same civic leaders languish in prisons, save one who has been paroled, serving sentences totaling 282 years, victims of blind vengeance and racial injustice.

The genesis of the story of the Wilmington Ten, as they have come to be known, began in January 1971 when school officials at the newly integrated Hanover High School in Wilmington refused a request by Black students to honor the birthday of Dr. Martin Luther King, Jr., in a school assembly program. This rebuff, another in a long list of unanswered Black community concerns of discrimination in transportation, athletic teams, disciplinary actions, selection of members of the student government, and the transfer of Black teachers and administrators, prompted a peaceful boycott of the schools by the Wilmington Black community.

Their protest was met with violence from white extremists and attacks on the Gregory Congregational Church, the center of boycott activity. Undeterred in their purpose, Wilmington's Black community continued their demonstrations with the assistance and leadership of Rev. Chavis, who was dispatched to the city by the United Church of Christ at the request of one of its pastors. Ben Chavis, a civil rights activist since the age of fourteen, helped the community organize itself, urged communication and understanding between blacks and whites, and labored

to prevent violence from both sides. As one observer noted, "Ben Chavis was about the only man who had a chance of keeping a lid on things." Despite his efforts and those of his colleagues, in the aftermath of heightened racial tensions, a small white owned store, Mike's Grocery, burned. More than a year later a grand jury returned indictments against the "Ten" for the burning of the store.

The imprisonment of the Wilmington Ten has aroused national and international concern and attention. Amnesty International has adopted the Wilmington Ten case as an instance of human rights violation within the United States. Thousands of distinguished citizens and elected officials here and abroad have called for their release and have saluted their courage and moral steadfastness. Forty members of Congress have joined with the Congressional Black Caucus in petitioning the U.S. Justice Department for their intervention.

Community service, for most of us, involves activism and the loss of leisure time. For the Wilmington Ten, their community dedication has meant deferred dreams, disrupted lives, and the denial of personal liberty. Their belief in the principles of equal justice and racial equality placed their future in jeopardy but they have held true to what was right. The case of the Wilmington Ten, their lives and good works, is an inspiration. Their plight is a lesson that reform is needed in the criminal justice system, and their story is a striking reminder that the struggle for civil rights is ever ongoing.

PARALYZED ECONOMISTS, STAGNANT ECONOMY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SIMON. Mr. Speaker, I am sure someone who writes headings for articles and editorials has never won a Pulitzer Prize, but whoever wrote the head for a recent New York Times editorial perhaps deserves one, for the four words of that editorial heading summarize our present situation better than anything I have read: "Paralyzed Economists, Stagnant Economy."

The editorial points out the deficiencies of the traditional schools of economic thought, and the relative lack of fresh thinking, and fresh approaches by the Nation's economists. The editorial speaks of "an intellectual vacuum" and that is an apt description. Economists resist new ideas just as much as people in any other arena do. And right now we need the new ideas, the fresh approaches which build on the base of the solid contributions of Keynes and Friedman and all the others.

Let me cite one example of the type of thing I would like to see the economists take a look at.

Ask a traditional economist what is the impact of an increase in the price of steel, and the response is that it is inflationary.

Ask a traditional economist what is the impact of an increase in the price of oil, bread, sugar, and other products, and the answer is always, "Inflationary."

But ask what the impact is from an increase in the price of interest and the response is: "Deflationary."

I question that traditional wisdom.

If interest rates are lowered because too much money is in circulation, then there is an obvious inflationary factor, but it is the surplus money supply that causes the inflation, not lower interest rates.

But if we could keep the growth of money supply in line with productivity, as Friedman suggests, but depart from him there and have a generally lower interest rate through other means (as we do for everything from rural electrification loans to student loans), what would its impact be? How can it be achieved?

These are the types of questions I would like economists to look at.

My guess is that if we could lower interest rates 1 or 2 percent without increasing money supply faster than productivity, it would give our economy a tremendous boost. The stock market would rise, giving those seeking capital a more viable option there; the home construction business would experience a healthy growth; and you could go on.

I have great respect for economists, including those advising the President, but the answers up to this point have been unimaginative and of limited help in stimulating our economy. The country yearns for economists who take the best of the knowledge that has been accumulated from the past, but recognize that past answers are inadequate to the present needs.

I am inserting the New York Times editorial in the RECORD at this point for the attention of my colleagues:

PARALYZED ECONOMISTS, STAGNANT ECONOMY

A decade ago, if unemployment were frozen at a high rate and the economy appeared headed for a slowdown, a Democratic President surely would have called for major economic stimulus—a tax cut, a spending increase or both. But not now. Despite the unsatisfactory performance of the economy, policy is paralyzed because economists here and elsewhere in the industrialized world have lost their faith in rapid economic growth. They fear that faster growth would generate more inflation and, ultimately, sink us into another recession. We are left with uncommon inflation, high unemployment and fearful economists.

Their fear does not flow from any sophisticated economic theory. Indeed, it reflects the bankruptcy of modern theory, which for too long has congealed around either the activist budgetary manipulation championed by the late Lord Keynes or the passive money supply controls favored by Prof. Milton Friedman. Neither policy has brought the nation within sight of the promised land of price stability and full employment. But economists raised on Keynes or Friedman have no commandments to follow when these gods fail.

The resulting intellectual vacuum has pushed economic policy to the right, by default. Liberals who for years dominated economic discussion in the United States have left the stage to conservatives like Alan Greenspan, former President Ford's chief economic adviser, who prescribes a tough inflation cure: a long period of high unemployment and slow growth. This Republican idea seems to suit a Democratic White House, too. Mr. Greenspan cheered President Carter's decision last spring to abandon the $50 tax rebate—though it could have helped to cushion the economy in the current slowdown. And Mr. Greenspan welcomes Washington's continued caution about moving toward any further stimulus.

We sympathize with the uncertainty of most economists these days and, to a degree, we applaud their new humility. Faster growth may indeed not be manageable now in a nation that believes, rationally or irrationally, that it would generate higher inflation. But we worry about the profession's apparent satisfaction with slow growth as the cure for inflation. This may work but it may not. After two years of high unemployment and wasted industrial capacity, the United States still suffers from an inflation rate of 6 percent. The rate has not budged since early 1975. Would a few more years of high joblessness and wasted lives bring the rate down? Probably not.

What options are left then? Some are obvious—though they involve tough political choices. Economists long ago warned against the inflationary pressures of the nation's misguided regulatory efforts in trucking, airlines, agriculture, discount retailing, importing and wage setting. Anticompetitive governmental policies in these sectors should no longer be tolerated.

Other paths out of the policy dilemma are not so obvious. Some ideas for voluntary anti-inflation efforts by government, business and labor have emerged in Washington and academe. Such ideas deserve a hearing.

In the short run, however, economists should break out of their theoretical paralysis long enough to help the nation with some practical problems. It may be too soon to urge the country to move toward more budgetary stimulus. But it is high time to see that Washington at least spend at the levels already agreed upon. The Federal budget is expected to spur economic growth as President Carter's stimulus plan unfolds, with its public works, public jobs and revenue sharing. But the Government has fallen far behind on its spending in recent months, thus undermining its own stimulus plan.

The spending shortfall has been attributed to a number of causes—governmental red tape, bad weather and spending overestimates by ambitious bureaucrats. But since the Office of Management and Budget supposedly oversees such matters, a high-priority duty for its new director is making sure that the money gets spent.

Recent decisions by the Federal Reserve Board also merit notice. The board, which manages the money supply independently of the Administration, has let interest rates move up in recent weeks despite the economy's obvious weakness.

Finally, more attention must be paid to legislation with obvious economic consequences. Despite the general concern about inflation, Washington has beckoned the wolf to the door repeatedly in recent days. How strange that the $50 rebate frightened so many last spring—but that now scant attention is paid to legislation that would guarantee greater inflation: the minimum wage boost passed by the House, the new farm-price supports and the proposed change in cargo preference rules. These are measures that should engage the energies of economists as well as politicians.

PERSONAL EXPLANATION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. SANTINI. Mr. Speaker, due to a meeting of the Nevada congressional delegation in the Senate offices, I was not present yesterday during the vote on final passage of H.R. 6566, Energy Research and Development Administration

authorization for national security programs. Had I been present, I would have voted in favor of the bill.

VFW RESPONSE TO CRITICS OF GI EDUCATION PROGRAM

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. CARNEY. Mr. Speaker, during the past few days I have noted various responses to an article by Colman McCarthy that appeared in the Washington Post on Tuesday, September 27.

Mr. McCarthy expressed the view that the current GI education program is inadequate because it does not take into account the varying costs of tuition. He further indicated that the leadership of the Veterans' Affairs Committee is indifferent to Vietnam veterans. Mr. McCarthy also suggested that, although he was a "favorite of veterans' organizations," with Vietnam veteran groups, the chairman of the Subcommittee on Education and Training, the distinguished and very able gentleman from Texas, TIGER TEAGUE, "receives the weakest of salutes." According to the article, the highly regarded gentleman from Texas is looked upon by Vietnam veterans "as being one of those who supported the war in Vietnam but who now refuses to support those who fought or were shattered by it."

Mr. Speaker, though I have sometimes disagreed with TIGER TEAGUE as to the best method of serving our veteran population, his commitment to veterans who served in all wars is total, unequivocal, and second to none. I frankly do not know what "Vietnam-veteran groups" Mr. McCarthy had in mind. There are more than 500,000 Vietnam veterans in the Veterans of Foreign Wars. There are more than 700,000 in the American Legion, and there are more than 128,000 in the Disabled American Veterans. If these major veterans organizations do not speak for Vietnam veterans, I do not know who does. I can tell you that in speaking to veterans throughout the country, no single Member of the Congress is more highly regarded or is considered to be a better friend of all veterans than the gentleman from Texas. He, more than any single individual, has devoted most of his adult life to making things better for the veteran. I am sure Mr. TEAGUE would appreciate knowing who the so-called Vietnam-veteran groups are to which Mr. McCarthy refers. All groups have equal opportunity to appear before our committee, and I am not aware of any group or large number of such veterans holding the view expressed in the article.

Mr. Speaker, as I have stated, more than 500,000 Vietnam veterans belong to the Veterans of Foreign Wars. Dr. John Wasylik, the national commander in chief of this great organization, recently wrote the editor of the editorial page of the Washington Post regarding the article by Mr. McCarthy. The letter addresses the issue in question pertaining to the adequacy of the current GI education program and the inequities the organization feels would exist if we were to adopt a program taking into account the varying costs of tuition. There follows a copy of the letter:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., September 28, 1977.

Mr. PHILIP L. GEYELIN,
Editor, Editorial Page,
The Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: It is inconceivable to me that a newspaper of your caliber would publish an article as irrational as that by Colman McCarthy, entitled, "Vietnam Vets: Who Listens to Them in Washington?", in your September 27, 1977 edition.

The thrust of Mr. McCarthy's article was to decry the House Veterans' Affairs Committee for not yet advancing a number of bills introduced by the Honorable Lester L. Wolff of New York which would, among other measures, permit acceleration of monthly educational assistance payments to eligible veterans and dependents; a bill introduced by the Honorable Albert H. Quie of Minnesota, which would provide the payment of supplemental tuition allowances to certain veterans pursuing educational programs for the purpose of offsetting the difference in state educational costs and, also, berating the Honorable Olin E. Teague of Texas for opposing this legislation.

The legislation in question proposes making changes in educational programs for veterans and dependents which would be a significant departure from the philosophy of veterans benefits. The first year cost of the Wolff bill in direct benefits would be $2.5 billion plus an additional $74.6 million in operational costs, the major portion of which would be attributable to accelerated entitlement. The cost thereof, alone, would be sufficient cause in the existing fiscal climate to oppose passage.

The Quie bill would pay veterans in high cost areas supplemental tuition allowances up to $900 a school year. Such additional money, in my opinion, would only encourage institutions to further increase tuition rates, to the disadvantage of all students, including veterans. Mr. McCarthy would have the Federal Government subsidize state and local educational tuition for the sole reason that it is higher in the Northeast than in other parts of the country. This is like saying a war wounded veteran iin New York should receive more compensation for his disabilities than a similarly situated veteran residing in Albuquerque, where the cost of living is much lower. What is needed is a reassessment of tuition costs in the Northeast. Other parts of the country can teach for less; why can't New York?

The Honorable Olin E. Teague was the Chairman of the House Veterans' Affairs Committee for many years and is presently the Chairman of the Subcommittee on Education and Training. Of all legislators, "Tiger" needs to be thanked by all veterans across this land for his foresightedness, not berated by a few discontented vocal crybabies who want the United States Government (and Taxpayers) to pay their whole way. He is the one, above all others, who pressed for the current GI bill and subsequent needed improvements therein.

Most distasteful to me, personally, was Mr. McCarthy's statement that the Congressionally chartered veterans organizations support any legislative proposal by Mr. Teague because he attends our National Conventions. Nothing could be further from the truth and let me make that crystal clear. The legislative posture of the Veterans of Foreign Wars of the United States for each ensuing year, dictating what legislation we will support or oppose in the Congress of the United States, is established by mandates in the form of resolutions passed by the voting delegates to our last National Convention representing our more than 1.8 million members.

It was never the intention of any of the three GI bills to establish a program which completely subsidizes the cost of veterans' education, as well as his living costs. These generous bills were designed as an aid program to assist those in attaining the education to which they aspired and would have attained, had such not been interrupted by service to our country. I obtained my own education under the Korean GI bill while, at the same time, working as a hod carrier to meet expenses.

Veterans benefits are presently under attack nearly across the board by anti-veteran forces and social welfare planners, both within and without the government. The surest way to destroy such benefits is to deviate from the basic philosophy and concept on which these benefits are based and make them so broad, all-encompassing and costly that they become untenable.

Sincerely,

JOHN WASYLIK,
National Commander in Chief.

TRADE WITH CUBA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following resolution of the California State Board of Food and Agriculture. The resolution deals with future U.S. relations with Cuba.

RESOLUTION

Subject: Trade with Cuba.

Whereas, The State Board of Food and Agriculture supports and promotes free trade in Articles of Commerce among free peoples throughout the world; and

Whereas, California agriculture believes in basic human rights for all the peoples of the world; and

Whereas, The United States is considering normalizing trade relations with Cuba; now therefore, be it

Resolved, That the State Board of Food and Agriculture, meeting in Sacramento, California, on August 4, 1977, opposes the liberalization of trade with Cuba if it is determined that products and/or commodities are being produced in violation of human rights; and, be it further

Resolved, That a copy of this resolution be transmitted to the Honorable Edmund G. Brown, Jr., Governor of the State of California; President Jimmy Carter; March Fong Eu, Secretary of State; John Sparkman, Chairman of the Senate Committee on Foreign Relations; Clement J. Zablocki, Chairman of the House Committee on International Relations; and the California Congressional Delegation.

SENATE—*Saturday, October 1, 1977*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Reverend Dr. Karl B. Justus, Executive Director, the Military Chaplains Association, offered the following prayer:

Let us pray.

"O Lord, Our Lord, how excellent is Thy name in all the Earth."

With humble gratitude we acknowledge that "from everlasting to everlasting Thou art God."

As this day's legislative duties begin in this august Chamber, bestow Thy blessing upon each Senator. In the course of deliberation and debate on policies that affect all Americans, grant insight and inspiration, conviction and courage to this day's proceedings. When compromise is necessary for concord, in the Nation's welfare, let there be no compromise of conscience. Confronting our problems in the setting of time, let us not lose our sense of eternity.

Bless the President, and these leaders of our Government, as they plot the course of the "Ship of State." May tranquil seas—and safe harbors—attend her voyages in future days.

Keep us strong morally and spiritually; forgive our sins and grant us Thy salvation.

In Thy great and holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 1, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Friday, September 30, 1977, be approved.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

Mr. BAKER. Mr. President, I have no requirement for our time. I am prepared to yield it back if the majority leader wishes to retain it.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be on my time and on the minority leader's time if he is agreeable.

Mr. BAKER. I am agreeable.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate resumed the consideration of S. 2104.

Mr. BAKER. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment in the nature of a substitute (No. 1039).

Mr. BAKER. I thank the Chair. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. One moment, please.

The ACTING PRESIDENT pro tempore. Will the Senator from Tennessee withhold?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that during the pendency of the debate on this matter, Bruce Rowen, an aide to the Senator from Florida (Mr. STONE), be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, before the Senator suggests the absence of a quorum, does any Senator wish to call up an amendment at this time?

Mr. BAKER. Mr. President, responding to the majority leader for a moment, I think in a few more minutes we may have things in shape to proceed. I believe at this time a little more time would be helpful.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1290

Mr. METZENBAUM. Mr. President, I call up amendment No. 1290.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1290: Strike section 3(n) and insert in lieu thereof the following new section 3(n):

(n) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas in quantities sufficient to establish commercial production.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

The ACTING PRESIDENT pro tempore. The amendment is not in order. There is no section 3(n) to which the amendment could apply.

Mr. METZENBAUM. This Domenici amendment is out of order?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 1286

Mr. METZENBAUM. Mr. President, I call up amendment No. 1286.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1286: Strike section 3(j), and insert in lieu thereof the following new section 3(j):

(j) The term "new contract" means any contract other than a rollover contract entered into after April 30, 1977, for the sale of natural gas.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

The ACTING PRESIDENT pro tempore. The same ruling as on the previous amendment. There is no section 3(j), to which the amendment is addressed.

Mr. METZENBAUM. This is a Domenici amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 1300

Mr. METZENBAUM. Mr. President, I call up amendment No. 1300.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1300.

Strike section 8(b) and insert in lieu thereof the following new section 8(b):

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed—

The ACTING PRESIDENT pro tempore. The clerk will suspend. The same ruling. There is no applicable section 8

(b) to which the amendment is addressed.

Mr. METZENBAUM. Mr. President, this is the Domenici amendment?

The ACTING PRESIDENT pro tempore. Yes.

Mr. METZENBAUM. That was amendment No. 1300?

The ACTING PRESIDENT pro tempore. Yes.

AMENDMENT NO. 1301

Mr. METZENBAUM. Mr. President, I call up amendment No. 1301.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1301.

Strike section 10(a) and insert in lieu thereof the following new section 10(a):

SEC. 10. (a) The Commission shall by rule exempt all first sales of high cost natural gas within 30 days following enactment. Such exemption shall apply from the date of enactment. In addition the Commission shall prescribe such rules as will make clear the exemption herein mandated as it applies to all high cost natural gas so as to provide reasonable incentives for the exploration for or the production of high cost natural gas.

Mr. METZENBAUM. Mr. President, I move to lay this amendment on the table.

Mr. HANSEN. Is this amendment in order?

The ACTING PRESIDENT pro tempore. The Senator is correct. The amendment is in order.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table amendment No. 1301. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 4, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—62

Abourezk	Dole	Pearson
Allen	Eagleton	Percy
Anderson	Ford	Proxmire
Baker	Garn	Randolph
Bartlett	Glenn	Ribicoff
Bellmon	Hansen	Riegle
Bentsen	Hart	Roth
Brooke	Hatch	Sarbanes
Bumpers	Hatfield	Sasser
Burdick	Hathaway	Schmitt
Byrd, Harry F., Jr.	Hollings	Schweiker
	Inouye	Sparkman
Byrd, Robert C.	Jackson	Stennis
Case	Johnston	Stevens
Chafee	Long	Stone
Chiles	Lugar	Talmadge
Church	Mathias	Thurmond
Clark	McClure	Tower
Cranston	Morgan	Wallop
Danforth	Nelson	Williams
DeConcini	Packwood	Zorinsky

NAYS—4

Bayh	Metzenbaum	Muskie
Culver		

NOT VOTING—34

Biden	Helms	Melcher
Cannon	Huddleston	Metcalf
Curtis	Humphrey	Moynihan
Domenici	Javits	Nunn
Durkin	Kennedy	Pell
Eastland	Laxalt	Scott
Goldwater	Leahy	Stafford
Gravel	Magnuson	Stevenson
Griffin	Matsunaga	Weicker
Haskell	McClellan	Young
Hayakawa	McGovern	
Heinz	McIntyre	

So the motion to lay on the table amendment No. 1301 was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

AMENDMENT NO. 1197

Mr. ABOUREZK. Mr. President, I thank the Chair.

I call up amendment No. 1197.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1197:

On page 9, line 19, strike "$1.45" and insert "$0.53".

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Will the Senator withhold just momentarily and the Chair will get order so that the Senator can be heard.

The Senators will clear the aisles and the well. The Senators will kindly take their seats.

The Senator from Alaska.

Mr. STEVENS. Mr. President, only for myself, I will make a statement on my time.

In the 9 years I have been in the Senate it has operated on the basis of courtesy and tradition. Part of that courtesy and part of that tradition is, in my opinion, that no Senator ever called up another Senator's amendment unless he was present in Washington. That is, the absent Senator had notified the Senate that he was going to be absent; a Senator should be present in Washington, and be notified by the Senator who is going to call up his amendment that he would do so, and the sponsor of the amendment should have an opportunity to speak on his amendment if he desires to do so before a motion to table is made.

I see disturbing things in the making here, particularly after notice that one of the Members of the Senate who is missing today has given notice that he had to return to his State, and has given notice he has amendments he considers very important.

I see evidence that those amendments might be called up in his absence. Now, in my opinion, we cannot operate except on the basis of courtesy and tradition in this body, and anyone who goes outside the range of that courtesy and tradition no longer deserves that same courtesy extended to him.

For myself, I want to say that any Senator who calls up an amendment without first notifying the sponsor, without determining that he is in Washington, and without giving him an opportunity to be heard before a motion to table that particular Senator's amendment is made, then for myself, I intend to object to whatever that Senator asks of this Senate in the way of courtesy so long as I am here.

Every Senator must at sometime ask unanimous consent. Every Senator must at sometime ask for a reciprocal courtesy from the other Members of this body. That courtesy cannot be extended to one who, in the heat of battle, forgets that he, too, is a Member of the Senate.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. BAKER. Mr. President, a point of order.

The ACTING PRESIDENT pro tempore. The Senator will state his point of order.

Mr. BAKER. Mr. President, it is my understanding that amendment No. 1197 has already been disposed of.

The ACTING PRESIDENT pro tempore. The Chair will consult on this.

This particular amendment has not been disposed of previously.

Mr. BAKER. I thank the Chair.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table amendment No. 1197. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 22, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—57

Abourezk	Eagleton	Nunn
Allen	Eastland	Packwood
Anderson	Ford	Pearson
Baker	Garn	Percy
Bartlett	Glenn	Randolph
Bellmon	Goldwater	Roth
Bentsen	Hansen	Schmitt
Bumpers	Hart	Schweiker
Burdick	Haskell	Sparkman
Byrd, Harry F., Jr.	Hatch	Stennis
	Hatfield	Stevens
Byrd, Robert C.	Helms	Stevenson
Case	Johnston	Stone
Chafee	Leahy	Talmadge
Chiles	Long	Thurmond
Church	Lugar	Tower
Cranston	Mathias	Wallop
Danforth	McClure	Zorinsky
DeConcini	Melcher	
Dole	Nelson	

NAYS—22

Bayh	Inouye	Proxmire
Brooke	Jackson	Ribicoff
Clark	Magnuson	Riegle
Culver	Metzenbaum	Sarbanes
Curtis	Morgan	Sasser
Durkin	Moynihan	Williams
Hathaway	Muskie	
Hollings	Pell	

NOT VOTING—21

Biden	Huddleston	McGovern
Cannon	Humphrey	McIntyre
Domenici	Javits	Metcalf
Gravel	Kennedy	Scott
Griffin	Laxalt	Stafford
Hayakawa	Matsunaga	Weicker
Heinz	McClellan	Young

So the motion to lay on the table amendment No. 1197 was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH addressed the Chair.

The ACTING PRESIDENT pro tempore. Will the Senator withhold one second until we get some order. Will Senators kindly cease their conversations and take seats if they possibly can, and clear the aisles. The Senate will be in order so that the senior Senator from West Virginia can be heard.

The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I inquire as to the remaining time I have under the 1-hour cloture provision.

The ACTING PRESIDENT pro tempore. The Senator has 25 minutes.

Mr. RANDOLPH. I thank the Chair.

Mr. President, I am appreciative of the opportunity to discuss the current situation in the Senate as we debate natural gas pricing. I begin by stating that I make no pretense of having information that is important to my colleagues. While my colleague from Ohio, Mr. METZENBAUM, is in the Chamber I shall comment on his interview over radio station WRC earlier today.

My energetic colleague, speaking on radio earlier today said, in essence, that he and others would continue their effort to thwart the will of the Senate and continue a filibuster. This pronouncement followed the result of the vote last night to table the Pearson-Bentsen substitute No. 2 which failed 44 to 50.

I recognize—and I fully understand—that he has every right to do exactly what he has done and proposes to continue doing. I am not a carping critic in this body, but when I listened to his remarks I had the feeling that this was, in a sense, a new subject, and the people of America had to be informed. I want the record to indicate that this is not a new subject in the Senate. It has been studied and debated in prior years.

I document that statement. On December 10, 1973, in the first session of the 93d Congress, there was what we considered in this body S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs for the duration of the existing energy emergency. The energy emergency was recognized in 1973. While considering such legislation, the issue of natural gas deregulation arose.

Senator RIBICOFF made a motion to table the amendment—which I cosponsored—offered by the then Senator from New York (Mr. Buckley). Under that amendment to the Natural Gas Act, the price of new natural gas in the interstate market would no longer be regulated by the Federal Power Commission.

The Ribicoff motion was agreed to by a vote of 45 to 43. So at that time in 1973, there was almost an even division of opinion in the Senate on the deregulation of natural gas.

We need to look back, not for the sake of nostalgia, but to remind the Senator from Ohio (Mr. METZENBAUM) that this is a matter which has been acted on in the Senate. It was, I repeat, before the Senate in 1973.

Mr. METZENBAUM, Mr. President, would my good friend from West Virginia yield for a question?

Mr. RANDOLPH. I am delighted to yield.

Mr. METZENBAUM. How many weeks was deregulation debated in 1973 and the Senator might, at the same time, answer for 1975?

Mr. RANDOLPH. I say to the Senator that there was lengthy debate on the Buckley amendment on December 19, 1973. The debate was several hours in duration and there were two rollcall votes. The motion to table was agreed to by a vote of 45 to 43, Subsequently, the motion to table the motion to reconsider was agreed to by a vote of 47 to 41.

Mr. METZENBAUM. I appreciate that information.

Mr. BARTLETT. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I gladly yield.

Mr. BARTLETT. Is the Senator from Oklahoma not correct that in 1973 and 1971 the distinguished Senator from West Virginia (Mr. RANDOLPH) introduced a resolution called Senate Resolution 45 which directed the Committee on the Interior, in conjunction with the Committee on Public Works, I believe the Committee on Commerce, to make an intense study of all aspects of energy, but one particular area was natural gas that was included and specified in the dialog that took place; is that not correct?

Mr. RANDOLPH. Yes. the knowledgeable Senator from Oklahoma is correct. That program—the National Fuels and Energy Policy Study—under the umbrella of several committees, was an effective forum for the discussion of energy problems. Frankly, through this study and the hearing processes we brought into the Senate for passage 71 measures relating to energy which became law. Sometimes I become weary at the constant charge that the Senate or the Congress has not acted on energy matters.

I do not want to be partisan in any sense, but the previous five administrations have not come to grips with energy problems. They have not focused attention on them. They have not given it the priority which, frankly, we in the Senate have done.

What the Senator from Oklahoma (Mr. BARTLETT) is saying is certainly correct. It was this coordinated effort which resulted in extensive hearings on the energy problem and various solutions. More important, the passage of legislation resulted.

Mr. BARTLETT. I congratulate the distinguished Senator from West Virginia (Mr. RANDOLPH) for his foresight from way back when. It has been a long time and he has played a very important part in natural gas legislation and other matters.

Mr. RANDOLPH. I am grateful to my colleague for reference to our efforts.

Mr. President, let us move to the 94th Congress, the 1st session in 1975, on the date of October 2.

At that time we were considering S. 2310, a bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976. A motion was made by the Senator from South Carolina (Mr. HOLLINGS) to modify the Pearson-Bentsen substitute amendment and to substitute the Hollings amendment. That motion was tabled.

Where the result had been only 2 votes different in 1973, the vote in 1975 had changed and the result was that it was rejected by the vote of 50 to 45. Thus, for the first time, deregulation of natural gas was endorsed.

Since this margin of 2 votes against deregulation in 1973, the Senate had changed on October 2, 1975 to a 5-vote margin for deregulation.

I then come to the date of October 22, 1975, in the 1st session of the 94th Congress. The modified Pearson-Bentsen substitute amendment, as amended, contained temporary provisions to assure the availability of natural gas supply, and other matters. There was a vote in the Senate which was not a tabling motion. This was an up and down vote in the Senate. And the vote in favor of the Pearson-Bentsen amendment was 50 yeas, 41 nays.

I emphasize to Senators that in 1973 there was only a two-vote difference. On October 2, 1975, there was, as I have indicated, a five-vote margin. Then on a later date in that same Congress, October 22, deregulation was approved in the Senate by a vote of 50 to 41.

Mr. President, the debate on S. 2310, at that time, was extensive. This issue of natural gas deregulation was discussed almost daily for nearly a month—from late September until agreed to on October 22, 1975.

I say to the Senator from Ohio (Mr. METZENBAUM) that the American people were educated 2 years ago on this issue. The mood of the Senate was for deregulation of natural gas prices then as now.

There have been close votes on this subject matter. There has been increasing support for deregulation in the Senate. The votes last night and last week have indicated that within the Senate there is solid support for deregulation.

The Pearson-Bentsen amendment now has an addition that would place the burden of higher prices, at least at first, on the industries of the country rather than on the homeowners. There is also a second provision, which is a modification, that would not allow new natural gas prices to go above $2.45 for the next 2 years. New natural gas flowing between our States is currently regulated by the Federal Government at $1.45 per 1,000 cubic feet. The proposal of the President and the administration bill would raise this rate to $1.75 initially, and then it would be raised to $2.50 by 1981. Also, the administration desires Federal regulations to extend to the gas flowing within a single State.

I stress these facts, and they are facts, to the membership of the Senate as we work to find some solution to the situation in which we are mired.

Frankly, I do feel that a filibuster by any group of Senators or a Senator is not helpful to the Senate procedure. I understand the rules of the Senate. They can be used, even misused. I am only suggesting that at long last—it should have come earlier—we try very diligently in a constructive way to move this measure. It is only one item of the energy program which must go to a conference with the House of Representatives.

Mr. President, the majority leader (Mr. BYRD) deserves the commendation of Senators generally for his continuing efforts to secure final action in this body on the pending legislation. I congratulate him on his fairness and determination to obtain a decision in this forum so that the measure can move to a conference with the House.

I also commend the able minority leader (Mr. BAKER) for his cooperation in attempting to resolve this problem so that the Senate can move to other important business.

Mr. SCHMITT. Mr. President, I rise only to ask the Senator from South Dakota a question in behalf of a colleague of mine, and it is as a consequence of some conversations I have heard this morning. Are there any circumstances under which the Senator from South Dakota would call up an amendment by a colleague who is out of town and unable to be on the floor? Are there any such circumstances in this debate?

Mr. ABOUREZK. Will the Senator yield on the Senator's time?

Mr. SCHMITT. I am happy to yield on my time.

Mr. ABOUREZK. I would not call up another colleague's amendment if it were made known to me that he would not be in town and if he asked me not to do so. In fact, I would not call up anyone else's amendment, but I did so yesterday. I called up amendments drafted and introduced by others simply because I saw the practice commenced on the other side of the issue, and I would not have done so had that not started. I thought that simply left it wide open. I do not intend to do that. I do not agree with the practice of calling up someone else's amendment. But as my colleague from Louisiana said, what is fair for one is fair for the other.

But I think the Senator is referring to Senator DOMENICI. I have no intention of calling up his amendment as long as he is gone.

Mr. SCHMITT. I thank the Senator for that comment.

I wonder if I could direct the same question to the Senator from Ohio (Mr. METZENBAUM)?

Mr. METZENBAUM. On the Senator's time.

Mr. SCHMITT. On my time.

I repeat the question. Namely, are there any circumstances under which the Senator from Ohio would call up amendments offered by Senator DOMENICI which are known to the Senator from Ohio as being of importance to him?

Mr. METZENBAUM. Known what?

Mr. SCHMITT. To be of importance to him, substantive amendments. Are there any circumstances in this debate and in this so-called filibuster that the Senator from Ohio would call those up knowing he was out of town?

Mr. METZENBAUM. No; and I want to point out that the amendments that I called up this morning, or one of them I called up this morning, is one that he had indicated was not of moment to him. He gave us a list of those that were of moment, and I would not intend to call them up while he is out of the city.

No one this morning, I might say, had indicated to me, until the latter part of the morning, that Senator DOMENICI is out of the city. As far as I am concerned, there are a sufficient number of amendments of other Senators on that side of the aisle who are in town that I can spend the remainder of the day calling up their amendments without any trouble whatsoever.

Mr. SCHMITT. I thank the Senator.

Mr. METZENBAUM. I would like to add one word, and that is that I think it is a highly inappropriate procedure for anyone to call up anyone else's amendment. I would prefer to call up my amendments and let the Senate act in connection with them. That procedure was also suggested by the distinguished Senator from New Jersey late yesterday in the debate.

Mr. SCHMITT. I thank the Senator. Does he have at his desk the numbers of the amendments Senator DOMENICI has requested not be called up?

Mr. METZENBAUM. I believe that I do, but the ones that I believe that he has indicated are not of substance are 1302, 1307, and 1308.

But in order that there may be no misunderstanding, if I should call up an amendment of the Senator from New Mexico that he felt was of substance or was unfair to him in any way, I would join in a unanimous-consent agreement that he might call it up in due course, out of respect for him as well as any other Member of the Senate. I would not want to take that advantage of him or any other Member of the Senate when they are out of the Senate.

Mr. SCHMITT. I appreciate those comments. I thank the Senator.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1106

Mr. DANFORTH. Mr. President, I call up amendment No. 1106.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1106:

On page 12, line 20, strike "January 1, 1977" and insert "the date of enactment".

Mr. DANFORTH. Mr. President, I ask whether that amendment is in order.

The ACTING PRESIDENT pro tempore. The amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President. I appeal from the ruling of the Chair.

The ACTING PRESIDENT pro tempore. If the Senator will suspend until the Chair completes his ruling, then the Senator's point of order will be heard.

The amendment attempts to strike, on page 12, line 20, the date January 1, 1977, which does not appear on that page. Therefore, the amendment is not in order.

Mr. ABOUREZK. Point of order, Mr. President. Point of order.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota will state his point.

Mr. ABOUREZK. I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, the Chair has ruled there is not a sufficient second. I suggest the absence of a quorum.

Mr. ABOUREZK. There is a sufficient second.

The ACTING PRESIDENT pro tempore. There is now a sufficient second. The question is, Shall the decision of the Chair stand at the judgment of the Senate? The Chair has ruled that there is a sufficient second, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 77, nays 2, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—77

Allen	Byrd, Robert C.	Durkin
Anderson	Case	Eagleton
Baker	Chafee	Eastland
Bartlett	Chiles	Ford
Bayh	Church	Garn
Bellmon	Clark	Glenn
Bentsen	Cranston	Hansen
Brooke	Culver	Hart
Bumpers	Curtis	Haskell
Burdick	Danforth	Hatch
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hathaway
Heinz	Metzenbaum	Sarbanes
Helms	Morgan	Sasser
Hollings	Moynihan	Schmitt
Inouye	Muskie	Schweiker
Jackson	Nelson	Sparkman
Johnston	Nunn	Stevens
Leahy	Packwood	Stevenson
Long	Pearson	Stone
Lugar	Pell	Talmadge
Magnuson	Percy	Thurmond
Mathias	Proxmire	Tower
McClure	Randolph	Wallop
McIntyre	Ribicoff	Williams
Melcher	Roth	Zorinsky

NAYS—2

Abourezk	Riegle

NOT VOTING—21

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Stennis
Griffin	Matsunaga	Weicker
Hayakawa	McClellan	Young

So the ruling of the Chair was sustained as the judgment of the Senate.

AMENDMENT NO. 865

Mr. METZENBAUM and Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up amendment 865.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 865.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will proceed to read the amendment.

The second assistant legislative clerk continued reading the amendment.

Mr. JOHNSTON. Point of order, Mr. President. The amendment is not germane.

Mr. ABOUREZK. Regular order, Mr. President.

Mr. METZENBAUM. Mr. President, regular order.

The ACTING PRESIDENT pro tempore. If the Senators will kindly allow the Chair to express the Chair's ruling, regular order is for the amendment to be read. The clerk will proceed to read.

The second assistant legislative clerk continued to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Objection.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

The second assistant legislative clerk continued reading the amendment.

Mr. TOWER. Mr. President, point of order.

Mr. ABOUREZK. Regular order.

The ACTING PRESIDENT pro tempore. The Senator will state his point of order.

Mr. TOWER. Mr. President, in that the amendment is printed and at the desks of individual Senators, I raise the point that the reading of the amendment is, therefore, dilatory and a point of order should lie against it.

The ACTING PRESIDENT pro tempore. The Senator's point of order is contrary to the precedent of the Senate. The clerk will read the amendment.

Mr. CRANSTON. I appeal the ruling of the Chair.

Mr. ABOUREZK. I ask for regular order, Mr. President.

The ACTING PRESIDENT pro tempore. The ruling of the Chair has been appealed.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is, Shall the ruling of the Chair stand as the judgment of the Senate?

The clerk will call the roll.

Mr. GLENN. Mr. President, could we have stated what the ruling of the Chair was?

The ACTING PRESIDENT pro tempore. The ruling of the Chair was that the precedents of the Senate require the amendment to be read and that the reading of a printed amendment is not dilatory.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. METZENBAUM. Am I correct that, if the Chair is overruled, we shall have established a precedent in the Senate that never again will there have to be an amendment read, as long as the amendment is printed and at the desk?

Mr. CRANSTON. Under cloture.

Mr. TOWER. Under rule XXII, Mr. President.

Mr. METZENBAUM. I did not ask it under cloture.

The ACTING PRESIDENT pro tempore. The Chair is answering that if cloture had been established under rule XXII, yes, this would have been a precedent. It would not be a precedent in the absence of cloture, because there is no dilatory rule in the absence of rule XXII.

Mr. CRANSTON. A parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CRANSTON. Is it not true that this would apply only under cloture and then only to amendments printed and at the desk?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The yeas and nays have been ordered.

Mr. ABOUREZK. Mr. President, I move to table the appeal, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on the motion to table the appeal of the ruling of the Chair. The clerk will call the roll.

The Chair further explains that if the motion to table is agreed to, the ruling of the Chair will be sustained; if not, then not. The clerk will proceed.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 33, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—47

Abourezk	DeConcini	Muskie
Allen	Dole	Nelson
Anderson	Durkin	Packwood
Baker	Eagleton	Proxmire
Bartlett	Eastland	Ribicoff
Bayh	Ford	Riegle
Brooke	Hansen	Roth
Bumpers	Hart	Sarbanes
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hathaway	Sparkman
	Heinz	Stennis
Case	Helms	Talmadge
Chafee	Hollings	Thurmond
Chiles	Long	Wallop
Church	Lugar	
Clark	Magnuson	
Culver	Mathias	

NAYS—33

Bellmon	Jackson	Pell
Bentsen	Johnston	Percy
Byrd, Robert C.	Leahy	Randolph
Cranston	McClure	Sasser
Curtis	McIntyre	Schweiker
Danforth	Melcher	Stevens
Garn	Metzenbaum	Stevenson
Glenn	Morgan	Stone
Haskell	Moynihan	Tower
Hatfield	Nunn	Williams
Inouye	Pearson	Zorinsky

NOT VOTING—20

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	Matsunaga	Young
Hayakawa	McClellan	

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Mr. BUMPERS. Mr. President——

Mr. ABOUREZK. Regular order, Mr. President.

Mr. LONG. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The reading of the amendment will continue.

Mr. LONG. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

Mr. ABOUREZK. Regular order.

Mr. METZENBAUM. Regular order.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Objection.

Mr. ABOUREZK. Objection.

The ACTING PRESIDENT pro tempore. The clerk will continue to read the amendment.

The assistant legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

On page 19, after line 18, insert the following new section:

SEC. 18. Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended to read as follows:

"OIL PRICING POLICY

"SEC. 8. (a)(1) Not later than the first day of the second calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of the Act which regulation, as amended, shall provide that the ceiling prices applicable to first sales of old crude oil and new crude oil shall be the prices specified by the Federal Energy Administration in crude oil price schedule numbered 8 issued September 1, 1977, for first sales of such crude oils for the month of November 1977, as adjusted pursuant to paragraph (2) of this subsection.

"(2) The amendment promulgated pursuant to paragraph (1) of this subsection shall further provide for adjustments to the prices specified therein for first sales of old crude oil and new curde oil beginning November 1, 1977, and continuing each month following, which adjustments shall increase the ceiling prices applicable to first sales of old crude oil and new crude oil at the rate of 10 per centum per annum or the rate of inflation as measured by the adjusted GNP deflator, whichever is greater.

"(3) For purposes of this subsection:

"(A) The term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce.

"(B) The terms 'old crude oil' and 'new crude oil' means those terms as defined in section 212.72 of title 10, Code of Federal Regulations, as in effect on September 1, 1977.

"(b) If the President finds that an amendment to the regulation promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) to allow first sale prices higher than the ceiling prices specified in subsection (a) of this section would provide positive incentives for—

"(A) the development of high cost and high risk properties (including wildcat properties and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of tertiary enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells; the President may amend the regulation under section 4(a) to provide such incentives except that the effect of any such amendment shall not, in any calendar year, result in first sale prices higher than the ceiling prices specified in subsection (a) of this section for a volume of crude oil production in excess of 5 per centum of total crude oil production in the United States.

"(c)(1) The first sale price of stripper well crude oil, deep stripper well crude oil, and high water ratio crude oil shall be exempt from the regulation promulgated under section 4(a) of this Act, as amended.

"(2)(A) For purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, does not exceed ten barrels.

"(B) To qualify for the stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.

"(3)(A) For purposes of this subsection, 'deep stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve-month period beginning after December 31, 1972, exceeds ten barrels but does not exceed—

"(i) fifteen barrels from an average producing depth greater than two thousand feet but not greater than four thousand feet;

"(ii) twenty barrels from an average producing depth greater than four thousand feet but not greater than six thousand feet;

"(iii) twenty-five barrels from an average producing depth greater than six thousand feet but not greater than eight thousand feet;

"(iv) thirty barrels from an average producing depth greater than eight thousand feet but not greater than ten thousand feet;

"(v) thirty-five barrels from an average producing depth greater than ten thousand feet but not greater than twelve thousand feet;

"(vi) forty barrels from an average producing depth greater than twelve thousand feet but not greater than fourteen thousand feet;

"(vii) forty-five barrels from an average producing depth greater than fourteen thousand feet but not greater than sixteen thousand feet;

"(viii) fifty barrels from an average producing depth greater than sixteen thousand but not greater than eighteen thousand feet;

"(ix) fifty-five barrels from an average producing depth greater than eighteen thousand feet but not greater than twenty thousand feet; and

"(x) sixty barrels from an average producing depth greater than twenty thousand feet.

"(B) To qualify for the deep stripper well crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the twelve-month qualifying period and in accordance with recognized conservation practices.

"(4)(A) For purposes of this subsection, 'high water ratio crude oil' means crude oil produced and sold from a property from which the aggregate amount of water produced in association with crude oil exceeds ten times the aggregate amount of crude oil produced from such property during any consecutive three-month period.

"(B) To qualify for the high water ratio crude oil exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the three-month qualifying period and in accordance with recognized conservation practices.".

Mr. TOWER. Mr. President——

Mr. ABOUREZK. Regular order.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. TOWER. A point of order, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. The amendment is not germane; therefore, a point of order should lie against it.

The ACTING PRESIDENT pro tempore. The Senator is correct. Under previous precedent of the Senate, there is no requirement to read a nongermane amendment.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The amendment is not germane. The amendment is not in order.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, I voted with Mr. ABOUREZK and Mr. METZENBAUM on the previous rollcall because, in my judgment, whether or not an amendment is dilatory should depend upon the length of the amendment. If someone sends an amendment to the desk that has more words than the Holy Bible, then I would have to say it is dilatory to send an amendment that long to the desk. But if it is just an ordinary amendment or one, two, or three pages, I do not regard that as dilatory.

Mr. President, the thought had occurred to me as to how we could bring this filibuster to an end any time we wished, and I am going to make that suggestion after a while. It is simply this: This debate has gone on long enough now so that Senators who want to call up amendments to the bill should have called them up by now. They have not been on notice that they could prejudice themselves by failing to call them up, but Senators who want to call up amendments to the bill could have called up those amendments and had them voted on, for days on end.

So all the Senate really has to do, when it is ready to do so, is merely to hold that any further amendments to the bill should be regarded as dilatory. Most amendments to the bill already have been offered. There may be a few that have not been offered. However, in due course I am going to make the point of order that any amendments to the bill itself—not to the amendment or to the amendment to the amendment—but that any further amendments to the bill——

Mr. JOHNSTON. Perfecting amendments.

Mr. LONG. Any perfecting amendments to the bill itself, any further amendments, are dilatory; that Senators by now, if they really were hoping to get them agreed to, if they were really serious about them, that those amendments had great merit in their judgment, would have called them up.

I will put Senators on notice on this matter before—so I am not going to make the point today.

Now, on Monday I expect to make the point that any perfecting amendments to the bill itself are dilatory, and the Senate can vote on it. If the Senate does not agree with that on Monday it will agree with it eventually because the rule clearly contemplates that type of motion.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MUSKIE. If you follow that one, if it would be established, every Senator under the cloture rule is allotted 1 hour of debate, and I think it is just as legitimate to argue that any Senator who has not used his hour of debate as of today should be ruled out of order if he should seek to do so after any time that the Senator from Louisiana decides——

Mr. LONG. I will be glad to yield to the Senator on his time.

Mr. MUSKIE. It is on my time.

Mr. LONG. All right.

Mr. MUSKIE. Any time the Senator from Louisiana decides is the point beyond which any amendment or any speech is dilatory would become the time when the Senate would rule, would begin to put Senators in their seats.

I do not really believe the Senator wants that. I have not used all of my time except for a few comments where I took issue with the Senator from Louisiana.

But why should another amendment be any more dilatory than another speech? I think what the Senator is proposing here opens up dangerous possibilities. I yield.

Mr. LONG. Mr. President, my good friend from Maine is this moment doing something that he on occasion has accused me of doing, and maybe I am guilty of it, but if I am guilty, so is he. He has accused me of assuming that the other man was arguing something he was not contending, and answering something that the other fellow did not say. I have, perhaps, been guilty of that, but this time the Senator was.

I am not talking about everybody having 1 hour. By all means, give everybody 1 hour. All I am talking about is that the rule clearly contemplates that some of these amendments are dilatory and others are not. How are you going to tell one from the other? It is a very easy way to tell one from the other. If you have an amendment out there that you think is meritorious and ought to be agreed to, you ought to call the amendment up. We have given you a week to call up the amendment to the bill. A perfecting amendment to the bill would take precedence over an amendment to the amendment or a substitute, and even if someone else had an amendment pending, you could call it up.

So I am putting the Senate on notice that I am going to make a point of order that any amendment to the bill itself, any further perfecting amendment to the bill, is dilatory.

That will take care of some of those amendments and, in due course, Mr. President, I would then make the point of order that any perfecting amendments to the substitute would be dilatory.

The Senate may not vote for it the first time but, in due course, I think the Senate if it has no other way to cut the filibuster off, because that rule presupposes the Senate is going to terminate that filibuster any time a majority of the Senators want to do so after everybody has had 1 hour.

Mr. MUSKIE. Mr. President, will the Senator yield on my time?

Mr. LONG. I yield on the Senator's time.

Mr. MUSKIE. My memory goes back to the time when speeches were dilatory, and I have heard the Senator from Louisiana make many eloquent speeches hours on end whose only purpose was dilatoriness.

For the Senator to suggest that I am talking through my hat or unreasonably extending the logic of the Senator's proposal in suggesting that a speech can be dilatory as well as an amendment is to assume the Senators are naive in the extreme.

Mr. LONG. Mr. President, the Senator could not be more right. I have made some dilatory speeches, lots of them. But I have not made any dilatory speeches after cloture when I just had 1 hour; when I was saying something I really had to get this off my chest.

Mr. MUSKIE. Because at that time you did not have to. You could not get cloture, so you made your dilatory speeches before cloture. Now somebody has discovered a way to be dilatory after cloture, and you envy them. [Laughter.]

Mr. LONG. Mr. President, sometime when we do not have cloture, when we just have plenty of time to talk about the matter which is before us today, I will debate the things with the Senator, things I did not say.

But, for the time being, I would like to leave it for debate on things I did say rather than using up my time; I am not being dilatory now, and I will reserve the rest of it.

Mr. BAKER. Mr. President, I will take just a moment. I will say I voted to table the appeal from the ruling of the Chair. I do not want that to be misunderstood. I said yesterday I think we learned one thing, and maybe one thing, in this debate, and that was we need to modernize and overhaul rule XXII.

Yesterday I said I would ask three Senators on this side to serve informally as a group to study that issue and to make recommendations in that respect.

I do not say I would never vote that the reading of an amendment is dilatory or out of order and subject, for that reason, to a point of order. I might under some circumstances. I would not say I would not agree at some point that the Chair, in calling up and reading an amendment generally, either to the bill or otherwise, is out of order, but only if, Mr. President, we thoroughly consider what we are about. Only if we change that rule.

There is a resolution on the Calendar now that has been there since the first day of the session. As I recall, it is Senate Resolution 5 introduced by the distinguished majority leader, which says just what we are talking about here or proposing the Chair do. I rose to speak against that. I took certain steps to try to avoid its being submitted to the Senate as a rule change. I am not so sure I was right then. I may very well have been wrong that time. But what I am saying is I do not want to make a rules change

by a ruling of the Chair in the midst of superheated debate when tempers are high and passions are high, and we are not really sure what we are about. I reserve all my rights to change that. But I wanted to explain that is the reason I wanted to do that.

Several Senators addressed the Chair.

AMENDMENT NO. 1107

Mr. DANFORTH. I call up amendment No. 1107.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendment No. 1107:

On page 3, line 19, strike "January 1, 1977" and insert "the date of enactment".

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. DANFORTH. Mr. President, point of order, the motion is dilatory.

The PRESIDING OFFICER. Will the Senator from Missouri state the point of order?

Mr. DANFORTH. The motion is dilatory because the amendment on its face is out of order.

Mr. ABOUREZK. Is the Senator the Parliamentarian, Mr. President?

The PRESIDING OFFICER. The point of order is well-taken. The amendment attempts to strike a date which is not on that particular page.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1172

Mr. METZENBAUM. I call up amendment No. 1172.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1172:

On page 19, line 1, strike "$20,000" and insert "$50,000".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1172. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusett (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 31, nays 49, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—31

Abourezk	Hart	Muskie
Allen	Haskell	Nelson
Anderson	Hathaway	Pell
Bayh	Hollings	Proxmire
Brooke	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Stevenson
Clark	Mathias	Williams
Culver	McIntyre	
DeConcini	Metzenbaum	

NAYS—49

Baker	Ford	Pearson
Bartlett	Garn	Percy
Bellmon	Glenn	Randolph
Bentsen	Hansen	Roth
Bumpers	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Heinz	Schweiker
	Helms	Sparkman
Chafee	Johnston	Stennis
Chiles	Long	Stevens
Cranston	Lugar	Stone
Curtis	McClure	Talmadge
Danforth	Melcher	Thurmond
Dole	Morgan	Tower
Durkin	Moynihan	Wallop
Eagleton	Nunn	Zorinsky
Eastland	Packwood	

NOT VOTING—20

Biden	Huddleston	McGovern
Cannon	Humphrey	Metcalf
Domenici	Javits	Scott
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	Matsunaga	Young
Hayakawa	McClellan	

So the amendment (No. 1172) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Missouri.

AMENDMENT NO. 1108

Mr. DANFORTH. I call up amendment No. 1108.

The PRESIDING OFFICER. The clerk will state the amendment. And the Chair will note that the Chair will state whether or not the amendment is in order.

Mr. METZENBAUM. Mr. President, under a previous ruling of the Chair, is it necessary to have the amendment read first?

The PRESIDING OFFICER. Not if the amendment is out of order on its face.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1108:

On page 10, line 1, strike "1982" and insert "1992".

The PRESIDING OFFICER. The Chair announces that the amendment is out of order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1110

Mr. DANFORTH. Mr. President, I call up amendment No. 1102.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HART. I would only ask the Chair to take note of the fact that other Senators were on their feet earlier, but the Chair is recognizing consistently the same Senator. The Senator from Nebraska was on his feet first, then I was on my feet, and then the Senator from Missouri.

The PRESIDING OFFICER. The Chair thanks the Senator. He will be recognized next. The Senator from Missouri.

Mr. DANFORTH. I call up amendment No. 1110.

The PRESIDING OFFICER. The amendment is out of order.

The Senator from Colorado.

Mr. HART. Mr. President, I appreciate the recognition. I believe the Senator from Nebraska was seeking recognition first.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nebraska?

Mr. HART. I yield to the Senator from Nebraska.

AMENDMENT NO. 1117

Mr. ZORINSKY. Mr. President, I call up amendment No. 1117.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an amendment numbered 1117:

On page 3, line 5, after January 1, strike "1977" and insert "1978".

The PRESIDING OFFICER. That amendment is out of order for the same reason as the previous amendment.

The Senator from Colorado.

Mr. METZENBAUM. Mr. President, I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Senator from Colorado has been recognized.

Mr. METZENBAUM. Mr. President, a point of order. I have a right to appeal the decision of the Chair.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Ohio is not recognized. If he cares to ask the Senator from Colorado, who has been recognized, to yield to him, he may do so.

Mr. METZENBAUM. Will the Senator from Colorado yield?

Mr. HART. Mr. President, at some point I would like to be recognized in my own right.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio?

Mr. HART. I yield.

Mr. METZENBAUM. Mr. President, I appeal from the decision of the Chair.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. After cloture, is it permitted for a Senator to yield for a purpose other than a question?

The PRESIDING OFFICER. In either case, cloture or not, it is never in order to yield to another Senator except for the purpose of a question.

Mr. METZENBAUM. Was not the Senator from Ohio recognized?

The PRESIDING OFFICER. I think the Senator from Colorado yielded to the Senator from Ohio, and the Senator from Ohio has the floor.

Mr. METZENBAUM. I appeal the decision of the Chair.

Mr. DANFORTH. A point of order, Mr. President. He cannot yield the floor for such purposes under these circumstances.

The PRESIDING OFFICER. The Senator from Colorado has lost the floor, and the Senator from Ohio is recognized.

Mr. METZENBAUM. I appeal from the decision of the Chair, and ask for the yeas and nays.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DANFORTH. A point of order.

The PRESIDING OFFICER. Is there a sufficient second, first? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum,

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. DANFORTH. Mr. President, a point of order.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Missouri will state his point of order.

Mr. DANFORTH. The request for a quorum call is dilatory, and out of order.

The PRESIDING OFFICER. The request for a quorum call has not been made.

Mr. DANFORTH. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. The appeal from the decision of the Chair is dilatory, and therefore is out of order.

The PRESIDING OFFICER. The appeal is dilatory.

Mr. METZENBAUM. The appeal from the decision of the Chair is dilatory? Is that the ruling of the Chair?

The PRESIDING OFFICER. That is the ruling of the Chair.

AMENDMENT NO. 970

Mr. DANFORTH. Mr. President, I call up amendment No. 970.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendment No. 970, numbered 862 to S. 2104.

On page 15, after line 22, insert the following new section 28, and redesignate the succeeding sections accordingly:

RIGHTS OF INTERVENORS

SEC. 28. Section 22 of the Natural Gas Act is amended by inserting "(a)" after "SEC. 22." and by inserting at the end thereof the following:

"(b) An intervenor in any suit under subsection (a) shall have all the rights to obtain necessary information in the pursuance of such suit as are granted to the original parties.".

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DANFORTH. Mr. President, a point of order. The call for the quorum is dilatory.

Mr. METZENBAUM. There is not a quorum on this floor.

The PRESIDING OFFICER. Business has intervened. The call for the quorum is in order. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 56 Leg.]

Abourezk	Ford	Nelson
Allen	Garn	Nunn
Anderson	Glenn	Packwood
Baker	Hansen	Pearson
Bartlett	Hart	Pell
Bayh	Haskell	Percy
Bellmon	Hatch	Proxmire
Bentsen	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Johnston	Schweiker
Chiles	Leahy	Scott
Church	Long	Sparkman
Clark	Lugar	Stennis
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
Curtis	Matsunaga	Stone
Danforth	McClure	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Melcher	Tower
Durkin	Metzenbaum	Wallop
Eagleton	Morgan	Williams
Eastland	Moynihan	Zorinsky
	Muskie	

The PRESIDING OFFICER. A quorum is present.

The Senator from Colorado.

Mr. DANFORTH. Can we have a ruling?

The PRESIDING OFFICER. The question should have been on agreeing to the amendment prior to the time I recognized the Senator from Colorado.

The question is on agreeing to the amendment.

Mr. METZENBAUM. What is the question? I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DANFORTH. Point of order, Mr. President.

The PRESIDING OFFICER. There is not a sufficient second.

What is the point of order?

Mr. DANFORTH. That the amendment is not in order because it amends the bill in two places.

The PRESIDING OFFICER. Since the Senate has decided that just amending the bill in two places, where the second one is simply redesignating another section, does not hit in two places, the point of order is not sustained.

The question is on agreeing——

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays were requested. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. CHILES. Point of order, Mr. President. The call for a quorum is dilatory, Mr. President.

The PRESIDING OFFICER. The Senator from Florida makes the point of order that the call for the quorum is dilatory.

Mr. METZENBAUM. There has been intervening business.

Mr. CHILES. Under rule XXII, motions that are clearly dilatory will be ruled out of order.

The PRESIDING OFFICER. The Chair has to confess that the Chair thinks it is dilatory because we have just completed a quorum call to establish a quorum, and the Chair rules that it is dilatory. The question is on——

Mr. MUSKIE. Mr. President——

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I appeal the ruling of the Chair because I am disturbed by a ruling the Chair made a few moments ago.

Mr. CURTIS. Point of order, Mr. President. Under cloture, there is no debate on an appeal from the ruling of the Chair.

Mr. MUSKIE. Mr. President, the Presiding Officer has not yet ruled.

The PRESIDING OFFICER. The appeal is not debatable, but the Chair has recognized the Senator from Maine to make an observation, and he may proceed.

Mr. MUSKIE. Mr. President, the Chair earlier ruled on a similar question that an appeal to the Chair is itself dilatory.

Mr. President, the word "dilatory" in the cloture rule is being defined in the course of this battle. A lot of decisions on first impression are being made. They are important decisions. They are important precedents.

But when the Chair rules that an appeal from the ruling of the Chair is, itself, dilatory, the effect of that is to take out of the hands of the Senate the power to make the final decision as to what the word "dilatory" means.

The Senate may wish to do that. We do not know who may occupy that chair at some point in the course of any heated debate after cloture. It may be someone sympathetic to our view or it may not be. But for the Senate to accept the notion that the occupant of the chair, whoever he may be, can deny the Senate as a whole the right to rule on appeals from the Chair is a precedent I doubt this Senate wants to set. I simply wanted to say that—that if the present occupant of the chair rules that the appeal is dilatory, we are powerless—all 100 of us—to

change that unilateral, individual ruling by someone who temporarily presides over the chair, I think we ought to think about it.

The PRESIDING OFFICER. The Chair will note that if an amendment seeks to amend language in a bill, where that language is not there, it is, on its face, an amendment that is out of order. Appealing that decision, which is an obvious decision, which cannot be refuted and argued in any way, where a vote is allowed, does, indeed, on its face, delay the consideration of the bill before us.

Mr. MUSKIE. Mr. President, a further observation.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. It does not matter whether or not the Chair's ruling on that point is challengeable. Once the Chair asserts the right to deny any Senator appeal from his ruling, that precedent can be built upon to deny appeals for any reason.

Mr. HART, Mr. METZENBAUM, and Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Chair observes that and notes that.

Mr. METZENBAUM, Mr. DANFORTH, and Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. HART. Mr. President, I think I was recognized.

The PRESIDING OFFICER. The Senator from Colorado had been recognized.

Will the Senator withhold?

Mr. CHILES. There was never a motion.

The PRESIDING OFFICER. There is an appeal from the ruling of the Chair that the quorum call was dilatory. Then the question is on the appeal.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays?

Mr. DANFORTH. Mr. President.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON. That is dilatory.

The PRESIDING OFFICER. The Chair ruled that dilatory. The question is on the appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the appeal from the decision of the Chair.

Mr. DANFORTH. Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. The appeal to the Chair is dilatory.

The PRESIDING OFFICER. The Chair rules that the appeal was not dilatory.

The question is, Shall the decision of the Chair stand as the decision of the Senate? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 26, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—56

Baker	Garn	Pearson
Bartlett	Hansen	Percy
Bellmon	Haskell	Proxmire
Bentsen	Hatch	Randolph
Bumpers	Hatfield	Roth
Burdick	Heinz	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
	Inouye	Schmitt
Byrd, Robert C.	Johnston	Schweiker
Chafee	Leahy	Scott
Chiles	Long	Stennis
Church	Lugar	Stevens
Cranston	Matsunaga	Stevenson
Curtis	McClure	Stone
Danforth	McIntyre	Talmadge
DeConcini	Melcher	Tower
Dole	Moynihan	Wallop
Eastland	Nunn	Williams
Ford	Packwood	Zorinsky

NAYS—26

Abourezk	Eagleton	Morgan
Allen	Glenn	Muskie
Anderson	Hart	Nelson
Bayh	Hathaway	Pell
Brooke	Helms	Ribicoff
Case	Jackson	Riegle
Clark	Magnuson	Sparkman
Culver	Mathias	Thurmond
Durkin	Metzenbaum	

NOT VOTING—18

Biden	Hayakawa	McClellan
Cannon	Huddleston	McGovern
Domenici	Humphrey	Metcalf
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young

So the ruling of the Chair was sustained as the judgment of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I intend to ask unanimous consent that an amendment of mine which is at the desk and was at the desk prior to cloture be altered from a substitute to a perfecting amendment. Before I do that, I want to make a comment or two on my own time.

We have heard a great deal of talk in the last few days about both sides of this issue.

Mr. BUMPERS. Mr. President, may we have order? The Senator has a very important amendment, and I think everybody should hear him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HART. Mr. President, we have heard of lot of talk about both sides of this issue during the last few days which suggests very strongly that there are only two sides to this issue. I do not think there is any major policy question that comes up before the U.S. Senate that should permit itself to be reduced to simple alternatives—either/or—but that is exactly what the U.S. Senate has permitted itself to do. You were either for Pearson-Bentsen, for total deregulation, or you were for some form of the administration's proposal to continue regulation.

What that polarization, together with cloture, has done is to effectively foreclose any alternatives in between, except those that have been at the desk. I happen to have an alternative that is not Pearson-Bentsen and is not continued deregulation. I think that, to a certain degree, one other Senator, the Senator from Louisiana, also has an alternative.

I select the word "alternative" carefully, because a compromise is a coin which has been seriously devalued around here in the last few days. So I think we should talk in terms of whether there are in fact alternatives. There are alternatives, and they are at the desk. But because of cloture and because of the polarized nature of this issue, the Senate is effectively foreclosed from considering them. The Senate has an opportunity right now to consider one of those, and all it must do to permit consideration—not acceptance, but consideration—of that alternative is to grant my request for a unanimous consent to make this amendment in order.

The request will be that it be changed from a substitute to a perfecting amendment. No other substance essentially will be changed, but because of cloture, it will require consent. That means that one of 99 Senators can object, and I have every idea that somebody probably will. But I think the person who objects should understand that what that person is doing is not just voting against or taking it in his hands to vote against this proposal but is foreclosing from the Senate the possibility of considering an alternative. If any Senator wants to accept that responsibility, that Senator can do so, for his own reasons.

However, I, for one, am extremely unhappy that we sit here day after day, absolutely deadlocked, between two hard positions, the contenders for which are adamant about them, and those of us who feel that there are viable alternatives—not compromises, but alternatives—are foreclosed from even presenting those alternatives because of the parliamentary situation.

We have a way out of that—unanimous consent. These issues are complex. I do not think any of us think they are simple—those who believe strongly one way or the other. They involve prices to

the consumer. They involve additional supplies for the consumers to use. They involve complex issues of interstate and intrastate. They involve the structure of the oil and gas industry. They involve a lot of issues. If the Senate is serious, and if all those who have been talking to the reporters about how they would like to find some way out of this, or how they would like to consider some way out of this, are serious about that, they will at least let those alternatives which are at the desk, and which otherwise qualify, except for a technicality—they say "substantive" instead of "perfecting"—they will let us bring up those amendments and let us spend the remaining part of our hour presenting them and vote them up or down.

I think I deserve that, and anyone else who qualifies in this regard cares to participate deserves that, because we have been serious about this. We are not delaying, and we have alternatives for the Senate to consider.

I have not had an opportunity to debate my alternative on the floor because of the time limitations and everything else that has gone on. However, I sent around a "Dear Colleague" letter on September 14. My staff and I talked diligently to the staffs and other Senators about this alternative. I think there is some support for it. But even if it were voted down, the Senate of the United States would have a chance to get out of this deadlock.

If a majority of the Senators want to stay in the deadlock, if they do not want to consider alternatives, that is up to them. Any Member of the Senate can foreclose that by merely saying, "objection." But I think that Senator would be well advised to realize that what that Senator is doing is killing the possibility of the Senate considering any way out of this impasse with the proposals that are presently at the desk.

Mr. HANSEN. Mr. President——

Mr. NUNN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Has the Senator from Colorado given up the floor?

Mr. HART. No.

Mr. NUNN. Mr. President, will the Senator yield to me before he yields the floor?

Mr. HART. I will.

Mr. President, I will propound my unanimous-consent request. First, I will send the amendment to the desk.

The PRESIDING OFFICER. The Chair reminds the Senator from Colorado that there is an amendment pending. The Senator is not seeking to offer it at this time, is he?

Mr. HART. I am seeking unanimous consent to propound a unanimous-consent request.

The PRESIDING OFFICER. The Senator should then be advised that we should dispose of the pending amendment first. The Senator's amendment would not be in order as long as——

Mr. HART. Would the consent request be in order?

The PRESIDING OFFICER. Yes. The unanimous-consent request is in order to allow the amendment to be offered in its changed form at a later time.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to change my amendment No. 1389, which is in the nature of a substitute to amendment No. 1022, to be changed to a perfecting amendment by striking sections 1 through 9 and 11 through 17 of amendment No. 1022, as amended, and inserting at the appropriate place sections 1 through 9 and 11 through 17 of my amendment 1389.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Reserving the right to object, Mr. President, I would like to speak on that. I do not intend to object.

I would like to urge that people not object because this may provide an opportunity for us to resolve the issue before us by means other than grinding through every amendment, going through all the motions and countermotions and tactics and strategies we have found ourselves embroiled in, and I assure all present that I would urge the same thing for any amendment that came from any Senator under these circumstances, regardless of the viewpoint of the Senator.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Wyoming reserve the right to object?

Mr. HANSEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. HANSEN. Mr. President, let me say this: I have no doubt at all about the sincerity and earnestness of the distinguished Senator from Colorado, and I think his motives could not be finer than what I ascribe to them.

But let me point out this: We have been engaged in a filibuster here for several days, and the trouble with this approach is if I were not to object, and in due time I will object, it leaves the door wide open so that everyone else here who may not have as fine motives, as I am certain the Senator from Colorado has, can latch upon this precedent to ask unanimous consent that their amendments——

Mr. HART. No.

Mr. HANSEN. I have the floor and I reserved the right to object. They can get all kinds of mischief going here by this same opportunity. So I must object.

Mr. HART. Will the Senator withhold his objection?

Mr. HANSEN. I do not withhold.

Mr. HART. So we may discuss the issue?

The PRESIDING OFFICER. Objection is heard. The Senator from Colorado still has the floor.

Mr. HANSEN. I have objected.

The PRESIDING OFFICER. Objection has been heard, but the Senator from Colorado does have the floor. The Senator from Colorado.

Mr. HART. Mr. President, I think this is extremely unfortunate. The Senator from Wyoming knows full well——

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me?

Mr. HANSEN. Mr. President, reserving the right to object, and if it is duly noted that right is fully reserved, I withhold my objection so that others may be heard.

The PRESIDING OFFICER. The Senator from Wyoming withdraws his objection but still reserves it.

The Senator from Colorado.

Mr. HART. I thank the Senator.

Mr. President, I think there is a reasonable response to what I think is a possible legitimate objection. First of all, I indicated in my remarks there are not that many substitutes—I think there may be no more than a dozen, and six of those are variations of mine, and I think the Senator from Louisiana's are variations of the same theme, so there are not that many substitutes—which would qualify for this kind of exception.

Second, we are not establishing a precedent. Any Senator at any time if he believes that an attempt to offer a motion is dilatory can object. The Senator from Wyoming has said he does not believe my intent is to delay, and he is correct. Therefore, he could not object here and still reserve his right to object to others that he believes are dilatory. This is not a precedent-setting step we are taking here. It is an effort to get out of this deadlock.

Now, if Senators do not object here they can object at any other time they wish.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. HART. I yield to the Senator from Washington for a question.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HART. On the Senator's time.

Mr. ROBERT C. BYRD. Mr. President, would the Senator yield to me?

Mr. HART. On the leader's time.

Mr. ROBERT C. BYRD. Mr. President, I move the Senate stand in recess until the hour of 10 o'clock Monday morning.

Mr. NUNN. Mr. President, will the Senator from West Virginia yield to me? I have been trying to get the floor for about 30 minutes.

The PRESIDING OFFICER. The Senate will come to order. Does the Senator from Colorado yield to the majority leader for that purpose?

Mr. ROBERT C. BYRD. He yielded to me on my time.

Mr. HART. But reserving——

The PRESIDING OFFICER. Does the Senator from Colorado yield for that purpose?

Mr. ROBERT C. BYRD. I hope he will.

Mr. HART. Reserving my right to the floor and with some understanding of the purpose of the majority leader's motion.

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. A further inquiry to my good friend from West Virginia.

The PRESIDING OFFICER. The Chair will state that the Senator from Colorado can only yield for a question except by unanimous consent or he loses his right to the floor.

Mr. HART. I yield to the majority leader so he may ask me a question which may reveal in the course of the

question his purpose in perhaps offering the motion. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator be allowed to yield to me without losing his right to the floor and that I may be able to utilize my time because I think I would want to explain. Would this be agreeable?

Mr. HART. If that is the understanding of the Chair.

Mr. NUNN. Reserving the right to object, if that is a unanimous-consent request, I reserve the right to object.

The PRESIDING OFFICER. The Chair will state that the Senator from Colorado can yield for purposes of a question, and if he is yielding for any other purpose he has to make that known at this time, and he automatically loses the floor when he does that.

Mr. ROBERT C. BYRD. Mr. President, will the Senator do this, would he yield the floor at the moment—I am asking a question—would he yield the floor, which still leaves the Senator from Wyoming with his having reserved his right to object, would he yield the floor to me that I might move to recess because I think that tempers are just too high at this point to continue action, and I think if we go home over the weekend perhaps we can find some way out of this.

If I may have the distinguished Senator's attention, I understand there is some talk around here of moving to recommit this bill this afternoon. I hope that if that motion is made, the Senators will not support it for these reasons: If we recommit the bill, that kills the bill and, Mr. President, I think it would be a very, very sordid event for this Senate, after it has spent already 12 days and 1 night in trying to work its way out of this wrangle, for us to turn around at this point and kill the bill.

I still have hope that in time there will be some resolution of this matter, and I do not believe the Senate of the United States ought to commit an act which will prevent natural gas pricing legislation from being in conference.

Now, whatever the Senate does on the bill it has a right to do. If it wants to kill the bill, of course, it can kill it, but I want to point out the consequences. We will have no measure in conference on natural gas pricing.

Now, the President of the United States is entitled to have something in conference so that the House and Senate can resolve this issue. I think most of us here know how the issue of deregulation will be resolved in conference. Nobody is kidding himself. But we have a responsibility to send something to conference, whatever the Senate sends.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Let me please finish my statement.

Whatever the Senate sends to conference is the Senate's business. But do not recommit the bill. I am not going to take the bill down. I am just not made that way. I have a responsibility to try to get this bill to conference. I am not willing to see this Senate be recreant in its responsibility to send something to conference, if I can avoid it.

If we do not send a bill to conference on natural gas pricing, there will be nothing in conference. That might endanger the whole national energy policy the President has presented, because the House then will be put in a very difficult position.

The House of Representatives passed a bill, and I said 5 months ago to the leadership of the House that we cannot possibly pass a bill of this kind, so massive, so controversial, in the Senate. Under our rules it is an impossibility. We would never be able to invoke cloture on such a bill. So we have to send it over in pieces. Now anyone can see the problems we are having with just one of the pieces.

The House of Representatives, though, has a different problem. As I understand it, if they do not have a whole package, they may not be able to pass anything over there and if we here knock out one of the components and the House of Representatives is unable to pass anything. I would not blame the President for calling us back after we adjourn.

We have to face up to this issue one way or the other and there should be a little give here. I understand there has been plenty of give already. I understand that.

But we are at a point where someone is going to have to give a little more in one direction or the other. Or we will just continue as we are until we get down to the point where we vote.

I have sought to have a vote up or down on the Pearson-Bentsen amendment, but there have been objections.

Mr. MAGNUSON. We did vote on it last night.

Mr. ROBERT C. BYRD. No. We voted on a tabling motion.

As far as I am concerned that was indicative of where the Senate sentiments are right now. But I hope and I plead with my friend from Georgia and any other Senator not to move to recommit this bill.

Mr. NUNN. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. NUNN. I have one brief comment.

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. NUNN. Will the Senator from Colorado yield on my time?

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. HART. Only if I may reserve my rights to the floor.

Mr. NUNN. Will the Senator from Colorado yield?

Mr. HART. Only if I reserve my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Colorado yields to the Senator from Georgia.

Mr. NUNN. I say to my good friend from West Virginia I will agree with everything he says about the priority of this bill, about the importance of energy legislation, and about what it means to the country, but it is very apparent to me that we either have to decide the Senate precedent and the Senate rules are going to be changed or altered or we are not going to get an energy natural gas bill.

If natural gas matters are as important as the Senator from West Virginia has just articulated, which I contend they are—and I will agree with him—then it is more important than making no change whatsoever in the precedents and the rules of this Senate.

I have seen no evidence whatsoever that the joint leadership is willing to deviate from either the precedents or the rules of this Senate so that we can end this debate and come to a conclusion.

So I would contend that unless someone makes that decision, and I do not know who that will be, but unless there is an effort to set aside either a precedent or a Senate rule during the first part of next week, then very reluctantly, because I think the whole effort is futile and we have other important business, then I certainly would at least contemplate making a motion to recommit this bill because I do not believe we are ever going to get a natural gas bill unless we decide that it is more important than the precedent or the rule of the Senate. That is the question that is before this Senate and that is what has to be decided, and I see no evidence whatsoever that this Senate has been willing or ready to come to grips with that decision, so-called.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me again?

Mr. NUNN. I thank the Senator from Colorado.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the majority leader?

Mr. HART. Mr. President, I shall try to resolve this issue I raised before we get sidetracked on the other one, frankly because this is not the issue before the Senate. Now I think it is important to state once again the situation. The American people believe they have two choices, either deregulate totally or keep regulations on. They do not have only two choices. They have at least two others. I have one of them. The Senator from Louisiana has another. But because of the parliamentary situation and the rules of the Senate we are foreclosed from offering those alternatives. They have not been reported on. They have not been considered by the Senate or by the American people, and I think the American people and the Senate have a right to consider them.

What I am asking, without establishing any precedents because I am asking unanimous consent not to have a change or alteration of the rules, is a technical change in my amendment from a substitute to a perfecting amendment so that it may be in order for the Senate to consider it. I may not get 10 votes. But that is not the issue. The issue is we are deadlocked and we are prevented from considering viable alternatives. That is the issue.

Any Senator may object. But if that Senator objects, that Senator is telling the American people he is unwilling to let the Senate consider any but two alternatives. That is the issue.

We could have unanimous consent on this request, and every Senator reserves his right to object to any other attempt to alter an amendment. This is one of the two sets of substitute amendments which are substantial and are serious. They are not dilatory. They are not perfecting amendments. And there is no precedent established. I am prepared, if this unani-

mous consent request is granted, to call up the amendment when appropriate, expend the remainder of my 40 or 45 minutes and have a vote on it up or down. If I only get six votes, fine, but at least the Senate would have considered an alternative to the two that it has been deadlocked over for the last 2 weeks. That is all I am asking.

Mr. JACKSON. Mr. President, will the Senator yield on my time for a question?

Mr. HART. I yield for a question.

Mr. JACKSON. Mr. President, is it not a fact that the Senator from Colorado has tried to pursue his amendment to bring it to the floor since we started this debate?

Mr. HART. The Senator is correct.

Mr. JACKSON. Is it not a fact that the amendment that the Senator has proposed does offer a substantial alternative to what we have been considering?

Mr. HART. The Senator is correct.

Mr. JACKSON. Mr. President, I hope for the benefit of all of our colleagues here that the unanimous-consent request will be granted.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object——

Mr. LONG. I reserve the right to object.

The PRESIDING OFFICER. The Senator from Tennessee is reserving the right to object.

Mr. CURTIS. I reserve the right to object.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I will not be long. In the course of the last 10 days, we have engaged in an exercise that maybe the Senate does better than it does most things. That is we play with our rules. We have been mesmerized by our rules. But those rules provide a way that we get an amendment up, the way we keep that amendment from being displaced, and the way we assure that we are going to get a chance to vote on it.

There are 350 amendments up here.

Mr. HANSEN. Five hundred to start with.

Mr. BAKER. Whatever the number is. I am told it may be more than 350 amendments. Every one of those one way or other are eligible or noneligible under the rules.

Mr. President, in all good grace, because I have only the highest respect for the distinguished Senator from Colorado, I must say that I cannot in good conscience permit a unanimous-consent request to qualify an amendment in this case when there are others in precisely the same class. I am sorry to say that but it is simply so.

So when the time comes, not because I disagree with the merits—I do not even know what is in his amendment—because of pure, simple equity, I shall object. We are past that point. That train pulled out of the shed. And at the proper point, if someone else does not object, I will object.

Mr. HART. Let me respond to that, if I may, because it is the same point made by the Senator from Wyoming earlier.

Mr. CURTIS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

The Senator from Colorado.

Mr. HART. This is not like those 350 amendments. I will make the case all over again. There are two sets of substitute amendments. I have one. They are almost the same. The Senator from Louisiana has another, and those are variations on a theme.

These are not perfecting amendments. They are substitute alternative amendments. So they are not like 350 others.

There is no precedent established for permitting the Senator from Colorado to change this from a substitute to a perfecting amendment. Thereafter any Senator in the Chamber may object to the same request if he deems it dilatory.

The Senator from Tennessee has already stated, as the Senator from Wyoming did, that he does not consider this amendment dilatory. Anytime either of them consider an amendment or an attempt to get unanimous consent dilatory they may object and I may object. So there is no precedent being established here. There is no favor being done to the Senator from Colorado except to the Senate as a whole, and that is to give us a chance to vote on some other alternative. That is all we are seeking. That is all I am asking for; I do not even have a cosponsor.

So I would hope that Senators who are serious about resolving this problem would at least let us consider an alternative. In 45 minutes we can vote it up or down and dispose of it, and Senators can say, "We do not like that alternative." That is all I am asking. So I would hope the Senator would not object to that request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. HART. I yield.

Mr. DECONCINI. Is there an attempt, in making this unanimous-consent request, to give the Senate an opportunity to move off of the position we are now in so that those of us who feel we should resolve this issue will have an opportunity to do so?

Mr. HART. The Senator has stated my intention exactly.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska reserves the right to object.

Mr. CURTIS. Mr. President, I would like to point out that the Senate is not deadlocked. [Laughter.] Laugh if you want to. We voted cloture to end debate on three occasions. By a clear majority, Senators have expressed the wishes of of the Senate on what kind of a natural gas bill we want. We have voted to end debate, and I appeal to the leadership to cease all of this trying to get together to work out something to undo what the majority has done on three occasions. We should end this law of the jungle, and return to the rules of the Senate. The rules of the Senate provide that when you vote for cloture, debate ends.

I am not criticizing the time keepers. I do wonder about the instructions they are getting. I have heard individuals stand here and talk for several hours this week, since cloture was voted. The rules say they are entitled to an hour.

The rules say that you cannot have any motion or amendment that is dilatory. When a Member comes in here and offers 250 amendments, on the face of it that is dilatory, and every schoolboy knows it.

Mr. President, I appeal to the leadership to recognize the fact that what is happening here is not a deadlock over a decision. The decision has been made three times. It is cooperation with a minority who do not like the decision, and we are filibustering after the Senate has voted to end filibustering.

I yield the floor.

Mr. LONG. Mr. President, reserving the right to object——

Mr. BARTLETT. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Louisiana reserves the right to object.

Mr. LONG. Mr. President, I believe there is a way the Senator from Colorado can get his amendment to a vote. I have not discussed it with him, but after this colloquy is over I will be glad to discuss it with him, and if there is an alternative available to him to get it to a vote, I do not think we have to make that decision, I do not care to discuss it here, but I will be glad to discuss it with the Senator later.

Mr. HART. Would not the Senator be willing——

The PRESIDING OFFICER. The Senator from Colorado has the floor. The Senator from Louisiana has stated his reservation, and the Senator from Colorado is recognized.

Mr. HART. Would not the Senator agree, however, that all other rules and parliamentary requirements having been met, if no Senator objected, the amendment would be before the Senate or could be brought before the Senate quite easily, without setting a precedent for anyone else?

Mr. LONG. Well, I think there is a way it can be done. If there were no alternative, I would look at it differently, but I think there is a way the Senator can achieve what he is trying to do. Therefore, I object.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object——

The PRESIDING OFFICER. Did the Senator from Louisiana object?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Does the Senator from Colorado yield the floor?

Mr. ROBERT C. BYRD. Does the Senator from Colorado still wish to hold the floor? Inasmuch as the objection has been made, I wondered.

Mr. HART. The only thing I want to say——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART (continuing). Mr. President, to my colleagues, is that I appreciate the motives of the Senator from Louisiana, but if the Senator is serious about getting out of this impasse, whether you call it a deadlock or not is up to each individual, considering the viable alternatives there are, it seems to this Senator we have just had a chance to do it, and we passed it up.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. JOHNSTON. Mr. President, will the Senator yield to me? I have been trying to get recognized for some time.

Mr. ROBERT C. BYRD. Yes. I declined to yield earlier, but I did not intend to shut the Senator out.

Mr. JOHNSTON. I thank the distinguished majority leader. I wonder if the amendment of the Senator from Colorado is not in order right now, as a substitute for amendment No. 1022. Is not amendment No. 1022 the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 1039, as a substitute for No. 1022.

Mr. JOHNSTON. If that substitute should be brought down, then it would be in order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. I thank the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, there are two things I think I am constrained to state. First, in response to something that was said by the distinguished Senator from Nebraska (Mr. CURTIS) that he did not know what instructions were being given to the timekeeper. No instructions have been given to the timekeeper, I assure him that I know anything about, nor would I approve of any instructions given to the timekeeper to add to any Senator's time under cloture, or not to reduce his time. No instructions have been given to the timekeeper; so that can be laid to rest.

Second, in respect to the Senator from Georgia (Mr. NUNN), who is one of the most able Senators that I have seen enter the Senate since I have been here—and I have been here now 19 years, though some of us have been here longer—I have many reasons to compliment him, but I will not take time to do all of that now.

Let me say to him, however, that I have tried every way that I could possibly try to find a resolution of this situation. I guess I have worked out more time agreements in the last 10 years than any Senator in the history of the U.S. Senate. It has been difficult at times, but I must say that I have never run up against anything quite like this.

I believe in three things: Patience—and my own has been stretched greatly—patience, tenacity, and not giving up in an effort to get the Senate to work its way out and get action on a bill.

Now, I want to assure the Senator from Georgia that I have tried. I brought out a resolution (S. Res. 5) earlier this year and we went through the orderly procedure in getting that resolution—it went to the committee, Senator ALLEN and others of us on the committee considered it, and we amended it some, but we reported out a resolution. That resolution was designed to prevent such a protracted filibuster as we have seen here from happening again, from now until the crack of doom, unless the Senate subsequently changed the rules. It would have placed an overall 50-hour maximum on debate after cloture with quorum calls, et cetera, to be charged against the 50 hours. After 4 days of debate, I came to the conclusion that I could not get that resolution through the Senate at that time without going through a filibuster, and I had no assurance that a filibuster could be broken.

I entered into negotiations in good faith in an effort to see if I could get something worked out that would still be worthwhile and avoid a filibuster. By the time I completed such negotiations, I was down to the point that I did not have anything that was worth anything anyhow. It has been modified down to the point that it is now not worth anything as it is on the calendar. So I just left the resolution on the calendar and it is still there.

The original Senate Resolution 5 would have prevented what is occurring here.

What have I tried to do since? During the course of this debate I entered a motion to suspend the rules. In my judgment, that motion to suspend the rules would have brought this matter to a close before now. There are those who differ with me, and they have a right to differ.

Mr. NUNN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. NUNN. I did not say the majority leader. In my remarks I said the joint leadership had to decide, and by that I meant both Republicans and Democrats. I certainly do not think the majority leader should bear the brunt of this. I know he has been diligent in his efforts to complete this. The majority leader and I have been voting on the same side on this question. I also said the Senate does not seem to be willing to set aside either precedents or rules. I was not directing my remarks to the majority leader, and I hope he does not think so.

Mr. ROBERT C. BYRD. I understand. But I feel that now the question has been raised, I ought to put this on the record.

I also suggested earlier this week that it be in order to move to take up amendments en bloc. I had in mind dilatory amendments, or amendments which would be considered dilatory—and the word dilatory is in the rule itself—and amendments that are obviously out of order, et cetera.

Of course, I expected someone to make a point of order against that motion. Then the Chair would submit it to the Senate and I would move to table the point of order. If I had a majority of the votes, then I would have a block of amendments before the Senate. There could be 20 or 200, but the amendments would be there. Then I would just move to table them en bloc.

The PRESIDING OFFICER (Mr. GLENN). The time of the majority leader has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ROBERT C. BYRD. Will the Senator yield 1 minute to me?

Mr. CHILES. I yield.

Mr. NUNN. Mr. President, I yield to the Senator as much of my time as he desires.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. I yield to the majority leader on the time of the Senator from Georgia. [Laughter.]

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

Finally, I have been in my office all morning attempting to work out some approach whereby I could get the support of the joint leadership in finding a way so that we could get rid of the dilatory motions, dilatory appeals, dilatory quorum calls, and dilatory amendments. I am still working. I may yet come up with something. I am not sure.

I want to assure the Senator I am working in that direction with the distinguished minority leader. I have not discussed with him the details of my proposal. He knows I am working. He knows I am going to seek his advice and support.

I just assure the Senator that I am trying. I would urge Senators, I would plead with them, not to move to recommit this bill.

Mr. NUNN. The Senator has encouraged me greatly for the weekend.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. HART. Mr. President, I have just one observation before we lose track of where we stand. Despite the objection, I want my colleagues to understand that there are alternatives, and they are at the desk. In the case of the one I seek to offer, in essence all we have to change is one word, from "substantive" to "perfecting." We can have a vote in 45 minutes after any debate or discussion anybody wants to have.

I think it is extremely important that we not limit ourselves under the circumstances to either being for Pearson-Bentsen or for the administration's position. There are alternatives. They are on the desks of Senators. All it would take would be a unanimous-consent request or something else to call them up and have them voted upon.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The distinguished minority leader.

Mr. BAKER. Mr. President, I would only say that I, too, hope we can find a way out of this situation, including a way to deal with the several amendments at the desk. I think right now the only way to deal with the amendments at the desk is to chop one tree at a time. That is what we are doing. That is what we ought to continue to do. I commend the membership on this side for their continuing efforts, and especially the corps of freshmen headed by Senator DANFORTH who have been trying to chop trees all morn-

ing. I think we ought to get back to it. In the meantime, I will discuss with the majority leader how we can try to expedite that process further.

Mr. BELLMON. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 hour.

Mr. BELLMON. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. Can we have order in the Senate, please? Will Senators clear the well? The Senator has the right to be heard. Will those not seeking recognition please sit down? Mav we have order in the Senate, please? Will the center aisle be cleared, please? We will not proceed until we have order in the Senate.

Will the Senators conversing please retire to the cloakroom? Will the Senators in the center aisle please retire to the cloakroom? Will the Sei ators conversing by the Senate door please retire to the cloakroom?

The Senate will not proceed until conversations in the center aisle have ceased.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I understand the majority leader's time has expired. I ask uannimous consent to yield 30 minutes of my time to the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. BUMPERS. Mr. President, I call up amendment No. 1318.

Mr. DANFORTH. Mr. President, a point of order. I move to table amendment No. 970.

Mr. HARRY F. BYRD, JR. Will the Senator withhold that motion for 3 minutes?

Mr. DANFORTH. I will withhold, provided that after the Senator from Virginia completes his remarks I may be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Missouri will be recognized.

Mr. HARRY F. BYRD, JR. Mr. President, how much time has the Senator from Virginia utilized from the 1 hour allotted to him under cloture?

The PRESIDING OFFICER. The Senator has used none of his time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 minutes.

Mr. President, during the 12 years I have been in the Senate, I have consistently voted to uphold the rulings of the Chair. It is important that we operate by the rules. I have proceeded on the assumption that the Chair, working with the Parliamentarian, has a detailed knowledge of the precise point involved.

For that reason, in the absence of some countervailing evidence, I have consistently supported the rulings of the Chair. I did so on this last appeal. I did it with great reluctance. I want to state for the record that when I voted I was not certain whether I was voting correctly, but I gave the Chair the benefit of the doubt. To the best of my recollection, the Chair was correct when it ruled that there had been no intervening business when the Senator from Ohio requested a quorum call.

There was an earlier ruling of the Chair today, however, in which the Chair ruled that the motion by the Senator from Ohio (Mr. METZENBAUM) to appeal a ruling from the Chair was a dilatory tactic.

Mr. President, it seems to me that is going very, very far. I protest such a ruling.

If the Chair can make rulings and the Senate itself does not have an opportunity to override the decision of the Chair, then the Senate is putting itself totally in the hands of the Presiding Officer and the Parliamentarian.

It so happens that the Senator from Virginia has been in the majority in votes on the pending energy legislation. I have voted consistently against the position advocated by the Senator from Ohio (Mr. METZENBAUM), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Indiana (Mr. BAYH).

But I think it is very important that we operate by the rules in the Senate, that we do not bend those rules because it might not be in accord with the majority view of the Senate at a particular time.

The Senate is a unique legislative body. It is the only legislative body in the world where a minority has some protection. It is important that the rights of a minority be protected. Yet, as this debate goes on and on, I fear that the rules of the Senate are becoming, in at least a borderline way, perhaps, pretty close to being violated.

Mr. MUSKIE. Will the Senator yield?

The PRESIDING OFFICER. The Senator's 3 minutes have expired. Under the previous order, the Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I move to table the amendment numbered 970.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll:

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN, and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 35, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—47

Allen	Eastland	Pearson
Baker	Ford	Percy
Bartlett	Garn	Randolph
Bellmon	Glenn	Roth
Bentsen	Hansen	Schmitt
Burdick	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Scott
Chafee	Heinz	Sparkman
Chiles	Helms	Stennis
Cranston	Johnston	Stevens
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	McClure	Thurmond
Dole	McIntyre	Tower
Eagleton	Morgan	Wallop
	Packwood	Zorinsky

NAYS—35

Abourezk	Haskell	Muskie
Anderson	Hathaway	Nelson
Bayh	Hollings	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Byrd, Robert C.	Leahy	Ribicoff
Case	Magnuson	Riegle
Church	Mathias	Sarbanes
Clark	Matsunaga	Sasser
Culver	Melcher	Stevenson
Durkin	Metzenbaum	Williams
Hart	Moynihan	

NOT VOTING—18

Biden	Hayakawa	McClellan
Cannon	Huddleston	McGovern
Domenici	Humphrey	Metcalf
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SCHMITT. Will the Senator from Missouri yield for a question?

Mr. DANFORTH. I will yield for a question provided I do not yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. And on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, this will be a question, but I do want, before phrasing that question, to express my very deep concern, as has the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Maine (Mr. MUSKIE) on the Chair's earlier ruling that declared an appeal from the ruling of the Chair is dilatory.

I hope all of us can find a way in which we get around that particular ruling and establishing a precedent.

The PRESIDING OFFICER. What is the Senator's question? Unanimous consent will be required.

Mr. SCHMITT. Will the Senator from Missouri allow me to express this deep, great concern?

Mr. DANFORTH. I think the Senator already did.

The PRESIDING OFFICER. After the fact, that will take unanimous consent

AMENDMENT NO. 1083

Mr. DANFORTH. Mr. President, I call up amendment No. 1083.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 1083:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1984".

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. Amendment No. 1083 is not in order, it attempts to strike a figure which is not in it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, have we disposed of that amendment?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 1084

Mr. CHAFEE. Mr. President, I call up amendment No. 1084.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an amendment No. 1084:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1985".

The PRESIDING OFFICER. The Chair rules that amendment No. 1084 is out of order.

Several Senators addressed the Chair.

Mr. ABOUREZK. A point of order.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. I call up amendment No. 1085.

Mr. ABOUREZK. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I appeal the ruling of the Chair on that ruling, and I ask for the yeas and nays on that.

Mr. DANFORTH. Point of order, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. DANFORTH. Point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. DANFORTH. That the appeal is dilatory.

Several Senators suggest the absence of a quorum.

Mr. METZENBAUM. Obviously, there is no quorum in this Senate.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and concluded the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BELLMON. I object.

The PRESIDING OFFICER. The absence of a quorum has been established. It is too late for that request. Objection is heard, also.

The clerk will call the names of absent Senators.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 57 Leg.]

Abourezk	Eastland	Muskie
Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Hansen	Pearson
Bayh	Hart	Pell
Bellmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Johnston	Scott
Church	Leahy	Sparkman
Clark	Long	Stennis
Cranston	Lugar	Stevens
Culver	Magnuson	Stevenson
Curtis	Mathias	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McClure	Thurmond
Dole	McIntyre	Tower
Durkin	Melcher	Wallop
Eagleton	Metzenbaum	Williams
	Morgan	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair submits to the Senate a question: Is the point of order that an appeal from the ruling of the Chair that an amendment is out of order on its face dilatory well-taken?

Mr. MUSKIE addressed the Chair.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DANFORTH. There is.

The PRESIDING OFFICER. There is not.

There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that there may be 10 minutes of debate on this issue.

The PRESIDING OFFICER. Will the Senator suspend? May we have order? The Senator wants to be heard. May we have quiet while the Senator proposes a request.

Mr. MUSKIE. I think this is an important issue. It will establish an important precedent with which we will have to live for years, and Senators ought to focus on that fact.

I have no desire for extended debate. I made my point somewhat earlier; Senator BYRD made it, and I think we ought to have 10 minutes of debate.

I ask unanimous consent that we have 10 minutes of debate simply to focus Senators' attention on the significance of the issue.

Several Senators addressed the Chair.

Mr. CURTIS. Reserving the right to object, may I inquire is the intention that the 10 minutes would be charged as part of the time allocated to the Members?

Mr. MUSKIE. I am willing to charge it all to my time.

Mr. DANFORTH. Mr. President, reserving the right to object, on that understanding I will not object provided it is clearly understood that at the end of 10 minutes we are not going to be in a position of then asking for an additional period of time, and providing that the time begins immediately, and providing that a vote will then occur 10 minutes from now without intervening quorum calls.

Mr. MUSKIE. I am willing to accept that as part of the request.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, Mr. President, I think the unanimous-consent request should be clearly restated.

Mr. MUSKIE. The Chair has just ruled that it would submit to the Senate the question of whether or not as to an appeal from a ruling of the Chair that an amendment is not germane, that the appeal itself is itself dilatory. The Chair has submitted that question to the Senate.

I ask unanimous consent that that question be debated for 10 minutes and that immediately at the end of it there be a rollcall vote on that amendment. I think the rollcall vote has already been ordered.

That is my request.

The PRESIDING OFFICER. The question also propounded by the Chair would include that the amendment would have to be out of order on its face. The Chair would have ruled germaneness has nothing to do with it.

Mr. MUSKIE. All right. I understand that question.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. So there will be no misunderstanding, the Chair will restate the original statement. The Chair submits to the Senate the question, as to the point of order, that an appeal from the ruling of the Chair that an amendment is out of order on its face is dilatory, is that well taken?

Mr. DANFORTH. Reserving the right to object, it is my understanding that the unanimous-consent request of the Senator from Maine includes the fact that the full 10 minutes will be charged to the time of the Senator from Maine.

Mr. MUSKIE. Yes. I have no objection.

The PRESIDING OFFICER. The only point of clarification the Chair makes is, is this a split on time or is the 10 minutes all to the Senator from Maine?

Mr. MUSKIE. To be equally divided between myself and the Senator from Missouri if that is his desire.

The PRESIDING OFFICER. The time to be equally divided, 5 minutes on each side.

Is there objection to the unanimous-consent request of the Senator from Maine? Without objection, it is so ordered.

Mr. ABOUREZK. Could we have order, Mr. President, so the debate can be heard?

Mr. MUSKIE. Mr. President, I yield myself 4 minutes so that I may have 1 minute remaining for an appropriate response if necessary.

Mr. President, I understand what the proponents of these motions are seeking to do. They are seeking to eliminate dilatory amendments, and that is certainly their prerogative. But let me make this point: What is involved here is the question of whether at any time under any circumstances ever the Presiding Officer of the Senate, who is usually a Senator who has one position or another on an issue, should be able to make a ruling from which the Senate itself cannot decide.

This ruling of the Chair says that on its face an amendment is not in order. I do not know what appears on the face of this amendment. I do not have them before me. Nor do I have before me in an orderly fashion the documents or the instruments to which the amendment pertains.

So the question of fact, first, must be determined whether or not on its face an amendment is out of order. The Presiding Officer would be in the position of ruling on that question of fact from which there would be no appeal. And it is conceivable that that finding of fact could be erroneous, but if it were there would be no appeal from it by any Member of the Senate.

So what we are talking about is a precedent that has the potential for putting arbitrary power in the hands of the temporary occupant of the Chair, power from which the whole Senate could not appeal if this precedent is established and sustained.

The precedent has already been established by an earlier ruling of the Chair today, and I sought to have a test case made so that the Senate as a whole could decide whether that should be the precedent. That is left behind by this debate. So I provoked this test. I asked for it. If that is what the Senate wants to decide, that is the Senate's prerogative. But I have seen these precedents of the past built upon so that I can foresee a time when if this precedent is established a Presiding Officer might assert this authority whether or not an amendment on its face is in order.

The Senate may wish, as I say, to establish this precedent. I will oppose it. The distinguished Senator from New Mexico said he would oppose it. And I cannot believe that a majority of this Senate upon reflection would not agree with us.

Mr. ABOUREZK. Mr. President, will the Senator yield 30 seconds?

Mr. MUSKIE. I yield 30 seconds to my good friend.

Mr. ABOUREZK. I have two additional points to make in support of Senator MUSKIE's argument.

First of all, what Senator DANFORTH has sought to do is to change the rules of the Senate by majority vote instead of a two-thirds vote as the rules themselves require, because anytime a Senator makes a point of order and the Chair agrees with him and we vote on that as we are going to do it takes 51 percent of the Senate to decide that. The rules say that when we change the rules we do it with two-thirds vote.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABOUREZK. May I have 30 additional seconds?

Mr. MUSKIE. I yield 30 seconds to the Senator.

Mr. ABOUREZK. The second point is that if the Senate wants to change the rules that is fine and dandy. I may even vote to support a change in rules if it is done during the regular procedure. But if we are going to change the rules for JIM ABOUREZK, HOWARD METZENBAUM, or ED MUSKIE, we better change them for everyone else in the Chamber, and do not single out one or two or three Senators to do it for.

I thank the Senator.

The PRESIDING OFFICER. The 4 minutes of the Senator from Maine have expired.

Mr. MUSKIE. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this is really a very narrow question.

The question is whether an appeal from the ruling of the Chair that an amendment is out of order and is on its face dilatory will be taken.

This only applies after cloture is invoked. It has no relation whatever to the normal situation in the Senate, and the issue is whether when an amendment is challenged on a point of order and the Chair rules that it is not in order, then an appeal from that can be dilatory.

Let me give the kind of situation that is involved here. Amendment No. 1272, which is still at the desk, provides as follows: On page—and then there is a blank with a comma—line—and then there is a blank and a comma—insert the following: And there is nothing else that is printed on the page.

It is my position that this amendment is clearly out of order and that the Chair can rule that this amendment is out of order on its face.

There is no point in raising the point of order if by the very fact of raising the point of order on a matter such as this would then trigger a rollcall vote on an issue which is clear on its face when the Chair is being appealed.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question ?

Mr. DANFORTH. No.

Mr. ABOUREZK. Has that amendment been called up?

Mr. DANFORTH. No; I am not going to yield. The Senator had plenty of time.

Mr. ABOUREZK. Has that amendment been called up is the only question. It has not been.

Mr. McCLURE. Regular order.

Mr. DANFORTH. That is, in fact, the question. As a matter of fact, in courts there are certain matters that a court can determine when in litigation it is just clear on its face that certain matters are out of order.

Courts could dismiss lawsuits on motion under these circumstances. So, really, the question is, when it is absolutely clear on its face that the amendment is clearly not in order, it would seem to me, then, than an appeal from the decision of the Chair that it is not in order is itself simply a dilatory delaying tactic, and that such appeal should not be permitted.

I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, do I have any time remianing?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. MUSKIE. Mr. President, there is a rule on the books that there should not be legislation on an appropriation bill. Yet time and again this Senate approves legislation on appropriation bills deliberately, openly, and in violence to the rule, because the Senate reserves the right rule finally.

The question of whether an amendment on its face is out of order may be obvious in one case and not another.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. MUSKIE. And it is the other cases I am worried about.

Mr. DANFORTH. I yield back the remainder of my time, and call for a vote.

The PRESIDING OFFICER. The question is, is the point of order well taken? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. PROXMIRE. Mr. President, will the Chair restate the point of order?

The PRESIDING OFFICER. The Chair has been requested to restate the question. The question is whether a point of order that an appeal taken from the ruling of the Chair that an amendment is out of order on its face is dilatory is well taken. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Michigan (Mr. RIEGLE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator

from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The yeas and nays resulted—yeas 9, nays 71, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—9

Bellmon	Hansen	Pearson
Curtis	Lugar	Randolph
Danforth	McClure	Wallop

NAYS—71

Abourezk	Eastland	Muskie
Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Hart	Pell
Bayh	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hathaway	Roth
Burdick	Heinz	Sarbanes
Byrd, Harry F., Jr.	Helms	Sasser
	Hollings	Schmitt
Byrd, Robert C.	Inouye	Schweiker
Case	Jackson	Scott
Chafee	Johnston	Sparkman
Chiles	Leahy	Stennis
Church	Long	Stevens
Clark	Magnuson	Stevenson
Cranston	Mathias	Stone
Culver	Matsunaga	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Meicher	Tower
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Zorinsky

NOT VOTING—20

Biden	Huddleston	Metcalf
Cannon	Humphrey	Moynihan
Domenici	Javits	Riegle
Goldwater	Kennedy	Stafford
Gravel	Laxalt	Weicker
Griffin	McClellan	Young
Hayakawa	McGovern	

The PRESIDING OFFICER. The appeal, not having been dilatory, is in order. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division. Will the Chair state the question, please?

The PRESIDING OFFICER. The decision of the Chair was that amendment 1084 was out of order on its face in that it struck the figure "1982" which was not in the bill.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor stand and be counted.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. The previous vote was 81. That would require 17. There were 16 hands raised.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? We will count once more.

Mr. ABOUREZK. Mr. President, is the Chair seeking a second now?

The PRESIDING OFFICER. I am seeking a second to the request.

The Senator will please——

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. There are 19 secondings. The yeas and nays have been ordered.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. After the yeas and nays are asked for, how long does a Senator have to muster a sufficient number of seconds?

The PRESIDING OFFICER. There is no precedent on that. A reasonable amount of time. When Senators are still coming into the Chamber, it is the opinion of this Presiding Officer that that is reason enough to have a recount of Senators still entering the Chamber.

Mr. DANFORTH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. How many requests can a Senator make?

The PRESIDING OFFICER. There is no precedent on that, or the Parliamentarian knows of none, so he says.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. DANFORTH. Mr. President——

The PRESIDING OFFICER. The clerk is calling the roll. A question is out of order.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent from on official business.

The result was announced—yeas 77, nays 3, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—77

Allen	Ford	Nunn
Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bayh	Hansen	Pell
Bellmon	Haskell	Percy
Bentsen	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Johnston	Schweiker
Chiles	Leahy	Scott
Church	Long	Sparkman
Clark	Lugar	Stennis
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
Curtis	Matsunaga	Stone
Danforth	McClure	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Meicher	Tower
Durkin	Morgan	Wallop
Eagleton	Muskie	Williams
Eastland	Nelson	Zorinsky

NAYS—3

Abourezk	Anderson	Metzenbaum

NOT VOTING—20

Biden	Hayakawa	McGovern
Cannon	Huddleston	Metcalf
Domenici	Humphrey	Moynihan
Goldwater	Javits	Stafford
Gravel	Kennedy	Weicker
Griffin	Laxalt	Young
Hart	McClellan	

So the ruling of the Chair was sustained as the judgment of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Tennessee seeks recognition?

Mr. BAKER. Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that on Tuesday, at the hour of 5 p.m., the Senate vote up or down on the pending Pearson-Bentsen amendment.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, it is clear that we are in a difficult situation from a procedural standpoint, to say nothing of from a substantive standpoint.

Can the majority leader give me any further idea on how he would hope to proceed beyond this point?

Mr. ROBERT C. BYRD. Mr. President, I believe we ought to go out very soon. As I understand it, several amendments have been disposed of today—14 in number, which is not a great number when one considers the remaining amendments that are at the desk.

But the distinguished minority leader and I, and the two distinguished whips, have been discussing possible actions that might be taken in connection with the precedents of the Senate, and we feel that we ought to have an opportunity to further consider that matter over the weekend.

Consequently, I think it probably would be better at this time if the Senate went out after, perhaps, transacting a little morning business, if we could do

that, because I doubt that this is a good time and a good atmosphere in which to be tampering so much with the precedents of the Senate.

If we can improve upon the precedents so as to expedite action following the invoking of cloture, that is fine; but if we are not careful, we may set some precedents which would come back to haunt the Senate, and we obviously do not want to do that.

With that explanation, and following whatever comments the distinguished minority leader cares to make, I will then want to ask unanimous consent that there be a period for the transaction of routine morning business, so that we might be able to transact some other business today. Naturally, that would have to be cleared with any Senators who are here, and then I would move to go out.

It is possible that there could be some other business to transact today, as we did last night, in a short period of time, which would require a rollcall vote or two. I am not sure just what is stacked up here.

Mr. BAKER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I thank the majority leader.

Mr. President, I wholeheartedly agree with him. I think the better part of judgment and discretion is to try, as we will try, to find a way through the procedural thicket we are in, and then to go out, let the weekend have its soothing and calming effect on all of us, and try on Monday to see if we can discharge the country's business.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I thank Mr. BELLMON for his generosity and courtesy in yielding additional time to me. I was not on the floor when he did this, but it is typical of his kindness and thoughtfulness, and I express my gratitude.

ORDER FOR RECOGNITION OF MR. WALLOP ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, on Monday, following the recognition of the two leaders or their designees, I ask unanimous consent that Mr. WALLOP be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 48—SUBMISSION OF A CONCURRENT RESOLUTION OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. CULVER (for himself, Mr. EAGLETON, Mr. BELLMON, Mr. ROTH, Mr. NELSON, Mr. PROXMIRE, Mr. CLARK, Mr. CRANSTON, Mr. LEAHY, Mr. SCHWEIKER, Mr. RIEGLE, Mr. ABOUREZK, Mr. METZENBAUM, Mr. HATHAWAY, Mr. ZORINSKY, Mr. MCGOVERN, Mr. KENNEDY, Mr. ANDERSON, Mr. STEVENSON, and Mr. HASKELL) submitted the following concurrent resolution:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the sale to the Government of Iran of seven airborne warning and control aircraft, proposed by the President in his message to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 7, 1977 (transmittal number: 77-46A).

Mr. CULVER. Mr. President, I am today submitting a resolution, cosponsored by 20 Senators, one-fifth of the Senate, to disapprove the proposed sale of seven airborne warning and control system (AWACS) aircraft to Iran.

We take this step, fully aware that some of our colleagues have been persuaded that the risks posed by this sale are acceptable and that the Carter administration has become more cooperative and responsive on broader policy issues related to foreign military sales. In fact, I believe that our earlier successful though temporary effort to block this sale has had important consequences by clarifying and solidifying the President's announced policy for restraint on arms sales and by strengthening the crucial role of Congress in these sales.

In particular, I am quite pleased that the President has decided that, if this sale is not disapproved, it will be counted with fiscal year 1978 sales instead of 1977. In view of the administration's commitment to lowered future levels of arms transfers, this decision imposes a sharp restraint on the amount of sales that can be permitted next year.

Nevertheless, this specific proposal is as risky and unacceptable now as it was in July, and we must reiterate our opposition.

I have studied closely the administration's justifications for resubmitting its proposal to sell AWACS aircraft to Iran and, in my judgment, nothing has changed since this sale was rejected in July which makes it any less objectionable now.

President Carter has given the Congress a series of assurances with regard to the AWACS sale. I welcome these assurances. They are prudent steps which I would expect the administration to take in any case involving the transfer of sensitive and highly capable military systems to foreign nations outside the NATO alliance. The President's assurances, however, cannot redress the serious national security and foreign policy risks associated with this sale. The assurances are largely promises for a long and uncertain future. If they are closely monitored and strongly enforced, the President's assurances may reduce somewhat the risks posed by this proposal and future sales to Iran. But I believe the AWACS sale is a mistake, and no assurances can be designed to cover that mistake.

The security risks inherent in the AWACS sale to Iran remain a serious concern. When the President resubmitted the AWACS proposal on September 7, some reports had it that the aircraft had been stripped down to soothe the congressional concerns and that sensitive subsystems have been removed. This is not the case. The plane and its equipments are exactly the same as was proposed in July, and consequently the potential damage to the United States and NATO defense posture should an Iranian AWACS be obtained by the Soviet Union remain unchanged and unacceptable.

Except for our highly sensitive coding equipment, the Iranian AWACS will be the same as the first AWACS delivered to the U.S. Air Force. The other five sets of equipment that are not being included in the Iranian versions are enhancements still in the development stage that will be added to our AWACS in the 1980's.

I do not accept the proposition that the absence of U.S. encipherment gear and five enhancement systems significantly minimizes the risk that could result from any security compromise of the Iranian AWACS. Coding equipment is not the distinguishing feature of the AWACS. What makes the AWACS "the most revolutionary development in air power since the invention of radar," as the Air Force claims, is the advanced look-down radar with its built-in electronic countermeasure capabilities and the data processing systems which filter radar input and translate it into useful data. This technology is important for the quality of United States and NATO defense forces, and Soviet access to it could be very detrimental.

It is argued that even if the Soviet Union has access to an AWACS, it would not be possible to reverse engineer and reproduce its capabilities. I hope this assessment is correct, but nevertheless the U.S.S.R. would still gain valuable insights into how the AWACS systems function. These insights would help the Russians in developing their own look-down radar, which they do not now have, but which could be an important factor in defending against U.S. cruise missiles. Moreover, insights into the AWACS electronic warfare systems could assist the Soviet Union in developing efficient jammers and electronic countermeasures to neutralize a U.S. and NATO AWACS force.

Proponents of the AWACS sale also maintain that the chances of defection or accidental delivery of an aircraft into Soviet hands are so small as to be insignificant. I would call their attention to a recent article in the German newspaper Bild which reported that the Soviet Union is offering $4 million to any pilot who delivers one of West Germany's F-4 Phantom jets to the Communist East. Gen. Paul-Albert Scherer, chief of West Germany's counterespionage service, reportedly told a parliamentary committee in Bonn that the Soviets have been interested for years in the F-4's radar system. If a 20-year-old aircraft with a 10-year-old radar is worth $4 million to the Soviets, what would their

offer or reward be for a $126 million AWACS?

It is indeed ironic that at the same time the Defense Department officials were resubmitting documents to justify this sale, the Secretary of Defense ordered a new policy to control the export of technology which states:

> There shall be a presumption for recommending disapproval of any transaction involving a revolutionary advance in defense-related technology to the proposed recipient country (if the resultant military capability threatens U.S. interest).
>
> In addition, it is in the national interest not to make it easy for any country to advance its technology in ways that could be detrimental to U.S. interests.
>
> Defense's primary objective in the control of exports of U.S. technology is to protect the United States lead time relative to its principal adversaries in the application of technology to military capabilities.

I do not see how the proposed sale of the AWACS to Iran can be squared with these new directives for protecting vital American defense technology. These are precisely the reasons why the AWACS should not be sold to a nation of uncertain stability which borders on the Soviet Union. Our concerns about our technology should be applied as rigorously to foreign military sales as to direct commercial transactions with potentially hostile nations.

The implications of this sale for regional arms control and restraint remain serious and unchanged. The claims that AWACS is essentially a defensive system carry little weight when balanced with Air Force statements such as the following assessment by the commander of the Strategic Air Command:

> Some mistakenly think that the AWACS is just an airborne radar technology. This is only the "tip of the iceberg" of AWACS technology. It has total battle management capability—it expands the commander's and the strategist's capability exponentially. The dramatic advance made by American electronic technology . . . makes AWACS one of the true "breakthroughs" of our time.

The contractor's promotion book spells out some of the offensive operational application of the AWACS:

> The E–3A can monitor the marshalling of airplanes at bases behind enemy lines and command friendly aircraft to attack while the enemy forces are still on the ground. The E–3A also can locate jammers and countermeasures behind the lines so they can be neutralized.

The force multiplier capabilities of the AWACS are a good addition to U.S. tactical air power, but I believe it very ill advised to introduce such a multiplier into a region where a number of nations are anxiously watching each other build up their military forces. Already, Saudi Arabia is seeking 60 of our most advanced F–15 fighters. Since the Saudis have been most cooperative and sensitive to U.S. interests in the OPEC decisions on oil price increases, in contrast to Iran, it would be inconsistent and undiplomatic to turn down their request for F–15's a few months after an exception is invoked to sell AWACS to Iran.

Perhaps the most troubling aspect of the proposal to sell AWACS to Iran is that it would extend American involvement in supporting the Iranian Armed Forces. Selling weapons to a nation is one thing; large-scale support for their operations is another more serious problem with fundamental foreign policy consequences. This proposed sale would require the long-term presence of several hundred more American support personnel, thus contributing further to the increasing dependence on Americans to train and manage large segments of the Iranian defense establishment. Indeed, AWACS is precisely the kind of sophisticated weaponry that requires such extensive support.

The Congress considers foreign military sales on a case-by-case basis. We often forget how extensive our foreign military sales relationship with Iran is. If anything, the history of that relationship suggests that the administration's estimates for American technical assistance in the Iranian AWACS program may be very optimistic.

Iran has purchased 221 F–4 fighter-bombers from the United States. The first F–4's were delivered to Iran in 1968, but according to last year's Senate Foreign Relations Committee report, the Iranian F–4 program continues to rely on the United States for training and is very dependent on the American personnel for maintenance and logistics support. This assistance reportedly will be required for several more years if the Iranian Air Force is to maintain its requisite number of flying hours and maintain operationally ready aircraft.

Iran also has purchased 296 American F–5 fighters. Although the first F–5's were delivered to Iran in 1965—12 years ago—the Iranian F–5 program also is heavily dependent on U.S. official and contractor personnel and this assistance will likewise be required for some time in the future.

The logistics problems which plague the Iranian F–4 and F–5 programs led to another example of the disturbing degree of U.S. involvement in supporting the Iranian Armed Forces. In November 1976 a $200 million contract—expected to cost an additional $100 to $300 million over a number of years—was signed for American experts to establish a logistics command for the imperial Iranian Air Force. In announcing the sale, U.S. officials said it was the most ambitious attempt yet to resolve Iran's problems in operating the advanced military aircraft it has been buying. These officials noted that if the Air Force logistics program is successful, similar programs may be set up for the Iranian Army and Navy.

On August 25, the Defense Security Assistance Agency notified the Congress of three proposed programs totaling $613 million for technical assistance to the Iranian Army's helicopter programs. Since 1972, Iran has purchased 596 helicopters from the United States at a cost of $970 million. Since 1974, the Congress has been notified of $1.1 billion in training and support assistance for those helicopters. The 1974 plan was to achieve zero percent reliance on American personnel by mid-1978. The three programs submitted to the Congress last month extend through August 1981. They involve 3,000 American technicians, which should be multiplied by three to four to include dependents.

Last August 25, the administration also notified the Congress of a proposed $184 million sale to Iran of contractor operations and maintenance support for the improved-Hawk or I-Hawk antiaircraft missile system. This program has the same pattern of absorption problems as the Iranian helicopter programs. It is justified with the admission that the normal I-Hawk maintenance training program already provided by contractor personnel is not meeting Iran's requirements for trained technicians in country. The schedule calls for 12,000 Iranians in the program by 1981, but it is estimated that Iranian personnel will be 2,500 short of required levels as early as 1978–79. The Foreign Relations Committee report last year concluded that unless there is a stretchout in virtually all aspects of the I-Hawk program, it may fail, or, alternatively, it could take nearly 1,000 American technicians to make the Hawks operational following completion of construction.

Iran's reliance on U.S. personnel to support its Armed Forces will grow, not diminish, in the years ahead. Many of the sophisticated weapons Iran has purchased have not yet been delivered. A portent of things to come may be the classified advertisement placed in U.S. newspapers this August offering long-term assignments in Iran with liberal fringes and remuneration for ex-F-14 pilots. This is a very disturbing development. Not only does it raise the prospect of American mercenaries serving in the Iranian military. It also indicates that Iran's reliance on arms sales can have a draining effect on U.S. defense programs. The Navy has informed me that it cost $411,000 to train each nonaviator to fly the F–14 and it is important for us to recoup such investments by retaining highly skilled personnel in our own Armed Forces.

Not only will thousands of Americans be required in Iran for years to come to support current programs and the proposed AWACS, but the total number of Americans, military and civilian, including dependents, is also projected to grow to 50,000 to 60,000 by the end of this decade. The end result will be even more Americans in a potential hostage situation.

In my judgment, the security risks, arms control implications, and extended American support requirements associated with the proposed AWACS sale still make a clear and convincing case against making this sale. The administration has submitted a new DOD analysis of alternative air defense systems for Iran which concludes that an AWACS-oriented system would best serve Iran's needs. As the GAO testified before the Senate Foreign Relations Committee on September 19, this study does not provide the basis for concluding that the AWACS system is operationally and militarily preferable. And it completely ignored the request of 21 Senators made to President Carter on August 5 that a thorough study com-

pare the security risks, arms control implications, and long-term American support requirements of alternative systems.

Even as a cost-effectiveness study, the DOD analysis is fundamentally biased. Rather than comparing alternatives to Iranian air defense requirements, the study took the AWACS option as the yardstick. And predictably, AWACS turned out to be the best system to do what an AWACS can do. If this sale goes through, however, I fear that the day will come when the Iranians angrily discover that, for technical and operations reasons, seven AWACS cannot meet their expectations or requirements for air defense.

There is an alternative—an all ground-based radar system—which can provide adequate air defense for Iran without posing the risks involved in the AWACS sale. From the standpoint of complete and continuous border coverage for purely defensive purposes, it is far preferable to the AWACS-oriented system. Comparing the options on this basis, the GAO used the DOD analysis numbers to conclude that the AWACS option provides only 10 percent continuous border coverage, the E–2C alternative 17 percent, while the ground system can provide 100 percent continuous border coverage. It is unfortunate that in the rush to push this AWACS sale through, the all-ground radar system has been set up as more or less a straw man for the AWACS.

Mr. President, I recognize that time is short and the congressional calendar crowded. I urge disapproval of the AWACS sale at this late hour only because of my profound conviction that this transaction involves unacceptable security and political risks that are prejudicial to our national interest. But I also recognize that at this time there appears to be prevailing support for the AWACS sales in the Congress.

If, despite the risks and problems the transaction entails, the Senate does fail to disapprove the proposal, I would like to call the attention of my colleagues to the future opportunity we have for further consideration of this controversial action.

The administration has promised a full-scale review on security issues a year prior to the actual delivery of the aircraft, which is now planned for 1981. Furthermore, the standard form agreement which would be used for this sale contains a paragraph, required by law, which permits the U.S. Government to cancel any sale prior to delivery "under unusual and compelling circumstances when the best interests of the United States require it." Since the executive branch has the legal right to cancel this sale for security or other reasons before 1981, I believe that the Congress would also want to review the matter itself prior to that time. If the circumstances warranted, we could take legislative action to invoke that provision and thereby cancel the sale.

Since governments and world conditions change, we in Congress have no less a responsibility than the executive branch for keeping abreast of those changes. This means that when the time comes for actual delivery of weapons whose sales we have previously approved, we should make certain that these arms transfers are still in the best interests of the United States.

NOTICE OF MOTION TO SUSPEND THE RULE

Mr. HART submitted the following notice in writing:

Mr. PRESIDENT: In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing an amendment No. 1022 to S. 2104, a bill to establish a comprehensive natural gas policy, a perfecting amendment to strike sections 1–9 and 13–17 of amendment No. 1022 and insert in the appropriate places section 1–9 and sections 13–17 of amendment No. 1389, as amended.

ADDITIONAL COSPONSORS

PANAMA CANAL TREATIES

EXECUTIVE N, 95–1

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of my amendments Nos. 1, 2, 3, 4, 5, and 6, and my reservations Nos. 1 and 2, to Panama Canal treaties now pending before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUGAR PROGRAM NOW

Mr. DOLE. Mr. President, in all my years in the Congress I have seldom seen a problem more frustrating than a year-long effort to provide reasonable and sensible economic relief for the collapsing domestic sugar industry.

Every time we think we have solved the problem, someone throws a new monkey-wrench into the machinery.

You would think that with final passage by the Congress of a new farm bill containing a price support program for sugar cane and sugar beet producers everything would be sweetness in the domestic sugar situation, but instead, the mood is very sour.

Frustrated producers groups are asking embarrassing questions about what is really behind the administration's continuing foot-dragging and defiance in refusing to comply with the clear intent of the Congress.

They want to know, as do a good many of us in the Senate, why the administration is rejecting a million-dollar per day revenue from tariffs on imports and proposing to embark instead upon huge payments to processors out of the Government treasury that growers do not want and the Congress has sought in vain to prevent, thus far.

Domestic cane and beet growers have asked for fair prices in the marketplace, rather than Government payments, and supported a price support program to achieve it by an import management program calling for tariffs and duties or fees on foreign-produced sugar now flooding the United States at prices far below domestic cost of production. Congress agreed, and wrote such a program into the new Farm Bill, making clear the intention to implement it without involving heavy Government expenditures.

Instead, on the day before Congress completed action on the farm bill, Secretary of Agriculture Bergland announced a new Government payment program, a revision of an earlier program already ruled illegal by the Justice Department, and seemingly is determined to delay carrying out the congressional mandate just as long as he possibly can.

In fact, the United Press International reports that Secretary Bergland does not think he can implement it before January 1, and he says, by that time he might try to convince Congress he should not implement it at all.

Meanwhile, the U.S. market is being flooded with cheap foreign sugar, the United States is not getting the tariff revenues the Congress intended, and the Government faces huge payment costs to processors that Congress did not approve and in fact sought to avoid.

CARTER SUBSIDY PROGRAM

The administration's proposal will be using taxpayers' money for a welfare system of backdoor spending to pay farmers indirectly by using the sugar cane and sugar beet processors as paymasters. The beet and cane growers indicated an aversion to going on welfare since they naturally feel that the users of sugar, 75 percent of which are manufacturers, could just as well pay the cost of production for the sugar they buy.

If one is to really put in perspective what the Carter administration is proposing for sugar, one should consider what this philosophy would cost if it were applied to meat, dairy products, and fruits and vegetables.

Farmers' cash receipts from these three items in 1976 were as follows:

[*In billions*]

Meat animals	$26.8
Dairy products	11.4
Fruits and vegetables	6.8
Total, three items	45.0

Currently, dairy products are supported by Government administered marketing orders, price supports which involve purchases of cheese, butter, and nonfat dried milk plus strong import quotas.

Currently fruits and vegetables are supported by Government administered marketing agreements and order programs which involve volume controls, quality controls, import controls, and other price improving measures.

Currently, meat imports are limited by quotas on certain meat and meat products to support the market price.

If the U.S. Treasury were to subsidize consumption for these three groups in the same manner as for sugar and to the same extent as they have proposed for sugar, the annual Government outlay would be in the general area of $13 billion. One wonders about how the Carter

administration got itself into such a strange position.

ONE-YEAR STRUGGLE FOR PRODUCER RELIEF

Mr. President, I am sorry that it has become necessary to lay out the full, sad story of this situation for the record. The chronology of the past year shows Congress increasingly lining up on the side of the domestic producers, and the executive branch stubbornly clinging to the side of the big industrial users.

On September 14, 1976, the chairman of the Senate Finance Committee, Senator LONG, sent a resolution from the committee directing the U.S. International Trade Commission to investigate whether sugar imports were harming the domestic industry. The Finance Committee acted on complaints of economically suffering domestic producers, including those of my home State. The price of raw sugar at that time was 9.29 cents per pound.

On September 21, 1976, then-President Ford increased the duty by 1¼ cents per pound, and raw sugar prices rose to 10.78 cents per pound. At the same time the President requested the USITC to expedite its investigation.

After an intensive 6-month investigation, on March 7, 1977, the USITC reported to the President that the domestic industry was being threatened with serious injury by increased imports and recommended an annual import quota of 4.275 million tons. On that date the price was 11.7 cents per pound, but the Commission agreed sugar producers were still bleeding financially.

But meanwhile the new administration had taken over in Washington.

CARTER REJECTS RELIEF RECOMMENDED

President Carter's response to the sugar industry problems was contained in a press release of May 4, 1977, rejecting the Trade Commission's recommendation and asking the Secretary of Agriculture instead to institute a payments program of up to 2 cents per pound for sales of raw sugar at market prices below 13.5 cents per pound. The President agreed that the 13.5 cents was the estimated breakeven point for domestic sugar growers.

But the price on that date was down to 9.4 cents, so even the 2-cent payment did not achieve the 13½-cent goal. Again, sugar producers vigorously objected, both to the level and to the method of the proposed income support. They said they did not want to be dependent upon Government handouts that were really subsidizing big industrial users, and urged Congress to overrule the President.

As I prepared, along with other Senators, a resolution to override the President, the Comptroller General ruled in July that the announced program lacked legal authorization. On July 20, the Secretary of Agriculture announced he was appealing to the Attorney General for a new ruling. The Attorney General subsequently took himself out of the issue because of his former law firm's involvement with Coca Cola, and the Deputy Attorney General notified the Secretary of Agriculture on August 19 that his sugar proposal was unauthorized.

CONGRESS ACTS

Meanwhile the Congress, giving up imposition of the remedy recommended by the USITC—import quotas—overwhelmingly approved in the House a sugar price support loan and purchase program known as the de la Garza amendment to the farm bill, despite massive lobbying activity by the administration and the industrial users who utilize over three-fourths of the sugar consumed in the United States.

When the House-Senate agricultural conferees went to work on settling differences in the farm bill the first week in August, under the bipartisan leadership of Senator HUMPHREY and myself, the Senate conferees made it known they wanted to accept the House de la Garza amendment providing sugar price support at 55 percent of parity, approximating 14.03 cents per pound. While House and Department of Agriculture lobbyists threatened to veto the entire farm bill if that was kept in the act.

On the morning of August 3, Secretary Bergland met with Senator LONG to seek to work out a compromise acceptable to cane producers. On the basis of agreements at that meeting, Senator LONG recommended to Chairman TALMADGE of the Senate Agriculture Committee cutting down to 52½ percent of parity but not less than 13.5 cents per pound, with the understanding that the Department of Agriculture would immediately institute an import management program that would achieve a domestic price level sufficiently in excess of the 52½-percent parity level to insure that there shall be no acquisition of sugar by the Government.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point Senator LONG's letter to Chairman TALMADGE proposing that compromise and outlining the conditions he felt had been agreed upon.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE,
Washington, D.C., August 3, 1977.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR HERMAN: As a result of discussions earlier today with various representatives of the Administration, it seems to me a good compromise on the sugar issue might be the following:

Accept the de la Garza amendment with an amendment which lowers the level parity support from 55 percent to 52½ percent. No other change would be made in the de la Garza amendment.

The statement of managers would explicitly state that the Department of Agriculture would immediately institute an import management program that would achieve a domestic price level sufficiently in excess of the 52½ percent parity level to insure that there shall be no acquisition of sugar by the Government.

Additionally, statement of the managers would outline that the import management program, or levies to accomplish the goals of the amendment, would be administered by the U.S. Department of Agriculture.

The statement of managers would further make clear that an International Sugar Agreement which has been approved by the Congress (either as a treaty or as a trade agreement) which is implemented and which achieves the price objectives of the de la Garza amendment as modified, would take precedence over this amendment.

This compromise falls between what the Administration, under threat of veto, is offering and what the domestic industry and the Congress feel is fully justified. Therefore, it should be acceptable to reasonable men as a fair accommodation and, in my opinion, should not result in a veto of the Farm Bill.

With every good wish, I am

Sincerely,

_____,
Chairman.

Mr. DOLE. Mr. President, Senator LONG assures me there was no misunderstanding between himself and Secretary Bergland about the need for immediate implementation, under existing authority, in view of the fact Congress was about to recess.

In fact, Senator LONG stated that Secretary Bergland pledged his Department staff to start work "that very day" on implementation procedures for the de la Garza amendment.

It was on the basis of such assurances from Secretary Bergland, as reported by Senator LONG, that Senator HUMPHREY and I convinced the farm bill conferees to unanimously accept the compromise.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Senator HUMPHREY to Senator LONG on September 2, confirming that understanding, along with Senator LONG's letter of the same date to Chairman TALMADGE supporting Senator HUMPHREY's position.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 2, 1977.

Hon. HERMAN TALMADGE,
Chairman, Senate Agriculture Committee.

DEAR HERMAN: I assume that by this time you have reviewed Senator Humphrey's August 16 letter to you regarding action that the Conferees took relating to the sugar amendment to the Farm Bill.

Hubert's letter fully reflects the compromise that I negotiated with Secretary Bergland as reported in my August 3 letter to you. It also reflects my understanding of what occurred in Conference.

I am concerned about two things. First, the Administration, despite the unanimous recommendation of the Conferees, has been reluctant to quickly implement the program called for by the sugar amendment. Second, the draft language of the Conference Report does not, in my opinion, accurately reflect the intent of the Conferees.

I have just had a meeting with 1200 cane farmers, and they tell me that failure to get a program underway is creating a tremendous economic hardship on them. It is essential that the Administration take steps to immediately implement the program called for by the sugar amendment.

Herman, every day that goes by more cheap sugar is being dumped in this country, and domestic sugar is not being bought. Something has got to be done about this or we are going to become almost totally dependent on foreign sugar.

With best wishes, I am

Sincerely,

RUSSELL B. LONG.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 2, 1977.

Hon. RUSSELL B. LONG,
Russell Senate Office Building,
Washington, D.C.

DEAR RUSSELL: I am sure you know how much I appreciate the most significant role you played in working out a satisfactory compromise on the sugar price support legislation. I have endeavored to preserve the integrity of your recommendations to Senator Talmadge, since this was the basis of my presentation to the conferees.

I am concerned, however, about two things. First, the USDA, despite the unanimous recommendation of the conferees, has been reluctant to implement quickly the program called for by the sugar amendment to the Food and Agriculture Act of 1977, even though it has the authority to do so under existing law. And second, the draft language of the Conference Report prepared by staff does not, in my opinion, reflect accurately the intent of the conferees.

I asked my staff to send you a copy of my letter to Herman dated August 16—one I prepared just prior to entering the hospital—which makes clear the points I felt needed to be protected. I am enclosing another copy of that letter just to make sure you see it.

Senators McGovern, Dole, Young and Curtis also have written Herman in support of my letter and your recommendations. I think it would be helpful if you, too, would indicate your concern to Herman as well as encouraging Senators Allen and Eastland to express themselves to the Chairman in support of the points you originally made and I presented to the Conference.

Anything you can do will be deeply appreciated, Russell. I know your cane growers are just as concerned as my Minnesota beet growers that this amendment and the report accompanying it reflect the intent of yourself and the conferees.

Since it emphasizes the same concern, I also am enclosing a copy of a letter which Congressman Richard Nolan sent Chairman Tom Foley in the House.

Best wishes.

Sincerely,

HUBERT H. HUMPHREY.

Mr. DOLE. Mr. President, during the conference Senator HUMPHREY and I built a careful legislative history on how the proposed new program was to be implemented under section 22 authority, specifying that the USDA use tariffs or fees to control imports enough to achieve price support objectives, pointing out that the congressionally drafted program would bring revenues of around $300 million per year instead of costing the Government millions in payments.

The conferees state categorically that they unanimously accepted the compromise with that understanding, including the understanding that the Department of Agriculture would implement the new program immediately under existing authority, without waiting for the new mandatory provisions to be signed into law, to protect against windfall profits by industrial buyers trying to rush in more foreign sugar before the new program became effective.

The conference report reflects that understanding, in specific language. It was further amplified in discussion on the Senate floor September 9 when the conference report was approved by the Senate. In that debate, I complained about the Department of Agriculture's failure to act in utilizing the emergency import management provisions of section 22 of the Agricultural Act of 1933, as the conferees had directed. Senator MCGOVERN concurred, and placed in the RECORD Senator LONG's August 3 letter outlining the basis of the compromise accepted by the conferees calling for such immediate action on an import management program.

When many of us left Washington for our home areas during the recess, we had reason to believe the Department of Agriculture would expedite action along the lines the conferees had instructed them to carry out.

But nothing happened, except some apparent efforts from the Department to influence shifts in emphasis in the final draft of the conference report.

SUGAR PRODUCERS PROTEST

Many Senators reported to their cane and beet growers what the Congress had done, hoping we had solved their problems. But when nothing happened administratively, they were loud in protest.

During the recess, Senator LONG reports he met with 1,200 indignant cane growers distressed and upset because their Government refused to lend a hand when they were facing the loss of their homes and farms.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the newspaper article reporting on this meeting which appeared in the New Orleans Times Picayune.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUGAR CANE FARMERS DEMAND AID FROM LONG

BATON ROUGE, LA.—U.S. Sen. Russell B. Long spent an uncomfortable two hours Wednesday with about 1,000 sugar cane farmers and their families who demanded higher government-controlled prices for their product.

In a question and answer session, Long repeatedly told the farmers that he did not have the influence in Congress to give them more money.

At the end of the session, he said he would try to set up a meeting between representatives of the growers and President Carter.

"Sometimes a person can represent himself better than any senator can," said Long.

The agriculture bill now pending in Congress has been amended to guarantee farmers a price of 13 and a half cents a pound for raw sugar.

Cane growers were getting better than 64 cents a pound two years ago when the supply was short but the world market price has plummetted to below 11 cents.

"The President will veto the bill if the price is over 13 and a half cents," said Long, repeatedly stressing that "it's either 13 and a half cents or nothing."

"The problem is that for each farmer in the nation wanting higher prices there are 19 consumers wanting lower prices and able to get them from foreign nations," said Long. "It's tough trying to convince my colleagues to go for more."

In addition, Carter's administration has been against the price supports.

Several of the growers said Carter was trying to help soft drink executives in Georgia who lobbied against the price supports in Congress.

Long said he realized that "many of the newer and smaller growers cannot survive with 13 and a half cents."

He indicated that the farmers might be better served by planting rice "because we are competitive with foreign nations in rice."

"If it is between 13 and a half cents and nothing, which way do you want it?" asked Long. "It's your decision what to plant."

One farmer in the audience said that United States' aid to foreign countries included money for those countries to build sugar mills to compete with U.S. farmers.

"Why should we send taxes overseas to fight ourselves?" asked the farmer.

"I didn't vote for foreign aid," Long shot back. "Ask some of those who did vote for it."

"You've got to understand that 98 per cent of the people in this country want lower prices and we are in the minority," said Long.

The farmers told Long they depend on him because he was chairman of the powerful Senate Finance Committee and had clout in Congress and with the administration.

"I wish you would stop calling me powerful," said Long. "I wish I had more influence. I've done all I can. I didn't make this world. I was just born here."

Later, Long said, "I thought I had done my best. At least I thought I had. I'm convinced now that it's not good enough," adding that he would try to get the President to discuss the problem with the farmers.

Mr. DOLE. Mr. President, and apparently it was not different in the beet growing areas.

On September 1, Cy Carpenter, president of the Minnesota Farmers Union telegraphed a protest to President Carter and sent a copy to Senator HUMPHREY. Mr. President, I ask unanimous consent that it be printed at this point in my remarks.

There being no objection, this mailgram was ordered to be printed in the RECORD, as follows:

[Mailgram]

ST. PAUL, MINN.
September 31, 1977.

Senator HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

This copy of mailgram sent to President Carter. We respectfully request your personal attention to cause immediate implementation of the sugar provision of the farm bill, in accordance with the clearly stated intent of Congress.

Continued importation of sugar at present astronomical levels will destroy an already fragile domestic market and might well render the sugar portion of the farm bill totally unworkable for future application.

Your prompt attention is sorely needed.

Sincerely,

CY CARPENTER,
President, Minnesota Farmers Union.

Mr. DOLE. Mr. President, because I shared that concern about more foreign sugar being dumped into the United States every day—the very thing Congress sought to avoid by urging prompt implementation of the import management program—along with 28 other Senators I sent a telegram to the President on September 9, urging his intervention to get the early implementation Congress wanted and expected in order to ease the economic plight of domestic sugar farmers and processors.

Mr. President, I ask unanimous consent that our September 9 telegram be printed at this point in my remarks.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

SEPTEMBER 9, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

The economic plight of domestic sugar farmers and processors is of gravest concern. Each day of inaction contributes to further deterioration of the already depressed financial situation of the industry. Foreign sugar is being dumped into the market in record proportions. Administrative authority exists for the Department of Agriculture to take action. Mr. President, that authority is further backed by the substantial House vote favoring the de la Garza Amendment. House and Senate Conferees recommended that the sugar program called for by the Conferees be instituted without further delay. It is distressing to note that the Administration has already announced the Conferees' recommended programs for wheat and feed grain farmers but has taken no action whatever to implement the sugar program that is critically needed by sugar farmers. We strongly endorse the Conferees' recommendation on sugar and plead for immediate implementation of the program.

Russell B. Long, J. Bennett Johnston, Floyd K. Haskell, Lloyd Bentsen, John Tower, Quentin Burdick, Lee Metcalf, Carl T. Curtis.

Edward Zorisnky, Spark M. Matsunaga, John Melcher, Gary Hart, James A. McClure, Lewton Chiles, Hubert H. Humphrey, Wendell R. Anderson.

Robert Dole, Frank Church, Richard Stone, Clifford P. Hansen, Daniel K. Inouye, S. I. Hayakawa, George McGovern.

Milton R. Young, James Abourezk, Orrin G. Hatch, Donald W. Riegle, Malcolm Wallop, Alan Cranston, U.S. Senators.

Mr. DOLE. Mr. President, instead of getting the action requested, Secretary Bergland announced a new payments program directly contrary to the congressional intent, and his agreement with Senator Long.

Mr. President, I ask unanimous consent that the USDA press release of September 15, headed "Revised Sugar Payments Program Announced," be printed at this point in my remarks.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

REVISED SUGAR PAYMENTS PROGRAM ANNOUNCED

WASHINGTON, September 15.—Secretary of Agriculture Bob Bergland today announced that the Department is instituting a payments program to support the price of the 1977 crops of sugarbeets and sugarcane.

"The price support payments program has been modified to meet legal objection to the payments system we originally proposed," Bergland said. "The revised program, which will be published in the Federal Register within a few days, will establish price support levels for sugarbeets and sugaracane at not less than 52.5 percent of the parity prices for the two commodities as of July 1977.

"I have determined that the support prices will be $22.84 per ton of average quality sugarbeets and $17.48 per ton of average quality sugarcane. Processors of sugarbeets and sugarcane who assure us that producers will be paid no less than the applicable support price will receive Government payments for the difference in the national average market price per pound of sugar and 13.5 cents, the computed raw sugar equivalent price required to yield 52.5 percent of parity to producers. Through this system, in other words, compensatory payments will be made to processors who pay the support price to producers at a time when processors could not otherwise afford to do so in view of low sugar prices.

"Payments will be made on the processed products (refined beet sugar and raw cane sugar) marketed from the 1977 crop today forward until all 1977 crop sugar has been marketed or to the date of actual implementation of the price support loan or purchase program which would be mandated by the pending 1977 farm bill. We are still exploring ways of covering that portion of the 1977 crop marketed," Bergland said. "It is our intention, so far as it is legally possible, that fair and equal treatment be provided all domestic producers."

Mr. DOLE. Mr. President, as far as I am concerned I cannot accept the announcement by Secretary of Agriculture Bergland of a revised sugar payments program as in any way a valid response to our request, for it is open conflict with what the Congress has directed him to. Many of my colleagues have indicated they fully share my concern.

We accepted in good faith a quid pro quo compromise protecting the international sugar agreement negotiations and lowering the price support level in return for assurances from Secretary Bergland that he would immediately—that day, August 3—start the process of implementing the new program under section 22 of the Agricultural Act of 1933 that would achieve our price support goals in the market place without cost to the Treasury. Instead, he has ignored that agreement and announced a program that will cost our Government hundreds of millions in payments that we sought to avoid, and is losing to our Government more hundreds of millions in revenue that we intended be received as part of our program.

However, it now is becoming apparent the Department is hoping to escape ever implementing the law as designed by the Congress.

BERGLAND IGNORES WILL OF CONGRESS

In the Washington Star of September 20, a United Press International story bylined by Bernard Brenner reported that Secretary of Agriculture Bob Bergland says the Government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar.

Mr. President, I ask unanimous consent that a copy of this article be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 20, 1977]

BERGLAND SEES TIME AIDING SUGAR PRICES

(By Bernard Brenner)

Agriculture Secretary Bob Bergland says the government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar.

Bergland told reporters yesterday the plan may take so long to put into effect that the government may continue an alternate sugar support system, which already is in effect, until all domestic sugar programs are replaced next spring by an expected international sugar marketing agreement.

Bergland last week announced immediate activation of a program under which the incomes of depressed American sugarcane and beet growers will be boosted by direct payments routed through processors.

At the time, officials indicated the direct payments would be used only as a temporary device until they activated the congressionally-approved program.

The Congressional program, which is part of a farm bill approved by Congress last week, would put a floor under sugar market prices at 13.5 cents a pound. Bergland's program, in contrast, allows market prices to fluctuate at lower levels and uses federal payments to make up the gap between actual market levels and 13.5 cents.

If the congressional market price support plan takes effect, officials have indicated they would have to raise tariffs on imported sugar to keep imports from undercutting the support price.

Bergland told reporters yesterday, however, that after President Carter signs the pending farm bill, it will take until next Jan. 1 or longer to draft regulations putting the congressional sugar program into effect.

By that time, he said, the government may be within a month or two of beginning formal American participation in a new international sugar agreement which would prop markets at 13.5 cents a pound.

Bergland said he was "98 percent sure" the international agreement will be negotiated this fall and go into effect next spring.

Under those circumstances, he said, it would seem futile to bring the congressional sugar plan into effect in January for only a month or two of operations. So, if adoption of the agreement appears likely by early 1978, he said he might ask the congressional agriculture committees for clearance to continue the direct payment program until spring rather than activating the market support program—with its accompanying tariff hikes—for a brief run.

Bergland said the payment program, if allowed to run until spring, may cost about $125 million. He said there was no final ruling yet on whether retroactive payments—principally for Hawaiian farmers—could be made for sugar sold before last week, but he said prospects for such payments appeared poor.

Mr. DOLE. Mr. President, his attitude in the face of our legislative history is almost beyond comprehension. Mr. President, who can we trust?

Senator HUMPHREY promptly wrote Secretary Bergland questioning the reports and urging the Secretary to get on with following out the will of Congress. Mr. President, I ask unanimous consent that Senator HUMPHREY'S letter be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., September 20, 1977.

The Honorable BOB BERGLAND,
Secretary, U.S. Department of Agriculture,
Washington, D.C.

DEAR BOB: Recent press reports, as well as a press release from your office, indicate that the Department of Agriculture plans to implement a sugar price support program that is inconsistent with Section 902 of the Food and Agriculture Act of 1977 and with the intent of the Statement of Managers which accompanies the bill. These reports are disturbing to me, particularly if they are an accurate reflection of the Department's plans for the period subsequent to October 1, 1977.

It was never my intention, as author of the sugar compromise proposal that was unanimously adopted in Conference, that a payment program of any kind be authorized. Section 902 (3) was intended solely to authorize payments for that portion of the

1977 sugar crop that was harvested prior to the effective date of the 1977 Food and Agriculture Act. Any existing authority to provide payments is repealed by operation of law as of the effective date of the Food and Agriculture Act of 1977.

There should be no confusion about the record of the Conference Committee on this matter. Let me quote from page 174 of the Statement of Managers: "The Conferences expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price." The effective support price is to be established at 52.5 percent of parity, a level that was reached after considerable discussion.

Furthermore, the Conferees stated, again on page 174, that "It is the recommendation of the Conferees that the Secretary of Agriculture implement the program called for by the House amendment as soon as possible—even before the Act is signed into law. The Conferees intend that the implementation of the loan and purchase program not be delayed even if there should be a delay in the establishment of minimum wage rates for agricultural employees engaged in the production of sugar because of any public hearings that may be held thereon." So the conferees made it quite clear that they intended no delay in implementation of the loan and purchase program. To the contrary, they made it known in precise terms their desire that the program be implemented even prior to the Act being signed into law.

There are a number of reasons why the Congress decided that an import management program was the best means to support domestic sugar producers at a level that was in the interest of both producers and consumers. For one thing, an import management program, if done properly and effectively, would produce over one hundred million dollars annually to the Treasury.

There are problems with a payments approach that go beyond the scope of your authority. I note that in the recent debate to amend the Senate Budget Resolution the various projections, including projections utilizing data from USDA, assumed no outlays for sugar supports. Given the difficulty that we in the Senate had in increasing the agriculture function spending level from $5.6 to $6.3 billion, I shudder at the prospect of increasing this level once again for a sugar support program.

Our sugar producers are in desperate need of strong domestic markets. Unless an aggressive import management program begins immediately—a program mandated by the Congress—we will continue to be a dumping ground for cheap sugar that will only benefit industrial users at tremendous expense to the taxpayer and to our domestic sugar producers.

I urge your most immediate consideration of this matter.

Sincerely,

HUBERT H. HUMPHREY.

Mr. DOLE. But, Mr. President, Senator HUMPHREY went even further, also writing to the Comptroller General questioning the legal basis of the Department's action and asking the GAO for an immediate review. I also ask unanimous consent that Senator HUMPHREY's letter to the Comptroller General be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C. September 20, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR ELMER: I hereby request that the GAO review the legality of the Department of Agriculture's proposed sugar support program. As you may know, the USDA has formulated a new program, announced September 15, to become effective very soon, which provides for payments rather than loans and purchases. A loan and purchase program is mandated by the Food and Agriculture Act of 1977. It is my judgment that the proposed USDA program has no legal footing once the Food and Agriculture Act of 1977 becomes effective. I have explained my views thoroughly in a letter to Secretary of Agriculture Bergland, a copy of which is enclosed.

It is imperative that your office begin its review immediately, since the Food and Agriculture Act of 1977 becomes effective October 1. It is my hope that you can report to me by this date. If you need any assistance from my office, please do not hesitate to let me know.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

Enclosures.

Mr. DOLE. Mr. President, in Senator HUMPHREY's letter to Secretary Bergland, he very rightly raised the concern many Senators will share over the budgetary implications of the course Secretary Bergland is seeking to pursue, particularly in view of the fact that the Senate's budget resolution estimates for the new farm bill were compiled on the basis of no costs being involved in the sugar program.

In consideration by the Senate of the second congressional budget resolution on September 8, 1977—noted in the CONGRESSIONAL RECORD on page 28178—Senator TALMADGE stated:

At the same time, no recognition is given for savings resulting from the sugar amendment adopted by the Conference. The Congressional Budget Office had earlier established a level of $185 million as needed to cover the Administration's direct payments to sugar producers.

That program was declared illegal by the Justice Department but this decision came *after the conferees had mandated the establishment of a sugar support program to be implemented at no cost to the Treasury.* (Italic added.)

The Congressional Budget Office cost estimate on sugar is now zero, but there is no indication as to what was done with the $185 million which was a 350 function item.

It is clear from the foregoing that the chairman of the Senate Agriculture, Nutrition, and Forestry Committee fully understood the intent of the Congress in regard to sugar to be a price support program implemented under section 22 of the Agriculture Adjustment Act of 1933—tariffs or quotas—"at no cost to the Treasury."

Instead of "at no cost to the Treasury," this supposedly budget-conscious administration is on its own authority imposing a budgetary swing conservatively estimated at $800 million to have its own way.

We have not treated these figures lightly. We have had highly respected economists familiar with both the sugar trade and operations of USDA programs look at the program being imposed by Secretary Bergland, and at the program enacted by the Congress. Based on their calculations, the Bergland program would cost an additional $450 to $500 million per year not planned for in our congressional budget ceilings, and lose the Government at least $350 million a year that would be collected by the Treasury under the program mandated by the Congress. Actually, the economists estimated both the USDA costs and the potential Treasury earnings of the two totally different programs as each coming out higher, but we have taken a conservative level in estimating a combined budget "swing" of $800 million.

I do not see how the Congress can ignore such a situation without losing complete control over legislation or the budget.

What is even more troublesome to me is the question of why it is being attempted. Who does it serve? The cane growers have not asked for the Bergland approach; the beet growers have not asked for the Bergland approach; both would prefer achieving their better price objective in the marketplace, and not be dependent on huge Government payments to processors in the hope it would trickle down to them.

Apparently, the only ones to benefit from the proposed huge Government subsidies, and the flood of low-cost foreign imports that would be allowed to continue, are the big industrial sugar users.

CARTER PROGRAM LOWERS PRICES

Currently, sugar prices are about 4 cents under what the President has found to be the minimum cost of production of sugar beet and sugarcane in the United States. And the Department of Agriculture's new processor payments program, sugar industry people tell me, could provide a built-in incentive to force the price even lower—and compel the Government to make up the difference in payments to processors.

The administration's cash subsidy program, which in effect makes available the resources of the U.S. Treasury to foot the bill for processors to sell sugar cheaper and cheaper to industrial users at the taxpayers' expense, and at no cost to themselves, is already undermining the world market and depressing returns not only to the United States but also to other poorer producing countries.

When the U.S. processors are promised a subsidy between whatever they can get in the marketplace and the support level they must pay U.S. producers, they have a built-in incentive to cut prices to attract new customers and to get a larger share of the market. And the other producing countries, to get a share of the U.S. market in competition with this U.S. Treasury-subsidized production, are compelled to reduce their prices still further.

All of us need, and are entitled to, some better explanations for the White

House and the Department of Agriculture as to what this is all about.

There needs to be better informed explanations than President Carter himself apparently gave in answer to a question about this program on September 16, at an interview with the President for non-Washington editors and news directors in the Cabinet room.

Asked why the administration was insisting on Government subsidies rather than tariffs or import restrictions to support the price of sugar, the President, replied, in part:

Tariffs are a terrible thing to impose, because many of our friends in Latin America depend heavily upon sugar. One of the most democratic nations in the world derives almost its entire income from the export of sugar. And for us to put an obstacle to their shipment of sugar to our country would, I think, almost destroy their economy, their government, probably shift it toward a complete dependence on totalitarian assistance and would not be fair as well.

We have already seen this happening, with further collapse of the sugar market last week after Secretary Bergland indicated he was going to use payments instead of import management to achieve price support objectives for U.S. growers.

As of the close of markets last Wednesday, the world raw sugar price was down to 6.75 cents. When adjusted for intervening inflation, in constant real dollar terms these current prices are comparable to the very depth of the economic depression of the 1930's.

We would like Secretary Bergland to explain that collapse, and how many more millions it will cost the United States.

Mr. President, in order to make sure nothing is presented out of context, I ask unanimous consent to have printed at this point in the RECORD excerpts from the Office of the White House Press Secretary transcript of the exact question and the full answer.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE INTERVIEW WITH THE PRESIDENT FOR NON-WASHINGTON EDITORS AND NEWS DIRECTORS

The PRESIDENT: I want to welcome all of you to the White House. Some of you have been here before. I think you have had a chance to meet with some of our staff this morning. I hope that the day will be fruitful for you.

One of the most important things to me as President is to have a means by which I can understand the problems and the questions that arise throughout the country, sometimes removed from Washington itself, to get a different perspective; and also, of course, during my news conferences that have been held and will always be held, I hope, twice a month, to receive questions from the Washington Press Corps.

There are a number of issues that confront me, that are very voluminous. I would just like to outline a few of them for you in preparation for your questions.

This morning I concluded my own talks with the Prime Minister of France, and this is a final meeting with him. He will now, this afternoon, meet with the economic advisers, the Secretary of State, Secretary of Defense, Secretary of Energy and others so that we, in shaping our own policies for the future, will know the special problems of France, and vice versa. These discussions which I have had with many foreign leaders have been very helpful to me.

As you know, I have never served in Washington before January. I have got a lot to learn about the processes, and I have gone out of my way this year to expand my own circle of knowledge outside just domestic issues.

Those are about five factors that I hope will be in the tax reform package and which I can predict to you with great assurance will be in the tax package.

Question. With the 15 percent tax investment credit you cut the unemployment rate 4 percent.

The PRESIDENT. That sounds very good.

Question. Mr. President, do you plan to withdraw your nomination of Don Tucker to the CAB and do you think the Lance matter has hurt that?

The PRESIDENT. I haven't any intention to withdraw the nomination. I understand that there has been some concern raised within the committee. I have not received that report. I have just read about it in the news. But I will look into it. And if there are some provable allegations there that I didn't know about when the recommendation was made, then I would certainly reconsider, but I don't have any intention now, knowing what I know, to withdraw the recommendation. Don Tucker is Speaker of the House in Florida. He has been recommended strongly by the two Senators from Florida. He has been recommended strongly by Governor Rubin Askew from Florida.

I don't even know what the reason for the hesitancy is in the Senate staff at this point.

Question. During the House-Senate Conference Committee on this year's Agriculture Act, an Administration spokesman said he felt tariffs should be used, or tariffs would be used to maintain the price of sugar rather than a price support program of Government subsidies.

Yesterday Secretary of Agriculture Bergland announced a payments program very similar to the one declared illegal by the Comptroller General was going to be proposed. Why are you insisting on Government subsidies rather than tariffs or import restrictions to support the price of sugar? And, secondly, do you think sugar prices should be supported at all?

The PRESIDENT. Yes, I think sugar prices ought to be supported. I think a 13½ cent sugar price is about the minimum that would be advisable, both for domestic producers and also for imported sugar. We have supported the new farm bill which provides price supports until the International Sugar Agreement can be implemented.

I did this reluctantly, as you know. We did not support the de la Garza Amendment in its original form and accepted it only if the conferees would agree that the price support mechanism would be terminated at the time an international sugar agreement was reached, if the international sugar agreement encompasses a price of about 13½ cents. Tarrifs are a terrible thing to impose, because many of our friends in Latin America depend heavily upon sugar.

One of the most democratic nations in the world derives almost its entire income from the export of sugar. And for us to put an obstacle to their shipment of sugar to our country would, I think, almost destroy their economy, their government, probably shift it toward a complete dependence on totalitarian assistance and would not be fair as well.

We have tried to avoid a protectionist policy since I have been in office and I think the best way to do it is through international agreements that in effect set minimum and maximum prices for commodities whose prices, without constraint, fluctuate so wildly.

We have seen this happen in the case of coffee. We have seen it happen in the case of sugar, where it went almost up to a dollar and then dropped back to 8 cents. We can accommodate that. It is devastating to a sugar farmer or to the sugar producers, but our national economy is so varied that we can accommodate it. But for a country where 85 percent of all their exports is sugar, this is devastating.

So I don't like tariffs as such. They would particularly be damaging to our lowest friends and allies in this hemisphere. They also, I think, would cost the American taxpayer a great deal more, and I think that an international agreement on sugar of about 13 cents would be the preferable approach and until that can be put into effect, I have reluctantly agreed to support the price support aspects of the new farm bill.

Mr. DOLE. Mr. President, someone must be poorly informing or misinforming the President on how sugar tariffs to protect domestic producers would work. The importing country, such as the country he mentions in Latin America, would pay nothing more, and market its sugar at world market prices just as it is doing now. The only difference is that the U.S. importer would have to pay the duty to bring in the foreign sugar, recouping his costs by the higher prices achieved in the U.S. marketplace for both domestic and foreign sugar. It is misleading to indicate anything the Congress has asked would penalize any poor country—it would just American producers.

ADMINISTRATION DELAYS RESPONSE TO EMERGENCY

And, Mr. President, the explanations we need would have to be better than Secretary Bergland's views, as reported by United Press International, that it will take until January 1 to implement the new legislation.

Everyone knowledgeable with the situation assures me emergency authority exists to impose these tariffs at once—if the USDA and the White House acknowledge that an emergency exists.

What does it take to convince them?

Over a year ago, the Finance Committee found enough of an emergency existed to adopt a resolution formally asking for an investigation by the U.S. International Trade Commission.

Over a year ago, ex-President Ford concurred that an emergency existed and asked the USITC to expedite the investigation.

Six months later the USITC concurred that an emergency did exist and still existed threatening the domestic industry, and recommended imposing quotas.

At that time President Carter disagreed with their course of action for relief, but concurred that an emergency existed in ordering an alternative payment program since ruled illegal.

The Congress has concurred that an emergency exists in approving a price support program for sugar producers for which the conferees called on the USDA last August 5 to implement immediately, without waiting for the farm bill to be signed into law.

Everybody seems agreed that an emergency exists except the people in USDA charged with initiating the emergency action to implement the program the full Congress has since approved. How many

acknowledgements of the existence of an emergency constitute an emergency?

Why is nothing happening?

CONGRESSIONAL INTENT DENIED BY ADMINISTRATION

Perhaps this review of what Congress intended, and what the administration has so far declined to do, will inspire some reconsiderations.

Mr. President, just yesterday we found a new twist in the long road to a rational sugar program. The Commodity News Service reports the following, which I will take the time to read to all of you:

U.S. Agriculture Secretary Bob Bergland last night told CNS he has shifted his views on implementing a sugar support program called for in the Farm Bill expected to be signed by President Jimmy Carter today.

Following a presentation to an agricultural leaders trade conference here, Bergland said he will direct U.S. Department of Agriculture staff on Monday to develop rules to implement the support program which will require import tariffs or restrictions to protect U.S. sugar prices at 13.5 cents a pound.

Last week, Bergland told reporters he planned to ask Congress to allow USDA to continue the Administration's direct payment sugar program until a new International Sugar Agreement (ISA) took effect February and to forego the Farm Bill program.

Bergland last night said he is now persuaded that whether or not an ISA is agreed to, USDA will go ahead with Farm Bill plan, probably beginning the program in December.

Bergland said he is still "98 percent sure an agreement will be reached," but he now believes it would not take effect until next fall.

Bergland said he received word from Geneva late yesterday that Australia, Cuba and Brazil have made "a great deal of progress" agreeing on export quotas, the main stumbling block to the past two-and-a-half week's ISA negotiations. But Bergland said he is determined to show other countries "if things don't go our way we're going to put the heat on them."

I want to call certain facts to the attention of this administration:

First. Yesterday's announcement is a carte blanche invitation to every importer to maximize the imports of sugar. Imports will pour into storage points at the maximum rate feasible. Already some plants are refusing to process domestic cane, but prefer to use their storage facilities for the future windfall profits. It will mean an extra million tons of imports—with a potential $80 million windfall profit.

Second. Unbudgeted hundreds of millions of dollars will pour out of the U.S. Treasury to add to our national debt.

Third. Now that the President has signed the farm bill, the Secretary must implement immediately a price support—notice I said price support, not income support—for sugarcane and sugar beets, by standing ready to purchase processed products of sugar beets and cane.

Fourth. This can be followed immediately by two steps: Increasing the duty under headnote 2 by 0.938 cent per pound; and announcing an import fee of 50 percent ad valorem in accordance with the emergency provisions of section 22.

IMPLEMENTATION SLOW DOWN

The USDA has had long experience in quickly developing and announcing price support programs. Certainly, USDA has known of the sugar provisions for about 60 days. As a matter of fact, I have in my hand a study of the USDA, dated August 5, entitled "Implementing the de la Garza Amendment." It spells out in detail what the USDA must do under the law. That was almost 2 months ago. Secretary Bergland's strong commitment to Senator LONG was also 2 months ago.

Not to have proceeded on the basis of the actual preparation of the regulations must tell the Congress that a slowdown order came from somewhere. I do not accept—nor will the Congress accept—the view that it will take until December to implement the clear directive of the Congress.

I respectfully suggest, Mr. President, that the Department of Agriculture announce immediate implementation of the mandate from Congress and live up to its unfilled covenants.

Unless such action is taken, executive branch officials will be spending much time before several committees of the Congress trying to explain its inactivity.

CONCLUSION

We are not, Mr. President, willing for either the Department of Agriculture or the White House to ignore the actions of this body. We do not condone item vetos or item delays.

I, with six other Senators, who were farm bill conferees, sent a letter to President Carter yesterday urging him to implement the congressional sugar price support program without delay as the Agriculture Act of 1977 requires. I ask unanimous consent to have printed in the RECORD the text of that letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
WASHINGTON, D.C.,
September 30, 1977.

HON. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: According to an article which appeared in the *Washington Star* on September 20, 1977, "Agriculture Secretary Bob Bergland says the government may avoid the use of a congressionally mandated sugar support program which would require an increase in tariffs on imported sugar."

The Conference Report on S. 275, the Food and Agriculture Act of 1977, and the Joint Explanatory Statement of the Committee of the Conference clearly require the immediate implementation of Sec. 902, the sugar price support program. The administration does not, in our judgment, have the legal authority to delay implementation of the sugar price support program mandated in the Food and Agriculture Act of 1977.

As the Statement of the Managers makes clear, the Conferees intend that the Department of Agriculture implement the sugar price support program "as soon as possible—even before the Act is signed into law." In addition, the Conferees do not expect "that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugar cane or sugar beets." Rather, the Conferees "expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price."

Secretary Bergland also said, according to the Star article, that it would take the administration "until January 1 or longer to draft regulations putting the congressional sugar program into effect." Six months ago, in March, 1977, the International Trade Commission reported that domestic sugar producers were being seriously injured by increased sugar imports. The administration did not dispute the Commission's findings, but nevertheless rejected the ITC's recommendation that an annual import quota be established. Instead, the administration attempted to establish a sugar payments program. The Justice Department, however, ruled that the sugar payments program was not authorized by current statutes.

The administration's failure to provide timely assistance to sugar producers led the Congress to enact a sugar price support program and to mandate its immediate implementation. During August, the administration should have been taking steps under existing authority to assure the prompt and smooth implementation of the congressionally mandated sugar support program. With your signing yesterday, the Food and Agriculture Act of 1977, Sec. 902 is law, and the conferees intend that you immediately announce import fees and duties to maintain the market price for sugar at no less than 52.5 percent of parity. If necessary to maintain the market price at the established support level, you are required to use the additional import management authority available to you under Section 22 of the Agriculture Act of 1933.

The Food and Agriculture Act of 1977 does not give the administration the discretion to delay implementation of the congressional sugar program pending an international sugar agreement. Nor can the administration's revised sugar payments program announced on September 15, 1977, serve as a substitute for the Congressional price support program for sugar. The USDA revised sugar payments program will not prevent the United States from being used as a dumping ground for imported sugar, but the congressionally mandated sugar price support requires the immediate implementation of an import management program to reduce sugar imports. By restricting the flow of surplus foreign sugar coming into the U.S., Congress' sugar price support program will help provide added momentum to reach an international sugar agreement.

We know you do not wish to place the administration in the position of, in effect, exercising an item veto—a prerogative which the Executive branch does not possess. We request that the administration implement the congressional sugar price support program without delay as the Agriculture Act of 1977 requires.

BOB DOLE.
MILTON R. YOUNG.
CARL T. CURTIS.
JAMES O. EASTLAND.
GEORGE MCGOVERN.
JAMES B. ALLEN.
HUBERT H. HUMPHREY.

Mr. DOLE. Mr. President, the Carter administration is still young. I am compelled to point out that its credibility will be adversely affected by this ignoring of the mandate of the Congress. We do not forget. Fundamentally, the future relationship with the Congress is at stake.

SPACE TECHNOLOGY AND ENERGY

Mr. SPARKMAN. Mr. President, I am always pleased to inform my colleagues

of the contributions of the George C. Marshall Space Flight Center at my hometown, Huntsville, Ala. I am particularly pleased at this time to point out two projects at the Marshall Center which which are relevant to our energy problems.

I have told this body many times of the benefits we have derived from projects at Marshall. Technology developed at the Marshall Center that allowed men to explore the Moon may help solve the Nation's energy shortage by making coal mining safer, more productive and more economical. Using technology developed for the Lunar Roving Vehicle that was operated so successfully on the Moon, an automated guidance and control system is being applied to a coal mining machine by Marshall engineers in a project for the Department of Interior's Bureau of Mines.

The "longwall machine," now operated by miners, is a large shearing machine that grinds coal from a wall or face of a coal seam in a more or less straight line, sending coal out on a conveyor, and advancing together with its mechanized roof supports as it travels deeper into the seam. Automating this machine would bring enormous advantages, and would eliminate the need for a human being to be exposed to the unsafe conditions working next to the cutting operation.

The new automated guidance and control system being developed at Marshall would allow the longwall machine to remove significantly increased amounts of coal from a mine at a faster cutting rate increasing the annual production by millions of tons. The coal taken would be purer and the guidance and control system would also reduce wear on the longwall machine's cutter, minimizing downtime on the machine.

The Marshall Center has also announced that solar energy will be harnessed to supplement conventional heating at the installation. Technology developed at the Solar Center operated jointly by NASA and ERDA at Redstone Arsenal, Ala., will be used in a program to convert heating and hot water systems in several Marshall Center buildings to solar collection systems over the next 2 years. This will free considerable quantities of conventional fuels for other uses.

I commend the people of Redstone Arsenal and the George C. Marshall Space Flight Center for their continuing contributions toward bettering our society.

THE PROBLEM OF INTERNATIONAL TERRORISM

Mr. CASE. Mr. President, the problem of international terrorism continues to spread around the world, as shown by the current hijacking of a Japanese Air Lines plane by members of the so-called Japanese Red Guard.

Members of the group have been responsible for other terrorist acts which have nothing to do with their complaints against their own government. For example, they have been allies of Palestinian terrorists and were responsible for the 1972 massacre at Israel's Lod airport in which 22 persons—many of them Puerto Rican Christians—were killed. The latest incident at Dacca, Bangladesh, in which they threatened to kill an American, Walter Karabian, because they mistakenly thought he was Jewish, casts further doubts on the claims by some PLO sympathizers that they are anti-Zionist and not anti-Semitic.

The Economist of London, in a prophetic story last week on the terrorism situation in Germany, notes that "the Terrorists need to be beaten soon."

I strongly agree.

The Senate Foreign Relations Foreign Assistance Subcommittee on September 14 held a hearing on the issue and is continuing to follow it. It is important that the administration give the problem high priority, complete work on the Presidential review memorandum on terrorism and undertake followup steps.

I ask unanimous consent that the Economic article and a press report on the Japan Air Lines plane be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Economist, Sept. 17, 1977]

A CASE FOR PRECISION

The West Germans need a policy for dealing with their terrorists, and they have not yet got one. Whether Mr. Hanns-Martin Schleyer is free or murdered by the time this is read, whether his kidnappers are in South Yemen or a police morgue, the German government now knows that it has probably the worst terrorist problem in Europe on its hands.

The new wave of the Red Army Faction is more adventurous than the Irish Republican Army, because it goes for the men at the top, and more efficient, because so far it has got them. It is more professional than Italy's far-left gunmen, who virtually suspended political violence for the holiday season in July and August. Worst, it has a constituency of sorts: a body of sympathisers, not large but large enough, willing to provide it with money, concealment or at least a muddy-minded suspension of disapproval. The fact that in Germany there is a pond for the piranha fish to swim in has to be the starting point of the policy for dealing with them.

The Germans have a bigger terrorist problem than most other people for a number of specifically German reasons. A country which has been defeated in two cataclysmic wars within 30 years is liable to produce an abnormal amount of political confusion afterwards. The confusion may show itself in left-wing or right-wing extremism (which in practice behave increasingly like each other), or it may try to sublimate itself in the pursuit of material enjoyment, treating politics as the mere administration of material growth. Neither is natural in a modern society. When that country, between its two lost wars, also tolerated a phenomenon like Hitler, and then found itself cut up between two rival ideologies, the disorientation is going to be even worse. Add the German tendency to get hold of an idea, good or bad, and hold on to it like grim death, and you have all the ingredients of what Raymond Aron has called "a psychodrama". The explanation of the Identikit young German terrorists of 1977 has to be found as much in the field of psychology as of politics.

There is one more factor, also largely German. The Germans reacted to the beginning of the general western wave of rebellion among young people, in the late 1960s, more clumsily than most other countries did, in two opposite ways. The German police were often clodhoppingly indiscriminate in their handling of student demonstrations; the majority of middle-aged Germans tended to treat all students as if they were violent nuts. But in the world of German education the reaction shot off to the other extreme. For a number of years, until the early 1970s, several German universities switched violently from the autocratic rule of conservative professors into the grip of a near-monopoly of Marxist students and assistant professors, many of whom actually preferred the political system of East Germany to the liberal one in which they had been brought up. The pool of support for today's terrorists may be partly the result of that period of alienation on the one hand, indoctrination on the other.

SMART BOMBS, NOT A BARRAGE

None of these things can be expunged from the history books. But they do point to the way in which the present problem needs to be handled. The aim should be to destroy the core of active terrorists without increasing the size of the outer ring of alienated, indoctrinated or just plain muddled people who are willing to help the terrorists now and perhaps take their place later. Because this outer ring exists, the counter-terrorist policy has to be as specific as possible. It is a case for precision weapons, not blanket bombing.

This rules out, say, a decision to intern terrorist suspects without trial. The German police could probably pick up most of the 1,200 people—about a quarter of them women—on their list of "potentially dangerous activists". But quite apart from the legal doubts about internment—how many police forces' lists of suspects are even 90% accurate?—this is precisely the sort of measure likely to expand that outer ring of sympathisers.

The same applies to bringing back the death penalty for terrorism. The majority of Germans would welcome execution for convicted terrorists, on the increasingly tempting argument that a dead terrorist attracts no attempts to release him by further acts of terrorism. But these German government's chief concern has to be, not with the majority, but with the conventional-minded minority who would regard the reintroduction of the death penalty as somehow an argument in favour of the terrorists; even more, with the minority within that minority who might take it as a reason to start helping them.

The German counter-terrorist operation needs, first, better intelligence, which means the ability to plant its own men along the terrorists so that it can track down the kidnappers and killers faster, second, it needs good psychological bargaining techniques to break down their resistance when they have been cornered; and, third it needs the special sort of combat training—marksmanship from a distance, rough-house fighting at close quarters—to make sure the right side wins the eventual shoot-out (unlike Mr. Schleyer's guards a week ago, who lost both their lives and him). There will not be many protests when terrorists are killed red-handed. Several police forces have demonstrated such a combination of skills. The Black Panthers and Weathermen in the United States and the IRA in mainland Britain—though not to the same extent as Ulster—have felt their effectiveness. Plaintive excuses notwithstanding (see page 60), there is no obvious reason why German policemen should not do as well.

It is a battle they will win in the end. German policemen will presumably be as Germanly efficient as German terrorists, and they have far more efficiency-enhancing technology at their command. A federal police structure exists to run the counter-terrorist campaign; it may need some more men, and more power to cut local corners, but

more than that it needs more of the special skills of its trade. The first step may be to give it a new commander: the Germans need their Sir Robert Mark.

GERMANY TODAY, TOMORROW THE WORLD?

The coming struggle should be ruthless in the field, liberal in the courts and much stricter in prison than it has hitherto been. It should be seen to be all three, and to be conducted in defense of a liberal and just society. The difficulty for Germany's authorities is to fight an escalating police war more effectively without furthering the very good gospel of the educated, articulate and fiercely loyal terrorists family they are up against—the claim that Germany is a police state. It is important that democratic Germany masters that challenge not just in the end but reasonably soon. There is not an industrialist or liberal democrat in the world who has not shuddered to watch Germany these past few months. There are doubtless little cells of would-be revolutionaries in many other countries, without hope or mass backing, who will be studying what happens in Germany now. The terrorists need to be beaten soon.

[From the Washington Star, Sept. 30, 1977]

HIJACKERS FREE FOUR HOSTAGES, 142 STILL HELD

DACCA (UPI).—Japanese Red Army terrorists freed four more hostages today leaving 142 persons aboard a hijacked jet facing the prospect of being executed one by one.

Japan vowed to meet the guerrillas' demands—freedom for nine inmates in Japanese prisons and a $6 million ransom—but an airplane that will fly them to the Bangladesh capital was not expected to land in time to meet the new 6 p.m. deadline which the terrorists had extended.

The five Red Army commandos released two Egyptians, an Indonesian and a Japanese woman from the Japan Air Lines DC8 jet parked in an isolated area of Dacca airport, Japanese foreign ministry officials said in Tokyo.

"We are not going to set any more passengers free, whether they are sick or not," Foreign Ministry officials quoted one of the hijackers as saying.

Dacca authorities had not yet confirmed the release.

The terrorists, who commandeered the Paris-to-Toyko jetliner Wednesday over Bombay, released five U.S. residents, including an ailing yoga student studying in India and actress Carole Wells Karabian. The three others were an Indian family living in California.

Nine Americans are still being held captive aboard the jetliner, including Mrs. Wells' husband, Walter Karabian, a businessman and former California assemblyman.

The heavily armed guerrillas are threatening to kill the hostages if Japan does not deliver the jailed terrorists and the ransom—in $100 U.S. bills—but at least three of the prisoners said today they don't want to go to Dacca.

The Japanese government has agreed to meet the demands, but asked for more time to gather the prisoners who want to go and the money. The terrorists agreed to extend the deadline by more than a day until 6 p.m. today.

But the Japanese government announced a special Japan Air Lines jetliner carrying the prisoners and the ransom will leave Tokyo at 5 p.m. for the eight-hour, 4,500-mile flight to Dacca.

Five of the nine prisoners agreed to take up the offer of freedom, but three declined. The ninth prisoner, a condemned killer who has no relation to the Red Army, was unable to make up his mind.

The Red Army is made up of ultra-leftist Japanese terrorists who have often worked in conjunction with Palestinian terrorists. In 1972, three Red Army members killed 22 persons in a bloody attack on Tel Aviv's Lod airport.

The gunmen—four were Japanese, the fifth wore a mask and all appeared to be under the age of 30—told Dacca airport officials they would blow up the jet and launch a terrorist "program on a larger, global scale" unless they win all their demands.

WILBERT SNOW DIES

Mr. RIBICOFF. Mr. President, Wilbert C. Snow, a poet of national reputation, a former Governor of Connecticut, and one of the most gentle, wise and, humane men I have ever known, died of an apparent heart attack Wednesday, September 28, 1977, at his summer home in Spruce Head, Maine. He was 93 years old.

Mrs. Ribicoff and I are sending our deepest sympathies to Bill Snow's widow, Jeanette, and other members of the family.

Bill Snow was a legend in Connecticut, one of those rare human beings who lived his life absolutely free of vanity, a man who did not have a pretentious bone in his body. Bill was an original. To know him was a delight, to be his friend, a privilege.

A much beloved professor of literature at Wesleyan University in his hometown of Middletown, Conn., Bill Snow had a great and infectious sense of humor. He could laugh at himself—a rare quality for a politician—and, with a smile and an artful quip, could forgive and forget the foibles of others.

His tenure as Governor of Connecticut lasted 13 days, a short reign, to be sure, but one that will never be forgotten by those who witnessed it.

The incumbent Governor in 1946, Ray Baldwin, resigned 2 weeks before the end of his term to fill a vacancy in the U.S. Senate. Bill Snow, the Lieutenant Governor, become Governor and assumed his duties with gusto, opening up the governor's mansion to virtually anyone who happened by and insisting that, 13 days or 13 years, he was "the Governor," not a caretaker, and going about his official duties with diligence and grace and style.

Bill then sought to be elected Governor in his own right. However, as the Hartford Courant's Jack Zaiman, dean of Connecticut's political reporters, recalled, "Wilbert Snow was a far better poet than he was a politician." Bill lost the gubernatorial election by 95,500 votes in a campaign that was high on hope but short on cash. Ever resourceful, even if they had few financial resources, Bill's supporters did their best, trying on occasion to raise funds by betting on the horses—and the candidate himself once failed to show up for a major money raising event. He went to the wrong place.

Bill Snow accepted defeat graciously, returning to Wesleyan, his students and his poetry. Moreover, in losing the election, he had called on the abilities of two young men who went on to highly successful careers—Eliot Janeway, his speechwriter, now the widely syndicated financial columnist; and John Bailey, appointed by Bill Snow to be chairman of the State Democratic Party, later to be an early supporter of John Kennedy for President and for 8 years the chairman of the Democratic National Committee.

Bill Snow had a continuing love affair with the human race. His kind do not come along very often. With his passing, all of us suffer.

Mr. President, the Hartford Courant of September 30, 1977, published Wilbert Snow's obituary, a separate article by Jack Zaiman and a third article quoting tributes paid him by Connecticut leaders. I ask unanimous consent that these three articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WILBERT SNOW, 93, DIES; POET, 13-DAY GOVERNOR

Former Gov. Wilbert Snow, of 473 Newfield St., Middletown, who combined dynamic careers in politics, poetry and teaching, died Wednesday night at his summer home in Spruce Head, Maine. He was 93 years old.

Widely known for his political career, which was climaxed when he assumed the Connecticut governor's chair for a brief period in 1946, Mr. Snow was also a dedicated, nationally acclaimed poet.

For most of his life he was a teacher of literature, a profession which gave him his living and many admirers among former students. For 31 of those years he was associated with Wesleyan University where he was professor emeritus.

His son, Atty. Charles W. Snow Jr. of Middletown, said Thursday that his father had complained to him of a "small bug" and possible indigestion on the previous day.

The elder Snow had attended the funeral of a friend in Maine and then driven to his summer home in Maine eight miles away.

An avid Red Sox fan, Snow was listening to the Boston Red Sox-Toronto Blue Jays game on the radio Wednesday night when he apparently had a heart attack, Atty. Snow said.

Son of a Coast Guardsman, "Bill" Snow was born April 6, 1884 on White Head Island in Penobscot Bay, Maine. He attended the village school until he was 14, and then worked as a lobsterman, herring seiner and seaman for three years. He enrolled in high school in a mainland town and completed requirements for a diploma in two years.

Then, with $50 in his pocket, he went off to Bowdoin College in Brunswick, Maine, working his way through school for two years as the college bell ringer. In 1907, he graduated with Phi Beta Kappa honors and two years later received a graduate degree from Columbia University.

Mr. Snow's interest in social issues and politics led him to campaign in Maine for Woodrow Wilson. Later, his outspoken attitude toward politics and teaching cost him faculty jobs at the University of Utah and the University of Miami.

In an interview in May, Mr. Snow said, "You know these kids who are trying to stop this nuclear power plant—protesting in New Hampshire? They remind me of myself."

He went to Alaska in 1914, taught Eskimos, and was a U.S. government reindeer agent, traveling by reindeer sled over the Seward Peninsula to round up and brand reindeer.

During World War I, he was an Army artillery officer in this country.

Before joining the Wesleyan faculty, where he served from 1921 until his retirement in 1952, Mr. Snow taught at New York University and Bowdoin, Williams and Reed colleges.

Wesleyan dismissed him twice. As he wrote in his autobiography, "Codline's Child," he

was fired once in 1922 for swearing on the tennis courts, using profanity in a debating class, and for not having a Ph.D. "I had given my best to Wesleyan," he wrote. "What more did the administration want? Could a few 'damns' and 'hells' cancel out all this?" He was reinstated after both dismissals, saying that Wesleyan has accepted him as a "devil's advocate."

In 1944, at the age of 60, he was elected lieutenant governor of Connecticut, and held that post until late 1946, when the incumbent, Gov. Raymond E. Baldwin, resigned two weeks before the end of his term to fill a vacancy in the U.S. Senate.

Mr. Snow's short term as governor, complete with the formal swearing in ceremony, was jovially known as "the 13 days of the banana republic."

"I feel like a person who has won the consolation prize at an old-fashioned whist party," he said on assuming office. But he always insisted he was "governor, not acting governor."

He was the Democratic nominee for governor in 1946 but was defeated. This did not end his career in politics, however, and Mr. Snow remained active in the Democratic party on the state level.

He took an active part in the affairs of the City of Middletown, serving on the district school board for more than 25 years. In 1965, at the age of 81, he was a delegate to the State Constitutional Convention which wrote a new governing charter for Connecticut.

He once told the Courant's political writer, Jack Zalman, that, "Everyone should be interested in politics. If the people stay out, the crooks will take over."

In a 1959 speech to the University of Rhode Island student body, Mr. Snow said, "Political life in America is especially dull."

Politics, he explained, "means endless hours of committee work and discussions and beating around the bush, apparently getting nowhere ... Only if you have a driving interest can you accomplish things in politics."

A supporter of Jimmy Carter, Snow said at the Democratic state convention last year, "I wish he had a sense of humor."

At Wesleyan, he was popular among students and held frequent afternoon discussions over soft drinks and coffee. Often Mr. Snow brought students to his Middletown farmhouse, where they might be *introduced* to professional poets or politicians, who valued him both for advice and conversation.

He once said he was criticized by a superior at one college "because I talked too plain about politics and religion in class."

In 1951, he traveled around the world on a State Department tour as a special cultural ambassador. He retired from Wesleyan in 1954 and then accepted a one-year lecture post at a black college, Morehouse, in Atlanta, Ga.

A love for poetry, Snow recalled in an interview with a Courant reporter last May, was nurtured by his mother, an Irish immigrant. "All Irish people are poets if you strike down deep enough," he said.

"If you want to make money, write prose," he once said. "Poetry you just do for the love of it."

"If your number one happiness does not come out of the joy of doing a thing, don't try to do it. That's my test ..."

A prolific writer, Mr. Snow was the author of several books of poetry, including "Maine Coast," "The Inner Harbor," "Down East," "Before the Wind," "Maine Tides," "Spruce Head" and "Sonnets to Steve and Other Poems."

"Sonnets to Steve" contained reminiscences about his fourth son, who died in 1941. It won the 1957 Saturday Review of Literature poetry prize.

The poem begins with these lines:

"Knowing and living with and loving Steve.
For fifteen sunlit years was wealth to prize,
I count his virtues, even as I grieve . . ."

Mr. Snow had as friends many established poets, including Carl Sandburg, Robert Frost, Edwin Arlington Robinson, Edgar Lee Masters, and Edna St. Vincent Millay. Ralph Waldo Emerson was his favorite poet.

He was fond of telling about the two weeks Frost spent at his Middletown house. Every night students stayed until midnight, and he and Frost would continue talking until 4 a.m., when Mr. Snow would catch four hours sleep before his first morning class.

"Most wonderful 14 days of my life," he would say, "They almost killed me."

Mr. Snow was an early outspoken opponent of racial discrimination and in a 1945 radio speech proposed a state fair employment practice act. He declared, "Racial discrimination is an evil that American democracy has not yet shaken off. We give lip service to political and economic equality, and think that is enough."

In his later years, Mr. Snow remained active and was mentally alert, working on an autobiography and continually writing poetry. During his occasional public appearances, he always received long ovations.

Honors came to Mr. Snow from many sources after his retirement. In 1965, he was named Middletown's Outstanding Citizen, and received the first Bowdoin College Distinguished Education Award. Four years ago, he received an honorary doctorate from Bowdoin and was cited as having "captured in verse the salty flavor of Maine's sea-washed shore."

Of his Maine village youth, Mr. Snow wrote that "hunting, fishing and sailboating occupied a great deal of our time. To the grownup these were largely utilitarian sports, but to boys in their teens they were unadulterated pleasures."

"Fish and potatoes" were the staple of the family diet, he recalled.

Atty. Snow said Thursday that his father was forced on a bland diet in his early 20s when he had an ulcerous condition, and to this he attributed his father's long life. The diet was always enforced in the Snow family, Snow Jr. said, and he never had ketchup as a child. Gov. Snow always considered eating as a secondary function and always advised against over-indulging.

Snow Jr. also recalled that his father was the "autocrat of the breakfast table," who performed at all of the family's mealtime functions with stories and jokes.

The elder Snow, in his reminiscence of his youth in Maine, said village entertainment was "incredibly meager," and once a year a minstrel troupe, a traveling bear and an Indian medicine company would show up. "As for the rest, the neighbors had to provide it themselves."

Religion was a key element in the community, he said. "The shadow of John Calvin was always hovering over us," was the way he described it in the preface to "Maine Tides," published in 1940.

He alluded to his abiding love of the sea and its influence this way:

"The habitual mood of New England landscape is that of mild pastel shade, exquisitely delicate but not in any way violent. The tints on the sea are richer, especially at sunrise and sunset, consequently one will be more aware of the sea than he will of the land in perusing this volume, for it was the sea that instilled in the author the desire for expression in poetry."

In the last year of his life, Mr. Snow could still be seen walking down Middletown's Main Street with only a slight hobble or sitting in a Wesleyan University grill, speaking his mind on the politics of the day.

His long, thick white head of hair flopped when he talked and his sharp blue eyes looked straight at a listener.

"The worst thing about growing old," Mr. Snow said with a hint of sadness during the May interview, "is that your friends don't grow old with you. They try the other shore."

Besides Atty. Snow, he leaves his wife, Mrs. Jeanette Simmons Snow; three other sons, John F. Snow of Middletown, Nicholas Snow of Spruce Head, and Gregory E. Snow of Detroit, Mich., and 17 grandchildren.

Funeral services will be Saturday at 9 a.m. in the Church of the Holy Trinity, Middletown. Burial will be Monday in Ocean View Cemetery, South Thomaston, Maine. Calling hours are today, 2 to 7, at Doolittle Funeral Home, 14 Church St., Middletown. Memorial donations may be made to the Memorial Fund of the Church of the Holy Trinity, 381 Main St., Middletown, 06457.

MORE POET THAN POLITICIAN, SNOW LEFT MARK ON PARTY

(By Jack Zaiman)

Wilbert Snow was a far better poet than he was a politician. His political instincts were pure, like a poem. He was uncomfortable with the legendary smoke-filled back room into which he was thrust in 1946 when he became the Democratic gubernatorial nominee.

Yet, he will go down in Connecticut political history as the man who brought John M. Bailey to prominence.

It was Snow who made the late Mr. Bailey the Democratic state chairman in 1946, a move that created the modern Democratic party, led eventually to the destruction of the Republican party as the dominant political force in Connecticut, and later brought Bailey to the Democratic national chairmanship.

And, having given Bailey his start, Snow's moment at the political top passed. He lost the 1946 gubernatorial election by 95,500 votes and that really was the end of his political career. He was a flash in the pan in politics; yet he has left a great mark.

That year, 1946, for those who remember it, always brings smiles. Snow was running for governor and Bailey was state chairman. There was no money for the campaign, since things looked so black for the Democrats.

How could money be raised for Snow? Somebody at Democratic headquarters owned a horse—a "hot" horse he said. So party leaders bet on the horse and it won. Then the bundle was lost when the horse, in later races, fell apart. But Snow didn't know what was going on.

And when funds were raised for a final big campaign radio broadcast—there was no television then—and all the leaders were gathered around a radio at the old Hotel Bond to listen to Snow, the announcer came on and said, "Due to conditions beyond our control, the program originally scheduled for this period will not be held."

They were astounded. Where was Snow? The statewide broadcast was to have originated in Bridgeport. Soon they found out that Snow had gone to the wrong radio station.

And his campaign speeches? His speechwriter was Eliot Janeway, now a widely known syndicated financial columnist.

Janeway would write the speeches and Snow wouldn't deliver them.

"They don't sound like me," Snow said.

It was a haphazard campaign for the Democrats, doomed to failure.

Yet, from these ashes Bailey rose to political greatness and Snow went back to teach at Wesleyan University and to his beloved poetry.

And as the years went on, and the Democrats took over the state, Snow sometimes would be forgotten by party leaders. They would have their big dinners and forget to invite Snow. And when he showed up, on his

own, they would forget to put him at the head table.

And still later on, party newcomers would see the distinguished-looking Snow at political affairs and ask: "Who's he?" They looked stunned when informed that he was the man who had made Bailey what he was.

POLITICAL, ACADEMIC LEADERS MOURN FORMER GOVERNOR

Tributes to former Gov. Wilbert Snow came Thursday from the political and academic worlds where he made his career.

"The citizens of our state mourn the loss not only of a former governor, but of a sensitive and talented poet, a dedicated and energetic teacher and a spirited and compassionate human being," Gov. Grasso said. "He brought wisdom, wit and dedication to public service . . . He was a staunch educator . . . But perhaps his most lasting contribution will be the poetry in which he spoke so eloquently from his heart of his native New England and of those he loved."

U.S. Senator Abraham Ribicoff, D-Conn., said "Wilbert Snow was an extraordinary man—poet, teacher, intellectual and practical politician. He was a gentle and thoughtful human being who brought life and common sense to Wesleyan University the city of Middletown, the state, the nation and mankind. He was my friend. All who knew him loved him."

"All who were fortunate enough to know Bill Snow marveled at his keen wit and reveled in the vast storehouse of anecdotes which he so engagingly drew upon," said Lt. Gov. Robert K. Killian. "Connecticut has been blessed with a number of exceptional people who have also chosen to participate in the political forum. Historians will rank Bill Snow high on that list."

WESLEYAN LEGEND

Colin G. Campbell, president of Wesleyan, where Snow taught many years, said, "Wilbert Snow became a Wesleyan legend in his lifetime—beloved as a teacher, admired as a poet, respected as a civic and political leader. Many lives were touched by his thought and by his action and by the feeling of his words. Perhaps it was this third gift of his, feeling, which was of such inestimable value in a world where feelings are so often brushed aside, hidden and lost."

"We had breakfast together at a friend's house three weeks ago, just before he left for Maine," said former Gov. Raymond E. Baldwin, 84, also of Middletown. "It shakes me to see my old friends going. I considered him a fine citizen and an excellent poet."

"Even though he was a short-term governor, he showed his executive ability," Democratic State Chairman William A. O'Neill said. "He certainly was a scholar and artist well-known in the state of Connecticut and highly respected in all walks of life and by all political affiliations."

Middletown Mayor Anthony S. Marino declared a period of mourning for Snow that will start today at noon and extend through the weekend. City offices and schools will close at noon today, he said.

RHODESIAN CONFLICT

Mr. CASE. Mr. President, one of the problems in solving the Rhodesian situation has been the lack of trust and a good understanding of the attitudes on all sides. A major aspect of this has been a tendency by the white Rhodesians to misjudge the extent to which many in the outside world are concerned about the legitimate grievances of the black Rhodesians. The isolation of Rhodesia, partly due to geography, and partly due to the censored press, has been a contributing factor.

Therefore, earlier this year, I cosponsored an amendment—subsequently approved by Congress—which expressed opposition to the efforts to close the small Rhodesian Information Office in Washington. Although the office distributes publications and tries to influence people, it also serves a reporting function in the manner of a small consulate.

Also, although I was a cosponsor of the legislation which successfully repealed the Byrd amendment and thus reimposed the embargo on Rhodesian chrome ore, I joined last week with the Senator from Virginia to criticize the denial of visas to two Rhodesian blacks. The State Department allowed visas to several other black Rhodesians who support the so-called internal solution, but not the two tribal chiefs on the grounds that as members of parliament, they were assisting the Smith government. This is a rather legalistic viewpoint, and I can only agree with the New York Times editorial that in this situation, we should not curb the flow of ideas.

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 30, 1977]

BAN CHROME, NOT IDEAS

The American people emerged the poorer last week when two worthy principles came into conflict and the State Department refused entry to two Rhodesian tribal chiefs. The principle that lost was the right of Americans to hear all sides of any argument. The one that prevailed was the nation's obligation to adhere to resolutions of the United Nations Security Council. The lesser principle won.

The two chiefs sought to visit the United States to argue the case for an "internal settlement" in Rhodesia—namely, a constitution, negotiated between the present white minority regime of Prime Minister Smith and those black leaders who have chosen not to take up arms against it. That is not the only—or best—way to provide for majority rule with safeguards for minority privileges, but neither is that the point at issue in this matter.

The chiefs occupy reserved seats in Rhodesia's parliament. They may or may not be Government stooges, but their acceptance of parliamentary seats marks them as persons who "have furthered or encouraged . . . the unlawful actions of the illegal regime in Southern Rhodesia." That is the language of a 1968 Security Council resolution tightening international sanctions against the Smith Government. It obligates United Nations members to bar all such persons from their territories.

The United States record of adherence to the sanctions against Rhodesia has been generally poor. The most flagrant violation was our importation—by order of Congress under the so-called Byrd amendment—of Rhodesian chrome. Embarrassed by this record, the Carter Administration last spring pressed Congress to repeal the Byrd amendment. It also moved to expel a Rhodesian Government information office which had functioned for years in Washington. On the Byrd amendment it succeeded; on the information office it failed, because some influential Senators objected. Now, in response to a recent Security Council resolution, it has again told the information office to pack up.

Expelling the information office raises the same issue of principle as denying admission to the two chiefs. The office should stay and the chiefs should come. It is fundamental to the way we conduct public business in this country that citizens be exposed to all points of view, no matter how repugnant the source of how antithetic to the Government's policy. The United States should not lightly bend that constitutional principle before international resolutions, even those of the United Nations Security Council, which acquire the force of American domestic law. When confronted by such resolutions, and even at this late date, an American Administration should demur and explain the difference between denials of commerce and denials of free debate. We can, and in this case should, take part in sanctions which curtail the flow of goods, but not the flow of ideas.

GENOCIDE AND THE NEED FOR INTERNATIONAL COOPERATION

Mr. PROXMIRE. Mr. President, as we move toward the end of the 20th century there is increasing need for cooperation between nations to deal with issues of vital importance to all countries.

The last quarter of a century has been the hallmark of significant developments in the need for cooperation between nations of the world. Technological and communication advances have "made the world smaller" while at the same time increasing the complexity of interaction. International politics and economics have influenced all of our lives.

In this new, increasingly complex world, no nation stands alone and, even more, no few nations can control the politics of the world. We are in an era of cooperation versus control. I am not suggesting that we sacrifice any of our sovereignty as a nation, but it is essential that we constantly develop new ways to contribute to the coordination of international affairs.

As such, one of the most significant measures proposed in the last 25 years for furthering this end is the Genocide Convention. As I have pointed out many times before, the convention does not circumvent any of the sovereignty of nations. The arguments that the treaty would circumvent our Constitution or legal codes is fallacious.

It is clear that this treaty is a statement of cooperation. It is a statement of moral agreement between nations on a matter as grave as genocide. It is a statement that by the weight of their collective agreements, nations can better the conditions of life for all of mankind. It is a civilizing document.

Many of the conditions of life that we enjoy now trace back to documents of moral aspirations; the Magna Carta, the Bill of Rights, the Convention on Slavery, and the Geneva Convention for the Treatment of Prisoners of War. These documents all have one major similarity, they require cooperation to work. The Genocide Treaty follows in a noble line of documents of cooperation for the betterment of life.

An international treaty can have a civilizing effect on the conditions of life for mankind. The Genocide Treaty represents a major effort in this area and it is well time that we made our contribution to helping this treaty work. Let us not be any tardier than we already have been in ratifying the Genocide Treaty.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. THURMOND. Mr. President, on vote No. 476, a motion to table amendment No. 1072, which occurred on September 28, 1977, I was necessarily absent. If I had voted, I would have voted "aye."

I ask unanimous consent that the permanent RECORD so reflect my position.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, again I say it is conceivable there could be a rollcall vote on something. There is a conference report which Mr. PROXMIRE has been wanting to call up. He wanted to call it up last night. I think it was indicated that it would be all right to call it up today, after 1 p.m. I have no desire to ask for the yeas and nays on the conference report. The Senator is here.

Mr. BAKER. Mr. President, if the Senator will yield to me, I advise him that we have more than one request on this side for a record vote, and it may take a little time.

Mr. PROXMIRE. I understand that Senator BROOKE, the ranking Republican, wanted 30 minutes all together, equally divided, and that is fine with me. No other Senator requested time, and I think the time request should be acceptable.

Mr. BAKER. I am not sure I can agree to that. I will have to check. Several people expressed an interest, and there are notations we have on the calendar. So I would rather not enter into a time limitation or proceed with the consideration.

Mr. ROBERT C. BYRD. Is there a deadline involved in this conference report?

Mr. PROXMIRE. There is a definite deadline. The authorizations expired yesterday, and it is urgent that we act. I talked to the Secretary of Housing and Urban Development, and she is very anxious for the Senate to act. So I hope we will be able to agree on acting this afternoon.

As I say, I have talked to Senator BROOKE. It was my understanding that no other Senator had any objection. Senator TOWER and Senator GARN signed the conference report and indicated that they have no particular difficulty with it.

It is an important bill to the States. It involves more than $14 billion—$7 billion this coming year—of community development money. All the States need it and need it now. So I hope we can act at once.

VISIT TO THE SENATE BY MEMBER OF BRITISH PARLIAMENT

Mr. MATHIAS. Mr. President, I call attention of Senators to the fact that we have a distinguished member of the Parliament of Great Britain, Lord Roll of Ipsden, visiting the Senate, and he is in the Chamber at this time.

[Applause, Senators rising.]

RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes, so that Senators may greet this distinguished visitor.

The PRESIDING OFFICER. (Mr. ZORINSKY). Without objection, it is so ordered.

The Senate, at 2:36 p.m., recessed until 2:38 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer.

COMMITTEE MEETING ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Monday, October 3, to consider S. 2159, a bill designed to correct deficiencies in the current health manpower legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL GRANT RELATIONSHIPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7691.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that there be substituted in lieu thereof the language of S. 431.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed as follows:

That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing inconsistencies, confusion, inefficiency, and waste is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards.

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guideline for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the

Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed description of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contract, grants agreement, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS—

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, and 1892), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 431 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING THE TEMPORARY DEBT LIMIT—H.R. 9290

Mr. LONG. Mr. President, with regard to H.R. 9290, which the Senate passed with an amendment yesterday, I move that the Senate insist on its amendment and ask for a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ZORINSKY) appointed Mr. LONG, Mr. HARRY F. BYRD, JR., Mr. TALMADGE, Mr. GRAVEL, Mr. HASKELL, Mr. CURTIS, Mr. ROTH, and Mr. PACKWOOD conferees on the part of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT ACT CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 6655 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1977.)

Mr. PROXMIRE. Mr. President, the conference report on housing and community development follows a long period. The act began as S. 1523 in the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to interrupt?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation on the conference report of not to exceed 30 minutes to be equally divided between Mr. PROXMIRE and Mr. BROOKE, and it is my understanding that there will be a rollcall vote on the adoption of the conference report.

Should we proceed now to order the yeas and nays so that all Senators will be alerted?

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. How soon will the rollcall be?

Mr. ROBERT C. BYRD. In 30 minutes or less.

Mr. PROXMIRE. It may be substantially less. We do not expect to take up the full time.

Mr. President, I am pleased to bring to the Senate floor the conference report on the Housing and Community Development Act of 1977. The act began as S. 1523 in the Senate, and was passed on June 7 by a vote of 79 to 7; it was, after a long conference, agreed to on September 26.

The 1977 Housing Act reported out by the conferees is an important piece of legislation. The bill is essential if we are to continue the operations of our FHA and low income housing assistance programs. It is essential if we are to continue to aid the Nation's urban areas under the community development program established 3 years ago. It is needed to improve other programs that affect the lives of citizens throughout the Nation. I believe that the bill being reported is a reasonable compromise of differences in the Senate and House bills and is legislation that should be passed promptly.

The 1977 Housing Act agreed to by the conferees includes the following major elements:

First. A 3-year reauthorization of the community development program with a new and improved funding formula.

Second. A new urban development action program to assist both small and large distressed cities.

Third. An extension and updating of Federal housing mortgage insurance programs.

Fourth. Additional authorization for HUD's low income housing assistance programs and Farmer Home Administration programs.

Fifth. A Community Reinvestment Act to encourage lending in communities and neighborhoods which have serious credit needs.

Sixth. Needed legislative changes in other HUD programs.

Mr. President, failure to act on this bill would have the most serious consequences for thousands of lenders, builders, and homeowners. Almost all housing programs of the Department of Housing and Urban Development and the Farmers Home Administration expired at midnight, September 30, 1977. These include basic mortgage insurance for middle-income families, cooperative housing, housing for lower income families, housing for families who have lost their homes as a result of Federal property acquisition or condemnation action, and land developers. No new contracts of assistance can be entered; families who had anticipated congressional action on this bill and had secured financing for their homes, risk losing their homes for lack of HUD or FmHA-assisted mortgage insurance or direct loans.

In flood-prone communities, thousands of flood insurance policies expire, leaving such homeowners virtually unprotected if struck by a flood while this bill is pending; and much of the secondary mortgage market interim purchases under the Emergency Home Purchase Assistance Act of 1974 would cease, meaning that many homeowners will find mortgage financing nonexistent or available only at very high rates. This, in turn, can and will mean a possibly sharp reduction in the amount of housing starts.

Obviously, Mr. President, much of this can be prevented or forestalled if the Senate would act now to approve H.R. 6655. I believe that the American people deserve to see the very significant housing programs of both HUD and the Farmers Home Administration continued with minimal disruption.

The act authorizes the appropriation of some $7 billion in fiscal year 1978, and an additional $7 billion during the following 2 years.

Title I of the act would extend the community development program and would provide authority for $11 billion in block grants to cities and counties over the next 3 years. This title would authorize $400 million for urban development action grants to distressed communities over the next 3-year period, and $100 million annually for financing the completion and financial close-out of urban renewal projects.

The new act would change the system for allocating entitlement to block grant funds by giving metropolitan cities and urban counties a choice between two formulas—an existing formula based on population, poverty, and overcrowding and a new formula that would be based on age of housing, poverty, and population change. It is expected that the new system will, by incorporating the new formula, bring out a better balance in the distribution of funds between older and new cities, between declining urban centers and those which are growing. Under the proposed allocation, increased funding would be available for smaller nonmetropolitan communities.

As you will recall, the Senate provided a third formula for areas impacted by a high percentage of older housing. This impaction formula would have additionally increased funding for the Nation's older cities. After considerable discussion and negotiation, the conferees decided to drop the impaction formula in favor of a provision that would give priority to impacted cities in making urban action grants.

These action grants are designed to promote commercial and industrial development, and to foster conservation and revitalization of neighborhoods in cities and urban counties which have declined economically and have critical development needs. Action grants would be made to distressed communities which can demonstrate that substantial private investment will be committed along with public funds, and will result in a significant expansion of employment opportunities and improvement in the community's tax base. Recognizing that small cities, as well as larger cities, have serious physical and economic development needs, the act specifically reserves 25 percent of the urban action funds for smaller cities with populations under 50,000.

Other improvements to the community development program also were agreed to. The new act would better target funds toward activities which benefit low and moderate income families and upgrade deteriorating neighborhoods; would strengthen citizen participation in the program, and would expand eligible activities under the program, particularly to foster increased economic development, and would make smaller cities eligible for multiyear grants.

Title II of the bill would authorize $1.2 billion in additional annual contributions contract authority, with specific set-asides for public housing modernization, State housing finance agencies and housing for elderly and handicapped families. In addition, $685 million would be authorized for public housing operating subsidies, $15 million for HUD's urban homesteading demonstration program and $60 million for HUD research contracts. Certain changes would be made in the section 8 leased housing program, in section 235 and section 236 of the National Housing Act and in section 202 of the Housing Act of 1959. Authority to subsidize new communities and the urban homesteading program would be extended 1 year and the Treasury Department's draw authority on Federal Reserve Banks would also be extended to the end of fiscal year 1978.

Title III would extend HUD mortgage insurance authorities, make changes in maximum mortgage limits and downpayment requirements, and would add certain new provisions to the National Housing Act. The Secretary's authority to establish maximum interest rates on insured mortgages would also be extended.

The title would also increase mobile home loan limits and maturities, and would increase home improvement loan insurance limits HUD's experimental graduated payment mortgages program would be made permanent and would be revised in important respects.

Title IV of the bill would amend the Home Owners' Loan Act of 1933, which governs the investment activities of federally chartered savings and loan associations. Savings and loan associations would be permitted to increase from 3 to 5 percent of their assets for both line of credit construction loans and loans for farm building purposes.

Savings and loan associations making mortgage loans above the maximum amount allowable by law would be permitted to count only the excess of that amount in their "20 percent of assets" lending limitation.

The bill would also eliminate the limitation in section 5(c) of the 1933 act that loans secured by multifamily property consisting of more than four units be limited to 20 percent of the assets of the lending institution, but the bill would also limit such unrestricted loans to units with per unit costs no higher than those permitted under section 207 (c)(3) of the National Housing Act. The permissible single-family home loan ceiling would be increased from $55,000 to $60,000, while conventional home improvement loan limits would rise from $10,000 to $15,000.

Title IV of the bill would also amend the National Housing Act with respect to the Government National Mortgage Association and the Federal National Mortgage Association. The "Brooke-Cranston" GNMA emergency tandem plan, authorized by the Emergency Home Purchase Assistance Act of 1974, would be revised to target the program to serve a number of additional functions, including the stabilization of housing production, the promotion of homeownership opportunities for moderate-income per-

sons and the financing of the rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods. The title would also authorize GNMA purchases of mortgages assisted under section 8 of the U.S. Housing Act of 1937, with a principal mortgage amount of up to $49,000 per unit in high cost areas and a purchase price per unit of up to $55,000 in high cost areas.

Current mortgage and sales price limits for other types of housing located in the 48 contiguous States would remain at $42,000 and $48,000, respectively. Total "Brooke-Cranston" tandem plan purchase commitment authority would be limited to $7.5 billion for the 1978 fiscal year. The Emergency Home Purchase Assistance Act of 1974 would be extended to October 1, 1978.

With respect to FNMA, the bill would direct the Secretary to conduct a review of the financial and program operations of the corporation, with a report to be submitted to Congress on or before July 1, 1978.

Title V of the bill would extend the housing programs administered by the Farmers Home Administration. Additional authorizations of $25 million, respectively, would be approved for the low-income housing repair loan program and for farm labor housing. Changes in the FmHA guaranteed loan program were approved which would limit its availability to persons best able to use it—those whose incomes are above moderate. At the same time, the conferees intend that FmHA would extend the benefits of the program to those whose adjusted annual income does not exceed $20,000. Interest rates on such loans would be negotiable between the borrower and the lender and the "graduation" requirement which applies to FmHA loans would be removed.

To aid homeowners of FmHA-assisted housing, provisions for the prepayment of taxes, insurance and other items and compensation for structural defects were adopted. Rural housing for the handicapped would be expressly authorized for the first time and congregate housing would be authorized for both elderly and handicapped persons and families. Farm labor housing in Puerto Rico and the Virgin Islands would be eligible for grants and loans under section 514 of the Housing Act of 1949. The rural rent supplement program's implementation would be mandated and 60 percent of single- and multi-family direct rural housing loans would be earmarked for low-income families.

The bill would clarify existing law by explicitly stating that property subject to a lien by the United States or acquired or held by Farmers Home Administration would be taxable by State and local jurisdictions. Lastly, the Secretary would be directed to establish a research capacity within FmHA.

Title VI of the bill would change the title and focus of the Urban Growth and New Community Development Act of 1970. The act would now be entitled the "National Urban Policy and New Community Development Act of 1970". A Report on National Urban Policy would be submitted biannually by the President to the Congress and would review and summarize the state of all urban areas, including areas experiencing high rates of growth. Other changes relating to the report essentially reflect the emphasis which is to be placed by Federal urban policy on encouraging desirable patterns of urban development and redevelopment.

Title VII of the bill makes substantial changes in the flood insurance program of the Department of Housing and Urban Development. In addition to extending the program for 1 year and authorizing $108 million for flood insurance studies for fiscal year 1978, the bill would remove the current prohibitions against private mortgage loans to finance improved real estate or mobile homes in flood-hazardous areas. At the same time, maximum insurance ceilings under the program would be greatly increased and additional circumstances under which the Secretary could purchase flood-damaged property would be enumerated.

The $4.5 million would be authorized to permit the Secretary to make 2 percent loans to homeowners for the purpose of elevating their single-family homes when such structures are located in a severe flood area of a flood-prone community. Finally, title VII of the bill would authorize a total of $500,000 for reimbursement of individuals and homeowners for nonattorney expenses incurred in connection with appeals from certain Secretarial determinations under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended.

Title VIII, Community Reinvestment, would require Federal bank regulatory agencies to assess the record of institutions which they supervise of meeting the credit needs of the communities in which such institutions are located, including low- and moderate-income neighborhoods. Such agencies would also be required to take that record into account when evaluating applications for new deposit facilities filed by the particular institution. Implementation of the provisions of this title is to be deferred for 390 days.

It is the purpose of the Community Reinvestment Act of 1977 to require the Federal financial regulatory agencies to use their authority to encourage regulated financial institutions to meet the credit needs of the communities in which they are chartered, consistent with the safe and sound operation of such institutions. To this end, the act requires the financial regulatory agencies to assess each regulated financial institution's record of meeting the credit needs of its entire community including low- and moderate-income neighborhoods, in connection with its regular examination of the institution.

The regulatory agencies would be required to take the assessment into account in evaluating all deposit facility applications. Because the Federal agencies have their broadest authority, concerning deposit facilities, over federally chartered institutions, consideration of institution assessments in this regard will have the greatest impact on federally chartered institutions. It is not the intention of Congress that the agencies ignore assessments of State chartered institutions. Rather the intention is as stated in section 801(b) that the agencies use the full extent of their authority, including their general regulatory authority, under section 806, to encourage all regulated depositary institutions' responsiveness to community needs. Accordingly I would like to make it clear in the RECORD today that the enumerated regulatory agencies take the required assessments into account in all their authorized actions regarding State chartered institutions as well as federally chartered institutions.

Title IX of the bill contains several provisions of miscellaneous nature. First, a Special Assistant to the Secretary for Indian and Alaska Native Housing would be created in the Department of Housing and Urban Development, to be designated within 60 days of passage of the provision. The Special Assistant would be responsible for coordinating all the Department's housing and community development programs directly affecting Indians and Alaska Natives. Second, the National Mobile Home Construction and Safety Standards Act of 1974 would be amended to exempt modular housing complying with statutorily prescribed manufacturing and other standards. Third, HUD's homeownership counselling program would be expanded to cover all owners of FHA-insured single-family dwelling units. Finally, the Secretary of HUD would be required, beginning in calendar year 1979, to prepare and publish annual prototype housing costs for one- to four-family housing for each market area in the United States.

Mr. President, in view of the urgent need for this legislation and the unanimous agreement by the Senate conferees that the legislation be approved, I urge adoption of the conference report on the Housing and Community Development Act of 1977.

Mr. President, I would like to make only one additional point: This is a very substantial bill. It is a $14,678,995,000 bill of which community development block grants is most of it. It is $12,450,000,000. Section 8 housing is $1.1 billion, and the rest is primarily for other assisted housing.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from North Carolina, who is a valued member of our Housing Subcommittee as well as our full committee.

Mr. MORGAN. I thank the Senator.

Will the Senator explain to me the difference between the Community Investment Act as we agreed to it earlier in the Senate and that which the conference committee has agreed to?

Mr. PROXMIRE. Yes. The Community Investment Act, as we agreed to it earlier in the Senate, was designed, as the Senator will recall, to provide as much incentive as we could for local investment in local communities. We found, in many cases, that banks had taken a great deal of money from local communities and

invested it outside their communities and had not met the needs and requirements of the local communities.

We provided that when a bank wanted to open a branch the regulating agencies would have to take into account how much they invested locally, and they might have this as a decisive consideration under some circumstances.

What this legislation does, in contrast to what passed, is to delay implementation for 390 days, just about a month longer than a year, after enactment. It also redefines the primary service area to be served on a broader basis, so that there be no question that it is not simply the immediate community where the bank was located.

Those are the two principal modifications.

Mr. MORGAN. I thank the Senator.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. SPARKMAN. Mr. President, I wish to express my support of the conference report on the Housing and Community Development Act of 1977, H.R. 6655. This bill would provide approximately $12.4 billion for community development program grants over the next 3 fiscal years; $1.2 billion for assisted housing programs; $685 million for public housing operating subsidies; and additional funds for such diverse purposes as comprehensive planning grants, rehabilitation home loans, HUD research contracts, urban homesteading demonstration projects, flood insurance studies, and rural housing loans and grants.

In addition to these authorizations, significant improvements are made in a number of Federal Housing Administration and Farmers Home Administration housing programs. These changes include a lowering of downpayment requirements for conventionally financed and other FHA-assisted housing, and a program to provide compensation to owners of Farmers Home Administration-assisted rural housing which is found to be structurally defective. These improvements, which I fully supported as chairman of the Subcommittee on Housing and Urban Affairs, represent a clear commitment on the part of both the Senate and House conferees to bring Federal housing programs back into the financial reach of the millions of lower income families for whom they were originally intended.

I particularly wish to associate myself with those provisions of the Housing and Community Development Act of 1977 which aid the community development and housing efforts in small cities and towns, and in rural areas, generally. The 1977 Housing Act authorizes a significant increase in the amount of money which will go to small cities and towns. Discretionary community development block grants, exclusive of hold harmless entitlements, will rise from $423 million for fiscal year 1977 to $614 million for fiscal year 1978. In my own state of Alabama, discretionary balances will rise from $12,995,000 in fiscal year 1977 to $17,186,000 in fiscal year 1978. This is an increase of nearly 50 percent. By the 1980 fiscal year, discretionary grants for all small cities and towns will be nearly $1 billion. In addition, 25 percent of the $1.2 billion in urban development action grants are to be set aside for distressed small cities. Third, under the act, the Secretary of Housing and Urban Development is directed to prepare a study, with recommendations to be submitted to Congress and the President within 1 year, concerned with the formation of a national policy for the developmental needs of smaller cities. Finally, in addition to reauthorizations of FmHA rural housing programs, the bill would also raise FHA mortgage loan limits for single-family homes in outlying areas from $16,200 to $45,000, and would permit federally-chartered savings and loan associations to increase loans for nonresidential farm properties from 3 to 5 percent of their assets.

In sum, Mr. President, this bill is an outstanding legislative achievement. That achievement, moreover, is one which could scarcely have been realized without the diligence of the members of the Committee on Banking, Housing, and Urban Affairs, the persuasive talents of its chairman, Senator PROXMIRE, and the unstinting work of the staff of the Housing Subcommittee.

Mr. President, I urge swift and unanimous approval of the conference report.

Mr. BROOKE. Mr. President, the distinguished chairman of our committee, the Senator from Wisconsin, has made his statement outlining the major provisions of the Housing and Community Development Act of 1977 in the conference report. I would like to direct my remarks to some of the significant provisions of this bill, and focus on what I believe to be its most serious shortcoming.

This is an important bill for our cities, particularly for those cities in serious financial and physical distress. But I fear that the action of the conference committee will prove to be a mixed blessing for some of our most troubled cities and towns. I am pleased that this bill has provided a new formula for allocating community development block grant funds. This formula gives substantial weight to two new factors which are sensitive to the needs of our older cities—age of housing stock and growth lag. Age of housing has been shown to be an extremely effective indicator of community development need, and correlates well with many other factors, such as obsolete infrastructure and decline in tax base, which are symptomatic of distressed cities. This new formula will help reduce the serious imbalance in HUD's current allocation mechanism. And the cities in Massachusetts and other older parts of the country will be protected from the severe reductions in funding which would have occurred under the old formula. In fact, some of our older cities will actually receive increased funding in fiscal year 1978.

However, this formula change is not sufficient to meet the urgent community development needs of our most troubled cities, particularly those cities which are phasing down from their "hold-harmless" funding levels beginning in fiscal year 1978. And it was for this reason that, together with Senator HARRISON WILLIAMS of New Jersey, I proposed an adjustment to the community development formula called "impaction," which was contained in the Senate version of the bill. In addition, in order to stay within the budget for community development, I proposed that funding for "impaction" be taken from the new discretionary urban development action grant (UDAG) program, and this was also included in the Senate version of the bill.

The "impaction" adjustment would consider the proportion of a city's older housing stock relative to the proportion of older housing in all metropolitan areas as the major variable in the formula. Impaction was designed to target community development funds at those cities with high concentrations of older housing. It would be particularly effective in aiding the medium-sized and smaller old cities, such as Fall River and New Bedford in my State of Massachusetts, which have problems which are equally as serious as many of our largest distressed cities. In fact, in Massachusetts, 23 cities and towns would have received an additional $50 million over the next 3 years under the "impaction" formula.

I was tremendously disappointed when the conference committee agreed to delete the "impaction" formula from this bill and decided instead to include the "impaction" formula factors as the primary selection criteria for HUD's new UDAG program.

I am hopeful that many of the cities and towns Massachusetts and throughout the country which gained funding under "impaction" will be selected by the HUD Secretary for UDAG grants, particularly since ""impaction" will be the major standard for selecting those cities which receive grants. However, these cities will not have the certainty of "impaction" formula funding. No doubt our larger cities will obtain UDAG grants, but I believe that funding for our equally distressed medium-sized and smaller cities is by no means assured. I am deeply concerned that the failure of the conference committee to accept the "impaction" formula could result in a serious setback to distressed cities and towns across the country.

And I was particularly disturbed that President Carter actively opposed the "impaction" formula. This formula change appears to be perfectly consistent with the concern which he has expressed for the needs of our older urban areas.

Let me say, however, that I am pleased with the provisions of this bill which relate to the community development needs of our cities and towns with less than 50,000 population. I believe that we have provided these cities with a source of discretionary funding which could go a long way toward meeting their community development needs. Under this bill, the HUD Secretary will be able to make multi-year commitments of discretionary funds to small cities and towns with comprehensive community development programs. And special consideration will be given to those communities which are phasing down from their "hold-harmless" entitlements. Under an amendment which I offered together with the Senator from New Hampshire (Mr. MCINTYRE)

these funds will be distributed by States according to a new formula which gives significant consideration to a community's older housing stock. This will mean an additional $4 million in discretionary funding statewide for Massachusetts in fiscal year 1978, and will assist such cities and towns as Adams, Chelsea, Hull, Newburyport, North Adams, Peabody, and Salem in meeting their serious problems of housing and community development.

In the housing area, the conference report contains the first portion of the Young Families Housing Act, which I introduced earlier this year to assist young people in entering the homeownership market. This will provide for FHA insurance for graduated payment mortgages (GPM). The GPM would reduce monthly payments in the early years of the mortgage and increase those payments during the later years. I believe that this mortgage instrument will give young families a greater opportunity to purchase a home by relieving the burden of high initial mortgage payments. I am confident that the GPM will receive wide acceptance by financial institutions and with the homebuying public.

However, once again my enthusiasm is restrained because the second portion of the Young Families Housing Act, which has not yet been enacted into law, is equally important to help alleviate the affordability problem for first-time home buyers. That provision would establish a tax credit for deposits into an "individual housing account" by first-time home purchasers. This account would be used to accumulate the downpayment on a home, and a potential home buyer would receive a 20-percent tax credit for deposits up to $2,500 a year—with a $10,000 maximum—into such an account. The individual housing account bill is awaiting consideration by the Finance Committee. I believe that the adoption of both of these provisions would substantially assist those young families who are unable to purchase their first homes, and help stimulate the production of affordable homes by the homebuilding industry.

Mr. President, this bill contains many program extensions for FHA programs, and authorizations for the section 8 housing assistance and public housing programs, public housing operating subsidies and modernization funding, and rural housing extensions and authorizations, all of which are vital to our national housing efforts. I recognize that this is an important bill which will help meet the critical housing and community development needs in the country.

But I must conclude that I am disappointed with the outcome of the conference committee. And I will continue to work toward recognition of the needs of our older distressed cities by modifications in the community development formula and other Federal funding formulas which shortchange our neediest cities.

Despite its shortcomings, I ask that my colleagues support the conference report.

Mr. President, at this point I am pleased to yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. PROXMIRE. Mr. President, will the Senator yield first to me, on my time?

Mr. BROOKE. Yes.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Massachusetts. He and the Senator from New Jersey developed a formula which had my approval, the approval of the committee, and the approval of the Senate. It is a good formula, which would have provided more funds for older cities, which is a logical thing to do.

We were not able to sustain the "impaction" formula in conference. We were able, however, to get the House conferees to agree that among the desirable priorities for determining the distribution of urban development action grant money would be the age of housing, which, with the other criteria, growth lag and poverty, would be one of the three criteria for eligibility.

I applaud the efforts of Senator BROOKE, who worked very hard on this conference, and I assure the Senate that we would in no way have gotten that kind of consideration otherwise. I think Senator BROOKE has won a clear victory for cities all over the country, particularly cities with older housing, and I congratulate him on it.

Mr. BROOKE. I thank the Senator for his kind words. I hope the Secretary of Housing and Urban Development will understand and use these criteria in the distribution of the discretionary UDAG funds, so that cities across the country, particularly medium-sized and small cities, will begin to receive the assistance they need, because they are plagued with the problem of older housing stock.

My colleague worked with us very diligently on this effort, and I am very grateful for that. I guess under the circumstances that this was the best way to resolve the deadlock at the conference, and I intend to look very closely at what the HUD Secretary does in the allocation of these discretionary funds, and make sure that concentration of older housing stock criteria included as part of the conference report are actually used by the Secretary.

Mr. MOYNIHAN. Mr. President, I do not wish to let this occasion pass without expressing, if I may, on behalf of the people of New York State—and I am sure Senator JAVITS would join with me—our thanks to the distinguished Senator from Massachusetts in their behalf for having brought into public policy a principle of the very highest importance with respect to the housing program, which is now 40 years old, and yet until this moment has not acknowledged the particular difficulties of the older developed cities of this Nation in connection with housing. I think we will now see an important difference, and that difference will be very much the result of the work of the Senator from Massachusetts. I wish, as a New Yorker, to acknowledge it and thank him for it.

Mr. BROOKE. Mr. President, I am very grateful to my distinguished colleague from New York for his words of commendation. I certainly share his concern about the increasing blight that the cities of this country, particularly the Northeastern cities with high concentrations of older housing stock, have been suffering under the existing community development formula.

Let us hope that the day will arrive quickly when the concentration of older housing stock will be given the consideration it deserves in connection with the distribution of community development funds.

I yield now to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from Massachusetts.

Mr. President, in the light of the nature of this conference report, and the obvious inequities contained in it, I think it was unwise to enter into a time limitation agreement in connection with its consideration by the Senate. I would respectfully ask the distinguished majority leader if he would seek to extend the time on this measure.

Mr. PROXMIRE. Mr. President, I am happy to yield all the time I have remaining, whatever it is, to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. PROXMIRE. I am happy to yield that 7 minutes, and perhaps the Senator from Massachusetts is willing to yield the remainder of his.

Mr. BROOKE. I yield the remainder of my time.

Mr. THURMOND. Mr. President, could I propound a question to whoever is handling the bill?

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes remaining, and the Senator from Massachusetts has 3 minutes, a total of 10 minutes.

Mr. HELMS. Very well, Mr. President, let us see how we can proceed. I withdraw my request for extension of the time, and I yield to the Senator from South Carolina, who wishes to ask a question.

Mr. THURMOND. Mr. President, who is the manager of the bill?

The PRESIDING OFFICER. The Senator from Wisconsin is the manager of the bill.

Mr. THURMOND. I would like to propound a question to the manager of the bill. I have been informed that the Northeastern States had their funding levels increased by about 40 to 50 percent, but that the remainder of the country, especially the South, receives only about a 5-percent increase. I would like to know if that is correct, and if so, why?

Mr. PROXMIRE. Well, may I say, in the first place, to the distinguished Senator from South Carolina, that the bill which passed the Senate overwhelmingly, by vote of 79 to 7, provided the basic distribution. What we did in the conference was modify that. Under that modification, some of the specific allocation that would have gone to the Northeast has been included in what we call urban development action grants.

That can be allocated by the Secretary all over the country. She does have certain criteria, including the age of housing, poverty, and so forth, but that money could be allocated to South Carolina, Wisconsin, or wherever, on the basis of the particular need. I can tell the Senator there is no question about it, the conferen e report provides less for the Northeast, in my judgment, than the bill that passed the Senate. The Senator from South Carolina lost nothing in the conference.

Mr. BROOKE. May I add to that. There is a $400 million fund in UDAG which is at the discretion of the Secretary of HUD and may be used across the country. In addition, under the formula, no city and no town suffers, and no region loses any money under this bill.

Mr. THURMOND. I would like to ask this specific question: Is it true, then, that the Northeastern States get 10 percent more than the remainder of the country?

Mr. PROXMIRE. We do not have a breakdown on that. We have not been asked for any analysis of that. There has been no indication by people in the Sunbelt States, in the West, or anywhere else, that there was any discrimination of this kind. There was a dispute or a difference of opinion when the bill passed. Senator SASSER offered an amendment which would have changed the formula for smaller cities somewhat, and perhaps taken some of the funds away from the Northeast. There is no indication that I know of that any section of the country has been discriminated against. I believe all sections will benefit from this.

Mr. BROOKE. Will the Senator yield?

Mr. THURMOND. Let me say this first: I do not want to see the Northeast discriminated against, but neither do I want to see the South, or any other part of the country, discriminated against. That is my position.

Mr. BROOKE. The Senator's position is a very sound position. I would be very disappointed in the Senator from South Carolina if he would stand by and see his region of the country discriminated against. There is certainly no intention to discriminate against the South in this bill.

As a matter of fact, the Northeast would have lost substantial funding under the old formula. What we really tried to do was to bring about some balance with the second formula. As I said to the Senator from South Carolina, there is $400 million in UDAG discretionary funds, and we do not know where it will go. It could go to the South, the West, the East, or the North. We hope it will be used with some balance and given to the distressed cities, wherever they are located.

Mr. PROXMIRE. And with the nondiscretionary funds, no area of the country will lose. They will all gain, they will all benefit, perhaps more than they have before.

Mr. THURMOND. Is any special favortism shown to the Northeast or any other part of the country?

Mr. PROXMIRE. Absolutely not.

Mr. HELMS. Here is one Senator who will dissent from that answer.

Mr. THURMOND. It appears to me, then, that the Northeastern States——

Mr. BROOKE. The Northeastern States were being given some consideration because under the old formula they were discriminated against. Under the new formula, we tried to bring about some sort of balance. That is the only result in this bill. But there is no discrimination against the Southern States, Midwestern States, or any other group of States. As a matter of fact, as the chairman said, no one loses under this bill at all. Everyone gains.

Mr. THURMOND. It is all right for everyone to gain, but what I want to know is does the South gain in proportion to the Northeast?

Mr. HELMS. Will the Senator yield?

Mr. BROOKE. I do not think we can answer the question because we have not had an analysis as to what the effect will be, and we do not know which cities will qualify as distressed cities for UDAG. The criteria and formula factors are written into the bill and now they will have to be applied. The overall question we are talking about is assistance for our cities in the United States. The bill is designed to help distressed cities in the United States, wherever they happen to be located.

Mr. HELMS. Mr. President, I do not want to be shut out of this. What is the time situation?

Mr. BROOKE. The Senator has not been shut out at all.

Mr. PROXMIRE. As I understand, the Senator from North Carolina has control of the time.

Mr. HELMS. Mr. President, I think if all Senators were here, or if they had studied this legislation, there would be a good many of them standing in opposition to this bill. I have a friend in North Carolina whose name is Chub Seawell, a lawyer, a philosopher, a very popular man, who talks so often about the hogs struggling to get to the Federal trough, trying to outdo each other in trying to get an inordinate share of that so-called "free money from Washington."

That is what we have here—the big hogs are getting to the political trough first.

I have a letter from the distinguished Governor of Georgia, the Honorable George Busbee, who has done an excellent analysis of this conference report. Governor Busbee certainly has not been fooled by this thing, and neither has the Senator from North Carolina. That is why I was one of seven Senators who voted against this measure when it passed the Senate sometime back.

It is always the case when Federal handouts begin, but anybody who believes that all sections of the country are being treated equally under this measure—well, Mr. President, they will believe anything. The South, the Midwest States, the Western States, Alaska, Hawaii, and Puerto Rico, all are being short-changed. Let us look at it. Forty percent of the increase is going to the Northeast and Central States, Mr. President; 6 percent is going to the Midwest States; 7 percent to the Southern States; 9 percent to the Western States, and minus 1 percent to Alaska, Hawaii, and Puerto Rico.

If that is what the Senate calls a fair distribution, then Senators need to go back and learn a little something about arithmetic and fair play. But that is the way it always is when the Federal Government hands out money—and the taxpayers, as usual, get stuck.

Mr. President, I am disappointed that the conferees have agreed upon a 3-year community development block grant program which changes the formula for the allocation of CDBG funds. When this bill sailed through the Senate, the Senator from North Carolina was one of seven who voted against it. It passed overwhelmingly, but it was one of those things where the Senators rushed in and voted yea without knowing what they were voting on. So here we are, with time limitations on a Saturday afternoon at 16 minutes after 3—and Senators do not know anything about the substance of this conference report. It will be approved by an overwhelming vote, but it will not be one of the Senate's finest hours.

Mr. President, the primary purpose of the CDBG program is to stimulate community development by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income. The CDBG formula used since passage of the enabling legislation in 1974 promotes this objective by placing a 50-percent weighting factor on poverty and a 25-percent weighting factor on overcrowded housing as the most valid indicators of "urban stress."

The conference committee report now proposes to change the existing formula by inserting a 50-percent weighting factor for a new and totally arbitrary measure, pre-1939 housing. This measure has no valid relationship to the inner city problem of "urban stress" which the program is designed to solve. Rather, it is a carefully chosen indicator designed to balloon the level of CDBG funds which would be shifted to the Northeast while providing minimal benefits to other regions of the Nation.

The effect of this formula change would be to give Northeastern States a 71-percent increase in CDBG funds over current levels, obviously at the expense of other regions of the country. When HUD was challenged to prove the statistical correlation of pre-1939 housing with urban stress, their official response was they "couldn't find the data."

A careful statistical analysis of the proposed formula shows a very low correlation between pre-1939 housing data and the other commonly utilized measures of urban stress. In other words, cities which are largely nonwhite, and which have inadequate plumbing, overcrowded housing, a high percentage of poor, a large percentage of female household heads, and a high percentage of poverty teenagers are not necessarily the cities with large quantities of pre-1939 housing. Mr. President, at this point I ask unanimous consent that a list of "windfall" communities, as a result of the changed formula, be printed in the RECORD.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

WINDFALL CITIES AS A RESULT OF NEW CD FORMULA

	In percent				In thousands		
	Families in poverty	Lacking some/all plumbing	Overcrowded	Negro lacking some/all plumbing	CDBG entitlement 1977 [1]	Dual formula 1980 [2] (House)	Impaction formula 1980 [2] (Senate)
Berwyn, Ill.	3.5	0.9	2.7		$458	$1,784	$2,136
Cicero, Ill.	4.1	1.6	5.0		704	2,338	2,920
Evanston, Ill.	3.6	.9	3.4	1.7	774	2,255	2,490
Oak Park, Ill.	3.3	1.3	2.7		540	2,031	2,951
South Bend, Ind.	6.2	2.5	5.9	3.8	2,948	3,997	3,997
Des Moines, Iowa	6.9	3.2	5.8	6.7	2,866	5,995	6,048
Medford, Mass.	4.4	1.1	4.0	2.0	633	2,034	2,823
Newton, Mass.	2.8	1.1	2.4		742	2,430	2,919
Pittsfield, Mass.	5.6	2.7	4.5	1.6	1,342	1,694	2,001
Quincy, Mass.	5.1	1.7	5.6		995	2,266	3,013
Dearborn, Mich.	3.9	2.2	4.7		1,027	2,864	2,865
Bloomfield, N.J.	3.7	1.1	3.9	2.4	470	1,384	1,627
Clifton, N.J.	3.1	.7	3.4		679	1,807	1,807
Irvington, N.J.	6.1	1.2	3.9	1.2	721	1,944	2,318
New Rochelle, N.Y.	5.4	2.0	6.0	6.1	904	2,154	2,203
Niagara Falls, N.Y.	8.4	2.0	6.7	4.5	1,571	3,866	3,901
Schenectady, N.Y.	7.1	2.1	3.2	5.1	1,488	3,076	4,267
Cleveland Heights, Ohio	3.6	.4	1.2	1.8	479	2,120	2,618
Lakewood, Ohio	3.6	1.7	2.4		615	2,060	2,883
Allentown, Pa.	6.1	4.0	3.1	13.8	2,426	3,229	3,910
Bethlehem, Pa.	5.7	2.8	3.6	5.5	1,271	1,987	2,038
Hazelton, Pa.	7.1	3.7	3.7		383	1,197	1,643
Seattle, Wash.	6.0	3.7	3.3	3.7	9,502	17,988	17,988
LaCrosse, Wis.	7.1	3.4	5.1		720	1,429	1,665
Milwaukee, Wis.	8.1	3.3	6.9	2.4	12,621	23,146	23,146
United States	10.7	5.5	8.0	16.2			
The South	16.3	10.4	10.0	28.3			

[1] HUD printout Feb. 16, 1977. (Data estimated by HUD to be within 1 percent of perfect figures, Aug. 26, 1977.)

[2] HUD printout June 6, 1977. CDBG Program: Estimated Entitlements.

Mr. HELMS. The negative impact of the proposed formula will be enormous for the South. Billions of dollars are at stake over a period of years. Although no communities would receive fewer CDBG dollars under the new formula than they received in previous years, our Southern cities would lose ground due to a lower percentage of the total funds and due to the effects of inflation. Specifically, the Southern Growth Policies Board estimates the following changes in the distribution of total CDBG funds—present funding level plus increase—in 1978 if the new funding formula is adopted:

	Percent
Northeast and Central States	+40
Midwest States	+6
Southern States	+7
Western States	+9
Alaska, Hawaii, and Puerto Rico	−1

It is not my purpose in this discussion to perpetuate "Sunbelt-Snowbelt" controversy. But I think it is important to point out to my colleagues that this may be only the beginning. The issue will become increasingly important as the South continues to grow and prosper while the prospects are that the northern cities will continue to decline. In other words, we should be prepared to defend ourselves against more attacks on Federal funding formulas in the future.

Our interest is not one of mere parochialism. The reason, in great part, for the ascent of the "Sunbelt" and the decline of the "Snowbelt" grows out of the political systems the people of these areas have chosen to elect and maintain.

If New York is having problems, it is not North Carolina which has refused to punish criminals, allowed the labor unions inordinate control, permitted welfare to run wild, or imposed impossible tax burdens. I see no reason why the rest of the county should maintain a chronic bailout of the Northeast because the political leaders of that area refuse to put their houses in order. In fact, the greatest disfavor we can do the Northeast is to be overly generous with Federal funds, for this will merely postpone the day of reckoning.

In short, the funding formula adopted in the conference committee report is unfair. It would be much fairer to all the regions of the Nation to retain the current CDBG formula utilizing poverty and overcrowded housing as indicators of "urban stress" than to arbitrarily substitute another measure that even HUD cannot defend.

Mr. PROXMIRE. There were 2 full days of debate, with 33 amendments. This bill was thoroughly debated. In conference it was one of the most discussed bills. We had it in conference for 2 months discussing it, every aspect of it.

Mr. HELMS. But it was in an empty Chamber.

Mr. PROXMIRE. It was debated for 2 full days.

Mr. HELMS. But in an empty Chamber.

Mr. PROXMIRE. No. We had 33 amendments on the bill.

Mr. BROOKE. This formula was in both the House bill and the Senate bill. The Senate did not run over the House at all. The conference, as the distinguished chairman said, lasted 2 months. I understand Governor Busbee's statement, but he did not take into consideration the phasedown in funding for the "hold-harmless" communities, and his analysis reflects the Senate "impaction" formula which is not contained in this conference report. I want to assure the Senator from North Carolina that there was neither an attempt nor was there success in trying to roll over the South.

Mr. PROXMIRE. Furthermore, we have on our committee Mr. JOHN SPARKMAN, who is "Mr. Housing." He is from the South, from Alabama. Senator SPARKMAN pointed out the increase in discretionary balances for Alabama's small cities and towns will rise from $12,995,000 in fiscal year 1977 to $17,186,000 in fiscal year 1978 for Alabama. Alabama is a Southern State.

Mr. HELMS. I will concede that. [Laughter.]

Mr. PROXMIRE. The Senator from Alabama is a distinguished housing expert. There is no greater expert in the Congress than he is. He agreed this is a good bill for the North as well as the South.

Mr. WILLIAMS. Mr. President, after several months of extensive discussion, House and Senate conferees have agreed on the final shape of the Housing and Community Development Act of 1977. This is landmark legislation which I believe deserves our full and enthusiastic approval. I would also like to commend in particular the distinguished chairman of the Senate Committee on Banking, Housing, and Urban Affairs (Mr. PROXMIRE) and the ranking Member, the Senator from Massachusetts, (Mr. BROOKE) for their outstanding contribution to the success of the conference. Their diligence and leadership deserve our special recognition and praise.

Among the key provisions included in the legislation are:

A greatly strengthened community development program that will target greater assistance to our older, declining cities;

A promising new urban development action grant program (UDAG) designed to provide funds to our most distressed communities for specific, comprehensive projects of economic development and neighborhood reclamation;

Extension of our major housing programs for low- and moderate-income families, with specific set-asides of 30,000 section 8 units for use with section 202 housing for the elderly program and 49,000 section 8 units for projects financed by State housing finance agencies;

A renewed effort to expand homeownership opportunities for the average American family through such measures as increased FHA mortgage limits, reduced FHA downpayment requirements

and full implementation of the now-experimental graduated payment mortgage program;

Revision and extension of a variety of important rural housing programs.

I believe that these and other provisions of the legislation reveal a sincere, energetic response to problems that plague our cities and threaten to undermine the housing sector of the economy.

I am particularly gratified that the legislation focuses new attention on the problems of our most distressed communities. The key new elements in the reauthorized community development program would be a dual formula for determining block grant allocations, and the UDAG program. The Senate version of the legislation contained an adjustment to the dual formula called impaction which I authored along with the distinguished Senator from Massachusetts (Mr. BROOKE). Under the impaction adjustment, greater allocations would be targeted to cities with heavy concentrations of pre-1940 housing stock. The conference report endorses and preserves the concept of impaction by blending it into the UDAG program. The principal criterion for selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula. These factors measure the extent of a community's population stagnation, the extent of its poverty, and its number and percentage of pre-1940 housing units. When these factors are used by HUD to measure urban distress among UDAG applicants, they should carry the same weights that applied to them in the Senate impaction formula. As a result, we can be assured that UDAG funds will be directed to the most seriously troubled communities as defined in terms of the weighted factors in the Senate's impaction formula.

Mr. President, the Housing and Community Development Act of 1977 will help us make great strides toward the achievement of our goal of wholesome living environments and safe decent housing for each American household.

Mr. TOWER. Mr. President, I am greatly disappointed in the Housing and Community Development Act of 1977 as agreed to by the House and Senate conferees. That act contains many excellent provisions that are needed in the area of housing and community development. The bill, however, provides a new and significant departure from the community development block grant (CDBG) program and does so in a way that puts many cities in Texas and elsewhere at a relative disadvantage in participating in the program.

As I noted in my additional views to the committee report to accompany S. 1523, the Housing and Community Development Act of 1977 reported by the Senate Committee on Banking, Housing and Urban Affairs, this legislation provides a significant first step in reversing the concept of simple administration of the CDBG program. When this program was created in 1974, the purpose was to reduce the number of existing community development programs in favor of one funding mechanism. The concept was to let the cities and counties decide their own priorities. The activities would have to benefit primarily low and moderate income persons, but the community would know over the years how much money it would receive, and it would plan its projects accordingly. It would not have to compete in the "grantsmanship" game.

This bill is a clear signal that "grantsmanship" is back in vogue. It initiates the fragmentation of the community development program. It authorizes a new program of urban development action grants (UDAG) that will allow the Secretary of HUD to make grants to seriously distressed cities for neighborhood preservation and economic development. While this is a laudable goal, it is also a significant departure from the unified approach originally adopted under the Housing and Community Development Act of 1974.

Moreover, the methods for distributing such funds is slanted in such a way that it will discriminate against many communities in my State and elsewhere. Under the bill, the Secretary is authorized to make urban development action grants to severely distressed "cities and urban counties." As I noted in my additional views to the committee report in the Senate, such growing and vibrant cities as Atlanta, Miami, Houston, and Denver may not be able to participate in the program. Even though these cities have "areas" of poverty, unemployment, and dilapidated housing that equal those of distressed cities, UDAG cannot be applied to these distressed "areas" because the Secretary is authorized to make grants to "distressed cities and urban counties," not to "areas" within those cities and counties.

In my opinion, a distressed area should be eligible for assistance regardless of the nature and character of the city in which it is located. I attempted to correct this defect in the bill by offering an amendment on the floor that would have permitted distressed areas of cities to be eligible for assistance rather than just distressed cities. Unfortunately, this amendment was not adopted. If it had been, the program would have at least been useful in helping lower income families in all poverty areas, even though those areas are not in the older, decaying urban cities of this country. As it is now, the program ignores the fact that growing communities have problems just as serious as those whose policies have resulted in economic stagnation and outmigration.

To make matters worse, the conferees agreed to a compromise which discriminates against communities in Texas and elsewhere. Under the bill, the primary criterion for the selection of UDAG recipients would be the comparative degree of distress as measured by the extent of growth lag, the extent of poverty and the adjusted age of housing. Except possibly for the poverty criterion, these factors do not favor the relatively newer cities outside the northeast or north-central regions of this country which have problems.

Moreover, these are the primary criteria that must be taken into consideration over any other criteria spelled out in the bill. In summary, the fragmentation of the community development program, the failure to apply it to distressed areas and the selection of certain primary criteria makes the UDAG program highly undesirable in my view.

I received a letter from Governor Busbee of Georgia, as I am sure many of my colleagues did, regarding the way in which other provisions in this bill are slanted away from cities outside the Northeastern States. I ask unanimous consent that Governor Busbee's letter be reprinted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Atlanta, Ga., September 28, 1977.

Hon. JOHN G. TOWER,
U.S. Senator, State of Texas, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR TOWER: I was most distressed to learn that Senate and House conferees have agreed upon a three-year Community Development Block Grant program which changes the formula for the allocation of CDBG funds. As Governor of a Southern State and Chairman-elect of the Southern Growth Policies Board, I am deeply concerned and would like to caution my friends in the Congress of the dangers of this new formula.

As you know, the primary purpose of the CDBG program is to stimulate community development by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income. The CDBG formula used since passage of the enabling legislation in 1974 promotes this objective by placing a 50-percent weighting factor on poverty and a 25-percent weighting factor on overcrowded housing as the most valid indicators of "urban stress."

The Conference Committee Report now proposes to change the existing formula by inserting a 50-percent weighting factor for a new and totally arbitrary measure, pre-1939 housing. This measure has no valid relationship to the inner city problem of "urban stress" which the program is designed to solve. Rather, it is a carefully chosen indicator designed to balloon the level of CDBG funds which would be shifted to the Northeast while providing minimal benefits to other regions of the Nation.

The effect of this formula change would be to give Northeastern States a 71-percent increase in CDBG funds over current levels, obviously at the expense of other regions of the Country. When we challenged HUD to prove the statistical correlation of pre-1939 housing with urban stress, their official response was that they "couldn't find the data."

A careful statistical analysis of the proposed formula shows a very low correlation between pre-1939 housing data and the other commonly utilized measures of urban stress. In other words, cities which are largely nonwhite, and which have inadequate plumbing, overcrowded housing, a high percentage of poor, a large percentage of female household heads, and a high percentage of poverty teenagers are not necessarily the cities with large quantities of pre-1939 housing. Please note the "windfall" communities attachment for gross examples of this fact.

The negative impact of the proposed formula will be enormous for the South. Billions of dollars are at stake over a period of years. Although no communities would receive fewer CDBG dollars under the new formula than they received in previous years, our Southern cities would lose ground due to a lower percentage of the total funds and due

to the effects of inflation. Specifically, the Southern Growth Policies Board estimates the following changes in distribution of total CDBG funds (present funding level plus increase) in 1978 if the act is passed as recommended by the House and Senate conferees:

	Percent
Northeast and Central States	+40
Midwest States	+6
Southern States	+7
West and Far West	+9
Alaska, Hawaii, Puerto Rico	−1

It is not my purpose to perpetuate the "Sunbelt-Snowbelt" controversy by calling this matter to your attention at this time. I am simply setting the record straight by telling you the facts as I see them. We in the South have a right and an obligation to defend ourselves against any arbitrary action that would deprive us of our fair share of federal assistance. I believe that this issue will become increasingly important as the South continues to grow and prosper and the Northern cities continue to decline. In other words, we should be prepared to defend ourselves against more attacks on federal funding formulas in the future.

As you examine this issue prior to floor action on the Conference Committee Report, I urge you to discuss the matter with your colleagues. It would be much fairer to all the regions of the Nations to retain the current CDBG formula utilizing poverty and overcrowded housing as indicators of urban stress than to arbitrarily substitute another measure that even HUD cannot defend. Therefore, I urge you to amend Conference Committee Report to restore the currently funding formula.

With warmest wishes.

Sincerely,

GEORGE BUSBEE.

Attachment

WINDFALL CITIES AS A RESULT OF NEW CD FORMULA

City	In percent				In thousands		
	Families in poverty	Lacking some/all plumbing	Overcrowded	Negro lacking some/all plumbing	CDBG entitlement 1977 [1]	Dual formula 1980 [2] (House)	Impaction formula 1980 [2] (Senate)
Berwyn, Ill.	3.5	0.9	2.7		$458	$1,784	$2,136
Cicero, Ill.	4.1	1.6	5.0		704	2,338	2,920
Evanston, Ill.	3.6	.9	3.4	1.7	774	2,255	2,490
Oak Park, Ill.	3.3	1.3	2.7		540	2,031	2,951
South Bend, Ind.	6.2	2.5	5.9	3.8	2,948	3,997	3,997
Des Moines, Iowa	6.9	3.2	5.8	6.7	2,866	5,995	6,048
Medford, Mass.	4.4	1.1	4.0	2.0	633	2,034	2,823
Newton, Mass.	2.8	1.1	2.4		742	2,430	2,919
Pittsfield, Mass.	5.6	2.7	4.5	1.6	1,342	1,694	2,001
Quincy, Mass.	5.1	1.7	5.6		995	2,266	3,013
Dearborn, Mich.	3.9	2.2	4.7		1,027	2,865	2,865
Bloomfield, N.J.	3.7	1.1	3.9	2.4	470	1,384	1,627
Clifton, N.J.	3.1	.7	3.4		679	1,807	1,807
Irvington, N.J.	6.1	1.2	3.9	1.2	721	1,944	2,318
New Rochelle, N.Y.	5.4	2.0	6.0	6.1	904	2,154	2,203
Niagara Falls, N.Y.	8.4	2.0	6.7	4.5	1,571	3,866	3,901
Schenectady, N.Y.	7.1	2.1	3.2	5.1	1,488	3,076	4,267
Cleveland Heights, Ohio	3.6	.4	1.2	1.8	479	2,120	2,618
Lakewood, Ohio	3.6	1.7	2.4		615	2,060	2,883
Allentown, Pa.	6.1	4.0	3.1	13.8	2,426	3,229	3,910
Bethlehem, Pa.	5.7	2.8	3.6	5.5	1,271	1,987	2,038
Hazelton, Pa.	7.1	3.7	3.7		383	1,197	1,643
Seattle, Wash.	6.0	3.7	3.3	3.7	9,502	17,988	17,988
LaCrosse, Wis.	7.1	3.4	5.1		720	1,429	1,665
Milwaukee, Wis.	8.1	3.3	6.9	2.4	12,621	23,146	23,146
United States	10.7	5.5	8.0	16.2			
The South	16.3	10.4	10.0	28.3			

[1] HUD printout February 16, 1977. (Data estimated by HUD to be within 1 percent of perfect figures, August 26, 1977.)

[2] HUD printout June 6, 1977. CDBG Program: Estimated Entitlements.

Mr. HELMS. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. BROOKE. Mr. President, I ask unanimous consent that an additional 5 minutes be granted for this discussion.

Mr. GARN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll. The question is on agreeing to the conference report.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 55, nays 19, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—55

Anderson	Ford	Moynihan
Baker	Glenn	Muskie
Bayh	Hart	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Leahy	Sarbanes
Chiles	Long	Sasser
Church	Lugar	Schmitt
Clark	Magnuson	Schweiker
Cranston	Mathias	Sparkman
Culver	Matsunaga	Stevens
Danforth	McGovern	Stevenson
DeConcini	McIntyre	Stone
Durkin	Melcher	Williams
Eagleton	Metzenbaum	
Eastland	Morgan	

NAYS—19

Allen	Hansen	Scott
Bartlett	Hatch	Talmadge
Bellmon	Helms	Thurmond
Byrd, Harry F., Jr.	Hollings	Tower
	McClure	Wallop
Dole	Nunn	Zorinsky
Garn	Roth	

NOT VOTING—26

Abourezk	Haskell	Metcalf
Bentsen	Hayakawa	Nelson
Biden	Huddleston	Packwood
Cannon	Humphrey	Pearson
Curtis	Javits	Stafford
Domenici	Johnston	Stennis
Goldwater	Kennedy	Weicker
Gravel	Laxalt	Young
Griffin	McClellan	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 10 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, there will be one special order for the recognition of Mr. WALLOP, after which the Senate will resume consideration of the unfinished business. There will be rollcall votes during the day.

I am in no position at this moment to predict what may develop on Monday. I

can only say that Senators should be prepared to stay late on Monday and as late as necessary every day next week in order to not only complete the unfinished business, but other business which the Senate is going to need to transact as soon as possible.

RECESS TO 10 A.M. ON MONDAY, OCTOBER 3, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock Monday morning.

The motion was agreed to; and at 3:36 p.m. the Senate recessed until Monday, October 3, 1977, at 10 a.m.

SENATE—*Monday, October 3, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, the same yesterday, today, and forever, from worship and from rest we return to this place of work. Give us clean hands and pure hearts that in the days to come we may be servants of Thy righteousness, ever striving to do the Nation's work according to Thy will.

We pray in the name of Him, who lived without blemish and did the Father's will unto the end. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 3, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Harry F. Byrd, Jr., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, October 1, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the RECORD show a period for the transaction of routine morning business daily for the remainder of the week to permit statements, petitions, memorials, introduction of bills and resolutions, and the submission of reports for the RECORD and the Journal.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

THE UNSINKABLE HUBERT HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, our colleague, Senator HUBERT HUMPHREY, is a remarkable man. Those of us who have had the privilege to serve with him in the Senate are well aware of that. And the Washington Post carried two fine articles yesterday that highlighted the unique nature of Senator HUMPHREY for its readers.

In the Outlook section, an article written by Aaron Latham was appropriately titled "The Unsinkable Hubert Humphrey." It describes his early days in his native South Dakota—days when he spent long hours working at his family's drug store, and spent his few leisure hours perfecting his skills as an amateur boxer.

The parallel is obvious: The work habits Senator HUMPHREY developed in his youth carried over to his career in public life; and his experience in the boxing ring served him well in the many fights he has led as a Senator on behalf of the people of our Nation.

Yesterday's other article about Senator HUMPHREY was in Parade magazine, written by Lloyd Shearer. In the question and answer format, Senator HUMPHREY speaks movingly of how the great depression altered his outlook on life. "I remember the depression," Senator HUMPHREY says, "with a vividness that's like a videotape running over and over again in my mind."

He pulled himself up from the poverty and struggles of those years, and has dedicated his life to helping others escape poverty in these relatively affluent times. Senator HUMPHREY has come from a family drug store in Wallace, S. Dak., to his present position as one of the most remarkable public figures of our time.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 2, 1977]

THE UNSINKABLE HUBERT HUMPHREY

(By Aaron Latham)

Hubert Horatio Humphrey is besieged everywhere these days and asked for autographs. Everyone loves him now that they think he is dying. In fact, he is fighting cancer and fighting hard. One Wednesday last spring, he scheduled two lunches, the first of them with a group of cancer research doctors. They gathered in Room 155 of the Old Senate Office Building. The senator wanted to coach the doctors on how to get more money out of Congress. They told him about new cancer treatments, including one that used a vitamin.

"It'll be just my luck," Humphrey said. "You'll discover this cure about the time I'm ready to give up the ghost. It makes me madder 'n hell."

The doctors went on to describe a platinum treatment.

"Platinum!" Humphrey said, clutching his stomach. "Lord, it makes you sick."

The researchers mentioned the promise of immunology.

"They injected me with those dead tumor cells," Humphrey said. "Gave me 30 shots. They told me it was experimental. All I asked them was, "Will it kill me or make me any worse?" They said, 'No.' I said, 'Go ahead.'"

On the way to his second lunch, Humphrey lingered in the doorway to talk about his mood.

"Let's face it: Everybody who has cancer gets depressed, but you have to fight it. When I lost my hair—now it's growing back in again—I used to look in the mirror and say, 'You bum, you're a mess.' Then, after two or three minutes of self-pity, I would shake myself out of it. You really have to grab yourself by the shoulders and shake. You know what's hit you. You know the odds. You can't kid yourself. But do you know my solution? Just work. Work all the time. Then if I don't feel good, I can blame the work."

The Senator's attitude surprises no one who knows of his background. Humphrey was brought up in a store with drugs on the street level and a boxing ring in the basement. The ring was used often; the drugs, almost never. Humphrey boxed the neighborhood kids in the basement during the winter and in the front yard in summer.

"I was pretty good," Humphrey remembered. "I was quick. And I did a lot of roadwork."

When he was not boxing at home, Humphrey boxed at the local movie theater. During reel changes on Saturday nights, the management put up a ring onstage. Young Hubert would climb in and box the minister's son for free movie tickets. "We'd fight two rounds," Humphrey reminisced, "and then go to Sunday school the next morning."

Humphrey's father was a druggist who had little use for drugs. "Daddy used to say about our drugstore, 'We don't take it—we sell it. You can't make money eating your own medicine.' Daddy'd say things like 'Self-

pity is the root of all evil.' He'd say, 'Activity, activity. Get active. Get busy. Come on, boys, get with it. We don't have time to get sick. Most of it's in your head. You're not really that sick.' "

Then Humphrey added: "Now obviously, when you have cancer, you're sick."

These days, he is forced to take some of the "worst" medicine ever brewed. This medicine comes very close to destroying his body in order to save it. In other words, he has been submitting himself to chemotherapy.

"Oh, the chemo was hard on me at the beginning," he said. "But even then, when I got the chemo, I'd go right back to work the next day. Couldn't eat. Bowels loose. Feeling lousy. You have the blahs for five, six, seven days."

It was the worst at the beginning of this year. He wasted away to 160 pounds. His head became a skull on a stick. Then, in March, Humphrey began to look better, although not necessarily because he was better. By spring, people who had seen him at his worst told him how much better he looked. But people who had not seen him since his surgery were shocked. His cancer or his cancer treatment, had turned him into an old man. He had gone from a 66-year-old senator who looked 56 to a 66-year-old senator who looked 76. His hair came back in white.

Recently the senator's conversation turned from drugs to fight. The fight he is proudest of is the one he fought for civil rights in this country. Asked to name his single greatest achievement in public life, Humphrey said: "I would say my perseverance in the field of civil rights from the day I was mayor of Minneapolis to the time of the passage of the 1964 Civil Rights Act. It was not an easy course to follow. I think it's fair to say I was ahead of my time. When I became mayor [in 1945], I started out right then. It was said that Minneapolis was one of the two most anti-Semitic cities in America. I started to work on that problem. Setting up one of the first mayor's councils on human relations in the United States—one of the first. Then going to the Democratic convention in 1948. Making the difficult decision about whether to challenge the platform committee's civil rights plank."

Making his debut in the national political ring, Hubert Humphrey rose to the moment and the microphone. He made a passionate speech in support of a maverick civil rights plank calling for broad legislative action. He told his party: "I realize I am dealing with a charged issue . . . There are those who say to you we are rushing this issue of civil rights. I say we are 172 years late . . ." The platform committee's tepid civil rights plank was beaten. Humphrey's plank was adopted.

After the convention, Humphrey was elected to the Senate, where, as he likes to recall, the fight continued: "There was all that battle from '48 to '64. Being floor manager of the '64 bill. The prolonged sessions. Coming right to when I was Vice President and Johnson made his speech on the 1965 Voting Rights Act. I would say that was the most important contribution that I feel I made to public policy."

Humphrey is also proud of his work in launching the Peace Corps and the Arms Control and Disarmament Agency. He pressed both ideas in the mid-'50s, but he had no success until John Kennedy was elected President. Then Humphrey and Kennedy began discussing these concepts at the White House as they skinny-dipped in the President's pool. In the end, Kennedy bought both ideas. Humphrey introduced the legislation and guided it through Congress. The bills passed and the Peace Corps and the Arms Control and Disarmament Agency became part of the . . . well, the Kennedy legacy.

Asked what his greatest mistake in public life had been, Humphrey said: "I think the misjudgment of Vietnam. At the time I did what I thought was right. It was not because Johnson was forcing me. I had very serious doubts in the beginning. Yet living and working in the White House atmosphere, I became convinced that we were doing the right thing. If I were to say what regret do I have, it would be—not that I was in charge of the war, not that I wanted it, not that I had anything really to say about it—that I supported it."

The dirtiest fight Hubert Humphrey was ever in was with Richard Nixon. He remembered the scrap this way: "In the '68 campaign, he had developed through some very careful public relations the idea that he was a new Nixon. Which the American press bought. Which I haven't forgiven them for. There was no new Nixon. Nixon was an amoral man."

Humphrey is bitterest about what he believes were Nixon's moves to undermine the Vietnam negotiations. And Humphrey had been counting on those negotiations to propel him into the White House. His presidential hopes, like the South Vietnamese themselves, were destroyed by a deadly combination of friend and foe: Lyndon Johnson and Richard Nixon.

"I went to Johnson a couple of times," Humphrey said, "and said, 'Mr. President, I've simply got to state certain things.' And one time he just became furious with me when I showed him a paper that a group at Harvard had developed with alternatives to our policy in Vietnam. I'll never forget what Johnson said to me one time, which made a lot of sense. He said, 'Hubert, if I can get you peace—peace in Vietnam—you'll get elected.' And he said, 'That's why I didn't run for re-election. I want you to stay with me. We're making progress in Paris. Don't break with me, because if you do, that'll just set things off in Paris. They'll know there's divided counsel here and that there's no need to make a settlement.' "

Humphrey did not break with Johnson, but the Vietnamese nonetheless got the message that there was no need to make peace.

"In the latter days of the '68 campaign," Humphrey said, "there is not any doubt in my mind that Nixon was wheeling and dealing with Thieu and Ky over in Vietnam. That Nixon undoubtedly had Anna Chennault telling Thieu—that thieving, conniving leader of South Vietnam—'Don't come to the conference table in Paris.' I had reason to believe that Madame Chennault was representing Nixon, but I couldn't prove it. And I was afraid that if I accused Nixon of it at the very last hour, it would look desperate. I got ahold of Jim Rowe, who was a good friend of mine and of Johnson's, and sent him to the South Vietnamese ambassador. I said, 'Tell him for me: 'If what I hear is true, you can tell your president that his relationship with me as the next President of the United States will be finished.' "

Humphrey's voice got louder and louder. He was mad all over again.

"My information was that Madame Chennault was telling Thieu and Ky that Nixon was going to win. That there was no sense in the South Vietnamese's turning up in Paris. That a new administration would be coming into power. We had information from the White House that indicated this was going on."

And there were other suspicious activities as well.

"We had break-ins at our office out in Los Angeles in '68. And I have reason to believe that the Nixon forces were financing a certain amount of the demonstrations that were going on at that time. Nixon was a tough type of fellow. The dirty-tricks department, I'm confident, was at work during this period."

On a Tuesday morning last spring, Sen. Humphrey was scheduled to be at the White House at 8 a.m. When he arrived, he shook hands with Senate Majority Leader Robert Byrd, Speaker of the House Tip O'Neill and other members of the congressional leadership team. They had all come for their biweekly meeting with President Carter. Humphrey was surrounded by people who had gotten the jobs he himself had wanted. Since he had failed to win those titles, the Senate had created for him a special title to help make up: deputy president pro tempore. It was as the Senate' DPPT that he was invited to attend these White House meetings.

The White House still awes Humphrey. He continues to feel some of the tingle he felt in 1949 when he took his mother and father over to the White House to meet President Truman, and, wonder of wonders, the President gave them a guided tour. At the White House, Humphrey always feels a little like a young man at his first fancy dinner party. He does not want to pick up any wrong forks. He wants everything to go well. So it was especially disturbing to him when something embarrassing did happen on that Tuesday last spring.

As a result of his cancer operation, which removed his bladder, Humphrey wears a bag to collect liquid wastes. That morning at the White House, the bag filled up faster than usual because a drug he had taken dehydrated him.

Sen. Humphrey later told a group of friends: "I didn't know my bag was filling up. I had a new seal on it that didn't hold. The bag broke. When something like that happens, you get down, but then you have to kick yourself"—he made a kicking motion toward his behind—"back up again."

Hubert Humphrey flew to Independence, Mo., to accept the Harry S. Truman Award. He was late. The crowd outside the Truman Library was worried. They were afraid something had gone wrong, but that was only because they did not know Humphrey well enough. There is something wrong when he is on time. Humphrey was late even to his own wedding.

The library staff had not provided lights for the out-of-doors ceremony. The sun was already setting when the Truman Award winner rose to the podium.

Humphrey had put in a long, draining day. Up early for breakfast, he had gone on to preside over a meeting of the Senate Foreign Assistance subcommittee, he had met with constituents, he had flown a thousand miles, and now he was supposed to give a speech. As he faced the crowd, he looked tired and fragile.

Then he began to speak and to change. His words seemed to rest him and to strengthen him. He grew younger at the podium. I was reminded of something Humphrey had said about Pablo Casals: "I've seen that dear old man at 90, barely able to get up, barely able to lift that baton. Then he'd get up in front of an orchestra and he'd come alive. Unbelievable. Just like a transformation." Humphrey was asked if he ever experienced anything similar when he addressed an audience. And he said: "Oh, yes, I can be literally ill and get up there to speak and start feeling strength. It sounds ridiculous, but I have gotten out of a sickbed with the flu, gone down to speak to an audience, gotten all perspiring—and gotten well! I get a kind of esoteric vitamin from crowds."

The crowd worked its healing miracle that night in Independence.

"Harry Truman was my hero," Humphrey proclaimed, modulating his strong voice, waving his arms, moving the crowd with his energy. The speech went well in spite of the gloom that made it impossible for the speaker to read his text. It didn't matter. He just kept going. It didn't matter that as

he stood on the steps of the Truman Library, the world was growing dark around Hubert Humphrey.

After the speech, there was a reception where hundreds of people wanted to touch the senator one last time. As usual, the crowd seemed to love him.

He left the reception and retired to the Sheraton Royal Hotel, where he noticed the giant baseball gloves that serve as lobby chairs. They should have been boxing gloves. Humphrey invited me up to his suite for cheese, crackers and beer.

A former staff member, Neal Peterson, called room service and placed our order. Humphrey recalled that when he was Vice President, he would find his hotel rooms crammed with cheese, crackers, beer and Canadian Club. Back then he deplored the waste, but this night, as it turned out, he would not have minded a taste of the old days. Room service seemed determined to ignore us.

While we were waiting for the food, we took off our shoes and put our feet up on a coffee table. Neal Peterson turned on the television. Humphrey said he wanted to watch something entertaining, "but it won't take much."

He explained that he unwinds for an hour or so every evening, no matter how late he gets in. This is his time. If he did not have it, he would feel he had lost control of his life. So if he gets in at 1 a.m., he stays up until 2 a.m., watching TV or doing whatever he wants to. If he gets in at 3 a.m., he plays until 4 a.m. That hour is his private life.

Room service still had not come . . .

Humphrey talked about the kinds of people he likes. He likes show business people, including such favorites as Kirk Douglas, Elizabeth Taylor, Sonny and Cher, Joey Bishop, Milton Berle, Alfred Hitchcock and Frank Sinatra.

"I like Frank Sinatra," he said. "He's a rather outgoing, friendly, gregarious, generous guy who gets in a lot of trouble. In his early days, he supported Democrats. I think he felt the Democrats turned their back on him. He supported Jack Kennedy real strongly. Then, when there was question of Sinatra's background and his connections, why, the politicians sort of moved away from him. I've never felt that way about people. I judge them on the basis of what they've meant to me. Everybody's got some marks on them."

Humphrey also likes musicians: people like Rudolf Serkin, Robert Merrill and Isaac Stern.

"I remember times sitting up with Stern half the night at the Jefferson or at the Hay-Adams Hotel and talking politics."

But most of all, Humphrey still likes his boxers. Jack Dempsey. Hammerin' Henry Armstrong. The Fargo Express. Gene Tunney. Sugar Ray Robinson. I asked him who his all-time favorite fighter was.

"Historically, I'd say Jim Corbett," Humphrey said. "He was really a tremendous athlete. He was a real boxer as well as a good fighter."

I asked why he liked prizefighters.

"They're not the kind of people you would want your children to admire," the senator said, "but they're fun to be with. They add a dimension to my life that's a relief from the occasional boredom of politics."

At last, room service came. A tray of sliced cheddar cheese and soda crackers was wheeled in. Humphrey took the beers into the bathroom to open them.

Neal Peterson turned around the channels again. We listened to a promo for a movie that was just coming on.

An announcer said: ". . . the story of a young woman dying of cancer and the effect on her family . . ."

Humphrey said, "I don't need this."

We flew from Independence to Minneapolis. Humphrey said: "I felt, when I faced the operation, I wasn't at all sure what was going to happen. But I was prepared in my own mind. I wrote a letter to my wife. I told her what I thought. In case I died, she'd know something about what I was thinking. That letter I don't think she ever opened."

Humphrey looked out the window at the farms.

"When I got through with the operation I wanted very quickly to get up and around. I didn't want to lie in bed. I got a big joy out of being able to talk with the other people in the hospital."

I recalled a story I had heard Vice President Walter Mondale tell about visiting Humphrey in October, 1976, at Memorial Hospital in New York City. Mondale expected to spend a few minutes in a gloomy atmosphere and to leave depressed, but as he approached Humphrey's room, he heard laughter. Then he walked in and got a 15-minute lecture on what he was doing wrong in the campaign. Mondale said he had heard that when Henry Kissinger came to the hospital, "Humphrey not only took Kissinger to every room in the hospital, but they stood outside the operating room and gave advice to the patients going in." Mondale left Memorial Hospital feeling good.

"I can't explain what it meant to me to have that tremendous wave of affection for me," Humphrey said. "It's embarrassing for me. I heard from everybody from the Pope to Kosygin to John Wayne, who said, 'Join the club.' "

When Humphrey left the hospital, he was deprived of the audience—the other patients—which had given him strength.

"The real test of a marriage is in an instance like we went through. As Muriel said to me, 'If we didn't love each other as much as we do, we couldn't stand this.' Because we were forced together that close. And there was very little we could do except slowly rebuild. Well, I walked a lot. I was very anxious to get back to work. I went back to my office for a certain number of hours a day. Then I'd go home and rest. By December, I was doing a full day. I was really feeling very good.

"Then I went home for Christmas. My grandchildren had the flu. I was a little reckless and overdid a little bit. I picked it up. Boy, it damn near knocked me out. It was over New Year's. Fortunately, Congress wasn't in session, so I didn't miss any days. But in the meantime I went down to Plains, Ga., during a terrible blizzard. I got down there and I damn near froze to death. It's a wonder I didn't get pneumonia."

Then it was time to go back to work.

"When Congress opened up, that's when I looked so bad. I didn't want to give in. I had a fever. I went back to Congress with a 102-degree fever. Well, I was up for this contest for majority leader, and I just didn't want to back out and give up. The chemotherapy had taken my hair. I was thin. It took a whole month to get myself back around."

The ride was getting bumpy as we dropped down toward Minneapolis.

"You never know how long you're going to live. Why worry about it? Maybe the plane won't land. So I can't go around wondering whether I'm going to be alive. I've got to plan my days ahead as if I'll live forever. I try to do that because I think mental attitude has a great deal to do with your health. Now, I know that once you've had this disease, you never get cured really. It can hit you again, but if you worry about it, you'll get sick.

"Still, you know the odds."

In spite of Humphrey's uncertainty, the plane did land. We were picked up by an aide who was to drive us out to see the senator's newest grandchild. On the way, he talked about naming children. When Humphrey's first son was born, he and his wife had no idea what they wanted to call him. All they were sure of was that they did not want to name him Hubert Horatio Humphrey III. But war bonds began arriving made out to "Hubert Horatio Humphrey III." They were a present from Hubert Horatio Humphrey Sr., the proud grandfather. These gifts made quite an impression upon Hubert Horatio Humphrey Jr., the future senator, because at that moment in his life he was broke. When the war bonds amounted to a staggering $500, HHH Jr. told his wife, Muriel, "Let's face it: Daddy has bought the name." They christened their son Hubert Horatio Humphrey III, but they called him Skip.

A month before our visit, Sen. Humphrey, inspired by his father, had decided to try to name his newest granddaughter. He called his daughter-in-law at the hospital, where she was recovering from a Caesarean delivery.

"How's Heather?" he asked.

His daughter-in-law said he must have the wrong number. There was no Heather there.

"Of course there is," Humphrey said. "My little granddaughter, Heather."

The daughter-in-law assured the grandfather that her daughter had not been named Heather and never would be.

A ritual began. Every morning, Hubert Humphrey would call his daughter-in-law. "How's little Heather?" "Her name's not Heather." Day after day. "How's little Heather?" "There's no Heather here."

The senator soon realized that he needed a co-sponsor for his idea. He called the maternal grandmother, whose name is Harriet. He suggested that the new granddaughter be named after her. The grandma was thrilled. Then Humphrey revealed the rest of his plan. Harriet would actually be the baby's middle name. Her first name would be Heather. Her full name would be Heather Harriet Humphrey. The point was: she would be another HHH.

The maternal grandmother was still pleased. She began calling her daughter and asking: "How's little Heather Harriet?" "Who's Heather Harriet?" And Humphrey kept calling, too. "How's little Heather Harriet?" During these calls, Muriel would stand at her husband's elbow and beg him not to interfere in his children's lives.

At last, the mother of the new baby agreed to a poll. She would ask her friends to pick their favorite name, and she asked the senator to do the same in his office. Now, Humphrey was an old hand at polls. He knew they could be used to show almost anything you wanted them to show. Calling together his staff, he held an election of Mayor Daley honesty. He read off all the competing names, concluding with: "And my favorite, Heather Harriet."

The poor mother had about as much chance as a Republican running in Cook County. She conceded gracefully.

We were on our way to see little Heather Harriet Humphrey when trouble developed. The driver pulled over to the side of the road. We were lost.

Humphrey and his aide pored over maps. They were both stumped. The senior senator from Minnesota did not know the way to his son Douglas' house. (He had never been as close to his children as many fathers. In 1964, during the fight over the Civil Rights Bill, his son Hubert Horatio Humphrey III was discovered to have cancer. Muriel Humphrey called her husband, who had to be summoned off the Senate floor, to tell him the bad news. Humphrey said he could not leave the Senate. The mother and son faced the lifesaving cancer surgery alone.)

At last, Humphrey folded up the maps.

We were still lost, but the senator had a plan.

"Drive straight ahead," Humphrey told his aide. "What do we have to lose?"

"No," said the aide, a mere college student, as he turned the car around. "We'd better go back."

No! I could not believe it. This kid was contradicting an order given by one of the most famous senators that ever lived, a man who had been Vice President of the United States, a man who had come within a few hundred thousand votes of the presidency.

Nevertheless, Humphrey sat back and said no more. We drove back and stopped at a small grocery store, where Humphrey called his son Douglas and asked directions.

"If we had just kept going another hundred yards," Sen. Humphrey announced, "we would have come to the turnoff."

There are those who say that Humphrey has always been driven by his staff and that his staff is often wrong. That over the years, he has perennially hired a second-rate group of people to advise him. Many believe he did not speak out against the Vietnam war because he listened to his staff. The staff said: *No!*

No matter. We finally found his son's house, overlooking a beautiful lake. One-month-old Heather Harriet granted us an audience. Grandfather Humphrey danced around his grandchild like an elderly, white Muhammad Ali. The old warrior had a new audience and a new reason to keep fighting.

"I'm your grandfather," Hubert Humphrey crooned. "I'm worth remembering."

[From Parade magazine, Oct. 2, 1977]

SEN. HUBERT HUMPHREY: REFLECTIONS ON HIS LIFE

(By Lloyd Shearer)

WASHINGTON, D.C.—Sen. HUBERT HORATIO HUMPHREY, running a losing race with cancer, agreed some weeks ago to sit for an interview and photo session and reflection with a Parade reporter in a question-and-answer session on the philosophy and highlights of his memorable life.

This is the way it went:

Q. Senator, you've lived your 66 years to the brim. You've lived each day as if it were your last. Suppose one of your children said to you, "Dad, what lesson have you learned from life?" How would you answer that?

HUMPHREY. What I've learned from living is that there are some things over which a man has no control. You are buffeted by events that are unknown, unchartered, unpredictable. And one has to learn to live with the uncertainties of life. That's really what you have to do, what I think you learn.

When you're young you feel that you can conquer almost anything. You've got the answers. You're sure, if only the old folks would get out of the way, then you could really set everything straight. But what you learn from life is that there are unknowns and problems for which there are as yet no answers.

There are still forces and powers that move the universe in your life, and these are not always subject to your personal control. Therefore, you've got to have an awful lot of faith that somehow things are going to work out and that you're running with a destiny that's maybe not fully in your hands.

I'm philosophizing and as usual talking maybe a little more about it than I should. But I've also learned from life to be tolerant, forgiving, understanding. You cannot go around and keep score. If you keep score on the good things and the bad things, you'll find out that you're a very miserable person. God gave man the ability to forget, which is one of the greatest attributes you have. Because if you remember everything that's happened to you, you generally remember that which is the most unfortunate.

Q. What do you remember, Senator?

HUMPHREY. Well, many people think that what I mostly remember is politics, but there are several other very vivid memories of mine. I remember the Depression of the 1930's, and what it did to people. That's left on my political, physical, and mental makeup an everlasting mark.

Q. How old were you then?

HUMPHREY. I was in my 20's. Very impressionable. And I was in the midst of the Depression, in the dust bowl of South Dakota. I saw what it did to families. I saw what low farm prices, the dust storms did to the young people, the sense of despair and hopelessness it generated in so many of us. I saw what it did to my father.

Q. What did it do to him?

HUMPHREY. It took 10 years off his life just as surely as my name is Hubert Humphrey. I can still see him at his desk, his hands wringing, wondering how he could ever pay the bills, pay the taxes, take care of the family. I could see the sorrow, the burden on his life. And I loved my father. As you know, I've talked about him a great deal. He was a tremendous source of strength to me. And the friendship we knew! We were friends, close personal friends as well as father and son. So I remember the Depression with a vividness that's like a videotape running over and over again in my mind.

That's why when I see a recession, when I see the Federal Reserve System cranking down on credit, when I see unemployed people, unemployed young people, that memory comes ringing right back—and that's why I fight so hard about it, that's why I speak the way I speak. I don't speak out of textbooks, out of economic theory.

I told Arthur Burns [chairman of the Federal Reserve Board] one day. I said, "Dr. Burns, I don't need to hear any lectures about the economy. I can go home to the family drugstore and tell you what's happening. I can just take a look at the accounts receivable, the cash in the box or in the bank, and the number of what we call bad checks. Because the people out my way don't like to write bad checks, but once in a while they do because they're short on cash. And we're not the kind of people that can put them in jail or go out and sue them. We have to carry that . . . I don't have to get the economic indicators and the charts out of the computer. I see what's happening at least in my part of the country. I know what's happening. I sense it. I feel it."

So that's one of the great impressions in my life. Another that's very lasting and meaningful to me was when I had the chance to go to the University of Minnesota, which was my dream as a young man. For years I felt that I was locked up in the South Dakota dust bowl: I felt I would never get out, that I was in prison. And then I got married. My wife Muriel helped me. She said, "We're going to get out of here. We're going to give you a chance to become what you want to be."

So we went to the University of Minnesota, and she got a job and helped me through school. Long before there was a federal scholarship program, I married one. We worked together, and I finished my university education, which opened up a whole new door of opportunities.

There are key points in life that are so important, and that was one of mine. Another, of course, was being elected to public office, particularly to the U.S. Senate. But I also remember the human tragedies—not only the loss of my father and my brother, which brought heartaches. Death comes to every family. But our first grandchild, Vicky, our daughter Nancy's child—she was born mentally retarded, and that really did something to us.

Vicky's birth, which at the time was one of sorrow and tears and sadness and bewilderment—well, it became a blessing, because we became involved. We became deeply involved in the whole subject of mental retardation. And we got to understand what other people are going through. And Vicky was so full of love. The wonderful thing about retarded children is that they have no hate. Only constant love, absolutely perfect love. . . .

You can have a real religious experience from all of this. I found the real meaning of what we call family love in Vicky. She really loved her grandfather with such devotion. She always called me "Baba," and she'd come rushing into my arms. Very sensitive, these little mentally retarded people. The normal people never know how their feelings can be hurt. They're extremely sensitive, the retarded are, and they teach you how to be sensitive to other people. I've learned to be aware of other people's concerns, of other people's feelings.

Q. Senator, as you look back on your life, what are you most proud of?

HUMPHREY. I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.

And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

Q. During the race riots of the 1960's you were quoted as saying that if you'd been born and reared in a ghetto, you would have been one of its leaders or rioters.

HUMPHREY. I don't know whether I would have been a rioter, but I would have been a sharp protester, no doubt about that.

Q. Isn't that much the same?

HUMPHREY. Well, there's a difference between destruction and peaceful demonstration. It's easy for the comfortable to sit in judgment of the miserable.

Q. Have conditions for blacks in this country improved markedly since the 1960's?

HUMPHREY. Yes, they have improved. Not enough, but they have . . . . I carry a little book around with me, quotations from Alexis de Tocqueville. One is absolutely marvelous. Listen to it: "The sufferings that are endured patiently, as being inevitable, become intolerable the moment it appears there might be an escape. Refrom then only serves to reveal more clearly what still remains oppressive and now all the more unbearable. The suffering, it is true, has been reduced if one's sensitivity has become more acute.

Once people see hope in breaking out of their prison—whatever that prison may be, of poverty, of fear, of disease—the desire, the anxiety to get out becomes almost overwhelming. And as the de Tocqueville book so rightly notes, reform then only serves to reveal more clearly what still remains oppressive.

We've made progress in this country. And the best sign of progress is that we want to make more. I've learned that only the strong people can afford to admit weakness. The weak people never can afford to admit they're wrong.

Q. Senator, it's been said that ignorance is bliss only when 'tis folly to be wise. Do

you believe that television has raised the dissatisfaction quotient in this country and filled many of the minorities with dissatisfaction of their lot?

HUMPHREY. Exactly, but a society needs tension and dissatisfaction. Also restlessness. You've got to have restlessness in order to have progress. Stagnant waters stay stagnant. They become polluted. They've got to move. They may at times tear out the embankment. They may at times rip up the landscape. But they're fresh, and they cut new streams, new channels. This is what we're undergoing.

Q. Senator, is your view of President Carter the same as it was, say, six months ago?

HUMPHREY. No, I have a better view of the President. I was not one of Carter's original supporters. But every time I've been with the President I felt a little better about him. Because I know that he's learning. I believe in his sincerity. I feel that he is trying his level best to get hold of this massive structure called our government. I've had some disappointments so far, but I think this Administration has not yet come to grips with an economic policy. I don't think they've quite made up their minds yet what kind of war they're going to wage on poverty and unemployment, which is the real test of this government . . . But I think Jimmy Carter is a populist at heart. He does have a feeling for people. But he is essentially from a more fiscally conservative background, and it's going to require great investments to meet the problems of this country.

See, if I could get my President and the people in public life to understand that when you utilize federal resources for public works, for employment programs, you are not wasting, you're not spending, you're investing. You waste when you do nothing more than throw money around for unemployment compensation, food stamps, and the rest. You get nothing out of it. I think, as old Lyndon Johnson used to say, "Let's make tax-payers out of tax-eaters." Simple language, but it's still true. Remember, Franklin Roosevelt never really had a welfare program! He had a work program. . . . Now, if the private sector can't provide it, then the governmental sector must do it. And going around pretending that somehow or another this is wrong is ridiculous.

How did we get this country built anyway? The government of the United States gave the land to the railroads. We never would have had the railroads in this country if they hadn't been given six miles on each side of the track. We've always been doing public works. Well, I don't want to give you my long song and dance on that. You've heard it before.

Q. Of the men who've served with you in the Senate, which do you look back on with fondness and affection?

HUMPHREY. Alben Barkley, I loved him. He sat alongside me. But Paul Douglas, Herbert Lehman, Bill Benton, I suppose they were about the three closest friends I've had in the Senate. But there were many others.

Q. Senator, it's been said that your major political mistake was in going along with Lyndon Johnson on the Vietnam war. Do you think that true?

HUMPHREY. Well, I didn't consider it a mistake at the time. I considered it the right thing to do. I guess I can say this now. Had I been elected President, I would have ended that war, and I would have ended it promptly. I became convinced in late '67 and '68 that we had to get out of the war. In the beginning I wasn't for it, but as I've said repeatedly, I'd rather be remembered for being wrong than for being a hypocrite. I felt that what we were doing had to be done. Maybe it was because I was a product of that time, that generation.

But ultimately, looking back on it, I suppose I might have been elected President of the United States had it not been for the Vietnam war.

Q. One final question, Senator. Did you watch former President Nixon on the David Frost series of interviews, and if you did, what was your impression?

HUMPHREY. I was saddened. I wouldn't have done that for millions.

REPORTER. Good luck, Senator, much love to Muriel, and thank you.

HUMPHREY. Thank you. Now, when you're shooting your pictures of me, try to get as much of my hair as possible.

CARTER CALLS HIM "GREATEST DEMOCRAT"

At a party fund-raiser in New York City this past summer, President Jimmy Carter described Hubert Humphrey as "the greatest Democrat who lives in our country. I think," Carter expanded, "that when anyone tries to assimilate in one's mind what the Democratic party is, what it stands for—its cleanliness, its decency, its compassion and humanity, its fairness and its honesty and its dedication, its love for people—the personification of all those things is Senator Humphrey."

Hubert Horatio Humphrey of Waverly, Minn., was born in Wallace, S. Dak., on May 27, 1911, was graduated from the Denver College of Pharmacy with a degree and was further educated at the University of Minnesota, where he earned his Phi Beta Kappa key, and at Louisiana State University, where he earned his M.A.

He was elected mayor of Minneapolis in 1945 and 1947 after serving a stint as a professor of political science at Macalester College. In 1948 he was elected to the U.S. Senate and reelected again in 1954 and 1960. He is married to the former Muriel Buck, who blessed him with four children.

NARROW DEFEAT

Lyndon Johnson chose the Senator as his running mate in 1964, and Humphrey became Vice President of the U.S. Four years later he ran for the Presidency and was narrowly beaten by Richard Nixon. He returned to teaching political science at Macalester College and the University of Minnesota, a large share of his salary being paid by a grant from DeWitt Wallace, founder of Reader's Digest.

In 1970 and 1976 Humphrey was again returned to the U.S. Senate, where he was defeated for Senate Majority Leader by Sen. Robert Byrd of West Virginia this year.

One day after rejecting him as their leader, Senate Democrats, to show their liking and respect for Humphrey, voted him a new title, Deputy President Pro Tempro of the Senate. They included a chauffeured limousine, a second office and staff in the Capitol, plus $7,400 more than a Senator's normal salary and participation in all the Democratic Congressional leadership's meetings with the President.

Humphrey's medical history noted the presence in 1968 of pinhead-sized tumors in his bladder. In 1973 the tumors grew, Humphrey was subjected to X-ray treatment and chemotherapy, but the treatment did not arrest the cancer. On Oct. 7, 1976, his bladder prostate was removed at the Memorial Sloan-Kettering Cancer Center in New York.

SURGEON'S VERDICT

Ten months later, on Aug. 18, 1977, at 7:45 a.m., Dr. John Najarian, surgeon at the University of Minnesota Hospitals in Minneapolis, conducted exploratory surgery on Humphrey to determine the cause of the Senator's bowel obstruction. The surgeons discovered that the stubborn cancer cells had spread through almost the entire pelvis and that the malignant tumor could not be removed. They declared the cancer massive, inoperable, and terminal, but refused to predict whether the Senator might live for "months" or "years."

Anyone who knows Hubert Humphrey readily acknowledges his tremendous resilience, his indomitable will to live, and his great fighting heart. Whatever happens to his body, his spirit of love and camaraderie, his history as a spokesman for the poor and less-privileged people of his nation will long survive.

"It's not what you've lost," he told a Parade reporter a few months ago. "What counts is what you've got left. And I've got a lot left."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished minority leader.

Mr. BAKER. Mr. President, I have no requirement for my time and no requests for it. Therefore, I yield back my time under the standing order.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. WALLOP) is recognized for not to exceed 15 minutes.

THE PROSECUTION OF JOHN J. KEARNEY

Mr. WALLOP. Mr. President, I am concerned today about what I instinctively feel is an injustice being perpetrated by our Government on a citizen and former employee. It is an injustice in the name of justice. I am referring to John J. Kearney, former supervisor for the FBI in New York.

Last April, this administration decided to prosecute Mr. Kearney on five felony counts involving an alleged conspiracy to intercept mail and wire communications, obstruction of correspondence and unlawful wiretapping in the course of a search for the Weathermen, whose bombs hit, among other targets, this very building. The alleged offenses are said to have occurred between about August 1970 and June 1972. If convicted, agent Kearney could be jailed for 25 years and fined up to $34,000.

The real controversy in this case is over the law. And a strange controversy it is. Mr. Kearney did not violate any statute then held applicable to the FBI in cases of national security. Nobody contends he violated the order of his superiors—quite the contrary, he followed them. Some of Mr. Kearney's superiors at the time have since declared publicly they authorized such activities. But his superiors are not on the dock. Nobody can even contend that Kearney's acts violated the Supreme Court's restriction on warrantless wiretapping of "wholly domestic" groups as set forth in the Keith case. And, Mr. President, that decision

was handed down after Kearney completed his assigned duties.

So why, Mr. President, is someone who violated no statute, no orders, and no court decisions, being prosecuted?

In January of this year, then Attorney General Edward Levi, one of the most distinguished and nonpartisan of men ever to occupy that office, offered several reasons why it would be unfair and unjust to prosecute Government agents who conducted mail opening and wiretapping in the United States between 1953 and 1973. He declared,

> Whatever can be said about the law now, at the time (Mr. Kearney and others like him) acted, there was a substantial basis for thinking the law was otherwise.

Mr. Levi went on to say that the Department of Justice itself condoned warrantless mail opening and wiretapping in cases such as agent Kearney's search for the Weathermen. The Department never instructed agents of the FBI to stop those activities. Thus, said Attorney General Levi, and I quote,

> Almost consciously leaving them to "take their chances" in what was an extremely uncertain legal environment.

Let us be clear there was uncertainty as to what the law was going to become. But what is now declared illegal in the field of surveillance was not illegal before 1972. Had the law been then as it is now, the Supreme Court's decision in the Keith case would have been superfluous. So, Attorney General Levi did not prosecute because in our legal system there is no such thing as an ex post facto crime. The chances that a jury will convict John Kearney are small.

Why then, between January and March 1977, did the Justice Department decide to take up the nearly impossible task of prosecuting John Kearney? Well, as the current Attorney General, Griffin Bell said last week defending the political selection of U.S. attorneys: "There was an election last November." True, there is a new administration. But this administration advertised itself as anything but a stickler for the criminal law. Among its first acts was wholesale forgiveness of men, who by withdrawing themselves from lawful military service had put others in harm's way.

Why then, we should ask, did this ostentatiously forgiving administration decide to prosecute a man who harmed no one, a man who acted in accordance within the law existing at the time and with the apparent approval of his superiors?

In this case, the administration tries to portray itself as the impartial handmaiden of the law. Accusations were made, says the Attorney General, and, however much he regrets this, the case had to be pushed to indictment and must be settled by trial.

But this is thin nonsense. The legal basis for any U.S. attorney's discretion to prosecute or not to prosecute is clear. Under our criminal justice system, the Attorney General has almost unfettered discretion in deciding whether or not to institute a prosecution. In this case, it seems that Attorney General has acted arbitrarily and inconsistently in the exercise of his prosecutorial discretion. He has indicated that other agents under suspicion for activities similar to those allegedly carried out by Mr. Kearney may be disciplined rather than indicted. Furthermore, the Justice Department has decided not to prosecute John Kearney's former superior, Mr. John R. Morley.

It seems grossly unfair to single out one individual for prosecution. I question whether the decision to prosecute was made in good faith or whether this is but another example of a strictly political decision on the part of the Justice Department. On the surface, it seems that the law was less important in the administration's decision to prosecute Kearney than was politics. Mr. President, we have the duty to ask what kind of political game this administration is playing, and is that game good for the country?

How can we avoid the conclusion that in the councils of this administration the FBI does not stand on equal footing with many so-called civil liberties groups which have long wanted to hamstring the FBI? The administration says it is sorry to see that the FBI's morale and efficiency have been seriously hurt by its moves against one of the FBI's exemplary agents. But at least President Carter ought to know that that kind of repentance is as useless on Earth as it is in Heaven.

Of course the FBI is hurting. How could anyone expect that their dedication and professionalism would not be affected. Every agent now knows that no matter how good a job he does, no matter how lawful his acts seem to him, no matter how well he obeys his superiors, he is liable to be prosecuted a few years later. Every agent now knows he will be subjected to judgments which have yet to be made. Why should not every FBI agent worry more about staying on the "right" side of the powerful groups that have gotten their way in this administration than about doing the job of protecting the American people?

Mr. President, on top of everything else, Mr. Kearney is being asked to pay for his own defense. No indemnification is contemplated. Yet superiors and others are not being charged. Is every retired or active FBI agent to be asked to set aside money for his own defense at some unforeseen time for an unknowable charge? This unfair act is foreign to everything America ever stood for. We once honored the faithful public servant. Shall we now ask them to hang their heads in shame? Or perhaps, Mr. President—should our heads and eyes be lowered?

Someday of course this administration will be voted out of office, their favorite groups replaced by others. But it will not be easy to change the habit the FBI must now acquire of protecting itself from potential liability while protecting the American people. It took almost two generations of administrations which respected the FBI's independence for that agency to become as good as it was. Now the Nixon and Carter administrations have gone a long way toward undoing that.

Mr. President, I think both for the sake of justice and for the good of the country, the administration ought to drop its case against John Kearney. The law will not suffer. Justice will have been served, not sidestepped. Our country will raise its head again. Our public servants will dare to serve again.

Mr. President, I thank the Chair, and I yield back the remainder of my time.

Mr. HANSEN. Mr. President, if the Senator will withhold just momentarily, will the Senator yield a minute to me?

Mr. WALLOP. Mr. President, I would be happy to yield a minute to my senior colleague.

Mr. HANSEN. Mr. President, I regret there are not more Senators on the floor at this particular moment because I think the point that has been made by my distinguished colleague from Wyoming is one that ought to be heard and heeded by all Americans.

I recall, as not too many here can, the days of America before the FBI came into being when crime was rampant, when it seemed as though the traditional law enforcement agencies lacked the ability, the competence, and the national network of communication that made possible society's ability to cope with crime, and I recall very well when the FBI was organized and J. Edgar Hoover became its Director a profound and pervasive sense of relief and reassurance that the good guys did have a chance.

I think it is fundamental that society be able to protect itself, and occasionally in order that society can protect itself it seems clear that activities such as were ordered by the FBI to be undertaken by Mr. Kearney were clearly in the best interests of all Americans.

It seems totally unconscionable to me now that, having carried out honestly and faithfully the orders that had been lawfully given him, we now turn our backs on this good man and say, "It is your problem. Not only are we lacking in compassion as we view your present dilemma and problem but we are not even going to provide you with any financial help to try to see that your case is fairly represented in a court of law.

I make these observations, Mr. President, because I think we are going to rue the day this action was undertaken. The damage has already been done. If we were to follow the suggestions of my very esteemed colleague from Wyoming and have the Government drop its case, as I think it should forthwith, that would be helpful. But even if we were now to do that at this late date the damage has indeed been done.

I want to compliment my colleague, the first nonlawyer to serve on the Senate Committee on the Judiciary, for his perception, insight, and understanding into a matter that I think deserves the close attention and active participation by all Americans.

I thank my colleague.

Mr. WALLOP. Mr. President, how much time is remaining under the standing order?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. WALLOP. I would like to yield that 1 minute to the Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. I thank my colleague.

Mr. President, I want to compliment my friend from Wyoming for his remarks in defense of a good friend.

Mr. President, I would remind my colleagues that this morning's paper tells us they are going to try to do the same thing possibly against another loyal American, Mr. Richard Helms, who did nothing but obey orders, and this is what the Attorney General cannot seem to get through his head.

When the Commander in Chief of this country, the President, tells a member of the FBI or the CIA to do something, he does it. I remember during hearings not only Richard Helms but every other head of the CIA who appeared before us, in answer to the question, "Would you tell a lie to protect the President?" always said, "Yes."

I think that is the attitude anybody who has ever served under a Commander in Chief, even though he might think the Commander in Chief be wrong, would take.

I do not think these men, who are sworn to do their duty, should ever be persecuted by the Attorney General or by anyone else for having done what they were told to do.

If they go through with these things, they go through with these cases, I think I can promise the American people that we are in for months and months and months of deep embarrassment about what some of our Commanders in Chief ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield 30 minutes of the time allotted to me under the cloture rule to the distinguished majority leader (Mr. ROBERT C. BYRD) to be used as he sees fit at such time as he desires to.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont for his typical courtesy and thoughtfulness.

PRESIDENTIAL ACTION AFFECTING STRATEGIC ARMS LIMITATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrence Resolution 47, with a time limitation thereon of 30 minutes to be equally divided between Mr. SPARKMAN, the chairman of the Committee on Foreign Relations, and Mr. CHURCH and Mr. CASE.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. Mr. President, I just want to explain to the leader that I have been asked by two separate committee members to object to any consideration of the SALT resolution.

Mr. ROBERT C. BYRD. Well, Mr. President, I would hope they would be on the floor to object themselves. Could the Senator state who those Members are? Perhaps it has been cleared with them.

Mr. ABOUREZK. It has not.

Mr. METZENBAUM. We do not have any objection ourselves.

Mr. ROBERT C. BYRD. Mr. President, for the information of the two Senators the matter has been cleared with Mr. CLARK, Mr. BIDEN, and Mr. MCGOVERN. It was cleared with Mr. BIDEN yesterday. It was cleared with Mr. MCGOVERN yesterday. It was cleared with Mr. CLARK either yesterday evening or this morning.

So I hope that Senators would not object because today is the last day for the consideration of this resolution.

Mr. CHURCH. Mr. President, I hope that Senators ABOUREZK and METZENBAUM will accept the assurances of the majority leader on this question. I do not know of any other Senators who objected. The resolution has been cleared with the leadership on both sides of the aisle, and this is the last day on which we can act.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I hope we can proceed with this matter. I, of course, understand the problem confronting the distinguished Senator from South Dakota. But this is a matter of importance. It has been cleared on both sides, and it shall not take very long.

So, without repeating the arguments that have already been made, let me simply add my urging, and that of others, that we proceed with consideration of the resolution at this point.

Mr. ABOUREZK. Mr. President, it is difficult for me to object to proceed to the consideration of the resolution. I would rather take the majority leader's word for it, except I have been asked to object, and I have not been released from that request. I do not know what to do now.

Mr. CRANSTON. Did the Senator seek to reach the two Senators just now?

Mr. METZENBAUM. Yes.

Mr. ABOUREZK. I was not able to reach them.

Mr. CRANSTON. Are they available? I discussed with the Senator trying to reach them.

Mr. ABOUREZK. No; I have been unable to reach them.

Mr. METZENBAUM. Will the majority leader hold up the unanimous-consent request so we might be released from the commitment to them?

Mr. ROBERT C. BYRD. Yes, Mr. President, for the time being, I withhold the request.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I renew my request that the Senate turn to the consideration of Calendar Order No. 426; that there be a time limitation not to exceed 30 minutes thereon, after which the Senate will proceed to the disposition of the resolution; and the time to be equally divided between Mr. CHURCH and Mr. CASE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 47) expressing the concurrence of the Senate and the House of Representatives with respect to presidential action affecting the limitation of strategic armaments.

The PRESIDING OFFICER. The Senate will proceed to its consideration.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the pending concurrent resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it had been the intention of the distinguished chairman of the Foreign Relations Committee (Mr. SPARKMAN) to present this resolution. Unfortunately, Senator SPARKMAN cannot be present at this time. He has asked me to present the resolution on behalf of the Senate Foreign Relations Committee. In doing so, I would like first to read Senator SPARKMAN's own statement, which is as follows:

STATEMENT BY SENATOR SPARKMAN

This concurrent resolution was approved by the Committee on Foreign Relations at a meeting last Friday. The resolution expresses the support of the Senate and the House of Representatives for the Administration's stated intention not to take any action inconsistent with the provisions of the Interim SALT agreement which expires today, and with the goals of the on-going negotiations, provided that the Soviet Union exercises similar restraint.

The Committee on Foreign Relations decided to approve this resoltuion upon careful deliberations over a period of several days. On September 21 the Committee received a letter from Secretary of State Vance stating the Administration's intention to maintain the status quo. I insert that letter in the Record at this point. On September 26th, last Monday, the Committee met with Paul C. Warnke, Director of the Arms Control and Disarmament Agency, to review the present state and prospects of the strategic arms limitation talks, and to explore the implications of the Administration's action.

I believe that the President has ample authority to maintain the status quo following the expiration of the international agreement. In this regard, I insert in the RECORD a letter I received on Friday from Herbert J. Hansell, the Legal Adviser of the State Department. This resolution merely recognizes and gives Congressional endorsement of that fact. The mutual involvement of the Con-

gress and the executive Branch in this policy will demonstrate the shared interest of the two branches in preventing the collapse of strategic arms limitation efforts so that the two sides may have a continued opportunity to proceed to achieve a broad and comprehensive arms limitation agreement.

Under the Senate rules it is not possible to add cosponsors to original resolutions reported from committees. A number of Senators have indicated interest in this resolution and, were it possible, would have cosponsored it. These are Senators Church, Case, Pell, Humphrey, Stone, Sarbanes, Javits, Pearson, Percy, Baker, Glenn, Byrd of West Virginia, Jackson, Cranston, and Williams.

I hope that the resolution receives strong support from the Senate.

Mr. CHURCH. Mr. President, I ask unanimous consent that the material referred to in the statement of Senator SPARKMAN be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., September 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: As you know, we have been exploring for some time ways in which we can facilitate an early and successful conclusion of the SALT II negotiations. One aspect of this subject which State and ACDA staffs have discussed with you is the situation that will exist after the present Interim SALT Agreement expires on October 3. In this regard, we have been considering a policy declaration expressing our intention, while the negotiations are being completed, not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. Under this proposal, although the Soviets may also issue a statement of their policy in this regard, along the same lines, there would be no agreement limiting strategic offensive arms in force between the United States and the Soviet Union after October 3 and pending the conclusion of a new SALT Agreement.

Our objective is to maintain the status quo while the SALT II negotiations are being completed, and to complete the work on a SALT II Agreement within the near future. We do not seek to enter into a new agreement extending SALT I during this period, by an "exchange" of statements or otherwise. Accordingly, we have informed the Soviets that we intend to issue a unilateral policy declaration along the following lines:

In order to maintain the status quo while [SALT II] negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, and with the goals of these ongoing negotiations, provided that the Soviet Union exercises similar restraint.

In considering how to proceed in this matter, we considered and rejected the possibility of a joint U.S.-Soviet statement which might have raised the question of whether an international agreement was intended. We do not intend to enter into an agreement and believe that our proposal is consistent with this intent, in substance as well as in form.

As indicated in our discussions with you and with the Committee staff, it is our desire to proceed in this matter in close consultation with the Congress. We fully recognize your committee's responsibilities with regard to international agreements generally and SALT II in particular. We hope you share our assessment that our discussions of this subject have been most helpful and constructive.

Sincerely,

CYRUS VANCE.

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
Washington, September 28, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for my opinion relating to the statement released by Secretary Vance on September 23. That statement declared the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that the Soviet Union exercises similar restraint. Shortly after the release of that statement, the Soviet Union made a similar statement.

The principal question raised with regard to the statement is whether it requires authorization by treaty or legislation under section 33 of the Arms Control and Disarmament Act (the "Act"). That inquiry, in turn, raises the further question whether the statement legally obligates the United States.

Section 33 of the Act prohibits any action "under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States . . ." except pursuant to treaty or legislation. The language and legislative history of the Act make clear that Section 33 is confined to obligatory arms control arrangements effected by binding international agreement[1] entered into pursuant to the Act or other law. It does not purport to limit the constitutional power of the President to take non-obligatory measures in connection with conduct of international negotiations.

The United States statement of September 23 does not, alone or in conjunction with the Soviet statement, imposes an obligation on the United States. The United States has declared that its statement is "non-binding and nonobligatory."[2] Neither country has committed itself in its statement. Each has only stated a present intention to refrain from certain action provided that the other refrains from similar action. Each is free to reverse its intention at will; the negotiations which the policy of restraint is intended to facilitate could continue even if the declared policies were abandoned.

These circumstances thus lack essential elements of an obligation or a binding agreement: there is no intent by either party to be bound;[3] each may at any time cease to do what it has said it presently intends to do; and there would be no legal consequences if either changed its stated policy.

Accordingly, I am of the opinion that the September 23 statement does not legally obligate the United States, by binding international agreement or otherwise, and does not require authorization under section 33 of the Act.

Sincerely yours,

HERBERT J. HANSELL.

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[1] Language in the House bill (H.R. 7936) which would have included "measures" other than international agreements within the Act's definition of "disarmament" was deleted prior to enactment.

[2] Mr. Warnke so testified to the Committee on Foreign Relations on September 26.

[3] The International Court of Justice has ruled that in some circumstances a state may be legally bound by a unilateral statement. (Nuclear Test Cases, Australia v. France and New Zealand v. France, Judgment of 29 Dec. 1974, I.C.J. Reports 1974, pp. 253 and 457.) However, that decision turned on the intent of the declaring state to be bound and the likelihood of reliance by other states on the binding character of the declaration. Its rationale is not applicable in the present circumstances in which the United States has publicly made clear that it does not intend its statement to be binding.

Mr. CHURCH. Mr. President, today the Interim Agreement Between the United States and the U.S.S.R. on the Limitation of Strategic Arms will expire. I personally had hoped that by now the United States and the Soviet Union would have arrived at a second, comprehensive accord limiting nuclear arms. But the birth of SALT II has been stubborn. Time, always elusive, has proved too short to complete this effort.

Understanding the importance of a comprehensive treaty and the need to negotiate it free of the burdens and pressures arising from imminent deadlines, President Carter last week announced his intention to take no action inconsistent with the terms of the original SALT Interim Agreement until negotiations for SALT II were completed. The Soviet Union, for its part, pledged to show the same restraint.

From its inception, the Arms Control and Disarmament Act, the grandfather of American arms control, contemplated close cooperation between the legislative and executive branches of our Government—a common endeavor to achieve common goals: Peace, security, and reduction of the threat of total annihilation posed from the world's burgeoning arsenals of nuclear arms. In enacting that act, we in the Congress underscored our own belief that America's interests were best served by a mutual recognition and respect for the partnership that exists between the President and Congress in the field of foreign affairs. It is a partnership born of the foresight of our Founding Fathers and bred by an envolving constitutional and statutory sharing of responsibility.

It is in this spirit of collaboration that I express my support for this concurrent resolution. It recognizes the President's action to have been unilateral and non-obligatory and thus authorized.

We all sympathize with President Carter's concern over a renewed and perilous arms race with the Soviet Union. We all share his desire to reach a serious and comprehensive solution to the precipitous growth of nuclear arms. The President, for his part, understands the role that Congress must play in these critical deliberations. This resolution, if enacted, would reaffirm the hope of both branches to achieve an arms agreement which preserves the peace and security of the United States. I urge the Senate to approve this resolution.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHURCH. Yes.

Mr. ROBERT C. BYRD. Mr. President, I believe it is proper that the Senate express its concurrence with the President's stated intention not to take action inconsistent with the provision of the interim SALT agreement upon its expiration on today, October 3. Such a policy is, of course, dependent on the exercise of similar restraint by the Soviet Union.

I am pleased to be a cosponsor of this resolution, as Mr. CHURCH has stated, which sets forth the Senate support of the President's policy of maintaining the status quo while efforts are underway to reach a SALT II agreement. If such an agreement is reached it would, of course, be subject to extensive Senate consideration.

Matters relating to arms control and national security are of the highest importance and should always be subject to Senate scrutiny. At the same time we should avoid actions which would interfere with the ongoing negotiations. I am particularly pleased that this resolution enjoys broad bipartisan support, and I commend the efforts of those members of the Committee on Foreign Relations and others who have worked so diligently on this matter. Passage of the resolution will be an appropriate and responsible action by the Senate.

Mr. CHURCH. I thank the majority leader and yield to my distinguished colleague, the ranking minority member of the Foreign Relations Committee.

Mr. CASE. I thank the Senator.

Mr. President, this matter has been clearly and accurately stated. It does not really need much further explanation. If there are questions, I know we will be very glad to respond. There are some people who may say this is like a situation in which a girl comes to her father and asks, "May I get married?"

He says, "Are you married?"

She says, "Yes."

He says, "Then you may get married."

Well, it is not quite that, mainly because of the seriousness of this situation. We were faced with an expressed statement of intention by the administration and a statute. There was a question, and there is still a question, as to whether or not the statement of intention made by the President is within his constitutional authority without the consent or authorization of the Congress. So be it. Congress did not want this thing to go by, however, and establish a precedent for any extension of any constitutional authority that may exist.

Also, Congress happened to agree precisely, at least the great majority of the Members of Congress, I am sure, that this is a good thing, a sound thing, and a wise thing to do. The action that we have brought before the Senate for its consideration this morning is based upon those premises. I think it is a very sound job. I know all of us will be very glad to answer any questions or hear any further comments within the time limitation.

I have one request to yield.

Mr. YOUNG. What is the duration of this concurrent resolution?

Mr. CASE. This resolution merely states its approval of a statement by the Secretary of State. The Secretary of State has put no limitation on his statement of intention. Being a statement of intention it could be changed any time. So this has no term consent.

Mr. CRANSTON. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. CRANSTON. Mr. President, Concurrent Resolution 47, the resolution with respect to Presidential action affecting the limitation of strategic armaments, is a necessary reaffirmation of the constitutional role of Congress and the doctrine of separation of power between the legislature and the executive.

I want to express my thanks to all of those who have been involved in the arduous task of achieving agreement on this concurrent resolution. The concurrent resolution is an articulate compilation and blending of diverse views. It is gratifying that this resolution was finally drafted with such consummate skill and devotion of Senators JACKSON, CHURCH, and JAVITS that it received overwhelming approval of the Senate Foreign Relations Committee under its distinguished chairman, Senator SPARKMAN. It has been a senatorial honor to participate in the process leading to this resolution, which I hope is overwhelmingly accepted by this body.

It was Senator JACKSON who first raised the issue of the involvement of Congress in this matter. I compliment him for that. I joined him immediately in his effort to insure that Congress fulfilled its appropriate role, and it has been a pleasure to work with him and others—notably Senators CHURCH and JAVITS and Chairman SPARKMAN, toward the fine result that has been accomplished.

This concurrent resolution is made necessary by the action of the State Department taken in anticipation of the expiration of the present interim SALT agreement on October 3, 1977, and in recognition of the fact that the current SALT II negotiations would not be concluded by that date.

Both the United States and the Soviet Union desired to maintain the status quo with respect to the limitations on strategic offensive arms contained in the SALT interim agreement, but the evidence is compelling that the State Department did not desire to accomplish this maintenance of the status quo by any formal agreement or action which would require consultation with or the consent of Congress, and, in particular, of the U.S. Senate.

Accordingly, the State Department came up with a device to circumvent Congress and yet achieve the assurance needed that the status quo would be maintained while the SALT II negotiations proceeded to conclusion—a conclusion which I hope will in fact result in a realistic, enforceable, and verifiable arms control agreement embodied in a treaty approved by this Senate. This maintenance of the status quo particularly was desired by the United States because, as Mr. Warnke noted, the U.S. defense plans did not call for and would not exceed the interim arms limits but those of the Soviet Union could and would, particularly with respect to SLBM's.

The problem was how to make an agreement with the Soviet Union that would provide a sufficient guarantee of the status quo, yet not make an agreement that would require ratification by the Senate under the treaty-making power of the President or the authorization by affirmative legislation of the Congress under section 33 of the Arms Control and Disarmament Act.

The solution was a device of creative diplomatic and legal sophistication: The parallel unilateral policy declaration, whereby both the Soviet Union and the United States issued an identical statement pledging "not to take any action inconsistent" with the arms limitation provisions of SALT I provided and so long as the other side "exercises similar restraint." In nondiplomatic and nonlegal terms, if the Soviet Union agrees to maintain the status quo and does so, the United States agrees to maintain the status quo and will do so as long as the Russians do.

Such parallel unilateral policy declarations were issued by both the United States and Russia. At the same time as the State Department issued this policy declaration, it also stated that it did not intend to enter into any "agreement" with the Soviet Union.

The New York Times, in an editorial on September 27, 1977, noted that the "purpose of this double-talk was to circumvent a provision of the Arms Control and Disarmament Act that requires congressional assent to any arms limitations." The Wall Street Journal, on September 28, 1977, wryly observed in an editorial entitled "When in Doubt, PUPD," that if President Carter has trouble obtaining Senate ratification of the Panama Canal Treaty, he simply should "send Ellsworth Bunker and Sol Linowitz back to reframe the thing as a parallel unilateral policy declaration."

The Times and the Journal may be somewhat harsh in their judgments; I leave that up to each Senator's individual judgment. But what is clear is that the unilateral action taken by the administration did create a substantial question as to its power to do so unilaterally under the Constitution or without complying with the Arms Control and Disarmament Act.

And even more important for the future of SALT II, the unilateral action taken by the administration was not wise, prudent or warranted. This Senate ratified SALT I. There can be no doubt that this Senate must ratify SALT II, if it is ever to be. Under these circumstances, one must wonder at the course of action taken by the State Department in seeking to avoid Senate or congressional scrutiny as to any interim status of arms limitations between the expiration of SALT I and the possible signing of SALT II. Even if no constitutional or statutory issue were involved: should not the State Department be seeking the cooperation and guidance of Congress instead of expending its energy and talents finding ways to circumvent or ignore Congress?

Although I confess some difficulty in comprehending the State Department's position that Congress had no role in determining this interim status, certainly the State Department understood that the issue was in doubt. And when in doubt, I submit that the Constitution, the Arms Control and Disarmament Act, and the doctrine of separation of powers requires the State Department

affirmatively to seek congressional authorization, and not to resort to PUPD.

The action the Senate can now take in passing this concurrent resolution is the action that should have been sought by the administration. It is an action that once again affirms the constitutional foundation of our Government and the separation of powers of the Executive and the legislature. Hopefully, this action also will mark the final interment of the Parallel Unilateral Policy Declaration doctrine, a doctrine that had the potential of constitutional excess even beyond that displayed by past administrations through the misuse of executive agreements in foreign affairs.

I also would like to set forth my views as to why so many of us deem this affirmative congressional action to be desirable.

Positive congressional endorsement would strengthen the President's hand in pursuing our Nation's arms control objectives with the Soviets. This resolution puts Congress clearly on record in support of the present arms ceilings while encouraging the administration to work toward a successful resolution of the SALT II negotiations.

By thus affirming its support for the executive's declaration of intent, Congress also is exercising its responsibility to be an active part of the process, consistent with section 33 of the Arms Control and Disarmament Act, instead of being a passive observer to a fait accompli. Today, Senate Concurrent Resolution 47, as it reflects institutional power sharing, will help build a foundation of confidence and mutual trust, which will be so vital when the Senate examines a SALT II treaty.

I have had the rare privilege of observing our SALT II negotiating team in action. They are engaged in a touch task with skilled and determined adversaries. They are bargaining in a hard but fair fashion for a comprehensive and enforceable treaty. We are fortunate to have that fine team under the able leadership of Paul Warnke. I am confident that the President's firm, fast commitment to effective arms control and arms reduction will be turned into a reality under his leadership and that of Secretary of State Vance. I have differed with the executive branch in this issue of the role of Congress at this particular stage of the SALT process, but I want to stress my hope and my faith that the conduct of the negotiations will be such as to cause me to strongly support the treaty that should be its final product.

By passing this resolution, the Senate will express its desire in the difficult task of arms control.

With congressional cooperation and support in the area of arms control, the administration and Congress can work together more effectively in other foreign policy matters.

Last November, after his election, President Carter told the Senate Foreign Relations Committee: "My inclination is whenever possible to share the knowledge that I have with you and to seek your advice and counsel. I will go a second mile to meet you on this." Given the circumstance, by the passage of this concurrent resolution, the Senate demonstrates that our support goes more than that second mile. We in the Senate expect reciprocation by the administration; the Constitution and the doctrine of separation of powers require it.

Let me say briefly that I believe this is a necessary reaffirmation of the constitutional role of Congress and the doctrine of the separation of powers between the legislative and the executive. The Senator from Hawaii and Senator JACKSON first raised the issue in regard to the necessary involvement of Congress in this situation. I respect them greatly for the leadership provided at that moment. I joined immediately in that effort.

Due to the wisdom of a number of Senators, including particularly Senator CHURCH, Senator CASE, Senator JAVITS, and others, we worked out a resolution which I think fulfills a very important responsibility of the Congress. I cannot understand the action the State Department sought to take in not consulting with Congress and recognizing the appropriate role of Congress in this matter. I trust their efforts to negotiate with the Soviet Union are carried on in a more careful and thoughtful way than their efforts to negotiate with the Senate.

Actually, I believe they are. I participated as a Senate observer in the SALT negotiations during August and I have great respect for what the negotiating team is seeking to accomplish, what they are accomplishing, and I share their goals in that respect.

Mr. CHURCH. I thank the Senator.

Mr. JACKSON. Mr. President, I am pleased to be a sponsor of this resolution. It is, in my judgment, a necessary assertion of the authority of Congress in the sensitive and important area of arms control agreements that profoundly affect our national security.

The action that the administration has taken in declaring that we will act in a manner consistent with the limitations of the 1972 Interim Agreement, provided that the Soviets do likewise, has been represented to the Congress as a nonbinding unilateral declaration. The Soviets have made an identical statement, the only differences being small differences of language arising out of the translation from Russian to English. In my judgment, the two statements, taken together, constitute an agreement. I regard the administration's resort to unilateral statements as a means of effecting an agreement as being contrary to the established statutory and constitutional procedures for concluding such agreements. The authors of this resolution are making plain their insistence that Congress retain the authority to approve agreements that have the effect of limiting the armaments of the United States. And I hope and trust that the Senate will follow the lead of the Foreign Relations Committee which has unanimously approved this resolution.

Mr. President, most, if not all, Senators believe it prudent to continue, on a temporary basis, the limitations of the Interim Agreement. It is difficult to imagine why one would oppose continuing those limitations—since the Soviets are in a position to exceed those limitations and we are not. On this there is no controversy. What has given rise to controversy is the effort by some officials in the administration to evade the revelant statutory and constitutional authority reserved to the Congress of the United States by a thinly disguised contrivance—by the claim, misleading at best, that we have acted "unilaterally" and that, therefore, the views and judgment of Congress are irrelevant. It is to restore the rightful authority of Congress that we are acting to authorize the President to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977.

Mr. President, I trust that we have seen the last of efforts of this nature—that in the future the administration will come to, and not seek to circumvent, Congress when it wishes to conclude an agreement that has the effect of limiting the arms of the United States; that it will not again act in a manner certain to erode the relationship of trust and confidence that is so essential to the development and implementation of a sound foreign policy.

With its vote on this resolution, I believe that the Senate will declare that it will not permit its authority to be circumvented; that it, alone will determine when an agreement has been reached in fact, however its authors may characterize their intent.

Mr. President, I commend the floor leader (Mr. CHURCH) for his leadership in getting the resolution adopted in the Committee on Foreign Relations and the detailed work that he has been involved in putting this together. Senator CRANSTON also deserves credit for his early interest and concern with the need for some appropriate action by Congress to assert its authority in this vital area.

This is a bipartisan effort. It is a bipartisan effort on the part of Senator BYRD and Senator BAKER and Senator CASE, who is the ranking minority member on the Foreign Relations Committee. Without mentioning all the other Senators involved, I want to say that what we have done here is a good example of the way in which we should handle urgent and important matters relating to the national security interests of the United States. I commend my colleagues for their participation in that continuing effort.

I commend my colleagues on both sides of the aisle for undertaking this bipartisan effort to make certain that the Congress of the United States is properly consulted, to assure that Congress asserts its full authority.

Mr. CHURCH. Mr. President, I thank the Senator. I simply want to say to him that, as he knows, it was necessary to negotiate language that would secure a broad measure of support on both sides of the aisle from Members who hold difference opinions with regard to arms control. The Senator's own cooperation in helping to work out language that was generally acceptable, at least, to most Senators, helped to make this possible and I express my appreciation to him for it.

Mr. MOYNIHAN. Mr. President, I ask

unanimous consent that I may be recorded as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I want to make one comment further on the sentiment of the Senator from Washington. I certainly share in thanking the distinguished Senators who have worked to bring this bipartisan agreement about. But I also want to comment upon the observation of my good friend, the distinguished Senator from California, who has observed—I believe I quote him—"I cannot understand the action of the Department of State in this matter."

Mr. President, I should like to suggest that the action of the Department of State is quite understandable. Arms negotiations in the administration are increasingly and explicitly in the hands of persons who, when they have written to define what is the problem with arms control, have said the problem with arms control lies in the attitudes in the U.S. Congress and the American people and the actions of our Nation and not those of the Soviet Union. It is the same attitude which, over this weekend, has had the United States joining in another resolution, unilateral, bi, parallel, as you will, in which the administration has had the astonishing—there is a word for it in New York which I shall not use—has made the astonishing statement that the interests of the Soviet Union and the United States in the Middle East are identical and parallel.

They are not, and we know that. Neither are they in arms control.

I think it is important that Congress, the Senate, in this bipartisan manner, has said, however much we may be looked upon with disdain by those in the Department of State today or by those conducting these negotiations, we are, nonetheless, a part of them and shall continue to be.

Mr. BAKER. Will the Senator yield to me?

Mr. CASE. Mr. President, I am happy to yield to the Senator from Tennessee as much time as he wants.

Mr. BAKER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Let us have order in the Senate. The Senators will refrain from conversation.

Mr. BAKER. Mr. President, I commend the Senator from New York for his statement. I concur with the statement of the distinguished Senator from Washington. I join in the statement of the Senator from New Jersey and the Senator from California in these respects: First, we have made the best of a bad situation. I think that this thing should have been done exactly opposite to the way it was initially. That is, I think the negotiators ought to have come to the Senate and said, "Look, this is what we have in mind," and give us an opportunity to confer with them, to advise with them, and, at least, to share with them our points of view and attitudes.

Secondly, I think that it was difficult for us to proceed to find a bipartisan accord in the face of a unilateral statement by the administration of its intentions before we were aware of them. But I think we have done that and I think this resolution of the issue is the most appropriate to the moment. I fully support it.

I commend the leadership of the Foreign Relations Committee for making it possible, with the forbearance of some others in this Chamber who have strong views on this subject, to have a stronger resolution.

But, Mr. President, I rise primarily for the purpose of saying, if this country is going to have a bipartisan foreign policy, there needs to be consultation in advance on important statements, undertakings, issues, and agreements. I, for one, am willing to try. I have told the President this and I have told other high administration officials this: I am willing to try to have a full-blown, thoroughgoing, bipartisan foreign policy; that does not mean, Mr. President, being advised of the determinations and decisions by the administration after the fact.

That said, Mr. President, I would add only the following observations: the 5-year Interim Agreement with the Soviet Union to limit strategic arms will expire on Monday, October 3. Last week, the administration announced that it was the intention of the United States to continue to abide with the provisions of the Interim Agreement, providing that the Soviet Union exercises similar restraint.

I believe there is no issue of greater national importance than our continuing attempts to limit, consistent with the dictates of our own security, the strategic armaments of the two major powers. Notwithstanding my belief that the President should have consulted with the Congress well in advance, I agree with the policy he has proposed.

In order to insure that the treaty is both meaningful and without jeopardy to essential interests, the administration should be allowed the opportunity to negotiate a meaningful SALT II treaty without the constraints of immediate deadlines or the pressure imposed by the threatened reescalation of the arms race.

The resolution that we have introduced and for which we ask immediate consideration is in recognition of the immense importance of these negotiations, and it expresses our support for the President's declaration of restraint. Moreover, it authorizes the President to take the measures necessary pursuant to that declaration.

Finally, Mr. President, the resolution is a reaffirmation of the vital interest of Congress in these negotiations and the intent of Congress to cooperate closely with the administration in this shared responsibility of critical importance to the future of the Nation. I am confident that the President will understand the importance of consultation and cooperation on this issue, and I urge my colleagues to support the resolution.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CASE. Mr. President, Senator McCLURE has asked for a brief time on this matter.

McCLURE. I thank the Senator for yielding.

Mr. President, in reading the resolution this morning, I see it makes a reference to a declaration of intent of the Secretary of State of September 23, 1977. I think it is essential that that declaration of intent be made part of the record so we know what it is that we are affirming.

Mr. CASE. Mr. President, if the Senator will yield, if it is not already part of the record, I suggest that it be printed in the RECORD.

Mr. CHURCH. I believe it is already a part of the record.

Mr. McCLURE. I thank the Senator. I asked for and did get a copy of that declaration of intent.

Mr. President, I take this time only to state the reservations which I have concerning the negotiations—not only the kind of negotiations that are undertaken, but the personnel who are involved in it. If you will recall, the Senate had prolonged debate over the confirmation of the appointment of Mr. Paul Warnke as our chief negotiator. This Senator, at least, the junior Senator from Idaho, has no more confidence in Mr. Warnke now than he did when he was appointed. I do not want to go into all the arguments that the Senate went into at that time, except to say that the President of the United States gave us assurances at that time that the Joint Chiefs of Staff would be involved in those negotiations at every stage of the proceedings, and that flatly has not been true. Whether it was the President's intention at the time he made that statement or not, I cannot say, but I know it has not been carried out in letter or in spirit since that assurance was given to the Senate.

I shall not go into all the reservations that this Senator has with respect to SALT I, or the interim agreements or proposed SALT II, or the conditions of the weapons systems analyses that have been going into these discussions. But I have severe reservations, and I would not want this resolution to be understood as being an expression of the Senate in a kind of carte blanche manner for all or any negotiations which the President or the Secretary of State might undertake as a result of those negotiations.

I notice that the Secretary of State's statement of intent includes these words: "negotiations being completed on SALT II." We do not know whether those negotiations will be completed or not, and I certainly would not want the Senate to say they must be completed. We hope they will be completed, but we hope they will be completed only if there are satisfactory results.

I would not want the Senate to go on record saying to the President of the United States, "You must complete those negotiations, regardless of what is intended." I do not think they should be read that way. But some might attempt to read them that way.

I am not certain the United States should declare its intention not to take any action inconsistent with provisions of the interim agreement, conditioned only in the very vague proviso contained in the last line of the Secretary of State's

statement of intent, "provided that the Soviet Union exercises similar restraint."

What is similar restraint?

Mr. President, I share with the other Senators who have expressed that feeling that the Congress of the United States is not being consulted as these negotiations go forward in any meaningful way, and they should be involved in these discussions. Otherwise, we will be faced with a fait accompli in exactly the same way the administration now says we must sign the Panama Canal Treaty, because otherwise we are breaking faith, breaking our word.

Whose faith? Whose word? Not the Congress of the United States.

I think it is very important that, as we address this resolution, it be clearly understood on the part of everyone who may read this resolution now or in the future that the Congress of the United States has not in any meaningful way yet been involved in formulating that negotiation or in formulating any such agreement that might later be necessary.

Mr. BIDEN. Will the Senator yield for 2 minutes?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. CASE. How much time do we have on this?

The PRESIDING OFFICER. Eight minutes remain. Eight minutes.

Mr. CASE. Eight minutes. I thank the Chair.

Mr. GOLDWATER. Will the Senator yield 1 minute?

Mr. CASE. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am going to vote against this legislation because I think we have been engaged for too long in trying to work out something in agreements with the Soviets, and we are now beginning to try to work out something with the Soviets from an inferior military position.

I was particularly disturbed by news in this afternoon's paper that we are reaching an accord on the Indian Ocean, which is to me the most vital, strategic area in the world. This means the end of Diego Garcia, and, with matters the way they are with the Philippines, that could mean the end of Subic Bay. It would be disastrous.

Mr. President, I just want the Senate to know I am going to vote against this, if we have a yea and nay vote, and, if we do not, I want the record to know I do not buy it.

Mr. McGOVERN. Will the Senator yield to me?

The PRESIDING OFFICER. The Senator from Idaho has control of the time on this side.

Mr. CASE. I yield to the Senator from Rhode Island.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey still has the floor.

Mr. CASE. I yield 1 minute.

Mr. CHAFEE. Mr. President, I would like to join in cosponsoring this resolution.

I know it is easy to find fault with the administration, but I would like to say from my personal experience that the administration has gone to great efforts to keep this Senator advised on these SALT negotiations.

There have been briefings at the State Department to which I have been invited. They have named a SALT Advisory Committee, which I believe any Senator who really cares can get on and participate. The senior Senator from Maryland went to Geneva and had full participation in the talks there and found them very fruitful.

I look forward to being able to do the same thing, come this December, or whenever we do finish.

I think it is very difficult for negotiations to be conducted by 100 people in the Senate, plus 400-plus in the House. I support this resolution. Obviously, as Senators, we want to do all we can to oversee what the administration is doing, but, nonetheless, I think that we have got to realize that no negotiations can be conducted by 540 people. From my personal experience, every effort has been made to include the Senate in these negotiations.

I thank the Chair.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes remaining.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senator be given 5 additional minutes so we can ask some questions about this resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, this resolution was ordered reported Friday by the Committee on Foreign Relations. It was not placed on the committee's agenda. It was ordered reported in the absence of a quorum. The committee has not issued a report on it. The committee has no plans to issue a report on it. We are asked to approve a measure subject to a point of order because of the novel procedure in which it has come to the floor without a quorum present in the reporting committee.

As I understand it, this procedure—if it can be called a procedure—has been followed because of perceived urgency in adopting something—anything—before the SALT Interim Agreement expires today. But what is it that this resolution purports to do that requires such shortcuts?

In its resolving clause, there appears the phrase "the President is authorized." One might reasonably conclude from this that the resolution grants the President some authority that he does not now have. Indeed, that language is the language traditionally used in statutes—in bills and joint resolutions—to confer authorization which is legally required and without which the President cannot act.

Yet both the form of the resolution and its subject matter reveal that it cannot—and need not—confer the slightest authority. First, as to form, the resolution is a concurrent resolution. As such it has no force of law. It can give the President no authority that he does not already have. Second, as to subject matter, the resolution relates to a nonbinding declaration of policy by the President—to an action taken pursuant to his own constitutional power. No further authority is required.

Since the President needs no further authority, and since this resolution—because of its form—could bestow none upon him even if he did, what is the purpose of the resolution in saying that the President "is authorized"?

Is it to salve the feelings of those who wish the Constitution were drafted differently, to give the Congress a role it in fact does not?

Is it an act of bluster, to let the President know what he already knows—that the Congress is following arms control matters closely?

What exactly is its purpose?

Whatever its purpose, Mr. President, I suggest that this resolution is basically unsound and indeed possibly mischievous.

For many years I have championed a responsible, assertive role for the Congress in the formulation of foreign policy. When a new SALT agreement is concluded, I will be among the first to insist that it be scrutinized carefully and approved as constitutionally required. But being of that mind, I believe that it is all the more important that the role of the Congress be clearly defined. I have reserved the right to object to this resolution because it would have the effect of muddling what the congressional role is, and how and when it should be played.

I would, I should emphasize, find no objection at all to a resolution endorsing what the President has done. He has done nothing illegal. He is indeed clearly within his constitutional prerogatives—a point argued cogently, I believe, in a memorandum prepared by the Foreign Relations Committee's legal counsel—a memorandum which I ask appear at the end of my remarks. The President has used his constitutional authority to take an action designed to create an additional negotiating period for the conclusion of a SALT II agreement. I support that goal and I believe most of my colleagues do also.

If we are going to have a resolution on this matter, I would hope that we would consider an alternative to this resolution which would make clear that we support what the President is doing, but which does so in such a way as not to confuse the constitutional role of the two branches.

I would like to ask the floor manager, my friend, the distinguished Senator from Idaho, to clarify the meaning of this resolution.

First of all, the resolution is a concurrent resolution. As such, it is my understanding that it has no force of law.

Is that correct?

Mr. CHURCH. The Senator is correct.

As he knows, a concurrent resolution, standing on its own, lacks the force of law. It would require a joint resolution signed by the President to have a binding effect.

Mr. McGOVERN. Would the Senator further agree that the President was acting within his constitutional authority when he took an action designed simply

to create an additional negotiating period for the conclusion of SALT II; that as pointed out to the committee by administration witnesses at an earlier time, this commits us to nothing. There is no obligation; there is no treaty; there is no agreement.

As a matter of fact, the administration does not want SALT I extended beyond today. It wants to make it clear that agreement expired, that it is no longer in effect. It no longer binds anybody; the agreement is dead, and all we have is a statement of intent on the part of the administration that this country will not voluntarily exceed the terms of the agreement known as SALT I, provided the other side does not—but that we are free this noon, tonight, or tomorrow, or any other day, to make another statement of intent changing our position. We are not bound in any way and there is no obligation whatsoever placed on the United States by this statement of intent by the Secretary of State. Does the Senator agree?

Mr. CHURCH. Yes. I am in personal agreement with the Senator. That would be my interpretation of the situation and, indeed, that is my belief with respect to the governing law.

I think it might be well to include in the RECORD at this point the statement of the Secretary of State, dated September 23, 1977, that this resolution has reference to. The statement reads:

> In order to maintain the status quo while SALT II negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitations of Strategic Offensive Arms which expires October 3, 1977 and with the goals of these ongoing negotiations provided that the Soviet Union exercises similar restraint.

I take this to be a unilateral declaration and not an action that has binding or obligatory consequences.

Mr. McGOVERN. That being the case, if it has no binding or obligatory consequences, was the President not acting within his constitutional powers to make such a statement without the necessity of congressional action?

Mr. CHURCH. This question is one on which Senators differ. Some Members of this body take an opposite view A legal question is presented as to whether such Presidential declaration does in fact come under the purview of the Arms Control and Disarmament Act. This resolution avoids that controversy. It can be avoided at this time, given the wording of the resolution, because everyone agrees that the Arms Control and Disarmament Act did contemplate close cooperation and consultation between the executive and legislative branches in matters relating to arms control.

So this resolution is a formal expression of the opinion of Congress, taken in a form which lacks the force of law, but which nevertheless represents a formal declaration of a congressional position regarding the action that the President has taken through his Secretary of State.

I think that, as such, it is satisfactory to nearly all Senators. It does not attempt to manacle the President in any way in connection with his future negotiations, but it reaffirms the intention of Congress to play a close and continuing role in disarmament matters, now and in the future.

Mr. McGOVERN. The Senator will agree, will he not, that if in fact a resolution such as this were necessary under the Arms Control and Disarmament Act—which would mean we would have to interpret the President's statement of intent as obligating us to something—then a concurrent resolution would not satisfy the terms of the Arms Control and Disarmament Act? It seems to me really to be an exercise in symbolism, rather that good legislative procedure.

Mr. CHURCH. I say to the Senator that I agree with him that if we were all to take the position that the unilateral declaration were in fact subject to the Arms Control and Disarmament Act, it would then require a joint resolution, at the very least, because then the President would need to obtain the authorization of Congress.

This concurrent resolution falls short of that. Therefore, it does not constitute a precedent that could adversely affect the President in the future. Yet, at the same time, it formally puts the Congress on record in support of the unilateral declaration made by the Secretary of State.

Mr. McGOVERN. Would not the Senator also agree that if in fact the Senate were to interpret what the Secretary of State said as an obligation, by endorsing it in the Senate we are going considerably further than the administration recommends? We are saying, in effect, that we are——

The PRESIDING OFFICER. All the time of the Senator from Idaho has expired.

Mr. CASE. Mr. President, I do not want to cut off this colloquy. I have a couple of obligations on our side that I need to meet. How much time do we have?

The PRESIDING OFFICER. Four minutes.

Mr. CASE. I do want to reserve 1 minute for Senator JAVITS, so will the Chair notify us when that time comes?

In the meantime, I yield myself such time as I may require to comment on the proposition that has been discussed by the Senator from South Dakota.

This is not necessarily an agreement. Yet, it is something that affects the conduct of foreign policy and binds the President, just as any statement of his own binds any man. It can be construed as an agreement, if you wish.

The point here is, Mr. President, what we are trying to do is to cut through pettifoggery, to get at the spirit of the thing, in the recognition and observance of that very wise statement in the Scriptures: The letter killeth, but the spirit giveth light.

Now let us get on with it. We approved what they are doing, and we do not want it to be a precedent for the future. That is the whole story here, and to try to make anything else of it is really doing harm to a very important and useful exercise.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. CASE. I yield 1 additional minute, for a comment on what I have said, because it is in complete disagreement with Senator McGOVERN.

Mr. McGOVERN. Mr. President, what bothers me is the argument that this is an agreement to which the administration has committed us, that it has somehow obligated the United States to a policy that we cannot follow without congressional approval. I think that elevates it to a higher status—to more than a simple declaration of intent. That is the very thing the administration witnesses urged us not to do: the administration does not want official congressional sanction to what would be interpreted as an agreement to continue the SALT I levels, because they think it would slow down the whole negotiating process.

Also, as the Senator knows, the SALT I agreement is unfavorable to the United States. It puts us at a disadvantage in terms of our relevant military strength with the Soviet Union.

So the administration is anxious to get on with SALT II, which will provide for more equitable levels between the two countries. I do not understand why those who are apprehensive about the security of the United States——

The PRESIDING OFFICER. One minute remains.

Mr. CASE. I am sorry that I have to cut the Senator off. I disagree completely with his position.

I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, this is a situation in which we in Congress believe it is an agreement. The President believes it is not an agreement. Whether it is or is not an agreement depends upon the President's intention. We are construing it as an agreement because, analogous to antitrust laws, if A says he is going to do something depending upon the fact that B is going to do it, too—and we believe the President is depending upon the fact that B will, too—then we consider that an agreement.

On the other hand, the President says, "I am not in any way bound. I can change my view tomorrow and take any action I please and still be fully in accord with my relations and the best of faith with the Soviet Union. Therefore, it is not an agreement."

Therefore, what we are doing is to say, without deciding that question now, that this is the thing to do. We are doing it in the way open to us, which is by action of both houses, without the necessity for Presidential signature.

I consider it a highly practical outcome to a difficult question. It will do the job, and I hope the Senate will approve it resoundingly.

The PRESIDING OFFICER. All time has expired.

Mr. McGOVERN. Mr. President, may I make a unanimous-consent request?

The PRESIDING OFFICER. The Senate will state his unanimous-consent request.

Mr. McGOVERN. Mr. President, I ask

unanimous consent to have printed in the RECORD a memorandum prepared by Mr. Michael J. Glennon, legal counsel of the Committee on Foreign Relations; the testimony of Mr. Paul Warnke before the committee on September 26, also indicating why such a resolution is not necessary; a copy of the alternative language I had suggested earlier which I think would be more in keeping with what we want to do—simply an endorsement of what the President did.

I am not going to make a point of order, although I am convinced one would lie against this agreement. It is clear that the sense of the Senate is to take this symbolic move, so I will withhold the point of order.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Committee on Foreign Relations
U.S. Senate, September 23, 1977]

MEMORANDUM

To: Members, Committee on Foreign Relations.

From: Michael J. Glennon, Legal Counsel.

Subject: Does the unilateral declaration of policy outlined in Secretary Vance's September 27, 1977 letter to the Chairman—(1) constitute an international agreement; (2) require Congressional approval; or (3) violate section 33 of the Arms Control and Disarmament Act?

Whether a given arrangement constitutes an international agreement depends upon the intent of the parties, which may be inferred from a number of factors, including the following: whether it is binding on all parties and governed by international law; whether promises are exchanged for each other, as a quid pro quo, through a bargaining process aimed at achieving a meeting of the minds; whether similar, past arrangements have been regarded as agreements; and international custom and practice. If, applying these criteria, an agreement is found to exist, the question becomes whether the agreement is such as to require some form of congressional approval.

It is clear that the proposal outlined in the Secretary's September 21 letter and in thorough discussions with the Committee staff will not constitute an agreement. It is nonbinding, it is not governed by international law, no exchange of promises has been bargained, other such actions have not been so construed, and the parties do not intend for an agreement to exist—indeed, there are no "parties" as such. The staff is assured by Mr. Warnke that no collateral exchanges have occurred with Mr. Gromyko which would alter the legal status of the declaration described in the September 21 letter.

Since no international agreement exists, the question of whether Congressional approval is required is not reached. The only issue remaining is whether the proposed action would violate any law—specifically, the proviso to section 33 of the Arms Control and Disarmament Act. The proviso to section 33 provides that—

"no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States."

It is clear that the action proposed to be taken will not violate the proviso to section 33, for two reasons. First, it will not obligate the United States; the action will be a non-binding, unilateral policy declaration. Second, the prohibition contained in the proviso applies only to an "action . . . taken under this or any other law"; the action to be taken will not be taken under the Arms Control and Disarmament Act or any other statute, but under the Constitution. The proviso does not purport to affect the President's constitutional power.

Accordingly, issuance of the non-binding policy declaration and its implementation fall within the clear-cut constitutional prerogatives of the President.

STATEMENT OF HON. PAUL C. WARNKE, DIRECTOR, U.S. ARMS CONTROL AND DISARMAMENT AGENCY BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS

Mr. Chairman, I appreciate the opportunity to appear before the Committee today to discuss the expiration of the SALT ONE Interim Agreement on Offensive Arms. The 1972 Interim Agreement expires on October 3 and it is clear that a SALT TWO Agreement to replace it cannot be concluded by that date. In recent days, there has been much discussion in the press about the Administration's plans with respect to this matter. On September 23, Secretary Vance issued a statement to the effect that, in order to maintain a stable situation while the SALT TWO negotiations are being completed, the United States intends not to take any action inconsistent with the Interim Agreement or the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. The Soviets have now issued a policy statement along the lines of our statement. It should be noted that U.S. defense plans would not cause us to exceed any of the Interim Agreement limits in the near future, while the Soviets are in a position to do so because of their active ongoing SLBM construction program.

We carefully considered what action should be taken in view of the fact that the October 3 date would pass before the completion of negotiations on a new agreement. In our deliberations, we concluded after consultation with a number of Members of both the Senate and House that an extension of the Interim Agreement would be inappropriate for two reasons.

First, it would have reduced the pressure on the Soviets and on us to pursue a SALT TWO Agreement based on equal aggregates of strategic offensive arms.

Second, it would formally reaffirm acceptance of the disparity in numbers of strategic weapons established in the Interim Agreement.

Mr. Chairman, our policy statement is exactly what it says—a declaration of present intent. It is non-binding and non-obligatory. The Interim Agreement will expire on October 3 and will not be extended. No agreement limiting strategic offensive arms will be in force after next Monday. The U.S. will be free to change the policy announced in its statement of September 23 at any time. Because our non-binding statement is not part of an international agreement and does not impose any obligation on the U.S., we have not requested Congressional approval for it. We will carefully and continually monitor Soviet activities.

If these activities or any other circumstances warrant, we will be free to take whatever actions are appropriate, irrespective of the provisions set forth in the Interim Agreement.

We will of course, continue to consult closely with members of this committee and other members of Congress on the progress of SALT. We hope you will support our efforts in this regard.

RESOLUTION

SECTION 1. The Senate of the United States urges that both the United States and the Union of Soviet Socialist Republics seek to maintain the status quo in strategic arms and forgo arms programs which would upset the strategic balance while serious negotiations to achieve a comprehensive SALT II agreement are pursued.

SECTION 2. The Senate of the United States endorses, as a temporary measure, the intention of the Executive Branch not to take any action inconsistent with the provisions of the Interim Agreement between the United States and the Union of Soviet Socialist Republics on Certain Measures with respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, or with the goals of these ongoing negotiations, provided that the Union of Soviet Socialist Republics exercises similar restraint.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CLARK. Mr. President, I did not oppose this resolution in committee because it is, I believe, recognition that the President is on solid constitutional ground in issuing the declaration of policy that the United States will take no action inconsistent with the interim agreement.

That the resolution does this is indisputable. It is a concurrent resolution. It therefore does not have the force of law. To authorize any Presidential activity requiring congressional consent, statutory authority is necessary—that is, either a bill or joint resolution. Since this is neither a bill nor a joint resolution, no law will have been enacted and no authority can be inferred from it.

That being the case, and given the resolution's endorsement of the President's action, authority must already exist, and that authority is the Constitution.

This resolution is therefore legally unnecessary. By its form—a concurrent resolution—it admits that. I support it because it endorses the President's action and recognizes his constitutional authority to take it.

Mr. President, I ask unanimous consent that there be entered in the RECORD at this point copies of the opinions of the Legal Adviser of the Department of State and the Legal Counsel of the Senate Foreign Relations Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
Washington, September 28, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for my opinion relating to the statement released by Secretary Vance on September 23. That statement declared the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that the Soviet Union exercises similar restraint. Shortly after the release of that statement, the Soviet Union made a similar statement.

The principal question raised with regard to the statement is whether it requires authorization by treaty or legislation under section 33 of the Arms Control and Disarmament Act (the "Act"). That inquiry, in turn, raises the further question whether the statement legally obligates the United States.

Section 33 of the Act prohibits any action "under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or arma-

ments of the United States . . ." except pursuant to treaty or legislation. The language and legislative history of the Act make clear that Section 33 is confined to obligatory arms control arrangements effected by binding international agreement[1] entered into pursuant to the Act or other law. It does not purport to limit the constitutional power of the President to take non-obligatory measures in connection with conduct of international negotiations.

The United States statement of September 23 does not, alone or in conjunction with the Soviet statement, impose an obligation on the United States. The United States has declared that its statement is "non-binding and non-obligatory."[2] Neither country has committed itself in its statement. Each has only stated a present intention to refrain from certain action provided that the other refrains from similar action. Each is free to reverse its intention at will; the negotiations which the policy of restraint is intended to facilitate could continue even if the declared policies were abandoned.

These circumstances thus lack essential elements of an obligation or a binding agreement: there is no intent by either party to be bound;[3] each may at any time cease to do what it has said it presently intends to do; and there would be no legal consequences if either changed its stated policy.

Accordingly, I am of the opinion that the September 23 statement does not legally obligate the United States, by binding international agreement or otherwise, and does not require authorization under section 33 of the Act.

Sincerely yours,

HERBERT J. HANSELL.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 23, 1977.

To: Members, Committee on Foreign Relations.

From: Michael J. Glennon, Legal Counsel.

Subject: Does the unilateral declaration of policy outlined in Secretary Vance's September 21, 1977 letter to the Chairman—(1) constitute an international agreement; (2) require Congressional approval; (3) violate section 33 of the Arms Control and Disarmament Act?

Whether a given arrangement constitutes an international agreement depends upon the intent of the parties, which may be inferred from a number of factors, including the following: whether it is binding on all parties and governed by international law; whether promises are exchanged for each other, as a quid pro quo, through a bargaining process aimed at achieving a meeting of the minds; whether similar, past arrangements have been regarded as agreements; and international custom and practice. If, applying these criteria, an agreement is found to exist, the question becomes whether the agreement is such as to require some form of congressional approval.

It is clear that the proposal outlined in the Secretary's September 21 letter and in thorough discussions with the Committee staff will not constitute an agreement. It is nonbinding, it is not governed by international law, no exchange of promises has been bargained, other such actions have not been so construed, and the parties do not intend for an agreement to exist—indeed, there are no "parties" as such. The staff is assured by Mr. Warnke that no collateral exchanges have occurred with Mr. Gromyko which would alter the legal status of the declaration described in the September 21 letter.

Since no international agreement exists, the question of whether Congressional approval is required is not reached. The only issue remaining is whether the proposed action would violate any law—specifically, the proviso to section 33 of the Arms Control and Disarmament Act. The proviso to section 33 provides that—no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

It is clear that the action proposed to be taken will not violate the proviso to section 33, for two reasons. First, it will not obligate the United States; the action will be a non-binding, unilateral policy declaration. Second, the prohibition contained in the proviso applies only to an "action . . . taken under this or any other law"; the action to be taken will not be taken under the Arms Control and Disarmament Act or any other statute, but under the Constitution. The proviso does not purport to affect the President's constitutional power.

Accordingly, issuance of the non-binding policy declaration and its implementation fall within the clear-cut constitutional prerogatives of the President.

LEGAL QUESTIONS

1. Please describe fully all discussions with the Soviets regarding the proposed unilateral policy declaration.

2. Did the United States at any time agree to make that declaration in return for a similar declaration by the Soviet Union?

3. Is there any quid pro quo?

4. Is the declaration binding?

5. Would the Soviets regard it as "sharp practice" on the part of the United States if we were to rescind that declaration next month?

6. Why do you believe that this proposal does not constitute an international agreement?

7. Why do you believe that the proviso to section 33 of the Arms Control and Disarmament Act is not violated? The proviso to section 33 provides that—no action shall be taken under this or any other law which will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

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[1] Language in the House bill (H.R. 7936) which would have included "measures" other than international agreements within the Act's definition of "disarmament" was deleted prior to enactment.

[2] Mr. Warnke so testified to the Committee on Foreign Relations on September 26.

[3] The International Court of Justice has ruled that in some circumstances a state may be legally bound by a unilateral statement. (Nuclear Test Cases, Australia v. France, and New Zealand v. France, Judgment of 29 Dec. 1974, I.C.J. Reports 1974, pp. 253, and 457.) However, that decision turned on the intent of the declaring state to be bound and the likelihood of reliance by other states on the binding character of the declaration. Its rationale is not applicable in the present circumstances in which the United States has publicly made clear that it does not intend its statement to be binding.

Mr. GLENN. Mr. President, arms control is simply one step toward reaching long-term political understanding and stability. Therefore, arms control measures like SALT that result in meaningful exchanges, in better understandings of each side's perceptions, in mutual education regarding doctrinal differences, are valuable. Both sides obviously possess massive overkill capabilities. Hence, reductions in strategic offensive arms that are adequately verifiable have much to offer ourselves, the Soviets, and, ultimately, our world.

The SALT process is not a panacea. But, it is, for the moment, our best hope in enhancing mutual security. Vladivostok-type agreements which require both sides to build to absurdly high levels are not desirable measures. Rather, SALT agreements that limit or reduce weaponry and insure verification is possible, are the first steps toward stability and understanding. Indeed, these steps are a necessity if we are to have peace.

Verification is, in my opinion, the key to arms control developments. Any agreement is likely to succeed in direct proportion to its verification prospects. There is enough mistrust on both sides that there can never be the political understanding referred to above without greater confidence. Adequately verified arms control agreements are a significant means of enhancing mutual confidence.

A question publicly unanswered by officials is what would happen to the SALT II Treaty and protocol if the SALT III Treaty, which presumably would be intended to contain restrictions on the counterforce capabilities of both sides, could not be completed before the temporary protocol runs out. If negotiations are then proceeding in good faith, it could be expected that the protocol restrictions on counterforce would be extended as necessary. If, in a worst case scenario, negotiations for a SALT III Treaty failed, serious issues of national security would arise. Thus, if and when a three-part set of SALT agreements is submitted to Congress for approval, it might be wise to explore the implications of possible failure in completing a SALT III Treaty based on the principles of the third agreement in the Geneva framework.

Unilateral statements and deliberately vague language are not desirable in SALT treaties. The ambiguous and unilateral U.S. definition of "heavy missiles" in SALT I and later congressional testimony stands in stark contrast to Soviet replacement of the SS–11 by the SS–19 with three times the throw-weight and nearly double the volume of the earlier "light" missile. Hence, clarity of thought and language are essential. It is encouraging therefore to observe the careful preparation and drafting involved in the joint draft text. This process will hopefully minimize later charges of noncompliance.

Our basic objective must be to retain secure deterrent forces by both sides. The strategic balance then will be stable since there is little incentive to preempt or deliver a nuclear first strike. Moreover, the eventual shifting of strategic weaponry to the less vulnerable sea-based missile system with less throw-weight, relatively less accuracy, and an emphasis on countervalue rather than counterforce targets, would further enhance stability.

The critical unresolved question facing the United States is the extent to which Soviet planners adhere to American concepts of strategic stability. The

question remains unanswered as to whether, in Soviet strategic thought and planning, stability or parity in strategic weapons represent goals in themselves or instead provide but a stage, or milestone, on the road between strategic inferiority and superiority—however these terms are defined. Does the Soviet Union seek merely a war-deterring capability or a war-fighting capability? It is this question which demands the discussion of strategic doctrine in future SALT negotiations.

The maintenance of a belief by both sides that a military balance exists is crucial. In such a situation the case of military coercion can never appear as a rational choice and this is an essential condition for effective arms control. Hence, realistic arms control goals will center on verifiable agreements that freeze—and later hopefully reduce—the levels of strategic arms and solidify mutual deterrence. Mutual confidence is critical and a record of compliance by both sides is necessary for future SALT accords.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

UP AMENDMENT NO. 860

Mr. ALLEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 860:

At the end of the Resolution add the following—

"Be it further resolved that the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may have 2 minutes to speak.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, I do not favor this resolution. The SALT I agreement that the Senate approved had the Jackson amendment in it, that in the next agreement we had, we would move in the direction of equality, parity.

I have been of the opinion all along that it is going to be very difficult, indeed, to work out a SALT II agreement with the Russians because they were satisfied with SALT I. As I see it, it had built in about a 3-to-2 advantage for the Russians in offensive nuclear weapons.

This agreement here would just prolong the negotiation. It would encourage the Russians to fail to reach an agreement, so that they could preserve SALT I, and we would not be moving in the direction of a parity with the Russians.

I think this resolution, coming here as a surprise to most of us, should not be considered at this time so precipitately. I feel it ought to go back to the Foreign Relations Committee to have further baking. I feel that is necessary, and I would like to feel, I think, that possibly some better agreement could be worked out.

I am not satisfied with this. The sponsors of the resolution have accepted this amendment that I offered to require reports every 6 months, and I do not know how many other amendments might be advisable.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ALLEN. Mr. President, I move that the resolution be recommitted to the Committee on Foreign Relations, and I call for the yeas and nays.

Mr. CRANSTON. Mr. President, would the Senator from Alabama be willing to go by voice vote? We are trying to get on to the other matter.

Mr. ALLEN. No. I would rather have a yea and nay vote. I can understand why the Senator would like to have a voice vote.

The PRESIDING OFFICER. The Chair is conducting research on the parliamentary situation.

The unanimous-consent agreement provided for the disposition of the resolution at the end of the time.

Mr. ALLEN. This would be a disposition.

The PRESIDING OFFICER. It would not be a disposition.

Mr. ALLEN. It does not hold with a vote up or down.

The PRESIDING OFFICER. It requires some final action.

Mr. ALLEN. That might well be final action. [Laughter.]

The PRESIDING OFFICER. Not necessarily.

Mr. CRANSTON. Mr. President, I move to table the motion to recommit.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The request of the Senator from Alabama is ruled out of order.

The question is on agreeing to the resolution.

Mr. HELMS. Mr. President, in a moment I shall move to table the pending resolution, not in the expectation that it will indeed be tabled but for the purpose of affording some of us a few minutes to determine whether the resolution can be modified to protect the interests of the American people.

In my judgment, the resolution as it now stands does not do that. I do not question the good intention of those who have brought this resolution before the Senate in such a, shall we say, rapid set of circumstances, with, I dare say, very few Senators even knowing it would be acted upon today, let alone understanding the implications of the language of the resolution.

Perhaps an amendment or amendments can be drafted during a rollcall on the tabling motion I shall shortly make—an amendment that will correct some obvious defects in the resolution. We shall see about that.

Let me say, Mr. President, that I share the concerns expressed by the distinguished Senator from Arizona (Mr. GOLDWATER) who probably spoke the sentiments of a great many of us. In any case, there appears to be broad agreement that the President must realize that he must not continue to make binding declarations on SALT without consulting the Senate. That has happened too often already, to the detriment of our Nation.

Any attempt by the executive branch to circumvent the clear constitutional mandate that all treaties should be ratified by a two-thirds vote of the Senate should be exposed for what it is—and stopped immediately, no matter who is in the White House.

Who can say that such is not exactly just what the executive is doing with its unilateral declarations on SALT—unilateral declarations which the Soviets also have made? Are these mutual declarations truly "unilateral?" Or do we have little more than a subtle attempt to make an agreement in fact—disguised as "unilateral" declarations—which should be ratified by the Senate as a treaty?

For too long, the Executive has been able to make what amount to binding agreements by the vehicle of so-called "Executive agreements." Are we now to add what the Wall Street Journal in a recent editorial labeled the "parallel unilateral policy declaration" to this list? Of what value is the constitutional restriction, indeed, mandate, of the advise and consent role of the Senate on foreign policy and treaty-related matters?

It is time for the Senate to deal forthrightly with SALT and the entire arms control issue. Had we done so several months ago, we would not now be in the position of trying to demonstrate to the President that the Senate insists upon its own role in the SALT process, and not merely ratifying a fait accompli.

Rather than approve this resolution ratifying ex post facto what the President has done, why not refuse to give our approval to the President's actions until the Senate, the Congress and the American people have had an opportunity to give careful consideration to what our strategic arms limitation policy should be?

There is little if anything in this resolution which faces the issues involved in SALT squarely. There is no stated disapproval by the Senate of unilateral declarations on the part of the Executive. There is no stated Senate disapproval of what the Executive has done—and done without consultation with the Senate as far as I am able to ascertain.

No. Instead, we have a ratification of the President's actions. I cannot see that a ratification of what the President has done—after he has done it—gives the Senate any leverage over the Executive. I cannot see that such a ratification is even desirable.

The time has come, the time is now, for the appropriate committees and subcommittees of the Senate to begin a thorough look into this Nation's strategic posture. Where are we going in SALT? Where do we stand vis-a-vis the Soviets? What should our overall policy be?

This is all the more important in light

of what the executive branch has been doing.

Many of us have seen the reports about the administration's study of future U.S. strategic policy options, the so-called PRM–10 report. While most Senators have seen press reports about PRM–10, how many Senators have seen PRM–10? Or even a summary of PRM–10? How many Senators even know who the main author of this study is?

Mr. President, if press reports about PRM–10's contents are true, then the administration's formulation of future strategic policy options are indeed disturbing—not only to Americans, but also to America's allies. Two recent Evans-Novak columns have brought frantic inquiries from our German and Korean allies. How many of us in the Congress envision a U.S. policy which allows the Soviets to take over as much as one-third of Germany, for example? Well, according to Evans-Novak, the administration contemplates just that.

Is it not time to bring to the light of day such proposals, so that they can be debated in the Senate and defended by their proposers in the administration?

Furthermore, Mr. President, another Evans-Novak column purports to discuss a memorandum authored, it is claimed, by Leslie Gelb, a high-ranking State Department official. What Evans-Novak referred to in their column now seems to be the administration's SALT policy.

Should not the appropriate committees and subcommittees—indeed, all Senators—be able to study this memorandum and discuss its contents with its author? And with Mr. Warnke, our SALT negotiator?

Mr. President, it is late in the day for resolutions attempting to get a grasp on the fast-moving events surrounding the SALT negotiations.

The Constitution requires that the Senate advise in matters such as the SALT negotiations. Unfortunately, this resolution, no matter how well-meaning, only requires that we consent.

If we want to send the administration a message, if we want the President's advisors and negotiators on SALT to take us into their confidence and earnestly seek our counsel, then I say we should reject this resolution. Let us have a constructive confrontation with the Executive over SALT and our Nation's future strategy vis-a-vis the Soviets.

The people of the United States would be the direct beneficiaries of such a confrontation. The security of all Americans demands no less.

Mr. President, I ask unanimous consent that the editorial, "When in doubt, PUPD," from the September 28, 1977, Wall Street Journal; and the Evans-Novak articles entitled "Conceding Defeat in Europe, The U.S. Commitment to Defend Europe (Amended), and SALT: Creating an "Appearance of Progress," be included in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed, as follows:

[From The Wall Street Journal, Sept. 28, 1977]

WHEN IN DOUBT, PUPD

In its conduct of the Strategic Arms Talks, the Carter administration has come up with a diplomatic innovation, the Parallel Unilateral Policy Declaration (PUPD). Indeed, it could solve all of its Panama Canal Treaty problems by turning arms negotiator Paul Warnke loose on that one.

The interim agreement on offensive arms concluded at SALT I expires Monday. A new agreement has not yet been reached, and there has been interest on both sides in extending the terms of the expiring one. Indeed, we understand that the Russians were willing to sign an actual agreement extending it.

The U.S. negotiators demurred, since if they signed an agreement with the Russians it would have to go to the Senate for approval as a treaty. Instead, they negotiated some language with the Russians, and each side issued an identical PUPD, pledging to abide by the terms so long as the other did. When asked if Congress should approve the agreement he has just negotiated, Mr. Warnke in effect replies, "what agreement? Never heard of it." Senators who have spent the last five years frothing at the mouth about the prerogatives of Congress think this is just dandy.

As it happens, we have had some experience with "unilateral" statements during the Strategic Arms Talks. Back when SALT I was signed we made a unilateral statement defining the "heavy missile" in the agreement. During the life of the treaty the Soviets have walked all over our unilateral statements, deploying much larger missiles, and we have not lifted an official finger to complain.

If Mr. Carter gets away with this one, his problems with the Panama Canal Treaty are over. After all, he and the Panamanian government agree; the only problem is the U.S. Senate. All he has to do is to send Ellsworth Bunker and Sol Linowitz back to reframe the thing as a parallel unilateral policy declaration.

[From the Washington Post, Aug. 3, 1977]

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense pending, which these advisers say would provoke Moscow and divide Washington.

PRM–10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28–29 meetings of the Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences"—world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM–10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Wesser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM–10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.–NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmanent or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

PRM–10 also proposes these political steps, accompanying defense reduction, that could help forestall a Russian attack: "the U.S. might pursue arms control initiatives more vigorously to obtain reductions in threat and opposing force levels, thereby minimizing the risk of unilateral U.S. reductions. With respect to the Soviet Union, the U.S. might undertake a broad program of economic assistance to the U.S.S.R. on trade, credits, food, and technology, thereby lowering political tension and reducing the risks of war."

The four options calling for increases in defense spending says PRM–10, would be intended to roll back a Soviet invasion but "may provoke adverse Soviet and allied reacton." This "might provoke a similar Soviet counter-build-up or even a preemptive attack," and therefore "might actually undermine deterrence."

Arms control negotiations would be disturbed by "strategies requiring a visible and rapid increase in the size of U.S. and allied forces, particularly in Europe . . . Soviet suspicion of U.S. motives would make it more difficult to conclude meaningful arms control agreements, either SALT (Strategic Arms Limitation Talks) or MBFR (Mutual Balanced Force Reductions)."

PRM–10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble; in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicity accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "polit-

ical environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

THE U.S. COMMITMENT TO DEFEND EUROPE (AMENDED)

(By Roland Evans and Robert Novak)

A draft presidential directive on defense strategy was amended last week by adding six words that seemingly reassert the U.S. commitment to defend central Europe but actually raise contradictions that can only be resolved by Jimmy Carter himself.

The original draft prepared last month contained this ambiguous policy for meeting a Soviet attack against West Germany: "Consonant with present NATO strategy, including forward defense, the U.S. is committed to minimum loss of territory in the event of a Warsaw Pact conventional attack."

A revised version drafted last week was strengthened to read that "the U.S. is committed to having the capability, in conjunction with the allies, to stop a Warsaw Pact attack, with minimum loss of territory, and ultimately to restore prewar boundaries." Most important are those last six words—"and ultimately to restore prewar boundaries"—which mean that any Soviet invasion would be rolled back to the Communist bloc's present borders.

According to some defense sources, those six words were slipped into the directive after our recent column reported a U.S. strategy conceding the loss of one-third of West Germany to a Soviet invasion. Whatever the timing, the revision raises two serious questions.

Question No. 1: PRM–10, the voluminous national-strategy paper upon which the six-page presidential directive is based, says a Soviet attack in central Europe can be rolled back to "pre-war boundaries" only if defense spending is increased beyond a level acceptable to the U.S. public. As we reported earlier, National Security Adviser Zbigniew Brzezinski echoed that view before the Security Coordinating Council (SCC), which made no dissent. So, how will the pledge in the presidential directive be made good?

Question No. 2: Both PRM–10 and Brzezinski (at the SCC meeting) suggest covering military weakness with strong rhetoric. So, were the six reassuring words added merely in pursuance of this dubious tactic?

What is involved here is not merely scholarly consideration of future options but an official appraisal of present reality. PRM–10 says: "The study concludes that the chance of NATO's stopping an attack with minimal loss of territory and then achieving its full objective of recovering that land which had been lost appears remote at the present time."

The four alternative strategies indicated by PRM–0 as the ones most acceptable to the American public would continue this situation. In addition, PRM–10 says the strategies "provide only a moderate conventional capability to confront the Soviets worldwide in the event a major war erupts" and indicates the existing capability to do this is "uncertain." That undermines The New York Times report, attributed to "a senior White House official," that U.S. attacks on Soviet "assets" outside Europe would force Moscow to surrender Germany territory gained in an invasion.

To compensate for this weakness, both PRM–10 and Brzezinski propose public reaffirmation of present NATO strategy while privately admitting inadequate means to pursue it. PRM–10 urges that the U.S. "publicly support MC–14/3 (official NATO strategy), particularly with reference to forward defense and restoration of the status quo ante." Hence, the latest draft of the presidential directive is less than convincing when it declares "the U.S. reffirms U.S. strategy as expressed in MC–14/3."

The alternative to such deception is described by PRM–10 as a minimum of 33 Army divisions (compared to the present 16) in the U.S. force structure. Even a 27-division structure, says the document, could not recapture the one-third of West Germany lost to Soviet invasion.

This grossly misstates the problem, in the view of most military experts—such as retired Gen. James Hollingsworth. In his 1976 study for the Senate, Hollingsworth put less stress on additional manpower than on additional firepower. Nowhere in the hundreds of pages of PRM–10 is it even suggested that standardized, more powerful rockets and guns might defend central Europe without massive increases in defense spending.

PRM–10, the product of newly appointed civilians at the Pentagon, is regarded by uniformed officers not so much as ideologically impure as professionally shoddy. Secretary of Defense Harold Brown has been chary about giving it his full endorsement and has privately criticized aspects of it. Yet nobody has repudiated it as a source of vast potential mischief, and the fact remains that Brzezinski has embraced its NATO strategy.

One additional contradiction: Whereas the draft presidential directive reaffirms President Carter's promise to NATO of a three percent annual increase in real U.S. defense spending, the Office of Management and Budget has put a one per cent increase ceiling on next year's defense budget. The gap between what this administration says and what it does on defense questions is widening.

[From the Washington Post, Sept. 14, 1977]

(By Rowland Evans and Robert Novak)

SALT: CREATING AN APPEARANCE OF PROGRESS

A top Carter policymaker has devised an arms-control strategy that offers escalating concessions to give the appearance of progress in SALT in order to avert congressional interference.

The secret "SALT strategy paper" drafted by Leslie H. Gelb, director of the State Department's politico-military affairs office, affords a rare peek into unguarded thinking at upper reaches of the Carter administration. Gelb's 15-page memorandum, dated July 26, boils down to these two imperatives: First, agreement with the Soviet Union in the strategic arms limitation talks (SALT) transcends mere military considerations; second, restrictions imposed by Congress must be avoided, whatever the cost.

Specifically, the Gelb strategy would extend the present SALT I treaty, due to expire Oct. 3, "through informal means" rather than "formal extension, with the prospect of critical [congressional] hearings and restrictive amendments." Such an administration effort has long been known. But Gelb makes specific how to pull it off: Show some progress on current SALT II negotiations. The Gelb strategy implies such progress is possible only by severely limiting U.S. cruise-missile deployment.

This proposal generated astonishment and distress within the Carter administration when Gelb's paper was circulated six weeks ago. Nevertheless, the strategy being hammered out at high-level meetings last week was a first cousin of Gelb's (though the Defense Department is demanding major changes.) Moreover, friendly congressmen are being privately consulted this week about "informal" extension of SALT I.

The "interim accord" curbing intercontinental missiles was signed in Moscow in 1972 as SALT I. If a new SALT II treaty placing overall limits on strategic weapons is not agreed to before Oct. 3, SALT I will expire. This has generated a mood of deep alarm, as is reflected by Gelb's strategy paper.

"No progress on SALT by October risks further straining overall East-West relations and, in turn, inhibiting cooperation on other bilateral issues," Gelb wrote. "Notwithstanding efforts to downplay in significance, no progress would magnify the negative international and domestic repercussions of a failure to meet the Oct. 3 deadline."

But Gelb, the former New York Times correspondent who is now a mastermind of President Carter's diplomacy, asserts that even with "some progress by October, it is doubtful that a SALT II agreement could be reached sooner than early 1978." What's more, Gelb makes this unusual admission: "The U.S.S.R. has not accepted the major elements of the U.S. proposal and has not even responded to some."

Therefore, Gelb's solution, reflecting the administration's concern about second-guessing from Capitol Hill: "We should plan to extend the interim agreement [SALT I], preferably through parallel, non-binding declarations, avoiding formal extension that would legally require congressional approval."

But Gelb recognizes that extending SALT I would be dangerous if there were no significant progress in SALT II. "Informal extension would almost certainly be attacked for failure to obtain congressional approval, while formal extension would provide opponents a platform for criticism of the SALT process itself and the conduct of U.S.-Soviet relations. Most worrisome is the prospect that formal approval of an extension might be tied to congressional criteria for an eventual SALT II treaty."

Thus, on top of major retreats made so far, the Gelb paper suggests still more concessions in hopes of giving the impression of progress:

"We would almost certainly have to back down on counting heavy-bomber variants"—the Soviet Bison and Bear bombers—as part of the overall strategic total. "To induce the Soviets to a lower MIRV [multiple independently targeted reentry vehicles] we could agree not to count the 120 disputed silos at Derzhayna and Pervomaysk against the [MIRV] ceiling."

The more startling concessions come on the cruise missiles, the amazingly accurate drone aircraft that has become a replacement for the junked B–1 bomber. The Gelb strategy would stitch into a new SALT II treaty (lasting eight full years) a 2,500-kilometer limit on air-launched cruise missiles. It would also restrict them to as few as 10 missiles per B–52 bomber and 30 per wide-bodied aircraft.

Beyond this, Gelb calls for "an added element of compromise." He suggests a 600-kilometer ceiling on cruise missiles launched from non-heavy bombers as part of the eight-year treaty—not simply as part of the three-year protocol previously offered. Another compromise might be the statistical inclusion of each wide-bodied plane carrying cruise missiles as one MIRV and each B–52 armed with cruise missiles as three MIRVs.

The Pentagon has protested that the cruise missile is vital now that the B–1 is dead, but there is pessimism about overriding the Gelb strategy. The ultimate decision is up to Jimmy Carter, who may soon clarify what he really thinks about these complicated questions of life or death.

Mr. HELMS. Now, Mr. President, I move to table the resolution and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 19, nays 77, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—19

Abourezk	Griffin	Schweiker
Allen	Hansen	Scott
Bartlett	Hatch	Thurmond
Curtis	Helms	Wallop
Dole	Lugar	Zorinsky
Domenici	McClure	
Garn	McGovern	

NAYS—77

Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bayh	Gravel	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
	Huddleston	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schmitt
Church	Laxalt	Sparkman
Clark	Leahy	Stafford
Cranston	Long	Stennis
Culver	Magnuson	Stevens
Danforth	Mathias	Stevenson
DeConcini	Matsunaga	Stone
Durkin	McIntyre	Talmadge
Eagleton	Melcher	Tower
Eastland	Metzenbaum	Williams
Ford	Morgan	Young

NOT VOTING—4

Humphrey	Metcalf	Weicker
McClellan		

So the motion to lay on the table the resolution was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I move the adoption of the resolution.

UP AMENDMENT NO. 861

Mr. MCCLURE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 861: At the end of the resolution add the following—

Mr. MCCLURE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats and refrain from conversation.

The clerk will state the amendment.

The second assistant legislative clerk continued the reading of the amendment as follows:

Provided, however, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Mr. MCCLURE. Mr. President——

The PRESIDING OFFICER. No debate on the amendment is in order.

Mr. MCCLURE. Mr. President, I ask unanimous consent that we might have a period of 20 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Mr. President, reserving the right to object, I regret having to object on such an important matter, but the Senate has been tied up with all sorts of——

Several Senators addressed the Chair.

Mr. STENNIS. The Senate is not in order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. The Senator from California.

Mr. CRANSTON. Reserving the right to object, I am reluctant to object, but I must do so, because the Senate has been tied up for an endless period of time on another bill. We have to get to that bill. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCLURE. Mr. President, I ask unanimous consent, then, that the clerk be permitted to read the amendment while it is quiet enough to hear it read.

The PRESIDING OFFICER. The amendment has been read.

Mr. MCCLURE. I ask unanimous consent that it be read again.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The second assistant legislative clerk read as follows:

Provided, however, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Mr. MCCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, if the resolution is adopted, it cannot possibly be subject to any such interpretation. Therefore, the amendment is surplus and unnecessary, and I move it be laid on the table.

Mr. MCCLURE. Mr. President, a point of order.

Mr. CHURCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Idaho (Mr. MCCLURE). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN, and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER), is necessarily absent.

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—62

Anderson	Glenn	McIntyre
Bayh	Gravel	Melcher
Bentsen	Hart	Metzenbaum
Biden	Haskell	Moynihan
Brooke	Hatfield	Muskie
Bumpers	Hathaway	Nelson
Burdick	Hayakawa	Nunn
Byrd, Robert C.	Hollings	Pearson
Cannon	Huddleston	Pell
Case	Inouye	Proxmire
Chafee	Jackson	Randolph
Chiles	Javits	Ribicoff
Church	Johnston	Riegle
Clark	Kennedy	Sarbanes
Cranston	Laxalt	Sasser
Culver	Leahy	Sparkman
DeConcini	Long	Stennis
Durkin	Magnuson	Stevenson
Eagleton	Mathias	Stone
Eastland	Matsunaga	Williams
Ford	McGovern	

NAYS—34

Abourezk	Goldwater	Schmitt
Allen	Griffin	Schweiker
Baker	Hansen	Scott
Bartlett	Hatch	Stafford
Bellmon	Heinz	Stevens
Byrd, Harry F., Jr.	Helms	Talmadge
	Lugar	Thurmond
Curtis	McClure	Tower
Danforth	Morgan	Wallop
Dole	Packwood	Young
Domenici	Percy	Zorinsky
Garn	Roth	

NOT VOTING—4

Humphrey	Metcalf	Weicker
McClellan		

So the motion to lay on the table Mr. MCCLURE's UP Amendment No. 861 was agreed to.

Mr. MCCLURE. Mr. President, I make a point of order against the resolution on the ground that a quorum of the committee was not present at the time it was reported to the floor.

The PRESIDING OFFICER. The Chair asks the chairman of the committee whether a quorum was present when the resolution was ordered reported.

Mr. CHURCH. Mr. President, the Senate committee has met twice, once at the time when the measure was first reported out. At that time, the question of a quorum was not raised and the committee acted upon the usual assumption that a quorum was present, after which, other members of the committee were polled. The committee then met a second time, this morning, a few minutes ago, on the floor of the Senate——

Mr. DOMENICI. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHURCH. The committee, meet-

ing a few minutes ago on the floor of the Senate, at which time a quorum was present, reconfirmed its action in reporting out the resolution. So the committee has voted twice—once upon the assumption that a quorum was present, with the remaining Senators polled, and a second time on the floor of the Senate, reconfirming the previous action, when a quorum was ascertained to be present.

The PRESIDING OFFICER. If a physical quorum was not present when the resolution was originally reported, then the resolution never left the committee and is still in the custody of the committee. The point of order is well taken.

Mr. CHURCH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho will state the parliamentary inquiry.

Mr. CHURCH. Inasmuch as the Committee on Foreign Relations has since met and a quorum was ascertained to be present, the committee then voted in favor of the resolution, and that vote was taken with a full quorum present, is the resolution now before the Senate?

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. CHURCH. I yield to the distinguishd chairman.

Mr. SPARKMAN. Were we not advised that such a resolution would lie over for 1 day? Were we not advised that such a resolution agreed to would have to lie over 1 day?

Mr. CHURCH. Subject to the unanimous consent of the Senate to permit us to proceed. Every step has been taken to correct any possible lack of a quorum, the committee having met for a second time with a quorum present and again having recommended the resolution favorably to the Senate. I hope that the Senate may be permitted to vote on this resolution and not have the matter lie over still another day on a pure technicality.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Did the committee have permission to meet while the Senate was in session?

The PRESIDING OFFICER. The committee did not need permission to meet, since the first 2 hours had not, at that time, expired.

Mr. DOMENICI. Mr. President, I say to my good friend from Idaho, the senior Senator, that if he asks unanimous consent to waive for 1 day, I personally will object. I shall state why. The Senate has had 11 days of debate on a natural gas bill, when we gave everyone time to talk about amendments. The junior Senator from Idaho, in my opinion, has a bona fide amendment brought to this floor and it was objected to because we could not take 20 minutes to discuss it. It appears to me that some of us do not quite understand, as many others of us do, this resolution and its effect on us. We seem to be concerned about its effect on the President. I am concerned about its effect on Congress 6 months from now.

So if the Senator asks for it, I shall object. When some courtesy is shown to the junior Senator from Idaho to let him discuss this issue—we would have agreed to 30 or 40 minutes a while ago. But it would not give him 10 minutes to discuss his amendment.

Mr. CHURCH. I say to the Senator that the objection was raised by the leadership for reasons that the leadership felt sufficient, given the cloture predicament in which we find ourselves. But if the Senator is going to object to a unanimous-consent request which would permit the Senate now to vote on the resolution, that is his right. In that case, the action taken by the committee will result in the resolution being held at the desk, and 1 day will have to intervene before the Senate may take it up and consider it.

Mr. DOMENICI. Mr. President, I want to say that I am not one who is prone to do this, but I repeat that I shall so object, and I shall object tomorrow when he asks for unanimous consent——

The PRESIDING OFFICER. We are on S. 2104 and are under cloture.

Mr. McCLURE. Mr. President, I ask unanimous consent to proceed for 5 minutes without its being charged to my time under cloture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCLURE. I thank the leadership for withholding its objection.

I shall not object to the Senate Foreign Relations Committee meeting during a session of the Senate today so that they may consider this matter if they desire to do so today. I appreciate very much what my colleague from New Mexico has said on my behalf.

This amendment, I think, is a serious amendment. It does address itself to some serious problems:

What does the language of the resolution, as presented to us, do to the previous action of the Congress of the United States with respect to the development of the cruise missile? What does it do or say with respect to the limited funds voted for the B–1 bomber? What does it do or say to the previous expressions of this Congress with respect to Diego Garcia?

It may turn out that it does not affect any of those, but in my judgment, it can be construed to say that each of those previous actions and others taken by Congress have been wiped away by the language of this resolution.

I hope that the Committee on Foreign Relations will consider that at the time that they have this before them for reconsideration.

Mr. CHURCH. Mr. President, I ask unanimous consent that I may have 5 minutes to reply to my distinguished colleague.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHURCH. All this resolution does is associate the Congress with an action that has been taken by the President through the Secretary of State. That action reads as follows:

In order to maintain the status quo while (SALT II) negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures with Respect to the Limitations of Strategic Offensive Arms which expires October 3, 1977—

Today—

and with the goals of these ongoing negotiations, provided that the Soviet Union exercises similar restraint.

I suggest that the language is not susceptible to any interpretation that the United States, acting through the Secretary of State, has done anything other than declare its intention not to take an action inconsistent with the provisions of the interim agreement.

There is no use raising all kinds of extraneous arguments relating to the military budget or to other legislation within the competence of Congress. All this resolution says is that, when the Secretary of State declares that we have no intention of violating the interim agreement which expires today, providing the Russians do not violate it, this body concurs with that decision.

Now, the Congress can go one of two ways. It can say that we think the United States should immediately begin to take actions inconsistent with the interim agreement. Or it can say we concur in the President's declaration that we should abide by the interim agreement as long as the Russians do likewise, pending the completion of negotiations on SALT II.

To bring in extraneous issues that clearly fall outside the scope of the declaration only obfuscates this debate.

Mr. JACKSON. Will the Senator yield?

Mr. CHURCH. Yes.

Mr. JACKSON. Mr. President, I have worked very closely on a bipartisan basis with a number of Senators who have been deeply concerned, as I have, about the need to provide for a legislative extension, in effect, of the interim agreement.

I do not think anyone in this body is about to say I am soft on the issue of getting a SALT agreement that will protect the vital national security interests of the United States. I want to say to my colleagues that I think it would be a great mistake if we do not approve this resolution.

I point out that in the interim agreement is the requirement of the so-called Jackson amendment of 5 years ago in which we insisted that any future SALT agreement not limit the United States more than the Soviet Union. That amendment, calling for equality, is today the law of the land.

I think it would be unfortunate if we get off the subject here and go in various different directions that have nothing to do with this.

Mr. President, for example, the cruise missile, Diego Garcia, B–1, they are not involved in this interim agreement. They are not constrained——

Mr. McCLURE. Will the Senator yield on that point?

Mr. JACKSON. Yes.

Mr. McCLURE. I thank the Senator for yielding.

I agree with the Senator that they ought not be involved and it may, in-

deed, be the intention of the Foreign Relations Committee that they are not involved. But, as a matter of fact, a simple reading of the language of the resolution in conjunction with the statement of the Secretary of State which is referenced in the resolution brings that subject into question.

If, as a matter of fact, it is not the intention of the committee to inject those into this resolution as a part of the questions involved in the resolution, then simply adopt the amendment I offered, or some other clarifying language, and make sure they are not involved.

Mr. JACKSON. Mr. President, I can only say that the interim agreement does not in any manner, shape, or form, relate to those particular items.

Mr. McCLURE. Will the Senator agree with me the goals of these ongoing negotiations do, however?

Mr. JACKSON. The ongoing negotiations do not relate to the interim agreement.

Mr. McCLURE. No, but they refer to those weapon systems.

Mr. JACKSON. No, that is not true as far as——

Mr. McCLURE. Does the Senator——

Mr. JACKSON. May I say to the Senator, the interim agreement speaks for itself and it does not constrain——

Mr. McCLURE. I am not talking about the interim agreement.

Mr. JACKSON. Well, that is what we are here today——

Mr. McCLURE. I am talking about the goals of these ongoing negotiations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Could I have 2 minutes?

The PRESIDING OFFICER. Is there objection?

The Senator from Washington is recognized for 2 minutes.

Mr. JACKSON. I yield so that the Senator can continue.

Mr. McCLURE. I thank the Senator.

The Senator refers only to the interim agreement, but the Secretary of State's statement of intent refers not only to the interim agreement, but to the goals of the ongoing negotiations, and that brings into it all these systems that the Senator is more familiar with than I am.

I might note that the evening paper last evening stated there was an agreement in principle about the Indian Ocean that would completely wipe out all the decisions we have made on Diego Garcia.

Those are involved in this resolution.

Mr. JACKSON. I say, Mr. President, that regardless of what the Secretary of State may say, or perhaps may have said, we are dealing here with a specific document, the extension of the interim agreement.

Mr. President, I would like at this time to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, when unanimous consent was granted to bring up the resolution, does that not wipe out any defects prior to that consent, such as an absence of a quorum at the time the resolution was called in the committee?

The PRESIDING OFFICER. In the opinion of the Chair, it would, ab initio, wipe out any objections. However, the Chair preceding the present Chair had already ruled that the objection was in order.

Mr. JACKSON. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I trust that when a mistake has been made by the Chair, or the advice that was given, and not on the facts that were presented to the Chair, obviously the Chair would want to have the argument, which I think is a reasonable one, namely, that a unanimous-consent agreement in which it was agreed that the resolution would be before the Senate for consideration—that that wiped out any defects prior to the bringing in of the resolution.

As a matter of fact, the resolution could be brought up by unanimous consent on the floor at any time.

Mr. McCLURE. Mr. President, a point of order.

Mr. CHURCH addressed the Chair.

Mr. McCLURE. Mr. President, a point of order.

The PRESIDING OFFICER. The Chair will consult with the Parliamentarian.

Mr. McCLURE. Mr. President, might I on the point of order make one comment before the Chair rules?

The PRESIDING OFFICER. The Chair is now consulting with the Parliamentarian, if the Senator from Idaho will kindly permit me to do so.

The Chair observes that the Senate on appeal sustained a ruling of Vice President Barkley that a unanimous-consent agreement to vote on an amendment to a general appropriations bill at a certain hour did not preclude the making of a point of order that it was legislative in nature.

There is no direct point on the question at issue, but argument by analogy is the only one which can be made and the Chair is constrained to rule that the unanimous-consent agreement does not in any way preclude a point of order against an original defect.

The Chair so rules.

Mr. CHURCH. Mr. President, I appeal from the order of the Chair.

Mr. BAKER. Mr. President, will the Senator withhold that for a moment?

Mr. STEVENS. It is debatable.

Mr. BAKER. It is debatable.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, we are now at 12:20 p.m. Not only am I in favor of a resolution to express the Senate's point of view that the President cannot act on his own, and that his action requires congressional authority; but also, I cosponsored this resolution.

I hope, Mr. President, particularly taking into account the business we still have to transact today—and the serious and significant dispute that has arisen on this point, and the point of order that was successfully raised against this measure—that we can drop it and let this matter come back tomorrow and take it up in due course. We have to get on with other business. I do not believe the Senate is fully prepared to get into the merits of this controversy at this time. I thought there would not be serious controversy and that we could do it quickly.

If I may have the attention of the distinguished majority leader, I hope we can move on to the matters at hand and postpone this matter to the regular time on tomorrow, when we can consider it again.

Mr. CHURCH. Would the distinguished minority leader consider another course of action?

It is very important that the Senate act today, because the interim agreement expires today, and every effort was made to obtain the support of the leadership on both sides of the aisle and Senators of differing points of view regarding the wording of this resolution.

When the distinguished junior Senator from Idaho offered his amendment, I am sure that he expressed a sincere concern. In my opinion it is not well grounded, but it raises a question in his mind and may, indeed, have raised questions in the minds of some other Senators.

I have looked at this amendment. My original objection, as he will recall, was that the amendment was unnecessary. I did not raise any objection to it on the basis of its content.

I have no objection to the content of the amendment. If Senators would be better satisfied to have the amendment added, so that nobody would have any reason to be concerned, then I would be willing to accept it, if that would permit the Senate to act in a timely way.

Mr. NUNN. Mr. President, will the Senator yield for a brief observation?

Mr. CHURCH. I would like to get a response from my colleague to this question. If the amendment were accepted, thus clearing up any doubts that he might have or others might share with him, then would he be prepared to waive the point of order and permit the Senate to go forward with a final vote?

Mr. McCLURE. I thank my colleague for his statement, because I have been concerned. Otherwise, I would not have offered the amendment. From the conversations that have taken place on the floor, I know that others are concerned.

There is only one other major concern that remains in the resolution so far as I am concerned, and that is that it is open-ended so far as time is concerned. I will not raise that point, because I am sure we will be acting upon that.

The Senator from Georgia, a member of the Armed Services Committee, had expressed a desire to express himself on the point that was raised by my amendment, and I wonder whether he might be given the opportunity to state his opinion before we proceed any further.

Mr. NUNN. Mr. President, if the Senator will yield me 30 seconds, I should like to make a few comments.

I first thought that the amendment of the Senator from Idaho (Mr. McCLURE) was not necessary. However, after having thought about it for a few minutes, I think he has a legitimate point, be-

cause we have two items contained in the announcement of the Secretary of State. One relates to the terms of the SALT I agreement. I completely agree with the analysis of the Senator from Washington as to that. But the second facet of that relates to the goals of SALT II. If, by passing this resolution, we are endorsing both facet one and facet two, then I think the amendment of the Senator from Idaho would clarify the fact that we are not precluding the going forward with weapons systems that we have already authorized or might authorize in the future.

I do believe that he made a legitimate and important point.

I concur with the inclination of the senior Senator from Idaho to accept the amendment, or some other amendment closely related to that, which would express that purpose. I think the point is well taken.

Mr. McCLURE. In view of that expression and the expression I have received from others, if the Foreign Relations Committee and the Senate would accept the amendment I have offered, I would be perfectly happy to go ahead at this time.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. GOLDWATER. Mr. President, I am not concerned whether or not the spokesman for the committee accepts this. I think it is a good amendment.

My feeling is that, once again, we are breaking the rules of the Senate, and we are letting them get away with it. Either we run the Senate by rules or we do not. Most committees have a judgment of what a quorum is; and if the Foreign Relations Committee has such and they do not operate under it, then I suggest that they all retire to lunch, with a quorum, and return and report it, and we can act on it.

The PRESIDING OFFICER. All time has expired.

Mr. CHURCH. Mr. President, I ask unanimous consent that I may have 3 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—may I, another member of the committee, have 3 minutes?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. GRIFFIN. I object.

Mr. JAVITS. Reserving the right to object, I suggest that, to do this properly, we take 10 minutes and divide it, so that both sides may have an opportunity to make whatever points they wish to make.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to know whether I am going to get any time.

The PRESIDING OFFICER. Will the Senator restate his question?

Mr. GRIFFIN. I am really asking the Senator from Idaho, whose unanimous-consent request is pending, if he will amend it to ask for more time. Then I will not object.

Mr. CHURCH. I amend it to ask for 6 minutes, half of which may be used by the distinguished Senator from Michigan.

Mr. JAVITS. I should like to have a couple of minutese. I suggest the Senator take 5 minutes, give 3 to the Senator from Michigan and 2 to me.

Mr. DOMENICI. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. This has nothing to do with the McClure amendment and agreeing to it at this moment, does it?

Mr. CHURCH. Mr. President, it appears to me that we might very well have to allow this resolution to go over. I had hoped that perhaps the acceptance of the McClure amendment would resolve the problem, but other amendments are now being suggested, and I think it would be most unwise to start accepting amendments willy-nilly.

I disagree with the need for the McClure amendment and with the argument made by the distinguished Senator from Georgia, since the goals of the ongoing negotiations referred to in the resolution are, in any case, subject to subsequent ratification by the Senate. Congress will inevitably be brought in at an appropriate time to pass judgment upon any agreement that may later be reached.

But in view of the fact that other amendments are now being offered and since a point of order has been upheld which prevents the Senate from acting today, I think we would be better advised to return this matter to the committee for further consideration.

The PRESIDING OFFICER. Does the Senator withdraw his appeal?

Mr. CHURCH. Therefore, I withdraw my appeal from the ruling of the Chair and yield the floor.

Mr. JAVITS. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. There is a very important point to make here. We get embroiled with each other sometimes in really the most outrageous ways.

Now, I have spent—I have been in the Senate 21 years—and I have spent all that time trying to bring Congress into a real partnership with the President on foreign policy.

Mr. President, why have we not been successful? Precisely for this kind of a performance. It is unbelievable that 100 responsible men cannot do something on time, and it discredits us completely when we say we should be full partners in a foreign relations effort.

I would appeal to the leadership, in whose hands we placed this responsibility, to see that this is brought up this afternoon. You have JACKSON and CHURCH and SPARKMAN, and even those who propose the amendment, in agreement. This is the last day. Do we want the President again to say, "See, you cannot make partners of this Congress. They just do not know how to do business on time. They are all over the lot. They are irresponsible. They cannot be trusted with the foreign policy of the country."

I really appeal to the leadership to put this together again because this is a critical matter to us, all of us, and to our country. We want to be full partners. In order to be full partners we have to qualify, and I really appeal to the leadership, because it is their function to put this together. Maybe we cannot do it this minute. But I believe the goodwill is here, and with an understanding of what is at stake it can be put together. That is what is at stake: whether we are fit partners for the foreign policy of our country or whether we are going to be a drag on the foreign policy of our country.

I hope very much we can act today to decide that question in the affirmative.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I be permitted to proceed for 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator is recognized for 3 minutes.

Mr. GRIFFIN. If and when the committee reports another such resolution, I hope not only that a quorum will be present but that the committee will provide the Senate with an appropriate report explaining the resolution. Such a report should call the attention of Senators to the fact that this resolution is before the Senate today primarily because of a proviso in section 33 of the Arms Control and Disarmament Act, which reads:

> . . . no action shall be taken under this or any other law *which will obligate* the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or *unless authorized by further affirmative legislation* by the Congress of the United States. (Emphasis supplied.)

Obviously, unless the President of the United States is taking some action "which will obligate" the United States to disarm or to reduce or limit armaments, there is no necessity for Congress under the statute to take any legislative action. One of the "whereas" clauses of the resolution recites that the Administration has expressly represented to Congress "that the aforesaid declaration of intent"—not to take action inconsistent with the "SALT I agreement—is nonbinding and nonobligatory" upon the United States.

Inconsistent with that recitation, however, is this language in the "resolve" clause of the resolution now before us:

> . . . the President is *authorized* to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur." (Emphasis added.)

If the President needs to be "authorized" to proceed, as the resolution purports to do, then it must be because of the requirements of the statute. To so "authorize" the President in the operational resolving clause—notwithstanding contrary recitations in the whereas clauses—suggests or implies, at least, that the Senate believes some obligation does in fact arise or exist because of the

statement of intent made by the Secretary.

Against this background, and because the resolution creates and raises more doubts and ambiguities than it resolves, I have concluded that the better course to take, for the time being at least, is to reject the language now before us.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from New Mexico is recognized for 1 minute.

Mr. DOMENICI. I say to the Senator from New York I did not intend to be one who delayed something important, but I would just make this observation: with regard to our involvement in foreign policy, if there is an important issue then I suggest that your committee understand it has the responsibility to handle it in an orderly manner where we are apt to be involved and to understand it. If it is not important then we ought not to be bothered with it.

If it is the first, it was not handled properly, and the committee is in a jam on the floor because of that. I, for one, will cooperate to undo it, but you cannot bring something down here with no quorum, and seek out a unanimous consent request, with few around, and not expect this to happen.

I share the responsibility today for raising some objections on the floor. But I just want to unburden the notion that it is purely ours. It is someone else's.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Virginia is recognized for 2 minutes.

Mr. HARRY F. BYRD, JR. My inclination has been to support this resolution. I voted against the motion to table it. I rise only to express the hope that when it is called up again there will be a reasonable time for debate, because I think there are some questions in regard to it—at least several questions have come to my mind since the discussion began earlier this morning. So I would hope the next time this is called up some reasonable time will be given where this matter can be debated.

Insofar as the Senator from Virginia is concerned, he has several questions he would like to propound to the managers of the resolution.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will now report.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039.

AMENDMENT NO. 1226

Mr. ABOUREZK. Mr. President, I call up amendment 1226.

The PRESIDING OFFICER. Will the Senator restate the number of the amendment?

Mr. ABOUREZK. 1226.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1226.

The amendment is as follows:

On page 14, after line 25, insert:

(d) The Commission shall have the power to compel integrated interstate pipelines to expand their certified storage capacity in order to adequately meet their systems' peak demand day requirements.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, amendment No. 1226 is an amendment to the bill. Inasmuch as it is an amendment to the bill, and in view of the fact this is the 13th day on which the Senate has been debating the bill, there has been ample time for the calling up of perfecting amendments to the bill. Any amendment offered to the bill, even if adopted, would be moot by virtue of the fact that cloture goes to 862 and not to the bill. Now once 862, the substitute, is adopted, then there can be no more amendments offered to the bill.

If, for some reason, amendment No. 862 were defeated or rejected, then there would be no cloture on the bill, and Senators could write any amendments they wished to offer at that point.

But under the recent circumstance in which cloture goes to the substitute and not to the bill and the final action will be on adopting the substitute, if it is adopted, no amendment to the bill is in order at that point. Any perfecting amendments that will have been adopted to the bill prior to that point will be moot.

I make the point that this is a dilatory amendment. Furthermore, Mr. President, I make the point that when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order. I make that point.

Mr. MUSKIE. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. A point of order is not debatable.

Mr. ABOUREZK. Mr. President I ask unanimous consent that 10 minutes be set aside to debate this point of order. There is an extremely crucial point of order.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I object to that, but I will be willing to debate. The Senator has time.

Mr. ABOUREZK. It is not debatable. It takes unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the point of order be debatable for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, I yield myself 2 minutes to make these two points against the double point of order that the distinguished majority leader is making.

His claim is that any amendment to the bill would be rendered moot in the event the substitute is agreed to. That is taken care of merely by the statement that the substitute has not been acted upon. The Chair cannot presume to say that the substitute will be adopted, thereby making any amendments to the bill moot.

Second, these amendments are offered to the bill. They are drafted properly and there is no way that the majority leader, or anyone else, can say that an amendment on its face is dilatory. I would suggest, as I did the other day, that any effort to change the entire rules of the Senate during the heat of a debate such as this on a majority vote will go contrary to those who might even want to support it at this time and they will live to regret it at a later date.

I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I will repeat the point of order.

Mr. President, I make the point of order that when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.

Mr. MUSKIE. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. The other day the Senate voted on the question whether or not an appeal from the ruling of the Chair was itself dilatory. The point that the majority leader put is that the Chair should take the initiative to rule as dilatory amendments which on their face are dilatory. I remind my colleagues that we at our desks here cannot know in all cases at the moment that the Chair makes such a ruling whether or not in fact an amendment on its face is dilatory. That is the first question which concerns me. There is no way for me to run down to the desk, as one Senator, to look at amendments to judge for myself whether or not the Chair is ruling correctly on a statement of fact.

Second, evaluations of the amendments may result in different conclusions as to whether amendments on their face are dilatory.

The third point that concerns me is whether or not if the Chair would act pursuant to the majority leader's suggestion, is the majority leader seeking to reverse the decision that the Senate as a whole made the other day on the question of whether appeals from such rulings are dilatory?

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I say two things. By the way, I support this point of order.

The request, as I understood it, as was made by the majority leader, was not that amendments might be dilatory on

their face, but would be dilatory or which on their face are out of order.

Mr. ROBERT C. BYRD. That is right.

Mr. BAKER. The second point I would suggest is nothing in the request, as I understood the majority leader to make it, dealt in any way with the right of any Member to appeal from the ruling of the Chair, which is a point of grave importance to everyone.

Mr. MUSKIE. I want that to be very clear so if the Chair should rule on the point of order favorable to the distinguished majority leader that that would not be interpreted as reversing the action the Senate took on Saturday with respect to that last point.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. Mr. President, will the Senator yield for one point?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, so the Senator from Maine will see this as I understand it, when we in cloture voted on an amendment, an amendment offered to the bill before the amendment that is subject to cloture is voted upon is dilatory because if the amendment that is subject to cloture is adopted, in this instance, the bill is wiped out. If it is not adopted, the amendments to the bill are before the Senate and not under cloture. Therefore, if the Senate is to get to the point it wants to get to, and that is to vote on the Jackson amendment, any amendment to the bill is dilatory for that action. We are not killing those amendments. They are still on the desk. They can be voted upon should we get to the point that the Jackson amendment is defeated and the bill subject to amendment is before the Senate.

Mr. LONG addressed the Chair.

Mr. ABOUREZK. Mr. President, will the Senator vield?

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana. Of course, I can only yield for a question.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield the floor for a moment.

Mr. ABOUREZK addressed the Chair.

Mr. LONG. Mr. President, is not this true, that any Senator at any time can go down to the desk, and he can show his amendment to the Parliamentarian and ask the Parliamentarian whether in the opinion of the Parliamentarian that amendment appears to be in order or whether it appears to be dilatory? And 99 times out of 100 the Chair is going to rule the same way the Parliamentarian had advised him. So is it not a fact that any Senator who wants to amend a bill in any particular way, even before cloture, can go to the Parliamentarian and show him his amendment and say, "Here is the sort of problem I have, and can you advise me whether this amendment would be in order, can you advise me whether it would be germane?" Is it not a fact that that is what Senators who have been around here long enough to know the rules do anyway?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES addressed the Chair.

The VICE PRESIDENT. The Chair has recognized the Senator from West Virginia.

Mr. ROBERT C. BYRD. Let me see if we can clarify what we have before the Senate now. To begin with rule XXII says no dilatory motion or dilatory amendment or amendment not germane shall be in order.

What I am asking the Chair to do by making this point of order is this: When the Senate is operating under cloture, the Chair is required to enforce this rule. The Chair is required to take the initiative to enforce this rule.

Therefore, he is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.

Let us take, for example, an amendment that amends the bill at more than one place. On its face that amendment is out of order.

Let us take an amendment not germane on its face. On its face that amendment is not in order because the rule says no amendment not garmane shall be in order.

And the right to appeal, may I say to the distinguished Senator from Maine, is not touched in this point of order. Senators may still appeal.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. ABOUREZK and Mr. MUSKIE addressed the Chair.

Mr. ROBERT C. BYRD. Inasmuch as I addressed the Senator from Maine, I yield to him first.

Mr. MUSKIE. May I ask a question for clarification?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. The Senator's suggestion is that the Chair should take the initiative.

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. That means—I wish to know at what point that initiative is to be exercised—after the amendment is called up, or while the amendments are at the desk before they are called up and before the Senate?

Mr. ROBERT C. BYRD. No.

Mr. MUSKIE. I assume the Senator means after they are called up.

Mr. ROBERT C. BYRD. Not while they are just at the desk. The Senator from South Dakota called up an amendment. At that point, the point of order that I am making would require the Chair to rule that amendment out of order, if indeed it is to the bill.

Mr. MUSKIE. I understand the Senator's point.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator is advised that his 5 minutes have expired.

Mr. SARBANES. Mr. President, how much time do I have under cloture?

The VICE PRESIDENT. The Senator has 20 minutes, unless it is a point of order or unanimous-consent request.

Mr. SARBANES. I ask unanimous consent to use some of the time remaining to me under cloture in order to pose some inquiries to the majority leader, on my cloture time.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, points of order are not debatable under cloture unless by unanimous consent. I would like to get a ruling as soon as possible. I have no objection to the Senator proceeding for 3 or 4 minutes on his time.

Mr. SARBANES. I ask unanimous consent to proceed for 4 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SARBANES. Does the unanimous-consent request of the majority leader encompass the provision that the Chair would rule out of order as dilatory any amendment that was offered to the bill itself.

Mr. ROBERT C. BYRD. I am making the point of order that such an amendment offered at this time is dilatory.

Mr. SARBANES. That was my understanding. I would like to address that point.

It seems to me that under cloture, as I understand it, it is in order to offer amendments to the bill itself.

Mr. ROBERT C. BYRD. That is correct, but—is the Senator asking a question of me?

Mr. SARBANES. I would be glad to yield to the majority leader to proceed on that point.

Mr. ROBERT C. BYRD. I am saying that the amendment which Mr. ABOUREZK called up just a moment ago was a dilatory amendment, for two or three reasons.

First, it had been at the desk for 13 days and had not been called up yet. Secondly, it is a perfecting amendment to the bill, and any amendment to the bill, if adopted at this point, would be moot when the final action was taken on the substitute, either by voting the substitute up, because in what event, cloture going only to the substitute, the substitute wipes out the bill. If the substitute should fall, there is no cloture remaining anyway, and the bill would not be under cloture, and the amendment could then be called up.

Mr. SARBANES. The point I wish to address—I am not addressing myself to the other points the majority leader has made, but the decision whether to vote for the substitute or not may be influenced by what the dimensions of the original bill are, which is open to amendment under the rules, even under cloture. So it is irrelevant to say if we vote down the substitute the original bill is open to amendment, which is true.

Mr. ABOUREZK. No, it is not true. It wipes out any amendments to the bill. That is what I have been trying to say.

Mr. SARBANES. Let me leave that to one side for the moment. Let me address the matter on the basis on which it was put.

The question of whether to vote for the substitute and insert it in place of the bill is subject to our decision as to what the bill looks like. Amendments to the bill are in order under cloture, and therefore the adoption or rejection of amendments to the bill changes the structure of the bill, and may influence the decision of a Senator whether to vote for the substitute or not to vote for the substitute.

Mr. ABOUREZK. Mr. President, may I

make a parliamentary inquiry? Will the Senator yield for a parliamentary inquiry?

Mr. SARBANES. I want to finish this point.

As long as amendments to the bill are in order under cloture, and as long as what the bill itself looks like is relevant to the decision of a Member as to whether to support a substitute, to insert it in place of the bill, or to vote against the substitute, it seems to me for the Chair to proceed to rule out as dilatory any amendments to the bill goes to the very substance of the process we are following. If we are going to do that, the rules really ought to preclude amendments to the bill when cloture has been invoked on a substitute.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Dakota will state his inquiry.

Mr. ABOUREZK. If the substitute is defeated, if it is voted down, are amendments to the bill in order subsequent to that defeat?

The VICE PRESIDENT. Yes, they are, and cloture would not obtain.

Mr. ABOUREZK. That is a reversal of the Chair's ruling the other day.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to go back to the other point. I am not quarreling, now, with the majority leader over other rulings with respect to the dilatoriness of amendments that have been previously ruled out of order, or something of that sort. But to rule on a unanimous-consent request that would place the Chair in the position of having to rule out of order any amendment as dilatory offered to the bill itself, no matter what its substance is, on the theory that the opportunity to offer such amendments would be available later if the substitute is not adopted because the cloture did not reach to the bill itself, does not address itself to the very basic point that the decision of Members of the Senate as to whether to vote for or against the substitute as it may contrast with the bill itself will be influenced by amendments that may be made to the bill itself; and as long as the rules permit amendments to the bill itself under cloture, which I understand they do, it seems to me that those amendments cannot automatically be ruled out by the Chair as being dilatory simply because they are offered to the bill itself.

If there is some other reason involved which would justify a dilatory ruling, that is a different question; but to simply wipe out any amendment to the bill and eliminate the opportunity for contrast between the amendment and the substance of the bill itself as being dilatory, would seem to me to be a bad precedent.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Colorado.

Mr. HART. A parliamentary inquiry. Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. HART. Was it not the ruling of the Chair in the last 2 or 3 days that amendments to the bill itself would be under the cloture rule?

The VICE PRESIDENT. That is still the ruling of the Chair, but if the substitute falls, so does the cloture action of the Senate; and amendments to the bill itself would then no longer be under cloture.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alaska.

Mr. STEVENS. Mr. President, as I understand it, the majority leader is making two points. The first is that the Chair is required to take the initiative under rule XXII and rule out all amendments to the bill which are, on their face, out of order. Second, he is saying that at this point, under the circumstances that prevail right now, when a Senator who has in fact been conducting a post-filibuster offers an amendment to the bill, after 121 rollcalls on this bill, after 34 live quorums, and after almost 40 hours of the Senate's time spent in counting those rollcalls alone, that that amendment, if it were not dilatory, would have been called up by the Senator previously, and therefore it is now dilatory. It is a subjective ruling, in the latter sense, by the Chair itself, that the amendment to the bill is in fact dilatory because of the circumstances, though not necessarily dilatory on its face. In my opinion, the point of order is well taken.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a perfect example of the extremes to which one can go under the tensions of a debate such as this. To suggest that amendment 1126 to the bill is dilatory, which merely suggests that the Commission shall have the power to compel integrated interstate pipelines to expand their certified storage capacity in order to adequately meet their systems' peak demand day requirements, to say that that is a dilatory amendment, in spite of the contention that it can be offered at a later time, that is not the issue. Every amendment stands on its own in the Senate; and to suggest that in some way the Chair is going to rule out of order amendments to the bill on the basis that they are dilatory because they can be offered at a later point, to me, would almost be an Alice in Wonderland kind of decision.

I cannot believe we are about to hear it from the Vice President presiding in the chair. I am just amazed that we are going through this procedure to change the rules on the floor of the Senate because of our problems with respect to the remaining amendments.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let us not confuse this issue. I am not asking the Vice President to rule that all amendments en bloc to the bill are dilatory. We have one amendment before us. That amendment is to the bill. I am submitting that that amendment is dilatory because it is to the bill. I stated the reasons why. Cloture goes to the substitute, and any amendment to the bill at this point, any perfecting amendment to the bill at this point, would be moot because if the substitute is adopted, the bill fails; if the substitute is not adopted, cloture is gone, the bill is still before the Senate, and the Senators can call up their amendments.

I am not asking the Chair to rule that all such amendments are dilatory. I am simply making the point of order that the Chair under rule XXII is required to take the initiative when the Senate is operating under cloture to rule out of order all amendments which are dilatory or which, on their face, are out of order.

That is the key question: Is the Chair required, when the Senate is operating under cloture, to take the initiative to rule out of order all amendments which are dilatory or which, on their face, are out of order?

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. ABOUREZK. Is the Senator asking that this one amendment be ruled upon, or all amendments?

Mr. ROBERT C. BYRD. No, I am not asking for all amendments.

Mr. ABOUREZK. If the ruling stands according to the Senator's point of order, that means a precedent is being created and all amendments to the bill will be ruled out of order automatically, is that correct?

Mr. ROBERT C. BYRD. An appeal can be taken. I am leaving open the appeal.

Mr. ABOUREZK. On each one?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Will the Senator yield?

Mr. SARBANES. Will the Senator yield?

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Is this correct, that what the Senator from West Virginia is seeking the Chair to rule is that the Chair ought to take the initiative to rule whether the amendment is out of order, or if the amendment is not germane, or if the amendment is dilatory, that the Chair ought to take the initiative, however the Chair is going to rule, rather than wait for someone to make a point of order. Is that what the Senator is saying?

Mr. ROBERT C. BYRD. Suppose someone has an amendment at the desk which is an amendment in the third degree. Obviously it is out of order if it is not germane. If it is dilatory, obviously it is out of order because of what the rules say. I am saying that this amendment is dilatory, but I am not asking the Chair to rule that all such amendments are dilatory at once. We will let that matter come up in each instance, as each amendment is called up.

Mr. SARBANES. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. As I understand the point of order it does not run only to the question of whether the Chair, on its own initiative, proceeding under rule XXII under cloture, can take the initiative to

rule certain amendments out of order; it also runs to the substance of the basis on which the majority leader is seeking to have this amendment ruled out of order. That basis is simply the fact that the amendment is to the bill. The justification for a ruling that an amendment to the bill is out of order, under the procedures even after cloture has been invoked, the justification for that is that if the substitute is carried Senators cannot offer an amendment to the bill, and if the substitute is rejected, the bill is open to amendment.

How does the Senator address the question as to how a Member is to make the judgment when it comes to a vote on whether the substitute should be put in place of the bill? Pertinent to that vote is not only what the substitute looks like but what the bill looks like. That is why the bill is allowed to be amended under the rules. To rule it out prevents a Member from making that substantive judgment.

Mr. ROBERT C. BYRD. Mr. President, Senators have had 13 days and 1 night in which to call up perfecting amendments to the bill, and they have not done it. That is why I am saying that this amendment is dilatory.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

The VICE PRESIDENT. Who yields time?

Mr. STEVENS. Well, I will yield myself time.

Mr. LONG. Mr. President, I yield myself 1 minute.

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. Mr. President, it seems to me the Senator is seeking to ask the Chair to rule on two points. One, he is asking the Chair to rule that the occupant of the Chair, under cloture, should take the initiative and rule an amendment out of order or dilatory if, in the opinion of the Chair, it is. It seems to me he is also asking the Chair to rule that this amendment is dilatory. I would hope the Chair would submit the two rulings: one, whether the amendment is dilatory; and, two, whether the Chair is required to take the initiative. He is seeking really two rulings.

Mr. ROBERT C. BYRD. Mr. President——

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would like to divide—I believe the Senator from Louisiana is correct—I would like to separate the two basic questions which are involved here. One is as to whether this particular amendment is dilatory because it goes to the bill; and, two, which I consider to be the main point of order which I wish to address, that the Chair, when the Senate is operating under cloture, is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory, or which on their face are out of order.

I would be prepared to suggest that the Chair address itself to that point of order and leave for future discussion as to whether or not amendments to the bill themselves are ipso facto dilatory and out of order under the present circumstances.

The VICE PRESIDENT. The requested ruling goes to the meaning of rule XXII which provides that once cloture is invoked no dilatory motion or dilatory amendment or amendment not germane shall be in order. The purpose of the rule is to require action by the Senate on a pending measure following cloture within a period of reasonable dispatch. The Presiding Officer must take judicial notice of the fact that we have now been for some 13 days, I believe, on this measure, well over 100 votes having been taken. Therefore, it is the opinion of the Presiding Officer that the point of order is well taken. The Chair will take the initiative to rule out of order dilatory amendments which, under cloture, are not in order——

Mr. ABOUREZK. I appeal the ruling of the Chair.

The VICE PRESIDENT. The Presiding Officer would like to finish his ruling—which, under cloture, are not in order and which on their face are out of order.

Mr. ABOUREZK. I appeal the ruling of the Chair and ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficent second?

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficent second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Will the Chair put the question before the Senate votes?

The VICE PRESIDENT. This is a motion to table an appeal from the decision of the Chair that, under cloture, amendments which are out of order on their face can be ruled out of order by the Chair on its own initiative.

Mr. SARBANES. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SARBANES. Does the ruling of the Chair go only to the point that the Chair could proceed under rule XXII on its own initiative?

The VICE PRESIDENT. The Senator is correct.

Mr. SARBANES. As I understand it, both rulings of the Chair are subject to appeal if Members wish to do so and, therefore, subsequent ratification or rejection by the Senate.

The VICE PRESIDENT. The Senator is correct.

Mr. HART. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HART. The ruling of the Chair, when it states on its own initiative, does that mean prior to calling up the amendment?

The VICE PRESIDENT. The amendment will have to be called up and the Chair will rule on it, but he could prior to its being called up.

Mr. CASE. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. CASE. Is it correct to understand that rulings of the Chair pursuant to the general rule that the Chair has just announced will be pronounced upon a particular amendment only when it is sought to be brought up for action?

The VICE PRESIDENT. The Senator is correct; when it is called up.

Mr. CASE. Individually?

The VICE PRESIDENT. When it is called up, the Senator is correct.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that temporarily?

Mr. METZENBAUM. Without yielding my right to ask for it again.

Mr. ROBERT C. BYRD. Mr. President, is it understood that the ruling of the Chair at this point does not go to the particular amendment?

The VICE PRESIDENT. The Senator is correct. It is a general ruling.

Mr. METZENBAUM. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 58 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Lavalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky
Ford	Morgan	

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—79

Allen	Goldwater	Nunn
Baker	Gravel	Packwood
Bartlett	Griffin	Pearson
Bellmon	Hansen	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Randolph
Brooke	Hatfield	Ribicoff
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Sarbanes
	Helms	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Inouye	Schweiker
Case	Jackson	Scott
Chafee	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Laxalt	Stennis
Cranston	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Williams
Ford	Melcher	Young
Garn	Morgan	Zorinsky
Glenn	Moynihan	

NAYS—14

Abourezk	Culver	Metzenbaum
Anderson	Durkin	Muskie
Bayh	Hart	Proxmire
Bumpers	Hathaway	Riegle
Clark	Kennedy	

NOT VOTING—7

Huddleston	McGovern	Weicker
Humphrey	Metcalf	
McClellan	Nelson	

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

The VICE PRESIDENT. The appeal, therefore, is tabled.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the appeal from the ruling of the Chair was laid on the table.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Therefore, the decision of the Chair on the point of order stands as the judgment of the Senate.

The question is now on agreeing to the amendment as offered by the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I yield myself 5 minutes, and I ask the attention of my colleagues. If I might try to analyze what just happened for the Members of the Senate, I would appreciate their attention.

What just happened is that the Vice President of the United States has come up to the Senate for one specific purpose, and that is to make certain rulings upon the parliamentary procedures that had been thought out ahead of time.

Mr. CRANSTON. Mr. President, will the Senator yield for just one point? I would like to respond to one point already made.

Mr. ABOUREZK. I hope nobody will interrupt me until I finish, because I do not want to yield until I am done. In fact, it was obvious from the reading of the decision by the Chair that the decision, the opinion of the Chair, had been drafted ahead of time. So it was no surprise to those people who were in on it.

I heard the rumor this morning. Several people came up to me and said the rumor is out on the street the Vice President is coming up to make specific rulings to end the filibuster. I said, "I do not believe it. I just do not believe it would happen because the position we are taking, those of us on this side of the issue, happens to agree identically with the position taken publicly with the administration.

So when the rulings were inquired about and the point of order was made, the distinguished majority leader made a two-part point of order. One part dealt with the general question of the initiative of the Chair to rule any amendments out of order that were on their face out of order or dilatory.

That allows the Chair to take a look at all amendments and just say, "This one is bad; this one is good; this one is bad; and this one is good," and it puts the burden then upon those of us who seek to call up these amendments to try to overrule each of those individual decisions of the Chair rather than forcing a Senator to make a point of order on each one, as has been the rule in the Senate.

Now, why did the Vice President come up to make those rulings? Why did that happen? I do not know. I know there are any number of Senators here who could have been put in the Chair, could have been placed in there, and who would have made the very same rulings, and there would have had to have been a decision on it because there are Senators here who feel very strongly one way or the other.

I can only surmise—I do not know because there was a flurry of meetings this morning between the leadership and the members of the administration—I can only surmise that something has happened that I do not know about, Members of the Senate on my side of the issue do not know about, and I do not even care to know about them.

I do not want to know. All I know is I have been told from time beginning, beginning from the time that I went into politics, that all governments lie. For a long time I knew that, and I was aware of it. There is one thing I never thought would happen, and that is that Jimmy Carter would lie.

I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, the Senator who has just spoken well knows I am on the same side of this issue that he is in opposing deregulation of the price of natural gas. The Senator from South Dakota also knows well there are several reasons why the Vice President might be in the Chair at this moment. One important reason why the Vice President is in the Chair instead of someone else who might make the same rulings as the Vice President is that he is able to break ties; that is something that the Senator from South Dakota knows very well; and there are certain times, for example, when we are voting on Pearson-Bentsen he would want the Vice President to be in the Chair for that purpose.

Second, there have been questions raised about the position of the President of the United States on the issue of deregulation and on the issue of the filibuster. By his presence in the Chair the Vice President very plainly signals the interest of the President of the United States in supporting the leadership of the Senate, the bipartisan leadership, in breaking a filibuster. That does not signal a change in the President's position on deregulation. It obviously does not go to the truth or falsity of what the President has said. He still intends to veto a bill, if it comes to him, if that bill would not be consistent with his position of keeping regulation on the price of natural gas.

As to the other point raised by the Senator from South Dakota, rather plainly I am repeating myself, anyone else can be in the Chair to make this ruling. The rulings that we hope will be made on issues that will be raised are consistent with the rules of the Senate. The leadership of the Senate would not tolerate anything else or would not seek to bring about anything else. It does, perhaps, bear greater weight when it comes from the lips of the Vice President of the United States.

The VICE PRESIDENT. The Chair would ask for 4 minutes indulgence from the Senate.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The VICE PRESIDENT. Is there objection. The Chair hears none, and it is so ordered.

The Senator from South Dakota indicated he learned this morning that the Vice President was part of some deal. The truth of it is the Vice President arrived at 11 o'clock this morning in the Senate. The majority leader advised him he was planning to propound certain questions relating to the meaning of rule XXII. He wanted the Vice President to be aware of those questions, and it was at that point, and only at that point, that the Vice President was aware at all that these questions would be propounded.

There was one suggestion, since this was a crucial issue dealing with the long-delayed question which has been around this Senate for over 60 years as to the meaning of the word "dilatory"—and there could hardly be a more crucial issue affecting the rules of this body—there was a suggestion that it might be wise if the Vice President absented himself and let someone else rule.

I refused to accept that suggestion because it is the Vice President's only constitutional duty to preside. The Vice President has that duty especially at those moments when crucial questions and profound questions of parliamentary procedure are at issue.

In the years that I have served in the Senate, I do not recall a single instance when a Vice President has vacated himself when crucial parliamentary issues were to be determined, particularly when they are being determined in the area where the law was not clear. I am not

going to be the first Vice President to abdicate his responsibility.

My interest in rule XXII goes back from the beginning of my membership in this Senate. I, along with many of the Members of this body, helped to reform those rules. But I have always been concerned about the meaning of the word "dilatory" because the spirit of the rule requires that once cloture is invoked, as I understand that dilatory phrase, at some point with reasonable dispatch the Senate will decide the matter on which cloture is invoked.

There is no question about this Vice President's position on the merits of the deregulation issue before this body, and I assume the Senator from South Dakota knows that.

There is nothing more sacred to me or to the President than our integrity, and I am not here to apologize for my integrity.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I think that almost anything I would say at this point would be repetitious.

But, nonetheless, I feel it my duty to speak briefly on this matter that has been raised by the distinguished Senator from South Dakota.

The Vice President of the United States is the constitutional Presiding Officer over this body.

The Senator from South Dakota wondered why the Vice President issued the ruling; why another Senator was not in the Chair. The Vice President and the distinguished majority whip have both adequately answered that question.

I for one, I, I asked the Vice President to sit in the chair, so there need be no question as to why the Vice President was asked to sit in the chair.

I have been on the side of the Senator from South Dakota and the Senator from Ohio in the votes on the major issues here. But I am not on that side when it comes to prolonging and protracting the final decision. I am not on that side when it comes to the filibuster. I take the position that the Senate has a responsibility to act up or down on this bill, and we have been on it 13 days and 1 night already, and there are scores of amendments still at the desk. The leadership here is attempting to find some way to get final action on this bill so that it can go to conference, and the administration, I would assume, wants that same thing. I am positive of it.

Whatever the Senate does in working its will on the bill is up to the Senate. But I do not think that the Vice President should be criticized because he came here at the request of the majority leader for the purpose of establishing some rulings that the leadership considers to be important if we are ever going to get this bill to conference.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I was not here when the ruling was sought. But the majority leader will recall that the other afternoon when we were trying to get some consent agreements I suggested that the Chair be given the prerogative of going through all the amendments and determining which ones were out of order because of draftsmanship, especially because of draftsmanship, but as I understand the ruling of the Chair now the Chair can on its own motion or upon its own initiative go through the list of amendments, or he can wait until they are called up, whichever, and before the amendment is read rule that it is dilatory and offered for dilatory purposes regardless of how it is drafted. Is that a correct statement?

Mr. ROBERT C. BYRD. No, that is not correct, may I say to my distinguished friend from Arkansas.

The ruling that we have established here is that the Presiding Officer is required, under cloture, to take the initiative in ruling out of order dilatory amendments or amendments that on their face are out of order, and what we are doing is simply this: Rule XXII says: "No dilatory amendment or amendment not germane shall be in order." So what we are saying is that the Chair is required to take the initiative in ruling an amendment that is dilatory or an amendment that is out of order on its face out of order.

Mr. LONG addressed the Chair.

Mr. BUMPERS. Mr. President, one additional question.

Mr. ROBERT C. BYRD. We are not saying that the Chair should take all the amendments up there and go through them and rule them out of order. But as the Senator calls up an amendment, if that amendment on its face is out of order, the Chair is required to take the initiative in so stating when the Senate is under cloture. For example, if I were to call up an amendment in the third degree, the Chair has the responsibility to call that amendment out of order.

Mr. BUMPERS. But my question to the leader is: He not only has the right to rule an amendment out of order because of its draftsmanship, for example—and we know there are a number of amendments down there since the Jackson compromise was resubmitted and brought back to the floor that are out of order for that purpose—but I ask, and I understood the majority leader to answer it, which was really sort of a restatement of what I said, when a Senator calls up an amendment, even though it is not out of order for that purpose, he can call it up and the Chair can, at that point, rule that even though it is a perfectly valid amendment on its face, it is being offered for dilatory purposes. Is that correct?

Mr. ROBERT C. BYRD. I am not saying that the Chair would do that. I believe the Senator is going beyond what has been established by the ruling here.

Mr. BUMPERS. He can do that under the present ruling, can he not?

Mr. ROBERT C. BYRD. I do not think he would because that amendment, even though it were not in order at that particular place, might be in order later in the event another amendment were adopted to which that particular amendment is geared. So I do not think the Chair would take the liberty of ruling that amendment out of order on that basis.

Mr. LONG. Mr. President, I have been a Member of this body for 29 years, and I have had occasion to observe the conduct of several Vice Presidents and several Presidents pro tempore, starting with Arthur Vandenberg who was President pro tempore—we had no Vice President—when I took my oath of office, Alben Barkley, Lyndon Johnson, HUBERT HUMPHREY, and Nelson Rockefeller. Without exception, Mr. President, when those men knew that a very significant ruling had to be made by that Chair and an historic ruling had to be made by that Chair they were here to make it. That is not the kind of ruling that should be made by a freshman Senator who is unfamiliar with the rules.

So, the Senator is most completely out of order and in bad taste to suggest that the Vice President, by doing the duty assigned to him under the Constitution and not shirking it, is doing something improper. It is just patently ridiculous. I think in time, perhaps not today, but as emotions subside, the Senator will be a big enough person in time to go to the Vice President and offer him a very contrite apology.

Mr. ABOUREZK and Mr. LEAHY addressed the Chair.

The VICE PRESIDENT. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I wavered for a moment, thinking perhaps I was wrong, but when Senator LONG, my colleague from Louisiana, got up and supported what just happened, my conviction is renewed. (Laughter.)

Mr. LEAHY addressed the Chair.

Mr. ABOUREZK. I want to say that it is not the integrity of the Vice President that I am impugning. What I am saying—and I want to make it very clear—is that we have had the rug pulled out from under us by the President of the United States and the Vice President is merely doing what he is supposed to do.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise very infrequently on the floor of the Senate, as the Presiding Officer knows, but I must at this point. Perhaps if my good friend from South Dakota has been supported in his convictions by what Senator LONG has said maybe he will take some pause when he finds me saying similar things.

When I came to the Senate in 1975, for my first month or two in the Senate, I had the distinct privilege of working with the distinguished Presiding Officer, the Vice President, on changing rule XXII. I spent hour after hour after hour on the floor of the Senate, sitting with the then senior Senator from Minnesota, and came to realize his strong convictions and understanding of the need for changes in rule XXII.

I am also aware, both from what I have observed in the short time I have been in the Senate and from what I know of the history of the Senate, that Vice Pres-

idents will be here, are here, and are expected to be here on serious matters before the Senate, especially when a vote may well be a close one. I think it would be a dereliction of their duty if they were not.

Tempers have flared here and there on this floor on both sides of the issue. My friend from South Dakota knows that I have supported him consistently in rollcall after rollcall. My own personal discomfort at this filibuster has been no more or no less than that of any of the other 99 Members of the Senate, and I am perfectly able physically to go on and on and on, until Christmas or beyond if necessary.

But I do not think it should be necessary, and I think it is in the best interests of the Senate and the best interests of the country to bring this matter to some kind of a conclusion. I say that without regard to whether I am going to be on the winning or on the losing side.

I must say to my good friend from South Dakota that I respect him greatly, I admire his courage, I admire his integrity, and I admire him as a person, notwithstanding that I have to disassociate myself from the remarks that he has made here this afternoon, remarks directed both at the Vice President and at the President of the United States. They were uncalled for and do a great disservice to two honest and dedicated Americans and I reaffirm my own support for them. I might say, Mr. President, that I hope, for one, both in my own behalf and certainly that of the State I represent, that this matter will come to a conclusion. Let us vote one way or the other on this vital issue facing the United States, and get on, one way or the other, with the energy matters before the Senate.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am happy to see the Vice President in the chair. Having served in the Senate with him through the years, I can assure the Senate he never shirked from a duty, either pleasant or unpleasant.

Mr. President, I recall amendments 1059, 1061, 1062, and 1063, and request that they be removed from the desk.

Mr. METZENBAUM. Mr. President, a point of order. Is there not an amendment pending before the Senate?

The VICE PRESIDENT. There is an amendment pending.

Mr. STEVENS. Mr. President, that is not a motion, it is a privilege.

The VICE PRESIDENT. The amendments are withdrawn.

Mr. BAKER. Mr. President, do I understand they are withdrawn? I understood the request to be that they be recalled.

Mr. STEVENS. Recalled and removed from the desk.

Mr. METZENBAUM. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. Does that not require unanimous consent?

The VICE PRESIDENT. Unanimous consent was given.

Mr. METZENBAUM. When?

The VICE PRESIDENT. I heard no objection.

Mr. STEVENS. No, there was no unanimous-consent request, Mr. President.

Mr. ROBERT C. BYRD. The Senator sought to do that within his own right, Mr. President.

Mr. STEVENS. These are my amendments. I submitted them; I asked to recall them from the desk; and I recalled them and removed them from the desk.

The VICE PRESIDENT. The Chair did not hear an objection, and they were removed.

Mr. METZENBAUM. Mr. President, there was never a statement made by the Chair about a unanimous-consent request.

Mr. STEVENS. I am not asking unanimous consent.

The VICE PRESIDENT. The Presiding Officer said "Without objection," which is a very standard ruling of the chair, and he heard no objection, to a routine request to remove certain pending amendments.

Mr. METZENBAUM. He never asked unanimous consent. I ask the reporter to transcribe his remarks. He never asked unanimous consent.

Mr. BAKER. A point of order, Mr. President.

Mr. VICE PRESIDENT. Will the Senator withhold his request?

The Senator from Tennessee will state his point of order.

Mr. BAKER. Mr. President, I put this point of order seeking to clarify this situation.

I make the point of order, Mr. President, that for the author of an amendment to seek to recall and remove from the desk amendments that he filed, no unanimous consent is required and he is exercising a matter of right.

Mr. SARBANES. Mr. President, will the minority leader yield on that point?

Mr. BAKER. I yield.

Mr. SARBANES. Will the minority leader distinguish between such a request at a time when no amendment is before the body for consideration, and at a time when an amendment is before the body and has not yet been disposed of?

Mr. BAKER. Mr. President, to respond to the inquiry of the Senator from Maryland, the point of order is that at any time the author of an amendment has a right to reclaim from the desk any amendments he has filed, that no unanimous consent is required, and that its exercise is a personal privilege of the Senator at any time.

Mr. SARBANES. At any time, no matter whether an amendment is before the Senate or not?

Mr. BAKER. At any time, and it does not require unanimous consent. Any time under cloture, Mr. President; this is limited to this situation, when we are proceeding under the provisions of rule XXII.

The VICE PRESIDENT. On the advice of the Parliamentarian, it being a case of first impression, the Presiding Officer submits the question to the Senate ab initio.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. What is the nature of the question now being submitted to the Senate?

The VICE PRESIDENT. Whether or not a Senator has the right, once cloture has been invoked, to remove amendments timely submitted to be considered, before they are in fact considered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Could that be amended to say his own amendments, amendments of which he is the author?

The VICE PRESIDENT. The Senator is correct. That is what the Presiding Officer intended.

Mr. BAKER. And a "yea" vote would sustain that interpretation?

The VICE PRESIDENT. Yes. The question is, Is the point of order well taken?

Mr. BAKER. The question would be, Is the point of order well taken?

The VICE PRESIDENT. That is right.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. I would have thought that even though an amendment is withdrawn by the author, that merely has to do with its then consideration; but the amendments that are filed belong to the Senate, they do not belong to the author of the amendment, and even though the amendments are withdrawn by the Senator from Alaska, that would not prevent, in my judgment, under the rules, the amendments being called up at a different time by different Senators.

I really believe the point that is now being raised is a moot question.

The VICE PRESIDENT. Is it the recollection of the Presiding Officer that the Senator from Alaska asked that they be recalled and removed, rather than withdrawn. Thus it is a totally new question which is being submitted to the Senate.

Mr. BAKER. Mr. President, a further point of order.

The VICE PRESIDENT. The Senator from Tennessee will state it.

Mr. BAKER. Under the question as put by the Chair, would the Chair advise the Senate whether or not it is his first intendment to say that once recalled and removed from the desk, the amendments would no longer be available for any purpose, to anyone?

The VICE PRESIDENT. The Senator is correct.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Missouri.

Mr. EAGLETON. Mr. President, on this point on which the Senate will soon vote, I think one thought must be borne in mind.

On first blush, there is a simplistic appeal to the thought that a Senator, having filed some amendments, they are his; he decides when to put them in, he decides whether or not to call them up, he decides when to pull them out. There is a simplistic appeal to that.

I raise this one point. Assume my col-

league, Senator MUSKIE, offered what I throught were 10 magnificent amendments. I knew about them when they were being offered, my staff had conferred with his staff, and I said, "Since MUSKIE is filing those 10 I will not waste time filing 10 other amendments which are carbon copies of MUSKIE's. I know they are at the desk. My friend will call them up, and I will have a chance to support them".

Then I leave the floor of the Senate some afternoon and Mr. MUSKIE says, "I think I will withdraw those 10 amendments".

I think that, in part, is what is being stated by my distinguished colleague from Alabama.

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. Mr. President, have the yeas and nays been ordered on such an amendment as described by the Chair?

The VICE PRESIDENT. Will the Senator restate his question?

Mr. JAVITS. If the yeas and nays have been ordered on an amendment such as described by the Chair, an amendment sought to be taken from the desk by its author, may it then be taken from the desk?

The VICE PRESIDENT. This is not an amendment which has been called up. Therefore, the yeas and nays are not involved, except by unanimous consent.

Mr. STEVENS. Mr. President, I think the Senator from Missouri has a good point. All he would have had to have done within the 13 days would have been to ask for the yeas and nays on one of my amendments. My amendments are sitting there now. Conditions have changed. These are no longer amendments which are in order. As far as I am concerned, I have no desire to offer them, but they sit on the desk and someone else could call them up for the purpose of delay. I think a Senator has the right to withdraw his amendments and in doing so I believe that the matter of withdrawal could be subject to an appeal from the ruling of the Chair each time. If a Member wants to keep one of these amendments on the desk, he could appeal the ruling of the Chair as to that amendment.

I do believe we are entitled to remove the vehicles of delay that we offered for well-intended purposes at the time and no longer need.

I would call to the attention of the Senate that there is one of my amendments still at the desk which I intend to offer, should the circumstances require it.

To me, it is wrong to have my amendments become the vehicle for delay, for someone who has no intention to offer them for their substantive purposes. As a matter of fact, they would no longer be of any use to anybody except for delay. I think under these circumstances I am entitled to withdraw them.

The VICE PRESIDENT. The Senator from Maine.

Mr. MUSKIE. Mr. President, I would like to respond to the Senator from Alaska. If this precedent is established, it could be invoked on the first day after cloture. There is nothing to say that it would be invoked only after 13 days following cloture.

I think the point made by the distinguished Senator from Missouri is a valid one. I do not that often agree with my good friend from Alabama, but I expect he is moved by the same consideration.

After all, the limitations on our right to consider amendments after cloture, preventing us from introducing any new ideas, is sufficiently serious so that we ought not, I think, accede to the point being raised.

The VICE PRESIDENT. Under rule XXII, this is not subject to debate.

Mr. CRANSTON. Point of order, Mr. President.

Mr. President, I make the point of order when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII and rule out of order all dilatory motions, including calls for a quorum, when it has been established by a quorum call or a rollcall that a quorum is present, and the Chair's count reaffirms that a quorum is still present.

The VICE PRESIDENT. The Parliamentarian advises me that this point of order is not in order because there is a pending point of order which the Chair has submitted to the Senate.

Mr. CRANSTON. I accept that. I serve notice at the next opportunity I will raise the point again.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SCHMITT. Is it the Chair's intention that the question apply also to amendments against which other amendments have been drafted?

The VICE PRESIDENT. The Chair is submitting this question to the Senate.

Mr. ROBERT C. BYRD. Mr. President, would the Chair restate the question? Mr. President, I have no objection to the Chair restating the question, but I would like the question to be restated.

The VICE PRESIDENT. The clerk will state the question.

The legislative clerk read as follows:

Does a Senator have the right to recall his own amendments qualified and pending under cloture and have them removed from the desk prior to being called up.

The VICE PRESIDENT. The yeas and nays have been ordered and the clerk will call the roll.

Mr. MUSKIE. Mr. President——

The VICE PRESIDENT. The Senator from Maine.

Mr. MUSKIE. I would like to read a letter dated September 30, 1977, addressed to the Honorable HOWARD S. METZENBAUM, U.S. Senator, Washington, D.C.:

DEAR HOWARD: As you know, I have five amendments at the desk pending to the Jackson substitute to S. 1022. I intend to bring up one, if not all, for Senate consideration. For this reason, I would appreciate your cooperation in not offering amendments 1059, 1060, 1061, 1062 and 1063.

With best wishes, cordially,

TED STEVENS.

Mr. STEVENS. It is true, Mr. President, I sent that letter when it was apparent that there was going to be an attempt by Senators to call up amendments which they, themselves, had not offered. We have since examined them. As I indicated, one would be called up. Amendment 1060 will still be at the desk.

Mr. MUSKIE. But there is no control by the addressee of this letter or others who were relying on the fact that the Senator's amendments were on the desk. That is the point. I do not criticize the motive, but this is an important separation.

Mr. STEVENS. These are amendments which pertain only to the State of Alaska and certainly are not amendments which would be called up by the Senator from Ohio.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MATSUNAGA assumed the chair.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 59, nays 34—as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—59

Baker	Griffin	Percy
Bartlett	Hansen	Provmire
Bellmon	Hatfield	Randolph
Bentsen	Hayakawa	Roth
Burdick	Heinz	Sasser
Byrd, Robert C.	Hollings	Schweiker
Cannon	Huddleston	Sparkman
Chiles	Inouye	Stafford
Church	Jackson	Stennis
Cranston	Johnston	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Matsunaga	Tower
Eastland	Melcher	Wallop
Ford	Moynihan	Williams
Garn	Nunn	Young
Glenn	Pearson	Zorinsky
Gravel	Pell	

NAYS—34

Abourezk	Culver	McIntyre
Allen	Durkin	Metzenbaum
Anderson	Eagleton	Morgan
Bayh	Hart	Muskie
Biden	Haskell	Nelson
Brooke	Hatch	Packwood
Bumpers	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Javits	Sarbanes
Case	Leahy	Schmitt
Chafee	Mathias	Scott
Clark	McClure	

NOT VOTING—7

Goldwater	McClellan	Weicker
Humphrey	McGovern	
Kennedy	Metcalf	

The VICE PRESIDENT. On this vote, there are 59 yeas, 34 nays. The point of order is well taken.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Florida.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I will take just a moment. I thank the Chair for recognition and I thank my colleagues for sustaining the point of order as submitted to the Senate. I want to clarify one point.

It was my understanding and intention that the right to withdraw and to recall from the desk an amendment was in favor of that Senator who was the author of that amendment and would not apply except with multiple consent in cases where there is more than one sponsor or author.

I wanted to make that point and to make sure it is the Chair's interpretation of the situation in the same vein.

The VICE PRESIDENT. The Chair will so note.

Mr. BAKER. I thank the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 898——

Mr. METZENBAUM. Point of order, Mr. President.

The VICE PRESIDENT. There is an amendment pending.

Mr. ROBERT C. BYRD. I withhold that.

The VICE PRESIDENT. It is amendment No. 1226.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from California.

Mr. CRANSTON. Mr. President I make the point of order that, when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum when it has been established by a quorum call or rollcall that a quorum is present and the Chair's count reaffirms that a quorum is still present.

Mr. METZENBAUM. I ask for——

The VICE PRESIDENT. The point of order on the quorum has been raised——

Mr. ABOUREZK. I ask for yeas and nays.

The VICE PRESIDENT. Is there a sufficient second on the amendment? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. ALLEN addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. Mr. President, the point of order having been decided by the Senate on withdrawal under cloture by a Senator of amendments of which he is the author, would the Chair advise as to whether the same rule would obtain if cloture had not been invoked, or is this peculiar to a cloture situation?

The VICE PRESIDENT. This was a point of order put to the Senate on the narrow issue of the post cloture meaning of withdrawal.

Mr. ALLEN. Would the same rule apply, the Senate having decided as to cloture, cloture not being invoked?

The VICE PRESIDENT. The Chair will not so apply it and had not so ruled, but it would be for the Senate to decide.

Mr. ALLEN. In other words, if that point is raised, the Chair would submit that question to the Senate, also, is that correct?

The VICE PRESIDENT. Yes.

In a precloture situation, a Senator could simply offer the same amendment in his own name without restriction.

Mr. ALLEN. In a precloture situation?

The VICE PRESIDENT. Precloture.

Mr. ALLEN. He cannot withdraw it from consideration, is that correct?

The VICE PRESIDENT. Whether or not he did would be meaningless because another Senator could simply take the same amendment and offer it.

Mr. ALLEN. The point I was trying to raise, how does cloture change it, how does cloture change the rule?

The VICE PRESIDENT. Because the only question that the Senate has decided has been the specific issue raised by the Senator from Alaska and the Senator from Tennessee which was raised in a postcloture situation, and that is the only question the Senate has decided.

Mr. ALLEN. Well, I ask the Chair if that same rule would apply in a precloture situation?

The VICE PRESIDENT. The Chair will not so apply it.

Mr. ALLEN. I see.

Now, one other question, I am not sure whether the distinguished minority leader asked this question, or not. I could not hear, there was such a commotion in the Chamber.

Suppose, even in a cloture situation, if there were an author and three cosponsors of an amendment, would it take acquiescence and request of all four Senators, or could only one Senator withdraw the amendment?

The VICE PRESIDENT. That is what the Senator from Tennessee indicated his intent was and the Chair would so apply it.

Mr. BAKER. Will the Senator yield to me?

Mr. ALLEN. Yes.

Mr. BAKER. The question I put to the Chair was in the case as described by the Senator from Alabama; that is to say, one or more cosponsors, that in order to avail themselves of the privilege of withdrawal and reclaim from the desk an amendment, it would take all of the cosponsors acting jointly.

Mr. ALLEN. I see.

I thank the Chair and I thank the distinguished Senator from Tennessee.

Mr. President, I have not yielded the floor.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. The reason I sought the Chair's eye when we were discussing the matter of the propriety of the Vice President being in the chair at this time, is that I want to commend the distinguished Vice President for taking the chair when important parliamentary questions are to be decided. I feel he would have been derelict in his duty had he not assumed the chair.

I regard the distinguished Vice President as an outstanding authority on rule XXII. He and I have had some brushes here on the floor when he was the distinguished senior Senator from Minnesota and we have not always agreed on what rule XXII means. But I do believe that his ruling with respect to—on his own motion, ex mero motu—calling an amendment dilatory, that someone must implement rule XXII, the statement that no dilatory motion or amendment can be offered.

I really feel there is no tremendous change here in the rules because it just obviates the necessity of a Senator making this point.

There is no ruling, as I understand it, that these amendments can be thrown out en bloc. It takes individual consideration. All we decided, as I see it, is that the Presiding Officer would, on his own motion, make this decision and it would still be subject to an appeal from the Chair's ruling.

I think it was proper for him to submit on the other question, about the Senator's right to withdraw an amendment from further consideration by the Senate, to submit that to the Senate..

Some would have preferred that he rule that the Senator does not have authority to remove an amendment from consideration, by the Senate, because, as I see it, when an amendment is filed under the cloture rule, without cloture, it does not belong just to the individual Senator. It is before the Senate for consideration.

Following that just one little step further, we all recognize that a Senator can withdraw an amendment and yet call it up again. That is well recognized, that he can do that. But if that be true, if he can call up the amendment and then withdraw it and then offer it again, as is recognized that he has the right, why then would he not lose control of the amendment after having withdrawn it?

So I feel the Senate made a wrong decision in this regard and I hope——

Mr. BUMPERS. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. BUMPERS. This ruling of the Chair still discourages me on the ability of the Chair to rule personally that a perfectly valid amendment, properly drawn to the proper bill, is dilatory.

Now, two questions. Does the Senator from Alabama, who apparently favored the ruling of the Chair, feel that the Chair should give any reason for ruling an amendment dilatory, or can that be just an arbitrary and capricious decision on his part?

Mr. ALLEN. Yes, I think he could make that statement. As I say, it is subject to appeal from the ruling of the Chair, and all we have decided is that he can do this. He can take the initiative for orderly procedure. Any Senator could raise the same point. So, really, we have not decided a great deal here. Rather, it prevents the Vice President or the Presiding Officer merely sitting there, knowing full well that an amendment is out of order, and possibly that we have acted on it before, as was the case here.

Mr. BUMPERS. I am not talking about his ruling the amendment out of order for technical reasons. I am talking about his ruling an amendment dilatory.

Mr. ALLEN. Subject to appeal from his ruling, yes.

Mr. BUMPERS. Is it the opinion of the Senator from Alabama, under the ruling of the Chair—and I consider the Senator's judgment under rule XXII to be one of the best—that the Chair could make a ruling that an amendment was dilatory without the amendment's being read?

Mr. ALLEN. Under this ruling, he can, yes.

Mr. BUMPERS. Would that mean, then, that it was incumbent upon the Senator offering the amendment—the Chair rules that it is dilatory and therefore not in order, and that puts the onus on the person offering the amendment to use some of his 1 hour to explain to the Senate why it is not dilatory, does it not?

Mr. ALLEN. That is true. But I do not see that many Senators have used much of that time. I do not think that would put too much of a burden upon them.

Mr. BUMPERS. Let us take the Senator from Ohio or the Senator from South Dakota, who have 150 to 200 amendments at the desk. I assume the Chair is going to rule virtually all those amendments dilatory.

Mr. ALLEN. Would not the situation be exactly the same if some Senator raised the point of their being dilatory? What is the difference?

Mr. BUMPERS. It places the onus on whoever the author of the amendment is.

Mr. ALLEN. No more than already is there, because any Senator can raise that point.

Mr. BUMPERS. Under the present procedure, they are at least reading the amendment, so the Senators can hear the amendment. The Senator said the Chair can rule it dilatory without its even being read.

Mr. ALLEN. Under this ruling, yes.

Mr. President, I reserve the remainder of my time.

Mr. HANSEN. Mr. President, I make the point of order that this amendment is out of order. We have previously, by a vote of 53 to 44, rejected the nearly identical amendment which was made to amendment No. 862. Because it is identical——

The VICE PRESIDENT. Will the Senator state the number of the rejected amendment?

Mr. HANSEN. The number of the amendment that was voted down earlier by the Senate was No. 1260, and this amendment is identical. Therefore, it is dilatory.

Mr. SARBANES addressed the Chair.

The VICE PRESIDENT. Will the Senator withhold until the Presiding Officer has had an opportunity to review this matter?

Mr. SARBANES. Mr. President, I submit to the Chair that even if the exactly identical amendment has been offered to the substitute, it remains in order to be offered to the bill. As I understand, the point of order was not that it was offered to the bill but offered to the substitute.

The VICE PRESIDENT. The Senator from Maryland is correct. The point of order is not well taken. The prior amendment was to an amendment in the nature of a substitute. This is an amendment to the bill. Therefore, it is a different question.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The VICE PRESIDENT. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the Chair state the pending business?

The VICE PRESIDENT. Amendment No. 1226.

Mr. HARRY F. BYRD, JR. On which the yeas and nays have been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR. And that amendment is debatable, I assume?

The VICE PRESIDENT. It is debatable, under the cloture rule.

Mr. HARRY F. BYRD, JR. I yield myself such time as I may take.

I do not wish to discuss the amendment per se. I do want to comment on what I understand may be forthcoming later in the day, a point of order being made to the Chair. I feel that I need to do it at this point because once the point of order is made, as I understand it, it is not then debatable, except by unanimous consent.

First, let me put a parliamentary inquiry to the Chair.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRY F. BYRD, JR. It is not correct that throughout this debate, under cloture, the Chair has ruled consistently that the Chair, itself, on its own initiative, could not determine whether or not a quorum is present?

The VICE PRESIDENT. The Chair has ruled, according to the Parliamentarian, not consistently.

Mr. HARRY F. BYRD, JR. Will the Chair amplify on that? It has been my understanding that the Chair has ruled consistently that the Chair cannot, on its own initiative, determine a quorum to be present.

The VICE PRESIDENT. The Parliamentarian informs the Chair that that is essentially correct, but that during the debate on this measure and on at least two occasions postcloture, the Presiding Officer has ruled that that officer had the authority to determine that a quorum was present.

Mr. HARRY F. BYRD, JR. Is it within the authority of the Senator from Virginia to ask that the Chair make available to the Senate the transcript of such occasions, and the date and time when that was done?

The VICE PRESIDENT. The RECORD page is 30817 and 30818, September 26, 1977.

Mr. HARRY F. BYRD, JR. As I understand the Chair's reply to the Senator from Virginia, it is that the Senator from Virginia was essentially correct in his statement that the Chair has consistently ruled that the Chair itself cannot on its own initiative establish a quorum.

The VICE PRESIDENT. The Presiding Officer observed that that has been ruled in that direction a substantial amount of times, but on two occasions during the course of this debate, following the invocation of cloture, the Presiding Officer has ruled the other way.

Mr. HARRY F. BYRD, JR. The point I want to suggest is I hope no effort will be made to change what appears to be a fundamental rule in the Senate. If the rules need to be changed they can be changed at a later date and not in the heat of battle.

There may have been one or two isolated instances where the Chair has ruled differently, but I will say this: the Senator from Virginia was presiding the day this cloture debate began, and the Senator from Virginia was informed clearly by the Parliamentarian that the Chair had no right, under the rule, to determine on his own initiative that a quorum was present, and the Chair has ruled that way several times since this debate began.

I happen to be on the opposite side from the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Ohio (Mr. METZENBAUM), and I have consistently voted against them. But I am very anxious that we not change the rules in the middle of a fight. I would hate to see us take hasty action having far-reaching effects, or potentially far-reaching effects, on the deliberations of the Senate in the years to come.

Mr. President, how much time have I consumed?

The VICE PRESIDENT. Six minutes.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, during the course of this cloture proceeding I have repeatedly made the point that it is dilatory to suggest the absence of a quorum and demand a rollcall when a quorum is clearly present, and on at least two occasions I have been upheld in making that point.

I recognize that the Senator from Vir-

ginia was in the Chair when I made that point and he ordered the roll to be called, and he did not accord me an opportunity to appeal from his decision in that regard. I do not quarrel about that. I assume he has the right to do that, and I am not quarreling about that.

All I am saying is the Senate has a right to vote on that, whether, after cloture has been voted, and when the Presiding Officer finds there is a quorum present, he looks out and sees there are clearly 51 Senators here, that he can hold that it is dilatory or he can simply announce that a quorum is present because he looked and had seen it.

With the Senator from Florida (Mr. CHILES) in the chair, Mr. CHILES made just that decision, and the Senator from South Dakota (Mr. ABOUREZK) asked about it, Mr. ABOUREZK, contesting the Chair's right to rule that there was a quorum present.

The RECORD will show that Mr. CHILES said, that, it is sort of like an umpire who will call a play. One can look and see how many are there. That is how it was done previously.

In my judgment, Mr. President, those men who wrote this cloture rule, did not think they were writing some dead letter. They thought they were giving the Senate all it needed to shut that debate off after cloture was voted. As a matter of fact, the last change was sponsored by the present occupant of the Chair himself, the Vice President (Mr. MONDALE). He was the mover of that, he was the one who brought it about. If he had thought you needed something else for the purpose of closing off debate, and with the advice available to him of Mr. HUMPHREY, who served as Vice President, and others, he would certainly have insisted on having it in there the last time when we had the chance to say what the cloture rule was going to be for the future.

So, Mr. President, basically the people who wrote the rule in 1918 thought they had given us all we needed. But in order to do that, you are going to have to do in a way where you will have to rule that you do business somewhat differently once cloture is voted.

Here is the rule, and let us look at it:

No dilatory motion, or dilatory amendment, or amendment not germane shall be in order.

You have the language that you can use by simply construing that language as what the framers of it intended it to mean. They were giving you the power there to shut this debate off. Otherwise where do you stand?

All somebody needs to do is come in here with 10,000 amendments, just have somebody haul them on in, have people working on them in advance. You could not get the thing to a vote in 2 solid years.

The men who wrote that rule did not mean to permit that sort of thing to succeed. They had in mind that the man in the Chair could sit there and when someone brings up a motion, he could say that it is dilatory, and proceed to call on someone else.

We have done some of it, and if we are ever going to vote, we are going to have to do some more.

What some Senators are contending for is an interpretration which would leave so many loopholes to it that the rule is meaningless. It does not mean one blessed thing as far as I am concerned if that is the way it is going to be interpreted. I would expect to use the same rights as other people have used if that is how we are going to do business, but it does not make sense.

I yield the floor.

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, I move to table the pending amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. BAKER. Point of order, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. I make the point of order that when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. The point of order is not debatable.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, I make the point of order that a point of order is now pending.

The VICE PRESIDENT. The Presiding Officer is now considering the point of order.

Mr. SARBANES. Mr. President, a parliamentary inquiry. Could the point of order be stated for the information of the Senate?

The VICE PRESIDENT. The clerk will state the point of order.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) made the point of order that, when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

The VICE PRESIDENT. As in the case of the prior request, the prior point of order, the Vice President submits to the Senate the point of order made by the Senator from Tennessee as his prerogative under the rules.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. He does so because it is a case of first impression.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. And he assumes it will be appealed, and wishes the Senate to decide it ab initio.

The question is, Is the point of order well taken?

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JAVITS. Mr. President, I find one uncertainty in the request for the point of order, and that is the following:

If a motion has been ruled dilatory or the offering of an amendment is ruled out of order or dilatory and an appeal is taken and upon that appeal the Chair is reversed, would not that within this point which is made represent the right to continue with whatever the request was?

This request does not contemplate a situation in which a motion ruled dilatory results in an appeal and the overruling of the Chair, similarly, the offering of an amendment which is ruled out of order or dilatory.

Mr. BAKER. Mr. President, if the Senator will yield to me, that is not my intention.

Mr. JAVITS. I understand that, but I think that should be made.

The VICE PRESIDENT. Action on appeal would constitute business.

The question is, Is the point of order well taken?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 74, nays 21, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—74

Baker	Hansen	Nunn
Bartlett	Haskell	Packwood
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Inouye	Roth
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Johnston	Schweiker
Clark	Kennedy	Scott
Cranston	Lavalt	Sparkman
Curtis	Leahy	Stafford
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durkin	Matsunaga	Tower
Ford	McClure	Wallop
Garn	McIntyre	Williams
Glenn	Melcher	Young
Gravel	Moynihan	Zorinsky
Griffin	Nelson	

NAYS—21

Abourezk	Culver	Morgan
Allen	Eagleton	Muskie
Anderson	Eastland	Riegle
Bayh	Hart	Sarbanes
Brooke	Hatch	Stennis
Byrd, Harry F., Jr.	Helms	Thurmond
Case	McGovern	
	Metzenbaum	

NOT VOTING—5

Goldwater	McClellan	Weicker
Humphrey	Metcalf	

The VICE PRESIDENT. On this point of order, there are 74 yeas and 21 nays. Therefore, the point of order is well taken.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate?

The VICE PRESIDENT. There is pending a motion to lay on the table amendment No. 1226. The yeas and nays have not been ordered.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. There is a pending motion to table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table amendment No. 1226. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—63

Allen	Dole	Laxalt
Baker	Eagleton	Long
Bartlett	Eastland	Lugar
Bellmon	Ford	Matsunaga
Bentsen	Garn	McClure
Burdick	Glenn	Melcher
Byrd, Harry F., Jr.	Gravel	Morgan
Byrd, Robert C.	Griffin	Moynihan
Cannon	Hansen	Nunn
Chafee	Hatch	Packwood
Chiles	Hatfield	Pearson
Church	Hayakawa	Pell
Cranston	Helms	Percy
Curtis	Huddleston	Randolph
Danforth	Inouye	Roth
DeConcini	Javits	Schmitt
	Johnston	Schweiker
Scott	Stevenson	Wallop
Sparkman	Stone	Young
Stafford	Talmadge	Zorinsky
Stennis	Thurmond	
Stevens	Tower	

NAYS—31

Abourezk	Hart	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Hollings	Proxmire
Bumpers	Jackson	Riegle
Case	Kennedy	Sarbanes
Clark	Leahy	Sasser
Culver	Magnuson	Williams
Domenici	Mathias	
Durkin	McGovern	

NOT VOTING—6

Goldwater	McClellan	Ribicoff
Humphrey	Metcalf	Weicker

So the motion to lay on the table amendment No. 1226 was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON and Mr. METZENBAUM addressed the Chair.

Mr. CRANSTON. Mr. President, I make the point of order that when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum, when it has been established by a quorum call or rollcall that a quorum is present and the Chair's count reaffirms that a quorum is still present.

The VICE PRESIDENT. The point of order is well taken. When operating under cloture, no dilatory motion shall be in order. The Chair will take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum, when made under the circumstances cited in the point of order.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the yeas and nays be ordered on this motion to table.

Mr. CURTIS. I object.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. CRANSTON. The point of order stands against suggestions of absence of a quorum.

The VICE PRESIDENT. Under the ruling, the point of order is well taken.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. Mr. President.

Mr. ABOUREZK. Point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. What was the ruling, Mr. President?

The VICE PRESIDENT. The Vice President ruled that under rule XXII, where the Presiding Officer sees that a quorum is present, he may so rule, and a motion contrary to a quorum call is dilatory under rule XXII.

Mr. BAKER. Mr. President, point of order.

Mr. ROBERT C. BYRD. Mr. President.

The VICE PRESIDENT. The question is on agreeing to a motion to table.

Mr. ABOUREZK. Mr. President, I ask for a division.

The VICE PRESIDENT. The motion is agreed to.

Mr. ABOUREZK. Mr. President, I sought recognition.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

Mr. ABOUREZK. Mr. President, I sought recognition before the vote was announced.

The VICE PRESIDENT. It is the ruling of the Presiding Officer that that is not the case.

Mr. ABOUREZK. Mr. President, point of order.

Mr. ROBERT C. BYRD. Mr. President, I call up amendment——

The VICE PRESIDENT. The Chair has recognized the Senator from West Virginia.

AMENDMENT NO. 890

Mr. ROBERT C. BYRD. I call up amendment No. 890.

The VICE PRESIDENT. It is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 898

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 898.

The VICE PRESIDENT. It is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 920

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 920.

The VICE PRESIDENT. The amendment is not in order since it seeks to amend the bill in two places.

AMENDMENT NO. 941

Mr. ROBERT C. BYRD. I call up amendment No. 941.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 948

Mr. ROBERT C. BYRD. I call up amendment No. 948.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Point of order, Mr. President.

AMENDMENT NO. 951

Mr. ROBERT C. BYRD. I call up amendment No. 951.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 959

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 959.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 972

Mr. ROBERT C. BYRD. I call up amendment No. 972.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. Mr. President, will the Chair give the reasons why each amendment is out of order?

AMENDMENT NO. 985

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 985.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 989

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 989.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Mr. President, I make a point of order.

AMENDMENT NO. 992

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 992.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1006

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1006.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1017

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1017.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1048

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1048.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. ABOUREZK. Mr. President, what about the right of appeal?

AMENDMENT NO. 1056

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1056.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1183

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1183.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1218

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1218.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1241

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1241.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1261

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1261.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1281

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1281.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1284

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1284.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1343

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1343.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1347

Mr. ROBERT C. BYRD. Mr President, I call up amendment No. 1347.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1376

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1376.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. HATHAWAY addressed the Chair.

AMENDMENT NO. 1377

Mr. ROBERT C. BYRD. Mr President, I call up amendment No. 1377.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. HATHAWAY. Mr. President, I move to adjourn.

AMENDMENT NO. 1392

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1392.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 895

Mr. ROBERT C. BYRD. Mr. President, I call up the following amendments which are not germane: amendment No. 895.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 983

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 983.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

AMENDMENT NO. 996

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 996.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1021

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1021.

The VICE PRESIDENT. The amendment is not in order for the same reason.

AMENDMENT NO. 1026

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1026.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. I appeal the ruling of the Chair.

AMENDMENT NO. 1032

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1032.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Mr. SARBANES. I appeal the ruling of the Chair.

AMENDMENT NO. 1036

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1036.

The VICE PRESIDENT. The amendment is not in order for the same reason.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, is the ruling of the Chair that an appeal does not lie to the rulings of the Chair?

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Is the Chair ruling that appeals do not lie to the rulings of the Chair?

The VICE PRESIDENT. The Chair has recognized the leader of the Senate under the customs of the Senate.

Mr. SARBANES. I understand that. Does the custom of the Senate which accords recognition to the leader of the Senate, which is a custom I recognize, extend so far that an appeal from the ruling of the Chair to a point of order made by the leader of the Senate is not available to any Member of the Senate and that the Chair is entitled to continue to recognize the leader to make successive points of order without any appeal from affirmative rulings of the Chair being available to the Members of the Senate?

The VICE PRESIDENT. It is the understanding of the Presiding Officer that the customs of the Senate call for recognition of the leader whenever he seeks it. That is what the Presiding Officer——

Mr. SARBANES addressed the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SARBANES. Now, Mr. President, when the leader seeks recognition and makes——

Mr. CULVER. Regular order. Who has the floor?

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. I just want to underscore this point. I think it is tremendously important to this body.

I recognize what the leader is doing. He is now proceeding under precedents which the Senate has adopted. First of all, he is calling up these amendments. The Chair then, of its own initiative, is ruling them out of order.

But I do not understand that the custom which entitles the leader to recognition when he seeks it extends to the point that the leader can make a point of order or any other motion and that the ruling of the Chair on such a matter is not subject to an appeal by Members of the Senate.

Mr. ROBERT C. BYRD. Mr. President, would the Chair allow me to make a comment at this point?

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, all of the amendments I called up were either amendments that went to more than one place in the bill and they would thus automatically be out of order, or they were not germane, and under the ruling that has previously been entered today, the Vice President is required, the Presiding Officer is required to rule out of order under cloture any amendment that is dilatory or out of order on its face.

The amendments I called up were either out of order on their face because they were not germane and thus not allowed under the rules, or they went to more than one place in the bill and are thus out of order.

Mr. MUSKIE. Will the Senator yield?

Mr. ROBERT C. BYRD. I ask unanimous consent to allow a Senator to appeal en bloc—en bloc—all those amend-

ments that were ruled out of order for the reasons I have stated.

Several Senators addressed the Chair.

The VICE PRESIDENT. Objection is heard.

Mr. CASE. A point of information.

Mr. SARBANES. Mr. President, the judgment as to whether——

The VICE PRESIDENT. The Senator from Maryland.

Mr. SARBANES. Mr. President, the judgment as to whether an amendment is germane or is dilatory is a judgment which the Chair must first make. Under the precedent adopted earlier today, the Chair has been accorded the right to make that judgment initially of its own initiative. But to go beyond that and to say the Chair's ruling cannot be appealed and that the Members of the Senate cannot pass upon it is to establish a procedure here which I suggest to each Member of the Senate they ought to think about.

Several Senators addressed the Chair.

Mr. SARBANES. Now, there exists a rule that, as I understand it, if a Senator seeking the yeas and nays does not get sufficient seconds, then he cannot get the yeas and nays. So the possibility for a semisteamroller exists simply by providing with a series of voice votes if there are not sufficient seconds to the requests for the yeas and nays.

But the procedure just being followed here, an amendment being called up, the Chair ruling the amendment out of order and the Chair then permitting no appeals from its ruling, is a process fraught with danger.

Mr. ROBERT C. BYRD. Mr. President, appeal comes too late.

SEVERAL SENATORS. Regular order, Mr. President.

The VICE PRESIDENT. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. I yield to the Senator from Maine for a question.

Mr. MUSKIE. A further point, may I say to the Senator, when the majority leader put this point of order earlier, I asked him whether or not it would have the effect of denying the right of appeal which a vote of the Senate established just last Saturday. The majority leader assured me that it would not.

Now, the majority leader seeks to substitute that right of an individual Senator to appeal a single point of order or a single amendment by an en bloc kind of an appeal.

Mr. President, this is just what I feared last Saturday, when I raised this whole question of the right of appeal.

I take it that the majority leader has the votes now to enforce any change in the filibuster rule that he has devised over the weekend. We can count on this side of the aisle as well as on that side, but I hope that before you move irrevocably down this line, you begin to look at the consequences. I hope, further, that if that is what you are about—I am talking about the majority, who are now in the process of amending rule XXII—you do it totally, that you do it so thoroughly that when somebody on that side of the aisle, or any side of an issue in the future, seeks to filibuster, they will be foreclosed because of your foresight and your wisdom. I hope that happens.

I have been amused by those who over the years I have been in the Senate have fought cloture, who now seek to advise us what we intended when we adopted the cloture rule. The cloture rule was not made tighter not because we did not want to, but because we had to compromise our objective to accommodate those who wanted to reserve the right to unlimited debate. Now many of those who wanted that right seek to deny it to somebody else.

My whole posture in this has been not that I am for filibusters but that I do not like to see the advantage of the rules denied to a group that, at its peak, commanded 46 votes, maybe more now, on an issue of paramount national importance, by changing the rule in the middle of the game.

You cannot tell me that what is going on now is a simple application of the rule. Over and over again, the Chair is putting the question. There are no precedents, and the Chair wants the Senate to establish this ab initio—from the beginning—a new order of things, a change in the rules. That is what you are talking about, and you are doing it by commanding a majority who is your majority only on this issue. I do not think that is the way to do it.

I know how frustrating filibusters are. I have been against more of them than many of those who are against this one, and I do not really like this way of deciding this one.

I hope that out of this—and this is really what I hope—and out of the other recent filibusters we have had, we will finally get a cloture rule that will work but that will apply equitably to everybody, not to a temporary majority on a particular issue.

You have the votes. Go ahead with your amendments. Change the rule, and then get your vote on the issue.

Mr. SARBANES. Mr. President, I yield to the Senator from Idaho for a question.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Chair has recognized the Senator from Maryland.

Mr. CHURCH. Mr. President, it seems to me that the logic of the Senator from Maryland is impeccable. He has made the argument that it has now been decided by the Senate that the Chair may take the initiative in ruling a given amendment dilatory or nongermane, or otherwise out of order. We Senators have given the Chair that authority.

It also is true that the majority leader, under the customs of the Senate, is entitled to recognition by the Chair when he seeks it, even though other Senators are seeking the floor. When the majority leader gets that recognition, when he calls up an amendment, and the Chair rules that the amendment is out of order, the action is completed. The Senator from West Virginia does not still have the floor, once the action is completed, and another Senator then has the right to appeal from the ruling of the Chair.

Nobody understood—at least, the Senator from Idaho did not understand—that individual Senators were giving up the right to appeal from the ruling of the Chair.

My question is this: If individual Senators cannot get recognized for that purpose, then in truth the right to appeal has been foreclosed.

Mr. SARBANES. I say to the Senator from Idaho that we were absolutely assured by the Chair earlier in these proceedings that the right to appeal the ruling of the Chair with respect to ruling a motion or an amendment as being dilatory or out of order would be preserved for the Members of the Senate.

Mr. CASE. And on each amendment, by itself, not en bloc.

Mr. SARBANES. That is correct. We were absolutely assured by the Chair that that appeal right would lie. For the Chair to say that the custom which entitled the majority leader to recognition first extends to the point of precluding an appeal of the Chair's ruling on a matter raised by the majority leader is, in effect, to establish a dictatorship in the Senate.

Mr. CHURCH. The Senator is correct.

Mr. HART. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. SARBANES. I yield for a question.

Mr. HART. Mr. President, the rules of the Senate state that decisions of the Chair are subject to appeal and that by a majority vote the Senate may reverse or overrule any decision by the Chair. The appeal must be taken before other business intervenes.

Does the Senator from Colorado correctly understand that the way this very sophisticated version of the kind of steamroller we had 3 or 4 days ago is now operating is that we are foreclosed from an appeal by what I consider to be an abuse of leadership authority?

The VICE PRESIDENT. It is the Presiding Officer's position—and he has been advised to that effect—that it is the responsibility of the Presiding Officer to recognize the leadership when they seek recognition, and that is what he has done.

Mr. HART. Then the U.S. Senate has just seen an outrageous act.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

Does an appeal lie from the ruling of the Chair on a motion that an amendment is out of order or dilatory? Can that be made?

The VICE PRESIDENT. Yes.

Mr. SARBANES. Is it the Chair's ruling that if the motion is made by the majority leader, such an appeal does not lie, except with his permission?

The VICE PRESIDENT. The responsibility of the Presiding Officer is to recognize the first Senator seeking recognition, except in those circumstances where the leadership seeks recognition; and under the customs of the Senate, it is the responsibility of the Presiding Officer, as he understands it, to recognize that leadership.

Mr. SARBANES. So does the recognition which is accorded to the majority leader by the customs of the Senate extend only with respect to the majority leader bringing up, subsequent to the disposition of one piece of business, the

next piece of business, or does it reach to the point of preventing an appropriate completion of the first piece of business as provided by the rules through the raising of a point of order?

The VICE PRESIDENT. The Presiding Officer has described his understanding of the customs of the Senate.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator for a question.

Mr. JAVITS. I ask the Chair whether a point of order will lie, to be ruled on by the Chair that it is out of order, to successively recognize the majority leader, so as to deny individual Senators the right to appeal from a ruling of the Chair which is raised in the course of the first recognition by the majority leader. Would it be in order to make that point of order?

The VICE PRESIDENT. The Parliamentarian informs the Chair that it would be.

Mr. JAVITS. I make the point of order.

Mr. SARBANES. Mr. President, I have the floor, and am prepared to make such a point of order.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold?

SEVERAL SENATORS. Regular order.

Mr. ROBERT C. BYRD. Does the Senator withhold that point of order?

Mr. SARBANES. Without losing my right to the floor and without losing my right to make that point of order.

Mr. JAVITS. I have made the point of order.

The VICE PRESIDENT. The Chair is advised that the Senator from New York cannot make that point of order unless there is agreement on yielding to him for that purpose.

Mr. JAVITS. I ask the Senator from Maryland if he yields to me for that purpose.

Mr. SARBANES. May I yield for that purpose, under rule XXII?

The VICE PRESIDENT. The Senator may, but he loses the floor.

Mr. JAVITS. Mr. President, I make the point of order.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President——

Mr. CULVER. Mr. President, a point of order. Is the point of order debatable?

The VICE PRESIDENT. Under the rules of cloture, it is not debatable.

SEVERAL SENATORS. Regular order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes in which to discuss the point of order.

The VICE PRESIDENT. Is there objection?

Mr. CULVER. Objection.

The VICE PRESIDENT. Objection is heard.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, I ask unanimous consent that there be 10 minutes to discuss the point of order, to be divided between the Senator who propounded the point of order and the majority leader. I ask unanimous consent for 10 minutes.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The Senator from West Virginia.

Mr. FORD. Mr. President, will the Senator yield me 15 seconds?

Mr. ROBERT C. BYRD. I yield.

Mr. FORD. The older I get, the smarter my parents become. My mother told me that a word spoken cannot be retrieved, and the tongue is the only edged tool that grows sharper with constant use.

Mr. ROBERT C. BYRD. Mr. President, what is the point of order?

The VICE PRESIDENT. The Senator from New York has made a point of order that it was out of order for the Chair to continuously recognize the majority leader to call up amendment after amendment, and in each case the Chair ruled them out of order, without Senators being permitted the right to appeal in each case, through recognition.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Maryland for his courtesy. Now, Mr. President, I think that my colleagues have known me long enough to realize that I always am as patient as one possibly can be; that I am forebearing; that I bend over backward in an effort to accommodate every Senator on both sides of the aisle, and on both sides of any question, often to my own disadvantage.

Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Mr. ROBERT C. BYRD. But, Mr. President, we have come to a situation here in which it is not just the accommodation of a Senator that is involved; it is, rather, the accommodation of the Senate itself.

We have heard talk about the abuse by the leadership of its prerogatives. We have heard talk about the abuse of the custom of preferential recognition of the majority leader. What about the abuse of the rules to which every Member of the Senate on both sides of the aisle has been subjected for the last 13 days and 1 night? What about that abuse of the rules? What about the abuse of the Senate itself, when we have stood here hour after hour—and I have done it, I have pleaded, I have tried to get unanimous consent, I have had meetings in my office with Senators on both sides of the question, I have tried in every possible way available to me to get the Senate to come down to a resolution of the issue, and my words and pleadings have fallen upon deaf ears.

Now it came to the point that we saw we could not reason with a handful of filibusterers—and I have been on their side on the votes, I am still on their side on the basic issue of complete deregulation at this time. Time and time and time and time again, over the years, I have been the spear carrier, in fighting this able and honorable man, the Senator from Alabama. I have been the spear carrier many times in years gone by for those who are seeking to get the Senate to take action now to denigrate me.

For 10 years, who has been your spear carrier, Mr. CULVER? I have gone on the battleground with this man because nobody else in the Senate was chosen to do so or was equipped to do so. I did it on the civil rights attorneys' fee bill; I did it on the antitrust bill; I did it on Senate Resolution 400 that set up the Intelligence Committee; I did it on the extension of the Voting Rights Act; I did it on the fight to reduce the cloture votes from two-thirds to three-fifths. Those of you who today charge the majority leader of having abused his prerogatives did not then raise your voice.

I would say that the Senator from Alabama and those who supported him at that time had just as much right to say that I was abusing the rights of the leadership when I took him on. I was the majority whip then. But who stood up for him in that day? Nobody! Where were those then who now stand against me because I am now seeking to get this bill out of here, and because I am seeking to take a stand against the continued abuse of the U.S. Senate and every Member of it? Where were they then? I did not hear a word out of them when it was Senator ALLEN who was filibustering for causes in which he believed. But I carried the scars, and I still carry those scars.

I have not abused the leadership's prerogatives. I am trying to keep Senators from abusing the Senate, and I think it is self-evident that the ending of such abuse is long overdue. They have done too much of it already.

Now, Mr. MUSKIE said something about the devising of a change in the filibuster rule over the weekend.

The VICE PRESIDENT. The Chair must advise the leader his 5 minutes have expired.

Mr. JAVITS. I yield to the Senator 1 minute.

Mr. ROBERT C. BYRD. I cannot finish in 1 minute.

Mr. STONE. Mr. President, I yield to the leader my remaining time on the bill.

The VICE PRESIDENT. There is a question as to whether time would be yielded.

Mr. JAVITS. Mr. President, I understand we are limited to 5 minutes to a side, and I yield 2 minutes to my colleague.

Mr. ROBERT C. BYRD. I thank my distinguished friend from New York.

No change in the filibuster rule was devised over the weekend. But there have been some new precedents set here today that had to be set, and they were discussed over the weekend.

My interest here is not in putting at a disadvantage those who stand with Mr. METZENBAUM and Mr. ABOUREZK on the basic question. I have voted with them every time on the basic question. But I am trying to put a stop to this filibuster, and that is what the Vice President is trying to do, and that is what the administration is trying to do. That is why the Vice President is here today. He is not here, as someone has said, to—what did Mr. ABOUREZK say about the Presi-

dent?—pull the rug out from under us. The Vice President is here to get the ox out of the ditch. The ox is in the ditch! That is why the Vice President is here!

The administration is for the position that the filibusterers hold. The President has said in no uncertain terms that he intends to veto outright deregulation. What more do you want? You know you are going to win in conference. You know if outright deregulation gets through conference, the President will veto it. What kind of a charade do you think the American people are going to be fooled into thinking this is?

I say it is long past time, Mr. President, to stop this filibuster, and to stop the abuse of the Senate and its rules. It was for that reason that I, in this instance, took extraordinary advantage of my prerogative as leader to be recognized. One has to fight fire with fire when all else fails.

[Applause, Senators rising.]

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. ABOUREZK. Mr. President, will the Senator yield?

The VICE PRESIDENT. Under the controlled time, the Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 2 minutes, and I would like to yield then a minute to Senator SARBANES who started this whole discussion.

Mr. President, I have been here a long time. I am very proud of this body. I am very jealous of what it does. I do not want to see it run down the drain in a moment of exasperation. Thirteen days are but a moment in the life of this body; the precedents and the order and the procedure of a century, and I understand thoroughly how BOB BYRD feels, and I voted with him a lot, and I have gotten so fed up with this thing that I think I am almost ready to do something to resolve it even if it is against what I deeply believe is the right course in this matter, and I think that is true of many others.

But often in moments like this we forget, we miss the forest for the trees. It is not right not to permit an appeal. The Senate, indeed on Saturday—and I was not here but my assistant has called to my attention—voted that there could be an appeal. This vote was 71 to 9, that there could be an appeal in just such a situation.

I hope very much, therefore, that by the tradition of recognizing the majority leader that right will not be denied. It is exasperating, it is troublesome. But all of us must understand that there but for the grace of God go I.

I deeply believe, Mr. President, we have administered very considerable rebukes today to those whom the Senator from West Virginia has properly criticized, a great many, and they will curtail this filibuster very materially.

In addition, 100 of us have to live together. We have long memories. I hope the filibusterers remember that, too. But this process seemed to me, in all decency and honesty—and I have expressed my understanding and sympathy—to go beyond the bounds of what was reasonable and prudent.

As an older Member I felt if I do not put the question to the Senate and stop the Senate so that it takes another think on it, who would. That is why I made this motion.

The VICE PRESIDENT. The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, I want to speak in much the same tenor in which the Senator from New York spoke. I understand the feelings of the majority leader. We have been changing some precedents here, and I, in fact, have supported some of those put forward today by the majority leader as being a more sensible and more reasonable way for the Senate to do business.

If we want to change, that is fine. I was driven to raise the point of appeal by the process that was being followed and its implications. If simply allowed to pass without its being raised, the implications are quite serious.

If the Senate wants to adopt that implication by majority vote, it has that opportunity. But, it seems to me, if we try to work through the situation by the rules—as the Senator from Maine has pointed out, we got rule XXII through some very touchy fights, and these rules are available—if they want to change them, that ought to be done in a way that is sensible and constitutes an applicable precedent for the future.

We were assured in particular with respect to this point by the Chair at a time when other rulings were being made, and it seems to me a different way has to be devised in terms of moving forward.

Mr. TOWER. Regular order.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may proceed for 1 minute more.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, I wish I had time to respond to the distinguished majority leader. I believe the point has been made. I believe the Senate is of one mind on this question. At the same time I believe the Senate would hate to pass on this point of order.

I would ask unanimous consent that the point of order be withdrawn. It can be put in again if this same practice continues. Senators would be most reluctant to repudiate the distinguished majority leader who is trying so hard to get a vote on this issue.

There will be plenty of time later on this afternoon to raise this point of order if it is necessary.

I appeal to the distinguished Senator from New York to withdraw the point of order.

Mr. STONE. Mr. President, will the Senator yield 10 seconds?

Mr. ALLEN. Yes.

Mr. STONE. The Senator from Alabama is right. This point of order should be withdrawn for now at least, and the discussion of it could go on in person one on one at a later time.

Mr. JAVITS. Mr. President, will the Chair recognize me for a parliamentary inquiry?

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JAVITS. Will it be the intention of the President of the Senate upon the next such motion by the Senator from West Virginia to allow another Senator to seek recognition once he is recognized and calls up the amendment which the Chair rules out of order?

Mr. ALLEN. Mr. President, I do not think the distinguished Presiding Officer should be required to make that judgment.

Mr. JAVITS. I press that and I wish an answer.

Mr. ROBERT C. BYRD. Mr. President, I can answer that.

I had no intention of calling up any other amendments. I have finished.

Mr. JAVITS. All right.

Mr. President, I withdraw the point of order.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate be allowed to vote on appeal on each of the amendments that was ruled out of order——

Mr. MORGAN. Objection.

Mr. ROBERT C. BYRD. Will the Senator allow me to finish?

Mr. MORGAN. I will withhold it for the time being.

Mr. ROBERT C. BYRD. Provided it be done in each instance by voice vote and we then get on with the business of the Senate.

Mr. MORGAN. Objection.

The VICE PRESIDENT. Objection is heard.

Mr. ROBERT C. BYRD. Only two types of amendments were ruled out of order. They were those not germane and those that went to more than one place in the bill. They were clearly out of order.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Before this matter came up, before the majority leader went down the list, had he not been advised by me that he had told me that there were two lists, one of which contained amendments that were not in order because they were not germane, and one of which contained amendments which were not in order because they amended the bill at more than one place?

Mr. ROBERT C. BYRD. And there were other lists, but I have given those lists to the Senator.

Mr. METZENBAUM. Had I not pointed out to the majority leader that out of those lists there were 44 amendments, 11 of them were mine, and had I not said to the majority leader that I intended to withdraw those amendments before he ever ran down the entire list?

Mr. ROBERT C. BYRD. The Senator did say that he intended to withdraw his amendments. I do not recall that he said how many were out of order. I had no chance to count them. I do not re-

member that he told me how many were his. He did indicate that a certain number of them were his and that it was his intention to withdraw those that were his.

Mr. METZENBAUM. I ask that question in the context of the majority leader, for whom I have great respect, having just a moment ago talked about the abuse of the rules. When I learned that there were certain amendments that were out of order, I was prepared to withdraw them voluntarily, and I thought the Members of the Senate should be apprised of that.

Mr. STONE. Mr. President, will the Senator from Ohio yield for a question?

Mr. CURTIS addressed the Chair.

Mr. STONE. Mr. President, will the Senator from Ohio yield for a question?

Mr. METZENBAUM. On the Senator's time.

Mr. STONE. On my time.

Does the Senator from Ohio wish to withdraw the amendments now that are irrelevant or not germane?

The VICE PRESIDENT. Had the Senator from Florida sought recognition?

Mr. STONE. The Senator from Florida asked the Senator from Ohio if he would yield on my time for that one question.

Mr. METZENBAUM. I am happy to yield on the Senator's time.

Mr. STONE. Yes, on my time.

And I ask the Senator from Ohio, Does he now wish to withdraw the amendments that he just mentioned?

Mr. METZENBAUM. All the amendments that I had intended to be withdrawn were called up by the majority leader and ruled out of order, so they are no longer extant.

Mr. STONE. Mr. President, will the Senator from Ohio have any other amendments that he wishes to withdraw?

Mr. METZENBAUM. Yes, I have no other amendments that are not in order.

Mr. ROBERT C. BYRD. Mr. President, may I say that I do have other lists. I am glad to say to the distinguished Senator from Ohio that I have other lists of amendments that are not in order for other reasons, and if he wishes to take a look at those lists and withdraw the amendments that are on those lists, I am very glad to supply them.

Mr. METZENBAUM. I ask the majority leader: Have I not been asking for the last several days if I might see such a list in order that I might make my own evaluation? And I have asked as recently as the last half-hour.

Mr. ROBERT C. BYRD. The Senator asked last Saturday.

Mr. METZENBAUM. Yes.

Mr. ROBERT C. BYRD. I said I would try to compile a list over the weekend and supply him with it.

Mr. METZENBAUM. I asked also when Senator BUMPERS had raised the point, and I asked at that time if I might obtain a list, and I said consistently if I could see the list to determine and agree with the determination then I would have no difficulty in arriving at an appropriate conclusion.

Mr. ROBERT C. BYRD. The Senator is correct.

I have to say to the Senator that over the weekend I asked the Parliamentarian to have his staff compile the remaining amendments and categorize them as to whether they were out of order for one reason or for some other reason. It was only this morning that they were able to supply me with those files and those up-to-date lists. The Senator came to me again this morning and reminded me of his request. I gave him two of the lists and was trying to complete them so as to give him the remaining ones. So I have done the best I could do.

Mr. METZENBAUM. I look forward to seeing that list.

Mr. CURTIS addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Richard Poore, of my staff, be accorded the privilege of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ABOUREZK addressed the Chair.

The VICE PRESIDENT. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I wish to address a parliamentary inquiry to the Chair.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. We just had sort of an emotional outpouring based on the recent action of the Chair and the majority leader. I do not know if it is in place to ask this question now or not.

But what happened was when I tried to seek recognition the Chair refused to recognize me based on what he said was the precedent of recognizing the majority leader. I think it is recognized by everyone that that precedent deals with the majority leader doing the actual detail work of the Senate, not that he can get up and become involved in a partisan fight. I think that is the purpose for the precedent, because if we were going to set a precedent for a tradition that said the majority leader could become involved in a partisan way on an issue and then say that he is entitled to recognition over and above everyone else, I think that would be wrong and I think most people would agree with that.

When I sought recognition to appeal the ruling of the Chair on each point of order that was made by the majority leader I was denied that recognition. I was denied the right for a division on a voice vote before the voice vote was announced.

The question I want to propound to the Chair is this: Does the Chair intend to allow that what I consider a real violation of the rules, not only an abuse of the rules, but a brutalization of the rules to stand?

Mr. ROBERT C. BYRD. Mr. President, I think that is a question that should be addressed to me.

Mr. ABOUREZK. Mr. President, I would like an answer from each if I can get it.

Mr. ROBERT C. BYRD. The Chair is in no position to answer that question. I can answer it.

I have never before today attempted, as long as I have been in a leadership position in this Senate, to inject myself in a partisan way in any fight, and I am not doing that today. I am not doing that today because, as I say, I have been voting with the Senator on motions to table the Pearson-Bentsen amendment. Two years ago I voted for deregulation. I have not injected myself as leader in a partisan way, to tip the scales for or against deregulation by using the rules, and I do not intend to.

I might at some point inject myself in a partisan way as between Republicans and Democrats. I would suspect the Senator would expect me to do that. I would suspect the distinguished minority leader would expect me to do that. But when it comes to injecting myself and taking advantage of the rules, if that is what the Senator thinks I have done, just so that I might tip the balance one way or the other on the basic and substantive issue, between my colleagues here I have never done that, and I do not intend to ever do it, if that is what the Senator means by "partisan." I have used the rules, and will do so again, to get the Senate to act.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I still have the floor.

The VICE PRESIDENT. The Senator from South Dakota retains the floor.

Mr. ABOUREZK. Is the leader able to respond to the other part of my question?

Mr. ROBERT C. BYRD. Mr. President, I think my record over the years speaks for itself. I have been fair. I have been fair to the side against which I am voting. I have been fair to the side for which I am voting and with which I am voting. And I have done that today. I have not been partisan today on the substantive issue. I still stand right where I have stood heretofore. I am with the Senator, against the Bentsen-Pearson amendment.

If the Senator wants to call that "partisan," then that is partisan. That is my personal vote. But that has nothing to do with what I have done here today. I have simply tried to get the Senate off the dime and the ox out of the ditch and get on with Senate action on the bill.

Mr. ABOUREZK. If I could address the question to the Chair, and I would like a response from the Chair, does the Chair intend to allow the rulings that he made to stand in view of the fact that I and others were denied recognition in an effort to appeal those rulings?

The VICE PRESIDENT. The Presiding Officer described what he understood the custom of the Senate required him to do, namely, to recognize the leadership when he sought recognition, and that is what he has done.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio.

Mr. GLENN. Mr. President, we have had a remedy available to us to work our way out of this quagmire right from the start, but we have not been able to keep 51 Senators on the floor of the U.S. Senate to deal with the issue. We dis-

cussed it last week; I made a couple of remarks about it, and the leadership tried to exhort us on to come to the floor to keep a quorum on the floor, so that these interminable quorum calls would not be necessary. At that point, we could have voice vote on these amendments.

When we started doing that, I thought we might be through with this by this point, but we have been unable to keep 51 Senators on this floor to deal with this important legislation. As long as we had a majority on the floor, we could deny dilatory motions and it did not mean anyone's rights were being violated.

I thought this whole procedure of going through the rules to see how we could work the rules over was fraught with danger, and that has been evident today. But I say we have had the remedy for working our way out, if we could get enough Senators to stay on this floor. If we could go that route, I think we would be through within a few days. But we have not been able to get that many Senators on the floor.

I think that is the only way to eventually work our way out. It is obvious that trying to push the rules, bend the rules, or reframe the rules is fraught with great hazard.

I would hope that from this moment on, we can keep 51 Senators on the floor and we will eventually reach the end of this process and can vote up or down on the bill itself.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, there is good reason to finish this bill, get it into conference, and get the Senate on other business. We have been told that somehow if we stall this bill forever, and Pearson-Bentsen is defeated, there will be billions of dollars saved for the consumers of gas, and particularly the claim is made that there would be great savings for the home consumers.

Well, when all else fails, after reading about the billions of dollars figures from the CBO, from the administration, from Ralph Nader, from the Consumers Federation of America, or from what-have-you, there really is an opportunity to see what it will cost the homes in your own State.

I took that opportunity last Saturday, while we were talking here on the floor, to call the two utility companies in Montana that distribute gas, Montana Power and Montana-Dakota Utilities.

Now, I do not have total admiration for the utility companies. That is not in me. But if I want some information, I expect them to tell me the truth and to give it to me quickly and they do just that.

To tell you one reason why I do not have total admiration for these utility companies, while I was here Wednesday night voting for Bentsen-Pearson, Montana Power cut off the electricity, in Butte, Mont.—or Butte, U.S.A., as they like to call it—cut off the power to Joanie, our second daughter, who is not a good bookkeeper, but like other customers, should not abruptly be cut off by a utility company. That is why I tell you I do not have total admiration for utility company actions such as that example. However, I do appreciate their help to get the accurate information on the cost per home computed by them.

The fact is that, given the question, how much is it going to cost as between Jackson amendment 1022 and Pearson-Bentsen during the next 2 years for the average home, here is the answer: For Montana Power, $1.80 per year more in cost for Pearson-Bentsen over Jackson; that is a total difference of $1.80 per year per home.

Montana - Dakota Utilities, which serves little more than half of Montana, and practically all of North Dakota, and with 25,000 customers in the State of South Dakota, and some customers in Wyoming, the answer is slightly more: approximately $6 more under Pearson-Bentsen than under the Jackson amendment, for each year, and that is the total differential per year per home.

That is where it divides, in dollars and cents, between the two. I go for Pearson-Bentsen, because I think it is worth a little bit more to cut out some redtape. I go for Pearson-Bentsen because I think there may—and I say may—be more gas brought on line. For those two reasons, I think it is worthwhile to vote for Pearson-Bentsen.

But above all, given that narrow confine of dollars and cents, and together with the probability that we are going to get more gas under Pearson-Bentsen and get out of some redtape, why is it not worth going to conference? Let us get rid of it.

I hope every Senator who has some doubts as to how much it will cost homes in his area——

Mr. STENNIS. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

The Senator may proceed.

Mr. MELCHER. I hope every Senator who has some doubts as to what it will cost homes in his area under either formula will take the time to call the utility companies. They know. For every company it varies because contracts are expiring, and they are going to have to buy the new gas in different amounts. But every utility company can tell you what it will be, within pennies, for the next 2 years.

Having said that, it seems to me abundantly clear that we all should have the opportunity to resolve the issue in our own minds as to what the costs are, and then, if you find, as I have, that the costs are not all that great, then look at the other part of it: Does Pearson-Bentsen cut out enough redtape to make it worthwhile? Does it provide the opportunity for perhaps more gas coming on line? In my judgment, the answer is yes. In your judgment, it might be different. But I would hope all of us could agree that within such a narrow confine, this bill ought to be allowed to go to conference.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

First of all, the Presiding Officer and the majority leader know that I have been deeply involved——

Mr. STENNIS. Mr. President, I make the point of order that we have no semblance of order here.

The VICE PRESIDENT. The Senator is correct.

Mr. STENNIS. Not a semblance of order for deliberations. I cannot hear the speaker. I cannot hear all these people talking back here. Who are all these people coming in and going out all the time, anyway, Mr. President? They are not Members of the Senate. If they are Members of the House of Representatives, they are all welcome, but something has to be done. This man is not being heard.

The VICE PRESIDENT. The Senator is correct. The Senate will be in order.

Mr. BUMPERS. I thank the Senator from Mississippi.

The VICE PRESIDENT. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, my position on this matter is well-known. I am not going to reiterate it or talk about the susbtance of the issue. But, as I was about to say, the majority leader and the Presiding Officer and others here know that I have been deeply involved in every conceivable effort to bring this thing to a conclusion, because I want a bill. I have not been totally supportive of either side. From time to time I have not supported the leadership; when I felt that the rights of the Senator from Ohio or the rights of the Senator from South Dakota were being infringed, I did not support it.

So that is where we are. I want a bill and the Senator from Montana wants a bill. I said that I would not vote to change the rules in the middle of the game for all the reasons the distinguished Senator from Maine (Mr. MUSKIE) stated so eloquently a moment ago.

But, Mr. President, it occurs to me, and I must say, I was one of the 13 Senators who just a few moments ago voted against the ruling of the Chair because I thought it was subject to being abused whether it was or not. I thought then, and I think now, it is a bad precedent to resolve a very volatile, emotional issue which is of immense importance, but nevertheless, a transitory issue.

I will certainly do my very best to assist the majority leader in moving this bill along, Mr. President. It occurs to me that on those amendments which are out of order because they amend the bill in more than one place, those amendments which are out of order because they refer to a page in the bill which does not exist—all those technical reasons an amendment could be out of order—No. 1, I think that Senators ought to be recognized to appeal even that ruling, but I, for one, will stay on the floor as much as I can to help constitute a quorum, and I will keep my hands in my pocket when the yeas and nays are asked for on those kinds of amendments.

On the other kinds of amendments which are properly drafted, which I feel have merit and are indeed not offered for dilatory purposes, whether to the bill or to the substitute, I will be the judge of that. I think we can move along. I do not think there will be many seconds to

even those amendments which are ruled out of order.

It occurs to me that that is a fair way. If it takes another 2 weeks, nobody's rights will be abused. Tempers will get short again and there will be a lot of outrageous oratory in this body. Yet, everybody can feel securely confident nobody's rights will have been abused and we will move in an orderly way under all the Senate rules at this moment.

Mr. President, having said that, those are my simple suggestions. I would hope that the Chair would allow appeals from his orders if Senators do not agree with him. Particularly in those cases where they are patently out of order I will be happy to vote with the Chair on a voice vote, and I will not lend my support to a second to ask for the yeas and nays.

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. I ask that my amendments 983, 1027, and 1028 be recalled from the desk, Mr. President.

The VICE PRESIDENT. The Senator has that right. The amendments are recalled.

Mr. STEVENS. Mr. President——

The VICE PRESIDENT. The Senator from Alaska.

AMENDMENT NO. 1207

Mr. STEVENS. I will say to my friend from Ohio this is one of his amendments. I call up amendment No. 1207.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment No. 1207.

On page 5, line 17, strike "April 20, 1977" and insert in lieu thereof: "date of enactment".

Mr. STEVENS. This amendment changes the date of the President's program of April 20, 1977, to the date of enactment, and I oppose this amendment.

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The question is on agreeing to the motion to table. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. I make a point of order on the basis of the previous ruling of the Chair.

Mr. METZENBAUM. Mr. President, I ask the Chair to look around and tell me if there is a quorum present in this body at the present time. I also point out to the Chair that the rules do not permit him to make that count.

Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. Am I correct, that the rules and precedents of the Senate specifically provide in unequivocal language that the Chair may not count the Members of the Senate in order to determine whether a quorum is present?

The VICE PRESIDENT. The point of order has been sustained. The Chair possesses the authority to determine the existence of a quorum under cloture.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I recall my amendment No. 1313.

The VICE PRESIDENT. The Senator has the right to recall his amendment.

Mr. LONG. Mr. President——

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. With reference to the discussion we had about being recognized to make an appeal, after cloture was voted, I, myself, several times in moving these amendments which were out of order, called an amendment up, the amendment was ruled out of order, I shouted for recognition in contest with Mr. ABOUREZK, managing to get recognition, called up another amendment, and it was ruled out of order.

In one case, I think I managed to call up a third amendment and get it ruled out of order before the Chair recognized Mr. ABOUREZK to make his appeal. I am not a majority leader. I am just one Senator. That was going on here, that was the precedent that was set last week. Mr. ABOUREZK did not complain about it; Mr. METZENBAUM did not complain about it. Nobody complained about a single Senator being recognized by the Chair. After all Mr. ABOUREZK is not the only one who can shout—and getting recognized and bringing up the next motion.

As I understand, under the rules a Senator has to be recognized in order to make an appeal.

When several Senators are shouting for recognition and you get recognized you can make your appeal. If the other man gets recognized, he can call up something else and you lose your chance for making an appeal at that particular point. That is how the rules worked, as I understood it. That is how the Senate has been doing business and was doing business when the Senator from Louisiana tried to move these amendments on and get some of these out-of-order amendments disposed of prior to the time that this matter came up with all the uproar because the majority leader was recognized under the tradition of the Senate.

Several Senators addressed the Chair.

AMENDMENT NO. 1208

Mr. STEVENS. Mr. President, I call up amendment 1208.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendment No. 1208.

On page 5, line 18, strike "April 20, 1977" and insert in lieu thereof: "date of enactment".

Mr. HANSEN. Mr. President, I move to lay that amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President——

Mr. METZENBAUM. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from Alabama.

Mr. ALLEN. Mr. President, I have, by and large, supported, where I thought it was right, those who are engaging in, shall we say, extended debate. Every ruling of the Chair which has been appealed I have decided on the basis of merit, as I saw it, and not on the basis of on which side I might be. On occasion I have supported the position of those who were offering the amendments, and at other times I have failed to support them.

I was very much impressed by what the distinguished majority leader said, or, rather, the rhetorical question he asked: Where were all of these voices in the Senate last year when we had somewhat similar issues before the Senate, when the Senator from Alabama and two or three other Senators were making this very same point, that they should have the right to be heard, that they should have the right to offer amendments?

Did we hear from the distinguished Senator from South Dakota? No, he was on the other side, seeking to cut off any right to discuss amendments, to discuss the bill, or to offer amendments. These other Senators who have complained long and loudly about rulings of the Chair, many of them were in the vanguard of efforts to cut off the Senator from Alabama. So I have little sympathy and——

Mr. HELMS. Mr. President, may we have order, please?

The VICE PRESIDENT. The Senator is correct. The Senate will be in order.

Mr. ALLEN. I have little sympathy for those who are saying that they are being steamrolled. Yes, in some cases, I feel that, possibly, they are. But I have listened to the remarks of some of my colleagues on the difference between the method by which this filibuster has been sought to be cut off and extended discussions in the past. Senators will recall that frequently, when a bill was brought up that the Senator from Alabama felt should be discussed, cloture was filed within seconds of the time the bill was laid before the Senate. In this case, the issue was debated for 5 days before cloture was even filed. Then it seemed to me that the attitude of those seeking to bring the filibuster to a halt has been, if not obsequious, certainly deferential to the position of the filibusterers. The majority leader has leaned over backward to give the filibusterers every opportunity to be heard.

So I feel that it comes with somewhat bad grace for those who, in past times, have been the very leaders in the effort to choke off debate here in the Senate now to come and piously say, "We are being denied the opportunity to be heard." Possibly they are. I sympathize

with them. I have been voting with them. But I cannot help but notice the great difference which has taken place in the efforts to cut off this filibuster from efforts that prevailed in the past to cut off filibusters in which I and some other Senators on the floor were interested.

I am hoping that this issue can be resolved without violence to the rules, because we have to look far ahead on this issue. Whatever rules are made here on points of order are going to serve as rules of the Senate for years to come. So I am hoping we shall not break or bend the rules. But I do feel that there are avenues and methods by which this matter can be brought to a close.

I am going to have to commend the distinguished majority leader for his forbearance in this matter. He is entitled to a great deal of credit. He has given ample opportunity for all legitimate amendments to come in. I am going to continue to support the right of those who wish to discuss this matter. I am going to continue to support their right to offer amendments. Still, I say that the efforts in this particular matter, the so-called steamroller, as it has been called, in this matter is nothing like steamrollers that have existed in the past, and I can bear witness to that from my flattened-out body resulting from the steamroller.

I observe the distinguished Senator from South Dakota (Mr. ABOUREZK). His body has not yet been flattened by the steamroller, so I do not think he has a great deal to complain about, I say to the distinguished Senator.

Mr. METZENBAUM. Mr. President.

Mr. HELMS. Will the Senator yield for a question?

Mr. ALLEN. Yes, I yield for a question.

Mr. ABOUREZK. Mr. President, I rise for a point of personal privilege. The shape of my body has been impugned. I cannot help if I am fat. I wish the Senator from Alabama would recognize that.

Mr. ALLEN. I yield to the Senator from North Carolina.

Mr. HELMS. Does the Senator from Alabama share the hope of the Senator from North Carolina that the spirit of solicitude for the rights of the minority will run on and on like Tennyson's brook?

Mr. ALLEN. Yes, I hope the majority will continue to recognize the rights of the minority.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MAGNUSON. What is before the Senate at this time? Do we have some business to transact?

The VICE PRESIDENT. An amendment in the nature of a substitute No. 1039.

Mr. METZENBAUM and Mr. DOMENICI addressed the Chair.

The VICE PRESIDENT. The Senator from New Mexico.

Mr. DOMENICI. I wish to recall amendments 1291, 1292, 1293, 1294, 1295, 1296, 1298, 1302, 1303, 1304, and 1310.

The VICE PRESIDENT. That is the Senator's right under the precedents.

AMENDMENT NO. 1060

The VICE PRESIDENT. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up amendment No. 1060.

The VICE PRESIDENT. The amendment will be stated.

Mr. STEVENS. Mr. President——

The VICE PRESIDENT. The Senator from Alaska.

Mr. METZENBAUM. Regular order, Mr. President. The amendment has not been read.

The VICE PRESIDENT. The Senator is correct.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1060:

On page 9, line 24, strike the following: "produced from a new well in the United States and".

Mr. HELMS. Mr. President, I move to lay that amendment on the table.

Mr. STEVENS. Mr. President, this is an amendment of mine. I wish that the Senator from Washington were here, as the manager of the bill, or the manager of his substitute amendment, should we consider that portion of the issue. It demonstrates to me the extent that the Senator from Ohio wishes to go to destroy the courtesy of the Senate. As I have stated time and time again, this is a very important amendment to my State. It is only relevant if the Jackson amendment becomes subject to amendment following the defeat of the Pearson-Bentsen amendment, should that occur.

This amendment deals with a very touchy subject with regard to the Prudhoe Bay gas field. The Prudhoe gas field has about 10 percent of the hydrocarbons of this Nation in terms of our reserves. This gas is produced associated with the oil. Those are old oil wells, producing old oil, which will produce old gas, which for a period of time, will be reinjected into the ground. The time will come when it will be transported by pipeline and be subject to the controls if the Jackson amendment becomes law.

The Jackson amendment deals with old gas from new wells. The net effect of the provisions of the bill now would be that, in order to get the new gas price for old gas, it would be to the advantage of the producers to drill new wells to produce the old gas from an old field. It is a highly technical question about which the Senator from Ohio knows nothing—absolutely nothing. My good friend from Washington and I are prepared to discuss it. We are prepared to try to work it out, as gentlemen should, on the floor of the Senate. I have repeatedly asked the Senator from Ohio not to call up this amendment. I have also given him notice and told him if he gave me notice of any amendment he did not want to have called up, I would not call it up.

These frivolous amendments to change the date from April 20, 1977, until the date of enactment throughout the bill—and they are frivolous, and they are dilatory—are getting us all on the razor's edge. But this is a most important amendment.

I shall make one last attempt at courtesy. I ask the Senator to withdraw that amendment. We need to have the Senator from Washington here to work it out. It is premature to consider it because the Jackson amendment is not before the body. The amendment is to the Jackson amendment. If the Senator calls it up, it may be ruled out of order, not tabled, because it may be out of order to consider it at this time. It is an amendment to the Jackson amendment.

Am I incorrect?

The VICE PRESIDENT. The Senator is incorrect.

Mr. STEVENS. In what way, I ask, am I not correct?

The VICE PRESIDENT. It is in order at this time.

Mr. STEVENS. I do not want it to be out of order, believe me. I am happy to have that advisory opinion of the Chair.

This is not proper, for the Senator from Ohio (Mr. METZENBAUM) to jeopardize the future of my State with regard to this vast oil and gas pool in order to have a filibuster dilatory tactic.

Mr. LONG. Mr. President——

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. I make the point of order that the motion coming at this time is dilatory—the motion to proceed, coming at this time, is dilatory.

The VICE PRESIDENT. To which motion does the Senator refer?

Mr. LONG. The Senator is offering an amendment. I make the point of order that the motion to offer the amendment is dilatory at this point.

The VICE PRESIDENT. The Chair does not view that motion as dilatory.

Mr. METZENBAUM. Mr. President, I share the concern about matters of which the Senator from Alaska spoke. That is, he indicated that amendment No. 1060 is of major concern to his State. He calls my amendment, which he had called up a few minutes ago, a dilatory amendment. It would, indeed, cost the people of America billions of dollars if we do not make the change that is proposed in that amendment.

I have a lot of respect for the Senator from Alaska, and I spoke with him on Saturday and urged him not to call up my amendments. I assured him at that time that I had no intention of calling up his amendments unless he saw fit to do the same to me.

I do not accept the contention of the Senator from Alaska that my amendments are dilatory because they concern the people of Ohio and the other 49 States, and that his amendment is of substance because it concerns the State of Alaska.

I respect him for fighting for the people that he represents in his State. I hope he would have the same kind of concern for me.

I say to the Senator from Alaska that if I had his assurances he has no further intention of calling up any of my amendments, I would be pleased to withdraw my having called up his amendment.

Absent that, I do not intend to do so.

Mr. STEVENS. Well, this Senator has no intention of making that assurance because the Senator's amendments are

frivolous. The amendments of the Senator from Ohio are frivolous, Mr. President. The Senate has voted several times on changing the date from April 20, 1977, to the date of enactment.

He has amendments to change the dates which would affect many sections of the bill. There are some 20-odd amendments that involve that one change.

This is a single amendment. It is a single substantive provision of the bill.

I see my good friend from Washington is here now, if he is prepared to vote on this, I am prepared to discuss it and vote on it right now.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. As long as I have the floor, I will keep it, Mr. President, and await the message from my friend from Washington.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. But this is a different position——

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. An entirely different position than the Senator from Ohio has. He has never yet told me there is an amendment that he is serious about. As a matter of fact, he has yet to discuss an amendment on the floor.

Mr. METZENBAUM. How can I, in an hour's time, Mr. President?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I might ask the Senator from Washington, as long as this has been called up, whether he is prepared to discuss it in terms of its merits. I think it is premature and I would rather discuss it later.

Mr. JACKSON. Before I comment either favorably or unfavorably on the Senator's amendment, I would like to clarify its effect.

Does the Senator intend the amendment to apply if and only if a producer has old gas, as defined, that is not subject to an existing contract as defined?

Mr. STEVENS. The Senator is correct.

Mr. JACKSON. Would two parties to an existing contract be able to break that contract and thus qualify under the provisions of section 7 as amended.

Mr. STEVENS. No, that is not my intention. The amendment covers only those few situations where the producer has old natural gas that is not subject to an existing contract and that will not be produced from a new well. There is a very limited amount of gas in this category.

Mr. JACKSON. Would the amendment cover old natural gas that could have been produced but was withheld from the market?

Mr. STEVENS. The amendment would not enable any gas that was withheld from market to qualify for special high-priced treatment. The withholding issue is irrelevant as far as this amendment is concerned.

Mr. JACKSON. Why has the Senator chosen not to amend the section title and the table of contents so they would be in accord with his amendment.

Mr. STEVENS. I am unable to do so because of our procedural situation. If the amendment is adopted, those changes would need to be made and I would hope that they would be considered to be technical changes that could be made when the Secretary of the Senate makes technical and clarifying changes in the act.

Mr. JACKSON. In view of the Senator's comments, I am willing to accept the amendment.

Mr. METZENBAUM and Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor. Does the Senator yield the floor?

Mr. METZENBAUM. Point of order.

Mr. STEVENS addressed the Chair.

Mr. METZENBAUM. Mr. President, a point of order.

Mr. STEVENS. I have the floor.

Mr. METZENBAUM. Once he yielded the floor to the Senator from Washington, he lost the floor, Mr. President.

The PRESIDING OFFICER. The Chair will observe that the Senator from Alaska yielded to the Senator from Washington for a question, and that is permissible, even during cloture.

Several Senators addressed the Chair.

Mr. JACKSON. And I responded to the question.

Mr. STEVENS. I am delighted with the statement of my good friend from Washington. It is a fair amendment that will take care of a problem and save money, not cost money.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to table the amendment, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. METZENBAUM. I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. CRANSTON. There is a quorum.

The PRESIDING OFFICER. The Chair observes that there is a quorum.

Mr. GRAVEL. Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was not agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Ohio.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. HATHAWAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Mr. President, I yield myself 30 minutes of my time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATHAWAY. Mr. President, I have not had an opportunity yet to comment generally about the measure that is pending before us and I am afraid if I wait much longer I will not have that opportunity.

Mr. STEVENS. Will the Senator yield?

Mr. HATHAWAY. I will yield only for a question.

Mr. STEVENS. Mr. President, may I ask the Senator if he will permit us to complete the vote on my amendment, that was only the motion to table we voted on.

Mr. HATHAWAY. We can vote on that later when I finish my talk.

Mr. President, it has been argued that higher prices for natural gas will eliminate "wasteful" uses. As one oil executive put it in a recent statement, "If the cost of gas were allowed to rise to its true value as a premium fuel—and that appears to be in the range of $2 to $3 per thousand cubic feet in today's market—then many companies that now are using gas in low priority uses would likely convert to oil * * * or coal."

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The point is well taken. The Senate is not in order.

The Senate will please come to order. The Senate will be in order. Members will cease conversations.

The Senator from Maine.

Mr. HATHAWAY. This is only one expression of a mistaken belief that ending the regulation of natural gas prices or increasing the price so it equals the price of replacement fuels, is the best way to reduce the demand for natural gas. The theory of the market economy is that charging more for a commodity makes people think twice before they buy—and so, only those for whom natural gas is the most efficient fuel will continue to use it. Supposedly, even this use will be reduced to the "minimum necessary" amount.

The whole question of how price affects demand—in fact—remains speculative. Almost no research has been done to determine how high prices would have to rise before users consumed less or switched to other fuels. Even less has been done to identify the real institutional, physical and cost barriers to shifting our dependence away from natural gas. What work has been done seems to indicate clearly that deregulated prices by themselves will not have much of an impact on overall use of natural gas. Access to reliable supplies is a far more significant factor in fuel choice and patterns of usage.

New England, a market shaped by the "artificially low" price of regulated gas, uses only 2 percent of the total consumed in the United States.

QUORUM CALL

Mr. President, I make a point of order that there is no quorum present.

I suggest the absence of a quorum.

Mr. LONG. Mr. President, there has been no business transacted.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. STEVENS. There has been no business transacted.

Mr. ABOUREZK. Yes, there has.

Mr. LONG. Since the last rollcall vote.

Mr. ABOUREZK. There was a voice vote, Mr. President. I suggest the absence of a quorum.

Mr. STEVENS. I correct that record. There was a vote.

The PRESIDING OFFICER. There was a vote and also a message from the President. Business has intervened. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 59 Leg.]

Abourezk	Glenn	Moynihan
Allen	Gravel	Muskie
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Proxmire
Burdick	Hatfield	Ribicoff
Byrd, Harry F., Jr.	Hathaway	Roth
	Hayakawa	Sarbanes
Byrd, Robert C.	Heinz	Sasser
Chafee	Helms	Schmitt
Chiles	Huddleston	Schweiker
Church	Inouye	Sparkman
Cranston	Jackson	Stafford
Culver	Javits	Stennis
Curtis	Kennedy	Stevens
Danforth	Laxalt	Stevenson
Dole	Leahy	Stone
Domenici	Long	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Ford	McIntyre	Young
Garn	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment offered by the Senator from Ohio. (Putting the question.)

Mr. HATHAWAY. Mr. President, I would like to continue with my remarks. How much time do I have remaining? I reserved to myself 30 minutes. I wonder how much of that 30 minutes I still have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes of his 30 minutes left.

Mr. HATHAWAY. Now, Mr. President, as I was saying, New England, a market shaped by the "artificially low" price of regulated natural gas, uses only 2 percent of the total consumed in the United States. Most of that is for premium uses in residences. By contrast, over 23 percent of the natural gas consumed nationally is used in refineries, where oil is an obvious and spurned substitute for precious natural gas. Refineries are concentrated in the producing States where so-called market prices prevail, but the privileged access of oil companies to their own natural gas production makes price consideration irrelevant. In both of these examples, it is access and security of supply, not price, which determine fuel choice.

Using gas for heat and cooling in homes, for running small commercial establishments, and for use as a feedstock and in agriculture are all priorities. For all other uses, substitution is possible. Limiting our consumption to premium uses would considerably stretch out our remaining natural gas. Whether higher prices will produce such a desirable allocation is one question now before us. The other question we face involves the cost of allocating via the mechanism of higher prices. Price rationing obviously penalizes the working and middle class. End-use allocation might well achieve the desired results at a much lower price.

One of the chief objectives of price-induced conservation and allocation is to get large fuel users to switch to coal.

Mr. GRAVEL. Mr. President, will the Senator yield for a question?

Mr. HATHAWAY. I would be glad to yield to the Senator from Alaska for a question.

Mr. GRAVEL. I wonder if the Senator would explain how, if we had end use allocation, that would provide more gas or how that worked. I would just like an explanation of that. The fact that it might dictate you giving Mrs. Jones x quantities of Btu is not going to provide a new well or any Mcf's at the other end. So I really think that it should be elaborated on, that point.

Mr. HATHAWAY. Well, the point is that some uses of gas are inefficient and wasteful. It takes more gas to produce electricity for heating homes than it takes if families burn gas directly. In effect we would have more gas if we prohibited utilities from burning it under boilers, for example. That sort of allocation is what I am referring to. High prices also allocate fuel—we have had a moratorium on hooking up new residential users for several years now. If we price gas high enough, you will get situations like Crystal City, where gas was simply priced out of the reach of families. Once gas prices go that high people suffer because they can not switch to an equally efficient fuel.

It is not as if you are walking across the street to another drug store to buy a tube of toothpaste costing a nickel less. In that case it is only shoe leather. If you switch over from gas to oil it is going to cost a considerable amount of money to put in the necessary furnaces, and so forth, to make that switchover.

Mr. GRAVEL. I agree with that.

Mr. HATHAWAY. The only way to protect residential users is not by price rationing, by raising the price and forcing them into an impossible situation, but by some kind of end use allocation at a fair price with the assurance that an adequate supply is made available for heating houses and other premium uses.

This, of course, would include some conservation efforts as well. So we may end up, as you and I know from our work, in the Committee on Finance, providing assistance for homeowners to insulate through tax credits, so that the end user may not consume quite as much natural gas or whatever fuel we are trying to conserve and, thereby, additional supplies will be created.

Mr. GRAVEL. I do not disagree with my colleague. If you have a given quantity of natural gas and you must share that gas, the burden falls most heavily on the people who have the inability to buy a new type of furnace. There is no question about that.

But does my colleague offer that as a solution to the problem? The problem, as I understand it, is not that we should sit here and try to find a way only as to how to better carry the burden, but find a way to do away with the burden.

So when my colleague says we should not have a price increase because that is too burdensome to the people, then he is condemning the people in his area to very simply go without natural gas because if we do not discover any new quantities of natural gas the person who has that gas-fired burner in his house is going to have a useless burner in his house because there will be no gas to bring to it.

So the course of the exercise here should be to find new ways of getting some natural gas to New England. Would that not be the proper goal?

Mr. HATHAWAY. Well, it is true that if we could get more gas we would be better off. But I do not think it is going to be necessary to deregulate the price in order to get more gas.

We already provide, under the present pricing structure, for full costs plus a fair profit to encourage the search for more gas. It seems to me that is sufficient, especially under the recommendations made by the administration to increase the price to give those who are producing natural gas still greater incentives to get the additional gas that may exist in this country.

Mr. GRAVEL. Let me pose this question: The administration is asking for what, $1.75?

Mr. HATHAWAY. $1.75.

Mr. GRAVEL. Most of the gas comes from Texas and the Southwest area; is that not correct?

Mr. HATHAWAY. Yes.

Mr. GRAVEL. Why would anybody in the Southwest area go searching to obtain natural gas he can sell for $1.75 when right now we have just made an agreement with Mexico to bring in gas at $2.60 per Mcf, and that is from that new field down there? Why would anybody in the Southwest go out and try to find gas that would have that limitation on it?

Mr. HATHAWAY. Because they can make money on it.

Mr. GRAVEL. How can they still make money?

Mr. HATHAWAY. The market is big enough.

Mr. GRAVEL. But in point of fact when you make the statement so glibly they can still make money on it, well, the proof of the last decade has been there has been a decline in the search for natural gas because they very clearly cannot make any money on it. So you get a situation where we could pass all the laws we want to, we can set the price at $1.50 or $1.70, but if there is nobody who is going to drill and incur the cost, then supposing the cost is $2, supposing it costs a person $2, you do not want that $2 gas in New England? I mean, in the Southwest part of the United States, where there is natural gas, those people are now prepared to pay $2.60 an Mcf.

You are telling me that the people of New England do not want to pay $2.60, they do not want any gas? If it comes in

at $1.80, $1.90, "Oh, no, we do not want any gas." Is that what you are saying?

I just do not understand that. If that is what the people of New England think, maybe we should have regional deregulation for those who are prepared to pay the costs, which is what happened in the Southwest. The intrastate gas was selling higher but when you ran out of gas they were prepared to pass a law taking the gas from their bosom and raising the price of it so you could get it.

Mr. HATHAWAY. Let me ask the Senator.

Mr. GRAVEL. The point is simply this. At what point are the people of New England prepared to pay for natural gas to get some?

Mr. HATHAWAY. I refuse to yield.

I am yielding to the Senator on the Senator's time.

Mr. GRAVEL. I presume we are discussing it on the time of the Senator from Maine. I have not asked for nor have I been recognized in my own right.

Mr. HATHAWAY. I refuse to yield further unless I am yielding on the time of the Senator from Alaska. I am glad to yield to him on his time for him to ask the question or any question he wishes to ask.

Mr. GRAVEL. I wish to hear the remainder of the Senator's explanation and I shall take the floor on my own time and query him accordingly.

Mr. HATHAWAY. Mr. President, I would say one of the chief objectives of price-induced conservation and allocation is to get the large fuel users to switch to coal. This involves substantial expenditure on the part of those converting. Not only is the physical conversion process expensive, but the requirements of meeting air quality standards escalate costs. This must be addressed specifically—and simply having expensive gas will not do the trick. Careful programs must be adopted in order to facilitate significant coal conversion.

We must weigh two other considerations vis-a-vis deregulation. One is how another round of energy price increases will impact the economy. Will "energy shock" reverse the recovery? I believe it could well do so. I think those of us in higher income brackets have been able to forget the economic experience of 1974–75 which some portions of the society have yet to escape. The median annual earnings of nonfarm managers and administrators now exceeds the factory workers' median income by 49 percent—the difference in 1962 was only 27 percent. We are rapidly moving away from the goal of equitable income distribution, and energy price hikes threaten further tilting. Is it at all desirable to have substantial income shifts from consumers to the 20 firms that produce most of the country's gas? And from the consuming population centers of the country to the southwest producing areas? I think not.

Finally, the proposals to deregulate the price of natural gas do not stand on their own. They are accompanied by programs to encourage the use of insulation to cut residential and commercial consumption, and usually by some form of allocation. The same executive who advocated raising the price of natural gas urged that price deregulation be coupled with a policy of curtailment based on end-use concepts. Scarce natural gas would be made available on a priority basis for "efficient and necessary" end-uses. Pearson-Bentsen provides for assigning priorities to essential agricultural and residential uses. This seems to acknowledge the fact that high-priced, dwindling supplies of gas will not automatically find their way to the most efficient and appropriate users.

Last winter's experience showed clearly how the physical shortage of natural gas disproportionately affects the interstate market. For the past 8 years, intrastate users siphoned off supplies of natural gas that had historically flowed at regulated prices to users in the big interstate market. New sales in the interstate market now run at only 13 percent of total new sales. Most of this 13 percent consists of gas from offshore Federal lands—gas that must, by law, go to interstate markets. For all practical purposes, new interstate gas supplies have dried up. The result was a moratorium on hooking up new residential users in the interstate market and the addition, instead, of new electrically heated homes. From the standpoint of energy efficiency this makes absolutely no sense at all.

It was this drying up on interstate markets which turned natural gas policy into a matter of public concern. The obvious immediate source of additional interstate gas is to shift supplies from inefficient uses in the intrastate market to 30 interstate users. In order to accomplish this shift, we can let interstate pipelines drive up unregulated prices to the OPEC level or above, as they try to outbid intrastate users, or we can put both markets on an equal footing to prevent such inflationary competition for short supplies.

National regulation of all gas supplies on a consistent basis offers an opportunity to integrate natural gas into the nationwide energy policy we have all been demanding. With price regulation, fair costs are assured, as is a fair rate of return for gas producers. At the same time, it opens the way for allocation of all our resources according to their most efficient employment, which will in effect stretch out the amount of gas available to users who have no accessible or workable substitutes. The danger of our current practice, and its extension under deregulation, is that we will use up our remaining supplies of this clean-burning fuel in ways that are better filled by other, alternative fuels. Dumping rivers of natural gas into boilers to produce moderate amounts of heat, and less electricity, makes no sense when we could be turning much less gas into heat for homes and businesses all over the country. Of course, this makes explicit the allocation function, and subjects it to political pressure, whereas removing price ceilings and relying on some market mechanism obscures the fact that allocation is occuring along the lines of the most economically powerful and well-insulated—in the social and political sense—gas users.

Mr. President, how much time do I have remaining of the time I yielded to myself?

The PRESIDING OFFICER. The Senator has 8 minutes remaining of his 30 minutes.

Mr. HATHAWAY. Eight additional minutes?

The PRESIDING OFFICER. That is correct.

Mr. HATHAWAY. Mr. President, in addition to the 8 minutes, I yield to myself another 7 minutes for a total of 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 15 minutes.

Mr. HATHAWAY. Mr. President, most of what has been said during this debate would lead the listeners to think that natural gas companies must be impoverished firms, on the brink of disaster, hoping against hope that the Federal Government would release them from punitive price ceilings. Of course, the listeners would be entirely wrong.

Leaving aside for the moment the entire question of profits, if we just look at the pipelines' return on equity during the past 5 years, the false impression of poverty among the gas companies would be corrected.

Part of the reason people believe that the gas companies are making less money has to do with the fact that the companies are selling less gas. And that is something that the public can see with its own eyes. When public utility commissions prohibit new residential connections and the FPC OK's massive curtailments of natural gas to extensive parts of New England, the mid-Atlantic States, the Southeast, and the Midwest and upper tier States, people have a clear picture that the companies are selling less gas. And the normal assumption would be that, with shrinking sales revenues, profit margins for these companies would be declining—if not disappearing entirely. But, wonder of wonders, the pipeline companies have managed to turn this economic assumption on its head, just as they have turned the idea of supply and demand on its head.

As curtailment rose by a factor of 100, the return for the major pipelines on their common stock investment increased over 33 percent.

Now let us look at the figures to see what this means. In 1970, the total cutback by interstate natural gas companies on their contract commitments was 17.5 million cubic feet. That year, their return on equity capital was 12.5 percent.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am happy to yield to my friend from South Dakota.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be in order to make a motion to table the Pearson-Bentsen amendment today.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATHAWAY. As I mentioned, their return on equity capital in 1970 was 12.5 percent. In 1971, the cutback—again, remember that this is the amount of supplies contracted for which the FPC did not require the pipeline com-

panies to deliver because of so-called shortages—the cutback was 236.4 million cubic feet, and the companies' return on equity rose to 14 percent. So, despite the fact that the companies sold 17 times less gas, they made 2 percent more on their investment.

In 1972, the major pipelines gas sales dipped again—this time by 649 million cubic feet, but their equity return continued to climb. In 1973, the default on contracted gas sales was 1.13 billion cubic feet—and the return on equity jumped another notch, to 15 percent. Finally, in 1974, the companies failed to deliver 1.7 billion cubic feet of the gas they had contracted to sell, and once again they could enter an increase in their return on equity into their balance sheets—this time, a full 1.2 to 16.2 percent.

Shortages have become good business it seems. Not only that, but this particular shortage makes people's suffering good business. The less gas we have to heat our homes, the more money the suppliers make. And what makes these shortages particularly shameful, is that they need not have occurred. Companies began complaining to the Federal Power Commission that they could not meet their contracts to supply gas to consumers. According to the pipelines, there was no gas coming through from the producers on their contracts, so they had no choice but to ask for a curtailment from the Commission. And the Commission, whose mission and purpose is to regulate the pipelines in order to protect the public, simply went along with the requests, and curtailed city after city, and State after State. In 1975, curtailments were up to almost 2 billion cubic feet. But why did not the Commission look into the cause of all these sudden reverses in the supply situation?

When the FPC looked into only one case where it had automatically okayed deeper and deeper curtailments, it found there was gas where the producer said that there was none. Gulf Oil Co. had contracted to deliver 625 million cubic feet of gas a day to the Texas Eastern Transmission Co. During 1974 and 1975, Gulf had, in fact, delivered an average of 366 million cubic feet a day on that contract—about half of what was called for. Texas Eastern did not try to get Gulf to perform according to the terms of its contracts. It just accepted the cutbacks and went elsewhere to buy replacement supplies at much higher prices—which it passed on to its customers. Customers of Texas Eastern finally prevailed on the FPC to look into the case. Gulf executives told the FPC investigators that their company just did not have the gas.

When the Commission refused to accept the unverified explanation, Gulf finally agreed that it could raise its deliveries to 500 million cubic feet daily—still 125 million less than the contract called for—but the company said that it would not be able to begin the additional deliveries until the middle of 1977. The FPC judge who heard Gulf's defense suggested that the breach of contract constituted a cause of action by the Justice Department, because there was evidence of collusion between Gulf and Texas Eastern. At that point, Gulf came in with a plan to begin delivering a full 575 million cubic feet of gas by January 1, 1977.

This case suggests that the real problem has not been the fact that regulated natural gas prices were too low. The problem has been the absence of a strong, consumer-oriented Federal Power Commission. Curtailments seem to have become another tactic of the industry to put pressure on prices. The gas companies are making money and making it hand over fist, at that. I see no reason on Earth for us to augment their profits with our blessings. Despite our efforts to strike a balance between the legitimate need for profit and the public's essential need for natural gas, the public is losing its supply of gas.

Mr. GRAVEL. How does that happen?

Mr. HATHAWAY. Mr. President, I make a point of order that there is no quorum present.

Mr. STEVENS. Mr. President, a point of order. No business has been transacted since the last quorum call.

Mr. HATHAWAY. Mr. President, the Senator from South Dakota made a unanimous-consent request, which was objected to. I think that was intervening business.

The PRESIDING OFFICER. The point of order of the Senator from Alaska is not well taken. There has been business transacted since the last quorum call. The unanimous-consent request and the rejection thereof constituted transacting business.

Mr. STEVENS. Mr. President, the Senate has just established the precedent that when the Senate refuses to take the action it has been requested to take, it does not constitute the transaction of business.

The PRESIDING OFFICER. That is when a quorum is obviously present. The point of order that a quorum is not present is well taken, and the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 60 Leg.]

Abourezk	Glenn	Metzenbaum
Allen	Gravel	Morgan
Bartlett	Hansen	Moynihan
Bellmon	Hatch	Nunn
Burdick	Hatfield	Sarbanes
Byrd, Robert C.	Hathaway	Schmitt
Chafee	Inouye	Schweiker
Chiles	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Curtis	Long	Talmadge
Danforth	Matsunaga	Wallop
Ford	McIntyre	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—90

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McGovern	Zorinsky
Eagleton	Melcher	
Eastland	Metzenbaum	

NAYS—1

Goldwater

NOT VOTING—9

Haskell	McIntyre	Weicker
Humphrey	Metcalf	Williams
McClellan	Stevenson	Young

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of the Senators present who did not answer the quorum call, a quorum is now present.

Mr. CRANSTON. Mr. President, is it correct that, when no business has intervened since the last quorum call and it has been established that the denial of a request is not business, a request for a quorum call is not in order?

The PRESIDING OFFICER. The Senator is correct. That is the precedent of the morning.

Mr. CRANSTON. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1060.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider

the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I asked for a division on the last vote before the Chair announced the vote.

The PRESIDING OFFICER. The vote has been announced.

Mr. ABOUREZK. I asked for a division before the Chair announced and he did not recognize me.

The PRESIDING OFFICER. The Chair apologizes.

Does the Senator wish a division on this vote?

Mr. ABOUREZK. I wish a division on the previous vote, Mr. President. I tried to get recognition. The Chair did not recognize me.

The PRESIDING OFFICER. The previous vote has been announced.

Mr. JACKSON. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota makes his point too late.

Mr. STEVENS. Mr. President, I move to lay the motion on the table.

Mr. JACKSON. Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division has been requested. I shall state to the Senator from South Dakota that a division is the prerogative of the Chair when the Chair is in doubt. The Chair is not in doubt and will call for a voice vote.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President——

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, some time ago, I offered a compromise amendment between what the administration had proposed and the Pearson-Bentsen amendment. If I can, in a few quiet words, try to explain briefly to the Senate what I would like to propose, maybe it will be helpful in trying to get some movement here in the Senate.

Mr. President, essentially, my previous compromise amendment would do two things: One, it would start the pricing of natural gas in 1977 at 2.03 per thousand cubic feet. The current average price of unregulated intrastate gas—that is, new gas—runs about $1.84 per thousand cubic feet. The administration proposal involved a price of $1.77.

Mr. President, what I would propose to do as a compromise would be, in the meantime, to the previously announced formula starting this year at $2.03, but starting in 1983, I would raise that price to $2.95, to $3.15 in 1984, $3.36 in 1985, with deregulation on December 31, 1986.

Mr. President, this can only be done, that is, to modify my amendment, by unanimous consent.

I would like, therefore, to propose a unanimous-consent request as follows:

I ask unanimous consent, Mr. President, that amendment No. 862—bear in mind that 862 is my so-called compromise amendment—be revised so as to provide that, first, sales of new natural gas would be deregulated after December 31, 1986; and second, the regulated price from January 1, 1963, through December 31, 1986, would be set by the formula originally proposed by the administration.

This will result, Mr. President, in a somewhat higher price in those years than would be the occasion under the current version of amendment No. 862, my compromise proposal.

As I stated earlier, the new gas price would still start at $2.03 per thousand cubic feet, rather than $1.77 as previously proposed, but by 1985 would be 12 cents higher than amendment No. 862, the original compromise that I introduced.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. STONE). The Senator from Tennessee.

Mr. BAKER. Mr. President, this is the first any of us, as far as I know, have heard of any proposed compromise along these lines and, obviously, it is going to be necessary to take a look at it, because this is the first we heard of it.

I can only speak for myself, and I would like to hear from the Senator from Kansas as the principal sponsor.

As far as I am concerned, I am not quarreling about price. The question is the principle. The question is whether or not we have a regulated or nonregulated market.

It is my view the higher we go in the price, the less attractive it becomes to me because as we raise the price and continue to regulate, I think we have the worst of both worlds. We end up with the regulated price and no incentive to produce: the price, but not the benefit.

Mr. President, I am sure the Senator from Kansas——

Mr. PEARSON. Mr. President, reserving the right to object, I do not want to be in a position to turn down anything out of hand, and I compliment the Senator for seeking, once again, to come forward with a compromise.

I would like to have a chance to look at it carefully, and to have the staff look at it, and to have those people who have some conviction about ultimate deregulation take a very serious and honest look at this proposal. Because that is so, I do not want to be in a position this evening of objecting to a unanimous-consent agreement.

I would ask the Senator if he would withdraw that only for overnight, only for overnight, and let us take a good look at this thing.

The Senator from Texas can speak for himself, but it may be a way to come out of this issue with enough of what everybody seems to want. It is on that basis I ask the Senator to give us a little time to look at it. I did not know of it. I did not hear of it until the Senator spoke.

Mr. JACKSON. The Senator is correct.

Mr. BENTSEN. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Washington——

Mr. BENTSEN. Just for a point, if I may?

Mr. JACKSON. Certainly. I will complete my statement in a minute.

Mr. BENTSEN. I join with my colleague in saying I do not want to object to this out of hand.

The PRESIDING OFFICER. Is the Senator from Texas reserving his right to object?

Mr. BENTSEN. Yes, I am.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. We have discussed with the Senator from Washington from time to time areas of accommodation, and that is what Pearson-Bentsen No. 2 was, and in part what Senator JACKSON'S amendment was.

But we have not been advised, as he has stated, as to the contents of this, nor have we had an opportunity to study it.

Presently, of course, we are striving, most of all, for the question of ultimate deregulation. But I do think we should have an opportunity to look at this. Would the Senator withdraw it?

Mr. JACKSON. May I say to my friend from Texas that the purpose of making this unanimous-consent request was to get it out on the table, so to speak, before the Senate, so Members could take a look at it.

All I am trying to do is to get something moving so that we can ultimately get to the right forum where it will be decided, and that is in conference.

So in furtherance of that unanimous-consent request, I would further make the two following requests so that we will get the full package to deal with my substitute and with the Pearson-Bentsen substitute because we want to follow the rules.

I ask unanimous-consent, provided that the first was agreed to, that is, the modification of my substitute, I would then ask unanimous consent that further debate on amendment No. 1039—meaning the Pearson-Bentsen amendment—be limited to 2 hours, to be equally divided, 1 hour on a side, and at the end of that time that a rollcall vote occur on the amendment. In other words, it would be a vote first on Pearson-Bentsen.

Mr. PEARSON addressed the Chair.

Mr. JACKSON. I will finish.

Then, if Pearson-Bentsen should fail, I would ask unanimous consent that if amendment No. 1039 is not agreed to, a rollcall vote occur on amendment No. 862, as modified, without intervening debate or motion.

Mr. PEARSON addressed the Chair.

Mr. JACKSON. That is essentially, and I will defer my prosecution of this unanimous-consent request until my col-

leagues have had a chance to look at it. Staffs will be available.

But I am trying, Mr. President, to get something out on the table here in a rather quiet way to see if we cannot find something in between something.

The PRESIDING OFFICER. Does the Senator withdraw his request?

Mr. JACKSON. Yes. I withdraw my unanimous-consent request at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Sentor from Colorado.

Mr. PEARSON. Will the Senator yield just for a second?

Mr. HART. I yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. To respond to the Sentor to address the provisions of his unanimous-consent request.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. PEARSON. I have not discussed this with the Senator from Texas.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. PEARSON. I thank the Senator from Colorado for yielding to let me respond to the Senator from Washington.

I just say once again that I have not had an opportunity to talk this over with the Senator from Texas or anybody else that has been involved here.

But my impression is that the time he has suggested is adequate. If we can get some modification to ours, it seems to me there is plenty of time now for the Pearson-Bentsen and the time recommended by the Jackson modification, if it is so modified, is ample time, so far as I am concerned.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BENTSEN. There is no argument about the time limitation—2 hours. We have covered this at length, and it is not my purpose to delay it any further, if we are satisfied with the unanimous-consent request.

Mr. HART. Mr. President, I ask unanimous consent that I may yield to the Senator from Louisiana, on his time, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I thank the Senator from Colorado.

I say to the distinguished manager of the bill that I commend him for the spirit of compromise which I know impels the last unanimous-consent request. But there is a great deal more than just price in the Senator's amendment that some of us find totally unacceptable, and I think I speak for a number of us on the Energy Committee.

For example, on page 21 of the bill is the power in the Federal Energy Regulatory Commission to allocate intrastate natural gas and to set contract duration, conditions of termination, delivery obligations, and there are some other provisions that are totally unacceptable which, from the standpoint of the Senator from Louisiana, are much worse than the price limitations that the Senator puts in his bill.

So if we are going to try to look at a compromise, I urge that we look at those provisions as well, because I find those much more difficult than even the present price limitations of the Senator's bill.

Mr. JACKSON. I appreciate the Senator's comments.

Obviously, when we look at the conference, no one group is going to have its way. I am trying to find a way in which the Senate can work its will to pass a bill.

So far as price is concerned, that is one aspect of the problem. The other part of it does relate to intrastate gas, and we must as well be frank about it, because we are not about to have a substantial increase in the price of gas unless the country can have access to intrastate gas.

I point out—and I will stand corrected if my figures are wrong—just off the top of my head, I think in the past year the demand has been for about 20 trillion cubic feet of gas and the supply has been a little less than that—19 point something. Intrastate gas is more than 40 percent of that total—8.3 trillion cubic feet, roughly.

Therefore, Mr. President, if one is going to act in the national interest and try to have a natural policy on natural gas, it seems to me that one must address oneself to the area of intrastate gas, which represents more than 40 percent of the total gas consumed in the United States. That is why we would place intrastate gas within the jurisdiction of the existing law on interstate gas.

Mr. STEVENS. Mr. President, will the Senator from Colorado allow the Senator from Washington to yield for one question?

The PRESIDING OFFICER. What is the will of the Senator from Colorado, who holds the floor?

Mr. HART. Mr. President, I ask unanimous consent that I may yield just once to the Senator from Alaska, on his time, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I say to the Senator from Washington—and this is the first time I have heard any compromise in which the ultimate goal would be deregulation—that I congratulate him for moving down that road.

I ask the Senator from Washington whether or not his now compromise proposal would have the support of Dr. Schlesinger and the President.

Mr. JACKSON. I have discussed it with Dr. Schlesinger. He is aware of my proposal, and he has not objected to it.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, on Saturday, I asked my colleagues for their consent—as the distinguished manager of the bill has—for the right to bring up an amendment which has been before the Senate, in one form or another, since September 14—about 18 or more days.

This is not a new proposal. I think almost every office in the Senate has had a chance to look at this—at least, at the staff level—and I have had a chance to talk to many Senators about it. Since we do not have the time, and I do not wish to take the time at this point, to outline what this provision is, I merely point out to my colleagues that this is not a new idea; that it has been available to Senators for well over 2 weeks now.

I will soon repeat my unanimous-consent request, urging Senators, as I did on Saturday, not to object; that since they have reserved their judgment on the proposal of the Senator from Washington, and since there seems to be a good-faith effort on the part of a majority of Senators to seek some resolution of this matter, and since this is one of only a small number of substantive proposals which neither are total deregulation nor total continued regulation, I ask the forebearance of my colleagues in seeking unanimous consent to bring up this matter. I will use the remainder of my time, or part of it, to discuss it. We then can vote on it up or down, and the Senate will have worked its will on another substantive proposal, or at least one substantive proposal, whereas it has been unable to do so to date.

I believe the same right should be accorded to the sponsors of the Pearson-Bentsen amendment, and it should be accorded to the Senator from Washington. I do not think we should prevent votes on these matters. I merely ask, as one way of getting movement, that this request be granted.

AMENDMENT NO. 1389

Mr. President, I send to the desk my amendment No. 1389, as modified, and ask that it be in order as a perfecting amendment to amendment No. 862.

Mr. HANSEN. Mr. President, reserving the right to object, I have no desire to prevent the distinguished Senator from Colorado to continue for a reasonable time on his time in discussing his amendment; but I do so only with the express understanding that it will be my intention to object at an appropriate time.

Does the Senator from Colorado accept that?

Mr. HART. No. If the amendment is not properly before the Senate, there is no use of my wasting my time discussing it, if we cannot have a vote on it.

Mr. HANSEN. I say to my good friend from Colorado that there are a goodly number of us here. If he chooses not to avail himself of the opportunity of this forum, then that is as he wishes it.

Mr. HART. I do not think it is necessary to be disingenuous. The Senator is perfectly aware that if the matter is not properly before the body, it cannot be voted on. It is not a question of the Senator from Colorado discussing his amendment. That is not the issue.

What I am asking unanimous consent for is not the right to discuss my amendment. I have the floor now, and I can do that without unanimous consent. I am asking unanimous consent for Senators to permit this measure to come up before them and to let it be voted on. The Senator may vote against it and all his colleagues may vote against it, and all my colleagues may vote against it. I would be more than willing to accept a time agreement on it. That is all I am asking.

Mr. HANSEN. I say to the Senator, before I object—and I do intend to object—

that what we are seeing here is a retreating vanguard action on the part of those persons ,who have been solidly against deregulation.

Mr. HART Mr. President——

Mr. HANSEN. I think I have the floor, Mr. President. Who has the floor? I reserved the right to object, did I not?

The PRESIDING OFFICER. The unanimous-consent request is not debatable. For a brief period of time, in reserving the right to object, the Senator can inquire, but at the sufferance of the Chair and of the propounder of the unanimous-consent request. Unanimous consent must either be objected to or——

Mr. BARTLETT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HART. I want to respond. The Senator well knows my record is not solidly against deregulation, and he knows that very well. This amendment is not solidly against deregulation. So that is a spurious kind of argument.

Mr. President, pursuant to notice filed at the desk——

The PRESIDING OFFICER. The Senator from Colorado is further recognized.

Mr. HART. Pursuant to notice filed at the desk on Saturday, October 1, I move to suspend paragraph 2 of rule XXII for the sole purpose of calling up my amendment No. 1389, as modified.

I ask for the yeas and nays.

Mr. BAKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, could the Senate be advised of the nature of the notice that is at the desk, what portion of rule XXII the matter goes to?

The PRESIDING OFFICER. The Chair is advised that the Senator did timely file a notice of a motion to suspend the rules. It takes a two-thirds vote to effect the result the Senator from Colorado seeks.

Mr. HART. I ask for the yeas and nays.

The PRESIDING OFFICER. Without giving the subsection of rule XXII, that is the subsection of rule XXII that requires amendments to have been prefiled at the desk before the vote.

Mr. BAKER. I thank the Chair. But could the Chair give me a reference from the notice itself?

The PRESIDING OFFICER. The Chair has sent for the notice. The notice will be here momentarily. Meanwhile, the Senator has asked for the yeas and nays on his motion. Is there a sufficient second? If the Senators will keep their hands up, those who wish to second the request. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the notice which had been filed at the desk.

The legislative clerk read as follows:

Mr. PRESIDENT: In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing to amendment No. 1022 to S. 2104, a bill to establish a comprehensive natural gas policy, a perfecting amendment to strike sections 1–9 and 13–17 of amendment No. 1022 and insert in the appropriate places section 1–9 and sections 13–17 of amendment No. 1389, as amended.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, is it correct that a "yea" vote on this motion merely means that the amendment is in order to be called up?

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. I thank the Chair.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Put the same proposition in a little different way, a "yea" vote means to suspend the rules that ordinarily apply.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

Mr. HART. For the sole purpose of making this amendment in order.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, does the effect of the notice modify the Senator from Colorado's amendment?

The PRESIDING OFFICER. No, it does not. It simply allows a modification of the amendment if this vote passes by two-thirds.

Mr. STEVENS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Would the granting of such a motion permit the Senator to add material to the amendment which is not before the Senate at the present time?

The PRESIDING OFFICER. The Senator would be required, if permitted by a two-thirds vote, to propose the amendment in the precise form, to offer the amendment in the precise form, as that which is attached or referred to in the notice the Senator filed Saturday.

Mr. BAKER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the motion, notice of which was given in writing pursuant to rule XL, debatable?

The PRESIDING OFFICER. Will the Senator repeat his inquiry?

Mr. BAKER. Yes. Is the motion, notice of which was given in writing pursuant to rule XL, debatable?

The PRESIDING OFFICER. Yes, it is debatable.

Mr. BAKER. What are the time constraints, if any, on the debate?

The PRESIDING OFFICER. The cloture rule itself, 1 hour per person per bill.

Mr. BAKER. I thank the Chair.

Mr. STEVENS. One further parliamentary inquiry. Would the effect of the Senate agreeing to the Senator from Colorado's request to change his amendment be to make this amendment a perfecting amendment so that it would have precedence over the Pearson-Bentsen, and the Jackson amendments?

Mr. HART. Mr. President, will the Senator repeat his request.

Mr. STEVENS. I will repeat it for the Senator from Colorado. My question was, would the effect of the Senator from Colorado's obtaining the right to make this amendment a perfecting amendment, the right to modify his amendment as he seeks, have the effect of changing his amendment as a perfecting amendment so that it would take precedence over the Pearson-Bentsen and the Jackson amendments?

The PRESIDING OFFICER. Yes.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I assure the Senator from Alaska that the motion is not to permit me to modify my amendment because the amendment is at the desk and was at the desk Saturday. The motion is to suspend the rule for the sole purpose of making this amendment in order.

Mr. STEVENS. I might say to the Senator from Colorado that so far as this Senator is concerned, should the Pearson-Bentsen amendment fail and the Jackson amendment fail I woud be more than pleased to find a Solomon, if the Senator might be a Solomon. But until we have an opportunity to vote on those two amendments, I do not see why we should grant anyone permission to modify, to so make it a perfecting amendment so as to give it precedence over the other two amendments

The PRESIDING OFFICER. The question is on agreeing to the motion to suspend the rule. A two-thirds vote is required to suspend the rule. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The yeas and nays resulted—yeas 46, nays 45, as follows:

[Rollcall Vote No. 521 Leg.]

YEAS—46

Allen	Hart	Morgan
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Brooke	Huddleston	Nelson
Bumpers	Inouye	Nunn
Byrd, Robert C.	Jackson	Pell
Case	Javits	Proxmire
Chiles	Johnston	Randolph
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sasser
DeConcini	Matsunaga	Sparkman
Durkin	McGovern	Stone
Eagleton	McIntyre	
Glenn	Melcher	

NAYS—45

Baker	Burdick	Chafee
Bartlett	Byrd,	Curtis
Bellmon	Harry F., Jr.	Danforth
Bentsen	Cannon	Dole

Domenici	Helms	Stafford
Eastland	Laxalt	Stennis
Ford	Long	Stevens
Garn	Lugar	Stevenson
Goldwater	McClure	Talmadge
Gravel	Packwood	Thurmond
Griffin	Pearson	Tower
Hansen	Percy	Wallop
Hatch	Roth	Young
Hatfield	Schmitt	Zorinsky
Hayakawa	Schweiker	
Heinz	Scott	

NOT VOTING—9

Abourezk	Humphrey	Metzenbaum
Biden	McClellan	Weicker
Haskell	Metcalf	Williams

The PRESIDING OFFICER. On this vote the yeas are 46, the nays are 45. Two-thirds of the Senators present and voting not voting to suspend the rules, the motion to suspend the rules is not agreed to.

Mr. ROBERT C. BYRD. Mr. President, I believe that there is a possibility that things may be worked out overnight, which would enable the Senate to hasten its final decision on this bill. Mr. JACKSON has presented a unanimous-consent request, and later withdrawn it, with cosponsors on both sides of the aisle; and overnight Senators will have an opportunity to study the proposition that has been put forward by Mr. JACKSON; and I believe that in the interest of progress on tomorrow, it might be well if the Senate went out soon, to give Senators an opportunity to study that particular proposition, and hopefully on tomorrow agreement can be reached on some compromise approach which would enable the Senate to finish its work on this bill and get on to the next measure.

Therefore, Mr. President, unless a Senator indicates that he wishes to ask for the yeas and nays on an amendment or on a motion to recess, I will suggest to Senators that there be no more rollcalls tonight.

VACATION OF ORDERS FOR RECOGNITION OF SENATORS SCHMITT, GLENN, MATHIAS, AND GOLDWATER TOMORROW AND ORDER FOR RECOGNITION OF SENATORS ROTH, JAVITS, AND HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning the orders for the recognition of Messrs. SCHMITT, GLENN, MATHIAS, and GOLDWATER be vacated. I am told that they will not need those orders. I ask unanimous consent that in their stead Mr. ROTH and Mr. JAVITS each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning, and after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, Mr. ROTH will be recognized for not to exceed 15 minutes, and Mr. JAVITS will be recognized for not to exceed 15 minutes, and at that point the Senate will resume its consideration of the unfinished business.

Mr. HARRY F. BYRD, JR. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. Could the Senator from Virginia have 10 minutes tomorrow morning?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Mr. JAVITS tomorrow morning, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will kindly withdraw from the well, so that the leadership can state the program.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

On September 29, 1977:

S. 275, An Act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

On September 30, 1977:

S. 1731, An Act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services.

FORTY-TWO DEFERRALS—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Armed Services; Finance; Human Resources; Energy and Natural Resources; the Judiciary; and Governmental Affairs:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 42 deferrals of fiscal year 1978 funds totalling $1,480.6 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 3, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2081. A letter from the Chairman of the Commodity Futures Trading Commission transmitting, pursuant to law, the 1976 annual report of the Commodity Futures Trading Commission (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2082. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of 17 construction projects to be undertaken by the Air Force reserve (with accompanying papers); to the Committee on Armed Services.

EC–2083. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during August 1977 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended) (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2084. A letter from the Vice President of Government Affairs of the National Railroad Passenger Corporation transmitting, pursuant to law, a report for the month of May 1977 of expenses and revenues of each train (with an accompanying report); to the Committee on Commerce, Science, and Transporation.

EC–2085. A letter from the Acting Assistant Secretary of Interior transmitting a draft of proposed legislation to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2086. A letter from the Deputy Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report on contracts that the Corps of Engineers negotiated with local project sponsors during 1976 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2087. A confidential communication from the Director of the General Accounting Office transmitting, pursuant to law, comments dated September 2, 1977 that should be associated with the previous classified report on Relationships Between U.S. and NATO Military Command Structures—Need for Closer Integration, LCD–77–419 (with accompanying papers); to the Committee on Governmental Affairs.

EC–2088. A letter from the Chairman of the Civil Service Commission transmitting, for the information of the Senate, a copy of the executive order and some background information concerning the Presidential Management Intern Program (with accompanying papers); to the Committee on Governmental Affairs.

EC–2089. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The United Kingdom's Development of its North Sea Oil and Gas Reserves" (ID–77–51, September 23, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2090. A letter from the Comptroller

General of the United States transmitting, pursuant to law, a report entitled "The Navy's Intermediate Ship Maintenance Program Can be Improved" (LCD–77–412, September 23, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2091. A letter from the Under Secretary of the Interior transmitting a draft of proposed legislation to implement Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (with accompanying papers); to the Committee on the Judiciary.

EC–2092. A letter from the Chief Justice of the Supreme Court of the United States transmitting, for the information of the Senate, notice that the Court will open the October 1977 Term on October 3, 1977, at 10:00 a.m.; to the Committee on the Judiciary.

EC–2093. A letter from the Chief Justice of the Supreme Court of the United States transmitting, for the information of the Senate, information concerning the planning of the 200th anniversary of our country; to the Committee on the Judiciary.

EC–2094. A letter from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning people who conditionally entered the United States between October 1, 1976 and June 30, 1977 (with accompanying reports); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Thes following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 263. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2114 (Rept. No. 95–462).

S. Res. 270. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying two thousand and seven hundred acres to the Paiute and Shoeshone Tribes of the Fallon Indian Reservation (Rept. No. 95–463).

S. Res. 273. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1863 (Rept. No. 95–464).

By Mr. RIBICOFF, from the Committee on Government Affairs, with reference to:

S. Res. 222. A resolution to disapprove the Reorganization Plan numbered 1 (together with additional views) (Rept. No. 95–465).

By Mr. STEVENSON, from the Committee on Banking, Housing, and Urban Affairs:

With amendments:

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency (Rept. No. 95–466).

By Mr. SPARKMAN (for Mr. RIBICOFF), from the Committee on Governmental Affairs;

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments; and

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 897. A bill to strengthen United States policies on nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions (Rept. No. 95–467) (together with additional views).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

S. 457. A bill to amend section 1662(a) of title 28, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions (title amended) (Rept. No. 95–468).

REORGANIZATION PLAN OF 1977

Mr. RIBICOFF. Mr. President, I should like to present to the Senate the recommendations of the Governmental Affairs Committee regarding Reorganization Plan No. 1 of 1977, relating to the Executive Office of the President.

The President submitted Reorganization Plan No. 1 on July 15, 1977. On July 18, in accordance with the provisions of Public Law 95–17, I submitted for the Governmental Affairs Committee a Resolution of Disapproval (S. Res. 222). The committee held 2 days of hearings on the plan, July 26 and August 1, during which time it received testimony from the Administration in defense of the proposed changes in the EOP, and from witnesses outside of the White House with interests affected by the proposed changes. On September 15, in response to suggestions made by the committee, the President submitted a group of amendments to the plan. On September 30, the committee was polled, and the results were 16 to 0 (one Senator voting "Present") in favor of the Senate not approving the resolution of disapproval (S. Res. 222) which is pending before it.

Mr. President, the purposes of Reorganization Plan No. 1 are:

First. To strengthen the management of policy issues within the White House and Executive Office of the President (EOP);

Second. To rationalize the structure of the Executive Office of the President by limiting the EOP, wherever possible, to functions which bear a close relationship to the work of the President;

Third. To centralize administrative functions in the EOP in a new Office of Administration; and

Fourth. To reduce the size of the White House and EOP staffs.

Process management of policy issues: In his July 15 Message to Congress transmitting Reorganization Plan No. 1, the President announced a number of actions he was taking to strengthen the management of policy issues in the White House and EOP. Among these actions were:

The institution, for domestic and economic issues, of a system similar to the Presidential Review Memorandum process currently used for national security issues;

The consolidation under the Staff Secretary of two current White House paper circulation systems;

The delegation to the Assistant to the President for Domestic Affairs of clear responsiblity for managing the way in which domestic and most economic policy issues are prepared for Presidential decision.

Rationalize structure of EOP: In restructuring the EOP, the President took as a guiding principle the retention only of those functions and office that bear a clear and direct relationship to Presidential duties and responsibilities. After an extensive analysis of the functions of the 17 existing EOP units, the President determined that 7 units should be discontinued or transferred and that 10 units should be retained, though modified in some cases.

The seven proposed for elimination are:

1. Office of Drug Policy (created by Public Law 94–237);
2. Domestic Council (created by Reorganization Plan No. 2 of 1970);
3. Office of Telecommunications Policy (created by Reorganization Plan No. 1 of 1970);
4. Energy Resources Council (created by Public Law 93–438; statutory authority terminated September 30, 1977);
5. Council on International Economic Policy (created by Public Law 92–412; statutory authority ends September 30, 1977);
6. Ecoonmic Opportunity Council (created by Public Law 90–222, but never implemented by Presidents Johnson, Nixon or Ford); and
7. Federal Property Council (created by Executive Order 11954, January 7, 1977).

It should be noted that the reorganization plan, though it proposes the abolition of EOP units, does not propose to abolish any function. All functions currently assigned to White House or EOP units remain in existence, though reassigned in a number of cases.

The 10 EOP units which will continue with some modification are:

1. White House Office.
2. Office of the Vice President.
3. Office of Management and Budget.
4. Council on Environmental Quality.
5. Council on Economic Advisers.
6. Office of Science and Technology Policy.
7. Office of the Special Representative for Trade Negotiations.
8. National Security Council.
9. Intelligence Oversight Board.
10. Council on Wage and Price Stability.

Centralize administrative functions: About 22 percent of the full-time, permanent EOP personnel perform administrative support services in EOP units. Analysis of this decentralized administrative support system revealed a number of instances of duplication, uneven quality of support and the inefficient use of personnel. Thus, the reorganization plan proposes to combine all administrative support operations into an Office of Administration, which, according to the President's estimates, will result in a savings of 40 permanent full-time positions and about $1.1 million.

Reduce the size of the White House and EOP staffs: As a consequence of the changes proposed in the reorganization plan, and the overall direction of the President to produce a "stripped down" personal staff, the White House staff will be reduced from 485 to 351, a reduction of 28 percent; and the EOP staff will be reduced from 1,712 to 1,459, a reduction of 15 percent.

AMENDMENTS TO THE PLAN

Under the provisions of Public Law 95–17, the President has 30 calendar days of continuous session of Congress to submit amendments or modifications to a reorganization plan. For Reorganization Plan No. 1, with the break in continuous session provided by the August recess, the deadline occurred on September 15. On September 15, acting on suggestions made by the Governmental Affairs Committee, the President submitted a group of amendments to Reorganization Plan No. 1.

The committee believes that the amendments submitted by the President bring the plan in line with the intent

of Congress, as expressed in the Reorganization Act of 1977 and in addition clarify certain ambiguities present in the original language.

Specifically, the amendments related to:

First. Transfer of Functions to the President for Redelegation;

Second. Certain Transfers of Functions Relating to the Office of Telecommunications Policy; and

Third. Effective Date of the Plan.

Transfer of functions to the President for redelegation: The original version of the plan proposed to transfer a number of functions from existing EOP units to the President for redelegation later, both inside and outside the EOP. One important result of a transfer of functions to the President is to remove any subsequent delegation or redelegation of these functions from the reorganization plan process.

Because the committee felt that this went beyond the intent of Congress in renewing the authority for the President to reorganize the executive branch in the Reorganization Act of 1977, it made two suggestions to the administration:

First. In those cases where the President had decided that certain functions did not belong in the EOP, he should submit amendments that would transfer these functions directly to a particular agency and not pass them through the President first for redelegation.

Second. In those cases where a decision has been made to have the President redelegate transferred functions to a unit within the EOP, a specific limitation be included that would allow such a delegation of functions by the President only within the EOP.

In the September 15 amendments, the administration complied with these requests.

Effective date: The original version of the plan stated that the changes proposed "shall become effective at such time or times as the President shall specify." Previous reorganization plans have contained a specific implementation date, and the committee suggested that a specific date be included in the relevant section of the plan.

In the September 15 amendments, the administration also complied with this request.

Office of Telecommunications Policy: Here the question related only to a clarification of language to carry out the administration's real intent with regards to the functions of this office. The September 15 amendments for this section of the plan embody mutually acceptable revisions agreed to by the administration and the committee.

OFFICE OF DRUG ABUSE POLICY

The most serious questions and reservations about any element of Reorganization Plan No. 1 were raised by the proposal to abolish the Office of Drug Abuse Policy. In response to the legitimate and serious questions advanced regarding this section of the plan, the committee set out a series of stipulations during the hearings and asked for assurances that these stipulations be met. They included:

First. Full accessibility to Congress of the President's Special Assistant for Health Issues with no invocation of Executive privilege;

Second. Clear delegation from the President to this Assistant of coordinating authority over agencies with responsibilities in the drug abuse area;

Third. Some assurance that drastic staff cuts will not cripple the White House effort in the drug abuse area;

Fourth. Provision for ODAP to complete the major studies it has undertaken before going out of existence;

Fifth. Access to funds for the President's Special Assistant for Health Issues in order to commission necessary additional studies in the drug abuse area.

In a letter to the committee on September 27, 1977, Acting OMB Director James T. McIntyre, Jr., gave affirmative replies to all of the stipulations.

Mr. President, the committee believes that the addition of the clarifying and limiting amendments, and the affirmative replies to the stipulations regarding ODAP have strengthened the case for acceptance of this first reorganization plan, and recommends that the Senate disapprove the pending resolution of disapproval.

FEDERAL MINE SAFETY AND HEALTH ACT—S. 717 CONFERENCE REPORT—(REPT. NO. 95-461)

Mr. WILLIAMS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

David T. Ready, of Indiana, to be U.S. attorney for the Northern District of Indiana.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. YOUNG):

S. 2169. A bill to name a certain Federal building in Washington, D.C., the "Hubert H. Humphrey Building"; to the Committee on Environment and Public Works.

By Mr. BARTLETT:

S. 2170. A bill to amend the Immigration and Nationality Act to define the term "public charge," and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. SARBANES, Mr. BIDEN, and Mr. ROTH):

S. 2171. A bill to amend section 304 of the Regional Rail Reorganization Act of 1973 to provide for the negotiation of division of revenues agreements between ConRail and certain designated operators of rail freight service; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. YOUNG):

S. 2169. A bill to name a certain Federal building in Washington, D.C., the "Hubert H. Humphrey Building"; to the Committee on Environment and Public Works.

HUBERT H. HUMPHREY BUILDING

Mr. DOLE. Mr. President, I am today introducing legislation to name the new south portal Federal building of the U.S. Department of Health, Education, and Welfare in honor of our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY.

Through over three decades of public service—as mayor of Minneapolis, as U.S. Senator, as Vice President of the United States, and as the nominee of his party for President of the United States, my friend HUBERT has been in the forefront of the struggle for social and economic justice. The lives of millions of Americans—the old, the young, the disadvantaged—are better today, because HUBERT HUMPHREY has not hesitated to champion unpopular causes, blazing the trail on key national issues before they were national issues.

Like any great leader, he has his critics. But none doubt his sincerity and good will. Few have done more to improve the Health, Education, and Welfare of our citizenry. Due in no small part to his efforts, or senior citizens are healthier, the young are better fed and better educated, the daily lives of the poor in America are more bearable. There is still much to be done.

Scores of vital Federal programs which are administered by the Department of Health, Education, and Welfare are operating today largely because HUBERT HUMPHREY fought for them: Medicare, Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professions Scholarships Act. The list, HUBERT HUMPHREY's record of commitment, goes on and on.

He is a man of uncommon decency and compassion, a great political leader, a patriot, a kind and generous man who will continue to contribute to the betterment of this Nation for years to come. The people of the United States, whatever their party affiliation, whatever their philosophy, are fortunate to have HUBERT HUMPHREY in their service. He is, has been, and will continue to be a great national asset. I have worked with him and fought with him, but always admired him.

The Congress of the United States

will heap honor upon itself by honoring this great American, to whom the Nation owes so much—HUBERT HORATIO HUMPHREY.

Mr. President, I ask unanimous consent that two inspiring articles be printed in the RECORD at this point. One is a Washington Post Parade interview entitled "Senator Hubert Humphrey: Reflections on His Life" by Lloyd Shearer and the other is a Washington Post article entitled "The Unsinkable Hubert Humphrey" by Aaron Latham.

These articles give us a glimpse of the tremendous character and brillance that have made HUBERT HUMPHREY the great American hero he truly is. I hope all our colleagues will have a chance to read them.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SENATOR HUBERT HUMPHREY: REFLECTIONS ON HIS LIFE

(By Lloyd Shearer)

WASHINGTON, D.C.—Sen. Hubert Horatio Humphrey, running a losing race with cancer, agreed some weeks ago to sit for interview and photo session and reflect with a PARADE reporter in a question-and-answer session on the philosophy and highlights of his memorable life.

This is the way it went:

Q. Senator, you've lived your 66 years to the brim. You've lived each day as if it were your last. Suppose one of your children said to you, "Dad, what lesson have you learned from life?" How would you answer that?

HUMPHREY. What I've learned from living is that there are some things over which a man has no control. You are buffeted by events that are unknown, uncharted, unpredictable. And one has to learn to live with the uncertainties of life. That's really what you have to do, what I think you learn.

When you're young you feel that you can conquer almost anything. You've got the answers. You're sure, if only the old folks would get out of the way, then you could really set everything straight. But what you learn from life is that there are unknowns and problems for which there are as yet no answers.

There are still forces and powers that move the universe in your life, and these are not always subject to your personal control. Therefore, you've got to have an awful lot of faith that somehow things are going to work out and that you're running with a destiny that's maybe not fully in your hands.

I'm philosophizing and as usual talking maybe a little more about it than I should. But I've also learned from life to be tolerant, forgiving, understanding. You cannot go around and keep score. If you keep score on the good things and the bad things, you'll find out that you're a very miserable person. God gave man the ability to forget, which is one of the greatest attributes you have. Because if you remember everything that's happened to you, you generally remember that which is the most unfortunate.

Q. What do you remember, Senator?

HUMPHREY. Well, many people think that what I mostly remember is politics, but there are several other very vivid memories of mine. I remember the Depression of the 1930's and what it did to people. That's left on my whole political, physical, and mental makeup an everlasting mark.

Q. How old were you then?

HUMPHREY. I was in my 20's. Very impressionable. And I was in the midst of the Depression, in the dust bowl of South Dakota. I saw what it did to families. I saw what low farm prices, the dust storms did to the young people, the sense of despair and hopelessness it generated in so many of us. I saw what it did to my father.

Q. What did it do to him?

HUMPHREY. It took 10 years off his life just as surely as my name is Hubert Humphrey. I can still see him at this desk, his hands wringing, wondering how he could ever pay the bills, pay the taxes, take care of the family. I could see the sorrow, the burden on his life. And I loved my father. As you know, I've talked about him a great deal. He was a tremendous source of strength to me. And the friendship we knew! We were friends, close personal friends as well as father and son. So I remember the Depression with a vividness that's like a videotape running over and over again in my mind.

That's why when I see a recession, when I see the Federal Reserve System cranking down on credit, when I see unemployed people, unemployed young people, that memory comes ringing right back—and that's why I fight so hard about it, that's why I speak the way I speak. I don't speak out of textbooks, out of economic theory.

I told Arthur Burns [chairman of the Federal Reserve Board] one day. I said, "Dr Burns, I don't need to hear any lectures about the economy. I can go home to the family drugstore and tell you what's happening. I can just take a look at the accounts receivable, the cash in the box or in the bank, and the number of what we call bad checks. Because the people out my way don't like to write bad checks, but once in a while they do because they're short on cash. And we're not the kind of people that can put them in jail or go out and sue them. We have to carry that . . . I don't have to get the economic indicators and the charts out of the computers. I see what's happening at least in my part of the country. I know what's happening. I sense it. I feel it."

So that's one of the great impressions in my life. Another that's very lasting and meaningful to me was when I had the chance to go to the University of Minnesota, which was my dream as a young man. For years I felt that I was locked up in the South Dakota dust bowl: I felt I would never get out, that I was in prison. And then I got married. My wife Muriel helped me. She said, "We're going to get out of here. We're going to give you a chance to become what you want to be."

So we went to the University of Minnesota, and she got a job and helped me through school. Long before there was a federal scholarship program, I married one. We worked together, and I finished my university education, which opened up a whole new door of opportunities.

There are key points in life that are so important, and that was one of mine. Another, of course, was being elected to public office, particularly to the U.S. Senate. But I also remember the human tragedies—not only the loss of my father and my brother, which brought heartaches. Death comes to every family. But our first grandchild, Vicky, our daughter Nancy's child—she was born mentally retarded, and that really did something to us.

Vicky's birth, which at the time was one of sorrow and tears and sadness and bewilderment—well, it became a blessing, because we became involved. We became deeply involved in the whole subject of mental retardation. And we got to understand what other people are going through. And Vicky was so full of love. The wonderful thing about retarded children is that they have no hate. Only constant love, absolutely perfect love. . . .

You can have a real religious experience from all of this. I found the real meaning of what we call family love in Vicky. She really loved her grandfather with such devotion. She always called me "Baba," and she's come rushing into my arms. Very sensitive, these little mentally retarded people. The normal people never know how their feelings can be hurt. They're extremely sensitive, the retarded are, and they teach you how to be sensitive to other people. I've learned to be aware of other people's concerns, of other people's feelings.

Q. Senator, as you look back on your life, what are you most proud of?

HUMPHREY. I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.

And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

Q. During the race riots of the 1960's you were quoted as saying that if you'd been born and reared in a ghetto, you would have been one of its leaders or rioters.

HUMPHREY. I don't know whether I would have been a rioter, but I would have been a sharp protester, no doubt about that.

Q. Isn't that much the same?

HUMPHREY. Well, there's a difference between destruction and peaceful demonstration. It's easy for the comfortable to sit in judgment of the miserable.

Q. Have conditions for blacks in this country improved markedly since the 1960's?

HUMPHREY. Yes, they have improved. Not enough, but they have. . . . I carry a little book around with me, quotations from Alexis de Tocqueville. One is absolutely marvelous. Listen to it: "The sufferings that are endured patiently, as being inevitable, become intolerable the moment it appears there might be an escape. Reform then only serves to reveal more clearly what still remains oppressive and now all the more unbearable. The suffering, it is true, has been reduced if one's sensitivity has become more acute."

Once people see hope in breaking out of their prison—whatever that prison may be, of poverty, or fear, of disease—the desire, the anxiety to get out becomes almost overwhelming. And as the de Tocqueville book so rightly notes, reform then only serves to reveal more clearly what still remains oppressive.

We've made progress in this country. And the best sign of progress is that we want to make more. I've learned that only the strong people can afford to admit weakness. The weak people never can afford to admit they're wrong.

Q. Senator, it's been said that ignorance is bliss only when 'tis folly to be wise. Do you believe that television has raised the dissatisfaction quotient in this country and filled many of the minorities with dissatisfaction of their lot?

HUMPHREY. Exactly, but a society needs tension and dissatisfaction. Also restlessness. You've got to have restlessness in order to have progress. Stagnant waters stay stagnant. They become polluted. They've got to move. They may at times tear out the embankment. They may at times rip up the landscape. But they're fresh, and they cut new streams, new channels. This is what we're undergoing.

Q. Senator, is your view of President Carter the same as it was, say, six months ago?

HUMPHREY. No, I have a better view of the President. I was not one of Carter's original supporters. But every time I've been with the President I felt a little better about him. Because I know that he's learning. I believe in his sincerity. I feel that he is trying his level best to get hold of this massive struc-

ture called our government. I've had some disappointments so far, but I think this Administration has not yet come to grips with an economic policy. I don't think they've quite made up their minds yet what kind of war they're going to wage on poverty and unemployment, which is the real test of this government. . . . But I think Jimmy Carter is a populist at heart. He does have a feeling for people. But he is essentially from a more fiscally conservative background, and it's going to require great investments to meet the problems of this country.

See, if I could get my President and the people in public life to understand that when you utilize federal resources for public works, for employment programs, you are not wasting, you're not spending, you're investing. You waste when you do nothing more than throw money around for unemployment compensation, food stamps, and the rest. You get nothing out of it. I think, as old Lyndon Johnson used to say, "Let's make tax-payers out of tax-eaters." Simple language, but it's still true. Remember, Franklin Roosevelt never really had a welfare program! He had a work program. . . . Now, if the private sector can't provide it, then the governmental sector must do it. And going around pretending that somehow or another this is wrong is ridiculous.

How did we get this country built anyway? The government of the United States gave the land to the railroads. We never would have had the railroads in this country if it hadn't been given six miles on each side of the track. We've always been doing public works. Well, I don't want to give you my long song and dance on that. You've heard it before.

Q. Of the men who've served with you in the Senate, which do you look back on with fondness and affection?

HUMPHREY. Alben Barkley, I loved him. He sat alongside me. But Paul Douglas, Herbert Lehman, Bill Benton, I suppose they were about the three closest friends I've had in the Senate. But there were many others.

Q. Senator, it's been said that your major political mistake was in going along with Lyndon Johnson on the Vietnam war. Do you think that true?

HUMPHREY. Well, I didn't consider it a mistake at the time. I considered it the right thing to do. I guess I can say this now. Had I been elected President, I would have ended that war, and I would have ended it promptly. I became convinced in late '67 and '68 that we had to get out of the war. In the beginning I wasn't for it, but as I've said repeatedly, I'd rather be remembered for being wrong than for being a hypocrite. I felt that what we were doing had to be done. Maybe it was because I was a product of that time, that generation.

But ultimately, looking back on it, I suppose I might have been elected President of the United States had it not been for the Vietnam war.

Q. One final question, Senator. Did you watch former President Nixon on the David Frost series of interviews, and if you did, what was your impression?

HUMPHREY. I was saddened. I wouldn't have done that for millions.

REPORTER. Good luck, Senator, much love to Muriel, and thank you.

HUMPHREY. Thank you. Now, when you're shooting your pictures of me, try to get as much of my hair as possible.

CARTER CALLS HIM "GREATEST DEMOCRAT"

At a party fund-raiser in New York City this past summer, President Jimmy Carter described Hubert Humphrey as "the greatest Democrat who lives in our country. I think," Carter expanded, "that when anyone tries to assimilate in one's mind what the Democratic party is, what it stands for—its cleanliness, its decency, its compassion and humanity, its fairness and its honesty and its dedication, its love for people—the personification of all those things is Senator Humphrey."

Hubert Horatio Humphrey of Waverly, Minn., was born in Wallace, S. Dak., on May 27, 1911, was graduated from the Denver College of Pharmacy with a degree and was further educated at the University of Minnesota, where he earned his Phi Beta Kappa key, and at Louisiana State University, where he earned his M.A.

He was elected mayor of Minneapolis in 1945 and 1947 after serving a stint as a professor of political science at Macalester College. In 1948 he was elected to the U.S. Senate and reelected again in 1954 and 1960. He is married to the former Muriel Buck, who blessed him with four children.

NARROW DEFEAT

Lyndon Johnson chose the Senator as his running mate in 1964, and Humphrey became Vice President of the U.S. Four years later he ran for the President and was narrowly beaten by Richard Nixon. He returned to teaching political science at Macalester College and the University of Minnesota, a large share of his salary being paid by a grant from DeWitt Wallace, founder of Reader's Digest.

In 1970 and 1976 Humphrey was again returned to the U.S. Senate, where he was defeated for Senate Majority Leader by Sen. Robert Byrd of West Virginia this year.

One day after rejecting him as their leader, Senate Democrats, to show their liking and respect for Humphrey, voted him a new title, Deputy President Pro Tempore of the Senate. They included a chauffeured limousine, a second office and staff in the Capitol, plus $7,400 more than a Senator's normal salary and participation in all the Democratic Congressional leadership's meetings with the President.

Humphrey's medical history noted the presence in 1968 of pinhead-sized tumors in his bladder. In 1973 the tumors grew, Humphrey was subjected to X-ray treatment and chemotherapy, but the treatment did not arrest the cancer. On Oct. 7, 1976, his bladder and prostate were removed at the Memorial Sloan-Kettering Cancer Center in New York.

SURGEON'S VERDICT

Ten months later, on Aug. 18, 1977, at 7:45 a.m., Dr. John Najarian, surgeon at the University of Minnesota Hospitals in Minneapolis, conducted exploratory surgery on Humphrey to determine the cause of the Senator's bowel obstruction. The surgeons discovered that the stubborn cancer cells had spread through almost the entire pelvis and that the malignant tumor could not be removed. They declared the cancer massive, inoperable, and terminal, but refused to predict whether the Senator might live for "months" or "years."

Anyone who knows Hubert Humphrey readily acknowledges his tremendous resilience, his indomitable will to live, and his great fighting heart. Whatever happens to his body, his spirit of love and camaraderie, his history as a spokesman for the poor and less-privileged people of this Nation will long survive.

"It's not what you've lost," he told a Parade reporter a few months ago. "What counts is what you've got left. And I've got a lot left."

THE UNSINKABLE HUBERT HUMPHREY

(By Aaron Latham)

Hubert Horatio Humphrey is besieged everywhere these days and asked for autographs. Everyone loves him now that they think he is dying. In fact, he is fighting cancer and fighting hard. One Wednesday last spring, he scheduled two lunches, the first of them with a group of cancer research doctors. They gathered in Room 155 of the Old Senate Office Building. The senator wanted to coach the doctors on how to get more money out of Congress. They told him about new cancer treatments, including one that used a vitamin.

"It'll be just my luck," Humphrey said. "You'll discover this cure about the time I'm ready to give up the ghost. It makes me madder'n hell."

The doctors went on to describe a platinum treatment.

"Platinum!" Humphrey said, clutching his stomach. "Lord, it makes you sick."

The researchers mentioned the promise of immunology.

"They injected me with those dead tumor cells," Humphrey said. "Gave me 30 shots. They told me it was experimental. All I asked them was, 'Will it kill me or make me any worse?' They said, 'No.' I said, 'Go ahead.' "

On the way to his second lunch, Humphrey lingered in the doorway to talk about his mood.

"Let's face it: Everybody who has cancer gets depressed, but you have to fight it. When I lost my hair—now it's growing back in again—I used to look in the mirror and say, 'You bum, you're a mess.' Then, after two or three minutes of self-pity, I would shake myself out of it. You really have to grab yourself by the shoulders and shake. You know what's hit you. You know the odds. You can't kid yourself. But do you know my solution? Just work. Work all the time. Then if I don't feel good, I can blame the work."

The Senator's attitude surprises no one who knows of his background. Humphrey was brought up in a store with drugs on the street level and a boxing ring in the basement. The ring was used often; the drugs, almost never. Humphrey boxed the neighborhood kids in the basement during the winter and in the front yard in summer.

"I was pretty good," Humphrey remembered. "I was quick. And I did a lot of roadwork."

When he was not boxing at home, Humphrey boxed at the local movie theater. During reel changes on Saturday nights, the management put up a ring onstage. Young Hubert would climb in and box the minister's son for free movie tickets. "We'd fight two rounds," Humphrey reminisced, "and then go to Sunday school the next morning."

Humphrey's father was a druggist who had little use for drugs. "Daddy used to say about our drugstore, 'We don't take it—we sell it. You can't make money eating your own medicine.' Daddy'd say things like 'Self-pity is the root of all evil.' He'd say, 'Activity, activity. Get active. Get busy. Come on, boys, get with it. We don't have time to get sick. Most of it's in your head. You're not really that sick.' "

Then Humphrey added: "Now obviously, when you have cancer, you're sick."

These days, he is forced to take some of the "worst" medicine ever brewed. This medicine comes very close to destroying his body in order to save it. In other words, he has been submitting himself to chemotherapy.

"Oh, the chemo was hard on me at the beginning," he said. "But even then, when I got the chemo, I'd go right back to work the next day. Couldn't eat. Bowels loose. Feeling lousy. You have the blahs for five, six, seven days."

It was the worst at the beginning of this year. He wasted away to 160 pounds. His head became a skull on a stick. Then, in March, Humphrey began to look better, although not necessarily because he was better. By spring, people who had seen him at his worst told him how much better he looked. But people who had not seen him since his surgery were shocked. His cancer, or his cancer treatment, had turned him into an old man. He had gone from a 66-year-old senator who looked 56 to a 66-year-old senator who looked 76. His hair came back in white.

Recently the senator's conversation turned from drugs to fight. The fight he is proudest of is the one he fought for civil rights in this country. Asked to name his single greatest achievement in public life, Humphrey said: "I would say in my perseverance in the field of civil rights from the day I was mayor of Minneapolis to the time of the passaye of the 1964 Civil Rights Act. It was not an easy course to follow. I think it's fair to say I was ahead of my time. When I became mayor [in 1945], I started out right then. It was said that Minneapolis was one of the two most anti-Semitic cities in America. I started to work on that problem. Setting up one of the first mayor's councils on human relations in the United States—*one of the first*. Then going to the Democratic convention in 1948. Making the difficult decision about whether to challenge the platform committee's civil rights plank."

Making his debut in the national political ring, Hubert Humphrey rose to the moment and the microphone. He made a passionate speech in support of a maverick civil rights plank calling for broad legislative action. He told his party: "I realize I am dealing with a charged issue . . . There are those who say to you we are rushing this issue of civil rights. I say we are 172 years late . . ." The platform committee's tepid civil rights plank was beaten. Humphrey's plank was adopted.

After the convention, Humphrey was elected to the Senate, where, as he likes to recall, the fight continued: "There was all that battle from '48 to '64. Being floor manager of the '64 bill. The prolonged sessions. Coming right to when I was Vice President and Johnson made his speech on the 1965 Voting Rights Act. I would say that was the most important contribution that I feel I made to public policy."

Humphrey is also proud of his work in launching the Peace Corps and the Arms Control and Disarmament Agency. He pressed both ideas in the mid-'50s, but he had no success until John Kennedy was elected President. Then Humphrey and Kennedy began discussing these concepts at the White House as they skinny-dipped in the President's pool. In the end, Kennedy bought both ideas. Humphrey introduced the legislation and guided it through Congress. The bills passed and the Peace Corps and the Arms Control and Disarmament Agency became part of the . . . well, the Kennedy legacy.

Asked what his greatest mistake in public life had been, Humphrey said: "I think the misjudgment of Vietnam. At the time I did what I thought was right. It was not because Johnson was forcing me. I had very serious doubts in the beginning. Yet living and working in the White House atmosphere, I became convinced that we were doing the right thing. If I were to say what regret do I have, it would be—not that I was in charge of the war, not that I wanted it, not that I had anything really to say about it—that I supported it."

The dirtiest fight Hubert Humphrey was ever in was with Richard Nixon. He remembered the scrap this way:: "In the '68 campaign, he had developed through some very careful public relations the idea that he was a new Nixon. Which the American press bought. Which I haven't forgiven them for. There was no new Nixon. Nixon was an amoral man."

Humphrey is bitterest about what he believes were Nixon's moves to undermine the Vietnam negotiations. And Humphrey had been counting on those negotiations to propel him into the White House. His presidential hopes, like the South Vietnamese themselves, were destroyed by a deadly combination of friend and foe: Lyndon Johnson and Richard Nixon.

"I went in to Johnson a couple of times," Humphrey said, "and said, 'Mr. President, I've simply got to state certain things.' And one time he just became furious with me when I showed him a paper that a group at Harvard had developed with alternatives to our policy in Vietnam. I'll never forget what Johnson said to me one time, which made a lot of sense. He said, 'Hubert, if I can get you peace—peace in Vietnam—you'll get elected.' And he said, "That's why I didn't run for reelection. I want you to stay with me. We're making progress in Paris. Don't break with me, because if 'you do, that'll just set things off in Paris. They'll know there's divided counsel here and that there's no need to make a settlement.' "

Humphrey did not break with Johnson, but the Vietnamese nonetheless got the message that there was no need to make peace.

"In the latter days of the '68 campaign," Humphrey said, "there is not any doubt in my mind that Nixon was wheeling and dealing with Thieu and Ky over in Vietnam. That Nixon undoubtedly had Anna Chennault telling Thieu—that thieving, conniving leader of South Vietnam—'Don't come to the conference table in Paris.' I had reason to believe that Madame Chennault was representing Nixon, but I couldn't prove it. And I was afraid that if I accused Nixon of it at the very last hour, it would look desperate. I got ahold of Jim Rowe, who was a good friend of mine and of Johnson's, and sent him to the South Vietnamese ambassador. I said, "Tell him for me: "If what I hear is true, you can tell your president that his leadership with me as the next President of the United States will be finished.' "

Humphrey's voice got louder and louder. He was mad all over again.

"My information was that Madame Chennault was telling Thieu and Ky that Nixon was going to win. That there was no sense in the South Vietnamese's turning up in Paris. That a new administration would be coming into power. We had information from the White House that indicated this was going on."

And there were other suspicious activities as well.

"We had break-ins at our office out in Los Angeles in '68. And I have reason to believe that the Nixon forces were financing a certain amount of the demonstrations that were going on at that time. Nixon was a tough type of fellow. The dirty-tricks department, I'm confident, was at work during this period."

On a Tuesday morning last spring, Sen. Humphrey was scheduled to be at the White House at 8 a.m. When he arrived, he shook hands with Senate Majority Leader Robert Byrd, Speaker of the House Tip O'Neill and other members of the congressional leadership team. They had all come for their biweekly meeting with President Carter. Humphrey was surrounded by people who had gotten the jobs he himself had wanted. Since he had failed to win those titles, the Senate had created for him a special title to help make up: deputy president pro tempore. It was as the Senate's DPPT that he was invited to attend these White House meetings.

The White House still awes Humphrey. He continues to feel some of the tingle he felt in 1949 when he took his mother and father over to the White House to meet President Truman and, wonder of wonders, the President gave them a guided tour. At the White House, Humphrey always feels a little like a young man at his first fancy dinner party. He does not want to pick up any wrong forks. He wants everything to go well. So it was especially disturbing to him when something embarrassing did happen on that Tuesday last spring.

As a result of his cancer operation, which removed his bladder, Humphrey wears a bag to collect liquid wastes. That morning at the White House, the bag filled up faster than usual because a drug he had taken dehydrated him.

Sen. Humphrey later told a group of friends: "I didn't know my bag was filling up. I had a new seal on it that didn't hold. The bag broke. When something like that happens, you get down, but then you have to kick yourself"—he made a kicking motion toward his behind—"back up again."

Hubert Humphrey flew to Independence, Mo., to accept the Harry S. Truman Award. He was late. The crowd outside the Truman Library was worried. They were afraid something had gone wrong, but that was only because they did not know Humphrey well enough. There is something wrong when he is on time. Humphrey was late even to his own wedding.

The library staff had not provided lights for the out-of-doors ceremony. The sun was already setting when the Truman Award winner rose to the podium..

Humphrey had put in a long, draining day. Up early for a breakfast, he had gone on to preside over a meeting of the Senate Foreign Assistance subcommittee, he had met with constitutents, he had flown a thousand miles, and now he was supposed to give a speech. As he faced the crowd, he looked tired and fragile.

Then he began to speak and to change. His words seemed to rest him and to strengthen him. He grew younger at the podium. I was reminded of something Humphrey had said about Pablo Casals: "I've seen that dear old man at 90, barely able to get up, barely able to lift that baton. Then he'd get up in front of an orchestra and he'd come alive. Unbelievable. Just like a transformation." Humphrey was asked if he ever experienced anything similar when he addressed an audience. And he said: "Oh, yes, I can be literally ill and get up there to speak and start feeling strength. It sounds ridiculous, but I have gotten out of a sickbed with the flu, gone down to speak to an audience, gotten all perspiring—and gotten well! I get a kind of esoteric vitamin from crowds."

The crowd worked its healing miracle that night in Independence.

"Harry Truman was my hero," Humphrey proclaimed modulating his strong voice, waving his arms, moving the crowd with his energy. The speech went well in spite of the gloom that made it impossible for the speaker to read his text. It didn't matter. He just kept going. It didn't matter that as he stood on the steps of the Truman Library, the world was growing dark around Hubert Humphrey.

After the speech, there was a reception where hundreds of people wanted to touch the senator one last time. As usual, the crowd seemed to love him.

He left the reception and retired to the Sheraton Royal Hotel, where he noticed the giant baseball gloves that serve as lobby chairs. They should have been boxing gloves. Humphrey invited me up to his suite for cheese, crackers and beer.

A former staff member, Neal Peterson, called room service and placed our order. Humphrey recalled that when he was Vice President, he would find his hotel rooms crammed with cheese, crackers, beer and Canadian Club. Back then he deplored the waste, but this night, as it turned out, he would not have minded a taste of the old days. Room service seemed determined to ignore us.

While we were waiting for the food, we took off our shoes and put our feet up on a coffee table. Neal Peterson turned on the television. Humphrey said he wanted to watch something entertaining, "but it won't take much."

He explained that he unwinds for an hour or so every evening, no matter how late he gets in. This is his time. If he did not have it, he would feel he had lost control of his life. So if he gets in at 1 a.m., he stays up until 2 a.m., watching TV or doing whatever he wants to. If he gets in at 3 a.m., he plays until 4 a.m. That hour is his private life.

Room service still had not come . . .

Humphrey talked about the kinds of people he likes. He likes show business people, including such favorites as Kirk Douglas, Elizabeth Taylor, Sonny and Cher, Joey Bishop, Milton Berle, Alfred Hitchcock and Frank Sinatra.

"I like Frank Sinatra," he said. "He's a rather outgoing, friendly, gregarious, generous guy who gets in a lot of trouble. In his early days, he supported Democrats. I think he felt the Democrats turned their back on him. He supported Jack Kennedy real strongly. Then, when there was question of Sinatra's background and his connection, why, the politicians sort of moved away from him. I've never felt that way about people. I judge them on the basis of what they've meant to me. Everybody's got some marks on them."

Humphrey also likes musicians: people like Rudolph Serkin, Robert Merrill and Isaac Stern.

"I remember times sitting up with Stern half the night at the Jefferson or at the Hay-Adams Hotel and talking politics."

But most of all, Humphrey still likes his boxers. Jack Dempsey, Hammerin' Henry Armstrong. The Fargo Express. Gene Tunney. Sugar Ray Robinson. I asked him who his all-time favorite fighter was.

"Historically, I'd say Jim Corbett," Humphrey said. "He was really a tremendous athlete. He was a real boxer as well as a good fighter."

I asked why he likes prizefighters.

"They're not the kind of people you would want your children to admire," the senator said, "but they're fun to be with. They add a dimension to my life that's a relief from the occasional boredom of politics."

At last, room service came. A tray of sliced cheddar cheese and soda crackers was wheeled in. Humphrey took the beers into the bathroom to open them.

Neal Peterson turned around the channels again. We listened to a promo for a movie that was just coming on.

An announcer said: ". . . the story of a young woman dying of cancer and the effect on her family . . ."

Humphrey said, "I don't need this."

We flew from Independence to Minneapolis. Humphrey said: "I felt, when I faced the operation, I wasn't at all sure what was going to happen. But I was prepared in my own mind. I wrote a letter to my wife. I told her what I thought. In case I died, she'd know something about what I was thinking. That letter I don't think she ever opened."

Humhprey looked out the window at the farms.

"When I got through with the operation I wanted very quickly to get up and around. I didn't want to lie in bed. I got a big joy out of being able to talk with the other people in the hospital.

I recalled a story I had heard Vice President Walter Mondale tell about visiting Humphrey in October, 1976, at Memorial Hospital in New York City. Mondale expected to spend a few minutes in a gloomy atmosphere and to leave depressed, but as he approached Humphrey's room, he heard laughter. Then he walked in and got a 15-minute lecture on what he was doing wrong in the campaign. Mondale said he had heard that when Henry Kissinger came to the hospital, "Humphrey not only took Kissinger to every room in the hospital, but they stood outside the operating room and gave advice to the patients going in." Mondale left Memorial Hospital feeling good.

"I can't explain what it meant to me to have that tremendous wave of affection for me," Humphrey said. "It's embarrassing for me. I heard from everybody from the Pope to Kosygin to John Wayne, who said, 'Join the club.' "

When Humphrey left the hospital, he was deprived of the audience—the other patients—which had given him strength.

"The real test of a marriage is in an instance like we went through. As Muriel said to me, 'If we didn't love each other as much as we do, we couldn't stand this.' Because we were forced together that close. And there was very little we could do except slowly rebuild. Well, I walked a lot. I was very anxious to get back to work. I went back to my office for a certain number of hours a day. Then I'd go home and rest. By December, I was doing a full day. I was really feeling very good.

"Then I went home for Christmas. My grandchildren had the flu. I was a little reckless and overdid a little bit. I picked it up. Boy, it damn near knocked me out. It was over New Year's. Fortunately, Congress wasn't in session, so I didn't miss any days. But in the meantime I went down to Plains, Ga., during a terrible blizzard. I got down there and I damn near froze to death. It's a wonder I didn't get pneumonia."

Then it was time to go back to work.

"When Congress opened up, that's when I looked so bad. I didn't want to give in. I had a fever. I went back to Congress with a 102-degree fever. Well, I was up for this contest for majority leader, and I just didn't want to back out and give up. The chemotherapy had taken my hair. I was thin. It took a whole month to get myself back around."

The ride was getting bumpy as we dropped down toward Minneapolis.

"You never know how long you're going to live. Why worry about it? Maybe the plane won't land. So I can't go around wondering whether I'm going to be alive. I've got to plan my days ahead as if I'll live forever. I try to do that because I think mental attitude has a great deal to do with your health. Now, I know that once you've had this disease, you never get cured really. It can hit you again, but if you worry about it, you'll get sick.

"Still, you know the odds."

In spite of Humphrey's uncertainty, the plane did land. We were picked up by an aide who was to drive us out to see the senator's newest grandchild. On the way, he talked about naming children. When Humphrey's first son was born, he and his wife had no idea what they wanted to call him. All they were sure of was that they did *not* want to name him Hubert Horatio Humphrey III. But war bonds began arriving made out to "Hubert Horatio Humphrey III." They were a present from Hubert Horatio Humphrey Sr., the proud grandfather. These gifts made quite an impression upon Hubert Horatio Humphrey Jr., the future senator, because at that moment in his life he was broke. When the war bonds amounted to a staggering $500, HHH Jr. told his wife, Muriel, "Let's face it: Daddy has bought the name." They christened their son Hubert Horatio Humphrey III, but they called him Skip.

A month before our visit, Sen. Humphrey, inspired by his father, had decided to try to name his newest granddaughter. He called his daughter-in-law at the hospital, where she was recovering from a Caesarean delivery.

"How's Heather?" he asked.

His daughter-in-law said he must have the wrong number. There was no Heather there.

"Of course, there is," Humphrey said. "My little granddaughter, Heather."

The daughter-in-law assure the grandfather that her daughter had not been named Heather and never would be.

A ritual began. Every morning, Hubert Humphrey would call his daughter-in-law. "How's little Heather?" "Her name's not Heather." Day after day. "How's little Heather?" "There's no Heather here."

The senator soon realized that he needed a co-sponsor for his idea. He called the maternal grandmother, whose name is Harriet. He suggested that the new granddaughter be named after her. The grandma was thrilled. Then Humphrey revealed the rest of his plan. Harriet would actually be the baby's middle name. Her first name would be Heather. Her full name would be Heather Harriet Humphrey. The point was: she would be another HHH.

The maternal grandmother was still pleased. She began calling her daughter and asking: "How's little Heather Harriet?" "Who's Heather Harriet?" And Humphrey kept calling, too. "How's little Heather Harriet?" During these calls, Muriel would stand at her husband's elbow and beg him not to interfere in his children's lives.

At last, the mother of the new baby agreed to a poll. She would ask her friends to pick their favorite name, and she asked the senator to do the same in his office. Now, Humphrey was an old hand at polls. He knew they could be used to show almost anything you wanted them to show. Calling together his staff, he held an election of Mayor Daley honesty. He read off all the competing names, concluding with: "And my favorite, Heather Harriet."

The poor mother had about as much chance as a Republican running in Cook County. She conceded gracefully.

We were on our way to see little Heather Harriet Humphrey when trouble developed. The driver pulled over to the side of the road. We were lost.

Humphrey and his aide pored over maps. They were both stumped. The senior senator from Minnesota did not know the way to his son Douglas' house. (He had never been as close to his children as many fathers. In 1964, during the fight over the Civil Rights Bill, his son Hubert Horatio Humphrey III was discovered to have cancer. Muriel Humphrey called her husband, who had to be summoned off the Senate floor, to tell him the bad news. Humphrey said he could not leave the Senate. The mother and son faced the lifesaving cancer surgery alone.)

At last, Humphrey folded up the maps. We were still lost, but the senator had a plan.

"Drive straight ahead," Humphrey told his aide. "What do we have to lose?"

"No," said the aide, a mere college student, as he turned the car around. "We'd better go back."

No! I could not believe it. This kid was contradicting an order given by one of the most famous senators that ever lived, a man who had been Vice President of the United States, a man who had come within a few hundred thousand votes of the presidency.

Nevertheless, Humphrey sat back and said no more. We drove back and stopped at a small grocery store, where Humphrey called his son Douglas and asked directions.

"If we had just kept going another hundred yards," Sen. Humphrey announced, "we would have come to the turnoff."

There are those who say that Humphrey has always been driven by his staff and that his staff is often wrong. That over the years, he has perennially hired a second-rate group of people to advise him. Many believe he did not speak out against the Vietnam war because he listened to his staff. The staff said: *No!*

No matter. We finally found his son's house, overlooking a beautiful lake. One-month-old Heather Harriet granted us an audience. Grandfather Humphrey danced around his grandchild like an elderly, white Muhammad Ali. The old warrior had a new audience and a new reason to keep fighting.

"I'm your grandfather," Hubert Humphrey crooned. "I'm worth remembering."

By Mr. BARTLETT:

S. 2170. A bill to amend the Immigration and Nationality Act to define the term "public charge," and for other purposes; to the Committee on the Judiciary.

Mr. BARTLETT. Mr. President, I am introducing legislation which is intended to substantially reduce the number of legal aliens that are receiving all forms of public assistance, whether it be Federal, State, or local.

We have all heard and read about the situation created by illegal aliens, but the effect of legal aliens on our economy has only recently been revealed.

Certainly not all aliens who enter the United States become public charges. Nor do most intend to become public charges; however, there is growing evidence that there are some who do enter with the specific purpose of availing themselves of our welfare programs, and others who become public charges because they simply do not have adequate means to support themselves.

I do not intend to derogate the efforts of the State Department in screening aliens; however, in many cases, the State Department does not have adequate authority to initiate protective measures, nor does it have the time to perform adequate screening.

Two facts are known. There are a number of legal aliens who receive various forms of public assistance, and Federal, State, and local governments have no accurate method of identifying legal aliens who are receiving tax dollars.

The approach that I offer in this legislation is to strengthen the State Department's position at the time of admission, and to require deportation once an alien is identified as receiving public assistance. A strong policy is necessary to prevent existing abuses and to stop expansion of welfare services as aliens become aware of the possibilities.

My amendments take a multiple-step approach. First, a definition is provided, describing when an alien becomes a "public charge." This definition is based on the receipt of public funds because of the lack of a job, physical disability, or health impairment, and is without regard as to whether repayment is required or requested by the Federal, State, or local program. Physical disabilities or health impairments that occur after entry will not be included.

Second, an agreement by a third party sponsor will be drawn as a legally binding contract for a period of 5 years.

The third step provides for deportation when the alien becomes a public charge, unless the public funds are repaid by the alien or a third party.

Last, all Federal, State, and local agencies shall report to the Immigration and Naturalization Service (INS) any alien that becomes a public charge.

These provisions may seem stringent requirements for a country that prides itself on being a harbor for the immigrants of the world, but with the current expenditures of public support funds on our own indigents, we can little afford the addition of any aliens that were admitted to this country on the basis of their capability to support themselves.

As I have stated, there is little information on the numbers of publicly assisted aliens, but I would like to cite some estimates provided by the Comptroller General in a 1975 report to Congress.

The work was done in California, Massachusetts, and New York. The conclusion was that newly arrived aliens received large amounts of public assistance. In Los Angeles County, the report estimated that $19.6 million annually was being paid out in AFDC, OAA, and ATD. Total grants to aliens in Los Angeles County amounted to $37.5 million annually.

Also cited were estimates from Texas and Hawaii welfare officials which showed payments of $7 million and $6 million respectively.

The sample of 195 random cases in Los Angeles County showed 86 cases—44 percent—had applied for assistance in the first 5 years, and 47 cases had applied during the first 2 years.

In San Mateo and Sonoma Counties, 64 percent had applied in the first 5 years, and 44 percent had applied in the first 2 years.

The following are the estimates for Massachusetts and New York City:

Percentage:		Years
State of Massachusetts	58	5
	37	2
Boston	80	5
New York City	37	1
	59	2

Questionnaires were also sent to 46 department of social service centers in New York City. Eight centers were eliminated for certain unrelated reasons, and of the 38 remaining, 13 said that aliens had an important impact on total public assistance payments.

This report provides some idea of size of the problem, but, unfortunately, there is no accurate information. The courts have held that there is inadequate statutory authority to enforce third party sponsor agreements for support. There is also no statutory requirement that immigrant recipients of public assistance be reported to INS for the facilitation of deportation. It is therefore imperative that we strengthen the law to cut off aliens from public assistance.

I direct my colleagues' attention to a recent "Sixty Minutes" program which describes some of the more flagrant abuses.

Mr. President, I ask unanimous consent that a transcript of this program be inserted in the RECORD for review by my colleagues. Mr. President, this transcript is reprinted with written permission of CBS News and may not be published or reprinted without their consent.

Some may view these amendments as unnecessary, but such practices will only continue to grow as more individuals become aware of the possibilities. I therefore encourage the rapid consideration of this matter, and passage before the end of the 95th Congress.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

ALIENS ON WELFARE

MIKE WALLACE. Illegal aliens. We've been hearing a lot about them lately, mostly that they take jobs away from Americans. But what about *legal* aliens—people who enter this country with proper credentials from foreign lands? We take 400,000 legal immigrants into the United States each year, more than the total number accepted by all the rest of the nations on earth. And those legal aliens are beginning to cost the American taxpayer a great deal of welfare money.

A few weeks back, we began receiving letters from California about legal resident aliens, Filipinos mostly, who come to California and, after just 30 days, apply for welfare—that despite the immigration law which requires the State Department to keep out aliens who might become public charges. Some estimates put the cost of legal aliens using federal and state welfare benefits at over half-a-billion dollars a year, at the very least. And the problem is nationwide.

Yonkers is a suburb outside New York City, and thousands of Jordanian families have chosen to settle here over the past fifteen years.

They've made themselves a Jordanian home-away-from-home, and they are grateful for the opportunity America offers them.

SHAFFIK RABADI. The United States has a very big, rich name outside, abroad. Everybody is dreaming to be in it, if you are to be frank.

WALLACE. Shaffik Rabadi is a leader in the Jordanian community in Yonkers.

SHAFFIK RABADI. Yes, soon as we come here to America, I mean, we adopted to be American citizens, and our sons to be taken to the service at any time they wanted. If we are to do any business, we are going to pay the taxes. We are going to be exemplary citizens.

WALLACE. But not all immigrants feel that sense of responsibility, and that's what this story is about. You see, for an alien to enter the United States—be he Jordanian, Portuguese, Italian, British, any nationality—someone, a sponsor (usually a family member, sometimes a friend) here in the United States has to sign an agreement saying that the sponsor can and will support the new immigrant, and that the sponsor will guarantee that the immigrant will not become a public charge.

Another Jordanian, Sultan Rabadi, sponsored a family of ten persons last October for their entry into the United States. Three months later those ten persons were on welfare.

But you were their sponsor. You—you told us.

SULTAN RABADI. Well, how—how much you want me to—to help these people? I tell him I have no more responsibility. I have seven people. I have seven people in my family plus my—my father. Eight people, I'm responsible about eight people.

WALLACE. I understand that, but then—but you signed the paper saying that they would not become public charges. That is, that they would not go on welfare. But three months after——

SULTAN RABADI. Well, they didn't have—have a job. He—he didn't have a job. He no have a job, so I can't—I can't be responsible about fifteen—fifteen people, eighteen people.

WALLACE. Maybe you just should not have signed the paper when you told them to come from Amman, Jordan, here to Yonkers in New York.

SULTAN RABADI. Well, everybody do that. Everybody do that.

WALLACE. How do you mean?

SULTAN RABADI. I mean everybody sign a paper to help some people.

WALLACE. Sultan Rabadi showed me around the apartment that the family he sponsored lives in. And now that they're on welfare, Rabadi himself makes money from it, for welfare pays the family's rent. And since Rabadi is the landlord, he gets that rent: $350 a month from welfare. The Westchester County Welfare Office tells us a family this size receives about $11,000 a year in welfare pay-

ments. And Rabadi says many sponsors just don't expect to support the aliens they bring in, despite what papers they have signed.

If the government had said to you: Okay, you want to sponsor the Ayoub family, put up a $5,000 bond. And you will have to pay that back to welfare if they go on welfare. Would you have done it?

SULTAN RABADI. No. No.

WALLACE. Why?

SULTAN RABADI. Because I don't have money.

WALLACE. Right.

SULTAN RABADI. I don't have money.

WALLACE. Most legal aliens are entitled to just the same welfare privileges as American citizens. And most welfare offices don't know the number of sponsors who renege on their commitments, or how much it costs. But in Westchester County, where sixty cents out of every tax dollar goes for welfare, they've now started to calculate the price of aliens on welfare—and they found the bill there is in the tens of millions.

When social service officials here in this Yonkers welfare office started looking through their records a couple of years ago, they noticed some recurring patterns: Immigrants were coming into this country, settling here in Westchester County, and within a few months, sometimes in a few days, they were coming to this welfare office and getting welfare, food stamps and Medicaid—that despite the fact that somebody had signed an affidavit of support pledging that the immigrant would not go on welfare. And there was nothing this office could do about it, because it was legal.

The sponsor's affidavit spells out in detail how much the sponsor makes, what he has in the bank and other assets, with bank statements to confirm them, all leading to item 9 on the sponsor's statement: "That this affidavit is made by me for the purpose of assuring the Immigration and Naturalization Service that the person(s) named in item 3 will not become public charges in the United States."

Welfare case workers Nancy Walsh and Lindy Spry say some sponsors sign for immigrants, despite the fact they know those aliens will have a hard time supporting themselves.

LINDY SPRY. The sponsor has to be aware that a lot of the people he's sponsoring in are elderly, are people with disabilities, are people who could not possibly go out and support themselves.

WALLACE. Lots of these sponsors do have money, do have property and could support these people, but just don't?

NANCY WALSH. I believe so, yes.

WALLACE. And there's no way to get at them?

WALSH. Not that we've been able to find out.

SPRY. Everybody in the community knows that person owns property and has finances, but it's not legally, under our laws, touchable.

WALLACE. Ms. Spry, are there sponsors who have brought in families, had them go on welfare, and then brought in other families?

SPRY. Yes. Yes, we see that quite often. We see a sponsor who will bring in one, two, maybe five to six families—

WALLACE. Yeah.

SPRY. —put them on assistance, and sponsor somebody else in, using the same assets that they declared on the affidavit for the first family.

WALLACE. The man who lives in that house, Habib Marji, came to the United States from Jordan in 1965. He's employed as a Pinkerton guard; he's a man of property. He has sponsored the legal entry into this country of at least five families. In his sponsorship papers, he said, "I'm ready, willing and capable to receive, maintain and support the family, and I am making this affidavit in good faith to induce the honorable American Consul in Jordan and the Immigration authorities in the United States in determining that such prospective immigrant will not be a person that can become a public charge." But several of the families he sponsored are now on welfare, and Habib Marji says he's not responsible for them. At first he agreed to talk to us, and now he says he's too sick to talk about it.

Two of the persons he brought over, now on welfare, are his daughters-in-law. This is one of them. Five months after she got here, she and her husband were on welfare. They told us they didn't want to go to work until her husband finishes school. The sponsor, the father-in-law, owns this house and the one next door. His assets, he has said, are worth well over a hundred thousand dollars; and he, too, gets rent money from welfare for housing the families he sponsored.

The easy availability of welfare funds drew even the local immigrant magazine to poke fun at the community—in this cartoon showing a Jordanian coming into New York's Kennedy Airport, and asking the taxi driver to take him to 70 Ashburton Avenue, the address of the Yonkers welfare office. Shaffik Rabadi says welfare itself should share the blame.

SHAFFIK, RABADI. From the beginning of the time that they started to immigrate up to now, no action was taken against any sponsor. Say, for example, somebody sponsored somebody and came here, after five or six months he went to the welfare, the welfare themselves did not take any action—say, for example, to stop the money.

WALLACE. Do you call the sponsor in, Ms. Walsh, to talk about it?

NANCY WALSH. Yes, we do call the sponsor, we contact him. As long as he will give us a notarized statement saying that he can no longer support this person, we must accept it. We have no right to go any further. When we began seeing the problem of sponsors not living up to what we saw as their legal commitment to take care of people for five years after they came in the country, and we—we got into some research about it, and we found out that, actually, even though they sign something which says they are bound to take care of this person, it is simply a moral commitment.

WALLACE. Do you ever say to the sponsor, "Wait a minute, you said that you would!"?

WALSH. That's right.

WALLACE. And they say?

WALSH. Sorry, I have other financial obligations.

WALLACE. You will not sponsor other Jordanian families who want to come, Mr. Rabadi. Why?

SHAFFIK RABADI. I tell you frankly: because I have no money to support them, and I don't want to bear the responsibility for their coming. You see, I appreciate—

WALLACE. Right.

SHAFFIK RABADI. I understand well that the Americans mean when you sign something you mean it, that you have to be responsible so that they don't become a public charge. So that, I mean, they don't be a heavy burden, you see, on the shoulders of others in this country. This is the meaning of it.

WALLACE. Correct.

SHAFFIK RABADI. I myself understand it this way.

SULTAN RABADI. That man, he can understand good English and he—he knows everything. I—I can't understand everything, you know. And he can read good. You know the problem why they go to the welfare?

WALLACE. Because—?

SULTAN RABADI. Because they don't have any jobs. They want to eat. How come you like the people, the kids two years, three years or six years old, they want—you want them to die, without food? Well, that's why they go to the welfare.

WALLACE. But they say Rabadi signed a paper. He's—

SULTAN RABADI. Well, I signed the paper, I—I didn't know that I got to be responsible about five—five years.

WALLACE. Well, who's at fault? Is it Immigration? Is it the Consul back in Amman in Jordan? Is it the State Department? Who is to blame?

NANCY WALSH. As we try to sort it out from—from our own perspective, it seemed to me that it was the State Department—that if they wanted to, that they could make people post bond. After all, it—it's even on the form that you sign to become a sponsor.

WALLACE. Carl Shepherd, who runs the U.S. State Department's Visa Section, says the whole legal alien welfare situation is a mess.

The fact is, Mr. Shepherd, that this very formal affidavit of support with all kinds of questions about stocks and bonds and money and life insurance and real estate and signatures and—this legal-looking document is nothing but a sort of a worthless piece of paper, legally.

CARL SHEPHERD. In a—in a legal sense, you're quite correct. It has no more value than any other piece of paper.

WALLACE. Aren't we being taken advantage of?

SHEPHERD. I wouldn't question that we are; but again, because of the lack of hard figures, we don't really know to what extent.

WALLACE. Well, how often do you deny visas because you think the alien might become a public charge?

SHEPHERD. As of Fiscal Year '76, we actually refused 48,000 visas for public charge.

WALLACE. You did?

SHEPHERD. Yes.

WALLACE. And how many people became public charges?

SHEPHERD. I don't believe that there's anybody in the government who has that figure.

WALLACE. But we assumed the Immigration Department would know. After all, it's their job to watch over aliens here, and to hold the bonds the sponsors can be asked to deposit.

Sam Bernson is Immigration's top counsel.

Do you have any idea the number of legal aliens who are getting welfare?

SAM BERNSON. That's one of the unknowns.

WALLACE. Just unknown?

BERNSON. It's an unknown.

WALLACE. How many public charge bonds, bonds that we're talking about, are filed during the course of the average year for legal immigrants?

BERNSON. That's a figure that is unknown. We don't have that figure. We don't break that figure out.

WALLACE. Here in the paper capital of the world you don't know that?

BERNSON. That's right. They—And with all the data that we assemble, and we publish a massive annual report loaded with numbers.

WALLACE. You don't know the number of aliens, legal aliens, who are on welfare?

BERNSON. We don't—

WALLACE. You don't know—

BERNSON. We don't—we don't know, and neither do the—neither do those who are handing out the welfare payments know.

WALLACE. Under federal law, Mr. Bernson, ". . . any alien in the U.S. shall, upon the order of the Attorney General, be deported who has, within five years after entry, become a public charge." What does that mean?

BERNSON. The term "public charge" has been given a legal meaning. In addition to the person obtaining welfare, whoever gives him that welfare has a requi—ask him to reimburse.

WALLACE. If an alien comes into the United States legally and goes on welfare, he is not a public charge unless the welfare office demands the money back?

BERNSON. That is correct.

WALLACE. And if the welfare office doesn't demand the money back, he's home free?

BERNSON. He's not a public charge under the interpretation of that provision of law.

WALLACE. And how many welfare offices demand repayment? None that we could find.

That just doesn't seem to make sense. It is, foregive me, a kind of Catch-22.

BERNSON. It is a loophole in the law. The loophole should be plugged and Congress is aware of it. The bills have been introduced, but unfortunately these things move terribly slowly.

WALLACE. Even though the Immigration Service knows that many aliens take advantage of a variety of federal and state welfare benefits, they tell us they have not been able to deport one single alien for going on welfare since 1948—all because of that loophole in the law.

By Mr. MATHIAS (for himself, Mr. SARBANES, Mr. BIDEN, and Mr. ROTH):

S. 2171. A bill to amend section 304 of the Regional Rail Reorganization Act of 1973 to provide for the negotiation of division of revenues agreements between ConRail and certain designated operators of rail freight service; to the Committee on Commerce, Science, and Transportation.

Mr. MATHIAS. Mr. President, today I am introducing legislation to facilitate the negotiations between small railroads and the Consolidated Rail Corporation (ConRail) as they attempt to fashion an equitable revenue-sharing arrangement for those rail freight lines on which both parties operate trains.

The Regional Rail Reorganization Act of 1973 created ConRail and directed it to take over the operation of the bankrupt railroads of the Northeast. The act also provided the opportunity for smaller railroads—known as short lines—to come into existence to operate those branch lines that were not transferred to ConRail. The formation of these short lines has required the establishment of new joint routes and the sharing of operations and costs between ConRail and the short lines. In some instances, ConRail and certain short lines have been unable to agree upon a basis for sharing revenues derived from the freight traffic that travels on both ConRail track and the short line.

My bill addresses this problem by requiring ConRail and the short lines to establish an equitable sharing of revenues that will permit both parties to remain financially viable.

Certain of the short lines, including the Maryland and Delaware Railroad Co., have complained to the Interstate Commerce Commission that ConRail has withheld certain freight bills for traffic carried on ConRail track which the short lines need to compute freight charges to shippers. This ConRail practice prevents the short lines from collecting their fair share of freight revenues in a timely fashion.

ConRail has apparently withheld the freight bills because they do not yet have what they call "interchange agreements" with the short lines. These agreements spell out the formula for dividing up freight revenues between the two parties. The reason given for lack of agreement, rather astonishing I think, is the fact that they have not yet agreed to a sharing of revenues. The bill I am introducing today would solve that "catch 22" dilemma.

The withholding of freight bills by ConRail disrupts the cash flow the short lines need to continue service to shippers who are dependent upon them for railroad service.

Clearly, Mr. President, in passing the Regional Rail Reorganization Act, Congress did not intend to hamstring the operations of these short lines, which serve important rural economies. Nor was it our intent to enmesh the short lines in protracted disputes with ConRail over the amount of revenue each was to receive—ConRail from owning the rail line and the short lines from operating the trains that run on those ConRail-owned lines.

What we most assuredly did intend, however, was to insure both the viability of ConRail and the continued existence of the rail service on light density lines which contribute traffic and revenue to the ConRail system. Obviously, we must reassure the short line companies on light density branch routes, that they will at least recover costs and, at the same time, that they will be in a position to upgrade the level of their service to the shipper. Only by improved and dependable rail freight service will such shippers be willing to risk economic growth and increased reliance on the railroads.

The short lines are not big business. They operate on a tight budget and are dependent on a constant inflow of money to pay their daily expenses. They are now attempting to revitalize the service on their lines by upgrading their road beds, increasing train speeds and increasing shipping volume. They seek to do all this and still make a small profit. We should encourage their undertaking. However, continuing disputes with ConRail over sharing of revenues, as I have described here, degrades their financial viability. This bill will help the parties resolve their differences. In so doing, it will assure the continued rail freight service to rural areas, including the Delmarva Peninsula, which are dependent upon such service.

I have received a letter from the Maryland Department of Transportation which describes the nature of the problem. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARYLAND DEPARTMENT OF TRANSPORTATION OFFICE OF THE SECRETARY,

August 18, 1977.

Because of your assistance and support in preserving our local rail service in Maryland, I want to apprise you of the outcome of your negotiations with Conrail regarding division of revenues.

By letter of August 5, Conrail rejected the proposal of the Maryland Department of Transportation on revenue divisions for the subsidized Delmarva railroad operations (copy attached). This act by Conrail culminates several months of negotiations by the three Delmarva states to establish a reasonable and fair formula for dividing the revenues on traffic interchanged between Conrail and the Maryland and Delaware Railroad (M&D).

As you know, our negotiations with Conrail were initiated in early February in anticipation of turning the branch lines over to the M&D for operation. Our decision to contract with the M&D was based on several factors. First the M&D can provide the same level of service at about half the Conrail costs of operation. Additionally, during the 15 months of Conrail operation, Conrail has been unable to comply fully with the operating agreement particularly in the areas of track maintenance and cost reporting. Most significantly, Conrail has no interest and has made no effort to market the service or develop traffic on these lines. The M&D, because of lower costs and local management, will be in a position to build the lines up and increase traffic and revenue.

With equitable revenue divisions, all the Delmarva lines will have the opportunity to become self-sufficient, thereby eliminating the need for large subsidies to the operating railroad when the federal program runs its course.

Throughout our analysis and negotiations on this matter, we have recognized the congressional intent that Conrail is to operate as a for-profit corporation. To this end, we have proposed divisions that would permit Conrail to recover full off-branch costs in accordance with RSPO standards as well as make a profit on traffic interchanged with the short line. The short line would recover a portion of its costs sufficient to allow these lines at least a chance of survival.

Under the revenue formula proposed by Conrail, Conrail would keep a share of revenue far beyond the share needed to cover its own costs. We do not object to Conrail making a profit, but the profit in this case is excessive and would be derived from the diversion of subsidy payments made by local and federal taxpayers to the M&D. In effect, a large portion of the federal and local funds designed to help the state improve and preserve its rail system would be used to cross subsidize Conrail operations. We do not believe this artificial diversion of federal and local rail subsidies was the intent of Congress when it framed the recent rail reorganization legislation.

The impasse we have now reached with Conrail is jeopardizing the efforts of the Delmarva states to create a viable railroad system. Although the Interstate Commerce Act requires connecting railroads to establish just, reasonable and equitable divisions, Conrail has chosen to ignore these requirements and the many division agreements based on this principle. We cannot afford the delay and expense of a long legal challenge before the ICC and therefore believe a legislative remedy may be the best approach to resolving this matter not only for the Delmarva states, but for all states faced with the same problem.

Specifically, we propose that the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976 be amended to direct the RSPO to reopen Ex Parte No. 293, Sub. No. 2 for the purpose of establishing a basis for equitable divisions between a designated operator and its Class I railroad connections. It would be our suggestion that the existing formula for "off-branch costs" established under Ex Parte No. 293, Sub. No. 2, represents an equitable basis for the connecting Class I railroad's share of the joint revenue.

The legislation should specify that any studies, regulations and standards required to implement this legislation be completed well prior to April 1, 1978, the beginning of the next subsidy year. This will allow states the opportunity to determine which lines can be continued with short line operators, given an adequate share of revenues.

Without equitable revenue divisions in force, long run self-sufficiency of local rail operators is completely impossible. Thus, the efforts of many states to preserve rail service under local auspices are doomed to failure with the attendant waste of all the money intended by Congress for their rehabilitation.

We hope you can lend your support to this approach and you can be sure of our assistance and cooperation in further developing this proposal.

Sincerely,

HERMANN K. INTEMANN,
Secretary.

ADDITIONAL COSPONSORS

S. 444

At the request of Mr. JOHNSTON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 444, to credit certain service performed by National Guard technicians prior to January 1, 1969, as Federal employment for the purpose of civil service retirement benefits.

S. 457

At the request of the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 457, the GI Bill Improvement Act of 1977.

S. 792

At the request of Mr. HEINZ, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 792, a bill relating to the conversion of closed schools.

S. 1014

At the request of Mr. DOMENICI, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1014, a bill to provide tax incentives for providing a home for an aged dependent.

S. 1228

At the request of Mr. ROTH the Senator ator from California (Mr. CRANSTON) was added as a cosponsor of S. 1228, the Equal Opportunity Enterprise Act.

S. 1585

At the request of Mr. BROOKE, the Senfrom Utah (Mr. GARN) was added as a cosponsor of amendment numbered 1398 to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

S. 1838

At the request of Mr. NELSON, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1838, to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1974

At the request of Mr. NELSON, the Senator from Minnesota (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 1974, the Regulatory Flexibility Act.

S. 2009

At the request of Mr. DOMENICI, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2009, the home care services bill.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

AMENDMENT NO. 1024

At the request of Mr. HOLLINGS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Maryland (Mr. SARBANES), the Senator from Kansas (Mr. DOLE), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1024, intended to be proposed to H.R. 9005, making appropriations for the District of Columbia.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1410

(Ordered to be printed and to lie on the table.)

Mr. STONE. Mr. President, it is expected that the Senate in the near future will take up S. 1871, the minimum wage bill. It is my intention to propose an amendment that would retain the tip credit provisions as currently allowed by law.

Under current law—section 3(m) of the Fair Labor Standards Act—when an employee works in an occupation where tips are "regularly and customarily" received, part of those tips may be counted toward payment of the minimum wage—but not more than 50 percent of that wage. With this provision in effect, a tipped employee can never earn less than the minimum wage.

In a letter to the chairman of the House Education and Labor Committee dated July 25, 1977, Secretary of Labor Ray Marshall stated—

> I note that the bill would phase-down the tip credit for tipped employees. We oppose this provision because we are unconvinced that the adverse impact on employees would be outweighed by other benefits.

Evidence developed in studies conducted by the U.S. Department of Labor and the restaurant industry strongly concludes that the repeal of the tip allowance will seriously jeopardize employment opportunities in eating and drinking establishments.

PUBLIC UTILITY REGULATORY POLICY ACT—S. 2114

AMENDMENTS NOS. 1411 AND 1412

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to the bill (S. 2114) to authorized Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

NOTICES OF HEARINGS

OVERSIGHT HEARINGS ON THE FEDERAL RESERVE SYSTEM'S ROLE IN THE PAYMENTS MECHANISM AND PRICING OF FEDERAL RESERVE SERVICES

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold 2 days of public hearings on the role of the Federal Reserve System on the payments mechanism and pricing of Federal Reserve services. The hearings will be held on October 10 and 11, beginning at 10 a.m., in room 5302 of the Dirksen Senate Office Building.

The purpose of the hearings is to examine four basic issues: Whether the provision of payments services is a necessary and appropriate function for the Federal Reserve in its capacity as the Nation's central bank; whether and on what basis all depository institutions should have access to Federal Reserve services; the potential benefits and costs that the economy would obtain from explicit pricing of Federal Reserve services; and the impact of the Federal Reserve's current role in the payment mechanisms on correspondent banking, on the efficiency of the payments mechanism, and on private marketplace incentives to provide payments services.

In his June 20 appearance before the Subcommittee on Financial Institutions, Chairman Burns stated that—

> The Board is considering—and must consider more fully—alternative systems for collecting charges for services, such as requiring clearing balances or fees from all depository institutions.

NOW accounts, share drafts, and other financial innovations that are already making savings and loan associations, mutual savings banks, credit unions, and others active participants in the payments mechanism will no doubt increase the demand for Federal Reserve services by all depository institutions, not just member banks. The Federal Reserve has some obligation to see that these demands are satisfied: First, because the Federal Reserve was established by the Congress to provide an elastic currency; and second, because as the Nation's central bank the Federal Reserve is responsible for the Nation's monetary system in a very broad sense.

Although there was obviously a need for the Federal Reserve to provide check-clearing services 60 or 70 years ago when the payments system was first developing, questions have been raised as to the necessity of Fed involvement as the basic provider of many payments services now that the system is more fully developed. Moreover, the development of electronic funds transfer systems—which are in their infancy—raises additional questions about the role of the Nation's central bank in assuring the efficient transfer of funds. The Congress has an obligation to examine the role of the

Federal Reserve, as the Nation's central bank, in providing payments services, including whether the provision of all such services is a necessary and appropriate function for the Federal Reserve, and on what basis services should be provided to all depository institutions. I am of the opinion that pricing of Federal Reserve services on an explicit, rational basis can provide important benefits to the Nation that cannot be obtained when prices are set at zero and charges are levied only implicitly through member bank required reserves.

On Monday, October 10, 1977, the committee shall receive the testimonies of five witnesses: Prof. Almarin Phillips, dean, school of public and urban policy, University of Pennsylvania and public representative of the National Commission on Electronic Funds Transfers; Mr. George Oram, executive assistant to the Chairman, Federal Home Loan Bank Board; Mr. John Lee, executive director, New York Clearing House Association; Mr. Bernhard W. Romberg, president, Payments and Telecommunications Services Corp.; and Mr. Virgil Dissmeyer, president, National Automated Clearing House Association.

On Tuesday, October 11, 1977, the committee shall receive testimonies from three witnesses: Philip E. Coldwell, Member of the Board of Governors of the Federal Reserve System; Dr. Charles F. Haywood, professor, Department of Economics, University of Kentucky, representing the American Bankers Association, accompanied by Mr. William T. Dwyer, vice president, First National Bank of Chicago and chairman of the ABA Correspondent Banking Division; and Mr. Leif H. Olsen, senior vice president and economist, Citibank, N.A.

Anyone interested in obtaining additional information about the hearings or desiring to submit comments for the hearing record should contact Steven M. Roberts, chief economist for the committee, at (202) 224-0893.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. JACKSON. Mr. President, I would like to announce that on October 10, 11, 12, 17, and 18, 1977, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings to receive testimony concerning labor union insurance programs. The hearings will begin at 9 a.m. in room 3302, Dirksen Senate Office Building, on Monday, the 10th, and Tuesday, the 11th, and in room 1114, Dirksen Senate Office Building, on Wednesday, the 12th. The hearings will begin at 9:30 a.m. on Monday, the 17th, and Tuesday, the 18th.

ADDITIONAL STATEMENTS

THE HATCH ACT

Mr. HARRY F. BYRD, JR. Mr. President, several Virginia mayors have announced opposition to the pending proposed revision of the Hatch Act, H.R. 10, recently passed by the House and now pending in the Senate Committee on Governmental Affairs, as locally elected representatives reflecting the grassroots view of their constituencies. They are:

Mayor James F. Hope of Suffolk, Va.

Mayor Joseph F. Freeman of Lynchburg, Va.

Mayor Roy H. Erickson of Harrisonburg, Va.

Mayor Nancy K. O'Brien of Charlottesville, Va.

Mayor Vincent J. Thomas of Norfolk, Va.

Mayor Robert H. Clarke of Danville, Va.

Mayor Joseph C. Ritchie of Newport News, Va.

The Hatch Act is basically a ban on political coercion of Federal workers, and a restriction on employees' own activities in political campaigns.

The history of the Hatch Act reveals that prior to its passage, rampant political intimidation, and "spoils system rewards" were the order of the day; and little, if any, semblance of a merit system based on job qualifications or job security existed.

An article by Marjorie G. Fribourg entitled "Why the Hatch Act Is Worth Keeping," recently appearing in the Washington Post, graphically traces this history. At the conclusion of my remarks, I shall request that a copy of this article be inserted in the RECORD.

My mail, from both Federal employees and the general public throughout Virginia, has been overwhelmingly opposed to revision of the Hatch Act that would open the doors to virtually unleashed partisan political purposes.

Federal employees can, and do, now vote for the candidates of their choice, express their views and may voluntarily make contributions. Their right and privilege to express themselves at the ballot box is no different from that of any other citizen or voter.

If, for no other reason, then the headline abuses of partisan political power which brought down one administration in recent years and the most recent admission of an Acting Comptroller of the Currency that he submitted a less than complete report to the Congress concerning a Presidential nominee, because of his own interest in currying favor and resulting appointment, the Hatch Act restrictions should be preserved as a minimum protection—both to the public and the Federal employee.

While the present Hatch Act restrictions did not preclude these occurrences, certainly its virtual repeal could not be construed as a condemnation of such activities.

Sadly, as a result of such revelations, public confidence in their Government has been seriously damaged.

Unfortunately so, as I think the vast majority of our public servants have been enabled to give dedicated and conscientious service without fear of reprisal under the Hatch Act protective shield, and have done so.

The sins and abuses of a few should not be attributed to this vast majority of public employees. They most certainly deserve to retain that protection which permits them to continue the performance of their duties objectively without consideration of either personal reprisal or reward.

I think Virginians perceive, and correctly so, that active campaign solicitation and activities by Federal employees, provided under H.R. 10, would further erode the efficiency and integrity of the public service. It certainly would not enhance it.

This, I believe, is reflected in the opposition expressed by these local elected officials to the proposed revision of the Hatch Act, who as mayors of their local communities are daily in close touch with the citizenry they serve and aware of their concerns and interests.

As to my own view, I feel it is essential that confidence in our Government be restored. This should be our primary concern—not the provision of a substantial reservoir of political control and dictation to serve partisan political purposes.

Reasonable limits on political conduct of Federal employees in order to promote efficiency and integrity in the public service without in any way impairing their free exercise of the franchise, as has been provided these many years under the Hatch Act, is a fair and equitable balance of the rights of the public and of the employee, and in the best interests of all concerned.

It should be maintained so that every individual in his contacts with these spokesmen of their Government may be assured of impartial treatment.

I ask unanimous consent that Ms. Fribourg's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY THE HATCH ACT IS WORTH KEEPING

(By Marjorie G. Fribourg)

In a famous White House memo in 1971, John Dean asked, ". . . how can we use the available federal machinery to screw our political enemies." Only the Hatch Act, which spells out that government workers are not to take an active part in campaigns, kept the Watergate crowd from being able to use vast numbers of unwilling government workers to go after Nixon's enemies. Having worked well for the protection of both the nation and the employees, the Hatch Act now faces being demolished or updated, depending on your point of view.

The House has passed H.R. 10, knocking down the safeguards in the act. The Senate is holding hearings on the bill, and while opponents may have blocked action this fall, some union leaders still hope to push the bill through. If they don't succeed, H.R. 10 will be high on the Senate agenda early next year.

Hence, some clear spring evening a platoon of postmen could be combing your neighborhood ringing every doorbell, handing out campaign literature and collecting contributions. Ostensibly, they will have volunteered their services and in any case are trying to make sure that their candidate defeats the incumbent congressman who either dared disagree with the President or dared fight the demands of a government workers' union.

Picture it: Your mailman comes calling to get your signature on a petition to put the challenger on the ballot—something you don't want to do or to refuse. Elsewhere, a clerk for the Social Security office distributes posters for one of the administration's favorites, making her neighbors wonder if her on-the-job decisions are also partisan. A scientist from the Bureau of Standards is out fund-raising and calls on a manufacturer

who has a product under examination—not by the campaigner; that would be illegal—but by another member of the agency. The manufacturer also doubts the integrity of the system.

A rumor has started simultaneously in every federal agency: Promotions will be given to those who go out and canvass for the cause; job descriptions will be reworded after election to match the individuals who helped the party. Legions of the 2.8 million civil servants have decided they had better be cooperative.

If anything like this ever happens—and it could without the Hatch Act—we will have returned to the patronage system instead of the merit system.

"I'M HATCHED"

Labor union activists have battled the Hatch Act for years. They come to the Hill to tell congressmen that postal and federal agency staffs are being treated as second-class citizens. It is not enough that they can vote, express their views and give contributions to political parties. "Voluntary political participation is one of the basic rights of American citizens."

Their challengers don't think it's the federal workers who want to be rid of the act. When a civil servant says, "I'm Hatched," he is not complaining. He is protecting himself from political arm-twisting, announcing, "You can't force me to do what is illegal." (Sen. Abraham Ribicoff's Government Affairs Committee has been getting a flow of personal notes from people with government jobs who don't want the change.)

It is the unions that will profit, gaining clout if H.R. 10 passes. Today, the president of an association tells his congressman he speaks for so and so many potential voters. Next November, he may be able to summon an instant campaign committee, persuading federal personnel to wave placards, address envelopes or drive the faithful to the polls, and somewhere in the United States swaying the outcome of an election.

The Republican minority on the House committee that processed the bill was deeply concerned over union power. One of them, Edward J. Derwinski (R-Ill.), has charged that union leaders want enough influence to force the government to let its employees strike—giving unions enough muscle "to bring the government to its knees." It's not the unions, however, but future administrations that will have the greatest opportunities to be abusive."

Even with the Hatch Act, division chiefs in the General Services Administration six years ago collected ticket money for a gala "Salute to the President" dinner. They claimed that GSA placed a great deal of emphasis on "organizational responsiveness"; and they never checked to learn that the affair was partisan. In other words, they did what was expected of them.

We are heading into these problems because the sponsors of H.R. 10 have treated the Hatch Act as if it were merely an overreaction to problems with the New Deal's Works Progress Administration, an unnecessary, unprecedented and novel device. That impression is misleading. Americans have gone through a long, harrowing saga to get the Hatch Act.

THE SPOILS SYSTEM

It started in 1791. Worried that government workers would be used as political tools, a group led by Georgia's Rep. James Jackson tried unsuccessfully to limit the political activities of inspectors to casting their own ballots. But, in spite of subsequent warnings by President Jefferson, by 1830 public servants were picked or fired on the basis of party loyalty. And all resolutions designed to keep federal employees from using threats, money or official abuse to affect elections were voted down.

By 1876, the milking of federal workers for campaign funds was so shocking that Congress prohibited all except the highest-ranking appointees from "giving or receiving from any other employee of the government any money . . . for political purposes. . . ." That did not save a number of them from getting a letter a few years later requesting 1 per cent of their salaries with the explanation that ". . . there will be no objections in official quarters to such voluntary contributions. . . ."

President Garfield had to be gunned down in a railroad station by a disappointed office-seeker before the spoils system was partially replaced with a merit system. (In the course of getting the bill passed, Congress discovered that in one section of the Treasury 500 of the 900 employees were completely useless except at election time.)

The Pendleton Act restated the prohibitions passed in 1876 and outlawed collecting political contributions in government buildings. By 1907, it was being evaded. President Theodore Roosevelt—a knowledgeable former civil service commissioner—issued a directive: Persons in the classified civil service could vote and express their views, but should take no active part in political management or political campaigns.

GOP CHARGES

It was all inadequate. In the 1930's, all the old abuses appeared in a new situation. The federal government had created projects designed to hire the unemployed but not under civil service. By 1938, there were legions of people relying on the WPA for their existence. Charges appeared that they were being shamelessly coerced to support Democratic candidates.

Bills had been introduced in previous Congresses to stop federal officeholders from misusing their positions for partisan ends, but mostly the suggestions came from statements on the minority side of the aisle. They did not get very far.

1938 was a congressional election year. Any attempt by the Republicans to do anything about the allegations against Democrats could have been countered as a partisan attack. Instead, the attack came from a Democrat, Carl A. Hatch—a gentle, mild-mannered New Mexican and the center of an influential group in the Senate. That summer, Hatch presented an amendment to be added to the appropriation for relief works. In brief, no person receiving pay from these funds was to use his authority to interfere with a political convention, a primary or an election.

Senate Majority Leader Alben Barkley of Kentucky objected. "The fact that a humble man or woman happens to be employed by the government . . . is not a sufficient reason for . . . denying to any such person the same right that anybody else in the United States enjoys . . .," he told Hatch.

When at last they voted, the measure was defeated, 37 to 40.

The Senate then increased the funds made available to Sen. Morris Sheppard's Committee on Privileges and Elections, which would be investigating the unsavory tales.

On July 16, 1938, the committee sent its investigators to Kentucky. It was true that Barkley's opposition in the primary took contributions from state employees. It was also true that, in parts of the state, Barkley's supporters conducted a systematic canvass of all WPA workers.

Project workers were asked by foremen to sign a statement that they would support Barkley's candidacy. Barkley buttons were handed out. Men known to hold views contrary to the candidates were, in a number of instances, discharged. Always the reason given was nonpolitical. Always political motives were denied.

When Barkley was questioned, he emphatically denied knowledge of any improper practices. "In every speech I made," he said, "I declared, insisted and urged that every federal, state and local employee possessed, and should exercise, the right to vote as they pleased."

The investigators noted these remarks and conceded that it had found nothing to show that Barkley had any knowledge of these activities. Officeholders in Washington often claimed to be, and often were, ignorant of the activities of their supporters back home, as the committee knew.

OBJECTIONS IN THE HOUSE

Autumn found the investigators checking out complaints in Pennsylvania. There, on more than one occasion, the supervisor of a women's sewing project circulated among the timid seamstresses, offering to sell them $1 and $1.50 tickets to a political rally or clambake. The foreman of a crew of unskilled laborers on a highway project did the same to his crew.

With all this in the record, Hatch renewed his crusade in 1939 and won the help of a singularly valuable gladiator—Vice President John Nance Garner. Together, they lined up support for legislation that would keep government employees from using their authority for the purpose of affecting elections.

The measure passed the Senate and went to the House Judiciary Committee where, according to Hatch, "unfair, unjust and unreasonable criticisms were made." Representatives were afraid the bill might apply to their own campaign speeches and dinners, "a most ridiculous interpretation."

Hoping to save his bill, Hatch went to the committee and agreed to language changes. After the meeting, the act read: "No officer or employee in the executive branch of the federal government, or any agency or department thereof, shall take any active part in political management or in political campaigns." The President, his Vice President, his cabinet, his staff and his appointees on the policy-making level were exempt.

In other words, Hatch wanted Theodore Roosevelt's directive turned into law and extended to cover federal workers who were not part of the classified or merit system. (It has been estimated that at that time only 32 per cent of the government force were classified.)

Hatch faced other complications. The Democratic Party would soon have to decide whether to offer Franklin Delano Roosevelt a third term. Political analysts expected that the President's cause would suffer if federal employees were barred by the Hatch Act from being delegates to the convention.

Toward the end of July, the measure came back from the House. Hatch strolled into the Senate and asked that it be put to a vote. The Vice President agreed and announced hurriedly that, if no one objected, it would be so ordered. Then they heard Sherman Minton's sharp, "Wait a minute."

The Indiana senator looked over the House changes to see if the bill should be sent to conference.

This time Hatch, who was usually calm and affable, exploded.

"There is nothing to confer about," he insisted. "A vote to send it back to conference . . . is a vote to send the bill to the graveyard. . . . Let there be no pious declaration of being for the noble objectives of the bill, but . . . ."

Instead of being antagonized, Minton understood Hatch's concern for his bill. Gently chiding that he had no dagger up his sleeve, he capitulated, letting the measure come to a vote.

It passed the Senate. Then the President made everyone wonder whether he would sign it. Roosevelt told reporters at his press conference that it was too vague and hard to interpret. He wanted to study it and get some advice on it. According to journal-

1st Marquis Childs, Hatch began preparing a speech to deliver if the President vetoed the bill.

Hatch never had to read his veto speech. Roosevelt signed the act into law.

But even then, the Hatch Act was not safely on the books. It was twice challenged before the Supreme Court. The fight was not over until the justices ruled that "Congress has the power to regulate within reasonable limits the political conduct of federal employees in order to promote efficiency and integrity in the public service." By then, a century and a half had gone by since congressmen first tried to prevent federal officers from interfering with elections.

Since 1791, there have been repeated, frustrating struggles to protect both the integrity of elections and the rights of government workers. Nobody could have dreamed that, after all that, the issue would come up again—that it was still debatable.

The need for the Hatch Act is even greater now than when Hatch proposed it. The size of the civil service has more than tripled. Roughly 1 out of every 75 Americans works for the executive branch of the U.S. government. Every time we face a major national problem—war, depression or catastrophe—we add to the federal staff. If anyone ever succeeds in molding these millions of men and women into a well-disciplined political machine, no challenger will ever again be able to beat it.

The subcommittee under Rep. William Clay (D-Mo.) that processed H.R. 10 believes that it is so skillfully written that it will protect the public, the employee and the merit system. While the bill states that federal employees are encouraged to be politically active, exceptions are made. Foreign intelligence agents, men and women who enforce the laws and those awarding government contracts, subsidies or licenses will remain Hatched. No one will be able to staff a political committee with Internal Revenue agents or with mortgage credit inspectors from HUD.

NO WAY TO DRAW LINE

Someone asked Hatch, when his bill was being written, whether there weren't some government workers who couldn't coerce anyone and shouldn't be restricted. He answered that there is no way to draw a line. Almost every agency affects the lives of multitudes.

He would not have been impressed with the few hard-to-enforce rules in H.R. 10 stating that neither coercion nor abuse of authority (both almost impossible to prove) are not to be used for election purposes. Such rules are no substitute for a healthy nonpartisan spirit in a government office.

Another provision lets government employees run for public office if they take leaves of absence from their jobs. As one young attorney explained. "If I take leave, run for the city council and am defeated, I can come back. By then, I have found out that only one of the three men in the office who lives in my district campaigned for me. If there is a chance to recommend him for promotion over the others, and I feel obligated to him because he helped me, you've stepped back into the patronage system."

The argument gets more heated when lobbyists examine the protection that workers are supposed to enjoy from being pressured by their superiors.

True, no one may campaign while on duty or in uniform or in a government building and no supervisor may solicit contributions from a subordinate or use his authority to help a political cause.

What the authors of the bill fail to consider is that coercion may be subtle. You do not have to go after a worker with a club or threaten to have him transferred. All a boss has to do is be visibly more cordial to those who showed up at a fund-raising dinner or rally and the maverick gets the idea. Life in the office will be more pleasant if one fits in with the crowd politically. If "great" assignments seem to go to the political conformist and "lousy" ones to the apathetic, that does it. More and more staff members show their eagerness to perform chores for the party after hours. They can no longer get out of it by saying, "I'm Hatched."

Obviously, a balance has to be struck between the needs of the workers voluntarily to exercise the rights of citizens and the needs of the government to preserve its integrity. The Hatch Act strikes that balance. Judging from the 150-year struggle required to get it, if we ever lose it, we won't get back. We had better hold on to it.

ARMS CONTROL IN THE INDIAN OCEAN

Mr. CULVER. Mr. President, at long last the United States and the Soviet Union are discussing mutual arms limitations in the Indian Ocean. The latest round of talks concluded with an announcement today that "both sides brought new ideas to the discussions, and specific aspects of the problem were addressed." The talks, which were said to have "entered an advanced stage," will be continued in the near future.

Mr. President, this is a most encouraging development. The fact that these discussions are taking place at all is a tribute to the Carter administration's diplomacy and is welcome proof that the U.S.S.R. is willing to discuss arms control issues in a serious and constructive way.

As Members of the Senate will remember, the Congress has been urging a U.S. diplomatic initiative on the Indian Ocean since 1974. Neither the United States nor the Soviet Union had raised that issue since inconclusive exchanges occurred in 1971. But in voting to defer funds for a proposed expansion of facilities on the island of Diego Garcia, pending a Presidential certification that the base was essential, the Senate Armed Services Committee expressed its hope that "such an evaluation would include a thorough explanation of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interests in the area of the Indian Ocean."

Regrettably, that suggestion was ignored when the decision was made in May 1975 to proceed with base expansion on Diego Garcia.

Secretary of State Kissinger also brushed aside indications which some of us on a senatorial delegation received in Moscow in July of 1975 that the U.S.S.R. would respond favorably to an American initiative to seek means of reducing tension in the Indian Ocean area.

Nevertheless, the Congress persisted, and twice voted to urge and to require reports on efforts to seek mutual arms restraint. In April and December of 1976, however, the Ford administration reported to Congress that it had taken no such initiative, since it considered the timing inappropriate.

The executive branch insistence on pushing ahead with Diego Garcia base expansion while refusing even to sound out the Russians on possible limitations gave the U.S.S.R. an easy propaganda victory in the littoral nations, which since 1971 had won United Nations support for declarations of the Indian Ocean as a zone of peace, free from superpower military rivalry. Official U.S. policy arrogantly disregarded both the wishes of the Congress and the concerns of the nations of the area.

Mr. President, throughout the recurring debate on Diego Garcia and overall Indian ocean policy, I have always sought to preserve America's security interests in that region while strengthening our diplomatic position. I have argued for a good-faith initiative first, before each side got locked into a costly competition to build ships and bases and as a test of Soviet willingness to show restraint. As I told the Senate on July 17, 1975:

> At no real risk to our national security, we have the opportunity to undertake a major initiative for peace that would demonstrate to the nations of that part of the world that we respect their interests and concerns, and that if there is to be a major superpower escalation in the Indian Ocean, the responsibility must clearly be laid upon the Soviet Union.

Now we are fortunate to have an administration that is responsive to these concerns and constructive in its policies. Both as a candidate and as President, Jimmy Carter has called for arms restraint in the Indian Ocean. A bilateral commission was established following Soviet-American ministerial meetings last spring, and talks have proceeded in Moscow and now in Washington.

Mr. President, these discussions illustrate a special kind of arms control—anticipatory and preventive. Instead of waiting for a full-scale arms race to develop in the Indian Ocean, fueled by mutual suspicions and by escalating military deployments, the United States has now moved to stabilize the superpower presence in that area, as a necessary first step toward ultimate demilitarization if that should be mutually desirable.

We need more of such foresight in foreign policy, additional efforts to deal with situations before they become difficult problems, and greater willingness to take bold initiatives for global peace and security.

The few steps we have taken in recent weeks are major strides down a long but promising path. I believe that most Members of Congress will applaud the administration's policy and will support a mutually beneficial agreement on arms control in the Indian Ocean.

Mr. President, I ask unanimous consent that the text of the joint statement on these talks, released at noon today, be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SECOND ROUND OF TALKS ON QUESTIONS RELATING TO THE INDIAN OCEAN

U.S. and Soviet delegations have concluded in Washington the second round of bilateral talks on questions relating to the Indian Ocean, following five days of discussions from September 26-September 30 As with the earlier round held in Moscow in June, the U.S. delegation was led by ACDA Director Paul C. Warnke, the Soviet delegation by Ambassador-at-Large Mendelevich.

During the talks, which were held in a businesslike atmosphere, further exchange of views regarding approaches leading to arms

limitation in the area took place. Both sides brought new ideas to the discussions, and specific aspects of the problem were addressed. They noted that their talks have now entered an advanced stage.

The two delegations agreed that the talks will be continued in the near future.

THREE POWERS—TWO OCEANS

Mr. MOYNIHAN. Mr. President, this past June at a session of the current Strategy Forum of the U.S. Naval War College in Newport, a particularly illuminating paper was delivered by Charles Burton Marshall, a distinguished student of international affairs and a public servant for many years in the Department of State. His professional career encompassed seminal events in the recent history of American foreign policy, and his perspective makes his analysis of our contemporary situation especially interesting. Because his views will be of interest to many, I ask unanimous consent that the text of Professor Marshall's paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THREE POWERS—TWO OCEANS

The items prescribed for me to cover in this talk include the Pacific Ocean's and the Indian Ocean's strategic significance, the triangular relationship as it bears thereon among the United States, the Soviet Union, and China; diverse critical interests pairing those countries off in cooperative or competitive combinations, the pertinent function of military and especially naval power, and then an assessment of relevant variables in a projection of a decade or so. According to the president's invitation, I am at liberty to touch on other matters as appropriate within the allotted 45 minutes. I shall cover the agenda in my fashion. In case of an early finish I shall yield back the balance of my time. The President referred to is Admiral Huntington Hardisty. I am explicit concerning the identity because I am here not as an explicator or advocate of current Administration policy. I am wanting of inexperience for that. I have seen so many Administrations come and go and am so aware of a tendency in policy for the milestone of one decade to become a gallstone for the next.

The ocean areas selected by the conveners as the focus of this meeting engross about 70 percent of the globe's water surface and more than 95 percent of its islands—preponderantly in the Pacific—and are abutted on by 45 percent of the world's countries aggregating 75 percent of its population. Each of these two oceans in its own way arouses strategic imagination. In the large the Pacific is an open ocean, but its western edge consists of a 6,000-mile string of almost closed seas delineated by the East Asian coast and offshore islands. More warships lost or destroyed by the U.S. Navy lie in those waters than in all others. Considered as a discrete tactical episode, what is said to be the longest battle in U.S. military history—with the most U.S. ships and U.S. troops involved and the greatest number of casualties suffered—was fought there within living memory. The U.S. has sustained war across that ocean—with mixed success—through 15 of the past 36 years. In our experience, the Pacific stands as the most bitterly contested of oceans. By comparison, the Indian Ocean is virtually a closed sea. Constraining points, such as found among the local seas in the Western Pacific, are dominant features of the whole Indian Ocean. Strategically, the contiguous countries have not been an appreciable factor. Control has been a function for outsiders. There as nowhere else Britannia ruled the waves from the Napoleonic epoch until very recent years, making the Indian Ocean the strategically most stable of the oceans—a fact of great benefit for us, though not one borne in on general awareness. With the British having abdicated that function, a critical question concerns what strategic order effected by what power, close by or remote, will succeed.

Strategic interplay between the two oceans is notable. Japan's approach to one of the three constricted channels of entry, challenging British dominance in the Indian Ocean, prompted the U.S. embargoes which in turn precipated Pearl Harbor. An unanticipated early show of military activity on our part in the Western Pacific—I refer to the Doolittle raid on Tokyo—frightened the Japanese into pulling back from an effort which, if persevered in, might well have overturned Britain's thin control of the Indian Ocean. Britain's accesses to supply sources especially in India and—even more importantly—the lendlease channel through the Persian Gulf, critical in sustaining Soviet resistance to the Nazis, were not sundered. If one accepts J.F.C. Fuller's estimate, as I do, that fact was determinative of victory over the Axis in World War II.

Our strategic concern now in the Indian Ocean area rests almost exclusively on supply considerations. Mineral resources in Southern Africa are of indisputable importance. I shall merely mention gold. South Africa also appears well on the way to achieving second rank among uranium-producing countries. I specify uranium as only one in a long list of stringent and strategically critical materials concentrated in that region. Petroleum comes to mind even more dramatically. Two-thirds of the world's known petroleum resources are deposited along the northern reach of the Indian Ocean.

Power to interdict or to assure the flow of industrial energy over much of the globe hinges on strategic factors focused on the Indian Ocean area and various appurtenant constricted channels. Without that supply Japan—once our enemy, now a friend and a strategic client dependent on the Indian Ocean for 90 percent of its petroleum—would languish. Our European allies with a counterpart dependency of 80 percent would be in similar predicament if cut off. The U.S. is proportionately less but still too much dependent on the same sources and would be domestically on very hard times if denied access. The U.S. world position would be drastically damaged. Whether active in war or latent in other times, power to intercept the flow of oil out of the Indian Ocean is an instrument of enormous strategic implications.

I turn now to the triange featured in my assigned topic. Bear with me, please, in a retrospection to the spring of 1951—with U.S. forces, under symbolic U.N. sponsorship, entanged in hostilities on an appendage to the Asian mainland. Communist China had interposed to salvage stalemate from debacle in a war improvidently promoted by the Soviet Union and was the main enemy in the field. The options for the U.S. lay among indefinite protraction of indecisive fighting, an infusion of increments to pursue victory at huge cost and risks in what General Bradley called "the wrong war in the wrong place against the wrong enemy," and a quest for a ceasefire. The last course was preferred.

An obstacle was lack of any channel for confidential communication with Communist China—even indirect. Several of the few governments in formal diplomatic relations with the U.S. and China were considered untrustworthy as channels. Two others declined to try a middleman role. The remaining one disclaimed having practical access to the other side. Measures to bridge the obstacle included a variety of expedients and improvisations, recounted in Dean Acheson's *Present at the Creation*. The one pertinent here—mentioned on page 532 of that book—was the dispatching of someone with official standing to Hong Kong to try from that vantage to convey surreptitiously to Peking some basic points about U.S. foreign policy attitudes in hope of stimulating motion toward a ceasefire and, with luck, of getting negotiating preliminaries under way.

McCarthyism was then active, and the MacArthur uproar was at the forefront of attention. Because of those touchy circumstances, utmost secrecy was applied. Five or six persons—no more—in the executive branch were informed. Only oral instructions were given. The civil servant performing the mission spent six weeks on the scene in mostly tedious, occasionally adventurous, and, for him, highly educational endeavors but never learned the effects beyond an assurance that at least one of the various potential intermediaries found for him by the CIA did get through to authorities in Peking. The aspect in point here is the substance of the message forwarded in that makeshift way. I give it a drastic compression—and with full confidence, having been the one sent on the mission.

The first part was a review, from the U.S. standpoint, of the hiatus in relations with mainland China—emphasizing the constraints on the popularly accountable U.S. Government imposed by traditional attachments to China among large segments of the public and by general chagrin over the accession thereof of a regime with an outlook and purposes antithetic to American attitudes and aims. I cited as offsetting facts the United States' avoidance of direct involvement in China's civil war, the early refusal to interpose to protect the Chinese Nationalists' offshore refuge on Taiwan, and the attempts to keep open the U.S. Embassy and consular offices on the mainland. In the U.S. view, I stressed, the Communist regime's harassments to force closure of those facilities reflected a psychic need for an external enemy—a role, in the logic of circumstances, befalling the U.S.

The war in Korea had interposed as a painful fact replacing mere animosity with palpable hostility. The embittering effects were bound to last a long time. I stressed considerations extremely important for the Peking regime to understand. The U.S. Government perceived not China but the Soviet Union as the strategic adversary. The United States was intent to avoid war with the Soviet Union. Nevertheless, the issues between them were sharp and basic, and communications with the Soviet Union had become critically difficult and tenuous with Stalin's approach to senility and the reintensification of terror within the Soviet domain. The danger of slippage into unwanted active hostilities was therefore considerable. For all their then current enmities, the U.S. and China had one big thing in common: in their highest mutual interest, China must not become involved on the Soviet Union's side in a war against the U.S. That consideration must temper their enmity.

Protracting the conflict in Korea could only prolong the danger of inducing general war. That war had reached a stage of diminishing returns for both sides. Therefore the immediate necessity was to wind down the fighting. Embittered but cognizant of the necessary limits to their mutual grudges, the U.S. and China would probably have to continue holding each other at arm's length in the sequel to hostilities. At some juncture ahead—I stressed this point—a substitute external enemy for Peking would probably materialize in the Soviet Union. That development would provide a logical occasion for moving toward overtly improved relations between the U.S. and China.

So much for that hush-hush mission. At

worst it proved not a hindrance. Armistice overtures soon surfaced. A cease fire materialized after two more difficult years. I elide the fifteen ensuing years of mutual skulking and growling. The U.S. had contracted itself into the defense of the Nationalist regime's position on Taiwan. The U.S. was intent also to preserve China's U.N. franchise for the Taiwan regime, mainly excluding the Communist regime. In pique for having been labeled as aggressor in Korea, China underwrote that exclusionary policy by a show of studied aloofness and for a while even trying with no success to found a rival and successor world organization.

What is pertinent is the eventual shift toward amelioration with the U.S.—reflecting developments between that most profuse and ethnocentric land and the Soviet Union. Tension between the two was latent from the moment of Communist accession in China. I recall vividly from my Hong Kong venture an intimation to me of the Chinese Communists' assumption of cultural superiority to the Soviet Union's. It came from Chang Kua-tao, in exile as an ousted member of the Peking Politburo: "China was an ancient civility when Russians were painting themselves blue and wearing animal skins." The Chinese eschewal of satellite status surfaced in the refusal to join the chorus echoing Khrushchev's posthumous denunciation of Stalin at the 20th Party Congress. The difference had to be accounted for on doctrinal grounds rather than publicly acknowledged as a clash of national interests and cultural outlooks. Two papacies now vied for the same church, as it were. China made known its aspirations to rival and even to supplant the Soviet Union at the Communist apex.

A quick succession of three events some nine years ago sharpened Peking's anxieties—the Soviet-led suppression of Communist deviancy in Czechoslovakia, the pronouncement in Moscow of a so-called Brezhnev doctrine asserting the Soviet Union's historic prerogative to enforce doctrinal rectitude throughout the Communist realm, and a sudden tripling of Soviet troop strength bordering China. Pressed by such palpable security threats, China substituted initiative for indifference in certain aspects of external affairs. First, China hinted affirmative interest in a U.N. connection by thanking several governments for their perennial opposition to our exclusionary policy—thereby assuring its early undoing. More important—in an age-old practice of playing off adversaries against each other—Peking sought an opening to the one country with material capabilities to provide a counterweight to the Soviet threat. China's ping-pong initiative, Dr. Kissinger's secretive calls, and Mr. Nixon's theatrical visit—capped by a joint communique prefiguring progress to normal relations—came in remarkably quick order.

The Soviet response to that sequence of gestures reflected anxiety lest the incipient connection should mature into something akin to an alliance. Ambition to garner bonus effects in the form of subsidized preferential access to inventiveness and productivity—catering to an American preconception linking commerce and peace—supplied an auxiliary stimulus to the cultivation of Mr. Nixon and Dr. Kissinger. The culmination was their joint journey to Moscow five years ago.

The mere fact of a much-trumpeted melioration in U.S.-Soviet relations was nothing new. Such junctures had recurred many times, beginning with the Roosevelt-Litvinow parley of 1933. Yet one palpable quality does distinguish the turn in 1972 from the ones before. The volume and variety of U.S.-Soviet agreements then and thenceforth produced—they touch on such diverse matters as cultural interchange, commercial accommodation, technological transference, collaboration in space exploits, political concord, human rights, and the strategic equation—are unprecedented for so brief a span in the history of diplomatic relations between these two governments and probably between any other governments. If futurity inheres in what documents promise, then what has been accomplished is stupendous, and Mr. Nixon's hyperbolic claims concerning the transformation wrought where realistic.

The luster did not last. I shall not labor that observation with concrete details. I wish to focus rather on some illustrative conceptual differences bearing on the transactional relationship between the U.S. and the Soviet Union. As a basic point, a contract is an expression of linked intentions which the respective parties can properly and reciprocally accept as reliable predictions of actions so that they may shape their own conduct accordingly. The key terms must convey the same senses to both sides. Otherwise a valid contractual relationship is lacking. Miscarriages of agreed arrangements ascribable to confusions of common terms are not extraordinary in human affairs. A dozen old stories about contracts aborted over discrepancies of meanings come to mind. A thirsty wayfarer ordered a screwdriver at a country inn and was handed a screwdriver. A bishop sent a bellman to fetch a pot of tea and a tart and was brought his tea and a tart. An astronaut on Mars tried to buy a six-pack and was handed a bra. Here I am concerned not with foulups due to simple split definitions. I refer to profound discongruities reflecting divergencies of value and purpose.

As a point of reference consider a mutual pledge—it was entered into at Moscow in 1972 and elaborated during the Brezhnev visit to Washington a year later—for exchanging information and collaborating on behalf of peace in crises situations wherever occurring. The Soviet Union's subsequent actions have included secret provisioning of the Yom Kippur attacks on Israel, unilateral initiatives toward direct intervention after a shift in the tide of battle against its clients, abetting of the petroleum embargo by the Arab oil-producing states and utmost efforts, though in vain, to get the embargo prolonged; continued efforts to impede the United States' step-by-step efforts to abate the Arab-Israeli quarrel, prompting the North Vietnamese in overrunning South Vietnam in violation of the Paris accords signed by the Soviet Union as a guarantor, and unilateral intervention in the Angolan civil war in scornful repudiation of the U.S. Secretary of State's entreaties. As borne out by that record, the meaning of peace and of the promotion of peace diverges profoundly as between the United States' and the Soviet Union's operational codes. The discrepancy bears examination, for it presents a serious impediment to prospects for contracting about peace.

Soviet discourse is as wont as ours to celebrate peace as a policy goal. In a theoretic sense, also, Soviet concepts parallel those prevailing here in regarding peace as the norm and war, by corollary, as deviant. The rub is this. In the Marxist-Leninist dogma, the aberrations giving rise to war are seen as rooted in differences between classes defined in relation to varying functions in the processes of production. The causes of conflict are seen as knotted into the very fabric of societies at variance with the Soviet Union's postulates, practices, and scheme of authority. The achievement of peace as a pervasive human condition is for a remote tomorrow when Marxist-Leninist dogma will be no longer challenged. That consummation is supposedly predetermined by history's laws.

In keeping with the Maxist-Leninist dogma, the Soviet ruling group professes to regard itself as supreme guardian of the principles linked to that putative truth and as history's agent in promoting momentum to the predetermined goal. Until that consummation—and subject to the requirement of not jeopardizing everything by direct imprudent involvement in war—the pursuit of peace entails prosecution of unremitting enmity toward every differentiated political entity and belief—not simply for the sake of Soviet interests and preferences as such but in service to the teleological ends supposedly inspiring Soviet interests and purposes. Peace in the Soviet lexicon stands for promotion of communist aims in what is called "class struggle between systems." Whatever is contributory thereto is by definition peaceful. Because the United States is the mainstay of resistance to that postulated momentum of history, the Soviet version of service to peace calls for the isolation, neutralization, and ultimately the effective elimination of the United States as a counter factor. Thus enmity is waged under the rubric of peace, employing every device of strategy short of explicit war.

The United States' approach reflects a privileged historic past, remote from theaters of strategic competition, with security a bestowed condition, peace demonstrably the inherent situation, and war therefore regarded as obviously abnormal. In that outlook, strategy encompasses concepts and practices applicable only in the breakdowns but otherwise to be banished from general concern. The thing to do in order to perpetuate peace is to forestall breakdowns—not by attention to strategic factors but by communicating, engaging in commerce, sharing benefits, and following agreed rational procedures.

In the twentieth century's two world wars the U.S. formula for perpetuating peace thenceforth was the creation of an international organization—first the League and then the U.N.—to institutionalize a nonstrategic approach to peace in a world expected to be so abundant with friends as to obviate having to calculate how to deal with putative enemies. With the U.N. demonstrably incapacitated for its peacekeeping purposes by a rift over the conditions of peace between the main two members of the prevailing coalition supposed to serve as the nuclear for the undertaking, the United States in the containment policy ventured into a strategic approach to maintaining peace.

The provisionary character of that turn needs stress. No thread runs more consistently through the pattern of U.S. foreign policy covering three decades than the thought, the dream, of vindicating the goal of a nonstrategic basis for peace by dissuading the Soviet Union from its waywardness and thus converting it into a reliable collaborator for peace according to the U.S. perception. That prodigy is conceived as achievable by depriving the Soviet ruling group of opportunities for expansive successes, undermining thereby the group's confidence in the Marxist-Leninist image of the future, and at long last bringing the Soviet Union around to tractability and cooperation. President Truman put the expectation into his message enunciating the Truman Doctrine. Secretary Acheson repeated it in testifying for the North Atlantic Treaty. President Eisenhower paraphrased it in his first presidential speech on foreign policy. Thenceforward into the present, spokesmen for five successive administrations have articulated the same vision in diverse styles.

The Soviet dream anticipates a U.S. worn down to ineffectuality and acquiescence. The American dream envisions a Soviet Union rendered pliant and cooperative by a combination of frustration and wooing. Each dream foresees its version of peace triumphant—and the old opponent rendered submissive. Those conflicting dreams—they could not both come true—underlay, if that is the right tense, the strenuous competition called the Cold War. The same tension between incompatible concepts carries over

into a muddle of meanings between "peaceful coexistence" and "detente."

The former expression is the Soviet term-of-art for the Soviet version of a sequel to the Cold War and for the processes promoting that outcome. Thus "the strategic purpose of peaceful coexistence"—I quote President Brezhnev—"is to assure favorable conditions for the world-wide victory of socialism." "Detente" is the favored word expressing the contrasting version of a sequel to the Cold War treasured in policy on this side—with the Soviet Union cured of its presumption to be a universal cause and content at last to function simply as a state pressing its own interests as such. Soviet usage now uses both terms interchangeably, as if the practice of detente entailed acquiescence to Soviet rampancy and aggrandizement. The Soviet style—"peaceful coexistence"—is adopted in the pertinent official documents subscribed to by the U.S. in Nixon's time and since, but the alleged accomplishments are represented to the public in terms of detente according to the U.S. perception. The confusion is exemplified when statesmen, according to their wont on both sides, speak of making detente irreversible as if the word had a settled and definitive meaning. It has no such meaning but two antithetic meanings—Soviet desistance and an end of resistance to Soviet persistence—so that irreversible detente in one sense means the confounding of detente in the other.

The mismatch has a counterpart in strategic concepts—a matter of palpable importance so that I wish to apply utmost care and precision in discussing it. Conducting policy in peacetime under the rigors of strategic competition entails constant attention to the contingencies of war. The irreducible principle is never to afford one's putative adversary a basis for feeling optimistic about the probable consequences of launching war or of pushing an issue to a point of inducing hostilities. There is more to the matter than that, however. In a situation charged with contention and with one side optimistic in that sense and the other pessimistic—and each side knowledgeable of the other's estimate—the probability of war is not high. The constraints, however, are unequal. The side on the heavy end of advantage will be in position to come out ahead at the adversary's expense. In a contrasting controversy, with neither side feeling optimistic about a hypothetical outcome, the constraints tend toward equality, and danger of actual hostilities is low. A strategically and politically stable relationship obtains. Thirdly, for both sides in a contentious situation to feel optimistic in the relevant sense heightens the chances of slippage into war.

The assets which accrued to the United States and put it in the advanaged situation vis-a-vis the Soviet Union in the earlier stages of its first venture into conduction policy in peacetime under conditions of strategic competition included such nonmilitary matters as undamaged civil and institutional morale, a matchless capital plant left intact and even much expanded and improved by the experience of war, great industrial and agricultural productivity, and a uniquely stable currency—and also strong military resources exemplified in having Armed Forces attuned to victory and unchallengeable preeminence in military aviation, in naval power generally over the globe, and in nuclear technology with its prodigious strategic potential. Some of those assets were destined to decline in a relative measure because of factors beyond this country's ordaining. The last one listed—preeminence in strategic nuclear power, the anchor of the strength conveyed by grant and pledge to countries far and wide—was abdicated voluntarily in a decision dating from roughly ten years ago.

The idea behind relinquishing the strategic nuclear advantage—by tapering off and letting the Soviet Union catch up—was to open a way to establishing an equilibrium of pessimism about the outcome of putative war between the superpowers. Then each side would feel pressed to back away from war and be in no position to invoke the image of war as an instrument for having its way on issues in contention—a version, as it were, of a nonstrategic basis for peace. The Soviet Union's predisposition to settle for such a standoff and abstain from striving to supplant the U.S. in the favored position was assumed without critical examination.

Eight years of exacting negotiations—productive of a succession of intricate agreements, the major one being the centerpiece for the Nixon-Kissinger pilgrimage to Moscow 5 years ago—have not vindicated that last assumption. Does the Soviet Union seek only to complement the U.S. design for nuclear parity and the annulment of nuclear competition as a component of international politics, or does it to the contrary aspire to establish nuclear strategic superiority, which would be susceptible of being brought to bear as an instrument for forwarding the Soviet version of peace as an indefeasible dynamic force propelling toward global triumph for the Soviet Union? As between parity and superiority as Soviet goals, the present U.S. negotiators, Mr. Paul Warnke, professes not to know.

In epistemological precision, the verb is correct. One does not know. One can infer. Soviet discourse does not replicate U.S. phraseology for expressing a nuclear standoff. Soviet internal writings consistently support the larger estimate of Soviet ambitions. The verified scope of momentum of pertinent Soviet programs can scarcely be reconciled with any other assumption.

An analogy from sports seems appropriate not to prove but only to articulate an idea. Any organized sport is a mixture of ritual and contest. The formular aspects are those equalized by regulation. Contest occurs in the interstices. In football, for example, the size of the gridiron and the allowable number of players in action at any moment are among the matters regulated. Agreement on such dimensions does not write off every game of every season as a tie but only sets broad limits to the contest. Woe to the side which takes the field under a contrary illusion and even, in a fit of sportsmanlike innocence, concedes the other side a dozen or thirteen players to its own eleven or, in a misguided unilateral urge to economize, restricts its own participants to ten or nine. Whether quixotic or stinting, such concessions can only excite the other side's ambition to prevail.

To the disappointment of more committed and sanguine supporters, the negotiations about nuclear arms probably cannot succeed of themselves in prescribing and effectuating a standoff. At best the process may set outer limits without eliminating competition. The gross quantities agreed upon will not succor us but can only set boundaries on the endeavors with which this country must save itself.

Nuclear strategic superiority for the United States is probably irrecoverable. The important thing now is to avoid descent into nuclear strategic inferiority. That matter is to be determined by our own efforts, for the strategic arms talks of themselves are not going to rescue us from that predicament. With that in mind, I earnestly wish for an abatement of this government's anxiety to obtain agreement—the approach which casts our negotiators as the suppliants in bargaining with Moscow.

In Professor Richard Pipes' words, "There is something innately destabilizing in the very fact that we consider nuclear war unfeasible and suicidal for both, and our chief adversary views it as feasible and winnable for himself." As someone has said, the U.S. is predisposed to maypole dancing, while the Soviet Union insists on tug-of-war. No third party watches the two superpower contenders in that disjoined match with more avid interest—or ventures into the arena more opportunistically with its own version of what game to play—than does China.

I am loath to give judgments about the land. I have never been there. Those who, having been there, write giving me little light. I have a hard enough time understanding the determinants of policy even in my own society. Those operative in China abound, for me, with impenetrable mysteries, but I can at least resist a temptation to believe China's leadership to be endowed with transcendant sapiency. "Do you know, my son, with how little wisdom the world is governed?" Count Oxenstierna inquired three and a half centuries ago. The query is at least equally applicable to China as here or anywhere else. Watching the two superpower societies at the apex, set aside by their exclusory capability to attack and even to destroy each other, China's hierarchs inveigh against the superpowers, both, as oppressors and exploiters and profess to eschew superpower status. The show of renunciation probably exemplifies the sort of piety which leads men to denigrate what they most covet.

Conceptually, the dogmatic elements in China's image of the future are akin to the Soviet Union's. What is repellent is the idea of Moscow, rather than Peking, as the New Jerusalem. To elbow Moscow from that summit, the Chinese Communists presumably would do anything within limits of whatever power they may ever attain to. Moscow's awareness of that ambition on the Peking regime's part impels a counter ambition either to mend fences with China by somehow wooing the regime to conform with Soviet ambitions or to reduce China and thereby render it subservient or inconsequential to Soviet purposes. Awareness of those contingent intentions makes China's hierarchs fearful of some form of political penetration or of attack and partition from the Soviet Union.

Precaution against any such development is what impelled China to cultivate the United States—but not quite as an ally. China's political hierarchs are too ideologically possessed, basically too abhorrent of the United States, for that. Yet as of the time being they need the United States or at least the shadow of its power. China strategically is not enough to count as a determinative factor but enough to make some difference in the U.S.-Soviet equation. China, moreover, disposes more strategic potential if poised against the Soviet Union than if against the U.S. So for a short run, however long it may prove in the test of events, it is prudent to have China as a strategic factor more or less on this side rather than unequivocally opposed. U.S. policy toward mainland China is premised on China's remaining antithetic to the Soviet Union. Making opportune use of the situation is wise, but, in view of China's inscrutability, it would be improvident to stake much moral or material capital on China's constancy.

I now turn to projections. I do so with diffidence. This is not the first time of my letting the Navy down as a seer. A dozen or so years ago a panel of actual and aspirant admirals asked me—I was a consultant on a study of the strategic future of these same waters—to provide a sneak preview covering the following 15 years. I pleaded incapacity. They expressed willingness to settle for probabilities. I expounded the ambiguity of the concept "probable"—citing, in the case of a horse rated as the most probable winner in a race at 5 to 1, the higher probability for a less probable horse to beat out the most probable. Their expressions signified innocence about playing the ponies. How—this

was the next question—can one plan ahead without foreseeing the future? That question prompted me to a favorite discourse.

We must plan ahead not for a foreseeable future but for the unforeseeable future. Like navigating in heavy weather without a radar, we must look intently ahead because we cannot see ahead. We only discern various possibilities. We try to rate their varying potentials for coming true, for harm or benefit, and for being affected by our own choices. Then we see to the allocating of resources not to conform to prefigured probabilities but to try to affect probabilities—and above all to ensure that those in authority later on shall not be deprived of choice, and therefore of freedom, in face of exigencies not now perceivable. Another observation: In such matters we are masters of our own courses but never of how others beyond our fiat may discern and respond to them, much as we may try to anticipate.

It is chancy business. The Japanese did make war in face of our embargo to dissuade their advance toward the Indian Ocean and did surprise our fleet at anchor in a bay and our planes in supine rows on the ground. Adversaries did construe an opportunity for conquest from the lack of guarantees and defenses for South Korea. The Chinese did interpose and find a gap in our lines approaching the Yalu. The other side did exploit our improvident assent to making the demarcation line first item in the Korea armistice talks—risklessly testing the U.S. will with two additional years of attrition. In Vietnam our enemies saw and exploited, to ultimate success, the contradiction inherent in our decision to contest for an area whence we longed for exit against forces intent to get in and stay. The thin-skinned *Pueblo* did get pounced on.

The point of that dismal list—I could expand it considerably—is simple. The other side's failure to match our anticipations can land us in perplexity—which is what policy analysts classify as a worst-case outcome. Let no one here exemplify the practice—which persists in face of experience and logic—of ruling out worst-case outcomes as marginal and paranoid. "You cannot evaluate policy alternatives on the basis of extreme speculative consequences," the President's counselor on national security affairs, Dr. Zbigniew Brzezinski, recently retorted to a question about consequences of the phasing-out of ground forces from Korea. That counsel is wrong. Such consequences do occur. They must always be taken into account.

Every occurrence on my random list, moreover, had the Western Pacific as its locale. For us it has been a recalcitrant region, prone to confound our premises. I suspect the Indian Ocean of similar pervasiveness—up to now concealed from us by its century and a half of unmatched strategic stability, under British naval dominance. In both ocean areas, as over the great globe itself, the years just ahead should be expected to present a quickening rate, not a diminution, of challenges and crises.

The pervasive basic circumstance, manifesting itself in a miscellany of local and regional troubles, will be the continuing problem of Soviet purposes and power—dealing with which has been the central feature of U.S. policy in the past three decades. Dr. Brzezinski's recent words about the United States challenging the Soviet Union to cooperate with our aims or "run the risk of becoming historically irrelevant to the great issues of our time" are an exercise in romance. The real situation, rather, approaches fulfillment of Brezhnev's boast in 1970 of a time when "no question of importance in the world can be solved without our participation, without taking into account our economic and military might."

The Soviet Union is not going to convert to cooperativeness with our preferences and designs. The ruling dogma sets precisely the opposite course. The regime's grasp on power over its own society depends on that dogma. The regime will not—it cannot—abandon the dogma. The regime will continue, as in the past, to wrestle with production problems and consumer demands, but its command system for allocating resources will not be deflected from emphasis on military programs. The sector of life where the regime feels—with reason—most confident about contesting its adversaries is the military. The Soviet Union will not reciprocate in our projects for a strategic standoff but will approach strategic negotiations as—to use the apt internal phrase—"a highly effective form of class antagonism." Some time soon new leadership must take over in the Soviet Union. There is no reason to expect the younger successors to be less boldly opportunistic than the present leadership. The opposite is more likely to be the case.

As for China, some measure of rapprochement with the Soviet Union—a highly consequential development for us—should not be ruled out of calculation. The Chinese will watch exactingly with what prudence and constancy the United States manages it affairs, especially in respect of countering Soviet power, and will determine their own courses accordingly. As for reasons of pride it must, China will maintain its irredentist claim to Taiwan. Paradoxically, by breaking with Taiwan—if that is in the cards, as I suspect it is—in order to open a way to full formalities with Peking, the United States may satisfy a point of pride at the price of damaging its own reputation for constancy. The result of our impulsion for formally improving relations with Peking may well be substantively to impair them.

As for the United States—I note on the present scene relevant to my topic a propensity to presume the conclusiveness of the U.S. say-so, as if linkages among external issues were ruled by our preferences rather than determined by the nature of things. Because our plans so ordain, the contemplated troop withdrawal and dissolution of the U.N. command in South Korea are supposed to bear no adverse consequences. My doubt duplicates my skepticism in 1951 over London's confided assurance against any change in strategic conditions to follow a projected British pullout east of Suez.

A companion tendency is to count on the continuity of any convenient circumstance merely for its convenience. A Japanese swing away from disarmed dependency on U.S. stategic protection to a choice between armed neutrality and an accommodation with the other side would indeed be upsetting. So docility is attributed to that historically mercurial nation. I should regard a rekindling of Japanese nationalism, bringing on a basic realignment, as a plausible response to the unilateralism practiced by the U.S. in the demarche with Peking, the Lockheed affair, and now the decision to remove ground forces from Korea, which bears so directly on Japan's security.

An excessive inclination to trust in pacts, to believe in the feasibility of any desideratum by documenting it in an agreement, is a further characteristic of U.S. policy. A recent illustration is the diplomatic initiative to demilitarize the whole Indian Ocean. How in a practical sense could that be done for an ocean area within the ambit of one side's air power and not the other's? Candidly, I must question the reliability of any standoff arrangement over strategic stakes with an ambitious rival practiced in subversion and in waging proxy wars. If we are to maintain our interests there, it must be by naval power on the scene.

Is U.S. policy in a pharse of overhasty self-confidence? In asking, I have in mind the current approach to the Arab-Israeli confrontation, with its obvious potential for affecting matters in the Indian Ocean and far beyond. The urge now is to push toward a resolution this year for a set of contentions whose roots are traceable back to events recounted in the twenty-first chapter of *Genesis*. Neither side in the chronic quarrel—so I venture—can afford to make the concessions required by the other for a genuine and definitive settlement. Those are issues to be nursed along—not to be heightened by exercising a zeal to get things done wholesale and forthwith.

My last point of particular concern is about Southern Africa—an area of which I feel sufficiently knowledgeable that I wish it might have been the subject of my whole talk here instead of having its complexities dismissed in a paragraph. There, in my view, policy is not reflecting patience, wisdom, and a grasp of realities commensurate with the magnitude of the stakes. It operates on a basis of cliches rather than of comprehension and presses for so-called settlements and solutions beyond practical reach.

I remember the late Ambassador Charles E. Bohlen's pessimistic estimate concerning the United States' want of realistic insight and of staying power to sustain strategic competition with a dogmatic, enduring, and resourceful adversary. His doubt is yet to be refuted. The new Administration is exceptionally verbal—meaning that it talks much. It has a bent for dubious aphorisms, a favorite one being—test it with a forest ranger in a season of drought—that "fire is better fought with water than with fire." Concerning the new outfit's substantive qualities, I do not as yet feel able to distinguish between transient and ingrained traits. I am open-minded. My hopes are ardent because the needs are so compelling.

The basic necessity is to maintain the strategic nuclear deterrent. To permit the deterrent to become deterred would disqualify us for every other sort of strategic competition. Maintaining the deterrent, however, is only a necessary, not a sufficient, consideration. There are myriad other vexing and expensive tasks—including the maintenance of conventional military strength at a cogent level—to be performed year by year in countering Soviet expansion while avoiding strategic and political isolation. Not to persevere in those tasks must land us in the situation—to paraphrase Machiavelli—of having lost no enemies and kept no friends.

I have fulfilled the prescription. I am now on my own time. My added thought concerns—in usage familiar at the Capitol—a point of personal privilege. I spoke at this institution soon after the Hong Kong venture referred to earlier. Something my hosts did not tell me—that was the day for the Advisory Board's annual visit. Before me in Pringle Hall I saw an awesome row of eminent faces—Chester Nimitz, James Phinney Baxter, William J. Donovan, Hanson Baldwin, and so on. I weathered the surprise. Questions were dispensed with. Instead, General Donovan, the visitors' highly articulate chairman, was called on for a few remarks. To my dismay, I was the target of them because of a reference in my address to military casts of thought. Donovan equated my phrase with "the military mind"—a supercilious canard, he said, because of its implicit differentiation between military and other cerebral types. He upbraided me for attributing militarism to a profession intellectually indistinguishable from civilians. I was foreclosed from replying. I have waited twenty-six years to answer that arraignment. Here is what I did not get my chance to say.

I am right. If I am not right, I ought to be. Every calling has its special outlook, prerogatives, and obligations—all of them integral to its services for society and civility. Consciousness of distinguishing attributes is essential to the morale of any calling. Those

points apply to the practice of medicine, the filed of law, the engineering profession, or any such vocation with a special role in civilization. The same must be true of the military calling. Otherwise—in my view—this institution and counterpart ones would lack justification. As a taxpayer, I would have to object to their existence.

The character of the military calling inheres in its obligations under rare extremity. A destroyer skipper must be morally capable of closing with the enemy at whatever odds. A bomber pilot must be up to persevering to the objective even beyond a point of no return. A battalion commander must be equal to executing even a sacrificial order. It is altogether appropriate—even necessary—for members of a profession with that sort of a canon to regard themselves and their role in a distinguishing way. Such a canon must properly be reflected in military attitudes in myriad ways beyond the rare exigencies of battle. To call that militarism is no more apt than accusing a conscientious lawyer of legalism or a devoted pastor of clericalism. Having some portion of Americans with that outlook was indispensable in the founding of this country in the eighteenth century, to preserving it against partition in the nineteenth, and to bringing it through two general wars in this century, and will be no less essential in times to come. The country's greatest external dangers may well lie ahead.

At a conclave sponsored by the Civilian/Military Institute at Colorado Springs earlier this year a flag officer in a panel session cogently rebutted a fallacious fancy uttered by a civilian participant and then at the final moment requested opportunity to make apology for having forthrightly expressed a military man's view.

An apology is worse than an insult. Once upon a time a court jester so observed. The monarch commanded him to demonstrate the point before sundown at pain of forfeiting his head. A while later the jester enraged the king by pinching his posterior and then made amends by saying: "Sorry, Majesty! I mistook you for the queen."

I related that account to the vice admiral at breakfast next day, pointed out the moral against apologies, chided him for his uncalled-for gesture of self-abasement, and urged him never again to fob off his profession with gratuitous obsequiousness. Such is my closing word to you who are officers—a precept especially appropriate for these times. Never be abashed about a deep concern for your country's security. Never—never!—feel penitent about devotion to preservation of the United States.

THE GENOCIDE CONVENTION: A BASIC BELIEF IN HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, the expiration of the SALT treaty and the continued United States/Soviet negotiations to establish another long-term agreement are of critical importance to the international community. Our technological progress has brought our Nation both comforts and great military capacity, as well as problems and major political dilemmas. This situation is evident not only to the United States, but to every major nation in the world. There are great moral issues involved in our foreign policy decisions. Past treaties, such as the Geneva Convention, have formed the rudimentary structure upon which the system of international law, which guides these policy decisions, is based.

This system has evolved over many years. As with all legal systems, international laws have built up slowly, starting with the establishment of certain basic values. In time, these values have become a fundamental part of the system. The recognition by the world community that the crime of genocide is reprehensible and should not be permitted must be one of these basic beliefs.

Twenty-eight years ago, the United Nations drafted a treaty outlawing genocide. This treaty afforded the nations of the world an excellent opportunity to declare their opposition to this crime. Eighty-two nations did just that. Yet, despite this overwhelming support, the United States has taken no action. We have had numerous opportunities to further our commitment to human rights through ratification, but we refuse to act.

With the recent negotiations serving as a reminder of the treaty's importance, I urge the Senate to act without delay to ratify the convention. In doing so, an international system of law based on humane principles can be built.

STEEL IMPORTS—THE ISSUE GOES FAR BEYOND "SPECIALTY STEEL"

Mr. ALLEN. Mr. President, for a few moments I wish to discuss the problem facing the domestic manufacturers of specialty steels and the import control program now in effect relative to imports of these products. However, I want to make it clear that I see the situation relative to "specialty steel imports" as part of a larger problem affecting all steel imports, and even larger than that—a problem for the Senate to deal with in constructing a more equitable international trade policy that will afford some realistic and immediate protection to various industries faced with dramatic and job-killing imports of all types.

My remarks are designed to convey to the administration my concern about the investigation by the U.S. International Trade Commission, in response to a request of May 25, by the Special Representative for Trade Negotiations, that the Commission "render its advice on the probable economic effect on the domestic industry of the reduction or termination in all or part of the relief provided by the specialty steel quotas." The ITC undertook such an investigation on June 17. Public hearings have been held; more hearings will be held on this matter this week, and then the Commission is to advise the President by October 14.

Mr. President, the call for a "review" of the relief granted is tantamount to asking for the relief to be terminated. It is my hope that the ITC will advise the President that modification of the Presidential Proclamation 4445 of January 1976, would not be in the best interests of the specialty steel industry in the United States.

What brought about the original finding of the ITC? The Commission found that the volume of imports of stainless and tool steels were of such a magnitude that the domestic industry was being seriously injured by imports and, therefore, in relief of that situation, the Commission recommended that import quotas be imposed for a period of 5 years—the maximum permitted under the Trade Act of 1974. Unfortunately, the President only bought three-fifths of the ITC argument and granted the relief for a period of 3 years. We are now in the second year of that import relief period.

One of the important facets of the ITC action and that of President Ford, was that, for the first time, the relief clause of the Trade Act was implemented. This action, Mr. President, offered some small ray of hope that the executive branch of the Government was coming to recognize the dire economic consequences that have resulted from almost 40 years of an "open border" trading philosophy. It was certainly not a big ray of sunshine, but it was something. And now, the new Administration, with a "labor-orientation," appears to want to renege on the relief provided. I cannot stress too strongly on how such backpeddling would appear to the American worker, and I strongly urge the ITC and the Administration not to change the specialty steel import quota relief already granted.

Now, Mr. President, I wish to go a step further. I see this particular issue as one involving a wider concern—that of all steel imports and what to do about same. As the saying goes, from small acorns, great oaks grow, and I hope these remarks will lead to something more extensive as far as the actions of the United States Senate go, in protecting the jobs of all of America's steelworkers and the industry.

With consideration of the specialty steel industry, we are basically concerned with about 19,000 workers located in the Northeastern region of the United States, particularly Pennsylvania, and about 2–3 percent of total steel imports. Perhaps 19,000 workers does not seem like many to some observers, but it does to me, and each of the workers involved, and further, it is indicative of a larger problem.

Recently we have been bludgeoned with the announcements by some of the major steel firms about layoffs and plant closings affecting thousands of workers. Not all of these layoffs can be attributed to imports, I know, but believe me, imports of all other steel products are not helping the situation. Perhaps it takes being hit between the eyes with a two-by-four to realize the dangerous situation our domestic steel industry faces because of the "open border" trading philosophy.

Mr. President, I have expressed my concern for the steelworkers in one area of the country affected by this policy; I hope my colleagues will understand my concern about the steelworkers in Alabama who lost their jobs in Birmingham, in July, when the United States Steel Corp. announced that it was going out of the business in the cotton tie market and closed its mill in Fairfield. The Fairfield Works Cotton Tie Mill began operations in 1929 and grew to be the world's largest producer of cotton bale ties. The closing of the mill was influenced in part by dwindling cotton production, but the primary reason was the result of the unfair competitive advantages enjoyed by foreign government subsidized steel producers. Cotton ties have been sold in the American market at prices well below costs when it suited the purposes of foreign producers and, conversely, during periods of high demand in world steel markets,

these same producers have withdrawn from the American marketplace or demanded exorbitant prices.

The cotton tie mill decision, the specialty steel case, the loss of jobs due to imports in the textile, shoe, electronics, as well as other industries, is a harbinger of soup lines to come in the industrial heart of the South, and, in fact, in other industrial centers around the country.

It is time—past time—for the U.S. Senate to do something about the flood of imports if we are to avoid the loss of tens of thousands of American workers' jobs.

Mr. President, let me emphasize that the 200 or so steel jobs lost in Alabama due, basically, to imports is not my total concern. The steel industry is vitually important to Alabama, employing about 19,000 workers. There are 13 steel company facilities in my State, including the large integrated producers such as Republic Steel Corp. in my home town of Gadsden, Ala., and United States Steel Corp. in Birmingham. The employees of these firms have had to go to the International Trade Commission and the Labor Department seeking trade adjustment assistance, necessitated by rising steel imports, but they have only been partially successful in gaining adjustment assistance over the past 3 or 4 years.

While the Washington bureaucrats shuffle papers add statistics, the workers and their families go on local relief. While the unfireable, deskbound civil servants considered the "big picture" of international trade, aid, and politics, the American worker who pays those fat salaries to Government employees walk the streets of Gadsden and Birmingham seeking a way to make ends meet.

There is no justice in this, and unless Congress acts soon to protect the jobs of the American workingman in, for example, the steel industry, the ire of those steelworkers in Alabama, Ohio, Indiana, New York, Pennsylvania, California, Texas, and elsewhere may lead to dramatic citizen response which cannot be swept away with rhetoric and standard political promises.

Mr. President, recently the American Iron and Steel Institute published a detailed analysis of the "Economics of International Steel Trade," which examines the basis for the problems faced by the industry as a result of foreign imports. In the study, it is pointed out that in 1976, over 14 million tons of steel were imported, accounting for over $4 billion of trade flow and representing 14 percent of the consumption of steel in the United States.

The full report examines the methods and stratagems used by foreign steel producers to capture larger and larger shares of the American market. I believe the case can be made that our steel industry could meet import competition if it were reasonable competition, but such competition is not fair in any normally accepted meaning of the term. To cite the most obvious example, most foreign producers are heavily subsidized by either their governments, directly, or by the intrinsic structure of their economies which underwrite production for export through loans or through quasigovernment marketing organizations.

The analysis concludes that foreign producers are currently selling steel in the U.S. market at prices below their average costs, and that this practice has been consistently used by foreign producers whenever necessary to increase the utilization of their domestic capacity. This factor was the basis of the September 19 filing of the United States Steel Corp. petition to the Department of the Treasury for relief under the U.S. antidumping statute from certain steel products imported from Japan. The Iron and Steel Institute's analysis of the reasons for the problems faced by the U.S. steel industry are too involved to present here in detail, but I refer our colleagues to the reasoning of the report for a picture of the type of competition our producers face, and, to this end, I ask unanimous consent to print the "Executive Summary" of the report in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, the question now, Mr. President, is what does the Congress do about the type of competition the steel industry faces? Do we ignore the problem and rely on the executive branch to protect domestic jobs, or do we go to work and find a solution?

I believe the Congress must act. I do not know precisely what is the proper legislative vehicle for such action, but I do know that we cannot ignore the problem any longer. Perhaps, what is needed is a "fair trade" bill. A measure that will take account of foreign nations' proclivities to use our country as a dumping ground for their economic expansion at the expense of American jobs. I do not believe that the U.S. steel industry needs to be nationalized to meet the threat of nationalized foreign competition, nor do I believe it is wise to establish national Government exporting and importing corporations to dicker with the governments of the world. We can lay the foundation for "fair international trade" by insisting upon rules of trade which take into account the Government-based trading. A shift away from our "free trade" doctrine in a nonfree trading world only makes common sense if we are to protect the jobs of the steelworkers of the Nation, and the workers in other industries which are battered by unfair import competition. Such legislation should include provisions for the imposition of mandatory quotas on imports when and if such imports reach a job-threatening level.

In conclusion, Mr. President, I should like to point out the obvious: The generosity of the American people has been demonstrated time and time again since the end of World War II. We helped rebuild war-torn economies, we have bailed out distressed nations, we unstintingly give our money whenever there is a natural disaster anyplace in the world, we have poured billions of dollars into foreign aid, we virtually underwrite every international development institution, we even prop up those very systems of government dedicated to our downfall—and we have done all this in the name of "free trade" and "international responsibility"—with the American taxpayer's hard-earned dollar.

Now, when the base of America's international largess is threatened; that is, when the jobs that produce the tax moneys to pay for all of this international goodwill are threatened with extinction, we are told that we must suffer unemployment at home in order to maintain our "image" abroad. I find the argument distressing, out of date, and out of touch with the American worker's perception of the role the Government should take with regard to domestic job protection. Our priorities have gotten out of whack over the years. It is time to set them straight.

It is time to reorder our priorities with respect to the protection of American jobs. We cannot allow the nations of the world unlimited access to our markets until it is recognized and written into law that such access will be on a competitive and equitable basis. If the administration will not respond to the threat caused by increasing foreign imports of all types, then the Congress must, and soon.

EXHIBIT 1

ECONOMICS OF INTERNATIONAL STEEL TRADE: POLICY IMPLICATIONS FOR THE UNITED STATES

INTRODUCTION

The issue of steel imports is important to the U.S. economy. In 1976 over 14 million tons were imported, accounting for over $4 billion of trade flow and representing 14 percent of the consumption of steel in the U.S. The increasing market share taken by steel imports is of great concern to the American steel industry. These imports represent lost sales for the producing companies and lost jobs for steel workers.

It is reasonable to assume that steel executives and steel workers would be concerned about any level of steel imports. The rest of the economy, however, would benefit from some steel imports, since one of the basic tenets of our economy is that competition, including foreign-produced goods, will result in the best allocation of our resources. This will be achieved in theory through the working of a free and open market.

Theory also argues that the market works well to allocate resources only when prices reflect the full costs of production, including an adequate return on equity. If some producers are able to maintain protected prices in their home market while using lower prices to displace competition in the export market, the resulting market shares are undesirable for the importing country. More specifically, if imported steel is sold in the U.S. at less than average costs during periods of excess capacity and a substantial market share is obtained by foreign producers, two outcomes can be expected in periods of tight supply: prices will be substantially increased and the amount of steel provided by foreign producers will be reduced. Both of these outcomes occurred in the 1973–1974 steel market. Both of these outcomes are undesirable for the entire American economy. Thus the possibility of such outcomes in the future must be considered by public officials when they review current trade practices.

The analysis in this report clearly indicates: (1) that foreign producers are currently selling steel in the U.S. market at prices below their average costs, and that this practice has been consistently used by foreign producers in the past whenever necessary to increase their capacity utilization; (2) that the market share of imports is increasing; (3) that additional capacity will not be added

to supply U.S. market at these price levels, either by foreign or domestic producers; (4) that steel demand will grow and that in the early 1980s the likelihood of severe steel shortages in the U.S. will be present. Thus trade policies that allow imports to enter the U.S. market today at prices below full costs will foster future shortages of a critical material for the American economy. This long-term viewpoint must be employed when analyzing current trade issues.

It is important to examine current steel imports in the context of what is good in the long run for the entire American economy, not just what is good for the American steel industry or what may appear to be a bargain for the consumer of steel in 1977. It is the intent of this report to take such a long perspective. As new information evolves we would expect some of our analysis to be modified. Thus we welcome and encourage comments on this report.

The remainder of this Executive Summary provides a synopsis of the major conclusions of the report.

TRENDS OF WORLD STEEL TRADE: 1950–1976

During the last 25 years, there has been a significant shift in the relative share of production among the world's large producing regions. Whereas in 1950 the United States accounted for more than half of the Free World's steel production, output has grown more rapidly outside the U.S. in subsequent years. By 1976, both Japan and the European Economic Community (EEC) were equal to or larger than the U.S. in total output, and both were growing more rapidly.

International steel trade has played an important role in this shift in the relative importance of the Free World's steel producing regions. Specifically, although both Japan and Europe have experienced rapid growth in their home markets during the post-war period, both have used steel exports to increase their rate of growth in total output. In the U.S., by contrast, steel imports have constrained the growth of total output. During the last 10 years, exports accounted for almost two-thirds of the growth in Japanese output and over one-third of the EEC's growth. Since the 1959–1960 period when the United States became a net importer of steel products for the first time, imports have captured more than one-third of the growth in U.S. consumption which otherwise would have provided greater expansion opportunities for domestic producers.

The steel exports which have stimulated growth in Japan and Europe are, by and large, the same imports which have constrained growth here. Japan and the EEC have accounted for over three-quarters of all steel imports into the U.S. Especially during the late 1960s when the steel industries of both Japan and Europe were experiencing rapid growth. the U.S. market absorbed between one-quarter and one-half of all exports from these areas. Since 1969, the U.S. has taken a lower percentage of total Japanese and European steel exports but the absolute tonnage has remained high.

Rapid expansion, in which steel trade flows have played an important role, has enabled foreign producers to substantially narrow the large lead once enjoyed by U.S. steel producers in material and labor efficiency. By encouraging these trade flows, therefore, U.S. policies have helped foreign steel producers increase the size and efficiency of their operations relative to U.S. producers. In the process, the U.S. economy has become increasingly dependent on foreign steel suppliers. In fact, the U.S. has become the only large industrial nation which lacks the capacity to produce 100 percent of its domestic requirements.

While neither of these events—namely, the strengthening of steel producers in Japan and Europe and the greater reliance of the U.S. economy on offshore steel sources—is necessarily undesirable, their potential impact on the U.S. economy warrants the careful attention of U.S. policy makers. The need for closer attention is borne out by the events of the 1973–1974 period when for the first time in history other than during a war, the domestic industry was unable to supply the nation's total steel requirements. As a result, U.S. customers were forced to pay premiums of $60 per ton or more for imported steel and even at these high prices, foreign steel producers gave the U.S. market a lesser priority than their other markets. For example, import tonnage into the U.S. decreased 15 percent between 1972 and 1973, even though apparent consumption in the U.S. increased almost 16 million tons.

The recent shortage does not appear to be a one-time event. Weak demand worldwide has caused foreign producers to drastically reduce their export prices. Led by Japan, foreign producers increased their share of the U.S. market to levels approaching 20 percent in the final quarter of 1976. Thus it appears that the U.S. may well be experiencing the beginning of another cycle of import penetration which in turn would imply increased reliance on the same sources which proved unreliable in 1973 and 1974.

JAPAN, EUROPE AND THE WORLD STEEL EXPORT PHENOMENON

In order to understand the implications for the U.S. economy of a greater dependence on foreign steel, it is necessary to first consider the political and economic considerations which motivate producers in Japan and the EEC.

Japan's steel strategy has been an integral part of the remarkably successful Japanese post-war industrial devlopment effort. Not only is steel a key component in the manufacture of necessary capital goods and infrastructure, but it is also an important source of foreign exchange. Illustrating the importance of steel to Japan's foreign trade activities, iron and steel products alone accounted for 18 percent of all Japanese exports in 1975.

Beginning with the recognition that steel is a critical industry, Japan's government planners, banks, and of course Japanese steel companies themselves have evolved a three-part strategy for building a large and internationally competitive steel industry. First, the industry has been encouraged to rapidly increase its production volume, thereby permitting modern capacity additions and scale economies. Second, the steel industry has been provided with enormous capital inputs, primarily in the form of debt. Third, government and business leaders have cooperated closely to maintain high operating rates and protect the industry's highly leveraged financial position. Steel exports have played a critical role in executing each element of this strategy.

For example, the Japanese steel industry has benefited from rapid growth in its home market, but direct exports of steel products and indirect exports of steel-intensive products such as ships and automobiles have enabled Japanese steel producers to grow much more rapidly than otherwise would have been the case. Aggressive export programs were undertaken initially to offset the cost of necessary raw materials. However, during the 1960s, steel exports began to serve the additional purpose of supplementing production growth and offsetting cyclical downturns in domestic demand.

As a "target industry" favored by government planners, the Japanese steel industry has been provided with capital levels, which by U.S. standards, would appear virtually unlimited. Steel companies in Japan, who in 1974 had debt to total capital of 83 percent, obtain most of their financial requirements from the large Japanese City Banks. These banks in turn are heavily overloaned and look to the central government bank—the Bank of Japan—to finance this overloaned position. This system permits the government to exercise close control of the economy without directly guaranteeing any individual steel producer's debt.

The Japanese system of financing, together with the policy of effectively guaranteeing jobs to regular employees, makes the Japanese steel companies highly sensitive to small changes in their operating rate. In fact, because of their high fixed costs of interest and employment, Japanese companies are immediately threatened with losses when their operating rates begin to decline.

To stabilize their highly leveraged position, Japanese producers rely on extremely aggressive countercyclical export programs. Each downturn in domestic demand is met by a sharp surge in export activity. Conversely, when domestic demand improves, export activity is reduced.

These countercyclical export movements are managed by the manipulation of export prices, which at various times may be either substantially above or substantially below average production costs. Furthermore, these price manipulations clearly occur without corresponding changes in home market prices.

During the 1974 period, for example, the price of Japanese carbon steel exports to the U.S. rose to $100 per net ton above average production costs. In 1975, prices began to decline as demand fell off, eventually dropping in 1976 to $35–45 below production costs as Japanese producers struggled desperately to boost exports and maintain their operating rates by underselling producers in the U.S.

The Japanese export statistics testify to the success of these tactics. In 1976, Japan increased its total steel exports by more than 20 percent over 1975 and exports to the U.S. increased over 36 percent.

Regardless of the direction Japan takes in the future, it is important to understand the Japanese strategy of the past 25 years simply because many other developing nations are likely to emulate it in pursuing their own growth plans.

Although each European nation is different, the more prominent elements of the Japanese steel strategy can be found in the EEC as well. Government participation in steel operations is often even more direct in the EEC than in Japan, and government support has also contributed to aggressive capacity expansion programs. Excess capacity in Europe, as in Japan, creates great pressures to expand exports, and aggressive export programs, including government-sponsored incentives and volatile export pricing, are a trademark of EEC producers.

However, efforts to expand exports have met with less success in Europe than in Japan. Unlike the Japanese, European producers have not been able to completely isolate their export and home markets, and low export prices have tended to "leak" back into home markets. Also, especially in more recent years, European producers have had higher variable costs than Japanese producers. Therefore, other factors being equal, the price needed to sell exported steel—while in some cases below average cost for both the Japanese and the Europeans—would yield lower returns to the Europeans.

The most important opportunities and incentives for Japanese and European steel producers have not been applicable to steel companies in the U.S. Therefore, U.S. producers have not embarked on long-term export programs comparable to those of Japan and the EEC. In the short run, the ability of U.S. producers to reduce export prices as a means of expanding volume has been limited by the fact that variable costs have typically been higher in the U.S. than elsewhere. Thus during times of slack demand, it is questionable

whether U.S. producers could match export prices in third countries, pay transportation and marketing costs, and still cover their variable production costs.

THE COMPETITIVE POSITION OF THE U.S. STEEL INDUSTRY

In reviewing the history of import penetration, one can conclude that lower production costs by themselves have never been sufficient to account for the success of foreign producers in the U.S. market. Instead, artificial exchange rates, border tax rebates, shortages, strikes and threats of strikes, and whenever necessary below-cost prices have provided foreign producers with the margin of advantage they would not have been able to derive from production cost advantage alone.

A detailed analysis of the Japanese pricing strategy reveals that Japanese producers have been able to increase their short-run profits dramatically through a system of price discrimination between their home and export markets. This system is based on the principle of reducing average costs by increasing volume, with low export prices (typically 15–20 percent below domestic prices) providing the extra volume. The system works in the short run as long as low export prices lead to increased volume (usually by displacing other producers), and are above variable costs. The system also requires a protected home market.

Just as a protected home market enables Japanese producers to price discriminate in their export markets, an open home market makes it uneconomic for U.S. producers to meet the discounts offered by foreign steel suppliers. Competitive conditions in the U.S. makes it difficult for domestic producers to selectively match foreign discounts; instead, to prevent the sale of one imported ton they would have to offer discounts to many customers who would demand the same price. Therefore, U.S. producers would lose more money by matching import prices than by allowing their market share to be eroded.

Between 1964 and 1968, when foreign producers were generally increasing their penetration of the U.S. market steel left Japan at average prices of at least $50–55 per net ton less than the average U.S. domestic price. A detailed analysis of the U.S. and Japanese costs during this period shows that the maximum cost advantage which could possibly be attributed to Japanese producers during this period is about $40. Therefore, it can be concluded that Japanese producers were shipping steel to the U.S. at prices well below their average production costs.

Starting in 1969 and continuing through the end of the worldwide steel shortage in 1974, the need to price export shipments to the U.S. at below full production costs was diminished. An artificially high value of the U.S. dollar reduced the effective cost and therefore increased the effective profitability of foreign steel production in dollar terms until mid-1971. As a result of voluntary export restraints and strong home markets, there was generally less pressure on many foreign producers (especially the Japanese) to increase their share of the U.S. market.

As a result, the level of discount offered to U.S. customers diminished between 1970 and 1972 such that the effective price foreign producers could charge these U.S. customers increased. For these reasons, there was less below-cost pricing between 1969 and 1972, and in 1973–1974, foreign producers were actually able to earn sizeable windfall profits on shipments to the U.S. By 1976, prices once again fell to levels substantially below production costs as foreign producers were once again offering discounts of 15–20 percent under domestic prices in order to win customers from domestic producers.

In 1977, the U.S. industry is well positioned for competition in the U.S. market with respect to the major factor costs of production. Capital charges per ton are about the same in the U.S. as elsewhere. At worst, using market prices to estimate raw material costs, the U.S. industry is equal to foreign producers. The employment cost advantage once enjoyed by European producers has all but vanished. Japanese producers enjoy an employment cost advantage of about $70 per ton, which is roughly equal to the importation costs which Japanese producers must absorb.

Other factors being equal, therefore, Japanese producers might be able to deliver steel in the U.S. at prices equal to domestic prices and still reflect full Japanese production costs. However, the Japanese cost structure would not permit them to offer a discount in the U.S. market. The area of greatest uncertainty for domestic steel companies in 1977, therefore, is whether U.S. public policy makers will permit a continuation of foreign below-cost pricing tactics.

THE WORLD SUPPLY/DEMAND OUTLOOK: 1977–1985

Steel producers in Japan and Europe entered 1977 with considerably more capacity than they needed at current levels of domestic consumption and export demand. This situation was brought about in part by the unusual severity of the decline in worldwide steel demand beginning in 1975. The situation was compounded by government involvement in the steel operations of these countries which led to greater commitments to new capacity at the peak of the cycle and slower cutbacks when demand turned down than market forces would have dictated.

Realistically, foreign producers have only three ways to resolve this excess capacity situation. One is to hope that worldwide demand will recover; however, given present capacity levels and a minimum estimate of new commitments, it is unlikely that worldwide demand will be sufficient to support world capacity in the near term and possibly not until 1980. Failing a sufficient recovery in total consumption, the second alternative is to increase exports, which can only be accomplished by capturing business from other producers. It is unlikely that more exports can be forced into the consuming nations outside North America; these nations have low costs in their home markets and/or use rigid import quotas to protect their domestic industries. Therefore, the U.S. market will be the principal target of any increase in exports from Japan and the EEC.

The third alternative is for Japanese and European producers to retire existing capacity at a more rapid rate than projected. However, accelerated retirements will be bitterly opposed by those whose political and economic interests are involved.

In essence, foreign producers will face a basic confrontation between unprofitable operations, early retirements, or increased export shipments to the U.S. While it is impossible to predict the degree to which each of these alternatives will be followed, the prognosis of substantially increased imports into the U.S. is unavoidable given the historic practice of foreign producers of exporting at any price they can obtain above variable costs and given the fact that it is uneconomic for U.S. producers to meet these prices.

Substantially increased import penetration—which could conceivably increase to 30 percent of the U.S. market—would further impair the profitability of domestic producers and curtail the addition of capacity which the U.S. economy will need after 1980. The U.S. cannot depend on foreign producers to add capacity for the U.S. market either, because the low prices which are necessary in the short run to enter the U.S. market will not support new or even replacement capacity in the long run.

As a result, the U.S. economy will be extremely vulnerable to a steel shortage, which could emerge any time after 1980. In fact, if domestic capacity is not built, the U.S. can be virtually certain of a major shortage between 1980 and 1985.

POLICY IMPLICATIONS

The Free World's large steel producing areas—the U.S., Japan and the EEC—face a precarious situation during the 1977–1980 period. The stakes are high. The political and economic strategies adopted by steel producers and government policy-makers in each nation will have a considerable bearing on the health and international competitiveness of their respective steel industries, and on the long-term supply and price of steel which will be available to their respective economies.

Policy analysis must give consideration to the unique characteristics of the steel industry. First, it supplies a product vital to any industrialized economy. No modern nation, for security reasons alone, would be willing to rely exclusively on foreign sources for a large portion of its steel. Second, the amount of capital necessary to build and maintain a domestic steel industry is large, and often exceeds the level that private sources are willing to invest. Thus government involvement, both direct and indirect, is a common occurrence in the world steel industry.

Third, because of its early position in the overall production process the steel industry is more influenced by economic fluctuations than most industries. There are several levels of inventory adjustment that amplify normal economic cycles for the steel industry. Finally, it is important to understand the lead times needed to install steelmaking capacity. Several years are needed to engineer and install new capacity at an existing facility and five years or more may be needed for greenfield additions. Any miscalculation in capacity planning that results in a steel shortage cannot be quickly corrected.

The growth of steel imports during the 1960s constrained the growth of shipments by U.S. producers, thereby inhibiting productivity improvement, profitability, and investment in new capacity. Faced with a new wave of import penetration in the late 1970s, a similar result is likely. Therefore, if U.S. customers want more imports in the short run, they must also be willing to accept the consequences of greater reliance on offshore sources in the long run. Specifically, further import penetration will inevitably undermine the ability of U.S. steel industry to fill any void created by a reduced supply of imports under shortage conditions.

In addition to the potential economic impact of a future shortage, our national policy on steel trade should also give consideration to some of the more immediate consequences of a rising level of steel imports on jobs and trade balances.

Regardless of the short-run bargain we may be getting on imported steel the behavior of world steel producers reveals two realities about which we can be fairly certain in the future. First, foreign producers in time of excess supply will sell steel in the U.S. at prices which domestic producers cannot meet and still fulfill the profit and capital formation requirements of operating in the U.S. political and economics system. Therefore, in the absence of a coordinated policy to the contrary, the U.S. economy will become increasingly dependent upon imported steel during the period 1977–1980.

Second, the impact of a future steel shortage under conditions of heavy reliance on imported steel would be intolerable, given any reasonable alternative. Even if the nation is willing to accept the major losses of steelworker employment and adverse pressure on our trade balances which greater dependence on imported steel would entail, the ultimate risk to the U.S. economy inherent in this dependence is unacceptable.

NAVY'S PLANS TO BUY THE CTX AIRCRAFT

Mr. GOLDWATER. Mr. President, the fiscal year 1978 Department of Defense authorization bill authorized Navy $21.6 million for 22 CTX light utility transport aircraft.

These aircraft were a conference issue since the House in its bill had not approved Navy's authorization request. The House Armed Services Committee's report expressed concern that Navy had not fully defined the requirement for this aircraft and had not yet determined the type of aircraft to be purchased. However, the House report did point out that Navy witnesses indicated they wanted to have a free and open competition and that they expected five different companies to respond when the request for proposals was offered.

During the conference, there was much discussion about whether this procurement should be sole source or an open competition. It was my opinion, having participated in all of the discussion on this aircraft during the conference, that the conferees were unanimous in their understanding that this would be an open competition.

When we brought the conference report back to the Senate, Senator METZENBAUM and I, on July 14, engaged in a colloquy with Senator STENNIS to make sure there was no misunderstanding about the point of open competition for the CTX aircraft. Senator METZENBAUM, a strong advocate of free and open competition, was especially concerned that possibly procurement of the CTX would be sole source.

Mr. President, I ask unanimous consent that the colloquy referred to be printed at this point in my remarks.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. STENNIS. Mr. President, I thank the Senator from Texas for his very fine, effective service all the way through the bill, including the conference, and with the other conferees.

I have never seen, I do not believe, as complete and total participation, week after week, by every conferee there from both the House and Senate.

Mr. President, the Senator from Ohio has a matter here, and I am glad to yield to him for such time as he wants. I have certain papers in my hand he may need.

Mr. METZENBAUM. I thank the Senator. I appreciate the courtesy of the Senator from Mississippi who, in his usual way, is always very courteous to all the other Members of the Senate.

I have long addressed myself to my concern with respect to military procurement and the failure to use competitive bidding. I did that when I had the privilege of serving on an interim basis on the Armed Services Committee. I have done it in communications to the Secretary of Defense. I have done it at every opportunity, because in the past as little as 8 percent of all the procurement of the military has been done on a sealed bid competitive basis, and as much as 92 percent has been without true competitive bidding, and about 22 percent of that 92 percent was on a negotiated competitive bid.

In looking over the report of the conference committee on this subject, it came to my attention that there was an item involving an authorization of $21.6 million—not a very large item as items in a military authorization bill go—for the purchase by the Navy of 22 CTX aircraft.

As we read the conference committee report, this item was discussed a good deal at the conference committee. But the final report language is unclear on one key point.

(Mr. STONE assumed the chair.)

Mr. METZENBAUM. It is a fact that the CTX is to be an off-the-shelf aircraft. It would seem to me the best way to spend the taxpayers' dollars would be for the Navy to procure the CTX through price competition, through competitive bidding.

I ask the distinguished members of the Armed Services Committee who contributed in the conference if it was the intent of the conference report that the CTX be competitively procured?

Mr. STENNIS. Yes. The Senator is certainly correct.

In response thereto, I will read from the pertinent part of the conference report, the language exactly as it is in the conference report. It reads—

"The program was discussed at length—"

Meaning the $21.6 million program the Senator referred to:

"This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf turboprop light utility transport aircraft.

These are small, light transport aircraft for the services. I wanted us to hold the money down on this any way we could and not go into new design or anything that was plush. This language was finally agreed upon. To me, it could not mean anything except that they buy this off the shelf, from whomever they see fit, as long as it is a turboprop and meets the other descriptions that are used.

Mr. METZENBAUM. Does the distinguished Senator from Mississippi interpret that language to mean that the military will be expected to purchase, on a sealed bid competitive basis, these turboprop airplanes, since they are off the shelf, and does the off-the-shelf reference imply that they are to be procured in that manner?

Mr. STENNIS. I will come back to that. Except for the words "sealed bids," I am not sure that they do not have to be accepted procedures in the law for doing it without sealed bids. It certainly would be my expectation that they would do the best to make a dollar go as far as they could, but stay within this class of planes, off the shelf, so that there would not have to be anything special made at a high cost; and that would be in compliance with the law.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. GOLDWATER. Mr. President, I am glad that the Senator from Ohio has brought this up, because I think we have made it perfectly clear on the floor that this is to be competitive bidding.

During the conference, I tried to use the language of our Senate report, which states:

Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

I objected to that, because if it is common, it means there is only 1 aircraft that can be bought, and that is the Beech aircraft.

This language would have steered the CTX procurement to the Beech C–12 A—commercial model A–200—meaning a sole source procurement.

My language, which I recommended and which I thought had been adopted—but after I left the conference, it had been changed—was as follows:

The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

So I would like this colloquy to show that it is abundantly clear that competition will be held.

I point out that there is the Cessna Co., two models of Beech, the Fairchild-Swearingen Co., and the Arava 201 STOL Transport.

The CTX aircraft will provide direct administrative, logistics, and operational support to all fleet commands, shore facilities and research organizations. It will replace many of the 20- to 30-year-old reciprocating engine aircraft currently performing this mission. In briefings provided to the committee. Navy indicated CTX would be a competitive procurement of a commercial off-the-shelf FAA-type certified aircraft. The planned total procurement is 66 aircraft to be bought at the rate of 22 per year over fiscal year 1978, fiscal year 1979 and fiscal year 1980.

The authorization bill approved 22 CTX aircraft and recommended an authorization of $21.6 million for fiscal year 1978.

The issue is whether Navy will now buy these 22 aircraft sole source from Beech—who now has an on-going contract with Army/Air Force for the C–12 to fill the CX/UX requirement—or whether it will advertise for competitive bids to meet the CTX requirement.

The potential bidders for this aircraft are: One, Cessna Conquest; two, Fairchild-Swearingen Metro; three, Beech Model A–200 (C–12A); four, Beech Super King Air Model 200; five, Arava 201 STOL Transport.

Navy stated its general requirements for a CTX were as follows: One, Off-the-shelf Commercial Turbine Powered; two, Max TO GW 20,000 pound; three, 1000 NM Range/2000 pound; four, 8–18 PAX; five, 235 KTAS Min; six, 66 Aircraft—31 sites—To replace 117 UE old recips; seven, accel/stop less than 4,000 foot maximum; eight, consider DOD inventory; nine, small cargo door—40 inch by 48 inch pallet/occupied litter.

The argument that savings can be made if Navy buys the C–12A does not hold water. Since this aircraft will be contractor supported and maintained and the contractor will provide the training, all as part of the purchase price, there will be no common supply system or training system between the three services. Some savings would be possible if the services were going to maintain the aircraft and train all maintenance and air crew personnel.

Consequently, there will be no Government inventory of spare parts, special tools, overhaul facilities, and training facilities.

Referring back to the CX/UX competition, the word unofficially is that in the original evaluation of the Cessna Citation, Lear Jet, Swearingen, and Beech proposals, the Beech was rated fourth. Subsequently, when Congress directed Army to produce a turboprop aircraft only, Beech ended up as the only bidder because Swearingen at that time was having financial difficulties and was being taken over by Fairchild and did not bid a second time around.

The Senate report stated that:

Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

This language would have steered the CTX procurement to the Beech C–12A—commercial model A–200—meaning a sole source procurement. Your proposed language for the conference report as follows:

The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

This language was not accepted.

The final language adopted in the conference report is as follows:

This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf, turboprop, light utility transport aircraft.

Mr. President, I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits, it will be done that way.

Mr. STENNIS. I thank the Senator. I do not know what he was reading about the specifications. I do not understand that. I am just passing on the words, that it is wide open to be competitive. As for the names that the Senator mentioned, any others who can meet the description would be entitled to bid.

Mr. METZENBAUM. Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?

Mr. STENNIS. It certainly is clear here. I certainly thought at the end, where the conferees wrote in the language that the Senator indicated——

Mr. GOLDWATER. The language was not accepted. I left the room thinking it had been accepted, but after I left, it had been changed. I can read that language in the bill now. To me it is competitive bidding. But I want to pin it down absolutely.

Mr. STENNIS. I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements. But it does not give them any authority to have a new plane built, with new specifications, and to get a plush plane and come back later for more money.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. TOWER. Mr. President, my understanding certainly is consistent with that of the distinguished chairman, that this is to be competitive. I was part of the deliberations on this. That was the intention.

Mr. METZENBAUM. I appreciate the responses of the distinguished Senators from Arizona, Mississippi, and Texas. It is a step in the right direction. I commend the Senators who served on the conference committee for taking this step in the right direction.

Mr. STENNIS. I thank the Senator for his assistance while he was a member of the committee. We need him to come back.

Mr. METZENBAUM. I thank the Senator.

Mr. GOLDWATER. Mr. President, Senator METZENBAUM and I thought after that particular exchange that there should be no doubt in the minds of Navy officials that CTX should be procured through established competitive procedures. However, that apparently was not the case, because it recently came to our attention that there was a possibility that Navy would buy these aircraft as an add-on to Army's ongoing C–12 procurement. This particular buy is in support of the Army and Air Force light utility transport requirement. The fiscal year 1978 House appropriations report on the defense bill stated that Navy should for its CTX requirement buy an aircraft that was common to Army and Air Force. This would make sense and would be the best course of action for the Government if the C–12 was a Government supported and maintained aircraft. However, that is not the case since the aircraft buy includes contractor support, which means that no savings are achieved as a result of having an aircraft common to all three services.

When Senator METZENBAUM and I heard that the Navy might buy the C–12 through Army, it was our opinion that such an action would be tantamount to a sole source procurement and not in the best interests of the Government and the taxpayers. We, therefore, wrote a letter to the Honorable W. Graham Claytor, Jr., Secretary of the Navy, expressing our concern over this matter.

I point out to my colleagues that Senator METZENBAUM and I have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures. That is the issue here.

Mr. President, I ask unanimous consent that the letter referred to be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 30, 1977.

Hon. W. GRAHAM CLAYTOR, Jr.,
Secretary of the Navy,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: It has come to our attention that the Department of the Navy is considering buying, through the Army and without competition, the C–12 aircraft to meet its CTX requirement. This letter is to affirm to you our position that the procurement of the CTX aircraft should be done only through established competitive procedures. We have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures.

As you know, the fiscal year 1978 Department of Defense Authorization Conference Report authorized funds for "an off-the shelf, turbo-prop, light utility transport aircraft." However, since there had been some question as to the type of procurement the conferees intended, on 14 July we engaged in a colloquy with Senator Stennis on the Senate floor to clarify the intent of the Conference Report. In the colloquy, Senator Metzenbaum asked Senator Stennis, ". . . if it was the intent of the Conference Report that the CTX be competitively procured?" Senator Stennis replied, "Yes. The Senator is certainly correct." Further on, Senator Goldwater stated that the purpose of the colloquy was, "to show that it is abundantly clear that the competition will be held."

Senator Goldwater also stated, "I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits [sic], it will be done that way." Senator Stennis responded, "I am just passing on the words, that it is wide open to be competitive." Following up on that, Senator Metzenbaum then asked, "Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?" Senator Stennis replied, "It certainly is clear here." Senator Goldwater then stated, "To me it is competitive bidding. But I want to pin it down absolutely" and Senator Stennis replied, "I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements."

Mr. Secretary, even the most casual reading of the entire colloquy can only lead one to the conclusion that it was the intent of the conferees that the CTX be procured through competitive procedures. In fact, this is the only legislative history that points out the intent of the Congress on CTX. We bring this matter to your attention so that there is no doubt as to our feelings and no doubt as to the intent of the authorization conferees. We trust this will be a competitive procurement, but should you plan otherwise please contact us prior to proceeding.

Sincerely,

BARRY M. GOLDWATER,
HOWARD M. METZENBAUM.

IN SUPPORT OF SALT

Mr. KENNEDY. Mr. President, my good friend and colleague from Maryland (Mr. MATHIAS) shared with us on September 20 a very thoughtful report based on his observations of the Strategic Arms Limitation Talks in Geneva. I commend it and its recommendations to all of my colleagues, and to the administration which is now engaged in critical efforts to bring SALT II to a successful conclusion.

I join with Senator MATHIAS in his strong support for SALT—as well as his belief that "a broad national consensus is highly desirable" both in obtaining a SALT II agreement and in seeing it through ratification by this body. My colleague has made a noteworthy contribution to the consensus-building process, not only through his report to the Senate, but through an inclusive article written previously for the Baltimore Sun—which share with the public at large the need for SALT progress—including limitations on the missiles of concern to both sides, such as Soviet heavy missiles and our own cruise missiles.

I congratulate the Senator for his interesting and important contribution, and ask unanimous consent that his article, "A Senate View of the SALT Talks," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SENATE VIEW OF THE SALT TALKS

(By CHARLES MCC. MATHIAS, JR.)

We are entering a crucial stage in our relations with the Soviet Union. Detente is widely perceived in both countries as being at a low ebb. But on the basis of my recent observation of the SALT talks in Geneva, I am not without hope. Let me briefly report the bleak side first.

Washington is worried about Soviet involvement in Africa and uneasy about the Soviet build-up of conventional arms in Eastern Europe. Moscow rebels against the Carter administration's human rights campaign, is testy about our relationship with the People's Republic of China, and convinced we have reneged on agreements made by previous administrations.

Our allies in Europe, too, are uncertain we know precisely where we are going. A critical challenge for the United States is how to reconcile our bilateral SALT discussions with the Soviet Union to our responsibilities in NATO. Though we have tried to keep our friends fully conversant with our SALT positions, there are still apprehensions that the U.S. and the U.S.S.R. will sign a deal prejudicial to the interests of our allies.

Many Western European governments feel they are hearing unclear and even contradictory signals from the Carter administration. There is, I feel, genuine lack of understanding of our foreign policy. We, in turn, are uncomfortable about the possibility of Communist participation in the governments of Italy and France. These tensions have created a mood of uncertainty which has hampered the NATO command in redressing the im-

balance between the Warsaw Pact and NATO forces.

Despite this depressing litany of obstacles, the SALT talks are one area, I am convinced, where a mutually beneficial Soviet-American agreement is still possible. Certainly, if the negotiations collapse, the gamut of Soviet-American relations would have to be re-examined.

In Geneva, the U.S. negotiators are serious and meticulously judicious in the negotiating process. They told me that the Soviets are also approaching the issues seriously. Much already has been accomplished, though some very contentious issues remain. It is possible that an agreement will not be reached by October 3, the expiration of SALT I. This would not necessarily be fatal; some means can be found to cover the intervening period before a SALT II document can be signed.

In this country, a debate is raging over whether the Soviet Union's goal is to achieve a "war-winning capability" in strategic weapons. This is not as all-important as it might seem if the Soviets continue to believe that the U.S. retains a capability of inflicting unacceptable retaliatory damage on the Soviet Union in a nuclear exchange. Any agreement must assure that we have that capability. And it is possible, I am persuaded, to fashion such an agreement.

The Soviets, of course, are not impressed with the purity of our intentions. They fear that our technological superiority may, at any given point, provide us with strategic superiority. Here in the U.S., enormous pressure is developing to counter the heavy ICBM capability of the Soviets with programs calling for rapid deployment of an MX mobile missile system and ground-launched and sea-launched cruise missiles with strategic capabilities.

These programs, if unwisely and prematurely pursued by the United States, could doom the strategic arms talks. There will be ample time, if the SALT negotiations fail, to make hard decisions on the MX system and on both cruise missile systems.

It is especially evident to those closely associated with the SALT talks that a broad national consensus is highly desirable. Unity is not only important to us as a nation, but a perception abroad of our unity is important.

On a political level, treaty ratification requires 67 votes in the Senate. This means Republicans as well as Democrats must support the ratification process. Republicans will invariably find it easier to be supportive if SALT is perceived as a continuing national policy bridging parties and administrations and if prominent members of the previous administration—including former President Ford and Henry Kissinger—are behind a SALT agreement at Geneva as a follow-through to their own efforts at Vladivostok. The country would be reassured, too. With sensitivity and common sense in the conduct of the negotiations, both of these leaders should continue to be considered as members of the country's team and give their stamp of approval to the final agreement.

Before such an agreement is obtained, there are issues which the administration should be aware will receive particularly careful Senate attention in any ratification process. These are:

1. The heavy-missile program of the Soviet Union is of concern. Any agreement should put a cap on this program and point clearly towards eventual reductions in a SALT III agreement.

2. The issue of verification is vital. The Senate must be persuaded that the entire agreement is verifiable within acceptable limits.

3. Arising from the verification issue is the question of data base. The SALT negotiations have been conducted using our terminology and numbers. This must stop. It is time for the Soviets to be more forthcoming in providing their own data on their force levels.

4. It is most important that the Senate be convinced that issues, such as Cruise and Backfire—which are now being discussed only at senior levels—ultimately are given the same careful across-the-table examination that issues being handled at the delegation level are now receiving. Nothing could doom an agreement quicker than the impression that parts of it, were arrived at in haste.

Finally, the administration must pay close attention to the sensitivities of our friends in Europe. Our signals to them must be clear and consistent. We cannot promote the Cruise missile to them while at the same time discussing with the Soviets how we might restrict use of the missile by our allies. This is the time for American leadership and understanding, not rude shocks.

We stand at a crossroads. If an agreement is not reached shortly, we could well be forced to take uncharted roads through hazardous minefields. We must ask the right questions in a nonpartisan spirit. There must be an agreement which, first sets the ceilings on strategic arms and, second, firmly points the way toward critical reductions.

GIFFORD NIELSEN, ALL-AMERICAN QUARTERBACK

Mr. HATCH. Mr. President, I would like to take a few moments of time to tell my colleagues about an outstanding young man. Gifford Nielsen, the quarterback of Brigham Young University's football team has to be considered one of the finest young men in college today. He is not only a gifted athlete, but an outstanding credit to the school and community he represents. After a record-breaking year last season, one in which he was named to the Football Writers of America All-American Team, Gifford has continued to rewrite many of the record books. In three games so far this season he has led his team to three impressive victories. While averaging only a little more than half a game, he has compiled some pretty impressive statistics. He has completed 76 passes in 108 attempts for 912 yards and 13 touchdowns. I am especially proud of this young man for he comes from my home State of Utah and attends the same university that I had the good fortune to attend some 20 years ago. I ask unanimous consent that the following article from this year's edition of "National Collegiate Athletic Association-Football Records" entitled "Local Boy Hits National Scene" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOCAL BOY HITS NATIONAL SCENE

On a clear day from the top of BYU's press box, quarterback Gifford Nielsen can re-live all the important events of his life.

Using his gifted passing arm to pick out special points of interest from the panorama of Utah Valley, the Cougar All-American can recall the major happenings of his life in Provo, Utah.

Dubbed "happy valley" by cynics who like to chide the residents for their tranquil life style, Utah Valley is bordered on three sides by the Wasatch Mountain Range and on the west by Utah Lake. Its a long, picturesque valley. But all of the great happenings in Gifford's life have taken place within a one-mile radius of the football stadium itself.

Like. . . .

Utah Valley Hospital where Gifford was born, and where his year-old daughter Kacey was born . . .

Provo High School where Gifford graduated with honors . . . where he won three letters in golf . . . where he won all-state and All-America honorable mention as a wishbone quarterback for the Bulldogs . . .

The campus of Brigham Young University, where his father Stan was a former basketball star for the Cougars . . . and where Gifford decided to enroll after being voted the outstanding prep athlete in Utah . . . where he won two varsity letters with the Cougar basketball team before deciding to concentrate his energies in football . . .

Now, moving further east to the foothills of the 10,000-foot Wasatch Range and the Provo Temple (of the Church of Jesus Christ of Latter-day Saints) where Gifford and his high school sweetheart, Wendy Olson (a former Provo High cheerleader), were married. The Temple is only a short walk from the apartment where Gifford. Wendy and Kacey now live.

"Looking back now on those chapters of my life," recalls the Giff rather philosophically for a 22-year old senior, "it appears I've covered a lot of ground in a relatively short distance, so to speak. And there is still more to come."

As an All-America selection (Football Writers of America) last year and a Heisman Trophy candidate this year, he faces the most important year of his career. And much of the drama for 1977 will be played out on yet another familiar site, the grassy turf of BYU Stadium.

There was a time in his sophomore season, however, when Nielsen felt he wasn't going to see any playing time at all. He watched the first two games of the 1975 season from the bench. In the third game (Arizona State) he was inserted for a brief period, netting only 21 yards on two carries and 11 passes attempted.

Then came one of the dramatic moments in BYU football history. In the fourth game (New Mexico) with the Cougars trailing in the fourth quarter, Gifford came off the bench to complete 10 of 12 passes (WAC single game record) and engineer a come from behind victory.

The Cougars caught fire under Gifford, winning six of their eight final games. Despite the fact he saw little action in the first four games of '75. Nielsen finished the year as the nation's number ten passer.

Last year after suffering an inexplicable loss to Kansas State in the opener, the Cougars bounced back to win nine of their 10 regularly scheduled games. With superb support from his teammates, Nielsen went on to post several records. He wound up as the nation's leader in touchdown passes and passing yardage, and his performance in several games were season highs (28 completions on 48 attempts for 468 yards against Utah State).

Nielsen has more than just a good passing arm. He is a gifted leader who remains cool under pressure, and is very competent field general.

"He reminds me a lot of Roger Staubach," says offensive coordinator Doug Scovil (who coached the Navy star who won the Heisman). "In that you can tell him once to do something or make adjustments in the way he does things and he complies. You don't have to waste a lot of time trying to pound something into his head."

The Giff also gets some high marks from Coach LaVell Edwards:

"There's no way we should have completed the winning pass against Arizona (43-yard TD pass in a rain storm with :03 left on the clock), except the guy is a winner. He scrambled until he found a receiver, knew exactly where the line of scrimmage was, then put the ball right where it had to be at the precise moment. If there's one guy you'd like

to have when the going is tough, it's Gifford."

Edwards can be thankful the kid from Provo, who followed BYU sports regularly as a youngster, elected to stick with football. Even though Nielsen scored 24 points in the final game of his sophomore year with BYU's varsity basketball team, he did not look very impressive in the Cougars' football drills that fall. But when he came off the bench to salvage the New Mexico game, there didn't seem to be any question of who BYU would be starting at quarterback.

But then, Nielsen's career could have gone in another direction too. He is an excellent golfer, frequently shooting par on the local courses. But the Cougars already had a Johnny Miller, and what they needed most was a football hero. They found one in Gifford Nielsen.

GIFFORD NIELSEN—HEISMAN CANDIDATE

If he's not a pro prospect, there aren't any—New Mexico's Bill Mondt

"Nielson gave us fits. We tried to mix it up, put pressure on him by blitzing, then dropping back to get double coverage whenever possible. But nothing worked. He's the best quarterback, we've seen this season (this includes Jeff Dankworth and Joe Roth)."—Frank Kush, Arizona State

"I think Gifford Nielsen is a more dangerous passer than [Tommy Kramer]. We tried more things defensively to stop Gifford than we have against any other quarterback.

"Nielsen has an uncanny ability to find a receiver when he is under pressure. He has great receivers, but Gifford hit a lot of passes that 'just a good passer' wouldn't have hit."—Tom Lovat, Utah

"We put a lot of pressure on him [Nielsen], and he still made the big plays."—Sark Arslanian, Colorado State

"He's the same type of young man Roger Staubach was at the Naval Academy. [John] Brodie was a super leader, and likewise with Giff and Roger. Nielsen does it in a quieter way than some others, but it's equally effective."—Doug Scovil (BYU quarterback coach who coached Staubach at Navy and Brodie with the 49ers)

"There's no way we should have completed the winning pass against Arizona, except the guy [Nielsen] is a winner. He scrambled until he found a receiver, knew exactly where the line of scrimmage was, then put the ball right where it had to be at the precise moment. If there's one guy you'd like to have when the going is tough, it's Gifford.

"Nielsen could have started in any one of four sports—baseball, basketball, golf, and football. We're sure glad he decided to concentrate on football."—LaVell Edwards, Brigham Young

LOCKHEED LOAN GUARANTEE IN RETROSPECT

Mr. McINTYRE. Mr. President, each of us, as Members of this body, are called upon from time to time to vote on issues that are difficult to discern on a public interest basis. Such issues can be best described as close calls. One such issue to me was my vote in 1971 in favor of the Lockheed loan guarantee. The arguments on both sides were almost equally impressive. On the one side was the question of the Federal role in our free enterprise system, and on the other the impact on jobs and many small businesses all standing to lose through no fault on their part.

I felt that the equities justified an unusual legislative action to aid a failing private corporation. At the time the Senate considered the loan I made my position clear, that the unique circumstances in that particular case called for unique action. I do not consider either my vote or the action by Congress as setting any future precedent in bailing out failing private companies. I believe it does set a precedent, however, that individual circumstances can on occasion justify what under normal conditions would be completely unjustified.

It is pleasing and of some relief and comfort to this Senator to see in recent days press reports that Lockheed has successfully turned the situation around and is no longer dependent on Federal loan guarantees for existence.

I believe the Sunday, October 2, 1977, Washington Post editorial aptly expresses what a number of us have felt during the last few years, and I ask unanimous consent, Mr. President, that the editorial entitled "Lockheed's Success" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, cost overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities. The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was attributable to various Pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

NATIONAL EMPLOY THE HANDICAPPED WEEK—OCTOBER 2-8

Mr. DOLE. Mr. President, this week has been designated as "National Employ the Handicapped Week," and I would like to bring this observance to the attention of my colleagues. The fact that we find it necessary to set aside a week and name it "National Employ the Handicapped Week" is unfortunate, for I think it indicates that we do not yet think of the handicapped as candidates for employment.

I think it points out that even though vocational rehabilitation services for disabled persons have been improved, the struggle is not over until that training results in employment, to the fullest extent possible. I realize that employment will not be feasible for every handicapped individual, but it is a legitimate dream for many.

It is our responsibility—not so much as Senators, but as a group of concerned, fairminded individuals—to encourage employers to hire the handicapped.

As my colleagues will remember, earlier this year regulations were signed to section 504 of the 1973 Rehabilitation Act. This section states that any organization receiving Federal assistance cannot discriminate against a person on this basis of a handicapping condition.

Section 503 of the same act stipulates that businesses having a contract with the Federal Government in excess of $2,500 must follow an affirmative action program for the handicapped. These provisions are a clear indication of congressional intent.

Last year, I introduced an amendment to the Tax Reform Act to allow an income tax deduction for the removal of architectural and transportational barriers. The amendment was approved. The deduction may be used for expenses, up to $25,000, which the taxpayer incurs when removing barriers from property used in his business or trade. I intended this as a strong incentive for employment of the handicapped.

I wish there was legislation to introduce that would encourage the elimination of mental barriers. I have discovered that the biggest barrier of all is the one we build in our minds. We often determine what a person can or cannot attempt, can or cannot accomplish. This is the disabled individual's biggest handicap.

I hope that "National Employ the Handicapped Week" will provoke us to recommit ourselves to the laws which this body has approved, and to renew our efforts to allow handicapped individuals equal employment opportunities.

CHILD HEALTH DAY

Mr. CHILES. Mr. President, by a joint resolution of Congress, the first Tuesday in October is designated as "Child Health Day." It is important to note that while that resolution was passed in 1928, we still have a long way to go in developing

a comprehensive set of health care services available to all children. If we have any hope for creating a healthy adult population, it is by working with children to prevent disease and promote good health habits.

Over the last few years we have been learning more and more that major causes of disease have to do with our lifestyles, with the foods we eat, the amount of alcohol we drink or tobacco we smoke, the amount of exercise we get. There is a lot we can do by educating our children about how their bodies work and what they can do to be healthy.

At the same time, there are many aspects of health care that need professional attention, and many things that can only be done with Federal assistance to States and localities. In this session of Congress we have already moved ahead with a comprehensive immunization program, and the authorization for a nutrition education program has been passed by the Senate and is in conference with the House. We also have before us a series of proposals to make significant improvements in the medicaid program for children, and we ought to make those improvements as soon as possible.

Mr. President, I have been investigating Federal child health programs for the last 2 years on the Labor, Health, Education and Welfare Appropriations Subcommittee. We have taken a "mission budget" approach to look at the full range of 13 programs all paying for direct medical services to children. We have found a lack of coordination among these programs, as well as gaps and duplications in the services provided. We have sought through appropriations actions to get these programs working better together, particularly to coordinate medicaid's early and periodic screening, diagnosis, and treatment (EPSDT) program with maternal and child health formula grants, community health centers, and the family planning program.

By looking at all these programs together, we were able to create a comprehensive immunization program a year ahead of the schedule proposed by the President, and without creating a new Federal agency. We figured out what the role of each of these programs was in delivering immunizations to children, and added it to the role of the Center for Disease Control in providing vaccines and public information. We then earmarked increases in each of these programs, adding up to a $40 million program, and gave the Assistant Secretary for Health overall responsibility to coordinate their activities. I think this is the kind of approach that can yield important improvements in child health without big expenditures and bureaucracy.

Mr. President, I would also like to call attention to the area of nutrition. More and more we have been finding out that poor diet is linked to major physical disorders. Unfortunately, we have very limited knowledge of the specific relationships between nutrition and health. We know even less about who is suffering from malnutrition and what types of programs are effective in developing better nutrition. This lack of an adequate base of knowledge has become apparent to me while investigating food stamps and the variety of maternal and child feeding programs.

We have made an investment of more than $6 billion a year with little information about what it will produce. I am, therefore, pleased to point out that the farm bill and Food Stamp Reform Act which the President has just signed contains an amendment which I introduced mandating the development of a comprehensive nutritional status monitoring system. The Secretaries of Agriculture and Health, Education and Welfare will have to get together and draw the scattered efforts of their Departments into a coordinated system to provide:

First. An assessment system, consisting of periodic surveys and continuous monitoring, to determine the extent of risk of nutrition-related health problems and where they occur;

Second. A surveillance system to identify treatable nutrition-related health problems in such a manner as to tie detection to direct intervention and treatment;

Third. Program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks of individuals and populations.

I am hopeful that this system will begin to develop a coordinated set of Federal nutrition programs which are clearly targetted on areas of high need and will yield definite results.

Mr. President, I mentioned before that our investigations have revealed four major barriers that are keeping the medicaid program from reaching its goal of early detection of disease among children followed by comprehensive treatment:

First, there is a lack of coordination among Federal programs, particularly between medicaid and the grant programs.

Second, the financial incentives to provide medical care for children are not as attractive as those for treating adults, so the mere availability of medicaid financing has not stimulated growth of enough provider capacity to meet service needs.

Third, many States do not provide coverage for basic medical services. The most glaring omission is dental care, which has the highest incidence of disease and lowest rate of treatment for poor children.

Fourth, many medically indigent children fall through the cracks of medicaid eligibility as their families go on and off welfare or because they are just a little above medicaid income levels.

President Carter has submitted a set of proposals, introduced by Senator RIBICOFF, called CHAP—child health assessment program—aimed at correcting some of these deficiencies. The CHAP proposals would help the financial aspect by increasing the Federal participation by 25 percent if certain specifications are met, tying comprehensive care to screening. They would help the eligibility program by keeping a screened child eligible for treatment for 6 months after he went off medicaid rolls, and by mandating coverage for children up to age 6 who meet income eligibility criteria but not other conditions of aid to dependent children. These are important improvements, and I think we ought to move ahead with them.

On September 24 I introduced several amendments to the CHAP's proposal designed to meet the other barriers. To get at the lack of coordination among Federal programs, I introduced an amendment requiring each State to designate a lead agency for child health in each county or health systems area. The lead agency would be responsible for developing comprehensive service networks and certifying that contractual arrangements for screening, referral, treatment, and followup were appropriate. In recognition of the tremendous variation among States and localities about who is best able to perform this coordination task, the States would have complete flexibility as to who would be designated. It could be a county health department, a community health center, a medicaid-EPSDT program, a maternal and child health program, a health systems agency or other organization. The goal of developing a comprehensive health service system for children is generally accepted, but it will never be achieved unless we give someone the public responsibility to do the job.

My second amendment mandates a study of minimum fees or capitation arrangements to overcome the financial disincentives for provider participation in the medicaid program for children. People from many States have told us that fees are set too low and that an increased matching rate would simply be used my many States to offset existing costs. HEW does not even have a schedule of what fees the various States allow for basic services. We need to find out what reimbursement structure will increase services without inflating prices.

The most obvious lack of coverage by States is for dental services. Study after study turns up statistics showing that 75 to 90 percent of poor children have dental problems, but less than 25 percent receive treatment. Sixteen States do not provide dental coverage under medicaid at all. The administration proposal exempts dental care from the mandatory set of comprehensive services, a step backward from the current EPSDT program. My third amendment therefore eliminates the exemption and mandates dental care coverage for all children below age 18. The amendment has been carefully drawn to limit the service to basic dental care and not mandate coverage for replacement of teeth and orthodontia when the purpose is cosmetic. This restriction is necessary to keep the costs in line.

Mr. President, I am aware that these program improvements will cost money—$100 million in this fiscal year, more in future years. As a member of the Senate Budget Committee I fought successfully to have room for these improvements in the budget resolution. When we examined what has been happening with health expenditures, we found that the share of the Federal health dollar de-

voted to children has declined since 1967. The incentives in the health system work against child health care, which is less expensive and less profitable than services to adults. The returns from these inexpensive services are so great, and the need for healthy children is such a high national priority, that both Houses of Congress have left room in their budget for this legislation, with the amendments I proposed, this year.

The occurrence of Child Health Day ought to be a strong reminder to Congress to move ahead on this legislation. We are not proposing a massive undertaking or seeking to solve all the problems at once. Rather, we have carefully analyzed the deficiencies of existing programs and drawn a careful program of corrective action. We are not promising more than we can provide. I hope Congress can move quickly to adopt these medicaid amendments and improve the health care available to all our children.

ISSUES OF TECHNOLOGY TRANSFER

Mr. JACKSON. Mr. President, I wish to call the attention of my colleagues to a recent article by John Barron in the October 1977 issue of Reader's Digest entitled "Soviet-American Trade: Trick or Treat?" This article is very helpful in clarifying the dangers involved in the determined drive by Soviet leaders and others in Eastern Europe to obtain American high technology, as well as critical products of this technology. Mr. Barron's analysis emphasizes the need for the executive branch to develop a sound national policy to contain the flow of American high technology and protect our national interests.

I ask unanimous consent that Mr. Barron's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET-AMERICAN TRADE: TRICK OR TREAT?

(By John Barron)

(Under the guise of détente—and in hopes of financial bonanza—huge quantities of Western technology and capital are flowing behind the Iron Curtain. After five years, it's time to tally the results.)

At first glance, it looked like a good deal for everybody. The Soviet Union urgently needed a modern air-traffic-control system to prevent recurring commercial plane crashes. American companies, able to provide the best system in the world, stood to realize millions in profit.

So, with government encouragement, U.S. firms in 1973 staged a Moscow exhibition to show the Russians the components and workings of a nationwide control system. Raytheon Company engineers drew a complete schematic design on wallpaper, after they were unable to find in all of Moscow a large enough sheet of drafting paper. The Russians eagerly took the designs and all other knowledge they could extract. Then, having enlightened themselves with the latest American technology, they invited a Swedish-Italian combine to build the system. The American companies, which had spent more than $500,000 educating the Russians, got nothing. The Soviet Union got a heretofore unavailable system which easily can be converted to air-defense purposes.

In recent years, the Red army has ominously outfitted its divisions in East Germany for a lightning lunge westward. The Soviet units can keep moving swiftly because they have at their disposal large numbers of heavy trucks to transport munitions, fuel and other war supplies. The latest of these trucks come from a great factory built for the Russians by American, West European and Japanese firms.

Rising now across the Soviet Union and Eastern Europe are scores of new plants and factories, some more modern than any in the West, many managed with sophisticated American computers. They will produce chemicals, automobiles, spare parts and numerous other goods that can be used for peace—or war. Their construction is being supervised by Western companies, and in many cases financed by Western capital.

TECHNOLOGICAL TORRENT

These are but a few examples of how the West is helping revitalize sick communist economies with infusions of priceless production know-how. Since the United States began doing serious business with the Soviet-bloc communists in 1972, the trickle of technology flowing eastward has swelled into a veritable torrent.

Why has this happened? Because, in pursuit of détente, the Nixon and Ford Administrations systematically weakened controls over the export of strategic goods and technology. Today, no agency or person in the West really knows what is going on or how much is being lost. "Policy and procedures concerning export controls are in a shambles," concluded a 1975 report authorized by Congress. "The U.S. government currently has no coherent rationale for controlling exports on national security grounds."

Similarly, nobody outside the Kremlin knows just how much money the West has lent the communists to rejuvenate their economies and fatten their already bloated military establishment. Swiss banking sources put the figure at $40 billion. Even allowing for inflation, this is 25 percent more than the United States lent West Europe under the Marshall Plan. And many of the loans have been made at artificially cheap interest rates that are tantamount to foreign aid. For example, from mid-1972 to mid-1974 the U.S. Export-Import Bank made available $469 million to enable the Russians to buy machinery, foundaries, factory equipment—all long-term loans extended at interest rates of 6 percent, at a time when Ameircan home buyers and businessmen had to pay 9 to 12 percent.

EUPHORIC EXPECTATIONS

The communist campaign to obtain foreign aid began in the early 1970s after Kremlin recognition that the Soviet bloc was falling further and further behind the West in overall industrial technology. Soviet science equaled Western science. But the woefully inefficient Soviet economy was increasingly incapable of translating laboratory theory into products from the assembly line. Soviet leaders could have cut back their ever-growing arms budget and loosened the bureaucratic fetters that prevent Russians from developing their own know-how. They chose otherwise. As Marshall Shulman, now the Secretary of State's adviser on Soviet affairs, put it:

"Rather than face the politically painful choice of instituting fundamental economic reforms, the Soviet leadership has opted for a massive effort to overcome its shortcomings by increasing the flow of trade, advanced technology, capital and management experience from abroad."

Soviet delegations began appearing at corporate offices in New York and at businessmen's luncheons, at Pennsylvania, Ohio and California factories, at aircraft plants, at receptions and parties all over the country. These delegations took great pains to create the impression that the Soviet Union represented an untapped market where huge, lucrative orders awaited American businessmen with the vision and daring to go after them. America, announced Soviet Ambassador Anatoly Dobrynin, could well become "Russia's largest trading partner."

Many Western specialists in Soviet affairs comprehended from the beginning what the communists intended—indeed, some of the most lucid warnings came from liberal academicians who could not possibly be accused of being cold warriors. Observed Marshall Goldman, associate director of the Russian Research Center at Harvard University: "American-Soviet trade is a relatively cheap way for the Russians to obtain our advanced technology. This technology is intended not only to increase Soviet economic productivity but its military capabilities."

Such words of caution, though, were lost in the euphoria and extravagant expectations that accompanied the dawn of détente. Secretary of State Henry Kissinger, for one, saw trade as a means of drawing the Russians into a maze of mutual interests that would make them less belligerent. The Chamber of Commerce of the United States and the National Association of Manufacturers claimed East-West trade would generate new jobs for Americans. Back from Moscow, PepsiCo board chairman Donald Kendall told the press: "The Russian consumers have money to spend and are ready to buy."

NO SALE

And so it began. Exploiting Western naïveté, goodwill and eagerness to enter the Soviet market, the Russians from the outset proved to be hard and sharp bargainers, often able to acquire invaluable technology or its fruits at a fraction of the original cost. One of the biggest technological steals occurred in the 1975 Apollo-Soyuz space shot. Zbigniew Brzezinski, now the President's national security adviser, correctly labeled this joint venture "a vehicle for the one-sided transfer from the United States to the U.S.S.R. of a technology that has obvious military applications." NASA technical specialists interviewed by Senate investigator David Rosenbaum were convinced the Russians learned much of importance from us, while we learned nothing useful from them.

The Russians also sought to acquire free technology by raising prospects of grandiose deals that were never to materialize. In 1973, for example, they suggested that they wanted to buy wide-bodied American jets and have Americans build vast aircraft factories for them. Despite Defense Department misgivings, the Nixon Administration allowed a Soviet delegation to tour the Lockheed, Boeing and McDonald Douglas factories—as well as aircraft-engine plants—ostensibly to discuss purchases running into hundreds of millions of dollars.

Among the Russians admitted to sophisticated U.S. assembly lines were at least four officers with KGB connections, and a general formerly attached to the Soviet bomber command. At all three aircraft plants, the communist visitors asked hundreds of extremely detailed technical questions about manufacturing equipment and processes. To some present, it was clear that they were far more interested in learning how to make wide-bodied jets than in buying them.

The Russians decided to concentrate on Boeing, and another Soviet delegation visited Boeing's Seattle plant in 1974. This time, though, a Russian secretly confided to an American host: "Look, we're never going to buy American aircraft. After forcing our own allies to buy Soviet planes, how could we possibly fly imperialist planes?"

Boeing officials (who had strictly followed government guidelines throughout) finally concluded that the Russians were unwilling to make any significant plane purchases and broke off negotiations. Declares Gus Weiss, Jr., a senior White House staff member who was familiar with what happened: "In my opinion, this was an industrial-espionage

operation, pure and simple, from beginning to end."

KAMA COMPLEX

U.S. industrial and military prowess depend heavily upon computer technology. We are in our fourth generation of computers, at least ten years ahead of the Soviets. It is difficult to conceive of any American purpose that might be served by assisting the Russians in narrowing or overcoming our lead. Nevertheless, the U.S. government has approved the sale of more than 70 modern computers, including some models employed here in sensitive scientific, military and intelligence undertakings. A $10-million computerized reservation system sold to Aeroflot in 1975 will improve the Soviet airline's ability to process passengers and compete with Western airlines. It will also enhance Aeroflot's ability to transport troops should the Russians decide to land forces in Eastern Europe as they did in 1968, or in the Middle East as they threatened in 1973. And a computerized reservation system sold to intourist last year will help Soviet secret police keep closer watch on travelers.

The communists additionally have induced the West to design and equip for them whole factories whose output can be put to military use. A notorious example is the $5-billion Kama River truck factory now being completed 600 miles east of Moscow. Encompassing 40 square miles, auxiliary factories and foundries and a whole new city of 500,000 inhabitants, the plant will be the largest single industrial complex in the world. It is designed to manufacture 150,000 three-axle trucks and 250,000 diesel engines annually—more than all U.S. companies combined.

Overriding Defense Department objections, the Nixon Administration in 1971 encouraged a number of American companies to participate in the Kama River project. About 80 U.S. firms eventually joined West European and Japanese concerns in supplying equipment and technology, some of it more advanced than any currently utilized in the free world. To ease the financial strain on the Russians, American lenders supplied much of the capital. And the United States authorized sale of a major computer system the Russians needed to manage the complex. Trucks for the Soviet "blitzkrieg regiments" now poised on the West German border come from the Kama River plant, and assembly lines there can easily be modified to produce armored vehicles.

One of the most wondrous fruits of American innovation is the semiconductor, a tiny silicon chip that performs work which formerly only a big computer could do. Semiconductor technology is the essential element in the hand-held calculator, the digital watch—and the laser-guided bomb. Future military strength will depend heavily upon this technology in which the communists lag far behind the United States.

Nevertheless, in 1972 President Nixon twice overruled his scientific advisers and approved the sale of semi-conductor technology to the communists. Subsequently, a West European concern supplied know-how for several semiconductor plants in Poland and helped set up another such plant in Romania.

SOMETHING COMMENSURATE

Much as they already have siphoned out of the West, the Russians are hungry for more. Party Secretary Leonid Brezhnev wants the United States to dispatch equipment, expertise and untold billions of dollars to develop Siberian oil and gas. He wants Western concerns to design and help build still more factories. Most of all, he wants even more advanced Western technology.

Last spring, President Carter blocked the sale of a powerful computer to the Russians. Yet the President says he is unconcerned about mounting Soviet indebtedness to the West, and adds that he favors increased trade. Thus it appears that the Carter Administration has not yet formulated a clear policy toward commercial relations with the Soviet bloc. The time to do so is now, for few issues confronting the United States are more urgent. As J. Fred Bucy, president of Texas Instruments, Inc., and a member of the Defense Science Board, warns: "By continuing massive transfusions of advanced technology, we ultimately will lift the level of the whole Soviet economy. We then will have to allocate a much larger share of our resources to armaments to offset the surge in communist military power we ourselves have made possible."

If the economic and security interests of the West are to be safeguarded, then the industrial democracies must agree upon a unified policy controlling the export of technology and capital to the communists. Such policy must emphasize the long-range welfare of the alliance above the transient commercial interests of any one country or private corporation. It must strictly prevent the gift of advanced technology which the communists cannot acquire except through costly and time-consuming expenditure of their own resources. Finally, the collective Western policy must, for a change, ensure that in return for what we give the communists, we receive something commensurate. After investigating post-détente Soviet-American trade practices, the General Accounting Office advised Congress: "There is no evidence that any Soviet foreign-policy concessions were sought or obtained by the Executive Branch during negotiations for the 1972 trade agreement or the 1974 long-term agreement, or in exchange for extension of credits or favorable decisions on export licenses."

As former Under Secretary of State George Ball puts it: "If we are to continue to act out the charade of détente, we must insist that the Soviets cooperate with us in solving common world problems."

IRISH FOREIGN MINISTER MICHAEL O'KENNEDY'S ADDRESS IN NEW YORK CITY

Mr. KENNEDY. Mr. President, the Minister for Foreign Affairs of the Republic of Ireland, Mr. Michael O'Kennedy, is currently visiting the United States as a member of Prime Minister Jack Lynch's newly elected government. In recent years, as the spokesman on foreign affairs for the opposition party in the Dail, Mr. O'Kennedy acquired an excellent reputation as a thoughtful and persuasive analyst of foreign policy issues, and I welcome the influential role he is now able to play on behalf of Prime Minister Lynch.

On Saturday, Mr. O'Kennedy spoke in New York City to the St. Patrick's Society of Brooklyn. In his address, he discussed at length the current situation in Northern Ireland and his government's policy in seeking a just and peaceful settlement and an end to the violence there.

Mr. President, all of us who are concerned about the continuing tragedy in Northern Ireland are hopeful that the efforts of Mr. Lynch and Mr. O'Kennedy will be successful, and that an early settlement may be achieved. I believe that Mr. O'Kennedy's analysis of the current issues will be of great interest to all Members of Congress, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ADDRESS BY MINISTER FOR FOREIGN AFFAIRS TO A RECEPTION HOSTED IN HIS HONOUR BY THE ST. PATRICK'S SOCIETY OF BROOKLYN AND EMERALD ASSOCIATION, AT NEW YORK, OCTOBER 1, 1977

Mr. Chairman, Reverend Fathers, Ladies and Gentlemen:

This is my first visit to the United States as Minister for Foreign Affairs of the Government of Ireland and I am honoured and delighted to have an opportunity to address such a distinguished gathering of Irish-Americans on my Government's behalf.

The St. Patrick's Society of Brooklyn is, I understand, the oldest Irish charitable society in the New York area and it has over many years brought comfort and relief to many in distress in this great city, and at the same time, has brought honour to the name of the Irish community in Brooklyn and throughout the metropolitan area. "Ar scath a cheile 'sea mhaireann na daoine"—"people survive through depending on each other"—is an old Irish principle of charity and welfare exemplified by this great Society and its distinguished president, Mr. Jim Moriarty.

The strength and variety of the Irish contribution to the life of America and particularly to the greater New York area are exemplified also by the Emerald Association who are our co-hosts tonight and by the wide spectrum of Irish-American organisations who are represented here by such distinguished leaders and representatives.

My first purpose here today is to bring to you, and to the Irish-American community at large, warm greetings from my Government and people and to assure you that my Government places a high priority on maintaining and developing the relations based on blood, common heritage and friendship which we have always enjoyed with you. I bring you particular greetings from a Government elected some three months ago and the message I bring is one both of hope and of confidence—confidence in our own capacity to deal with the economic and political situation with which we are faced.

In the first hundred days of our Government what we have done is to lay the foundations and the framework of an overall plan to deal with the realities of the Irish political and economic situation. I wish to tell you what it is we want to achieve and how we are setting about our task and I hope that as the years go on further opportunities will arise to report to you on the progress being made. In return I ask for your interest, your support and your understanding. The relationship between Irishmen at home and Irishmen in the United States has flourished on the basis of mutual trust and confidence and I, for my part, can assure you that that is the framework within which I intend, during my time in office, to work together with you.

We are a small country with a population much smaller than that of New York but we are proud to play our role as a sovereign State in the world. In doing so we know we have the support not only of our own people but also of the many millions of Irish descent around the world and, in an especially intimate way, the Irish in America. In another sense we feel that you in many ways represent us in America, and your success in American life and the recognition that your enormous contributions to your community here have been accorded have given us enormous encouragement over several generations in our efforts to establish a modern, just and prosperous community. "If we could do it in America, we can do it in Ireland" was a saying that summed up for

many Irish people the reason for their confidence about their own future. That remains true and valid today.

Notwithstanding the fall off in emigration from Ireland to the United States, I want to say that this should not in any way diminish our warm regard for you, the Irish-American community, or our commitment to maintain close contact and good relations with you on the basis of mutual trust and confidence. We welcome your visits to Ireland and the interest you take in what is happening there. I always feel that personal observation of Ireland gives an important insight into the developing situation there and hope that you will be encouraged by the clear evidence of success in the implementation of the programmes of my Government. While we must, as you will appreciate, take our own decisions, we welcome your concern and your constructive interest. Since my arrival here twenty-four hours ago, I have had the pleasure of meeting your distinguished Secretary of State, Mr. Vance, and I will, in the course of the next few days, be meeting with good friends of Ireland in the political life of your country and also with representatives of the principal Irish-American organizations. My purpose in these meetings is to listen to the American views on our relationship and in turn to give an impression of how we in Ireland see the way ahead.

Earlier this year we were greatly encouraged to see some of the principal figures in American national political life, themselves of Irish descent, coming together to give a lead to American and particularly Irish-American opinion on the tragic problem of Northern Ireland and here I would like to pay a special tribute on behalf of my fellow-countrymen to Speaker O'Neill, to Senator Kennedy, to Senator Moynihan and to the Governor of this great State of New York, the Honorable Hugh Carey. Irishmen of all traditions heard their appeal for an end to violence in Ireland and for support for negotiations and were encouraged by it. We were encouraged again and are particularly grateful for the interest of President Carter who in August issued a statement in which he called for a just solution to the problem of Northern Ireland which would involve both parts of the community there, would have the support of the Irish and British Governments, would protect human rights and would guarantee freedom from discrimination. We welcomed President Carter's statement for a number of reasons.

Firstly, it was a recognization by him of the essential and legitimate role of the Irish Government in finding a just settlement to the problem in Northern Ireland. Secondly, we welcomed his undertaking that in the event of such a settlement the Government of the United States would be prepared to join with others to see how additional job-creating investment could be encouraged. This offer is one which poses on us obligations to work with even greater determination towards finding a settlement and I hope that we, for our part, will not be found wanting. In response to the President's statement, my Government issued the following statement:

"President Carter's statement is a constructive development in American relations with Ireland and Britain and reflects the traditional generosity of the American Government and people and their interest in Ireland. The President has placed himself firmly on the side of very distinguished American leaders who, in the President's words, seek peace and reject violence.

"It is particularly useful to emphasize that the problems of Northern Ireland have many dimensions, of which any effective and realistic solution must take account. President Carter rightly underlines the importance of finding a just solution by peaceful means, which protects human rights, in which both parts of the community in Northern Ireland as well as the Irish and British Governments will be involved.

"The Irish Government also welcomes the renewed American commitment to continue vigorously to apprehend and prosecute those who violate U.S. law in the respect of supporting with financial or other aid organizations involved directly or indirectly in violence in Northern Ireland, irrespective of the political or religious sympathies of those involved."

We in Ireland appreciate this American commitment since, as you are no doubt aware, finacial and other aid from a minority in the Irish-American community in recent years has only delayed the achievement of the objective to which we all here and in Ireland subscribe. You yourselves will have realised that, after eight tragic years of violence, the small minority who have provided aid to the IRA is diminishing. I thank you for the part you have played in this process and appeal to you to continue the good work of explaining to your friends the many positive and constructive ways in which they can support the cause of Ireland.

Of course, there have also been external sources of aid to the loyalist para-miiltary organizations which have been involved in some of the most horrific and repulsive incidents of violence that the period has seen. In our talks this week with the British Government, we impressed on them the need to intensify their efforts to stop the material aid which fuels the loyalist campaign of violence.

We know that the responsible concern of many Irish-Americans played an important part in these developments. We thank you for this concern.

Let me tell you plainly what the position of my Government is in relation to the main political problem in Ireland. It is a central aim of our policy, and one which, I believe, we share with most Irish-Americans, to secure by peaceful means and through consent the unity and independence of Ireland. At our meeting with British Prime Minister Callaghan in London earlier this week, the Taoiseach, Jack Lynch, and I made clear our view that it was in the interests of all the people of Ireland, and of Anglo-Irish relations generally, to work towards coming together by consent and under agreed, negotiated structures. This has been and remains our long-term aim and it would be dishonest to pretend otherwise.

At the same time we recognize that, in the short-term, all of us in Ireland, regardless of the political tradition to which we belong—be it nationalist or unionist—must recognise that no real progress will be made without reconciliation and trust. I have spoken of the fundamental principle of mutual trust and confidence which forms the basis of the relationship between the Irish in America and the Irish in Ireland. The same principle must guide us in reconciling the different traditions in Ireland and we must work honestly and constructively to find a just solution by peaceful means.

We in the Irish Government recognise, as President Carter acknowledged in his statement, the economic dimension to the problem and we have clear guidelines within which we will work at national and international levels to support constructive moves which would contribute to improving the lot of the people of Ireland, North and South. I am glad to be able to report to you that at the meeting with Prime Minister Callaghan this week, the Taoiseach and I secured agreement with the British Government to take immediate steps together to increase economic cooperation between both parts of Ireland. Meetings will shortly be held to review current and proposed cross-border economic studies and to identify subjects and areas for further examination, with support from the European Economic Communities where appropriate.

This constructive step in the interest of all the people of Ireland and based on agreement secured in a spirit of mutual trust and confidence is, I hope, the first of many such steps some of which I hope will involve, in a supportive role, not only the European Economic Communities but also lay the framework within which the timely and generous offer of your President can be accepted. He has promised that in the event of a peaceful settlement, the United States Government would be prepared to join with others to see how additional job-creating investment could be encouraged.

I have spoken of the need for reconciliation and the basis of mutual trust and confidence which is fundamental to the process of reconciliation. No progress can be made without reconciliation and one of the greatest obstacles to reconciliation in Ireland in recent years has been the campaigns of violence—the violence of the IRA and the violence of the Loyalist para-military organisations. This violence has not and will not contribute to bringing the people of Ireland together. The Irish Government totally rejects the use of force towards achieving its aims and unequivocally condemns violence from whatever source it comes.

I invite you to examine the developments in Ireland and particularly the tragic events in Northern Ireland in recent years and draw your own conclusions. Violence has created distrust, fear and hindered progress at all levels. I appeal to men of violence and to their supporters: give it up. Your approach has not and will never work. At times, all of us, both at home and here in the United States, have been impatient with the slow, painful path of progress towards our objective. But this can never be a justification for embracing the violent path. I am speaking to you to-night as the representative of an Irish Government which has recently taken office with a strong mandate from the people of Ireland. We are entitled to the opportunity to try to fulfill the programmes which we have been elected to office to implement. Nobody has the right to thwart the mandate given to us so recently and so clearly. The way to unite the people of Ireland is by negotiation, by agreement and through peace.

However intractable the problem may now seem, Irish people of different views will hammer out a just solution recognising, as your great U.S. democratic system does, the richness and diversity which springs from the merging of different traditions. We confidently believe that Irish men and women can, while retaining a pride in and consciousness of our glorious past, can move forward within the framework I have outlined, to create a future of which all of us can be proud.

UNITED STATES TO INCREASE ENERGY IMPORTS

Mr. STONE. Mr. President, earlier during the Senate's debate on the matter of natural gas pricing, I raised the point that the United States is beginning to import natural gas supplies from other countries because domestic production no longer meets our needs. I pointed out the potential danger that the United States faces if we increase our dependence on unreliable, foreign sources of energy. Because of this potential danger, it is imperative that we provide effective incentives for greater domestic production of oil and natural gas.

The October 2, 1977, edition of the Washington Post included an extensive article on U.S. intentions to import large

amounts of oil and natural gas from Mexico. This article points to the fact that the Federal Government is likely to authorize the importation of natural gas from Mexico at prices greatly in excess of President Carter's proposed ceiling price for domestic natural gas.

It is unlikely a deregulated price for new domestic natural gas would be higher than the price the United States will have to pay for imported Mexican natural gas. This dramatizes the concern I have about the consequences of failing to encourage greater domestic energy production. Although the United States will most certainly need to import large amounts of oil and natural gas to fuel our expanding economy, it is unacceptable to me that we would not do everything reasonably possible to meet our needs through domestic energy resources.

CHILD HEALTH DAY

Mr. RIBICOFF. Mr. President, I was pleased to see that President Carter has designated today as Child Health Day. On this day we should pause a moment and think about the importance of healthy children to all of us. We often say that our people are our greatest asset. We recognize America's children as her future. Yet children who are denied their health, children who are denied adequate health care, are handicapped as adults.

In 1967 the Congress adopted the early and periodic screening, diagnosis, and treatment (EPSDT) program. This program aimed to improve the health of poor children in the United States. We set as a goal finding and treating those ailments that inhibit the child's future progress. Some health problems in children are relatively minor—if they are found in time. Some may require more extensive treatment. But it is better to catch these ailments in the child than to wait until they are crippling problems in the adult.

Unfortunately, the promise begun with the EPSDT program has not been completed. It took the Department of Health, Education, and Welfare 3 years to issue regulations for this program. It took some States longer to act.

A number of surveys and studies have made the shortcomings in the program evident. Only about 2 million of the estimated 12 million eligible children were screened in 1976. Twenty-two percent of those screened and found to need treatment do not get it. And in 34 States the program ignores 700,000 children under the age of 6 who are poor enough for medicaid but who do not meet categorical requirements.

On April 25, I was joined by Senators HATHAWAY and KENNEDY in introducing a bill to improve the early and periodic screening, diagnosis, and treatment program under medicaid. The child health assessment program would broaden coverage and strengthen our commitment to finding and treating health problems among poor children.

The administration's proposal is not perfect. It does not go far enough in encouraging coherent planning by the maternal and child health agencies in a State and the medicaid lead agency. These should work together when the goal is health services for poor children. We will have to examine closely just how coverage is defined. However, the bill does represent a step in the right direction.

An increase in the Federal matching rate for CHAP services will lessen the burden of medicaid services for children on the States. It will also be a recognition of the Nation's responsibility to the health of its poor children. We will look carefully at provisions for outreach to bring eligible children into the program. We need to emphasize case management to reduce the number of children "lost" between screening and treatment.

Congressman ROGERS has already held hearings before the Health Subcommittee of the House Interstate and Foreign Commerce Committee. Markup has not yet been scheduled. I am hopeful that the Finance Committee's subcommittee on health may find time for a hearing this year.

Mr. President, I ask unanimous consent that the text of the President's proclamation be printed in the RECORD.

There being no objection, the President's proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

This Nation was established to provide its people with the chance for better lives. Our early settlers and those who expanded the Nation westward bore their sacrifices and hardships with the assurance that in this free land future generations would enjoy opportunities still undreamed of.

The health of America's children today often determines what their future can be tomorrow. Over the years the number of deaths among babies has been drastically cut and we have made great strides toward eliminating the diseases and handicaps of childhood. We still have much to learn and accomplish, especially in the areas of birth abnormalities, child abuse, teenage alcoholism and drug addiction, lack of availability of medical care, and damage brought on by environmental factors.

But it is tragic for a child to die or endure lifelong handicaps from conditions we can prevent. Although such diseases as polio, measles, rubella, diptheria and whooping cough have been subdued for the time being they are not beaten. It is in our power to protect all our children, but nearly 40 per cent of those under the age of 15 are inadequately immunized. Some of these children will die or have serious disabilities and unborn babies will be permanently damaged from these preventable diseases and their complications.

No American child should die or suffer needless handicaps from diseases for which safe and effective vaccines are readily available. Neither should any child be deprived of adequate nutrition or a safe environment. While pushing back the walls of our knowledge and improving medical techniques may be restricted to scientists and medical expert, this is an area where every citizen can have an impact on giving our children the opportunity for better health, both now and in the years to come.

To encourage awareness of the fundamental necessity of a year-round program for the protection and the development of the Nation's health, the Congress, by joint resolution of May 18, 1928, as amended (36 U.S.C. 143) has requested the President to issue annually a proclamation designating the first Monday in October as Child Health Day and calling for its appropriate observance.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim Monday, October 3, 1977, as Child Health Day. I invite all Americans, as well as all agencies and organizations dedicated to the well-being of children, to unite on that day in support of activities that will alert each of us to our separate and collective responsibilities to protect and enhance the health of America's children and to provide them with the opportunity to live in safety and to grow up strong and knowledgeable about their own and their families' health needs.

In Witness Whereof, I have hereunto set my hand this twentieth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

IMPACT OF NATURAL GAS DEREGULATION ON CONSUMERS

Mr. KENNEDY. Mr. President, this morning the Antitrust and Monopoly Subcommittee convened a special session to focus on the implications of natural gas deregulation. That subcommittee has been looking at matters relating to the gas industry and the Federal regulatory machinery for almost a decade. In light of the heated debate on the Senate floor over the past weeks, we decided to look again at what deregulation will mean for the American public.

While we had extremely eloquent and persuasive testimony from Esther Peterson, the President's Assistant for Consumer Affairs, from Ralph Nader, and from utility commissioners of three States, the issue was joined most poignantly by our final panel. Joining mayors from Huntingburg, Ind., and Crystal City, Tex., were a number of concerned citizens from across the country: Ms. Dorothy Ryan, president of the Ohio State Council of Senior Citizens; Ms. Gale Cincotta from Chicago; Mr. Vincent Steffen, an Iowa farmer; Mr. David Garner from Carterville, Ill.; and Ms. Natalie Schneiderman, of Chelsea, Mass.

I wish that we had the transcript from that hearing already, because I think each of my colleagues would be interested in what these people had to say about how they and their friends and neighbors would be affected by the increase of natural gas prices that would be brought about with deregulation. Children would go cold. Older persons would be forced to choose between going hungry or sick or cold. Schools would shut down. Farmers would go broke. And the despair and hardship which hit so many last winter when the cold wave hit and the heating bills skyrocketed would be magnified and multiplied.

Two of our witnesses did have written statements, and they illustrate the force and emotion of the hearing generally. I commend these as examples of what I know to be the strong feelings in all parts of the country on this issue, and I ask unanimous consent that the statements of Ms. Schneiderman and Ms. Cincotta be printed in the RECORD.

There being no objection, the state-

ments were ordered to be printed in the RECORD, as follows:

STATEMENT OF MS. NATALIE SCHNEIDERMAN, CHELSEA, MASS.

Thank you for this opportunity to speak to you on the subject of deregulation of natural gas prices.

My name is Natalie Schneiderman. I am a lifelong resident of Chelsea, Massachusetts, a parent, and the person in my family who pays the bills. Because I do pay the bill, I have had the chance to watch gas bills in the greater Boston area creep up and then take off. Since seeing my fixed income eaten up by the gas bill, the light bill and the oil bill, I've been working with my neighbors in Chelsea and with people throughout Massachusetts to try and keep the bills down. We call our organization Massachusetts Fair Share, and we now have thousands of members throughout the Commonwealth working together to try and make sure that we all make it through next winter without ending up in the poorhouse.

For the past few weeks we've been watching the debate down here in Washington about deregulating natural gas. The most interesting thing I've seen is the attempts by the oil companies to convince the people that higher prices are good for them. As best as I can understand it, the oil companies are saying that if Congress lets them raise the price of natural gas as much as they can get away with, there won't be any more shortages.

In Massachusetts, we like to think of ourselves as some kind of national leader, and I'm forced to report that we already lead the nation in "enjoying" the "benefits" of deregulation. Since our gas companies use more imported Liquified Natural Gas than the companies in other States, we didn't have much of a shortage of *Natural Gas* last winter. Our gas companies (I say our gas companies because they are the ones we seem to be stuck with) simply bought more Algerian LNG, pumped it into storage tanks, many of which are located near by home, and sold us the gas at about a 25% markup. We didn't have a shortage of natural gas—we had a serious shortage of *money* to pay for the natural gas. We didn't have much of a problem of factories being closed down to save gas—gas is so expensive around Massachusetts already that factories with any choice at all don't use it. Mostly they heat with imported fuel oil. The oil companies which produce natural gas look like they're giving us a choice—either you don't get enough gas, or it costs too much to buy. Last winter a lot of places were on one side of this choice, and we were on the other side. It's a lousy choice.

Right now people in Chelsea and Boston who use gas for cooking and hot water end up paying between $30 and $50 every two months. My friends who heat with gas (and about one family in six does heat with gas) end up paying $100 per month or more during the winter, even when they only have a small apartment. And during the months that were the coldest when Boston Gas used a lot of imported LNG, the heating bills would jump $10.

Last winter, thousands of people couldn't keep up with their bills. Fair Share and others got most gas companies to agree not to cut people off during the winter. In Fall River, where, the gas company didn't agree to delay shut-offs, only sustained public pressure, and some federal money, avoided tragedies.

Since then, the Federal Government has had to give the utility companies in Massachusetts literally millions of dollars to pay outstanding bills for the poor and elderly. Those unlucky enough to be slightly too well off to qualify have been really hurt, as have the thousands of poor people who do not know about the government aid programs.

Meanwhile, the gas companies have been announcing record profits. Boston Gas collects every penny from those who can afford to pay, gets a big check from Uncle Sam for part of the bills it can't collect, and raises rates to the rest of us to cover anything that's left over. It's really a pretty good racket. The only problem with it is that there are a lot of people in Chelsea, Boston and throughout Massachusetts who don't know how they are going to find the money they need to heat their homes this winter.

Now we've been reading that you are considering "deregulating" the price of pipeline natural gas. Exxon buys time all around the evening T.V. news on all three networks to tell us that "deregulation" of natural gas prices is the best thing for us since fresh vegetables. The Mobile Oil Co. has been buying a lot of space in the Boston Herald and the Globe to tell us the same sort of thing. And a lot of Senators, mostly from states with pretty mild winters, I think, seem to agree with the oil companies.

Now "deregulate" is a long word, and everyone tells me that it's hard to figure out what deregulation will mean to a person living in Chelsea, Mass. I wish I could tell you exactly what deregulation would do to my gas bill. I do know for sure that if the price of natural gas is deregulated, my bill is going *up* not down, and I know that where I live, the bills are already too high. If you deregulate natural gas, you should be prepared to spend time during this winter finding federal money to give away to prevent people from freezing.

Now some people in New England have been saying that deregulation of gas prices would be good for our region. Since we use less natural gas than other areas, these people say, deregulation will hurt other areas of the country more than it will hurt us, so we'll get back some of the ground we lost when the Arabs and the Big Oil companies raise oil prices. This has to be the dumbest idea going around. It doesn't do me a bit of good to know that my gas bill went up less than someone in Ohio's did. I don't have trouble paying bills in Ohio—I have trouble paying my bills in Chelsea, Mass. As far as I can see we're all in this thing together—except that the oil companies are making out like bandits.

From where I sit, this whole deregulation business looks like fraud—the oil companies don't produce gas, create shortages, import foreign gas at outrageous prices, and then demand that you allow them to raise prices on domestic gas. We're getting to understand that getting robbed by an oil company isn't even page three news anymore, but the last thing we need is for Congress to legalize this sort of robbery. Deregulation is a big fraud—people who have to pay gas bills to keep warm, or to cook their food haven't been fooled. I hope that the U.S. Senate isn't fooled either.

TESTIMONY OF MS. GALE CINCOTTA, CHICAGO, ILL.

Across the country, community people are feeling the effects of another unaccountable force destroying our cities. This time, though, it is not coming from the banks or from HUD—but from the monopolizing energy industries. These giant industries provide us with our gas, oil, or electricity—for an exorbitant price. And how are we finding out about these rip-offs? It is simple. All we have to do is to look at our utility bills from these companies.

The energy industries and their stockholders are reaping the benefits from our soaring utility bills. Commonwealth Edison of Chicago reported profits of $241.8 million, a 16.9 percent increase over the previous year. People's Gas of Chicago reported profits of $113 million, a 17.6 per cent annual increase in profits, while their shares rose 39 per cent. Gulf Oil Corp.'s annual report shows that, "This year the grin is in", and that the smiles in the boardrooms are from ear to ear. Many companies, such as Northern Natural Gas Company, are advertising for more stockholders through campaigns about their increasing profits. All this demonstrates that the priority of the energy industry is their executives and their stockholders, while they continue to neglect their responsibility to the consumers of America.

Because of the rising utility bills in the winter of 1976 through 1977, people were forced to make a far-reaching decision—which bill to pay. In many cases, the utility bills were higher than the mortgage or rent. For the first time, many people were faced with not having enough money to pay all their bills. It has come to the point of choosing which is more important—a place to live, heat, or food. Many people had their homes foreclosed. Many resorted to eating garbage or dog-food. Many went without heat and became sick or died. As stated by David S. Schwarts, an adjunct professor in economics at Michigan State University Public Utilities Project in Bethesda, Maryland, "There is no protection for the consumer whatsoever."

This all leads to the destruction of our neighborhoods. People have had to abandon their homes because they could not keep up with the mounting bills. The Sallis family of Chicago had their gas shut off and then had their home foreclosed because of the mounting bills. This new cause of abandonment leads to the further decay of our nation's cities.

America has become so large that we forget where we come from, the grass roots. Thirteen disorganized colonies who demanded representation if there was taxation. A president who was born in a log cabin and issued an emancipation proclamation. A country that would respond to human need after a devastating war in the form of a Marshall plan. The strength of this nation has been that we always have had the belief in the rights and dignity of the grass roots people.

What is happening today in America is that the little people are being told that they do not count, they will be used as children in the Crusades, they will be the victims of big business.

Point: The Sallis family, 2217 W. Cortez, two children, income $12,400. Mr. Sallis was injured on his job. Their monthly mortgage payments were $155.60. Then came the winter of 1976–77, and the utility bill for January was $185, and for February $147. Without his regular income, the family could not pay both the heating bill and the mortgage. Today the Sallis family is renting an apartment, and I am sorry to say, the Sallis family have lost the American dream of owning their own home, because someone wanted to earn 17.6 per cent return on their money. The Sallis family is now on public assistance—not because of laziness, not because of an inherited public welfare syndrome, not because they want a free ride, but because of the profit motive of the energy industry.

Point: Mrs. Stanley Koziol, widow, senior citizen, with one son who was killed in the armed services. She receives $230 a month in social security. In February of 1977, her heating bill was $180. That meant she had $50 to live on. When people have spent their life working, and have given up a son for America, we ask them to live on $50 a month. Because of last winter's cold, Mrs. Koziol had to give up her home and move into a senior citizen's housing project and go on public aid.

Our government is telling the Sallis family,

Mrs. Koziol, and the American people: pay your taxes, give us your sons, and in return we will give you a gold star and high utility bills.

That, Senator Kennedy, is what led to the first revolution of America, when 13 colonies said they would not accept taxation without representation.

People do not know the difference between new and old gas. To them interstate and intrastate rates do remain a mystery. What people do know is cold showers and cold meals as pointed out in yesterday's New York Times article on Crystal City, Texas. As the Mayor of Crystal City will tell you, the people there are being charged $2.05 for a thousand cubic feet of natural gas. High prices for natural gas has reduced consumption there to zero. How many other horror stories will occur when the temperature goes below zero?

And what is the Senate doing but filibustering this debate of the Century on deregulation to death, and possibly leaving the question unresolved until they reconvene in January. By then there will be hundreds of people who literally have been filibustered to death without ever having had any input into this question of natural gas pricing. Who have had input and who have been allowed to make their voice heard in the halls of Congress? Certainly not the American people.

When National People's Action had 2,500 people in Washington on June 12 and 13, they attended Rep. John Dingell's House Subcommittee on Energy and won some hope of utility rate reform. Now we find that the Senate has killed that hope by refusing to federally mandate rate changes to reflect actual delivery costs of electricity and natural gas. And meanwhile, thousands of high industry lobbyists have persuaded members of the Senate to kill the Administration's proposal to continue controls on natural gas and extend them to the intrastate market.

Now we find out that the latest compromise is offering a ceiling of $2.03 per thousand cubic feet and no extension of controls to the intrastate market. What kind of compromise is that to the people of Crystal City, Texas, who cannot afford $2.05? This Senate debate is only serving to pit consumers against the industry. Our national energy crisis is rapidly becoming an energy civil war.

If there really were an energy crisis, we would all be working together. But instead the debate has centered on providing incentives to the energy industry to profit off America's energy problems. The Senate is forcing the people of America into a fight for survival, a fight for their right to heat their homes and feed their children. The Senate is not debating how to keep our schools and factories open. They are debating how many "incentives" the energy industry needs. But when you translate the word "incentives" into English and take it out of the hands of Texas oilmen who are talking about it as a bigger rate of return, "incentives" translate into higher profits. If there were an energy crisis, the Senate would be discussing hardships on people and not incentives for profit. How do you expect the American people to believe there is an energy crisis when there is no other incentives for the energy industry besides profit?

I ask you, Senator Kennedy, who is running this government? On April 20, 1977, when President Carter announced his National Energy Plan, he stated: "We must make it clear to everyone that our people, through their government, will now be setting our energy policy." Obviously, this was not clear to many members of the Senate who are more concerned with corporate contributions for their next campaign than whether their constituents are still alive to vote in the next election. Who is the Senate trying to kid? Is our government going to insure the American people's right to their own natural resources or is our government concerned with smiling faces in the corporate board rooms?

If the Senate condemns the American people to the unregulated price gouging of the energy industry, they are admitting that the energy crisis is a crisis of profit.

The Senate is condemning America to a civil war of profits versus people. A vote for deregulation is a vote for assuring the profits of a few at the expense of the good of the majority. The only alternative to prevent a crisis of confidence in the American government is to vote against deregulation and to reconsider lifeline legislation.

America has always prided itself on being a government of, by and for the people. This is the cornerstone of our entire human rights campaign. If we are to be about the business of insuring the human rights of Americans, now is the time for the Senate to tell the energy industry: "Ask not what your country can do for you, but what you can do for your country."

THE LIMITS OF THE LAW

Mr. MUSKIE. Mr. President, George J. Mitchell, Jr., recently confirmed as U.S. attorney for Maine, reflected last Law Day on the nature and limits of our Federal court system. His remarks pose the difficult question of the extent to which our judiciary ought to be a tool for social action. I found his conclusions extremely nourishing food for thought. His remarks were excerpted in the summer 1977, issue of the Bowdoin Alumnus. To share his view with my colleagues, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT ARE THE LIMITS OF THE LAW?

(By George J. Mitchell, Jr.)

Law Day is traditionally a time for lawyers to explain our judicial system to laymen, usually in glowing terms. However, there is a subject involving the law which, in my opinion, deserves more public attention and discussion than it has received to date.

I call it the limits of the law. Put in question form: Are we—the American people—trying to use the courts to solve problems they are not equipped to solve?

Beginning with the first administration of Franklin Roosevelt there developed in this nation a tendency to attempt to solve our social problems through the instrument of government, primarily the federal government. That tendency reached its peak during the administration of Lyndon Johnson. It has since declined in the face of negative public reaction over its failure to achieve all of its stated objectives. The result is that government action—in any form, at any level—is in public disfavor.

This is not entirely fair, in view of the many accomplishments during this period: reducing discrimination based on race, religion and sex; providing some degree of economic security for those most in need for it, particularly the elderly; expanding the right to vote to millions who had previously been denied that right; marshalling our collective resources to combat the modern scourge of pollution.

But what Mark Antony said of Caesar applies equally to government programs: the evil they do lives after them, the good is interred with their bones. Whether justified or not, a negative public reaction has set in, and as one result the effectiveness of government to deal with any new problem is impaired.

I now raise the question of whether we are in that first stage of glowing expansion with our courts and our entire judicial system. If so, do we run the risk of a later reaction which will impair the effectiveness of the courts to deal with those limited problems they were originally intended to deal with?

I have no magic solution to the problem. Rather, my purpose is to stimulate some thought and discussion on a subject that should concern us all. Consider three separate but related trends.

First, federal and state courts have taken over the operation of local jails in Boston, Baltimore, New York City, New Orleans, Jacksonville, Knoxville and Toledo; state prisons in Alabama, Arkansas and Mississippi; state hospitals in Alabama, Louisiana and Mississippi; and a school district in Boston.

Second, the United States Congress is in effect transferring to the federal courts the administration of a number of federal programs by dramatically expanding the jurisdiction of the federal courts and the concept of judicial review of executive action.

Third, the courts are being used increasingly as a means of achieving a form of absolute equality that threatens the traditional and honorable American pursuit of individual excellence based on reward for effort.

The first trend is the most serious and complex. Those who oppose the courts' action—mostly elected officials in the states involved—contend that the takeovers threaten us with a new form of dictatorship: by judges appointed for long terms, for life in the case of federal judges, not responsible to the electorate, making decisions on matters as basic as taxes and public services. There is something to that argument, but not much. For the reality is that in almost every instance, the courts have intervened only in extreme situations, and then only reluctantly.

Listen to this description which appeared in the *New York Times* of a local jail in Jacksonville: "Persons accused of crimes were placed in holding cells for up to two weeks, where they slept on tile floors or benches without bedding of any kind. The cells were strewn with filth, including human feces, urine and vomit. There were no bathroom facilities in two of the cells and those in the other three often malfunctioned. Often there was no toilet paper. Inmates never had a chance to shower, shave or brush their teeth in these cells and sleep was nearly impossible.

"They also found rats, mice and roaches. The jail had no windows and lighting was so poor that they couldn't read. Food was poor, and mostly cold. Medical facilities were inadequate. Muggings, robberies and homosexual rapes were common. There were no recreational or educational facilities, no visitors, mail was censored and few reading materials and little opportunity to consult with their attorneys."

Perhaps the most striking part of that description is the first four words: "Persons accused of crimes." In other words, the persons held in such conditions had not been convicted of anything; they had only been charged with crimes. Given such circumstances, can a court either legally or morally refuse to intervene?

Interestingly enough, very few of these court decisions have been appealed. The reason is that many public officials in such areas privately thank the federal courts while publicly denouncing them. Because neither the sheriff nor the mayor nor the governor nor the legislature wants to ask the taxpayers for money to improve conditions in prisons or in state hospitals. So when the judge says "Do it or you go to jail," they can do it and blame the courts.

There is no simple or immediate answer

to this complex problem. Certainly the courts must exercise great restraint in deciding where to intervene. If every situation is considered extreme, then of course nothing is extreme. At the same time it is clear that America's greatest treasure, her constitutional guarantees of individual freedoms, belongs to all Americans, including the poor, the retarded, the handicapped, those charged with crimes, and, to some extent, even those convicted of crimes. It is difficult for elected officials in a time of inflation and seething public resentment over high taxes, but if public institutions are to function at all, they simply must function within the framework of the Constitution.

The second trend is less serious and should be easier to resolve. The problem is that in recent years Congress has provided explicitly for federal court remedies and judicial review in virtually every new federal statute, from the Safe Water Act of 1974 to the Endangered Species Act of 1973 and the Older Americans Services Act of 1973. These and other similar legislative actions create new areas of jurisdiction for federal courts, whose time is increasingly consumed in what is really day-to-day public administration. Nearly 75 percent of all the business now before the United States Court of Appeals for the District of Columbia deals with civil litigation involving the federal government. That is obviously the highest percentage in the county because of that court's location, but the trend is similar throughout the country.

In a way, this trend is a tribute to the legal system, for it assumes that judges will act more capably and objectively than will legislators or executives. In reality, judges are no better equipped than either legislators or executives to resolve the complex and conflicting demands in a large diverse nation.

Just as the judiciary must exercise great restraint in deciding when and where to intervene, so must the Congress sharply reduce its tendency to dump all difficult social problems on the courts. As unwieldy and unsatisfactory as our political process seems at times to be, it is still the most effective method yet devised by humans to deal with the problems that exist in any modern society. It is simply no answer to say "Let the judge do it."

The final area of concern is the increasing tendency to use the courts to achieve an absolute equality among all citizens. I yield to no person in commitment to the goal of equal opportunity for all. But equal opportunity guarantees neither equal results nor equal rewards. Jefferson's magic phrase—"All men are created equal"—is simply not literally true. It is true in the sense in which it was intended—in the spiritual sense in that all men are endowed with certain inalienable rights. But it is not true in the physical or mental sense. We are of different sizes, shapes, intellects and talents. There is no way in which the law, or any other human institution, can make us all the same.

Edward Bennett Williams, the famous trial lawyer, put it well recently when he said: "Those who would divide the wealth equally, impose quotas and ratios in education, in employment, and in the political process, regardless of merit, overlook the crucial fact that all human progress throughout history owes its origin to the talented and the enterprising. We must keep a system that allows us to develop and use the talents and excellence of all, no matter what their origin. But if we practice inverse discrimination in the name of a ratio or quota system, we shall deprive the country of some of the real genius and talent we desperately need.

"The really great people of each generation are those who have a commitment to excellence—a commitment to be at all times, in all places, under all circumstances, the very best that they can be at whatever they do. John Gardner said it best in this century when he wrote: 'An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water.'"

My remarks ought not to be construed as favoring the application of the law of the jungle to human affairs. Discrimination on account of race or sex are declining, but they remain facts of American life. There are, and will continue to be, some persons who need and should receive the assistance of society at large. In both of these areas collective action remains necessary. But only to assure equality of opportunity, not to guarantee the equality of results. This can be done. I do not regard compassion and the pursuit of individual excellence as mutually exclusive.

There must be a balance in our system and the balance must continue to include the incentive for each individual to achieve that fulfillment in life which, in Edward Bennett Williams words, "comes not from leisure or tranquility, not from idleness or self indulgence, but rather from striving with all one's physical and spiritual might for a worthwhile objective."

THE 100TH ANNIVERSARY OF THE BIRTH OF FORMER SENATOR CARL TRUMBULL HAYDEN

Mr. DECONCINI. Mr. President, Friday, September 30, Senator GOLDWATER and I offered a resolution honoring a former Member of this body. Sunday, October 2, marked the 100th anniversary of the birth of perhaps the most influential Arizonan ever—Carl Trumbull Hayden.

Truly, Senator Hayden's record in the U.S. Congress has been unequaled by anyone from any State. He spent 56 consecutive years in the Congress. He represented Arizona in Washington from the State's inception in 1912 until his retirement in 1969.

His congressional accomplishments included several bills that dramatically increased water and power service in Arizona including—after nearly 50 years of hard work—the Central Arizona project. He was also responsible for legislation that heavily bolstered Federal assistance to highway development. But Senator Hayden's stature did not rest solely upon his contributions to the welfare and progress of the State of Arizona. Indeed, he was perhaps best known by his colleagues in the Senate for the facilitative role he played with respect to programs of benefit to every region of this country. He was chairman of the Senate Appropriations Committee for almost 14 years. During that time, Gerald Ford called him a "master of the art of constructive compromise," and Lyndon Johnson once referred to him as "the third Senator" from every State.

He left office with the same wit and eloquence that had graced his 56 years of service. In his retirement speech after seven Senate terms, Carl Hayden said:

Arizona's foundation includes fast highways, adequate power and abundant water, and these foundations have been laid. It is time now for a new building crew to report. . . . There is a time of war and a time of peace, a time to keep and a time to cast away, a time to weep and a time to laugh, a time to stand and a time to stand aside.

Carl Hayden died on January 25, 1972. As an indirect successor to this great man in the Senate, I thank my colleagues for joining with Senator GOLDWATER, myself and all of Arizona in paying tribute to him.

1977 SAILOR OF THE YEAR

Mr. PELL. Mr. President, it is, indeed, an honor to pay tribute to a young man, Kenneth M. Rosekopf, of the Student Personnel Branch, Military Personnel Division, Naval Education and Training Center (NETC), Newport, who has recently been selected as the 1977 Sailor of the Year.

In view of Newport's longstanding ties and traditional association with the Navy, the Newport County Chamber of Commerce, and Newport Kiwanis Club will host a dinner later this month in honor of Seaman Rosekopf, who was chosen from six nominees representing the various Newport naval commands.

Although he is a young man, 26 years old, Seaman Rosekopf has shown exceptional leadership and dedication to the Navy and the people in his community. Besides serving as class representative from the personnel department, he is a student at the NETC campus of Roger Williams college and a volunteer coach for the National Basketball Association's military youth program.

He has been cited by the Director of Newport's Naval Academy Preparatory School for his "unselfish efforts and long hours, which enabled the 1976–77 NAPS class to be the most crisis-free" and he has been commended by the Chief of Naval Personnel for high-quality, error-free documents he prepared for the Bureau of Naval Personnel. Capt. Howard N. Kay, NETC Commander, has praised Seaman Rosekopf for his "dedication to duty and sincere helpful manner that exemplifies the spirit and tradition of the Naval Service."

In the short time Seaman Rosekopf has served in the Navy—he enlisted in 1975—he has won the respect and gratitude of his officers and associates alike. I am sure he will continue to distinguish himself in serving his country, and I heartily commend him for his current accomplishments.

UNTIMELY SUBCOMMITTEE HEARINGS ON NATURAL GAS DEREGULATION

Mr. THURMOND. Mr. President, on Saturday last, just as the Senate was adjourning for the weekend, the chairman of the Antitrust and Monopoly Subcommittee, Committee on the Judiciary, served notice, that he would hold hearings "To Examine the Impact on the Public of Natural Gas Price Deregulation," the effect of which was to attempt to move the filibuster from the Senate floor into the subcommittee. It is customary under the precedents and practices of the Senate for a committee to give 7 days notice of hearings. It would appear that notification on Saturday afternoon

extending through Sunday of a hearing on an important matter by a subcommittee is not within the spirit of fair notice. A partial witness list was given to the minority on October 1, 1977.

The chairman, Senator KENNEDY, opposes deregulation. All witnesses who appeared before the subcommittee today opposed deregulation. Mr. President, not one statement of those witnesses who appeared was furnished to the minority until today.

I make this statement for one reason. If we cannot have balance in the subcommittee, then I believe it proper to come to the floor. The Senate is certainly entitled to the views of those who believe deregulation is best for our Nation. I refer you to the additional views of Senator J. BENNETT JOHNSTON, page 41, report of Committee on Energy and Natural Resources, Natural Gas Policy Act, September 15, 1977 and the additional views of Senators HANSEN, HATFIELD, MCCLURE, BARTLETT, WEICKER, DOMENICI, and LAXALT, in the same document at pages 50 through 57. Also, statements of other Senators should be carefully considered.

Among those speaking for deregulation are: Senator JAMES B. PEARSON, CONGRESSIONAL RECORD, 29784–29786, September 19, 1977; Senator LLOYD BENTSEN, CONGRESSIONAL RECORD, 30188–30189, September 21, 1977; Senator S. I. HAYAKAWA, CONGRESSIONAL RECORD, 30387, September 22, 1977; Senator CHARLES PERCY, CONGRESSIONAL RECORD, 30388–30390, September 22, 1977; Senator TED STEVENS, CONGRESSIONAL RECORD, 30392–30393, September 22, 1977; Senator ORRIN HATCH, CONGRESSIONAL RECORD, 30393–30394, September 22, 1977; Senator RICHARD STONE, CONGRESSIONAL RECORD, 30396–30398, September 22, 1977. Senator ROBERT DOLE, CONGRESSIONAL RECORD, 30398–30399, September 22, 1977; and Senator JOHN TOWER, CONGRESSIONAL RECORD, 30802–30806, September 26, 1977.

At the conclusion of my remarks, I request unanimous consent that extracts of conclusions of experts be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTRACTS

Mr. Edward W. Erickson, "Natural Gas Deregulation," Statement before the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, March 17, 1975:

The advantages of natural gas deregulation include:

1. enhanced supply.
2. conservation in demand.
3. reduction of the U.S. excess demand for imported oil
4. increased probability of lower world real oil prices.
5. decreased reliance upon higher cost substitutes for natural gas.
6. rationalization of the relation between the interstate and intrastate natural gas markets, and
7. creation of confidence in a set of rules of the game which facilitate investment decisions.

Mr. Ezra Solomon, Statement before the Committee on Commerce, U.S. Senate. Transcript of Proceedings, Hearings on Natural Gas Regulation Bills, pp. 587–588:

The . . . most promising, approach would be to permit wellhead prices of natural gas to move freely to their market-clearing level. The argument for this approach can be stated succinctly:

(a) The U.S. has abundant undiscovered deposits of natural gas . . .

(b) Allowable price ceilings were set, and kept, at levels too low to induce the exploration and development of those abundant gas supplies. At the same time the artificially low prices induced on abnormal growth in gas consumption.

(c) The restoration of a free market in gas would stimulate a significant expansion in exploratory and development activity and this would lead to a significant increase in the availability of new supplies. At the same time, market-clearing prices would restrain the rapid growth rate of consumption, shift gas supplies automatically from less efficient to more end-uses and thereby restore a proper balance between supply and demand at a much higher level than would otherwise be the case.

(d) The restoration of a more efficient equilibrium in the gas sector would aid the restoration of equilibrium for other fuels, . . . it would result in lower fuel oil prices than would otherwise prevail and also result in a significantly lower dependence on imports and all that this implies for the national economy and for national security.

Mr. Stephen G. Breyer and Paul W. MacAvoy, MIT, "Natural Gas and the Consumer," The Washington Post, October 14, 1974.

We believe that natural gas regulation has hurt more consumers than it has helped. It is widely recognized that regulation brought about a reserve shortage beginning in 1962, which grew into an actual production shortage in 1969. But, it is less often noted that these shortages directly raised fuel costs for consumers, for they led millions of consumers who might have used gas to rely instead on other, more expensive fuels . . . if existing regulations keeps gas prices low, it may save present consumers of gas billions of dollars. But, it will do so only by imposing great costs (we predict greater costs) upon other consumers—of say, oil or electricity who might otherwise have the opportunity to use gas, consumers of natural gas whose reserve backing is no longer adequate, and customers of firms whose products would be cheaper were natural gas obtainable.

Mr. Keith C. Brown, " ntroduction," *Regulation of the Natural Gas Producing Industry*, Resources for the Future, Inc., 1972, pp. 11–12:

FPC regulation of the maximum price that jurisdictional purchasers are allowed to pay producers of natural gas seems to have been at least partially responsible for the current unsatisfactory conditions existing in the natural gas producing and distributing industries. At current price levels, the quantity of gas demanded by consumers considerably exceeds that which producers are willing to supply. There is no evidence that large enough quantities of substitutes for natural gas produced in the forty-eight contiguous states (gas from coal or oil, Canadian imports by pipeline, or liquefied natural gas from Alaska or foreign countries) will be available in the next decade to substantially reduce the projected demand growth for natural gas, either at current or prospective equilibrium natural gas prices. Therefore, providing market conditions under which quantity of natural gas supplied is likely to increase to quantity demanded seems to be the only way to end the current problem.

Mr. Thomas Gale Moore, "Choosing or Judging: A Time to Confuse," Institute of Contemporary Studies, San Francisco, 1975, p. 85:

The authors would also have benefited from careful study of our country's experience under natural gas regulation. There, as elementary economic theory would predict, shortages have developed. Prices have been held below market-clearing levels, with the result that exploitation and development has been retarded. Such experience is not confined to natural gas . . .

Mr. Walter J. Mead, "Private Enterprise and Energy," *No Time to Confuse*, Institute for Contemporary Studies, San Francisco, 1975, p. 71:

. . . the well-head price of interstate natural gas has been controlled for twenty-one years and the resulting shortage is clearly documented. Some consumers are able to buy all the gas they want at very low prices and use it wastefully as a result while others cannot buy it at any price. We are importing Canadian gas at $1.00/Mcf, and Algerian gas (LNG) at about $1.50/Mcf, while requiring domestic sales of new gas at wellhead at 51¢/Mcf. The price control system has caused demand to increase and development of new reserves to decline. Proved reserves reached a peak in 1967 and have been declining since then.

Mr. Edward J. Mitchell, Statement before the Committee on Commerce, U.S. Senate, 93rd Congress, *Consumer Energy Act of 1974*, Part 3, March 28, 1974, p. 1350:

We . . . have extensive and profound experience with FPC regulation of interstate gas prices and there has developed a general consensus among economists that FPC regulation has created a massive shortage of natural gas. Perhaps at the time the decision was made to regulate interstate gas prices there were doubts about the competitiveness of the industry and about the size of the supply response to price. I cannot verify the degree of uncertainty at that time because I was not involved in the regulation issue then. But the number of studies that have been conducted on the natural gas market since then and their virtually uniform conclusions do not leave much room for controversy or speculation today.

In reviewing possible future studies for my energy project the natural gas issue looms as one of the most important. But in consulting other energy economists about further work on the issue I do not find any pressing questions that require answers before we can make a policy choice. The issue has been studied to death. The industry is competitive. The FPC price regulations have caused a huge shortage of gas. Whether they are liberals, conservatives, middle-of-the-roaders, or of no particular political persuasion, that is the view held by economists I talk to. We may all be wrong. But one would hope that the Congress give a great deal of thought to the matter before it proceeds on that assumption.

INTERNATIONAL WOMEN'S YEAR: IS $5 MILLION OF THE TAXPAYERS' MONEY BEING MISSPENT?

Mr. HELMS. Mr. President, within the past several months, women's conferences have been held across the United States under the direction of the National Commission on International Women's Year; a commission authorized by an act of Congress and funded with $5 million of Federal taxpayer's money. These State and regional conferences have adopted resolutions for and elected delegates to the upcoming National Women's Conference to be held in Houston, Tex.

When reports of the North Carolina IWY activities began to reach me, I asked my staff to make a preliminary survey of what had happened in North Carolina and what was happening around the country. On July 21, I discussed the findings of this survey in a speech on the floor of the Senate. That examination indicated a widespread pattern and

practice of discrimination at the State and regional conferences against women who did not agree with the ideology and partisan biases of the IWY organizers. At that time I called for a further investigation of IWY and especially one in a hearing format which would provide Members of Congress an opportunity to question carefully those who were making such charges.

On September 14 and 15, I sponsored ad hoc congressional hearings into the activities of the National Commission and the State and regional IWY conferences. This bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's International Women's Year activities. All the witnesses who presented testimony had been participants at IWY meetings or had attempted to participate. Many are delegates to the upcoming National Conference.

Mr. President, I am deeply impressed with the testimony which was received from women who are housewives, mothers, elected officials, officials of both the Democratic and Republican Parties, lawyers and professors. Their accomplishments in themselves are testimony to the deep concern for the status of women and their wide range of civic interest.

The witnesses who testified before the ad hoc hearings possessed a keen understanding of the ordinary and normal problems inherent in administering a meeting the size of the State women's conferences. For the most part, their testimony concentrated on actions by reflected an intentional bias or which reflected an intentional bias or which prevented the conference from being open, democratic, and fair. Their testimony repeatedly focused upon the following problems:

I. IWY Coordinating Committees Loaded to Represent Only Feminist Groups and Viewpoints.
II. Hostility and Discrimination Against Non-Radical Women.
III. Lack of Publicity to Non-Feminist Women's Groups.
IV. Lesbian Workshops and Pornographic Entertainment.
V. Anti-Religious Activity.
VI. Federal Funding and Registration Fees.
VII. Operation MMOPP and Fraudulent Voting.
VIII. Parliamentary Violations.
IX. Railroaded Resolutions.
X. Rigged Elections.
XI. Voting Irregularities.
XII. Inability to Challenge Election Results.
XIII. Lobbying for Equal Rights Amendment.
XIV. Lobby for Federal Funding of Abortion on Demand.
XV. Special Examples of IWY Unfairness.

However, the ad hoc hearings were not the first time much of this information was made available to members of the National Commission. Many of the witnesses had earlier forwarded their information, documentation and formal challenges to the National Commission itself. In response, they received an impersonal, "Dear Friend" letter from the presiding officer of the National Commission, Bella Abzug. Although Ms. Abzug's letter admits the Commission has received numerous challenges to the delegate elections and other complaints, it concludes the such problems are "inevitable for such an ambitious enterprise" and that "all the challenges have been denied."

It is unfortunate that rather than accept the invitation to participate in the ad hoc hearings, officials of the National Commission have chosen to repeatedly characterize honest criticism as the views of extremists. Rather than respond in a reasonable manner to the testimony presented at the ad hoc hearings, officials of the Commission have considered the hearing as "personal attacks" and have sought to impune the character and motivation of the women who did participate.

Mr. President, the U.S. Department of Justice has determined and a Federal district court has ruled that the provision of the Federal Advisory Committee Act of 1972 apply to the activities of the National Commission and the National Women's Conference. This law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Those who sought Federal tax dollars to finance the activities of the National Commission and the National Women's Conference assured Congress there would be a balance of viewpoints in their activities. Ms. Abzug maintained that the National Women's Conference "will afford an opportunity for every kind of woman, representing every viewpoint, in every State of this Nation to make a statement of her concern."

Unfortunately, as the time for the National Conference approaches, other members of the commission have expressed profoundly different intentions for this meeting. On September 14, the Baltimore Sun reported Commission member Audrey Colom as saying:

I perceive the Houston meetings as a political convention, and it has to be run like one. If we lose there, we're finished.

Ms. Colom continued, that the National Women's Conference was needed "to build momentum" for ratification of the equal rights amendment and as "an incentive for fund raising" for political activity regarding ERA.

Another member of the commission, Liz Carpenter, has been soliciting $100 and $250 contributions from participants at the State and local IWY conferences to promote ratification of the equal rights amendment. She describes the National Women's Conference as a "unique chance" to raise funds for ERA and as an "event which can add tens of thousands of dollars to ERA war chest and build momentum for ratification."

This distortion of the National Women's Conference by members of the National Commission strikes at the very heart of the upcoming conference. These latest developments confirm the testimony presented at the ad hoc hearings of widespread discrimination against women who did not agree with the partisan objectives of the IWY organizers.

In my opening remarks at the ad hoc hearings, I stated that the proceedings would be primarily concerned with one central question: "was there a good-faith effort to include women of all viewpoints and all backgrounds in the activities of the IWY conferences or was the opposite the case?" In order that my colleagues may judge for themselves if this were the case, I ask unanimous consent, Mr. President, that the following compilation of excerpted testimony from the ad hoc hearings be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD. as follows:

EXCERPTS

COORDINATING COMMITTEES LOADED TO REPRESENT ONLY FEMINIST GROUPS AND VIEWPOINTS

It is not surprising that the State Conferences were run unfairly, since the members of the Coordinating Committees were overwhelmingly biased against non-feminist women and groups. The National I.W.Y. Commission, appointed by President Carter and headed by militant feminist Bella Abzug, includes every major feminist spokeswoman and organization, including Gloria Steinem, Eleanor Smeal, President of N.O.W., and Jean O'Leary, National Co-Director of the Gay Liberation Task Force. Applications from women known to be opposed to ERA or abortion were rejected when appointments to the National and State Coordinating Committees were made. This is a violation of the Federal Advisory Committee Act (P.L. 92-463), which requires that all such Advisory Committees "be fairly balanced as to the points of view represented", and that they "will not be inappropriately influenced by the appointing authority or by any special interest".

Kansas

"The 35 member Kansas Coordinating Committee excluded all Pro-Family Coalition members (STOP E.R.A., Eagle Forum, Right to Life, various conservative and Church groups)"—Mrs. Betty Hanicke, Shawnee Mission, Kansas.

Minnesota

"The makeup of the Planning Committee violated the Federal Advisory Act of 1972. Half of the 37 member committee chaired by Secretary of State Joan Growe, a NOW member, are members of NOW or Women's Political Caucus. Some of those refused participation were Natural Family Planning, Birthright, Young Parents Alert, Feminists for Life, Women Who Want to be Women, and Minnesota Citizens Concerned for Life"—Eloise Becker.

Michigan

"I was the only person on the Committee who represented Citizens for Life, STOP E.R.A., Lifespan, National Council of Catholic Women; There were no representatives from H.O.W., D.A.R., Eagle Forum, Church Women United, and many other Church groups. I seemed to be the Token member to represent the anti-abortion, anti-TRA, etc. point of view."—Mrs. Bernice Zilly, former National President of the National Council of Catholic Women and member of the Michigan Coordinating Committee—from Minority Report submitted to National I.W.Y.

"Considering that NOW claims membership of 3,000 in Michigan, with 29 local chapters, while Michigan Citizens for Life represents over 250,000 people, with over 100 local

affiliates, it would seem that a balanced committee would include members of pro-life organizations. Yet not one representative of a pro-life organization was selected. . . . Members of pro-life organizations share the concerns of women's groups for justice and equality for women. But we feel that the right to abortion is not a valid means of achieving these goals. Because of this difference of opinion, we were excluded from planning a meeting which addressed many women's issues".—Rosemary Hamilton, Grand Rapids, Michigan.

"Every attempt was made to cooperate with the Coordinating Committee, months in advance. But our suggestions for speakers and nominees were rejected."—Mrs. Elaine Donnelly, Detroit, Michigan.

Washington

"Pro-ERA leaders had complete charge over all aspects of the conference organization. The Washington State Coordinating Committee, appointed by Federal officials, had only one anti-ERA person out of 38 members."—Lynn Dyer, Gig Harbor, Washington.

New Jersey

"A disproportionate number of women on the 38 member IWY Coordinating Committee were members of the National Organization for Women. The figure is approximately one-third.

"The leadership of all workships dealing with abortion and abortion-related subjects such as teenage pregnancy was totally in the hands of pro-abortion spokeswomen. The leadership of the Equal Rights Amendment workshop was totally in the hands of pro-ERA activists . . . Of the original 240 workshop speakers only one was affiliated with a pro-life organization. None was connected with an anti-ERA organization."—Liz Sadowski, Freehold, New Jersey.

Wisconsin

"There was no balance in the twenty-eight member co-ordinating committee which planned the whole conference. The members of this committee were predominately from the Governor's Commission on the Status of Women, the National Organization for Women, and the League of Women Voters. Two members of the Resolutions Committee were original founders of N.O.W. The member in charge of workshops and resource people was the paid Executive Secretary of the Status of Women.

"A perfect illustration of how one-sided this conference was, the Chicago Sun-Times reported thought it was funded by the National Organization for Women. NEED WE SAY MORE?—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

Texas

"This, sirs, was not, obviously, a convention of grassroots women. It was a convention for the Women's Political Caucus, the N.O.W., interested lesbians, and government employees. Is it so surprising, then, that in apparent violation of the law, the Texas IWY Commission saw fit to print in its programs, with federal monies, a solicitation for donations to the election fund of the Texas Women's Political Caucus?"—Mrs. Suzanne Thomas, Houston, Texas.

California

"Not one person of our point of view was permitted to participate on any of several panels or to moderate any of the more than 100 workshops."—Mary Schmitz, California.

Iowa

"The coordinating committee was drawn heavily from the National Women's Political Caucus and the Iowa Women's Political Caucus. Of the 36 members, 17 were listed as affiliated with the above groups. *All* of the workshops were chaired by pro-ERA women, and of the 22 elected delegates to Houston, 15 are listed as affiliated with Iowa W.P.C. There is not one anti-ERA delegate." (See "Lack of Publicity and Outreach")—Mrs. Jacqueline Sumner.

HOSTILITY AND DISCRIMINATION AGAINST NON-FEMINIST WOMEN

Promises were made to Congress that all I.W.Y. Conferences would be "open" to women of all viewpoints, and that everyone would be able to express their opinions fairly. This was not to be the case.

Iowa

"Time and time again anyone who stated an opposing viewpoint was met with a common tactic; they were demeaned by name calling, sneering, laughter, and labelled as idiots", "racists", "uninformed", "unintelligent", "imbeciles", or "deranged"."—Mrs. Jacqueline E. Sumner, Iowa.

Michigan

"We were not welcome at the Michigan Conference, and we were treated with an attitude of hostility. Our commitment to the cause of women's rights was questioned, as if the official I.W.Y. definition of "women's rights" should be is the *only* definition that matters. Gentlemen, discrimination against women—by other women—is wrong."—Mrs. Elaine Donnelly, Detroit, Michigan.

Missouri

"I was very naive before attending the Missouri Conference . . . At the Conference, however, I quickly learned the philosophy of the opposition—"Never give your enemy an even break." (See National Women's Political Caucus memorandum re "Operation MMOPP")—Mrs. Karen Dukewits, Independence, Missouri.

Connecticut

"It had gone according to script, wholly dominated by the feminists. The unwelcome dissenters, like so many flies at a picnic, had been swatted to silent submission."—Betty Blaze, Bridgeport, Connecticut.

Washington, D.C.

"The most frustrating thing was trying to get information in the planning stages so that we could have some input into the substance and direction of the DCIWY Meeting. Profile people were excluded over the protests which I made by testimony and letter."—Nellie J. Gray, Attorney at Law, Washington, D.C.

New York

'When I spoke with Chris Karmer, who is in charge of inviting out-standing women to the women's meeting, I asked if she had invited Ellen McCormack . . . (nominated for President) . . . The answer was negative. When I protested the non-inclusion of American women whose philosophy differed from that of the Womens Libbers, her answer was: "Get your own funds and have your own conference." Are the funds and the conference theirs?"—Mary V. Tracy, Glen Cove, New York.

LACK OF PUBLICITY AND "OUTREACH" TO ESTABLISHED NON-FEMINISTS WOMEN'S GROUPS

The I.W.Y. Commission claims that women of all walks of life and points of view were invited to participate in the state meetings. However, the I.W.Y. "Outreach" efforts did not extend to those women's groups which were not likely to be in support of I.W.Y. goals.

Iowa

"Mrs. Charlotte Mohr, President of the United Farm Bureau Women of Iowa (Over 145,000 families) said she received an introductory flyer 2 weeks before the I.W.Y. meeting. . . Was it intentional that the I.W.Y. meeting was held the same weekend as the Farm Bureau Women's convention? . . . Publicity in the local newspaper was not adequate."—Mrs. Jacqueline E. Sumner, Iowa.

California

"Surveys of complete communities showed no knowledge whatsoever of the California meeting prior to the conference. Even a woman reporter for an Orange County TV station never heard of its happening until it was over."—Mrs. Mary Schmitz, California.

Minnesota

"About two months before the meeting took place many groups such as Natural Family Planning, Natural Child Birth, La Leche League and many pro-life groups asked that their viewpoints be represented at this meeting. They were denied this request."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Washington, D.C.

"The most frustrating thing was trying to get information in the planning stages vited to participate, Ms. Jean Ford, the substance and direction of the DCIWY meeting. Prolife people were excluded over the protests which I made by testimony and letter."—Nellie J. Gray, Attorney-at-Law, Washington, D.C.

Wisconsin

"The publicizing of this conference was practically nil."—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

Nevada

The right to Life Committee of Nevada protests that our organization was not invited to participate. Ms. Jean Ford, the Conference Coordinator, has stated that all important organizations were contacted and invited to attend. In view of this statement, how could they have missed our statewide group which is the only organization with opposing views to the abortion-on-demand lobbying and has been working on women's rights since 1968?—Ruth McGroarty, Las Vegas, Nevada.

Florida

"Rule #1904.5—Call to the State Conference was violated. Many prominent organizations which work for the advancement of women and educational groups were not notified until July 13—2 days prior to the Conference."—Mrs. Frank Filewicz, Registered Parliamentarian, Florida State Association.

Missouri

"Numerous phone calls, in an effort to learn about the meeting, resulted in much buck-passing and no information. In desperation we called Senator Eagleton's office for assistance. Amazingly, within thirty minutes, three Committee members volunteered the long-sought-after information. Ironically, 24 hours eariler, these same Committee members had not known when they were to conduct this important, federally-funded meeting."—Karen Dukewits, Independence, Missouri.

Vermont

"I would also like to explode a common myth about women: that they cannot keep a secret. The fact that the first State meeting of the International Women's Year was to be held in Montpelier, Vermont on February 26 was probably the best kept secret since Pearl Harbor."—Marie Dietz, Taftsville, Vermont.

Mississippi

"Many attempts were made by concerned Mississippi women to get the details about the public meeting and they continued to be 'put off' by the Mississippi IWY Committee or were given conflicting reports as to times, places, and programs."— Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation to Nat'l IWY Conf.

LESBIAN WORKSHOPS, DISPLAYS, AND PORNOGRAPHIC "ENTERTAINMENT"

The federal International Women's Year Commission, at its first meeting chaired by the new Chairman, former Congresswoman

Bella Abzug, (April, 1977) voted to urge state IWY Conferences to add lesbianism and prostitution to their discussion agendas. This resolution was requested by IWY Commission member Jean O'Leary, who is Co-Executive Director of the National Gay Task Force, who has advocated that "Lesbian Studies" programs be instituted in the schools, in connection with Women's Studies and Human Sexuality courses, so that "Students will thus be encouraged to explore alternate life styles, including lesbianism" (From "Lesbians and the Schools", by Jean O'Leary and Ginny Vida).

Not all the states included lesbian displays and workshops, but those state meetings that did so were most offensive.

Hawaii

"I am President of Helen's Jewelry Creations, Inc., President of Soroptimist Club, and (member of numerous civic and service groups) I actively participated and worked on the Committee 'influence and Policy Making' for Hawaii International Women's Year Conference.

"I attended meetings for the IWY State convention of Saturday, July 9 and enjoyed them very much . . . I attend(ed) another 'meeting' which was billed as 'Coming Together' . . . (I) expected it to be another session meeting, with possibly a panel of women . . .

"Let me now for the record, go into detail about the 'Coming Together' meeting. I must explain that I find this very difficult to do . . . The show began with one young woman, dressed as a dancer, in leotards, explaining that four of them wished to present a dance for our enjoyment.

"The first dance was described by a lady, sitting on the sidelines, reading the account of the descriptive dance the girl was doing. It ended with suggestive movements of the dancer, reaching toward her genital area, and the reader saying 'Should she dance so much she has to ——': That was the tone of the show. Next in succession came dancers, all using suggestive movements of Porno variety, and the words '——, ——, ——, ——' and other filth were in every other line of the readings.

"One 'skit' had two women kneeling on the floor, and a third woman reading to describe the act. The women went through the motions of having a baby, helping it to come out, and all the writhing and pain that her 'dance' could do. The second woman, also on the floor, was the 'audio' part of the act, with screaming and yelling of the pregnant delivery. Another dance described the 'joy' the woman went through in finding and then participating with her lesbian counterpart.

"Another 'dance' had the girl standing in front of a mirror, and examining her body . . . all over . . . in great pantomine detail. The private parts examination was done by placing the buttocks area toward the audience, and bending forward, clear over, to look well between her legs, and examine each spot in detail.

"Since the 'dancers' portrayed men, in pantomine, but did so by pinning a paper ——— on the front of their leotards. One sick skit showed a 'man' with a paper ——— hanging, and he was put into an examining position on a doctor's examining table, buttocks high, legs 'strapped' in the stirrups and ——— dangling. There was much talk about 'too small' and ——— and ———, and other choice filth, before the 'Doctor' operated and cut some off.

"Next we saw four chairs on the stage, representing four toilets, and the 'dance' represented four women, or men, going to the toilet on the stage, and calling out what they wrote on the walls of the toilet, and also what they were reading that others had written there. This was culminated with the two lesbians making love together on the stage, in one toilet.

"And so on . . . for an hour . . . You ask why I didn't leave. I'll tell you why! I was too embarrassed to walk up the aisle. Also . . . I wanted to have a seat for the next session . . . seats were at a premium with 1,600 seats for 4,000 people.

"I was so angry and so insulted at having been innocently subjected to such lewd sex acts on the stage, that I left the convention . . . I hope this account of one 'meeting' of the Hawaii IWY will bring action against the persons in charge of this outrage . . . why (did) my tax money go toward (the) showing of a porno stage show featuring the sex acts of deviates, listed as one of the 'meetings' for IWY?—Henel Priester, Honolulu, Hawaii.

Kentucky

(During the Sexual Preference Workshop at KY–IWY) Falcon, a male type lesbian described life with her lover of two years . . . who had formerly been employed by a day-care center until her sexual preference was discovered. Falcon expressed a desire for legislation on the state level to end discrimination on the basis of sexual discrimination on the basis of sexual preference in housing and employment. A resolution was passed to that effect.—June Barnett, Owensboro, Ky.

Minnesota

(With regard to lesbian workshops and displays) "I would like to leave you with this picture of hundreds of purple-banded lesbians . . . with their gestures of clenched fist defiance; with the posters and tables of lesbian, socialist and militant marxist literature; with all the workshops on revolution and sex, including an explicit 'how to' course on oral sodomy by a counselor in the Sexual Attitudes Reassessment program at the University of Minnesota and with an explicit sex film on masturbation . . . A horrifying picture traditional family women will never forget."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Vermont

"We object to the promotion of homosexuality and other immoral behavior under the auspices of the IWY, such as the handing out of the book 'Our Bodies, Our Selves', at the Montpelier meeting.—Marie Dietz, Taftsville, Vermont.

Washington

"The 'Single Parenting' and 'Hunger' workshops were *deleted* while 'Gay Parenting' and 'Concerns of Lesbian Mothers' went full tilt".—Lynn Dyer, Gig Harbor, Washington.

California

"The lesbians had display tables of their unique equipment such as female masturbating wands, clitoral vibrators, vaginal speculums for self-examination, suction devices for extraction of the menstrual discharge or for performing a self abortion. One pregnant woman looking at the devices was offered instruction on how to perform an abortion on herself.

"There were also rubber ——— for sale. Also displayed and worn were buttons and tee-shirts with slogans such as 'Clit Power', 'Anita Sucks' (with a graphic display of 3 oranges), 'Anita Sucks Other Things Besides Oranges'. '——— Phyllis'. 'Stop Phyllis', 'How Dare You Assume I'm Heterosexual', 'Jesus Was a Lesbian', 'Warm, Fuzzy Dyke', etc.

"Pornographic literature, such as a feminist coloring book with sketches of female genitalia to be colored, feminist and lesbian newspapers, Marxist literature, and socialist books were in abundance. Arrangements in advance were not permitted for pro-life, profamily or pro-America displays. A pro-life table was set up during the meeting but destroyed by a group of radicals who threatened bodily harm."—Mrs. Mary Schmitz, California.

NOTE: Displays and literature of this kind is typical of that found in "feminist" book stores in large cities around the country, or near college campuses. IWY planners should have anticipated this.

ANTI-RELIGIOUS EXPRESSIONS AND FEMINIST FILMS

Most of the State I.W.Y. Conferences featured films which promoted the Equal Rights Amendment and the women's lib movement in general. Some of the rhetoric was extremely objectionable to non-feminist women.

Colorado

"Federal Law prohibited any topic pertaining to religion, and yet, Jane Conrad, Colorado Coordinator of American Atheists, was allowed to conduct an anti-religious workshop on removing the tax exempt status of churches. (Note: This is one of the stated goals of the National Organization for Women) Two lesbian/feminist bookstores were allowed to exhibit and sell, in the workshop area, materials such as, "The Feminist Bible", "A Call for the Castration of Sexist Religion", "Beyond God the Father", and other such works. The lesbian displays were so grossly pornographic that if Colorado's new Anti-Obscenity Law had been in effect, we could have had the place raided.

"A workshop on the Decriminalization of Prostitution was told, by a lawyer, that there was already a legalized form of prostitution—marriage."—Mrs. Sindy Miller, Englewood, Colorado.

Minnesota

"In several lesbian workshops the Catholic Church was ridiculed and derogatory remarks were made insulting women of that religious persuasion."—Eloise Becker.

Virginia

"The discussion of religious topics was specifically prohibited by the federal regulations. There was a workshop entitled "Women and Spirituality"—run by Witches."—Jo Ann Gasper, Virginia.

Arkansas

"The film festival was a series of film which were pro-ERA and pro-women's lib. Men were portrayed as villains and women as the victims."—Marilyn S. Simmons, Little Rock, Arkansas.

Illinois

"The second film was produced by the Socialist Party and presented their solutions to the problems of society, especially the feminist issue. This film emphasized revolutionary tactics and spirit and the importance of belonging to a 'group'. The overall effect of the films was to discredit free enterprise and shame the diversity and flexibility of democracy . . . Live entertainment was gutter comedy and music by a lesbian 'couple'."—Helen Manwaring, Illinois.

Iowa

"I never thought I would live in America and hear a guest speaker at a convention, paid for by tax dollars, openly make the statement that 'Capitalism must be replaced by the only effective and proven method of government—Socialism'."—Mrs. Jacqueline E. Sumner, Iowa.

FEDERAL FUNDING AND USE OF REGISTRATION FEES

Many questions have been raised about the $5 million appropriation, plus registration fees, donations, and grants have been used.

Mississippi

"The Mississippi IWY Committee received $36,364 from the National IWY Office, at least $3,000 from registration fees charged at the door, and other contributions—none of which has been accounted for publicly and the Mississippi Delegation has been told that there are no funds for the Mississippi Delegation and that no report would be shared with the delegates . . .

"Of this $41,000 (collected) the Mississippi IWY Committee ordered and paid out and

spent $7,673.00 with the Holiday Inn Downtown which payment included a Whisky and Liquor Bill of $506.00 (which) was contrary to the laws regulating IWY and said Liquor Bill was in the name of IWY Committee."—Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation.

Washington, D.C.

"In D.C., (the fee) was $3.00; some states were as high as $10.00 . . . Thus, in D.C., $3.00 was required as a registration fee in order to vote. I protested this fee and would not pay it, because it was an odious poll tax imposed on a Federally-funded program. I was then told to check a box to ask for financial assistance, and no questions asked. I refused to say that I needed financial assistance, and was refused registration, admittance to workshops, and threatened to be removed from the building which was open to the public.

"We do not know how much was finally collected by the states through fees, nor what happened to the funds. Did they just go into the State pot of money for IWY—were they given over to the Federal IWY—and by what authority were they spent?"—Nellie J. Gray, Attorney-at-Law, Washington, D.C.

Tennessee

"On the registration form that was mailed out by the IWY office, the public was given the option of paying $25.00 including registration and meals, or $30.00 including registration, meals and lodging. (sample attached) The fee was prohibitive to the mother/homemaker who is not employed outside the home and must try to make ends meet on one income.

"There were women who pre-registered, paying the $25.00 fee, and then took all meals off campus in the homes of friends or at motels. This constituted a loss of $10.00 to them because no mention was made on the registration form of a $15.00 fee to local residents and those not eating on campus."—Report of Tennessee Citizens Review Committee, as compiled by Mrs. Sue Thompson, Hixson, Tennessee.

"The fact that subsidization was available to those not having money to attend was apparently a closely guarded secret. It would be most interesting to see a close accounting of funds received and how *and to whom* those funds were disbursed."—Ralph A. Franklin, Staff Assistant, Tennessee State Labor Council, in a letter addressed to Mrs. Sue Thompson published in above report.

OPERATION M.M.O.P.P.—THE WOMEN'S POLITICAL CAUCUS PLAN TO STACK THE WORKSHOPS WITH "FLOATERS"

The M.M.O.P.P. Plan, which stands for "Monitoring and Mobile Operation Partnership Program", is based on the stated principle: "NEVER GIVE YOUR ENEMY AN EVEN BREAK" (emphasis theirs). The system was devised and endorsed by the National Women's Political Caucus. (Twelve members of the N.W.P.C. Advisory Board are present or former members of the National I.W.Y. Commission.) The M.M.O.P.P. plan, and similar techniques that have been used, are a blatant attempt to pre-determine the Conference results, which will be presented to legislators as the expression of what "women" want.

Nebraska

"Another important part of that (preliminary I.W.Y.) meeting was when a letter and the report by Elly Anderson was read to us by Ms. Donna Polk, describing the M.M.O.P.P. I believe it to be the exact letter and report that Senator Helms introduced into the Congressional Record of July 1.

"The plan was adopted for use at the Nebraska I.W.Y. meeting. Four persons volunteered to be coordinators for the "M.M.O.P.P. Squad"—Chris Funk, . . . Bobbie McGinn, . . . Julia Stanley, . . . and Carole Dietz. (There later was some shifting around of coordinators and eventually there was some different ones.) The targeted workshops were decided upon—those of Sexual Assault, Laws on Sex Discrimination, Lesbianism, Health Concerns of Women, Reproductive Freedom and Teenage Pregnancy.

"Earlier that same day, Ms. Donna Polk was quoted in both the Lincoln and Omaha newspapers as referring to 'anti-women groups', the 'cult' of Phyllis Schlafly; and also in one of them, as saying 'We know who the enemy is'."—Mary Ledbetter, Lincoln, Nebraska, member of State Coordinating Committee.

Virginia

"The workshops were controlled. In one workshop I attended, when it was time to pass recommendations, the leader whipped out a recommendation from the National IWY for passage. We asked if recommendations could be presented from the floor. The leader's reply, 'NO'. In other workshops, if unofficial opinions were being expressed, women were rushed in from outside to vote down the unofficial views."—Jo Ann Gasper, Virginia.

California

"Beepers and runners were used to call great numbers of radicals to a session where they were needed to outnumber us."—Mrs. Mary Schmitz, California.

Michigan

"Pro-life people succeeded in passing three favorable resolutions in the (Women as Health Consumers) workshop. One woman left, however, and came back with 10–20 "Unity" women who attempted to reopen the previous questions. (This request was denied.) The latecomers were allowed to vote on later resolutions, however."—Mrs. Elaine Donnelly, Detroit, Michigan.

PARLIAMENTARY VIOLATIONS

Parliamentary violations at the various State Conferences were too numerous to describe.

Florida

"I am a Registered Parliamentarian. It was shocking to me and to the majority of those attending the Conference to witness such violations of the Federal Register (rules) and the Robert's Rules of Order, Newly Revised. The presiding officer, Mrs. Gwen Cherry, arbitrarily refused to take votes on motions properly made; refused to recognize points of order and appeals from the decisions of the Chair . . . The presiding officer jumped from Federal Rules to Robert's Rules, whichever appealed to her. (Detailed descriptions of five different rule violations are included in written testimony)—Mrs. Frank Filewicz, Florida State Association of Parliamentarians, No. 00202.

Kansas

At the General Session on Saturday, July 16th, the Chairman was biased in rulings. Pro-Family people were refused freedom of speech as floor microphones were controlled at the platform. We were ruled out of order; denied the right to question irregularities; denied the right to present substitute resolutions; denied the right to debate rules, and denied the right to have an honest floor count on votes. The Chairman changed the rules in the middle of votes and her rulings were contradictory many times in favor of IWY viewpoints.—Betty Hanicke, Shawnee Mission, Kansas.

Illinois

"The right to express various viewpoints or to seek parliamentary information was forcibly violated by tight control over floor microphones. Tactics by IWY facilitators included unplugging, covering by hand, and, at one point, breaking the microphone in half to prevent speakers from being heard."—Rosemary Thomson, Illinois.

Minnesota

A. There was no quorum so the motion was made to form an ad hoc committee to act on resolutions which were not acted on by the delegates . . .

B. Various groups objected to the way they were treated and to the way in which this meeting was run. 1. The Black Caucus walked out. 2. The Native American women walked out. 3. The Chicano women walked out.—Eloise Becker.

Iowa

"Sec. III, p. 22, concerning resolutions was totally disregarded. At one point the Parliamentarian, Judge Marget Stevenson Briles, was asked if Robert's Rules of Order were being followed. She agreed that they were not, yet she did little to insist on order. One example: As one resolution was being amended, the mike was turned off and the vote called for on the resolution. People were still standing at the other mikes desiring to speak . . . The Chair ruled that the proposal for a minority report was 'Out of Order'."—Mrs. Jacqueline E. Sumner, Iowa.

RAILROADED RESOLUTIONS

The pre-written I.W.Y. resolutions were voted on without intelligent analysis and fair debate in every state reporting.

Louisiana

The National Commission's 16 "Recommendations Urged for Consideration by State I.W.Y. Meetings" were adopted as a package with *no reading on the floor and no discussion allowed* despite vigorous protests . . . . NO QUORUM WAS REQUIRED. Although it was reported that 1,200 persons attended the Conference, the vote on the 16 recommendations was only a total of 180 registered delegates—Mrs. Arthur Felt, Jr., and 17 others.

Arkansas

"After the meeting had begun Sunday morning, a summarized list of resolutions was handed out and the voting was begun before anyone had time to read through them."—Marilyn S. Simmons, Little Rock, Arkansas.

Minnesota

"At the time resolutions (actually a questionnaire) were to be considered, one delegate made the motion that thirty-two resolutions be adopted at one time. According to Roberts Rules of Order, newly revised, any delegate at this point is supposed to be able to call for discussion of any one item. However, I stood at the microphone with the raised Point of Order card for approximately five minutes, waiting in vain for recognition, as the motion passed and adjournment was called for."—Mrs. Terry Todd, S. St. Paul, Minnesota.

Vermont

"Exhibit C of my testimony (an article from the *Brattleboro Reformer* of March 12, 1977) . . . states that Attorney William Wallace, counsel of the National Commission . . . has said that the delegates in Houston will 'simply be expected to vote 'aye' or 'nay' on a government-prepared agenda, which he may help prepare.

"Confirming this plan which turns these meetings into nothing more than a propaganda tool, Mrs. Lenore MacNeer, Chairman of the Montpelier meetings, says, and I quote, 'Washington will deal with the resolutions we send them. If the local resolutions don't fit into the national resolutions, then they won't go to Houston. If you are dealing with politics and you want to achieve certain ends, you don't leave it wide open.' "—Marie Dietz, Taftsville, Vermont.

Illinois

"Rules for voting established by the conferences were repeatedly violated including a directive by a state legislator to bring pro-ERA delegates from another workshop into

the ERA meeting after the entry deadline for voting had passed, thus assuring 'enthusiastic ratification of ERA by a slim majority . . ."—Mrs. Rosemary Thomson.

Washington

"In the final half hour, ERA forces suspended the rules to move up discussion of a highly manipulative, ethnic minority statement. Attached to the end of this statement was a rider, which was an endorsement of the ERA. To vote for minority rights, one was forced to vote support of the ERA. Black, Chicano and Asian women shook clenched fists (at) those who voted against their statement—ending the conference on an . . . emotional binge."—Lynn Dyer, Gig Harbor, Washington.

Missouri

"As a result of (an) outburst, time did not permit the reading of approximately two-thirds of the resolutions. In hurried, confusing moments, the motion was passed to blindly accept all workshop resolutions. How could a truly conscientious and intelligent person favor resolutions he had not heard?

"Quickly, another motion was passed to bind (non-feminist) delegates to favor these resolutions at the National Conference . . . We delegates were then told we could resign if voting for ERA, abortion, lesbian rights, etc. would prick our consciences. We pro-family delegates were elected by the majority of 861 voters. On the following day only 194 voted to force us to represent their minority convictions. Are we to call this democracy?"—Karen Dukewits, Independence, Missouri.

New Jersey

"Of the major resolutions which comprise the so-called 'consensus', none is . . . in accord with true opinions of New Jersey women as reflected at the ballot box and in public opinion polls. (New Jersey defeated a State ERA at the polls two years ago.)

"The Chairwoman of the Resolutions Committee—a leader of N.O.W.—asked for, and received, dictatorial power over all resolutions; (that is) the right to rewrite and/or edit any resolution which originated with New Jersey women. Her primary order of business was to get the National IWY resolutions out on the floor—and passed—before any resolutions from New Jersey women could be considered.

"Resolutions passed by New Jersey women in some of the workshops were simply shelved in the plenary session. One of those resolutions called for a Human Life Amendment to the U.S. Constitution."—Liz Sadowski, Freehold, New Jersey.

Tennessee

"Some women were denied the right to attend certain workshops. The reason that was given was that there had been a limit of 50 persons per workshop set, and the workshops that they had requested were supposedly full . . . this was found to be untrue . . . For example, only . . . 12–15 women were in participation in (one) workshop, but women were told that the workshop was 'too full'. (This same example could be repeated for many other workshops. When some women finally were admitted) . . . they were told to sit in the back of the room or in a corner away from other participants, and not permitted to *speak* or they would be asked to leave!"—Mrs. Sue Thompson, Hixson, Tennessee.

RIGGED ELECTIONS

The procedures used to elect delegates to the National I.W.Y. Conference in Houston, Texas ranged from slipshod to rigged. Everything was done to prevent non-feminist women from being elected to represent those women who do not favor the Equal Rights Amendment, abortion, or other controversial women's lib goals. The National I.W.Y. Commission has also expressed its intention to appoint at least 400 "at-large" delegates, who will surely see to it that non-feminist delegates who were elected are even more overwhelmingly outvoted at the Houston Conference. The endorsements of the pre-ordained feminist/I.W.Y. program coming out of Houston should therefore not be surprising—or impressive—to anyone.

Michigan

"Trickery, secrecy, constant manipulation of the rules, railroading, and personal intimidation were some of the tactics used by the Conference coordinators. The worst of it was the election, which was deliberately rigged in three easy steps . . . We were concerned that the time for nominations from the floor might be cut off, so our sole representative on the Coordinating Committee, Mrs. Bernice Zilly, entered and passed a motion at a preliminary meeting to keep the time for floor nominations open for *one full hour*.

"*The first step* in rigging the election was to distort the intent of Mrs. Zilly's motion, publish the distortion in the rule book, release the rule book *no sooner* than the night of the Conference, and then refuse to change it. Instead of allowing one full hour for floor nominations, the rule was written to allow one hour *only* for *both* the presentation of the I.W.Y. slate, and the floor nominations. Contrary to statements made by I.W.Y. Coordinators, the nationally published rules do *not* require that the time for nominations be so restricted.

"*The second step* was to use up as much of that hour as possible for the presentation of the "official" I.W.Y. slate. (Chosen by the Nominating Committee, headed by the State Coordinator of N.O.W.) *The third step* was more crafty, and it caused outrage and protest from most of the women there. *Without any public announcement or written notice,* four unmarked card tables were set out at the sides of the auditorium. When we entered the auditorium, there were at least 10 women wearing bright green "Unity" caucus armbands in line at each cardtable, and each of (them) had a number which we then learned was necessary for access to each of the four floor microphones . . . our representatives were repeatedly given contrary instructions. Of course, when time and access to the mike became crucial for the making of a nomination, the feminists in charge had used up almost all of the time, and taken up the first positions in line for access to the nominating microphones.

"The only way that the Coordinating Committee could prevent us from electing our women as delegates to Houston was to prevent us from *nominating* our women. This gentlemen, was the I.W.Y. plan, and it was executed ruthlessly."—Mrs. Elaine Donnelly, Detroit, Michigan

Florida

"Chairwoman Cherry opened the session for nominations and said that there would be only one hour to nominate and that each nomination could take two minutes. Inasmuch as the women of Florida were supposed to be entitled to choose 40 delegates and 5 alternates, there was not sufficient time in one hour to nominate 45 people if each nomination took two minutes. A motion was made to extend the nominating time and the motion was ruled 'out of order' by Chairwoman Cherry . . . The 45 names on the pre-selected IWY slate had been read at the beginning, thus assuring them a place on the ballot."—from a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Georgia

"A motion by opponents of I.W.Y. to poll official delegate slate and also nominees from the floor on stand on ERA was ruled irrelevant, while motion by proponents of I.W.Y. to give city of residence of all nominees was honored". (Note: What kind of election is it where the views of the candidates are declared "irrelevant", and withheld?)—Mrs. Kathryn Dunaway, member, Georgia Coordinating Committee

SEVERE INCONVENIENCE IN VOTING

Women wishing to vote for their own non-feminist candidates for election found it extremely difficult to vote in several states:

Florida

"Those who wished to vote stood in line in the hot sun, from 5 to 6 hours and the polls were open until 4 AM the next morning."—Mrs. Frank Filewicz, Registered Parliamentarian, Florida State Association.

"The voting line had been moved outside to get it out of the main hall. We could see the women standing up to speak at the mikes, but we could hear nothing. It struck me as ridiculous that we could see the session through the glass walls of the exhibit hall, but we could hear nothing. The public address system was never turned on, and, as far as I can determine, no explanation was ever given as to why it could not be. So, hundreds of delegates stood in a voting line for 4½ hours watching a session, but hearing nothing that was said. (The last delegate cast her vote at about 2 AM Sunday morning.)—from a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Washington

"Registration and voting conditions were deplorable. Women, some pregnant, some nursing, some handicapped and many with small children were all forced to stand in line in the hot sun to register, and at night in a cold wind, to vote."—Iynn Dyer, Gig Harbor, Washington.

VOTING IRREGULARITIES

Numerous states reported that voting procedures were untidy, careless.

Maryland

"There was gross negligence involved in securing the ballot boxes. The ballot box for delegate voting was a loosely covered cardboard box. The ballot box used to collect the National I.W.Y. Resolutions was left unattended in the public hallway. Resolution forms could have been easily duplicated and deposited without observation".—Jean Gartlan Guilfoyle, Maryland.

Georgia

"Marked ballots on the 16 I.W.Y. National Recommendations were found in an open cardboard box, which was unattended over a period of several hours during the day prior to the official voting . . . There was an undetermined number of ballots distributed as "samples" although they were not marked SAMPLE. These could have been and may have been voted as official ballots. ". . . After voting on the National I.W.Y. Recommendations was completed, the clerk handling the computerized ballots was observed, over a period of 30 minutes or more, tampering with the ballots by erasing marks on the ballots and filling in spaces."

"One teller upon objecting to the fact that in counting the individual votes for each delegate, the slashes were not lined up in 5's so that they could be counted, was told by National I.W.Y. representative, Connie Plunkett, to "just fill it in".—Kathryn Dunaway, Member, Georgia Coordinating Committee of I.W.Y.

Vermont

"1. On no fewer than three occasions, State Senator Esther Sorrell, who is a member of the Vermont IWY Coordinating Committee, personally carried by hand one or two handfuls of ballots, not in the official ballot boxes, into the counting room, and Mr. David Curtis, who chaired the ballot counting committee, accepted those ballots thus submitted by Senator Sorrell as valid ballots.

"2. At least one of the handfuls of ballots submitted by Senator Sorrell under the circumstances outlined above was accepted after

all the ballot boxes had been brought into the counting room and after the polls were closed. When it was pointed out to Mr. Curtis that the polls had closed at 4:00 PM, Mr. Curtis stated that he would accept those hand-carried ballots presented to him by Senator Sorrell in spite of this circumstances."—from a notarized statement, submitted as Exhibit B with testimony Marie Dietz, Taftsville, Vermont.

New Jersey

"The Chairwoman of New Jersey Right to Life, . . . Kay Krug, appeared on the ballot as Kay King. And ballots were left on table tops within easy reach of anyone wishing to vote more than once."—Liz Sadowski, Freehold, New Jersey.

IMPOSSIBLE TO CHALLENGE ELECTION RESULTS

It is important to have the opportunity to challenge election results, in order to verify the integrity of the election. Many states reported that this opportunity was not extended to non-feminist women.

Maryland

"Furthermore, that election was held on June 12 and to this present date (September 15), I have not been notified of the election results and vote count, either for myself as a duly nominated candidate, or for any other candidate that ran in that election. I have solicited this information without success from both the Maryland Coordinating Committee for I.W.Y. and the National Commission on the I.W.Y.

". . . The deadline for challenging the election was up on August 8th. I submit—how can one challenge an election if one has not been supplied with the election returns?"—Mrs. Mary Bailey Bowen, Silver Spring, Maryland.

Wisconsin

"The distribution of ballots was totally uncontrolled. People could take any amount they wanted . . . When you had completed your voting and cast your ballot they stamped your hand with an ink stamp. The ink printed mark which was used to identify a person who had cast a ballot wiped off very easily. It is an accomplished fact that some voted more than once."—Mrs. L. L. Liebner, Wauwatosa, Wisconsin.

LOBBYING FOR THE EQUAL RIGHTS AMENDMENT

Public Law 94–167, Section 9, reads "No funds authorized hereunder may be used for lobbying activities." The legislative history of the $5 million appropriations shows that Congress did *not* intend that the I.W.Y. Conferences be used to promote the ERA. However, the Amendment was heavily promoted in every state, in line with the April 1975 pledge of the National IWY Commission "to do all in our capacity to see that the Equal Rights Amendment is ratified at the earliest possible moment."

Illinois

"The Equal Rights Amendment Workshop was a clear-cut case of the use of Federal money to lobby state legislators—an act which Congress expressly prohibited in Public Law 94–167, Section 9. Throughout the proceedings, at least two state legislators were present. Each panelist—two favoring ERA and myself opposing the amendment—was paid $50 by IWY. In addition, the moderator spoke in favor of ERA."—Mrs. Rosemary Thomson, Morton, Illinois.

Oregon

"Jill Ruckelshaus, a national leader for the ratification of the ERA, was Oregon's keynote speaker. Other speakers at the conference, Governor Bob Staub and Norma Paulus, Oregon Secretary of State, joined her in calling for the ratification of the ERA as mandatory to achieve equality for women . . . The most urgent theme expressed throughout all the functions of the Oregon Women's Conference was ratification of the ERA."—By Gabrielle T. Avery, Oregon.

Florida

"At the Welcome Session, the Chairwoman, Hon. Gwen Cherry, . . . read a letter from President Carter which said, 'Rosalynn and I support the adoption of the Equal Rights Amendment to the Constitution'. (Also a letter from Bella Abzug.)

"I wondered at the propriety of the letters being read from the podium, inasmuch as there were a number of legislators present and these letters could be construed as lobbying for a particular viewpoint."—From a report compiled by Katherine E. McDonald, Winter Haven, Florida.

Minnesota

"The League of Women Voters used the IWY meeting to solicit money for the ratification of ERA in other states . . . During the Sunday Session an announcement was made that a collection would be taken up to support the ratification of ERA in other states; after the plenary session women stood in the lobby of the meeting hall with white shopping bags asking for money for ERA."—Eloise Becker.

LOBBYING FOR FEDERAL FUNDING OF ABORTION ON DEMAND

The 382 page Report of the National I.W.Y. Commission, "To Form a More Perfect Union" advocates that 1) abortion services must be available legally, 2) federal programs should provide payment for "pregnancy termination", 3) hospital "conscience clauses" must be eliminated, 4) Teenagers should be given advice on the availability of contraceptives and abortion without parental knowledge or consent, and that 4) Counseling should be neutral as to the morality of abortion. (pp. 267–274) These policies were heavily promoted at the State IWY Conferences.

New Jersey

"A Human Life Amendment resolution was passed in a workshop. The pro-abortion resolution of the National IWY Committee was defeated. Yet, when the plenary session was held only the pro-abortion resolution was presented."—Liz Sadowski, Freehold New Jersey.

Maryland

"A delegate nominated by the Maryland Coordinating Committee passed out to the assembly postage paid post cards calling for the defeat of the Hyde Amendment, to be mailed to Congressmen by those attending the Conference."—Jean Gartlan Guilfoyle, Maryland

Oregon

"Abortion was presented by the (workshop) chair (and also the facilitator) as a 'right'. Women who challenged the desirability of 'abortion rights' were consistently ignored by the chair . . . Pro-life delegates were not allowed to present a resolution at the workshop. Workshop leaders told them to present their resolution as a minority report at the general session. This, too, was unsuccessful . . . Pro-life women were rudely shouted down and verbally abused by those who opposed them, without any intervention from the chair."—Gabrielle T. Avery, Lake Oswego, Oregon.

Michigan

"Convenor Lorraine Beebe is one of the foremost pro-abortion advocates in the state . . . Michigan H.B. 4425 (birth control education) was heavily promoted. Convenor Beebe admitted that abortion is a form of birth control, but insisted that the Supreme Court decision for abortion was not to be discussed. Nevertheless, a resolution endorsing abortion on demand was passed.

"There was not time allowed to question the panel speakers, none of whom expressed a pro-life viewpoint (alternatives to abortion) "Active listeners", chosen by the Convenor, used confusing parliamentary maneuvers to completely reverse the meaning and intent of pro-life resolutions."—by Mrs. Elaine Donnelly, Detroit, Michigan.

SPECIAL EXAMPLES OF I.W.Y. UNFAIRNESS

Some states have experienced unusual techniques to manipulate the results of the I.W.Y. Conferences.

Kansas

"The most blatant abuse of the Chairman's power as the lock-out from General Session. The Chairman announced that only 2500 persons according to Fire Marshall could be seated in Century II. With 4616 persons registered, 2116 persons were denied entrance to the General Session. Long lines of people stood in 101° temperature trying to gain entrance but were denied by IWY guards at the door. IWY persons were identified with dots on badges or ERA stickers.

"A check with Century II and the Fire Marshall later revealed that the hall capacity is 5244 or 628 more than registered so all could have been admitted. Supt of Century II stated that 3068 chairs were on the floor Saturday morning or 568 more chairs than the 2500 Chairman stated was capacity."—Mrs. Betty Hanicke, Shawnee Mission, Kansas.

Mississippi

"The Mississippi Delegation, elected at the State meeting on July 8–9, 1977 made immediate and numerous attempts to contact and obtain assistance from the State Coordinating Committee. They have been told by Ms. Jessie Mosley, Chair of the Mississippi Committee that no help would be given by the Committee to the Mississippi Delegation; . . . The Mississippi Office was closed immediately and the Delegation is having to personally and sacrificially fund all of their efforts to represent the State of Mississippi. (By contrast) other state offices continue to function with open doors, and with federal financial assistance where the ERA forces prevailed in their states.

". . . this abuse and gross neglect by the Mississippi IWY Committee makes it almost impossible for the State to be represented and causes the delegates to personally pay for the privilege of being elected delegates and official State representatives.

"To show good faith, however, the Mississippi Delegation did communicate, by registered mail, with Ms. Mosley, who had also stated that only she, (while not a delegate to the National Conference) could make our travel and hotel arrangements for the Delegates.

"She refused the mail.

"Section 1904.17(g) of the Federal Register of Feb. 25, 1977 demands that 'Each State Representative and alternate elected . . . shall be issued a Certificate attesting thereto which shall be signed by the Chair of the Coordinating Committee. . . .'

"This has not been done by the Mississippi Committee of IWY. There is no indication that they ever intend to comply with this Federal requirement. This could be, and in keeping with other conduct patterns, probably would be used by IWY to prevent the Mississippi delegates from taking their rightful positions as delegates to the National Conference."—Mrs. Eddie Myrtle Moore, Chair, Mississippi Delegation.

NOTICE CONCERNING NOMINATION BEFORE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the President has sent to the Senate the nomination of John J. Boyle of Maryland to be Public Printer, and this nomination is now pending before the Committee on Rules and Administration.

On behalf of the committee I hereby give notice to all persons interested in this nomination to file with the commit-

tee in writing, on or before Monday, October 10, 1977, any representations or objections they may wish to call to the attention of the committee concerning this nomination, as well as a statement whether they may wish to testify at any hearing which may be scheduled on the nomination.

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I would ask the majority leader, what time are we coming in tomorrow?

Mr. ROBERT C. BYRD. Nine o'clock a.m.

Mr. BAKER. I do not wish to discommode the majority leader or any Member of the Senate, but it is going to be necessary for Senators on this side to meet tonight and then again in the morning to consider the Jackson proposal. If we could move that up 30 minutes or an hour, so that I could meet with my principals in my office, it might expedite things. I wonder if the majority leader would consider making the meeting time 10 o'clock instead of 9 o'clock.

Mr. ROBERT C. BYRD. Mr. President, in the interest of promoting some kind of compromise approach out of this troublesome dilemma, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, this will mean, then, that after the two leaders are recognized tomorrow morning under the standing order, there will be three 15-minute orders and a 10-minute order, which will consume about an hour. That would mean that the Senate could then resume its consideration of the unfinished business at around 11 o'clock a.m., give or take a little bit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST TO EXPUNGE CERTAIN REMARKS FROM THE RECORD

Mr. ALLEN. Mr. President, I ask unanimous consent that the following remarks today of the Senator from South Dakota (Mr. ABOUREZK) be expunged from the record, where he stated "I never did think that Jimmy Carter would lie," second, "The President jerked the rug out from under us." I would like to ask unanimous consent that those two——

Mr. BAYH. Mr. President——

Mr. BAKER. Mr. President, I do not want to take advantage of a political situation, but I think if those remarks come out of the record, the distinguished Senator from South Dakota should make the request. There is an objection on this side noted with me.

Mr. BAYH. I would like to reserve the right to object. I think the Senate would be better served if that particular matter were expunged from the record, but I think, with all respect to my friend from Alabama, to make such a request in the absence of the person who made them, would probably go too far.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I requested some 2 hours ago the distinguished Senator from South Dakota to make this request. I stated to him that if he was not willing to do it, I would make a motion to expunge those remarks from the record. I send the motion to the desk. As soon as the motion has been read, I will suggest the absence of a quorum in order that the distinguished Senator from South Dakota may return from his office to the floor.

The PRESIDING OFFICER. The clerk will state the motion.

Mr. ROBERT C. BYRD. Does the Senator withhold his suggestion of the absence of a quorum at this time?

Mr. ALLEN. Yes.

Mr. BAYH. Would the Senator from Alabama permit the Senator from Indiana to ask a question prior to sending the motion to the desk? Will the Senator yield for that purpose?

Mr. ALLEN. For what purpose?

Mr. BAYH. We have gone through a period this afternoon which is a result of a number of hours and a number of days and a number of sleepless nights bearing rather heavily on a number of us. I think, without trying to judge anyone else, and perhaps in the 20–20 vision of hindsight, there is more than one Senator who would rather either change the substance or the style of his remarks.

As a matter of courtesy to a colleague, would it not make a lot more sense to permit this Senator to return to the floor and do something voluntarily, or at least find out that he was not going to do something voluntarily, without introducing a motion like this and putting him into a position that I do not believe any of us would want a colleague to be?

Mr. ALLEN. I gave notice to the distinguished Senator from South Dakota that I was going to file a motion. I spoke not only to him but to the distinguished Senator from Ohio (Mr. METZENBAUM) and urged him to urge the distinguished Senator from South Dakota to make that request. I feel the distinguished Senator should have been called to order at that time. I would hope that he would make this request. That is the reason I said on the offering of the motion I would suggest the absence of a quorum to allow the distinguished Senator to come in and make that request himself.

Mr. BAYH. If I may say to my friend from Alabama, there is a rather decided difference, it seems to me, between a person making a change in the record after having a motion sent to the desk, in which it looks like he is being intimidated into doing it, on one side, and, on the other side, on reflection and thinking what has happened, to make it voluntarily. I would just hope the Senator from Alabama would not put one of our colleagues in that kind of a position. I would not want to see him put into that kind of a position.

It could be when the Senator from South Dakota, who is a pretty hard, wild, and tenacious individual, who pursues his position with great vigor, gets back here he may not want to expunge the record. At that stage of the game, then I think the Senator from Alabama—well, he is within his rights now, but I would think his motion would not be put to the Senator from South Dakota in the position then that it does put him in now.

Mr. LEAHY. Will the Senator yield?

Mr. ALLEN. I will yield.

Mr. LEAHY. Mr. President, I stated this afternoon, after the remarks were made by the Senator from South Dakota, that I thought the remarks were inappropriate, uncalled for, and were not proper within the debate. I also stated at that time that though tempers may have been short, we have all been inconvenienced at some length, none of us any more or any less than anybody else, but that was no excuse for the remarks. I stated my own defense of the President and the Vice President at that time. I would have made exactly the same defense had it been a Republican President and Vice President under the circumstances. I make it knowing that I had voted with the Senator from South Dakota in most of his matters, so there could be no ulterior motives in the criticism of the position he had taken.

I really do feel that if those remarks are to be expunged, they should be expunged by the Senator from South Dakota. I state that and reemphasize my statement for it, I thought the remarks were improper, uncalled for, and had no place within the debate on the floor of the Senate. But I feel they should be withdrawn by the Senator. I understand the strong feelings of my distinguished friend and colleague from Alabama.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. May I have the floor for a minute?

Mr. ALLEN. I yield.

Mr. McCLURE. I understand why the Senator would feel that the first part of the remarks may be inappropriate, "I never did think that Jimmy Carter would lie." I am a little puzzled by the inclusion of the second question, "The President jerked the rug out from under us," because whether it be this President and this issue, this Senator has in the past felt that the President jerked the rug out from under us—not this President, not this issue. I see nothing offensive in that terminology. I may have used the same myself at times in the past.

Mr. ALLEN. I will not offer the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. ALLEN. I did not offer the motion, Mr. President.

The PRESIDING OFFICER. The Senator is correct. The motion was not offered. The Senator from West Virginia,

ORDER TO HOLD H.R. 6951 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H.R. 6951 is received from the House it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

I withhold that, Mr. President.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

Mr. METZENBAUM. I would like to say to Members of the Senate that Senator ABOUREZK and I have just indicated that we do not intend to filibuster by amendment; that as far as we are concerned the Senate may proceed in an orderly manner to dispose of the pending legislation. We feel that in view of the fact that the administration indicated quite clearly that they did not support the filibuster, in spite of the fact that they have indicated a strong opposition to deregulation legislation, that they ought to be given the opportunity to make such efforts as they can make in order to defeat the legislation in the Senate or, if not there, if it be necessary for the President to veto it. As a consequence, we have publicly indicated and now indicate to the Senate that we do not intend to offer any further amendments to the pending legislation, except if there might be some incidental one, but not in connection with the large number that are presently pending.

Mr. ALLEN. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. ALLEN. I commend the distinguished Senator from Ohio and his colleague, the distinguished Senator from South Dakota (Mr. ABOUREZK) for a very gallant effort in this fight. I have not found myself in agreement with the substance of their fight, though the distinguished Senator realizes on many occasions I have supported his efforts. I commend him for his stand for the right of a minority to be heard. I have supported that position. I am hopeful that some of the Senators who have supported his position, and who spoke at length and heatedly on this issue, will remember that position in time to come when others may possibly wish to be heard, or wish to offer amendments here on the floor. I am hopeful that we have now at least two very able recruits to the proposition that the minority has a right to be heard, not only on matters that the distinguished Senator might be in agreement with, but on matters that the distinguished Senator is not in agreement with.

The Senator from Alabama voted against cloture. He was in support of many rulings of the Chair. He supported the distinguished Senator. He is hopeful that those of us who do wish to protect the rights of the minority here in the Senate have attained two valuable—I shall not say recruits, I shall say leaders—in the fight to protect the rights of minorities in the Senate. I commend the distinguished Senators for their able and gallant fight on this issue.

Mr. METZENBAUM. I thank the Senator from Alabama.

Mr. ROBERT C. BYRD. Mr. President, I compliment the distinguished Senator from Ohio for his statement. It was a courageous one and I believe it will help to open the way for progress toward the ultimate conclusion by the Senate of this bill.

Mr. BAKER. Mr. President, I join the distinguished majority leader in commending worthy adversaries. I see the distinguished Senator from Ohio on the floor and I think I even detect a little look of weariness on his face.

He did a good job. Better than I have ever seen in conducting extended debate of this type.

I cannot recall a single time in the last 10 days or so when we agreed. But I want to take this oportunity to tell him that not only is he a worthy adversary, but he conducted himself with honor and dignity.

I would like to commend the Senator from South Dakota for being an ally and an effective champion of that point of view and to say at this point that he did a dreadfully effective job.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. RANDOLPH. Will the able majority leader advise us as to what the picture is now for Senators who, like myself, are thinking in terms of tomorrow and possibly the next day or the next?

Mr. ROBERT C. BYRD. Tomorrow and the next day and the next day, may I say to my friend, are going to be heavily laden with work. The Senate, first of all, has to complete its action on this bill. That may require several votes. But I believe that the climate is such now that all Senators are going to seek and, like reasonable men, find a way in which the Senate can work together to finish its obligations to the public by passing this bill.

Upon the heels of this bill, there is another energy bill. I have been asked by Mr. JACKSON, who is manager of the the bill that we have had before us now for 13 days, to allow just a little respite between the final action on this bill and the taking up of the utility rate reform bill. So it is my intention to proceed with the minimum wage bill, on which we have a time agreement, and the D.C. appropriations bill, on which we have a time agreement; get those bills to conference so that the conferees might be working on them before we proceed in the Senate to take up the utility rate reform bill.

I assume that what I have outlined here could be done in a day—I am talking about the minimum wage, and D.C. appropriations. It will be a long day, but we do have a time limitation on them. We could dispose of those and get back on utility rate reform.

In the meantime, while the Senate has been debating this natural gas pricing bill, especially in the last week, the Committee on Finance, which has the fifth and last of the energy bills, the energy tax bill, has been unable to conduct its meetings. So, hopefully, once action is completed on the natural gas pricing bill, the Finance Committee can go back to its work on a very difficult bill.

I say to my friend that I can see no hope of anything other than a Saturday session again this week, long hours, hard work, and a considerable amount of legislation yet to be enacted.

Mr. CURTIS. Will the distinguished leader yield?

Mr. RANDOLPH. Will the distinguished leader yield further so I can pursue this for just a minute?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. If any man needs to be spoken of as gallant, it is the gentleman who has now yielded to me.

Mr. ROBERT C. BYRD. I thank my friend.

Mr. RANDOLPH. I do not withhold it from other Members of the Senate, but I speak of it in reference to his actions here.

The reason I am pursuing this is that, as the Senator knows, we are going to conference on the black lung bill tomorrow, but we could not have gone to conference had the situation continued as it was in the Senate.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I am not attempting now to speak for or against what we have been doing, except to say that we could not have started the conference tomorrow.

We also are ready to go to conference on the water pollution legislation. Hopefully, we are going to try to begin that one tomorrow. The water resources, which is the regular rivers and harbors flood control protection bill, is another that we are moving. So we do more than just stop the filibuster here by the statement that has been made by the Senator from Ohio. We give an opportunity, other than in the Senate, for this body to transact important business in conference with the House.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. So I think it is good that the record reflect that, now, hopefully, there will be enough time between votes that those conferences can proceed. Does the Senator feel that that might be possible?

Mr. ROBERT C. BYRD. I would think so, yes. I am glad the Senator has made this point, because it is true that the discussions on the natural gas pricing bill, which have been going forward within the past week or more, have, in themselves, delayed actions between the two houses on the conferences that have been in conference for quite awhile. The distinguished Senator from West Virginia (Mr. RANDOLPH) has pointed to two or three very important conferences in which he plays an important part. He mentioned black lung, he mentioned the Clean Water Act. Then there is the Mine Health and Safety Act. I believe he is a conferee in connection with that. There are other conferences which, once this

bottleneck is broken, can go forward. Whether that will be tomorrow or not, I am in no position to say. I think we had better wait and see how things go tomorrow. Hopefully, final action can occur and if that is true, that logjam is broken and the conferences can go forward.

Mr. RANDOLPH. I want the leader to yield further.

Mr. ROBERT C. BYRD. I yield the floor. I did promise to yield to the Senator from Nebraska.

Mr. RANDOLPH. I have the floor. I am not finished. I shall yield in a moment or two.

Mr. CURTIS. This is just a brief question.

Mr. ROBERT C. BYRD. The Senator from West Virginia had not finished. I thought he had finished.

Mr. CURTIS. I beg the Senator's pardon. I did not know who had the floor.

Mr. RANDOLPH. The leader has been yielding to me. I shall not continue very long, but I should like one further expression.

I am sure that the leadership on both sides of this aisle have not had the opportunity and, understandably so, to give their attention to my earlier comments. But I do want to read now—not to request that they later read—into the record what I said in my speech of Saturday in reference to this subject matter. Will the Senator indulge me the opportunity to do that?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH:

Mr. President, the majority leader (Mr. BYRD) deserves the commendation of Senators generally for his continuing efforts to secure final action in this body on the pending legislation. I congratulate him on his fairness and determination to obtain a decision in this forum so that the measure can move to a conference with the House.

I also commend the able minority leader (Mr. BAKER) for his cooperation in attempting to resolve this problem so that the Senate can move to other important business.

So I just want to reinforce what I said on Saturday by reading my comments at that time in reference to the two leaders. I just feel that some day, we shall know properly the efforts which the majority leader and minority leader have made in these matters.

Mr. ROBERT C. BYRD. Mr. President, my senior colleague could not be more gracious. It is typical of him and I thank him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. METZENBAUM. Will the Senator yield?

Mr. ALLEN. Yes, I think I should, provided I do not lose the floor.

Mr. METZENBAUM. I would like to thank both the Senator from Tennessee and the Senator from West Virginia. They are both very worthy adversaries. But some of the extra team came in this afternoon, and that was a little bit too much.

But it was a privilege to contest with you, and I hope you are successful in moving this matter forward in the best interests of the Nation, which I am sure both of you will dedicate yourselves to.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, I, too, wish to associate my statement with the remarks of the distinguished Senator from West Virginia (Mr. RANDOLPH) in praise of our distinguished majority leader.

The majority leader displayed just the right measure of forbearance and determination on this issue. Certainly, he leaned over backwards to give those in the minority who wished to be heard every opportunity to be heard, because it was for 5 days that we debated this issue before a cloture motion was offered. Thereafter, it seemed to me that the distinguished majority leader leaned over backwards to give Mr. METZENBAUM and Mr. ABOUREZK, and those associated with them, every opportunity to be heard, every opportunity to present their amendments.

It seemed to one and all that a hopeless task lay ahead of the Senate and lay ahead of the joint leadership in resolving this matter. But yet, they plowed ahead, and I appreciated the determination of the distinguished majority leader in saying that if we had to stay in until Christmas we were going to resolve this issue.

I want to comment further on what I believe is the force of the public opinion, both in the Senate and throughout the country.

Public opinion is the greatest force in politics and no effort can be maintained here in the United States Senate if it does not have the backing of public opinion.

I believe public opinion had supported this effort just as long as it could and I feel it was the loss of opinion here in the Senate and public opinion throughout the Nation that caused the distinguished Senator from Ohio and the distinguished Senator from South Dakota to agree that no further amendments would be offered in this matter.

But there was a Herculean task that was laid out by the distinguished majority leader, and associated with him the distinguished minority leader, and I commend them for their determination to see that the Senate did reach a final decision in this matter.

At the same time, Mr. President, I supported the efforts of the distinguished Senator from Ohio and the distinguished Senator from South Dakota in their efforts to be heard in this matter. I felt that they were acting within their rights in offering this vast quantity of amendments.

I am glad that the rules of the Senate have not had violence done to them.

I feel that the distinguished majority leader had two courses that he could have pursued that would have brought an earlier resolution of this matter and he refrained from doing so because he did not wish to do violence to the rules.

I have reference to a suggestion that all of the amendments be brought up en bloc, and, if the Senate had supported that effort, that would have disposed of the matter.

The majority leader did not follow that course and I commend him for it.

Another thing that he could have done, and it was suggested here on the Senate floor, was to move that all of the amendments to the bill were dilatory. That one ruling, had it been supported by the Senate, would have brought resolution to this issue long ago.

So I believe the distinguished majority leader has, as always, shown great leadership in this great fight that has taken place here on the floor of the U.S. Senate. I feel that without his determination to see that this matter came to a final vote there would have been no possibility whatsoever of the matter being brought to a final conclusion.

I commend the distinguished majority leader. I commend the distinguished minority leader, who has worked hand in hand with the distinguished majority leader in seeking a resolution to this matter.

Mr. President, I say again that I want to see the rights of the minority protected. From time to time, I feel sure, as other matters are brought up here on the Senate floor, that I will speak out in support of the right of the minority to be heard.

I again commend the distinguished Senator from Ohio and the distinguished Senator from South Dakota for the fight that they have put on in reference to this bill.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield myself 3 minutes. I wish to ask the distinguished leader a question.

First, let me say that I commend the distinguished leader and the minority leader on their endurance and good nature and their fairness to everybody.

A number have tried to stay on the floor rather consistently all through these days, which is our duty. Other matters have had to wait.

Can the distinguished leader give us any indication as to the possible time schedule tomorrow, which time the important issue will be voted on?

Mr. ROBERT C. BYRD. I am sorry, I cannot. I cannot give the Senator that information because at this juncture it is simply impossible for me to say.

The Senate will come in at 10 o'clock. I will assume that by 11 o'clock we will resume consideration of the natural gas pricing bill. I do not know what to expect at that point.

I think we all have some reason to be optimistic this evening in the hope that tomorrow will somehow bring a final solution to that problem.

The distinguished Senator from Washington (Mr. JACKSON) propounded a unanimous-consent request which, it seems to me, after it has been shown to others who expressed interest here, might provide the way whereby the Senate can complete action on this measure tomorrow.

I am sure there are others here who spoke up at that time who will have some input, and that unanimous-consent request may have to be altered.

But I anticipate votes tomorrow, rollcall votes. I do not know when they will come. I would have to anticipate at this

point a long day tomorrow because our work has become so backed up, not only in the Chamber, but in committee and in conference, that we cannot hold out any hope for days in which we can avoid long sessions or many votes.

Mr. CURTIS. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. That is about the best answer I can give the Senator.

Mr. CURTIS. I understand.

Mr. ROBERT C. BYRD. It is not an answer that has certitude written all over it. I thank the Senator for asking.

Mr. President, I thank my friend from Alabama for his statement. He is not only an able parliamentarian but also a fine U.S. Senator, a man who is dedicated to his people, to the Senate, and the Nation. He is a gentleman. I do not know of anything better that can be said about a man than that.

Mr. BAKER. Mr. President, I express my appreciation to the distinguished Senator from Alabama for his remarks and to the Senator from Nebraska for his remarks. Most of all, I express my appreciation to the majority leader for his efforts today to reconcile this dilemma and to bring us to the point where I think there is a prospect that we can move this bill one way or the other promptly.

Mr. ROBERT C. BYRD. Mr. President, the prospect for a fairly and reasonably speedy conclusion to this measure requite any inconvenience that has been caused to me, and I am sure I can say the same about the distinguished Senator from Tennessee, who has stood shoulder-to-shoulder with me in the determination that whatever the final product is, the Senate is going to pass a bill and send it to conference.

I express my appreciation to the Senator for sharing that determination with me.

Mr. BAKER. I thank the majority leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:22 p.m. the Senate recessed until tomorrow, Tuesday, October 4, 1977, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 3, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

You were called to freedom, brethren; only do not use your freedom as an opportunity for the flesh, but through love be servants of one another.—Galations 5:13.

O Gracious God, in this quiet moment of prayer we turn to Thee who art the source of our strength and the sustainer in our daily way. Thanks be to Thee for Thy goodness to us, for the heritage our fathers have bequeathed to us, and for our hope for better days to come. Throughout this week help us to be faithful in our work, just in our dealings, kind in our relationships, and true to our faith. Grant us the vision to see and the courage to do Thy will. So live in us that we may not swerve from the path of duty but with patience and perseverance, with purity of heart and unity of spirit we may labor together for the highest good of our Nation and the benefit of all mankind. Amen.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order that a quorum is not present, and do so on the grounds of article I of the Constitution which requires a majority to conduct the business of the House, and further I base a point of order on rule 1, clause I of the Rules of the House of Representatives which states the duties of the Speaker and specifically says:

> The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. On the appearance of a quorum, the Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal; . . .

The SPEAKER. The Chair is aware of the gentleman's point of order and the gentleman's point of order is well taken under rule I. Evidently a quorum is not present.

CALL OF THE HOUSE

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 618]

Anderson, Ill.	Fish	Pepper
Andrews, N.C.	Fisher	Pursell
Badillo	Foley	Rangel
Bellenson	Fraser	Rodino
Biaggi	Giaimo	Roncalio
Boland	Gonzalez	Rose
Bolling	Hall	Runnels
Bonior	Hanley	Santini
Burke, Calif.	Harsha	Sebelius
Burton, John	Hillis	Shipley
Burton, Phillip	Holland	Shuster
Byron	Horton	Sisk
Carter	Howard	Spellman
Cederberg	Jenrette	Stokes
Chappell	Johnson, Calif.	Teague
Chisholm	Jordan	Traxler
Collins, Tex.	Koch	Udall
Conte	Le Fante	Whalen
Conyers	Lent	Whitehurst
Cotter	Livingston	Wilson, C. H.
Davis	Long, Md.	Wilson, Tex.
Dent	McDonald	Wolff
Dicks	Marlenee	Wright
Diggs	Mathis	Young, Alaska
Dingell	Meyner	Young, Tex.
Dornan	Neal	Zeferetti
Eckhardt	Patten	

The SPEAKER. On this rollcall 354 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 282. Concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the Houses on the amendments of the Senate to the bill (H.R. 6655) entitled "An act to amend certain Federal laws pertaining to community development, housing, and related programs."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1331. An act to provide for the establishment of a Center for Books in the Library of Congress.

The message also announced that the Senate agrees to the amendments of the House to the Senate amendment to a bill of the House of the following title:

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment to the House amendment to the Senate amendment numbered 10 to a bill of the House of the following title:

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes.

The message also announced that the Senate had passed with amendments in

which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes;

H.R. 7691. An act to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; and

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3) entitled "An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. CURTIS, and Mr. DOLE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 9290) entitled "An act to increase the temporary debt limit, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. HARRY F. BYRD, JR., Mr. TALMADGE, Mr. GRAVEL, Mr. HASKELL, Mr. CURTIS, Mr. ROTH, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5101) entitled "An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. MUSKIE, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2052. An act to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment; and

S. Con. Res. 46. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

CONVEYING TO THE ELY INDIAN COLONY THE BENEFICIAL INTEREST IN CERTAIN FEDERAL LAND

The Clerk called the bill (H.R. 6348) to convey to the Ely Indian Colony the beneficial interest in certain Federal land.

There being no objection, the Clerk read the bill as follows:

H.R. 6348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the land described below, consisting of approximately ninety acres, is declared to be held in trust for the Ely Indian Colony, Nevada: Section 22, township 16 north, range 63 east MDB&M, Nevada, north half southeast quarter northeast quarter northeast quarter southwest quarter.

With the following committee amendment:

Strike out all after the enacting clause and insert:

H.R. 6348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights-of-way, licenses, leases, permits, and easements, all right, title, and interest of the United States in the land described below, consisting of approximately ninety acres, is declared to be held in trust for the Ely Indian Colony, Nevada: The north half of the southeast quarter and the northeast quarter of the northeast quarter of the southwest quarter of section 22, township 16 north, range 63 east. Mount Diablo base and meridian, Nevada. Such land shall be a reservation of the colony.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING CERTAIN FEDERALLY OWNED LAND HELD IN TRUST BY THE UNITED STATES FOR THE TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS

The Clerk called the Senate bill (S. 667) to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

There being no objection, the Clerk read the Senate bill as follows:

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights-of-way, leases and easements, all right, title, and interest of the United States in and to the following described land, and improvements thereon, are hereby declared to be held by the United States in trust for the Te-Moak Bands of Western Shoshone Indians:

The north half of the southwest quarter of section 4, township 37 north, range 62 east, Mount Diablo base and meridian.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 9290, TEMPORARY DEBT LIMIT INCREASE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out "September 30, 1978," and insert "March 31, 1978,".

Page 1, line 7, strike out "$373,000,000,000" and insert "$352,000,000,000".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXEMPTIONS FROM MANDATORY RETIREMENT BAN

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, the Senate Human Resources Committee has caved in to the pressures of big business and university lobbyists by exempting from the ban on mandatory retirement individuals with pensions above $20,000 per year and university professors and public school teachers.

Their action is most unfortunate and represents an unacceptable compromise with the forces of discrimination and reaction. We can now expect banks, brokerage houses, hospitals, retail stores, and other organized groups to petition the Congress for similar exemptions.

Mr. Speaker, the House must stand firm in our drive to eliminate ageism by banning mandatory retirement. Under the able leadership of Congressman Pepper, a living example of the folly of forced retirement, I know that the House will refuse to agree to the unconscionable exemptions the Senate may be on the verge of adopting.

URGES PRESIDENT TO PERSEVERE

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.)

Mr. FINDLEY. Mr. Speaker, weekend events concerning Mideast policy show a rising level of U.S. influence. A joint statement with the Soviet Union outlined principles to be involved in a general settlement—including legitimate rights of the Palestinians.

This statement, plus an interview reported with Dr. Brzezinski, President Carter's National Security Adviser, suggest a strong role by the United States in negotiations. This is gratifying. I have long been convinced that a just settlement cannot occur without strong U.S. leadership. I congratulate the President and urge him to persevere.

The weekend events also show wide divergence of opinion among the Mideast States on basic principles. I hope the administration will not press for a Geneva Conference until general agreement is achieved on major principles.

CLOSED RULE VERSUS OPEN RULE ON THE LABOR BILL

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, one of the final acts in the saga of reform is about to unfold.

Tomorrow the Members of this body will have an opportunity to vote for either a closed rule or an open rule on the labor bill. The Members might well ask themselves, Why a closed rule, a rule that inhibits their opportunity to work their will? Why has a closed rule been utilized in this particular situation in view of the fact that earlier in this session we had open rules on situs picketing, minimum wage, and black lung?

Mr. Speaker, I am putting into the RECORD today the previous rules on the labor bills in the last 30 years, every one of which was an open rule.

Mr. Speaker, the Members are being led to a cliff. The good shepherd would take them over the cliff.

I recall the statement of a great Democrat from Missouri, Jim Reed. Jim Reed once said, when confronted with a situation like this,

> I do not belong to that branch of the sheep family that will follow a bellwether over a precipice. I reserve the right to examine the judgment and the motives of the bellwether.

Mr. Speaker, the American people will be watching, and I suggest that the Members of this body examine the motives of the bellwether before they go over the cliff.

FORTY-TWO DEFERRALS OF FISCAL YEAR 1978 FUNDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–235)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 42 deferrals of fiscal year 1978 funds totalling $1,480.6 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 3, 1977.*

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, OCTOBER 5, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of this week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6951, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, September 30, 1977, the Clerk had completed reading the bill.

Are there further amendments to the bill?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to remind Members of the current legislative status of H.R. 6951 to extend the Council on Wage and Price Stability for 2 years.

On Friday the House adopted by voice vote the rulemaking H.R. 6951 in order. General debate was concluded expeditiously and the committee amendment, which appears on pages 2 and 3 of the bill, was adopted by voice vote.

I thereupon offered an amendment which was designed to clarify the law with respect to the confidentiality of matters submitted voluntarily to the Council and to conform the bill in substance to the bill passed by voice vote in the other body. This amendment was adopted.

We now have before us legislation which, if it is passed without amendment, can be sent directly to the White House.

This expeditious handling of the legislation is important because the charter of the Council expired last Friday. Therefore, I urge all Members to refrain from offering amendments and if amendments are offered to vote against them.

This request is justified because this House has acted on two previous authorization bills for the Council, subject, of course, to the enactment of authorizing legislation.

If amendments were to be adopted, the bill would have to go back to the other body which, to put it mildly, is in a turmoil over energy legislation. Such inevitable delay would have a demoralizing effect on the very competent staff of this agency which President Carter has called a centerpiece in his fight against inflation.

Therefore, I urge Members to stay with the committee which reported this bill by a 36 to 2 bipartisan vote.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. LEVITAS: After the existing material in the bill, insert the following new section:
>
> SEC. 7. The President is authorized and directed to present a plan to Congress before March 31, 1978, to transfer, effective September 30, 1979, the functions of the Council on Wage and Price Stability to appropriate agencies of the United States. When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, I will not belabor this amendment because I addressed myself to the subject of this Council at great length last Friday, but the fact is that this agency is not really a Council in any sense whatsoever. So that while there are some very talented people at the Council who are doing a good job in what they do, but they are really not a collegial Council and are not an organization that was intended to deal with inflation nor do they really deal with inflation. It is merely a cosmetic which enables some politicians to go back to their constituents and say we can do something about inflation when in fact we are not.

It is also there as the potential intervener in the private sector which could ultimately lead to wage and price controls. I think the sooner we get rid of this fictitious agency and realize we have got a serious problem of inflation, the sooner we will be able to do something about inflation.

As I pointed out last Friday, this Council, so-called, has a very impressive list of members on it. It has got the Secretary of the Treasury; it has got the Director of Management and Budget; it has got the Secretary of Labor. But I made some inquiries to find out how often this very important Council has met, because I know if it is so important to have all those people on it, it must have frequently dealt with this serious problem of inflation. Lo, Mr. Chairman, lo, when I inquired, I found out that this extremely important Council has never met. So I wonder whether we really need it.

Mr. Chairman, in conclusion I would like to make this observation. Last Friday night, September 30, midnight, a great thing happened in this country: an agency of Government went out of existence. The earth was a little bit lighter. I noticed over the weekend people seemed a little bit merrier and happier. I think that if we adopt this amendment, we will continue that state of euphoria, to know that we are on the right track in getting rid of agencies, not of creating more.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding.

I want to congratulate the gentleman for his statement. I share his position and his opposition to the Council. He has made an extremely important observation for this body, that is, that that Council is not addressing the real issue of inflation. In fact, the Congress is not through that Council addressing inflation, because inflation is not going to be cured—it is not going to be touched—by wage and price efforts of the Council nor by wage and price controls, as the gentleman has mentioned. It is, indeed, a potential threat to the market by intervening into decisions in the marketplace.

The answer to inflation is right here in the U.S. Congress in Washington, D.C., and to tell the American people anything else is nothing but a fraud. So I appreciate the gentleman's remarks, concur with his efforts, and extend to him my support.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD. I thank my good friend for yielding.

When the gentleman mentioned the matter of meetings last Friday, I did not have the information. Since then I have obtained it, and that is that during the previous administration the full Council met approximately once a month. In this administration we have not had a full-time Director just an acting Director. Mr. Bosworth became the Director, I believe, August 1, and he has had meetings three times with four of the principal members of the Council. He has also had meetings with assistant secretaries of the secretaries who are members of the Council. The Council does serve a real function, because they are advised ahead of time of any filing proposed by the Council and given advanced copies of any report of the Council so that they can comment. So that the Council members do have a real input that I was not aware of and could not inform the gentleman of.

Mr. LEVITAS. I will say this: I am sure that the members of this group, so-called Council have met, and I am sure that the distinguished chairman of the subcommittee was provided the best information available from those who provide such information. However, in my conversations with the Chairman of the Council of Economic Advisers and the Chairman of this Council, the information I received and which I transmitted to this body was to the effect that really as a Council, as a collegial body, it has not met to give directions or instructions or input on the policy decisions. During the last Congress the Subcommittee on Commerce, Consumer, and Monetary Affairs on which I serve had oversight hearings on this agency, and it was only after those oversight hearings that they even began to go through the pretense of having meetings.

This is a very important function in Government. Every one of the functions of this Council is now being provided by at least two other agencies of Government. We are here today not extending an agency; we are in effect recreating one. So what the Members are being asked to vote upon today is creating another agency in Government. I think this is an opportunity for us to strike that vote for freedom and do away with one agency.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. I rise in support of Mr. LEVITAS' amendment. Mr. Chairman, first of all, I want to compliment my colleague for the offering of this amendment because I think it provides a better opportunity for us to get a report directly back from the President as to how effective this Council bureaucracy is—and both of us agree it is unnecessary bureaucracy. Many of us do not feel it has produced that much in the way of beneficial results that it is supposed to provide. So I want to compliment my colleague for offering the amendment.

Even with the amendment, as the gentleman knows, I have great difficulty in understanding why we need to continue this unnecessary bureaucracy. Based on the President's own statements and promises during the campaign to eliminate unneeded and nonessential elements of Government especially in the White House area in which this falls. I would think the President would want this to expire. So I think the gentleman is making a positive contribution with this amendment. I assume the chairman of the subcommittee probably will want to support it because I am sure he is anxious to have adequate feedback from the President himself on the kind of value that this Council has. I assume he is going to support the amendment, I do not know, because he needs adequate feedback to his subcommittee to find out what this agency is doing.

A little more than 2 years ago, in dissenting views, on a bill to extend the Council on Wage and Price Stability Act, I made the following statement:

> The time has come to say goodbye to the Council on Wage and Price Stability. If the Council were to continue to exist and to play the role which its title implies, it would be working to keep prices up, for the economy is now displaying an unmistakable trend toward a lower rate of inflation. There will certainly be temporary breaks in this trend, such as that which occurred in June, but unless Congress and the Federal Reserve depart more drastically from responsible fiscal and monetary policies, the rate of inflation should decline to the 5%–6% range by the latter part of this year.
>
> Rather than add subpoena power and the power to require periodic reports by product line to the Council's authority, Congress should allow the Council on Wage and Price Stability Act to expire on August 15, 1975, and it should not permit wage and price controls to survive in any form or guise. There is no justification whatever for imposing controls upon the general economy when the cause of inflation is not to be found there but rather is to be found right here, in the Congress, and at the Federal Reserve.
>
> When Congress persistently runs huge deficits, these deficits must be financed by Federal borrowing, which creates upward pressure on interest rates, and, in periods of expansion, tends to crowd out private demand for funds. Pressure then builds for the Federal Reserve to "accommodate" these competing demands by increasing the money supply. In 1972 and 1973 the Federal Reserve yielded to this pressure and increased the money supply at record peacetime rates.
>
> A rapidly increased money supply causes inflation. Inflation is not created by citizens making their daily economic decisions. These decisions affect the allocation of resources, but they cannot raise prices generally. Inflation has its genesis in the Congress; therefore, any action to control inflation must come in the form of meaningful control over our own profligacy. It is a cruel trick to play on the victims of the irresponsible fiscal and monetary policies of the Federal government to use the natural consequences of these policies, including inflation, as an excuse to increase governmental control over their activities.
>
> Nor should there be any mistake as to the basic nature of the "monitoring" and "jawboning" activities which are supposed to be the primary functions of the Council. There is a distinction only in degree between economic controls on the one hand and "monitoring" and "jawboning" on the other. All such activities constitute attempts to influence economic events by the application of varying degrees of governmental coercion.

If the "sunset" concept, that agencies should be disbanded when their usefulness has ended, means anything at all, then it is now past time to put the Council out of business. If the research capability of the Council staff is deemed to be unique and indispensable, we should adopt the amendment of my distinguished colleague from Georgia (Mr. LEVITAS), which sets a deadline, March 31, 1978, by which another place must be found for the staff and another deadline, September 30, 1979, by which the switch must be implemented.

As long as the Council continues to exist, it will continue to divert the attention of the American people from the real causes of inflation. The committee report on this bill contains a section entitled "Nature of the Inflation Problem" which calls for "a comprehensive anti-inflation program that operates directly on prices, costs, supplies, and expectations." The fact is that we do not need a complicated, "comprehensive" program to combat inflation. The program can be quite simple—keep the growth of the monetary aggregates within bounds which are commensurate with the ability of the economy to increase production. What seems to be difficult is to summon the will to implement this program

The great monetary economist, Milton Friedman, described our present economic predicament very succinctly in a column entitled "Why Inflation Persists," which appeared in the October 3, 1977, edition of Newsweek:

> There is one and only one cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. . . . .

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure.....

Fortunately, it is possible to cure inflation without perpetuating the existence of this bureaucracy and without sacrificing our economic and political freedom, if we have the will to do so. If we do not have the will to cure inflation, all of the bureaucracies we can establish to put out press releases saying nasty things about inflation will do no good.

There is one activity of the Council which deserves to be continued, whether or not the Council continues to exist in its present form. I refer to the identification and criticism of activities of the Federal Government which contribute to the high cost of living. In fact, if I could be certain that the Council would limit itself to the criticism of costly and wasteful Government activity and would never become the instrument for the imposition of the dreaded wage and price controls upon the American people, I would urge that the Council be permitted to remain in place. Unfortunately, there are no assurances that the Council will not once again become a bureaucratic menace in its own right; therefore, it must go.

The full text of the Friedman column follows:

WHY INFLATION PERSISTS

(By Milton Friedman)

Nearly three years ago, I wrote in this space: "Four times in the past fifteen years we have started on a cure for inflation. Three times we have abandoned the cure before it had time to complete its task—in 1963, 1967, 1971. Each time, the result has been a higher plateau of inflation, producing a new attempt at a cure. Will we make the same mistake the fourth time in 1975? Or this time, will we have the courage and the wisdom and the patience to see the cure through?" (Newsweek, Nov. 4, 1974.)

ABANDONING THE CURE

As of today, the answer is that we have made the same mistake a fourth time. Once again, we have paid the cost of a recession to stem inflation, and, once again, we are in the process of throwing away the prize. From a high of more than 12 per cent in 1974 (from December 1973 to December 1974) inflation fell to less than 5 per cent (December 1975 to December 1976). It has now risen sharply, may temporarily recede as we work through the bulge produced by the special problem of the hard winter, but then, I fear, will resume its upward march, not to the "modest" 6 per cent the Administration is forecasting, but to at least several percentage points higher and possibly to double digits again by 1978 or 1979.

There is one and only one basic cause of inflation: too high a rate of growth in the quantity of money—too much money chasing the available supply of goods and services. These days, that cause is produced in Washington, proximately, by the Federal Reserve System, which determines what happens to the quantity of money; ultimately, by the political and other pressures impinging on the System, of which the most important are the pressures to create money in order to pay for exploding Federal spending and in order to promote the goal of "full employment." All other alleged causes of inflation—trade union intransigence, greedy business corporations, spendthrift consumers, bad crops, harsh winters, OPEC cartels and so on—are either consequences of inflation, or excuses by Washington, or sources of temporary blips of inflation.

There is one and only one basic cure for inflation: slowing monetary growth. But that cure is easier to state than to put into effect: witness our repeated abandonment of the cure. The Fed is supposedly independent. But, as Dooley said of the Supreme Court, "It follows the election returns." Its behavior reminds me of nothing so much as the remark attributed to a U.S. Army officer in Vietnam, "We destroyed the village in order to save it." Similarly, the Fed refrains from using its independence because it is afraid of losing it.

Listen to Chairman Arthur F. Burns in testimony to the House of Representatives (July 29, 1977):

"The trend of growth in monetary aggregates, I regret to say, is still too rapid. Even though the Federal Reserve has steadily sought during the past two years to achieve lower ranges for monetary expansion, the evolution of its projections has been extremely gradual; indeed, at the pace we have been moving [*note: with respect to projections, not behavior*] it would require perhaps a decade to reach rates of growth consistent with price stability. I must report, moreover, that despite the gradual reduction of projected growth ranges for the aggregates during the past two years, no meaningful reduction has as yet occurred in actual growth rates."

Meaning: promises have been in the right direction but too modest; performance has been in the wrong direction.

THE PERFORMANCE OF THE FED

The following table documents Chairman Burn's description of performance: the high rates of monetary growth from 1971 to early 1973 fostered the inflation that peaked in 1974. The sharply lower monetary-growth rates from 1973 to 1975 produced the serious recession of 1974–75 and the subsequent tapering off of inflation. The sharp rise in early 1975 sparked the recovery; the slowdown in late 1975 produced the economic pause in the second half of 1976 that played such a prominent role in the Ford-Carter election battle. Since then, monetary growth has been rising, not falling, and is now about back where it was in 1972.

Recent rates of monetary growth

[Percent per year]

	M_1	M_2
December 1971 to January 1973	9.3	11.4
January 1973 to February 1975	4.5	7.7
February 1975 to June 1975	9.5	12.0
June 1975 to December 1975	2.8	7.0
December 1975 to June 1976	5.8	10.5
June 1976 to August 1977	7.1	10.9

NOTE.—M_1=currency plus adjusted demand deposits; M_2=M_1 plus commercial bank time deposits other than large CD's.

Inflation will not be stopped by words, only by actions. At the moment, we have the worst of two worlds. Nominal independence of the Federal Reserve without its effective exercise permits Congress and the President to evade responsibility for the creation of money to finance large government deficits. The power of Congress to legislate and of the President to approve such deficits without explicit responsibility for the resulting monetary growth gives the Federal Reserve an excuse for its inflationary behavior.

Again, let me quote Chairman Burns, this time from a speech on Aug. 13, 1977, proclaiming "The Importance of an Independent Central Bank":

"Theoretically, the Federal Reserve could thwart the non-monetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government. The fact that such actions may in combination be wholly incompatible with moderate monetary expansion is seldom considered by those who initiate them."

FISH OR CUT BAIT

It matters little whether the Federal Reserve is unable or unwilling to exercise its independence in deeds as well as words. In either case, let us be done with the fiction that "independence" is somehow or other a bastion against inflation. Let us put the responsibility for the rate of monetary growth—and therewith for the subsequent rate of inflation—squarely and openly on the Administration and Congress. Instead of simply requiring the Federal Reserve to *report* its "projections" or "targets" for monetary growth, let the Congress require the Fed to *achieve* specified rates of monetary growth (or specified levels of the quantity of money) within specified ranges of tolerance. That would combine responsibility and power. It would also enable the ordinary citizen to know whom to hold accountable for inflation.

But I do compliment my colleague, the gentleman from Georgia, for offering this amendment. I think he can count on a substantial number of us on the committee to support it.

Mr. LEVITAS. I thank my colleague, the gentleman from California, for his remarks and for the assistance he has provided me in bringing this to the attention of the Members.

Let me point out one thing for the Members who are here. This really is more of a sunset amendment than an amendment which provides for the termination of this agency. This does not say this agency should go out of existence on last Friday night, which it did. It says that if this agency is to be continued, then at a certain time the President will report to the Congress as to the effectiveness of this agency and ascertain the places in Government where the functions of this agency can be transferred so that if it is needed it can continue whatever it is supposed to do.

So I think this is a very rational and reasonable approach to phase out agencies of Government. I think that is what the American people want and that is why President Carter received so much support when he was running, because he said he was for reducing the Government rather than expanding it.

Mr. REUSS. Mr. Speaker, I rise in opposition to this amendment.

I think the Members ought to know what they are asked to do by this amendment. It mandates on the President by early next year to torpedo, and sink without a trace, the Council on Wage and Price Stability. Sure, it is allowed to slowly settle beneath the waves over an agonizing period of several months after that, but it is dead and dead forever.

And by so doing we will be sending a signal to the entire industrialized world that we do not really care very much about combating inflation.

Every other industrialized country in the Western world has an agency, like the Council on Wage and Price Stability, whose function it is to break out the Phillips curve, whose function it is to show that maximum employment and maximum price stability can coexist.

If we now say that we are ridding ourselves of this leading weapon in our arsenal, we are saying in effect we have unilaterally disarmed ourselves.

The proponent of the amendment is our always hard-working and delightful colleague, who is entitled to go astray on this one—and, believe me, when he goes astray he does it in the grand manner. He calls this a sunset amendment. Well, the ghastly glow that would permeate the atmosphere when this amendment goes into effect would more resemble the afterglow of a nuclear detonation, and poor little COWPS would be no more.

It is said that the members of the Council and other officials have not met on the record as often as they should have.

I think there may well be some justification to that point. I have discussed it with our friend, the gentleman from Georgia. I would hope that the gentleman's subcommittee of the House Committee on Government Operations could meet with COWPS, and somehow regularize their proceedings.

I happened after the debate on Friday to have a discussion with the chairman of COWPS, Charles Schultze, and I have it from him that the Council does intend to meet regularly. But in order to eliminate this mosquito of insufficient meetings, the gentleman from Georgia would wield his giant sledgehammer, and utterly obliterate the Council on Wage and Price Stability.

So I hope that the amendment will be fully discussed, carefully considered, and overwhelmingly voted down.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I concur in the gentleman's remarks.

I just wanted to comment on some of the discussion that has taken place from our distinguished colleague from Georgia of this subject. Obviously, this bill has a sunset provision in that it extends the life of the Council for 2 years; so the gentleman does one better and makes a decision, in essence, for the House that we are going to prepare a plan for phasing out the agency completely.

I think the subcommittee has adequate leverage to deal with the Council on its merits within the context of the subcommittee. We had extensive hearings on this. A few months before the subcommittee was structured, we had meetings with the past administration on the subject. There has been an argument made that the Council has not done the job we want. I think by destroying the one hope we have for coordination, we do not contribute to the problem of dealing with inflation. I think that is precisely what this particular amendment does. I think it is hard enough to staff a Council with competent people over a 2-year period, rather than put a phase-out provision. We have to have competent people to run these agencies and we cannot attract competent people if we put this type of amendment in it. That is why when we considered this legislation we had a 1-year extension. We found that did violence to recruiting competent individuals.

So the allegations that the Council has not done much are interesting, but are not supported by the facts. Last year they put out 125 different reports on various subject matter. This year they were a major contributor when we talked about the availability of insulation materials when we were considering the energy bill. In addition this is the Council that under Executive order provides the economic impact statement that many of us think is a positive contribution.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, as fond as I am of the gentleman from Georgia, and I assure the gentleman from Georgia of that, in plain terms the intended effect of the amendment offered by my good friend is to abolish the Council on Wage and Price Stability. His bill to do that was introduced and was considered by the Economic Stabilization Subcommittee. The House should know that that direct attempt to terminate the Council was strongly opposed by the administration and was rejected by the subcommittee. I urge my colleagues to reject this amendment which is nothing more than a backdoor approach to kill the Council.

We need COWPS. It is unique in its independence. The Council of Economic Advisers was never intended to direct its attention on the narrower issues affecting our economy. It is essential that there exist within the executive branch—but independent of the Departments of Labor and Commerce which represent the interests of labor and business respectively—an agency which can direct its attention to inflationary developments in the public and private sectors of the economy.

If COWPS were merged into the CEA or any other agency, it would symbolize a less vigorous Government policy concerning wage and price stabilization as well as a smaller scale program of Government monitoring of inflationary actions. Even more impossible would be its ability to monitor and to critize the impact of other Federal agencies or its new parent. If this Congress is to make any changes in the role COWPS is to play, it should be to increase its independence and strengthen its ability to react to inflationary developments.

One of the most important factors in COWPS' ability to act effectively depends on the degree of support offered by the President. That question has been clearly answered during our hearings and in subsequent communications between my chairman, myself and the White House. The administration's strong opposition to this amendment gives us a clear indication of the important role the Council is playing in the battle against inflation.

I have been here for three Presidents fighting for this Council. The new President, as I reminded this body last Friday, in his April 15 attack on inflation said that this organization, COWPS, was an integral part of this anti-inflation program.

In addition, we had Mr. Lance's support for this organization. Secretary Blumenthal and Mr. Schultze appeared before us in strong support.

One thing the gentleman from Georgia has forgotten in all the discussion is that this agency is independent and when the Committee on Banking and Currency extended it the last time, we gave them the power to go in front of regulatory agencies and to say to the Congress and to the President that this regulation or this governmental action is going to cause inflation.

I would like to read a letter hand-delivered, dated October 3, from Mr. Schultze. He said:

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., October 3, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization of the Committee on Banking, Finance, and Urban Affairs, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that an amendment is to be offered today to the Council on Wage and Price Stability Act that would require the Administration to dissolve the Council by September, 1979.

Last week, I wrote you to express the Administration's serious objection to this proposal. At that time, I stated my concern that the functions of the Council and its staff are unique and unlikely to be performed effectively by any other agency in the Executive Branch. The President has stated on several occasions during the past several months his strong support for legislation to continue an independent Council within the Executive Office of the President.

I can understand, however, that some Members of Congress may wish to have a full examination and discussion of the role and functions of the Council within the Carter Administration. For this reason, I would like to assure you of my willingness, and that of other members of the Administration to appear before the appropriate oversight committee of Congress early next year to discuss the structure of the Council, the nature of its operations, and its relation to other agencies of the Government.

Through such an appearance, I hope that we can satisfy the wishes that some members of Congress have expressed yet manage to avoid the disruption of the Council's operations that would ensue if its disolution were mandated under the currently pending legislation.

Cordially,

CHARLES L. SCHULTZE.

What I am simply saying here, Mr. Chairman, was said so well by other members of the committee. If this amendment passes, we put this organization under a cloud which guarantees its incompetence for whatever period it exists. It is not merely a sunset amendment; it is what one would call a destructive amendment.

One of the problems we went into in both the Nixon and Ford administrations was that the life of the Council was such an indefinite thing that it was impossible to get highly qualified personnel. The

Council has come forward with a great many worthwhile reports which are there for anyone who wants to read them. They have been in direct contact almost every day with the steel situation, regarding what we can do about imports and prices. Secretary Harris has come to the Council and requesetd a review of prices of plywood which have helped to drive up the cost of new homes. Every day, there is daily contact between Chairman Schultze, between the Council of Economic Advisers and the Director of COWPS.

It seems to me that we should give this independent organization a chance to do its work and not hamper it with this type of amendment which is really, as the chairman of the committee has said, an atomic bomb going after a gnat. I urge the Members to vote against the amendment.

Mr. BLANCHARD. Mr. Chairman, I move to strike the last word, and I rise to speak in opposition to the amendment.

Mr. Chairman, I speak in opposition to this amendment. I want to commend to those Members who are following this debate the comments made by my colleague from Connecticut (Mr. McKINNEY) and the gentleman from Minnesota (Mr. VENTO). We on the Banking Committee have spent the last couple of years looking at the Council, wondering what President Ford was going to do with it. It has been a kind of on-again off-again thing under President Ford, and now under President Carter.

One thing throughout the number of hearings we have had on the Banking Committee which I think seems very clear is the fact that the major culprit in fighting inflation is the fact that most people in elected office have already decided what the cause of inflation is. They have seized upon their little pet peeves to cite out as the major causes of inflation. No issue—and we all know it—brings forth more convenient slogans than how to deal with inflation. Everyone blames their convenient whipping boy for inflation.

I think that if this amendment were adopted, we would eliminate effectively the one agency and the only agency we have which is independent, not locked into some other department, that can look at the question, the causes, the effects of inflation, on its own. Amidst all these slogans we have seen and heard in the Banking Committee, from almost every economist, whether he was working for the previous President or the current President; whether they be liberals or conservatives; Republicans or Democrats, was that the causes of inflation are varied. For example, wage-price policies within an industry can be a cause; obviously Government spending at certain points can be a cause of inflation; monopolistic practices can be a cause of inflation; administered inflation by large institutions can be a cause; expectational inflation by consumers can be a cause; the price of internationally traded commodities such as oil; the effect of payroll taxes: the size of world grain stocks; the money supply; fluctuation in our foreign trade; decisions on certain kinds of Government regulations; productivity performance; and the exchange rate of a dollar.

There are so many selective causes for inflation, their effect so varied and their effect varied over time, that the last thing I think we ought to do is to assume that we know what the answers to inflation are, that we do not need some council independent of others to look at inflation, to monitor it and to inform us. To say that somehow other agencies, whether they be Labor or Commerce, with their own special interest in promoting their own programs, are better equipped, I think is very unwise. I do not think the Council previously has been effective enough in monitoring inflation. I think we ought to give President Carter, who has called this Council his centerpiece for fighting inflation, a chance. Furthermore, I think, because of the kinds of information that the Council can come up with, the most important thing we can urge the Council to do is to step up its activity in providing every Member of this body information on what is going on, so we do not sit around here perpetrating a fraud, which is to go home and tell the people we know what the answers are and we know who is to blame.

The gentleman from Georgia is very concerned about the fact that maybe we are doing something cosmetic. I guess I share that concern, to some degree. But I think what would be worse is to fold up and say we know what the causes of inflation are, that they are very simple and we do not need anyone to watch us, to watch our unions, to watch the President, to watch business, to watch commodities, to watch world trade, that we do not need any new answers or insights.

I frankly think this body and the American people need as much information as they can get on inflation, and the best place to get it is from the Council on Wage and Price Stability.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, first of all, I would like to commend the gentleman from Michigan (Mr. BLANCHARD) as well as the others who have so eloquently spoken in defense of this useless Council, as to what it has been able to accomplish, although I have not found that it has been able to accomplish anything. But let me ask the gentleman this, because I know the gentleman knows the background of this Council. It came into existence in August 1974, at a period of double digit inflation, after phases 1, 2, 3, and 4 had been unsuccessful.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. BLANCHARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

It was adopted for a cosmetic purpose, to let Members of Congress go back to their constituents and say, "Look, we are doing something about inflation."

This agency has, according to its charge, responsibility of monitoring the entire private sector and the responsibility of monitoring the entire governmental sector. What is its staff? It has a staff of 40 professionals, and maybe it will go up to 50, or 150, or 160. But to believe that this Council can really fight inflation is to deceive the American people. And as long as the Members of this body do not have to face the issue head on, we are going to continue to have to take the aspirin of this Council. I believe there is a need for monitoring and advising the Congress and advising the President. But I say to my friend, the gentleman from Michigan, as I said to my friends, the gentleman from Pennsylvania and the gentleman from Wisconsin, this Council is not the vehicle that is going to get us to the place we want to go, and as long as it is sitting in the garage, we are not going to look up the means of other transportation.

Mr. BLANCHARD. Mr. Chairman, I thank the gentleman for putting his position in perspective. I guess it is a matter of perception. I do not think the American people are deceived one bit about the ability of this Government's conduct, or that of the Council we are deliberating upon, to fight or stop inflation. If anyone here would suggest that back home, I think they would probably be laughed out of their town meetings. The fact is that we need all of the help we can get to sort out the causes and effects of inflation. And since the whole debate of inflation has been dominated all of my lifetime by slogans by people like us, it seems to me we need this Council to help us break through that rhetoric.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. There has been a substantial amount of discussion here about how much this Council, which is nothing more than the legislative remnants of the wage and price controls, has done. And if the Members like wage and price controls, they will really like this Council.

What has the Council done to stop inflation, or what has it done to point out to the Congress or the public where we should be doing something to stop inflation? I want the gentleman to name one thing quickly, and I hope all the other Members will not jump up at once to help the gentleman in the well.

Mr. BLANCHARD. Mr. Chairman, if

the gentleman will permit, I will try to reclaim my time and give an answer.

Mr. LAFALCE. He does not have the book.

Mr. ROUSSELOT. Let the gentleman from Michigan answer. It must be difficult for the advocates of this bill to name such accomplishments.

Mr. BLANCHARD. I do not have the lengthy list of all the various studies the Council has made and the statements it has put out, whether it be on health care or Government regulation.

Mr. ROUSSELOT. Reports by themselves mean nothing if there have been no real accomplishments or results. What has the Council done in the health care field to stop inflation?

Mr. BLANCHARD. It has not done anything.

Mr. ROUSSELOT. It has not done anything? An amazing admission.

Mr. BLANCHARD. Nor has this Congress or our Government, and it is because of clichés and slogans that we have not.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, all the arguments have been that this bill is not only going to stop inflation but also has done a good job in stopping inflation. Nobody has shown that so far in this debate.

Mr. BLANCHARD. Mr. Chairman, I will reclaim my time.

I have not made the argument that this Council is going to stop inflation. I have made the argument that this body, the U.S. Congress, the other departments of Government, and the American people need all the help they can get in pinpointing, monitoring, studying, and analyzing inflation in a number of sectors. There has been very little of that type of thing. The Council on Wage and Price Stability is a step in the right direction, and the amendment pending is, in my judgment, off base.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I would be delighted, Mr. Chairman, to point out to my friend, the gentleman from California (Mr. ROUSSELOT), what this Council has done. There is a 9-page report detailing what they have done.

Mr. ROUSSELOT. I have read it.

Mr. McKINNEY. This has to do with EPA's ridiculous idea of putting emission controls on motorcycles, and that would increase the cost of motorcycles by something like 20 percent. I can point out what has been written on tankers; I could go right down the list. It is an impressive document, when we consider that only 40 people have been involved in the study.

Mr. ROUSSELOT. I have read that document, and it does not prove in any way that this Council has done anything to stop inflation, just produce reports.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the author of this amendment made reference to the creation of the Council on Wage and Price Stability in August of 1974. It was created at the very time when President Ford came into office. The first week President Ford was in office he sent a message to Congress asking Congress, in bipartisan fashion, to give him an instrument to combat what he thought was the worst evil of that time, and that was the evil of inflation. This Congress, in a bipartisan mood, and by a bipartisan vote of 369 to 27, gave that President what he requested—the tools to do the job. Only 27 hard core extremists opposed President Ford's request.

Whether we agree or disagree with the efficacy of the Council over the past 2 years or so, the situation now is very similar. We have a new President, and he has come to this Congress and said,

> Give me the tools to do the job of fighting inflation. The tool that I want is a strengthened Council on Wage and Price Stability.

I do not think that the author of this amendment, the gentleman from Georgia (Mr. LEVITAS), even though he has difficulty with the job done by the Council over the past 2 years or so, wishes to visit the sins of the former Council upon the future Council. Inded, it was the author of this amendment, the gentleman from Georgia (Mr. LEVITAS), who was the leading proponent of the nomination of the incumbent President in this body and who came before us before President Carter was nominated and said,

> Have faith in him. He wants to reorganize Government, he wants to fight inflation, he does not want to add new layers of bureaucracy, he wants to make the existing bureaucracy work better.

Mr. Chairman, I say to the Members of this body that we should give the same confidence and the same tools to do the job to President Carter as we gave to President Ford in August 1974. Let us place the same confidence in our incumbent President that the gentleman from Georgia (Mr. LEVITAS) asked us to place in him when he was promoting him to be our nominee.

Mr. Chairman, in considering this bill it would be wise to look at who is favoring it and who is opposing it.

First, let us look at the Banking Committee, and we find that it was reported out of that committee by an overwhelming vote of 36 to 2. There was virtually unanimous bipartisan support for the continuation and strengthening of this Council.

To be sure, the AFL–CIO and the Chamber of Commerce oppose it; but why? Labor opposes it because they will have to consider the inflationary impact of their demands for wage increases; management opposes it because they will have to consider the inflationary impact of their demands for price increases. I really think the fact that both those groups oppose it indicates that the Council is in the public interest.

Mr. Chairman, as a cosponsor of the bill to extend the Council on Wage and Price Stability for 2 years, I believe that there are a number of other aspects concerning the Council which must be stressed.

The central focus of the Council is on inflation, as it was in 1974, when the Council was formed. The need to monitor and combat inflation is as compelling today as it was in 1974 in the depths of the recession. Current inflationary rates are no more acceptable than those which prevailed in 1974. The Government requires an independent agency, free of the usual bureaucratic inefficiencies and pressures, which can provide information on inflationary trends.

In addition to this extremely important function, the Council will be performing valuable new services for the country, the administration and the Congress. In these times of unacceptably high unemployment, the Council will now also concentrate on the question of full employment. The Council will be able to appraise both the administration and the Congress of ways to combat unemployment. It should also end the monthly ritual of everyone holding their collective breaths until the new rate of unemployment is determined. The Council should give us a better long-term prognosis of what unemployment rates will be, depending upon which particular policies are followed. Both the administration and the Congress desperately need this information.

The Council is active on other fronts as well. It is in the process of compiling a comprehensive report on the current condition of the steel industry. I and many other Members eagerly await this report, because we are deeply concerned with the current problems the steel industry faces. That President Carter assigned this report to the Council was no accident. The Council's reputation for independent and objective analysis uniquely qualified it for this crucial task.

The steel industry report will not be the last of the Council's efforts. It will be analyzing the significance of a large number of noteworthy factors which affect our economy. Fluctuations in commodity supplies and prices, interest rates, investment patterns, worldwide alterations in energy supplies and prices, and changing trends in international trade are only a few of these key issues. Instead of the typical bureaucratic fragmentation, the Council will provide a central clearinghouse for these studies.

The Carter administration has enlarged the parameters of the Council. By doing so, it has made it an integral and indispensable part of the President's economic program. If the Council is allowed to perform these key functions, the chances of success for the President's program will be greatly enhanced. I strongly urge my colleagues to support the continuation of the Council on Wage and Price Stability.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have been somewhat amazed because of some of the comments I have heard from my good colleagues expressing their great fear that this amendment might pass, an amendment which I think is a very reasonable one.

First of all, Mr. Chairman, I heard the distinguished chairman of my committee say that this amendment is a "sledge hammer."

Mr. Chairman, I want to read and quote directly from the amendment to show how much of a "sledge hammer" this really is. I will just read the language; it is very simple.

It says:

"The President"—that is Mr. Carter, to whom my good colleague, the gentleman from New York (Mr. LAFALCE), just referred—"is going to eliminate bureaucracy."

Mr. Chairman, that was his campaign pledge. Let me read further.

Mr. LAFALCE. Mr. Chairman, if the gentleman will yield, did he say he was going to eliminate bureaucracy or make bureaucracy more streamlined?

Mr. ROUSSELOT. I believe he said both.

Mr. LAFALCE. Did he say he was going to eliminate bureaucracy?

Mr. ROUSSELOT. Mr. Chairman, I will not yield to the gentleman but will say Mr. Carter emphasized both points. After I have reviewed the amendment I will be happy to yield to the gentleman.

The CHAIRMAN. The gentleman from California (Mr. ROUSSELOT) has the floor.

Mr. ROUSSELOT. To continue, Mr. Chairman, I would like to read this so-called "sledgehammer" amendment. It says:

"The President is authorized and directed to present a plan to Congress before March 31, 1978"—(that is not what I would call a speedy deadline)—"to transfer, effective September 30, 1979"—which is a substantial time in the future—"the functions of the Council on Wage and Price Stability." Therefore, if the President feels he has such an effective weapon against inflation, he has plenty of time to tell us how he is going to use that as an effective weapon. The amendment language continues "the functions of the Council on Wage and Price Stability to appropriate agencies of the United States."

Let me read more:

When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

Mr. Chairman, that is the so-called devastating sledgehammer to which my distinguished chairman utters great fear in pointing out what this amendment will do to the Council on Wage and Price Stability bill before us, if it is adopted.

I just thought we might put that "sledgehammer" in a little better perspective.

Mr. Chairman, another colleague suggested that if we pass this amendment, it will destroy this agency, this great agency with respect to which it took all of my colleagues a long time to rise to their feet to give one instance in which a recommendation by this great agency has actually produced something constructive in stopping inflation. We had a great debate as to who could stand up first and tell us when and where this agency had done it. There was a deafening silence.

Mr. Chairman, I do not really believe that evidence has been produced—and I have gone through, as my colleague from Connecticut has suggested, the quarterly report that this agency now puts out, and I still challenge my colleagues to cite such instances—of the specific constructive things that this agency has done to actually stop inflation. I do not think that the functions for which this House established the council have really been performed.

Mr. Chairman, another colleague says that this amendment would be so devastating that this amendment would put a cloud over this agency. I do not know why it would put a cloud over it if we are merely asking the President—and he has charge of it; this is in the Office of the President; that is where this extra bureaucracy exists, in the Office of the President—to report to us before March 31, 1978, what the functions are that he expects to utilize in the future.

Mr. Chairman, I really think that the amendment is just an insurance policy on our part mandating that we be properly informed as to how this agency is going to perform; and I do not see any great "damage" in putting that mandate in this legislation.

I would think, on the basis of everything that President Carter has said, that he would be delighted to have this kind of provision in the bill.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Again, Mr. Chairman, I do not believe that the claims, charges, and fears that have been generated by those opposing this amendment have really been persuasive. I think the gentleman from Georgia, who has offered this amendment, has offered a reasonable approach in order to make sure that we get adequate feedback as to what the functions of this agency are going to be. If it is to continue.

Mr. Chairman, it has already been established that this Council has not met too much since President Carter has taken it over; and we all understand that it has taken a great deal more time to get hold of this massive bureaucracy than even President Carter himself anticipated when he was running for the Presidency.

So my belief is that this provides a helping hand to the President if he really intends to do the things that his people who came up and testified for its continuance said he was going to do, but it makes us a greater partner in that effort to insure that we have the input and that we have the capability to participate with him in redesigning and redrafting those functions or, if other agencies can perform it, such as the Council of Economic Advisers and the Office of Management and Budget, or the Commerce Department, or anyone else who can perform these functions, then let them do it, rather than continuing on with an unnecessary bureaucratic apparatus which, in fact, is not needed.

Now I shall yield to my colleague, the gentleman from Connecticut (Mr. MCKINNEY), who I know has been a staunch advocate of this great bureaucratic nonsense.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. I sincerely believe that if you feel strongly that we should have wage and price controls managed by the Federal Government, you should vote for the continuance of this unnecessary bureaucracy. But if you believe as my colleague, the gentleman from Georgia (Mr. LEVITAS), several of the members of the committee, and I do, if you will study the questioning of Mr. CAPUTO, a member of the committee, you will see that even those who have advocated it had a great deal of difficulty producing any evidence that the council really produced constructive results in stopping inflation. Yet this has been the principal argument as to why we need to perpetuate the council.

I urge support of this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MCKINNEY, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute).

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be delighted to yield to the gentleman from Connecticut.

Mr. MCKINNEY. Mr. Chairman, I would just simply say to the gentleman from California that I have read the letter earlier from Mr. Schultz that clearly states his willingness to appear before the Congress and state where the Council is going.

Mr. ROUSSELOT. Why does the gentleman not read the letter again?

Mr. MCKINNEY. I also have another letter, this one from Stuart E. Eizenstat, dated September 26, 1977, that says:

The administration formally opposes mandatory wage and price controls including standby controls.

Which I think would take care of one objection of the gentleman.

Mr. ROUSSELOT. Hopefully it would, but we have heard other promises, such as the President's promise that he was going to support deregulation, which did not come about. The President said that in writing.

Mr. Schultze can easily utilize his own Council of Economic Advisers to perform those same tasks and functions. He does not need this useless bureaucracy.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, what disturbs me about that last comment is that the last time we had wage and price controls they were imposed by a President who said he would never impose wage and price controls. And if you leave a dog lying around long enough it is going to pick up fleas, and if you leave an agency such as the Council on Wage and Price Stability lying around long enough, it will pick up them too.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition

to the amendment and hopefully to conclude the debate.

Mr. Chairman, I strongly oppose this amendment. I do not believe we should mandate to the Council on Wage and Price Control the job of monitoring wage and price developments during the next 2 years under the debilitating handicap of planned dismemberment.

The gentleman from Connecticut (Mr. McKINNEY), the ranking member of the subcommittee, has, I believe, stated the cases and has referred to certain letters that he and I have received, two from Mr. Schultze and one from Mr. Eizenstat.

Mr. Chairman, under the permission granted me in the House, I will ask to include copies of those letters at this point.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., October 3, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization of the Committee on Banking, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that an amendment is to be offered today to the Council on Wage and Price Stability Act that would require the Administration to dissolve the Council by September, 1979.

Last week, I wrote you to express the Administration's serious objection to this proposal. At that time, I stated my concern that the functions of the Council and its staff are unique and unlikely to be performed effectively by any other agency in the Executive Branch. The President has stated on several occasions during the past several months his strong support for legislation to continue an independent Council within the Executive Office of the President.

I can understand, however, that some Members of Congress may wish to have a full examination and discussion of the role and functions of the Council within the Carter Administration. For this reason, I would like to assure you of my willingness, and that of other members of the Administration to appear before the appropriate oversight committee of Congress early next year to discuss the structure of the Council, the nature of its operations, and its relation to other agencies of the Government.

Through such an appearance, I hope that we can satisfy the wishes that some members of Congress have expressed yet manage to avoid the disruption of the Council's operations that would ensue if its disolution were mandated under the currently pending legislation.

Cordially,

CHARLES L. SCHULTZE.

THE WHITE HOUSE,
Washington, D.C., September 26, 1977.

Hon. WILLIAM MOORHEAD,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MOORHEAD: On behalf of the President, I would like to inform you that recent newspaper accounts suggesting a favorable Administration attitude toward formal numerical guidelines or standards as an anti-inflation tool were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

The second point I make is that this is not a precursor of wage and price controls. This bill—and I will read the paragraph to the Members—actually prohibits wage and price controls, and it says:

Nothing in this act authorizes the continuation, imposition, or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, or any similar transfers.

That cannot be made clearer. There can be no wage and price controls until the Congress acts, and it first has to act to repeal this bill.

The third point, Mr. Chairman, is that the amendment would direct the President to do certain reorganization in his own White House. Mr. Chairman, he has already done this, and this matter came before the Committee on Government Operations, on which the gentleman from Georgia and I serve. In the message accompanying that Reorganization Plan No. 1, the President said:

The Council on Wage and Price Stability helps and is a necessary weapon in the continuing fight against inflation and will be retained.

So we know clearly what the President's position is.

I merely close by reminding the Members that this was reported by their committee by a 36 to 2 bipartisan vote.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the ranking committee member, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. I appreciate the gentleman's yielding.

I join the gentleman in opposition to this amendment. All I can say to the Members of the House is that if they took time to really study the language, they would oppose it. It is not a sunset amendment but what one would appropriately call a sunset amendment in the morning. What we have is a 2-year extension. It is basically a simple extension for 2 years to give these people a chance to operate because the President has personally asked for it. He asked, as the gentleman from Michigan said, for it to fight inflation. All of us are interested in that. It is my only reason for supporting this legislation. But when we stop to think of the amendment, what the amendment says is we are extending the Council for 2 years, and asking its employees to spend time to recommend their responsibilities to some other agency. I do not know what quality or type of people we are going to hire with an amendment of this type. I would strongly urge rejection of the amendment.

Mr. HARRINGTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. HARRINGTON. I thank the chairman of the subcommittee for yielding.

Mr. Chairman, I think it is one thing to countenance the subterfuge of the Republican administration in the fall of 1974 by deferring to the creation of a Council on Wage and Price Stability which has no real power or authority to affect the level of wages and prices. It is another thing to perpetuate that subterfuge in the summer or early fall of 1977. I do not know what it is that has us all leery of raising questions which bring us into the 1970's and which show that there are within the public sector and the private sector concentrations of power that resist active intervention on the part of Government, not through any interest in the commonweal, but as a result of their own, narrow self-interest. Whether it is our own Joint Economic Committee, whether it is the International Monetary Fund meeting of recent note, whether it is a variety of altogether relatively gloomy reports, the economic clouds are gathering.

I think it is incumbent upon us, those who bear the brunt of the expectation of people who believe that somehow the majority party can do more for them, to do something that gets us on with the business of dealing with the fundamental problem that concerns most of our constituency. And that is the problem of assuring our people that inflation will be kept in check, but not at the expense of an army of unemployed The Council on Wage and Price Stability, which we are being asked to endorse meets current form, is ill equipped to contribute to that end. So, again, I must say that perpetrating such a hoax under Gerry Ford in 1974 is one thing; doing so under Jimmy Carter in 1977 is quite another.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MOORHEAD of Pennsylvania was allowed to proceed for 30 additional seconds.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I think we have seen that administrations of both political parties believe that there should be an independent agency, and that the function of monitoring inflation and attempting to control it cannot be assigned to agencies which have a constituency.

Mr. Chairman, I suggest a vote on the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California for those anticipated comments that have not been uttered.

Mr. ROUSSELOT. Mr. Chairman, I thank my distinguished colleague from Ohio for yielding so that additional comments for posterity might be made.

I would like to ask the chairman of the subcommittee about the question of independence. When he talks about the sound independence of this agency, it still remains in the Office of the President. That is where the personnel are assigned. I

am not saying that it is not the President's right to ask for that, but I do not see that it provides any great promise of independence.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Of course I yield to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the point I was trying to make, for example, is if we put the function in the Department of Commerce, the Labor people would feel they were not getting a fair shake. If we put it in the Labor Department, the business people would feel they were not getting a fair shake. So this is an independent agency within Government on which both the Secretary of Labor and the Secretary of Commerce serve, and it is independent of the various pressures of the existing departments.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman from Ohio will yield further, the gentleman from Pennsylvania has not convinced me either on the basis of experience or on the basis, secondly, of other functions that might be more appropriately transferred to other agencies.

I think what the gentleman from Georgia was suggesting, as I understood it, was that those agencies which already have various functions to monitor inflation, which the Council of Economic Advisers clearly does, could clearly receive the responsibilities suggested under this amendment and more than adequately discharge those responsibilities.

I do not believe the gentleman has made the point very well that this agency has great independence because in fact it is clearly under the control of the President. That is the only point I wanted to make. So I still say that the amendment offered by the gentleman from Georgia is a very logical and concise suggestion, that there be adequate reporting back to the Congress by the President. It is in the President's Office. That is where the control is. I do not believe that this great independence really exists.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I suggest to the gentleman that, yes, this is not independent in the same respect as the Federal Reserve System is.

Mr. ROUSSELOT. I thank the gentleman for that acknowledgment.

Mr. MOORHEAD of Pennsylvania. But it is independent of the pressures the various departments are under, but it can call upon the departments for facts and information from their studies and balance them against reports from others and reach an independent recommendation to the President.

Two Presidents have sought this kind of assistance. A Democratic Congress granted it to a Republican President, and I would hope that on a bipartisan basis this Congress would also grant that power to a Democratic President.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I think it is on the basis of that experience, the experience of this agency and of two Presidents with the Wage and Price Control operation, that many of us do not wish to continue it. We think its time is past.

The President has more than enough tools in place to monitor the problems of inflation. We think this Council basically does not serve the function we originally thought it should, and so on that basis alone I think we should support the amendment offered by my colleague, the gentleman from Georgia, to require that we have a full reporting by the President himself, who my colleague has just acknowledged basically controls this agency.

Mr. ASHBROOK. Mr. Chairman, having made certain that this colloquy is reserved for posterity, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, with significant reservations I rise in support of H.R. 6951, Council on Wage and Price Stability.

The statutory purpose of the Council of Wage and Price Stability is a noble one: to monitor and impact upon all decisions in the private sector and all decisions in government which may have an inflationary consequence. Unfortunately, as presently constituted, this is an impossible and ludicrous mission. With millions of price decisions in the private sector and many thousands of decisions in government that can be considered inflationary, the Council cannot possibly be expected to have a major or even discernible impact on the behavior of prices and wages.

With all due respect to the Council's supporters, the only conceivable purpose it serves, intentionally or inadvertently, is to deceive the public that something is being done about inflation. It is the Federal exedrin in the fight against inflation—only its really a placebo. However, even for those consumers who are aware of the pill, the cost-of-living headache persists and intensifies in the vicinity of every cash register and when opening every bill.

The question that Members of Congress have to ask themselves about the future of the Council is whether it is capable of any meaningful mission and future. Or is the Council simply anti-inflation cosmetology? I would argue that the Council does not even qualify as a case of good intentions gone astray. The Council is a classic example of a preposterous mission translated into a useless body. To make matters worse, as my colleague, Mr. LEVITAS, has pointed out, a plethora of Federal agencies already perform many of the Council's functions.

There appears to be some question about whether the Council's membership has ever met. If Mr. Schultze, Secretary Blumenthal, Secretary Vance, Secretary Krebs, Secretary Marshall, Secretary Harris, and Presidential Adviser Eisenstadt have been too busy to make the Council a functional agency, then I would question its reason for existence. If the Council has not been worthy of their attention, all the more reason for its termination. If the Council's preservation in the President's Reorganization Plan No. 1 means that it is his intention to use the Council much more actively some day in the fight against inflation, I for one would appreciate some credible signal to this effect from the White House.

Most important of all, the existence or demise of the Council will have little or nothing to do with the persistence of inflation. In spite of persisting economic slack, prices are continuing to rise at a 6 percent or higher annual rate. The general agreement among economists is for a continuation of this situation through 1978, with even more slack in the economy and persisting high unemployment. The basic reason for the persistence of inflation is that the expectation of continued inflation has led business and industry to price goods and services higher and higher in order to offset anticipated inflation. This "anticipatory pricing," of course, acts as a self-fulfilling prophecy.

Monetary and fiscal policies exist that could retard the rise of prices but the cost of exercising these policies would be very high in terms of unemployment. The Congressional Budget Office estimates that it would take a $43 billion cut in Federal expenditures for 3 consecutive years—fiscal years 1978, 1979, and 1980—to reduce inflation by 1 percentage point in 1980. However, the cost would be about a million and a half unemployed workers by the end of fiscal 1979. My grave concern is that this level of cut in Federal spending, in order to balance the budget and reduce inflation, is precisely the policy of the Carter administration.

On April 15, 1977, President Carter outlined the administration's anti-inflation program. The President called for a wide variety of measures to control inflation including increased efforts by the Council on Wages and Price Stability. Thus far we have yet to see increased effort or effectiveness on the part of the Council. Instead we have a continued Federal spending lag of sufficient size—about $15 billion in fiscal 1977 and possibly a higher amount in fiscal 1978—to deflate the economy and increase unemployment by about half a million workers this year. If the administration regards this Federal spending lag as a way of arresting inflation, there will be a high political price to pay for controlling inflation through unemployment.

I intend to give the administration the benefit of the doubt and support the Council on Wage and Price Stability notwithstanding my serious reservations about its performance to date. Until the Hawkins-Humphrey bill (H.R. 50) is made law, however, none of the inflation control policies pursued by the administration amounts to more than a lesser of evils approach.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 28, noes 41.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 215, not voting 41, as follows:

[Roll No. 619]

AYES—178

Abdnor	Frey	Moorhead, Calif.
Andrews, N. Dak.	Gibbons	Myers, John
Archer	Gilman	Nichols
Ashbrook	Ginn	O'Brien
Badham	Goldwater	Panetta
Bafalis	Gonzalez	Pettis
Bauman	Goodling	Pickle
Beard, Tenn.	Grassley	Poage
Benjamin	Gudger	Pressler
Bevill	Guyer	Pritchard
Biaggi	Hagedorn	Pursell
Bowen	Hall	Quayle
Breaux	Hammer-schmidt	Quie
Brinkley	Hansen	Quillen
Brown, Calif.	Harsha	Regula
Brown, Mich.	Hefner	Richmond
Brown, Ohio	Hightower	Risenhoover
Broyhill	Hillis	Roberts
Buchanan	Hollenbeck	Robinson
Burgener	Holt	Rousselot
Burke, Fla.	Hubbard	Rudd
Burleson, Tex.	Huckaby	Russo
Burton, John	Ichord	Ryan
Butler	Ireland	Santini
Caputo	Jacobs	Sarasin
Cederberg	Jeffords	Satterfield
Chappell	Jenkins	Sawyer
Clausen, Don H.	Jones, Okla.	Schulze
Clawson, Del	Jones, Tenn.	Shuster
Cleveland	Kasten	Sisk
Cochran	Kazen	Skelton
Collins, Tex.	Kelly	Smith, Nebr.
Conable	Kemp	Snyder
Corcoran	Ketchum	Spence
Cornwell	Krebs	Stangeland
Coughlin	Krueger	Steers
Crane	Lagomarsino	Steiger
Cunningham	Latta	Stockman
Daniel, Dan	Lent	Stump
Daniel, R. W.	Levitas	Symms
Davis	Lloyd, Tenn.	Taylor
de la Garza	Long, La.	Thone
Dellums	Lott	Treen
Derwinski	Lujan	Trible
Devine	McClory	Vander Jagt
Dickinson	McDonald	Walker
Dodd	McEwen	Walsh
Duncan, Tenn.	Maguire	Wampler
Edwards, Ala.	Mahon	Watkins
Edwards, Okla.	Marriott	White
English	Martin	Whitley
Evans, Ga.	Mathis	Wiggins
Flippo	Michel	Wilson, Bob
Flowers	Milford	Winn
Flynt	Miller, Calif.	Wydler
Forsythe	Miller, Ohio	Wylie
Fountain	Mitchell, N.Y.	Young, Alaska
Fowler	Moffett	Young, Fla.
Frenzel	Montgomery	Zeferetti
	Moore	

NOES—215

Addabbo	Burlison, Mo.	Fish
Akaka	Burton, Phillip	Fisher
Alexander	Carney	Fithian
Allen	Carr	Flood
Ambro	Cavanaugh	Florio
Ammerman	Chisholm	Ford, Mich.
Anderson, Calif.	Clay	Ford, Tenn.
Andrews, N.C.	Cohen	Fuqua
Annunzio	Coleman	Gammage
Applegate	Collins, Ill.	Gaydos
Armstrong	Conyers	Gephardt
Ashley	Corman	Glickman
Aspin	Cornell	Gore
AuCoin	D'Amours	Gradison
Baldus	Danielson	Hamilton
Barnard	Delaney	Hannaford
Baucus	Derrick	Harkin
Bedell	Diggs	Harrington
Beilenson	Downey	Harris
Bennett	Drinan	Hawkins
Bingham	Duncan, Oreg.	Heckler
Blanchard	Early	Heftel
Blouin	Eckhardt	Holtzman
Boggs	Edgar	Hughes
Boland	Edwards, Calif.	Hyde
Bolling	Eilberg	Jenrette
Bonior	Emery	Johnson, Colo.
Bonker	Ertel	Jones, N.C.
Brademas	Evans, Colo.	Jordan
Breckinridge	Evans, Del.	Kastenmeier
Brodhead	Evans, Ind.	Keys
Brooks	Fary	Kildee
Broomfield	Fascell	Kindness
Burke, Mass.	Fenwick	Kostmayer
	Findley	LaFalce
Le Fante	Murtha	Shipley
Leach	Myers, Gary	Sikes
Lederer	Myers, Michael	Simon
Leggett	Natcher	Skubitz
Lehman	Nedzi	Slack
Lloyd, Calif.	Nix	Smith, Iowa
Long, Md.	Nowak	Solarz
Luken	Oakar	St Germain
Lundine	Oberstar	Staggers
McCloskey	Obey	Stanton
McCormack	Ottinger	Stark
McDade	Patten	Steed
McFall	Patterson	Stratton
McHugh	Pattison	Studds
McKay	Pease	Thompson
McKinney	Pepper	Thornton
Madigan	Perkins	Tsongas
Mann	Pike	Tucker
Markey	Preyer	Udall
Marks	Price	Ullman
Mattox	Rahall	Van Deerlin
Mazzoli	Railsback	Vanik
Meeds	Reuss	Vento
Metcalfe	Rhodes	Volkmer
Meyner	Rinaldo	Walgren
Mikulski	Rodino	Waxman
Mikva	Roe	Weaver
Mineta	Rogers	Weiss
Minish	Rooney	Whitten
Mitchell, Md.	Rose	Wirth
Moakley	Rosenthal	Yates
Mollohan	Rostenkowski	Yatron
Moorhead, Pa.	Roybal	Young, Mo.
Moss	Ruppe	Young, Tex.
Mottl	Scheuer	Zablocki
Murphy, Ill.	Schroeder	
Murphy, N.Y.	Seiberling	
Murphy, Pa.	Sharp	

NOT VOTING—41

Anderson, Ill.	Fraser	Runnels
Badillo	Giaimo	Sebelius
Beard, R.I.	Hanley	Spellman
Burke, Calif.	Holland	Stokes
Byron	Horton	Teague
Carter	Howard	Traxler
Conte	Johnson, Calif.	Waggonner
Cotter	Koch	Whalen
Dent	Livingston	Whitehurst
Dicks	Marlenee	Wilson, C. H.
Dingell	Neal	Wilson, Tex.
Dornan	Nolan	Wolff
Erlenborn	Rangel	Wright
Foley	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Dornan for, with Mr. Dent against.
Mr. Livingston for, with Mr. Stokes against.
Mr. Whitehurst for, with Mr. Wolff against.
Mr. Teague for, with Mr. Rangel against.
Mr. Byron for, with Mr. Conte against.
Mr. Runnels for, with Mr. Whalen against.

Mr. MARKEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6951) to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes, pursuant to House Resolution 703, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 145, not voting 38, as follows:

[Roll No. 620]

YEAS—251

Addabbo	Ford, Tenn.	Myers, Gary
Akaka	Fountain	Myers, Michael
Alexander	Frenzel	Natcher
Allen	Gammage	Nedzi
Ambro	Gaydos	Nix
Ammerman	Gephardt	Nolan
Andrews, N.C.	Gibbons	Nowak
Annunzio	Gilman	O'Brien
Applegate	Ginn	Oakar
Ashley	Gonzalez	Oberstar
Aspin	Gore	Obey
AuCoin	Gradison	Ottinger
Baldus	Grassley	Patten
Barnard	Gudger	Patterson
Baucus	Hagedorn	Pattison
Beard, R.I.	Hamilton	Pease
Bedell	Hannaford	Pepper
Beilenson	Harsha	Perkins
Benjamin	Hawkins	Pickle
Bennett	Heckler	Pike
Biaggi	Hefner	Preyer
Bingham	Heftel	Price
Blanchard	Hillis	Quie
Boggs	Holland	Rahall
Boland	Holtzman	Railsback
Bolling	Hubbard	Regula
Bonior	Hughes	Reuss
Bonker	Hyde	Rhodes
Brademas	Jenkins	Richmond
Breaux	Jenrette	Roberts
Breckinridge	Jones, N.C.	Rodino
Brinkley	Jones, Tenn.	Roe
Brodhead	Jordan	Rogers
Brooks	Kastenmeier	Rooney
Brown, Mich.	Keys	Rose
Broyhill	Kildee	Rosenthal
Burke, Mass.	Kindness	Rostenkowski
Burlison, Mo.	Krueger	Roybal
Burton, Phillip	LaFalce	Ruppe
Carney	Le Fante	Russo
Cavanaugh	Lederer	Santini
Chisholm	Leggett	Sarasin
Clay	Lehman	Sawyer
Cohen	Lent	Scheuer
Coleman	Lloyd, Calif.	Schroeder
Collins, Ill.	Long, La.	Schulze
Conyers	Long, Md.	Seiberling
Corcoran	Luken	Shipley
Corman	Lundine	Simon
Cornell	McCloskey	Sisk
Cornwell	McCormack	Skubitz
Danielson	McDade	Slack
Davis	McFall	Smith, Iowa
de la Garza	McHugh	Solarz
Delaney	McKay	St Germain
Dellums	McKinney	Staggers
Derrick	Madigan	Stanton
Diggs	Mahon	Stark
Downey	Mann	Steed
Drinan	Markey	Steers
Duncan, Oreg.	Marks	Stockman
Eckhardt	Martin	Stratton
Edgar	Mazzoli	Studds
Edwards, Calif.	Meeds	Thompson
Emery	Metcalfe	Thornton
Ertel	Meyner	Treen
Evans, Colo.	Mikulski	Tsongas
Evans, Del.	Mikva	Tucker
Evans, Ind.	Milford	Udall
Fary	Mineta	Ullman
Fascell	Minish	Van Deerlin
Fenwick	Mitchell, Md.	Vanik
Fish	Moakley	Vento
Fisher	Mollohan	Walgren
Fithian	Moorhead, Pa.	Walsh
Flood	Moss	Wampler
Florio	Mottl	Waxman
Flowers	Murphy, Ill.	Weaver
Foley	Murphy, Pa.	Weiss
Ford, Mich.	Murtha	White

Whitley	Wylie	Young, Tex.
Whitten	Yates	Zablocki
Wirth	Yatron	Zeferetti
Wydler	Young, Mo.	

NAYS—145

Abdnor	Erlenborn	Michel
Anderson, Calif.	Evans, Ga.	Miller, Calif.
	Findley	Miller, Ohio
Andrews, N. Dak.	Flippo	Mitchell, N.Y.
	Flynt	Moffett
Archer	Forsythe	Montgomery
Armstrong	Fowler	Moore
Ashbrook	Frey	Moorhead, Calif.
Badham	Fuqua	
Bafalis	Glickman	Myers, John
Bauman	Goldwater	Nichols
Beard, Tenn.	Goodling	Panetta
Bevill	Guyer	Pettis
Blouin	Hall	Poage
Bowen	Hammer-schmidt	Pressler
Broomfield		Pritchard
Brown, Calif.	Hansen	Pursell
Brown, Ohio	Harkin	Quayle
Buchanan	Harrington	Quillen
Burgener	Harris	Rinaldo
Burke, Fla.	Hightower	Risenhoover
Burleson, Tex.	Hollenbeck	Robinson
Burton, John	Holt	Rousselot
Butler	Huckaby	Rudd
Caputo	Ichord	Satterfield
Carr	Ireland	Sharp
Cederberg	Jacobs	Shuster
Chappell	Jeffords	Sikes
Clausen, Don H.	Johnson, Colo.	Skelton
	Jones, Okla.	Smith, Nebr.
Clawson, Del	Kasten	Snyder
Cleveland	Kazen	Spence
Cochran	Kelly	Stangeland
Collins, Tex.	Kemp	Steiger
Conable	Ketchum	Stump
Coughlin	Kostmayer	Symms
Crane	Krebs	Taylor
Cunningham	Lagomarsino	Thone
D'Amours	Latta	Trible
Daniel, Dan	Leach	Vander Jagt
Daniel, R. W.	Levitas	Volkmer
Derwinski	Lloyd, Tenn.	Walker
Devine	Lott	Watkins
Dickinson	Lujan	Wiggins
Dodd	McClory	Wilson, Bob
Duncan, Tenn.	McDonald	Winn
Early	McEwen	Young, Alaska
Edwards, Ala.	Maguire	Young, Fla.
Edwards, Okla.	Marriott	
Eilberg	Mathis	
English	Mattox	

NOT VOTING—38

Anderson, Ill.	Hanley	Sebelius
Badillo	Horton	Spellman
Burke, Calif.	Howard	Stokes
Byron	Johnson, Calif.	Teague
Carter	Koch	Traxler
Conte	Livingston	Waggonner
Cotter	Marlenee	Whalen
Dent	Murphy, N.Y.	Whitehurst
Dicks	Neal	Wilson, C. H.
Dingell	Rangel	Wilson, Tex.
Dornan	Roncalio	Wolff
Fraser	Runnels	Wright
Giaimo	Ryan	

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Dornan against.
Mr. Stokes for, with Mr. Livingston against.
Mr. Rangel for, with Mr. Teague against.
Mr. Wolff for, with Mr. Runnels against.

Until further notice:

Mr. Koch with Mr. Horton.
Mr. Giaimo with Mr. Anderson of Illinois.
Mr. Cotter with Mr. Byron.
Mr. Murphy of New York with Mr. Conte.
Mrs. Spellman with Mr. Fraser.
Mr. Howard with Mr. Marlenee.
Mr. Hanley with Mr. Sebelius.
Mr. Badillo with Mr. Waggonner.
Mrs. Burke of California with Mr. Whalen.
Mr. Dingell with Mr. Roncalio.
Mr. Dicks with Mr. Johnson of California.
Mr. Wright with Mr. Whitehurst.
Mr. Neal with Mr. Ryan.
Mr. Charles H. Wilson of California with Mr. Traxler.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2056) to amend the Council on Wage and Price Stability Act, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us why this rather interesting legislative maneuver is needed?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, this is in the interest of expediting the proceedings, so that this legislation, which is identical to the bill we just passed, does not have to go back to the Senate and maybe get involved in that filibuster, and by doing this we can send the identical legislation to the White House for signature.

Will the gentleman continue to yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, in view of the fact that the charter of the Council has expired, we should act as expeditiously as possible.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I am not convinced that it is really needed and the Senate, as the gentleman knows and as we discussed, interrupted its great work on the energy bill to handle this before, so I really do not see why it is so important to substitute the Senate number other than just speeding up the process of extending an agency which is not needed.

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield further, I would say to the gentleman that he has had his opportunity to express his opposition to the bill by the vote on the amendment and the vote on final passage. There is really nothing the gentleman can gain by slowing down the process but just delaying it. I know the gentleman in the past has never objected just for the purposes of delaying. I would hope he would be amenable to this request and withdraw his reservation.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, hope springs eternal, and maybe the Senate would wake up in time. But I guess I will allow the chairman to change the bill to the Senate number.

I withdraw my reservation of objection.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 6951 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL EXPLANATION

Mr. RYAN. Mr. Speaker, I was not present on the floor at the time the final rollcall vote was tallied. My absence was due to the briefing being given to me on a constituent matter that involved a top secret security matter.

In view of the matter under discussion, I was unwilling to allow the materials shown to me to be exposed without my presence in my office.

Had I been present, I would have voted in favor of H.R. 6951, on wage and price stability.

REPORT ON RESOLUTION DISMISSING ELECTION CONTEST

Mr. THOMPSON, from the Committee on Rules, submitted a privileged report (Rept. No. 95–654), on the resolution (H. Res. 770) Albert Dehr against Robert L. Leggett, which was referred to the House Calendar and ordered to be printed.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 718 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 718

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for one hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATA), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 718 provides for the consideration of H.R. 3816, the Federal Trade Commission Amendments of 1977. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. It makes in order the consideration of the committee amendment in the nature of a substitute as an original bill for the purpose of amendment, and it provides for a motion to recommit with or without instructions. There are no waivers of any points of order against the substitute.

Mr. Speaker, H.R. 3816 amends the Federal Trade Commission Act in order to improve the handling of FTC actions. It provides for private actions based on violations of FTC rules or cease and desist orders, and insulates the Commission from political clearance in the legislative, budgetary, and personnel areas. The bill also authorizes $63 million for the Commission for fiscal year 1978 and $70 million for fiiscal year 1979.

There are many provisions of H.R. 3816 that deal with enforcement procedures of the FTC. Section 2 changes the amount of civil penalties which can be assessed persons, corporations or partnerships for failure to comply with an FTC subpena or order. The present penalty is a mandatory fine of $100 per day and it is changed by the bill to a range from 0 to $5,000 per day as determined by the court. This new range of fines gives a stronger, more equitable and more flexible enforcement power to FTC issuances.

Section 5 of the bill alters the appeals procedure of a Federal Trade Commission cease and desist order. Under present law, a respondent may file an appeal in any circuit where a challenged practice occurs, or where the respondent resides or carries on business. This section would permit appeals to be taken only to the Court of Appeals for the circuit within which the respondent maintains its residence or conducts its principal business, or to the U.S. District Court for the District of Columbia.

Mr. Speaker, the most controversial provision of this legislation is section 7 which establishes procedures for private individual or class actions. Under this provision, a consumer may initiate a class action suit for all involved consumers against an alleged violator of an FTC rule or final cease and desist order. This private suit option is available only in cases where the Commission has already issued a rule or order, and also has stated in such a rule or order that violations can be brought to suit under this class action provision.

Section 7 also affects procedures of notice to class members who would be covered in a suit, and the determination of damages and awards in a class action. It is left to the court to determine what will constitute reasonable notice to class members. This may consist of advertisements in newspapers, on radio or television, postings on bulletin boards or individual notices. As for damages, the court may rely on a statistical sampling of the aggregate class and shall calculate the average amount for each case. Awards will also be granted on this basis when liability has been proven.

Section 12 of the bill is also notable as it grants the Federal Home Loan Bank Board sole regulatory authority over Savings and Loan Associations. This section, therefore, exempts savings and loans from FTC authority in the same way that banks are exempted from FTC jurisdiction as a result of their being regulated by the Federal Reserve and FDIC.

The Federal Home Loan Bank Board is required to take action to insure against unfair or deceptive practices by these institutions, and the Board is required to prescribe rules similar to those promulgated by the FTC within 60 days of such an FTC order or rule. This action is not mandated if the Federal Home Loan Bank Board determines that a rule would interfere with essential monetary and payment systems policies or if the particular actions designated by the rule are not felt to be deceptive or unfair in the business of savings and loans.

This section reflects previous court decisions whereby the Federal Home Loan Bank Board was held to be the proper authority for the regulation of savings and loans "from the cradle to the grave." This is a highly significant section of this legislation and one that clears the savings and loan business for regulation by an agency with expertise in the money market and housing fields.

H.R. 3816 further sets time limitations for bringing private injunction or damage suits; provides that the courts shall award reasonable attorney's fees in successful suits; permits public petition of the FTC for the issuance, amendment or repeal of trade regulations or rules, and makes several technical and other miscellaneous amendments.

Mr. Speaker, I request that we adopt House Resolution 718 so that we may proceed to the consideration of the bill.

Mr. LATTA. Mr. Speaker, I agree with the description of the rule by the gentleman from Connecticut (Mr. DODD). I want to emphasize that there are a couple of features in this bill that I personally do not like.

First, being always conscious of the taxpayers' dollar and wanting to help the President balance the budget by 1981, as he said many times he would like to do, I call the attention of the House to the fact that for fiscal year 1978 the bill provides $63 million for this agency, and then jumps it $7 million more for 1979. That is not the way I think we ought to balance the budget.

The gentleman from Connecticut has already pointed out various features of section 7. I want to say that this is another provision that probably is going to pass, which will clutter up our courts. People with legitimate claims before our courts today cannot be heard. Why? Because of all of these class action suits that the Congress provides for. Every individual, notwithstanding the fact that he has absolutely nothing to do with the case, rushes into court and files a lawsuit and clutters up the courts.

I believe, as has often been said in the past, that justice delayed is justice denied. This is happening around this country every day. Justice is being denied because it is being delayed to bona fide litigants. Here, we are providing once again for class action suits.

I want to call the attention of the Members to the views of 10 Members on section 7, and I quote:

> If the real purpose of those who support Section 7 is to punish the wrongdoer, then thought should be given to injunctions to stop the action coupled with substantial fines. However, we strongly believe that the scheme set out in section 7—that is, suits brought on behalf of an unidentified class who are not notified of the action, who may or may not—

And I stress that—

> may or may not have sustained injury and who in any event will not receive any individual redress—should be rejected.

Mr. Speaker, to that I say amen.

Mr. Speaker, I reserve the balance of my time.

Mr. DODD. Mr. Speaker, I do not have any further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ECKHARDT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3816, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. ECKHARDT) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as chairman of the subcommittee that drafted H.R. 3816, the Federal Trade Commission Amendments of 1977, I think it would be productive to spend a few minutes discussing the problems that give rise to this

legislation and how the bill was shaped and modified to strike a fair balance between the interests of consumers and the business community.

First of all, the bill is the product of extensive hearings. My Consumer Protection and Finance Subcommittee conducted 10 days of hearings in 1976 and 1977 on the operations of the FTC in general and on this and its predecessor legislation in particular. In addition, one of the principal recommendations of the Commerce Committee's Oversight and Investigations Subcommittee in its report on the FTC in the 94th Congress was enactment of legislation similar to H.R. 3816.

I think H.R. 3816 reflects the virtues of this extensive oversight in that it is an attempt to reconcile the hopes of past legislation with the realities of enforcing laws to prevent unfair and deceptive acts and practices in the real world.

Section 7 of H.R. 3816 contains one of the most important consumer provisions before the Congress. Under it, any person who is cheated by a violation of an FTC rule or order can sue the wrongdoer to recover his losses. For example, a consumer cheated by the overblown promises of a vocational school, or a small businessman deceived into buying a worthless franchise, could bring redress suits. In addition, a group of persons injured by the same violation could group together to bring a class suit to get their money back.

The consumer is cheated of millions of dollars each year by fraudulent and deceptive business practices. Under present law, the consumer must rely upon an overworked and understaffed FTC to seek redress for him or her. Obviously, under such a system, most consumers go without redress and the unscrupulous purveyor of goods and services can engage in unfair and deceptive practices with impunity.

I would like to briefly mention just a few of the kinds of practices we are talking about and the costs to consumer from these practices. The FTC has under consideration a rule which prohibits funeral homes from taking unfair advantage of consumers at a time when they are particularly vulnerable. A number of abuses would be prohibited. For example, a funeral home could no longer embalm the deceased without first seeking permission from the family. The FTC estimates that this one practice costs the consumer more than $78 million annually. Altogether ripoffs in the funeral industry cost the consumer more than $181 million annually.

I could go on with other examples of the victimization of the consumer. They add up to more than $1.3 billion in losses each year to consumers. The point is that the costs are real, they are enormous, and under present law, the consumer has no right to seek redress, and no effective way of receiving damages.

Permitting private damage suits based on violations of Federal law is not a new idea. Private damage suits have long been permitted under the antitrust, securities, and civil rights laws. As Attorney General Bell said in his letter endorsing section 7:

> It has been the experience of the Department of Justice that private enforcement actions such as those authorized by H.R. 3816 substantially complement governmental enforcement actions. Class and individual private suits under the antitrust and the civil rights laws have played an extremely important role in deterring violations of those laws as well as compensating persons injured by violations.

I am well aware that section 7 is highly controversial. This does not surprise me. Anything that gives the weak and the powerless a weapon that puts them on a par with the big businesses is bound to arouse their wrath. Today, a consumer is, for the most part, at their mercy. If a consumer relies upon a false advertising claim made by a store about a product which costs $50 to $100 and then discovers that the product does not live up to its advertised claims, the store knows that there is little recourse for the consumer. Section 7 raises a single very clear issue: Are we willing to assist the weak and the small in dealing with unfair practices by the large and the powerful?

Is the courthouse door as open to people as it is to the corporations?

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I would be delighted to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, it is kind of my colleague to yield.

I am proposing some amendments to section 7, but on the whole I think it is a desirable feature. However, I must make some comment in relation to the two examples that my distinguished colleague, the gentleman from Texas (Mr. ECKHARDT), has brought to the floor, and I would just like to mention that the funeral directors are examples of small businesses.

They came before the Committee on Small Business, and according to testimony before the Committee on Small Business, on the basis of six letters, the Federal Trade Commission started an investigation which was some 4 years in length. During the last 18 months of the investigation a half-million dollars was spent bringing in witnesses and paying expenses. That does not count the first 2½ years. There was a list of regulations involved that would have strangled any small business.

The State of New Jersey has regulations. I put them through as consumer director. That involves some States which have mandatory rules, so there is nothing one can do about that. But in any case, the consumer has to pay all expenses in the State of New Jersey. There is a list, and they can strike off anything they do not want, and what they have not stricken off or what they do not agree to goes onto the consumer's bill, and nothing else is involved.

There are easy ways of doing this; that is all I am saying. For instance, as far as false and deceptive advertising is concerned, under the laws of the State of New Jersey it is $3,000, and they can get that any time they want.

Mr. ECKHARDT. Mr. Chairman, will the gentlewoman allow me to respond to the first part of her statement?

Mrs. FENWICK. Yes.

Mr. ECKHARDT. Then, of course, I will yield again.

I gather that the difficulties that these small business people are encounting is involved in the burden of presenting their side in the rulemaking process; is that right?

Mrs. FENWICK. No, unless the gentleman is talking now about the small businesses.

One of the problems is that the Federal Trade Commission has a Consumer Bureau, and the testimony in the Senate hearing revealed that the Federal Trade Commission's own regulations were damaging not only the consumers but small business.

The Chairman of the Federal Trade Commission was asked what his Consumer Bureau had done when these violations of consumers' interests on the part of the Federal Trade Commission itself had been brought to his attention. His answer was:

> Nothing, because the job of the Consumer Bureau of the Federal Trade Commission is to look after businesses and not the consumers.

In other words, what I am saying to my dear colleague is that I do think the Federal Trade Commission itself, with 7 million extra dollars, ought to be able to do something of this kind.

Mr. ECKHARDT. Mr. Chairman, I agree with the gentlewoman from New Jersey that there should be attention in the most sensitive way to the claims of small business on the part of the agency, and that is one reason why I, along with the gentleman from North Carolina (Mr. BROYHILL), wrote certain provisions in that original bill, which is called the Magnuson-Moss bill. Those contained two very important features:

One is that before a rule was to be put into effect, the persons who were to be subject to the rule would be assured that all of the facts upon which the rule was based came into the RECORD. Further, under ordinary circumstances, to whatever extent it is possible, it was provided that there be an opportunity to cross-examine the agents of Government as to where they got that information.

Mrs. FENWICK. It was a great step forward.

Mr. ECKHARDT. The second thing we did—and it is a related one—is to provide that instead of being able to contest the rule only on the basis that the rulemakers were arbitrary and capricious, the persons subject to the rule would have access to the courts and be entitled to go in and show that there was no substantial evidence on the record as a whole on which the rule was based, in which case the court could strike it down.

The problem in other agencies is that one may come into court and say, "This rule is unreasonable, and everything you brought out in the hearing does not support the reason for the rule."

However, the agency says, "We had something in the file which we just did not show you, but we have this great background of material." They then plop that on the desk and bring that

into evidence, of course, so as to tend to show that they were not arbitrary and capricious. Consequently, the small business or any business, for that matter, which is unreasonably dealt with on the basis of what really came out at the hearing loses its case. That is the point at which protection is provided under the existing act.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, I agree.

I tend to favor the class-action method that we adopted in the parens patriae legislation last year under antitrust law actions brought by attorneys general of the States, but I think this section 7, if we adopt it, is going to have to be amended because I think it is dangerously open to a wide number of suits.

As a matter of fact, I am told by an attorney that it is quite possible that an attorney could bring a suit without even having an aggrieved client and receive the money himself.

Mr. ECKHARDT. No, that is not correct.

Mrs. FENWICK. I hope it is not, but I think we need some safeguards in section 7 so that we will not get a series of suits.

I would like to use some of the language from the parens patriae bill to provide that the successful defendant, in the same context as is contained in the parens patriae bill, when an action has been brought for a breach of warranty based on bad faith, can be awarded attorney's fees. I think that otherwise, knowing human nature, we do open a very wide field without adequate protection. Therefore, I think that the fraudulent and dishonest standard which is now in the law should be adopted in this section concerning the grounds on which the class actions can be brought.

Mr. ECKHARDT. Mr. Chairman, let me state this to my distinguished colleague, the gentlewoman from New Jersey (Mrs. FENWICK), who I know is in the forefront of those who have fought for consumers for a long time in this body, that if there are amendments to section 7 which would accomplish an effective class-action process, that is, which would not actually stymie the process by making it virtually impossible to give notice, I would certainly welcome that, and I feel sure that most of the members of our committee would.

We tried to anticipate these and we fashioned the law largely after the uniform class action act. We also used the parens patriae bill as something or a model with respect to some of these provisions.

Please let me say that those who are bitterly opposed to this process, who would close the doors to consumers, are not satisfied with those kinds of amendments. I know that they propose as their major amendment to strike all of section 7.

I do not mind identifying them because I think people ought to be identified when they have originally been identified and invited to participate.

When we were drawing up the Magnuson-Moss FTC Improvement Act, people like Penney's and Wards kept the visitors' seat in my office hot explaining their need to go into court and their right to go into court. I listened with great patience to them. I think the gentleman from North Carolina (Mr. BROYHILL) and I drafted provisions in the rulemaking process that were generally acceptable to them. But they did not appear in the hearing on the bill presently before us. Not a word was heard as to what they felt was wrong about the class action provision, not to us, at a point where we might have said, "Can't we negotiate? Can't we work the problems out?" Why not? Well, possibly because they felt that they did not want to identify themselves as resisting the right of the consumer to bring an action for fraudulent and unfair practices against a business.

So they went quietly to the offices of various Members. I am sure the gentlewoman is familiar with the process, if not with the particular lobbyists involved.

Mrs. FENWICK. No one came to see me.

Mr. ECKHARDT. And they all went to their local people. But if you called people back home, they would tell you, "I don't know what it is all about, but somebody told us this is terrible and the heavens are falling."

That is what we could not comprehend. I make this big preface merely to say that I really do hope that there are amendments brought from the floor which will answer specific criticisms on section 7.

Mrs. FENWICK. I will bring them to the floor.

Mr. ECKHARDT. Mr. Chairman, I shall now continue: Significantly, the right to go to court to recover damages is given directly to the consumer. We are not talking about creating more Federal bureaucracy using taxpayers' money to protect the consumer. This bill gives the authority directly to the consumer to help himself. Not surprisingly, those business lobbyists who normally rail against the inefficiencies and ineffectiveness of the Federal bureaucracy quickly change their tune and say "let the Government do it" when they are faced with the prospect of a consumer armed to protect himself.

I would like to clarify some misunderstandings about the bill. First, the bill does not permit damages to be awarded without proof. The plaintiff in any suit has the burden of proving with reasonable certainty the extent and amount of damages to the class. Any individual consumers must then be able to prove that they are a member of the injured class before they can collect their share of the damages. Second, there is no empirical evidence to suggest that the courts will be overwhelmed with a flood of irresponsible litigation. Experience under the securities and antitrust laws as well as under State laws provides no support for the "flood of litigation" argument. Third, opponents argue that section 7 will enrich attorneys, not consumers. Since the court must approve any attorney's fees in a class suit under section 7, the court can prevent excessive fees to attorneys. Recent trends in class action cases indicate that the courts apply strict standards in determining how much a class attorney should receive.

The Congress has expanded significantly the power of the Federal Trade Commission in recent Congresses. In 1973, in the Trans-Alaska Pipeline Act, the Congress acted to expedite the collection of line of business information and expanded the Commission's authority to seek injunctions against violators of the Act. In 1975, in the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act, we set up an elaborate rulemaking procedure and gave the Commission the power to seek redress on behalf of consumers.

Our hearings have shown us, however, that the laudable purposes of those acts are being frustrated by other statutory provisions of the Federal Trade Commission Act and by some poorly conceived court decisions. For example, the low $100-a-day penalty for failure to comply with FTC requests for information, combined with a court decision that has embroiled the Commission in extended procedural litigation, have prevented the FTC for more than 2 years from collecting Line of Business information from recalcitrant companies. Worse than that, this procedural snare prevented the courts from even getting to the merits of the refusal. It is worth noting that when the district court finally was able to consider the matter, it ruled in favor of the FTC on every substantive ground.

This legislation is designed to expedite the collection of that information that the Congress has specifically appropriated funds to collect—as well as the other investigatory information the Commission must have—by increasing the penalties for failing to comply with a valid FTC order and by overruling the misguided lower court decision.

I should point out that we made several important changes in the legislation that was originally recommended by the FTC and that was passed by the Senate in the last Congress. That bill provided for a penalty range from a minimum of $1,000 a day to a maximum of $5,000 a day; it reduced the amount of time after FTC issued a notice of its intention to seek penalties before those penalties would actually begin to accrue from 30 to 15 days; and it provided strict standards for the granting of a stay of penalties, including a demonstration by a resisting company that it would suffer irreparable injury if the stay were not granted. Our subcommittee felt these provisions, which had been approved unanimously by the Senate, were unfair to business, so we made several major changes.

Section 2 of H.R. 3816 contains no minimum penalty and specifically states that the court should take into account the reasonableness and good faith of the resisting company in setting the level of any penalty. Further, it provides for up to 60 penalty-free days for companies to seek a stay of penalties. And it contains no stay standards.

What the section does do is to restore 50 years of precedents that enabled the FTC to sue all resisting companies on one issue at the same time. This provision, coupled with the increased penalties, should eliminate the procedural delays and spurious objections to FTC subpenas, such as occurred in the line of business case. There, the FTC was in litigation with more than 100 companies for 2 years in procedural wrangling in

two separate courts. When the case was finally transferred to the district court here in Washington, D.C., the only court where virtually all the parties could be joined, the court heard the arguments on the merits in a relatively short time and ruled in the Commission's favor on all points. The Commission and the taxpayer could have very well done without all the extraneous fighting in multiple courts, and this bill is intended to do that.

The section is now consistent with the testimony of the American Bar Association and meets the specific concerns of companies such as J. C. Penney. It should speed up enforcement of the FTC Act without limiting the business community's legitimate rights to challenge agency action.

Another section of the bill, section 6, is very limited and intended to remedy a specific problem which the Commission has encountered in its consumer suits. The problem is to make sure that while the Commission is bringing its enforcement suit against a company to declare a practice illegal—and that is a necessary prerequisite to any consumer suit—the company is not wasting its assets so that there will not be any money available for the consumer suit when it can be brought.

The courts do not now, for technical reasons, have the power to stop the wasting of assets during the time the Commission is bringing its suit. They have long exercised the power to stop this kind of circumvention in other similar suits—private or agency—when the law violation suits are pending before the court rather than before an agency.

This is a technical problem which section 6 would correct, and not by relaxing any standards now applicable in our courts. The Commission would not have any power to act on its own. And as plaintiff before the court, the committee report states, the Commission would have to prove that the company is wasting its assets; that the commission would win its own suit against the company; that a later consumer suit for damages would be proper; and that the consumer suit would also be won. Finally, it must indicate the least burdensome way of accomplishing its goal.

That is a very stringent standard, and in fact the minority had no disagreement with it in the committee in view of the explanatory language in the committee report.

In conclusion, Mr. Chairman, I can only reiterate that this bill is necessary and important for consumers in giving them an effective right of action and in making the Federal Trade Commission Act more up to date and effective. And the issues have received every attention at every step of the process. Therefore, the committee acted favorably and I would strongly urge passage of this bill.

Mr. BROYHILL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, as a member of the subcommittee and committee which considered this legislation, I have spent considerable time and effort trying to resolve the problems evident in H.R. 3816. There remain in the legislation a number of troublesome provisions, and consequently, I do not believe that the bill should be enacted in its present form.

Briefly stated, the bill would cut back on the opportunities a company would have to challenge FTC orders and subpenas, thereby overturning at least one court case on this point (sec. 2). It would also increase the number of courts in which the FTC could file enforcement actions (section 3). While cutting back on the number of places in which a company could file an appeal of a FTC cease and desist order (sec. 5). In other words the FTC could "forum shop" but a private party could not. Under the provisions of the bill a cease and desist order could go into effect regardless of whether an appeal of that order had been filed (sec. 4). Under present law the effective date of an order is stayed pending the outcome of any appeals that might be filed. Further, the bill would allow the FTC in certain instances to ask a court to appoint a trustee to run a company if the FTC believes that the company is about to violate the FTC act (sec. 6). Finally, the bill contains a provision which would authorize private enforcement class actions for alleged violations of FTC cease and desist orders and trade regulation rules (sec. 7). This provision raises a number of problems which I shall discuss in a moment, and it, in combination with the other parts of the bill, makes H.R. 3816 a bill which clearly should not be enacted.

As I indicated, class action lawsuits could be brought for violations of FTC cease and desist orders and trade rules. However, the language used in FTC orders and rules is often not subject to precise definition of permissible conduct. The very nature of the acts and practices prohibited by the Federal Trade Commission Act renders orders incapable of definitive guidelines. When companies confer with the Commission's compliance staff, there is often a great deal of dispute over what practices constitute violations of existing orders and rules. Informal, nonbinding staff interpretations and formal Commission advisory opinions are needed on a frequent basis to help resolve the meaning of language that was thought to be clear when originally drafted.

As difficult as it is for companies and the Commission to agree on the meaning of jointly-written orders, the situation will become intolerable if section 7 of H.R. 3816 is enacted. Every State and Federal court in the country will be faced with the extraordinarily difficult task of defining FTC rules and orders, with millions of dollars riding on the outcome. The future direction of FTC law will be greatly influenced not by the FTC but rather, according to class action lawyers' creativity in formulating new theories of violations supposedly covered by rules and orders. Such interpretations may never have crossed the minds of the parties when formulating the order but, nevertheless, may become the basis for large monetary judgments. The FTC will never be able to intervene in all the private litigation unless it is forced to neglect its own primary mandate of enforcing the FTC Act and the numerous other special statutes under its enforcement responsibilities.

Not only will the potential for different interpretations place large sums of money at stake, but the mere existence of conflicting opinions will cause nightmares for industry. And this raises my second major point. Any company operating in more than one State will face a real likelihood of conflicting regulatory mandates; what is legal in one State may well be determined to be illegal in another. The probability of this occurring is really quite high, particularly for regional or national concerns—the very companies that are sure to be the defendants in most class action suits because of the perceived "deep pockets" for recovery. Faced with the risks of potentially massive monetary damages based on a State court's interpretation of an FTC rule or order, many companies will be forced to settle class action suits even though there is serious doubt that the rule or order has been violated. Whether such cases are settled or litigated and won, the company, in effect, loses. They will have to pay if they are right as well as pay if they are wrong. A fair and open "day in court" will become a luxury many companies simply will not be able to afford.

We should also consider the impact section 7 will have on our State and Federal court systems. This is not an issue to be taken lightly and, indeed, received a great deal of debate last year when the parens patriae legislation was being considered. Under parens patriae, when only State attorneys general could bring enforcement actions on behalf of their citizens, there was significant discussion about overloading our courts; section 7 of H.R. 3816 multiplies that effect many times over by empowering every citizen and every private attorney to have access to any State or Federal court to enforce FTC rules and orders. There is serious question whether our judicial system will be able to function fairly and effectively under the jurisdiction thrust upon it by section 7.

My last point concerns the existing powers of the FTC to accomplish what section 7 purports to do. The FTC already has the authority to seek restitution or any other appropriate type of redress on behalf of consumers. In fact, we gave the Commission this authority in 1975 when we passed the Magnuson-Moss Act. At that time we considered and rejected the idea of a private right of action to enforce the FTC Act which is now being proposed in H.R. 3816. In Magnuson-Moss, we also gave the FTC the authority to impose fines of up to $10,000 on companies which violate trade regulation rules and orders. Further, we even gave the FTC authority to impose a fine on a company which engages in conduct similar to that prohibited by an order levied against someone else. Finally, the Commission has authority to seek injunctions against companies violating FTC rules and orders. And the Commission has not been shy about using these newly acquired authorities.

When the Consumer Protection and Finance Subcommittee and later the full

Commerce Committee considered this legislation, there was very little discussion about whether the class action suit is an effective consumer protection device compared to small claims courts, consumer arbitration panels, and other redress mechanisms which operate essentially at a local level. Indeed, Chief Justice Burger in a recent speech indicated that in the consumer protection area we need to experiment with consumer redress mechanisms which operate outside the formal strict bounds of the judicial system. He points out that more often than not the legal system cannot provide relief to consumers in an efficient and speedy fashion. Further, in a recent interview with Business Week magazine, Attorney General Bell points out that class actions are just not appropriate in these kinds of cases. He states that "I would not countenance using the resources of the Government or a court when the recovery is going to be $2 for each person in the class and the real recovery is simply for the lawyers." However, those are exactly the kinds of suits that will be brought under H.R. 3816.

In light of the above, I do not believe that an adequate case has been made for the need for this bill and I am convinced that additional effort and careful study are necessary.

Mr. Chairman, at this time I yield 5 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, it is with reluctance that I rise to face such a formidable adversary as the famous bicycle rider of Capitol Hill, because I know how sincerely motivated and genuinely compelled the gentleman is in the pursuit of consumer interests.

But it is my judgment, and I hope a considered judgment, that his efforts with regard to section 7 are misplaced and misguided, and could invite the specter of a serious disruption of both our courts of law and the Federal regulatory processes as we know them. I would examine some of the contentions that have been offered by the distinguished elocutionist from south Texas to see if the burden of proof that the gentleman must carry can stand.

First of all, an essential premise of this contention is that the FTC is incapable of meeting their existing responsibilities. That is an interesting contention in view of the fact that it was the same FTC that came before the distinguished chairman and the subcommittee and asked that body to expand their jurisdiction under the proposed section 14 of the subcommittee bill. They advocated that their jurisdiction be expanded to encompass all non-profit corporations. Not only did they have sufficient personnel to meet the burdens and responsibilities already imposed upon them, but they have sufficient personnel to reach out and encompass the Boy Scouts, the Church of Christ and the American Medical Association under their regulatory umbrella. I do not feel that the contentions of inability to meet their responsibilities under existing law can stand.

It is also asserted that Moss-Magnuson has not worked. How in God's name can we make that assessment fairly and honestly within a brief 2-year history to determine if it works? That was heralded as the avenue of consumer protection entrance to the FTC regulatory process. It barely had the opportunity to draw its first regulatory breath.

The gentleman contends that this legislation gives the weak and the powerless a weapon. That is certainly designed to start the blood boiling and the tears rolling—are we willing to help the little people, he sincerely and honestly asserts. What little people? The little practitioners of law. These are the little people we are talking about. We are talking about the organized bar throughout the United States of America.

This legislation fairly and honestly could be characterized as the "Attorneys' Enrichment Act of 1977," because they will be the principal beneficiaries of section 7 without a question.

Next let us examine the context in which this legislative enactment would invite the "consumer" into the courthouse.

In an FTC cease and desist order, a standard is set forth that should not be violated. Thereafter, every inventive, enterprising, hardworking, dedicated practitioner of law throughout the country can then take it upon himself or herself to interpret those rules and regulations and determine if, in his or her community, there has been a violation of that law. That is the invitation that exists in this legislation.

So, in fact, we are asking a phalanx of dedicated legal practitioners to serve as an enforcement arm for the FTC. We are asking them to proceed to the courthouse with law book in one hand and bank book in the other to protect the interests of the consumer. Consumer interests, baloney. By the time we divide up any damages that are awarded as a consequence of this kind of litigation, after 10 years when we deduct the attorney's fees, when we deduct the court costs, when we reach the bottom line, we are ending up with a $2, $3, $4, and $10 lawsuit for each real or anonymous class member.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. BROYHILL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. As a result, the attorney can enjoy the prospect of an early retirement and the courthouses will find themselves breaking at the seams. The deficiencies and the weaknesses that are manifest in this sincere effort to use the private bar as an enforcement arm of the FTC will become more evident to the Members of this House when they realize all of the patchwork, piecemeal legislative efforts that are going to be made on this floor to salvage all of the deficient features of section 7. They are coming forth now. And here we are, at the 12 hour, being invited to rectify all of the potential deficiencies that many have already recognized in this section.

Mr. Chairman, I urge my colleagues to resist the temptation to try to salvage this kind of misguided legislation on the House floor and to reject section 7.

Mr. BROYHILL. Mr. Chairman, I yield myself 3 minutes to engage the gentleman from Nevada (Mr. SANTINI) in colloquy.

I thought the gentleman made a very good statement, and I wanted to call his attention to a proposed Federal Trade Commission rule, together with an explanation of that rule, which I hold in my hand. As the gentleman can see, it is a couple of hundred pages or more long, and I am sure that the gentleman has seen others. He may not have seen this particular one. But as the gentleman well knows, these trade rules are typically drawn in a very rather broad manner. They usually cover established violations, but they also try to look at what might become a violation some time in the future. The rules contain things that should be prohibited, but also often they go into technical points; for example, the size of the type, and so forth. I am sure the gentleman, being the excellent lawyer he is, could come up with several dozen ideas for suits just by reading language like this in a very broad voluminous report of this nature.

Mr. SANTINI. If the gentleman will yield, it may be the most tantilizing enhancement of the legal profession since the automobile accident. I am greatly concerned about the ability, as the gentleman has so aptly presented, of the State and Federal courts throughout the Nation to interpret and to serve as an enforcement mechanism the Federal rules and regulations which are very complex, difficult to understand and ambiguous. Some of us concerned with this have wondered whether they are written by the same gentlemen who propose the small print in insurance contracts. I do not know that, but I do know that there will be considerable difficulty in evaluating and interpreting those rules and regulations. And now we are asking the private bar to be the evaluator, interpreter and assessor or what the regulations may be.

The trade rule regulation program of the Federal Trade Commission is new. No new rules have been issued at this point under that Moss-Magnuson authority, and none of them has been interpreted and none of them has been enforced.

Here we are saying we are going to turn this over to the thousands upon thousands of lawyers to interpret what is in a rule of that magnitude and of that volume. My concern, of course, is the effect that this is going to have on the TRR procedure itself.

Would the gentleman want to comment on that? It is bound to protract that whole process, to make it far more difficult to impose any rules on an industry because they will be more likely to try to delay, to go into court, and so forth.

Mr. Chairman, I think the gentleman from North Carolina (Mr. BROYHILL) has touched on one of the very definite deficiencies in the section 7 proposal. Most of the enforcement that is taking place today is done as a consequence of consent decrees.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

Mr. BROYHILL. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I think the gentleman from Nevada (Mr. SANTINI) has made a very good point. Most of the orders that are entered into are consent orders.

How difficult or how much more difficult will it be in the future, if we adopt this section 7, to get the businesses around the country to enter into consent orders?

Mr. SANTINI. They will not do it.

Mr. Chairman, if the gentleman will yield further, they will avoid the consent decree, because it will set a precedent that might be used against them. Let me state why. We would conceivably have lawsuits all over the country based on consent decrees. We would essentially, in my judgment, eliminate almost all the consent decrees and force everything into litigation.

Mr. BROYHILL. Mr. Chairman, I thank the gentleman from Nevada (Mr. SANTINI) for his comments.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. BROYHILL) for yielding to me at this time.

I rise in support of the bill and in opposition to section 7. I will later for several reasons offer an amendment to strike section 7:

It is important to reiterate what the gentleman from Nevada (Mr. SANTINI) has just mentioned, and that is, that the FTC can at this time bring suits for consumers. It already has that authority. But with the passage of section 7 in the present bill, we would effectively take from the FTC the likelihood of its being able to win consent decrees.

Consent decrees are currently the major means of enforcement of FTC regulations. But who would have any reason to enter into a consent decree if, having done so, it only made him subject to suit for admitted previous conduct?

The FTC can at this time impose fines of $10,000 for each violation of its orders or for persisting after a cease and desist order. Again, the FTC already has that authority. But what particularly concerns me is something that is reflected, perhaps, in the statement of our subcommittee chairman when he said that the bill, in section 7, "allows persons who are cheated to bring suit."

What it really does is to allow people who believe they have been cheated to bring suit regardless of the validity of this claim. There is a difference. Part of the problem is that this bill would make it very likely that people would undergo personal and business damage as a result of mere accusations long before a case was ever tried.

In fact, the committee report, on page 33, contains an unusual requirement. This is what it says:

> For example, a court could require a defendant who sends out a mailing to customers or other class members to permit the plaintiff to enclose notice of the pending suit in one of the defendant's mailings. Tremendous savings to the plaintiff would result at no additional expense to the defendant.

I would observe that this may be very good indeed for the economic rights of the plaintiff, but as far as the personal rights of the defendant are concerned, it is not. It is unusual for one being sued to be required to send out notice to the people who might potentially wish to engage in a suit against him, advising them that they might wish to join in a suit against him.

I am further concerned that this bill, in the name of opening increased opportunity for consumers to gain redress, rather than leaving it to the FTC, will only open up the possibility of a kind of vigilante or posse justice. We might have large numbers of people who would take the law into their own hands rather than leave it to the FTC to bring suit. These people can take other people to court, there is no question about that. But before the people are actually taken to court, there will already have been considerable damage done to potentially innocent defendants, and those very defendants may be required to inform others who might wish to engage in a suit against them of the fact that they might wish to join such suits.

We here open up a matter to large mischief. "Confusion now hath made this masterpiece." We would be in safer hands to leave authority where it now lies, in the hands of the FTC, which has the authority to bring suit, rather than to make it available to all enterprising suitbringers.

Mr. Chairman, I thank the gentleman from North Carolina (Mr. BROYHILL) for yielding me this time.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman said that he believed that if this bill is enacted into law, it would prevent some persons agreeing with the Commission from entering into consent cease-and-desist orders.

Is the gentleman familiar with the fact that on page 36, the second paragraph, (B), provides that these suits will only arise when the cease-and-desist order provides, under its own terms, that a violation thereof will be the basis for an action under the provisions of this section? Therefore, the cease-and-desist order would not necessarily have to have that effect.

Mr. KRUEGER. Yes. We are talking, however, not only about cease-and-desist orders, but about other matters as well.

Mr. ECKHARDT. That would also be taken care of by the section because the same language applies to rules.

Mr. BROYHILL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I certainly hope that those few of us who are here in the Chamber today will put this matter in the appropriate context and perhaps pass along some thoughts to those of our colleagues who are not in the Chamber and will later on be voting on amendments.

Mr. Chairman, as important as this bill is in many respects and considering how much has been made of it in "Dear Colleague" letters, it still certainly is far from enough.

This bill authorizes $63 million for the operation of the Federal Trade Commission.

They are greatly expanding the scope of their activities down there, but what kind of oversight are we exercising? What kind of oversight has there really been that tells how the Moss-Magnuson Act is operating down there?

Mr. Chairman, what we have heard today indicates that we are really not looking very closely at this whole matter.

What policies is the Congress willing to see fostered at the Federal Trade Commission? How successfully have those policies been fostered? Nothing seems to show adequately except that this bill says that the Federal Trade Commission is not doing a good job. This bill is an indictment of the Federal Trade Commission. Maybe that is properly so. Maybe that is what should be done.

Mr. Chairman, if we think the Federal Trade Commission is a failure, then why are we authorizing $63 million for its operations? Why do we not turn over the whole function to the public so as to let class-action lawsuits carry on the whole function of the Federal Trade Commission?

Let us take a good, old-fashioned anarchist's view of how to deal with this problem. Why not take the $63 million and parcel it out directly to the attorneys who are going to benefit from this bill?

Mr. Chairman, as the gentleman from Nevada has so correctly pointed out, that is where the benefit lies in this bill; and of course, the American Bar Association will be all for it. By doing it directly in that way, we will save all that congestion in the courts.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

Mr. BROYHILL. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding me this additional time.

To continue, Mr. Chairman, I think enough has been said about section 7 already.

Please take a look at section 6 of this bill where it says that if the Federal Trade Commission has some reason to believe that a violation may occur, that somebody is about to violate, or that somebody is thinking about violating a regulation, the FTC can go into court for the purpose of preserving the assets to make such restitution or to provide such other redress as may eventually come out of the action. They can have a receiver or a trustee appointed, for example.

They can have a receiver or a trustee appointed. Whoever heard of such an unconstitutional concept, the taking of

property, of some business, for an indefinite period of time. Until the controversy is settled they are going to put a receiver in charge of the business because they might be thinking about violating some regulation, some obscure and difficult to construe regulation of the Federal Trade Commission about how to do business.

That is nonsense. This bill is full of nonsense in sections 6 and 7 and I would hope we will eliminate those two sections at least.

Mr. BROYHILL. Mr. Chairman, I have no further requests for time.

Mr. ECKHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it passes all understanding how persons here can feel that the question of a right, an individual's right, when he has been wronged as a result of a statutory violation, is something that he should not be able to vindicate unless he can convince a bureaucrat to vindicate it for him. For instance, if Jane Smith brings an action or asserts an action against Sears, Roebuck, and the Federal Trade Commission brings the action and finds Sears, Roebuck guilty of an unfair and deceptive practice, the bureaucrat can collect the losses of Jane Smith but if Mary Jones cannot convince anybody to bring her action—and this does not necessarily presuppose any corruption on the part of the Federal Trade Commission, they are limited in lawyers—but if she cannot get anybody to bring her action, then you say she cannot go and get her own lawyer to vindicate a right which the Federal law grants her but only permits her to process it through the channel of a bureaucracy. Is that fair? Is that fair to Sears, Roebuck who was sued by the Government for Jane Smith? Is it fair to Mary Jones that she have no remedy because the FTC will not present her case? It is fair to Montgomery Ward—more than fair—because no action is brought against them. But it is not fair to bring action against one competitor but not against another.

We have done everything we can in this bill to limit it and guard it and make fair and make restrained the class action right. Nobody can be sued unless there is a violation of section 5 of the Federal Trade Commission Act. Nobody can be sued unless that violation has been identified by a rule. Nobody can be sued unless the Federal Trade Commission has decided that that kind of an offense should give rise to a civil action. How could we be more guarded? So should we deny to the consumer the use of the courthouse? It is open to the bureaucrat, it is open to the corporation, it is open to them in antitrust matters to sue for treble damages. Only the consumer is told: You have to be "nursemaided" through your lawsuit or you will lose your right.

Who came before our committee giving these arguments at the time we were in the hearing? Why was it the people that are now attempting to undermine this section 7 did not come before the committee, did not ask? They were requested to come before the committee but they preferred not to, and it is rather easy to see why. They preferred to go quietly from office to office, spreading tales about how unfair this section was and they finally persuaded some persons on both sides of the aisle to present their case for them. But not at any time before our committee did witnesses of establishments like J. C. Penney and Sears, Roebuck, come before our committee. Why did they not?

They were there camping in my office, as I said before, when wanted process in the courts, that the rule involved had been put into effect unfairly. We gave them the fairest, most complete process available in any rulemaking procedure—the most complete opportunity for judicial review. We opened wide the courthouse door for them. Now they would close it to the consumer.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I must say that to me the most compelling argument that I have heard here this morning is that we cannot rely entirely on government bureaucracies to protect the individual, that somewhere there has got to be a place where the individual has a voice that does not depend on there being an intermediary of the bureaucracy coming between that person and justice. That to me is the whole reason for this section.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 3316, the Federal Trade Commission Amendments of 1977.

The need for this legislation is apparent to anyone who is sensitive to the complexities of today's marketplace and the resulting inequities experienced by increasing numbers of consumers. According to a 1967 study by the President's Commission on Law Enforcement and the Administration of Justice, fraud is costing the American consumer an estimated $1,350 million annually. More recent estimates place that figure at close to $3 billion per year.

Unfortunately, these inequities are often compounded by the well-intentioned efforts of the Federal agencies and courts to resolve them. This is particularly the case with respect to class action suits arising from noncompliance with FTC regulations.

It is well recognized that a class action is often the only practical means of obtaining redress from small injuries to a large number of persons. However, the effects of existing legislation governing class action suits tend to hinder this process to the point of making it unworkable. For example, the cost of notifying the members of a class of a suit brought about on their behalf often exceeds the total damages awarded by the court. This obstacle has rendered the class action an impossible illusion for most of those who are entitled to this protection.

To remedy this unfair situation, the proposed legislation, H.R. 3816, authorizes the courts to determine what type of notice is most appropriate to the circumstances of the plaintiffs. It also provides that the defendant share with the plaintiff whatever information he might have, including lists or records of customers, who might belong to the aggrieved class. These provisions should reduce the cost of notification sufficiently to place it within the means of most groups of injured consumers.

Another frequent obstacle to the effective resolution of class action suits is the impracticality of bringing before the court thousands of consumers, to determine, on an individual basis, the exact amount of their damages. Under H.R. 3816, this difficulty is also resolved by permitting damages to be calculated for the class as a whole, by using statistical or econometric methods. Once all efforts have been made to notify class members and all claims have been processed, the court will have the option of returning the money to the defendant or distributing it to a public purpose benefiting the members of the injured class.

The bill also provides for badly needed reforms of the Federal Trade Commission as an institution, by increasing its effectiveness and independence from political interference.

To secure compliance with its regulations, the FTC must have at its disposal sanctions that will have significant impact on violators. Under present legislation, dating from the original Federal Trade Commission Act of 1914, these penalties are set at a fixed amount of $100 per day. While this may have been an adequate deterrent to violations in 1914, it is hardly enough to influence the behavior of a large modern corporation, which commonly pays consultants up to $100 an hour to advise them on how to beat the FTC.

The proposed legislation deals with this problem by authorizing the courts to impose penalties of from $50 to $5,000 a day for failure to comply with a commission subpena or order. This will give the courts the flexibility to distinguish serious violators from borderline cases and to make sanctions effective in cases where they are really needed.

I wish to comment on one other feature among the many worthwhile provisions of this bill. This is the prohibition against the political clearance, by the President or other members of the executive branch, of Federal Trade Commission personnel other than the commissioners who are appointed by the President with the advice and consent of the Senate. Professional competence should be the only criterion applicable to the appointment of civil servants. This is particularly the case for an independent agency with an obligation to serve the public interest in as impartial a manner as possible.

Finally, I wish to commend the members of the Interstate and Foreign Commerce Committee for theeir outstanding efforts in producing this bill. I strongly urge my colleagues to join me in support of H.R. 3618.

Mr. ANNUNZIO. Mr. Chairman, H.R. 3816, the Federal Trade Commission Amendments of 1977, is one of the most important consumer bills to be con-

sidered by this body in this session of Congress. I would like to commend Mr. ECKHARDT, chairman of the Commerce Committee's Subcommittee on Consumer Protection and Finance for his diligent efforts on behalf of the legislation. H.R. 3816 will enable the Federal Trade Commission to carry out its responsibilities more effectively and will also help consumers to protect themselves in the marketplace.

H.R. 3816 has several purposes. It will alter certain Federal Trade Commission Act procedures to make sure that FTC actions are completed promptly. It will provide for a private cause of action based on violations of specified FTC trade regulation rules and cease and desist orders. In the legislative, budgetary and personnel areas, it will insulate the FTC from political clearance, and it will authorize appropriations for the commission of $63 million for fiscal year 1978 and $70 million for fiscal year 1979.

Mr. Chairman, one of the most significant provisions of this bill is section 7, Consumer Actions, which will create a self-help remedy for consumers whenever specified FTC trade regulation rules or cease-and-desist orders are violated and the violation results in harm to a consumer. The FTC estimates that it currently receives 60,000 consumer complaints a year. Unfortunately, because of budgetary limitations and competing demands on its resources, the Commission cannot take action on the majority of these consumer complaints. By authorizing private actions, this bill will insure that first, an injured consumer will have some means of dealing with violations of Commission rules and cease-and-desist orders, and second, Commission rules and orders will be more closely complied with because of the watchful eyes of consumers.

Section 10, Citizen Petitions for Rulemaking, will provide a means for members of the public to petition the FTC for the issuance, amendment, or repeal of a trade regulation rule. This provision should help to encourage consumer input into the rulemaking process of the FTC and will require a prompt response by the Commission to legitimate public concerns. Under this section the Commission would be required to either grant or deny a petition within 120 days after receiving the petitions. If the Commission grants the petition, it must begin an appropriate proceeding as soon as possible. If the Commission denies the petition, it will be required to notify the petitioner, supply the reasons for the denial, and to publish the reasons for the denial in the Federal Register.

Mr. Chairman, I believe that H.R. 3816 will significantly benefit consumers and improve the performance and capabilities of the Federal Trade Commission. Not only will this bill permit the FTC to act more expeditiously in cases which are now severely prolonged as a result of delaying maneuvers, it will also make the work of the Commission more effective and meaningful by enabling consumers who have been injured by violations of Commission rules and orders, to seek redress in the courts. I urge all of my colleagues to join me in my support of this measure and to vote for its passage.

Mr. FLORIO. Mr. Chairman, I rise in opposition to section 7 of H.R. 3816.

It is enormously disturbing to me that private enforcement of Federal Trade Commission rules and orders—or the rules and orders of any agency—can be proposed when no evidence has been presented that the agency is not performing its mandated duties.

Only 2 years ago, Congress enacted the Magnuson-Moss Warranty-Federal Trade Commission Improvements Act. Under this legislation, the FTC has clear authority to sue violators of FTC rules and orders on behalf of injured consumers and to obtain monetary damages, injunctions, the rewriting or cancellation of contracts—a whole array of relief to fit the particular needs of the case. In addition, this act gave the FTC the authority to seek civil penalties for violation of its rules. The Commission has long had the authority to sue for violations of its orders. The amount of civil penalties for violation of a rule or order is $10,000 for each violation.

The FTC is currently preparing a number of comprehensive rules under its Magnuson-Moss rulemaking authority. In addition, the FTC has obtained substantial civil penalties for violations of its rules and orders. The Commission has also used its consumer redress authority to obtain large settlements for consumers. For example, it has obtained $20 to $30 million in specific performance and refunds in a land-development case, and $1.5 million in restitution to vocational school students, and is now litigating a $40 million pyramid sales scheme case.

It is no secret that for years the FTC was an ineffective regulator of the American marketplace. The Commission was jokingly referred to as "the little old lady of Pennsylvania Avenue," a pawn of the industry it was supposed to regulate. All that began to change after the scathing Nader report in January 1969, followed by an equally critical study by the antitrust section of the American Bar Association. In the years since then, the Commission has attracted a number of well-qualified, highly motivated, new people who are fulfilling the congressional mandate of this agency. In fact, last year the Commerce Committee's Subcommittee on Investigations awarded the FTC high marks in the "Moss Report," a study of agency effectiveness. With a new Chairman who received the strong endorsement of consumer groups in his confirmation hearings, we have no reason to expect a change in the Commission's performance.

Mr. Chairman and fellow Members, let us not precipitously create private enforcement of the rules and orders which this Federal agency has the ability and willingness to effectively enforce. Let us first monitor the Commission's performance under the new Magnuson-Moss authority and determine how it uses this authority under the leadership of an able new Chairman. If, contrary to all indications, the FTC fails to live up to its potential under the broad range of powers vested in it by Congress, let us then examine what new approaches might be necessary. Let us not, however, take the drastic steps envisioned by section 7 when there is no demonstrated need for this new approach.

Mr. BARNARD. Mr. Chairman, section 7 is an unnecessary piece of legislation. It would strain our judicial system; it would interfere with a mandate Congress has given the FTC; and it would not benefit the public as a whole. For these reasons, I urge support of the Kreuger amendment to strike section 7 of H.R. 3816.

Consumers should be able to defend themselves against unscrupulous and fraudulent operators who plague our country. And if enactment of section 7 of H.R. 3816 truly offered this guarantee, I would be an enthusiastic supporter. However, this is not the case.

Section 7 permits attorneys to sue for violation of the Federal Trade Commission's vague and technical rules and orders. Unfortunately, these regulations rarely address the hardcore fraud problems. Rather, they only formulate prohibitions against certain unfair or misleading consumer practices.

Consequently, a legitimate company might find itself the defendant in a class action suit for simply misinterpreting an imprecise rule or its notification section. Clearly, it would be unfair to impose a liability on a company under these circumstances.

Under section 7, individual consumers would not have to be notified of a law suit. Thus, the vast majority of consumers in whose names these class actions are brought might never know of the existence of the suits nor receive any money.

Mr. Speaker, I am concerned that consumers will reap little reward from the mushrooming of class action lawsuits which will inevitably go hand-in-hand with enactment of section 7. Further, the additional burden to our already overtaxed judicial system should not be minimized.

Does such an insignificant gain for the consumers justify the costs to our judicial system and legitimate businesses? I think not.

Presently, the Federal Trade Commission is required to act on behalf of all consumers. We cannot expect this sense of public responsibility to be duplicated by private attorneys.

Mr. HYDE. Mr. Chairman, late in 1974, the 93d Congress passed the Magnuson-Moss Warranty Federal Trade Commission Improvement Act, significantly strengthening the powers of the Federal Trade Commission. Now we are being asked to further expand the powers of this agency in a manner which I can only characterize as unnecessary and disturbing.

The proliferation of rules and regulations facing today's businessman are burdensome enough to deal with—mountains of redtape and Government forms to complete, requiring additional personnel simply to comply with the plethora of Federal regulations.

Passage of the FTC amendments bill will only multiply the problems business-

men now face, under the much-abused guise of "consumer protection."

If today's consumers had been given a chance to understand the ramifications of this bill, they would have bombarded our offices with telegrams, phone calls, and letters opposing passage. The bill destroys our cherished concept of "innocent until proven guilty," and is so biased in favor of enforcement that innocent businessmen will be unable to defend themselves, particularly those without large legal and accounting staffs.

Section 7, allowing for class actions for money damages against alleged violators on behalf of all supposedly injured consumers, was the most radical section of the bill. Individual consumers would receive only a small fraction, if any, of the amount of their alleged damages. The tendency would be for these large class action suits to be settled, with the majority of the settlement fund being used to pay attorneys' fees and the costs of investigation and bringing the litigation. The defendant in such a pending class action suit would be required to post signs in its business establishment, put notices in its monthly statements, or notify the public through radio or television announcements. Such damaging and unfair publicity would be inflicted upon a business before it had been found guilty of anything. Is it any wonder that Judge Medina has called this an unconstitutional and "fantastic procedure." I supported the Krueger amendment removing section 7 from the bill.

Section 6 was nearly as appalling as section 7. Under section 6, the Federal Trade Commission would have the authority to ask a court to put a firm suspected of wrongdoing into receivership pending a Commission proceeding. In effect, the Federal Trade Commission could put into bankruptcy any company whenever the Commission believes that a law may be violated. This is an unprecedented attempt by Congress to impose Government receivership upon ongoing private enterprise. Why hold the hanging before the trial? I supported the Butler amendment striking section 6 from the bill.

The most onerous provisions of the bill were removed during debate, but it still was not worthy of support. Section 3 will increase the number of courts in which the FTC may file enforcement actions, while section 5 cuts back on the number of places in which a business could appeal cease-and-desist orders. In other words, the FTC can "forum shop" but businesses cannot. Section 4 dictates that FTC cease-and-desist orders become effective automatically within 60 days after being served unless the FTC, a court of appeals or the Supreme Court issues a stay of the order. Such a situation will create havoc for business firms by requiring them to take corrective action, which upon judicial review, may be reversed as not in violation of the cease-and-desist order.

What is the urgency? Why was the administration and the majority attempting to push through an untimely and unnecessary bill that will pound one more nail into the coffin of private enterprise. What has happened to their loud cries for decreasing Government regulations? What ever happened to the basic, guaranteed right of fair and even-handed justice?

The Federal Trade Commission already has sufficient enforcement powers under the Moss-Magnuson Act—powers which have not yet been fully tested. It is premature to grant the FTC even more enforcement power—creating in effect another law enforcement agency similar to the FBI and the Drug Enforcement Agency.

This bill proposed such heavyhanded authority for the FTC that it should have been resoundingly defeated.

Mr. MOSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 621]

Anderson, Ill.	Diggs	Mathis
Ashley	Dingell	Moakley
Badillo	Dornan	Murphy, N.Y.
Beard, R.I.	Drinan	Neal
Beard, Tenn.	Erlenborn	Ottinger
Bedell	Evans, Ga.	Pritchard
Blouin	Fascell	Rangel
Bolling	Ford, Mich.	Runnels
Brademas	Fraser	Scheuer
Breaux	Giaimo	Sebelius
Burke, Calif.	Hanley	Spellman
Burton, John	Harsha	Stokes
Burton, Phillip	Heckler	Traxler
Carney	Horton	Udall
Carter	Howard	Whalen
Cederberg	Johnson, Calif.	Whitehurst
Conyers	Koch	Wilson, C. H.
Cotter	Lundine	Wilson, Tex.
Coughlin	McDade	Wolff
Davis	McDonald	Wright
Dent	Madigan	Young, Alaska
Dicks	Marlenee	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 3816, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the committee rose, the Clerk had just begun to read the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk will read.

The Clerk read as follows:

H.R. 3816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Amendments of 1977".

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 2. (a) Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended—

(1) by striking out "SEC. 10. That any" and inserting in lieu thereof "SEC. 10. (a) Any";

(2) by inserting, respectively, "(b)", "(c)(1)", and "(f)" immediately before the second, third, and fourth paragraphs;

(3) by striking out the first two sentences of subsection (c)(1) and inserting in lieu thereof the following: "Except as provided in paragraph (2), if any person, partnership, or corporation fails to comply with any subpoena or order issued by the Commission under this Act (other than a cease and desist order) and if such failure continues for 30 days after service on such person, partnership, or corporation of a notice of such default, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. Such a civil penalty shall be recoverable in a civil suit, by and in the name of the Commission by any of its attorneys designated by it for such purposes, brought in the district court of the United States for a district within which such person, partnership, or corporation resides or does business. In determining the amount of such a civil penalty, the court shall take into account the reasonableness and good faith of any action or inaction of such person, partnership, or corporation with respect to which such penalty is being assessed, and such other matters as justice may require. The amount of such civil penalty shall be payable into the Treasury of the United States."; and

(4) by inserting after subsection (c)(1) the following:

"(2) Any person, partnership, or corporation which has been served with a notice of default issued by the Commission with respect to any subpoena or order referred to in paragraph (1) may apply to an appropriate district court of the United States requesting a stay of the accumulation of penalties under such paragraph for the default with respect to which such notice was served. If, before the expiration of 15 days after such person, partnership, or corporation is served with such notice, such person, partnership, or corporation—

"(A) makes such application; and

"(B) furnishes the court to which such application is made such records, documents, and other materials as may be required for the dispcsition of the application;

such person, partnership, or corporation shall, notwithstanding paragraph (1), not be liable for such penalties until the expiration of 60 days after service of such notice.

"(d) No court shall have jurisdiction over any action or claim seeking—

"(A) to stay the accumulation of any penalties authorized in subsection (c)(1) for failure to comply with any subpoena or order referred to in such subsection; or

"(B) to challenge the validity of, or enjoin the enforcement of, any such subpena or order;

unless the action is brought or the claim is made by a person, partnership, or corpora-

tion, or by a member of a joint venture, and a notice of default respecting such subpoena or order has been served upon such person, partnership, corporation, or joint venture.

"(e) No court shall stay the accumulation of penalties for failure to comply with any part of any subpoena or order referred to in subsection (c)(1) unless the party seeking such stay demonstrates that the applicable standards for such stays are satisfied as to such part.".

(b) The amendments made by subsection (a) shall apply only with respect to failures to comply with a subpoena or order referred to in section 10(c)(1) of the Federal Trade Commission Act (as so designated by subsection (a)(2) and issued after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2? If not, the Clerk will read.

The Clerk read as follows: Page 30, line 1:

VENUE

SEC. 3. (a) The second undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by striking out the second sentence thereof.

(b) Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by striking out the third and fourth undesignated paragraphs and inserting in lieu thereof the following:

"In case of failure to comply with any provision of a subpoena or of an order issued pursuant to this Act (other than a cease and desist order), the Commission may invoke the aid of a court of the United States in requiring compliance with such subpoena or order. Any of the district courts of the United States within the jurisdiction of which the inquiry of the Commission is being carried on may, in the case of such refusal to obey, issue an order requiring compliance with such subpoena or order, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 3?

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand section 3 of this bill, it would enable the Federal Trade Commission to issue subpenas to a company or other business entity requiring it to respond in Washington, D.C., instead of permitting it to respond in the areas where it is doing business. The section would permit the FTC to compel businesses, large and small, to come to Washington, at great expense, and to hire counsel and to incur all of the other burdens in connection with such an investigation.

I would like to ask one of the sponsors of this legislation if this is not a substantial change in the administration of the Federal Trade Commission law? And to further ask if this is not going to impose new and expensive burdens on all kinds of private businesses. These and other sections of this proposal threaten to regulate and punish American business and destroy our entire private enterprise systems?

But, while indicating my overall philosophy regarding this legislation, could I ask if this is not a substantial change from the existing law?

Mr. ECKHARDT. The gentleman is now addressing his remarks to section 2. We are, of course, in section 3.

Mr. McCLORY. Yes, I am speaking about section 3.

Mr. ECKHARDT. Section 3 is the venue section. Of course it also has some relation to the other section. It has to do with filing cases in the District of Columbia.

The problem was this: An action could be brought against the Commission to test the Commission's authority to obtain information under its information seeking devices, including the subpena, particularly in the line of business cases. Those actions could be brought in any district court having venue. Our problem has arose with the A. O. Smith case which case changed 50 years of existing law and held that these injunctions to test the validity of the subpena could be brought before notice of default. The FTC then ran into challenges raising the same issues in several different jurisdictions and finally had to bring a case in the District of Columbia because that is the only court that had the reach of all of the parties involved so as to consolidate the suits.

What we have done here is simply directly provide that the Federal Trade Commission may bring the action in the District of Columbia, but this does not preclude the bringing of actions in other districts having jurisdiction and venue.

Mr. McCLORY. Is the gentleman stating that the practical effect of this section is not to require respondents to come to Washington, D.C., with regard to the enforcement of subpenas? And is the gentleman saying that there is not a transfer of jurisdiction from the district court, or the court which has jurisdiction where the company's principal place of business is located, to Washington, D.C.?

Mr. ECKHARDT. This does not deprive any court of its existing jurisdiction and venue, but it extends the option. The reason for that is to achieve a practical way to consolidate a number of suits.

Mr. McCLORY. In other words, the option is being given to the Federal Trade Commission to decide on the jurisdiction, notwithstanding the fact that the company's place of business might be in a place far remote from the District of Columbia?

Mr. ECKHARDT. I suppose if they insist on it, that could be done. It certainly is not the purpose of this section to encourage that sort of thing.

I would like to state in the very strongest terms here that were there some way to meet this problem of consolidating a number of suits involving the same kind of discovery process in another way, I would like to know it.

Mr. McCLORY. I think that merely imposes added burdens on the respondent and is a further reason why this bill ought to be rejected in toto.

Mr. Chairman, this proposal is double-barreled against American business. Under section 3, the FTC could compel a business entity to come to Washington and defend itself against a subpena no matter how unreasonable or frivolous an FTC demand might be.

Mr. Chairman, the proposal is made doubly offensive because of section 5 which provides new limitations on the right of a business to appeal from a cease-and-desist order. Under the existing law an appeal may be taken in the jurisdiction where the business practice which is being challenged—took place. Amended section 5 would deprive business entities of that right. Instead, they would have to take their appeal to Washington, D.C., or to the jurisdiction where they have their principal place of business.

The CHAIRMAN. Are there any amendments to section 3? If not, the Clerk will read section 4.

The Clerk read as follows:

EFFECTIVE DATE OF CEASE AND DESIST ORDERS

SEC. 4. (a)(1) Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g)(1) For purposes of this Act (other than section 19(d)), an order of the Commission to cease and desist shall become final upon the expiration of 60 days after such order is served, except as provided in subsections (h), (i), and (j). After an order has become final the Commission may modify it or set it aside as provided in the last sentence of subsection (b). Any such order may be stayed in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, did not grant the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

"(2) For purposes of section 19(d), such an order shall become final—

"(A) upon the expiration of 60 days after such order is served if no petition for its review is filed in accordance with subsection (c); or

"(B) if such a petition is so filed—

"(i) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed;

"(ii) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States; or

"(iii) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed.".

(2) Section 19(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b(c)(1)) is amended by striking out "by reason of section 5(g)1)" and inserting in lieu thereof "under section 5(g)(1) and no petition for its review was filed in accordance with section 5(c)".

(b) The amendments made by subsection (a) shall apply only with respect to cease and desist orders of the Federal Trade Commission served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the reading of Section 4 be dispensed with, that it be printed in the RECORD, and be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendmens to Section 4? If not, the Clerk will read section 5.

The Clerk read as follows:

REVIEW OF CEASE AND DESIST ORDERS

SEC. 5. (a) The first sentence of section 5 (c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended to read as follows: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in the court, within 60 days from the date of the service of such order, a written petition praying that the order of the Commission be set aside.".

(b) The amendment made by subsection (a) shall apply only with respect to petitions for judicial review of cease and desist orders served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment to any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 5? If not, the Clerk will read section 6.

The Clerk read as follows:

GRANTING OF EQUITABLE RELIEF

SEC. 6. (a) Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating subsection (c) as subsection (d), and by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation has violated, is violating, or is about to violate, any provision of law enforced by the Commission; and

"(2) that, for the purpose of preserving the assets of such person, partnership, or corporation to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19, the granting of equitable relief (other than injunctive relief under subsection (a) or (b)) is necessary pending the issuance of a complaint by the Commission and until whichever of the following dates occurs first—

"(A) the date the Commission dismisses the complaint;

"(B) the date the complaint is set aside by a court on review; or

"(C) the date the order of the Commission made on the complaint has become final for purposes of section 19(d);

the Commission, by any of its attorneys designated by it for such purpose, may bring suit in a district court of the United States for the granting of such equitable relief, including the appointment of a trustee or receiver, as the court considers appropriate for such purpose. Upon a proper showing, and after notice to the defendant, the court may grant such equitable relief, except that if a complaint is not filed within such period (not exceeding 20 days) as may be specified by the court after such equitable relief is granted, the order granting such equitable relief shall cease to be in effect. Any such suit shall be brought in a district in which the person, partnership, or corporation involved resides or transacts business.".

(b) Section 16(a)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(A)) is amended by striking out "injunctive" and inserting in lieu thereof "equitable".

(c) The first sentence of section 19(b) of the Federal Trade Commission Act (15 U.S.C. 57b(b)) is amended by inserting after "as the case may be" the following: "and, pending such action, to preserve the assets of a person, partnership, or corporation which may be required in such action to make restitution or provide other consumer redress".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 33, strike out line 17 and all that follows down through page 35, line 13.

And redesignate the following sections accordingly.

Mr. BUTLER. Mr. Chairman, the purpose of this amendment is to delete Section 6 from the bill. If the Members will indulge me for a moment, I will read to them selected portions of section 6:

Whenever the Commission has reason to believe—

(1) that any person * * *is about to violate, any provision of law enforced by the Commission; and

(2) that, for the purpose of preserving the assets of such person * * * the granting of equitable relief * * * is necessary * * * the Commission, by any of its attorneys designated by it for such purpose, may bring suit in a district court of the United States or the granting of such equitable relief, including the appointment of a trustee or receiver, as the court considers appropriate for such purpose.

The report enlightens us a little bit about what exactly is intended:

It is intended by this section that conventional equitable relief be authorized for the purpose of preserving the assets of a company for a later redress suit . . . when it appears the company may be wasting, or about to waste, its assets.

This extraordinary power is triggered when the Commission has reason to believe that any person is about to violate its rules. The report enlightens us as to what they have in mind because it says:

This authority is particularly necessary with respect to closely-held corporations, since by the time the Commission has been able to complete its investigation and administrative proceeding, the corporation may be little more than a shell and the ill-gotten profits cannot effectively be traced to provide redress.

There is not any evidence in the record of any single instance in which the Commission has been confronted with this problem. There is no situation in the record when the Commission testified and asked for this, when they could point to one single instance when this had been necessary.

This is an extreme remedy, the appointment of a receivership of a business, simply because the Commission has reason to believe that it is about to violate the Commission's laws. Consider what it means to appoint a receivership for a small business.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield at this point?

Mr. BUTLER. I will yield when I get through if it will be convenient to the gentleman. I am kind of getting into the spirit of this thing and if the gentleman will give me just a minute I will complete my statement.

This is what it means to appoint the receivership for a small business, and this is a Federal court receivership we are talking about. What does that do to the business if these later circumstances establish that this was not necessary? To say that a business is in receivership is about as damaging as any kind of statement one can make about a small business. It is a slander for which there is no real response. Whenever thereafter that destiny of that business or the veracity of its officers is called into question, the question always arises: Did not the Federal Trade Commission ask for a receiver to be appointed for that business? It is slander for which there is really no real response.

Faced with that prospect, with that possibility, what is a small business going to do when the Federal Trade Commission suggests that a remedy is available to it? The section will be used to harass small businesses into signing consent decrees or they will face appointment of a receivership. Faced with such a choice, the small business will take the order no matter how unjust or erroneous it may be.

That is why I suggest to the Members of the House that what is asked here is an extreme power not statutorily granted to agencies in similar circumstances, granted only to the SEC under the case law. This is an extreme remedy, not supported by logic or precedent, and I urge the Members to vote with me in striking section 6 and this extraordinary power which is asked by the Federal Trade Commission.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I attempted a moment ago to engage the attention of the gentleman in the well who is the author of this amendment to establish the fact that the Commission does not make a determination to appoint a receiver because it has reason to believe that the assets will be wasted, but the Commission

makes a decision to go into court like any other plaintiff when a question is reasonably raised.

The reason for this section is that obviously after a suit reaches a court of appeals, the court has inherent authority to protect the assets from wastage while the processes are had in court.

But if the assets have been wasted during the Commission hearing and before the matter gets to court, the court does not have the reach to protect the assets.

I want to say here that I have much respect for the basis, the principle behind the amendment that the gentleman from Virginia (Mr. BUTLER) espouses. For that reason, we thought in the committee that the language was titled too much in favor of the court proceeding to appoint a receiver; so we made clear in the language of the committee report that we did not intend the court to do anything more than it would do when the case gets into court.

I think we ought to make the legislative history here as strong as possible, that the appointment of a receiver is a last resort. There are many other ways ordinarily to protect the jurisdiction of the court, but there is really no difference between the problem which exists while the matter is before the Commission and after it gets out from the Commission into the court. The court should determine on the basis of the law and the pleadings of the parties what equitable relief should be maintained to protect those assets.

Now, I think we all want to see that the litigants do not ultimately find themselves with an empty bag at the end of the Commission or the court proceedings, but if the bag is empty at the end of the Commission proceedings, the court's power to protect the assets is practically and effectively gone.

Now, the Commission, as the plaintiff, has the burden of proof and this is a heavy burden of proof when such extraordinary relief is sought. It is even a heavier burden than for injunctive relief, as the courts ordinarily decide.

Now, we had no opposition to this provision in the committee on either side of the aisle when we made it clear that we were respecting this on exactly the same equitable basis that existed after the matter got to the court.

Mr. Chairman, I ask for a no vote on the amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this amendment striking section 6 must be accepted. Failing that, we clearly have to clean up section 6, because it is a grant of unprecedented authority that does not now exist in the law and, I suspect, is unknown to the law. The purpose of the novel grant of authority is contained in the first sentence of the committee report explaining this section:

> This section authorizes the Commission to seek equitable relief from a court during the time the Commission is pursuing administrative adjudication.

Notice, equitable relief is granted during the time the Commission is pursuing administrative adjudication.

We know something about FTC adjudications. They often take years to resolve. This grants the novel power to the court to place a receiver in a business, not after liability has been determined, but pending an adjudication of liability, and for the purpose of preserving the assets for the benefit of someone. That is unheard of in the law. It permits this authority to be exercised even in advance of a complaint being filed with the Commission. In other words, a target defendant may get his first notice that there is any difficulty affecting him when he receives a copy of the complaint that a receiver is to be appointed for his business to protect the disposition of assets by reason of a lawsuit or a claim that has not even been filed.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New Jersey.

Mr. RINALDO. In other words, for purposes of clarification, is the gentleman saying that an equitable relief for the appointment of a trustee in the case would actually take place prior to the determination by the FTC that the company has done anything wrong?

Mr. WIGGINS. It says at line 7 that this relief may be sought pending the issuing of a complaint by the Commission, so I take that to mean that a receiver may be appropriate before any determination of liability.

Mr. RINALDO. Would the gentleman clarify that by stating, to the best of his knowledge as an attorney, whether or not this type of broad language prevails in any similar legislation?

Mr. WIGGINS. I will be happy to. I want to speak for a moment to those who are attorneys. Attorneys know that a receiver is not a primary form of relief. It is ancillary; preceding such relief must be a primary cause of action which is on file and pending before the court. It supplements, it is ancillary to, an existing claim. This, however, turns all of that law and history on its head and permits the appointment of a receiver to be the principal object of a lawsuit for the purpose of preserving assets.

The preservation of assets for a particular creditor inevitably works to the detriment of all other creditors. Indeed, this is an act of bankruptcy under the existing Federal law. What about the other trade creditors, for example? What about creditors who have an existing cause of action on file? Are the assets to be preserved for their benefit, or for the benefit of those claimants making a case before the Commission? This is a novel application of the use of a receiver, one which I believe is unprecedented. If the gentleman has any authority consistent with this application, I would be pleased to hear it.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I will be happy to yield.

Mr. ECKHARDT. I have a further point to make later, but I have one point I would like to make to the gentleman. Originally, the language presented to us provided for the appointment of a trustee or receiver to control the deposits of such a partnership, and we thought that was too broad because they might favor one creditor against another. So, what we limited this to is to preserve the assets, and the payment in due course of the creditors on an actual basis would in no way waste the assets. I think that is a very significant difference.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. I commend the chairman for limiting the scope of this relief to some extent, but I must take the bill at its face value. It clearly authorizes the Commission, which may have reasonable cause to believe that a person is about to do an act which might be a violation of a law or rule subject to the jurisdiction of the Commission, to file a complaint in court first for the appointment of a receiver. Now, such relief is unprecedented and unknown in the law.

Mr. GUDGER. Mr. Chairman, I wonder if the gentleman would yield for a question.

Mr. WIGGINS. I am happy to yield.

Mr. GUDGER. Do I understand that the impact of this amendment would be to allow the court to become an agency to render ancillary relief in an action pending before the Commission? In other words, that the court would be assuming this equitable jurisdiction as an agency for, or as a method of assisting the Federal Commission.

Mr. WIGGINS. The answer to that question is yes, but it is even worse than that. The court can be involved before the Commission has ever made a finding that there is a violation.

Mr. GUDGER. Is there any precedent known to the gentleman where a court, a Federal court, acquires jurisdiction in a civil remedy situation where there is not the diversity citizenship and jurisdictional amount required to be in controversy, and where that court does not itself have the final jurisdiction to determine an action pending?

Mr. WIGGINS. I suspect that jurisdiction would exist in a title 19 action without regard to diversity. This is not a diversity basis for jurisdiction. It is simply enforcing a Federal law with respect to a defendant.

I am not concerned about acquiring jurisdiction over the individual. But this is a new application of jurisdiction. By that I mean judicial power. The court does not ordinarily involve itself until there is a lawsuit pending before it, and then it can grant incidental relief. This grants incidental relief without the underlying lawsuit.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. The concept that is involved in section 6 has been discussed rather well here by those who have spoken before.

In addition to the points that have been made, I would just like to zero in on one factor that is at the very center of this. What kind of a finding would the court have to make in order to put this section into effect, in order to pro-

vide for the appointment of a receiver or a trustee? There is no guideline adequately stated in this section for the court to proceed upon. All the court would have to go upon here is the possibility alleged by the Federal Trade Commission that they believe that someone is about to violate a regulation and that they may issue a complaint and that they want the assets of the business preserved in order to provide for restitution or to provide for other consumer redress as may be required by the Commission in a section 19 action.

How is the court going to make such a determination that equitable relief of any sort, whether it is the appointment of a receiver or a trustee or something else, could possibly be warranted in such circumstances? This section is so constructed that I would suggest to the Members that a court could not possibly within the confines of the Constitution make such a finding. If it does so, it would certainly be doing so without due process for the owner of the business. It would be depriving the business of their property, of their assets, without due process during such time as it takes the Federal Trade Commission to get around to issuing a complaint, and until either the Commission dismisses the complaint, the complaint is set aside by a court on review, or the date the order is made final for purposes of section 19(d). This is all very indefinite, but all based upon some finding by the court that is not very clearly stated in the section and certainly not clearly enough to form the basis for such an unusual remedy to be afforded.

One other point, before finishing. The gentleman from Virginia (Mr. BUTLER) has referred to the effects this section might have if put into effect on a small business. But think of what would happen to a large business which employs a lot of your constituents. The appointment of a receivership relating to some small segment of that business' operation might indeed result in the economic detriment of the whole business and might result in even more unemployment in areas that are not even related to that factor.

So it is not only small business but also jobs in big business that I am concerned about.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding. I speak to the subject, to the standard which will guide the court in granting relief. The statute provides little guidance, and to the extent that it provides guidance at all it does so ambiguously.

On line 7, page 34, it says that such relief must be "necessary." And that is a standard. But on line 21, page 34, it says that relief may only be "appropriate." In either case, the bill provides precious little guidance to the court.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, we felt that to put in standards other than those which are imposed upon a court in equitable proceedings might tend to lessen the standard under which such relief would be granted.

So we said that: No. 1, it must be necessary to protect the assets, and that is so that the assets are not to be wasted; No. 2, it is not available if injunctive relief would suffice to protect the assets; and No. 3, the standards are those ordinarily—and these are very high standards—applicable in equitable relief in the courts.

I want to make it very clear that those standards do exist here, because I, along with the gentleman who controls the time, agree that this ought to be as a very last resort. But yet we must also protect the party who has presumably or allegedly been cheated in the marketplace.

Mr. KINDNESS. Mr. Chairman, I would just point out that there is another lack of clarity in the language to which the gentleman from Texas (Mr. ECKHARDT) has referred. As to the point the gentleman made that this is not available if injunctive relief would suffice, I submit that does not appear here in the section.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not familiar with the issues at hand. I have had an opportunity to study the committee report briefly, and I am concerned, as the gentleman from California (Mr. WIGGINS) is, about the possibility of this appointment of a trustee. But it seems to me that the gentleman from Texas (Mr. ECKHARDT) has pointed out that the standards of equitable relief should provide that the burden rest heavily on the Government in this instance.

On page 30 of the committee report, unless I am mistaken, there are really a whole host of caveats that have to be met before any relief would be granted to the Government in dismembering the corporation's assets. Am I correct in that?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. Yes, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think it is very important to give an answer to the question of the gentleman from California (Mr. WIGGINS) as to whether or not there is anyplace where this relief is granted at an administrative level. I do not believe there is.

But we must remember this: that in antitrust suits, the court has jurisdiction from the very beginning to protect the assets. But in an unfair and deceptive practice case the Federal Trade Commission may not go into court immediately. It must first get a cease and desist order, and within 60 days thereafter the person against whom it is issued has a right to go into court.

The cease and desist order process is really a part of the total process. And we are seeking to protect the whole process. We are leaving the decision entirely to the court and not to the Commission.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman from Texas (Mr. ECKHARDT), and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. ECKHARDT. Mr. Chairman, I demand a division.

On a division (demanded by Mr. ECKHARDT) there were—ayes 48, noes 12.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSUMER ACTIONS

SEC. 7. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 20 and section 21 as section 21 and section 22, respectively, and by inserting immediately after section 19 the following new section:

"SEC. 20. (a)(1) If any person, partnership, or corporation violates—

"(A) any rule under this Act which relates to unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)), and which provides by its terms that a violation thereof shall be the basis for an action under the provisions of this section; or

"(B) any final cease and desist order issued by the Commission which is applicable to such person, partnership, or corporation, and which provides by its terms that a violation thereof shall be the basis for an action under the provisions of this section;

then any person, partnership, or corporation injured by any such rule violation or cease and desist order violation may commence a civil action for relief against such person, partnership, or corporation, on behalf of such person, partnership, or corporation, or on behalf of such person, partnership, or corporation and all persons similarly situated, in any district court of the United States or in any court of competent jurisdiction of a State.

"(2) No action may be commenced in a district court of the United States under paragraph (1) unless the amount in controversy exceeds the sum or value of $25,000, exclusive of interest and costs. In the case of an action involving more than one plaintiff or a class action, the claims of the individual plaintiffs or of the members of the class, as the case may be, may be aggregated in determining if the requirement of the first sentence is met.

"(3) Any person, partnership, or corporation which commences an action under paragraph (1) shall notify the Commission in writing of such action at the time such action is commenced.

"(b) The court in any action commenced under subsection (a)(1) shall have jurisdiction to grant such relief as the court finds necessary to redress injury to the plaintiff in such action or members of a class in a class action, including rescission or reformation of contracts, the refund of money or the return of property, the payment of damages, and public notification respecting the rule or order violation, as the case may be, but not including the imposition of any exemplary or punitive damages. Any award of damages determined under subsection (d)(1) shall not be considered to be exemplary or punitive damages.

"(c)(1)(A) In the case of a class action commenced under subsection (a)(1), the court involved shall order notice to be given to the members of the class involved in such action through one or more of the following methods—

"(i) publication by newspaper, radio, television, or any other medium, or by posting at any location which is likely to be frequented by members of such class; or

"(ii) individual notice to each member of such class who can be identified through reasonable effort.

"(B) The court involved may provide, in addition to ordering notice to be made through the use of one or more of the methods provided in subparagraph (A)(i), that individual notice shall be made to—

"(i) a sample of the members of such class, if such members may be reasonably expected to represent any material conflict or divergence of views among members of the class; or

"(ii) any specific subclass of such class.

The specific characteristics or interests of any such subclass shall be determined by such court.

"(2) The court involved, in determining the method of notice under paragraph (1) to members of a class, shall take into account—

"(A) the interest of the members of such class in being informed of the pendency of the action;

"(B) whether it is reasonable to conclude that the members of such class would desire the action to go forward without the burdens and benefits associated with individual notice to the members of such class;

"(C) the costs of each such method;

"(D) the financial and other resources of the parties involved in such action;

"(E) the nature and importance of the interests of members of such class in such action; and

"(F) whether a significant percentage of the members of such class would be reasonably likely to desire to exclude themselves from such class or to participate in such action as separate parties.

The court may order that individual notice of such action be given to an appropriate sample of the members of such class in order to obtain information necessary to assist the court in making determinations under this paragraph.

"(3)(A) Except as provided in subparagraph (B), the plaintiff in any class action commenced under subsection (a)(1) shall bear any costs of notice required by the court involved.

"(B) The court may order the defendant to cooperate with the plaintiff in providing notice.

"(d)(1) In a class action commenced under subsection (a)(1), the court shall permit the amount of damages to be awarded to members of the class to be proved in the aggregate on the basis of—

"(A) any reasonable evaluation based upon statistical or sampling methods;

"(B) any reasonable econometric evaluation of the probable extent to which the rule or order violation of the defendant affected the revenues and market performance of the defendant; and

"(C) any other information or materials derived from a reasonable method or system for determining the aggregate amount of such damages.

"(2)(A) In any case in which damages are awarded in any class action commenced under subsection (a)(1), the court involved shall assure each member of the class in such action a reasonable opportunity to receive an appropriate portion of the net damages which are awarded. Any net damages which are not distributed to such members by the court in accordance with subparagraph (B).

"(B)(i) Any net damages which are not distributed by the court to members of a class under subparagraph (A) shall be—

"(I) distributed by the court for a public purpose which benefits, as closely as possible, members of the class involved; or

"(II) returned to the defendant in the action involved.

"(ii) In determining the amount of net damages to be distributed under subclause (I) or subclause (II) of clause (i), the court shall take into account—

"(I) the nature and the extent of the injury suffered by the members of the class;

"(II) any unjust enrichment of the defendant which would result from a distribution of any net damages to the defendant under clause (i)(II);

"(III) the nature of the relief granted by the court to members of the class under subsection (b) and the impact of such relief on the defendant;

"(IV) the amount of any civil penalties imposed upon the defendant under this Act respecting the violation which is the basis of the action; and

"(V) whether the violations of the defendant were willful violations.

"(C) For purposes of this paragraph, the term 'net damages' means the aggregate amount of damages awarded in any class action commenced under subsection (a)(1) reduced by the amount of any unrecovered costs of litigation or administration associated with such action.

(e)(1) Any person, partnership, or corporation may commence an action in any district court of the United States or in any court of competent jurisdiction of a State to enjoin any rule violation or any violation of a final cease and desist order referred to in subsection (a)(1).

"(2) No action under paragraph (1) may be commenced until 60 days after the receipt by the Commission of written notice by the plaintiff of its intention to commence such action.

"(3) No action may be commenced in a district court of the United States under paragraph (1) unless the amount in controversy exceeds the sum or value of $25,000, exclusive of interest and costs. The calculation of the amount in controversy in an action shall be based upon the nature and extent of the actual or potential injury to—

"(A) the plaintiff in such action; or

"(B) in the case of a class action, the plaintiff in such action and the members of the class;

from the rule or order violation involved. In the case of an action involving more than one plaintiff or a class action, the claims of the individual plaintiffs or of the members of the class, as the case may be, may be aggregated in determining if the requirement of the first sentence is met.

"(f)(1) No action may be commenced under subsection (a)(1) or (e)(1) more than 3 days after the occurrence of the rule or order violation to which such action relates.

"(2) If such an action is commenced in a district court of the United States and is dismissed without prejudice, the period beginning with the commencement of such action and ending 3 months after the date of its dismissal shall be disregarded in determining if paragraph (1) prohibits the commencement of another action with respect to the rule or order violation involved by the plaintiff in such dismissed action or by or on behalf of any member of the class for whom such dismissed action was brought.

"(g) The Commission shall have an unconditional right to intervene in any action commenced under this section.

"(h) If the plaintiff prevails in any action commenced under subsection (a)(1) or (e)(1), the plaintiff shall be entitled to recover, in addition to any damages or such other relief as may be granted by the court involved, the costs of such action, including reasonable attorney and expert witness fees.

"(i)(1) The provisions of section 19(c)(1) and section 19(e) shall apply to any action commenced under this section.

"(2) The provisions of Rule 23 of the Federal Rules of Civil Procedure shall apply to any class action commenced under subsection (a)(1) or (e)(1) in any district court of the United States, except where inconsistent with the provisions of this section.".

(b) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (C) thereof, by striking out "or" at the end thereof;

(2) in subparagraph (D) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(3) by inserting immediately after subparagraph (D) thereof the following new subparagraph:

"(E) under section 20 (relating to consumer actions) in which the Commission intervenes;".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any violation described in section 20(a)(1) of the Federal Trade Commission Act (added by subsection (a)) which occurs after the date of enactment of this Act.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. KRUEGER

Mr. KRUEGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRUEGER: On page 35, strike line 14 and all that follows through line 5 on page 44, and redesignate the following sections accordingly.

Mr. KRUEGER. Mr. Chairman, this is, I think, a very important amendment, and I appreciate the fact that there are a very substantial number of Members who are for it.

The proponents of the bill say that section 7 is necessary for the consumer, and they say that it will benefit the Federal Trade Commission; but the fact is that the Federal Trade Commission can at this time bring suit on behalf of consumers. Further the Federal Trade Commission has authority now to gain consent decrees without bringing suit; and, in fact, those consent decrees are the principal means whereby the FTC enforces its regulations.

Mr. Chairman, earlier our distinguished subcommittee chairman pointed out that in the instance of consent decrees for cease-and-desist orders, the Commission would have specifically to authorize a consumer class action. I understand that, but the committee report is nonetheless clear. It indicates on page 30, the general expectation, is that such exemptions from suit should be the exception rather than the rule. Therefore we can expect that FTC regulations will be subject immediately to class-action suits under the proposed language.

Mr. Chairman, the potential for encouraging litigiousness and the potential for mischief by including section 7 seem to be very, very great. What we have is a kind of posse or vigilante mentality in which people who bring suit argue that they wish to act as citizen enforcers of the law so as to bring others before the courts.

The problem is suggested in the committee report on page 33:

The court could require a defendant who sends out a mailing to customers or other class members to permit the plaintiff to enclose notice of the pending suit in one of the defendant's mailings.

It says that:

tremendous savings to the plaintiff would result at no additional expense to the defendant.

Mr. Chairman, we are all accustomed to the right in this country against self-incrimination. Here that right against self-incrimination is undermined because somebody being sued is obliged by the court to indicate, perhaps in a monthly statement, that others might wish to join in bringing suit against him.

Mr. Chairman, the bill allows two kinds of class action suits. One might be brought against a particular business already identified by the FTC as having violated a regulation. But suit may also be brought by anyone who simply believes or charges that an individual business has, in the plaintiff's judgment, violated a practice only broadly and vaguely described by FTC regulations. It is the potential for bringing suit by accusing violation of vaguely worded regulations that opens the way to real mischief.

At that point an enterprising attorney can come along, identify what he believes to be a violation of a Federal Trade Commission regulation, and bring a class action suit not just for himself but for all parties. This suit, moreover, can be brought not just in the Federal courts but in State courts as well, and those State courts are unaccustomed to the process of dealing with Federal Trade Commission regulations. This opens the possibility of very rough justice indeed.

Three-quarters of the judges who were interviewed in a poll that has been taken have indicated their belief that the tendency from the filing of class action suits is to prompt settlement out of court rather than to bring the suit to justice and risk a trial on its merits, because of the large potential liability involved.

It seems to me, in short, this is a punitive amendment rather than an amendment that offers practical restoration to the aggrieved. It is a punitive amendment because it is primarily oriented toward——

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous Mr. KRUEGER was allowed to proceed for 1 additional minute.)

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from New York (Mr. DOWNEY) for securing me the additional time.

We must observe that the court is given the power to make any financial damages awarded and to assign them to any "public purpose." But there is no requirement that the aggrieved parties actually should share in the distribution of the proceeds.

That, it seems to me, gives great authority to a single individual. I would not wish to give such authority to any single Member of this body, nor would I think it a particularly good idea to expand it for single members of the court.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. KRUEGER was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, I will defer to the gentleman from Texas for any additional remarks the gentleman might wish to make.

Mr. KRUEGER. I will yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman from Texas for yielding to me.

I thought I heard the gentleman say in the well that there was a question in his mind against self-incrimination with regard to the reporting requirements. The gentleman of course is aware that these are civil matters and are not criminal matters. The gentleman is also aware of a whole line of court cases which relate to self-incrimination, especially Anderson versus Maryland, which was handed down recently?

Mr. KRUEGER. No, but I am very aware that my constituents do not wish to see additional invitations to litigiousness.

I have not had any mail, and I think very few Members of this body have had any mail, encouraging them to prepare legislation so as to present an enlarged opportunity for class action suits. But maybe my ear is too close to the ground and your ear is too close to the law books.

I am sorry to be such a simple nonlawyer, but that is my response.

I would now like to regain my time, if I might.

Mr. DOWNEY. I am not an attorney either, but I certainly would not want the gentleman to make statements about self-incrimination that were inaccurate because I know the gentleman's penchant for scholarly accuracy.

Mr. KRUEGER. I thank the gentleman for his concern about my scholarly accuracy. At times it may yield to an even larger concern for my constitutents.

Mr. MOFFETT. When the gentleman said that these proceeds are not going to be distributed, I wonder if the gentleman can notify us of any evidence we do not have? The evidence we have indicates that about 83 to 84 percent of the recovered amount does go to the class members. If the gentleman has evidence that that is not the case then the gentleman should present it. But we do have evidence and I think it is fairly settled in class action suits, it is a fairly settled thing.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. KRUEGER was allowed to proceed for 2 additional minutes.)

Mr. MOFFETT. Second, if the gentleman will yield further, the gentleman has implied or perhaps meant to strongly suggest and assert that we are going to have a lot of mischievous suits and that attorneys will flock to bring these actions. I think the gentleman realizes what an investment it is for an attorney—and I am not an attorney either—to make this kind of decision in terms of the hours that would have to be spent and in terms of the kind of investment of time and research, and so forth, that would go into this.

The last point I would make is that the gentleman has indicated that he has not received mail. I cannot speak for the gentleman's constituents, but I will say for my own, I have not received mail either. The reason is that this is an esoteric issue on its face. As the gentleman knows, there is no consumer movement out there. There is no organized consumer organization that is able to generate that kind of mail. But what does come out in every poll that is taken nationally is that people want more protection, that there is a lot of ripping off going on in the marketplace, that people feel they are up against powerful economic interests, and they do not have the protection, and it is up to us, in the absence of that protection, to do something.

Mr. KRUEGER. I thank the gentleman. As to the first point of 83 to 84 percent, that percentage of proceeds being distributed is not, of course, made under the provisions of this bill. We do not know what the specific aggregation would do under the fluid recovery concepts of this particular piece of legislation. What we do know and what I hear very often is that my constituents are terribly concerned about the litigiousness about our society. They are very concerned about the kind of society that encourages all kinds of aspects to be brought to court rather than to be able to resolve some of their own concerns themselves without having to take them to court. As to the point of the potential expense for an attorney, I presume that there are unemployed attorneys as well as others who might not have a particularly high value for their time. Law schools are expanding very fast, and this is a powerful and perhaps lucrative way to get started, but I think it is wrong.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in support of the amendment.

Mr. Chairman, as a Member of this House, I have never been reluctant to join my colleagues in sponsoring consumer protection legislation.

This Congress and previous ones have written important laws in consumer and credit protection—notably in improving the language of warranties and guarantees.

I have enthusiastically voted to give consumers the information and protection they need in our marketplace. Without that information, they would be overwhelmed by the tidal wave of new products, services, compounds, and devices that American business has turned out in the past 20 years.

But supporters of American consumers must take a serious look at what section 7 of H.R. 3816 proposes to do.

They should ask themselves whether this section will ultimately benefit the consumer; or will it drive a wedge of suspicion, mistrust, and legal obstacles between the consumer and the small businessman.

In my judgment, the sanctioning of class action suits against business firms in this manner would lead many manufacturers to withdraw warranties on

products thus damaging commerce and hindering economic growth. It ultimately would cost consumers more money without the benefits alleged by its opponents. It also would expose an estimated half-million small businesses to lawsuits in distributing products over which they have little direct control.

There are serious legal problems with this section as well as it is now written.

Class action suits on behalf of individuals without their knowledge would undercut a U.S. Supreme Court ruling and establish legal practices which clearly make those involved in a lawsuit identifiable and responsible for their actions in a court of law.

Section 7 in its current form might well unleash a torrent of frivolous lawsuits, including some of a malicious nature designed to damage competitors. This concerns me. It would result in prolonged court battles and staggering legal fees.

If this section is approved as it now reads, the courts would be able to forego the traditional legal practice of notifying all individuals involved in a class action suit that a legal action is being taken in their behalf.

Where are the protections of their civil rights in such cases?

Do these phantom consumers really have all the facts of a case at their disposal before their names are used in court?

The answer is that they would not.

Moreover, damages awarded to consumers in a class action suit for deceptive advertising would bear no real relationship to the harm they actually suffer as individuals.

The court award for damages could be made to the consumer group involved in the litigation without the full knowledge of those listed as litigants in the suit.

Let me give an illustration of this fact by citing the case of a similar statute in California.

It involved a cab company that had been overcharging its customers.

The court found in favor of those in the class action suit and ordered the cab company to roll back the fares.

But the customers received no compensation for the previous overcharges: All of the $250,000 went to attorneys in the class action suit.

I agree with the Consumer Federation of America that there must be accountability and responsibility in the marketplace.

But it works both ways.

Making business accountable to the public also requires a "quid-pro-quo" that the consumer will not overburden the manufacturer or distributors with unwarranted claims, threats of class action suits, and cease and desist orders without showing individual harm or damage.

I oppose section 7 of H.R. 3816 on the grounds that it would be harmful to consumers and business alike.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, was the gentleman referring to Daar against Yellow Cab as the California taxicab case?

Mr. RINALDO. I believe that was the case, if that was the case where a quarter of a million dollars was awarded to the lawyers, yes.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. RINALDO was allowed to proceed for an additional one-half minute.)

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, was not that the case in which the Yellow Cab Co. had overcharged its customers and for an equal period of time the court ordered that the fees be lowered to offset that overcharge and then the attorneys, I think, got a fee that was considered maybe 17 or 18 percent of the total amount involved; was not that the case the gentleman was referring to?

Mr. RINALDO. I do not remember the details. My recollection of the case is that the attorneys took all of it.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(By unanimous consent, Mr. RINALDO was allowed to proceed for 1 additional minute.)

Mr. RINALDO. Mr. Chairman, the attorneys received most of the funds. The plaintiffs got nothing. This concerns me, Mr. Chairman, and what concerns me is that the bill as now written has this section in it that says you can advertise in a newspaper, you can advertise on the radio and give the names of the plaintiffs, you can mention them in this fashion and this is notification. A majority of the constituents that I represent do not read the Wall Street Journal. It is proposed that they be notified of the case in the Wall Street Journal or some other publication. They do not have the benefit of knowing they are plaintiffs in the case. They do not know the outcome of the case. They may not be called on to testify and they may not know the result of the case. I do not think that is good judicial practice. I do not think that is good law. I know there are other sections of the bill I support very strongly. I understand how difficult it was for the gentleman to get the proper language in.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this section, as I think we all understand very clearly right now, would empower private attorneys to file lawsuits for violation of rules or orders issued by the Federal Trade Commission. It is a major policy change in allowing private lawyers to be the enforcing arm of a Federal regulatory agency.

That may turn out to be a meritorious approach.

But I would like to hear what the Judicial Council has to say when they complete their studies of class actions. I would like to hear what the Judiciary Committee would think about this approach. I would like to hear what the Justice Department says about it when they finish their studies of class actions.

What we know about it right now and what we know about this section, I suggest raises serious questions about adopting this policy.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield very briefly?

Mr. PREYER. I yield to the gentleman from Texas.

Mr. ECKHARDT. But at the present time the Attorney General supports section 7. I have a letter in my hand to that effect. The gentleman will concede that point I am sure.

Mr. PREYER. I have read the Attorney General's letter. I would suggest this is a very sweeping provision in the bill. The Attorney General's letter points out and relies on the fact that the provision is limited and he points to the fact that it is limited in the sense that it can only be filed if the FTC rule or order on which it is based contains a statement authorizing private enforcement; but I think if the Attorney General looked at the report which states that this language should be left out of rules and orders only "in exceptional cases," the Attorney General might find it is not as limited as he thought it was.

I think it is clear that this legislation has the potential of generating an enormous amount of potential litigation. It would add 50 different forums in the State courts; it would add their appellate court systems, and I think that is a matter of concern. Incidentally, because of the pressure it would put on businesses not to go along with consent orders, but to litigate every proposed order, I think we are going to find that this too would result in a lot more litigation.

That is a matter of concern, not just because it puts a burden on the courts, but because it would burden the FTC itself. In order to satisfy itself that its rules and orders were being correctly interpreted by Federal and State courts, the Commission would have to either monitor all this legislation or it would have to intervene in a number of suits. I am aware that Mr. Pertschuk, the Commissioner, says that is no problem. He says the FTC would only intervene "in important cases," but I think he will find that he will have to monitor almost every case to prevent the State courts from going off in all directions on FTC orders.

I think we ought also to consider section 7's potential as a vehicle for harassing businesses. That may be considered a virtue in some eyes, and I will have to admit that the chamber of commerce is supporting this motion to strike. I would say to those who distrust the chamber's bias that even the chamber of commerce is sometimes right. It is a virtual certainty that those members of the bar who specialize in class action litigation are going to begin to pore over the language of these FTC rules and orders looking for violations, and they will be able to find them, even if it is a technical violation never within the contemplation of the FTC itself.

Now, I do not think we are going to reach through this approach the fly-by-night operators that cause far and away the greatest damage to consumers. What we are going to reach is Sears, Roebuck,

and the corporations with the "deep pockets," whether or not they are fair in their consumer relations.

Section 7 would dispense with a number of requirements of the Federal Rules of Civil Procedure which must be followed when class actions are filed under any other statute. I think that in amending rule XXIII, Federal Rules of Procedure, we should not amend it piecemeal. Maybe it should be changed, and that is what these different groups are studying, but this amendment says that these changes to rule 23 would only apply to the FTC, and not to other agencies. If we change rule 23, we should change it for all.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. MOFFETT and by unanimous consent Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. PREYER. I would just conclude by saying that I am also concerned about the fluid recovery provisions of this bill. I am concerned also about the fact that the existing rule that all members of the class must be personally notified of the existence of a lawsuit would be abandoned in favor of an informal procedure that would allow notice to be given by newspaper, broadcast, or other than actual notice. That is something that affects the plaintiffs also not just defendants. The plaintiff has some rights—he may not want a particular lawyer that is representing the class, for example. He is running the risk of being bound as a member of a class by a counterclaim when he may have known nothing about it, so I think the due process question is there.

Finally, let me just say that if the real purpose of the section is punitive and not remedial, there is a better route. Injunctions with tough damages is the best route on that. If the idea behind it is to provide a more satisfactory remedy for consumer grievances, I think we ought to consider alternatives such as small claims courts, consumer arbitration panels, and the like. I think these things will probably prove to be more meritorious from the consumer's point of view, and studies are being made in that connection right now.

In short, I think this is a new and interesting idea. I do not think, though, that means that it is necessarily a wise idea. I think at this time we should sustain the motion to strike.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, any time the gentleman opposes a particular measure, it behooves us all to take particular care, it seems to me.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(On request of Mr. SEIBERLING and by unanimous consent Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. The gentleman is very fair and judicious in approaching legislative problems. But my personal experience as a member of the private antitrust bar for almost 20 years would tell me that this bill, which only provides for single damages, unlike the parens patriae bill which we passed last year, which provides for treble damages, which only provides for the plaintiff to pay for the cost of notice to the class, which could be very expensive, and which provides for the court to decide what is reasonable attorney fees, is not likely to bring a great flood of litigation the gentleman fears, because the stakes are not nearly as great as they are in conventional antitrust treble damage suits where the amounts can be astronomical, as the gentleman knows.

I wonder if the gentleman thought about that particular aspect.

Mr. PREYER. I would think this would run a much larger risk.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On the request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. PREYER. The antitrust type of lawsuit, I do not think any lawyer would very casually file that kind of a lawsuit, in view of the length of time involved in that kind of preparation and the elaborate hearing procedures. The lawyer would run a substantial risk since he invests much time. To pick out one aspect of an FTC order and bring a lawsuit on that is much easier to do, especially if he is really aiming at a settlement.

Mr. SEIBERLING. The gentleman is an experienced lawyer and knows that the antitrust laws are rather vague or general. But this deals with certain precise, specific FTC orders with which the defendant can readily determinew hether he is in compliance or not.

Mr. PREYER. I would suggest that FTC rules and orders are not very specific. They tend to be very vague and indefinite. Sometimes even the FTC is not quite sure what they have in mind.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has again expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. PREYER. One of the problems, I think, is that the FTC, through its consent order procedure now, indulges in what is called "fencing in." It gets a company to agree to a wide area of potential abuses which the FTC agrees is wrong, and the company agrees they will not get into that sort of thing. So one order has a fairly wide range and effect. If that consent order is going to be subject to a class action suit or a private suit, we will not find any more "fencing in" type of decrees from the FTC. I think they will be very narrow. It might come closer to making the gentleman's point about the class action suit, but it will slow down, I would think, the operation of the FTC.

Mr. SEIBERLING. Would the gentleman agree that if it promotes more precise orders, it might be a blessing?

Mr. PREYER. It would be a two-edge sword.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has again expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I rise in support of the amendment, and I commend the gentleman on the position he has taken.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, I concur in the gentleman's observations. But let me make a point we all can understand, because it is not technical at all. The purpose of this section 7 is to protect the consumers, I am told.

If the consumer prevails and a sum in damages is awarded to the consumer, one of two alternative courses follows: Either the corporate defendant absorbs the loss, in which event it is fully tax deductible and the ultimate bearer of the burden is all of us, the taxpayers, or, as the second choice—and there are only two—the defendant raises the price of the product and gets it back from the consumers.

Those are the only two options available, and I wonder if the gentleman can tell me what kind of a Pyrrhic victory that would be for the consumer.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On request of Mr. MOFFETT and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I might say briefly that the gentleman from California (Mr. WIGGINS) has just made a case for absolutely no involvement at all on the part of the Government and no penalty whatsoever for any corporation that commits any wrongdoing, on the basis that the costs would be passed on to consumers. I do not see how the gentleman can in fairness make that statement.

Let me make this comment: I have come to have enormous respect for the gentleman from North Carolina (Mr. PREYER), particularly in my work with the Committee on Interstate and Foreign Commerce, and I was disappointed to see the gentleman from North Carolina go into the well to take this position.

While I believe the gentleman feels he is supporting this amendment on the basis of fairness, I would urge the gentleman to consider the fact that when he says there is a small claims court and

other remedies for the consumer, the facts just do not support that position at this particular time, unless we are willing to make changes in those institutions and changes in the laws of particular States as well.

I know the gentleman speaks from his great experience as a very fine judge. I might say that my experience stems from another place, and that is a consumer group. The consumer is really up against it. I think this provision has been drafted very carefully in order to try to get some answers to the problems of consumers at a time when people feel apathetic and even angry about big corporations and the kinds of abuses that are practiced in many cases, as we know, and as the evidence shows.

Would the gentleman care to respond to that comment?

Mr. PREYER. Mr. Chairman, I understand the gentleman's concern. I am a supporter, for example, of the Consumer Protection Agency. I do not have anti-consumer feelings, and I would agree with the gentleman that the consumer does feel that he is not getting his day in court.

I think that it may well be that some form of a class action suit may turn out to be one that we will find workable, but I think there are real dangers to the judicial process right now in going into such a sweeping provision as this.

PERFECTING AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer a perfecting amendment.

The clerk read as follows:

Perfecting amendment offered by Mrs. FENWICK:

Page 37, strike out the period in line 12 and insert in lieu thereof a semicolon and the following: "except that in the case of an action commenced under subparagraph (B) of such subsection, the court may grant such relief only if the plaintiff in such action satisfies the court that the act or practice which constituted the violation for which such action was brought is one which a reasonable man would have known under the circumstances was dishonest or fraudulent.".

POINT OF ORDER

Mr. WIGGINS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WIGGINS. Mr. Chairman, pending before the committee is an amendment to the bill striking section 7 in its entirety. The gentlewoman from New Jersey (Mrs. FENWICK) has offered what she characterizes as a perfecting amendment to an amendment to strike which amends a portion of section 7.

It is my view, Mr. Chairman, that that amendment is not in order since section 7 is to be stricken entirely if the original amendment carries. The second amendment, the perfecting amendment, is inconsistent with the original amendment in its entirety, and for that reason it is out of order.

The CHAIRMAN. Does the gentlewoman from New Jersey (Mrs. FENWICK) wish to speak on the point of order?

Mrs. FENWICK. Yes, Mr. Chairman, I would like to speak on the point of order, but I would first like to yield to my colleague, the gentleman from Texas (Mr. ECKHARDT).

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) desire to speak on the point of order?

Mr. ECKHARDT. Yes, Mr. Chairman, I would like to speak against the point of order.

The distinguished gentleman from California (Mr. WIGGINS) has described exactly what a perfecting amendment is. The only time a perfecting amendment may be offered is before action on the amendment to strike, because after action on the amendment to strike, the perfecting amendment would speak to nothing.

The CHAIRMAN. Does the gentlewoman from New Jersey desire to be heard on the point of order?

Mrs. FENWICK. No, Mr. Chairman.

The CHAIRMAN. The Chair is ready to rule.

The perfecting amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) is not an amendment to the amendment to strike. It is an amendment in the nature of a perfecting amendment to the bill.

Perfecting amendments to the text of the bill are in order and take precedence over a pending motion or amendment to strike the pending portion of the bill.

Therefore, the Chair respectfully overrules the point of order.

PARLIAMENTARY INQUIRY

Mr. WIGGINS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WIGGINS. Mr. Chairman, several of us have amendments which will be offered if the motion to strike does not carry. Will those perfecting amendments be in order after the vote on the motion to strike?

The CHAIRMAN. The Chair will state that if the amendment or motion to strike does not carry, those amendments will be in order.

The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK) for 5 minutes in support of her perfecting amendment.

Mrs. FENWICK. Mr. Chairman, I will not take 5 minutes, but I would like to speak as the gentleman from Connecticut has. I am not an attorney either.

I, too, have dealt with consumer groups. I, too, see things from the other side of the street, so to speak: the people who feel helpless; the people who would have been protected by section 6.

Mr. Chairman, the Federal Trade Commission was unable to respond to my plea for help when a corporation in New York made off with its assets before we could get hold of them. And these were not ordinary consumers. These were about 100 children. They, saved up their babysitting money, and with help from mothers and grandmothers, paid for tickets to go on a special trip to Europe. Then the travel tour company went off with the assets. There was nothing we could do. That was the end of it.

So, Mr. Chairman, section 6 is gone. However, now we are faced with something else. We are faced with a situation in which the consumer will be hurt unless the Federal Trade Commission is going to act. It cannot act everywhere.

We had a wonderful Federal Trade Commission director, Mr. Richard Givens, in New York. I would like to do him honor. He was also in charge of New Jersey and he was a fine public servant. However, the Federal Trade Commission cannot do everything. It may take up one case against one company; and then, as our colleague, the gentleman from Texas, has said, another company, equally guilty, may not be prosecuted.

Very able arguments have been made by the other gentleman from Texas and by our distinguished colleague, the gentleman from North Carolina.

My amendment would provide that these consumer class action suits can only be brought on grounds which a reasonable man would have known, under the circumstances, were dishonest or fraudulent. In other words, we are making it more difficult. We are saying that one cannot lightly bring a lawsuit. Instead, we are bringing into this section language from the original act which requires that acts be proven dishonest and fraudulent, not just simply deceptive.

It is a much tougher standard.

Mr. Chairman, I do not know how many Members have read the language on page 37, but my amendment is to that page and adds the following language to line 12:

Except that in the case of an action commenced under subparagraph (B) of such subsection, the court may grant such relief only if the plaintiff in such action satisfies the court that the act or practice which constituted the violation for which such acion was brought is one which a reasonable man would have known under the circumstances was dishonest or fraudulent.

In other words, the suit cannot be brought lightly because the court could dismiss the action on grounds that a reasonable man would not have known what the circumstances were.

I hope very much that we will retain section 7 with such other improvements as may be added; but we do need something. The consumer is an individual human being who cannot be protected properly when the Federal Trade Commission fails to move. The consumer must have some ability to stand up for his rights.

Mr. Chairman, we must be for the individual every time because that is the moving principle of our society.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentlewoman from New Jersey (Mrs. FENWICK) always speaks from a pure heart; but she also speaks from a discerning mind, and that is evidenced in this amendment.

I am for the amendment, and I think it satisfies one of the things that has been something of a galling point in my own mind. I feel that when we draft legislation in this body and bring it into this great hall, it is not something like the New York Stock Exchange, a place for transactions shown on the board and that is all. This body should be a deliberative body. We should deliberate here

and then hew out the best legislation that our joint efforts can devise.

The gentlewoman's amendment answers, it seems to me, a very important point. It was said by the gentleman from North Carolina (Mr. BROYHILL) a moment ago that Federal Trade Commission rules are frequently extremely long and complex. There is one way to shorten them and that is to say only those rules or parts of rules, as this amendment says, which address circumstances which are dishonest or fraudulent, will give rise to a class action.

I want to ask my colleagues, can you find a valid reason to vote against the proposition that, first, when the law says an act is unfair and deceptive (and, therefore, illegal under sec. 5) and section 5 is violated;

Second, the Federal Trade Commission finds and tells the prospective violators that if you violate this rule it is going to be the basis of a civil action;

Then, third, someone continues to violate the law and the rule in a way that any reasonable man would consider dishonest or fraudulent.

Can you find in your hearts to deny a person the right to hire an attorney and go to court to get his rights? Can you find in your hearts to say that only those who can get into court are those who can convince the Federal Trade Commission to bring an action in their behalf?

Why does John Doe have a better right to get restitution for his losses when he is defrauded in the marketplace, because he can come up and convince some bureaucrat to bring his action, than Mary Roe, because the FTC just, fresh, ran out of lawyers? She has been cheated in the same way as John Doe.

But she goes into court and she says, first, that the law has been violated. If the law has not been violated, it is not a wrong.

No. 2, the Federal Trade Commission has defined the offense by a rule and it continues to be violated.

No. 3, the Federal Trade Commission has warned by its rule of order—and this is PAUL ROGERS' amendment—that this will give rise to a civil action.

And, No. 4, under the Fenwick amendment, the act condemned in the rule or order will not be actionable unless a reasonable man, acting in this way, would know that this action is dishonest or fraudulent.

If you vote against this amendment and you vote to strike the section, you have said that Mary Roe cannot go to court, but that J. C. Penney can go to court to contest the rule; Sears, Roebuck can get into court to contest the rule. Only the consumer is left outside.

The courts are not just for corporations, the courts are not just for business. Indeed, if the courts serve their highest and best purpose they protect the weak against the abuses of the strong, that is the strong persons who engage in dishonest or fraudulent conduct. The amendment would limit consumer actions to that.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have not been talking in support of the motion to strike about the nature of the cause of action; we have been talking about the procedure, the deficiencies in notice, the aggregation of damages, the failure to have an opt-out provision with respect to the plaintiffs, the matter of paying for notice. All these are procedural deficiencies. The impact upon rule XXIII, just mentioned so eloquently by our colleague, the gentleman from North Carolina (Mr. BROYHILL) is also involved.

There is ample reason to support the motion to strike the full section because it is infected with procedural defects. The amendment offered by the gentlewoman from New Jersey, however, goes to the basis of the cause of action, and that does not trouble me at all. But it does not cure the problem of procedure authorized in section 7.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman knows that rule 23 is the rule which permits opting out, and this bill includes by reference rule 23. If we did not include that provision, it would clearly be unconstitutional.

Mr. WIGGINS. Let me clarify the gentleman's memory with respect to his own bill. This says that rule 23 shall fully apply except as may be modified by this bill. It is my belief that this statute effectively repeals rule 23 with respect to these kinds of actions. There is more to rule 23, as the gentleman knows, than opting out. There is the whole concept of manageability, which I think is adversely impacted by this legislation before us. Apparently rule 23 would be overturned to that extent.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WIGGINS. Of course.

Mr. ECKHARDT. If this does not permit opting out, what is the point of notice? There are entire provisions with respect to notice for the purpose of informing persons so that they can opt out. It is not to advertise the lawsuit.

Mr. WIGGINS. As the gentleman knows—and I may be forced to speak to this point if the motion to strike does not carry—notice is not just a good idea. Notice is constitutionally mandated. Normally we talk about notice to the defendant because his interests are liable to be adversely affected by a lawsuit. This problem, however, deals with notice to the plaintiff, and the plaintiff has a vital stake as well, because a plaintiff without notice is going to be bound by a lawsuit, the results of which may adversely affect his interests. Some courts have looked at the form of notice provided in this statute and have found it constitutionally defective. Just because this Congress last year enacted a similar form of notice in another statute, a form which has not yet been constitutionally tested, does not raise it to the status of good law.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WIGGINS. Of course.

Mr. ECKHARDT. I assume the gentleman is referring to the Eisen case with respect to the question of constitutionality.

Mr. WIGGINS. I think a very distinguished judge said it was unconstitutional in that case.

Mr. ECKHARDT. If the gentleman will recall, all the Eisen case said was where a group of plaintiffs constituted a definable class—in that case it was an SEC case and one could tell who the stockholders were—that a failure to notify this definable group would constitute a constitutional defect. The Commission then said, we reserve judgment with respect to a situation where the class cannot be defined.

Mr. WIGGINS. The effect of Eisen was to require personal notice to people affected by the lawsuit. This statute does not require that. It permits a whole range of alternative systems such as advertising in the newspaper, on television, sending special notice to a sample but not to all. Those people who have no actual knowledge of a lawsuit are going to be adversely affected by it, and their rights may be denied without due process.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. WIGGINS. Of course I will yield to the gentleman.

Mr. ECKHARDT. The Eisen case did not even have to approach the question of constitutionality because it simply interpreted the law, and it said rule 23 did not permit a suit in that kind of case and reserved the question of constitutionality altogether, but reasonable notice is the kind of notice we are attempting to define in the case.

Mr. WIGGINS. I am not so sure I could quote the court in Eisen, but I think one judge said the procedure was "clearly unconstitutional."

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been a very interesting discussion. Of course, the Eisen case was based on rule 23, and the parens patriae act which we passed last year, in effect, revised rule 23, and so does this bill.

The gentleman from North Carolina (Mr. PREYER) for whom I have the utmost respect for his judicial approach to things, made some comments on this bill which deserve further attention. As best I can recall, every issue that he touched upon was disposed of when we passed the parens patriae bill last year.

Incidentally, he said that the Judiciary Committee had not yet taken a position on this bill. That is true. However, the chairman of the Judiciary Committee wrote a letter to every colleague, dated September 27, 1977, in which he expresses his strong support of this bill.

First, let us take the question of notice, that the gentleman from California also raised. The Parens Patriae Act, which we passed last year simply says that notice will be given by publication. It does not specify the kind of publication, but it says if the court finds that notice given solely by publication would deny due process of law to any person, it may direct further notice according to the circumstances of the case.

Now, looking at the bill before us, on page 37 it provides for notice by:

"(i) publication by newspaper, radio, television, or any other medium, or by posting at any location which is likely to be frequented by members of such class; or

"(ii) individual notice to each member of such class who can be identified through reasonable effort.

Then going to the next page, it says the court may also provide, if it believes additional notice is required, notice to:

"(i) a sample of the members of such class, if such members may be reasonably expected to represent any material conflict or divergence of views among members of the class; or

"(ii) any specific subclass of such class.

So the bill does not merely leave it up to the discretion of the court but goes beyond the Parens Patriae Act and spells out other ways to insure adequate notice.

Let us take the next question which was raised, which is the aggregation of damages. Incidentally, Parens Patriae Act authorizes actions for triple damages whereas the bill before us deals only with single damages. Moreover, Parens Patriae Act dealt with triple damages for violations of the general antitrust laws and this bill provides only for single damages for violations of specific orders or specific rules developed for specific companies or specific industries. The parens patriae act says that:

Damages may be proved and assessed in the aggregate by statistical or sampling methods—

And then it provides—

by the computation of illegal overcharges—

That part is irrelevant to an FTC order or rule.

And then parens patriae provides for proving damages—

by such other reasonable system of estimating aggregate damages as the court in its discretion may permit—

Now looking at the bill we find that substantially follows the same format. To be specific it provides:

The court shall permit the amount of damages to be awarded to members of the class to be proved in the aggregate on the basis of—

"(A) any reasonable evaluation based upon statistical or sampling methods;

"(B) any reasonable econometric evaluation of the probable extent to which the rule or order violation of the defendant affected the revenues and market performance of the defendant; and

"(C) any other information or materials derived from a reasonable method or system for determining the aggregate amount of such damages.

That is the equivalent of what is in the parens patriae bill, only again, spelled out somewhat more specifically.

So I submit, on the question of aggregation, we have crossed that bridge and we do not need to concern ourselves as to whether this portion of the bill breaks any new ground. It does not.

Let us take the next question which, as I recall, was raised by those speaking in opposition to the bill. This was whether the provisions for distributing monetary relief would assure each member of the class a reasonable opportunity to receive his portion of the net damages. The bill so provides in almost those precise words. It also provides that any money left over will be distributed by the court for a public purpose which benefits as closely as possible the members of the class, or, in such event, the court may even give it back to the defendant!

The Parens Patriae Act provides simply that monetary relief shall:

Be distributed in such manner as the District Court in its discretion may authorize.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, it provides:

Or (2) be deemed a civil penalty by the court and deposited with the State as general revenues;

. . . subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

So I submit, in those respects the bill is on all fours with the Parens Patriae Act except that in some respects it is even more protective of the identified members of the class or the defendant.

Finally, we get to the question of attorneys' fees and the fear that this is going to produce a rash of harassing and irresponsible litigation just to fill the pockets of lawyers. The Parens Patriae Act provides that "the amount of plaintiffs' attorney's fee, if any, shall be determined by the court." It also provides that the court "may, in its discretion, award a reasonable attorneys' fee to a prevailing defendant" upon a finding that the plaintiff "acted in bad faith, vexatiously, wantonly, or for oppressive reasons." That was already the law. Therefore, it was not necessary, but in order to avoid some arguments on the floor last year, we put that last part in.

The bill provides that the plaintiff—"shall be entitled to recover—the costs of such action, including reasonable attorney and expert witness fees." Obviously, what is a reasonable attorneys' fee is going to be determined by the court. So in substance, it is the same as the corresponding provision of the Parens Patriae Act. There is no equivalent in the bill of the provision authorizing attorneys' fees to a prevailing defendant, but the court already possesses that power, under general rules of equity, so it would be superfluous.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, the gentleman seems to be suggesting that the passage of the parens patriae bill last year by this House, and I supported the committee measure, as the gentleman knows, is the equivalent to what this measure would do. It seems to me that is not the same, that there was no class action authorized because of deficiencies and difficulties of the term manageability under rule XXIII of the Civil Rules of Procedure.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. COHEN, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, because of notice requirements parens patriae was passed to authorize the Attorneys General of the States to bring actions on behalf of consumers; so to the extent we hear the argument that we are interposing bureaucracy on consumers and other groups directly, we did that in the parens patriae, because we interposed the Attorney General.

Secondly, I agree we attempted in the subcommittee meeting the other day to express the concern that this had not come before our committee and the simple fact the chairman sent a a letter to us indicating he stated it should not be indicative of support by the subcommittee.

Mr. SEIBERLING. Here we have a situation where not the Attorney General, but the Federal Trade Commission, has already brought an action, has already issued a rule or an order and the rule or order now is claimed to have been violated. Furthermore, if we adopt the amendment of the gentlewoman from New Jersey, the plaintiff will have to prove dishonesty or fraud. So it does seem to me there are equivalent protections in here even more than in parens patriae.

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, to clarify the record, it is not the same as parens patriae.

Mr. SEIBERLING. I agree it is not the same as parens patriae, but on these procedural aspects the committee has tracked the Parens Patriae Act very closely. That is the only point I am attempting to make. The arguments being made against these features of the bill before us are basically the same arguments as were made last year against parens patriae and were rejected by the House.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. MOFFETT. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio may have 1 additional minute.

The CHAIRMAN. May the Chair make this comment. The Chair is going to get the committee to rise about 5:30 or so, in accordance with the schedule. The Chair would hope we might get a vote on the Fenwick amendment and would ask that those Members who want to debate the Fenwick amendment ask for recognition at this time; but we can leave the rest of the bill for some other time.

PARLIAMENTARY INQUIRY

Mr. RINALDO. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RINALDO. Mr. Chairman, am I correct in my understanding if there were a vote now, the vote would be on the Fenwick amendment and regardless whether it passes or fails, there would still be a vote on the Krueger amendment to strike the entire section?

The CHAIRMAN. That is correct. All perfecting amendments will be in order before a vote on the Krueger amend-

ment. The Krueger amendment will still be pending.

Is there anyone who seeks recognition on the Fenwick amendment?

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to both amendments.

I will be very brief, Mr. Chairman.

I want to say, Mr. Chairman, that we now have pending before the Committee on the Judiciary the entire subject of class actions under the antitrust laws.

As the gentleman from Ohio has indicated, the parens patriae bill was passed last year but is still very much in limbo as far as its interpretation is concerned. The so-called Illinois Brick case is left in a very vague and uncertain area, and the entire subject of who is entitled to represent the class and who is entitled to receive the treble damages under the antitrust laws has yet to be finally decided.

I believe that the amendment which is offered by the gentlewoman from New Jersey, while certainly well motivated and well intended, can only inject a certain uncertainty into the law, a vagueness which I think will make it impossible for courts to interpret or to apply in resolving this very difficult subject. I think that for the full House to consider the subject of class actions at this time and in this way is premature. I think it is out of order and should be first considered in depth by our standing committees. Whether or not we should proceed with some new type of class action procedure such as is involved here is something which I would hope would be taken up by the Judiciary Committee as well as the Committee on Interstate and Foreign Commerce.

I think it would be a mistake for us to retain section 7 in any form in this bill at the present time.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 51; noes 26.

So the perfecting amendment was agreed to.

Mr. ECKHARDT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 717, FEDERAL MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-655)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) a bill to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: That this Act may be cited as the "Federal Mine Safety and Health Amendments Act of 1977".

TITLE I—AMENDMENTS TO THE GENERAL PROVISIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SHORT TITLE

SEC. 101. The first section of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows: "That this Act may be cited as the 'Federal Mine Safety and Health Act of 1977' ".

DEFINITIONS AND APPLICABILITY

SEC. 102. (a)(1) Section 2 of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "or other" immediately after "coal" wherever it appears.

(2) Section 2(g)(1) of such Act is amended by striking out "the Interior" and inserting in lieu thereof "Labor".

(b)(1) Section 3(a) of such Act is amended by striking out "the Interior" and inserting in lieu thereof "Labor".

(2) Section 3(d) of such Act is amended by striking the semicolon at the end thereof, and inserting in lieu thereof "or any independent contractor performing services or construction at such mine;".

(3) Section 3(h) of such Act is amended to read as follows:

"(h)(1) 'coal or other mine' means (A) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (B) private ways and roads appurtenant to such area, and (C) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In making a determination of what constitutes mineral milling for purposes of this Act, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment;

"(2) For purposes of titles II, III, and IV, 'coal mine' means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;".

(4) Sections 3(d), (e), (g), and (j) of such Act are each amended by inserting "or other" immediately after "coal" wherever it appears.

(5) Section 3 of such Act is amended by striking out "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraphs:

"(n) 'Administration' means the Mine Safety and Health Administration in the Department of Labor.

"(o) 'Commission' means the Federal Mine Safety and Health Review Commission.".

(c) Section 4 of such Act is amended by inserting "or other" immediately after "coal".

(d) Section 5(c) of such Act is amended by striking out "Labor" and inserting in lieu thereof "the Interior".

TITLE II—MINE SAFETY AND HEALTH STANDARDS AMENDMENTS

AMENDMENT TO TITLE I

SEC. 201. Title I of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"TITLE I—GENERAL

"MANDATORY SAFETY AND HEALTH STANDARDS

"SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

"(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or politcal subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendation of an advisory committee appointed under section 102(c). The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within 60 days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than 180 days. When the Secretary receives a recommendation, accompanied by appropriate criteria, from the National Institute for Occupational Safety and Health that a rule be promulgated, modified, or revoked, the Secretary must, within 60 days after receipt thereof, refer such recommendation to an advisory committee pursuant to this paragraph, or publish such as a proposed rule pursuant to paragraph (2), or publish in the Federal Register his determination not to do so, and his reasons therefor. The Secretary shall be required to request the recommendations of an advisory committee appointed under section 102(c) if the rule to be promulgated is, in the discretion of the Secretary which shall be final,

new in effect or application and has significant economic impact.

"(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking a mandatory health or safety standard in the Federal Register. If the Secretary determines that a rule should be proposed and in connection therewith has appointed an advisory committee as provided by paragraph (1), the Secretary shall publish a proposed rule, or the reasons for his determination not to publish such rule, within 60 days following the submission of the advisory committee's recommendation or the expiration of the period of time prescribed by the Secretary in such submission. In either event, the Secretary shall afford interested persons a period of 30 days after any such publication to submit written data or comments on the proposed rule. Such comment period may be extended by the Secretary upon a finding of good cause, which the Secretary shall publish in the Federal Register. Publication shall include the text of such rules proposed in their entirety, a comparative text of the proposed changes in existing rules, and shall include a comprehensive index to the rules, cross-referenced by subject matter.

"(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed mandatory health or safety standard, stating the grounds therefor and requesting a public hearing on such objections. Within 60 days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the mandatory health or safety standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing. Any hearing under this subsection for the purpose of hearing relevant information shall commence within 60 days after the date of publication of the notice of hearing. Hearings required by this subsection shall be conducted by the Secretary, who may prescribe rules and make rulings concerning procedures in such hearings to avoid unnecessary cost or delay. Subject to the need to avoid undue delay, the Secretary shall provide for procedures that will afford interested parties the right to participate in the hearing, including the right to present oral statements and to offer written comments and data. The Secretary may require by subpoena the attendance of witnesses and the production of evidence in connection with any proceeding initiated under this section. If a person refuses to obey a subpoena under this subsection, a United States district court within the jurisdiction of which a proceeding under this subsection is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena. A transcript shall be taken of any such hearing and shall be available to the public.

"(4)(A) Within 90 days after certification of the record of the hearing held pursuant to paragraph (3), the Secretary shall by rule promulgate, modify, or revoke such mandatory health or safety standards, and publish his reasons therefor.

"(B) In the case of a proposed mandatory health or safety standard to which objections requesting a public hearing have not been filed, the Secretary, within 90 days after the period for filing such objections has expired, shall by rule promulgate, modify, or revoke such mandatory standards, and publish his reasons therefor.

"(C) In the event the Secretary determines that a proposed mandatory health or safety standard should not be promulgated he shall, within the times specified in subparagraphs (A) and (B) publish his reasons for his determination.

"(5) Any mandatory health or safety standard promulgated as a final rule under this section shall be effective upon publication in the Federal Register unless the Secretary specifies a later date.

"(6)(A) The Secretary, in promulgating mandatory standards dealing with toxic materials or harmful physical agents under this subsection, shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life. Development of mandatory standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the mandatory health or safety standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

"(B) The Secretary of Health, Education, and Welfare, as soon as possible after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977 but in no event later than 18 months after such date and on a continuing basis thereafter, shall, for each toxic material or harmful physical agent which is used or found in a mine, determine whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine. The Secretary of Health, Education, and Welfare shall submit such determinations with respect to such toxic substances or harmful physical agents to the Secretary. Thereafter, the Secretary of Health, Education, and Welfare shall submit to the Secretary all pertinent criteria regarding any such substances determined to be toxic or any such harmful agents as such criteria are developed. Within 60 days after receiving any criteria in accordance with the preceding sentence relating to a toxic material or harmful physical agent which is not adequately covered by a mandatory health or safety standard promulgated under this section, the Secretary shall either appoint an advisory committee to make recommendations with respect to a mandatory health or safety standard covering such material or agent in accordance with paragraph (1), or publish a proposed rule promulgating such a mandatory health or safety standard in accordance with paragraph (2), or shall publish his determination not to do so.

"(7) Any mandatory health or safety standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such mandatory standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring miner exposure at such locations and intervals, and in such manner so as to assure the maximum protection of miners. In addition, where appropriate, any such mandatory standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure. Where appropriate, the mandatory standard shall provide that where a determination is made that a miner may suffer material impairment of health or functional capacity by reason of exposure to the hazard covered by such mandatory standard, that miner shall be removed from such exposure and reassigned. Any miner transferred as a result of such exposure shall continue to receive compensation for such work at no less than the regular rate of pay for miners in the classification such miner held immediately prior to his transfer. In the event of the transfer of a miner pursuant to the preceding sentence, increases in wages of the transferred miner shall be based upon the new work classification. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of examinations or tests made pursuant to the preceding sentence shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his designated physician.

"(8) The Secretary shall, to the extent practicable, promulgate separate mandatory health or safety standards applicable to mine construction activity on the surface.

"(9) No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners by an existing mandatory health or safety standard.

"(b)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary mandatory health or safety standard to take immediate effect upon publication in the Federal Register if he determines (A) that miners are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful, or to other hazards, and (B) that such emergency standard is necessary to protect miners from such danger.

"(2) A temporary mandatory health or safety standard shall be effective until superseded by a mandatory standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

"(3) Upon publication of such standard in the Federal Register, the Secretary shall commence a proceeding in accordance with section 101(a), and the standards as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a mandatory health or safety standard under this paragraph no later than nine months after publication of the emergency temporary standard as provided in paragraph (2).

"(c) Upon petition by the operator or the representative of miners, the Secretary may modify the application of any mandatory health or safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of such operator or representative or other interested party, to enable the operator or the representative of miners in such mine or other interested party to present information relating to the modification of such standard. Before granting any exception to a mandatory safety standard, the findings of the Secretary or his authorized representative shall be made public and shall be available to the representative of the miners at the

affected mine. The Secretary shall issue a decision incorporating his findings of fact therein, and send a copy thereof to the operator or the representative of the miners, as appropriate. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"(d) Any person who may be adversely affected by a mandatory health or safety standard promulgated under this section may, at any time prior to the sixtieth day after such standard is promulgated, file a petition challenging the validity of such mandatory standard with the United States Court of Appeals for the District of Columbia Circuit or the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused for good cause shown. The validity of any mandatory health or safety standard shall not be subject to challenge on the grounds that any of the time limitations in this section have been exceeded. The procedures of this subsection shall be the exclusive means of challenging the validity of a mandatory health or safety standard.

"(e) The Secretary shall send a copy of every proposed mandatory health or safety standard or regulation at the time of publication in the Federal Register to the operator of each coal or other mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

"ADVISORY COMMITTEES

"SEC. 102. (a)(1) The Secretary of the Interior shall appoint an advisory committee on coal or other mine safety research composed of—

"(A) the Director of the Office of Science and Technology or his delegate, with the consent of the Director;

"(B) the Director of the National Bureau of Standards, Department of Commerce, or his delegate, with the consent of the Director;

"(C) the Director of the National Science Foundation, or his delegate, with the consent of the Director; and

"(D) such other persons as the Secretary of the Interior may appoint who are knowledgeable in the field of coal or other mine safety research.

The Secretary of the Interior shall designate the chairman of the committee.

"(2) The advisory committee shall consult with, and make recommendations to, the Secretary of the Interior on matters involving or relating to coal or other mine safety research. The Secretary of the Interior shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

"(3) The chairman of the committee and a majority of the persons appointed by the Secretary of the Interior pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(b)(1) The Secretary of Health, Education, and Welfare shall appoint an advisory committee on coal or other mine health research composed of—

"(A) the Director, Bureau of Mines, or his delegate, with the consent of the Director;

"(B) the Director of the National Science Foundation, or his delegate, with the consent of the Director;

"(C) the Director of the National Institutes of Health, or his delegate, with the consent of the Director; and

"(D) such other persons as the Secretary of Health, Education, and Welfare may appoint who are knowledgeable in the field of coal or other mine health research.

The Secretary of Health, Education, and Welfare shall designate the chairman of the committee.

"(2) The advisory committee shall consult with, and make recommendations to, the Secretary of Health, Education, and Welfare on matters involving or relating to coal or other mine health research. The Secretary of Health, Education, and Welfare shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

"(3) The chairman of the committee and a majority of the persons appointed by the Secretary of Health, Education, and Welfare pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(c) The Secretary or the Secretary of Health, Education, and Welfare may appoint other advisory committees as he deems appropriate to advise him in carrying out the provisions of this Act. The Secretary or the Secretary of Health, Education, and Welfare, as the case may be, shall appoint the chairman of each such committee. A majority of the members (including the chairman) of any such advisory committee appointed pursuant to this subsection shall be composed of individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

"(d) Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

"SEC. 103. (a) Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this Act, and his experience under this Act and other health and safety laws. For the purpose of making any inspection or investigation under this Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.

"(b) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal or other mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act. Such regulations shall provide miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each miner or former miner to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each operator shall promptly notify any miner who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable mandatory health or safety standard promulgated under section 101, or mandated under title II, and shall inform any miner who is being thus exposed of the corrective action being taken.

"(d) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported at a frequency determined by the Secretary, but at least annually.

"(e) Any information obtained by the Secretary or by the Secretary of Health, Education, and Welfare under this Act shall be ob-

tained in such a manner as not to impose an unreasonable burden upon operators, especially those operating small businesses, consistent with the underlying purposes of this Act. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

"(f) Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any coal or other mine made pursuant to the provisions of subsection (a), for the purpose of aiding such inspection and to participate in pre- or post-inspection conferences held at the mine. Where there is no authorized miner representative, the Secretary or his authorized representative shall consult with a reasonable number of miners concerning matters of health and safety in such mine. Such representative of miners who is also an employee of the operator shall suffer no loss of pay during the period of his participation in the inspection made under this subsection. To the extent that the Secretary or authorized representative of the Secretary determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. However, only one such representative of miners who is an employee of the operator shall be entitled to suffer no loss of pay during the period of such participation under the provisions of this subsection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"(g)(1) Whenever a representative of the miners or a miner in the case of a coal or other mine where there is no such representative has reasonable grounds to believe that a violation of this Act or a mandatory health or safety standard exists, or an imminent danger exists, such miner or representative shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, signed by the representative of the miners or by the miner, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that the operator or his agent shall be notified forthwith if the complaint indicates that an imminent danger exists. The name of the person giving such notice and the names of individual miners referred to therein shall not appear in such copy or notification. Upon receipt of such notification, a special inspection shall be made as soon as possible to determine if such violation or danger exists in accordance with the provisions of this title. If the Secretary determines that a violation or danger does not exist, he shall notify the miner or representative of the miners in writing of such determination.

"(2) Prior to or during any inspection of a coal or other mine, any representative of miners or a miner in the case of a coal or other mine where there is no such representative, may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act or of any imminent danger which he has reason to believe exists in such mine. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation or order with respect to such danger and shall furnish the representative of miners or miner requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

"(h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

"(i) Whenever the Secretary finds that a coal or other mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine some other especially hazardous condition, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals. For purposes of this subsection, 'liberation of excessive quantities of methane or other explosive gases' shall mean liberation of more than one million cubic feet of methane or other explosive gases during a 24-hour period. When the Secretary finds that a coal or other mine liberates more than five hundred thousand cubic feet of methane or other explosive gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 10 working days at irregular intervals. When the Secretary finds that a coal or other mine liberates more than two hundred thousand cubic feet of methane or other explosive gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 15 working days at irregular intervals.

"(j) In the event of any accident occurring in any coal or other mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal or other mine, where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activities in such mine.

"(k) In the event of any accident occurring in a coal or other mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in such mine or to recover the coal or other mine or return affected areas of such mine to normal.

"CITATIONS AND ORDERS

"SEC. 104. (a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a coal or other mine subject to this Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this Act, he shall, with reasonable promptness, issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"(b) If, upon any follow-up inspection of a coal or other mine, an authorized representative of the Secretary finds (1) that a violation described in a citation issued pursuant to subsection (a) has not been totally abated within the period of time as originally fixed therein or as subsequently extended, and (2) that the period of time for the abatement should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to immediately cause all persons except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(c) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal or other mine subject to an order issued under this section:

"(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

"(2) any public official whose official duties require him to enter such area;

"(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make such mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

"(4) any consultant to any of the foregoing.

"(d)(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any citation given to the operator under this Act. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall promptly be issued by an authorized representative of the Secretary

who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisons of paragraph (1) shall again be applicable to that mine.

"(e)(1) If an operator has a pattern of violations of mandatory health or safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards, he shall be given written notice that such pattern exists. If, upon any inspection within 90 days after the issuance of such notice, an authorized representative of the Secretary finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the authorized representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard. The withdrawal order shall remain in effect until an authorized representative of the Secretary determines that such violation has been abated.

"(3) If, upon an inspection of the entire coal or other mine, an authorized representative of the Secretary finds no violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine health and safety hazard, the pattern of violations that resulted in the issuance of a notice under paragraph (1) shall be deemed to be terminated and the provisions of paragraphs (1) and (2) shall no longer apply. However, if as a result of subsequent violations, the operator reestablishes a pattern of violations, paragraphs (1) and (2) shall again be applicable to such operator.

"(4) The Secretary shall make such rules as he deems necessary to establish criteria for determining when a pattern of violations of mandatory health or safety standards exist.

"(f) If, based upon samples taken, analyzed, and recorded pursuant to section 202 (a), or samples taken during an inspection by an authorized representative of the Secretary, the applicable limit on the concentration of respirable dust required to be maintained under this Act is exceeded and thereby violated, the Secretary or his authorized representatives shall issue a citation fixing a reasonable time for the abatement of the violation. During such time, the operator of the mine shall cause samples described in section 202(a) to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the period of time should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of production in such mine. As soon as possible after an order is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person, or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such person or team of persons shall remain at the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the coal or other mine.

"(g)(1) If, upon any inspection or investigation pursuant to section 103 of this Act, the Secretary or an authorized representative shall find employed at a coal or other mine who has not received the requisite safety training as determined under section 115 of this Act, the Secretary or an authorized representative shall issue an order under this section which declares such miner to be a hazard to himself and to others, and requiring that such miner be immediately withdrawn from the coal or other mine, and be prohibited from entering such mine until an authorized representative of the Secretary determines that such miner has received the training required by section 115 of this Act.

"(2) No miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall be discharged or otherwise discriminated against because of such orders; and no miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall suffer a loss of compensation during the period necessary for such miner to receive such training and for an authorized representative of the Secretary to determine that such miner has received the requisite training.

"(h) Any citation or order issued under subsections (b), (c), or (d) shall remain in effect until modified, terminated, or vacated by the Secretary or his authorized representative, or modified, terminated or vacated by the Commission or the courts pursuant to section 105 or 106.

"PROCEDURE FOR ENFORCEMENT

"SEC. 105. (a) If, after an inspection or investigation, the Secretary issues a citation or order under section 104, he shall, within a reasonable time after the termination of such inspection or investigation, notify the operator by certified mail of the civil penalty proposed to be assessed under section 110(a) for the violation cited and that the operator has 30 days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. A copy of such notification shall be sent by mail to the representative of miners in such mine. If, within 30 days from the receipt of the notification issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the citation or the proposed assessment of penalty, and no notice is filed by any miner or representative of miners under subsection (d) of this section within such time, the citation and the proposed assessment of penalty shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a citation and proposed assessment of penalty under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(b)(1)(A) If the Secretary has reason to believe that an operator has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Secretary shall notify the operator by certified mail of such failure and of the penalty proposed to be assessed under section 110(b) by reason of such failure, and that the operator has 30 days within which to notify the Secretary that he wishes to contest the Secretary's notification of the proposed assessment of penalty. A copy of such notification of the proposed assessment of penalty shall at the same time be sent by mail to the representative of the mine employees. If, within 30 days from the receipt of notification of proposed assessment of penalty issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the notification of proposed assessment of penalty, such notification shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a notification of proposed assessment of penalty issued under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(B) In determining whether to propose a penalty to be assessed under section 110(b), the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

"(2) An applicant may file with the Commission a written request that the Commission grant temporary relief from any modification or termination of any order or from any order issued under section 104 together with a detailed statement giving the reasons for granting such relief. The Commission may grant such relief under such conditions as it may prescribe, if—

"(A) a hearing has been held in which all parties were given an opportunity to be heard;

"(B) the applicant shows that there is substantial likelihood that the findings of the Commission will be favorable to the applicant; and

"(C) such relief will not adversely affect the health and safety of miners.

No temporary relief shall be granted in the case of a citation issued under subsections (a) or (f) of section 104. The Commission shall provide a procedure for expedited consideration of applications for temporary relief under this paragraph.

"(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.

"(2) Any miner or applicant for employment or representative of miners who be-

lieves that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent and shall cause such investigation to be made as he deems appropriate. Such investigation shall commerce within 15 days of the Secretary's receipt of the complaint, and if the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending final order on the complaint. If, upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner, applicant for employment or representative of miners alleging such discrimination or interference and proposing an order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief. Such order shall become final 30 days after issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest. The complaining miner, applicant, or representative of miners may present additional evidence on his own behalf during any hearing held pursuant to this paragraph.

"(3) Within 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner, applicant for employment, or representative of miners of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1). The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatement of the miner to his former position with back pay and interest or such remedy as may be appropriate. Such order shall become final 30 days after its issuance. Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner, applicant for employment or representative of miners for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of section 108 and 110(a).

"(d) If, within 30 days of receipt thereof, an operator of a coal or other mine notifies the Secretary that he intends to contest the issuance or modification of an order issued under section 104, or citation or a notification of proposed assessment of a penalty issued under subsection (a) or (b) of this section, or the reasonableness of the length of abatement time fixed in a citation or modification thereof issued under section 104, or any miner or representative of miners notifies the Secretary of an intention to contest the issuance, modification, or termination of any order issued under section 104, or the reasonableness of the length of time set for abatement by a citation or modification thereof issued under section 104, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such action), and thereafter shall issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation, order, or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The rules of procedure prescribed by the Commission shall provide affected miners or representatives of affected miners an opportunity to participate as parties to hearings under this section. The Commission shall take whatever action is necessary to expedite proceedings for hearing appeals of orders issued under section 104.

"JUDICIAL REVIEW

"SEC. 106. (a) (1) Any person adversely affected or aggrieved by an order of the Commission issued under this Act may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or in the United States Court of Appeals for the District of Columbia Circuit, by filing in such court within 30 days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of the questions determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Commission may modify or set aside its original order by reason of such modified or new findings of fact. Upon the filing of the record after such remand proceedings, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(2) In the case of a proceeding to review any order or decision issued by the Commission under this Act, except an order or decision pertaining to an order issued under section 107(a) or an order or decision pertaining to a citation issued under section 104(a) or (f), the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

"(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

"(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

"(C) such relief will not adversely affect the health and safety of miners in the coal or other mine.

"(3) In the case of a proceeding to review any order or decision issued by the Panel under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

"(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; and

"(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding.

"(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in the Court of Appeals for the District of Columbia Circuit, and the provision of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within 30 days after issuance of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such 30-day period. In any such case, as well as in the case of a noncontested citation or notificaiton by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 105, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 110, in addition to invoking any other available remedies.

"(c) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Commission or the Panel.

"PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

"SEC. 107. (a) If, upon any inspection or investigation of a coal or other mine which is subject to this Act, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall de-

termine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger and the conditions or practices which caused such imminent danger no longer exist. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 104 or the proposing of a penalty under section 110.

"(b)(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

"(2) Upon the conclusion of an investigation pursuant to paragraph (1), and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (c) of section 104 to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an oportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"(c) Orders issued pursuant to subsection (a) shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger and a description of the area of the coal or other mine from which persons must be withdrawn and prohibited from entering.

"(d) Each finding made and order issued under this section shall be given promptly to the operator of the coal or other mine to which it pertains by the person making such finding or order, and all of such findings and orders shall be in writing, and shall be signed by the person making them. Any order issued pursuant to subsection (a) may be modified or terminated by an authorized representative of the Secretary. Any order issued under subsection (a) or (b) shall remain in effect until vacated, modified, or terminated by the Secretary, or modified or vacated by the Commission pursuant to subsection (e), or by the courts pursuant to section 106(a).

"(e)(1) Any operator notified of an order under this section or any representative of miners notified of the issuance, modification, or termination of such an order may apply to the Commission within 30 days of such notification for reinstatement, modification or vacation of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, vacating, affirming, modifying, or terminating the Secretary's order. The Commission and the courts may not grant temporary relief from the issuance of any order under subsection (a).

"(2) The Commission shall take whatever action is necessary to expedite proceedings under this subsection.

"INJUNCTIONS

"SEC. 108. (a)(1) The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal or other mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent—

"(A) violates or fails or refuses to comply with any order or decision issued under this Act,

"(B) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of this Act,

"(C) refuses to admit such representatives to the coal or other mine,

"(D) refuses to permit the inspection of the coal or other mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine,

"(E) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this Act, or

"(F) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this Act.

"(2) The Secretary may institute a civil action for relief, including permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the coal or other mine is located or in which the operator of such mine has his principal office whenever the Secretary believes that the operator of a coal or other mine is engaged in a pattern of violation of the mandatory health or safety standards of this Act, which in the judgment of the Secretary constitutes a continuing hazard to the health or safety of miners.

"(b) In any action brought under subsection (a), the court shall have jurisdiction to provide such relief as may be appropriate. In the case of an action under subsection (a)(2), the court shall in its order require such assurance or affirmative steps as it deems necessary to assure itself that the protection afforded to miners under this Act shall be provided by the operator. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce any order under paragraph (1) of subsection (a) shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the Commission or the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Commission or the Secretary, as the case may be, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"POSTING OF ORDERS AND DECISIONS

"SEC. 109. (a) At each coal or other mine there shall be maintained an office with a conspicuous sign designating it as the office of such mine. There shall be a bulletin board at such office or located at a conspicuous place near an entrance of such mine, in such manner that orders, citations, notices and decisions required by law or regulation to be posted, may be posted thereon, and be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any order, citation, notice or decision required by this Act to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be delivered to the office of the affected mine and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

"(b) The Secretary shall (1) cause a copy of any order, citation, notice, or decision required by this Act to be given to an operator to be mailed immediately to a representative of the miners in the affected coal or other mine, and (2) cause a copy thereof to be mailed to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice, order, citation, or decision shall be available for public inspection.

"(c) In order to insure prompt compliance with any notice, order, citation, or decision issued under this Act, the authorized representative of the Secretary may deliver such notice, order, citation, or decision to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, citation, or decision.

"(d) Each operator of a coal or other mine subject to the Act shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal or other mine subject to this Act shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine, and such official shall receive a copy of any notice, order, citation, or decision issued under this Act affecting such mine. In any case, where the mine is subject to the control of any person not directly involved in the daily operations of the coal or other mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal or other mine subject to the control of such person, and such official shall receive a copy of any notice, order, citation, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

"PENALTIES

"SEC. 110. (a) The operator of a coal or other mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this Act, shall be assessed a civil penalty by the Secretary which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense.

"(b) Any operator who fails to correct a violation for which a citation has been issued under section 104(a) within the period permitted for its correction may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

"(c) Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this Act or any order incorporated in a final decision issued under this Act, except an order incorporated in a decision issued under sub-

section (a) or section 105(c), any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violations, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (d).

"(d) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under subsection (a) or section 105(c), shall, upon conviction, be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.

"(e) Unless otherwise authorized by this Act, any person who gives advance notice of any inspection to be conducted under this Act shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or both.

"(f) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than five years, or both.

"(g) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission, which penalty shall not be more than $250 for each occurrence of such violation.

"(h) Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal or other mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (f) of this section.

"(i) The Commission shall have authority to assess all civil penalties provided in this Act. In assessing civil monetary penalties, the Commission shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation. In proposing civil penalties under this Act, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

"(j) Civil penalties owned under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recorded in a civil action in the name of the United States brought in the United States district court for the district where the violation occurred or where the operator has its principal office. Interest at the rate of 8 percent per annum shall be charged against a person on any final order of the Commission, or the court. Interest shall begin to accrue 30 days after the issuance of such order.

"(k) No proposed penalty which has been contested before the Commission under section 105(a) shall be compromised, mitigated, or settled except with the approval of the Commission. No penalty assessment which has become a final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

"(l) The provisions of this section shall not be applicable with respect to title IV of this Act.

"ENTITLEMENT OF MINERS

"SEC. 111. If a coal or other mine or area of such mine is closed by an order issued under section 103, section 104, or section 107, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal or other mine or area of such mine is closed by an order issued under section 104 or section 107 of this title for a failure of the operator to comply with any mandatory health or safety standards, all miners who are idled due to such order shall be fully compensated after all interested parties are given an opportunity for a public hearing, which shall be expedited in such cases, and after such order is final by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 103, section 104, or section 107 of this Act, all miners employed at the affected mine who would have been withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated. The Commission shall have authority to order compensation due under this section upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of title 5, United States Code.

"ADMINISTRATIVE PROVISIONS

"SEC. 112. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

"THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

"SEC. 113. (a) The Federal Mine Safety and Health Review Commission is hereby established. The Commission shall consist of five members, appointed by the President by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

"(b)(1) The terms of the members of the Commission shall be six years, except that—

"(A) members of the Commission first taking office after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977, shall serve, as designated by the President at the time of appointment, one for a term of two years, two for a term of four years and two for a term of six years; and

"(B) a vacancy caused by the death, resignation, or removal of any member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(2) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general pay rates. Upon the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the administrative law judges assigned to the Arlington, Virginia, Facility of the Office of Hearings and Appeals, United States Department of the Interior, shall be automatically transferred in grade and position to the Federal Mine Safety and Health Review Commission. Notwithstanding the provisions of section 559 of title 5 of the United States Code, the incumbent Chief Administrative Law Judge of the Office of Hearings and Appeals of the Department of the Interior assigned to the Arlington, Virginia facility shall have the option, on the effective date of the Federal Mine Safety and Health Amendments Act of 1977, of transferring to the Commission as an administrative law judge, in the same grade and position as the other administrative law judges. The administrative law judges (except those presiding over Indian Probate Matters) assigned to the Western Facilities of the Office of Hearings and Appeals of the Department of the Interior shall remain with that Department at their present grade and position or they shall have the right to transfer on an equivalent basis to that extended in this paragraph to the Arlington, Virginia administrative law judges in accordance with procedures established by the Civil Service Commission. The Commission shall appoint such additional administrative law judges as it deems necessary to carry out the functions of the Commission. Assignment, removal, and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5362 and 7521 of title 5, United States Code.

"(c) The Commission is authorized to delegate to any group of three or more members any or all of the powers of the Commission, except that two members shall constitute a quorum of any group designated pursuant to this paragraph.

"(d)(1) An administrative law judge appointed by the Commission to hear matters under this Act shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the chief administrative law judge of the Commission or by the Commission, and shall make a decision which constitutes his final disposition of the proceedings. The decision of the administrative law judge of the Commission shall become the final decision of the Commission 40 days after its issuance unless within such period the Commission has directed that such decision shall be reviewed by the Commission in accordance with paragraph (2). An administrative law judge shall not be assigned to prepare a recommended decision under this Act.

"(2) The Commission shall prescribe rules of procedure for its review of the decisions of administrative law judges in cases under this Act which shall meet the following standards for review:

"(A) (i) Any person adversely affected or aggrieved by a decision of an administrative law judge may file and serve a petition for discretionary review by the Commission of such decision within 30 days after the issuance of such decision. Review by the Commission shall not be a matter of right but of the sound discretion of the Commission.

"(ii) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

"(I) A finding or conclusion of the material fact is not supported by substantial evidence.

"(II) A necessary legal conclusion is erroneous.

"(III) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission.

"(IV) A substantial question of law, policy or discretion is involved.

"(V) A prejudicial error of procedure was committed.

"(iii) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass. Review by the Commission shall be granted only by affirmative vote of two of the Commissioners present and voting. If granted, review shall be limited to the questions raised by the petition.

"(B) At any time within 30 days after the issuance of a decision of an administrative law judge, the Commission may in its discretion (by affirmative vote of two of the Commissioners present and voting) order the case before it for review but only upon the ground that the decision may be contrary to law or Commission policy, or that a novel question of policy has been presented. The Commission shall state in such order the specific issue of law, Commission policy, or novel question of policy involved. If a party's petition for discretionary review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with the requirements of this paragraph.

"(C) For the purpose of review by the Commission under paragraph (A) or (B) of this subsection, the record shall include: (i) all matters constituting the record upon which the decision of the administrative law judge was based; (ii) the rulings upon proposed findings and conclusions; (iii) the decision of the administrative law judge; (iv) the petition or petitions for discretionary review, responses thereto, and the Commission's order for review; and (v) briefs filed on review. No other material shall be considered by the Commission upon review. The Commission either may remand the case to the administrative law judge for further proceedings as it may direct or it may affirm, set aside, or modify the decision or order of the administrative law judge in conformity with the record. If the Commission determines that further evidence is necessary on an issue of fact it shall remand the case for further proceedings before the administrative law judge.

The provisions of section 557(b) of title 5, United States Code, with regard to the review authority of the Commission are hereby expressly superseded to the extent that they are inconsistent with the provisions of subparagraphs (A), (B), and (C) of this paragraph.)

"(e) In connection with hearings before the Commission or its administrative law judge under this Act, the Commission and its administrative law judges may compel the attendance and testimony of witnesses and the production of books, papers, or documents, or objects, and order testimony to be taken by deposition at any stage of the proceedings before them. Any person may be compelled to appear and depose and produce similar documentary or physical evidence, in the same manner as witnesses may be compelled to appear and produce evidence before the Commission and its administrative law judges. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States and at depositions ordered by such courts. In case of contumacy, failure, or refusal of any person to obey a subpoena or order of the Commission or an administrative law judge, respectively, to appear, to testify, or to produce documentary or physical evidence, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides, or transacts business, shall, upon the application of the Commission, or the administrative law judge, respectively, have jurisdiction to issue to such person an order requiring such person to appear, to testify, or to produce evidence as ordered by the Commission or the administrative law judge, respectively, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 114. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title.

"MANDATORY HEALTH AND SAFETY TRAINING

"SEC. 115. (a) Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that—

"(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical hazards, first aid, and the health and safety aspects of the task to which he will be assigned;

"(2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescuer device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid walk around training and the health and safety aspects of the task to which he will be assigned;

"(3) all miners shall receive no less than eight hours of refresher training no less frequently than one each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than 90 days after the date of approval of the training plan required by this section;

"(4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task;

"(5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

"(b) Any health and safety training provided under subsection (a) shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

"(c) Upon completion of each training program, each operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved health and safety training plan. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, he shall be entitled to a copy of his health and safety training certificates. False certification by an operator that training was given shall be punishable under section 110(a) and (g); and each health and safety training certificate shall indicate on its face, in bold letters, printed in a conspicuous manner the fact that such false certification is so punishable.

"(d) The Secretary shall promulgate appropriate standards for safety and health training for coal or other mine construction workers.

"(e) Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine.".

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY HEALTH STANDARDS

SEC. 202. (a) Section 202(e) of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"(e) References to concentrations of respirable dust in this title means the average concentration of respirable dust measured with a device approved by the Secretary and the Secretary of Health, Education, and Welfare.".

(b) Section 318(k) of the Federal Coal Mine Health and Safety Act of 1969 is repealed.

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

SEC. 203. (a) Title III of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "of the Interior in coordination with the Secretary" after "Secretary" in section 301(b).

(b) Subsections (c) and (d) of section 301 of such Act are repealed.

TITLE III—MISCELLANEOUS PROVISIONS

TRANSFER MATTERS

SEC. 301. (a) Except with respect to the functions assigned to the Secretary of the Interior pursuant to section 501 of the Federal Coal Mine Health and Safety Act of 1969, the functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, as amended, and the Federal Metal and Nonmetallic Mine Safety Act are transferred to the Secretary of Labor, except those which are expressly transferred to the Commission by this Act.

(b)(1) The mandatory standards relating to mines, issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and standards and

regulations under the Federal Coal Mine Health and Safety Act of 1969 which are in effect on the date of enactment of this Act shall remain in effect as mandatory health or safety standards applicable to metal and nonmetallic mines and to coal or other mines respectively under the Federal Mine Safety and Health Act of 1977 until such time as the Secretary of Labor shall issue new or revised mandatory health or safety standards applicable to metal and nonmetallic mines and new or revised mandatory health or safety standards applicable to coal mines.

(2) Within 60 days after the date of enactment of this Act, the Secretary of Labor in consultation with the Secretary of the Interior shall establish an advisory committee under section 102 of the Federal Mine Safety and Health Act of 1977 which shall, within 180 days after the date of the establishment of such advisory committee, review the advisory health and safety standards issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and recommend to the Secretary of Labor which of those standards (or any modifications of such standards which do not substantially diminish the health and safety of miners) should be promulgated as mandatory health or safety standards under section 101 of the Federal Mine Safety and Health Act of 1977. The Secretary of Labor shall publish, within 60 days after any recommendations of the advisory committee under this paragraph, each of the standards so recommended for adoption with or without modification as a proposed mandatory health or safety standard under this section by publication of such standard in the Federal Register, and afford interested persons a period of 25 days after publication to submit written data or comment. Within 30 days after the close of the comment period specified in the preceding sentence, the Secretary of Labor shall promulgate by publication in the Federal Register mandatory health or safety standards based upon the advisory committee recommendation with or without modification, and the data and comments received thereon, unless the Secretary of Labor determines that such standards will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register.

(c)(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any functions transferred under the provisions of subsection (a) to the Secretary of Labor shall be transferred to the Department of Labor or the Commission, as appropriate. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission or other authorized officials, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department, agency, or component thereof, functions of which are transferred by this section, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor or the Federal Mine Safety and Health Review Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this section had not been enacted.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary of Labor. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(d) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

(e) The Director of the Office of Management and Budget in consultation with the Secretary of Labor and the Secretary of the Interior is authorized and directed to make such determinations as may be necessary with regard to the dispositions of personnel, personnel positions, property, records, assets, liabilities, contracts, obligations, commitments, unexpected balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 302. (a) There is established in the Department of Labor a Mine Safety and Health Administration to be headed by an Assistant Secretary of Labor for Mine Safety and Health appointed by the President, by and with the advice and consent of the Senate. The Secretary, acting through the Assistant Secretary for Mine Safety and Health, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act. The Secretary is authorized and directed, except as specifically provided otherwise to carry out his functions under the Federal Mine Safety and Health Amendments Act of 1977 through the Mining Enforcement and Safety Administration.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following paragraphs:

"(120) Assistant Secretary of Labor for Mine Safety and Health.

"(121) Members, Federal Mine Safety and Health Review Commission.".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(66) Chairman, Federal Mine Safety and Health Review Commission.".

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that convenience of the public or the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

AMENDMENTS WITH RESPECT TO MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 303. (a)(1) Section 501 of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "or other" after "coal" wherever it appears therein, and by striking "coal-mining" and inserting in lieu thereof "coal or other mining" wherever it appears therein.

(2) Section 501(a) of the Federal Coal Mine Health and Safety Act of 1969 is further amended by striking "and" after the semicolon in paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting immediately after paragraph "(10)", the following new paragraph:

"(11) to determine, upon the written request by any operator or authorized representative of miners, specifying with reasonable particularity the grounds upon which such request is made, whether any substance normally found in a coal or other mine has potentially toxic effects in the concentrations normally found in the coal or other mine or whether any physical agents or equipment found or used in a coal or other mine has potentially hazardous effects, and shall submit such determinations to both the operators and miners as soon as possible; and".

(3) Section 501(b) of such Act is amended by adding after "Welfare" the following: "through the National Institute for Occupational Safety and Health established under the Occupational Safety and Health Act of 1970"; and by striking out the period at the end thereof and substituting "of the Interior in coordination with the Secretary".

(4) Section 501(c) is amended by inserting "of the Interior" after "the Secretary" each place it occurs; and by inserting "in coordination with the Secretary" after "and Welfare" each place it occurs.

(5) Section 501(e) of such Act is amended by inserting after "Secretary" the last time it occurs therein, "of the Interior" and by striking "$30,000,000" and by inserting in lieu thereof "$60,000,000".

(6) Section 501(a) of such Act is amended by striking out "The Secretary and" and inserting in lieu thereof "The Secretary of the Interior and".

(b) Section 502 of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein.

(c)(1) Section 503 of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein, and by striking "Labor" and inserting in lieu thereof, "the Interior".

(2)(A) The first sentence of section 503(h) of such Act is amended by deleting "$5,000,000" and by inserting in lieu thereof "$10,000,000".

(B) The second sentence of section 503(h) of such Act is amended by inserting before the period the following: ", except that no less than one-half of such sum shall be allocated to coal producing States.".

(d) (1) Section 505 of such Act is amended by striking out "the mining of coal" and inserting in lieu thereof "in mining".

(2) Section 505 of such Act is further amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof ": *Provided, however,* That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to the extent possible to their previous experience in the particular type of mining operation where such inspections are to be made.

(e) Section 506(b) of such Act is amended by inserting "or other" immediately after "coal" each time it appears therein.

(f) Section 511 of such Act is amended by inserting "or other" immediately after "coal".

(g) Section 512 of such Act is amended by inserting "or other" after "coal" each time it appears therein.

(h) Section 502 of such Act is amended by adding at the end thereof the following new subsection (c):

"(c)(1) The National Mine Health and Safety Academy shall be maintained as an agency of the Department of the Interior. The Academy shall be responsible for the training of mine safety and health inspectors under section 505 of this Act, and in training of technical support personnel of the Mine Safety and Health Administration established under section 302 of the Federal Mine Safety and Health Amendments Act of 1977; and for any other training programs for mine inspectors, mining personnel, or other persons as the Secretaries of Labor and Interior shall designate. In performing this function, the Academy shall have the authority to enter into cooperative educational and training agreements with educational institutions, State governments, labor organizations, and mine operators and related industries. Such training shall be conducted by the Academy in accordance with curriculum needs and assignment of instructional personnel established by the user.

"(2) In performing its function pursuant to this section, the National Mine Health and Safety Academy shall use the facilities and personnel of the Department of the Interior, and such other personnel as shall be mutually agreed upon by the Secretaries of Labor and Interior. The Secretary of the Interior may appoint or assign to the Academy such officers and employees as he deems necessary for the performance of the duties and functions of the Academy.

"(3) The Secretary of the Interior shall conduct his safety research responsibilities under section 501 of this Act in coordination with the Secretary of Labor, and the Secretaries of Labor and the Interior are authorized to enter into contractual or other agreements for the performance of such safety related research.".

SAVINGS PROVISION

SEC. 304. Nothing contained in this Act or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcement of the Federal Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetallic Mine Safety Act as in effect prior to the effective date of this Act or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970.

BUDGET PROVISION

SEC. 305. In the preparation of the Budget message required under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), the President shall set forth as separate appropriation accounts amounts required for appropriation for mine health and safety pursuant to the Federal Mine Health and Safety Act of 1977 and for occupational safety and health pursuant to the Occupational Safety and Health Act of 1970.

REPEALER

SEC. 306. (a) The Federal Metal and Nonmetallic Mine Safety Act is repealed.

(b) Section 405 of the Act of November 16, 1973, Public Law 93-153 is repealed.

EFFECTIVE DATE

SEC. 307. Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of enactment of this Act. The Secretary of Labor and the Secretary of the Interior are authorized to establish such rules and regulations as may be necessary for the efficient transfer of functions provided under this Act. The amendment to the Federal Coal Mine Health and Safety Act of 1969 made by section 202 of this Act shall be effective on the date of enactment.

CARL D. PERKINS,
JOSEPH M. GAYDOS,
JOHN H. DENT,
AUSTIN J. MURPHY,
ROBERT J. CORNELL,
LEO C. ZEFERETTI,
JOSEPH A. LE FANTE,
MICHAEL O. MYERS,
GEORGE MILLER,
RONALD A. SARASIN,
JOHN BUCHANAN,
ALBERT H. QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DONALD W. RIEGLE, Jr.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report: The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment.

The principal differences between the Senate bill, the House amendment and the substitute agreed to in conference are noted below.

DEFINITIONS

Both the Senate bill and the House amendment modified the Coal Act to make it the single mine safety and health law, applicable to all mining activity. The Senate bill did this by deleting the word "coal" where applicable in title I. The House amendment did this by inserting the words "or other" after the word "coal" where applicable. Thus, the Senate bill referred to "mines", the House amendment to "coal or other mines."

The conference substitute conforms to the House amendment. The conferees note that the foundation for the new Mine Safety and Health Act is the Federal Coal Mine Health and Safety Act of 1969. In adopting the provisions of that Act, titles II, III, and IV are retained as exclusively applicable to the coal mining industry. For this reason, it was the decision of the conferees that the use of the term "coal or other mine" in titles I and V, which are applicable to all mining activity, would more clearly delineate the distinction between those titles of the act applicable to all mining and those applicable to coal mining only.

The Senate bill modified the definition of "operator" to include independent contractors performing services or construction at a mine. This was intended to permit enforcement of the Act against such independent contractors, and to permit the assessment of penalties, the issuance of withdrawal orders, and the imposition of civil and criminal sanctions against such contractors who may have a continuing presence at the mine. The House amendment had no comparable provision.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment broadly defined mine to include all underground or surface areas from which the mineral is extracted, and all surface facilities used in preparing or processing the minerals, as well as roads, structures, dams, impoundments, tailing ponds and like facilities related to the mining activity. The Senate bill and the House amendment also included within the definition of a mine, such related structures, equipment or facilities which, while not yet in use in connection with mining activities, were to be used in connection with these activities. The House amendment excluded from coverage of the Act, the protection of miners from radiation hazards connected with the milling of certain radioactive materials. The Senate bill included this milling activity within the Act, and thus provided a single means for protecting all miners. Both the Senate bill and the House amendment authorized the Secretary, in cases of possible overlapping jurisdictions between the Mine Safety and Health Administration and OSHA, to assign enforcement responsibilities to a single agency.

The conference substitute conforms to the House amendment, except that the exclusion of milling activities of certain radioactive materials from the coverage of the act in the House amendment is deleted.

The House amendment provided a separate definition of "coal mine" for the purpose of Titles II, III, and IV of the Act, which apply to coal mine operations only. The Senate bill did not.

The conference substitute conforms to the House amendment.

In designating the name for the agency within the Department of Labor to enforce the law. the Senate bill retained the name of the existing agency, Mining Enforcement and Safety Administration. The House amendment adopted the new name, Mine Safety and Health Administration.

The conference substitute conforms to the House amendment in order to indicate the emphasis on the protection of miner health which this bill provides.

The Senate bill established an independent Federal Mine Safety and Health Review Commission to fulfill the administrative adjudicative role in connection with the enforcement of the Act. The House amendment did not, but instead retained this responsibility within the authority of the Secretary.

The conference substitute conforms to the Senate bill.

The Senate bill made consistent conforming changes to Section 5 of the Coal Act regarding the Interim Compliance Panel. The House bill did not.

The conference substitute conforms to the Senate bill. In making these conforming changes, however, it is clearly not the intention of the conferees to assign duties to the Panel or to in any way revitalize the panel.

GENERAL DUTY

The Senate bill contained a "general duty" clause which required operators to furnish safe and healthful working conditions free from recognized hazards likely to cause

death or harm to miners and to comply with rules, regulations and orders promulgated under the Act. This provision would have permitted the issuance of citations or the assessment of civil penalties based on violations of the general duty. The House amendment had no general duty clause.

The conference substitute conforms to the House amendment. While the conference substitute does not include a general duty clause, the conferees fully support the current Coal Act authority to issue imminent danger withdrawal orders even if the imminent danger does not result from the violation of a mandatory health or safety standard. It is the opinion of the conferees that the language of section 107(a) of the conference substitute which authorizes the issuance of imminent danger withdrawal orders is sufficiently broad to authorize the issuance of such orders even if the imminent danger is not the result of the violation of an express standard. Such authority must exist if miners are to be adequately protected from such imminent dangers.

STANDARDS SETTING

The Senate bill established the procedure for standards-setting, based on the rule-making mechanism of the chapter 5, title 5 United States Code, but without reference to the hearing requirements of that Act. The House amendment contained the similar basic rule-making authority established in Section 101(a) of the Coal Act.

The conference substitute conforms to the House amendment, except that the provisions of the Senate bill are incorporated which provide that the hearings held in connection with the standards-setting process shall be administered without regard to the hearing requirements of sections 556 and 557 of title 5, United States Code. The conferees intend that such hearings shall be held in a manner which will be consistent with the Secretary's duty to develop a complete record in the most expeditious and efficient manner. The conferees recognize that cross-examination may, under certain circumstances contribute to the development of a more definitive record. Although the opportunity to cross-examine is expressly not required, the Secretary may in his sole discretion permit such opportunity as in his judgment may be necessary to a more definitive hearing record.

The Senate bill authorized the Secretary of Labor to commence the rule-making procedure upon receipt of information from interested organizations or individuals, or on the basis of information which he develops himself, which indicates the need for revision, revocation, or promulgation of a safety or health standard. The House amendment continued the authority contained in the Coal Act which is similar to that in the Senate bill. While both the Senate bill and the House amendment vested safety standards-setting authority solely in the Secretary of Labor, the House amendment continued the provision of the Coal Act (Sec. 101(d)) which vested authority to develop health standards in the Secretary of HEW. The Senate bill authorized the Secretary of HEW to prepare criteria documents, but health standards development responsibility was vested in the Secretary of Labor.

Under both the Senate bill and the House amendment, the Secretary, in his discretion, could refer proposed standards to an Advisory Committee, for its consideration. The Senate bill, however, required the Advisory Committee to make its recommendations to the Secretary within 60 days of its appointment, or sooner or later if the Secretary prescribed, but in no event, later than 180 days. The House amendment contained no such limitation on the amount of time for Advisory Committee consideration of proposed standards.

The Senate bill further provided that when the Secretary received a recommendation concerning a proposed health standard from the National Institute for Occupational Safety and Health (NIOSH) accompanied by appropriate criteria, he must act on that recommendation (by either referring it to an Advisory Committee, publishing it as a proposed standard or publishing his determination not to do so) within 60 days. The House amendment required that the Secretary publish HEW-developed health standards without change.

The conference substitute conforms to the Senate bill.

The Senate bill required the Secretary of Labor to publish proposed standards in the Federal Register, and to permit interested persons a period of 30 days within which to comment. The House amendment adopted a substantially similar provision (section 101(e) of the Coal Act). The Senate bill permitted the Secretary to extend the comment period upon a finding of good cause. The House amendment did not specifically provide for such extension, but did not preclude such either. The Senate bill required that where a proposed standard had been referred to an Advisory Committee, the Secretary must publish the proposed standard for public comment or his determination not to do so within 60 days of the Advisory Committee's recommendation. The House amendment contained no such time limitation.

The Senate bill required that in publishing proposed rules for comment, the Secretary publish a comparative text of changes to existing rules, and a cross-referenced index to the rules affected. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained identical provisions requiring the Secretary to hold a hearing on any standard proposal at the request of an interested party. The Senate bill also required that any such hearing commence within sixty days of notice. The House amendment contained no such time limitation. The Senate bill authorized the Secretary to establish procedures for such hearings in order to avoid unnecessary costs or delays. The Senate bill additionally contained authority for the Secretary to subpoena witnesses and evidence necessary for the consideration of matters subject of the hearing, and required that a verbatim transcript of the hearing be kept. The House amendment had no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill required the Secretary to publish a final rule, or his determination not to do so, within 90 days after the certification of the record of the hearing, or within 90 days of the close of the formal comment period if no hearing had been requested. The House amendment, adopting the provisions of Section 101(g) of the Coal Act, required that the Secretary make findings of fact within 60 days after completion of the hearings. The House amendment did not require the Secretary or the Secretary of HEW to subsequently promulgate a standard, but did require the Secretaries to publish, within a reasonable time, the determination not to promulgate a standard.

The conference substitute conforms to the Senate bill.

The Senate bill permitted the effective date of any standard to be delayed for such reasonable period as the Secretary deemed necessary to insure effective compliance. The House amendment adopted the provision of Section 101(h) of the Coal Act, which required standards to be effective immediately upon promulgation unless the Secretaries, as appropriate, specified a later effective date.

The conference substitute conforms to the House amendment, except that the reference to the Secretary of Health, Education, and Welfare is deleted since that Secretary has no authority to promulgate standards, and therefore should have no authority to delay their effective date.

The Senate bill did not contain the provision of the Coal Act (Section 101(i) adopted by the House amendment, which governed the promulgation by the Secretary of mandatory safety and health standards for surface coal mines and surface work areas of underground coal mines following the effective date of standards mandated by Titles II and III of the Coal Act of 1969.

The conference substitute does not include this provision from the House amendment.

The Senate bill required that in setting standards dealing with toxic substances and harmful physical agents, the Secretary establish a standard, based on the best available scientific and other data, which would adequately assure that no miner would suffer material impairment of health or functional capacity even if exposed to the regulated substance or hazard regularly for the period of his working life. The Senate bill further provided that when practicable, the standard be expressed in terms of objective criteria or performance desired. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained provisions requiring the Secretary of Health, Education, and Welfare, within 18 months in the Senate bill, and 3 years in the House amendment, and on a continuing basis thereafter, to determine whether toxic materials or harmful agents found in mines are potentially toxic in concentrations found in the mines, and to transmit such information to the Secretary. The Senate bill required that thereafter, the Secretary of Health, Education, and Welfare shall forward proposed standards and appropriate criteria to the Secretary, as developed, and that, as received, the Secretary shall within 60 days, either propose health standards pursuant to the rulemaking procedure or publish his determination not to do so. The House amendment required the Health, Education, and Welfare Secretary to submit proposed standards and criteria to the Secretary at the time he submitted the toxic substance list. The House version compelled the Secretary to publish such recommended standards upon receipt.

The conference substitute conforms to the Senate bill.

The Senate bill required that standards dealing with toxic substances or harmful physical agents prescribe the use of labels or other appropriate forms of warning and personal protective equipment or technological procedures to be used, where appropriate, and further provided, where appropriate, for medical monitoring of miner exposures. The Senate bill further required that such standards, where appropriate, provide periodic medical examinations or other tests of miners, at the operator's expense, to determine deleterious exposure; and that where such examinations indicate that miners may suffer material impairment, that such miners be reassigned to less hazardous places in the mines. To encourage miner participation in such medical programs, the Senate bill required that reassigned miners retain the pay they had received in their previous classification, as well as any increases in wages to which they would have been entitled had they not been reassigned. Finally, the Senate bill provided for certain medical examinations of miners, in the nature of research, to be conducted at the expenses of the Secretary of Health, Education, and Welfare; and permitted the results of such examinations to be furnished to the Secretaries, and at the miner's request, to his personal physician. The House amendment contained none of these provisions. (Section 203(b)(3) of the Coal Act, providing limited reassignment rights to coal miners exposed to coal

dust, but without protection of pay, was contained in both the Senate bill and the House amendment).

The conference substitute conforms to the Senate bill, except that it limits the scope of the provision which guarantees that a miner who is reassigned to a different job classification will suffer no reduction in compensation if such reassignment is the result of a medical examination indicating that such miner may suffer material impairment of health or functional capacity by futher exposure to a toxic substance or harmful physical agent. After reassignment, however, such miner will be entitled only to the same dollar rate increases applicable to his new job classification. The conferees intend this provision to encourage miner participation in medical examination programs by insuring that miners who do participate in such programs shall suffer no immediate financial disadvantage if a medical examination results in a job reassignment.

The Senate bill required the Secretary to the extent practicable, to promulgate separate safety and health standards applicable to mine contruction activity on the surface. The House amendment contained no such specific requirement.

The conference substitute conforms to the Senate bill.

The Senate bill permitted the Secretary to issue an emergency temporary standard where such was necessary to protect miners from grave dangers. Such standard is to be immediately effective until replaced by a permanent standard, which shall be finally promulgated no later than 9 months after the publication of the emergency standard. The House amendment did not authorize the use of emergency temporary standards.

The conference substitute conforms to the Senate bill.

VARIANCES FROM STANDARDS

The Senate bill permitted the Secretary to grant a variance from any standard to permit the operator to engage in approved research to demonstrate new techniques, upon a finding that the granting of such variance would not diminish the protection afforded to miners. The House amendment did not authorize the issuance of such "research variances".

The conference substitute does not contain this provision from the Senate bill.

Both the Senate bill and the House amendment contained substantially similar provisions, based on section 301(c) of the Coal Act, permitting the Secretary to grant variances from existing standards. The Senate bill permitted variances from both safety and new health standards. The House amendment permitted variances from safety standards only.

The conference substitute conforms to the House amendment.

The Senate bill prohibited variances from mandatory health standards applicable to coal mines established in or promulgated pursuant to Title II of the Coal Act. The House amendment did not provide for variances from any health standards.

The conference substitute does not include this provision from the Senate bill, because the conference substitute elsewhere provides that there shall be no such variances.

The Senate bill provided for review of any promulgated standard in the U.S. Court of Appeals. It required that all actions for review be commenced within 60 days of final promulgation of the standard. The Senate bill further provided that objections not raised in the administrative proceedings not be considered by the court except for good cause, and that the judicial review procedure be the only mechanism for contesting the validity of standards, so that such standards shall not be subject to collateral attack in enforcement proceedings. The House bill had no provision for judicial review.

The conference substitute conforms to the Senate bill.

The House amendment adopted the provision of Section 101(k) of the Coal Act requiring the Secretary to send copies of each proposed standard or regulation, at the time of publication in the Federal Register, to the operator of each mine and the representatives to employees at that mine, and that such be posted at the mine. The Senate bill contained no such provision.

The conference substitute conforms to the House amendment.

ADVISORY COMMITTEES

The Senate bill authorized the Secretary to appoint ad hoc advisory committees to assist him in his standards-setting functions and other responsibilities. The House amendment, adopting the provisions of Section 102 of the Coal Act, required that the Secretary of the Interior and the Secretary of Health, Education, and Welfare establish standing advisory committees to advise with respect to safety and health research, respectively. In addition, the House amendment authorized the Secretary of Labor to establish advisory committees to assist in standards-setting responsibilities.

The conference substitute conforms to the House amendment.

INSPECTIONS, INVESTIGATIONS AND RECORDKEEPING

Both the Senate bill and the House amendment adopted the provisions of Section 103 (a) and (b) of the Coal Act, authorizing the inspection and investigation of mines. The Senate bill specified in the same section authority of the Secretary of HEW to conduct such inspections and investigations consistent with the Secretary of HEW's authority to assist the Secretary in the development and enforcement of health standards. The House amendment adopted Section 103 (b)(3) of the Coal Act, which provided similar authority. The Secretary of HEW has no enforcement responsibility under the Senate bill or the House amendment. The House amendment continued the provision of the Coal Act that the Secretary of Labor not give advance notice of any inspection to determine the existence of imminent danger or operator compliance with the Act or the standards thereunder. The Senate bill prohibited advance notice of any inspection conducted by the Secretary of Labor irrespective of the purpose. The Senate bill did permit the HEW Secretary to give advance notice of inspections or investigations conducted for the purpose of obtaining or disseminating information or for the development of standards.

The Senate bill mandated no fewer than four inspections per year for underground mines and no fewer than two per year for surface mines, and required the Secretary of Labor to develop more frequent inspection schedules for hazardous mines. The House amendment required only that underground mines be inspected at least four times per year.

The conference substitute conforms to the Senate bill, with an amendment to clarify the fact that while the Secretary of Health, Education, and Welfare has authority to enter the mines, he has no enforcement responsibilities. The Secretary of Health, Education, and Welfare's role in connection with investigation and inspection is to gather information regarding safety and health conditions, to assist in the development of new or improved health standards criteria and to assist the Secretary of Labor in determining whether an imminent danger exists in a mine or whether there is compliance with mandatory safety or health standards. This role of assisting the Secretary does not include the authority to issue citations or withdrawal orders.

The Senate bill established the authority of the Secretary to require the attendance of witnesses or the production of evidence in connection with the investigation of accidents or other conditions in mines relating to health or safety. The House amendment adopted Section 103(d) of the Coal Act, which provided similar authority. The House amendment created this right for investigations of accidents or *other occurrences*. The Senate bill established this right for a somewhat broader scope of investigations or accidents or *other conditions* relating to health or safety in a mine. The House amendment permitted the Secretary's investigators to administer oaths, the Senate bill did not. The House amendment adopted Section 103(c) of the Coal Act, authorizing the Secretary to use the personnel and facilities of other Federal agencies in carrying out his responsibilities under the Act. The Senate bill contained no such specific authority.

The conference substitute conforms to the House amendment.

The Senate bill required operators to maintain records, pursuant to regulations issued by the Secretaries, regarding their activities relating to the Act, for the purpose of developing information on the causes and prevention of occupational accidents and illnesses. Regulations could require the operators to conduct periodic inspections. The House amendment contained no similar provision.

The conference substitute does not include the Senate provision, because the conference substitute provides elsewhere for certain necessary recordkeeping.

The Senate bill authorized the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, to promulgate regulations requiring operators to maintain accurate records and make periodic reports to the Secretary. The House amendment had no similar provision.

The conference substitute does not include the Senate provision, because the conference substitute provides elsewhere for certain necessary recordkeeping.

The Senate bill authorized the Secretary, in cooperation with the Secretary of HEW, to promulgate regulations requiring operators to maintain accurate records of miner exposure to toxic substances or harmful physical agents which are regulated by mandatory health or safety standards. Miners, or their representatives, were to be permitted to observe monitoring of exposure levels under such standards, and miners were to have access to the records of their own exposure. Such standards were to require operators to notify miners if an individual miner's exposure exceeds levels permitted by the standard, and to inform miners of corrective measures being taken to eliminate or avoid such future exposure. The House amendment contained no such provisions.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment adopted the language of Section 111(a) of the Coal Act, requiring operator investigation and recording of accidents in the mine. The Senate bill did not include the provision, which was in the House amendment, requiring periodic reporting of such occurrences to the Secretary.

The conference substitute conforms to the House amendment.

The Senate bill required that in determining recordkeeping and reporting requirements, the Secretary do so in a manner which will impose a minimum burden on operators, especially small operators. The House amendment contained no such provision.

The conference substitute includes the provision of the Senate bill, as modified to require that the Secretaries obtain information in a manner which will not impose an unreasonable burden on operators.

Both the Senate bill and the House amendment contained provisions permitting miners' representatives to accompany inspectors on mine inspections. The House amendment did so by adopting Section 103(h) of the Coal Act. The Senate bill permitted miners' representatives to participate not only in the actual inspection of the mine itself, but also in any pre- or post-inspection conferences held at the mine. Under the House amendment this right was limited to the actual inspection of the mine. The Senate bill required the Secretary to consult with a reasonable number of miners if there was no authorized representative of miners. The House amendment did not contain this protection for unorganized miners. The Senate bill permitted the Secretary's representative to permit more than one miner representative to participate in such inspection and conferences, and further, to encourage miner participation, provided that one such representative of miners, who is also an employee of the operator, be paid by the operator for his participation in the inspection and conferences. The House amendment did not contain these provisions.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment (which adopted Section 103(g) of the Coal Act) contained substantially similar provisions entitling miners' representatives to request in writing inspections based on suspected violations of standards or conditions of imminent danger. The Senate bill authorized such inspections to be requested by miners or their representatives, while the House amendment authorized the miners' representatives only to request such inspections. The House amendment, which contained no general duty clause authorized requests for inspections only for suspected violations of standards or conditions of imminent danger. The Senate bill, which contained a general duty clause, also authorized such inspections to be requested if there is a suspected violation of the Act.

While both the Senate bill and the House amendment required that any such request for an inspection be served on the mine operator no later than the commencement of the inspection in order to protect miners from possible retribution, the Senate bill required that the name of the person requesting the inspection, and the names of any miners referred to therein not appear on the copy of the request served on the operator. The House amendment only required that such names be deleted if the person giving the notice so requested.

Finally, in order to assure miners that such requests are acted upon, the Senate bill required the Secretary to notify the party requesting the inspection if there was no violation or danger. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill, except that such inspections can be requested only by a representative of miners, or by a miner where there is no such representative of miners at the mine.

The conference substitute contains a further amendment requiring the Secretary to notify the operator of the mine or his agent forthwith if the complaint indicates that an imminent danger exists. Otherwise, miners might continue to work in an imminently dangerous situation until the Secretary is able to inspect the mine pursuant to the request. Accordingly, an operator who receives such notice would do what is necessary to evaluate the situation and protect the miners who may be exposed from such dangerous situation. While this provision, in fact, gives the operators the opportunity to abate such dangerous conditions—its sole purpose is to protect the health and safety of miners. The failure of the Secretary to notify the operator or his agent under this provision will not nullify any citation or order which may be issued as a result of the inspection in response to the request under this section, even if such inspection discloses the existence of an imminent danger situation in the mine.

The Senate bill additionally permitted miners or their representatives to request inspections of violations or imminent dangers prior to or during any inspection of a mine. Such requests were to be in writing. The Secretary was authorized to promulgate regulations establishing procedures for informal review of any refusal to make such an inspection. There was no such provision in the House amendment.

The conference substitute conforms to the Senate bill, except that the right to request such inspections is limited to miners' representatives in mines where there are such representatives, and to miners in mines where there are no such representatives of miners.

The Senate bill authorized the Secretary and the Secretary of Health, Education, and Welfare to compile, summarize and periodically publish reports and information obtained from operators under the Act. The House amendment adopted section 111(b) of the Coal Act, which required only the Secretary of Labor to compile, analyze, or publish said information. Additionally, however, the House amendment permitted public access to all such information and authorized the Secretary to require records, reports, and other information not otherwise specified by the Act.

The conference substitute conforms to the House amendment, with an amendment also authorizing the Secretary of Health, Education, and Welfare to compile such statistics and issue reports in areas pertinent to his responsibilities under the Act.

The Senate bill authorized the Secretaries to publish rules and regulations as they deemed necessary to carry out their responsibilities under the Act.

The conference substitute contains no such provision since both the Senate bill and the House amendment provide such authority elsewhere in the Act.

The House amendment adopted the provisions of Section 103(i) of the Coal Act, requiring inspection of mines which liberate excessive quantities of explosive gases, or in which there has been an ignition or explosion of gas within the previous 5 years. The Senate bill expanded upon this provision, by establishing an inspection schedule for such mines, based upon the amount of methane or other explosive gases liberated, requiring such inspections at mines which liberate 200,000 cubic feet of such gases per day or more. The Senate bill thus required more frequent inspections at these mines than currently required by MESA regulations.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment contained substantially similar provisions, adopted from Section 103(e) and (f) of the Coal Act, requiring operators to take steps to assist in the investigation of accidents. The Senate bill made it clear that this requirement applied even if the accident did not result in injury or death. Both the Senate bill and the House amendment contained identical provisions establishing the Secretary's authority to take steps to prevent death or injury in the case of accidents, and to take appropriate actions with respect to rescue and recovery work.

The conference substitute conforms to the House amendment.

CITATIONS AND ORDERS

Section 105(a) (of section 201) of the Senate bill established the Secretary's authority to issue citations or orders based upon violations of the Act or any standards promulgated thereunder. Similar authority is created by Section 104(b) of the Coal Act, which was adopted by the House amendment. The Senate bill, which had a general duty clause, permitted the issuance of a citation or order based upon the violation of the Act or a standard. The House amendment, which had no general duty clause, permitted the citation or order to be based upon the violation of a standard. The Senate bill permits the issuance of a citation or order based upon the inspector's belief that a violation occurs. The House amendment required that the citation or order be based on the inspector's *finding* that there was a violation. The Senate bill required that the citation or order be served with reasonable promptness upon the mine operator. The House amendment, adopting section 104(f) of the Coal Act, similarly required that such citations or orders be served promptly. The Senate bill, however, stipulated that failure to issue the citation with reasonable promptness not be a jurisdictional prerequisite to enforcement of the Act. The House amendment did not so provide.

The conference substitute adopts the provision of the Senate bill with a conforming amendment eliminating references to the general duty clause.

Section 105(b) (of section 201) of the Senate bill and the House amendment, adopting Section 104(b) of the Coal Act, established substantially similar authority for the issuance of "failure to abate" withdrawal orders. In both versions, the issuance of such orders was to be based on findings of the Secretary or his authorized representative of the existence of the same set of circumstances.

Both version identified the persons who shall be permitted to enter such mine or section of a mine closed by such an order, except that the Senate bill specified that "Any legal or technical consultant" who is certified and qualified, and whose presence is deemed necessary may enter. The House amendment, adopting section 104(d) of the Coal Act, specified "Any consultant . . .".

The conference substitute adopts the provisions of the House amendment with respect to those persons who shall be permitted in a mine subject to a withdrawal order.

Except to the extent that the Senate bill used the term "unwarranted failure", the Senate bill and the House amendment contained identical provisions for notice and closure order authority for unwarranted or unwarrantable failures to comply.

The conference substitute conforms to the House amendment, thus retaining the identical language of existing law.

The Senate bill provided authority for the Secretary to put an operator on notice that there exists in the mine a pattern of violations, whether unwarranted or not, which could substntially or significantly contribute to the cause and effect of a mine safety or health hazard. If another such violation were to be found within 90 days following the issuance of this notice, the mine or affected portion was to be closed, until such violation was abated. Once such order had been issued, each successive finding of a violation which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard would result in the issuance of a withdrawal order until such time as an inspection of the entire mine revealed no violations which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard, at which time, the notice of the pattern of such violations was to be terminated. The House amendment contained no such authority.

The conference substitute conforms to the Senate bill. While a notice may be based on the existence of a pattern of violations of one

standard or of a number of different standards it is the intention of the conferees that the pattern can be based only on violations of standards that "significantly or substantially contribute to the cause and effect of a mine safety and health hazard." After the notice of the existence of a pattern, although an order could be issued under this provision for a violation which is not one which makes up the pattern, the violation which results in the issuance of the order must be one which could significantly or substantially contribute to the cause and effect of a mine safety and health hazard". Thus, just as the pattern may not be based merely on violations of technical standards, the order under this section cannot be based on violations of technical standards.

The Senate bill required that during the abatement period for any violation related to levels of dust in a mine the operator take samples of the air in such mine during each production shift. After an order related to failure to abate a dust violation had been issued, the Secretary was required, as soon as possible to dispatch a team of experts to the mine to assist the operator, upon his request, in reducing respirable dust concentrations. Such a team would have the authority to require the operator to take actions necessary to protect the health of persons in the mine.

The House amendment adopted the substantially similar provisions of section 104 (i) of the Coal Act. The Senate bill deleted specific authority, contained in section 104 (i) of the Coal Act, to require abatement and issue withdrawal orders in mines where the applicable limits of respirable dust are exceeded, since the authority to issue such orders was contained in section 105(b) of the Senate bill, in cases where excessive dust is noted by an inspector. The Senate bill did not contain the authority contained in section 104(i) of the Coal Act to permit the Secretary to require abatement and issue withdrawal orders based on operator obtained samples.

The conference substitute conforms to the House amendment.

The Senate bill required that all miners be given certain elementary mine safety and health training, and authorized the inspectors to remove from the mine any miner who had not received the requisite training, and to prohibit that miner's reentry to the mine until such time as the miner had received the required training. The Senate bill required that the miner so removed not suffer loss of compensation during the time he was not permitted to reenter the mine, and further prohibited discrimination against any such miner because of such an order

The House amendment did not contain these provisions.

The conference substitute conforms to the Senate bill.

The Senate bill contained a provision requiring the posting of citations and orders at the mine.

The conference substitute does not include the Senate provision, since a similar requirement is contained elsewhere in the conference substitute.

Section 104(g) of the Coal Act, adopted by the House amendment, provides that notices and orders issued pursuant to that section may be modified, terminated, or vacated by the authorized representative of the Secretary. The Senate bill provided that such orders shall remain in effect until modified or terminated by the Secretary or authorized representative, or until modified, terminated or vacated by the Commission or courts pursuant to review of such notices or orders.

The conference substitute conforms to the Senate bill.

PROCEDURE FOR ENFORCEMENT

The Senate bill required that within a reasonable time after completion of the inspection, the Secretary notify the operator, by certified mail, of the proposed civil penalty to be assessed for any violation noted in the inspection. Such notice, a copy of which must be sent to the representatives of miners at the mine, would notify the operator that he had fifteen working days from receipt to contest the citation or proposed civil penalty assessment. If within 15 working days, the operator or any miner or the representative of miners did not contest the civil penalty assessment or citation, such would be the final order of the Commission, and would not be reviewable in any court.

The House amendment adopted the provisions of the current Coal Act (section 105(a)(1)) which provide that upon issuance of an order or notice, the operator or representative of miners (but not specific miners) shall have a period of 30 days to seek review of the order or notice by the Secretary. With respect to proposed civil penalties, the House amendment, adopting Section 109(a)(3) of the Coal Act, provided that civil penalties shall not be finally assessed by the Secretary until the person charged has been afforded the opportunity for a hearing. The House amendment contained no time limitation on petitions for review of proposed civil penalties.

The conference substitute conforms to the Senate bill, with an amendment changing the period within which appeals may be taken from orders and penalty proposals from "fifteen working days" to "thirty days." The conferees intend that this shall mean 30 calendar days.

The Senate bill authorized an additional discretionary civil penalty of not more than one thousand dollars per day for each day beyond the abatement period in which a violation goes unabated. Accordingly, the Senate bill required that when serving the operator with the notice that the violation had continued unabated beyond the abatement period, the Secretary inform the operator at the same time that he proposed a civil penalty pursuant to section 111(b) of the Senate bill. The same 15 working day period, in which to contest the citation, notice or order and proposed penalty applied in such situations, and failure to contest any such citation, notice, order, or proposed penalty within that period would make the proposed assessment the final order of the Commission.

The House amendment, which contained no such extra penalty possibility, contained no similar provision.

The conference substitute conforms to the Senate bill, changing the period in which appeals may be taken from such penalty proposals to 30 calendar days in lieu of the "15 working day" period specified in the Senate bill; and and amendment which states the factors which the Secretary should consider in exercising his discretion to propose this additional penalty for failure to abate.

Both with respect to its proposal by the Secretary and its assessment by the Commission, the penalty for non-abatement of a violation is a matter of discretion. It is clearly not the intention of the conferees that this sanction be used in all cases. Accordingly, the conferees intend that the Secretary shall not propose the additional civil penalty for failure to abate a violation until he has considered the factors enumerated in section 105(b)(1)(B) of the conference substitute. While these factors are identical to those which serve as the criteria for the proposal of penalties by the Secretary and the assessment of penalties by the Commission generally, they must be viewed in the context in which they are to be applied; that is, from the perspective of whether to propose the assessment of this penalty at all.

The Senate bill provided that the Commission could grant temporary relief from a nonabatement withdrawal order if a hearing had been held in which all parties were afforded the opportunity to participate, the applicant had shown that there was substantial likelihood that he would ultimately prevail on the merits, and such relief would not adversely affect the health and safety of the miners. The Commission would provide expedited procedures for such cases.

The House amendment provided that the Secretary could issue temporary relief from nonabatement withdrawal orders under identical conditions. (section 105(d) of the Coal Act.)

The possibilities for temporary relief by the Commission under the Senate bill were somewhat more limited than the possibilities for temporary relief by the Secretary under the House amendment. Both measures provide no authority for temporary relief from imminent danger closure orders. The House amendment permitted a temporary relief from all notices issued under Section 104 of the Coal Act for unwarrantable failure and technological inability to abate; and from all orders issued under section 104 for failure to abate, unwarrantable failure to comply, technological inability to comply, and excessive dust. The Senate bill permitted temporary relief only for failure to abate orders.

The conference substitute contains a new provision, which incorporates the features of both the Senate bill and the House amendment. The substitute language provides that such temporary relief may be granted by the Commission, but expands the situations in which parties may seek such temporary relief to include all the situations encompassed by the House amendment.

DISCRIMINATION AGAINST MINERS

The Senate bill prohibited discrimination against miners, their representatives, or applicants for employment because of their activities under the Act. The House amendment, adopting Section 110(b) of the Coal Act, protected only miners and their authorized representatives (the Senate bill did not use the term "authorized"). The House amendment did not afford this protection to job applicants.

The Senate bill defined a broad range of "protected activities", to wit: Making or filing a complaint, including a complaint of a suspected violation of imminent danger; being subject to medical evaluation and potential transfer under a standard; instituting or causing to be instituted any proceeding under the Act; testifying in any such proceeding; or exercising any statutory right under the Act. The House amendment specified as protected activities; notifying the Secretary of any alleged violation, instituting or causing to be instituted any proceeding under the act, or testifying in any such proceeding.

The conference substitute conforms to the Senate bill.

The Senate bill provided that any person within the protected class could file his complaint with the Secretary within 60 days of occurrence, and that within 15 days of receipt of the complaint the Secretary commence the investigation, as appropriate. The House amendment required that such complaints be filed within 30 days of the occurrence, and, unlike the Senate bill, required that a copy of the complaint be filed with the operator. The House amendment also required the Secretary to conduct such investigation as may be appropriate, but did not require that the investigation be commenced within any specific time period.

To protect miners from the adverse and chilling effect of loss of employment while such matters are being investigated, the Senate bill provided that if the Secretary determined that any such complaint was not frivolously brought, the Secretary seek temporary reinstatement of the complaining miner pending final outcome of the investigation and the Commission order such reinstatement, after expedited proceedings. The House amendment contained no such provision.

The Senate bill provided that upon completion of the investigation, if the Secretary found that there had been such discrimination, he immediately file a complaint with the Commission, with copies to the complaining party and the violator. The Commission, after affording the parties an opportunity for a hearing, could order appropriate relief, including affirmative action, which may include reinstatement with back pay. Complainants also have the right to present evidence at any such hearings. The House amendment (adopting Section 110(b)(2) of the Coal Act) provided for similar proceedings.

The Senate bill required that the Secretary notify the complaining party of the outcome of the investigation within 90 days of receipt of the complaint. The House amendment contained no such limitation on the completion of investigations.

Under the Senate bill, a complaining party could, within 30 days of an adverse determination by the Secretary, file an action with the Commission on his own behalf. The Commission must afford an opportunity for a hearing, and thereafter, issue an order, based upon findings of fact, dismissing or sustaining the complaint, and granting such relief as may be appropriate. If the complainant prevailed in an action which he brought himself after the Secretary's determination, the Commission order would require that the violator pay all expenses reasonably incurred by the complainant in bringing the action. Unless appealed to the courts within thirty days, the Commission's decision would become final.

The Senate bill established the Commission and its role in miner discrimination complaints. The House amendment did not provide for the independent Commission. Accordingly, the House amendment did not establish this right of complainants to prosecute their cases before the Commission if the Secretary determined that there is no violation based on his investigation of the complainant. The House amendment did permit complaining parties to appeal adverse determinations of the Secretary to the courts, and provided, as the Senate bill did, that if the complainant prevailed in court, the award include all reasonable costs incurred. Both the Senate bill and the House amendment provided judicial review of the final agency act (the Commission decision in the case of the Senate bill, the Secretary's determination in the case of the House amendment) to the courts. Both versions also provided that matters of employee discrimination be subject to the judicial review, injunctive relief, and penalty provisions of the Act.

The conference substitute conforms to the Senate bill, with an amendment to require the Secretary upon receipt to forward a copy of the complaint to the respondent.

ADMINISTRATIVE REVIEW

The Senate bill required that parties wishing to contest the issuance or modification of an order, or a notification, or the abatement requirement notify the Secretary of the intention to contest within 15 working days of receipt thereof. The Senate bill required that the Secretary immediately notify the Commission, which would afford the parties an opportunity for a hearing, and issue a final decision, based on findings of fact affirming, modifying or vacating the Secretary's order, citation or proposed penalty, and directing other appropriate relief. The order of the Commission would become final 30 days after its issuance. Miners or their representatives were afforded the opportunity to participate in such hearings as parties.

The House amendment adopted Section 105 of the Coal Act, which provided similar procedures for contesting notices or orders, to the Secretary rather than the Commission. The same 30-day period for the filing of such actions applied. As in the Senate bill, the House amendment provided for the holding of hearings, subject to the provisions of section 554 of title 5, United States Code (except that the Senate bill excluded reference to subsection (a)(3) of that section), and required the issuance of a final decision on the notice, order or the assessment of a civil penalty, based on findings of fact. The House amendment did not provide that the decision would become final 30 days after issuance.

The conference substitute conforms to the Senate bill, with the amendment providing thirty calendar days for the filing of administrative appeals rather than the fifteen working days provided in the Senate bill.

JUDICIAL REVIEW

The Senate bill provided a procedure for review of any order of the Commission upon petition filed within 30 days of the Commission's order, in the United States court of appeals for the circuit in which the alleged violation occurred, the circuit within which the operator maintains his principal office, or the District of Columbia Circuit. The House amendment, adopting section 106 of the Coal Act, contained similar authority, except that it did not create jurisdiction in the circuit in which the operator maintains its principal office.

The procedure for judicial review in the Senate bill was a uniform procedure applicable to all final orders of the Commission including the assessment of civil penalties. The House amendment (Sec. 109(a)(4)) maintained the separate judicial review of penalty matters which currently exists in the Coal Act.

Both versions contained substantially similar provisions for the certification of the record by the Commission (in the case of the Senate bill) or by the Secretary (under the House amendment). Both versions authorized the court to affirm, modify, or set aside the administrative decision below, or to remand the case to the Commission (under the Senate bill) or the Secretary (under the House amendment) for further findings of fact. Both versions required that administrative findings be conclusive if supported by substantial evidence on the record as a whole.

The Senate bill provided that no objection not urged before the Commission could be raised before the court unless the failure to urge such objection was excused because of extraordinary circumstances. The House amendment had no such provision. Under the Senate bill, where a party sought to adduce additional evidence, and showed that such additional evidence was material, and the failure to adduce it below was excusable, the court must remand the matter to the Commission for additional hearings, and the Commission would modify its findings of fact or make new findings of fact. The House amendment permitted the court to similarly remand a case to the Secretary for additional hearing and finding of fact.

The conference substitute conforms to the Senate bill, with an amendment to eliminate the jurisdiction of the court of appeals for the circuit in which the operator maintains its principal office.

Both the Senate bill and the House amendment (which adopts Section 106(c) of the Coal Act) authorized the court to grant temporary relief from final agency orders or decisions under similar conditions. The Senate bill permitted such temporary relief from all orders, notices or decisions except that it permitted no temporary relief from imminent danger withdrawal orders. The House amendment did not permit temporary relief from imminent danger withdrawal orders or from orders or decisions pertaining to (a) notices issued in the course of inspections for violations of standards or (b) notices based on respirable dust violations.

The conference substitute conforms to the House amendment, with a technical amendment.

The Senate bill authorized the Secretary to seek review or enforcement of any final order of the Commission under the same procedures as private parties. The House amendment contained no such authority for the Secretary to seek review of enforcement.

The Senate bill also provided that if no appeal from the final order of the Commission was filed within thirty days, the Secretary could seek enforcement of such order in the circuit court, and that in such cases, the findings of fact and order of the Commission are conclusive. In any such case, as well as in cases where there has been no contest of proposed penalties, the clerk of the court could automatically enter a decree enforcing such order. The House amendment contained no provision for automatic enforcement of uncontested cases.

The conference substitute conforms to the Senate bill with an amendment specifying the circuit court jurisdiction.

The House amendment contained a provision stipulating that unless ordered by the Court, the commencement of a proceeding under this section would not operate as a stay of any order or decision. The Senate bill contained no such provision.

The conference substitute conforms to the House amendment, with a technical amendment.

PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

The Senate bill and the House amendment stated the identical authority for the Secretary to issue an order closing all or the affected portion of a mine upon the finding of an imminent danger; except that the Senate bill stated that such order shall issue upon the finding that "conditions or practices in such mines are such that imminent danger exists", while the House amendment (adopting Section 104(a) of the Coal Act) stated that such order shall issue upon the finding "that an imminent danger exists".

Under both versions, the issuance of such an order precluded access to the mine or affected portion to all persons except those authorized.

Under both versions, the issuance of an imminent danger withdrawal order would not preclude the issuance of a notice (or citation) or the proposal of a civil penalty assessment.

The conference substitute conforms to the Senate bill, with an amendment which requires that the issuance of such withdrawal orders be based on the finding that "an imminent danger exists."

The Senate bill and the House amendment contained identical provisions for the closure of mines in which exist conditions which, while not imminently dangerous, cannot be effectively abated through the use of existing technology. Under the Senate bill, this remedy was available where there exists a "potentially dangerous condition" which, although not imminently dangerous, cannot be effectively abated. Under the House amendment, which adopts Section 104(h) of the Coal Act, this remedy was available where there exists "a condition" which, although not imminently dangerous, cannot be abated.

The conference substitute conforms to the House amendment.

The Senate bill and the House amendment (section 104(c) of the Coal Act) contained substantially similar requirements that notices and orders contain detailed descriptions of the conditions or practices found to constitute an imminent danger and the affected area of the mine throughout which persons must be withdrawn.

The conference substitute conforms to the House amendment with a technical amendment.

The Senate bill and the House amendment required that imminent danger and technological-inability-to-abate findings and orders be in writing, signed by the authorized representative of the Secretary, and promptly given to the operator of the mine. The Senate bill provided that such orders could be modified or terminated by the authorized representative of the Secretary. The House amendment (section 104(f) and (g) of the Coal Act) did not provide that technological inability to abate findings and orders could be modified by the Secretary's representative.

The Senate bill further provided that such orders remain in effect until modified or terminated by the authorized representative of the Secretary or by the Secretary, or until modified or vacated by the Commission or courts. The House amendment did not provide for review of enforcement actions by an independent Commission, but did provide (at section 105(a) of the Coal Act) that any operator's request for review by the Secretary would not act as a stay of the order or notice.

The conference substitute conforms to the Senate bill, except that it retains the provision of the House amendment which prohibits the authorized representative of the Secretary from modifying technological-inability-to-abate orders.

The Senate bill required that parties wishing to contest the issuance of an imminent danger withdrawal order or technological inability to abate withdrawal order apply to the Commission within 10 days of the issuance of such order, and that the Commission provide expedited procedures for reviewing such cases. The Senate bill further provided that there shall be no temporary relief from an imminent danger withdrawal order by either the Commission or the courts.

The House amendment (section 105(a) of the Coal Act) permitted requests for administrative review of such orders within 30 days of issuance; and similarly prohibited temporary relief, either administratively or by the courts, of imminent danger withdrawal orders.

The conference substitute conforms to the Senate bill, with an amendment extending the time within which appeals from the issuance of such orders can be taken, from 10 to 30 days.

INJUNCTIONS

The Senate bill and the House amendment contained provisions identical in substance for injunctive relief by the district court against violations by operators or operator interference with the Secretary or the Secretary of Health, Education, and Welfare in enforcing the Act.

The Senate bill further provided for injunctive or special relief in cases of mine operators who engage in a pattern of violations of the Act which constitute a continuing hazard to the health and safety of miners. The House amendment, and the current Coal Act, provided no specific authority for injunctive or special relief directed to operators who engage in repetitive or continuing violations of the Act.

The conference substitute conforms to the Senate bill. The conferees intend that the provision in this section for injunctive relief in cases of patterns and practices of violations will not duplicate the civil withdrawal order remedy created in section 104(e) of the bill for patterns of violations which significant and substantially contribute to the cause and effect of a mine safety and health hazard. The injunctive remedy contained in this section is intended to provide the Secretary with additional flexibility in dealing with habitual or chronic violators. Thus, the Secretary may seek this remedy when the withdrawal orders available to him, including the section 104(e) procedure, has been unsuccessful in achieving lasting compliance with the Act and its requirements. The injunctive remedy enables the court to require affirmative corrective measures, for instance, which may be broader in scope than mere correction of a specific violation.

POSTING REQUIREMENT

The Senate bill and the House amendment, which adopts Section 107 of the Coal Act, contained the same provisions requiring the posting of notices, orders and decisions, except that the Senate bill also required the posting of citations, and that all such postings by operators be for a period of not less than 30 days. The House amendment contained no such minimum posting period.

The conference substitute conforms to the House amendment, with a conforming technical amendment.

PENALTIES

The Senate bill and the House amendment provided for a civil penalty of not more than $10,000 for each violation of the Act or a standard promulgated thereunder. The House amendment provided that each occurrence of a violation of a standard constitute a separate offense. The Senate bill did not so provide.

The conference substitute conforms to the House amendment.

The Senate bill provided a discretionary penalty of not more than $1,000 per day for each day beyond the abatement period in which a violation continued unabated. The House amendment contained no such provision.

The conference substitute conforms to the Senate bill.

The Senate bill provided that when an operator violated a provision of the Act or a standard, any director, officer, or agent of the operator who knowingly authorized, ordered or carried out such violation could himself be liable for the civil or criminal sanction. The House amendment contained a similar provision (section 109(c) of the Coal Act), except that it excluded such liability for penalties pursuant to section 109 (a) of the Coal Act (equivalent to section 111(a) of the Senate bill) and penalties based upon the discrimination against miners.

The conference substitute conforms to the House amendment.

The Senate bill and the House amendment both contained provisions for identical criminal penalties against operators who knowingly violated the Act, or any rule, order or regulation promulgated thereunder (Senate bill) or any standard or order (House amendment).

The conference substitute conforms to the House amendment.

The Senate bill provided a criminal sanction of not more than $1,000 or six months imprisonment, or both, for persons convicted of giving advance notice of any inspection. The House amendment contained no such sanction.

The conference substitute conforms to the Senate bill, with an amendment which excludes the applicability of this section in cases where advance notice of an inspection is authorized by the statute.

The Senate bill and the House amendment contained identical provisions imposing criminal sanctions in cases of false statements and certification, except that the Senate bill, consistent with the corresponding criminal provisions of the U.S. Code, provided for a maximum penalty of $10,000 or five years imprisonment, or both.

The conference substitute conforms to the Senate bill.

The Senate bill provided a civil penalty of not more than $10,000 for each instance of violation of a posting requirement prescribed under the Act. The House amendment contained no such sanction.

The conference substitute does not include the Senate provision.

The Senate bill and the House amendment both contained criminal sanctions against individuals who sell, distribute or introduce into commerce, equipment improperly represented as complying with the provisions of the Act or regulations or specifications of the Secretary. The penalty in the Senate bill was not more than $25,000 or 1 year imprisonment or both. In the House amendment, the penalty was not more than $10,000, 6 months imprisonment, or both.

The conference substitute conforms to the House amendment.

The Senate bill provided that the independent Mine Safety and Health Review Commission would have the authority to assess all civil penalties, based on proposals made by the Secretary. The Secretary, in making his proposals, would rely on a summary review of information available to him, and need not make findings of fact. In assessing civil penalties, the Commission would consider the gravity of the violation, the good faith of the person charged, the history of previous violations, and the size of the business being charged.

The House amendment, adopting Section 109(a)(1) and (3) of the Coal Act, provided that the Secretary assess civil penalties, after the charged person is afforded the opportunity for a public hearing. (The Senate bill also required such a hearing.) The criteria upon which the Secretary was to assess a civil penalty were similar to those provided in the Senate bill, plus (i) the negligence of the operator, and (ii) the effect on the operator's ability to continue in business.

The conference substitute conforms to the Senate bill, with an amendment incorporating the six criteria contained in the House amendment in lieu of the four in the Senate bill; which criteria shall be those upon which the Secretary shall propose a civil penalty and the Commission shall assess such penalty.

The Senate bill provided that civil penalties accrue to the United States and may be recovered in case which have become final in a civil collection action in district court by the Secretary. Interest in the amount of 8 percent per annum was to accrue after thirty days following the final order of the Secretary, the Commission or the court. These provisions, which were not contained in the House amendment, were intended to simplify and expedite collection of civil penalties. The House amendment adopted the current collection provisions of section 109(a)(4) of the Coal Act. Under that procedure, if the person against whom the penalty was assessed failed to pay the penalty, the Secretary had to pursue penalty matters in the district court. The court then was required to consider and determine *de novo*, all relevant issues, except issues of fact which were or could have been litigated in the administrative proceedings; and upon request, issues of fact in dispute were to be submitted to a jury.

Under the Senate bill, in contested civil penalty cases, the appropriate judicial review was to be in the circuit court, based on a record review. There was no right to a jury determination of contested facts, and the factual determinations of the Commission were to be conclusive if supported by substantial evidence on the record as a whole.

The conference substitute conforms to the Senate bill.

The Senate bill prohibited the compromise, settlement, or mitigation of contested civil penalties without the express approval of the Commission or court, as appropriate. The House amendment contained no such limitation on the settlement of proposed civil penalties.

The conference substitute conforms to the Senate bill.

ENTITLEMENT OF MINERS

The Senate bill and the House amendment (which adopts section 110(a) of the Coal Act) contained substantially similar provisions for the payment of miners idled

because of the issuance of a withdrawal order. Under these provisions, miners receive pay for the balance of the shift, or 4 hours (whichever is less) for time lost due to any withdrawal order, irrespective of whether or not the withdrawal order was the result of the failure of the operator to comply with the Act or its requirements. The Senate bill also stipulated that miners have such entitlement "regardless of the result of any review of such order." The House amendment contained no such language.

Miners would also be entitled to pay for the period such mine was closed, or no more than one week, in the event the withdrawal order was the result of a failure of the operator to comply with the Act or its requirements, after the parties had been afforded the opportunity for a hearing on the question. The Senate bill provided for expedited hearings in such cases, and further provided that the Commission have the authority to order such payment upon the filing of a complaint by a miner or his representative. The House amendment did not so provide.

Under both versions, where an operator failed to withdraw miners after the issuance of a withdrawal order, the miners, who worked despite the order were entitled to their compensation for such work, and the compensation they would have been entitled to under this section if they had in fact been withdrawn.

The conference substitute conforms to the Senate bill.

ADMINISTRATIVE PROVISIONS

The Senate bill authorized and directed the Secretary of Labor to administer the provisions of this bill through a Mining Enforcement and Safety Administration established in the Department of Labor, and authorized the Assistant Secretary of Labor for Mine Safety and Health to appoint, subject to the civil service laws, such officers and employees as he may deem necessary. The House amendments contained no such provision, although both the Senate bill and the House amendment specifically established an agency within the Labor Department to be headed by an Assistant Secretary of Labor.

The conference substitute does not contain the Senate provision since the conferees deemed it to be redundant to authority contained elsewhere in the conference substitute.

The Senate bill authorized the Solicitor of Labor to appear for and represent the Secretary in all civil litigation arising under this Act except for litigation before the Supreme Court. The House amendment similarly provided that attorneys appointed by the Secretary may represent him in matters in the courts relating to the enforcement of the Act, subject to the direction and control of the Attorney General.

The conference substitute conforms to the Senate bill with an amendment providing that such litigation shall be subject to the control of the Attorney General. However, to insure that the positions and postures taken in federal courts by the Department of Labor are consistent with overall federal policy, the conference substitute authorizes the Attorney General to direct and control court litigation pursuant to this Act.

INDEPENDENT MINE SAFETY AND HEALTH REVIEW COMMISSION

The Senate bill established a Federal Mine Safety and Health Review Commission, to be composed of five members, to be appointed by the President, with the advice and consent of the Senate. The terms were to be for 6 years, except that initial appointments were to be for staggered terms. The President was to designate one member as Chairman.

The Senate bill further provided that the Chairman be the chief administrative officer of the Commission, and that the Commission be authorized to appoint such employees as may be necessary. Administrative Law Judges of the Department of the Interior currently assigned to the Office of Hearings and Appeals at Arlington, Virginia were to be automatically transferred in grade to the Commission, except that the chief Administrative Law Judge was to have the option of transferring as an Administrative Law Judge in the same grade and status as the other Administrative Law Judges. Administrative law judges assigned to the western facilities of the Interior Department Office of Hearings and Appeals who heard mine safety and health cases also had the option of transferring without loss of grade to the Commission. The Commission also had the authority to appoint such additional Administrative Law Judges as it deemed necessary.

The Senate bill further authorized the Commission to delegate all of its powers to any group of three or more of its members, and two members of any such group would constitute a quorum.

The House amendment did not create a Federal Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill required that Administrative Law Judges hear and decide any matter assigned and make a decision which would constitute a final disposition of the proceeding. Any such decision of the Administrative Law Judge would become the final decision of the Commission 40 days after its issuance unless, within such period, the Commission directed that such decision be reviewed.

Review of the Administrative Law Judges' decisions would be at the discretion of the Commission and be granted on the vote of two Commissioners present. Adversely affected or aggrieved persons could file petitions for review with the Commission within 30 days of the final order of the Administrative Law Judge, only on the grounds that (I) a finding or conclusion of material fact was not supported by substantial evidence, (II) a necessary legal conclusion was erroneous, (III) the decision was contrary to law, rules or decisions of the Commission, (IV) a substantial question of law, policy or discretion was involved, or (V) a prejudicial procedural error was committed. No assignment of error could be made on the basis of a question of law or fact upon which the Administrative Law Judge did not have the opportunity to pass.

The Commission also had the authority to review any decision of an Administrative Law Judge on its own initiative, by a vote of two Commissioners present and voting, and on the grounds that the decision was contrary to law or policy, or that a novel question had been presented.

Review by the Commission would be on the record.

The House amendment did not establish the Commission. The procedures for administrative review in the current Coal Act, which were adopted by the House amendment contained no provision governing the review by the Secretary of the decisions of the Administrative Law Judges.

Under the Coal Act, review by the Secretary was solely a matter of discretion, but the current Coal Act specified no basis for the exercise of that discretion. The Coal Act also provided no specific period of time within which the decision of an Administrative Law Judge could become the final and enforceable agency action, if not reviewed.

The conference substitute conforms to the Senate bill.

The Senate bill authorized the Commission or its administrative law judges to compel the attendance and testimony of witnesses and the production of evidence by deposition in any proceeding before them. Witnesses were to be paid fees and mileage, and the district courts of the United States would have jurisdiction in cases of contumacy or refusal of any person to appear or testify. The House amendment contained no such provisions.

The conference substitute conforms to the Senate bill.

AUTHORIZATION OF APPROPRIATION

The Senate bill authorized such funds as may be necessary to carry out the provisions of the enforcement and administrative title of the Act. The House amendment contained no such authorization.

The conference substitute conforms to the Senate bill.

MANDATORY HEALTH AND SAFETY TRAINING AND MINE RESCUE TEAMS

The Senate bill contained a provision requiring the Secretary to, within 180 days of the effective date of this bill, promulgate regulations with respect to the safety and health training of miners. Each operator would have a safety and health training plan, approved by the Secretary, which would provide new underground miners with no less than 40 hours of training, new surface miners with no less than 24 hours of training, and all miners with at least 8 hours of annual retraining. Any miner reassigned to a new task would be provided with training in the safety and health aspects of his new assignment. Safety and health training would be provided at the expense of the operator, and during normal working hours. Miners would be paid their normal rate of compensation for such time spent in training, and new miners would be paid their starting wage rate. If such training was given away from the mine, miners would also be compensated for their expenses.

Operators would certify that each miner received the requisite training. Training certificates would be provided to each miner, and a copy of each certificate shall be maintained at the mine. When a miner left the operator's employ, the training certificate would be provided to the miner.

The Secretary would also publish standards for safety and health training of mine construction workers.

Within 180 days after the effective date of this bill, the Secretary was required to promulgate regulations providing that mine rescue teams shall be available at the expense of the operator at each underground mine.

The House amendment contained no mandatory provisions relative to mine rescue teams of safety and health training of miners, except for section 502 of the Coal Act, which authorizes the Secretary to assist operators in developing training programs, but which does not require that such training be provided to miners, and which was carried forward under both the Senate bill and the House amendment.

The conference substitute conforms to the Senate bill, but with certain amendments which are intended to clarify the requirements of this section. The amended version requires that the training for new underground and surface miners be mandated only where the miner has had no previous work experience in underground or surface mining, respectively. The conference substitute also requires that the training for miners who are reassigned a new task need only be provided if that miner has had no work experience at that new task. The conferees intend that the Secretary will, by regulation, establish the minimum amount of previous experience which will be necessary before a miner will be considered to have had previous work experience sufficient to obviate the need for further safety and health training. For example, if a miner has had only a few days of underground mining experience, that experience shall not be considered "mining experience" for the purpose of excusing the operator from providing such miner with the training required by this section. A rule of reason is expected, consistent with the

conferees' intention that all miners have sufficient knowledge and skills, whether through experience or through formal training, to understand and cope with the hazards of this most dangerous occupation.

The conference substitute contains an amendment which requires the Secretary's regulations dealing with mandatory health and safety training to provide that to the extent practicable, the formal training required of miners include a period to be conducted in circumstances which as closely as possible duplicate actual underground or surface mining facilities. The conferees were impressed by testimony received by both the Senate and the House subcommittees relating some operator training programs which included extensive training in simulated mining facilities, including nonoperating sections of actual underground or surface mines. It is the conferees' belief that training in such facilities is vastly more beneficial to the understanding of miners of the dangers which they will confront than classroom training, and the conference substitute requires that the Secretary's regulations require such training facilities to the extent practicable. The conferees also recognize and endorse training under actual production conditions where such conditions may be essential to the training experience. The conferees state their intention, however, that while training in mock mine facilities, in non-working sections, or in actual production conditions be encouraged, "on-the-job training" is not contemplated. The conferees are aware that many small operators may find it beyond their individual capabilities to provide such training facilities, and that therefore, each operator should not be independently required to maintain such training facilities.

The conferees recognize miner training may strain the financial resources of many small operators. While the conference substitute does not exclude such operators from the requirement that Secretary approved training programs be made available by operators, the conferees anticipate that the Secretary, the States and the mining industry will be resourceful in securing means for small operators to provide this essential training.

The conferees are encouraged by the programs maintained in some mining States, in which the State trains miners and certifies them as eligible for mine employment. The conferees view such programs as a most efficient way for such training to be given to the employees of small operators. The conferees encourage the further development of such training programs in the States. Toward this end, the conferees expect the Secretaries to establish a priority for the use of the grants to States, provided by section 503 of the Federal Mine Safety and Health Act of 1977, to encourage the development of such training programs in the mining States, and to fully use the authority contained in section 502 to assist small operators.

Industry groups are encouraged to pool their resources in order to efficiently provide such training for their member operators. Local community colleges should be encouraged to establish training programs which would meet the requirements of this section. The conferees expect the Secretary to maintain a flexible approach in approving such training programs as complying with the operator's training requirements.

Finally, the conference substitute contains an amendment to the Senate bill, dealing with the requirement that operators of underground mines provide that mine rescue teams be available to their mines in case of accident or disasters. The language of the conference substitute requiring that rescue teams be available "to" each underground mine is to make clear the intention of the conferees that each underground mine operator is not necessarily required to establish and equip a mine rescue team at his mine; but rather, that operators may also meet this requirement by entering into contractual or cooperative agreements which insure the availability of such a team to their mine.

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY HEALTH AND SAFETY STANDARDS

The Senate bill rewrote the reference to concentrations of respirable dust, to eliminate the reference to the MRE device contained in section 202(e) of the Coal Act, and eliminated a definition of respirable dust contained in section 318(k) of the Coal Act in order to eliminate apparently conflicting definitions of respirable dust which have threatened to interfere with the civil penalty enforcement of the dust sampling program established in section 202 of the Coal Act. The House amendment did not make these changes.

The conference substitute conforms to the Senate bill.

The Senate bill made certain technical changes to section 301(a) and 301(b) of the Coal Act to reflect the renumbering of the sections of Title I accomplished by the Senate bill, and to reflect the change of definition of "Secretary" to mean the Secretary of Labor.

The Senate bill further deleted Section 301(c) of the Coal Act, since, under the Senate bill, the authority to grant variances from existing standards was established in title I, and was applicable to all mines.

The Senate bill also deleted section 301(d) of the Coal Act, as the procedure stated therein are set out in the appropriate sections of title I of the Senate bill.

The conference substitute conforms to the Senate bill.

MISCELLANEOUS PROVISIONS—TRANSFER MATTERS

The Senate bill and the House amendment contained identical provisions regarding the transfer of functions from the Secretary of the Interior to the Secretary of Labor, except that the Senate bill referenced the assignment of certain functions to the Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained substantially similar provisions concerning the carryover of existing safety and health standards under the Metal and Coal Acts as standards applicable to metal and nonmetallic mines and coal mines respectively under this bill. The Senate bill used the term defined in the Coal Act, "mandatory health or safety standards"; the House amendment referred only to "standards". The Senate bill stated that such standards be applicable until modified, amended or revoked under the provisions of this bill. The House amendment more clearly specifid that new standards promulgated under this bill be applicable to metal mines or to coal mines.

The conference substitute conforms to the House amendment, with a technical amendment to include the defined term, "mandatory health or safety standards".

The Senate bill and the House amendment contained substantially similar provisions for the appointment of an advisory committee to review existing permissive standards under the Metal Act. Based on its review, the Advisory Committee was to recommend which permissive standards with or without modification should be published as mandatory health or safety standards under this bill. These provisions provided identical procedures for an expedited public comment period and promulgation of the final standards or the Secretary's reasons for not so doing.

The Senate bill provided that the advisory committee be appointed by the Secretary of Labor in consultation with the Secretary of the Interior. The House amendment required that the Secretary of Labor appoint the advisory committee.

The conference substitute conforms to the Senate bill.

The House amendment provided that all interpretations, regulations or instructions of the Secretary of the Interior or the Director of the Bureau of Mines shall be published in the Federal Register and continue in effect under this bill until modified or superseded in accordance with the provisions of this Act, except those inconsistent with this bill or any amendment made by the bill. The Senate bill contained no such provision.

The conference substitute does not contain the provision of the House amendment, which was deemed by the conferees to be redundant of similar provisions contained elsewhere in the conference substitute.

The Senate bill and the House amendment contained identical provisions with respect to the transfer of unexpended appropriations, personnel, property, records, and commitments except that the Senate bill referenced the Mine Safety and Health Review Commission.

The conference substitute conforms to the Senate bill.

The Senate bill and the House amendment contained the same provisions that existing orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges in effect on the effective date of the bill shall remain in effect until modified terminated, superseded, set aside, revoked or repealed by the Secretary of Labor, court or operation of law; except that the Senate bill reference the Mine Safety and Health Review Commission or other authorized officials.

The conference substitute conforms to the Senate bill.

Both the Senate bill and the House amendment provided for the continuation of proceedings pending at the time of enactment. The Senate bill referenced proceedings pending before any department, agency or component thereof. The House amendment referenced proceedings pending before any department or agency. The Senate bill provided that such proceedings be continued before the Secretary of Labor or the Commission. The House amendment provided that they be continued before the Secretary of Labor.

The Senate bill provided that administrative actions continue to be made as if this section had not been enacted until modified, terminated, superseded, revoked or terminated by the Secretary of Labor, the Commission, or the courts. The House amendment did not reference the Commission.

The Senate bill provided that nothing prohibit the discontinuance or modification of any proceeding under the same terms and conditions as if this section had not been enacted. The House amendment did not so provide.

The Senate bill authorized the Director of the Office of Management and Budget, in coordination with the Secretaries of the Interior and Labor to make necessary determinations with respect to the transfer of personal property and appropriations in connection with the functions transferred by this Act. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill.

MINE SAFETY AND HEALTH ADMINISTRATION

The Senate bill established a Mining Enforcement and Safety Administration within

the Department of Labor, headed by an Assistant Secretary for Mine Safety and Health, to carry out the Secretary of Labor's functions under the Mine Safety and Health Amendments Act of 1977. The House amendment created a Mine Safety and Health Administration, also to be headed by an Assistant Secretary of Labor, to carry out the functions of the Secretary of Labor under the Mine Safety and Health Act of 1977.

The conference substitute conforms to the House amendment, with an amendment authorizing the Secretary to appoint such officers and employees subject to the civil service laws, as may be necessary, and to assign their duties and responsibilities.

The Senate bill estabilshed the pay levels of the Chairman and Members of the Mine Safety and Health Review Commission and established the principal office of the Commission in the District of Columbia. The House amendment did not contain these provisions. Both the Senate bill and the House amendment established the pay level of the Assistant Secretary of Labor for Mine Safety and Health.

The conference substitute adopts the provision of the Senate bill.

MISCELLANEOUS PROVISIONS

The Senate bill provided authority for the Secretary of the Interior or the Secretary of HEW to conduct evaluations of the hazards found in mines upon the request of operators or representatives of miners, and to provide the results of such evaluations to operators or the representatives of miners. The House amendment did not contain this authority.

The conference substitute adopts the provision of the Senate bill.

The Senate bill contained a technical amendment to section 501(c) of the Coal Act, which reflected the change in definition of "Secretary" to mean the "Secretary of Labor". This amendment provided that the authority to make grants and contracts in connection with the research functions to be performed by the Secretaries of the Interior and HEW shall also rest with the Secretaries of the Interior and HEW except that they perform these functions in coordination with the Secretary of Labor. The House amendment did not contain this provision.

The conference substitute contains the provision of the Senate bill.

The Senate bill and the House amendment increased the authorization for mine safety research from an annual maximum of $30 million to $60 million. The Senate bill authorized this sum to the Secretary of the Interior, consistent with the assignment of mine safety research responsibilities to the Secretary of the Interior. The House amendment authorized this sum to the Secretary of Labor.

The conference substitute conforms to the Senate bill.

The Senate bill added a requirement that the Secretary of Labor compile accurate statistics on work injuries and illnesses occurring in mines subject to the Act. The House amendment did not contain this provision, but did carry over the requirement of Section 111(b) of the Coal Act, authorizing the Secretary to require that reports be made by operators and authorizing the Secretary to from time to time analyze, compile and publish such information, and of section 511 (a) of the Coal Act, requiring the filing of reports by the Secretary.

The conference substitute does not contain this provision of the Senate bill.

The Senate bill authorized the Secretary of Labor, in coordination with the Secretary of HEW to make grants to States to assist the States in developing certain State programs. The House amendment required that in approving such grant requests, the Secretary of Labor coordinate with the Secretary of HEW and the Secretary of the Interior.

The conference substitute conforms to the House amendment.

The Senate bill required that in selecting persons as mine inspectors, the Secretary consider certain qualifications, and in assigning inspectors, the Secretary consider certain experience to the extent feasible. The House amendment required that he consider these qualifications and experience to the maximum extent feasible.

The conference substitute conforms to the House amendment.

Both the Senate bill and the House amendment contained identical provisions maintaining the National Mine Health and Safety Academy as an agency of the Department of the Interior, and describing the responsibilities of the Academy. The Senate bill listed as one of the functions of the National Mine Health and Safety Academy, the training of technical support personnel of the Mining Enforcement and Safety Administration. The House amendment referred to personnel of the Mine Safety and Health Administration.

The conference substitute conforms to the House amendment.

The Senate bill authorized the Secretary of the Interior to appoint or assign such officers and employees to the National Mine Health and Safety Academy as he, in his discretion deems necessary. The House amendment required the Secretary of the Interior to appoint or assign to the Academy, upon the Academy's request, such officers and employees as the Director of the Academy deems necessary.

The conference substitute conforms to the Senate bill.

The Senate bill amended section 7(b)(5) of the Small Business Act (15 U.S.C. 636(b)(5)) to expand the availability of small business loans to operators of all mines who may qualify, who may need such loans to comply with the standards established or promulgated by this bill. The House amendment did not obtain this provision, reflecting the 1974 Amendments to the Small Business Act, which deletes references to the Federal Coal Mine Health and Safety Act.

The conference substitute does not contain the provision of the Senate bill.

The Senate bill repealed section 405 of Public Law 93–153 (43 U.S.C. 1456a) which creates the office of Head of the Mining Enforcement and Safety Administration. The House amendment did not contain this provision.

The conference substitute conforms to the Senate bill.

The Senate bill provided that the changes made will become effective on July 1, 1978, unless otherwise provided, and authorizes the Secretaries of Labor and Interior to establish such rules and regulations as may be necessary to effect the efficient transfer of responsibilities between the two Secretaries. The House amendment became effective ninety days after enactment, and authorized only the Secretary of Labor to establish rules and regulations necessary to the efficient transfer of functions.

The Senate bill provided that the changes in definition of respirable dust made by section 202 are to become effective immediately. The House amendment did not make these changes in the definition of respirable dust.

The conference substitute conforms to the House amendment, with an amendment providing that the effective date of the act shall be 120 days after enactment, except where otherwise provided in the Act; and that the revised definition of respectable dust shall become effective upon enactment. The conference substitute further provides that the Secretaries of Labor and of the Interior shall establish rules concerning the transfer of responsibilities.

CARL D. PERKINS,
JOSEPH M. GAYDOS,
JOHN H. DENT,
AUSTIN J. MURPHY,
ROBERT J. CORNELL,
LEO C. ZEFERETTI,
JOSEPH A. LE FANTE,
MICAHEL O. MYERS,
GEORGE MILLER,
RONALD A. SARASIN,
JOHN BUCHANAN,
ALBERT H. QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DONALD W. RIEGLE, Jr.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7555, LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 7555) making appropriations for the Department of Labor and Health, Education, and Welfare, and related agencies for the fiscal year September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–656)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes, having met, after further full and free conference, have been unable to agree.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
GEORGE H. MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 82 to the Bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending Septmber 30, 1978, and for other purposes, submit the following

joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE GENERAL PROVISIONS

Amendment No. 82: Reported in disagreement.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
GEORGE H. MAHON,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO H.R. 9290, TEMPORARY DEBT LIMIT INCREASE

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–657) on the resolution (H. Res. 804) providing for concurring in the Senate amendments to H.R. 9290, to increase the temporary debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 8518

Mr. PREYER. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on H.R. 8518.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, on Friday, September 9, 1977, I missed part of the legislative day due to a commitment I incurred, as a member of the United States Military Academy's Board of Visitors, to be present for the dedication of the new West Point Hospital. Had I been present, I would have voted in the following fashion: H.R. 6683, Earthquake Hazards Reduction Act of 1977, rollcall No. 532; "yea"; H.R. 6669, National Climate Program Act of 1977, rollcall No. 533: "yea"; H. Res. 641, the rule for H.R. 6669, rollcall No. 531: "yea."

I was absent from the legislative session of September 30, 1977, due to hearings in Chicago scheduled by the Select Committee on Narcotics Abuse and Control, of which I am a member. Had I been present, I would have voted as follows: H.R. 7010, Victims of Crime Act of 1977, rollcall No. 616: "yea"; H.R. 9354, staff allowances for former Presidents, rollcall No. 617: "yea."

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF SEPTEMBER 30, 1977

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, on behalf of the Committee on Standards of Official Conduct, I submit for inclusion in the RECORD a report from that committee on the status of its investigation pursuant to House Resolution 252 as of September 30, 1977.

This report deals with activities of the committee and its special staff during the month of September in the committee's investigation of alleged efforts of nationals or agents of the Government of South Korea to influence legislation in Congress.

This is the fifth monthly report by the committee and is submitted to keep Members and the public informed of developments since the investigation began.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF SEPTEMBER 30, 1977

This is the fifth report of the Committee on Standards of Official Conduct on the status of its investigation of allegations and published reports that Members of Congress may have been the objects of efforts by the Government of the Republic of Korea, or agents or nationals thereof, to influence their official conduct either directly or otherwise through gifts of money or other things of value.

Previous reports were published in the Congressional Record of June 7, June 30, August 1 and September 13 and covered the committee's investigative activities during the months of May, June, July and August 1977. This report deals with activities during the month of September.

These reports are made to keep Members of Congress and the public informed of the progress of the investigation.

The investigation was ordered by House Resolution 252 adopted by the House on February 9, 1977, and is being conducted by a special staff under the direction of Special Counsel Leon Jaworski.

Since the beginning of the investigation, the committee has approved a total of 159 personal subpoenas, including 20 in September, and 194 subpoenas for the production of documents and other material, including 42 in September. Eleven requests for immunity from prosecution have been approved by the committee, subject to approval by U.S. district courts.

The special staff conducted 30 interviews with potential witnesses and took depositions from 15 others during September, for a total of 285 since the investigation began.

As of September 30, the committee had received 432 responses to questionnaires sent to 435 Members of the House and 257 responses from 279 former Members. Material gleaned from the responses has been most helpful in the committee's efforts to determine if there existed a pattern of attempts to influence the official conduct of Members.

The committee held three meetings during September, in addition to numerous informal conferences. Its relations with the Department of Justice and other agencies of the Executive Branch continue on a mutually cooperative basis.

As a result of the substantial progress made during September, the committee is able for the first time since the investigation began to sight a tentative date for the first of a series of public hearings.

Although the date on which hearings can begin is not definitely ascertainable, Special Counsel Jaworski has advised the committee that "every effort is being made to move this inquiry along as fast as practicable consistent with thoroughness and completeness" and the special staff is considering asking the committee to hold the initial public hearings not later than the end of October.

Special Counsel noted that efforts are being made to obtain the cooperation of the Republic of Korea in making available for questioning a key figure in the investigation, Mr. Tongsun Park. The committee has received full cooperation from the Secretary of State and the Attorney General in these efforts.

"The matters relating to Mr. Park and to other facets of South Korean cooperation boil down to this simple fact," Mr. Jaworski said. "A full exposure of the facts relevant to this investigation does not seem achievable without the unrestricted cooperation of South Korea. The scope of inquiry we now envision extends beyond the activities of Tongsun Park. There are indications that it may extend to the activities of other citizens of South Korea."

Mr. Jaworski's statement to the committee follows:

Since our last session several constructive and progressive efforts have materialized resulting in the obtaining of additional significant information pertinent to this inquiry. Although the details cannot be revealed at this time—for fear of adversely affecting our continued investigation—I can report that both documentary evidence and oral testimony have been obtained recently shedding further light on the ultimate determinations we seek.

The date on which hearings can begin is still not definitely ascertainable, but I assure you that every effort is being made to move this inquiry along as fast as practicable consistent with thoroughness and completeness. We are presently considering asking you to hold the initial round of public hearings by not later than the end of October.

Much has been printed in the news columns and carried over the airwaves about the possibility of my meeting with Tongsun Park. It should be reported to you that an invitation was in fact extended—as mentioned by dispatches from Seoul—for me to meet with Mr. Park. I saw no purpose in going there unless there were assurances that the talks with Mr. Park would be revealing and productive. No such assurances have been forthcoming and, unless they are, a trip to Seoul at this time could not be justified.

Our President has revealed his strong efforts to have Tongsun Park return to this country. We have been in touch with the Secretary of State and the Attorney General on developments in their areas of activity and have received full cooperation from both.

The matters relating to Mr. Park and to other facets of South Korean cooperation boil down to this simple fact. A full exposure of the facts relevant to this investigation does not seem achievable without the unrestricted cooperation of the government of South Korea. The scope of inquiry we now envision extends beyond the activities of Tongsun Park. There are indications that it may extend to the activities of other citizens of South Korea.

I wish to stress that this investigation in no sense is directed at the South Korean government itself, and that its policies are

not a target of our search. We recognize, of course, that it is the prerogative of that government to formulate its own policies and practices.

We recognize also that the adoption of a policy of full and unlimited cooperation by the South Korean government poses some possible problems to it. They may be political in nature and may even have international overtones. We are convinced, nevertheless, that as difficult as this needed cooperation may be for the South Korean government, the failure to cooperate may well result in the forming of a lack of confidence in the Korean leadership by the American people. It may cause the forming of a belief that the facts and involvements under investigation are worse than a revelation of the truth may disclose. Of even more concern to the South Korean government should be the feeling of the American people that it is quite incongruous for us to extend to another nation so much aid when reciprocal cooperation in this important investigation is not forthcoming. Watergate proved that the American people will accept no less than the truth—and I would think that the government of South Korea should not be oblivious to this historical fact.

The Speaker of the House has urged South Korea to give this Committee a full measure of cooperation and it would seem that this appeal should not be taken lightly.

On behalf of this distinguished Committee I should like to invoke the response of the American people. Do they wish to know the facts relevant to this investigation? If so, then let their views be made known to you as well as to your colleagues who today befriend the Republic of Korea with very substantial supporting grants. Our relationship, as I see it, should not be a one-way street and if unilateral attitudes are to spell the policy of the South Korean government, future requests it makes of our government could be affected thereby.

Let me emphasize that I shall continue to press this investigation until every avenue has been explored as thoroughly as possible. I shall take as much time as I need to do so. But, as I have indicated, the investigation may ultimately meet some dead ends and may result in only a partial effort unless the assistance of South Korea is forthcoming in making available material evidence. Such a result would be most unfortunate, especially inasmuch as this Committee would need to point to this lack of cooperation as the reason for an incomplete inquiry.

Mr. Chairman, and members of the Committee, in the meantime we will be reporting to you from time to time on further developments. We have a matter or two to take up with you in executive session.

MEDICARE REIMBURSEMENT FOR COMMUNICATIVE IMPAIRMENTS

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing a bill to amend title XVIII of the Social Security Act to provide more comprehensive health care under medicare for persons with communicative impairments.

There are today 21 million Americans with some degree of communicative disorder. As many as 3.7 million are senior citizens who suffer significant communicative impairments.

Although speech pathology services are reimbursable under medicare, the prevailing reimbursement conditions deny recognition to the speech pathologist as a qualified medicare provider. There are five steps between provisions of service and final reimbursement to the speech pathologist. Each step requires administrative procedures which pad the Nation's medicare bill. In some instances, institutional middlemen not only skim the cream off the top, but take most of the milk too, charging the medicare program anywhere from 20 to 100 percent of professional charges for administrative costs. Some facilities have declined to accommodate the cumbersome administrative procedures involved in providing speech pathology services for medicare patients. There is a special irony in the fact that conditions for reimbursement designed to assure quality services can actually bar the medicare recipient from receiving any services at all.

Moreover, current medicare law inappropriately requires that speech pathology and audiology services be prescribed by a physician when, in fact, these services are provided by independent health professionals on a referral basis. In the absence of a medical specialty in speech, the physician-prescription requirement sets up a clumsy and expensive rubber-stamp procedure that results in the wasteful, nonproductive expenditure of Federal health care dollars.

The legislation I am proposing would create a new definition under section 1861(x) of the Social Security Act for communicative services. Speech pathology and audiology services could be provided by a medicare-certified facility or by an individual qualified practitioner upon referral by a physician. Such providers could offer speech pathology and audiology services.

To qualify as a medicare provider, the individual practitioner would be required to meet such other health and safety standards as the Secretary of HEW deemes necessary.

Such legislation would not add to the Nation's medicare bill. Instead of sending patients to expensive medical clinics and doctors, patients would be able to visit the much less expensive members of this allied health profession. This bill would in turn cut down, and not increase, the total medicare bill.

In addition to making speech pathology services more readily available and most cost effective, my bill would add a new component to the medicare program—aural rehabilitation services.

Medicare currently permits reimbursement for a hearing evaluation requested by a physician to aid in his medical diagnosis, but does not provide either the hearing aid or the audiological services that may be needed to ameliorate a hearing loss. The omission in the medicare program is difficult to understand in light of the fact that the Federal Government—through the Veterans' Administration, Rehabilitation Services Administration, Department of Defense, and the medicaid program—provides appropropriate rehabilitative services for hearing-impaired beneficiaries.

The audiologist's academic training and clinical experience make him indispensable in assuring the highest quality hearing health care for the Nation's elderly. Since hearing-handicapped medicare beneficiaries are required to purchase their own hearing aids—at an average cost of $400—it is important that this purchase is accompanied by professional counseling to assure the instrument's most effective use. Competent audiological services are indispensable.

Finally, this legislation directs the HEW Secretary to conduct experiments and demonstrations to determine cost effective delivery systems for communicative services under the authority granted by the 1972 amendments.

We must seek to find new ways which will insure quality health care to America's communicatively handicapped. This bill lays the groundwork for developing new health care delivery approaches and insuring the availability of adequate qualified manpower to provide services to speech and hearing-impaired Americans.

H.R. 9413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Audiological Rehabilitation Amendments of 1977."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the ability to communicate effectively is a vital tool for the Nation's aged, blind, and disabled;

(2) 3,700,000 Americans who are age 65 or over have significant hearing losses;

(3) the most prevalent disability among such Americans is hearing impairment; and

(4) title XVIII of the Social Security Act does not now provide for the diagnosis, treatment, and rehabilitation of aged, blind, and disabled Americans with hearing disorders.

(b) The purpose of this Act is to provide diagnostic, treatment, and rehabilitative services of qualified audiologists for the Nation's aged, blind, and disabled and to consolidate and clarify the coverage of speech pathology and audiology services under Medicare.

REORGANIZATION OF HEALTH INSURANCE BENEFITS UNDER TITLE XVIII

SEC. 3. (a) Section 1814(a)(2)(D) of the Social Security Act is amended—

(1) by striking out "or speech therapy" and inserting in lieu thereof "therapy, or speech pathology or audiology services"; and

(2) by inserting after "and is periodically reviewed by a physician" the following: "and the health professional rendering such services, if other than the physician".

(b) Section 1815(a) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", subject to the conditions provided in section 1861(w)."

(c) Section 1835(a) of such Act is amended by striking out "and (e)" and inserting in lieu thereof "(e) and (f)".

(d) Section 1835(a)(2)(A)(i) of such Act is amended—

(1) by striking out "section 1861(m)(7)" and inserting in lieu thereof "section 1861(m)(8)"; and

(2) by striking out "or speech therapy" and inserting in lieu thereof "therapy, or speech pathology or audiology services.".

(e) Section 1835(a)(2)(B) of such Act is amended by striking out "and (D)" and inserting in lieu thereof "(D), and (E)".

(f) Section 1835(a)(2) of such Act is amended by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a period, and by striking out subparagraph (D).

(g) Section 1835 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) Payment for services described in section 1861(x) furnished an individual may be made only to providers of services which are eligible therefor under section 1866, and only if (1) the provisions of subsection (a) (1) of this section are complied with, and (2) the physician, together with the speech pathologist or audiologist providing such services, certifies (and recertifies, where such services are furnished over a period of time, with such frequency as may be provided by regulations) that such services (A) are or were required by the individual, and (B) meet the requirements of section 1861(w).".

(h) Section 1861(h) of such Act is amended—

(1) by striking out ", occupational, or speech therapy" in paragraph (3) and inserting in lieu thereof "and occupational therapy";

(2) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) speech pathology or audiology services furnished by the skilled nursing facility or by others under arrangements with them made by the facility;". (i) Section 1861(m) of such Act is amended—

(1) by striking out in paragraph (2) "occupational, or speech" and inserting in lieu thereof "and occupational";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8);

(3) by striking out "(7)" in the material preceding paragraph (1) and inserting in lieu thereof "(8)"; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) speech pathology and audiology services;"

(j) Section 1861(o)(2) of such Act is amended by striking out "or registered professional nurse" and inserting in lieu thereof ", registered professional nurse, or other qualified health professional".

(k) Section 1861(p) of such Act is amended by striking out the last sentence thereof.

(l) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C), and by inserting "and" at the end of subparagraph (D); and

(2) by inserting the following new subparagraph at the end thereof:

"(E) outpatient communicative services;".

(m) Section 1861(v)(5)(A) of such Act is amended by striking out "speech therapy services,".

(n) Section 1861(w)(1) of such Act is amended by inserting the following new sentence at the end thereof: "Where receipt of payment by the hospital, a skilled nursing facility, or home health agency is based upon services provided by an outside resource, such payment shall be specifically payable to such outside resource provider (under such regulations as the Secretary may determine), and not to general revenue funds of such hospital, skilled nursing facility, or home health agency.".

(o) Section 1861(x) of such Act is amended to read as follows:

"OUTPATIENT COMMUNICATIVE SERVICES

"(x) The term 'outpatient communicative services' means speech pathology and audiology services furnished by a provider of services, a clinic, rehabilitation agency, public health agency, or individual, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient upon referral by a physician, excluding, however—

"(1) any such services—

"(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

"(i) provides an adequate program of speech pathology and/or audiology services (including diagnostic and rehabilitative services) for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may by regulation specify,

"(ii) has policies, established by a group of professional personnel to govern the services it provides,

"(iii) maintains clinical records on all patients,

"(iv) if such clinic or agency is situated in a State in which State or applicable laws provide for the licensing of institutions of this nature and speech pathologists and audiologists, is licensed pursuant to such laws or is approved by such State or locality responsible for licensing such institutions or professions, as meeting the standards established for such licensing; and

"(v) meets such other conditions relating to the health and safety of individuals who are furnished services on an outpatient basis, as the Secretary may by regulation find necessary;

"(B) if furnished by a public health agency, or by others under arrangements with such public health agency, unless such agency meets the conditions prescribed by subparagraph (A)(v); or

"(C) if furnished by an individual, unless such individual meets the conditions prescribed by clauses (i), (iii), and (v) of subparagraph (A), and if such individual is situated in a State in which State or applicable law provides for the licensing of speech pathologists and audiologists, is licensed pursuant to such law or is approved by such State or locality responsible for licensing such professions, as meeting the standards established for such licensing; and

"(2) any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.".

(p) Section 1862(a)(7) of such Act is amended by striking out "or examinations therefor".

(q) Section 1866 of such Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section, the term 'provider of services' shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(x)(1)(A) or if, in the case of a public health agency, such agency meets the requirements of section 1861(x)(1)(B), but only with respect to the furnishing of outpatient communicative services (as therein defined).".

DEFINITIONS

SEC. 4. Section 1872 of the Social Security Act is amended by inserting after "of section 205" the following: ", and of subsections (h) and (i) of section 210".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall be effective with respect to payments for services provided during calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

WHERE WE STAND AT THE END OF SALT I

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, today is the deadline for the expiration of the Interim Agreement on Offensive Forces, the executive agreement signed in 1972 to provide a "temporary" limitation on strategic land-based ICBM silo construction and missile-launching submarine deployments, known as "SALT I" and it is important to assess our current position in these vital negotiations. The past 5 years have been characterized by often intense discussions with Soviet leaders on ways to arrive at a permanent agreement to supplant the 1972 accords. The first step in the process was the 1974 Vladivostok accords between President Ford and Secretary Brezhnev which was to establish a negotiating framework for the conclusion of a detailed permanent agreement. Since that time, the Soviets have stonewalled various approaches offered by the United States to break the deadlock, including the well-publicized offering of Secretary of State Vance during his visit to Moscow in March of this year.

The proposal offered by Secretary Vance in Moscow was hopeful in its direction if not its details, but was rejected by the Soviets out of hand. I have remained optimistic that the United States would insist upon a high quality agreement, namely one which would be symmetric in its impact on both parties, and fully verifiable by national technical means of verification.

My disappointment was severe following my review of the new proposals offered by the Carter administration to the Soviet Union with respect to SALT over the past 6 months. They are, I fear, an expression of the view that any agreement is better than no agreement. The consequences for American security for the balance of this century are grave if the Carter proposals were to be adopted. While the proposals are dense with detail, I will review a few of the most ominous elements.

CRUISE MISSILES

The President recently canceled production of the B–1 bomber on the grounds that we can replace the penetrating manned bomber with long-range cruise missiles launched from aircraft firing their missiles 300 miles from the Soviet coastline. To do so, cruise missiles must have a range of 2,000 to 2,500 miles in order to reach Soviet targets, most of which are located far inland, in contrast to targets within the United States. This requirement has recently been verified in a study by the Defense Science Board. In only a matter of days after the President made his announcement canceling the B–1 bomber, he reinforced his position on cruise missiles in the Strategic Arms Limitation Talks to limit the range of allowable cruise missiles to not more than 1,500 miles. Thus, the United States will be left with neither a bomber capable of penetrating Soviet air defenses, or a cruise missile with sufficient range to reach appropriate Soviet targets.

HEAVY ICBM'S

When the 1972 SALT accords were signed, the terms of the agreement defined two types of ICBM's, one a heavy ICBM with a payload of approximately 12,000 pounds, and the other a light ICBM with a payload of 1,500 pounds. The former category included only one type, the SS–9 with 313 deployed. The

latter category consisted of several types, the SS–11 being the most numerous by far, with approximately 1,000 deployed by 1972. The significance of the payload measurement is that the larger the payload, the greater number of warheads the missile could ultimately deliver on a target. Thus, any increase in Soviet ICBM payload would increase their advantage over the United States. The Carter administration's July SALT proposal offers to permit the Soviets to deploy 190 SS–18 ICBM's, a new ICBM with a payload of as much as 18,000 pounds, while continuing with the deployment of the existing 123 SS–9's. This is a major retreat from the U.S. proposal advanced last March when the United States proposed that the Soviets be allowed no more than 150 of the "superheavy" SS–18's.

In addition, the Carter administration proposes to permit the Soviet deployment of a replacement for the SS–11 with a missile with a payload five times as great (7,500 pounds).

The Carter proposals in effect, permit the Soviets to deploy the 1972 equivalent of an additional 80 SS–9-type missiles, and an additional 5,000 SS–11 equivalent missiles when expressed in terms of payload.

The recent Carter-Gromyko conferences on SALT in Washington indicate that there may be an acceleration in the decay in the American position on heavy missiles; namely, that the Soviets will be permitted to deploy 200 or more of the SS–18 type—perhaps with no restriction at all when an agreement is eventually concluded. This dimension is particularly ominous for it undermines one of the fundamental objectives of SALT; to enhance the stability of the strategic balance. If the Soviet Union is permitted to deploy a land-based force with the throw weight implied by the very high heavy missile deployments allowed the Soviets under the terms of the proposed agreement, the direct threat to our land-based force is overwhelming.

The threat posed to our silo-based ICBM force cannot be mitigated by deployment of a mobile ICBM, thereby enhancing the survivability, and hence strategic stability, of the land-based force during the 3-year term of the protocol. As too often occurs in international politics, "nothing is so permanent as the temporary." Thus, SALT may become an instrument which poses a far greater threat to the deterrence of nuclear war than its absence. An international environment where American land-based strategic nuclear forces may become vulnerable to a Soviet first strike as a consequence of ill-advised arms control arrangements can only result in the early emergence of the very circumstances we have sought to avoid.

BACKFIRE

Information provided to the Congress clearly indicates that the Backfire has a substantial capability to attack targets in the United States, and is considerably larger than the FB–111H, the bomber proposed by the administration to replace the B–1 bomber. Yet, our SALT posture will not be counted as a strategic delivery vehicle under existing administration SALT proposals while our existing B–52 will have to be counted.

VERIFICATION

Appalling as the Carter retreat is on the terms of what strategic systems will be included in a future SALT agreement, and how they are to be counted is, perhaps the most dangerous aspect is the total abandonment of reasonable standards of verification of the terms of such an agreement. The list of unverifiable components of the U.S. proposal simply staggers belief. I will list a few of the conspicuous ones to provide a flavor of the relaxed view this administration has come to take with respect to the verifiability of an arms control agreement.

First. A ban on mobile ICBM's would be included, but the Soviet's mobile SS–20 missile with an intercontinental capability would not be included. Soviet "assurances" are sought that the missile is not capable of being employed in the ICBM role.

Second. The United States proposes that the Soviets limit development of their Backfire bomber away from the existing Arctic staging bases. It is not possible to verify that the bases cannot be used to support a Backfire deployment in time of war.

Third. The United States proposes that the Soviets not store spare ICM's near launch silos to inhibit their reload potential. We cannot verify that the Soviets have no reload potential.

Fourth. The United States proposes that the range of cruise missiles be limited to 1,550 nautical miles. Since cruise missile range is a function of engine fuel consumption rates, payload, fuel density, altitude of flight, speed, and a host of other factors which cannot be verified, the utility of this proposal as a means of controlling Soviet cruise missile evasion must be considered to be zero.

Fifth. The United States proposes to prohibit testing of cruise missiles capable of ground or sea launch with a range in excess of 400 nautical miles. Since cruise missiles can be satisfactorily tested at far less than their full range, this proposal is utterly unverifiable.

Sixth. The Carter administration has chosen not to abide by article 33 of the Arms Control Act of 1961 which requires congressional approval for any Presidental agreement with a foreign nation which limits American arms, by seeking to abide by the expiring SALT I agreement without formally negotiating a successor. The law clearly requires that the Congress be a participant in arms control negotiations, and when an executive agreement is involved, the House of Representatives must give their approval as well. It would be very bad policy indeed, if given the current climate among the SALT negotiators of increasing the tempo of offers to the Soviets in an effort to induce a quick agreement, the Congress was not consulted and its approval formally requested for any interim extension. Without some coherent rationale given by the President as to why the United States should take such grave risks with its future security by allowing the Soviets to obtain long-range preponderance in strategic arms, the administration risks outright rejection of its proposals when they are formally submitted to the Congress in the form of an agreement.

It is regrettable that the "agreement at any price" school of thought has dominated the bureaucratic infighting within the Carter administration, for a genuinely verifiable agreement that provides for equal security for both sides is in our interest. An agreement which provides for obvious Soviet strategic nuclear superiority in every numerical index which specialists believe is pertinent to the capability of a strategic nuclear force under a set of conditions which cannot be verified makes nuclear war in this century a fearsome, but real possibility. The increase in the risk of war is a self-inflicted wound by the arms control advisors close to the President. I urge the President to reconsider the offering of his latest set of SALT proposals in the interest of not only our national security, but world peace.

Mr. GOODLING. Mr. Speaker, now that administration has dropped the B–1 program, the cruise missile has become pivotal in our strategic planning.

The cruise missile has advantages—cheap—accurate—powerful—but it also needs adequate penetration capabilities which should not be negatively limited by a new SALT agreement.

Since the United States will probably not deploy the B–1, which has extremely good penetration capabilities, adequate cruise missile ranges, which allow for penetration of the Soviet Union, are necessary.

The United States will be using older B–52's as cruise missile platforms. These B–52's do not have the penetration capabilities of the B–1 thus the necessity for maintaining adequate cruise missile ranges (adequate ranges—2,500 km to 3,000 km).

Mr. SYMMS. Mr. Speaker, I would like to thank our colleague, Mr. KEMP, for bringing this matter to the attention of the House today. During the last 5 years that the SALT I accord has been in effect the United States has unilaterally refrained from deploying any new strategic weapon systems. President Carter canceled production of the B–1 strategic bomber with no reciprocal action by the Soviets. Yet, during this 5-year period the Soviet Union has accelerated the production and deployment of new ICBM's much larger than U.S. missiles and with hard-target counterforce capability.

In addition, the Secretary of Defense has recently confirmed publicly that the Soviets are developing a still newer generation of ICBM's for deployment in the early 1980's. Also, Mr. Speaker, it is rumored that the U.S. Intelligence Community now has evidence that the Soviet Union has achieved ICBM accuracies comparable to the U.S. Minuteman III. With their much greater payload capacity such accuracy gives the Soviets counterforce advantage over the United States at this time.

It is this present buildup of heavy Soviet ICBM's that poses the greatest threat to crisis stability in the world to-

day. For these reasons, Mr. Speaker, I join my colleagues in calling on President Carter to work toward a SALT agreement with the Soviets that will redress this emerging imbalance in strategic missile capability. I urge the President to reorder production of the B–1 bomber, accelerate development of the MX advanced ICBM, and improve the accuracies and yield of our submarine-launched missile warheads pending a drastic reduction in numbers of heavy ICBM's by the Soviet Union. There is simply no way, Mr. Speaker, that we can negotiate a helpful SALT agreement unless the President and his negotiators play really hard ball with the Russians. I know that President Carter would have the full support of the American people and the Congress in such tough negotiating tactics, contrary to the advice given him by liberal policymakers within his administration.

I would like to conclude my remarks today with an editorial from today's Wall Street Journal entitled "The Myth of Arms Control."

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, "the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT–I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in antimissile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS-20, a modern ballistic missile with ranges that threaten our European allies. The SS-20 is the top two stages of the intercontinental SS-16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead, 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, wtih either nuclear or conventional warheads. In particular, the cruise missile is the answer to the threat of the SS–20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT–I's interim agreement on offensive weapons; the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance struck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT–I made more than a marginal difference, except perhaps in delaying U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT–II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did, for budgetary reasons. If this ever happens we had better get a lot more in return than 53 obsolete ICBMs. In the wake of President Carter's decision to kill the B1, the cruise missile weighs much heavier in the strategic balance. Beyond that, there are two particular problems with limiting it by treaty.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS–20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT–I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT–I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

Mr. FINDLEY. Mr. Speaker, 5 years after the conclusion of the Interim Executive Agreement on Offensive Arms, the question has to be faced as to whether SALT is truly a process for assuring real strategic stability or whether, instead, it has become a mechanism by which the Soviets are able to constrain important U.S. force improvements while accepting only the most cosmetic restrictions themselves.

It is important to recollect that the interim agreement of 1972 was itself demonstrably asymmetrical in favor of the forces of the Soviet Union. The Soviets were permitted to deploy 1,600 land based ICBM's in comparison to our 1,052, and 62 missile firing submarines to our 41. Most important, the Soviets were permitted a more than 4:1 advantage in missile payload, an advantage that gives them the capability to eventually target larger numbers of independent warheads against our land based missile systems.

This kind of numerical inferiority was argued to be at least partially justifiable for the following reasons:

First, it was said to enable us to set in motion an arms control process that would bear richer fruit in days to come; second, it was said that U.S. technological superiority would be able to compensate for the Soviet advantage in numbers through the years covered by the interim agreement; and third, it was asserted that any follow-on agreement would be made only on the basis of genuine equality in terms of numbers and capability.

Today, however, the United States seems to be negotiating largely with itself and negotiating more and more away from terms that would bring the kind of meaningful stability which we had been pledged. In particular, we seem to have completely backed away from our insistence on constraints over Soviet heavy missile systems. We seem to be prepared to accept the most superficial constraints on the Soviet Backfire system. And, finally, we seem prepared to place disabling range constraints on the cruise missile, our most promising new technology and one with enormous potential for reversing the military imbalance in the European theater.

These constraints on range are harmful for many reasons:

First, they reduce U.S. flexibility; second, they favor the Soviets who have deep inland targets; and third, they are largely unverifiable.

It is clear that if SALT is to gain the support of the Congress and the American people, its terms will have to provide for genuine security and not just the appearance of such. Moreover, it is important that the Congress be involved in

this process and, indeed, involved continuously. We have a vital role to play in assuring that the technical arrangements worked out by our arms control negotiators comport well with prudence and commonsense. We dare not abdicate that role.

Mrs. HOLT. Mr. Speaker, today marks the expiration of SALT I—the 5-year interim agreement designed to test the waters for a permanent agreement on the limitation of strategic arms between our country and the Soviet Union.

Since the 1972 agreement, the Soviets have gone out of their way to breach our faith and violate the spirit, if not the actual letter, of the agreement. Rapid advancements in Soviet military technology have contributed to a full-scale arms build-up in that country that rivals anything in modern times.

While this escalation has been going on in the Soviet Union, our own adherence to the full letter of the agreement has severely weakened our military strength. In fact, it has weakened us to the point where any agreement poses a direct threat to our national security.

For example, the interim agreement permitted the Soviets to deploy 1,600 land-based intercontinental ballistic missiles to our 1,052 ICBM's, and further permitted the Soviets to deploy 62 missile-firing submarines to our 41. The one-sided character of the agreement is further evident when we take into consideration that the Soviets have a 4-to-1 advantage in the payload capacity of ballistic missiles, and advantages that could be converted into a 4-to-1 preponderance in the number of total warheads as the Soviets continued to catch up to us in nuclear weapons capacity.

Now it is time to reconsider the strategic arms limitation talks, and I think we must take this opportunity to reevaluate past mistakes and prevent future disadvantages due to our own failings at the negotiating table. If the Soviets are to build up their arsenals, then so be it. I am confident American technology can meet and surpass any challenge offered by the Soviet Union. Let us not tie our hands with one-way restrictions, however, that permit the Soviets to increase their arsenals while we are bound to limiting ours.

Any agreement that permits the Soviets to build more and superior nuclear submarines is certainly questionable. As a final example, the Soviets recently completed construction of their 65th modern submarine, but since these new subs have not been deployed for sea trials, they are technically not in violation of the SALT agreements. However, what many people fail to realize is that most of these submarines are of the new DELTA class, with many capable of firing multiple warhead missiles at a range of over 5,000 nautical miles, which is more than enough for these missiles to reach American targets without ever leaving port.

Let us keep our past mistakes and the past violations of the Soviets in mind as we consider the future of the SALT talks. This is not some diplomatic game we are playing. It involves the security of our Nation, and our place in the power structure of world politics. I refuse to see the technological and military superiority that generations of Americans have worked and died for negotiated away, and I will not allow our Nation's future to be decided by the whims of SALT negotiators. Let us approach these negotiations with caution, and if we commit ourselves, let us take a hard line, with no concessions to the Soviet Union.

Mr. Speaker, finally, it is important that we keep open our dialog with the Soviets. However, we must indeed be very, very wary because we are dealing with masters of sophistry and negotiatory cunning.

Mr. WINN. Mr. Speaker, we all support a sound, verifiable SALT agreement, an agreement that can make a contribution to our national security and serve the interests of people in the Soviet Union as well. Given the importance and complexity of such an agreement, it makes good sense, therefore, that the Carter administration conduct the negotiations carefully and not be rushed by an artificial deadline.

In light of this need for continuing, persistent negotiation, I see nothing wrong with our extending the restrictions of the SALT interim agreement, which expired on October 3. The key feature of the interim agreement is to prohibit the deployment of additional silo-based ICBM's, a worthwhile restriction to maintain.

However, I am totally in disagreement with the way in which the Carter administration is trying to carry out the extension of the interim agreement. We have been reading reports that the Russians would have been willing to reach an agreement for an extension, but that the Carter administration assiduously sought to avoid an agreed extension. Instead, the administration arranged with the Russians for each side to declare that it would continue to abide by the interim agreement as long as the other side does. The sole purpose of this curious procedure, evidently, was to circumvent the law, and thus avoid the requirement for congressional action. This is no way to do business between the legislative and executive branch.

Section 33 of the Arms Control and Disarmament Act requires, of course, that no action will be taken that will obligate the United States to limit the Armed Forces or armaments of the United States except pursuant to the treatymaking power of the President or unless authorized by further affirmative legislation by the Congress. The administration has chosen the subterfuge of separate United States and Soviet declarations to circumvent this sensible, simple legal requirement.

Such deliberate circumvention is not only an affront to the congressional process, but it also makes the present situation far less stable. The administration now argues that we are not "obligated" by these parallel United States-Soviet statements to adhere to the limitations of the interim agreement. The administration makes this argument in order to sustain its claim that the Arms Control and Disarmament Act does not apply to that current sitution.

But if we argue that the United States is not "obligated" to observe the interim agreement, then we cannot argue that the Soviet Union is obligated. Hence, we would have no solid ground for complaining should the Russians begin to violate the provisions of the interim agreement.

Thus, the administration, with this foolish strategem, not only undermined its relationship with the Congress, it also undermined the stability of our strategic arms relationship with the Soviet Union.

GENERAL LEAVE

Mr. MARRIOTT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentleman from New York (Mr. KEMP).

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 29 and part of September 30, 1977, I was absent from the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 607. H.R. 6566: ERDA national security authorization. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 608. H.R. 6566: ERDA national security authorization. The House rejected the Weiss amendment that sought to prohibit the use of any funds for production, procurement, or deployment of any enhanced radiation weapon or for the research, development, test, or evaluation of such weapon, "no";

Rollcall No. 609. H.R. 6566: ERDA national security authorization. The House passed the measure to authorize appropriations for the use of ERDA for fiscal year 1978 for national security programs, "yes";

Rollcall No. 610. H.R. 9019: Budget rescission. The House passed the measure to rescind certain budget authority contained in the message of the President of July 19, 1977, "yes";

Rollcall No. 611. H.R. 7010: Compensation for victims of crime. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 612. H.R. 7010: Compensation for victims of crime. The House rejected the Railsback amendment in the nature of a substitute that sought to limit Federal payments to the elderly, and sought to require State programs to have offender restitution provisions, "yes"; and

Rollcall No. 613. Journal: The House approved the Journal of Thursday, September 29, "no."

ENERGY TRANSPORTATION SECURITY ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 30 minutes.

Mr. TRIBLE. Mr. Speaker, later this week the House is scheduled to consider the Energy Transportation Security Act of 1977. I rise and speak today in support of this important legislation.

As a citizen, as the Representative of the First District of Virginia, and as a member of the House Merchant Marine and Fisheries Committee and House Armed Services Committee, I am conconcerned about the state of the U.S-flag merchant fleet. The U.S.-flag Merchant Marine is in a state of decline. We must take action to reverse this trend.

American flag shipping, by total volume, is carrying less than 6 percent of all U.S. foreign trade and commerce. In 1975, U.S.-flag carriers transported 5.1 percent of all U.S. waterborne cargo, compared with 6.5 percent in 1974 and a 10-year average of 5.6 percent. With respect to tanker movements, American flag vessels participated to the extent of 4.6 percent. The comparable figure for 1976 was 3.5—3.5 percent. Carriage of bulk commodities by U.S.-flag ships was even worse—1.4 percent.

The Declaration of Maritime policy as annunciated in the Merchant Marine Act of 1936, and amended by the Merchant Marine Act of 1970—the law of the land if you will—provides that:

> It is necessary for the national defense and development of foreign and domestic commerce that the United States have a Merchant Marine, (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce to the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (b) capable of service as a naval and military auxiliary in a time of war or national emergency; (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable; (d) composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (e) supplemented by efficient facilities for shipbuilding and ship repair.

This declaration of legislative purpose represents a reaffirmation and continuation of policies and statutes dating back to the foundation of the Republic and to the First Continental Congress. Despite differences in approach and method, for two centuries, American maritime policy has been grounded on the following premises:

First. That an adequate merchant fleet is an indispensable defense asset vital to national security;

Second. That it is far less costly for the Government to maintain that asset by providing incentives to a privately owned fleet, part or most of the most of which is recovered through commercial trade, than for the Government to directly build and own vessels and employ their crews on a stand-by basis;

Third. That the U.S. Merchant fleet provides protection and benefits to U.S. commerce; and

Fourth. That construction and operation of the fleet results in economic benefits such as jobs, balance of payments, savings, and increased tax revenues.

In general, there has been broad agreement on the underlying premises of American maritime policy. Authorities from the earliest years of the Republic support this policy.

In 1793, Thomas Jefferson wrote:

> As a branch of industry (our navigation) is valuable, but as a resource of defense essential . . . but it is as a resource of defense that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their land board, and nothing to desire beyond their present rights. But on their seaboard they are open to injury, and they have there, too, a commerce which must be protected. This can only be done by possessing a respectable body of citizen seamen and of artisan and establishments in readiness for shipbuilding.

In 1944, Dwight D. Eisenhower said:

> When final victory is ours, there is no organization that will share its credit more deservedly than the American Merchant Marine.
>
> We were caught flat-footed in both world wars because we relied too much upon foreign-owned and operated shipping to carry our cargoes abroad and to bring critically needed supplies to this country.
>
> America's industrial prosperity and military security both demand that we maintain a privately operated Merchant Marine adequate in size and of modern design to insure that our lines of supply for either peace or war will be safe.
>
> I consider the Merchant Marine to be our fourth arm of defense and vital to the stability and expansion of our foreign trades.

The core of our 1970 maritime program was the 10-year program to construct 300 new merchant vessels intended to substantively modernize and revitalize this country's dry cargo and bulk fleets. The vessel construction program is seriously behind schedule in meeting the 10-year goal established. This lag is of serious concern and has important national security and national interest implications. At more than the half-way point in the program, only 66 new vessels have been contracted for construction. Of this 66, only 36 vessels have been completed and delivered. Funds requested by the President, and authorized and appropriated by an overwhelming majority of Congress, remain unspent, and the program has clearly lost its momentum.

The chief cause for the delay in this program implementation is the lack of cargo for the U.S. Merchant Marine. I am absolutely convinced that a key factor in arresting the decline of the U.S.-flag merchant fleet and initiating a move in the opposite direction toward a strong and viable U.S.-flag maritime capability is a strong cargo policy which embodies some form of cargo equity. To this end I have vigorously supported the cargo preference bill.

Cargo preference is not a new concept. It is a subject that has been considered extensively by past Congresses. In the 92d Congress, a cargo preference bill was defeated in the Senate by a narrow margin. In the 93d Congress, 226 Members of Congress sponsored cargo preference legislation. The measure passed both the House and Senate but was pocket vetoed by former President Ford. There was very little action on cargo preference legislation during the 94th Congress because its supporters preferred to wait for a change in administration.

The proposed Energy Transportation Security Act of 1977 would provide that the Secretary of Commerce take "such steps as are necessary to assure that 4½ percent of all oil imported into the country be transported on privately owned U.S.-flag vessels and that this percentage shall be increased 1 percent each fiscal year that by September 30, 1982, 9½ percent of all imported oil shall be transported on privately owned U.S.-flag commercial vessels. Such a quota is to be available only when U.S. vessels are available at "fair and reasonable rates." Vessels which may qualify to carry the preference cargo must be U.S.-flag registry, be crewed by American citizens, and be within their economic lives (that is, not over 25 years old). Further, their owners must have entered into an agreement with the Secretary to replace the vessels at the end of their economic lives. This provision is to insure that the fleet created will be replaced and modernized regularly. Foreign-built vessels cannot qualify to carry preference cargo.

Why is this legislation necessary? Certainly there are important national security interests that dictate our efforts to revitalize our merchant marine fleet.

In the mid-1960's, the necessity of the merchant fleet for national defense came under renewed scrutiny. There were those who believed that larger, faster aircraft would bear the brunt of the military logistic burden in future conflicts.

Ironically, within months the department of defense was scrambling to secure merchant shipping capability and was scurrying to break moth-balled World War II built merchant vessels out of the national defense reserve fleet for Vietnam operations. Ultimately, logistical and cost considerations resulted in the U.S.-flag vessels being called on to transport 96 per centum of the armaments, supplies and logistic support moving to the Vietnam theater of operations.

The most recent lessons on the importance of self-reliance and seapower occurred as a result of the October 1973 war in the Middle East. The war itself, this country's inability to supply its allies in that war through its network of overseas bases, the economic blockade of this country by oil-producing nations, the assertion of sovereignty by a flag of convenience nation which ordered "its ships" not to supply this country's ally, were all events that clearly demonstrated once again, the importance to this Nation's security of a seapower capability unequivocably under its own exclusive control.

This country's long commitment to the merchant marine as a vital arm of national defense, and its continuing lessons of the validity of this proposition, cannot in any measure lead to a sense of complacency. In fact, recent develop-

ments have convinced me that the time has come for action.

Every citizen must be concerned with the rapidly increasing strength of Soviet seapower. The Soviet Union, geographically and historically a land power, has undertaken an ambitious buildup of its navy and its merchant marine. While potentially troublesome in itself, this buildup is doubly troublesome in view of the continued decline in both U.S. naval vessel strength and U.S. merchant marine vessel strength. Since the passage of the 1970 act, the United States has been surpassed by the Soviet Union as a merchant seapower at least in terms of numbers of vessels.

Between 1965 and the end of 1977, the Soviet merchant fleet grew from 990 vessels of 8 million DWT to 1,655 vessels of 15,353,000 DWT: a 67-percent increase in the number of vessels and a 92-percent increase in tonnage; 1975 saw the Soviet fleet increase by 972,000 DWT while the U.S. fleet increased by 582,000 DWT. During the same year, the number of Soviet vessels increased by 46 to 2,404 while the privately owned U.S. fleet decreased by 3 to 580.

There are other important reasons to support cargo equity. Clearly the national economy would be greatly stimulated.

What, for example, would be the effect of cargo equity on the creation of useful jobs in the private sector for American citizens? Substantial would be my response. The tanker building program inherent in reaching and maintaining a goal of 9½ percent carriage of U.S. oil imports in U.S.-flag, U.S.-built ships by 1983 would involve a substantial capital outlay for ship construction and would in the process involve thousands of man-years of employment for U.S. shipyard workers. But that is only part of the story: using the multiplier effect, a significant number of jobs would be generated in ship component manufacturing, related industries, and supporting services. Including increased employment for seagoing labor, the impact on the gross national product, measured by accepted economic criteria, could be even greater.

This program would have other important economic impacts which contribute to national economic strength and stability. During an era in which the United States is going to be importing increasing amounts of high-priced foreign energy supplies, the balance of payments contributions of the maritime program are significant. Moreover, tax revenues would be generated because the U.S. Government has far greater taxing power over U.S.-flag ships than it does over foreign or flag-of-convenience ships.

There are other benefits as well. The environment is an important concern to those of us that live in Virginia where we depend on the Chesapeake Bay, our rivers and creeks, for food, jobs, transportation, and recreation. All Americans are concerned about the integrity of our marine environment. We must do all we can to protect and preserve the quality of this environment and prevent catastrophies such as oil spills. Our ability to promote better tanker safety standards for all vessels operating in U.S. navigable waters will be greatly enhanced by the enactment of cargo preference legislation. The U.S.-flag vessels which would be built under its provisions would be safer, better manned, and operated with higher equipment and construction standards.

You might also ask, and properly so, what will be the cost of cargo carriage? Because of changing relative inflation rates, resulting economic conditions, corresponding currency fluctuations, and the world's shipping recession, I doubt very much if anyone, expert or clairvoyant, can predict future foreign or domestic shipbuilding prices or shipping rates with any degree of confidence.

According to the General Accounting Office (GAO), the cost of 9.5 percent oil cargo preference as of 1985 may be as high as $550 million a year if 8 million barrels/day are imported, or $610 million if imports rise to 10 million barrels/day. Department of Commerce (DOC) estimates of 1985 cargo preference costs at these import levels are, respectively $110 million/year and $170 million/year. DOC has reviewed its estimates in light of the GAO report on cargo preference costs, and finds no basis for revising them. This position reflects the following considerations.

The GAO estimates include transportation cost increments of $240 million and $300 million at the respective import levels. To these values, which are directly comparable with the DOC estimates of $110 million and $170 million, GAO would add $310 million attributed to a possible increase in the price of domestic oil. DOC reasons for rejecting these GAO estimates are as follows:

The GAO estimate has not been corrected to exclude past subsidized U.S. ship construction costs. The subsidized element of U.S. ship costs must be excluded because it will have to be excluded in the calculation of the "fair and reasonable" freight rates allowable to U.S. operators under the provision of the cargo preference legislation. This factor alone accounts for $64 million of the GAO transportation cost estimate of $240 million at the 8 million barrel/day import level and for $71 million of the $300 million GAO estimate for imports of 10 million barrels/day.

The second area of overstatement in the GAO estimate reflects an assumption that DOC will deliberately incorporate "excess profits" in fair and reasonable rates allowed to U.S.-flag operators in the preference trade. DOC will not do this, and has so testified. However, GAO has assumed that DOC will sanction rates 10 percent above fully allocated costs that already include a 10-percent capital recovery factor. This excess profit allowance accounts for $46 million of the GAO estimate for 8 million barrels/day and for $59 million in the 10 million barrels/day case.

The third major area of variance between the GAO and DOC estimates reflects the capital valuation procedure used in the development of the GAO estimates. Under generally accepted U.S. accounting practice the book value, reflecting original acquisition cost, is used in determining capital value. The DOC estimate is based on this valuation procedure, and hence reflects pre-1975 acquisition costs for most ships likely to be involved in preference trades at 9.5 percent. In the derivation of the GAO estimate, on the other hand, capital values were placed at a level approximating 1977 ship costs. The exact impact of this GAO approach is difficult to ascertain, but it must necessarily involve an overstatement in relation to actual acquisition costs.

Considering the above aspects of the GAO approach, it appears that appropriate corrections to the GAO estimates of transportation costs attributable to 9.5 cargo preference would reduce the $240 million assigned to an import level of 8 million barrels/day to something less that $130 million (that is, 240—64—46—indeterminate escalation factors= less than 130). A similar adjustment to the $300 million estimate for 10 million barrels/day yields something less than $170 million (that is, 300—71—59—indeterminate escalation factor=less than 170).

The assumption by GAO that domestic oil prices would increase by $310 million, given their estimate of the transportation cost increase attributable to 9.5 percent cargo preference, reflects an implicit assumption that domestic oil prices would be free to respond to minor variations in the delivered price of imports. However, domestic oil prices do not float freely. They are subject to comprehensive Federal regulation at the present time, and would continue to be regulated under proposed energy legislation. It appears highly unlikely that the oil industry would be permitted to increase domestic oil prices simply because of a marginal increase in the delivered cost of less than 10 percent of U.S. oil imports. It should also be noted that the $310 million increase as estimated by GAO is a direct reflection of an overstated estimate of the transportation cost increment. With appropriate adjustments to the transportation cost, the hypothetical domestic price impact would be reduced approximately by half. It is the DOC position that the GAO estimate of cargo preference's potential effect on domestic oil prices is: (A) overstated, and (B) unlikely to occur because it is unnecessary and readily preventable under existing procedures.

I think the Department of Commerce's estimate of cost is close to the mark. Certainly cargo preference will cost the American consumer more money. However, the national security, employment, balance of payments, tax and marine environment benefits that will naturally result from the use of U.S.-flag tankers will offset this cost.

In summary I believe we must begin to be more self-absorbed in our approach to maritime problems and policy related matters. I believe that this legislation is important and vital to the future of the American maritime industry and the best interests of the United States. I urge my colleagues to support the Energy Transportation Security Act of 1977.

AMENDMENTS TO H.R. 8410

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, tomorrow the House will debate H.R. 8410, the Labor Reform Act of 1977. I believe that many of the problems in the earlier version, H.R. 77, have been corrected, and I hope to be able to support passage of the bill. The idea of providing a degree of certainty an equitable procedures in the Federal labor law structure seems to me to be imminently fair.

However, it is also my belief that the bill can be improved even further, and for that reason I will offer the following amendments to do just that when H.R. 8410 is considered.

AMENDMENTS TO BE OFFERED TO H.R. 8410 BY CONGRESSMAN TOM RAILSBACK

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18;

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "thirty", and page 21, line 1, strike out "fifteen" and insert in lieu thereof "thirty";

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "forty-five";

Page 21, line 24, insert after the word "election" a period, and strike the following language, beginning with "Provided", through page 22, line 2;

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole";

Page 24, line 17, insert the following new sentence after "Secretary of Labor.": "Such order may be reviewed pursuant to subsections (f) and (g).";

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.";

Page 26, line 9, insert before the coma "in the same or similar industries";

Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following:

A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.

NATIONAL EDUCATIONAL OPPORTUNITIES ACT

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, the time has come when we consider busing on its merits rather than as a symbol. The great majority of whites have long since accepted the idea that segregation is wrong. Even in the Deep South there is hardly such a thing as an all-white school and little feeling that there should be. One need no longer defend busing as a symbolic way of defending an integrated society. That battle has been won. The question now is not of goals but the wisest choice of means to achieve those goals.

What is the actual effect busing has on the prospects of children in school?

Does it reinforce segregation in large cities? Will it make integration in the future more difficult to achieve?

Are there better ways to accomplish the two goals it is supposed to achieve: Improving the quality of education of black children, and promoting the establishment of an integrated society in which race will no longer be a major consideration?

Recent actions of the House and Senate clearly show a majority wishes to take some action, but the action taken so far has been through the technique of amendments to money bills. This is not only a bad way to go about solving the problem, with no hearings or expert testimony, but it has also proven totally futile in results. Time and again Congress has prohibited the use of Federal funds to pay for busing, but Federal courts have ruled that this does not absolve the cities of the obligation to integrate schools by busing.

We must address these questions in a more basic way, through the full hearing process. As the Washington Star editorialized:

Congress should stop nibbling at the edges of the problem and find a solution the country can live with.

Representatives HAMILTON and UDALL have joined me in introducing a bill which approaches the problem in this comprehensive way. It does not mandate an answer by forbidding the courts to order busing. We must recognize that this is impossible under our constitutional system.

Nor does this bill suggest that we must await integration through evolution—better incomes for blacks, better housing, fair zoning laws, and so forth, which will be too slow. As Manny Celler used to say, "In the land of never-never we come eventually to the street of by-and-by." We must make progress.

Busing may remain necessary in some situations. But we know now that it is clearly not a good solution. To replace it, we must, first, make far greater use of other methods of school integration; and second, upgrade the education of black pupils in the inner city to speed the otherwise slow process of bringing them into the middle class. Of course, third, we must always seek racial harmony beyond the schools and thus ease the tensions that have made school desegregation a volatile issue.

The third point is beyond the scope of this bill, but the bill does address points one and two.

The heart of the bill lies in gradual integration, without Federal coercion, through the use of alternatives to busing. Such alternatives will appear only when the reins of education control are handed back to local officials. Otherwise, embittered communities will continue to watch from the sidelines as the courts administer clumsy and drastic remedies to their educational ailments.

Community involvement and community control would become a reality if local school districts were to take a hard, organized look at their problems and then devise a comprehensive 5-year plan for improvement. Such a plan would be more than a simple desegregation scheme. It would necessarily include methods to reduce racial concentrations, but it would also seek to improve the educational process as a whole.

No one knows the answer to our educational problems, although several new approaches have been tried. This is all the more reason why local communities should use their own ingenuity in developing ways to meet their particular educational needs. Supervision by HEW would still be necessary but meticulous bureaucratic scrutiny would cease and the initiative for planning would shift to local school districts. More importantly, there is every reason to believe that school districts in the process of charting their own educational course will be viewed differently by Federal judges who so often in the past have had only a choice of either issuing a busing decree or seeing nothing done.

This is the approach taken in this bill, the National Educational Opportunities Act. It would require each State to submit a plan by January 31, 1979, to carry out the objectives of the act; that is, to improve and equalize educational opportunities throughout the Nation and to alleviate racial isolation. Federal financial assistance would vary not only in accordance with the population of a State, but also in accordance with the number of minority families.

Plans would be reviewable annually and would be geared to achieve their objectives in 5 years. Acceptable plans would include one or more of such features as "magnet schools," which are designed to improve the education of blacks and also attract more whites. These magnet schools would be staffed with some of the best teachers and given an exciting, innovative curriculum. Another alternative is the building of new schools on the border between black and white neighborhoods to make integration possible without busing. The list of alternatives suggested in the bill is not exclusive. The purpose is to stimulate thinking across the land about alternatives, rather

than sitting back and leaving it to the courts.

Integration of some of our inner city schools may be impossible, whether with busing or alternatives to busing. Nevertheless, we must upgrade the education of these pupils. The bill deals with this problem by requiring "equalization of resources" among schools in a district in eight very specific ways, such as pupil-teacher ratio, class size, school building and materials, teacher quality and textbooks.

The bill also addresses the racial concentration problem through the important "majority transfer" provision. This gives a student a right at the beginning of the school year to transfer from a school in which his race is in a majority to a school in which his race is in a minority, with transportation furnished. It would allow any student to transfer voluntarily to any school where this would improve the racial balance. Since such transfers are voluntary, they would not "generate the fear-spawned opposition that busing has generated," in William Raspberry's phrase. This would entail some restrictions: whites could not move from black schools to white schools, and the move could not increase racial imbalance.

The bill is based on one drafted by the late Alexander Bickel, an outstanding authority on constitutional law at Yale Law School. The bill may not be the final answer, but we hope it will serve to begin a full-scale discussion on how best to achieve equal educational opportunities in this country.

Better schooling for blacks offers the best way of breaking the vicious cycle of segregation in housing, leading to segregation in schools, then to segregation on the job and a permanent black underclass. This better schooling can be achieved without lowering the quality of education generally if we plan intelligently. The stakes for all sides are high—peace in the community and a fair shot at a quality education for each student.

NINETIETH BIRTHDAY SERMON BY REV. DR. FRANK RHOAD OF DELMAR, N.Y.

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 10 minutes.

Mr. STRATTON. Mr. Speaker, on September 18, the Reverend Dr. Frank Rhoad, now of Delmar, N.Y., and pastor emeritus of the Second Presbyterian Church of Amsterdam, N.Y., was honored in the Second Presbyterian Church with a special service on the occasion of his 90th birthday. At that service Dr. Rhoad preached the sermon from the same pulpit from which he had preached regularly for 36 years as pastor of the Amsterdam church until his retirement about 20 years ago.

Even at the age of 90, Dr. Rhoad is as alive, as alert, as vital, as full of wit and wisdom, as a man 30 years younger. He held the congregation spellbound for 20 minutes longer than the ordinary period allotted for a Sunday sermon—no mean feat, I might add, in this impatient day and age.

Most impressive of all, Mr. Speaker, was the fact that Dr. Rhoad's sermon was a genuine masterpiece, full of sage observations on a life of dedicated service that has already stretched over nine decades, yet well attuned to the realities of today. Because it contained such a profound message, I believe Dr. Rhoad's sermon will be of great interest to my colleagues, and therefore, under leave to extend my remarks, I include the full text of that sermon.

The sermon follows:

REFLECTIONS AND PROSPECTS AT 90: A VALEDICTORY SERMON BY REV. FRANK TILGHMAN RHOAD, D.D.

(Delivered on the occasion of the celebration of his 90th birthday anniversary and the 67th year of his ordination to the Christian Ministry at Second Presbyterian Church, Amsterdam, N.Y., September 18, 1977)

(The sermon is dedicated to my son, Frank, Jr., and his wife Ruth, my grandson, Ronald, and my 3 great grandchildren, David, Robert and Karen. To you . . . "I throw the torch of faith. Be yours to hold it high.")

REFLECTIONS AND PROSPECTS AT 90

Text—Hebrews 12:27.

I make to tremble, not the earth only, but the heavens. In this final shaking, all that is impermanent shall be removed, only the unshakable things will remain.

We are observing today the 90th anniversary of my birth, and the 67th year of my ordination to the Christian ministry. Surely it is much more than an occasion of personal gratification. It is a sign of the amazing grace of God, and the miracle and mystery of human life. Think of it! Within every one of us, there is a pump, the human heart that pumps unceasingly, night and day, lifting 125,000 gallons of blood a year, and so quietly the doctor has to listen with a stethoscope.

From the day you were born 'til now, think of all the "bugs" that have been out to get you and the arrows of outrageous circumstance that aimed to fell you. All of us are miracles of the Creative Wisdom of God.

We are age conscious. Whenever you fill out an application blank for this or that, there is asked the impertinent question, "How old are you?" Age is more than the chronology of the Calendar, and the hardening of the arteries. "We live in deeds. Not years. Not in figures on a dial."

Age has more than the one dimension of length of years. Age has also the dimensions of height, breadth, and depth.

The intent of all life is growth. I plant a tender plant in my garden to the end that it may blossom, mature and bear fruit.

What is the breadth of your life? What is the range of your interests and your points of contact with other people? What are your sympathies and appreciations?

What is the depth of your life? There are people who have no depth of conviction. No basic principles of action. Their lives are shallow and rudderless.

The psychologist speaks of infantile fixation and arrested development. Some people never grow up. A baby is the most beautiful thing in the world, but a baby in an adult body is a tragedy. A flapper at 18 is a normalcy, at 40 it is a monstrosity.

In the 5th chapter of Hebrews, a contrast is made between an immature Christian who has just learned his ABC's, requires a milk diet, and cannot take solid food, with a spiritual adult, who has power to discriminate between what is good, and what is bad.

How much have you grown since you were engrafted into Christ?

Spiritual growth is affected by our social environment, and the cultural changes that inevitably take place in society. And how we respond to these changes, determines character, and our outlook on life.

A distinctive mark of the present times is rapid change in every area of life. Change is one of the certainties of life. Nothing is because it was.

How evident this is in the physical world. From time immemorial, the mountains erode and are washed into the sea. The sea in an angry mood belches forth in volcanic rage and islands are born.

We are living in one of the most historic and picturesque valleys in the entire country. At the close of the Glacial Age, 25,000 years ago the Creator was getting the Mohawk Valley ready for you and me. The Mohawk River was the chief drainage of the glaciers that fed the great inland seas, such as prehistoric Lake Albany, that stretched as far west as Rotterdam, as far north as Saratoga and as far east as Albany.

The Labradorian ice sheets crept stealthily southward, and crashed over the plateau at Little Falls, cut through the rocks at Big Nose and made the Mohawk River a rushing mighty torrent.

Amsterdam in its brief history of 175 years changed from a pioneer agricultural village, to an industrial center, to clothe and carpet the nation. And what next, no one knows!

If a modern Rip Van Winkle had taken a nap for 20 years, and came back today to his old haunts in Amsterdam, he would be lost and confused. When I came back after an intermission of only a few months, I was bewildered with the "one way" streets, and the amazing real estate developments.

And yet "Old Second" stands proudly in the midst of it all.

We are living in a time of great social and political change. Social customs hoary with age are crumbling. In the last 50 years, in Africa 49 nations, at least, have gained their status, and are struggling to find their place in the Sun.

When my brother George went to Kenya Colony, about 75 years ago, it was a jungle something like our Western Country in the early days. He went as a servant of Jesus Christ preaching and healing in his name. Today Nairobi, where he labored, is a great metropolitan city and Kenya is a great center of African culture. My brother and his wife Nellie lie buried there. From the ashes of the graves of many pioneer missionaries who have passed to their reward, rise phoenix-like the pillars of a Christian civilization yet to be.

The discoveries and insights of Science are changing the world.

There are more scientists in the world today that the sum total of all the scientists that have ever lived hitherto.

Science is performing wonders in biological research. There is great concern today about "genetic engineering" and controlled experiments in DNA research.

In our materialistic age, it is so perilously easy to assume that only the body is real and that every human ill can be cured with a pill or a knife. There is a tendency to debase man to the animal level and reduce human behavior to a chemical reaction to stimuli.

When you saturate a generation with the philosophy of biological determination, and the idea that we are only chemical mechanisms and chattering animals, then you will get animal behavior. When the spiritual nature of man is ignored, then man reverts to the ethics of the jungle and barnyard. That is what is happening!

But we know better. Hidden somewhere within the biological wheels is the "Soul," transcendent to the body, and made in the image of God.

God has set eternity in our hearts. God has made us like unto His own nature. We can think God's thoughts after Him. We have an imagination that can elude the body, and wonder afar in distant lands. We have a conscience. And when conscience whispers, we hear the overtones of a world invisible. The Soul is more than body-brain. The Soul uses the body-brain as an instrument whereby we humans have business with God.

The psychologist makes much of the subconscious mind. It is the powerhouse of human behavior. In it are generated the riotous impulses of human nature.

Compounded as we are of animal and spiritual, there is waged within us, and in the world without, ceaseless warfare between the claws and the wings.

The world is a great arena in which this battle between good and evil is being waged. Science is giving man unprecedented power. It has knit the world together into a neighborhood, and whether it will end in a murderous brawl, or a beloved community depends on how the released power is used. Science has produced an atomic bomb that could blast this earth into smithereens. Arthur Compton, Nobel Prize Winner in Physics, exclaims, "Science has created such a world in which Christianity is imperative."

Our attention has been called recently to the character and service of Dr. Wernher von Braun. As a teen-age lad he watched the stars and dreamt of space exploration. At his confimation, he received a gift of a telescope. He would spend hours with it in reverie. He said, "I had a romantic urge to soar the heavens, and explore the mysterious universe." With the collapse of Nazism, he came to America and became the author of our rocket system of defense.

The paradox of the dualism of human nature for man, half-angel and half-devil, is expressed in his own words, "We designed the rocket to blaze the trail to other planets and not to destroy our own earth."

To have peace of mind and soul there must come into our lives a Master Passion to quell the riot within, unify our lives, cleanse us from an oppressive guilt, release us from our sins and set us free.

There is needed a quickening of our spiritual natures. This is what happens when by faith we accept Christ as the Saviour and Master of our lives.

Intimacy with Jesus is a transforming friendship. We become a new person and we live in a new world.

Being "born again" is not an outworn dogma as some regard it, only applicable to immoral prodigals. Too often, it is associated with the gutter, a sawdust trail or a sudden dramatic emotional experience.

Conversion is a fact of experience. Jesus said, "You must be born again." It is a necessary imperative to realize the spiritual potentiality of life.

In another context, Jesus placed a child in the midst of the disciples and remarked, "Except you be converted and become as little children you shall not enter into the Kingdom of heaven."

In that statement there is a suggestion of growth and development and a clear implication that Jesus thought of conversion as a normal experience of an unfolding life.

Horace Bushnell of a former generation maintained we should expect our children to grow up as Christians and never know anything else. He did not say that children did not need conversion. But it should be a normal development of the maturing life as the physical development and mental awakening of adolescence.

If there is love, reverence, and attractive goodness in the home, the second birth of the child is as normal as the first birth.

Fortunate are those who have come from such homes.

I would have a word with the young people who are here this morning. What a glorious thing it is to be young with life unfulfilled ahead of you, and to live in a day of opportunity such as this.

God has endowed the least of you with magnificent potentialities that await awakening. Many of you are members of a church and have taken the name of Christ, but have not yet completely experienced or realized the implications of a total commitment to Jesus Christ as Saviour and Master of your life.

In your search of God's plan for you, the world will be of little help. We are in a world of revolution and society is slipping its halter. We are a sex obsessed generation, and things that are intimate and sacred, are being made common and vulgar.

The home is the basic unit of society and a moral laxity is weakening its foundations.

Discipline is still the cost of achievement.

I saw a group of young black men, recently perform a most difficult feat. They were playing a game of basketball on one wheel cycles. Someone asked them how much time they spent on practice. They replied, 5 hours a day! The way to anything worthwhile is hard and narrow.

How apt and timely are the words of Jesus, "Go in through the narrow gate, because the gate to hell is wide and the road that leads to it is easy, and there are many who travel it. But the gate to life is narrow, and the way that leads to it is hard and there are few people who find it." Matt. 7:13, 14.

There is no more beautiful thing in life than a home that is love motivated. Such a home is not a donation given by the minister or priest at the marriage altar. It is a priceless achievement for which you must pay the cost of loyalty, devotion and sacrifice. The young woman or man who does not deny himself for a Christian home will be forever denied a Christian home.

Amid the tumult of a rapidly changing world, in our skeptical moments we ask, "Is there anything left to cling to? Is there anything that will survive the tempests of time, and the destructive passions of man?"

The words of our text are the promise of divine assurance. They were inspired of God to give courage to a persecuted and hopeless people in the first century.

And the promise is still valid for God's people today. "I shake the earth that only the unshakable things remain."

The Church of Jesus Christ is one of those unshakable things. In a bewildered age, the church stands amid the rubble of a changing world. Our Faith has worn out many hammers.

It survived the condescension of the Greek scholars, the bitter persecution of the Roman Emperors, the blight of the Dark Ages. And it will survive the assaults of modern secularism. "The gates of hell will not prevail against it," Jesus assures us.

We fully recognize the visible Church has its blemishes. The treasure of the gospel is carried, as the apostle Paul so aptly puts it, in a common earthen jar, and the jar is often marred and nicked by the frailty and stupidity of persons such as we are. In spite of the blemishes God is in the Church as He is in no other institution.

The charter of the Church does not read that the Church is to be a stabilizer of the status quo. It is to be a mediator of reconciliation between God and Man and Man with Man. The cardinal task of the Church is to preach the good news of the Kingdom of God, which was the earthly passion of Christ for which He gave His life upon the Cross.

The Church is not only fire insurance, to help us escape from the wrath to come and assure us safe passage to Heaven.

Much, much more so, it is to get more of heaven down to earth. That is the gist of the social gospel. Luke 4:18.

In this insecure world, St. Paul came to the conclusion there are three virtues that have survival value—Faith—Hope—Love.

Hope is essential to life. When hope has gone, there is nothing to live for.

A distinctive mark of modern science is the spirit of expectancy. Men of science are expecting greater things tomorrow than anything known today.

In laboratories all over the world are groups of eager men expecting some new discovery.

This same mood of expectancy was the dynamic of the Apostolic Church. Some time ago a noted British scholar wrote a book entitled, "The Lost Radiance." The early church was radiant with a great hope. And, he felt the contemporary church had lost its radiance, and its passion for the souls of men and women.

Maranatha was a common word among those early Christians. It means, literally translated—"The Lord Cometh." When a Christian met another Christian the greeting was Maranatha. When he wrote a letter to a friend he would conclude it with Maranatha. It was a slogan, the soldiers of Jesus Christ repeated as they went forth to the conquest of the world.

The apostolic Church was fired with a great Hope in the imminent Second Coming of Christ, and His Sovereignty in the world.

Now we know their time schedule was off and they were mistaken about the manner of His coming.

The core of that expectancy has never been nullified. The Holy Spirit is working mightily in world affairs today, "A Power outside ourselves that makes for righteousness," and we believe Christ in God's time, is ultimately destined to rule this world.

Another imperishable thing is Love. There are counterfeits to be sure. But true love never fails. It stands by when everyone else walks out.

Love is creative. Love builds. Hate and lust only destroy.

Love is the oldest thing in the world. A short time ago, there was excavated from ancient ruins in Egypt the mummy of a little girl. She held in her arms her favorite doll. Thousands of years ago little girls loved their dolls as they do today.

Our earthly loves are broken reflections of the Divine Love that surpasses all knowledge. The Love of God our Father in heaven is not altogether unlike the love of all good mothers and fathers on earth.

A noted philosopher once said, "If I had only one question to ask the Sphinx it would be, 'Is the universe friendly?' "

God's Word assuredly answers, God loves you. Both the Old Testament and New Testament answer with one voice.

I have loved you with an everlasting Love, and with loving kindness have I drawn you. Jeremiah 3:3.

God so loved the world, that He gave His Only Begotten Son, that whosoever believes in Him, shall not perish, but have everlasting life. John 3: 16.

Today, the acids of modernity are bleaching out the Love of God, until it means little more than a sweet amiability. To say that God is Love means to many people that He is benevolent, good-natured and easy-going. He is the Man Upstairs to be chatted with, and Someone you can call on when you get in a pinch. The Love of God is infinitely more than that.

Love without Justice is mushiness. And Justice without Mercy has no power to move the stubborn heart of man.

Nowhere does the mystery of God's Love come in such clear focus, as when we stand before the Cross on Calvary. The Cross is a symbol of God's Undiscourageable Love and His Immeasurable Grace. It is also a symbol of the stupid and stubborn wickedness of erring man.

When I came to this parish in 1921, the text of my first sermon was, "I am determined not to know anything among you, save Jesus Christ and Him crucified." 1 Cor. 2:2. It was my conviction then. It is my song now. Christ died for you and rose again to assure you of eternal life.

God loves you.

"Oh the Love that drew salvation's plan
Oh the Love that brought it down to man
Oh, the mighty gulf that God did span
At Calvary."

On this occasion, I have an humbling consciousness of the unearned contribution others have made to the enrichment of my

life. I have a deep appreciation of the strengthening fellowship of friends in Albany Presbytery throughout the years. I have cherished memories of the love, devotion and loyalty of members of this church. Many have entered into their eternal reward and look down upon us this morning from the high places of eternity.

I want to thank the laymen and laywomen of this church who helped to make possible this celebration. I wish to express my sincere gratitude for the considerate thoughtfulness and gracious courtesy extended to me by your pastor, George Rack and his family in these recent years.

Marie and I with our 10-year-old-son, Frank Jr., came to this church over 50 years ago with all the eagerness of youth. We gave it all we had. And God prospered us in the partnership.

Now I am standing on the portals of eternity. If I could get another pair of legs, I wouldn't mind staying around for a little while, and see what is coming next.

I am a Christian optimist and am rejoicing in hope. True, there is gigantic evil in the world and the wicked spread themselves like a green bay tree. There is also massive good in the world and there are millions who have not bowed their knee to Baal. Dear Brown of Yale aptly put it, "I do not believe that the Lord God Almighty has cut out for Himself a piece of work which will prove too hard for Him."

One of these days, you will read in the press or hear over the radio that I have changed my place of residence and made the Great Adventure. I have no fear. God's word assures us, "They who put their trust in Jesus shall not be made ashamed." Romans 9:33.

Death will be life's Great Commencement. Promoted from the primary department of life's limitations to the celestial university of learning, heaven will be a place of growth and expansion. Every noble thing nourished here will find full expression there.

Death will be a thrilling family reunion of those who died in the faith, "whom we have loved and lost awhile."

We share with St. Paul the great expectation of a magnificient future that Our Heavenly Father has prepared for those who love Him.

We are heirs of God and joint heirs with Jesus Christ. What an inheritance!

A STATEMENT OF APPRECIATION ON BEHALF OF JOHNSTOWN, PA.

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 30 minutes.

Mr. MURTHA. Mr. Speaker, during the night of July 19 and into the morning of the following day flood waters hit Johnstown with devastating and tragic effect for the third time in less than a century.

In 1889, there were 2,000 people killed when an aging, decrepit dam broke sending water rushing through the streets of Johnstown. In 1936, on Memorial Day, water again inundated the city following a heavy rainfall. Water marks remain on downtown buildings to this day. No lives were lost, but there was millions of dollars in property damage.

On July 19, 1977, unsuspecting inhabitants of eight counties in western Pennsylvania went to bed, some never to rise again. As high as 11.8 inches of rain fell in the flood area; six dams burst, 75 persons died and at least $300 million in property damage was suffered.

In the prior two floods there was very little governmental assistance. Municipalities, counties, and the State government raised limited funds and coupled this with assistance from volunteers while the Red Cross and the Salvation Army helped and the National Guard provided security.

In sharp contrast, under the 1974 Disaster Relief Act, there was, in 1977, a dramatic, comprehensive coordinated response. State and Federal employees were prepared and trained to take charge of a program that would afford municipalities affected up to 100 percent reimbursement of rehabilitation costs.

One stop emergency centers were in operation within 3 days, to offer help to individuals from agencies involved in flood relief. I first learned about the flood while lecturing at Quantico to a Reserve officers group. President Carter dispatched one of his helicopters and I flew back to the Johnstown area. Over an eight-county area an estimated 7,375 families were affected. More than 400 homes were totally destroyed; 1,456 homes suffered major flood damage while 4,391 homes suffered minor damage; 119 mobile homes were totally destroyed; 59 mobile homes suffered minor flood damage; and 343 small businesses were destroyed or suffered major damage.

The flood waters began rising around midnight and rose without interruption until 6 a.m., when the water crested. I was on the ground in Johnstown by noon. At that time the National Guard had been mobilized and security was being provided by local personnel working with National Guardsmen assigned to prevent looting. Also, distribution centers for food were being set up. Gov. Milton Shapp had flown into the area. Senator JOHN HEINZ had flown over the disaster area and he and the Governor joined me in a briefing which included the mayor of Johnstown, the State Civil Defense director and the commander of the National Guard. A command center was set up at the Cambria County Airport to coordinate Federal and State activities relative to the emergency.

Two hours after I landed a team of HUD officials, complemented by officials from the State Department of Community Affairs, went into the flood area to do a windshield survey of the devastation to get an estimate of the damage. (The Corps of Engineers had a representative in the command center on the first day. Monsignor Baroni, Deputy Secretary of HUD, flew in during the initial stages of the recovery to assess what aid was necessary from HUD.)

U.S. Senator HEINZ suggested that news film taken by the local televison station WJAC–TV, Johnstown, be flown back to Washington. Later, he and U.S. Senator RICHARD SCHWEIKER together with a member of my staff presented this to the White House so that Mr. Carter could recognize the extent of damage suffered and make an expeditious declaration of official disaster.

Governor Shapp signed the request to the President asking that the eight-county area be declared a disaster and eligible for relief under the Federal Disaster Relief Act of 1974. On the morning of July 21, President Carter signed the declaration of disaster. This timely action was essential in the initial stages so that a coordinated effort could be initiated without delay.

No time was lost in handling this very tragic and traumatic situation. Federal and State officials acted with professional expertise, enthusiasm, and dedication. By July 24, a one-stop center manned by State and Federal officials was established; it remained in operation for the next 45 days while State and Federal employees worked tirelessly in implementing the disaster relief program enacted by Congress.

There was only one telephone line at the command center, therefore, it was necessary to relay information across town. This situation, which persisted for several weeks, made it difficult to coordinate recovery activity.

In the initial emergency, feeding people became a top priority. Some 100,000 persons were initially affected by the flood. The first week as high as 50,000 people per day relied on emergency feeding centers established by churches, fire companies, and many other volunteer organizations.

Emergency provisions were established so that 55,000 persons without water and food were able to have access to basic services and supplies. Municipalities were notified that under the Disaster Relief Act they could operate emergency facilities and the costs would be reimbursed by the Federal Government. It was only necessary to keep accurate records of their activities.

Naturally, there was confusion during the early stages, but I do not believe there could have been better handling of this difficult and complex situation. The cooperation at the Federal and State level was absolutely phenomenal. Everything that was available under the law was expeditiously dispatched within the affected eight-county area. For 45 days these men and women worked 15 to 18 hours a day to bring order and assistance where it was so desperately needed. Over 800 Federal employees together with 3,000 State employees were actively engaged at the height of the disaster assistance operation.

The purpose of this speech is to report to the Members of Congress on the situation in the flood-damaged section of Pennsylvania and how it was responded to by Federal and State agencies. This disaster provided a true test of the programs specifically designed for such occasions. I must commend the Federal Disaster Assistance Administration and the several State and Federal agencies involved for an outstanding job. In my estimation the Federal disaster relief legislation we passed in 1974 has proven to be a most humane and effective enactment.

I would hasten to add, however, that the valuable work done by volunteers and service organizations, cannot and should not be minimized. I wish at this moment, however, to give proper recog-

nition to the Federal and State agencies involved in the implementation of the Federal Disaster Relief Act of 1974. Herewith is a summary of these activities:

Mr. Richard Sanderson was assigned the Federal Coordinator for the disaster and it was he who implemented several new ideas to better facilitate uniting the federal resources with the affected disaster victims.

Many federal liaison officers were assigned to facilitate communication to officials of local and state municipalities with the various Federal disaster recovery agencies. This allowed immediate answers to questions and was found to alleviate confusion with the large number of agencies and programs involved. Twenty citizen community outreach meetings were conducted throughout the affected area and I attended most of these meetings.

They concentrated on finding who had been to the one-stop centers, what information had been given and what services had been provided. The first meeting was conducted within the hardest hit area of the flood where the most people had been killed. The church where it was held was overflowing, people were standing outside listening through the open windows.

These meetings where conducted over a 30 days period and, at the last one I attended, there were only ten persons which indicated to me that the one-stop centers were working.

Knowledgeable representatives from the Federal Coordinator's staff, HUD, and the Individual and Family Grants program attended the "citizen town meetings" to explain their respective program and answer questions.

Follow-up meetings are being conducted in the same areas to insure that every affected individual has the opportunity to secure in-depth answers to any questions.

In addition to the one-stop service centers the Federal Coordinating Officer established Follow-Up Assistance Service Teams to allow persons to bring their applications and receive individual help in completing them.

This disaster resulted in generating many volunteer and non-government organizations offering assistance to the affected individuals. The FCO assigned a coordinator for this group to help alleviate duplication of services and also to assist in public information distribution. This coordination has allowed the disaster affected individuals to maximize all the available volunteer services to their fullest extent.

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Beginning Wednesday, July 21, the FDAA office was in constant telephone communication with Governor Shapp's office. The deputy director and public assistance officer departed from the regional office at 6:30 a.m. Thusday for Johnstown.

Once in the area, a fly-over was conducted to survey the damage and then coordination began with the State and other Federal agencies regarding the damage to municipalities' streams, rivers, schools, roads, bridges public buildings and utilities.

Applicant briefings were scheduled with each municipality to explain eligibility criteria and to coordinate clean-up efforts.

ACTION

Action provided a total of 50 volunteers through the VISTA program. These volunteers performed disaster work ranging from actual assistance in the clean-up of homes to assisting with federal coordination of the disaster assistance center and out-reach activities.

DEPARTMENT OF JUSTICE

It is felt that special recognition should be given in this disaster situation to the efforts of the Regional Community Services Division of the U.S. Department of Justice. Their role in the recovery effort was especially important because of the large number of ethnic groups represented in this area.

With the authority of the Department of Justice to deal with discrimination-type cases and with the experience of that office in dealing with volatile and emergency situations, a special and needed form of communication was made available both to the Federal Coordinating Officer and to the affected individuals.

The office was especially valuable in identifying those individuals who needed special attention and leaders within the community that were instrumental in communicating valid information concerning the disaster relief assistance.

DEPARTMENT OF DEFENSE

The Department of Defense responded to this disaster in its normal highly responsive manner. The Federal Coordinating Officer and FDAA were able to depend upon immediate response to requirements placed upon military for air support, communications, bailey bridges and other resources of the military unavailable or inaccessible through other means. Efficient coordination was enhanced by the presence of the Military Liaison Officer, Col. George Woods and his staff.

INTERNAL REVENUE SERVICE

The IRS program assists disaster victims to write off casualty losses on their 1976 tax returns. They anticipate counseling over 10,500 individuals. The IRS is hand-processing each amended return to expedite cash flow to the affected applicants. This process has cut the time to three weeks.

DEPARTMENT OF LABOR

DOL, through the State Department of Employment Security, is expected to pay an estimated six million dollars to persons who have lost employment as a result of the disaster and who are not covered by the regular Unemployment Compensation program.

DOL also should be commended for its initiation of a $1.4 million CETA program in the Johnstown area.

DOL's quick response allowed immediate employment opportunities in an area whose unemployment rate rose drastically in a very short time.

SMALL BUSINESS ADMINISTRATION

The reduction in interest rates was of significant importance to the affected citizens. SBA expects to loan $33,700,000 in home and personal loans and $55,400,000 in business loans.

The most important addition to the disaster operations for SBA was the presence of a treasury disbursing agent to cut checks. This procedure has reduced the turn around time from the normal 10 working days to 1. This allows the affected applicant to have money to begin repairs and rebuilding almost immediately. It also serves to stimulate the local economy.

INDIVIDUAL AND FAMILY GRANTS

This program provides grants up to $5,000 for necessary expenses or serious needs caused by the disaster which cannot be met through other means. The State provides 5% of the funding and FDAA, through the President's Disaster Relief Fund, provides the remaining 75%. The Federal share is expected to total $11,250,000.

In this instance, the federal government advanced the entire 100% so the program could begin operating without delay.

GENERAL SERVICE ADMINISTRATION

GSA was responsible for providing space, equipment and communications and transportation to the FCO staff, FDAA regional HUD, SBA and other agencies.

Special recognition is due to GSA for their accomplishments in securing emergency office space in the Johnstown area for FCO, FDAA, HUD, SBA and other agencies in view of the fact that the Johnstown area suffered severe utility damage and that there were no existing federal resources in the area. These agencies were fully operational with an extensive telephone service and transportation system within 7–10 days after the disaster.

UNITED STATES DEPARTMENT OF AGRICULTURE

USDA's food stamp program expects to expend 2.9 million dollars to disaster affected people.

Farmers Home Administration lowered interest rates to complement the SBA rates. In the affected counties many farmers suffered losses. This lower interest rate allowed many affected farmers the same financial benefit as the businessman.

SOIL CONSERVATION SERVICES

SCS took an active role in assisting the flooded area. They were advanced 4.1 million dollars from the President's Disaster Relief Fund. They accelerated their normal contracting procedures to facilitate immediate stream restoration and stabilization for the benefit of the victims and to prevent future flooding.

COMMUNITY SERVICE AGENCY

CSA was instrumental in providing community outreach to the affected citizens via transportation of people to disaster assistance centers to make application to the necessary agencies.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The department expects to spend 1.9 million dollars in restoration of the public elementary and secondary schools. Coordinating with the local school districts, the affected students were given latitude in beginning school until temporarily housed in group sites. Every effort was made to provide transportation to the students to return them to the same school they last attended.

FEDERAL HIGHWAYS

The repair of roads on the federal aid system FHWA estimates spending 23 million dollars for work to be performed by the Pennsylvania Department of Transportation.

This work, coordinated by former State Secretary of Transportaion, Jacob Kassab, was phenomenal. As a volunteer, an unpaid adviser to the transportation department, he coordinated the extensive bidding procedures that were required and was instrumental in securing expeditious rehabilitating programs.

CORPS OF ENGINEERS

The Corps has participated in several ways. First, under Public Law 84–99, the Corps estimates spending 2.3 million dollars in flood control repairs and 1.8 million dollars in channelization of rivers. With the coordination of FDAA Region 3, the Corps was instrumental under the President's Disaster Relief Fund, in debris removal in the City of Johnstown.

The estimated cost from the President's Disaster Relief Fund is 2.8 million dollars. The Corps also has been given total responsibility for design and development of all the group mobile home sites. Again this expense is borne by the President's Disaster Relief Fund. The first group site was ready for occupancy 30 days after the flood. The other sites followed closely behind.

The Corps of Engineers deserves special recognition. They were on the job early. They provided the professional expertise dur-

ing the initial clean-up which was essential to prevent outbreaks of disease which could have been caused by some of the citizenry eating some of the vast amount of spoiled foods which had accumulated from the flood but which had not been removed from city streets.

Their work in opening roads, providing initial emergency services were vital to the initial rehabilitation.

Colonel Max R. Janairo, Jr. of the district office in Pittsburgh, and Ralph Weise the project coordinator, deserve special recognition for their work in this operation.

HUD

HUD has implemented several new ideas to make sure their programs are completely understood.

An Elderly coordinator has been established to assess the special needs of this section of affected citizens and to coordinate with all the agencies to ensure their needs were met.

An outreach system was developed to communicate with the local government officials throughout the disaster area.

A hotline was established to ensure answers to questions of concerned victims were handled in a timely manner. Secretary Harris took a special interest in this disaster operation. She emphasized the fact that President Carter was insisting that the federal employees provide every assistance priority to the victims and that housing be reestablished as quickly as possible. The efforts of the individuals working for HUD has been magnificent.

The procedures followed have helped alleviate many of the traumatic effects that are normally associated with a disaster of this type. The fact that their response was enthusiastic and compassionate indicated to the people that they were, in fact, being helped by their own tax dollars. The fact that people's homes are being restored as quickly as possible or, if their homes were destroyed, that they were provided temporary housing close to their original homesite, mitigates to a significant degree the trauma attached to such disasters. Hundreds of HUD officials worked tirelessly to insure that homes were repaired adequately and quickly and that mobile home sites were filled in the shortest possible time.

ENVIRONMENTAL PROTECTION AGENCY

EPA was in the disaster area early to locate, contain and dispose of any oil or hazardous materials. EPA expended an estimated 200,000 dollars in this effort.

APPRECIATION

There were many problems that have caused untold agonies for the citizens affected by this tragic disaster. The members of Congress can be pleased that the Federal officials who responded to this emergency were experts, dedicated and low-key. They showed a compassion which is in the highest example of Federal service and the finest traditions of humanitarian principles.

All of us living in the affected area appreciate the 1974 act and offer our heartfelt thanks to President Carter—Gov. Shapp and all the Federal and State employees who helped during our time of need.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes. If I had been present, I would have voted as indicated:

JULY 11, 1977

Rollcall 403, "yes,"
Rollcall 404, "yes."
Rollcall 405, "yes."

JULY 20, 1977

Rollcall 442, "yes."

JULY 21, 1977

Rollcall 446, "yes."

AUGUST 1, 1977

Roll call 487, "yes."

SEPTEMBER 12, 1977

Rollcall 541, "yes."
Rollcall 542, "yes."
Rollcall 542, "yes."

SEPTEMBER 15, 1977

Rollcall 545, "yes."

SEPTEMBER 19, 1977

Rollcall 561, "no."
Rollcall 562, "no."
Rollcall 563, "yes."
Rollcall 564, "no."
Rollcall 565, "yes."
Rollcall 566, "yes."

SEPTEMBER 22, 1977

Rollcall 577, "yes."

PERSONAL EXPLANATION

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Speaker, during my excused absence from Washington last week on official business as a delegate to the Interparliamentary Union Conference, a vote occurred on the Labor/HEW appropriations bill. Notwithstanding my request to the contrary, I was incorrectly paired in favor of the Senate modification of the so-called Hyde amendment.

I have expressed opposition to the Senate version and, if present, I would have voted against the motion to concur in the Senate language with which I am in unqualified disagreement.

The Republican pairing clerk, Walter P. Kennedy, has noted this error and it is my understanding that my correct position will be reflected in the final version of the CONGRESSIONAL RECORD.

Mr. Speaker, let me state further that I continue in support of the Hyde amendment to the HEW bill with only such minor modifications which would reflect my overall position that Federal funds should not be used to perform abortions except under the most extenuating circumstances as where the life of the mother is in danger or under conditions of similar gravity.

Let me repeat that if I had been personally present on September 27 I would have voted "no" on rollcall vote No. 594, against the adoption of House Resolution 780.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MARLENEE (at the request of Mr. RHODES), for the week of October 3, on account of a death in the family.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 1 hour, today.
Mr. SARASIN, for 5 minutes, today.
Mr. TRIBLE, for 30 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. QUIE, for 30 minutes, today.
Mr. ASHBROOK, for 30 minutes, today.
Mr. ERLENBORN, for 30 minutes, today.
Mr. EDWARDS of Oklahoma, for 30 minutes today.

(The following Members (at the request of Mr. GUDGER) to revise and extend their remarks and include extraneous material:)

Mr. RANGEL, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. STRATTON, for 10 minutes, today.
Mr. MURTHA, for 30 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. BENJAMIN, for 60 minutes, October 4, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RYAN, to include remarks following vote on H.R. 6951.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous material:)

Mr. CARTER in three instances.
Mr. SARASIN.
Mr. CUNNINGHAM.
Mr. WHALEN.
Mr. COLLINS of Texas in two instances.
Mr. HAGEDORN in two instances.
Mr. RHODES.
Mr. DICKINSON.
Mr. SHUSTER in two instances.
Mr. REGULA.
Mr. BOB WILSON in three instances.
Mr. MCKINNEY.
Mr. MOORHEAD of California.
Mr. HYDE.
Mr. ASHBROOK.

(The following Members (at the request of Mr. GUDGER) and to include extraneous matter:)

Mr. HEFTEL in five instances.
Mr. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. SISK in two instances.
Mrs. LLOYD of Tennessee in five instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.
Mr. HAMILTON in 10 instances.
Mr. DRINAN.
Mr. MONTGOMERY.
Mr. SOLARZ.
Mr. MAZZOLI.
Mr. JENKINS.
Mr. HOLLAND in three instances.
Mr. FORD of Michigan.
Mr. TEAGUE.
Ms. MIKULSKI.
Mr. OTTINGER.
Mr. PERKINS.
Mr. JOHN BURTON.
Mr. BAUCUS in two instances.
Mr. SIMON in three instances.
Mr. RANGEL.
Mr. RAHALL.
Mr. LEVITAS.
Mr. EILBERG in 10 instances.
Mr. LUKEN.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2052. An act to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment; to the Committee on Public Works and Transportation; and

S. Con. Res. 46. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1331. An act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5645. An Act to raise the limitation on appropriations for the U.S. Commission on Civil Rights; and

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 30, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 6111. To amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; and

H.R. 7554. Making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. GUDGER, Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 4, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2490. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1978 for the Departments of the Interior and Labor (H. Doc. No. 95–236); to the Committee on Appropriations and ordered to be printed.

2491. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report on expanding student financial aid information services via part-time personnel, pursuant to section 493B of the Higher Education Act of 1965, as amended (90 Stat. 2149); to the Committee on Education and Labor.

2492. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting one of the Institute's series of reports on compensatory education programs, dealing with the effects of services on student development, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2493. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the fifth of six reports on compensatory education programs, dealing with demonstration studies of funds allocation within districts, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2494. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the last of six reports on compensatory education programs, dealing with the use of achievement test scores to allocate title I funds, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2495. A letter from the Chairman, Committee on the Process of Determining Student Loan Special Allowances, Office of Education, Department of Health, Education, and Welfare, transmitting the committee's findings and recommendations with respect to an improved method for determining the special allowance paid to eligible lenders under the guaranteed student loan program, pursuant to section 438(g) of the Higher Education Act of 1965, as amended (90 Stat. 2133); to the Committee on Education and Labor.

2496. A letter from the Administrator, Federal Energy Administration, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2497. A letter from the Acting Comptroller General of the United States, transmitting a report on the energy conservation programs at 20 Government contractors' plants (EMD–77–62, September 30, 1977); to the Committee on Government Operations.

2498. A letter from the Comptroller General of the United States, transmitting a report on Federal procurement and acquisition practices (PSAD–77–128, September 30, 1977); to the Committee on Government Operations.

2499. A letter from the Comptroller General of the United States, transmitting a report on Federal internal audit organization coverage of computers (FGMSD–77–82, September 28, 1977); to the Committee on Government Operations.

2500. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Diego C. Asencio, Ambassador-designate to Colombia, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2501. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on the Commission's study of through routes and joint fares between Amtrak and other intercity common carriers by rail and motor carriers of passengers, pursuant to section 306(k) of the Rail Passenger Service Act, as amended (90 Stat. 2615); to the Committee on Interstate and Foreign Commerce.

2502. A letter from the corporation agent, Legion of Valor of the U.S.A., Inc., transmitting a report on the audit of the organization's accounts for the year ended April 30, 1977, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2503. A letter from the Chairman, U.S. International Trade Commission, transmitting the 11th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on International Relations. H.R. 9165. A bill to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State (Rept. No. 95–653). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 770. Resolution dismissing the election contest of Albert Dehr against Robert L. Leggett (Rept. No. 95–654). Referred to the House Calendar.

Mr. PERKINS: Committee of conference. Conference report on S. 717 (Rept. No. 95–655). Ordered to be printed.

Mr. FLOOD: Committee of conference. Conference report on H.R. 7555 (Rept. No. 95–656). Ordered to be printed.

Mr. SISK: Committee of Rules. House Resolution 804. Resolution concurring in the Senate amendment to H.R. 9290. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95–657). Referred to the House Calendar.

Mr. ROGERS: Committee on Interstate and Foreign Commerce. H.R. 8518. A bill to direct an 18-month review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic for 18 months; and to authorize the Secretary during those 18 months to require, in retail stores and in advertising, warning notices respecting the potential

health risks presented by the use of saccharin; with amendment (Rept. No. 95–658). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 9402. A bill to amend the Foreign Assistance Act of 1961 with respect to Cuba, and for other purposes; to the Committee on International Relations.

By Mr. CORCORAN of Illinois (for himself and Mr. COUGHLIN):

H.R. 9403. A bill entitled "The College Tuition Tax Relief Act of 1977"; to the Committee on Ways and Means.

By Mr. DIGGS (for himself and Mr. MCKINNEY):

H.R. 9404. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes; to the Committee on the District of Columbia.

By Mr. FASCELL (for himself and Mr. LEHMAN):

H.R. 9405. A bill to provide that, in computing certain Federal payments to local governments based on amounts of Federal public land within their boundaries, certain amounts of such land which heretofore have been excluded shall be included, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FORD of Michigan (for himself and Mr. CARR):

H.R. 9406. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mrs. HECKLER:

H.R. 9407. A bill to amend title XX of the Social Security Act to make certain that social security benefit increases do not have the effect of making any individual ineligible for services and related benefits under the program established by such title; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself, Mr. TSONGAS, Mr. MARKS, Mr. EARLY, and Mr. JENRETTE):

H.R. 9408. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mr. HEFTEL:

H.R. 9409. A bill to provide for tripartite regional committees to consider questions relating to labor-management relations, and for a National Center for the Study of Labor-Management Relations in the Non-Contiguous Areas; to the Committee on Education and Labor.

By Mr. HILLIS:

H.R. 9410. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, dentures, eyeglasses, and hearing aids among the benefits provided by the insurance program established by Part B of such title, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. KEYS:

H.R. 9411. A bill to amend the Internal Revenue Code of 1954 to allow individuals a tax credit of $250 for each personal exemption, and to repeal the deduction for personal exemptions; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. KINDNESS, Mr. ROSENTHAL, Mr. PRITCHARD, Mr. PEPPER, Mrs. SCHROEDER, Mr. EILBERG, Mr. BEDELL, Mr. VENTO, Mr. BAUCUS, Ms. MIKULSKI, Mr. BONIOR, Mr. PEASE, and Mr. MAGUIRE):

H.R. 9412. A bill to provide that a former spouse of a Federal employee who is married to such employee for 5 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse and such employe, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MIKVA:

H.R. 9413. A bill to amend title XVIII of the Social Security Act to provide for inclusion of the services of qualified audiologists under medicare, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. FORSYTHE, Mr. EILBERG, Mr. TRIBLE, and Mr. BONIOR):

H.R. 9414. A bill to amend the Great Lakes Fishery Act of 1956; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9415. A bill to amend title 18 of the United States Code to impose criminal penalties on certain persons who fire firearms or throw objects at certain railroad trains, engines, motor units, or cars, and for other purposes; to the Committee on the Judiciary.

By Mr. PREYER (for himself, Mr. HAMILTON, and Mr. UDALL):

H.R. 9416. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mr. ROBINSON:

H.R. 9417. A bill to amend an act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; to the Committee on Interior and Insular Affairs.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. OTTINGER, Mr. MARKEY, Mr. WALGREN, Mr. CARTER, and Mr. MADIGAN):

H.R. 9418. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON:

H.R. 9419. A bill to encourage participation by children whose language is English in bilingual education programs under the Bilingual Education Act; to the Committee on Education and Labor.

By Mr. YOUNG of Florida:

H.R. 9420. A bill to amend title 5, United States Code, to increase the retirement annuity for any employee working at least 5 years and less than 20 years as a law enforcement officer or firefighter, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9421. A bill to permit the transportation or mailing of notices or other materials concerning bingo games conducted by nonprofit organizations; jointly, to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. BAUCUS:

H.R. 9422. A bill to amend the provisions of Public Law 88–482 relating to the imposition of quotas on certain meat and meat products; to the Committee on Ways and Means.

By Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BADILLO, Mr. BEARD of Rhode Island, Mrs. BURKE of California, Mr. CARR, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. FRASER, Ms. HOLTZMAN, Mr. JEFFORDS, Mr. MAGUIRE, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOSS, Mrs. SCHROEDER, Mr. VENTO, Mr. WALGREN, Mr. CHARLES WILSON of Texas, Mr. WINN, and Mr. WAXMAN):

H.R. 9423. A bill to establish programs for the prevention and treatment of family violence; to the Committee on Education and Labor.

By Mr. McDONALD (for himself, Mr. STUMP, Mr. SYMMS, Mr. HANSEN, Mr. BADHAM, Mr. ROUSSELOT, Mr. ASHBROOK, Mr. MARRIOTT, Mr. DORNAN, and Mr. CRANE):

H. Res. 805. Resolution impeaching U.S. Ambassador to the United Nations, Andrew H. Young, for high crimes and misdemeanors; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

272. By the SPEAKER: Memorial of the Legislature of the State of California, relative to bilingual education; to the Committee on Education and Labor.

273. Also, memorial of the Legislature of the State of California, relative to postal rates; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 9424. A bill for the relief of Fulton Battise, Chief of the Tribal Council of the Alabama Coushatta Tribes of Texas and Ernest Sickey, Chairman of the Tribal Council of the Coushatta Tribe of Louisiana, and all other enrolled members of the Alabama Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana, respectively; to the Committee on the Judiciary.

H. Res. 806. Resolution to refer bill H.R. 9424 to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. RES. 766

By Mrs. CHISHOLM:

An amendment to section 503 of the resolution as reported by the Committee on Rules. Strike out Section 503 and insert in lieu thereof:

"FAIR EMPLOYMENT PRACTICES PANEL

SEC. 503. The Rules of the House of Representatives are amended by inserting at the end thereof the following new rule:

"RULE LI

"FAIR EMPLOYMENT PRACTICES PANEL

"1. There is established a Fair Employment Practices Panel, which shall be comprised of five individuals, three Members and two employees of the House (other than those employed by administrative units of the House). The three Members shall be chosen by the Speaker, two from the majority party and one, upon the recommendation of the minority leader, from the minority party. The two employee representatives on the Panel shall be chosen by the

Speaker, one from the majority party and one, up on the recommendation of the minority leader, from the minority party.

"2. If an individual has sent a statement taken under oath administered by an authorized official to a Member alleging a violation of that individual's rights under clause 9 Rule XLIII by that Member and no mutually agreeable accommodation has been reached within the thirty-day period commencing upon the date of transmission of the statement taken under oath by an authorized official to the Member, then that individual may file a statement taken under oath by an authorized official with the Panel.

"3. The Panel shall review all statements taken under oath by an authorized official filed with it under this Rule and the attempts at accommodation under clause 2. After an individual has filed a statement taken under oath by an authorized official under this Rule, the Panel may offer consultation to the individual and the employing Member. All activities of the Panel shall be conducted on a confidential basis. If, in the opinion of the Panel, confidentiality has been breached by any individual filing a statement taken under oath by an authorized official, the Panel may dismiss that statement under oath by an authorized official.

"4. If a settlement of the statement taken under oath by an authorized official is reached by the interested parties, the Panel shall so certify.

"5. (a) If a settlement of the statement taken under oath by an unauthorized official is not reached by the interested parties and the Panel believes that a Member has violated clause 9 of Rule XLIII, then the Panel by a vote of four out of five of its members may refer the matter to the Committee on Standards of Official Conduct for its immediate consideration. Notwithstanding the provisions of clause 4(e) of Rule X, the Committee on Standards of Official Conduct shall undertake an investigation of any statement taken under oath by an authorized official referred to it by the Panel and, if the Committee believes that a Member has violated clause 9 of Rule XLIII, then the committee by the affirmative vote of a majority of its members, shall recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances.

"(b) For purposes of this clause—

"(1) continuity of session of Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period."

By Mr. FRENZEL:

The amendment made by section 201(b) to clause 4(d) of the Rules of the House of Representatives is amended by striking out ", and of all functions of the Auditor and his staff" in subparagraph (2) thereof, by redesignating subparagraphs (3) through (6) thereof as subparagraphs (4) through (7), respectively, and by inserting immediately after subparagraph (2) thereof the following:

"(3) establishing a Subcommittee on Audits, to be comprised of an equal number of members from the majority and minority parties, to provide policy guidance and oversight to the Auditor;

SEC. 605. (a) (1) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled to an allowance for use in employing not more than 2 staff members during the period beginning on the date on which the election of such Member-elect is certified by the appropriate officer of the State in which the congressional district of such Member-elect is located (or by any other appropriate official in the case of a Delegate-elect or Resident Commissioner-elect to the Congress), and ending on the date on which the oath of office is administered to such Member-elect.

(2) One staff member employed by a Member-elect under paragraph (1) shall be entitled to be paid at a single per annum gross rate which does not exceed 75 percent of the maximum per annum gross rate at which a professional staff member of a standing committee may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives, and one such staff member shall be entitled to be paid at a single per annum rate which does not exceed 50 percent of such maximum rate.

(b) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled, during the period specified in subsection (a)(1), to receive such office equipment, supplies, and other similar materials as the Committee considers necessary to carry out the duties of such Member-elect.

(c) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be assigned such common office space as deemed available and appropriate by the House Office Building Commission for the use of such Member-elect during the period specified in subsection (a)(1).

(d) The contingent fund of the House shall be available for purposes of carrying out the provisions of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

Offered by Mr. MEEDS:

In the amendment offered by the gentleman from New Jersey, Mr. Thompson insert after section 611 the following new section and renumber succeeding sections accordingly:

SEC. 612. (a) (1) The aggregate number of staff members (other than professional staff members and clerical staff members appointed or selected under clause 6 of Rule XI of the Rules of the House of Representatives) which may be employed by all standing committees of the House (other than committees which are not required to obtain spending authorizations under clause 5(a) of Rule XI of the Rules of the House of Representatives) during any session of a Congress may not exceed an amount equal to 103 percent of the average number of such staff members employed by all such standing committees during the preceding session.

(2) The limitation established in paragraph (1) shall not apply in the case of—

(A) any increase under subsection (b)(2); or

(B) the appointment of associate staff members of committees under clause 7(a) of the Rule XI of the Rules of the House of Representatives or under the rules of any standing committee of the House.

(b) (1) Each primary expense resolution under clause 5 (a) of Rule XI of the Rules of the House of Representatives which grants an authorization for the payment of expenses of any standing committee of the House shall specify the maximum number of staff members in subsection (a)(1) which may be employed by such standing committee in the year involved.

(2) (A) Any increase in the maximum number of staff members specified in paragraph (1) which a standing committee is authorized to employ in any year may be made upon approval by the Committee, if such increase, together with any other increase approved by the Committee for such year, does not exceed an amount equal to 10 percent of the maximum number of such staff members specified in the primary expense resolution for such standing committee.

(B) Any such increase which, together with any other increase approved by the Committee for the year involved, exceeds an amount equal to 10 percent of such maximum number of staff members specified in paragraph (1) may be made through the adoption of a resolution which specifies the maximum number of such staff members which may be employed by the standing committee involved under such resolution.

(c) (1) For purposes of subsection (b), the average number of staff members specified in subsection (a) (1) employed by the standing committees of the House during a session of a Congress shall be calculated by—

(A) determining the total number of such staff members employed by all standing committees during each monthly pay period in such session;

(B) deriving the sum of such totals for all such pay periods in such session; and

(C) dividing such sum by 12.

(2) Any such staff member who is employed by a standing committee as the result of any increase approved or adopted under subsection (a)(2) shall not be included in the calculation of such average number under paragraph (1).

(d) The provisions of this section shall take effect on January 3, 1979.

By Mr. OBEY:

SEC. 608: Strike the words "services and" in the last line of Sec. 608.

By Mr. THOMPSON:

Strike out all after Title VI—Provisions Relating to House Operations and Employees, and insert in lieu thereof the following:

LEGISLATIVE SERVICE ORGANIZATIONS

SEC. 601. (a) (1) Any congressional Member organization which desires to be designated as a legislative service organization shall transmit an application for certification to the Committee on House Administration. Such application shall be transmitted at such times, and in accordance with such procedures, as the Committee may reasonably require. Such application shall contain such information as may be necessary to assist the Committee in making determinations under paragraph (2).

(2) The Committee shall approve any application for certification received by the Committee under paragraph (1) if—

(A) the Committee determines that—

(i) the congressional Member organization seeking such certification is designed primarily to provide legislative services and assistance to the members of such organization;

(ii) such organization has been in existence for at least 1 year with full-time employees who were compensated from the clerk hire allowances of not less than 25 Members of the House, each of whom provided at least $1,000 for such compensation during the preceding year; and

(iii) at least 25 Members certify that they receive services and assistance from such organization which are necessary in connection with the performance of their legislative responsibilities; and

(B) such organization agrees that it will not receive or accept any contribution from any source other than Members in connection with the provision of services and assistance by such organization to its members.

(3) Upon the approval of any application under paragraph (2), the Committee shall certify the organization transmitting the application as a legislative service organization. Such certification shall be transmitted to the Administrator of the House of Representatives and shall remain in effect for so long as the conditions specified in this subsection are met. Upon receipt of such certification, the Administrator shall establish an account for the use of such organization.

(b) Any Member may allocate a portion of the clerk hire allowance of such Member to the account of any legislative service organization. Any such allocation may be made on a monthly, quarterly, semiannual, or annual basis.

(c)(1) Any funds allocated to the account of a legislative service organization from the clerk hire allowances of Members may be used only for the compensation of the employees of such organization.

(2) Any voucher for disbursement from the account of any legislative service organization shall be signed by the chairman of such organization, or by the Member of the House who is the ranking Member among the House Members of such organization if the chairman is not a Member of the House, and shall include certification that each employee compensated from the account is performing assigned duties designed to assist Members in performing their legislative responsibilities.

(3) Any funds allocated to such account from the clerk hire allowance of any Member shall be considered to have been separated from the clerk hire allowance funds of the House and shall be available for use at any time during the year in which such transfer is made. Any funds remaining in such account at the end of such year shall be available for use during the first 6 months of the succeeding year without regard to any limitation which may otherwise prohibit, restrict, or otherwise affect the expenditure, obligation or allocation of such funds. Any such funds which are not expended or obligated by the close of such 6-month period shall cease to be available for use by the legislative service organization involved.

(4) The use of the account of any legislative service organization shall be subject to the Rules of the House of Representatives and regulations of the Committee relating to the use of such allocated funds.

(d) The Administrator shall maintain records of allocations made by any Member under subsection (b) and of amounts received by legislative service organizations as a result of any such allocation.

(e) The provisions of this section shall take effect on January 3, 1978.

REPORTING REQUIREMENTS RELATING TO CONGRESSIONAL MEMBER ORGANIZATIONS AND LEGISLATIVE SERVICE ORGANIZATIONS

SEC. 602. (a). Each congressional Member organization and each legislative service organization shall submit an annual report to the Committee. Each such annual report shall include—

(1) the name and address of the organization;

(2) the purpose of the organization;

(3) the number of Members of the House and the number of Members of the Senate who were members of the organization or who paid the organization for service during the preceding year;

(4) the number of persons, other than Members of the House and Members of the Senate, who were members of the organization and the number of such persons who paid the organization for services during the preceding year;

(5) the amount(s) the organization charged for membership therein and the amount(s) the organization charged for research services during the preceding years;

(6) a description of any services and assistance provided by the organization during the preceding year;

(7)(A) a summary of funds received and disbursed by such organization during the preceding year;

(B) in the case of a congressional Member organization, a listing of the name, address, and occupation of each person who has made contributions of $100 or more, in the aggregate, to such organization during the preceding year, including the total amount of contributions by each such person; and

(C) a listing of disbursements of $100 or more in the aggregate, made by such organization during the preceding year, including the purpose and recipient of each such disbursement;

(8) the name of each individual employed by the organization during the preceding year who received compensation for such employment from the clerk hire allowance of any Member, and the dates of such employment;

(9) in the case of a legislative service organization, certification from at least 25 Members of the House that they received services and assistance from such organization during the preceding year which were necessary in connection with the performance of their legislative responsibilities; and

(10) such other information as the Committee may reasonably require.

(b) Employees of a congressional Member organization or legislative service organization shall not be entitled to compensation from the clerk hire allowances of Members unless each office of the organization is located in Washington, District of Columbia.

(c) The chairman of each congressional Member organization, or the Member of the House who is the ranking member among the House Members of such organization if the chairman is not a Member of the House, shall transmit a report to the Administrator no later than 10 days after the close of each calendar month. Each such report shall—

(1) specify by name all employees of the organization who received compensation during the preceding month from the clerk hire allowances of Members; and

(2) certify that such employees are performing assigned duties designed to assist Members in fulfilling their official responsibilities.

Such certification shall be in addition to the certification submitted by individual Members who are compensating such employees under their clerk hire allowance in any month.

(d) The Committee shall issue an annual report which shall include the following—

(1) the records maintained by the Administrator under section 601(d) for the period covered by such report; and

(2) the name of each employee of each congressional Member organization and each legislative service organization, and the amount of compensation each employee received from the clerk hire allowances of Members and from the account of the legislative service organization during the period specified in paragraph (1).

(e) The provisions of this section shall take effect on January 3, 1978.

FULL-TIME AND PART-TIME EMPLOYEES; EMPLOYEES COMPENSATED BY TWO OR MORE MEMBERS

SEC. 603. (a)(1) Each Member of the House, chairman of a standing committee of the House, chairman of any subcommittee of a standing committee, and chairman of any congressional Member organization or legislative service organization shall certify to the Administrator, at such times and according to such procedures as the Committee may reasonably require, whether each individual employed by the Member, committee, or organization involved is employed as a full-time or part-time employee.

(2) In the case of a standing committee, the certification required in paragraph (1) shall be made by the ranking minority party member of such committee in the case of any employee selected by the minority party members of such committee under clause 6(a)(2) of clause 6(b)(2) of Rule XI of the Rules of the House of Representatives.

(3) In the case of any congressional Member organization or legislative service organization, if the chairman of such organization is not a Member of the House, then the certification required in paragraph (1) shall be made by the Member of the House who is the ranking member among the House Members of such organization.

(b)(1) Except as provided in paragraph (2), in determining the number of individuals employed by a Member or standing committee of the House, each part-time employee shall be considered to be one-half a full-time employee for purposes of—

(A) the clerk hire allowance of each Member;

(B) determining the number of professional staff members appointed under clause 6(a)(1) of Rule XI of the Rules of the House of Representatives or selected under clause 6(a)(2) of Rule XI of the Rules of the House of Representatives; and

(C) determining the number of clerks appointed under clause 6(b)(1) of Rule XI of the Rules of the House of Representatives or selected under clause 6(b)(2) of Rule XI of the Rules of the House of Representatives.

(2) If the number of part-time employees employed by a Member or a standing committee of the House exceeds 4, each part-time employee which exceeds such number shall be considered to be a full-time employee for the purposes specified in paragraph (1).

(3) For purposes of this subsection, the term "part time employee" means any employee whose period of employment during each workweek does not exceed 25 hours, except that an employee who works only 3 workdays during any workweek shall be considered a part-time employee whether or not the number of hours which such employee works during such workweek exceeds 25. Such employees shall be compensated at a rate not to exceed 50 percent of the maximum per annum gross rate at which a staff member may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(c) In any case in which 2 or more Members pay the basic pay of any individual in any month through disbursements from the clerk hire allowance of each such Member, such individual shall be considered to be on the payroll of only one such Member, for purposes of determining the number of individuals employed by each such Member under his clerk hire allowance.

(d) The provisions of this section shall take effect on January 3, 1978.

COMPENSATION OF EMPLOYEES ABSENT FROM DUTY

SEC. 604. (a) There is hereby established in the contingent fund of the House a revolving fund to be known as the "House Employees Medical Disability and Maternity Benefits Fund." Moneys in the fund shall be available to carry out the purposes of this section.

(b)(1) Each employee of the House may request the employer of such employee for maternity leave and benefits in accordance with the provisions of this section. An employee shall be eligible for such leave and benefits if such employee—

(A) has been an employee of the House for a continuous period of 1 year or more before the date on which such employee makes a request under this paragraph; and

(B) meets such qualifications as the Committee may reasonably prescribe.

(2)(A) If the employer of an employee grants the request of such employee under paragraph (1) for maternity leave and benefits, such employee shall be entitled to payments from the fund at a rate equal to 75 percent of the rate of basic pay of such employee on the date on which the period of absence from duty begins. Subject to the provisions of subsection (g), the rate of such payments shall be increased in an amount equal to 75 percent of the amount of any adjustment made by the Clerk under section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)). The period of absence from duty for which such employee is entitled to payments from the fund under this paragraph shall not exceed 12 weeks,

beginning with the first day following the date on which such period of absence from duty begins.

(B) If an employee of the House who is absent from duty in accordance with subparagraph (A) desires to remain absent from duty after the close of the period specified in subparagraph (A), such employee may request the employer of such employee for an extension of such period. If such employer, with the approval of the Committee, grants such request, such employee may remain absent from duty in accordance with rules prescribed by the Committee. Any such employee shall not be entitled to payments from the fund for any period of absence from duty under this subparagraph.

(c)(1) Each employee of the House may request the Committee for medical disability benefits in accordance with the provisions of this subsection. An employee shall be eligible for such benefits if such employee—

(A) has been an employee of the House for a continuous period of 3 months or more before the date on which such employee makes a request under this paragraph; and

(B) meets such qualifications as the Committee may reasonably prescribe.

(2) If the Committee grants the request of an employee of the House under paragraph (1) for medical disability benefits, such employee shall be entitled to payments from the fund at a rate equal to 75 percent of the rate of basic pay of such employee on the date on which the period of absence from duty begins. Subject to the provisions of subsection (g), the rate of such payments shall be increased in an amount equal to 75 percent of the amount of any adjustment made by the Clerk under section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)). The period of absence from duty for which such employee is entitled to payments from the fund under this paragraph shall not exceed 6 months, beginning 30 days after the date on which such period of absence from duty begins.

(d)(1) The Committee shall—

(A) contract with qualified carriers offering long-term medical disability benefit plans, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other law requiring competitive bidding, for the establishment and administration of such a plan; or

(B) provide for the establishment of a self-insurance plan for the provision of long-term medical disability benefits.

(2) The Committee shall prescribe rules relating to types of benefits offered under any long-term medical disability benefit plan established or approved under this subsection, requirements and procedures for the election of coverage, and other matters relating to such plan.

(e) In any case in which an employee of a Member of the House is absent from duty in accordance with the provisions of subsection (b) or subsection (c), such employee shall not be included in any calculation of the number of employees which such Member employs under the clerk hire allowance of such Member.

(f)(1) An employee is not entitled to receive any payments under this section and compensation for illness, injury, or medical disability under any other provision of Federal law covering the same period of time.

(2) The provisions of paragraph (1) shall not bar the right of an employee to the greater benefit conferred by this section or other provision of Federal law for any part of the same period of time.

(g) If the Committee determines that the amount upon which a proposed increase under the second sentence of subsecion (b)(2)(A) or under the second sentence of subsection (c)(2) is based exceeds the amount of any adjustment made by the applicable pay-fixing authority for the position involved under section 5(b) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(b)), then such increase may not exceed 75 percent of such adjustment made by the pay-fixing authority.

(h) The Committee shall prescribe such regulations as the Committee considers necessary or appropriate to carry out the provisions of this section.

(i) For purposes of this section—

(1) the term "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing or paying for long-term medical disability benefits under group insurance policies or contracts, membership or subscription agreements, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier;

(2) the term "employee of the House" and "employee" mean any individual employed by—

(A) a Member, if the pay of the employee is paid by the Clerk;

(B) any committee of the House; or

(C) any officer, agency, or organization of the House; and

(3) the term "fund" means the House Employees Medical Disability and Maternity Benefits Fund established in subsection (a).

(j) The contingent fund of the House shall be available to carry out the provisions of this section.

(k) The provisions of this section shall take effect on January 3, 1978.

BILLING PROCEDURES FOR OFFICIAL EXPENSES

SEC. 605. (a) The Committee shall establish a procedure relating to the billing of obligations or other charges incurred by Members of the House in connection with the use of their official allowances. Such procedure shall—

(1) permit any Member to directly charge any such obligation or other charge to the appropriate official allowance of such Member, in lieu of seeking reimbursement for such obligation or other charge; and

(2) contains a mechanism for the verification of the amount of any obligation or other charge before it is assigned to any official allowance of a Member.

(b) The Committee shall, to the extent feasible, establish the procedure required in subsection (a) no later than December 31, 1977.

PAYMENT FOR CERTAIN ITEMS

SEC. 606. (a) Any Member of the House, committee of the House, or officer, agency, or organization of the House which receives—

(1) any plants provided by the Botanic Gardens;

(2) any shipping trunks provided by the Clerk of the House; or

(3) any picture frames or similar materials provided by the Architect of the Capitol in connection with carpentry services made available by the Architect of the Capitol;

shall provide for the reimbursement or other payment for the value of such items in accordance with subsection (b).

(b) Reimbursement or other payment for any item specified in subsection (a) shall be made—

(1) in the case of a Member, from the official Office Expenses Allowance of such Member; and

(2) in the case of a committee, officer, agency, or organization of the House, from any appropriated funds available for use by such committee, officer, agency, or organization.

(c) For purposes of this section, the value of any item specified in subsection (a) shall be determined by the officer or agent responsible for furnishing such item.

(d) The provisions of this section shall not apply to any item specified in subsection (a) which was provided before the effective date of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

ALLOWANCE FOR COMPUTER SERVICES AND EQUIPMENT

SEC. 607. (a) Each Member of the House shall be entitled to an allowance for the leasing of computer services and equipment. Such allowance shall be $12,000 for each session of a Congress. No portion of such allowance may be transferred to any other allowance of a Member.

(b) The provisions of subsection (a) shall supersede any order of the Committee relating to allowances for the leasing of computer services and related services.

(c) The provisions of this section shall take effect on January 3, 1978.

PROVISION OF COMPUTER SERVICES AND EQUIPMENT

SEC. 608. The Committee is authorized to establish procedures whereby funds from the accounts of Members, committees and offices of the House may be transferred to the House Information Systems as reimbursement for the provision of computer services and equipment.

CLERK-HIRE

SEC. 609. (a) Each Member of the House shall be entitled to an annual clerk hire allowance one-twelfth of which shall become available for expenditure or allocation by such Member during each month of each session of a Congress, and unexpended or unallocated clerk hire from such entitlement in previous months shall remain available for expenditure or allocation by each Member only until the end of the session during which the entitlement became effective.

(b) The provisions of this section shall take effect on January 3, 1978.

REFERENCES TO ADMINISTRATOR

SEC. 610. Prior to noon on January 3, 1979, any reference to the Administrator in section 601, section 602 and section 603 shall be construed to be a reference to the Clerk.

RULES AND REGULATIONS

SEC. 611. The Committee on House Administration is authorized to issue rules and regulations necessary to carry out the provisions of this title.

DEFINITIONS

SEC. 612. For purposes of this title—

(1) the term "Administrator" means the Administrator of the House of Representatives nominated and approved under clause 1(b) of Rule XLIX of the Rules of the House of Representatives;

(2) the term "Clerk" means the Clerk of the House of Representatives;

(3) the term "Committee" means the Committee on House Administration;

(4) the term "congressional Member organization" means any organization—

(A) the membership of which includes Members of the House or Members of the House and Members of the Senate;

(B) which is designed to provide services and assistance to Members of the House or to Members of the House and Members of the Senate to assist them in performing their official responsibilities; and

(C) which employs one or more individuals who are compensated, in whole or in part, from the clerk hire allowances of 5 or more Members of the House during any calendar year;

(5) the term "legislative service organization" means any organization certified by the Committee in accordance with section 601;

(6) the term "contribution" means—

(A) any gift, loan, advance, or deposit of money or anything of value received by any congressional Member organization or legislative service organization from any person, other than any Member, for use by any such organization in compensating its employees or in providing services and assistance to Members of the House; and

(B) that portion of any payment from any person, other than any Member, for services and assistance provided by any such organization which exceeds the rate of payment which Members of the House are required to pay for such services and assistance;

(7) the terms "Members of the House" and "Member" mean any Representative in, or Delegate or Resident Commissioner to the Congress; and

(8) the terms "year", "session of a Congress" and "session" mean the period beginning at noon on January 3 of each calendar year and ending just prior to noon on January 3 of the immediately following calendar year.

H.R. 8410

By Mr. ANDREWS of North Carolina:

Beginning on page five, beginning with line twenty, strike Section four (§ 4) which includes lines 20–24 on page five and lines one, two and three on page six.

Renumber the subsequent sections of the bill accordingly.

By Mr. ASHBROOK:

Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organizations, in an equivalent manner, information relating to representation.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation: *Provided*, That where an employer provides an equal opportunity for employees to obtain information from a labor organization, time necessary for conveying such information shall not be at the expense of the employer.

Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force, or promise of benefit."

Page 17, line 19, strike the word "makes" and insert in lieu thereof "or for other reasons which make".

On page 18 strike all of line 6 down through line 9;

Page 18, strike "or (2)" on lines 11 and 12;

Page 18, line 20, strike all after the comma down through the comma on line 22; and renumber all subsequent subparagraphs accordingly.

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

SEC. 3 of the bill as it amends Section 6 of the Act is amended by deleting subparagraphs (B) page 17, lines 16 through 24, and (D), page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly:

and

striking section 5 of the bill, page 19 line 14 through line 2, page 22, and inserting in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote".

Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processess of the Board)."

On page 18, strike lines 10 through 25, on page 19, strike lines 1 through 5, and substitute therein the following:

"(c)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 7 including rules—

(A) which shall prohibit a labor organization from imposing or threatening to impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerned or to involve the processes of the Board).

(B) which shall provide for the conducting of secret ballot referendums by employees in a bargaining unit prior to the commencement of a strike by such employees.

(1) Any such referendum may be requested by (a) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (b) the employer, or (c) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than 5 days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to Section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

(C) which shall govern the expressing of views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), as the disseminations thereof, whether in written, printed, graphic, visual or auditory form, *Provided*, That violations of a rule promulgated pursuant to this subparagraph shall not be evidence of an unfair labor practice under any provisions of this Act or constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

(D) which shall provide that any employee (including any employee of a health care institution) who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a contract between the employer (including an employer which is a health care institution) and a labor organization, or if the contract fails to designate such funds, then to any such fund chosen by the employee.".

Page 19, line 6, strike section 4 and renumber the subsequent sections accordingly.

Strike section 5, page 19 line 14 through line 2, page 22, and insert in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "withing fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote";

and,
amend section 3 of the bill as it amends section 6 of the Act by deleting subparagraphs "(B)", page 17, lines 16 through 24, and "(D)", page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly.

Page 21, line 5, insert the following after "petition.": "Notwithstanding the provisions of subparagraph (A) of this paragraph, where the Board determines that a majority of the employees in an appropriate unit are regularly scheduled to work less than twenty-five hours per week, the Board shall direct the election on a date not less than forty-five (45) days nor more than seventy-five (75) days after the filing and serving of the petition and shall inform the representative named in the petition, the employer and all other interested parties of the election date not less than fifteen (15) days prior to the election."

Page 19, strike all after the comma on line 19 through line 10 on page 20, and insert in lieu thereof the following: "pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has";
and

Page 20, line 14, substitute "fifteen" for "seven";
and

Page 20, lines 15 to 16, strike "a petition is filed and served" and insert in lieu thereof the words "the direction of election";
and

Page 20, line 18, immediately after the period insert the following: "The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this Section 9.";
and

Page 17, line 21, substitute "twenty" for "fifteen";
and

Page 17, line 23, strike "holding of such" and substitute "direction of".

Page 21, line 6, strike subparagraph (C) through line 9, page 21, and redesignate the subsequent subparagraphs accordingly.

Page 21, line 10, strike all of subparagraph (D)(i) down through line 17, page 21, and insert in lieu thereof the following:

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the election or to the conduct affecting the results of an election.

Page 21, strike lines 18 to 21 and substitute therefor the following:

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

Page 21, line 24, substitute a period for the colon and strike all thereafter through line 2, page 22.

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole.".

Page 22, after line 10, insert the following new section 7 and renumber the subsequent sections accordingly:

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employee on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23;
and

Page 23, line 22, strike all therein through line 7, page 24;
and

Strike "(3) by" on line 8, page 24;
and

Change "paragraphs:" to "paragraph:" on line 9, page 24;
and

Strike line 10, page 24 through line 6, page 25;
and

Strike "(3)" on line 7, page 25.

Page 24, line 14, immediately after the comma, insert "and that compliance with the Act cannot be obtained through Board and Court procedures otherwise available,".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.".

At page 24, line 17, insert the following new sentence after "Secretary of Labor.": "Such order may be reviewed pursuant to subsections (f) and (g).".

Page 25, line 6, insert immediately before the period the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs".

Insert the following new sentence after the period on page 25, line 6: "Further, notwithstanding any other law, no contracts or training funds shall be awarded to any such person which is a labor organization, and the Board shall not order any employer to bargain with any such labor organization during a period of three years immediately following the date of the Secretary's certification."

Page 25, line 7 strike all through the period on line 19.

Page 25, line 19, insert immediately before the period following: ", less any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 18, strike the word "double" and insert before the period on line 19 the following: ", without regard to any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

Page 25, line 19, strike all after the period through line 17, page 26.

Page 25, line 19, strike all after the period through line 17, page 26, and insert in lieu thereof the following: "In a case in which the Board determines that an unlawful refusal to bargain within the meaning of subsection (a)(5) or (b)(3) of section 8 has taken place, the Board may award to the employees so represented compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the differences between (i) the wages and other benefits received by such employees during the period of delay and (ii) the last reasonable offer with respect to wages and benefits, made by the party not guilty of the unfair labor practice."

Page 26, line 26, strike the quotation marks and the second period and insert the following new paragraph:

"(4) where the Board determines at any stage of an unfair labor practice proceeding that an unfair labor practice charge has been filed against an employer or a labor organization, or both, which is without merit and is frivolous in nature, the Board shall be empowered to dismiss the case and to direct the charging party to pay the party or parties charged reasonable attorneys' fees, witness fees, transcript and record costs, printing costs, travel expenses and per diem, and any other costs or expenses directly resulting from the defense of such unfair labor practice charge.".

Page 26, line 18, strike all of section 9 through page 27, line 8; and renumber the subsequent sections accordingly.

Page 26, line 18, strike all of section 9 through page 27 line 8 and substitute therefor the following new section 9.

SEC. 9. The first sentence of subsection 10 (e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the procetdings, as provided in section 2112 of title 28, United States Code.".

Page 27, line 1, strike "thirty" and substitute therefor "sixty."

Page 27, line 9, through page 28, line 5, strike all of sections 10 and 11, and renumber section 12 as section 10.

Page 27, line 21, strike "or"; page 27, line 23, insert "or" after the comma and insert the following new subparagraph after line 23:

"(3) subsection (a)(5) of section 8 and there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to

prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief for restraining order as it deems just and proper."

Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

Page 15, after line 7, insert the following new section 2 and renumber the subsequent sections accordingly:

SEC. 2. Section 1 of the National Labor Relations Act (29 U.S.C. 151) is amended to read as follows:

"FINDINGS AND POLICIES

"SECTION 1. The denial of, or interference with, the rights of employees to organize, form, join, or assist labor organizations, to bargain collectively, to engage in other concerted activities, or interference with or denial of their right to refrain from any or all of such activities leads to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"Inequality of bargaining power between labor organizations and employers substantially burdens the process of collective bargaining and affects the flow of commerce.

"Experience has proved that protection by law of the right of employees to determine whether they wish to organize and bargain collectively encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions.

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities that impair the interest of the public in the free flow of commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by protecting the right of employees to exercise full freedom of choice in determining whether they wish to designate collective-bargaining representatives and, when such representatives have been designated, by encouraging the settlement of industrial disputes through free collective bargaining,".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b)(1) of the National Labor Relations Act is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances;".

Page 19, after line 5, insert the following new section 4 and renumber subsequent sections accordingly:

SEC. 4. Section 8(b)(1) is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further*, That it shall be an unfair labor practice under this section for a labor organization to threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. (a) Section 9(a) of the National Labor Relations Act is amended—

(1) by striking out "designated or" immediately before "selected for the purposes of collective bargaining"; and

(2) by inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election".

(b) Section 8(a)(5) of the National Labor Relations Act is amended to read as follows:

"(5) to refuse to bargain collectively with the representative of his employees: *Provided*, That nothing in this Act shall be construed as requiring an employer to bargain collectively until a representative of his employees has been determined by means of a secret ballot election conducted in accordance with the provisions of section 9.".

Page 19, insert after line 5 the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b) of the National Labor Relations Act is amended by striking out "and" after paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(8) to call, maintain, continue or resume a strike in any bargaining unit after:

"(A) a majority of the employees voting on the question have voted in a secret ballot referendum conducted by the Board, or by any other person or organization selected by the parties or designated by the Board to conduct such referendum among the employees in such bargaining unit, not to strike or continue to strike; or

"(B) such referendum has been requested before a strike begins and the result thereof has not been certified.

"Any such referendum may be requested by (i) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (ii) the employer, or (iii) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

Page 19, after line 5, insert the following new section 4 and renumbered the subsequent subsections accordingly:

SEC. 4. Section 8(c) of the National Labor Relations Act is amended to read as follows:

"(c) The expressing of any views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying setting aside the results of any election conducted under any of the provisions of the Act, if such expression contains no threat of reprisal or force or promise of benefit.".

Page 28, after line 5 insert the following new section 12 and renumber the present section 12 as section 13:

SEC. 12. Section 441b(b)(5) of title 2, United States Code, is amended to read as follows:

"(5) Notwithstanding any other law, any method of soliciting voluntary contribution or of facilitating the making of voluntary contribution to a separate segregated fund established by a corporation permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members: *Provided*, That no method, procedure or system by which union dues and other assessments are deducted from an employee's paycheck by an employer, either automatically or on specific authorization from an employee, may be utilized in the solicitation of contributions to such separate segregated fund.".

Page 19, after line 5, insert the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(h) It shall be unlawful for any person to instigate, engage in, support, or condone any violence, mass picketing, or other coercive conduct, at or about the premises of any person engaged or employed in commerce or in any industry affecting commerce: *Provided,* That nothing contained in this subsection shall be construed to invalidate or limit, or be limited by, any law of a state or political subdivision of a state.".

(b) Section 10(1) of the National Labor Relations Act is amended by inserting between "or section 8(b)(7)," and "the preliminary investigation" the following: "or section 8(h),".

(c) Section 303(a) of the National Labor Relations Act is amended by inserting between "section 8(b)(4)" and "of the National Labor Relations Act" the following: "or section 8(h)".

Section 2 of H.R. 8410 is hereby amended by:

(a) striking out lines 8 through 25 on page 15; lines 1 through 20 on page 16.

(b) renumbering sections 3 through 12 accordingly.

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under way of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b) of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(b)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Sections 6(b)(1)(B), 6(b)(1)(C) and 6(b)(1)(D) as Sections 6(b)(1)(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

Section 3 of H.R. 8410 is hereby amended by:

(a) striking out lines 20 through 25 on page 16; lines 1 through 25 on page 17; lines 1 through 25 on page 18; lines 1 through 13 on page 19.

(b) renumbering sections 4 through 12 accordingly.

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing and economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

Section 4 of H.R. 8410 is hereby amended by:

(a) striking out lines 6 through 13 on page 19.

(b) renumbering sections 5 through 12 accordingly.

Section 5 of H.R. 8410 is hereby amended by:

(a) striking out lines 14 through 25 on page 19; lines 1 through 25 on page 20; lines 1 through 25 on page 21; lines 1 through 2 on page 22.

(b) renumbering sections 6 through 12 accordingly.

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to susection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

Section 5 of H.R. 8410 is hereby amended by adding after the word "employer" on line 18 of page 20, the following: *"Provided,* That the Board shall extend the period for the holding of such an election if it finds such extension is necessary to afford a representative complement of employees, which in no case shall be less than 80 percent of the employees eligible to vote in such election, an adequate opportunity to vote."

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ",", and by inserting instead a ";" and adding the following new paragraph:

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

Section 6 of H.R. 8410 is hereby amended by:

(a) striking out lines 3 through 10 on page 22.

(b) renumbering sections 7 through 12 accordingly.

Section 7 of H.R. 8410 is hereby amended by:

(a) striking out lines 11 through 25 on page 22; lines 1 through 20 on page 23.

(b) renumbering sections 8 through 12 accordingly.

Section 8 of H.R. 8410 is hereby amended by:

(a) striking out lines 21 through 25 on page 23; lines 1 through 25 on page 24; lines 1 through 25 on page 25; lines 1 through 17 on page 26.

(b) renumbering sections 9 through 12 accordingly.

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SELECT BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided,* That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

On page 25, line 6, add the following new sentence: "The provisions of this paragraph shall not apply to any situation in which the finding of violation of a prior order involves any bargaining between an employer and a labor organization that includes, or has included, any proposal for compulsory employee support of a labor organization including the irrevocable authorization for dues of fees to be withheld from wages and paid to a labor organization."

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning in line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following: "If upon the preponderance of testimony taken the Board shall be of the

opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or agency, for a three-year period immediately following the date of the issuance of such order.

Section 9 of H.R. 8410 is hereby amended by:

(a) striking out lines 18 through 25 on page 26; lines 1 through 8 on page 27.

(b) renumbering section 10 through 12 accordingly.

On page 26, line 17, add the following new sentence: "The provisions of this paragraph shall not apply to any situation in which the bargaining between an employer and a labor organization includes, or has included, any proposal for compulsory employee support of a labor organization including the irrevocable authorization for dues or fees to be withheld from wages and paid to a labor organization."

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof: "Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain with any labor organization."

Section 10 of H.R. 8410 is hereby amended by:

(a) striking out lines 9 through 25 on page 27; lines 1 through 2 on page 28.

(b) renumbering sections 11 and 12 accordingly.

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, engaged in, supported, or condoned any violence, mass picketing or other coercive conduct,

Section 11 of H.R. 8410 is hereby amended by:

(a) striking out lines 3 through 5 on page 28.

(b) renumbering section 12 accordingly.

Section 12 of H.R. 8410 is hereby amended by striking out all of section 12 as it appears on lines 6 through 8 on page 28.

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows:

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

Amendment in the nature of a substitute;

A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) The National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days.

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of the labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, during a period of time when employees are seeking representation by a labor organization or decertification of an incumbent labor organization, the employees shall be assured equal opportunities to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation by, or decertification of, such labor organization, and that the expressing of any views, argument, opinion or the making of any statement, shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election or for other reasons which make it infeasible to comply with the time limits stated in subsection (c)(6)(A) of section 9, to extend to a maximum of 25 days the period for directing an election stated in that subsection, and to a maximum of 45 days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed upon the petition of any aggrieved party in the court of appeals in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief."

"(C) The Board shall within twenty-four months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the rights guaranteed in section 7, including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SEC. 4. Section 9(c) is amended by adding

at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed by the employer or labor organization, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within 15 days after the filing and serving of the petition direct an election by secret ballot not more than 30 days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer. The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this section 9.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than seventy-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than one hundred and five days after the filing of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the conduct affecting the results of an election.

"(ii) With regard to challenged ballots, the Board shall investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution, or made finding with respect to questions of fact which are not supported by substantial evidence in the record considered as a whole".

SEC. 6. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Providing further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization, and that said violation occurred within three years of the entry of the order violated,

the Board, or any agent or agency designated by the Board for such purposes, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(c)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraph:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, and that compliance with the Act cannot be obtained through Board and court procedures otherwise available, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Such order may be reviewed pursuant to subsections (f) and (g). Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list to all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(1) and (2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be the employee's wage rate without mitigation at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may impose a civil penalty of not more than , to be collected in the United States District Court pursuant to Title 28 U.S.C. 1355.

SEC. 9. (a) The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within sixty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within 20 days of service on it of said petition, file a further petition for review".

SEC. 10. Section 10 is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive or restraining order as it deems just and proper."

By Mr. BUCHANAN:

Beginning on page 19, beginning with line 6, strike all of Section 4 through line 13. Renumber the subsequent sections of the bill accordingly.

By Mr. EDWARDS of Oklahoma:

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b) of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(b)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Sections 6(b)(1)(B), 6(b)(1)(C) and 6(b)(1)(D) as Sections 6(b)(1(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ".", and by inserting instead a ";" and adding the following new paragraph;

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning on line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following:

"If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or Agency, for a three-year period immediately following the date of the issuance of such order.

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof:

"Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain with any labor organization."

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SECRET BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in * * *.

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, en-

gaged in, supported, or condoned any violence, mass picketing or other coercive conduct.

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows:

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

By Mr. ERLENBORN:

Amendment in the nature of a substitute:

A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) The National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days.

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of the labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, during a period of time when employees are seeking representation by a labor organization or decertification of an incumbent labor organization, the employees shall be assured equal opportunities to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation by, or decertification of, such labor organization, and that the expressing of any views, argument, opinion or the making of any statement, shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election or for other reasons which make it infeasible to comply with the time limits stated in subsection (c)(6)(A) of section 9, to extend to a maximum of 25 days the period for directing an election stated in that subsection, and to a maximum of 45 days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed upon the petition of any aggrieved party in the court of appeals in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

"(C) The Board shall within twenty-four months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the rights guaranteed in section 7, including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SEC. 4. Section 9(c) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed by the employer or labor organization, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within 15 days after the filing and serving of the petition direct an election by secret ballot not more than 30 days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer. The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this section 9.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than seventy-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than one hundred and five days after the filing of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the conduct affecting the results of an election.

"(ii) With regard to challenged ballots, the Board shall investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided,* That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution, or made findings with respect to questions of fact which are not supported by substantial evidence in the record considered as a whole".

SEC. 6. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: "; *Provided further,* That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an

unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization, and that said violation occurred within three years of the entry of the order violated,

the Board, or any agent or agency designated by the Board for such purpose, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(c)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraph:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, and that compliance with the Act cannot be obtained through Board and court procedures otherwise available, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Such order may be reviewed pursuant to subsections (f) and (g). Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list of all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(1) and (2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representations by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be the employee's wage rate without mitigation at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may impose a civil penalty of not more than , to be collected in the United States District Court pursuant to Title 28 U.S.C. 1355.

SEC. 9. (a) The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within sixty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within 20 days of service on it of said petition, file a further petition for review".

SEC. 10. Section 10 is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive or restraining order as it deems just and proper."

Page 15, after line 7, insert the following new section 2 and renumber the subsequent sections accordingly:

SEC. 2. Section 1 of the National Labor Relations Act (29 U.S.C. 151) is amended to read as follows:

"FINDINGS AND POLICIES

"SECTION 1. The denial of, or interference with, the rights of employees to organize, form, join, or assist labor organizations, to bargain collectively, to engage in other concerted activities, or interference with or denial of their right to refrain from any or all of such activities leads to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"Inequality of bargaining power between labor organizations and employers substantially burdens the process of collective bargaining and affects the flow of commerce.

"Experience has proved that protection by law of the right of employees to determine whether they wish to organize and bargain collectively encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions.

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities that impair the interest of the public in the free flow of commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by protecting the right of employees to exercise full freedom of choice in determining whether they wish to designate collective-bargaining respresentatives and, when such representatives have been designated, by encouraging the settlement of industrial disputes through free collective bargaining,".

PANEL SYSTEM FOR NLRB DECISION MAKING

Amend Section 2 of H.R. 8410, as reported, by striking line 8 of page 15 through line 19 of page 16 and substitute in lieu thereof:

SEC. 2. The first sentence of Section 3(b)

of the National Labor Relations Act is amended to read as follows:

"The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Section 2 of H.R. 8410 is amended as follows: On page 15, delete all of lines 8 through 25.

On page 16, delete all of lines 1 through 8 and insert in lieu thereof the following:

SEC. 2. Section 3(b) of the National Labor Relations Act is amended by inserting after the third sentence the following new sentence: "The Board"

Section 2 of H.R. 8410 is amended as follows: On page 15, delete lines 8 through 25.

On page 16, delete lines 1 through 19.

Renumber subsequent sections accordingly.

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the General Counsel or the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Section 2 of H.R. 8410 is amended as follows: On page 16, delete line 19 and add in lieu thereof the following: "the decision of the administrative law judge. At the request of any of the contesting parties, a decision of the administrative law judge shall be appealed to the entire Board. No decision of an administrative law judge shall be summarily affirmed in the event of a request for appeal to the full Board."

DELETION OF ACCESS RULE

Amend Section 3 to delete Section 6(i)(1)(A) thereof, on lines 5 through 15 of page 17 of H.R. 8410, as reported, and renumber Section 6(b)(1)(B), 6(b)(1)(C), and 6(b)(1)(D) as Sections 6(b)(1)(A), 6(b)(1)(B), and 6(b)(1)(C), respectively.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation.

Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation: *Provided*, That where an employer provides an equal opportunity for employees to obtain information from a labor organization, time necessary for conveying such information shall not be at the expense of the employer.

Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraphs (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

RULES PROTECTING FREE SPEECH

Section 3 is amended by renumbering subparagraph (A) in Section 6(b)(1) thereof as (A)(i), and adding the following new subparagraph (A)(ii):

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

Section 2 of H.R. 8410 is amended as follows: On page 17, line 15, after the semicolon, the following: "similarly, where a labor organization addresses an employee or a group of employees on issues relating to representation by a labor organization, during a period of time that employees are seeking representation by a labor organization, the employee shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from their employer."

SEC. 3 of the bill as it amends Section 6 of the Act is amended by deleting subparagraphs (B) page 17, lines 16 through 24, and (D), page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly:

and striking section 5 of the bill, page 19 lines 14 through line 2, page 22, and inserting in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days," and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote."

Page 17, line 19, strike the word "makes" and insert in lieu thereof "or for other reasons which make".

Section 3 of H.R. 8410 is amended as follows: On page 18, line 1, delete the word "facilitate" and insert in lieu thereof the following: "provide adequate time for all parties to arrive at".

On page 18 strike all of line 6 down through line 9;

Page 18, strike "or (2)" on lines 11 and 12;

Page 18, line 20, strike all after the comma down through the comma on line 22 and renumber all subsequent subparagraphs accordingly.

JUDICIAL REVIEW OF BOARD RULEMAKING

Amend Section 3 by deleting the entire sentence beginning on line 10 of page 18 of H.R. 8410, as reported, and substituting in lieu thereof:

"(3) A rule or regulation issued by the Board shall be judicially reviewable at the behest of any aggrieved party in any United States court of appeals where that party resides or transacts business, and such court shall have jurisdiction to grant appropriate relief."

On page 18, strike lines 10 through 25; on page 19, strike lines 1 through 5, and substitute therein the following:

"(c)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 7 including rules—

(A) which shall prohibit a labor organization from imposing or threatening to impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to involve the processes of the Board).

(B) which shall provide for the conducting of secret ballot referendums by employees in a bargaining unit prior to the commencement of a strike by such employees.

(1) Any such referendum may be requested by (a) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (b) the employer, or (c) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to Section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

(C) which shall govern the expressing of views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), as the disseminations thereof, whether in written, printed, graphic, visual or auditory form, *Provided*, That violations of a rule promulgated pursuant to this subparagraph shall not be evidence of an unfair labor practice under any provisions of this Act or constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

(D) which shall provide that any employee (including any employee of a health care institution) who is a member of and ad-

heres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a contract between the employer (including an employer which is a health care institution) and a labor organization, or if the contract fails to designate such funds, then to any such fund chosen by the employee.".

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

JUDICIAL REVIEW OF IMPROPERLY APPLIED BOARD RULES

Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

BOARD RULES TO PREVENT UNREASONABLE UNION FINES

Section 3 is amended by adding at the end thereof the following new paragraph:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: "may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

SMALL BUSINESS EXEMPTION FROM JURISDICTION OF NLRB

Amend Section 3 by adding the following new section after the word "relief." on line 5, page 19, of H.R. 8410, as reported:

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, and yearly thereafter, review and issue jurisdictional rules and regulations, which give due weight to changing economic conditions. Such regulations shall provide that the Board will not exercise jurisdiction over employers with fewer than 50 employees.

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b)(1) of the National Labor Relations Act is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 7: *Provided,* That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further,* That it shall be an unfair labor practice under this section for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances;".

Page 19, after line 5, insert the following new section 4 and renumber subsequent sections accordingly:

SEC. 4. Section 8(b)(1) is amended to read as follows:

"(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: *Provided,* That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further,* That it shall be an unfair labor practice under this section for a labor organization to threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances.".

Page 19, insert after line 5 the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8(b) of the National Labor Relations Act is amended by striking out "and" after paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(8) to call, maintain, continue or resume a strike in any bargaining unit after:

"(A) a majority of the employees voting on the question have voted in a secret ballot referendum conducted by the Board, or by any other person or organization selected by the parties or designated by the Board to conduct such referendum among the employees in such bargaining unit, not to strike or continue to strike; or

"(B) such referendum has been requested before a strike begins and the result thereof has not been certified.

"Any such referendum may be requested by (i) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (ii) the employer, or (iii) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit. Any referendum to this paragraph shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to section 9(c)(1). Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent subsections accordingly:

SEC. 4. Section 8(c) of the National Labor Relations Act is amended to read as follows:

"(c) The expressing of any views, argument, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of the Act, if such expression contains no threat of reprisal or force or promise of benefit.".

Page 19, after line 5, insert the following new section 4, and renumber the subsequent sections accordingly:

SEC. 4. Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(h) It shall be unlawful for any person to instigate, engage in, support, or condone any violence, mass picketing, or other coercive conduct, at or about the premises of any person engaged or employed in commerce or in any industry affecting commerce: *Provided,* That nothing contained in this subsection shall be construed to invalidate or limit, or be limited by, any law of a state or political subdivision of a state.".

(b) Section 10(1) of the National Labor Relations Act is amended by inserting between "or section 8(b)(7)," and "the preliminary investigation" the following: "or section 8(h),".

(c) Section 303(a) of the National Labor Relations Act is amended by inserting between "section 8(b)(4)" and "of the National Labor Relations Act" the following: "or section 8(h)".

Section 3 of H.R. 8410 is amended as follows: On page 19, following line 5, insert the following new section and renumber the succeeding sections accordingly:

SEC. 4. Section 9(a) is amended to read as follows:

"(a) Representatives selected by a secret ballot election, supervised by outside nonpartisan officials mutually agreed to by employee representatives and their employer, for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the representatives of those employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment generally applicable to employees: *Provided,* That nothing in this Act shall preclude any individual employee or group of employees acting in concert from electing to make and administer directly with their employer any individual or collective contract of employment or present any grievances, without the intervention of the collective bargaining representative, whether that contract or grievance is consistent or inconsistent with the terms of a collective bargaining agreement then in effect.".

Page 19, after line 5, insert the following new section 4 and renumber the subsequent sections accordingly:

SEC. 4. (a) Section 9(a) of the National Labor Relations Act is amended—

(1) by striking out "designated or" immediately before "selected for the purposes of collective bargaining"; and

(2) by inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election."

(b) Section 8(a)(5) of the National Labor Relations Act is amended to read as follows:

"(5) to refuse to bargain collectively with the representative of his employees: *Provided*, That nothing in this Act shall be construed as requiring an employer to bargain collectively until a representative of his employees has been determined by means of a secret ballot election conducted in accordance with the provisions of section 9.".

Page 19, line 6, strike section 4 and renumber the subsequent sections accordingly.

Strike section 5, page 19 line 14 through line 2, page 22, and insert in lieu thereof the following:

SEC. 5. Section 9(c)(1) is amended by inserting after "election" in the last sentence thereof the words "within fifteen days", and by adding before the period at the end thereof the following proviso: ": *Provided*, That the Board may extend the period for the holding of such election if it finds that such extension is necessary to afford a representative complement of employees an adequate opportunity to vote"; and

Amend section 3 of the bill as it amends section 6 of the Act by deleting subparagraphs "(B)", page 17, lines 16 through 24, and "(D)", page 18, lines 3 through 5, and relettering the other subparagraphs and references accordingly.

EXPEDITED ELECTIONS AVAILABLE TO EMPLOYERS AND EMPLOYEES

Amend Section 5 so as to strike Section 9(c)(6)(A), as amended (lines 16 through 25 of page 19, and lines 1 through 18 of page 25 of H.R. 8410, as reported), and substitute therefor the following:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, pursuant to subsection (C)(1)(A) or (C)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing of the petition direct an election by secret ballot not more than fifteen days after a petition is filed under this subparagraph and shall so notify the representative named in the petition and the employer.

Page 19, strike all after the comma on line 19 through line 10 on page 20, and insert in lieu thereof the following:

"pursuant to subsection (c)(1)(A) or (c)(1)(B) of this section 9, the Board shall investigate such petition, and if the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has";

Page 20, line 14, substitute "fifteen" for "seven";

Page 20, lines 15 to 16, strike "a petition is filed and served" and insert in lieu thereof the words "the direction of election";

Page 20, line 18, immediately after the period insert the following: "The procedures set forth in this subparagraph shall apply in proceedings instituted under (e)(1) of this Section 9.";

Page 17, line 21, substitute "twenty" for "fifteen"; and

Page 17, line 23, strike "holding of such" and substitute "direction of".

Section 5 of H.R. 8410 is amended as follows: On page 20, lines 15 through 18, strike out all after the word "ballot" and insert in lieu thereof the following: "to be held at a date mutually agreed upon by the employee representative defined in subsection (a) and their employer."

Section 5 of H.R. 8410 is amended as follows: On page 20, lines 22 through 25, strike out all after the word "date" and insert in lieu thereof the following: "mutually agreed upon by the employee representative as defined in subsection (a) and their employer."

On page 21 delete lines 1 through 5, and renumber subsequent lines accordingly.

Page 21, line 5, insert the following after "petition.": "Notwithstanding the provisions of subparagraph (A) of this paragraph, where the Board determines that a majority of the employees in an appropriate unit are regularly scheduled to work less than twenty-five hours per week, the Board shall direct the election on a date not less than forty-five (45) days nor more than seventy-five (75) days after the filing and serving of the petition and shall inform the representative named in the petition, the employer and all other interested parties of the election date not less than fifteen (15) days prior to the election."

Page 21, line 6, strike subparagraph (C) through line 9, page 21, and redesignate the subsequent subparagraphs accordingly.

Page 21, line 10, strike all of subparagraph (D)(i) down through line 17, page 21, and insert in lieu thereof the following:

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, file objections to the election or to the election or to the conduct affecting the results of an election.

Page 21, strike lines 18 to 21 and substitute therefor the following:

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

Page 21, line 24, substitute a period for the colon and strike all thereafter through line 2, page 22.

NOTICE OF INTENT TO ORGANIZE

Amend Section 5 by deleting, at the end of line (2) of page 22 of H.R. 8410, as reported, the ".", and by inserting instead a ";" and adding the following new paragraph:

"(E) Every employee, employee group, individual or labor organization seeking status as an exclusive bargaining representative pursuant to this section shall file notice prior thereto with the Board and give notice thereof to the employer, in accordance with such rules and regulations as the Board may prescribe as necessary to afford employees an adequate opportunity to obtain from all parties involved information, views, arguments or opinions pertaining to such proposed representation.".

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole.".

Page 22, after line 10, insert the following new section 7 and renumber the subsequent sections accordingly:

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23;

Page 23, line 22, strike all therein through line 7, page 24;

Strike "(3)" on line 8, page 24;

Change "paragraphs:" to "paragraph:" on line 9, page 24;

Strike line 10, page 24 through line 6, page 25; and

Strike "(3)" on line 7, page 25.

Page 24, line 14, immediately after the comma, insert "and that compliance with the Act cannot be obtained through Board and Court procedures otherwise available,".

At page 24, line 17, insert the following new sentence after "Secretary of Labor.":

Such order may be reviewed pursuant to subsections (f) and (g).

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.

Page 25, line 6, insert immediately before the period the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs".

Insert the following new sentence after the period on page 25, line 6: "Further, notwithstanding any other law, no contracts or training funds shall be awarded to any such person which is a labor organization, and the Board shall not order any employer to bargain with any such labor organization during a period of three years immediately following the date of the Secretary's certification."

Page 25, line 7 strike all through the period on line 19.

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

Page 25, line 18, strike the word "double" and insert before the period on line 19 the following: ", without regard to any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 19, insert immediately before the period the following: ", less any wages the employee earned or could have earned with reasonable diligence during the period".

Page 25, line 19, strike all after the period through line 17, page 26, and insert in lieu thereof the following: "In a case in which the Board determines that an unlawful refusal to bargain within the meaning of subsection (a)(5) or (b)(5) of section 8 has taken place, the Board may award to the employees so represented compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the differences between (i) the wages and other benefits received by such employees during the period of delay and (ii) the last reason-

able offer with respect to wages and benefits, made by the party not guilty of the unfair labor practice."

CHANGING STANDARD FOR THE "MAKE WHOLE" REMEDY TO COMMUNITY STANDARDS

Amend Section 8(a) by changing subparagraph (ii) beginning on line (3) of page 26 of H.R. 8410, as reported, to read as follows:

(ii) the wages such employees were receiving at the time of the unfair labor practice multiplied by the average percentage change in wages of other employees in the same industry in the immediate locality for the quarter in which the delay began.

PUNITIVE REMEDIES AGAINST UNIONS

Amend Section 8 by adding, after the last sentence of Section 10(b)(2) thereof, on line (6) of page 26 of H.R. 8410, as reported, the following:

"If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a labor organization has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then notwithstanding any other law, the Board shall state its findings of fact and cause to be served on such labor organization an order withdrawing any Board certification of such union as the exclusive bargaining representative for its employees. Notwithstanding any other law, such labor organization shall not be certified, nor recognized by the Board in any manner whatsoever, as the exclusive bargaining representative of its employees, and no contract nor training funds shall be awarded to such labor organization by any Federal Department or agency, for a three-year period immediately following the date of the issuance of such order.

BACK PAY FOR EMPLOYEES DENIED EMPLOYMENT BECAUSE OF VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 8 by adding the following new paragraph after line 17, page 26, of H.R. 8410, as reported:

(4) In a case in which the Board determines that any employee is interfered with or prevented from entering or leaving his place of employment because of any violence, mass picketing, or other coercive conduct arising out of a labor dispute at such place of employment, the Board shall require those persons or organizations who instigate, engage in, support or condone such conduct to pay such employee double the employee's wage rate for each day such employee shall be interfered with or prevented from entering his place of employment.

Page 26, line 18, strike all of section 9 through page 27, line 8; and renumber the subsequent sections accordingly.

Page 26, line 18, strike all of section 9 through page 27 line 8 and substitute therefor the following new section 9.

SEC. 9. The first sentence of subsection 10(e) is amended to read:

"(e) If any person against whom an order of the Board shall issue fails to comply therewith within a reasonable period of time as the Board shall determine, or thereafter shall violate such order, the Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code.".

CONTEMPT POWER FOR CHARGING PARTY

Amend Section 9 by adding the following new paragraph after subsection (a), on line 23 of page 26 of H.R. 8410, as reported, and renumbering the present subsection (b) and (c):

(b) Section 10(e) is further amended by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

TO PREVENT COURT ENFORCEMENT OF BARGAINING ORDERS UNLESS BASED ON A SECRET BALLOT ELECTION

Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows: "The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *provided*, that no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

Page 26, line 26, strike the quotation marks and the second period and insert the following new paragraph:

"(4) where the Board determines at any stage of an unfair labor practice proceeding that an unfair labor practice charge has been filed against an employer or a labor organization, or both, which is without merit and is frivolous in nature, the Board shall be empowered to dismiss the case and to direct the charging party to pay the party or parties charged reasonable attorneys' fees, witness fees, transcript and record costs, printing costs, travel expenses and per diem, and any other costs or expenses directly resulting from the defense of such unfair labor practice charge.".

Page 27, line 1, strike "thirty" and substitute therefor "sixty".

DIRECT REVIEW OF BOARD CERTIFICATION

Amend Section 9 by adding subsection (c) after line 8 on page 27, as follows:

Section 10(f) is amended by adding at the end thereof:

"Notwithstanding any other provision of this Act, for purposes of this subsection a final order of the Board shall be deemed to include a certification by the Board issued pursuant to Section 9(c)(1) of this Act which creates a duty upon an employer to bargain within any labor organization."

Page 27, line 9, through page 28, line 5, strike all of sections 10 and 11, and renumber section 12 as section 10.

Page 27, line 21, strike "or"; page 27, line 23, insert "or" after the comma and insert the following new subparagraph after line 23:

"(3) subsection (a)(5) of section 8 and there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief for restraining order as it deems just and proper."

INJUNCTIVE RELIEF AGAINST VIOLENCE AND OTHER COERCIVE CONDUCT

Amend Section 10 by adding the following new paragraph after line 23, page 27, of H.R. 8410, as reported:

(3) subsection (b)(1)(A) of section 8 alleging that any person has instigated, engaged in, supported, or condoned any violence, mass picketing or other coercive conduct,

Page 28, after line 5 insert the following new section 12 and renumber the present section 12 as section 13:

SEC. 12. Section 441 b(b)(5) of title 2, United States Code, is amended to read as follows:

"(5) Notwithstanding any other law, any method of soliciting voluntary contribution or of facilitating the making of voluntary contribution to a separate segregated fund established by a corporation permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members: *Provided*, That no method, procedure or system by which union dues and other assessments are deducted from an employee's paycheck by an employer, either automatically or on specific authorization from an employee, may be utilized in the solicitation of contributions to such separate segregated fund.".

Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

SECRET BALLOT ELECTIONS

Amend the Labor Reform Act to provide for a new section as follows:

SEC. . Section 9(a) of the Act is amended by striking out "designated or" immediately before "selected for the purposes of collective bargaining", and inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election.".

By Mrs. FENWICK:

Page 7, line 5, strike out "fifteen days" and insert in lieu thereof "thirty days".

Page 10, line 25, strike out "paragraphs" and insert in lieu thereof "paragraph". Page 11, strike out lines 1–22 inclusive. Page 11, line 23, strike out "(3)" and insert in lieu thereof "(2)".

By Mr. JENRETTE:

Page 15, strike out line 1 and everything that follows through and including line 8 on page 28 and insert in lieu thereof the following:

That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amend-

ment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. No more than a simple majority of the members of the Board shall be members of the same political party. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a quorum of a group designated pursuant to the first sentence of this subsection may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion and the response thereto shall be filed with the Board and presented to a quorum of a group designated pursuant to the first sentence hereof within thirty days after the decision of the administrative law judge.".

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(2) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act and only on the grounds that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5, United States Code, or that a rule or regulation of the Board is arbitrary or capricious, contrary to a specific prohibition of this Act, or of the Constitution. The failure of the Board to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (1) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to grant appropriate relief.".

SEC. 4. Section 9(c)(1) is amended by striking out "upon due notice." and inserting in lieu thereof the following: "upon due notice to be held not later than fifteen days following the filing of the petition, absent good cause sufficiently demonstrated to the Regional Director in the Region the petition was filed.".

SEC. 5. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution".

SEC. 6. Section 9 is further amended by adding at the end thereof the following new subsections:

"(f)(1) Either party to the election may file objections to the conduct of the election or conduct affecting the results of the election within five working days after the day of the election.

"(2) The objecting party shall then have three working days, following the filing of objections, within which to submit material evidence in support of the objections, and, if such material evidence is not timely submitted, the Regional Director shall dismiss the objections, absent a showing of good cause why that evidence was not timely submitted.

"(3) In those cases where a hearing is necessary to resolve the objections and where there are no unfair labor practice charges consolidated with the objections for hearing purposes, such hearing will be held within twenty-four days following the filing of the objections.

"(g) Exceptions filed by any party to any Board official's Report on Objections following the Board's investigation of the objections or an objections hearing, shall be resolved by the Board's issuance of a written decision within sixty days following the issuance of that report.".

SEC. 7. The first sentence of section 10(b) is amended—

(1) by inserting after "served upon such person" the following: "not later than forty-five days following the filing of the charge"; and

(2) by inserting after "not less than five days" the following: "nor more than seventy-five days (except in cases with substantial complexity or for good cause shown to the Chief Administrative Law Judge by any party)".

SEC. 8. Section 10(c) is amended—

(1) by inserting after "which shall be filed with the Board" in the last sentence thereof, the following: "and served on all parties within forty-five days after briefs are filed by the parties to the hearing"; and

(2) by adding at the end thereof the following new sentence: "Within sixty days following the filing of exceptions to the proposed report and recommended order by any party to the proceeding, the Board shall issue its written decision regarding the exceptions adopting, modifying, or setting aside that report or order or orders, unless the proceeding is certified in writing by the Board Chairman as one of unusual complexity, in which event the sixty-day period shall be extended to one hundred and twenty days.".

SEC. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end thereof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within thirty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within fifteen days of service on it of said petition, file a further petition for review".

SEC. 10. Except as otherwise specifically provided in this Act, the amendments made by this Act shall take effect sixty days after the date of enactment of this Act.

By Mr. JONES of Oklahoma:

Page 15, strike out line 8 and all that follows down through page 16, line 6, and insert in lieu thereof the following:

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended by adding at the end thereof the following new sentence: "No more than a simple majority of the members of the Board shall be members of the same political party.".

Page 16, line 7, strike out "(2)" and insert in lieu thereof "(b)".

Page 24, line 9, strike out "paragraphs" and insert in lieu thereof "paragraph".

Page 24, strike out line 10 and all that follows down through page 25, line 6.

Page 25, line 7, strike out "(3)" and insert in lieu thereof "(2)".

Page 25, line 18, strike out "double".

By Mr. GARY A. MYERS:

Page 17, strike out line 5 and everything that follows through line 15 and redesignate subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C).

Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization".

Page 25, line 11, insert "actively" immediately before "seeking".

Page 27, line 16, insert "actively" immediately before "seeking".

By Mr. QUIE:

Page 16, strike out line 7 and all that follows down through line 19 and insert in lieu thereof the following:

"(2) Section 3(b) is amended by inserting after the third sentence the following new sentence: "The Board shall within 90 days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a panel of three may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under Section 10(b), summarily affirm such decision. A motion shall be filed with the Board and presented to the panel designated above within 10 days after the decision of the administrative law judge and concurrently served on the other parties. Any response to such motion shall be filed within 20 days."

Page 19, line 18, insert after the comma: "or a labor organization pursuant to subsection (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6, insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that

they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded,";

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "thirty";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 15, immediately before the period insert ": *Provided*, That the Board may extend the period for holding of a thirty day election and a sixty day election for a period of up to thirty days only if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote".

Page 21, strike line 6 and all that follows through line 2, page 22, and insert in lieu thereof the following:

"(C)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, object to the election on the ground that conduct contrary to a rule relating to election declared by the Board pursuant to its authority under section 6 or conduct contrary to a rule of decision declared by the Board in a proceeding under section 10 did not affect the result of the election.

"(ii) With regard to challenged ballots, the Board shall expeditiously investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

"(D) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall, after resolving issues raised by objections and challenges, promptly serve the parties with a tally of the ballots and certification of results or certification of representative.

Page 25, line 6, insert immediately before the period, the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs, or to the local, intermediate, national or international labor organization found to have engaged in a willful violation".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

"Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs.".

Page 25, line 9, after "(a)(3)" insert the following: ", (b)(1)".

By Mr. RAILSBACK:

Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18;

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "thirty" and page 21, line 1, strike out "fifteen" and insert in lieu thereof "thirty";

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "forty-five";

Page 21, line 24, insert after the word "election" a period, and strike the following language, beginning with "Provided", through page 22, line 2;

Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered at a whole";

Page 24, line 17, insert the following new sentence after "Secretary of Labor."; Such order may be reviewed pursuant to subsections (f) and (g).";

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party.";

Page 26, line 9, insert before the comma "in the same or similar industries";

Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following:

A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.

By Mr. TUCKER:

Page 17, line 23, strike out "twenty-one" and insert in lieu thereof "thirty-one".

Page 20, line 15, strike out "fifteen" and insert in lieu thereof "twenty-five".

Page 17, beginning on line 13, strike out "in an equivalent manner".

EXTENSIONS OF REMARKS

THE MISSILE THE RUSSIANS FEAR MOST

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Reader's Digest, February 1977]

THE MISSILE THE RUSSIANS FEAR MOST

(By Ralph Kinney Bennett)

It burst from beneath the sea in a white geyser, a slim 21-foot cylinder. Small wings and fins snapped into position from slots in its sleek, shiny body as a turbofan engine roared to life and propelled it a thousand feet into the air. Banking, it angled downward until it was 50 feet above the surface, rushing toward land. Soon it was passing over a green blur of trees, fields and housetops. To people on the ground it was noise and shadow, gone in the snap of a head.

A hill loomed before it. Inside the cylinder, a computer no bigger than a loaf of bread pulsed a command through the guidance system; the projectile tipped up slightly, cleared the hill and dropped down the other side. For more than an hour it gulped up the miles, hugging the contour of the earth. Finally it flew out over a rolling plain and fixed its cold electronic eye on a strip of concrete and a line of aircraft with red stars stenciled on their sides. The flying cylinder's journey ended in searing light and a roar of obliteration. Here and at thousands of other military targets across the Soviet Union, the United States was responding to a nuclear first strike.

This is how a sea-launched "cruise missile" (SLCM) would be used under wartime conditions. With its uncanny accuracy and ability to elude enemy radar, the cruise missile now holds the most promising potential for increasing American strategic capability in the face of a continuing Soviet military buildup.

The first operational cruise missile—essentially a pilotless airplane filled with explosives—appeared during World War II when Hilter's engineers came up with the "buzz bomb" that terrorized England. The United States later developed cruise missiles of its own: the Matador in 1950, the Mace in 1959. Now, after extensive research and prototype testing, two new versions of this weapon could soon go into full-scale production, if Congress approves funds. They are the air-launched cruise missile (ALCM), a 14-foot Air Force missile that can be carried under the wings or in the bomb bay of a bomber and released as far as 700 miles from target, and the SLCM, built for the Navy and designated Tomahawk, which is fired through the torpedo tubes of submarines and has a range of at least 2300 miles.

Both these missiles are relatively inexpensive to build since they reap the benefits of systems already developed in connection with

other programs. They use the same turbofan engine and the same vital guidance components. Their average cost is about $600,000 each, roughly one tenth the cost of an ICBM.

It is the Navy missile that the Soviets fear most. The reason: the Tomahawk flies so low that radar cannot pick it out from the confusion of ground images. It thus overcomes the weakness of any cruise missile—the low speed (around 50 m.p.h.) that would ordinarily make it easy prey for radar-directed ground-defense missiles or guns.

The secret behind this extraordinary capability lies in the Tomahawk's guidance system, called TERCOM for terrain-contour matching. The Tomahawk carries in its computer an electronic library of precise maps showing various routes to targets inside the Soviet Union. As the missile moves along close to the earth, its guidance system sends out signals to "read" the terrain below and to each side. It then checks what it "sees"—hills, rivers, valleys, plains—against the correct map in its library. If the missile has wandered, impulses are sent in milli-seconds to the control surfaces to put it back on course. The entire guidance "package" inside the missile takes only a cubic foot of space and weighs less than 90 pounds.

Because of their slow speed, cruise missiles can hardly be construed as provocative "first-strike" weapons. They do, however, challenge the Soviets in two ways:

1. They threaten the entire Soviet war-making capacity. The current U.S. "envelope" of military targets in the Soviet Union numbers about 40,000—a staggering catalogue of missile silos, tank factories, troop and weapon depots, air bases, submarine pens, radar installations. Most of these are grouped near major Soviet cities. Because of their exceptional accuracy, cruise missiles sent after each of these targets would have a high probability of striking within 30 feet of "target zero," thus minimizing the threat to population centers. Such accuracy also makes it possible to use smaller nuclear warheads or even conventional explosives to destroy, for example, an air-defense installation.

Cruise missiles therefore provide the means of attacking virtually every element of the Soviet warmaking capacity within a matter of hours. "Time urgent" targets, particularly missile silos, would be hit primarily by our ballistic missiles, which would travel from launch to detonation in around 25 minutes. The relatively "slow but sure" cruise missiles could go after thousands of ancillary, but still crucial, targets.

2. They would force a profound redirection of Soviet arms spending. It is possible for the Soviets to create a defense against cruise missiles over a period of years. They would, for instance, need to develop much more sophisticated radar systems than they have at present. "That is precisely what we would like them to do," says Malcolm Currie, director of Defense Research and Engineering in the Pentagon. "It would cost the Soviets billions of dollars, and we would be forcing them to spend for defense rather than offense."

Renewed American interest in the cruise missile grew out of the SALT I accords of 1972 in which we negotiated away our clearly superior anti-ballistic missile (ABM) system and gave the Russians a quantitative superiority in ICBMs. There was a strong feeling in the Pentagon, particularly among the Joint Chiefs of Staff, that we had given away too much in the name of détente. Defense Secretary Melvin R. Laird then proposed development of the cruise missile as part of a package of "strategic initiatives." Unexpectedly swift advances in guidance, microelectronics and warhead miniaturization, and in small-turbofan-engine efficiency have made it, in effect, a new weapon.

These advances have been acutely felt by the Soviets, whose submarine-launched cruise missile, the cumbersome SS–N–3 *Shaddock*, has a range of about 600 miles, and is usually guided to its target with the help of signals from a ship or aircraft in the area. It is no wonder then that the Russians want to put the wraps on U.S. cruise-missile production.

The era of détente has been characterized by Soviet preparedness to negotiate when such talks may serve to wipe out an American advantage. Robert Hotz, editor in chief of the internationally respected *Aviation Week & Space Technology* and a close observer of the ongoing arms talks, says, "The United States was badly outmaneuvered at SALT I by the classic Russian chess gambit of trading a pawn for a knight. The United States gave up its superior missile-defense technology for a limitation of an extremely ineffective Soviet anti-missile system." The Soviets then repeatedly violated SALT I to catch up technologically, secretly testing and upgrading 1,000 existing anti-aircraft launchers to an anti-ballistic-missile capability.

The Kremlin seems prepared to use this same gambit with the cruise missile. At Vladivostok in November 1974, President Ford and Soviet Communist Party leader Leonid Brezhnev agreed to "cap the arms race" by limiting each country to a total of 2400 strategic launchers. Though the cruise missile was not mentioned at this meeting, it became clear in the ensuing weeks that the Soviet negotiators had the weapon very much in mind: they maintained that the 2400-launcher limit included cruise missiles. The American side balked, and for a year negotiations slowed to a crawl.

Finally, in January 1976, the Soviets made a modified proposal that the Tomahawk be banned from submarines and be stationed instead on 25 surface ships. They further suggested that it be limited in range to 372 miles, thus virtually eliminating it as a weapon against the Soviet landmass. The United States could have air-launched cruise missiles but would have to count as MIRV (multiple independently targetable re-entry vehicle) launchers all bombers carrying ten or more cruise missiles. Since there is a proposed ceiling of 1,320 U.S. MIRV launchers, and 1,286 launchers are now deployed, the Soviet proposal would permit only 34 cruise-missile-carrying aircraft. In exchange, the Soviets have offered only their assurances that their Backfire bomber (the exact range of which is still in dispute) would not be based at points in the Soviet Union from which it could take off and attack the United States without aerial refueling.

There the matter now rests. One thing seems clear: if the United States agrees to their proposals, the Soviets will have in effect reduced the American cruise-missile threat almost to the vanishing point. The very fact that Moscow continues to push for a one-sided agreement is in itself an indication of how formidable the cruise missile is as a counter to the Soviet desire for military superiority.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MAZZOLI. Mr. Speaker, on September 30, I inadvertently cast a "present" vote on rollcall No. 613, the Journal of the House's proceedings of Thursday, September 29. My vote should have been "yea."

THE ADMINISTRATION'S EFFORTS TOWARD RECOGNITION OF THE PALESTINE LIBERATION ORGANIZATION IS INCONSISTENT WITH THE NEED FOR A PEACEFUL SETTLEMENT IN THE MIDDLE EAST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. KEMP. Mr. Speaker, there is mounting evidence that the administration is about to make a historic reversal of American policy in the Middle East by recognizing the PLO without any concessions on their part to mitigate their threat to destroy the State of Israel. For example, a recent statement by a State Department spokesman in Saudi Arabia on August 8 stated that the U.S. Government would consider the PLO's acceptance of U.N. Resolution 242 a step which "would open an avenue that they might participate in the Geneva Conference." This suggestion supports rumors heard in Washington to the effect that the Carter administration will recognize the PLO after the Congress adjourns later this year.

This perspective is further reinforced by the unconscionable coercion of the Israeli Government in the form of the joint position taken by the United States and the Soviet Union concerning the Geneva Conference. The coercion of the Israeli Government under these circumstances ill serves the cause of achievement of a permanent settlement in the Middle East. The firm stand of the United States in support of Israel's diplomatic position on the PLO has been the most important factor in weakening the grip of the PLO on Arab nations of the Middle East. Any relaxation of American attitudes on the PLO will reverse the fruit of a decade of American diplomatic effort. Negotiations must proceed with the established legitimate governments of the Middle East currently in a state of belligerency with the State of Israel. Intrusion of a separate Palestinian entity into these negotiations will doom them from the outset. A useful characterization of the international importance of the establishment of a permanent settlement in the region has been incisively provided by Prof. Eugene V. Rostow in an essay in the April 1977 issue of Commentary:

> A strong, confident Israel is a vital factor in any program to protect our own legitimate national interests and those of Europe, Japan, and many other countries in the independence, openness, and stability of the region. These facts we can only refuse to respect at our own peril. It is unthinkable that the international community could stand idly by . . . if Israel were in danger of destruction. The moral and political convulsion which such an event would engender is beyond calculation. It could spell the end not only of the Atlantic alliance, but of liberal civilization as we know it.

A recent memorandum produced by the American Israel Public Affairs Committee provides a well documented guide to the diplomatic dimension of the controversy concerning recognition of the

PLO. I include the text of this memo at the conclusion of my remarks.

THE PLO: A DESTRUCTIVE FORCE

Shifting U.S. Policy. In recent weeks, Administration officials have enunciated a policy shift on the recognition of the Palestine Liberation Organization (PLO). Specifically, State Department spokesmen stated on August 8 in Saudi Arabia that PLO acceptance of UN Security Council Resolution 242 would be sufficient to show PLO diplomatic responsibility and would allow the United States to begin a dialogue with the PLO. On the same day, President Carter went one step further by stating that PLO acceptance of Resolution 242 "would open an avenue that they might participate in the Geneva Conference."

Such a position represents a significant change of U.S. policy and represents an abrogation of U.S. moral and legal commitments to Israel. In September 1975, the U.S. Secretary of State and the Israeli Foreign Minister signed a U.S.-Israeli Memorandum of Agreement in which the United States pledged to "continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization *so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338* [emphasis added]. The United States Government will consult fully and seek to concert its position and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the conference of any possible additional state, group or organization will require the agreement of all the initial participants."

In February 1977, in Israel, Secretary of State Vance reinforced this by stating that acceptance of Resolution 242 by the PLO would not suffice: "As long as they stand by the covenant and refuse to accept Security Council Resolutions 242 and 338, this provides no basis for participation." The "covenant" referred to is the PLO's National Covenant which explicitly denies Israel's right to exist as a free and sovereign Jewish state.

The Administration now argues that PLO recognition of Resolution 242 implicitly means recognition of Israel. Such PLO action, however, cannot substitute for the explicit denunciation of the PLO's Covenant as called for by Vance in February. Acceptance of UN Resolution 242 is not a substitute for recognizing Israel's right to exist. The Arabs showed their own disregard of UN Resolution 242 when they launched a surprise attack against Israel on Yom Kippur, 1973.

The Nature of the PLO. The PLO's own actions and statements demonstrate that refusal to negotiate with the PLO is correct—morally and logically.

The PLO Remains Committed to Israel's Destruction. At the March 1977 meeting of the Palestine National Council (PNC) in Cairo, the PLO made it clear that it is unwilling to live in peace with Israel. PLO Chairman Yassir Arafat told the PNC on March 17 that "We want a secular democratic state in Palestine," and predicted that Palestinian military attacks against Israel will be escalated in the coming months. The head of the PLO's political department, Farouk Kaddoumi, told a Newsweek interviewer (March 14, 1977) that the establishment of a West Bank/Gaza state would only set the stage for the take over by the Palestinians of "the rest of our land." Said Kaddoumi: "There are two stages to our return. The first phase to the 1967 lines, and the second to the 1948 lines . . . The third stage is the democratic state of Palestine."

The constitution of the PLO, the 1968 National Covenant, asserts that "the partitioning of Palestine in 1947 and the establishment of Israel are fundamentally null and void" (Article 19). Article 20 denies that Jews are a national people with a right to statehood. Article 15 calls for the Arabs "to purge the Zionist presence from Palestine." Articles 13, 14 and 15 state that the PLO seeks an Arab state which would allow only those "Jews who were living permanently in Palestine until the beginning of the Zionist invasion" to remain (Article 6).

At the recent PNC meeting, not a word of the Covenant was changed. Instead, the PNC reaffirmed its specific adherence to the Covenant, called for further "armed struggle" for "all" the land, and pledged to reject "peace or recognition" with Israel.

The PLO is an Alliance of Terrorist Organizations. The PLO claims to represent the Palestinian people. The PLO's ruling body, the Executive Committee, chaired by Yassir Arafat, and the PLO structure, however, are controlled by seven terrorist groups—and dominated by Arafat's Soviet-armed Fatah, the largest of the groups.

All seven groups have carried out acts of terror, and continue to espouse it as their primary weapon. More than 250 Israelis, Europeans and Americans have been murdered by the PLO since 1967. In 1977 alone, more than 130 Israeli civilians—Jews and Arabs—have been killed or wounded as a result of PLO terrorist attacks.

Major PLO Crimes Include:

The murder of 11 Israeli Olympians in Munich in 1972 and the execution of U.S. Ambassador Cleo Noel, his charge d'affaires, and the Belgian charge in Khartoum in 1973 by "Black September," a group controlled by Fatah.

The 1970 bombing of a Swissair jet, resulting in 47 dead, by the Popular Front for the Liberation of Palestine—General Command.

The 1972 massacre of Lod Airport in which 26 died—including 21 Americans—by the Popular Front for the Liberation of Palestine.

24 children gunned down at Ma'alot, Israel, in 1974 by the Popular Democratic Front.

These are only a handful of the more than 1,000 incidents of terror which PLO groups have launched, almost always against unarmed civilians.

Nor is there any real difference among the PLO's constituent groups politically. All have endorsed the 1974 Ten Point Program, which asserts that the PLO would accept a West Bank/Gaza state only at a "fighting authority" but would not accept "recognition, conciliation, secure borders" with Israel (Articles 2 and 3). No PLO member, despite claims of "moderation" by some observers, has ever publicly acknowledged the right of Israel to exist.

The PLO is Not a Legitimate Movement of National Liberation. Security Council Resolution 242, the only accepted basis for a Middle East peace, specifically asserts that "every state in the area" have its "sovereignty, territorial integrity and political independence" recognized. The PLO is not a state, nor has it even attained the status of a government-in-exile. While the PLO claims to represent the Palestinian people, it has never met the requirements of a national liberation movement—that is it has been unable to organize or maintain regular contact with the majority of Palestinians who live in Israel, Gaza, the West Bank, and Jordan. During Secretary Vance's most recent trip to the Middle East, a delegation of West Bank Palestinian leaders presented him with a petition which firmly stated that the PLO does not represent West Bank residents, as the PLO claims.

The PLO is Committed to the Overthrow of Jordan's King Hussein—America's Closest Arab Ally. Articles 2 and 3 of the Palestine National Covenant claim both Israel and Jordan (plus Gaza and the West Bank) as the territory of the future Palestinian state to be controlled by the PLO. Article 5 of the Ten Point Program calls for the overthrow of the current government of Jordan. Illustrating the PLO's danger, Jordan to this day refuses to grant the PLO anything more than a bare token and non-military presence on Jordanian territory. The PLO's willingness to war against an Arab government was demonstrated in Lebanon, where the PLO played a major role in instigating and accelerating the two-year civil war, ignoring PLO pledges in the 1969 Cairo Agreement. Lebanon's elected, democratic government did not survive.

What Future for the Palestinian Arabs? Israel, like the United States, remains cognizant of the need for a solution to the Palestinian problem. Israel remains willing to negotiate a lasting peace for all the peoples of the Middle East. But Israel cannot be asked to negotiate with a group which openly calls for its destruction. Israel believes that the Palestinian problem must ultimately be resolved within the context of Jordan, which occupies 80 percent of historic Palestine and whose citzenship consists primarily of Palestinians. Israel has publicly stated that it would not object to the inclusion of Palestinians in a Jordanian delegation at any reconvened Geneva conference.

President Carter has endorsed this position in the past. On July 12, 1977, the President told a press conference, "My own preference, which I have expressed since I've been President and also as a candidate, was that the Palestinian entity, whatever form it might take and whatever area it might occupy, should be tied in with Jordan and not be independent."

CONCLUSION

The United States, which has set progress toward peace in the Middle East as its primary national interest in the region, can only decrease the chances for peace if it changes its opposition to the PLO's inclusion in negotiations. Only when real Palestinian leadership emerges, with open acceptance and recognition of the rights of both Israel and Jordan to exist, can there be Palestinian participation in the negotiating process.

BIOCHEMIST URGES STUDY OF AIR BAG CHEMICAL; WARNS OF EFFECTS ON PUBLIC HEALTH

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SHUSTER. Mr. Speaker:

. . . the exposure level to the population which would result from permitting sodium azide to be used must be determined and evaluated for its effect on the public health before any decision on the widespread use of sodium azide is made.—Dr. Bruce N. Ames, Professor of Biochemistry, University of California.

The emphasis is mine, but the words tell the story. Dr. Ames, one of the world's leading genetic scientists, feels that the threat to public health is real enough to warrant additional study before going ahead with a standard which could result in the widespread use of sodium azide.

Following is a copy of Dr. Ames' letter in its entirety. While he may not be an expert on air bags, he is an expert on mutagenic and carcinogenic hazards,

and his concerns are worthy of serious note.

This air bag/passive restraint order should be reversed until or unless its safety and effectiveness can be convincingly demonstrated.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., September 23, 1977.

Hon. BUD SHUSTER,
Committee on Public Works and Transportation, Longworth Building, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN SHUSTER: I would like to clarify my position on sodium azide and its use in air bags. My interest in this matter was simply to alert those involved in the air bag decision to the mutagenic and possibly carcinogenic hazards associated with the use of sodium azide in order to assure that these factors are properly considered before a decision to allow its use is made. My original concerns were heightened by the fact that the acid form of azide (hydrazoic acid) is a gas that is extremely mutagenic, and I wanted to make sure that the public was not exposed to it.

It is out of my expertise to comment on the utility of air bags. It may well be that sodium azide can be used safely in air bags. The point I mean to raise is that the exposure level to the population which would result from permitting sodium azide to be used must be determined and evaluated for its effect on the public health before any decision on the widespread use of sodium azide is made.

Yours truly,

BRUCE N. AMES,
Professor of Biochemistry.

SALT TALKS OFF TARGET

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From The San Diego Union, Sept. 19, 1977]

SALT TALKS OFF TARGET

Andrei Gromyko flies to Washington later this week to resume arms-control talks with Secretary Vance and President Carter. But if the reports out of Washington are true, it will be providential if Mr. Gromyko's plane somehow never left Moscow. The resumption of the Strategic Arms Limitation Talks seems to bode nothing but ill for the United States.

The evidence suggests that the Carter administration is committing the two negotiating errors—one general, the other particular—that it simply cannot make, without seriously endangering this country's security. The general error is the one Presidents Nixon and Ford managed to commit, that of self-negotiation. The particular error is bargaining away the cruise missile.

Last week coloumnists Evans and Novak reported the secret SALT strategy paper drafted this summer by the State Department's director of politico-military affairs, Leslie Gelb. The paper, impressed with the October 3 expiration date of SALT I, figures that some progress on the talks be necessary, and recommends how the U.S. should "back down." This is nothing but Dr. Gelb negotiating with himself or, if you will, with the October 3 expiration date. Apparently the administration plans to follow Dr. Gelb's lead.

Dr. Gelb also proposes that the range of the air-launced cruise missile be 1,500 miles, the same range the U.S. offered the Soviets in one of its two rejected proposals last spring. Then 1,500 miles seemed an adequate range from a United States point of view, but now it is not, and any proposal that includes a 1,500 mile range on the cruise missile effectively eliminates it from U.S. strategic security. If Dr. Gelb's position has become the White House position, as we fear, the Carter administration may be scrapping the B–1 bomber and grounding its alternative, the air-launched cruise missile.

The country might avoid this setback to national security if Defense Secretary Brown can persuade Mr. Carter of the need for extending the range of the cruise missile. Mr. Brown wants an 1,800-mile range because of expected improvements in Soviet air defenses, and certainly it at least should be 1,800 miles, for a reason only recently come to light.

The 1,500 mile range is measured by the line that can be drawn from the cruise missile's point of origin to its point of destination, that is, a straight line. Cruise missiles, however, don't fly in straight lines but up, down, and around, depending on the lay of the land below and on air defenses. Presumably, the extra 300 miles Mr. Brown wants is to satisfy the margin necessary to allow the cruise missile to fly in this manner, with less risk of detection.

Surely this is a point Mr. Carter should consider, but he could be distracted by the presence of Mr. Gromyko, the influence of Dr. Gelb and the problems of Bert Lance. Short of some providential cancellation of Mr. Gromyko's visit, the best remedy for the worsening negotiating position in the White House would be, for the immediate time being, no progress at all towards SALT II.

ART BY WESTCHESTER'S HANDICAPPED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. OTTINGER. Mr. Speaker, I am pleased to share with my colleagues the news of the Eighth Annual Exhibition of Art by Westchester's Handicapped which will open on November 3 at the Neuberger Museum at the State University of New York, College at Purchase.

According to museum director, Jeffrey Hoffeld, over 150 original works—including paintings, drawings, sculpture, ceramics, collage, photography, and needlework—will be shown for 1 month at the museum designed by Philip Johnson. Following its stay at the Neuberger, the show will tour five other public locations throughout Westchester County. These will include the Scarsdale National Bank branches in Scarsdale and Pleasantville, the New Rochelle YMCA, Bonwit Teller in Eastchester, and the final exhibition site will be the County Courthouse in White Plains in April of next year.

In addition to individual entries, agencies and organizations that serve the handicapped have cooperated in making this special exhibition possible. Included in the show are artists from the Westchester Lighthouse; Westchester Association for Retarded Citizens, White Plains and Yonkers; United Cerebral Palsy of Westchester; Muscular Dystrophy Association; Opengate, Somers; Sarah Neuman Nursing Home, Mamaroneck; Extended Care Facilities of New Rochelle and White Plains; New York School for the Deaf, White Plains; Margaret Chapman School for Mental Retardation, Hawthorne; Southern Westchester Community Services of Harlem Valley Psychiatric Center, New Rochelle; Sky View Haven and Brandywine Nursing Homes, Croton; Sleepy Hollow Adult Home, Briarcliff Manor; Rye Association for the Handicapped; New Rochelle Parks and Recreation Department (disabled program); Green Chimney's School, Brewster; and Ferncliff Manor, Yonkers.

The coordinators of the exhibition, Jackie Sheinberg and Betty Lynn Steinweg of the Neuberger Museum's docent council, have expressed the hope that the public will visit the exhibition and appreciate the creative accomplishments attained by handicapped citizens; they are truly remarkable. Responsibility for the success of the exhibition is shared with the Westchester County Office for the Handicapped and the Mamaroneck Artists Guild.

A MIDEAST PEACE CANNOT BE IMPOSED

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. ROSENTHAL. Mr. Speaker, this weekend's joint United States-Soviet statement on the Middle East marks a further erosion of American support for Israel and a major step toward the imposed settlement that the United States has long promised would never happen.

It demonstrates a disturbing pro-Arab bias on the part of the convenors of the Geneva Conference, thus destroying their objectivity and prejudicing any possible outcome.

One cannot help but get the feeling that the administration continues pandering to the PLO—which it apparently cannot distinguish from nonterrorist Palestinians—in the face of repeated rebukes. It should be as clear to the administration as it is to everyone else that the PLO does not want peace with Israel; it wants peace without an Israel.

We cannot afford a settlement at any cost just because someone has put it on an agenda, declared it a goal or set an artificial deadline. Nor should a Middle East peace conference be a pawn in the SALT negotiations.

With the United States already tilting heavily to the Arab position and now joining the Soviet Union, Israel is becoming increasingly and dangerously isolated. This threatens to lead us away from the path to peace on which we are embarked.

It is ironic, Mr. Speaker, that this joint United States-Soviet statement supporting the so-called legitimate rights of the Palestinians was issued at almost the same time the PLO was taking credit for a bomb explosion yesterday that injured three persons at the Jerusalem central bus station.

I believe such terrorist activities are encouraged by actions such as the United States-Soviet statement of support for the Palestinian cause. Such big-power moves will only further harden Arab positions and strengthen PLO refusal to change its stance.

It appears that every time the PLO has rebuffed an American attempt to gain its acceptance of United Nations Security Council Resolutions 242 and 338, the U.S. Government has responded by taking out its frustrations on Israel. Harsh public criticism and heavy pressure by the United States have elevated United States-Israeli differences—for example, West Bank settlements—out of proportion to reality. This further strains relations with America's only true ally in the region and the only democratic government in that part of the world. At the same time, the administration has moved in the opposite direction, attempting to further and further appease the terrorists.

It is a shocking disappointment that the United States-Soviet statement failed to mention that perhaps the most important goal of a Mideast peace conference is a peace treaty among the parties. I hope that this does not mean the United States has abandoned that objective to further appease the PLO terrorists and their Arab supporters.

American appeasement of the PLO appears to be in violation of a memorandum of agreement the United States and Israel signed on September 1, 1975, as part of the Sinai II disengagement, in exchange for Israeli return to Egypt of the Abu Rudeis oilfields captured in the 1967 war.

Under that memorandum, the United States agreed to "consult fully and seek to concert its positions and strategy at the Geneva peace conference" regarding the PLO question. It also says the United States would veto any attempt to alter Resolutions 242 and 338. These documents, which form the only agreed basis for the Geneva talks, exclude the PLO as a party to the negotiations. They also call for the recognition of the right of all states in the area—including Israel—to live in peace behind recognized and secure borders.

The latter provision is exactly what the PLO so steadfastly rejects, despite continued U.S. pleas.

GEORGE MILIAS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EDWARDS of California. Mr. Speaker, I was saddened to learn of the death of my good friend, George Milias. We shall miss him back home. We shall miss him here in Washington.

For the past few years, George was Deputy Director of the U.S. Fish and Wildlife Service. In that role he was very helpful, in fact a key person, in the evolution of the San Francisco Bay National Wildlife Refuge, something he thought was very important for California to have.

George was always available to help us solve various problems over which he might have authority. He had a keen eye for developing support for the wildlife refuge in the private sector.

George was well respected both at home and in Washington: A very decent, competent and widely knowledgeable public servant. My sympathy to his wife, Mary Ann, and the children.

A THOUGHTFUL EDITORIAL

HON. RALPH H. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. REGULA. Mr. Speaker, I would like to bring a thoughtful editorial that appeared in the October 2, 1977, edition of the Cleveland Plain Dealer to the attention of my colleagues. For this reason, I include the following article, entitled "Real Jobs or Makework?" in the CONGRESSIONAL RECORD:

REAL JOBS OR MAKEWORK?

The nation's unemployment rate now stands at 7.1%. For blacks, it is nearly twice that figure. Among black teen-agers unemployment runs to a staggering 40%. So, why not enact the Humphrey-Hawkins "full employment" bill pending in Congress and reduce unemployment, eventually, to 4%? The answer is disarmingly simple: It won't work.

To understand why, one must recognize the nature of this country's unemployment problem.

Unlike the experience of the Depression of the 1930s when millions of skilled workers with solid job backgrounds were idled, unemployment today is chiefly structural. That is, it exists among people who are only minimally affected by swings of the business cycle.

These unemployed are predominantly the young, the unskilled and minorities. And the unemployment is centered largely in the major cities.

Public service employment, precisely what the Humphrey-Hawkins bill would create, can have only a transitory effect on reducing chronic, structural unemployment. As Robert T. Hall, formerly with the National Manpower Commission and currently assistant secretary of commerce for economic development, noted recently, "I spent more years than I care to remember creating public service employment. But after two years of public service employment all you have is two years of canceled wage stubs."

Hall, in concert with a growing number of economists, argues that the best line of attack against structural unemployment is selective investment that will create permanent, private sector jobs and, in the process, teach marketable skills.

In the same Forbes magazine article in which Hall was quoted, Michael Wachter, a University of Pennsylvania labor economist, declared: "Our problem is not unemployment but low skills. Public service employment does nothing to improve that. It may teach a person to come to work on time, but that's about all . . ."

The federal government already has at least nine public service jobs programs in operation. Some are worthwhile, others amount to little more than a misappropriation of public funds.

What has not yet been tried on a sufficient scale is what the Carter administration unsuccessfully attempted to sell Congress earlier this year; namely, grant business and industry tax credits to hire and train the chronically unemployed. This way, those unemployed who genuinely want to work and have the aptitude to learn marketable skills can be brought into real jobs that are self-sustaining because they create wealth.

This approach, plus the kind of enlightened tax and general economic policies that promote rather than retard private sector growth, offers the most realistic prospects for lasting reductions in unemployment.

PRIVACY AND ELECTRONIC MAIL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. WHALEN. Mr. Speaker, on March 31, I wrote to JIM HANLEY, chairman of the Subcommittee on Postal Operations and Services, expressing my concern about safeguarding the privacy of communications transmitted by electronic mail. NED PATTISON placed a copy of my letter in the RECORD of April 25, at page 12110.

It may seem today that it is a bit premature to be worrying about communicating by electronic mail. But it is not. Electronic mail is not some sort of Buck Rogers vision of the future; virtually all of the technology—both hardware and software—is available right now, and various small scale systems are already in operation.

In fact, the debate over the future of electronic mail has little to do with the technical capabilities of the system. Instead, we hear discussions of when electronic mail systems will be operational nationwide, and how much they will cost, and who will run them.

What concerned me when I wrote to Mr. HANLEY in March, and what continues to concern me today, is that there has been very little discussion about the impact that electronic mail may have on the privacy of communications. Unless we give adequate thought to this matter now, we are going to have very serious problems when a major electronic mail system is established in the relatively near future.

In my letter of last March, I suggested that one of the possible solutions to the privacy problem might be the use of data encryption, a science that is of increasing importance in the computer industry. An article that appeared on the front page of the Christian Science Monitor on September 26 provides a further discussion of the possible application of data encryption to electronic mail. I commend that article to your attention.

The text of the article follows:

COMPUTER PRIVACY? MATH RIDES TO RESCUE

(By Robert C. Cowen)

BOSTON.—Len Adelman, Ronald Rivest, and Adi Shamir will pay $100 to the first person who breaks their secret code. But more than prize money is riding on the challenge.

These three Massachusetts Institute of Technology (MIT) computer scientists think they have developed a virtually unbreakable encoding scheme to protect your future bank accounts, income tax records, and even letters that increasingly are being entrusted to the insecure keeping of electronic data banks.

Now they want to test the system: hence, their challenge last August in the Scientfiic American mathematical games column.

Their work is part of what Dr. Martin Hellman of Stanford University calls a mathematical revolution that will put the esoteric art of cryptography at everyone's service. Information experts anticipate a time when much of the mail, including private letters, will be transmitted electronically.

"But what will prevent eavesdropping?" they ask. How will a recipient know that you and not someone else have sent an electronic letter—which until it is decoded would be a series of numbers anyone could transmit on a keyboard. How will a bank know who has drawn an electronic check?

Thanks to the cryptographic revolution, these scientists now think they can provide consumers with the electronic equivalent of sealed envelopes and unique signatures. The high-powered mathematics would be contained in computer microcircuits—with coding schemes that should be as easy to use as a pocket calculator or credit card. Equipment in homes and offices would be similar to an electric typewriter.

Dr. Hellman and his colleague Whitfield Diffie explain that users in a network would publish their encoding keys—large-digit numbers chosen randomly by each user to tell a computer how to scramble (or unscramble) information—perhaps in something like a telephone book. To send a message, a user would look up the recipient's encoding key and use it to encipher the message. Only the intended recipient would have the secret decoding key to decipher it.

The basic weakness of coding systems developed to date is use of the same key for encoding and decoding.

To send a coded message, operators first have to send the code's key to the recipient. But the key could be intercepted. What is worse, such a scheme would be unworkable for a complex network—such as the present telephone system.

Dr. Hellman and Dr. Diffie have proposed a new family of cryptographic schemes that avoid these problems by using two different keys—for coding and decoding—which are mathematically related. Research in recent years suggests that, even when an encoding key is known, it would be so difficult to derive the decoding key, without knowing the intermediate mathematical steps, that no computer would likely break the code. Yet it is easy for a user to generate both an encoding and a decoding key.

The system proposed by Dr. Hellman and Dr. Diffie could provide an electronic signature as follows:

Since encoding and decoding keys can be used in reverse, a message enciphered with a decoding key could be deciphered with an encoding key. To send a signed message, the user first would scramble it using the secret decoding key. Then the user would scramble it using the recipient's published encoding key. The recipient would decipher the message (which might be a check) using his or her decoding key. But the message still would be scrambled because of the double encryption. So, knowing it to be a check (perhaps by an indicator that was not doubly encrypted), the recipient would use the originator's published encoding key to turn the message into readable form. The fact that the originator's encoding key had to be used to extract the message would show that his secret decoding key had been used originally to scramble the message. No one but the originator could have done this, so it is equivalent to a personal signature.

Dr. Hellman and another colleague, Ralph Merkle, have developed such a public encryption scheme, and the MIT system is another version of it. If such schemes can be proved unbreakable for practical purposes—which Dr. Hellman thinks may be done within a few years—they would nail down the cryptographic revolution.

A TRIBUTE TO THE 100TH ANNIVERSARY OF BRENAU COLLEGE IN GAINESVILLE, GA.

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. JENKINS. Mr. Speaker, I would like to take this opportunity to salute and pay tribute to an outstanding educational institution which is located in Gainesville, Ga.—Brenau College.

Brenau is literally a child of history and of Gainesville. Founded in 1878 by Rev. W. C. Wilkes and then called the Baptist Female Seminary, the school was established when he and the Baptist Convention became interested in founding a Christian school for young ladies. The city of Gainesville offered Dr. Wilkes, then pastor of the First Baptist Church, 10 acres of land for the site of his proposed institution. Interested local businessmen subscribed funds for the first building, now called Wilkes Hall, and the members of the first class entered the seminary in September 1878.

The school was sold in the late 1800's to Dr. Azor Van Hoose and Dr. Haywood J. Pearce, both leaders in educational and religious activities in Georgia. It was during this time that the school was officially named "Brenau."

Brenau is the named coined from the German word, "brennen," meaning to refine, and the Latin word "aurum," meaning gold. Thus, the name Brenau meant "refined gold."

In 1917, Dr. Pearce made a decision that he foresaw as a key to Brenau's future. In that year, the educator formed a board of trustees with whom he agreed to transfer the school when a perpetual endowment fund of $250,000 was raised. This was accomplished in a decade, but Dr. Pearce remained president until his death in 1943.

During these years, the influence of Lucile Townsend Pearce, President Pearce's wife, was felt as she developed her musical and dramatic interests for the college and community. Due to her inspiration, Brenau became the scene of numerous musical and drama festivals with nationally and internationally known artists.

In 1945, the board of trustees invited Dr. Josiah Crudup to serve as president of Brenau. He came to the school when it was still unaccredited by the national accrediting agency and in debt for more than a half million dollars. In 2 years, both these problems were solved. The institution was properly accredited and all indebtedness was cleared.

During Dr. Crudup's term as president, the campus was expanded, many new buildings were added, and the entire physical plant was brought up to an acceptable standard. A unified campus development plan was created and 48 buildings on a campus of 40 acres became easily identified as Brenau College.

Dr. William K. Clark became the Brenau's fifth president in 1968. During his administration, closer ties were made between the college and the community. In creating a public relations department, the college initiated a program of public awareness that would not only give local residents knowledge of the activities on campus, but would also let them become a part of Brenau's activities and programs.

In 1970, Dr. James T. Rogers succeeded Dr. Clark and became the sixth president of the institution. Under his direction, Brenau has seen a new era of innovation and responsiveness to the needs of students, faculty, and community A new natatorium was built in 1974. Intercollegiate sports were introduced on the Brenau campus. An office of development was created to develop a fundraising program and perpetuate its alumnae activities.

One hundred years at Brenau—a page in educational history—a goal attained through perseverance and dedication—a heritage and tradition that has touched the lives of thousands of students, faculty and families that have been a part of the Brenau story.

But 100 years at Brenau is more than what has been. It is a promise of what will be. The first century is more than a mere goal. It is a steppingstone into the future. It is a commitment and a promise not only to continue the emphasis on quality and individualized education, but also to create and innovate new approaches in the liberal arts world of learning.

It is also a promise to make Brenau as contemporaneously vital for the next generation of students as for the last.

Brenau was founded and built by men and women who had their eyes on the horizon; men and women who foresaw the promise of tomorrow and knew that the promise could only be fulfilled through dedicated effort to their belief in private higher education.

A second century—proof that Brenau is truly "Enriched by the Past—Challenged by the Future."

Brenau's board of trustees is fully aware of this heritage and tradition. Thirty-six men and women serve on this board, and an additional 8 persons make up the advisory board. They are Dr. Rafe Banks, Jr., Mrs. James E. Bates, Ralph Cleveland, Dr. Josiah Crudup, Carter Estes, Winston Garth, John W. Jacobs, Jr., Mrs. John H. Martin, Jack B. McKibbon, Jr., Ray McRae, T. H. Paris, Sr., Emory F. Robinson, Sidney O. Smith, Jr., Charles Smithgall, Charles J. Thurmond, Paul L. Turner, Miss Virginia Brown, Mr. R. Carl Chandler, James G. Dunlap, Dr. W. R. Garner, Abit Massey, Mrs. John E. Redwine, and Mr. R. L. Swetenburg, all of Gainesville.

Other members are: Morris M. Bryan, Mrs. John S. Candler II, Frank Coggins, Charles L. Davidson, Jr., Mrs. Allen Diefendorf, Samuel C. Dunlap III, Mrs. Henry A. Foscue, Mrs. Frank Gilbert, E. Reginald Hancock, Ira H. Hardin, Mrs. W. E. Helms, Jr., Mrs. R. L. Hook, Lindsey Hopkins, Mrs. Louis L. Jones, Jr., Honorable Phil M. Landrum, Mrs. William D. Owens, Leo Rainey, Jr., L. E. Ridgway, Mrs. Millie Ripple Siceloff, Mrs. Peter Allen Stipp, and Mrs. Cornelis A. P. van Stolk.

All of these men and women have contributed greatly to the development and traditions of Brenau College.

It is with great pleasure and pride that I offer this tribute to the men and women of Brenau College.

EMERSON STREET

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EDWARDS of California. Mr. Speaker, a dear friend and great labor leader, Emerson Street, will soon be retiring from his position as business representative for the Santa Clara County Central Labor Council to which some 100 local unions belong. Emerson has been a towering figure in labor for many years, but ill health has forced him to slow his break-neck pace and, finally, to take some time to take care of himself.

Emerson's departure will be felt as a great loss by other trade union leaders, rank and file and, yes, the public. Emerson, the gentle giant, fought the hard battles with integrity, vigor, a keen appreciation for the needs and concerns of working people, and, always, with a sense of humor.

Looking back on the many years of friendship I have had with Emerson, I remember the times that he stood with me, supporting and unafraid, because of his belief in what was right. Emerson has seen his position as a public and private trust—to fight for union workers, to support political candidates and issues which were important to working people, to stand up to injustice and, in the end, to do his level best to make our country free and just for all people.

Yes, Emerson has been a union leader—and a great one at that. Yet, I will always think of him most fondly as a civic leader—a unifier of our community, a man of principle but a man of good commonsense and good humor.

Emerson is one of a kind. I think my colleagues will be interested in the following article from the San Jose Mercury which communicates not only how important Emerson is to Santa Clara County, but gives an inkling of his delightful personality:

LABOR LEADER TO RETIRE—HE NEVER LIVED ON EASY STREET

(By Cathie Calvert)

He has the look of a British country squire, but the "estate" over which he presides is anything but a bucolic bit of tranquillity.

The man is Emerson Street, age 63, tall, deceptively robust-looking and a powerhouse for organized labor both "out front" and behind the scenes for nearly two decades in Santa Clara County.

He's the veteran business representative for the country's Central Labor Council, AFL–CIO, a "union" of nearly 100 local unions.

Street's genial manner belies a severe case of high blood pressure and hypertension that is forcing him into retirement about the end of the year.

"It's not the kind of job where you can slow down—if it isn't one beef it's another," he grins, with the same relish in his voice with which he tackles his assignments.

Seated in his office, he answers a steady stream of telephone calls and talks with a parade of people popping in and out.

A jammed-packed daily appointment log on his desk also serves to illustrate graphically the constant hectic pace of Street's work.

The job includes following the dictates of the council's membership in promoting labor activities and legislation on all levels and entering tense negotiations to avert or resolve a strike if requested.

Through the council's political arm COPE, the job calls for promoting political candidates and issues.

Community service and union organizing also are thrown into the job hopper.

Street, an erudite, witty raconteur with a phenomenal memory, for more than 17 years has handled with finesse and humor knotty problems and touchy personalities.

He winces at the term "statesman" a description of his modus operandi.

"Finagler" is the best adjective, Street says with a laugh.

"I'm there to help the unions, the rank and file members, whether it's writing a press release or yelling at the Board of Supervisors.

"It doesn't necessarily require statesmanlike conduct. Sometimes I can be an awful bastard," he grins. "It just depends on what the occasion calls for. You're kind of an actor in this business," Street says.

"I feel you can always be more effective entering discussions and trying to find what I call ways to 'wiggle,'" he says.

Street is considered a consummate "wiggler" in resolving discord, finding acceptable compromises in politics, legislation and negotiations.

A native of Oakland, Street came to the county in 1958.

He brought with him a background in labor and political knowledge and a commitment gleaned from a colorful and varied career as a newsman, union organizer and activist, and political campaigner dating back to his early 20s.

He had incorporated his many-faceted interests into self-employment in public relations by the time he saw the Santa Clara Valley, promoting candidates and causes.

When the Central Labor Council issued a "help wanted" notice on the business representative slot, Street went after the job.

He didn't get it.

"I have the reputation for being a pretty fair right-hand guy" (at tippling), Street says, a cardboard cutout of W. C. Fields musing down at him from its spot on the office coat rack.

"Let's put it this way," Street says. "The first time I went to a meeting of the bartenders union here, I knew more of the members by their first names" than the union's leader.

The man who got the job Street was after lasted only a short time.

Street was hired in May, 1960.

Street likes to drink and he knows how to hold his liquor.

But being arrested for drunken driving on a bicycle did, however tarnish his image a bit for a brief time—and provide one of the many colorful anecdotes.

"I wasn't drunk," Street maintains of the incident.

"I was back-pedaling, trying to stop the bike. I didn't know the damn thing had hand brakes," he explains.

He crashed into the back of a car—a Palo Alto police car.

The startled officers decided the bicyclist would be safer in jail.

Street holds no rancor over the incident. "It probably saved my life," he says.

The police car he rammed was stopped for a passing train.

The story about Emerson Street living on Emerson Street in Palo Alto, also is an other true chapter in his story.

"I felt sorry for the poor letter carrier. It was driving him crazy," Street recounts.

"With a name like Emerson Street you learn to live with it from the time you apply for your first library card and get the old 'I want your name not your address,'" he says philosophically.

Street was born July 14, 1914, and was christened Emerson because of his mother's fondness for the writings of Ralph Waldo Emerson.

His parents had moved to Oakland with their other child, a son 10 years older than Street, after the devastating quake and fire of 1906 destroyed their San Francisco home.

The family moved soon after. Street's birth to a ranch it owned in Placer County where Street spent one of the treasured periods of his life in the Sierra foothills.

"Nature is a fine teacher. It gives you a sense of balance, of what's right and what's wrong," he says.

He attened a one-room schoolhouse presided over by a lone teacher who taught all grades.

"I was a voracious reader," Streets recalls.

The Bible, "which we read in our home as a piece of literature," the Rubaiyat of Omar Khayyam and Shakespeare were part of his reading, along with the adventurous tales of Jack London and Robert Louis Stevenson.

By 1931 the Streets were back in Oakland. Street's father, who had owned a printing firm and held extensive land holdings, was virtually wiped out by the Depression. The family had the home in which it lived and the elder Street went to work as a teacher.

Emerson was graduated from Berkeley High School, put in a stint at the University of California at Berkeley and at Santa Rosa Junior College, when he decided to call it quits in favor of full-time reporting for the Santa Rosa Press-Democrat for $24 a week.

Street's dedication to organized labor and the rights of workers took shape early.

He attempted, unsuccessfully, to organize a local of The Newspaper Guild at the Press-Democrat but joined the fledgling union as a charter member. He still prizes his first union card signed by Guild founder Heywood Broun.

During his time at the Press-Democrat, Street spent weekends walking the picket line in the 1935 San Francisco maritime strike.

"You walked the picket line on that waterfront, with National Guardsmen called out by the governor stationed behind sandbags with machine guns trained on you," Street says.

"That's when you really decide what it's all about," he adds.

Street ended his newspaper career working on Hearst's San Francisco Examiner in 1945, at the time of the United Nation's founding convention.

Street covered the historic signing of the charter and wrote the Examiner's page one bylined lead story.

Street then launched a freelance public relations operation "to work chiefly for Democratic candidates and issues and for union affairs."

The experience provided a lasting base of contacts in labor and politics and an insider's knowledge of the realities of how to get things done.

It's made Street an invaluable man at the Central Labor Council, and a hard person to replace.

"I've had a lot of fun and I don't regret a thing," he grins, recounting his career to date.

Travel with his wife, Miriam, whom he married in 1952, is the first priority on Street's retirement list.

Street has one child, Dusty, 30, a daughter from a previous marriage, who is a radio disc jockey.

VIETNAM VETS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MONTGOMERY. Mr. Speaker, I am sure many of my colleagues saw the article by Colman McCarthy that appeared several days ago in the Washington Post entitled: "Vietnam Vets: Who Listens to Them in Washington?" The article personally attacked the distinguished gentleman from Texas, TIGER TEAGUE, and the current GI education training program, calling the program "shameful."

Now, Mr. Speaker, I am not here to defend TIGER TEAGUE. Everyone knows that he does a pretty good job defending himself, and since he has helped write every single veterans' benefit program during the past 25 years, I doubt he will take the time to take issue with Mr. McCarthy.

I think any person with a reasonable knowledge of the GI education program knows it is anything but shameful. If one bothers to ascertain the facts, he will find that a veteran with no more than a 10-percent service-connected disability can go to a school of his choice, with all expenses paid by the Federal Government including educational and vocational counseling, all appropriate individualized tutorial assistance, and other necessary incidental services. In addition, a service-connected disabled veteran receives a subsistence allowance of $226 per month if he is going to school full time.

Any veteran with at least 18 months of active duty is entitled to $292 per month for 45 months, a possible total of about $13,000 cash assistance. In addition, he can receive up to $1,500 per school year under the GI education loan program; up to $625 per school year under VA's work-study program; and up to $728 per school year for tutorial assistance. If a veteran is married and has one child, he may receive up to $19,000 in cash benefits, plus additional amounts under the loan, work-study, and tutorial assistance programs.

Although one can argue that we should do more, one can hardly classify the current program as "shameful." Mr. Speaker, I have to wonder what Mr. McCarthy thinks the limit should be for a veteran to go to school, having served only 18 months active duty, especially when we have a deficit of more than $60 billion facing us this year.

Mr. Speaker, there is absolutely no basis for Mr. McCarthy's personal attack on Mr. TEAGUE. Three things are apparent from his article. First, he opposed the war in Vietnam. Second, for reasons of his own, he favors the direct tuition subsidy program for veterans who desire to attend school in so-called high tuition schools. Third, he places the blame for the current "inadequate" program on the distinguished gentleman from Texas, and the leadership of the Committee on Veterans' Affairs, notwithstanding the fact that there has been no major policy change in the GI program since World War II, and the current policy has been strongly supported by the past six Presidents—three Democrats and three Republicans.

NORMALIZATION OF UNITED STATES-CHINA RELATIONS

HON. CECIL "CEC" HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HEFTEL. Mr. Speaker, I have recently received a petition endorsed by over 2,600 of my constituents and other islanders expressing their support for the normalization of relations with the People's Republic of China.

This petition could be viewed as especially unusual because of the ethnic background of the initiators, the National Association of Chinese-Americans Hawaii Committee. Their strong belief that their ethnicity affords them a greater understanding of China certainly cannot be ignored.

The issue of normalization of American relations with China has become a major objective of our international policy. As one of the world's oldest civilizations with a nation having one-fourth of the world's population, China will certainly play a growing role in the world arena. The fact that China's positions are often in contradiction to our own should not preclude us from striving to understand and appreciate them whenever possible. We must come to terms with such conflicts and endeavor to establish a relationship between the two countries.

At this time, I am pleased to call to the attention of my colleagues, the following petition for their perusal:

A PETITION TO PRESIDENT CARTER AND OUR CONGRESSIONAL DELEGATION CALLING FOR THE NORMALIZATION OF U.S.-CHINA RELATIONS

We, the undersigned Americans, favor the normalization of relations with China. We urge President Carter to take the necessary steps within the framework of the Shanghai Communique for the establishment of full diplomatic relations between the United States and the People's Republic of China (P.R.C.).

Visitors from the U.S. and other countries to the P.R.C. speak highly of the civility, health, honesty and patriotism of the Chinese people and their tremendous advancements in human relations, industry, education and lifes needs since 1949. Millions of Americans who want to enjoy the benefits of U.S.-China trade, travel, educational, cultural and scientific exchanges are hindered by the lack of normalization.

The P.R.C. represents a world power and has a population equal to one-fourth of the world's population. Since 1971, the P.R.C. has been a full member of the United Nations and its Security Council along with the U.S. Over 110 nations of the world, including all the leading countries except the U.S., have normal diplomatic relations with the P.R.C.

More than five years have passed since the U.S. and the P.R.C. signed the Shanghai Communique on February 28, 1972. Two U.S. Presidents have assured the P.R.C. that normal relations would be developed without delay, but our commitment has yet to be fulfilled. If we wait too long, our improved friendship with the Chinese people may deteriorate rapidly, and the balance of forces for maintaining world peace could be upset easily without prior warning.

Therefore, we must not let other less important disputes confuse or obstruct the vital issue. The process of normalization of relations with the P.R.C. must proceed with all possible means and due accord without further delay and equivocation.

CONGRESSMAN STUDDS OPPOSES SELLING AWACS TO IRAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. DRINAN. Mr. Speaker, Congress has begun to take seriously its responsibility to monitor major arms sales by the administration. We have begun to examine the fundamental assumptions underlying our sale of $12 billion worth of weapons a year. We have asked the American people to join us in questioning whether this massive merchandising of destructive material can be justified morally or strategically.

I have introduced legislation to lengthen from 30 calendar days to 45 days in which Congress is in continuous session the amount of time the Congress has to block major arms sales. I believe such an extension of time is essential if we are to fulfill our commitment to study dispassionately and in depth proposed major arms sales.

One of the House's leaders in our battle to inject sanity and sober thinking into this critical area of our foreign policy is Congressman GERRY STUDDS of Massachusetts. Congressman STUDDS has been an extremely effective advocate on behalf of a more rational arms sales policy, and I insert for my colleagues' consideration an article he wrote for the September 30 Boston Globe concerning the selling of early warning aircraft (AWAC's) to Iran:

GERRY STUDDS OPPOSES SELLING AWACS TO IRAN

Late last year, in spite of a singularly uninspiring presidential campaign which left many Americans pondering the purpose of voting at all, I found myself becoming convinced it was critically important that Jimmy Carter be elected. One of the principal reasons was candidate Carter's pledge to restore sanity to our foreign military-sales program.

In his first eight months, the President has talked a great deal about fulfilling that pledge, but has not come close to meeting his commitment to do so. On May 18, he enunciated—with great fanfare—an arms-sales policy that was supposed to lead to the reduction of arms sales abroad, to the intelligent and limited use of such sales as a tool of foreign policy rather than primarily as a source of private profit and to the beginning of a leadership role for the United States in a new international effort to control the arms trade.

Less than one month later, the President proposed the sale of seven early warning aircraft (AWACs) to Iran, an action which directly contradicts the provision in his policy that the United States would never again

"be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher combat capability." Equally disturbing, the sale was presented to Congress in a hasty and slipshod manner, which indicated that political considerations were the only issues the Administration considered relevant.

The Administration testimony made it clear that the Defense Department and the CIA were not originally sure what equipment would be included in the Iranian AWACs, a fact which meant that no accurate judgment of the security risks had been made. Even more incredible, spokesmen indicated they had not even decided on what grounds they were seeking an exception to the President's arms-sales policy.

A storm of congressional pressure forced the Administration belatedly to invest some brainpower to explain adequately how, or whether, their arms-sales policy will be applied to Iran, and to deal with the long-range problems created by our sponsoring in Iran the single largest, fastest rise to military power under peace time conditions of any country in the history of the world.

One is forced to suspect that the poorly prepared and sloppily defended AWACs proposal was rushed through Administration channels primarily in order to include it in arms-sales totals for Fiscal 1977, the last year for which Carter can share responsibility with a prior Administration. This seems particularly likely given the President's pledge to seek a lower sales total in Fiscal '78 than in Fiscal '77. The $1.2 billion AWACs sale will considerably restrict next year's options now that Congress has forced it into Fiscal 1978, but it would have given the President a chance to score some easy public-relations points if it had been allowed to swell the 1977 totals.

An equally disturbing factor is the tremendous personal interest which the President has demonstrated this time around in winning support for the sale. Immediately prior to the resubmission of the proposal on Sept. 7, the President personally called members of both the House and Senate in a successful effort to guarantee its approval. His primary message was that the Shah had been led by the previous Administration to believe that the sale would occur, that the U.S. must demonstrate continuity in its foreign policy and that denial of the sale might possibly lead to a serious deterioration in our relations with Iran.

It now appears impossible to prevent the AWACS sale. The Carter Administration will have lost, as a result, a unique opportunity to convince other nations that a real change in U.S. policy toward arms sales has occurred. I cannot help wondering how the President will be able to say no to Saudi Arabia, Egypt and Jordan when it appears so difficult to say no to the Shah.

The tragedy is that the Carter arms-sales policy of last May might well serve as an excellent basis for the kind of controls we so desperately need. It might serve particularly well as a guideline to future sales in Africa, perhaps the most attractive new market for those whose business it is to sell arms.

Unfortunately, President Carter will not be able to provide such leadership if he is unwilling to limit the flow of our own arms to unstable areas such as the Middle East. Although the arms-sales is proven a rather complex dilemma arising from our failure to exercise prudence in the past, it is also a challenge which candidate Carter seemed willing and strong enough to confront. While it is far too early to make a final judgment, President Carter has thus far failed to match his rhetoric with action, and now runs the risk of seriously alienating many of those in Congress and elsewhere who were eager to support him.

DEAF LAWYER IS VISTA VOLUNTEER AT NATIONAL CENTER FOR LAW AND THE DEAF

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HYDE. Mr. Speaker, it is a pleasure for me to share with my colleagues a news release concerning one of my constituents, Mr. Robert J. Mather of Oak Park, Ill. Mr. Mather is a VISTA volunteer and is presently serving as a staff attorney at the National Center for Law and the Deaf here in Washington. In light of the fact that he has been deaf since birth, his achievements are particularly inspiring. He is believed to be one of only two lawyers in this country who were born deaf, and the only deaf-born lawyer practicing in the deaf community.

Mr. Mather does not think of himself as being "handicapped," and surely his attitude has had a great deal to do with his success both academically and professionally. His accomplishments should serve as a splendid example to all of us, and particularly to those who may consider themselves disadvantaged, disabled, or handicapped.

I take pride in sharing the following article on Mr. Mather with my colleagues:

WASHINGTON, D.C.—Robert J. Mather thinks of himself "first as a person, then a lawyer and then deaf."

Mather, 27, from Oak Park, Ill. is believed to be one of two lawyers in the United States who were born deaf. The other is William S. Cumings, Jr., 34, a senior staff attorney at the U.S. Department of Labor.

A 1974 social work graduate of the National Technical Institute for the Deaf in Rochester, N.Y., Mather graduated from De Paul University Law School in Chicago, Ill. last February and was admitted to the Illinois bar in May. He is now serving as a VISTA (Volunteers in Service to America) staff attorney at the National Center for Law and the Deaf (NCLD) in Washington, D.C.

Mather is one of three VISTA lawyers assigned by ACTION, the federal volunteer service agency, to NCLD, the first center for law and the deaf in the country. Funded by the U.S. Department of Health, Education, and Welfare, NCLD was established in August, 1975 on the campus of Gallaudet College, the only fully accredited liberal arts college for the deaf in the world. The center provides free legal services for the deaf.

Mather is mainly involved with interviewing clients, researching legislation pertaining to the deaf and working on landlord-tenant, consumer, discrimination, automobile insurance and other legal problems of deaf people. He rarely uses an interpreter with his clients because he finds it easier to communicate directly in one language—American sign language.

"I can talk, but it is in a deaf voice," the volunteer said in sign language through an interpreter. Mather did not learn sign language until he was about 17 years old. As a child, he and a younger brother who was also born deaf were taught to speak and lip read through oral methods only. They were forbidden by their grade school teachers to use sign language.

The son of Bernard J. and Carol Mather of Oak Park, the volunteer was born in Evergreen Park, Ill. and attended St. Mel-Holy Ghost, a Catholic grammar school in Chicago which conducts a special program for deaf children.

"My parents chose this school because of its oralistic philosophy," said Mather, who describes himself as "profoundly" deaf. "They preferred that we grew up to lead normal lives and live like hearing people. They didn't want us to be deaf and dumb."

In 1966, he started attending Hinsdale South High School in Hinsdale, Ill., which has a special program for deaf students. "Most of the time, however, I went to hearing instead of deaf classes. I had no interpreter and had to sit in the front row and read the teacher's lips," he said. "I got very skilled at being phony and pretending to know what was said when I actually didn't."

When he graduated from high school, Mather was appointed to the National Honor Society for his outstanding grades, leadership and participation in extracurricular activities, including football and track.

"While in high school, I tried to be like a normal person and associated with hearing people and even had a hearing girl friend," he recalled. "I also did a lot of reading and was into black literature as there were no books for the deaf.

"I remember reading *Soul on Ice* by Eldridge Cleaver, particularly the part about his going to jail and posting pinup pictures of white women on his wall. A white cellmate told him that black women were ugly and he became furious and tore the pictures off the wall," continued Mather. "He then said 'black is beautiful.'"

"I substituted 'deafness' for black and thought to myself 'deafness is beautiful.' It was a real identity crisis that really blew my mind," he said. "I broke up with my hearing girl friend, started learning sign language and started feeling good about myself. I realized that if you are deaf, you cannot become hearing and deafness is nothing to be ashamed of. I was at last free to be myself."

After high school, Mather attended the National Technical Institute for the Deaf where he met his future wife, Susan Mozzer from Hartford, Conn., who also was born deaf. They now have a four-month-old daughter, Roberta, who apparently can hear.

"Susan and I both graduated with degrees in social work, which meant we would be competing for the same jobs when we got married. I didn't think this would be good for our marriage and decided to try a new field," he recalled. "After talking around, I found that deaf lawyers were needed so I took the test for law school and passed."

Mather went through De Paul University Law School in 2½ years, relying on an interpreter whom he paid $7.50 an hour. The Department of Vocational Rehabilitation gave him some financial support.

While in law school, he took an elective course on trial practice "to the amazement of the teacher and other students. They didn't think that I could handle it. I told them I was taking it 'for fun,' while actually I did it to see if it was possible for a deaf person to function in court," said Mather. He got an A in the course and won two cases in moot court.

"Thank God that I had the guts to take it because of the attitude of the other students. What if they had been right? What if I couldn't handle it? Thank God this did not happen," he continued. "But I am not handicapped. This is a hangup of other people. It is the attitude of hearing people that makes us handicapped. You can be a professional and a leader without good speaking capability."

One other obstacle for the deaf, according to Mather, is the telephone. "You know the saying about 'let your fingers do the walking' through the yellow pages? We deaf people still use our feet," he said. "The ironic thing is that Alexander Graham Bell invented the phone to magnify sound to help his deaf

wife. Then it became something that helps the hearing and not the deaf. We still have to use our legs to find jobs, shop and get services."

Another thing that annoys Mather is discrimination by auto insurance companies against deaf drivers. When he first moved to this area, he was told by an insurance underwriter that he couldn't get a policy because he was deaf. He reported the incident to the Maryland Insurance Commission, which recently ordered the insurance company to issue policies to deaf people.

"I was so shocked that something like that could happen to me. Driving is almost totally dependent on visual alerts and it has been proven that deaf people have equal if not superior driving records to the hearing," said Mather. He has since worked at NCLD on a number of similar discrimination cases.

Lately, Mather has been involved in research on Section 504 under the Vocational Rehabilitation Act of 1973. This section, which became federal law last April, requires all recipients of federal funds to provide accessibility for the handicapped in their programs.

"As far as the deaf are concerned, this means that all schools hospitals, and other social service institutions that receive money from the federal government must provide interpreters and telecommunications devices for the deaf (TDDs)," said Mather. TDDs enable deaf people to use the telephone by means of teletypewriters which transmit messages through regular telephone cables.

Recently, the Legal Defense Fund, a national legal service organization for the deaf which is associated with NCLD, won the first case concerning a Section 504 violation. It involved a small college in South Carolina which refused to provide an interpreter for a deaf person.

"This means that we will have a lot of work to do," said Mather, who does legal research for the Legal Defense Fund as well as NCLD. "For example, hospitals now must provide interpreters and/or TDDs so that deaf people can call in emergencies.

"I don't want people to pity me, but I think it is funny that right after I finished law school, this section was passed. As you recall, I had to pay for the services of an interpreter," he said.

The young VISTA lawyer is "very enthused" about the passage and enforcement of Section 504. "It is a very good beginning toward providing the deaf with equal and full citizen rights as members of society, but it is not the end," he said. "Often deaf people feel they have no rights as members of society. Because of their communication problem, they are the most disadvantaged and the most misunderstood of all minority groups.

"One major reason for this is that deafness is invisible. You don't see a deaf person unless he uses sign language. Unlike the blind, we don't carry white canes and are not accompanied by seeing eye dogs," continued Mather. "Also people think that there are more blind individuals than deaf, which isn't so. People with hearing impairments outnumber the blind 30 to 1, and for totally deaf people, the ratio is 3 to 1.

"As a lawyer, I want to educate the hearing as well as the deaf on the rights of the deaf," said Mather, who has received many satisfactions from his VISTA service at NCLD. "If I had gone into a big law firm, I would have had to prove to the other attorneys that I could do the job. This could take five or ten years. Here, I don't have to prove anything. I just do the job."

It is believed that Mather is the only deaf-born lawyer practicing in the deaf community. "There may be other born deaf lawyers. Who knows? This is not important to me," he said. "In fact, it is really a shame to say that we have only a few deaf attorneys. We should have many more."

Cumings, the other deaf-born lawyer, also served as a VISTA volunteer in 1967 and 1968 in West Virginia before entering the University of West Virginia Law School where he graduated in 1971. He is leaving the Department of Labor shortly to work on a master's degree in public health administration at the University of Pittsburgh in Pittsburgh, Pa.

THE DISTRICT OF COLUMBIA CONVENTION CENTER

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SARASIN. Mr. Speaker, a constituent of mine, Mr. Arthur T. Phelan of Prospect, Conn., has asked me to place the following article in the CONGRESSIONAL RECORD. The article appeared in the Washington Post in early July and was coauthored by his son, Dr. John J. Phelan, a member of the board of directors of the Capitol Hill Restoration Society which is opposed to the proposed construction of the convention center. I believe my colleagues will find this article of great interest:

THE DISTRICT OF COLUMBIA CONVENTION CENTER: AN "URBAN STRIP MINE"

(By David Paris and John Phelan

Despite the District government's assurance that a downtown convention center might work if managed with ingenuity, integrity and efficiency, the project is a large gamble.

District taxpayers are being asked to bear the risk for a questionable investment projected at $250 million over 30 years. The primary beneficiaries would be hotels and restaurants with no capital invested in the venture.

The feasibility report prepared by Gladstone Associates is more an advocacy statement than an impartial prognosis. Tax revenues are exaggerated by inflating the likely gains in delegate attendance and by including tax revenues from sources not normally used by other convention managers.

For example, the managers of the Atlanta convention center predict that their facility will take six years to generate attendance levels that Gladstone predicts D.C. will achieve in two or three years. Moreover, a 1973 analysis of a New York convention center, prepared by a firm critical of the plan, found that the New York center, twice as large as the D.C. project, would have generated only approximately 60 percent of the attendance levels proposed by Gladstone.

According to an unpublished draft of the Gladstone report, the average increase in convention-delegate attendance for a sample of seven cities three years after opening a new facility was only 106,000. That information was not included in the final report, which estimates that D.C. attendance will increase by up to 350,000 delegates.

Gladstone also included property-tax revenues from envisioned future hotel construction. We do not believe it is proper to calculate "paper" benefits from construction, which is as highly tentative as the long-overdue and long-promised rebuilding of the city's riot corridors.

After correcting such unrealistic assumptions, we found that the convention facility would generate from $2 million to $6 million in total annual revenues rather than the officially predicted $14 million. Even discounting social and environmental costs and city-service expenses, the convention "gamble" must generate $10 million to $11 million annually to break even.

If the Gladstone estimate of $65 million in new yearly spending on hotel services by conventioneers is accurate, then the private sector can afford to construct a convention facility. If, however, the benefits of the "gamble" have been overstated as we believe they have, then why should either the city or the private sector desire to construct and finance the facility?

An unsuccessful project would seriously threaten finances of D.C., whose homeowners already are subjected to the highest tax burdens of any jurisdiction in the metropolitan area. The District already has the highest debt per capita of major cities and is very close to the congressionally imposed debt ceiling of 14 per cent of tax revenues.

The Sheraton Park Hotel will soon have 165,000 square feet of exhibit space after its privately financed construction is completed. Added to the exhibit space at the Shoreham Americana and the Washington Hilton, that will enable the city to accommodate at least 80 per cent of the conventions that Gladstone estimates would use the proposed city center.

Washington is now tied with Chicago, a trade city with over twice the District's population, for the position of third major convention centers have been built or started. whether the city can gain further dominance.

Over the last 10 years at least 20 new convention centers have been built or started. At the end of 1973, there were 60 such facilities with at least 100,000 square feet of space. Since attendance growth has not kept pace with this construction, most of these centers are operated at a financial loss, and the losses are likely to get larger as the convention industry becomes even more competitive.

It is understandable that the hotel industry would seek a government subsidy through public financing of a convention center. The issue, however, is not whether the convention center will help the hotel and real estate industries—any $250-million subsidy would—but whether the facility will provide sufficient return to justify the municipal investment.

It is unlikely that the return would even equal that of a like investment in relatively safe government or private securities, let alone use of the $250 million for a more socially necessary project.

The Gladstone report also asserts that the project would generate 4,000 jobs, of which 66 per cent would be held by city residents. In contrast, Economic Research Associates found in a 1973 analysis that a nearly identical facility would generate 1,700 jobs of which 33 per cent would go to D.C. residents.

Surely a $250-million convention center would create some job opportunities. So would a dubious alternative like strip-mining the Mall. The convention center, however, is little more than urban strip-mining in the face of the city's medical, recreational and social needs.

This "gamble" has been opposed or severely questioned by the D.C. Federation of Civic Associations, D.C. Federation of Civic Associations, Capitol Hill Restoration Society, Upper Northeast Coordinating Council, 14th Street Project Area Committee, Shaw Project Area Committee, Wisconsin Avenue Corridor Committee, Committee of 100 on the Federal City and a number of Advisory Neighborhood Commissions, including one encompassing Chinatown, where the center would be built.

No citizen organization has supported the proposed convention center, its proponents are solely business interests, which quite naturally view the convention center as a special benefit to be financed by the general tax base.

Perhaps the project would work—if it is well managed, if Chinatown is protected, if New York and Baltimore don't build new convention centers, if the environment is

protected, if the District is awarded a triple-A bond rating, if there are no cost overruns and if there is rapid growth in convention attendance. We are skeptical that those conditions can be met.

CONGRESSMAN DRINAN CRITICIZES JOINT UNITED STATES-SOVIET MIDDLE EAST INITIATIVE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. DRINAN. Mr. Speaker, on October 1, 1977 the United States and the Soviet Union issued a joint declaration outlining the principles and objectives of a new Middle East peace conference in Geneva.

This joint effort raises the most serious questions regarding the policy of the United States in the Middle East. Both procedurally and substantively, the joint American-Soviet statement appears to impose upon Israel concessions of a far more important and immediate nature than those imposed on the Arab countries. It casts into doubt traditional American positions in support of Israel. And it could very well constitute a step backward, not forward, in the continuing search for a peaceful resolution of the conflict in the Middle East.

One of the most serious problems raised by the initiative is simply the fact it was a joint United States-Soviet effort. For years, it has been the consistent policy of the United States to minimize the role of the Soviet Union, which cochairs the Geneva Conference, in the negotiations. In recent years, this policy has not met with opposition from the Arab States, who have looked increasingly toward the United States as the one party which could bring a measure of objectivity and effectiveness to the negotiations between them and Israel. Now, in an apparently dramatic shift of longstanding policy, the U.S. Government has taken action which increases significantly the role of the Soviet Government in the planned Geneva Conference and the entire process of negotiations.

The United States violated a 1975 agreement with Israel to "consult fully [with Israel] and seek to concert its position and strategy at the Geneva peace conference." Surely that commitment, signed by Secretary of State Kissinger on September 1, 1975, was violated on October 1, 1977 when the United States presented Israel with the final draft of the joint U.S.-U.S.S.R. initiative just 24 hours before its release.

In addition to these very serious procedural matters, the text of the joint statement raises fundamental questions about the policy of the United States on several of the most important issues associated with the Middle East conflict and places upon Israel an unfair and possibly dangerous burden before negotiations have even commenced.

The single most disturbing phrase in the joint statement is the reference to the resolution of the Palestinian situation. That resolution will include, the text reads, "insuring the legitimate rights of the Palestinian people." For many years, that phrase has been a code word, used by the U.S.S.R. and the Arab nations, for the establishment of a Palestinian state dominated by the Palestine Liberation Organization and irrevocably hostile to Israel. This marks the first occasion on which the United States has ever associated itself with this explosive phrase.

The joint initiative also pledges the United States and U.S.S.R. to work for the "withdrawal of Israeli Armed Forces from territories occupied in 1967." The Soviet Union and the Arab nations have consistently construed this to mean total removal of Israeli forces from every square inch of territory occupied in 1967. Palestine Liberation Organization, Arab, and Soviet spokesmen, of course, immediately confirm that their interpretation of Palestinian rights and withdrawal from occupied territory had not changed.

The reference to withdrawal was not accompanied, as it is in United Nations Resolution 242, by an affirmation of Israel's right to exist. This constitutes a departure from America's oft-stated commitment to work for a negotiated settlement within the framework of U.N. Resolution 242 and to oppose all efforts to alter the text or interpretation of that resolution.

One might argue, in defense of this disturbing document, that in order to get disputing parties to the conference table, a deliberately ambiguous agenda, subject to differing interpretations by the parties, is sometimes necessary. This argument ignores several key facts: The joint Soviet-American initiative increases the role of the U.S.S.R. and violates American agreements to consult with Israel in these matters. And, most importantly, it asks Israel to make potential concessions about essential issues, such as the form and composition of a Palestinian entity, withdrawal from the occupied territory, and even the possible participation of designated representatives of the PLO in the peace talks. These concessions, moreover, would occur very early on in the negotiating process and would surely influence the substantive content of the negotiations and their final outcome. In the conduct of diplomacy, the procedural rules initially agreed to often set the course of the negotiations.

While the somewhat ambiguous language imposes serious and immediate potential burdens upon Israel, it asks very little of the Arab nations. Reference is made to the "establishment of normal peaceful relations on the basis of mutual recognition of the principles of sovereignty, territorial integrity, and political independence." But in contrast to the possible concessions asked of Israel, this is intangible, will be reached far later in the negotiations, and could be violated with relative ease. Israel's concessions, however, go to the very heart of her security. This United States-Soviet document repeats the familiar pattern of asking Israel to make immediate and tangible concessions in exchange for promises which might be violated easily in the future.

Some have suggested that the Soviet Union compromised with the United States by agreeing not to mention the role of the PLO in the peace talks or the future Palestinian entity. This does not represent a compromise. Israel's leaders have made it very clear that they will under no circumstances enter into negotiations with designated representatives of the PLO, nor will they permit the PLO a role in the governance of any newly created Palestinian entity. It is remarkable that some serious-minded people actually expect Israel to negotiate with the PLO. This organization of terrorists is dedicated to the destruction of Israel. In recent months, the PLO, at its convention, refused to alter those sections of its charter which pledge it to the destruction of Israel and the "purge of the Zionist presence from Palestine."

The PLO has been responsible for the brutal murder and maiming of hundreds of Israeli citizens and also innocent individuals from many other nations. The PLO desires the destruction not only of Israel, but also of Jordan, America's next strongest ally in the Middle East. The PLO has been responsible for two civil wars in the two nations, Jordan and Lebanon, where they have been permitted to live in large numbers.

Can anyone expect Israel to accept as part of any future Palestinian entity members of the terrorist group committed to her destruction and responsible for two civil wars in those nations where they have been permitted to live autonomously? No other nation would be asked to sit down and talk with such international criminals. To ask Israel to permit PLO representation at the Geneva talks, and thereby provide at least tacit recognition of the legitimacy of the PLO as spokesmen for the Palestinian people, is totally indefensible.

The joint United States-Soviet initiative is seriously flawed by its preoccupation with the rights of the Palestinian people as the central issue. The Arab States in 1947 refused to accept the U.N. partition plan which would have established a Palestinian State. Instead, they invaded Israel at the first minute of her existence as a sovereign state. The Arab nations did not evidence any concern for the establishment of a Palestinian State or entity on the West Bank of the Jordan River during the period from 1948–67 when the West Bank was in Arab hands.

Nor are the territories presently occupied by Israel after the 1967 war the crux of the dispute. The Arabs went to war with Israel three times before the territories were occupied. The central issue is now, as it has been for 29 years, the stubborn refusal of the Arab nations to recognize Israel's right to exist. Just 1 month ago, President Hafez El-Assad told the New York Times:

> The desire to see a continuation of its [Israel's] existence—this depends on future developments.

Mr. Assad also added:

> The refugees must have a right to live as citizens of the state to which they return . . . I have in mind also that the total area of the West Bank is 5,000 square kilometers, which cannot absorb three million people. But the State of Israel is 120,000 square kilometers, and it can.

These ominous statements do not emanate from a terrorist, but rather the

head of state of one of the leading nations of the Arab world. They are not the threats of a Nasser of 20 years ago, but rather the words of President Assad of August 29, 1977.

Did the United States rebuke Assad as it has Israel for words and acts of a far more defensible and less inflammatory nature? No. The administration was silent. Israel alone is singled out for criticism.

The promulgation of the joint U.S.-U.S.S.R. initiative yesterday is in keeping with the administration's recent actions. The stubborn insistence on the convening of the Geneva Conference this year, apparently despite the costs, is a classic example of misplaced priorities. The goal is peace, not getting all of the parties to the dispute to a conference table before midnight on December 31, 1977. A Geneva Conference which has not been prepared with care and fairness could collapse quickly, thereby impeding, rather than accelerating, the progress toward peace.

Mr. Speaker, for the reasons described above, I believe that the joint American-Soviet initiative pertaining to the Geneva Conference is a serious mistake and calls into question the administration's policy in the Middle East. I hope that in the immediate future the President will take positive steps to clarify the disturbing issues raised by the Soviet-American statement and reassure all Americans that their country's traditional policy of support for Israel in her efforts to achieve a secure and lasting peace has not been altered.

LARRY WINN IS OTA VICE CHAIRMAN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. TEAGUE. Mr. Speaker, I am pleased to notify the Members of the House that our distinguished colleague, LARRY WINN, JR., the gentleman from Kansas, has been elected Vice Chairman of the Board of the Office of Technology Assessment for the duration of this 95th Congress.

I remind the Members that the OTA's charter provides that the six Board members from the other Chamber shall elect the Chairman in each odd numbered Congress, and the six House members of the Board then elect the Vice Chairman. That arrangement is reversed in each even numbered Congress.

I had the privilege of serving as OTA Board Chairman in the 94th Congress. The Chairman for this 95th Congress is Senator EDWARD KENNEDY of Massachusetts.

And the Board has established its own bipartisan precedent that the Chairman shall be of the majority party and the Vice Chairman of the minority.

LARRY WINN, JR., has been chosen to fulfill that precedent, but also because of his own ability and integrity and the respect all of us have for his good judgment fairness, and hard work.

LARRY WINN, JR., is especially qualified for leadership in the increasingly important activities of the OTA because of his long and productive service on the Science and Technology Committee of this House where he is the ranking minority member of the subcommittee for Space Science and Applications.

Our Science Committee has legislative responsibility for the OTA, and I call attention to the thorough OTA review hearings now underway in our Subcommittee for Science, Research, and Technology, chaired by the gentleman from Arkansas (Mr. THORNTON). I know that Chairman THORNTON and his subcommittee would welcome any comments or queries concerning this relatively new arm of the Congress, the Office of Technology Assessment.

I offer my personal congratulations and support to LARRY WINN, JR., as he assumes his new responsibilites, and I urge all Members of the House to join with me in that expression.

ISRAEL IS FORCED TO JOIN THE PARIAH STATES

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. CUNNINGHAM. Mr. Speaker, it seems that it is a great burden for any country to seek friendship with the West. When listing those strongly pro-Western states, it is easy to see that the United States has spared no efforts to alienate and isolate, to insult and upbraid, and to unilaterally determine that their offer of friendship for our country and for the West will be rejected.

Yesterday, the announcement was made that those two great allies, the United States and the Soviet Union, had determined that Israel, our friend and ally, would be compelled to recognize something called the legitimate aspirations of the Palestinian people when negotiating for a peaceful settlement in the Middle East.

Israel thus has been forced to join a growing list of those nations who are too friendly to American interests and too faithful to Western ideals—and who, therefore must be punished for the misdeeds of insulting our great ally, the Soviet Union.

Already added to the list are the Republic of China, Iran, Brazil, South Africa, Chile, Pakistan, and perhaps others that might transgress détente.

Israel has been guilty of being the strongest and most faithful American Middle East ally, a parliamentary democracy in a world of dictatorships, a haven for victims of the Soviet tyranny, a protector of the Holy Lands of three great faiths, and a nation with a relatively self-sufficient economy.

For this, the Carter administration has decided that Israel must be severely threatened. The threat is that unless the Palestinian terrorists are allowed to negotiate as equal partners, we may more directly undermine Israel. It is similar to the "solution" to the Rhodesia question proposed by Ambassador Young and Foreign Secretary Owen. All that is required for peace is surrender.

Mr. Speaker, I cannot accept this immoral and, indeed, illogical policy. It is obvious that in international affairs the maintenance of a tenuous friendship with the Soviet Union is worth everything to our President while the preservation of long-time alliance with faithful friends can easily be negotiated away, threatened by words and actions, and otherwise eroded.

Mr. Speaker, as our President pays homage to the United Nations this week, that tool of the Soviet Union, I do wish that he would look to the wider interests of the American people and those of our long-time friends.

Adding Israel to this list of pariah states is unconscionable and I hope that this does not signal a drastic turn in American policy away from this vital nation.

LOCKHEED'S SUCCESS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. MOORHEAD of California. Mr. Speaker, we in California are very proud of the fact that Lockheed Aircraft Corp. has improved its financial position to the point where no longer is the Federal loan guarantee necessary and in spite of the financial difficulties they have gone through, they have again reached a point of financial stability without costing the Federal Government a single penny. This success has been noted in an editorial in the Washington Post on October 2, 1977 which I am including with my remarks:

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, costs overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities.

The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was attributable to various pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

MEAT IMPORTS QUOTA ACT NOT WORKING

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BAUCUS. Mr. Speaker, the Meat Import Quota Act of 1964 is not working. Due in part to an excessive amount of imported beef and other products into this country, Montana ranchers are in extremely bad financial shape and many will soon be out of business. The unfair competition to our domestic beef cattle industry is due to both the total amount of meat coming in and the way that it can come in. I offer today amendments to section 2 of the Meat Import Quota Act that are a revision and expansion of amendments suggested by Senator Melcher earlier this year. The Senator has informed me that he does not intend to offer revisions as a separate bill but prefers to wait for hearings on the bill in order to make changes.

I am offering these amendments in the House of Representatives in order to get a more immediate sense of Congress as to whether or not it is prepared to do something about the terrible financial strain placed upon our ranchers by these imports. My bill makes three major changes in the current law. First, it amends the definition of that meat which falls under the act to include imports, no matter how processed. This will put a permanent stop to "back-door" importation through free trade zones which is temporarily halted by the Department of Agriculture.

Second, it reduces the "trigger" amount for imposition of quotas from 110 percent of the amount allowed in to 100 percent. This change, correcting what was originally intended to be a "safety valve" allowed to the President, removes the routine allowance of an extra 10 percent of imported beef flooding in each year.

Third, the act currently allows the President to suspend any quotas under the act and to allow increased totals if he finds it in the national interest. My amendment would allow him to also suspend the quota amount and decrease the total amount allowed in if that is in the national interest.

I think that this package of amendments, if enacted, would go a long way towards correcting the unfair burden placed upon our domestic cattle industry.

The bill follows:

H.R. —

A bill to amend the provisions of Public Law 88-482 relating to the imposition of quotas on certain meat and meat products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (Public Law 88-482; 78 Stat. 594) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) It is the policy of the Congress that the aggregate quantity of the meat of cattle, goats, and sheep (except lambs), whether fresh, frozen, chilled, cooked, canned or otherwise processed, which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed an amount which bears the same relation to the domestic commercial production of such meat in such year, as the imports into the United States of such meat bore to the domestic commercial production of such meat during the years 1959 through 1963, inclusive.";

(2) in subsection (c) by striking out "110 percent of" each place it appears in paragraphs (1) and (2);

(3) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The President may suspend any proclamation under subsection (c), or decrease the total quantity proclaimed under such subsection, if he determines and proclaims that the domestic supply of articles described in subsection (a) will be in excess of the amount necessary to meet domestic demand at prices at least equal to the average national cost of production of such articles.

"(3) Any suspension under paragraph (2) or (3) shall be for such period, and any increase or decrease under such paragraphs shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.".

FINDLEY SUPPORTS TREATY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, one of my distinguished colleagues from Illinois on the Republican side of the aisle is Representative PAUL FINDLEY. Because he has observed the international scene with great care, his recent statement in support of the Panama Canal treaties, I hope, will be listened to by our colleagues in the House and our friends in the Senate with more than casual attention.

His stand is not a popular one, but it is the right one for the Nation, and I commend him for his courage and vision.

The article follows:

FINDLEY SUPPORTS TREATY

(By Congressman PAUL FINDLEY)

Last week I attended the signing of the Panama Canal Treaties at the Organization of American States Building in Washington. As I watched, I thought of the intimate way in which the building of the canal was linked to central Illinois.

John Hay, the Secretary of State under President Theodore Roosevelt who negotiated the original Panama Canal Treaty, lived in Pike County as a young man and there made acquaintances which opened the way to diplomatic fame.

If the treaties are ratified, the United States will have agreed to turn over the canal to Panama in the year 2000 and phase out its military bases in the Canal Zone at its own discretion over the next 23 years.

In addition, the U.S. would reserve the right to intervene militarily to protect the neutrality of the canal even after 2000 and retain the right of "first refusal" to construct a new transcontinental waterway in Panama.

The old canal stands as a great monument to American engineering and preserverance. By the time it was completed in 1914 the United States had spent $387 million and lost 32,000 lives through disease and accident.

But the canal no longer holds the importance it once had. It is not wide nor deep enough for aircraft carriers or super tankers. A small bomb hitting any of its locks can put the canal out of commission. It is a sitting duck for saboteuers. Thus, it is of limited military value.

Only four percent of U.S. coast-to-coast trade goes through the canal, down from eight percent 10 years ago. Its value to U.S. commerce then, is also minimal and shrinking.

Yet, in a sense, the Panama Canal hangs as an albatross around our neck.

Despite its shrinking strategic and commercial significance, some Americans think it symbolizes America's world power. At the same time, Latin Americans tend to view it as an infringement upon their own sovereignty, a festering sore running counter to our much touted friendship of our Latin American neighbors.

The treaties must win Congressional support to go into effect. The first test will be in the Senate, where two-thirds approval is needed for ratification. The outcome is anything but certain.

My personal view is that the treaties should be ratified. While I recognize that they entail some risk to the interest of our nation. I feel that on balance we will come out ahead. I also hope approval will occur promptly, so our government can get on with other urgent business.

PERSONAL EXPLANATION

HON. CECIL "CEC" HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HEFTEL. Mr. Speaker, because I was at the White House for President Carter's signing of H.R. 7171, the Agricultural Act of 1977, I was absent for one recorded vote on September 29, 1977.

Had I been present, I would have voted "yea" on the motion to resolve the House into the Committee of the Whole House for the further consideration of H.R. 6566, to authorize appropriations for the Energy Research and Development Administration.

AFFIRMATIVE ACTION WITHOUT QUOTAS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. LEVITAS. Mr. Speaker, on September 23, Congressman BOB WALKER and I introduced a bill, H.R. 9286, calling for the elimination of Federal enforcement of quotas, ratios, and numerical requirements in admission and hiring practices.

Some people have said that we cannot end discrimination or have affirmative action programs, that we cannot show our dedication to the goal of equality, without quotas. Congressman WALKER and I believe we can end discrimination without discriminating anew against anyone in the process.

There are many ways of developing affirmative action programs that will bring into the educational and economic and professional mainstreams those who are underrepresented because of discrimination in the past. One method is described in this article from today's Wall Street Journal:

AFFIRMATIVE ACTION WITHOUT QUOTAS: THE TEMPLE PLAN

(By John H. Bunzel)

The University of California at Davis maintains that only a racially preferential admissions policy can bring about the integration of the medical school and, ultimately, the medical profession.

In the case of Allan Bakke, the U.S. Supreme Court must decide if the university's social objectives are sufficiently compelling and of such overriding importance that a policy of special preferences and admissions quotas for certain racial minority applicants is constitutionally justified. But whether a racially preferential admissions policy is the only way to enable more minority group members to practice medicine (or law) is open to debate.

Consider the law school admissions policy at Temple University in Philadelphia. In the words of Dean Peter J. Liacouras, Temple's special admissions program seeks out and "carefully, individually and affirmatively selects those applicants—*minority and majority group members*—who have an outstanding performance record and an exceptional aptitude for the study and practice of law, not necessarily reflected by their LSAT scores."

The law school's Special Admissions and Curriculum Experiments Program (Sp. A.C.E.) is open to "working men and women, and their children, irrespective of ethnic or racial or social or religious heritage, or favoritism."

In the fall semester of 1976, Temple Law School could admit only one in 10 of its applicants. Its entering class of 375 constituted, in traditional terms, "the higehst quality" group in the school's history. Admissions were through two routes—"nondiscretionary" and "discretionary."

The median grade point average of the "non-discretionary" admissions was well above 3.50, and the median LSAT was well up in the 600s, which was in the top 10% of those who took the examination. Roughly 75% of the entering class was admitted "through the numbers," and almost everyone admitted through the "non-discretionary" formula was a white man or woman.

"Discretionary" admissions fall within the Sp. A.C.E., which considers six categories of applicants: black, Hispanic, American Indian, Asian or any other minority group grossly underrepresented in the legal profession, non-minority groups, college grade point averages of 3.80 or above, those who overcame exceptional economic deprivation, those who display exceptional leadership ability in college or community, and those whose exceptional physical disability (including blindness) precludes their taking the regular LSAT.

High academic achievement is a requirement for consideration in the Sp. A.C.E. Further, admission is competitive within and among the six Sp. A.C.E. categories, so that being in one of the categories does not necessarily ensure admission.

The non-discriminatory special admissions program differs sharply from the one which rejected Allan Bakke. At the UC-Davis medical school, a clear preference on the basis of race is granted to persons who, by the university's own standards, are not as qualified to study medicine as are non-minority students denied admission. In addition, the special admissions program at Davis reserves a fixed number of places for racial minorities only

By contrast, Temple's program is open to all applicants. No racial or ethnic group is considered deserving of exclusive preferential treatment. The proof is that approximately twice as many whites as minorities have been admitted in the last four years through the Sp.A.C.E. In a student body of 1,115, women now constitute 36%, not the 2% of 12 years ago. Minority students still comprise less than 10%, with blacks making up less than 8% of the total enrollment. But 10 years ago they comprised only 1%.

Perhaps the single most important feature of the Temple program is a student body that includes men and women from virtually every racial, ethnic and economic class, almost every religion, age group and walk of life. Among those in this rich melting pot:

A Hungarian refugee whose family was in a Nazi concentration camp; a young man of Italian ancestry who worked in a gas station 40 hours a week from age 12 through college; an American Indian raised on a reservation; children of working-class ethnic backgrounds; policemen; black women; black veterans wounded in Vietnam; a white women; black veterans wounded in Vietnam; a white woman who, as a teacher, helped establish an alternative school; Poles, Lithuanians and Lebanese from the multi-group state of Pennsylvania, and a Japanese-American whose first memories are of a World War II detention camp.

This is affirmative action at its democratic best—a program that pursues integration and other desired social goals without granting special privileges to some groups at the expense of others.

Advocates of racially preferential admissions systems charge that any program that avoids overt color-conscious means will promote hypocrisy and cheating and encourage a university to accomplish indirectly what it may not do directly.

But why should it be assumed that administrators will not play it straight or cannot be monitored? Moreover, the most honest response is that there is no reason to be ashamed of a policy that is right in principle. As University of Michigan Professor Carl Cohen observes, "The racial count that results (from a racially netural admission program) may not be the same as that produced when racial preference is used, but perhaps it ought not to be. Even if the count were the same, the individuals (admitted by using principles, not race) would be different, and that makes all the difference".

It also makes a difference when a program avoids "the dirty business" of inquiring about an applicant's race. By honoring the principle of equal treatment, no one need suffer the psychological burden of being rejected or accepted on racial grounds.

TAMPER-PROOF SOCIAL SECURITY CARDS—ACLU SHOULD TAKE ANOTHER LOOK

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SISK. Mr. Speaker, on March 8 of this year, together with a number of my colleagues, I introduced into the House, H.R. 4646, which would require prospective employees to obtain social security cards of a type which cannot be duplicated or forged. This would greatly help to prevent the employment of people who have no legal right to a job.

It has just come to my attention that on June 6, the American Civil Liberties Union circulated a memorandum whose subject is, "Counterfeit-Proof Social Security Identification Cards." This memorandum says that it is based on the provisions of H.R. 4646, a bill which ACLU opposes. They say, "the transformation of the social security card into an identity document and prerequisite for employment would bring this country perilously close to the adoption of an internal passport."

Apparently, ACLU has not read the bill. In the first place, a social security card is already a prerequisite for employment, except under rare circumstances. The bill does not even mention an "identity card," nor does it in any way provide for one. A social security card is not an "ID" card. People are not required to possess one; nobody is required to carry one; nor can anyone be required to produce one on demand. The card says on it, "For Social Security and Tax purposes—not for identification." H.R. 4646 does not change this. It proposes only to make these cards very difficult to forge. It is already a crime to forge a social security card. This bill makes it more difficult for this crime to be committed.

Presently fake social security cards are printed and sold in the thousands to people who have no legal right to possess them. They are used illegally to obtain employment, and other benefits, when presented to prospective employers or others, who accept them in good faith. Knowing that these fraudulent cards exist, an employer might hesitate to hire someone whose appearance or accent suggested the possibility of the applicant's being an illegal alien. This introduces an additional possibility of discrimination against legal aliens, or even American citizens, simply because they may appear to be "foreign."

I cannot believe that the ACLU approves in any way of forged social security cards. I hope that the organization, together with its members, will reconsider their position.

RECOGNIZING PLO WOULD MEAN RECOGNIZING TERRORISTS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. EILBERG. Mr. Speaker, many of my colleagues in the Congress and I have been concerned in recent days by press reports indicating that the Carter administration has agreed with the Soviet Government that the Palestine Liberation Organization should participate in the Middle East peace talks. I firmly believe, Mr. Speaker, that to recognize the PLO as the rightful representative of the Palestinian people would be equivalent to condoning the use of violence and bloodshed.

One only has to glance at the speeches, writing, and National Covenant of the PLO to realize the uncompromising position these alleged representatives of the Palestinians have taken time and again. Repeatedly, the PLO has refused to recognize Israel's right to exist—a right recognized by the United Nations.

In February 1977, in Israel, Secretary of State Vance said that acceptance of Resolution 242 by the PLO would not suffice, and that "as long as they stand by the Covenant and refuse to accept Security Council Resolutions 242 and 338, this provides no basis for participation." The "Covenant" is the PLO's National Covenant, which explicitly denies Israel's right to exist as a free and sovereign Jewish state.

The actions of the PLO serve as a stark demonstration of its rejection of peaceful compromise. At a March 1977 meeting of the Palestine National Council, the PLO clearly asserted its unwillingness to live in peace with Israel. PLO chairman Yassir Arafat told the council on March 17 that "we want a secular democratic state in Palestine," and predicted that Palestinian military attacks against Israel would be escalated in the coming months. The head of the PLO's political department, Farouk Kaddoumi, told a Newsweek interviewer, March 14, 1977, that the establishment of a West Bank/Gaza State would only set the stage for a takeover by the Palestinians of "the rest of our land." Kaddoumi spoke of the "stages to our return," and said, "the first phase to the 1967 lines, the second to the 1948 lines * * * the third stage is the Democratic State of Palestine."

The 1968 National Covenant outlines what is meant by a "democratic" Palestinian state. Article 20 denies that the Jews are a national people with a right to statehood. Article 15 calls for the Arabs "to purge the Zionist presence from Palestine" and this has been interpreted to mean purging all non-Palestinians from the area unless they had been living permanently in Palestine for over a half-century. The PLO, in other words, would drive into the sea anyone who has settled in Israel since that nation gained its tenuous independence in 1948.

This is what the PLO means when it speaks of a "democratic" government based on "equality." The PLO's past actions stand as proof of its fierce determination to purge all non-Palestinians and its total unwillingness to compromise. Its terrorist crimes include the 1970 bombing of a Swissair jet, resulting in 47 dead; the murder of 11 Israeli Olympians in Munich in 1972; the 1972 massacre at Lod Airport where 26 were killed including 21 Americans; and the gunning down of 24 children at Ma'alot in 1974. These were the most blatant of the PLO's crimes; that organization has been engaged in day-to-day acts of violence against Israeli nationals.

To allow the PLO to participate at the Geneva peace conference would give tacit approval to its methods of settling disputes and would make the peace talks a farce. Refusal to recognize the PLO is not a refusal to recognize the needs of the Palestinian people. Only when legitimate Palestinian leadership emerges, with open acceptance and recognition of the rights of both Israel and Jordan to exist, can there be a genuine Palestinian participation in the negotiating process.

Mr. Speaker, I commend to the attention of my colleagues the following editorial comments which demonstrate the broad concern that Americans of all faiths have for this issue:

[From the Philadelphia Inquirer, Aug. 13, 1977]

THE PLO HASN'T CHANGED

That trial balloon about the Palestine Liberation Organization which the Saudis launched last week, Secretary of State Vance wafted and President Carter blew out of proportion, was full of hot air, as balloons often are.

This one was to the effect that the PLO had undergone a "change in position" and was prepared to accept United Nations Resolution 242, affirming Israel's right "to live in peace within secure and recognized boundaries free from threats or acts of force."

That, even if true, would hardly represent the "breakthrough" that Mr. Vance leaped to conclude it was when the Saudis fed him the story during his stopover in Taif. However, the PLO itself proceeded to shoot it down.

"We are not ready to change our stand on 242, and we are not ready to recognize Israel," a PLO spokesman declared, while another PLO representative said the PLO would accept 242 if its wording is revised in ways unacceptable either to the U.S. or Israel. What the PLO clearly wants is the destruction of Israel. That is in its covenant which, as recently as last March, its leaders refused to change.

In Taif, a spokesman for Mr. Vance said that "as far as the secretary is concerned, (PLO) acceptance of U.N. Resolution 242 would accomplish the same purpose as changing the covenant." As far as the Israelis are concerned, it would do no such thing.

A "change in position" is not necessarily a change of heart. Some day Mr. Vance will return to his law offices in Manhattan. The Israelis will have to live with whatever political arrangements are wrought by the complex, laborious negotiations in which he is engaged—a process which, as he also conceded, finds the gaps between Arabs and Israelis as wide now as they were before he left Washington.

The Israelis resist the establishment of an independent state controlled by the terrorists who, as Premier Begin pointedly told Mr. Vance in Jerusalem, aim "to annihilate Israel." It ought not to be so difficult to understand Israeli sensitivities on this score.

Right now the PLO wants to resurrect itself. It was terribly bloodied in Lebanon by the Syrians (and anyone who thinks the PLO is trustworthy ought to consider its lethal behavior in that hapless land). The Saudis, who will happily use it to drive a wedge between Washington and Jerusalem, do not trust it. Nor does Jordan, whose government the PLO tried violently to bring down a few years ago—and which, not incidentally, has a better claim to represent the Palestinian Arabs than has the PLO. Egypt's President Sadat, whose comparatively moderate government the U.S. has good reason to support, tried to bypass the PLO in a proposal for foreign ministers' negotiations (which the U.S. accepted but Syria quashed).

American interests as well as those of Israel would not be served by the creation of a radical, irredenist state—pro-Soviet and supported by the Kremlin—between Israel and Jordan. Important as it is to get negotiations moving in one forum or another, it is even more important that negotiations lead to a just and durable peace.

[From the Philadelphia Inquirer, Aug. 25, 1977]

ARAB DEMAND IS THE OBSTACLE

Abba Eban, Israel's former foreign minister, observed in Philadelphia the other day, that if the United States agreed with Israel 100 percent of the time, the U.S. would be right 100 percent of the time, and Israel doesn't expect that.

Mr. Eban, of course, was joking. Nevertheless, the Carter Administration's latest criticism of the Begin government, though both governments later diplomatically downplayed it, rested on dubious ground. In a statement with which President Carter concurred, as he noted in his news conference Tuesday, the State Department denounced the Begin government for approving the building of three new settlements on uninhabited land on the occupied West Bank. The action, it is asserted, created "obstacles to constructive negotiations."

The Israelis have taken the consistent position that they will negotiate face-to-face with representatives of Arab governments ten minutes from now, anywhere. Not so the Arab governments vis-a-vis Israel. Indeed, they still insist that before negotiations can take place the Israelis must surrender almost everything the negotiating process is supposed to determine, including all the territories Israel occupied in the Six-Day War of 1967. Who, then, is creating "obstacles to constructive negotiations"?

Israel says everything is negotiable. That includes the settlements. Israel also says it will resume the 1973 Geneva conference with the original invitees. The Arab governments say they won't attend unless the Palestine Liberation Organization, which has yet to recognize Israel's right to exist, also attends. Who, then, is being intransigent?

Similarly, the State Department criticized Israel's extension of public services to Arabs living on the West Bank as creating "an impression of permanence of Israel's occupation . . . which is not helpful." Israel's response is that improving people's living conditions is generally regarded as a good thing not a bad thing.

Obviously, the Begin government is aware that it is creating an impression of permanance. It is, after all, hardly unusual in the field of human conflict, international or other, for parties to try to improve their bargaining position. If the Carter Administration wants to be helpful, instead of going out of its way to criticize Israel it should advise the Arabs that the way to settle the question of the West Bank settlements as well as other Israeli-Arab differences is

through negotiations; that the main obstacle to negotiations is their insistence that the PLO have an official role.

SOCIAL SECURITY REFORM PACKAGE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. RHODES. Mr. Speaker, last September 9 I joined with my Republican colleagues on the Ways and Means Committee in presenting a 15-point reform package for social security. Our plan was to develop a workable package to restore the financial integrity of the social security system.

First, I would point out that our plan is the only one we know about which would solve the system's financial problems for at least the next 75 years without raising taxes more than 1¼ percent over that period of time, while simultaneously correcting a number of inequities and anomalies. Other people have come up with short-term, piecemeal approaches to social security problems, and we think the American people deserve better.

Second, it should be noted that each of our plan's 15 points is related to the others. They were fitted together in order to achieve certain fundamental goals: saving the system, making sure it treats all participants fairly and equitably, and strengthening its insurance character. None of the provisions was designed to stand alone.

For example, the provision for advancing the eligibility age for full retirement benefits should be viewed in context. If it were removed from the package, the tax rate paid by each covered worker and his or her employer would have to be increased under this approach by an average of 0.83 percent over the entire 75-year period. That would mean an increase of nearly $150 per contributor next year alone, and corresponding increases every year thereafter. Yet the change would not even begin until 1990 and would not become fully effective until 2001. Workers still would be able to retire at age 62, as they now can do, but with a commensurate actuarial reduction in benefits. Thus, gradually extending the retirement age to 68 would have no effect on persons now in their early fifties or older and would be fully effective only for persons age 42 or younger who would be retiring around the year 2000.

Clearly, this is a tough adjustment in social security retirement practices. But it seems a realistic one in light of growing sentiment to abolish mandatory retirement policies, plus increasing longevity and productivity of the American people, along with a declining birth rate—factors which will combine to produce a ratio of only two worker-contributors to one social security beneficiary in the next century.

Another of the 15 points which has caused controversy is the call for social security coverage of Federal civilian employees (military personnel already are covered). We felt this change is needed because a nationwide social insurance program ideally should cover all of a country's workers. About 104 million Americans now participate in the U.S. social insurance program, and we felt it only fair and just that the some 2.5 million Federal Government workers—including Members of Congress—also should participate.

Other features of our plan—notably an end to the present limit on earnings of social security beneficiaries, and more equitable treatment of women under the system—also have drawn some unfavorable comment. But we feel these provisions, too, are fair and just.

Finally, we feel most strongly about our plan's attitude toward taxes. We simply do not believe that payroll taxes should be increased at all right now, because of the already heavy burden imposed on our citizens and because of uncertainties in the economy. Our plan would require no tax hikes until 1982 and only a 1.2-percent increase in total over the next 75 years.

With the hope that you will find it useful, I am enclosing for your closer examination a copy of our plan, presented in detail. I think if you can take a few minutes to read this material, you will have a better understanding and appreciation of our suggestions, particularly when you compare them with obvious alternatives—higher taxes, no system improvements, and use of general revenues of the Treasury, which means a higher public debt and eventually a bigger bill for all taxpayers to pay.

REPRODUCTION AND HUMAN WELFARE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, recently a 2-year study of the state of knowledge about human reproduction and scientific research was concluded, titled, "Reproduction and Human Welfare." That review suggests strongly that the United States should be spending more in research in this area.

In view of the overall population problems which the world faces, that suggestion certainly appears to be a sound one.

The principal conclusions of their study, as condensed by the group, Projects for Population Action, include the following:

DWINDLING FUNDS FOR CONTRACEPTIVE RESEARCH

1. Over the past decade, there has been an explosion in basic knowledge of the reproductive system, both male and female.

2. This increase in basic knowledge makes feasible a much larger effort to develop improved means of regulating human reproduction than is currently underway.

3. A much larger effort is needed, not only to cope with rapid population growth in developing nations, but also to improve the health and well-being of American women, millions of whom now use contraceptive methods which are subject to questions of safety, or are objectionable on other grounds.

4. To adequately follow up current and promising research opportunities would require a tripling of worldwide expenditures for research and development in the reproduction field, which are currently on the order of $125 million per year. The capacity to make good use of additional funding—institutions, scientists, technicians—now exists and can be further expanded rapidly.

5. Funding for research and development on reproduction has been provided from government, industry, and private philanthropic sources. Such funds rose rapidly in the late 1960's and early 1970's, but since 1973 worldwide expenditures have declined when inflation is taken into account—at the very time when scientific opportunities for productive research and development have become much larger.

6. Governments now contribute two-thirds of worldwide support. Contraceptive development is not likely to attract new funding from private industry, in view of the high costs of experimentation and testing for safety compared to the potential earnings from commercial sales. Philanthropic funds are not available on the scale required. Consequently, there is no alternative source for the larger funding needed except from governments, and especially the United States government since the largest scientific resources relevant to this field are in the U.S.

REAGANS ROUGHRIDERS REVISITED

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I would like to bring to the attention of the Members a recent communication from former Gov. Ronald W. Reagan, concerning the Reagan Roughriders. I would also like to bring to the attention of the Members my reply to former Gov. Ronald W. Reagan.

The lesson to be learned from this exchange of correspondence is that people of good will may change horses in the middle of a canal.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 3, 1977.

Gov. RONALD W. REAGAN,
10960 Wilshire Boulevard,
Los Angeles, Calif.

DEAR RON: The point raised in your September 27 letter is well taken.

Certainly, an animal lover such as myself would never want to see a horse exposed to unnecessary danger, besides Gladys Sargent would never forgive me. I would just never envision you on a black horse. Perhaps my resolution could be amended to provide a Palomino or perhaps a Strawberry Roan.

Best wishes.

Sincerely,

JOHN L. BURTON,
Member of Congress.

RONALD REAGAN,
Los Angeles, Calif., September 27, 1977.

Congressman JOHN BURTON,
Longworth House Office Building,
Washington, D.C.

DEAR JOHN: I thought you'd like to know that the calvary never uses white horses.

They make too good a target—or was that what you had in mind?

Sincerely,

RONALD REAGAN.

Enclosure.

In case the Senate sinks the treaties, Rep. John Burton (D-Cal.) has offered, with a semi-straight face, a resolution "to keep the canal open." Burton would establish a "Panamanian Expeditionary Force" to be called "Reagan's Rough Riders." Ronald Reagan would be commissioned a "full bird colonel," and assigned a white horse and a squad of volunteers to do battle for the waterway.

FBI INDICTMENT FOLLOWS AN UNACCEPTABLE DOUBLE STANDARD

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. BOB WILSON. Mr. Speaker, our Constitution guarantees our citizens a right to privacy, but it is well known that criminal elements of our society hide behind the provisions of the Constitution while perpetrating their crimes on their law-abiding fellows.

To deal with such people, one must almost go to war and use the weapons at hand in the combat. But now, with the prosecution of Special Agent John J. Kearney, we find that our own soldiers in this fight are being treated as though they were the criminals they seek to destroy.

I believe this to be patently unfair and the following column by former FBI Special Agent Frank L. Price, national president of the Society of Former FBI Agents in the San Diego Union spells out the reasons for my belief. I commend it to the attention of my colleagues:

[From the San Diego Union, June 19, 1977]

FBI INDICTMENT FOLLOWS AN UNACCEPTABLE DOUBLE STANDARD

(By Frank L. Price)

Federal criminal action targeted at present and former FBI agents as a result of the performance of their official duties is unjustified unconscionable, and unprecedented.

Misguided officials in the U.S. Department of Justice are pursuing a course of action that is destructive of the law-enforcement and intelligence-gathering responsibilities assigned to the FBI. Present prosecutive action must be terminated in the interest of national self-preservation and in fairness to loyal and dedicated FBI agents who were acting in fulfillment of their sworn oath to protect our country.

John J. Kearney, 55, served as a special agent of the FBI from 1947 to 1972. One of his more demanding assignments was as supervisor of Squad 47, an internal security squad in the New York City Division of the FBI. After 25 years of dangerous, and often thankless, work, he was honorably retired from federal service in 1972.

On April 7, after more than a year of investigation of FBI intelligence-gathering activities, the federal grand jury in New York City handed down a five-count indictment against Kearney. He has been accused of violating the civil rights of the Weather Underground, "a Marxist-Leninist, Communist, revolutionary group." Specifically, he has been indicted for "illegal wiretapping, obstruction of the mail and conspiracy."

No so-called "street agent" will be prosecuted, according to the many improper leaks of information which have been made to the media by spokesmen for the Civil Rights Division of the Department of Justice. But Kearney, because he was a squad supervisor, has been singled out to set an example. Through his indictment, eager government prosecutors seek to expose techniques used by the FBI.

Other leaks of confidential information have indicated that indictments of additional FBI officials are expected. Department of Justice sources have been quoted as saying that the Civil Rights Division has recommended indictment of at least six present and former FBI Officials who worked in either the New York Division or the Washington Headquarters of the Bureau.

The investigative procedures used by the FBI in the Weather Underground cases were the same techniques used over the years to combat the subversive activities of the Nazi saboteurs, the German-American Bund of pre-World War II, the Ku Klux Klan, the Symbionese Liberation Army, and the Communist organizations. The type of investigative activity utilized has been reported to both Republican and Democratic administrations and members of Congressional Budget and Judiciary Committees. There was at least tacit approval of the FBI's course of action.

The indictment of FBI agents for investigating the Weather Underground cannot be justified in conscience or good faith. The history and terrorism of the Weather Underground has been publicly documented. It has been cited in official records as a "Marxist-Leninist communist revolutionary group." Government publications have described the Weather Underground as "violence prone," "highly hostile to society," and a group that "presents a threat to public safety."

Much is being reported by the media concerning the "evils" perpetrated by the FBI. Little is said about the subversive actions of the Weather Underground. Perhaps it is time to refresh the public's memory.

Out of the militancy of the antiwar years of the '60s was spawned an organization active on American campuses, known as Students for a Democratic Society (SDS). In June, 1969, some SDS activists concluded that their trust was not "sufficiently militant and violent in its actions." They splintered off from SDS and formed a more violence-prone wing known as Weatherman. In later years the group was referred to as "Weather People" and "Weather Underground."

As of 1972, 26 Weathermen were wanted by the FBI as federal fugitives from justice. Some were placed on the FBI's list of "Top Ten" fugitives, which list is used to designate only the most vicious and badly wanted individuals, considered to be a menace to society.

One who made the "Top Ten" list was Bernardine Dohrn, a Weatherman leader. In 1970 she said that "Weatherman was declaring war and would use the classic guerrilla strategy of the Viet Cong."

On Oct. 6, 1970, at a New York City press conference a tape recording allegedly stated that the bombing of a police statue in Haymarket Square, Chicago, on October 5, 1970, was the work of the Weatherman and that this bombing "begins a fall offensive of youth resistance that will spread from Santa Barbara to Boston, back to Kent and Kansas."

"Communiques" and other public pronouncements boasted that the Weatherman was responsible for these other bombings: the United States Capitol, March 1, 1971; the Pentagon, May 19, 1972; state correctional offices in California and New York, August and September 1971; two military facilities and a county courthouse on the West Coast, Oct. 8, 1970; and Long Island City Courthouse, Queens, N.Y., Oct. 10, 1970.

Our present administration has granted amnesty to selective service violators and military deserters. Government officials are discussing amnesty and legalization of undocumented aliens. Daniel Ellsberg, Philip Agee, and others who admittedly revealed classified government secrets remain unconvicted. What standard of morality is being used to justify the prosecution of FBI agents?

It is totally inconsistent that the Department of Justice, which is responsible for seeking the indictment against Kearney, is the same department which recently announced that it would not proceed against CIA personnel for alleged illegal mail openings. How can such a double standard be justified?

Do the American people realize that accused FBI agents, as a result of the performance of their official duty, are now being required to pay their own legal fees because the Justice Department will not furnish representation?

The Department of Justice and its nationwide representatives, the U.S. district attorneys, are the lawyers for the federal government and its agents. By practice and tradition, the department has represented all federal investigative agencies in both U.S. and state courts. In the past they have provided legal counsel when needed by the FBI. They also have acted on behalf of the Secret Service, U.S. Customs, Border Patrol and other federal agencies charged with investigative responsibilities.

One attorney of record, who represented some 34 New York agents when they were called before the federal grant jury, has submitted a bill for legal fees totaling over $48,000. As of January, 1977, legal fees of more than $61,000 already have accumulated. Kearney's legal costs are not included and could be staggering if the case proceeds to trial, motions and counter motions, and extended appeals to higher courts.

So far, the only financial help available to FBI agents and former agents is the Special Agents Defense Fund, established by the Society of Former Agents of the FBI. The organization, formed in 1937, started the fund last year when Assistant Attorney General Stanley Pottinger, Civil Rights Division, Department of Justice, began his assault on the FBI.

Kearney's indictment has revived interest in the Special Agents Legal Fund, Security National Bank, 2000 M St., N.W., Washington, D.C. Former agents and agents now on duty are supporting this cause and voluntary contributions from concerned private citizens are beginning to augment the fund.

If the FBI and other intelligence agencies are to be denied the use of special investigative techniques, then the President and the Congress must fix the guidelines. When Kearney and the other FBI men acted, in the early '70s, they were operating before controls were fixed. They used aggressive procedures to combat a present danger. To judge now, in retrospect, that what they did was criminal, is the rankest kind of Monday-morning quarterbacking.

The American public must decide whether the right of privacy and individual liberty is unlimited, or whether the right of our country to defend itself must also be considered. The people must decide if the FBI and other intelligence gatherers should be permitted to use those tactics necessary to combat subversion and terrorism. Otherwise, they will be limited to playing a passive role, operating without vital tools.

Can we afford to shatter FBI morale and cripple their capability to perform the intelligence functions imposed upon them by statute and executive order?

REVOLUTIONARY TEACHING SYSTEM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. McKINNEY. Mr. Speaker, a constituent, Dr. Peter C. Goldmark, has developed an electronic teaching device that encompasses a number of significant technological breakthroughs. If fully utilized the systems could serve to bridge cultural and educational gaps in this country and throughout the world.

The system, known as rapid transmission and storage (RTS.) embodies several unique capabilities. Dr. Goldmark has developed a highly technological process that enables the "packing" of up to 30 hours—60 half-hour lessons—of audio and visual information onto a conventional 1-inch magnetic tape. The lessons consist of a continuous sound format accompanied by still pictures. The still pictures are used to conserve space on the tape, however, moving pictures can be used when it is necessary for clarity. The tape is played back on a small mobile piece of transmission equipment, similar to a portable tape machine. The machine when hooked up to conventional television sets can transmit the 60 different half-hour lessons simultaneously to as many as thirty different television monitors. An electronic coding method enables each professor to chose any one of the 60 different lessons.

I would like to gratefully recognize the contribution of the Department of Housing and Urban Development (HUD) whose funding of the rural society project enabled Dr. Goldmark to develop the RTS system. It is my hope that the system will reduce the gap between the city and country, giving those in less populated areas access to the many cultural and educational advantages that exist in the more densely populated areas.

Dr. Goldmark is president of his own company, the Goldmark Communications Corp. of Stamford, Conn. He holds more than 160 patents and is responsible for the invention of the long-playing record and the color television.

The system can also be used in conjunction with an educational or commercial television station. During the 8-hour period when the station is normally off the air, over 240 different half-hour lessons can be transmitted and received for the next day's use in a designated learning center. The material can be used as many times as is desired. When a sufficient quantity and variety of instructional material is developed and available, the RTS system would permit the transmission and storage of 40 hours of instructional material to be received and shown on one's home TV set.

North Carolina's community college system is the first to put the RTS to work. Lesson material is in preparation for 10 study centers in the Charlotte area, and lessons will eventually be extended to the 57 other institutions in North Carolina's community college system. Other community colleges joining in the initial RTS program are in Chicago and Glen Ellyn, Ill., Costa Mesa, Calif., Eugene, Oreg., and Kansas City. It is hoped that these programs will be able to expand the ability of the community colleges to deliver educational services closer to where people live and work, without a large investment in additional facilities.

HARLEM RIVER HOUSES: A NEW YORK CITY LANDMARK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. RANGEL. Mr. Speaker, on September 20, 1977 the Emanuel Pieterson Society celebrated the 40th anniversary of the Harlem River Houses. These houses were designated a New York City landmark on September 23, 1975, at the initiation of the Emanuel Pieterson Historical Society. To this end I would like to share the report of the society which details the history of this event:

REPORT TO EMANUEL PIETERSON HISTORICAL SOCIETY ON THE 40TH ANNIVERSARY CELEBRATION OF THE HARLEM RIVER HOUSES BY HARLEM RIVER COMMUNITY ORGANIZATIONS TO BE HELD ON THE SITE, SEPTEMBER 10, 1977.

Significantly, the U.S. Housing Act of 1937 became law September 1, 1937, the day after the first tenant moved in the project. It provides one of the reasons for the fortieth anniversary celebration of the Harlem River Houses to be held on Saturday, September 10th commencing at 1:00 p.m. on the mall at 211D West 151st Street.

The Planning Committee composed of representatives from the Harlem River Community Organization, the Management Office, NYCHA and neighborhood community organizations including Emanuel Pieterson Historical Society are cooperating in programming this event. With Landmark designation, a Plaque will be unveiled. Present plans call for remarks by officials, dignitaries and local community representatives as well as entertainment. The Society President will be among the participating speakers for this event.

The first Society project was the proposed landmark designation of Harlem River Houses to initiate greater recognition. After appropriate public notice, the NYC Landmarks Preservation Commission (LPC) conducted a Public Hearing on July 22, 1975 at 10:30 a.m. in City Hall. The Society led the public with favorable commentary for designation and there was no opposition. On September 23, 1975, Harlem River Houses was designated a NYC Landmark at the initiation of the Emanuel Pieterson Historical Society.

Before this hearing however, Community Board Number 10, Manhattan (CB10M) recommended designation approval with support from Councilman Frederick Samuel, 5th Councilmatic District, Manhattan and Congressman Charles B. Rangel, 19th Congressional District, among other Manhattan elected officials. The Office of the President, Borough of Manhattan through Deputy President Jolie Hammer, personally appeared at the hearing in further support of designation and CB10M recommendation. Members of Community Boards prior to recent City Charter changes were appointed by the President of each borough in consultation with City Councilpersons where appointments are made.

The Emanuel Pieterson Historical Society is chartered by New York State Department of Education as a membership institution. It is tax exempt, not-for-profit and fully accerited, essentially established to provide a more popular understanding of the contributions made by Black Americans in the nation and promote stability of development and preservation of historic sites. To implement these purposes the Society made Restoration of Historic Sites and Designation of National Landmarks two among ten functional projects. Public awareness was then generated on the potential of Harlem River Houses as a landmark.

The Harlem River Houses form an extremely attractive, well designed community, consisting of three separate groups of buildings ingeniously planned to fit a difficult site. When built, these low-rise brick buildings were considered an advanced example of housing because of the skillful manner in which they were laid out to provide ample fresh air and open space. The Federal Administration of Public Works built this 574-apartment complex, completed in 1937 specifically to serve the needs of low-income families. They were designed by Archibald Manning Brown in association with a corps of architects including John Louis Wilson a Society Trustee and features a series of handsome courtyards adorned by the sculpture of Henry Warneke and others and landscaped by Michael Rapuano.

The Society led a community thrust consisting of organizations, Harlem River Community Organization, Neighborhood Board Number 1, Inc., an anti-poverty program agency and the Office of Upper Manhattan Planning and Development and New York City Housing Authority (NYCHA). The Communty Board (CB1OM) responded to a petition signed by residents around the proposed site for designation and presentation prepared by Neighborhood Board Number 1, Housing staff. During this preparation, James Antrum, a member of the Board of Directors for the anti-poverty agency constantly offered encouragement. This encouragement has been extended to assisting the efforts of Emanuel Pieterson Historical Society. The total effort of community action, Community Board, City agencies and elected officials combined for a forceful trust and led to designation.

At the LPC public hearing a representative from NYCHA commented favorably in absence of Joseph Christian the Housing authority Chairman, in addition to Jolie Hammer who spoke for the President, Borough of Manhattan. The Society President then introduced Lucinda Fox Ward and Lillian D. Finney to Commission members before each read prepared statements favoring designation. A copy of a prepared statement by Pricilla Reed, Harlem River Community Organization was submitted in her absence while a copy of the citizen's petition was exhibited. The petition had been submitted earlier at the hearing in support of designation included Miriam Christian, a cofounder of the Emanuel Pieterson Historical Society. She did not comment after acknowledging satisfaction with the proceedings.

One of the purposes of the Society is to further and promote stability of development and preservation of the historic and aesthetic character of Harlem-like communities through the preservation of reports, studies and recommendations and through participation in the creation of a community development plan and designation of historic landmarks. While the Society was initiating community awareness on the proposed landmark designation, it also increased a level of

historical images associated with the significance of establishing a more popular understanding of Black's in American history, which is the Society's essential purpose. The Society provided and generated community awareness that Harlem River Houses met LPC criteria in terms of historical significance, architectural character and aesthetic value.

A ceremony to lay the first bricks of the Harlem River Houses and to mark the completion of the foundations was scheduled for Saturday, June 20, 1936. Mayor F. H. LaGuardia, Housing Authority Commissioner L. Post and PWA Administrator Harold Ickes laid the first three bricks. In his remarks, Ickes predicted that the Harlem River Houses would set a new standard for housing in this country and would be a symbol of the Federal Government's renewed commitment to a program which would provide decent housing for low-income groups—the sort of housing that private enterprise could not afford to provide. A similar ceremony was held to commemorate the laying of the last brick on February 12, 1937.

The first federally-funded, federally-built and federally-owned housing project in New York City, begun early in 1936 was complete in 1937. It was an example of collaboration between city and federal governments. The project was "a recognition in brick and mortar of the special and urgent needs of Harlem," consisting of three separate groups of four—and five—story buildings.

The need for government-sponsored housing in urban areas, especially to aid lower-income groups, had long been recognized by concerned architects and social critics in the United States. Successful experiments in government housing had been carried out since the turn of the century in Great Britain, Holland, Germany, Austria and Scandinavia; many projects had been designed by distinguished architects. Many people wondered why the United States government could not do the same.

ARCHITECTURAL DESCRIPTION

The Harlem River Houses project development comprises an area with land coverage of 30.16 percent. This was an unusually low figure compared to the 50 percent land coverage of the Dunbar Apartments or the 60 percent coverage that prevailed in most of Harlem in 1935. The population density of the project was 225 persons per acre. In addition to creating light, airy apartments—each room was on the outside—the low land coverage also allowed for generous landscaping of the site.

The arrangement of the buildings on the relatively spacious, but difficult trapezoidal site, bisected by Seventh Avenue (now Adam Clayton Powell, Jr., Blvd.), is extremely effective and drew high praise from architectural and urban design critics Talbot Hamlin and Lewis Mumford. Also complications were added by the terrain which slopes downward toward the southeast.

There are three separate groups of buildings—each group composed of Z-, T- and L-shaped sections—two west of Adam Clayton Powell, Jr., Blvd. and one east. In the western section the two groups of buildings are arranged axially around a large plaza area, basically formal in plan and intersected by the area created by closing West 152nd Street, whereas a zig-zag is effected along Macombs Place where the sections are stepped back to follow the diagonal line of the street. The eastern section, which was designed in relation to the Harlem River, is a more rambling arrangement reflecting the east end of what would have been 152nd Street by a deep courtyard.

The red brick buildings, of four or five stories, which vary in height according to the slope of the site, are of a simple, straightforward design. Decorative details are added in the form of raised brick bandcourses at the base of the buildings. Broad, steel-framed casement windows with horizontal hopper lights punctuate the wall surfaces. Stairshafts lit by narrow vertical windows rise above the entrances which are sheltered by flat-roofed porticoes.

In their overall plan for Harlem River Houses the architects were anxious to promote a sense of community, as well as to provide facilities that would specifically meet the needs of Harlem residents. This resulted in such features as a nursery school for the children of working mothers (a necessity since many heads of households were women), a health clinic, four social rooms for adults, four rooms for occupational use and children's inside play and community laundries. The design of the buildings also resulted in ground flood space which could be used for stores on Adam Clayton Powell, Jr., Blvd., another community service.

Today the Harlem River Houses project remains one of the finest developments run by the NYCHA. Rents have, of course, risen over the years since the first tenant moved in August 31, 1937. There is still a strong sense of community, aided in part by the excellent overall physical planning.

(Submitted by the Society Co-founders, Horace Carter and Miriam Christian.)

(Dated: August 8, 1977, New York, New York.)

BILINGUAL ACT AMENDMENT PROPOSED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SIMON. Mr. Speaker, Abraham Lincoln once said:

Upon the subject of education, not presuming to dictate any plan or system respecting it, I can only say I view it as the most important subject we as a people are engaged in.

The world today demands greater competence and, therefore, broader and higher quality education for more people than was necessary in the past. Equal and better education for all is not only a moral but a practical necessity.

The passage of the Bilingual Education Act, title VII of the Elementary and Secondary Education Act, was a great step toward achieving constructive communication in conditions of equality and mutual respect.

While the Bilingual Education Act is and should be primarily directed at helping students who cannot work in English, it should also permit the voluntary participation of English-speaking children as well.

There are two reasons why we should have children, whose primary language is English, participating on a voluntary basis in these programs. The first is that without that happening, the Puerto Rican or Mexican or Cuban children end up in segregated classes. If there is anything clear in the history of our education, it is that segregation is not a successful enterprise—educationally, socially, or in any other way. The second reason for encouraging voluntary participation of English-speaking children is that then when the children play together at recess and at other times, they learn the language in practical communication. The language that is only a classroom language never becomes part of a person. Children have great skill in absorbing a language as they play with other children. We should encourage that, not discourage it.

And that will also mean an increase in the learning of foreign languages by some of our students.

We must recognize both the decline in traditional foreign language study in this country and the drop in Federal support for programs designed to promote international cooperation and understanding. Two examples of the latter situation are first the 10-year decline in the funding of the Fulbright-Hays program to the point now where it is 30 percent smaller in real terms (1967 dollars) than it was in 1967 and, second, the continued refusal of the Congress to fund the International Education Act.

The decline in traditional foreign language study (and the cultural information associated with it) has been steady. In 1965 34 percent (a small fraction to begin with) of American high school students were receiving foreign language instruction. In 1968 the fraction was 30 percent. In 1970 it was 28 percent, and in 1974 it was 24 percent. It is still dropping. Some 90 percent of our colleges have no foreign language requirement for admission; fewer than 1 in 20 college undergraduates enrolls in a course that considers foreign peoples and cultures in any way; in 1973 only 5 percent of those studying to be teachers received any foreign area training; and finally there are more teachers of English in the Soviet Union than there are students of Russian in the United States. This is an appalling state of affairs.

Unfortunately the initial promise of the Bilingual Education Act—the start of a national effort at bilingual and bicultural education to benefit all pupils no matter what their dominant language—has not yet been fully realized. It is still largely a compensatory education program which often has the effect of segreating minority children by language or ethnic background.

Mr. Speaker, to correct this deficiency in the bilingual education program I am introducing a bill to amend the Bilingual Education Act to include a statement of policy recognizing more explicitly the of a national effort at bilingual and bilingual education.

It is helpful to look at this bill as an affirmative action proposal, because it holds that change is required not only among those who do not speak English but also among the English-speaking majority.

My proposal, unlike some affirmative action plans, does not require changes at the expense of one or another group. In this case all stand to benefit.

If we are to achieve new levels of equality and cooperation in this country

and the world, all of us will have to make a greater effort to understand each other linguistically and culturally. Justice and interdependence demand it. My bill seeks to take one step in that direction:

H.R. —

A bill to encourage participation by children whose language is English in bilingual education programs under the Bilingual Education Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 702(a)(5) of the Bilingual Education Act is amended by inserting "and children whose primary language is English" immediately after "ability".

(b) Section 703(a)(4)(B) of such Act is amended to read as follows:

"(B) A program of bilingual education may make provision for the voluntary enrollment therein of children whose primary language is English, in order that they may learn the language of the children of limited English-speaking ability for whom the particular program of bilingual language is designed, and acquire an understanding of the cultural heritage of such children."

NATIONAL LABOR RELATIONS ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. FORD of Michigan. Mr. Speaker, as a member of the Labor-Management Relations Subcommittee, I have been increasingly concerned about our inability to deter unscrupulous employers who flagrantly violate the provisions of the National Labor Relations Act with impunity. We have learned, during our 70 days of hearings, how employee rights over the years have been violated, trampled on and ignored by this small, but potentially growing band of law-breaking employers. Passage of H.R. 8410, the Labor Reform Act of 1977, which is similar to legislation that I have advocated for several years, becomes imperative as increasing numbers of recalcitrant employers become educated by "management consultants" in how to avoid effective enforcement of the act. The loopholes in the law have allowed these employers to defy the statute and nullify employee rights by skillful manipulation of the appeals process and cumbersome administrative procedures.

A recent article by Elliot Bredhoff, the general counsel for the Industrial Union Department, AFL–CIO, provides an excellent and well-reasoned explanation of the need for reform of the act's enforcement mechanisms and the changes that H.R. 8410 would make in this critical area of remedies for unfair labor practices. For the information of the Members, I have, therefore, inserted into the RECORD this article, "Legal Defects Victimize Workers: The Labor Reform Act Is Urgently Needed," Viewpoint, third quarter, 1977:

LEGAL DEFECTS VICTIMIZE WORKERS—THE LABOR REFORM ACT IS URGENTLY NEEDED

(By Elliot Bredhoff)

In 1935 Congress charted the course of this nation's labor policy by passing the Wagner Act, which declared that workers shall have the right to unionize, to engage in collective bargaining, and to be free from unfair labor practices. Sadly, after 42 years, the promise of the Wagner Act remains a hollow one for millions of Americans.

Experience has proved that the National Labor Relations Act (as the Wagner Act, with its Taft-Hartley and Landrum-Griffin amendments, is now called) contains fatal defects which prevent the policies of the Act from being fully brought to life. Built-in delay, inadequate remedies, and other weaknesses in the NLRA have thwarted the protections ostensibly provided by the Act. Indeed, the Act has become a snare and a delusion; workers seeking to exercise their rights under the Act have been victimized by firings and other employer unfair labor practices. For thousands of workers, the freedom and security promised by our labor laws have been replaced by fear, insecurity, and deprivation.

For years reform has been desperately needed, as documented in volumes of congressional hearings, court decisions, scholarly writings, and the opinions of the National Labor Relations Board itself.

Last month an Administration-sponsored bill "to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act" was introduced into Congress by Rep. Frank Thompson and Sens. Harrison Williams and Jacob Javits. It is a bill which, while modest in scope, is urgently required if workers are to receive the benefit of the promises and protections held out to them by that Act.

The bill proposes no fundamental changes in the rights and obligations of employees, unions and employers under the NLRA. It is designed simply to insure that the requirements already contained in the NLRA will be enforced through prompt and fair procedures and by adequate remedies for violations of the Act.

But that goal, and the steps which the bill would take toward its achievement, are in themselves important enough to make the proposed "Labor Reform Act of 1977" truly worthy of that name.

THE PRESENT LAW NEEDS TEETH

In this article I will primarily describe the changes which the bill would make in the critical area of remedies for unfair labor practices. As a labor lawyer, I am acutely aware of the bitter frustration caused by the absence of adequate remedies to cope with even the most blatant violations of the Act by employers. The law, as interpreted, is impotent to curb employers who illegally fire workers to stop an organizing drive, or unlawfully refuse to bargain in order to deprive employees of the benefits of a contract. Hence, improved remedies are of paramount interest to employees, the labor movement and the public.

The Administration bill also has other significant components besides its remedy aspects.

For one thing, the bill proposes some changes in the underlying rules of law governing representation elections.

One of these concerns the fundamental right of all employees to be informed as to the issues when employees are seeking representation by a union. It is the virtually unanimous practice of union-busting employers to fight organizing drives by requiring employees to attend meetings on company time, at which anti-union speeches or films are presented. Many who have experienced such "captive audience" sessions have found them to be inherently coercive and destructive of free choice. Nevertheless, the NLRA has not been construed as prohibiting the captive audience technique, nor even as requiring that the employees be given an equal opportunity to hear the union's side of the story.

The Administration bill does not prohibit captive audience sessions. But it does require the Board to afford employees equal access to what the union has to say. The bill provides for the Board to issue rules which will:

"Assure that if an employer or employee representative addresses the employees on its premises or during working time on issues relating to representation by a labor organization during a period of time that employees are seeking representation by a labor organization, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization."

This provision goes a long way toward correcting a serious imbalance in the information which is available to employees faced with the vital decision of whether to support union representation.

DELAYS WOULD BE CURBED

The bill also would remove an unnecessary roadblock which presently stands in the way of guard employees who wish to be represented by a union. The NLRA does not permit guards to be represented by a union affiliated with any labor organization which represents non-guard employees at any location. A modest change would be made in this rule by permitting guards to be represented by a union affiliated with a labor organization which represents non-guard employees of the employer at the plant where the guards work.

Apart from the area of remedies, most of the provisions in the bill deal with the problem of delay, which has so badly undermined the effectiveness of the NLRA. Those provisions include the following:

1. Time limits to insure that representation elections are held promptly—within 15 days, or, in the most complex cases, within 75 days after the filing of a petition for election.

2. Increasing the Board's membership from five to seven, to speed the resolution of cases.

3. Authority for two Board members to summarily affirm decisions of the administrative law judges, rather than requiring a full-blown review proceeding before the Board in every case.

4. Expedited enforcement of Board orders, by requiring a party to appeal an adverse Board decision within 30 days or lose the right to object to the order when the Board seeks court enforcement.

These provisions represent substantial improvements in the NLRA, and should be vigorously supported. It is the remedy provisions which, in many ways, represent the key to the labor law reform which the bill would accomplish.

Any one doubting the need for improvement of Labor Board remedies need only look at the record concerning J. P. Stevens, Florida Steel, and other laborbusting companies. Would those employers brazenly violate the labor laws time after time, were it not for the fact that the law, as presently enforced, provides no remedies to adequately punish and deter such conduct? Former Board member Gerald Brown made the point years ago when he stated that " some employers and unions have been respondents in case after case over the years, involved in one hardnosed violation after the other. I am certain that this is due in large degree to remedial inadequacies." And more than a dozen years ago, a congressional subcommittee concluded:

"Labor Board orders constitute in many situations no more than a 'slap on the wrist.' They are both too little and too late. They constitute, in the words of one witness, 'a license fee for union busting.' The subcommittee recommends that the Labor Board reconsider the problem of 'remedies,' with an eye to taking the profit out of unfair labor practices."

One of the areas in which the failure of existing remedies has been clearest is that

of the most common unfair labor practice—the discharge of employees for supporting a union. Such firings can have a devastating effect, not only on the individuals involved, but also on their fellow workers, who may be intimidated into giving up support for the union. By getting rid of the strongest union supporters at the most critical time in the organizing campaign, an employer often succeeds in killing unionization forever.

EMPLOYERS GET A BARGAIN

At present, the remedy for such a fundamental violation of our labor laws is reinstatement with back pay. But the back pay is reduced by any substitute income which the dischargee has earned, or which the Board decides the worker might have earned if he or she had been more diligent in seeking work. This is called the "mitigation" requirement.

This remedy is insufficient for several reasons. In the first place, it does not even compensate the dischargee for all his or her individual losses. A worker suddenly deprived of employment loses much more than wages. The individual may be forced to take out loans at interest and to spend considerable sums in seeking other jobs. Mortgages may be foreclosed and property repossessed. And, of course, the worker and his family suffer hardship and, often, real anguish. Laws in other areas generally compensate for such losses, but the Board's present back pay remedy does not.

Moreover, after the Board and courts rule that a discharge is unlawful—a process which itself may take years—it is often several more years before the dischargee finally receives back pay. Labor Board back pay proceedings are extremely time-consuming, due in large part to the factual determinations necessitated by the mitigation requirement. Workers discharged in the notorious Darlington Mills case are still waiting for their back pay awards to be computed 21 years after losing their jobs. As time passes, more and more dischargees tend to leave the area, or to accept other jobs and thereby mitigate the employer's back pay liability. An employer who succeeds in delaying the day of back pay reckoning long enough may find himself with almost no liability as a result.

It is small wonder that, for many employers, back pay awards are a bargain price for union-busting.

Even the reinstatement remedy is often escaped by companies guilty of illegal discharges. A study some years ago by Dr. Leslie Aspin of the Massachusetts Institute of Technology (now a congressman from Wisconsin) showed that although 82% of discriminatorily discharged workers wanted reinstatement at the time unfair labor practice charges were filed, less than 50% actually accepted reinstatement at the culmination of their successful litigation, years later.

REAL BARGAINING IS REQUIRED

The Administration bill proposes to do something about this intolerable situation. The bill provides that an employee who is discriminatorily deprived of employment during the period that employees are seeking union representation, or before the signing of a first collective bargaining agreement, shall receive double back pay with no "mitigation." This provision would assure that discharged workers receive a monetary award which more closely covers the real extent of their losses. It would greatly reduce the length and complexity of back pay proceedings. And it would more adequately deter companies from firing union supporters in order to disrupt organizing efforts.

As for the reinstatement remedy, the bill provides for a mandatory injunction procedure which the Act presently provides only against certain union unfair labor practices. Under the bill, whenever a Board regional office has reasonable grounds to believe that an employee has been deprived of employment for supporting or refusing to support a union during an organization campaign or prior to a first contract, the Board must go to court to seek a temporary injunction pending a final adjudication of the case by the Board. Such an injunction, if granted by the court, could require immediate reinstatement, as well as other appropriate relief.

Of equal significance to these improved remedies for unlawful discharges is a new remedy provided by the bill for cases of unlawful refusals to bargain prior to the signing of a first contract. As stated a few years ago by NLRB member (and now Chairman) John Fanning, "refusal to bargain is now the unfair labor practice that goes to the heart of the Act." The effect of refusals to bargain is most severe prior to a first contract, for reasons which have been eloquently stated by Judge Harold Leventhal of the Circuit Court of Appeals in the District of Columbia:

"Employee interest in a union can wane quickly as working conditions remain apparently unaffected by the union or collective bargaining. When the company is finally ordered to bargain with the union some years later, the union may find that it represents only a small fraction of the employees . . . Thus the employer may reap a second benefit from his original refusal to comply with the law: he may continue to enjoy lower labor expenses after the order to bargain either because the union is gone or because it is too weak to bargain effectively."

Secretary of Labor Ray Marshall made the same point in his recent testimony before the House Labor Subcommittee on Labor-Management Relations:

"The impact of a refusal to bargain on employee rights can be extremely significant. First, employees are denied representation during the period that the employer unfair labor practice is being processed. They lose not only the tangible economic gains that often result from collective bargaining, but also the benefits of day-to-day representation that help improve working conditions. Second, by the time the employer is directed to go to the bargaining table, the passage of time may have seriously eroded the union's support among the employees. As the employer delays bargaining with the union, the union tends to find it more difficult to negotiate any contract at all. This is especially true where the plant has only recently been organized, and there is no existing collective bargaining agreement."

Refusal to bargain has become a standard operating procedure for many companies resisting unionization—a "second line of defense" to be pursued whenever a union manages to gain certification as collective bargaining representative. Yet, astonishingly, at present the Labor Board's only remedy for a refusal to bargain is an order directing the employer to bargain henceforth. The Board does not require a company to make good employee losses suffered as a result of the refusal to bargain. Thus, an employer who refuses to bargain incurs no financial penalty whatsoever, but reaps the gains of avoiding the obligations which a union contract would impose.

Not surprisingly, refusal to bargain cases have become increasingly numerous, as employers realize they have nothing to lose, and much to gain, by flouting their obligations. Former Board Chairman Frank McCulloch probably understated the case when he said almost 10 years ago that "there may be no single reason for this steep rise in [refusals to bargain] during the last decade, but a number of objective observers believe that a major explanation is that the Board's traditional remedies are not sufficiently effective to encourage voluntary compliance with this important part of our law."

Indeed, in the famous *Ex-Cell-O* case a three-member majority of the Board stated:

"We have given most serious consideration to the trial examiner's recommended financial reparations order, and are in complete agreement with his findings that current remedies of the Board designed to cure violations of Section 8(a)(5) are inadequate. A mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of two or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the union from the loss of employee support attributable to such delay."

The Board concluded, however, that it lacked statutory authority to order an employer to make employees whole for losses caused by a refusal to bargain.

The Court of Appeals in the District of Columbia disagreed, as did many scholars of the law, but the Board has adhered to its views. In light of the broad congressional mandate in Section 10(c) of the Act that the Board may issue orders requiring "such affirmative action . . . as will effectuate the policies of the Act," I cannot believe the Board is correct in its view that the only remedy for a refusal to bargain is a "cease and desist" order—the legal system's equivalent of a slap on the wrist.

THE LAW WOULD BE CLEAR

But, fortunately, the Administration bill would expressly authorize a compensatory remedy in cases of an unlawful refusal to bargain prior to a first contract. Employees subjected to a refusal to bargain would receive a retroactive increase in their wages and benefits equal to the average percentage increase attained in collective bargaining settlements across the nation during the relevant period. The increase would be based on data maintained by the Bureau of Labor Statistics. (The bill gives the U.S. secretary of labor authority to revise the index of damages in the future, if that is considered appropriate.)

Thus the bill would authorize the Board to order employers to compensate their employees for refusals to bargain occurring prior to a first contract, without necessitating an inquiry into what sort of contract the parties would have reached had fair bargaining been pursued. The compensation determined by the statutory formula is clear, so that companies will be on notice as to the financial consequences of a refusal to bargain.

Under this legislation, hopefully the day will pass when recalcitrant employers, unwilling to yield the fruits of hard-won unionization, routinely ignore their obligation to bargain and escape, in effect, scot-free.

The Administration bill includes an additional new remedy applicable to all types of unfair labor practices. Under the bill, if the Board determines that a company has willfully violated a Board or court order, no federal contracts may be awarded to the company for three years, unless the national interest would be jeopardized or there is no other source for the materials or services sought.

The significance of this provision is great. Many flagrant, repeated violators of the Act today receive millions of dollars in government contracts. The bill would go a long way toward ending that practice, which has always seemed to enlightened observers to rob the NLRA of much of its moral authority. Under several other labor laws, such as the Davis-Bacon, Service Contract, and Walsh-Healy Acts, as well as under the presidential executive order pertaining to

affirmative action against discrimination in employment, a similar contract debarment is imposed on violators. It is high time that the same approach be adopted with respect to the NLRA.

Although employer groups have already begun to attack the Administration bill with their favorite epithet: "pro-labor," the bill is perfectly even-handed. All of the new remedies for employer unfair labor practices apply equally to corresponding union unfair labor practices. Of course, companies violate the law far more often than unions; but that hardly gives the companies grounds for assailing a bill which applies to all violations.

Moreover, the present NLRA contains a double standard weighted in favor of employers. As we have seen, the remedies available to employees are weak. By contrast, the law now requires the Board to seek injunctions against unlawful secondary boycotts and certain other union activity. Also, Section 303 of the Act authorizes employers to file suits for money damages in such cases. The new remedies provided by the Administration bill would do no more than extend to employees the kinds of prompt, effective remedies which are already available to companies.

The basic principles declared in the Wagner Act more than 40 years ago need no revision. The national policy must be today, as Congress then declared it to be, one of "encouraging the practice and procedure of collective bargaining and . . . protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." What is needed is a mechanism by which those policies may be brought fully to life. This is what the Labor Reform Act of 1977 would do.

Labor Secretary Marshall captured the spirit and purpose of the bill when he testified that:

"Law-abiding employers and unions have nothing to fear from this bill. We do not propose a reshaping of our labor relations policy, for that is not what is needed. Our proposal is intended to remove the obstacles that now stand in the way of achieving the collective bargaining rights already guaranteed in our labor laws. The delays and weaknesses of the NLRB's enforcement powers have, in effect, denied these rights to thousands of American workers. This is an inequitable situation.

". . . I believe that, in the long run, speedy and effective remedies to enforce a just law serve the interests of everybody except the law-breaker."

Derek Bok, the president of Harvard University, has said, in writing about NLRB regulation of campaign tactics in representation elections, that we cannot allow the law to lose its "moral authority," or "the most serious consequences will follow." The searing national experience summed up in the word "Watergate" has reminded us once again that disrespect for law is the most dangerous vice that can infect our constitutional democracy.

It is fair to say that disrespect for the law of the land as declared in the National Labor Relations Act has become a pervasive phenomenon, due in large measure to the feeble enforcement mechanism of the Act. When flagrant violators of our labor laws escape with no more than a slap on the wrist—and a government contract—it is not surprising that the laws fail to command their due respect.

The Labor reform Act of 1977 would go a long way toward putting teeth into the NLRA. It would put "moral authority" back into the national labor law.

GOVERNMENT BY JUDICIARY

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HAGEDORN. Mr. Speaker, although there is growing popular—and academic—concern for increasing excesses committed by the judicial branch of our Federal Government, excesses typified by judicial participation in controversies in which they ought not properly play a part, as well as the issuance of decisions, the scope of which are properly beyond their purview, opponents of this trend often find it difficult to articulate the sorts of considerations that distinguish "proper" from "improper" decisions. To state, as does former Attorney General Edward Levi, that "the Federal courts now have all kinds of jurisdiction and authority which I think they should not have" is, of course, to beg the question of "what exactly is their jurisdiction and authority?"

Recognizing the difficulties inherent in resolving this question, but in the strong belief that—to paraphrase Justice Rehnquist—the courts have increasingly exercised a roving commission to strike down laws on the basis of their own personal notions of policy and morality, I would like to call to the attention of my colleagues an excellent article on this dilemma by University of Chicago law professor Philip Kurland from a recent issue of Modern Age magazine:

GOVERNMENT BY JUDICIARY

(By Philip B. Kurland)

When, then, does a judicial body overstep its role and encroach upon the legislative function? It is not merely when it announces new rules, especially if the new rules are revisions of those that it has previously made. What we must keep in mind, is that the prime function of a court is not to promulgate rules, it is to resolve disputes. In the course of such resolutions, it will establish the reasons for its decisions, those reasons will be utilized in the future to resolve later disputes that come before it, disputes which come within the rationalization of the first decision.

1. RHYME WITHOUT REASON

I would say, then, that a court oversteps its bounds, when it reaches a decision without adequate reasoning to support it, especially reasoning establishing the need for change. Judges are not expected to decide cases in terms of their personal predilections. While one cannot exclude the personality of the judge from the conclusions he may reach, he is required to decide the case in terms of the law. To use Felix Frankfurter's words: "We do not sit like a kadi under a tree dispensing justice according to considerations of individual expediency." That of course was a normative statement and not a descriptive one. Today, the kadi and the federal judges look like twins.

Erwin Griswold, former dean of the Harvard Law School, former member of the Civil Rights Commission, former solicitor general of the United States, recently commented: "Some Supreme Court Justices employ the ruse of saying, 'What we are doing is interpreting the Constitution,' when what the Court is doing is deciding what is good for the country." What is good for the country is a question for the representatives of the people to decide, not an unelected, politically selected, group of lawyers.

Professor Paul Freund has pointed out that one of the prime difficulties with the assumption of power by the judiciary is the absence of reasons for its decisions, as well as false reasons. The Supreme Court "should not play a shell game in making such decisions—it should tell us what it is doing." And, of course, the same admonition is valid with regard to courts other than the Supreme Court.

I expect that the most important recent decision that is without rational justification in constitutional terms is the abortion case. I have no quarrel with the result; I like it. Were I a legislator, I would vote for it. But the question whether abortion may be banned by the state in the first, second, or third trimesters of pregnancy is not a question that can be answered by the history or language of the Constitution and certainly does not fall within the expertise of the nine-robed men in the marble palace. There would appear to be reason why the result was not justified by the opinion.

2. LORD HIGH EXECUTIONER

I think, too, that the courts enter the legislative area when, in the absence of legislative mandate, they take the huge step from forbidding action that is prohibited by the negative provisions of the Bill of Rights and the Fourteenth Amendment, to commanding the effectuation of programs of their own creation. My example, here, would be the reapportionment cases, where the federal judicial system has undertaken to replace what might well have been an invalid allocation of legislative offices with a system described by a slogan—"one man—one vote." It is a standard that never existed in the past; it is a standard that was clearly rejected by the framers of the national constitution for the national government, and it remains a standard unjustified by the Court itself. It is one thing to say that specific malapportionment cannot be tolerated under the loose limits of the Constitution. It is quite another to prescribe how a state must apportion its legislative districts, state and federal—and even local. A similar situation occurred when the courts shifted from a ban on racial segregation to a command for "racial balance."

The courts also seem to me to go beyond their province when the judgment is not directed to remedying the wrongs done to a particular litigant or litigants, but when they use the judgment in a particular case to assert administrative authority over a large number of people and activities that were not the subject of the case or controversy before them. This is the fact with some school desegregation remedy cases, of which Boston is the most egregious recent example. The Boston school system is now in "receivership," which means that the federal district judge determines where repairs are to be made and how much is to be spent for them; whether students are to receive instruction in laboratories and shops or classrooms; which school should get a new piano. In short, the judge has replaced the school board and, whatever expertise he may have as a jurist, I don't believe that he qualifies in any manner, shape, or form as an educational expert.

There is some reason to doubt judicial expertise as to most desegregation plans. Judge Skelly Wright ordered the desegregation of the schools of Washington, D.C., which are now ninety-seven percent black as a result. Certainly this makes it difficult to integrate the student body. Similar instances of rigidity resulting in catastrophe are to be found in Atlanta and other cities.

I do not mean, by rejecting the validity of judicial action, to condone the use of force

to oppose judicial orders that are plainly grounded in constitutional bans on invalid state actions.

Compliance with decisions of the Court, as the constitutional organ of the supreme Law of the Land, has often, throughout our history, depended on active support by state and local authorities. It presupposes such support. To withhold it, and indeed to use political power to try to paralyze the supreme Law, precludes the maintenance of our federal system as we have known and cherished it for one hundred and seventy years.

Thus spoke Felix Frankfurter in the *Little Rock* case. And the proposition is no less relevant to Northern and Western communities than those of the South and Border states. But that kind of opposition is not likely to decrease when a court decides that it will not only execute its own functions but those of the school board as well. Or, for another example, when it assumes the authority for administering a prison system, rather than simply forbidding the violations of prisoners' rights, which may be occurring.

3. LEGISLATION PURE AND SIMPLE

When it comes to promulgating rules that are meant to control the behavior of others than those who are litigants before the courts, there can be little doubt that the judiciary is engaged in the legislative role. This is frequently done through the fiction of class actions, which assume that the relevant universe is divided into two groups, those like the plaintiff and those like the defendant, and any decision of such a case is therefore binding on everyone. But there are even more specious approaches to the legislative realm by the judiciary. I will mention just two. The first, by which decisions are intended to govern the behaviour of those who were not parties, i.e., those clearly outside the case or controversy before the court for adjudication. The second, where the courts simply rewrite the words of the legislative authority in order to effectuate its own will rather than that of the representatives of the people.

The first of these may be seen in a long-standing rule of the federal courts that excludes evidence of guilt because of the misbehavior of the police.

Evidence is sometimes secured by means that cast dubiety on its veracity. Of course, such evidence of doubtful probity should be excluded from consideration because of its implicit weakness. Other evidence is often excluded, but not because of its intrinsic infirmity. And, as Mr. Justice Jackson once wrote:

That the rule of exclusion and reversal results in the escape of guilty persons is more capable of demonstration than that it deters invasions of right by the police. . . . Rejection of the evidence does nothing to punish the wrong-doing official, while it may, and likely will, release the wrong-doing defendant. . . . The disciplinary or educational effect of the court's releasing the defendant for police misbehavior is so indirect as to be no more than a mild deterrent at best.

Again, I do not mean to condone police misbehavior. It is one of the banes of our system of criminal justice. But there is more than abundant evidence that such misbehavior is not inhibited by the exclusionary rule. If it is to be controlled it must be made the basis for direct punishment of the wrong-doers. To argue, as do the supporters of the ever-broadening exclusionary rule, that while that rule really does not do any good in correcting official misbehavior, they know of no more efficient rule, is, I submit a legislative judgment and not properly a judicial one; it has nothing to do with the proper resolution of the case or controversy before the court.

It is equally true that the legislative province is invaded by the judiciary when it moves in the opposite direction of making crimes of actions that the legislature has not defined as criminal. An example here is to be found in the judicial administration of the so-called "mail-fraud" statute which, as a result of judicial action, requires only a gossamer connection with the use of the mails and no fraud at all. As I have noted, the federal courts are not constitutionally competent to create common-law crimes. But in this instance, they have made bricks without straw, by allowing trial courts and juries almost absolute discretion to decide whether a person accused of "mail fraud" should be subjected to punishment, although the acts charged clearly do not fall within the ban of the statutory language. An exacerbation of the problem has resulted because federal prosecutors—especially those with political ambitions—have utilized this power to political ends.

If the utilization of laws beyond their language, purpose, and intent is judicial legislation, as I contend it is, the administration of laws in the direct face of legislative language to the contrary is even more offensive. This form of judicial legislation, the transmuting of congressional language into its opposite in order to meet the personal judgments of the courts rather than the expressed judgments of Congress, is endemic in the American judicial system. Let me spell out one example that I have chosen because the Attorney General has recently spoken publicly if erroneously on the subject. The issue is whether Congress has, by Title VII of the 1964 Civil Rights Act, commanded racial balance in employment. Like the Attorney General, I have a personal interest, because both of us are counsel—on opposite sides—in cases involving the question of the proper construction of the law.

The news story of the Attorney General's remarks appeared in the Chicago Sun-Times of March 18, 1976. The headline was: Levi hits Congress on job-bias laws." The lead paragraphs are as follows:

Anyone trying to understand the judicial and administrative law on discrimination in employment is confronted with the "view of a madhouse," Atty. Gen. Edward H. Levi said Wednesday.

In the field of equal opportunity, Levi said, the federal courts have been given the tremendous burden of doing "what Congress does not care to state plainly."

With all respect, Congress has stated its intention plainly in the language of the statute and in the congressional history of the statute. It forbids, in so many words, racial or ethnic or sex quotas in employment. It bans "racial balance" as a legislative standard.

Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, state, section, or other area, or in the available work force in any community, state, section, or other area.

Like the language of the statute, its legislative origins make clear the ban on "racial balance." Thus, the floor managers of the Civil Rights Act of 1964, Senators Joseph Clark and Clifford Case, submitted a memorandum explaining this part of the proposed law to their colleagues. It read in part:

There is no requirement in Title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such balance may be, would involve a violation of Title VII because maintaining such a balance would require an employer to hire or refuse to hire on the basis of race. It must be emphasized that discrimination is prohibited as to any individual. While the presence or absence of other members of the same minority group in the work force may be a relevant factor in determining whether in a given case a decision to hire or to refuse to hire was based on race, color, etc., it is only one factor, and the question in each case would be whether that individual was discriminated against.

In 1964 the Department of Justice prepared a memorandum in support of the bill at the behest of the bill's sponsors. It said:

Finally, it has been asserted that Title VII would impose a requirement for "racial balance." This is incorrect. There is no provision, either in Title VII or in any other part of this bill, that requires or authorizes any Federal agency or Federal court to require preferential treatment for any individual or group for the purpose of achieving racial balance.

No employer is required to hire an individual because that individual is a Negro. No employer is required to maintain any ratio of Negroes to whites, Jews to gentiles, Italians to English, or women to men. The same is true of labor organizations. On the contrary, any deliberate attempt to maintain a given balance would almost certainly run afoul of Title VII because it would involve a failure or refusal to hire some individual because of his race, color, religion, sex, or national origin. What Title VII seeks to accomplish, what the civil rights bill seeks to accomplish is equal treatment for all.

Far from being what, Mr. Levi calls, a failure of Congress to state its rule plainly, we have a series of decisions by the courts, made at the instance of the Department of Justice, that fly in the face of the legislative command. The judicial rulings are that a want of racial balance in an employment force is a violation of Title VII and that the remedy for that violation is a decree imposing racial balance on that work force. If the Attorney General sees the judicial and administrative law as "a madhouse," it is the Department of Justice and the courts that are both the inmates and the operators of the "Cuckoo's Nest." But, as usual, someone else, the persons deprived of jobs because of their race, color, religion, sex, or national origin, must pay the costs of maintaining the inmates.

Maybe the 1964 Civil Rights Act should have been written as the executive and judicial branches of the federal government desire. It is clear, however, that such a declaration of social policy belongs to the Congress and it has been delegated, although it may have been usurped by the bureaucrats and the judiciary.

Again, I would reject the notion that judicial interpretation of legislative language is not a judicial task, and a difficult task. It is only when the judges, as so many of them now do, rewrite the statute to their own preference, that they violate their judicial oaths. Judge Learned Hand's words are more than any I could adduce:

There are indeed political philosophers who insist that a judge must inevitably choose between the dictionary and tabula rasa; but there is a plain distinction in theory between "interpretation" and "leg-

islation," as well as a clear boundary in practice. Let the judge go as far afield as he will, in seeking the meaning of an "enactment"; if he is honest, he will never substitute his personal appraisal of the interests at stake, or his personal preference between them. It is true that he is not engaged in historical reconstruction, as he is when determining an issue of fact; his task is more difficult, so difficult that it is impossible ever to know how far he has been successful. For it is no less than to decide how those who have passed the "enactment" would have dealt with the "particulars" before him, about which they have said nothing whatever. Impalpable and even insoluble as that inquiry may be, the method which he must pursue is toto coelo different from that open to him, were he free to enforce his own choices.

Where a legislative act gives no clear direction as to its application to the facts before the court, a judge requires extraordinary talent to divine the legislative will. And, we cannot expect all our judges to have the talents of a Learned Hand or a Thomas Swann, much as we should like that. One should not chastise them, therefore, when in an ambiguous situation, their personal values are necessarily involved in their judgments. But the same cannot be said where, as in the Title VII cases, the legislative will is clear if unpalatable to both the administrators of the law and the courts. When, in conjunction, the bureaucracy and the judiciary supplant the legislature, they are acting unconstitutionally.

CONCLUSION

I have spoken of judicial invasion of legislative function as the primary deficiency of current judicial behavior. Except in terms of partisan interest in the outcome of particular cases, I am not among those able to see the desirable results of such judicial hegemony. Again, I would take my stand with Judge Learned Hand:

Another supposed advantage of the wider power of review seems to be that by the "moral radiation of its decision" a court may point the way to a resolution of the social conflicts involved better than any likely to emerge from a legislature. In other words, courts may light the way to a saner world, and ought to be encouraged to do so. I should indeed be glad to believe it, and it may be that my failure hitherto to observe it is owing to some personal defect of vision; but at any rate judges have large areas left unoccupied by legislation within which to exercise this benign function. Besides, for a judge to serve as communal mentor appears to me a very dubious addition to his duties and one apt to interfere with their proper discharge.

Dean Griswold was, perhaps, more pragmatic in his objections to judicial activism: "Judges may be doing good things in the name of activism today, but activism can also be used to order bad things if the principle of intervention is accepted."

One word of—shall I call it—"hope." When we talk about the federal judiciary we tend to think in terms of the Supreme Court. There are signs, however, that there is a movement away from judicial activism by the Supreme Court. The recent decision that rejected the lower federal court's desire to take over the management of the Philadelphia police department is an example. What we may have begun to witness is that an inherited judicial activism continues to grow in the lower federal courts. At the same time, there seems to be a reticence on the part of the Supreme Court to rein in that activism. The immediate future may see a Supreme Court that will try to turn the federal judiciary from its constant overreaching.

If the Supreme Court does not impose judicial restraint on its lower court brethren, the Chief Justice will continue to report each year—regardless of new appointments—that the federal courts cannot meet the burdens that they impose on themselves. All laws will turn into federal law, especially if the lower courts have their way with the post-Civil War Reconstruction Civil Rights acts. All laws will be judge-made, except for that which is made by the bureaucracy. All institutions will be the subject and object of judicial management. Perhaps it is not insignificant that federal trial judges, like American presidents, now speak of themselves in the first person plural: the royal "we."

This will certainly bring no improvement on present government incompetence. No more than other governmental agencies is the federal bench burdened by brilliance. Indeed, as Horace Binney wrote in 1835 in his biography of John Marshall, patron saint of judicial activism: "The world has produced fewer instances of truly great judges than it has of great men in almost every other department of civilized life." Government by judiciary is neither democratic nor efficient. Its only justification is that Congress and the President prefer politics to government, and opinion polls show that while the people do not think highly of the judiciary, they credit it more than they credit either the executive or legislative branches.

THE TRUE STORY OF LABOR LAW REFORM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. ASHBROOK. Mr. Speaker, very soon the House will be considering H.R. 8410, the so-called Labor Reform Act of 1977. Each Member has received a blue "fact" sheet and analysis issued by the Committee on Education and Labor which purports to give the reasons why such legislation is necessary. Unfortunately, that blue sheet contains factual representations that while not incorrect, are nevertheless misleading. Therefore, so that every House Member can make an informed choice on this crucial issue, I believe it is important to set the record straight.

EXPEDITING DECISIONS IN UNFAIR LABOR PRACTICE CASE

H.R. 8410 would expand the size of the National Labor Relations Board from five members to seven members. The blue sheet claims this expansion is necessary because the Board caseload has been increasing dramatically, so that in 1976 the Board had to handle 49,000 cases.

Here is the real story, based on the Board's own official 1976 report:

95 percent of the 34,500 unfair labor practice cases filed were closed by NLRB regional offices. The 5-member Board took no part in the resolution of these cases.

The 5-member Board became directly involved in only 1.2 percent of the representation cases considered during 1976—the remainder of the cases were settled or disposed of by the Board's regional directors.

Most revealing, the 1976 Board Report states: "The number of cases in Washington awaiting decision of the 5-member Board totaled 674, compared with 730 at the end of fiscal 1975." In other words, the 5-member Board actually reduced its caseload in 1976.

ELECTION AND CERTIFICATION PROCEDURES

The blue sheet claims that a substantial imbalance exists under the current law because unions are not able to address employees on working premises during working hours while employers may. Therefore, H.R. 8410 requires the board to issue a rule which would permit unions "equal access" to employer premises if employers spoke to employees at the workplace during working hours.

Here is what is not explained:

Under current law, the union can contact and visit employees in their homes; employers as a general rule cannot without fear of being accused of unfair conduct.

Employers are required under current law to provide the union with the names and addresses of all eligible voters so that the union can make direct employee contacts.

Unions can make extensive promises of benefits to employees to gain their support; employers who make promises of benefits are guilty of unfair labor practices.

The blue sheet claims that elections can and should be conducted as near as reasonably possible to the filing of the employee's petition. H.R. 8410 therefore would require the vast majority of elections to be held within 15 days after the union makes its request.

The fact is that a high percentage of elections are held within a reasonable time:

82 percent of the elections conducted by the NLRB in 1975 were held within 45 days of the filing of the petition; all but 47 of the remaining elections (out of an original total of more than 9,000) were held within a median time of 75 days.

80 percent of all union elections are conducted with the consent of both the union and the employer, with no exceptions being filed.

HARSH NEW PUNITIVE SANCTIONS

The blue sheet claims that "many employers have discovered it is more profitable to defy and ignore the provisions of the NLRA than to comply with them." H.R. 8410 therefore proposes several punitive sanctions, including Federal contract debarment and Government dictated wage and benefit increases, which would give the board considerable new power to deal with recalcitrants.

The assumption that "many employers" are labor law violators just does not wash. For example:

In 1976 fewer than 1 percent of the unfair labor practice cases filed against employers required court review, and fewer than 0.1 percent, or less than 30 cases, required proceedings in contempt.

The company most often cited as "the" flagrant labor law violator is J. P. Stevens. It is because of union hostility to Stevens that the dramatic changes to the labor law proposed in H.R. 8410 are alleged to be needed.

A few weeks ago, the U.S. Court of Appeals for the 2d Circuit issued a decision against J. P. Stevens. Among the court ordered sanctions:

(a) A $120,000 fine per violation

(b) $5,000 per day fine for each day Stevens fails . . .

(c) Requires Stevens to permit a union representative to be present in any Stevens plant in the Carolinas whenever a company representative makes speeches to employees.

(d) Requires Stevens to furnish the Textile Workers with a list of all Stevens work-

ers in the Carolinas including name, address, wage-rate, job description and date of hire.

Whether or not this Court of Appeals decision is fair or correct is not an issue. The point is that this decision, long awaited by union leaders and now hailed as their victory over Stevens, came about in the American tradition of judicial review with a day in court, not by a ramrod legislative tampering with only a few sections of our labor law as H.R. 8410 would do.

Moreover, what about labor union violators? The bill and its promoters are not so strangely silent on that subject. Across the board, they have rejected any effort to bring balance and equity whether in free speech, make whole, double back pay or chronic violators. They simply want a one-track, one-sided bill which is blind to any abuse other than those they have created.

The courts and the board are capable of dealing with our labor-management relations. If there is to be reform, let it be overall, balanced reform, not the type we see advocated in H.R. 8410. That bill is unnecessary and counterproductive to good labor-management relations. It should be defeated.

CAMBODIA

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. HAGEDORN. Mr. Speaker, it is by now a popular cliche to suggest that those who earliest and most persistently opposed U.S. involvement in Southeast Asia, and who actively supported our withdrawal—and in a few notorious instances, our defeat—were "right from the start."

It is true that there is no longer war in this part of the world. It is also true that occurrences there reaffirm the observation of one observer of the human scene who noted that—

The major reason that there is war is that there are things worse than war.

What is happening in Vietnam and Cambodia and Laos is far worse than war for the peoples of these countries; at least during war, there is hope. At least during war, the world watches.

While world opinion is inflamed by each jailing that occurs in South Korea, Chile, or Nicaragua, an estimated 1.2 million people—or nearly 20 percent of the total population—of Cambodia have died in the past 2 years, according to congressional testimony by the Assistant Secretary of State for East Asian Affairs, Richard Holbrooke. Protected by a policy that has denied permission to even a single journalist to enter the country in more than 2 years, Cambodia is seemingly a nation run by fanatics intent upon self-genocide.

I would like to call to the attention of my colleagues an article from the former New York bureau chief of Paris-Match, Stephane Groueff, translated into English by National Review. It provides a brief, but rare look, at this troubled country:

CAMBODIA—THE NATION AS CONCENTRATION CAMP

(By Stephane Groueff)

What has happened to Cambodia in the last two years? What is the nature of this revolution which, to judge from the reports of refugees, has undertaken to change Cambodians from a people who knew how to live into a joyless nation driven by a pitiless tyranny that makes the Chinese, Vietnamese, and Soviet Communist regimes seem benign by contrast? Now millions of men and women labor day and night in the collective rice fields, under the watchful eyes of guards armed with rifles. These people are tortured by hunger; they are forced to work to the point of exhaustion.

Despite the regime's attempts to impose a total blackout on news, word trickles across the border that there is still a fighting resistance force, two years after the curtain descended around Cambodia. There is also fighting among the Khmer Rouge themselves, for political reasons. There is fighting with Thai border troops in the west, and with the Vietnamese in the east.

I have just returned from Thailand; I was staying a dozen miles from the Cambodian frontier, where I was able to talk with a number of refugees who had recently escaped through the jungle. Twenty-five thousand of them have arrived in Thailand in the last two years. I also visited a makeshift prison, constructed of long bamboo poles, where 11 Cambodian guerrillas were being held. They had crossed the frontier the evening before: having run short of food and ammunition, they had decided they would fare better with the Thais than with the Cambodian peasant dictatorship. The next day three "Khmers Serey" (Free Khmer)—they are refugees who organize sporadic raids into Cambodia and then return secretly to Thailand to resupply—talked with me in my hotel room.

Major Dura Narin of the 749th battalion, seventh brigade of the seventh infantry division of the old regime's army, is an energetic 31-year-old soldier, an ardent patriot with numerous battle scars. Since he fled Cambodia in September of 1975, he tells me, he has returned a dozen times with his commandos.

"It isn't hard despite the mines and the sentries," he says, "if you really know this part of the country. Once inside Cambodia we mingle with the peasants in the rice fields. We stay, on average, a week—watching, listening, and organizing. We try to avoid skirmishes because we're not strong enough yet. We have only one gun for every two men, and a handful of grenades. We resort to our weapons only when we run into a patrol, and that has happened only four times." Thus, it is the guerrillas inside the country who have been attacking Communist guard posts and truck convoys, not Major Narin's commandos.

"When you meet a peasant you don't know," I ask, "is he likely to help you or denounce you?"

"That's no problem. They all want to help us. Everyone hopes that the Free Khmer will liberate the country."

Ching Namyeang, who was a deputy in the Lon Nol government, had told me that many people inside Cambodia still believe America will arm the Free Khmer; but that, in any case, the Free Khmer, organized under former Lon Nol officers, are preparing to invade Cambodia from Thailand and free their country. I ask Major Narin about this; he replies that at the moment there are in Thailand three groups of Free Khmer led by former officers, but that they have yet to form a common front. "We are trying to organize a central command," he says, "but for the moment each group continues to act independently. We are also in the process of contacting possible leaders. There is General Un Nauv, for example; he's now in the United States. We would be ready to follow him. There are countrymen of ours in France and Thailand who are actively helping us. And there are many officers living in the jungle, in the mountains near the border. But what can we do without arms?"

Meanwhile, as they wait for the day when they can stage a full-scale attack, Major Narin and his men continue to slip back and forth across the border. The picture they bring back of the new Cambodia is one of unremitting horror: it has been turned into an enormous concentration camp ruled with a savagery so shocking that it frightens even Cambodia's Communist neighbors.

The stories brought out by the guerrillas and the refugees are hard to believe, yet they are consistent with one another and with what little information foreign intelligence services have been able to gather. There is certainly some exaggeration and some misinformation, but even the smaller casualty figures are appalling.

ONLY 800,000 DEATHS

When does killing become genocide? Some American journalists who have interviewed hundreds of refugees believe that 1.2 million (out of a population of seven million) have died in the last two years. In testimony before a House international relations subcommittee, Richard Holbrooke, Assistant Secretary of State for East Asian Affairs, also estimated the death toll to be as high as 1.2 million. Other estimates are more modest. Father François Ponchard, who lived in Cambodia from 1965 to 1975, thinks only (only!) 800,000 have died since the Khmer Rouge took over.

How are the dead to be counted? Not all of them were shot. Many thousand failed to survive the forced evacuation from the cities, on foot, without water or medicine; many died from sheer exhaustion or from malaria. They were not, technically, executed. They are nonetheless no longer alive.

But even taking into account the disparities in the figures and the differences of opinion over what deaths are to be blamed on the Khmer Rouge, the reality of the Cambodian nightmare can no longer be questioned. Its most typical scenes call to mind a movie version of forced labor under the Pharaohs. As far as the eye can see are collective rice fields (the little dikes separating individual paddies have been pulled down) where hundreds often thousands, of men and women work in silence all day long. Here and there you can spot the Khmer Rouge soldiers, dressed all in black, their automatic weapon at the ready, watching this multitude of white-clad bodies drenched in sweat.

Elsewhere a swarm of peasants, perhaps three thousand of them, are laboring to build a dam or dig a canal or clear a spot in the jungle, also under the viligant eyes of the guards who are few in number but heavily armed: a nation of prisoners convicted of no crime. Many are city people unaccounted to such bone-wearing labor, but all suffer more from hunger than from fatigue. Hunger has become their obsession.

"What did you get to eat?" I ask a refugee.

"A little rice, about a coffee-cup-full a day. At noon and at night the give us soup, made of leaves from the trees, with a little salt. Meat and fish are only for the Khemer Rouge. Children get half rations."

"And in the morning?"

"Nothing. From six in the morning to noon we work on empty stomachs. People die of hunger. If you dare to complain you are punished. The Khmer Rouge are the only ones who don't go hungry. Even the recruits in the army often do not have enough to eat, though they get more than the peasants."

"What about those who don't work?"

"Everyone works, men and women. Old people work too, although their tasks are easier—basket-weaving, things like that. Six-year-old children pick up excrement to be used as manure and gather leaves to mix in with it."

"What happens when someone gets sick?"

"There are no pharmacies, so there is no medicine. We use herbs and roots. If a peasant is out sick, he is warned that he is setting a bad example. If he is sick for a week, they come and get him—he disappears."

"What about money?"

"There isn't any. Money has been abolished, and the markets shut down."

"But how do you buy things?"

"What do you mean, buy? There are no shops and there is nothing to buy, no clothes, no shoes, nothing. In the countryside, there is no cooking at home. The 'organization' distributes soup twice a day and everyone eats together. There aren't any homes, for that matter. When deportees arrive in a village they are made to build their own huts rather than allowed to occupy deserted houses—as though houses already built were somehow contaminated."

This kind of conversation with refugees is all the outside world has to go on in forming a picture of present-day Cambodia. It is impossible to conceive how isolated Cambodia is. No one has received permission to enter the country in two years: not a single journalist, not a single visitor—even from the Socialist camp. The government has not issued a single statement; it has never even named its own members. There are nine diplomatic missions in Phnom Penh, from eight Communist countries and Egypt. But the people manning these missions are sealed up in their own enclaves; they are forbidden to talk to Cambodians or to move freely in the city.

No Cambodian official will talk to a foreigner, and that includes representatives of the United Nations and of humanitarian organizations. Despite the epidemics of malaria and other diseases that are sweeping the country, the government has scornfully rejected all offers of medical help from abroad. As a result of this extraordinary isolation, next to nothing is known of conditions in central Cambodia or in the ghost cities emptied of their populations.

HOW DID THE FREE WORLD REACT?

It is hard to conceive of the degree of power the rulers of Cambodia exercise through total terror and absolute dictatorship. Many revolutions have tried to efface the past as a necessary conditon for the building of a new order. But none has succeeded, as this one has, in obliterating, in less than two years, the old social structure, the economy, the customs and culture of a country, and in extirpating every germ of liberal thought, every manifestation of a difference of opinion. Books and archives have been burned. Pagodas, statues of Buddha, shops, museums, money itself—all have been physically destroyed. With the cold calculation of a surgeon, the authorities are trying to eliminate every last vestige or memory of the old ways in order to fabricate a new-model citizen. (There are even unconfirmed rumors that the great monuments at Angkor Wat have been razed in the insane zeal to obliterate all memories of the past.)

"Shortly after the fall of the capital, students and teachers—friends of mine—began to disappear," I was told by Sean Khy, a 21-year-old student. "They were not former soldiers or government officials. The idea, it became clear, was to do away with all 'intellectuals,' that is, with educated people. I was then working in the country near Battambang, so I pretended to be an illiterate farmer. The worst thing I could have done would be to admit I was a student."

"What about left-wing students and teachers, those who had opposed the old government?"

"They made no distinction it wasn't a question of vengeance; they simply decided to eliminate anyone who was contaminated by the culture of the past."

It is hard to realize the savagery and the cruelty with which the Cambodian revolution is pursuing its goals.

"What did they say in the West about the evacuation of Phnom Penh?" a refugee wanted to know. He had lost every member of his family in ways too paintful to repeat. I said nothing. "But surely you heard what happened in the days following April 17, 1975," he insisted.

Yes, we had read accounts of that horror, of the three million inhabitants of the capital who were told to leave for the countryside within hours; of the hospitals brutally emptied of their patients, with the beds of the gravely ill pushed out onto the streets; of the hundreds of thousands of people crowding the roads out of Phnom Penh. Old people collapsing, fever-ridden children dying in their tracks. The smell of rotting flesh was said to be unbearable. The Khmer Rouge, some of them only 13 or 14 years old and only too happy to use their weapons, finished off the stragglers. Yes, we had heard accounts of that.

"Tell me," he asked again, "how did the free world react?" Did he imagine that there had been demonstrations in New York and Paris, that indignant editorials were written, or that urgent meetings of the UN Security Council had been called? I didn't have the heart to tell him that in the West almost no one spoke then, or speaks today, of Cambodia.

I asked all the Cambodians I talked to just who was giving the orders, who had the real power. The answer was always the same: "Angkar."

"Who watches you, who feeds you, who punishes you?"

"Angkar."

This sinister and mysterious Khmer word crops up in every conversation. It is generally translated as "organization." In other countries people talk about "the party," or "the government," or "the secret police." In Cambodia nobody knows exactly who is what, or what the relations are between the government and the army. All they know is that above and beyond everything else there is "the organization," the mysterious, ever-present, all-powerful "Angkar." It has representatives in each village who are responsible only to the chief of a four-village group. He, in turn, receives orders from the chief of four four-village groups; and so on up the line. All of the organization's agents are soldiers, the black-clad Khmer Rouge. They live apart from the villagers, intransigent and unapproachable. They have power over life and death; there is no appeal from their judgments.

THE FOUR FACTIONS

Who runs Angkar? Is it the intellectual, French-educated fanatic, 46-year-old Khieu Samphan, the head of the Presidium? Is it Prime Minister Pol Pot? Or Ieng Sari, the Hanoi intellectual who isn't even Cambodian and whose Vietnamese name is Nguyen Sao Levy? Or the Communist Party Secretary General, Saloth Sar, whose name hasn't been mentioned for the last two years? No one knows.

Some Free Khmer, recently returned from ten months in the jungle, have brought out stories that are interesting but hard to verify. The Khmer Rouge are said to be divided into four factions: (1) the pro-Chinese, (2) the pro-Soviet, (3) the pro-Vietnamese, and (4) a group that wants to collaborate with the former head of state, Prince Norodom Sihanouk. The Free Khmer report that peasants have seen soldiers firing at each other. Deserters from the Khmer Rouge have confirmed the existence of dissident armed groups, but how important these operations are no one seems to know. For the moment Angkar seems to have the situation well in hand.

When I returned to Bangkok from the frontier area, I read the only interview ever given by Khieu Samphan. It was given to an Italian journalist at last summer's Colombo conference.

"In five years of war," Khieu Samphan told him, "more than a million Cambodians died. The present population of the country is five million. Before the war it was seven million."

"What happened to the other million?" the journalist asked. Samphan was annoyed.

"It's incredible," he said, "the way you Westerners worry about war criminals."

OUTSTANDING MEMBER OF THE CINCINNATI BETTER BUSINESS BUREAU

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to a distinguished citizen in my district. Mr. George C. Young has spent 40 years serving consumers in the Cincinnati area through his dedicated work for the Cincinnati Better Business Bureau.

The bureau is a 54-year-old Ohio not-for-profit corporation which provides free help and guidance to over 83,000 citizens annually. Mr. Young joined the bureau in 1937, and with professional competence, concern, and unvarying common sense, has worked to make certain that Cincinnati consumers received the goods and services they paid for.

Mr. Young became vice president of the bureau in 1946, and president in 1948. He has been both secretary and a member of the board of governors of the Association of Better Business Bureaus—now known as the Council of National Better Business Bureaus—and he is currently a member of the council's management committee.

It is an honor for me to recognize Mr. Young at this time and to compliment him on his fine work with the Cincinnati Better Business Bureau.

BABE RUTH BASEBALL CHAMPS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1977

Mr. SOLARZ. Mr. Speaker, I would like to take a moment to commend the members of the Gil Hodges-Babe Ruth League of Brooklyn, N.Y. This baseball club recently became the first little league team from the United States to win a major international championship.

Establishing themselves in the Middle

Atlantic Regional Contest in early July, 15 boys, with the encouragement and guidance of their coaches, went on to defeat Alabama in August by a score of 3 to 0. In all, they defeated nine championship teams from all over the country, thus winning the World Championship of Little League Baseball.

I would like to take this opportunity to commend each one of these fine sportsmen individually:

THE 1977 BABE RUTH BASEBALL WORLD CHAMPS

1. Darryl Epps, Out Field.
2. Ricky Colacino, Pitcher/Out Field.
3. Anthony Codispoti, Out Field/Pitcher/Third Base.
4. Doug Weaving, Pitcher.
5. James Delitastro, Third Base.
6. Scott Fappino, Second Base/Short Stop.
7. Paul Galante, Second Base.
8. Daniel Gerardi, Catcher (Captain).
9. Dennis Kearny, Pitcher.
10. Anthony Maviscallo, Pitcher.
11. Abel Rivera, Short Stop.
12. William Santo, Third Base.
13. Peter Sceusa, Center Field.
14. Albino Perez, Pinch Hitter.
15. Ben Distefano, First Base.

Manager, Sal Galante.
Coach, Peter Degenova.
Coach, Benny Distefano.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 4, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.
4200 Dirksen Building

Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.)
4221 Dirksen Building

Judiciary
To continue consideration of S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence, and S. 1437, to codify, revise, and reform the Federal criminal laws.
2300 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings to explore the function of prisons in society, with emphasis on rehabilitation.
1114 Dirksen Building

Rules and Administration
To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaty (Exec. N, 95th Cong., 1st sess.), and to hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

8:00 a.m.
Human Resources
To hold hearings on the nominations of Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, Department of Labor; Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board; and John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.
4232 Dirksen Building

9:00 a.m.
Foreign Relations
Foreign Economic Policy Subcommittee
To resume hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

*Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

9:30 a.m.
Armed Services
General Legislation Subcommittee
To hold oversight hearings on the Defense Civil Preparedness Agency.
224 Russell Building

Judiciary
To continue consideration of S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence, and S. 1437, to codify, revise, and reform the Federal criminal laws.
2300 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
4110 Dirksen Building

Judiciary
To hold hearings on the nominations of Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky; Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York; and Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.
2228 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
1114 Dirksen Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

10:30 a.m.
Appropriations
To mark up proposed supplemental apporiations for fiscal year 1978.
S-128, Capitol

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 2093, to require that Treasury Department administrative expenses be covered by regular appropriations; and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.
6226 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
457 Russell Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
2228 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

*10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

10:30 a.m.
Judiciary
To hold hearings on the nomination of Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation, Department of Justice.
2228 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

10:00 a.m.
Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommitee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs

To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
6202 Dirksen Building
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

OCTOBER 4

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

OCTOBER 7

10:00 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 4, 1977*

The House met at 12 o'clock noon.

Rev. Charles L. Yates, Fairview United Methodist Church, Moundsville, W. Va., offered the following prayer:

Our Heavenly Father, in whose hands are the destinies of man and nations, whose paths are mercy and truth, cleanse our hearts by casting out the irregularities we have followed in our own lives, lest in this dangerous day we might build on sand instead of rock.

With Thy blessing may we face this

day with honest dealing and good thinking in order that the world be based on gentleness, patience, and truth.

At this altar of prayer which has been used by our forefathers, please give us strength and guidance that we go forward overcoming our weakness through Thy power from on high.

Please bless this House of Representatives and all our branches of Government. In Thy precious name we pray. Amen and amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Grosso-Padilla.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 1798) for the relief of Kwi Sok Buckingham (nee Kim).

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWONG LAM YUEN

The Clerk called the bill (H.R. 4401) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. That concludes the call of the Private Calendar.

OFFICER GREG MacALEESE RECEIVES 12TH ANNUAL POLICE SERVICE AWARD

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, I would like to bring to the attention of my colleagues that an honor of the highest caliber has been conferred on a friend from Albuquerque, N. Mex.

I speak of Officer Greg MacAleese of the Albuquerque Police Department who was officially named recipient of the 12th Annual Police Service Award as the Nation's top policeman.

The rest of the Nation learned about the award yesterday in the Sunday Parade magazine.

The International Association of Chiefs of Police in conjunction with Parade magazine honor the Nation's top policeman each year with the award and it is, of course, with a great deal of pride that I bring this year's winner to the attention of my colleagues.

In addition to being a solid officer of the law in the generally held concept of the city policeman, Greg is the conceiver and coordinator of a program in the Albuquerque Police Department which has had an incredible success in fighting crime.

What he did was come up with a crime-stoppers project which pays for information from the general public.

The program is getting a good deal of credit for a 27.6-percent reduction in crime in the Albuquerque area and is directly responsible for 261 solved cases and recovery of $286,000 worth of stolen property.

The success of the program should become a beacon to the police forces of the rest of the Nation and the foresightedness of Greg MacAleese a source of pride to men in blue everywhere.

It is with a great deal of pride that I rise to honor Greg MacAleese on this occasion.

THE CONGRESSIONAL STUDENT PROGRAM

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, it is my pleasure to welcome the first group of Fourth Congressional District students from Indiana to the House of Representatives. Mr. Speaker, these students were selected on a nonpartisan, competitive basis and I commend them for their success and enthusiasm.

The purpose of the program is to stimulate student interest in our Government. As the adage says "the youth of today are the leaders of tomorrow." These high school students are getting an inside look at Washington which may encourage them or their friends to seek public service at some juncture in their career.

The congressional student program will be an annual event with the funding and operations of the program derived from a nonpartisan, not-for-profit organization.

The following students are this year's participants:

Bradley Arnold, Howe Military School.
Lisa Butler, DeKalb High School.
Jenny Deeter, Northfield High School.
Sandra DeKoninck, Garrett High School.
Rita Freiburger, Bishop Luers High School.
Julie Hanselman, Homestead High School.
Daniel Henry, Northside High School.
Karen Jensen, Wabash High School.
Randall Jones, Snider High School.
Anne Keck, New Haven High School.
Larry Kelly, Northrop High School.
Ronda Kistler, East Noble High School.
Brenda McAfee, Angola High School.
Lisa McCrum, Columbia City High School.
John Pinnow, Concordia High School.
Ron Scheele, Jr., Heritage High School.
Michele Scheuber, Huntington Catholic High School.
Carmen Sharick, Westview High School.
Valarie Shearer, Prairie Heights High School.

Again, Mr. Speaker, it is my honor to welcome these students.

AMENDING THE CONTROLLED SUBSTANCES ACT EXTENDING THE AUTHORIZATION OF APPROPRIATIONS FOR 3 FISCAL YEARS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5742) to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice is carrying out that act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 5 over to and including line 2 on page 1 and insert:

(2) by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,", and

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us why it is necessary to use this route of a unanimous consent?

Mr. STAGGERS. If the gentleman will yield, in the first place it is to save time. The Senate passed the same bill that we passed with $2 million less authorization.

Mr. ROUSSELOT. Two million dollars less?

Mr. STAGGERS. That is true. Our bill cleared up a lot of things that they had in their bill. They had an open-ended authorization. Ours was definite. They adopted our bill with the exception of just reducing it by $2 million and cutting it down to a 2-year extension instead of 3, so that the Congress could have a review in 2 years.

Mr. ROUSSELOT. Further reserving the right to object, what was the difference between our position of 3 years and theirs of 2 years? Why is that so critical?

Mr. STAGGERS. They wanted a review in 2 years of the Drug Control Act so that they could see how it is going and have more control over it.

Mr. ROUSSELOT. Can the gentleman assure us that other than those two things that he has mentioned, there are no other substantial differences?

Mr. STAGGERS. There are no other differences.

Mr. ROUSSELOT. With the House version?

Mr. STAGGERS. That is correct. It passed the House with only one vote against it when it passed here.

Mr. Speaker, I urge all my colleagues in the House to join me in support of the Senate amendment to H.R. 5742, the Controlled Substances Act Extension. The Senate amendment provides for a 2-year extension of the authorization of appropriations for the expenses of the Drug Enforcement Administration in the Department of Justice to carry out its drug abuse enforcement responsibilities under the Controlled Substances Act. It authorizes a total of $403 million for fiscal years 1978 and 1979.

H.R. 5742 was reported by unanimous vote of the Committee on Interstate and Foreign Commerce and passed the House by a vote of 393 to 1 on the Suspension Calendar.

Mr. Speaker, drug abuse crime costs our society billions of dollars annually in economic and social losses. Heroin-related property crime costs society more than $10 million per day, or over $3½ billion per year. These costs, of course, do not include human suffering of heroin addicts and their families and wasted potential for productivity of heroin addicts.

I believe that this legislation is vital to the Drug Enforcement Administration's efforts to enforce drug laws and to bring to justice those organizations and individuals involved in illegal drug activities. This legislation is also extremely important to the augmentation of our national effort aimed at curbing the flow of abusable drugs into this country by eliminating their sources in Mexico, Southeast Asia, and other countries scattered throughout the world.

We have made great progress in drug abuse law enforcement and in reducing the sources of abusable drugs. Last year, total arrests for high-level heroin traffickers increased 26 percent over the total number of arrests in 1975. Last year almost twice as many conspiracy prosecutions were brought as compared to the number in 1975. In addition, thousands of poppy fields capable of producing approximately 150 tons of 6 percent pure heroin have been destroyed in Mexico during the last year and a half through a cooperative effort between our Nation and the Mexican Government.

Much more needs to be accomplished, however, if we are to have an effective program for the control of abusable drugs and the enforcement of our drug laws.

Mr. Speaker, I urge you and the other Members of the House to vote favorably for the Senate amendment—which is vital to our Nation.

HOUSE/SENATE COMPARISON—DEA AUTHORIZATION EXTENSION

[In millions of dollars]

	House—H.R. 5742	Senate—S. 1232	Agreement
	Number of years authorized		
	3	2	2
Authorization level:			
(a) Fiscal year 1978:			
Sec. 709	190	[1] 182	188
Sec. 103	[2] +0	[3] +6	[2] +0
Fiscal year 1978 (net)	190	188	188
(b) Fiscal year 1979	215	([4])	215
(c) Fiscal year 1980	240		

[1] And such sums as necessary for increases in salary, pay, retirement, other employee benefits, and other nondiscretionary costs which arise subsequent to the date of enactment.
[2] $6,000,000 under sec. 103 repealed.
[3] Sec. 3 not repealed.
[4] Such sums as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Further reserving the right to object, I thank the chairman for his explanation. Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, as the chairman has said, this bill calls for $2 million less authorization than the bill which we sent to them. Furthermore, it extends it for only 2 years, rather than for the 3 years which were authorized under the previous legislation. I support the legislation.

Mr. ROUSSELOT. The gentleman is satisfied that this version before us, except for the two instances mentioned by the chairman and himself, is in no way different from the House version?

Mr. CARTER. I am so satisfied, and I certainly support the legislation.

Mr. Speaker, I rise in support of the Senate amendment to the House-passed bill H.R. 5742 which authorizes funds for 2 years for the continuation of programs under the Controlled Substances Act—which are administered by the Drug Enforcement Administration.

The Senate amendment makes only two changes to the House bill which was passed under suspension on May 17 of this year.

The two changes are:

First. The Senate amendment provides for only 2 years of authorizations—fiscal years 1978 and 1979—rather than 3 years of authorizations in the House-passed bill. Mr. Speaker, I have no objection to the Senate provision with respect to authorization years.

Second. The Senate amendment reduces the authorizations in the House-passed bill by $2 million for fiscal year 1978. Instead of $190 million in the House bill—the Senate amendment authorizes $188 million for fiscal year 1978. Mr. Speaker, I have no objections to this provision of the Senate amendment.

As a result of the changes made by the Senate amendment, H.R. 5742 would provide for a total of $403 million for 2 fiscal years—through 1979.

Mr. Speaker, if these changes are acceptable to the House, there will be no need for a conference on this legislation.

I urge favorable consideration of the Senate amendment to H.R. 5742 which provides continued authorizations for our Nation's important drug enforcement programs.

Mr. ROUSSELOT. Mr. Speaker, with that explanation, I withdraw my reservation of objection.

Mr. ROGERS. Mr. Speaker, I urge all Members to join me in support of the Senate amendment to H.R. 5742.

The House passed H.R. 5742 under suspension of the rules by a vote of 393 to 1. H.R. 5742 amends the Controlled Substances Act to extend for 3 fiscal years the authorizations of appropriations for the expenses of the Drug Enforcement Administration in the Department of Justice in carrying out that act.

The Senate amendment strikes the third year of authorization in the House bill which would result in a 2-year extension of the authorizations and provide a shorter period for us to review the program before the end of fiscal 1979. In addition, it reduces the fiscal 1978 level of authorization of $190 million in the House-passed bill by $2 million, thus providing a level of $188 million for that year. Except for these two differences, the Senate amendment adopts the remainder of the provisions in the House-passed bill.

H.R. 5742, as amended by the Senate, provides authorization levels for the next 2 fiscal years totaling $403 million. It authorizes $188 million for fiscal year 1978 and $215 million for fiscal year 1979.

Mr. Speaker, reauthorization of the Drug Enforcement Administration's program is vital to our Nation's effort for effective enforcement of our laws controlling narcotic, hallucinogenic, and other abusable drugs which cost our so-

ciety billions of dollars annually in economic losses and incalculable social losses.

Mr. Speaker, I want to thank and commend the distinguished chairman of the full committee, Mr. STAGGERS, for his support of this legislation. In addition, I want to thank and commend the gentleman from Kentucky, Dr. CARTER, the ranking minority member of the subcommittee, for his leadership with respect to this legislation. His interest in drug abuse law enforcement has certainly been demonstrated over the years. Finally, I want to thank all the other members of the Subcommittee on Health and the Environment, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. SKUBITZ, for their fine contributions and support of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend and revise their remarks on the bill just under consideration, H.R. 5742.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONCURRING IN THE SENATE AMENDMENTS TO H.R. 9290, INCREASING TEMPORARY DEBT LIMIT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 804 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 804

Resolved, That immediately upon the adoption of this resolution, the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, with the Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendments to the bill be, and the same are hereby, agreed to.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to my colleague, the gentleman from Ohio (Mr. LATTA), for debate purposes, pending which I yield myself such time as I may consume.

Mr. Speaker, I would hope Members would understand that this procedure actually approves an extension of the debt ceiling by virtue of this resolution. There will be no going into the Committee of the Whole House and debating the issue. This resolution (H. Res. 804) provides that the House take from the Speaker's table the bill H.R. 9290 increasing the temporary debt limit and agree to the bill as amended by the Senate on September 30, 1977. Adoption of this resolution would clear the bill for the President's signature.

The Senate amendments to H.R. 9290 provide that the temporary debt limit be increased by $52 billion to $352 billion. This would mean that the total debt limit is increased to $752 billion, including the $400 billion in permanent debt limit. The increase in the temporary debt limit would be effective through March 31, 1978. Members will note that is a different date from what the House originally passed. The bill as passed by the House increased the temporary debt limit by $73 billion through September 30, 1978. The Senate amendments provide for a 6-month extension of the temporary debt limit and are $21 billion less than the figure adopted by the House.

Mr. Speaker, due to the circumstances under which the other body has conducted its proceedings for the past 2 weeks, Chairman ULLMAN has recommended that the House adopt the Senate amendments without an attempt to go to conference. Although the filibuster apparently has been concluded in the Senate, it is still imperative that this bill be adopted immediately since the temporary debt limit expired on September 30, 1977, which simply means we cannot pay our bills or make any further borrowings until we have an extension. Consequently, Mr. Speaker, I urge adoption of House Resolution 804.

I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think it would be well to review a little recent history on this debt ceiling and I hasten to point out at this time that when we vote on this resolution we will be voting an increase in the debt ceiling. No further action by this House will be needed.

On September 19 the House rejected a resolution to increase the national debt for the fiscal year 1978 by $75 billion to a total of $775 billion, and this vote was 180 yeas to 201 nays. This proposal was to extend the national debt ceiling to September 30, 1978. On September 28, after some arms were twisted, the House adopted an almost identical piece of legislation by a vote of 213 yeas to 202 nays to increase the national debt by $73 billion, making a total of $773 billion, until September 30, 1978, the same date as contained in the 19th resolution.

Now what did the Senate do with the resolution passed by the House? What it proposes to do is to cut a bit of the doggy's tail off at a time, and they want to extend the debt ceiling by $52 billion but only to March 31—get that, March 31—1978, which will mean that the House will be back here voting on this very question come next March.

The House and Senate can mislead the people on this issue and say "Look what we have done. We have reduced the national debt request from $773 billion to $752 billion."

I think the American people are wiser than that and they can read the difference in the dates. The first one was until September 30, 1978. This extension is to March 31, 1978, meaning, Mr. Speaker, that the big spending of this administration and this Congress can continue. They are not cutting back. It is going to continue under this resolution unabated.

As I said earlier, they are going to be back here in March requesting an extension of the national debt.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, then what we are doing by this resolution or this proposal is very, very cosmetic. It really in no way puts a control on the excessive spending that both the gentleman from Ohio and myself know as members of the Committee on the Budget is well underway. This is just kind of a phony type of resolution to make it appear that we are actually cutting back on increases in the debt ceiling when, in fact, we are not.

Mr. LATTA. Mr. Speaker, the gentleman states it very accurately.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, can anybody explain why the Senate arrived at this date of March 31, 1978?

Mr. LATTA. I cannot explain that the same as I cannot explain a lot of things the other body does.

Mr. ROUSSELOT. Well, I see our distinguished chairman of the Committee on Ways and Means here. Maybe the gentleman can explain why the Senate selected the date of March 31?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield?

Mr. LATTA. I am happy to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the Treasury has given us and worked out with the staff an estimate as to what they are going to need on a month-by-month basis. That estimate provides an operating cash balance of $12 billion, which is I think proper.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. LATTA. Mr. Speaker, I yield myself 5 additional minutes.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield.

Mr. ULLMAN. And there also is a $3 billion allowance for contingencies. As we look forward to 1978 to that $752 billion figure, taking the cash balance and contingency allowance into account, we find that debt level is reached for the first time on March 31.

It is the feeling of the Treasury that we can survive until March 31 under this ceiling, but we will have to act on the debt limit again by that time, because certainly in April, the next month, we will exceed that amount.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, let me be sure I understand that argument, because I know the distinguished chairman of the Committee on Ways and Means is

quoting from a chart there which is projections from the Treasury and the administration. When the gentleman says that the Treasury believes they can survive on this new limitation on the debt ceiling until March 31, could the gentleman elaborate a little more on what the gentleman means by survive?

The gentleman has just stated that the gentleman has been informed by the administration, and I assume by the Treasury, they can survive, I think the gentleman used the term until March 31 on this lowered ceiling. What does the gentleman mean by survive, what do they mean by survive?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, under the cash balance assumption and the contingency allowance——

Mr. ROUSSELOT. Which is, as I understand, $12 billion.

Mr. ULLMAN (continuing). Of cash balance and $3 billion for the contingency allowance, Treasury arrived at a projected debt level of $752 billion as of March 31. These projections also are based on the monthly patterns of receipts and expenditures, which I feel I must remind the House follow entirely independent patterns.

By April 17 and also May 31, the projection goes up to $760 and $766 billion, respectively, and it is quite obvious that the Treasury could not survive the next month without another increase in the debt limit.

Mr. ROUSSELOT. Does the gentleman mean the month of April?

Mr. ULLMAN. The month of April.

Mr. ROUSSELOT. If the gentleman will yield further, I do not quite understand why they could not survive the month of April because that is when the cash begins to come in on income tax. As a matter of fact, as I understand, is that not really one of their better months of the year on cash flow coming in?

Mr. ULLMAN. Given the way the receipts actually come in and payments go out, the debt peaks in the middle of April at $260 billion. That is the peak time, the middle of April, and by the end of April the debt level would fall off to $748 billion. At the end of April Treasury could survive with the $752 billion limit. The gentleman is right; and in May they could not reach the end of the month because the debt may be $766 billion. That is correct.

Mr. ROUSSELOT. So do we yet know why the Senate decided on the 31st? Why did they not say the end of May or something like that?

Mr. ULLMAN. Let me just say that if the Ways and Means Committee were devising it, the debt limit would not be in this form. But, we have a problem in the other body where they now have to operate under unanimous-consent procedures and very difficult circumstances. As you know, the debt ceiling ran out as of last Friday.

Mr. ROUSSELOT. Did the country shut down as a result of that debt ceiling running out?

Mr. ULLMAN. All borrowing has closed down, including savings bonds, but they have a cash balance that they are operating on.

Mr. ROUSSELOT. How much is the cash balance right now?

Mr. ULLMAN. It was $19 billion yesterday morning. They may borrow under Federal financing authority some $15 billion, and they could operate probably the rest of this week and maybe into next week, if they have to, on that amount. But, it is a very precarious situation. We ought to get back to normal financing, and it is our feeling that we ought to move in that direction as rapidly as possible.

Mr. ROUSSELOT. If the gentleman will yield further, my understanding is that the expenditure level of the Federal Government is not running anywhere near what was anticipated.

The SPEAKER pro tempore. The time of the gentleman from Ohio has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 5 additional minutes.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. BROWN of Michigan. I would like to address a question to the chairman of the Ways and Means Committee. If he has the chart before him that Treasury has prepared, as far as total borrowing needs are concerned, there is a $52 billion figure for the period up to March 31. What does that come out to if extended to September 30, 1978?

Mr. LATTA. If the gentleman will permit me, I will insert in the RECORD those projections.

Let me say in answer to the gentleman's question that on September 29 the Treasury projected the public debt requirements for fiscal year 1978 to be $783 billion.

Mr. BROWN of Michigan. If the gentleman will yield further, for all intents and purposes this is a worse resolution, far worse, insofar as raising the ceiling, than was the measure that was defeated by the House in the first instance. It contemplates a projection of an additional $83 billion of debt ceiling rather than the $73 billion passed by the House, and the $75 billion defeated by the House. I thank the gentleman for yielding to me.

Mr. LATTA. Mr. Speaker, let me refer to the report of the Ways and Means Committee on H.R. 9290, page 6, it set forth the table in which the Treasury projects the public debt on a month-to-month basis. Many Members might not have this in hand at this time. So let me just say that on April 28, as the gentleman from Oregon has pointed out, it will be $748 billion; on May 31, $766 billion; June 15, $773 billion; June 30, $761 billion; July 31, $767 billion; August 31, $778 billion; and September 29, $783 billion.

So, in answer to the question of the gentleman from Michigan, the only way we could possibly get down to the figure passed by the House of $773 billion is to cut back on spending between now and then or increase revenues.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Mr. Speaker, I am not quite sure, because I have forgotten quite what the rules are when one is attempting to refer to the other body, but I would ask my colleagues to look at the discussion of this proposal in the other body; and there they will find, on behalf of the Senate Finance Committee, the remarks of the manager of the bill, the distinguished senior Senator from Virginia, Mr. HARRY F. BYRD, Jr. Let me quote for the Members what he responded to a question. The question that was propounded in the other body was as follows:

> Do I understand the Senator to say that the House bill provides for an increase of $72 billion and the period to be one year?
>
> The manager said:
>
> That is correct.
>
> The question was:
>
> The amendment has it $52 billion for six months?
>
> The manager said:
>
> For six months, that is correct.
>
> The question was:
>
> I am trying to rationalize in my own mind. If we allow $52 billion in six months, is that less conservative than $72 billion in one year?
>
> The manager said:
>
> No. It is more conservative for this reason. The peak period is prior to the receipt of the April income tax funds which are received, for the most part, in April, and then the need for money decreases from there on through the rest of the year.

That was the rationale that was given in the other body for the 6-month extension proposed by the other body.

Mr. Speaker, my own view, frankly, is that, given the break in the filibuster, I am not sure we have to do all of this, but I do not think anyone ought to take this vote as being something more than what the House passed when we passed the $72 billion increase. It really is not.

Mr. LATTA. Nor should we take it the other way—that it is any less.

Mr. STEIGER. That I think is accurate.

Mr. LATTA. This is consistent, this $752 billion figure, with the figures that were in the report of the Committee on Ways and Means when this bill passed.

Mr. STEIGER. That is correct.

Mr. LATTA. As the gentleman well knows, I just inserted these figures in the RECORD and projected them out as the Treasury Department has done, and the debt figure soars to $783 billion by September 29. So if we are going to dispute the $752 billion figure that the Treasury Department gives us, then why not dispute the $783 billion figure?

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I appreciate the comments of some of my colleagues in regard to this exercise that we have been going through many, many years. I can recall, back I think the first time that I had an opportunity to question the distinguished gentleman from Arkansas,

Mr. Mills, when he appeared before the Committee on Rules, back close to 20 years ago now, about this exercise, in what I called, in futility in those days, and I think it really has not changed. The facts are, though, that it is still a part of our program. It is still necessary that we go forward, as long as the statutes are as they are at the present time. I am here to hope that we can pay our bills, and I think it is essential, at least for the time being, that we be in a position to do so. And on that basis, Mr. Speaker, I urge the adoption of the resolution.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to my colleague, the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. I thank the gentleman for yielding.

Mr. Speaker, I want to just say to the Members of the House that I, for one, do not believe this is an exercise. I do not subscribe to the thinking of some individuals that we should have no ceiling on the national debt. I know that there are certain leaders in this House who have said, and I have heard them say it, that they do not believe in a debt ceiling. We should just spend, spend, and spend.

I believe in a debt ceiling because it is some restraint. It causes this body, the other body, and the people downtown to at least think about what they are doing to generations yet unborn.

From this viewpoint, I do not think it is a mere exercise. I do not think we ought to do away with it, and we should not refer to it lightly, as it is an important piece of legislation.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. SISK) has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I think it is high time for the media and the country to pay heed to this legislation. I plead with them to pay heed to it, because if we were just passing on the debt, that would be one thing, but we cannot escape the cost of the interest. The interest for this next fiscal year is going to run about $46.9 billion, and the taxpayers are going to pay it whether they like it or not; and that is the fourth highest item in the budget. Although they might say this does not affect us and it does not mean anything, the fact is that it does because all taxpayers are going to have to share in paying the interest. We may believe we are going to escape the responsibility of paying the debt by passing it on to our children and our grandchildren, but we cannot escape paying the interest.

Mr. Speaker, I think it is time for the American people to take note of this fact and to become aware of what this House is doing to them.

Mr. SISK. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, let me say that I recognize the right of my good friend and colleague, the gentleman from Ohio (Mr. LATTA), for whom I have the greatest respect, to have his opinion. I have felt through the years that this is generally an exercise in futility. I still think so, because it certainly has not restrained our spending because we are prone to vote for increased spending when the bills come up on the floor of this House.

The point I am trying to make to my colleagues on the floor is that we have to pay our bills and, therefore, we have to provide for this increase in the temporary debt limit.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SISK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 194, not voting 17, as follows:

[Roll No. 622]

YEAS—223

Abdnor	Fraser	Patterson
Addabbo	Frenzel	Pattison
Akaka	Fuqua	Pease
Alexander	Gephardt	Pepper
Ambro	Gibbons	Perkins
Ammerman	Gonzalez	Pettis
Anderson, Ill.	Gore	Pickle
Annunzio	Hamilton	Pike
Applegate	Hanley	Poage
Ashley	Hannaford	Pressler
Aspin	Harrington	Preyer
Badillo	Harris	Price
Baldus	Hawkins	Pritchard
Beard, R.I.	Hefner	Quie
Bedell	Heftel	Rangel
Beilenson	Hightower	Reuss
Benjamin	Holland	Richmond
Bennett	Holtzman	Roberts
Biaggi	Horton	Rodino
Bingham	Jeffords	Roe
Blanchard	Jenkins	Roncalio
Boggs	Jones, N.C.	Rooney
Boland	Jones, Okla.	Rose
Bolling	Jordan	Rosenthal
Bonior	Kazen	Rostenkowski
Bonker	Kildee	Roybal
Brademas	Krebs	Ruppe
Breaux	Krueger	Ryan
Breckinridge	LaFalce	Scheuer
Brodhead	Le Fante	Seiberling
Brooks	Lederer	Sharp
Brown, Calif.	Leggett	Shipley
Burke, Calif.	Lehman	Simon
Burke, Mass.	Long, La.	Sisk
Burleson, Tex.	Long, Md.	Slack
Burlison, Mo.	Lundine	Smith, Iowa
Burton, Phillip	McCloskey	Solarz
Carney	McCormack	Spellman
Chisholm	McFall	St Germain
Clay	McHugh	Staggers
Cohen	McKay	Stanton
Conte	McKinney	Stark
Conyers	Madigan	Steed
Cornell	Maguire	Steers
Cornwell	Mahon	Steiger
Cotter	Mann	Stratton
Danielson	Markey	Studds
Delaney	Mazzoli	Thompson
Dent	Meeds	Thornton
Derrick	Metcalfe	Tsongas
Dicks	Meyner	Tucker
Dingell	Mikulski	Udall
Dodd	Mikva	Ullman
Downey	Mineta	Van Deerlin
Drinan	Minish	Vanik
Duncan, Oreg.	Mitchell, Md.	Vento
Early	Moffett	Waggonner
Eckhardt	Mollohan	Walgren
Edgar	Moorhead, Pa.	Waxman
Edwards, Ala.	Moss	Weaver
Edwards, Calif.	Murphy, Ill.	Weiss
Eilberg	Murphy, N.Y.	White
Evans, Colo.	Murtha	Whitten
Evans, Ga.	Myers, Gary	Wiggins
Fary	Myers, Michael	Wilson, C. H.
Fascell	Natcher	Wilson, Tex.
Findley	Nedzi	Wirth
Fisher	Nix	Wright
Flippo	Nolan	Yates
Flood	Nowak	Young, Mo.
Flowers	Oakar	Young, Tex.
Foley	Oberstar	Zablocki
Ford, Mich.	Obey	Zeferetti
Ford, Tenn.	Ottinger	
Fowler	Patten	

NAYS—194

Allen	Fithian	Miller, Ohio
Anderson, Calif.	Florio	Mitchell, N.Y.
Andrews, N.C.	Flynt	Montgomery
Andrews, N. Dak.	Forsythe	Moore
Archer	Fountain	Moorhead, Calif.
Armstrong	Frey	Mottl
Ashbrook	Gammage	Murphy, Pa.
AuCoin	Gaydos	Myers, John
Badham	Gilman	Neal
Bafalis	Ginn	Nichols
Barnard	Glickman	O'Brien
Baucus	Goodling	Panetta
Bauman	Gradison	Pursell
Beard, Tenn.	Grassley	Quayle
Bevill	Gudger	Quillen
Blouin	Guyer	Rahall
Bowen	Hagedorn	Railsback
Brinkley	Hall	Regula
Broomfield	Hammer-schmidt	Rhodes
Brown, Mich.	Hansen	Rinaldo
Brown, Ohio	Harkin	Risenhoover
Broyhill	Harsha	Robinson
Buchanan	Heckler	Rogers
Burgener	Hillis	Rousselot
Burke, Fla.	Hollenbeck	Rudd
Burton, John	Holt	Russo
Butler	Hubbard	Santini
Byron	Huckaby	Sarasin
Caputo	Hughes	Satterfield
Carr	Hyde	Sawyer
Carter	Ichord	Schroeder
Cavanaugh	Ireland	Schulze
Cederberg	Jacobs	Sebelius
Chappell	Jenrette	Shuster
Clausen, Don H.	Johnson, Colo.	Sikes
Cleveland	Jones, Tenn.	Skelton
Cochran	Kasten	Skubitz
Coleman	Kastenmeier	Smith, Nebr.
Collins, Tex.	Kelly	Snyder
Corcoran	Kemp	Spence
Coughlin	Ketchum	Stangeland
Crane	Kindness	Stockman
Cunningham	Kostmayer	Stump
D'Amours	Lagomarsino	Symms
Daniel, Dan	Latta	Taylor
Daniel, R. W.	Leach	Thone
Davis	Lent	Traxler
de la Garza	Levitas	Treen
Dellums	Livingston	Trible
Derwinski	Lloyd, Calif.	Vander Jagt
Devine	Lloyd, Tenn.	Volkmer
Dickinson	Lott	Walker
Dornan	Lujan	Walsh
Duncan, Tenn.	Luken	Wampler
Edwards, Okla.	McClory	Watkins
Emery	McDade	Whitehurst
English	McDonald	Whitley
Erlenborn	McEwen	Wilson, Bob
Ertel	Marks	Winn
Evans, Del.	Marriott	Wydler
Evans, Ind.	Martin	Wylie
Fenwick	Mathis	Yatron
Fish	Mattox	Young, Alaska
	Michel	Young, Fla.
	Milford	
	Miller, Calif.	

NOT VOTING—17

Collins, Ill.	Howard	Runnels
Conable	Johnson, Calif.	Stokes
Corman	Keys	Teague
Diggs	Koch	Whalen
Giaimo	Marlenee	Wolff
Goldwater	Moakley	

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Wolff against.

Mr. Conable for, with Mr. Runnels against.

Mr. Whalen for, with Ms. Keys against.

Mr. Moakley for, with Mr. Goldwater against.

Mr. Howard for, with Mr. Marlenee against.

Until further notice:

Mr. Corman with Mr. Teague.

Mr. Giaimo with Mrs. Collins of Illinois.

Mr. Koch with Mr. Diggs.

Mr. PRESSLER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3 to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and without objection, appoints the following conferees: Messrs. ULLMAN, ROSTENKOWSKI, CORMAN, PIKE, VANIK, STAGGERS, ROGERS, SATTERFIELD, PREYER, SCHEUER, CONABLE, DUNCAN of Tennessee, CARTER, and MADIGAN.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9375, MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. 95–659) on the resolution (H. Res. 807) providing for the consideration of H.R. 9375 making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE LABOR REFORM ACT OF 1977

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 799 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 799

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except germane amendments printed in the Record at least one legislative day prior to consideration thereof. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, a great many things have been said about this rule, and I keep rereading it to be sure that I really know what is in it. The fact of the matter is that it is a very simple, straightforward, open rule which, of course, as practically every rule that is considered by this House and every bill that comes before this House, is very careful to attend to the problem of germaneness. The amendments that are in order under this open rule are bound to be germane under the rules of the House, and that apparently is the great complaint of those who criticize the rule. They want something more than the normal procedure. They want an opportunity to offer nongermane matter.

I do not propose to pursue this further at this time, but I want to assure the Members that this is a normal rule, an open rule, and it will give Members a full opportunity to debate the matter.

One other aspect of it is that, as we have done in a variety of other circumstances, on a variety of other bills, because this is a difficult and complicated matter, we have required in this proposed rule that amendment to the bill be printed in the RECORD 1 day in advance of their being called up. It is not, in my judgment, onerous. I think this is a fair rule. It is a sensible rule which will allow the House to work its will.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a few years ago there was a popular song entitled, "The Railroad Runs Through the Middle of the House." I cannot think of a better theme song for the proponents of this legislation and the way they are attempting to railroad it through this House. The report was filed just a week ago today. Late the following day we received notice that the matter would be heard in the Rules Committee the next morning, in clear violation of our committee rule requiring 48 hours advance notice of a meeting. The escape clause, of course, is a waiver of that rule for "emergency" matters, and so this was brought up under the guise of being some kind of great emergency—with the fate of the Nation presumably hinging on the passage of this bill. And, to top it all off, the proponents came asking for a rule requring 2-day advance publication in the CONGRESSIONAL RECORD of any amendments. That would have meant having all amendments in the RECORD last Friday if this were brought up today. While the Rules Committee amended that to 1-day advance publication, the requirement is still a travesty on our free and open legislative process and an insult to every Member of the House. Since when has the National Labor Relations Act become so sacrosanct and complex that we cannot be trusted to offer amendments from this floor as we do with all other legislation?

Mr. Speaker, who's kidding whom? This is no great emergency! The national labor law is not all that complex or intricate! The Members of this House are not a pack of illiterates when it comes to writing amendments!

Let's level with our colleagues and the American public and let them know who's really running this railroad through the middle of the House. I do not think I would be telling tales out of school if I disclosed that this bill was written by and for organized labor and that the only "emergency" is the majority leadership's panicked attempt to salvage some kind of reward for organized labor in this first session, after so many other ill-conceived labor-backed bills have been defeated or sidetracked.

Apparently the lesson that has been learned from those earlier setbacks is, if you cannot win on the merits, then smash 'em with a blitzkrieg, because that is exactly what we are being treated to with this procedure. But I frankly do not think my colleagues on either side of the aisle are going to take kindly to being treated in this fashion, regardless of where their sympathies might lie with respect to organized labor and this legislation. Our Constitution did not intend for us to lie down as 435 railroad ties for any special interest locomotive to run over. We were sent here to represent and reconcile a multiplicity of interests and, above all, to serve the national interest.

But a close examination of this legislation and this procedure will reveal just how difficult, if not impossible, things have been made for us to fulfill our legislative responsibilities and legislate in the national interest. The rule before us has been referred to by the proponents of this bill as a "modified open rule." But, taken together with the way the bill has been carefully drafted and the parliamentary deck has been stacked, the fact is this is little more than a gag rule. We are now informed by some that the major substantive amendments offered in the Education and Labor Committee, the so-called Employee Bill of Rights amendments, are somehow not germane to a bill which purportedly is designed, in the words of President Carter, "to insure that our labor laws fulfill the promise made to employees and employers when the Wagner Act was passed 42 years ago—that working men and women who wish to bargain collectively with their employers, in a way fair to both, shall have a reasonable and prompt chance to do so."

What could be more germane to this legislation than amendments which are designed to insure that our labor laws are fair to both employer and employee, and that workers be protected against unfair practices carried out by either? And yet, the procedure we will be operating under with this so-called modified open rule will prevent the offering of such amendments. It is a bit ironic that

in the past the leadership has justified such closed procedures on the grounds that amendments might upset the intricate balance inherent in a particular bill—be it an energy bill or a tax bill. And yet today, we are expected to accept a closed procedure which in effect will maintain a blatantly imbalanced bill. And I would submit, Mr. Speaker, if we accept this procedure and pass this imbalanced bill, we will have enacted a labor reform bill, not a reform bill. And I would caution my colleagues about the dangerous implications this would have for future labor-management relations.

I think the ranking minority Member on the Education and Labor Committee hit the nail on the head in his remarks last Friday in the RECORD, when he highlighted just how imbalanced this bill is. To quote from those remarks:

> I am concerned that H.R. 8410 is not written in a manner to provide equal treatment for employees, employers, and labor organizations. The bill legitimately seeks to protect an employee's right to join a union. However, the bill from what I have heard does not adequately protect an employer's rights to due process during an organization drive.

He went on to say, and again I quote:

> While the bill provides penalties against employers who commit unfair labor practices, it does not provide comparable penalties for labor unions who commit unfair labor practices. In a like manner, an employer could be debarred from Federal contracts for committing an unfair labor practice, yet a union would not be subject to comparable penalties. Also, an employer would be subject to "making whole" the loss of economic benefits of employees lost due to an employer's refusal to bargain. The bill does not address itself to the loss of employee wages and benefits caused by illegal union activity.

Mr. Speaker, I would strongly urge my colleagues to strike a blow for fairness, openness, equal treatment and balance by voting down the previous question on this rule so that we can offer a substitute rule that will make this a truly open legislative process by making in order the "Employee Bill of Rights" amendments. Without such a rule this legislation is not even deserving of our consideration because it would destroy the proper balance in labor-management relations and thereby be detrimental to the national interest. I urge defeat of the previous question and support for such a substitute rule.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield for a short observation?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, in that case, the gentleman from Illinois saying what the gentleman thinks is the theme song, for the record ought to be changed to, "The Little Engine That Could."

Mr. ANDERSON of Illinois. That remains to be seen. Maybe it will be demonstrated that the engine will not run as smoothly through this Chamber today as some think it will.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, may I just say as one of those on our side who wants very much to be able to support the labor reform program, I agree with what the gentleman from Illinois has said. It seems to me it was a bad tactical mistake to have this kind of a rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for the gentleman's contribution.

I recognize that the gentleman from Illinois (Mr. RAILSBACK), along with many others in this House, support some change in the present law as it pertains to the procedural rights of unions; but fair is fair. The Members ought to have the right to consider this very, very important measure, in all its ramifications.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, the bill before us today, the Labor Reform Act of 1977, includes some very needed improvements in the country's labor law. It also includes, as recognized by spokesmen from both major political parties and liberal and conservative viewpoints alike, some more dubious provisions. It would be a shame if the good in this bill were to go down with the bad, but that is precisely what the leadership is now risking through this "modified closed rule" on debate of the bill.

I urge my colleagues to overturn this restrictive debate rule. It allows only a limited number of amendments to be offered, requiring that all potential floor amendments be printed in the CONGRESSIONAL RECORD in advance of debate—which obviously does not allow any flexibility for adapting to the parliamentary situation on the floor at any given time—and allowing the leadership to throw out even amendments to the National Labor Relations Act itself on strict "nongermaneness" grounds. As a result, we will not have, if this rule for debate is railroaded through, an open forum for discussing comprehensive, well-rounded labor law reform.

Much of that reform is vital, and it should not be held hostage to a procedure for stifling debate of the bill as a whole. For example, there is the need to insure expedited election procedures on union representation; experience has shown that waits of 75 days, or even longer when hearings and other delays are involved, can transpire before employees are allowed to vote. This bill would outline needed guidelines for speedy conduct of those elections. It would, furthermore, increase the penalties for noncompliance by dilatory and unfair companies, award wages and benefits to those unlawfully fired for legitimate union activities, and allow union access to company property and time for organizing purposes if the company has likewise employed official time and property for antiunion campaigning. All of these reforms, properly written and administered, could be meritorious efforts to assure workers the freedom to debate union-related questions without fear of bias or reprisal.

But, as is usually the case with massive and complicated pieces of legislation, other aspects of the bill deserve reexamination. As the Washington Post correctly stated this morning in its reasoned editorial on the subject, "not all virtue is on one side" in such matters; and there are, the Post continued, "doubts about the way in which the bill before the House attempts to remedy those problems" of election delays and weak penalties. I agree with the editors of the Post that the bill's "shortcomings" need to be "cleaned up" before passage, and with the Chicago Tribune that the bill, despite its salutary sections, "has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it."

What are these shortcomings and imperfections, that they trouble even papers like the Post and Tribune? The lack of a guarantee for the employee of secret ballot union elections. The lack of limitations on the fines that unions themselves can levy against their members. The lack of guarantees of protection for those whose religions include conscientious objection to union membership, limited though they may be in number.

Moreover, the bill, without amendment, will deny Federal contracts to all employers found in violation of labor laws. The Post expresses, as well as I could, the fallacy of that well-intentioned provision:

> Taking away government contracts punishes workers as well as companies and may sometimes leave untouched the corporate officers who are responsible for the wrongdoing.

The bill also delegates to the National Labor Relations Board no flexibility at all in setting late deadlines for representation elections, even where extraordinarily complex issues and difficult determinations of the bargaining unit may be involved.

The Post concluded today:

> That is not what you would call a decent job of reforming the nation's labor laws

Rather, it is a hasty and counterproductive effort to debate a worthy legislative intent through undemocratic methods. That is not to say that many elements of this bill do not deserve early passage into law, for they do; it is simply to say that the bill as a whole has, as inevitably it must, some Education and Labor Committee provisions that merit reconsideration by the full House. If the leadership of this House attempts to smother all debate of those issues through a restrictive rule—if, in short, it is successful in prostituting the democratic process by denying open debate and amendment of this vital legislation—then I, and many other Members concerned with the working man's welfare, will have no choice but to vote against the railroaded passage of the bill itself. I urge my colleagues to reject that extremist course, and to vote for open and democratic consideration of this important legislation.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. CRANE. I thank my distinguished colleague for yielding to me. I would like to associate myself with his remarks.

Mr. Speaker, it has been a long time since the House of Representatives has been asked to vote on a bill with as many built-in biases as can be found in H.R. 8410 which we are discussing here today. Not only would this legislation give union organizers a number of advantages at the expense of both employers and employees but this bill deliberately discriminates against one portion of this great country of ours—a portion that, by its own choosing, has established a favorable business climate not at the expense of workers but to the benefit of all.

If that were not bad enough, the proposed rule under which proponents of H.R. 8410 would have us consider this legislation, is so restrictive that many of the amendments or substitutes that might be offered to mitigate the bill's bad effects cannot be offered. Only one substitute seems to be in order—one that will permit proponents to recoup any losses they might suffer during even the very limited amendment process—and the amendments themselves are so limited that alternative concepts cannot be introduced. In short, we are being asked to accept the basic premises and framework of H.R. 8410 as they stand and are only being allowed to make minor changes in the form. Such a procedure is, in my opinion, inappropriate to such an important piece of legislation and I urge that it be rejected.

I would also suggest that, if the rule for H.R. 8410 is defeated, it will give the Members of this body a little more time to look at the ramifications of this bill. While there has been a goodly amount of publicity on this legislation, and its forerunner, H.R. 77, I think it is fair to say that the committee of jurisdiction has not given very much attention to alternative proposals that might do a far better job of promoting meaningful labor reform. As a consequence, we are being asked to pass a bill, long before the Senate can be expected to act, and which even today's editorial in the Washington Post says is one sided. To quote the Post:

> Employers are not the only malefactors in labor disputes. Unions, too, sometimes break the law.

The fact that H.R. 8410 focuses entirely on violations of the labor law by business, without admitting that union violations ever occur, is only one of the problems stirred up by this legislation. In addition to shifting the thrust of labor law from being "remedial" to being "punitive," this bill is first and foremost designed to make it easier for unions to organize workers even if they do not want to be organized. In that regard, in fact in most regards, the measure is very much like H.R. 77. In a phrase, it all but does away with the concept of an unfettered certification election to determine what, if any, union shall represent workers in a given plant, and then goes on to help insure that once organized those workers stay organized—at the expense of the American consumer.

Indeed, a brief comparison between H.R. 77 and H.R. 8410 is most revealing. While H.R. 77 only permits the extension of the terms of members of the NLRB until a successor is selected, HR. 8410 permits the "packing" of that Board by two prounion members. Moreover, while H.R. 77 only required certification elections to be held within 45 days, H.R. 8410 requires that many of them be held in 15 days and effectively prevents an employer from contesting the process or results in instances where the employer feels irregularities have taken place.

In addition, H.R. 77 said nothing about giving the unions the right to lobby employees about a certification election on company time; H.R. 8410 gives the unions that right. And, if all that were not enough, H.R. 8410 spells out the "make-whole" penalties an employer would be forced to suffer if he was found guilty of refusing to bargain while H.R. 77 only said the NRLB should award damages to the employees.

True, the treble backpay provision of H.R. 77 was reduced to double backpay—in an instance where an employee was found to have been inappropriately discharged for union activities—and the requirement of H.R. 77 that a union must be certified if it collected election authorization cards from 55 percent of the members of a prospective bargaining unit was dropped from H.R. 8410. But on balance a good case can be made for the fact that the little publicized additions to H.R. 8410 more than offset the supposed losses suffered by the unions in this so-called compromise. So, if there are any of you who believe that you are voting for a "compromise", think twice and then vote against this rule so that you will have a chance to look at H.R. 77 and H.R. 8410 a bit further.

I think you will find that, in practice, H.R. 8410 will insure the outcome of a certification election almost as surely as H.R. 77 would have done and that it carries with it some special benefits for the labor union organizers that even H.R. 77 did not have. Whether H.R. 8410 is worse than H.R. 77 is something that every Member will have to decide for himself; but one thing for sure it is not so much better than H.R. 77 that a Member can justify voting for it on a "lesser of two evils" basis. Put plain and simple, H.R. 8410 will enhance the leverage of union organizers at the expense of employers and employees alike.

Which brings me to a final point. What we should be doing when we consider labor law reform—and obviously will not be able to do if this rule is adopted—is insure that employees, as distinct from union organizers, are protected under the law, and at the same time provide that unions and management be treated equally by the law with as little interference, especially biased interference, as possible by Government. Nothing is said in H.R. 8410 about giving employees the right to stay out of a union as well as get in one—and something should be said. No guarantee of a secret ballot for employees during certification and strike votes is provided—and it should be. No sanctions are included when the unions violate the rights of employees—and something should be included. But, none of these things can be done when all we can do is tinker with the form of H.R. 8410 without being able to do much to alter the substance.

Mr. Speaker, if we are going to consider this bill at all, and I frankly would prefer that we looked at an altogether different approach, at the very least we should consider it under an open rule. I urge my colleagues to join me in requesting such a rule by voting down the rule that is being proposed to us.

Mr. ANDERSON of Illinois. Mr. Speaker, I am going to ask for a recorded vote on the previous question. If we prevail in that vote, I will offer a very simple amendment to this rule:

> On page 2, strike all after the period on line 3, through the period on line 7, and insert in lieu thereof the following: It shall also be in order to consider without the intervention of any point of order any portion of the bill H.R. 8310 as an amendment to the committee amendment in the nature of a substitute or any amendment in the nature of a substitute thereto.

Mr. Speaker, it seems to me that if we do less than adopt that kind of a rule, if we adopt instead the restrictive rule that was voted out of the Committee on Rules on what is clearly an unbalanced bill that does not address the problem with the kind of perspective and balance that the country has the right to expect, then I say to the Members that we are simply building a bridge halfway across the river, and then we are going to ask the Members of this body to march over that half completed bridge. Everyone, I am sure, will agree that action of that kind is simply going to put us in over our heads in deep trouble, and instead of reforming the labor laws of this country, we will have ended up deforming the very process which we are trying to change.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, we have heard it said that this is a closed rule. If this is a closed rule, I would hate to see an open one. There are pending now in the record over 170 amendments to almost every word, comma, and semicolon to be found in this bill. This is a matter concerning which I want to ask certain questions when we get through. This is a difficult problem. It is a difficult matter on which we are compelled to vote. I would submit to the Members that this bill would probably not be before us today except for the tyrannical misuse of power of one giant billion-dollar corporation known as the J. P. Stevens Co. This is what has brought this matter to a head. Labor has won one election after another in various J. P. Stevens' plants, and they have yet been unable to negotiate a single contract with this company.

Mr. Speaker, let me read to the Members what was said by the Federal court concerning this company. The Federal court of appeals declared:

J. P. Stevens has interfered with, restrained and coerced its employees flagrantly, cynically and unlawfully.

A former Chairman of the NLRB said:

J. P. Stevens is so out of tune with a humane, civilized approach to industrial relations that it should shock even those least sensitive to honor, justice and decent treatment.

It is because of this flagrant misuse of tyrannical power and the attitude on the part of J. P. Stevens, in my judgment, that we are confronted with the need for this kind of legislation. If it had not been for this company, I do not think we would be faced with this bill today.

I would like to read to the Members the conclusions of an independent inquiry by the Ad Hoc Committee of Southern Church Leaders:

The J. P. Stevens Company has opposed union activity by means judged in our courts to have been illegal, and which we believe to be immoral as well.

The tactics of the company have forced the union to launch a nationwide boycott of J. P. Stevens products.

We affirm the right of the workers to organize, to be free of intimidation, and we believe this present boycott is appropriate and justified."

These are the words of the ministers and the church leaders who have looked into this matter. Now it has been thrown into the lap of Congress, and we are asked to do something about the law to stop this kind of abuse.

I do not think it is right to say this is being handled under a closed rule when any Member of this House, up to adjournment time yesterday, could have offered any amendment he wanted to any section, word, comma, or semicolon that is contained in this bill. And indeed the Members must have done that, because according to our report this morning, we have over 170 amendments pending.

I would like to ask the distinguished gentleman from Missouri (Mr. BOLLING) a question about this rule and how we are going to operate under it.

After considering those amendments of merit that we must consider, and after we get into the consideration of at least 160 other amendments, and probably more, that have been introduced strictly for the purpose of delaying action, can the distinguished gentleman from Missouri tell us how we can prevent this House from being tied up for the next 2 or 3 weeks, following the pattern of Senator METZENBAUM and the type of filibuster that was carried on in the Senate during these past 2 weeks? Is there any way we can deal with this matter and avoid tying up all legislative matters before this House for the next 2, 3, or 4 weeks?

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. ALLEN) has expired.

Mr. BOLLING. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. ALLEN).

Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, the only way I can answer the question asked by the distinguished gentleman from Tennessee (Mr. ALLEN) is to say that my experience tells me that the good judgment of the authors of some of those amendments, combined with the interest of the majority of the Members of the House, will prevail and we will not have a filibuster in a House fashion. My guess is that some of those amendments are offered for contingency reasons rather than for reasons growing out of a desire to delay the matter exhaustively.

Mr. ALLEN. But it does make possible a filibuster by certain Members?

Mr. BOLLING. It makes possible a House version of a filibuster. But my experience has been that we have been fortunate in most cases, and it has not been carried through, for two reasons: the good judgment of those who have the amendments pending and the strong opinion of the majority of the House that it does not approve of such tactics.

Mr. ALLEN. Mr. Speaker, I hope the gentleman is correct in his judgment.

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. ALLEN) has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. ALLEN).

Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I will be delighted to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I have a suggestion for the benefit of the gentleman from Tennessee (Mr. ALLEN), if he is concerned about the large number of amendments that now appear in the RECORD and that may be offered to this bill. I think a very simple solution is at hand.

If the gentleman will join with me in voting down the previous question so that I can offer the substitute rule that I discussed in the well just a few minutes ago, I can guarantee the gentleman that it will not take all that much time to offer the provisions of H.R. 8310, which will balance this bill and make it a better bill. In that event, most of the amendments which appear in the RECORD, I think, would be abandoned in lieu of the right of the gentleman from Illinois (Mr. ERLENBORN) to offer those amendments.

Mr. ALLEN. Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) can, the other Members would do or what the other Members would do or what would be contained in the substitutes.

In fact, it has been indicated that perhaps one of the amendments that would be offered as a substitute would provide for a repeal of section 14(b) of the Taft-Hartley Act. That would, of course, embarrass every Member of this body, and I do not want to be a party to that.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I am glad to appear in the well after the statement of my friend, the gentleman from Tennessee (Mr. ALLEN).

I would like to direct his attention to one aspect of this bill which also applies to this rule. He cited the J. P. Stevens Co. He was strangely silent when it comes to the textile workers of this country. He was strangely silent when it comes to union intimidation.

Mr. Speaker, I was at the hearings in Roanoke Rapids and brought out a long list of violent acts by the textile workers in attempting to organize plants. As a matter of fact, I asked the international president how he liked paying a substantial fine in one particular case and he did not like it too well.

Mr. Speaker, I can cite for the record, and I probably will before we are through, the examples of violence facing workers through parking lot intimidation, of throwing rocks at them, of attacking their families.

Mr. Speaker, all is strangely silent over here when it comes to that part of labor-management relations.

I have been a member of this committee for the 16 years that these hearings have been conducted. Indeed, many Americans, unions, employers, employees, attorneys, former board members, many Americans from a wide variety of callings have had complaints about the National Labor Relations Act. However, H.R. 8410 zeroes in on only one small segment of those complaints which we have heard over the 16-year period, the complaints of union organizers who go out to organize and try to get favorable elections throughout the country. A deaf ear is turned to the rank and file union man who has complaints against his union. A deaf ear is turned to the rank and file union man who wants an orderly process in a decertification election, where he has the right to vote a second time on whether he wants to keep his union or not. A deaf ear is turned to making whole the employee who has been intimidated, coerced, injured, and deprived of work by his union. The NLRB simply says, "We are not going to get into that matter."

Yes, I would say to my friend, the gentleman from Tennessee, throw the book at the employer, gloss over the shortcomings that are in the record—and we are going to put them in the record—adopt a rule that makes it impossible to bring balance into this field, and then go back to the American people and try to tell them that we have amended the National Labor Relations Act in the way that it should be amended.

Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) is absolutely correct. The bottom line of this rule is the leadership's telling the Members of this body, "You cannot be trusted."

Do you know why you cannot be trusted? Because they had open rules on situs picketing, and they had open rules on the minimum wage bill.

What happened? The House worked its will—worked its will, I suppose, hopefully, along the lines of what the American people want. However, that is not what the labor leaders want so that, all of a sudden, we have to shore up a difficult bill, a narrow bill, by a rule procedure which makes it possible to cover only a narrow area of the labor-management relations contained in this Act.

Mr. Speaker, I find it personally offensive because this year we had hearings on

H.R. 8410. Witnesses appeared to testify on the bill which was introduced by the gentleman from Illinois (Mr. ERLENBORN) and myself. The hearings were addressed to that bill. We had amendments offered in the Committee on Education and Labor which now, under the rule, cannot be offered on the floor.

We got little more than courtesy. They were offered and rejected, but at least we were able to offer them in the Committee on Education and Labor.

Mr. Speaker, the Members might ask themselves this question: Why were amendments germane in the Committee on Education and Labor less than 2 weeks ago and now are not germane on the floor of the House of Representatives?

Let the Members ask themselves this question, Mr. Speaker; and if we can still call ourselves a deliberative body, I myself will be surprised.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Speaker, I would like to ask the gentleman in the well with respect to all of these 170 amendments that have been offered, whether the abuses of labor to which he has referred will be taken care of through these amendments; and if not, why not?

You have 170 amendments. Do you not address yourself in any of these amendments to the things that you claim are abuses on that part of organized labor?

Mr. ASHBROOK. Of course, we had to do the best we could with the time we have had.

For example, I am interested in free speech. I am interested in the issue of a union violating the rights of the rank and file members. My amendments were not in order, so you have got to sit down and write them so they will be in order and you have got to find out somehow or other to try to write an amendment through which you can do the things you want by going through the back door, things that you cannot do by going through the front door. I have tried to do the things that this rule makes difficult for me to face up to to take care of this problem that you are talking about. If you will follow the reasoning as the gentleman from Illinois (Mr. ANDERSON) has suggested, and join in with us in this effort, this will open up the rule and help us address these problems.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I realize that frequently the perception overwhelms the facts, but it is awfully hard to look at this rule and talk about it as being a gag rule.

We have always considered ourselves as a deliberative body, but not a body of unlimited "wind" as is the other body. We have always thought we had a process which allowed us to work our will through the course of our debates, but that there was never time enough when anybody could just get up and talk on and ramble on forever and ever.

As one looks at this rule, it seems to me to be exactly in the mainstream of our process, a rule that provides the structure and form for the debate that we have always tried to devise. For instance, the rule requires prior notice that amendments must be printed in the RECORD in advance. It seems to me that that ought to be part of the standing rules of the House, and some of us are trying to push the rules in that direction. This deliberative body ought not to have to encounter surprise; it ought to at least allow the managers and the Members of the House to understand what it is we have to do and what it is we are debating; rather, we sometimes have some Member write out an amendment on the back of an envelope, and offer it in the name of hearth, home, and apple pie and have everybody vote for it and then find out a couple of months later that they have voted against consciences, convictions, and feelings.

The rule insists that the amendments be germane. I serve on the Committee on Ways and Means, and, as the Members of the House know, we too often come in with closed rules. I have fought, usually unsuccessfully, to open them up, from time to time, because I think in many instances Members of this body have not had a chance to express themselves on tax matters when they come out of the Committee on Ways and Means. But we have never even presumed to think that we were depriving any Member of this body from their rights by insisting that amendments be germane to the bill we brought before them. If all of the rules on the Committee on Ways and Means bills only had germaneness and advance notice as limitations I would say they are open rules. What we are saying here by the germaneness limitation is to insure that the House focuses on the subject matter that the committee has brought before the House.

Simply because the word "labor" is in the bill does not mean that child labor, or labor pains, or any other kind of labor amendments ought to be in order. I would say that the distinguished gentleman from Ohio (Mr. ASHBROOK) and the distinguished gentleman from Illinois (Mr. ERLENBORN), and others who are active in this field ought to be able to use their ingenuity and imagination, and their knowledge of the way in which this deliberative body operates to see to it that amendments are germane.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield, we have heard it said by the gentleman from Ohio (Mr. ASHBROOK) that these amendments were sufficiently germane when they were offered in the committee to be considered in the committee, and would not the same situation apply here in considering the same amendments, and let these gentlemen offer them again here, particularly in view of the words that I read from the Washington Post editorial a few moments ago that unless we do that we will not have a balanced bill?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. I yield 1 additional minute to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, let me say to my colleague first that his point would suggest that the committee ought to have no supervision over the scope and contents of the bill. Obviously many things are considered in committee, some of which are decided not to be within the scope of the bill that should be brought before the House.

That is the way a committee is supposed to do its screening, as far as I understand it. Simply because a committee looks at a subject does not mean that it automatically makes it germane to the bill it finally brings out.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to my colleague, the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

The question of germaneness was not raised in the committee. There exists a body of rules in this institution. This is one reason why we asked for an open rule. Such amendments as are germane will obviously be germane without a restrictive rule. The question simply was not raised in the committee.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, each one of us in this House of Representatives is sent here to represent between 450,000 to a half a million Americans. It is therefore particularly galling to be told by the majority leadership that we are so untrustworthy that we cannot offer proper amendments to a major labor bill without first having to submit them a day in advance for scrutiny by the House and the bill's managers. The only reason for such a scheme is to allow the majority leadership to work out a strategy to defeat such amendments, rather than dealing with them on their merits. What on Earth is the majority leadership afraid of? You have a majority of 2 to 1. You have a phalanx of labor bosses and their political action funds behind you. Each Member is aware of the political threat that exists. So why must you force the membership to submit in advance their amendments. What a shame that the House is to be treated like so many little children.

Mr. Speaker, the rules of the House are to protect both the majority and the minority, as well as the majority of the American peoples best interests. That best interest is not served by gag rules. The gentleman from Illinois (Mr. MIKVA) who just defended this loathsome rule has been one of the foremost exponents of mangling and changing the rules of the House which have developed over two centuries, because they do not suit his purposes. Many of the procedural changes he has advanced have done real violence to this parliamentary body, and I take it he is not finished yet, if he has his way. Now he tells us that the collective House of the people does not have enough integrity and brains to be trusted to offer amendments unless he and his friends see them first.

I suspect the real fear which haunts him and the leadersehip on his side is the possibility that another big labor bill is about to be rejected just like others before them this year. I hope that fear is well grounded.

Mr. BOLLING. Mr. Speaker, I yield myself 1 minute.

I think the rule of germaneness is probably as important a rule to protect the rights of the institution and the minority as any single rule. The complaint that comes from the minority today is that we are sticking to the rule of germaneness. The attempt to pervert this rule and interpret it as a limiting rule is a joke. This is the standard rule of this institution. It is the key rule that makes us different from the other body. Bills are constantly written by committees with great attention to germaneness, All this is protected here in this rule by its very openness is the rule of germaneness.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, today we are being asked to do something quite extraordinary. Instead of considering H.R. 8410 under an open rule, we are being asked to suspend our normal rules by eliminating the parliamentary procedure of germaneness. We are being asked to depart from our normal procedures and consider issues that according to the rules of the house are wholly unrelated to the bill we have before us. There are apparently those who wish to consider all of Federal labor law today. I strongly suggest that such an open-ended extension of our normal procedures would be a big mistake.

In the committee consideration of H.R. 8410 we carefully considered procedures and remedies under the National Labor Relations Act. We did not consider a wide range of issues that many in both the labor and management communities were strongly urging us to take up. We recognized from the outset that there was a clearly definable problem with the labor laws that related to remedies and procedures under the act. Those are the issues we examined and those are the issues addressed in H.R. 8410.

We are now being asked to reject such a reasoned approach and consider virtually any subject whether or not it is germane to the bill under consideration. Such a suspension of our normal operating procedures would be a disaster. We could be here for days considering amendments on every facet of Federal labor policy. No subject or section of the Federal labor law would be nongermanc.

I strongly urge that we consider H.R. 8410 under an open rule and the rule that has been granted by the Rules Committee.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, some 40 or 50 years ago the labor movement was spawned in an atmosphere of violence—violent strikers and violent strike breakers—and I fear that the violence that attended the birth of the labor movement has marked both labor and management people since. Fortunately most people in management who are of an age to have been affected by the violence back in the twenties and thirties are of an age where they are retired and no longer in a position of influence. However there still remain a few of the labor leaders who were marked by that violence and who still seem to consider labor-management relations in the light of that.

It is a wonder to me that labor-management relations ever result in voluntary agreements between the parties if the kinds of tactics exhibited by organized labor in trying to push this bill through the House are the same kind of tactics that they use at the bargaining table. One would think the people whose work in life is to represent working men, to negotiate and compromise and reach agreement, would know how to negotiate and compromise on legislation in this House. Yet they use the same old tired methods of bludgeoning, of forcing and trying to force their will on the Members of the House rather than the negotiation and compromise that ought to be the mark of their ability to reach agreements.

But the old violent methods are the ones that we are being subjected to here today. No attempt at negotiation or compromise was engaged in, in the subcommittee. After the hearings were concluded the subcommittee was discharged. No negotiation was engaged in by those Members most intimately familiar with the provisions of this bill and the alternate bill, the employee bill of rights. Instead, at the bidding of organized labor, the subcommittee was discharged and the full committee marked up the bill and reported the bill they wanted. No attempt was made to sit down and compromise with the members of the minority.

As one of those active in this fight I did not have one member of labor to come into my office and say: "Look, what could we do to make this bill more appealing to the Members of the House?" Not once did the proponents of this bill sit down with me or the gentleman from Ohio (Mr. ASHBROOK), the ranking minority member of the subcommittee, to see what portions of the bill they could change to protect the rights of employees or what portions of their bill could be changed to be more acceptable to the business community.

Mr. Speaker, the interpretation of the rule of germaneness we understand we will be extremely strict and will not allow any amendments to the National Labor Relations Act other than those sections contained in the committee bill.

I would like to read in addition to the editorial in the Washington Post that was read by the gentleman from Illinois (Mr. ANDERSON), another editorial that was in this morning's paper, the Chicago Tribune. I will not read the entire editorial, but the last paragraph and, by the way, the thrust of this editorial is to say that 2 months ago when they endorsed some of the principles in the committee bill they did not mean they endorsed the bill in its entirety.

I would agree that in the business community there are many that feel the same as the Tribune. Some of the principles that are enunciated as the principles of the committee bill could be endorsed if we had language that would implement them fairly. The Tribune editorial goes on to say:

> H.R. 0410 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections; limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

Mr. Speaker, do not be deceived. This bill before us does nothing for the working men and women of America.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, it is a bill to make life easy for labor bosses and union organizers. As both the Washington Post and the Chicago Tribune have pointed out, we are not doing the whole job if we only look at one side of the coin.

Now, contrary to what my friend, the gentleman from Illinois (Mr. MIKVA) who spoke in the well a little while ago said, if this rule is amended as proposed by my colleague from Illinois (Mr. ANDERSON) we are not going to be amending child labor laws or any other unrelated laws. We are going to make in order those provisions of the employee bill of rights that are clearly laid out in H.R. 8310, introduced before the committee bill, H.R. 8410, nothing more, nothing more. We will remove, of course, the requirement that all Members file their amendments 24 hours in advance, which is an unprecedented restriction on a labor bill.

Mr. Speaker, I urge that we vote down the previous question and support the amendment, so that we can have an opportunity at least for this House to adopt a balanced bill.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, it is difficult for a member of the Committee on Education and Labor to understand quite where my colleague from Illinois (Mr. ERLENBORN) and others who have spoken are coming from. I intend to include in the record here the entire editorial from which Mr. ERLENBORN read, since he just read the caveat in the editorial and not the language indicating that, on the whole, the editorial writer thought that this was a good bill whose time had come.

The Committee on Education and Labor has been holding hearings on this issue and has been involved in this legislation since 1961. The gentleman from Illinois and I have participated for 13 years in hearings on the issues that are in the legislation before us. During

those years, in the course of the hearings, there have been all kinds of suggestions of things that ought to be put in the National Labor Relations Act that are not in the legislation that comes here today. What my friends on the minority side are asking us to do, in effect, is to open the entire National Labor Relations Act so that these issues that many of us feel strongly about can be brought up here without full consideration by the committee, debated and presumably acted upon one way or another.

Here are some of the issues that are not in this bill that they would have come to this floor:

Repeal of 14(b), or the so-called right-to-work issue, which is not in this bill, and is not in order in the present form of this bill;

The question of whether supervisors should be permitted to join unions;

The question of card checks instead of a secret ballot to determine the willingness of employees to join a union;

The question of bargaining for retirees in light of a Supreme Court decision recently;

The question of assuming jurisdiction for labor-management relations on foreign flag ships;

The question of whether or not farmworkers ought to be included in the National Labor Relations Act;

And yes, the question of whether or not public employees at the State and local levels should be included in the act. Would the Members like to vote on that at about 6 o'clock this evening?

That is what the Republicans are urging upon us, all of these issues. I think that the Committee on Education and Labor must quite wisely have further time for study and consideration before we bring the major issues to the House to the House floor.

The gentleman complains that the rule of germaneness is too restrictive because he cannot amend laws that are not a part of the legislation that is brought before us. I suppose those of us who would like to amend the Internal Revenue Code should feel sad that this cannot be added while considering this bill; as with consideration of the criminal code or any other part of the Federal statutes that we do not propose to amend by the legislation we are considering today.

There is nothing at all unusual about trying to legislate on legislation that comes from the committee rather than every late blooming initiative which comes from the floor.

Mr. Speaker, the editorial which I have referred to reads as follows:

[From the Chicago Tribune, Oct. 4, 1977]

THE LABOR REFORM BILL

Since expressing some sympathy two months ago for the labor law reforms proposed by the unions and endorsed by the administration, we have been overwhelmed by the affection of new-found friends in organized labor.

The truth is that our editorial "In fairness to labor" was considerably less than a profession of undying and unconditional support for the bill now before the House Rules Committee. So before this affair gets out of hand, and before the committee sends the bill to the House floor in a form which makes amendments difficult, as the AFL-CIO would like, let us repeat and emphasize what it is that we support about the bill and what we oppose.

What we support is the effort to make sure that our labor laws succeed in their proper purpose, namely to enable employes to form or join a union when it is clear that a majority want to do so, and to make sure that the employer deals with that union in good faith and without undue delay.

There have been too many instances in which organizing efforts have become bogged down in the obstructionist tactics of employers and their lawyers. The proposed bill, H.R. 8410, would generally require that union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case and the decision of the NLRB. For contested cases, we said in our earlier editorial and repeat here, 75 days is a fair maximum. Fifteen days is too short a period to enable both sides to present their respective cases—which is in itself a professed goal of the bill.

One unacceptable section would temporarily deny U.S. government contracts to employers who "wilfully" violate labor laws. As we've said before, that would do more than express a possibly legitimate grievance, it would, in fact, discourage employers from legitimately moving against intolerable employe actions for fear of losing the case before the National Labor Relations Board and the courts. The resultant loss of federal contracts, upon which the livelihood of employers and employes alike may depend, would mean that a punitive element had been introduced into U.S. labor law never intended to be there. Established unions, often already too powerful, would have their powers still further enhanced.

Another pseudo-reform that should be deleted from H.R 8410 would, in effect, empower the NLRB to write a labor-management contract spelling out what the parties would have agreed to if they had completed negotiations The idea is to assure financial relief for employes victimized by an employer's refusal to bargain. Such employer delaying tactics are more properly addressed by the traditional weapon that keeps the issue between the contracting parties and doesn't invite in Big Brother That weapon is the strike.

Another employer-opposed provision would double the allowable penalty against employers who fire key workers for engaging in union activities. The severest penalty now is likely to be merely the payment of back wages. Labor originally wished to triple that penalty but accepted doubling it as a compromise. This strikes us as fair to both sides.

H.R. 8310 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections, limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, for 12 years minus 2 I have listened to various Members of this body, particularly those to my left, complain about the lack of germaneness in the case of amendments that have been offered in the other body to House-passed bills. Therefore, I am reminded of the story of the Socialist who went next door to talk his neighbor into his philosophy. And his neighbor, the farmer next door, said:

Do you mean to tell me that if you had two saddle horses, you would give me one of those saddle horses?

And the Socialist said:

Certainly.

And the neighbor said:

Do you mean to tell me that if you had two milch cows, you would give me one of your milch cows?

And the Socialist said:

Certainly.

Then the neighbor said:

Do you mean to tell me that if you had two hogs, you would give me one of your hogs?

And the Socialist said:

Now, you know I have two hogs.

Mr. Speaker, I have listened to my friends over here inveigh against nongermane amendments over the years. And so I would ask them: Do you mean that if you had a nongermane amendment to a tax bill, you would not insist on offering it?

They would say: Certainly not.

I would ask them: And do you mean to tell me that if you had a nongermane amendment to a defense bill, you would not insist on offering it?

They would say: Certainly not.

I would say: And do you mean to tell me that if you had a nongermane amendment to a labor bill, you would not insist on offering it?

And my friend, the gentleman from Illinois, would say: Now, you know I have a nongermane amendment to the labor bill.

And I would say to my friend, the gentleman from Illinois, that if my sense of current history is accurate, there is a Senate seat up in his State next year, and if he wants to operate under the nongermane body rules, what he ought to do is take a shortcut and actually run for that body. It would be an improvement, in my judgment. I would only add that I think it would be an improvement for the other body. I do not believe it would be an improvement for this body, because I have too much respect for my friend, the gentleman from Illinois. But I would just add that my own definition of a germaneness rule is that if you make a speech, it has to be about something. And a germaneness rule to this bill means that if you make an amendment, it has to be about something, and the something that it has to be about is this bill.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in support of the rule of H.R. 8410, the Labor Reform Act. The focus of my remarks today are on the horrors that working men and women

have been and are being subjected to in the textile industry because certain employers flagrantly violate the law or take unfair advantage of its administrative procedures.

We all have heard by now of the notorious J. P. Stevens Co., that giant of the textile industry, which maintains its status at the expense of its workers. The organizing drives at Stevens go back to 1963. All of the unfair labor practices committed against the employees are far too numerous and complicated to outline at this time, but I feel it is important to point out some of these cases which typify the company's actions and attitudes.

Shirley Hobbs was employed at the Rosemary fabrication plant. Her job was to sort napkins into "firsts" and "seconds" and to count them into bundles of 100. On an average day, an inspector sorts and counts 8,500 napkins. Ms. Hobbs joined the union and attended an open union meeting on October 3. On October 6, the general overseer of the plant recounted all her bundles, found one bundle one napkin short, and discharged Ms. Hobbs for "inefficiency."

At Republic plant No. 3, James Walden was one of the first employees to join the union. His name was posted by the company on August 18 and he was fired on August 22 for "tying doubles." There was undisputed evidence that no one in 20 years had been fired for this reason, "though doubles were continually being tied."

William Silbey also was employed at the Republic plant No. 3 and had an unblemished employment record of 21 years. He was fired shortly after he joined the union for "mixing waste." His supervisor subsequently testified that he could not recall ever before discharging a man for this reason.

Doris Hicklin had been employed at the Rock Hill plant from 1956 until the union informed the company on October 6, 1963, that she had joined the union. On October 7, she entered the plant wearing a button saying, "I am for AFL–CIO." Thirty-two minutes later she was fired.

Scores of other workers had similar experiences. On July 26, 1965, the National Labor Relations Board (NLRB) trial examiner found that 69 employees had been discharged in 1963 in violation of section 8(a)(3). Stevens appealed this decision to the Board, which unanimously upheld the Labor Board's decision. Stevens then asked the Supreme Court to review, but on December 11, 1967, the petition for certiorari was denied. Thus, 4 years after the initial discharges, the company was finally ordered to reinstate the employees and to cease and desist from further unfair labor practices.

What do workers do during this time while not having a job, no money to pay the rent or the mortgage, no money to pay for food, heat, electricity, and other essentials?

Albert Sanders of Greenville, S.C., was discharged from his job as a loom fixer at Stevens on August 29, 1963, after performing 16 years of service. He recently described, in his testimony before the committee hearings on H.R. 8410, his experiences of being "blacklisted" in the area and not being able to find another job until September 1966.

The Maureen Hedgepath story by now has become a classic. Ms. Hedgepath was a cotton mill worker at Stevens' Rosemary plant in Roanoke Rapids, N.C. In her testimony on H.R. 77, she described the company's harassment to which she was exposed for signing a union card. She was urged to tell her story at an NLRB hearing and was told at that hearing that she would not be denied her job when she returned from pregnancy leave. But, she was denied a job. And her husband, who also worked for Stevens, was subsequently fired, as the company accused him of having "the appearance of someone drinking alcoholic beverages."

When the baby was 2 months old and the Hedgepaths were close to penniless, Mr. Hedgepath pleaded to have his job returned to him. He was told not only could he not get a job at Stevens but he would not be able to find another job anywhere in town. He finally found a job 22 miles away, but he reported to work the following day only to find there was no job there for him.

From the time Maureen Hedgepath joined the union in 1963 and was subsequently denied a job after taking pregnancy leave, until the Board ordered her reinstatement, close to 6 years had elapsed. And it was not until June of 1969, 6 months after she returned to work, that she received her back pay.

Louise Bailey, who works at the Stevens' plant in West Boylston, Ala., told her story at the recent subcommittee hearings. Her experiences with the company go back more than 36 years. She remembers well when the plant shut down with no warning in the 1940's and the 4 subsequent years in which she could not find a job. When she would say where she had last worked, they would immediately say "union"—she was a member of a CIO union then—and she would not get the job.

When the order finally came to put her back to work, 4 years later, she received no backpay and instead of her old job, she got, in her words, "the worst job in the mill."

When the union campaign started last July, she was active, but described the fear of being laid off and the intimidation that she had seen other employees subjected to in her situation.

Another Stevens' worker at the Roanoke Rapids, N.C., plant described how he had contracted byssinosis, commonly known as "brown lung disease," on the job and the company would not allow a transfer. He concluded his testimony, "If we had some good laws on the books and had arbitration or grievances, we might have gotten these things straightened out, and I could have got out of the dust and probably been working now."

Johnny Davis, a member of the Clothing Workers, employed at Wellman Industries, Johnsonville, S.C., for the last 19 years, described his situation at the recent hearings. In 1970 the first organizing campaign took place at the plant and the union lost. The 1971 election was set aside, but the union won in 1972. Many workers were fired illegally for union activity during that time. In 1972, the union and the company were authorized to bargain. The first meeting was not held until 1976 and then the company refused to continue bargaining, thus starting the litigation process and delay after delay after delay. "So we continue through 5 years of fighting, from 1972 to 1977. We still have no contract yet."

Milton Taylor, another member of the Clothing Workers, employed at American Enka, Whitaker, N.C., also appeared at the recent subcommittee hearings. He described how prior to the union election, the workload "seemed to drop off. But as soon as we won, our workload is almost double. A lot of people have been harassed to the point they just quit and look for other employment."

Two workers at the Darlington Manufacturing Co., Darlington, S.C., poignantly emphasized the dire problems workers face if they exercise the rights they are supposedly "guaranteed."

Zuline Hunt worked at Darlington for 31 years until the plant closed down to avoid unionization. "It is just like fighting a war," noted Ms. Hunt at the hearings:

> . . . A lot of people had their insurance cut off. . . . My neighbor had mortgaged her house and she died about 10 years ago and the mortgage was never paid off. She was still remortgaging because when she retired, she really didn't draw enough Social Security to pay these payments.

Coley B. Gibson went to work at Darlington in October 1943 and was a diligent, loyal employee, who during World War II doubled up and worked long hours because help was short. But, when the plant closed in 1956, he, too had no job and lost all means of support for the family. "My wife was pregnant at that time, but because I lost all the hospitalization insurance I had when the plant closed, I had no money to pay the hospital bills when our daughter arrived the following March," noted Johnson at the hearings. "I sought work in numerous places, but everywhere I applied, I was turned down when they found out that I worked at the Darlington plant. . . ."

I have cited these cases because they all point to one conclusion—unless the Federal labor law is strengthened to deter the flagrant violations and delays that are initiated by antipeople employers, the purpose of the act is meaningless and workers will continue to be denied their rights. I implore you to join me in support of H.R. 8410 which will bring to fruition the purposes of the National Labor Relations Act.

The statements follow:

STATEMENT OF CLARENCE MITCHELL, DIRECTOR OF THE WASHINGTON BUREAU OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE BEFORE THE SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR

Mr. Chairman and members of the subcommittee, I am Clarence Mitchell, director of the Washington Bureau of the NAACP. Thank you for giving me this opportunity to present testimony in support of H.R. 8410, a bill to amend the National Labor Relations Act to

strengthen the remedies and expedite the procedures under such act.

The NAACP has consistently supported legislation that protects the right of working people to organize and engage in collective bargaining. Some of the earliest testimony that I personally presented to Congress on behalf of our organization was in opposition to restrictions against labor unions. Our State and local branch leaders have consistently opposed so-called right to work laws.

Organized labor, in its turn, has strongly supported civil rights and the causes of black Americans throughout the years. We have stood together in many battles for legislative, judicial and executive branch policies to protect the constitutional rights of our fellow citizens. I can say without fear of successful contradiction that most of our victories in the last quarter of a century could not have been won without the support of organized labor.

Under the present labor law, long delay and unfair tactics used by employers frustrate organizing and work real hardship on those who are fired for union activity.

The changes now proposed for the National Labor Relations Act would alleviate many of the injustices at countless work places, large and small. The changes are particularly important to black people concentrated in service fields and southern manufacturing, where employer abuses of existing law have blocked collective bargaining.

The proposal that the National Labar Relations Board be empowered to require an employer to bargain following a successful representation election, can prevent delays like the ones suffered under existing law. Under the present law, the board only issues cease and desist orders. Employers can—and do—procrastinate for years with impunity. The proposal that employees be compensated for undue delay in first negotiations would make such tactics more costly and directly alleviate worker suffering.

Likewise, the streamlining of NLRB procedures, less stringent internal procedures for affirming the decisions of administrative law judges and self-enforcement of uncontested board orders without acquiring court of appeals contempt sanctions would all contribute to expedited justice for workers.

Very important, from our perspective, are proposed changes providing injunctive relief for workers fired for union activity during an organizing campaign or in the time between a successful representation election and the implementation of a first contract. We also support the provision that employees who have been discharged unfairly receive twice their lost wages, rather than the current formula of lost pay plus interest minus the amount of any interim earnings. Black workers in nonunion shops, earning a average of only 60 percent of the median wage earned by whites in comparable jobs, can least afford the hardships imposed on unjustly fired workers under existing law.

It is well known that before the passage of the National Labor Relations Act workers paid a fearful price for the right to organize and bargain collectively. Today we see new and extensive efforts to turn back the clock. We must not permit this to happen. Instead, we must take steps to encourage parties in labor disputes to settle their differences by orderly process, rather than by confrontation. Passage of H.R. 8410 is an important part of industrial peace and progress in our country.

TESTIMONY OF NORMAN HILL, A. PHILIP RANDOLPH INSTITUTE ON H.R. 8410, LABOR LAW REFORM ACT OF 1977

My name is Norman Hill and I am executive director of the A. Philip Randolph Institute in New York. As most of you may know, the Institute, in existence since 1964 and with 180 chapters in 35 states, is dedicated to expanding the role of minority citizens and improving the quality of job opportunities, particularly by working with the labor movement. Our work is grounded in the belief to which A. Philip Randolph's life gives eloquent testimony, that the attainment of civil rights is inextricably tied to equal economic opportunity.

The Labor Law Reform Act of 1977 by more fully guaranteeing the fundamental rights of American workers will be an important step in achieving equal economic opportunity. The Wagner Act of 1935 established the labor relations policy of the nation as "encouraging the practice and procedure of collective bargaining" and as "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing." Yet, in reality, those freedoms continue to be denied to millions of workers by weaknesses in the law which, in practice, discourage the practice of collective bargaining. The Congress now has a tremendous opportunity to guarantee workers free choice to exercise the rights recognized and promised by the Wagner Act.

Although the Wagner Act is usually viewed as Labor's Bill of Rights, it is often overlooked that it was, at the same time, a tremendous contribution to racial equality. By making possible the organization of workers in the mass production industries, the Wagner Act provided a major boost to the income of black workers and brought them to a level of approximate equality with white workers in those same industries. Studies by economists such as Orley Ashenfelter have found that there is substantially less discrimination in the unionized sector of the economy than in the non-unionized sectors. Indeed, unionization has made a significant dent in the inequality between black and white worker earnings. The most recent figures (from the 1970 census) show that blacks in the trade union movement earned annually a full $2000 more than their nonunion counterparts. Compared with earnings at 60 percent of whites in the economy as whole, unionized black workers in manufacturing earned a median wage of 89 percent of the white median. In transportation it was 89.6 percent in durable goods 93 percent, and in metal trades 97 percent. Similarly, 1965 statistics show that while 14.3 percent of non-union black families had income below $3000, only 3.9 percent of black union households were in that category. In short, the ability to organize unions has been an important instrument of upward mobility for black Americans. The reverse is equally true, barriers to unionization prevent black workers from making economic advances.

Labor law reform is needed to protect the rights of unorganized workers, to guarantee that they are truly able to exercise freedom of choice. When the rights to organize and bargain collectively are effectively denied to millions of workers, black workers are special victims. They make up a large percentage of workers who have been denied the right to organize. They are heavily concentrated in those industries and areas where employers have most ruthlessly resisted unions—the service industries, the South, and government employment. A fair chance to organize unions is an essential precondition for the economic advancement of blacks, as well as women and other minorities.

Workers in low wage industries suffer most from the inadequacies and abuses of current labor law. Earning very marginal incomes, they cannot afford to be fired unjustly and then wait indefinitely for the NLRB to rule on their cases. Twenty percent of all black workers are service workers, where the level of unionization is at a low 10.5 percent.

Other black workers are denied freedom of choice because they are concentrated in regions of the country where employers take pride in keeping unions out through illegal harassment and because the National Labor Relations Act is virtually powerless to prevent employer abuses. A case in point is the Florida Steel Corporation. The December 1976 Staff Report on the National Labor Relations Act of the Subcommittee on Labor-Management Relations summarized:

The company uses the traditional anti-union techniques of discharging the known union adherents in an effort to intimidate the others. In addition, it utilized the use of "race hate" to divide and conquer the workers. Thus, when the union organizing campaign began in Charlotte, it was blamed on the "black people." The Industrial Relations Manager told others that "the NAACP had petitioned the United Steelworkers to 'kick off' this campaign." Supervisors were told to emphasize in their discussions with the workers that "this would be a black union, and that it was going to be run by blacks."

In the first of many Florida Steel cases it was to hear, the National Labor Relations Board declared:

The racial overtones in this case demonstrate Respondent's hostility to those of its black employees who were union adherents. Fourteen of the seventeen alleged dischargees were black. Testimony was adduced at the hearing the Respondent would not hire young black employees as they were viewed as likely union supporters, and the Administrative Law Judge specifically found appeals to racial prejudice in the Company's anti-union campaign. . . .

The union persevered and won at two Florida steel plants, but thus far, they have been unable to get a first contract. And although some of the workers were eventually reinstated with back pay, many were out of a job for a year and a half or longer.

To the extent that labor law frustrates the ability of white and black workers to organize, it is a barrier to racial equality and economic justice. In fact, the absence of effective remedies against employer abuses has frequently resulted in the deliberate worsening of racial relations.

In exercising their rights as workers, many blacks face barriers which, although they may be slightly more subtle, are no less formidable than they faced in gaining their civil rights and voting rights. They face employer abuse and intimidation. Twenty years ago, a black worker risked being fired if he was a known civil rights activist. Today, black workers risk being fired if they are known union activists. The ability of employers to defy the law with impunity has effectively robbed workers of their promised right of free choice. How can a choice be "free" when it may cost you your livelihood?

And, of course, the closer a worker is to the poverty line, the more expensive the risk becomes and the fewer real choices exist. It is not difficult to sympathize with the worker who decides that even a miserable and low-paying job is better than being fired for attempting to join a union, but one must have enormous respect for the courage of workers who decide to risk their jobs in order to exercise their rights. There is something wrong when a worker is required to be a hero in order to exercise his promised rights.

Whatever progress has been made, black people still comprise a disproportionately large percentage of this nation's poor and marginal wage earners, those who cannot take chances if they wish to maintain a minimum living standard for themselves and their families.

Blacks are overwhelmingly a working people, so we have an enormous stake in proposals to make the laws which govern labor-management relations work more efficiently, quickly, and equitably. The A. Philip Randolph Institute believes that the Labor Law Reform Act, H.R. 8410, goes a long way to-

wards accomplishing those objectives. Several of the components of the bill are of special significance for black workers. Because black workers are especially prone to be pro-union, they face enormous risks of being fired for pro-union sentiments or activities. H.R. 8410 would remedy this situation by authorizing the National Labor Relations Board to award double backpay without mitigation to workers who were illegally discharged before the initial contract. Another important reform is that the Board should be authorized to prohibit a firm from obtaining Federal contracts for a period of three years, if the firm is found to have willfully and repeatedly violated NLRB orders. Equally important are the various measures designed to insure expeditious and meaningful elections and to streamline the procedures of the National Labor Relations Board and to reduce delays in the Board's operations. In addition, the Board should also be required to seek preliminary injunctions against certain unfair labor practices which interfere seriously with employee rights. These reforms would do much to guarantee that workers, both black and white, who wish to bargain collectively with their employers shall have a reasonable and prompt chance to do so.

The Institute believes that the Labor Law Reform Act is an important step towards economic and social justice. We hope that the Committee and Congress will agree.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RHODES), the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I was intrigued at the definition of germaneness as offered by my good friend and predecessor in the well, the gentleman from Indiana (Mr. JACOBS). I have never realized that the Committee on Rules was particularly bothered with the idea of germaneness when it was to the interest of the majority to get an amendment in order that would not otherwise be in order. I have always thought the germaneness was according to the state of mind of the majority of the Committee on Rules at any given time.

Contrary to what my Democrat colleagues infer, there is nothing immoral or even very strange about having a rule that makes a matter germane which might not otherwise be germane. Germaneness has been waived many times. After all, by definition the minority does not have the votes to decide what a bill will contain. If we did, we could write a bill to which our amendment would be germane. But we did not write the bill; the majority did.

The majority saw fit to write a bill that would preclude the germaneness of the substitute which the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) will offer later. I think the majority knew full well what they did. I think they undoubtedly constructed the bill in such a way that these very well known amendments would not be germane.

So, Mr. Speaker, I rise to express my strong opposition to this rule and urge my colleagues to vote "no" on the previous question in order that the gentleman from Illinois (Mr. ANDERSON) may offer a substitute rule.

Labor legislation affects the very grassroots of our economy and should not be approached lightly. Unfortunately, the bill reported out of the Committee on Education and Labor is extremely lopsided, and the very important and well-intended amendments offered to H.R. 8410 were rejected in a very heavyhanded and, I think, partisan fashion.

The rule now before us, at the direction of the majority, precludes the House from considering the Ashbrook-Erlenborn bill, the clearly recognized alternative, as an amendment to H.R. 8410. With such important legislation before us, it is inconceivable that the majority leadership could be so heavyhanded and so shortsighted as to preclude the House from truly working its will by excluding such an important measure from consideration as an amendment.

So I urge all my colleagues from both parties in the House to recognize this attempt for what it is and to insist on our right to vote on the Ashbrook-Erlenborn amendment. The right to choose is fundamental to our constitutional responsibility to represent our constituents. I think we need to do that. By voting "no" on the previous question and defeating it, the gentleman from Illinois (Mr. ANDERSON) will be recognized to offer an open rule making the Ashbrook-Erlenborn amendment in order.

Should we fail to defeat the previous question, then I must urge all my colleagues to vote against this rule and the travesty it seeks to impose on the House. That is the only way I know that we can direct the Committee on Rules to take the bill back and bring out a rule that will make all the provisions in order that are necessary before we proceed to resolve this very important issue that is now before the House.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding this time to me.

So much has been said about germaneness that I wonder just where we are. I have seven pages of precedents that relate to the topic that is the subject of our discussion and they all come to the opposite conclusion.

First of all, we do not have a narrow purpose in this bill as the sponsors allege. This bill would amend section 3 (a) and (b), it would amend section 6, it would amend sections 9 (b), (c), and (d), and it would amend sections 10 (b), (c), (e), (f), (l), and (m).

Moreover, it is not just procedural, as the gentleman from Washington (Mr. MEEDS) said; it has substantive law contained it in.

Let us look at section 3 of the bill. Section 3 was put in the bill to in effect overcome a Supreme Court case; that is a very substantive provision. Section 4 is substantive. Section 9(b)(3) is a clear limitation on guards to form a union. That would simply wipe it away. That is substantive; that is not procedural.

The precedents are full of instances where, if a bill is broad enough in scope and diverse in purpose, it opens up the entire act. Yet I have no doubt but what the Chair will rule otherwise.

Let us look at the precedent in Cannon VIII, paragraph 2942:

It is well established by precedents that where it is proposed in a bill to amend an Act in a number of its sections, an amendment to amend another section of the Act is in order. A number of cases have occurred in the consideration of this bill where amendments have been offered which were not germane to any section included in the present bill but were clearly germane to sections in the original law. . . .

Mr. Speaker, every one of these precedents is traced back to a member of the majority party in the chair, in case there should be any doubt about that.

All this talk about germaneness is like "Alice in Wonderland." This is not a narrow bill, it is wide in purpose and scope. It is not merely procedural, it has substantive law provisions in it.

Sometimes it sounds as if there is no concern for germaneness on our side as far as the rules are concerned, but if the precedents would hold, the bill is broad enough in scope that it should be opened up in every section. Yet this question of germaneness is thrown at us all the time. I simply want the record to show that precedents are on our side.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time, and I will be very brief.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 4 minutes.

Mr. BOLLING. Mr. Speaker, the fact of the matter is that this is an open rule, and the only limitation on the opportunity to offer amendments is the requirement that they be printed in the RECORD, that plenty of notice is given and that they be germane.

The gentleman from Ohio (Mr. ASHBROOK) has been citing precedents. I am sure there has been at least 1 precedent which appears contrary to each headnote he has cited. The gentleman is a highly skilled parliamentarian, and he knows very well that there are whole batches of precedents which superficially appear to go in all directions, and which are distinguishable, but the precedents of the House that have prevailed for, lo, these many years require a very strict construction of germaneness.

Mr. Speaker, the very simple fact is that this is a very straightforward open rule, and the previous question should be voted for and the rule should be adopted so that we can proceed with the matter at hand.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 267, nays 152, not voting 15, as follows:

[Roll No. 623]

YEAS—267

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clay
Conte
Conyers
Cornell
Cornwell
Cotter
D'Amours
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holt
Holtzman
Horton
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
McCormack
McDade
McFall
McHugh
McKay
Maguire
Mahon
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steiger
Stratton
Studds
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—152

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Caputo
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Flynt
Forsythe
Frenzel
Frey
Gilman
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hollenbeck
Huckaby
Hyde
Ichord
Ireland
Johnson, Colo.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
McClory
McCloskey
McDonald
McEwen
McKinney
Madigan
Mann
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, John
Nichols
O'Brien
Pettis
Poage
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Robinson
Rousselot
Rudd
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—15

Collins, Ill.
Conable
Corman
Diggs
Holland
Howard
Johnson, Calif.
Koch
Lundine
Marlenee
Runnels
Ryan
Stokes
Whalen
Wolff

The Clerk announced the following pairs:

Mr. Howard with Mr. Runnels.
Mr. Diggs with Mr. Whalen.
Mr. Stokes with Mr. Conable.
Mr. Wolff with Mr. Marlenee.
Mr. Corman with Mr. Ryan.
Mr. Koch with Mrs. Collins of Illinois.
Mr. Lundine with Mr. Holland.

Mr. SIKES changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 291, nays 128, not voting 15, as follows:

[Roll No. 624]

YEAS—291

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clausen, Don H.
Clay
Cochran
Conte
Conyers
Cornell
Cornwell
Cotter
Cunningham
D'Amours
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Le Fante
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madigan
Maguire
Markey
Marks
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steiger
Stratton
Studds
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—128

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Caputo
Carter
Cederberg
Clawson, Del
Cleveland
Cohen
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Flynt
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hollenbeck
Huckaby
Hyde
Ireland
Johnson, Colo.
Kasten
Kelly
Kemp
Ketchum
Kindness
Latta
Leach
Lent
Lott
Lujan
McClory
McDonald
McEwen
McKinney
Mahon
Mann
Marriott

Martin	Railsback	Symms
Michel	Rhodes	Taylor
Miller, Ohio	Robinson	Trible
Mitchell, N.Y.	Rousselot	Vander Jagt
Montgomery	Rudd	Waggonner
Moore	Satterfield	Walker
Moorhead, Calif.	Sawyer	Walsh
Myers, John	Schulze	Wampler
Nichols	Sebelius	Watkins
Pettis	Shuster	Whitehurst
Poage	Skubitz	Wiggins
Pressler	Snyder	Wilson, Bob
Pursell	Spence	Winn
Quayle	Stangeland	Wydler
Quie	Steers	Wylie
Quillen	Stockman	Young, Fla.
	Stump	

NOT VOTING—15

Burton, Phillip	Guyer	Roncalio
Collins, Ill.	Howard	Runnels
Conable	Johnson, Calif.	Stokes
Corman	Koch	Whalen
Diggs	Marlenee	Wolff

The Clerk announced the following pairs:

Mr. Howard with Mr. Runnels.
Mr. Diggs with Mr. Whalen.
Mr. Stokes with Mr. Conable.
Mr. Wolff with Mr. Marlenee.
Mr. Corman with Mrs. Collins of Illinois.
Mr. Koch with Mr. Johnson of California.
Mr. Phillip Burton with Mr. Roncalio.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 1 hour, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 1 hour.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I would like to address myself to the facts of our national experience that have made it necessary for the Federal Government to regulate the conduct of relations between management and the workers and to recapitulate how that necessity has been met or neglected.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the distinguished Speaker.

(By unanimous consent, Mr. O'NEILL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Chairman, I have asked the gentleman to yield for this purpose: We have been trying to figure out the schedule for the remainder of the day, and I wish to make this announcement.

I would hope that at the end of general debate on H.R. 8410, which is scheduled for 2 hours, we would go into the 5-minute rule. I would hope that the Committee would rise at that particular time in order that we may take up a couple of conference reports and some pieces of legislation that have been pending.

Then we would entertain a request—and this has been agreed to by the leadership on the other side—that we meet at 10 o'clock tomorrow morning. I would hope that we would start the debate under the 5-minute rule, and we will see if we can go forward with the legislation and complete it by tomorrow night.

On Thursday we would meet at 10 o'clock, and we hope that we can complete our work at a reasonable hour so that the Members can go home for the long weekend.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the proposed schedule, as propounded by the Speaker, certainly meets with the support of the Members on this side. We have no intention of trying to delay this matter. I think tomorrow would certainly be adequate for the consideration of this bill, if we spend a full day at it. I would hope that we may open up the bill for amendment and thus expedite its consideration.

Mr. Chairman, I thank the Speaker for his courtesy.

Mr. THOMPSON. Mr. Chairman, in the beginning, when the founders declared that "all men are created equal," all political power lay in the hands of white, male property owners over 21 years of age. In the legislatures, in the courts, and in the marketplace the rights of property far outweighed human rights.

The intervening years and decades and centuries have seen a continuing struggle on the part of women and workers and nonwhite Americans and 18-year-olds to achieve the equality that was promised as the goal of the American Revolution, and stipulated as the central condition of American democracy.

This struggle for human rights has been a second American revolution, a revolution that has been fought for 200 years and that is not yet finished.

Women, who won the right to vote in 1924, are still struggling for an equal rights amendment in 1977. Blacks, who won freedom from slavery in 1865, are still struggling to realize the promise of the Civil Rights Act of 1965. And workers, who won the right to organize and join unions of their own choosing in 1935, are still struggling to translate that right into reality.

The American Revolution will never be over, and American democracy will never be stable and secure, until human rights are equally secure for all Americans of both sexes and all races, and until the concept of "equal justice under law" is applied even-handedly to workers and employers alike.

Equal justice and equal rights were the goals that Congress sought to establish in the National Labor Relations Act of 1935, and they remain in the goals we seek in H.R. 8410, the Labor Law Reform Act of 1977.

For the first century and a half of the Nation's existence, the relations between worker and employer were little better than the relations between master and slave.

Workers were driven by economic necessity. Employers were armed with overwhelming economic power, reinforced by the coercive power of the courts and legislature and by the physical power not only of their own unregulated private armies, but by the police and military forces of the State.

The result was unspeakable privation and degradation among workers and their families.

None of this proves that employers are or were evil. It proves that unrestrained power corrupts. It proves the need for countervailing power to preserve a decent and humane balance.

The facts of history make it abundantly clear why the Congress has found it necessary to guard against inhuman exploitation by regulationg child labor, limiting the hours of work, putting a floor under wages, and establishing standards to protect the lives and health of those who do the Nation's work.

And the facts of history make it clear why the Congress has found it necessary to guarantee that those who live by selling their labor have at least the opportunity to organize in order to have some voice in the terms and conditions of sale.

The records of the LaFollette committee's investigations into employer abuses of the 1920's and 1930's ought to be required reading for anyone who feels that workers would have had a ghost of a chance of equity or fair dealing without legislative sanctions.

And the records of our committee's investigations into employer abuses of the 1960's and 1970's ought to be required reading for anyone who feels that legislation can secure equity and fair dealing without prompt and effective enforcement.

It is true that in many instances the act functions as it was intended. However, this occurs when the parties voluntarily comply with the law. H.R. 8410 does nothing to upset or discourage voluntary compliance. It is when one party is determined not to follow the dictates of the law that the act's shortcomings become apparent. No law in this area can function effectively if there are insufficient means of deterring violations and a lack of adequate compensation for those victimized by violations. This has been a basic shortcoming of the NLRA and it is this very problem at which H.R. 8410 is directed. Thus, while there are those who voluntarily comply, there are many employers who remain blindly and

bitterly opposed to collective bargaining, disdainful of the rights of their employees to form or join unions and defiant toward the laws of the land. It is also intolerable, and it is to these employers that H.R. 8410 is addressed.

Since 1935 there have been two basic elaborations of Federal labor policy. In 1947 the Congress passed the Taft-Hartley Act and in 1959 the Landrum-Griffin Act was enacted. These additions to the law strengthened the right to refrain from union activity and regulated the process of collective bargaining and the use of economic weapons during labor disputes. However, in the past 42 years, Congress has not revisited the portion of the law protecting the right of self-organization. H.R. 8410 is intended to correct that omission.

Every measure of American social and economic progress since 1935 proves that the National Labor Relations Act is a good law and that the policy of encouraging free collective bargaining is a good policy. H.R. 8410 proposes no changes in the policy defined by the Wagner Act, no changes in the rights and duties of either management or labor.

It does provide more effective penalties for practices that have been outlawed for 42 years, but that have continued in defiance of the law simply because existing penalties have proven ineffective.

It does provide limitations on sophisticated techniques for evading and thwarting the operations of the law.

It does provide for protection of the fundamental right of workers to make up their minds about whether or not to create their own organization without interference from their employers.

It does improve the machinery of the National Labor Relations Board so that the Board can carry out its duties as the law intended.

These are modest goals, minimal goals. They rest not on theory, but on experience—the experience of 42 years of trying to make the National Labor Relations Act work.

Mr. ASHBROOK. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, it is with a sense of disappointment and some frustration that I rise in opposition to H.R. 8410—not because I disagree in principle with its stated objections. For who can be against reforms that promise to expedite the processing of cases before the National Labor Relations Board and to strengthen the remedies against the unlawful infringement of employees rights? Nor does my opposition spring from any delusions that the present NLRA and its enforcement by the NLRB is without problems and flaws.

Indeed, except for 1974 amendments extending the scope of the act to private health care institutions—amendments which I supported—the act has not undergone a thorough overhaul since 1959 when Congress passed the Reporting and Disclosure Act. And over the past 18 years, through the accretion of interpretations of the act by board decisions and court adjudications, through the burgeoning case load, and through the growing complexity of labor-management relations, the act has begun to show the signs of stress.

For this reason, I have welcomed efforts to reform the act. And I have actively participated as ranking minority member of the Labor-Management Relations Subcommittee in all hearings overseeing the administration of the act and considering proposals to improve the act.

I was hopeful that our committee would recognize that employees, wishing to exercise their correlative rights to self-organize and to refrain from and disengage from union activity, face obstacles thrown up by labor organizations and that not all obstacles come from employers. Gone are the days when an employee's chief threat to economic security was an oppressive employer and unions faced extinction by a legal system hostile to unions as a social institution.

Having matured under the Wagner Act and its progeny, labor unions now enjoy a secure place in our legal system—secure except for one thing: To continue as a viable and useful representative of individual workers, it must be able to persuade rationally and without coercion, such workers of the merits of union representation. But the plain fact is that organized labor has experienced real difficulties in persuading nonunion workers of the advantages of unionization. In fact, unions do not seem to be able to hold on to those of the rank-and-file. In 1947, unions were able to enlist 35 percent of the nonagricultural workforce during that year to join the trade union movement. In contrast, in 1976, the ranks of organized labor enjoyed were comprised of only 24.5 percent of the workforce. In the meantime, faced with this continuing erosion of power, many unions, just as many employers of yesteryear and admittedly some of today, have resorted to intimidation and coercion to secure their domination and protect their leadership. The newspapers recount instance after instance—indeed, the reports of the NLRB themselves are replete with dozens of cases of violence, physical injury, oppressive disciplinary actions, unlawful strikes, infringements upon political and religious liberties guaranteed by the First Amendment.

I therefore anticipated that our committee would devote full attention to all the abuses facing an employee, whether union or nonunion. I was hopeful that it would report out a bill that reflected a balanced approach to the problems of delay, of dilatory tactics, of repeated violations of the act, of ineffective remedies. Unfortunately, H.R. 8410 does not reflect an even-handed response to these problems.

Whereas the bill purports to cure the delays in holding certification elections, it does nothing to expedite the holding of decertification elections.

Whereas the bill supposedly remedies unlawful discharges due to union activity, it does nothing to protect union members who face oppressive disciplinary fines as a result of challenging the leadership or the majority status of a union.

Whereas the bill imposes the harsh penalty of debarment to deter willful violations by employers, it is totally devoid of similar sanctions against union misconduct.

Wheras the bill purports to protect against discriminatory discharges by mandating injunctive relief, it ignores the need for injunctive remedies against stranger picketing that can throw employees out of work.

Whereas the bill imposes a double back pay sanction against unlawful discharges, it does nothing to compensate workers who suffer wage losses as result of union coercion and intimidation.

Whereas the bill gives unions rights of equal access to facilitate the expression of their views, the bill does nothing to protect employee's first amendment rights against supporting causes and institutions that contravene their political and religious beliefs.

Whereas the bill creates a new claim for willful violations of Board orders, which is plainly directed against employer misconduct, the bill's sponsors rejected an effort to give employees a new right to challenge unreasonable fines before the NLRB.

The disparity of treatment does not stop here.

But it is not simply the employees, facing union abuse, who will be short-changed by this bill. I submit that H.R. 8410 poses a threat to all parties involved—union employees, nonunion employees, unions, management, and ultimately the public.

I submit that this bill places in real jeopardy the ability of the NLRB to be an efficient and effective protector of employee rights. How is this so? The answer is simple: The proponents of this bill have been so intent upon delivering up to organized labor the spoils of the 1976 elections that they have been blind to the factors contributing to an efficient agency, they have ignored the root causes of delay, and they have magnified the problem of flagrant offenders.

First, let us look at some statistics. In 1976, there were approximately 34,500 unfair labor practice charges filed. But 32,400 were concluded, and were disposed of in the following manner: 35.6 percent were withdrawn before any complaint was issued, 35.9 percent were dismissed by the General Counsel before any complaint issued; in other words 71.5 percent were disposed of as lacking merit. Of the remaining cases, 23.4 percent were settled prior to issuance of a complaint. This left approximately 5 percent for disposition by the Board, the vast majority of which were disposed of in less than 2 months. And while it is true that the number of charges has doubled over the last 10 years the relative percentage of meritorious cases has not increased but remained constant. In other words, the statistics do not disclose a growing percentage of flagrant employer abuses.

In the other major area of responsibility—conducting representation elections—the Board concluded 8,638 out of the 8,899 elections held. A great majority of these cases were disposed of within 45 days. Most significant was the fact

that of the elections conducted approximately 80 percent were pursuant to consent or stipulation by the union and employers involved.

Although it may not be so evident to the average layman, critical to the disposition of so many which may arguably have had merit was the willingness of most employers to settle prior to the issuance of a complaint. Similarly, indispensable to the conclusion of so many elections within a relative short time period was the willingness of employers to consent or stipulate to matters involving the conduct and appropriateness of the elections.

As was succinctly and forcefully put by former Board Chairman Edward Miller during the hearing, H.R. 8410 threatens to undermine this very willingness on the part of employers to fully cooperate in the NLRB's administration. How will it do this?

First, the short, arbitrary time limits proposed for conducting an election are clearly designed to frustrate the opportunity for employers to counter the propaganda dispensed by unions during an organizational campaign. I am not talking about giving employers an opportunity to engage in coercive and discriminatory misconduct, but rather a chance to apprise their employees of the advantages of remaining nonunion as well as the disadvantages of unionization. In this way, employees are better able to make an informed choice regarding unionization—which undeniably is one of the policies of the act.

But the moment employers begin to be pushed into a corner, without an opportunity to meaningfully participate in the campaign process, you can be assured that the percentage of consent elections will drastically drop and the regional offices of the Board will become mired. In the end, the evil sought to be remedied—delay—will magnify itself.

Similarly, in the area of unfair labor practice cases, H.R. 8410 will no doubt protract the delays already encountered. For with the adoption of a punitive approach to labor law enforcement—which has historically been rejected—the act will no doubt reduce the percentage of settlements that is vital to disposition of cases. This will come about because the availability of such goodies as double damages and retroactive pay increases will unquestionably tempt charging parties to insist on litigation. At the same time, these remedies will provide employers with an incentive to litigate because the cost of settling those cases will make litigation worthwhile. As Mr. Miller predicted, if this bill reduces the settlement rate by only 10 percent, the agency will no longer be able to successfully function.

What then does H.R. 8410 have to offer? Not much—a section-by-section analysis, as it appears in our minority views, exposes its severe infirmities.

SECTION 2

First. Size of Board—increasing size of Board from five to seven members will make consensus on the development of policies, rules and regulations more difficult to obtain, leading to delay in administration.

Second. Summary affirmance procedure—under present procedure, a party is assured that his case will be reviewed by at least a majority of the Board—three out of five members. Under the proposal, summary affirmance can be entered upon presentation of the case to only two members, not a majority—that is, four members.

SECTION 3

First. Equal access—this mandate to assure equal access is a significant change of substantive law. That provision would require employers, if the addresses employees on company time and property, to accord the same opportunity to unions. But existing law does accord unions a right to have their views communicated to employers. Moreover, unions are entitled to the names and addresses of employees. Unions can go into the homes, whereas employers cannot.

Whereas unions can make extensive promises of benefits, employers are restricted in what they can promise.

And where there are no alternative channels of communication available to a union, an employer may well have to open his plant gates to a union. What these rules reflect is a careful balance struck between the rights of unions to communicate and the rights of an employer to manage and protect his business. Although an employer is limited in communicating with his employees, he does retain a right to call his employees together in the plant, on company time, which the employer pays for, to tell his side of the story. The equal access seriously compromises that right by requiring the employer to now accommodate nonemployees and to in effect subsidize an organizing campaign.

SECTION 5—EXPEDITED ELECTIONS

The bill mandates elections to be held within 15 days after filing of an election petition.

The fact is that a high percentage of elections are held within a reasonable time:

First, 82 percent of the elections conducted by the NLRB in 1975 were held within 45 days of the filing of the petition; all but 47 of the remaining elections (out of an original total of more than 9,000) were held within a median time of 75 days.

Second, 80 percent of all union elections are conducted with the consent of both the union and the employer, with no exceptions being filed.

The clear intent of this quickie election provision is to deprive employees of the opportunity to become adequately informed of all the issues in a representation.

Moreover, the provision totally ignores the rights of employees to seek decertification and deauthorization in a similarly swift manner.

As explained before, the probable consequence of this provision is that employers will no longer be so willing to enter into consent agreements to facilitate and speed up the holding of elections.

SECTION 6—LIMITATION ON COURT REVIEW OF CERTIFICATIONS

The effect of this section is to severely limit the scope of judicial review with respect to certifications. No longer can a party be protected from a Board certification that is not based upon substantial factual evidence in the record.

SECTIONS 7 AND 8—PUNITIVE REMEDIES

The sponsors of H.R. 8410 claim that "many employers have discovered it is more profitable to defy and ignore the provisions of the NLRA than to comply with them."

H.R. 8410 therefore proposes several punitive sanctions, including Federal contract debarment and Government dictated wage and benefit increases, which would give the Board considerable new power to deal with recalcitrants.

The assumption that "many employers" are labor law violators just does not wash. For example:

In 1976 fewer than 1 percent of the unfair labor practice cases filed against employers required court review, and fewer than 0.1 percent, or less than 30 cases, required proceedings in contempt.

Moreover, there is every reason to believe that the judiciary is beginning to respond, effectively and with renewed vigor, to flagrant violations.

A few weeks ago, the U.S. Court of Appeals for the 2d Circuit issued a stinging decision against J. P. Stevens, whose reputation has become well known. Among the sanctions ordered were:

First, $120,000 fine per violation;

Second, $5,000 per day fine for continued violation of the court's orders;

Third, requires Stevens to permit a union representative to be present in any Stevens plant in the Carolinas whenever a company representative makes speeches to employees.

Fourth, requires Stevens to furnish the textile workers with a list of all Stevens workers in the Carolinas including name, address, wage rate, job description, and date of hire.

Whether or not this court of appeals decision is fair or correct is not an issue. The point is that this decision, long awaited by union leaders and now hailed as their victory over Stevens, came about in the American tradition of judicial review with a day in court, not by a ramrod legislative tampering with only a few sections of our labor law as H.R. 8410 would do.

The fundamental problems with the remedies provided in this bill is that the remedies are applicable to all employers, not just flagrant violators. Further, the remedies are essentially one sided in that they are directed only against employers. Above all, these remedies change the underlying philosophy of the NLRA from a remedial statute to a punitive statute.

This change is neither warranted by the facts, nor is there any guarantee that these remedies will deter flagrant violators.

What is clear, however, is that debarment will penalize both the violator and the victim. For employees stand to lose jobs with the loss of Government contracts.

It is clear that the double back pay

remedy will simply produce greater confrontation and conflict between employers and employees. The remedy will create an incentive for litigation. And, employers, justifiably offended that employees may gain windfalls, will readily resist settling these cases. The total effect will be increased caseload and further delays in the processing of cases.

Make-whole orders—Little need be said regarding this remedy beyond the fact that it contravenes the fundamental policy against Government intrusion into the negotiation and agreement of collective bargaining agreements. Historically, the role of the Government has been to bring the parties to the bargaining table, and leave to the free play of economic power between labor and management to forge the agreement. If passed, this proposal will put Government in the business of writing contracts. Other criticisms of this proposal are found at page 88 of the report.

If history provides any indication of what lies ahead, the passage of H.R. 8410 will be disquieting for labor reform. For the major revisions to the Wagner Act have not come often. Twelve years had to pass before the act was amended by Taft-Hartley. Another 12 years elapsed before the Landrum-Griffin bill was considered in 1959. Now 18 years later we are embarking upon another revision.

Perhaps it is the controversial nature of labor-management relations that discourages the Congress from overhauling the act more than once a decade.

But, whatever the reason, the question which the Members must ask themselves if they pass this one-sided bill, is whether we must wait another decade before addressing fully the problems confronting administration of the NLRA. Indeed, can this country wait that long?

Mr. THOMPSON. Mr. Chairman, I yield 10 minutes to our distinguished colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, in view of the somewhat convoluted explanation we have just had about what is not in this bill, and I think it is interesting to note that the opponents of this legislation have failed to find legitimate arguments against what is in the bill and are spending their time arguing about what is not in the bill. They choose to talk about that which is not in the bill obviously because of some difficulty that they are encountering in trying to find legitimate excuses to oppose that which is in the bill.

The Secretary of Labor this morning addressed a letter to the gentleman from Kentucky, Mr. CARL PERKINS, chairman of our committee, that I think very succinctly sets forth what the legislation does, in fact, do. I am sure there are more gentlemen on the Republican side who will give us out of their time further explanations about what the bill does not do. The letter is as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., Oct. 4, 1977.

HON. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. PERKINS: I wish to take this opportunity to express my strong support for H.R. 8410, the "Labor Reform Act of 1977," as reported by your Committee.

The bill is intended to make certain needed improvements in the National Labor Relations Act. While this law has, to a large degree, fulfilled its original promise, certain problems must be corrected to assure that this law continues to function effectively as a substitute for industrial strife.

This bill would eliminate many of the delays in the present procedures. It would set appropriate deadlines for the holding of representation elections and includes provisions relating to election campaigns which would make elections more meaningful.

It would provide for speedy resolution of the easy cases so that the NLRB could devote its energies to the more difficult ones. It would require that any person who wishes to object to an NLRB unfair labor practice decision must appeal that decision to the courts promptly. It would add two members to the NLRB in order to permit the Board to more effectively handle its ever increasing workload.

The bill would provide more effective remedies where the law has been violated. It provides just compensation to employees where there has been an illegal refusal to bargain in good faith for an initial contract. Employees who are illegally discriminated against during the early critical phases of collective bargaining would be more fully compensated for the economic losses which they suffer. Complex issues which may prolong litigation would be eliminated. Moreover, the NLRB would be required to take prompt action to minimize their losses.

Persons who willfully violate final NLRB or court orders would be denied Federal contracts for 3 years, unless relieved from the debarment in accordance with the bill's provisions. Unlike debarment provisions currently applicable in other areas, no debarment is required or allowable for initial violations of the law. Moreover the violation must be willful for debarment to be invoked. The bill contains two provisions permitting relief from debarment. The procurement agency may relieve sole source suppliers and the Secretary of Labor may also provide relief from debarment in the national interest. This provision will protect the integrtiy of the procurement process and at the same time provide fair procedures for alleged violators and assure that the Government is able to obtain its needed supply of goods and services.

The bill also contains provisions to assure guards more meaningful collective bargaining rights.

I strongly endorse this bill, as reported by your Committee because I believe it is a balanced and important proposal to assure that our vital labor relations laws continue to function fairly and effectively.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

That is what is in the legislation before us, all of the protestations of those who would oppose it to the contrary notwithstanding.

Mr. Chairman, why is it here and what is really the issue? Is it the unions of this country against the managers and shopkeepers and employers in this country? No, not at all.

This legislation was brought here today in response to Americans' cry for a return of law and order to our society. H.R. 8410 is designed to end the lawlessness established by a small handful of employers, who use procedural loopholes and deliberate violations of law to subvert the National Labor Relations Act (NLRA). These rogue employers have effectively undermined the very rights of individual American workers which the NLRA was designed to protect.

The NLRA has worked for several decades. It helped end the lawlessness that pervaded the labor scene when it was passed. But the days when employers strongly resisted the efforts of employees to improve their living standards and achieve dignity at the workplace have returned. These recalcitrant employers on an organized basis have violated the spirit and letter of the law. In so doing, they challenge the very structure and code of conduct that the NLRA provides for the peaceful resolution of labor-management differences. The spirit of fair play in the collective bargaining process, so important to stability in labor relations, is threatened.

H.R. 8410 does not directly affect—nor will it cause any inconvenience for the overwhelming majority of employers who now play the game according to the ordinary rules of law. Rather, it is confined to that small segment of employers composed of renegades and outlaws who operate outside the Nation's labor law without respect for the accepted standards of decency, and without respect for the rights of those fellow human beings who also happen to be their employees.

Labor peace under the NLRA was accomplished even though only minimal enforcement powers were initially provided by Congress, since it assumed that the act would be respected as the law.

However, as we have learned all too often, in over 70 days of hearings since 1961, lawlessness again is spreading its darkening cloud over the labor scene. The NLRA has, unfortunately, become a tool of a small number of unscrupulous employers in their attempt to stop working people from exercising their rights.

Today, it is not the yellow dog contract, the lockout, or the hired thug, that recalcitrant employers use to impede employee progress. The tools of these modern day lawbreakers are the illegal, discriminatory discharges, the unnecessary delaying and undermining of representation elections by the skillful manipulation of procedural redtape, the illegal refusal to bargain, and the runaway shop. These sophisticated "management consultants" specialize in frustrating employees' hopes and nullifying human rights.

Treating workers in the most calloused, demeaning way, these briefcase toting experts can teach a company how to circumvent the law, using dodges for which there are no effective remedies, and thereby avoid enforcement of the act for years. And if the day of reckoning ever does come—and when I see J. P. Stevens case No. XVIII, I repeat case No. XVIII, I am even more dubious of the certainty of that eventuality—these "experts" know that the penalty will be cheap, that the employees organizing effort will have been frustrated and their efforts dissipated by il-

legal, but unremedied, firings, by layoffs, and by turnovers.

For the fired worker, the promise of eventual relief many years down the road does not feed his children and shelter his family. For all too many workers, who have looked to the Board to protect their right to collectively seek more humane and rewarding conditions on their jobs, faith in this system, this set of rules that purportedly governs labor-management relations fairly and impartially, has been lost. The Board's complex set of procedures that were originally designed to protect employees and provide due process has been corrupted by consciousless employers who unduly distort and pervert the NLRA.

While the greatest tragedy in human terms of this lawlessness are the victims, and the broken spirits of employees, great dangers also loom ahead for the whole structure by which the NLRA has brought industrial peace to this country. When a law, any law, is violated with virtual impunity and official orders to obey that law are ignored—as we have seen time and time again by such companies as J. P. Stevens, Monroe Auto Equipment Co., and Darlington—all Americans are affected.

This successful defiance of the law generates a momentum of its own, setting a precedent and pattern for corporate lawbreaking that can only lead to serious damage to the legal underpinnings of our society. If there is an incentive to violate the law, if the means of doing so are readily at hand, and if those who violate the law benefit from doing so, even the employer whose initial inclination is to comply with the law will have his second thoughts, particularly if he is in economic competition with the lawbreaker. Flouting the law becomes "cost-effective" and crime does, indeed, pay. By acquiescing to this unlawful behavior, we run the risk of undermining the voluntary acceptance of the act by the overwhelming majority of law-abiding employers.

In addressing itself to these problems, the Labor Reform Act does not lay out any new principles of law that would change the basic substance of the act. It does not attempt to define previously legal activity by an employer as now illegal. It merely says that if the employer does something that has heretofore been illegal, remedies and penalties for that violation will be changed. These reforms should, as President Carter said in his support for H.R. 8410, make the existing law work more efficiently, quickly and equitably. In so doing, we can reduce the incentives and minimize the ability of recalcitrant employers to violate the law. Law-abiding employers would have less to worry about unfair competitive advantages gained by violators of the law.

Before briefly discussing the provisions of the bill, I would point out that this legislation has been the outgrowth of many years of study and hearings and has been derived from recommendations of panels headed by Archibald Cox and Representative PUCINSKI, by the NLRB task force, the American Bar Association, and numerous scholars in the field. The goals of this bill are supported by all six of the living Secretaries of Labor and by various members of the NLRB. What greater testimony to the value of this legislation do we need? Furthermore, many civil rights associations, women's groups, religious organizations, newspapers, and yes, even Barron's magazine, a traditionally conservative, business periodical, have voiced their backing for these reforms. They are not payoffs for any political support, or the product of hastily drawn legislation. They are a response to well-documented and seriously studied weaknesses in our labor laws.

The remedies for correcting these problems are simple. By providing for summary proceedings by panels of the Board, requiring rulemaking regarding the appropriateness of units, setting time limits for the holding of representation elections, and increasing the size of the Board to seven members—delays in simple, routine matters and dilatory tactics by rogue employers involving the certification process should be reduced. By streamlining its procedures, the Board will have more time to efficiently and effectvely respond to its more difficult, complex, and exceptional representation cases.

It is during this certification process, and the first contact, that intimidations, illegal firings, coercion, and discrimination against employees most often occur. Against such a formidable challenge to the employee's exercise of his self-determination rights, his freedom of choice can only be destroyed by fear for his job. If back wages and reinstatement are finally awarded to the employee, these wages are tax deductible for the offending employer, as are the fees for the union-busting lawyers and the so-called "labor consultants." The employee, furthermore, must have attempted to mitigate his damages, with any of these wages earned during the interim being deducted from his award.

And if the union is eventually certified, there are no guarantees that bargaining in good faith by the employer, as legally required, will soon follow. This is the cheapest insurance against unionization on the market. A couple of years' wages for a few people adds up to much less than raising the wages of many by a few cents an hour. To diminish this incentive toward illegality, the Board would be authorized to award employees compensation lost during illegal delays in bargaining, to award double back pay for discriminatorily discharged employees, and it would be required to seek preliminary injunctions against certain unfair labor practices by employers which interfere seriously with employee rights, much as it is now required to seek injunctions against certain union unfair labor practices.

It is unconscionable that employers should now be able to so easily subvert the law. But they do, and the Federal Government, in many cases, continues to underwrite this lawlessness. J. P. Stevens, which has been found to have violated the act at least 13 times in recent years, which was just found in contempt of court for the second time, and which has even resorted to bugging the motel rooms used by union organizers, has received tens of millions of dollars in Government contracts—the most recent being a $3.4 million award from the Defense Logistics Agency.

We have not permitted such subsidies in other areas such as civil rights, witness the Walsh-Healy Act, the Davis-Bacon Act, the Service Contract Act and several Executive orders—and we should not sanction such behavior in the labor arena.

Companies that violate the law, and that continue this violation after a court has ordered them to cease, should be denied access to the Federal Treasury, absent a finding by the Secretary of Labor that national defense requires otherwise.

The vast majority of employers have little to fear from these sanctions. There is a simple, legal method for them to avoid these proposed new penalties—and they do not need expensive "management consultants" to tell them how: just obey the law!

The urgent need to deal, however, with those employers, who do repeatedly engage in massive violations of their employees' rights, was best expressed in a second circuit lament: Said Judge Feinberg of the second circuit,

> Stevens XVIII (18) has been a troubling (case) not only because of the violations of the rights of the employees involved, but also because *it raises grave doubts about the ability of the courts to make the provisions of the federal law work in the face of persistent violations.* (Emphasis added.)

No testimony could be stronger for ending this reign of economic terrorism. We cannot turn our backs on the many unorganized workers in this land who still seek the better life, simply because other workers now enjoy the fruits of their past struggles.

We cannot allow these workers and others like them to be used in this game of delay—like pawns in a chess game. The stakes are too high—a man's career, a woman's reputation, a worker's health, self-respect, and family can be destroyed, unless we act.

The opponents to this bill attempt to divert our attention by offering their own "employees' bill of rights," and amendments to H.R. 8410 which actually will only undermine these rights.

Nothing in their legislation is designed to assist the many workers who have suffered for so long awaiting reinstatement and adequate back pay. These opponents' amendments to H.R. 8410 are designed, however, to cleverly change the very substance of the NLRA.

Today, we do not seek a restructuring of the basic labor law that would give an undue advantage of one group over another. In the face of sophisticated challenges to these laws, we only ask that new life and vitality be given those rights promised so long ago.

If remedies are indeed the very life, the very heart of those rights, and if rights of American workers are as im-

portant as the human rights of peoples in Russia, Chile, and South Africa, can we do less?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. THOMPSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. FORD).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I tend to favor this bill. When one or two exceptions are corrected, I expect to vote for it. I am troubled by something that has been said here.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

Mr. THOMPSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. FORD).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield further?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am troubled by something that has been said here. Does the gentleman not agree or has the gentleman found that there is no need to protect union members from such things as fines levied by labor leaders? Has the gentleman not discovered or does the gentleman not agree that there are those difficulties? Why is that not corrected too?

Mr. FORD of Michigan. For one thing, the present state of the law, in my opinion, very adequately deals with that problem. I have as a lawyer been on both sides of those types of cases. I can assure the gentlewoman that the employee is not without remedy against the violation of the union. That selection of the bill is not before us because there has been no testimony that I can remember in 12 or 13 years since I have been on the committee asking for that kind of an approach.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, I will say to my colleague, the gentlewoman from New Jersey (Mr. FENWICK), in response to her question, that is what 1959 Landrum-Griffin was all about. There are occasional abuses. But there is an existing body of law under which violators who are union members are indeed subject to penalties.

Mrs. FENWICK. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, I yield myself 2 minutes, only for the purpose of responding to my colleague, the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. Chairman, if you look at page 96 of the report, we only cite several of the cases. Every one of these has transpired since 1959. I point this out to my colleague, since the gentleman from New Jersey (Mr. THOMPSON), the chairman of the committee, indicated that the 1959 act seemed to protect workers. Look at what they could be fined for. A worker could be fined for exceeding production quotas, in other words, working too hard, Scofield against NLRB.

A worker can be fined up to $2,000 for working during a 1-day strike without recourse to the board to examine the reasonableness of the fine, NLRB against Boeing, 1973.

The list could go on and on and on. As a person who is conservative, it amazes me that my liberal friends always confess a concern for human rights and free speech, but somehow or another when it comes to a union, they draw the line. The union can inhibit free speech, the union can inhibit the normal constitutional rights that all of us think we have, when it comes to a union, all of a sudden our liberal friends do not care. They draw the line. They look the other way.

So I would suggest that we do look at the matter of fines and that you carefully consider the amendments that we will offer under the 5-minute rule.

Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to H.R. 8410. In the few minutes available I would like to go through the bill and explain why I am opposed to various portions of it.

Section 2 of the bill would increase the size of the Board from five to seven. I, along with other members of the committee who oppose the bill generally, find no particular reason to oppose this increase in the size of the Board from five to seven. It may make it a little more cumbersome.

I find the more important provision is the summary judgment affirmation procedure contained in section 2 whereby the Board establishes rules that two members of the seven-member Board could summarily affirm decisions of administrative law judges. Additionally, this provision requires that a motion in response to summary judgment be filed within 30 days.

One of the main objections to this procedure is that an integral concept of the act is the parties' right to review by the Board, and this procedure would eliminate the right to review. Additionally, an increase in the number of requests for reconsideration by the full Board can be expected, and this will probably result in slowing down the procedures of the Board rather than speeding them up, as the bill is designed to do.

Section 3 provides that the Board shall adopt rules that would allow unions to address employees on employer time and on the employer's property if the employer himself has done so. This is probably the most controversial provision in H.R. 8410. The interesting part of this proposal is that it is diametrically opposed to the 15-day election requirement, because there probably would not, except in very few cases, be sufficient time for the union to petition the Board to act and then allow the union to have an opportunity to engage in addressing the employees, all within the 15-day period.

In the full committee markup we offered an amendment which would have allowed equal access to both the employer and the union. That was an evenhanded amendment. But it would have, as well, protected the sanctity of the employees' home. Our amendment, which was fair and evenhanded, was summarily rejected by the majority of the committee.

Next, the bill requires that the Board adopt rules designating the appropriate units. This is something that the Board has had the authority to do for many years and has not chosen to do because it is not workable. Really I think what will happen is that if the Board does adopt such rules because it is forced upon it by the passage of this act, then the contest will not be over what is the appropriate unit but what are the facts to apply to the rule to determine what is the appropriate unit, and we will not reduce the disputes; we will just change the form.

Section 3 of the bill concludes by limiting court review of any rule promulgated by the Board. The standards for review are so strict that it is doubtful that a rule could be struck down by the courts under those standards.

Section 5 provides for expedited elections. Based on the false premise that the current procedures of the NLRB permit undue delay in the processing of representation elections, section 5 creates a 3-tier system of "quickie" elections founded upon the unreliable determiner, authorization cards. If a bare majority—50 percent of the employees in a proposed unit—sign such cards, then the election must be held within 15 days.

I would point out that both the Board and the Federal courts have consistently found that authorization cards are a very poor indication of the real intention of the employees. "Notoriously unreliable" is the way they have been described by the Board and the courts. But if less than a majority signs authorization cards, then there would be a mandatory limitation of 45 days.

Only in cases where there are exceptional questions, novel and complex questions, would a time of up to 75 days, which is the absolute outside limit, apply.

I would point out that when we talk about these time limitations, we must remember that they are maximum. For instance, that 15 days does not mean that the employer and the employees will have as much as 15 days; it means they can have no more than that. The time might be—and it very likely would be—shorter or less than the 15 days.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield on that point?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, with respect to the time problem, the NLRB's practice has been that wherever the employer is notified by mail, 3 additional days—meaning a total of 18—are granted.

The gentleman will remember that in committee I offered and had an amendment adopted in order to insure that the employer get a full 15 days, and that the days begin to run upon a certified receipt or evidence of receipt given by the employer of that notice of election.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution, but I would say the rhetoric that the gentleman has just used is misleading.

The employer, under this bill, is not guaranteed 15 days. The union is guaranteed that the election will be held within 15 days. I think the gentleman would have to agree that when we say the maximum time is 15 days, the time could be 5 or 10 or 12 days.

Therefore, when the gentleman says that he is guaranteeing the employer 15 days, that is totally inaccurate.

This is a time limitation. The maximum length of time is 15 days.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, the gentleman from New Jersey is not in any way trying to deceive his friend. He just sees it differently.

I suppose that under the 5-minute rule we will have more adequate discussion of this subject.

Mr. ERLENBORN. Mr. Chairman, is the gentleman telling me that the provision in the bill says that the election shall be held on the 15th day?

Mr. THOMPSON. No.

Mr. ERLENBORN. Or does the bill say that the maximum time the board can allow is 15 days?

Mr. THOMPSON. I am having counsel check that.

Mr. ERLENBORN. I should think the author of the bill would know that. However, it is a time limitation.

Mr. THOMPSON. If the gentleman will yield further, the author of the bill, I think, knows about as much about the bill as does his distinguished opponent, but I want to give the gentleman an accurate answer.

Mr. ERLENBORN. Is this a maximum time or a minimum time, or is it an absolute time? It could be only one of those three.

Mr. THOMPSON. If the gentleman will yield further, on page 53 of the report it says:

> Including due regard for the needs of the employer to maintain the continuity of production, assure that if an employer or employer representative addresses the employees . . .

Mr. ERLENBORN. That is not the provision.

Mr. THOMPSON. No, I am sorry. Here it is: "not more than 15 days."

Mr. ERLENBORN. That is the maximum time. I thank the gentleman for confirming my interpretation, which is that the employer is not guaranteed 15 days.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for the opportunity to assure him that I am not trying to deceive him in any way.

Mr. ERLENBORN. I realize that, but I think that there has been a misinterpretation of this bill all along, not only with respect to those provisions. Employers have been told and the public has been told that the employer is guaranteed 15 days; and the gentleman had that interpretation himself.

It is obvious that this is a limitation; on how much time may be granted to the employer. He may get 1 day. He is guaranteed no particular period. He may be given 1 day, 5 days, or 10 days; but under no circumstances could the board give him more than 15 days, so these are time limitations.

Mr. Chairman, the unfairness and the one-sidedness of this whole bill, including this time limitation on representational actions, are really characteristic of what is being done here.

No limitation is suggested by this bill on decertification elections. If it is the purpose or the intent of the drafters of this bill and those who support it to see that the procedures of the board are speeded up, why do we not have deauthorization and decertification elections subject to time limitations as well?

I think it is obvious that it was not the intention to be fair, to be even-handed or equitable. The purpose is to make life easy for union organizers and union bosses.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 4 additional minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. THOMPSON. Mr. Chairman, I had promised the gentleman from Illinois, when he yielded to me, that I would give him more time. Therefore, I yield 2 additional minutes to the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized for 6 additional minutes.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield for a question?

Mr. ERLENBORN. If it will be very short, I will yield very briefly.

Mr. FORD of Michigan. Mr. Chairman, the gentleman has talked about decertification elections. I cannot recall that this matter was suggested to the committee in the past.

Did the gentleman offer an amendment to this bill at any time when we were considering it or does he have such an amendment now?

Mr. ERLENBORN. I do have such an amendment. I do not know whether it was offered in the committee, but I think it was.

This was one of the several amendments summarily rejected by a majority in the committee.

Mr. FORD of Michigan. It was not offered in the committee.

Mr. ERLENBORN. I believe it was, but it certainly will be offered here tomorrow.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. ERLENBORN. By the way, slowing down or speeding up certification or decertification elections is not a remedy that is needed according to the facts that we know. The procedures of the board in certification elections is exemplary and the board has a fine record. Even the present chairman of the board, Mr. Fanning, in his testimony before us, did not say that the board needed any direction or help from Congress in improving the record of the board in this area. Actually the delays in disposing of unfair labor charges are not speeded up by this bill, and this is a false remedy aimed at a false target.

Section 6 of the bill drastically limits the opportunity to appeal board action. No certification can be set aside unless the board "prejudicially" violated the "procedural" requirements of the APA—the Administrative Practices Act—or acted contrary to the act or the Constitution, or acted capriciously or arbitrarily.

These are new standards, and are, in fact, different from standards of review that are applicable under APA to all other administrative agencies. It obviously is an attempt, now that the board is increased by two more pro-labor members, to make a decision of the board practically nonappealable.

Next, the board would be directed by this act to employ, for the first time, punitive remedies. Remedial has been the watchword of the act in the past. Now the act would add punitive remedies, such as debarment without any chance by the board to exercise judgment.

Debarment, under the act, would be automatic when the circumstances were found to exist, and would exist for a 3-year period without the board being able to exercise judgment as to whether debarment is a proper remedy or for how long debarment should exist.

I would point out that debarment means that if an employer with 40 plants across the country is found guilty in one plant, that employer cannot contract with the Government in the 40 plants. This means employees whose jobs have depended upon contracts with the Government will be the ones who will be suffering the penalty along with the employer.

Double back pay is a new remedy. I think if we are to use such remedies possibly it would be proper to do away with the mitigation of the back pay, but I would not say double back pay is a valid remedy.

Let me talk, for my last couple of minutes about employee bargaining rights which we hope to protect, by redrafting cleverly such extra amendments under this partial gag rule, which will limit our ability to offer amendments, employee bargaining rights would guarantee to the employees the right to have secret ballot elections. Many people are surprised to find out, under the current conditions of union employees who join together in secret ballot and vote against the union, the board has found against their right to organize independently. Certification of the union in some cases is used as a punishment of the employer regardless of whether the employees want that union or not.

The bill that the gentleman from Ohio

(Mr. ASHBROOK) and I have cosponsored would protect the employees from unreasonable fines. The gentleman from Ohio (Mr. ASHBROOK) has given us one example, the $2,000 fine for working 1 day contrary to the union's wishes, and the board, under present conditions, has continuously held they are powerless to protect employees, protect employees like in the secret ballot elections, on the question of whether to go out or indeed when the striking union's representation of these employees is at stake, to protect the employees who have effectuated a negotiated agreement for arbitration. Here we are talking about the union representing the employees' negotiating and agreeing to arbitration, the employer agreeing to arbitration; and yet the Board and the courts are powerless to force arbitration as agreed upon by the parties.

To protect employees from the onerous obligation of being forced to make contributions to the union through checkoff dues, and finding that they are being used to support political candidates not of their choice. The Supreme Court has found that they are entitled to get that money back if they file suit, if they can identify how much of their money has gone for those purposes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman.

Yet I think that it is obvious to all that this remedy of each individual who is forced to make these contributions for political purposes against his wishes to have to go through this cumbersome procedure of individually filing suit to recover his money is unfair.

Last, let me mention an additional amendment that was offered, and again summarily rejected, in the committee to protect against stranger picketing and wildcat strikes and violence by the unions in picket and strike situations. We have a very serious situation in the coalfields that is caused by stranger pickets to a great extent. We have had strikes, wildcat strikes, in the coalfields where the protest is against the content of schoolbooks, obviously outside the control of either the union or the employer; or the protest is because the Government has increased the gasoline tax, again a matter not within collective bargaining and outside the power of the parties to control.

We have stranger pickets wearing stocking masks that have stopped the production of coal in the coalfields.

We have the use of violence when people try to cross picket lines when stranger pickets are in the field.

We have these people in the coalfields that are carrying guns on the picket line, and the Board and Federal courts are powerless in these situations to protect the employers and the employees.

Here is what has happened in the coalfields, just as one example. The man-days lost due to this type of activity were 1,023,800 in 1974, running up to 2,273,000 man-days lost so far this year, and we have not even concluded the full year. We have had strikes, wildcat strikes, and stranger picketing in the coalfields over the question of the reduction of health and welfare funds in the United Mine Workers Health and Welfare Fund. These strikes in themselves have worsened the condition of the fund. The Health and Welfare Fund of the United Mine Workers is supported by a contribution based on so many cents per ton of coal that has been mined. Due to stranger picketing and wildcat strikes in the coalfields so far this year, $45 million has been lost to the Health and Welfare Fund. Over the course of the past 4 years, $108,397,000 has been lost to the United Mine Workers Health and Welfare Fund. It is near bankruptcy, and there is no remedy under the National Labor Relations Act or in the Federal courts for this kind of stranger picketing or wildcat strikes.

I will be offering an amendment, and it will be germane even under this semi-gag rule, to add this power to control these uncontrolled strikes in the coalfields. I would hope that the Members would support the amendments that we offer.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 30 seconds.

Further, I am somewhat amused by the characterization of the rule as a "semi-gag rule." So far the gentleman from Illinois, the gentleman from Ohio, and the gentleman from Oklahoma have something like 270 amendments. I do not know what would happen if this were really what they would want. Maybe they would have 400 amendments.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, we constantly hear the rhetoric that H.R. 8410 is a labor bill—supported solely by unions whose only goal is organizing for selfish reasons.

The Wagner Act, in 1935, was hailed as labor's bill of rights. It was, however, at the same time a tremendous contribution to racial equality. By making possible the organization of workers in the mass production industries, the Wagner Act provided a major boost to the income of black workers and brought them to a level of approximate equality with white workers in those same organized industries.

Today, black people still compromise a disproportionately large percentage of this Nation's poor and marginal wage earners—but they are not alone. Another segment of society—women—are entering the work force in unprecedented numbers. Their ranks have risen from 1 out of 5 to where they are now 2 out of 5.

For these two segments of our society, Mr. Chairman, the present law provides no adequate protection from the hardship of long delays and unfair tactics used by employers who even fire workers for union activity, despite the fact that those firings are clearly a violation of law.

The changes now proposed for the National Labor Relations Act would alleviate many of the injustices at countless work places, large and small. The changes are particularly important to blacks and women concentrated in service fields and manufacturing, where employer abuses of existing law have blocked collective bargaining.

Labor law reform is needed to protect the rights of these and all the unorganized workers, to guarantee that they are truly able to exercise freedom of choice. When the rights to organize and bargain collectively are effectively denied to millions of workers, blacks and women are special victims. And they make up a large percentage of workers who have been denied this right.

A fair chance to organize unions is an essential preconditions for the economic advancement of blacks, women, and other minorities.

Workers in low-wage industries suffer most from the inadequacies and abuses of current labor law. Earning very marginal incomes, they cannot afford to be fired unjustly and then wait indefinitely for the NLRB to rule on their cases.

To the extent that the current law frustrates the ability of white and black workers to organize, it is a barrier to racial equality and economic justice. In fact, the absence of effective remedies against employer abuses has frequently required a worker to be a hero in order to exercise his or her promised rights.

To say that this situation is at present "unbalanced" is an understatement. The situation regarding the National Labor Relations Act is not unlike the situation regarding sex discrimination legislation: Although it has been on the books for over a decade, women have not been able to achieve equality in this Nation due to the law's poor enforcement provisions and inadequate administration.

The struggle for blacks and women's rights is really a struggle for human rights and dignity. That is why we find such diversified groups as the NAACP, the A. Phillip Randolph Institute, the National Organization of Women, the National Political Women's Caucus, Catholic bishops, Episcopal ministers, Jewish rabbis, and many, many more voicing their support for H.R. 8410. They are linked by the thread of their concern for human rights and human dignity—their concern for people.

Passage of H.R. 8410 will guarantee that workers will be able to attain the rights that their ancestors fought for and thought they had won, but have been denied due to the inadequacies in the law. Now is the time to turn that around and assure equity and justice for all.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the ranking minority member of the committee, the next Governor of the State of Minnesota, the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I believe that from time to time it is necessary to reform labor law, and I know the gentleman from Ohio and the gentleman from Illinois would like to have gotten into some parts of the NLRA that are not opened up by this bill, but the decision

on the part of this body when we voted on the rule was that we stay within the provisions of this bill and the restrictive rule that was sent to us and subsequently was adopted.

Mr. Chairman, my concern about this legislation is not that we are moving into labor law reform. I think it is wise to do that from time to time, as I have indicated; however, there are some parts of it that give me concern. I guess they would be in two ways that I am concerned; one, I think the so-called quickie election is too short a period of time.

Second, I think it is not a balanced piece of legislation in that we do not treat the unions in cases of unfair labor practices the same as employers; so I will be proposing seven different amendments.

I do not charge my colleagues on the Democratic side with any breach of faith or anything of that kind. I just want them to look at my amendments as reasonably as they possible can.

In talking to people on both sides, labor and management, it seems to me that the amendment I will offer will make H.R. 8410 more balanced and fair.

No. 1, in the quickest election in the bill, I believe that we should include deauthorization and decertification. I know there was a dialog a little bit earlier between two of my colleagues about that. It seems to me that inclusion of decertification and deauthorization would be the fairest thing. I will go into that when we offer amendments tomorrow.

Also, on the 15 days election, many of my colleagues have gone through short special elections themselves. With such a short time there would be a difficulty in comprehending and moving the procedures. I am going to propose that we make that first step when there is a majority of employees who want to have an election, so that the election will be held by 4 weeks instead of 15 days. The Board will have 20 days to decide.

The Board will have up to 4 weeks for a ballot on decertification and deauthorization also. These occur where a majority of the employees undoubtedly are in favor of such a move.

In the case of an employer petition, I did not include that in the shortest time election, which I would have within 4 weeks. When the employer makes a petition the Board cannot expect that he is speaking for a majority of the employees. That is why I did not include it.

In the next step, where a hearing is necessary, I change the 45 days to election in the bill to 60 days. In the case where the issues are very complicated, I set at 90 days the length of time in which the Board must hold the election. I would believe that would give the time necessary. Presently better than 80 percent of all elections are held within 44 days; so I doubt that organized labor is that concerned about organization elections that are settled within 44 days, but those that take years.

While I do have some reservation on my own part on limiting the Board that they cannot extend on the time that they feel they ought to for elections, I can see why they want to set an outside limit, which would be 90 days in which the election would be held, so that those which take 5 or 10 years will not occur in the future.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 5 additional minutes to the gentleman.

Mr. QUIE. Mr. Chairman, the question of debarment has been a concern to a number of people. I will have an amendment to that part of the bill as well. As the word "persons" can be widely construed, what my amendment would do is merely limit it to the plant or facilities or labor organization that has willfully violated the act; however, using GM as an example, if one GM plant engaged in a willful violation, I do not think all the GM plants all over the country should be debarred from Federal contracts. Similarly, if it were one local that committed the violation, we should not hold the whole international or the international's other locals responsible for it. Mandatory debarment for 3 years may be too harsh so my amendment will give the Secretary of Labor discretion in debarment, so if he feels that the 3 years is too harsh, he could impose debarment for shorter period of time.

Also, Mr. Chairman, on the back pay provision for violations, of 8(a)(3), the employer discrimination, or 8(b)(2), causing the employer to discriminate. That seemed a bit harsh to me, but in talking to people who represent labor unions they said, "What you are talking about is somebody who has broken the law." It is pretty hard to say you should not penalize them.

So, I took a different approach and decided that we ought to make it fair, that whoever breaks the law ought to then come under the double payback for violations. Therefore, the amendment I will propose will add both 8(b)(1) and 8(a)(1). The one is where an employer engages in an unfair labor practice to prevent employees from exercise of their section 7 rights; 8(b)(1) is where a union restrains or coerces an employee in the exercise of his section 7 rights. I believe that will make that provision fair and equitable.

Another amendment changes the bill from two members of the Board to make summary judgments, back to the present law with a three-member panel. I believe that we should continue three-member panels, because if the two disagree, we need somebody to break that tie between the two views.

The second part of that provision the bill provides 30 days for the motion and the response, I divide that so that there would be 10 days for the motion and 20 days for the response, because those who are going to respond need more time than could be possible under the bill.

The last amendment has to do with the tally of ballots. The bill provides that the tally of ballots will be served on the parties despite the Board's recent "vote and impound" procedure. I doubt whether the committee really intended to prevent the Board from implementing its recent decision on "vote and impound." My amendment would enable them to continue to use that procedure and require the Board to resolve the challenges.

With those amendments, I believe that this would be a much more fair and equitable piece of legislation, and would with their adoption vote for the bill myself.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the distinguished subcommittee member, the gentleman from Michigan (Mr. KILDEE).

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, H.R. 8410 is a bill written to restore some equity in dealings between management and labor when it comes to organizing and collective bargaining.

To my way of thinking, we need all of the stability we can get in relationships between management and labor.

We all know that many forces are at work which divide various segments of society, and put them in confrontation with each other. Some of these we can do something about. Others do not appear to have solutions that are acceptable to the majority of the people.

But I think we can struggle and dispute and argue, and still come up with a bill which is generally acceptable to thoughtful people who would like to see at least this one area of important relationships—the relationships between management and labor—operate in a more harmonious way.

Mr. Chairman, if we succeed at this, if we succeed in passing a bill which helps make these relationships more harmonious—and I think we will—there will be benefits for society in the years ahead which we cannot foresee today.

So I want to urge all of the Members to consider this, to consider what the ultimate result of our action could be—more harmonious relationships between management and labor—and support the bill.

Mr. KILDEE. Mr. Chairman, it is difficult to believe that after 17 years, at least 70 days of committee hearings in the House, and the issuance of three comprehensive reports, we still do not have labor law reform.

That is the record, Mr. Chairman. The problems addressed by H.R. 8410 have undergone extensive, prolonged and detailed analysis and examination. I dare say no other issue has undergone such scrutiny, heard from so many witnesses and been delayed so long from reaching the floor of the House, as has this issue of labor law reform.

Certainly, back in 1947 and again 1959, when employers of the Nation complained vehemently about their perceived imbalances in the National Labor Relations Act, they did not have to wait 17 years to get their grievances redressed. Each time Congress responded to the employers quickly and favorably.

But now we are concerned with restoring the balance of power to assist employees in exercising their right to organize and bargain collectively. And it has taken 17 years, reams of testimony and reports and unmeasurable instances

of individual degradation, economic deprivation, employer repression and human suffering to get labor law reform before this body.

It remains to be seen if the power of working people will be heeded as favorably as the power of employers. We know the power of the people has not been heeded nearly so quickly.

For the record, Mr. Chairman, and for the benefit of those who may doubt the long history of H.R. 8410, let me summarize. It begins on February 2, 1960, when a panel of labor law specialists, chaired by Archibald Cox, filed a report with the Senate Committee on Labor and Public Welfare. It continues to President Carter's message to Congress on July 18 of this year, calling for labor law reform, and subsequently, the introduction of H.R. 8410 by Representative THOMPSON. There followed 10 full days of hearings by the Subcommittee on Labor-Management Relations, chaired by the distinguished member from New Jersey. On September 22, the full Committee on Education and Labor ordered H.R. 8410 reported, as amended.

As before indicated, the chronology of this legislation, between the Cox committee's work in 1960 and the debate here today, is packed with extensive detail and analysis. It is replete with recommendations for every reform contained in H.R. 8410. And the bill's long tortured history is fraught with thousands of examples of human suffering and denial of human and legal rights, caused by recalcitrant employers and rogue consultants, bent on breaking the unions by breaking the law.

Now, Mr. Chairman, let be briefly recite the chronology of H.R. 8410.

On February 2, 1960, the Cox committee filed a report, in the Senate entitled, "Organization and Procedure of the National Labor Relations Board." The Cox report said:

A major weakness in labor-management relations law is the long delay in contested NLRB proceedings. In labor-management relations justice delayed is often justice denied.

From May 8 to June 29, 1961, the House Subcommittee on the National Labor Relations Board chaired by Congressman Pucinski, held 15 days hearings on the "Study of Operations of the NLRB." The subcommittee issued its report in September 1961. Let me quote just three of its findings:

(1) It took 393 days for the processing of an unfair labor practice case, but more than half of this time, 165 days was expanded at the Labor Board level;

(2) Labor Board members should not be required to review every trial appeal; and,

(3) Labor Board orders constitute in many situations no more than "a slap on the wrist." They are both too little and too late. They constitute . . . "a license fee for union busting."

The subcommittee recommended—

That the Labor Board reconsider the problem of remedies with an eye to taking the profit out of unfair labor practices.

On September 16 and 17, 1965, the Committee on Education and Labor conducted hearings on "Preliminary Investigation of the NLRB and the Administration of the NLRA." The subcommittee held 1 day of hearings on same subject on February 9, 1966.

The subcommittee found:

If this study supports any conclusion, it is that the major impact of the NLRB lies in its effect upon . . . employers and . . . unions who do not figure in labor practice proceedings.

Not surprisingly, the subcommittee concluded:

A weakening of employers' willingness to comply with the law has undesirable consequences and that the Board's remedies were not fully effective in dealing with some employers."

From August 7 to 18, 1967, the Special Subcommittee on Labor chaired by Congressman THOMPSON held 7 days of hearings on a bill, H.R. 11725, to amend the NLRA, in order to increase the effectiveness of its remedies.

The subcommittee's report was entitled "National Labor Relations Act Remedies: The Unfulfilled Promise"—90th Congress; Thompson subcommittee.

The Thompson subcommittee recommended:

Congress should expedite the processing of unfair labor practice discharge cases by: (a) delegating to (ALJ) greater finality of decision-making process . . . (b) making decisions of the Labor Board self-enforcing; (c) requiring immediate reinstatement of discharged employee upon . . . finding that discharge was unlawful.

Next, from May 6 to 27, 1971, the Special Subcommittee on Labor held 8 days of hearings on H.R. 7152, a bill to amend NLRA to expedite its processes and strengthen its remedies.

More recently during March 20, 1975, to May 5, 1976, the Subcommittee on Labor-Management Relations held 19 days of hearings on several bills, each addressing problems and remedies contained in H.R. 8410.

A report issued December 1976—94th Congress, second session; Thompson subcommittee.

Finally, this year, July 15 to September 15, 1977, the Subcommittee on Labor-Management Relations held 10 days of hearings on H.R. 8410.

The staff report concludes:

There is no effective penalty for disobedience of the National Labor Relations Act . . . there are rogues who must be curbed by law for the benefit and protection of all others.

The report continues:

The inability to curb and remedy such egregious conduct turns what purports to be a protective law into an entrapment to disaster.

Finally, the report cites "the twin problems of delay and inadequate remedies."

Mr. Chairman, in view of this 17-year history of investigating and finding the weaknesses of the National Labor Relations Act, it defies all commonsense and sound judgment of opponents of H.R. 8410 to come before this body and plead there has not been enough study given to the issue.

They delayed this legislation for 17 years. How much longer, Mr. Chairman, shall we permit the antagonists to have their way?

In 1935 my father and his coworkers were victims of injustice. Congress responded to their cry for justice by passing the Wagner Act.

Twice since then that act has been changed to assist the employer. But, as I look around this country—north, south, east, and west—I seek that much of what we sought to achieve in the mid-1930's has not yet been achieved. Much of what I have seen is a déjà vu, a rerun of Flint, Mich., in 1937, when finally the first contract was signed between the employer and the UAW.

Forty years later, thousands of people are still looking to Congress for that justice they thought they had received in the 1930's.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to a member of the committee, the distinguished gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, it is very difficult to know exactly how to approach this debate. We are told repeatedly that the legislation before us is a simple bill, reasonable and eminently fair, and that nobody need be overly worked up about it.

And yet it comes before the Education and Labor Committee in a bit of a frenzy, added to the committee calendar for markup with little notice, skipping debate, and markup in subcommittee and rushed through the committee with amendments disposed of with little or no debate. On straight party line votes as Members march in lockstep apparently fearful of something or other although it is hard to know who could be upset enough to retaliate for a vote on such an innocuous and innocent piece of legislation.

We are told that the bill before us is one labor really expects no problem with, that it has been brought before the House with all controversial points removed from the earlier bill, H.R. 77, and yet we find that even though there sits in the chair perhaps the single most qualified and most fair Member of this body, quite capable of fairly interpreting and enforcing the rules of the Committee, with the respect of all the Members, it is for some reason necessary to remove from the chair's discretion the determination of what is and is not a germane amendment.

If you will permit me, Mr. Chairman, I suggest that this bill is as seductively dangerous as Fanne Fox and as innocent as the Happy Hooker.

And the hooker in this bill, Mr. Chairman, is that in the name of reform it reforms objectivity completely out of labor-management relations.

What we have here is a bill that provides for quickie elections practically depriving management of a chance to present its case to its employers.

Requires an employer not only to pay for his own employee relatic but also to subsidize union organizing efforts on his company premises on his company time, overturning 25 years of case law.

Restricts an American citizen's basic right to judicial review of administrative decisions.

Imposes severe, and I would say properly severe, penalties on employers who willfully violate the principles of fair

labor practice but with no similar prohibitions against labor unions which violate the rights of company employees.

Throughout this bill, Mr. Chairman, what we have is not reform but a tightening up of union power.

After nearly a century of activity, organized labor finds itself today with something like 20 percent of the labor force enrolled as union members and that number going down every year. Given a choice to join a union or not, free men and women increasingly vote no, and so, unable to compete fairly in a free fight for men's minds, the unions come to us again and again and again for unfair advantage in a battle for men's bodies, for their pocketbooks, for their names on union cards and more importantly for their hard-earned money in union treasure chests.

Mr. Chairman, the labor movement is no longer ill-fed men battling against fat employers, getting their heads bloodied and their bones broken to fight for the rights of the workingman. That is what labor used to be. Today it is fat union men in three-piece suits with expensive cigars demanding ever more special advantage to force workingmen into their unions and to deprive them of a chance to freely choose their own futures.

Mr. Chairman, the labor movement is old and sick and fat and crippled and that is why it comes to this floor, in desperation, putting the Members of this House under a gag rule so they can continue to put management and employees alike under a gag rule when the unions go to organize them and collect their union dues.

I am not confident that we will be able to stop labor again. The cards are on the table. The union bosses are saying this is the litmus test. They are saying we watch this vote and we decide who our friends are and if you want union money in the next election you be with us. This is the litmus test.

Well it is a litmus test, Mr. Chairman, not only for labor but for the rest of a free society. The portion of that 20 percent of the work force that is in labor unions but only grudgingly is going to watch this vote, too. The 80 percent of the work force that is not in labor unions is going to watch this vote. The businessmen and women of this country who provide the jobs that feed the working people are going to be watching this vote. If the liberals are going to watch this vote so are the conservatives who in every public opinion poll gain strength and allegiance.

Let this be a litmus test, Mr. Chairman, let the Nation see labor for what it has become.

This is a bad bill because it restricts freedom and fair competition in the field of labor management relations. I urge my colleagues to vote against it.

Mr. FORD of Michigan. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania (Mr. MICHAEL O. MYERS).

Mr. MICHAEL O. MYERS. Mr. Chairman, I rise in support of H.R. 8410 as reported by the committee. This legislation is designed to bring equity to labor-management relations. One basic purpose of H.R. 8410 is to address a serious deficiency of the present labor law: Its inability to deter those who deliberately choose to ignore it.

Protection against violations of the law cannot be provided simply by writing the necessary prohibitions in the statute books. The life of the law is experience and the experience since the passage of the Wagner Act confirms that a certain number of those covered by the act will violate its requirements if it pays to do so. That experience also demonstrates that successful defiance of the law generates a momentum of its own. If there is an incentive to violate the law, if the means of doing so are readily at hand, and if those who violate the law benefit from doing so, even the individuals whose first inclination is to follow the law have second thoughts, particularly where they are in economic competition. That is why "remedies are the life of rights."

H.R. 8410 is premised on the belief that the present remedies for certain violations are too long in coming, and when they do come fail both to make the employees completely whole and to deprive the violator of the fruits of his unfair labor practice. H.R. 8410's purpose is to correct these inadequacies. A climate of compliance with the act's prohibition of economic reprisal against employees who exercise section 7 rights during organizing efforts can be created only if the profit is taken out of section 8(a)(3) and 8(b)(2) violations.

In regard to protecting workers fired for union activity, the current remedy to "make whole" a worker who is illegally fired because of his or her union activities, is reinstatement plus the amount of lost wages, discounted by any substitute income earned. It can take years to settle a wrongful discharge case and time and money are clearly on the side of the employer.

The effect of these illegal firings on the workers and their families is devastating. Under present law, damages over and above the employee's actual wage loss are not compensated—for example, loss of insurance, repossession of property, impaired credit and so on. Reinstatement and back pay simply do not compensate for the anguish and hardship suffered.

Section 8 would amend subsection 10(c) of the act to provide that employees illegally discharged during an organizational campaign or until the first contract is reached would receive as compensation double the amount they would have earned had they not been illegally fired, with no discount for interim earning. This would eliminate the need for another time-consuming hearing as well as assuring the illegally fired employee more adequate relief. Double backpay is already incorporated in other nonpunitive statutes; that is, the Fair Labor Standards Act.

H.R. 8410 also protects employees by extending the use of preliminary injunctions, presently the exclusive right of the employer. This remedy could significantly cut down the devastating delay in many of the illegal firing cases. Under present law, section 10(1) of the NLRA requires a regional office of the NLRB to seek a temporary Federal court injunction to preserve the status quo when a union engages in certain unfair labor practices. With this section, employers are able to obtain prompt relief from certain alleged union violations of the law before the administrative process even begins.

What section 10 of H.R. 8410 proposes is comparable injunctive relief when an employer illegally fires a worker for union activity during the same period. Enactment of this provision would help eliminate the incentive for employers to fire union activists to undermine an organizing drive, since a Federal court could order immediate reinstatement.

Many employers have found that it is more profitable to defy and ignore the provisions of the NLRA regarding refusals to bargain. The present remedies available to the board, cease and desist orders and orders to bargain, are virtually meaningless. Delay is clearly to the employer's advantage.

Section 8 of H.R. 8410 would amend subsection 10(c) to authorize the board, in cases where the employer has unlawfully refused to bargain an initial contract—but no for subsequent contracts—to award the employees compensation for the delay in bargaining. The worker would receive an amount of money based on the average wage settlements negotiated by workers at plants where collective bargaining proceeded lawfully. They would receive these wages retroactively from the time the illegal bargaining occurred.

The final section of the bill that deals with strengthened remedies is barring labor law violators from Federal contracts. Each year some of the willful and flagrant violators of the NLRA are awarded millions of dollars in Government contracts. Section 8 of H.R. 8410 would put an end to spending Federal funds to reward violators of the Federal law.

Any company found by the NLRB to have willfully violated a Board order, which was finally enforced by a court decree, involving the intimidation of employees in the exercise of their rights under the act or discrimination of employees with respect to union membership would be barred from participation in Federal contracts for 3 years, with certain exceptions. This provision is identical to those found in many other Federal statutes, that is, the Davis-Bacon Act, Service Contract Act, Walsh-Healy Act, and various Executive orders and statutes. This provision is necessary to insure that a winning contract bid is not achieved at the expense of fair labor standards.

The strengthening of remedies contained in H.R. 8410 is desperately needed if the labor laws are to function as they were intended.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, every time we have a labor measure come before the House of Representatives, by the time final action is taken it has usually become a very controversial issue. This bill is no exception. The genesis of it was H.R. 77 with the same title. That bill contained a number of features that were believed to be very objectionable by the business community. Particularly

that feature in the bill that would have permitted union certification by petition. That provision would have had the effect of abolishing secret balloting by union members. I agree with those who believe that provision to be offensive.

However, no longer do we have before us H.R. 77. Instead, we have H.R. 8410 which prompted the Chicago Tribune in an editorial dated July 16, 1977 entitled "In Fairness to Labor," to reflect favorably on the many changes made and the effect of compromise on the bill. It is true as has been suggested by my colleague, Mr. ERLENBORN, that the Tribune has reemphasized some of the good and bad features of the bill.

I believe that there still needs to be some amendments to make the bill more equitable and balanced. I wish to state my belief that the thrust is fair and reasonable. The thrust is to provide procedural certainty that is to prevent delaying abuses that have been caused by the few to the detriment of the many. The overwhelming majority of American employers have been fair and cooperative. Only a few have been abusers. Today I will not cite the litany of abuses listed in the majority report. They are patently offensive and degrading—particularly demeaning to employees who have not the leverage to fight back.

Speaking as one of those who represents a substantial segment of working people—who are organized, I can tell you that the myths about unions and union leaders are just that—myths. In my own county of Rock Island, I have a great many unionized industrial employees. The labor organizations themselves have been good citizens. They have participated in every useful facet of community life. Everything from flood control efforts, to United Way fund raising, to environmental projects, to senior citizen activities, to holding elective office. I believe those examples of activities are cases where business and labor have been equally committed to provide a better community.

I hope people on my side of the aisle will give serious consideration and support to this measure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

May I commend the gentleman in the well for his efforts at improving this piece of legislation, as one who would like to support it if it could be improved. One difficulty I have had that has been raised earlier is that this piece of legislation places new penalties on employers without placing any new corresponding penalties on employees or on labor unions. I do not know if the gentleman in the well has a comment on that, but I commend him on his efforts to improve the bill.

Mr. RAILSBACK. My understanding is that there have been some efforts made to amend both the remedy section and some of the other sections of the bill to take the gentleman's observation into account. Let me express my own feeling. The major thrust of this bill, as I see it, is to provide what I will refer to as procedural certainty. The idea that very, very few abuser employers can delay, can take advantage of omissions in our present procedure, bothers me. It bothers me a great deal that some person who may be genuinely interested in organizing right now is able to get only back pay even though illegal activity has been committed against that person. By the time he or she gets that back pay, it may be that he has suffered all kinds of consequences. I think generally the thrust of the bill is quite good.

Mr. FORD. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MILLER).

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in strong support of the Labor Law Reform Act (H.R. 8410). The Committee on Education and Labor has done yeoman service in hammering out a positive proposal which resolves major issues which have stubbornly persisted in the exclusive representative election process.

We have been presented a well-documented need based on the 40+ years experience with the Wagner Act that extended basic economic rights and status to working men and women. Today I speak out for those who are represented by an exclusive representative, and more important, those who will make that decision in the future.

The record is replete with evidence of abuse, dilatory tactics and a thwarting of the basic rights to democratically select a union representative.

The record points out employers who have subverted the legal process and used every delaying tactic imaginable. This legacy remains and will persist without modification in the law.

Appeals upon appeal, circumvention of the orderly process conceived in the basic Wagner Act, and ultimate frustration on the part of courts and the NLRB has been the actual result. We must act today to reform these obvious abuses and stop the fragmentation of responsibility so evident in the current process.

Legitimate union organization efforts will be reinforced by this act and the rights of workers protected.

The 1935 Wagner Act implemented the framework for successful employer-employee good faith bargaining and has served us well for the past 42 years. At this time, however, these modifications are necessary to protect the due process while streamlining procedures to more efficiently provide for certification of an exclusive representative.

Certainly, I believe it is within the capability of the NLRB to condense the time frame proposed, and the increased membership of the NLRB will permit a more efficient and realistic workload for the members who serve.

Due process and workers' rights have been frustrated under current circumstances and these tactics have caused considerable acrimony which can be alleviated by the change envisioned in H.R. 8410.

Safeguards are maintained by this legislation in the election process which prevent fraudulent practices.

Workers that have been subjected to discrimination are given an equitable chance to continue earning a livelihood and positive determination of such unfair labor practice results in a modest remuneration. A concept that exists in many legal settings today, and certainly is appropriate in this format.

The Federal Government had set forth the policy of the Wagner Act 40 years ago. The reframing of intent and realistic modifications are in order.

Employers who had repeatedly violated the provisions of NLRA or orders of the NLRB, who frustrate and break the law, must be held accountable for their actions. The provisions in this legislation provide a new tool which, simply stated, denies our Federal Government business contracts to those employers who repeatedly, flagrantly, violate the NLRB orders or the NLRA.

This modification will put some teeth into the decisions of the regulatory agency and recognize that the Wagner Act and NLRB have come of age, and add the re-endorsement of the 95th Congress to the extension of basic economic rights first won by American workers in the 1930's.

I urge my colleagues to vote positive on the measure, H.R. 8410, and avoid mischievous "perfecting amendments."

There are those who would use the same tactics in defeating this legislation as are fired against workers seeking to organize. The attention of working men and women on our actions and vote today, with your help, we can meet the basic commitment of the Wagner Act and insure continued hope and equity for all Americans.

Mr. MILLER of California. Mr. Chairman, one of the most important reforms proposed under H.R. 8410 is to expedite the representation elections conducted by the National Labor Relations Board.

Before the passage of the Wagner Act, workers who desired to be represented by a union had only one way to persuade a reluctant employer to recognize their organization, and that was to demonstrate overwhelming, irresistible strength.

Then, as now, there were some employers open to reasonable persuasion, who examined the evidence of support for union representation among their employees and who accepted the obligation to recognize the union on the basis of their findings.

All too often, however, employers rejected even the most convincing evidence, declared war on their employees and used every economic weapon at their disposal in order to break the union and deny their employees any voice whatever in the conditions of their employment.

In some cases they succeeded. In others, workers replied with their only weapon—they went on strike. For many years union representation was the foremost cause of strikes in America, and the result was widespread disruption of production, loss of wages and profits, and industrial strife that was frequently violent and always damaging to the com-

munity, the social order, and the national interest.

It was to correct this state of affairs and to substitute the ballot box for strikes and lockouts that Congress devised the representation election system.

That system has done much to reduce industrial strife and to stabilize labor-management elections. But a large and growing number of employers, implacably opposed to unions, have found ways to stall the election machinery in order to subvert the purpose of the Wagner Act and to deny their employees the representation they want and are entitled to have.

A median time of 45 days from the filing of a petition to the holding of an election is required for even the simplest uncontested election. For contested elections, in which the issues are decided by an NLRB regional director, the median time is 75 days. If the issues are referred to the Board in Washington—and an employer determined to frustrate his employees in the exercise of their rights can always manage that step—the median time that elapses before an election is held is no less than 275 days.

Mr. Chairman, the provisions of H.R. 8410 to reduce that time lapse are designed to give substance to the rights of workers that are guaranteed by the Wagner Act but that are all too often wiped out by unreasonable delays. They are designed to end the delays of justice by which justice is effectively denied.

The changes we seek are based on the obvious needs that have been disclosed during 42 years of exeprience with the operation of the act and with the maneuvers that disable the act. They are carefully designed to preserve management's right to contest and challenge and appeal, but they put rational limits on the amount of stalling those actions can provide.

Most employer objections to NLRB election orders involve the appropriate bargaining unit, voter eligibility, and the time and place of the election.

To deal with these and other legitimate disputes in their varying complexity, the amendment proposes four different time limits for holding elections.

In simple cases, in which a clear majority of the employees in a plainly appropriate bargaining unit have already designated the petitioning union as their representative, elections would be held in as little as 15 days, though it could be extended to 21 days in cases in which the election is held at a substantial distance from the nearest NLRB regional office or in which the bargaining unit is a large one.

In cases of "exceptional novelty or complexity," the election could be delayed as long as 75 days—2½ months—in order to resolve disputed issues.

All other elections would be held in 45 days.

Opponents of H.R. 8410 have argued that too little time is provided, that employers would be hit by elections out of the blue, without warning. Mr. Speaker, that is nonsense. A month and a half is a long time. Two and a half months is long enough for any court or any legislature to resolve the most complex national issues, and it is certainly long enough to resolve the limited issues of administrative procedures involved in union recognition.

Even 15 days should be plenty of time considering the preceding time required for a majority of the workers in a bargaining unit to decide and express in writing their desire for union representation. Any management that is so out of touch with the sentiments of the majority of its employees under such conditions would not benefit by doubling or tripling the time lag between petition and election.

This expediting of elections would be made possible by the existence of clear and universal administrative rules which the NLRB would promulgate setting out plainly appropriate units for collective bargaining.

Clearly, the Board's current practice of nearly ad hoc, case-by-case rulemaking has to be changed. And 42 years of experience with every conceivable size, shape and composition of bargaining units make it possible to draw general conclusions and to shape clear ground rules that can apply in 99 percent of the cases that come before the Board.

Under present law, an election rule issued by the Board can be reviewed only in an unfair labor practice proceeding, typically after an employer's refusal to bargain.

Since all Board rules adopted under the amendment would be issued only after formal rulemaking procedures in which all interested parties have ample opportunity to be heard, this prohibition against piecemeal appeals is continued. Once established, a rule could be set aside only if it were found to be unconstitutional, arbitrary or capricious, contrary to a specific prohibition of the act or in violation of the Administrative Procedure Act.

Once an election is held, the proposed amendments provide that any party could file post-election objections to the Board within 5 days alleging a violation of a Board rule. Challenged ballots would have to be sufficient in number to affect the election's outcome.

The goal of these changes is to hold elections and certify their outcome as promptly as possible and to resolve election issues in advance of the election to the extent possible.

These changes are essential to assure the working of the National Labor Relations Act as Congress intended and to insure that workers actually have the opportunity for timely exercise of the rights guaranteed by the act.

Mr. Chairman, I strongly urge the enactment of H.R. 8410.

Mr. FORD of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, current labor law does not adequately protect the rights of working men and women who attempt to organize themselves into unions for the purpose of collective bargaining. The fact is, employees who wish to organize are free to do so only so long as they are secure in the knowledge that they are not putting their job on the line.

A choice made out of fear is not a free choice.

But protection against employer reprisals must go beyond the writing and enactment of prohibitions in the law. It is well documented that recalcitrant employers delay and deny justice through the use of legal proceedings between the findings of a violation and the application of the remedy.

H.R. 8410 will expedite the application of remedies in four vitally necessary ways. Each will make it difficult for employers to secure long delays in remedy after they have broken the law.

Three of the expedited remedy provisions occur when the employer is found to violate the unfair labor practices of the law with respect to discrimination for union activity or membership, illegal firings, and refusal to bargain a first contract.

These are serious problems. For fiscal year 1976, there were over 49,000 new cases before the National Labor Relations Board. Nearly half—23,000—involved charges of law violations by employers. Over the past 10 years, the number of charges of employer law-violations has skyrocketed 115 percent. In the past 15 years, charges of unfair labor practices against employers have risen some 204 percent.

Mr. Chairman, complaints against employers outnumber complaints against unions by a ratio of 5 to 1.

The first three expedited remedy provisions I wish to focus on are in answer to the question: What happens after the act is committed and the employer is charged with lawbreaking?

I. SUMMARY REVIEW OF ALJ DECISIONS

The first expedited remedy in H.R. 8410 would grant the Board authority to affirm, summarily, decisions of Administrative Law Judges (ALJ). The procedure now is for the ALJ to hear a case in the first instance, make a recommendation or finding and pass the case on to the NLRB, if the decision is contested. This is true even in clear-cut cases. It is an expensive and inefficient procedure. Official figures show a median time of 120 days is required by the Board to dispose of a case after it is received from an ALJ. Yet, in a great number of cases the Board's decision merely affirms the ALJ finding. This is true in approximately 40 percent of all contested cases taken to the Board.

Section 2(b) of H.R. 8410 requires the Board to establish a summary review process which would expedite the handling of these cases. Summary procedures similar to those now used by the Federal appeals courts, or example, could be developed by the Board. A two-member Board panel would, upon request, have the option of affirming an ALJ's decision on the basis of a motion and response presented to the panel within 20 or 30 days of the ALJ decision. Such a summary review process would not waste the Board's time on routine cases and would permit it to more fully address problems raised in complicated and unusual cases. And due process would be safeguarded.

II. EXPANSION OF BOARD FROM FIVE TO SEVEN MEMBERS

A second expediting remedy contained in H.R. 8410 was first proposed by Senator Robert A. Taft in 1949. It would expand the number of Board members from five to seven. Normally, the Board sits in panels of three, since, under existing authority, it can delegate its powers to panels of three or more members, with two members constituting a quorum. Increasing the Board to seven members, while maintaining the present panel system, will allow more panels to operate at any one time. It will also mean that each Board member will be required to participate in only three-sevenths rather than three-fifths of all summary affirmance decisions.

The Board's work also has been delayed when members' terms expire. Appointment of new members takes time. The Board's work is therefore often disrupted. By increasing the terms of members from 5 to 7 years, these delays can be less frequent.

To assure continued political balance, H.R. 8410 expressly provides that no more than a simple majority of the Board's membership shall be drawn from one party.

The need for these two procedural and remedial reforms becomes readily apparent when one realizes that in 1976 it took the Board a median 358 days to resolve an unfair labor practice complaint, up from 315 days in 1975. Over the past 20 years, there has been nearly a threefold increase in the number of contested unfair labor practice cases. The Board's caseload was 21,000 in 1960, with 7,000 cases pending at the end of the year. In 1976, the figures were 49,000 and 18,000 respectively.

III. SELF-ENFORCING ORDERS

A third way to expedite remedies in unfair labor practice cases provided in H.R. 8410 is through self-enforcing orders. Currently, and unlike a court order or the Federal Trade Commission's self-executing order, an NLRB order is not self-enforcing. H.R. 8410 provides that a party aggrieved by a Board order must petition for judicial review within 30 days, or the order becomes final and must be enforced by the Board. Under the present law, there is no time limitation on when an appeal of a Board decision must be filed. And while the case is pending in the Federal courts, the offended party has no relief. In 1976, it took an average of 365 days for the courts to enforce Board orders.

That is a long time, Mr. Chairman, for an illegally discharged breadwinner and his family to go without job security and in all likelihood without meat and potatoes, too.

IV. PRELIMINARY INJUNCTIONS AGAINST DISCRIMINATORY DISCHARGES

Mr. Chairman, a fourth provision in H.R. 8410 which would expedite the remedial process is a preliminary or temporary court injunction to preserve the status quo when an employer fires a worker during an organizing effort.

Under the existing law, the preliminary injunction is used often and regularly by employers when a union engages in certain unfair labor practices. Section 10 of H.R. 8410 gives comparable injunctive relief to employees. Those discharged or fired during organizing attempts would remain on the job until the unfair labor practice case is settled. Under the present system the discharged person is forced off the job immediately, and reinstatement is not possible until the complaint is settled—often years afterward. The injunction will help eliminate the incentive for employers to fire union activists in order to undermine and chill an organizing drive.

In summary, Mr. Chairman, I see no way that labor law reform can be achieved without these expediting procedures and remedies. There are other necessary expediting procedures in the bill, too, and I endorse them. But these four go to the remedy and provide an incentive to obey the law rather than break the law.

What incentive do remedies provide to encourage compliance if they cannot be implemented? Working men and women must feel secure in exercising their right to organize and bargain collectively. That is what the National Labor Relations Act is supposed to do for them. They must not be subjected to economic reprisal simply because they want to form a union.

Mr. DRINAN. Mr. Chairman, the vehement opposition to H.R. 8410, the Labor Reform Act of 1977, might lead the unsuspecting observer to believe that a whole new category of rights had been created for working men and women. In fact, the labor law reform bill considered by the House of Representatives today is neither more nor less than an attempt to enforce the rights guaranteed to employees by existing labor laws.

H.R. 8410 does not set out a new array of privileges for employees. What it does do is remove the incentives many employers now have to break the law.

It is bewildering to me that so many businesses have become so upset by this important yet modest adjustment in labor law.

TOUGHER PENALTIES NEEDED

Clearly, Mr. Chairman, present penalties in labor law have proved inadequate to deter many corporations from depriving their workers of long-established and incontrovertible collective bargaining rights. And yet now that President Carter, Labor Secretary Marshall, and many Members of Congress have come together to create legislation which will undoubtedly strengthen the enforcement mechanism in collective bargaining law, employer organizations and associations have strenuously resisted these good-faith attempts to make collective bargaining work.

Employer groups have totted out all of the old, tired arguments and myths in their opposition to labor law reform. They have warned us that passage of this bill will mean the coercion of workers and the denial of fundamental rights of management. Yet where in this legislation can we find any diminution of management authority, any infringement of management's legitimate rights?

Is it cause for alarm among enlightened employers that the National Labor Relations Board will be expanded from five to seven members and that its procedures will be streamlined to avoid unnecessary delays? Does the death knell sound for employer rights because representation elections are to be conducted in a period ranging from 15 to 75 days?

Anyone tracing the provisions of this bill will realize it is designed to bring recalcitrant employers into line, but not to dictate terms of a settlement nor to force anyone to join a union.

GOOD FAITH BARGAINING

H.R. 8410 is a significant, indeed a landmark piece of legislation because it returns to working men and women rights which have been removed from them by delay, obfuscation, bad faith bargaining, and other methods of manipulation dreamed up by attorneys who work for large firms. For example, H.R. 8410 recognizes that some employers have for too long dodged their legal responsibility by refusing to bargain in good faith. This has been a particularly frustrating handicap for labor, but it is now redressed, at least in part, by H.R. 8410. The bill provides that anytime a party is found guilty of refusing to bargain in good faith for a first collective-bargaining contract, the National Labor Relations Board may award damages to its employees based upon an objective statistical measure of wage gains under collective-bargaining agreements in comparable enterprises.

Another illustration of this bill's importance is its provision discouraging illegal discharges for union activity. A frequently used tactic by antilabor employers is the firing or punishing in some other highly visible way of union activists. Under H.R. 8410, employees discharged for legally protected activities during an organizational campaign or prior to a first collective-bargaining contract must be reimbursed at double back pay with no deductions for interim income.

CATCH-22 TRAPS WORKERS

At the present time, employers who fire workers for union activity benefit from a legal catch-22 which allows deduction of interim income in back pay awards. Illegally dismissed workers often find other jobs in an effort to keep food on the family table. They thereby lessen the amount of money a law-breaking employer must pay in a backpay settlement, and the vicious cycle continues as the employer is encouraged to try this tactic of firing union organizers at little financial loss to the company.

H.R. 8410 contains another sanction against frequent, flagrant labor law violators—the loss of Federal contracts. When the National Labor Relations Board finds an employer to have willfully violated a final order of the Board or the court, under H.R. 8410 the employer may be barred from receiving Federal contracts for 3 years unless the Secretary of Labor finds such a deprivation contrary to the national interest or unless the company in question is the sole source of a material or service.

The potential loss of Federal contracts may make a company like J. P. Stevens, the Nation's No. 1 labor law breaker, sit up and take notice. Clearly the people

who run J. P. Stevens are responsive to money pressures, just as surely as they are immune to any humanitarian concerns and unembarrassed by the indecent tactics they have used to browbeat their workers.

J. P. STEVENS IS NOT ALONE

But if J. P. Stevens deserves mention as a prime target, indeed an unwitting motivating force behind H.R. 8410, it would be a mistake to focus exclusively on the effect of labor law reform on this conspicuous and outrageous labor law breaker. Workers in Massachusetts are particularly sensitive to the ways in which J. P. Stevens and its cohorts in the textile industry have cost our State thousands of jobs by unashamedly promoting an antilabor, low-wage climate. Yet at the same time we must realize that H.R. 8410 will affect the course of labor relations far beyond the boundaries of Roanoke Rapids, N.C. J. P. Stevens is hardly alone in its contempt for workers' collective bargaining rights, and the labor law reform bill is designed to deal with employers who have practiced coercive and abusive tactics without achieving J. P. Stevens' notoriety.

In their campaign to keep labor laws weak and unenforceable and to keep the National Labor Relations Board mired down in a backlog of frightening proportions, opponents of H.R. 8410 have labeled the labor law reform efforts a backdoor attempt by unions to reverse the national trend of declining union membership as a percentage of the total work force. Their sophistry here is evident to all friends of the American worker. For it is painfully clear that organized labor's membership drives have often been blunted by precisely the kind of employer abuses H.R. 8410 would correct. In the South, especially, but elsewhere as well, membership drives have been a casualty of the employers' ability to utilize dubiously legal scare tactics and to emerge unscathed and unorganized.

FAIR WAGES FOR ALL WORKERS

For those of us in the Northeast, labor law reform is not only a just solution to collective bargaining problems, but a path to economic revitalization as well. We must recognize that when plants in the South and the Southwest are brought into the 20th century of labor relations and are made to pay their workers decently, fewer firms in the Snow Belt will seek to escape to the Sun Belt. We may finally be able to stem the tide of job loss which has so victimized our region.

While true regional equity in labor pay scales may have to await changes in right-to-work laws, it is nevertheless apparent that adoption of the labor law reform bill should remove part of the disadvantage from which our region now suffers.

Mr. Chairman, union members know first-hand how important labor law reform is and they are fighting to see the rights of their brothers and sisters in the workplace vindicated.

The campaigners for H.R. 8410 can be very proud of the efforts they have exerted to influence the Congress and the country concerning the need for an improvement in the procedural rights of those who enjoy and those who want to enjoy the right to bargain collectively with their employer.

Mr. QUAYLE. Mr. Chairman, the labor reform bill currently being debated is reform in one direction—that being the increase of power to the labor unions.

The bill has been referred to as the fairness bill. However, the remedies and penalties available are only favorable toward the unions. It would seem to me that if we were concerned about true labor reform that sanctions and penalties would apply equally to business and labor. For example, there are provisions in the bill which double the allowable penalties for employers committing unfair labor practices. On the contrary, unions who also commit unfair labor practices do not receive the double penalty. I do not think anyone would argue that violations of the law are only caused by business. It is a two-way street and the bill should be directed to both unions and business if it is to be considered reform.

One of the most objectionable provisions in the bill concerns the imposition of short and fixed waiting periods before representative elections. Generally, the bill requires union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case. Fifteen days is certainly too short to afford adequate opportunity to discuss the merits or demerits of a union. Also lacking is an element of flexibility given to the NLRB which could extend the time period for those few extraordinarily difficult cases.

Another serious objection and totally unacceptable section would be the temporary denial of U.S. Government contracts to employers who violate the law. While it is true that the Government should not be involved or do business with a persistent lawbreaker, automatically taking away Government contracts punishes the workers as well as the companies. Also, it could, in fact, discourage employers from legitimately moving against an intolerable situation in fear of losing the case before the NLRB and ultimately being debarred from Federal contracts.

Unless these imperfections of H.R. 8410 are corrected, it does not warrant the support of the House, much less the reference entitled "Labor Reform."

Mr. THOMPSON. Mr. Chairman, I have no further requests for time.

Mr. ASHBROOK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Does the gentleman from Ohio yield back the balance of his time?

Mr. ASHBROOK. Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, no amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except germane amendments printed in the CONGRESSIONAL RECORD at least one legislative day prior to consideration of the bill.

The Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

Mr. THOMPSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act, had come to no resolution thereon.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 8410.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1522. An Act to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

HOUR OF MEETING TOMORROW

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 6655, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

Mr. ASHLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 6655) to amend certain Federal laws per-

taining to community development, housing, and related programs, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object—and I do not think I will object—this is such an important conference report, does the gentleman not think we ought to read the whole statement?

Mr. ASHLEY. No, I do not.

Mr. ROUSSELOT. I mean it is such a crucial piece of legislation.

Mr. ASHLEY. Mr. Speaker, if the gentleman will yield, I agree that it is crucial legislation. The gentleman from California is entirely right about that, but I think if he will forbear, he will be satisfied with the persuasiveness of the statement which I intend to offer by way of explanation of the conference report.

Mr. ROUSSELOT. Mr. Speaker, I am overwhelmed, and I will just listen to the statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. ASHLEY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 6655, the Housing and Community Development Act of 1977. This is a complex piece of legislation incorporating major changes in the landmark community development block grant program enacted in 1974, a new urban development action grant program for our most distressed cities, a renewed and expanded emphasis on the housing programs of the Federal Housing Administration and Farmers Home Administration, and changes in the statutes governing investment by financial institutions in housing and in our urban areas. Though the bill is complex, its goals are simply stated—to assist in rejuvenating our Nation's cities and to assure decent and affordable shelter to all our citizens. I make no pretense about this bill, it is not a panacea to the Nation's housing and community development problems. It is, however, a key element in a strategy we in the Congress have been developing for many years to deal with these problems.

I would like to compliment the chairman of the full Banking Committee (Mr. REUSS) for his cooperation in expediting the proceedings on this bill. I would also like to commend my distinguished colleagues on the conference committee for the very substantial efforts they exerted to make this a solid and workable bill.

It is always a pleasure to work with the ranking minority members of the full committee and the Housing and Community Development Subcommittee who joined us in conference, the distinguished member from Ohio (Mr. STANTON), without whose fine cooperation we would probably not have such a bi-partisan bill before us today and, as always, Mr. BROWN of Michigan whose nonpartisan and constructive work on any piece of housing legislation is invaluable.

This legislation is based upon two major principles strongly felt in this Chamber. First, that Federal assistance should be made available to communities in direct proportion to an objective measurement of their need. And second, that Federal assistance should be flexible so that communities can identify and meet their own unique needs. These were the principles upon which we drafted this legislation and they are the principles that we took to the conference with the Senate and fought for during the 3 months that we remained there. It is my belief that the bill before you today is stronger because of that fight.

In our conference with the Senate one issue stood paramount—how best to allocate and distribute community development funds to our Nation's cities. This issue went to the heart of our concern that communities receive funding in direct proportion to their needs. As you will recall, the House-passed bill incorporated a dual formula approach to allocating and distributing community development block grant funds. This approach was based upon almost 3 years of independent and objective analysis, by my Subcommittee on Housing and Community Development, two administrations, and numerous private institutions. It was our belief, supported strongly by this Chamber, that this approach would equitably provide funding to all the Nation's cities. The Senate, however, argued for the addition of a third formula which has come to be known as the "impaction" formula. It was the opinion of the house conferees that the Senate approach would unfairly distort the allocation and distribution of community development funds. Thus, we stood in firm opposition to it.

I am pleased to report that in the end the House position prevailed. It was clear, however, that the Senate's position was not completely without merit, particularly with regard to the new urban development action grant program. They had sought to employ a large portion of the funds of this program to fund the added cost of their impaction formula. They argued that the urban development action grant program did not sufficiently take into account the level of distress among cities as a determinant of which cities should receive funding. Though the House conferees believed that moving money from this program to fund the impaction formula was inappropriate, we did feel that the Senate's basic concern was valid. Therefore, we proposed, and the Senate concurred, that the primary selection criterion for funding under the urban development action grant program should be the comparative level of economic and physical distress among cities. In this way, we reemphasized the principle that Federal assistance should be made available in proportion to need.

The bill contains other less controversial, though no less important, elements. Title I, in addition to revising the community development block grant program and establishing the new urban development action grant program, extends through fiscal year 1978 and authorizes appropriations for fiscal year 1978 the section 312 rehabilitation loan program and the comprehensive planning program.

Title II and title III are designed to assure decent and affordable shelter to our citizens. For our lower income citizens, the Department of Housing and Urban Development assisted housing programs have been authorized to receive significant new appropriations in fiscal year 1978. These titles also provide for the continuation of the FHA insuring authorities, increases in the FHA mortgage ceilings and decreases in the downpayment requirements for FHA insured mortgages.

Title IV revises the lending powers of Federal savings and loan associations and the authorities governing the secondary market operations of the Government National Mortgage Association. These revisions are intended to assist in lowering the cost and increasing the availability of mortgage credit.

Title V amends and extends for 1 year the authorization for a number of the rural housing programs administered by the Farmers Home Administration. These programs, like the HUD programs are designed to make decent and affordable shelter available to families of varying income levels.

Title VI amends the Urban Growth and New Community Development Act of 1970 to provide for the development of a national urban policy rather than the national urban growth policy now required. This reorientation is important to assist in providing a comprehensive framework for the housing and community development programs authorized in this legislation.

Title VII amends in a wide variety of ways the national flood insurance program. In addition to changing the sanctions for nonconforming communities, it provides for increased actuarial coverage, low interest rate loans for elevating certain flood damaged properties, and the reimbursement for the cost of successful appeals of flood plain determinations.

Title VIII, known as the Community Reinvestment Act of 1977, reaffirms and strengthens the powers of the Federal financial supervisory agencies to assure that federally regulated financial institutions meet the credit needs of their communities. The community reinvestment provisions complement well the housing and community development elements of the bill by encouraging increased attention by financial institutions to the mort-

gage credit and other financing needs of their communities.

Finally, title IX contains several miscellaneous provisions, one of which would create a Special Assistant to the Secretary of HUD for coordinating programs in her Department which affect Indian and Alaskan Natives. Title IX also exempts from the National Mobile Home Construction and Safety Standards Act of 1974, structures which are designed only for installation on permanent foundations. Homeownership counseling is expanded to be available to all home buyers with FHA insured mortgages. And, it also provides for the Secretary of HUD to develop prototypical housing costs for one- to four-family homes in each housing market area of the country.

Mr. Speaker, after long and thoughtful consideration, we have before us today a piece of legislation which is carefully crafted so as to benefit fairly and equitably all the Nation's communities and citizens. It is a major step forward toward meeting our housing and community development goals. I, therefore, strongly urge the adoption of the conference report on H.R. 6655, the Housing and Community Development Act of 1977.

Mr. COHEN. Mr. Speaker, if the gentleman will yield, I would like to call the attention of the gentleman from Ohio (Mr. ASHLEY) to page 26 of the conference report. The gentleman may recall that during the course of the general debate on this measure, the gentleman and I engaged in a colloquy concerning the new provision which would authorize the Secretary of HUD to insure, and is meant to insure Federal Government money for those cases in which suits have been brought by certain Indian tribes against certain defendants.

At that time I raised a question on one of the limitations of the applicability of this section. As I recall the way the bill read at that time when it was before the House:

> . . . such ownership claims are reasonably likely to be settled by court action or otherwise; . . .

And I think we had in there the calendar year 1977. And I objected to that because I felt that was rather a specific exemption to one State, namely, Massachusetts and the town of Mashpee, Mass., and, in essence, we were writing such legislation in a general housing bill.

Now in looking on page 26 of the conference report I find that language "calendar year 1977" has been stricken and then on page 27 I now find a new limitation saying that a suit would have had to be brought against 50 or more homeowners prior to December 31, 1976.

So, once again it seems that the conference report itself has even been more specific to one specific instance of only one town.

And I raise this issue because there are other suits that may be brought, and I am referring now specifically to the State of Maine, the State of Massachusetts also may be involved in a similar situation, depending on the structure of the litigation, as well as Connecticut, Rhode Island, New York, South Carolina, and we have heard reports that other States may be sued. And I am just wondering if the gentleman from Ohio (Mr. ASHLEY) would be willing to apply the same sort of protection and guarantee to other States and citizens who may be affected adversely economically if such suits are brought, and would the gentleman be willing to bring legislation to the floor to provide that this legislation is not just for one town.

Mr. ASHLEY. I would say that the gentleman's recollection is essentially correct. If you look on page 66 you will find not only the language as referred to in the conference report but the explanation of it. And whether you look on page 26 or on page 66, the conclusion, I must say, is the same, that this must be narrowly construed.

Mr. COHEN. I appreciate the gentleman's statement.

Mr. ASHLEY. And that the thinking of the conferees was that it should be so limited. If we are going to have to look at the problem of Indian claims as they relate to our housing programs, and the demands upon our housing programs, we would be better to do it promptly, and for this reason we have this special provision in the conference report.

If the Senate held hearings on this, it is not within the scope of my knowledge. I know we did not on the House side.

So it was felt that, at least by ourselves, that rather than embarking upon the drafting of broad gauged legislation, without the benefit of hearings, we would limit the applicability of this provision.

For this reason, what is in the conference report, is a limited provision and I think in fact it should be limited.

Mr. COHEN. Did the gentleman say the House never held hearings on the measure, and the gentleman does not know whether the Senate did and the Senate did not have this provision in its bill?

Mr. ASHLEY. No; the Senate had the provision, but I am not sure it was the result of the hearings. My impression is that it was by virtue of an amendment that was offered during the Senate committee markup of the housing bill.

Mr. COHEN. I thank the gentleman for yielding. I have just one further question, if I might.

Mr. ASHLEY. Surely.

Mr. COHEN. I guess the second part of my question or observation was, would the gentleman in his position as Chairman of the committee be willing to hold hearings in the future as these cases are filed and as the same sort of economic hardship is visited or inflicted on various communities around the country? Would the gentleman be willing to hold hearings to find out whether or not this type of precedent and this sort of Federal relief will be applied on more than a parochial, narrow interest in Massachusetts only, but to other States as well?

Mr. ASHLEY. I must say it seems to me that responsible legislation requires that kind of broader approach. I am no fonder of single-purpose, narrow-gauge legislation than is the gentleman from Maine.

Mr. COHEN. And the gentleman would be willing to consider the comprehensive approach to the problems afflicting all communities?

Mr. ASHLEY. Yes. I will say to the gentleman without any qualification if the problem is one which is sufficiently broad in its scope to require national remedy, then, most certainly, hearings should be held as the foundation for such legislation as may be proposed. So I do approve of the gentleman's approach.

Mr. COHEN. I thank the gentleman.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Could the gentleman tell me under the community development block grant formula what changes have there been from the present formula as would affect towns of 50,000 and under? I am concerned as to whether or not towns of 50,000 and under may now have less priority than before.

Mr. ASHLEY. No, that is not at all the case. Let me say to the gentleman that, what was initially in the conference, was essentially the action taken by the House when we went from the original formula contained in the 1974 legislation to what is known as the dual formula as was approved by the Banking Committee and the House. The criteria for distribution of funds contained in the original act was not considered to be as responsive to differing needs in differing communities as it should be.

I will say further to the gentleman by way of explanation that in the 1974 legislation it was recognized that the original formula should have continuing scrutiny and that there should be suggestions with respect to changes in the formula that might be deemed appropriate. So almost from the very beginning of this legislation, I will say from 1975 on, the original formula came under very considerable study. Out of these studies came the dual formula which we adopted on the floor of the House in May of this year. We went to conference with the Senate, and what the Senate said was, "Your dual formula may be all right, but actually we would like a third formula, that is to say, communities could choose either between the original formula or the second formula which we adopted in our considerations, or a third formula: the so-called impaction formula."

We thought that was going too far because the formula that we adopted, the dual formula, quite honestly, caused the distribution of funds to tilt somewhat in favor of the older, more obsolescent communities which are found largely in the Midwest and Northeast, so we rejected the new formula, the impaction formula proposed by the Senate.

Under no circumstances does this skew the amount of moneys that will be made available to communities under 50,000. Whether it be under the original or the dual formula, the fact remains that the formula applies only for the distribution of moneys to communities of over 50,000.

As a matter of fact, rather substantial increases in the funding of the community development program were proposed by the administration on the

basis that it would be necessary in order to hold harmless many communities. In order to assure that communities of under 50,000 will receive their fair share of community development funds, increased amounts would have to be made available in order to accommodate the dual formula. So rather substantial increases in the funding in the formula were provided and are included in the conference report before us.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I do not know whether the gentleman has pointed it out, but the urban development action grants contain a reservation of 25 percent of the funds for communities under 50,000. In this way we did cover the point about which the gentlewoman expressed a concern.

Mr. BRINKLEY. My concern is whether or not the condition of one region is comparatively less relative to another region as far as the yield portions of these funds under the new formula. I am concerned as to whether a comparison of the various regions of the country might show a substantial difference, for example, would show whether or not the position of the Southeast United States would be substantially worsened by the new formula.

Mr. ASHLEY. No, absolutely not. I would say to the gentleman that we have very strong voices on our committee that represent the South and if they are not in the Chamber at the moment they would certainly affirm that the South has not been leaned upon nor has it suffered in any way from the shift from a single formula to the dual formula.

Mr. BRINKLEY. I thank the gentleman from Ohio.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman from Ohio for yielding.

Mr. Speaker, the conferees deleted a provision that was contained in the House bill that would have protected property owners, who are the victims of insurance company redlining. The provision would have assured denied fire, theft and extended coverage insurance because of insurance company redlining, that they could obtain insurance at a reasonable cost. I am very concerned that the phenomenon of the insurance company redlining and the resulting arbitrary denial of property insurance to homeowners will speed the deterioration of urban neighborhoods in our country.

I am particularly concerned because, on the one hand, this bill addresses housing deterioration but, on the other hand, the conference committee, has removed an important remedy for such deterioration by assuring property insurance is available at a reasonable cost.

I do know that the report states that the Secretary of Housing and Urban Development has been directed to undertake a study of the problems of insurance redlining and the cost of property insurance the committees have agreed, after receiving this study, to convene hearings promptly to undertake appropriate legislative action to remedy this situation.

Can the gentleman tell me whether he believes we will deal with this situation in this Congress?

Mr. ASHLEY. Yes. Let me first say that the provision in question was not lightly dropped by the conferees at all. As a matter of fact, we thought we had struck an agreement on this particular provision with the conferees from the Senate. Unfortunately some days after, some weeks after we thought that agreement had been reached and was locked up and decided upon, it developed that there were very substantial questions raised that necessitated a reevaluation on the part of the conferees with respect to the provision in which the gentlewoman has taken such a forceful leadership role.

It was felt that inasmuch as in-depth hearings, actually hearings of any sort had not been directed to the very real and very serious problem at hand and inasmuch as our efforts in conference to work this out without hearings were faltering and the implications were considerable, that it would be better to relegate this matter back to the appropriate committees of the two branches for very prompt hearings and action.

Now, the gentlewomen from New York is asking, can we get such action in this year? At this juncture I would yield to my close friend and associate, the gentleman from Pennsylvania (Mr. MOORHEAD), because we have discussed the essential character, the very serious matter at hand and have been trying to work out a means by which a hearing can be undertaken in this session, hopefully leading to action. I cannot promise there is going to be a bill.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. MOORHEAD), who can be more enlightening, perhaps, on the prospects for a hearing this year.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I thank the gentleman from Ohio.

Mr. Speaker, as the gentlewoman from New York knows, I tried to support in the conference as much of the gentlewoman's amendment as I could. As the chairman said, I thought we worked out an agreement that was satisfactory to the gentlewoman. Then at the end we ran into this roadblock on the fact that we did not have hearings and there were objections.

If the gentlewoman will note, at the bottom of page 74 and the top of page 75 of the report, the responsible committees have agreed upon receipt of this report, which was acquired from HUD, to promptly convene hearings and to undertake the appropriate legislative action to remedy this situation.

The gentleman from Ohio, the chairman of the subcommittee, has come to me and said that he would be tied up with further consideration of the Energy bill which will shorten our conference and asked me to act on his behalf to attempt to hold hearings, not next January, but beginning really this month.

I would also contemplate, hopefully, then that gentleman from Ohio could resume the chair and one of the hearings we would have, probably after adjournment, would be in New York, so we could get first hand, not only from the gentlewoman, but also to hear from any witnesses the gentlewoman would like to have before us.

I think the gentleman has a very good point, but we have not established it by hearings. I certainly am going to do everything I can to hold those hearings as promptly as possible.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for these assurances. I certainly hope action can be taken as promptly as possible, because by turning our backs on homeowners who have been denied affordable property insurance, we are going to allow a situation where neighborhoods deteriorate and decline.

I appreciate the gentleman's assurance. I know the gentleman (Mr. ASHLEY) has been extremely cooperative in this respect.

Mr. ASHLEY. I might say for the record, Mr. Speaker, I am familiar with the problem and I am aware of the problem because of the constant reminders of the gentlewoman from New York.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from Ohio and the ranking minority member, the gentleman from Michigan (Mr. BROWN) and others who have labored so diligently to produce a serviceable bill and a serviceable conference report.

Mr. Speaker, I rise in support of the conference report to accompany the bill H.R. 6655, the Housing and Community Development Act of 1977. The extensive provisions in this conference report reauthorize and improve the community development block grant program; create a new urban development action grant program for our most distressed communities; extend and authorize additional funds for the section 312 rehabilitation loan program, authorize funding for fiscal year 1978 for HUD housing assistance programs; increase FHA maximum insurable mortgage amounts; decrease the downpayment requirements; amend and extend the FmHA programs authorizations; mandate a national urban policy; establish a new program, the Community Reinvestment Act of 1977, which reaffirms and strengthens the powers of certain Federal regulatory agencies.

A major item in disagreement with the Senate concerned the method for distributing community development block grants and the funding of the new urban development action grant program. The House, after careful study and analysis, had recommended a dual formula for allocating these grants to our cities requiring no additional funding other than what was proposed for appropriation for CDBG grants. Under the House ap-

proach, communities could elect the existing formula based on population, poverty, and extent of overcrowding or a second formula which took into account poverty, growth lag, and extent of pre-1940 housing. The Senate called for a third formula which gave additional weight to the age of the housing factor and would have required tapping part of the funds proposed for the new UDAG program. In conference, a reasonable resolution of this serious disagreement was agreed to. Under this agreement, the dual formula for allocating CDBG as proposed by the House was retained. The extent of pre-1940 housing, the underlying concept of the Senate's third formula, was established as a priority in selecting applications for the new UDAG program.

The House conferees also accepted an amended provision for establishing the Community Reinvestment Act of 1977, insuring that the credit needs of citizens in our communities are met by the regulated financial institutions chartered to serve them. It is a good provision. It complements well the housing and development assistance purposes and objectives that this legislation is directed toward achieving.

Mr. Speaker, I urge adoption of the conference report.

Mr. BROWN of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, this conference report came about over a brief period of time. I certainly want to extend my congratulations to the ranking subcommittee chairman, the gentleman from the good old State of Ohio (Mr. ASHLEY), and to the gentleman from Michigan (Mr. BROWN), on our side of the aisle, for their efforts that together have brought this bill to the floor this afternoon.

Mr. Speaker, I rise in support of the conference report. I am quite pleased to note that smaller communities continued to be provided for under the conference report as they were under the House-passed bill. As cities and towns of under 50,000 population phase down under hold-harmless, they may still have uncompleted community development projects. We must assure these communities that they will have the means to complete these projects. I believe the conference report goes a long way toward that end.

The conference report authorizes HUD to make multiyear commitments, and protect those smaller communities in the midst of a major project by requiring that the Secretary give them "special consideration."

I still have some questions with respect to the urban development action grants, and the way the impaction issue was settled. In effect, "impaction" has become the primary criteria for awarding UDAG's. Fortunately, as a result of objections from the minority, this criteria is not applied to smaller communities. If it were, it could cause funding distortions since percentage figures for cities of 5,000 to 10,000 could inordinately skew the results of any such rating system.

As I mentioned during the original consideration of UDAG's, there has not been enough consideration given to the broader picture of HUD's activities versus EDA's, and the whole environmental question in authorizing this new program. To date, HUD is still not sure of the ramifications of the environmental problem. A problem of this nature could mean that no UDAG money will be utilized for some time to come.

I would like to commend my colleague from Ohio, LUD ASHLEY, for his leadership and perseverence in conference on behalf of the House's position. As Mr. ASHLEY knows, we have all worked hard on the community development block grant program, and we are pleased to see it reauthorized in much the same form as it began in 1974.

Other provisions in the bill—such as raising the FHA mortgage limits to $60,000, and increasing the FNMA and FHLMC mortgage purchase limits—are necessary as were the changes regarding savings and loan lending powers. I am also pleased that the conferees retained the amendment I offered on the House floor to limit the percentage of 235 subsidized housing units, in a subdivision, to 40 percent. I felt quite strongly, and my colleagues agreed, that this was necessary to avoid subdivision ghettos.

The provisions, with respect to rural housing, are also sorely needed. Fortunately, they follow closely what the House passed. On balance, the bill is a step forward and, my reservations not withstanding, I hope it will prove to be a step forward for the communities we seek to serve.

In conclusion, Mr. Speaker, I would like to urge passage of the report. It is quite close to what originally passed the House which contained a number of perfecting floor amendments which made it better than what came out of committee.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report which contains the vital extension of the community development block grant program and a number of Federal housing programs—particularly FHA with its increased mortgage limits and lowered downpayments.

In most of the critical areas relating to community development, the conference report follows closely the language and philosophy of the House bill.

During House consideration of this legislation, proposals to set national funding requirements, in the form of percentage benefits to low and moderate income persons for each city or county program, or even for each activity, were rejected. Instead, the House bill recognized the validity of permitting each recipient to set its own priorities between activities having a direct benefit to low and moderate income persons, which usually means social service activities, and action to halt or prevent slums and blight, which permits cities to deal with fundamental unemployment and declining tax base problems.

The Senate bill contained a number of specific directives only emphasizing the goal of principally benefiting low and moderate income persons. The Senate thrust would have turned what is essentially a physical development and economic development program into a community services type operation.

To the credit of my fellow House conferees, and particularly Chairman ASHLEY, the House successfully insisted upon maintaining local choice between the two major goals of assisting low and moderate income persons or eliminating or preventing slums and blight.

No doubt, many of my colleagues are aware of the complaints by local officials with respect to proposed HUD regulations requiring 75 percent of all CD block grant funds to be used for the benefit of low and moderate income persons, without regard to the equally pressing needs of eliminating slums and blight. Fortunately, I understand that the attempt to fix a set percentage, administratively, for the use of funds in this manner has been dropped. Certainly it would have been entirely inconsistent with the action of the House and the conferees.

It also would have been diametrically opposed to the newly emphasized thrust of economic development which is found both in the block grant program and the urban development action grants. I am equally concerned, however, with the draft regulation language dealing with the definition of prevention of slums and blight. The draft language limits these activities to situations where there is a clear sign of existing decay. In effect, the Department would appear to be proposing to ignore the blight prevention goal in the present law which has been reaffirmed in the legislation before us now coming out of conference.

Hopefully, the Department will revise its thinking before publishing its regulations on slums and blight elimination and prevention for comment. It may be necessary to identify some evidence of blighting influences in an area before using CD block grant funds to avoid the tennis court in the upper income neighborhood. But it certainly goes against the thrust of the new action grant program and the new economic development objective and activities to write regulations preventing cities from dealing with declining economic base and loss of tax revenues.

With respect to the action grants, I would like to ask the distinguished chairman of the Housing Subcommittee, Mr. ASHLEY, a question.

The conference report on the HUD-Independent Agencies Appropriation bill calls for HUD to use a preapplication process in selecting UDAG grant recipients. Since our conference report is silent on this matter, I would like to ask the chairman whether or not he would agree with me that a two-stage process, using a preapplication to evaluate cities and urban counties which may already meet threshold eligibility criteria, should be used by HUD and that such a process will save many communities from the nonreimbursable expense of preparing a full application?

Mr. ASHLEY. I would like to respond to my friend if he will yield.

Mr. BROWN of Michigan. I will be glad to yield.

Mr. ASHLEY. The question of a pre-application processing procedure for the UDAG program, as the gentleman has mentioned, was not considered by the conference committee. In fact, as the gentleman from Michigan has indicated, the report is silent on the issue. I would like to make clear that our silence should in no way be construed to conflict with the view of the Appropriations Committee in this matter.

Mr. BROWN of Michigan. While I have the attention of the gentleman from Ohio, I would like to make further inquiries regarding the conference report.

During the conference when we discussed the limits of coverage under the national flood insurance program, it was represented that the Senate provision increased the optional single-family actuarial rate limits from $35,000 to $50,000 and from $35,000 to $150,000 on multifamily. Now, we are informed that the agreed upon limits are $150,000 for both single family and multifamily properties.

In effect, when this new limit is added to the $35,000 in subsidized base coverage, there is a total coverage available of $185,000 for a single family unit. This figure is a $115,000 increase over the previous limit of $70,000.

As I read the language, the new limits are authorized "up to $150,000" in addition to the subsidized coverage of $35,000.

I would expect and does not the chairman expect that the Secretary will set some lower limit, at least at the present time?

Mr. ASHLEY. If the gentleman will yield, it is true that the new actuarial limits provided for in this conference report could go up to $150,000 in addition to the subsidized coverage of $35,000. It is not the intent of the conferees to provide a total coverage of $185,000 across the board. We are concerned that this additional actuarial coverage might be viewed as the rule rather than the exception without regard to the variances in cost structures among the high cost areas in the Nation. It is not our intent that all properties in all areas of the country should have this new maximum and we would certainly expect the Secretary to scale down actuarial coverage to reflect actual economic conditions in particular flood-prone areas.

Mr. BROWN of Michigan. I would like to further inquire of my colleague, the distinguished chairman of the subcommittee (Mr. ASHLEY) concerning the intent and purpose of including title VIII, the Community Reinvestment Act, in the conference bill.

As the gentleman knows, the Senate was insistent upon retaining the provision and it appears that we would not have a bill here today if we had not found accommodation.

I am concerned, because the report of the managers does not mention either our misgiving about the provision or the emphatic assurances that were given to the House conferees in order to gain our acceptance.

Am I correct in stating that it was our intent that implementation of title VIII be deferred for 390 days after enactment?

Mr. ASHLEY. That is correct. I believe the report of the managers makes that clear.

Mr. BROWN of Michigan. To make this a brief colloquy, is it the chairman's understanding that, regardless of the subcommittee of the Committee on Banking, Finance and Urban Affairs that would have jurisdiction over this matter, which would probably be the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, hearings would be held promptly so that we could get the input of the regulators as to their ability to implement the provisions?

Mr. ASHLEY. That is definitely my impression as to the intent of the conferees, and it is my expectation as to what would take place.

Mr. BROWN of Michigan. I see that the gentleman from Wisconsin, the chairman of the full committee, is on the floor. Could I ask the gentleman from Wisconsin if that is not also his understanding?

Mr. REUSS. If the gentleman will yield, I look at the statement of the managers, under title 8, and I do not find in the statement of the managers any language, which indicates that in the 390 days which is given to the Federal financial supervisory agency to get out their regulations, that necessarily committee hearings will be held. I have just heard the statement of the distinguished chairman of the Subcommittee on Housing and Community Development that such hearings will be held, and I will state my view that that is a constructive thing to do and I would heartily approve such a course of action.

Mr. BROWN of Michigan. Would the gentleman also agree—he was present in the conference—that in connection with our acceptance of this proposal from the other body, a colloquy occurred in conference, and it was agreed by all, that prompt hearings would be held and that we would not expect the regulators to attempt to implement these provisions in advance of our holding any hearings?

Mr. REUSS. If the gentleman will yield, the gentleman is talking about a discussion in the conference committee. But I have stated that I go right along with the gentleman from Ohio (Mr. ASHLEY) in stating that it would be a good idea to hold hearings, and, certainly, if we promptly hold hearings and the administration tries to jump the gun, I would think we would clear our throat in a proper manner and restrain that.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, rather than to see the gentleman from Michigan have any concerns about a failing memory, or anything of that kind, let me say that that colloquy did take place.

It was quite well understood that we might have a problem getting signators to the conference report unless the colloquy took place which did take place, and the agreements were reached that the gentleman has described.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for his comments and also for his good recollection and understanding.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

Under the Urban Development Action Grants, the formula for age of housing is raised by 50 percent.

Is that not a significant development or a significant change from the present formula, or is this a new situation entirely?

Mr. BROWN of Michigan. Mr. Speaker, the House passed the Urban Development Action Grants program without any such criteria. Other criteria were listed, but that criterion which was part of the impaction formula was not included in the House bill. However, as a compromise, we agreed to apply the impaction factors to the UDAG program.

Let me hasten to add that, with respect to communities of 50,000 population or less, that criterion is not involved. Twenty-five percent of the UDAG funds are earmarked for communities of less than 50,000. That is the point, I believe, that the gentleman was expressing earlier.

Mr. BRINKLEY. Mr. Speaker, if the gentleman will yield further, let me ask one further question:

It is my understanding that weighted formula was based upon the pre-1939 housing formula. Is the gentleman familiar with that?

Mr. BROWN of Michigan. Mr. Speaker, that was the original Senate language, so I would assume it is the same. I understand it was the pre-1940 formula, that is correct.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman.

Mr. BROWN of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the conference report on H.R. 6655, a bill which would increase the funding for community development in fiscal year 1978 by over 23 percent. The bulk of the "new" money will be used in the worst possible way—for a $400 million categorical Urban Development Action Grant program to be administered by the Secretary of HUD.

As a result of the conference on this bill, the primary criterion for the selection of recipients under the UDAG program would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction on formula. The compromise may help to direct UDAG moneys to the cities and urban counties in greatest distress, but it does not go far enough to assure that this does not become just another misdirected urban renewal program, pouring Federal dollars into ill-conceived, overly ambitious, and infeasible local projects.

In addition, the UDAG criterion, along with the new dual formula, will dramatically shift block grant funds to the Northeast and North Central regions at the expense of the rest of the country. If the original single formula approach

had been retained and the UDAG funds distributed through this mechanism, the discretionary balances available for many smaller communities would have increased considerably. In this way, we would have actually accomplished some good by funding communities where the funds would make a difference.

Instead, these smaller communities have been largely preempted thanks to the drain of funds by the hold-harmless cities, UDAG and the dual formula. We are told that under the new dual formula, no one loses. What we are not told is, who is paying for this bloated budget.

This legislation would also authorize a total of $1,159 billion in additional annual contributions contract authority for subsidized housing. Remember that by this action, we are actually authorizing HUD to make contracts which will obligate the Federal Government to pay out billions of dollars over the next 30 to 40 years, which may be considerably longer than the projects themselves will last. The Federal Government is already paying over $3 billion a year for subsidies for housing built in earlier years. You can see that if we continue at the present pace, we will be adding $1 billion a year in the foreseeable future. Then we will be told these costs are "uncontrollable" budget items based on past contracts. How many times has this excuse been offered as the reason why Congress cannot control the budget.

There seems to be general agreement on the disappointment and failure of the traditional public housing program, except in a few rare cases. One needs only to look at the amounts necessary each year for operating subsidies.

In the last 4 years this subsidy level nearly doubled, and yet Congress continues to encourage the use of this program, and in fact, the conferees dropped the amendment sponsored on the floor that would have limited the total amount of housing funds which may be used for public housing.

As my colleague, Mr. BROWN of Michigan has already mentioned, when we discussed in conference the Senate provision, which would raise the limits of optional insurance coverage under the national flood insurance program, that provision was represented as one which would raise the limits on a single family residence from $35,000 to $50,000 and from $35,000 to $150,000 on a multiple unit dwelling. All you have to do is read the statement of managers in the CONGRESSIONAL RECORD to see the confusion. The RECORD, by mistake, reprints the draft statement and the final statement on this subject. The original language stated the coverage would go up to $70,000 but the final language shows that this optional insurance coverage, albeit at an actuarial rate, would be up to $150,000. And, remember, this new limit is added to the $35,000 in subsidized coverage, so we are talking about a program which auhorizes a total coverage of $185,000 for a single house. In effect, the Federal Government, to an extent, is subsidizing an insurance program for the wealthy. Since the first $35,000 of coverage, though at actuarial rates, will actually be at a rate lower than would otherwise be available. This is because the Federal Government is underwriting the first $35,000 of loss, the greatest risk.

Now, Congress has seen fit to establish a flood insurance program for the family that owns a home worth $185,000 in a flood hazard area, but only increases from $55,000 to $60,000 the basic loan limitation on conventional real estate loan by Federal savings and loan associations for single family homes. Inflation has dashed the hopes of many who wish to own their own homes. Recognizing that fact, the new legislation increases the basic FHA mortgage limits from $45,000 to $60,000, as well as the mortgage purchase limits of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Such modest increases in the limits are understandable, but how can one explain an increase of $115,000 or 428 percent in flood insurance limits?

In conference we were told the increased limit was $50,000; in the draft statement of managers it was $70,000; in the final statement it was $150,000. Maybe we had better pass this report quickly before it goes up to $200,000.

As far as I can see title VIII, the so-called Community Reinvestment Act, does nothing but add another layer of redtape to the process of examination and expansion of services by State and federally chartered depository institutions. A political price could be exacted for any required approvals regardless of the merits of the case. It would have a chilling effect on the activities of institutions which operate in so-called disinvested areas. Many of these institutions have been bringing much more money into disinvested areas than they receive in deposits from those areas.

In addition to my general objections to the title, I have several objections to the procedure we are following in handling this conference report.

First. The various regulatory agencies for depository institutions have privately indicated that the regulations would be a nightmare to write and that the 180-day deadline for promulgating these regulations, which is provided in the conference report, is unrealistic.

Second. Although the conferees agreed that the implementation would be delayed for 390 days and the report language so states, the statutory language states that the Community Reinvestment Act can be implemented up to 390 days after enactment.

Third. There have not even been hearings on community reinvestment. Although Chairman REUSS twice gave his pledge that hearings would be held, subsequent to enactment, there is no mention of this commitment in the conference report.

Accordingly, I object to the enactment of this punitive, nongermane provision without full consideration by this House.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would be remiss in discussing this conference report and all of the innovative provisions that are in the conference report, if I did not say to my colleagues in the House and for the benefit of the Speaker that I think we all owe a great debt of gratitude to the gentleman from Ohio (Mr. ASHLEY). The gentleman has always been, I feel, a most objective Member in dealing with these matters.

The gentleman from Ohio has credited me with being bipartisan and nonpartisan. I would certainly have to say that to an equal, or an even greater degree, he has manifested the same quality. I would like to commend him for his work and wish him well in the years to come.

Mr. McDADE. Mr. Speaker, the conference report on the Housing and Community Development Act of 1977 (H.R. 6655) is the product of long negotiations and many misunderstandings. Unfortunately the existing authority for HUD programs expired on September 30, leaving us with little choice but to approve this bill.

I say "unfortunately" because I believe there are many provisions of the bill which merit close examination by Members of this body, an examination which most have not had the opportunity to pursue.

I am most concerned about what I believe are the serious deficiencies in Title I—Community Development as it relates to old declining cities. As a member of the HUD-Independent Agencies Appropriations Subcommittee I have had the opportunity to scrutinize closely the various Community Development (CD) formulas and I am disappointed with the results of the conference. Clearly the addition of a second community development formula prevented older declining cities of the Midwest and Northeast from suffering unjustified losses due to admitted shortcomings in the original formula. Yet as structured the dual formula in this bill is manifestly unfair to the community development needs of many moderate sized cities of the Midwest and Northeast. This result occurs because of the substantial amount of aged housing stock (constructed prior to 1940) in these cities.

According to the documentation provided by HUD to my Appropriations Subcommittee, age of housing stock is statistically the single best predictor of community development need. Yet in structuring its second formula HUD looked only to the number and not the concentration or impaction of aged housing. By HUD's own definition then, the need for CD funds of a city like my home city of Scranton in which 96 percent of all housing was built before 1940 is greater than that of a city in which only 20 percent of its housing was built before 1940. The same is true for many moderate sized Midwest and Northeast cities such as: Rock Island, Ill.; Terre Haute, Ind.; Portland, Maine; Fall River, Mass.; Kalamazoo, Mich.; Passaic, N.J.; Elmira, N.Y.; and many others.

Therefore the structure of the dual formula, looking only to the number of old housing units, creates a new class of CD block grant losers among the moderate sized cities of the Midwest and Northeast which have huge proportions of old housing but where absolute numbers are not comparable with large cities.

At the same time, the use of the dual formula produces actual increases in CD funding by 1980 for 9 of the 15 cities de-

fined as "least needy" according to HUD's index of community development need. I believe it is indefensible for a program which is supposed to address "need." It was certainly never my understanding that the CD bloc grant program was designed as revenue sharing, yet that appears to be the result of the dual formula design.

The Senate version of the bill offered a third "impaction" formula measuring CD "need" by concentration of aged housing stock and awarding funds according to the formula which produced the best result for a community. No communities lost money from their dual formula entitlement under the Senate amendment. I believe this approach should have been adopted in conference.

This title also includes authorization for so-called Urban Development Action Grant (UDAG) program, intended, we are told, to add flexibility to the CDBG program and aid "one shot" development opportunities. Practically speaking we have no assurances that these funds will be allocated to needy cities. The compromise reached by the conferees on the impaction issue says that the primary criteria for distribution of UDAG grants shall be the impaction factors. In spite of the conference language this remains a program administered at the discretion of the Secretary. I intend to follow the administration of the program intimately to assure these criteria are observed and grants are awarded to the most needy cities.

The CD title also contains provisions which I supported, recognizing the CD needs of communities under 50,000. These included a requirement that 25 percent of UDAG funds be reserved for small cities, authority for multiyear award of discretionary grants and a requirement that priority in awarding of discretionary money be given to small cities presently receiving hold harmless funding.

Mr. Speaker, given the expiration of HUD's authorities and the necessary changes for HUD programs in other parts of the bill, I must vote for it. However, I want to make my dissatisfaction with the CD title clear. I believe it does a tremendous disservice to an objective "needs" approach to community development.

Mr. AuCOIN. Mr. Speaker, the House-Senate conference on H.R. 6655, a major piece of housing legislation, has been long and tedious. Those of us on the conference committee are relieved to have discharged our duty. But we do so with the knowledge that the conference has been productive. It covered much ground and generated solid compromises.

The bill we brought back to the House is very much like the legislation the House passed. Where it is different, it generally is improved.

The major issue in the conference was how we were going to divide up community development funds. I am pleased to say that the House conferees held firm to their conviction that these funds should go where they are most needed, but also to the cities and counties that are aggressively and innovatively attacking the problems of urban blight.

Few Members of the House on the conference committee were more adamant than I about rejecting the inclusion of a third formula in the disbursement of block grant funds. I was adamant not because of regional concerns, or because I feared the Northeast or Upper Midwest would get more and some other region would get less money. I was adamant because I believe there is a right way to develop a funding formula and a wrong way. The House, to my way of thinking, pursued the right course, waiting on any further formula changes until basic research is completed which identifies unmet needs so that such real needs—not hypothetical ones—can be met effectively.

Many of you will recall that I rose on the House floor while this bill was being debated and supported the dual formula on the basis it was a concept with a national scope. I said different regions of the country should put aside selfish concerns and support the formula because, first, no one was hurt and, second, significant progress was made in fair distribution of block grant funds.

By rejecting the Senate impaction formula for block grant funds, the House has preserved this position and it has also preserved a promising innovation—the administration's urban development action grant program.

This program has won my enthusiasm because HUD can use flexibility to employ funds in a troubleshooting manner, injecting large sums for severely distressed problems in which innovative solutions have been proposed at the local level. Meanwhile, the basic block grant program will enable cities to keep up their present efforts. UDAG, on the other hand, is intended to inspire them on to bolder pursuits. Finally, the UDAG program is a dash of spice that should serve as an incentive for cities to perform well with their basic block grant funds, in order to qualify for UDAG moneys.

We are not talking about a return to categorical funding for physical redevelopment. What we are talking about is a program designed primarily to leverage new ideas and new moneys from the private sector into the effort to revitalize our Nation's inner-city neighborhoods and downtowns. I believe the House has kept faith with the thrust of the Senate's initiative with respect to the impaction formula. We have altered the criteria for awarding UDAG's to give additional weight to older cities that would have benefited from the impaction formula. But we are not guaranteeing anyone anything, and that is how it should be. I represent a portion of Portland, the largest city in Oregon. Portland, because it has considerable pre-1940 housing stock, would have benefited from the impaction formula. But Portland, in its wisdom, chose not to support the certainty of a small bundle of cash. Rather, it expressed willingness to forgo such certainties and to compete with the rest of the Nation on the basis of its ideas and energies.

I commend Portland city officials for that, because that is the spirit we want to see in this land. Congress should not act like a dispensary for funds. Instead, it should act as conduit for good ideas, rewarding those who come up with them. The block grant program, coupled with UDAG, accomplishes that. Furthermore, this program, as its goals and procedures are more sharply focused, becomes the centerpiece for our country's developing urban policy.

Let me conclude by saying I support ongoing review of the funding formulas for block grants and of the criteria for awarding UDAG's. This should be a natural evolution, keeping pace with the changing times. But we must develop alternatives or modifications in the calm of the moment after we have developed the case for the existence of an injustice or unfairness. Hopefully, 3 years from now, we can be in agreement from the start on what needs to be done, then do it, for the good of the entire country and its people.

Mr. ASHLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DEL CLAWSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 26, not voting 24, as follows:

[Roll No. 625]

YEAS—384

Abdnor	Burgener	Dickinson
Addabbo	Burke, Calif.	Dicks
Akaka	Burke, Fla.	Dingell
Alexander	Burke, Mass.	Downey
Allen	Burlison, Mo.	Drinan
Ambro	Burton, John	Duncan, Oreg.
Ammerman	Burton, Phillip	Duncan, Tenn.
Anderson, Calif.	Butler	Early
	Byron	Eckhardt
Andrews, N. Dak.	Caputo	Edgar
	Carney	Edwards, Ala.
Annunzio	Carr	Edwards, Calif.
Applegate	Carter	Edwards, Okla.
Ashley	Cavanaugh	Ellberg
Aspin	Cederberg	Emery
AuCoin	Chappell	English
Badillo	Chisholm	Erlenborn
Bafalis	Clausen, Don H.	Ertel
Baldus		Evans, Colo.
Barnard	Clay	Evans, Del.
Baucus	Cleveland	Evans, Ind.
Beard, R.I.	Cochran	Fary
Bedell	Cohen	Fascell
Bellenson	Coleman	Fenwick
Benjamin	Collins, Ill.	Findley
Bevill	Conable	Fish
Biaggi	Conte	Fisher
Bingham	Conyers	Fithian
Blanchard	Corcoran	Flippo
Blouin	Corman	Florio
Boggs	Cornell	Flowers
Boland	Cornwell	Flynt
Bonior	Cotter	Ford, Mich.
Bonker	Coughlin	Ford, Tenn.
Bowen	Cunningham	Forsythe
Brademas	D'Amours	Fountain
Breaux	Daniel, Dan	Fowler
Breckinridge	Daniel, R. W.	Fraser
Brodhead	Danielson	Frenzel
Brooks	Davis	Frey
Brown, Calif.	de la Garza	Fuqua
Brown, Mich.	Delaney	Gammage
Brown, Ohio	Dellums	Gaydos
Broyhill	Derrick	Gephardt
Buchanan	Devine	Giaimo

Gibbons	McKay	Rose
Gilman	McKinney	Rosenthal
Ginn	Madigan	Rostenkowski
Glickman	Maguire	Roybal
Goldwater	Mahon	Runnels
Gonzalez	Mann	Ruppe
Goodling	Markey	Ryan
Gore	Marks	Santini
Gradison	Marriott	Sarasin
Grassley	Martin	Sawyer
Gudger	Mathis	Scheuer
Guyer	Mattox	Schroeder
Hagedorn	Mazzoli	Schulze
Hall	Meeds	Sebelius
Hamilton	Metcalfe	Seiberling
Hammer-schmidt	Meyner	Sharp
	Michel	Shuster
Hanley	Mikulski	Sikes
Hannaford	Mikva	Simon
Harkin	Milford	Sisk
Harrington	Miller, Calif.	Skelton
Harris	Mineta	Skubitz
Harsha	Minish	Smith, Iowa
Hawkins	Mitchell, N.Y.	Smith, Nebr.
Heckler	Moakley	Snyder
Hefner	Moffett	Solarz
Heftel	Mollohan	Spellman
Hightower	Montgomery	Spence
Hillis	Moore	St Germain
Holland	Moorhead, Calif.	Stangeland
Hollenbeck		Stanton
Holtzman	Moorhead, Pa.	Stark
Horton	Moss	Steed
Hubbard	Murphy, Ill.	Steers
Huckaby	Murphy, N.Y.	Steiger
Hughes	Murphy, Pa.	Stockman
Hyde	Murtha	Stratton
Ichord	Myers, Gary	Studds
Ireland	Myers, John	Taylor
Jacobs	Myers, Michael	Teague
Jeffords	Natcher	Thompson
Jenkins	Neal	Thone
Jenrette	Nedzi	Thornton
Johnson, Colo.	Nichols	Traxler
Jones, N.C.	Nix	Treen
Jones, Okla.	Nolan	Trible
Jones, Tenn.	Nowak	Tsongas
Jordan	O'Brien	Tucker
Kasten	Oberstar	Udall
Kastenmeier	Obey	Ullman
Kazen	Ottinger	Van Deerlin
Kelly	Panetta	Vander Jagt
Kemp	Patten	Vanik
Ketchum	Patterson	Vento
Keys	Pattison	Volkmer
Kildee	Pease	Waggonner
Kindness	Pepper	Walgren
Kostmayer	Perkins	Walker
Krebs	Pettis	Walsh
Krueger	Pickle	Wampler
LaFalce	Pike	Watkins
Lagomarsino	Poage	Waxman
Latta	Pressler	Weaver
Le Fante	Preyer	Weiss
Leach	Price	White
Lederer	Pritchard	Whitehurst
Leggett	Pursell	Whitley
Lehman	Quayle	Whitten
Lent	Quie	Wiggins
Levitas	Quillen	Wilson, Bob
Livingston	Rahall	Wilson, C. H.
Lloyd, Calif.	Railsback	Wilson, Tex.
Lloyd, Tenn.	Rangel	Winn
Long, La.	Regula	Wirth
Long, Md.	Reuss	Wright
Lott	Richmond	Wydler
Lujan	Rinaldo	Wylie
Luken	Risenhoover	Yates
Lundine	Roberts	Yatron
McClory	Robinson	Young, Fla.
McCormack	Rodino	Young, Mo.
McDade	Roe	Young, Tex.
McEwen	Rogers	Zablocki
McFall	Roncalio	Zeferetti
McHugh	Rooney	

NAYS—26

Archer	Clawson, Del	Miller, Ohio
Armstrong	Collins, Tex.	Mottl
Ashbrook	Crane	Rhodes
Badham	Derwinski	Rousselot
Bauman	Dornan	Rudd
Beard, Tenn.	Evans, Ga.	Russo
Bennett	Hansen	Stump
Brinkley	Holt	Young, Alaska
Burleson, Tex.	McDonald	

NOT VOTING—24

Anderson, Ill.	Foley	Satterfield
Andrews, N.C.	Howard	Shipley
Bolling	Johnson, Calif.	Slack
Broomfield	Koch	Staggers
Dent	McCloskey	Stokes
Diggs	Marlenee	Symms
Dodd	Mitchell, Md.	Whalen
Flood	Oakar	Wolff

The Clerk announced the following pairs:

Mr. Diggs with Mr. Whalen.
Mr. Howard with Mr. McCloskey.
Mr. Stokes with Mr. Marlenee.
Mr. Wolff with Mr. Symms.
Mr. Koch with Mr. Johnson of California.
Mr. Flood with Mr. Anderson of Illinois.
Mr. Dodd with Mr. Broomfield.
Mr. Dent with Mr. Mitchell of Maryland.
Mr. Foley with Mr. Satterfield.
Mr. Shipley with Mr. Staggers.
Ms. Oakar with Mr. Slack.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the conference report accompanying the bill H.R. 6655, the Housing and Community Development Act of 1977, which was just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO S. 1522, AUTHORIZING MARINE MAMMAL PROTECTION ACT APPROPRIATIONS, 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes, with Senate amendments to the House amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

(1) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 4. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372 is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.".

(2) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments to the House amendments.

The SPEAKER. Is there objection to the request of the gentleman from New York to dispense with further reading?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do not see the gentleman from Kansas (Mr. SKUBITZ) here. I am just wondering whether or not the minority has been consulted at all about permission for the committee to sit tomorrow.

I wonder if the gentleman from Washington would withdraw this request?

Mr. MEEDS. Mr. Speaker, I will withdraw the request until we can get in touch with the gentleman from Kansas (Mr. SKUBITZ).

INTERNATIONAL "DAY OF BREAD"

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, this is Harvest Festival Week and today, I would like to remind my colleagues, is the International "Day of Bread." The purpose of this observance is to bring the people of the world together in spirit, to express thanksgiving for the annual bounty of nature and to continue our commitment to win the war against hunger and malnutrition.

Today, each Member of this body will be receiving a complimentary loaf of bread provided by the National Day of Bread Committee, made up of wheat

growers, millers, and bakers. They join me in the hope we can break bread together and recommit ourselves to the task of planning better to feed ourselves and our fellow human beings throughout the world.

Mr. Speaker, I also submit for the RECORD a pamphlet published by the International Day of Bread Committee entitled, "What Men of Science Say About Your Daily Bread." I commend this article to the attention of my colleagues who I know share my interest in the need to be fair with the farmer and the need to find answers to the unsolved problems of food economics, distribution, and nutrition education.

The pamphlet follows:

WHAT MEN OF SCIENCE SAY ABOUT YOUR DAILY BREAD

THE STORY OF "ENRICHMENT"

"Just before World War II, there was widespread and serious malnutrition in the United States in the form of vitamin deficiency diseases. Thousands of people were actually dying and hundreds of thousands more were existing in a state of miserable 'half-health' because of them. In 1941, it was decided that it would be feasible to improve the nutritional quality of bread by adding elements so dangerously deficient in the American diet, the vitamins; thiamine, niacin and riboflavin, and the mineral: iron. And, in the years that followed, the serious deficiency diseases (pellegra, beriberi, ariboflavinosis) disappeared as public health problems—due in large measure to the nutritional improvement brought about by the use of enriched bread. It has been said that the elimination of these vitamin deficiency diseases was one of the greatest success stories in the history of public health improvements."—Dr. W. H. Sebrell, Jr., Director, Institute of Human Nutrition, Columbia University.

ARE "HEALTH FOODS" BETTER?

"Any local grocery or supermarket is a health food store. Its brands of foods are as good, as healthy and certainly far cheaper than that sold in a 'special' health food store."—Dr. Fredrick J. Stare, Chairman, Department of Nutrition, Harvard University.

FROM ENRICHMENT TO FORTIFICATION

"There is evidence of potential risk of deficiency of vitamin A, thiamin, riboflavin, niacin, vitamin B_6, folacin, iron, calcium, magnesium and zinc among significant sections of the population. It is recommended that all products based on the major cereal grains, i.e., wheat, corn and rice, be fortified (with the above 10 nutrients at specified levels) where technically feasible . . . Cereal-grain products are suitable carriers . . . on the basis of their broad usage by almost everyone in the United States."—"Proposed Fortification Policy for Cereal Grain Products," Food and Nutrition Board, National Academy of Sciences, Washington, D.C., 1974.

HOW IMPORTANT IS BREAD AND OTHER WHEAT PRODUCTS FOR GOOD HEALTH?

"Work carried out in recent decades indicates that: (1) Wheat has an ameliorating effect on blood cholesterol levels which may be important in reducing cardiovascular deaths; (2) wheat decreases the incidence of dental caries in children; (3) wheat contains proteins of such high biological quality that normal young men can be maintained in excellent health for long periods of time when wheat is their only source of protein; (4) wheat lowers the blood urea level which may be efficacious in the reduction of renal (kidney) diseases; and (5) wheat provides an economical and adequate means of providing a nutritious diet for large numbers of people now that food is considered a critical factor in human survival."—Dr. Olaf Mickelsen, Professor of Nutrition, Michigan State, University.

IS BREAD JUST EMPTY CALORIES?

"Bread and cereals provide 25 percent of the good energy, 17 percent of the protein and about 25 to 30 percent of the iron consumed. . . Bread is a good food and is not an example of empty calories. It provides important nutrients to the diet and plays a proud role in nutrition."—Dr. Philip L. White, Secretary, Council on Foods and Nutrition, American Medical Association.

CAN BREAD PREVENT HEART DISEASE?

"An increase in the amount of bread consumed represents our best chance to lower the fat content of the American diet and thus take an effective step in trying to lower cholesterol levels and mortality from our number one cause of death, atherosclerotic heart disease."—Dr. Jean Mayer, Professor of Nutrition, Harvard University.

HOW DOES AMERICAN BREAD COMPARE?

"The bread with the highest over-all nutritional value was a semi-white Finnish bread made with a mixture of whole wheat and white flour and 4.3 percent milk solids . . . The bread which ranked second in over-all nutritional value was the enriched white bread typical of that sold in the United States."—Study made at Massachusetts Institute of Technology by Dr. Robert S. Harris, et al., of nutrient composition of 44 typical national breads of the world.

WHEAT AND THE WORLD FOOD PROBLEM

In testimony on the "Wheat and Wheat Foods Research, Education and Promotion Act" before Committees, House and Senate, U.S. Congress: "Increased cereal consumption in this country would be beneficial and cereals provide the major hope for feeding the world now and in the future."—Dr. D. M. Hegsted, Chairman, Food and Nutrition Board of the National Academy of Sciences-National Research Council.

"The key factor in the world food situation is of course the supply of cereals—wheat, rice and coarse grains—which account for well over half the world food production and, more important, are the staple foods for people all over the globe."—Dr. A. H. Boerma, Director, General, Food and Agriculture Organization, United Nations.

IS BREAD FATTENING?

"Because of bread's low fat content, it has a low caloric density and should be included in the diets of weight-conscious consumers rather than being shunned by them."—Dr. William J. Hoover, Chairman, Department of Grain Science and Industry, Kansas State University.

"When you consider the nutrients bread supplies, it really isn't a fattening food. You'd wind up with more calories if you tried to get the same nutrients from most other foods."—Dr. Paul A. Larhance, Rutgers Food Science Department.

A "DAY OF BREAD"

Emerging as a major factor in the solution of the world-wide hunger problem is bread—so common and so universal through the centuries that it is known as the symbol of all food. Wheat is the world's most widely cultivated food plant. It is eaten in various forms by almost four billion people and makes a larger contribution to the calories and protein available to man than any other food.

The universality of bread and the growing concern, both at home and abroad, for hunger and malnutrition gave rise to the "Day of Bread" in the United States to focus attention on this critical problem and urge industry and government to join in a campaign to improve popular diet.

The "Day of Bread," observed on Tuesday of the first full week in October, called Harvest Festival Week, is a revival of an ancient custom, celebrating the annual bounty of agriculture. The modern version began in West Germany in 1953 and spread to other countries of Europe, South America, Asia and Africa. It started in the United States in 1969 proclaimed by the President, state governors and mayors throughout the nation.

TREASURY SUPPORTS CONFIDENTIALITY OF INFORMATION CONCERNING BANKS AND BANK CUSTOMERS

(Mr. BROWN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of Michigan. Mr. Speaker, in the CONGRESSIONAL RECORD for Saturday, September 24, 1977, on page 30792, the gentleman from New York (Mr. ROSENTHAL) refers to and excerpts a recent letter he received from Treasury Secretary Blumenthal on H.R. 2176, the Federal Banking Agency Audit Act. Conveniently, Mr. ROSENTHAL did not place the entire letter in the RECORD so that all the Members could read it for themselves, but rather, chose to excerpt only those passages most favorable to his cause.

Although the Treasury Department letter indicates general support for H.R. 2176, it recites that the Treasury Department continues "to have some technical reservations," which reservations, I suggest, are actually substantive rather than merely technical, as a reading of such letter will demonstrate.

Specifically, Treasury supports the arguments I have heretofore made when in its letter it says:

> . . . we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

In addition, Treasury acknowledges the difficulty in separating what are, and are not, monetary policy functions and suggests that it may be difficult to frame an adequate definition. It is with this very concern in mind that I have advocated an amendment which would specify with greater particularity than does H.R. 2176 those things that shall be considered monetary policy and subject to the exclusion from audit as is provided in H.R. 2176.

In any case, Mr. Speaker, not wanting to be guilty of the same nonobjectivity of which I have suggested the gentleman from New York (Mr. ROSENTHAL) may be guilty, I am putting the full Treasury letter in the RECORD so that my colleagues may judge the relative merits of the two positions for themselves:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 16, 1977.

Hon. BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Commerce, Consumer and Monetary Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for a restatement of the views of the Administration on H.R. 2176 which provides for regular audits by the General Accounting Office of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

As you know, on March 3, 1977, the Acting Comptroller of the Currency testified on this bill and indicated that his Office had no

objection to reasonably spaced periodic reviews by the General Accounting Office, provided that certain changes were made in the bill. The bill as reported by the Committee on Government Operations did not adopt all of the changes suggested by the Comptroller; in particular, it did not include an amendment that would prevent the disclosure of the names of banks and bank customers.

While the Administration generally supports H.R. 2176, we continue to have some technical reservations. Since the purpose of the GAO audit is to review the operations of the regulators, rather than the members of the industries regulated, we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

I understand that the Federal Reserve System takes the view that the insulation from the audit process of matters concerning monetary policy is not sufficiently broad and that the operations of the discount window should be excluded completely. We share the System's concern about the extreme difficulty of distinguishing those discount window operations which are solely regulatory in character from those which are also intended to have a monetary impact. While we see no reason why transactions in the former category should not be subject to audit, the inevitable ambiguity of the purpose for which any particular transaction is intended raises serious questions as to whether an adequate definition can be framed.

Sincerely,

W. MICHAEL BLUMENTHAL.

THE LOCKHEED LOAN—A DRAMATIC COMEBACK

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, later this month, members of the Emergency Loan Guarantee Board will meet at the U.S. Treasury Department and are expected to accept a revised credit agreement between the Lockheed Corp. and a consortium of 24 lending banks. The revised credit agreement will remove from the Federal Government responsibility for guaranteeing the loans to Lockheed. Through the sound management of their directors, especially Robert W. Haack, their recently retired chairman, Lockheed has returned to a more healthy financial situation and is making money again.

Six years ago, I addressed this body and explained why it was necessary to protect the viability of Lockheed. At that time, many critics of the guarantee stated that Government assistance was unprecedented and were ready to write the company off. The critics were wrong.

The loan guarantee helped save an important company and did not cost the American taxpayer a single cent. In fact, the Treasury has received $25–$30 million in loan and commitment fees, and has also recovered all expenses of the Emergency Board.

To quote a Washington Post editorial:

The Lockheed loan has turned out to be unique among Government programs of this sort: It appears to have achieved its goal without costing the taxpayers.

I would like my colleagues to join with me in recognizing and applauding the sound job the Lockheed management team has done.

The articles follow:

[From the Washington, (D.C.) Post, Sept. 29, 1977]

LOCKHEED, BANKS AGREE TO REMOVE FEDERAL GUARANTEES FROM LOANS

(By William H. Jones)

Lockheed Aircraft Corp., which only 18 months ago faced potential collapse in the wake of international payoff scandals and its own financial weakness, yesterday announced an agreement with 24 banks to remove federal guarantees on all loans to the California-based aerospace giant.

Moreover, retiring Lockheed chairman Robert W. Haack revealed yesterday that the controversial program of government-backed loans to his company since 1971 actually resulted in profits of some $30 million to the U.S. government.

"It's a great day, one we've been striving for," said Haack. He is a resident of suburban Potomac, Md., and a former president of the New York Stock Exchange.

Installed about 20 months ago to replace ousted Lockheed chairman Daniel Haughton, Haack has been credited with helping to restore the company's credibility after a series of damaging disclosures about questionable and illegal overseas payments related primarily to aircraft contracts.

Altogether, according to a report by Lockheed directors earlier this year, the company spent between $30 and $38 billion for questionable purposes in the early 1970s. Revelations about specific payments by Lockheed led to political turmoil in Japan and investigations in the Netherlands, West Germany, Italy and other nations.

In 1971, Lockheed was the nation's No. 1 defense contractor, but several of its government projects developed embarrassing cost overruns and other problems. Commercial banks told the company it could have no additional loans unless there was a firm guarantee that $400 million already owed would be repaid.

By a margin of four votes, Congress decided that Lockheed's survival was vital to the national interest and established an Emergency Loan Guarantee Board with authority to guarantee repayment for up to $250 million of loans by banks to the firm.

Lockheed soon borrowed nearly $650 million from commercial banks with $245 million guaranteed by the taxpayers. From that low point through this year, Lockheed gradually repaid loans backed by the government as sales and profitability were restored. Today, $60 million of bank loans to Lockheed are backed by government guarantees. In the first six months of 1977, Lockheed had profits of $26 million on sales of $1.7 billion.

According to the announcement yesterday, made on the eve of both the first regular Lockheed stockholders' meeting in several years and Haack's departure as board chairman, banks no longer will require federal loan backing because of the improved financial condition at the firm. Lockheed employs 55,000 persons.

In a telephone interview from his headquarters at Burbank, Calif., Haack said the federal loan board will meet here on Oct. 12 to review Lockheed's situation and presumably sever the firm's financial relationship with the U.S. Treasury.

"There has been a cloud around Lockheed here and worldwide," he said. "We have, for some time, looked like a ward of the government and it impeded some of our marketing efforts. 'If you're as good as you say then why do you have government guarantees,' some have said," Haack recalled yesterday.

The new bank agreement, Haack added, "will be persuasive to customers by saying Lockheed is a viable corporation and it can now fly alone."

Specifically, Lockheed's 24 banks agreed to extend a revolving bank credit line of $100 million to Lockheed to replace the existing line of $250 million in government-guaranteed funds. An outstanding $350 million long-term loan will be retained through 1981.

According to Lockheed and government officials, the federal loan guarantees did not require any taxpayers' money. After all expenses associated with the aid, the government ended up with about $30 million extra—the government's share of interest charges and fees on the banks' loans. Throughout, the federal government held priority liens on Lockheed's property.

Lockheed was a subject of continuous government oversight in traditional private enterprise decision making during the guarantee period. Haack said yesterday that federal officials had to approve new projects and financial agreements, for example.

Haack will be replaced today as chairman by Roy A. Anderson, following a management plan approved by directors in August. Haack will remain on Lockheed's board. He is a director of seven other companies.

He said he planned to spend more time at his home in the Washington suburbs. Haack predicted that an agreement with the Securities and Exchange Commission will be reached in the near future, permitting that agency to study all information in Lockheed's possession about questionable overseas payments—but without further public disclosure.

[From the Washington (D.C.) Post, Oct. 2, 1977]

LOCKHEED'S SUCCESS

We confess to having shared the strong reservations of a lot of people in 1971 when the federal government agreed to bail out the Lockheed Aircraft Corp., which was then on the verge of bankruptcy. Our reservations would have been even stronger if we had known then what we know now about the $30 million or so the company had used to bribe foreign officials. Disclosure of the bribes merely confirmed our impression that Lockheed was a lost cause and a bad investment for the American taxpayer. So it is with a sense of pleasure and relief—and considerable surprise—that we take note of reports that it hasn't turned out that way. On the contrary, the Lockheed bailout has apparently turned out to be very nearly unique among government programs of this sort: It appears to have achieved its goal without costing the taxpayers anything. Lockheed is giving up the federal loan guarantee on which it has depended for six years and is rejoining the world of free enterprise.

You may recall that what brought Lockheed to its knees was a combination of inflation, cost overruns on various projects and a new airplane that didn't sell too well at first. It has apparently conquered these and other problems. Thanks in large part to that loan guarantee, Lockheed is making money again. Admittedly, there were some rough spots. At one point, the federal government was backing up $245 million in loans and its supervisory committee was riding herd strictly on Lockheed's activities. The situation grew critical again when the exposures concerning the foreign bribes drove Lockheed's two top officers from office. But the cleanup of the company under Robert W. Haack, who is now retiring as chairman, seems to have been thoroughly and carefully conducted.

Does the Lockheed success story argue for more of the same sort of government rescue operations for other failing companies? No. As a general rule, we don't think the government should be in the business of helping private corporations escape the consequences of their own shortcomings. Lockheed was a special case because of its role as a defense contractor and because a case can be made that some part of its downfall was

attributable to various Pentagon decisions. That it all has turned out well is heartening—almost heartening enough to make us think that someday all will also turn out well for Conrail, the government's other venture in trying to turn a failing corporation into a success.

DO WE NEED A NUCLEAR TEST BAN?

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, I had the honor and privilege on October 1, 1977, of accompanying Chairman PRICE and four other members of the House Armed Services Committee to Lawrence Livermore Laboratory in California to discuss and observe the laboratory's national security programs. The accomplishments of this laboratory, which is celebrating its 25th anniversary, are manifold. While the lab today is working in a multitude of scientific and engineering areas, their major effort is still the enhancement of national security through the design, development, engineering and underground testing of nuclear weapons.

One of the major participants in our discussions on the life cycle of nuclear weapons was Dr. Michael M. May, former director of Livermore and now an associate director at large. Dr. May has long been a participant in assuring that the U.S. nuclear weapons stockpile is credible as a deterrent which is both modern and sufficient. A major concern of Dr. May is that deterrent credibility will evaporate rapidly if all weapons testing is ended. Dr. May stated that the constraints of the so-called 150 kiloton threshold test ban treaty are already affecting some U.S. modernization plans.

The June 28, 1976, issue of the Wall Street Journal carried an article by Dr. May. I include the article to be printed in full following my remarks since it is most important today to understand why a comprehensive test ban will not necessarily reduce the chances for proliferation. A moratorium or test ban can only cause significant deterioration of the usefulness of our nuclear weapons stockpile.

As Dr. May said: "Nuclear weapons systems are not perfect, absolute weapons which, once acquired, give us the power to deter attacks under all circumstances."

The referred to article follows:

DO WE NEED A NUCLEAR TEST BAN?

(By Michael M. May)

For more than 20 years the stated U.S. policy has been to seek a complete nuclear test ban. As it now stands, the U.S. and the Soviet Union have agreed to limit the yield of nuclear tests to 150 kilotons, whether the tests are done for civilian or for military purposes. Tests below that yield carried out underground would be permitted.

According to U.S. statements, all that keeps this country from signing a complete nuclear test ban is the fact that low yield nuclear test explosions—which are of major importance for *both* low yield and high yield weapons—could go undetected, so that the ban could not be verified.

The concern about detecting low yield nuclear tests is legitimate. But in this writer's view, even if all nuclear tests could infallibly be detected, the U.S. should not enter into a complete nuclear test ban. As a former director of a laboratory partly devoted to nuclear weapons research, my views may well be biased, and the reader must judge on the basis of the arguments. I believe that the continuing appeal of a nuclear test ban stems from an erroneous concept of what nuclear tests are about.

Nuclear explosives, if used in war, could destroy Western civilization. But the tests which made this outcome possible have long since been done. Treating their present successors as similar in purpose and impact leads to an unrealistic poicy.

Currently, and for many years now, nuclear tests have been used to:

(1) Modify nuclear explosives so that they can fit into new missile systems.

(2) Make them lighter, safer to transport, harder to tamper with, more economical of material, etc.

(3) Investigate the effects of the explosion on military hardware (for instance, missile systems) and on communication systems. Some of these effects are extremely complicated and still poorly known.

(4) Maintain deployed weapons in working condition. Weapons are like any other hardware (actually worse than most, because the materials that have to be used are often chemically unstable or radioactive) in that they occasionally have to be repaired, and they will eventually have to be replaced. Replacements will likely be different from the originals because available materials change, as do safety and economy requirements.

(5) Understand better the functioning of the nuclear explosives, some facets of which are still uncertain.

CHANGES ARE NEEDED

Do we need to do these things? Nuclear weapon systems are not perfect, absolute weapons which, once acquired, give us the power to deter attack under all circumstances. Rather the search for invulnerability, reliability and safety requires that we change these systems, together with their nuclear weapon component.

Many of the changes cannot be made reliably without a nuclear test. Some can be. We do not know just where to draw the line between changes which require a nuclear test and those which do not. A nuclear explosive will often fail to work when seemingly slight design changes are made. Of course, under a test ban, changes in design of nuclear weapons would be made very cautiously (and, incidentally, would utilize more computing and non-nuclear test resources than at present). But the nuclear weapons laboratories would also be under significant pressure to make changes since small changes in the nuclear weapons often have a large impact on the cost, or effectiveness, or operational flexibility of the overall system. In the course of time, as the surprises of the past are forgotten, this pressure would increase.

After a number of years designing and supervising the design of nuclear weapons, including part of a previous test ban period. I believe that nobody knows how far we can safely go in making necessary changes without nuclear tests, and that no system of checks and reviews can ensure that we will not go too far. No paperwork system, whether applied to nuclear weapons or to any other hardware, has successfully replaced actual testing in verifying what will work and what will not.

But do not the advantages of a nuclear test ban overweigh the advantages of nuclear tests? It is argued that a nuclear test ban would ease the arms competition between the U.S. and the Soviet Union; help prevent nuclear weapons proliferation; preserve the environment; and save money.

The environmental and the financial arguments have little to support them. The environmental impact of the test program, now that it is carried out underground, is minor. The financial argument could equally well cut the other way. A nuclear test ban would, in the first instance, shift funds from the test activity to computing and non-nuclear testing. Later it would cost money by forcing the U.S. to select unnecessarily expensive, less effective weapons systems and deployment patterns. Since the overall cost of a military system is typically much larger than the cost of testing the nuclear weapon for that system, on balance, a nuclear test ban is likely to cost more thon it saves.

This leaves two major questions: What would be the effect of a complete nuclear test ban on the arms competition between the U.S. and the Soviet Union? And what would be its effect on nuclear weapons proliferation?

Nuclear arms competition between the U.S. and the Soviet Union in one form or another is inevitable. We can, given a careful approach and some commonality of purpose, mitigate its cost and dangers by agreeing to limits on the number and destructive power of the weapon systems, as is now being attempted at SALT. Even so, however, for the foreseeable future, our relationship with the Soviet Union will involve a mixture of cooperation and deterrence. We must in particular continue to rely on nuclear forces, which must remain invulnerable. We may not like this, but short of a verified complete nuclear disarmament, we have no choice.

A complete nuclear test ban will not help in that situation. As was pointed out above, its consequence would be to introduce some unmeasurable uncertainty in our deterrent ability without in any reliable way lessening the threat that either side poses to the other. This hardly seems a wise kind of arms control.

The Soviet Union has of late called for a complete test ban, although it would except nuclear explosions for peaceful (civilian) purposes from the ban. That type of ban would be unverifiable since tests for civilian purposes can be used to generate weapons information, and it should be rejected on that ground alone. What the Soviet motives are for proposing it can only be surmised. One may be to help turn world opinion against the Chinese, who are not party to any current nuclear weapons limitations and would presumably not be a party to the one the Soviets propose. Another motive might stem from the fact that the U.S., with its small missiles, probably relies on advanced nuclear technology to minimize systems costs, increase effectiveness and ensure invulnerability to a greater degree than does the Soviet Union.

The second major question is that of the effect of a complete nuclear test ban on nuclear proliferation. The idea that U.S. nuclear tests and proliferation are linked was proposed a number of years ago, on two grounds: one, that U.S. nuclear tests, by showing what can be done, would give technical encouragement to the groups in foreign countries which advocate acquiring nuclear weapons; and, two, that we would be considered hypocritical and would lack credibility if we asked others to refrain from what we were doing ourselves.

On the first score, it is true that our successfully testing nuclear weapons showed others it could be done. That is already irretrievable history, however. Foreign governments already know that, given the material, they can have weapons designed to fit their own delivery systems relatively simply. How we further evolve our stockpile to meet our needs does not alter that knowledge.

CONFUSING RHETORIC WITH REALITY

The second grounds for linking U.S. nuclear tests with proliferation, namely that

we should do what we preach, confuses the rhetoric of international meetings with the actuality of governmental decision making. Believing the rhetoric is likely to lead us away from the true causes of proliferation.

Insecurity, in some form, is the likely cause of nuclear proliferation. One source of governmental insecurity is the presence of nuclear weapons in the hands of potential enemies. For that reason, the existing nonproliferation treaty is valuable. But the desire to link that treaty to restrictions on U.S. nuclear tests, though understandable as an emotional and political reaction on the part of non-nuclear countries has little rational basis. Few if any non-nuclear countries feel threatened by U.S. nuclear weapons. None is likely to be reassured by our taking on the unpredictable technical, economic and operational handicaps which would flow from a complete nuclear test ban.

In addition, the Western nations must cope with the threat of large Soviet nuclear forces, separate from the ones which threaten the U.S. For such countries, any step by the U.S. away from resolute support of its security alliances (and a nuclear test ban, impeding as it would modernization of tactical forces as well as casting some doubt over the future viability of the deterrent forces, may well be viewed as such a step) will be an incentive to proliferation rather than the opposite.

This does not mean that the U.S. must give up any hope of playing a leadership role in the matter of nuclear weapons control. On the contrary, the U.S. has an unparalleled opportunity for such leadership under the present circumstances. The opportunity stems from the fact that the general political situation, as it involves resources, alliances, political balances, is more fluid than it has been at any time since World War II. But the leadership must be exercised by taking into account the diverse political, social and economic needs of the nations and governments involved, along with our needs. The solutions may involve new treaties, new security arrangements, new arrangements for dealing with nuclear technology. They are unlikely to require the U.S. to abstain from nuclear tests. The appeal of a test ban stems from the mistaken implication that the nuclear genie can be put back into the bottle, not from the evaluation of anyone's security needs.

In summary, it is difficult to see why U.S. adherence to a nuclear test ban should inhibit nuclear weapon proliferation. Whether it will reduce the threat of the U.S.-Soviet arms competition is even more questionable. Its effect will be rather to introduce uncertainties in the performance and invulnerability of nuclear forces, forces which neither side can abandon at this time of history.

WHY SO MANY STUDENTS CHOOSE VETERINARY MEDICINE

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PATTEN. Mr. Speaker, New Jersey students who want a degree in veterinary medicine may go to the nine-State regional school at the University of Pennsylvania.

New Jersey, Massachusetts, New Hampshire, Vermont, Maine, Connecticut, Rhode Island, Pennsylvania, and Delaware are providing State support for their students who attend the regional School of Veterinary Medicine at Philadelphia.

Several of these States provide teaching sites for part of the curriculum. Cornell, at Ithaca, N.Y., is the other veterinary medical school in this region. Cornell and Penn work closely together to meet the veterinary education needs of the nine States, exchanging faculty and students frequently.

We are proud of the education our students get though, naturally, we would want a New Jersey veterinary school if it were economical.

We are doubly proud when we hear of the innovative ideas which this school's faculty brings to veterinary medicine, particularly the direct benefits to humans that these ideas promise.

Labor/HEW Appropriations Chairman DANIEL J. FLOOD summarized these ideas in a fascinating speech.

I recommend it to all Members who have wondered why so many young people are suddenly taking an interest in veterinary medicine.

ADDRESS OF CONGRESSMAN DANIEL J. FLOOD ON THE OCCASION OF THE GROUNDBREAKING OF THE UNIVERSITY OF PENNSYLVANIA SCHOOL OF VETERINARY MEDICINE SMALL ANIMAL HOSPITAL

President Myerson, Provost Stellar, Vice-President Langfitt, Dean Marshak, and your excellent organization of educational administrators with you, I salute you all for the successful and creative leadership embodied in this project which you commence today.

I can use these adjectives with authority because, in your comprehensive way you have given me a college course in veterinary medicine so that I can understand the significance of today's events.

If I can pass this course and repeat back to you what you have taught me, then maybe I'll be ready for the postgraduate work, where the student goes a step beyond and makes his own contribution.

But there is so much deep thinking, so much philosophy in the undergrad portion that maybe I'd just better make sure I have that right, first. Then my own contribution might be to use my position in the Congress to tell the scientific, educational, and community service world what is the nature of the demands the best veterinary medical schools are prepared to accept.

Newshawks, members of the press, parents, and others on the periphery of this unusual enterprise, listen to what these leaders propose: They quite literally propose to explore from the beginning the entire relationship between animals and men. That includes aquatic animals. It includes pets. It includes food and fiber animals, wildlife of all kinds. Imagine!

This is not mere intuitive, scientific exploration, brain play. This is not the institutionalization of brilliant minds to allow them the luxury of strolling reflectively through the culture then regaling one another with articles that none of the rest of us can understand.

Rather, they intend to take tried and true concepts and apply them creatively to virgin areas, such as the potential for cowboy or range riding techniques for herding the oceans' fishes for the benefit of the millions who go undernourished in this world.

They intend to explore the dynamics of biological populations which are already interdependent—the typical food chains of the sea where some fish eat plankton and the big fish eat little fish; or food chain problems such as production stimulants in beef cattle which might affect the milk a mother gives her human child; and the gross interaction between various forms of protein production and various forms of protein consumption which have such a terrible impact on who shall live and who shall die.

You have taught me that veterinary medicine, in contrast to human medicine, is accustomed to calculating the economic worth of its patient. The human physician is so debarred from thinking in these terms that we now face a crisis—and no one on the campus where I work will deny this—a crisis of runaway human medical treatment costs with few, if any, guidelines on where to cut back. Veterinary medicine, by force of logic alone, must be exploited for its assistance in creating scientific and humane guidelines on costs.

Now I can tell you without hesitation that the chairman of the Labor/HEW money committee of the House believes that we urgently need all the help we can get from veterinary medicine in such guideline writing.

Your true veterinary avant garde, and it is nowhere if not here at the University of Pennsylvania, is studying not only the existing food chains, but the potential of new ones—Such as how can world health and world food organizations intervene in the migrations of men, domestic animals, and wild beasts in Subsaharan Africa in a way which will possibly ease pain, malnutrition, political tension and even war where other, less thoughtful, measures have obviously failed? Answer that question and I guarantee you that you'll have several congressional committees calling hearings to parallel your seminars.

And while these are large matters, important matters, if I understand the veterinary course you gave me, you are moving on toward other subjects just as important, but rarer as recognized societal problems.

A borderline case, in the sense that some other schools are certainly at work on it, is the area of laboratory animal specialization. As the National Institutes of Health have matured, and I don't need to remind you that my committee finds time now and then to inquire what's going on in Bethesda, USA, NIH has increasingly moved its research to the preclinical stage, the stage where biological systems closely resemble man's.

As many of you know, growing sensitivity among laymen to manipulation by the various professions has raised new questions about certain types of clinical research. Is it proper to pump a test vaccine into a healthy child where medical science cannot make a final assault on an infectious disease without controlled clinical trials? Such questions tend to press the border between clinical and preclinical research closer and closer to the preclinical, away from the human subject.

The interest of anti-vivisectionists and others has not, shall we say, modulated in recent years from what my mail shows.

The lab animal area has involved several schools and I am pleased to see Cornell's Dean Melby here today, a national leader in the field. I hope that the close relations between the Cornell and Penn veterinary schools survivies tonight's gridiron contest.

Lab animals were the borderline case where others are involved around the country. But the jobs your new Center on the Interactions of Animals and Society intends to do shows that you have already institutionalized what lies beyond that borderline. The work is intriguing, for instance—

Man has butchered animals for as long as we know man has existed. Religious sects have recognized moral obligations in this process. Some Asiatic sects forbid it entirely. Now there are courses in many of our medical schools on euthanasia, the selective killing of certain human beings, sometimes at their own request. Again, history tells us this is not a new human interest, but a renewed human interest and one never adequately pursued in our own culture.

What is the veterinary school's proper contribution to this subject? The very inti-

macy with which the veterinarian is forced to approach the orderly death of food and fiber animals tells us that he might be prepared to explore productively this very important subject. As the University of Pennsylvania School of Veterinary Medicine moves into this area it is clearly leading the traditional veterinary school curriculum into new territory.

You talk about the growing antagonism between those who love to have pets and those who regard pets as despoilers of our neighborhoods. You mention that someone counted 700 stray dogs per square mile in Baltimore City and tallied 33,000 injurious dog bites in New York City in one year.

I am delighted that your Center on the Interactions of Animals and Society is bringing on your law and economics faculties to help understand these disagreements and to work our way toward policy clarification.

Obviously, a statistical base is needed for this kind of work and your new Center will move where other veterinary schools have yet to see the need.

You have taught me that one study shows over 85 percent of stray dogs are owned by someone, a neglectful someone. The legal questions of this are not customarily addressed in veterinary schools, but are being addressed here.

You have taught me that the vastly increased interest in environmental causes of human diseases is reflected in long established, as well as new patterns, of research in veterinary medicine and that your new Center will strengthen the links between such human and animal epidemiological work.

You have told me that one scientific solution to an over-population of pet animals could be a safe, life-long contraceptive for animals. The human implications are enormous.

You have pointed out that cities, counties, and voluntary societies now bear the burden of many sick, privately owned animals. But, you say that the taxpayer and charity giver might be relieved of this burden. Experimental work in the animal health insurance and veterinary health maintenance fields could be the answer. Virtuoso thinking.

I understand that there has been little interaction between veterinary schools and the voluntary societies which shelter animals in our cities, and that Penn has already begun to improve this situation. I've heard of your work to prevent the spread of disease at the New York animal shelter in a cooperative arrangement with the American Society for the Prevention of Cruelty to Animals.

You see, I can reel off what you taught me. As a matter of fact, in this course you've given me the simple facts aren't so hard to handle. It's their sweeping implications.

I can't resist passing on to this audience the biblical cast one of your professors has given this instruction. I can't believe this is a cliche among veterinary medical schools.

He talks about the limited, anthropocentric—you can see this wasn't entirely a snap course—that is, a people-centered view man has historically taken toward animals. He has spoken of the Garden of Eden where his studies reveal that man and animal talked to one another in the same language. After the Fall, he says, human beings and animals have been cut off from one another. (An insinuous statement???)

Now the human is being forced more and more to re-establish that harmonious bond of life between man and animal that existed in the Garden of Eden and to guide man and animal back to Paradise.

Dr. Marshak and his demonstrably brilliant faculty think that this new animal hospital, the new center, the spiritual values which are the concern of those involved here will increase the ability of this institution to offer medical care of the highest quality in its human facilities as well as animal facilities.

They see this animal hospital as a major milestone in the development of the University of Pennsylvania in the services it can offer the Commonwealth and the nation.

I can only agree. The evidence of sincerity, devotion to service, commitment to matters of the soul as well as the intellect, these are marks of greatness.

I firmly believe that the 10 states lucky enough to be participating in this regional veterinary school should count their blessings. Any New Hampshire or Rhode Island parent who can consider Pennsylvania's campus to be his own, really has a possession to value and treasure.

Mr. Secretary, I want to tell you that they are better than the ordinary academicians around here. After more than a century of Brahminism, which after all has something to do with true quality, they have seen the wisdom of exchanging faculty and students with Penn State. They are interlocking the two schools' veterinary courses in some ways. They are working together. This can only mean good things for the Commonwealth.

I appreciate very, very much the opportunity to play a role in fostering these concepts in a world that so obviously needs them. Continue on in your excellence. As a dean, myself, of the Pennsylvania Congressional Delegation, I can say we are proud of you. All of the 27 Members of the Delegation through me express their gratification for the luster you add to this Commonwealth. We are proud to represent you and anticipate many more opportunities for service in tandem with this truly creative university.

CRITICAL SITUATION IN DOMESTIC STEEL INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 60 minutes.

Mr. BENJAMIN. Mr. Speaker, I am joined today by 29 of my colleagues in the introduction of two bills, both necessitated by the critical situation confronting our domestic steel industry.

The first measure proposes to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade and to convert certain fixed rates of duty to ad valorem percentages.

The second bill proposes to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preferences to such materials and to require that certain State purchases made with Federal funds be subject to the Buy American Act.

The former measure simply applies a temporary surcharge of 25 percent on steel products until 1983 unless the average monthly unemployment in the domestic steel industry is 3.1 percent or less for a period of 1 year.

The latter merely extends the 1933 Buy American Act to nonfederal procurement agencies when 50 percent of the funding is from the Federal Government. It statutorily sets the preference at a minimum of 15 percent.

Two questions must be resolved today. The first is whether these bills are necessary. The second is whether their adoption will lead to a solution of the problems faced by our domestic steel industry.

The answer to the first query is "Yes."

The industry today faces the question of its very survival. The inability to modernize and expand the domestic steel industry has led to growing and effective import competition. The competition from foreign imports in turn has reduced the steel industries' ability to raise capital from the sale of stock and other forms of investment and borrowing. The capital is needed if modernization is to occur. This, in turn, has spawned additional imports. The problems have created a vicious circle whose perimeter is inexorably constricting to strangle our basic steel industry.

The United States is the only major industrial nation that lacks the capacity to produce 100 percent of its domestic requirements. The importation of steel produced from foreign countries has increased dramatically in the last two decades and has reached a point where it now represents 18 percent or more of our apparent domestic consumption.

The No. 7 iron blast furnace under construction at Inland Steel's East Chicago, Ind., site is the first such furnace to be constructed by an American steel producer since World War II. By contrast, nearly all of the steel facilities of our major foreign competitors were constructed since 1962.

Our major foreign competitors' facilities require 9.2 manhours to produce a ton of steel, compared with 10.9 manhours in this country. The application of modern production technology by foreign competitors also allows for the use of 30 percent less coke than U.S. facilities, drastically cutting their raw material costs.

All but 19 percent of the Japanese steel output was produced in basic ogygen furnaces compared to only 63 percent of the United States output. More expensive open hearth furnaces accounted for 18 percent of American crude steel production while this method of production accounted for only 0.5 percent of the Japanese output. The more efficient continuous casting method of production is used more than 3 times as much in Japan as it is used in the United States.

Other comparisons can be made, but the point is clear. Foreign competitors have been able to modernize and expand their facilities much more rapidly than our domestic industry and this development has led to the growing import problem we face today.

The problem must be solved.

Five hundred and fifty thousand people hold steel related jobs; 3.5 percent of all domestic production workers are employed by steel. Those employed in mining and transporting the raw materials from which steel is produced swell these numbers immensely. Shipments of domestic steel account for $28 billion in sales.

What has been the response to date? The Department of Labor wants a "healthy industry," but insists, and rightfully so, that costly health and safety standards be met. So, Treasury is looked to for assistance to restrain steel imports, but Treasury is committed to free trade, so it urges new investments to modernize the industry. With a substantial budget deficit, others express concern that a loss of revenue would result from any tax incentives for new investment. Joint ventures, which may help, are also dissuaded by the Justice Department because of possible anti-competitive effects.

While all of the interplay and positioning is taking place, 5,000 workers are laid off by Youngstown Steel in Campbell, Ohio, 7,300 by Bethlehem between the Lochavan, N.Y., and Johnstown, Pa. plants, 2,000 by United States Steel in Chicago, Ill., 2,400 by Kaiser Steel in Fontana, Calif., 3,000 by Allenwood Steel in Philadelphia, Pa., 2,510 workers at the tube works of the United States Steel Corp. in Gary, Ind., and were certified for trade adjustment assistance. A total of 67,000 steelworkers have been certified for trade adjustments assistance through August of this year.

The time has come, Mr. Speaker, to establish the parameters of the problems and to implement a broad based and comprehensive policy aimed at their solution.

I believe that the two bills being introduced today, along with the request for a General Accounting Office investigation of the activities of the trading companies and agents of foreign steel producers, and the enactment of the two tax proposals which will be introduced at a later date, represent a broad based policy which comprehensively and rationally addresses much of the problem the domestic steel industry is confronted with today.

The provisions dealing with imports are basically designed as a temporary measure to provide immediate and effective relief to slow imports to allow profitability to return to the domestic steel industry.

"Buy America" amendments are intended to expand the domestic steel market in which the industry will again be able to effectively compete. Equally important, it is a recognition that Federal tax dollars are being expended through State and local conduits which should be subject to the same rules of preference for American-made goods exacted on Federal agencies. A contrary position would be a tacit acceptance of backdoor foreign aid now being processed through many of our federally subsidized projects.

Finally, the tax proposals which I have drafted but am not introducing today which include an investment tax credit for steel industry property, elimination of certain restrictions of the amortization of pollution control facilities, and increase in the dollar amount of the tax-exempt obligations which may be issued without regard to industrial development bond limitations, will, I believe, provide the necessary capital formation to allow the domestic steel industry to modernize and again become competitive.

These latter proposals are in final draft form and are now being circulated for comment before introduction. I would invite the Members of this body and other interested parties to contact my office for copies of the measures.

I am not a purveyor of magic and I do not contend that this package represents a panacea. However, it recognizes a problem which, if left unattended, may become insoluble because of its growing dimensions.

It is my firm belief, however, that the approaches encompassed here are ones which are reasonable in approach and comprehensive in nature.

The two bills introduced today will be effective in the solution of the immediate problems faced by the domestic steel industry and its 550,000 employees. The whole package taken in tandem also provides an encouraging response to the long range dilemma. My colleagues and I ask for the consideration and support of our fellow legislators and without question the understanding, support, and encouragement of the administration.

The answer to the second query is also "Yes."

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, the gentleman from Indiana, the distinguished secretary-treasurer of the Steel Caucus, is precisely correct. The time is here, and it is past time for us to act to protect our steel companies and steelworkers. Therefore, I am pleased to be associated with the gentleman in his legislation.

Mr. Speaker, the American steel industry is in grave trouble. Historically, steel has been the lifeblood of my congressional district and the backbone of American industry. Today, the importation of foreign steel, particularly from Japan, is devastating the domestic steel industry and throwing thousands of American workers out of jobs.

It is estimated that in 1976, steel imports took away the equivalent of 90,000 American steelworker jobs. Thousands of additional jobs have been lost or threatened this year. We as a nation cannot tolerate the continuing loss of American jobs and the ever-increasing threat to our economic welfare and national security caused by the dumping of Government-subsidized, foreign steel on our markets.

In action yesterday, the Treasury Department tentatively ruled that five Japanese steel companies have been dumping their products on the U.S. market at prices 24 percent below actual production costs. This significant ruling seems to substantiate dumping charges levied by American steelmakers for many years.

In September, I joined with other Members of Congress concerned about the steel crisis to form a congressional "steel caucus." At our first meeting, 64 Members were either present or represented, and we expect our ranks to grow to 150 to 200 in the near future. Our message to the administration is clear: if our friends cannot find a way to help us, we will devise means to help ourselves.

Many bills have already been introduced to deal with the steel crisis. Today, the gentleman from Indiana, Mr. BENJAMIN, is introducing a bill to expand and strengthen the Buy America Act.

It has been my deep concern that for many years, the Buy America Act has been too weak to be effective or has been ignored by Federal agencies.

I have been contacted by several constituents in the past complaining that Japanese contractors, subsidized by their government, have been awarded U.S. Government contracts at prices well below contract costs.

In one case, a Birmingham company bid $3 million for a Coast Guard bridge project with an anticipated cost of $2.75 million delivered on the Mississippi Gulf Coast. A Japanese company was awarded the job for $2 million. My constituent, an experienced builder, maintained that it was impossible for anyone to complete the job for $2 million, particularly considering transportation costs from Japan. Nothing was done to grant relief to the American company.

The Benjamin bill would extend the Buy America Act to State and local projects receiving at least 50 percent Federal funding and would raise the American preference to 15 percent above foreign bids.

In this time of stagnating economic recovery and persistently high levels of unemployment, it is, in my judgment, far better to put Americans to work than to continue exporting jobs overseas and pay our people subsistence unemployment benefits.

The steel crisis is a complicated, many-faceted problem with no simple solution. We must, however, start now to find ways to deal with the problem. The very lifeblood of our Nation's economy is at stake.

Mr. DERWINSKI. Mr. Speaker, I believe we all welcome the belated action by the Carter administration on the subject of Japanese dumping of steel products. In this case the Congress has evidently forced the hand of the administration.

That is why I have cosponsored two bills being introduced today. The first is concerned with steel imports and imposes a temporary ad valorem tariff surcharge when imports of a particular iron or steel product exceed the apparent domestic consumption of that product as established by a defined base period. It also converts certain fixed rates of duty of tariff schedule 6, part 2, subpart B, iron or steel to ad valorem percentages in anticipation of future increases in the value of the respective items. The second bill amends the "Buy America Act" extending it to any contract, more than one-half of which is financed by appropriations, subsidies, loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof.

Mr. Speaker, I am an internationalist, not an isolationist. In principle, I believe in free trade, and I am not a protectionist. But if the administration will not effectively enforce the laws which protect our American industry from unfair competition, then the public and the em-

ployees of affected companies are the victims.

Mr. FITHIAN. Mr. Speaker, I rise to address the serious problem facing our Nation and particularly the State of Indiana due to increased foreign steel imports. I am pleased to be a cosponsor of the legislation being introduced today—legislation which I believe is a major step toward a comprehensive package to bolster the American steel industry against the mounting tide of imported steel. The two bills being introduced today would impose a temporary surcharge on imported steel and extend the Buy American Act to encourage the use of American materials in State and local projects involving Federal funds.

My colleagues who may not be familiar with the steel industry or with the gravity of the problems posed by steel imports may benefit from some background information.

In many nations, steel is a direct instrument of national policy. By dumping their steel on our market, these countries seem to wish to export not only their steel, but also export their potential unemployment to the United States at the expense of American workers. So in reality, our steel companies are competing against foreign governments not just foreign steel companies.

The American steel industry already is suffering as a result of lack of capital for expansion and modernization. This situation is being made worse by unfair competition from imported steel. If our companies could develop capital, they could modernize their plants to compete more effectivly with other nations, notably Japan. Our steel industry is vitally important to the national economy, Mr. Speaker, long-term recovery in this industry requires relief from foreign imports. If we are to improve the production and employment picture in the American steel industry, there must be sufficient stability in the marketplace to assure capital investment that will enable competition with the more modern Japanese steel industry.

In the first 6 months of this year, some 768,000 tons of steel of all types were imported into the United States. This represents a 6-percent increase over last year's import figure—and the results are readily visible around the Nation. More than 7,500 workers for Bethlehem Steel already have gotten the ominous notification from their employer that their jobs are being cut out. Last week, Youngstown Sheet and Tube announced the termination of 5,000 jobs and the virtual closing of two mills in the Youngstown, Ohio, area. In all, some 18,000 steelworkers have already lost their jobs.

Mr. Speaker, this Congress has a responsibility. The steelworkers and their employers deserve to know that they are not going to face economic chaos as a result of unfair foreign competition. My personal responsibility lies not only with the 20,000 steelworkers' families who reside in my own district—many of whom are employed by Bethlehem Steel, United States Steel, Midwest Steel, and Inland Steel. We must face our responsibility to protect this vital American industry against foreign steel dumping in our market.

Yesterday's tentative ruling by the Treasury Department confirms what many of us have suspected for some time. Five Japanese steel companies apparently have been selling their products in America below their selling price in their home markets—in fact, some 24 percent below their actual cost. How long will this Congress allow this type of unfair competition to go on before we act?

We have taken the first steps. On Thursday, September 22, 63 Members of this House or their representatives met to form the Steel Caucus, and unite the actions of those concerned with the domestic steel crisis. We are currently arranging for a delegation from the caucus to meet with President Carter regarding the steel import problem, to try to impress upon him our concern for this serious matter. The next step, I firmly believe, is represented by the legislation being introduced today.

I must add, too, that, although Congress has an obligation to deal with the problems of steelworkers, American industry has an obligation to the American worker, as well. Just as the Federal Government must support steelworkers against unfair foreign competition, American industry must support our domestic steel industry by buying American steel. American steelworkers should know which U.S. corporations are threatening American jobs by buying cheap imported steel. To give just one example, companies such as Atlantic Richfield, Sohio, Exxon, and Mobil helped put thousands of American jobs in danger when they built the massive Alaskan pipeline using some 500,000 tons of Japanese steel. That can hardly be considered responsible citizenship.

It is time for united action—by steelworkers, by Congress, by industry, and by the administration. We must act to bring our American steel industry back into competition with the rest of the world, and the legislation we are introducing today is a step in that direction.

Mr. MURPHY of Illinois. Mr. Speaker, the American steel industry is faced with its worst crisis since the late 1950's. Workers are being laid off. Profits are sagging. Imports are rising. In my Illinois congressional district, supervisors at South Works steel mill warned August 26 that they might have to close the 97-year-old plant because of "an acute financial squeeze."

Officials said that, unless steps were taken to reduce the flow of foreign steel, the mill's 8,534 steelworkers would be out of jobs. These employees would join the 1,823 workers already laid off since 1974.

For this reason, Mr. Speaker, I have joined my colleagues in sponsoring legislation to protect American steelworkers' jobs.

Mr. Speaker, a closure of South Works would have a disastrous effect on south Chicago's economy. Every month, South Works pays $16.5 million in wages to its employees; spends another $11.5 million in purchased goods and services; and kicks in an additional $1.3 million in property taxes. Clearly, South Works is vital to south Chicago's economic health.

To be sure, steel imports are not the only problem plaguing the steel industry today. One problem: The Federal Government is pressuring steelmakers to hold down prices while requiring companies to spend heavily on antipollution equipment. Another: The industry is faced with its first major strike—by iron-ore workers—in 18 years. On August 1, 15,000 iron-ore workers went on strike to demand incentive pay for exceeding production averages. Because plants must feed their blast furnaces with ore, a prolonged strike could force mills to close as soon as their reserve ore supplies run out. Still another problem: Because the industry's profits have been sagging, companies have not been able to plow back money into modernization and investment. This makes investors reluctant to provide needed capital.

But the problem that concerns the steel industry most is the rising tide of imported steel from Japan and Europe. As of July, imports jumped nearly 30 percent over last year's levels. By selling steel at prices 10 to 15 percent below those charged by U.S. plants, Europe and Japan have been able to capture 15 percent of the domestic market. A Wall Street research group has predicted that within a year or within the next 18 months, foreign steelmakers might enlarge their share to 25 percent.

The consequence of this import gush could be staggering. A study this year by the firm Putnam, Hayes & Bartlett concluded that if imports rose to 30 percent of the U.S. market, our economy would be deprived of a potential 96,000 steelworker jobs. At a time when our unemployment rate is 7.1 percent, the United States cannot allow nearly 100,000 jobs to be washed away by a flood of imports.

What accounts for Japan's and Europe's ability to undersell U.S. mills? A controversial study recently done by Merrill Lynch, the large brokerage firm, contends that Japan's modern, efficient steel mills enable her to produce steel at a cost 30 percent below that of American steelmakers. This permits Japan, the report argues, to ship her products to the United States and still profitably undersell American mills.

But the Merrill Lynch study very much exaggerates Japan's advantage. The Putnam, Hayes & Bartlett study concluded that Japan—adding in shipping and insurance costs—must be selling below the full cost of production and transportation to undercut U.S. steelmakers.

That is why United States Steel Corp. has filed a complaint with the Treasury Department, charging that foreign steelmakers are "dumping" steel in the United States—that is, selling it at a price cheaper than it is sold for in the manufacturer's home market.

How can foreign mills afford to export at a loss? The reason is that they are indirectly subsidized by their governments to keep employment rates high. Since Europe is fearful of a depression and Japan has a lifetime employment policy, they would rather lose money than lay off steelworkers. In effect, Japan and Europe export their unemployment to the United States.

One way Japan subsidizes its steel plants is through its national banking system. Steel firms are able to borrow

heavily from banks for financing, which means they do not have to raise as much capital through common stock as American mills. Banks are willing to make large loans to mills because they are backed up by the Japanese Government. U.S. mills cannot get such generous, guaranteed loans. They are much more dependent on investment by stockholders, which forces them to seek a higher rate of profit than Japanese companies find necessary.

A major reason why steel imports have been increasing is an agreement reached 2 years ago by Japan and the Common Market to limit Japanese exports to Europe. In 1976, exports fell more than 25 percent from the previous year. The U.S. steel industry believes that 8.7 million tons of steel was diverted to the United States as a result of this trade agreement.

U.S. steelmakers rightly want this diversion stopped. That is why the industry filed a complaint last year with the Special Trade Representative, charging that this trade pact is discriminatory and illegal. But the President's chief trade negotiator, Robert S. Strauss, has been loath to act on this complaint for fear of hurting world trade. I find Strauss' response to be very distressing, since the industry is opposing not free, but unfair trade.

As an alternative to legislation, the steel industry wants Mr. Strauss to work out an international trade agreement on steel. Steelmakers would like an arrangement that would allow any country to impose quotas on steel imports under certain conditions. George A. Stinson, chairman of National Steel Corp., told Business Week magazine that he envisions a system in which quotas might be triggered whenever industry employment falls or imports rise to agreed levels.

As for the problem of how to increase capital formation, steelmakers need new tax incentives—such as easier depreciation laws—from President Carter's forthcoming tax reform program.

In all these matters—enforcement of U.S. trade laws, international trade agreements, and tax incentives—American steelmakers and steelworkers are looking to Washington for help. It is now up to the Carter administration and Congress to see that our vitally needed steel industry survives.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SMALL BUSINESS TAX REFORM ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 15 minutes.

Mr. COHEN. Mr. Speaker, one of the fundamental principles underlying our personal income tax system is its progressivity. Individuals are taxed according to their ability to pay, with those with higher incomes contributing more to support our Government than those of more limited means.

To a large extent, however, the corporate tax structure is not characterized by progressivity. The current corporate tax structure has only three steps: The first $25,000 is taxed at a rate of 20 percent; the next $25,000 at 22 percent, and profits in excess of $50,000 are taxed at the rate of 48 percent. Thus, after the first $50,000 in profits, the same tax rate applies to a giant corporation earning $50 million annually as to a small business earning only $100,000.

I believe that progressivity is not only desirable in taxing personal income, but that it is equally desirable in taxing corporate income. It seems inherently unfair for a multimillion dollar conglomerate to be taxed at essentially the same rate as a much smaller business, as is the case under present law. A progressive corporate tax structure would tax each corporation according to its ability to pay.

In addition to making the present corporate tax system more equitable, a graduated corporate income tax would be desirable for another reason. It would have the effect of substantially reducing the tax burden on smaller businesses.

We speak frequently in Congress about the need to revitalize our small business community. We recognize that small businesses provide the majority of jobs in this country and contribute nearly one-half of our Nation's gross national product. And I doubt that there is a Representative in Congress who has not pledged his support to solving the paperwork problem of small businessmen. But less attention has focused on the burden which excessive corporate taxes impose on small companies. Certainly, simplifying and eliminating Federal redtape would greatly enhance the health of the small business community, but I believe that the most straightforward means of helping small business survive and prosper would be to reduce corporate taxes.

For these reasons, I am introducing legislation which would replace our present corporate tax structure with a six-step graduated corporate income tax. The Small Business Tax Reform Act of 1977 would tax corporate income according to the following schedule:

Corporate Taxable Income:	*Tax rate in percent*
$0 to $20,000	12
$20,001 to $40,000	16
$40,001 to $60,000	20
$60,001 to $80,000	26
$80,001 to $100,000	32
$100,001 and over	48

Lowering the corporate tax rate has another important advantage—simplicity.

The more complex the tax code, the greater the burden on small businesses relative to the position of large businesses. We must be certain that small businesses can participate equally with large, established corporations in the benefits of proposed tax adjustments. By providing a straightforward reduction in the corporate tax rate, my legislation would benefit small companies without increasing the complexity of the tax code. By contrast, an increase in the investment tax credit, which some have advocated, mainly helps large, capital-intensive firms and is of little value to most small businesses, which are labor-intensive. Furthermore, frequently only big businesses have the expertise available to take advantage of complex tax incentives, such as the investment tax credit.

A graduated corporate tax would help increase the survival rate for small businesses. According to the Small Business Administration, one out of every four businesses does not survive its first year of operation. In 1976 alone, more than 9,500 businesses failed. A recent Small Business Administration study states that fundamental revisions of Federal tax laws are needed to enable small businesses to survive and compete in today's marketplace.

The report concluded that the present tax system discriminated in favor of big business because it did not permit small business to retain enough capital for current operating needs, survival during periods of high inflation, and expansion to compete with other segments of the economy.

High taxes have far less impact on large, established corporations than on small, growing firms. Since small businesses have difficulty in obtaining loans at favorable interest rates, retained earnings are frequently the source of investment funds. High corporate taxes restrict the growth of small firms by reducing the amount of capital available from retained earnings to finance expansion. By allowing small corporations to retain more income, the graduated corporate income tax would help offset the competitive advantage large companies enjoy in obtaining financing.

A final purpose of the Small Business Tax Reform Act would be to stimulate our sluggish economy. A tax reduction would invigorate the economy in the most direct, efficient way possible. The problem of inadequate capital investment has been well-documented in recent studies by the House Ways and Means Committee and the Congressional Budget Office. While many options have been suggested to increase capital investment, I believe the most efficient means would be a tax cut such as I have proposed.

In sum, I believe that the Small Business Tax Reform Act would achieve the goals of tax reform legislation. The graduated corporate income tax would be a simple, fair, and progressive means of stimulating our economy and providing much-needed relief to our Nation's small businesses.

THE SAGA OF GOSPEL HUMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 60 minutes.

Mr. SYMMS. Mr. Speaker, the Federal Government has lost control over the management of the national forests. Why is this important to all of us? The

effects of the loss of control are obvious in areas where decreasing timber sales are resulting in mill closures or job layoffs. But the effect also is felt throughout the entire State. People who are worried about the explosive growth in Ada County should remember that about half of the people moving to Boise are from other parts of Idaho and often they move because they could not find work in their hometowns. As long as mills and mines are threatened by ever-expanding wilderness demands, workers from these jobs will have to relocate in other parts of the State.

The national forest system is made up of nearly 160 national forests and grasslands located throughout the United States. The system contains almost 190 million acres of Federal land. It is a priceless heritage.

Nearly 13 million acres of the national forest system is dedicated by law to the National Wilderness Preservation System. Several million acres are involved in recommendations to Congress for inclusion in the Wilderness System. More than 12 million additional acres in the national forest system were withdrawn from some aspects of multiple-use management in 1972 and designated for study and eventual recommendation to Congress for inclusion in the Wilderness System. Millions of acres of the national forest system are grasslands, but more than 90 million acres are commercial forest lands—lands capable of producing a steady supply of commercial timber on a sustained yield basis under the mandate of the 1960 Multiple-Use Sustained Yield Act.

The 1960 act sets out regulations and policies for the Forest Service for all units of the national forest system. It officially established timber cutting goals or objectives. Until recent years, these objectives were called program harvesting levels. These timber harvesting objectives are based on intensive inventories of the timber resources. These inventories include the present volumes of timber, and the rates of growth, both now and projected in the future under various assumptions of management. These projections take into account multiple-use objectives to insure that water quality and water quantity are protected and enhanced. Wildlife habitat conditions, the needs of the general public for recreation opportunities and other requirements of the 1960 act that the productivity of the land for all of its uses not be impaired also are taken into account.

Over the years, the Forest Service has established timber harvesting objectives or allowable cut levels on all units of the national forest system. Until now, these allowable cutting levels for timber harvesting have been based on more than 90 million acres of commercial forest lands—lands capable of producing commercial forest crops and which are not presently, or in the foreseeable future, dedicated to the Wilderness System or to another land-use classification.

The great bulk of commercial timber production from the national forest system comes from the Western United States. Large-scale commercial timber production in western national forests started after the conclusion of World War II and we have been harvesting commercial timber from national forests for the 30 years since then. As of 1972, about 40 million acres of the 90-plus million acres of commercial national forest land had been entered or some timber had been harvested. By 1972, 56 million acres of commercial forest land had not yet been entered by timber sales and road systems. However, these 56 million acres of commercial forest land were a part of the inventory on which allowable harvest levels of the past 30 years had been based.

In the 1960's, there was increasing pressure from environmentalist groups for taking some, or indeed all, of this 56 million acre area of roadless commercial land and placing it in a wilderness classification. It is not difficult to imagine the effect of placing more than 50 percent of the commercial forest land base in a Wilderness System. The allowable harvest timber from the national forest system would be reduced by more than half, with devastating economic impact on the American consumer and countless local communities. The job losses resulting from such reclassification are staggering.

Nevertheless, in answer to the increasing pressure from environmental groups concerning this "roadless" commercial forest land, the Forest Service embarked on an evaluation process now known as RARE I. This acumen stands for roadless area review and evaluation. This process, completed in 1972, evaluated the Nation's need for wilderness by assessing hundreds of roadless areas as to their suitability for wilderness under the guidelines of the 1960 act and evaluating the resources trade uses that would be involved. An environmental impact statement was prepared, circulated, and analyzed. As a result, more than 12 million acres of national forest lands were set aside in a "limbo" category for future intensive evaluations for wilderness classification and ultimate recommendation to Congress. Only Congress can commit lands to the Wilderness Preservation System. The commercial forest resources on this 12-million-acre package were withdrawn from the allowable timber harvesting objectives.

The Forest Service hoped this process would satisfy environmental organizations and the agency would be able to continue to manage the remaining commercial forest land base for multiple use objectives including timber harvest, without significant controversy. This turned out to be a naive hope. Almost immediately, environmentalists filed a lawsuit which eventually was heard in a California district court before Judge Conte. The suit charged that no national forest roadless area could be entered with a timber sale road until a land management plan for the roadless area had been prepared and the plan had been subjected to the environmental impact statement process under section 102 of the National Environmental Policy Act. The suit ultimately was dismissed because the Forest Service agreed with the environmentalists' requests.

Since 1972, large amounts of money and manpower have been spent by the Forest Service developing land management plans and truckloads of environmental impact statements have been produced, However, even up to this point, all commercial forest land, including the roadless areas not deducted from allowable harvest land basis in 1972, still are an integral part of the forest base upon which current timber harvest levels are based.

In the last 5 years, many Forest Service land management decisions allocating the land and resources in these roadless areas have been stalled. Final decisions made after the entire environmental impact procedure, which is in itself timely and costly, have been appealed to the highest levels of the Forest Service, and, ultimately, to the Secretary of Agriculture. In many of these situations, ultimate litigation in the Federal courts has been threatened. It is crucial to know that the threat of litigation is in terms of section 102 of the National Environmental Policy Act (NEPA).

Section 102 of NEPA is an evolving body of law, which constantly is being intepreted by Federal courts throughout the country. In some legal jurisdictions, section 102 has been interpreted in outlandish and ludicrous ways. A central problem has been that Forest Service personnel working at the field level where the land is managed must try to read the minds of Federal judges who, thousands of miles away, are changing continually the meaning of section 102. As a result, at least eight Forest Service land management decisions in the State of Idaho have been appealed. In each of the eight incidents I am aware of, the Forest Service reversed the field decisions and remanded the land management plans for complete overhaul. The basis of the reversals were that plans had been prepared in violation of section 102 of NEPA, as interpreted by the Federal courts.

As a result, the Forest Service land management planning process has become so complex that the Forest Service is no longer capable of making decisions about the use of lands in the national forest system. Additionally, lands which can be used for timber sales are rapidly being exhausted. Allowable harvesting levels based on 90 million acres of land cannot continue to be made indefinitely on the 40 million acres available for actual harvest. Sooner or later, the other 50 million acres will have to be entered with roads and opened to sales, or the first 40 million acres will end up as a sea of stumps.

Some areas of the national forest system can afford to be tied up for years in the planning process, and the 7 to 10 years of procedural delays resulting from section 102 of NEPA can be tolerated. But in many areas of the national forest system, no time is left. In many areas timber sales have ended, with the timber sale program threatened or eliminated and small communities being brought to the edge of economic disaster.

Now we come to Gospel Hump.

Gospel Hump is an area located in the Nez Perce National Forest in Idaho, in the district which I am privileged to represent in the Congress.

The forest products industry located in the Gospel Hump area is a major part of the economic foundation upon

which the local communities are dependent. The forested area includes 450,000 acres of roadless area and is named for its most predominant physical features: Gospel Peak and Buffalo Hump Mountain. About 110 million board feet of timber have been harvested annually in the Nez Perce National Forest in past years. This timber harvest was based on the total commercial forest land base in the National Forest, including a large section presently unavailable for timber sales. That section now is officially roadless and cannot be entered for timber sales without going through section 102 of the NEPA process. The Nez Perce National Forest rapidly is running out of timber to sell and annual timber objectives cannot be met unless this roadless area is freed up through some procedure. The Gospel Hump area is a significant part of the roadless area inventory of the Nez Perce National Forest. After several years of intense on-the-ground examination by foresters, recreation specialists, mining engineers, hydrologists, soil scientists, landscape architects, and others, the Nez Perce National Forest recommended a land management plan covering a significant portion of the Gospel Hump area, which is presently involved in the NEPA process.

The proposed plan did not satisfy the objectives of the environmentalists who wanted a major portion of Gospel Hump dedicated to wilderness and the plans were appealed to the Chief of the Forest Service. Because of the increasingly desperate position of the forest products industry in this area, the Forest Service prepared and offered for a bid a large timber sale called the Honker Sale, located in an area covered by one of the land management plans under appeal. Earlier this year, the Chief of the Forest Service canceled the Honker Sale and remanded the entire land management plan to the field to be redone in line with regulations of section 102 of NEPA. This development ignited the local community, which could see that its major industry truly was threatened. A resolution allocating these roadless areas had to be achieved. Time was running out, and a feeling of desperation has prevailed in the area ever since.

In this environment of economic desperation, leaders of the local community several months ago met with Senator FRANK CHURCH, Idaho's senior Senator. Senator CHURCH suggested that local people concerned about the economy sit down with local environmental groups to see if a compromise could be worked out on the land allocation in the Gospel Hump area. Senator CHURCH told the group that if they could reach a compromise, he would take that agreement and pass a special law embodying the agreement so the local community could be preserved. If you will, this would be an Alyeska or an Alaskan pipeline bill for the Gospel Hump area. It would be a legislative repeal of section 102 of NEPA for this area and would abrogate the appeal process in Gospel Hump. A legislative decision would allocate land for both wilderness and timber sales, without either judicial or administrative appeal.

In this environment, highly trained environmentalists met over a period of weeks with four deeply concerned local business representatives. A decision finally arrived at by this eight-man group designated an area of more than 220,000 acres of wilderness, and made an area of 123,000 acres available for multiple use and future study, with 45,000 of those 123,000 acres available immediately for timber harvest. Unfortunately, there was no representation for the mining industry, the outdoor recreation people, the off-road vehicle organization, and others who also have important and valid interests in a decision of such importance. It is incredible to think that four environmentalists and four local business people, however well intentioned, now should be making detailed decisions on how to manage the national forest system. No clearer evidence of the Federal Government's loss of control over the national forest system has even been seen.

A serious aspect of the agreement was the total absence of equal bargaining positions in the Gospel Hump situation. The environmentalists put a knife at the throat of the business community and then suggested they negotiate. The alternative to the compromise was lengthy lawsuits and appeals of timber sale agreements. The result is clearly reflected and it shows the terror that pervades the local economic community.

Senators CHURCH and MCCLURE recently conducted hearings on the Gospel Hump controversy in Grangeville, Idaho, for the Senate Energy and Natural Resources Committee. A great deal of local criticism developed over the agreement negotiated under such desperate circumstances. Senator CHURCH quite properly thanked the local people for the time and effort spent in working out the compromise and stated at the outset of the hearing that the compromise was just the starting point. Senator CHURCH said the purpose of the hearing was to take testimony on the additions or deletions from the recommendations of the committee. One of the witnesses at the hearing put the entire situation into perspective. Mr. Doug Scott, Seattle, Wash., northwestern representative of the Sierra Club, testified that his group would settle for not 1 acre less than the written agreement already signed at the negotiations. He then spelled out for the entire community and the Senate committee exactly what his group would do to the economic future of the forest products industry if the original compromise agreement was not adhered to. In other words, it was either give the Sierra Club its way or the economy of the area would be brought to its knees by way of prolonged litigation.

In this case, the authority of the Forest Service and the Federal Government to manage the Gospel Hump area clearly has been turned over to Doug Scott of the Sierra Club. In all fairness to Mr. Scott, however, any other citizen can do the same thing as long as section 102 of NEPA is in effect.

The situation that developed in Grangeville, Idaho, demonstrates more clearly than any other situation in the United States the desperate situation which has been created in forest management by some of the existing environmental legislation now on the books.

The situation in Grangeville can be, and is being, repeated all over the national forest system. Mills are closing, jobs are disappearing, wood products are being destroyed because the Congress has placed in the hands of a few extremists, the legal tools to enforce their will on the majority of Americans.

As a practical matter, it is not possible to pass a new law every time the Sierra Club finds a way to threaten another sawmill. I think it is high time legislation be passed which will correct the problem on the entire national forest system, instead of trying to put piecemeal legislative band-aids on a dying patient who needs major corrective surgery.

I think this situation is intolerable. Senator CHURCH has introduced legislation on the Senate side designed to rescue the Grangeville timber industry from a desperate situation by giving the environmentalists an additional large area in Idaho to lock up as wilderness. It is extremely difficult to agree that we ratify this so-called compromise at this time. I have never approved of blackmail or of negotiations conducted under duress. At the same time, I am extremely aware of the deep concern of my constituents in the area surrounding the Nez Perce National Forest. I am told that the Forest Service has been working day and night to rewrite the land management plan which was rejected earlier this year. The Forest Service has stated that it will have a revised plan and a draft environmental impact statement which meets all legal requirements by December 15 of this year. I would much prefer for the Congress to wait until these plans have been completed to take action. It is entirely possible that the Forest Service might be the basis for a final resolution of the Gospel Hump controversy. If it is, the final environmental impact statement and plan could be promulgated next spring. If no appeals by environmentalists are taken from those decisions, the Honker Sale could be readvertised and additional timber sales could be prepared for the local forest products industry in time to save the sawmills. No legislation would be needed. If, on the other hand, such a resolution did not meet with the concurrence of Mr. Scott of Seattle and the Sierra Club, and appeals are filed threatening further delays to the sale of timber, then, indeed, as deeply as I would regret it, I would have to consider the possibility of backing special legislation containing some wilderness to insulate the Forest Service's final plan from further intervention by environmental law suits.

Even under that extreme situation, it would be difficult for me to agree that such a large additional area of multipurpose recreation land should be locked up for sole use as a wilderness area. Some parts of Idaho should be designated as wilderness and I have favored placing certain parts of the Idaho Forest System into this restricted classification. But when outdoor family recreation and people's jobs are threatened by extremists who refuse to take a balanced view of land use in Idaho, it is time to fight

hard for commonsense and for the rights of all the people in Idaho. However, if next year it becomes clear that no other resolution is possible, I do not intend to see the mills close in Grangeville. I assure the local people whose livelihoods are at stake here of my deep concern about the Gospel Hump area and my determination to find a solution to this serious problem which is affecting our entire national forest system. I have been accused of playing politics with the Gospel Hump situation. I am not playing politics and I am committed to resolve the problem. But I cannot accept the ludicrous position of having the Congress of the United States and the independent people in Idaho County being told by Doug Scott of Seattle what our State's future is to be.

LIVINGSTON BIDDLE NOMINATED CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I have been advised that President Carter will nominate for the important position of Chairman of the National Endowment for the Arts Livingston Biddle of the staff of the Senate Subcommittee on Education, Arts, and Humanities.

Mr. Speaker, I am confident that Livingston Biddle's extensive experience in working with the National Endowment for the Arts will enable him to do an outstanding job as its new Chairman.

As an assistant to Senator CLAIBORNE PELL, Livingston Biddle helped write the legislation that authorized the National Endowment for the Arts in 1965 and he later served the Endowment first as Deputy Chairman and then as liaison director.

Mr. Speaker, this familiarity with the programs of the Endowment coupled with his own personal commitment to an important place for the arts in American life will also, I feel sure, mean that he will enjoy strong support from Congress in his new responsibility.

Mr. Speaker, I compliment President Carter on his choice.

FREEDOM OF INFORMATION ACT ADMINISTRATION: HIGHLIGHTS FROM AGENCY REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, once again Congress has received the annual reports from the executive branch departments and agencies regarding their implementation of the Freedom of Information Act (5 U.S.C. 552).

To assist in the analysis of these reports, the House Government Information and Individual Rights Subcommittee, which I chair asked the Congressional Research Service of the Library of Congress to compile and critique the agency responses. The Library's full analysis of the 1976 FOIA agency reports will be available next month. At present, however, we do have certain preliminary findings and I wish to share these highlights with you at this time.

One trend which we found troubling was the continued use by several agencies of questionable statutes which they cited as the basis for withholding documents from the public.

For example, we discovered that the Privacy Act of 1974 was still being relied upon to withhold data in conjunction with the intervening statute exemption of the Freedom of Information Act, 5 U.S.C. 552(b)(3). It appears that the Justice Department, Treasury Department, Equal Employment Opportunity Commission, Federal Power Commission, and General Services Administration utilized the Privacy Act to withhold requested records in a few isolated instances. It should be quite apparent by this time that the Privacy Act (5 U.S.C. 552a) does not constitute any authority to withhold any information under the Freedom of Information Act. The FOI statute recognizes the "clearly unwarranted invasion of personal privacy" standard as a basis for exempting information from disclosure under its sixth exemption (5 U.S.C. 552(b)(6), but does not rely upon the provisions of the Privacy Act.

Also, at least eight agencies cited the criminal code sanction against Government employees releasing "confidential information" (18 U.S.C. 1905) as a basis to withhold executive branch records. Section 1905 was cited in 139 instances during 1976. Agencies using it included the Defense Department, Federal Communications Commission, National Aeronautics and Space Administration, the Renegotiation Board, and the Small Business Administration. The case law is not explicitly clear as to whether or not the FOI Act's third exemption embraces the criminal code provision regarding confidential information. The position was offered in *Sears, Roebuck & Co.* v. *General Services Administration*, 384 F. Supp. 966 (D.D.C. 1974), stay of order dissolved 509 F.2d 527 (D.C. Cir. 1974), that the criminal statute does not fall within the ambit of b(3), the intervening statute exemption, because section 1905 does not itself define what information is exempt from disclosure. The b(3) exemption of the FOIA allows nondisclosure of information which is specifically exempted from disclosure by statute, but only where the statute—

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

In an earlier ruling, the district court in *Frankel* v. *Securities and Exchange Commission*, 336 F. Supp. 675 (S.D.N.Y. 1971), reversed on other grounds, 460 F.2d 813 (2d Cir. 1972), cert. denied 409 U.S. 889 (1972), held that the criminal code provision does not establish exemption from the FOIA, but merely penalizes a disclosure of nonexempt records. Hopefully, the agencies utilizing section 1905 will review their position regarding the appropriateness of such authority to deny FOI requests.

Some agencies, in citing statutory authority to withhold information under the b(3) exemption of the act, utilized laws at the administrative appeal level which they had not invoked initially in denying a request. Such isolated appellate citations were made by the Office of Management and Budget, the Department of Labor, and the Department of the Treasury.

Some entities provided no information regarding the laws they relied upon when invoking the FOIA's intervening statute exemption. These units included the National Security Council, the Department of the Interior, the Department of State, the Federal Reserve, the Privacy Protection Study Commission, and the Securities and Exchange Commission.

Also confusing, at least three agencies—the Justice Department, the Treasury Department, and the Veterans' Administration—provided citations of their regulations rather than statutory authority in invoking the intervening statute exemption.

One of the most important developments reflected in the 1976 reports was the increased use of the 10-day optional extension in the processing of FOI requests. Under the terms of the amended Freedom of Information Act, initial requests for records must be cleared within 10 working days and an appealed request must be completed within 20 working days. The law allows resort to a 10-day extension of either of these processing periods when unusual circumstances intervene—that is, need to collect materials from a field office other than the processing unit, additional time to locate and sort a voluminous number of documents being sought, and/or need to consult another facility or agency regarding the requested records. In 1975, thirty agencies reported a need to seek a 10-day extension to facilitate processing; in 1976, 38 agencies utilized the extension option. However, among six departments reporting on their resort to a 10-day extension during 1976—Agriculture, Commerce, Defense, HEW, Transportation, and Treasury—the data indicated a more than threefold increase over 1975 for claims of delay to collect materials from another facility, an almost twofold increase for reasons of voluminous materials, and an almost fourfold increase for reasons of consulting another agency or unit. During 1975, the four most frequent users of the 10-day extension option were the Veterans' Administration, the Federal Trade Commission, the Treasury Department, and the Department of Health, Education, and Welfare, respectfully. Last year the four most frequent users were the Defense Department, the Veterans' Administration, the Treasury Department, and the Federal Trade Commission, respectively.

The other significant trend reflected in the annual reports on the FOIA administration concerns operation costs. Last year, 35 units reported cost figures. This year 37 agencies provided an accounting. According to the figures supplied, it appears that costs increased by as much as 50 percent between 1975 and 1976. For some agencies the percent of increase was even higher. By way of comparison, six departments—Agriculture, Commerce, Defense, HEW, Trans-

portation, and Treasury—cited costs of $6,804,710 in 1975; for 1976 they reported costs of $15,493,233.

Of the Federal agencies reporting fee collections from requesters, a total of $978,251 in copying and search fees was collected during 1976 for FOI Act operations. During 1975, $1,014,510 in fees were charged.

A note of caution might be made here as to the significance of the fact that these cost figures reflect "incremental" costs. Agencies have interpreted the concept of incremental costs in different ways. The majority of departments have simply reported administrative costs for FOIA operations during 1976; a few, however, have combined these figures with cost totals from the previous year. Moreover, for all the figures noted in the annual reports it is unclear what constituted the cost base from which the incremental costs arose. Presumably the cost base would be the average administrative costs of FOIA operations prior to 1975 when the new amendments to the law became operational.

The cost increases may be due to staffing needs for the handling of the increased number of FOI requests. New employees are being secured at various GS levels. The training of both new and current employees for FOI operations also adds to the total. And the manner in which such employees are utilized—full-time or part-time dedication to government information matters—also has an affect on costs.

The increase in reported costs may also be due to the fact that agencies are keeping a closer accounting of incurred expenses for FOIA operations. The cost figures for 1976 may be higher because they are more accurate than previous years' reporting and represent a truer portrayal of operating expenses. On the other hand, we are uncertain as to the extent to which agencies are charging to the FOIA, expenses that would normally be included as part of a Federal department's regular public information activities and publications budget.

The total number of initial denials of requests for documents made under the Freedom of Information Act remained at roughly the same level as the preceding year. During 1976 agencies reported denying, in whole or part, some 26,802 requests. The 1975 figure was 27,300 denials.

The Department of Defense handed out the largest total number of denials, though this amounted to only 16 percent of the roughly 43,000 requests it received. In 1975 it reported an overall initial denial rate of 12 percent, however. The Treasury Department reported the second largest number of denials—2,090—out of 15,079 requests received. The denials for Treasury constituted 14 percent of the FOI requests it received during 1976. In 1975, its initial denial rate was only 7 percent. Although the Justice and Labor Departments did not provide statistics on the total volume of requests they received during 1976, the four executive branch units indicating the highest number of refusals were:

	Denials	Requests	Percent
Department of Defense	6,973	43,495	16
Department of the Treasury	2,090	15,079	14
Department of Justice	1,750	NA	--
Department of Labor	1,289	NA	--

Using the full figures submitted by the three departments handling about a third of the volume of requests received by the Government annually—Commerce, Defense, and Treasury—it can be estimated that roughly 150,000 FOI requests were made in 1976.

Unfortunately, the FOI Act reporting provisions presently do not require that agencies provide data on the total number of requests received, only the number denied. Because of this it is difficult to draw some conclusions about the operation of the act and to compare the performances of the various agencies. When the House Government Information and Individual Rights Subcommittee, along with the Senate Subcommittee on Administrative Practice and Procedure, drew up the reporting procedures in 1975, it was felt that although this data would be useful, the additional paperwork and effort required to keep accurate logs of all requests filed and filled might slow down the processing of these requests and not be worth the cost. This seemed particularly true for those routine requests which could otherwise be handled quickly and informally. These reporting requirements for the annual agency reports are now under review by the subcommittee, assisted by the Library of Congress.

Mr. Speaker, I hope these highlights are of interest to my colleagues and to the larger public. Please be assured that a more detailed assessment of these reports will be forthcoming shortly as soon as the Library of Congress has completed its analysis.

HELSINKI UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, I am grateful to have this opportunity to offer my support to Mr. DRINAN's project entitled the "Helsinki Unfulfilled Promise," but I find it sad that it is still necessary to dramatize case examples of the many families who are forcibly detained in the U.S.S.R. as a result of that Government's harsh emigration policy.

The Soviet Union is a signatory to the Helsinki Final Act which pledged to ease the reunification of families. But it is obvious that discriminatory harassment of Soviet citizens continues unbated. The family I cite today serves as a reminder that all of us have a moral obligation to object to violations of human rights and to offer our support to those who experience the daily struggle against the Soviet Union's repressive emigration policy. I invite your attention to the case of one Jewish family, David and Tatyana Skulsky and their infant child, who live in Odessa. David, now a factory worker, served in the Army as a postman and a medical orderly in a unit of approximately 50 men. Only David and the one other Jew were not authorized the special card permitting access to secret documents. In 1972, David's mother and grandmother emigrated to Israel, but ironically, David was refused an exit visa on the grounds that he knew secret information as a result of serving in the Army.

Since their marriage in 1973, David and Tatyana pursued their dream only to receive continuous denial based on the Soviet Government's twisted logic that Tatyana's mother would not give her consent to her daughter's application. Ironically, Tatyana's mother lost her job because of the family's desire to emigrate. The Skulsky's apartment has been searched, their mail "lost," their phone disconnected and the Soviet authorities have informed them their problems would increase. Despite the subhuman treatment, the Skulskys, like many other courageous families, will not give up.

None of us who participate in this vigil like to be put in the position of telling another sovereign nation how to manage its internal policies, and, therefore, I do so with natural reluctance. But, not only are the rights of families like the Skulskys basic and inalienable, they are also rights apparently guaranteed by the Helsinki agreement to which Russia is a signatory, and by the Russian Constitution itself.

First, the Skulskys were denied the right to emigrate. Then, they were subjected to harassment for wanting to leave. I am pleased to honor their courage and perseverance today. They, and others who are both victims and symbols in the struggle for human rights, must know we have not forgotten them. I hope this vigil will show that Congress is serious about completing the unfulfilled promise of Helsinki.

EXEMPLARY PERFORMANCE BY STATE DEPARTMENT IN HIJACK CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 15 minutes.

Mr. DANIELSON. Mr. Speaker, I know that you and all the Members share my gratitude that the terrible ordeal of the last several days is over and that the hijacking of the Japanese airplane in which a number of Americans were taken hostage has come to its end and that the hostages have now all been released.

I take this opportunity to call to the attention of my colleagues the outstanding performance of the people of our Department of State in connection with this hijacking. I suppose that, second only to the Congress, the State Department and its people are subject to more criticism than any part of our Government. During the past 5 days, I have personally witnessed exemplary perform-

ance and fulfillment of responsibility by a large number of people in our Department of State. Not only am I thankful for what they did but I am very proud of the manner in which they did it and I am sure that you, Mr. Speaker, and our colleagues will share that pride.

When news of the hijacking came through, and the fact that American citizens were among the hostages, the Department of State, as is its practice, set up a "task force" to handle the flood of communications and work which it was anticipated would flow from the hijacking.

Early on that Wednesday afternoon, September 28, I learned that four of my long time personal friends were probably among the hostages, namely John and Agnes Gabriel and Walter and Carole Karabian of Montebello, Calif. I immediately called the State Department and was put in touch with the task force, which was not yet able to confirm that my friends were on the plane. I requested them to keep me informed as information came in. Shortly before 6 p.m., Washington time, State confirmed the presence of the Gabriel party among the hostages. On a more frightening note, they informed me that the hijackers had issued an ultimatum that, unless their demands were met by 8 p.m., Washington time, only 2 hours away, the hostages would be executed, one by one.

Shortly afterwards I learned that the hijackers had announced that the first person to be executed would be "an American Jew who is a friend of President Carter." That information was soon followed by word that the first victim would be John Gabriel.

Knowing of the extreme anti-Jewish history of the Japanese Red Army I immediately phoned the task force and let them know that John Gabriel is a native-born American Christian of Armenian ancestry, and I requested them to communicate that information to the hijackers immediately. The task force promised that they would do what they could to get the information to the hijackers. Through their efforts it was possible to communicate the information directly to our Ambassador to Bangladesh, Edward E. Masters, who was at the airport in Dacca, and through him to the hijackers, in an effort to prevent that tragedy from happening. I was later informed that the information reached the hijackers at about 20 minutes before the deadline.

During that very difficult evening the members of the task force in Washington were in constant communication with Dacca and our Ambassador was at the airport performing his duty of representing the American citizens aboard the hijacked plane. Fortunately, the deadline was extended twice and negotiations were carried out so that all of the hostages eventually were released.

During all of the days of the hijacking the members of the State Department's task force were available 24 hours a day, were totally responsible to our questions, kept us constantly informed as to the status of the negotiations and condition and health of the hostages so far as they knew. They also served as the channel through which information was immediately transmitted to the negotiators for their assistance in resolving this difficult problem. I am sure that there are many employees of the State Department who were involved with whom I did not have personal contact, but I wish to commend those who I personally know were working in the task force and of whom we can all be justly proud. They include the following:

Douglas Archard, John C. Boehm, Jr., Micaela Cella, Janet Coon, Stephen Dobrenchuk, Fred Henneke, David Robins, Susie Tucker, James Ward, and of course, Hon. Edward E. Masters, U.S. Ambassador to Bangladesh.

MERGING SOCIAL SECURITY IS HELPING DISABLED WITH THE BLIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, I would like to share with my colleagues some profound concerns which I have about the recent action of the Social Security Subcommittee of the Committee on Ways and Means in approving a proposal to establish universal social security coverage by 1980. More than 6 million new employees would come under social security if the subcommittee's recommendation were adopted. Three groups of workers would be affected: First, Federal civil servants; second, about 30 percent of State and local governmental employees who do not currently participate in social security; and third, about 10 percent of employees of nonprofit organizations who do not currently participate in social security.

This proposal has generated great consternation among my constituents in California. They have raised many valid questions about the proposal. Unfortunately, I cannot provide any reassuring answers since the subcommittee has merely approved universal coverage without specifying any of the details of how this would be achieved. Integration of the social security program with just the Federal civil service system would be an incredibly complex undertaking if the objective is to protect the vested pension rights of current Federal employees. Information forthcoming from the Social Security Subcommittee unfortunately does not enlighten us about how these vested pension rights would be protected.

In all candor, I must ask whether this problem has ever been considered. I suspect not; rather that the subcommittee was motivated to seek a quick fix for the financially-troubled social security system, regardless of the impact on vested pension rights. I understand that the total recommendations of the subcommittee would increase revenue through 1983 by about $100 billion. Of that amount, about half would come from universal coverage. One gets the impression that universal coverage represents a gimmick at the expense of 6 million Americans to avoid addressing some fundamental problems in the social security system. Leaving the details to be worked out at a later date leaves open some fundamental questions of equity for people covered by other systems.

For example, the social security contribution rate proposed by the subcommittee for 1980 will be 6.05 percent on all earnings up to $24,400. Federal civil servants currently contribute 7 percent of their salaries toward their retirement. Is the subcommittee proposing that Federal civil servants be required to contribute 13.05 percent of their salaries toward their retirement? This seems rather prohibitive.

If it is proposed that civil service retirement contributions be reduced so that the combined civil service/social security amount is not a confiscating rate of 13.05 percent, how does the subcommittee propose to meet the existing pension commitments of the civil service trust fund? I would remind my colleagues that the unfunded liability in the civil service retirement system is already $107 billion. The cost of the civil service system last year was equal to 20 percent of the Federal civilian payroll. This cost is expected to increase each year and exceed 40 percent of the Federal payroll within 40 years. I submit that the social security proposal presents us with a Hobson's choice. Either we commit ourselves to break faith with Federal employees and reduce their vested pension rights for which they have contributed 7 percent of their salaries, or we substitute higher civil service fund liabilities in order to shore up temporarily the social security system. I believe that we would be better off simply to retain the separate systems.

The purpose of the civil service retirement system is fundamentally different than the purpose of social security. Fifteen years before the creation of the social security system, the civil service retirement system was established—in 1920—so that the Federal Government could provide a retirement income to employees who had made Federal service their careers. The civil service retirement program is essentially a company pension plan.

In contrast, the social security system was established to provide retirement benefits which would supplement private pension plans and personal savings. Unlike civil service retirement, social security was not intended to provide a total retirement income.

I have not touched on the rather significant problems which the universal coverage proposal would present for State and local governments as well as nonprofit organizations. The complications involved in merging the civil service retirement and the social security systems are bad enough—and the laws passed by the Congress. The pension systems of State and local governments are so numerous and disparate that we creating both of these systems have been cannot even begin to highlight the pitfalls.

In addition, I would note that the extension of mandatory social security coverage to State and local governments raises significant constitutional issues. Just last year, the Supreme Court held in the case, *National League of Cities* v. *Usery*, 96 Sup. Ct. 2465 (1976), that Congress lacked the power under the commerce clause to impose the requirements

of the Fair Labor Standards Act on State governments. The majority opinion written by Justice Rehnquist held that the Constitution did not delegate to Congress the authority to regulate the employer-employee relationships of State governments and their subdivisions.

Since the pension arrangements of State and local governments have frequently evolved through collective bargaining, could not a case be made that the Federal Government by mandating social security coverage would be regulating State employer-employee relations?

A second constitutional problem is the tax on State and local governments which this proposal would involve. State governments have considerable immunity from Federal taxation. Universal social security participation would amount to a mandatory tax on all employers, including State and local governments.

The Congress under the Social Security Act imposes various taxes on private employers and rebates most of the money to the States that participate in the various programs under the conditions laid down by the Congress. But Congress cannot impose a payroll tax upon a State government and condition its rebate upon the State's submission to coverage under the act of its employees.

In the unemployment compensation amendments of 1976, Congress resolved this dilemma by requiring the States to cover State and local government employees as a condition for receiving the 2.7-percent tax credit and Federal grant for administering State unemployment insurance programs in the private employment sector. Clearly it is within Congress power to extend financial assistance to the States upon the condition that the States must meet certain standards in the operations of particular programs.[1] But while Congress is not limited in attaching conditions in its taxing and spending programs to its enumerated powers, it is limited to the extent that the conditions must be reasonably related to the purposes of the taxing and spending programs themselves.[2] The courts may well draw the line at the point at which Congress seeks to accomplish something extraneous to the program.

To phrase the constitutional issue another way, the courts could well find that it is not valid for Congress to attach conditions that, in and of themselves, promote the general welfare, since Congress may only legislate for the general welfare through its granted powers. Conditions imposed by Congress must promote the general welfare objective of the taxing and spending program itself and may not be utilized to go beyond the program to which they are attached.

Thus, the courts could find it improper for Congress to condition State participation in the social security program coverage of private employers and employees upon State submission to coverage of State employees, since this would be to accomplish some other general welfare purpose extraneous to the program for private employers and employees and a general welfare purpose that it could not in fact accomplish because it is beyond Congress delegated powers.

If universal coverage were enacted, I do not know if the courts would decide the issue along these lines. I believe, however, that we should weigh the constitutional issue carefully. We would be creating a rather chaotic situation if we coerced State and local governments into reshaping their retirement programs to accommodate universal social security coverage, only to have the courts several years later rule that universal coverage is unconstitutional.

In conclusion, I would note that too often in voting in this House we are not certain of the long-term implications of the legislation before us. Despite careful analysis of what is known about the problem which we are seeking to solve, many imponderable issues remain. Since the proposal to exend universal social security coverage has not even been subjected to careful analysis, the Social Security Subcommittee is asking us to buy the proverbial "pig in the poke."

[1] *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1973); *Oklahoma* v. *Civil Service Comm.*, 330 U.S. 127 (1947).

[2] *Steward Machine Co.* v. *Davis, supra*, 590–593, 593; *Ivanhoe Irrigation Dist.* v. *McCracken*, 357 U.S. 275, 295 (1958); *Lau* v. *Nichols*, 414 U.S. 563, 569 (1974).

UNIONS ABRIDGE CONSTITUTIONAL RIGHTS OF MEMBERS BY IMPOSITION OF FINES

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, during the debate on H.R. 8410, frequent reference was made to the tactic of organized labor in utilizing fines to keep their members in line. This has become such an abuse that my colleague from Illinois (Mr. ERLENBORN) and I have addressed this problem by offering amendments to prevent this glaring abuse.

Liberals always seem to profess a concern for the civil rights and constitutional rights of Americans, indeed of downtrodden people throughout the world. This concern has a hollow ring, however, because they invariably stop short of criticizing unions who abridge the constitutional rights of American citizens who merely happen to have one other status which changes this concern, that is, belonging to a union. At that point, the normal concerns of the liberal seem to cease.

Here is just a portion of the record I have developed in studying case law on unions imposing fines on their members. First, here are some of the fines which have been allowed:

PERMISSIBLE USE OF FINES

NLRB v. *Chalmers Co.*, 388 U.S. 175 (1967)—workers fined for crossing union picket line during a strike upheld.

Scofield v. *NLRB*, 394 U.S. 423 (1969)—fine upheld (and suspension) from union membership of workers for not abiding by a union rule that imposed a ceiling on the wages that members could earn (and collect) each day in excess of the negotiated machine rate. (The union rule required the worker insist that employer credit the excess earnings for a future day when earnings fell below ceiling.)

American Newspaper Guild Local 35 (Washington Post Co.), 186 N.L.R.B. 877 (1970)—upheld fine for violating rule banning the crossing of a lawful picket line erected by a sister union.

Glasser v. *NLRB*, 395 F 2d 401 (2d Cir. 1968)—members of musicians' union fined for working alongside nonmembers.

NLRB v. *Boeing Co.*, 412 U.S. 67 (1973)—NLRB is precluded from examining the reasonableness of an otherwise legally imposed fine; union member must resort to State court proceeding despite fact that he may not be able to bear financial burdens of State proceeding (while he bears no expense in NLRB proceeding) and despite fact that fine can be so excessive as to wipe out member's earnings during the strike and thus be equivalent to clearly unlawful job-related penalty of withholding wages.

NLRB v. *Local 10*, Operating Engineers (B. D. Morgan & Co.), 503 F 2d 780 (6th Cir. 1974) (may be minority view)—fine backed by expulsion upheld where union disciplines members who cross and work behind a picket line in support of an unlawful secondary boycott.

These fines have been upheld not because the courts have any less concern for the constitutional rights of an American citizen when he may happen to be, voluntarily or involuntarily, a member of a union. They have been allowed because the court accedes to the legislative accommodation that this Congress has given to labor unions in the NLRB and legislation passed during the past four decades.

Even more devastating to the rank and file member's exercise of his constitutional rights is the hundreds of attempts by unions to arrogantly impose fines which have been held to violate the law. The fact that these fines have been imposed, the worker penalized and then forced to appeal his case, often under heavy personal financial burden, would be construed by my liberal friends in any other field to be of a chilling nature and chilling effect on the exercise of his constitutional rights. Isn't it strange that we do not hear liberal Congressmen talk about the chilling effect of a union fine levied against a member who had the temerity to run against an officer of the international union? or against a member who merely testified in a hearing on civil rights? The silence is deafening but the contributions to their campaigns are thunderous so this probably gives the answer.

Here are a few of those cases. Note how many types of proper, legal, constitutional activity the unions arrogantly try to circumvent by the intimidation and threat of fine:

UNIONS FINES FOUND UNLAWFUL UNDER PRESENT LAW

Local Union 138, Operating Engineers (Skura) 148 NLRB 679 (1964)—Union violates Section 8(b)(1)(A) for fining members who file unfair labor practice charges with NLRB.

Philadelphia Moving Pictures Mach. Operators Local 307, 159 NLRB 1614 (1966), *enf'd* 362 F 2d 598 (3d. Cir. 1967)—Member who merely encourages another to file an unfair labor practice charge may not be disciplined.

International Molders Local 125 (Blackhawk Tanning Co.) 178 NLRB 208 (1969), *enf'd* 442 F 2d 92 (7th Cir. 1971)—unlawful for union to fine a member who participates in petitioning to decertify union as bargaining representative.

Independent Shoe Workers (United States Shoe Corp.) 208 NLRB 411 (1974)—unlawful for union to fine member who signs and solicits authorization cards for rival union.

Automotive Salesmen's Ass'n (Spitler-Demmer, Inc.) 184 NLRB 608 (1970)—union cannot fine member for testifying at unfair labor practice hearing.

Teamsters Local 788 (San Juan Islands Cannery) 190 NLRB 24 (1971)—fines may not be lawfully levied against member who testifies before an arbitrator in trial of contract grievance.

Carpenters Local 22 (Graziano Constr. Co.) 195 NLRB (1972)—unlawful to impose fine on a member who sought to compete against an incumbent union official in running for position of delegate to international convention.

NLRB v. *Retail Clerks Local 1179* (Alpha Beta Markets) 476 F 2d 186 (9th Cir. 1975)—illegal to fine retail clerks for crossing of picket line established by Teamsters Union in violation of Section 8(b)(7).

Glasser v. *NLRB*, 395 F 2d 401 (2d Cir. 1968)—where union member is acting temporarily in capacity of an employer with the power to hire, the union may not fine him in the event he abides by the law's mandate to hire without discrimination and in the process violates union rule requiring hiring of only union members.

Painters Local 1066, 205 NLIB No. 110. (1973)—union held to have violated 8(b)(1)(A) by imposing fines on members who testified on employer's behalf at a joint grievance board hearing, where union unlawfully attempting to prevent employer from hiring a black apprentice.

NLRB v. *Textile Workers, Local 1029*, 409 U.S. 213 (1972)—union violated 8(b)(1)(A) by fining members who engaged in strike-breaking activities after resigning from the union.

Wisconsin River Valley Dist. Council v. *NLRB*, 91 LRRM 2961 (7th Cir. 1976)—Union fined employee $1,300, and instituted law suit to collect fine, for working in violation of its "no contract-no work" decree, notwithstanding that employee was acting in capacity of supervisor for purpose of grievance adjudications. Held violative of Section 8(b)(1)(B).

Building v. *Const. Trades Council (Mississippi Gulf Coast)* 222 NLRB No. 98, (91 LRRM 1215 (1976)—Unions violated Act when during unlawful picketing of construction site, they threatened to fine and did fine members employed by neutrals.

Longshoremen v. *Warehousemen, Local 30 (United States Borax & Chemical Corp.)* 223 NLRB No. 196, 92 LRRM 1282 (1976)—Union violated Act by imposing fine against individual because he crossed and worked behind unlawful picket line that was established at contractors' gate at construction site for object of enmeshing neutral contractors in union's dispute with company.

International Union of Operating Engineers, Local 400 (Hilde Construction Co.), 225 NLRB No. 77, 92 LRRM 1494 (1976)—Union violated Act by imposing disciplinary action, including fines, on three members because of their conducting a meeting to question wisdon of their bargaining representative and to attempt to promote support to persuade union to change bargaining strategy.

Carpenters, Dist. Council of Colorado, Local 362 (Pace Construction Co.), 222 NLRB 613, 91 LRRM 1205 (1976)—Union unlawfully fined employee of neutral employer for crossing picket line at construction project, where picketing had object of forcing neutral to cease doing business with general contractor with which union had dispute.

Textile Workers, TWUA, Local 953 (Visinet Mill, Benis Co., Inc.), 189 NLRB 598, 77 LRRM 1035 (1971)—Incumbent union violated Act by imposing fines on four members for signing and soliciting employer's other employees to sign rival union's cards in order to support timely filing of rival's representation petition with the Board.

Teamsters, Local 165 (Goodyear Tire & Rubber Co.) 211 NLRB No. 100, 86 LRRM 1433 (1974)—Union fined three members for sponsoring and participating in decertification election. Held unlawful.

Machinists, Dist. Lodge 837 (McDonnell Douglas Corp.) 206 NLRB 662, 84 LRRM 1365 (1973)—International union and district lodge fined member for soliciting signatures on rival union's cards. Held unlawful.

Communications Workers, Local 6306 (Vactec, Inc.), 212 NLRB No. 117, 87 LRRM 1590 (1974)—International and local union unlawfully fined members for soliciting representation authorizations on behalf of rival union, and threatened members with loss of jobs if they did not pay fines.

Communications Workers, Local 1197 (Western Electric Co. Inc.) 202 NLRB 229, 82 LRRM 1530 (1973)—Union unlawfully fined and expelled members for crossing picket line established by sister local, despite claim that employer's action indicated that no strike clause was inapplicable.

The heart of understanding the rationale of these fines, most of which are clearly offensive to Americans who believe in fair play and constitutional and civil rights, is recognizing the arrogance of the union hierarchy. They simply feel they are a government to themselves, the rest of us be damned. Sadly, they seem to be able to convince a majority of Democratic Congressman of this, too. Unions hold their members of little or no concern when it comes to allowing difference of opinion. They have their line and it is take it or leave it. Take it or be fined, I should say.

These glaring abuses cry out for legislative remedy. The only question is whether or not there are enough uncommitted Members of this body who will vote the way they talk. We will see tomorrow.

UNIONS UTILIZE VIOLENCE, THREATS, INTIMIDATION TO ACHIEVE GOALS, YET MAJORITY PARTY LOOKS THE OTHER WAY

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, I have constantly pointed out the shortcomings of H.R. 8410. It is one-sided and addresses only the grievances that union organizers have regarding the NLRA and the NLRB. The majority party may be committed to delivering for the unions but Americans are increasingly concerned about the vast growth of power by unions and the arrogant exercise of that power.

I have detailed some of the union abuses in abridging the civil rights and constitutional rights of their members. In these brief remarks I want to put on the record some of the initimidation, threats, and violence of the unions which should be addressed in our deliberations on H.R. 8410 but will not because of an arbitrary and capricious rule which narrowly limits us in our ability to offer amendments.

Fines, intimidation, and outright violence seem to be the stock and trade of all too many unions throughout the country. Here are just a few of the cases that involve violence. I could fill 20 pages of the RECORD with cases that show violence and intimidation:

CASES RELATING TO THREATS OF BODILY INJURY

NLRB v. *Trabajadores*, F.2d, 92 LRRM 3425 (1st Cir. 1976)—Union violated Section 8(b)(1)(A) by threatening physical violence at bargaining session with employer, by physically attacking two employees of employer, and by threatening to kill employer's supervisor who allegedly was attempting to obtain employee signatures on union decertification petition.

Teamsters, Local 5 (Union Tank Car Co.) F.2d 71 LRRM 2311 (15th Cir. 1969)—Business agent of union made threats and displayed a gun at union meeting to intimidate employees into refraining from joining or assisting rival union.

Mid-States Metal Products, Inc. (Chemical Workers, Local 738) 156 NLRB 872, 61 LRRM 1159 (1966)—Union threatened anti-union employee with bodily injury, and warned him that union would obtain his discharge if he did not stop circulating anti-union petition.

Retail Clerks International Assoc. (Skorman's Inc.), 160 NLRB 709 (1966)—Union found to have violated Section 8(a)(1)(A) by spying on union members who were seeking support for deauthorization of union under Section 9(e). Other unlawful activities included questioning employees as to identity of others supporting deauthorization, threatening employees that it would continue surveillance, inducing an employee whom it had wired with radio transmitter to spy on meeting between dissident group and Board agent.

Crown Discount Dept. Stores, 172 NLRB 934 (1968)—Union unlawfully threatened employees with loss of jobs if they did not sign union authorization cards.

Retail, Wholesale & Dept. Store Union, Local 1199 (Rockville Nursing Center) 193 NLRB 959, 78 LRRM 1519 (1971)—Union violated NLRA when in the presence of employee pickets it threatened employees and agent of rival union with bodily harm and discharge if they did not sign cards.

Nation-Wide Plastics Co., Inc. (Office & Processing Union, Dist. 65) 197 NLRB 996, 81 LRRM 1036 (1972)—Union violated Act by threatening employees with violence and personal injury to compel them to join union and with loss of employment.

Hope Industries, Inc. (Teamsters, Local 867), 198 NLRB No. 115 81 LRRM 1205 (1972) Union threatened to cause employer to discharge employees if they refused to sign check-off authorization. Held violative.

A 1975 case before the Board found the Union Nacional de Trabajadores guilty of even more reprehensible conduct. Note again this is the Board's finding, not my summation of its actions. Here is what the Board found:

Restraint or Coercion Sec. 8(b)(1)(A)—

Threats and assaults on management officials—Coercion of employees—57.937

Union violated LMRA when its agents (1) threatened to fight anyone who attempted to prevent union agent from speaking with employees whenever he chose, (2) threatened and assaulted management representatives within view of employees, (3) threatened company officials, employees, suppliers, and others with physical harm if they attempted to undermine strike effort, and (4) brought in gang of pipe— and stick-wielding non-employees to police decision against attempting to negotiate end to strike.

Union Agent Sec. 2(13)—

Resident agent—Threats and violence—55.735

Individual who was in effect union's "resident agent" at struck project is its agent

within meaning of LMRA, and union is responsible for his coercive and threatening conduct, since (1) individual directed course of strike, under general guidance of union official; (2) union official did nothing to restrain or prevent individual's bellicosity and, in fact, made no effort to disassociate union from threats made by individual in union official's presence.

Order Sec. 10(c) Restraint or Coercion Sec. 8(b)(1)(A)—

Union threats and violence—Broad remedial order—56.107

Union that has repeatedly and flagrantly violated LMRA rights of employees is ordered to cease and desist from such conduct with respect to employees of any employer in union's jurisdiction and to publish NLRB's notice in manner directed in Catalytic case (89 LRRM 1741).

Restraint or Coercion, Sec. 8(b)(1)(A)—

Union threats and acts of violence—57.73—57.87

Union violated LMRA by (1) threat of physical violence made at negotiating session, (2) physical violence and bodily injury inflicted upon supervisor and employee and threat to kill employee, and (3) threat to knock or break down gates of company's plant.

Refusal to Bargain, Sec. 8(a)(5)—

Refusal to negotiate because of union's threats and acts of violence—54.703

Employer did not violate LMRA by its refusal to meet and bargain with union after union's threats and acts of violence during course of negotiations, since (1) threats and violence were unprovoked, pervasive in character, and destructive of harmonious bargaining relationship; (2) employer received no assurances against continuation of such conduct at time of its refusal to bargain; and (3) subsequent cease-and-desist order directed at union's misconduct could not mollify fears held at time of earlier refusal to bargain.

Intimidation, threats, and coercive actions can be just as chilling on the employee as any bodily assult. Take the NLRB case in 1975 involving Local 1632 of the Textile Workers. By the way, recall again that J. P. Stevens is supposed to be the bad guy. Here is what the NLRB found:

Discrimination—59.03

Union violated Section 3(b)(2) of LMRA by constructively causing employer to discharge employee who had expressed dissatisfaction with employer's preferential treatment toward union president. (1) Union president's statement to employer that "it's me or her," in response to employee's criticism, constituted an implied request to discharge employee; (2) union president acted in capacity as union official when making implied request to discharge dissenting employee, since request was based on belief that employees criticism was undermining the union.

Restraint or coercion—57.73

International union violated Section 8(b)(1)(A) of LMRA by threatening to "blacken" employee's name and to cause her discharge if employee's criticism of local union's president resulted in loss of international union's representation rights at employment site.

Again Textile Workers Union officers were involved in violence and illegal actions in the Keyser-Roth case in 1973. The U.S. circuit court of appeals used these words in describing the situation:

Damage action—Picket line violence—"Clear proof" standard of Norris-LaGuardia Act—81.04—82.842

In action by employer for damages from labor union for acts of picket line violence committed by union members, federal district court was warranted in finding that employer satisfied "clear proof" standard of Section 6 of Norris-LaGuardia Act which deals with responsibility of union for unlawful acts of its members, it appearing that international union's vice president and two of its representatives personally participated in, observed, supervised, and controlled activities of strikers. Statements in union magazine congratulating members for successfully shutting down plant are sufficinet to demonstrate union's ratification of striker's actions.

Damages—Picket line violence—Responsibility of union—Unfair labor practices by employer—81.04

In action by employer for damages from labor union for acts of picket line violence committed by union members, no merit is found in union's contention that employer should not be awarded damages where employer's refusal to bargain in good faith during contract negotiations precipitated strike and resulting violence.

Note the words of the court of appeals decision which referred to the actions of the Textile Workers International officers:

The involvement of the union in the violence and other unlawful and damage causing activities during the strike is demonstrated most clearly by the actions of Adolph Benet, the union's International Vice President, and Ted Benton and Walter Rainey, its International Representatives. During the course of the strike, these union officials personally participated in, observed, supervised and controlled the activities of the strikers. They leased property adjacent to the plant site for use as a strike headquarters; a mobile office was moved onto this property, and a shelter for the strikers was also provided. Other evidence indicated that Benton instructed the pickets to walk in such a manner as to make entrance to the plant difficult. Rainey instructed them that they should stop nonstrikers from entering the plant by any means they could, including stripping off their clothes. Benton admitted that he was at the picket line from the beginning of the strike until the plant was closed supervising strike activities; Rainey spent about one-half of his time assisting Benton in the supervision of the strikers. During this period, numerous acts of extreme violence occurred which are fully recounted in the opinion of the District Court. In their capacity as strike supervisors for the union, Rainey and Benton observed groups of strikers while they blocked, stoned, and in some cases overturned vehicles bearing nonstrikers attempting to enter or leave the plant.

Benton admitted that he was aware of the systematic daily implantation and re-implantation of nails and broken glass on company driveways, and when the company sought to provide bus service for non-striking workers, Benton personally directed the strikers to jam the buses to prevent boarding by non-strikers. The company eventually capitulated to the violence, and the plant was closed on June 24, 1958. Thereafter, the striking employees effectively prevented its reopening until September 16, 1968.

Again, note the court's own words in referring to the violent act of the Textile Workers Union: stripping off clothes, stoning, implantation of nails, overturning vehicles. These are the activities the majority members would protect. These are the activities Mr. ERLENBORN and I would address in our amendments.

I could go on and on, as I said before, filling 20 pages with accounts of the pattern of intimidation, threats, and violence by unions. How can Members of this body honestly look the other way and vote for a one-sided bill which addresses only a few of the many shortcomings of the NLRA?

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW, OCTOBER 5, UNDER THE 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may be permitted to sit tomorrow, October 5, for consideration of matters during the 5-minute rule, with the exception of the coal slurry pipeline matter.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BURKE of Florida (at the request of Mr. MICHEL), for tomorrow, October 5, on account of official business to attend meetings of the United Nations in New York, at the invitation of the President of the United States.

Mr. CORMAN (at the request of Mr. WRIGHT), for until 2:45 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous matter:)

Mr. RAILSBACK, for 5 minutes, today.
Mr. O'BRIEN, for 30 minutes, October 6.
Mr. COHEN, for 15 minutes, today.
Mr. SYMMS, for 60 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. KILDEE) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) to revise and extend their remarks and include extraneous material:)

Mr. DANIELSON, for 15 minutes, today.
Mr. LEGGETT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MITCHELL of Maryland to include extraneous matter in his remarks made on the labor reform rule today.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. COUGHLIN in two instances.
Mr. FINDLEY.
Mr. JOHNSON of Colorado.
Mr. BURGENER.

Mr. LAGOMARSINO in two instances.
Mr. COHEN.
Mr. DEL CLAWSON.
Mr. MCCLORY.
Mr. SHUSTER in two instances.
Mr. CARTER in two instances.
Mr. MCKINNEY.
Mr. STEERS.
Mr. MCCLOSKEY in five instances.
Mr. RINALDO.
Mr. DORNAN.
Mr. BOB WILSON in four instances.
Mr. ABDNOR in three instances.
Mr. GILMAN.
Mr. THONE.
Mr. SPENCE.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. CARNEY in two instances.
Ms. MIKULSKI in two instances.
Mr. WAXMAN in two instances.
Mr. EILBERG in three instances.
Mrs. COLLINS of Illinois in two instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. OBEY in six instances.
Mr. DE LA GARZA in 10 instances.
Mr. SOLARZ.
Mr. SIMON.
Mr. TEAGUE.
Mr. RUSSO.
Mr. EDGAR.
Mr. MOAKLEY.
Mr. JENRETTE.
Mr. FOWLER.
Mr. MATHIS.
Mr. EDWARDS of California.
Mr. MCDONALD.
Mr. PEPPER.
Mr. MIKVA.
Mr. LUKEN.
Mr. FRASER.
Mr. KOCH in four instances.
Mr. STUDDS.
Mr. WOLFF.

(The following Members (at the request of Mr. BENJAMIN) and to include extraneous matter:)

Mr. FUQUA in five instances.
Mr. WOLFF.
Mr. HIGHTOWER.
Mr. MILLER of California.
Mr. RISENHOOVER.
Mr. WAXMAN.
Mr. JOHN L. BURTON.
Mr. RAHALL.
Mr. RANGEL.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 5, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2504. A communication from the President of the United States, urging action on remaining appropriation bills for fiscal year 1978 (H. Doc. No. 95–237); to the Committee on Appropriations and ordered to be printed.

2505. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2506. A letter from the President, Communications Satellite Corporation, transmitting the Corporation's 14th annual report, covering calendar year 1976, pursuant to section 404(b) of the Communications Satellite Act of 1962; to the Committee on Interstate and Foreign Commerce.

2507. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act (66 Stat. 214, 76 Stat. 1247); to the Committee on the Judiciary.

2508. A letter from the Secretary of Transportation, transmitting a report that no transactions were negotiated during fiscal year 1977 under the authority of section 303 of the Federal Aviation Act of 1958, as amended, pursuant to section 303(e) of the act (84 Stat. 234); to the Committee on Public Works and Transportation.

2509. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of NASA's plan to dispose of certain real property at the Plum Brook Station, Sandusky, Ohio, pursuant to section 207 of the National Aeronautics and Space Act of 1958, as amended; to the Committee on Science and Technology.

2510. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report (PSAD–77–86) entitled "The District of Columbia's New Detention Center: Careful Planning Essential for Adequate Addition," pursuant to section 736(b)(3) of Public Law 93–198; jointly, to the Committees on the District of Columbia, and Government Operations.

2511. A letter from the Comptroller General of the United States, transmitting a report on progress being made in each service to improve enlisted personnel management (FPCD–77–42, September 29, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2512. A letter from the Comptroller General of the United States, transmitting a report on ways the Department of Defense can improve oil recycling (LCD–77–307, September 28, 1977); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 807. Resolution waiving certain points of order against H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes Rept. No. 95–659). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENJAMIN (for himself, Mr. FITHIAN, Mr. GUYER, Mr. FARY, Ms. OAKAR, Mr. NOWAK, Mr. DERWINSKI, Mr. EILBERG, Mr. BEVILL, Mr. WALKER, Mr. ZEFERETTI, Mr. JENRETTE, Mr. BUCHANAN, Mr. FLOWERS, Mr. COUGHLIN, Mr. ROE, Mr. APPLEGATE, Mr. MURPHY of Pennsylvania, Mr. CARNEY, Mr. PERKINS, Mr. WALGREN, Mr. REGULA, Mr. PRICE, Ms. MIKULSKI, and Mr. MURPHY of Illinois):

H.R. 9425. A bill to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade, and for other purposes; to the Committee on Ways and Means.

By Mr. BENJAMIN (for himself, Mr. GOODLING, and Mr. LUKEN):

H.R. 9426. A bill to amend the Tariff Schedules of the United States to establish a temporary tariff rate quota for certain iron and steel articles in order to stimulate fair and free competition in the world steel trade, and for other purposes; to the Committee on Ways and Means.

By Mr. BENJAMIN (for himself, Mr. FITHIAN, Mr. GUYER, Mr. FARY, Mr. LAFALCE, Mr. NOWAK, Mr. DERWINSKI, Mr. EILBERG, Mr. BEVILL, Mr. ZEFERETTI, Mr. JENRETTE, Mr. BUCHANAN, Mr. FLOWERS, Mr. COUGHLIN, Mr. ROE, Mr. APPLEGATE, Mr. MURPHY of Pennsylvania, Mr. CARNEY, Mr. PERKINS, Mr. WALGREN, Mr. PRICE, Ms. MIKULSKI, Mr. MURPHY of Illinois, Mr. GOODLING, and Mr. LUKEN):

H.R. 9427. A bill to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preference to such materials, to require that certain State purchases made with Federal funds be subject to the Buy American Act, and for other purposes; to the Committee on Government Operations.

By Mr. BENJAMIN (for himself and Mr. CORNWELL):

H.R. 9428. A bill to amend title III of the act of March 3, 1933, known as the Buy American Act, to require the heads of Federal agencies to issue certain regulations respecting the purchase of materials made in the United States, to permit the States to give preference to such materials, to require that certain State purchases made with Federal funds be subject to the Buy American Act, and for other purposes; to the Committee on Government Operations.

By Mr. BRODHEAD (for himself, Mr. AKAKA, Mr. BEARD of Rhode Island, Mr. BONIOR, Mr. CARR, Mr. CLAY, Mr. FARY, Mr. LEDERER, Ms. MIKULSKI, Mr. PATTISON of New York, Mr. ST GERMAIN, and Mr. CHARLES WILSON of Texas):

H.R. 9429. A bill to amend the Internal Revenue Code of 1954 to clarify the exemption from political organization taxable income for proceeds from bingo and related games; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 9430. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. COHEN:

H.R. 9431. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. LEGGETT:

H.R. 9432. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 9433. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. CORRADA, Mr. DE LUGO, Mr. WON PAT, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. OTTINGER, and Mr. WALGREN):

H.R. 9434. A bill to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mr. BADHAM, Mr. HARRINGTON, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MAGUIRE, Mr. RODINO, Mr. CHARLES WILSON of Texas):

H.R. 9435. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to employer pension funds and to allow certain individuals to establish modified individual retirement plans when the employer-employee pension contributions are small; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 9436. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the armed forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. ZEFERETTI (for himself, Mr. CARTER, Mr. DEVINE, Mr. GOLDWATER, Mr. GILMAN, Mr. KEMP, Mr. LONG of Louisiana, and Mr. MURPHY of New York):

H.R. 9437. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. officers and employees routinely assigned to perform investigative, inspection, or law enforcement functions, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHBROOK (for himself, Mr. ARCHER, Mr. COLLINS of Texas, Mr. SPENCE, Mr. ROBINSON, Mr. ABDNOR, Mr. MCDONALD, and Mr. KETCHUM):

H.R. 9438. A bill to amend the National Labor Relations Act to protect the rights of employees, to strengthen the remedies under such act, and for other purposes; to the Committee on Education and Labor.

By Mr. PATTEN:

H.R. 9439. A bill authorizing the removal of a rock ledge and certain other material in the Arthur Kill at Perth Amboy, N.J.; to the Committee on Public Works and Transportation.

By Mr. WHITTEN:

H.R. 9440. A bill to amend the Internal Revenue Code of 1954 with respect to the determination of whether certain charitable organizations are publicly supported; to the Committee on Ways and Means.

By Mr. HILLIS:

H.J. Res. 610. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.J. Res. 611. Joint resolution to extend the authority of the Federal Reserve Banks to buy and sell certain obligations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STUDDS:

H.J. Res. 612. Joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. BURKE of California:

H. Con. Res. 368. Concurrent resolution calling for the support of the city of Los Angeles, representing the United States, in its bid before the International Olympic Committee to host the 1984 summer Olympic games; jointly, to the Committees on International Relations and Interstate, and Foreign Commerce.

By Mr. FOUNTAIN:

H. Res. 808. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. MARKEY (for himself, Mr. DOWNEY, Mr. MAGUIRE, Mr. DIGGS, Mr. EDWARDS of California, Mr. MITCHELL of Maryland, Mr. BEDELL, Mr. BONIOR, and Mr. TSONGAS):

H. Res. 809. Resolution expressing the sense of the House of Representatives that the circumstances surrounding Steve Biko's death be investigated; to the Committee on International Relations.

By Mr. SOLARZ (for himself, Mr. AKAKA, Mr. AMMERMAN, Mr. ANDERSON of California, Mr. ANDREWS of North Dakota, Mr. APPLEGATE, Mr. BAUCUS, Mr. BENJAMIN, Mr. BEVILL, Mr. BLOUIN, Mr. BOLAND, Mr. BRECKINRIDGE, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. BUCHANAN, Mr. BURKE of Massachusetts, Mr. BYRON, Mr. CEDERBERG, Mr. CHAPPELL, Ms. CHISHOLM, Mr. CLEVELAND, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. CONYERS, and Mr. CORCORAN of Illinois):

H. Res. 810. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. CORNWELL, Mr. CORRADA, Mr. D'AMOURS, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELANEY, Mr. DERRICK, Mr. DIGGS, Mr. EDWARDS of California, Mr. EVANS of Georgia, Mr. EVANS of Delaware, Mr. FARY, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FREY, Mr. GAMMAGE, Mr. GINN, Mr. GOODLING, Mr. GRADISON, Mr. GRASSLEY, Mr. HALL, Mr. HAMMERSCHMIDT, and Mr. HANLEY):

H. Res. 811. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. HANSEN, Mr. HARRINGTON, Mr. HARSHA, Mrs. HECKLER, Mr. HEFTEL, Mr. HILLIS, Mr. HOWARD, Mr. HUBBARD, Mr. HUCKABY, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Mr. JOHNSON of Colorado, Mr. JONES of Oklahoma, Mr. JONES of North Carolina, Mr. KETCHUM, Mrs. KEYS, Mr. KILDEE, Mr. KREBS, Mr. KRUEGER, Mr. LEDERER, Mr. LE FANTE, Mr. LEHMAN, and Mrs. LLOYD of Tennessee):

H. Res. 812. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. LUKEN, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MADIGAN, Mr. MANN, Mr. MARKEY, Mr. MARKS, Mr. MATHIS, Mrs. MEYNER, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINISH, Mr. MITCHELL of New York, Mr. MOLLOHAN, Mr. MOTTL, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. MICHAEL O. MYERS, Mr. NEAL, Mr. NOWAK, Mr. PANETTA, Mr. PERKINS, Mr. PICKLE, and Mr. PREYER):

H. Res. 813. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. PRICE, Mr. PURSELL, Mr. QUAYLE, Mr. RAHALL, Mr. RANGEL, Mr. ROGERS, Mr. ROONEY, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. SARASIN, Mr. SCHEUER, Mr. SISK, Mr. SKUBITZ, Mr. SPENCE, Mr. STANTON, Mr. STUDDS, Mr. THONE, Mr. TRAXLER, Mr. TREEN, Mr. TSONGAS, Mr. WALSH, Mr. WOLFF, and Mr. YATES):

H. Res. 814. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

274. By the SPEAKER: Memorial of the Legislature of the State of California, relative to vocational training; to the Committee on Education and Labor.

275. Also, memorial of the Legislature of the State of Ohio, relative to enforcement of the Trade Act of 1974 to preserve the domestic steel industry; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XX,

Mr. BURGENER introduced a bill (H.R. 9441) for the relief of Zora Singh Sunga; which was referred to the Committee on the Judiciary.

PETITIONS. ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

283. By the SPEAKER: Petition of the Rockland County Legislature, New City, New York, relative to violations of human rights in Northern Ireland; to the Committee on International Relations.

284. Also, petition of the executive council of the Episcopal Church, New York, N.Y., relative to Indochinese refugees; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. RES. 766

By Mrs. CHISHOLM:

Strike out section 503 of the resolution as reported by the Committee on Rules (or

section 504 of the resolution if the Rules Committee amendments to title V are rejected) and insert in lieu thereof:

"FAIR EMPLOYMENT PRACTICES PANEL

"SEC. 503 The Rules of the House of Representatives are amended by inserting at the end thereof the following new Rule:

"RULE LI

"FAIR EMPLOYMENT PRACTICES PANEL"

"1. There is established a Fair Employment Practices Panel, which shall be comprised of five individuals, three Members and two employees of the House (other than those employed by administrative units of the House). The three Members shall be chosen by the Speaker, two from the majority party and one, upon the recommendation of the Minority leader, from the minority party. The two employee representatives on the Panel shall be chosen by the Speaker, one from the majority party and one, upon the recommendation of the Minority leader, from the Minority party.

"2. If an individual has sent a statement taken under oath administered by an authorized official to a Member alleging a violation of that individual's rights under clause 9 Rule XLIII by that Member and no mutually agreeable accommodation has been reached within the thirty-day period commencing upon the date of transmission of the statement taken under oath by an authorized official to the Member, then that individual may file a statement taken under oath by an authorized official with the Panel.

"3. The Panel shall review all statements taken under oath by an authorized official filed with it under this Rule and the attempts at accommodation under clause 2. After an individual has filed a statement taken under oath by an authorized official under this Rule, the Panel may offer consultation to the individual and the employing Member. All activities of the Panel shall be conducted on a confidential basis. If, in the opinion of the Panel, confidentiality has been breached by any individual filing a statement taken under oath by an authorized official, the Panel may dismiss that statement under oath by an authorized official.

"4. If a settlement of the statement taken under oath by an authorized official is reached by the interested parties, the Panel shall so certify.

"5. (a) If a settlement of the statement taken under oath by an authorized official is not reached by the interested parties and the Panel believes that a Member has violated clause 9 of Rule XLIII, then the Panel by a vote of four out of five of its members may refer the matter to the Committee on Standards of Official Conduct for its immediate consideration. Notwithstanding the provisions of clause 4(e) of Rule X, the Committee on Standards of Official Conduct shall undertake an investigation of any statement taken under oath by an authorized official referred to it by the Panel and, if the Committee believes that a Member has violated clause 9 of Rule XLIII, then the committee by the affirmative vote of a majority of its members, shall recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances.

"(b) For purposes of this clause—

"(1) continuity of session of Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period."

By Mr. FRENZEL:

Insert before the last section of the amendment recommended by the Committee on House Administration the following new section, and renumber the last section accordingly:

SEC. (a)(1) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled to an allowance for use in employing not more than 2 staff members during the period beginning on the date on which the election of such Member-elect is certified by the appropriate officer of the State in which the congressional district of such Member-elect is located (or by any other appropriate official in the case of a Delegate-elect or Resident Commissioner-elect to the Congress), and ending on the date on which the oath of office is administered to such Member-elect.

(2) One staff member employed by a Member-elect under paragraph (1) shall be entitled to be paid at a single per annum gross rate which does not exceed 75 percent of the maximum per annum gross rate at which a professional staff member of a standing committee may be paid under clause 6(c) of Rule XI of the Rules of the House of Representatives, and one such staff member shall be entitled to be paid at a single per annum rate which does not exceed 50 percent of such maximum rate.

(b) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be entitled, during the period specified in subsection (a)(1), to receive such office equipment, supplies, and other similar materials as the Committee considers necessary to carry out the duties of such Member-elect.

(c) Each Member-elect to the House (other than an incumbent Member reelected to the ensuing Congress) shall be assigned such common office space as deemed available and appropriate by the House Office Building Commission for the use of such Member-elect during the period specified in subsection (a)(1).

(d) The contingent fund of the House shall be available for purposes of carrying out the provisions of this section.

(e) The provisions of this section shall take effect on January 3, 1978.

The amendment made by section 201(b) to clause 4(d) of the Rules of the House of Representatives is amended by striking out ", and of all functions of the Auditor and his staff" in subparagraph (2) thereof, by redesignating subparagraphs (3) through (6) thereof as subparagraphs (4) through (7), respectively, and by inserting immediately after subparagraph (2) thereof the following:

"(3) establishing a Subcommittee on Audits, to be comprised of an equal number of members from the majority and minority parties, to provide policy guidance and oversight to the Auditor;

By Mr. MEEDS:

Insert before the last section of the amendment recommended by the Committee on House Administration the following new section, and renumber the last section accordingly:

SEC. (a)(1) The aggregate number of staff members (other than professional staff members and clerical staff members appointed or selected under clause 6 of Rule XI of the Rules of the House of Representatives) which may be employed by all standing committees of the House (other than committees which are not required to obtain spending authorizations under clause 5(a) of Rule XI of the Rules of the House of Representatives (during any session of a Congress may not exceed an amount equal to 103 percent of the average number of such staff members employed by all such standing committees during the preceding session.

(2) The limitation established in paragraph (1) shall not apply in the case of—

(a) any increase under subsection (b)(2); or

(B) the appointment of associate staff members of committees under clause 7(a) of the Rule XI of the Rules of the House of Representatives or under the rules of any standing committee of the House.

(b)(1) Each primary expense resolution under clause 5(a) of Rule XI of the Rules of the House of Representatives which grants an authorization for the payment of expenses of any standing committee of the House shall specify the maximum number of staff members in subsection (a)(1) which may be employed by such standing committee in the year involved.

(2)(A) Any increase in the maximum number of staff members specified in paragraph (1) which a standing committee is authorized to employ in any year may be made upon approval by the Committee, of such increase, together with any other increase approved by the Committee for such year, does not exceed an amount equal to 10 percent of the maximum number of staff members specified in the primary expense resolution for such standing committee.

(B) Any such increase which, together with any other increase approved by the Committee for the year involved, exceeds an amount equal to 10 percent of such maximum number of staff members specified in paragraph (1) may be made through the adoption of a resolution which specifies the maximum number of such staff members which may be employed by the standing committee involved under such resolution.

(c)(1) For purposes of subsection (b), the average number of staff members specified in subsection (a)(1) employed by the standing committees of the House during a session of a Congress shall be calculated by—

(A) determining the total number of such staff members employed by all standing committees during each monthly pay period in such session;

(B) deriving the sum of such totals for all such pay periods in such session; and

(C) dividing such sum by 12.

(2) Any such staff member who is employed by a standing committee as the result of any increase approved or adopted under subsection (a)(2) shall not be included in the calculation of such average number under paragraph (1).

(d) The provisions of this section shall take effect on January 3, 1979.

By Mr. OBEY:

In section 608 of the amendment recommended by the Committee on House Administration, strike the words "services and".

H.R. 8410

By Mr. BIAGGI:

Page 15, immediately after line 7, insert the following new section:

SEC. 2. Paragraph (3) of section 2 of the National Labor Relations Act is amended by inserting after "his parent or spouse," the following: "or any alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens,".

Redesignate the succeeding sections accordingly.

By Mr. QUIE:

Page 16, line 11, delete the words "a quorum of" strike page 16, line 16 through line 19 and substitute: "A motion for summary affirmance shall be filed within 10 days after the decision of the administrative law judge, any response shall be filed within 20 days thereafter, and the motion and response shall then be presented for decision to a group designated pursuant to the first sentence of this subsection."

Page 19, line 18, insert after the comma: "or a labor organization pursuant to sub-

section (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6, insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded.";

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy five" and insert in lieu thereof "ninety";

Page 21, line 15, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote", and

Page 17, line 16, strike all of subparagraph "(B)" therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Page 21, line 8, after the word "shall" add: ", unless under a rule adopted pursuant to subsection (b)(1)(D) of section 6, the ballots have been impounded,".

Page 21, line 21, after the word "challenges" add "; *Provided*, That nothing contained herein shall preclude resolution of the eligibility questions raised by such challenges in a subsequent unit clarification proceeding.".

Page 25, line 6, insert immediately before the period, the following: "; *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs, or to the local, intermediate, national or international labor organization found to have engaged in a willful violation".

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following: "Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party: *Provided*, That this subparagraph shall be limited to restrict the award of contracts solely to products made or handled or to service performed at the particular facility or facilities where the willful violation occurs or to the local, intermediate, national or international labor organization found to have engaged in a willful violation.".

Page 25, line 9, after "(a)(3)" insert the following: ", (a)(1), (b)(1)".

H.R. 9375

By Mr. TSONGAS:

Page 10, line 17, strike out "$167,000,000" and insert in lieu thereof "$196,000,000".

H.R. 1037

By Mr. McCLOSKEY:

On page 7, line 6, after "both" add ": *Provided*, That any rate which is more than 50 per centum higher than the applicable rate for the most efficient nonpreference vessels available may not be deemed fair and reasonable".

On page 6, line 18, after "shall" insert ", if the Secretary of the Treasury certifies that such steps will not reduce total national employment and gross national product,".

On page 9, line 4, strike "(or if at" and all thereafter through "and" on line 8.

On page 6, line 18, after "shall" insert ", if the Secretary of State certifies that such steps will not violate any Treaty of Friendship, Commerce and Navigation with any nation which is a member of the North Atlantic Treaty Organization,".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 22, 1977, page 30313.

H.R. 4901. March 14, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceedings for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 4902. March 14, 1977. Government Operations; Rules. Prohibits the expenditure of Federal moneys, not otherwise provided for by law, which are not made pursuant to procedures providing for a voucher describing to payee and items or services for which payment is being made. Requires all appropriations, not made under a law which provides otherwise, to provide for voucher requirements for expending such moneys appropriated.

Requires the Comptroller General to audit all programs subject to this Act.

H.R. 4903. March 14, 1977. Judiciary. Directs the United States to pay reasonable attorney fees, to prevailing parties in civil actions in which the United States is a party which does not prevail.

H.R. 4904. March 14. 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 4905. March 14, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4906. March 14, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4907. March 14, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4908. March 14, 1977. Judiciary. Requires that witnesses compelled to testify before any Federal courts or grand jury, any Federal agency, or either House of Congress or any Congressional committee be given transactional immunity.

Specifies additional prerequisite findings for issuing an order compelling testimony.

Prohibits a grand jury from indicting a witness who was compelled to testify before it.

Specifies penalties for disclosure of grand jury proceedings. Empowers grand juries to conduct independent inquiries.

Entitles defendants and witnesses to examine certain transcripts of grand jury testimony.

H.R. 4909. March 14, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4910. March 14, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4911. March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4912. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the tuition paid to a private, nonprofit elementary or secondary educational institution for the education of a dependent. Grants taxpayers standing to challenge the Act's constitutionality in the District Court for the District of Columbia.

H.R. 4913. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 4914. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make loans to homeowners and builders to assist them in purchasing and installing solar heating of solar heating and cooling equipment, and directs the Secretary to provide individuals with all current information on such equipment upon request.

Directs the Energy Research and Development Administration to: (1) establish procedures for inspecting and evaluating solar heating and cooling equipment; (2) review new equipment as developed; and (3) periodically review certifications of such equipment for validity.

H.R. 4915. March 14, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize specific appropriations for the United States Information Agency for fiscal year 1978 to carry out international informational activities and programs (specifically salaries and expenses, special international exhibitions, and acquisition and construction of radio facilities). Authorizes the appropriation of such sums as may be necessary for such purposes for fiscal year 1979.

Amends such Act to permit funds herein authorized to be transferred under certain restrictions.

H.R. 4916. March 14, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize appropriations for the Department of State for fiscal years 1978 and 1979 to carry out foreign affairs.

Authorizes appropriations to pay the United States assessments to the World Health Organization for 1974 to 1977.

Authorizes the Department of State to furnish medical and dietary assistance to United States citizens incarcerated abroad.

H.R. 4917. March 14, 1977. International Relations. Authorizes appropriations for the Board for International Broadcasting for fiscal years 1978 and 1979.

H.R. 4918. March 14, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 4919. March 14, 1977. Public Works and Transportation. Names the lake located behind Lower Monumental Lock and Dam, Washington, Lake Herbert G. West, Senior.

H.R. 4020. March 14, 1977. Ways and Means. Amends the International Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline used in aircraft for farm purposes to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4921. March 14, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 4922. March 14, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 4923. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exempt bonds issued to finance primary and supplementary onsite coal gasification facilities from industrial bond treatment.

H.R. 4924. March 14, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to change the criterion used for determining eligibility of families assisted under such Act. Redefines the term "lower income families."

H.R. 4925. March 14, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4926. March 14, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 4927. March 14, 1977. Armed Services. Make it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 4928. March 14, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary education on job awareness, exploration, decisionmaking, and planning.

H.R. 4929. March 14, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 4930. March 14, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anaesthetising and spaying and neutering of dogs and cats.

H.R. 4931. March 14, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) cover the commission of any of specified felonies with the use of any firearm which has been transported in commerce, rather than only the commission of Federal felonies, (2) increase the terms of imprisonment, and (3) prohibit suspended and probationary sentences for first convictions.

H.R. 4932. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to authorize any taxpayer to elect to have any portion of any overpayment of tax or any contribution in money which the taxpayer forwards with the return for such taxable year be available, as the taxpayer may designate on such return, for the National Endowment for the Arts or the National Endowment for the Humanities.

H.R. 4933. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4934. March 14, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 4935. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 4936. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 4937. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative 12 months of their employment.

H.R. 4938. March 14, 1977. Ways and Means; Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 4939. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the programs of Medicare, Medicaid, and Grants to States for Social Services of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization in such care.

H.R. 4940. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulatory Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4941. March 14, 1977. Interstate and Foreign Commerce; Ways and Means; Rules. Requires any officer or agency in the executive branch to obtain congressional review of all proposed regulations relating to cost and expenditures for health care.

H.R. 4942. March 14, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4943. March 14, 1977. Interstate and Foreign Commerce. Makes the manufacture, distribution and sale of saccharin for human consumption legal in the United States and its territories.

Requires a label with a specified message on all containers of saccharin sold after the enactment of this Act.

H.R. 4944. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require that the Administrator of the Environmental Protection Agency make grants for special studies and demonstration projects designed to assist in providing a safe supply of drinking water to the public.

H.R. 4945. March 14, 1977. Government Operations; Rules. Requires the President to report to the Congress yearly suggestions for the reform of independent regulatory bodies in order to decrease their inflationary effects and to increase competition.

H.R. 4946. March 14, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4947. March 14, 1977. Judiciary. Requires that any rule proposed by any Federal agency be submitted to Congress for approval along with a cost-benefit analysis of such rule.

Permits holding employees, rather than their employers, responsible for violations of agency rules if such employee violated such rule.

H.R. 4948. March 14, 1977. Rules. Amends the Congressional Budget Act of 1974 to require each Congressional committee having jurisdiction to report legislative authorizing appropriations for any Federal program to review such program at least once every six years as though it were being proposed for the first time.

Amends the Congressional Budget and Impoundment Control Act of 1974 to require the Committees on the Budget of the House and Senate to establish guidelines for the committees of both Houses in carrying out their zero-base budgeting functions.

H.R. 4949. March 14, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4950. March 14, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4951. March 14, 1977. Ways and Means. Amends the Social Security Act by adding Title XXI—Minimum Income Maintenance Benefits, which establishes a national program to guarantee a minimum adequate income for all qualified residents of the United States.

H.R. 4952. March 14, 1977. Armed Services. Grants additional dental care benefits to dependents of active duty members of the uniformed services.

H.R. 4953. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the withholding tax on lump-sum payments of accumulated leave for Federal employees and members of the armed services shall be computed as though the leave were paid on the basis of an annual payroll period.

H.R. 4954. March 14, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to make the Reciprocal Fisheries Agreements between the United States and Canada effective during the period beginning March 1, 1977 and ending December 31, 1977.

H.R. 4955. March 14, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4956. March 14, 1977. Agriculture; Small Business. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause

H.R. 4957. March 14, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) increase the minimum authorized sentence, (2) remove maximum limits for such sentences, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 4958. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to exclude interest on installment obligations from Subchapter S Corporations' passive investment income where the obligations arise from the sale of substantially all of the corporation's properties and where the corporation has elected to return all the sale income under installment accounting methods.

H.R. 4959. March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4960. March 14, 1977. Small Business. Amends the Small Business Investment Act to change the title of the Associate Administrator for Finance and Investment of the Small Business Administration to that of Associate Administrator for Investment. Changes the duties of such office.

H.R. 4961. March 14, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4962. March 14, 1977. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950 to extend the provisions of such act through September 30, 1979.

H.R. 4963. March 14, 1977. Merchant Marine and Fisheries. Authorizes appropriations in specified amounts to the Department of Commerce for specified maritime-related expenses for fiscal year 1978.

H.R. 4964. March 14, 1977. Interstate and Foreign Commerce. Makes it a violation of the Federal Trade Commission Act for any retailer to increase the price of a consumer commodity after the retailer has marked the price on the item.

H.R. 4965. March 14, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 4966. March 14, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he dies to a prorated benefit based upon a specified formula.

H.R. 4967. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (medicare) and title XIX (medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 4968. March 14, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4969. March 14, 1977. Education and Labor. Amends the National Labor Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to participate in, or to induce an employee of a person primarily engaged in the construction industry at the site involved to participate in, a strike or other refusal to perform services which is (1) conducted at the site of the construction, alteration, or repair of a building other than a residential structure less than four stories, and (2) directed at any of several employers in the construction industry who bear certain contractual relationships with the employer of the organization's workers.

H.R. 4970. March 14, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to collect, analyze, and publish current world population statistics at least annually.

H.R. 4971. March 14, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 4972. March 14, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 4973. March 14, 1977. Ways and Means. Directs the Secretary of Health, Education, and Welfare to pay all costs (including related and administrative expenses as well as the cost of the actual aid, assistance, or benefits involved) incurred by any State or local government or agency thereof in carrying out a welfare or public assistance program.

H.R. 4974. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for health planning and related programs.

Amends the Social Security Act to prohibit reimbursement to a State for Medicaid expenditures unless specified conditions are met.

Includes as gross income, for purposes of the Internal Revenue Code, interest on a loan to a State for medical facilities after such facilities are sold by the Secretary of Health, Education, and Welfare.

H.R. 4975. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for biomedical research and related programs.

Appoints the Director of the Office of Science and Technology Policy to the National Heart, Lung, and Blood Advisory Council, removes the Director of the National Science Foundation from such Council.

H.R. 4976. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act, the Community Mental Health Centers Act, and the Social Security Act, to authorize appropriations for health services programs for fiscal year 1978.

Extends the coverage of grants for training and education in specified fields to the health care professions.

Establishes an Indian Health Scholarship Program.

Extends the coverage of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to include programs relating to drug abuse or mental health.

H.R. 4977. March 14, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 4978. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act of 1968 to authorize the Secretary of Housing and Urban Development to extend counseling and technical assistance to owners of single-family dwelling units.

Amends the National Housing Act to make changes in Federal coinsurance and insurance programs.

H.R. 4979. March 14, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior and the Administrator of General Services to convey specified public lands to the county of Mineral, Nevada.

H.R. 4980. March 14, 1977. Interior and Insular Affairs. Declares that all right, title, and interest of the United States in approximately 2,640 acres are hereby held by the United States in trust for the Paiute-Shoshone Tribes of the Fallon Indian Reservation, Nevada.

Authorizes and directs the Secretary of the Interior to improve the existing irrigation system and the use of irrigated reservation lands.

H.R. 4981. March 14, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to construct a new Veterans' Administration hospital in the southern part of the State of Nevada.

H.R. 4982. March 14, 1977. Veterans' Affairs. Directs the Veterans' Administration to establish a national cemetery in the State of Nevada, and to acquire not less than 5,000 acres of land for this purpose.

H.R. 4983. March 14, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to: (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 4984. March 14, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by directing the Secretary of Labor to: (1) render on-site consultation and advice to any employer, upon the request of such employer, concerning compliance with the Act; and (2) establish programs for the education and training of employers and employees concerning hazards in particular industries.

H.R. 4985. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the tax exclusion of proceeds on industrial development bonds to certain types of issues, the proceeds of which will be used within economic development areas. Allows national banks to deal in, and underwrite, such bonds.

H.R. 4986. March 14, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that whenever cost-of-living increases are made in benefits, such amounts be further increased for individuals residing in high cost areas by a formula set forth in the Act.

H.R. 4987. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 4988. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 4989. March 14, 1977. Agriculture Establishes the price support for milk, under the Agricultural Act of 1949, at not less than 80 percent of parity, adjusted quarterly, for the period beginning on the date of enactment and ending on March 31, 1978.

H.R. 4990. March 14, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4991. March 14, 1977. Science and Technology. Authorizes appropriations for specified activities of the National Science Foundation.

Amends the National Science Foundation Act of 1950 to require the National Science Board to submit an annual report to Congress pertaining to policy issues affecting the Foundation.

Directs the Foundation to issue instructions to grantees covering the protection of students and procedures for involving students in precollege education research and development, pilot-testing, evaluation, and revision of experimental and innovative precollege curriculum projects funded by the Foundation.

H.R. 4992. March 14, 1977. Interior and Insular Affairs. Provides that grants for the Indian business development program established by the Indian Financing Act of 1974 shall be made from funds appropriated to the Bureau of Indian Affairs.

H.R. 4993. March 14, 1977. Interstate and Foreign Commerce. Directs the National Academy of Sciences to conduct a study to determine whether the section of the Federal Food, Drug, and Cosmetic Act dealing with the issuance or denial of a petition for a proposed food additive's use may be safely revised.

Directs the Academy to report its results and legislative recommendations to the Congress within six months of enactment of this Act.

Directs the Food and Drug Administration to withhold its announced prohibition of the use of saccharin in foods and beverages pending completion of such study.

H.R. 4994. March 14, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 4995. March 14, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 4996. March 14, 1977. Merchant Marine and Fisheries. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large-scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been apuroved by the Administrator and the Secretary.

H.R. 4997. March 14, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to nominate two individuals each for appointments to the Merchant Marine Academy.

H.R. 4998. March 14, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to extend benefits to Puerto Rico, the Virgin Islands, and Guam on the same basis as the States.

H.R. 4999. March 14, 1977. Ways and Means. Interstate and Foreign Commerce. Amends the Social Security Act to extend specified public assistance benefits to Guam and the Virgin Islands on the same basis as other States.

H.R. 5000. March 14, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that whenever a retired employee who is receiving a larger annuity under such Act than would be payable to the spouse of such employee, the amount payable to the surviving spouse of such an individual shall be the same amount which would have been payable to the retired employee but for his or her death.

H.R. 5001. March 14, 1977. Post Office and Civil Service. Makes surviving spouses eligible for survivors' annuities if married to the principal annuitant for at least one year. Makes such survivors eligible for an annuity equal to 55 percent of the amount such principal annuitant was eligible for at retirement plus appropriate cost-of-living increases. Permits the amount of the survivor annuity to increase if the principal annuity is increased because of reemployment of the principal annuitant without reduction in the increase of the principal annuity.

H.R. 5002. March 14, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction or modification of their habitats.

H.R. 5003. March 14, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 5004. March 14, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs; Education and Labor; Small Business. Amends the Disaster Relief Act, the Public Works and Economic Development Act, and the Small Business Act to provide for Federal assistance to areas stricken by a drought emergency.

H.R. 5005. March 14, 1977. Ways and Means. Forbids any increase in any tax imposed under the Internal Revenue Code for a four year period.

H.R. 5006. March 14, 1977. Merchant Marine and Fisheries. Makes the provisions of the Ports and Waterways Safety Act of 1972 applicable to vessels which enter into the fishery conservation zone carrying liquid cargo in bulk which is inflammable, oil, or a hazardous polluting substance.

Directs the Secretary of the department in which the Coast Guard is operating to institute specified safety measures regarding such vessels.

H.R. 5007. March 14, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to establish a three-year motor vehicle synthetic fuels research and demonstration project, in accordance with specified criteria.

Directs the Administrator to establish a program of Federal assistance to electric utilities for approved projects utilizing synthetic fuels in place of conventional fuels for the generation of electricity.

H.R. 5008. March 14, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 5009. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5010. March 14, 1977. Public Works and transportation. Amends the Urban Mass Transportation Act of 1964 to authorize the use of funds made available under such Act for the payment of operating subsidies in areas other than urbanized areas.

Directs the Secretary of Transportation to require that projects receiving Federal financial assistance under such Act be planned and operated to allow effective use of mass transportation services by elderly and handicapped persons. Directs the Secretary to establish a National Advisory Committee on Accessibility of Mass Transportation to consult with the Secretary on all matters relating to mass transportation for such individuals. Authorizes the conversion of specified loans under such Act and the Housing Amendments of 1955 into grants.

H.R. 5011. March 14, 1977. Agriculture. Amends the Federal Crop Insurance Act to increase the capital stock of the Federal Crop Insurance Corporation and to make insurance available to producers of rice, wheat, cotton and certain feed grains wherever they are grown commercially. Provides for a 25 percent Federal subsidy of premiums and removes the ceiling on appropriations. Creates a revolving fund for the Corporation in the United States Treasury and gives the Corporation discretionary borrowing authority.

H.R. 5012. March 14, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress before October 1, 1978.

H.R. 5013. March 14, 1977. Public Works and Transportation. Repeals the 55 mile per hour national speed limit.

H.R. 5014. March 14, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 5015. March 14, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay. Applies this repeal retroactively.

H.R. 5016. March 14, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by franchisor.

H.R. 5017. March 14, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 5018. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5019. March 14, 1977. Ways and Means. Amends Title IV of the Social Security Act to permit payment of benefits under the Aid to Families with Dependent children program with respect to unborn children.

H.R. 5020. March 14, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property, caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 5021. March 14, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Required that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5022. March 14, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish specified employment, training, and guidance programs for youths through prime sponsors under such Act.

Authorizes the Secretary of Labor to establish a National Occupational Information and Career Guidance Service.

Authorizes the Secretaries of Agriculture and of the Interior to extend the Youth Conservation Corps and the State youth conservation grant program and to make grants to prime sponsors for youth conservation projects.

Allows a tax credit of 20 percent of expenses for education and compensation of youths in qualified apprenticeship programs.

H.R. 5023. March 14, 1977. Judiciary. Extends the statute of limitations through 1987 for causes of action accruing before 1966 that are brought on behalf of an Indian tribe, band, or group.

H.R. 5024. March 14, 1977. Post Office and Civil Service. Prohibits the first comparability salary adjustment which would be made under the Federal Salary Act of 1967 after the date of enactment of this Act from taking effect for the Vice President, Members of Congress, judges, commissioners, and referees, and positions in the Executive Schedule.

H.R. 5025. March 14, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 5026. March 14, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 5027. March 14, 1977. Veterans' Affairs. Removes from the definition of "Veterans' Administration facility" private facilities contracted for when Government facilities are not capable of furnishing economical care because of geographic inaccessibility.

Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to: (1) any eligible veteran on an outpatient or ambulatory basis; or (2) any veteran on pension receiving a care and attendance allowance or who is permanently housebound.

H.R. 5028. March 14, 1977. Veterans' Affairs. Removes from the definition of "Veterans' Administration facility" private facilities contracted for when Government facilities are not capable of furnishing economical care because of geographic inaccessibility.

Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to: (1) any eligible veteran on an outpatient or ambulatory basis; or (2) any veteran on pension receiving a care and attendance allowance or who is permanently housebound.

H.R. 5029. March 14, 1977. Veterans' Affairs. Extends until September 30, 1983 the authority: (1) of the Administrator of Veterans' Affairs to maintain an office in the Republic of the Philippines; (2) of the President to authorize the Administrator to enter into contracts with the Veterans' Memorial Medical Center to pay for hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; (3) to make payments for such care and services; and (4) to appropriate specified sums for the training of health service personnel, for new equipment and the rehabilitation of the Veterans' Memorial Medical Center.

H.R. 5030. March 14, 1977. Veterans' Affairs. Extends until September 30, 1983 the authority: (1) of the Administrator of Veterans' Affairs to maintain an office in the Republic of the Philippines; (2) of the President to authorize the Administrator to enter into contracts with the Veterans' Memorial Medical Center to pay for hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; (3) to make payments for such care and services; and (4) to appropriate specified sums for the training of health service personnel, for new equipment and the rehabilitation of the Veterans' Memorial Medical Center.

H.R. 5031. March 14, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make payment to a medical facility which provides treatment to any alien unlawfully in the United States for the costs of such treatment when the medical facility cannot recover such costs under any other program.

H.R. 5032. March 14, 1977. Science and Technology. Authorizes the appropriation of designated sums to the National Aeronautics and Space Administration for research and development programs, construction of facilities including land acquisition, and research and program management.

Sets forth guidelines with respect to the use and availability of funds appropriated pursuant to this Act.

H.R. 5033. March 14, 1977. Veterans' Affairs. Expands the existing program of grants to States for the construction, remodeling or renovation of State veterans' care facilities to include hospital and domiciliary as well as nursing home care facilities.

H.R. 5034. March 14, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers in the United States who sustain losses incurred on or after January 1, 1973, as a direct result of contamination of their food crops, animal feedcrops, livestock (including poultry), or livestock products by toxic chemicals at levels dangerous to the public health or at such levels that the Secretary determines that the contamination has adversely affected the economic viability of the farming operation.

H.R. 5035. March 14, 1977. Interstate and Foreign Commerce. Amends the Toxic Substances Control Act to authorize the Administrator of the Environmental Protection Agency to make grants to assist States, individuals, and businesses in compensation and prevention of injuries caused by injurious chemical substances. Stipulates that priority shall be given to cases involving polybrominated biphenyls.

H.R. 5036. March 14, 1977. Judiciary. Amends the Hobbs Act to impose penalties for interfering with commerce by willfully causing property damage of at least $2,000 at or near a factory, construction site, or other place where work or business of an employer or owner is carried on or where such employer or owner transports, stores, or maintains property.

Stipulates that a violation of such provision or of the provision prohibiting interference with commerce through robbery, violent acts, or extortion shall not be nullified or mitigated by certain factors.

H.R. 5037. March 14, 1977. Ways and Means. Directs the Secretary of the Treasury to extend the expiration date of a certain temporary importation bond, notwithstanding the provisions of the Tariff Schedules.

H.R. 5038. March 14, 1977. Judiciary. Deems the service of a certain individual in the Public Health Service as active service in the armed forces, for the purposes of determining that individual's entitlement to retirement pay.

H.R. 5039. March 14, 1977. Merchant Marine and Fisheries. Authorizes and directs the Secretary of Commerce to issue a medal to a certain individual in commemoration of his service in the Merchant Marine during World War II.

H.R. 5040. March 15, 1977. International Relations. Amends the Foreign Relations Authorization Act. Fiscal Year 1977, to increase appropriations authorized for international organizations, and migration and refugee assistance. Authorizes appropriations for assistance for incarcerated citizens abroad.

Amends the Foreign Service Buildings Act, 1926, to revise the authorizations for appropriations for purchase and construction for certain foreign service buildings.

Revises requirements pertaining to Congressional delegations to the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, the North Atlantic Treaty Parliamentary Conference, and the Conference on Interparliamentary Union, under the Third Deficiency Appropriation Act, the Department of State Appropriation Act of 1959, and certain joint resolutions.

H.R. 5041. March 15, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5042. March 15, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5043. March 15, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to extend the coverage of the Act to include all aspects of production, supply, transportation, distribution, and sale of natural gas, except for sales to ultimate consumers by local distributors.

Requires all natural gas companies to file monthly reports concerning available supplies. Prohibits such companies from withholding natural gas supplies where shortages exist. Establishes procedures for seizure and allocation of natural gas reserves to alleviate shortages.

Authorizes the President to provide Federal reimbursement for a share of net losses incurred in natural gas exploration and drilling activities.

H.R. 5044. March 15, 1977. Ways and Mean. Amends the Tariff Schedules of the United States to suspend the customs duty on strontium nitrate until January 3, 1980.

H.R. 5045. March 15, 1977. Government Operations. Permits the President to formulate plans to reorganize any Federal agency without abolishing existing agencies or establishing new ones. Makes such plan effective 60 days after such plan is submitted to Congress unless disapproved by either House. Limits the authorization given the President by this Act to plans submitted within three years after the enactment of this Act.

H.R. 5046. March 15, 1976. Judiciary; Rules. Requires all rules proposed by any Federal agency except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5047. March 15, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5048. March 15, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks under Titles II and XVI falls on a Saturday, Sunday or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 5049. March 15, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 5050. March 15, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in an amount reasonably anticipated to be consumed by man or animal, or found to induce cancer in man or animal in appropriate tests based upon amounts of food additives reasonably anticipated to be consumed by man or animal.

H.R. 5051. March 15, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 5052. March 15, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend for two years the customs duty on the importation of color couplers and coupler intermediates for the manufacture of photographic sensitized material.

H.R. 5053. March 15, 1977. Agriculture. Amends the Agricultural Act of 1949 to require that beginning with the 1977 crop the support price for wheat be computed without adjustments for differences in location.

H.R. 5054. March 15, 1977. Post Office and Civil Service. Repeals the requirement that appointments in the departmental service in the District of Columbia be apportioned among the States, territories, possessions, and the District of Columbia on the basis of population.

H.R. 5055. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 5056. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5057. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5058. March 15, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth and related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.

H.R. 5059. March 15, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agritural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5060. March 15, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to develop a comprehensive plan for the development of hydroelectric power in Alaska. Requires the development of a comprehensive plan for the construction of direct current lines from Alaskan sources to the transmission system of the Bonneville Power Administration.

H.R. 5061. March 15, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5062. March 15, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

H.R. 5063. March 15, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual

act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5064. March 15, 1977. Ways and Means; Education and Labor. Amends the Social Security Act to redefine "disability" for purpose of Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

Authorizes the Secretary of Health, Education, and Welfare to prescribe by regulation the level of severity which shall be deemed to be sufficient to preclude an individual from engaging in substantial gainful work as required for a finding of disability.

H.R. 5065. March 15, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to require utilities to file curtailment plans to meet anticipated power shortages.

Requires public hearings on proposals for utility rate increases. Authorizes the Commission to take additional measures to eliminate discriminatory and anticompetitive practices by utilities.

H.R. 5066. March 15, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS–13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS–13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 5067. March 15, 1977. Post Office and Civil Service. Classifies all deputy United States marshals holding non-supervisory or non-specialist positions at GS–5 through GS–11. Classifies such marshals in supervising or specialist positions at GS–12 through GS–14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal.

H.R. 5068. March 15, 1977. Armed Services. Authorizes appropriations for fiscal year 1978 for weapons procurement by the armed forces. Establishes the authorized strength levels of each of the military departments and the level for civilian personnel positions within the Department of Defense. Sets forth the authorized average military training student load for each of the armed forces. Authorizes appropriations for fiscal year 1978 for programs of the Defense Civil Preparedness Agency.

H.R. 5069. March 15, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interestate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5070. March 15, 1977. Post Office and Civil Service. Reveals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5071. March 15, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 5072. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant to a reconsideration of the initial decision concerning such claimants eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5073. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant, to a reconsideration of the initial decision concerning such claimant's eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5074. March 15, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant to a reconsideration of the initial decision concerning such claimant's eligibitly for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 5075. March 15, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all research, extension, and teaching activity in the food and agricultural sciences conducted or financed by the Department of Agriculture and other agencies of the executive branch of the Federal Government. Authorizes the Secretary to cooperate with and assist the States in carrying out programs of animal disease research. Establishes competitive grants and teaching assistantship programs to help carry out the purposes of this Act.

H.R. 5076. March 15, 1977. Post Office and Civil Service. Requires automatic retirement of employees of the Alaska Railroad, the Panama Canal Company, or the Canal Zone Government who have attained the age of 62 years and have completed 15 years of service.

H.R. 5077. March 15, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to exclude wastewaters resulting from commercial processing of seafoods from the definition of "pollutant" under such Act.

H.R. 5078. March 15, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments of the salaries of Members of Congress.

H.R. 5079. March 15, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction or modification of their habitats.

H.R. 5080. March 15, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 5081. March 15, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this act.

H.R. 5082. March 15, 1977. Education and Labor. Amends the National Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in, or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 5083. March 15, 1977. Armed Services. Requires the Secretaries of the various armed forces to establish regional boards and panels to review discharges from the armed services under less than honorable conditions. Specifies certain mitigating and extenuating factors which such boards and panels are to consider. Authorizes the issuance of honorable discharge (limited) to individuals whose post-service behavior has been exemplary. Sets forth the procedures which the boards and panels are required to follow regarding applications for review.

H.R. 5084. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5085. March 15, 1977. Agriculture. Requires the Federal Crop Insurance Corporation, under the Federal Crop Insurance Act, to reopen, for a special period ending 30 days after this Act becomes effective, any county which for any reason the Corporation has closed to new applications for crop insurance prior to the normal closing date, upon a determination by the Secretary of Agriculture that an emergency exists in such county as a result of a natural disaster.

H.R. 5086. March 15, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5087. March 15, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5088. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself, his spouse, and any dependents.

H.R. 5089. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to increase each of the standard personal exemptions to $1,000.

H.R. 5090. March 15, 1977. Ways and Means. Amends the Internal Revenue Code of 1939 with respect to the deduction (formerly allowed) of certain medical expenses from gross income.

H.R. 5091. March 15, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for their ordinary and necessary commuting expenses.

H.R. 5092. March 15, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to abolish the professional standards review organizations which were established to review services covered under the Medicare and Medicaid programs.

H.R. 5093. March 15, 1977. Ways and Means; Amends Title XVI of the Social Security Act to prohibit the payment of supplementary security income benefits to an alien unless he is a permanent resident of the United States and has continuously resided therein for at least 1 year.

H.R. 5094. March 15, 1977. Education and Labor. Amends the Higher Education Act of 1965 to require recipients of Federal aid to higher education to give senior citizens access, on a space available basis, to scheduled courses and programs.

H.R. 5095. March 15, 1977. Interior and Insular Affairs; Amends the Outer Continental Shelf Lands Act to require that leases under such Act be issued or transferred only to United States citizens and domestic corporations.

H.R. 5096. March 15, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 5097. March 15, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 5098. March 15, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5099. March 15, 1977. Judiciary. Specifies the tax treatment of certain individuals under the Internal Revenue Code.

H.R. 5100. March 16, 1977. Ways and Means. Prohibits any reduction, by reason of outside earnings, in the old-age insurance benefits of an individual who is entitled thereto under the Social Security Act.

H.R. 5101. March 16, 1977. Science and Technology. Authorizes appropriations to the Environmental Protection Agency for environmental research, development, and demonstration activities for fiscal year 1978.

H.R. 5102. March 16, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs. Amends the Public Works and Economic Development Act of 1965 to establish within the Department of Commerce an Office of Aid to Economic Communities.

Authorizes the designation of economic disaster communities in accordance with specified criteria.

Authorizes Federal agencies to assist such areas by making available certain property and personnel.

Establishes a Federal Economic Recovery Fund within the Treasury to aid economic disaster communities.

H.R. 5103. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide refunds or credits of overpayments of the excise tax on tires arising from certain warranty readjustments.

H.R. 5104. March 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities which are engaged in the development of new schools of veterinary medicine to assist in such development. Requires applying schools to demonstrate that there is a reasonable indication that non-Federal financial resources for development will be available and that Federal assistance will accelerate the date on which the school will be able to begin its teaching program.

H.R. 5105. March 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health. Education, and Welfare to make grants to public and nonprofit private entities which are engaged in the development of new schools of veterinary medicine to assist in such development. Requires applying schools to demonstrate that there is a reasonable indication that non-Federal financial resources for development will be available and that Federal assistance will accelerate the date on which the school will be able to begin its teaching program.

H.R. 5106. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to permit reimbursement through the Federal Disability Insurance Trust Fund to private physicians for services in supplying medical evidence of record needed to evaluate claims for social security disability benefits under this title.

H.R. 5107. March 16, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to construct a project for navigation on the Blair and Sitcum Waterways, Tacoma Harbor, Washington.

H.R. 5108. March 16, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emissions data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5109. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to deny employers a tax deduction for expenses relating to employee health or accident plans which do not extend their wage or medical coverage to pregnancy disabilities and expenses.

H.R. 5110. March 16, 1977. Ways and Means. Restricts the importation of shrimp by any foreign country during 1977 and 1978 to the average annual quantity imported into the United States by such country during 1971, 1972, and 1973. Directs the Secretary of Commerce to notify the Secretary of the Treasury of the quantities imported during the base period.

Amends the Tariff Schedules of the United States to impose a customs duty on shrimp.

H.R. 5111. March 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to require the downward adjustment of the annual rate of pay for Members of Congress if the level of inflation for any calendar year exceeds the acceptable level of inflation established by Congress for such year.

H.R. 5112. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 30 percent of the first $1,000 spent by an individual during the taxable year for insulating a residence in existence on May 25, 1977.

H.R. 5113. March 16, 1977. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 5114. March 16, 1977. Judiciary. Requires rulemaking hearings which must be held under the Administrative Procedure Act and which primarily concern a single unit of local government, geographic area, or State be held within such unit, area, or State.

H.R. 5115. March 16, 1977. Interstate and Foreign Commerce. Repeals Titles XV (National Health Planning and Development) and XVI (Health Resources Developing) of the Public Health Service Act.

H.R. 5116. March 16, 1977. House Administration. Entitles to matching payments for campaign use, Congressional candidates who agree to certain reporting and recordkeeping procedures and certify that (1) they and their authorized committees will not incur campaign expenses in excess of certain limitations and (2) they have received contributions in excess of a certain sum.

Amends the Federal Election Campaign Act of 1971 to specify spending limits for candidates receiving matching payments.

Directs the Secretary of the Treasury to establish a Congressional Election Payment Account in the Presidential Election Campaign Fund.

Specifies the administrative authority of the Federal Election Commission in carrying out this Act.

H.R. 5117. March 16, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5118. March 16, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 5119. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5120. March 16, 1977. Education and

Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5121. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applications for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5122. March 16, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5123. March 16, 1977. Armed Services. Establishes the Defense Civil Preparedness Agency within the Department of Defense to prepare and conduct national programs for civil defense. Establishes a National Emergency Service Advisory Committee to consult with the Agency and the Federal Disaster Assistance Administration regarding civil defense policies.

Authorizes the President or the head of the Defense Civil Preparedness Agency to exercise certain powers during a state of civil defense emergency. Makes the Federal Government immune from civil liability for actions during such emergency. Waives the provisions of the Administrative Procedure Act during such an emergency.

H.R. 5124. March 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to approve user charge systems based upon ad valorem taxation if specified requirements are satisfied.

H.R. 5125. March 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to take specified steps to facilitate and encourage the rental of durable medical equipment and the purchase of such equipment used whenever possible.

H.R. 5126. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5127. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer, or a dependent, not exceeding $1,500 for each student.

H.R. 5128. March 16, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 5129. March 16, 1977. Armed Services. Authorizes the Secretary of Defense to contract with health maintenance organizations to provide medical care for members of the Armed Forces and their dependents.

H.R. 5130. March 16, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to limit Federal Power Commission authority to regulate prices of natural gas to new natural gas produced from offshore Federal lands. Requires that prices for the sale of other new natural gas be consistent with the ceiling established for offshore natural gas.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 5131. March 16, 1977. Post Office and Civil Service. Directs the Public Printer to reimburse any officer or employee of the Government Printing Office who earned any leave during fiscal year 1932 which such person has not taken and for which such person was not compensated.

H.R. 5132. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5133. March 16, 1977. Public Works and Transportation.

Amends the Disaster Relief Act of 1974 to authorize the President to make contributions to States or local governments to help repair or replace a public facility damaged or destroyed in an emergency. Limits the amount of any such contributions to 75 percent of the cost of repair or replacement of such facility.

H.R. 5134. March 16, 1977. Judiciary. Directs the President to appoint, by and with the advice and consent of the Senate, additional district court judges to specified judicial districts of the United States.

H.R. 5135. March 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to terminate foreign assistance and military sales unless the President certifies that the recipient country is taking adequate measures to control illegal narcotics trade.

H.R. 5136. March 16, 1977. Rules. Requires congressional committees to evaluate each Federal program every four years to determine whether such program merits continuation. Requires the Comptroller General to identify duplicative and inactive programs. Requires a note be printed on all bills and resolutions describing the costs of carrying out the provisions of such legislation and the expected savings from such legislation.

H.R. 5137. March 16, 1977. Government Operations; Judiciary; Post Office and Civil Service; Rules; Ways and Means. Requires the President to submit plans for reorganization of regulatory agencies according to a schedule set forth in this Act. Requires congressional approval of Federal agency rules. Specifies other reforms applicable to the Executive branch. Sets standards of conduct for Federal employees and officers.

H.R. 5138. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow cancer-including additives to be used in food for human consumption if the Secretary of Health, Education, and Welfare has determined the benefits of such food additive's availability outweigh its dangers.

Permits the Secretary to promulgate specific restrictions on the use of such food additives.

H.R. 5139. March 16, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 5140. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order 120 days from such publication.

Species factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5141. March 16, 1977. Ways and Means. Amends the Old-Age, Survivors, and Disability Insurance Program of the Social Security Act to provide for the payment of reduced old-age insurance benefits to women at age 55, and to provide for the payment of full wife's or widow's benefits at such age.

H.R. 5142. March 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5143. March 16, 1977. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the Medicare program at the level applicable during calendar year 1976.

H.R. 5144. March 16, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on: (1) articles assembled abroad with components produced in the United States; and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 5145. March 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for prescription drugs under the supplementary medical insurance program.

H.R. 5146. March 16, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the customs duty on competition bobsleds and luges.

H.R. 5147. March 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for retirement savings by persons who are active participants in other retirement benefit plans qualifying for special tax consideration.

Amends the Employee Retirement Income Security Act of 1974 to repeal the provision permitting pension plans providing annuities before normal retirement age to pay such benefits in other than under a qualified joint and survivor annuity.

Amends such Act and the Internal Revenue Code to require plans to provide a survivors annuity to the spouse of a participant who dies before the earliest retirement age.

H.R. 5148. March 16, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 5149. March 16, 1977. Interstate and Foreign Commerce. Establishes a national plan for no-fault automobile insurance which sets forth national standards for State no-fault insurance plans. Requires every owner of a motor vehicle registered in a State which has a no-fault insurance plan to participate in such plan as a condition precedent to operating such vehicle.

H.R. 5150. March 16, 1977. Judiciary. Authorizes the Secretary of Health, Education, and Welfare to pay for certain medical services provided to qualified individuals suffering from physical injuries attributable to the atomic bomb explosions on Japan in August 1945.

H.R. 5151. March 16, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen, or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 5152. March, 16, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 5153. March 16, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock, or products contain quantities of toxic chemicals dangerous to the public health.

H.R. 5154. March 16, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5155. March 16, 1977. Agriculture. Directs the Secretary of Agriculture to issue orders to establish projects for research and nutrition education for wheat and wheat products and studies regarding the sale, distribution, marketing, and utilization of wheat and wheat products and the creation of new wheat products. Establishes a Wheat Industry Council to carry out such orders.

H.R. 5156. March 16, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require appropriate tests before a food additive may be banned as inducing cancer in man or animal, and to permit the marketing of such an additive with appropriate warning labeling.

H.R. 5157. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5158. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5159. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5160. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5161. March 16, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 5162. March 16, 1977. Judiciary. Provides that the United States Court of Claims shall consider any claim of a certain individual with respect to his alleged false imprisonment, notwithstanding the applicable statute of limitations.

H.R. 5163. March 16, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5164. March 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5165. March 13, 1977. Education and Labor; Post Office and Civil Service; Armed Services; District of Columbia.

Amends various laws relating to maximum retirement age by deleting from such laws any mandatory or automatic retirement requirements as imposed on (1) the competitive civil service; (2) the military; (3) teachers in the District of Columbia; (4) Tax Court Judges; (5) the Director of the Federal Judicial Center; (6) Foreign Service Reserve Officers; (7) Ambassadors and Ministers; and (8) other specified Federal employees and officials.

Amends the Age Discrimination in Employment Act of 1967 to repeal the maximum age limitation to which the discrimination provisions of such Act apply. Makes it unlawful for an employer to require an employee to participate in a pension plan which makes retirement mandatory at any age.

H.R. 5166. March 17, 1977. Interstate and Foreign Commerce.

Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5167. March 17, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and promulgate model youth camp safety standards within six months after the enactment of this Act. Authorizes Federal financial assistance to States for the development of State youth camp safety plans with enforcement mechanisms.

Terminates the assistance program on September 30, 1980.

H.R. 5168. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to exempt single unit trucks from the highway use tax.

H.R. 5169. March 17, 1977. Interstate and Foreign Commerce. Amends the Emergency Natural Gas Act of 1977 to extend the emergency authorities under such Act until 1980. Includes specified industrial users within the category of high-priority users covered by such Act.

H.R. 5170. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5171. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5172. March 17, 1977. Veterans' Affairs. Repeals the delimiting period in which an eligible veteran must use his educational benefits.

H.R. 5173. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health. Directs the Secretary to consider certain factors in making such a determination.

H.R. 5174. March 17, 1977. Judiciary. Renders the United States exclusively liable for compensating damages resulting from torts, other than defamation, deceit, misrepresentation, or interference with contract rights, committed by its employees within the scope of employment.

H.R. 5175. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to postpone, from June 14, 1977 to June 14, 1981, the

termination date for deductions on transfers of partial interests in property for conservation purposes. Decreases the percentage of the gain from the sale of certified historic structures which is treated as ordinary income rather than capital gain when the special deduction for amortization has been taken for such structures.

H.R. 5176. March 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to revise the customs duty on levulose until December 31, 1980.

H.R. 5177. March 17, 1977. Post Office and Civil Service. Designates Election Day, the first Tuesday after the first Monday in November in every even numbered year, a legal public holiday.

H.R. 5178. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5179. March 17, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to establish procedures for review of instructions for high altitude performance adjustments for motor vehicle emission control systems by the Administrator of the Environmental Protection Agency.

H.R. 5180. March 17, 1977. Government Operations. Prohibits the President under any executive reorganization plan from transferring to or consolidating with another agency or abolishing the Veterans' Administration or all or part of the functions of such agency.

H.R. 5181. March 17, 1977. Post Office and Civil Service. Entitles any individual paid by a nonappropriated fund instrumentality under the jurisdiction of the armed forces which is conducted for the comfort of military personnel, to specified retirement benefits when such individual transfers without a break in service to a position to which civil service leave and retirement provisions apply.

H.R. 5182. March 17, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 5183. March 17, 1977. Small Business. Amends the Small Business Act to direct the Small Business Administration to give special preference with respect to specified subcontracts and government sales and contracts to small business concerns with 100 or fewer full-time employees.

H.R. 5184. March 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5185. March 17, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans if such Administration has determined that there is a disaster resulting from any sewage or sludge deposit, any fish kill or any oil spill.

H.R. 5186. March 17, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce. Increases the amount authorized to be appropriated for remedial measures designed to reduce radiation exposure from certain uranium mill tailings. Revises requirements with respect to State involvement in such remedial payments and remedial work.

H.R. 5187. March 17, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to require that the charge to a provider of services under such Title for the costs of utilization review shall be calculated without apportioning such costs among the non-Medicare patients of such provider.

H.R. 5188. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow unlimited individual income tax deductions for the medical care expenses incurred for the taxpayer, his spouse and dependents, and certain senior citizens who do not qualify as dependents.

H.R. 5189. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to extend the exclusion from gross income for the cancellation of certain student loans to all cancellations after 1975.

H.R. 5190. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the termination dates for the income tax exclusion of scholarships under the Armed Forces Health Professions Scholarship Program.

H.R. 5191. March 17, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any other ruling, regulation or decision reaching the same result.

H.R. 5192. March 17, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds of livestock and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5193. March 17, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5194. March 17, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed or the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 5195. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5196. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5197. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe if it is found, after tests which the Secretary of Health, Education, and Welfare determines appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal.

Directs the Secretary to consider certain factors as relevant in determining the appropriateness of such tests.

H.R. 5198. March 17, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5199. March 17, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior, acting through the Bureau of Reclamation, to implement an emergency drought assistance program of Federal loans to irrigators.

H.R. 5200. March 17, 1977. Banking, Finance and Urban Affairs; Education and Labor; Small Business. Provides emergency assistance necessitated by critical energy shortages or unusually severe weather to certain totally or partially laid off workers, businesses, and local governments.

Directs that the following executive departments and agencies participate in the administration and implementation of such assistance program: (1) Federal Disaster Assistance Administration, (2) Small Business Administration, (3) Department of Labor, and (4) Department of Commerce.

H.R. 5201. March 17, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5202. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farm trucks and soil and water conservation trucks from the highway use tax.

H.R. 5203. March 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duties on field glasses, opera glasses, binoculars, and other telescopes not designed for use with infrared light.

H.R. 5204. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $750 refundable income tax credit for each taxpayer, spouse or other dependent who is mentally or physically handicapped.

H.R. 5205. March 17, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 5206. March 17, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to provide that a creditor in substantial compliance with the provisions of the Act may not be held civilly liable under the Act.

H.R. 5207. March 17, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long-range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 5208. March 17, 1977. Post Office and Civil Service. Permits any Federal employee or official to waive the receipt of any portion of compensation to which he or she is entitled. States that such waivers shall not be considered income for Federal income tax purposes.

H.R. 5209. March 17, 1977. Post Office and Civil Service; House Administration. Reduces the retirement annuity of a Member of Congress who remains in office after becoming 70 years of age. Stipulates that the reduction does not affect the annuity of a surviving spouse, widow, widower, or child of such Member.

H.R. 5210. March 17, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5211. March 17, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5212. March 17, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 5213. March 17, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 5214, March 17, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 5215. March 17, 1977. Education and Labor. Amends the Occupational Safety and Health Act to permit a person liable for an industrial accident involving bodily injury to sue an employer if such employer's failure to comply with an industrial safety requirement caused or contributed to such injury.

Allows a person being sued by the employer in a subrogation suit to raise as a defense the employer's contributory fault or failure to comply with an industrial safety requirement.

H.R. 5216. March 17, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5217. March 17, 1977. Education and Labor. Directs the Secretary of Labor to (1) allot grants to regional employment councils to assist second career programs for unemployed and underemployed persons age 40 and older and (2) conduct research, by means of contracts and grants, to facilitate such persons entering and remaining in the labor force.

H.R. 5218. March 17, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to establish specified employment, training, and guidance programs for youths through prime sponsors under such Act, including a Youth Community Service opportunity in private enterprise, and occupational information and career guidance programs.

Authorizes the Secretary of Labor to establish a National Occupational Information and Career Guidance Service.

Requires each prime sponsor to establish an Education Work Committee within its planning council.

Directs the Secretaries of Agriculture and of the Interior to establish a National Conservation Corps.

Increases the amount authorized to be appropriated annually to the Job Corps.

H.R. 5219. March 17, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and eyeglass lenses, and examinations related to each, and dentures under the supplementary medical insurance program.

H.R. 5220. March 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow physicians, dentists and optometrists annual tax exclusions, decreasing from $20,000 to $5,000 over their first five years of medical practice in areas certified by the Secretary of Health, Education and Welfare as having an insufficient number of practicing physicians.

H.R. 5221. March 17, 1977. Interior and Insular Affairs. Establishes the George W. Norris Home National Historic Site in the State of Nebraska.

H.R. 5222. March 17, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval until the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed tranfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5223. March 17, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval until the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed transfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5224. March 17, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 5225. March 17, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5226. March 17, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to extend the coverage of such Act to individuals 65 or over, and to make unlawful seniority systems and employee benefit plans which require the retirement of individuals age 40 or over.

H.R. 5227. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5228. March 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5229. March 17, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5230. March 17, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5231. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free entry of chlorendic acid.

H.R. 5232. March 21, 1977. Armed Services. Authorizes the Secretary of the Army to make available free of charge to the State of Hawaii or through it to the Queen's Medical Center, unneeded physical facilities at Fort DeFussy, Hawaii to establish and operate a mental health clinic.

H.R. 5233. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on specified hand tools.

H.R. 5234. March 21, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to prohibit the commercial licensing of plutonium-fueled nuc'ear reactors and nuclear fuel reprocessing facilities designed to recover plutonium.

H.R. 5235. March 21, 1977. Veterans' Affairs. Shortens the World War I service requirement for pension eligibility from 90 days to any length of service beyond an initial short period of time immediately following entry into the Armed Forces during which the veteran might have been discharged or released from active service as a result of examination or processing during such short period of time.

H.R. 5236. March 21, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5237. March 21, 1977. Interstate and Foreign Commerce. Directs the National Academy of Sciences to conduct a study to determine whether the section of the Federal Food, Drug, and Cosmetic Act dealing with the issuance or denial of a petition for a proposed food additive's use may be safely revised.

Directs the Academy to report its results and legislative recommendations to the Congress within six months of enactment of this Act.

Directs the Food and Drug Administration to withhold its announced prohibition of the use of saccharin in foods and beverages pending completion of such study.

H.R. 5238. March 21, 1977. Education and

Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 5239. March 21, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 5240. March 21, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5241. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5242. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's state will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5243. March 21, 1977. Judiciary. Amends the definition of "destructive device" in the Gun Control Act of 1968 and in the provision of the Omnibus Crime Control and Safe Streets Act of 1968 prohibiting certain persons from possessing or receiving firearms to include weapons which, after expelling a projectile, remain connected to that projectile for the purpose of conducting an electric charge to it.

H.R. 5244. March 21, 1977. Education and Labor. Repeals the requirement that survivor annuities to any surviving spouse of a Federal employee be terminated upon remarriage of such surviving spouse.

H.R. 5245. March 21, 1977. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir, Wabash River, Indiana.

H.R. 5246. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetics Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 5247. March 21, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

H.R. 5248. March 31, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to extend eligibility for Golden Age Passports (lifetime admission permits for designated units of the National Park System) to include persons 60 years of age or older and blind and disabled persons.

H.R. 5249. March 21, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5250. March 21, 1977. Agriculture. Requires the quarterly adjustment of the price support for milk under the Agricultural Act of 1949.

H.R. 5251. March 21. 1977. Agriculure. Prohibits the importation of any dairy product into the United States unless it has been found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Agriculture.

H.R. 5252. March 31, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to use the statistical method known as "sampling" when taking agricultural censuses. Authorizes the Secretary to use an alternative method with respect to data regarding the statistical classification of farms when "sampling" is not appropriate. Directs the Secretary when using such an alternative method to seek to reduce the time necessary to respond to census questions. Prohibits the Secretary from using any method which imposes unnecessary requirements upon persons responding to such questions.

H.R. 5253. March 21, 1977. Agriculture. Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system from 50 to 80 percent of the estimated total cost of the Federal-State cooperative program.

H.R. 5254. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5255. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to apply the 50 percent estate tax exclusion of joint interests held by a decedent and his spouse to all such tenancies in real and personal property so long as the tenancy was created by either or both spouses and was held solely by them.

H.R. 5256. March 21, 1977. Public Works and Transportation; Ways and Means. Amends the Urban Mass Transportation Act of 1964 to increase the authorization for appropriations for specified projects under such Act. Revises the apportionment formula for funds for urbanized areas under such Act.

Changes the name of the Highway Trust Fund to the Unified Transportation Trust Fund.

Amends the Highway Revenue Act of 1956 to extend appropriations for such fund through fiscal year 1990.

Amends the Land and Water Conservation Fund Act of 1965 to extend such fund through fiscal year 1990.

Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5257. March 21, 1977. Banking, Finance and Urban Affairs. Permits the provisions of the Renegotiation Act of 1951 to be effective only when the President determines, during a period of national emergency, that having such provisions in effect is in the best interest of the United States and neither House of Congress passes a resolution within 60 days thereafter disagreeing with such determination.

H.R. 5258. March 21, 1977. Armed Services. Authorizes the Administrator of General Services to dispose of a specified amount of tin now held in the national and supplemental stockpiles.

H.R. 5259. March 21, 1977. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to direct the Administrator of the Environmental Protection Agency to compute fuel consumption rates in actual road tests to determine motor vehicle full economy in accordance with specified procedures.

Directs the National Bureau of Standards to develop an accurate and realistic method of determining actual automobile fuel consumption rates.

H.R. 5260. March 21, 1977. Agriculture. Directs the Secretary of Agriculture to make payments to farmers and ranchers who operate a beef or dairy production business in an area designated as an emergency area or major disaster area and who are forced to sell their livestock foundation herd in order to avoid excessive financial losses.

H.R. 5261. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order without 120 days of publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5262. March 21, 1977. Banking, Finance and Urban Affairs. Authorizes increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund.

H.R. 5263. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duties on certain bicycle parts and accessories.

H.R. 5264. March 21, 1977. Ways and Means. Amends the Medicare program of the Social Security Act to authorize the President to enter into agreements establishing reciprocal arrangements between such program and the program of any foreign country under which health services are provided.

H.R. 5265. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on fluorspar until June 30, 1978.

H.R. 5266. March 21, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to include the services of licensed registered nurses, physicians extenders, and nurse practitioners among the services for which payment may be made under such Titles.

H.R. 5267. March 21, 1977. Merchant Marine and Fisheries. Makes the provisions of the Ports and Waterways Safety Act of 1972 applicable to vessels which enter into the fishery conservation zone carrying liquid cargo in bulk which is inflammable, oil, or a hazardous polluting substance.

Directs the Secretary of the department in which the Coast Guard is operating to

institute specified safety measures regarding such vessels.

H.R. 5268. March 21, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5269. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to allow income, gift, and estate tax deductions for charitable transfers to the United Nations.

H.R. 5270. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to include aspen wood under rates for wood entered for particle board.

H.R. 5271. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to authorize the Secretary of Health, Education, and Welfare to issue a regulation allowing the use, for a period of not more than five years, of a food additive as a sugar substitute for which there is no adequate replacement and whose benefits to the public outweigh the risks. Permits the Secretary to either (1) require a warning label revealing any increased risk of cancer; (2) require such food additive to be dispersed only upon written or oral prescription; or (3) ban the use of such food additive.

H.R. 5272. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5273. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 5274. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to increase the deduction for individual retirement savings.

H.R. 5275. March 21, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 5276. March 21, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 5277. March 21, 1977. Government Operations. Requires the President to transmit annual reports to Congress setting forth the progress and effectiveness of Federal, State, local, and private efforts to promote equal opportunity for all Americans in areas such as health, education, rehabilitation, housing, the arts, and humanities. Establishes within the Executive Office of the President a Council of Social Advisers to assist and advise the President in the preparation of the social report required by this Act. Directs the Council to appraise specified social programs and establish an ongoing data center to collect and coordinate data measuring the social condition of the United States.

H.R. 5278. March 21, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 5279. March 21, 1977. Judiciary; Ways and Means. Directs district courts to award court costs to prevailing individual parties in civil actions where (1) an action is brought by the United States or agent thereof and the court finds that bringing of the action constituted harassment or (2) the court finds that the conduct of the United States or agent thereof which gave use to the action constituted harassment.

Directs the Tax Court to award costs to individual taxpayers who substantially prevail in a proceeding for redetermination of a deficiency.

H.R. 5280. March 21, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5281. March 21, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 5282. March 21, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 5283. March 21, 1977. Banking, Finance and Urban Affairs. Directs the National Center for Productivity and the Quality of Working Life to take specified measures to foster and aid public and nonprofit institutions to develop programs and provide services for assisting small business and State and local governments improve productivity and the quality of working life.

H.R. 5284. March 21, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1937 and the National Housing Act to provide that future social security benefit increases shall be disregarded in determining eligibility for admission to or occupancy of low-rent public housing or the rent which an individual or family must pay for such housing and eligibility for other Federal housing subsidies.

H.R. 5285. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States to set forth the customs duty on acrylic resin sheets and to exclude from tariff classification as rubber and plastics scrap or profile shapes such scrap or shapes improved by grinding on the edges, drilling, milling, hemming, or otherwise processing for a useful commercial purpose.

H.R. 5286. March 21, 1977. Ways and Means. Amends the Tariff Schedules of the United States with respect to the classification of acetone.

H.R. 5287. March 21, 1977. Agriculture; International Relations. Authorizes the Secretary of Agriculture to make shipping subsidy payments to persons selling surplus agricultural commodities for export under specified conditions.

H.R. 5288. March 21, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 5289. March 21, 1977. Ways and Means. Exempts the musical instruments of a certain individual from the provisions of the Tariff Schedules.

H.R. 5290. March 21, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5291. March 21, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5292. March 22, 1977. Merchant Marine and Fisheries; Interstate and Foreign Commerce; Judiciary. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts of trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this Act.

H.R. 5293. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pensions, or other retirement.

H.R. 5294. March 22, 1977. Banking, Finance and Urban Affairs. Amends the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Sets forth criminal and civil penalties for violations of such provisions. Requires the Federal Trade Commission and the Attorney General to oversee the enforcement of this Act.

H.R. 5295. March 22, 1977. Agriculture. Amends the Volunteers in National Forest Act to remove the limitation of the amount authorized to be appropriated for purposes of such Act.

H.R. 5296. March 22, 1977. Agriculture. Amends the Volunteers in National Forests Act of 1972 to remove the limitation of the amount authorized to be appropriated for purposes of such Act.

H.R. 5297. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require the Secretary of Health, Education, and Welfare to establish and put into effect procedures to expedite payment of monthly benefits which are delayed.

Amends Title XI (General Provisions) of the Social Security Act and the Federal Coal Mine Health and Safety Act to require the Secretary to institute measures to insure that hearings and determinations pursuant to specified provisions of such Acts are expedited. Amends Title II of the Social Security Act to limit the amount of reduction in benefits allowed to compensate for past overpayments.

H.R. 5298. March 22, 1977. Agriculture. Extends the provisions of the Rice Production

Act of 1975 through the 1981 crop years. Sets formulas for the established price and the loan for each such crop.

H.R. 5299. March 22, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 5300. March 22, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5301.—March 22, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5302. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline used for farming purposes in an aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 5303. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers maintaining households to elect either a $250 income tax credit or a $1,000 deduction for each dependent aged 65 or over who resides in their homes.

H.R. 5304. March 22, 1977. Ways and Means; Government Operations. Establishes a Task Force on the Taxation of Real Property by State and local governments to study and evaluate such taxation, its effects on middle and fixed income taxpayers and the feasibility of using Federal taxation or other methods to reduce the dependence of State and local governments on such taxation.

H.R. 5305. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the tax exempt status of farmers' and the special tax treatment of certain other cooperatives. Disallows to cooperatives any deduction for patronage dividends paid by them. Includes patronage dividends within the amounts excludible as dividends received by individuals and corporations.

H.R. 5306. March 22, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to increase the additional amounts authorized to be appropriated for fiscal year 1978 to the Land and Water Conservation Fund. Permits the Secretary of the Interior to modify boundaries of an area of the national park system. Provides for the issuance of lifetime admission permits to designated units of the National Park System to persons 60 years of age or older and to specified blind or disabled persons.

H.R. 5307. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5308. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5309. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Securty Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5310. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5311. March 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5312. March 22, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the pay for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 5313. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited nonrefundable income tax credits for specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 5314. March 22, 1977. Judiciary. Amends the Sherman Act by declaring unlawful any agreement between a labor organization and an employer whereby such employer agrees to boycott any product which is distributed in interstate or foreign commerce.

H.R. 5315. March 22, 1977. Armed Services. Authorizes the Secretary of the Army to convey to the Virginia Polytechnic Institute and State university specified lands of the United States of America at Fort Pickett, Virginia.

H.R. 5316. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 5317. March 22, 1977. Judiciary. Establishes the Office of Public Participation within the Department of Justice to award attorney's fees and other costs of participation in any agency proceeding if the participant applying for such award contributes to the determination of issues and would be financially unable to participate but for such award.

Provides for the award of participation costs in any court proceeding challenging any Federal agency action if the participant substantially prevails.

H.R. 5318. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to allow any person, partnership, or corporation injured by any unfair or deceptive trade practice to commence a civil action for relief on behalf of himself or on behalf of himself and all persons similarly situated.

Allows any person, partnership, or corporation aggrieved by any deceptive trade practice with respect to which the Commission has issued a final cease and desist order to commence an action for injunctive relief in any court of competent jurisdiction.

H.R. 5319. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5320. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5321. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthy wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5322. March 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to extend the suspension of customs duty on processed istle through June 6, 1981.

H.R. 5323. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 5324. March 22, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds of livestock and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 5325. March 22, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to

preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5326. March 22, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5327. March 22, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 5328. March 22, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customers by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 5329. March 22, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the Current Population Survey so as to provide monthly to each State statistics on the number of unemployed persons within it.

H.R. 5330. March 22, 1977. Post Office and Civil Service. Entitles a Federal employee whose position is reduced in grade to have the grade of such position treated as if such reduction had not occurred so long as such position is continued to be filled by such employee without a break in service.

H.R. 5331. March 22, 1977. Interstate and Foreign Commerce. Makes the manufacture, distribution and sale of saccharin for human consumption legal in the United States and its territories.

Requires a label with a specified message on all containers of saccharin sold after the enactment of this Act.

H.R. 5332. March 22, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 5333. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5334. March 22, 1977. Agriculture. Directs the Secretary of Agriculture, under the Food Stamp Act of 1964, to pay the bonus value of a coupon allotment to each household; (1) of which every member is either 65 or is eligible for a supplemental security income benefit under Title XVI of the Social Security Act, or for grants to the blind or disabled in Guam, Puerto Rico, and the Virgin Islands; and (2) which is eligible to participate in the food stamp program. Designates such a payment a nutritional supplemental. Prohibits the issuance of a coupon allotment to a household for any month it receives such payments.

H.R. 5335. March 22, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonforming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 5336. March 22, 1977. International Relations. Prohibits the settlement of a debt owed to the United States by a foreign country in an amount less than the full value of the debt, unless approved by Congress by concurrent resolution.

H.R. 5337. March 22, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 5338. March 22, 1977. Government Operations; House Administration; Judiciary; Post Office and Civil Service; Rules; Ways and Means. Establishes regulations for Members of Congress regarding the use of funds, the effective date of salary increases, travel allowances, and other financial matters.

Requires the publication on every piece of proposed legislation of a statement of the economic impact on the taxpaying family. Sets forth measures to facilitate communication between Members and their constituents. Defines the conditions under which elected and appointed Federal officials and employees may accept honoraria.

Establishes the Office of the General Counsel to the Congress.

H.R. 5339. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to decrease the floor on allowable medical deductions to two percent of adjusted gross income. Eliminates the one percent medical insurance with other medical care expenses for which the two percent floor is applicable.

H.R. 5340. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 5341. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5342. March 22, 1977. Interior and Insular Affairs. Allows larger acreages of specified land to be retained by the owner of such land and still remain qualified for irrigation water under the Federal reclamation laws.

H.R. 5343. March 22, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions, a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof: (1) at a construction site; and (2) directed at anyone of several persons in the construction industry who are either joint venturers or in the relationship of construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 5344. March 22, 1977. Judiciary. Establishes within the judicial branch a United States Commission on Sentencing to promulgate sentencing guidelines.

Specifies factors to be considered by a sentencing court in imposing a term of imprisonment.

Requires courts to disclose in open court and in the record reasons for imposing imprisonment.

Sets forth guidelines for court of appeals review of sentences.

H.R. 5345. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5346. March 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5347. March 22, 1977. Public Works and Transportation. Requires specific statutory authorization for each canal maintenance, repair, or reconstruction project costing $4,000,000 or more to be undertaken by the Corps of Engineers.

H.R. 5348. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow cancer-inducing additives to be used in food for human consumption if the Secretary of Health, Education, and Welfare has determined the benefits of such food additive's availability outweigh its dangers.

Permits the Secretary to promulgate specific restrictions on the use of such food additives.

Deems saccharin a safe food additive until the Secretary declares it unsafe under the provisions of this Act.

H.R. 5349. March 22, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to exclude from the income of an individual applying for such benefits, specified income earned from employment in a sheltered work setting.

H.R. 5350. March 22, 1977. Interstate and Foreign Commerce; Ways and Means; Government Operations; Science and Technology. Amends the Internal Revenue Code to 1954 to give preferential status to users of recycled or rerefined oil. Encourages use of recycled oil in Federal procurement activities.

Authorizes the Administrator of the Environmental Protection Agency to make grants for implementation and operation of State waste oil management plans.

Directs the Administrator of Energy Research and Development to conduct a program to improve the performance and marketability of recycled oil.

H.R. 5351. March 22, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5352. March 22, 1977. House Administration. Provides for the designation of any

nationally accredited law school as a depository library upon request of such law school.

H.R. 5353. March 22, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph if such individual knows or should know such film or photograph or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5354. March 22, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay a pension to veterans of World War I. Establishes maximum annual income limitations.

H.R. 5355. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to allow a State to terminate social security coverage for policemen and firemen without affecting the coverage of other public employees.

H.R. 5356. March 22, 1977. Ways and Means. Sets forth procedures by which ministers and Christian Science practitioners who have exempted themselves, under the Internal Revenue Code of 1954, from old-age and disability Social Security coverage, may revoke their exemptions and obtain coverage for the exempted period upon payment of the requisite taxes.

H.R. 5357. March 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to allow the State of New Jersey to establish a divided retirement system for purposes of providing social security coverage of State and local employees under Federal-State agreements.

H.R. 5358. March 22, 1977. Post Office and Civil Service. Repeals the provisions of the Legislative Reorganization Act of 1946 permitting automatic cost-of-living adjustments in salaries of Members of Congress.

H.R. 5359. March 22, 1977. Government Operations. Declares a national policy on investment in the private sector of the United States economy.

Requires the President to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment.

H.R. 5360. March 22, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specified lands of the United States to the University of Nevada.

H.R. 5361. March 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow use of food additive for human health purposes, even though such additive induces cancer in animals, if the Secretary of Health, Education, and Welfare determines the benefits of such use outweigh the risks.

Directs the Secretary to consider in his evaluation (1) scientific data and information on the additive; (2) the scientific validity and other conditions concerning the additive's testing on animals; and (3) the reliability of predicting cancer in humans from use of an additive found to induce cancer in animals.

H.R. 5362. March 22, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 which imposes additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) limit its application to felonies other than offenses consisting solely of the possession, transportation, or sale of a firearm, (2) replace ranges of authorized sentences with sentences for a specified number of years, (3) prohibit a probationary or suspended sentences for first, as well as for subsequent convictions, and (4) deny parole with respect to imprisonment under such provision.

H.R. 5363. March 22, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 5364. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first instance violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5365. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assesment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5366. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation, and (2) is charged with ten or less nonserious violations.

H.R. 5367. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5368. March 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5369. March 22, 1977. Interior and Insular Affairs. Amends the Energy Reorganization Act of 1974 to require that the Energy Research and Development Administration notify appropriate State legislatures of plans for radioactive waste storage facilities. Stipulates that such facilities shall not be constructed unless approved by a statewide referendum.

H.R. 5370. March 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 5371. March 22, 1977. Post Office and Civil Service. Amends the Postal Reorganization Act Amendments of 1976 to extend to 1977, the period during which the Postal Service is prohibited from: (1) increasing rates and to levels exceeding those in effect on the enactment of the Act; (2) offering levels and types of services which are less those available on July 1, 1976; and (3) closing certain postal facilities which were in operation on July 1, 1976.

H.R. 5372. March 22, 1977. Public Works and Transportation. Amends the Water Pollution Control Act to permit the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill materials into wetlands adjacent to navigable waters.

H.R. 5373. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to increase the number of mutual deposit guaranty funds qualifying as tax exempt organizations.

H.R. 5374. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to modify the age and filing requirements pertaining to the credit for the elderly for persons receiving public retirement income.

H.R. 5375. March 22, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 5376. March 22, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities must be approved by affected States prior to application for approval by the Nuclear Regulatory Commission.

Authorizes States to adopt safety standards which are more stringent than Federal requirements.

H.R. 5377. March 22, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities shall be subject to State disapproval for a 90-day period following notification of the affected State.

H.R. 5378. March 22, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small

business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 5379. March 22, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to study the hazardous conditions on the Mission Bay Harbor Entrance Channel, Quivira Basin, and Marines Cove, Calif.

H.R. 5380. March 22, 1977. Veterans' Affairs. Provides that all decisions of the Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 5381. March 22, 1977. Veterans' Affairs. Subjects all decisions of the Administrator of Veterans' Affairs to judicial review and all rules, regulations, orders and determinations of the Administrator to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 5382. March 22, 1977. Judiciary. Establishes two divisions within the eastern judicial district of New York.

H.R. 5383. March 22, 1977. Education and Labor; Post Office and Civil Service. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 5384. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5385. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5386. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5387. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 5388. March 22, 1977. Ways and Means. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5389. March 22, 1977. Ways and Means. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5390. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5391. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 5392. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5393. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5394. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5395. March 22, 1977. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to public or nonprofit private agencies or organizations for the purpose of providing legal assistance to individuals who are 60 years of age or older and who are unable to afford legal assistance in connection with their eligibility for home health care pursuant to Title XVIII (Medicare), Title XIX (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act.

H.R. 5396. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardized the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5397. March 22, 1977. Ways and Means. Amends title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing in appropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5398. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing in appropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5399. March 22, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 5400. March 22, 1977. House Administration Requires each State and local government to permit an individual who is eligible under applicable State and Federal law to register to vote in any Federal election to register on the date of a Federal election at the appropriate polling place.

Directs the Federal Election Commission to make grants to States for approved voter registration outreach programs.

Establishes the positions of Administrator and Assistant Administrator of Voter Registration within the Commission.

Prohibits commercial use of any list compiled by a State or local government of individuals registered to vote in a Federal election.

H.R. 5401. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients, and to insure mortgages made in connection with senior centers offering health, nutritional, recreational, and social facilities to elderly persons, regardless of whether such centers offer housing facilities.

Amends the Housing and Community Development Act of 1974 to authorize additional grants for the construction or maintenance of a senior center providing recreational, health, and nutritional services.

H.R. 5402. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5403. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5404. March 22, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are to be used primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act to entitle a grant recipient to an additional grant for the construction or maintenance of a senior center providing recreation, health, and nutritional services regardless of whether such centers offer housing facilities.

H.R. 5405. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5406. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5407. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5408. March 22, 1977. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a multipurpose senior citizen center or outpatient geriatric clinic.

H.R. 5409. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means.

Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5410. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5411. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5412. March 22, 1977. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Amends the Older Americans Act of 1965 by specifying the amount authorized to be appropriated in fiscal year 1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health service.

H.R. 5413. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5414. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5415. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5416. March 22, 1977. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 5417. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home of intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5418. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5419. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefits check or other income received after the patient has given such notice.

H.R. 5420. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to provide that any patient of a nursing home or intermediate care facility which is participating in the hospital insurance program under Title XVIII (Medicare) of Title XIX (Medicaid) of the Social Security Act shall have the right to terminate any contract entered into for his or her care in such home or facility upon giving the home or facility at least 30 days' written notice. Prohibits such a facility from requiring any patient to turn over to it any periodic benefit check or other income received after the patient has given such notice.

H.R. 5421. March 22, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5422. March 22, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of

the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5423. March 3, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5424. March 3, 1977. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, food care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 5425. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5426. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5427. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) or the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5428. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 5429. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5430. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5431. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5432. March 22, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to prohibit any expenditure to an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability. Allows a State to impose a lien against the estate of a deceased individual after the death of his surviving spouse on account of medical assistance paid on his behalf.

H.R. 5433. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5434. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5435. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 5436. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a Long-Term Care Services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5437. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a Long-Term Care Services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5438. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a long-term care services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5439. March 22, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a long-term care services program under the Medicare program of the Social Security Act to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5440. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5441. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5442. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5443. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or

a tax exempt organization (currently, transportation must be limited to students and employees of schools).

H.R. 5444. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5445. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5446. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5447. March 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include the depreciation, operation and maintenance costs allocable to such operation and shall be determined in the same manner as for a business related deduction.

H.R. 5448. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5449. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5450. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5451. March 22, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title II (Old-Age, Survivors, and Disability Insurance) or the Social Security Act.

H.R. 5452. March 22, 1977. Ways and Means. Interstate and Foreign Commerce. Amends title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5453. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5454. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5455. March 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to require that nursing care facilities provide specified minimum services to their patients. Establishes programs of loans and grants to nonprofit organizations for the construction and rehabilitation of such facilities. Calls for Federal action to end nursing home abuses.

Authorizes the President to call a White House Conference on Long-Term Care.

H.R. 5456. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5457. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5458. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5459. March 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to assist in the development of additional personnel training programs in geriatrics.

Amends the National Labor Relations Act to make it an unfair labor practice for an employer to discriminate against any employee who has given testimony before any congressional committee or Federal agency or department.

H.R. 5460. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affair; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5461. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5462. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5463. March 22, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Ways and Means. Amends Title XI (General Provisions) of the Social Security Act to authorize the establishment of an experimental program to provide in-home care for elderly individuals.

Amends Title XVIII (Medicare) to provide payment for in-home care, day care centers, and extended and intermediate care for the elderly under the supplementary medical insurance program. Amends Title XVIII to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term care without applying proportional allocation of overhead costs to all patients in such facilities.

H.R. 5464. March 22, 1977. Judiciary. Provides that a certain individual may assert a claim under the Trading with the Enemy Act, notwithstanding the statute of limitations.

H.R. 5465. March 22, 1977. Judiciary. Deems a certain retired military officer to have held the grade of lieutenant colonel on the date of his retirement, and receive the additional pay to which that grade would entitle him.

H.R. 5466. March 22, 1977. Judiciary. Provides that a certain individual may assert her claim against the United States for bodily injuries sustained in a motor vehicle accident, notwithstanding the applicable statute of limitations.

H.R. 5467. March 22, 1977. Judiciary. Authorizes classification of a certain individual as immediate relative for purposes of the Immigration and Nationality Act.

H.R. 5468. March 23, 1977. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 5469. March 23, 1977. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to exclude certain mission societies and their missionary members from social security taxes.

H.R. 5470. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to extend the repurchase deadline for nonrecognition of gain on the sales of former residences in the case of members of the armed forces who are stationed overseas or are required to live in government quarters.

H.R. 5471. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals limited, nonrefundable income tax credits for the higher education expenses incurred for themselves, their spouses and dependents.

H.R. 5472. March 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5473. March 23, 1977. Education and Labor. Amends the Child Prevention and Treatment Act to prohibit the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depictive, a prohibited sexual act, or (4) receive for sale any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5474. March 23, 1977. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depictive a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5475. March 23, 1977. Banking, Finance and Urban Affairs; Public Works and Transportation. Requires any person who acquires or who has acquired property as of the effective date of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for any program for which such person received Federal financial assistance and thereby displaces another person to make all relocation payments and provide all assistance required of a State agency by such Act as if the relocation was caused by such State agency under the Act.

H.R. 5476. March 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to stipulate that none of the laws restricting trade between points in the United States to vessels of the United States shall apply to inflatable boats used in river running.

H.R. 5477. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide a nonrefundable $10 income tax credit for each ton of used waste paper which is recovered and recycled in the United States by the taxpayer.

H.R. 5478. March 23, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to eliminate automatic pay adjustments for Members of Congress.

Amends the Legislative Reorganization Act of 1946 to establish the rate of pay for Members of Congress at the rate in effect on March 1, 1977.

H.R. 5479. March 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 5480. March 23, 1977. Interstate and Foreign Commerce. Suspends for two years with regard to regulations involving saccharin, the operation of the proviso in the Federal Food, Drug, and Cosmetic Act which prohibits regulatory approval of a food additive found to cause cancer.

H.R. 5481. March 23, 1977. Agriculture. Directs the Secretary of Agriculture to issue orders to establish projects for research and nutrition education for wheat and wheat products and studies regarding the sale, distribution, marketing, and utilization of wheat and wheat products and the creation of new wheat products. Establishes a Wheat Industry Council to carry out such orders.

H.R. 5482. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem an additive safe for human consumption even if it is found to induce cancer when ingested by man or animal, if the Secretary of Health, Education, and Welfare finds that (1) the benefits of such use exceed the risks; and (2) adequate labeling informs the public of the risks associated with use of the additive.

H.R. 5483. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 5484. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Securtiy Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits.

H.R. 5485. March 23, 1977. Interstate and Foreign Commerce. Authorizes to be appropriated funds for the Secretary of Health, Education, and Welfare to conduct a study of the potential carcinogenic effects of saccharin.

Directs the Secretary to submit a report on such study to the President and the Congress.

Prohibits any ban or restriction on saccharin in interstate commerce by the Secretary or any officer in the executive branch of the Federal Government for a period of three days.

H.R. 5486. March 23, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5487. March 23, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5488. March 23, 1977. Education and Labor. Amends the provisions of the National School Lunch Act concerning the summer food service program for children to authorize appropriations for 1978. Specifies the level of disbursement for, and the meals that may be served by, participating service institutions. Specifies the time at which payments must be made to States and service institutions.

Directs the Secretary of Agriculture to study the costs of food service operations and administration of the program. Authorizes the Secretary to conduct demonstration projects to better assure that needy children receive balanced meals during the summer.

H.R. 5489. March 23, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who is a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 5490. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns.

H.R. 5491. March 23, 1977. Agriculture. Revises the eligibility requirements for food coupons under the Food Stamp Act of 1964 to exclude individuals who receive one-half of their income from an individual who is not eligible for food coupons.

H.R. 5492. March 23, 1977. Education and Labor. Amends the Labor Management Relations Act of 1947 to authorize the President to appoint a board of inquiry to inquire into and, upon receiving the board's report, to direct the Attorney General to petition a district court to enjoin any actual or threatened strike or lockout which (1) affects an entire industry or substantial part thereof and (2) if allowed to occur or continue, will cause losses of agricultural crops.

H.R. 5493. March 23, 1977. Merchant Marine and Fisheries. Extends until October 1, 1980, the appropriation authorizations for the Seal Beach, and San Francisco Bay National Wildlife Refuges, California, and for the Great Dismal Swamp National Wildlife Refuge in North Carolina.

H.R. 5494. March 23, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 5495. March 23, 1977. Post Office and Civil Service. Designates the apple blossom as the national flower of the United States.

H.R. 5496. March 23, 1977. Government Operations. Obligates the Federal Government to pay to the appropriate State or local government payments in lieu of real property taxes for property which is owned by the Government but leased to a private person for the purpose of conducting a business for profit thereon. States that the amount of such payment shall equal the amount of tax that would be due if the lessee were the owner of the leased property.

H.R. 5497. March 23, 1977. International Relations; Banking, Finance and Urban Affairs. Amends the African Development Fund Act to increase the authorization of appropriations for the subscription of the United States to the African Development Fund.

H.R. 5498. March 23, 1977. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish by regulation a uniform functional accounting system and statistical system for the purpose of calculating the reasonable cost of services provided by health services institutions.

Amends Titles XVIII (Medicare) and XIX (Medicare) of the Social Security Act to require providers of services to use such uniform accounting and statistical systems in determining the cost of service provided under the provisions of such Titles.

H.R. 5499. March 23, 1977. Judiciary.

Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5500. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 5501. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to direct the Board of Directors to promote respect for human rights. Requires the Board to take into account the observance of human rights prior to approving any financial transaction in support of exports. Requires the semiannual reports of the Board to include progress on the reduction of export financing instrumentalities. Requires the Board to submit nuclear proliferation assessment statements to Congress prior to approving any extension of credit.

H.R. 5502. March 23, 1977. Armed Services. Authorizes supplemental appropriations for military construction projects for energy conservation, fuel conservation, and pollution abatement, and for military housing projects.

H.R. 5503. March 23, 1977. Appropriations: Armed Services. Revises the standards and procedures relating to the appointment, promotion, separation, and retirement of officers in the armed forces.

H.R. 5504. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5505. March 23, 1977. Interior and Insular Affairs. Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands.

H.R. 5506. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 5507. March 23, 1977. Veterans' Affairs. Gives the Administrator of Veterans' Affairs the authority to extend medical services to veterans of World War I who have non-service connected disabilities.

H.R. 5508. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that certain factors be considered in determining whether a proposed use of a food additive is safe.

H.R. 5509. March 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he dies to a prorated benefit based upon a specified formula.

H.R. 5510. March 23 1977. Judiciary. Grants a Federal charter to the Army and Navy Union of the United States of America.

H.R. 5511. March 23 1977. Post Office and Civil Service. Requires the Postal Service, before constructing a new facility, to notify and consult with any State or local government agency responsible for the administration of laws relating to the use of land upon which such construction is proposed. Authorizes such agencies to conduct hearings with respect to such proposals. Requires the Postal Service to hold such hearings if the appropriate agencies fail to do so within 90 days after notification of proposal. Prohibits the Postal Service from undertaking such construction prior to such hearing.

H.R. 5512. March 23, 1977. Post Office and Civil Service. Permits any volunteer member of a private nonprofit organization to deposit, for such organization postage free, any mailable matter relating to the activities or functions of such organization in any letterbox.

H.R. 5513. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 5514. March 23, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 5515. March 23, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health Education and Welfare to study the feasibility of broadening the purposes of the Uniformed Services University of the Health Sciences to train civilian physicians to serve in medically underserved areas.

H.R. 5516. March 23, 1977. Judiciary. Amends the Immigration and Nationality Act to make it a felony to hire or to refer for employment an alien not lawfully admitted into the United States.

Directs the Immigration and Naturalization Service to increase the number of its Border Patrol and Investigation branch personnel.

H.R. 5517. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 5518. March 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe to be marketed if it is found to induce cancer in man or animal when ingested in reasonable quantities, or found in appropriate tests to induce cancer in man or animal when ingested in reasonable quantities.

H.R. 5519. March 23, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 5520. March 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 5521. March 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 5522. March 23, 1977 Judiciary. Makes it unlawful for any individual to (1) cause or permit a child to engage in a prohibited sexual act if such act is to be filmed, photographed or form part of a live show; (2) photograph or film such act; (3) knowingly transport a film or photograph depicting such act; (4) receive for sale or sell any film or photograph depicting such act; or (5) induce or permit a child to commit a sexual act for purposes of prostitution, if such individual knows or should know such action has or may have an effect on interstate or foreign commerce.

H.R. 5523. March 23, 1977. Interior and Insular Affairs. Provides for the distribution by the Secretary of the Interior of funds appropriated to pay a judgment to the Cowlitz Tribe of Indians in a certain case before the Indian Claims Commission.

H.R. 5524. March 23, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act to authorize the appropriations to the Land and Water Conservation Fund such amounts as are necessary to make the income of the Fund not less than $900,000,000 for fiscal year 1978.

Lowers the age limit for eligibility for lifetime admission to the National parks.

H.R. 5525. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to permit States, territories, and local political subdivisions to tax property subject to a lien held by the United States or otherwise held by the Secretary of Housing and Urban Development under Title IV of such Act.

H.R. 5526. March 23, 1977. Small Business. Amends the Small Business Act to reduce the interest rates on disaster-related loans under such Act and to provide for the cancellation of a portion of principal and interest payments with respect to certain of such loans.

H.R. 5527. March 23, 1977. Small Business. Amends the Small Business Act to reduce the rate of interest on certain disaster-related loans under such Act.

H.R. 5528. March 23, 1977. Judiciary. Amends the Legal Services Corporation Act to: (1) eliminate the requirement that no more than six of the eleven members of the Legal Services Corporation Board of Directors be of the same political party; (2) subject the Corporation and State advisory councils to Government in the Sunshine Act requirements; (3) revises restrictions on political activities with respect to staff attorneys; (4) revise limitations on the use of funds made available by the Corporation; and (5) require independent hearing examiners.

H.R. 5529. March 23, 1977. Education and Labor. Establishes a program to pay supplemental benefits to uranium miners and their dependents for disability and death due to lung cancer resulting from uranium mine employment. Authorizes grants to States for research and planning programs relating to compensation for ionizing radiation injuries connected with uranium mine employment.

H.R. 5530. March 23, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amounts to which they are presently entitled.

H.R. 5531. March 23, 1977. Public Works and Transportation. Amends the Federal Water Pollution Act to require the United States to pay the entire cost of lateral sewer

connections between federally-assisted collection systems and single-family residences of low-income elderly persons age 65 or older

H.R. 5532. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit.

H.R. 5533. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reforms Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5534. March 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to stipulate that none of the laws restricting trade between points in the United States to vessels of the United States shall apply to inflatable boats used in river running.

H.R. 5535. March 23, 1977. Judiciary. Revises the provision authorizing suits against persons acting under the color of State or Territorial law for the deprivation of constitutional and Federal statutory rights to permit suits against; (1) bodies politic and; (2) persons acting under the color of law of the District of Columbia or a United States possession.

H.R. 5536. March 23, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the eligibility of mortgages for insurance and to increase the maximum allowable mortgage amounts.

Permits the Secretary of Housing and Urban Development to insure, on a permanent basis, mortgages and loans with varying rates of amortization.

H.R. 5537. March 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5538. March 23, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the age at which railroad employees and their spouses become eligible for annuities under such Act.

H.R. 5539. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a nonrefundable income tax credit for 15 percent of the amounts paid during the year for the installation of woodburning stoves in their principal residences.

H.R. 5540. March 23, 1977. Judiciary. Amends the Clayton Act to subject the operation of agricultural and horticultural organizations to the antitrust laws.

H.R. 5541. March 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5542. March 23, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 5543. March 23, 1977. Post Office and Civil Service. Directs the President, when making comparability pay adjustments for Government officials and employees, to make additional adjustments for the purpose of maintaining pay distinctions between grades, steps with grades, schedules, and other levels of pay which would exist but for the operation of the statutory requirement limiting the rates of pay of certain positions to the rate of pay for level V of the Executive Schedule.

H.R. 5544. March 23, 1977. Rules; Post Office and Civil Service. Amends the Rules of the House of Representatives to require all matters relating to Federal civil service within the jurisdiction of the House Committee on Post Office and Civil Service be referred to such Committee. Removes the authority of Federal agencies to set the number of positions within such agencies at grades GS–16, GS–17, and GS–18 and to establish scientific or professional positions outside the General Schedule. Places such authority exclusively with the Civil Service Commission but sets ceilings on such "super grades" and positions outside the General Schedule.

H.R. 5545. March 23, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of the Social Security Act to permit a State, at the request of a family receiving aid under such program, to make direct payments from such aid to a utility company or landlord to cover the family's utility or housing costs.

H.R. 5546. March 23, 1977. Judiciary. Increases the minimum amount which must be in controversy to qualify for Federal court jurisdiction based upon diversity of citizenship.

Prohibits any person from invoking diversity jurisdiction in any State of which he is a citizen. Prohibits a business entity which has maintained a business establishment for more than two years in a State from invoking diversity jurisdiction in such State in any action arising from the establishment's activities. Prohibits an individual from invoking diversity jurisdiction in any State in which he has had his present business or place of employment for more than two years.

Revises removal, venue, and joinder guidelines for diversity actions.

H.R. 5547. March 23, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize the seizure and forfeiture of vessels, vehicles, or aircraft which have been or are being used to illegally transport aliens into the United States.

H.R. 5548. March 23, 1977. Post Office and Civil Service. Increases by 25 percent the civil service annuity payments of retired employees who performed ten years of service in Alaska and continue to reside in Alaska.

H.R. 5549. March 23, 1977. Post Office and Civil Service. Requires all revenues and fees collected by the Postal Service to be deposited in the general fund of the Treasury of the United States. Requires the Postal Service to describe all operations and provide any other necessary information to Congress when seeking appropriations for its operations before the appropriate Congressional committees as required by this Act.

Requires the Postal Service to provide door or curbline mail delivery to all permanent residential addresses receiving such service on or after the date of enactment of the Postal Reorganization Act Amendments of 1976 until September 15, 1977.

H.R. 5550. March 23, 1977. Education and Labor; Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to appoint a Committee on Uniform Adoption Regulations.

Directs such Committee to review current conditions, practices, and laws relating to adoption and to propose to the Secretary uniform adoption regulations.

Directs the Secretary to make grants to States for allocation to State agencies and to public and private nonprofit adoption agencies to assist such agencies in meeting the costs involved in the adoptive placement of children.

Establishes a National Office of Adoption Information and Services. Requires the establishment of a national adoption data, tracking, and analysis system utilizing computers.

H.R. 5551. March 23, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on 2-methyl, 4-chlorophenol for three years.

H.R. 5552. March 23, 1977. Education and Labor. Amends the Headstart Follow Through Act to extend the follow through program for one year.

H.R. 5553. March 23, 1977. International Relations. Amends the Arms Control and Disarmament Act to authorize the Director of the United States Arms Control and Disarmament Agency to arrange research in the field of arms control and disarmament by institutions or persons of any country.

Amends such Act to authorize a specific appropriation for fiscal year 1978 and such sums as may be necessary for fiscal year 1979 to carry out the purposes of such Act.

H.R. 5554. March 23, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act

H.R. 5555. March 23, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5556. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5557. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5558. March 23, 1977. Judiciary. Authorizes the conditional admittance of a certain person to the United States for permanent residence.

H.R. 5559. March 24, 1977. Agriculture. Amends the Housing and Community Development Act of 1974 to require that Community Development Programs give priority to activities which benefit low-or-moderate-income families and follow a citizen participation plan prior to the submission of grant application.

H.R. 5560. March 24, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all Federal programs designed to assist agricultural producers in alleviating distress caused by natural disasters.

Providing for emergency crop production payments to producers. Amends the Agricultural Act of 1970 to require the Secretary to establish minimum reserve inventories of grain. Allows a two-year grace period for repayment of specified disaster or emergency loans granted under the Consolidated Farm and Rural Development Act. Repeals the emergency hay transporation provision of the Farmer-to-Consumer Direct Marketing Act of 1976, and replaces it with a similar program.

H.R. 5561. March 24, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to undertake a program to provide a surface water supply to Central Arizona Indian tribes. Grants the Secretary authority to acquire land and undertake various projects to assure the supply of specified amounts of water to each tribe. States that final provision of such water shall satisfy all claims of each tribe to present and future rights to surface water for farming purposes.

H.R. 5562. March 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate lands in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site and to acquire and manage such lands.

H.R. 5563. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 5564. March 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors,

and Disability Insurance) of the Social Security Act to revise the time at which eligibility for Medicare benefits on account of kidney failure commences and terminates. Revises the conditions applicable to payments for services and supplies required by self-dialysis patients.

H.R. 5565. March 24, 1977. Public Works and Transportation. Increases the national maximum speed limit from 55 m.p.h. to 65 m.p.h.

H.R. 5566. March 24, 1977. Post Office and Civil Service. Entitles Federal employees who have completed 30 years of service to an annuity, regardless of age.

H.R. 5567. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $100 in drought losses of grass, trees, shrubs, flowers, and vegetables on their residential property and family gardens.

H.R. 5568. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5569. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5570. March 24, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such a period.

Exempts from publication requirements notice of rule making proceeding for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 5571. March 24, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require lenders to post current interest rates charged for various categories of loans to consumers.

H.R. 5572. March 24, 1977. Interstate and Foreign Commerce. Makes it a violation of the Federal Trade Commission Act for any retailer to increase the price of a consumer commodity after the retailer has marked the price on that item.

Authorizes the Federal Trade Commission to issue a cease and desist order and to order the restitution of moneys received by a retailer in violation of this Act.

H.R. 5573. March 24, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to stipulate that it shall not be unlawful to hire an individual between the ages of 40 and 65 without including such individual in the employee retirement, pension or insurance plan if the exclusion is necessary to the economic survival of such plan. Prohibits the mandatory retirement of an employee between such ages under such a plan, but allows such a plan to cease to accrue benefits for an employee when the employee reaches a certain age if such cessation is necessary to the economic survival of the plan.

H.R. 5574. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 5575. March 24, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R. 5576. March 24, 1977. Judiciary. Directs that United States attorneys be appointed and subject to removal by the Attorney General rather than the President.

Eliminates set terms for United States attorneys.

H.R. 5577. March 24, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1954 to prohibit the Federal Communications Commission, when granting or renewing any radio or television broadcast license, from considering whether the applicant involved owns or has any interest in a daily newspaper which is circulated in the area to be served by the broadcast station for which such license is sought.

H.R. 5578. March 24, 1977. Judiciary. Requires any organization making expenditures in excess of a specified amount for lobbying communications or the research or preparation thereof to comply with certain record-keeping, registration, and reporting requirements.

Directs the Comptroller General to develop filing and cross-indexing systems to identify persons and organizations engaged in lobbying activities.

H.R. 5579. March 24, 1977. Ways and Means. Increases to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 5580. March 24, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 5581. March 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5582. March 24, 1977. Interstate and Foreign Commerce. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits sale of metal beverage containers with detachable openings.

H.R. 5583. March 24, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 5584. March 24, 1977. Judiciary. Removes the jurisdiction of any Federal court to enter a decree requiring the transportation of students or teachers to carry out a plan of school desegregation, and vests such jurisdiction in the State courts (and in the case of the District of Columbia and any United States territory in such Federal courts exercising essentially local jurisdiction).

Limits the appellate jurisdiction of the Supreme Court in such cases to writs of certiorari from the highest State or territorial court.

H.R. 5585. March 24, 1977. Judiciary; Education and Labor. Prohibits affirmative action programs regarding discrimination in federally assisted programs, employment discrimination, Federal grantees or contractors, or Federal employment, from requiring quotas. Prohibits a finding of discrimination to be based solely upon the composition of the work force or membership in question. Prohibits relief in certain civil rights actions unless an act of discrimination has been committed. Prohibits any remedy in a civil rights action which establishes quotas. Prohibits requiring employers or contractors to collect data applicable to discrimination except pursuant to discovery procedures.

H.R. 5586. March 24, 1977. Judiciary; Education and Labor. Establishes a Commission on School Integration to study the results of, and other questions relating to, the racial integration of public schools, and the use of busing to achieve such integration.

H.R. 5587. March 24, 1977. Ways and Means; Judiciary; Rules. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove disparities in determining benefit basis between men and women. Revises specified prerequisites of eligibility for benefits. Allows the exemption of individuals 65 years or older from social security taxes. Authorizes payments directly to providers of services under Medicare.

Amends the Internal Revenue Code of 1954 to provide income tax credit for real property taxes and a tax exclusion for interest on savings.

Imposes mandatory penalties for use of firearms during the commission of a felony.

Amends the Congressional Budget Act of 1974 to limit budget outlays to the level of Federal revenues by 1979.

H.R. 5588. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5589. March 24, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage (1) employers with ten or fewer employees; and (2) employees not employed on a regular basis for 30 or more consecutive days.

Prohibits the issuance of a citation for a first time violation to an employer if at all times 30 days prior to an inspection or investigation such employer employed 25 or fewer employees.

Exempts an employer charged with a nonserious violation from the assessment of a civil penalty if he (1) has not been previously cited for the same violation; and (2) is charged with ten or less nonserious violations.

H.R. 5590. March 24, 1977. Interstate and Foreign Commerce. Declares that the Federal Communications Act shall not be construed to require the availability of broadcasting time to any person. Repeals the "equal time"

provision relating to availability of broadcasting time to legally qualified candidates for public office.

Repeals the prohibition on political editorializing by noncommercial education broadcasting stations.

H.R. 5591. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5592. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5593. March 24, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to Congressional approval by specific resolutions passed by each House.

Amends the Legislative Reorganization Act of 1946 to establish annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 5594. March 24, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend through June 30, 1980, the customs duties on calcinated petroleum coke, not commercially suitable for use as fuel.

H.R. 5595. March 24, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5596. March 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5597. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5598. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 5599. March 24, 1977. Interior and Insular Affairs; Ways and Means. Authorizes Indian tribes to adopt, by majority vote, a constitution and by laws and provides that, upon adoption of such constitution and by-laws, a tribe shall be a corporate body, with certain powers designed to encourage the location of new private industry on tribal lands. States that any person who establishes new private industry or maintains certain existing businesses on a reservation shall qualify for certain tax incentives if he employs a work force one-half or which are Indians.

H.R. 5600. March 24, 1977. Interstate and Foreign Commerce. Requires the Securities and Exchange Commission to regulate the issuance and trading of municipal bonds and similar securities under the Securities and Exchange Act of 1933 and the Securities and Exchange Act of 1934.

H.R. 5601. March 24, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5602. March 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5603. March 24, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 5604. March 24, 1977. Agriculture. Amends the United States Grain Standards Act, as amended, to grant the Administrator of the Federal Grain Inspection Service discretion as to the subjects and processes about which he shall require complete and accurate records with respect to the official inspection or weighing of grain, and to repeal the requirement that supervision fees be paid to the Administrator by official and State agencies. Establishes an Advisory committee to advise the Administrator with respect to implementation of the act. Prohibits any official analysis or certification with respect to specified characteristics of Hard Red Winter heat.

H.R. 5605. March 24, 1977. Merchant Marine and Fisheries. Establishes the Admiralty Island National Reserve in the State of Alaska to be administered by the Secretary of the Interior for the preservation of natural and cultural resources.

H.R. 5606. March 24, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants of adolescent mothers, family planning services, social services and funds to purchase adoption services for adolescent mothers.

H.R. 5607. March 24, 1977. Ways and Means. Amends Title IV (Child Support and Establishment of Paternity) of the Social Security Act to allow the payment of lump sum or periodic payments to a spouse or former spouse as required by a decree of separation or divorce from moneys due from, or payable by, the United States.

H.R. 5608. March 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5609. March 24, 1977. Armed Services. Authorizes the Secretary of the Army to acquire specified private and State-owned lands in El Paso, Texas, in exchange for Government-owned lands.

H.R. 5610. March 24, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5611. March 24, 1977. Interior and Insular Affairs. Designates specified lands in Oregon Islands National Wildlife Refuge, Oregon, as wilderness.

H.R. 5612. March 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5613. March, 28, 1977. Post Office and Civil Service; Judiciary. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 5614. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 5615. March 28, 1977. Ways and Means. Amends the Trade Act of 1974 to provide Federal reimbursements to States for certain amounts of unemployment insurance benefits paid to workers eligible for adjustment assistance.

Repeals the provision of the Internal Revenue Code which reduces certain tax credits for employers in a State that fails to enter into, or fulfill its commitments under, a Federal-State agreement regarding the administration of worker adjustment assistance benefits.

H.R. 5616. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 5617. March 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property

placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 5618. March 28, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to make specified Interstate Commerce Commission procedures which are presently applicable to railroads applicable to other surface carriers (motor carriers, water carriers, and freight forwarders). Eliminates the present requirement that at least 30 days expire before orders relating to surface carriers of the Commission may become effective. Changes the name of the Office of Rail Public Counsel to the Office of Public Counsel. Revises the duties and authority of such Office.

Authorizes appropriations for fiscal year 1977 for the Office of Public Counsel.

H.R. 5619. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pensions, or other retirement.

H.R. 5620. March 28, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5621. March 28, 1977. Interstate and Foreign Commerce. Requires Senate confirmation of the presidential appointment of specified independent regulatory commissions. Places control of civil litigation involving such commissions and the Environmental Protection Agency (EPA) in such agencies.

Eliminates the authority of the Office of Management and Budget to review proposed legislation from independent regulatory agencies and the EPA. Requires the office to submit with its own budget recommendations, the recommendations submitted to the Office by the regulatory agencies and the EPA. Requires each such agency to respond within two days to requests for specified documents by specified congressional committees or the components of such committees.

H.R. 5622. March 28, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 5623. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5624. March 28, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 5625. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 5626. March 28, 1977. Post Office and Civil Service. Entitles a Federal employee whose position is reduced in grade to have the grade of such position treated as if such reduction had not occurred so long as such position is continued to be filled by such employee without a break in service.

H.R. 5627. March 28, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5628. March 28, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 5629. March 28, 1977. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 5630. March 28, 1977. Merchant Marine and Fisheries. Amends the Coastal Zone Management Act of 1972 to authorize appropriations to the Secretary of the Interior for annual grants to coastal States equal to 25 percent of revenues received in connection with public lands for a seven year period beginning October 1, 1977.

H.R. 5631. March 28, 1977. Judiciary. Prohibits any provision of law or rule prescribed by the Supreme Court, or the fact a prisoner had an opportunity to litigate the issue in contention in State court, from precluding appropriate relief in a Federal court to a Federal prisoner, or a State prisoner, respectively, unless the prisoner deliberately bypassed a procedure through which the issue could have been presented constituting the basis of the application for relief.

H.R. 5632. March 28, 1977. Judiciary. Repeals provisions stipulating that nothing in certain sections relating to interception of communication shall be construed to limit the power of the President to take measures to protect national security.

Directs that applications for authorizations to intercept communications in connection with specified national security crimes be made to the United States Court of Appeals for the District of Columbia.

Authorizes interceptions of communications with respect to violations of the Foreign Agents Registration Act of 1938 and the Export Administration Act of 1969.

Sets forth time limits and admissibility standards for national security surveillance. Authorizes waiver of notice to persons surveilled.

H.R. 5633. March 28, 1977. Judiciary. Requires Federal agencies under the Administrative Procedure Act to allow at least 60 days to pass after publication of intention to promulgate a rule to permit interested persons to comment thereon. Permits automatic extention of such period for an additional 30 days upon request of such party. Requires public rule making hearings to be held upon request of any such party. Requires republication of such rule if changed so substantially that promulgation of the rule as changed would deny interested parties the opportunity to comment on new or substantially modified matter within the rule.

H.R. 5634. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 5635. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5636. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5637. March 28, 1977. Ways and Means; Interstate and Foreign Commerce. Establishes a system of survey and certification, rate-setting and audit, and general regulation of long-term care facilities under the Medicaid programs of the Social Security Act. Creates a system of patient need assessment in order to determine the appropriateness of and the initial or continued need for post-hospital home health services, or intermediate health care services.

H.R. 5638. March 28, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to express Congressional approval of the Reciprocal Fisheries Agreement between the United States and Canada. Permits Canadian vessels and nationals to fish within the fishery conservation zone or for anadromous species and Continental Shelf resources beyond the zone. Exempts Canadian vessels and nationals from certain restrictions of the Fishery Conservation and Management Act of 1976. Requires persons fishing pursuant to the Agreement to furnish certain fishing

data to the Secretary of Commerce. Imposes penalties for failure to furnish such statistics.

H.R. 5639. March 28, 1977. Judiciary. Amends the Bail Reform Act of 1966 to require consideration of the safety of others and the community at large in setting conditions for pretrial release.

Permits the Government to appeal conditions of release in certain circumstances.

Directs that a convicted person who has filed on appeal be detained unless it is shown by clear and convincing evidence that the appeal raises a substantial question of law or fact.

Sets forth sanctions for violating release conditions, threatening witnesses or jurors while on release, and committing serious offenses while on release.

H.R. 5640. March 28, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal Buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5641. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 5642. March 28, 1977. Agriculture. Directs the Secretary of Agriculture to study problems associated with water supply and water resources affecting rural areas.

H.R. 5643. March 28, 1977. Ways and Means. Permits the President to enter into agreements with other countries to apply import restrictions on archaeological or ethnological material. Establishes a Cultural Property Advisory Committee to review the effectiveness of such agreements.

Directs the Secretary of the Treasury to list material covered by any agreement under this Act. Prohibits the importation of any listed article into the United States unless the State Party certifies that the exportation of such article was not in violation of the laws of the State Party. Prohibits the importation of any cultural property stolen from the inventory of a museum or similar institution.

H.R. 5644. March 28, 1977. Agriculture. Requires the Secretary of Agriculture, under the Food Stamp Act of 1964, to provide for the implementation of the food stamp and commodity distribution programs either concurrently or separately upon request by the official governing body of an Indian tribe, on behalf of eligible households of such tribe.

H.R. 5645. March 28, 1977. Judiciary. Amends the Civil Rights Act of 1957 to authorize appropriations for fiscal year 1978, for the Commission on Civil Rights.

H.R. 5646. March 28, 1977. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to direct the Consolidated Rail Corporation (Con Rail) to make premium payments in order to maintain insurance policies providing medical or life insurance benefits to employees and retirees under such Act. Entitles the corporation to a loan under such Act to make such payments. Deems such costs to be expenses of the administration of the respective estates of the railroads in reorganization.

H.R. 5647. March 28, 1977. Education and Labor. Amends the Davis-Bacon Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during that period.

H.R. 5648. March 28, 1977. Education and Labor. Amends the Davis-Bacon Act to impose penalties upon a public works contractor which replaces or attempts to replace contract employees who are on strike pursuant to a dispute between the contractor and their collective bargaining representative.

H.R. 5649. March 28, 1977. Education and Labor. Amends the Service Contract Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during that period.

H.R. 5650. March 28, 1977. Education and Labor. Amends the Service Contract Act of 1965 to require that contracts entered into by any of the armed forces contain a provision which requires the contractor or subcontractor to notify the head of the armed force involved in the event of a strike.

Requires the head of such armed force to terminate such a contract if, after notice and hearing, a determination is made that the contractor or subcontractor has replaced, or attempted to replace, any service employee participating in the strike.

H.R. 5651. March 28, 1977. Education and Labor; Judiciary. Amends the Walsh-Healey Act to deny until a collective bargaining agreement is concluded further progress payments and the exercising of any options to certain Federal contractors and subcontractors found by a factfinding panel appointed by the Federal Mediation and Conciliation Service to have control over, or to have caused, a work stoppage.

Authorizes termination of a contract with respect to which such a work stoppage occurs if no collective bargaining agreement is signed within 45 days of the stoppage and the contractor or subcontractor has failed to meet its obligations in a timely fashion during the period.

H.R. 5652. March 28, 1977. Education and Labor; Judiciary. Amends the Walsh-Healey Act to impose penalties upon a government contractor which replaces or attempts to replace public contract employees who are on strike pursuant to a dispute between the contractor and their collective bargaining representative.

H.R. 5653. March 28, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5654. March 28, 1977. Armed Services. Grants retired pay to members of the reserve components of the armed forces who did not perform active duty after September 8, 1940, and before January 1, 1947, by reason of holding a civilian occupation which was deemed to be vital to the national security, safety, and welfare and to reservists who performed at least 20 years of service after August 16, 1945.

H.R. 5655. March 28, 1977. Armed Services. Revises the method of computing retired or retainer pay for members of the armed forces who were later called to active duty before October 1, 1973, and served on active duty for at least two years.

H.R. 5656. March 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require that any hearing on claims made pursuant to such Title or to Title XVIII (Medicare) be conducted on the record and in accordance with the procedure set forth for the conduct of adjudications under the Administrative Procedure Act.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

H.R. 5657. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitations on charitable deductions and investment tax credits taken by cooperative corporations. Allows cooperatives to allocate investment tax credits among their programs.

H.R. 5658. March 28, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 5659. March 28, 1977. International Relations. Amends the Arms Export Control Act, with respect to approval for the transfer of defense articles, training, or services under that Act, to delay the effective date of such approval unit the end of the first period of 30 days of continuous Congressional session after the President has certified the proposed transfer to Congress, unless Congress disapproves such transfer by concurrent resolution within that period. Permits such proposed transfer to become effective immediately if the President certifies to Congress that a state of emergency exists which requires such transfer in the national security interests of the United States.

H.R. 5660. March 28, 1977. International Relations. Amends the Arms Exports Control Act to require the President to transmit certain information to Congress with respect to any proposed major arms sale to a non-NATO country.

Prohibits the issuance of any letter of offer for such sale if the Congress disapproves such letter by concurrent resolution, within the first period of 30 days of continuous Congressional session after receipt of Presidential certification of such offer.

H.R. 5661. March 28, 1977. Agriculture. Amends the Agricultural Act of 1949 to base specified disaster payments for wheat and feed grains on the actual acreage planted, in lieu of the farm acreage allotment base.

H.R. 5662. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral re-

sources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5663. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5664. March 28, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 5665. March 28, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to the rates of pay for Members of Congress effective only upon specific approval by a concurrent resolution adopted by both Houses of Congress. Specifies that such adjustments shall take effect at the beginning of the first session of the Congress following such approval.

Amends the Legislative Reorganization Act of 1946 to require that cost-of-living pay adjustments for Members of Congress be approved by a concurrent resolution adopted by both Houses, and take effect at the beginning of the first session of the following Congress.

H.R. 5666. March 28, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5667. March 28, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 5668. March 28, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 5669. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 5670. March 28, 1977. Ways and Means. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large-scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been approved by the Administrator and the Secretary.

H.R. 5671. March 28, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 5672. March 28, 1977. Judiciary. Declares that a certain individual completed 20 years of service in the Armed Forces for the purposes of determining his retired pay.

H.R. 5673. March 28, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5674. March 28, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5675. March 29, 1977. Banking, Finance and Urban Affairs; Ways and Means. Authorize the Secretary of the Treasury to invest any portion of the Treasury's operating cash for period of up to 90 days in obligations of depositories maintaining secured Treasury tax and loan accounts and obligations of the United States.

H.R. 5676. March 29, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Ways and Means. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

Prohibits smoking in any enclosed area open to the public in any Federal facility or interstate passenger carrier facility.

Requires the separation of smokers and nonsmokers in any restaurant, other dining facility, recreation room, or lounge in any Federal facility or interstate passenger carrier facility. Recommends, whenever possible, the separation of smoking and nonsmoking Federal employees.

Imposes an increased tax on cigarettes and authorizes the use of such revenues for cigarette-related disease research.

H.R. 5677. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5678. March 29, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 5679. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5680. March 29, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972 in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5681. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 5682. March 29, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5683. March 29, 1977. Interior and Insular Affairs. Modifies the exterior boundary of the Cibola National Forest, New Mexico.

H.R. 5684. March 29, 1977. International Relations. Prohibits the settlement of a debt owed to the United States by a foreign country in an amount less than the full value of the debt, unless approved by Congress by concurrent resolution.

H.R. 5685. March 29, 1977. Post Office and Civil Service. Requires members of all commissions, councils, and similar bodies in the Executive branch of the Government appointed from private life to serve without compensation for their services other than travel, subsistence, and other necessary expenses.

H.R. 5686. March 29, 1977. Post Office and Civil Service. Grants civil service retirement benefits comparable to those provided Federal firefighters and law enforcement officers for persons employed by the Energy Research and Development Administration as atomic energy security guards or ERDA couriers. Requires the retirement of such employees when they have attained the age of 55 years and completed 20 years of service.

H.R. 5687. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that much be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5688. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5689. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to exempt buses used in local transit systems from the excise taxes on buses, tires, inner tubes and tread rubber.

H.R. 5690. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amount of the excise tax refunds on gasoline and other motor fuels to local transit systems, and to revise the definition of tax-exempt commuter revenue. Extends the refund of the excise tax for lubricating oil to local transit systems.

H.R. 5691. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health.

Directs the Secretary to consider certain factors in such a determination.

Directs the Secretary to (1) provide an opportunity for public inspection of the data used in such a determination; and (2) require labeling of the food additive or any food containing such additive stating carcinogenic nature of such additive.

H.R. 5692. March 29, 1977. Armed Services. Authorizes the Secretaries of Defense, the Army, Navy, and Air Force to establish or develop military installations as specified locations. Authorizes appropriations for each such location. Authorizes the Secretary of Defense to construct or acquire military family housing in specified numbers at specific locations. Authorizes appropriations for each such location. Authorizes the Secretary to grant homeowner's assistance to employees and personnel of the Department when the Department has announced plans to close a military base. Repeals previous authorizations for military public works.

H.R. 5693. March 29, 1977. Post Office and Civil Service. Makes Inauguration Day, January 20 of each fourth year after 1977, a legal public holiday.

H.R. 5694. March 29, 1977. Ways and Means. Repeals the provision of the Emergency Jobs and Unemployment Assistance Act of 1974 which denies assistance and waiting period credits under the special unemployment assistance program between acadmic years or terms to certain nonprofessional employees of educational institutions or agencies.

H.R. 5695. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exhange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5696. March 29, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as condition of employment.

H.R. 5697. March 29, 1977. Judiciary. Authorizes an officer who seizes explosives in connection with an offense involving forfeiture to destroy the explosives in compliance with specified guidelines, where removal and storage is impracticable or unsafe.

H.R. 5698. March 29, 1977. Judiciary. Makes the killing of an officer or employee of the Bureau of Alcohol, Tobacco, and Firearms who is performing official duties a Federal crime.

H.R. 5699. March 29, 1977. Judiciary. Makes it a Federal criminal offense to kill any officer or employee of the Federal Communications Commission while engaged in the performance of official duties.

H.R. 5700. March 29, 1977. Interior and Insular Affairs. Amends the provision of law dealing with Shoshone and Arapahoe Indian tribal trust funds to require the Secretary of the Interior to make per capita payments of the yearly interest accruals to those tribes. Directs the Secretary, under certain circumstances, to add to the distribution fund of those trusts.

H.R. 5701. March 29, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to withdraw and segregate ten percent of the funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians and the Absentee Delaware Tribe of Western Oklahoma. Directs that ten percent of such funds be distributed to the Kansas Delaware Tribe of Indians for the payment of costs and attorney's fees, and directs that the remaining 90 percent be distributed per capita, to descendents of that tribe.

H.R. 5702. March 29, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to authorize payment of funds in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency entity or is established by the order of a court.

Increases the penalties for defrauding the Medicare and Medicaid programs.

Requires the Secretary of Health, Education, and Welfare to suspend any physican or practitioner from participation in the Medicare or Medicaid programs whenever such individual is convicted of a criminal offense related to their involvement in such programs.

H.R. 5703. March 29, 1977. Judiciary. Removes the jurisdiction of the Supreme Court of the United States and the Federal district courts over any case arising out of any State statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

H.R. 5704. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise alcoholic beverages.

H.R. 5705. March 29, 1977. Judiciary. Makes the killing of an officer or employee of the Small Business Administration who is performing official duties a Federal crime.

H.R. 5706. March 29, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to eliminate the rights of purchasers or lessees of real property to sue airport operators from damages resulting from the noise generated by the lawful operation of aircraft using such an airport. Exempts aircraft manufactured before January 1, 1974, from noise standards promulgated by the Administrator of the Federal Aviation Administration pursuant to such Act.

H.R. 5707. March 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5708. March 29, 1977. Education and Labor. Amends the section of the Comprehensive Employment and Training Act of 1973 which authorizes assistance for youth and other special programs to establish a Youth Employment Office within the Department of Labor to administer the youth programs under such section. Directs the United States Employment Service to provide employment counseling and placement services for youth. Requires that the State plans submitted in order to receive assistance for public employment services be amended to include provision for the development and promotion of employment opportunities, job counseling, and job placement for youth.

H.R. 5709. March 29, 1977. Interior and Insular Affairs. Prohibits the leasing of lands under Federal mining laws to persons engaged in more than one aspect of energy-related industries, either through the control of more than one category of energy assets, or through the participation in more than one aspect of petroleum or natural gas production, refining, transportation, or marketing activities.

H.R. 5710. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to appoint a Special Advisory Council on Social Security Financing to study ways and means by which the present system of financing may be phased out and replaced by an actuarily sound method whereby payments are made from accrued interest rather than principal or general revenue moneys.

H.R. 5711. March 29, 1977. Judiciary. Prohibits the use of Federal funds for specified activities designated to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 5712. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the tuition paid to a private nonprofit elementary or secondary educational institution for the education of a dependent.

H.R. 5713. March 29, 1977. Ways and Means. Amends the Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act, and the Internal Revenue Code of 1954 to authorize the Secretary of the Treasury to provide the Secretary of Health, Education, and Welfare with information returns filed under such Code and to permit the use of data on such returns in the administration of the Social Security program.

Revises the method of computing the length of coverage and determining insured status under the Social Security Act.

H.R. 5714. March 29, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to permit the Bank to extend credit to the Peoples Republic of China. Eliminates the avoidance of arms races between countries not menaced by Communist China from the factors considered by the President in determining whether the prohibitions against credit extensions by the Export-Import Bank for defense sales to developing countries should be waived in the national interest.

H.R. 5715. March 29, 1977. Ways and Means. Amends the Trade Act of 1974 to permit the People's Republic of China to participate in United States credit and investment programs.

H.R. 5716. March 29, 1977. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to convey by quitclaim deed to the present owner or owners of record all phosphate interests of the United States in specified lands in Lee County, Florida.

H.R. 5717. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1977 for relief and rehabilitation assistance to the victims of recent earthquakes in Romania. Authorizes the President to furnish such assistance.

H.R. 5718. March 29, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 5719. March 29, 1977. Agriculture. Amends the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to extend through the 1981 crops specified provisions of the upland cotton program. Sets a new formula for the determination of the level for nonrecourse loans, and stipulates the established price per pound of cotton at 110 percent of the loan level. Sets conditions for, and formulas for the amounts of, mandatory special limited global import quotas.

H.R. 5720. March 29, 1977. Science and Technology. Directs the Secretary of Agriculture to coordinate and carry out research culminating in the commercialization of latex from parthenium of other hydrocarbon-containing plants. Requires the Secretary to

maintain a bank of research data on native latex. Authorizes the Secretary to enter into cooperative projects with the Government of Mexico to accomplish the purposes of this Act.

Authorizes the Secretary to conduct specified activities to promote the development of native latex.

H.R. 5721. March 29, 1977. Agriculture; Science and Technology. Amends specified Acts to authorize environmentally oriented instruction, research and demonstrations at land-grant colleges, agricultural experiment stations and the Agricultural Research Service and Agricultural Extension Service.

H.R. 5722. March 29, 1977. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of human activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this Act, to: (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments; and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 5723. March 29, 1977. Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5724. March 29, 1977. Post Office and Civil Service; Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5725. March 29, 1977. Post Office and Civil Service; Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 5726. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirements for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 5727. March 29, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record

H.R. 5728. March 29, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 5729. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to increase from $50,000 to $100,000 the amount of group term life insurance which employers may purchase for employees without including it within the latter's taxable income.

H.R. 5730. March 29, 1977. Veterans' Affairs. Extends the delimiting period for completing a veteran's education program until such time as the veteran completes or ends the program, if at the close of the ordinary ten-year delimiting period the veteran is enrolled in a program.

H.R. 5731. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct education expenses incurred for the primary, secondary, or higher education of any dependent.

H.R. 5732. March 29, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to remove geographical restrictions on payment for inpatient hospital services outside the United States when the covered individual is in danger of death from injury or illness and the nearest, or most readily accessible hospital is outside the United States.

H.R. 5733. March 29, 1977. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to prohibit a pipeline company engaged in the transportation of oil from transporting any oil through its pipelines if that company has an interest in such oil.

H.R. 5734. March 29, 1977. Judiciary. Prohibits certain petroleum companies engaged in the production, transportation, refining, or marketing of petroleum assets from controlling any interest in another aspect of the petroleum industry. Directs the Federal Trade Commission to require divestment of ownership interests by affected companies.

Establishes a Temporary Petroleum Industry Divestiture Court to hear cases arising under this Act.

H.R. 5735. March 29, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 5736. March 29, 1977. Ways and Means. Amends the Social Security Act to assure that recipients of Aid to Families with Dependent Children (Title IV); Supplemental Security Income (Title XVI); specified programs of assistance to the aged, blind, and disabled (Titles I, X, and XIV); veterans' pensions and compensation; assistance under the Food Stamp Act of 1964 or the United States Housing Act of 1937; and benefits under any Federal retirement or disability program shall not have the amount of such assistance or benefits reduced because of cost-of-living increases in monthly social security benefits.

H.R. 5737. March 29, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5738. March 29, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as a condition of employment.

H.R. 5739. March 29, 1977. Banking, Finance and Urban Affairs. Prohibits State and local laws which permit the construction of buildings or other obstructions which interfere with the effective operation of solar heating and cooling equipment.

H.R. 5740. March 29, 1977. Public Works and Transportation. Requires that Federal agencies prepare energy consumption analysis prior to construction or renovation of public buildings. Details information and evaluations to be included in each such analysis.

H.R. 5741. March 29, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 5742. March 29, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to extend for three years the authorization for appropriations for the Department of Justice to carry out the control and enforcement provisions of such Act.

H.R. 5743. March 29, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decision making process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 5744. March 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service in existing manufacturing plants or in nearby areas.

H.R. 5745. March 29, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for various purpose, including a National Agricultural Research Award.

H.R. 5746. March 29, 1977. International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to increase the minimum quantity of agricultural commodities which shall be distributed for food assistance annually.

H.R. 5747. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1971 to authorize appropriations for FY 1978 for disaster relief, international narcotics control, military assistance, security supporting assistance, international military education and training, and the Middle East Special Requirements Fund.

Amends the Arms Export Control Act to authorize appropriations to carry out such Act. Increases the ceiling of credits and loans for foreign military sales. Exempt arms exports to certain countries from certain restrictions on major arms exports.

H.R. 5748. March 29, 1977. International Relations. Amends the Foreign Assistance Act of 1971 to authorize the President to make available development assistance to least developed countries.

Authorizes appropriations for fiscal year 1978 for: (1) food and nutrition assistance; (2) population planning; (3) health assistance; (4) technical, urban, and economic development; (5) education and human resources development; (6) American schools and hospitals abroad; (7) housing and credit guaranties; (8) international organizations and programs; (9) international disaster assistance; and (10) assistance to the Sahel region and to Lebanon.

Authorizes the President to study factors affecting population growth and family planning.

H.R. 5749. March 29, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5750. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5751. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay specified sums to certain corporations in full settlement of such corporations' claims against the United States.

H.R. 5752. March 29, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5753. March 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 5754. March 30, 1977. Small business. Authorizes the Small Business Administration to make Grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 5755. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to tax the unrelated income of tax-exempt organizations which is derived from farm real property.

H.R. 5756. March 30, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property by interest of which a person divest himself by virtue of this prohibition.

H.R. 5757. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5758. March 30, 1977. Agriculture. Amends the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to extend through the 1981 crops specified provisions of the upland cotton program. Sets a new formula for the determination of the level for nonrecourse loans, and stipulates the established price per pound of cotton at 110 percent of the loan level. Sets conditions for, and formulas for the amounts of, mandatory special limited global import quotas.

H.R. 5759. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, natural gas, or telephone services.

H.R. 5760. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for orthopedic shoes or other supportive devices prescribed by a physician for correction or treatment of abnormalities of the feet or legs which cause serious detrimental medical effects.

H.R. 5761. March 30, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 5762. March 30, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 5763. March 30, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow the use of a food additive found to induce cancer in animals if the Secretary of Health, Education, and Welfare determines that such food additive does not present a significant risk to human health.

Directs the Secretary to consider certain factors in making such a determination.

H.R. 5764. March 30, 1977. Interstate and Foreign Commerce. Establishes a utility services stamp program to assist low-income and fixed income households in meeting monthly utility costs. Directs the Secretary of Health, Education, and Welfare to issue coupons and administer the program.

H.R. 5765. March 30, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to permit the Federal Communications Commission to deny the renewal of any radio or television broadcast license if the licensee has broadcast information relating to any serious crime in a manner which impeded law enforcement efforts.

H.R. 5766. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 5767. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 5768. March 30, 1977. Interstate and Foreign Commerce. Authories the Consumer Product Safety Commission to establish definitions and test methods relating to flammability and combustibility.

H.R. 5769. March 30, 1977. Post Office and Civil Service. Sets the postage rate for a postal card mailed to the official address of a Member of Congress by a constituent of such Member at an amount equal to the cost of the manufacture, printing, and delivery of such card.

H.R. 5770. March 30, 1977. Public Works and Transportation. Modifies the project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, to require non-Federal interests to contribute 25 percent of the costs for spoil disposal, unless waived by the Secretary of the Army upon certain findings by the Administrator of the Environmental Protection Agency regarding dredging plans and water quality standards.

H.R. 5771. March 30, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5772. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax on civil aircraft.

Provides for the refund of the excise tax on gasoline used for farming purposes in an aircraft to the aerial applicator who purchased it.

H.R. 5773. March 30, 1977. Government Operations. Amends the Federal property and Administrative Services Act of 1949 to require Federal agencies which are about to dispose of surplus real property to first offer such property for sale to the person or entity from which such property was acquired by the Federal Government.

H.R. 5774. March 30, 1977. Interstate and Foreign Commerce. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 5775. March 30, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

Requires that a label warning of the possible risk of saccharin causing cancer be on packages of saccharin sold to the consumer.

H.R. 5776. March 30, 1977. Judiciary. Stipulates that if the relevant State judgment in a Federal habeas corpus action resulted from a trial in which illegally obtained evidence was admitted then the judgment shall have no more validity that it would have had in a proceeding for appellate review.

H.R. 5777. March 30, 1977. Public Works and Transportation. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive unsafe if it induces cancer when ingested by man or animal in quantities pathologically significant to man.

H.R. 5778. March 30, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to redefine the

term "navigable waters" to include only those waters capable of transporting interstate or foreign commerce shoreward to the ordinary high water mark.

H.R. 5779. March 30, 1977. Public Works and Transportation. Amends the Water Pollution Control Act to permit the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill materials into wetlands adjacent to navigable waters.

H.R. 5780. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide honorably discharged veterans of the Vietnam war a refundable $500 income tax credit for taxable years ending between 1976 and 1980.

H.R. 5781. March 30, 1977. Judiciary. Stipulates that, for the purpose of determining retirement pay of judges of district courts for the territories and possessions of the United States, no such judge shall be deemed to have received a salary of less than $62,000 at the time of relinquishing office.

H.R. 5782. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 5783. March 30, 1977. Post Office and Civil Service. Prohibits the U.S. Postal Service from closing any post office which serves a rural area or small town unless: (1) a majority of the persons regularly served by such post office approve the closing; (2) it establishes a rural station or branch which provides the same postal services as the post office and does not result in any change in the address of persons served by such post office; or (3) it establishes a rural route to serve the area. Allows the Postal Service to establish a rural route as a substitute for an existing post office upon making specified determinations.

H.R. 5784. March 30, 1977. International Relations. Directs the President to develop a plan for the phased withdrawal of all United States ground forces from the Republic of Korea beginning no later than July 1, 1978, and ending before July 1, 1981.

H.R. 5785. March 30, 1977. Public Works and Transportation. Names the lake located behind Lower Monumental Lock and Dam, Washington "Lake Hebert G. West."

H.R. 5786. March 30, 1977. Interior and Insular Affairs. Requires the Secretary of the Interior to: (1) designate the home of Charles S. Pierce, known as Arisbe House, in the Delaware Water Gap National Recreation Area, Pennsylvania, a national historic site; (2) establish and maintain a museum in such house; and (3) construct a building near such house to be used as a center for the study of philosophy.

H.R. 5787. March 30, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to condition certain assistance to States, local governments, and agencies thereunder on the adoption of a law enforcement officers' bill of rights.

H.R. 5788. March 30, 1977. Public Works and Transportation. Establishes a program designed to place a solar hot water and space heating devices in Federally-owned buildings. Establishes a program for the annual acquisition of photovoltaic solar electric systems, primarily for use by the Department of Defense.

H.R. 5789. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for psychologists' services under the supplementary medical insurance program. Amends Title XI (General Provisions) of the Social Security Act to require that psychologists be included in any Professional Standards Review Organization appointed under such title.

H.R. 5790. March 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to provide payment for services performed by professional clinical social workers. Includes outpatient services, community mental health centers, and neighborhood health centers among "qualified providers" under Titles XVIII and XIX. Removes specified limitations which are imposed on coverage of psychiatric and mental health services under such Titles.

H.R. 5791. March 30, 1977. Judiciary. Authorizes the Attorney General to (1) institute a civil suit for or in the name of the United States whenever there is reasonable cause to believe that a person involuntarily confined in a State correctional or health facility is being deprived of Federal constitutional or statutory rights, and (2) intervene in a case for deprivation of Federal rights brought on behalf of a person so confined.

Prohibits a person involuntarily confined in a State institution from bringing a Federal action under a certain Civil Rights Act unless State administrative remedies have been exhausted.

H.R. 5792. March 30, 1977. Judiciary. Authorizes a Federal court, upon a recommendation of the attorney for the government, to place any individual charged with a criminal offense under a program of community supervision if the court finds that the individual may benefit by such placement and that such placement is not contrary to public interest.

Authorizes the chief judge of each district to appoint an advisory committee for each program of community services and supervision within the district. Specifies the duties of such committees and of United States probation officers in carrying out such programs.

H.R. 5793. March 30, 1977. Judiciary. Authorizes Federal Prison Industries to assist qualified applicants to establish, develop, or expand projects for training and/or employing offenders.

Establishes, for the purpose of carry out the assistance program, a Federal Employment and Training Fund within the Treasury.

Includes, under the Social Security Act, and subject to employment taxes, services performed by inmates in a penal institution.

Authorizes the chief judge of each district into agreements with States to assist them in establishing offender training and employment programs.

H.R. 5794. March 30, 1977. Judiciary. Establishes procedures for the application, approval, and extension of orders authorizing the use of electric surveillance for foreign intelligence purposes. Permits the Attorney General to authorize emergency employment of such surveillance for 24 hours in the absence of a judicial order.

H.R. 5795. March 30, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 5796. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to deny the foreign tax credit for taxes paid or accrued to the Republic of South Africa.

H.R. 5797. March 30, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amounts to which they are presently entitled.

H.R. 5798. March 30, 1977. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

H.R. 5799. March 30, 1977. Judiciary. Revises the range of additional sentences authorized to be imposed under the Gun Control Act for the commission of a felony with the use of or while carrying a firearm.

Prohibits a suspended or probationary sentence with respect to a first, as well as to a subsequent, conviction for such an offense.

H.R. 5800. March 30, 1977. Interior and Insular Affairs. Authorizes the Secretary of Health, Education, and Welfare to establish a national adoption information exchange system.

H.R. 5801. March 30, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to create the Disabled Eagle passport program under which disabled persons are admitted free to designated admission fee areas in national parks and national recreation areas.

H.R. 5802. March 30, 1977. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to redefine the term "single visit" for purposes of establishing admission fees to designated units of the National Park System.

H.R. 5803. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for agency fees, court costs, attorney's fees and other necessary costs and fees incurred in the adoption of a child.

H.R. 5804. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 5805. March 30, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 5806. March 30, 1977. Interior and Insular Affairs. Establishes a revised system for Federal regulation of hardrock mining activities on Federal lands. Authorizes the Secretary of the Interior to issue prospecting licenses, and leases for exploration and development and production only if prescribed environmental criteria are met.

Imposes limits on the control of large tracts or lands or various aspects of mining operations by a single entity involved in mining of Federally leased lands.

H.R. 5807. March 30, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and promulgate model youth camp safety standards within six months after the enactment of this Act. Authorizes Federal financial assistance to States for the development of State youth camp safety plans with enforcement mechanisms.

Terminates the assistance program on September 30, 1980.

H.R. 5808. March 30, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "hospital" under such Title, rural health facilities of 50 beds or less.

Sets forth exceptions to staffing, health, and safety requirements set forth for hospitals in the definition of such term.

H.R. 5809. March 30, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 5810. March 30, 1977. Interior and

Insular Affairs. Makes changes in the management program of Redwood National Park including authorizing the Secretary of Agriculture to alter the boundaries of the Park Protection Zone. Authorizes the Secretary to acquire specified lands and sets forth procedures for such takings.

H.R. 5811. March 30, 1977. Merchant Marine and Fisheries. Authorizes the Secretary of the Treasury to issue permits to foreign-flag vessels allowing them to carry passengers from ports on the east and gulf coasts of the United States and ports in Puerto Rico until such time as the Secretary determines that there is sufficient service on United States vessels to carry such trade.

H.R. 5812. March 30, 1977. Armed Services; Judiciary; Government Operatons; Ways and Means. Reorganizes the intelligence agencies of the United States. Restricts the collection of information on any American. Limits the use of specified persons and specified methods to collect foreign intelligence. Creates civil remedies for persons whose rights have been abridged by a Federal officer acting under color of law.

H.R. 5813. March 30, 1977. District of Columbia. Requires the Mayor of the District of Columbia to include in the annual budget estimates of the Mayor, beginning with fiscal year 1977, the estimated value of water, water services, and sanitary sewer services to be furnished to the United States during the fiscal year for which such budget estimates were prepared.

Stipulates that nothing contained in this Act relieves the United States of its obligation to make payments for the water, water services and sewer services provided prior to fiscal year 1977.

Requires payment by October 1977 for all such services outstanding on that date, subject to adjustment within two fiscal years.

H.R. 5814. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5815. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5816. March 30, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Requires the Federal Trade Commission to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 5817. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 5818. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 5819. March 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a deduction for tuition expenses paid by the taxpayer during the taxable year to any institution of higher learning for the education of the taxpayer, his spouse, or any dependent to the extent the expenses exceed three percent of the adjusted gross income of the taxpayer for the taxable year.

H.R. 5820. March 30, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5821. March 30, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5822. March 30, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 10 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5823. March 30, 1977. Agriculture. Authorizes the Secretary of Agriculture, under the Agricultural Act of 1970, to: (1) include hay in the separate reserve of commodities held for the alleviation of distress caused by a natural disaster; and (2) purchase, through the Commodity Credit Corporation, wheat, feed grains, soybeans and hay in order to establish and maintain such reserve inventories.

H.R. 5824. March 30, 1977. Interstate and Foreign Commerce. Requires anyone utilizing sales representatives to solicit orders for merchandise to indemnify such representatives for income lost because the principal has taken away on account of such representative, decreased his or her territory, or reduced his or her rate of commission.

Sets forth provisions which must be covered by any contract between a sales representative and a principal providing for employment of such representative.

H.R. 5825. March 30, 1977. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-state teaching service.

H.R. 5826. March 30, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 5827. March 30, 1977. Judiciary. Directs the Attorney General to establish special drug forces in the Department of Justice composed of law enforcement personnel and special United States Attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecutive violations of the Controlled Substances Act.

H.R. 5828. March 30, 1977. Judiciary. Directs the Attorney General to establish Special Drug Forces in the Department of Justice composed of law enforcement personnel and special United States attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecute violations of the Controlled Substances Act.

H.R. 5829. March 30, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act and the Safe Drinking Water Act to authorize appropriations for fiscal years 1978 and 1979 to enable the Administrator of the Environmental Protection Agency to carry out specified programs related to the improvement of public water supply services.

H.R. 5830. March 30, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations to extend through fiscal year 1979, for Federal aid to States for public water system supervision programs.

Requires the Administrator of the Environmental Protection Agency to submit a report to Congress analyzing the anticipated cost of compliance with revised national primary drinking water regulations and methods of paying cost of compliance.

H.R. 5831. March 30, 1977. Interior and Insular Affairs. Establishes revised procedures governing the development of mineral resources on Federal lands.

H.R. 5832. March 30, 1977. International Relations. Directs the President to submit a plan to the Speaker of the House of Representatives and to specified committees of the Senate for: (1) the phased withdrawal of all United States Armed Forces and all United States tactical nuclear weapons from Korea beginning no later than fiscal year 1979 and ending by the end of fiscal year 1981; and (2) the modernization of the Armed Forces of the Republic of Korea.

H.R. 5833. March 30, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock or products contain quantities of toxic chemical dangerous to the public health.

H.R. 5834. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to raise the amount by which an individual's social security benefits are to be increased on account of delayed retirement.

H.R. 5835. March 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to a minimum of $3,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5836. March 30, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5837. March 30, 1977. Judiciary. Deems a certain retired military officer completed 20 years of service before the date of his sixtieth birthday for purposes of retirement pay.

H.R. 5838. March 30, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5839. March 30, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 5840. March 31, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

H.R. 5841. March 31, 1977. Interstate and Foreign Commerce. Amends the Federal Power Commission to take additional steps to improve the efficiency in the generation of electricity and to meet anticipated shortages. Establishes procedures to eliminate unfair methods of competition and discriminatory rate structures. Requires hearings prior to increases in utility rate schedules.

Establishes procedures for planning of bulk power facilities by electric utilities. Imposes national minimum standards for State-regulated and nonregulated utilities.

Amends the Energy Conservation and Production Act to authorize Federal assistance to State regulatory agencies. Establishes procedures for representation of consumer interests in Federal Power Commission proceedings.

H.R. 5842. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such titles.

H.R. 5843. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles owned by individuals from the highway motor vehicle use tax.

H.R. 5844. March 31, 1977. Agriculture. Establishes the Research and Demonstration Planning Committee within the Department of Agriculture to assist State departments of agriculture to determine appropriate agricultural conservation research projects. Directs the Secretary of Agriculture to make grants to such State departments, and requires recipient departments to establish model farms and agricultural conservation demonstration projects.

H.R. 5845. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide alternative limited tax credits or deductions for the expenses paid for periodic physical examinations. Amends the Social Security Act to provide for coverage of periodic physical examinations in the Medicare and Medicaid programs.

H.R. 5846. March 31, 1977. Armed Services. Excludes, industrially funded personnel from the computation of the end strength for civilian personnel within the Department of Defense for any fiscal year.

H.R. 5847. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to allow as an individual income tax deduction a reasonable allowance for salaries or other compensation for personal services actually rendered but not otherwise deductible paid to any individual during the taxable year.

H.R. 5848. March 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5849. March 31, 1977. Government Operations. Amends the Budget and Accounting Act of 1921 to authorize the Comptroller General to request and receive all necessary documents relating to any expenditure by a Federal agency to determine whether such expenditure was, in fact, made and was authorized by law.

H.R. 5850. March 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5851. March 31, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 5852. March 31, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 5853. March 31, 1977. Ways and Means. Authorizes the appropriation to the Department of the Treasury of such sums as may be necessary for the Customs Service to carry out its functions in the fiscal years, 1980 and 1981.

H.R. 5854. March 31, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5855. March 31, 1977. Judiciary. Establishes a system for a settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 5856. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 5857. March 31, 1977. Agriculture. Authorizes the Secretary of Agriculture to pay up to three-fourths of the actual cost of transporting a maximum 90-day, or when conditions warrant, a continuing supply of water from areas in which water is in plentiful supply to rural areas and livestock producers in major disaster or emergency areas, or in areas where the Secretary determines such action necessary to protect the public health and welfare.

H.R. 5858. March 31, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of crude petroleum and crude shale oil from Canada, when an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum and crude shale oil has been exported to Canada within 30 days prior to entry.

H.R. 5859. March 31, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the age limitation before which passenger ships delivered on or after December 1, 1952, can qualify for operating differential subsidies from 25 to 30 years.

H.R. 5860. March 31, 1977. Ways and Means. Authorizes the appropriation to the Department of the Treasury of such sums as may be necessary for the Customs Service to carry out its functions in the fiscal years 1980 and 1981.

H.R. 5861. March 31, 1977. Interstate and Foreign Commerce. Prohibits the Federal Trade Commission from promulgating trade regulation rules which repeal or limit use of holder in due course defenses in connection with the sale or lease of goods or services to consumers.

H.R. 5862. March 31, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Creates the Columbia Basin Energy Corporation to assist in the development of energy resources in the Pacific Northwest region. Stipulates that the responsibilities of such corporation shall include developing and generating electric energy, encouraging implementation of energy conservation measures, and encouraging development of alternate forms of energy. Establishes a separate fund in the Treasury to finance the activities of the Corporation.

H.R. 5863. March 31, 1977. Agriculture. Establishes within the Department of Agriculture an Advisory Committee on Timber Sales Procedures to study the methods by which the Forest Service sells timber and to make independent recommendations with respect to establishing procedures for such sales.

H.R. 5864. March 31, 1977. Judiciary. Approves a proposed amendment to the Federal Rules of Criminal Procedure relative to verdicts by juries less than 12 contained in an April 26, 1976 Supreme Court order.

Modifies and approves proposed amendments in such order relative to disclosure of grand jury proceedings and factfinding in nonjury trials.

Disapproves proposed amendments in such order relative to peremptory jury challenges, removal of State prosecutions, and search warrants based on oral testimony.

H.R. 5865. March 31, 1977. Judiciary. Amends the Federal Rules of Criminal Procedure to authorize issuance of a search warrant upon sworn oral testimony, communicated by telephone or otherwise, of a person not physically present before a magistrate if the magistrate is satisfied that probable cause exists.

H.R. 5866. March 31, 1977. Judiciary. Amends procedures for removing State criminal actions to Federal court to require, absent good cause, that the removal petition be filed within ten days of arraignment. Directs a United States district court, upon receiving a criminal removal petition, to promptly examine it and, if it is not appropriate for summary dismissal, conduct an evidentiary hearing.

H.R. 5867. March 31, 1977. Interstate and Foreign Commerce. Stipulates that any regulation issued under the Federal Food, Drug, and Cosmetic Act concerning the safety of saccharin as a food additive shall not take effect until two years from the date of enactment.

H.R. 5868. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the reimbursement of all of a

taxpayer's reasonable litigation expenses, including attorney's fees, in any legal action commenced by the Government, or any action instituted by a taxpayer contesting the accuracy of a deficiency assessment of claiming a refund, in which the taxpayer substantially prevails, or the Government withdraws.

H.R. 5869. March 31, 1977. Public Works and Transportation. Provides that the lake referred to as "Laurel River Lake" on the Laurel River, Kentucky, shall hereafter be known as the "John Sherman Cooper Lake," and that the dam forming such lake shall hereafter be referred to as the "John Sherman Cooper Dam."

H.R. 5870. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 5871. March 31, 1977. Appropriations. Appropriates funds for school assistance in federally affected areas for the fiscal year ending September 30, 1978.

H.R. 5872. March 31, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy commissions technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 5873. March 31, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy commissions technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 5874. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters, or to their dependents, widows to other survivors to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 5875. March 31, 1977. Interstate and Foreign Commerce. Stipulates that any regulation passed under the Federal Food, Drug, and Cosmetic Act concerning the safety of saccharin as a food additive shall not take effect until two years from the date of enactment.

H.R. 5876. March 31, 1977. Post Office and Civil Service; Rules. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to reestablish the Commission on Executive, Legislative, and Judicial Salaries as an entity meeting for one year out of every four years to recommend adjustments in pay for executive, judicial, and congressional salaries to the President who in turn is required to make specific salary level recommendations to Congress. Makes such recommendations automatically effective unless disapproved by Congress. Prohibits annual salary comparability increases in years in which pay adjustments have been made under this Act.

H.R. 5877. March 31, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 5878. March 31, 1977. Interstate and Foreign Commerce; International Relations. Directs the Federal Energy Administrator to study the feasibility and effects of establishing price, allocation, and export controls on coal, natural gas, nuclear materials, and other energy sources.

H.R. 5879. March 31, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt the Columbia Dam and Reservoir in Tennessee from certain prohibitions against the harming or killing of endangerd or threatened species attributable to the construction of such dam.

H.R. 5880. March 31, 1977. Judiciary; Rules. Authorizes the President to delay for up to one year the statutory deadline for promulgating rules by an agency to permit more time for data collection and conferring with affected parties. Makes such delay subject to Congressional disapproval. Requires wider publication of proposed rules, inclusion of a paperwork impact statement in such publication, a rule promulgation period of at least 30-days, and a 45-day period between publication of a substantive rule and its effective date.

H.R. 5881. March 31, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industy rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 5882. March 31, 1977. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 5883. March 31, 1977. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 5884. March 31, 1977. Public Works and Transportation. Authorizes the Secretary of Commerce to establish a program of Federal grants and loans to assist emergency drought impact areas.

H.R. 5885. March 31, 1977. Public Works and Transportation. Authorizes funds to be appropriated for the prosecution of the comprehensive plan of development of specified river basins. Amends the Flood Control Act to authorize the Secretary of the Army to construct bank protection works along specified sections of the Sacramento River, California.

H.R. 5886. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living pay adjustments for Members of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to salaries of Members of Congress effective only upon a resolution by the Congress approving such recommendations.

H.R. 5887. March 31, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising: (1) eligibility standards; (2) the method of determining the amount of the coupon allotment; (3) administration of the program by State agencies, including the eligibility certification procedure and duties imposed on issuing agents; and (4) the method of computing the Federal share of program costs and of making payments to the States. Transfers the functions of the Secretary of Agriculture under the Food Stamp Act of 1964 to the Secretary of Health, Education, and Welfare.

H.R. 5888. March 31, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to make insurance against damage caused by the movement of frozen water into property located along shorelines available under the national flood insurance program.

H.R. 5889. March 31, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 5890. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect before October 1, 1978.

H.R. 5891. March 31, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect before October 1, 1978.

H.R. 5892. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 5893. March 31, 1977. Ways and Means. Amends the Social Security Act to establish under Title IV (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services) a program of Foster Care Services.

Sets forth the requirements for State plans for the administration of such services.

Directs the Secretary of Health, Education, and Welfare to publish a set of uniform adoption regulations to facilitate adoptions.

H.R. 5894. March 31, 1977. Science and Technology. Authorizes and directs the Secretary of Commerce to make grants to local fire departments to pay up to one-half the cost of purchasing firefighting equipment.

H.R. 5895. March 31, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Replaces the existing program with a new program substantially similar, but: (1) eliminates charges for coupon allotments and makes coupons redeemable for cash; (2) requires national income standards of eligibility to be income guidelines for the non-farm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assitance programs; and (4) directs the Secretary to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 5896. March 31, 1977. Banking, Finance and Urban Affairs. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act of 1968 to extend the counseling and technical assistance in federal coinsurance and insurance programs.

H.R. 5897. March 31, 1977. Judiciary. Makes it unlawful to manufacture or transfer any handgun not meeting cetrain specifications or to modify any handgun if such modification results in the handgun no longer meeting such specifications.

Imposes certain mandatory prison terms for using, offering to use, carrying, or displaying a handgun during the commission of a Federal felony.

Revises certain exceptions to prohibitions against commerce in firearms by repealing the "generally suitable for sporting purposes" test and permitting commerce in circumstances otherwise complying with such exceptions so long as the firearms involved are not concealable handguns or handguns not meeting specifications.

H.R. 5898. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to change the tax exemption for wine produced for personal consumption to allow an adult to produce: (1) 200 gallons of wine for personal consumption per year if there are two or more adults in the household; or (2) 100 gallons for such consumption if there is only one adult in the household. Allows a tax exemption for beer produced by an adult for personal consumption in the amounts set forth above.

H.R. 5899. March 31, 1977. Judiciary. Amends Title VIII of the Civil Rights Act of 1968 relating to fair housing to allow the Secretary of Housing and Urban Development to initiate a civil action to enforce the provisions of such Title. Permits the court to award attorney fees to the prevailing plaintiff, whether or not plaintiff is financially able to assume such fees.

H.R. 5900. March 31, 1977. Ways and Means. Interstate and Foreign Commerce; Education and Labor; Government Operations. Establishes, as a new executive agency, the Social Security Administration.

Revises the administration of Old-Age, Survivors, and Disability Insurance, Medicare, and Supplemental Security Income under the Social Security Act. Transfers the responsibility for administering these programs and the health standards provisions of the Federal Coal Mine Health and Safety Act from the Department of Health, Education, and Welfare to such newly established Administration.

H.R. 5901. March 31, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from considerations as household income for purposes of determining: (1) eligibility for participation in the food stamp programs; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 5902. March 31, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal Housing programs.

H.R. 5903. March 31, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 5904. March 31, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 5905. March 31, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipients of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age Survivors, and Disability Insurance) of the Social Security Act.

H.R 5906. March 31, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R 5907. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5908. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorized Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5909. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5910. March 31, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 5911. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5912. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5913. March 31, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 5914. March 31, 1977. Science and Technology: International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5915. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5916. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5917. March 31, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5918. March 31, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 5919. March 31, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 5920. March 31, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for

evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 5921. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5922. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5923. March 31, 1977. Small Business; Science and Technology. Amends the Small Business Act to authorize the Small Business Administration to make loans to small business engaged in the acquisition of solar energy or other energy-conserving equipment. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish an Office of Invention and Innovation in the Energy Research and Development Administration to encourage the development of energy-related inventions. Stipulates that a specified amount of funds appropriated to the Administration shall be to assist small businesses and individual inventors.

H.R. 5924. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 5925. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and business.

H.R. 5926. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and business.

H.R. 5927. March 31, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 5928. March 31, 1977. Judiciary. Authorizes classification of a certain individual as a natural born daughter of U.S. citizens for purposes of the Immigration and Nationality Act.

H.R. 5929. March 31, 1977. Judiciary. Specifies the tax treatment of certain individuals under the Internal Revenue Code.

H.R. 5930. March 31, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individual in full settlement of such individual's claims against the United States.

H.R. 5931. March 31, 1977. Judiciary. Allows the claim of a certain individual concerning his overseas service in the U.S. Army to be considered notwithstanding the provisions of law barring such a claim.

H.R. 5932. March 31, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5933. March 31, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5934. April 4, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate lands in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site and to acquire and manage such lands.

H.R. 5935. April 4, 1977. Agriculture. through the Statistical Reporting Service, to take an enumeration of horses in the United States, by the "sampling" method if preferred, in 1978 and in every fifth year beginning after 1978.

H.R. 5936. April 4, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist in acquiring specially adapted housing for those veterans who have a permanent and total service-connected disability due to the loss, or loss of use, of one upper and one lower extremity, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

H.R. 5937. April 4, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5938. April 4, 1977. Veterans' Affairs. Extends from ten to 15 years the delimiting period in which a veteran's educational assistance must be used; except that if at the close of such 15-year period any eligible veteran is pursuing a program of education, assistance shall continue until such veteran completes or ceases to pursue it.

H.R. 5939. April 4, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by an educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Ends the current inclusion in the 85 percent of students whose fees are paid by grants from any other Federal agency.

H.R. 5940. April 4, 1977. Ways and Means. Establishes the Internal Revenue Administration in the executive branch of the Federal Government for the purpose of administering and enforcing the Internal Revenue Code.

Transfers all present functions, instructions, rules, or regulations which were promulgated or administered by the Secretary of the Treasury or his delegate with respect to the enforcement of the Internal Revenue Code, to the Internal Revenue Administration.

H.R. 5941. April 4, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 5942. April 4, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 5943. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to provide an income tax credit for expenses incurred in the conversion of farm and ranch land into qualified wind erosion control or wildlife habitat areas.

H.R. 5944. April 4, 1977. Government Operations. Authorizes the head of any Federal agency to procure property or services for such agency from areas of high unemployment if such agency head determines that bids of offers will be obtained from a sufficient number of eligible concerns to assure that awards will be made at reasonable prices.

H.R. 5945. April 4, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 5946. April 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 5947. April 4, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agricultural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5948. April 4, 1977. Agriculture. Repeals all the price support and marketing provisions relating to tobacco of the Agricultural Act of 1949, the Agricultural Adjustment Act of 1938, and related laws. Prohibits the Commodity Credit Corporation, under its Charter Act, from exercising any of its specified powers with respect to tobacco.

H.R. 5949. April 4, 1977. Judiciary. Establishes a Public Integrity Section within the Department of Justice. Authorizes the section to among other things, (1) investigate and prosecute official misconduct, (2) train and supervise appropriate employees of the Department of Justice and take other measures to facilitate investigation and prosecution of official misconduct, and (3) monitor legal developments relative to prosecution of official misconduct.

H.R. 5950. April 4, 1977. Interstate and Foreign Commerce. Exempts saccharin from the provision of the Federal Food, Drug, and Cosmetic Act banning the marketing of any food additive which induces cancer in man or animal.

SENATE—*Tuesday, October 4, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, we thank Thee for food and clothes and shelter sufficient for so many people of this land of abundance. On this "Day of Bread" make us mindful of those here and in other lands who are unfed and without hope. Give us wisdom to strive for that day when hunger is no more, when all people partake of the bounty of the Earth and live in fellowship with Thee and with one another. As we pray "Give us this day our daily bread" may we remember that man does not live by bread alone but by "every word of God." Nourish our souls on the "bread of life" until at last all men live in Thy kingdom which is both visible and invisible, temporal and eternal and the law of love rules all men's hearts. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 4, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. METZENBAUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, September 29; Friday, September 30; Saturday, October 1; and Monday, October 3, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Education, Arts, and Humanities Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Tuesday, October 4, 1977, today, to discuss the Education Amendments of 1977, S. 1753.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the Chair for recognition. I have no requirement for my time under the standing order, and I yield it back.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

PROPOSED PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, the last 2 or 3 weeks the leadership has been gracious enough to me to allow me three times a week to have time reserved for the purpose of discussing the Panama Canal treaties.

This morning I am to testify before the Committee on Foreign Relations in opposition to the treaties, and, for my remarks this morning, I ask unanimous consent that there may be printed in the RECORD a copy of the statement I will give in just a few moments before the Committee on Foreign Relations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY JAMES B. ALLEN

Mr. Chairman, thank you very much for affording to me an opportunity to state to you and to the distinguished members of the Committee on Foreign Relations my reasons for opposing ratification of the proposed Panama Canal Treaty and the proposed, so-called neutrality treaty. Although the defects in both documents are legion, in my judgment there are five major flaws, each of which on its own ground would warrant complete rejection of the arrangements negotiated, inasmuch as each would independently damage the national interest of the United States to such extent as to render it improper for the Senate to give its assent.

The five major defects, at least as I see it, are (1) the failure of the Canal Treaty to provide for an adequate defense of the Canal during the proposed 23-year term of the treaty, (2) the failure of the neutrality treaty to grant to the United States the unilateral right to intervene to assure the neutrality of the Canal Zone, (3) the astonishing provision of the Canal Treaty which forbids the United States even to negotiate with another nation for construction of a sea level canal without the express consent of Panama, (4) the decision embodied in the Canal Treaty and related loan agreements to pay to Panama some $2.262 billion, and (5) the failure of the Canal Treaty to require Congressional authorization for its proposed cession to Panama of United States territory and property.

DEFENSE OF THE CANAL

In order to understand the defense provisions of the proposed treaty, care must be taken to examine in detail the Executive Agreement in Implementation of Article IV of the Canal Treaty. Moreover, further study must be given to the annexes to the executive agreement, to the annexes to the annexes, and to the various notes, minutes, and protocols—all of which form the fabric of the joint military defense we would undertake with Panama.

I am particularly concerned, Mr. Chairman, that the drafters of the Canal Treaty saw fit to set forth the major substantive defense provisions not in the Canal Treaty in its Article IV, which is entitled "Protection and Defense," but instead in the Executive Agreement in Implementation of Article IV—an agreement which is several times as large as the entire Canal Treaty itself. Article IV of the Canal Treaty does not cover a complete printed page, yet the Agreement in Implementation of Article IV is some 53 pages long, excluding annexes and excluding an additional 22 pages of agreed minutes, the minutes themselves having their own annexes. So, Mr. Chairman, we have critical defense provisions not in the text of the treaty but rather in this executive agreement and in other extrinsic documents which could be modified from time to time by the executive branch with no requirement whatever to obtain the assent of the Senate.

Moreover, Mr. Chairman, the defense provisions set forth in the executive agreement are themselves unworkable and portend a complete withdrawal of the U.S. forces from the Canal Zone well in advance of the projected date of 2000 AD. The Administration proposes in this first executive agreement to surrender 10 out of 14 bases. Thus, we are asked at the outset to permit the surrender of 10 out of 14 military bases and to permit our forces defending the Canal to be hemmed in from day one in 4 relatively small enclaves. These bases would indeed be enclaves because our freedom of action outside of the 4 bases would be severely limited by the treaty requirement for approval of operations by a joint military board in which the United States and Panama will have equal authority. Apparently, the doctrine of unity of command is imperfectly understood at the Department of State, but the Panamanians no doubt recognize fully that this provision of the executive agreement would give a *de facto* veto of United States operations outside of the 4 retained bases.

So our forces would be restricted to 4 relatively small enclaves, and only the naive would doubt that we would very soon see pressure on our forces to withdraw from the 4 sites retained. That process of withdrawal would be facilitated by the fact that the executive department could close down any one or all of the remaining bases by amendment of the executive agreement with the stroke of a pen without the consent of the Senate or the consent of the Congress. Now, Mr. Chairman, the members of the distinguished Committee may not think that this process of accelerated withdrawal is contemplated, but I would call attention to the provision of the executive agreement implementing Article IV which provides explicitly that the agreement will be renegotiated every two years or upon the request of either government and thus tacitly acknowledges what is coming.

This treaty is for a proposed term of 23 years. Yes, we are going to need tough-minded negotiators if we plan to hang on to these 4 defense sites for a term of 23 years with the Panamanians hounding us daily for complete withdrawal and with our own government already proposing to nego-

tiate the matter on a biennial basis or upon request. Frankly, Mr. Chairman, these 4 defense sites would rest on a foundation of sand if, by Senate ratification of the Canal Treaty, the Department of State were to be given the right to agree—and they seem pretty agreeable with this dictator down there in Panama—if the Department of State were to be given the right to agree with Panama more or less at any time that the time was propitious to shut down another base.

Finally, Mr. Chairman, I would ask the Committee to consider carefully the feasibility of successful joint military operations with Panamanian forces. Over the long term we can expect problems. How can we expect full cooperation from an Army whose recruits are taught to chant in unison at their recruit training base at Fort Cimmaron, "Down with the Yankees, death to the Yankees, to the wall with the Yankees." No, Mr. Chairman, over the long term we would be naive in the extreme to expect full cooperation from Panama in any joint defense of the Canal.

CANAL NEUTRALITY

Closely related to the issue of defense is the failure of the executive branch to negotiate for the United States a right to defend the neutrality of the Canal after 2000 AD. Much has been said in the media to the effect that the United States could unilaterally preserve Canal neutrality after a full withdrawal of U.S. forces from the Isthmus of Panama, but, Mr. Chairman, a careful reading of the neutrality treaty makes it evident that, in fact, the United States would have no such right whatsoever.

The neutrality treaty simply declares that the Canal Zone is neutral and sets forth an agreement by the United States and Panama that both parties recognize the Canal's neutrality. Nowhere is the United States granted permission to determine that the neutrality of the Canal is endangered or has been violated and nowhere is the United States granted the right to intervene to insure that the Canal is not made available to an enemy nation while being denied to our Navy and merchant ships.

Additionally, Mr. Chairman, the so-called right of expeditious transit given to United States warships is totally meaningless. The failure of our negotiators to insist on privileged passage for United States war vessels could permit Panama in an emergency to delay the movement of United States warships by simply requiring those vessels to transit the Isthmus on the same "expeditious" basis as merchant ships of all nations.

As Dr. Romulo Escobar Bethancourt, chief negotiator for Panama, put the matter, "If the gringos with their warships say, 'I want to go through first,' then that there is their problem with the other ships there." Regrettably, Mr. Chairman, Dr. Escobar's analysis of the practical meaning of our right to expeditious transit, although stated undiplomatically, is nevertheless precisely correct. His complete rejection of any claim that the United States is given the right to send troops to preserve Canal neutrality also accords accurately with the language in the text. In fact, the truth is, Mr. Chairman, that Dr. Escobar's construction of the neutrality treaty, unlike the construction placed on it by our own executive department, is a construction based on the language of the treaty itself rather than on wishful thinking or on the assertions of the mass media.

SEA LEVEL CANAL

From the language in the Canal Treaty rather than from press reports, we also learn that the United States would agree not to negotiate without Panamanian consent with any country except Panama for the right to construct an interoceanic canal on any other route in the Western Hemisphere. Mr. Chairman, knowing you as I do, I feel certain you share my astonishment that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our country first obtaining the express consent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did the United States gain from the concession?

I notice with some amusement, Mr. Chairman, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. Chairman, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, with pride explained to the Panamanian National Assembly the unilateral benefits of the so-called sea level canal options. Dr. Escobar's remarks on the subject, like his remarks on neutrality, are illuminating and are worth studying in full. As Dr. Escobar explains, instead of the United States obtaining an option to build a sea level canal, the United States negotiators gave to the Panamanians the option to veto construction of a sea level canal by the United States anywhere in the Western Hemisphere.

Now, Mr. Chairman, committing the United States to deal only with Panama about building another canal is a serious mistake. As the distinguished Chairman knows, the best route for a sea level canal is in Nicaragua, that being the route that Senator John Tyler Morgan favored during consideration of Isthmian routes in the early part of this century. Senator Morgan of Alabama, who was Chairman of the Senate Committee on Interoceanic Canals, felt strongly that Nicaragua provided a more favorable political and geographical solution to the immense problems involved in constructing a canal between the two oceans. Retrospectively, he may well have been correct, yet our present treaty negotiators propose to foreclose entirely the option Senator Morgan and many others favored, an option which should at least be kept open. Certainly, with the great volume of Alaskan oil which is only now beginning to come on stream and which must move to Gulf and East Coast refineries, any relinquishment of the right to negotiate for a sea level route in Nicaragua is a very grave mistake indeed.

$2.262 BILLION TO PANAMA FOR THE RIGHT TO CEDE THE CANAL ZONE TO PANAMA

So, Mr. Chairman, we are presented a treaty which does not provide for an adequate defense of the Canal, does not give the United States the right to intervene to guarantee neutrality, and does not allow the United States to initiate new canal projects except with Panama's consent. The Canal Treaty does, on the other hand, give the Canal Zone to Panama; it does eventually also give the Panama Canal Company to Panama; it does immediately give the most lucrative operations of the Panama Canal Company to Panama; it does give 10 United States military bases to Panama; it does give Panama political jurisdiction over 37,000 United States citizens living in the Canal Zone; and finally, Mr. Chairman, it gives to Panama over the life of the treaty $2.262 billion in 1977 dollars.

You know, Mr. Chairman, ordinarily the grantee pays the grantor, but our clever negotiators have figured out a way for us to give away the Canal Zone and pay the recipient at the same time. I will not insist on going into great detail on how this $2.262 billion in 1977 dollars is to be paid to Panama because I know the Committee is fully familiar with the financial ramifications of this proposed arrangement. However, I would recommend to the Committee a careful reading of a speech given on August 19, 1977, before the Panamanian National Assembly by Panamanian Planning and Economic Policy Minister Nicolas Ardito Barletta. Minister Barletta's analysis of the cash flow of this arrangement is, in my judgment, valid, and it is from his work that I have drawn the figure $2.262 billion.

Why are we proposing to pay these tremendous sums to Panama? Why would we permit these proposed toll increases which will surely burden commerce and inflate consumer prices in the United States? The only reason I can ascertain is a desire to provide Panama with funds to repay outstanding loans from the large international banks.

The Library of Congress did a study at my request which indicates that the external public debt of Panama is some $1.7 billion. Interest on that sum is a tremendous burden on this small country of only 1.7 million inhabitants, and already 40% of current revenues in Panama go to carrying present indebtedness. Stating the matter bluntly, Panama is on the verge of bankruptcy and many of our large banks hold loans which may soon be bad debts, that is, of course, unless the United States taxpayer rescues the banks by providing the funds to Panama for repayment.

Mr. Chairman, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, to write off at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps, rejection of the Panama Canal Treaty would be a good method to send that message.

THE CONSTITUTION IGNORED

The final major defect in the treaties is perhaps the most significant since it represents a direct assault by the executive branch on the prerogatives of Congress and since it would set a precedent extending the authority of the executive branch far beyond the bounds contemplated by the authors of the Constitution of the United States.

Article IV, Section 3 of the Constitution provides that Congress "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Mr. Chairman, I know that the Attorney General has advised the Committee that the proposed treaties do not in any respect violate this clause, but with all due deference to him as a very able lawyer, I cannot share his rationalization of the clear language of the Constitution or his characterization of consistent past practice in our dealings with Panama.

In 1936 and again in 1955, cessions of United States territory to Panama were made

contingent on Congressional authorization. Yet now that a truly major cession of virtually all United States territory in the Isthmus of Panama is contemplated, the executive branch has seen fit to assert a novel theory by which the Administration would circumvent the Congress. The reason for development of this novel theory of Constitutional law is, I believe, a matter of practical politics rather than legal scholarship since public opposition to giving up the Canal is so overwhelming that any Congressional authorization of a cession of territory would be difficult, if not impossible to obtain.

But beyond the immediate question, if we in the Senate permit this circumvention of the role of the whole Congress in any cession of United States territory, we will be setting a very dangerous precedent which will surely be used again by this or future administrations to assert power in an area heretofore preserved to the Congress. My own guess is that we would next see this precedent applied to the Guantanamo Naval Base in Cuba, but perhaps other cessions of territory or property are also in the works.

So, Mr. Chairman, this Committee should not lightly endorse a departure from sound Constitutional principles simply for the political expediency of the moment. This Committee, should, instead, amend the proposed treaty at all appropriate points to make cessions of territory subject to the enactment of authorizing legislation by the Congress. I would hope that such an amendment would be one of many adopted in Committee to correct these glaring defects I have discussed.

RESERVATIONS, AMENDMENTS, AND THE FILIBUSTER

In summary, Mr. Chairman, I believe that the Senate should play a significant role in the formulation and revision of these proposed treaties so that the terms of any new arrangement with Panama can be made acceptable to the American public and so that the national security interests of the United States can be protected.

Mr. Chairman, I am sure you know of the early practice of including Senators in delegations sent to foreign countries for the purpose of negotiating treaties. That practice has unhappily in large measure ceased, and the Senate has been more and more asked for consent rather than advice. These treaties provide an excellent opportunity for the Senate to reaffirm its Constitutional prerogative and, indeed, duty to advise the Executive—to advise the President—in matters of foreign policy, particularly with respect to treaty negotiation. The Senate can give its advice through the amending process. These treaties should be amended to cure their obvious defects, and since any amendment will require a renegotiation of the amended treaty, the Administration will be advised by these Senate amendments of what is acceptable to the Senate and to the people and what might later receive Senate consent.

Reservations to these treaties would be of little or no value. Reservations simply state the opinion of the Senate and do not have the full force and effect of law. No, Mr. Chairman, the defects in these treaties require outright amendment, and I strongly urge that the Committee take in hand the process of amending the treaties before reporting the treaties to the Senate, at which time the Senate will first receive them as the Committee of the Whole. Although there will be ample opportunity, I am certain, for amendment in the Committee of the Whole and on the floor of the Senate, certainly the Committee on Foreign Relations should play the leading role in molding and amending these documents and giving thereby to the Administration its advice on arrangements with Panama.

Finally, Mr. Chairman, I would comment that I do not foresee a filibuster of these proposed treaties. I do foresee a full discussion, legitimate debate, and consideration of substantive and serious amendments. A filibuster would be pointless, both because a filibuster could be stopped by 60 Senators whereas the treaties could be stopped by 34 Senators and because both treaties present questions which should be disposed of without undue delay.

Inasmuch as the concerns of the citizens of the United States are fairly evident, the Senate should with deliberation, but nevertheless promptly, discharge its duty in considering ratification. No good purpose would be served by having these proposed treaties more or less hanging around for years. They should be put to the test of ratification expeditiously, and it is my own sincere hope that the wisdom and desires of the people of the United States will be respected and that accordingly the treaties will be defeated.

Thank you for the opportunity to appear before this distinguished Committee and before its distinguished Chairman, who is my friend and senior colleague.

TWENTIETH ANNIVERSARY OF SPACE AGE

Mr. ALLEN. Now, on another subject, Mr. President, I wish to comment on what might well be called the 20th anniversary of the space age and of the contribution that was made by government facilities at Huntsville, Ala., in this great space effort.

Mr. President, historic facts cannot be denied, and it is a fact that on October 4, 1957, just 20 years ago today, the entire world was electrified by the successful launching by Russia of Sputnik One. The launching of that first satellite marked the beginning of a new era for all mankind, and, in looking back, the Russian "first" was the impetus necessary for America's belated entry into the space race and into the space age.

Although the Soviet Union had a running start, the United States now holds uncontested leadership in space exploration and development.

I am particularly proud of Alabama's outstanding contributions to our country's space effort. As another matter of historic fact, Explorer One, America's and the Free World's first satellite, was a product of the magnificent team of Army missile experts working at Redstone Arsenal, Ala., which is, was and is, in Huntsville, Ala.

Certainly we all remember the terrifying announcement that came with the launching of Sputnik One, and the feeling of demoralization that our country felt as a result of Russia's getting this headstart in the space age by launching Sputnik One.

Following a period of floundering and uncertainty, President Eisenhower finally ordered the Army's missile team, then under the direction of Dr. Werhner von Braun, to launch America's first satellite. Beating his own deadline, Dr. von Braun directed the modification of an Army missile called the Redstone, and guided its successful launching from Cape Canaveral, Fla., putting into perfect orbit the Explorer One. Within a few months of that success, the National Aeronautics and Space Administration was created by Congress. The Army team at Redstone Arsenal was broken apart with the creation of the George C. Marshall Space Flight Center at Huntsville, dedicated to the development of rockets for the peaceful exploration of space.

Mr. President, it has been my privilege to watch the great space advances take place at Marshall Space Flight Center in Huntsville, Ala. It has also been my privilege as a member of the Alabama State Legislature and as Lieutenant Governor of the State of Alabama to help develop legislation to permit the State to build and maintain a research institute at the University of Alabama in Huntsville—we have three great campuses of the University of Alabama, one at the home campus of Tuscaloosa; another great campus, great facility, of the University of Alabama at Birmingham, which includes our world-renowned medical center; and then the University of Alabama at Huntsville, Ala. So, serving in these capacities, as I have stated, I have observed the development of legislation to permit the State to build and maintain a research institute at the University of Alabama where many space-related research programs have been carried out and are being carried out for NASA and its various centers.

Our national space program is most frequently related to adventure and experiences of moon and interplanetary explorations, but the fact of the matter is that the benefits which we have enjoyed in our daily lives as a result of space-related inventions and technology have more than repaid the United States for the cost of the space programs. For example, the investments which we have already made, and the programs which are envisioned for the future, should go far to help ease the worsening energy crisis. Marshall Space Flight Center is engaged in a research and development program which has already contributed invaluable time and solar technology to the national effort to find and use alternate sources of energy for oil and gas.

Our investments in space will bring vast rewards in better methods of farming, in discovery of new mineral deposits and in new industrial techniques.

Today, there are thousands of new products on the market as a direct result of technological developments in the space program. The giant computer industry, which touches every one of us uncounted times in our everyday activities, is a direct fallout of the space programs. Early storm warnings and global communications are made possible by our satellites. In the medical field, ingenious instruments useful in the early detection of diseases and in the treatment of patients have been developed. Household appliances and new building materials have come to us from space laboratories. These are but a few of the thousands of applications of space-related technology which have economic and humanitarian benefits awaiting the harvest. We have only begun and all mankind will reap the benefits.

But, Mr. President, even as we observe this 20th anniversary of the entry of man into the space age—this does not mean man's space travel but the entry of man into the space age—I must express my alarm at the decline in long-range planning for scientific programs as a result of cuts in the NASA budgets. I support a sensible approach to funding and programing of technical and scientific projects so that there will be stability and good judgment in the utilization of the thousands of highly competent men and women whose efforts have contributed to the development of new knowledge. Stability in funding for our space program is necessary so it may continue in an orderly step-by-step fashion.

History will record that the United States won technological preeminence in space exploration. Let us not have history also record that America abrogated its position in this vital endeavor just as the space age is about to mature.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BUMPERS). Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for not to exceed 15 minutes.

CRUDE OIL EQUALIZATION TAX

Mr. ROTH. Mr. President, on Sunday Secretary Schlesinger threatened that the administration may slap a $5 a barrel tax on imported oil if Congress does not pass the crude oil equalization tax.

As the sponsor of the motion in the Finance Committee which successfully removed the crude oil equalization tax, I am deeply disturbed by this threat, which would circumvent the will of Congress, hurt the American economy, and drain billions out of the consumer's pocketbooks.

The administration is treading on very thin ice by trying to win by scare tactics what it has failed to win on merit.

The reason, in my judgment, the Finance Committee, in a bipartisan 11-to-6 vote, rejected the crude oil equalization proposal is that this tax would have a severely depressing effect on the economy, without producing one new drop of energy or resulting in any significant energy savings. It would raise taxes by an estimated minimum of $39 billion by 1981, and the administration has not provided any clear idea how these taxes would be put back into the economy.

An additional $5 a barrel tax on imported oil, such as Secretary Schlesinger has suggested, would have the same negative effects on the economy, but it would also have other very dangerous side effects.

First, it would be an open invitation for the OPEC countries to increase the world price of petroleum. The OPEC leaders would argue that if the United States can afford $19 a barrel for oil from abroad, then why should they not increase their price to $19 a barrel? Their extra profit would come out of the hide of the American consumer and would result in an additional massive transfer of resources from the United States to the OPEC nations.

Second, it would have an unfair impact on the Northeastern States, like Delaware, that import a high proportion of their oil. The only way to achieve fairness would be to greatly expand the current inefficient entitlements program. This program everyone agrees, has become a bureaucratic nightmare. In fact, a major administration justification for enactment of the crude oil tax is that it would mean an end of the entitlement program.

Third, the tax would have a very harmful effect on American industries which depend on imported oil as a raw material for their products. By increasing the price of the raw materials and energy for our industries, we would be putting them at a disadvantage in world trade and throw thousands of Americans in export-related jobs out of work at a time when our trade deficit is running at a record rate.

The impact could be especially devastating on the petrochemical industry which is one of the few industries now having a favorable balance of trade.

Fourth, this end run around Congress would raise many new issues about the President's authority under section 232 of the Trade Expansion Act of 1962. It would, of course, result in new lawsuits by States, firms, and individuals who would be hurt, but just as importantly, it would also raise doubts about the administration's willingness to abide by the spirit of the laws.

In my judgment, section 232 was created to provide emergency authority to a President in the event of a serious national security problem. It was not intended to be a club by which the administration could brow beat Congress or the public. Because of this threat to abuse the national security authority under this section, I am seriously considering an amendment to provide Congress with a single House veto of any use of section 232, except in times of actual hostilities. Such an amendment is apparently needed to provide Congress with a check over possible irresponsible use of this authority.

Considering all these factors, I find it difficult to believe that Secretary Schlesinger was serious when he threatened this additional $5 a barrel tax. Rather than engage in scare tactics, I hope the Secretary and the administration would work with Congress in trying to develop a sensible energy program to increase American production of all energy sources and fight the OPEC oil cartel.

ACTIVITIES OF ROBERT H. MEYER, ASSISTANT SECRETARY OF AGRICULTURE

ADDITIONAL STATEMENT SUBMITTED

Mr. HASKELL. Mr. President, I ask unanimous consent to have printed in the RECORD copies of letters to the Secretary of Agriculture and to Senator METCALF, chairman of the Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources, both letters being dated September 30, 1977. These letters relate to the apparent activities of Robert H. Meyer, Assistant Secretary of Agriculture. The letters, I believe, are self-explanatory.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 1977.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: During the last few days, the newspapers have carried several articles about the activities of Assistant Secretary of Agriculture Robert H. Meyer. If the articles are accurate, it would appear that Mr. Meyer communicated or met with high Interior Department officials, White House staff, and Congressmen concerning Federal policy on the amount of acreage landowners may hold within Federal reclamation projects.

Apparently, Mr. Meyer wished to alter or overturn proposed regulations which would adversely affect his personal financial position as such a landowner. The impression is left that Mr. Meyer attempted to either use or benefit from his status as a high Federal official for personal gain.

During the last Congress, I chaired a series of oversight hearings of the Public Lands and Resources Subcommittee on the Forest Service's preparation of the East River unit, Gunnison National Forest, Colorado. Those hearings concerned a situation similar to the one now involving Mr. Meyer; a high Federal official intervened in a Federal agency's decisionmaking process, the outcome of which would significantly affect his private business. In that case, the decision was to be made by an agency of your department and the intervention came from the Secretary of another department. The subcommittee report criticized such interventions by Federal officials for the purpose of conducting their own personal business. The report set forth a number of recommendations to assure that such interventions would not occur in the future.

Press reports concerning Mr. Meyer alarm me for several reasons:

First, Mr. Meyer's performance, if it is accurately reflected in these accounts, is reprehensible.

Second, the reports indicate that the work of the subcommittee, its findings, and its recommendations were ignored by the very department which most closely followed—and was directly affected by the subcommittee's work.

Third, we are all aware of the President's strong statements concerning the character of men and women he sought to hold high public office in his administration. We heartily concurred with him on the need to avoid not only the fact but also the appearance of conflict of interest in the conduct of the Nation's business.

Accordingly, this Administration, and you, as a Presidential appointee, should certainly be in sympathy with the subcommittees recommendations and certainly should have taken every step to prohibit activities such as those ascribed to Mr. Meyer.

Given the subcommittee's and my personal concern about any effort by high public officials to influence Federal decisionmaking for their own personal benefit and given the fact that Mr. Meyer's activities concern de-

cisionmaking related to Federal reclamation policy—subject matter squarely within the jurisdiction of the subcommittee—I would appreciate your providing the Chairman of the subcommittee, Senator Metcalf, and me with a factual statement of your relationship with Mr. Meyer and his activities as they relate to this controversy.

Certainly, if the facts are not fully known to you, I hope you will promptly order an investigation either by your office of investigation or the Justice Department.

I look forward to your response.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

SEPTEMBER 30, 1977.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR LEE: I am deeply concerned over recent press reports concerning the efforts of Assistant Secretary of Agriculture Robert H. Meyer to influence policymaking in the Interior Department. If the reported facts are accurate, Mr. Meyer has apparently communicated or met with high Interior Department and White House officials and Congressmen in an attempt to alter a policy decision which would adversely affect his personal financial position.

I am dismayed not only by the apparent conflict of interest involved in Mr. Meyer's case, but also by the failure of the Agriculture Department and this Administration to establish unequivocal guidelines to prohibiting dealings between high Federal officials where personal financial gain is involved. As you will recall, last year the subcommittee, and you and I personally, labored long and hard during the difficult hearings on the East River Unit Plan controversy to establish a higher standard of behavior for Federal officials who wish to conduct personal business during their terms in office. It grieves me to note that the recommendations resulting from the subcommittee's work were apparently ignored by this Administration and the very department involved in the East River Unit Plan controversy.

Today, I wrote Secretary of Agriculture Robert Bergland expressing my concern and asking that he promptly inform you as chairman of the subcommittee of the facts concerning Mr. Meyer's activities. Should a prompt response not be forthcoming or should the response not be clear and complete, I will certainly make the suggestion that the subcommittee take whatever steps are necessary to assure a full airing of this controversy.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

The PRESIDING OFFICER. The Chair in its capacity of a Senator from Arkansas suggests the absence of a quorum, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, will the Chair withhold that temporarily, please?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may control the time that is being yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum on the time I now control and ask unanimous consent that it be without prejudice to any Senator's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GYRATIONS IN U.S. MIDEAST PEACE POLICY

Mr. JAVITS. Earlier this year, on June 27, I felt compelled to speak out concerning the disturbing course in U.S. Mideast peace policy which had resulted from a series of press conference statements by President Carter and a speech on June 17 by Vice President Mondale which was received as an authoritative exposition of U.S. Mideast policy—a speech which itself created new doubts by its omissions as well as its inclusions.

Now, a new crisis has been created by the Soviet-American joint statement on the Mideast just issued and in this connection there was—as far as I know—no consultation with the Senate Foreign Relations Committee, with which Secretary Vance has proposed to work closely particularly as regards the possible reconvening of the Geneva Conference.

This joint Soviet-American statement raises a number of serious questions, to which I shall refer shortly. For the moment, I wish to single out the language in that joint statement which deals with the Palestinian question. The statement purports to suggest "the framework of a comprehensive settlement of the Middle East problem," which it states includes "the resolution of the Palestinian question, including insuring the legitimate rights of the Palestinian people." It goes on to mandate, at the Geneva Conference to be reconvened by the cochairman" participation of all the parties involved in the conflict, including those of the Palestinian people."

The chronology preceding the joint Soviet-American statement of October 1, on this Palestinian question is:

On September 12, the State Department spokesman released a statement respecting the Geneva Conference which stated:

> The status of the Palestinians must be settled in a comprehensive Arab-Israeli agreement. . . . This means that the Palestinians must be involved in the peacemaking process. Their representatives will have to be at Geneva for the Palestinian question to be solved.

The September 12 statement further stated:

> With respect to U.N. Resolution 242, all the participants in the peace ocnference *should* (sic) adhere to the terms of that resolution and Resolution 338, which presently form the only agreed basis for negotiations.

On September 29 at his press conference, President Carter stated:

> If the P.L.O. should go ahead and say "we endorse U.N. Resolution 242 we don't think it adequately addressed the Palestinian issue because it only refers to refugees and we think we have a further interest than that" *that would suit us O.K. We would then begin to meet with and work with the P.L.O.* (Emphasis added.)

Yet in the joint Soviet-American statement there is no mention whatsoever of U.N. Resolutions 242 and 338. This is most disturbing with respect to the Palestinian issue. For, we know that the Soviet Union has long been on record as regarding the PLO as the "sole legitimate representative of the Palestinian people." Also, the whole policy of the United States as explained to the Congress and the Nation has been based on U.N. Resolution 242.

Are we to conclude then, that the President has abandoned the performance standard of acceptance of U.N. Resolution 242 as it applies to the PLO?

On September 1, 1975, the United States in connection with the withdrawal of Israel from a big slice of the Sinai desert and the Suez Canal Zone and the surrender of the Abu Rudeis oil field, entered into a written Memorandum of Agreement with the Government of Israel which states among other provisions:

> The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.

The September 1, 1975 Memorandum of Agreement with Israel further states:

> The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Peace Conference or to change Resolutions 242 or 338 in ways which are incompatible with their original purpose.

This Memorandum of Understanding was submitted to the Senate Foreign Relations Committee and was published in the record of the committee's hearings in connection with its recommendation to the Senate of approval of U.S. participation in the Sinai II agreement. On several occasions, President Carter has publicly stated his intention to honor the terms of the September 1, 1975, Memorandum of Agreement with Israel.

In my judgment, the time has come to raise this question: How does President Carter intend to honor our 1975 Memorandum of Agreement with Israel while pursuing the course of action respecting the Geneva Conference which is explicit and implicit in the joint Soviet-American statement issued on October 1, the President's press conference remarks of September 29, the State Department statement of September 12 and the reported U.S. proposal for a unified Arab delegation at a reconvened Geneva Conference.

First, we need an authoritative clarification of U.S. policy respecting U.N. Resolutions 242 and 338. Are these or are these not the bases for U.S. Mideast peace policy? In this connection, it is pertinent to recall a passage

in Vice President Mondale's "authoritative" statement of June 17:

Resolution 242 does not by itself provide all that is required. We, therefore, decided to work with the parties concerned to outline the overall framework for an enduring peace. Our concept was to use this framework as the basis for a phased negotiation and implementation of specific steps toward peace.

The text of the Soviet-American joint statement lends support to the concern that the administration may be, in fact, in the process of abandoning or diluting important aspects of U.N. Resolution 242.

In the second substantive paragraph of the Soviet-American joint statement, which purports to list "key issues" of the framework of a comprehensive settlement, there is conspicuous absence of any reference to "secure and recognized boundaries"—a phrase which represents a carefully negotiated offset to the preceding call for "withdrawal of Israeli armed forces from territories occupied in the recent conflict." (The first "key issue" identified in the joint Soviet-American statement is a careful paraphrase of this very "withdrawal" language.)

Such a critical omission could hardly be unintentional and could be fatal to the prospects for the Geneva Conference.

Second, the United States-Israel Memorandum of Understanding spells out a twofold performance required to precede any U.S. recognition of, or negotiation with, the PLO.

The first condition for U.S. dealings with the PLO requires the PLO to "recognize Israel's right to exist." The second and independent condition is acceptance by the PLO of resolutions 242 and 338.

At his September 29 press conference, President Carter seemed to telescope those two preconditions into a mere PLO "endorsement" of Resolution 242, with the caveat that the PLO could demur to 242 by saying,

We don't think it adequately addressed the Palestinian issue because it only refers to refugees and we think we have a further interest than that.

Presumably, the "further interest" which the PLO could have in mind is in effect the nullification of the State of Israel, called for in the basic charter of the PLO and reaffirmed in the meetings of its Palestine National Council in March and August of this year.

Third, if the PLO is admitted as a procedural matter to the Geneva Conference as the representative of the Palestinian people, does not that prejudge the substantive question of "insuring the legitimate rights of the Palestinian people," to quote the words of the joint Soviet-American declaration? What happens to the claims of Jordan (from whom it was taken) with respect to the West Bank? What happens to the chances for freedom of self-determination by the people in the West Bank? How can there be true self-determination for the West Bank under the pressure of these circumstances?

Fourth, the Carter administration has proposed the acceptance of a unified Arab delegation (including Palestinians) to function throughout the conference, with separate country-by-country subcommittees meeting and reporting back to the unified Arab delegation, thus raising the prospect of a veto by the "unified Arab delegation" of agreements achieved by the bilateral subcommittees. In this regard, it is pertinent to note that the U.S. Memorandum of Agreement with Israel stated:

The United States will make every effort to ensure at the Conference that all the substantive negotiations will be on a bilateral basis.

Fifth, the Soviet-American joint statement speaks of the United States and the Soviet Union as being ready to participate in "international guarantees" of international borders which may result from the Geneva Conference. In connection with the Panama Canal treaty, we have been assured that the right of the United States to guarantee the neutrality of the Panama Canal entails the unilateral right of intervention against threats to the canal's security. If the Soviet Union really becomes an international guarantor of the Mideast peace settlement will it acquire or claim the right of unilateral forceful intervention there?

Sixth, the United States-Israel Memorandum of Agreement states:

The United States will seek to ensure that the role of the cosponsors (i.e., the U.S. and the Soviet Union) will be consistent with what was agreed in the Memorandum of Understanding between the United States Government and the Government of Israel of December 20, 1973.

The text of the United States-Israel Memorandum of Understanding of December 20, 1973, on this question has, as far as I know, not been made public. It seems to me that the text of that memorandum would have to be made available so that the American people and the Congress can judge whether the latest Soviet-American joint statement is compatible with that memorandum of understanding.

Seventh, the administration has cited U.N. General Assembly Resolution 194 of December 11, 1948, which the United States supported as pertinent to the definition of Palestinian rights and interests in the present context. But the President needs to explain the administration's understanding of the meaning of this resolution as it relates to the Geneva Conference which the joint Soviet-American statement says should reconvene "not later than December 1977." Paragraph 11 of the U.N. Resolution 194 deals with the issue of refugees in the following language:

11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that the compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or equity should be made good by the governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations:

Are we still thinking about repatriating the Arab refugees?

Finally, the President needs to tell the Nation whether or not the Soviet-American joint statement represents the beginning of a process of superpower imposition of a Mideast settlement, despite numerous U.S. assurances to Israel that it would not seek to impose a settlement.

The scenario unfolding and oblique references to U.S. leverage on Israel need to be clarified. There is a need to get on with the Mideast peace and the parties need to get to Geneva to get the peace process underway. But, if the whole effort is to be compromised in advance by imprudent response to Israeli fears, and if a joint position with the U.S.S.R. is, indeed, to lead to the abandonment of solemn U.S. commitments to Israel, then we are being drawn into a situation that not only guarantees failure in the peace efforts, but which also could lead to a confrontation with Israel which nobody wants. It could disappoint Arab States and lead to a PLO continuing to be dedicated only to terror and nihilism.

I trust the administration will answer the questions I have raised, will consult with the Senate Foreign Relations Committee and the House International Relations Committee, and will reconsider its position on Mideast peace which seems to be prestaged by the joint Soviet-American statement on the Mideast.

Is not what has happened in Lebanon—where the PLO showed its true colors—enough notice to the people of Israel and the American people that this could be the road to war, not peace?

The President's address to the UN General Assembly today is, as a matter of fact, a better presentation of the U.S. position than the Soviet-American statement.

But, the Soviet participation is the enigma in the Middle East. We need to know a lot more than we do about Soviet intentions, if there is to be a just and lasting peace.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that I may reclaim 5 minutes of the time allocated to me under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield to the distinguished junior Senator from Pennsylvania the time I reclaimed under the standing order.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the distinguished minority leader for yielding time.

THE MIDDLE EAST SITUATION

Mr. HEINZ. Mr. President, I take this time because I am very deeply concerned by the recent joint statement made by the United States and the Soviet Union to propose a formula for the reconvening of the Geneva peace talks.

I understand that the distinguished senior Senator from New York addressed the Senate this morning on that subject. I particularly respect the leadership and the statesmanship he has shown over the years, and particularly as we approach what could be a very critical period ahead. I know that the Senator from New York has very deep concerns which he has always expressed articulately and with very great thoughtfulness.

For my own part, Mr. President, I have taken the opportunity to express my concerns in writing to the President; and I take these few minutes to acquaint my colleagues with the text of my letter, which I am sending today. The letter is as follows:

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., October 4, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was most disturbed to read the text of the Soviet-American Statement on the Mideast recently made public.

Clearly the joint statement has the effect of changing the well-established U.S. policy on the Palestinians by referring to their "legitimate rights", a code term construed by the Palestinians to include the right of self-determination and the right to return to their pre-1967 homes. Though understandably, the term might mean something else to others, use of it in this context is without question an extension of policy far beyond any previous position we have taken.

Further, the clear implication of the statement, including its obvious omission of any reference to Resolutions 242 or 338, is to add legitimacy and force to the claims of the PLO to represent the Palestinians and to participate in the Geneva talks, despite the unequivocal refusal of the Israeli Government to deal with the PLO. This is one more instance of the Administration essentially pushing the PLO onto the center of the stage despite the disruptive effect of that policy.

Such an approach is particularly unwise because it injects an element of contention that may not be necessary. Some Arab states are known to have private reservations about a Palestinian state run by the PLO, but no Arab state can be expected to take a less aggressive stance than the United States on this subject. As a result, I fear our policy has pushed the Arabs farther in support of the PLO than they otherwise might have gone, further complicating the negotiations. It is my judgment that the Administration's continued public insistence on creating a role for the PLO in the peace talks jeopardizes both the prospects for settlement and now the very talks themselves.

Beyond the contents of the Soviet-American settlement, the process of its creation is also disturbing. The 1975 U.S.-Israeli Memorandum of Agreement makes a clear commitment to consult with Israel on certain decisions relating to a Geneva conference. There seems little question that there was no meaningful consultation in this case. This violation of an earlier agreement jeopardizes the possibility of a settlement, and its casts doubt on the continued credibility of our commitments, particularly in the minds of the Israelis. Such doubts will also make an ultimate settlement more difficult.

Finally, and perhaps most importantly for the long term, the statement brings the Soviet Union back into a position of influence in the Mideast, a position it had lost some time ago. Events have shown the disruptive and negative impact the Soviets have had on the Middle East and our pursuit of our policy objectives in that region in the past. The joint statement unnecessarily reinjects this destabilizing force into the situation, and the result will almost certainly be contrary to our interests.

I regret that I must be critical of your Administration's handling of these delicate negotiations. But the publication of the joint communique brings this matter into the open and, in all candor, is deeply disturbing. All in all, the Soviet-American statement brings little that is good into the sphere of discussion and much that is disquieting. I frankly deplore this unfortunate change in our policy, and I respectfully hope you will take steps to correct it.

Sincerely,

H. JOHN HEINZ III.

Mr. President, that is the text of the letter I am sending this morning to the President.

I ask unanimous consent that an article by Mr. Joseph Kraft, in today's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MUDDLE IN THE MIDDLE EAST

(By Joseph Kraft)

What good is achieved by the joint Soviet-American statement favoring an early Geneva conference on the Middle East? What harm does the statement do? Those are the questions that have to be asked in assessing the latest turn of events in the Middle East.

The starting point for analysis is the position of the Soviet Union. Having been cold-shouldered by Egypt and Syria, the Russians now hang on in the Arab world by their fingernails. About all they have going for them is the cochairmanship (with the United States) of the Geneva peace conference, and the possibility of providing military aid to discontented parties, notably the Palestinian Arabs.

In these conditions, the Russians were bound to favor a reconvening of the Geneva conference. While they might talk up the claims of the Palestinians especially loudly and be coy about Israel's right to exist, they were in fact bound to go along with any decision by the Arab states. Thus, in agreeing with Secretary of State Cyrus Vance to move on to Geneva, Foreign Minister Andrei Gromyko gave up nothing.

Unlike the Russians, the United States had a lot to lose. Opposition to Russia in the Middle East has solidified this country's ties with Israel, with Egypt, and—through the paymaster of the Arab world, Saudi Arabia—with Syria. In consequence the United States alone is in position to promote negotiations between Israelis and Arabs.

Israel has long been willing to deal with the neighboring Arab states—Egypt, Jordan and Syria—returning bits of territory for steps toward peace. The hangup has been the Palestinian Arabs.

They have aspirations for a Palestinian state that the Israelis fear threaten the existence of a Jewish state. They are concentrated in two bits of land—the West Bank of the Jordan and the Gaza strip—which Israel seized in the 1967 war and refuses to abandon. They have various potential leaders ranging from moderate notables on the West Bank to firebreathers in an exile organization, the Palestine Liberation Organization.

The Arab states have insisted that the PLO is the only legitimate spokesman for the Palestinians and that it should be represented at the Geneva conference. They have publicly, at least, favored a Palestinian state based on the West Bank and Gaza, and with some kind of federal links to Jordan or Syria.

The Carter administration has favored the principle of a Palestinian homeland, as distinct from a Palestinian state. It has indicated that the Palestinians, including some members of the PLO, should be represented at Geneva as part of an all-Arab delegation. It has insisted that before the Palestinians participate in a diplomatic process, they accept the existence of Israel as a state.

A delicate compromise linking the Israeli, the Arab and the U.S. positions seemed to be emerging after Foreign Minister Moshe Dayan visited Washington two weeks ago. Dayan indicated Israel would accept Palestinians as part of an all-Arab delegation in a preliminary, non-negotiations phase of a Geneva conference. He said that the Israelis would not admit PLO members, but would not object if the Palestinians leaned toward the PLO.

The joint Soviet-American statement knocks that delicate compromise into a cocked hat. It implied that the United States and Russia were going to impose a Middle Eastern settlement that would begin with PLO representation at Geneva and inevitably end with a Palestinian state.

In Israel the government of Menahem Begin denounced the statement as "unacceptable." Leaders of the Jewish community in this country, who had been won over to Begin largely because of his warm reception by President Carter, called the statement a "betrayal." It was at least possible that the Israelis would refuse to go to Geneva, or that once there they would blow the conference.

Perhaps that ugly scene will not materialize. It is possible that the administration can give assurances that the PLO will accept Israel. It is also possible that the joint Soviet-American statement is part of a larger deal, encompassing progress toward better relations between Moscow and Washington.

But if so, the burden of proof is on the administration. As of now anyway, it is a mystery why the United States agreed with so much fanfare to the joint statement with the Russians. The explanation that comes to mind is that once again, the Carter administration has muddled matters in the Middle East.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HEINZ. I am pleased to yield.

Mr. JAVITS. Mr. President, it is a splendid letter. It is a splendid analysis of the situation, and it is completely accurate and completely in accord with what I have said this morning. I congratulate the Senator on it. It is very perceptive and very knowledgeable.

I have asked for—and I hope we will receive—the opportunity to have Secretary Vance come before the Committee on Foreign Relations; and, as is the tra-

dition of the Foreign Relations Committee, if the Senator wishes to sit with us, I believe the chairman and the ranking member will make that possible. The Senator certainly has shown himself very eligible by this extremely able presentation of the case. I thank him very much.

Mr. HEINZ. I thank my distinguished colleague from New York.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Does the Senator need further time?

Mr. HEINZ. No.

ORDER VITIATING RECOGNITION OF SENATOR HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. HARRY F. BYRD, JR., be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate continued with the consideration of the bill.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, this will be a live quorum.

The PRESIDING OFFICER. Does the majority leader suggest the absence of a quorum?

Mr. ROBERT C. BYRD. Yes, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 61]

Baker	Heinz	Sasser
Bumpers	Javits	Stennis
Burdick	McGovern	Stone
Chiles	Metzenbaum	
Hatfield	Pearson	

The PRESIDING OFFICER (Mr. STONE). A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Allen	Danforth	Leahy
Anderson	Garn	McClure
Bartlett	Hansen	McIntyre
Bellmon	Hart	Nunn
Bentsen	Haskell	Proxmire
Burdick	Hatch	Sparkman
Byrd, Harry F., Jr.	Hathaway	Stafford
	Hayakawa	Talmadge
Chafee	Huddleston	Tower
Culver	Jackson	Wallop
Curtis	Johnston	Williams

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 522 Leg.]

YEAS—89

Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Wallop
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Metzenbaum	Zorinsky

NAYS—1

Weicker

NOT VOTING—10

Abourezk	Long	Ribicoff
Durkin	Mathias	Stevenson
Goldwater	McClellan	
Humphrey	Metcalf	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. PEARSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PEARSON. Mr. President, on last evening, the distinguished Senator from Washington presented a modification of his proposal. Not being responsive to that, but in our own manner, we seek today, and I seek recognition now, to outline a position that we, at a later time, if it is the will of the Senate to take a closer look at this suggestion, will move to require unanimous consent to modify our amendment 1039. The amendment that we seek to modify is the one which has been popularly known as Pearson-Bentsen No. 2. That compromise and modification was to put a cap on new domestic gas for a period of 2 years, the price being controlled and set at the price we should pay for Mexican gas coming into this country or crude No. 2 coming into east coast ports, which would be the Btu equivalent of about $2.48. We seek to amend our amendment by unanimous consent by changing that price in a downward manner so that the price of the 2-year cap would be placed at the Btu equivalent of domestic stripper production, which is about $2.25. The modification we would seek by unanimous consent would be to pull the price from $2.48 down to $2.25, from a measurement against imported Mexican gas to a measurement against domestic stripper production.

Mr. President, I am glad to yield to the Senator from Texas.

Mr. BENTSEN. If I may comment on that, we chose such a price because that is comparable to what the President chose last winter in times of emergency. At that price, the intrastate market provided the interstate pipelines, finally, with more gas than they could actually take. That price worked, and it helped take care of the situation last winter once it was put into effect. We think it is an applicable price and a fair price. I support the Senator from Kansas with a modification, if we understand that we get the unanimous consent of Congress.

Mr. BUMPERS and Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, on my time, I should like to ask the Senator from Kansas a question.

The Senator says there would be a cap on for 2 months.

Mr. PEARSON. Two years.

Mr. JACKSON. I mean 2 years. My reading of the second Pearson-Bentsen proposal was that the cap would go off in January 1979. That is 15 months; is it not?

Mr. PEARSON. We meant to draw it and intend to draw it for 2 years from date of enactment.

Mr. BENTSEN. We accept that further modification by the distinguished Senator.

Mr. JACKSON. I am not modifying anything. I am merely trying to make the record straight because it is 15 months as introduced in Pearson-Bentsen, Nov. 2.

Mr. PEARSON. We shall clear that up. I direct the Senator's attention to page

13, line 11, paragraph 2, where it says "from and after 2 years subsequent to the date of enactment of the natural gas amendments of 1977." It is our intention to have a 2-year cap and we think we do it by the language that I have cited.

Mr. BENTSEN. Reserving the right to object, Mr. President. I want to state at the outset that I will oppose the Jackson amendment, as modified. Senator JACKSON's latest proposal tacitly acknowledges the wisdom of deregulation but condemns the Nation to another decade of regulation-induced natural gas shortages, strangled production, and increased dependence on foreign energy sources.

If we have learned anything during the past 2 weeks, it is that the Senate favors the deregulation of new natural gas now, not in 1987. We have lived with regulation for 23 years, and it has been clearly demonstrated that the policy does not work.

Nevertheless, in the spirit of conciliation and fair play recently evident in this Chamber, I am prepared to accede to Senator JACKSON's unanimous-consent request, on one condition. I am prepared to give the Senate an opportunity to choose between Pearson-Bentsen, and the committee chairman's latest compromise formulation.

My condition, Mr. President, is this—I would like a formal assurance from the committee chairman that if the Senate votes in favor of the Pearson-Bentsen formulation, and there is every reason to believe that we will, then the majority of the Senate conferees on S. 2104 shall be drawn from those who voted in favor of this legislation. There is ample parliamentary precedent for such a request, Mr. President.

Senator HUMPHREY, for example, during consideration of the civil rights legislation in 1964, cited the following passage from Senate Procedure:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate, and with consideration for the usual party ratio."

The reason I seek such assurance from Senator JACKSON is no great mystery. Proponents of continued regulation have argued consistently throughout our debate that Senate action is really irrelevant since President Carter and House Speaker O'NEILL are opposed to deregulation.

The implication is that our work of the past 2 weeks will quickly be undone in conference. The committee chairman stated this thesis only 2 days ago on "Meet the Press," when he suggested that—

> We're going to end up in conference with a system of regulation, no deregulation. That's what will happen.

During our debates, the Senate has consistently taken a position in favor of the deregulation of new natural gas. At no time during our extensive deliberations have proponents of regulation demonstrated that they command a majority in this body. They have not won a single test vote.

I seek assurance, Mr. President, that if we win the battle on deregulation, those who favor the concept will be a majority of the Senators in conference. I do not accept the assertion that the administration and the Speaker of the House shall dictate the terms of the conference. I think it is important to note that 47 percent of the House Members voted in favor of deregulation.

I do not want to put the Senate conferees in the embarrassing position of having to defend in conference a position they do not support.

Therefore, I ask the committee chairman, are you prepared to go to conference on this legislation with a majority of Members who voted in favor of Pearson-Bentsen if this bill is passed by the Senate?

Mr. JACKSON. I want to say that the Chair will exercise his discretion on the appointment of the conferees. We are going to try basically to follow the regular procedure. I say to the Senator that there are 535 Members of the House and Senate. To turn around in a conference and not have any flexibility at all, have one group in there that would support Pearson-Bentsen right down the line, without any give, is certainly not going to result in a conference in which agreement can be reached.

We do not select conferees in this body on the basis, generally, of the result of the Senate itself on a given issue. If that were the case, we would have all kinds of problems. But there will be—all of the Republicans will be against it—that is, against regulation. Senator JOHNSTON will be on and he is for deregulation. So we start from a solid phalanx, and I intend to have a conference that can deal with this problem in a way in which we can reach an agreement with the House.

Mr. BENTSEN. I say to my distinguished friend, with the understanding of his eloquence and his capacity for argument——

Mr. JACKSON. I have been very quiet during this debate.

Mr. BENTSEN. I want to feel assured that the majority viewpoint, as expressed in 2 weeks—it seems like 2 months—of debate and compromise, was represented amongst the conferees. If we are going to be operated on, I should like to have at least one of the knives in the hands of a friendly surgeon.

I understand that TIP O'NEILL is adamant in his position and he stated that.

I am sure what those conferees are going to look like as appointed by the House. But I do not see any railroad tracks going through the Senate. I think we should be entitled to make up our own minds and be represented by a majority. If the Senator from Washington prevails in the final vote, obviously, we get a majority. But if we prevail, that the conferees be made up of the majority.

Mr. JACKSON. I say to my good friend that we do not normally select conferees on the basis of how they voted in the Senate. We do not follow that rule here.

I am going to try to have conferees that can work out, hopefully, a bill that can be sent to the White House without veto.

So that this body understands why I make an ongoing compromise to my earlier compromise on the subject of deregulation starting December 31, 1986, I did that, Mr. President, in order to try to bring the extended debate to a conclusion.

I will be very candid. I would not have offered it had I known we were coming to the end of this debate. I did it as the floor manager in trying to meet the wishes of this body.

I am opposed to deregulation. I made that very clear. But I wear a different hat trying to manage this bill with the objective in mind of trying to come to some resolution.

I must say that since I have offered my second modification of my compromise amendment, and getting requests now to further amend it, I am at the end of that rope, as far as I am concerned, and I speak only for myself.

Mr. BENTSEN. Mr. President, let me cite Senator HUMPHREY's comments in the civil rights legislation fight of 1964 when he referred to Senate procedures. He stated that the conferees are appointed by the Presiding Officer but, in fact, are designated by friends of the measure who are in sympathy with the prevailing view of the Senate. And with consideration of the usual party ratio. And that we have quite a number of precedents.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, we are at a point now where I think we have been through enough and we need to explore this unanimous-consent request by the distinguished Senator from Kansas, whether or not we can get the issues presented at a time that is mutually convenient and get to a vote.

I would like to do that, if we could, either today or tomorrow.

Mr. President, the question, I would hope, is soon answered since there is now a unanimous-consent request pending.

Mr. JACKSON. It has not been made yet.

Mr. BAKER. I understand it has been.

Mr. PEARSON. I am going to make it.

Mr. BAKER. All right, as soon as it is made, we can get determination not only of whether or not we can amend the Pearson-Bentsen No. 2, but whether we can set a time to vote on it.

So I would hope we will try now while there is a significant number of Senators on the floor to establish a time to vote.

Mr. JACKSON. Mr. President, I say to the distinguished minority leader that I made both requests yesterday, and, of course, there was objection to my dual request to revise my proposed compromise and also to have a time certain for the vote.

But, be that as it may, I just wanted to call to the attention of the Senate, and I will ask my good friend from Kansas about the pricing feature of the proposed modification, the Pearson-Bentsen No. 3.

As I understand it, the price would be tied to the domestic equivalent of the stripper production, and that, the Senator says, is $2.25.

Staff informs me that stripper oil price is running between $13.50 and $14; $13.50 would be the equivalent of $2.33; and $14 would be $2.41.

I just wondered if we could have the record clarified on that point.

Mr. PEARSON addressed the Chair.

Mr. BELLMON. Will the Senator yield?

Mr. PEARSON. Let me respond by saying that we will check our figures over and seek to find some measurement back against domestic production that will pull that price down.

Now, our investigation——

Mr. JACKSON. They are proposing $2.25 period.

Mr. PEARSON. Well, we want to tie it to something that is measurable and we thought by our research, if we tied it to domestic stripper production, we would be at the $2.25 level.

If our figures and numbers are wrong, we will seek to tie it to another level.

It was not our intention to, first of all, mislead anybody.

Mr. JACKSON. I understand.

Mr. PEARSON. To cite the figure and have it in distortion.

Mr. JACKSON. I merely wanted to point out what staff had advised me.

Mr. PEARSON. To bring that price down and then tie it to some domestic production other than an imported figure.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, reserving the right to object, the problem with unanimous-consent requests is that if we do not grant them to others, it is awfully hard for others to grant them to us.

The Senator from Kansas and his colleague from Texas have been very fine about their proposal throughout this matter and have been very cooperative with everyone regardless of their point of view.

I do not think, all events having occurred as they have during the last few days, retribution is in order. It probably never is in order in the U.S. Senate. But I would only take note of the fact that twice the Senator from Colorado attempted to get a procedural unanimous-consent request granted changing his substantive, substitute amendment to the perfecting amendment so that it would be in order.

An objection was heard from proponents of the Pearson-Bentsen side twice. Of course, that was within their rights.

I would only say that the Senator from Colorado felt as strongly as I think the sponsors of this measure do about it. He waited just about as long to try to get it up to set a vote on it. It was within that spirit I twice asked this and it was denied for reasons that are still very unclear.

But I will not object. I just take note of the fact that the Senate works much better when people work in the spirit of cooperation.

Mr. ALLEN. Will the Senator yield?

Mr. HART. I yield the floor.

Mr. ALLEN. Will the Senator yield?

Mr. SCHMITT addressed the Chair.

Mr. HART. I yield to the Senator from Alabama.

Mr. ALLEN. The Senator brings up a very good point, that he has an amendment that is not in order and two-thirds of the Senate did not vote to suspend the rules to let him offer the amendment.

I really believe—I throw this out as a suggestion, I do not imagine it will be accepted—the imposition of cloture makes it almost impossible to properly shape legislation on the floor.

Since there is to be no filibuster of this bill—now, the distinguished Senator from Washington's new amendment is not in order—but I feel that the Senate can better work its will in this matter if the restrictions of cloture were lifted and if a time limit was placed on this bill.

I believe we would come out with a better bill than working under the restrictions of cloture.

Mr. HART. Let me respond to the Senator from Alabama.

I think he has made a wise and statesmanlike suggestion.

If we are no longer faced with a filibuster and we are down to legislating on this very important subject in what is best not only for the Senate but the country, I think his suggestion is very timely and one we could all agree with.

I certainly would and would enter into a time agreement, if I could bring my amendment up, of a very short duration.

Mr. ALLEN. I offer that suggestion to the Senate.

Mr. SCHMITT. Mr. President, I wonder whether the distinguished Senator from Washington would respond to a question, as the manager of the bill.

I have shared the concerns of others which have been expressed in the statement that this issue ultimately will be decided in conference, as it will. But the implication has been in some of those statements that whatever the Senate does is not as important as what the opinion of the House and the President might be. I do not share that feeling, and I ask the Senator from Washington this question: At least at the beginning of such a conference, is it not appropriate for the Senate conferees to represent whatever turns out to be the majority opinion?

Mr. JACKSON. I am sorry; I was speaking to the leadership.

Mr. SCHMITT. My question to the Senator is this: At the beginning of any conference, is it not appropriate and only fair that the conferees, whatever their personal opinions may be, attempt to represent the majority opinion of the Senate, whatever that might be?

Mr. JACKSON. That is correct. However, I point out to the distinguished Senator from New Mexico that the margin here is so narrow, when we look at the aggregate of representation in the House and the Senate, that obviously without some flexibility in that conference, we are not going to have a bill. I base that on the fact that we have had two Pearson-Bentsen bills passed and they have died. The last one was in conference for months and nothing happened.

Mr. BUMPERS. Mr. President, will the Senator yield for an observation?

Mr. SCHMITT. I yield.

Mr. BUMPERS. I remember when I believed Senate conferees should always defend the Senate position, whether they agreed with it or not. And that is the position the Senator from Texas just articulated.

But I would remind the Senate again about a matter which has always been extremely sensitive to me, and that is the surface owners' veto right provided for in the strip mining bill. That provision was debated here for 2 days and finally voted down by the Senate. Then one of the Senate conferees moved to recede from the Senate position before the House even discussed the Senate position, much less vote on it, and succeeded in his motion.

Mr. BENTSEN. May I respond?

Mr. SCHMITT. The Senator from New Mexico has the floor, but I yield, without losing my right to the floor.

Mr. BENTSEN. Conferees should start out not having to be put into the embarrassing position of arguing against something in which they do not believe. I want them to start out representing the majority viewpoint as expressed on the floor of the Senate. I well understand that after that, a compromise may be arrived at. At least, let them have some enthusiasm about their position.

Mr. SCHMITT. I think the Senator from Texas makes an excellent point. It is exactly the way I feel.

However, I add to that my general feeling—and it is a personal feeling—that all the conferees, at the start of the conference, have the obligation and duty to the other Members of the Senate to represent whatever the majority opinion has been, as strongly as they can, even if the margin of that majority is small.

I am not sure that the five, six, or seven votes we will see here is a small majority. That is a significant majority, compared with some others the Senate may have had in the past.

For myself, at least, I hope that the conferees, whatever their personal opinions might be, would in fact represent the Senate position as strongly as humanly possible, until the point of necessary compromise is actually reached.

Mr. BAYH. Mr. President, a parliamentary inquiry. Are we in a position in which any Member of the Senate now has a chance to express himself, or are we operating under a request for unanimous consent from the Senator from Kansas?

The PRESIDING OFFICER (Mr. ZORINSKY). We are not operating under a unanimous-consent request. A Senator may seek recognition.

Mr. BAYH. I should like to express a thought or two.

As I think most of my colleagues know, I have been very much in favor of the President's bill. I have not been wed to that. I did believe that those of us who felt strongly about it should do everything we could to get the Senate and the country aware of where we are headed. Obviously, we have lost that battle.

I regret that, in the process, there probably were some things said and some feelings exacerbated that may take a while to disappear.

I do not intend to object to the suggestion of my friend from Kansas. I want us to resolve this matter one way

or the other. But I must say that the opinion that has been expressed, that the majority of the Senate has spoken in favor of the position of the Senator from Kansas and the Senator from Texas, will turn out to be the case in the final resolution of this problem.

However, one of the concerns I have right now—and the reason why I am speaking at this time—is that with the imposition of cloture, many of us were put in the position whereby if we could not get our first choice, we were not permitted to have a second, third, or even a fourth choice.

To suggest that when the final votes are cast and perhaps because two Senators vote one way instead of another way, there is a ground swell of support in the Senate for the position felt so strongly and argued so persuasively by the Senator from Texas and the Senator from Kansas really is not the situation as it exists. Some of us, when we are thinking about the national interests, are going to be forced to make a choice among what I feel are several undesirable alternatives. Admittedly, those on the other side might look at it differently.

However, I wonder whether the Senate and the country would not be better served if a different unanimous-consent request were proposed, one very similar to the suggestion made by the distinguished Senator from Alabama: the unanimous-consent request stating that the filibuster is over; that we are going to have a time certain; that we are going to have the amendment of the Senator from Texas and the Senator from Kansas—their No. 1 and No. 2; the proposal of the Senator from Colorado; the amendment of the Senator from Louisiana, and the proposal of the Senator from Washington.

Then let the Senate vote on these in regular order; and at the end, at least we will have a shopping list that gives us some flexibility. It seems to me that that is a fair way to go. It recognizes a final disposition of this situation, without tying us into limitations that really were arbitrarily imposed because we could not get a time limitation.

I do not want to get myself in the position of making a suggestion that should be made by the leadership. The leadership is not here at the moment. Would there be an objection to a unanimous consent request that the Senate reach a time certain, agreed to by the two leaders; that the new proposal of the Senator from Kansas and the Senator from Texas, as well as their old proposal, the proposal of the Senators from Colorado and Louisiana, and the proposal of the Senator from Washington be made germane and be permitted to be voted on by the Senate? We would then dispose of this matter. Would there be objection to that?

Mr. PEARSON. I apologize to the Senator from Indiana. I was talking to the staff. Is he making an inquiry of me?

Mr. BAYH. The Senator from Kansas or anyone else. I do not want to inject myself into this position.

Mr. JACKSON. I say to the Senator that I made a request last night that we vote first on the Pearson-Bentsen amendment, which is Pearson-Bentsen No. 2, and then we vote on the Jackson compromise, as I had proposed to modify it. I hope we can vote early this afternoon on Pearson-Bentsen first, however they modify it; and if that fails, then go directly to my compromise.

If Pearson-Bentsen carries that is the end of it because nothing else would be in order, and then you would go to third reading and pass the bill as amended, as I understand the parliamentary situation.

Mr. BAYH. Mr. President, I see our leader is now here. He was not on the floor earlier. I do not want to be in a position where I think it could be exercised more expeditiously by the majority and minority leaders. Could I ask the leader is it out of order, discourteous, whatever descriptive phrase one might apply to it, to suggest that we ask our two leaders to get together and propose a unanimous-consent request that would terminate this matter before we go home tonight and would give us a shopping list of the most significant substantive amendments?

Certainly the Senator from Texas and the Senator from Kansas have at least one or two that ought to be No. 1 on the list; the Senator from Washington, the Senator from Colorado, and the Senator from Louisiana, and there may be someone else who wants to put himself in that category, but I do not make that suggestion thinking we are going to have a number of amendments. There are, however, probably four amendments or five amendments we have heard bandied about back and forth that I think the Senate ought to have a crack at, and then let us see.

Maybe I am wrong. Maybe when we are through we are going to have a strong majority supporting that amendment which has received the most attention.

Mr. BAKER. Mr. President, I would reply, if I may, that the majority leader and I have been trying for most of the day today to find a common ground for agreement for a time to vote and a way to vote. If that is successful then maybe some part of what the distinguished Senator from Indiana suggests will be incorporated. If it is not possible, then I think we are rapidly approaching the place where we simply have to get down to voting.

I guess the most immediate problem confronting us is the immediate disposition of two unanimous-consent requests. There may be others. If any of them is granted, then we will know how to arrange further proceedings. If none of them is granted, then, thankfully, the rules will arrange it for us. But one way or the other I would hope we could get to a vote today and dispose of this matter, and we will continue to try to work in that respect.

Mr. BAYH. As I mentioned earlier—and I am not certain my friend, the minority leader, heard—I do not intend to object. I think we have argued this as persuasively—not persuasively—as persuasively as we can, and have lost this battle, so I want to dispose of it.

But I would like to dispose of it in such a way that we have as good an opportunity to explore some limited alternatives not available to us unless we can get a unanimous-consent request that is broader than that proposed by the Senator from Kansas.

If instead of working on that one, we could get the two leaders together and propose one that had, say, four alternatives and a time certain for disposing of it, I think the Senate and the country would be better served.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BAYH. I yield.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from Indiana his suggestion is a helpful one. The minority leader, as he has indicated, and I have been exploring the problem. We were both under the impression Mr. JACKSON was going to renew his request of last evening at some point, and then I had the impression that, perhaps, Mr. PEARSON might present a unanimous-consent request at some point that he has been working on, and we would like to see what happens as a result of those requests first. But it is a helpful suggestion and we are endeavoring to do that.

Mr. BAYH. If I might just finish my thought, I do not want to prejudge what other Members of the Senate are going to do. I do not intend to interpose any objection, but inasmuch as the forces have become rather solidified, I think it would be unfortunate if one side objected to the other and the other side objected contrariwise.

If we could have a list in which we have three or four alternatives and everybody said, "All right, let us see what the Senate is going to do," and we can get it over with before the Senate gets on to anything else, it would be well to do so.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. I know we all want to get on with the show and wind it up this afternoon. In order to bring this matter to a head, I propose the following unanimous-consent request, Mr. President:

I ask unanimous consent that amendment No. 862 be revised so as to provide that, first, sales of new natural gas would be deregulated after December 31, 1986; second, the regulated price between the date of the enactment and December 31, 1986, would be the greater of (a) the Btu equivalent of the price of upper tier oil or (b) the formula proposed by the administration.

As a result, the new gas price would still start at the $2.03 per thousand cubic feet rather than $1.75, as originally proposed, but by 1985 would be 12 cents higher than amendment No. 862.

The third point, which is in line with the part of the program that the distinguished Senator from Colorado (Mr. HART) has advocated, I would have a third provision: Gas produced from tight formations where production costs are extraordinarily high would be deregulated immediately.

Now, Mr. President, if this consent is granted, it would be my understanding that we would vote first on Pearson-

Bentsen, as modified, if consent is granted for that purpose; and then immediately after, if Pearson-Bentsen is voted down, we would turn to my so-called compromise amendment.

I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, I, for one, cannot look upon the kind of so-called compromise where one merely seeks to better his hand by saying "Maybe I could get a few more votes if I make these changes," which do in some respects amount to a concession, as any compromise at all.

It seems to me if there was going to be some kind of a compromise, it ought to be discussed with the people on the other side.

It is subject to the same criticism as the previous so-called compromise which the Senator is seeking to change. It is a compromise with those who are on the same side. If you want to compromise, you ought to try to come to terms with those on the other side.

To simply ask unanimous consent to better one's hand once cloture has been invoked seems to me to make no sense, unless you have an agreement where the other side can also better its hand.

Now, has agreement been given to the sponsors of the Pearson-Bentsen amendment to improve their situation? Could I ask that question?

Mr. BUMPERS. The unanimous-consent request has not been propounded yet.

Mr. BENTSEN. It has been discussed, and I assume my colleague is prepared to propound it. But I think certainly the Senator makes a point when he says we should be treated with the same courtesy as the Senator from Washington.

I personally would object to neither one if we can get that kind of agreement.

Mr. LONG. It would seem to me if one side is going to be permitted to improve their offer the other side ought to be permitted to improve theirs. Incidentally, I think this serves a very good purpose because it tends to bring the contending sides a little closer together, and I think that is good.

Mr. BENTSEN. Could we join the unanimous-consent request?

Mr. JACKSON. I have proposed that to the distinguished Senator from Kansas, and he can best respond to that question.

Mr. PEARSON. The proposal is that we join the two unanimous-consent requests?

Mr. JACKSON. Unanimous-consent request.

I would, Mr. President, in connection with my unanimous-consent request, add a further unanimous-consent request that, if amendment No. 1039, that is, Pearson-Bentsen, is not agreed to, that a rollcall vote occur on amendment No. 862 immediately thereafter, as just modified—that is, if I get consent to modify it—without intervening debate or a motion, so we go immediately to 862 in the event that 1039 is defeated.

Mr. LONG. Reserving the right to object——

Mr. JACKSON. That is part of the unanimous-consent request.

Mr. LONG. Could we add to that the agreement that sponsors of the Pearson-Bentsen amendment will have a similar right to modify their proposal?

Mr. JACKSON. Obviously. I just propounded the question to the Senator from Kansas.

Mr. PEARSON. It is not my intention nor my desire to join both unanimous consents together. If the Senator wants to move his unanimous consent then I will move unanimous consent to Pearson-Bentsen No. 2, with some explanation, because we have changed it because of questions raised on the floor here today.

Mr. JACKSON. With all due respect, if the Senator will yield, Mr. President, that is not exactly cricket because you get consent to modify yours and then one objection, and if that is approved, then one objection, on our side—I mean in connection with my amendment, and it would be out. I think either we do it all together or not at all. It does not make any sense.

Mr. FORD. I reserve the right to object to the floor manager's motion, Mr. President.

I wish to ask the Chair this question. It is a parliamentary procedural question.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Does the unanimous-consent agreement asked by the distinguished Senator from Washington do anything to those amendments that were eligible for his original substitute?

Those amendments that have been previously cleared that are eligible to be submitted, will not be subject to the Chair saying they are out of order?

The PRESIDING OFFICER. They will not be subject to the Chair saying they are out of order. They would still be eligible.

Mr. FORD They are still eligible?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Mr. President, I can only say that I would be compelled to object unless I am sure that the other side, which is the Pearson-Bentsen side, will have an equal right to modify theirs.

Mr. JACKSON. Mr. President, if the Senator will yield, that is what I am suggesting. I am suggesting that we put it all in one unanimous-consent request, but my good friend from Kansas raises objections to that. So it is not a problem with me.

Mr. LONG. Then if I might add to the unanimous-consent request, would the Senator from Washington be willing to modify his unanimous-consent request to say that the sponsors of the Pearson-Bentsen amendment would also have the right to modify their amendment?

Mr. JACKSON. As proposed, certainly. They are making the request.

But the problem is, I say to the Senator, the distinguished Senator from Kansas does not want to treat the two requests in one package, the one I make to my amendment and the one he makes to his amendment. He does not want to combine them in one package, in order to do equity here.

Mr. LONG. Then he can object.

Mr. JACKSON. Obviously the thing to do is put it in one package. If we do not do that I cannot buy a pig in a poke. There have been too many fine maneuvers around here.

Mr. LONG. It seems to me that the only way we can be fair is to agree that both sides will have the opportunity to modify their amendments. I do not know any other way that would be fair.

Mr. JACKSON. The Senator's problem is to convince the other half of Pearson-Bentsen.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana had the floor. Is he yielding the floor?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. LONG. I yield to the Senator.

Mr. BAKER. Mr. President, I do not want to be arbitrary, and I do not think I am being arbitrary, but I reiterate what I said a minute ago. It is time to fish or cut bait.

I also want to say that I was on the floor more than once telling my good friend from Colorado that we had to play by the rules and why should we favor his amendment over someone else by qualifying it by unanimous consent.

Mr. President, in all fairness, I must say to you that there are other requests besides the request of the Senator from Colorado which I have declined to give. I cannot square with my conscience, frankly, how I am going to give these two unanimous-consent requests having turned down those.

There is no retaliation; there is no retribution. All I am saying is let us proceed according to the rules and let the chips fall where they may.

Mr. JOHNSTON addressed the Chair.

Mr. JACKSON. Mr. President, I renew my unanimous-consent request.

Mr. JOHNSTON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana has given up the floor.

Mr. LONG. I yield the floor for a moment.

The PRESIDING OFFICER. The junior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I will have to object, not only for the same reason that the distinguished minority leader said but also because those provisions of this amendment which I spoke about with the distinguished chairman of the Energy Committee last night have not been removed.

You still have the power of regulation of intrastate gas. You still have rollbacks of all the rollover contracts and existing intrastate gas contracts which is going to break financially many independents and under the guise of a "compromise" to put a cosmetic front on top of what I regard as very bad legislation that would absolutely ruin the intrastate markets which have been finding most of the gas. I simply cannot allow that to be done because I believe it would look as though it is a compromise when in fact it is not a compromise.

Mr. FORD. Mr. President, reserving the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana still has the floor. Does he yield?

Mr. JOHNSTON. So, Mr. President, at the appropriate time I would simply have to object.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. In order to clear the deck for the moment at least I withdraw my unanimous-consent request.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the situation might not be helped if we had a quorum call or a recess for a little while?

Mr. RANDOLPH. A recess.

Mr. ROBERT C. BYRD. Because there seems to be some desire and inclination on the part of various Senators here to see if they can work out a package which would, of course, have to have unanimous consent, and I think perhaps that might be the best thing for us to do.

I ask unanimous consent——

Mr. FORD. Mr. President, will the majority leader withhold? I need to propound a parliamentary inquiry.

Mr. ROBERT C. BYRD. Yes, I withhold the request.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. I ask the Chair: The unanimous-consent agreement as propounded by the Senator from Washington said we immediately go to a vote on his substitute. Even though according to the request I made earlier my amendments were eligible, if the Senate goes to a vote may I then offer my amendments?

The PRESIDING OFFICER. Are the amendments of the Senator from Kentucky to the Jackson substitute?

Mr. FORD. They are.

The PRESIDING OFFICER. Then they would be in order.

Mr. FORD. As I understood the unanimous-consent agreement is that we would go to an immediate vote under the unanimous consent agreement. If we went to an immediate vote that would take the whole thing and leave my amendments and others out.

The PRESIDING OFFICER. If the Pearson-Bentsen amendment were defeated the Senate would go to the Jackson substitute and vote immediately, but there is no time constraint put on the Pearson-Bentsen amendment.

Mr. FORD. But my amendments do not lie to the Pearson-Bentsen amendment. They lie to the Jackson substitute. If the Senate goes to an immediate vote I thought that meant my amendments then could not be offered.

The PRESIDING OFFICER. The amendments of the Senator are in order now, even though the Pearson-Bentsen amendment is pending.

Mr. FORD. OK, but the point then is that if we get unanimous-consent agreement to go to an immediate vote after the Pearson-Bentsen amendment, subject to its failing, which I hope it does not, then if we go to the Jackson substitute for an immediate vote I then at that point have an opportunity to present my amendments; is that correct?

The PRESIDING OFFICER. The Senator would have the right to offer the amendments at that point, but they would not be debatable.

Mr. FORD. That is the point, and I will object to the Jackson proposal.

The PRESIDING OFFICER. However, the Senator could offer his amendments prior to the vote on the Pearson-Bentsen amendment, and be able to debate them if he has time.

Mr. FORD. I understand.

Mr. JAVITS. Mr President, if the Senator will yield, there is one point omitted. The Senator could offer his amendments before the vote on the Pearson-Bentsen amendment to the Jackson substitute.

Mr. FORD. I understand, but it may not be necessary. Why put the Senate through all that if it is not necessary is the point I am making.

Mr. JAVITS. If it is, that does not mean the Senator has to object to the whole thing.

Mr. FORD. I am not objecting to the whole thing. There is the point. I am exercising the point right now. I have not done that yet. I do not want these other amendments to fall. I am trying to back my aces.

Mr. BAKER. Back his aces is what he said.

RECESS UNTIL 1:29 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 12:29 p.m., recessed until 1:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE MAMMAL PROTECTION ACT AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1522.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 12, 1977.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment with the amendments which I have sent to the desk on behalf of Mr. MAGNUSON.

UP AMENDMENT NO. 862

(Purpose: (1) To ban commercial whaling within 200 miles of the United States; (2) To reaffirm Washington State oil port siting policy.)

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. MAGNUSON proposes unprinted amendment No. 862 en bloc.

The amendments are as follows:

On page , line , insert the following:

"SEC. 5. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.".

On page , immediately after line insert the following:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MAGNUSON. Mr. President, during consideration of S. 1522 today, two amendments will be considered by the Senate. S. 1522 would amend the Marine Mammal Protection Act of 1972 in order to authorize appropriations under the act for fiscal year 1978. The bill has passed both the Senate and the House and has been returned because of the House's deletion of Senator BOB PACKWOOD's antiwhaling amendment. Since

the act's funding authorization expired on October 1, it is imperative that we act on this bill quickly.

The first amendment to be considered is a compromise antiwhaling amendment. The amendment is acceptable to the House Merchant Marine and Fisheries Committee and to the Senate Commerce Committee. The original Senate amendment would have banned all whaling within 200-nautical miles of the United States. The new amendment bans all commercial whaling, which was the source of our concern in the first place. This new amendment would be completely in keeping with U.S. policy on this issue, but would not have the effect of unduly restricting subsistence whaling—which is specifically allowed under the Marine Mammal Protection Act—or Government approved research—which is also allowed under very strict conditions. I believe it is a good amendment.

The second amendment is extremely important to me and to the State of Washington. The State of Washington has been experiencing a heated public debate on the location of expanded oil terminal facilities in the State's coastal zone. While I would have preferred a unanimous decision by State leaders settling this controversy, unfortunately this has not happened. Instead of allowing this controversy to continue, I and my colleagues from the State have decided to confirm, as a matter of Federal law, that increased tanker traffic in Puget Sound is simply bad policy and should not be allowed. The amendment is also a clear Federal endorsement of the policy now in the Washington State coastal zone management program that—

The State of Washington, as a matter of overriding policy, positively supports the concept of a single, major crude oil petroleum receiving and transfer facility at or west of Port Angeles.

This policy would preclude any major new facility, or significant enlargement of any existing facility, on navigable waters east of Port Angeles, and in particular on Puget Sound.

The waters of Puget Sound, and the attendant resources, are indeed a major national environmental treasure. Puget Sound ought to be strictly protected; its resources ought not to be threatened. Since tanker accidents are directly related to the amount of tanker traffic, there should not be an expansion of traffic over what now presently exists. One oil company proposal would quadruple the amount of oil moved now through this pristine environment. This is simply intolerable. There are other oil transport options that would serve the national interest just as well as moving it by tanker through Puget Sound.

I do not necessarily favor increased oil traffic at Port Angeles. The State of Washington already bears its fair share of the Nation's refinery capacity. The social costs of oil tanker movements in my State, in my view, simply outweigh the benefits. And as I said, there are other alternatives.

Again, it is urgent that Congress approve this amendment. The Alaska oil transportation picture is a bit of a mess. This amendment will speed a decision on the best oil transport system to the Midwest. More importantly, it will also protect a fragile and significant natural asset—Puget Sound.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 1522 to make any necessary technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORROWING AUTHORITY OF THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 419, H.R. 6530.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6530) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes,

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter is cleared for passage on our calendar.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6530) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 427, Senate Resolution 263.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 263) waiving sec. 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2114.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter also is cleared for passage on this side. We have no objection.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-462), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 2114, which in effect authorizes enactment of new budget authority which would become available in fiscal 1978, was reported on September 21, 1977, by the Committee on Energy and Natural Resources, a resolution waiving section 402(a) of the Budget Act with respect to S. 2114 must be adopted before this bill can be considered by the Senate. In reporting favorably on the resolution, the Budget Committee is simply recommending that the Senate proceed to consideration of S. 2114 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET IMPLICATIONS

S. 2114 authorizes $10 million in fiscal year 1978 and thus requires a section 402(a) waiver. The bill also authorizes "such sums as may be necessary" for certain activities, estimated to require $12 million in fiscal year 1978. This brings the total cost of S. 2114 to an estimated $22 million.

S. 2114 is the last of five bills reported by the Committee on Energy and Natural Resources as part of a national energy plan and is primarily a regulatory policy bill dealing with public utility ratemaking. The bill authorizes Federal action to encourage energy conservation, efficiency and equitable con-

sumer rates in public utility systems. Specifically, the bill as reported: (1) requires utilities to furnish information to the Department of Energy (DOE) regarding costs of service; (2) authorizes DOE to intervene in any proceeding before a State regulatory authority which relates to utility rates or rate design, although DOE is prohibited from appealing the authorities' decisions; (3) establishes a National Regulatory Research Institute; (4) requires DOE to recommend guidelines on cogeneration and small power production to State regulatory authorities; (5) authorizes loans for studying the feasibility of undertaking small hydroelectric projects; and (6) requires several studies, including one of the financial impact on State regulatory authorities of implementing this bill.

Enactment and full funding of this bill plus other legislation comprising the national energy plan, as well as funding of later nonenergy related requirements, would lead to a breaching of the second budget resolution ceiling for budget authority in function 300, although the outlay ceiling would remain intact. However, actual appropriations in function 300 are not expected to breach the fiscal year 1978 ceilings.

Significantly, the effect of defecting consideration of S. 2114 would be to preclude the Senate debate of a major part of the national energy plan.

The Committee on Energy and Natural Resources was delayed in reporting S. 2114 because it did not receive the administration's specific legislative proposals for a national energy plan until May 2, 1977. This left insufficient time for a careful review of the proposals in time to meet the May 15, 1977, reporting deadline.

Consideration of S. 2114 will not delay the appropriations process. Funding of this $22 million bill and other energy plan initiatives could be provided in a supplemental. Passage and subsequent funding of S. 2114 would not affect the economy as a whole but would reflect a national priority of emphasizing energy conservation.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 263 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2114. Such waiver is necessary because S. 2114, containing part E, as amended, of title I of S. 1469, the "National Energy Act", authorizes the Secretary of the Department of Energy to expend funds and to grant loans for certain utility regulation programs in fiscal year 1978. The authorizations contained in S. 2114, are consistent with the Energy and Natural Resources Committee's March 15, 1977, report to the Committee on the Budget. However, compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible with respect to these authorizations because of—

(1) the extensive hearings and mark-ups necessary for the full consideration of the President's National Energy Plan proposals submitted to the Congress on April 20, 1977, and

(2) the large number of other matters considered and reported by the Committee on Energy and Natural Resources during the past three months.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 428, Senate Resolution 270.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 270) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying 2,700 acres to the Paiute and Shoshone Tribes of the Fallon Indian Reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, this measure as well appears cleared on our calendar, and we have no objection to its passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–463), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 785 authorizes enactment of new budget authority for fiscal 1978 and was reported on September 27, 1977, by the Senate Select Committee on Indian Affairs, a resolution waiving section 402(a) of the Budget Act with respect to S. 785 must be adopted by the Senate. In reporting favorably on the resolution, the Budget Committee is simply recommending that the Senate proceed to consideration of S. 785 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under the circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: The reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the Congressional budget.

BUDGET IMPLICATIONS

S. 785 authorizes appropriations of $5.4 million for fiscal year 1978. If this bill were enacted and fully funded, CBO estimates $0.3 million would be outlayed in fiscal year 1978. Estimated revenue losses would be a few thousand dollars.

Funding of $5.4 million in fiscal year 1978 for the program authorized in S. 785 would not significantly affect the Congressional budget totals. This authorization would not delay the appropriations process, as the amount can be accommodated in a supplemental. S. 785 does not have a macroeconomic impact nor does it affect national priorities.

The Select Committee on Indian Affairs contends that it made a diligent effort in reporting the bill, but was prevented from meeting the May 15 deadline because the select committee was created pursuant to S. Res. 4 on February 4, 1977, but did not have funds to hire staff until April 1, 1977, when the committee's appropriation resolution passed the Senate. As a consequence, the committee did not have a full staff until May. In addition, the select committee, in carrying out its legislative duties, relies upon the American Indian Policy Commission for recommendations. The Commission did not advise the select committee on this matter until May 17.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 270 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 270) was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 785. Such waiver is necessary because the Congressional Budget Act of 1974 requires that all authorizations for appropriations for fiscal year 1978 be submitted by May 15, 1977. However, the Senate Select Committee on Indian Affairs is a new committee which was not fully operational by that date and could not, therefore, have met the May 15, 1977, deadline.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 429, Senate Resolution 273.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The resolution (S. Res. 273) waiving section 402(a) of the Congressional Budget Act

of 1974 with respect to the consideration of S. 1863.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, this matter also is cleared for passage on this side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–464), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 1863 authorizes enactment of new budget authority for fiscal 1978 and was reported by the Committee on Armed Services on September 27, 1977, a resolution waiving section 402(a) of the Budget Act with respect to S. 1863 must be adopted by the Senate. In reporting favorably on the resolution the Budget Committee is simply recommending that the Senate proceed to consideration of S. 1863 and is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET IMPLICATIONS

The proposed legislation for S. 1863 was submitted to the Senate by the Department of Defense on July 13, 1977. Since the President's decision to cancel the B–1 did not occur until June 30, the Armed Services Committee could not comply with the May 15 reporting deadline.

S. 1863 is tied to the President's decision (approved by the Congress) to cancel the production of the B–1 aircraft in favor of increased reliance on cruise missiles. Without enactment of this bill, the bomber and air-launched strategic weapons portion of the triad defense policy would not be modernized at the same pace as the other triad components. The second budget resolution assumed enactment of this legislation.

Enactment of the bill will require a supplemental appropriation. The Appropriations Committee staff has indicated that the components of the bill will be included in a general supplemental bill covering several items within the next 2 weeks.

Under these circumstances, the Budget Committee reports favorably on Senate Resolution 273 and recommends that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1863, a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

On July 12, 1977, the President submitted an amendment to the Budget for fiscal year 1978 as a result of his decision to terminate B–1 production and to pursue instead development and deployment of cruise missiles using air launched platforms. The amendment decreased the amounts requested for appropriations in certain accounts of the Department of Defense and increased others. Some of these increased amounts require fund authorization pursuant to section 138 (a) of title 10, United States Code.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to S. 1863, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE GEORGE WASHINGTON UNIVERSITY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1060.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1060) entitled "An Act to amend the Act of February 9, 1821, to restate the charter of The George Washington University", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as "The George Washington University Charter Restatement Act".

SEC. 2. The Act entitled "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia a university and a body corporate which shall be known as The George Washington University (hereinafter in this Act referred to as the 'University') and which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the University are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the University, the University may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the University.

"(2) establish any school, division, or department of learning to become a part of the University,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the University without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the University and the facilities of any agency of the United States available to the University,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the University, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the University.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the University shall be vested in a board of trustees (hereinafter in this Act referred to as the 'board'). The bylaws of the University shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the University.

"(b) No bylaws of the University which establishes qualifications for membership on the board may permit any individual (except the president of the University) to serve as a member of the board during the period in which the individual is serving as

an officer, professor, lecturer, teacher, tutor, or employee of the University.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the University in a manner consistent with this Act, shall have full authority over all personnel and activities of the University, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the University. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the University for—

"(1) the conduct of the purposes, business, and affairs of the University, or

"(2) the regulation of the internal government of the University.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge the University with any other nonprofit organization.".

SEC. 3. (a) The amendment made by section 2 constitutes a complete restatement of the charter of The George Washington University without disturbing the present and continuing corporate status of The George Washington University and supersedes all prior charter provisions of The George Washington University contained in the Act of February 9, 1821 (6 Stat. 255), and all amendments and supplements thereto.

(b) Each individual who is a member of the board of trustees of The George Washington University on the date of the enactment of this Act shall continue to serve as a member until the membership termination date applicable to such individual.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I move that the Senate concur in the House amendment.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Commerce, Science, and Transportation; and the withdrawal of the nomination of Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; and

H.J. Res. 573. A joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1331. An act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights.

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METZENBAUM).

At 12:14 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land; and

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

The message also announced that the House has passed without amendment the bill (S. 667) to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs; and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. CORMAN, Mr. PIKE, Mr. VANIK, Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. CONABLE, Mr. DUNCAN of Tennessee, Mr. CARTER, and Mr. MADIGAN were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes.

At 4:40 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the amendment of the Senate to the bill (H.R. 5742) to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2095. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to amend the Emergency Livestock Credit Act (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2096. A letter from the Acting Director of ACTION transmitting, for the information of the Senate, problems the Agency will face if the Labor-HEW appropriation bill for fiscal year 1978 does not pass by the beginning of the new fiscal year; to the Committee on Appropriations.

EC-2097. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period September 15, 1977 to December 15, 1977 (with an accomapnying report); to the Committee on Armed Services.

EC-2098. A letter from the Secretary of Defense transmitting, pursuant to law, the annual report on reserve forces for fiscal year 1976 and the transition quarter (with an accompanying report); to the Committee on Armed Services.

EC-2099. A letter from the Chairman of the Federal Deposit Insurance Corporation transmitting, pursuant to law, the annual report of the FDIC for the calender year 1976 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-2100. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Use of Exchange Stabilization Fund Resources—Arrangement with Treasury Provides Access to Information (ID-77-42, September 28, 1977) (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-2101. A letter from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, the sixth annual report of the National Advisory Committee on Oceans and Atmosphere (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2102. A letter from the Secretary of Commerce transmitting, pursuant to law, the sixth annual report of the National Advisory Committee on Oceans and Atmosphere (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-2103. A letter from the Under Secretary of Interior transmitting, pursuant to law, the annual report of the fiscal condition of the Government of the Virgin Islands for the fiscal year ended June 30, 1976 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2104. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report of building project survey for Springfield, Massachusetts (with accompanying papers); to the Committee on Environment and Public Works.

EC-2105. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "What Needs to be Done to Improve the Supply System of the District of Columbia" (GGD-77-32 September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2106. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "What

Needs to be Done to Improve the Supply System of the District of Columbia" (GGD-7732 September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2107. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Conflicting Congressional Policies: Veterans' Preference and Apportionment Vs. Equal Employment Opportunity" (FPCD-77-61, September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2108. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Benefits From Flexible Work Schedules—Legal Limitations Remain" (FPCD-77-62, September 26, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2109. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Department of Housing and Urban Development Unresponsive to Multifamily Housing Real Estate Tax Problems" (CED-77-125, September 27, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2110. A letter from the Comptroller General of the United States transmitting pursuant to law, a report entitled "Executive Agencies Can Do Much More in Using Government-Owned Space as an Alternative to Leasing or New Construction" (LCD-77-314, September 27, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2111. A letter from the Chairman of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research transmitting, pursuant to law, a report entitled "Report and Recommendations: Research Involving Children" (with an accompanying report); to the Committee on Human Resources.

EC-2112. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning Commissioner's State programs and discretionary programs which has been sent to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC-2113. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report entitled "Title I Funds Allocation: The Current Formula" (with an accompanying report); to the Committee on Human Resources.

EC-2114. A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to require the addition of tracer elements to explosive materials and to correct the reference to drugs (with accompanying papers); to the Committee on the Judiciary.

EC-2115. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, 414 reports covering the period September 1 through September 15, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Governmental Affairs:

Without amendment:

S. Res. 281. An original resolution to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and be deposed and to present himself and give testimony at the trial in the matter of Janine Perrignon, et al. v. Bergin Brunswig Corporation, et al.

By Mr. CRANSTON, from the Committee on Human Resources:

Without amendment:

S. Res. 283. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORT OF THE COMMITTEE ON HUMAN RESOURCES (REPT. NO. 95-469)

Mr. WILLIAMS, from the Committee on Human Resources, submitted a report pursuant to section 302(b) of the Congressional Budget Act of 1974, which was ordered to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were each read twice by title and referred as indicated:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 573. A Joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people; to the Committee on Foreign Relations.

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land; to the Select Committee on Indian Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 4, 1977, he presented to the President of the United States the enrolled bill (S. 1331) to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 2172. A bill to repeal certain obsolete provisions of law relating to deductions from salaries of Members of Congress; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 2173. A bill to provide for Federal judicial review of the application of jurisdictional guidelines for the State taxation of interstate commerce and for the apportionment of interstate income among the States; jointly, by unanimous consent, to the Committees on Finance and the Judiciary.

By Mr. HEINZ:

S.J. Res. 85. Joint resolution to proclaim October 11, 1977, to be Pulaski-Kosciuszko Memorial Day; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S.J. Res. 86. Joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 2173. A bill to provide for Federal judicial review of the application of jurisdictional guidelines for the State taxation of interstate commerce and for the apportionment of interstate income among the States; jointly, by unanimous consent, to the Committees on Finance and the Judiciary.

Mr. MATHIAS. Mr. President, I am today introducing the Interstate Taxation bill of 1977.

In 1789, the Founding Fathers replaced the Articles of Confederation with our Constitution. In large measure, they did so because commerce and trade—so vital to the security and prosperity of every American—could not flourish in the confusion of multiple and often conflicting local laws.

Our Constitution was written as a compact between States, willing to trade short-run gains for long-term progress in an orderly Federal system of free-flowing commerce.

Today that system is not functioning as efficiently as it should. A major obstacle to interstate commerce lies in the complex and often conflicting local tax rules which confront firms in interstate commerce. These rules harm both business and our State and local governments—and, in the end, deprive all our citizens of the efficiency which leads to lower prices and the tax revenue which finances government services.

I have been deeply concerned with this problem since I served on the House Special Committee on State Taxation of Interstate Commerce. In 1964 we issued a report based on an extensive study of this problem. We found that sales and use taxes were levied by approximately 2,300 State and local units. That number has increased by 250 percent since the 1964 report. In addition, there are corporate income tax laws in all but five States of the Union.

Businesses now have such a complex set of rules to comply with that they often fail to pay tax liabilities simply because they are unaware of them. Some States have laws which are effectively useless because companies having ephemeral contacts with these States are not familiar with the particular idiosyncracies of these laws. There are no

uniform accounting principles by which businesses can compute their liability if they do business in varying amounts in a number of different States. It has long been obvious that the burden of even attempting to comply with the multiplicity of State and local laws is particularly onerous for small business. My bill will put all businesses on notice that those States in which they operate to such an extent that they come within the Federal guidelines can impose and collect taxes on their sales and income.

Over the years of my service in both the House and Senate, I have introduced a series of bills which would address this problem. These bills have incorporated the ideas of representatives of State and local government and business groups. The bill I introduce today, like my earlier bills, will regularize the jurisdictional principles by which States impose sales, use, income, and gross receipts taxes. It will benefit the States by giving them the assurance that their tax laws, written in conformity with the uniform State and use tax provisions of this act, will result in maximum compliance and maximum revenues.

In the 90th and the 91st Congresses, the House passed, by overwhelming majorities, State taxation legislation similar in thrust to my bill. The Senate Finance Committee created a Subcommittee on Interstate Taxation in the 93d Congress to hold hearings and give serious consideration to the problem. Senator MONDALE, who chaired the subcommittee, said that:

> Its purposes were to "examine the problems posed for interstate businesses by the multifarious corporate income and sales and use taxes imposed by the different states . . . [F]urther House action now appears unlikely unless the Senate acts first and, in an effort to begin Senate action, the subcommittee is holding hearings.

Other business has kept the Finance Committee from taking action on the findings of these hearings.

The basic objectives of this bill are the same as legislation which I have introduced in the past including S. 2080 in the 94th Congress. However, there are several major differences between this bill and S. 2080:

First. Title I provides for a sample "business location" test to determine whether or not a business is required to collect sales and use taxes for a particular State. It does not include the so-called "Louisiana Plan" for a combined State and local sales and use tax. The "business location" test in this bill is basically the same as in the two bills which have been passed by the House of Representatives in the past.

Second. Title II on gross receipts tax is an entirely new provision. It is necessary to clear up the confusion that resulted from a 1975 U.S. Supreme Court decision in the Standard Pressed Steel case.

Third. Title III on net income taxes is basically the same as title II in S. 2080, but it has been simplified and shortened through elimination of nonessential provisions.

Mr. President, I ask unanimous consent that the full text of the interstate taxation bill of 1977 be printed in the RECORD at the conclusion of my remarks along with a section-by-section explanation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SALES AND USE TAXES

PART A. Jurisdictional Guidelines

SEC. 101. UNIFORM JURISDICTIONAL STANDARD.

No State or political subdivison thereof shall have power to require a person to collect a sales or use tax with respect to a sale of tangible personal property unless the person has a business location in the State or regularly makes household deliveries in the State.

SEC. 102. REDUCTION OF MULTIPLE TAXATION.

(a) LOCATION OF SALES.—A State or political subdivision thereof may impose a sales tax or require a seller to collect a sales or use tax with respect to an interstate sale of tangible personal property only if the destination of the sale is—

(1) in that State, or

(2) in a State or political subdivision for which the tax is required to be collected.

(b) IMPOSITION OF USE TAX.—A State or political subdivision thereof may not impose a use tax with respect to tangible personal property of a person without a business location in the State or an individual without a dwelling place in the State; but nothing in this subsection shall affect the power of a State or political subdivision to impose a use tax if the destination of the sale is in the State and the seller has a business location in the State or regularly makes household deliveries in the State.

(c) CREDIT FOR PRIOR TAXES.—The amount of any use tax imposed with respect to tangible personal property shall be reduced by the amount of any sales or use tax previously paid by the taxpayer with respect to the same property on account of liability to another State or political subdivision thereof.

(d) REFUNDS.—A person who pays a use tax imposed with respect to tangible personal property shall be entitled to a refund from the state or political subdivision thereof imposing the tax, up to the amount of the tax so paid, for any sales or use tax subsequently paid to the seller with respect to the same property on account of prior liability to another State or political subdivision thereof.

(e) MOTOR VEHICLES AND MOTOR FUELS.—

(1) VEHICLES.—Nothing in subsection (a) or (b) shall affect the power of a State or political subdivision thereof to impose or require the collection of a sales or use tax with respect to motor vehicles registered in the State.

(2) FUELS.—Nothing in this section shall affect the power of a State or political subdivision thereof to impose or require the collection of a sales or use tax with respect to motor fuels consumed in the State.

SEC. 103. EXEMPTION FOR HOUSEHOLD GOODS, INCLUDING MOTOR VEHICLES, IN THE CASE OF PERSONS WHO ESTABLISH RESIDENCE.

No State or political subdivision thereof may impose a sales tax, use tax, or other nonrecurring tax measured by cost or value with respect to household goods, including motor vehicles, brought into the State by a person who establishes residence in that State if the goods were acquired by that person thirty days or more before he establishes such residence.

SEC. 104. TREATMENT OF FREIGHT CHARGES WITH RESPECT TO INTERSTATE SALES.

Where the freight charges or other charges for transporting tangible personal property to the purchaser incidental to an interstate sale are not included in the price but are separately stated by the seller, no State or political subdivision may include such charges in the measure of a sales or use tax imposed with respect to the sale or use of the property.

SEC. 105. LIABILITY OF SELLERS ON SALES TO BUSINESS BUYERS.

No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller—

(a) a registration number or other form of identification indicating that the purchaser is registered with the jurisdiction imposing the tax to collect or pay a sales or use tax imposed by that jurisdiction, or

(b) a certificate or other written form of evidence indicating the basis for exemption or the reason the seller is not required to pay or collect the tax.

SEC. 106. LOCAL TAXES.

No seller shall be required by a State or political subdivision thereof to classify interstate sales for sales tax accounting purposes according to geographic areas of the State in any manner other than to account for interstate sales with destinations in political subdivisions in which the seller has a business location or regularly makes household deliveries. Where in all geographic areas of a State sales taxes are imposed at the same rate on the same transactions, are administered by the State, and are otherwise applied uniformly so that a seller is not required to classify interstate sales according to geographic areas of the State in any manner whatsoever, such sales taxes whether imposed by the State or by political subdivisions shall be treated as State taxes for purposes of this Act.

PART B. Definitions

SEC. 110. SALES TAX.

A "sales tax" is any measure imposed with respect to sales and measured by the sales price of tangible personal property or services with respect thereto, which tax is required by State law to be stated separately from the sales price by the seller or is customarily stated separately from the sales price.

SEC. 111. USE TAX.

A "use tax" is any nonrecurring tax, other than a sales tax, which is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership of that property or the leasing of that property from another, including any consumption, keeping, retention, or other use of tangible personal property.

SEC. 112. INTERSTATE SALE.

An "interstate sale" is a sale in which the tangible personal property sold is shipped or delivered to the purchaser in the State from a point outside that State.

SEC. 113. STATE.

The term "State" means any of the several States of the United States or the District of Columbia.

SEC. 114. DESTINATION.

The "destination" of a sale is in the State or political subdivision in which possession of the property is physically transferred to the purchaser, or to which the property is shipped to the purchaser regardless of the free on board point or other conditions of the sale.

SEC. 115. BUSINESS LOCATION.

A person shall be considered to have a "business location" within a State only if that person—

(a) owns or leases real property within the State, or

(b) has one or more employees located in the State, or

(c) regularly maintains a stock of tangible personal property in the State for sale in the ordinary course of its business.

For the purpose of paragraph (c), property which is on consignment in the hands of a consignee, and which is offered for sale by the consignee on his own account, shall not be considered as stock maintained by the consignor; and property which is in the hands of a purchaser under a sale or return arrangement shall not be considered as stock maintained by the seller.

SEC. 116. LOCATION OF PROPERTY.

Property shall be considered to be located in a State if it is physically present in that State.

SEC. 117. LOCATION OF EMPLOYEE.

(a) GENERAL RULE.—An employee shall be considered to be located in a State if—

(1) the employee's service is localized in that State, or

(2) the employee's service is not localized in any State but some of the service is performed in that State and the employee's base of operations is in that State.

(b) LOCALIZATION OF EMPLOYEE'S SERVICE.—Service of any employee shall be considered to be localized in a State if—

(1) the service is performed entirely within that State, or

(2) the service is performed both within and without that State, but the service performed without the State is incidental to service performed within the State.

(c) EMPLOYEE'S BASE OF OPERATIONS.—The term "base of operations," with respect to an employee, means a single place of business with a permanent location which is maintained by the employer and from which the employee regularly commences his activities and to which he regularly returns in order to perform the functions necessary to the exercise of his trade or profession.

(d) CONTINUATION OF MINIMUM JURISDICTIONAL STANDARD.—An employee shall not be considered to be located in a State if his only business activities within such State on behalf of his employer are any or all of the following:

(1) The solicitation of orders, for sales of tangible personal property, which are sent outside the State for approval or rejection and (if approved) are filled by shipment or delivery from a point outside the State.

(2) The solicitation of orders, for sales of or for the benefit of a prospective customer of his employer, if orders by such customer to such employer to enable such customer to fill orders resulting from such solicitation are orders described in paragraph (1).

(3) The installing or repairing of tangible personal property which is the subject of an interstate sale by the employer, if such installation or repair is incidental to the sale.

This subsection shall not apply with respect to business activities carried on by one or more employees within a State if the employer (without regard to those employees) has a business location in such State.

(e) EMPLOYEES OF CONTRACTORS AND EXTRACTORS.—If the employer is engaged in the performance of a contract for the construction of improvements on or to real property in the State or of a contract for the extraction of natural resources located in the State, an employee whose services in the State are related primarily to the performance of the contract shall be presumed to be located in the State. This subsection shall not apply with respect to services performed in installing or repairing tangible property which is the subject of interstate sale by the employer, if such installation or repair is incidental to the sale.

(f) EMPLOYEE.—No person shall be considered an employee of an employer unless such person is an employee of such employer for purposes of Federal income tax withholding under chapter 24 of the Internal Revenue Code of 1954, as amended.

SEC. 118. HOUSEHOLD DELIVERIES.

A seller makes household deliveries in a State or political subdivision if he delivers goods, otherwise than by mail or by common carrier, to the dwelling places of his purchasers located in that State or subdivision.

TITLE II—GROSS RECEIPTS TAXES

PART A. Jurisdiction

SEC. 201. UNIFORM JURISDICTIONAL STANDARD.

No State or political subdivision thereof shall have power to impose a gross receipts tax with respect to the interstate sale of tangible personal property unless the sale is solicited directly through a business office of the seller in the State or political subdivision.

PART B. Definitions

SEC. 210. GROSS RECEIPTS TAX.

For purposes of this title, a "gross receipts tax" is any tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, which is applicable to commercial or manufacturing business in general, and in the determination of which no deduction is allowed which would constitute the tax a net income tax.

SEC. 211. BUSINESS OFFICE.

For purposes of this title, a person shall be considered to have a "business office" in a State or political subdivision only if that person—

(a) owns or leases real property within the State or political subdivision, or

(b) regularly maintains a stock of tangible personal property in the State or political subdivision for sale in the ordinary course of his business.

For the purpose of paragraph (b), property which is on consignment in the hands of a consignee, and which is offered for sale by the consignee on his own account, shall not be considered as stock maintained by the consignor; and property which is in the hands of a purchaser under a sale or return arrangement shall not be considered as stock maintained by the seller.

SEC. 212. OTHER DEFINITIONS.

For purposes of this title, the terms "sales tax", "State", and "interstate sale" have the same meaning as such terms have for purposes of title I of this Act, and the term "net income tax" has the same meaning as such term has for purposes of title III of this Act.

TITLE III—NET INCOME TAXES

PART A. Apportionable and Allocable Income

SEC. 301. OPTIONAL THREE-FACTOR FORMULA.

A State or a political subdivision thereof may not impose for any taxable year on a corporation taxable in more than one State, other than an excluded corporation, a net income tax measured by an amount of net income in excess of the amount determined by (1) multiplying the corporation's base by an apportionment fraction which is the average of the corporation's equally-weighted property, payroll, and sales factors for the State for the taxable year and (2) adding to the amount determined under clause (1) the amount of income allocable to the State for the taxable year. For this purpose the base to which the apportionment fraction is applied shall be the corporation's apportionable income as defined in this title for that taxable year. No State shall, by reason of not including dividends or foreign source income in apportionable income, make any offsetting adjustment of an otherwise allowable deduction which is unrelated to such excluded dividends or foreign source income.

SEC. 302. INCOME ALLOCABLE TO A STATE: EXCLUSIONS FROM APPORTIONABLE AND ALLOCABLE INCOME.

Dividends received from corporations in which the taxpayer owns less than 50 percent of the voting stock, other than dividends which constitute foreign source income, are income allotable to the State of commercial domicile of such taxpayer. No dividends received from corporations in which the taxpayer owns 50 percent or more of the voting stock and no foreign source income of such taxpayer shall be apportionable or allocable to any State.

SEC. 303. COMBINED OR CONSOLIDATED REPORTING.

(a) Except as otherwise provided in subsection (b), any State may require, or a corporation may elect, that the taxable income of the corporation be determined by reference to the combined or consolidated net income and the combined or consolidated apportionment factors of all affiliated corporations in the affiliated group of which the corporation is a member.

(b) No State may require, for purposes of subsection (a), that a combination or consolidation of an affiliated group include—

(1) any excluded corporation, or

(2) any corporation, substantially all the income of which is derived from sources without the United States.

For purposes of this subsection, substantially all the income of a corporation (whether a domestic or a foreign corporation) shall be deemed to be derived from sources without the United States if 80 percent or more of its gross income is derived from sources without the United States in the current taxable year and in each of the two preceding taxable years (excluding any period during which such corporation was not in existence).

(c) Nothing in this title shall preclude the determination of combined or consolidated income on a basis acceptable to both the State and the taxpayer.

PART B. Definitions

SEC. 310. NET INCOME TAX.

A "net income tax" is a tax which is imposed on or measured by net income.

SEC. 311. EXCLUDED CORPORATION.

An "excluded corporation" is any of the following:

(a) Any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, small loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, any type of insurance company, or any corporation which derives 90 percent or more of its gross income from interest (including discount).

(b) Any corporation more than 50 percent of the ordinary gross income of which for the taxable year is derived from regularly carrying on any one or more of the following business activities:

(1) the transportation for hire of property or passengers, including the rendering by the transporter of services incidental to such transportation;

(2) the sale of electrical energy or water; or

(3) the furnishing of public telegraph or intrastate telephone services.

SEC. 312. AFFILIATED CORPORATIONS.

Two or more corporations are "affiliated" if they are members of the same group comprised of one or more corporate members connected through stock ownership with a common owner, which may be either corpo-

rate or noncorporate, in the following manner:

(a) More than 50 percent of the voting stock of each member other than the common owner is owned directly by one or more of the other members; and

(b) More than 50 percent of the voting stock of at least one of the members other than the common owner is owned directly by the common owner.

SEC. 313. APPORTIONABLE INCOME.

Except to the extent otherwise provided in section 302, the "apportionable income" of a corporation means its net income subject to apportionment as determined under State law.

SEC. 314. PROPERTY FACTOR.

(a) IN GENERAL.—A corporation's property factor for any State is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned and used or rented and used during the taxable year in that State and the denominator of which is the average value of all of the corporation's real and tangible personal property owned and used or rented and used during the taxable year and located everywhere.

(b) STANDARDS FOR VALUING PROPERTY IN PROPERTY FACTOR.—

(1) Owned Property.—Property owned by the corporation shall be valued at its original cost.

(2) Rented Property.—Property rented to the corporation shall be valued at eight times the net rents payable by the corporation during the taxable year. Net rent is the gross rent payable by the corporation less rent received by the corporation from subrentals.

SEC. 315. PAYROLL FACTOR

(a) IN GENERAL.—A corporation's payroll factor for any State is a fraction, the numerator of which is the amount of wages paid or accrued during the taxable year by the corporation to employees located in that State and the denominator of which is the total amount of wages paid or accrued during the taxable year by the corporation to all employees located everywhere.

(b) DEFINITION OF WAGES.—The terms "wages" means wages as defined for purposes of the Federal Unemployment Tax Act in section 3306(b) of the Internal Revenue Code of 1954, determined without regard to the limitation of section 3306(b)(1) on the amount of wages.

SEC. 316. SALES FACTOR.

(a) IN GENERAL.—A corporation's sales factor for any State is a fraction, the numerator of which is the total sales of the taxpayer in the State during the taxable year and the denominator of which is the total sales of the taxpayer everywhere during the taxable year.

(b) SALES INCLUDED.—

(1) Sales of tangible personal property are in the State if such property is received in the State by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in the State, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in the State and direct delivery outside the State to a person or firm designated by a purchaser does not constitute delivery to the purchaser in the State, regardless of where title passes or other conditions of sale.

(2) Sales, other than sales of tangible personal property, are in the State if—

(A) the income-producing activity is performed in that State, or

(B) the income-producing activity is performed both in and outside that State and a greater proportion of the income-producing activity is performed in that State than in any other State, based on costs of performance.

(c) LOCATION OF CERTAIN OTHER SALES.—

(1) Sales of services shall be included in the numerator of the State in which the service is performed. Sales of services rendered in two or more States shall, for the purpose of the numerator of the sales factor, be divided between those States in proportion to the direct costs of performance incurred in each such Sate by the taxpayer in rendering the services.

(2) Sales of real property, if the corporation is engaged primarily in the business of selling real property, are included in the numerator of the State in which the property is located.

(3) Sales which consist of receipts from the rental of tangible personal property shall be considered to be located in the State in which the property is located.

(d) ALL OTHER SALES.—All gross receipts, other than those described in subsections (b) and (c) of this section, shall be excluded from both the numerator and the denominator of the sales factor.

SEC. 317. FOREIGN SOURCE INCOME

For purposes of this title, "foreign source income" is—

(a) interest other than interest derived from sources within the United States;

(b) dividends other than dividends derived from sources within the United States;

(c) rents, royalties, license and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties; and

(d) gains, profits or other income from the sale of intangible or real property located without the United States.

In determining the source of income for purposes of this section and section 303(b), the provisions of section 861, 862 and 863 of the Internal Revenue Code of 1954 shall be applied.

SEC. 318. DIVIDENDS.

"Dividends" shall have the same meaning as that term has under the Internal Revenue Code of 1954, as amended, including any sum treated as a dividend under section 78 of such Code.

SEC. 319. UNITED STATES.

The term "United States" wherever used in this Act shall include only the fifty States and the District of Columbia.

TITLE IV—JURISDICTION OF SPECIAL COURTS

SEC. 401. JUDICIAL REVIEW.

Notwithstanding section 1251(a) of title 28, United States Code, the United States Court of Claims shall have jurisdiction to review de novo any issues relating to a dispute arising under this Act or under Public Law 86-272, as amended. Within 90 days of the decision of a State administrative body from which the only appeal is to a court, any party to the determination may petition the Court of Claims for a review do novo of any such issues. The findings of fact by the State administrative body shall be considered with other evidence of the facts. The judgment of the Court of Claims shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code, as amended.

SEC. 402. EFFECT OF FEDERAL DETERMINATION.

The determination of a dispute arising hereunder by the Court of Claims shall be binding for the taxable years involved on any State given notice or appearing as a party, notwithstanding any prior determinations of the courts or administrative bodies of that State completed after notice to that State. No statute of limitations shall bar the right of a State or a corporation to an amount of tax increased or decreased in accordance with the determination, provided action is begun within one year after the determination has become final.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROHIBITION AGAINST OUT-OF-STATE AUDIT CHARGES.

No charge may be imposed by a State or political subdivision thereof to cover any part of the cost of conducting outside that State an audit for a tax to which this Act applies.

SEC. 502. LIABILITY WITH RESPECT TO UNASSESSED TAXES.

(a) PERIODS ENDING PRIOR TO ENACTMENT DATE.—No State or political subdivision thereof shall have the power, after the date of the enactment of this Act, to assess against any person for any period ending on or before such date in or for which that person became liable for the tax involved, a sales or use tax with respect to tangible personal property, if during such period that person had no business location in the State, or did not regularly make household deliveries in the State.

(b) CERTAIN PRIOR ASSESSMENTS AND COLLECTIONS.—The provisions of subsection (a) shall not be construed—

(1) to invalidate the collection of a tax prior to the time assessment became barred under subsection (a), or

(2) to prohibit the collection of a tax at or after the time assessment became barred under subsection (a), if the tax was assessed prior to such time.

EXPLANATION OF PROVISIONS OF S. 2173

A BILL TO PROVIDE FOR JUDICIAL REVIEW OF STATE TAXATION OF INTERSTATE COMMERCE

Titles I and II spell out the Jurisdictional Guidelines that would govern the State taxation of interstate commerce and provides that the application of such guidelines shall be subject to Federal Court Review as provided in Title IV of this Act. Title I provides jurisdictional guidelines for sales and use taxes; Title II covers gross receipts taxes; and Title III deals with the apportionment and allocation of interstate corporate income for income tax purposes.

TITLE I—SALES AND USE TAXES

Title I is substantially the provisions which have twice been approved by the House Judiciary Committee and passed the House of Representatives by substantial votes. These were H.R. 2158, which passed the House by a vote of 284-89 on May 22, 1968, and H.R. 7906, which was approved by a 311-87 margin on June 25, 1969. H.R. 7906 and subsequent bills with identical provisions have been sponsored by the Chairman of the House Judiciary Committee, Peter W. Rodino, Jr. (D-N.J.). The explanation of Title I which follows is based primarily on House Report No. 91-279 which explained H.R. 7906.

Section 101. Uniform jurisdictional standards

This section aims to provide protection for the business that is selling in interstate commerce from being liable for payment or collection of sales or use taxes in States where that business has no business location while at the same time preserving the legitimate interest of the States in collecting all taxes to which they are entitled.

The concept of maintaining a business location in a State is defined in section 115 and generally means owning or leasing real property within the State, having one or more employees located in the State, or regularly maintaining a stock of tangible personal property in the State for sale in the ordinary course of business or by regularly making household deliveries in the State. The term "household deliveries" is defined in section 118 to mean the delivering of goods by the seller, other than by mail or common carrier, to the dwelling places of his purchasers.

The method for determining whether an employee is located in a particular State is set out in section 117. In general, the method follows two of the four rules used to determine the State in which an employee is located for unemployment compensation purposes. Under the rules used in section 117 an employee is located in a State if (1) the employee's service is localized in that State; that is, if his service is performed entirely within the State, except for incidental service outside of the State, or (2) the employee's service is not localized in any State but some of the service is performed in that State and the employee's base of operations is in that State. It is intended that the uniform rules and interpretations developed with respect to locating employees for unemployment compensation purposes be applicable here to the extent consistent with section 117. In addition, no person would be considered an employee unless such person is an employee for Federal income tax purposes. (See Section 117(f)).

To clarify the question of taxability of contractors and extractors, section 117(e) provides that employees of contractors and extractors working on a contract in a State are to be presumed located in the State.

Installing or repairing tangible personal property incidental to an interstate sale is distinguished from contracting, "incidental" meaning insubstantial.

Section 102. Reduction of multiple sales and use taxation

Overlapping multistate sales taxation is mitigated by section 102. An interstate sale must have its destination in a State in order for that State or any political subdivision thereof to impose a sales tax or require a seller to collect a sales or use tax with respect to the sale. Destination is defined in section 114 to conform to the definition proposed by the National Conference of Commissioners on Uniform State Laws in their Uniform Division of Income for Tax Purposes Act.

A State other than the State of destination, however, may require a seller to collect a sales or use tax for the State of destination even though the seller does not have a business location or regularly make household deliveries in the State of destination. For example, New Jersey and New York could adopt parallel procedures whereby New Jersey would require sellers with business locations in New Jersey to collect tax on their sales for shipment to New York buyers, even though the sellers had no jurisdictional contact with New York, in return for New York imposing on its sellers a collection obligation on their sales to New Jersey buyers. Section 102(a) preserves any existing power of a State having jurisdiction under section 101 to exercise it on behalf of another State, but does not confer any new power or remove any present barrier in State constitutions or statutes.

The above explanation of Section 102(a)(2) which was taken from House Report No. 91-279 on HR 7906 does not do justice to the potential importance of this provision. This may help explain why the States have not fully appreciated the opportunity that this provision gives for interstate agreements that could greatly increase the amount of sales and use tax collections. It recognizes that the State of origin usually is in a much better position to collect sales and use taxes from businesses domiciled and having property and payroll in them than is the State of destination of the sale. Failure by the States to recognize the potential of such reciprocal agreements helps explain the great difference between the revenue impact estimates made by the House Judiciary Subcommittee staff and those made by individual States.

A use tax may not be imposed on a person without a business location in the State or on an individual without a dwelling place in the State. "Dwelling place" is intended as an inclusive term denoting less than State residence, but more than mere transient status within a State. As such, it is a concept already embodied in the laws of many States, drawing its meaning from the structure, scope, and objects of those laws. The bill is not intended to affect the case law regarding the circumstances when a given use of property may be considered to be within a State for tax purposes.

Where under these rules the same person is still subject in more than one State to sales or use tax on the same property a credit is required to be given by a taxing jurisdiction for prior taxes paid (or a refund in case a sales tax is paid to the seller after a use tax is paid in another State). None of these provisions apply to sales and use taxes with respect to motor fuels consumed in the State or, except for the credit provision, to sales or use taxes with respect to motor vehicles registered in the State (sec. 102(e)). This section does not affect the obligations of sellers of cigarettes created by the Jenkins Act (15 U.S.C. 375-378).

Section 102 provides rules only those forms of multiple sales taxation on which there is general agreement as to the remedy. It in no way vitiates the need for other devices adopted by various States which tend to prevent a transaction or series of transactions across State lines from incurring more tax than if all had occurred in only one of the States.

Section 103. Household goods and motor vehicles

The burdensome requirement on new residents of a State to account for their household goods brought into the State for use tax purposes is eliminated for household goods, including motor vehicles, purchased at least 30 days before residence is established (sec. 103).

Section 104. Freight charges on interstate sales

In order to achieve uniformity in the treatment of freight charges with respect to interstate sales, section 104 establishes the rule that freight charges on interstate sales which are separately stated are excluded from the sales price in the measure of a sales or use tax.

Section 105. Liability of sellers on sales to business buyers

The burden on the seller of ascertaining, often at his peril, whether or not his interstate sales into other States are taxable sales is alleviated by section 105, which provides that certificates or other written evidence from the buyer indicating the basis of nontaxability conclusively relieve the seller from collecting or paying the tax. In addition, on interstate sales to business buyers who are registered with the State for sales tax collection purposes, the seller is relieved of collection responsibilities if he receives evidence from the buyer that he is registered with the State. These provisions do not affect the taxability of the transaction and the State is free to collect the tax directly from the buyer. Evidence of either the nontaxability of the sale or the registration of the buyer need be given to the seller only once with respect to the registration status of the buyer, the exempt status of the buyer, or the nontaxability of particular classes of sales.

Section 106. Local sales taxes

The bookkeeping burden on sellers of collecting or reporting sales or use taxes on interstate sales into a State according to geographic areas is eliminated, whether the requirement is by the State or any of its political subdivisions. Where a seller has a business location or regularly makes household deliveries in a political subdivision, however, he may be required to account for interstate sales with destinations in that political subdivision. The limitations in this section do not affect locally imposed sales and use taxes which are State administered and uniformly applied so that interstate sales need not be classified according to geographic areas of the State (sec. 106).

TITLE II—GROSS RECEIPTS TAXES

This title affects only a few States, but it is important to many businesses especially as a result of an effort by several gross receipts tax States to expand the application of the tax as a result of a recent United States Supreme Court opinion in the case of *Standard Pressed Steel v. Department of Revenue* 419 U.S. 560 (1975). This decision has greatly aggravated the uncertainty as to the application of gross receipts taxes to interstate sales which has existed since a 1964 United States Supreme Court opinion in the case of *General Motors v. Washington*, 377 U.S. 436, 462.

There are only six States with *general* gross receipts taxes—Alaska, Delaware, Hawaii, Indiana, Washington and West Virginia. This title is meant to have minimal impact on these taxes by returning the law on the application of gross receipts taxes to interstate sales to the more certain situation that existed prior to the Supreme Court decisions in the Standard Pressed Steel and General Motors cases. This is done in Section 201 by prescribing a uniform jurisdictional standard which in effect codifies an earlier Supreme Court opinion in the case of *Norton v. Department of Revenue*, 340 U.S. 534 (1951).

Part A—Jurisdiction

Section 201. Uniform jurisdictional standard

Section 201 provides that no State or political subdivision shall have the power to impose a gross receipts tax with respect to the interstate sale of tangible personal property unless the sale is directly solicited through a business office of the seller in the State or political subdivision. Sections 210 and 211 define a "gross receipts tax," and a "business office" for purposes of this title. The definition of "interstate sale" is the same as for Title I and is defined in Section 112.

This proposal for a uniform jurisdictional standard is more modest than the proposal made and other alternatives considered by the House Judiciary Subcommittee on State Taxation of Interstate Commerce following their exhaustive study of the matter. (See *Report* of the Special Subcommittee on State Taxation of Interstate Commerce of the Committee on Judiciary, House of Representatives, Part V Gross Receipts Taxes and Part VI Recommendations pp 1195 House Report No. 565, June 30, 1965.) The Special Subcommittee recommended that gross receipts from the sale of tangible personal property be taxable only by the State of origin and that a business location jurisdictional standard be enacted. The Subcommittee considered, but rejected confining gross receipts taxation to destination States or apportioning the receipts among the States by formula.

Although recent gross receipts problems have occurred primarily at the State level, it is appropriate to apply the same jurisdictional standard to local gross receipts taxes as is done in Section 201. The House Judiciary Subcommittee study referred to above found that there were over 1,000 localities in eighteen States imposing local gross receipts taxes. It found that in most States

where the tax is imposed by a sizable number of communities, the State had had some experience with gross receipts taxes. However, in other States the local tax is "fairly old and well settled" with roots extending back to the 19th century. There has been a tendency for localities to replace their gross receipts taxes with other sources of revenue such as sales or income taxes. The most notable example of this was the abandonment of the gross receipts tax by New York City effective January 1, 1966.

Part B—Definitions

Section 210. Gross receipts tax

This section defines "gross receipts tax" for purposes of this bill so as to distinguish it from net income tax or a sales tax which may also be applied to gross receipts. The 1965 report of the Special House Judiciary Subcommittee (p. 1112) notes that the "gross receipts tax is, by definition a tax which is not separately stated and collected from the purchaser" as is the sales tax. The intent of Section 210 is to confine the jurisdictional standard of Section 201 to "general" gross receipts taxes such as are found in the six States listed above. It is not intended to apply to the numerous special excises, such as those on gasoline and liquors, and taxes on the gross receipts of limited groups, such as public utilities, insurance companies, banks and contractors.

Section 212 provides that for purposes of the Gross Receipts Tax provisions of Title II the terms "sales tax," "State" and "interstate sale" have the same meaning as defined in Title I on the Sales and Use Taxes. This has the effect of applying the Gross Receipts Tax provisions to the District of Columbia since "State" is defined in Section 113 as meaning any of the several States of the United States and the District of Columbia.

The definition of "interstate sale" found in Section 112 is quite significant for purposes of Title II on Gross Receipts Taxes. This definition greatly confines the scope of the jurisdictional standard in Section 201 since it is applicable only to interstate sales. Thus this title is not applicable to much of the gross receipts taxes in States such as Hawaii, Washington, and West Virginia which apply their gross receipts taxes to the privilege of extracting minerals and manufacturing *within* the State.

Court decisions have firmly established that the State of origin cannot constitutionally tax receipts from the sale of goods shipped to a purchaser in another State except as a tax on the privilege of extracting or maufacturing as a local activity before the goods enter the stream of interstate commerce. See the 1965 Special House Judiciary Committee report (House Report No. 565) pages 1032, 1040–1043 for a discussion of this point and citation of pertinent cases.

Section 211. Business office

Section 211 defines "business office" for purposes of the gross receipts tax jurisdictional standard in Section 201 as existing when a person owns or leases real property within the State or regularly maintains a stock of tangible personal property in the State for sale in the ordinary course of his business.

This definition would have the effect of overruling the Supreme Court decision in the Standard Pressed Steel case because Standard Pressed Steel had no "business office" in Washington. The Court upheld the application of the tax to 100% of the gross receipts from Standard Pressed Steel sales to Boeing on the basis of *one* resident employee in the State. This employee had no sales or solicitation responsibilities, but was an engineer who worked with Boeing on engineering problems such as design testing, and use of Standard's products.

TITLE III—NET INCOME TAXES

Part A—Apportionable and allocable income

Section 301. Optional three-factor formula

The bill provides an optional Three-Factor Formula (property, payroll, and sales) for apportionment of income of interstate corporations. This is the most widely used formula and has been recommended by the Commissioners on Uniform State Laws in the Uniform Division of Income Tax Purposes Act (UDITPA). A taxpayer would still have the right to use a different apportionment formula that may be provided for by State law, but the Three-Factor Formula and other provisions of Title III serve as a maximum.

The bill adopts the approach of the so-called "Ad Hoc" bill S. 2092, of the 93rd Congress introduced by Senator Magnuson, to apportion all income in the tax base except portfolio dividends which would be allocated to commercial domicile. Foreign source income generally and intercorporate dividends would be excluded both from allocable and apportionable income. This will clear up the confusion that has developed in the application of UDITPA between "business" income that is apportionable among the states by the use of the Three-Factor Formula and "non-business" income which is allocable to a specific State.

Placing greater emphasis on apportioning income among the States by formula, as opposed to allocating that income to specific States by situs, recognizes a developing trend among the States to apportion income among the States by the Three-Factor Formula rather than allocating by situs. Business generally would prefer clarifying the confusion in UDITPA between apportionable "business" income and allocable "non-business" income by specifying what types of income should be apportioned and what types should be allocated.

The three factors used in the apportionment formula are defined in Part B of this title: Property in Section 314, Payroll—315, and Sales—316. Apportionable income is defined in Section 313.

Section 302. Allocable and apportionable income—dividends and foreign source income

Dividends, except dividends from affiliates, are allocable to the State of commercial domicile. Dividends received from an affiliated corporation in which the taxpayer owns 50% or more of the voting stock and income from sources outside the United States generally are excluded both from apportionable and allocable income and so would not be in the tax base.

Section 302 provides for allocation of dividends, except dividends from affiliates, to the State of commercial domicile. This type of allocation is in accordance with intent of the Uniform Act (UDITPA) but Congressional action is made necessary by a September 10, 1971, recommendation by the Multistate Tax Commission (MTC) to the States for regulations that would generally apportion dividend income. The original version of these regulations which the MTC changed basically were worked out after much effort by the Committee on Uniform Income Tax Regulations of the National Association of Tax Administrators (NATA). The regulations as originally proposed by NATA would generally allocate dividends to the State of commercial domicile which is a clear cut way of handling the problem in accordance with the intent of the uniform law (UDITPA). Only a minority of the States have enacted the Multistate Tax Compact. Therefore, even if all the member States adopted this proposed regulation, which seems unlikely, many States are likely to continue to follow their present practices. This means that States that tax dividends of companies with a commercial domicile in the State will continue to do so. Other States that adopt the Multistate Tax Commission (MTC) regulation will be apportioning the *same* dividend income by formula among the States. The result will be increased *double* or multiple taxation.

Most States and the Federal government have long recognized that intercorporate dividends should not be treated as income subject to full taxation. Some States allow a 100% exclusion for intercorporate dividends, while others follow the Federal practice of an 85% exclusion (a 100% exclusion is permitted by the Internal Revenue Code for dividends from affiliates under certain circumstances). It is likely, however, that if the MTC regulation referred to above is adopted by the Compact member States, there will be a great temptation for these States to subject such income to taxation even though they have no legitimate claim on it. The result will be increased multiple taxation.

Since a State should be attempting to tax only income derived from sources in that State, it would seem obvious that the States should not be taxing income earned overseas, but this is precisely what some States are doing. In fact, some States are attempting to go beyond commonly accepted worldwide concepts of taxing international income. Section 302 provides that dividends and foreign source income as defined in Section 317 of this bill shall not be allocable or apportionable to any State and so would not be included in the tax base.

Section 303. Combined reporting

Section 303 permits apportionable income, at the option of either the State or the taxpayer, to be determined by reference to the combined apportionable income and apportionment factors of all corporations of an affiliated group of which the taxpayer is a member. However, no State would be permitted to require combination with corporations excluded from the provisions of this title or with corporations substantially all of the income of which is derived from sources without the United States.

Section 303(b) provides that for purposes of this subsection substantially all the income of a corporation shall be deemed to be derived from sources without the United States if 80 percent or more of gross income is derived from sources without the United States. This provision is patterned after Section 861 of the Internal Revenue Code.

Part B—Definitions

Section 310. Net income tax

It is necessary to define a "net income tax" as a tax "measured" by net income because technically some corporate income taxes imposed on corporations are "franchise" or "excise" taxes measured by net income rather than being imposed directly on the income.

Section 311. Excluded corporations

This section generally excludes financial institutions, transportation companies, and local public utilities from the provisions of this title. To the extent that such corporations have interstate income tax problems, it has generally been assumed that they are sufficiently different from commercial and manufacturing companies to justify separate legislative consideration.

Section 312. Affiliated corporations

Corporations are affiliated if there is common ownership of more than 50% of the voting stock.

Section 313. Apportionable income

"Apportionable income" is defined as meaning taxable income as determined by State law except that it shall not include foreign source income as defined in Section 317 and dividends as provided in Section 302.

Corporations necessarily have, in addition to their regular business income, income which is not earned in the course of their regular trade or business. To the extent that such income is not earned in the United States, it is not properly apportionable by formula to the various States. Section 302 and 313 define "apportionable income" so as to insure that only income earned in the

United States will be apportioned among the States by formula.

Section 314. Property factor

The property factor is defined as the ratio between the tangible personal property "owned and used or rented and used" in a State and such property of the corporation everywhere.

Section 315. Payroll factor

The payroll factor is the ratio between the amount of wages paid by the corporation to employees located in a State and wages paid to the corporation's employees everywhere.

Section 316. Sales factor—"throwback rule"

The bill assigns sales by destination in a State as the simplest, most equitable attribution procedure. It gives due weight to the role of the market in the overall production of income or capital and is one that many businesses and States have learned to live with and prefer. The so-called "throwback" provision, found in the Uniform Act (UDITPA), is not included in the sales factor. The "throwback rule" provides that in the case of sales to the United States Government and when the taxpayer is not taxable in the State of the purchaser, the sale will be recaptured or "thrown back" to the State of origin of the sale.

It would appear more equitable and appropriate that the receipts factor include sales on a straight destination basis since the purpose and intent of the apportionment formula is to arrive at a reasonable basis for assigning some part of the corporation's total income to a particular State based on the activity performed in that State. Therefore, in attempting to measure this activity, the guidelines should be focused on what is being done in that State—and not what the taxpayer is not doing in some other State. In utilizing the receipts factor, it is recognized that part of the income is attributable to the selling activity in the market State, therefore, any change from a straight destination test results in attributing a smaller part of the total income to the selling activity than would be the case by utilizing a straight destination test. The market oriented States must rely largely on the sales factor to have a share of major multistate business assigned to them. Other States that are relatively less market oriented have property and payroll factors, as well as sales, to increase their share of the taxable income. The justice of this concept has been recognized by a number of major States, including some that are not market oriented States, which have deleted the "throwback" provision in enacting the Uniform Act. These States have recognized that recapture involves an administrative complexity that may cost more than the tax difference. The House Judiciary Subcommittee on State Taxation of Interstate Commerce on page 244, Volume 1 of their report, stated that:

"It should also be observed that the existing throwback rules add to the complexity of the system even if their applicability is clear. When a throwback rule applies, it will normally require the taxpayer to develop data in addition to that needed to comply with the primary division-of-income rules to the taxing State. When a destination State requires that certain sales be thrown back to the State of origin, for example, the taxpayer is required to determine the point of origin of each transaction subject to the throwback. The development of such information may materially increase the burden of compliance."

Section 317. Foreign source income

This section defining Foreign Source Income is patterned after the Internal Revenue Code provisions, but it is narrower in that it includes primarily income from intangible property and property other than inventory. It does not, as the IRC does, include compensation for labor or personal services. Income from sale of personal property if it is the type of property that would ordinarily be included in the inventory of the business also would not be considered foreign source income. However, income from the sale of intangible or real property located without the United States is considered "foreign source" income.

Section 318. Dividends

"Dividends" are defined as having the same meaning as in the Internal Revenue Code including any sum treated as a dividend under Section 78 of the Code. Section 78 is the so-called "Gross-up" provision whereby foreign taxes are "grossed-up" before claiming the foreign tax credit. Although States do not recognize the foreign tax credit, some States nevertheless in picking up the Federal tax base have included the gross-up. Section 318 is meant to preclude this procedure since inclusion of the "gross-up" would be proper only if the State recognized the foreign tax credit.

TITLE IV—JURISDICTION OF FEDERAL COURTS

This Title would give jurisdiction to the Federal Court of Claims to hear appeals upon the application of provisions of the Act and P.L. 86-272, after State administrative decisions are final and the only appeal is to court. The Court of Claims uses Commissioners to hear cases throughout the country. The Court of Claims also has authority to sit as a panel of judges in different parts of the country. The objective of this Title is to have a single Federal court that could develop expertise in the area of interstate taxation and provide for uniform application of the Federal law in a manner that would not be possible through use of State or Federal District Courts.

TITLE V—MISCELLANEOUS PROVISIONS

This title is based on Title V Part B of H.R. 7906 which was passed by the House in 1969, but not acted upon by the Senate Finance Committee.

Section 501. Prohibition against out-of-State audit charges

Out-of-State audit charges by a State or a political subdivision would be prohibited by this section for all taxes to which this act applies.

Section 502. Liability with respect to unassessed taxes

Section 502 provides for an orderly transition to the uniform sales and use tax jurisdictional standard provided for in the bill (Sec. 101) by preventing a haphazard flurry of assessments for back liability in situations which would not give rise to liability after the effective date of Section 101. For periods ending on or before the enactment date of the bill no assessments could be made for sales or use tax if during that period the seller did not maintain a business location in the State or did not regularly make household deliveries in the State.

Section 502(b)(2) makes it clear that Section 502 would not prohibit the collection of a tax at or after the time assessment was barred by this section, if the tax was assessed prior to such time.

By Mr. HEINZ:

Senate Joint Resolution 85. A joint resolution to proclaim October 11, 1977, to be Pulaski-Kosciuszko Memorial Day; to the Committee on the Judiciary.

Mr. HEINZ. Mr. President, today I am introducing a resolution to proclaim October 11 as Pulaski-Kosciuszko Memorial Day. Both Gen. Casimir Pulaski and Gen. Tadeusz Kosciuszko were Polish citizens and patriots who came to the American colonies to fight for the cause of freedom during the American Revolution. Casimir Pulaski was a polish patriot who fought against foreign domination in Poland during the 1760's. After meeting Benjamin Franklin in Paris, he came to the American colonies to join in their fight for freedom from British rule. Casimir Pulaski served with Gen. George Washington at Brandywine and Germantown and was made a brigadier general charged with leading the Continental Calvary. He served with Gen. Anthony Wayne at Valley Forge and later joined in the seige of Savannah. It was there, on October 9, 1779, that he was mortally wounded and died 2 days later.

Casimir Pulaski's fellow countryman, Tadeusz Kosciuszko, shared his convictions for freedom. After Polish military service and training in military engineering in Paris, Tadeusz Kosciuszko came to the colonies in August 1776. His distinguised career included service at the battles of Ticonderoga and Saratoga. Because of his engineering expertise, Tadeusz Kosciuszko was assigned with planning the fortification of the Delaware River, Mount Definance at Ticonderoga, and directing the building of fortifications at West Point. After the American Revolution, General Kosciuszko returned to his native Poland. When, in 1817, he was awarded $18,000 and 500 acres of land in Ohio as compensation for his military service in the Continental Army, he directed that money and the funds raised from the sale of the Ohio land to be used toward the founding of a school in Newark, N.J. for the education of freed black people. This was one of the first educational institutions for black people in the United States, and served as a further example of his love for freedom and betterment of all.

October 11 is annually designated as Casimir Pulaski Memorial Day by Presidential proclamation. This year, on September 16, President Carter paid tribute to General Pulaski. It is time now for the Congress to commemorate Casimir Pulaski and also to pay tribute to Gen. Tadeusz Kosciuszko another great Polish citizen who contributed to the fight for American freedom. Officers of the National Confederation of American Ethnic Groups have proposed the addition of Tadeusz Kosciuszko to Casimir Pulaski Memorial Day to President Carter. I join with Mr. Joseph C. Swider, chairman of the National Assembly of Representatives of the National Confederation of American Ethnic Groups and president of the Polish National Alliance Council 145 (and Mr. Anthony Studnicki, vice president of the National Confederation of American Ethnic Groups and president of Pittsburgh's Central Council of Polish Organizations, in proposing that October 11 be proclaimed annually to be Pulaski-Kosciuszko Memorial Day.

By Mr. KENNEDY (for himself and Mr. BROOKE):

Senate Joint Resolution 86. A joint resolution to extinguish any right, title, or interest to certain lands in the Commonwealth of Massachusetts, and for other purposes; to the Select Committee on Indian Affairs.

Mr. KENNEDY. Mr. President, Senator BROOKE and I are deeply concerned over the economic hardships faced by the residents of Mashpee, Mass. arising from an Indian land claim. Only after the failure of repeated attempts to negotiate a settlement, we introduce today a joint resolution to extinguish title to property presently occupied by homeowners in Mashpee. Congressman GERRY STUDDS is introducing identical legislation in the House of Representatives. Our efforts have the full support of the homeowners of Mashpee, and of the Indian Tribal Council.

Litigation has been pending in the U.S. District Court for the District of Massachusetts for 13 months. During this time, title to the property has been clouded creating severe economic hardship for hundreds of homeowners. Numerous meetings were initiated, and every possible solution was explored. We strongly believed that the issues should be resolved out of court.

Last winter when it became apparent that a local solution would not be arrived at readily, we attempted to persuade the Indian Affairs Committee in both Houses of Congress to help by substituting the United States as defendants, or essentially, indemnifying the homeowners. At that time, our colleagues were unwilling to consider such a solution.

We appealed to President Carter to name a Federal mediator to aid the parties in Mashpee. His efforts have proved unsuccessful. Last month, we made one last effort to spur negotiations between the parties, and that also failed.

Earlier this year, after periodic efforts to negotiate failed, we introduced emergency legislation to prevent mortgage foreclosures, and also introduced a bill to provide small business loans to the commercial community harmed by the suit. Both of these are now law, but title remains clouded to home-owned property.

Mr. President, Senator BROOKE, Congressman STUDDS, and I have stated repeatedly that every attempt must be made to settle this matter out of court. We have, on numerous occasions, stated that we do not intend to raise false hopes with the promise of an unrealistic legislative remedy. In the past even this legislation might have been considered unrealistic.

To date, all efforts to reach a negotiated settlement have failed. Now, the many complex issues involved in this case will have to be resolved in the courts. Years of protracted litigation will bring ever greater economic hardship to the citizens of Mashpee.

We have always held that Congress has the ability and the obligation to resolve the one major issue in this case to the title on home-owned property. Both parties agree that Congress must act to extinguish the Indian's claim to this property. Without congressional action now, title will remain clouded during years of litigation, and everyone in Mashpee will suffer the terrible consequences.

We are pleased to find a growing recognition among our Senate colleagues that every avenue other than a legislated solution has been tried for Mashpee and every attempt has failed. We have reason to believe that the previous opposition by the Indian Affairs Committee to considering any extinguishment legislation has abated and that they will at least give our proposal a fair hearing in the near future.

It is important to point out that the liability incurred by the U.S. Government with passage of this legislation is contingent upon the tribe winning its case in court. If the courts determine that the plaintiffs are a recognized Indian tribe with recognized title to homeowned property, the Indians will have the opportunity to seek just compensation from the U.S. Government in the Court of Claims.

Mr. President, I know that the Senate will agree that this joint resolution is vital to the interests of Mashpee, and I urge its early enactment.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 86

Whereas, the action entitled *Mashpee Tribe* v. *New Seabury Corp.*, pending before the United States District Court for the District of Massachusetts, has resulted in severe economic hardship for the residents of the Town of Mashpee, Massachusetts, by clouding title to land in the town;

Whereas, the plaintiff in such litigation has amended its suit to indicate that no relief is sought from any defendant respecting the right to possess any tract of land on which the dwelling of the defendant was located on the date of commencement of such action; and

Whereas, only an Act of Congress can clear the title of the defendants to such lands: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That any right, title, or other interest based on section 2116 of the Revised Statutes (25 U.S.C. 177) of the plaintiff in an action entitled *Mashpee Tribe* v. *New Seabury Corp.*, filed in the United States District Court for the District of Massachusetts (Civil Action 76-3190-S), to the lands described in section 2 of this joint resolution is extinguished.

SEC. 2. The lands referred to in the first section of this joint resolution are the tracts of land which are the subject of the action referred to in such section and on which the dwelling of any individual was located on the date of commencement of such action; provided, that if a single such tract exceeds 1 acre, the Secretary of the Interior, after consulting with the resident or residents of such tract, shall designate the portion of such tract, not to exceed 1 acre, which is reasonably necessary for the enjoyment of the dwelling and is accessory structures, and the portion of such land so designated by the Secretary shall be the land in such tract referred to in the first section of this joint resolution.

ADDITIONAL COSPONSORS

S. 600

At the request of Mr. PERCY, the junior Senator from Oklahoma (Mr. BARTLETT), the senior Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 600, a bill to reorganize Federal regulatory agencies.

S. 1812

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1812, the Reclamation Lands Family Farm Act.

S. 2161

At the request of Mr. JAVITS, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 2161, to create an Energy Corporation of the Northeast.

SENATE RESOLUTION 271

At the request of Mr. LEAHY, the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of Senate Resolution 271, a resolution expressing the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

AMENDMENT NO. 1410

At the request of Mr. STONE, the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. HAYAKAWA), the Senator from Indiana (Mr. LUGAR), and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 1410, intended to be proposed to S. 1871, to increase the minimum wage.

SENATE RESOLUTION 282—SUBMISSION OF A RESOLUTION DISAPPROVING PROPOSED DEFERRAL OF BUDGET AUTHORITY

(Referred to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to the order of January 30, 1975).

Mr. MAGNUSON (for himself and Mr. JACKSON) submitted the following resolution:

S. Res. 282

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 78-21) for acquisition, construction, and improvements by the U.S. Coast Guard, Department of Transportation, including funding for the Puget Sound Vessel Traffic System and follow-on work related to the Medium Endurance Cutter replacement program set forth in the special message transmitted by the President to the Congress on October 3, 1977, under section 1013 of the Impoundment Control Act of 1974.

SENATE RESOLUTION 283—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2108

(Referred to the Committee on the Budget.)

Mr. CRANSTON, from the Committee

on Human Resources, reported the following original resolution:

S. Res. 283

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2108. Such waiver is necessary because, with the commencement of FY 1978 on October 1, 1977, funds are not currently available to reimburse States for welfare assistance to 19,000 refugees from Vietnam totally dependent upon public assistance. Without the funds authorized by S. 2108, the refugees assisted by this program would become an unfair burden on local governments which have advanced the costs of their support. The legislation authorizes reimbursement of 100 percent of such costs in FY 1978, an estimated $118 million, partially offset by any Federal welfare and supplemental social security benefit assistance thereby saved. The legislation also authorizes special assistance funding, which in FY 1977 totalled $7 million, and in FY 1978 should be approximately the same. Provision is made for a phased reduction of general support assistance to 60 percent of such costs in FY 1979, and 30 percent of such costs in FY 1980, before phasing out. Compliance with Section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1977, because the recommendations of the Administration with respect to this program were not made available until September 9, 1977.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1413

(Ordered to be printed and to lie on on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1416

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

PUBLIC UTILITY REGULATORY POLICY ACT—S. 2114

AMENDMENT NO. 1414

(Ordered to be printed and to lie on the table.)

SOUTHERN POWER ADMINISTRATION

Mr. EAGLETON. Mr. President, the purpose of my amendment is to clarify and reaffirm the intent of Congress with respect to marketing of Federal hydroelectric power by the Southwestern Power Administration under the Flood Control Act of 1944.

The act authorizes the Secretary of the Interior, in the alternative, to construct transmission lines "from funds to be appropriated by Congress" or to use the transmission lines of other utilities to transmit hydroelectric power; and so forth, the Secretary "is authorized to—acquire, by purchase or other agreement—transmission lines and related facilities."

In implementing the Flood Control Act and other similar acts, the policy of Congress always has been to encourage the Secretary to contract with other utilities to use their transmission lines, rather than to construct transmission lines with appropriated funds. And our policy always has been that rates to ultimate customers should be uniform and nondiscriminatory, whether the power is transmitted over Government-owned lines or lines made available by contract or lease. This is the concept of "postage stamp" rates—uniform rates for power delivered to load centers, regardless of the nature of the transmission lines' ownership.

The State of Missouri represents an example of the policy of Congress. In the 1950's and 1960's, Congress decided not to appropriate funds for constructing transmission lines in Missouri, but instead Congress directed the Federal marketing agency (the Southwestern Power Administration) to lease the transmission lines of privately owned electric utilities and rural electric cooperatives, paying rentals adequate to carry operating costs and debt service of the money which the cooperatives borrowed from REA. Thus, we were spared the necessity of appropriating millions and millions of dollars to construct transmission lines.

That is how the matter stood until 1970 when the Nixon administration, taking note of growing SPA deficits, ordered a special transmission charge levied on Missouri cooperatives above and beyond the basic SPA rate charged everywhere else.

The rationale was that the payments made by SPA for lease of the Missouri lines was a cost, and since the agency was charged by law to recover all costs, it was only appropriate to offset the lease payments by levying a transmission charge on the cooperatives receiving those payments.

The net effect of this circular argument is that Missouri cooperatives are providing transmission service free of charge to SPA. In the other States served by SPA, transmission lines either were built with Federal funds or leased from private power companies, but no special cost-recovery charge is levied on customers. Only in Missouri has that been the case.

To add to the inequity, Missourians continue to pay the basic SPA rate which is designed to recover all costs of the system, including amortization of the Federal investment in transmission lines outside of Missouri. In short, Missourians are helping to shoulder the cost of delivering power to other States but are being asked to assume the total cost of delivering SPA power in their own State.

The discriminatory transmission charge would increase the cost per kilowatt to Missouri cooperatives more than 60 percent above the price per kilowatt charged to users of peaking power in other States.

Commitments made by SPA to deliver power to all customers at the same basic rate without distinction as to whether the users were served over Government-owned or Government-leased lines were simply ignored. The long history of congressional approval of the arrangement between SPA and Missouri cooperatives was shunted aside.

With the imposition of the transmission charge, SPA effectively relieves itself of its obligation to compensate Missouri cooperatives for use of their transmission facilities. The cooperatives, however, remained obligated to repay the REA debt which they incurred to build the lines for SPA.

My amendment will remove this discrimination and assure equal treatment for customers in all States in the Southwestern Power Administration system.

GI BILL IMPROVEMENTS ACT—S. 457

AMENDMENT NO. 1415

(Ordered to be printed and to lie on the table.)

Mr. MELCHER (for himself, Mr. STEVENS, Mr. RIEGLE, and Mr. MCGOVERN) submitted an amendment intended to be proposed to the bill (S. 457) to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

Mr. MELCHER. Mr. President, I am introducing on behalf of Senators MCGOVERN, STEVENS, RIEGLE, and myself a conditional and limited extension of the delimiting period during which veterans must use their benefits as an amendment to S. 457, the GI Bill Improvements Act. This amendment would permit needy and deserving Vietnam veterans who served between 1964 and 1970 an opportunity to enter or complete readjustment assistance education and training programs.

This amendment is within the fiscal parameters authorized by the second concurrent budget resolution for veterans program initiatives. It will accord many Vietnam veterans who are currently unemployed or underemployed adequate opportunity to acquire the training and skills necessary to secure meaningful and productive careers.

Current law requires a veteran to complete his or her training program under the GI bill within 10 years after separation from the armed services. This is a reasonable and responsible requirement, provided the veteran can initiate training soon after separation from the service. Unfortunately, hundreds of thousands of needy and deserving Vietnam veterans could not enter a meaningful or effective readjustment program at the time of their separation from the service. The Veterans Readjustment Assistance Act of 1966 (Public Law 89-358), a program designed as a peacetime Cold War GI Bill) failed to provide for or foresee the unique and difficult readjustment need of Vietnam veterans. The level

of benefits between the enactment of Public Law 89–358 in 1966 and the increases accorded by Public Law 90–77 in 1970 were in inflation adjusted dollars and were only one-half the opportunities accorded to Korean war veterans a decade before.

Before February 1970, a Vietnam veteran received a mere $130 a month if he was single, $155 with one dependent, or $175 with two dependents. The current stipend for peacetime post-Vietnam veterans is more than twice that amount ($292) while their military pay and allowances exceed three times that accorded those who served during the Vietnam war. ($89.11 in 1966; $380 in 1976 for a private.)

In 1970, 4 years after the enactment of the current GI bill, the President's Committee on Vietnam Veterans stated in its report:

> As of February, 1.0C million or 27.8% of the 3.8 million eligible Vietnam era veterans had used GI Bill education or training benefits. Available survey data show that participation in GI Bill training is inverse to need. Nearly 50% of the veterans who already have college training at the time of discharge, and thus have the best prospects for immediate employment, seek to upgrade their education under the GI Bill. On the other hand, those who have serious education deficiencies show participation rates as low as 10%.

Clearly, many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the time of their separation from the service. Readjustment benefits were totally insufficient to provide meaningful support without supplemental income, especially for veterans requiring trade, technical, or vocational training at proprietary institutions.

Forty percent of the Vietnam veterans were married with families to support at the time of separation. Thus many who entered training were forced, by economic considerations, to terminate their training.

Mr. President, my amendment would accord these veterans who were separated from the service, at the time that the Nation had no effective plan to address their readjustment needs, the opportunity to avail themselves of their rightfully earned entitlements.

In 1966, when the cold war GI bill was enacted, few foresaw that Vietnam would be our Nation's longest war and that 3 million veterans would serve in a combat theater of operations. Many, including the traditional veterans organizations, raise the valid question "Is it not contrary to the philosophy of the GI bill as a readjustment program to extend benefits beyond 10 years after a veteran's separation." For Vietnam veterans separated between 1964 and 1970 there was no such program. Therefore, as a nation we have a duty and an obligation to retroactively extend the readjustment opportunities that these veterans were denied.

I note that in June 1966, Public Law 89–358 retroactively extended readjustment benefits to 3,082,000 peacetime cold war post-Korean veterans separated after January 31, 1955—over 10 years after many had left the service. Several hundred thousand of these cold war veterans were still using benefits up to May 31, 1976, 22 years after their separation. Participation under the peacetime cold war GI bill program exceeded 52.9 percent. Under the wartime Korean GI bill participation was only 50.7 percent. Thus, there is clearly established precedent for a one-time, limited, retroactive extension of readjustment assistance to wartime veterans as provided by my amendment.

This amendment would not extend the time any veteran has to use his benefits from 10 to 12 years. On the contrary, it would provide those veterans who served between 1964 and 1970 a one-time extension of the delimiting period up to 2 years—time needed to initiate or complete their education or training. On or about January 1, 1980, no one would be permitted to extend his training beyond his 10-year delimiting period. For those who were separated after January 1968, the extension would proportionately be less than 2 years.

S. 457 contains a limited accelerated entitlement, a provision of S. 1421, which we introduced. Acceleration is essential to enable many veterans to initiate a meaningful and effective readjustment program. It is especially imperative for those who served during the time period of 1964 to 1970 which my delimiting date amendment addresses. The enactment of S. 457, or a more effective acceleration provision will make available the first meaningful access to readjustment assistance for hundreds of thousands of Vietnam veterans. Thus, the opportunity for readjustment will be available only for 2 years to these Vietnam veterans, even though they may have been separated from the service for several years. Even from the very conservative prospective of when benefits were raised to a level in 1970 to achieve parity with those accorded Korean war veterans, no veteran would have longer than 10 years to avail himself of an adequate readjustment program.

Unlike many more sweeping proposals, our amendment would only extend the delimiting period for those Vietnam-era veterans—August 4, 1962—who demonstrate need, and could not reasonably have initiated or completed their education or training. It also requires a program of instruction that will fulfill the readjustment intent of the original GI bill.

If a veteran is in school when his delimiting date expires, but does not demonstrate the need for continued GI benefits to complete his training, he would not be entitled to an extension of the delimiting period under my amendment. The VA reports that 61 percent of the veterans not in school, who served between 1964 and 1970, would probably be eligible for a conditional delimiting extension given the opportunity for meaningful readjustment assistance instead of continued unemployment, underemployment, welfare, or dead-end public service jobs. From a fiscal as well as a moral standpoint, it is only just that they have the opportunity for training necessary to acquire productive roles in society.

In a recent article in the National Alliance of Businessmen's magazine Working, VA Administrator Max Cleland said:

> I don't know whether here in 1977, there is any way to go back and make up for the deficiencies in the GI Bill in the late sixties and the early seventies.

I firmly believe that my conditional extension of the delimiting period, combined with a meaningful accelerated entitlement provision, is the way to make up for those deficiencies. I urge my colleagues to join us in fulfilling our obligation to the Vietnam veteran.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

No. 1415

SEC. 204. (a) Section 1662 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f)(1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education with the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country.

"(2) Under no circumstances may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

NOTICES OF HEARINGS

CIGARETTE TRAFFIC

Mr. McCLELLAN. Mr. President, I wish to announce that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will hold open hearings on S. 1487, a bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, on Friday, October 21, 1977. The hearings will be held in room 2228, Dirksen Senate Office Building, beginning at 9:30 a.m.

Additional information on the hearings can be obtained from the subcommittee office, 2204 Dirksen Senate Office Building, telephone (202) 224–3281.

FARM CREDIT

Mr. ALLEN. Mr. President, I announce that the Subcommittee on Agricultural Credit and Rural Electrification of the

Committee on Agriculture, Nutrition and Forestry will hold hearings at 9:30 a.m., Tuesday, October 11, in room 322 of the Russell Senate Office Building.

The hearings will consider three bills providing for changes in the farmer loan programs of the Farmers Home Administration. They are S. 312, by Mr. BELLMON of Oklahoma; S. 2126, by Mr. CHURCH of Idaho; and S. 2146, which was introduced by Mr. TALMADGE at the request of the Secretary of Agriculture.

All three bills provide for significant changes in the Consolidated Farm and Rural Development Act.

All witnesses for the hearings will be invited. They will include banking associations, farmer organizations and others interested in the economic future of rural America.

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 11, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit vice Wade H. McCree, Jr., resigned.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, the Special Committee on Aging will conduct a hearing on Senior Centers and the Older Americans Act at 9:30 a.m. on October 18 in room 114, Dirksen Building. The hearing is one of several activities conducted in conjunction with forthcoming legislative hearings by the Subcommittee on Aging of the Committee on Human Resources on extension of the Older Americans Act.

ADDITIONAL STATEMENTS

B–1 BOMBER ASSESSMENT

Mr. HAYAKAWA. Mr. President, I would like to address today, the continuing story of the B–1 bomber. Recent actions by the President and Congress have indicated that the B–1 is not a dead issue.

When the President announced his decision to cancel further production of the B–1 bomber, he indicated that cruise missiles launched from stand-off carrier aircraft offered a better alternative than an advanced, manned penetrating bomber. Accordingly, both the House and Senate voted to delete the B–1 funds from the 1978 Defense appropriation bill.

However, there was still the matter of the fiscal year 1977 funds for planes Nos. 5 and 6 to be dealt with. Therefore, on July 19, the President sent a rescission proposal to the Congress requesting that these 1977 funds be recalled. According to law, the Congress has 45 days in which to act on the rescission favorably; otherwise the President must obligate the money.

Much to the surprise of the administration, the House Appropriations Committee soundly rejected the President's rescission proposal last week. This action indicates the growing sentiment in Congress that the Prseident may have misled us on the B–1 issue. In recent weeks, the Pentagon has indicated that the President still wants to retain a manned, penetrating bomber option. With the growing expansion of Soviet air defense and the possibility that cruise missile range will probably be limited in the SALT talks, the administration is finally realizing that it is going to require a penetrating bomber to supplement the cruise missiles because of their inadequate range under the SALT constraint. This is indicated by the fact that he has asked the Armed Services Committee to give the Pentagon another $20 million to initiate a $350 million R. & D. program to convert the F–111 to the FB–111H, suitable for the manned penetration mission.

This admission that it is necessary to supplement the cruise missiles with the manned penetrating bomber underscores the weakness of the administration's proposal to rescind fiscal year 1977 funding for the B–1.

President Carter's case for the rescission of the fiscal year 1977 funding for the B–1 is particularly weak on the grounds of cost. The 165 FB–111H's which the administration proposes to buy are equivalent, when measured by the number of weapons delivered on target, to only 61 B–1 aircraft. Because of the requirement for extra tankers for the FB–111H, as well as higher maintenance cost, the FB–111H program would cost $17 billion, compared to $11 billion for the B–1 alternative, to provide equal effectiveness.

The execution of the fiscal year 1977 program as appropriated by the Congress would insure that the President maintain a practical production option for at least 2 years, an objective he emphasized in his statement canceling the fiscal year 1978 B–1 production program. Termination of the B–1 program through the elimination of aircraft Nos. 5 and 6 would preclude full-scale production, should it be required, for 5 years or more.

Aside from these obvious substantive advantages to completing the fiscal year 1977 R. & D. program, a larger issue of the integrity of the budget process is at stake. The Congress has refused to rescind the fiscal year 1977 B–1 R. & D. funds under procedures established in the 1974 Budget Impoundment and Control Act. It ill serves the cause of effective congressional budget management to attempt to rescind funds indirectly through a supplemental appropriation bill when the Congress had earlier refused to act favorably on the resident's rescission message.

In view of these facts, I think the Congress should let the House Appropriations Committee's action stand. If we are going to use a manned penetrating bomber let us build the best—the B–1.

HEALTH CARE COSTS

Mr. EAGLETON. Mr. President, one of the most analyzed and criticized elements of American society today is our health care system. Health care costs account for more per capita of our gross national product than for any other country in the world. Our physicians, dentists, nurses, and allied health manpower are clustered in the wealthy, overserved suburbs, leaving the inner cities and rural areas critically underserved. To provide for the future health and well-being of our citizens, we must institute some farsighted, down-to-Earth programs of cost effectiveness and increased availability or the spiraling costs and maldistribution of health manpower will prove disastrous to what was once the most envied and emulated health system in the world.

In the ongoing battle for a well-balanced answer to our Nation's health care crisis, everyone has a complaint and everyone has a cure. Among the most experienced and notable of academicians offering some well-founded analyses and practical solutions to our problems is Dr. E. Grey Dimond, provost for the health sciences at the University of Missouri at Kansas City. Recently, Dr. Dimond set out some of his ideas in a cogent article published in the Journal of the American Medical Association. Dr. Dimond's suggestions include a move away from the high cost, crisis care provided by the expensive physician in the equally expensive hospital. More first-line health care at the community level, provided by modestly trained health workers, would help cut costs and insure more immediate, preventive treatment. Dr. Dimond suggests that our traditional, lengthy medical education could benefit from a shortened curriculum and more humanist direction in education.

Any system that may ultimately be enacted by Congress to provide for the national health will have to face the issues raised by Dr. Dimond and the ultimate health of that system will undoubtedly benefit by his suggestions.

I ask unanimous consent that Dr. Dimond's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEDICINE—WHERE IT SEEMS TO BE: AN AMERICAN HEALTH CARE SYSTEM

The morning paper reports that fuel shortage is making the "all-electric" home a considerable liability to the pocketbook. The details, in brief, are that ten years ago the power and light companies endorsed vigorously—in fact, huckstered—the advantages of cheap, clean, efficient electrical power as the way of the future for the ideal home. Now, ten years later, these same companies have looked in their energy cupboard and found electricity is still a clean source of heating but not at all cheap; in fact, said the news article, electricity was found so very dear that the utility companies are urging home conversion to oil or coal.

This interesting example of inability to see the future, even when all signs were available a brief ten years earlier, readily is criticized by all of us as an example of an industry's lack of sensitivity to the public good and as an example of why this country is floundering toward disaster. The critic

would say that such issues should be regulated by law and that the government should control a national policy that prevents the misdirection of national resources.

To leave heating and to move to medicine is not too large a leap. Ten years ago there was a remarkable need for cardiovascular surgeons and an even greater need for medical cardiologists. Essays, editorials, and position papers presented the calculated evidence that there was an almost overwhelming crisis of public need for such skills.

By the hundreds, programs were funded and prepared men and women for these careers.

Now in 1977, the next piece of the arithmetic becomes reality. Need for such special skills was finite, not infinite; training programs met the needs; available positions are nearing saturation; the young incumbents, rather logically, expect to hold the positions for 20 or 30 years.

The crisis has been met, but the supply line did not have a regulator valve. The initial evidences indicate that there are almost enough specialists in these fields and that an overproduction may generate "work" sufficient to consume the specialists' time even beyond the public need.

The initial response to this evidence of overproduction of specialists, not only in cardiology but in general surgery and specialty surgery, is that here again is an example of lack of a national policy, and we must control these issues at the federal level. Legislation is sought as the antidote. As with electric heating, it is suggested that the medical profession is self-serving and cannot be trusted to solve such problems. Central planning and control is essential, it is said.

Friends who know me as an avowed liberal and democrat will be surprised to learn that I vote here for free enterprise. Beware of national long-range planning and federal control in this area of determination of national need for medical specialists. There may be some inefficiency, and there may be a lag time in precisely fitting the public need. Let us have national discussions, published in national journals; let us have hearings; let us have national studies motivated by the volunteer specialty societies, but let us beware of national legislation that locks us into national quotas.

Let the individual liberty of decision remain intact. The word will spread rapidly enough; career choices will be sensitive to opening or closing of need. No law was needed to eliminate wagon-train masters. The facts spoke the logic. Underused surgeons are difficult to justify as standbys in the operating room.

National laws concerning individual liberty have their own risk. The steps from a nationally defined quota, by law, of certain medical specialists to laws defining specific labor assignments for others are not many. Let there be a talent waste; time will correct it.

Regional supervision of professional conduct by the profession will provide public protection if the profession will only move rapidly to make such protection the applied rationale: audit begats continuing education begats public protection.

Is there no useful role for a reasoned national health policy? Of course there is. Such is long overdue. The risk comes from locking into a national health policy that is based on evidence presented by a vocal minority, by national professional organizations that are rigid with bias, by lawmakers weighing publicity more than public good, or by combinations of the above that omit a sensitivity for immense career commitment of the individual physician year-in and year-out.

Changes are needed, but that quality involved in the very private contract between patient and physician must not get lost in the search for a national program. The individual human's need for a trusted, private, personal physician and counselor is a basic union that must be protected. Cheap, clean, efficient electricity—or health care—may be efficient and may be facilitated by an appropriate national health policy. But "clean," "cheap," and "efficient" are words to take a second level of importance to "kind," "gentle," "humanistic," "compassionate," "personal," and "private health care."

There is a steady momentum gathering in the United States toward obligated retesting by physicians to prove they have remained competent. The variety of steps include certified evidence of attendance at postgraduate courses, audit of one's practice pattern, and periodic reexamination and recertification. Federal legislation has brought onto the scene Professional Standards Review Organizations (PSRO) with the intent of obligated (by law) audit of physician performance, essentially through record review and matching of one's practice pattern against criteria-referenced norms.

None of these techniques will have an influence equal to that of personal and professional ethics. The more the public seeks to regulate standards of physician conduct the greater becomes the public risk. This paradox stems from the basic rule that must guide each physician. Specifically, the profession's standards must be *greater* than public expectations. For the public to attempt to adjudicate, step by step, what is correct medical care is for the public to set standards that are *less* than those from which they would have benefited if the adjudication had been left to the profession alone. The adversary relationship that has steadily grown in the United States and has pitted patient against physician (with lawyers, judges, and juries defining practice standards) has not elevated the level of medical care. In fact, these attitudes and legal risks have burdened the patient with excessive tests and unlimited expenses. Men nor physicians are made wise, honest, and devoted by threats of punishment. These qualities are found in strengths of personal character and group professional pride.

One hopes that persons who are selected to enter medical school have these inherent qualities of self-regulated honesty. One hopes that the years in medical school and residency strengthen and engrain these values. This commitment to a professional way of life has value above the tests, examinations, and grades.

This professional dedication is carried out through one's conduct over a lifetime. Included in this conduct is the self-responsibility to remain informed and current in knowledge. A superb means of self-renewal is through a lifetime pattern of work paced by periods of recovery, then giving and taking, doing and reviewing. All of these phases are implied in the term "sabbatical leave," a three-, five-, or six-year period of intense professional commitment and then a half or full year of personal and family recharging. Such a lifestyle cannot only be the distinction of our profession, making clear the personally imposed audit on one's ability, but can also be the saving quality that makes an intense professional commitment possible.

Instead of national legislation for PSRO and Health Systems Agency, how about a tax-sheltered means of assuring each health professional several sabbatical leaves during a lifetime of professional service?

PATIENT RIGHTS AND PROFESSIONAL RIGHTS

What are the prime values that we all seek in health care—a dependable patient-physician relationship, ready and quick availability of care, the right of freedom of choice of a physician, the right of privacy of confidential information, and the right of care decently available to all?

There are other values not often expressed that are well worth understanding: the right of the physician to refuse to attend a specific person and, at the same time, the recognition of the commitment of nonabandonment. Not well understood, but perhaps necessary to restate is the right of the patient to seek health care that he or she trusts, be it Christian Science, native healer, acupuncture, biofeedback, or generous vitamin C. Modern science may be marvelous, but it has not yet disproved the validity of positive thought. Faith, confidence, and trust *are* therapeutic.

There must be an appreciation that there is an *art* in medicine equal in contribution to science. The present growing alienation between the public and doctors is manifested in malpractice suits, countersuits, elaborate documents of form and consent, written waiver of responsibility, and demands for consumer protection representatives, and it is serving to harm, not help, the public. A commercial, non-Hippocratic orientation to fees and duty is threatening to alter the "moral contract" that traditionally bound the patient and his physician. The "healer" cannot be effective if he or she loses the role of a personal, private confidante of the patient. The present situation has moved the physician and the patient into a harmful antagonism, more and more dependent on legal protection and weakened in terms of the moral contract.

I carefully qualify that I am speaking on an *American* system. Approaches that have developed in England, in the People's Republic of China, and in Sweden are the result of their historical experience. Any change here must have national antecedents, ties to the historical sources of our present health system.

PLAN-FOR-CHANGE CHECKLIST

An American health system plan-for-change must follow a certain check list:

1. Emphasis on humanism as an equal companion of modern scientific medicine is needed. The overenthusiasm for science, technique, and hardware has downplayed the fundamental objective of caring for the patient.

2. The steady push by all components of the health profession for overcredentialization, overtraining, and consequent overpricing is manifest as an unwillingness to accept practical experience as of some academic value. Therefore, nurses and medical corpsmen cannot gain recognition for their substantial, real medical knowledge learned through experience. Their entrance into medical school is made difficult; advanced standing and abbreviated class work are not often offered.

3. There is a need for front-line, very modestly trained, neighborhood health workers. These persons would cover the entire United States like a grid and have direct responsibility to the local health care system—not to the Public Health Service but to the community doctors, clinics, and hospitals. Our dilemma is that we have not yet tied our health care system downward to the people's neighborhood. Instead, we are caught up in methods that cater to the development of care at the expensive ends: more credentials, specialists, equipment, procedures, bigger hospitals. Our present system encourages medical dependence on the health profession and pulls the citizen into a sickness orbit.

4. The mass of the people have a handful of illnesses now ignored by so-called organized medicine. The handful of problems are high blood pressure, alcohol, wrong nutrition, venereal disease, and narcotics. What do we offer? For the latter four, essentially nothing. Even hypertension is not found in probably one-third of those afflicted.

For high blood pressure, we need to keep the patient on the job and take the daily

medication to him. A very inexpensive health worker directed by a doctor could handle this, treating the patient where he is, not at the artificial and expensive clinic and hospital.

For alcoholism and overweight, it is generally accepted that Alcoholics Anonymous and Weight Watchers have more success than the physician. The simple truth is that the vital quality of caring, of humanism, of fellowman's concern, is far more successful than the physician (who essentially fails because he will not take the time and make the emotional commitment).

We must go after these major public health problems with the power of compassion and participation. Public education and public action, not police tactics, have worked. Add a grassroots, to-the-people, formal component to the organized health care system. Our pyramid has grown too elegant at its point, the base has been ignored.

We recently have thought that a neighborhood clinic was the right way to reach the people. It is but a way station. We must go to the factories, farms, homes, schools, offices. Benign invasion of a citizen's privacy is possible if it can be offered as a part of a health care system that serves him.

5. We need to structure our system with our present excellent community hospital and medical centers at the central pivot. We should reach out from them with administratively related regional, communal clinics but go beyond that into the very web of society with friendly health allies who talk the people's language and make easy the movement to serious medical care when needed.

We need to seek evenhanded availability of care, with the same emphasis on inner city, middle-city, suburb-city, or rural area. We need to make it possible for the patient to seek the doctor he wants, both when the patient is solvent and when he is broke. We should use the major regional community hospitals not only to provide the backup care but also as the source of mobilized, regional health professionals. Present central congress of medical talent in expensive central hospitals requires a "balance of payments." This central pool of resources must take on regional responsibility to provide mobile health care teams that take care and teaching to the satellite care units of its region. All health professional schools, in a similar manner, need to assume active health education roles. University hospitals should compete for regional health care responsibility.

6. Each health worker should give care to the maximum of his ability, and no professional should spend time doing actions that a lesser trained person can do.

7. Federal money should be used to assure evenhanded availability and to stimulate the acceptance of a region-based private prepayment system, but the health professionals should be left totally responsible for quality control. Their duty should be measured by moral and ethical standards that must be even beyond society's expectations. Political, legal, fiscal attempts to force quality control will destroy the most precious quality: true professional pride. Americans do not care for the term elite, but the American public will have lost if they succeed in bringing the medical profession into line as a trade guild.

A quote from the retired editor of Lancet, T. F. Fox,[1] deals with professionalism:

"None but a saint could follow this principle all the time; but so many doctors have followed it so much of the time that the profession has been generally held in high regard. Whether its remedies worked or not, the public have seen Medicine as a vocation, admirable because of the doctor's dedication. As someone has put it, most people work so that they can be paid; but those with a vocation are paid so that they can work.

"Yet in times of real trouble . . . people still need a doctor whom they can trust to do all he can for them. Indeed, in our new technological world it's more desirable than ever that every patient, inside hospital as well as outside, should be under the care of a doctor who takes full responsibility for him, sees him as a whole, and protects him, if need be, from the marvels of the specialties.

"Whatever our view of elites, patients are often helped if they know that, because of his profession, their doctor will keep their secrets; give the same care to them regardless of class, race, or beliefs; and do what is needful first and think about payment later. Not everyone . . . abides by these rules, but those who do are more than experts on disease. They might indeed be described as exponents of civilisation."

8. Education is a comfortable word, and American medical schools seem to find considerable solace in it. Why else require four years of premedicine, four years of medical school, and three years of residency? Medicine is a difficult subject, but does it require 11 years of formal training after high school?

A physician's education must be more than science. Equal is the need for a broad cultural knowledge, a knowledge of people, and a wisdom gained through experience. The present system separates these educational units into separate chapters. Why not make an adjustment that maintains the physician as a learner, a teacher, a scholar, and a counselor of the sick over an entire career? Stop the commercialization; regain the professionalization.

The formal education should be shortened and altered so that medical knowledge and humanist knowledge are acquired simultaneously. Offer the degrees, doctor of medicine and bachelor of arts, six years after high school.

All graduates should be required to serve two years in the National Health Service Corps. Credit should be given for this practical experience toward medical school loans and for this practical experience toward residency training.

After two years of national service, residency training should be encouraged. Residency schedules should be adjusted so that the trainee can acquire the necessary training without a large three-year removal from practice. Why not six months, intermittently? The youg doctors will have benefited from the experience, and their loans can have been paid. The people will have benefited from the more than 30,000 young physicians available for underserved areas. The large number of women entering medicine will certainly make tailored training periods necessary.

By thoughtful assignment from the National Health Service Corps (NHSC) of some of the 30,000 young physicians to relieve those in practice, the exhausted practitioner can be assured a sabbatical leave and, therefore, "refresher" education at a medical center of his or her choice. Education is therapeutic. Such training should be additive towards Board certification.

An income tax shelter should be developed for the practitioner so that each seventh year is free for his or her renewal. The absence could be made possible by use of the physicians from the NHSC. Credit could be given toward certification in a special field of study accomplished during the sabbatical leave.

9. Education should be taken to the public. Most of the remaining U.S. health dilemmas are functions of social medicine (except cancer). How do we get education to the public? Television is obviously one route. However, person-to-person contact is the best approach. Physicians and nurses can do some of this. Their efforts need to be multiplied by penetrations into the neighborhoods and farm areas. Moderately trained persons, high with enthusiasm and energy (the United States is filled with such people), should be organized into a system of friendly neighborhood health workers. These people would be responsible to physicians, not to the public health system.

We must educate the health profession to a concept of comprehensive team care. We talk about this, but we do not do it. A medical center, a neighborhood health clinic, a nurse-clinician satellite clinic, and a penetration into the individual's home are all needed components. Education about this system should begin at birth, i.e. preschool.

Education is the fuel that makes peer review, self-evaluation and recertification possible. Such education of all health professionals can be facilitated if the health professional schools will use the active practitioners, their clinics, and their hospitals as part of the education system. The professional schools, therefore, need to be guided into an area health education center concept, and this can be facilitated by appropriate legislation.

TO REGULATE GENTLY, TO STIMULATE

This is all a delicate balancing act: the use of skilled legislation and federal funds to stimulate change, but the removal of a central government-controlled and government-policed national health service. The health professions must be self-regulating, with a code of discipline suitable for Caesar's wife. Equal availability of care at a cost that can be afforded and with ethics beyond suspicion—those are the profession's obligations. Government's role is to facilitate, to regulate gently, to protect by its presence, and otherwise to remain out of the area.

A new health care and education approach will find resistance from many. However, a new plan directed at the students, new graduates, and the individual professionals may find strong support. In medicine alone there will be 60,000 new physicians during this current presidential four-year term. Allowing for retirement and death, this will be almost 25% of all practicing physicians in the country. Similar arithmetic with nurses, pharmacists, and dentists makes it clear that an entirely new base is moving into the health care team.

In six years, not only will 12% of all present health professionals retire, but more than 60,000 new physicians will have moved forward into practice, 45,000 will be in residency, and 60,000 will be in medical school. These represent the potential catalysts for converting a health care plan through legislation into action and into a system.

Again, using federal bonus devices, we should bring the health professional schools into all the participating community hospitals and into the neighborhood clinics and rural areas. The success of the Area Health Education Centers needs to be expanded.

Physicians need to be placed in active preceptor roles. We should not downplay the students' basic science need but foster getting them out into the real world of elderly people, of broken homes, of drugs, of bad diet, of narcotics, of bad personal health habits, of mental flaws, of infants neglected, of small towns and farms. The real schoolhouse for learning how to serve is real life. No part of this comment ignores the importance of underwriting the creative, investigative contribution of scholars. The university is too precious to categorically demand that it be pragmatic only. Much that is involved in caring for the patient must be learned, taught, and experienced beyond the traditional walls.

A quotation from the United Kingdom[2] says it well: "Too many consultants have retired into their marble palaces to practice the minutiae of their biochemical and narrowly academic sciences without too much interruption from, or reference to, the community way of life of their patients."

The new medical graduate may respond with enthsuiasm to the altruistic opportu-

Footnotes at end of article.

nity of giving two years of service in underserved areas. Instead of interpreting this as a penalty, it can be presented as an example of the uniqueness of the role of physician. Equally, this opportunity should be made available to physicians, pharmacists, and nurses. Professionalism would become the pride, and union shop techniques would fade.

Not only would these young people provide health care and institute new health centers, but they would relieve fatigued or out-of-date professionals. Legislative funds and tax sheltered incomes should be provided to make possible sabbatical leave "refresher" experiences at regional medical centers for the professional and spouse. A promise of 6 to 12 months of professional retraining would brighten the intense commitment required from several years of private practice.

The horizontal power structure of the specialty medical societies, (i.e., radiology, pediatrics, psychiatry) is an additional source of strength and quality. Any national health system will need the cooperation and volunteer strength of these major factors of the American health scene.

These organizations are entirely based on volunteer help from the health specialists. Their roles are powerful ones in terms of maintaining standards and in fostering graduate medical education. Education, new ideas, and change move rapidly across the country via this administrative structure. These societies are a direct access route to all physicians and are an additional strength to that of the hospitals and the health professional schools. Thoughtful attention to their potential will provide one with effective, volunteer, well-motivated agents for change, reaching into every community and into every hospital. Their membership represents almost all practicing physicians.

The American social system had evolved a method of health care that is essentially based on private community hospitals that have been built and administered by influential, often wealthy, lay people. Many of these hospitals also have important religious connection that assists in the fund-raising and guides their sense of dedication. The United States is covered by such hospitals, and the energy inherent in such institutions and their boards and staffs offer the natural ally at the local level for any major federal effort to alter the health care system. Instead of introducing artificial administrative devices, is it not wiser to turn to these powerful, well-intentioned people who make any community progress, those who make up the membership of the hospital boards?

We need to develop legislation that gives these boards, their facilities, and their staffs the responsibility for service of a geographic area, for development of neighborhood health workers (spreading out from the hospital volunteer system and using neighborhood mothers, welfare mothers, and others), for the door-to-door, day-to-day health contact and education; these are the friendly neighborhood health workers. From all social and economic levels, the patients who are to be served must also have representation on these hospital boards. Let these hospitals compete for regional responsibility, using availability of service, cost effectiveness, and proof of safe audit as attractions to the public.

It should be made attractive through federal aid for all such hospitals to develop prepayment insurance plans, using private underwriters. Legislation should be written that will cause hospitals to be competitive and cooperative, and thus offer the public alternate plans. The low income families should be augmented through assistance with insurance premiums but allowed the hospital of their choice.

Again, through attractive federal bonuses, the existing network of hospitals should be encouraged to fully staff neighborhood health centers, to maintain common records, and to audit the quality and cost of care. Legislation should be constructed that will encourage these hospitals to compete for the privilege of serving rural areas, including frequent regional visits by all levels of staff to the rural area.

This plan turns to the already existing health system, ties the neighborhoods and rural areas to adequate tertiary care, stimulates the specialized hospital staff to serve in the entire region, and provides a logical framework for health service areas and professional organizations.

The Veterans' Administration hospitals should be phased into this same program. Their patient population and their health facilities should be part of the program and enjoy the same quality and resources made available to all citizens. The veteran patient should be able to obtain medical care where most convenient; the nonveteran patient should have ready access to the unique facilities of regional veterans' hospitals.

We should build on the existing huge dollar investments, the costly equipment, professional talent, and civic leadership. We should not go around this system but instead make it the nucleus for constructing the missing links.

SUMMARY

Instead of isolated chapters of education now characterizing the physician's life, one can follow a concept of "lifetime learning for physicians" (and other health professionals). Equally, the physician must respond to the profession's ancient concept of service, and all graduates must take their turn in the National Health Service Corps. Such will not slow the physician's growth but instead will mature it and enrich the physician by a sense of social commitment.

Simultaneously, the present islands of care—medical center, private offices, and clinics—can be brought into a harmonious system strengthened by an ability to reach into the lives and homes of the people. The use of personal contact, as in Alcoholics Anonymous and as has been used by churches throughout history, is a major unmet need of the US health care system. This personal contact can be used as the extending missing link tying the individual at his place of residence and employment into a continuous health care system. Appropriate health care education and needed preventive medicine measures can be kept as active and on-going factors in the individual's life.

The cost of such a program can be small by using modestly-trained persons. Cost effectiveness will be realized, over a period of time, by the decrease in time lost from work, in transportation time, and in health risk factors, and will be accomplished without using the most expensive member of the health team, the physician.

The primary regulation of this system will require logical methods of checks and balances. However, the health professional must follow self-imposed standards of performance, standards that will be higher than those that could be legally required. The medical professional is a morally responsible, action-oriented problem-solver working on behalf of people in difficulty. His or her services will always be dear, by any society's terms; however, they will not be so dear that society itself loses faith, or worse, loses access to the needed skills.

Do not introduce a piecemeal legislation. Do not separate health care from health education. Do not ignore the existing powerful matrix of community hospitals and specialty societies. Do not build further in an upward tertiary manner, but turn the community hospital and staff around so they must serve defined geographic areas, rural areas, inner cities, schools, factories, farms, and offices. Build the national health program on these existing community stalwarts, and encourage each unit to become a competitive prepayment total care system. By increments over a fixed period of time, incorporate the Veterans' Administration.

Use the students in all health professions as agents of change. Before the end of 1980, 50% of the next generation of health care providers will be in training or newly in practice. They are the human resource for causing change.

Appoint a self-limited (six years only) blue ribbon board charged with the implementation of the overall concept. Give them a very small staff, and let them be effective by use of existing health care systems, both federal and private. Limit their number to five or seven, and require them to commit themselves essentially full time. Do not let their role be that of a one-day-a-month, fly-in and fly-out advisory group, manipulated by an entrenched full-time staff. Give them visibility, publicity, and influence.

This proposal combines the strengths of volunteerism, private citizens, private enterprise, bonuses, and mobilization of federal, commercial, and private efforts. It is not a group of legislative tactics but an overall approach. It is a system of health care true to its American historical antecedents.

E. GREY DIMOND, M.D.,
University of Missouri, Kansas City.

FOOTNOTES

[1] FOX TF: Industrial action, the national health service, and the medical profession. *Lancet* 2:892–895, 1976.

[2] Wigglesworth R: Health and social services, letter to the editor. *Lancet* 2:774–775, 1968.

INCREASING SUPPORT FOR THE REGULATORY REFORM ACT OF 1977

Mr. PERCY. Mr. President, I am extremely pleased that S. 600, the Regulatory Reform Act of 1977, is continuing to attract a broad spectrum of support from both the business and public interest communities. Just recently, the Business Roundtable and Common Cause announced their support for the comprehensive regulatory reform approach of S. 600. Now, the American Bar Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Cotton Council of America have pledged their active support for the principles and much of the language underlying this far-reaching, action-forcing regulatory reform measure.

Housecleaning at the regulatory agencies is certainly in order. The proliferation of Federal regulatory activity in this century has been enormous. In many cases, such regulation is a necessary and prudent means of safeguarding the public interest. However, when polls regularly show that small businessmen see Federal regulation as more of a hazard to their livelihood than taxes or inflation, it is time to reexamine the purposes and procedures of that regulation.

In whose interest is such regulation if many of the Nation's small businessmen are being forced out of business by it?

Few organizations are as familiar with the pressures of Government regulation on small businessmen as the National Association of Manufacturers—85 percent of its members employ fewer than 500 people. The NAM's endorsement of S. 600 is testimony to their serious concern with the accountability of Govern-

ment regulation. The NAM's over 13,000 member companies are asking for no special favors. All they want is a fair deal. And too often the Government's regulatory agencies have denied them that.

A major part of the regulatory problem is that all too often those issuing regulations fail to take into account the costs of that regulation. Lately, regulation has been commonly used as the quick, easy-fix answer to all the Government's difficulties. Little time or energy has gone into looking for more efficient, alternative means for achieving a chosen goal.

I believe that Congress must share responsibility for much of the misguided regulation presently enforced by the Federal regulatory agencies. When these agencies were created, Congress simply assumed that the best way to keep tabs on the marketplace was through regulation.

But now we are all a little wiser from our experience. In the light of new studies, there is evidence that: Certain regulatory agencies are no longer operating in the public interest and should be transformed, revitalized, or eliminated; and that other regulatory agencies would achieve their purposes more efficiently by substituting economic incentives for regulation, or enhancing Federal antitrust activity. Much damage is being wrought unnecessarily by failing to act on these often less costly methods of protecting the marketplace.

It is in the interest of opening up the process of regulatory reform and forcing review of current agency practices and purposes that a sunset procedure has been incorporated into the Regulatory Reform Act of 1977. S. 600 provides an agenda, a timetable, and a discipline for Congress to undertake this important responsibility.

There may be reasonable differences over how broad a scope S. 600 should encompass. The sponsors of the bill are wedded to no set number of regulatory agencies to be reviewed per Congress. The Commission on Law and the Economy of the American Bar Association recommends that we proceed cautiously. I agree. It is vital that whatever sunset agenda Congress finds appropriate—whether it is the limited form advocated by the ABA, or the more inclusive plan presently in S. 600—be a manageable, orderly program. I am confident that with the able assistance of prominent public interest groups like the ABA, we will find agreement on the proper workload for the Regulatory Reform Act of 1977.

Mr. President, I ask unanimous consent to add to the list of those Senators co-sponsoring S. 600, Senators BARTLETT, BELLMON, GARN, GOLDWATER, MCCLURE, and STEVENS. They have joined the many Democrats and Republicans—liberals, moderates, and conservatives—who have united together in support of the Regulatory Reform Act of 1977. That list consists of the following Senators who have now joined with the principle sponsors, the distinguished majority leader Senator ROBERT BYRD, Senator RIBICOFF, and myself: Senators ALLEN, ANDERSON, BENTSEN, BURDICK, HARRY BYRD, CHAFEE, CHILES, DANFORTH, DECONCINI, DOMENICI, DURKIN, EASTLAND, FORD, GRAVEL, HANSEN, HASKELL, HATFIELD, HEINZ, HUMPHREY, HUDDLESTON, INOUYE, JOHNSTON, KENNEDY, LEAHY, LUGAR, MATHIAS, MATSUNAGA, METZENBAUM, NUNN, RIEGLE, ROTH, SCHMITT, SCHWEIKER, SCOTT, STAFFORD, TOWER, and ZORINSKY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Clearly, a consensus is developing in the Senate and among prominent organizations and groups that S. 600 is the best available means for achieving a comprehensive reform of Federal regulatory practices.

Mr. President, because of their importance and constructive contributions to the regulatory reform effort, I ask unanimous consent that the statement on S. 600 of the ABA's Commission on Law and the Economy, the National Association of Manufacturers, the Chamber of Commerce, and the Cotton Council, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the American Bar Association report to the House of Delegates Commission on Law and the Economy]

RECOMMENDATION: SUPPORT OF LEGISLATION REQUIRING PERIODIC REAUTHORIZATION OF FEDERAL REGULATORY AGENCIES OR FUNCTIONS

Be it resolved that the American Bar Association supports a limited form of sunset legislation which would require reviews and reauthorization by the Congress of federal regulatory agencies or regulatory functions and which would embody the following features or considerations:

1. Until it is demonstrated by experience that Congress can accomplish more reviews effectively within a short period of time, sunset legislation should not require review of more than a very limited number of regulatory agencies or regulatory functions by any one Congress.

2. Subject to a properly safeguarded legislative veto, the legislation should delegate to the President the authority and responsibility of designating the agencies or regulatory functions to be reviewed.

3. Reports to Congress on the agencies or regulatory functions scheduled for review should be prepared by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. The legislation should establish criteria for the comprehensiveness and usefulness of these reports. The sunset schedule should permit enough lead time for the completion and publication of such reports in advance of consideration by the appropriate committees of Congress, and should provide for full participation in the Congressional review process.

4. Sunset legislation should provide an orderly method by which agencies may be phased-out if they are not reauthorized.

5. Sunset legislation should provide procedural safeguards to require that legislation drafted in response to sunset reviews should be discharged from committee and given prompt consideration on the floor and by conference committees.

6. Sunset legislation should apply to all forms of government regulation and should not carve out particular agencies or regulatory functions to be excluded from intensive review.

REPORT

The American Bar Association's Commission on Law and the Economy was formed to study the government's legal structures and procedures for regulating the national economy and to recommend changes designed to improve the effectiveness and fairness of the regulatory process. The Commission has divided its work among three committees on Accountability, Information and Analysis, and Procedures. It plans to submit its full report in 1978 and is submitting this interim report on this one aspect of the subject because it requires immediate attention.

BACKGROUND

Congress is actively considering legislation which would initiate a "sunset" process through which either all federal budget authorization categories or all federal regulatory agencies will be subject to periodic reauthorization. The principal bills are S. 2 (Senator Muskie and 53 cosponsors) and S. 600 (Senator Percy and 40 co-sponsors). S. 2 would require that all federal budget categories be subject to reauthorization every five years on a rotating schedule. S. 600 would require that 32 federal regulatory agencies be subject to study and reauthorization during the next eight years' period. A subcommittee of the Senate Government Affairs Committee has completed hearings on both these bills and S. 2 has already been marked up.

The Commission recognizes that "sunset" legislation is not the only way to improve Congressional control of regulation. Other methods include strengthening the traditional Congressional oversight process, establishing a new process by which each Congress determines which agencies to subject to comprehensive reviews, and developing an inventory of all federal programs for potential review by Congress pursuant to priorities established by the majority and minority leadership. However, sunset legislation is at this moment a very active and important item on the Cngressional agenda and need not exclude other methods.

Although "sunset" is not the only route to meaningful regulatory reform, it has strong potential for eliminating unnecessary federal regulation and improving the effectiveness of regulation found to be necessary. The Commission on Law and the Economy believes that sunset legislation which includes the features recommended by the Commission would contribute to improving federal regulation and would not be unnecessarily costly or apt to divert political attention from meaningful regulatory reform.

The Commission recommends that sunset have a cautious beginning, placing a small number of regulatory agencies or functions in the limelight of intensive review by Congress and the President. This is a particularly helpful procedure for economic regulation. Then, if the test of sunset proves successful, Congress may expand the procedure to test whether more agencies or categories of the budget can be successfully reviewed.

Since this is the second session of Congress in which Sunset legislation has been actively considered and since further committee hearings on this concept appear to be imminent, it is believed by the Commission to be important for the Association to express its views on this legislation at this time.

Analysis of the provisions of the recommendation

This portion of the Commission's report presents and comments on each of the sections of the Commission's recommendation:

General Support Statement. The American Bar Association supports sunset legislation which would require reviews and reauthorization of a very limited number of federal regulatory agencies or regulatory functions and which would embody the following features or considerations:

Comment: The purpose of subjecting an agency to reauthorization is to create a situation in which Congress must act or the agency passes out of existence. The procedure is designed to force the kind of review that often is not possible under more usual legislative procedures.

Sunset can be applied to federal regulatory agencies or regulatory functions, depending on the reason for the review and on an evaluation of practical and political realities. Thus, a review could be directed at the Interstate Commerce Commission, at trucking regulation (a portion of the ICC's responsibilities) or at an entire sector of regulation, such as all transportation regulation (including ICC, CAB and the Maritime Commission). If a sector is designated for review, it is necessary to specify the agencies or parts of agencies which must be reauthorized.

Limited Review. 1. Until it is demonstrated by experience that Congress can accomplish more reviews effectively within a short period of time, sunset legislation should not require review of more than a very limited number of regulatory agencies or regulatory functions by any one Congress.

Comment: The Commission believes that a careful sunset review may absorb extensive resources and political energies. For example, a recent Senate review of the Civil Aeronautics Board required over $250,000 of Congressional resources and extensive cooperation from CAB staff. The study took over a year to complete and its results have provoked strong resistance from affected labor unions and most affected companies. While the study already seems to have affected agency operations, resulting legislation is still under consideration by Congress.

The analytical difficulty of completing a particular sunset review and the practical and political difficulty of accomplishing meaningful reform, depend in part on the size and nature of the agencies or regulatory functions designated for review. Because of this wide potential variation, the Commission's recommendation does not specify the exact number of reviews which one Congress might effectively accomplish. However, the Commission believes that as a matter of prudence, only a very limited number of reviews ought to be undertaken by any one Congress until further experience is gained.

Of course, Congress is free to conduct all its usual oversight, reauthorization and appropriations business and to effect fundamental reform as part of these activities, unaffected by the existence of a sunset law.

Congressional and Presidential Roles. 2. Subject to a properly safeguarded legislative veto, the legislation should delegate to the President the authority and responsibility of designating the agencies or regulatory functions to be reviewed.

Comment: In order to deal effectively with potentially serious problems in deciding which agencies or regulatory functions should be selected for sunset review, the Commission favors Presidential participation in selecting the subject for such review. Unless the President and Congress work together closely, fundamental reform is unlikely to occur.

A properly safeguarded legislative veto would permit either house of Congress to block an unpopular choice of agencies or functions by the President, providing an important check on Presidential leadership and giving the President an added incentive to confer with Congress on his choice. Because of the possible unconstitutionality of the legislative veto, about which no court has as yet clearly spoken, the Commission recommends a safeguarded legislative veto procedure. Under a safeguarded legislative veto, the President would be given authority to designate agencies or functions for only four years, subject to renewal by Congress. The President would assure Congress informally that if his designation is vetoed he would voluntarily withdraw it and substitute another agency or function, in order to moot any judicial challenge to the validity of the veto. In return, Congress would provide that the veto provision is severable from the remainder of the legislation, thereby mooting any challenge to the validity of an unvetoed Presidential designation, which might in an extreme case even result in the termination of any agency. In brief, the safeguarded veto is a prudent device by which the government can protect the legality of the operation of a sunset law which contains a legislative veto.

The Commission is aware that some members of Congress will oppose giving the President such an active role in naming agencies for sunset. An alternative method has been suggested by others. Sunset could require the President to recommend the agencies or functions for sunset, subject to affirmative vote by both Houses of Congress. Under this procedure, the legislative designation of agencies or functions, since it could have the ultimate effect of terminating affected agencies, should—for Constitutional reasons—be presented to the President for his signature or veto.

On the other hand, if Congress should decide on a more expansive sunset process, going beyond the cautious initial approach suggested by the Commission, there is substantial merit in the proposition that agencies of government automatically be subject to reauthorization on each tenth anniversary of their original authorization, thereby eliminating potential problems in the selection process. In addition, during the review of a particular agency, consideration could be given to reforms of agencies performing related functions.

Reports and Procedures for Congressional Review 3. Reports to Congress on the agencies or regulatory functions scheduled for review should be prepared by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. The legislation should establish criteria for the comprehensiveness and usefulness of these reports. The sunset schedule should permit enough lead time for the completion and publication of such reports and should provide for full public participation in the Congressional review process.

Comment: Establishing criteria for comprehensive reports is both important and difficult. Sunset reports should:

Identify the regulatory objectives expected to be achieved by the designated agencies or parts of agencies and assess their effectiveness in achieving the objectives;

Identify and assess the effectiveness of other programs having similar, conflicting or duplicate objectives;

Identify and assess the potential effectiveness of other policy choices, including increased reliance on competition or pursuit of a different government program;

Study ways of enhancing agency procedures to improve the determination of technical and factual questions while reducing delay and increasing the representation of all legitimate interests;

Study and assess the cost of modifying the existing agencies and making the transition to the preferred policy alternatives;

Make recommendations about the transfer, consolidation, modification or elimination of functions; the reform of structures and procedures; the merger, modification, establishment or abolition of regulations or agencies; the elimination or phasing-out of outdated, overlapping or conflicting regulatory jurisdictions or requirements; the reduction of delay; the improvement of the representation of affected interests; and the increased reliance on economic competition or private incentives.

Furthermore, it is essential that the reports be clearly written and that all key assumptions be revealed, in order to maximize the usefulness of reports for Congress.

The first round of reports needs to be initiated promptly in order to permit sunset to be tested during the next Congress. Thereafter, a schedule may be established so that sunset report preparation can commence from twelve to eighteen months prior to the beginning of the Congress which will consider the recommendations, thus giving Congress and the public ample time to study the recommendations and contribute to the decisionmaking process. The relevant Congressional committees should consider whether or not to adapt to their hearings the funding of public participation, as set forth in House of Delegates Resolution No. 114 (Winter 1976): that the government may pay attorney's fees and other expenses, under proper limitations and controls, in administrative proceedings and in the judicial review of such proceedings, when the availability of such fees and expenses is necessary to assure the presentation of positions which deserve full and fair consideration in the public interest and would otherwise not be presented.

The Commission recommends that separate reports be submitted to Congress by the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office and the affected agencies. Each of these sources of reports is believed to have useful expertise and a different viewpoint. Since there will be only a very limited number of sunset reports, it is important that Congress begin its deliberations by considering a variety of analytical viewpoints. Furthermore, the competition to write a meaningful report that will persuade Congress should create an additional incentive to improve the quality of the reports.

Providing for An Orderly Sunset. 4. Sunset legislation should provide an orderly method by which agencies may be phased out if they are not reauthorized.

Comment: The sudden abolition of some regulatory agencies might create great confusion. For example, the abolition of the CAB might result either in freezing all previous route awards and rate determinations or in permitting free entry and competition. FCC termination might create similar confusion about the right to broadcast. To reduce this confusion, the legislation should contain a method for developing contingent phase-out plans. One possibility would be to permit the President to include in his order designating the subject of sunset contingent phase-out plans to be effective only in the absence of responsive legislation.

Procedural Safeguards. 5. Sunset legislation should provide procedural safeguards to require that legislation drafted in response to sunset reviews should be discharged from committee and given prompt consideration on the floor and by conference committees.

Comment: The purpose of sunset legislation is to force a full review of an agency or function. This purpose should not be permitted to be thwarted because of the difficulty of discharging legislation from a committee or obtaining a vote on the floor of Congress.

General Application. 6. Sunset legislation should apply to all forms of government regulation and should not carve out particular agencies or regulatory functions to be excluded from intensive review.

Comment: The sunset process is inherently neutral. Little is to be gained by excluding any regulatory agency from the possibility of a sunset review which may improve its effectiveness.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
May 19, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: The National Association of Manufacturers is pleased to have the opportunity to share our views on S. 600, the "Regulatory Reform Act of 1977." As we have frequently stated in the past, the NAM supports the concept of true regulatory reform.

In the last session of the 94th Congress, the expressed support of the concepts embodied in S. 2812, the predecessor to S. 600. At that time, however, we discerned several difficulties with S. 2812 which detracted from its general effectiveness. We are pleased that many of these difficulties have been resolved in your new legislation, S. 600.

For example, the elimination of Section 2(c) of S. 2812 in S. 600 may indicate that there will be no major shift to the use of industry-wide regulations at the expense of the traditional case-by-case adjudicatory approach. We feel both methods should be available as needed in any given situation.

The addition of Section 4(d) to S. 600 is a positive step toward reconciling the two major approaches to regulatory reform. This section would require consideration of reform by the sectors of affected industries approach in addition to the major emphasis on reform by sectors of government regulation. We feel a balance between these two considerations is necessary to achieve true and equitable regulatory reform.

We commend the concept of using the Comptroller General (GAO) and the Director of the Congressional Budget Office to take a broader perspective of the reform effort as provided in Section 5 of S. 600.

The extension of the timetable for regulatory reform from five to eight years is a major improvement. Even with this extension, however, the NAM still perceives some inflexibility in this system. Considering the importance of many of today's regulations to the vitality of our economy, the termination of an agency's authority because of a lack of time for a serious reform effort would be a major mistake. The insertion of Section 6(b) is a very commendable effort to help alleviate this potentially devastating situation, but we believe some consideration should be given to an extension period for special cases beyond the existing cut-off dates.

We suggest that language be added to the legislation defining "unnecessary or harmful legislation." We also feel that a provision should be added to insure that all affected parties, including the general public and the business community, be consulted before (final) action is taken to reform a regulatory agency.

In addition, we feel that S. 600 effectively avoids the difficulty encountered with S. 2812 where Executive action might repeal existing statutes.

We hope these comments will be of use to you in your consideration of S. 600. If we may assist you further in this or any other matter, please do not hesitate to call upon us.

Sincerely,

JAMES P. CARTY.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, D.C., June 27, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: When the Subcommittee on Intergovernmental Relations of the Senate Governmental Affairs Committee recently held hearings on S. 600, the Regulatory Reform Act of 1977 which you introduced along with Senators Robert Byrd and Ribicoff the Chamber was unable to testify in support of the legislation. At that time, our position on the sunset aspects of the bill was such that we could neither support nor oppose the concept. It was decided that we take the sunset issue to the June meeting of our Board of Directors.

At the June 24 meeting of the Board, the sunset concept was clearly placed before the members. Roscoe Egger, the chairman of our new Government and Regulatory Affairs Committee, asked the Board to support sunset as it applies to programs in S. 2, Senator Muskie's Sunset Act of 1977, and S. 600. The Board agreed, without opposition, to back sunset as a means to achieve effective regulatory reform.

Our Board did find one problem with the legislation. We are concerned about maintaining the independence of the Board of Governors of the Federal Reserve System. Our Board felt that this independence is so important that even that remotest possibility of sunset should not be applied to the Federal Reserve System. Thus, they adopted as part of their resolution, a request that the Chamber seek to have the Fed taken out of any sunset in your bill. We would hope that you could amend the legislation so as to exempt this very important agency.

With this action of our Board of Directors, we can now give S. 600 the Chamber's support. I look forward to backing this bill as it moves through the Congress.

Sincerely,

RICHARD L. LESHER.

STATEMENT OF NATIONAL COTTON COUNCIL OF AMERICA

The opportunity to comment on S. 600 and the leadership its sponsors are providing to bring accountability into the regulatory process are deeply appreciated by the American cotton industry. The legislation pending before this committee would enable Congress to achieve much needed reform, and it has our full support.

Providing a safe working environment, that is at the same time practical, is a highly desirable goal, and few would quarrel with reasonable regulations designed to achieve that goal. However, government agencies with responsibility in the regulatory area should be required to consider costs and weigh these costs against the benefits just as they must make certain that in the standards imposed the benefits clearly outweight the risk. Unfortunately, in many instances, the cost side of the equation has been neglected just as the risk side has been overstated. The result has been higher prices to consumers and a reduction in economic growth in our economy.

Federal regulatory agencies are intruding into every facet of an individual's life to a degree unparalleled in our history. The cost of staggering. The General Accounting Office estimates that regulations are exacting approximately $60 billion annually from taxpayers and industry.

In the cotton industry alone, the burden of excessive regulations, the resulting harrassment and unproductive expenditures jeopardize the future of many thousands of jobs. Several areas are cited below.

First flammability—Since 1967, flammability standards have been written for 5 textile products. The first important one affecting cotton was children's sleepwear, sizes 0 to 6x. The immediate result was a loss in cotton's market share from 70% to 5%.

Since these standards were enacted, the Census Bureau has found that burn injuries and deaths associated with textiles are only one-fifteenth as great as originally estimated.

In the Consumer Product Safety Commission's haste to issue a standard we now have a situation where industry is faced with a significant financial loss from the recall of garments treated with chemicals suspected of being carcinogenic. The Commission's repurchase order is estimated to cost the producers of children's apparel and the manufacturer of flame-retardant materials approximately $200 million.

Currently under consideration is a new apparel standard covering robes, nightgowns, pajamas, dresses, shirts and trousers. If adopted this standard would cost consumers over $3 billion annually. Also under consideration is a standard that would cover all apparel. Estimates on the cost vary but are astronomical.

It is obvious that the Consumer Product Safety Commission's actions were precipitous in promulgating the children's sleepwear standard when it did. The industry was not ready and the rapid development and use of flame-retardant chemicals that resulted can be laid directly at the door of the C PSC. One of the most widely used chemical treatment has subsequently been cited as an animal carcinogen, which means that it causes cancer in animals and may possibly lead to cancer in humans. This hasty action by the Commission, while inexcusable, is a classic example of the remedy prescribed and required by government being worse than the so called hazard.

Second, cotton dust—OSHA's proposed cotton dust standard offers a prime example of over-regulation. With the exception of harvesting, the proposed standard would apply to all industry sectors involved in processing or in any way handling cotton. This OSHA proposal has been made even though there are no data to show the existence of a dust realted health problem in any sectors, except for some areas of yarn manufacturing.

Despite the absence of such data OSHA's proposal would extend sweeping coverage to cotton gins, oil mills, warehouses, classing rooms and other areas of textile mills. Also the proposed standard would substantially increase energy consumption at a time when national emphasis must be on conservation. Energy consumption under the proposed standard would increase by 29% in textile mills and 75% in the ginning industry.

The cost of installing engineering controls in conjunction with the proposed standard is estimated to be approximately $3.2 and annual operating costs are estimated to be $947 million. OSHA officia's are on record as saying that the standard's cost will be disregarded, except as it relates to the time allowed for implementation.

Others—There are a number of other regulatory matters having significant impact on cotton and the textile industry which we have not covered. These include present proposed standards on agricultural pesticides, noise, air emission, water quality, heat stress, toxic substances, food additives, machine guarding, equipment operation and walking-work surfaces.

In view of the examples as cited above, and because of the trend of more and more regulations, it is essential that meaningful reform be enacted by Congress. S. 600 could accomplish this badly needed reassessment of our entire regulatory process. The proposal would require the President and the Congress to systematically review agencies and their effectiveness over a period of eight years. In addition the President would have the responsibility of submitting to the Congress recommendations for reforming regulation in four broad sectors of the economy every two years. This mandatory review accompanied by the sunset provision, as provided in the propcsed legislation, is highly desirable.

The legislation requires the President to include in his plan a report on the cumulative impact of certain government regulatory actions on specific industry groupings. The President is also required to submit recom-

mendations to insure that the impact of the regulation is in the nation's best interest.

We feel that this language should be expanded to direct the President to specifically take into consideration, in developing his recommendations, the overall benefits derived from such regulations as opposed to the cost of implementation. This is the very heart of many of the problems associated with the regulatory agencies. In too many instances the risks have been greatly overstated and actions highly detrimental have been taken without balanced consideration of both benefits and cost. Consequently, many well intentioned measures have become counter productive and inflationary.

When Congress acted to establish the various regulatory agencies and commissions they created in some instances bureaucratic monsters that have gone far beyond what Congress had intended. Regulatory agencies have become what many feel to be, the most powerful force in Government. Because of their statutory independence, these agencies are apparently accountable to no one.

S. 600 will not answer all problems associated with over regulation. However, if enacted, the Congress and the Executive branch will address and debate the issues and develop meaningful alternatives to a situation that has gotten out of hand and is not serving the best interests of the Nation. Therefore, we urge prompt consideration and passage of this legislation.

THE UNITED STATES AND OUR NATIONAL HONESTY

Mr. PROXMIRE. Mr. President, this week President Carter will make his first visit as Chief Executive to the United Nations. During his 2-day visit he is to address the General Assembly, sign two international covenants, and discuss both the Middle East situation and a hoped-for extension of the United States-Russian arms limitation pact. It is also believed that the President will discuss the question of human rights around the world.

It is regrettable that in discussing the important issue of human rights, the President will have nothing more to arm himself with than his own strong convictions. The Senate has failed to give the President the backing he requires in this matter—the ratification of the Genocide Treaty.

When President Carter discusses human rights with international leaders, an atmosphere of hypocrisy cannot help but develop. How can the leader and representative of the American people strongly advocate human rights when, due to the failure of the Senate to ratify the Genocide Treaty, it seems the American people are not supporting their President? This lack of support not only hurts the President's international image, but it also displays the hypocrisy of the entire Nation, a nation that values human life above all.

With so many important international issues under consideration, I believe it is time to back President Carter and give him the support that will bring the professed desires of the United States in line with our actions. Through the ratification of the Genocide Convention we can stand firmly behind our President in his struggle for human rights.

COMPREHENSIVE TEST BAN

Mr. GARN. Mr. President, President Carter stated early in his term of office that he wants to stop all nuclear weapons testing. In order to further this objective, the United States and the Soviet Union have been negotiating since June to complete a comprehensive test ban treaty which would prohibit all nuclear weapons tests. Soviet Foreign Minister Andrei Gromyko's announcement on Tuesday, September 27, gives us reason to believe that obstacles to the treaty have been removed and a test ban agreement will emerge in the near future.

While some believe that a full test ban treaty is the next major step in assuring world peace, the Comprehensive Test Ban (CTB) would result in a net U.S. disadvantage in regard to the balance of strategic deterrence and long-term national security interests. In the event of a CTB the U.S. nuclear weapons laboratories would severely and quite probably deteriorate in their effectiveness. It is most unlikely that the scientific and engineering talent now attracted to such laboratories could be retained in the long run in absence of a significant level of new weapons development testing. Public opinion and budgetary considerations in the United States would soon cause significant attrition in the top technical talent pool which is indispensable for a sound, effective and continually evolving, strategic posture. There is no way to restore this type of research and development (R. & D.) base on short notice, should the need arise.

This same problem does not exist to a comparable extent for the Soviet Union. The ability of the U.S.S.R. to direct its resources—including budgets, facilities, and scientific talent—to the tasks prescribed by the interests of the state would permit the maintenance of the nuclear R. & D. laboratories at a high state of excellence and readiness, even in the presence of a CTB. In the case of an abrogation of the test ban, the Soviets would be in a position to take rapid and effective advantage of the fully maintained R. & D. capability. They would also be in an excellent position to make military use from test data covertly derived from "peaceful" nuclear explosions.

In the August 1972, issue of the Air Force magazine, retired Army Brig. Gen. Albion W. Knight claims that a CTB would, among other things, cause a serious exodus of highly skilled scientists and technicians from the nuclear weapons laboratories at Los Alamos, Livermore and Sandia. The respective laboratory directors have confirmed this year that it would be almost impossible to conduct a viable nuclear weapons R. & D. program without nuclear testing. Without testing, the good scientists would believe, rightfully, that their Nation no longer needs their help.

If we lose the capability to advance the state of nuclear weapons technology at a time when the Soviets continue their massive effort in strategic nuclear R. & D., we may be painting ourselves into a difficult corner. If and when President Carter, or his successor, recognizes that we can no longer accept the consequences of Soviet strategic superiority and directs an overall improvement in our own strategic forces, he may find that the Comprehensive Test Ban Treaty would have removed the key scientific assets necessary to make that improvement. President Carter should make a very careful analysis of his rosy arms control hopes to see whether they justify the loss of our nuclear weapons laboratories.

I ask unanimous consent that the article by General Knight be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NUCLEAR WEAPONS LABS: AN ENDANGERED SPECIES

(By Brig. Gen. Albion W. Knight, USA (Ret.))

Shortly after his inauguration, President Jimmy Carter announced that he would like to proceed quickly with a Comprehensive Test Ban Treaty. "I am in favor of eliminating the testing of all nuclear devices instantly and completely," he said.

During the 1976 presidential campaign, Mr. Carter proposed a five-year ban on all nuclear testing. He has now moved to carry out that campaign promise. The ill-fated strategic arms limitation proposals made by Secretary of State Cyrus Vance in his March 1977 visit to Moscow included a provision for halting nuclear testing.

The follow-on SALT discussions and negotiations between the United States and the Soviet Union have dealt with the subject of extending the existing nuclear test bans into a Comprehensive Test Ban Treaty barring all nuclear tests in all environments. Negotiations on such a treaty are now under way.

The 1963 Limited Test Ban Treaty prohibited nuclear testing in all environments except underground. The 1975 Threshold Test Ban Treaty then prohibited all underground nuclear weapons testing in yields greater than 150 kilotons. The 1976 Peaceful Nuclear Explosives Treaty placed similar, but at the insistence of the Russians, less restrictive controls over peaceful nuclear explosions. These latter two treaties have not been ratified by the U.S. Senate, although hearings are scheduled for this summer. However, both nations are abiding by the treaties as if ratification were completed.

The purpose of this article is not to discuss the issue of a Comprehensive Test Ban Treaty. This has been covered adequately by others, especially by Edgar Ulsamer in the May '77 issue of this magazine. Rather, it is to note that a Comprehensive Test Ban Treaty would have an extremely adverse impact upon the American nuclear weapons design laboratories and, consequently, upon our long-term national security. These laboratories, relatively unknown and unheralded, are a prime foundation of our national security posture. US governmental actions in the recent past have weakened these national assets. The proposed Comprehensive Test Ban Treaty might well give the *coup de grâce* to the laboratories. The United States then would be placed at a severe scientific and technological disadvantage in the building (or rebuilding) of our security posture for the future—at a time when our scientific capability has become even more vital.

THE WEAPON DESIGN LABORATORIES

The nuclear weapon design laboratories include the two major nuclear laboratories operated by the University of California: Los Alamos Scientific Laboratory in Los Alamos, N. M., directed by Dr. Harold M. Agnew; and the Lawrence Livermore Laboratory in Livermore, Calif., directed by Dr. Roger E. Batzel. They also include the Sandia Laboratories operated by the Western Electric Co. at Albuquerque, N.M., and at Livermore to give fully dedicated engineering support to the nuclear laboratories. All of these laboratories are under contract to and under the direction of the US Energy Research and Development Administration (ERDA), which assumed nuclear weapons responsibilities

from the US Atomic Energy Commission (AEC) in January 1975. These responsibilities will, in turn, be incorporated within the functions of the new Department of Energy. An integral part of ERDA's nuclear weapons research and development complex is the Nevada Test Site, northwest of Las Vegas, where each of the laboratories conducts those experiments that require nuclear explosions.

According to date published by ERDA in a congressionally directed study of their nuclear weapons capabilities (*Funding and Management Alternatives for ERDA Military Application and Restricted Data Functions*, January 1976, ERDA-97), the weapons laboratories employed, in Fiscal Year 1975, more than 17,000 people with nearly 11,000 working on the nuclear weapons program. The remaining 6,000 were engaged in other important scientific work, mainly in seeking solutions to some of our critical energy problems. Since then, the laboratories have grown to more than 19,000 employees with the predominent increase being scientists and technicians working on energy programs.

A number of people in both ERDA and the Department of Defense worry that the energy role of the nuclear weapons laboratories may so expand that, even without a cessation of nuclear testing, the primary weapons functions of the laboratories might be seriously degraded. For that reason, there was, until the Carter Administration took office, serious study of whether the nuclear weapons role of ERDA (including that of the laboratories) should be shifted to the Department of Defense. This was the major question asked by the congressionally directed study noted above. (The answer reported to the Congress in May 1976 was that, for the time being, the weapons functions should remain with ERDA.) The creation of a Department of Energy and the declaration by President Carter of a "moral equivalent of war" on the energy problems can only heighten those worries. I believe it to be a real possibility that the laboratories' weapons functions might be squeezed out at the end of that battle.

What has been the cost to the taxpayer for the research and development capability of the nuclear weapons laboratories? Over an eight-year period from FY '70 through FY '77 an average of about $260 million per year was appropriated by the Congress for Atomic Energy Commission and ERDA nuclear weapons research and development programs. About $200 million more per year was appropriated for nuclear testing. Thus, the nuclear weapons research and development capability has been costing less than one-half billion dollars a year, or less than one-half of one percent of the Defense Department budget. Yet it provides the heart of the strategic and many of the tactical weapon systems needed by the Department of Defense. This is one of the biggest, yet lesser-known, bargains of the US government.

CONTRIBUTION TO SECURITY

The nuclear laboratories have made significant contributions to our national security posture. First, and most obvious, all the nuclear weapons in our stockpile were designed, tested, and developed by either the Los Alamos or the Livermore laboratory.

Second, they have been pioneers in the development of highly reliable complex systems. The nuclear portion of a weapon system is its most reliable component. The laboratories envision a twenty-year or longer stockpile life for some nuclear devices. Some of our nuclear weapons either approach or exceed this lifetime.

Third, the laboratories have saved the nation untold billions of dollars. By advances in nuclear technology, they have made possible weapon systems that are far more effective than envisioned twenty years ago. One of the most impressive of these advances was the miniaturization that resulted in improvement in the yield-to-weight ratio of nuclear explosive devices. The United States thus has been able to build smaller and less expensive missiles and to develop the MIRV concept of one missile placing nuclear-armed reentry vehicles on several targets. In a recent panel discussion among senior managers at Lawrence Livermore Laboratory, William Nelson, a key division chief, commented:

. . . An excellent example [of saving] is the Polaris submarine. It would have been very expensive if this Laboratory hadn't discovered the means for making the missile payload powerful, yet small enough to be carried by a submarine. Getting that payload to a specific point on the earth is a very expensive thing to do. And if we can make the payload smaller, lighter, and able to do its job more effectively, this saves money in the overall system.

What was said for Polaris also applies to the Minuteman and Poseidon missiles. It is even more a factor with the coming generation of new weapons—the Mark 12A warhead for Minuteman III, and warheads for the MX, the Trident, and the cruise missiles.

Miniaturization also made it possible for fighter-bomber aircraft to carry the thermonuclear bomb—a feat that could be done only by heavy bombers for the first-generation hydrogen bombs. That, in itself, caused an order of magnitude expansion in the mission and the effectiveness of the Air Force. It may make it less risky to carry out the controversial withdrawal of ground forces from South Korea, which the Carter Administration wants to do. The deterrent threat of nuclear-armed aircraft located within immediate striking distance is powerful. It is the heart of the NATO deterrent as well as of deterrence in the Pacific. The laboratories have made all this possible.

A fourth and extremely important contribution is that the laboratories' advances in the state of nuclear weapons technology gave a sound base for the SALT I negotiations. The SALT I Interim Agreements were accepted by the Congress and American people primarily because the Nixon Administration assured them that the United States—while acknowledging a Soviet quantitative superiority in throw-weight, numbers of launchers, and on-going missile development programs—maintained its technological lead and continued to hold a qualitative superiority. As late as March 1974, James Schlesinger, who at that time was Secretary of Defense, told the Senate Foreign Relations Committee that the three US advantages providing balance under the SALT I Interim Agreements were MIRV and RV technology, guidance technology, and nuclear weapons technology.

Since SALT 1, the Soviet Union has made major progress in MIRV and guidance technologies. We know that they continue to give strong support to their nuclear weapons laboratories. Thus, the need for the United States to retain a strong nuclear weapons scientific capability is more important than ever if we hope to reach an arms control agreement that will not harm US national security. A vigorous nuclear weapons technology might be the only advantage we retain. Even then, there is room for doubt since the 1963 Limited Test Ban Treaty eliminated the means for checking and measuring Soviet progress in nuclear weapons technology.

DECLINING SUPPORT

Since the Nixon Administration touted a strong nuclear weapons technology as an enabling factor for SALT I, it should have taken great pains to keep that technology healthy. In fact, the Safeguards associated with the Limited Test Ban Treaty of 1963, proposed by the Joint Chiefs of Staff as their prerequisite for agreeing to that treaty and accepted by President Kennedy, require the President to give strong support to the nuclear weapons laboratories. The two Safeguards that applied to the laboratories stated:

Safeguard A: The conduct of comprehensive, aggressive, and continuing underground test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future.

Safeguard B: The maintenance of modern laboratory facilities and programs in theoretical and exploratory nuclear technology which will attract, retain, and insure the continued application of our human scientific resources to these programs on which continued progress in nuclear technology depends.

However, the Nixon Administration did not support the nuclear weapons laboratories. Instead, it made steady annual reductions in the Atomic Energy Commission nuclear weapons budget, resulting in a significant deterioration in the research and development capabilities of the laboratories and in their ability to conduct nuclear weapons tests. In late 1974, the author was a professional staff member for the Joint Committee on Atomic Energy of the Congress. When the possible reduction in the nuclear laboratories came to light, Chairman Melvin Price directed me to conduct an investigation of the matter. The investigation was completed in March 1975, following detailed discussions at the three laboratories and with AEC headquarters personnel. My basic conclusions was that there had, in fact, been a deterioration in the US nuclear weapons research and development capability, a reduction in effort of about one-third, and that the deterioration had an adverse effect upon our national security that would become serious if the trend of the previous five years continued. Some of the key findings were:

Over the previous five years, due primarily to Executive Branch decisions, there had been a series of annual reductions in the research and development capability of the AEC nuclear weapons laboratories. The funding level, annually, was at less than the rate of inflation.

The reductions were reflected principally by cuts in laboratory weapons programs of about twenty-five percent (a cut of more than 3,000 people, from about 12,000 in 1970 to about 9,000 in 1975).

At the same time there was evidence that the Soviet Union had increased noticeably its investment in nuclear weapons laboratories.

In the same five years there had been a reduction in the nuclear weapons test effort by about fifty percent (a cut of about 4,500 man-years, from about 9,600 in 1970 to about 5,100 in 1975).

As a result of decreased laboratory resources, the increased DoD demands for weaponization efforts, and the need to complete weapons testing in yields greater than 150 kilotons before the Threshold Test Ban Treaty was effective, *the advanced development effort in the laboratories was essentially abandoned*. (Italics added)

The then current level of effort at the weapon design laboratories was not sufficient to the long-term task of maintaining the quality of the US weapons stockpile.

Laboratory equipment was becoming increasingly obsolete due to reduction in capital equipment funds. One laboratory director stated that "present funding can no longer sustain an orderly equipment replacement program."

There was evidence of declining morale among the key scientists in the weapons program. They viewed the constantly declining resources as evidence of lack of concern by the nation about its security, in the face of significant growth in the Soviet nuclear capability. A number of key scientists

had left the weapons program for that reason.

The design capability of the US nuclear weapons laboratories rests upon the unique skills of highly specialized scientists and technicians dealing with problems and materials completely unknown outside of the laboratories. If this resource is dissipated—as it had been for the previous five years—it would not soon be regained. (This fact is especially pertinent in 1977 with the possibility of a cessation in nuclear testing that would cause an exodus of key scientists from the weapons program.)

What happened to that investigation? The Ford Administration generally acknowledged the validity of its findings and took action in the FY '77 ERDA budget to halt further decline in the laboratories' capabilities. ERDA took internal management actions with the objective of regaining and maintaining a balanced laboratory capability and program. This meant the renewal of interest in the advanced development programs that had been shelved for several years. During my time with ERDA in 1976 and 1977, I participated in those efforts. Yet I had the firm conviction that they were "too little and too late."

We may never know the price that we paid for the laboratories' halt in the advanced development projects. The corrective action is relatively inexpensive—allocating an additional $100 million a year to the weapons laboratories to allow replacement of aging equipment, and, most important, the resumption of promising advanced development work to push ahead the state-of-the-art in nuclear weapons technology. This would be about the cost of one B–1 bomber. It would pay far greater dividends.

LONG-TERM CONSEQUENCES

There are some who believe that advanced development work should be discontinued and nuclear technology brought to a halt. With that in mind, I took a thorough look at the advanced development projects the laboratories said they would like to pursue if they had adequate resources. I examined the potential contribution to our future security posture if they were pursued with vigor. They are highly classified and cannot be discussed, but I am convinced that they would bring about improvements in the following areas: Safety (for example, work has proceeded on a high explosive for use with nuclear weapons, which is far more insensitive shock than the present high explosives), security, better command and control, survivability, reduced civilian damage potential, further advances in miniaturization, clean nuclear explosives, means of making nuclear weapons less expensive, and increased understanding of nuclear physics.

These are very desirable objectives that ought to be pursued by the laboratories with priority equal to weaponization. That they are still not being pursued is tragic.

The nuclear weapons laboratories are not yet recovered from the neglect of the Nixon Administration. Yet they are now faced with the Carter Administration proposals to cease nuclear testing. These proposals would affect the nuclear laboratories directly and adversely. First, it is almost impossible to conduct a vigorous nuclear weapons program without having experimental nuclear explosions. Thus, the promising projects I noted earlier could not be pursued without the ability to conduct nuclear tests.

Second, a cessation of nuclear testing certainly would cause an exodus of highly skilled and specialized scientists from the weapons program. Such an exodus happened during the 1958–61 nuclear test moratorium. Their loss was felt severely after the Russians broke the moratorium in August 1961, and the United States then had to put together hurriedly a test series without the help of some of the key scientists who had worked on the design.

In my view, if President Carter proceeds with his proposals to stop nuclear testing, he will be telling the nation that we no longer need the important nuclear weapons laboratories. It was clear, before my February 4, 1977, resignation from ERDA, that the Carter Administration had not examined and would not examine the impact on our long-range security posture, should the capabilities of the nuclear weapons laboratories be lost. That is a serious omission that ought to be corrected before the President proceeds with a Comprehensive Test Ban Treaty or a unilateral nuclear test moratorium.

Why have two Administrations taken actions that lead to weakening our nation's key scientific nuclear capability at a time when the Soviet Union has made the most massive development and deployment of a strategic nuclear force the world has ever seen? In the case of the Nixon Administration, I believe that the main reason stemmed from the long-time separation of the nuclear weapons program from the rest of the national security program. In both the Legislative and Executive Branches, those who prepared, reviewed, and approved the AEC/ERDA nuclear weapons budget were not the same people who were responsible for the Department of Defense budget. As a result, cuts were made in the nuclear weapons research budgets of the Nixon era without a clear policy-level assessment of the impact of those cuts upon the overall national security program. This was also indicative that within the Atomic Energy Commission, those with budgetary functions were more powerful than those with a programmatic responsibility.

I believe that weakening the nuclear weapons laboratories under the Nixon Administration was due more to annual bureaucratic budget exercises than to a conscious national policy decision. The responsibility must rest upon the shoulders of the Atomic Energy Commission management for not raising with sufficient force the policy implications of the budget cuts.

On the other hand, the test-ban proposals being offered by the Carter Administration and the resultant weakening of the nuclear weapons laboratories will be the result of a conscious national policy decision. I believe that President Carter has an obligation to the nation to examine very carefully whether it is in the long-term interests of the nation to throw away the tool that has done so much in the past thirty years to give us the foundation for an effective nuclear deterrent force. Only if the basis of our national security posture is changing from nuclear weapons to some other weapons technology would the need for the nuclear weapons laboratories be eliminated. For the foreseeable future, that does not seem possible.

If the future unfolds as it now seems probable, the Soviet Union will continue to seek clear military superiority. There may come a time when President Carter or his successor will have to decide that the political consequences of Soviet superiority cannot be tolerated. It will then be necessary to repair the damage done to our security by emotionally satisfying nuclear disarmament policies, and to improve our weapon systems. Without the nuclear weapons laboratories in a healthy state, this would be extremely difficult, time-consuming and very expensive.

It is wise not to throw away the paddle before pushing the canoe into white water. A cessation of testing, with a consequent critical weakening of the nuclear weapons laboratories, would be just that kind of action.

SUPPORT FOR ELECTRICAL LIFELINE AMENDMENT

Mr. HART. Mr. President, on September 28, Senator ANDERSON and I introduced amendment No. 1399, which is identical to S. 1364, the Electrical Lifeline for the Elderly Rate Reform Act of 1977. This amendment, which will be offered to S. 2114—the Public Utilities Regulatory Policy Act of 1977—would extend a subsistence quantity of electricity to elderly residential users at the lowest cost that it charges to any class of consumer. It would also require the new Department of Energy to study an alternative electric costing method—long-run incremental costing—which would generate revenues sufficient to permit utilities to extend a subsistence quantity of electricity to all principal residences at significantly reduced rates.

Mr. President, widespread support has been generated for this amendment, which represents an immediate, easily administered response to the steadily worsening problem faced by the elderly in meeting home energy costs. Further, my lifeline proposal would not unduly burden utilities or other classes of consumers with increased costs.

Supporters of this amendment include the Urban Elderly Coalition, the National Council of Senior Citizens; the National Indian Council on Aging; Environmental Action; Sierra Club; Cherokee Senior Citizens Committee; and the Seattle Department of Human Resources. Letters of endorsement have been received from each of these organizations, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

URBAN ELDERLY COALITION,
Washington, D.C., August 31, 1977.

Senator GARY HART,
Russell Senate Building,
Washington, D.C.

DEAR SENATOR HART: I am writing on behalf of the Urban Elderly Coalition (UEC) in support of S. 1364, The Electrical Lifeline for the Elderly Rate Reform Act of 1977, which would make available a minimum amount of electricity to elderly residential users at the lowest cost it charges any consumer.

The UEC, an association of Urban Offices on Aging representing the overwhelming majority of older Americans in our country, is greatly concerned about the availability and cost of energy for the urban elderly population, particularly since two out of every three persons age 60 and over live in urban metropolitan areas. As a population subgroup, persons age 60 and over many of whom are low-income, are generally more affected by sharply rising energy costs than any other segment of the population.

This is increasingly true for those persons age 60 and over whose disposable income is less than $5,000 annually. For example, between 1973 and 1976 persons of this age group living in the Northeast, North Central, South, and West regions of the United States annual expenditures on home fuel rose 47.8, 67.5, 46.6 and 45.4 percent respectively. Subsequently, a greater proportion of an elderly person's income must go to pay for those increased fuel prices, and as a result, their purchasing power is limited in other crucial areas such as health care, transportation and food buying.

The Urban Elderly Coalition views S. 1364 as an important piece of legislation. We believe it is a necessary first step in the development of an equitable rate structure for older Americans.

If I can be of any assistance or Jeffrey Lewis, our legislative assistant, please contact me.

Sincerely,

RUTH C. BRAVER,
Executive Director.

NATIONAL INDIAN COUNCIL ON AGING, INC.,
Washington, D.C., September 12, 1977.

Senator GARY HART,
U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The National Indian Council on Aging in polling its council members have received unanimous endorsement of S. 1364.

It is a much needed piece of legislation that will do much to enhance the lives of older people, including the American Indian elderly. Many of the Indian elderly who reside in urban and rural areas have access to the conveniences of electricity, will undoubtedly benefit as a result of favorable action on this amendment.

We are highly supportive of any legislation that contributes to the dignity of our Indian elderly and applaud your efforts.

Respectfully,

LARRY CURLEY,
Liaison Specialist.

NATIONAL COUNCIL OF SENIOR CITIZENS, INC.,
Washington, D.C., September 23, 1977.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy Conservation and Regulation, Washington, D.C.

DEAR CHAIRMAN JOHNSTON: We have received a copy of S. 1364, the Electrical Lifeline for the Elderly Rate Reform Act of 1977, and would like to assure you that the Council is wholly in support of the "Lifeline" concept. There is no question that recent utility rate hikes have burdened poor households almost beyond their capacity to survive. Had there not been a moratorium on utility "shut-offs" this past winter, many poor people, and especially poor senior citizens, would have died.

We are opposed to the common practice of many utility companies that offer "declining bloc rate" price structures which, in fact, serve to stimulate energy consumption by large users and penalize or restrict users of less electricity or gas. Insuring that the less fortunate families in this country receive a subsistence level of energy at the lowest possible cost is essential.

Clearly, a situation which allows big industrial consumers to pay as little as one-fifth the price per kilowatt hour of what is charged poor people and senior citizens is grossly inequitable. We felt that, although the Hart proposal must be recognized as an interim measure pending a more comprehensive review of electric rate structures, it has the dual benefit of providing relief quickly and targeting it accurately.

The National Council of Senior Citizens strongly endorses S. 1364 as proposed by Senator Hart, and we urge every Senator to give this measure the fair consideration it merits and strong support it deserves.

Sincerely,

WILIAM R. HUTTON,
Executive Director.

WASHINGTON, D.C.,
September 30, 1977.

DEAR SENATOR: Environmental Action and the Sierra Club urge your support of the Hart Lifeline for the Elderly Amendment to S. 2114, the Public Utility Regulatory Act of 1977, when it is considered by the Senate next week. Confronted by sharply rising home electricity costs and limited to fixed incomes, the elderly too often simply cannot pay for their fuel bills. This measure will provide relief to millions of the country's elderly, especially the aged poor.

More than any other age group, the nation's elderly have been hurt by the sharp increase in energy prices in recent years. A few salient points underscore the extreme nature of their plight:

Between 1973 and 1976, retirement income sources increased by only 30 percent while home fuel prices rose by 44 percent.

There are 5.5 million elderly Americans struggling to live at or below the poverty level in the U.S. today. When confronted by rising fuel costs, too often they sacrifice other essential, such as quality food, to pay their utility bills.

After last winter's freeze, the Community Services Administration, through its Crisis Intervention Program, spent over $200 million to reimburse utilities for unpaid fuel bills. In contrast to this cumbersome and costly program, the lifeline system has proven to be easy to administer, effective in assisting the elderly, and strongly supported by consumers in areas which have experimented with it, most notably Los Angeles, Seattle, and Aztec, NM.

The Hart Amendment calls for state and local regulatory authorities to determine what the minimum volume of kilowatt-hours per month is to be for subsistence needs such as cooking, heating and lighting. Utilities must offer senior citizens a subsistence quantity of electricity at the lowest-level of rates which they offer to any of their customers. To meet these costs, at most only 2.9 percent of utility revenues would have to be redistributed, according to a Library of Congress study.

The amendment calls upon the Secretary of Energy to study an alternate electric rate design which would promote energy conservation, equitable rates for all users, and economic efficiency. The potential benefits of reforming utility rates appear to be substantial, and merit this close examination by the Department of Energy.

On behalf of America's elderly, Environmental Action, and the Sierra Club, we strongly urge your support for Senator Hart's Lifeline for the Elderly Amendment to S. 2114.

Sincerely,

PAMELA DEUEL,
Environmental Action.

CHEROKEE SENIOR CITIZENS COMMITTEE,
Cherokee, N.C., August 31, 1977.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: On behalf of the elderly of the Cherokee Indian Reservation, I wish to express my appreciation to you for the Bill (S–1364) you introduced on behalf of the elderly of this country.

We are well aware of the many problems that are created with the increased electrical rates. This is a source of mental anguish for the elderly. With the meager income provided through Social Security, one is in a constant state of turmoil of where to place the expenditure priority; and as you so adequately pointed out many elderly deprive themselves of much needed food in order to pay utility bills.

We whole-heartedly support your efforts and may God bless you for your thoughtfulness on behalf of a people who have for so long been neglected.

Again, thank you so much.

Sincerely yours,

(Mrs.) BIRDIE SIXKILLER,
Chairperson.

DEPARTMENT OF HUMAN RESOURCES,
Seattle, Wash., September 26, 1977.

Senator HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This letter is in support of the lifeline proposal by Senator Gary Hart which is offered as part of the Utility Rate Reform Act.

This office administers a discount program to the low-income elderly of Seattle on their combined utilities bill (water, sewer, garbage) or their Seattle City Light bill, and also exempts them from recent surcharges on their light bills. Such measures were enacted by Mayor Wes Uhlman and the Seattle City Council from the conviction that rising utility costs are least manageable by those on a fixed income.

Every day we receive two hundred to three hundred calls from senior citizens who are feeling the pinch of rising utility costs. Yet the rates of Seattle's utilities are far lower than most places in the nation.

We urge the adoption of a lifeline measure so that senior citizens throughout the nation will be able to afford the cost of necessary utilities. The cost of such a break, when spread out over the utility's other ratepayers is minimal, and yet a few dollars means a great deal to those living on Social Security and pensions. As the cost of all necessities increase, particularly in inflationary times, the older citizen is often forced to do without essentials, such as an adequate diet. Society has a moral obligation to protect its older citizens who are the victims of an inflationary economy and whose opportunities for additional income sources, such as employment, are practically nil.

Thank you for your consideration of the lifeline prosposal.

Sincerely,

CAROLE L. GLICKFIELD,
Director.

S. DILLON RIPLEY

Mr. PERCY [reading]:

You can become spokesmen and activists, expressing to your local and national representatives your concerns about saving the best of the past, selecting what is worthwhile from the present, and from a synthesis of these judgements preparing for the future. S. Dillon Ripley, *Smithsonian Magazine*, September 1977.

Mr. President, S. Dillon Ripley, Secretary of the Smithsonian Institution, addressed these words to the Smithsonian Associates to encourage them to become even more involved in understanding and preserving the heritage of civilization. Even though his comments were directed to the million and a half Associate members, I believe that each of us has the responsibility of pursuing this goal.

As the eighth Secretary of the Smithsonian Institution, Mr. Ripley has demonstrated that his own personal zest for discovery and life can be shared with the millions of visitors who come into contact with one of the world's largest museum complexes. Under his guiding hand, the Smithsonian has become a bustling center for research, study, explorations and exhibits representative of the arts, humanities, space, technology and natural history. During the last 13 years of Secretary Ripley's stewardship, the Smithsonian has opened to the public a wide range of attractions, such as:

The National Air and Space Museum, covering the history of flight from the

Kitty Hawk Flyer and Lindbergh's "Spirit of St. Louis" to American spacecrafts;

The Hirshhorn Museum and Sculpture Garden, Joseph H. Hirshhorn's collection of modern paintings and sculptures and special exhibitions of contemporary art;

The National Portrait Gallery, collection of life portraits of men and women who have significantly contributed to our American heritage;

The Anacostia Neighborhood Museum of exhibits on minority contributions to American culture;

The National Museum of History and Technology, a collection including aspects of American life and history; and

The Woodrow Wilson International Center for Scholars began operations as a Smithsonian affiliate, an institute for advanced study for scholars selected from a variety of disciplines to be engaged in serious research, writing and dialog.

As Emerson said: "Nothing great was ever achieved without enthusiasm." The Smithsonian has become a vibrant, exciting institution under S. Dillon Ripley and I believe that he should be given full credit for what he has accomplished. His sheer dedication to broaden the scope of programs offered at the Smithsonian provide an increasing number of participants an opportunity to be exposed to a remarkable material record of our civilization. This is quite an achievement.

During the last year, several congressional committees have become interested in the financial arrangements of the Smithsonian Institution in the use of Federal and private funds. The General Accounting Office was asked to review the various banking activities of the Smithsonian. In its latest report to the committee, GAO has provided the Institution and Mr. Ripley with a clean bill of health on the financial practices under review.

On September 21, 1977, the Washington Star carried an article on the GAO report, which I would like to share with my colleagues. I ask unanimous consent that the article by Betty James entitled "GAO Clears Smithsonian In Banking Probe" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 21, 1977]

GAO CLEARS SMITHSONIAN IN BANKING PROBE

(By Betty James)

The General Accounting Office has given the Smithsonian Institution a clean bill of health on its banking procedures, finding no fault with the role played by S. Dillon Ripley, Secretary of the institution, as a member of the board of directors of American Security and Trust Co. where the Smithsonian has an active checking account.

The banking procedures came into question during GAO's investigation of various aspects of the Smithsonian's operations requested by the leaders of a Senate appropriations subcommittee last year.

Comptroller General Elmer B. Staats, head of GAO, stated in his conclusion, "In our opinion, the Smithsonian has adopted adequate procedures for the management of cash in its private funds. It strives to maintain only sufficient funds in its two principal non-interest-bearing checking accounts to pay the payroll checks and other checks presented for payment each day."

The Smithsonian uses other methods, including a savings account and short-term investments, to earn interest on any funds not needed immediately to pay its expenses, the GAO said.

The GAO found that as of April 30 of this year the Smithsonian maintained 41 accounts in financial institutions and the United States Treasury.

Most of these are small checking accounts used to pay local expenses at Smithsonian locations outside Washington, the report said.

The GAO limited its review to an analysis of the use of the five principal accounts—two at American Security and Trust, two at the Riggs National Bank, and an account in the U.S. Treasury.

The GAO said Ripley joined the board of directors of the American Security and Trust Co. in February, 1967, three years after becoming secretary of the Smithsonian, and resigned in December, 1976, after 10 years with the bank.

"His service on the board (of American Security and Trust Co.) was approved by the executive committee of the Smithsonian's Board of Regents (the governing body)," the GAO said.

The Smithsonian and a non-profit corporation associated with it, the Smithsonian Research Foundation, opened bank accounts with American Security and Trust the year before Ripley became a member of the bank's board of directors, and the accounts were maintained after he was appointed to the board of the bank, according to the report.

These were not the first accounts the Smithsonian had with American Security and Trust. The Smithsonian first opened an account at the bank in 1927, the report said.

Although Ripley was a member of the Smithsonian Research Foundation's board of directors, he wasn't at the meeting when the decision was made to open the account at American Security and Trust, GAO said. Ripley was president of the foundation at that time, however.

GAO said it has been advised by the Smithsonian that Ripley no longer owns the American Security and Trust stock he was required to hold as a director of the bank.

The new, nine-page report is the second of two GAO reports prepared in response to a letter June 14, 1976, from Sen. Robert C. Byrd, D–West Va., chairman of the Senate Appropriations subcommittee that handles the Smithsonian, and Sen. Ted Stevens, R-Alaska, the ranking minority member, calling for an investigation into various aspects of the management and accountability of Federal funds made available to the Smithsonian. Federal funding provides 90 percent of the money for the institution, which is controlled by its own board of regents.

The first report, issued in March, was 110 pages long, including appendices, and was critical of the Smithsonian.

The GAO said the two private corporations established by the Smithsonian should be dissolved because they avoid federal laws governing appropriated funds. Smithsonian officials challenged the GAO's conclusions but said they were willing to discuss alternative administrative procedures for running the programs handled by the two corporations.

"Our criticism is muted by the fact that there is nothing to suggest that appropriated funds were spent on anything but the programs authorized," the GAO said at that time.

After appropriations hearings this spring Congress went along with the GAO's recommendations on one of the corporations, the Smithsonian Research Foundation, and cut the funds for the other, the Smithsonian Science Information Exchange.

Although there was some press criticism of the Smithsonian maintaining a large interest-free checking account at the American Security and Trust Co. while Ripley was on the board, the GAO report pointed out that the Smithsonian endeavored to make the most of this money through short-term investments of money not needed to cover checks.

The Smithsonian entered into a "repurchase agreement" with American Security and Trust in June, 1975, that authorized the bank to withdraw operating excess funds daily from the checking account and invest them in short-term money market securities with the stipulation that American Security and Trust would repurchase them from the Smithsonian to fulfill any Smithsonian cash needs, the GAO said.

The Smithsonian later broadened its repurchase agreement with American Security and Trust to get additional earnings by investing the daily "float" resulting from the timing difference between the writing of checks on the operating account and their being charged against the account, the GAO said.

American Security and Trust didn't charge the Smithsonian directly for the service but recovered its costs by giving the Smithsonian a slightly lower rate of interest than the bank earned on the funds invested for the Smithsonian, the GAO said.

The operating account at American Security and Trust was used extensively as the Smithsonian's principal checking account for payments other than payroll, according to GAO. During the 15-month period ending Sept. 30, 1976, an average of more than 2,600 transactions (deposits and withdrawals) a month were handled by this account.

At the Riggs National Bank, in addition to a payroll checking account, four separate trust accounts are maintained to temporarily hold funds awaiting investment by professional investment managers engaged by the Smithsonian, the GAO reported. These funds are used for long-term investment.

MOBILE SPECTROSCOPY LABORATORY—A GOOD IDEA

Mr. PROXMIRE. Mr. President, in recent years, I have been extremely critical of the National Science Foundation, the National Institutes of Health, and other Government agencies with substantial research resources for their funding of seemingly low priority projects that may never be used by the taxpaying public. Projects that lay on the proverbial "shelf" gathering dust are not only a waste of the hard work and expertise of the researcher, but a waste of tax dollars as well.

The latest issue of the National Science Foundation publication, Mosaic, however, tells the story of at least one research project that has borne fruit and has been of substantial benefit to a large number of college students in the State of Arkansas.

Prof. T. D. Roberts, professor of chemistry at the University of Arkansas, with support from the Division of Science Education Development and Research at the National Science Foundation, has developed a mobile spectroscopy laboratory which travels to a number of small, Arkansas colleges, providing undergraduates with an opportunity to use highly sophisticated instruments otherwise unavailable to these financially strapped institutions. In some instances, students

have worked around the clock, conducting experiments with these expensive instruments. At the same time, the arrival of this innovative mobile spectroscopy lab at the College of the Ozarks, for example, literally revived chemistry as a viable major program at the school. Perhaps the most attractive aspect of this project is that for an initial outlay of $6,600 and an annual expense of only $800 a small school can have access to $77,000 worth of instruments. Three distinguished chemistry professors from the University of Florida, the University of Arizona, and Creighton University, who were asked to evaluate the project, commented that, "We are persuaded that on a dollar basis this is as fine a program as we have seen" and that the mobile laboratory concept has potential for benefits nationwide.

Professor Roberts, the State of Arkansas, and the National Science Foundation are to be commended for developing and supporting this innovative educational concept. My critics often ask me "What type of project should the Federal Government be supporting?" Well, here is an example of a federally funded project where it appears the taxpayers are getting a good bang for their hard earned bucks.

Mr. President, I ask unanimous consent that a copy of the article in the September/October 1977 issue of Mosaic be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LABORATORY ON WHEELS

On a warm and lazy day last May, chemistry students at the College of the Ozarks in Clarksville, Ark., were operating an instrument known as a nuclear magnetic resonance spectrometer. It cost approximately $14,000. Other students were experimenting with a mass spectrometer, which cost about $9,000.

Still others were using a grating infrared spectrometer (approximate cost $6,000), an ultraviolet-visible spectrometer ($8,400), an atomic absorption spectrometer ($7,000) and a flame-ionization gas liquid chromatograph ($3,500).

These instruments are commonplace nowadays in the chemistry departments of most universities and well-endowed colleges. But 18 months earlier none of the instruments could have been found on the campus of this small, church-supported, financially strapped school; they were economically out of reach for institutions like the College of the Ozarks.

They were there on that day, however, because a brightly colored van had brought them to Clarksville for a two-week visit. The van was sitting up on blocks, parked in front of the Sciences Building. In big bold letters on its side were the words: Mobile Spectroscopy Laboratory.

The presence of the van represents an attempt to bring spectroscopy, a technique widely employed in chemical analysis, to the students of the College of the Ozarks. Operating under a grant from the National Science Foundation, the mobile laboratory is carrying instruments of spectroscopy to 13 institutions of higher education in Arkansas and Kansas, spending one to three weeks at each school and then getting back on the road and heading for the next scheduled stop.

During its visit, faculty members demonstrate how the machines work—they have already explained what they do—and turn them over to students to run experiments. The instruments are in use from early morning to late night.

Students conduct the standard tests that they have read about—but have never seen—in their chemistry textbooks. They also conduct applied experiments: By subjecting a sample of the local water supply to the atomic absorption spectrometer, for example, they can determine if it came from copper or lead pipe. With the same instrument they can detect traces of heavy metals in the treated sewage flowing into a nearby river. If they find such contaminants, the students may be moved to write a letter to the city council, pointing out the dangers.

Or they can analyze an aluminum plate that has been left near a highway and then moved progressively farther into the woods. They see the decrease in lead contamination. Their awareness of what automobile emissions can do to the environment is heightened by stark scientific evidence.

Or they can pick up some shopping pointers. The gas-liquid chromatograph, for instance, will tell them that the gasoline from one of the major retailers is identical to the gasoline sold at the cut-rate station for a nickel a gallon less.

REVIVING A MAJOR

At the College of the Ozarks, a 143-year-old school founded and supported by the United Presbyterian Church, the arrival of the mobile spectroscopy lab has led to the revival of chemistry as a major. The option had been discontinued in 1972 because the college did not feel it had the educational resources to justify a chemistry major. With a student body of only 550 (including part-time students) and a tuition of approximately $1,500 a year, the school was always financially strapped. The money simply wasn't there to equip a chemistry lab adequately.

"The mobile lab was the key to getting us thinking about reviving the chem major," says Mike Condren, the youthful Ph.D. who serves as the college's one-man chemistry department.

The College of the Ozarks now offers five courses in chemistry: general, organic and physical, instrumental and quantitative analysis, plus a directed individual studies program. Subjects such as instrumental analysis clearly could not have been offered without the instruments supplied by the mobile lab.

During the 1976–77 academic year, 15 students at the college majored in chemistry. Many more took chemistry courses. In the previous year the closest they could have come to majoring in chemistry was a major in natural sciences with an emphasis in chemistry, which meant, explains senior Curtis Shankle, that students like himself had to choose substitutes such as premedicine. For many young people, of course, that would be fine. But, "My first love is chemistry," says Shankle.

It is also the first love of his wife, Kathy, also a senior at the College of the Ozarks; both plan to go on to graduate school and seek advanced degrees in chemistry.

If the three-year spectroscopy project is a success, the hope among its sponsors is that other small colleges across the country will join together to purchase and share instruments which none of them could afford singly. One estimate places the number of colleges that could benefit at 300.

RESOLVING A CONTRADICTION

The man who conceived the mobile spectroscopy lab is T. D. Roberts, professor of chemistry at the University of Arkansas. Roberts is one of those academic scientists who feels as strong a commitment to teaching as he does to research. He is also on the faculty of a university which feels a responsibility to small colleges in the region.

About three years ago Roberts was making the circuit of small Arkansas colleges that he visits as part of his university's "outreach program," an informal effort under which professors from Fayetteville lecture at the smaller schools. During the visits, Roberts would do some recruiting for the university's graduate schools, encouraging students to apply to them. Roberts, however, realized that there was a contradiction in what he was doing. Most of the schools were so poorly equipped with scientific instruments that many of the students were not ready for graduate studies. It was particularly true among chemistry majors.

The problem was on his mind while on a visit to Arkansas College in Batesville. Someone mentioned an NSF-sponsored conference on chemistry education. "It reminded me that NSF supports other things besides research," Roberts recalls. In some still undefinable way he thought that NSF might be able to help.

"Then something else occurred to me," Roberts notes. "Our chemistry department had an ongoing, informal, standing invitation to students and faculty of small colleges to visit us and to use our equipment. They would come in on Fridays' when the instruments weren't in use much, and on Saturdays; they would take the data home for analysis. It worked very well, and they got a big kick out of it.

"There were a couple of problems with it, though. It was fairly expensive, in terms of travel expenses, and it interrupted those university students who wanted to use the equipment at those times. We wanted something better.

"Then I thought: Why not turn it around? Instead of sending the students to the instruments, we would send the instruments to the students."

Over the next few months Roberts fleshed out his idea: Several colleges—perhaps even a dozen—would cooperate in the venture; a vehicle of some sort would be needed to transport the instruments from one campus to another; faculty members from the participating schools would have to rearrange their course schedules so that the students would be ready to use the equipment when the lab arrived.

Roberts got on the phone and called every small college in Kansas and Arkansas that he could think of and ask them if they would be interested in participating in a pilot project along the lines he envisioned. Thirteen said they would be. In addition to recruiting colleges, Roberts sent out questionnaires to chemistry instructors to determine which instruments would be most appropriate for the mobile lab. He wanted to know which pieces of equipment were most desired but which the schools were precluded from buying because of cost. From the responses, Roberts chose the five spectrometers and the chromatograph ultimately included in the van. Although the flame-ionization gas-liquid chromatograph is not technically an instrument of spectroscopy, it is a necessary adjunct to the technique; it tells whether or not the sample to be tested by a spectrometer is pure.

Next, Roberts turned to the selection of a vehicle. He sought a truck or van that not only could carry the equipment from campus to campus but which was also large enough inside for students to operate at least some of the instruments. At the same time, the vehicle had to be sturdy enough to stand the back roads of Arkansas and Kansas and price low enough so that it would not make the project economically unrealistic. Roberts eventually chose a 12-foot-long, 8-foot-high step-up van of the kind seen all over America handling such tasks as deliver-

ing bread to retailers or selling fast food at construction sites.

Roberts immediately realized that modifications would have to be made to the truck. One of the instruments, the nuclear magnetic resonance spectrometer (NMR), had to be protected against the extremes of Arkansas' scorching summers and Kansas' harsh winters. To do so, the van's frame was strengthened and lined with several inches of insulation. It also had to be furnished with a cooling and heating system that could produce a steady, year-round temperature of between 68 and 72 degrees Fahrenheit. To keep the cooling and heating unit operating while the truck was on the road, a generator had to be installed. (While the lab is on campus, an electric line from a nearby building is run to the truck to power the unit.)

Although the truck that Roberts bought was the "room-on-wheels" type he was seeking, it was clear there would be no room for people as well as all of the equipment. A decision was made, therefore, to install only two of the instruments in the van permanently. The other four would be housed in specially built cabinets and taken into existing laboratories when the truck pulled into one of the colleges.

SPECIAL HANDLING

The NMR was one of the permanently installed instruments. (The other was the mass spectrometer.) The NMR required special handling; its magnet weights 600 pounds. Roberts had nightmare visions of an accident in which the magnet would slam through a flimsy partition and crush the driver. To avoid the disaster, two chains were passed through a pair of conveniently existing holes at the base of the magnet and fastened to a steel plate that had been attached to the truck's underside.

Colleagues, meanwhile, were predicting that the equipment would survive neither the trips in the truck nor the system of shared responsibility for upkeep and repairs. Roberts was not as pessimistic about the effects of travel on the instruments. He recalled that salesmen from the companies that manufacture the equipment often come calling with demonstration models stored in the trunks of their cars. To provide the equipment with an extra guarantee of protection, Roberts had the instruments encased in custom-built drawers lined with foam padding.

Dealing with the normal breakdown rate of the instruments was a more difficult challenge. But even here Roberts was optimistic. From his nearly 20 years of experience with scientific machines, he had come to the conclusion that most malfunctions were relatively minor. A circuit board is jarred loose, for example. With a bit of instruction, someone possessing a modicum of technical skill can do the repair. Without that training, however, the alternative is to call in a serviceman from the manufacturer. For schools in Arkansas and Kansas, that could mean flying in a technician from Houston at a cost of $500 a day.

Roberts came up with two solutions. One was to hold a workshop, the summer before the project's first full year, in which a coordinator from each participating school would receive instruction in the care and repair of the instruments. (The workshop, which took place in the summer of 1975, also allowed the schools' representatives to work out scheduling of the mobile lab.) Another means of controlling the maintenance problem was to hire, on a consultant basis, the electronics technician at the University of Arkansas. He was someone who could offer guidance over the phone and repair damaged parts sent to him at Fayetteville.

THE SHAKEDOWN

On June 1, 1975, NSF awarded Roberts a $193,000 grant to develop a mobile spectroscopy laboratory. The Foundation would buy the instruments, purchase and modify the van and pay operating expenses until May 31, 1978. At that time, the participating colleges would have to decide whether to keep it operating, at their own expense.

The six Kansas institutions taking part are Tabor, Sterling, Bethany, McPherson and Bethel Colleges and Kansas Wesleyan University. The seven in Arkansas include the University of Arkansas in Pine Bluff, John Brown University, Ouachita Baptist University, the University of Arkansas in Monticello, Harding College, Arkansas College and the College of the Ozarks.

Seven months after the grant had been awarded, on a wintry day in January, the Mobile Spectroscopy Laboratory pulled out of Fayetteville and headed for its first stop—Tabor College. Its visit that spring semester to Hillsboro and the other 12 towns on its itinerary could be termed a shakedown cruise. Roberts wanted to spot the problems that he could not anticipate and discover the needs of the schools that could not be foreseen.

One of the first changes was to get rid of the tow bar intended for drivers who wanted to bring along their own cars for the ride home. That practice was discontinued after a few near accidents.

A more subtle and harder problem to solve, but one which offered an interesting challenge, was the frequent failure of the filament in the mass spectrometer. It cost $69 to order a single filament from the manufacturer, and delivery could often take several months. Roberts and his colleagues devised a twofold solution: They discovered that the filaments would last longer if fewer samples of heavily halogenated, highly volatile hydrocarbons were injected into the instrument. Secondly, they fashioned their own filaments—at a cost of less than a dollar each.

Particularly puzzling to the instructors and students was a persistent, low-frequency sine wave noted in every section of the NMR. Roberts and his associates eventually traced it to an almost imperceptible, gentle rocking motion that was set off every time someone stepped into the van. The solution: Jack the truck up off its springs and keep it that way while it is visiting a school.

Despite the difficulties encountered, Roberts felt he could justifiably label the first full year of operation a "great success." He cited the response of the 13 participating schools. "Each school is looking forward to the next year with enthusiasm," he said at the end of the year.

RECOGNITION AND SPIN-OFF

Robert's satisfaction is mirrored in a report on the project filed by three outside chemistry professors he asked to evaluate it: Calvin A. VanderWerf, Dean of the College of Arts and Sciences at the University of Florida; Kazuo H. Takemura of Creighton University, and W. T. Lippincott of the University of Arizona.

"There is no doubt in our minds that the primary goals of this project are being realized in full measure," they wrote in an unsolicited letter to the National Science Foundation. "At several institutions," they wrote, "the student interest was so high that the Mobile Spectroscopy Laboratory was operated on a 24-hour basis, with numerous students signing up and using the instruments well past midnight."

The three evaluators also took notice of what they described as unanticipated "spin-off benefits." One was the achievements and innovations introduced by Roberts and his staff in the maintenance of the instruments.

"It is almost inconceivable," they wrote, "based on experiences with instruments in permanent installations, that they could be kept in operating order while being moved from one place to another and under diverse environmental conditions. Yet Roberts and his staff have succeeded in doing this and have developed several new replacement techniques that should be useful to those maintaining these instruments in normal and abnormal circumstances." They singled out the homemade filament for the mass spectrometer, saying that it "will save literally thousands of dollars per year in mass spectrometer maintenance."

Noting that they had been involved in many NSF-supported projects over the years, the three professors declared, "We are persuaded that on a dollar basis this is as fine a program as we have seen." They concluded by stating that many other sections of the country could benefit from a similar experience.

Mike Condren at the College of the Ozarks noticed another spin-off from the project, one that the evaluators also observed the relationships that evolved among the chemistry faculty members of the 13 participating schools. For Condren, whose professional work at the college tends to be on the solitary side, it was a novel and satisfying experience to be able to identify a network of peers, to recognize someone at a conference, to have someone to talk to on the telephone about a teaching or technical problem. "The relationships and friendships are easily as valuable as the equipment," says Condren.

But he hasn't ignored the equipment. In fact, says Condren, working with the spectroscopy instruments has spurred him into repairing equipment that has been lying around the college unused, and searching for reasonably priced equipment in government surplus stocks. Last year he found a five-piece analytical balance, an instrument that would have cost the college $1,200 if it had been bought new. Condren bought the surplus one in fine condtion for $20.

T. D. Roberts is convinced that the mobile spectroscopy lab will work elsewhere. He has marshalled a host of arguments that colleges can make to their boards of trustees or to their state legislatures in seeking the necessary money to duplicate the NSF-supported project. He makes this telling economic argument: For an initial $6,600 and an annual outlay of $800, a school can have access to $77,000 worth of instruments.

Because he feels that a large university must serve as a coordinator of such projects, Roberts feels their adoption around the country will help promote closer and more active relationships between large and small institutions of higher education. That spirit apparently is taking hold and spreading downward. Some of the colleges in the Arkansas-Kansas program have been prompted to invite students from nearby junior colleges and local high schools to work with their scientific instruments, including their spectrometers.

DAY OF BREAD

Mr. DOLE. Mr. President, today, October 4, is the International Dav of Bread and this is Harvest Festival Week. The annual observance began officially in this country in 1969 through an unprecedented union of wheat growers, flour millers, bakers, union representatives and many of the trades allied to those industries.

The founders set aside personal differences and professional competition to create a modest fund spent for education in nutrition, food, agriculture, economics, and the cultural-historical origin of our civilization.

Just as important, this program resulted in meetings—bringing together leaders—not only in the wheat industry, but also in government, agriculture, busi-

ness, and science for a free exchange of information on the local, national, and world food supply, the economics and technology of food, the urgent need for good nutrition, the problems of food distribution, malnutrition, hunger, and many kindred subjects.

AMERICAN WHEAT FARMER

It is appropriate on this day to pay tribute to the American farmer and the free-enterprise economic system. Record-breaking wheat crops have been produced and we have plenty of wheat for consumers at home and abroad.

It is staggering to think of how much wheat the American farmer could really produce if he were free to produce and the market price was high enough for him to make a reasonable profit.

INTERNATIONAL OBSERVANCE

The International Day of Bread formally began in 1969. It is actually an ageless, international custom deeply rooted in the minds and emotions of all men and women—expressing a need to pause each autumn—after the granaries were filled with food for the winter and seed for the spring.

This occasion became manifest in rites and ceremonies of gratitude, recognizing our eternal dependence upon the Earth, the Sun, the showers, the atmosphere, the seasons. The spirit of the occasion is the spirit of strength, humility, good will, and brotherhood throughout the world.

FEED OUR BROTHERS

It is in this sense that we pause today and give each of you a symbolic loaf of bread as a reminder of our obligation to feed our brothers. We take this step in observing the "day of bread" because no tragedy defeats the human spirit, mocks our values and dreams, like the look of despair in the eyes of a starving child, here or abroad.

COAL MOVES INTO AN ERA OF GREATER USE—ADDRESS BY SENATOR RANDOLPH BEFORE THE COAL CONFERENCE ON PRODUCTION, USE, AND FINANCING

Mr. FORD. Mr. President, I ask unanimous consent to have printed in the RECORD an address being delivered today by the distinguished Senator from West Virginia (Mr. RANDOLPH) before the Coal Conference on Production, Use, and Financing.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COAL MOVES INTO AN ERA OF GREATER USES

(Speech by U.S. Senator JENNINGS RANDOLPH)

This coal conference provides participants with the opportunity to discuss the new attitudes which are emerging with regard to the production and utilization of our most valuable fossil resource—coal. This gathering is being held in Washington, D.C. where a few blocks away decisions are being made which will eventually evolve into the Nation's first national energy policy. This has been and will continue to be a crucial year for coal as we in Congress legislate a foundation for a national energy policy. I have long recognized that to achieve and maintain high levels of coal production the Federal government must adopt a coal policy which can be easily understood and implemented. This policy must be coordinated with national policies on coal mine health and safety, surface mine reclamation, environmental quality, and transportation capacity. Earlier this year the Senate established new mining and restoration practices, and adopted new requirements relating to mine health and safety.

On September 8 the Senate passed what I believe to be the most significant coal legislation since the Bituminous Coal Act of 1937. The Natural Gas and Petroleum and Coal Conservation Act of 1977 (S. 977) was approved by a vote of 74–8. It will make widespread coal use a reality and establish coal as the direct successor to oil and gas. I am gratified the measure incorporates about 80 percent of the provisions I proposed in S. 273, which I introduced on January 14, 1977 to mandate the use of domestic coal.

The Coal Utilization Act begins to clarify Federal policy for those who will produce and consume the coal. It sets forth a revised and simplified regulatory program for converting certain existing electric powerplants and some industrial plants. Requirements that certain new electric powerplants and major industrial installations be built with the capacity to use coal and other fuel are also spelled out. (The Act clearly establishes the Federal position on a coal utilization policy, and thus answers a question which had to be resolved before definite markets for coal could become clear.)

During debate on this bill, I offered two amendments which were accepted. The first directed coal policy study to assure that the National Energy Policy to be enacted later this year sees to the creation of a non-fragmented and comprehensive coal use policy. I desire that President Carter conduct a complete investigation of how we, as a Nation, will go about implementing a national coal policy for efficient and economic utilization, full employment and for the protection and enhancement of the quality of the environment. This study would investigate current and future coal resource production, transportation, conversion, and utilization requirements: It also would examine programs for the development of new coal mining technologies; and existing and future government policies and laws affecting the coal industry.

Transportation at the present time represents a significant constraint to the achievement of at least doubling coal production. There is no question that a national policy concerning the domestic use of coal will have to be complemented by a national transportation policy. In recent years, because of conversion by electric utilities and industrial plants away from coal to other boiler fuels, domestic coal movements have varied considerably, especially in the Eastern States. This trend away from coal has caused a reluctance by rail and water carriers, especially, to commit their resources to a major expansion in fleets and equipment for moving coal. It has also led to the disuse of many branch lines that have subsequently fallen into disrepair. We must concern ourselves with the ability of our rail system to respond to a large-scale increase in coal demand.

The Secretary of Transportation (Mr. Adams) stated before the House Committee on Interstate and Foreign Commerce last May: "To the extent that constraints on the shipment of coal by rail do emerge, they are likely to involve the ability of financially marginal railroads to secure the financing required to make the necessary investments."

Because of these concerns, I sponsored with Senator Durkin an amendment, again, to the coal utilization bill authorizing an additional $100 million for replacing tracks and roadbeds. This money will help weaker rail lines which cannot privately finance the rehabilitation needed to serve customers. These funds will be made available under Title V of the 1976 Railroad Act.

I also offered an amendment which recognized that the socioeconomic impact on mining communities is caused by the expansion of the workforce and local population rather than increases in coal production. This is especially true in States such as Colorado, Kentucky, New Mexico and West Virginia. I noted that, "Under the bill as it comes from the committee, aid to areas impacted by expanded coal development is triggered by increases in annual production levels over the 1976 level. This amendment which I offered provided aid based instead on increases of 8 percent or more in employment in the coal and coal-related industries of an area." Planning grants, loan guarantees for housing and technical assistance provisions in this section of the measure have applicability to all coal regions.

In a move to assist small mining concerns, I sponsored with Senator Ford of Kentucky an amendment that will result in increasing the amount of clean coal, by giving financial assistance to companies intending to build coal cleaning plants. Federal loan guarantees will be provided for operators under the same conditions as the coal mine loan guarantees authorized in the Energy Policy and Conservation Act of 1975. Incidentally, the coal mine loan guarantee program will go into effect in January of 1978, according to the Federal Energy Administration.

It is also clear to me that we as a Nation must be careful not to overlook how, in the next few years we are going to supply needed energy to homes, utilities, and industries. The Administration emphasizes conservation, which of course is needed, but we must assure a continued energy supply through development of coal gasification and liquefaction. To date the supply question has been underemphasized. Coal research and development now must be aimed at taking synthetic coal technology out of the laboratory and into the marketplace.

The Senate Finance Committee is considering energy tax provisions of the national energy plan. In a letter written on August 11, 1977, I told Senator Long that, "I was deeply concerned over the features of the tax bill as passed by the House intended to foster energy conservation through producer and user taxes to create higher prices with the resultant funds going to general tax revenues."

Insufficient attention has been given to the development of domestic energy alternatives with these funds. The United States is currently spending $45 billion annually on imported oil without any assurance of a long term supply. We are also creating a one billion barrel strategic reserve system at a Federal cost of about $12.5 billion.

For a similar Federal investment we could construct coal gasification facilities capable of producing the equivalent of 1 million barrels of oil per day for at least 20 years. By subsidizing new energy supplies and technologies for the differential cost between market prices (for example, of imported oil) and domestic alternatives, we can foster even greater energy supplies from domestic sources. It would be in the national interest to consider financial incentives as a means to stimulate domestic energy alternatives to oil imports from traditional and unconventional sources, such as coal gasification and liquefaction, solvent refined coal, and oil shale. Tax revenues raised from energy usage should be directed to the development of new energy supplies; otherwise after the high prices have been paid, we will be no better off than now from the standpoint of energy self-sufficiency.

The Senate Finance Committee also is considering the formation of an Energy Finance Development Corporation as one optional use for revenues from a crude oil equalization

tax. A major part of such a Corporation's efforts would be directed toward development of synthetic fuels, and would be a positive step in producing increased energy supplies. The Committee expected final resolution of this issue by Friday.

Earlier this year the Senate passed two measures which indicate the growing concensus and recognition in the Senate that we must increase coal production and use to assure our energy independence.

In June, the Energy Research and Development Administration Authorization Act of 1978 was passed. It included $965 million for fossil energy development of which $140 million more was provided for increased coal technology than in fiscal year 1977. Because of the need for assessment of new technologies, I introduced and the Senate accepted an amendment providing the Administrator of ERDA the authority to make Federal loan guarantees of up to 75 percent to companies utilizing new coal technologies.

This amendment does not provide loan guarantee or economic aid without further action by the Congress. The Congress, based on ERDA's request, would have to appropriate the financial assistance to be provided. Where the cost of a demonstration facility exceeds $50 million, the amount of loan guartees, extent of economic aid, and the amount of borrowing authority granted to the Administrator, must be approved by both Houses of Congress. No specific sum of loan guarantee authority was authorized by the Committee, however. Requests would be revived on a project by project basis. The ERDA authorizations bill was passed by the House last week and will soon be before a conferenco committee.

Of special importance to any program involving coal conversion is the Clean Air Act Amendments of 1977, signed into law by the President on August 7. The policies adopted with regard to coal conversion in this program are consistent with the provisions of the Coal Utilization Act. It provides the necessary flexibility to allow both coal conversion of existing and the building of new coal burning facilities. The measures adopted this year should aid the coal mining industry in making decisions associated with assured coal markets.

As members of the 95th Congress, we have the responsibility to assure that the country strengthens the coal substitution option in the short and long term. This must be done not only with specific legislation directed at the coal industry but with other energy policies such as re-regulation of natural gas, utilities reform, and tax structure. Necessary coordination must be developed among all of these in order to increase the national commitment to and the scope of coal use.

Senator Wallop of Wyoming recently in a Senate debate on divestiture—"In this country there will continue to be interfuel competition among companies, but one of the things that is soon to develop in America will be a striving for fuel of any description, not competition between fuels."

Mixed powered coal for roads, coal gasification processes for plants and homes, liquified coal which may be our new gasoline, solar energy, and others must all contribute along with gas and oil to a final product. That final product is to assure a strong United States for future generations.

"I'M OK" PROGRAM HELPS SENIOR CITIZENS

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues an innovative, and inexpensive, way to assure the personal safety of our senior citizens. The "I'M OK" program provides a means for elderly persons or any shut-in to alert neighbors if they need assistance.

The only expense of the "I'M OK" program is the printing of highly visible signs with the words "I'M OK" printed on them. These signs are then distributed to senior citizens and shut-ins. They alert several neighbors that they have the sign and, at a time during each day which is agreed upon between themselves and the neighbors, they put the sign in a conspicuous place in a certain window or on their door. If the neighbors see the sign, they will know that the senior citizen or shut-in is OK and will not disturb that person's privacy. However, if the sign has not been displayed, they will know that the person needs some type of assistance and will go to see what the problem is.

The "I'M OK" program is a simple but highly effective way of assisting our senior citizens. The signs can be distributed at senior citizen centers, in churches, and given to senior citizens by friends and relatives. The program has been a big success in Chicago, where it was originated by Mr. Larry Barenbaum of RIMAGE, Inc. and Mr. Ralph Barnhart. With the help of the Mayor's Office for Senior Citizens and Handicapped, DeKoven Drug Centers, WLS–TV, and the Chicago White Sox baseball team, "I'M OK" signs have been distributed and many senior citizens and shut-ins have received invaluable assistance.

I urge my colleagues to encourage the creation of "I'M OK" programs in their States.

THE TRADE ACT OF 1974 AND SPECIALTY STEEL

Mr. METZENBAUM. Mr. President, I have received today from the General Assembly of the State of Ohio a resolution which calls on the President and Congress of the United States to evaluate the regulatory, investigative, and enforcement actions under the Trade Act of 1974, and to enforce the act to preserve the domestic steel industry.

The problems which the U.S. steel industry face today are massive and multifaceted. This resolution focuses on one major area: the Trade Act of 1974.

Since the inception of the act, steel imports into the United States in specialty steel alone have risen dramatically, while production has dropped. The following figures illustrate this concurrent trend, and reveal implications which require action.

	Tons
Imports in specialty steel:	
1975	154,061
1976	167,760
U.S. production in specialty steel:	
1974	1,328,532
1975	722,936
1976 (after imposition of quotas during last half of 1976)	1,063,306

First six months of 1977, 605,300 tons (this figure indicates that the total production figure for 1977 should register a slight increase over 1976, but not yet reach the 1974 figure, even with the continuation of quotas.

In the light of the relationship between imports and production in specialty steel following the Trade Act of 1974, and the recent grave developments in the U.S. steel industry as a whole, the General Assembly of the State of Ohio has acted in a timely manner, and I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, It is essential to this nation to have a healthy steel industry with an adequate domestic supply for the years ahead; and

Whereas, It is necessary to combat the predatory practices of foreign steel producers and their government; and

Whereas, We support fair trade, but find that foreign competition is unfair competition because of deliberate efforts by foreign governments or instrumentalities thereof to bolster their economies at our expense; and

Whereas, Our nation's ability to produce steel has declined while new foreign production capacity continues to grow since our own trade policies make our expansion of steel output an unattractive investment, which has resulted in the fact that we are the only industrialized nation that does not have the ability to produce all of its domestic steel needs at times of peak demand; and

Whereas, These unrealistically priced steel imports continue to stifle our economic growth and undermine the ability of our own steel industry to operate at a profitable level; and

Whereas, It is imperative that the administration and the Congress understand that it is not better technology and lower production costs responsible for high steel imports at unrealistically low prices, but the deliberate and planned use by foreign governments of the American steel market to gain economic advantage; and

Whereas, National trade policies since World War II have stimulated foreign steel industries to expand beyond their home markets so as to provide steel for export to American markets, and also thereby depressing the growth in our domestic steel markets; therefore be it

Resolved, That the General Assembly of the State of Ohio memorialize the President and the Congress of the United States immediately to evaluate the regulatory, investigative, and enforcement actions under the Trade Act of 1974, and to promptly enforce the provisions thereof for the purpose of preserving the domestic steel market and its related employment; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officer of each House of Congress of the United States and to each Senator and Representative from Ohio in the Congress of the United States.

EUROPEAN SECURITY AND COOPERATION CONFERENCE CONVENES IN BELGRADE

Mr. DOLE. Mr. President, today is the opening day of the Review Conference on European Security and Cooperation in Belgrade and already we are getting indications that the U.S. delegation and the other Western diplomats are fearful of a confrontation on human rights.

SAKHAROV APPEALS TO THE WESTERN DIPLOMATS

Perhaps sensing the West's timidity on this issue, Andrei Sakharov, the 1975 Nobel Peace Prize laureate, issued an appeal today to the 35 nations:

We are now living through a moment in history when decisive support of the principles of freedom of convictions, of open societies and of human rights is an absolute necessity.

The alternative is a capitulation to totalitarianism, a loss of the benefits of freedom, and a political, economic, and moral degradation.

This is certainly not the time for the U.S. delegation to start retreating from a firm stand on human rights. It is not the time for the West to start focusing on the economic issues which are so attractive to the Soviet Union without thoroughly discussing human rights violations.

SOVIETS ARE MASTERS AT INTIMIDATION

But the Soviet Union is a master of intimidating Western diplomats. It has just announced that Yuri V. Andropov, head of the secret police in Russia, the KGB, will be paying an official visit to Belgrade at the same time human rights will be discussed at the Conference. One diplomat is quoted as saying that "it's like inviting a cat to a convention of mice."

I am dismayed at this analogy. Have we really abdicated our principles and moral leadership? Surely we, who know what freedom and human rights are all about, would not deny our support to others who are striving for these same goals? Can we really be intimidated so easily not to talk about issues which anger and embarrass the Soviet Union? Although the U.S. delegation will "seek no confrontation," to quote Arthur Goldberg, head of the U.S. delegation, will it also flinch if a confrontation does arise? Or will it retreat so fast and so far that there will not be the slightest possibility of a confrontation?

SOVIET HARASSMENT OF DISSIDENTS UNABATED

How can we ignore the Soviet harassments and oppressions? Within the last week alone we have heard of further violations by the Soviet Union:

On Monday, October 3, the Soviet Union denied Dr. Melvyn Nathanson a Soviet visa for his 8-month research program in Moscow without any reason.

On September 28, the Soviets forbade Jews in Kiev from holding prayer services or bringing wreaths to Babi Yar to commemorate the Nazi massacre there 36 years ago.

On September 27, we learned of the arrest of Gely Snegiryov, a dissident Ukrainian writer who publicly urged President Carter to be firm with the Kremlin on human rights.

And these are only the cases that have come to the attention of the Western press this week. There are so many other arrests that we have been informed of this year. They are all names that we have grown familiar with—Mykola Rudenko, Oleksa Tyky, Anatoly Schaansky, Yuri Orlov, Alexander Ginzburg, Felix Serebrov, Viktoras Petkus, and Antonas Terleckas.

SOVIET PSYCHIATRIC ABUSES

And there are the many dissidents whom we know nothing about, who have been incarcerated in the infamous psychiatric institutions the Soviets have developed for their political prisoners. The conditions and practices of such institutions as the special psychiatric hospital at Dnepropetrovsk have been described in all their terrible detail by a former inmate, Leonid Pluysch. The practices that the Soviet doctors have engaged in have been testified to by Dr. Marina Voikhanskaya, who herself waits for the Soviets to fulfill their promise of letting her 10-year-old son, Misha, join her in the West. The World Psychiatric Association in Hawaii this summer passed a resolution condemning such Soviet practices, in spite of the fact that the Soviet delegation threatened to withdraw from the conference if this issue was brought up. And in spite of the fact that it was brought up, they did not go home.

This same fear that the Soviet Union will pack up its bags and go home if the conference insists on talking about subjects the Soviet Union does not like is even now plaguing the U.S. delegation and other Western country delegations. But the United States and the West must stand firm on this issue. We must insist on discussing these violations. Let us not forget that the Soviet Union wanted the Helsinki Conference very badly and signed the Final Act. And now, it is time to review compliance with it and we must not flinch from this task.

AMERICANS SUPPORT STRONG HUMAN RIGHTS STAND

As the Belgrade Conference gets underway, I would like to reiterate that I am not alone in my views. I have been informed of these same sentiments by hundreds of people from throughout the United States and on September 24 attended a human rights rally where 4,000 people here in Washington reaffirmed this same stand. Human rights is a cornerstone of U.S. foreign policy and the U.S. delegation in Belgrade should be strengthened by the support they have and will continue to receive from the American people to implement this firm policy in Belgrade.

SUPPORTING FAMILY FARMERS ON RECLAMATION LANDS

Mr. BAYH. Mr. President, every day, family farmers across the country are facing a growing threat of losing control of their land. Pressures of urban and industrial development in many areas threaten to destroy productive farmland and with it many of the family farms which are the traditional basis of American agriculture. Not only are millions of acres of farmland being converted to nonagricultural uses each year, but the remaining land is also being increasingly controlled by fewer and fewer people. As land prices continue to rise, many young farmers and others who are not from wealthy families cannot afford to own land. As landownership is becoming more and more concentrated, many of our Nation's farmers or would-be-farmers are relegated to the only available alternative of becoming hired farmhands, tenants, or sharecroppers. Unfortunately many efficient and productive small farms are going out of business. The number of farms in the United States has been declining steadily and those remaining have become larger. In September's Agricultural Outlook the Department of Agriculture reported that at the outset of 1977, there were around 2.8 million farms in the United States, down from 4 million in 1960. Furthermore although individuals still own and operate over 400 million of the nearly 1 billion acres of U.S. farmland, over 70 percent of the 376 acres of land rented out to farm operators is now owned by nonfarm individuals, estates, partnerships, corporations, or the Government.

One of the most disturbing examples of the demise of small farms has been found in the West—particularly in the reclamation lands. Here individuals and corporations with little apparent concern by the Government, for years flagrantly violated and corrupted the Federal program which was designed specifically to assist family farming. At last, I am heartened by recent efforts in the Congress and the administration to eliminate these abuses and once again to encourage family farms. On August 25, 1977, the Interior Department issued proposed regulations to effect the sale of excess lands in the western reclamation districts.

In 1902, the Congress, through the Reclamation Land Act, intended to supply irrigation water from Federal projects at low cost to as many as 6,000 farms to increase agricultural production and encourage family farming. Seventy-five years later there are less than 300 farms receiving the subsidized water. The requirements that the owners live on or near the land and that an individual buy no more than 160 acres have been loosely interpreted or ignored and reclaimed lands now support huge corporate farms (averaging 2,000 acres) with absentee owners. Family farms are the exception, not the rule. If implemented, the Interior Department's regulations would make over 1 million acres of "excess" farmland, irrigated by federally supplied water, available to family farmers. The Interior Department would administer the sales to insure compliance with the rules and prevent speculation. There is now a 90-day comment period and all excess land sales have been suspended by the Secretary of Interior until new regulations are effective.

Although the Department of the Interior is to be commended for these proposed changes, administrative action alone cannot resolve the problem. Two months before the Interior Department's action, our distinguished colleague from Wisconsin, Senator NELSON with Senators HASKELL, ABOUREZK, and METCALF, introduced S. 1812, the Reclamation Lands Family Farm Act. S. 1812 embodies the spirit and much of the substance of the new regulations, but its carefully written provisions make this legislation more encompassing and thorough and more compatible with the economic realities of today's family farms than mere regulations under the 1902 act could be. If passed, S. 1812 or similar legislation would endure the changing policies or whims of other administrations and it would reestablish the purpose of the 1902 law with standards that are more appropriate to agricultural pressures of the 1970's.

Under S. 1812, with very few exceptions, federally supplied water would be available only to land being farmed by family farmers. Land held in violation of this act must be sold within 3 to 5 years. The Department of the Interior would administer these excess lands sales to eliminate windfall profits and see that family farmers will indeed own and control the land. The present owners would select the buyers and only if they could not decide, would the Interior Department then determine the buyer through a fair means. The land would be sold at the price it would bring without access to Federal water. Only after the land had been used as a family farm for 10 years could it be sold at an uncontrolled market price.

This bill, like the new regulations exhibits a healthy growing concern for family farmers. Today's inflated farmland prices require financial strength beyond that of many family farmers, especially young or new farmers. Nationwide exorbitant land prices imperil family farms. U.S. farmland values increased an average of 17 percent for the year ending February 1, 1977. Over the last 5 years, land values have gone up 114 percent and values in the Corn Belt and lake States rose most rapidly. This summer Indiana farm real estate sold for 32 percent more than a year ago despite lower farm earnings, reduced cattle receipts, and lower milk, wheat, and corn prices. Noting that last year the overall cost of production rose 9 percent and that real net farm income is at its lowest point since the late 1960's, it is obvious that this recent land price increase is unrelated to the earning power of the land for agricultural purposes. However, it is the farmers who must bear the brunt of the rising costs. Although it would have no effect in my home State or the Middle West, the Reclamation Lands Family Farm Act would directly help farmers in the reclamation project areas. To be able to purchase land at the controlled rate would make it possible for some promising young farmers to buy land they would otherwise only have been able to dream about.

S. 1812 contains two essential reforms of the original law. Farming has changed a great deal in 75 years and Federal policy should now address the conditions of agriculture in 1977, not 1902. First, in recognition of the varying productivity of farmland, S. 1812 would establish a class 1 equivalency formula which would allow an individual to buy up to 240 acres of less productive land. In many cases a 160-acre unit, the maximum allowed under the present law, is too small to be profitable. Under S. 1812 each farmer would be able to purchase 160 acres or the class 1 equivalent, and an additional 160 or equivalent number of acres if he or she has one or more dependents. Witnesses at the joint hearings of the Interior and Small Business Committees conducted in Fresno, Calif., testified that farms of this size could provide a good living. Despite the trend toward very large farms, through careful management and hard work a great percentage of family farmers have kept their efficiency of production up with the levels of larger farms. The Department of Agriculture has found that in most areas, "all of the economies of size could be achieved by modern and fully mechanized one-man or two-man farms." Their study, "Economics of Size in Farming" further showed that, in crop production, specialized feed lots and dairy farms, one-man farms were capable of achieving average costs as low as any larger size. The acre-equivalency provision is a realistic attempt to encourage farms which are small and productive.

Second, the bill would create a $25 million fund to purchase irrigated lands which would be leased to family farmers. By giving them 2 to 7 years to buy the land themselves, this program would help farmers unable to afford the land immediately. A Department of Agriculture "Special Survey of Farm Financial Situation" revealed that income and credit are major problems for one-third of the farmers in the Plains and Mountain States. Bankers surveyed expect "one-fourth of all bank borrowers in the area or about 59,000 farmers to be forced to refinance their loans or dispose of some farm assets to meet their debt payments." In other words many family farm operators may be forced out of business in the next few months. Tragically, while strong financial institutions and large corporations can withstand cost increases, at least in the short run, family farmers often cannot. In this period of farm depression, the loan provision of S. 1812 is sorely needed.

Mr. President, I am pleased to join as cosponsor of S. 1812. It marks progress toward needed and well-deserved attention to the problems of small farmers. I hope the Senate will act quickly. Swift passage by the Congress will end the terrible violations of the reclamation law and give family farmers the opportunity to buy prime farmland. Hopefully Congress will take this initiative now, when all excess sales have been suspended and the administration is prepared to change its policies.

The great value of the Interior Department's enforcement of the acreage and residency requirements in the western reclamation projects extends to farmers throughout the country. An editorial in the Indianapolis News on August 26, 1977, which I would like to have included at the conclusion of my remarks, clearly recognizes and articulates the importance of this action. As the News concludes, finally the "Department of Interior has dug in its heels to defend small farms and family farming."

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FEDS ARE DOING SOMETHING RIGHT

Approving more Federal intervention is not a common policy of The News. But the latest Federal stand against monopoly and Big Agriculture is a wise move.

It is a complex issue—the gobbling up of farm lands by corporations and combines, against which the Department of Interior has moved in the West. However, there is a measurable national trend—alarming, we believe—of farm acreage, formerly held by families, being bought up and developed as agribusiness corporations for absentee owners. Some of the owners are even in foreign countries.

An argument can be made that the soil is no different from a factory or mine, that if it is a sound investment it should be susceptible to the highest bidder. Others say the family farm is a dead issue, anyway, that the investment required for purchase and operation is so immense, only a corporation can deal with it.

A side argument against Federal intervention is that tinkering with the marketplace and establishing price supports, acreage quotas and excessive Federal spending in all areas have created this problem. Thus, the Feds help create the conditions that call for Federal remedies. And so they do, but we are too far down the road to cry over this wrong turn. The facts are: the family farmer is being crowded out and corporations and absentee owners are looking at farm land as one of the best hedges against inflation. Farm land is the closest commodity to gold—and it's negotiable.

Farm land is exploding in price—a 32 percent increase during the past year in Indiana, 17 percent across the nation. Top Indiana farm land is bringing up to $4,000 an acre—a figure far out of proportion to what it can produce at today's prices.

Land is high because it is secure in a time of economic uncertainty. It's high because we can't make any more of it, except for limited reclamation.

Land is high also because it guarantees the nation's food supply. It's in the hands, for the most part, of the most efficient managers in the world. One American farmer can feed 56 persons. One Soviet farmer, in contrast, feeds only seven. The average American spends only 18 percent of his or her income on food. The average Russian spends 58 percent, the Japanese 35 percent, the West German 32 percent.

The American farmer is the nation's leading earner of foreign exchange. Although the cycle is in a downward turn, our balance of payments will grow substantially in 10 years to an estimated gain of $8 billion because of farm exports. To be blunt, the farmer is a power to be reckoned with in both domestic and world affairs.

American soil and its managers are world assets a thousand times more valuable than all the Arab oil.

This record of power and abundance did not happen by accident or by absentee owners conferring in Chicago about wheat quotas for their Nebraska farms. This phenomenal success has been created through individual ownership, personal initiative and family commitment to a way of life. Spokesmen for one of the largest agricultural conglomerates, Ralston Purina, recently admitted our thesis: "The individual farmer or family corporation can meet and many times surpass the efficiency of the large units that operate with hired management."

Typical of the corporate move on the land was a recent plan formulated by a Chicago bank. The bank decided to invest $50 million—mostly from pension funds—into acreage to be leased back to farmers. It would, by the way, be a tax shelter, too.

Public opinion boiled up, and the bank backed down—publicly at least. Farmers across the nation called the bank's project a "return to slavery," "sharecropping" and worse.

Frankly, we don't want Chicago banks acquiring $50 million worth of land in Indiana or in any other state. Under such a scheme local bankers who now lend Farmer Jones $50,000 to expand or get out a crop would

be out of the picture. Only the large lending institutions—doubtless in Chicago—would be able to handle such "collective" borrowing. Displacing local owners and operators with absentee directors would mine the heartland of its spirit and its profits and send them to Chicago or Omaha.

Today, the Department of Interior has dug in its heels to defend small farms and family farming—mostly in the West, it is true, because this is where the banking collectives have made greatest inroads. They have acquired massive holdings in areas irrigated through projects of Federal Bureau of Reclamation. Interior will make that land available to family farmers in tracts of 160 acres, making sure, we trust, that present ownership is properly reimbursed. The rationale is that this was the intent of the reclamation projects as funded by Congress.

As much as we desire minimum Federal controls, we believe in this instance that the Federal government is acting with logic and justice. It is doing what it can to arrest an alarming trend that could destroy agriculture as we have known it. The Department of Interior deserves commendation and support on this one.

SOUTH KOREA

Mr. GOLDWATER. Mr. President, Dr. Ernest W. Lefever had an article published in the New York Times of September 30. Dr. Lefever, in as succinct a way as I have seen, puts the whole problem of what President Carter is doing about South Korea into easy perspective. He further states, and I quote him:

> The destiny of men and nations is shaped by more consequential realities—the relative military and economic power of adversaries, the reliability or unreliability of allies, and the moral and psychological will of great powers to fulfill their responsibilities.

That one paragraph spells out the problems that face the Carter administration and the American people. Do we have the moral and psychological will to fulfill our responsibilities to the world? If the President continues to make gestures like weakening our forces in South Korea, yielding to the demands of Communist-dominated nations and attempting to see some good in Red China, then we may live to see the day when the United States is not only no longer a power in this world, but is no longer reckoned with.

Mr. President, I ask unanimous consent that Dr. Lefever's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OPENING A KOREA GATE

(By Dr. Ernest W. Lefever)

WASHINGTON, D.C.—Historical perspective among chroniclers, analysts and politicians is as rare today as it was during the long weekend between Versailles and Pearl Harbor.

President Carter's policy toward Korea is a vivid example of contemporary confusion. The press is preoccupied with a Seoul businessman who apparently bribed United States Congressmen on behalf of his besieged country. It is a juicy story—lavish parties, illegal campaign gifts, and other forbidden favors.

There is no evidence that the inept influence peddling of Tongsun Park changed any votes. His favors hardly rank with the great forces of our time and he will probably not rate even an embarrassing footnote in history.

The destiny of men and nations is shaped by more consequential realities—the relative military and economic power of adversaries, the reliability or unreliability of allies, and the moral and psychological will of great powers to fulfill their responsibilities.

Corruption of the spirit and will cut a far wider swath in human affairs than bribery and greed, though as the fall of ancient Rome demonstrates the two are not wholly unrelated. In the ceaseless struggle between freedom and tyranny, President Carter's pullout of all United States ground forces from South Korea will surely have an impact a thousand times greater than Mr. Park's bumbling efforts.

The basic issue is not complicated. South Korea is essential to the defense of Japan and the Western Pacific and it is under relentless siege by Kim Il Sung, a fanatical Marxist tyrant determined to unite the Korean peninsula by subversion, psychological aggression, or outright force. Both North and South Korea have formidable military Establishments, but the superiority of the North in manpower, aircraft, tanks and ships is further enhanced by longer periods of military service and a posture designed more for attack than defense.

For 23 years, this disparity has been more than compensated for by a United States security treaty buttressed by significant United States forces in the South. Now President Carter is determined to cut back the American commitment by withdrawing all of our ground troops, including the 2d Infantry Division, strategically poised in the narrow corridor between the demilitarized zone and Seoul, a city of seven million. But how can he defend the independence of a faithful ally by emasculating our commitment? Does he not invite aggression by cutting out the heart of deterrence?

Mr. Carter promises that United States air units will remain after the ground troops leave, but aircraft can fly away. He points to the power of the Seventh Fleet, but what assurance do we have that it will respond to an attack from the North? He promises arms and training to compensate for the pullout, but their delivery depends upon Congressional appropriations.

The South Koreans (both Government and opposition leaders), Japanese, Nationalist Chinese, and our other Asian allies quietly oppose the pullout and fear it may signal the beginning of the end of American protection in the Western Pacific. Neither Peking nor Moscow has encouraged the American departure. Several highly placed leaders in Seoul, Tokyo and Taipei have told me that if the pullout is completed and if the withdrawal trend is not arrested, they must assume that the United States is retreating to Honolulu. Some have suggested that an independent nuclear deterrent might be their best substitute for our diminishing commitment.

Why did Mr. Carter embark on a one-sided withdrawal of American power in this crucial arena of the world struggle? Why does he doggedly pursue a policy opposed by the Joint Chiefs of Staff and virtually all experienced advisers in the State Department and the Central Intelligence Agency? Why does he persist in this unprecedented act with no hint of comparable concessions by North Korea's two patrons, Moscow and Peking?

No one has argued that the pullout will enhance security. And it hardly contributes to the cause of human rights in Korea. In the authoritarian South, certain rights are limited by emergency law; in the totalitarian North they are denied altogether. If the vacuum created by the pullout of 30,000 Americans is filled by Kim Il Sung, 30 million South Koreans will lose all their freedoms.

If the press is interested in corruption, the pullout story is the big one—the corruption of facts and perspective that underlies Mr. Carters decision. Available evidence suggests that the advisers who pressed this potentially tragic policy on him did so because they did not want Americans to be shot at. This is an irresponsible basis for making a major strategic retreat and is morally unworthy of the leader of the free world.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS SECTION 302(B) REPORT FOR FISCAL YEAR 1968

Mr. RANDOLPH. Mr. President, the Committee on Environment and Public Works has filed with the Senate Budget Committee a report under section 302 (b) of the Congressional Budget Act for allocations of fiscal year 1978 budget authority.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

Program	Fiscal year 1978			
	Direct spending jurisdiction		Entitlement programs that require appropriations action	
	Budget authority	Outlays	Budget authority	outlays
1. Federal-aid highways (404): Subcommittee on Transportation:				
Controllable	7,039	1		
All other (appropriations trust fund)	5			
2. Economic Development (450): Subcommittee on Regional and Community Development:				
Controllable	44	53		
All other		1,000		
3. Pollution Control (300): Subcommittee on Environmental Pollution:				
Controllable				
All other	15	16		
4. Water Resources Development (300): Subcommittee on Water Resources:				
Controllable				
All other	44	42		
5. Fish and Wildlife (300): Subcommittee on Resource Protection:				
Controllable				
All other	125	167		

ARSON-FOR-PROFIT BECOMING A NATIONAL EPIDEMIC

Mr. PERCY. Mr. President, the incidence of urban arson is rapidly approaching epidemic proportions. Last year alone, the total property loss from deliberately set fires was an estimated $2 billion, almost double the amount of the previous year. When the hidden costs, such as erosion of the tax base and unemployment, are added to this figure, the total economic impact of this crime may approach $15 billion yearly.

Much of this loss is thought to result from arson-for-profit, the intentional burning of structures for the purpose of filing a fraudulent insurance claim. There exists convincing evidence that the provisions of a Federal program, the Urban Property Reinsurance Act of 1968, may be subtly encouraging or at least facilitating this form of criminal property destruction.

The act was passed in the wake of the riots of the 1960's, when owners of high-risk inner-city property found it increasingly difficult to obtain basic property insurance. To cope with this problem, the 1968 law required private companies in participating States to join special risk-sharing pools as a condition of receiving Federal reinsurance against riot-related losses. These State-run pools, known as FAIR (fair access to insurance requirements) plans, are statutorily required to provide coverage for almost any property owner—even a known arson racketeer—who cannot obtain it in the voluntary market. Currently, FAIR pools in most States suffer tremendous losses each year—losses which eventually fall upon the general public through higher rents and higher insurance premiums.

Although I am supportive of the concept underlying the Riot Reinsurance Act, I feel that this is a program which has suffered from a lack of congressional scrutiny and continuing oversight. At my request, the General Accounting Office and members of my staff have begun a special audit of this program which should provide the basis for legislative improvements to the original act.

There have been reports from across the Nation that organized rings of arson racketeers have emerged and are operating on an interstate basis. Some cases involve "arson entrepreneurs," who sell corrupt landlords and businessmen a complete package of arson services. These range from the services of expert chemists who concoct special water-soluble fire accelerants, undetectable by conventional means, to those of corrupt insurance adjusters, who arrange for an inflated and profitable settlement. Other cases appear to be inside jobs from start to finish, involving a few conspirators who purchase a dilapidated building, and then contrive to inflate its apparent value, insure it, burn it, and divide the proceeds.

Unfortunately, there are serious problems with the enforcement of the laws against arson and arson-related racketeering and mail fraud. Currently, in its uniform crime reports, the Federal Government appears to view arson as a low-priority crime, reportedly in the same category as vagrancy, loitering, and gambling. As a result, Federal funds designated for crime prevention are allocated away from arson control, and Federal law enforcement agencies devote an inadequate amount of their resources to the investigation and prosecution of arson offenses. As a means of ending Federal neglect of this problem, I fully support the proposal of my distinguished colleague from Ohio, Senator GLENN, to reclassify arson as a part I offense in the FBI Uniform Crime Reports. I have also asked the GAO to investigate the efficiency and effectiveness of Federal law enforcement in this vital area.

Mr. President, in this regard, I would like to call attention to an article entitled "Arson and the Mob," which appeared in the August 1977 issue of Firehouse magazine. The author of this article is Clifford Karchmer, former director of the Massachusetts Organized Crime Control Commission and probably the Nation's leading expert on arson fraud. Mr. Karchmer has been of considerable personal help to me in understanding this phenomenon, and I would like to take this opportunity to thank him for his generous assistance. Well-written and thoroughly researched, his article documents the increasing role of organized crime in promoting arson-for-profit. The piece merits close and careful reading, and I recommend it highly to my colleagues.

Mr. President, I ask unanimous consent that the article be printed in the RECORD together with my letter to Comptroller General Elmer Staats seeking GAO review of facets of this problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., August 2, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Over the past several years, arson has become one of the fastest growing and most costly crimes in the United States. Precise statistics are unavailable, but according to the most recent estimates of the National Fire Protection Association, the annual number of arsons has tripled in the last 15 years. According to news reports, last year's property losses from arson were an estimated $2 billion, nearly double the amount of the previous year. Each year, deliberately-set fires claim some 1,000 lives.

Evidence collected by federal and state investigators indicates that much of this is arson-for-profit—the burning of structures, mostly in decaying urban neighborhoods, for the purpose of filing fraudulent insurance claims. Repeatedly, organized crime has turned arson-for-profit into an interstate activity, organized and conceived by experts who arrange for or conspire with respect to inflated insurance coverage burning the building, filing the claim, and dividing the proceeds. The incidence of this activity is rapidly approaching epidemic proportions. Yet federal efforts to halt arson and interstate arson racketeering remain uncoordinated and, in the opinion of some observers, demonstrably ineffective.

To aid the Senate Permanent Subcommittee on Investigations in analyzing the nature and extent of this problem and the ineffectiveness of federal agencies to deal with it, as Ranking Minority Member of the Subcommittee, I request that the General Accounting Office undertake a comprehensive assessment of the adequacy of current federal programs dealing with the detection, investigation, and prosecution of arson offenses. This study should include, but not be limited to, consideration of the following matters:

1. The Federal Insurance Administration operates the Federal Riot Reinsurance Program, which enables states to set up risk-sharing pools in arson-prone areas. It is alleged that this program, known in some states as the Fair Access to Insurance Requirements (FAIR) Plan, facilitates arson-related insurance fraud by permitting any property owner in a core city area to insure his holdings far beyond the market value of the building and its contents and to burn them for the insurance proceeds. In addition, since insurance companies operate these pools on a cost-plus basis, they reportedly have little incentive to contest suspicious claims or to prevent the overinsurance of deteriorated properties.

(a) Under this program, how do insurance companies determine the amount of coverage to be given to a property owner? Can the owner insure for any amount he desires, even beyond fair market value?

(b) Can the insurance company refuse to insure for the full amount requested by the owner? Can it refuse coverage altogether?

(c) Is there any provision for less-than-full payment on a claim if the insurer can prove that the insured allowed his property to deteriorate significantly prior to the damage in question?

(d) How can the provisions of the FAIR Plan be altered to remove the incentive to destroy unprofitable or deteriorating but well-insured buildings?

2. Please list and evaluate all federal programs falling under the following three areas:

Research and development of arson detection techniques and equipment. (Primarily conducted by National Bureau of Standards and National Fire Control and Prevention Administration, both agencies of the Commerce Department.)

The training of arson investigators and Prosecutors. (Primarily conducted by the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms.)

Programs and funding for state and local arson investigators and prosecutors.

(a) Is an adequate amount of resources allocated to these tasks?

(b) Are the agencies receiving these funds putting them to efficient use?

(c) Can you suggest changes to improve the federal government's performance in these areas?

3. How effectively has the National Fire Control and Prevention Administration employed the funds allocated to it for the implementation of a training program for arson investigators?

4. How well-coordinated are federal efforts to prevent, detect, and prosecute violations of federal laws pertaining to arson and arson-related insurance fraud, postal fraud, and racketeering? How effective are the federal interagency strike forces set up for this purpose? Are federal strike forces planned for other U.S. cities and, if so, how soon will they be ready for action? What improvements need to be made to improve the efficiency and effectiveness of federal law enforcement efforts in the area of arson racketeering?

If in the course of conducting this inquiry any questions arise, please have your staff contact Stuart M. Statler, Chief Counsel to the Minority, Senate Permanent Sub-

committee on Investigations at 224–9157. Thank you for your assistance in this urgent matter.

Sincerely,

CHARLES H. PERCY,
Ranking Minority Member.

[From Firehouse magazine, August 1977]

THE UNDERWORLD TURNS FIRE INTO PROFIT

(By Clifford Karchmer)

In underworld jargon, a scam is a fraudulent scheme that uses a legitimate business as its base of operation. The objective can be to gouge out all of the business assets or to use the business as a means of illegally obtaining money from other businesses, such as banks and insurance companies. Ever since the Federal government began its national drive on the illegal operations of organized crime in the 1950s, the mob has been moving for cover into the legitimate business world. The result has been massive white-collar frauds of all types, from check kiting and stock manipulation to planned bankruptcy and insurance fraud—especially arson-for-insurance fraud. Although there is no central source of statistics on the problem of mob-run arson rackets, one ring alone, operating between 1969 and 1975, pulled down an estimated $500 million.

Today, the ranks of arson-for-hire rings are filled with organized crime figures from every segment of the underworld. There are Mafia dons, such as the Rochester *capo* of Buffalo's organized crime family, currently under federal indictment along with six of his lieutenants for running an arson-for-hire business. Working closely with Mafia groups are non-Mafia associates and independent racketeers who have discovered arson fraud as one of the easiest ways to turn an evening's work into a quick windfall.

The mob gets involved in arson scams as an outgrowth of a gambling or loan-shark debt owed to the mob, or as one of the many freelance activities of mob underlings anxious to profit by burning a failing business on a contract basis. Also, arson scams have grown into an organized business where the mob sells a combination package of arson and insurance fraud, and where the primary occupation of the racketeers is the arson scam.

Mob involvement in arson is an example of modern-day organized crime at a crossroads between the older staples of gambling and loan-sharking and the more recent investment in legitimate businesses. Because the arson scam does not fit neatly into the traditional police definitions of street crime, organized crime, or white-collar crime, the problem has received little recognition. Police and prosecutors usually pursue arson's more manageable motives, vandalism and revenge, while officials attacking organized crime continue to hammer away at the more familiar rackets of book-making, narcotics, and loan-sharking

Law-enforcement agencies eager to score with consumers on white-collar crime find it easier to attack frauds victimizing individual consumers. Since arson committed for insurance fraud has always been one of the toughest crimes to prove, justice officials usually avoid the mob arson scam as a non-win proposition. This unfortunate trend has left arson racketeers free to grow fat over the years. Only recently has the federal organized-crime effort begun to challenge them.

Convictions in major cases have already been obtained in Pennsylvania, New Jersey, Ohio, Connecticut, and California. Currently, federal investigations into suspected syndicate involvement in, or control of, arson scams are underway in five other states. Two federal investigations are expected shortly to name racketeers in indictments, charging them with running arson racketeering businesses under a novel 1970 federal law that has been used successfully in Milwaukee and Los Angeles.

While investigations confirm that many organized crime figures run arson scams, they by no means enjoy a monopoly over this type of crime. That would be impossible with all of the junkies, juvenile delinquents, and amateur torchmen willing to burn a home, car, or business for $100 or less. But the mob has entered the arson-for-hire market by offering something its unorganized competitors cannot, package deals, starting with the fire and ending with complete arrangements for the insurance settlement. Often a mob member or associate serves as the broker for the fire. A master torch surveys the business to determine whether fire alone will destroy it, or if dynamite will be needed to assure a total loss. Chemists prepare special accelerants so that water-soluble residues will be difficult to detect. The mob has also enlisted the services of a public insurance adjuster to inflate the fraudulent claim by arranging phony invoices for equipment allegedly destroyed in the fire but never purchased. The mob's fire broker takes a healthy cut of the insurance settlement for putting this package deal together, but the mob offers the businessman a much larger settlement to start with.

An early pioneer of the lucrative arson-fraud racket was John Roselli, who set fire to the family house for insurance money not long after he arrived in America in 1905. Later Roselli embarked on a career as a Chicago and Los Angeles Mafia leader, confidence artist, extortionist, and alleged anti-Castro CIA operative, until he was the victim of a reported mob assassination in 1976. Another Mafia luminary whose early career was spurred by experience in arson was Raymond Patriarca, who was imprisoned in 1938 for a crime spree that included armed robbery, burglary, and arson. Patriarca later became boss of the New England Mafia family. A number of his associates, who dealt principally with Mafia informer Vincent "Big Vinnie" Teresa in stolen securities, also ran freelance arson rackets that landed them prison terms in the early 1970s.

For most of this century the problem of sketchy data on mob arson has been a symptom of the larger problem that no nationwide intelligence was being collected on mob activities at all. Then, as a result of the infamous Mafia summit meeting in Apalachin, New York, in November 1957, a national effort was launched to identify major racketeers and their illegal operations. Because arson scams in that period were mainly freelance ventures of underlings and associates, they avoided federal investigative efforts and continued to grow. Beginning in 1961, however, the Justice Department under Attorney General Robert Kennedy undertook a major campaign to attack organized crime. Very late in that effort, arson scams were identified for the first time nationally as mob-run rackets. In 1965 the Justice Department cited examples of New Jersey arsonists setting a $2 million fire in Ohio, and a roving West Coast-to-Alaska torch setting a $450,000 fire in Nevada. From the limited information available, it was clear that elements of organized crime had moved into arson-for-hire businesses on an interstate basis.

A graphic illustration of how the mob set up a contract arson surfaced in a 1958 Boston scam. The proprietors of the Intercolonial Dance Hall decided that their business was declining because of stiff competition from a rival hall named the Hibernian. They went to a mob arsonist with the fitting Boston name of "Pilgrim" Tommasino, who allegedly functioned as the broker for the fire. According to investigators, Tommasino steered the fire contract to Brooklyn Mafia figure Dominick "Mimi" Scialo, who subcontracted the arson to two young hoods for a $1,000 fee, $500 of which was advanced.

The young arsonists, failing to destroy the Hibernian on the first try, succeeded on the second, and returned to Brooklyn to receive their final payment. Scialo refused them on the basis of sloppy work. Determined to collect, the torches knocked out Scialo's bodyguard and assaulted Scialo until he finally relented. Later that night, Scialo and three associates picked up the two hoods and took them to an isolated section of Brooklyn where they beat them and then shot them. One of the young arsonists lived long enough to give a deathbed statement implicating Scialo, who was later indicted for the double murder. After indictment was returned, Scialo and his bodyguard went underground. The Brooklyn Mafia held a benefit for the two fugitives, attended by such notables as Larry and "Crazy Joe" Gallo. Police did not speculate how much was collected at the benefit, but within a year the young torch's deathbed statement disappeared from the Brooklyn DA's office, and the Scialo murder indictment was dismissed. Never charged with arson, Scialo was murdered in 1974. Tommasino and the Intercolonial lessee and manager, indicted in Boston, pleaded guilty to charges of accessory to the crime of arson.

While freelance contract arson has been the stock-in-trade of mob associates, mob leaders have used the occasion of an overdue loan-shark debt to burn a debtor's business. Mob-related arsons growing out of gambling and loan-sharking run neck and neck with business contract fires. When a loan-shark debtor is unable to keep up his regular payments, a mob courier or the debtor himself may propose to burn an insured property to collect the insurance and pay off his debt.

The FBI came across one fascinating illustration of this during its 1964 bugging of the headquarters of New Jersey Mafia boss Sam DeCavalcante. The arson scam grew out of a $12,000 loan DeCavalcante made in 1964 to Pennsylvania bookmaker Joseph Migliazza so the latter could pay a gambling debt. Migliazza (known as "Mr. Maglie") kept failing to meet payments, and DeCavalcante's courier, Bobby Occhipinti, kept visiting him with dunning notices. Finally, Migliazza proposed that he would have his restaurant burned to collect the insurance money. Occhipiniti carried this plan back to DeCavalcante for his reaction:

OCCHIPINTI. Mr. Maglie wants to burn down his joint, and I got the guy.

DECAVALCANTE. Who's the guy?

OCCHIPINTI. Russ . . . as far as Pussy [another Mafia leader] is concerned, he's okay.

DECAVALCANTE. What's he want for it?

OCCHIPINTI. He's gonna pay $5,000. . . . He's got $90,000 insurance on it.

DeCavalcante gave his approval in standard Mafia fashion, intended to insulate him from any involvement in the scam. He replied, "I don't want to know nothing about it."

Migliazza's restaurant, "The Stagecoach," burned in July 1965 and he collected the insurance. Federal authorities claimed that they were unable to connect "Mr. Maglie" with Migliazzia and the "joint" with the "Stagecoach," until it was too late to prevent the fire. No criminal charges resulted from the incident.

Mounting evidence of other arson scams resulted in a 1965 Justice Department request for a law to make interstate travel to commit arson a federal crime. In support of that proposal, Attorney General Nicholas Katzenbach cited a 1965 study showing that in the 10 preceding years, known hoods were suspected of either arranging or setting 124 fires in 17 states, involving fraudulent insurance claims of $16 million. Clearly, arson-for-hire had become a national business which, Katzenbach claimed, was being serv-

iced by none other than mob torchmen. He stated, "The services of these specialists are furnished by organized crime groups to persons desiring them or are used by the racketeers themselves in burning legitimate but failing businesses in which they are interested."

The arson racketeering law, enacted in 1965, was not widely used against the mob for another five years. At that time, the newly formed federal Organized Crime Strike Force in Pittsburgh began to assemble the pieces of a puzzle indicating that locally based arson rings were operating throughout Western Pennsylvania, with hints of their arson handiwork in seven other states. Its members and associates worked together in groups whose composition and size shifted from scam to scam. In most instances, a fire broker would bring the crew together, and acted as a sort of manager for that arson. This peculiar setup used mob members as often as associates and independents, and the loose organizational arrangement is best described as an "arson cooperative." Before the Strike Force finally broke the "co-op's" back in 1975, investigators placed its members in hundreds of fires from coast to coast, with an estimated insurance-fraud tab for $500 million.

In 1971, the Pittsburgh Strike Force brought its first arson-related indictment, which grew out of the 1970 fire in a suburban Pittsburgh social club named the German American Association (GAA). The prosecutors bagged a Beaver County numbers banker named Roddie Jones, prominent torch Anthony "Ninny" Lagattuta, and a public insurance adjuster named Carl Luick, for a $160,000 fraudulent insurance claim. Unable to bring charges for the crime of arson, a state violation, the feds dusted off the 90-year-old mail-fraud law, which applies where the mails are used to send fraudulent proofs of loss or false sworn statements about the origin of a fire.

To build the GAA fraud case, the postal inspectors located vendors who had provided Luick with backdated and otherwise phony invoices, which Luick used to inflate the amount of the insurance claim. Prosecutors also succeeded in developing a GAA co-owner named Frank Teny as a government witness by granting him immunity from prosecution. At the 1972 trial, Teny testified that he was invited by Jones to take a one-third interest in the GAA with the prospect of burning it if the club failed, and later how he, Jones, and Lagattuta surveyed the building to determine the best location for air holes to ventilate the fire which occurred on May 5, 1970.

With the benefit of Teny's testimony, Jones, Lagattuta, and Luick were convicted. A third defendant, John Petrone, committed suicide in 1971 after the GAA indictment was returned. Bolstered by their success, investigators tried to link the GAA scam with other Pittsburgh area arsons, but were unsuccessful. Although Luick later surfaced in four more cases, it was clear that he was not the brains behind the arson scams. The GAA arson looked like a one-shot scam, stemming from a business failure. The fact that the owner was a numbers banker and the torch was a GAA employee did not lead investigators into the other Pittsburgh arsons.

In 1973 investigators found the common thread in one Merrill H. "Morrie" Klein, who listed his occupation as a broker who arranged the sale of failing businesses at bargain prices. Actually, Klein was a fire broker who scouted around for troubled firms to sell so that afterwards he could follow the new owner's progress. If the business kept fumbling, Klein would approach the owner with an arson scam proposal. If the owner agreed, Klein (who doubled as a master torch), would assemble a crew of arsonists to set the fire, and con-artists to arrange the inflated insurance claim. He informed clients that their buildings were burning with the code message, "The sky is red."

After the feds had repeatedly caught Klein in 1973 and 1974, he agreed to testify as a government witness. At one trial he was asked how he had earned his money since 1967. "I sold fire like other people sell anything else," he replied. A customer once described how Klein had approached him with a scam offer, boasting, "I can make concrete burn."

The Strike Force suspected Klein of brokering, setting, or acting as a referral agent in 24 arsons since the late 1960s, but Klein admitted to participating in only 12. He has been prosecuted for three, is currently under indictment in Pittsburgh for a fourth, and in two others is listed as an unindicted co-conspirator (a cooperating witness allegedly involved in, but not charged with the crime).

So far the provable tab for Klein's arson scams is $7.4 million. As business broker and master torch, Klein was paid first legitimately by the old owner for arranging the business sale, second, by the new owner for setting up the arson scam, and third, by the public insurance adjuster for steering him business. Klein's fee ranged between 10 percent and 20 percent of the insurance settlement, and he took a flat 5 percent from the public adjuster's cut as his own finder's fee.

By late 1974, postal inspectors and FBI agents had amassed a list of 30 suspected racket arsons in the Pittsburgh area. With the help of Klein and his associates, who were either convicted or facing charges by that time, there remaining pieces of the "arson co-op" puzzle began to fit into place.

One obvious fact was that known mob figures in Pittsburgh and McKeesport served as major clients of the "arson co-op." Numbers bankers were principal defendants in four of the nine total "co-op" cases, and a reputed pornography wholesaler figured in a fifth. It seems that as an outgrowth of the racketeers' day-to-day dealings in such activities as "laying off" large gambling bets with each other, the hoods began to exchange tips of other lucrative ventures, with arson prominent among them.

By January 1975, the Strike Force had most of the known members of the "co-op" either convicted, indicted or under active investigation The most frequent charges were mail fraud and conspiracy, but in two major arson cases, where the "co-op" sold its traveling fire business in Connecticut and Kentucky, the 1965 arson anti-racketeering law was used. The Strike Force success rate was impressive: convictions in the GAA fire, those in Connecticut and Kentucky, and one in Pennsylvania. In addition, the Strike Force was investigating other arson scams involving a $360,000 dry-cleaning plant, a $120,000 warehouse, and a $275,000 meatpacking plant. While the remaining tasks did not exactly fit the definition of a "mop-up operation," it seemed that the lions' share of work was completed.

Then, on March 1, 1975, a whole new branch of the "arson co-op" unfolded when the Sponge Rubber Products Company in Shelton, Connecticut, was destroyed by a $10 million bombing and arson. The conflagration wiped out 3,000 jobs in a factory town already saddled with a 9 percent unemployment rate. An FBI arson investigation of unprecedented scope scared the Western Pennsylvania mob. It was reasoned that nationwide coverage of the disaster produced so much pressure that the feds would be forced to solve the case at all costs. Consequently, investigators encountered cooperation from underworld quarters where it was never expected.

Only three weeks after the Shelton arson occurred, 10 individuals were indicted in Hartford on federal charges of interstate racketeering, conspiracy, and federal explosives offenses. The fire broker was an errant psychic and fundamentalist minister with no racket ties, but the master torch was a numbers banker from Butler, Pennsylvania, assisted by other prominent gamblers and professional criminals of the Western Pennsylvania underworld.

The FBI was able to persuade John Shaw, one of the two accused bombers in the case, to testify for the government. With Shaw's help, six of the other defendants were convicted in January 1976 after a lengthy trial. After the last jury verdict was in, a federal indictment was unsealed in Pittsburgh, charging Shaw, his partner in constructing the Sponge Rubber bomb, and a Pittsburgh businessman with the 1971 arson of a meatpacking plant. The plant owner pleaded guilty and the other defendant was convicted after a trial.

A tenth federal indictment was returned in Pittsburgh against "co-op" members in January 1977, growing out of the 1972 arson of a Pittsburgh cocktail lounge. The investigations still continue today, and it is reported that another federal indictment will be handed down soon in Pittsburgh, charging the remaining master torch with committing a string of arsons. Overall, the federal prosecutor chalked up a commendable record. In the nine prosecutions completed to date, 33 defendants have been convicted, five acquitted.

Three other mob associates eluded prosecution. Abe Zeid was murdered before his trial for the 1963 fire-bombing of a Pennsylvania shopping center. Emilio "Chicke" Flex died in a 1971 Pittsburgh restaurant fire that he set. Suspected mob torch Nick Kerna committed suicide during the 1974 grand jury investigation of the Artistic Wire Company fire.

Elsewhere in the country federal investigations are turning up scams similar to those set up by the Pittsburgh "co-op." In fact, arson-racketeering and mail-fraud indictments are expected shortly in organized crime investigations now underway in New Jersey, Florida, Pennsylvania, and New York. A popular weapon is a 1970 federal law which prohibits the operation of a business enterprise in a racketeering manner. Running an arson-for-hire racket that affects interstate commerce qualifies, and already the feds have brought three such cases and are close to a fourth.

It is impossible to put an accurate price tag on the staggering amount of arson that can be traced to the mob. Although the insurance industry estimated total arson losses of $2 billion in 1976, we have just begun to grasp the extent of the mob's involvement. After more than half a century of battling organized crime, we are just realizing the scope of what may be their largest racket.

STEEL DUMPED BY FIVE JAPANESE FIRMS

Mr. TALMADGE. Mr. President, as a member of the Senate Finance Committee, I am particularly concerned about the pervasive effect of unfair trade practices on our domestic competition in the specialty steel industry.

This industry was one of the first to take advantage of the new "escape clause" provisions of the Trade Act of 1974. On June 16, 1975, 19 American specialty steel producers and the United Steelworkers of America filed a petition under section 201 of the Trade Act, seeking relief from the flood of specialty steel imports. These imports threatened

the future of this vital industry and the security of about 65,000 steelworkers' jobs.

The International Trade Commission held extensive public hearings and conducted a full investigation of this case. On January 16, 1976, the ITC determined that imports were "a substantial cause of serious injury" to the domestic specialty steel industry. The Commission recommended the strongest possible form of import relief—5 years of quotas.

The case then went to President Ford, who accepted the findings of the International Trade Commission that serious injury had occurred. The President negotiated an orderly marketing agreement with Japan, and unilaterally imposed quotas on the European community and other countries which refused to negotiate. The quotas have been in effect for just over a year, and are scheduled to terminate in June 1979.

It is significant that, as part of the import relief recommended by President Ford, he directed that the United States seek sectoral negotiations in the multilateral trade negotiations. These negotiations were to be designed to negotiate solutions to the problems of cyclical distortions in steel trade, while liberalizing the conditions of this trade. Such negotiations, of course, have not taken place to date. President Ford's call for them, however, did indicate his understanding that the problems of the specialty steel industry will not be solved by quotas alone.

His call for sectoral negotiations formed an integral part of the import relief provided to the specialty steel industry. Only half of the program has been implemented, and that is currently under review.

As I indicated, most foreign steel producers are subsidized in one form or another by their governments. For example, British Steel Corp. is owned by the British Government. Over the last 3 years, this company which includes extensive specialty steel operations, has lost nearly a billion dollars. Yet, the British taxpayers are being asked to contribute $1.6 billion this year for an expansion in modernization of British Steel's facilities. Clearly, it would be impossible for a company with this kind of losses to obtain financing from the private capital market.

In France, too, steelmakers have suffered extensive losses. At the end of 1976, French steel producers owed the Government $1.4 billion.

Yet, the French steel industry has asked its Government for $600 million in financial assistance. The Government is committed to a long-term program of $2.6 billion in loans for modernization and expansion of steel facilities, including those for the production of specialty steel.

A similar picture exists with respect to Italy, where the Government owns a 54-percent interest in Finsider, a group of 24 steel producing companies, including 2 of the leading stainless steel producers. The Economist has stated—

The state-owned Finsider group ended 1976 almost $150 million in the red. Yet, for political reasons, to provide jobs in the regions, investment continues.

German steel producers have received low-cost loans from European coal and steel communities, as have steel producers in other European community countries.

Perhaps the best example of Government subsidies is the Swedish steel industry.

The Government has fostered a program of rationalization whereby the production of various products by individual companies has been organized in a manner which would undoubtedly be illegal under our antitrust laws. The Swedish Government subsidizes inventory stockbuilding during periods of recession by providing grants to specialty steel firms to encourage them to increase their production above "normal levels." Sweden also uses tax policies to support economic stabilization, and allows individual companies to set aside up to 40 percent of their pretax profits as a reserve for future investments. Such amounts are deductible from taxable incomes.

Japanese steelmakers obtain capital through domestic commercial banks which in turn receive credit from the Government's Bank of Japan. In 1974, the Bank of Japan reported that the capitalization of the 19 largest Japanese steel companies included a huge 83 percent debt. The comparable figure in the United States is 23 percent debt.

This huge debt burden means that Japanese steel companies have a very high break-even operating rate. As a result, they are under pressure to keep their operating rates high and produce steel even when market demand is low. This, obviously, encourages Japanese steelmakers to export to the United States.

In fact, Mr. President, today's Washington Post contains a lead article in the Business and Finance section on just this problem. The article discusses the background of yesterday's tentative ruling by the Treasury Department that five Japanese steel companies are guilty of selling their products in this country at a loss of up to 24 percent below their actual costs in dumping.

Mr. President, I have simply provided a few examples of government subsidies to companies which compete in our market. This has major implications for the future of our free enterprise system, at least as far as the steel industry is concerned. How can we ask our specialty steel companies to compete with foreign producers who can continue in business year after year without making profits? For this reason, it is urgent that sectoral negotiations be undertaken in the multilateral trade negotiations.

Mr. President, I ask unanimous consent that the full text of today's article by Hobart Rowan in the Washington Post entitled "Steel Dumped by Five Japanese Firms, Department of Treasury Rules," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STEEL DUMPED BY FIVE JAPANESE FIRMS, DEPARTMENT OF TREASURY TENTATIVELY RULES

(By Hobart Rowen)

In a major victory for the U.S. steel industry, the Treasury Department ruled tentatively yesterday that five Japanese steel companies have been selling their products here at a substantial loss of 24 per cent below their actual costs.

As a result, importers of steel from the five companies were ordered to post, at once, bonds covering "dumping duties" that may later be imposed.

For years, the domestic steel industry has been claiming that Japan was "dumping" steel in this country as a way of making serious competitive inroads in U.S. markets. The classic definition of dumping has been the sale of a product in export markets below the selling price for the same or similar products in home markets.

But yesterday's ruling, relating to carbon steel products from Japan amounting to $174 million in 1976, was based on a new formula in the 1974 trade act.

Under this formula, the domestic selling price is ignored, and a so-called "constructive value" or fair market price is figured at actual cost of production, plus an 8 per cent profit margin. On that basis, the Treasury concluded that the Japanese steel was being dumped at 24 per cent below cost, and 32 per cent below the "constructive value." Thus bonds equal to the value of 32 per cent of the value of Japanese carbon steel exports by these companies must now be posted by importers.

If a final Treasury decision within three months confirms the preliminary findings, it will be referred to the International Trade Commission. If the ITC concludes that the Japanese imports have injured or threaten to injure the domestic steel industry, then the Treasury will impose higher tariffs in addition to the normal 7.5 per cent rate.

These are known as "dumping duties," payment of which would be assured by the bonds.

Treasury General Counsel Robert Mundheim said that the ruling was "the biggest cost-of-production anti-dumping action" ever taken.

The steel industry has been asking the Carter administration to take various actions to limit steel imports, which the industry cites as the major reason for declines in domestic steel sales and profitability. The administration, in response, has been urging the industry to pursue anti-dumping claims where they can be proved, but has been fending off pressure for import quotas.

But demands for protection have accelerated in recent weeks as major companies laid off 18,000 workers and warned that more cutbacks lay ahead.

President Carter late last week appointed a special Treasury task force headed by Under Secretary of the Treasury Anthony Solomon to recommend solutions for the domestic industry's many problems.

Meanwhile, it was learned, the Council on Wage and Price Stability (COWPS) is putting the finishing touches on a lengthy report on steel industry conditions, for delivery to President Carter on Wednesday.

This report was requested by the President last summer after the industry announced a series of price increases that were sharply criticized by the administration. Officials calculated the steel price proposals as the equivalent of a 12.5 per cent annual boost, which they said was intolerable for the economy as a whole.

The COWPS report is expected to recom-

ment against any kind of formal quota relief for the steel industry.

Special Trade Representative Robert Strauss, who said last week that congressional anxiety over steel industry unemployment might force the administration to reconsider its opposition to steel "orderly marketing agreements," (OMAs), cautioned yesterday that he did not think this the most probable decision.

In a telephone interview, Strauss acknowledged that a steel OMA, limiting European and Japanese steel imports, would be discussed, because "we are going to look at every single possible solution." But he said he thought a "monitoring mechanism," by which the U.S., the Common Market, and Japan would undertake a voluntary agreement on import levels is more likely.

At a luncheon meeting with reporters, Belgian Foreign Minister Henri Simonet warned yesterday that a steel OMA "could touch off others," and put the whole process of trade negotiations at Geneva under a cloud, just as they promise to get started again after "dragging for four years."

AIR FORCE ASSOCIATION

Mr. GOLDWATER. Mr. President, Mr. James Straubel who is executive director of the Aerospace Education Foundation of the Air Force Association, made his annual report to the board of trustees recently here in Washington. This is an effort that Americans should be aware of, an effort that all of us former Air Force people and active Air Force people are very proud of, and I think mostly because it is doing a fine job and equally important, it is not costing the Federal Government a dime. The money to run this program is made from voluntary contributions and money raised from Air Force balls held in New York and Los Angeles each year. If any of my colleagues is interested in seeing the actual material that is referred to in the report I would be very happy to supply him with it. Therefore, I ask unanimous consent that the excerpts from this report be printed in the RECORD.

There being no objection, the report excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE REPORT OF THE EXECUTIVE DIRECTOR 1977 ANNUAL MEETING OF THE BOARD OF TRUSTEES AEROSPACE EDUCATION FOUNDATION

During the past four years, nearly 1200 course packages in occupational education, each developed by the U.S. Air Force, have been purchased from our Foundation, at low cost and on a non-profit basis, by more than 500 schools in 48 states and the District of Columbia.

* * * * *

In recognition of this unique work, the American Society for Training and Development has presented our Foundation with its Human Resources Development Award, as the "best organization" of the year in this category.

* * * * *

Our transfer of vocational-technical courses is accomplished at no expense to the government. As an example of how we approach potential donors, I now quote from a summary sheet we prepared for private sponsorship of the program we call the "Chicago Project." It states:

"The Aerospace Education Foundation is carrying out a program to transfer USAF technical learning systems to the civilian classrooms.

"The 12 Chicagoland Community Colleges have approached the Foundation and expressed a need for a selected group of these systems.

"Chicagoland Community Colleges will:

a. Prepare their facilities in the use of competency-based instruction.

b. Supply equipment and training aids necessary to implement these systems.

"We are asking Chicagoland industry to share the cost of needed software to get the project underway."

We have placed our proposal before selected companies to jointly fund the project. So far we have received a pledge of $25,000 over a five-year period from W. Clement Stone. Nine firms have indicated serious interest in supporting the program to some degree, but based on their fiscal years we expect their decisions to come later this year.

* * * * *

Due to some delays in receiving course materials we need from the Air Force, our first mailing for this year will go out in early November rather than September as usual. This mailing will announce the availability, through the Foundation, of eleven new Air Force systems all in one curriculum area—Automotive Mechanics.

These new systems are structured on what we call a "shred-out" or building block basis. The first step can be any one of three selections in a basic course in Automotive Principles.

We will offer this course in classic lecture and demonstration format, and in a second format for schools which have access to a special computer system called PLATO.

The third version is based very uniquely on this computer program, as we have converted it into a printed program that can be used by schools that do not have computer facilities.

In addition, we are preparing for release on or about January 1 another group of eight courses as follows:

Metals Processing Specialist, Heat Treatment and Electroplating of Metals, Fabric and Rubber Products Specialist, Fire Protection Specialist, Non-Destructive Inspection Specialist, High Reliability Soldering and Connections, Weather Observer, and Weather Forecaster.

All the copying of motion picture, videotapes, sound slides, printed materials and other elements which make up these eight courses has been accomplished on site at Chanute Air Force Base, Illinois.

* * * * *

As you know, the Florida Air Academy has, for the past several years, contributed $2000 toward the scholarship award we make to the winner of our annual Junior ROTC contest. Beginning this year the Academy is funding five $1500 scholarships to be granted to students that the Aerospace Education Foundation selects from a group of candidates submitted to us by the Board of the Academy.

This will be known as the Senator Barry Goldwater Scholarship, at the request of the Academy and in honor of Senator Goldwater. The first five awardees have been selected for the scholarship. They come from California, Bermuda, Florida, New York State, and Mississippi.

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As you may recall, I have briefed you on a two-year project in South Carolina, funded by the National Science Foundation. It involves adaptation of the Air Force's Electronic Principles course for use throughout their state-wide community college system. The latest report from the State indicates the following, and I quote directly:

"Air Force materials can be adapted for civilian use to provide improved instructional resources at a lower cost than would be required if prepared independently.

"Most of the Air Force student text material has been used with only minor revisions. Very few organizations could afford the man-hours required to produce the visual aids, video-tapes, and written materials developed by the Air Force and purchased from the Aerospace Education Foundation.

"The set of Air Force materials from the Foundation cost us $8,877.80 and our development, instructor time, reproduction, equipment costs, etc., are anticipated to be well over $200,000 . . . but development from ground zero would currently cost 10 to 12 million dollars."

TWO DECADES IN SPACE

Mr. STEVENSON. Mr. President, 20 years ago, on October 4, 1957, the launch of Sputnik I by the Soviet Union introduced the world to the medium of space. This first satellite launch was followed by Sputnik II on November 3, 1957, demonstrating that a conscious effort was underway to understand, explore, and exploit the space environment. While the United States was not the first nation in space, its first successful satellite, Explorer I launched on February 1, 1958, was responsible for the first satellite scientific discovery—the Van Allen radiation belt.

INITIAL SPACE OBJECTIVES

These events led to enactment of the National Aeronautics and Space Act of 1958 on July 29 of that year which established basic policies and purposes for a national space program and created the National Aeronautics and Space Administration—NASA—as the implementing agency. In retrospect, it is useful to reflect on the major objectives set forth in the act in terms of our accomplishments of the past two decades and our directions for the future. These objectives include: The expansion of human knowledge of phenomena in the atmosphere and space; the development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space; the preservation of the role of the United States as a leader in aeronautical and space science and technology and in their peaceful application within and outside the atmosphere; and cooperation by the United States with other nations and groups of nations in space.

Spurred by the national commitment made by President John Kennedy in 1961 to land a man on the Moon and return him safely to Earth before the end of the decade, the Nation moved rapidly to develop a manned space flight capability. On February 20, 1962, Col. JOHN GLENN, now one of our Senate colleagues, became the first American to orbit the Earth in the Mercury program spacecraft—Friendship VII. Following the successful Mercury and Gemini programs, the Nation experienced a tragic accident in Apollo spacecraft preflight testing in which three astronauts—Gus Grissom, Ed White, and Roger Chaffee—lost their lives. This necessitated a substantial redesign of Apollo spacecraft systems and a thorough review of all other Apollo hardware. The Apollo 204 fire was costly in lives, in time and in money. But a stronger program emerged from this

tragedy. Neil Armstrong and Buzz Aldrin successfully landed the lunar module, Eagle, on July 20, 1969. The Apollo program produced five additional lunar landings; three carried the lunar rover which significantly extended the range of scientific inquiry on the moon. The crew of Apollo 17 included the first scientist/astronaut, our colleague Dr. Harrison H. Schmitt, a geologist, who now serves with me as the ranking minority member of the Subcommittee on Science, Technology and Space.

Utilizing residual Apollo hardware, NASA launched the Skylab space station on May 25, 1973, and demonstrated the ability of humans to live and work in space for extended periods of time. In addition to the planned Skylab experiments in solar astronomy, Earth resources, space manufacturing, human factors and other areas, a launch mishap provided a unique opportunity to show man's ability and adaptability in space through the successful repair of the Skylab in orbit. The three Skylab missions were successfully conducted with increasing mission durations of 28, 59, and 84 days.

SPACE APPLICATIONS

Simultaneously with the development of a manned spaceflight capability, NASA embarked on significant developments in the applications area. The first experimental weather satellite, Tiros I, was launched on April 1, 1960, and was followed by Tiros II on November 23 of that year. These early satellites and their much-improved successors, developed by NASA to meet the requirements of the National Oceanic and Atmospheric Administration (NOAA), have led to operational weather satellite systems in both polar and geosynchronous orbits. These satellite photos can be seen daily on most home television news and weather programs.

Early experiments with communications satellite technology both in NASA and in the private sector led to enactment of the Communications Satellite Act of 1962 and the subsequent establishment of the Communications Satellite Corporation and the international consortium, Intelsat, to exploit this new technology.

NASA developments led to the launch of the first successful geosynchronous communications satellite, Syncom II, on July 23, 1963. This was the forerunner of the communications satellite which is commonplace today and which has enhanced the transmission of voice, television, and business data in developed, undeveloped, and remote areas of the earth.

More recently, on July 23, 1972, NASA launched the first Earth resources technology (Landsat) to ascertain the potential of satellite data for crop forecasting, land-use management, water-resources measurement, location of mineral resources, and for other activities essential to improved management of the Earth's resources. A second Landsat was launched on January 22, 1975, a third is being prepared for an early launch, and a system with greatly improved capability is now under development for launch in the early 1980's.

The Subcommittee on Science, Technology and Space is currently considering a bill, S. 657, introduced by Senator WENDELL FORD, which would provide the framework to exploit this technology on an operational basis as opposed to the present experimental nature of the Landsat project. While there are dissimilarities between the Landsat and the weather and communications satellite programs, there is a common international interest in all three. For example, foreign nations have weather and communications satellite terminals and three nations directly receive Landsat data with four more building Landsat receiving terminals. All new international agreements prescribe a charge of $200,000 annually for Landsat data.

SPACE SCIENCE

As important in the implementation of U.S. space policy is the expansion of scientific knowledge commonly referred to as space science. NASA has sought to build an inventory of fundamental knowledge about the Sun, the planets and interplanetary space. While investigation of the solar system and the cosmos may seem a bit esoteric, many scientists are convinced that these studies will produce information of value to the Earth and its survival as a unique body in the solar system.

Orbiting geophysical observatories, orbiting astronomical observatories, orbiting solar observatories, and Pioneer and Explorer spacecraft have been continuously and successfully flown to acquire and build on our knowledge of space physics and astronomy. The spaceborne observatory program was continued this year with the launch of the first high-energy astronomical observatory which is to be followed by two more observatories in this series, one in 1973 and another in 1979. Also a solar maximum mission will be launched in 1979 to monitor the next peak in solar activity. For fiscal year 1978, the Congress has approved NASA's request to initiate the development of a shuttle-launched space telescope, a project assigned a high priority by the Nation's scientific community. The space telescope will be placed in Earth orbit in 1983.

The United States has accumulated a host of accomplishments in its lunar and planetary space science initiatives. The Ranger, Surveyor, and Lunar Orbiter projects supported and complemented the Apollo lunar program. We have seen flybys of Venus, Mars, Mercury, Jupiter, and Saturn. Planetary exploration has been characterized by increasingly sophisticated missions and instrumentation, each building on the predecessor mission. Consequently, in 1976, NASA placed two Viking spacecraft in orbit around the planet Mars and landed two spacecraft on the Martian surface—an extraordinary engineering feat which provided pictorial as well as large amounts of technical information about the Martian atmosphere and surface environments.

Two Voyager spacecraft were launched on August 20 and September 5, 1977, respectively, for close-in missions to Jupiter and Saturn with the possibility of targeting one spacecraft for an initial encounter with the planet Uranus. It may even be possible to direct this spacecraft to the distant planet Neptune. Voyager follows the successful Pioneer missions launched in 1972. The next major events in planetary exploration will be the Pioneer Venus orbiter and multiprobe mission to be launched in 1978 followed by a 1981 Jupiter Orbiter/Probe mission approved by the Congress this year. The JOP will provide for an extended, close-in study of the solar system's largest planet and it will help unravel age-old mysteries of the solar system's origins.

INTERNATIONAL COOPERATION IN SPACE

International cooperation in space has been extensive. NASA has agreements with some 60 nations covering activities such as launch services for foreign satellites, operation of tracking and data acquisition stations, codevelopment of scientific payloads, and the acquisition of weather and Earth resources data. Most of these activities involve the day-to-day, now almost routine, business of space research and development. However, a few are highly visible, such as the Apollo/Soyuz manned flight project conducted with the Soviet Union in 1975 and the satellite broadcast experiment to community antennas conducted by the Indian Government with our ATS–6 experimental communications satellite. A significant step toward greater international cooperation lies in the agreement with the European Space Agency (EAS), a consortium of Western European nations, to develop and build Spacelab, a scientific experiment carrier which will be a prime payload in the Space Shuttle.

It has been NASA's policy to conduct its international cooperative programs on a reimbursable or a quid-pro-quo basis—for example, on a specific project NASA may provide the launch services for the scientific payload furnished by the cooperating nation, with both nations having full access to the data acquired. The breadth and diversity of the international activity testifies to the success of this aspect of our space program. Moreover, testimony before the subcommittee indicates that NASA space activities contribute $175 to $200 million annually to our balance of payments.

In summary, the record of the past two decades reflects the development and demonstration of the capability to live and work in space through the Mercury, Gemini, Apollo, and Skylab programs; the expansion of scientific knowledge through the space science programs in physics, astronomy, and planetary exploration; the development of weather, communications, and Earth resources satellites demonstrating the usefulness of space technology; the establishment of a broad program of international cooperation in space activities with agreements with some 60 nations; and the preservation of the role of the United States as a leader in space activities.

Achievements such as the Apollo and Viking landings, an operational weather satellite system, and the favorable competitive position enjoyed by our launch

systems and spacecraft technology in the world marketplace are striking evidence that NASA and the Nation have done a commendable job in carrying out the space policy which was established by act of Congress in 1958.

FUTURE DIRECTIONS

In contemplating the future direction of the national space program, it must be recognized that the Nation is making a large investment in the development of the Space Shuttle, and that there is an implicit obligation to achieve the greatest possible return on this investment. The Shuttle will provide an economical and flexible space transportation capability—available to the United States, foreign governments, and commercial users—in comparison to the current family of expendable launch vehicles. Once the Shuttle is operational in the early 1980's, launching satellites and spacecraft will be even more routine than it is today. Retrieval and repair of satellites in orbit will be feasible. Spacelab will introduce a new approach to space experimentation and operations. There is the further expectation that the Shuttle will make radical changes in what we can do and, in turn, what we may want to do in space. The utilization of the environment of space in sensible and productive ways will be the principal policy issue facing NASA and the Congress in the third decade of the space era.

These factors underlie the decision of the Congress this year to support the acquisition of a national fleet of five orbiter vehicles. This commitment places a high priority on sound planning and direction for Shuttle applications. Our immediate objective has to be getting the Shuttle operational, then understanding and using its capabilities fully.

This does not mean developing payloads simply to fill the Shuttle payload bay. It does mean planning carefully how we can most productively expand and exploit the substantive base in space science and applications that has been developed in the last two decades. In addition, the United States should be prepared to exploit fully the commercial/industrial potential of space which has only been superficially tested in Skylab experiments. The future should be characterized by sound programs with clear objectives and by the absence of space spectaculars conducted for their own sake.

We should continue to pursue our space science initiatives. It may be vitally important in the years ahead for us to understand fully the space environment in which the Earth rotates, not only from the standpoint of exterior impacts on our planet but also for the effect of our own activities on that environment. This is the principal goal of our physics, astronomy, and lunar and planetary projects. Testimony before the Senate has repeatedly stressed the unique opportunities for using the planets as laboratories to acquire knowledge which then can be applied to Earth.

Similarly, I think we must take full advantage of the Shuttle's ability to move to and from orbit routinely and rapidly, as well as its new onorbit capabilities. No longer will we have to spend years to develop, launch, and test a new instrument. The engineer and scientist can take test equipment on the Shuttle, conduct the experiment, make adjustments as necessary, and greatly reduce the time which is required to establish an operational system.

I also anticipate great interest in expanding cooperative programs with other nations in the communications, weather, Earth resources, scientific, and Spacelab areas. Although we may encounter occasional difficulties due to varying national interests, the record to date shows that significant contributions to world peace and economic development have been and are continuing to be made through cooperative international space activities. The fundamentals of science and technology are identical to all nations and all peoples. This fact provides a common base for progress.

The programs I have been discussing have required sizeable annual budgets. However, they have also produced sizeable accomplishments, contributed significantly to our national research and technology base, and created a firm foundation for future space activities. These activities will continue because human beings have a role to play in space—to search for new knowledge, and to exploit the benefits of space for the protection and improvement of the human condition. While no one can predict with certainty what this knowledge or these benefits will be, or when they will be derived, human history strongly suggests their likelihood. I accept this view and look forward to the developments of the next several decades.

For these reasons I believe it is important for the Nation to support a space program that builds on the foundation already in place, that challenges and extends our national scientific and technical capabilities and that is responsive to the mandate in the original NASA legislation. In providing this support we must also demand careful and realistic planning from those who are responsible for the day-to-day implementation of our space program. The past several years have been an example of such planning and have demonstrated how a progressive program can contribute to the national interest.

PRESIDENT SIGNS JUVENILE JUSTICE ACT

Mr. BAYH. Mr. President, I take great pride in announcing to my colleagues that yesterday in a White House ceremony in the Rose Garden, President Jimmy Carter signed into law the Juvenile Justice Act of 1977.

This measure is designed to strengthen, implement, and stabilize the 1974 landmark congressional-citizen initiative which established juvenile crime prevention as the Federal priority. Further, it announced to the youth of our Nation that they have an advocate in the Federal Government for their constitutional, legal, and human rights.

The Juvenile Justice Act amends the 1974 Juvenile Justice and Delinquency Prevention Act, which was the product of a 4-year effort, I was privileged to lead, to improve the quality of juvenile justice in the United States and to overhaul the Federal response to juvenile delinquency.

The Congress this year approved the Juvenile Justice Act amendments by an overwhelming bipartisan unanimous support.

Likewise, I am proud that this bipartisan congressional initiative was strongly endorsed in my party's national platform in the following unequivocable manner:

A Democratic Congress in 1974 passed the Juvenile Justice and Delinquency Prevention Act to come to grips with the fact that juveniles commit a majority of the serious crimes in the United States, and to remedy the fact that federal programs thus far have not met the crisis of juvenile delinquency. We pledge funding and implementation of this Act, which has been ignored by the Republican Administration.

The measure I introduced in March is designed to carry on our congressional commitment and to fulfill my party's commitment to the program by providing the continuity and strengthened features so vital to the full implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

Never have we had a more opportune setting to fulfill these commitments.

I was especially heartened and gratified by President Carter's February 22, 1977, message to the Congress on the revisions to the fiscal year 1978 budget. The President noted that there were important goals that the revision did not reflect and then, relative to the changes made to date, Jimmy Carter said:

The 1978 budget is essentially still President Ford's budget, with only such limited revisions as my administration has had time to make. But these revisions do reflect our careful choices among many possible options: they are important first steps toward a Federal Government that is more effective and responsive to our people's needs.

Among those "careful choices" and "important first steps—more responsive to our peoples needs" was this first clear Presidential endorsement of the Juvenile Justice Act.

Mr. President, the Carter administration requested "additional funds for juvenile justice and delinquency prevention programs that have a high potential for reducing crime and delinquency" specifically the requested amount for fiscal year 1978 restored the 1977 level of $75 million. The Congress, in turn, has approved an appropriation of $100 million for fiscal year 1978.

Although I am very pleased by this particular change in White House policy I was not surprised. When candidate Jimmy Carter was asked last October by the American Bar Association whether he favored an increased share of LEAA and other Federal funds for juvenile justice and delinquency prevention he responded in the affirmative and added:

Both the commentators and the statistical evidence now point to the fact that court reform, corrections, and juvenile justice are the critical elements in improving crime control.

For one who has struggled to establish such Federal priorities these words

and the budget revisions reflecting a commitment to them are indeed sweet music.

Similarly, Attorney General Griffin Bell made a strong commitment to such priorities and to the full implementation of the Juvenile Justice and Delinquency Prevention Act during the Senate Judiciary Committee's confirmation hearings. In response to my inquiries as to whether, if confirmed as Attorney General, he would provide juvenile justice and juvenile crime prevention the priority it deserves and that the 1974 law and the 1976 amendment require, Judge Griffin Bell said that he would and then continued by noting:

If we are going to do anything about crime in America, we have to start with the juvenile.

He also added the following observation:

I have never known that our country on a national level had a criminal justice policy. I plan to establish one. If you do have a criminal justice policy, the most important part of it would be juvenile justice—how to prevent juvenile crime—I have a deep interest in that.

The law, as amended, extends the Office of Juvenile Justice and reaffirms the role of its chief executive; authorizes appropriations of $150, $175, and $200 million, respectively, for fiscal years 1978, 1979, and 1980; provides flexibility relative to the act's requirement that noncriminal offenders be deinstitutionalized; emphasizes the need to respond sensibly to the serious problems of school violence and vandalism; repeals unnecessary reporting requirements and combines others; expands the cornerstone of the 1974 act; namely, the integral role of nonprofit agencies and essential citizen involvement and participation; clarifies the authority of the Office to provide careful, nonemotional assessments of issues found to be of national significance and lacking in comprehensive understanding, such as the role of family violence, sexual exploitation and sexual discrimination in delinquency and juvenile justice areas, and it extends the Runaway Youth Act for an additional 3 years.

CITIZEN PARTICIPATION

State planning agencies, have not been adequately responsive to the need for meeting the crisis of juvenile delinquency and the needs of youth to obtain needed services to prevent delinquent conduct. State advisory groups, representative of a broad cross-section of citizens and juvenile justice expertise, were established by the 1974 act to advise the State planning agency and review the State's juvenile justice plan prior to supervisory board approval and submission. The Congress finds that these groups have made a substantial contribution to the State planning agency in many States. In others, however, they have been given limited duties and staff support, and have been largely stifled. It is apparent that additional statutory duties and resources must be built into the act so that these citizens groups can make the contributions envisioned by the 1974 act.

The bill broadens advisory group participation to specifically include the private business sector, youth workers involved with alternative youth programs, and persons with special experience regarding the problem of school violence and vandalism and the problem of learning disabilities, and provides that at least three of the next appointed youth members on the group must have been or must now be under the jurisdiction of the juvenile justice system.

The role of the advisory group is expanded to include a role in State plan development, a role in advising the Governor and legislature on juvenile justice matters upon request, and an opportunity to review and comment on all juvenile-related grant applications submitted to the State planning agency. While final authority to approve or disapprove grant applications must remain in the State planning agency, it is expected that advisory group grant review will be of substantial benefit to the State planning agency supervisory board. Permissive authority is granted to the Governor and the legislature, to involve the State advisory group in monitoring State compliance with the mandate of the act. It is intended that the advisory group will review the progress and accomplishments of juvenile-related projects funded under the State plan.

Finally, in order to assist State advisory groups in carrying out their duties, the new law provides 5 percent of the State's minimum formula grant allocation, will be used to assist the State advisory group to carry out its mandated and assigned functions.

SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAM

The new law expands upon the areas of special emphasis program authority enumerated in section 224 of the act. The law encourages the development of programs designed to provide more effective responses to minor delinquent conduct outside the formal juvenile justice system. Office of Juvenile Justice funded school violence and vandalism programs are strengthened and required to be closely coordinated with the Office of Education. New authority is provided to fund youth advocacy programs, the development of model youth employment programs, and programs to improve the juvenile justice system to conform to standards of due process.

The Congress adopted Senator WALLOP's suggestion to include programs designed to encourage and enable State legislatures to consider and further the purposes of the act. It is intended that the office expand its efforts in this area and build on those supported by the subcommittee, such as the contract to Legis 50—the Center for Legislative Improvement, which has provided such assistance in States including Alabama, Florida, Michigan, and New Mexico. Additionally, section 224(c) 20 percent earmarking of these funds to private nonprofits is increased to 30 percent. Again, these new authorities reflect the bill's emphasis on proactive programing. The Congress strongly emphasizes and reaffirms the intended role of State planning or local agencies regarding special emphasis assistance. Namely, that under 225(b) (5) and (8) they have solely an advisory role and under no circumstances do the views of such agencies have a determinative effect. These sections were intended merely to inform those agencies of special emphasis grants and contracts.

DEINSTITUTIONALIZATION, SEPARATION, AND MONITORING

The Juvenile Justice and Delinquency Prevention Act of 1974 called for all States participating in the formula grant program to deinstitutionalize status offenders within 2 years. The conference committee has very carefully considered the testimony before the subcommittee on the reauthorization of the act. The clear indication is that some additional flexibility must be provided to the States in their efforts to meet the deinstitutionalization requirement. Otherwise, many currently participating States—States that have acted in good faith to meet the 2-year deadline—maybe forced to withdraw, or have their eligibility terminated, from participation under the formula grant program. The children of those States would be the losers because many currently funded programs and projects would be discontinued and new programs and projects could not be initiated. The incentive to continue the deinstitutionalization, separation, and other act mandates and objectives would be severely affected.[1]

Further, Congress did not expect the low level of funding provided under the act for fiscal years 1975, 1976, and 1977. The Congress authorized appropriations of $75 million, $125 million, and $150 million for each of the 3 fiscal years. Faced with strong opposition from the Ford administration, the Congress was still able to pass appropriations for $25 million, $40 million, and $75 million for the 3 fiscal years, representing 40 percent of the authorized level.

It should be emphasized that substantial progress has been made toward the goal of deinstitutionalization since the enactment of the Juvenile Justice Act. Additional States such as California and Virginia have passed legislation requiring the deinstitutionalization of status offenders. Utah has deinstitutionalized and removed status offenders from jurisdiction of the court. Similar bills are pending in a number of State legislatures and 46 out of 56 jurisdictions eligible to participate in the juvenile justice program have made a commitment to compliance with the deinstitutionalization and separation requirements.

The continued participation of these 46 jurisdictions and the participation of the 10 jurisdictions not currently participating is one of the committees' objectives. Reaching this objective would allow the act's resources to be available to all the noncriminal incarcerated children of the United States and the act's deinstitutionalization mandate to be realized in every jurisdiction where they are held in public and private detention and correction facilities.

Therefore, the Congress has amended

[1] It is worth noting the Crime Control Act funds, especially those earmarked by sec. 261, are available to help meet the objective of deinstitutionalization.

section 223(a)(12) to provide 1 additional year, or 3 years in total, for States participating in the formula grant program to achieve compliance with the deinstitutionalization requirement. In addition, the committee has included an amendment to section 223(c) to specifically provide that any State's failure to achieve compliance with the deinstitutionalization requirement within the new 3-year time limitation shall terminate the State's eligibility for formula grant funding unless it is determined that the State is in substantial compliance with the requirement and has made an unequivocal commitment to full compliance within a reasonable time. The committee bill defines substantial compliance as 75 percent deinstitutionalization and a reasonable time as no more than 2 additional years.

The new substantial compliance standard is consistent with current Office of Juvenile Justice policy and reflects the standard agreed upon with the Subcommittee To Investigate Juvenile Delinquency following passage of the 1974 act. This provision, coupled with the extension of the section 223(a)(12) requirement from 2 to 3 years, and the addition of up to 2 additional years for full compliance, meets the need for flexibility while retaining the strong congressional commitment to the deinstitutionalization effort. The committee rejected a suggestion which was offered in the House Education and Labor Committee and later withdrawn and modified, that would have required the placement of all nonoffenders in facilities and thus eliminated a child's return home and other appropriate sensible alternatives.

As noted previously, the Congress has also included several amendments in the law designed to clarify the section 223(a)(12) and (13) deinstitutionalization and separation requirements. The committee has noted that testimony before the Subcommittee To Investigate Juvenile Delinquency on April 27, 1977, indicated that the States' initial submission of monitoring reports to the Office of Juvenile Justice on December 31, 1976, revealed some problems in clarity of data, specifically with regard to the progress achieved, the facilities monitored, and confusion regarding the definition of juvenile detention and correctional facilities.

In response to these concerns, the Congress has included in the law a requirement that all facilities for juveniles be monitored in order to determine whether they are juvenile detention or correctional facilities or other types of facilities where status offenders may be placed. The committee encourages the Office to provide technical assistance to those States that have had difficulty in generating adequate compliance and progress data. Further, the Congress has reviewed the Office's proposed definition of juvenile detention and correctional facilities, submitted to the subcommittee, and finds that the definitions fairly reflect congressional expectations of the criteria to be applied in distinguishing juvenile detention and correctional facilities from other types of facilities where status offenders may be placed.

In implementing section 223(a)(12) and (13), the committee expects the Office to follow a "rule of reason." While section 223(a)(12) appears to be an absolute prohibition, the committee recognizes that there may be rare situations in some States where short-term secure custody of status offenders is justified. For example, detention for a brief period of time prior to formal juvenile court action, for investigation purposes, for identification purposes, to allow return of proper custody to the juvenile's parents or guardian, or detention for a brief period of time under juvenile court authority in order to arrange for appropriate shelter care placement may be necessary. This would be a limited exception which the committee expects should not exceed 24 hours. The exception recognizes a balance between competing interests as highlighted by the report of the advisory committee to the Administrator on Standards for the Administration of Juvenile Justice, submitted pursuant to the Juvenile Justice Act. In its September 30, 1976, report, the advisory committee recognizes that the juvenile intake officer needs some time to gather information necessary to make proper intake and detention decisions and also recognizes the harsh impact that detention may have a juvenile:

> On the other hand, there is the harsh impact that even brief detention may have on a juvenile, especially when he/she is placed in a secure facility, and the corresponding need to assure as quickly as possible that such detention is necessary. (Standard 3.155)

It is expected that the maximum 24-hour period recommended by the advisory committee would be the outer limit and that where a shorter period is appropriate or established by State law, that LEAA would require that the shorter period be used. However, with the development of 24-hour intake encouraged by the committee bill it is expected that such exceptions, if any, would be rare indeed. Such flexibility is particularly appropriate for such sparsely populated States as Alaska or Wyoming where shelter facilities may not be readily available. At the request of the subcommittee to investigate juvenile delinquency definitions relevant to these sections were submitted by the Department of Justice. The Congress notes the significance of the definitions in providing the guidance necessary for the States to more appropriately respond to the 1974 act. Especially noteworthy are the definitions of "shelter facilities" and "juvenile detention or correctional facility." The Congress expects that Office of Juvenile Justice and administration guidelines will address such issues.

This measure will provide the stability so vital to the continuation of this congressional initiative. The 3-year extension, with the adequate funding provided when coupled with the full implementation of the provisions of the 1974 act will help assure that we have begun to address crime's cornerstone in this country—juvenile crime and violence.

Mr. President, I ask unanimous consent that the Judiciary Committee report section entitled "Conclusion" be printed at this point in the RECORD.

There being no objection, the conclusion of the report was ordered to be printed in the RECORD, as follows:

VII. CONCLUSION

The committee believes that S. 1021, as amended, will strengthen and revitalize the program established by the Juvenile Justice and Delinquency Prevention Act of 1974. The committee bill reflects recommendations included in S. 1021 as originally introduced, S. 1218, the administration bill, and the comments of many interested public and private representatives.

The Federal Government has an important responsibility to provide the leadership and coordination to assist and encourage the development of sensible, humane, and more economical responses to juvenile delinquency. Many of the multitude of factors and influences have yet to be seriously addressed. There are no panaceas. A reauthorization of the 1974 Juvenile Justice and Delinquency Prevention Act will ban important step. As Attorney General Bell stressed to the committee earlier this year, the most essential and important ingredient of a national criminal justice policy is the prevention of juvenile crime. There must be a commitment by all our citizens to begin to resolve the legal and social problems and attitudes relevant to children in trouble. Alternatives to unsound policies must be developed and encouraged. Many States, localities and private interests are already beginning to redirect and increase their efforts. The 1974 act has contributed to this progress. The committee believes that S. 1021, as amended, further emphasizes the type of commitment that is requisite. Passage of the bill will refocus this clear product of bipartisan congressional and citizen initiative, and permit what President Carter characterized as the program's "high potential for reducing crime and delinquency" to be realized.

Mr. President, I am especially gratified today that the President has signed this act that we in the Senate and House, including our collective staffs, have labored on so diligently to strengthen and revitalize the goal we established more than 6 years ago. This act represents a culmination of years of hard work and the expertise and dedication of a great many individuals in both the private and public sector. The importance of this legislation cannot be overstated.

While we in government are attempting to achieve a balanced budget, certain crisis problems such as juvenile justice and delinquency prevention demand an immediate mobilization of Federal resources for our States, counties, cities and local private organizations who are best equipped to focus their energies on and to adapt these resources to their own needs. We realize that the crisis of juvenile delinquency must be met, but none of us can hope to prevail if we operate alone, but together, along with the strong support of President Carter, Attorney General Bell and the new Administrator of the Juvenile Justice Office, John Rector, we can move toward attainment of our mutual goals. We have begun.

We in the Federal Government know all too well, to paraphrase Abraham Lincoln, that we cannot escape the responsibility of tomorrow by evading it today. We acknowledge our part in seeking to improve our Nation's juvenile justice system today. Not everything that

is faced can be changed, but nothing can be changed until it is faced.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a chart on the LEAA appropriation history from 1969 through the present, a chart on the LEAA distribution of parts B, C, E and J.J. & D.P. formula funds for fiscal year 1978 and a summary of the Juvenile Justice Act History and the Runaway Youth Act history.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAA APPROPRIATION HISTORY

[In thousands of dollars]

Budget activity	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 actual	Transition quarter actual	1977 actual	1978 actual
1. Direct assistance (formula grants):											
a. Planning formula grants	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000	12,000	60,000	50,000
b. Corrections formula grants			25,000	48,750	56,500	65,500	56,500	47,739	10,500	36,838	29,849
c. Juvenile justice formula grants							10,600	23,300	5,750	47,625	64,000
d. Criminal justice formula grants	24,650	182,740	340,000	413,695	480,250	480,250	480,000	405,412	84,660	313,123	253,717
2. Collateral assistance (discretionary grants and contracts):											
a. Criminal justice program (pt. C discontinued)	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544	14,940	55,256	53,179
b. Correctional programs (pt. E discontinued)			22,500	48,750	56,500	56,500	46,500	47,739	10,500	36,838	35,453
c. Juvenile justice programs:											
Special emphasis							10,750	11,500	2,950	18,875	25,000
Juvenile justice institute							3,150	4,000	1,000	7,500	10,000
Concentration of Federal effort								500		1,000	1,000
Total juvenile justice							13,900	16,000	3,950	27,375	
d. High crime area program											
e. Community anticrime program										15,000	15,000
f. Technical assistance		1,200	4,000	6,000	10,000	12,000	14,000	13,000	2,500	13,000	11,000
g. Educational assistance and special training programs:											
LEEP	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000	40,000	40,000	30,000
Educational development			250	1,000	2,000	2,000	1,500	500		500	500
Internship			500		500	500	500	250		300	300
Sec. 402 training			500	1,000	2,250	2,250	2,250	2,520	600	3,250	3,168
Sec. 407 training					250	250	250	250		250	250
Total educational assistance	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250	40,600	44,300	
h. National institute: Enforcement and criminal justice	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32,400	7,000	27,029	21,000
i. Data systems and statistical assistance		1,000	4,000	9,700	21,200	24,000	26,000	25,622	6,000	21,522	16,000
3. Public safety officers' benefits program										29,600	15,000
4. Management and operations	2,500	4,487	7,454	11,823	15,568	17,428	21,500	23,632	6,560	26,936	26,844
Total	60,000	267,937	528,954	698,372	[1] 841,166	870,526	[2] 887,171	809,638	204,960	754,442	
Transfer to other agencies	3,000	182	46	196	14,431	149	7,829				
Total appropriated	63,000	268,119	529,000	698,919	855,597	870,675	895,000	809,638	204,960	754,442	647,250
Positions (PFT)	225	343	448	546	660	691	[3] 801	822	[4] 822	830	

[1] Includes $14,200,000 transferred to DOJ.
[2] Includes $7,829,000 transferred to DOJ, and $10,000,000 transferred to juvenile justice.
[3] Includes 51 positions appropriated through juvenile justice supplemental.
[4] Includes 20 positions transferred from Bureau of Prisons, 1 from HEW.

Note: Congress required in 1974 and again in 1976 under sec. 261 of the act that LEAA allocate 19.15 percent of its non-JJDPA moneys to the area of juvenile justice for each of the above cited components.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION DISTRIBUTION OF PARTS B, C, E, AND J.J. & D.P. FORMULA FUNDS FOR FISCAL YEAR 1978

[In thousands of dollars]

State	Part B	Part C	Part E	J.J. & D.P.	State	Part B	Part C	Part E	J.J. & D.P.
Alabama	852	4,240	499	1,102	New Jersey	1,470	8,601	1,012	2,077
Alaska	311	428	50	225	New Mexico	440	1,342	158	385
Arizona	618	2,594	305	695	New York	3,258	21,202	2,494	5,008
Arkansas	601	2,475	291	626	North Carolina	1,156	6,382	751	1,609
California	3,778	24,864	2,925	5,953	North Dakota	356	747	88	225
Colorado	673	2,980	351	751	Ohio	2,037	12,591	1,481	3,192
Connecticut	766	3,636	428	867	Oklahoma	702	3,184	375	765
Delaware	346	679	80	225	Oregon	630	2,679	315	639
Florida	1,628	9,708	1,142	2,193	Pennsylvania	2,224	13,911	1,637	3,250
Georgia	1,071	5,784	680	1,530	Rhode Island	405	1,092	129	257
Hawaii	394	1,018	120	265	South Carolina	719	3,303	389	886
Idaho	385	954	112	261	South Dakota	363	799	94	225
Illinois	2,113	13,133	1,545	3,275	Tennessee	944	4,895	576	1,214
Indiana	1,134	6,232	733	1,604	Texas	2,287	14,353	1,689	3,764
Iowa	726	3,356	395	838	Utah	450	1,411	166	423
Kansas	629	2,674	315	633	Vermont	329	554	65	225
Kentucky	814	3,973	467	1,013	Virginia	1,079	5,842	687	1,443
Louisiana	883	4,464	525	1,234	Washington	842	4,174	491	1,017
Maine	426	1,241	146	315	West Virginia	549	2,110	248	514
Maryland	936	4,835	569	1,207	Wisconsin	1,014	5,383	633	1,382
Massachusetts	1,218	6,819	802	1,624	Wyoming	313	441	52	225
Michigan	1,766	10,686	1,257	2,825	District of Columbia	368	835	98	225
Minnesota	903	4,599	541	1,184	American Samoa	255	33	4	56,250
Mississippi	640	2,746	323	776	Guam	267	117	14	56,250
Missouri	1,043	5,591	658	1,351	Puerto Rico	741	3,461	407	1,105
Montana	374	875	103	230	Virgin Islands	264	97	12	56,250
Nebraska	507	1,811	213	451	Trust Territory	270	139	16	56,250
Nevada	348	692	81	225					
New Hampshire	385	952	112	242	Total	50,000	253,717	29,849	64,000,000

SUMMARY OF JUVENILE JUSTICE ACT HISTORY

On February 8, 1972, Senator Bayh introduced S. 3148, the Juvenile Justice and Delinquency Prevention Act of 1972. (White House Office).

Hearings were held by the subcommittee on April 28, May 15, 16 and June 27, 28, 1972 on S. 3148.

On February 8, 1973, Senator Bayh reintroduced the Juvenile Justice and Delinquency Prevention Act of 1973 as S. 821. (White House Office).

Hearings were held by the subcommittee on February 22, March 26, 27 and June 26, 27, 1973 on S. 821.

On March 28, 1973, the House introduced S. 821 as H.R. 6265, which with modifications, became H.R. 15276.

On March 5, 1974, the subcommittee reported S. 821 to Judiciary (HEW Office) and on May 8, 1974, the judiciary reported S. 821 to the Senate (LEAA Office).

On July 1, 1974, H.R. 15276 passed the House by a 329 to 20 vote; on July 25, 1974,

S. 821 passed the Senate by an 88 to 1 vote; subsequently a House-Senate Conference was held on the differences of the two passed bills and on August 19, 1974, the Senate passed the compromise version of S. 821 unanimously; on August 21, 1974 the House passed the compromise version of S. 821 the measure was sent to the President.

Signed into law on September 7, 1974 as Public Law 93–415.

Administered by the office of juvenile justice and delinquency prevention of the Department of Justice.

On September 24, 1975, the President nominated as Assistant Administrator of LEAA to administer the office of juvenile justice and delinquency prevention Mr. Milton Luger of New York. Hearings were held by the subcommittee on October 30 and the Senate confirmed the nomination on November 11, 1975.

Despite stiff Ford administration opposition, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January, 1976, President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and use $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction over fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral by approving a resolution offered by the chairman of the State, Justice, Commerce and Judiciary Appropriation Subcommittee. On July 14 the President signed a bill appropriating $75 million for fiscal year 1977, or half of the authorization. A bill amending the Omnibus Crime Control and Safe Streets Act which mandated the Law Enforcement Assistance Administration to spend 19.15 percent of their total funds in the area of juvenile delinquency prevention, or approximately $130 million for the 1977 fiscal year, was signed by the President on October 15, 1976.

Carter revised budget requests $75 million for Juvenile Justice Act.

On March 17, 1977, Senator Bayh introduced the juvenile justice amendments of 1977, S. 1021.

On April 1, 1977, Senator Bayh introduced, on request, the Carter administration 3-year extension bill as S. 1218.

On April 27, 1977, Senator Culver chaired subcommittee hearings on S. 1021 and S. 1218.

On May 13, 1977, HR 6111, as amended was reported from the House Education and Labor Committee, Report No. 93–313.

On May 14, 1977, S. 1021, as amended was reported from the Senate Judiciary Committee, Report No. 95–165.

On May 18, 1977, H.R. 6111 passed the House by a vote of 389–5; on June 21, 1977 the Senate struck the language of H.R. 6111 and substituted the language of S. 1021, and unanimously passed this version of H.R. 6111, as amended; subsequently a House-Senate Conference was held on the differences of the two passed bills and the Confernce substitute amendment was filed on July 27, 1977.

On June 30, 1977 the House-Senate Appropriations Conference met and agreed to $100 million for the Juvenile Justice Act for fiscal year 1978.

On July 28, 1977, H.R. 6111 Conference Report unanimously passed the Senate, Senate Report 95–368.

On September 23, 1977, H.R. 6111 Conference Report unanimously passed the House.

On October 3, 1977, President Carter signed H.R. 6111 into law.

SUMMARY OF RUNAWAY YOUTH TITLE HISTORY

On November 9, 1971, Senator Bayh introduced S. 2829, the Runaway Youth Act.

Hearings were held by the subcommittee to investigate juvenile delinquency on January 13, 14, 1972, on S. 2829.

On July 31, 1972, S. 2829 passed the Senate unanimously.

On January 31, 1973, Senator Bayh reintroduced the Runaway Youth Act as S. 645.

On June 8, 1973, S. 645 passed the Senate unanimously; was introduced in the House on July 16, 1973, as H.R. 9298 and was incorporated into H.R. 15276 and S. 821 sent to the President on August 21, 1974.

Signed into law on September 7, 1974, as title III of Public Law 93–415, the Juvenile Justice and Delinquency Prevention Act of 1974.

Administered by the Department of Health, Education, and Welfare, Office of Youth Development.

Public Law 93–415 authorizes $10 million for each fiscal year 1975, 1976, and 1977.

Labor-HEW appropriation bill, H.R. 8069, passed the Senate September 26, 1975. Reported out of House-Senate Conference on December 8, 1975, and sent to the President.

Five million dollars appropriated for fiscal year 1975, $7 million appropriated for fiscal year 1976, $1.2 million appropriated for the transmittal period (July 1–October 1).

Labor-HEW appropriations bill was vetoed by the President on December 19, 1975, veto overridden on January 27, 1976, by the House ($8.2 million for July 1, 1976, to September 30, 1977.)

Nine million dollars appropriated by fiscal year 1977.

Ford budget deletes funding for Runaway Youth Act. Carter revised budget request, restores fiscal year 1977 level to fiscal year 1978.

Senator Bayh introduces S. 1021 extending the Runaway Youth Act for 5 years. No administration bill proposed.

On May 14, 1977, S. 1021, as amended was reported from the Senate Judiciary Committee, Report No. 95–165, included a three year extension at $25 million each year for the Runaway Youth Act.

On May 19, 1977, H.R. 6111 passed the House by a vote of 389–5, included a three year extension at $25 million for fiscal year 1978 and such sums for fiscal years 1979 and 1980 and included a provision that permitted the President, effective January 1, 1978 to transfer the program from HEW to the ACTION Agency; on June 21, 1977 the Senate struck the language of H.R. 6111 and substituted the language of S. 1021, and unanimously passed this version of H.R. 6111, as amended; subsequently a House-Senate Conference was held on the differences of the two passed bills and the Conference substitute amendment was filed on July 27, 1977. The substitute amendment to H.R. 6111, would extend the Runaway Youth Act for three years at $25 million per year, included a provision that permits the President, effective April 30, 1978 to transfer the program from HEW to the Office of Juvenile Justice and Delinquency Prevention or to the Action Agency.

Senate Labor-HEW appropriation bill, H.R. 7555, appropriated $16 million for fiscal year 1978, House appropriated $9 million for fiscal year 1978 and the House-Senate appropriation Conference agreed to $12 million for fiscal year 1978.

On July 28, 1977, H.R. 6111 Conference Report unanimously passed the Senate, Senate Report 95–368.

On September 23, 1977, H.R. 6111 Conference Report unanimously passed the House.

On October 3, 1977, President Carter signed H.R. 6111 into law.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years vice Charles J. Pooler.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, October 11, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearings which may be scheduled.

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) made an excellent argument in opposition to the new Panama Canal treaties in testimony before the Senate Foreign Relation Committee this morning.

I ask unanimous consent that Senator THURMOND's testimony and supporting documents be presented to the committee and be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR THURMOND BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. Chairman: I am here this morning to present to the Committee and the American people my reasons for opposing the treaties with Panama.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. sovereignty as basic to continued "practical control" of the Canal, which even the President has expressed himself as being necessary.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter and to alert the government of Panama that the treaties would be scrutinized closely. Yet the treaties have been signed with great fanfare, and the threats from Panama strongly suggest either we ratify or pay the consequences of violence and disruption in the Canal Zone. In fact, Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

IMPORTANCE OF CANAL

I disagree completely with Ambassador Linowitz's statement to this Committee last week that the Canal has become "economically obsolescent." This statement is designed to denigrate the importance of the Canal and thus make the proposed treaties more palatable.

The Canal is one of a very few vital world waterways. It permits rapid two-ocean commerce very beneficial to our Nation. In 1975 about 14,000 ships transited the Canal. Approximately 70 percent of the traffic originated in the United States or was bound for the United States. It is estimated that 45 percent of Alaskan oil will be shipped through the Canal by 1980.

Furthermore, its value from a national security standpoint is attested to by heavy use during the Korean and Vietnam Wars. Approximately 98 percent of our Navy can use this Canal. As an example, in FY 1968, about 70 percent of U.S. Government cargo headed for Vietnam used the Canal. U.S. Government vessels passing through the Canal increased from 285 in 1964 to 1,504 in 1968; 1,376 in 1969; and 1,068 in 1970 during the height of the Vietnam War.

Also, we must not forget our Navy has declined from 900 ships to less than 500. Admiral Thomas Moorer, immediate past Chairman of the Joint Chiefs, states we no longer have a two-ocean Navy. All of our current major war plans are contingent on the interchange of ships between the Atlantic and Pacific Oceans. Ships of the Third and Seventh Fleets in the Pacific may have to bolster the Second Fleet or even the Sixth Fleet. All of our military services—Army, Navy and Air Force—depend on logistical support which transits the Canal regularly.

Four former Chiefs of Naval Operations have attested to the strategic importance of the Canal in a personal letter to the President. These four great naval strategists, Admirals Anderson, Burke, Carney and Moorer, have retired from the active service and speak from great experience. In their letter to the President, they warned:

"Loss of the Panama Canal, which would be a serious setback in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive."

REJECT SLOGANS

Now that we have clearly established the importance of the Canal, I want to reject outright the slogan that "Use of the Canal is more important than ownership." A more sensible slogan would be "Ownership assures control." As a matter of fact, it can be argued that our giving up ownership of the Canal would diminsh our chances for having free access to the Canal, particularly when we consider, for example, Panama's historic instability. Once the U.S. gives up sovereign and effective control of the Canal Zone and Canal, it will be, in effect, an outsider with highly questionable authority to intervene if the neutrality of the Canal is threatened. This Country would be in a very difficult position internationally and domestically if it had to resurrect "gunboat diplomacy" and intervene in Panama after we surrender sovereign rights.

WHY OPPOSED?

In an effort to be brief and avoid repetition of prior testimony, I will attempt to list my reasons for opposing the treaties.

I. Nature of Panamanian Government

I do not believe we should negotiate on such a vital issue with a government leader who deposed an elected President by military force and over a period of 9 years has not provided the people of Panama free elections. In this period, the Torrijos government has pushed the national debt from $167 million to over $1.5 billion. Today, about 39 percent of the Panama budget goes to service this national debt. Furthermore, this government of 1.7 million people has promoted close relations with Cuba and the Soviet Union, two expansionist powers unfriendly to our Country. I seriously question why we should make national heroes out of government officials who have virtually eliminated all political and civil rights of their people. The documented human rights record of the Torrijos government is one of the worst in the world.

One might ask, Once sovereignty is given to Panama, will that government remain friendly to the U.S.? Does the Panamanian government have the political strength or will to resist outside interference? Does it have the economic vitality to maintain and protect one of the world's vital waterways? What will we be paying after the year 2000 to keep the Canal open? If Panama finds it is unable to cope with the complex operation of the Canal, to whom will they turn? If to us, it means great outlays of cash. The only other great power to which it could turn would be the Soviet Union, through its figurehead Castro.

Mr. Chairman, I wish to point out that in the prepared statements of Ambasadors Bunker and Linowitz, Secretary Brown and General Brown, before this Committee, not one single time did any of these witnesses mention the name of General Torrijos. That should tell the Committee something about the nature of the government to which we are being asked to turn over an approximate $8 billion national and world resource.

II. Sovereignty surrendered

I further oppose this treaty because it grants to Panama sovereignty six months after ratification, not in the year 2000, as the public has been led to believe. Once sovereignty is surrendered, control is lost for all practical purposes and control governs use.

III. Property surrendered

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We oblige ourselves to pay the Panama government huge sums in various ways, totaling up to nearly $1.5 billion over the next 22 years. By the year 2000, we will be turning over an investment valued at approximately $9.3 billion.

IV. Military pact rejected

Our negotiators sought but failed to obtain a military pact with Panama for minimal base rights which would have greatly enhanced our ability to assure the Canal's neutrality after the year 2000. Negotiator Bethancourt stated in his address to the Panama Assembly on August 18 the U.S. desire for defense forces after the year 2000 "created a deadlock in the negotiations for some time because Panama opposed signing of a military pact." Instead, we accepted an ambiguous neutrality pact.

V. Foreign troops allowed?

While U.S. negotiators claim the Neutrality Treaty allows only Panama to maintain troops on its own territory after the year 2000, the Treaty is silent on prohibiting foreign troops prior to the year 2000. There is nothing to prevent Panama from introducing Cuban, Soviet or troops of any other nation into those areas of the Canal Zone we surrender six months after the proposed ratification of the treaty in 1978. Changing political events could prompt Panama to take such a step. In my judgment, a prohibition on foreign troops prior to the year 2000 was one of the many errors made by our Canal negotiators.

VI. New canal prohibited

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us. While I feel a sea-level canal is unnecessary, why have we foreclosed this option? In doing so, we place ourselves at the mercy of the government which controls Panama.

VII. Privileged passage

The right to priority passage is also denied us in Article VI of the Neutrality Treaty. Instead of "priority passage" through a canal we built and have maintained for the world's benefit, we are promised only "expeditious passage." Mr. Bethancourt has stated privileged passage sought by our negotiators was specifically rejected. The differences in statements made by the negotiators on the two sides make it unclear what our rights would be in a given situation, although priority passage through the Canal could be vital to our national security in an emergency or war.

VIII. Unfriendly ships assured passage

Presently, as a result of our control of the Canal, we could deny passage to adversary ships as a practical matter in time of an international crisis or war. Under the Treaty we surrender this right as it cannot be exercised once practical control of the Canal is surrendered. This means ships aiding an enemy of the U.S. could transit supplies through the Canal.

IX. Neutrality treaty

One of my most significant concerns is the ambiguity contained in the Neutrality Treaty. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact." (applause)

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated:

". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Mr. Chairman, Article IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

Mr. Chairman, these are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has been been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

While I will leave to others the history of our acquisition of this property, no one can deny its benefits to Panama.

BENEFITS TO PANAMA

Between 1946 and 1973, according to the House Appropriations Committee hearings, Panama was the recipient of $342 million in total U.S. aid, more per capita aid than was granted to any other country in the world. Benefits to Panamanians in 1975 alone amounted to $29 million in direct purchases in Panama by U.S. agencies; $108 million in wages to non-U.S. citizens; and $39 million in expenditures by U.S. employees. We have not exploited Panama; rather, our aid has enabled its people to enjoy one of the highest GNPs per capita among all 19 Latin American nations, and the highest per capita income in Central America. Panama has from 1960 to 1973 a per capita growth rate surpassed only, and barely, by Brazil. Furthermore, U.S. private investments represent 50 percent of the capital investment in Panama.

POSITIVE ALTERNATIVES

Mr. Chairman, I am not opposed to a new arrangement with Panama, but strongly opposed to this treaty. In the past, I have supported the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity for mutual cooperation and an even greater partnership between the people of the United States and the people of Panama.

Under no circumstances, however, can we afford to cede sovereignty over the Canal to Panama. Stability for the Canal can only be maintained by U.S. control. Without sovereignty, we have no control. No provision of the treaties is more detrimental to our national interest than the provision which relinquishes sovereignty and control.

In conclusion, Mr. Chairman, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

ADDENDUM TO STATEMENT BY SENATOR STROM THURMOND BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. Chairman: In order to provide in detail some additional information to the Committee, I am submitting the following documents and ask that they be made a part of the Hearing Record:

1. Letter dated June 8, 1977 from Admirals George Anderson, Arleigh A. Burke, Robert Robert C. Carney, and Thomas Moorer on the importance of the Panama Canal to the defense of the United States.

2. Freedom House 1977 Comparative Survey of Freedom, which details Panama's rating on human rights.

3. Panamanian interpretation of treaty provisions in speeches before the Corregimiento Assembly as reported by the Foreign Broadcast Information Service.

JUNE 8, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this Inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enabled the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as it exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a short-range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923, declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," (Ho. Doc. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

GEORGE ANDERSON.

THE COMPARATIVE SURVEY OF FREEDOM
TABLE OF NATIONS

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Afghanistan	7	6	NF	0
Albania	7	7	NF	0
Algeria	*6	6	NF	0
Andorra	4	4	PF	0
Angola	6	6	NF	0
Argentina	6	5	NF—	+
Australia	1	1	F	0
Austria	1	1	F	0
Bahamas	1	2	F	0
Bahrain	6	4	PF	0
Bangladesh	7	4?	PF+	0
Barbados	1	1	F	0
Belgium	1	1	F	0
Benin [4]	7	7	NF	0
Bhutan	4	4	PF	0
Bolivia	6	*4	PF	0
Botswana	2	3	F	0
Brazil	4	5	PF	0
Brunei	6	5	NF	0
Bulgaria	*7	7	NF	0
Burma	6	6	NF	0
Burundi	7	6	NF	0
Cambodia [4]	7	7	NF	0
Cameroon	*7	*5	NF*	0
Canada	1	1	F	0
Cape Verde Islands	*6	*6	NF	0
Central African Republic	7	7	NF	+
Chad	7	6	NF	0
Chile	7	5	NF	+
China (Communist)	7	7	NF	0
China (Nationalist)	*5	5	PF*	0
Colombia	2	3	F	0
Comoro Islands	5	*3	PF	0
Congo Republic	5	6	PF	0
Costa Rica	1	1	F	0
Cuba	7	*6	NF	+
Cyprus	3+	4	PF	0
Czechoslovakia	7	6	NF	0
Denmark	1	1	F	0
Dominican Republic	4	*3	PF	0
Ecuador	*6	4	PF	0
Egypt	5+	4	PF	+
El Salvador	3—	3	PF—	0
Equatorial Guinea	6	7	NF	0
Ethiopia	7	6	NF	0
Fiji	2	2	F	0
Finland	2	2	F	0
France	1	*1	F	0
Gabon	6	6	NF	0
Gambia	2	2	F	0
Germany (East)	7	7	NF	+
Germany (West)	1	1	F	0
Ghana	7	5	NF	0
Greece	2	2	F	0
Grenada	2	4	PF	0
Guatemala	4	3	PF	0
Guinea	7	7	NF	0
Guinea-Bissau	6	6	NF	0
Guyana	3+	3	PF	0
Haiti	6	6	NF	0
Honduras	6	3	PF	0
Hungary	6	6	NF	0
Iceland	1	1	F	0
India	3—	5	PF	0
Indonesia	5	5	PF	0
Iran	6	6	NF	0
Iraq	7	7	NF	0
Ireland	1	*1	F	0
Israel	2	3	F	0
Italy	*2	*1	F	0
Ivory Coast	6	5	NF	0
Jamaica	1	3—	F	0
Japan	2	1	F	0
Jordan	6	6	NF	0
Kenya	5	5	PF	0
Korea (North)	7	7	NF	0
Korea (South)	5	6—	PF?	0
Kuwait	6—	5—	NF—	0
Laos	7—	7—	NF—	0
Lebanon	4	4	PF	0
Lesotho	5	4	PF	0
Liberia	6	4	PF	0
Libya	7	6	NF	0
Liechtenstein	4	2	PF	0
Luxembourg	2	1	F	0
Malagasy Republic	6—	5	NF—	0
Malawi	7	6	NF	0
Malaysia	3	4	PF	0

Footnotes at end of table.

THE COMPARATIVE SURVEY OF FREEDOM
TABLE OF NATIONS—Continued

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Maldives	4	4	PF	0
Mali	7	7	NF	0
Malta	1	2−	F	0
Mauritania	6	6	NF	0
Mauritius	3	2	F	0
Mexico	4	4−	PF	0
Monaco	4	2	PF	0
Mongolia	7	7	NF	0
Morocco	5	5	PF	+
Mozambique	7−	7−	NF	0
Nauru	2	2	F	0
Nepal	6	5	NF	0
Netherlands	1	1	F	0
New Zealand	1	1	F	0
Nicaragua	5	*5	PF	0
Niger	7	6	NF	0
Nigeria	6	*4	PF	+
Norway	1	1	F	0
Oman	*6	6	NF	0
Pakistan	*4	5	PF	0
Panama	7	6	NF	0
Papua-New Guinea	*2	2	F*	0
Paraguay	5	6−	NF−	0
Peru	6	4	PF	+
Philippines	5	5	PF	0
Poland	6	6	NF	+
Portugal	2+	2+	F+	0
Qatar	*5	5	PF*	0
Rhodesia	6	5	NF	0
Rumania	7	6	NF	+
Rwanda	7	5	NF	0
San Marino	2	2	F	0
Sao Tome and Principe	5	5	PF?	0
Saudi Arabia	6	6	NF	0
Senegal	6	4	PF	+
Seychelles	1+	2	F	0
Sierra Leone	6	5	PF	0
Singapore	5	5	PF	0
Somalia	7	*7	NF	0
South Africa	4	5	PF	+
Spain	5	3+	PF	+
Sri Lanka	2	*3	F*	0
Sudan	6	6	NF	0
Surinam	2	2	F	0
Swaziland	6	4	PF	0
Sweden	1+	1	F	0
Switzerland	1	1	F	0
Syria	6	*6	NF	0
Tanzania	6	6	NF	0
Thailand	6−	6−	NF−	+
Togo	7	6	NF	0
Tonga	5	3	PF	0
Transkei	6	5	NF?	0
Trinidad and Tobago	2	2	F	+
Tunisia	6	5	NF	0
Turkey	2	3	F	0
Uganda	7	7	NF	0
U.S.S.R.	7	6	NF	0
United Arab Emirates	*5	5	PF*	0
United Kingdom	1	1	F	0
United States	1	1	F	0
Upper Volta	5+	5−	PF	+
Uruguay	6−	*6	NF−	+
Venezuela	*1	2	F	0
Vietnam	7	7	NF	0
Western Samoa	4	2	PF	+
Yemen (North)	6	5	NF	0
Yemen (South)	7	7	NF	0
Yugoslavia	6	6	NF	0
Zaire	7	6+	NF	0
Zambia	5	5	PF	0

[1] The scales use the numbers 1-7, with 1 comparatively offering the highest level of political or civil rights, and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with an asterisk (*) has been changed since the last survey due to reevaluation by the author. This does not imply any change in the country. For further information on the scale and survey see Freedom at Issue. January-February 1973. p. 2ff.

[2] A free state is designated by F, a partly free state by PF, and a not free state by NF.

[3] A positive outlook for freedom is indicated by a plus sign, a negative outlook by a minus, and relative stability of ratings by a zero. The outlook for freedom is based on the problems the country is facing, the way the government and people are reacting to these problems, and the longer run political traditions of the society. A judgment of outlook may also reflect an imminent change such as the expected adoption of a meaningful new constitution.

[4] The name of Dahomey has been changed to Benin. Cambodia is now officially Kampachea.

LATIN AMERICA

TORRIJOS, TREATY NEGOTIATORS ADDRESS CORREGIMIENTO ASSEMBLY

(By Foreign Minister Gonzalez Revilla)

Your Excellency President of the Republic, Demotrio Basilio Lakas; Your Excellency chief of government, Gen. Omar Torrijos Herrera; Mr. Vice President of the Republic, Gerardo Gonzalez; honorable chairman of the national representatives assembly, Mr. Fernando A. Gonzalez; deputy commander in chief of the National Guard and members of the chiefs of staff; minister and members of the autonomous entities; legislation commissioners; honorable president of the Supreme Court of Justice, Dr. Juan Materno Vasquez; honorable representatives:

The agreements reached in the negotiations for a new Panama Canal treaty constitute the culmination of a very important phase in the struggle of the Panamanian people for its liberation from all forms of foreign domination. Created as an independent state in 1903 and recognized by all nations of the world, the Panamanian nation immediately announced that the limitations of its sovereign attributes, imposed by a treaty that placed it in a status of dependence, would have to be eliminated. Only thus would it be possible for its position to be, in fact, equally sovereign among the other nations of the world.

From its birth, our nation has struggled relentlessly and continuously to become the master of its own fate. With the contribution, throughout the years, of great Panamanians, whose names must not be mentioned hastily to avoid unfair omissions, we are today in the final stages of a historic battle. Such effort has evidenced that we possess the essential attributes of a true nation—the deep sentiments of freedom and political maturity. The name Panama today is uttered with respect by foreigners and with pride by Panamanians in all corners of the earth.

The proud and constant struggle gave a characteristic nature to our liberation efforts. We can proudly and firmly tell our parents and grandparents that we understood their message and that we did the best we could under the circumstances, that we fought tirelessly and based our debate on historic arguments and legal consistency, honoring those who deserved to be honored without questioning their efforts, united in a single team made up of men who were always inspired by their love for their fatherland.

We may also tell them with the same pride that we shall turn over to our children a nation which has recovered its territorial integrity, which has rid itself of the colonial enclave, and which is ready to take full advantage of its greatest natural resource.

Our chief of government, Gen. Omar Torrijos, promised the coming generations of Panamanians that this liberating process would firmly establish for them a territory covered from border to border by our national sovereignty. This sovereignty includes the canal and its adjacent areas which had been cut off from the rest of our territory for 74 years.

The objective of this struggle is already in sight. The watchword of our campaign has been total sovereignty. In order, however, to consolidate this sovereignty, it is necessary to rely on the expressed willingness of the peoples of both sides through the respective ratification procedure to be carried out in Panama and the United States.

In the case of Panama, it will be done through a national plebiscite as provided by the constitution approved by this assembly. Should we fail to achieve this ratification, we shall be committed to continue our struggle under unpredictable conditions. We are confident there will be sufficient common sense on both sides to realize that an honorable solution has been found which issues a peaceful death certificate to an anachronistic situation that will cease at a fixed date.

To continue our information policy on behalf of the Panamanian people, where all sectors have equal value and rights, we offer an exposition of the main points of the agreements reached by the governments of Panama and the United States and which, in our opinion, constitute an effective program of decolonization. Thank you.

FIRST ESCOBAR BETHANCOURT SPEECH

Your Excellency, president of the republic; chief of government; president of the Assembly of Corregimiento Representatives; ministers; members of the National Guard General Staff; and representatives:

We consider it to be most historic that a detailed report on the negotiations is being submitted to this assembly. It is deeply significant for what you represent. This revolutionary government considers that the republic's new composition, its new political structure, is in actuality linked to the Panamanian people through you, because you come from all sectors of the country. It is precisely you who will have to explain in each of your communities the problem of the negotiations.

When the revolutionary government assumed power in 1968, a change took place in its international policy, a change aimed at obtaining for our country those things which needed improvement regarding its sovereignty and jurisdiction. Led by General Torrijos, for the first time in our history a Panamian government, far from evading, opposing or attacking the Panamian people in response to their claims of sovereignty and jurisdiction, has done precisely the opposite and has taken hold of the banners which the Panamanian people have been holding high since 1903. The struggle for the full independence of our country and for the recovery of its natural resources has become not only the slogan but also the foundation of the revolutionary government's policy. When this government is assessed by history, when the revolutionary government and General Torrijos are analyzed, the analysis will indicate that this government was basically revolutionary, because it made national liberation the slogan and the motive power of all its administrative, governmental and political activities.

A campaign to force the United States to sit at the negotiating table and to arrive at conclusions favorable to and positive for our republic began from this position.

But this is another of the great differences between this revolutionary government and our past. General Torrijos understood that a struggle for national liberation carried out at only a bilateral level was a struggle without a future, for the simple reason that it was the struggle of a very small country against the major power in the world. Then he decided, using one of his typical phrases, that the problem of Panama, the canal problem, would not be a real problem until it became a problem of the American continent and of the world. An independent international policy was drafted on this basis.

Now, when we are being criticized by certain national sectors or groups, we recall the criticism of those same groups when Panama began its independent international policy. When the general said that each country had the right to its own friends and enemies and that our country's international policy was not going to continue according to the dictates from Washington as was customary, we received strong criticism from domestic sources. During the crisis of the Panamanian ships in Cuba, when the general decided to hold direct contact with Fidel Castro's regime, the persons who bewailed his policy on that occasion are doing the same now regarding the canal. However, now they are not protesting contacts with Cuba because the United States is making such contacts. But when Torrijos did so, they said it was crazy, that it did not make sense, that it was making Panama communist, that the gringos would not tolerate it. We went through all that criticism in this country from those sectors which are now criticizing the treaty draft.

General Torrijos remained firm and imperturbable in defense of his policy and in the face of criticism. In a few years history proved him right and tossed into the wastebasket the position of those opposed to his

independent policy. This policy continued with the meeting of the UN Security Council in this same building. We were strongly criticized on that occasion by local sectors and received threats from the United States and bribe offers from U.S. Government officials. General Torrijos stood firm on that occasion. U.S. colonialist policy was denounced in this same building and all the countries of the world supported us. The United States was forced to veto the resolution.

We were told we had done something crazy, but it is these things which have given dignity and strength to our country's presence in the eyes of the world.

General Torrijos began a tour to all Latin American countries, and there was more criticism: The country's money is being spent on trips, what is he going to do in those countries? What can those countries do for us? He paid no attention to criticism. He continued meeting with the presidents of all Latin America. This was also a step, a landmark, in strengthening our dignity and our international presence.

When President Lakas went to the United Nations, Mexico and Greece, we were also criticized. Those sectors said, what is the government after? However, the visit of our president to those countries informed the world about our cause. When General Torrijos left again for Europe, for Sri Lanka, when our country joined the Organization of Nonalined Countries, as usual the same sectors continued to criticize: What does nonalined mean? What is the importance of Sri Lanka? The general only thinks about traveling. We who have traveled now and in the past can give the following answer: When we were students and traveled, we could not explain when we said we were Panamanians, what Panama was, because no one understood us. In some Latin American countries near ours, people were surprised that we spoke Spanish, because they thought we spoke only English. Now we can tell them that the Panamanian who leaves the country for any part of the world—the American continents, Europe, Asia, Africa, China—does not have to explain any further, once he says he is a Panamanian because everyone treats him with respect and dignity, because he is from a country which during all these years has been struggling against imperialism and for its national liberation. This is what Panamanians owe to this revolution and this man, this general. (applause)

He gave dignity even to those Panamanians who criticize us. Those reactionary Panamanians are respected abroad, not because they are reactionaries, but because they are Panamanians. Those who call themselves revolutionaries are respected abroad, not because they are true revolutionaries, but because they are Panamanians.

Everybody knows where Panama is, what language is spoken here and is familiar with Panama's struggle. This is the reason for our pride in 8 years of revolution. We have rescued our country from the world's indifference and ignominy and acquired regional and international dignity. (applause) The negotiations had a difficult beginning. As to those who say that we have not obtained enough, we would like to have seen them sit down 4 or 5 years ago at the table in the Pentagon or the U.S. State Department and ask for Ancon Hill. We were almost beaten for asking for that little hill. The negotiations were not initiated by this revolution; they began with those who died in 1964. These negotiations were generated by their corpses and blood. It began slowly, painfully and with ridicule directed toward our country be the OAS, the U.S. State Department, the Pentagon and the President of the United States. Waging a hard struggle, Panamanian men who participated in negotiations before we did brought their maximum efforts to some projects which came to an end in 1967. It was the most that the period, our country's situation and the international situation permitted. The revolution emerged, projects were studied, but despite some positive aspects, we still did not penetrate to the root of the problem—the liquidation of the Canal Zone and of the perpetuity idea. For that reason these talks were rejected and other negotiations were begun, also slow and painful.

You will ask why negotiations? The general himself has said that this is not the only way. There are other paths—armed struggle, terrorism and sabotage. We all know this. But we also know the social price we have to pay—the immolation of the people, of youth. We know what it means in destruction, pain and death. A governor who considers himself responsible avoids those paths as much as he can. A responsible leader does not send his people to sacrifice themselves, does not see his people abused, tortured and massacred. Instead, he seeks all possible alternatives to avoid such a situation, not because of fear—because there has been no other alternative we have decided on that course—but because of a sense of responsibility. When you are governing a country, you seek the paths for its political, economic and cultural development. If development can be achieved through an intelligent stance and tactics based on patience, an intelligent and prudent leader prefers this road, despite his impatience and knowledge that other roads may be faster. One of those men is General Torrijos.

We have been with him all these years and witnessed his impatience. He has a military training different from ours. Therefore, he should be more inclined to use arms to try to solve problems, but constantly he urged us: Let us have negotiations by all means; let us develop our capacity for tolerance, because I do not want to have on my conscience the death of our youth. This he reiterated in his declaration: We have concluded this treaty in order not to sacrifice 50,000 youths.

Nevertheless, there are people who are criticizing the negotiations. We can say that there is more opposition in the United States than here. We do not even know whether the U.S. Congress will approve these treaties or not. If they do not this country will take another course. This country will take a course of violence. And when this country takes that route, all those individuals who are in their offices writing on whether neutrality is good are going to have to take off their ties and come out. We are going to make sure that they do not remain in hiding. (Applause.)

Today we are going to carry out the following program: Royo will deliver a report and an analysis to this assembly on certain aspects of the treaty, specifically on the problem of duration, jurisdiction, operation of the canal and employment policy. Later on, Minister Ahumada is going to explain the armed forces statute which has been negotiated between Panama and the United States as part of the treaty and the problem of the defense of the canal. Nicolas Ardito Barletta, planning and economic policy minister, will analyze the economic aspects of the treaty. Edwin Fabrega will give you a detailed explanation of the lands and waters problem. Later, we will again explain the neutrality issue and the option for a new sea-level canal. Finally, General Torrijos will speak, and in the afternoon we will be back to answer all your questions.

SPEECH BY PLANNING MINISTER BARLETTA

Gentlemen representatives, colleagues, ladies and gentlemen: It is my duty to inform you about the economic aspects of these negotiations, aspects which are fully as important as the others because at this stage we are all convinced of the necessity that a strong national economy must be the basis for obtaining and fully implementing our freedom of action. They are important also because the real valorization of our geographical position as a natural resource was at stake as well as Panama's obtaining of revenue equal to the value of that geographical position. This means, as a result, the real possibility of acclerating Panama's general development and providing an answer to the important needs of our people in this process. In other words, it would be one thing to have dignity and sovereignty with hunger and quite another to have and to consolidate the dignity and the sovereignty with the integral development of our people. And this has been our aim through the economic aspect of these negotiations in attempting to consolidate the value of our geographical position and the resources and revenue which respond to it so as to use it in our development.

The agreements reached in this aspect are as follows: An average income of $80 million per year, I repeat, average, for the next 23 years; that is, a total of $1.8 billion in the 23 years. The majority of this income is subject to a clause of inflationary correction so that the annuity consistently maintains its purchasing value, based on the year 1977. The income for the first year is estimated to be $55 million. By the end of the treaty, the amount will reach approximately $100 million in real values of 1977, that is, corrected against any inflation that may occur during that period. The mean of this gradually increasing sum gives us the average amount of $80 million. This income is itemized as follows: $0.30 for each ton of cargo that transits the canal. According to traffic projections through the canal, this means an average income of $55 million per year which in the first year will amount to about $42 million, to reach $70 million by the end of the century.

The second item of this round sum is $20 million per year, of which $10 million is guaranteed each year, the rest depending upon the level of income of the Panama Canal Company in that year. If in 1 year the second half of the $20 million cannot be covered, the deficit caused would be covered in the subsequent years to maintain the $20 million per year payment. And a third item of approximately $5 million per year of income will come from several businesses and operations being transferred to the national government, such as ports, railroads, sale of fuel, repair of ships and so forth. Therefore the total sum of $80 million is composed of these three items that I just discussed.

Another aspect gleaned from the canal operation is the transference to Panama—as Edwin Fabrega will explain shortly—of buildings and infrastructure for a current value of $82 million. Aside from this aspect, which is what Panama would derive from the operation of the canal and from the transfer of physical assets which currently exist in the Canal Zone, there is a parallel and corollary package of economic cooperation. This package reaches an amount of $345 million, above all, within the next 5 years, and is itemized as follows: loans from the Export-Import Bank up to the amount of $200 million in the next 5 years; loans for the construction of housing guaranteed by AID up to $75 million in the next 5 years; loans guaranteed by a U.S. agency called OPIT for $20 million for Cofina, our development bank, and other loans and equipment, principally military equipment, for the amount of $50 million in the next 10 years.

In short, all of these elements of economic benefits which I have mentioned in structures, payments and loans for development will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama would receive under the current treaty during that same period, which would be the

ridiculous amount of $52 million. This, then, is the difference between what this treaty means as far as economic benefits and what Panama would receive under the current treaty.

Aside from the foregoing, it must be emphasized that all the rest of the existing structures in the Canal Zone, that is, the canal itself and the rest of the civilian and military installations, will be returned to Panama, free of charge, on 31 December 1999. And these structures have an approximate value of $3 billion currently. Aside from that, we must also point out that Panama will receive from the company that operates the canal the amount of $10 million per year, also with inflationary correction, to cover the cost of the public services which Panama will administer in the exercise of its jurisdiction in the zone area, for these services which are generated by reason of the existence and operation of the Panama Canal. Therefore, lending these services will cost nothing to the national treasury.

In brief, what is the significance of these figures? We can say that in the next few years, the next 3 or 4 years, the amount of the annuity alone, without taking into consideration the economic cooperation, is 19 percent of the national government's budget, that is, it is a considerable increase, one-fifth. It is 25 percent of the operational expenses of the current budget and is 15 percent of the program of investments of the public sector. As the national government's intention for the time being is to devote the majority of these resources to solving the problems of our nation, the problems of our people through its investment program, we have to take into consideration that this amount—the annuity only, which in the first few years will be approximately $65 million per year—means at least 15 percent more for the program of investments being carried out by the country. This amount can become a figure of more impact through financing which can be negotiated on the basis of this income. We can also say—as another manner of illustrating what these figures mean, because they are so large that one often does not see them in real terms—that this means considerably speeding up the program of investments which we are developing. All of us here are aware that during the past year we have had to reduce investment in order to face the serious economic crisis which the country and the world have been experiencing. We will now once again be able to accelerate the program of housing construction for the people at reasonable prices, generating employment for all this accumulation of public investments.

It will be possible to take advantage of the important opportunities for national development which we have, opening up all our resources throughout the national territory. And we will therefore enter, through this aspect together with all the others already mentioned, a stage of enormous creativity and national realization in the next few years through the results that have been attained.

Having responded with dignity during the last 2 years, withstanding the sacrifice that we have had to accept for the recession, we now find ourselves facing the possibility of entering a path of great economic activity, of growth in production and of distribution of the benefits of that growth to all the people throughout the national territory. In this respect I honestly and firmly believe—and I do not believe I am using superlatives—that Panama, with the united revolutionary effort of growth and distribution, with the participation of all our people and with this complement which we have obtained, may become an example among Third World countries as to how development within our historical and geographic reality with justice and with the participation of the entire people can be achieved.

LABOR MINISTER AHUMADA

President Lakas, General Torrijos, Commander Carcia, assembly president, representatives, government officials, gentlemen:

The agreements in principle reached between Panama and the United States, especially during the efforts made last week and which are continuing this week in the drafting stage, contain what we consider to be a clear and categorical program of the country's decolonization from a military standpoint. They contain the program which marks the beginning of the end of the country's military occupation by foreign forces. This is important because up to now, contrary to the will of the Panamanian people and government, our country has been virtually occupied by an overwhelming number of foreign forces in comparison to our nation's military forces. The agreement in principle thus means that from the moment the canal treaty goes into effect there will be substantial reductions in U.S. military forces in our country until 2400 on 31 December 1999.

In this respect there are various problems and theories which have been debated. Those who will oppose any treaty regardless of whether it is a good one, such as this one, believe that the agreement in principle legalizes U.S. military forces in Panama. Consequently, to them, any treaty which directly or indirectly has any reference recognizing in any way the existence of any military base in Panama is a bad treaty. They argue that the joint defense of the Panama Canal agreed in principle is a step backwards and not a step forward in our country's final goal for its liberation. This theory basically considers that in matters of international policy, in regaining its international personality, and on sovereignty, jurisdiction and liberation, Panama must follow the line historically taken by an ostrich—in other words, it should hide its head underground so as not to see what is going on in the rest of the world. U.S. military installations in our country, objectively and independently of our will, exist and operate against our will.

In the face of this reality, there were only two alternatives: Either you conduct negotiations to have these military installations slowly disappear by 31 December 1999, the date when all these military installations will be finally liquidated, or simply, according to international law and the views of great authors and essayists, be satisfied with saying that those installations are illegal and for that reason they will automatically and by the very will of the United States, disappear. These latter views are mirages of a historic nature which the Panamanian people cannot accept because they are deceiving attitudes which prolong the problem instead of solving it. [applause]

For this reason Panama and the United States have reached an agreement of a military nature, which in first place accepts the role of the United States in the protection and defense of the canal. Panama's participation will increase greatly from the date the treaty goes into effect, while U.S. participation will decrease until the date the treaty ends.

But this responsibility for protecting and defending the canal—which is shared with Panama in a combined military board which must submit consultations and coordinate actions for Panama's increasing participation according to equal [paritaria] representation between Panama and the United States—is properly established in the agreements which have been approved.

What does this mean? It means that now, at this moment, the U.S. military force is operating freely, according to its own creed and beliefs, according to its own criteria, whatever they may be, but, according to the agreement or principles, that military presence is solely and exclusively for the protection and defense of the canal and not to attack any country or to interfere in the problems of other countries. [applause]

This military force must be harnessed by some sort of legal or political restraint, which will define its extent of legal activity in Panama. Therefore, the broad range of action without limitations will be, according to the agreement in principle, subject to rules and very definite laws and regulations that the two countries have agreed upon. Additionally, these are not final—not in their wording or application—because they may be revised every 2 years.

This agreement is known as the statute on armed forces in Panama [estatuto de fuerzas armadas en Panama]. It establishes that at the defense sites that will remain, in the military complexes that will remain—and Fabrega is going to explain how and which ones are involved—out of the 14 bases we now have, four will remain and they will gradually disappear by the year 1979. [applause]

These defense sites, which will not be islands out off from the national scene and from the country's juridical and political systems, will be separate in as much as the treaty provisions provide that no soldier of any rank can directly or indirectly interfere politically or in any other manner in the affairs of this country. To us this is an extraordinary step forward for the consolidation of our freedom as a country that will now be truly sovereign and independent. [applause]

Therefore, these defense sites will also be subject to Panamanian jurisdiction. There will be no separate juridical arrangement there; we are not going to make four small zones out of the Canal Zone. Panamanian law will apply there also, and if a Panamanian who works there or goes there breaks the law in any way, he will be judged by Panamanian authorities and not by a U.S. military court.

Nevertheless, since this is an objective and serious report, information that is commensurate with this act must be provided, and some things must be said, because not everything in the treaty is beautiful. The treaty also has things which are not liked by neither you, nor us the government, but, since it is not a capitulation by Panama to the United States, but a negotiation, the treaty obviously will have some things we would prefer were not in it. But its essence, that which gives it its essential character, leads us to feel that it is an instrument of liberation.

For example, if a U.S. soldier commits a misdemeanor within a defense site, he will be tried by the authorities of the military forces themselves. This on the surface appears to be a concession, but it seems to be military practice each time the forces of a country must for some reason move outside their borders. We know, for example, when the Panamanian National Guard had to fulfill such an important peace effort as that in the Middle East, it was obvious that if some National Guardsman committed a criminal act, Panama could not be so naive as to allow this guardsman to be subjected to the rigours of the trial given him, for example, in some of the Arab countries or Israel. Consequently, Panama retained the power to try that guardsman. This is more or less—keeping in mind the differences of the examples—the present case. If that U.S. soldier commits an offense outside the military installation, then he will be tried by Panamanian authorities except if he commits an offense against another soldier, so long as it is a misdemeanor, an offense for which he will be tried by military authorities. But if it is one of the graver crimes which our

laws provide for—homicide, for example, or robbery, or rape—and for which there is no bail according to our law, then the competency to try falls within the jurisdiction of the Republic of Panama, even though it is a U.S. soldier. If a U.S. soldier commits an offense against a Panamanian within a military base, then he will also be tried by Panamanian authorities even though he is a U.S. soldier.

And if the Panamanian is the one who commits the offense against the soldier, that Panamanian will also be tried by Panamanian authorities, even though he committed the offense against a U.S. soldier. Consequently, this means that the defense sites which may remain at the outset of the treaty—which, we must learn, are not defense sites in perpetuity because the only perpetuity which may finally remain here is the revolutionary process and its capacity to solve the people's problems [applause] [Ahumada does not finish the sentence.]

On the other hand—Mr. President, will you allow me? I will soon finish. Here's another problem. Up to now the number of U.S. soldiers in Panama has been unlimited. In military terms, this is known as the level of forces [nivel de fuerza]. Others call it force strength [pie de fuerza]. So, then, it has been agreed, to avoid the impression—which is real and not imaginary—of an occupied country, an impression resulting from the unlimited presence of U.S. troops around us, that this force level or amount of soldiers will never, never—unless there is a worldwide conflict or an extremely serious, uncontrollable situation, in which case we are not even going to have the resources to be aware of it—the number of U.S. soldiers in Panama can never be greater than the number of troops in the Panama National Guard. Therefore, our capacity for action will not be limited by an overwhelming foreign presence. [applause.]

Royo mentioned the flags question. In effect, even though it is a case of military sites managed by the United States, the flag flown there will be the Panamanian flag. They can put theirs inside, according to agreements they can do this. This point caused a tremendous bemoaning, but is logical. After all, they are North Americans and it is quite logical for them to struggle to prevent their flag from disappearing completely. But it must go inside. And even when it flies inside, it must be beside the Panamanian flag, and even when it is beside the Panamanian flag, the Panamanian flag must occupy the position of honor.

For those of us who have had an opportunity to discus these things with the colossus, the work that has been done is cause for extraordinary pride. A great Colombian thinker has said: Extreme modesty is the pride of the hypocritical. Without reaching the execrable levels of pedantry, we believe that General Torrijos and President Lakas' leadership has been able to produce a good agreement which will place us in a situation to say definitely that we have already begun the stage of military withdrawal from the country. [applause]

I will make this clear: The relationship between Panama and the United States from now until 1999 will be a bilateral one. The two countries will participate in the protection and defense of the canal. It will be this way until 1999 when only Panama will be responsible for the defense of the canal.

From now until 1999 there will be a bilateral relationship. Both countries will participate in the protection and defense of the canal until 1999, when Panama alone will defend the canal and when only Panamanian troops—from 31 December 1999 onward—will be allowed anywhere in the Republic of Panama. Only Panamanian troops. And this joint defense, this bilateral participation, will naturally demonstrate that on all fronts Panama is capable of operating this canal, even more efficiently than the United States can, and that this canal will be defended even more efficiently than they can defend it, because in the final analysis the defense of the canal consists of two fundamental factors—one, the capability of the specialized force, and two, the love and faith of the Panamanian people who know that this is their canal and that consequently every Panamanian has to become a defender of this international waterway, which is a part of the country's natural resources. [applause]

This is why, in considering a treaty of this nature—and I am not going to talk about the neutrality aspect, which will be discussed by the head of the negotiations team, Dr. Escobar Bethancourt—I will only say that the military ties will end on 31 December 1999.

At this moment I recall a statement I recently read in an international report published in Panama, a statement which was very sad and painful to me. Two Panamanians by birth—according to the Panamanian constitution a person cannot lose his nationality—made a statement that they are not interested in the canal, that they are concerned only about the Torrijos dictatorship and that if the treaty is signed, it would be between the United States and Torrijos, but not between the United States and the Panamanian people. With a problem as large as this one, so large that people set aside their political attitudes, it is not a matter of what you or I think or what political leanings, crusade or ideology one advocates but of whether or not one loves one's country. At such a time, when a problem arises that is above domestic disputes, when Panamanian nationality and the state and the elimination of a state within a state are at stake, these Panamanians made this statement. It was a sad and depressing comment that could cause pessimism among those who are not politically aware.

The truth is that when I gained political awareness at an early age, I began to understand that in the political dictionary of all countries, including ours, there is one clear and precise word to describe this type of action and position. That word is treason. This is so because, in any effort to inflict temporary wounds of a political nature, such people do not hesitate to grab a poisoned knife and thrust it into the loving heart of the fatherland! Thank you.

EDUCATION MINISTER ROYO

Mr. President, Mr. General, Mr. President of the Assembly, Mr. Vice President, second commander in chief, fellow government officials, members of the staff, honorable representatives:

The subject of the duration of the treaty is related to the subject of abrogation. The 1977 treaty points out that this treaty supersedes all the other agreements that Panama has signed with the United States.

This means that the 1903 Hay-Bunau-Varilla Treaty, the 1936 and the 1955 treaties and all the annexes, exchanges of notes and any other documents in conflict with the present treaty are abrogated. This treaty will have an approximate duration of 23 years. It will expire on 31 December 1999 at 1200 o'clock [as heard].

This treaty clearly establishes the principle of nonintervention. Neither U.S. civilians nor U.S. military forces will have the right to intervene in the domestic affairs of Panama or to participate in Panamanian political affairs.

Regarding the operation of the canal, there will no longer be a governorship in the Canal Zone. There will no longer be a governor of what? [applause] There will no longer be a Panama Canal Company in the form it has been operating up to now. There will be other organizations which will be explained immediately. The United States has primary responsibility for the administration of the canal until 31 December 1999. Panama will have a continuously increasing participation in the administration of the canal while U.S. participation will decrease, as will be explained later together with the employment policy aspect.

However, they will have primary responsibility [until 31 December 1999] in line with the Tack-Kissinger agreement.

This does not mean—and we want to use this opportunity to make this clear—that foreigners working in the canal will be persecuted or dismissed. There will be no Belgian Congo here. There will not be an Algerian case here to expel the French. Those persons who have been working in the Canal Zone for years will be able to remain at their jobs. However, they have an obligation. In the first 5 years after the treaty goes into effect, they are under the obligation of reducing the foreign labor force by 20 percent.

Lies have been reported, lies to the effect that all those who have been working in the present Canal Zone will be dismissed. We can tell them—making use of this opportunity—to rest assured and to sleep well, because although we had a 9 January of 1964 here, and despite all the interventions we have suffered, this is not a vindictive country.

Finally, we would like to refer to a point which is perhaps more important from an emotional, rather than a practical, point of view. This is the problem of the flags.

It is said that the flag problem is what caused the events of 1964, but this is not true. What caused it was the symbolic problem. The flag problem was a real one. It involved the recovery of our sovereignty in the Canal Zone.

Regarding the flags, here has also been an important recovery: Throughout all the territory that now constitutes the Canal Zone, excluding the office of the Canal Commission—with only this exception—only the Panamanian flag will fly on the flagpoles. [applause]

NEGOTIATOR FABREGA ON LAND RECOVERY

Half of Fort Amador will revert to Panama with all the corresponding installations on the 1st day of the treaty, as well as the islands of Naos, Perico and Flamenco. [applause] From the Bridge of the Americas you see all the installations of the fuel tanks, of the Port of Balboa, and which extend to Diablo Heights, including the northern part of Diablo Heights, where there is an antenna field. All this land will revert to Panama immediately and it will be known as the Balboa Port complex, including areas for expansion. Albrook Field will revert to Panama on the first day of the treaty. Curundu Heights will revert to Panama 3 years later, as well as the antenna field across from Panama University. Ancon Hill will revert to Panama on the first day of the treaty, [applause] with two exceptions, namely Gorgas Hospital, to be used for military use by the U.S. Armed Forces and U.S. civilian personnel, and the area where the Quarry Heights offices are now located, which will serve as headquarters of the combined military board which will be in charge of planning and carrying out everything concerned with the defense of the canal—a combined defense. This board will be evenly divided, that is, it will have the same number of representatives from Panama and the United States. The rest of Ancon Hill will revert to Panama on the first day of the treaty.

The railroad with all its installations will also revert to Panama on the first day of the treaty, as well as a coastal strip, from beneath the Bridge of the Americas at the entrance of Farfan Beach to Veracruz so that the residents of Veracruz will not have to transit a defense site. The strip has the best beaches closest to Panama City and every Panama-

nian may, as of that date, have access to those beaches, which are the best close to Panama City.

On the Atlantic side, in the city of Colon, the port of Cristobal with all its installations will revert to Panama on the first day of the treaty, [applause] as well as Rainbow City and the towns of Paraiso and Pedro Miguel.

To conclude, we want to point out that the agreement in principle does not grant lands and waters and installations, but the right to use them, according to the agreement, so that the United States may operate, maintain and defend the canal as a primary right, until 31 December 1999 at noon.

We see, then, a Panama fully liberated from a condition that limited its political, economic and social geography. According to the new treaty, we shall have a truly free nation. Thank you. [applause]

SECOND ESCOBAR BETHANCOURT ADDRESS

Mr. President, General Torrijos, distinguished representatives and general public: We will now report on two very controversial points in the negotiations—one is the neutrality pact between Panama and the United States and the other is the problem of the option to build a new sea-level canal. We feel that the best way to explain this is by pointing out the details of how this negotiation was conducted and what things Panama accepted or rejected, because that will allow you to see the real scope of the neutrality pact.

One of the conditions originally established by the United States before beginning negotiations with Panama called for a neutrality pact and a military pact between the two countries. The military pact had to be concluded before the end of this century so that it could go into effect after 2000. This created a deadlock in the negotiations for some time because Panama opposed the signing of a military pact. And it opposed such a pact because the military pact entailed two things: First, the U.S. military presence in Panama after the expiration of the new treaty. Second, as a great power, the United States is often involved in wars in other parts of the world and we did not want a situation in which, on the basis of a military pact, our country's future generations would be required to fight in U.S. waters under the pretext that they were fighting because the war was being waged to defend the Panama Canal. That was a position Panama maintained until the United States stopped insisting on the military pact, and discussions began only regarding the neutrality pact.

One of the problems that arose had to do with granting preferential transit through the canal to U.S. warships. They said they had two problems: First, they had to please their Pentagon and had to present them in this matter of the treaty. Second, they said that since they are leaving after the expiration of the treaty they should at least have that [preferential treatment] because they had constructed the canal.

We told them that we admitted that they had in effect constructed the canal, but that to put down in the neutrality pact that U.S. warships were entitled to preferential transit in relation with other ships violated the neutrality pact itself, contradicting the very idea of the pact we were negotiating. This was another subject of long debates and thorough analysis. They kept looking into their books, we into ours; they kept quoting their treaty writers, we kept quoting ours, for this is the way in which these debates are conducted.

So this is the framework of the neutrality pact. The criticism being made against it—some of which you may have heard or read—by a number of people who like to nitpick is that we are giving the United States the right to intervene in our country after the year 2000. Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact. [applause]

When they landed in Santo Domingo they did not have any military pact with Santo Domingo, nor did they have any right to intervene in Santo Domingo. But just the same they landed there. But there are people here who believe that it is the articles in a code which tell a country whether or not it has the right to intervene.

They do not know that is the bayonets and cannons and the atomic bombs which give a country the right to intervene. A country like the United States can land its troops in Panama whenever it pleases after 2000 with or without a neutrality pact. But it cannot land its troops in Russia, even if Russia told them to do so. This is reality. In other words, with the neutrality pact we are not giving the United States the right to intervene. What we are giving them is an assurance that the canal will remain permanently neutral, that we are not going to close the canal to their ships or those of any other country.

Why this neutrality pact? Because they think that maybe in the year 2000 this country will become socialist and will turn into their enemy and they feel it is better to make sure right now that even if our country becomes socialist, it cannot prevent them from using the canal. To be even more frank, they do not need that neutrality pact to tell them whether or not they may intervene. They need it to show to their Congress; in order to be able to tell their Congress: Look, we are turning the Canal over to the Panamanians, but we still have the right to watch over them so they behave. That is the truth. It is a question of their internal policy. They are solving an internal problem regarding a Congress that is largely opposed to these negotiations and which even has members who have not been elected of their own free will, turned into members of the U.S. Congress. They are Panamanians who live here and in Miami. [as heard] [applause]

The other problem we discussed was that of the option for the construction of a sea-level canal. In all these years the problem of a sea-level canal was hardly discussed at all at the negotiating table. There were about two talks on this. We discussed this, nothing came out of these discussions and then came the Bogota conference with the presidents. That is where the option problem really reached a crisis. It reached a crisis because a very direct and continuous communication was established among all the presidents meeting there and President Carter through negotiators Bunker and Linowitz as well as with us through Dr. Diogenes de la Rosa, who was there at the time, and our Ambassador Gabriel Lewis Galindo.

But they made a proposal to us on that option and that is why the issue reached a crisis. They proposed that Panama grant them an option to build a sea-level canal without setting any date. Second, they wanted Panama to promise that no other country would construct a sea-level canal. We rejected that proposal in Bogota. We read it to the presidents. That was the proposal brought the previous evening by several of our negotiators and we read it to them. The negotiations between the two countries was practically broken in Bogota. So much so that I remember that at one point General Torrijos told the presidents: Well, we called this conference several days ago for a celebration of a new treaty and it turns out that we have come for the wake. The struggle between the two countries began in Bogota. And I say the two countries because the rest of the presidents got as involved as if they had been Panamanians. We must really be very grateful to the presidents that met with the general in Bogota. Regarding this problem they acted just like any of us; they even wanted to walk out mad. The Mexican president wanted to get on his plane and leave; he was very furious. They all became Panamanians regarding the option problem.

When the United States finally realized that there was no way in which an agreement could be reached regarding this option in the terms they were proposing and that the issue had reached an impasse, they asked for a recess. During that recess we continued our discussions with the presidents meeting in Bogota.

The Panamanian delegation then prepared a draft which all presidents liked. They said it was correct and fair. We then called the United States, they examined it for a while and finally accepted it. I think that it would be a good idea to read the text of this draft to you so that you will see how the option problem came out. It reads:

Article 3. Possibility of building a third set of locks or a sea-level canal.

First, the Republic of Panama and the United States of America acknowledge that a sea-level canal can be important for future international navigation. As a result of this, after approving the treaty of the existing canal and for the duration of this treaty, both countries promise to study jointly the viability of such a canal. In the event that the need for such a canal is viewed favorably, they will negotiate its construction in the terms agreed on by both countries. This is how the option issue came out. [applause]

As you can see, it is not even an option to build a sea-level canal. It is an option to promise to study the viability of it. That is the true option. The true commitment is to sit down with the United States to study whether or not it is viable to build a sea-level canal. If the two countries feel it is viable, then they will sit down to negotiate the terms agreed on by the two countries.

This is the panorama we have before us. This is the famous neutrality that is being criticized in these negotiations. The real problem, or rather the two real problems that those who oppose these negotiations will have to face, will be to prove to us that the 1903 treaty, the Buneau-Varilla Treaty, is better than this one. That will be their first problem—to prove that the perpetuity clause we now have and the present Canal Zone is better than this. That is something they will have to prove to us and our people. They will have to prove that the $2 million we now get is economically better for all the coming years than what has been presented by our planning and economic policy minister. That is something they will have to prove.

We do not mind being criticized by those who say they do not want the treaty because, as Ahumada said, they do not like General Torrijos because he is a dictator and they do not want the treaty to be signed under a dictator. That is nonsense. At the bottom of this problem, those who oppose this treaty will have to prove to us that perpetuity, the Canal Zone's existence, the existence of a foreign jurisdiction here and the anarchic existence of military bases is better than what we are proposing. And those who do not attack us on that side, but on the contrary, say that we are not revolutionary enough, will have to prove it to us by getting their knapsacks and their grenades and entering the zone to get the gringos out of there. That is how they will have to prove it to us. Not with little speeches or documents.

SPEECH BY GENERAL TORRIJOS

Esteemed fellow members of the government, honorable representatives: You have heard a compact account of what has been 70 years of struggle for the Panamanian people.

I say that it has been 70 years of struggle for the Panamanian people because America and the world know that many of the cemeteries of rebels in this country are full of the crosses of youths who sacrificed themselves to see their sovereignty and their dignity respected.

This triumph, which I come to present to you here, is a triumph which results from the greatest conviction that we have triumphed. [as heard] It is a triumph which comes from the conviction that the country will take another path and a triumph which comes from the conviction that, had we not organized the country politically and given this people authentic representation in the administration of their destiny, no government or leader, no matter how great or how good a pathfinder, could have presented to the nation a treaty which has as its most important feature the fact that it sets the date for the erradication of each of the colonialist stakes [surrounding the zone] which exist at present. [applause]

I can tell you that this is a triumph which fills me with pride because to change the term perpetuity to 23 years is a triumph of this generation. I tell you that I am proud of the negotiating team, because they set a deadline on perpetuity, which in other words meant eternity plus one. And I tell you that I am proud because I am convinced that the great objectives of sovereignty can only be achieved through this struggle which the country has waged, which I call the aplinism [alpinismo] of generations. I call it alpinism of generations because we would be very selfish if we failed to admit that all the past generations, within their own circumstances, fought with all their effort, valor and determination to erradicate the colonial enclave which divides the fatherland. [applause]

Never before have I felt more respect for those who participated in this effort. I had not felt such respect because I was unaware of the pressure to which they had been subjected. Sirs: If one were not a leader with a good mental attitude, if one were not a leader who is inspired daily by love for our youth, if one were not a leader overly prepared to withstand pressure, today one would be in a mental asylum. One is subjected, in this type of negotiation—when one chooses the route of negotiation to liberate the country, one chooses a somewhat shorter, but which would entail the sacrifice and immolation of no less than 50,000 Panamanian youths who, being overly devoted to the cause of their fatherland, would have demonstrated that they are the aristocracy of the country's patriots. We would have left future generations headless, completely without future leaders, because the best—the aristocracy of patriotism, the aristocracy of talent and the aristocracy of courage—would have been sacrificed in the 1,142 square kilometers of the Canal Zone.

What will happen? I know that there is question in the minds of all the people—will we recover this piece of land in order to change its owners? To exchange white masters for brown masters? This is the great question and the great doubt which I wish to clarify right now. We are not going to exchange that great piece of land which we are now incorporating under our sovereignty for new masters. We are going to make the most collective use possible of those recovered installations and of those square kilometers. [applause] When I say the most collective use, I refer to the use by which the greatest portion of the Panamanian people may enjoy the fruits of their labor.

I visualize, with the idealism of a leader, I visualize Fort Amador, when I pass overhead in a helicopter, as the home of 20,000 Panamanian children playing on those fields, playing on those lawns, sheltered in those installations, without the fear that someone will say that their presence is illegal and that they are intruders on the soil which belongs to them. [applause]

I visualize the children of the [national] institute—and when I say the children of the institute I refer not only to those who are registered there but all those who have the philosophy of the institute, since the philosophy of the institute has been the greatest quarry of rebelliousness that has nourished the patriotism of the fatherland. [applause]

I visualize the children of the institute climbing Ancon Hill as they please and from there, looking down at the canal, the city, and wherever they wish without a foreign policeman arresting them and accusing them of the usual charge—disturbing the peaceful existence of 50,000 Zonians.

Thank God that not everything in this country was badly designed, because he who had enough vision to install the national institute near the Canal Zone was doing so with the clear understanding that he was establishing there an outpost of national dignity so as to prevent those who had arrogantly usurped our territory from sleeping in peace for 70 years. [applause]

And now we are in the stage of drafting, of the academic polishing of the treaty. After the Panamanian Government accepts it, accepts this draft as what has been agreed upon, the U.S. Government will have to do likewise. This will take 3 or 4 weeks. Then two alternatives will remain. President Carter is not averse to the idea of coming to the country to sign this document in a setting which was a source of shame for them for 60 years, and in the presence of all the leaders of Latin America. He is not averse to the idea, but on the other hand he is also too busy [empenado], too busy trying to get the treaty through the Senate, and this might possibly prevent his being present. If this is so, then we will have to fly to the United States to sign the treaty and immediately begin disseminating information in order to saturate the public with information on what is being approved or disapproved.

We must stipulate that the government does not consider criticism of the treaty as criticism against the government and that all the government wants is for these opinions on the agreements to be expressed in a responsible manner. We must stipulate that the treaty will be submitted to a plebiscite and that every Panamanian who goes to the ballot box should be aware that what he is depositing in the box is a message from his own conscience. [applause]

It was possible to obtain this treaty due to the fact that a long time ago, following the moral scandal of Watergate in the United States, there a team of men began to be formed in the top political leadership of that country who gave a deep, fundamental importance to morals. This team of men believed and believe, know and are convinced, that there is no juridical code that legalizes a colonial enclave. They are a team of men with a deep sense of shame and who balanced out the correlation of forces between a big nation and a small one. It balanced out the correlation of forces, not because the United States had become militarily weak, and Panama militarily powerful, but because conscience, honor and morals on both sides reached an equal level at which it was possible for us to reach an agreement.

In this we must admit that President Carter has shown that he is not a president elected only to have the national anthem played for him, but to make decisions which will prevent his country, which is the great nation of the north, from continuing to live with the shame of maintaining a colonial enclave based on the principle that the United States is much stronger than we are. We must admit that this man has had the courage to tell his people not an agreeable truth but rather the logical truth and to tell his people that to continue treating Panama in this way is something which should shame each one of the 200 million U.S. citizens. [applause]

Soon—the date has not been determined yet—we will have to confront a general mobilization, a mobilization that will bring to the polls the greatest number of Panamanians able to exercise the right to vote. We have to do it because not doing it, not going, not being present en masse at the polls is to deny the idea that this cause stopped being a cause and became a national religion and later a religion of Latin America. We are soon going to have to deal with this situation, and I hope, and am completely certain, that no Panamanian with the right to vote will be indolent in responding to this call from the fatherland.

And I am completely sure, because each member of our generation, one way or another, has been humiliated in that enclave which today we are dismantling by means of this treaty which we are proposing. [applause] I am completely sure that we will be present at the polls to give the country and the leaders a testimonial to the fact that, having given me a blank check to negotiate this treaty, you are now accepting the results of this act of faith and confidence. You are accepting it with satisfaction, and you do so because it is a treaty which decolonizes and does so rapidly because it is a treaty which returns to us all that had been taken from us by force; and because it is a treaty which will strengthen our personality as Panamanians and will give Panamanians more dignity everywhere in the world.

And I know that you will be present, because no Panamanian throughout history, faced with the hidden [as heard] demands of the fatherland, confronting a vehement appeal by the fatherland, no Panamanian in history has failed this call or these demands; nor will they fail this call now made by the country—the call which consists of the casting of their votes in the ballot box in the plebiscite. By this vote, they are expressing what their conscience and dignity as Panamanians and their position as the men of this country tell them they should do. Thank you very much.

AGREEMENT ON TREATY PRINCIPLES SUMMARIZED

Listeners of the state radio broadcasting system through the country: This is Danilo Caballero. Along with Arqueles Morales, we are going to read a summary of the agreement of principles signed between Panama and the United States to reach a new Panama Canal treaty. This document was prepared by the Foreign Ministry and the introductory paragraph is signed by Foreign Minister Gonzalez Revilla. It is for the Assembly of Corregimiento Representatives and was distributed to them this morning for them to study, to read during the recess and at 1500 when today's special meeting reconvenes. They will thus have a basis—with this document and the expositions made this morning—on which to ask pertinent questions to the members of the negotiation team.

This document is especially important because it is the first time that the general content and specific data of the new canal treaty, which is of the highest interest to our people, are being submitted to the 505 representatives for their analysis.

It is necessary to clarify, as Dr. Romulo Escobar Bethancourt did in his speech this morning on the contents of the treaty, that this is not the full document. That is, it is not the complete and absolute text of the draft agreement, the agreement of principles, for the simple reason that the document will only have domestic and international validity when it is signed by our Chief of Government Brig Gen Omar Torrijos Herrera and by U.S. President Jimmy Carter.

Regarding the duration of the treaty, the document says: The 1977 treaty will have a set duration; it will expire on 31 December 1999. On that date, the Republic of Panama will begin to manage and defend the Panama Canal exclusively.

Regarding jurisdiction, which historically has been one of the most debated problems in our people's historical struggle to recover sovereignty, the text at our disposal reads: There will be no Canal Zone government or

governor. Only Panama will exercise such governmental functions as police, firemen, customs, justice, postal services and so on. This transfer will be completed in a 30-month period after the treaty takes effect. Only Panamanian civil and penal laws will apply.

The Foreign Ministry document goes on to say that the canal administration commission will not be allowed to carry out commercial operations and that these activities will be completely regulated by Panamanian laws. In this regard, the following activities and functions being carried out by the Panama Canal Company and the Canal Zone Government would cease:

Wholesale and retail sales of merchandise of all types in commissaries, stores, optical shops and others, the preparation of food and drink and milk products; the operation of bakeries, public restaurants and cafeterias and the sale of articles using automatic vending machines; the operation of movie theaters, bowling alleys, billiard halls and other entertainment centers charging admission; launderies and drycleaning facilities that are not operated for official use; outlets to repair and service private automobiles or sell fuel and lubricants, including service stations, garages and outlets to repair or retread tires; repair shops for other privately owned property, including electronic and electrical home appliances, irons, motors and furniture; cold storage and cargo warehouses that are not being operated for official use; commercial supplying and servicing privately owned ships, including the sale of fuel and lubricants, towing services not related to the canal and other U.S. Government operations; the repair of private vessels except when it is necessary to remove damaged ships from the canal; nonofficial printing plants; ocean transportation for public use; mortuary services and cemeteries; educational services, including schools and libraries; the postal services; the customs, immigration and quarantine services, excluding those needed to ensure the cleanliness of the canal; the construction and repair of ships and supplying them with water, fuel and lubricants; the docks and the movement of cargo and passengers.

Regarding the principle of nonintervention, the document distributed today to the 505 Corregimiento Representatives reads as follows: The U.S. military forces and civilian personnel will abstain from all political activities in the Republic of Panama, as well as any other intervention in the domestic affairs of the Republic of Panama.

Regarding neutrality, Panama unilaterally declares the neutrality of the canal so that in times of peace or war it will remain open and at the service of the shipping of all nations of the world in terms of absolute equality and so that the canal and consequently the Isthmus of Panama will not be subjected to reprisals in any armed conflict between the nations of the world. Panama and the United States agree to maintain its neutrality so hat the canal can remain permanently neutral. Panama and the United States will promote the support of all nations of the world for the protocol of neutrality.

Regarding the canal's operation, this important document says the following: The United States will be mainly responsible for the operation of the canal until 31 December 1999, when the canal and its auxiliary projects will pass completely to Panama. The canal will be operated by an agency of the U.S. Government. This agency will be called the commission. This commission will have a board of directors made up of nine members, five of whom will be U.S. citizens and four will be Panamanians chosen by the Panamanian Government. From the moment the treaty comes into effect until 31 December 1989, the deputy manager will be a Panamanian and the manager will be a U.S. citizen. Starting on 1 January 1990 until 31 December 1999, the manager will be a Panamanian and the deputy manager will be a U.S. citizen.

Referring to the canal's optration, the document also says there will be a consultative committee made up of an equal number of Panamanian and U.S. representatives that will advise the governments of the two countries on policies related to the canal's operation.

Regarding the employment policy, non-Panamians will be employed only when there are no competent Panamanians to fill the vacancies. This means that when there is a vacancy, it should be filled by a Panamanian. If there is no Panamanian able to fill the post, then foreign or non-Panamanian personnel will be employed. Within the 5 years following the treaty's implementation, the number of U.S. citizens employed in the former Panama Canal Company will be reduced by 20 percent. The employees of U.S. citizenship contracted after the treaty is in effect will be able to work only for a 5-year period. There will be no discrimination in matters regarding salaries, services or labor benefits because of nationality, sex or race. That is to say, there will be no gold roll or silver roll. There will be no security posts, which were held only by U.S. citizens.

One of the most important matters included in the document distributed to the 505 represenatives refers to the canal's defense. In this respect, the text reads as follows:

The Republic of Panama and the United States will be jointly responsible for the protection and defense of the Panama Canal during the new treaty's duration. The Republic of Panama will have a growing participation in the canal's defense. There will be a joint board with an equal number of military officers from each of the two countries who will be in charge of coordinating and consulting on matters related to the protection and joint defense of the canal without restricting the identity or lines of command of the Panamanian National Guard.

The United States will station, train and transport military forces only in the manner described in the regulations for the U.S. armed forces in Panama. In times of peace, U.S. forces in Panama will not surpass the level in the Canal Zone prior to the treaty. After the Panama Canal treaty ends, only Panama will manage the canal, maintain military forces, defense sites and military installations in all its territory.

Regarding flags, one of the most irritating matters for Panamanians for over 70 years, the summary of the agreement presented by the Foreign Ministry to the representatives of the assembly says:

The Panamanian flag will be flown in all parts of Panamanian territory. The U.S. flag will be flown only at the office of the Panama Canal administration commission and within defense sites, where our flag will always have an honored place. That is, the Panamanian flag will always be in a honored location at all sites.

The document also refers to the possibility of building a sea-level canal. For the treaty's duration, the two countries, if they believe a sea-level canal may be important, will commit themselves to a joint study of the feasibility of such a canal. If they do this, they will negotiate to try to reach an agreement for its construction under terms which could be established by the Republic of Panama and the United States at that time.

This means that the agreement on principles does not include any clause which commits Panama to building a sea-level canal in conjunction with the United States. This agreement on principles merely provides for the possibility of a joint study with the United States of the feasibility of building a sea-level canal.

The economic aspects of the negotiations we believe to be too complicated to set forth in this short report we are presenting to you via Radio Libertad.

Regarding lands and waters, the document states the following specific points: When Panama grants the United States the right to use, until the year 1999, the lands and waters needed for the efficient operation of the canal, our country thereby liberates almost 70 percent of the lands and waters now occupied by the United States, including the following: Ancon Hill, the railroad, the ports of Balboa and Chistobal, half of Fort Amador, the Nao, Perico and Flamenco islands, part of Coco Solo, France Feld, all the towns of Rainbow City, Pedro Miguel and Paraiso, the littoral area from the Bridge of the Americas to Veracruz, Gatun and Alajuela lakes, Fort Randolph and Fort Gulick, Curundu Heights and Albrook Field, Summit Botanical Gardens, Fort San Lorenzo—part of our national historical heritage—the Mount Hope Cemetery, the Balboa and Ancon court buildings and a number of sports facilities.

Some of these installations will revert to Panama on the first day after the signing of the treaty, and others 3 and 5 years later. Therefore, from the first day of the new treaty there will be no more Canal Zone. We shall have a canal without a colonial enclave.

Well, this is a summary of the agreement on principles between Panama and the United States which was distributed this morning at the legislative palace to the honorable Corregimiento Representatives. It is a document drafted by the Foreign Ministry and signed by Foreign Minister Nicolas Gonzalez Revilla.

NEGOTIATORS ANSWER ASSEMBLY'S QUESTIONS

[Education Minister Royo] Regarding the question of whether Panama will have to repay the loans from the United States: In referring to discussions of economic aspects, Don Gilberto, we are speaking of two areas. One area is the payments which the United States makes to Panama and which are derived generally from the canal revenues. These include tolls derived from Panama's use of the ports of Balboa and Cristobal.

Another, different area is the package which is called the economic cooperation agreement. That agreement has one goal: for Panama to achieve improved economic development, as Minister Ardito Barletta explained, and, on the day we have to administer the canal 100 percent and defend it for Panama to have a level of economic development that will allow it to assume that tremendous responsibility.

This economic cooperation agreement provides for loans which Panama definitely must repay. For example, the loan from the Eximport Bank will be $200 milion, and that loan will be made through what are called concessionary loans which are long term—20 and 30 years—with grace periods of 5 to 10 years and, moreover, at an interest rate of between 5.5 and 7 percent. This rate is what is called a soft interest rate and it allows Panama, at the end of 30 years when it repays the $200 million, the payment at that time, at the values current at that time, will be much less than the amount we are receiving today [sentence as heard]. For this reason, it is said that these are loans paid for by the devaluation of the currency itself.

[Representative Luis Castillo] Mr. President, distinguished negotiators, dear comrade: I would like to ask the negotiators about the plebiscite. Since this is the means by which the Panamanian people will ratify the treaty and is related to the ratificiation by the U.S. Congress, I would like to ask whether a date has been set for the plebiscite and whether it has considered that it is im-

portant for the plebiscite to be held before the U.S. Congress ratifies the treaty. The idea is that once the results of the plebiscite are known—and we feel sure the Panamanian people will approve the treaty by a majority—this would have an impact on the U.S. Congress.

[Romulo Escobar Bethancourt] About the plebiscite. The date for the plebiscite here in the Republic of Panama still has not been set, because naturally this depends on when General Torrijos and President Carter sign the treaty, and also on the amount of time allowed for public debate. After that period for debate—if it is decided here in Panama that, let's say, the debate will take place over a period of 4 weeks beginning on such and such a date—the plebiscite will take place. But the date for it can be set as soon as the two chiefs of government sign the treaty. I understand the electoral tribunal is already taking action and studying the mechanics of the plebiscite. We of course attach great importance to the plebiscite.

I would point out that the revolutionary government is so honest and scrupulous regarding the negotiations with the United States that the 1972 constitution provides for this plebiscite. That is, a constitution dictated by this very same government. What does this mean? Simply that, as General Torrijos has said from the beginning, the problem of relations with the United States is not the problem of one leader or one administration, it is the problem of all Panamanians. If all Panamanians are to be affected for good or for ill by a treaty with the United States, then all Panamanians must have the right not only to express their opinions but to decide whether or not that treaty should stand. For the first time in the history of our republic and under our revolutionary government, that kind of political participation has been established. We honestly agree with you that in a plebiscite here, after our people become truly informed about this treaty and the profound change it implies for the country, an overwhelming majority will be in favor of the treaty.

This revolutionary government, despite the fact that this is a small country, is the only one that has confronted the United States in a really dignified and strong manner.

As for the U.S. Congress, there is a big problem, to be frank with you. They have a big problem, worse than you can imagine. The United States is a country where people have been brought up thinking that the Canal Zone and the Panama Canal belong to them. All their lives they have been taught this in school, at home, through publications—that is the background of the American people. As a product of that training, they, or most of them, feel that this step which President Carter's administration wants to take is a step to give up part of the United States. Many of them feel that if the United States give Panama jurisdiction over the Canal Zone and the Panama Canal afterwards, it is as if they were giving up, for example, the Florida Peninsula. Because that is the training which they have had.

Logically, then, the problem goes to congress. Why? Because the U.S. congressman, as a good politician, acts as the instrument of those electing him. He is always aware of how the voter of the district or state that elects him feels. As there are sectors in the United States which feel as I have told you, there are congressmen who, because of their own training, because they were also educated that way, and, because they act according to the desires of those voting for them totally oppose the treaty with Republic of Panama.

[Representative Luis Emilio Veces] I wish to clear up a point of order, because the secretary has declared that the vote was unanimous [for the resolution approving the accomplishments of the Panamanian negotiators regarding the treaty]. I wish to explain my abstention from voting. With the indulgence of those at the presidential table, the vice president, the cabinet ministers and fellow representatives, I wish to explain that I am incapable of begrudgiing the merits with which the resolution credits those persons abroad who have expressed their solidarity with our country. However, there is a basic issue which has caused me to abstain from voting for that resolution. It is the fact that I cannot share the pleasure of those at this meeting or the pleasure expressed by the government team today for a treaty which I have not yet seen.

The agreement on principles as submitted by the negotiating team undoubtedly presents the positive portions of the agreements reached. Nevertheless, I do not want to talk about the agreement on principles excessively, because I am not able to express a knowledgeable opinion. I want to inform my fellow representatives and the government team of two or three concerns which have caused me to abstain from voting for that resolution.

I have already expressed my concerns to Captain Ocalgan [head of the General Directorate for Community Development—DIGEDCOM] who visited the Chorrera Municipal Council during its last session. According to the national press and the government team, we have ample guarantees permitting a debate on the new treaty draft. Nevertheless, the same government team has made a series of threats of a political nature against persons who oppose the treaty. I wish to state clearly that in such a situation, it would appear that we are left only to take it or leave it.

I do believe that one of the statements made by Romula Escobar Bethancourt is true. Right now it would appear that any academic lucubration of the treaty is unnecessary because it would in no way alter the agreement on principles or the treaty draft, because the negotiating stage has ended. I am also worried about a number of ideas being expressed, such as that those who oppose the government or the treaty are traitors to the fatherland. These are ideas which given the pretense that there is a democratic atmosphere, constitute a threat for anyone in this country who has the power to reason.

Now, those who participate in politics in this or any other country have to accept the consequences of their participation, whatever they may be, and we know this. However, I believe that this whole process of consultation is being besmirched. This is not detrimental domestically because here we all know each other, what we want and where we are heading, and we do not deceive ourselves, but on the international level where this type of threat sometimes denotes fascist ideas, such as accusing of treason two Panamanians in exile in Venezuela who made statements against General Torrijos.

Frankly, I know of one Latin American government which has stated that whoever is against it can be labeled a traitor and lose his nationality, and this is General Pinochet's government.

Other than that, not even General Somoza, the dictator closest to us, has made such a statement, as far as I know. I also wish to express to my fellow representatives and to the government team my deep concern over the fact that a political debate can be held that will affect not only the treaties, but the whole government as well. However, I sincerely believe that this is not the time for the country to undertake a debate on the national government's situation, because what is at stake is not the government's situation but the country's situation. Consequently, I believe that no one in this country should make any statement at this time on whether General Torrijos' government is appropriate or not, because what we must decide at this time is whether the treaties are appropriate or not, and it is the national government who must lead the debate.

[Chairman interrupts] Fellow Representative Veces is reminded that he has 30 seconds until the end of the permitted 5-minute speaking period.

[Veces] Honorable representatives and members of the government team, I do not believe that there is any doubt in Panama about that reality. I would like to strongly suggest that the government team seriously consider this fact.

[Escobar Bethancourt] My reply to Representative Veces is the following: We are promoting a public and open debate and we are not leveling political threats at anyone. We believe that this is going to be a very democratic debate. However, it will probably not be a one-way democracy, but a two-way democracy. For example, if a person is against the treaty drafts and states it publicly, we will publicly explain the points which the person is opposed to. That is what we call a debate.

However, if a person makes a statement in a newspaper, as we observed recently, that not even Bunau-Varilla would have done this—"this is a democracy," as one published statement read—that person had better not believe that we will remain silent after being compared to Bunau-Varilla. He should be prepared for our reply. This is not a threat. Some individuals believe that democracy consists of criticizing the government and that the government must simply accept it. We will not do that. Any person who during the debate objects to the approval of the treaties because Torrijos is a dictator will receive our reply explaining why we do not consider Torrijos a dictator, and in addition we will reprimand that person.

That will be the debate, at whatever level people choose to engage in it, but whoever decides to enter the debate should know that he will get a reply. It would be a threat if we said that anyone who opposes the treaty would be put in jail, fired from his job or persecuted. That would be a threat. However, having the right to reply to an individual's proposals, I would call true democracy, Veces.

Some persons frequently bring up the question of the exiles in reference to the treaty. Let us address this matter. They were not exiled due to the treaty. When they were sent into exile, the negotiations for the treaty had not been completed, and at that time they had said nothing about the treaty, either for or against. They were sent into exile for other reasons, for political reasons, and I do not personally like to see anyone in exile. However, every government has a right to defend itself, and I believe that this government defends itself very mildly. In other countries people are not sent into exile. I have visited all of Latin America. I am going to propose to the general that he send you on a Latin America visit so that you can see what fascism is and what they do to their opponents, how they make them disappear from their homes.

The problem of the exiles is a problem that should be solved. When we visited Cancun, Mexico, we met with the lawyer Turner and we told him we should return to Panama because he had spent too much time abroad, that he should return and see for himself. Turner came to Panama, visited everywhere he wanted, talked to anyone he wished and returned to Mexico. We published a long list of persons who are permitted to return to the country. Do you know why many do not return? Because they are working in those countries and earning much money. That is why they are not returning. In Miami they have already bought a bank. They are not over there suffering. We have many poorer

people right here, who have no jobs, right here in our country. In Miami they live in a golden exile.

ASSEMBLY RESOLUTION SUPPORTS NEGOTIATIONS

The National Assembly of Corregimiento Representatives has issued a resolution of support for the negotiations at this stage that is so crucial for the total liberation of the country. The representatives who met with Cheif of Government Gen. Omar Torrijos Herrera and the negotiating team yesterday were extensively briefed on the treaty draft concluded by our country and the United States.

The assembly's resolution notes, among other things, that the briefing indicated that the new treaty will be instrumental in achieving national liberation because it eliminates the colonialist enclave imposed on our country 73 years ago, that the new treaty will have a specific deadline, when Panamanian territory will be free of any form of alien presence; and that the results obtained were possible due to the solidary support of Latin America and many other countries throughout the world. The resolution says that the assembly hereby decides to issue an appeal to the Panamanian people at this historic moment to renounce before the altar of the nation all their differences and to consolidate national unity by unanimously supporting the treaty. They urge the Panamanian people to fulfill their civic duty by means of a massive turnout for the plebiscite to cast a vote that their patriotic conscience tells them is a sign of their political maturtly.

In addition, political circles of the General Directorate for Community Development [DIGEDECOM] have voiced their support in a resolution, which states: Since the nation has been engaged for 13 years in negotiations with the United States to reach a new treaty over the so-called Canal Zone, and since the agreement on principles for the new treaty eliminates the perpetuity clause and guarantees full sovereignty and jurisdiction over national territory, they support the country's revolutionary leaders and the negotiating team.

DIGEDECOM officials also feel that the next step is to work toward the ratification of the new treaty because it embodies the supreme aspirations of the Panamanian people.

LABOR LEADER ANDERSON INTERVIEWED ON TREATY

[Question] How do you view the attitude of the Canal Zone workers right now and what is the labor leaders' position on the agreement of principles recently reached between Panama and the United States?

[Answer] To us it has been very interesting to participate in the negotiating process which resulted in the agreement of principles. As far as the Canal Zone workers are concerned, it could be stated that they are generally quite pleased; first, because a treaty has been reached after so many years of negotiations and it is definitely a treaty that meets the aspirations of every good Panamanian—namely, that Panama wants to be a free, sovereign nation with jurisdiction over its entire territory.

Many feel that since the employer in the Canal Zone is the U.S. Government there is a negative feeling toward Panamanian aspirations. Our experience is that this is not so. Panamanians who work in the Canal Zone are very much aware of Panama's struggle. They share it and, in most cases, actively support it.

Concerning the labor aspects, there is uncertainty among the workers because the specifics have not been disclosed.

I think that after we hold several information meetings, after we issue public communiques and leaflets and after we use the mass media to brief the entire Panamanian labor force in the Canal Zone, there will be a great deal of acceptance of the content of the treaty.

As leaders, we feel that the protection set forth in the treaty is very adequate, and this is not a rash judgment but a comparative judgment. It is significant that today we have certain benefits and that we have achieved a number of conquests for Panamanian workers in the Canal Zone. Those conquests and benefits have been achieved since the 1955 memorandum of understanding which contained only three labor clauses. Today we are faced with a treaty which includes about 25 labor clauses and none are unfavorable to Panamanian workers. This is indicative of why we accept the treaty.

Today we have had the opportunity of participating directly in the negotiations. We did not have that opportunity in 1955 or 1967.

There is also a great deal of acceptance because the Panamanian Government has fully met its promise of not only seeking to protect current benefits, but of correcting a number of ills existing in the Canal Zone which, despite many struggles, the labor leaders had been unable to correct.

Concerning private business in the Canal Zone, there were 3,000 Panamanian workers whom we could not protect because this area was outside the scope of the law. We were unable to obtain any benefits for them even though this union in particular put all its manpower and funds behind that struggle for the past 15 years. This is one of the issues that the new treaty corrects.

About 82 percent of workers of nonbudgeted activities such as clubs, pools, sports fields and libraries on the military posts were not covered by any labor benefits. This treaty corrects that.

If we view it from the standpoint of just these two specific conquests, we would have to say that it is an extremely favorable treaty for Panamanian workers.

[Question] How do you view the social security benefits that will become effective with the treaty?

[Answer] There has been some confusion or misunderstanding over the benefits. The treaty does not stipulate any major change in labor benefits. However, from the first day of the treaty, those who start to work in the Canal Zone, whether for a state agency or a U.S. Government agency, will be covered by the Social Security Service.

As far as present workers are concerned, there will be no change in their benefits. The changes that could occur are optional for the worker and that would also have to be explained. There will be several employers in the Canal Zone. There will be employees of private business, employees of those activities that go from the U.S. Government to the Panamanian Government and employees of activities that will be entirely administered by the U.S. Government. All those employes who will continue working for the U.S. Government will have the same benefits that they now have with minor differences such as medical care at Gorgas Hospital. The treaty stipulates that after 3 years no Panamanians will receive medical attention at Gorgas Hospital or any other hospital administered by the U.S. Government in the area. But here we are just saying that employees will receive care from other private institutions in Panama or, if they prefer, from the Social Security Service.

[Question] What is the status of the workers who will be laid off and what possibilities do the labor leaders see of resolving this problem?

[Answer] It would be impossible to specify now how many workers will be laid off. However, this is a matter of profound concern to us. In certain areas we have been given almost total assurances that there will be no layoffs and in other areas the very nature of the treaty poses the possibility that there will be layoffs, and this is a matter of deep concern to us.

The fact that Panama will assume complete jurisdiction over political and criminal matters within a maximum of 3 years after the treaty goes into effect means that all the government apparatus which the U.S. Government maintains in the Canal Zone will disappear. The strictly economic and commercial functions will also disappear.

We confronted this reality not now, after a treaty has been reached, but before, when we foresaw this as a logical consequence of a treaty. We proposed early retirement as a means of keeping the loss of employment from becoming a serious problem, not only for the working classes within these specific activities but also within the broader framework of the country's economy. As a matter of fact, when we spoke of a Canal Zone worker and the effects of his dismissal, we in fact said that the dismissal of a worker there would have the same results as the dismissal of three or four workers. Referring specifically to a document published here which referred to [the dismissal of] 3,000 to 8,000 employes, this would have the same effect as the closing of two breweries, Cemento Panama and two or three of the largest companies in the country. We do not really believe that so many employees will be dismissed, but we are aware of the fact that a meaningful number of workers could be dismissed. Let us see now what kind of protection can be given these workers. I believe that they can be given an early retirement so that those dismissals do not become a trauma for the workers or the national economy. In the specific case of the commissaries, we had mentioned that General Torrijos had suggested the possibility of creating cooperatives that would replace these commercial activities administered by the U.S. Government. This would be one of the many ways to solve the problem. However, these specific aspects would have to be studied as the various stages of the treaty develop. It is impossible now to make predictions because no one has any clear-cut concept. No one, not the U.S. Government, the Panamanian Government or we, the unions, have a clear-cut concept of how many jobs will be affected.

[Question] Is there any possibility that your centrals, in solidarity, will press strongly to influence the Senate regarding the treaty's ratification?

[Answer] All the unions now operating in the Canal Zone, except the Colon Portworkers Union, are affiliated with the AFL–CIO. The solidarity you referred to has been evident since 1974. Our federation, at a national level, has supported Panama's just aspirations in the United States. This was the result of a proposal which Local 907 presented in the congress held that year in Honolulu. Our federation's support was very real. It was published by the federation's official news media and also by mass communications media in the United States. What we can assure you is that our federation maintains this attitude of support for Panama and that this support is growing with a treaty which definitely protects the rights we have acquired. In my opinion, based on the study of the treaty's clauses, if the treaty's labor aspects, which is what should interest all labor organizations, are observed, we will be committed to support the treaty. The treaty is a document which protects both Panamanian and U.S. citizens. Any possible opposition to the treaty by the labor unions would be provoked by other reasons, not laboral.

[Question] What, in your opinion, will be the status of the existing labor code and the unions now existing in the Canal Zone?

[Answer] This question is difficult to answer because we will have to await the legislation to implement the conceptual clauses of the treaty. Nevertheless, everything seems

to indicate that the labor code will be applied mainly in the areas of private employment and not in those activities under the direct administration of the U.S. Government. Regarding our organization—Local 907—we operate structurally with the labor code. We have had legal standing since 1954 and have always operated under an administrative structure based on the labor code principles.

[Question] How does the union leadership view the employment of many Panamanians in jobs formerly considered security positions?

[Answer] I think that this is not a matter of human qualities. At this time it is we who run the canal. The security positions are really privileged positions to insure the continuity of U.S. personnel at the job and not because the position required a professional or technological level not obtainable in the Republic of Panama. The apprenticeship program begun in the Canal Zone 16 years ago has trained Panamanians at a level capable of carrying out the efficient administration, operation, repair and maintenance of the Panama Canal. The security positions are a great fallacy. One sees, for example, that in the Canal Zone police there are security positions. The Canal Zone fire department desires security jobs. Certain levels of engineering common in Panama are classified as security positions. I rather believe that the problem of running the canal efficiently will fall in the realm of our administrative systems—the administrative systems applied by the republic as sovereign and owner of the canal—and not whether we have the human resources capable of operating it.

It would be wrong to think that, as Panamanians, we could object to a treaty which returns to Panama the total jurisdiction over all of its physical territory. We could object to a labor clause affecting our interests, just as we have protested in the past over the clauses which prevented the full utilization and development of Panamanian workers in the Canal Zone. But we could never object to a treaty which is the aspiration of all good Panamanians, and this organization will back this treaty even if it contains certain clauses detrimental to our interests. What we would do is simply to wage a struggle at a labor level to correct these irregularities.

THE F–18 IS THE WRONG KIND OF AIRPLANE

Mr. HART. Mr. President, I would like to bring to the attention of my colleagues a most thoughtful letter by a junior naval officer, from the September issue of the Naval Institute Proceedings, regarding the proposed F–18 naval fighter.

As this letter so well explains, the F–18 is the wrong kind of aircraft for the Navy. The threat to our aircraft carriers is generally not enemy tactical aircraft, but rather antiship missiles. The F–14, with its Phoenix antiaircraft/antimissile system, is designed to be able to intercept six incoming antiship missiles simultaneously. In contrast, the F–18 is strictly a fighter, with little antimissile capability.

Nor does the attack version of the F–18 appear any improvement over the current attack aircraft, the A–7. In fact, it may be inferior to the A–7, having a smaller bomb load. It would seem that a reengined A–7 could be procured well into the future, instead of the A–18, with a substantial savings in cost and improved capability.

Perhaps most importantly, the F–18/A–18 program may inadvertently prove a device to delay the development of VSTOL aircraft and small VSTOL aircraft carriers. If the F–18 program continues, it will mean the acquisition of a large number of naval aircraft which can only operate from large, expensive, catapult-equipped aircraft carriers. This will provide ammunition for those who want to compel the Navy to continue building aircraft carriers costing $2 billion apiece, which are not only large investments but also very large and attractive targets for enemy missiles. If naval aviation is to remain viable into the 1980's and 1990's, it must be dispersed onto a much larger number of small, less-expensive platforms. The F–18/A–18 program may hinder us from taking this necessary course.

Mr. President, I ask unanimous consent that the letter from the Naval Institute Proceedings on the F–18 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE F–18

(By Lt. (junior grade) William G. Garvey, U.S. Navy)

As an E–2C Hawkeye crewman responsible for the early detection of airborne antiship weapons, I have a more than passing interest in the fighter aircraft I will be controlling in the future. The F/A–18 Hornet, so eloquently described by Captain Halleland, sounds like a true fighter pilot's aircraft—small, swift, and maneuverable. It will undoubtedly be a fun jet to fly. Despite this potential for amusement, the Navy had best remember that the lightweight fighter was forced on us and is not the aircraft for the job at hand. Its only virtue, as stated by the CNO, is that it is cheap. Economy is an important consideration, but a weapon system must be judged by its mission capability. When viewed in this light the F–18, in both the fighter and attack versions, offers a marginal advancement, at best, over the aircraft it is programmed to replace.

The primary mission of a shipborne fighter is to protect the CV. That fact has been obscured by our Vietnam experience. We had best remember that North Vietnam had no navy or antiship missiles to threaten the carriers. The worldwide proliferation of Russian-built antiship missiles and their lauchers will most likely preclude similar circumstances in the future. Our CVs will be threatened, and it will be the responsibility of the fighters to fend off the attacks.

The "worst case scenario" will involve us with a power which has based its anticarrier tactics on the massive application of antiship missiles. Fighter squadrons will be tasked with shooting down the airborne platforms before they get within launching range or, failing that, to attempt to shoot down the antiship missiles. These fighters will have to use missiles in order to attack the launchers at the greatest possible range from the task force. They will rarely get the chance to use guns. The next generation of fighters will have little opportunity for "hassling" but many for intercepting.

The F–18 is not a good interceptor. It is incapable of the semi-autonomous operations routinely flown by F–14s. The F–18's short-range radar and lack of passive detection capability will necessitate close control from a shipboard or airborne intercept controller. In spite of the increased range of Soviet air-to-surface missiles (ASMs), the F–18 is armed with the old, short-range Sparrow, the same weapon carried by the F–4 which the F–18 is supposed to replace. In fact, it carries four Sparrows, while the F–4 has the capability of lifting six. The F–18's small fuel load will keep it from being stationed far enough from the carrier to engage subsonic strike aircraft; it will be forced to counter supersonic antiship missiles. The Russians have the ability to fire large numbers of antiship missiles from a strike group within a matter of minutes. The F–18 can lock up and shoot only one at a time. In theory, one F–14 can engage and destroy six incoming antiship missiles simultaneously; it will require six F–18s to do the same job. A CAP (combat air patrol) station manned by two F–18s cannot be expected to account for more than two missiles in a strike. Given the Soviet capability to saturate a target, the F–18 is clearly a less than adequate addition to our defenses.

The F–18 in its attack version, the A–18, is also a mediocre performer and, in at least one respect, inferior to the A–7. It may be slightly more maneuverable than the A–7, but with the growing sophistication and number of Russian-built surface-to-air missiles (SAMs), in particular those with electro-optical devices, survivability depends less on physical tactics than "black box" countermeasures. New boxes can be fitted onto existing A–7s, as well as being built into the A–18. A major drawback to the A–18 is its weapon load, a grand total of 13,700 pounds. The single-engined, smaller, and cheaper A–7 carries 19,940 pounds. The A–18 offers a marginal increase in maneuverability and a marked decrease in payload. It's little wonder that the light attack community is not singing the praises of this aircraft.

Why then is the Navy reconciled to, and even pleased with, the selection of the F–18? The answer is that the naval air forces and their support activities are largely staffed by exfighter pilots who yearn for the days of snappy, single-seat jets. Day fighters were well suited to the requirements of the early 1950s but are totally unsuited for the present threat. We aren't going to hassle with antiship missiles; we're going to shoot them down with missiles at the greatest range possible from the CVs. The F–18 can't do that, but the "fighter lobby" is so enchanted by the acrobatic potential of the aircraft that the mission has been forgotten. Instead of extolling the virtues of the F–18, we should be sounding a warning for our carrier defenses. It won't do any good to have half the airwing playing Red Baron while the carrier is sinking.

VIEWS OF THE ADMINISTRATION'S MIDDLE EAST POLICY STATEMENTS

Mr. CRANSTON. Mr. President, I am pleased by the reaffirmation by President Carter before the United Nations today that the U.S. commitment to peace in the Middle East is based on the principles of U.N. Resolutions 242 and 338 and that the United States does not intend to impose from the outside a settlement on the nations of the Middle East.

This statement clarifies some of the confusion that had arisen over the United States-Soviet Mideast statement issued on October 1, and I view the President's speech today at the United Nations as the accurate position of the United States. I firmly support the President in the view that he has clearly stated that U.S. policy in the Mideast must be based on two fundamentals:

First. The superpowers will not try to impose a settlement.

Second. Any settlement must be based

on the essential elements of U.N. Resolutions 242 and 338:

First, acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area, and its right to live in peace within secure and recognized boundaries.

Second, the withdrawal of Israel's armed forces from territories occupied in the 1967 conflict.

Third, freedom of navigation through international waterways.

Fourth, a just settlement of the refugee problem.

The October 1 United States-Soviet Mideast statement departed from the substance of U.N. Resolution 242 and 338 in two important aspects.

First, by the use of the key words "insuring the legitimate rights of the Palestinian people," the statement appeared to recognize the right to an independent, sovereign Palestinian State. This language has been so construed by some of the Arab States and Arab interests, and such a position is contrary to previous U.S. policy. The President did use similar language in his speech at the U.N.—but he stressed that "these rights" must be defined and implemented by the interested parties in negotiations. I trust the President means by this important qualification that the United States is not committed to an independent and sovereign Palestinian State.

Second, the United States-Soviet Mideast statement, by using the words "representatives of all parties involved, including those of the Palestinian people," appeared to be an implicit recognition of the Palestine Liberation Organization and appeared also to sanction representation of the PLO at Geneva. Such a position, of course, would be totally unacceptable to Israel and a very substantial change of U.S. policy. The President did not refer to this question or use this language in his U.N. speech today, and again I trust that the United States does not intend to depart from its past position on the PLO. It most certainly should not and must not do so.

I continue to believe, as does the President, that real peace will emerge only if the details of the negotiations and the final terms of a settlement are left to the Israelis and the Arabs themselves to work out. I also continue to believe that acceptance of a sovereign Palestinian State is not now warranted. And finally, I continue my strong stand that the PLO has no place in the Geneva deliberations unless and until it recognizes unequivocally the right of Israel to exist and accepts both the letter and spirit of U.N. Resolutions 242 and 338.

In view of the justified concerns raised by the wording of the United States-Soviet policy statement, I welcome the reaffirmation today by President Carter of the fundamental U.S. policy that a solution will not be imposed on the Mideast and that the United States stands firm on U.N. Resolutions 242 and 338.

I urge the President and Secretary Vance to continue to encourage the Israelis and Arabs to sit down together at the peace table and negotiate the final terms of a settlement under U.N. Resolutions 242 and 338.

OUR ARMED FORCES, READY—OR NOT?

Mr. HATCH. Mr. President, the men and women that are serving in the military today have been maligned and ridiculed ever since the Vietnam war. We have heard many charge that the Armed Forces of this country are not prepared to defend us in a time of war. Combat readiness is a term that has been bandied about in the Halls of Congress for many years. The American public has grown to look upon the young man in uniform with contempt and scorn. Well the draft is no longer with us and we have turned to an all-volunteer concept in the military. These men and women have chosen to make the military their career and have worked hard to attain a level of professionalism.

A member of my staff has had the opportunity to visit several key military installations and has reported to me the presence of a new "esprit de corps" among the men and women. Their training is at a new alltime high and they are dedicated to the mission they have been assigned. In this week's issue of U.S. News & World Report there is a special report entitled, "Our Armed Forces, Ready—or Not?" It is an in-depth look at some of the key units in this country's first line of defense and the report is favorable. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR ARMED FORCES, READY—OR NOT?

This year, 110 billion dollars is being spent on the nation's armed forces, a sum that causes many Americans to ask:

Are we getting our money's worth?

Are those forces ready to fight if war threatens? Or are they crippled by deficiencies, as some critics claim?

To search out the answers, U.S. News & World Report sent a team of reporters to key American military installations across the country as well as in West Germany and South Korea.

Their findings boil down to this conclusion: Despite some shortcomings, America's military forces today appear to be as good as, if not better than, they have been at any other peacetime period in the nation's history.

Military commanders insist that the demoralized conscript services that came out of the Vietnam War have been rebuilt in a few short years into highly motivated, well-trained and reasonably well-equipped contingents of volunteers. They caution, however, that the rebuilding process has some way to go yet.

TAKING STOCK

The Air Force, for example, is in the midst of a difficult transition as it absorbs an assortment of new fighter aircraft. There still are too few planes, and many are experiencing serious troubles. And air-to-air munitions are still inadequate for a protracted war.

The Navy, with 468 ships, is now only half the size it was pre-Vietnam, and commanders insist that more combat vessels are needed to meet the growing Soviet challenge.

The Army is still short of modern tanks, long-range artillery, advanced helicopters and ammunition. The deficiencies will persist for several years, at least.

The Marine Corps, with three divisions and three air wings set to go on a moment's notice, is still adapting to a new basic role as a first-line back-up force for the European front.

America's strategic nuclear forces are in a period of critical adjustment, too. President Carter's decision to kill the B-1 bomber and concentrate on air-launched cruise missiles will compel the Administration to decide on a plane to replace the aging B-52 fleet. Also: The growing vulnerability of land-based Minuteman missiles to a Soviet knockout attack will force another early decision—whether to build a new generation of mobile missiles at a cost of 30 billion dollars.

Those are problems that U.S. military leaders believe could be managed over the next few years, although the cost would be high.

But the leaders see two shortcomings that could seriously impair America's ability to wage a protracted war in Europe, and they warn that there is no obvious remedy in sight.

One is an acute and worsening shortage of properly trained reserves, who are supposed to reinforce active military units in wartime. Recruits are drying up as a result of the ending of the draft. Some experts argue that a limited form of conscription may be necessary.

The other critical problem is a scarcity of air and sea transport to carry U.S.-based fighting units across the Atlantic, in particular those with tanks and other heavy equipment. One plan—extremely costly—would be to position the needed stocks of heavy equipment in Europe ahead of time.

As things stand, the fear is that the conventional forces of NATO might be overrun before adequate reinforcements could arrive. In other words of one Army general: "We need a ride to where the war is."

Despite these deficiencies, top American military men believe that the armed forces today are capable of deterring the Soviets from launching a nuclear attack on this country and convincing them that they could not win a conventional war in Europe without facing prohibitive risks.

It is at the operational level—among the fighting forces in the field—that the magazine's reporting team found the most graphic evidence of the rehabilitation of America's military services since the Vietnam debacle.

For a close-up look, here are their on-the-spot reports—

STRATEGIC AIR COMMAND—OLD BOMBERS, SHARP PILOTS

MINOT AIR FORCE BASE, N.D.—At 5:50 p.m. on a recent evening, a claxon blared the call to war and a softball game broke up abruptly in the bottom half of the seventh inning.

The players piled into waiting pickup trucks and sped toward a line of B-52 bombers and their tankers. Ninety seconds after the horn sounded, black smoke belched from the first plane as a small explosive device was used to start the first engine.

In the cockpits of the five bombers on the alert line, the pilots began copying a series of numbers broadcast from Strategic Air Command headquarters at Offutt Air Force Base, Nebr. Only when they decoded the numbers did they know that this was a test and that they were not actually on the way to assigned targets in the Soviet Union.

At 5:55 p.m., the first plane crossed the hold line, ready for take-off. Three minutes later, the last of the tankers from the alert line reached the runway and the test was over.

Col. James D. Gormley, commander of the Fifth Bombardment Wing, took stock. Of 10 planes in the alert force, nine were ready for take-off in eight minutes, fast enough to escape a surprise attack.

One bomber did not taxi out because only seven of its eight engines started. "If this had been the real thing, we would have gone to war and started that engine in the air," Gormley explained.

During a recent four-day period, a similar test was run to determine if the 150 Minuteman missiles buried in silos in an 8,000-square-mile circle around the Minot base are equally ready. Eleven missiles were selected at random, and the entire system that controls and launches the missiles was tested.

2,680-mile mission

Lt. Col. Reginald S. Goodwin, commander of the 740th Strategic Missile Squadron, said the test was a total success.

Officers assert that, with 127,000 persons, the Strategic Air Command is much more powerful than it was 15 years ago with twice as many people.

As a further check on the readiness of the Strategic Air Command, an associate editor of U.S. News & World Report joined Capt. Robert W. Koop and his five-man crew in their B-52 on a practice mission that covered 2,680 miles in 9 hours and 10 minutes.

Koop took off at 11 a.m. and climbed to 25,000 feet to meet a tanker over the North Dakota-Montana border. For 36 minutes, the two planes flew within a few feet of each other as Koop and his copilot, Capt. Gerald J. Venteicher, practiced connecting and disconnecting from the tanker. Sweat streamed down their faces, and their muscles ached with the tension of flying so close to another plane 5 miles above the earth. Next it was the turn of 1st Lt. Robert L. Rottman, the navigator. He began a long celestial-navigation practice that took the plane to a point just south of Missoula, Mont., and back to the east of Rapid City, S.D. Then Koop pulled back on the throttles, and the bomber plummeted from 28,000 feet to 800 feet to approach the simulated bombing range.

For the next hour and 18 minutes, the huge plane followed the contour of the earth across the flat plains of South Dakota, bouncing in the rough air as it dipped into the sharply etched valleys of eastern Wyoming, skimming higher and higher mountains until it was passing over the snow-capped peaks of the Rockies near Deer Lodge, Mont. For safety it stayed 800 feet above the earth. In combat, it would go in at 200 feet or less, under the enemy radar.

As the crew prepared for the first attack, simulating strikes with bombs on two targets and with a short-range attack missile on a third, the bombing and navigation system malfunctioned. Officers report that the most frequent problem with the B-52s—the newest of which is 15 years old—is in the outdated vacuum-tube electronics equipment.

In this case, Rottman and Capt. Murry P. Gandy, the radar-navigator, managed to fix the system in time for the attack. Later, however, the system malfunctioned again, and an alternate bombing system had to be used.

Officers here say that the navigation and bombing systems now carried by the B-52 and the other strategic bomber, the FB-111, permit extreme accuracy.

Viewed from this base, the Strategic Air Command seems almost frighteningly ready for war.

U.S. MARINE CORPS—SHIFTING TO A NEW ROLE

CAMP LEJEUNE, N.C.—At the height of the war in Vietnam, a cluster of Asian "hootches"—primitive reed huts—stood amid the North Carolina pines, and Marines attacked the little hamlet, practicing the techniques they would use in combat.

Now, the hootches are gone. In their place is "combat town," with its bank, school, church and other buildings similar to those found in the cities of the United States and Europe. Here, men of the Second Marine Division practice the techniques of urban warfare.

The Marines still stand ready to move out on short notice. They still sail with the Sixth Fleet in the Mediterranean and they still storm ashore on beaches in the Caribbean. But they also prepare for war above the Arctic Circle and on the plains of Northern Germany. While they could fight anywhere in the world, their training now is clearly aimed at the defense of Europe from a Soviet attack.

How well are they prepared for that role?

New chapter

By almost any measure, the Marines are better prepared for combat than they were five, or even two, years ago.

In the early 1970s, Camp Lejeune was so torn by racial tension and by drug-abuse problems that it was dangerous to walk alone at night. Three brigs overflowed with inmates, some of them dangerous felons. Now, officers say, the criminal element has been eliminated. There is a small problem with marijuana but almost no evidence of the use of hard drugs. Officers and enlisted men agree that serious racial problems are a thing of the past.

The result of these changes is that the division can concentrate on training, which has meant a marked improvement in the division's readiness for combat, says Brig. Gen. J. V. McLernan, assistant division commander.

The division is also getting new equipment. The Marines have sometimes complained that they were short-changed on equipment. But the Second Division is getting the new Abrams tank, and TOW and Dragon antitank-missile systems ahead of some Army units.

About 30 per cent of the division's equipment is set aside and kept ready for a move to combat. But Lt. Col. R. C. Hyatt, the division supply officer, says that regular maintenance and spot checks keep all but 8 per cent of the division's equipment combat ready.

The problems that worry officers here are the kinds that can only be cured with time and lots of money. McLernan would like more naval gunfire support and more ships to carry the division and land it where it is needed. Other officers speak of the planes that the Air Force would need if the division had to move out in an emergency.

"These problems are long-term and expensive. We've just got to be patient," McLernan says.

TACTICAL AIR COMMAND—"AN IMPOSSIBLE CHALLENGE"

LANGLEY AIR FORCE BASE, VA.—The Tactical Air Command is in the position of a man trying to change from an old suit of clothes to a new one—without getting undressed.

Brand-new fighter planes and attack planes are coming off the production lines. Though the planes are welcome, they are also a problem to the officers who must worry about what would happen if war came now, in the midst of the transition.

"Converting to this new equipment is an impossible challenge—but we're going to do it," says Maj. Gen. Charles A. Gabriel, until recently deputy chief of staff for operations of TAC.

The Soviet Union, he says, has now completed about 95 per cent of a major modernization of its Air Force. The U.S. is in the early stages of a similar modernization program, which must be carried out while still trying to maintain a high state of readiness.

The headaches

These are some of the problems that have cropped up:

The 26 tactical wings should have 72 planes each. But they have only enough planes for 23 fully equipped wings. The shortage of planes will not be cured until 1981.

There is a shortage of fighter pilots. The cockpits of first-line fighters are manned, but there are too few experienced pilots available to train new pilots.

There is an across-the-board shortage of ammunition, especially the more sophisticated and expensive missiles. TAC officers would like to have each crew fire one air-to-air missile and one antiradiation missile each year. But there are not enough missiles for even that limited amount of training.

Engine problems plague the twin-engine F-15 and the single-engine F-16 fighter planes, both of which use the same power plant. The engine may stall unpredictably during dogfight maneuvers. That is especially dangerous in the F-16 because it has only one engine.

A shortage of parts for the F-15 has forced a high rate of "cannibalization"—borrowing parts from one plane to keep another flying. To some extent, this was foreseen as a necessary phase until a full parts inventory can be built up, based on experience in operating the planes.

Intensive training in the new planes means that things break or wear out. Thus, many of the planes are not fully ready for combat operations, although most of them could be used if needed.

Senior officers here say they are in the process of solving or working around many of the most serious difficulties.

A major problem was how to phase in a new plane without leaving a gap in front-line defenses. In the past, it might take a wing a year or more to become fully ready for combat with a new plane. But the first F-15 wing was trained here at Langley while the unit it was to replace remained on duty in Germany with its older F-4 Phantoms. When the training period was completed earlier this year, the new wing was flown to Bitburg, West Germany, and was on combat-alert status just 27 hours later.

To ease the pilot shortage, new pilots are getting more flight time in sorties carefully planned to jam in as much training as possible. With this intensive training, a pilot can become a flight leader with 300 hours of flying, rather than the 500 that used to be required.

Training is also being made more realistic. In a special training area at Nellis Air Force Base, near Las Vegas, Nev., air crews fly simulated combat missions against air defenses that are as much as possible like those they would face in combat against the Soviet Union or a nation supplied by the Russians.

Pilots specially trained in Russian tactics and flying planes that look very much like MIG-21s take on the trainees in air-to-air combat. Ground crews track them with radar on Soviet frequencies and simulate antiaircraft fire with captured Soviet weapons.

When the day's fighting is done, photographs and a computerized analysis of the air battle show the crews what they did right—and what they did wrong. They also have the unusual opportunity to talk over the battle with the "enemy."

Says Brig. Gen. Larry D. Welch, commander of the First Tactical Fighter Wing: "We have a constant problem balancing out between the need for readiness now and the training that will increase our level of readiness three months from now."

NAVY'S ATLANTIC FLEET—"IT'S GOING TO BE CLOSE"

NORFOLK, VA.—If war breaks out in Europe, it will be the job of the naval commanders here to keep open the sea lanes across the Atlantic to move supplies for the troops and to provide food, fuel and other goods for people in Europe and the United States.

Can they do the job?

"I'll tell you what's a fact," says Adm. Isaac C. Kidd, Jr., Supreme Allied Commander, Atlantic. "In the opening days, the losses are going to be staggering, just staggering."

Kidd believes that in an emergency at least 6,000 of the 10,000 merchant ships owned by residents of nations of the North Atlantic Treaty Organization should be mobilized. They would be loaded and sent

across the ocean at top speed. Some would go alone and unescorted, not waiting for convoys to form. As many as 2 out of 3 might be lost. Kidd says: "We're going to get an awful bloody nose—and so's the enemy."

"I'm afraid we may be like the division commander who has a big river to cross," Kidd adds. "His staff has proceeded in a thoroughly professional way to measure the loads, mobilize the trucks and organize the movement. Just one thing: Nobody has checked to see if the blasted bridge is out!"

The primary threats to the "bridge across the Atlantic" are the submarines that would swarm out of their bases in the Northern Soviet Union, through the Sea of Norway and down into the North Atlantic. "It's going to be a very difficult thing," says V. Adm. D. D. Engen, Deputy commander of the Atlantic Fleet.

"We don't have as many ships, we don't have as many airplanes as are going to be needed. We are going to have to do the very best we can with everything we have. It's going to be close. It really is."

Eliminating a threat

Maj. Gen. R. H. Spanjer, deputy commander of the Fleet Marine Force, Atlantic, puts the problem this way: "If you can get all the Army divisions that General Haig (Alexander Haig, Supreme Allied Commander in Europe) would like to have, plus two Marine divisions, which he'd like to have, then how do we survive? How do we get them supported fully? If it's a question of getting in to a trap if we can't support them over there, maybe our tactics and our strategy should change."

To protect the bridge across the Atlantic, two aircraft-carrier striking forces would be dispatched to the north. One would swing around the northern tip of Scotland, fighting its way into the Norwegian Sea if shooting began. The other would attempt to block the sea lanes between Greenland and Iceland and between Iceland and the Faeroe Islands. The goal of both would be to bottle up the Soviet submarines near their bases in the Barents Sea, sink those that tried to run the gantlet and either sink those already in the Atlantic or prevent them from returning to their bases for food and torpedoes.

V. Adm. H. E. Greer, commander of the Navy's Atlantic air arm, and V. Adm. W. L. Read, commander of the Atlantic surface fleet, agree that their forces are in a high state of readiness. But both express some misgivings.

The air arm, Greer says, is keeping its state of readiness by cannibalizing aircraft and by working its people 14 and 15-hour days to make up for manpower shortages. The state of readiness is "high but rather thin," says Greer.

He explains: "The reason that readiness is thin is the manning levels, the quality of experience and the depth of spares and back-up material. If we had a surge and had to double or triple our pace, the supply line simply is not equipped to handle an intensive operation over an extended period."

Read expresses a similar concern about the surface fleet: "We have 100 per cent of the numbers of our people, but we're thin in experience. We're thin in terms of the numbers of technically trained people. This in turn makes for a thinness as far as deployability is concerned—the capability of maintaining extended operations. I'd say that we have made good progress in the material aspects, but on the people side we've got problems."

Spanjer says that the Marine Corps, which recently held training exercises in Norway, Denmark and Germany, is in good shape right now, "the best shape that I've seen it in during my 36 years." Then he adds: "If there's a problem, it's getting there—taking everybody and getting into the battle."

U.S. FORCES IN EUROPE—RECOVERING FROM VIETNAM

HEIDELBERG.—Fly low along the southern border between East and West Germany, and you see how U.S. platoon leaders and the pilots of the A-10 jets giving them close air support get on-the-spot training to meet any Soviet attack.

Across the broad corridor where such an attack would sweep into West Germany, the American combat leaders are flown by helicopter to study at first hand the terrain where Russian forces might pour through. There, they plan how to attack tanks and other enemy targets that could be involved in an invasion.

It is a revealing exercise and one that backs up the impression that the American Army in Europe is a lot closer to being ready to go to war than it was a year or two ago.

In top form

As Gen. George Blanchard, commander of the U.S. Seventh Army, tells it: "Our forces in Europe have finally recovered from Vietnam. I don't think we've ever been in as good shape as we are now. And we should be. I now have absolute priority in people and equipment."

That represents a total turnaround. During Vietnam, Europe was at the end of the line. It got whatever was left over. Experienced officers and noncoms did European tours measured in months, as Germany was only a way station en route to and from the fighting. But whatever the Seventh Army wants now, it generally gets.

Its manpower is up to authorized strength for the first time in years, with two new combat brigades sent over from the U.S. recently and the American garrison in Germany up to the equivalent of five divisions. In Europe at this time are some 191,400 men, or 3 per cent over assigned strength, stationed in 700 installations in West Germany.

The other personnel indicators seem to be good, too. Racial incidents, which were disturbingly commonplace during the Vietnam period, are down to about one per month. The use of hard drugs is down sharply. And in the past two years, the AWOL rate has decreased from 2.6 to 1.2 per 1,000 men.

Military equipment is being shipped to Europe in a steady stream. More supplies are being hauled by plane, cutting back on the use of slow surface shipping.

But the third leg of the readiness triangle—personnel, logistics and training—is less heartening. Says General Blanchard: "I want more training money, more training time, more training ammunition and more training space."

Even if he contrives to get the first three, as he probably will, chances for getting more space are just about nil. Real estate for military use in Germany is severely limited, and U.S. forces will have to make do with what they have.

Talk with the top American officer over here—Gen. Alexander Haig, the Supreme Allied Commander in Europe—and you hear this: "I would say that we are far from reaching the level that would generate complacency, but in the past two years we have given close attention to our conventional needs and have finally turned the corner.

"With the improvement programs now under way, in a very rational framework, we'll be in tiptop shape in another three to four years."

Has the shift to an all-volunteer Army had an adverse effect, as some claim, on U.S. forces in Europe? Brig. Gen. William H. Fitts, Blanchard's chief of personnel, does not think that it has made much difference. His judgment is that today's soldiers, although less educated than the draftees, are more interested in doing their job and thus co-operate better with their officers and noncoms. The result, he says, is a trade-off.

This autumn, 12,500 U.S. soldiers were flown across the Atlantic to take part in the annual large-scale maneuvers of the NATO Alliance. The hope now is to make this more than a once-a-year exercise. As an Eighth Division colonel explains it: "Combat-training level is a very perishable commodity."

U.S. FORCES IN KOREA—"FIT TO FIGHT," BUT—

SEOUL.—Early every morning, you can see the 15,000 officers and enlisted men of the U.S. Second Infantry Division out jogging for several miles over the misty hills of South Korea.

That is one reason that the American military forces here are probably in their best shape in peacetime history.

In addition to such rigorous "fit to fight" physical conditioning, the division holds frequent field maneuvers, including almost constant cold-weather exercises, and spends much more time in the field than do troops in either the U.S. or Western Europe. But President Carter's announced troop-withdrawal plans may change the American position of strength here in the near future. Within five years, all U.S. ground-combat units are to be out of South Korea.

Right now, the American ground units are at or near their designated strength. Reductions so far have been mostly in support units and noncombat elements of the division, and they have not affected combat readiness.

Some U.S. Air Force units will stay in South Korea indefinitely, to be reinforced quickly in case of another invasion from the North. At least one additional tactical wing—usually a fighter-bomber wing plus reconnaissance group—is almost always in Korea on a training assignment from its home base on Okinawa or in the Philippines.

Measure of speed

An inkling of just how fast reinforcements could arrive in case of emergency can be gained by looking at the Korean incident of mid-1976, when two U.S. officers were murdered in the demilitarized zone. Aircraft reinforcements were brought in from as far away as the United States in less than two days. Local commanders say that other available planes are based only hours away, with some just minutes away, to give the South Korean-American Air Force superiority over anything that North Korea can put in the air.

No combat naval forces are stationed in South Korea these days.

The backbone of U.S. forces in Korea is the Second Division, now well supplied with equipment ranging from small arms to heavy artillery. As division manpower is reduced, this equipment will be left behind for eventual transfer to South Korean forces.

Meanwhile, the U.S. troops are doing most of their maneuvering in lightly populated areas near the DMZ, places that they would defend in case of war.

To a correspondent familiar with the U.S. Army in Vietnam, troop morale in South Korea presents a sharp and favorable contrast.

Commanders say that training has been helped by permitting more live-ammunition firing practice than is allowed in Europe or the United States.

What will happen to the defense capability when troop withdrawals begin on a large scale is a matter of endless debate here, but at this stage the U.S. commanders assert that they can handle anything that North Korea can dish out.

A PAT ON THE BACK FOR THE ALL-VOLUNTEER ARMY

Ever since the draft died with the end of the Vietnam War, major concern has centered on whether volunteer recruiting can maintain a high-quality U.S. Army.

Now a report by a respected independent

study group, the Rand Corporation, calls the all-volunteer military force a definite success.

In a detailed study made for the Pentagon, Rand reported on September 25 that the quality of the U.S. armed forces has not been lowered by ending the draft, which formerly provided an assured routine influx of high school and college graduates. The fear that the Army would become top-heavy in blacks or disproportionately heavy in poor or uneducated men and women has not been borne out, the 394-page report states.

The number of blacks in the Army has increased from 8 percent in 1960 to 16 percent currently, the study found. But it attributes this to "the vastly larger numbers of blacks qualifying for military service now."

The report adds: "The number of blacks entering the armed forces would be about the same under the all-volunteer force or the draft."

An increase in the number of blacks with high-school diplomas or the equivalent has enabled more of them to enlist in recent years—a period when civilian jobs have been scarce, especially for black youths.

What lies ahead?

Looking beyond 1980, the Rand study concludes:

"The all-volunteer force can be made to fail. But it also can be made to work—and perhaps much better than its draft-dependent predecessor."

The key to the future of the volunteer force, the report states, is in new policies that will increase the rate of re-enlistments, bring in more women in uniform and reduce the present inefficient use of military manpower.

FROM THE JOINT CHIEFS OF STAFF

Gen. GEORGE S. BROWN, Chairman:

I think our forces today are more ready than they've ever been in peacetime. Our training is more realistic than in the past. Our people are interested, enthusiastic and sincere; they're just professionals. But we've suffered because of some economies in funds to maintain equipment and to hold exercises and maneuvers.

Our lift capability to move reinforcements to Europe is not adequate against the worst scenario: little or no warning of a Soviet attack. We have plenty of airlift for people, but heavy equipment is an entirely different thing. It would take days, weeks, even months to move. This has led to a program of pre-positioning heavy equipment in forward areas in Europe.

There is a recognition that we do not have sufficient conventional forces to stop a Warsaw Pact penetration in Europe with nonnuclear forces. But if President Carter's proposal to improve NATO's conventional capability wins support, we can rapidly improve the situation. The strategy is to fight as long as we can in the nonnuclear sense, then resort to tactical nuclear weapons, then strategic ones, if necessary.

If our primary aim was to fight a war rather than deter one, we would be doing lots of things differently. What we are seeking to do—successfully, so far—is to deter a war principally with a strategic nuclear deterrent.

I'm not terribly pessimistic about our ability to cope with the Soviet threat. However, I don't think there's room for joyous optimism.

Gen. BERNARD W. ROGER, Army:

We have deficiencies, but the men and women in today's Army are the most highly motivated and best prepared peacetime soldiers I've seen in my 34 years of service.

There is an equipment-modernization gap between our active and reserve components and the Warsaw Pact. Our latest equipment won't be coming into the inventory until the 1980s.

We need additional ammunition stocks, new tanks, longer-range artillery, advanced attack helicopters and other modern equipment.

We have a sustainability problem, such as shortages in the Individual Ready Reserve which must provide replacements for combat losses. To assist in that area we would like a Selective Service System operating that would cut the time from call-up through training.

Our quick-reaction forces range from a 40-man ranger platoon on up to 100,000-man corps of three light or three heavy divisions. What concerns me is adequate air-and-sea lift to get them to where they are needed in time. I'm particularly concerned about our ability to reinforce rapidly our forces in Europe.

We have some deficiencies in our readiness, but I'm encouraged by what I've seen in the field. Training is the best I've ever seen and—though focused primarily on operations in Western Europe—includes cold-weather, jungle and desert environmental training.

Our challenge in the Army is nearterm readiness and midrange modernization. Obviously, we will be in a better posture after 1980, when our new generation of equipment starts getting to the troops.

BRING BACK FREE ENTERPRISE

Mr. HART. Mr. President, on September 9, Senator HATHAWAY and I introduced S. 2071, the "Competition Review Act." The purpose of this act is to determine legislative changes and regulatory modifications necessary to insure a vibrant and dynamic free enterprise system.

The bill would establish a "Competition Review Commission" to evaluate the competitive impact of the Government's laws, regulatory policies, and enforcement procedures. The study commission would also evaluate the effect of the practices of management, labor and other financial interests on the general health of the economy.

Not surprisingly, this proposal has been labeled "antibusiness" in some quarters. This is not the case. The bill reflects the fact that Congress must have a genuine understanding of the current structure and operation of the marketplace and how its actions help shape the economic environment.

Mr. President, there is an urgent need for this kind of comprehensive analysis of government and the private sector. A recent editorial appearing in the September 14 edition of the Rocky Mountain Journal—a paper in my home State of Colorado—makes this point with unusual clarity.

The editorial underscores the need for resolving competing economic theories of current industry structure. It states in part:

The truth of the matter is, what's good for General Motors may or may not be good for the rest of the country. And, most of the time, we simply don't know enough to decide.

Mr. President, I ask unanimous consent that this editorial be printed in full in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BRING BACK FREE ENTERPRISE

It seems safe to predict that U.S. Senator Gary Hart will soon be feeling the wrath of the What's-good-for-General-Motors-is-good-for-the-rest-of-the-country brand of capitalist.

Hart, along with Senator William Hathaway (D-Maine), introduced a bill last week which would create a commission to study the effects of economic concentration on employment, prices, profits, efficiency, innovation, quality of goods and services, ability of U.S. corporations to compete with foreign rivals, regional economic development and the political and social impact of economic concentration. The 11-member group, drawn from the private sector, the Congress and three federal agencies, would collect and analyze data gathered from the 11 major industries which handle chemicals and drugs, electrical and mechanical equipment, computers and communications equipment, energy, iron and steel, nonferrous metals, motor vehicles, transportation, food and—God help us—the newspaper and communications business.

Senators Hart and Hathaway may expect the sniveling and whining to begin to issue from the board rooms, the golf courses and the country clubs almost immediately. For if there is one thing big business, as we have come to understand the term, does not want generally known, it is the effects of economic concentration on our society—indeed on our planet.

We see them all about us: the muck in our rivers; the brownish-green miasma that hangs over Denver; the senseless violence that characterizes life in our cities; the near-total cynicism of a generation reared on Richard Nixon and Lockheed; the spots on our lungs.

But somehow, to some people, any suggestion that corporate greed may be at least partly responsible for these and a host of other evils is tantamount to an attack on the free enterprise system.

Well, we think it is about time that people begin to realize the extent to which big business influences every conceivable aspect of our daily lives and—more importantly—how often the influence is malign. We think the Hart-Hathaway bill, if passed, will help us to understand the world in which we live.

We anticipate that it also will create a solid data base from which it will be possible to refute the claims of those who invoke the spirit of free enterprise in defense of big business' felonies and misdemeanors.

Public Service Company of Colorado does not represent free enterprise.

Mountain Bell does not represent free enterprise.

Scripps-Howard does not represent free enterprise.

General Motors does not represent free enterprise.

Standard Oil does not represent free enterprise.

We all know this deep down in our guts, but let some flag-waving press agent start talking about the American Way or The Capitalist System and our knowledge makes us feel guilty, or even unpatriotic. The newspaper and communications industry must bear a large portion of the blame for this silly state of affairs.

The truth of the matter is, what's good for General Motors may or may not be good for the rest of the country. And, most of the time, we simply don't know enough to decide.

We fully expect the bill, along with its sponsors, to be categorized as "anti-business."

We hope an informed electorate will see through the deception.

We urge passage of the bill.

RATIFICATION OF THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, today the Committee on Foreign Relations continued its hearings on the Panama Canal treaties hearing as witnesses Senators THURMOND, HOLLINGS, and ALLEN, and Congressmen STRATTON, FLOOD, and Commissioner CORRADA from Puerto Rico. For the information of the readers of the RECORD, I ask unanimous consent that the prepared statements of the witnesses be printed in the RECORD. Senator HOLLINGS did not have a prepared statement but his remarks will be available for reading in the transcript in the committee offices.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND

Mr. Chairman: I am here this morning to present to the Committee and the American people my reasons for opposing the treaties with Panama.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. sovereignty as basic to continued "practical control" of the Canal, which even the President has expressed himself as being necessary.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter and to warn the government of Panama that the treaties would be scrutinized closely. Yet the treaties have been signed with great fanfare, and the threats from Panama strongly suggest either we ratify or pay the consequences of violence and disruption in the Canal Zone. In fact, Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

IMPORTANCE OF CANAL

I disagree completely with Ambassador Linowitz's statement to this Committee last week that the Canal has become "economically obsolescent." This statement is designed to denigrate the importance of the Canal and thus make the proposed treaties more palatable.

The Canal is one of a very few vital world waterways. It permits rapid two-ocean commerce very beneficial to our Nation. In 1975 about 14,000 ships transited the Canal. Approximately 70 percent of the traffic originated in the United States or was bound for the United States. It is estimated that 45 percent of Alaskan oil will be shipped through the Canal by 1980.

Furthermore, its value from a national security standpoint is attested to by heavy use during the Korean and Vietnam Wars. Approximately 98 percent of our Navy can use this Canal. As an example, in FY 1968, about 70 percent of U.S. Government cargo headed for Vietnam used the Canal. U.S. Government vessels passing through the Canal increased from 285 in 1964 to 1,504 in 1968; 1,376 in 1969; and 1,068 in 1970 during the height of the Vietnam War.

Also, we must not forget our Navy has declined from 900 ships to less than 500. Admiral Thomas Moorer, immediate past Chairman of the Joint Chiefs, states we no longer have a two-ocean Navy. All of our current major war plans are contingent on the interchange of ships between the Atlantic and Pacific Oceans. Ships of the Third and Seventh Fleets in the Pacific may have to bolster the Second Fleet or even the Sixth Fleet. All of our military services—Army, Navy and Air Force—depend on logistical support which transits the Canal regularly.

Four former Chiefs of Naval Operations have attested to the strategic importance of the Canal in a personal letter to the President. These four great naval strategists, Admirals Anderson, Burke, Carney and Moorer, have retired from the active service and speak from great experience. In their letter to the President, they warned:

"Loss of the Panama Canal, which would be a serious setback in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive."

Now that we have clearly established the importance of the Canal. I want to reject outright the slogan that "Use of the Canal is more important than ownership." A more sensible slogan would be "Ownership assures control." As a matter of fact, it can be argued that our giving up ownership of the Canal would diminish our chances for having free access to the Canal, particularly when we consider, for example, Panama's historic instability. Once the U.S. gives up sovereign and effective control of the Canal Zone and Canal, it will be, in effect, an outsider with highly questionable authority to intervene if the neutrality of the Canal is threatened. This Country would be in a very difficult position internationally and domestically if it had to resurrect "gunboat diplomacy" and intervene in Panama after we surrender sovereign rights.

WHY OPPOSED?

In an effort to be brief and avoid repetition of prior testimony, I will attempt to list my reasons for opposing the treaties.

I. Nature of Panamanian Government

I do not believe we should negotiate on such a vital issue with a government leader who deposed an elected President by military force and over a period of 9 years has not provided the people of Panama free elections. In this period, the Torrijos government has pushed the national debt from $167 million to over $1.5 billion. Today, about 39 percent of the Panama budget goes to service this national debt. Furthermore, this government of 1.7 million people has promoted close relations with Cuba and the Soviet Union, two expansionist powers unfriendly to our Country. I seriously question why we should make national heroes out of government officials who have virtually eliminated all political and civil rights of their people. The documented human rights record of the Torrijos government is one of the worst in the world.

One might ask, Once sovereignty is given to Panama, will that government remain friendly to the U.S.? Does the Panamanian government have the political strength or will to resist outside interference? Does it have the economic vitality to maintain and protect one of the world's vital waterways? What will we be paying after the year 2000 to keep the Canal open? If Panama finds it is unable to cope with the complex operation of the Canal, to whom will they turn? If to us, it means great outlays of cash. The only other great power to which it could turn would be the Soviet Union, through its figurehead Castro.

Mr. Chairman, I wish to point out that in the prepared statements of Ambassadors Bunker and Linowitz, Secretary Brown and General Brown, before this Committee, not one single time did any of these witnesses mention the name of General Torrijos. That should tell the Committee something about the nature of the Government to which we are being asked to turn over an approximate $8 billion national and world resource.

II. Sovereignty surrendered

I further oppose this treaty because it grants to Panama sovereignty six months after ratification, not in the year 2000, as the public has been led to believe. Once sovereignty is surrendered, control is lost for all practical purposes and control governs use.

III. Property surrendered

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We oblige ourselves to pay the Panama government huge sums in various ways, totaling up to nearly $1.5 billion over the next 22 years. By the year 2000, we will be turning over an investment valued at approximately $9.3 billion.

IV. Military pact rejected

Our negotiators sought but failed to obtain a military pact with Panama for minimal base rights which would have greatly enhanced our ability to assure the Canal's neutrality after the year 2000. Negotiator Bethancourt stated in his address to the Panama Assembly on August 18 the U.S. desire for defense forces after the year 2000 "created a deadlock in the negotiations for some time because Panama opposed signing of a military pact." Instead, we accepted an ambiguous neutrality pact.

V. Foreign troops allowed?

While U.S. negotiators claim the Neutrality Treaty allows only Panama to maintain troops on its own territory after the year 2000, the Treaty is silent on prohibiting foreign troops prior to the year 2000. There is nothing to prevent Panama from introducing Cuban, Soviet or troops of any other nation into those areas of the Canal Zone we surrender six months after the proposed ratification of the treaty in 1978. Changing political events could prompt Panama to take such a step. In my judgment, a prohibition on foreign troops prior to the year 2000 was one of the many errors made by our Canal negotiators.

VI. New canal prohibited

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us. While I feel a sea-level canal is unnecessary, why have we foreclosed this options? In doing so, we place ourselves at the mercy of the government which controls Panama.

VII. Privileged passage

The right to priority passage is also denied us in Article VI of the Neutrality Treaty. Instead of "priority passage" through a canal we built and have maintained for the world's benefit, we are promised only "expeditious passage." Mr. Bethancourt has stated privileged passage sought by our negotiators was specifically rejected. The differences in statements made by the negotiators on the two sides make is unclear what our rights would be in a given situation, although priority passage through the Canal could be vital to our national security in an emergency or war.

VIII. Unfriendly ships assured passage

Presently, as a result of our control of the Canal, we could deny passage to adversary

ships as a practical matter in time of an international crisis or war. Under the Treaty we surrender this right as it cannot be exercised once practical control of the Canal is surrendered. This means ships aiding an enemy of the U.S. could transit supplies through the Canal.

IX. Neutrality treaty

One of my most significant concerns is the ambiguity contained in the Neutrality Treaty. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact." (applause)

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated:

". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Mr. Chairman, Articles IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

Mr. Chairman, these are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has even been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

While I will leave to others the history of our acquisition of this property, no one can deny its benefits to Panama.

BENEFITS TO PANAMA

Between 1946 and 1973, according to the House Appropriations Committee hearings, Panama was the recipient of $342 million in total U.S. aid, more per capita aid than was granted to any other country in the world. Benefits to Panamanians in 1975 alone amounte to $29 million in direct purchases in Panama by U.S. agencies; $108 million in wages to non-U.S. citizens; and $39 million in expenditures by U.S. employees. We have not exploited Panama; rather, our aid has enabled its people to enjoy one of the highest GNPs per capita among all 19 Latin American nations, and the highest per capita income in Central America. Panama has from 1960 to 1974 a per capita growth rate surpassed only, and barely, by Brazil. Furthermore, U.S. private investments represent 50 percent of the capital investment in Panama.

POSITIVE ALTERNATIVES

Mr. Chairman, I am not opposed to a new arrangement with Panama, but strongly opposed to this treaty. In the past, I have supported the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity between the people of the United States and the people of Panama.

Under no circumstances, however, can we afford to cede sovereignty over the Canal to Panama. Stability for the Canal can only be maintained by U.S. control. Without sovereignty, we have no control. No provision of the treaties is more detrimental to our National interest than the provision which relinquishes sovereignty and control.

In conclusion, Mr. Chairman, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

STATEMENT BY JAMES B. ALLEN

Mr. Chairman, thank you very much for affording to me an opportunity to state to you and to the distinguished members of the Committee on Foreign Relations my reasons for opposing ratification of the proposed Panama Canal Treaty and the proposed, so-called neutrality treaty. Although the defects in both documents are legion, in my judgment there are five major flaws, each of which on its own ground would warrant complete rejection of the arrangements negotiated, inasmuch as each would independently damage the national interest of the United States to such extent as to render it improper for the Senate to give its assent.

The five major defects, at least as I see it, are (1) the failure of the Canal Treaty to provide for an adequate defense of the Canal during the proposed 23-year term of the treaty, (2) the failure of the neutrality treaty to grant to the United States the unilateral right to intervene to assure the neutrality of the Canal Zone, (3) the astonishing provision of the Canal Treaty which forbids the United States even to negotiate with another nation for construction of a sea level canal without the express consent of Panama, (4) the decision embodied in the Canal Treaty and related loan agreements to pay to Panama some $2.262 billion, and (5) the failure of the Canal Treaty to require Congressional authorization for its proposed cession to Panama of United States territory and property.

DEFENSE OF THE CANAL

In order to understand the defense provisions of the proposed treaty, care must be taken to examine in detail the Executive Agreement in Implementation of Article IV of the Canal Treaty. Moreover, further study must be given to the annexes to the executive agreement, to the annexes to the annexes, and to the various notes, minutes, and protocols—all of which form the fabric of the joint military defense we would undertake with Panama.

I am particularly concerned, Mr. Chairman, that the drafters of the Canal Treaty saw fit to set forth the major substantive defense provisions not in the Canal Treaty in its Article IV, which is entitled "Protection and Defense," but instead in the Executive Agreement in Implementation of Article IV—an agreement which is several times as large as the entire Canal Treaty itself. Article IV of the Canal Treaty does not cover a complete printed page, yet the Agreement in Implementation of Article IV is some 53 pages long, excluding annexes and excluding an additional 22 pages of agreed minutes, the minutes themselves having their own annexes. So, Mr. Chairman, we have critical defense provisions not in the text of the treaty but rather in this executive agreement and in other extrinsic documents which could be modified from time to time by the executive branch with no requirement whatever to obtain the assent of the Senate.

Moreover, Mr. Chairman, the defense provisions set forth in the executive agreement are themselves unworkable and portend a complete withdrawal of the U.S. forces from the Canal Zone well in advance of the projected date of 2000 AD. The Administration proposes in this first executive agreement to surrender 10 out of 14 bases. Thus, we are asked at the outset to permit the surrender of 10 out of 14 military bases and to permit our forces defending the Canal to be hemmed in from day one in 4 relatively small enclaves. These bases would indeed be enclaves because our freedom of action outside of the 4 bases would be severely limited by the treaty requirement for approval of operations by a joint military board in which the United States and Panama will have equal authority. Apparently, the doctrine of unity of command is imperfectly understood at the Department of State, but the Panamanians no doubt recognize fully that this provision of the executive agreement would give a *de facto* veto of United States operations outside of the 4 retained bases.

So our forces would be restricted to 4 relatively small enclaves, and only the naive would doubt that we would very soon see pressure on our forces to withdraw from the 4 sites retained. That process of withdrawal would be facilitated by the fact that the executive department could close down any one or all of the remaining bases by amendment of the executive agreement with the stroke of a pen without the consent of the Senate or the consent of the Congress. Now, Mr. Chairman, the members of the distinguished Committee may not think that this process of accelerated withdrawal is contemplated, but I would call attention to the provision of the executive agreement implementing Article IV which provides explicitly that the agreement will be renegotiated every two years or upon the request of either government and thus tacitly acknowledges what is coming.

This treaty is for a proposed term of 23 years. Yes, we are going to need tough-minded negotiators if we plan to hang on to these 4 defense sites for a term of 23 years with the Panamanians hounding us daily for complete withdrawal and with our own government already proposing to negotiate the matter on a biennial basis or upon request. Frankly, Mr. Chairman, these 4 defense sites would rest on a foundation of sand if, by Senate ratification of the Canal Treaty, the Department of State were to be given the right to agree—and they seem pretty agreeable with this dictator down there in Panama—if the Department of State were to be given the right to agree with Panama more or less at any time that the time was propitious to shut down another base.

Finally, Mr. Chairman, I would ask the Committee to consider carefully the feasibility of successful joint military operations with Panamanian forces. Over the long term we can expect problems. How can we expect full cooperation from an Army whose recruits are taught to chant in unison at their recruit training base at Fort Cimmaron, "Down with the Yankees, death to the Yankees, to the wall with the Yankees." No, Mr. Chairman, over the long term we would be naive in the extreme to expect full cooperation from Panama in any joint defense of the Canal.

CANAL NEUTRALITY

Closely related to the issue of defense is the failure of the executive branch to negotiate for the United States a right to defend

the neutrality of the Canal after 2000 AD. Much has been said in the media to the effect that the United States could unilaterally preserve Canal neutrality after a full withdrawal of U.S. forces from the Isthmus of Panama, but, Mr. Chairman, a careful reading of the neutrality treaty makes it evident that, in fact, the United States would have no such right whatsoever.

The neutrality treaty simply declares that the Canal Zone is neutral and sets forth an agreement by the United States and Panama that both parties recognize the Canal's neutrality. Nowhere is the United States granted permission to determine that the neutrality of the Canal is endangered or has been violated and nowhere is the United States granted the right to intervene to insure that the Canal is not made available to an enemy nation while being denied to our Navy and merchant ships.

Additionally, Mr. Chairman, the so-called right of expeditious transit given to United States warships is totally meaningless. The failure of our negotiators to insist on privileged passage for United States war vessels could permit Panama in an emergency to delay the movement of United States warships by simply requiring those vessels to transit the Isthmus on the same "expeditious" basis as merchant ships of all nations.

As Dr. Romulo Escobar Bethancourt, chief negotiator for Panama, put the matter, "If the gringos with their warships say, 'I want to go through first,' then that there is their problem with the other ships there." Regrettably, Mr. Chairman, Dr. Escobar's analysis of the practical meaning of our right to expeditious transit, although stated undiplomatically, is nevertheless precisely correct. His complete rejection of any claim that the United States is given the right to send troops to preserve Canal neutrality also accords accurately with the language in the text. In fact, the truth is, Mr. Chairman, that Dr. Escobar's construction of the neutrality treaty, is unlike the construction placed on it by our own executive department, a construction based on the language of the treaty itself rather than on wishful thinking or on the assertions of the mass media.

SEA LEVEL CANAL

From the language in the Canal Treaty rather than from press reports, we also learn that the United States would agree not to negotiate without Panamian consent with any country except Panama for the right to construct an interoceanic canal on any route in the Western Hemisphere. Mr. Chairman, knowing you as I do, I feel certain you share my astonishment that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our country first obtaining the express censent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did the United States gain from the concession?

I notice with some amusement, Mr. Chairman, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. Chairman, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, with pride explained to the Panamanian National Assembly the unilateral benefits of the so-called sea level canal options. Dr. Escobar's remarks on the subject, like his remarks on neutrality, are illuminating and are worth studying in full. As Dr. Escobar explains, instead of the United States obtaining an option to build a sea level canal, the United States negotiators gave to the Panamanians the option to veto construction of a sea level canal by the United States anywhere in the Western Hemisphere.

Now, Mr. Chairman, committing the United States to deal only with Panama about building another canal is a serious mistake. As the distinguished Chairman knows, the best route for a sea level canal is in Nicaragua, that being the route that Senator John Tyler Morgan favored during consideration of Isthmian routes in the early part of this century. Senator Morgan of Alabama, who was Chairman of the Senate Committee on Interoceanic Canals, felt strongly that Nicaragua provided a more favorable political and geographical solution to the immense problems involved in constructing a canal between the two oceans. Retrospectively, he may well have been correct, yet our present treaty negotiators propose to foreclose entirely the option Senator Morgan and many others favored, an option which should at least be kept open. Certainly, with the great volume of Alaskan oil which is only now beginning to come on stream and which must move to Gulf and East Coast refineries, any relinquishment of the right to negotiate for a sea level route in Nicaragua is a very grave mistake indeed.

$2.262 BILLION TO PANAMA FOR THE RIGHT TO CEDE THE CANAL ZONE TO PANAMA

So, Mr. Chairman, we are presented a treaty which does not provide for an adequate defense of the Canal, does not give the United States the right to intervene to guarantee neutrality, and does not allow the United States to initiate new canal projects except with Panama's consent. The Canal Treaty does, on the other hand, give the Canal Zone to Panama; it does eventually also give the Panama Canal Company to Panama; it does immediately give the most lucrative operations of the Panama Canal Company to Panama; it does give 10 United States military bases to Panama; it does give Panama political jurisdiction over 37,000 United States citizens living in the Canal Zone; and finally, Mr. Chairman, it gives to Panama over the life of the treaty $2.262 billion in 1977 dollars.

You know, Mr. Chairman, ordinarily the grantee pays the grantor, but our clever negotiators have figured out a way for us to give away the Canal Zone and pay the recipient at the same time. I will not insist on going into great detail on how this $2.262 billion in 1977 dollars is to be paid to Panama because I know the Committee is fully familiar with the financial ramifications of this proposed arrangement. However, I would recommend to the Committee a careful reading of a speech given on August 19, 1977, before the Panamanian National Assembly by Panamanian Planning and Economic Policy Minister Nicolas Ardito Barletta. Minister Barletta's analysis of the cash flow of this arrangement is, in my judgment, valid, and it is from his work that I have drawn the figure $2.262 billion.

Why are we proposing to pay these tremendous sums to Panama? Why would we permit these proposed toll increases which will surely burden commerce and inflate consumer prices in the United States? The only reason I can ascertain is a desire to provide Panama with funds to repay outstanding loans from the large international banks.

The Library of Congress did a study at my request which indicates that the external public debt of Panama is some $1.7 billion.

Interest on that sum is a tremendous burden on this small country of only 1.7 million inhabitants, and already 40% of current revenues in Panama go to carrying present indebtedness. Stating the matter bluntly, Panama is on the verge of bankruptcy and many of our large banks hold loans which may soon be bad debts, that is, of course, unless the United States taxpayer rescues the banks by providing the funds to Panama for repayment.

Mr. Chairman, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, to write off at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps, rejection of the Panama Canal Treaty would be a good method to send that message.

THE CONSTITUTION IGNORED

The final major defect in the treaties is perhaps the most significant since it represents a direct assault by the executive branch on the prerogatives of Congress and since it would set a precedent extending the authority of the executive branch far beyond the bounds contemplated by the authors of the Constitution of the United States.

Article IV, Section 3 of the Constitution provides that Congress "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Mr. Chairman, I know that the Attorney General has advised the Committee that the proposed treaties do not in any respect violate this clause, but with all due deference to him as a very able lawyer, I cannot share his rationalization of the clear language of the Constitution or his characterization of consistent past practice in our dealings with Panama.

In 1936 and again in 1955, cessions of United States territory to Panama were made contingent on Congressional authorization. Yet now that a truly major cession of virtually all United States territory in the Isthmus of Panama is contemplated, the executive branch has seen fit to assert a novel theory by which the Administration would circumvent the Congress. The reason for development of this novel theory of Constitutional law is, I believe, a matter of practical politics rather than legal scholarship since public opposition to giving up the Canal is so overwhelming that any Congressional authorization of a cession of territory would be difficult, if not impossible to obtain.

But beyond the immediate question, if we in the Senate permit this circumvention of the role of the Whole Congress in any cession of United States territory, we will be setting a very dangerous precedent which will surely be used again by this or future administrations to assert power in an area heretofore preserved to the Congress. My own guess is that we would next see this precedent applied to the Guantanamo Naval Base in Cuba, but perhaps other cessions of territory or property are also in the works.

So, Mr. Chairman, this Committee should not lightly endorse a departure from sound Constitutional principles simply for the political expediency of the moment. This Com-

mittee, should, instead, amend the proposed treaty at all appropriate points to make cessions of territory subject to the enactment of authorizing legislation by the Congress. I would hope that such an amendment would be one of many adopted in Committee to correct these glaring defects I have discussed.

RESERVATIONS, AMENDMENTS, AND THE FILIBUSTER

In summary, Mr. Chairman, I believe that the Senate should play a significant role in the formulation and revision of these proposed treaties so that the terms of any new arrangement wtih Panama can be made acceptable to the American public and so that the national security interests of the United States can be protected.

Mr. Chairman, I am sure you know of the early practice of including Senators in delegations sent to foreign countries for the purpose of negotiating treaties. That practice has unhappily in large measure ceased, and the Senate has been more and more asked for consent rather than advice. These treaties provide an excellent opportunity for the Senate to reaffirm its Constitutional prerogaive and, indeed, duty to advise the Executive—to advise the President—in matters of foreign policy, particularly with respect to treaty negotiation. The Senate can give its advice through the amending process. These treaties should be amended to cure their obvious defects, and since any amendment will require a renegotiation of the amended treaty, the Administration will be advised by these Senate amendments of what is acceptable to the Senate and to the people and what might later receive Senate consent.

Reservations to these treaties would be of little or no value. Reservations simply state the opinion of the Senate and do not have the full force and effect of law. No, Mr. Chairman, the defects in these treaties require outright amendment, and I strongly urge that the Committee take in hand the process of amending the treaties before reporting the treaties to the Senate, at which time the Senate will first receive them as the Committee of the Whole. Although there will be ample opportunity, I am certain, for amendment in the Committee of the Whole and on the floor of the Senate, certainly the Committee on Foreign Relations should play the leading role in molding and amending these documents and giving thereby to the Administration its advice on arrangements with Panama.

Finally, Mr. Chairman, I would comment that I do not foresee a filibuster of these proposed treaties. I do foresee a full discussion, legitimate debate, and consideration of substantive and serious amendments. A filibuster would be pointless, both because a filibuster could be stopped by 60 Senators whereas the treaties could be stopped by 34 Senators and because both treaties present questions which should be disposed of without undue delay.

Inasmuch as the concerns of the citizens of the United States are fairly evident, the Senate should with deliberations, but nevertheless promptly, discharge its duty in considering ratification. No good purpose would be served by having these proposed treaties more or less hanging around for years. They should be put to the test of ratification expeditiously, and it is my own sincere hope that the wisdom and desires of the people of the United States will be respected and that accordingly the treaties will be defeated.

Thank you for the opportunity to appear before this distinguished Committee and before its distinguished Chairman, who is my friend and senior colleague.

TESTIMONY OF CONGRESSMAN SAMUEL S. STRATTON

Mr. Chairman, I appear here in opposition to the Panama Canal treaties "in their present form." I am recommending three "reservations" which I believe should be incorporated in these treaties before they will properly protect the national interest and so be suitable for ratification.

Thus my position differs from that of some other treaty opponents. I am not, for example, opposed to some adjustment in the existing canal treaty. I have been to Panama and have seen the glaring economic disparities there between those who live in the Zone and those outside. I recognize the potentialities for civil disturbance and even guerrilla warfare. I would agree we should take steps to eliminate many of these glaring inequities that are more appropriate for an earlier age. We ought to turn over more of the operation of the canal to the Panamanians, and make available to them a greater share of the financial benefits of the canal, if indeed there are any left.

So I do not quarrel with the general thrust of the principal treaty pending before you. What disturbs me is that these treaties go too far. Clearly they throw out the baby with the bath.

The Panama Canal is still a valuable American asset. It is important to our sea-borne commerce. One might argue that it is not quite as valuable today as it was 30 or 40 years ago. But it is still valuable and will continue to be valuable into the future, especially as we begin to ship our new Alaskan oil around to the East Coast.

Thus whatever changes may be made in the operation or financing of the canal, it is absolutely essential the canal remain available to us and control of it be denied to our enemies into the indefinite future—which certainly means well beyond the next 22 years.

That is why, throughout all these negotiations, and in the subsequent debate over the treaties themselves, the question of canal defense has been fundamental. The main treaty spells out in Article IV the right of the United States to defend the canal until the year 2000. In addition, all the statements made by the negotiators and by Administration spokesmen have asserted that the second treaty, the so-called neutrality treaty, gives the United States the right to defend the canal after the year 2000.

Unfortunately, as recent hearings here and before several House committees have disclosed, this later assertion is simply not true. An alleged right of defense is supposed to be implicit in the text of Article IV of the neutrality treaty. But the word "defense" never appears there. Article IV provides that:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral . . ."

It doesn't say one word about defense. How exactly do you get "defense" out of "neutrality"?

In his original press conference on the treaty President Carter, commenting on Article IV, said "we will have an assurance in perpetuity following the year 2000 that the Panama Canal will be neutral, that our ships will have unlimited access to the canal, along with the ships of other nations; we have no constraints on the action that we can take as a nation to guarantee that neutrality."

But there is a world of difference between "no constraints" placed on the action we can take to preserve neutrality, and a clear-cut, unambiguous right of defense.

Indeed the Panamanian Foreign Minister, Dr. Romulo Escobar Bethancourt, declared in a news conference in Panama City on August 24th that "The treaty does not establish that the United States has the right to intervene in Panama." Just how meaningful can a supposed defense right be when a high official of one of the contracting parties publicly denies that the treaty assures such a right?

The only possible conclusion is that these treaties are seriously deficient in protecting America's vital interests. They have been presented to the American people under gravely misleading colors, as containing what they do not in fact contain.

Therefore, Mr. Chairman, my first proposed reservation is that these treaties must specifically spell out the right of the United States, after the year 2000, to defend the canal from any aggression or hostile action that might close it off or threaten to close it off to United States ships or render the canal itself inoperable. With possible threats against the canal from Cuban or Soviet action in the Caribbean, we simply cannot rest our vital national interests on abstruse interpretations of vague and ambiguous language that have already been repudiated by the other signatory power. For the Senate to ratify these treaties without insisting upon this important change would be a dereliction of duty.

General George Brown and other military leaders were quoted in the Washington Post as having assured this committee on September 27th that "U.S. interests will be safeguarded by those treaty provisions giving the United States the right to intervene against threats to the canal's neutrality." Just where do these officers find that particular right in the two treaties? What legal experts told them that even though no such right is spelled out in the text it is there nevertheless? Since when does it make sense for the most vital item of all not to be clearly and unambiguously spelled out in two treaties that devote hundreds of other precise and intelligible words to items of far less significance? If it is there, what's so wrong about stating it plainly?

In testimony before the House International Relations Committee former Secretary Kissinger expressed concern that this defense right was not expressed in the treaty. And on September 26th before this committee Ambassador Linowitz was reminded by Senator Stone that Foreign Minister Escobar's statement contradicted all these repeated assurances of a specific right of intervention. Mr. Linowitz's only reported response was to say that regardless of what the Panamanians said, the United States still considers its own interpretation "binding on Panama."

Famous last words! This was precisely the approach that got us in trouble with the SALT I treaty. Too many important items were either not mentioned at all or were referred to ambiguously. So when the Soviets began to do things we regarded as violations of the spirit of the treaty, it turned out there never were any such provisions in the treaty—only the conflicting interpretations of the two signatory powers. Let's not do this all over again with the Panama Canal treaties.

In his September 26th testimony Mr. Linowitz offered to resolve this difficulty by "seeking some kind of clarification from the Panamanian government." Well, no amount of "clarification" merely from the Panamanian government can assure the American people this point. The only proper place to clarify the matter is in the text of the final ratified treaty itself. And that clarification can only be made by means of a specific reservation insisted upon by the United States Senate.

Directly related to this principal reservation, I recommend two other reservations. The first is that this defense right be incorporated in the basic treaty itself, not in a separate treaty. So long as there are two treaties, one before 2000 and the other after 2000, disputes will always arise as to which is the real treaty and which should ultimately prevail. As far as defense is concerned, we can tolerate no such ambiguity. We must make it perfectly clear in the basic

treaty that all the things we are agreeing to do up to the year 2000 are in direct consideration of the explicit defense right that is being guaranteed to us after the year 2000. Otherwise, the treaty process becomes just a one-sided giveaway.

Finally, if any defense right after the year 2000 is to be meaningful, the United States must have in Panama itself the means to mount such a defense. Yet Article V of the Neutrality Treaty specifically forbids the United States to "maintain military forces, defense sites and military installations" within the Republic of Panama. So a third reservation is required.

Here, too, the testimony of the Joint Chiefs of Staff is seriously deficient. Repeatedly in his comments on the canal General Brown has insisted that the canal is basically "indefensible." If he really believes that, it doesn't matter whether our right to defend the canal is unambiguously assured or not. But I gather that what General Brown really means is that the canal is basically indefensible against an aroused Panamanian people. This may or may not be true. But defense against the Panamanian people is not the major military problem after the year 2000. Once the Panamanians are cut in on the operation and financial benefits of the canal, as this treaty does, they would have to be out of their minds to interrupt regular canal operations.

Our major defense problem after 2000 is the Cubans and the Russians. Panama is not a major military power. Therefore, once United States forces have withdrawn completely from the canal there will be a sizable power vacuum, and with it a strong temptation for other military powers to take the canal away from the Panamanians. If Cuba can send a force of 10,000 combat troops to Africa, what is to stop her from sending paratroopers to Panama to take over the canal? Or what would prevent the Soviets from forcing special concessions out of Panama by moving several cruisers or nuclear submarines just off the coast of Panama City?

If we are to oppose or, better still, deter any such efforts to capture the canal and deny its use to us we need a base located in the immediate vicinity of the canal. Otherwise our "defense" would amount to trying to recapture the canal from bases in Florida, Texas, or Guantanamo. But once the Cubans or the Russians were in physical possession of the canal, I wonder if America would really be willing to retake it in a contested amphibious landing? On the other hand, if U.S. military forces are still in place, if our defensive radar is working, and if our patrol planes are on station out of an American air base, then we can almost certainly deter any such attack well into the 21st century.

So I propose, Mr. Chairman, that we insist, as part of our right to defend the canal, at least one United States base in Panama, including an airfield. Presently we have 13 or 14 there. If the treaty really gives us the right of defense, then it should also give us the capability of exercising that right effectively. This base would not, of course, be on American soil; it would be on Panamanian soil. And we would be there under treaty to aid Panama in the canal's defense. Anything less than that would make a mockery of the whole issue of American defense rights.

I recognize that these reservations would require reopening negotiations. But let me point out that this would not have been necessary had the executive branch made a serious effort to listen to the American people and to the Congress while these negotiations were under way rather than after they had been concluded. Woodrow Wilson made a similar mistake in 1919 and lived to regret it.

With these reservations the treaty is not quite as generous to the Panamanians as in its present form. But, after all, we are promising not only to give them the canal, but to pay them very generously, perhaps too generously, for taking it away. Surely in return for all these concessions it is little enough to ask that we have not just an implied, but a specific and meaningful right to protect and defend this engineering marvel we built and have successfully kept in operation.

The American people have been led to believe that that right is actually contained in these treaties. You and I know better. Therefore, it is up to the Senate, and to a lesser extent the House, to see that this very serious omission is corrected.

Panama Canal: The Problem and the Reasoned Solution

(By Hon. Daniel J. Flood)

Mr. Chairman, as a student of Panama Canal history and problems, I long ago recognized them as inexhaustible subjects. My interest was first aroused in early youth when former President Theodore Roosevelt used to be an occasional house guest at my grandfather's home in Hazleton, Pennsylvania. During those years, I listened many hours to that great American leader while he discused the difficulties he had to face in launching what was then, and still is, one of the most stupendous industrial enterprises in history. He naturally became my youthful ideal and inspired an interest on my part in the Canal question that has increased over the years. It has been a privilege, indeed, since being a member of the Congress, to have been an instrument in the protection of the most strategic waterway of the Americas as a vital asset of the United States for interoceanic commerce and national defense.

Instead of making a long and detailed statement, I ask that the following documents be appended to my testimony:

Hay-Pauncefote Treaty of 1901 with Great Britain and the April 22, 1977 letter of the Raja of Patiala to the Prime Minister of India.

My statement before the House of Representatives Subcommittee on Inter-American Affairs, September 22, 1971.

My address on "New Panama Canal Treaty Report: Fallacies Clarified and Constructive Program Proposed." Congressional Record, September 9, 1976, pp. 29561–64.

H. Res. 92, 95th Congress.

H.R. 1587, 95th Congress.

Dr. Karl Brandt et al. "Panama Canal Sovereignty and Modernization: Memorial to the Congress," 1975.

Press release of environmental organizations of September 6, 1977 and their telegram to the President of September 6, 1977.

Panama Canal Pilot Association urges Major Modernization as Solution of Panama Canal Problems. Congressional Record, November 15, 1973, p. 37175.

Mario Lazo. "Panama Canal Giveaway: A Latin American's View." Washington, D.C.: Council for Inter-American Security, 1977.

Letter to the President by four former Chiefs of Naval Operations of June 8, 1977, and its forwarding endorsement by four Senators of June 15, 1977.

In my studies of Isthmian canal policy questions, I have had the benefit of extensive consultations with the best informed authorities that I could find. They included experienced engineers and geologists, Panama Canal pilots and other navigators, marine biologists, lawyers, historians, and distinguished officers of the Armed Forces with high command exeperience.

Though canal problems are immensely complicated, when reduced to their essentials they are relatively brief and simple. The two central ones are: (1) the question of U.S. sovereignty over the Canal Zone; and (2) the increase of transit capacity coupled with operational improvements.

From a study of extensive evidence, it is clear that one of the prime reasons for the tremendous success of the United States in the construction of the Panama Canal and its subsequent efficient maintenance, operation, sanitation, protection and defense, with tolls that are "just and equitable," during two World Wars, the Korean and Viet Nam Wars, and the Cuban missile crisis, was the exclusive sovereign control of the Canal Zone by the United States.

When the present Panama Canal questions are evaluated from their most significant angles—engineering, marine operational economic, legal, environmental, defense and diplomatic—the only commonsense solutions are: (1) retention by the United States of its undiluted sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under the well known, extensively documented and strongly supported Terminal Lake-Third Locks solution. This proposal, which was developed in the Panama Canal organization as a result of World War II experience, was submitted to higher authority through official channels and won the approval of President Franklin D. Roosevelt as a post war project.

Such major modernization, on which more than $171,000,000 have already been expended, would improve the maintenance and operation of the Canal enormously, bring huge benefits to Panama, serve interoceanic commerce by increasing canal capacity and its operational efficiency for larger vessels, including larger tankers with Alaskan oil, and serve to increase employment in the United States as well as in Panama. Moreover, it is covered by existing treaty provisions, which authorize "expansion and new construction," and thus does not require the negotiation of a new canal treaty. (Congressional Record, July 24, 1939, p. 9834.) In addition, the Terminal Lake-Third Locks solution is recognized by experienced navigators, including Panama Canal pilots, as providing the best operational canal practicable of achievement and, I may add, at least cost.

In connection with costs, one of the main reasons for the insistence by the United States upon exclusive sovereign control over the Canal Zone was to protect the huge investment involved in the construction and fortification of the canal as well as the costs of its later improvements.

As a member of the Subcommittee on Defense, House Committee on Appropriations, I believe that I reflect the view of a majority of the House of Representatives as well as the people of the United States when saying that both will demand adherence to that historic U.S. canal policy.

In contrast to the modernization of the existing Canal, the much publicized proposal for a so-called "sea-level" canal, which is actually one of tidal lock design, would be operationally inferior to the existing canal as well as economically extravagant. Nevertheless, it makes a strong appeal to the inexperienced and others who think they may benefit from such a vast project. It periodically reappears as a "hardy perennial" no matter how often the impossibility of realizing any such scheme within realistic limits of cost and time may be demonstrated.

Historically, the advocacy of a "sea-level" design has been based on the alleged vulnerability of the lake and lock type.

In 1905–06, during the "battle of the levels," its supporters used the danger of "naval gunfire" as their major justification.

In 1938–39, prior to World War II, they stressed the hazards of "enemy bombing."

In 1945–48, its proponents held that "vulnerability to the atomic bomb" and other new weapon dangers "dictated" the construction of a "sea level" canal for reasons of "security and national defense."

In 1964, its advocates argued that "two sticks of dynamite" could destroy the present canal.

In 1970, they contended that the alleged "vulnerability" of the existing canal to "many forms of attack" required a tidal lock design.

In 1974–75, its supporters stressed that the dangers of "guerilla warfare" and even "earthquakes" required construction of the "sea level" type.

The only new points in support of the "sea-level" proposal have been the use of different hobgoblins. Such advocacy is primarily based on the fallacious assumption that it is possible to construct a canal of "indestructible proportions."

The advent of nuclear weapons has negated all such assumptions, for any navigation project, regardless of type, is vulnerable to destruction by such weapons and no amount of sophistry can alter this fact. The true criteria for decision as to type are not passive defense measures embodied in canal design but "ease and safety of navigation" and this test leaves no doubt as to what type is required at Panama.

The 1947 Report under Public Law 280, 79th Congress, recommended only a "sea-level" project in the Canal Zone near the existing canal. It failed to receive Executive approval and was transmitted by President Truman to the Congress without comment or recommendation, and the Congress took no action thereon.

When the 1960 report of an independent inquiry under the House Committee on Merchant Marine and Fisheries was submitted, it opposed the construction of a "sea-level" project in the Canal Zone, as previously recommended in 1947, because of the possibility of massive slides involving a "long interruption to traffic" (H. Rept. No. 1960, 86th Congress, p. 5.)

In 1970, the report under Public Law 88–609, 88th Congress, as amended, recommended only a "sea-level" project in the Republic of Panama about 10 miles west of the existing canal.

The 1947 and 1970 "sea level" canal reports, costing about $6,000,000 and $23,000,000, respectively, were not the products of independent broadly based commissions subject to Senate confirmation, but of Executive appointed consultants to justify the predetermined decisions of a small professional and industrial group.

The maintenance, operation, sanitation and protection of the Panama Canal and its indispensable protective frame of the Canal Zone are technical problems of great complexity, requiring not only a depth of expert knowledge and experience but also the strong logistical support of a great and powerful nation.

The solution of these problems, including that of major modernization, does not consist of surrendering U.S. sovereignty over the Canal Zone and, ultimately, the Canal itself to a small, weak, technologically primitive, and unstable country but the assumption by the United States of its responsibilities as the great power leader of the Free World.

As was previously indicated, the reasoned solution is two fold: (1) re-affirmation by the Congress of full U.S. sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under existing treaty provisions. Measures to implement these objectives are now before the Congress and should be promptly approved.

As to the much propagandized assertion that all of the Latin American countries desire the United States to surrender its sovereign control over the Panama Canal and Canal Zone to Panama, this is plain poppycock. I know of no better summary of Latin American feeling than that by the late Dr. Mario Lazo, a distinguished Cuban lawyer and author. In his 1977 posthumously published article, when commenting on the proposed surrender, he stated: "The almost universal reaction among the educated people of Latin America who are not politicians to a promulgated Kissinger-Bunker giveaway treaty would be, at first, incredulity, then sadness and eventually ridicule and even contempt for the once greatly respected nation that had shown itself no longer to have the will to maintain its responsibilities." (Mario Lazo, Op. Cit., p. 10.)

The situation on the Isthmus is not a mere local conflict between Panama and the United States but a focal issue in the U.S.S.R. campaign for world domination by gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from some 1,000 vessels a decade ago to about 460 ships today. Thus, the Canal is a more vital element now for U.S. seapower than for many years. We can surrender its sovereign control only at our peril for with the loss of sovereignty all other aspects would become irrelevant. Such giveaway would quickly transform the Caribbean Sea and the Gulf of Mexico into Red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and their opponents as liberals and conservatives, respectively, this is a monumental deception. The Canal question transcends all partisan considerations and must be resolved on the highest plane of national interest for it is a crucial issue in the current global situation, involving the security not only of the United States but also that of the entire Free World.

In these connections, I would stress the following:

The proposed new canal treaties ignore the obligations of the United States under the Hay-Pauncefote Treaty.

They disregard the rights under that treaty of the successor states of the former British Empire and other important canal users that provide a substantial portion of Panama Canal traffic.

They represent an abject surrender to threats of violence if the treaties are not ratified.

Their ratification will extend U.S.S.R. power in the strategic Caribbean-Gulf of Mexico areas and impair the influence of the United States not only in this area but also throughout the world, especially among canal user nations.

There is ample authority to deal with local problems within the framework of existing treaties without any new ones.

The present treaties are workable. The proposed treaties would saddle the United States with grave responsibility without adequate authority, which would be an entirely impossible situation and would not work.

Finally, Mr. Chairman, the program that I recommend, which is derived from experience and is historically based, is simple:

1. Rejection of the pending treaties in their entirety;

2. Re-affirmation by the Congress of the historic U.S. policy for perpetual undiluted U.S. sovereign control over the Canal Zone;

3. Enactment of measures for the major modernization of the existing canal under existing treaty provisions.

4. Authorization for a Delegate in the Congress from the Canal Zone.

5. Reactivation of the preWorld War II U.S. Navy's Special Service Squadron with home base in the Canal Zone.

As recognized by many informed Latin Americans, this program will be best for the United States, best for world commerce, best for Panama and best for other nations of Latin America that use the Canal.

Testimony of the Honorable Baltasar Corrada

Mr. Chairman, Members of the Committee: My name is Baltasar Corrada, Resident Commissioner of Puerto Rico to the United States Congress, and Member of the House of Representatives. I am very pleased to be given the opportunity to testify today on the proposed Panama Canal Treaties. I have a short statement that I would like to read and I will then answer any questions that you may have.

I have asked to be heard by the Committee because it seems to me that we Puerto Ricans are in a very unique position as citizens of the United States as well as residents of the Caribbean of hispanic heritage, to understand the significance of these treaties for our nation and for our relations with Latin America. Puerto Rico lies halfway between the U.S. mainland and the Canal. From our particular vantage point, I will share my views with you.

Although I am aware of the concern of some people about a possible threat to our national security, I do not believe that our safety is imperiled as a result of the ratification of these treaties. I would like to state from the outset that the proposed treaties have my full support as well as the endorsement of the Governor of Puerto Rico, the Honorable Carlos Romero Barceló. Governor Romero was one of the first governors to encourage the ratification of these treaties in a speech given at the recent Southern Governors Conference held in San Antonio.

We realize and share in the strong belief that these treaties represent a fair and just resolution of a long standing and delicate dispute between our nation and the Republic of Panama. A dispute, may I add, that has become an issue in terms of our relationship with all the nations of Latin America who will judge our actions in this matter to view us as fair and open-minded or as recalcitrants who insist in perpetuating an old agreement not morally justified on the basis of today's standards for international relations.

A major question and one which I find people are most concerned about revolves around what they perceive to be a giving away of something that is rightfully ours. A close examination of the provisions of the Hay-Bunau-Varilla Treaty, particularly Articles II and III, however, will show that while the words "in perpetuity" were used in granting the United States control over the land for the purpose of the construction of the canal, and that Article III provides that "the United States would possess and exercise (as) if it were the sovereign of the territory," the United States has never asserted sovereignty in one very important characteristic inherent to a claim of full territorial jurisdiction: the citizenship of persons born within its boundaries. Children of non-U.S. nationals which are born within the boundaries of the Canal Zone are not considered U.S. citizens. I believe this to be a very important point as we have extended our citizenship to those persons born in places where we have full jurisdiction; the absence of that policy in this case shows that we never intended to assert full sovereignty over the Canal Zone.

In addition, there are two other points which we need to emphasize in order that our people will fully understand the purpose of these treaties. First, the continued protection of our national security interests are ensured by the provisions in the treaties which continue our exercise of control over the defense of the Canal until the year 2000 and guarantees the neutrality of the Canal into the 21st century and beyond. Moreover, the United States is guaranteed passage of its ships during a time of war regardless of the nature of their cargo, and the United States will continue to supervise the access to the Canal area on both the Atlantic and Pacific ends. We are thus assured that, should the need arise, the uninterrupted use of the Canal would be guaranteed.

A third main point concerns the commercial use of the Canal. In recent years our

use of the Canal has declined as it is not equipped to handle the super-tankers used today. Many people are not aware that only about 4 pecent of the trade between the East and West coasts of the United States is handled through the Panama Canal today. Even so, this commercial navigability is not endangered or precluded by the ratification of the Canal Treaties; on the other hand, both the United States and Panama commit themselves to a joint study to determine the feasibility of a new sea-level canal. Such a study and possible construction, I submit, would not have been possible without an overall evaluation of the 1903 Treaty. Looking at it pragmatically, by the enactment and ratification of these treaties we are ensuring the possibility of increased use of the canal by our ships and tankers through the expansion of the existing Canal or the construction of a new one, something which would otherwise have been extremely difficult, if not impossible under the terms of the existing treaty.

Lastly, we must remember that Ambassadors Bunker and Linowitz are men of vast experience dedicated to the achievement of a mutually equitable treaty. If people would read and analyze the provisions of these treaties, the notion that this is a one-sided deal, beneficial to the other party at the detriment of our interest, would be dispelled. Our interests and security have been and will continue to be protected by the ratification of these treaties.

This brings me, Mr. Chairman, to what I consider to be a significant consequence of these treaties; our enhanced reputation in the world community, particularly amongst our neighbors in Latin America. The 1903 Treaty has long been considered a blot in our international reputation. While one can understand and sympathize with the pressing need in the United States during the early 1900's for a route connecting the Atlantic and Pacific oceans, one cannot help but be critical of the 1903 Treaty. It seems inconceivable that a fair and equitable treaty could be worked out within days of the proclamation of the new Republic of Panama. It is not surprising that the Panamians later resented the terms of the treaty. The 1964 riots exacerbated an already smoldering situation and determined without question that a solution had to be reached in order to avoid a major crisis. It was impossible to maintain the status quo but it would have been foolish to undertake any precipitous agreements. The fact that the negotiations spread over a fourteen year period under Presidents Johnson, Nixon, Ford and Carter attest to the thorough deliberations that took place. We can be justly proud and sure that the ratification of these treaties will result in a better appreciation and support of our intentions in the area.

Mr. Chairman, the United States has traditionally been the defender of the interests and rights of other people. Here we are putting our words to action by correcting a situation which concerns our friends and allies and offered grounds for criticism to our enemies. We had entered into a treaty where the two parties had not been equal in the fullest sense of the word; we can remedy that situation by the ratification of these treaties and I urge the Senate to act favorably on these treaties.

Thank you.

WORLD LIONS SERVICE DAY

Mr. SCOTT. Mr. President, I am pleased to be a member of the Fairfax Host Lions Club and would like to call to the attention of my colleagues the following proclamation concerning World Lions Service Day issued by the Mayor of Fairfax, Virginia.

I ask unanimous consent that that proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Whereas, On October 8, 1977, WORLD LIONS SERVICE DAY, the Fairfax Host Lions Club in unison with 32,000 other Lions clubs and a world-wide membership of 1,200,000 located in 150 nations of the world will be performing special acts of humanitarian service; and

Whereas, Is it recognized that the Fairfax Host Lions are committed to bring relief to the needy and lonely so that they might live with grace and dignity, and to satisfy the many other needs of our community; and

Whereas, These Lions will again display their dedication to our community on October 8, 1977 by visiting the youngsters who are hospitalized, providing special needs for them, and paying honor to Miss Maureen Adams, Safety Patrol Leader of Jermantown Elementary School, whose courageous act saved the life of a fellow student.

Now, therefore, I, Nathaniel F. Young, Mayor of the City of Fairfax, Virginia, do hereby proclaim October 8, 1977 as World Lions Service Day in the City of Fairfax and encourage all residents of the City to join in giving support to the Lions for their many activities in benefiting humanity in our City.

SMOKING, ADVERTISING AND HEALTH

Mr. HART. Mr. President, many Americans find it hard to understand why it is so difficult to do something about the frightening death rate from lung cancer, emphysema and coronary heart disease in this country. The evidence that cigarette smoking is the principal cause of lung cancer—80,000 deaths a year—and emphysema—15,000 deaths a year—is beyond dispute. When we add cigarette smoking as an important contributing cause of death from coronary heart and other diseases, the deaths from cigarette smoking each year in this country number well over a quarter of a million.

Despite extensive medical evidence, many individuals refuse to believe that cigarettes are a health hazard. Dr. G. Timothy Johnson of the Harvard Medical School zeroed in on this problem and reiterated the connection between smoking and lung cancer in his article "What Everyone Should Know About Cancer" in the July–August issues of Harvard magazine.

I ask unanimous consent that the following excerpt from that article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LUNG CANCER

Besides being the top killer among American cancers (the number of deaths per year is now almost twice that of the next contender), the story of lung cancer is tragic for one other mind-boggling reason: *we enlightened Americans promote the cause of this number-one killer with more money than we spend for research on all cancers combined.* Indeed, some future historian may decide to use the word "stupid" rather than "tragic" to describe this chapter in the struggle of homo sapiens to engage mind over matter.

The story of lung cancer is a simple three-point homily. Inhaled tobacco smoke causes the vast majority of lung cancers; heavy smokers have up to a 23-times greater chance of getting lung cancer than nonsmokers. Lung cancer is extremely difficult to detect early enough for a surgical cure; there are no reliable early warning signals or screening tests. Therefore, 90 percent of *all* persons with an initial diagnosis of lung cancer will be dead within five years.

Behind these simple statements lie facts that some people still have not grasped. For example, many people still think chest x-rays can reliably detect lung cancer at a stage early enough for effective treatment. Not true in the vast majority of cases! Chest x-rays will *eventually* detect any lung cancer but *in the majority of cases the appearance of a lung cancer on x-ray marks a stage already beyond surgical cure.* In one famous study done at the Medical College of Pennsylvania, a group of over 6,000 males screened with chest x-rays every six months for ten years had the same death rate from lung cancer as a comparable group not so screened.

Many also overestimate the effectiveness of surgery as a cure—remembering the John Waynes and Arthur Godfreys but forgetting the Nat King Coles and Edward R. Murrows. Surgery does cure some people. And in reasonably selected cases, it is worth a try. But most people with lung cancer at a stage that is "worth a try" are not cured by surgery.

There have been some recent studies suggesting improved possibilities for early detection and effective therapy but these reports are still preliminary and the techniques involved are expensive, difficult, and often laden with unpleasant side effects. From the medical point of view, the signs mean exactly what they say: *No Smoking.*

Mr. HART. Mr. President, a second article published in the June 27 issue of the New Yorker points out one basic reason why it is so hard to get a grip on the public health problems caused by cigarette smoking. For example, the article reports that one of the six leading tobacco companies, R. J. Reynolds, is spending $50 million to advertise its new cigarette called "Real." It further reports that the tobacco industry is now spending about $400 million a year on cigarette advertising in newspapers and magazines.

The article focuses briefly on the fact that the American press reports exhaustively on potential carcinogens such as saccharin, but barely mentions the link between smoking and death.

Money talks. Four hundred million dollars a year to advertise a product that kills directly and indirectly 250,000 Americans a year. Yet, the Government is spending little more than $2 million annually educating individuals about the hazards of cigarette smoking.

Mr. President, I ask unanimous consent that the New Yorker article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOTES AND COMMENT

The R. J. Reynolds Tobacco Company has just launched an advertising and promotional campaign for a new brand of cigarette—a campaign that Advertising Age has declared will constitute "the most heavily advertised cigarette introduction of all time." A recent article in the Sunday business section of the Times went further. It described the introduction of the new brand as "the biggest marketing campaign in the history of consumer packaged goods." Ac-

cording to the Times article, preparations for this event have gone forward under conditions of corporate secrecy approaching those of military intelligence services in wartime. For several years, the project was known within the company only under the code letters "RL." "Documents referring to RL were stamped 'secret' or 'eyes only' and were distributed on a need-to-know basis. Papers were discussed behind sealed doors, kept in locked drawers, handled by staff with special clearances, and tossed into shredders," the Times articles reported. The name of the new cigarette has now been declassified by the Reynolds company; its name is Real, and in introducing it Reynolds intends to spend no less than fifty million dollars in advertising and promotion during the next twelve months. The promotional aspects alone are reported in the Times to involve the use of a hundred and thirty boxcar loads of display materials, more than twenty-five million free sample packages of Reals, the acquisition of the biggest billboard overlooking Times Square, and the services of a task force of two thousand salesmen, who will call upon tobacco retailers to boost Reals. The print advertising campaign for Reals will, of course, be pushed on a vast and relentless scale; and Donald W. Grout, a Reynolds vice-president in charge of sales, was quoted in the Times as promising, "Before long you won't be able to turn around out there without having Real hit you over the head."

The introduction of Real adds to a list of relatively recent cigarette brand names that are epithets of probity, such as True and Merit. (True is a product of Lorillard division of Loew's Theatres, Inc., and Merit of Philip Morris, Inc.) The particular claim to virtue that the Reynolds people say they intend to put forward for Real in the forthcoming promotion is that Real is a "natural" cigarette. Exactly what that means even the Reynolds people seem to have difficulty in making entirely clear. Apart from the fact that in Reals the company will replace the synthetic flavoring additives that most cigarettes contain with non-synthetic flavoring additives, it seems that the "natural" quality of Reals will consist in their being advertised and promoted as natural.

In contemplating the news of this latest cigarette promotion, we have been struck anew by the contrast between the scale on which the tobacco industry is able to mount campaign after campaign to reinforce the contributions of particular companies to the cigarette-smoking habit and the scale of the measures being taken by the United States government to lessen cigarette smoking for the sake of public health. Thirteen years after the famous report on smoking and health by an advisory committee to the Surgeon General of the United States declared that cigarette smoking is a leading cause of lung cancer in males, and that it presents "a health hazard of sufficient importance . . . to warrant appropriate remedial action," the tobacco industry is spending approximately four hundred million dollars a year on cigarette advertising in newspapers and magazines. That is about a hundred million dollars more than the industry spent on all its television, radio, billboard, and print advertising in 1970, just before cigarette advertising was taken off the air by act of Congress. Against the four hundred million dollars a year now being spent on print advertising, the government is spending less than two million dollars a year on educational programs concerning the hazards of cigarette smoking. Moreover, the government is easily outweighing its own countermeasures with the estimated ninety-seven million dollars that it will spend in 1977 in support of the tobacco-growing industry. These support measures include a loan program for tobacco sales abroad under the Agricultural Trade Development and Assistance Act of 1954 (which is now also known as the Food for Peace Program), a fifteen-million-dollar expenditure to administer tobacco price-support programs in the United States, and a five-to-six-million-dollar program for government inspection and grading of domestic tobacco crops.

To enlarge yet further the disproportion in the forces at contention over this public-health issue, the anti-smoking spot announcements on television which, before the ban on broadcast cigarette advertising, television stations were obliged to run at no charge, and in reasonable proportion to the cigarette ads on the screen, are no longer seen on the air in any numbers, and so barely exist as a counterforce to cigarette advertising. Obviously, no equivalent of the anti-smoking commercials exists where the press is concerned. From the time that Congress ordered cigarette ads off the air, newspapers and magazines have reaped huge benefits from the tobacco industry; their cigarette-advertising revenues have increased nearly sevenfold since 1970, when they received sixty-four million dollars from the tobacco companies. With certain exceptions—a very few publishers currently refuse to accept cigarette advertising—the business managements of the major newspapers and of other publications are vigorously soliciting and competing for cigarette advertising from the agencies employed by the big tobacco companies. The publishers want the money and feel they need the money—and, indeed, for some national publications the annual revenues from cigarette advertising do make the difference between profit and loss.

In view of these circumstances, we find it significant that the press has been paying very little attention to the issue of cigarettes and public health, and that the reporting on this subject has become extraordinarily untenacious. After all, the issue is not without interest. The effects of cigarette smoking on public health are of an absolutely disastrous order. Cigarette smoking is the direct cause of approximately eighty thousand deaths a year in this country from lung cancer alone. In addition, it is considered to be the direct cause of some fifteen thousand deaths from emphysema, and is an important contributing cause of death from coronary heart disease and other diseases. Altogether, the deaths from cigarette smoking in this country come to about a quarter of a million each year—a figure that dwarfs the figures of deaths resulting from other catastrophes, natural or man-made, which are extensively reported in the press. In comparison to the number of lives being taken by cigarette smoking, the number of deaths from violent crime in this country each year, which is about twenty thousand, and which is the subject of such highpresure reporting in the press, seems small.

Only recently, the press has devoted acres of space to the subject of saccharin, and the proposed ban by the Food and Drug Administration on the unlimited sale of this sugar substitute. The saccharin issue is indeed an important issue of public regulatory policy, and the studies made of experimental animals that were fed saccharin indicate a carcinogenic potential among human beings which might conceivably be responsible for as many as four hundred deaths a year in the American population. But if the controversial issue of saccharin, involving a theoretical toll of four hundred lives a year, merits all the attention it is given by the press, what attention should the press devote to a toll, from lung cancer and emphysema alone, of ninety-five thousand lives a year as a direct result of cigarette smoking? Why the widespread lack of interest by publishers, and lack of reporting by journalists, concerning the issue of the tobacco industry, cigarette smoking, and public health—except, perhaps, for reports on big-money promotions of new cigarette brands which may find their way into the business pages? Currently, even the Columbia Journalism Review, which supposedly exists for the purpose of subjecting the reporting standards of the American press to critical examination, has been helping to sustain itself financially by running full-page color ads for cigarettes, and it seems to us that when this happens, something is really awry.

Mr. HART. Mr. President, on February 21, Senators KENNEDY, BROOKE, HATFIELD, and BAYH joined me in introducing S. 1260, a bill to encourage smokers to consume low tar and nicotine cigarettes. By helping to reduce the amount of these toxic substances inhaled by smokers, our legislation will go a long way toward reducing the ever-increasing incidence of smoking related illnesses.

Mr. President, this legislation is a reasonable and practical approach to a serious public health problem that promises to grow worse if we continue to ignore it as we have in the past. I urge my colleagues to consider the needless deaths and disease caused by excessive amounts of tar and nicotine and join in efforts to reduce this health threat.

BELGRADE CONFERENCE TO REVIEW IMPLEMENTATION OF THE HELSINKI ACCORDS

Mr. PELL. Mr. President, today in Belgrade, Yugoslavia, a conference has been convened to review implementation of the Final Act of the Conference on Security and Cooperation in Europe, which was signed in August 1975 by 33 European governments and those of the United States and Canada.

This is a historic occasion, as it marks the first time that representatives from Communist as well as democratic countries have sat down at the same table to compare notes on each other's performance on human rights. Heretofore, the subject of human rights in the Soviet Union and Eastern Europe has been considered by them to be an internal matter that could not be discussed in an international forum.

As Cochairman of the Commission on Security and Cooperation in Europe, I have been deeply involved for over a year in monitoring the progress made in fulfilling the pledges contained in the Helsinki Final Act. After considerable study and thought, I have concluded that in order for the Belgrade review conference to be a success, the United States should do two things:

First, recognize that the United States has shortcomings of its own in living up to the provisions of the Final Act; and

Second, adopt a realistic attitude concerning what can be expected of the Communist governments in the area of human rights.

Regarding American shortcomings, we should not try to hide the fact that aspects of our immigration laws are in conflict with the Helsinki Final Act, that we have not become party to important international human rights conventions such as the Genocide Convention, and that we have not provided the kind of dissemination of the provisions of the Final Act that has taken place in the

Communist countries, where the full text has been printed in the principal newspapers.

As to our adopting a realistic attitude toward what should be expected from the Soviets and East Europeans, it seems to me that we should make a distinction between those areas in which the Soviets and their Warsaw Pact allies might be prepared to act positively in the short run and those other areas where greater resistance should be expected. If such a distinction can be made, it seems to me that priority attention should be given to encouraging the Communist governments to take early action in the former area while in no way abandoning our interest in and insistance upon eventual movement in the latter area. Indeed the August 1977 report of the Commission on Security and Cooperation in Europe on page 9 stated that—

The signatories should recognize that the Helsinki process could be set back by imposing on it too many demands, too soon. Instead, they should pursue a limited number of concrete initiatives in a carefully organized, consistent, low-key, continuing effort to encourage and reward progress.

Let me cite an example of what I have in mind as one of the "concrete initiatives" referred to in the Commission's report. It seems to me that in areas which least threaten the political stability of the Communist regimes, the governments concerned should be most receptive to pressure for movement. Thus, nonpolitical human rights concessions should be the most readily negotiable of human rights. Surely, actions such as the facilitation of family reunification, the issuance of exit visas to Soviet Jews, or loosening up the impediments to religious practice pose no threat to the Communist system; whereas full acceptance of political human rights would threaten the Communist regimes with collapse.

In my view, concentration on increasing religious rights would be a particularly attractive area in which the United States could concentrate its efforts. Although we make much of our separation of church and state, we are nevertheless a country based on religious principles; the motto "In God We Trust" has a deep and real meaning for the American people. Accordingly, it would be appropriate for the United States to emphasize in the coming months what perhaps is the most basic of human rights, the freedom of religious practice.

Religion is no threat to the Communist regimes as long as it remains nonpolitical. In fact, the suppression of religious freedoms in the countries where other freedoms are restricted is a real threat to authority, because it cuts off a person's last retreat toward spiritual peace and may thus lead to sudden explosions of frustration. The Soviets seem to have recognized this in Poland, where the Communist regime has not suffered as a result of its permitting the Roman Catholic Church to function openly.

Specifically, the Soviets and East Europeans could be encouraged to do the following:

Permit the free circulation of holy scriptures and religious books;

Adopt a policy of noninterference with clergymen in carrying out their nonpolitical, clerical functions;

Recognize the value and unity of the family, including permitting religious education for children, at least in the home and/or in the churches or synagogues.

In making this proposal, I wish to emphasize that I am in no way suggesting that the United States abandon its broader goals in the human rights field which have been so eloquently enunciated by President Carter. Those goals must be pursued because, as the President himself has said, they represent "The hopes and dreams and inclinations and commitment of the American people." My point is simply that we should make a distinction between what is feasible in the short run and what, hopefully, will be feasible in time, and give priority attention to encouraging early progress in the former.

THE JUVENILE JUSTICE AMENDMENTS OF 1977

Mr. CULVER. Mr. President, as chairman of the Senate Subcommittee To Investigate Juvenile Delinquency, I am pleased to announce that President Carter yesterday signed into law the Juvenile Justice Amendments of 1977. These amendments reauthorize the Juvenile Justice and Delinquency Prevention Act of 1974 for an additional 3 years and the Runaway Youth Act for an additional 3 years. These amendments are an important step in the Federal Government's continuing effort to improve juvenile justice and combat juvenile crime.

However, I wish to emphasize that these amendments will do much more than merely continue the existing Federal programs in this area. The amendments also make a number of significant changes in the 1974 act that should greatly enhance its effectiveness. These changes, coupled with the Carter administration's strong expressions of support for the act, promise a much greater Federal commitment to provide help to youth and to protect society from juvenile criminality. And I should also like to emphasize that the Subcommittee To Investigate Juvenile Delinquency has already begun a series of oversight hearings to insure that the act and its amendments are implemented quickly and effectively.

THE NEED FOR A RENEWED EFFORT

There can be no question as to the need for a renewed Federal effort to improve juvenile justice and combat juvenile crime. Our existing system of juvenile justice all too often fails to react in a constructive manner to juveniles who have committed a criminal offense or are in conflict with their parents or school authorities. Moreover, the existing system of juvenile justice is directed primarily at dealing with juveniles once they engage in misbehavior rather than at preventing such misbehavior.

It is particularly important that the juvenile justice system respond more effectively to juvenile criminal offenders. In the last 10 years, the number of young people under the age of 18 arrested for serious crimes has nearly doubled. Although young people between the ages of 10 and 17 makes up only 16 percent of our population, they account for nearly 40 percent of our serious crime. Moreover, if you add in the arrest figures for young adults, you find that those under the age of 26 account for nearly 74 percent of our serious crime.

It must be borne in mind that the juvenile justice system deals not only with the juvenile criminal offender but also with the so-called juvenile status offender. These are young people who have not committed a criminal offense. In 1976, an estimated 700,000 children ran away from home and many of them ended up in the juvenile justice system as status offenders. In addition, countless other youth are referred to juvenile and family courts for status offenses such as defiance of parental authority, truancy, and school misbehavior. Indeed in some States up to 40 percent of the children in the juvenile justice system are status offenders who have not engaged in criminal conduct.

The traditional goal of the juvenile justice system has been to furnish humane treatment to juveniles with problems and to prevent, reduce and control juvenile crime. Sadly, the consensus is that the system has largely failed to fulfill this goal. In may areas of the country overcrowded and understaffed juvenile courts and correctional agencies are not able to provide juveniles with effective treatment. Processing of troubled youth through the juvenile justice system may in fact exacerbate rather than ameliorate their problems. One of the most distressing aspects of the juvenile justice system in this regard has been the confinement of juveniles under undesirable conditions for too long a period of time in adult jails, secure detention facilities and secure correctional institutions. Such facilities and institutions have sometimes proved to be little more than brutal academies of crime.

The sad truth is that in far too many cases the juvenile justice system is simply used as a dumping ground for children. And unfortunately a substantial number of children who go through this system suffer social, economic and psychological damage. Obviously something must be done to stop this horrible waste of young lives. I do not want to suggest that the Federal Government has some magical solution for this problem. Nevertheless, there is much that we can and should be doing.

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

The Juvenile Justice and Delinquency Prevention Act of 1974 is truly a milestone in the Federal initiative to improve juvenile justice and prevent juvenile delinquency. I would like to mention at this point that we all owe a large debt of gratitude to Senator BIRCH BAYH, my predecessor as chairman of the Senate Subcommittee to Investigate Juvenile Delinquency, who played such an instrumental role in the enactment of this act and its subsequent implementation.

The 1974 act is designed to accomplish

a number of objectives. Among the most important are:

To coordinate the various Federal programs dealing with juvenile delinquency.

To make Federal assistance available to State and local governments for the improvement of their juvenile justice systems;

To provide direct Federal assistance to public and private agencies for innovative prevention and treatment programs;

To make Federal assistance available to local groups and organizations for the provision of services to runaway youth and their families;

To stimulate the development of programs designed to prevent and reduce juvenile justice system;

To divert appropriate youth from the juvenile justice system;

To stimulate the development of new approaches, techniques and methods with respect to juvenile delinquency programs;

To stimulate the development of a wide array of community-based programs and services for youth;

To stimulate the development of critically needed alternatives to institutionalization;

To assure that hundreds of thousands of youth such as runaways and truants—who have committed no criminal act—are no longer placed in jails or correctional facilities but rather are dealt with in a more constructive and humane manner;

To increase the role of private agencies and organizations in providing services to youth; and

To stimulate the formulation and adoption of advisory standards for juvenile justice.

THE JUVENILE JUSTICE AMENDMENTS OF 1977

THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The 1974 act created an Office of Juvenile Justice and Delinquency Prevention within the Law Enforcement Assistance Administration. The role of the Office was to coordinate all Federal juvenile justice and delinquency prevention programs, to administer the Federal grant programs established under the act—the formula grant program and the special emphasis program—and to provide technical assistance to Federal, State, and local agencies. In addition, the act created a National Institute for Juvenile Justice and Delinquency Prevention within the Office. This National Institute is intended to serve as a clearinghouse on juvenile justice, conduct research into the problems of juvenile delinquency, evaluate juvenile justice programs, develop standards for the administration of juvenile justice, and provide specialized training for personnel in delinquency and related areas.

The Congress fully intended that the Office would administer the programs established under the 1974 act. Indeed the 1974 act provided that all programs concerned with juvenile delinquency and administered by LEAA, including programs under the Safe Streets Act, would be administered or subject to the policy direction of the Office. Unfortunately, the LEAA Administrator during the Ford administration did not delegate sufficient authority to the executive head of the Office to allow him to fully implement either the programs or the legislative mandates in the 1974 act.

The 1977 amendments relating to the role of the Office of Juvenile Justice and Delinquency Prevention and its executive head are designed to assure that the intent of the 1974 act is fulfilled. Specifically, the amendments reaffirm that the provisions of the 1974 act shall be administered through the Office. They also clarify the duties of the head of the Office with respect to the award and management of grants under the 1974 act and the Safe Streets Act and to the evaluation and coordination of all Federal programs dealing with juvenile delinquency. Finally, the amendments change the title of the executive head of the Office from Assistant Administrator to Associate Administrator in order to underscore the importance of the Office within the Law Enforcement Assistance Administration.

COORDINATION OF FEDERAL YOUTH PROGRAMS

Under the 1974 act, the Office of Juvenile Justice and Delinquency Prevention is charged with reviewing and coordinating all Federal programs related to juvenile justice and delinquency prevention. It is assisted in this task by the Coordinating Council on Juvenile Justice and Delinquency Prevention. This Coordinating Council is composed of officials from those Federal agencies that are most directly involved in youth programs.

To date the Office has identified 140 Federal programs that are related to juvenile justice or delinquency prevention. These include a wide array of programs in such fields as law enforcement, social welfare, education, drug abuse, youth employment, and community development. To date, however, only limited progress has been made in formulating and implementing overall policies and priorities for these programs. Indeed in some areas, the policies of Federal agencies tend to contradict the mandates of the 1974 act.

In order to facilitate the coordination of these programs, the 1977 amendments specifically authorize the Coordinating Council to review the programs and practices of Federal agencies in order to determine whether any Federal funds are used for purposes that are inconsistent with the 1974 act's mandates for the deinstitutionalization of status offenders and the separation of juveniles from adults in jails and institutions. The Coordinating Council is also strengthened through the addition of two new statutory members, namely the Commissioner of Education and the Director of ACTION. Finally, the amendments provide for sufficient staff support to assist the Coordinating Council in its duties.

It is the hope of the subcommittee that both the Office of Juvenile Justice and the Coordinating Council will vigorously pursue the coordination and integration of Federal programs so that in the future States and localities will be able to use Federal funds from a number of different sources to provide integrated services for young people. Such integrated funding and programs have been initiated in a few select projects. Much more work needs to be done, however, if we are ever to achieve the levels of coordination envisioned in the 1974 act.

THE DEINSTITUTIONALIZATION AND SEPARATION REQUIREMENTS

Two of the most important provisions of the 1974 act are the deinstitutionalization requirement and the separation requirement. Under these provisions, every State that participates in the formula grant program has to agree to end the practice of placing children who have committed no criminal offense in detention or correctional facilities. The States also have to agree to insure that no juveniles are placed in facilities in which they have regular contact with adults who have been accused or convicted of committing a crime.

The 1974 act called for all participating States to deinstitutionalize status offenders within 2 years. For the great majority of States, this 2-year period expired at the end of August 1977.

The recent hearings of the Subcommittee To Investigate Juvenile Delinquency found that many States have made substantial progress in achieving deinstitutionalization; however, a great deal still needs to be done. Thus, in considering the amendments, the Congress was faced with the painful choice of either cutting off the funds of a large number of States—many of which have made good faith efforts to comply with the act—or to extend the time frame for deinstitutionalization.

In making this decision, the Congress gave special consideration to two factors. First, if a State becomes ineligible for funding, the ultimate losers would be the children in that State inasmuch as many currently funded programs would be discontinued and new programs could not be initiated. Second, a considerable amount of the delay in implementing the new act was due to the financial and administrative restraints placed on the program by a hostile Ford administration.

Thus, the Congress decided to give all States 1 additional year, or 3 years in total, to comply with the deinstitutionalization requirement. At the end of this 3-year period, which for a majority of States will expire in August of 1978, the States must be able to demonstrate that they have achieved at least 75 percent compliance with the deinstitutionalization requirement and made unequivocable commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time.

If a State is able to demonstrate such compliance at the end of the 3-year period, it will be eligible for continued funding. If the State is not able to demonstrate such substantial compliance, the 1977 amendments specifically provide that the States shall become ineligible for funding.

This new time frame gives participating States sufficient flexibility to comply-

with the deinstitutionalization requirement. Congress, however, expects that the deinstitutionalization requirement will be vigorously enforced. Indeed the Subcommittee to Investigate Juvenile Delinquency has already held 2 days of oversight hearings concerning compliance on the part of participating States with the deinstitutionalization requirement in order to assure that the Law Enforcement Assistance Administration will enforce these provisions.

In this respect let me emphasize that under the 1974 act, States are required to demonstrate that they are in compliance with both the deinstitutionalization and separation requirements. In other words, in order to continue to receive funds after the end of the 3-year period, the burden is on the State to prove that it has achieved substantial compliance.

This is a particular problem because in the past the monitoring reports submitted by the States have been inadequate. At its recent hearings, the subcommittee heard considerable testimony as to deficiencies in the previously submitted monitoring reports and the plans of the Office of Juvenile Justice to correct these deficiencies. The subcommittee expects the Office to provide whatever guidance and technical assistance is necessary to insure that the States provide sufficient data to indicate the extent of their progress in complying with the deinstitutionalization and separation requirements.

Finally, I should note that the 1977 amendments make several other changes is the deinstitutionalization, separation, and monitoring requirements. Specifically, the amendments make it clear that nonoffenders such as dependent and neglected children as well as status offenders must be removed from detention and correctional facilities and may not be placed in any facility in which they have regular contact with adult offenders. The amendments also delete some confusing language in the 1973 act that appeared to indicate that all status offenders be placed in shelter facilities. The amendments reaffirm the intent of the 1974 act that States develop a wide variety of programs and services to deal with the problems of status offenders and nonoffenders, including programs in which the child remains in the home with appropriate supporting services. In addition, the amendments require the States to monitor nonsecure as well as secure facilities to insure that these facilities are not actually detention or correctional facilities.

THE FORMULA GRANT PROGRAM

Under the 1974 act, the primary vehicle for improving juvenile justice and delinquency prevention on the State and local level is the formula grant program. This program provides modified block grants of Federal assistance to the States based upon their relative population of persons under the age of 18. These funds are then used to fund a wide variety of State and local projects that deal with juvenile justice or delinquency prevention. To date some 46 States and territories have chosen to participate in the program and have received $77 million in Federal funds.

To assure that formula grant funds achieve maximum impact, participating States must guarantee that the Federal funds will be used to supplement rather than replace the normal State and local expenditures for juvenile justice. The State also is required to prepare a comprehensive State plan for juvenile justice which among other things contains a detailed study of the States needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment.

The 1977 amendments make a number of changes in the formula grant program. Because of their importance, I have already commented on two of these changes. They are the deinstitutionalization requirement and the requirement that participating States involve private citizen's and organizations in the development and implementation of their juvenile justice and delinquency prevention programs. The 1977 amendments also make a number of other changes, and I would like to mention them at this time.

Specifically, the 1977 amendments increase the minimum annual allotment that is given to the smaller States from $200,000 to $225,000. The amendments also broaden the requirement that State's expend at least 75 percent of their formula grant moneys on advanced techniques. Under this expanded provision, advanced techniques will include a wide array of programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide alternatives to juvenile detention and correctional facilities, and to encourage a diversity of such alternatives within the juvenile justice system.

Other important changes in the formula grant program will take effect on October 1, 1978. After that date, participating States will no longer be required to put up a 10-percent match in order to receive their Federal funds and public and private local projects will no longer be required to put up a match in order to receive formula grant funds from the State. This change will make it much easier for local public and private projects to participate in the program.

In addition, the current provision that allows a State to use up to 15 percent of its formula grant moneys to pay for the expenses of planning and administration will be revised as of October 1, 1978. After that date, States will be allowed to use only 7½ percent of their formula grant funds for planning and administration and any Federal funds used for such purposes will have to be matched on a dollar-for-dollar basis with State or local funds. It is hoped that this change will make more moneys available for action programs while still providing sufficient funds for planning and administration.

THE SPECIAL EMPHASIS PROGRAM

The special emphasis program is a discretionary grant program administered by the Office of Juvenile Justice and Delinquency Prevention. Under this program, direct Federal assistance is made available to public and private agencies and organizations to develop and implement innovative programs in the area of juvenile delinquency.

Under the 1974 act, special emphasis funds are made available in five areas: Prevention of juvenile delinquency, diversion of juveniles from the traditional juvenile justice system, development and maintenance of community-based alternatives to the institutionalization of juveniles, reduction and control of juvenile crime and delinquency, and improvement of the juvenile justice system. To date some $31.2 million in special emphasis grants have been awarded or announced.

Several of the 1977 amendments expand the scope of the special emphasis program. Specifically the amendments encourage the development of programs designed to provide more effective responses to minor delinquent conduct outside the formal juvenile justice system. In addition, school violence and vandalism programs funded by the Office of Juvenile Justice are strengthened and required to be closely coordinated with the Office of Education. Also new authority is provided to fund youth advocacy programs, model youth employment programs, programs related to juvenile delinquency and learning disabilities, and other similar programs. Finally, the requirement that at least 20 percent of special emphasis funds be awarded to private nonprofit agencies was increased to a level of not less than 30 percent.

INCREASED CITIZEN PARTICIPATION IN THE JUVENILE JUSTICE SYSTEM

One of the primary goals of the 1974 act was to increase the role of private citizens and organizations at all levels of the juvenile justice system. The act accomplished this goal by establishing citizen advisory boards at both the State and Federal levels and by assuring that private organizations play a significant role in both the formula grant and special emphasis programs.

The 1977 amendments strongly reinforce the role of private citizens and organizations in implementation of the act. The citizen advisory board at the Federal level is known as the National Advisory Committee on Juvenile Justice and Delinquency Prevention. The committee consists of 21 persons appointed by the President because of their special knowledge of youth and their problems. At least seven of the members must be under the age of 26.

The role of the National Advisory Council is to make recommendations concerning the planning, priorities and operation of all Federal juvenile delinquency programs and to make proposals for model standards for juvenile justice. Although the committee got off to a slow start, due primarily to President Ford's delay in appointing the original members, it has nonetheless made a very real contribution.

Under the 1977 amendments the value of the committee's work should be greatly enhanced. Specifically the President is authorized to broaden the scope of the committee by appointing youth workers

involved with alternative youth programs and persons with special experience regarding the problems of school violence and vandalism and the problem of learning disabilities. In addition the amendments require that at least three of the youth members of the committee be persons who either have been or currently are under the jurisdiction of the juvenile justice system. The amendments also create a permanent subcommittee with specific responsibility for advising the Associate Administrator as to the workings of the Office of Juvenile Justice and Delinquency Prevention. Finally the amendments require the Associate Administrator to provide the necessary staff to assist the committee in fulfilling its duties.

Under the 1974 act, every State or territory participating in the formula grant program must establish a similar citizen advisory group at the State level. The members of the State advisory group are appointed by the Governor of that State based upon their special knowledge of youth and their problems.

Many State advisory groups have made a substantial contribution to the implementation of the 1974 act. Some State advisory groups, however, have been given limited duties and staff support. Thus the 1977 amendments make several important changes to insure that advisory groups are able to fulfill the role envisioned for them under the 1974 act.

Specifically the 1977 amendments substantially expand the role of the advisory group. Under the amendments, the advisory group has a role in State plan development, in advising the Governor and legislature on juvenile justice matters upon request, and in reviewing and commenting on all juvenile related grant applications submitted to the State planning agency. In addition, State advisory groups may be given a role in monitoring State compliance with the deinstitutionalization and separation requirements, in advising as to the composition of the board of the State planning agency and regional planning units, advising on the State's maintenance of effort, and in reviewing the progress of all projects funded under the State comprehensive juvenile justice plan. Finally the 1977 amendments require each participating State to appoint the chairperson and at least two additional citizen members of the State advisory group as members of the State planning agency and to apportion 5 percent of the State's minimum annual formula grant allotment to assist the State advisory group in fulfilling its duties.

Another change in the formula grant program that will increase the role of private programs is a change in the local passthrough provision. The 1974 act allows a State to spend up to one-third of its formula grant funds on State projects. The other two-thirds must be spent on public or private projects at the local level. Under the 1974 act, however, a local private project had to obtain the sponsorship of the appropriate unit of local government in order to receive formula grant funds. The 1977 amendments provides that a private project would still have to seek sponsorship from the appropriate unit of local government. If the local private program is denied such sponsorship however, it will now have the option of applying directly to the State planning agency for formula grants.

Two other provisions of the 1974 act which will help stimulate private participation in the juvenile justice system should also be noted. The first requires all States participating in the formula grant program to provide for the active consultation with and participation of private agencies in the development and execution of the State plan. The second provision requires that at least 20 percent of the funds under the special emphasis program be granted to private, nonprofit agencies, organizations, or institutions who have had experience in dealing with youth. The 1977 amendments increased this figure to at least 30 percent.

THE RUNAWAY YOUTH ACT

Title III of the 1974 act, known as the Runaway Youth Act, establishes a separate program to provide services to young runaways and their families. Under the Runaway Youth Act, the Department of Health, Education, and Welfare provides assistance to localities and local private agencies to operate temporary shelter care programs for runaways.

Unlike traditional halfway houses, these facilities provide runaways with shelter and immediate assistance, such as medical care and counseling, for a short period of time rather than on a long-term basis. Once in the runaway facility, the young person is encouraged to contact home and reestablish in a permanent living arrangement. In addition, these runaway facilities are equipped to provide after care counseling for the youth and his family.

Under the 1977 amendments the maximum amount of a grant to a runaway youth facility is increased from $75,000 to $100,000. The amendments also authorize the Department of Health, Education and Welfare to provide short-term training to localities and private agencies. Finally, the amendments make it clear that runaway facilities are intended to serve homeless youth as well as runaway youth.

AUTHORIZED APPROPRIATIONS

The 1977 amendments which reauthorize both the Juvenile Justice and Delinquency Prevention Act and the Runaway Youth Act for an additional 3 years also raise the authorization levels for these two acts. Specifically the authorization level for the Juvenile Justice and Delinquency Prevention Act is set at $150 million for fiscal year 1978 and at $175 million and $200 million for fiscal years 1979 and 1980 respectively. The authorization level for the Runaway Youth Act was set at $25 million for each of the next 3 fiscal years.

CONCLUSION

It is my expectation that the aforementioned legislation will result in a more efficacious and efficient administration of the Juvenile Justice and Delinquency Prevention Act of 1974. It is my further expectation that this legislation by providing an increased level of funding will furnish a strong incentive to States to improve their juvenile justice systems and will substantially aid States and localities in developing the programs necessary to deal with the problem of juvenile delinquency.

CRITIQUE OF U.S. MIDDLE EAST POLICY

Mr. CASE. Mr. President, President Carter's efforts to reach a peaceful settlement of the Middle East have carried with them the hopes of all Americans. I am sure we all agree on the desirability of obtaining a proper and lasting settlement. Thus it was with initial hope but then increasing dismay that I have watched the unfolding of the administration's Middle East policy.

If the past U.S. policy and the present administration policy toward the Middle East really are the same, Israel would not exist, for it would never have come into being.

Since 1947 when the United Nations approved the partition plan dividing Palestine into Jewish and Arab sectors, and 1948 when President Truman recognized the infant State of Israel, American policy has been grounded on the belief that in the aftermath of the holocaust and previous centuries of persecution, the Jews were entitled to a homeland. Although the Arabs rejected the U.N. plan and their armies invaded—with Jordan taking over the West Bank—a mainstay of U.S. policy has been support of Israel's security and right to exist. I cite this capsule history to call attention to the broad stream of U.S. policy. It is a policy which I have strongly supported.

Thus, I noted with great interest that in the latest controversy, administration officials have said U.S. policy has not changed, despite the recent formulations in the communique issued October 1 with the Soviet Union. No doubt the comments were meant to be reassuring.

However, in looking at the broad trend of the administration's statements and tactics in the past few months, I wonder if this portrayal of no-change—which many people may regard as an insult to their intelligence—is not more revealing than intended.

On closer look, the policy of this administration does appear consistent.

The administration's policy really amounts to a step-by-step acceptance of the PLO.

The continued movement toward the PLO position in the series of statements by U.S. officials and the tactics used to pressure the most vulnerable side of the dispute—the Israelis—are deeply disturbing.

The process appears to be continuing despite the PLO's continued rejection of U.S. overtures. The PLO refused at its recent Damascus meeting to accept U.N. Resolution 242 which is the generally agreed upon framework for a settlement which includes establishing secure and recognized borders.

On Friday the PLO issued a statement declaring it would enter into peace talks

only if the U.N. Security Council adopted a new resolution that explicitly stated "the rights of the Palestinian people to self determination, statehood, and return to their property and homes."

Such a stance is merely another way of stating their goal of dismantling Israel.

Thus I and many of my colleagues were shocked to learn that on the very next day, without consultation with Congress, the United States joined with the Soviet Union in a joint communique which embraced the PLO's demand that a settlement include "insuring the legitimate rights of the Palestinian people."

These are code words in the Middle East. These words are understood by the PLO and its backers to mean support for their demands for establishment of a separate Palestinian State and other steps which would end with the replacement of the world's only Jewish State with its 21st Arab State.

I am aware that State Department officials say that the communique represents a significant achievement in getting the Soviet Union to adopt a responsible stance regarding peace-seeking efforts in the Middle East. The officials, in defending the inclusion of the phrase "legitimate rights," note that the Russians were persuaded for the first time to accept a reference to "normal peaceful relations."

In effect this means the Soviets embrace motherhood and we in turn, embrace terrorists.

Of course it is preferable that the Russians cooperate, or at least do not disrupt efforts to work out a peaceful settlement in the Middle East. But it should not be necessary to make such lopsided tradeoffs or feel we have to placate the Soviets in the Middle East because of differences we have over other matters. Indeed, one of the proclaimed achievements of U.S. policy was that the Soviets had been losing influence in at least some parts of the Middle East. Thus was it really so important to try to wrap them into Geneva with a statement containing so many "tradeoffs"?

The claim that the United States as part of the bargaining had to accept the reference to "legitimate Palestinian rights" would be more convincing if the administration had not made previous moves in that direction. Indeed, one of the reasons that there is such concern about administration policy has been the apparent lack of frank consultations.

Last Friday, the day before the United States-Soviet communique was released, the matter of the 1975 Sinai Accords and its assurances to Israel on coordination of future negotiations was brought up at a White House meeting President Carter held with a small group of Senators. I attended the meeting. There was no mention of the fact that a communique was in the works containing the phrase "legitimate Palestinian rights."

I know the President and other officials contend they are not trying to impose a settlement. Yet the clear trend of recent administration policy has been toward the imposition of a settlement. Of course the United States has an interest in a settlement. But to suggest as the President's National Security Adviser did in a recent television interview that "the United States is not just an interested bystander, not even a benevolent mediator" and that U.S. leverage should be used to get the desired results, can only worsen a dangerous situation.

The danger is that in its desire to get to Geneva by the artificial deadline of this December, the administration will go for either a "quick fix," in the form of a conference which will bog down or of a settlement in which differences are papered over. A conference as a confidence-building measure might have some merit, but the past record is not encouraging. For example, the Egyptians have been violating the 1975 accords by moving into the Sinai more units and equipment than allowed under the agreement. They also have been ignoring the provisions of the accord calling for a cease-fire in the propaganda war against Israel.

On a long-term basis, a settlement is not likely to be lasting or meaningful unless the Arab nations, through the process of hammering out a settlement in negotiations, truly and publicly accept Israel's right to exist. Words and promises are not sufficient.

Even if the PLO gives the wink and nod the administration is seeking, I for one do not think that is enough. The latest PLO gesture of moderation was to claim credit for the terrorist bomb incident Sunday at Jerusalem's heavily used bus station—shortly after issuance last Saturday of the U.S.-U.S.S.R. communique on the Geneva talks.

Understandably there is great concern about the efforts to force the acceptance of the PLO into the Geneva talks. Were such a move successful, it could have the effect of prejudging the course of the talks by forcing one party against its will to negotiate with a group sworn to destroy it. When one of the participant's right to exist becomes part of the negotiations, it cannot help but have a bearing on the outcome of the talks.

There is another very disturbing effect of the administration's approach to the Middle East. That is the undermining of moderate Arabs. I refer to the apparent acceptance of the PLO claims that the PLO be accepted as the representative of the Palestinian people.

This sanctification of a terrorist organization—one which has singled out women and children as targets—retards the emergence of moderate nonterrorist Palestinian leaders as a meaningful force. This group included the West Bank mayors who—unlike the leaders of the PLO and the Arab countries—were freely elected.

One of the tragedies of the Middle East and indeed a source of continued bloodshed had been the way extremists have been allowed to intimidate and dominate the moderates. The current U.S. approach with its apparent fixation with the PLO is furthering that trend.

These consequences of the administration's initial approach seem not to have been well thought out. It would be a pity if miscalculations hurt the chances of a meaningful Geneva Conference. Yet some commentators apparently already are being encouraged to believe that if the Geneva Conference collapses the administration will blame it on Israel and there will be all sorts of consequences such as a confrontation and cutoffs of aid. It would be most unfortunate if such a vindictive attitude is allowed to develop and prevent an honest effort to reexamine U.S. policy.

I urge the President and his advisers seriously to reevaluate their approach to the Geneva Conference and the Middle East in general. A starting point might be fuller and franker consultations.

I also suggest that if there is a sincere concern about the plight of the Palestinians, this is the time to encourage the Arab nations to help resettle refugees and accept their brothers as citizens instead of keeping them in camps and using them as pawns. I am sure the Israelis would reciprocate in any genuine effort to deal with the human dimensions of the Middle East problem.

A lasting settlement in the Middle East will not be easily obtained. It will be even harder to achieve if the process is hampered by impatience, artificial deadlines, the imposition of views from Washington and Moscow and the encouragement of terrorist organizations.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes without the time being charged under cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE WAGE AND PRICE STABILITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6951. I do this on behalf of the Senator from Wisconsin (Mr. PROXMIRE), and it is my understanding that this has been cleared on both sides of the aisle.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate H.R. 6951, an act to amend the Council on Wage and Price Stability Act to extend the termination date, and for other purposes, which was read twice by its title.

Mr. PROXMIRE. Mr. President, on

September 21 the Senate passed S. 2056 by voice vote as it was reported out of the Committee on Banking, Housing, and Urban Affairs. The bill amends the Council on Wage and Price Stability Act to extend the expiration date of the Council from September 30, 1977, to September 30, 1979. The legislation would also authorize the appropriation of $2,210,000 for the Council's activities for the fiscal years 1978 and 1979. Another amendment would provide for the same confidentiality of data obtained voluntarily by the Council as is now given to data obtained under a subpena. Other amendments would include full employment as one objective of the anti-inflation program, would direct the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and would direct the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in the world economy.

The House of Representatives has passed an amended version of H.R. 6951 which is now identical to the Senate bill. Because of a procedural objection, the House was unable to take up the Senate bill, S. 2056, although the two bills are now identical in every respect. Meanwhile, the authority for the Council under the Council on Wage and Price Stability Act expired on September 30, 1977.

The language of this legislation is such that there will be no gap in the Council's existence once the Senate acts to pass H.R. 6951. There is, however, a need for the Senate to proceed to consider and pass H.R. 6951 with all deliberate speed so that the workings of the Council on Wage and Price Stability are not impeded. The Senate passed favorably on this legislation under the number S. 2056, and I urge that it pass favorably on it under the number H.R. 6951.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 62 Leg.]

Baker	Ford	Lugar
Burdick	Glenn	McClure
Byrd, Robert C.	Hansen	Melcher
Chafee	Hart	Randolph
Chiles	Hatch	Roth
Cranston	Jackson	Schmitt
Danforth	Javits	Schweiker
Domenici	Johnston	Zorinsky

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 523 Leg.]

YEAS—89

Allen	Ford	Melcher
Anderson	Garn	Metzenbaum
Baker	Glenn	Morgan
Bartlett	Gravel	Moynihan
Bayh	Griffin	Muskie
Bellmon	Hansen	Nelson
Bentsen	Hart	Nunn
Biden	Haskell	Packwood
Brooke	Hatch	Pearson
Bumpers	Hatfield	Pell
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Sasser
Case	Huddleston	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Scott
Church	Javits	Sparkman
Clark	Johnston	Stafford
Cranston	Kennedy	Stevens
Culver	Laxalt	Stevenson
Curtis	Leahy	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Matsunaga	Wallop
Durkin	McClure	Williams
Eagleton	McGovern	Young
Eastland	McIntyre	Zorinsky

NAYS—1

Weicker

NOT VOTING—10

Abourezk	McClellan	Sarbanes
Goldwater	Metcalf	Stennis
Humphrey	Percy	
Mathias	Ribicoff	

So the motion was agreed to.

The PRESIDING OFFICER (Mr. MATSUNAGA). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The PRESIDING OFFICER. The question now recurs on the Bentsen-Pearson amendment No. 1039.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. JACKSON addressed the Chair.

Mr. BAKER. Mr. President, I yield to the Senator.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, on behalf of the Senator from Kanas (Mr. PEARSON) and myself, first, I ask unanimous consent that amendment No. 862 be revised so as to provide that—

First, sales of new natural gas would be deregulated after December 31, 1986; and

Second, the regulated price between the date of enactment and December 31, 1986, would be the greater of, first, the Btu equivalent of the price of upper tier crude oil, or second, the formula set out in section 4 of amendment No. 868.

Third, gas produced from tight formations where production costs are extraordinarily high would be deregulated immediately.

Second, I ask unanimous consent that amendment No. 1039 be revised to provide that lines 8, 9, and 10 on page 13 shall read as follows: "or after January 1, 1977, shall not exceed $2.25 per Mcf.". If my first two requests are granted—

Third, I ask unanimous consent that further debate on amendment No. 1039 as modified be limited to 2 hours to be equally divided 1 hour on a side and at the end of that time that a rollcall vote occur on the amendment, and that no amendments be in order.

I further ask unanimous consent that if amendment No. 1039 is not agreed to, that a rollcall vote occur on amendment No. 862, as just modified, without intervening debate or motion.

Mr. FORD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Kentucky reserves the right to object.

Mr. FORD. Mr. President, to go back to the questions that I asked prior to recess, those questions have not been answered to my satisfaction. The question that I would like to propose, and I think I understand the answer, but I have several amendments that all those who are in authority have told me are in order.

But this unanimous-consent agreement does not allow me to bring up any of these amendments should the Pearson-Bentsen, as modified, fall, except to offer them without any debate.

I have time under the bill. I am not asking for any additional time. Also, I think one of the amendments I have will help in the Northeast as it relates to SNG.

I am not only asking for myself, but I am asking for others that would be so-called opponents of deregulation.

Now, Mr. President, if I can be assured that I can bring up these amendments, that we can modify the unanimous-consent agreement that my amendments will be eligible, and that I can have at least the time that is left under my 1 hour, I would consider not objecting. But if I do not have the opportunity to bring up these amendments should the Pearson-Bentsen substitute fall, then I have no alternative but to object.

Mr. DURKIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair will state that the Senator from Kentucky has the privilege of offering his amendment under unanimous consent, and the original way of the Chair to know whether any objection will ensue——

Mr. FORD. I would like to have an opportunity to at least spend a few minutes of debate on my amendments and protecting the right, also, of the Senator from New Hampshire, because of my amendment under SNG which was left out completely, and they have some very serious problems.

My amendment does not go as far as they would like to have it, but it is something better than they now have.

Mr. JACKSON. Let me——

Mr. FORD. All I am asking is to be able to bring up my amendments and use my time under that, or what portion of that hour I have left.

Mr. BUMPERS. If the Senator will yield, would it be possible, Mr. President, for the Chair to advise the Senator from Kentucky whether or not his amendments will be in order if the unanimous consent is agreed to?

I think that is the question he is asking.

Mr. FORD. No. I know they are in order. But it says without intervening debate or motion I can bring up my amendments, and that is all there is to it. I cannot say a word about them.

Mr. ROBERT C. BYRD. That is right. The Senator has the right to call them up, but no debate.

Mr. JACKSON. Let us clarify it.

Mr. FORD. I am going to object, and I think the Senator from New Hampshire is also in the position of objecting.

Mr. JACKSON. Let me state the situation on the amendments.

The unanimous-consent request for Senator PEARSON in connection with amendment No. 1039, which is Pearson-Bentsen, would not be subject to amendment.

Mr. FORD. That is the rule now; is it not?

Mr. JACKSON. No. There are no amendments pending. That is not the rule now.

Mr. FORD. There are no amendments pending.

Mr. JACKSON. No amendments pending. But after it was revised, it was no longer the third-degree, or second-degree problem. I mean, amendments could be offered.

Earlier, that was not the case. That is correct. But the problem is that there are no amendments at the desk pending to 1039, but it is not in that degree category that would prohibit amendments. It was earlier, until the leader offered the motion to recommit with instructions.

Mr. DURKIN addressed the Chair.

Mr. JACKSON. I am just trying to explain the situation, if I can.

Mr. DURKIN. Will the Senator yield for 30 seconds?

With respect to Senator FORD's amendment 1327, that is of great importance to New Hampshire and New England. That grandfathers the Algonquin plant in Freetown, Mass.; and if there is a shortage of gas this year, we do not make it without that SNG. So it is of vital importance.

On behalf of my people at home, I think I will have to utilize whatever means we have to protect their interests, and I underscore the remarks of Senator FORD, especially with reference to amendment No. 1327.

Mr. JACKSON. Mr. President, I further ask unanimous consent that if amendment No. 1039 is not agreed to, a rollcall vote occur on amendment No. 862, as modified, without intervening debate or motion, except for 10 minutes on amendment No. 1327.

What other amendments do we have?

Mr. GLENN. 1349.

Mr. FORD. 1328, 1324.

Mr. GLENN. 1324, as modified.

Mr. FORD. 1322.

Mr. JACKSON. Let us get the laundry list.

Mr. DURKIN. 1382.

Mr. FORD. I have had these for a long time. It is not a surprise. I will take 1319 through 1328.

Mr. JACKSON. The Senator is offering 1319 through 1328. Ten minutes each.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. JACKSON. Let us do it one at a time.

Mr. FORD. We will take 1322 through 1328.

Mr. JACKSON. 1322 through 1328, inclusive?

Mr. FORD. Yes.

Mr. JACKSON. Senator GLENN?

Mr. GLENN. I have an amendment, 1349, which would be modified so it fits this legislation.

Mr. JOHNSTON. Mr. President, for the reasons previously stated, I object.

Mr. JACKSON. Senator DURKIN had a request, as did Senator HART.

Mr. JOHNSTON. Does the Senator want me to withhold it?

Mr. DURKIN. Yes, it would be better.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object, Mr. President, I would like to add to that laundry list—and I beg the indulgence of the Senator from Colorado—amendment 1382.

Mr. JACKSON. Senator HART?

Mr. HART. Reserving the right to object, Mr. President, I make the point I tried to make for the last week—that is, that there are more than two sides or two approaches to this issue.

I ask the indulgence of the distinguished floor manager in amending the unanimous-consent request to provide at the end of the request that it be in order to call up my amendment 1389, as modified, with 1 hour limit on debate, equally divided, and the vote to occur on 1389 at that time.

Mr. JACKSON. Mr. President, I modify my unanimous-consent request in accordance with the requests made by the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Colorado (Mr. HART).

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to amendment No. 1039.

Mr. BAKER and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder whether we could reach a time agreement at which to vote up or down on the Pearson-Bentsen amendment. It seems to me that if we do that, we might then be able to proceed to other amendments. If that fails or, if it carries, we could vote on the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I should like to make the Senator a gentleman's proposal to help bring this about.

I suggest to the Senator that he and I agree to pair. If the side he is on should have no more absentees than the side I am on, I will pair with one of his absentees, with the same understanding that if the side I am voting with should have more absentees, the majority leader would pair with one of our absentees. That way, we could stop the jockeying for advantage.

We should use pairs to express the will of the Senate, not to prevent the will of the Senate from being expressed on these votes.

Frankly, in view of the health of various Senators, the probability is that on a dragged-out debate, the side I am on will have a little advantage, because it would be extremely difficult for Mr. HUMPHREY to come here.

At the same time, we should start agreeing that these votes will express the will of what the Senate wants to do, rather than to take advantage of the side that has the most absentee situation not know what the absentee situation is at this point, but I hope we could agree on that and make it effective: that whichever side has the most absentees, the other side will give them one pair. The two of us can make that effective, and I think that would make it possible to set a time to vote.

Mr. ROBERT C. BYRD. I think the Senator from Louisiana makes a very good prcposal. I would not want to enter into that proposal at this particular moment, but I should like to enter into such an agreement on a longstanding basis, so that, as he says, the Senate will not be held up in reaching a final decision on any measure just because one side has a one-vote advantage over another side, because someone is out of town or is in the hospital or some such situation.

I would not want to enter into that agreement at this moment. Perhaps before the day is over, I might be constrained to do that.

Mr. LONG. I thank the Senator.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. GLENN. If I may have the attention of the Senator from Oklahoma, the Senator was heard to object. I inquire whether the objection was on the

amending process we were trying to set up or on the basic proposition that the Senator from Washington had proposed originally. I would be prepared to withdraw my amendment if that was one of the objectionable features the Senator from Oklahoma found, important though I think it is under the emergency natural gas situation.

Did the Senator object to the amending process or to the basic proposition of the Senator from Washington?

Mr. BAKER. Mr. President, if the Senator will yield to me, I assure the Senator that other objections would have been offered on both sides of the aisle. So I recommend against trying to get any reasons why objections were made. I wonder if the Senator from Ohio would consider that point. I suspect that it was not the only objection that might have been lodged.

Mr. BARTLETT. In response to the request, I say to the Senator from Ohio that my objection was mainly to the basic request.

Mr. GLENN. I thank the Senator from Oklahoma and the Senator from West Virginia.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I think it is possible that we can get an agreement to vote on Pearson-Bentsen, up or down. For reasons the Senator from West Virginia and I have discussed, the knowledge as to whether or not we can do that is probably 15 or 20 minutes in the future.

If we could find useful and productive work for, say, a half hour, I think we could promptly come to a decision on whether we can or cannot come to an agreement today.

If the majority leader does not want to do that, then maybe we can explore the possibility of a time to vote tomorrow, although I will state it is my preference to try to work out a time certain this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I would hope we could vote on Pearson-Bentsen up or down today. I say that for the simple reason we would hope once this bill is disposed of we can move on to the minimum wage bill and, hopefully, dispose of it in 1 day inasmuch as we have a time agreement on it.

We also have the District of Columbia appropriations bill. We could dispose of those two bills today, and the conferees could be working between the two Houses.

We have the electric utility rate reform bill which is the fourth in a series of five measures, and by disposing of this bill, Senator LONG's committee could then meet to act on the energy tax bill, because so long as this bill has the Senate tied up it has the Committee on Finance tied up. Members cannot get to the Committee on Finance to work on the fifth of the five measures; nor can Members go to conference with the House on measures that are tied up in conference.

So I would hope there is a possibility of voting on Pearson-Bentsen and we will do so today.

Mr. BAKER. Mr. President, if the majority leader will yield, I share that hope. I think we are getting close to the time we can dispose of it.

I might also say there is another matter we need to or I hope we would direct our attention to, and that is the possibility of continuing the work we commenced and did not complete yesterday with respect to the resolution on SALT.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I would hope we could consider both issues today, the SALT resolution and the disposition of the pending measure.

I think another 15 minutes will give us some idea of what we will be able to do.

Mr. CRANSTON. Mr. President, I might be able to personally work this out by a pair, but I have a question to ask first. I would not want to give a pair if it would change the outcome of the vote that is coming.

I do not know of any Senator who has changed his position that would change an up or down vote on Pearson-Bentsen. Senator BENTSEN, Senator METZENBAUM, and Senator JACKSON all told me they do not know of any person who has changed his vote, which means it will come out almost identically, with one slight change that does not change the outcome, from the vote the other day.

The problem is that certain Senators who are absent now—one with whom we cannot communicate, because he is in transit—if we cannot reach a time agreement to vote today, because of this pairing problem and absence problem, then we will not have a vote today, and we will vote tomorrow when all Senators will be present, and the outcome plainly will not be changed.

So if there is no Senator present who has changed his position or who knows of any Senator who has changed his position—and I beseech anyone who has any such knowledge to tell me—I am willing to commit now to giving that pair if it is not otherwise forthcoming.

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. CRANSTON. Yes.

Mr. LONG. I am willing to do it the other way around. If it should prove that the side I am on——

Mr. CRANSTON. We need a pair from the other side, from your side, on this issue, unfortunately.

Mr. LONG. That is all right with me. Here is what I am proposing: When we call the roll if it turns out that the side the Senator from California votes with has one more absentee than the side the Senator from Louisiana is voting with, I will give a pair to that Senator.

Mr. CRANSTON. Since the majority leader——

Mr. LONG. With this understanding——

Mr. CRANSTON. Since the majority leader turned down that proposition, I am not about to stand up here and accept it. But I am offering my own proposal. If no Senator knows of anybody who has changed, please tell me if you do, I will now commit myself to giving that pair if it does not come from somewhere else.

Hearing from no one, I now commit to the pair, so now let us get a time agreement.

Mr. BAKER. I can tell in just a few minutes if we are ready to vote. If I could suggest the absence of a quorum, I can then make the determination.

Mr. HART. Mr. President, will the Senator withhold for the purpose of a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Mr. President, since the purpose of Senator JACKSON's unanimous-consent request was to permit the principal participants in this debate to amend their resolution or their amendments, and since the reason why we cannot do that is cloture, and since the reasons for cloture have disappeared, I ask unanimous consent that it be in order to dissolve the order for cloture.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, I am sorry my attention was drawn away by another question. Will the Senator indulge me by telling me what the request was?

Mr. HART. I thought the Senator would be interested. [Laughter.]

Mr. President, I ask unanimous consent—well, the Senator from Louisiana is going to want to know about this, too, so I will wait.

Mr. President, since the reason why the Senator from Washington propounded the unanimous-consent request is that the principal participants could amend their proposals, and since the reason they cannot amend their proposals by unanimous consent is cloture, and since the reason for cloture has disappeared, I ask unanimous consent that the order for cloture be dissolved, and that——

Mr. TOWER. I object.

Mr. HART. Will the Senator from Texas permit me to conclude the request?

Mr. TOWER. Go right ahead.

Mr. HART. I thank the Senator.

To complete my statement—and that a vote on final passage occur no later than 8 o'clock tonight.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let me say I think the distinguished Senator from Colorado made a very reasonable request.

Mr. HART. I wish the Senator would direct that to the Senator from Texas.

Mr. ROBERT C. BYRD. I wanted to pay my compliments to the Senator.

Let us think about it, and maybe we can propose it again. There is too much going on.

Mr. TOWER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Rather than trying to resolve all this on the floor, can we not put in a quorum call and have a little caucus?

Mr. ROBERT C. BYRD. Yes. Unless any Senator wishes to be heard at the moment, I suggest the absence of a quorum hoping that shortly thereafter we can agree on a time to vote on the Pearson-Bentsen amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 63 Leg.]

Abourezk	Glenn	Metzenbaum
Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Johnston	Scott
Clark	Kennedy	Sparkman
Cranston	Laxalt	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McClellan	Tower
Eagleton	McClure	Wallop
Eastland	McGovern	Weicker
Ford	McIntyre	Williams
Garn	Melcher	Young
	Metcalf	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. RIEGLE. Mr. President, I have not used any of the time that is allotted to me under the rules that are in effect now, and I just want to make some brief comments about the situation we find ourselves in. I understand that efforts are being made to work out some time agreement on the vote, and I am not interested in delaying that. I am really interested only in expressing some summary thoughts at this time.

First of all, Mr. President, I commend Mr. METZENBAUM and Mr. ABOUREZK and those who worked with them for what I think has been the correctness of their position over many difficult days in trying to bring to light the basic facts about this issue that, in my judgment, are still not fully brought out into the light of day. I must say that my greatest regret about where we find ourselves right now is the fact that I do not think the public yet fully understands what this struggle is all about. I must say I think I must accept some of the responsibility for the failure to adequately clarify these issues and bring them into focus fully, so that the public might really understand the true stakes in this situation.

Frankly, I think whatever the failures were in getting these issues properly focused is of grave public consequence, in terms of the implications on people. I think the press, too, for its part, has not got this issue fully in focus. I think nearly all of the press commentary on this fight has centered on the mechanics of the struggle, such thing as the Senate being in overnight, pictures of cots, angry tempers, parliamentary maneuvers, and the rest of it. That is certainly all part of the story, but I do not think it is the story. In fact, I think that preoccupation on parliamentary tactics has obscured the real story here.

What the story is and has been, and what I think we have not gotten across, is that what we have here is probably the greatest unarmed robbery of all time in this country. A robbery in terms of a theft of money from the consumers, on a scale that almost defies comprehension. The size of that robbery is so vast that it is actually being carried off in the full light of day with almost nobody able to really comprehend what is going on.

We just in recent years have gotten to the point where we have started thinking in terms of million dollar figures, and most of us cannot really comprehend the scale of a million dollars. But now we talk about billions of dollars and tens of billions of dollars. This bill has an economic impact in the range of tens of billions of dollars and so it is not surprising that we have a hard time calculating exactly what that means, say, in terms of inflation. Because inflation is a big national problem and this is a very inflationary bill—probably the most inflationary measure that Congress will deal with all year long. This debate thus far has not adequately pointed up the tremendous inflationary impact of deregulation.

This is a bill that is also going to create unemployment. We have a serious unemployment problem now in this country, and this bill will do as much to increase unemployment as anything we will deal with this year.

Another thing this bill means, in the end, is basically whether senior citizens across America are going to be able to afford to keep and maintain the houses that they live in, because they are being forced out of their housing in increasing numbers by rising prices; and the biggest single component of the price rise has been energy prices. This bill will drive those prices up again, push their utility bills higher and higher. And young people who may want to form family units, perhaps get out of apartments or the homes where they live with their parents and instead own homes of their own, but they cannot afford them; and one of the reasons why they cannot is because energy costs are rising. And yet despite these terrible consequences on people, we are about to lock into law a monopoly pricing structure which will take money from everybody and give it to a few people.

I have not heard anyone make a convincing argument that this administered price rise is going to, in any appreciable way, increase the supply of natural gas. As a matter of fact, it is not going to increase the supply of natural gas more than a minute fraction over what it would be otherwise. Yet we are about to sign into law measures that would cost this country tens of billions of dollars for that pitifully small increase in supply.

Now let me tell you where the money is going to go, because I have not seen that well enough pinpointed, either, in my opinion. These billions of dollars will work their way through these higher prices and utility costs back to the gas companies and into their income statements, and down to the net profit line, and you will find it in terms of higher corporate salaries, executive salaries and dividends for shareholders. And gas executives are not badly paid, I might say. They are paid very well, and they will be paid much better after this piece of highway robbery is carried out.

So where these billions of dollars are going to go is for nice cars and more cars, nice vacations, nice homes, nice college educations, and a lot of good things for a handful of people in this country, because they happen to be situated in an industry with that kind of strategic power.

And when I think of what we went through last winter, with the shortages, I am convinced in my own mind that those shortages did not need to be as severe as they were. There is plenty of evidence of wells that have not been opened up, and of other wells that have been deliberately capped. There are investigations underway to try to ascertain this information, but there is plenty of evidence that supplies have been held off the market in order to frighten people into exactly what we are about to do.

The failure of strategy on our side of the argument has been that 10 days ago we should have gotten 5,000 senior citizens to travel here to Washington to pack these galleries, and to sleep in our offices while we were here in session all night long. They should have been here with us, because we are waging a citizens' fight and a people's fight, and yet that has been obscured by all kinds of analogies and explanations that would make it seem nothing more has been happening than keeping the Senate trains running on time.

Sometimes you have to leave the ox in the ditch, if that is where it belongs. This ox ought to have been left in the ditch, in my opinion. That is no disparagement to any Senator here in terms of their views on the issue, and how they think it ought to be handled. My concern is where the weight of this change in law will fall. It is going to fall on those people in this country least able to deal with it.

What is the corresponding public gain? Do they get some magic increase in supply? I would say that there is not anybody around here who can make that argument, not even those from the oil States or the gas States. They cannot make that argument because the facts do not sustain that argument.

We could go out and manufacture synthetic gas in the amount of the small supply increase that is anticipated here for a fraction of the cost we are now going to impose on American consumers through this administered higher price system. There is no justification for outright deregulation other than the fact that those who stand to benefit from this have orchestrated a masterful campaign and lobbying effort. They have been very effective here. There is no question about that. But that does not mean the public interest is being served, because the public interest is not being served. In my judgment it is being abused on this policy issue.

I must say I share the frustration of every Senator who likes to try to resolve these matters in something short of 13 days, day and night. Everybody is tired. Everybody is weary, and tempers are

short. That is just the way it is after a struggle of this sort.

The sides coming in to argue this case are not even. Frankly, the special interests in this case come in with an enormous power differential in terms of their capacity to present arguments, and, I think, finally to sway the outcome of votes.

That does not mean they are right. It does not mean the public interest is served. This issue is going to hurt more people in this country than anything else we are going to consider this year. That is what has not been put across. We somehow have not been able to express that sufficiently so that the country could understand it. I believe this: If the country understood it, we would not be about to take this action, because there would be so much heat on this Chamber and so much demand for equity and fairness that we would not be struggling for one or two extra votes. We would have plenty of votes.

The country is smart enough to understand that deregulation is a lousy deal and it is not justified. It makes all of our problems worse, not better.

So where are we now?

I am about to conclude, because I know we have other things which have to be dealt with today.

We are about to resolve this issue. But in my judgment, we are not going to resolve it on the merits because I do not believe the merits have really been laid out very clearly. I think it is going to be resolved on a different basis.

I hope the administration which for quite some time felt very strongly about deregulation—and I hope still does—will understand that if they start back-stepping on this issue, if they start cutting deals with the other side on this issue, they are not going to get anything, or very little of what they want. The lobbies and the interest groups which are involved on the other side here do know how to play hard ball. And they did not just arrive in Washington. They have been here a long time. They are as well organized in this Government as either party, or any administration, has been.

That is why this vote is about to go the way it appears to be about to go, if for no other reason.

Having said that, I want to say finally to the majority leader that I appreciate his willingness to allow me to speak at this time and set aside the quorum call so I might do it.

Let me just say to him I can appreciate, too, the fact that this is not an easy time to try to exercise leadership within the Senate in terms of sorting this out, thrashing it out, interpretations of the rules, and what have you.

Feelings on this issue run deep, and they run deep out of this Chamber across this country of ours. If we go ahead and deregulate natural gas as we seem about to be determined to do, it will be an action we will regret not for a short time but forever more in this country, in my judgment. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold that?

Mr. TOWER. I withhold.

Mr. BUMPERS. Mr. President, how much time does this Senator have remaining?

The PRESIDING OFFICER. The Senator has 45 minutes remaining.

Mr. BUMPERS. Mr. President, I would like to ask the majority leader a question. I assume there is an effort being made now to reach some sort of a time agreement.

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. There are some of us who perhaps would like to join the Senator from Michigan, echoing some of his comments, and perhaps embellishing them, who might like to utilize this time. I certainly have no desire to hold up anything which is about to occur. I would like some guidance from the majority leader on that.

Mr. ROBERT C. BYRD. I think there is good reason to hope that we might be able to reach an agreement to vote——

Mr. TOWER. If the Senator from West Virginia will yield, I believe we are very close to an agreement.

Mr. BAKER. I believe we can agree to vote no later than 3:30.

Mr. BUMPERS. That will be on Pearson-Bentsen?

Mr. ROBERT C. BYRD. Yes. In the meantime, the Senator can proceed, if he wishes.

Mr. BUMPERS. I thank the Senator.

Mr. President, I yield myself such time as I may use.

Mr. ROBERT C. BYRD. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. The Senator still has the floor.

Mr. BUMPERS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur up or down on the Pearson-Bentsen amendment at 3:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arkansas.

Will the Senate be in order?

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, there was an effort on the part of the Senator from Wisconsin yesterday to provide time for a number of Senators who wished to speak against the Pearson-Bentsen amendment, but now the time agreement has been reached and we are going to vote in about 20 minutes. So that time will not be available to Senators.

In the sure knowledge that what I have to say is not likely to change any opinions in this body, I still feel constrained to reiterate some of the things I have said previously on the floor but which need to be said again.

No. 1, why is $1.75 an Mcf which the President proposes, not enough? I would remind the Senate that as of this moment the price of new natural gas in interstate commerce is $1.46 per Mcf.

If we had told the oil and gas industry in this country as recently as a year ago that today the price would be $1.46 an Mcf they would have thought they had died and gone to heaven. They would have loved it. Mr. President, at $1.46 every rotary drilling rig in the United States is working night and day, 2,345 units in the country with 20 to 30 more being added every month. All of them are in operation.

So how much does it take to provide incentive for the oil and gas companies? I believe $1.46 is adequate. If Pearson-Bentsen is adopted here today, and if the House agreed to it, and the President signed it tomorrow, it would not put one more drilling rig to work in this country. More wells were drilled in 1976 than any year since 1959.

The top 20 oil companies own somewhere between 60 and 80 percent of the reserves in this country. The value of those reserves under Pearson-Bentsen has already increased by $100 billion since October 1973, and within 24 months under Pearson-Bentsen will go up another $100 billion.

Talk about incentive. Talk about incentive. Why, Mr. President, we are dealing with an issue here so basically simple in scope as to defy logical contradiction. It is that the oil and gas lobby, wall-to-wall in this building for 13 days, as we used to say in Arkansas, got the bit in their mouth. To use another term, they "smell blood." They know. They have been told time and time again for the past 2 weeks that they are not going to get deregulation. Everybody has said, in trying to convince the Senator from South Dakota and the Senator from Ohio to call off the filibuster, "Why do you want to fight this losing battle? You know the House will never accept this. And even if the House, in some moment of insanity, did accept it, the President is going to veto it."

I will tell you why they persisted. I will tell why they would not quit until we got Pearson-Bentsen. Because they can go to the conference committee with at least something to bargain with. They can say, "You are going to have to get off the dime over here in the House and give us something more than $1.75 or there ain't going to be a bill."

Everybody knows the President wants a bill. So the more they get in the Senate, the more they get in conference.

The suggestion was made this morning that the conferees ought to defend the Senate position until the last dog dies. I used to believe that myself. I used to think that the Senate ought to defend its position, until I got hopelessly torpedoed one time in a conference committee where the Senate conferees moved to recede before the House even had a chance to discuss, much less vote on, the Senate position.

I am going to be a conferee on this bill, I think. My position in the conference is going to be precisely what it is right here. It is going to represent a minority view in the Senate, but it is going to be such a big minority that I do not think any conferee ought to abandon his conviction, his strong beliefs.

Mr. President, nobody has argued that we ought to allow a cartel to determine the price of oil in this country. We talked

about this the other day. The Senator from Alaska remembers this. He, himself, said that oil prices in this country should not be set by the OPEC nations. So what sense does it make to say that gas prices ought to be set by Mexico? The gas that is being imported into this country from Mexico and Canada, or coming in in the form of liquefied gas from Algeria, has absolutely no relationship whatever to what should be allowed as a fair return to American producers. It is an arbitrary, capricious price, fixed by the Canadian and Mexican Governments. It is not a price that is based on the free enterprise system.

The suggestion is that if Mexico decides to charge us $10 an Mcf for gas tomorrow, we ought to permit $10 an Mcf in this country. Given the option of a price, I would always opt for an uncontrolled price if there were an infinite source so that competition actually determined price. But there is no competition. By the very structure of the industry itself, there is no competition, and by the fact that demand far outstrips production, there is no competition.

Mr. President, when we talk about allowing the price of natural gas to be set by the law of supply and demand—and we all know that there is a limited supply—it is almost the same as saying we have 2 million doses of medicine that will cure cancer and when those 2 million doses are gone, there will be no more; who is the highest bidder? That would fly in the face of the sense of fairness and justice of every Member of the Senate.

Mr. STEVENS. Will the Senator yield right there for a question?

Mr. BUMPERS. I yield for a question.

Mr. STEVENS. Does the Senator believe that we would buy Mexican gas at $10 an Mcf if foreign oil were available at a price equivalent to $8?

Mr. BUMPERS. I am not sure I follow the question of the Senator.

Mr. STEVENS. Let me put the question this way: When the administration chose the particular pipeline to bring our gas down from Alaska, it compared the price of Alaska gas to foreign oil, because it said the alternative source of fuel to Alaska's gas was foreign oil. Is not the alternative source of fuel to Mexican or Canadian gas, one of the alternatives, at least, foreign oil?

Mr. BUMPERS. Of course, this country is not geared up to use that much oil. The people in my State use natural gas. They could not convert to oil or coal if they wanted to.

Mr. STEVENS. I admit that, but some places could. Certainly there is a price substitution somewhere.

It appears to me that the theory of the debate so far, at least from the point of view of the Senator from Arkansas, and I respect his judgment and his position in this matter, is that regulation, per se, has not been at least partially a cause of the shortage and that the shortage is going to be eliminated somehow by continued regulation. Those of us who believe—and I do believe—that a part of the shortage must be attributable to excessive regulation in the past, believe that the light at the end of the tunnel is deregulation, eventually.

Mr. BUMPERS. So far as natural gas is concerned, there is no light at the end of the tunnel.

Mr. STEVENS. I remember there was a Secretary of the Interior once who said that this country would never discover another pound of tungsten, that we had to plan a whole new program for tungsten. The price went up on tungsten, and we had it coming out of our ears.

If the Senator is projecting that we have no capability of a new supply of natural gas, we do not accept that.

Mr. BUMPERS. Is the Senator suggesting that if Mexico chose to charge $10 an Mcf, the OPEC cartel ought to raise the price of gas to reach it?

Mr. STEVENS. No; the Senator is not saying we ought to raise the price. We are saying that domestic gas is the leverage against foreign prices for gas.

Mr. BUMPERS. May I ask the Senator this question? Does the Senator think that if Mexico sets the price of gas at $10 an Mcf, the American price of gas ought to be $10 an Mcf?

Mr. STEVENS. Not at all, but I suggest that if the Senator wins, there will be no alternative. I suggest that if the Senator wins and we continue to be in a position where we are forced to pay foreign suppliers whatever they demand, when our people cannot even have the incentive of a free market for production, we shall be at their mercy forever.

Mr. BUMPERS. The Senator just reached my next point. That is that if the price of gas in Mexico or any place else is $10 an Mcf, it will be an arbitrary price, and nobody in this country could afford it. That is what Pearson-Bentsen is going to do for people who have to heat their homes with natural gas.

Based on the Congressional Budget Office report, the President's bill alone will raise home heating bills by 20 percent and Pearson-Bentsen by another 30 percent. I cannot believe——

Mr. BENTSEN. Will the Senator yield on that?

Mr. BUMPERS. I am happy to yield.

Mr. BENTSEN. I have to say to my distinguished friend from Arkansas that that obviously does not take into consideration the incremental pricing structure that was put into place to protect the homeowner, to say the homeowner would have the advantage of old gas and the price on that old gas, and that industry would pay for that new gas and bear that burden.

I understand just as well as the Senator that utility rates are too high and that the homeowner has been burdened with them. He cannot put a coal chute in his basement, nowadays he does not often have the basement.

It is the utilities that can make that choice and option. That is why we put the specific burden on the major companies, the industries, and we put in a provision to say that incremental pricing would protect anyone who uses less than 50 mcf a day. In addition to that, hospitals, schools, and the rest, those priorities.

So let us relate the statement to what the bill now is because I share the concern of the Senator from Arkansas on this.

Mr. BUMPERS. Mr. President, at the expiration of 2 years, there will be no price on natural gas in this country.

If we have another winter like last winter, can you imagine what the homeowners in Ohio will be asked to pay for natural gas?

The legislative research study shows that on some sensible assumptions Pearson-Bentsen will cost the American consumers, between now and 1985, $162 billion.

That is going to be the biggest massive transfer of wealth from the working people of this country, from the people on fixed incomes in this country, into the hands of about 20 to 30 big corporations. It will be the biggest transfer of wealth in the history of this country.

Mr. STEVENS. Will the Senator yield for another question?

Mr. BUMPERS. Certainly.

Mr. STEVENS. Let me state first that if the Senator could prove that point, we would all be with him. We had an unregulated market during the previous years. What did it cost the consumers in the area where they took gas out of the intrastate into the interstate in order to get the supplies?

It cost them less than the intrastate people have been paying all the time.

Why does the Senator think there has been a surplus of supply intrastate and a declining supply in the interstate class?

The people in the intrastate market have not been regulated. They responded to the demand and met the needs. The people in the intrastate markets in the gas producing States are paying more for gas now than in the nonproducing States because they are willing to pay to get the supply.

But my question is, we deregulated the market last winter to meet the emergency, what did it cost us to get it? Less than 10 percent of the price to get the added gas. California gave it up. Texas gave it up. Louisiana gave it up. Oklahoma gave it up. All gas producing States gave it up to meet the need and they paid less than the intrastate market has been paying.

Mr. BUMPERS. That is my point precisely. When we have a supply and catch people in an emergency like last winter and they have to have it or freeze to death, they will pay anything.

Mr. STEVENS. They only paid, at the most, 10 percent more of the total bill.

Mr. BUMPERS. Because the U.S. Senate had the good sense to put a cap on what they could charge on it.

Mr. BENTSEN. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. BENTSEN. Realize, the President put that cap on, and that the emergency provision and its application provided finally for more gas from the intrastate market at prices from $2 to $2.25 than the interstate pipeline could finally take.

Mr. BUMPERS. Mr. President, I have

said about all I want to say on this subject—not all I want to say, but all I will say this afternoon.

I see it as an outrage. I see it as a breach of faith with the people of this country who struggle to keep body and soul together. I see this bill as a response of the U.S. Senate to the intense lobbying efforts that have been going on for 30 years to get natural gas deregulated.

I know that the Federal Power Commission did, indeed, keep natural gas at an inordinately low price for many years. That is most unfortunate and it is one of the things that has brought us to this point.

But on that old argument, I want to remind every Senator in this body before he votes that the oil and gas companies have not said they will solve the gas shortage in this country. What they have said is that if we do not want to lose jobs next winter, like last winter, deregulate.

They are not saying we will not lose jobs. They are not saying there will be an adequate supply of natural gas.

They are saying deregulate, because that is a great knee-jerk word in this country.

We are getting ready to do it in this body. I do not know where we will go in conference.

But I say one thing, if in the unlikely event deregulation should ever happen to stand up in conference, every Member of this body will live to rue the day.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, I promised the Senator from Ohio that I would yield to him for 2 minutes.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Pearson-Bentsen amendment is going to pass this afternoon and it is really a very disappointing reality of life.

The economic albatross about which Senator BUMPERS spoke, Senator HOLLINGS spoke the other day, Senator RIEGLE, Senator KENNEDY, Senator BAYH, and others, is, indeed, going to be a reality and I think it is important we not overlook the manner in which it came about.

Yesterday, we were advised, some of us, that there need be no problem, that Pearson-Bentsen was not going to pass, or one report was that there were four votes that had changed for the compromise, and then there was another report that three votes had changed for the compromise.

The facts, indeed, are that the opinion is that there will be no votes that will have changed with respect to Pearson-Bentsen.

Now, we received some criticism for keeping the Senate in session to talk about a large number of amendments, some of which were called dilatory, but we did so for the purpose of letting the world and the country know what the economic impact of this legislation is and will be.

It will be the most significant piece of economic legislation considered by the Senate this session and maybe for many sessions to come. It will add 180,000 to 360,000 unemployed persons to the unemployment rolls of this country. It will add $10 billion to the costs of the consumers which will go directly into the pockets of the oil and gas companies of this country. It will mean the average residential homeowner will probably pay something about 50 percent more than he is presently paying, and the present burden is an intolerable one.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BENTSEN addressed the Chair.

Mr. METZENBAUM. Thirty seconds?

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, we have heard some numbers and figures that, frankly, are outrageous and do not have any basis in fact.

The Stanford Research Institute, MIT, and others, have attested to how much gas is going to be found and that a free market system would help accomplish that.

We have heard the statement that not another rig would be put to work. Yet today, we have more rigs working than we have had in 4 or 5 years. One of the reasons is because the price is increased.

But we do not have near as many rigs working as we did back in 1954.

Now, here is a Senator from Texas, from an oil and gas producing State, who goes out and votes for a 20-percent subsidy in the Finance Committee to try to bring on coal, to try to bring on alternative sources of energy in competition with oil and gas, because I think we ought to be looking at the national interest rather than just some on an individual interest.

But encouraging the drilling for oil and gas will help buy the time.

No, it will not solve all the problems, and no one is trying to say it will. But we have some resources that are finite, and one of them is time.

Sometimes I think in this Congress we have the time span of a 5-year-old and we have to wait until we are shoveling snow next winter before we will address realities.

If Pearson-Bentsen goes down to defeat, I will tell you what you will get. You will get the price, but you will not get the product.

What we are trying to do is keep the factories open and to keep the people at work, and do something about the balance of trade that in August was the second biggest deficit in our balance of trade in the history of this country.

Secretary Blumenthal said just the other day that it may approach as much as $30 billion this year.

What do you think that does to the dollar? What do you think is the cruelest tax of all on people on fixed incomes, on the elderly people, or people who are having a tough time in making ends meet?

The toughest tax of all is inflation and the deterioration of the dollar and what it will buy. Go to a supermarket these days and you will see somebody stamping on the end of a can. Do you get in front of that person or behind that person?

ADDITIONAL STATEMENTS SUBMITTED

Mr. HASKELL. Mr. President, this year's debate over the deregulation of natural gas has an urgency about it stemming from last winter's shortages which closed schools and factories and left a lot of Americans in cold homes. Those shortages, the energy industry argues, were the direct and unavoidable consequence of natural gas price regulation. Certainly "artificially low prices" for natural gas led to its casual, often wasteful use. Low prices made gas the preferred fuel and those with a choice chose gas. This was particularly evident after the 1973 Arab oil embargo when gas was controlled at a price equivalent to about one-third that of oil. The fact that gas sold within the States in which it is produced is free of Federal controls compounds the problem. Most newly discovered gas is channeled into those markets.

Certainly there are imbalances in the current system of Federal regulation and the Carter plan attempts to rectify these. The facts underlying the natural gas controversy unfortunately have been clouded behind the rhetoric and self-serving concerns of the producers. In fact, producers have been receiving sufficient incentive for new exploration and the administrations' proposals provide more than healthy incentive for further exploration.

Just 10 years ago natural gas prices averaged 18 cents per Mcf at its wellhead. In 1971, the price was allowed to rise 26 cents per Mcf in the interstate market—a price producers agreed was a sufficient long-term incentive for exploration. Since then the FPC has several times allowed the price to rise to its current value of $1.42 per Mcf—5½ times the 1971 price which producers agreed to. The Carter proposal would increase this by a generous 25 percent. The so-called Jackson compromise by an even more generous 43 percent.

Despite the ample increases in price, production has not kept pace and actual gas production decreased 12 percent between 1972 and 1976. During the past few years almost all of the available drilling rigs have been in operation. Deregulation 2 years ago would not have changed the situation today except that producers would have reaped windfall profits. Nothing in the profit statements of the oil and gas industry reflects a hard-pressed industry struggling to stay afloat and unable to finance exploration.

Again, the facts speak for themselves. What little available information forthcoming from the industry casts further doubts on the need for greater incentives to producers. Several studies indicate that in 1976 a price of 60 cents per Mcf was sufficient to cover costs of new gas development.

An Oklahoma legislative study indicates that actual costs ranged from 35 to 60 cents per Mcf.

A Price-Waterhouse audit of Gulf's Texas Eastern operation showed that costs for offshore gas development from 1972–75 were under 28 cents per Mcf.

The FPC's Bureau of Natural Gas con-

clude that a 60-cent rate was "just and reasonable" and that it allowed producers a 15 percent rate of return on investment.

I believe the President's plan is more ample incentive to new exploration and production. Deregulation on the other hand represents an unnecessary transfer of wealth to producers at the expense of the average American homeowner.

In Colorado where a large percentage of homeowners heat with natural gas the impact of deregulation will be severe. Estimates obtained from the Congressional Research Service indicate that the average Colorado household by 1985 would see their gas bills increase by 2.5 times under the Carter plan, over 3.5 times under the Jackson substitute and an unbelievable 5 times if deregulation is enacted.

According to the Congressional Budget Office, the typical monthly winter heating bill nationwide in 1985 under the administration's plan would be $47.20 versus $70 under deregulation—a significant difference especially for the poor and elderly who are already hard pressed to pay existing bills. According to the CBO study, deregulation will produce only about .9Tcf more new natural gas than the administration's proposal, or less than a 5-percent increase in total gas supply in 1985 for the entire country. For that small increase the consumer will be called upon to pay $12 billion in 1985 and over the years up till 1990 a total of $162 billion above the administration's proposal. In effect, for the small increment of new natural gas in 1985 we are being asked to pay a marginal price of approximately $12 per Mcf or seven times the current Btu-related price of natural gas. This figure bears no relationship to cost, producer incentives, or any other supposed virtue extolled by the producers. It is pure profit—a profit which would be subsidized by the average American homeowner who is already steeped in high fuel costs, taxes, and mortgage payments. These figures are astronomical and their implications for consumers unconscionable. The debate on natural gas had focused overwhelmingly on doing justice to the producer. If deregulation is approved a severe injustice and unnecessary hardship will have been inflicted on the average American household.

In my State the average monthly gas bill in the winter month is $46. If the Carter proposal is adopted it will be $115 in 1985; if the JACKSON compromise is adopted it will be $161; and if deregulation is voted it will be a staggering $230.

Mr. LEAHY. Mr. President, there is a popular red herring that has been promoted recently regarding the impact of natural gas deregulation on residential consumers. This misleading statement makes the correct assertion that, of a homeowners gas bill, only 15 or 20 percent is for the gas itself, prices and the remainder is for transportation and distribution. This is fundamentally correct, although actually the gas is 25 percent of the total bill. Interstate gas costs an average of 60 cents per Mcf at the wellhead. By the time it gets delivered to a residential customer, it costs an average of about $2.30 per Mcf. Roughly 50 cents of this goes to an interstate pipeline. The remaining $1 per Mcf goes to a local distribution company, which delivers the gas to a home from the long distance pipeline dropoff point.

Now, his argument becomes a red herring, because those advancing it want their listeners to believe that an increase in gas prices would not impact homeowners. This is far from true. Under deregulation, gas prices will rise to the 1977 dollar equivalent of $3 per Mcf. Sooner or later all gas will reach this level. The homeowner who paid 60 cents at the wellhead and $2.30 delivered will find himself paying the real dollar equivalent of $4.70 per Mcf delivered at his residence. His gas bill will have doubled.

A typical home with gas heat, hot water, and range used about 150 Mcf's per year. At today's prices this amount of fuel costs $345 annually. Under deregulation, a household will pay $705 for exactly the same amount of gas. His bill has increased by $360 a year for each and every year of deregulation.

The red herring's proponents attempt to distract their listeners from the hard fact that without Federal price controls the commodity component of a household's bill will rise from 25 to 65 percent, while transportation and distribution will decline to 35 percent. The hard facts are that this will cost each household $360 per year. The red herrings proponents do not want you to know this. They want you to think dereg's cost is trivial. It is not.

INCREMENTAL PRICING

Mr. PEARSON. Mr. President, proposed section 29 to the Natural Gas Act of our substitute amendment numbered 1039 introduced on September 26 deals with incremental pricing. By engaging in this colloquy with Senator BENTSEN, I intend to elaborate on the intent of this section. Subsection (a) merely restates existing FERC authority in requiring that interstate pipelines file reports at least once a year on the price and volumes of first, old gas; second, new gas; and third, synthetic or liquefied natural gas entering pipelines. No new authority is granted FERC or the DOE under this subsection. It merely lays down a statutory preference as to the form and timing of reporting.

Mr. BENTSEN. Subsection (b) mandates that the FERC require that interstate pipelines allocate in their rates the costs of old gas to those high-priority users specified in section 25(a). It is our intention that the cost of new gas will be allocated in such a way that the price to users not specified in section 25(a) will not exceed the cost of substitute fuel oil. Once the substitute fuel oil equivalent is reached all customers will be priced on an equal basis.

This is necessary so that fuel costs to low priority users—those users not designated in section 25(a)—do not exceed the cost of substitute fuel oil. Otherwise, low priority users would be encouraged to switch to imported foreign oil, a result that is clearly contrary to our national energy policy.

Mr. PEARSON. So, in effect, subsection (b) requires only that new gas be allocated to users not specified in section 25(a). The reporting of SNG and LNG costs and volumes required in subsection (a) is only meant to identify those supplies separately. The costs of SNG and LNG supplies are not to be incrementally allocated to those users not specified in section 25(a) unless they qualify as new gas under the definition contained in our proposal for new gas. These SNG and LNG supplies are more capital intensive and they are primarily designed to protect those users specified in section 25 (a). Thus it would be inappropriate to allocate their costs only to the users not specified in section 25(a).

Mr. BENTSEN. Subsection (c) restates FERC authority to allocate rates between interstate pipelines and city gate sales. This subsection merely insures that the FERC in allocating these higher costs of new gas does not allow a distributor or pipeline served by more than one pipeline to count its high priority customers on each pipeline. Thus we do not intend to allow a company to "double dip." For example, if a distributor purchases from three pipelines, and has, let us say 100,000 priority customers, it cannot, under this subsection, include those 100,000 in reporting to all three pipelines. The distributor would have to allocate his customers on the basis of his takes from each of the pipelines. Thus assuming he received one-third of his supply from each pipeline, he would allocate one-third of his high priority demand to each pipeline under this subsection.

Mr. PEARSON. There is no authority under section 29 which permits allocation by FERC from one pipeline to another. Nor is there any intention to allow a pipeline to discriminate against those of its customers who happen to be served by more than one pipeline. Finally, incremental pricing or allocation with respect to intrastate pipelines and other nonjurisdictional transporters of natural gas is not contemplated by our provision.

Mr. HANSEN. I would like to be certain that I understand fully the manner in which it is intended that section 29 of the "modified" Pearson-Bentsen substitute, relating to incremental pricing, will be implemented. Am I correct that this section requires incremental pricing to all customers of natural gas companies on the basis of users not specified in section 25a of the "modified" Pearson-Bentsen substitute numbered 1039 up to the reasonable cost of substitute fuel oil?

Mr. PEARSON. Yes, section 29 is designed to require that the costs of the new natural gas which would be subject to deregulation would be first allocated to all customers of natural gas companies on the basis of users not listed in section 25(a), until the rates for such users match the reasonable cost of substitute fuel oil, after which point such costs would be allocated to the rates and charges applicable to sales to all customers of the natural gas company. The Federal Power Commission which would be the Federal Energy Regulatory Commission under the Department of Energy Organization Act will be charged with responsibility, not only to supervise the submission of the reports required by

section 29(a), but also to determine, after appropriate administrative procedures upon the new rate structure filings by natural gas companies, the appropriate allocation of costs mandated by section 29, including allocation of costs where more than one natural gas company supplies a user specified in section 29(b).

This section is, of course, not intended to preempt the very important role of the State Regulatory Commission in their handling of local tariff filings within their jurisdiction, and it is certainly anticipated that the State commissions will be of assistance in working with the Commission in compiling data on the effects and implementation of this section.

NATURAL GAS PRICING

Mr. BIDEN. Mr. President, although I have in the past opposed the deregulation of natural gas prices, I have deliberately kept an open mind on the issue during the course of the current Senate debate on a comprehensive national energy policy.

I can recall all too vividly last winter's scene of plant shut-down, unemployment, school closings, and the serious human suffering and economic dislocation inflicted on many American families because of inadequate natural gas supplies.

In the wake of that crisis, some people charged that natural gas producers deliberately withheld supply; others contended that Federal price regulation provided a disincentive for the additional production needed to meet U.S. demand.

I do not believe either of these extreme propositions explains the shortages of last winter.

PRICE AND SUPPLY

However, one fact remains undeniable, natural gas supplies did not meet demand during the extreme cold of 1976–77. If higher natural gas prices would guarantee supply adequate to avoid a repeat of last winter's shortages, then I believe most business people and consumers would consider accepting higher natural gas prices.

Therefore, the central question becomes how sensitive is U.S. natural gas production to increases in price?

How much can domestic production be increased under various pricing mechanisms and at what cost to consumers?

These are the real issues that need to be addressed.

Mr. President, we must look at the "facts" of the natural gas situation of the last 5 years to get some answers to these questions.

We need not consider the various reregulation schemes in a vacuum.

Let us take a look at the recent past for some indication of how natural gas price increases have affected domestic production of this most precious energy resource.

GAS PRICE HISTORY

Since 1968, natural gas prices have escalated by 600 percent, with a 350-percent increase occurring in the last 14 months.

During this same period drilling activity has increased every year, presumably in response to higher prices.

Yet, at the same time the rate of new discoveries and total production has declined.

Production has even declined in the deregulated intrastate market, where natural gas has been contracted for in excess of $2 per thousand cubic feet. In 1976, the year of our winter of discontent, more gas wells were completed than ever before—more than double the number of gas wells completed just 10 years ago.

Yet, production has consistently declined.

The Joint Economic Committee study recently released forecasts that production "is expected to decline—or at best to remain at present levels—at virtually any price level."

The Congressional Budget Office also concluded that under any pricing scheme "the likelihood that increased production will be substantial by 1985 is small."

In fact, by CBO's calculations, deregulation of natural gas prices 2 years ago would not have yielded significantly more gas than has actually been found. I know that there are industry studies which disagree with the independent analyses of the Library of Congress and the Congressional Budget Office.

Some of these analyses forecast potential large discoveries.

However, none of these clearly identify "where" the new production would come from or what the investment requirement would be to yield this gas.

Yet, even though the average price of new natural gas has jumped from 18 cents per thousand cubic feet in 1968 to $1.46 today—with no real additional supply yield—even despite this incontrovertible evidence of the unresponsiveness of supply to price—I have supported the President's proposal for yet "another" price increase to $1.75 per thousand cubic feet of natural gas.

To this, industry and the Pearson-Bentsen proponents respond—"we need still higher prices to bring additional gas onstream."

EXOTIC SOURCES

So, being a reasonable man—though reason is being stretched awfully thin—I will walk the extra mile. I will concede to the gas industry that perhaps there are certain domestic sources of natural gas which would require even more than the 20 percent price increase the administration calls for.

Hence, I support those proposals before the Senate which provide an even greater price incentive for gas drilled from so-called "Exotic," more expensive sources—such as geopressurized brine or extremely deep reservoirs.

ECONOMIC RUSSIAN ROULETTE

Yet the Pearson-Bentsen advocates tell us "not enough," I ask my colleagues, how heavy a price burden must we place on American families before reason demands a halt to this type of economic Russian roulette?

The facts demonstrate that the deregulation of natural gas prices would not significantly increase supply—as phenomenal price increases in the past have not provided additional gas for American homes and industry.

CONSUMER IMPACT

Mr. President, as if all the price escalations which many of my colleagues and I have already conceded are not enough, the Pearson-Bentsen bill would have us accept on behalf of the American consumer yet another $70 billion cost increase by 1985.

The people of my State of Delaware alone would be saddled with increased costs of $130 million should we accept the Pearson-Bentsen proposal before us.

Many of the country's leading economists and the Congressional Budget Office forecast a significant inflationary impact, on our economy as a result of a decontrol of natural gas prices.

The CBO's estimates place the impact of deregulation at no less than 0.5 percent per year in 1977 and 1978 alone.

So let us be clear, Mr. President, about who is being reasonable in this debate.

I would be derelict in my responsibility to the people who elected me to this office were I to vote for the economic nonsense which the Pearson-Bentsen proposal represents.

I urge my colleagues not to permit our fatigue with this debate to interfere with the body of reason which demands the defeat of the Pearson-Bentsen amendment.

Mr. WILLIAMS. Mr. President, I rise today to join my colleagues who have labored tirelessly these past two weeks to oppose deregulation of natural gas.

We all know something must be done to improve our long-term supplies.

I am worried about the threatened loss of natural gas to homes, schools, hospitals and industries, but I do not believe deregulation is the answer.

The people of New Jersey simply cannot afford it.

Total deregulation of natural gas will cost New Jersey consumers more than $750 million a year in higher gas utility prices.

Nationwide, consumers are expected to pay anywhere from $10 billion to $25 billion annually under deregulation.

In a State where unemployment is in double digits, where the cost of living has skyrocketed, and where many of our citizens are on fixed incomes, any additional financial burden would be unfair. unreasonable and unbearable.

To make matters worse, such increases in price will not guarantee New Jersey's homeowners and industries uninterrupted supplies this winter or in the winters ahead.

I think of the hardships the energy shortages and price increases have already placed on our poor and elderly citizens.

Their limited incomes make it difficult, if not impossible, to absorb rising energy prices.

Some simply do not have an adequate margin between income and expenditures to withstand higher fuel, transportation, and electrical costs.

Too often they face the choice of "heat or eat."

If suddenly we were to increase natural

gas prices, the burden imposed on the poor and elderly would be catastrophic.

I have no argument with the notion that producers require adequate incentives to deliver a quantity of natural gas to meet the needs of American consumers.

But in the past 5 years the Federal Power Commission has raised the price of natural gas more than 500 percent—justifying each increase on grounds that higher prices and higher profits would provide the industry with the incentive to produce greater resources.

I am told oil and gas producers are now drilling more wells than ever before in response to the enormous increases in price and profitability that have taken place since 1972.

The number of new gas wells drilled annually has risen by 85 percent since 1972 and has more than doubled since 1971.

In fact, the number of gas wells set a new all-time record in 1973 and in each year since that time.

Yet, we are also told that President Carter's proposed increase in the price of new natural gas from $1.46 to $1.75 per thousand cubic feet is not enough.

We must pay more, the companies say, if we want more output.

We are being asked to let consumers take their chances in an unregulated market with the OPEC cartel, the highly concentrated American oil industry, and the prospect of gas shortages.

Our economy is still trying to recover from the sudden quadrupling of oil prices after the Arab oil embargo in 1973.

It would be unforgiveable were we to allow the price of new gas to increase so precipitously at this time.

We cannot overlook the overwhelming impact the cost of energy has already had on our economy.

A doubling or tripling of gas costs to the consumer will clearly be inflationary.

The producers, who leave us in the dark by refusing to disclose their production costs, will be assured greater profits.

But these profits will undoubtedly trigger a continuing round of needless inflation we simply cannot afford.

I am not happy that the administration would like to raise the price of gas from $1.46 to $1.75, but their proposal does eliminate the two-tier pricing system by extending Federal regulation to the intrastate market.

The two-tier pricing system now sets a lower rate—$1.46—for natural gas sold outside a producing State.

Gas sold within the producing State is not regulated and sells for about $2.25.

This system, therefore, makes it far more lucrative for the gas producing States of Texas, Oklahoma, and Louisiana to keep the natural gas within their own State boundaries.

Extending the controls would not only keep the price of natural gas within reasonable bounds, it would free up much of the natural gas now being stored or burned for nonessential uses in the producing States.

A freer flow of natural gas at a lower regulated price can only reduce the dependence of New Jersey and other States on synthetic natural gas now selling in excess of $4.

I cannot accept the Senate's position in favor of total deregulation.

I thought the $1.46 price was adequate, but I was willing to accept $1.75 if controls were extended to the intrastate market.

Now we are talking about a price near $2—even higher after deregulation.

To support this proposal is to place a tremendous economic burden upon this Nation.

I cannot support it because we cannot afford it.

Mr. DOMENICI. Am I correct in interpreting the provisions of section 28(a)(1) of amendment No. 1039 as permitting an interstate pipeline to transport intrastate natural gas without that natural gas becoming subject to the jurisdiction of the Commission under the Natural Gas Act?

Mr. PEARSON. That is correct, subject to the Commission's power to set the rate or price to be paid to the interstate pipeline for the transportation of the intrastate natural gas and to deny approval of the transportation arrangement if it were to threaten or impede the interstate pipelines capacity to transport jurisdictional natural gas to its regular or jurisdictional customers. Stated another way, it is contemplated that the Commission would deny approval of such an arrangement if the interstate pipeline did not possess excess transportation capacity.

Mr. DOMENICI. Am I correct in assuming that if the transportation rate to be paid the interstate pipeline transporter is equal to the rates and charges paid for similar services by the pipelines regular or jurisdictional customers, that the standards of this provision will have been met?

Mr. PEARSON. That is correct.

Mr. DOMENICI. Am I also correct in assuming that in passing upon such an arrangement that the Commission will have no authority to deny approval on the basis of the price to be paid by the buyer to the seller of such intrastate natural gas or the end use to which the gas might be put?

Mr. PEARSON. That is correct. Stated succinctly, so long as the transportation arrangement does not preempt the interstate pipelines capacity to serve its jurisdictional customers and the owners of the intrastate gas pay the full distributive share of the costs of its transportation, then approval should be granted. The exempt status of any party to such a transaction under the Natural Gas Act as amended would not be jeopardized.

Mr. DOMENICI. Thank you. In asking these questions I am concerned with a situation which exists in my State. There are a number of communities in New Mexico, served by pipelines that are in curtailment. As you know, New Mexico is a significant producer of natural gas. In some areas of the State we have many properties with potential marginal production that will not justify the construction of pipelines to transport the production to these distressed communities. However, interstate pipeline facilities are nearby and have the excess capacity to transport this gas but the owners of the gas are reluctant to transport it through the interstate facilities for fear of the attachment of Commission jurisdiction over the natural gas with all of its consequences. If I understand this provision correctly, these legal impediments would be removed. Is that correct?

Mr. PEARSON. You are correct.

Mr. MORGAN. Mr. President, I wish to direct a question to the distinguished Senator from Kansas (Mr. PEARSON) concerning a provision of the so-called Pearson-Bentsen amendment No. 862.

Suppose that an interstate pipeline contracted to purchase onshore new natural gas after January 1, 1977, and that deliveries have begun under that contract. If the Pearson-Bentsen amendment No. 862 becomes law later this year, will there be any automatic price increase for deliveries made under that contract retroactive to January 1, 1977?

Mr. PEARSON. Mr. President, in response to the question of the distinguished Senator from North Carolina, the answer is no. Our amendment does not increase prices retroactive to January 1, 1977 or any other date. The earliest possible date that a "deregulated" price for new natural gas could be collected would be the date of enactment of our proposal.

Mr. MORGAN. Suppose that an interstate pipeline has contracted to purchase new onshore natural gas on or after January 1, 1977, and that deliveries have begun under that contract. The sale, of course, is presently subject to FPC regulation. If Pearson-Bentsen amendment No. 862 becomes law, will there be any automatic prospective price increases for future deliveries under that contract?

Mr. PEARSON. Again, the answer is the question of the Senator from North Carolina is no. Whether the price would increase prospectively under the contract for future deliveries after the date of enactment would depend entirely upon the terms of the contract itself. There is nothing in the Pearson-Bentsen amendment which would mandate any increases in price under existing contracts. The contracts would have to be performed by the parties to their terms.

Mr. MORGAN. Mr. President, as I understand it, then, there is no provision in the Pearson-Bentsen amendment which would mandate any increase in price for gas already under contract. I thank the Senator for his explanation.

THE NATURAL GAS POLICY ACT

Mr. MOYNIHAN. Mr. President, I have not spoken before now on the Natural Gas Policy Act, not, as one might infer, because I have not had the opportunity—the leadership has been most accommodating in that respect—but because the proper moment has not, until now, been available. It is fitting, as the Senate has completed its procedural debate and is about finally to work its will, that I now speak on this important issue.

The Senate's lengthy consideration of natural gas pricing has not included the kind of thorough debate that usually

characterizes a Senate filibuster. We have had a filibuster by amendment, not by debate, and, as a consequence, the public has not had the benefit of a full airing of the issues. I think we should take the time now, after 14 days, to turn back to the substance of the problem before we terminate our deliberations.

We have all had several chances, over 120 in fact, to record our views on the natural gas pricing proposals before us. I have consistently voted in favor of the administration's proposal or its substitutes that would maintain some form of price controls. I have voted against deregulation. The role call votes indicate my position, but the reasons for this position and the many issues which I have considered in making my decision may not be apparent to my constituents. I wish to explain my position now.

CREATIVE ANALYSES OF NATURAL GAS PRICING

Apart from the ideological issues of deregulation, there are practical questions which all of us must confront. First, will there be shortages of natural gas such as the one experienced during the winter of 1976–1977, and, if so, why? Second, if we let prices rise by deregulation or administration, how much new gas will be produced and how much will it cost consumers?

This Senator cannot answer these questions, nor, I expect, can any of my colleagues give confident answers either. We have numbers—plenty of them, but whose data should we most believe? We have the administration's analysis, the gas industry's analysis, and we have the analyses of various academic and consulting institutions. These analyses tell a conflicting story which serves more to frustrate than to elucidate.

I think it is worthwhile to consider each of the questions that I have raised and some of the answers that have been offered. This discussion will show that the state of our knowledge about these issues is not impressive, and, further that the controversial nature of natural gas pricing is such that even when we seem to agree on facts, opposing sides can draw opposite conclusions as to what constitutes appropriate public policy response.

WILL THERE BE MORE SHORTAGES AND WHY?

We seem to agree on the first part of this question: there will be shortages at least for the next 5 years. The report of the Joint Economic Committee cites increasing curtailments of natural gas deliveries to interstate pipelines since 1972. That is history, but what of the future? Of course, it is difficult to predict what production and demand will be, but there is apparent agreement that natural gas shortages are a chronic problem that will go away only if demand is reduced considerably—as the administration would prefer—or if supplies are dramatically increased, and there is disagreement over the possibility and the approach for doing this.

Given that we have a shortage and we will continue to have one, we should understand the causes of it before we undertake to solve the problem. Proponents of price controls offer a simple reason: We are running out of natural gas deposits. The Committee on Energy and Natural Resources cites declining domestic production from a peak of 22.2 trillion cubic feet in 1973 to only 19 trillion cubic feet last year. Further, the Bureau of Mines reported in Minerals and Materials (1977) that proven reserves of natural gas have declined dramatically from a peak of 289.3 trillion cubic feet in 1967 to about 220 trillion cubic feet, or a 20 years supply, more or less.

The differences in the numbers used by the opposing sides is never more dramatic than when we talk about this issue of natural gas reserves. The American Gas Association in its Gas Review has claimed that we have 20,000 trillion cubic feet of natural gas remaining, maybe even as much as 50,000 trillion cubic feet, if only we would deregulate. The industry is saying that we have 1,000 to 2,500 years left, not 20 years!

Consider those differences and their psychological impacts: 20 years—a period sufficiently short to cause immediate concerns. Consider, on the other hand, 1,000 to 2,500 years—what comfort those numbers supply! We have enough gas to keep us warm through the next ice age—if we are willing to pay the price.

Now, the amount of reserves is a geological question about which one should expect some agreement. I have been a member of the President's Science Advisory Commission, and a former Vice President and member of the Council of the American Association for the Advancement of Science.

I am intimately familiar with Government statistics and analysis and I know that analysts can disagree, but I am amazed over the level of disagreement over this scientific issue. There must be a way to get a consensus on the natural gas which is available for domestic production.

There is one cause of the interstate supply shortages on which there does seem to be a consensus. No one has refuted the historical health of the intrastate markets. There have been no major curtailments in the intrastate markets during this period of increasing shortages in the interstate markets. What is the major difference between the two markets? The intrastate market is not regulated while the prices of interstate gas are controlled. And, what are the policy implications from this fact? The proponents of deregulation say we should deregulate all gas; if we would only do that then the artificial difference in prices would disappear and interstate pipelines would be free to compete for the gas used intrastate.

That is a sound argument, but the opponents of deregulation use the same facts to argue the other way. They say that the price difference should be negated by imposing controls on all gas; that is, regulation should be extended to the intrastate market, as well.

It should be easy to understand the depth of feelings that have been displayed in this Chamber over the last 3 weeks. There is an incredible difference in the numbers—20 years versus 2,500 years of reserves—and a significant difference in opinion. Furthermore, even a simple fact on its face, carries very different policy implications for the opposing sides.

HOW MUCH WILL NEW GAS COST?

The differences in the numbers carry through to the next issues of the impact of higher prices on production and on the costs to consumers. The administration, and its supporting studies, have painted a bleak picture. The report of the Committee on Energy and Natural Resources showed that the period during which domestic production of natural gas was declining was also a time during which prices for interstate gas were increasing by 600 percent. That is, even while there was a strong price incentive to produce more gas, production declined.

The Congressional Budget Office supports this conclusion. Their report showed that producers did respond to higher prices by drilling more. However, consistent with the view that our reserves are dwindling and the gas industry is experiencing rapidly decreasing marginal returns, production has declined. The report goes on further to conclude that, because of these declining reserves, deregulation would only result in 5 percent more new production than would the President's plan.

The gas industry flatly refutes these claims. We have plenty of natural gas, they say. Their problem is over-regulation by the Federal Government—after all, look at the health of the unregulated intrastate market. The industry also attacked the conclusions of the Congressional Budget Office because the report considered only shallow deposits of natural gas. The industry claimed that the report did not take into account the deep deposits that are expensive to tap and which require higher prices, such as under deregulation. The industry's conclusion, and the view of those who support deregulation, is that production will increase, predicated on their optimistic estimates of reserves, if only we will allow prices to rise.

The Wall Street Journal in its editorial "The 'Energy Crisis' Explained," advocated the economist's view of the world. We should unleash the market forces, let them do their work of balancing supply and demand and bring forth increased production. The energy crisis will thus go away.

But apart from market imperfections that may exist, the "economists view"—and the industry position—seems to ignore some very important questions, questions that are critical to the public decisionmaker: Who pays, how much do they pay, and what do they get for it?

Unquestionably, the States of the Northwest and Widwest—the major consumers of natural gas—will bear the greatest burden of increased costs. Consumers in the producing States will also pay more, but this is mitigated by the fact that any increase in revenues to gas producers will accrue to these States.

My own State of New York would be particularly hard hit by higher natural gas prices. Not surprisingly, there is some uncertainty as to the increased cost to New Yorkers due to higher natural gas prices. My estimates indicate that de-

regulation under the Pearson/Bentsen plan would cost New York over $10 billion through 1985, or about $1.1 billion per year for the next 9 years.

It is not clear that this increase, even one this large, will guarantee adequate supplies for the consumers of my State. A frequently cited incident is the failure by producers to find "all the gas we want," as they predicted a few years ago, at a price of $1.45 per thousand cubic feet, the current regulated price. There is just too much uncertainty about the price-responsive of gas production for the representative of a natural gas-consuming State to support deregulation.

An editorial in the New York Times provided an excellent characterization of the natural gas pricing problem; the Times called it "The Dilemma of Decontrol and Production." And, this is a dilemma. The Times articulated it well:

On the one hand (the Senate is) concerned that higher natural gas prices would work a hardship on consumers. On the other hand, without increased natural gas production, factories and schools will be forced to close again next winter. . . . The public distrusts solutions that create more government, more bureaucracy, more regulations and more special interests, but does not want to be "ripped off."

There are concerned people back home in all our States. They are concerned for their jobs, for their children's education and for their family's ability to meet skyrocketing heating costs. As one representative of the people of my State, I have not and I will not support instant deregulation. I urge my colleagues to join me in voting against the Pearson/Bentsen substitute amendment and in supporting the Jackson compromise.

REJECT THE FALSE "COMPROMISES"

SUMMARY

I

Mr. HANSEN. Mr. President, the first Jackson "compromise," which is now pending, allows a slightly higher price today, but lower prices for every year after 1983. When you look at the overall return from a new well, it provides less incentive than the Carter plan.

Even the average Jackson price for all of 1978 is below the price right now, in 1977 on 30 percent of all new intrastate contracts, and 50 percent of all new intrastate contracts in Texas.

Finally, the Carter plan is at least pegged to a known physical quantity—all domestic oil purchased. The Jackson plan is tied to a legal construct, "upper tier oil," which may be altered by decree at any time.

So, any way you look at it, Jackson's plan is inferior to Carter. For the same reasons the Senate did not endorse the Carter plan 2 weeks ago, reject this even less satisfactory alternative today.

II

The second Jackson "compromise," presented last night, makes only 2 changes in the first compromise. It provides a controlled price for the years 1983–1986 that is actually lower than the price for the comparable years in the original bill. Then, it offers total decontrol in 1987.

This price, of course, makes this version less attractive than the bill. The offer of deregulation almost 10 years from now is simply not believable. It is unlikely that anyone will drill today, based on an expectation of prices 10 years from now, when Congress could renege at any time.

III

The place for compromise is in conference. The vehicle for compromise must be one that moves toward freedom and market prices, not away from them. Support Pearson-Bentsen today, and let the Senate go to conference in the strongest possible position.

I

An analysis of the price and incentive in the Jackson proposal must look at the price, not just in 1 year, but over the life of the well or contract. As an example, the latest FPC pricing decision set an initial price of $1.42, rising evenly to $2.02 after 15 years. Thus, the potential producer is not looking at a price of $1.42 when he decides to drill. Nor is he looking at a price of $1.72, which would be the average of the prices over the 15 years. This is because $1 today is not the same as $1 15 years from now. Using the 15 percent discount rate used in FPC decisions and most other calculations, the current value of the stream of payments rising from $1.42 to $2.02 over 15 years is equivalent to a constant price of $1.63. To compare different pricing schedules, they must be reduced to a common denominator of the current-value equivalent constant price.

Turning now to the comparison of the original Jackson compromise and the Carter bill, we see that the Jackson substitute offers very little more incentive for wells drilled in 1978, and less incentive for all wells drilled thereafter.

First, there is an error in the chart presented by the Senator from Washington. The analysis of the price trajectory under the Carter plan (labelled amendment No. 868 on chart) is copied from Table 1 supplied to the Energy Committee on July 30, 1977 by FEA, which goes through 1990.* It assumes 5.5 percent inflation (see page 4 and Tables 5–9). However, the chart shown by the Senator from Washington assumes 6 percent inflation. Thus, the column labelled "substitute" on the chart must be adjusted to a 5.5 percent inflation rate to make a fair comparison. With this correction, the figures for the chart are shown below, also taken out of 1990.

In order to assess a full 15-year well life, we need to project figures out to 1995. Because the Jackson plan price only increases by inflation, we simply continue the 5.5 percent increase postulated. The Carter plan will continue to escalate a bit more rapidly as the domestic oil mix changes. To be conservative, we took a 6.5 percent increase, which is lower than the increase in any year through 1990.

*These FEA figures do not include Alaskan oil, and therefore understate the ceiling price of the Carter plan. Our chart thus understates the superiority of the original bill to the first "compromise".

[In dollars]

Average price for year	Carter price trajectory [1]	Jackson price trajectory [2]
1978	1.86 (1.86)	2.14 (2.14)
1979	2.02 (1.72)	2.26 (1.92)
1980	2.20 (1.59)	2.38 (1.72)
1981	2.39 (1.47)	2.51 (1.54)
1982	2.58 (1.35)	2.65 (1.38)
1983	2.79 (1.24)	2.80 (1.24)
1984	3.01 (1.14)	2.95 (1.11)
1985	3.23 (1.04)	3.12 (1.00)
1986	3.48 (.95)	3.29 (.90)
1987	3.72 (.86)	3.47 (.80)
1988	3.97 (.78)	3.66 (.72)
1989	4.24 (.71)	3.86 (.65)
1990	4.52 (.64)	4.07 (.58)
1991	4.81 (.58)	4.30 (.52)
1992	5.13 (.53)	4.53 (.47)
1993	5.46 (.48)	4.78 (.42)
1994	5.81 (.43)	5.04 (.37)
1995	6.19 (.39)	5.32 (.34)

[1] Present value in 1978 of this year's price at 15 percent rate of return.

[2] Present value in 1978 at this year's price at 15 percent rate of return.

We now take the stream of payments under each plan, and discount to present value and find the constant price equivalent:

[In dollars]

([1])	Carter schedule [2]	Jackson schedule [3]
1978	2.70	2.74
1979	2.85	2.83
1980	2.99	2.92
1981	3.14	3.01

[1] For wells beginning to flow January 1.

[2] Is equivalent to a constant price of.

[3] Is equivalent to a constant price of.

And the disparity gets steadily worse for the Jackson schedule.

II

Any ceiling price has the potential to outlaw some of the contract prices that have produced the gas that has come forth in the intrastate market.

A ceiling price of $1.75, as in Carter's plan, would outlaw the 56 percent of new contracts that sold above that price in the intrastate market from April to June, 1977. A price of $2.03 would outlaw about 30 percent of all new contracts, including 53 percent of new contracts in Texas, our strongest intrastate market. So, the Jackson substitute is still a rollback for much of the intrastate market.

III

The second Jackson compromise, which was hastily presented last night as the last-ditch effort of the regulators, makes only two changes from the first version; a change in the pricing ceiling formula from 1983 to 1986, and deregulation thereafter.

From 1983 to 1986, the ceiling price is to be the Carter price, which is Btu related to the average refiner acquisition cost of domestic crude, instead of to the price of upper tier crude. Since we have argued that the Jackson price would be lower than Carter's after 1983, this would seem to be a concession. But, there is a hidden ball in this compromise too.

The Carter price, in S. 2104 included all domestic oil. The second Jackson compromise excludes Alaskan oil from the computation, thus producing a considerably lower price.

There are two avenues to estimating the effect of removing this important factor (Alaska will soon provide over 10 percent of our domestic oil) from the averaging process.

First. Current calculations, and administration admissions, indicate that the removal of Alaskan oil would lower the current Carter price by 7 to 11 cents, or about 5.5 percent. This percentage should hold steady, or even grow, as Alaskan oil becomes a greater percentage of total supply. Using this assumption, we have the following price comparison for the affected years.

	S. 2104	First Jackson "compromise"	Second Jackson "compromise"
1983	2.94	2.80	2.79
1984	3.18	2.95	3.01
1985	3.41	3.12	3.23
1986	3.67	3.29	3.48

Second. In the years 1983–86 the Jackson price will exceed the Carter price only if the average price of total lower tier production and total (non-Alaska) new and stripper production exceeds the average price of upper tier. An examination of the relative volumes today show that this would not occur by 1983 unless new and stripper production increased 20 percent per year (and old production decreased 15 percent per year). These are both unlikely outcomes.

The promise of deregulation in 1987 gives little incentive now, even if it were believable. And it is not very believable.

The story of Lucy pulling the football away from Charlie Brown has been repeatedly cited in debate by the Senator from Arkansas, a proponent of regulation. But it is the energy producer that truly is in the position of the hapless Charlie Brown. At least three separate deadlines for the end of oil price controls have come and gone; it is apparent that the end of controls is not in sight. Anyone who believes that it is certain that those controls will end on May 1979, as mandated by law, probably also believes in the tooth fairy. Gas producers are simply not going to put their strength into an effort when the ball can be jerked away any time in the next 9 years.

Even giving full credence to the promise of deregulation in 1987, the full Jackson package works out to only about a 30 cents per Mcf improvement over the original Carter proposal for new gas which begins to flow over the next 4 years. While some improvement is better than the actual retrogression imposed by the other parts of the latest compromises, it certainly is not enough to offset the other damaging features of all of the versions of continued regulation.

The primary and clear problem with all of the proposals competing with Pearson-Bentsen is that they all extend the outmoded system of regulation to the eminently competitive and successful intrastate market. The same rules should apply across the country, but we should achieve uniformity by imitating success, not by extending the reign of failure.

All of the proposals for continued regulation would ban many of the new contracts that have been responsible for the remarkable surge in drilling and exploration in the intrastate market. Those efforts have now halted the country's long downward slide in gas production, despite the continuing dead hand of regulation over the interstate market.

Further, in several areas, treatment of certain categories of gas is less favorable than even existing regulation by the Federal Power Commission.

Under current FPC controls, gas from new wells drilled in the normal and usual course of development receives a price of $1.46, with quarterly escalators, and that price is subject to upward revision in proceedings now going on. The regulation plans would lock out this possibility of revision to conform to actual data. And the plans would roll back the prices that can be paid for such gas in the intrastate market.

Under current FPC rules, gas discovered in 1972 or before is controlled at prices no higher than 29 cents. Many contracts are even lower, having been made when gas prices were being severely depressed by the FPC. The FPC has taken cognizance of this problem by allowing a modest escalation, to 52 cents, when existing contracts expire. All of the regulation plans abolish this ruling, and require a case-by-case assessment of each of the thousands of contracts as they expire, before any increase can be granted. And, of course, existing intrastate contracts come under control and may be rolled back when they expire.

So we come to the conclusion that the choice is still basically between deregulation and regulation, between success and failure, between supply and shortage, and ultimately between slightly more expensive conventional American gas, and far more expensive foreign imports or synthetics.

Let us choose a future of growth and increasing well-being for Americans, not a long lingering decline into energy starvation.

Mr. HATHAWAY. Mr. President, yesterday I spoke to the Senate about the effects of price allocation of natural gas. I explained that it would ration the supplies to those most able to pay for it—to those who would use that gas inefficiently. Increased prices would tend to favor the large industrial users and utilities which could pay for even high-priced gas to use as inefficient boiler fuels while the homeowners and small businessmen would be priced out of the market for natural gas which can be efficiently used for space heating.

This seems an upside down approach to logic, commonsense and a sound national energy policy.

However, there is an even more severe implication of deregulation. I have opposed deregulation of natural gas—and, in the light of current economic facts, I shall continue to oppose it.

The economy is slowly and hesitantly recovering from its worst economic disaster since the Great Depression. That massive recession with the high inflation rate and massive unemployment resulted from many factors. There was no one cause. However, the quadrupling of oil prices by the OPEC cartel was a significant, if not the major, contributor to both our, and the world's, economic disaster.

Now, some are suggesting that natural gas be deregulated—not an increase in the ceiling price as proposed by the administration, but deregulated. It sounds great to say we are removing price controls, but can the economy stand the shock?

The regulated price is currently set at $1.46 Mcf. The administration would raise it to $1.75 Mcf—a 25-percent increase in natural gas prices. Yet, the gas industry and its supporters in Congress suggest this is not enough; they want the cap removed entirely. Where will natural gas prices settle in the absence of regulation: $2.05 Mcf? $2.50 Mcf? $3.25 Mcf? How high is high enough?

We have heard many figures cited about reasonable prices and the additional gas that will be produced. I have heard endless days, and nights, where figures and rhetoric were thrown about.

There is no denying that higher prices will encourage greater production and higher prices will encourage conservation.

However, I do not believe that the benefits arising from these increased prices will offset the traumatic shock to our fragile economy or produce sufficient additional gas to outweigh the damaging effect on the American consumer.

I shall, therefore, continue to oppose those who would sacrifice this Nation and citizens to deregulation and its vague promise of "more gas if you pay enough."

But, I also recognize that, at least in the Senate, I am in the minority. After the actions of last night, it seems that the forces of unbridled prices will prevail here.

For that reason, I have introduced a windfall profits tax amendment to the bill before us. If we are forced to accept new, decontrolled gas, then we must, at least, assure that those high prices are returned to the individual gas consumers.

My amendment would impose a 90 percent tax on the difference between what the new gas is sold for and the Btu equivalent price of crude oil on January 1, 1977—which was about $1.42 Mcf.

Thus, if the gas is sold for $2.02 Mcf, the windfall profit is $0.60 Mcf. The gas producer would get to keep 10 percent, or $0.06 and the Federal Treasury would get $0.54 which would be rebated to the individual consumer.

When the administration suggests raising crude oil to its replacement level using an equalization tax, it at least suggested rebating the money to consumers. Yet, those who propose deregulating natural gas would not.

I could suggest that there is a certain amount of callousness coupled with greed in this proposal.

Mr. President, my time is expiring. I would like to summarize briefly. I oppose deregulation. The administration is recommending a generous increase in gas prices. Enough is enough. The economy cannot afford it and the consumer cannot afford it.

Mr. BELLMON. Mr. President, going back a few years into the history of natural gas regulation, I doubt that anyone except perhaps Justice William O. Douglas really understood the impact of the 1954 Supreme Court Phillips decision on the future of fuel supplies for the United States. In his minority opinion, Judge Douglas informed the people of the United States that this action of the Supreme Court would, by "the fastening of rate regulation on this independent producer bring the production of natural gas under effective Federal control, in spite of the fact that Congress has made that phase of the natural gas business exempt from regulation. The effect is certain to be profound." It certainly has been. Equally, the action the U.S. Senate takes as it votes today is certain to be profound.

Mr. President, we often forget the reason for the Phillips decision. In the late 1940's, right after the end of World War II, Phillips Petroleum Co., from my State of Oklahoma, attempted to raise the price of natural gas, which was selling to Michigan-Wisconsin Pipeline for delivery to the city of Detroit, from $.04 Mcf to $.10 Mcf. The city of Detroit and the State of Michigan intervened in the negotiations between the purchaser and the transporter and asked the Federal Power Commission to also intervene. The court case was to determine if that intervention was permissable. It was decided by the Supreme Court that they did have the right, and thus the foundation for the national energy crisis was laid. The Federal Power Commission found it impossible to artifically set natural gas prices to please consumers and at the same time assure adequate supplies of fuel.

When regulation started, there was a fuel oversupply of tremendous proportions in the United States. The abundance was due to 100 years of exploration for oil, and the inadvertent discovery of gas. There was no real market for the gas until after World War II. The control of prices at the then prevailing low levels set the Nation up for the greatest energy binge in the history of man. We proceeded to waste gas by using it for many purposes which coal had previously served. Coal could not compete and as a result the development of our abundant coal resources was seriously hampered.

This low gas price made it economically impossible for industry to burn coal. Therefore, the coal industry began a long slide downward, which the current recognized shortage may stop. Not only that, but the heavier oils were not commercial for industry to burn. Gas was not only cheaper on an absolute Btu basis, but it did not need all of the other special equipment, storage, heated tanks, et cetera, that residual oil requires. For that reason, the United States now has a shortage of refining capacity for heavier fuel oils.

Because of the low price of natural gas, the price of oil itself was kept at an unrealistic level. This caused all of the products made from oil to be at low prices to the consumer, and because of the oversupply, the country was subject to the periodic gasoline price wars so famous in the past. Because the cost of energy was artificially low, the cost of energy related goods produced in the country were cheap and wastefully overutilized. Cheap fuel even seduced Americans into building wastefully. It was not possible for a domestic automobile manufacturer to build an energy efficient automobile that people would or could buy. Fuel was just too cheap.

Mr. President, further controls will worsen the situation. Political realities will not permit the regulator to adjust prices responsibly in the future anymore than it has in the past. This can best be done by the directness of the marketplace. I have absolute faith in the ability of 210 million American consumers to get exactly what they want, and at reasonable prices, sooner than by political decisions by Federal regulators.

While the price of natural gas was rising in the controlled market immediately after gas price controls started in 1954, the price of the free-market gas in the states of Texas, Louisiana, and Oklahoma were continuing to fall. As the price fell, the demand increased. The excess was worked off and the intrastate price began to rise in the early 1960's. As the price rose, intrastate drilling activity likewise rose and supply started back up. The price at the same time began to abate the unbridled rise in demand, and accounts for the decrease in production in the intrastate markets in the last year or 2. That drop in production, which has been construed by some of our colleagues as proof that the free-market does not work, is absolute proof that it does work.

The shortage of energy, and natural gas in particular, has been a traumatic experience for a Nation which has never before had a real shortage of energy. As a matter of fact, the United States is the only industrialized nation in the world to have had an energy sufficiency, and in most cases an oversupply, of energy of the right kind at the right time for the particular needs of the moment. This shortage and the rhetoric that filled the air, much of it from this floor, has confused our people.

Unfortunately, the debate this year is of the same divisive nature. We in the producing States have long paid the price for energy needed on the intrastate market. We have not exactly enjoyed paying those prices, but we realized that we either had to pay the true cost, or the product would not be available. We have no shortage of gas. The price brought on the supply, and reduced the demand. People reduced their demand for gas, not to save gas, but to save money. Now some propose to take away the gas which the people of the producing States have paid for. We do not particularly object to that, as an emergency matter, but when the Congress in its great wisdom then says that the future price of the inter and intrastate markets will be regulated at some artificial level, we do have a problem. Some politicians seem determined to enforce policies which will cause consumers to starve to death in the dark. We in the producing States prefer policies which insure producton of the gas needed for the Nation. We prefer to continue the progress which has been made in the intrastate market states, where gas prices are uncontrolled, in developing supplies adequate to meet the need.

The United States cannot merely continue to manage a shortage. That way is disaster. That way we all freeze in the dark ultimately. We must face up to the problem in all of its facets. First, we use too much energy in inefficient converters and we must conserve through efficiency improvement; second, we use the wrong kinds of energy, that which we must import, and do not use our most available resource, coal and oil shale. We must begin to convert to greater use of these fuels where it is commercially feasible to do so; third; there are other energy sources in this world which we need to research and develop into viable alternatives for the longer term; and fourth, for the short term, we must get on with the job of developing oil and gas and stop the counterproductive bickering that is destroying our ability to cope with the problem.

There are some things governments can do. There are other things that governments should not do. There are even some things governments cannot do. The detailed day-to-day control of a competitive industry falls in the last category. If we will let government establish policy and direction and let the industry do the job we will soon get the Nation's energy problem behind us. There may be some increases in profits. Profits are necessary to attract the investment necessary to fund the activity which will solve the problem.

Mr. President, current high levels of crude oil imports will grow even higher if natural gas production slumps. If natural gas is imported, the drain on our foreign exchange will be exacerbated. There is great concern that our Nation's economy cannot long support even the current cost of imported energy. A continuation of controls will guarantee that unemployment will remain high, that the dollar will continue to be worth less and less, that the steel industry and other basic industries will continue to shrink, we cannot export jobs in petroleum without exporting support jobs also, our strength as a nation will continue to erode as the suppliers of energy dictate our foreign policy, and the air will become dirtier along with the water as we burn dirtier and dirtier fuels.

The problem with controls is that they are insidious, and in their purest sense represent self-fulfilling prophecies. Returning to a free market tomorrow is not followed instantly by a result to which we can point in pride. It may require years for this type of action to be effective, and in the interim we are subject to the "trial

of the polls." I believe that we must make the effort now to remove politics and regionalism from the area of such an important part of national policy.

Mr. President, if this Nation is to remain free and be the leader of the free world, it must itself be free from the fears of shortages and supply interruptions which we have suffered since 1973. We should be supportive of the policies which candidate Carter proposed and insist that energy development receive at least as much emphasis as energy conservation. Approval of the Pearson-Bentsen amendment is the necessary first step on the long road toward relative energy self-sufficiency.

Mr. NELSON. Mr. President, the Pearson-Bentsen substitute, an amendment that would lift all Federal price control on new natural gas, is nothing more nor less than a massive raid upon the consumer's pocket book.

First, we are told by the proponents of this legislation that the gas industry, some of the wealthiest corporations in the world, require additional incentive to bring forth new supplies of natural gas. These wealthy multi-national corporations claim today, that without additional incentives, additional windfall profits, they can not explore, develop and produce new fields.

The facts simply do not support these claims. There should be absolutely no mistake about one fundamental point. The industry does not require additional profit in order to accelerate exploration and production. The price of natural gas has risen at least 500 percent over the past 6 years, but we are producing less gas now than we did in 1972. Industry is. in fact, drilling as rapidly as possible. There is a shortage of drilling rigs. To suggest that these powerful and profitable corporations require more working capital before they can go out and explore for new gas reserves is refuted by all the available facts.

Second, in my judgment, the $1.45 per thousand cubic feet price for new gas sold in interstate commerce set by the Federal Power Commission, is a very generous incentive. This price takes into account a fair rate of return on invested capital, cost of exploration, et cetera. Furthermore, the administration has proposed that the current Federal ceiling of $1.45 per thousand cubic feet be raised to $1.75 per thousand cubic feet with incremental increases of approximately 5 per year. The President would also extend Federal price control into the intrastate market for the first time.

The current Federal ceiling of $1.45 per thousand cubic feet is a generous price for both producers and consumers of natural gas. The President's recommendation of $1.75 per thousand cubic feet is in fact excessively generous.

Just a little over a year ago, the industry testified before the Senate Commerce Committee on the question of natural gas deregulation. The industry then stated that $1 per thousand cubic feet for new natural gas would give the industry adequate incentives to develop new fields. Today, they strongly lobby against $1.45, against the President's recommendation of $1.75 and they have bitterly fought the Jackson compromise of $2.03 per thousand cubic feet. Now that they sense victory their appetite for unconscionable profits is insatiable.

Third, the cost of the Pearson-Bentsen amendment is astronomical. The gas industry is asking the Congress to raise the public's natural gas bill by more than $131 billion by 1985. The White House estimates that if deregulation is enacted into law, only 2.5 percent additional supply would be produced over the amount that would normally come on the market under the administration's price control policy.

While the President's program would increase the Nation's gas bill by $62 billion over the next 8 years, the gas industry and the producing States are asking that the public pay an additional $69 billion for 2.5 percent additional production. This is plainly and simply indefensible.

These numbers become so large that they are sometimes meaningless. If this amendment becomes law, by 1985 the average Wisconsin homeowner's gas bill will have increased $930, $110 in additional payments per year.

Deregulation would cost Wisconsin's residential gas users over $680 million more than under present pricing policies between 1978 and 1985. If deregulation becomes law, every man, woman and child in Wisconsin will be paying an additional $21.58 per year for natural gas. This additional cost will not result in significantly larger supply.

Finally, it is clear that there is no justification for the allegation that the industry require additional incentives. The gas industry does not need this type of special interest legislation; they should not have it; and they certainly do not deserve it. The current Federal ceiling of $1.45 per thousand cubic feet is incentive enough. The President's compromise of $1.75 would raise an additional $62 billion for the industry. If there is doubt about the $1.45 level there should be no question about the $1.75 recommendation. The taxpayer in Wisconsin like taxpayers all across the country, cannot afford to pay the price of this legislation. It is absurd to ask the taxpayers of this country to pay $131 billion for a minuscule additional amount of gas. The Senate, in my judgment, should stand firm and continue to curb the ravenous appetite of the gas industry for unjustified profits.

Mr. RIBICOFF. Mr. President, natural gas deregulation poses a serious inflationary threat for the Nation's economy. It will harm the average American consumer. Deregulation will result in substantial price increases but will do little to achieve additional production.

Deregulation amounts to a transfer of large sums of money from consumers to producers. A Congressional Budget Office study reports that deregulation would inflate gas industry earnings by as much as $76 billion over the next 7 years while natural gas supplies would increase by only 5 percent. Translated into consumer cost, those now paying $40 each month for gas heat would pay $70 monthly by 1985. Consumer safeguards in the deregulation proposals advanced in the Senate these past 2 weeks are just not adequate; these proposals do not serve the best interests of my constituents.

Just a year ago the natural gas industry was negotiating long-term contracts for the delivery of gas at 50 cents per thousand cubic feet. This same industry now claims it will go broke at the price of $1.75 per thousand cubic feet, the amount proposed by the administration. Deregulation means prices above $3. Such a price increase is not justified. The additional inflation generated by such a substantial jump in price will further erode the earnings of the average American family.

An objective of the national energy plan is to achieve greater energy production. It seeks to lessen our dependence on foreign sources of energy. If greater profits are necessary for industry to increase production, those profits should at least remain in the United States and not be exported to OPEC nations. However, deregulation will not achieve these goals. While there has been a recent increase in new drilling at the present price level, the rate of discovery has gradually diminished in recent years. It is estimated that deregulation would produce no additional supplies of natural gas over that provided by the administration's program until the early 1980's and less than a half trillion cubic feet more in 1985. Even with regulation, under which prices have annually risen by 30 percent, producers have failed to locate or produce the necessary natural gas.

The Pearson-Bentsen deregulation formula would be most harmful because of the lack of sufficient consumer protection. The Connecticut Department of Planning and Energy Policy advises me that the Pearson-Bentsen proposal would cost consumers in my State an additional $33 million per year more than the administration's proposal by 1985. This department further informs me that Connecticut consumers would save approximately $60 million by 1985 had the Byrd-Jackson compromise been accepted in lieu of Pearson-Bentsen. Thus, the total annual gas cost for Connecticut by the middle of the next decade will amount to approximately $292 million. The nationwide impact of this situation is fully appreciated considering the fact that natural gas represents only 9.5 percent of Connecticut's energy needs.

Mr. President, today's home consumer pays 80 percent more for natural gas than the industrial consumer. They deserve a more gradual price rise than industries, which are able to convert to alternative fuels. The incremental pricing provision in the administration's plan would provide this important consumer protection which the majority of deregulation proposals lack.

The burden of deregulated gas prices will create serious economic hardship for millions of our fellow citizens. Deregulation will do little to increase the availability of this important but rapidly dwindling energy source. Most analyses conclude that discoveries and exploration will decline at virtually the same

rate regardless of the pricing mechanism finally adopted by the Congress.

For the past 2 weeks I have supported Senators ABOUREZK, METZENBAUM, and KENNEDY in their effort to defeat proposals advancing deregulation or, at least, to lessen their economic and social impacts. I commend them for their tenacity, for their mastery of parliamentary procedures, and for their ability to expose the ramifications of natural gas deregulation. These colleagues, and the administration, are simply trying to prevent the price and supply of an essential energy resource from being manipulated by a monopoly.

I also wish to commend our very able majority leader. Under very difficult and trying circumstances Senator BYRD has treated all sides in a fair and even-handed manner. He has given all Senators the opportunity to air their views. Senator BYRD has attempted to avoid needless controversy and to encourage compromise and accommodation.

The distinguished chairman of the Energy Committee deserves special praise as well. Senator JACKSON is the most knowledgeable Member of Congress on energy matters. He has long worked to encourage additional energy production, to develop additional energy sources, and to formulate a fair pricing mechanism. He has provided valuable leadership throughout the debate on the natural gas policy legislation and has actively worked to seek a meaningful compromise.

Mr. President, we can meet the Nation's energy challenges and encourage additional energy development without excess profits to producers at consumers' expense. The deregulation of natural gas is not the route to follow. Deregulation will neither spur substantial additional production nor will it benefit residential or commercial consumers. Deregulation encourages neither conservation nor the utilization of alternative sources of energy, particularly those involving renewable resources. I cannot support legislation which raises prices to my constituents and achieves little in the way of additional energy. I urge, therefore, that the Pearson-Bentsen substitute be rejected.

Mr. President, I ask unanimous consent that an analysis of the various natural gas opinions, prepared by the Connecticut Department of Planning and Energy Policy, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONNECTICUT GAS COSTS PER YEAR BY 1985

Present policy: Average 1985 pipeline gas price, $1.41 Mcf.

Transportation cost, $1.00.

Cost per Mcf. as delivered to Connecticut Utilities, $2.41.

Gas available to Connecticut under this policy, 48.6 million Mcf.

Total Connecticut pipeline gas cost, $117,000,000.

Shortage of pipeline gas compared with projected 1985 demand (73 million Mcf.), 24.4 million Mcf.

Cost of meeting shortage with synthetic gas at $5 per Mcf., $122,000,000.

Total gas cost, $239,000,000.

Administration proposal:

Average 1985 pipeline gas price, $1.47 per Mcf.

Transportation cost, $1.00.

Cost per Mcf., delivered, $2.47.

Gas available to Connecticut, 56.4 million Mcf.

Total Connecticut pipeline gas cost, $139,000,000.

Shortage of pipeline gas, 16.6 million Mcf.

Cost of meeting shortage with synthetic gas, $83,000,000.

Total gas cost, $222,000,000.

Deregulation of gas from new reservoirs only and gas from expiring contracts:

Average 1985 pipeline gas price, $2.11 per Mcf.

Transportation cost, $0.85.

Cost per Mcf., delivered, $2.96.

Gas available to Connecticut, 63.6 million Mcf.

Total Connecticut pipeline gas cost, $188,000,000.

Shortage of pipeline gas: 9.4 million Mcf.

Cost of meeting shortage with synthetic, $47,000,000.

Total gas cost, $235,000,000.

Deregulation of gas from new and existing reservoirs:

Assumed gas price, $3.00 per Mcf.

Transportation cost, $0.85.

Cost per Mcf., delivered, $3.85.

Gas available to Connecticut, 63.63 million Mcf.

Total Connecticut pipeline gas cost, $245,000,000.

Shortage of pipeline gas, 9.4 million Mcf.

Cost of meeting shortage with synthetic, $47,000,000.

Total gas cost, $296,000,000.

ASSUMPTIONS: NATURAL GAS POLICIES

Present policy:

Highest gas cost (per Mcf) under policy: Synthetic gas $5.00 (10% of Connecticut use); ceiling of $1.46 on most recently produced natural gas.

Average Wellhead, 1977, $.84 (.78).

Gas Cost (per mcf), 1980, $1.24 (.97).

National (Interstate), 1985, $1.78 (1.41).

Transportation Cost to Connecticut: Approximately $1.00.

Gas Production National (Interstate) (Trillion Cubic feet): 1977, 19.4 (10.1); 1980, 18.7 (9.0); 1985 18.9 (8.1).

Administration proposal:

Highest gas cost (per Mcf) under policy: New gas, $1.75 minimum, increasing with domestic oil costs (plus transport to Connecticut); 1985 new gas price, $2.08 (est.).

Average Wellhead, 1978, $1.03 (.89).

Gas Cost (per Mcf), 1980, $1.21 (1.04).

National (Interstate), 1985, $1.55 (1.47).

Transportation Cost to Connecticut: Deregulation would reduce transmission costs by average of 9¢ in 1980, and 15¢ in 1985, computed to Administration Plan.

Gas Production National (Interstate) (Trillion Cubic feet): 1978, 19.2 (9.8); 1980, 18.7 (9.4); 1985, 18.9 (9.4).

Deregulation of new gas, but only that from New Reservoirs (as defined in Administration Proposal):

Highest gas cost (per Mcf) under policy: New gas, $2.50–$3.00 (est., plus transport to Connecticut). One estimate has initial new gas cost of $3.50 to $5.00 for several years.

Average Wellhead, 1978, $1.40 (1.23).

Gas Cost (per Mcf), 1980, $1.78 (1.53).

National (Interstate), 1985, $2.20 (2.11).

Transportation Cost to Connecticut: Deregulation would reduce transmission costs by average of 9¢ in 1980, and 15¢ in 1985, compared to Administration Plan.

Gas Production National (Interstate) (Trillion Cubic feet): 1978, 19.5 (10.4); 1980, 19.1 (10.2); 1985, 19.8 (10.6).

Deregulation of "new" gas from both new and existing reservoirs:

Highest gas cost (per Mcf) under policy: Same prices per Mcf as deregulation of new reservoirs only, but prices would apply to greater quantities of gas.

Average Wellhead, Gas Cost (per Mcf), National (Interstate), after five years, all gas could reach uncontrolled price (i.e., up to $3.00 plus transport).

Transportation Cost to Connecticut: Probably no additional savings.

Gas Production National (Interstate) (Trillion Cubic Feet): It is disputed whether any additional production increase would result from this extension of the definition of "new" gas, as it would cover gas from reservoirs already in production.

WHY DEREGULATION OF NATURAL GAS IS AGAINST THE PUBLIC INTEREST

Mr. PROXMIRE. Mr. President, in my opinion, the deregulation of natural gas as proposed in the Pearson-Bentsen proposal is against the public interest. It would do even greater violation to the interests of the people of Wisconsin. For those reasons plus the additional reason that the very large increase in price is unlikely to bring forward anything like a proportionate increase in production, it should be defeated. Let me address these points.

RAPID INCREASE IN NATURAL GAS PRICES

Since 1973 we have witnesses a phenomenal increase in new gas prices for interstate natural gas.

From the time of the Phillips decision in 1954—when the Supreme Court told the Federal Power Commission to get on with the job of regulating wellhead prices as required by the 1938 Natural Gas Act—until 1965, the price of new interstate natural gas at the wellhead remained remarkable stable at the level of 14 to 17 cents per thousand cubic feet.

In 1964 the Federal Power Commission abandoned its wellhead regulation and went to an area pricing rate. Between then and 1973, the time of the OPEC oil embargo, prices increased from about 16.5 to 25 cents per thousand cubic feet, or by 57 percent.

In 1974 the Federal Power Commission shifted from the area rates of 1965 to a national rate for all new gas produced after January 1, 1973. The new price was 42 cents, or an increase of 17 cents or 68 percent in 1 year.

In 1975 the price was raised again by the Federal Power Commission, this time to 52 cents plus an inflation adjustment of 1 cent per Mcf per year.

Then on July 26, 1976, the FPC issued the infamous opinion 770 which established a radically higher national rate for new gas of $1.42 for all new gas produced after January 1, 1975. Meanwhile the old 52-cent rate was raised to 93 cents for gas priced under it, and older gas from contracts which had expired were allowed to be sold in interstate commerce at 52 cents.

Since 1973, therefore, we have seen an explosion in natural gas prices.

I ask unanimous consent that a table showing the price of new natural gas in interstate commerce for these years be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

New interstate natural gas prices

Years:	Price (cents per mcf)
1955-64	14–17
1965 (area rate)	16.5
1973	25
1974 (national rate)	42
1975	52
1976	$1.42

NO INCREASE IN PRODUCTION

Mr. PROXMIRE. Mr. President, did this explosion in the price of interstate natural gas bring any significant increase in new discoveries? Here we have a geometric increase in prices—a doubling in price from 1973 to 1975 and almost a tripling of price from 1975 to 1976. One would expect that such a vast increase in price would produce a great outpouring of supply. It would certainly tend to do that to the degree that the markets were competitive and reacted to an increase in price.

That did not happen. There was no overall increase in supplies from the 1972 figure and unlike the period between 1955 and the mid to late 1960's, when natural gas prices were relatively stable, new discoveries, revisions, and extensions are far lower now than when prices were low and stable.

In the former period they averaged about 20 trillion cubic feet a year. But since 1973, they have not grown and essentially since 1968 they have fallen off very much.

I ask unanimous consent that a table showing these facts be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Natural gas production compared to discoveries, revisions, and extensions of proven gas reserves, 1950–1975 (tcf.)

Year	Discoveries, revisions, extensions	Net production
1950	12.0	6.9
1951	16.0	7.9
1952	14.3	8.6
1953	20.3	9.2
1954	9.5	9.4
1955	21.9	10.1
1956	24.7	10.8
1957	20.0	11.4
1958	18.9	11.4
1959	20.6	12.4
1960	13.9	13.0
1961	17.2	13.4
1962	19.5	13.6
1963	18.2	14.5
1964	20.3	15.3
1965	21.3	16.3
1966	20.2	17.5
1967	21.8	18.4
1968	13.7	19.4
1969	8.4	20.7
1970	*37.2	22.0
1971	9.8	22.1
1972	9.6	22.5
1973	6.8	22.6
1974	8.7	21.3
1975	10.5	19.7
1976	7.5	19.5

*Includes Alaska.

SOURCE.—AGA Gas Facts, Table 4. Reprinted from JEC Study, p. 14.

Mr. PROXMIRE. Mr. President, interestingly enough, according to a study by the Joint Economic Committee, "drilling activity, especially for gas wells, has risen sharply since 1973."

Here we have it: Higher prices—in fact spectacularly higher prices; more drilling for gas wells; but less gas.

Some people call that the "free market." But I do not.

What are some of the reasons for this contradictory situation?

HIGHER PRICES—LOWER PRODUCTION

One reason is the drive for deregulation by the natural gas industry. The figures on supplies and reserves are dependent on the industry. Since the oil and gas industry started its big push for deregulation after the 1968 election, discoveries have dropped phenomenally. They have dropped from the general level of 20 billion Mcf per year—or 20 tcf—to the 6.8 to 10.4 billion Mcf since 1971.

INDUSTRY REVISES ESTIMATES TO GET DEREGULATION

But much of this is merely the revised estimates of the industry of its reserves on hand. For example in what is called the Non-Associated Texas District 3, the estimates for gas discovered in 1935 dropped from 5.8 to 3.8 billion cubic feet, or by 2 billion cubic feet or 35 percent in the period 1970 to 1973.

Mr. President, I ask unanimous consent that a table showing the decline in recoverable natural gas in certain Texas and Louisiana districts as estimated by the American Gas Association be printed at this point in the RECORD. (Table 8, JEC report).

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PROXMIRE. Mr. President, this represents the downward revision of old field reserves which were pledged to interstate markets.

ARTIFICIAL BIDDING UP TO MINERAL RIGHTS

A second reason, which is discussed in the staff study of the Joint Economic Committee entitled "The Economics of the Natural Gas Controversy," is that a considerable proportion of the increase in price went not only for the increased costs of labor and equipment, such as drilling rigs and pipe, but especially in the bidding up of the price of limited mineral rights.

As the report states (p. 41):

> Such an adjustment in the value of mineral rights (basically a rent payment) will have minimal effect on incentive to develop and produce from most properties.

RAPID PRICE INCREASES INDUCE WITHHOLDING SUPPLIES

The big rise in past prices—and we can expect the same under deregulation—has created an incentive to keep gas off the market, not to sell it. As the JEC report notes:

> If the rate of energy price increase is higher than the return on alternative investments—e.g., the prevailing rate of interest—a producer will do better by holding his reserve.

As the report so succinctly puts it:

> In this situation, energy in the ground is a better investment than money in the bank. (p. 42.)

The increase in typical new gas prices since 1970—when it was about 20 cents—to 1976—when it was set at $1.42 nationally—was 470 percent, or 40 percent a year.

In other words, the rapid increase in prices and the anticipation of further rapid increases under deregulation or continued weak regulation, encourages the withholding of gas from the market.

High prices haven't helped in the past and they will not help very much in the future.

The best alternative—both for bringing new production on stream and protecting the plight of consumers—would be for reasonably small but fair increases which were predictable over a fairly long period.

The anticipation of higher and higher prices has brought the worst of all worlds—higher prices, more inflation, and less gas.

COSTS IN THIS BILL

We are now presented with a series of bad choices.

First of all, according to the JEC report, if we continue with the present regulatory structure, which allows for substantial increases above the present $1.42 level:

> Consumers eventually will pay $10 billion per year more than they are paying for today's supply of gas.

Second, under the Carter administration proposal, which is a very generous proposal with new gas prices at $1.75 per thousand cubic feet and with new gas quite liberally defined, costs to the consumer will be about $16 billion per year more than now.

Third, under deregulation, according to the JEC report:

> The Nation's gas bill would be about $25 billion per year higher than under the present regulation.

That is the meaning of Pearson-Bentsen.

Our effective choice is between the Carter proposal and the Pearson-Bentsen proposal. And the differences in costs are about $72 billion over the next 8 years or $9 billion a year more for Pearson-Bentsen than for the administration proposal.

WHAT THIS MEANS TO WISCONSIN

What does this mean to the citizens of Wisconsin—the family which heats its house with gas, cooks with gas, heats its water with gas, and is stuck with an investment of several thousands of dollars in furnace, stove, water heater, and heating ducts for which they have no effective alternative?

Wisconsin, which has 2 percent of the country's population consumes about 3.3 percent of the country's natural gas in interstate commerce. Almost half of it is used industrially, a little over one-third is for residential use, and commercial and others account for about one-sixth of the State's consumption.

We know that the Pearson-Bentsen bill or the deregulation of natural gas will cost consumers about $72 billion more over the next 8 years than the Carter administration proposal. About $2.4 billion of that will be paid by Wisconsin citizens. That amounts to about $300 a year per family over the next 8 years for the increased cost of gas at the wellhead for Wisconsin families.

And, of course, the cost of gas at the wellhead is not the ultimate cost as the pipelines and the distributors add their costs of transportation and distribution to the consumer to that price.

What this bill does is to take money from the pockets of millions of families and consumers in most States and put it in the pockets of a relatively small number of producers in a small number of States.

And the tragedy of such a proposal is that it most likely will not induce any greater or much greater production than at the present time. Much of it will go for higher costs for existing or old gas. Much of the increase will be dissipated in bidding up of mineral rights. And finally, as there is no genuinely free market, since the "deregulated price" is to be the BTU equivalent of the OPEC cartel price for oil, the forces of competition and free enterprise are unlikely to be allowed to work.

THE PUBLIC REGULATION OF GAS PRICES IN THE PUBLIC INTEREST

Mr. McGOVERN. Mr. President, I rise to oppose the deregulation of natural gas prices. The issue before the Senate is as simple as it is enormous. The issue is whether we will have fair prices for the American gas consumer or whether we will give the big oil companies a free hand to profiteer at the expense of the American people. The issue is the American consumer versus the Oil Companies Deregulation is a fancy word. But it adds up to a license to exploit the American gas consumer. We have been inundated by fallacy after fallacy of how many additional volumes of natural gas would be produced by deregulation. For many weeks, the American people have been subjected to a constant barrage of misinformation.

Mr. President, it is time to set the record straight and clarify what will happen to the pocketbooks of American consumers should public regulation of gas prices be ended.

Deregulation of natural gas will cost $10 billion each year through 1985—$10 billion in 1978, $10 billion in 1979, $10 billion on 1980, and so on all the way to 1985. The Congressional Budget Office says that by 1985, the American consumer will have said an additional $70 billion for natural gas.

The Library of Congress estimates that the Pearson–Bentsen amendment would cost $69 billion more than the administration bill.

During the same period, only an estimated 0.4 Tcf would be committee to interstate pipelines, because of the Pearson-Bentsen amendment. This means that nonproducing States like South Dakota, Ohio, Massachusetts, and New York will have to bid against each other for a few precious volumes of natural gas. The economic impact on consumers in those States would be astronomical.

As the price of natural gas skyrockets, so will unemployment, the bulk of which will fall on these same States. Countering claims that deregulation will result in more gas and prevent layoffs and closing, the Congressional Budget Office estimates that by 1985, anywhere from 180,000 to 360,000 persons will be jobless as a direct result of deregulation.

One example already dramatizes what happens when gas is unregulated. In Senator BENTSEN's own State of Texas, for the period extending from 1970 to 1975, market prices increased nearly 1,000 percent. During this period, total production actually declined by 13 percent.

Production decline would mean that by 1985 the gross national product, now $15 trillion, would decrease by $450 billion, while the rate of inflation would increase 0.06 percent.

Certainly, these are dangerous trends and astronomical figures—ones we must pay serious attention to, if we are to prevent the kind of catastrophe that would result from the Pearson-Bentsen amendment. We must keep the lid on if we are to avert an economic explosion which could burn the already strained budgets of millions of American consumers.

And all these figures fall on the American consumer. But one set, small by contrast, may hit home—the American home—more than any other. If deregulation is adopted, the average home heating bill would increase approximately $23 per month. A $40 heating bill would jump to $70 in many cases.

And there is no way to calculate the ripple effect of inflation that could be set off by deregulation—with higher and higher prices burdening the very same consumers.

Those are the issues at stake here, Mr. President.

My colleagues should keep these figures uppermost in their minds as we debate this all-important issue—because we are not talking about technical matters here that are the domain of the energy producers. We are talking about something for more simple.

We are talking about the consumers of America who are the pawns in this game and who will have to bear the brunt of this action.

And that, Mr. President, is why I will continue to oppose the Pearson-Bentsen amendment and urge my colleagues to do so.

Mr. President, we will shortly be voting on a bill to determine the pricing policy to be applied to new natural gas. It seems to me that the question before us; namely, will higher natural gas prices provide production incentives and thus lead to increased supplies of new natural gas, or will higher prices simply yield high windfall profits to producers—is still unanswered and to a large extent unanswerable. We really do not know.

We have been told by the new Secretary of the Department of Energy that major oil companies would gain more than $120 billion in windfall profits if natural gas prices were to rise in excess of $1.75 per 1,000 cubic feet.

We can also recall that in 1972, natural gas sold for an average price of 18.5 cents. Notice that the $1.75 price is 10 times higher than the 1972 price.

We can also recall that in 1970, producers publicly promised that if prices were increased to 26 cents they would have sufficient incentive to bring forth additional supplies. They got their 26 cents and we got a decrease, rather than an increase, in production.

Higher energy prices that bear little relationship to costs yield excessive profits which in turn cause companies to cut production.

I reiterate what I said earlier, during consideration of my "yardstick" amendment: At the heart of much of the current debate is the critical relationship between energy prices and the costs of producing gas and oil. We are debating a natural gas pricing bill and one of the major problems in trying to arrive at a fair system of pricing is that we do not have reliable data either as to the extent of or the cost of production.

When the proponents of deregulation argue that higher prices will serve as production incentives, many of us are suspicious. We are suspicious in part, because of the past behavior of the companies—higher prices have not generally led to increased production.

We are also suspicious because the data underlying the analysis is suspect—suspect because the statistics are supplied by parties with a vested interest in generating the "right kind" of answers. Some would suggest that the answers are self-serving.

The "yardstick" amendment, which I proposed to create a Federal gas and oil corporation to develop up to 10 percent of the energy on Federal lands would have provided a source of independent data on—among other things—costs of production.

I believe that most of my colleagues would support higher natural gas prices if they were assured that higher prices were necessary to increase the supplies of new natural gas. I believe that the reliability of the underlying data would add such assurance. I still believe that my "yardstick" amendment would have been of immeasurable assistance to those of us who share the responsibility of determining reasonable energy prices.

In the absence of such independent data, and in light of the rapid increases in the price of natural gas and the accompanying decreases in production of new natural gas, I join with those who question the need for still higher natural gas prices. I, therefore, will support efforts to hold the line on natural gas prices, insofar as that is possible.

Mr. MUSKIE. Mr. President, I intend to vote against the Pearson-Bentsen proposal to decontrol natural gas prices, and I would like to explain my reasons why.

The argument in favor of decontrol is that gas producers need virtually unlimited additional financial incentives to explore for new sources of natural gas—and that they need such incentives now.

Frankly, I do not buy that proposal. Profit records for the major oil companies which produce three-fourths of the Nation's natural gas—show a very healthy return on natural gas sales at present prices. In fact, a look at recent oil company profits shows a startling upward trend. For the period between 1972 and 1977, using current dollars, overall oil company profits have averaged an increase of over 100 percent. And some of the individual increases are astronomical—Standard Oil of Indiana, a 177 percent increase; Phillips Petroleum, a 240 percent increase. Of the top 21 producers, only two companies averaged less than a 50-percent increase over this period.

I am sure that the Nation's farmers—

who produce an equally important commodity—would be delighted with this kind of profit record.

Now I cannot really blame the oil industry for wanting even higher profits.

But I certainly do not think that we should make national policy on the basis of that want—particularly when the policy being advocated is one that could throw our entire economy severely out of joint.

We are, after all, talking about something greater than the glowing health of one single industry.

Nevertheless, I do not believe that whether one likes it or not, natural gas prices are going up. The question is when and by how much.

The question is: Are we going to adopt an orderly pricing policy which imposes limits on how high these increases can go, or are we going to simply adopt a hands-off policy and the economic consequences be damned?

The industry would, of course, like total decontrol right now. Somehow they expect us to believe that an orderly scenario for gradually increasing prices up to a parity level with petroleum is not enough. They must have it all immediately.

The Pearson-Bentsen amendment would make the industry wait 2 years for decontrol—only slightly delaying their instant gratification.

Frankly, I find the greed of both options equally appalling.

But more importantly, such a pricing policy would mean economic chaos for the Nation. We can only guess as to the impact of decontrol on unemployment, on inflation, on the very shaky recovery we are slowly making from the worst recession in decades—a recession which, I might add, was brought on in large part by a precipitous increase in energy prices.

I find it hard to believe that the industry—and its supporters here in the Senate who are pushing the Pearson-Bentsen approach—can be so shortsighted that they do not remember what happened the last time somebody blew the lid off of fuel prices.

In fact, the Congressional Budget Office estimates that prices could go as high as $4 to $5 per thousand cubic feet if uncontrolled, leading to large windfall profits for producers. At the same time, CBO estimates that new supplies will bring less than 1 trillion cubic feet in additional production by 1985.

Mr. President, I believe in our private enterprise system. I believe that industry should receive ample return on the investments it makes. And I believe that the original Jackson compromise would do just that.

I do not believe that we should abandon all semblance of stability and order in the pricing policy we set. And I believe that decontrol—in any form—would do just that.

New England, and my State of Maine, have a direct stake in the outcome of this debate. Not because we stand to profit from higher prices. We have no indigenous supplies.

Nor is my principal concern that our consumers will have to pay higher costs if natural gas prices are decontrolled. Very few in my State are fortunate enough to have access to natural gas at any price.

We are concerned with this debate, because we know that any pricing policy which adversely affects the Nation's economy will wreak havoc with an already troubled New England economy.

Mr. President, I have already acknowledged that higher natural gas prices are inevitable—even desirable to a certain degree.

But I also think that there are other options we ought to consider which are more consistent with the needs of both the industry and the economy of the Nation as a whole.

Under the original Jackson compromise, for the example, natural gas prices would be permitted to rise substantially, to a level comparable to that for petroleum. The industry would receive plenty of financial incentives to explore for new natural gas. But we would have an orderly pricing policy, not a runaway pricing policy.

Mr. President, we do not know what will happen to the price of natural gas between now and 1985 if we move to decontrol. Some people think that price will stabilize at the petroleum price level. But they do not know that for sure.

I do not know that they are wrong. I do know that natural gas is the cleanest, most efficient, and generally most desirable fuel source which we have. And it seems entirely plausible to met that if uncontrolled, marketplace forces could drive the price of natural gas up to a level far higher than now anticipated.

In conclusion, Mr. President, it is clear to me that the interests of New England, and of the country as a whole, will be best served by the provisions of the original Jackson proposal.

Under that proposal, we will have higher natural gas prices.

Under that proposal, we will have an orderly process for letting those prices rise.

And under the proposal, we will eventually reach parity between natural gas and petroleum prices.

I believe that each of these results is in the best interests of the economy of New England.

I also believe that each of these results is in the best interest of the economy of the Nation as a whole.

And most importantly—I believe that each of these results is in the best interests of a stable, long-range energy policy, one which will ease, not exacerbate, the economic shocks of the future. And that, after all, is what this debate is supposed to be all about.

Mr. SCHMITT. Mr. President, the last few weeks have witnessed extensive debate on the issue of natural gas deregulation. Many subissues have been discussed in detail, but I think it is important to summarize some of the key points in this debate.

At the start, I want to point to several resolutions from regional organizations representing the Nation's Governors calling for the deregulation of new natural gas prices at the wellhead. Only five State Governors voted against the standing resolution of the National Governor's Association supporting deregulation. While the details of the various statements differ, the essential point which they make is that we cannot afford to subject individual States and the Nation to the unemployment forthcoming should proven natural gas supplies diminish as rapidly as expected under continued regulation. As a geologist, I know that there exists a great potential supply of as yet unproven gas reserves.

The amendment now pending is the Pearson-Bentsen amendment. The Pearson-Bentsen amendment calls for the deregulation of "new" natural gas—that is, gas produced from wells drilled after a specific date. By permitting the deregulation of only new gas, we can avoid a rapid increase in prices for gas now under contract from older wells, and yet we can provide the stimulus for producers to begin the search for and development of new natural gas deposits. Any price rise borne by the consumer will be diluted by the large amount of older, low priced, regulated gas still entering the pipelines.

The administration has recognized the need to encourage natural gas production through higher prices and has recommended an increase in the regulated ceiling price now set by the Federal Power Commission at $1.45 to a higher level at $1.75 per thousand cubic feet. This new price may be sufficient to encourage production in limited easily explored areas, but we will need all of the natural gas which can be reasonably produced over the next few decades, as long as it costs less than alternative sources of energy. Gas from very deep reservoirs, offshore areas, and frontier areas will not be tapped if price is limited to $1.75.

WHAT WOULD IT COST TO DEREGULATE?

The major reason for opposing our efforts to deregulate "new" natural gas is the fear of increased costs to the consumer. This is a valid concern, but careful analysis reveals that continued regulation is more costly for large numbers of our consumers. For some former users of natural gas, the cost of a substitute is quite high, much higher than the deregulated gas would have been. Synthetic natural gas (SNG) can be produced from propane, butane, and natural gasoline. Its cost ranges from $4.25 to $4.50 per Btu equivalent (equal to 1,000 cubic feet of natural gas). Synthetic gas can also be produced from naptha, but its cost has reached $5 per Btu equivalent. SNG made from naptha also forces this country to be more dependent on the OPEC cartel, since naptha is a petroleum derivative. Western coal reserves could also be used to produce SNG, but again the price is in the range of $4.50 per Btu equivalent.

Imported liquefied natural gas (LNG) is an alternative presently being used in some markets in the United States. The cost per thousand cubic feet is $4.20 at present, and its supply from Algeria is always subject to embargo. Even electricity costs as much as $10 per Btu equivalent making it the worst alternatives for the consumer.

Of course, there are other alternatives too numerous to mention. Some users may be able to replace natural gas with

coal or fuel oil, but these fuels are inferior in many industrial processes. And to the extent that the fuel oil is an alternative, we are further obligating ourselves to the OPEC cartel.

Another cost to consider is the environmental damage produced by burning fuels that are dirtier than natural gas. This, too, is a cost which is difficult to measure, but nonetheless a real one. Natural gas is a nearly perfect fuel in terms of protection of the environment, and regardless of the alternative chosen to replace it, there will be additional pollution of our atmosphere with which to deal.

Mr. President, our economy is presently with the hardware for the processing, transportation, and distribution of natural gas. By prematurely abandoning or underutilizing a very large capital investment, we are forcing the remaining consumers of natural gas to pay a higher price per unit of gas to cover the full amortization of these capital investments. Add to this the cost of prematurely replacing gas burning equipment in factories and homes. This will happen with increasing frequency if the price of new natural gas is not permitted to rise as an incentive for additional exploration and development of domestic natural gas reserves.

ARE THE GAS PRODUCERS MAKING LARGE PROFITS?

The most persistent argument against the deregulation of "new" natural gas prices is the belief that the removal of these price controls, which have helped to lead us into the energy crisis, will result in excessive and unjustified profits for firms which produce natural gas. This argument is justified by opponents of deregulation on the grounds that, first, the domestic oil companies have conspired to force up gas prices, or second, large profits will be obtained because the OPEC cartel has already established the artificially higher price for gas as well as oil. Let us explore each of these possibilities.

The charge that a conspiracy exists to restrict production and drive up oil and gas prices to artificially high levels is doubtful at best. Economic studies show that by two measures of market structure, relative profits and competitive price levels, there exists no monopoly pricing in the oil industry. Both before and after the 1973 OPEC price increase, the data show that oil company profits are at approximately the same level as all U.S. industrial profits.

There are logical reasons why we would not expect monopoly prices in the natural gas industry. If a monopolistic cartel is indeed pricing or restricting output to earn excess profits, other firms will enter, to capture some of these profits for themselves. No monopoly can endure without natural or institutional barriers to such entry. Since no such barriers have been shown to exist, it can be argued that the industry is not earning "excess" profits.

Even if monopoly profits were a real threat, continued price regulation would not be the option of choice. Holding prices to lower levels merely increases the quantity of gas demanded and forces administrative allocation of existing gas volumes. Holding prices down is the proper policy only if increased demand is desired, and only if holding prices down will indeed lead to increased output. Since neither of these conditions are true at present, a more desirable approach would be to allow prices to rise in order to discourage waste and increase supply.

With 6,000 producers now in the natural gas industry, it would be hard to argue that the barriers to entry exist, and without them, the high profits so often claimed for the gas producing industry would not exist.

WOULD HIGHER PRICES BRING MORE GAS?

A major argument against higher gas prices is that there would be no more gas available at higher prices than at present, and yet the record shows that not to be the case. Studies by the Energy Research and Development Administration, the U.S. Geological Survey, and the American Gas Association indicate that there are large quantities of gas to be discovered in the future. These contentions are supported by the data from intrastate markets where prices are not regulated. Even in Ohio, which is not usually considered an energy producing State, higher intrastate prices have induced a tripling of gas production since 1968.

Present estimates of the amount of gas available to the United States through domestic production run as high as 2,500 years worth of consumption. I do not think that anyone could successfully argue that the gas is not available or would not be discovered and produced at higher prices.

Thus, Mr. President, I continue to urge my colleagues to support the general concept of deregulations of natural gas prices.

Mr. PELL. Mr. President, I am deeply disappointed at the action of the majority of the Senate in rejecting President Carter's natural gas pricing proposal.

Our national policy on natural gas should be based on several objectives. It should be a policy that encourages conservation of natural gas. It should discourage the use of natural gas for industrial purposes, electric generation, and other uses for which fuels such as coal and residual oil can be substituted. It should provide adequate incentives for exploration and development of new natural gas, and it should eliminate the current dual pricing system of interstate and intrastate natural gas. And, finally, our national policy on natural gas should protect the interests of the consumer—particularly the family that uses natural gas to heat their home.

The President's program, I believe, is well designed to meet these objectives, and to protect consumers from unwarranted and unnecessary large increases in the price of natural gas.

The program approved by a majority of the Senate, the Pearson-Bentsen proposal, will also meet most of the objectives of a sound national natural gas policy, but it fails to meet one essential objective—protection of consumers against skyrocketing of natural gas prices.

It is for that reason that I have voted against the Pearson-Bentsen proposal and in support of President Carter's program.

I hope very much that the legislation which the Senate has approved today will emerge from the House-Senate conference committee in an improved version that provides adequate protection to natural gas consumers.

Mr. CRANSTON. Mr. President, we are nearing the finale of a long and sometimes bitter disagreement about the merits of the President's plan to maintain Federal price controls on natural gas, albeit at a higher level than presently, and the Pearson-Bentsen proposal to deregulate natural gas.

Inasmuch as we are apparently close to a final vote on these matters, I want to take just a moment of the Senate's time to express my opposition to the Pearson-Bentsen deregulation proposal, as contained in amendment numbered 1039, and to explain my reasons for this position.

As the Senate is well aware, the Pearson-Bentsen amendment would eliminate immediately Federal price controls on new natural gas produced onshore and would phase out over a 5-year period price controls for new natural gas produced offshore. The rationale for this elimination of price controls—and the inevitable price increase that will result—is supposed to be increased exploration for and production of natural gas. In short, by allowing the price of natural gas to rise substantially, we are supposed to be buying additional supplies of natural gas.

Yet, Mr. President, it seems clear that the Pearson-Bentsen proposal will not result in appreciably greater supplies of natural gas regardless of the ultimate price of new natural gas. The Congressional Budget Office, in an analysis prepared for the Energy and Natural Resources Committee, has predicted that deregulation would increase gas production by less than 1 trillion cubic feet per year by 1985 compared to the administration's plan as approved by the House of Representatives and embodied in H.R. 8444. This is approximately 5 percent more gas than would be produced if price controls were maintained on new gas in accordance with the President's proposal.

The question, then, is how much consumers will have to pay for a mere 5-percent increase in total gas production.

According to the Congressional Budget Office (CBO), the modified Pearson-Bentsen amendment would cost consumers $39 billion in 1985, compared to $29.5 billion for the President's plan. In other words, if Pearson-Bentsen is enacted, consumers will pay $9.5 billion for a 5-percent increase in new gas production.

Californians will pay nearly $1 billion more in 1985 alone. That means the average Californian will be paying three times more for natural gas by 1985. That is a mighty high price to pay for the small increment of new production that might be produced under deregulation. Mr. President, this is a negative cost-benefit ratio if I have ever seen one.

Even when compared to the Jackson-Byrd compromise, the Pearson-Bentsen proposal is still too costly to justify. Ac-

cording to CBO, the Jackson substitute would cost consumers $33 billion in 1985, compared to the $39 billion cost of the modified Pearson-Bentsen amendment.

In other words, consumers will have to pay an additional $6 billion for what is sure to be even less than a 5-percent increase in new gas supplies.

Mr. President, in good conscience I could only justify a vote to raise the cost of natural gas to consumers if the increased cost will bring on certain and substantial increases in new natural gas. According to the CBO, the additional billions that will be added to consumer's utility bills will not result in substantial new gas production. The bottom line, Mr. President, is that the Pearson-Bentsen proposal is little more than an income transfer scheme that will enrich the major oil companies at the expense of the consumers of natural gas.

I want to emphasize one other point: My participation in the efforts to end the filibuster on the Pearson-Bentsen amendment should not be interpreted as any indication of any lessening of my commitment to the continuance of regulation. I believed—and now believe—that the issue will be determined not in the Senate but in conference with a House that strongly supports regulation and, finally, in a White House that shares that support and will veto any bill calling for any early deregulation in the extremely unlikely event that such a bill reaches the President.

I oppose the Pearson-Bentsen substitute amendment, numbered 1039, and urge the Senate to defeat it.

NATURAL GAS SUPPLY AND THE WELLHEAD PRICE

Mr. SCHMITT. Mr. President, I think one of the issues which has played an important role in our debate over the natural gas section of the National Energy Act merits further consideration. As I understand the Senators who oppose deregulation, they believe that higher wellhead prices for natural gas will call forth only a slight (5 percent) increase in the quantity of gas produced. Those supporting deregulation believe that higher prices will result in a large increase in the supply of gas. Certainly, there are other issues and certainly this issue has many subtleties, but the availability of increases is one essential point of disagreement.

Each side of the deregulation debate has alined a number of arguments—often numerical—which support their contentions. We have heard so many numbers from so many sources that few retain any credibility. These arguments are arranged in pairs, in different orders, with different emphasis, stacked on top of one another like a set of dominoes. The only problem is that each side plays with its own set of dominoes.

I believe it would be worthwhile to outline the facts which are accepted by both sides and lead us to the fundamental disagreement.

First, we all recognize that higher prices will indeed call forth greater quantities of any commodity. It is the quantity called forth that is at issue, not the incentive mechanism.

Second, it is generally accepted among geologists that our proven reserves are well over 200 trillion cubic feet and that there exists some large quantity of additional as yet undiscovered, natural gas resources. It is this quantity of additional resources which is at issue.

Third, there is agreement that the cost of producing future natural gas is dependent upon many different variables including depth of the reservoir, available technology, physical properties of the rock, exploration costs, shape and size of the reservoir, leasing costs, distance from existing pipelines, equipment and crew costs, and so on. The issue is whether such costs should be recovered whenever market conditions warrant or only where a Federal program of price control will permit.

Let me again return to the fundamental issue; how much more gas will be produced under deregulation than under continued Federal controls? An economist must answer that initial question with another; what is the shape of the "supply curve"? More plainly, if we plotted the quantity of gas produced, or supplied, versus the price, what does the resulting curve look like?

If we are talking about a free or unlimited commodity, say sea water for a consumer in the middle of the Atlantic ocean, the supply curve is essentially a horizontal line, that is, all necessary supply can be obtained for a single price. In practice, larger quantities would perhaps require larger pumps and more energy, so there would be a slight rise to the supply curve, but it remains, for all reasonable purposes, a horizontal line.

If, on the other hand, we are talking about a severely restricted, nonrenewable commodity in demand, say paintings by Remington, then the supply curve will have some upward slope until all available paintings have been purchased. At that point, that is, when all paintings are off the market, the supply curve becomes a vertical line. No matter how much money is offered, another Remington cannot be produced for purchase.

Natural gas is neither sea water nor Remington paintings. It is a natural resource of fixed but unknown total quantity. Its supply curve is neither a horizontal nor a vertical line—not vertical that is, until all natural gas has been produced for purchase.

It might be useful, also, to make some generalizations about the shape of the natural gas supply curve; is it a straight line or does it curve upward, or perhaps, downward? In fact, the natural gas supply curve tends to slope more steeply upward as the quantity produced is increased. Stated in a different way, it takes a higher and higher price to call forth the same quantity of new gas. This characteristic is the result of the naturally occurring distribution of gas as a function of geography and geology. By this I mean some new gas is more costly to produce than other new gas. As I pointed out earlier, this is one of the three points on which we all agree, and a natural gas supply curve with an increasing upward slope is the result.

At this point political differences creep into the economic formula. Opponents of deregulation, in order to support their arguments, will tend to view the supply curve as sloping upward very steeply. As an example, the Joint Economic Committee estimated that the supply curve makes an inexplicable change somewhere between $1.45 and $1.75 per thousand cubic feet (mcf) and becomes vertical at some fixed quantity of natural gas production. Unfortunately, this is neither good economics nor does it enhance the credibility of that potentially effective group.

The fact is that we do not really know what happens to the supply curve for interstate gas above $1.45 per mcf. I will readily admit that it is not acceptable to simply scale up the experience of the Oklahoma and Texas intrastate markets; they may indicate an unduly optimistic picture, just as the Joint Economic Committee and the Congressional Budget Office present an unduly pessimistic picture.

As we have agreed, the natural gas supply curve above $1.45 per mcf is determined by many variables. One of these is the total quantity of natural gas yet to be discovered. This quantity is a major determinant of the shape of the supply curve. It is a geological variable—not economic nor political—and yet, sophisticated analyses which virtually ignore this variable have been performed under the guise of professionalism.

To be fair, it has been argued that the number of drilling rigs available establishes an upper limit on the amount of gas which can be produced. At any given point in time, this is true, because available rigs are a factor in the production rate of natural gas, which is itself a major determinant of the shape of the supply curve. But this highlights a terribly important point. The supply curve is dynamic. It changes with time. As the number of rigs available increases—I am told that this can happen at approximately 200 new rigs a year—the ability to produce also changes, and the supply curve shifts.

These points notwithstanding, no one really knows what the supply curve would look like under the deregulated price proposals of Mr. PEARSON and Mr. BENTSEN, or for that matter, at the prices and regulations proposed by the President or Chairman JACKSON.

So, again, we are forced out of the comforting, logical camp of economics into the paradoxical chaotic world of politics. Given the uncertain nature of the natural gas supply curve, is it "better" to permit restrictive Federal planning of gas development or to permit reasonably independent development to occur under more traditional market mechanisms? Will higher price call forth a sufficient quantity of gas? What is "sufficient"?

I am sure by now that my colleagues know I favor the more traditional mechanisms. There are also those firmly committed to the need for considerable Goverment control of the oil and gas industries. The remainder, and eventually the conference committee, must decide which way to go. To this group I address my final remarks.

Making decisions based on an uncertain future is not new to private business

or the Federal Government. The Federal Government is forced to make such decisions for the common good in matters of national defense, for example. We have no viable alternative. The decisions are made by honest, well-meaning men and women and, for the most part, we are well served by those decisions.

But, the issue before us requires a measure of skill and responsibility in a business environment. No matter how well-intentional a Federal official is, he will not pay 1 penny for a bad decision—it could cost consumers billions, but it does not cost the regulator 1 cent. He or she probably will not even lose his or her job. The cost of a bad business decision by a private firm is not borne by the consumer, to be sure, nor does it exclude the consumer from searching for other sellers or products.

So our legislative choice in dealing with uncertain natural gas supply is between well-meaning, but unaccountable Federal officials and profitseeking businessmen and their millions of stockholders. I urge you to reaffirm the economic greatness of this country by recognizing that it is the "profit motive" which best serves both the personal and the public interest. Through this motive, upon which much of the past, present, and future greatness of our Nation rests, we can see rapid increases in natural gas supply and eventual reductions in price to the consumer.

Mr. DOLE. Mr. President, Senator ERNEST HOLLINGS has introduced an amendment to the District of Columbia Appropriations Act to provide additional appropriations for the small business administration. I cosponsored and now support the amendment.

The additional appropriations are needed to cover emergency loan applications being received by the Small Business Administration in record numbers.

DISASTERS ACROSS THE NATION

Two-thirds of the Nation is currently involved in some form of disaster activity, primarily agricultural drought relief programs, but also the recent civil disorder in New York, floods in Pennsylvania, West Virginia, and Missouri. New drought areas are still being designated, and the flood in Kansas City has created an additional demand.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration is currently providing disaster assistance in 41 States and the drought disaster declaration now cover over 2,100 counties in 38 States. In nine of these States, SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand more than 6,600 physical disaster applications amounting to over $606 million.

On September 21, 1977, the judiciary and related agencies appropriations subcommittee indicated that approximately $800 million in additional applications will be ready for funding in the next 3 to 4 months so that a total of $1.4 billion is required.

It is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. This situation is particularly critical for the farmers as the disaster declarations have been in effect for as much as 2 months and the SBA has not been able to process the loans due to the unavailability of funds.

NEW AUTHORITIES FOR SMALL BUSINESS ADMINISTRATION

The huge demand for disaster loan funds comes because the authorities of the Small Business Administration have been expanded to include farm disaster loans. The Federal Government now has two agencies, the Small Business Administration and the Farmers Home Administration making disaster loans to farmers.

DEEP FEDERAL SUBSIDIES IN DISASTER PROGRAMS

The amendment before us provides the funds for the Small Business Administration to loan out Federal tax dollars for long periods of time at 3-percent interest. Loans of up to $250,000 for 30 years carry 3 percent interest and an additional $250,000 can be loaned at 6⅝ percent. It also should be pointed out that the Small Business Administration does not have a credit elsewhere test.

I assume most of the $1.4 billion in loans will be repaid. The interest subsidy though will amount to millions of dollars.

DISASTER PROGRAMS NEED TO BE REVIEWED

I hope before any more huge supplemental appropriations bills need to be passed, Congress can review the disaster programs. The program costs and benefits need to be studied. Also similar disaster programs, with different benefits, handled by two or more agencies need to be studied.

Since the present disaster programs are already in the law and since disaster victims need loans and benefits now, Congress should go ahead and fund existing programs.

I urge the adoption of this amendment.

NATURAL GAS DEREGULATION: GAMBLING WITH BILLIONS

Mr. CHURCH. Mr. President, for 2 weeks the Senate has debated whether to continue controls on natural gas prices with a higher price allowed for newly discovered gas or to deregulate gas prices. I entered this debate supporting the pricing policy proposed by President Carter and I remain convinced that it is the best policy for our Nation and for my home State of Idaho.

To be successful, our national policy on natural gas pricing must establish a stable system of prices, provide incentives to stimulate new production and offer maximum protection from sudden inflationary surges in energy costs. The President's plan was carefully crafted to satisfy these requirements. In contrast, we are urged by proponents of deregulation to abandon regulation designed to reflect cost of production in favor of wide-open pricing, even for gas that is already in the market or under production. The cost differential between these two approaches is staggering. Supporters of deregulation urge that we transfer billions to the producers with no assurance that this would result in increased supplies.

Natural gas is of vital importance to many Idaho's homes and industries. Natural gas and its products are widely used in agriculture—from fertilizer to food processing. Because of its clean burning nature, natural gas is often used in many processes where there is no readily available substitute. Thus, any boost in natural gas prices will not only increase the costs of heating Idaho homes, but will add to the already burdensome material costs faced by Idaho farmers. And the impact does not stop there, because we can anticipate higher costs for all food if natural gas prices are allowed to skyrocket.

There are several recent studies which point to the tremendous costs consumers will bear if we deregulate gas prices. A Congressional Budget Office study and a recent report of the Joint Economic Committee both found that deregulation will cost consumers about $10 billion per year above what the President's plan would cost. A typical January 1985, home heating bill is estimated to be $47 under the President's plan and $70 under deregulation.

Mr. President, most Idahoans would not object to paying more for gas if they thought this would yield greater supplies and insure deliveries when needed. Yet both of the cited studies show that the significantly higher prices of deregulation are not likely to produce substantial increases in production. This is so partly because the United States is already heavily explored and because we are unlikely to discover many more huge reservoirs of gas.

The argument for deregulation assumes that there is plenty of gas to be discovered if we will only give producers the money to find it. How then do we explain the fact that exploration activity has increased significantly under present prices and discoveries per well or per exploratory foot drilled have dropped dramatically? Federal Energy Administration analysis of deregulation also reveals that it would cost consumers $72 billion more in the next 8 years than the President's plan while increasing gas supplies only 2.5 percent over what the President's approach would yield. Is it worth $72 billion to increase supplies by 2.5 percent?

There is one effect of deregulation that is predictable. That is the fact that it would create huge windfall profits for producers. For example, we have already discovered large quantities of natural gas on Alaska's North Slope. That gas is now available and awaits congressional approval of a pipeline to transport it to Idaho and other markets. If prices are deregulated, this already discovered gas will cost Idaho and others billions of dollars more. It will represent a massive transfer from the pocketbooks of the consumer to the corporate bank accounts with no connection to increasing supplies. That is absolutely unnecessary. In contrast, the President's plan offers a substantial increase in price for new gas to stimulate exploration and development while controlling the price of already discovered gas. That is absolutely necessary.

Oil and gas companies are not being forced into bankruptcy. Gas exploration

is occurring at a brisk pace. The President's plan is generous in its price for new gas. If a compromise is needed to resolve the impasse between the administration's proposal and unlimited costs under deregulation, then I will support it. But it should be clear that the President's plan is what we need.

We are not free to ignore these facts. Deregulation is an enormous gamble with poor odds. I cannot sanction such a risky unnecessary venture when the odds are so poor and the only guarantee is windfall profits for gas producers.

The VICE PRESIDENT. The hour of 3:30 having arrived, under the unanimous-consent agreement, the vote now is on amendment No. 1039, which is an amendment in the nature of a substitute to amendment No. 862.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIBICOFF (after having voted in the negative). On this vote I have a pair with the Senator from Illinois (Mr. PERCY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ZORINSKY (when his name was called). On this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 524 Leg.]

YEAS—50

Allen	Garn	Melcher
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Stafford
Curtis	Helms	Stennis
Danforth	Johnston	Stevens
DeConcini	Laxalt	Stone
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eastland	Mathias	Wallop
Ford	McClellan	Weicker
	McClure	Young

NAYS—46

Abourezk	Hart	Morgan
Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Huddleston	Nunn
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Riegle
Case	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Sparkman
Cranston	Matsunaga	Stevenson
Culver	McGovern	Talmadge
Durkin	McIntyre	Williams
Eagleton	Metcalf	
Glenn	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Ribicoff, against.
Zorinsky, for.

NOT VOTING—2

Humphrey Percy

So amendment 1039 was agreed to, as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas could be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from off-shore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(12) Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural-gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made demanded or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however,* That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly basis an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1, 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of Number 2 fuel oil, landed in New York, New York as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal lands.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation

of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"'SEC. 28. (a) (1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by any interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

"'(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

"'(B) The term interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'(b) Any contractual provision—

"'(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

"'(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

INCREMENTAL PRICING

"'SEC. 29. The Commission shall—

"'(a) Require all natural-gas companies with certificated facilities for the transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

"'(b) Consistent with the provisions of Sections 4, 5, and 7 of this Act, require that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal the reasonable cost of substitute fuel oil.

"'(c) In cases where the users identified in subsection (b) obtain natural-gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

"'(d) The Commission shall report to Congress annually on the effect of incremental pricing.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979'; and,

"(g) in section 12(b), by striking out 'October 1, 1977' and inserting in lieu thereof 'January 1, 1978; and, and January 1, 1979,' ".

Provided, That Title III of H.R. 5289 shall not be effective so long as Title II of H.R. 5289 remains law.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question now is on agreeing to amendment 862, as amended. (Putting the question.)

Amendment No. 862, as amended, was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a tabulation of how the vote would have been if everyone had been here and voting.

Mr. BUMPERS. Mr. President, reserving the right to object, what was the unanimous-consent request?

The VICE PRESIDENT. For the rollcall to be included in the RECORD.

Mr. METZENBAUM. That is not correct.

Mr. LONG. I simply asked unanimous consent to put in the RECORD a tabulation of how the rollcall would have read if we had all the Senators here.

Mr. BUMPERS. How would that be significant? I do not understand that.

Mr. LONG. Just look at the record and you can see.

Mr. BUMPERS. The vote was 50 to 46, which means some Senators were paired.

Mr. LONG. It shows how absentees would have voted if they had lifted the pairs; how they would have voted.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

YEAS

Allen, Baker, Bartlett, Bellmon, Bentsen, Burdick, Byrd, Harry F., Jr., Chafee, Chiles, Curtis, Danforth, DeConcini, Dole.

Domenici, Eastland, Ford, Garn, Goldwater, Gravel, Griffin, Hansen, Hatch, Hatfield, Hayakawa, Heinz, Helms, Johnston.

Laxalt, Long, Lugar, Mathias, McClellan, McClure, Melcher, Packwood, Pearson, Percy, Randolph, Roth, Schmitt, Schweiker.

Scott, Stafford, Stennis, Stevens, Stone, Thurmond, Tower, Wallop, Weicker, Young, Zorinsky.

NAYS

Abourezk, Anderson, Bayh, Biden, Brooke, Bumpers, Byrd, Robert C., W. Va., Cannon, Case, Church, Clark, Cranston, Culver, Durkin.

Eagleton, Glenn, Hart, Haskell, Hathaway, Hollings, Huddleston, Humphrey, Inouye, Jackson, Javits, Kennedy, Leahy, Magnuson, Matsunaga, McGovern, McIntyre, Metcalf.

Metzenbaum, Morgan, Moynihan, Muskie, Nelson, Nunn, Pell, Proxmire, Ribicoff, Riegle, Sarbanes, Sasser, Sparkman, Stevenson, Talmadge, Williams.

The VICE PRESIDENT. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The VICE PRESIDENT. The manager of the bill, under the previous order, is recognized to call up a House bill.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have agreed under the unanimous-consent order to utilize Calendar Order No. 383, H.R. 5289, as the House vehicle.

The VICE PRESIDENT. Without objection, the Senate will proceed to consider the bill which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla.

The Senate proceeded to consider the bill.

The VICE PRESIDENT. Without objection, the bill will be amended to include the text of S. 2104, as amended, and the pertinent text of H.R. 8444.

The VICE PRESIDENT. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The VICE PRESIDENT. The question is, Shall the bill, as amended, pass?

(Putting the question.)

The bill (H.R. 5289), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senator from West Virginia is recognized. The Senate will be in order.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5289 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5289.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to proceed for 2 or 3 minutes, without the time being charged against either side on the next bill. I take the floor at this time to compliment the distinguished Senator from Washington (Mr. JACKSON) and the distinguished Senator from Wyoming (Mr. HANSEN) on the splendid leadership that they both provided during the very long and difficult debate on the natural gas pricing bill.

They demonstrated great skill, patience, and equanimity and I think that the Senate is in their debt, and I want to also at this time congratulate all who participated in the debate from both sides of the aisle and on both sides of the question.

It was a long, tenuous, and very controversial debate, of course, but that is behind us now and I personally want to express my gratitude to all Senators and to the Vice President of the United States for his presiding over the Senate, and I would hope that all Senators would share my viewpoint in this respect.

Mr. BAKER. Mr. President, will the Senator yield to me on the time he has reserved under his unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader for permitting me to associate myself with his remarks and extend my congratulations and my appreciation to the managers of this bill on both sides, especially to the distinguished managers of the amendments which were offered over such a long period and so effectively by those who moved the amendments and their adversaries.

I think the Senate has come through a difficult time in good shape, and I offer my congratulations as well to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader and I reciprocate in kind.

SENATE ACTION ON NATURAL GAS IS WELL-REASONED

Mr. RANDOLPH. Mr. President, during the last 14 days Members of the Senate have had strong positions on what steps to take in the pricing of natural gas. Some have favored forms of continued regulation, such as President Carter proposes and others favor deregulation in one form or another. The strength of these positions are reflected in the fact that the Committee on Energy and Natural Resources after much discussion on the regulation/deregulation issue decided that it could not agree on a modified position. I believe the Bentsen-Pearson amendment as modified reflects a reasonable answer to encouraging the production of new natural gas.

Energy as a major social issue has been before the public and the Congress since 1973. Natural gas pricing is perhaps the most difficult part of the issue as I mentioned last Saturday on the floor, this was before us in both 1973 and 1975. We have now hit this issue headon and said, "Let us take the steps necessary to finally resolve this issue in conference with the House." We may now proceed to assure this Nation has an economically viable and meaningful energy package.

Much uncertainty and mystique has surrounded statistics involving the total natural gas reserves we possess, and whether industry is aggressively developing known reserves. Since April, I have seen scores of reports which are continually in conflict with one another. As I have studied the issues, listened to, and participated in this debate, I have looked for an expression of accurate facts on the issue, the efficacy of various amendments offered and how germane they are to the question before us, and how much emphasis Federal control of the energy business is given as opposed to free market participation.

I do know this. In West Virginia gas supplies 21 percent of our energy needs. Over 69 percent of our homes use natural gas. Last year's actual curtailments were 8.1 percent of normal usage. Many industries dependent on natural gas experienced severe cutbacks of gas last winter—the largest in the State's history. Among these were steel and glass industries which were forced to lay off workers during the winter months, a vivid expression of how energy and jobs are tied together in our country.

I do not again want to be in the position of having to introduce legislation as I did on January 14—the Natural Gas and Emergency Conservation Act of 1977—and the 24—Natural Gas Emergency Act of 1977—of this year to authorize emergency measures to minimize the adverse impacts of gas shortages and curtailments. Decisions should be made now to deal with such situations.

Further curtailments have been forecast for the coming winter. The Federal Power Commission estimates curtailments could reach 3.8 trillion cubic feet in the winter of 1977–78; no matter what price policy is adopted by Congress. One industrial group projects an estimated curtailment of at least 5,807,000 cubic feet of natural gas in the State of West Virginia this year. The resultant adverse consequences on the economy and employment in West Virginia and Appalachia are obvious. Secondary impacts on other industries which depend on manufacturers within the region for materials and supplies could also be felt.

Those hardest hit would be stone, clay, and gas products; chemical and allied products; and primary metals. If West Virginia experienced a 20 percent reduction in gas supplies it could displace 8,300 workers in manufacturing and related industries.

Mr. President, this type of situation cannot be tolerated. We must provide a structure which will give proper incentives to major producers and independents, to interstate and intrastate suppliers and users alike. In addition we must protect the American consumer from any drastic rise in his fuel bill. The modified Pearson-Bentsen amendment accomplishes these objectives.

Broad public support with a sense of community interest and willingness to sacrifice will bring about conservation—but probably only a short term basis. But we need more than conservation. We need assurances of a stable rate of production and supply. This will not be accomplished by relying on high prices from liquid natural gas from such countries as Algeria, Mexico, and Indonesia. Such reliance would be the same mistake we made on oil imports. The U.S. Geological Survey indicates that only 2 percent of the domestic rock containing oil and gas has been drilled to date. Only 1/50 of the gas reserves in Appalachia have been tapped. Currently there are about 2,000 drilling rigs operating independently in the United States. We need an estimated 3,500 to 4,000 pieces of such equipment. Perhaps some of this machinery now involved in drilling for gas in foreign countries should be brought home again. It makes no sense to spend over $45 billion on imported sources of energy, while we permit natural gas reserves in the ground to remain there because they cannot be exploited at regulated prices.

Necessary incentives must be provided to both major producers and independents. As elected representatives we need to have some degree of confidence and credibility in those private concerns in the gas and oil business. West Virginia's independent production is 0.9 percent of the national domestic gas production. In West Virginia there are also potential new supplies in deep geological formations that could be developed. Of course such endeavors would require special pricing reflecting increased cost over national average prices. Current price structures discriminate against my State's producers thus discouraging exploration. To continue these structures or modify them as several of my colleagues have suggested would, in my opinion, reduce drilling activity and deplete reserves of the intrastate of 1 percent of all gas produced in this country for deregulated prices will not do the job. Again, changes are necessary to spur new development. While we make the necessary adjustments to convert to coal, gas and oil will still be included in the major mix of fuels at least for the next 7 to 8 years.

Mr. President, I believe that Senator BENTSEN's perfecting amendments do much to improve the measure we have just passed. Enabling intrastate distributors to sell to interstates will provide drilling incentives to producers in States such as West Virginia. His amendment stating that industrial boiler users purchase new deregulated gas while leaving old gas to residential customers will do much to protect our individual constituents using gas in their homes.

I support the Natural Gas Policy Act as passed by the Senate. A strategy such as this, I feel, will give us a better understanding of the relationship between the costs of higher prices and the costs of the shortages, distortions, and growing foreign dependence that result from policies attempting to maintain low prices.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar order No. 399, H.R. 9005, the District of Columbia appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object, may we have order?

The VICE PRESIDENT. I am trying. The Senate will be in order.

The PRESIDING OFFICER. (Mr. MATSUNAGA). The Senate will be in order. The Senate will be in order. Members will cease conversation. The Senate will be in order. Senators will please cease conversation. The Senate is still not in order. The Senate will come to order. Members will please cease conversations and retire to the cloakroom if conversation is necessary. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the managers of the next bill, and it is under a time agreement, I suggest the absence of a quorum, and I would ask unanimous consent—the manager of the bill is here and we are awaiting the ranking Republican member.

The PRESIDING OFFICER. The Chair will remind the Senator from West Virginia the bill has not yet been reported.

Mr. BAKER. Could I reserve for just a moment?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. There is a unanimous consent to proceed to the consideration of this measure. That was the parliamentary inquiry at the time the furor broke out.

The PRESIDING OFFICER. That was.

Mr. BAKER. All I was going to say is that calendar order No. 399 is cleared for consideration at this time on our calendar.

The only notation we have is there will be amendments offered by two Senators on this side and, of course, as the majority leader pointed out there is a time limitation on the bill.

Mr. ROBERT C. BYRD. Yes.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 399, H.R. 9005, the District of Columbia appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. There is 1 hour of debate on this bill.

Who yields time?

Mr. LEAHY. Mr. President, I yield myself such time as I may need.

Mr. President, I am pleased to finally have the opportunity to bring to the Senate recommendations on the District of Columbia Appropriations Act for 1978.

In June and July as the other appropriation bills came to the Senate, I began to wonder if we would have a D.C. bill for the Senate before the fiscal year was over. The city's second supplemental for 1977 and the amendment for 1978 was not officially transmitted to Congress until July 25. A submission date of July 25 with the intervening August district work period gave the subcommittee 14 working days between then and the September 12 due date for the completion of all action on the bill as required by the Congressional Budget Act of 1974.

We cannot meet our deadlines as required by the Congressional Budget Act unless a timely budget submission comes to Congress. I am, therefore, recommending as a legal requirement a due date of February 1, 1978, for the submission of the fiscal year 1979 budget for the District of Columbia. I hope this measure will permit the appropriation act for the District of Columbia for 1979 to be presented to the Senate on a more timely basis than was possible this year.

The District of Columbia budget request for fiscal year 1978 is $1,414,561,100 of which $1,237,084,200 is for operating expenses and the remaining $177,476,900 is for capital improvements. Also included in the bill is a second supplemental request for fiscal year 1977 that totals $11,226,800.

The committee analyzed these requests in great detail. In addition to the regular hearings, the subcommittee held 2 days of special hearings on the city's proposal to build and operate a $110,000,000 convention center in downtown Washington. On this one issue alone the subcommittee heard testimony from over 30 witnesses.

I recommend a total fiscal year 1978 budget of $1,340,431,800, of which $1,238,258,400 is for operating expenses and $102,173,400 is for the capital improvement program. This represents an increase of $180,180,100 over the funds provided last year or an increase of almost 16 percent. This recommendation is $5,353,600 more than the House recommendation for operating expenses and $66,584,500 less than the House recommendation for the capital improvement program. It should be noted, however, that $39,384,500 of this difference in the House and Senate recommendations for the capital improvement program is explained by the committee's recommendation to reprogram funds that were appropriated in fiscal year 1972 for capital improvements at Lorton but never used for that purpose.

With regard to the city request for funds for the second supplemental for fiscal year 1977, I recommend a total of $7,378,500 which is $537,600 more than recommended by the House.

Last year the committee began an effort to encourage the city to collect more of the taxes, fees and fines that are due it. This effort has paid rich dividends. The city's July revenue estimate released in August shows an increase in local collections for fiscal year 1977 and fiscal year 1978 that totals $31,565,000 over the previous estimate of April 1977. The House which began its markup process in July based its recommendations on the lower revenue estimates made in April 1977. In addition to the city's own estimates of increased revenues, monthly reports made available to the committee show that the city has collected over $6,000,000 more from the hospital and health clinic billing system than previously estimated. This billing system was launched last year by the city at the direction of the Senate. The subcommittee also estimates that the city should be able to collect approximately $4,500,000 in additional revenues in fiscal year 1978 from delinquent parking ticket fines that now total almost $18,000,000. These increases in local revenues make possible the following financing recommendations:

First. Provide a $15,000,000 tax relief measure to local citizens, as requested by the city.

Second. Accelerate the repayment of funds owed the U.S. Treasury from short-term borrowings made in fiscal year 1975, as requested by the city.

Third. Establish an RFK Stadium bond sinking fund and appropriate $9,900,000 to the fund to help meet the $19,800,000 obligation that comes due on December 1, 1979.

Fourth. Provide a Federal payment of $276,000,000 which is the same level provided last year to the city.

While the recommended Federal payment for fiscal year 1978 is $24,000,000 less than the requested $300,000,000, it should be noted that the budget as recommended to the Senate is balanced and fully funded and provides for a 16-percent increase over last year to more than offset the effects of inflation. It should also be noted that the committee recommends the Federal payment for water and sewer services be increased by $25,409,000 in fiscal year 1978. This is done by putting all water and sewer service billings on a current basis. While I fully support putting the billings on a current basis, it does give the city a "revenue windfall" of Federal funds in fiscal year 1978 which places the direct Federal funds contribution to the city over $300,000,000. Additionally, the city also expects to receive $299,074,100 in Federal grants and $36,543,000 in revenue sharing and countercyclical funds in fiscal year 1978. In summary, 47 percent of the total resources to be available to the city in fiscal year 1978 would be Federal funds.

While I will not take the Members' time to go over each item, I would like to discuss briefly two of the committee's recommendations.

First, I have recommended $449,000 to fully implement the Child Abuse and Neglect Act of 1977. This act was signed by the Mayor in July and while neither the city nor the House has provided funds to fully implement this program, I feel this program is of high priority and we should move ahead to assist the children and families that need help because of child abuse and neglect situations.

Second, I shall briefly discuss the city's proposal to build and operate a $110,000,000 convention center in downtown Washington.

An important debate has developed

locally and in Congress over the need for the District of Columbia city government to build and operate a convention center in downtown Washington. The $100,000,000 convention center proposal represents the largest single capital expenditure item ever proposed by the city as a single jurisdiction. A proposal of this magnitude to spend the taxpayers' money needs to be carefully considered and, therefore, I believe the current debate is both a healthy sign of good government and is completely appropriate.

The Senate Appropriations Subcommittee on the District of Columbia held 2 days of special hearings on this topic alone and heard from over 30 witnesses. The subcommittee had two evaluations of the economic feasibility of the proposal, one done by the General Accounting Office and the other by D.C. City Auditor. Additional economic analysis was submitted to the subcommittee by civic associations and by the city government. Based on the hearings and on study and review of the analysis, I believe that the proposed center is too expensive and will result in a net revenue loss to the city. The center is not needed in order to maintain and permit growth in the city's current position in the tourist and convention market. The center is also not necessary in order to revitalize the downtown area. I would now like to expand on each of these points.

First, I support the objective of revitalizing the downtown area of Washington, D.C. The convention center, however, is not needed to meet the objective nor could the convention center alone guarantee it. Several projects are already underway to meet this objective and several other projects are on the horizon. For example:

The subway, with a cost in excess of $5 billion, will criss-cross the downtown area with seven subway stops. This considerably increases the economic development potential of the downtown area and will help increase its accessibility to the entire metropolitan area.

Over $300 million in Federal funds has been authorized for the Pennsylvania Avenue redevelopment plan. This plan will focus on the redevelopment of the north side of Pennsylvania Avenue extending as much as four blocks into the downtown area. Plans for a major $100,000,000 complex of hotels, offices and shops to be included in the Pennsylvania Avenue redevelopment area were announced just last Saturday by the National Press Club and Atlanta architect and developer John C. Portman, Jr. This proposal itself includes convention facilities and will be financed primarily with private funds.

Also in the Pennsylvania Avenue redevelopment area is another proposal that has been approved by the Pennsylvania Avenue Redevelopment Corp. This second proposal by the Quadrangle Development Corp. is for an office building with two levels of retail stores, a pedestrian arcade and offices.

Additionally, the city currently has a proposal from the Hines Corp. of Dallas to build a 1,000,000 square foot building complex at 12th and G in downtown Washington. This complex would be located on top of a new subway stop in the downtown area. The Hines Corp. is interested in having the city support this project by agreeing to lease approximately 300,000 square feet of the proposed office space. While the Senate Appropriations Committee's choice is to leave the decision on this matter entirely to the city, the city could bring this project or others like it to the downtown area by exercising its current leasing powers and by using its current need for over 3,000,000 square feet of leased space more effectively in order to meet this objective.

It has been argued that the convention center will bring jobs to the city, and that is true. However, as the discussion above indicated, there are alternatives available to the city to help bring jobs to the city and to generally help expand the tax base of the city. The convention center is not the only way, as some of its advocates have argued, to meet these objectives.

At $110,000,000 the proposed convention center is one of the most expensive convention centers ever proposed in the United States. Centers recently built in St. Louis and Atlanta cost approximately $36,000,000. One of the reasons that these other centers were less expensive is that they were built on donated land. In a letter which I sent to Mayor Washington on August 2, 1977, I asked the Mayor to consider an alternative site for the convention center, a site already owned by the city or the Federal Government, as this would save over $25,000,000 and considerably increase the economic feasibility of the proposed convention center. The city and the Federal Government own over 45 percent of the land in the District of Columbia and numerous sites are available. On September 1, 1977, the city responded by rejecting further consideration of alternative sites.

One fact that is not well known is that the District of Columbia is already the third largest convention center city in the United States even without having a major, Government-owned convention center facility. Additionally, the Sheraton Park Corp. is making a $60 million expansion of their facility which will then be able to accommodate 80 percent of the conventions that would come to Washington, D.C.

Economic feasibility for the proposed center hinges on estimates of the net additional delegates that the center would bring to Washington. The city's estimate of 390,000 net additional delegates appears to be greatly inflated when compared to the track record of other U.S. cities that have built convention centers. If the District of Columbia's performance in terms of attracting additional delegates to the city would equal the average performance of other cities, the center would attract an additional 100,000 to 150,000 new delegates. The fact that the District of Columbia is the third largest convention city reduces the chances for a great amount of rapid growth in the city's market share.

The bottom line of our analysis is that the convention center would lose between $4 to $9 million a year in tax revenue to the city, including all the tax benefits from projected spin-off developments. It is still true that the convention center would bring profits to some business interests in Washington, D.C., and understandably the business community has been pushing very hard for the convention center. While it would benefit a segment of that community, it would represent a net drain on the city's resources taking revenue away from the needs of the more traditional city functions and activities. This would come at a time when the city appears to be making great progress on two of the more vital functions: schools and police protection.

Washington already has the highest per capita expenditure level of any city in its population range, the highest per capita debt load of any city in the United States, and according to the city, the largest tax burden of any jurisdiction in the metropolitan area. The convention center would only aggravate these negative trends and only put further upward pressure on local taxes. Based on the testimony of witnesses that appeared before the subcommittee, on letters received, and on a petition received from over 85 percent of the civic associations in Washington, D.C., the citizens of the District do not appear to be agreeable to having their taxes increased in order to fund the construction of a convention center. Many of the citizens who have testified and written to me believe that a center would bring no direct benefit to themselves while they, the citizens, would be asked to pay for it.

Finally, proponents of the center have cast this debate in terms of a test of home rule for the District. So that there can be no misunderstanding, let me point out several facts. I have often stated my support for full home rule, as well as full voting representation, in both the House and Senate. However, that does not change the reality of this situation. Until it can be changed, the law requires Congress to enact a budget for the District of Columbia. As chairman of the Senate's District of Columbia Appropriations Subcommittee, I cannot abdicate my responsibility to evaluate the city's proposals, particularly with millions of Federal tax dollars involved.

In this instance, the city's proposal to build a downtown convention center simply is not, in my opinion, financially feasible.

Mr President, this concludes my overall statement on the bill.

Mr. President, I ask unanimous consent to have a table entitled "Comparative Statement of New Budget (Obligational) Authority for Fiscal Year 1977 and Budget Estimates and Amounts Recommended in the Bill for Fiscal Year 1978" printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978

Agency and item	New budget (obligational) authority, fiscal year 1977	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978	New budget (obligational) authority recommended— In House bill	New budget (obligational) authority recommended— By the Senate committee	Senate committee recommendation compared with— New budget (obligational) authority, fiscal year 1977	Senate committee recommendation compared with— Budget estimates of new (obligational) authority, fiscal years 1977 and 1978	Senate committee recommendation compared with— House allowance
TITLE I							
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA							
Salaries and expenses	$1,500,000	$3,000,000	$3,000,000	$3,000,000	+$1,500,000		
TITLE II							
DISTRICT OF COLUMBIA FEDERAL FUNDS							
Federal payment	[1] 276,650,000	300,000,000	295,350,000	276,000,000	−650,000	−$24,000,000	−$19,350,000
1977 supplemental		4,000,000				−4,000,000	
Payment in lieu of reimbursement for water and sewer services to Federal facilities	2,707,000	28,116,000	28,116,000	28,116,000	+25,409,000		
Loans to the District of Columbia for capital outlay	101,292,000	160,000,000		92,000,000	−9,292,000	−68,000,000	+92,000,000
Total, Federal funds	380,649,000	488,116,000	323,466,000	396,116,000	+15,467,000	−92,000,000	+72,650,000
1977 supplemental		4,000,000				−4,000,000	
DISTRICT OF COLUMBIA FUNDS							
Operating Expenses							
Governmental direction and support	81,707,900	116,899,800	117,040,600	117,313,400	+35,605,500	+413,600	+272,800
1977 supplemental		795,300	702,300	725,400		−69,900	+23,100
Economic development and regulation	14,415,100	14,118,500	14,118,500	14,050,100	−365,000	−68,400	−68,400
1977 supplemental		20,000				−20,000	
Public safety and justice	256,468,900	264,487,400	265,115,200	263,763,800	+7,294,900	−723,600	−1,351,400
1977 supplemental		2,192,000	150,000	2,151,000		−41,000	+2,001,000
Public education system	260,953,400	273,984,500	273,378,500	272,982,900	+12,029,500	−1,001,600	−395,600
1977 supplemental		3,800,000	2,800,000	2,800,000		−1,000,000	
Human support services	305,216,000	320,769,200	319,129,900	316,573,900	+11,357,900	−4,195,300	−2,556,000
1977 supplemental		2,682,300	1,879,500	393,000		−2,289,300	−1,486,500
Transportation	55,028,600	61,337,200	59,834,500	59,713,900	+4,685,300	−1,623,300	−120,000
1977 supplemental		1,737,200	1,309,100	1,309,100		−428,100	
Environmental services	69,036,000	68,519,100	68,519,100	68,191,900	−844,100	−327,200	−327,200
Repayment of loans and interest	80,839,100	116,968,500	115,768,500	125,668,500	+44,829,400	+8,700,000	+9,900,000
Total, operating expenses	1,123,665,000	1,237,084,200	1,232,904,800	1,238,258,400	+114,593,400	+1,174,200	+5,353,600
1977 supplemental		11,226,800	6,840,900	7,378,500		−3,848,300	+537,600
Capital Outlay							
Capital outlay	36,586,700	177,476,900	168,757,900	102,173,400	+65,586,700	−75,303,500	−66,584,500
Total, District of Columbia funds	1,160,251,700	1,414,561,100	1,401,662,700	1,340,431,800	+180,180,100	−74,129,300	−61,230,900
1977 supplemental		11,226,800	6,840,900	7,378,500		−3,848,300	+537,600

[1] Includes $650,000 for inaugural expenses.

Mr. LEAHY. Mr. President, I make the usual unanimous-consent request that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 22, strike "$295,350,000" and insert "$276,000,000";

On page 3, beginning with line 15, insert the following:

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198; the District of Columbia Appropriation Act, 1976, Public Law 94–333; and the District of Columbia Appropriation Act, 1977, Public Law 94–446; $92,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor.

On page 4, line 6, strike "GENERAL OPERATING EXPENSES" and insert "GOVERNMENTAL DIRECTION AND SUPPORT";

On page 4, line 8, strike "General operating expenses" and insert "Governmental direction and support";

On page 4, line 9, strike "$90,783,000" and insert "$117,313,400";

On page 4, line 9, strike "$799,300" and insert "$300,000";

On page 4, line 21, strike "*Provided further*, That $5,861,000 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation:";

On page 5, line 2, strike "*Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor:";

On page 5, line 18, after "expended" insert a colon and "*Provided further*, That $65,549,400 shall be available for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1978 from which employees are properly payable";

On page 5, line 24, strike "$648,000" and insert "$625,100";

On page 6, line 12, insert the following:

ECONOMIC DEVELOPMENT REGULATION

Economic development and regulation, $14,050,100.

On page 6, line 15, after "safety" insert "and justice";

On page 6, line 19, strike "$264,069,000" and insert "$263,763,800";

On page 7, line 12, after "program" insert a colon and "*Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor";

On page 7, line 21, strike "$150,000" and insert "$2,151,000";

On page 7, line 22, before "EDUCATION" insert "PUBLIC";

On page 7, line 22, after "EDUCATION" insert "SYSTEM";

On page 7, line 23, strike "Education," and insert "Public education system,";

On page 7, line 24, strike "$264,876,600" and insert "$272,982,900";

On page 7, line 25, strike "$7,722,800" and insert "$8,222,100";

On page 8, line 16, after "sec. 31–727)" insert a colon and "*Provided further*, That not less than $5,392,000 of this appropriation shall be used exclusively for maintenance of the public schools";

On page 9, beginning with line 1, strike through and including line 3;

On page 9, line 4, strike "RESOURCES" and insert "SUPPORT SERVICES";

On page 9, line 5, strike "resources" and insert "support services";

On page 9, line 8, strike "$285,865,600" and insert "$316,573,900";

On page 9, line 9, strike "$6,520,000" and insert "$6,728,200";

On page 10, line 5, after "Forest Haven" insert a colon and the following:

Provided further, That authorization is here-

by provided to the Government of the District of Columbia to fund the Special Education tuition grants and increased bed capacity at D.C. Village out of funds heretofore appropriated to such Government for fiscal year 1977, but not to exceed $391,000 for tuition grants and $1,095,500 for D.C. Village:

Provided further, That $5,838,600 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation.

On page 10, beginning with line 15, strike through and including line 16;

On page 10, line 21, strike "$59,834,500" and insert "$59,713,900";

On page 11, line 16, strike "$68,519,100" and insert "$68,191,900";

On page 12, beginning with line 2, strike through and including line 5;

On page 12, line 10, strike "$12,000" and insert "$58,000";

On page 12, line 24, strike "$115,768,500" and insert "$125,668,500: *Provided*, That there is hereby appropriated from the funds of the District of Columbia $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6 (a) of the District of Columbia Stadium Act of 1957, as amended";

On page 13, line 15, strike "$168,757,900" and insert "$102,173,400";

On page 13, line 23, strike "$13,031,400" and insert "$7,431,400";

On page 14, line 20, after "lapse" insert a colon and the following:

Provided further, That none of the funds appropriated for the construction of the University of the District of Columbia shall be obligated until the Mayor, the City Council and House and Senate Committees on Appropriations have approved the consolidated master plan for the construction of the University of the District of Columbia.

On page 18, line 21, strike "36,116" and insert "36,000".

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from South Carolina and I understand that he will bring up an amendment and that it will be on his time.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. That is right.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 1024

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) for himself and Mr. MAGNUSON, Mr. NUNN, Mr. WEICKER, Mr. TALMADGE, Mr. STONE, Mr. SPARKMAN, Mr. EASTLAND, Mr. RANDOLPH, Mr. THURMOND, Mr. CHILES, Mr. ALLEN, Mr. HUMPHREY, Mr. BURDICK, Mr. CHURCH, Mr. SARBANES, Mr. DOLE, and Mr. INOUYE proposes amendment No. 1024.

At the end of the bill insert the following new title:

TITLE III—SUPPLEMENTAL APPROPRIATIONS, 1977

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For additional capital for the "Disaster Loan Fund", authorized by the Small Business Act, as amended, $1,400,000,000 to be immediately available and to remain available without fiscal year limitation.

The PRESIDING OFFICER. The Chair makes inquiry of the Senator from South Carolina. Is this the amendment on which there will be 2 hours of debate equally divided?

Mr. HOLLINGS. That is correct.

The PRESIDING OFFICER. The Senator may proceed. The Senator is recognized.

Mr. HOLLINGS. Mr. President, I yield myself such time as may be necessary.

We await our colleagues who have been vitally interested in this particular amendment. I see the distinguished Senator from Wisconsin, who is chairman of our Small Business Committee. In addition thereto there is the Senator from Maine, chairman of our Budget Committee, who had some misgivings and considerations that he wanted to make a record on.

I believe the Senator from Georgia, Senator TALMADGE, the chairman of the Agriculture Committee, is on his way to the Chamber at this time since this pertains to the farmers of America.

This has been fairly well worked out on both sides. The Subcommitee on State, Justice, and Commerce, the Judiciary and Related Agencies Appropriations which has jurisdiction over the Small Business Administration considered this in 2 days of hearings.

Approximately two-thirds of the Nation is currently involved in some form of disaster activity, primarily agriculture drought relief programs, but also the civil disorder in New York, and the floods in Pennsylvania, West Virginia, and Missouri. The Small Business Administration is currently providing disaster assistance in 41 States and the drought disaster declarations now cover 2,100 counties in 38 States. In nine of these States SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand almost 9,500 physical disaster applications amounting to almost $806,000,000. At a hearing before the State, Justice, Commerce, the Judiciary, and Related Agencies Appropriations Subcommittee, the SBA Administrator, A. Vernon Weaver, indicated that additional applications will be ready for funding in the next 3 to 4 months so that a total of $1,400,000,000 is now required. This amount would make allowance for newly designated drought areas as well as the flood victims in Kansas City that were not provided for in the supplemental budget request.

Incidentally, at this point, Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated October 4, 1977, from James T. McIntyre, Jr., Acting Director of the Office of Management and Budget.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 4, 1977.

HON. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, Washington, D.C.

DEAR MR. CHAIRMAN: On September 16, 1977, the President transmitted to the Congress a fiscal year 1978 supplemental appropriation request for $725 million to allow the Small Business Administration (SBA) to make disaster loans associated with the recent drought. As you are aware, the estimates of the budget authority required to meet the drought are continuing to change, and have changed significantly since the $725 million request was submitted. In Georgia alone, the value of drought loan applications on hand with SBA has increased by $392 million in the last two weeks from $157 million to $549 million. This is at least $250 million more than anticipated by SBA earlier this month.

It has been the President's intent all along to provide the funds necessary to insure that those eligible under current law receive SBA drought disaster assistance, and at the same time to make certain that the disaster programs are properly and effectively administered.

While the few weeks' experience still do not permit precise estimates of the entire fiscal year 1978 cost of SBA's drought programs, our latest estimates, based on the additional two weeks data available since September 16, indicate a need for $1.4 billion to operate SBA's disaster fund through the beginning of next year. This amount will enable SBA to make commitments for 100% of the value of the drought applicant's loan.

The SBA and the Department of Agriculture are working closely to make sure their drought loan programs are administered efficiently and that they address the very urgent needs of the drought-stricken farmers.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Acting Director.

Mr. HOLLINGS. This letter from the OMB, indicates they have now revised their estimate from the $725 million submitted on the House side to the figure of $1.4 billion. I am advised that the budget will be revised up to that amount, which is necessary to take this program through the first part of next year when Congress reconvenes after the adjournment.

I want to try to check off all our particular concerns, so that the Senate realizes that this has been given very thorough consideration. On the House side they put in the $725 million asked for by the Administration; over here, in the meantime we are trying to move through on this bill, with the permission of the Senator from Vermont, because of the fact that there is a cash flow problem.

Many of the particular farmers who receive this disaster relief are out on all kinds of paper, their liens are about to be attached and claims to be made against them, and there is going to be more than a natural disaster if Congress does not move very promptly.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. HOLLINGS. Does the Senator want the floor?

Mr. LEAHY. Yes. I am perfectly happy to have your amendment on this bill. I think the Senator from South Carolina

has done yeoman service in putting this supplemental together, and having his committee meet on it. As I recall, his subcommittee's vote was unanimous on it, and I think it shows his own marked awareness of the problems facing this country and facing the drought areas.

I certainly have no objection to it, but I suspect that the Senator from Maine (Mr. MUSKIE) would want to speak at some point on this matter, and at such time as the Senator from South Carolina finishes his statement, the Senator from Vermont will ask for a quorum call to continue until Senator MUSKIE arrives.

Mr. HOLLINGS. I have sent the pages to inform Senator MUSKIE and Senator TALMADGE and the various cosponsors of this particular amendment, because we are all very vitally interested in it.

Mr. President, it is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. The situation is particularly critical for the farmers as the disaster declarations have been in effect for more than 2 months, such as Georgia where the applications on hand now amount to $549,100,000, and the SBA has not been able to process the loans due to the unavailability of funds. Our farmers are now dangling in the wind and this emergency amendment will speed up the process by attaching this appropriation to this bill instead of waiting for the Supplemental Appropriations Act.

I ask unanimous consent to have printed in the RECORD the portion of the draft committee report of the State-Justice-Commerce Subcommittee, to be considered by the full Committee on Appropriations when we take up the supplemental on Thursday where it describes exactly the extent of our hearings.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

1978 appropriations to date	$115,000,000
1978 supplemental estimate (H. Doc. 95-223)	725,000,000
House allowance	725,000,000
Committee recommendation	1,400,000,000

Approximately two-thirds of the Nation is currently involved in some form of disaster activity, primarily agriculture drought relief programs, but also the civil disorder in New York, and floods in Pennsylvania, West Virginia and Missouri. The Small Business Administration (SBA) is currently providing disaster assistance in 41 states and the drought disaster declarations now cover over 2,100 counties in 38 states. In 9 of these states SBA has declared physical disasters based on crop losses resulting from the drought.

As a result, SBA has on hand almost 9,500 physical disaster applications amounting to almost $806,000,000 of which $694,000,000 is for the hard-hit southeastern region. At the Committee's hearings it was indicated that additional applications will be submitted in the next 3 to 4 months requiring an appropriation of $1,400,000,000 to process the loans ready to be approved for funding through January 1978. This need is substantiated by the fact that the $806,000,000 in applications now on hand contrasts with the $260,706,000 on hand when the budget justification was prepared on September 12, 1977, an increase of more than $545,000,000 in three weeks. This amount would make allowance for the newly designated drought areas as well as the flood victims in Kansas City not provided for in the original supplemental budget request of $725,000,000, as well as allowing the SBA to obligate for 100 percent of the determined loss instead of only half of the loss as allowed in the budget estimate.

It is imperative that a sufficient amount be appropriated so that there is no interruption in the assistance to disaster victims during the adjournment of the Congress. The situation is particularly critical for the farmers as the disaster declarations have been in effect for more than two months and the SBA has not been able to process the loans due to the unavailability of funds.

ADMINISTRATION OF PROGRAM

The Committee has retained the language in the bill as approved by the House of Representatives that this appropriation is "to remain available without fiscal year limitation." This has been the past pattern of this appropriation but the recent changes to the authorizing statutes inadvertently deleted this authorization.

During the Committee's hearings that included a unique problem solving session with affected farmers and SBA officials, a number of issues were raised. These issues have also been discussed in meetings with the Secretary of Agriculture and officials of his Department, the Office of Management and Budget, as well as the SBA.

The involvement of the Small Business Administration in agriculture and related industries has been a recent development that originated in Public Law 94-305, approved June 4, 1976. This act made small farmers eligible for business loans from SBA. More recently and in response to an inquiry by the Committee on Small Business, the SBA General Counsel concluded that the authority to make loans to farmers also made them eligible for the 7(b)(1) physical disaster and 7(b)(2) physical economic injury programs.

It is clear to the Committee that the SBA is to be the agency for the disaster loan program. While the Farmers Home Administration (FmHA) of the Department of Agriculture has a similar program, there are additional criteria for their emergency (disaster) loans that are not required to obtain such assistance from SBA. In view of the above developments making farmers eligible for SBA assistance, it is clear to the Committee that the intent of the Congress was that disaster loans be available to all individuals who can demonstrate a bona fide loss, without further arbitrary administrative requirements. The eligibility of farmers is fixed in substantive law. The Administration proposal to require the farmers to first apply to FmHA would be a clear case of discrimination by remanding farmers to another agency when the butcher, the baker, and the candlestick maker do not have to first apply elsewhere.

As noted previously, the budget estimate would provide for the obligation of only 50 percent of the determined loss now with the remainder dependent upon a subsequent appropriation. In fairness it should be said that the budget estimate was not a true indication of the expected needs over the next several months but apparently was an attempt to accommodate temporary Congressional budget levels. This procedure would not only be a significant departure from SBA's usual practice, but would be disruptive of normal farm operations, which require field preparation and planting as early as November. The Committee has added sufficient funds so that the loans will be obligated at the level of the determined loss and is pleased by SBA's announcement that the 50 percent obligation plan has been dropped.

The SBA has also established a policy that 50 percent of the approved loans for crop losses would be disbursed when the loan was approved with the remainder being retained until the next planting season. This policy applies to crop losses only, and while similar to the procedure of paying as progress is made for non-agricultural disaster loans, is of real concern to the farmers and the Committee. The evidence in the hearings clearly reveals that agricultural disaster victims are primarily faced with an extreme cash flow requirement, with payments due, and in many instances overdue, on leases, equipment, seed, fertilizer, etc. A 50 percent disbursement will not always be sufficient to keep the farmer in business until the next planting time when the remaining 50 percent is to be disbursed.

Agricultural producers have deep roots in their farms and ranches and their assets generally represent full collateral for the loans. The Committee is no less concerned than the SBA that these loans not be misused but believe a more flexible policy should be applied to agricultural disaster loans. The Committee, therefore, directs the SBA to make full disbursement to agriculture producers where the situation warrants the entire amount.

The SBA has issued a new Standard Operating Procedure (Bulletin #12) providing new instructions for processing and closing physical and economic injury disaster loans for crop losses. This bulletin establishes a formula for computing the amount of physical loss for each crop "by multiplying the acres planted times the established normal yield times the percentage of loss times the marketing price, minus any insurance collected or other recoveries from any other source including any reduction in expenses which were not incurred by the farmer due to the disaster." The normal yield will be as determined by the Agricultural Stabilization and Conservation Service, USDA, for the program crops of wheat, corn, sorghum, barley, rice, tobacco, peanuts and cotton; and the county average for a non-program crop as determined by the Statistical Reporting Service.

These statistics, however, in many cases underestimate yields due to improvements made during the past several years when many price support programs were inactive. The farmer could thus be penalized with inadequate funding. The Committee directs that the SBA allow the farmers who believe that the ASCS amounts understate their normal yields to demonstrate factual evidence of their own average yield in 4 of the last 5 years as the basis for determining the normal yield.

The SBA assured the Committee that the necessary personnel would be available to speedily process the applications. SBA has a pool of temporary skilled workers that should be sufficient to administer this program and can draw upon the additional amounts approved for fiscal year 1978 for personnel.

REDUCED INTEREST RATES

The Committee was concerned to learn that the Small Business Administration has interpreted H.R. 692, which became public law on August 4 and reduced interest rates for disaster loans, as allowing the SBA to apply such reduction in interest rates by shortening the period over which the loan will extend, rather than reducing the monthly payments and allowing the loan to run the full period for which it was negotiated. The Committee believes that Congress intended that persons receiving loans at least have the option to decide for themselves whether they will repay the loan over a shorter period of time or pay at a rescheduled monthly rate. Consequently, the Committee directs the SBA to take necessary action (1) to advise affected persons that they have an option in terms of repayment

and (2) to provide them with a reasonable opportunity to exercise that option without imposing unnecessary burdens on the applicant.

Mr. HOLLINGS. It was originally my plan to submit this as a 1977 supplemental, inasmuch as these losses occurred in that fiscal period and there certainly was sufficient new budget authority in the third concurrent resolution for fiscal year 1977 for this appropriation. However, we are now into the new fiscal year and that will not be possible, but I believe the new budget authority and outlays can probably be accommodated within the total ceiling approved for fiscal 1978.

Mr. President, as the matter I inserted from our report indicates, I have held two hearings of the State, Justice, Commerce, the Judiciary and Related Agencies Appropriations Subcommittee on this, including a unique problem solving session with drought disaster victims. We have also had several meetings with various Senators, the SBA, Secretary Bergland of Agriculture, Mr. McIntyre of OMB, and others. We have been able to get general agreement on several items to improve the delivery of the disaster assistance and a number of points have been raised that I want to stress.

The thought has been expressed that there is a similar program at the Farmers Home Administration and the farmers ought to first go there first before going to SBA.

Yes, there is a second window in the Government making disaster loans to farmers but at that window the applicant must meet a test for credit. The distinguished chairman of the Committee on Small Business of the other body and I agree that SBA is the disaster lending agency and the only criteria is: "Was the loss caused by disaster"? Since these losses were the result of a declared disaster the question is affirmatively answered. Since the eligibility of the farmers is now fixed in law, they no more than the butcher, baker and candlestick maker do not have to go somewhere else first for their disaster loan.

In other words, we did not want our farmers to be second-class disaster-loan citizens here in the United States.

Mr. President, in this instance we are concerned about the most stable group we could be lending to—our farmers where the roots are in the land and year after year—boom or bust—they have stayed with the land. Several years ago I held hearings on another SBA disaster supplemental—the one covering the earthquake in California. We found SBA making loans to movie stars for repairs to their swimming pools, and no one told them to go elsewhere or pass a paupers test.

Before I leave that California earthquake let me note that there is no longer the forgiveness feature that prevailed at that time and led to those famous $3,000 paint jobs that cost the owners $500 and the SBA $2,500. We had to make them stop that particular procedure, where they had a forgiveness clause of $2,500. I think we should emphasize that there is no forgiveness clause under this particular loan program. We have had a great deal of abuse with the forgiveness clause, in my experience in dealing with these disaster loans here in Congress for the past several years, but does not exist in those loans.

With further regard to the issues involved, the testimony indicated that the budget estimate would apparently provide for the obligation of only 50-percent of the determined loss now with the remainder dependent upon a subsequent appropriation. In fairness it should be said that the original budget estimate was not a true indication of the expected needs over the next several months but apparently was an attempt to accommodate temporary congressional budget levels. This procedure would be disruptive of normal farm operations, which require field preparation and planting as early as November. The amendment provides sufficient funds to obligate the loans at the level of the determined loss and I am pleased by SBA's announcement that the 50 percent obligation plan has been dropped.

The SBA also established a special policy that 50 percent of the approved loans for crop losses would be disbursed when the loan was approved with the remainder being retained until the next planting season. This policy applies to crop losses only, and while a similar procedure to the payments made as needed for nonagricultural disaster loans, is of real concern to the farmers. The evidence in the hearings clearly reveals that agricultural disaster victims are primarily faced with an extreme cash flow requirement, with payments due, and in many instances overdue, on leases, equipment, seed, fertilizer, et cetera. A 50-percent disbursement will not be sufficient to keep the farmer in business until the next planting time when the remaining 50 percent is to be disbursed.

In fact, it is a sort of the same approach we followed in Vietnam, of destroying the farmer you are trying to save in order to save him. That is the practical affect of that 50-percent basis, because, although we have undertaken, by means of that disaster loan, to make him whole, on the contrary, with the 50-percent amount we put him under. Next year, having gone in the red with loans on equipment, fertilizer, and things like that, he will not be able to receive loans from Farmers Home Administration or other agencies or anything like that, and, in fact, rather than guarantee the solvency of the American farmer we have guaranteed his demise.

We brought that out very dramatically in one day's hearings that we had with farmers and the SBA Administrator present.

The deep roots of agricultural producers in their farms and ranches and their assets generally represent full collateral for the loans. They are not going to run away with the farms. We are no less concerned than the SBA that these loans not be misused but a more flexible policy should be applied to agricultural disaster loans. The subcommittee has approved language in that report on the Supplemental Appropriations Act I inserted earlier that directs the SBA to make full disbursement to agriculture producers where the situation warrants the entire amount.

The SBA has issued a new Standard Operating Procedure (Bulletin No. 12) providing new instructions for processing and closing physical and economic injury disaster loans for crop losses. This bulletin establishes a formula for computing the amount of physical loss to each crop "by multiplying the acres planted times the established normal yield times the percentage of loss times the marketing price, minus any insurance collected or other recoveries from any other source including any reduction in expenses which were not incurred by the farmer due to the disaster." The normal yield will be as determined by the Agricultural Stabilization and Conservation Service, USDA, for the program crops of wheat, corn, sorghum, barley, rice, tobacco, peanuts and cotton; and the county average for a nonprogram crop determined by the Statistical Reporting Service.

These statistics, however, in many cases underestimate yields due to improvements made during the past several years when many price support programs were inactive. The farmer could thus be penalized with inadequate funding. The SBA should therefore allow the farmers who believe that the ASCS amounts understate their normal yields to demonstrate factual evidence of their own average yield in 4 of the last 5 years as the basis for determining the normal yield.

The SBA assured the committee that the necessary personnel would be available to speedily process the applications. SBA has a pool of temporary skilled workers that should be sufficient to administer this program and can draw upon the additional amounts approved for fiscal year 1978 for personnel.

When the second budget resolution was before the Senate there was considerable concern about both SBA and the Farmers Home Administration making disaster loans. As I have indicated, I have held hearings and have no trouble with this as long as the SBA is restricted to disaster situations. However, I am informed, and the distinguished Senator from Wisconsin can elaborate further, that the Small Business Committee is ready to review this situation for the Senate. I am sure we will work together on that and hope to have hearings. We will not have waste; we will not have duplication. It will be a program for the justly deserving.

I know of the good and legitimate concern of the Budget Committee regarding how the Government budgets for disasters. I am an active member of that committee. In our hearings on the regular bill, I questioned the meager $20 million requested for the disaster loan fund. The response was that it was traditional to budget for no disasters and to request funds only after they occurred. Already this year we have provided a supplemental of $200 million for the 1977 disasters and we boosted the 1978 amount up to $115 million. This severely affects our new budget process—and, undoubtedly,

we have to do a better job of providing for disasters—but the farmers should not be held hostage while we work this out.

Mr. STONE. Will the Senator yield?

Mr. HOLLINGS. I am glad to yield.

Mr. STONE. I know I speak for my senior colleague (Mr. CHILES) and I know the same is true for the other Senators from the Southern region, particularly in Georgia. We feel very much a debt of gratitude to the Senator from South Carolina for his efforts to fund these disaster loans on an emergency basis. It is an emergency. Some of our farmers were afflicted not only by the drought but by a freeze last winter. They have suffered a double disaster.

Many of those farmers have applied for, and have been approved for, Small Business Administration disaster loans but have not received the money. Their creditors are crowding in on them. Their suppliers of fertilizers, tractor services, and other services to prepare them for the chance to recoup from this disaster, question whether, even having been approved by the SBA, these funds will be made available in time to plant or replant.

All through the South, in the Senator's own State and the other States of the South, and particularly in north Florida, in my State, farmers are very desperate. They are on the edge of bankruptcy.

Yet the assets and skills that they have are such that, with this SBA funding, they can make it and can continue to produce not only food and fiber for the country but tax revenues.

What the Senator is proposing to the Senate are not grants, but they are loans. They are good loans, and they will be repaid.

It is a question of survival for our Southern agriculture, as well as agriculture throughout the country, many areas of which have had disasters this year. But particularly in the South this past year has been the worst in the last 20 years or more. It is a question between surviving and not surviving.

I certainly would urge my colleagues in the Senate to support this proposal of the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to strike the date "1977" on page 2 of the amendment. Now that we are out of fiscal year 1977, since we have passed October 1, it would not be applicable.

The PRESIDING OFFICER (Mr. HART). Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me thank my distinguished colleague from Florida. With him I met not less than three times, with the Secretary of Agriculture, the head of the Farmers Home Administration, the head of the SBA, the acting director of the Budget, Mr. Jim McIntyre, whose letter I have already submitted for the RECORD. We have tried to work this all the way around, with my senior colleague (Mr. THURMOND), and the Senator from Georgia (Mr. NUNN) who raised the question initially. Perhaps it would be appropriate to yield the floor to the Senator from Georgia at this time. He has been giving leadership in this cause.

Mr. NUNN. I thank the Senator from South Carolina, as my colleague from Florida did, for outstanding leadership benefiting my State and other States in the South, and some in the Midwest and the Pacific Northwest, for the most important single legislative item of the year.

As the Senator from Florida indicated, this means surviving or not surviving for literally hundreds and perhaps thousands of farmers in Georgia, northern Florida, South Carolina, and many other areas of the Southeast.

I thank the Senator from South Carolina for taking this action, for taking it in an expeditious way, holding hearings on it, getting the information necessary, for pursuing it with the executive branch, and bringing it to the Senate for a vote. Without the Senator from South Carolina in this kind of leadership role there would be many disappointed and bankrupt people in the Southeast and in other sections of the country, particularly those in the agricultural community.

Mr. HOLLINGS. I thank my distinguished colleague from Georgia. I bring to his attention the letter dated October 4 which we have just received from OMB relative to two things which concern the Senator from Georgia: The $1.4 billion amount now has been verified by OMB on the one hand, and the 100-percent loan value on the other hand.

In many instances in Georgia they are going to begin to replant at the end of November and the beginning of December. Once they are approved, we rather like the expression that we included in the report, "As progress is made."

The Appropriations Committee has been conscious and restrictive and not willy-nilly on this money for SBA disaster loans. During the hearing I recalled the California earthquake, when Mr. Kleppe was administrator, the San Andreas Fault earthquake, when they added millions on it. I am trying to put this in proper perspective. We are not trying to form a bum's rush on the Government's money. What was vividly found in these hearings was that all of the farmers have injuries which are real. They are in a tight cash position on what is going to happen in the next 3 or 4 weeks.

This is an effort, with the full approval of both Houses, almost, and almost the entire membership on both sides, to move forward—not in a hasty fashion, because we are still working with Mr. Weaver and the others, and Secretary Bergland, to put in the necessary requirements. But once we do, we must really respond to that farmer's need to keep him farming, and not by raising unemployment, because that is the situation they are in.

I am glad to yield to the senior Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend my distinguished colleague for the leadership he has shown in this important matter.

On July 5 of this year, I toured several of the counties in my home State which have been hit hardest by the current drought. I witnessed firsthand one of the most disturbing sights I have ever seen as a representative of the people of South Carolina. In many areas, the farmers' crops and livestock feed supplies have been nearly wiped out by the extended period of hot, dry weather.

I traveled from the coastal plains area of the State where row crops are prevalent into the Piedmont area of the State where beef and dairy farming are the main farming activities. I saw mature corn with dry shriveled stalks only 2 to 3 feet tall which will produce little or no grain. In addition, plants which had reached their normal heights did not yield any significant amount of grain due to a lack of rain.

The estimated losses of corn, hay, and pasture is staggering. In one county in the Piedmont, the corn loss is estimated to be 100 percent. In many other counties the estimates are as high as 90 percent to 95 percent.

Mr. President, I do not know anything that is more important that we could do today than approve this disaster loan request. This amount is needed. In fact, more could be used, but this amount is certainly needed to assist the farmers during this emergency. The situation is serious, and many farmers face financial disaster. In rural areas this situation has serious repercussions on the total economic activity in the community. Although difficult to know the precise effect, in some cases, it may result in near chaos. Without assistance, there will be many farmers who will have to go out of farming, particularly younger farmers who have little capital with which to operate, and many who lease their land or have little equity in their land holdings.

It is a "must" piece of legislation and I sincerely hope that the Senate will take action to pass it without delay.

I say, too, that this is no welfare program, this is no give-away program, this is no handout program. Our assistance is imperative during this time of need for Americans who toil the fields to provide the food and fiber for the citizens of this country. In many cases they risk their complete livelihood on factors, such as weather, for which they have no control.

Mr. BELLMON. Will the Senator yield?

Mr. THURMOND. I am pleased to yield.

Mr. BELLMON. The Senator realizes that we have had, for years, the Farmers Home Administration, that makes this same kind of loan, with two exceptions. One is that, in order to get a Farmers Home Administration loan, the borrower has to prove a need to get the credit. At SBA, he can be John D. Rockefeller and still get the loan.

Mr. THURMOND. Yes.

Mr. BELLMON. Second, the Farmers Home loans are made for about what the Government pays for interest, whereas SBA loans are for 3 percent.

Mr. THURMOND. Yes, that is right.

Mr. BELLMON. This does not provide

any more money; it just provides cheaper money to more people.

Mr. TALMADGE. Will the Senator yield for a response?

Mr. BELLMON. Yes, I yield.

Mr. TALMADGE. The Farmers Home Administration disaster loans are also 3 percent up to $250,000. Above the $250,000, they are higher.

Mr. BELLMON. Farmers Home does require that there be a need for the credit?

Mr. TALMADGE. That is the one difference.

Mr. THURMOND. Mr. President, I sincerely hope the Senate will pass this amendment. It is a most important amendment. Frankly, if it is not passed, I do not know what is going to happen to a lot of farmers in my State. I believe the same situation exists in many other States of the Nation.

Mr. TALMADGE. Will the distinguished Senator from South Carolina yield to me 10 minutes?

Mr. HOLLINGS. I am delighted to yield.

Mr. TALMADGE. I compliment the distinguished Senator from South Carolina for taking the leadership in this amendment. It is not only important but absolutely necessary if we are to alleviate the terrible conditions that confront many areas in our country at the present time.

The United States, this past year, has been plagued with more disasters than ever before in my memory. We have had floods; we have had the worst winter in the recent history of the Nation. In many areas of our country, we have had the worst drought in the history of the United States.

More than 2 months ago, Senator NUNN, my colleague from Georgia; the Under Secretary of Agriculture, Mr. John White; the State's commissioner of Agriculture, Mr. Tommy Irwin; the president of the American Farm Bureau, Mr. Emmett Reynolds, and I toured five different areas of Georgia. It was the saddest sight that I have seen in my lifetime. We visited cornfields, knee-high, that you could stick a match to and burn up the entire field just as though it were woodland in the middle of the winter. It was estimated at that time that Georgia's agricultural losses had already exceeded $700 million.

The corn crop was estimated to be an 80-percent failure, 20 percent of normal production. Even that 20 percent is affected with aflatoxin. The cotton yield in my State this year is estimated to be 120,000 bales, the lowest level since 1866, the year following Appomattox.

We have had that condition, Mr. President, not only in Georgia, but we have 38 States in the Union that are affected. More than 2,000 counties in our Nation have been affected. This statute is on the books. The farmers of our Nation expect it to be complied with. The Small Business Administration announced that their offices would be available to make these loans.

Unfortunately, the Small Business Administration is acutely short of personnel. In addition to that, when I last checked on it, they had only $140 million in the pipeline, probably not enough money to take care of the severe needs of only one of our States.

The distinguished Senator from South Carolina, my colleague, and other interested Senators and Congressmen have not only met with the Administrator of the Small Business Administration, Mr. Weaver, to try to get the matter adjusted; we have also met with the Secretary of Agriculture, Mr. Bergland. We have met with the Deputy Director of the Office of Management and Budget, Mr. Jim McIntyre. We have had joint meetings with those individuals. Each and every one of them, individually and collectively, has pledged to us that they would try to make this law work, that they would make these loans available.

So what has happened? Thousands and thousands of farmers in my State and thousands and thousands of farmers throughout this Nation have been to the Small Business Administration. They have filed their applications. They have been told that their loans were approved. And what happened? Nothing.

Day after day, week after week, my office in the Committee on Agriculture, Nutrition and Forestry, my office in Atlanta, and the offices of Senators and Congressmen have been swamped with calls wanting to know what is the matter.

You have got a law on the statute books. We have had a disaster. The President of the United States has declared it to be a disaster. We have complied with the law. We have filed our papers. They say our loan is approved. They do not send us a check. They are threatening foreclosure on our farms; they are threatening foreclosure on my tractors. My ad valorem taxes are coming due. What am I going to do? You people passed the law; why can't you make it work?

That is what we are confronted with here today, Mr. President. The Senator from South Carolina and others who have cosponsored this legislation are simply trying to make the law work. We are trying to let the people of the United States of America know that they can rely on the full faith and credit of the United States of America; when they pass a law, the citizens of this country have a right to expect that that law will be executed in accordance with the manner that Congress devises. They have a right to expect that the Administrator of the Small Business Administration and his subordinates, all the way down to the district and the county level, are going to make the law work.

But the law cannot work, Mr. President, unless they have money. They had some 2 weeks ago, $140 million, and that was all. It requires further congressional appropriations to make the law work.

The Senator from South Carolina is asking for $1,400,000,000. That is just twice what the losses of Georgia are, Mr. President. That does not count the other 37 States in the Union.

That does not count the recent Johnstown flood. That does not count the recent Kansas City flood. That does not count the many other national disasters that have occurred throughout the length and breadth of this land.

We are not speaking, Mr. President, for my State and my region alone. This is a national matter. It extends from Washington State to Florida. It extends throughout the length and breadth of this land.

They are crying out for relief. Let us give them this relief. Let us approve the amendment proposed by the distinguished Senator from South Carolina by an overwhelming majority.

Mr. President, I yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a unanimous-consent?

Mr. HOLLINGS. I will yield to the Senator, but first, I yield to the distinguished Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I wish to speak in favor of the pending amendment to the D.C. appropriations bill, the Hollings amendment, of which I am a cosponsor.

This amendment is necessary in order to assure that the SBA physical disaster loan program has at least the minimum resources required to last it until the Congress reconvenes in January. The SBA on September 21 testified before the Committee on Appropriations that any supplemental appropriation substantially less than the $1.4 billion now proposed would likely cause the program to run short of funds while the Congress is in adjournment. In that case numerous farmers, particularly in the States with late growing seasons, would find themselves unfairly precluded from participating in what has become the major drought assistance program.

Like everyone else, I wish that this year's drought had never occurred, and that our farmers had never had to experience the financial losses that now necessitate this appropriation. And, of course, given that the drought did occur, I believe it would have been preferable for it to do so earlier in order not to cause any confusion to the regular appropriations and budget process. But that is the trouble with natural disasters—they do not follow any schedule. Since Mother Nature is unwilling to bargain or negotiate the matter, we have no choice but to follow her timetable, and to now accommodate this emergency situation.

This is not the first we have heard of this matter. It was first recognized as a likely additional demand on Federal resources during the Senate's consideration of the second budget resolution. At that time Senator NUNN proposed that the budget resolution spending ceilings be raised by $1.2 billion in order to accommodate this heretofore unknown emergency requirement. In the dialog that followed it became clear that no one was certain at that point just what the SBA program's minimum supplemental funding requirements were, and exactly how the funding and administration of the physical disaster loan program was to mesh with the Federal Government's regular farm assistance programs run by the Farmer's Home Administration.

Because of this it was decided to add only a small amount to the overall spending ceilings, $200 million, and to accept the result that a third budget resolution might be required if a subse-

quent and more careful examination of the program's financial requirements revealed that substantially more funds were needed. Senators may recall my comments at the time, when I agreed to this compromise but expressed my strong support for providing whatever supplemental amount was necessary once it became clear what that amount was.

Subseuqently Senator HOLLINGS' appropriations Subcommittee on State, Justice, Commerce, and the Judiciary—of which I am a member—did hold a hearing on the SBA physical disaster loan program. In this hearing, held September 21, Administrator Weaver indicated that the SBA's best estimate of its minimum supplemental funding requirements to last through the coming adjournment is $1.4 billion. Further, in response to my expressed concern over what would happen if the SBA did not receive funding adequate to last through the period of adjournment, administrator Weaver confirmed that because disaster assistance loans are granted on a "first come/first served" basis, those States which have comparatively late growing seasons or for some other reason have been late in submitting loan applications, would be likely to receive very little assistance under the program. It is of course of major concern to me that Washington is one of those States. But it is not alone. I understand that Oregon, Idaho, Mississippi, Kansas and Louisiana, to name a few, face similar risks of funding shortfalls.

Mr. President, in view of this situation I believe the Senate has no option but to approve the minimum $1.4 billion supplemental appropriation provided by the Hollings amendment. SBA personnel have been advertising their program and promising disaster assistance to farmers across the country, and it is our job to make certain that the Federal Government makes good on its word. If there are administrative and other problems with the program, then I would hope that we can today get from the authorizing committee whatever assurances are necessary that these problems will be quickly and expediently solved. Under no circumstances can we run the risk that the program will run short of funds before the Congress returns in January.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Mike Hammond, of my staff, be granted privilege of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from Vermont has the time.

Mr. LEAHY. Mr. President, as I understand the rules, there is 1 hour of time for those in favor of the amendment of the Senator from South Carolina and 1 hour for those in opposition. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont controls the time.

Mr. LEAHY. Then I yield time, for purposes of bookkeeping, in opposition to the Senator from Maine, such time as he needs.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager, my colleague from Vermont.

Mr. President, before I get into my prepared remarks, may I express my appreciation, and let there be no misunderstanding, to Senator HOLLINGS, Senator NUNN, Senator TALMADGE, and others, who, in my judgment, have acted responsibly in developing the information upon which they base this amendment.

They have been solicitous of the Budget Committee's concerns with respect to this legislation, and I think they are as troubled as I am about some of the budgetary implications of this legislation.

I also understand the problems of the farmers whom they seek to serve with a provision of our existing laws.

I can understand that. But my responsibility as chairman of the Budget Committee is to highlight the budgetary implications, the budgetary impact, of this proposed amendment, and to point out some of the policy considerations which we ought to examine. There are serious questions to be raised not only today, but in the months ahead as we consider our disaster relief programs. There are problems that have led to this amendment and may lead to others like it down the road.

Mr. President, the amendment now before the Senate spotlights a multibillion dollar bulge in the budget. The amendment would provide $1.4 billion in budget authority and outlays that 2 months ago were not anticipated in anyone's budget. It is a $1.4 billion first installment on a program that may ultimately spend $2 to $3 billion this fiscal year.

When the Budget Committee was considering the second budget resolution in July, the White House and the Congress anticipated fiscal year 1978 spending of about $115 million under the Small Business Administration's Disaster Loan Fund. Then, on September 16, less than 2 months later, the President submitted a request for supplemental funding of $725 million. OMB indicated that amount would provide adequate funding through next January. That was just over 2 weeks ago.

Then yesterday, Mr. President, I received a letter from Acting Director McIntyre of OMB. In it, he says he now estimates that $1.4 billion will be needed just to pay the bill for the SBA disaster loan program through the beginning of next calendar year.

Mr. President, in relation to SBA disaster loans only one thing now appears to be certain: that is that we can expect to return in January and find additional demands for this program beyond the $1.4 billion. No one knows how high the bill will go. But program administrators believe they will require as much as $2 to $3 billion of budget authority and outlays in fiscal year 1978 alone. This would be over 25 times the level of spending the Congress anticipated only 2 months ago. If the Administrators are right, spending under the SBA program in fiscal year 1978 alone will just about equal spending under the program in the entire previous decade.

What we have here is clearly a runaway program. It is one of the most startling cases of uncontrolled spending in recent years. Funding at the levels now being talked about would drive the Federal deficit up to almost $64 billion. For that reason and others, this requires a hard look and some hard decisions.

I am aware, Mr. President, that the amendment of the distinguished Senator from South Carolina is meant to relieve the pressure on vast numbers of farmers who have been hurt by a drought that has affected regions of this Nation. The pressure is felt most keenly by the many farmers who borrowed heavily to invest in land and equipment in the expectation of high prices and abundant crops.

It is a bitter time, and American farmers are hurting. I can understand that. We can all understand that. And we can all understand the demand for relief.

My good friend from South Carolina, for whom I have as great a respect as I have for any Senator, has kept me abreast of the hearings he held on this subject.

However, Mr. President, there are many pressing demands on the Federal budget. When we were shaping the second budget resolution we had to wrestle with choices that brought those demands clearly before us. We know the demands for energy. We know the demands for the cities, for national defense, for education, and for all the other pressing needs of the Nation. But, Mr. President, we also have a widspread and growing demand to bring Federal spending under control and to achieve a balanced budget.

The second budget resolution already reflects a significant increase in agricultural assistance in relation to other national priorities, Mr. President. In February, President Carter requested $2.3 billion in outlays for agriculture programs. The second budget resolution can accommodate an increase in spending to $6.3 billion. Now this amendment would provide an additional $1.4 billion through the Small Business Administration, and perhaps an additional $1.6 billion or more will be required before fiscal year 1978 is ended. Moreover, there are reports that the administration is developing proposals that will increase spending for agriculture by an additional $1.7 billion or more. So, Mr. President, within 7 months we could see planned spending for agriculture—for this one national priority—go from $2.3 billion to over $11 billion.

Mr. President, I must call the attention of my colleagues to one of the striking ironies of this jump in agricultural spending. Four weeks ago, when the fiscal year 1978 second budget resolution was being considered on the floor of this Chamber, some Senators from farm States succeeded in increasing outlays and the Federal deficit by $700 million.

This was done so the Department of Agriculture could help farmers who were hurt by low prices because their crops were unexpectedly abundant. Today we are being asked to provide additional bil-

lions of dollars so the Small Business Administration can help farmers who are hurt because crop yields are unexpectedly poor. Remarkable—for the same crop we will spend some Federal dollars because production is too high, while we spend other Federal dollars because production is too low. I wonder if we will find a more vivid illustration of the fact that when the Government tries to remove the risk of doing business in one of the Nation's major industries, it costs the taxpayers plenty.

Where will this money come from? The answer is clear. If we are not going to break the budget, the Congress must reduce spending elsewhere.

Let me mention here that a sizable portion of the second budget resolution totals has been allocated to the Appropriations Committee in accordance with section 302(a) of the Budget Act. This allocation amounts to $328.0 billion in budget authority and $300.6 billion in outlays. However, all of these amounts are already subscribed by congressional action completed or underway except for $21.4 billion in budget authority and $7.6 billion in outlays. And important later requirements anticipated in the second budget resolution could account for all of the remaining budget authority and outlays.

It is fully within the prerogative of the Appropriations Committee to provide funds for an unanticipated need and to accommodate that spending by making adjustments in other areas. However, if the Small Business Administration is to spend $2 to $3 billion in fiscal year 1978, sharp cuts will have to be made in expected appropriation measures or the second budget resolution ceilings will be breached.

Mr. President, we simply cannot afford the luxury of looking at one national need at a time and then ratifying runaway program costs to meet that need. However worthy the intentions that gave rise to the skyrocketing costs in the SBA disaster loan program, the reasons for these costs deserve a hard look and some hard decisions.

Apparently, Federal disaster loan programs deserve a much more intensive examination than we thought. With the best of intentions, a floor amendment to the Small Business Amendments of 1976 made it the stated policy of Congress that American farmers should be assisted through the programs of the Small Business Administration. With the best of intentions the Small Business Administration was pressed to make physical disaster loans available to farmers whose crops had been damaged by drought. And with the best of intentions, just 2 months ago, the Small Business Amendments of 1977 reduced the loan rate for this major SBA program to a low 3 percent on loans up to $250,000. None of these steps was taken with the understanding that they would bring a huge increase in Federal spending and cause a major shift in the operations of the Small Business Administration and perhaps have a profound impact on the agricultural credit markets.

But now we are finding out how easy it is, with the best of intentions, to unleash billions of dollars in Federal outlays—this year and in future years.

Congress did not intend to set up a multi-billion dollar money pump. Before this new SBA program commits our Nation to billions of dollars in future year costs, we need to change it to avoid waste and abuse. Certainly, savings can be made with administrative action. Surely, amendments can be made to the legislation to tailor eligibility to those most seriously in need and so, reduce its cost.

A few weeks ago, when the Senate was considering the second budget resolution for fiscal year 1978, Congress had just learned of this huge jump in SBA disaster loan spending. Some Senators, especially those from States most affected, wanted immediately to increase the budget resolution ceilings to accommodate about $1.2 billion in additional budget authority for this program. We had several long discussions about the issue at the time, and the Senators involved finally agreed on a process. It was decided, first, that the second budget resolution budget authority and outlay ceilings would be increased by about $0.2 billion—enough to accommodate moderate levels of funding for several months. Second, the appropriate committees of the Senate would closely examine the disaster loan programs and develop ways to insure that program spending was effective, efficient and controlled. Third, the budget process would accommodate the level of disaster loan spending that is found to be justified. I thought that was a wise course of action, and I have been following that course. I think it is the wise one to follow now.

I am pleased that the Select Committee on Small Business is proposing a comprehensive review of disaster loan programs. This Congress must address a number of complex issues related to these programs. I am confident that the able members of the select committee will help other affected committees and the Congress to do that job well.

Several pressing questions must be answered. First, what are the longer term effects of converting the Small Business Administration into an agricultural assistance agency? The SBA was originally created to help small manufacturing and retail firms compete in an ever more difficult environment. SBA has had little experience in dealing with the special needs of farmers. The SBA disaster loan program was created to help victims rebuild after destructive catastrophes such as floods and tornados. Disaster programs were not intended to relieve nationwide strains in the agricultural credit markets. But now within less than 6 months, the total budget of the SBA may be increased more than sixfold—from $600 million to perhaps $3.6 billion—almost five-sixth of its budget going to assist agriculture. The SBA Disaster loan fund will increase its operation over 25 times. How can an agency possibly increase its activities in that magnitude and still carry out its responsibilities with prudence and good management?

Second, why are the needs of farmers not adequately served by the emergency assistance and farm credit programs of the Department of Agriculture? The Farmers Home Administration and other agencies of the Department of Agriculture operate several grant and emergency loan programs to assist farmers affected by natural disasters. If those programs are not responsive and effective, as they apparently are not, they should be improved. SBA capacities should not be strained to solve problems in other agencies. Perhaps the Agriculture Committees of the House and the Senate should consider major revisions in the Nation's crop insurance program. Such a program could be carefully designed to be a smoothly functioning part of a healthy farm financing system. But farm financing will surely be disrupted if we rely on disaster programs that are designed primarily to aid victims of sudden catastrophes.

Third, why are disaster loan interest rates set at a level below the Government's cost? It is true that private lenders often are not able to provide the levels of credit needed to finance recovery from major disasters. So Government lending is often appropriate. It is true that some disaster victims cannot afford interest rates even at the Government's cost of capital. So direct grant aid should be provided to those victims. But if loans are offered to all at deeply subsidized interest rates, those eligible borrowers who normally operate with high levels of credit will have a strong incentive to borrow as much as possible under the disaster loan program. There will be greatly increased pressure on State Governors and on the SBA Administrator to declare a disaster whenever there is some local adversity. And, when a disaster is declared, there will be a strong motive to overstate disaster-related losses. We should not build those incentives into a program.

I understand that the Department of Agriculture conducted a nine-State survey of farm lending last March and found that over 90 percent of the farm borrowers would be able to get further refinancing from private sources. In July, the Kansas City Federal Reserve Bank surveyed banks in the region most severely affected by the drought and found that about 96 percent of the farm borrowers were not in imminent danger of liquidation or foreclosure. Those statistics may not tell the real story. But with the recent flood of applications for disaster loans, those statistics raise a question for further investigation. We should determine whether the cheap SBA interest rates are attracting large numbers of applicants who have access to other sources. If so, we may be causing normal lending arrangements to be displaced and disrupted.

Fourth, why do we not make sure that Federal assistance is used only for essential purposes and goes only to those who are most in need? We have heard that farmers have been treated unfairly. They have had to go to the Farmers Home Administration and prove that their loan applications were turned down by two banks before they are eligible for disaster loans, while millionaires in disaster areas can simply go to SBA and get disaster loans to repair their swimming pools and summer homes. That is in-

deed inequitable. But the question is: Why should Federal dollars be going to wealthy people and for such frivolous purposes as swimming pools? We should eliminate this type of abuse, provide aid only to those who really need it, and keep Federal costs under control.

Several years ago, if this sort of unexpected spending came to light, Senators might have been surprised. But the Congress likely would have quietly approved the request without regard to its impact on the overall budget and national priorities, just hoping the problem would not occur again. The congressional budget process was created because of the problems that resulted from that approach. Now the budget process properly requires us to look at the full costs of this program and reexamine the legislation that could result in these costs.

Mr. President, I have stated before—and I state again now—that responsible budgeting is not simply a process of holding down spending. It is a process of matching limited resources to real national need. If the need is clear, and if the program is effective, and if the spending is fully justified, then high costs alone should not deter us. We should weigh the need against competing needs and do what must be done.

The congressional budget process is flexible enough, as the Senator from South Carolina and the Senator from Georgia understand with me, to accommodate unanticipated needs that are truly justified. However, before we consider any change in the budget resolution ceilings, we must have solid accomplishment in three areas: First, administrative steps must reduce SBA Disaster Loan Fund costs; second, legislative changes must direct aid to those most in need; and third, restraint in appropriations must accommodate these new SBA costs to the maximum extent possible within the existing budget totals. Our Nation should be committed to new long-term spending only after those steps are taken and not before.

Now, Mr. President, with respect to the second point I made, the question of legislative changes, I understand the distinguished chairman of the Select Committee on Small Business, Senator NELSON, intends to conduct hearings on the whole scope of the SBA disaster loan programs, to reexamine them in the light of these recent developments and other developments that require that kind of examination.

Knowing that, the distinguished Senator from Oklahoma (Mr. BELLMON), my valued ranking Republican member on the Budget Committee, and I addressed a letter to Senator NELSON raising suggestions to be examined in those hearings to be applied to the SBA disaster loan program.

I ask unanimous consent, Mr. President, that a copy of that letter to Senator NELSON be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C.

The Honorable GAYLORD NELSON,
Chairman, U.S. Senate Select Committee on Small Business, Washington, D.C.

DEAR GAYLORD: Shortly before the fiscal year 1978 Second Budget Resolution was considered on the Senate floor, the Administration disclosed the possibility of massive, unanticipated spending under the Small Business Administration's Disaster Loan Fund. This was the first indication that recent changes in disaster assistance programs will have an alarming impact on the size and shape of future budgets.

After considerable discussion among Senators involved, it was agreed that a moderate increase in the relevant budget function should be provided in response to the sudden heavy demand. It was also agreed that large increases in funding would be provided only on the condition that steps be taken to eliminate unnecessary spending under the program.

The Select Committee on Small Business has stated it intends to undertake a broad study of the effectiveness of Federal disaster assistance programs. I strongly encourage that study. It could help the Congress complete the thoroughgoing review of these programs that was agreed to during the Second Budget Resolution deliberation.

I am certain that practical steps can be taken under existing law to reduce wasteful spending in the SBA disaster programs. I recommend that you support immediate implementation of short-term measures from among the following:

1. Establish a uniform credit elsewhere test for all SBA disaster loan recipients.

Loan applicants could be required to prove that their loan applications had been turned down by private lenders as is now required by the FmHA procedures. This requirement may deter many borrowers who do not really need the special SBA disaster loans. FmHA staff claims that eligible borrowers can obtain the necessary documentation without difficulty.

2. Limit disaster loan assistance to the amount of loss greater than the loss sustained in a "normal" bad farming year.

Prudent farm financing is based on the assumption that farm income may fluctuate significantly from year to year—farmers should expect occasionally to have years in which farm prices or production levels drop. A disaster loan program is not intended to remove risks that are inherent in a given business. Thus disaster assistance should cover only the loss a prudent farmer could not have been prepared for.

3. Limit business disaster loans to cover only losses in operations that provide a substantial percentage of the businesses' income.

The FmHA requires farmers to prove that they have sustained losses of at least 20% in a crop or other operation that provides at least 25% of the farm's income. Once this test is met, FmHA stands ready to provide loans to the full extent of the loss. The SBA could adopt a similar requirement and apply it to all businesses. This would prohibit the abuse of the SBA disaster loan program by large, multi-plant firms who sustain losses in a geographically limited disaster.

4. Provide SBA disaster loans for only a fraction of the documented loss.

This would recognize the disaster victim as a co-insurer against the loss. It would be based on the assumption that each disaster victim could have reduced the effect of the physical disaster by having taken preventive steps that the victim chose not to take. However, it would have the tendency to increase the burden on small borrowers, who find the burden of loan processing offsets a greater portion of the benefits of their loan.

5. Place a maximum dollar limit on SBA disaster loans.

This would be based on the assumption that the operators of very large businesses have a greater capacity to sustain losses and raise financing than is available to small businessmen. The benefits of the subsidized interest rates on the SBA loans should help the borrower bear the burden of higher interest rates on the portion of the loan that is needed above the maximum.

6. Establish income eligibility standards for disaster loans.

Under existing law, wealthy individuals are eligible for SBA disaster loans for such purposes as replacing disaster damaged summer homes and swimming pools. Large corporations also have received low interest loans to replace plant and equipment. In the past such lending has been considered of questionable merit but part of the price the Government had to pay for providing rapid aid to those really in need. The Administration could establish eligibity tests to target assistance on the most needy individuals and businesses.

7. Require farmers to exhaust the services of FmHA before being eligible for SBA assistance.

Senator Nunn turned to the SBA physical disaster loan program as a means to help hard-pressed farmers who were just a little too well off to meet the Farmers Home credit test. It was not his intent to supplant the role of FmHA in emergency lending to farms or to open up Government assistance to wealthy farmers. The Administration could adopt the same objectives by having the county offices of FmHA complete a preliminary process of SBA applications to determine which borrowers would be eligible for FmHA assistance.

8. Provide shorter terms on SBA disaster loans than has been the practice to date.

SBA disaster loans, since the recent enactment of the Small Business Amendments of 1977, provide two major benefits (1) deeply subsidized 3 percent interest rates and (2) longer repayment periods than are ordinarily available from private lenders. The interest rates are set by law. However, the repayment terms are set by administrative decision. The SBA has testified before the State-Justice Appropriations Subcommittee that the agency has in the past set short repayment periods to control abuse of the program by very wealthy individuals and firms. This method could be used to screen out some of those who seek disaster loans only because the terms and interest rates make such borrowing a very good business deal. This may have a significant effect in reducing the practice of refinancing short-term production credit with long-term when that is not necessary. It would reduce the value of loans outstanding in future years and thus reduce the cost to the taxpayers of any interest rate subsidy.

9. Loan variable cost of production or market price of crop, whichever is smaller.

Disaster loans should not cover costs which are not directly dependent on the farming activity in question. There is no need to guarantee extra payments beyond costs when market prices are over the variable cost of production. The definition of variable costs of production could include: seed, fertilizer, pesticide, soil preparations, farm fuel, irrigation, harvesting costs, interest on production expense loans. Variable costs should exclude interest on land, taxes on land and other fixed costs of production.

10. Loan only 50 percent of the eligible loan amount, and consider the other 50 percent after applying a strict "credit elsewhere" test.

This would be a relaxation of the "credit elsewhere" test discussed above.

I believe that the above changes in pro-

gram administration should also be included in revisions of legislation so that disaster assistance may be more effective within reasonable levels of funding. I recommend in addition that your committee give specific consideration to the following changes that would require legislative action:

1. Set disaster loan interest rates equal to the rates for Treasury obligations of comparable maturity plus a premium to cover servicing costs and default risk.

P.L. 95–89, enacted August 4, 1977, reduced the interest rates on SBA and FmHA disaster loans to 3% for amounts up to $250 thousand. Many financial experts consider artificially low interest rates on Government lending to be an undesirable form of subsidy. A wide spread between disaster loan rates and those available elsewhere give eligible borrowers a strong incentive to seek disaster loans to meet as much of their credit needs as possible. Those who normally operate on high levels of credit are motivated to overstate disaster-related losses. Total U.S. farm debt has been increasing at an average annual rate of 21% in the last decade, so this should be a major concern in the SBA and FmHA programs. Fixed interest rates cause the value of the Federal subsidy to rise as market interest rates increase, and the problem becomes more intense.

Major natural disasters often create a need for rapid and abundant credit that cannot be met by the normal financial institutions. If Federal disaster loan interest rates were high enough to cover the Government's costs, they could more efficiently be targeted on the problem of credit availability in disaster areas. Although rates would still be somewhat below those available from banks, they would not be so much lower as to create troublesome incentives.

2. Provide direct grants to cover a portion of the cost of repairing or replacing essential facilities.

Federal disaster subsidies have been authorized because some individual's and essential businesses do not have the resources to recover rapidly after a catastrophe. Rather than offering low interest rates to all borrowers to cover all losses, direct grants could be made to lower income families to pay part of certain essential costs such as the provision of safe and sanitary shelter. Grants could also be made when necessary to ensure the survival of basic small businesses. These subsidies could be more easily targeted, evaluated and controlled by Federal agencies and the Congress.

3. Establish a comprehensive, self-financed crop insurance program to mitigate the effects of cyclical crop losses.

Disaster assistance programs will be enormously expensive and disruptive if they are a primary source of aid to farmers who are hurt by bad weather. A crop insurance program can be designed as an integral part of the farm financing system. A disaster assistance program, designed to aid victims of sudden catastrophes, cannot. Under the SBA disaster loan program as now designed, the Government assumes important risks that prudent farmers and lenders traditionally have anticipated in their financing decisions. If that remains national policy, it may encourage farm debt to increase to undesirable levels and further fuel the recent speculative rise in land prices. A comprehensive crop insurance program would not remove the risks but would spread the risks across large numbers of farmers and across several years. The current crop insurance program covers only a few crops and has low levels of participation in many areas.

In addition to the specific legislative proposals described above, I recommend that your committee's deliberations provide answers to the following fundamental questions:

1. Which adversities justify Federal assistance and which ones do not?

2. What distinctions should be made among fundamentally different types of disasters, and what implications do these distinctions have for the design of disaster assistance?

3. How can we avoid overlapping responsibilities among Federal agencies?

4. What steps can prevent disaster assistance from providing windfall benefits to wealthy individuals, firms or others who can recover from a disaster without Federal aid?

5. What measures can ensure that the Government does not remove risks that prudent individuals and firms should be expected to assume?

6. How can assistance be limited only to those purposes essential to the rapid recovery of disaster damaged social and economic structures?

7. How can disaster benefits be designed so as not to create undesired incentives for potential recipients?

8. How can state and local policy limit losses due to natural disasters?

9. How can disaster programs be administered so that they do not disrupt ongoing Federal programs?

When the First Budget Resolution for fiscal year 1979 is prepared the Congress will have to consider SBA disaster loans in relation to other assistance to small businesses and other national priorities. Therefore, the Budget Committee will need the views and recommendations of the Small Business Committee concerning this rapidly expanding program.

Please let me know how your Committee's study will treat the issues outlined above and improve the budget decisions. This matter is of major importance to the budget process, and the Budget Committee will give particular attention to the recommendations of the Small Business Committee.

Sincerely,

HENRY BELLMON.
EDMUND S. MUSKIE.

Mr. MUSKIE. I have made these remarks, and they have been long, Mr. President, not in any spirit of criticism of Senator HOLLINGS or those who have joined him in sponsoring this amendment. My comments are intended to be constructive, as I think they understand. The present concerns that Senator BELLMON and I have about this program and the precedents we may be establishing in connection with this program that may spill over into other areas of the budget. I know Senator HOLLINGS understands this, and I know Senator NUNN does.

At this point I would like to yield to my colleague from Oklahoma for whatever comments he may wish to make.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. I appreciate the distinguished Senator from Maine yielding to me at this point.

I want to begin by saying that I sympathize with those who are suffering from the 1977 drought. As an Oklahoma farmer I have had many first-hand experiences with conditions of these kinds. I have often seen crops burn up, grass turn brown, cattle grow thin, soil going to dust, and ponds dry up in my own State of Oklahoma, and I believe it is a terrible experience, and I am sorry anyone has to go through it.

I am fully in support of programs to help those truly in need as a result of those conditions.

I think we have had some overstatements here, Mr. President, this afternoon. Those who say this program means survival for those caught up in these conditions, I think, have overstated their case because the fact is that we have available in the Farmers Home Administration programs carefully tailored to meet the credit needs of those rural people who are sufferingfrom a drought.

I think the Senate should not be misled about what we are about to do, and I have no question in my mind the Senate is going to approve this request for the $1.4 billion in appropriations.

What we are about to do here is to turn over a major program, a very large sum of money, to an agency, the Small Business Administration, which has virtually no experience, and which is seriously understaffed to deal with a program of this magnitude.

The only advantage by turning over to the Small Business Administration this program rather than expecting those who need loans to go to the Farmers Home Administration, it is going to make it much easier for them to get certified for the loans since they do not need to show that they cannot get credit elsewhere, and since they will not need to show they have suffered loss serious enough to qualify them under the rules of the Farmers Home Administration.

In effect, these SBA 3-percent loans are sweet deals for people who are able to borrow money elsewhere and who have not really suffered the serious losses the Farmers Home Administration requires for them in order for them to be qualified.

Mr. President, my concern is that, unless we show restraint, we are going to see a program here that is so badly abused that there will be a huge public outcry raised against all disaster programs, even those that are carefully run, to the effect that we may lose disaster relief for those who genuinely need it.

I want to say for the record that I am not in favor of a double standard. I do not believe we should have a fat program for those who live on one side of the city limits in the urban areas, and a tough program for those who live in the rural areas. This is what we have had in the past. This may cause Congress to realize Small Business Administration programs have been too loose in the past, and have to be tightened up for the urban as well as the rural areas.

I believe the same standard should apply to both sides of the city limits, and I hope that will be one of the results of the action we are about to take here today.

The problem here today is, as long as the Small Business Administration has cost relatively small amounts of money Congress has not shown much interest in tightening this up and, perhaps, after

today this interest will be generated, and we can write a better program.

Mr. President, the disaster programs I believe are in themselves a disaster. There is a need for programs for those who cannot help themselves in conditions like these. But we should be careful that we do not put out a lot of money, that we do not allow serious abuse of the programs and, in this way, generate strong taxpayer opposition and cause us to lose our opportunities to help those who cannot help themselves.

I am seriously concerned over the overwhelming increase in the Small Business disaster loan program reflected in this amendment.

Mr. President, as ranking minority member of the Senate Budget Committee, I am concerned over the overwhelming increase in the SBA disaster loan program reflected in this amendment. Only a short time ago, it was anticipated this program would cost $115 million in fiscal year 1978. Now, it is expected that program costs could reach $2 to $3 billion in this one year alone. Once a program of that size gets underway, it will place ever-increasing demands on our budget in future years. As we all know, Mr. President, we have a difficult time holding down the predictable cost of Federal programs from year to year. So when the estimated cost of one program jumps in a matter of months—from the $115 million contemplated to over $1.4 billion—and that amount is expected only to carry us through to January—to an estimated $2 to $3 billion by the year's end—we had better stop and take a good hard look at the program.

This is not to say that I wish to deny Federal assistance to the many drought-stricken farmers who have suffered severe crop losses in the 1977 crop year. I do not. Nor do I wish to see the applications of those entitled to SBA physical disaster loans under the law turned down because of a lack of funds. I am a farmer and I represent an agricultural State. I understand the plight of these farmers. I am keenly aware of the vital role they play in our Nation's economy. Many are in serious need of assistance to bring them out of the financial crisis they now face. Many must have help to pay the losses they incurred last year so they can plant crops again in 1978. It is this need which has triggered the flood of applications into SBA offices and has created pressure for additional funding of this program.

As I recall, when this legislation was before us it was the desire of the Agriculture Committee that loose standards for payment and coverage be tightened up under the SBA disaster loan program. Farmers Home is not as liberal in its payments and coverage standards. Farmers Home applies a "credit elsewhere" test requiring proof that the applicant is unable to obtain commercial credit before the loan is granted. The Farmers Home requires proof that a loss has been sustained of at least 20 percent in a crop or other business operation providing at least 25 percent of the farm's income. SBA has no such requirements for disaster loans. And, when we failed in our efforts to tighten up liberal SBA standards, agriculturally oriented members figured it was only fair to make natural disasters in ranching and farming eligible for SBA disaster loan assistance on the same terms as disasters in urban centers. It is critically important that we do now what we should have done earlier.

Congress should take a hard look at whether we are, in fact, operating duplicative Federal programs. Perhaps we should rework our FmHA programs so that they are more responsive to the needs of farmers suffering from natural disasters. It may be that SBA standards for payments and coverage are too liberal, it may be that the Farmers Home Administration is more appropriate. It may be that we should, at the very least, require a credit test and major proof of loss before granting such loans. I think we should also take a good look at the 3-percent interest rate recently set on loan amounts up to $250,000. This is a source of potential abuse, being a much more attractive means of borrowing than at the prevailing commercial rates.

The SBA has had no experience in dealing with the needs of farmers. The Farmer's Home Administration has such experience. Whether the SBA can administer a program which has grown so large, in so short a period of time, efficiently and effectively and without large-scale fraud is questionable. We are told that the SBA loan program is more responsive than the Farmer's Home emergency loan program. We are told that SBA disaster loans are disbursed more quickly with less redtape. There is great danger that abuse and waste in this program will be considerable.

In any event, we need to take a close look at the interrelationships of our Federal disaster assistance programs and ask ourselves if we are utilizing the most appropriate vehicles for extending such aid and whether the form of that aid is appropriate.

We have problems. We need some answers. We need a broad and comprehensive review of disaster loan programs. I support my colleague, Senator NELSON, in advocating that such a study be undertaken by the Select Committee on Small Business. With timely answers provided by such a study, I hope we can make those legislative and administrative changes in our disaster loan programs that will bring spending under control while providing immediate and responsive relief to those whose lives are suddenly and dramatically disrupted by a major natural disaster.

Mr. President, I sympathize with the plight of rural people who are caught up in a drought. As an Oklahoma farmer I have suffered through these conditions more than once. I would favor making the full support of the FHA loan programs available. These programs have been tailored to meet the needs of rural people. They have built in the needed safeguards against abuse. The FHA has proven its ability to administer drought disaster loans to farmers and ranchers. The SBA has not.

Mr. President, I shall vote against this appropriation as a way of showing my concern that this program badly needs to be tightened up. I shall work for this result.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

SEVERAL SENATORS. Vote!

Mr. HOLLINGS. Mr. President, preparatory to voting, I want to go along with the idea extended by my distinguished chairman of the Budget Committee, who has been very conscientious in this regard, and make certain that these programs do not run away, with his letter that he has addressed to Senator NELSON, the chairman of the Small Business Administration Committee. We will be having joint hearings sometime later this fall after we go out. I support some of those ideas he extended.

But I think it should be said in credit to the chairman of our Small Business Administration Committee that generally speaking sweet deals and runaway programs do not apply here.

Mr. President, what was really the sweet deals and runaway programs were those like Hurricane Dora, where they had the forgiveness clauses of $41.4 million, and Hurricane Celia where they had the forgiveness clauses of $56 million. These are just outright grants hiding under the term of "forgiveness clause." When we had Hurricane Agnes it was $477 million in grants. There was no percentage of money. There was no go and see what your credit is. For anything that you could correlate and say, "I lost it in the hurricane," bam, you got the money.

If you could not think it up, others would think it up for you. In the Los Angeles earthquake there was $163 million paid out, and I would say 90 percent fraudulent. Ninety percent was fraudulently paid with fellows going from door to door with a Polaroid camera giving $3,000 repair jobs for anything and to everyone, for the damage to swimming pools, knowing that they would not pay any of the $3,000 or $2,500, and the U.S. attorney out there would not even bring a case for the $500 amount owed the Government.

Senator NELSON in the Small Business Committee cut out the forgiveness clauses. There are not any forgiveness clauses there.

There are other areas to look at. In the New York area there is the civil disorder considered as a natural disaster under the Disaster Relief Program of America. And there is Buffalo where we had the ice and snow disaster.

How are we going to deal fairly with the problem there and in other parts of the country, or how are we going to deal with civil disorder where no one raises their voice from the Budget Committee?

No one raised their voice from the Budget Committee when we paid out $30 million for civil disorder.

Finally, thank heavens for the new mayor nominee. He said they should have called out the National Guard and enforced the law. I have no hard feelings.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Wait. I want to complete this thought.

I understand if you had nothing to do with it and you owned a store, came back, and the store was in shambles, it was a disaster to the storeowner. I sympathize with that situation, but the place to put the road blocks, the restrictions, and the auditorial requirements to make this a substantial disaster relief program and something that will have the public confidence, is not here with the farmers all of a sudden, but in those particular areas where we have forgiveness clauses, civil disorder, and other things.

I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I agree we did not look at the $30 million item that the Senator referred to. Neither did we look at the $115 million SBA request in the original budget. As the Senator knows, we do not look at items of that magnitude in the Budget Committee. That is the Appropriations Committee's business.

But when a program then escalates from an expected cost of $115 million to a potential cost of $2 to $3 billion, the Senator surely will not argue that is not a Budget Committee responsibility.

If that civil disorder the Senator refers to begins to rage to the point where spending for it might rise to about $3 to $4 billion in disaster relief then we will have to look at that also.

Mr. HOLLINGS. That is right.

Mr. MUSKIE. There is no question about it.

But let me say this in the spirit in which I know the Senator makes his remarks. He displays, in what he has just said and in his approach to the amendment before us, the kind of responsible regard for budgetary implications that I have come to associate with him. He has supplied that same kind of concern to his responsibilities in connection with the small business programs. I know that. And I know that Senator NELSON has also. That is why I am willing to see this responsibility rest in those hands.

I appreciate what the Senator has done on very short notice with very little time for hearings on this particular amendment. It is impossible to write new legislation and new policy to apply under those conditions.

So the purpose of what I had to say today is to make a record that will enable us to consider what, if any, policy changes should be made. And the Senator has helped make that record.

Mr. HOLLINGS. Mr. President, that is what my comment was really directed to because I was answering and commenting on a letter of our distinguished chairman to Senator NELSON, the chairman of the SBA Committee of the Senate.

In addition to the $30 million already approved, there is almost $34 million in New York in process, so that is going to be $64 million for failure to enforce law and order. Is that the kind of disaster we are going to take out?

In any event, let us look at the disaster loan program and the payback because I think it is very important that where the rate of loss on the regular SBA loans was 4.05 percent in 1976, it was only 2.33 percent in the disaster loan program. For 1977 thus far for all SBA payback programs there have been a loss rate of 4.34 percent, whereas it has only been 2.45 for the disaster loans. I think the Senator from Maine and myself both were looking into that.

Mr. TALMADGE. Mr. President, will the distinguished Senator yield at that point?

Mr. HOLLINGS. I yield.

Mr. TALMADGE. Is it not true that virtually every rural bank in America is loaned up to capacity at the present time?

Mr. HOLLINGS. That is exactly the situation we are in.

Mr. TALMADGE. Is it not normally true that most rural banks have reserves which they loan to urban banks and now the opposite is true that rural banks have been loaned up to capacity and there has been an inflow of money from urban banks to rural banks?

Mr. HOLLINGS. That is exactly correct.

Mr. TALMADGE. That has happened for the first time in my memory.

Mr. HOLLINGS. That is exactly right, I say to the distinguished Senator and chairman of our Agriculture Committee.

Mr. TALMADGE. Is it not further true that the parity ratio of farm commodities at the present time is at the lowest level it has been since 1933 during the dark depths of the depression?

Mr. HOLLINGS. We have the worst situation we have ever had in my State of South Carolina.

Mr. TALMADGE. So we have a calamity, not only a drought, but a calamity on agricultural prices which compounds the calamity. Is that not true?

Mr. HOLLINGS. That is exactly right.

The whole idea was to keep the economy going, keep people from being unemployed and to have an economic stimulus with the $13 billion that we have already approved, just to try to find ways to spend money. And over the weekend the cry and shout from every economist was that we should have gone ahead and given everyone else we could find a $50 rebate, just give that back to them, and everything else. While we are talking about that, there are people trying their best working from morning to night and they cannot leave their land. They are loaned to the hilt. They are about to be foreclosed. They are levying on the loans, and everything else. They are about to go bankrupt.

And people in America wonder why Congress vacillates and cannot observe the obvious and cannot move forward on the situation. I know it is not the Senator's intent to hold it up. He has been nice.

Several Senators addressed the Chair.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from South Carolina.

Mr. THURMOND. Is it not ridiculous that this country can find the ways and means to spend not millions but billions of dollars overseas to other countries for all kinds of projects, and yet there is a squabble here over providing just a few funds here that will be loaned to the farmers, not given to them? We give away billions of dollars, and yet we quibble over $1.4 billion here as loans to our own farmers.

Mr. HOLLINGS. That is exactly right.

Several Senators addressed the Chair.

Mr. NUNN. Mr. President, will the distinguished Senator yield?

Mr. HOLLINGS. I yield to the Senator from Georgia.

Mr. NUNN. As I said, I completely agree with the amendment of the Senator from South Carolina, and I certainly intend to support it.

I wish to say, though, that I had a chance to read this letter that the Senator from Maine has written to the chairman of the Small Business Committee, Senator NELSON. I think there are some very constructive suggestions in that letter. I think what we have here now is the situation because of the magnitude of the disaster that this whole disaster program is coming under the kind of focus that it really should have come under before we had a disaster of this magnitude.

That is not the fault of the farmers in Georgia, South Carolina, Washington State, Oregon, or Iowa or anywhere else. The Senator from Maine mentioned a minute ago about swimming pools and the millionaires having vacation homes replaced. That has been the existing law, and those occurrences have taken place in the past following hurricanes, and so forth.

I think we all need to agree that we need to take another look, not just at the farm or agricultural aspects of this program, but at the whole disaster program, as my senior colleague from Georgia (Mr. TALMADGE) has already discussed he will do as to the crop insurance and whether crop insurance can really take the place of SBA and Farmers Home Administration, at least to some extent, in terms of disaster insurance.

So I think the Senator from Maine, even though I do not agree with his position on this amendment and intend to support it, has made some very constructive suggestions that need to be looked at, not just by the committees of Congress but also, I think, as brought out in his letter to the Senator from Wisconsin, that the Small Business Administration does naturally want to look at some of these provisions. In amending the program, we are not talking about just a change in the law, but also in the administration. One of the things I think the Small Business Administration is doing, and I know this has worried the Senator from South Carolina, the senior Senator from Georgia and the junior Senator

from Georgia, is that if a man comes in and wants to borrow 3 percent money, that amounts to $10 billion or $15 billion over a lengthy period of time. We have been assured that in considering that, even though the person would theoretically be eligible, the limit of that loan will be compressed to a very short maturity. That is one administrative change that I think would be constructive and in keeping with the theory all of us are talking about.

So I do not think the disagreement here involves a very wide gap. The Senator from Maine has his duty as chairman of the Budget Committee. We have our duties in terms of our committees, and also in terms of our home States. I hope all of us will look at this problem in the long term rather intensely during the next year, so that next year we will not be back here covering the same ground again.

Several Senators addressed the Chair.

Mr. MUSKIE. I yield now to the Senator from Vermont.

Mr. LEAHY. Mr. President, I have two requests.

First, I ask unanimous consent that Martin Franks of my staff be given the customary floor privileges during the consideration of this matter.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. LEAHY. Then, Mr. President, because of the lateness of the hour and since a number of Senators have expressed an interest to vote on this particular issue and other issues tonight, I would ask unuanimous consent that there be a rollcall vote on the amendment beginning not later than 20 minutes past the hour.

Mr. HOLLINGS. We are ready to vote right now.

Mr. MUSKIE. All I need is 30 seconds, and I am ready.

Mr. LEAHY. Will you be ready for the rollcall vote in 2 minutes?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, first of all, let me assure my good friends from South Carolina and Georgia that their fiscal instincts do not worry me. Second, let me say to my good friend, the senior Senator from South Carolina, that there is considerable pressure on this body, as he knows, for us to achieve balanced budgets, and we cannot achieve balanced budgets if we yield to every need. You know, achieving a balanced budget means saying no to some good programs. It means saying no to some real needs. It is not just a question of eliminating the obviously unjustified needs; we have to say no to real needs.

Up in my part of the country, we do not have farming areas big enough to qualify for this kind of disaster loans. We have potato growing areas, and last year there was a flood of a local nature that rotted almost the total crop, of many farmers, in the ground. That was a disaster to them, but they did not qualify because the disaster was not big enough.

This past summer, in the coastal area, where many people make their entire living out of a 10-week tourist season, they had so much rain that the tourists did not come. That was a disaster to them, but they could not qualify because the disaster was not big enough.

Two years ago there was very little snow in Maine, so many of our ski areas had a disaster, but they could not qualify because their disaster was not big enough.

So at best we are not going to cover everybody's disaster or everybody's setbacks. We have to understand that. Nevertheless, this is a legitimate issue. Senator BELLMON and I are put in the position of voting as we are going to, because, we think we need to focus Congress attention on this problem and the need to take a look at the underlying policies.

Mr. NUNN. Mr. President, if the Senator will yield for a brief observation, I am sure we are willing to trade our biggest disasters for Maine's small disasters.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Michael Short of the staff of the senior Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 525 Leg.]

YEAS—82

Allen	DeConcini	Huddleston
Anderson	Dole	Inouye
Baker	Domenici	Jackson
Bayh	Eagleton	Javits
Biden	Eastland	Johnston
Brooke	Ford	Kennedy
Bumpers	Glenn	Laxalt
Burdick	Gravel	Leahy
Byrd, Robert C.	Hansen	Long
Cannon	Hart	Magnuson
Case	Haskell	Mathias
Chiles	Hatch	Matsunaga
Church	Hatfield	McClure
Clark	Hathaway	McGovern
Cranston	Hayakawa	Melcher
Culver	Heinz	Metzenbaum
Curtis	Helms	Morgan
Danforth	Hollings	Moynihan
Nelson	Sasser	Talmadge
Nunn	Schmitt	Thurmond
Packwood	Schweiker	Tower
Pearson	Scott	Wallop
Pell	Sparkman	Weicker
Randolph	Stafford	Williams
Ribicoff	Stennis	Young
Riegle	Stevens	Zorinsky
Roth	Stevenson	
Sarbanes	Stone	

NAYS—13

Bartlett	Chafee	Lugar
Bellmon	Durkin	McIntyre
Bentsen	Garn	Muskie
Byrd, Harry F., Jr.	Goldwater	Proxmire
	Griffin	

NOT VOTING—5

Abourezk	McClellan	Percy
Humphrey	Metcalf	

So the amendment (No. 1024) as modified, was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 980

Mr. WEICKER. Mr. President, I call up the amendment of Senator EAGLETON and myself which is at the desk.

Mr. DECONCINI. Will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for himself and Mr. EAGLETON, proposes amendment No. 980.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 22, strike out "92,000,000" and insert in lieu thereof "110,000,000".

On page 13, line 16, strike out "102,173,400" and insert in lieu thereof "129,173,400".

Mr. WEICKER. I yield to the distinguished Senator from Arizona for a unanimous-consent request.

The PRESIDING OFFICER. The Chair asks if this is the amendment on which there is to be 2 hours of debate?

Mr. WEICKER. My response to the Presiding Officer is that I was willing to cut that down to 1 hour. I do not know if that has been agreed to or not.

Mr. LEAHY. Mr. President, I am perfectly willing to cut that down to 1 hour, equally divided, and I ask unanimous consent that we vote no later than 23 minutes to 7.

Mr. WEICKER. Why not have it 20 minutes to 7?

Mr. LEAHY. I change that to vote no later than 20 minutes to 7.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHILES. We are willing to cut that down further than that, Mr. President. We are willing to cut it down to 15 minutes.

Mr. LEAHY. This manager of the bill, at least, will do everything possible to cut it even closer. But, I warn Senators while

they are here, Mr. President, that there will be at least one other rollcall vote after the convention center vote. I ask, if it is at all possible, that both the minority and majority cloakrooms send out on their hot lines that there will be at least one more vote after this and possibly two more.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. Mr. President, I intend to yield to the distinguished Senator from Arizona in just a few seconds.

The amendment before us restores $27 million in funding, which moneys are for the acquisition of land for the proposed civic center in downtown Washington. I shall have further comment to make on the substance of this matter.

I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am happy to join my friend from Connecticut in urging the construction of this center. I know that there has been a lot of opposition to it, some in the press.

Mr. President, I believe this would be a good move for the District for, while we have some of the finest hotels that can be found in the world in which to hold conventions, we are very limited as to the size of the conventions that can be held here, in the Nation's Capital. Three thousand is about the limit. When I look at convention centers like Las Vegas, with their ability to handle over 18,000 people in one location, and my own hometown of Phoenix, which can handle over 12,000, and other cities that are really going after this convention business, I see no reason in the world why the suggestions of my friend from Connecticut would not bear fruit here, in the District of Columbia.

I think we have to keep one thing in mind. It has been the custom, ever since we created a Federal city by the Constitution, for the Federal Government to support this city. But the time is coming—I shall not say in all probability, but the chances are good, now that President Carter has endorsed the idea—when the District of Columbia will, in effect, become another State.

Raising money to support that State is going to be a problem that will no longer be a problem of the other 50 States in this Republic.

While this project is going to cost about $110 million, $83 million for the building and $27 million for the land, the method of financing will be a loan of $110 million for the Treasury, paid back over 30 years, or at the time of sale of a district bond issue which is estimated within 3 years.

I think that this is a reasonable amount of money. I will admit it is not cheap to build these large buildings today. I will also go a step farther and say experience has shown that this type of building ususally goes bankrupt two or three times.

The time comes, though, when it does begin to pay back to whoever is willing and able to pick it up at that time, which should be, again, the city of Washington.

My city has just gone through, in the last 10 years, a similar experience of building a large civic center, which is also a large arts center and the home of the philharmonic and other cultural organizations where they had no home before.

Mine is, as I say, one of the largest convention centers. It has somewhat the same problem of Washington where the hotels are pretty much all in one area, the businesses are in another area.

There are large parts of downtown Washington that need rehabilitation very badly, that we do not see in the future, unless something like this comes along which will then give the business people, professional people and local residents some cause to have pride in the whole city of Washington, other than the pride that is natural because it is the Nation's Capital and a very beautiful city, if we do not get too picky about where we are looking.

The place they plan this construction is downtown. Even though I know hotels are building expanded facilities to handle more conventions, I do think it is proper that the Nation's Capital have a place other than that beat-up, old, torn down, dilapidated armory in which to hold not just conventions, but shows, automobile shows, boat shows, large exhibitions of paintings that cannot be handled by the existing art galleries. Even, Mr. President, the idea of holding the national conventions of the two larger political parties in this country in the Nation's Capital, to me, strikes a very resonant chord.

I think it would do both the Republicans and Democrats good to meet here in the shadow of the history of our country, not once, but maybe have their regular 4-year meetings in this city so that as they are meeting they can feel some of the thrill of this city, some of the history of this city, some of the things that we all love about it, even though Washington is not our home.

Mr. President, I have been for this project, as I say, even though my mail runs about 50–50 on it from local people—50 percent like it and 50 percent do not like it.

We talk about it costing a lot of money. Well, we just kissed away a billion-odd dollars for the Small Business Association for drought relief. If we can do that, I see no reason we cannot do it this way. We provide for drought relief and yet we grew more corn this year than in the history of the country, more soybeans, more cotton. Yet we have to have drought relief, over $1 billion to help people grow more crops than ever before.

I voted against it, so I think I have a right to mention that particular point, because we are now talking about $110 million, not $1 billion or $2 billion.

Mr. President, that is about all I have to say on this. I have learned from practical experience that the cities really want to bring in new money—I think of Atlanta. I think of Hartford, Conn., I think of Chicago, I think of Los Angeles and Las Vegas. Reno is attempting to get in the act.

This convention business is one of the biggest businesses in this country. Do not ask me to explain why, But we all know in this Chamber that we are invited to literally dozens of conventions every year, some of them representing gatherings we never heard of.

But they have the money to do it. They are looking around for places to do it. At the present hotel prices around the country, I would say the average attendee of a convention is going to drop at least $100 a day in the community he is attending the convention in.

I am speaking, therefore, maybe against my own best interests, or against the best interests of my junior colleague from the city of Tucson, which is also a very great convention center.

But I do think it would be wise to build this structure for the District of Columbia and let them begin enjoying the income from these large, gigantic conventions that cannot be held in this community today.

I thank my friend from Connecticut for yielding to me.

Mr. EAGLETON. Will the Senator yield?

Mr. WEICKER. I yield 4 minutes to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank my colleague.

I rise to urge Senate approval of an amendment Senator WEICKER and I have introduced that will provide $27 million for a convention center in the heart of downtown. The convention center will meet several urgent needs:

First, it will provide jobs in a city that desperately needs employment opportunities.

Second, it will attract business and spur redevelopment in an older section of town.

Third, it will encourage private investment and increase local revenues.

All these objectives are vitally important if the District is to realize home rule and lessen its dependence on the Federal Treasury.

The site of the center, at Mt. Vernon Square, midway between the White House and the Capitol, was carefully selected. It is adjacent to some 30 acres that could be readily redeveloped with hotels and other businesses to serve the 350,000 and more delegates expected at the center each year.

It has been reliably estimated that some 3,000 additional hotel rooms would be needed, along with 40 to 50 new restaurants and 20 or so new stores.

The most immediate result would be the creation of jobs—2,000 in construction and 4,000 in the center and in the hotels and other new or expanded businesses. The payroll would come to more than $42 million a year. Add the $100 million convention center delegates would spend, and the District will have created for itself a vital and constant source of new revenues. The fiscal experts are confident that the District, within 3 years after the center opens in 1981, would net at least $12 million a year in additional tax revenues from new convention business.

The District will borrow the $27 million to buy and prepare the site. It already has agreed to new hotel and business taxes to cover interest and other early costs. Within 3 years, it plans to enter

the municipal bond market and refinance the project through the sale of tax-free bonds. Delay would be devastatingly costly—$2 million for every 3 months the project is put off.

The District Council, the Mayor, the Board of Trade, the Chamber of Commerce, unions and a number of civic and community groups all are behind the project, and I believe they, under home rule, should be allowed to move ahead with the center.

Home rule bestows special responsibilities on the District to strengthen its economy, and I believe the Senate should give home rule a chance to work in this instance. The convention center not only would give new life to a despairing part of town, but it would create new revenues and provide a tremendous transfusion of new and steady employment.

I thank my colleague for yielding time.

Mr. LEAHY. Mr. President, I yield to a distinguished and senior member of the Appropriations Committee, the junior Senator from Mississippi. I yield whatever time the Senator desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I thank the Senator. I will use about 4 minutes.

First, I commend the Senator from Vermont for the energy and time he has devoted to this matter and the effective manner in which he has handled the bill. Some years ago, I was chairman of this subcommittee. It is a thankless and difficult job, and a great mass of work continues throughout the year. As I recall, the Senator from Missouri handled the bill with distinction a year or two. Our present floor leader, I recall, handled it, also.

Mr. President, I speak as a taxpayer—not as a complaining taxpayer—but I know by experience, because I own a dwelling house here, of the enormous increase, the amazing increase, in ad valorem taxes in this city. I am proud of the city, the Capital of the Nation. I do not begrudge any particular taxes I have paid. It is an enormous rate and a burden to a great many of the homeowners and other property owners in this city.

I find, by comparison, that this city already has the highest per capita debt of any other city in the United States—that is, on a per capita basis, the highest per capita expenditure of any city in its population range. That means it has the highest tax burden, relatively speaking, of any jurisdiction. Had it not been for what I think is a very generous Federal money contribution over the years, the situation already would have been desperate here. We want that contribution, in some reasonable amount, to continue. I am not arguing against that, of course.

This expenditure is going to amount to $110 million, as I understand—$27 million in this amendment itself. The total expenditure will be about $110 million.

When I asked the question whether or not it was going to be self-sustaining or nearly self-sustaining, the Senator from Vermont replied that the analysis they had made showed a deficit of between $7 million and $10 million per year.

We know that when we start out with a figure of that kind, the first calculations, it runs far, far beyond that. We know that somewhere, sometime, someone will have to retrench somewhat. Otherwise, our economy will have some kind of collapse.

Other cities in America have trouble, and are doing something about it. I highly commend the people of New York for the way they have responded to their problems. I think it has been encouragement to the Nation, the way the people there responded when they realized the predicament they were in. The people as a whole responded with some sacrifice as well as determination. I am proud that they are coming out of the hole.

At this point, without hurting anyone, I think we should look and listen and tighten the checkreins on these kinds of expenditures.

Again, I commend the Senator very highly for his interest and the hard work he has done on this bill. I back him up.

Mr. LEAHY. I thank the distinguished Senator from Mississippi.

Mr. WEICKER. Mr. President, I should like to comment on several remarks made by the distinguished Senator from Mississippi, because I think they deserve a response.

The Senator from Mississippi complimented various and sundry cities of this Nation for trying to help themselves get out of a financial bind.

No. 1, there is not a city in the United States that is not in a bind, due to a variety of factors—perhaps in some instances mismanagement on their part or playing too much politics at the taxpayers' expense.

However, I think we would all agree that the Federal commitment, both in terms of Congress and the White House, over the past several years, has been somewhat of a declining commitment, and that is the reason why cities find themselves in their present day difficulties. But at least those cities have the option to devise various means by which to get out from underneath their troubles.

No. 1, it is all right for us to say that the Federal Government has been generous to the District of Columbia. Indeed, the Federal Government has been generous to the State of Mississippi. But the State of Mississippi—the Governor and the legislature—runs its own affairs. The State of Mississippi's affairs have a vote in the Senate and in the House. The Federal Government would not have the gall to impose on the State of Mississippi what the Federal Government has imposed on the city of Washington for decades.

But here comes the city of Washington, under its newly granted home rule, which was granted by us, and says, "All right, we no longer want a Federal handout to help us with our urban problems. We have an idea which, if you will allow us to try it, will generate private money, private capital, to come in and do an urban renewal job and create jobs."

They no sooner come up with their idea, just as other cities have their ideas, as referred to as the distinguished Senator from Mississippi, and we say, "No, you can't do it that way."

If, indeed, they have the highest tax burden, and so on down the checklist of tax liabilities, as set forth by the distinguished Senator from Mississippi, who has created that problem? The Senator from Mississippi, being in the business of defense, knows as well as I do that there is an element of leadtime in any of these expenditures.

The District of Columbia has not been the ruler of its own house. It has been the Congress of the United States that has run the District of Columbia. This highest tax burden and highest tax liability situation did not occur yesterday. It is one that has been created over a period of time.

The Senator is correct when he says that Washington, D.C., along with the rest of our cities, has some real problems and that it is going to take initative and innovation on their part to get out from under these problems. But I think that is exactly what the District is proposing when it comes to Congress and says, "We want a loan in order to establish this civic center, which civic center should, No. 1, rehabilitate the District, the downtown area, at private expense, which civic center should employ thousands of persons, not only in the construction of the center but also in the running of the center and the various businesses that will be built around the center."

As elected representatives, not one of us in this Chamber would tolerate the major city of our State to be in the condition in which Washington, D.C. is.

We have spared no expense, as Senator EAGLETON and I wrote in our letter, as to the esthetics and the job opportunities of the Federal establishment in this area. If you want to take two similar names and compare them, take a look at Mt. Vernon Square in the District of Columbia, and then take a look at Mt. Vernon.

Aside from our life here on the Hill and the occasional jaunts of our families in midday to the downtown district, aside from Constitution Avenue and a few of the main thoroughfares, who spends much time in the District of Columbia? Who is it who after 5 o'clock cares to spend much time in the District of Columbia?

No, I think what is being proposed here is the first initiative by the government of the District to, in effect, make Washington a livable city in a total sense, not livable just for Federal employees, not livable from 8 to 5, but a place of commerce, a place of living, one which is open the same hours we are open here on the Hill.

Having stated that initiative, I think it is for us to go ahead and back up the elected representatives of the District.

Let me just say, in conclusion, before I sit down that we had a similar problem in the city of Hartford, Conn. Our downtown area had deteriorated to the point where it was an 8-to-5 city and going downhill. The civic center was built at a cost of some $60 million, and within 1 year turned a profit. But, more impor-

tantly, it has rehabilitated the entire downtown area of Hartford, Conn., not with moneys of the taxpayers of the State of Connecticut or of the Federal Government but private capital.

Criticism was made that the center is expensive. It is not compared to the cost of other centers. The new one being built in San Francisco at the present time comes almost to the same amount.

I realize it is tough for all of us to cut the umbilical cord here and have faith and trust in the elected representatives of the District. But I think we all would be more than a little miffed if such faith and trust were not reposed in us in decisions we make when it comes to our own constituencies.

Regardless of whether or not we are used to telling them how to conduct their affairs, I think the time has come in our actions to live up to what it is we granted them several years back when we granted home rule.

I think the project makes sense. It is not without its risks, just as Senator GOLDWATER stated, and Senator EAGLETON and I know. But I know what the certainty is because the certainty has been conducted over a period of years. It is more Federal money, not loans, but grants, direct outlays, more and more of that as compared to the possibility of a loan being used as seed money to attract private capital.

I find that a very big difference and a very enticing one indeed, and one which far from stifling we should encourage more of so far as Congress is concerned.

Mr. LEAHY addressed the Chair.

Mr. DECONCINI. Mr. President, will the Senator yield 5 minutes?

Mr. LEAHY. Certainly.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment. I have given it considerable thought, and that includes certainly the efforts to revitalize the downtown area, and I find myself in opposition to my distinguished colleague from Arizona.

One of the reasons why I find myself in opposition here is that I believe the free enterprise system should be put into play to build this type of a center and, in fact, the Federal Government is subsidizing it, and it was sold to the committee the distinguished Senator from Vermont chairs that it would be a paying proposition.

In fact, I am convinced from the record of the numerous hearings the Senator from Vermont held it would not pay. In fact, there would be a deficit.

There are pros and cons on each side of that based on the hearing record, and I believe the Senator from Vermont has come to the correct conclusion, and the committee has, in the fact that it is going to lose money.

Let us be realistic. If you want to build job programs, let us call it job programs. I have supported many of those, and I might be convinced to support another one. But that is not how this was sold. It was sold that it was going to be a loan from the Federal Government and then, of course, be paid back and, of course, it was going to make money.

I think there is too much iffiness in that type of proposition.

I compliment the distinguished Senator from Vermont for taking more time than the city officials of Washington, D.C., took in holding hearings and taking the time to listen to both sides.

I chaired partially one of those hearings. It was a laborious but necessary process to go through because people felt like they had not been heard enough on this proposition, people who live here and are taxpayers, and ultimately will benefit or suffer from the burden of this.

Senator WEICKER remarks about the home rule and that they should be able to make this decision, and that we, being the Federal Government, should not be adverse to assisting them. It seems to me the responsibility really still lies with Congress even though partial home rule has been granted.

There is also the argument of do brick and mortar really become the answer to revitalizing cities. I submit they do not. If you are going to create jobs that is one answer, as I indicated. But if it is to revitalize the city of Washington, D.C., we need other types of programs to help people of this community to help themselves.

I would like to address a couple of questions to the distinguished Senator from Vermont as to the fiscal economics. As I understand this issue, one of the key assumptions that underlies the question of economic feasibility is the number of new additional delegates that the center would bring to Washington, D.C.

On the one hand, the city has argued that the center could bring as many as 390,000 new delegates to the city. I understand the Committee on Appropriations has concluded the center will bring between 100,000 to 150,000 additional delegates to the center.

Could the Senator explain the reasons for these two widely divergent sets of estimates?

Mr. LEAHY. I would be happy to point out these reasons.

As I said, the Senator from Arizona was of enormous help to the committee in sitting through day after day of hearings on this question. I wish that my distinguished colleague from Connecticut and others had had a chance to sit through even a small part of the hearings, because most of the questions which have been raised here in support of the convention center were answered in the negative at those hearings.

In answer to the Senator from Arizona's question, our committee estimate is based on the track record of the seven most recent cities to open convention centers and to have had them in operation for at least 3 years. It seems to us to be more objective to assume the District of Columbia would do no worse or no better than those other cities throughout the country. In fact, I think there are several factors that prohibit the District of Columbia from doing a great deal better than other cities.

First, Washington, D.C., is already the third largest convention center city in the Nation. An additional rapid growth of its market share is unlikely.

Second, the Sheraton Park Corp. is making a $60 million expansion with private money, not public money as is requested here, but with private money. This expansion to the Sheraton Park's current convention facilities is going to let them compete for 80 percent of the total market. They have been in business for 50 years. They should be able to compete very well with a city facility.

Now, the city has not been in the convention business. There is no private money that is willing to go in and be part of the attempt to obtain additional convention business for the city.

We have a Gladstone report done for the city. Our analysis shows it is greatly inflated. For example, an analysis done by the District of Columbia Auditor, the GAO, and the Capital Restoration Society have all suggested delegate levels far below those estimated by the Gladstone report that is relied on by the city.

Mr. DECONCINI. Will the distinguished Senator from Vermont tell the Senate the cost to the city of the Gladstone analysis?

Mr. LEAHY. It was approximately $100,000, and that includes supporting analysis done by an architectural firm.

Mr. DECONCINI. I also noticed, Mr. President, and I point this out to the distinguished Senator from Vermont, a recent article in last Friday's Baltimore Sun that pointed out that the Gladstone Corp. has the same ownership as the Quadrangle Corp., and that Quadrangle Corp. owns and develops real estate in the downtown area.

The Baltimore Sun article suggests there is some appearance of a conflict-of-interest situation which could have influenced the objectivity of the Gladstone report.

Would the Senator from Vermont care to comment on this apparent conflict-of-interest situation?

Mr. LEAHY. We have noted the same subject in the committee. The Senator from Vermont feels it would have been better had a different company been used to make the study, because based on their own studies, GAO, and others, there is no question that the figures appear to be greatly inflated.

Mr. DECONCINI. I thank the Senator and, Mr. President, I yield back the remainder of my time.

Mr. LEAHY. Mr. President, I thank the Senator from Arizona, and I thank him again for the hours and hours and days of work that he put in on this matter.

I compliment the Senator from Connecticut on his eloquence. He has argued very ably in the full Committee on Appropriations on this issue.

The full Committee on Appropriations went the other way. The full Committee on Appropriations went with the Subcommittee on District of Columbia Appropriations.

So I mention this, Mr. President, because I want my colleagues to know we have heard Senator WEICKER's arguments before. It is not a test of home rule for the city.

I happen to have very, very strong positive feelings toward the city of Washington, D.C. I went to law school here, primarily because the law school was in the District of Columbia and not the other way around. Our oldest son

was born in the District of Columbia. And I have very, very strong feelings about the city for that reason as well.

But do not accept the idea that somehow because we carry out our legal duties in determining where the Federal dollars are spent that somehow we are turning our back on the question of home rule.

I would be perfectly willing to see total home rule given to the city but until that happens, section 446 of Public Law 93–198, the Home Rule Charter, requires us to enact a budget for the District of Columbia and the law requires us to carry out that responsibility.

The fact is that the center would be funded by a $110 million loan from the U.S. Treasury and paid back, in part, with Federal funds that come to the city from Federal payments.

We talk about this need to revitalize downtown Washington as though Congress has done absolutely nothing for downtown Washington. We have a $5 billion subway system that crisscrosses the downtown area, the most expensive public works program in the history of mankind. We have over $300 million in Federal funds for the Pennsylvania Avenue redevelopment area which is in downtown Washington. The District of Columbia already has the highest per capita debt of any city in the United States, the highest per capita expenditure level of any city in its population range, and the highest tax burden of any jurisdiction in this area.

Mr. President, I submit that the convention center would only worsen these trends.

Mr. President, Congress has received inflated and overly optimistic projects from the city before. Let us take the RFK Stadium. That was supposed to pay for itself. I think that is probably as good a case in point as we can possibly make. Not only has RFK Stadium been unable to cover its operating expenses, it has also been unable to set aside any revenue to pay off the $19 million in revenue bonds that are due in fiscal year 1979, and this year in order to avoid a trainwreck in fiscal year 1979 I have recommended setting aside $9 million to help retire those bonds for a project that was supposed to pay for itself, the same as the convention center.

If the convention center loses money, as all independent analyses indicate it would, we are going to be required to bail them out again.

Mr. President, it is too expensive. It is $110 million. It would be the most expensive of convention centers ever proposed in the United States.

Let us look at what private money does. Private convention center facilities in Washington permitted the District of Columbia to be the third largest convention center city in the United States. As I mentioned before, the Sheraton Park is putting another $60 million of private money in there, because they know what size facility can actually make money.

The business community has refused to take any of the risks in this convention center. They would come in only after the convention center, built at public cost and at public risk, is in there.

There is no question the center is going to cause dislocation and split up Chinatown.

Mr. President, no one in this city has sat and listened to more testimony on this question than I have. No one in this city has spent more time looking at the site. I have spent walking tour after walking tour down through the area where it would go.

Mr. President, really, when you have a city as overextended as the District of Columbia, when you have projected net revenue losses of $4 to $9 million a year, with the extra burden on the taxpayers that it implies, when you have a project that includes no private capital, Mr. President, I submit that we simply cannot afford such a project and sink Federal funds into it.

I think, Mr. President, that it is not a question of home rule. If it were simply a question of home rule, my decision would be very, very easy on this. But it is not a question of home rule. It is a question of us carrying out our legal duties to the people of the District of Columbia and to the taxpayers of the Nation.

I think that is why the mail to my office from the citizens in this city has run strongly against the convention center. That is why when one radio station in this city ran day-after-day editorials in support of the convention center, asking people to call my office and register their support, the telephone calls came in but they came in heavily against the convention center because they were from the taxpayers of the District of Columbia who know that they are the ones who will pick up the tab in the long run.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LEAHY. I am happy to yield to my distinguished colleague from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Vermont for his position in this matter and the position of his subcommittee.

I must say that I believe that the stand of the distinguished Senator from Vermont and his subcommittee is the brightest ray of fiscal responsibility that I have seen exhibited in this Chamber in many a day, and it has taken some courage on the part of the distinguished Senator from Vermont to take this position as it does many who take a position of fiscal responsibility and fiscal sanity.

But I believe that he has reached the right decision, and I certainly hope that the Senate will back him, back the action of his subcommittee, and back the action of the committee.

I think it is a very fine position that he has taken, an outstanding position, and a position that I feel reflects great credit on the distinguished Senator from Vermont.

I commend him and his committee.

Mr. LEAHY. I thank the Senator from Alabama.

Mr. WEICKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. BAYH addressed the Chair.

Mr. WEICKER. Mr. President, I yield 3 minutes to the distinguished Senator from Indiana. Is that what the distinguished Senator wishes to have?

Mr. BAYH. I do not want to interfere with the Senator from Connecticut. I will be seated. But I hope he will permit me at least to express myself on the subject.

Mr. WEICKER. Indeed, I will.

Let me respond to some observations made in the Chamber in the last several minutes.

First of all, and I think the Baltimore Sun is a great newspaper, indeed, I am in concurrence most of the time with its editorials. I think it is hardly appropriate that the Baltimore Sun, representing a city that wants to build its own convention center, should go ahead and comment as to a possible conflict insofar as one of the groups that passed judgment on this city having its own center.

I am sure the city of Baltimore will build a convention center and be a huge success. It is a great city

Very frankly, I doubt there is much conflict between the two and each can have its own and both will thrive.

Point No. 2, I think radio polls have their place. What I think is far more important is the fact that on this project the City Council, the elected representatives of the people, voted 9 to 4 in favor.

Mr. LEAHY addressed the Chair.

Mr. WEICKER. If I may finish, I will then be glad to yield.

They voted 9 to 4 in favor. The Mayor of the city of Washington is in favor.

Regardless of what calls are coming into the offices of the distinguished Senator from Vermont, the fact is, No. 1, we operate in an election system which is fairly well set forth. We do not have to rely on phone calls into our office and, in any event, we are supposed to be U.S. Senators and not pollsters.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. The point was then made as to the Sheraton Park and the facilities which it intends to construct. No. 1, as all of us know, that is going to be no impact whatsoever on downtown Washington. How many of us here in this Chamber like to go to the Sheraton Park for receptions?

It is a fine facility, but we all know it lies on the fringe of the District. It is a most inconvenient place for us to go, and certainly will have no impact on downtown Washington. Neither will it substitute for what is being proposed by the District, because after you get through with the lobbies, corridors, and whatever, what is being built by Sheraton Park is 118,000 square feet of exhibition space, and what is proposed by the District is 300,000 square feet, which is what is needed for a convention center if it is to bring in that amount of income which is hoped for the city of Washington.

Again, it is commented that every study says it will just lose money, which

just is not so. The firm hired to evaluate the project comes forward with a net profit figure. The city auditor's estimates range from a profit to a small loss. The only person who agrees with the chairman of the committee is one individual representing the Capitol Hill Restoration Society, who predicts a loss of between $6 and $9 million. That is the only firm or individual who supports the contentions or conclusions reached by the chairman of the committee. Everyone else ranges from a profit to a very small loss. So it is not proper to say that all studies that have been made show the project losing money.

I again repeat, Mr. President, and then I plan to sit down and allow my distinguished friend from Indiana to hold forth, that what is involved here can stand on its own feet as a project.

Yes; the principle of home rule is involved. I think that has been argued well on both sides. People can draw their own conclusions. The project itself can stand on its own feet, in what it will do, not just in the sense of temporary employment, but in providing permanent employment opportunities here in the District, which is desperately in need of them, what it will do in attracting private enterprise, and what it will do in upping the value of property in downtown Washington, so the District can extract additional taxes. That is what is involved.

I think the project itself stands very well on its two feet. So I would hope my colleagues would support the amendment of the distinguished Senator from Missouri (Mr. EAGLETON) and myself, and vote the additional funds.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Connecticut has 4 minutes remaining.

Mr. WEICKER. Does the Senator from Maryland care to—I noticed him on his feet.

Mr. MATHIAS. I will reserve it.

Mr. WEICKER. Fine. I yield 3 minutes to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I must say with some great reluctance that I find myself in a position contrary to that of my good friend and colleague from Vermont. Not only do I have a warm personal feeling for him and great respect for his judgment, but, having sat in the seat he now occupies, supporting a similar bill through more than one appropriation process, I know what a thankless job it is trying to represent the Senate and the country in handling the District of Columbia appropriations.

Nevertheless, I feel an obligation, having studied the particular matter of a civic center while I did have that responsibility, to at least express my thoughts to the Senate.

I have long felt that when we are talking about projects in the Nation's Capital, we are really thinking in terms of something that is more than just a project for the District of Columbia and its residents, but that indeed what we do here has an impact on the Nation's Capital—with capital letters—and is thus in the interest of the entire United States of America.

So it seems to me that to really provide the total facilities that the citizens of this country have a right to expect in the Nation's Capital, we do have a need for a civic center. We are talking about more than dollars; we are talking about opportunity, not just for the citizens of the District, but for the citizens of this country, who will otherwise not have a chance to come here, because of their association with conventions that cannot be handled.

It is true that the Sheraton Park is involved in an expansion, but it is also true that there are significant numbers of conventions that cannot be handled by the Sheraton Park. It is true that there will be Federal money in a project such as this. It is not true that no private money is going to be involved. The Hotel Association has suggested a willingness to apply an 80 cents per room tax over the next 3 years, and extend the surtax so that there will be somewhere in the neighborhood of $18 million over the next 3 years that will be applied as up-front costs for this center before it is able to make the kind of revenues that are predicted.

To me, we are talking about two or three things. We are talking about job opportunities, as the Senator from Connecticut suggested, not just temporary jobs during the construction, but as a result of the development that will follow, we are talking about permanent job opportunities.

Second, we are talking about an increased tax base for the District. There will be increased tax revenues from those private facilities that are built in conjunction with the civic center, perhaps relieving the pressure for additional Federal payment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BAYH. Could I have 30 more seconds?

Mr. WEICKER. I just want to leave 1 minute for the distinguished ranking Republican member of the committee.

Mr. BAYH. I will yield. However, I would just like to point out, that we have a mess on our hands, and a sorry sight, in the middle of the Capital City. We still have not done the job to repair the 7th Street and 14th Street corridors that were destroyed in 1968. This will provide an opportunity for the civic center and to associated development to put a shining face on a section of the city, which has been ignored up to now.

Mr. WEICKER. I yield the remainder of my time to the Senator from Maryland.

Mr. MATHIAS. I yield it back.

Mr. WEICKER. I reserve the remainder of my time.

Mr. LEAHY. To sum up very quickly, Mr. President, I point out that, that apart from the Press Club's proposal being in downtown, the Press Club is willing to put together a $100 million complex with private money. The private money, of course, is willing to go where it will make money. The hotel industry is split on having this facility; but I can tell you that 85 percent of the civic organizations in the city are opposed to it. A large percentage of the business people and others who will be displaced by it are opposed to it.

I thank my good friend from Indiana, and he is my good friend, for his kind words. I am reminded of the line from Shakespeare's Julius Caesar:

I come to bury Caesar, not to praise him.

I hope my good friend will stop just with the praise.

Mr. BAYH. Mr. President, if the Senator will permit me to suggest, there is going to be an awfully live corpse in his body for a long time.

Mr. LEAHY. I thank the distinguished Senator.

We have gone over this over and over again. I could go on for hours on this subject, Mr. President. I will not do so. The fact remains that there is no solid report showing but it would make money. The fact remains that there is no private money going into it. The fact remains that if it loses money, a third of that money is coming from the Federal payment. The fact remains that the city analysis for the Eisenhower Center in 1974 said it would create only 200 new permanent jobs created, with a delegate level of 100,000 people not 1,000 jobs. The fact remains that the cost would likely go well over $110 million, which would make it even more certain that is would lose money.

The fact remains that it would be the most expensive convention center in the country by far.

The fact remains that there is a lack of citizen support.

The fact remains that the District of Columbia is already highly overextended.

The fact remains that, like the RFK Stadium, the taxpayers of this city and the taxpayers of this country would have to come forward once again to bail it out.

Mr. CHURCH. I have been following this convention center issue in the local press and I am greatly concerned about the dislocation of small businesses as well as the dislocation of families and elderly individuals. The Special Committee on Aging, which I chair, recently studied a similar dislocation situation posed by San Francisco's Yerba Buena Convention Center. This proposed convention center reached in 1966 a stage of development equivalent to the District of Columbia proposal. San Francisco's convention center proposal was delayed for more than 4 years by litigation brought by residents and businesses which alleged violations of Federal relocation requirements. Although the dispute was settled in 1973, the Yerba Buena Convention Center still remains unfinished. It seems to me that similar delays could jeopardize the District of Columbia center proposal. Could the Senator from Vermont give us any information on the dislocation problems that the city's proposed center might cause?

Mr. LEAHY. I would be pleased to respond to the questions of the Senator from Idaho. The convention center proposal would dislocate 69 businesses, 62 households, and more than 120 individuals. Ninety of these individuals are

mostly elderly Chinese American citizens that would be forced to move out of the Chinatown area. I took two walking tours of the area and personally visited with numerous businesses in the area. Many of these small businessmen told me that they fear of being forced to move from a place of business that they have occupied for over 30 years. Such dislocation could result in them losing a large part of their clientele and could force them out of business altogether. I have heard from the Chinese American community on this question and two out of three Chinese American organizations have expressed their opposition to the proposal.

Mr. CHURCH. If the District of Columbia Convention Center proposal were delayed for 4 years like the Yerba Buena Convention Center, what would be the economic impact on the city's proposal?

Mr. LEAHY. Each year of delay would increase the cost of the proposal by $6 to $8 million and 4 years of delay would put the center's total cost between $134 million to $142 million. The Gladstone Corp. which did the economic analysis for the city stated that if the cost of the center exceeded $120 million the overall proposal would be of questionable feasibility. The analysis we have done indicates that the center would not be economically feasible even at $110 million.

Mr. CHURCH. Is there a way that the city could build a convention center that would not dislocate so many people and pose such a great threat to the Chinese community of Washington, D.C.?

Mr. LEAHY. Yes. As many of my colleagues know, the city and Federal Government own over 45 percent of the land in the District of Columbia and there are numerous alternative sites available to the city. Many of these other sites are already cleared and would not require the considerable expense of acquisition, demolition, and relocation. In fact, I asked the Mayor in a recent letter to consider an alternative site for the center that would avoid these problems and also make the center at least $25 million cheaper by putting it on land already owned by the city. The city refused to consider an alternative location.

Mr. CHURCH. It seems to me that we should support the committee and reject the amendment offered by the Senator from Connecticut. I urge that this proposal be sent back to the city and request that they reconsider it.

Mr. MATHIAS. Mr. President, the Senator from Connecticut yielded me the remainder of his time. How much time has he yielded?

The PRESIDING OFFICER. No time remains.

Mr. MATHIAS. I thought there were 30 seconds remaining.

The PRESIDING OFFICER. By the time the yielding was made——

Mr. MATHIAS. Will the Senator yield me 30 seconds?

Mr. LEAHY. Yes.

Mr. MATHIAS. I merely want to say that I support the amendment of the Senator from Connecticut and will vote for it.

Mr. LEAHY. I yielded knowing what he was going to say.

I will just say, Mr. President, in reference to the Baltimore Sun article, that the Baltimore Sun simply reported the facts as they were.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. YOUNG (when his name was called). On this vote I have a pair with the distinguished Senator from Arkansas (Mr. McCLELLAN), the chairman of the committee. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. MELCHER (when his name was called). Mr. President, on this vote, I have a live pair with the Senator from Louisiana (Mr. LONG). If he were voting, he would vote "nay." If I were allowed to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Louisiana (Mr. LONG), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 25, nays 65, as follows:

[Rollcall Vote No. 526 Leg.]

YEAS—25

Anderson	Goldwater	Muskie
Baker	Hatfield	Pearson
Bayh	Hathaway	Ribicoff
Brooke	Hollings	Sasser
Cannon	Javits	Schweiker
Clark	Kennedy	Weicker
Culver	Laxalt	Williams
Durkin	Mathias	
Eagleton	Matsunaga	

NAYS—65

Allen	Garn	Nelson
Bartlett	Glenn	Nunn
Bellmon	Gravel	Packwood
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Bumpers	Hatch	Randolph
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Huddleston	Schmitt
Case	Inouye	Scott
Chafee	Jackson	Sparkman
Chiles	Johnston	Stafford
Church	Leahy	Stennis
Cranston	Lugar	Stevens
Curtis	Magnuson	Stevenson
Danforth	McClure	Stone
DeConcini	McGovern	Talmadge
Dole	McIntyre	Thurmond
Domenici	Metzenbaum	Tower
Eastland	Morgan	Wallop
Ford	Moynihan	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Young, for
Melcher, for

NOT VOTING—8

Abourezk	Humphrey	Metcalf
Griffin	Long	Percy
Hansen	McClellan	

So the amendment (No. 980) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1005

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask to have it considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment No. 1005.

On page 2, lines 22 and 23, delete "$276,000,000" and in lieu thereof insert "$292,560,000".

The PRESIDING OFFICER. Is this the Senator's amendment on which there are to be 2 hours?

Mr. MATHIAS. That is correct.

Mr. LEAHY. Mr. President, if the Senator will yield.

Mr. MATHIAS. I am happy to yield.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senate will suspend from further business until we have order in the Senate.

The Senator from Vermont.

Mr. LEAHY. Mr. President, my colleagues have listened to the amendment being offered by the Senator from Maryland.

While I will oppose that amendment, I intend to use only a very few minutes of my time. I hope, less than 5 minutes at the most.

I would hope we could bring that to a conclusion as quickly as possible, although I will leave that up to the distinguished Senator from Maryland.

I would also state for the benefit of my colleagues that while we will reach final passage tonight, it is not my intention to ask for a rollcall vote on final passage. I have no insurance there will not be a rollcall requested, but there is no intention on my part to ask for a rollcall.

Mr. EAGLETON. Will the Senator yield me 1 minute on the Mathias amendment?

Mr. LEAHY. Yes.

Mr. MATHIAS. Mr. President, the Chair just inquired if this is the amendment on which there are 2 hours. I say to the Chair, that is accurate. This is the amendment on which there are 2 hours.

But in looking at the rollcall on the previous amendment, I would say that this is not what we used to call District Day in the U.S. Senate. This is not a day that augurs well for legislation which deals with the welfare of the people of our National Capital.

In this mood, I can read the tea leaves as well as other Members of the Senate. I think we can offer this amendment and dispose of it very rapidly. I doubt it takes 20 minutes, not 2 hours.

Although, Mr. President, I can speak formally full well on this subject, I think I can say some things that will be useful.

This amendment is so simple that I think it can be expressed in 2 minutes, not 2 hours, because all it does is recog-

nize the fact that the cost of living is going up.

All the committee has recommended to this Senate is that we give the District for a Federal payment the same dollar volume we did last year.

The committee has voted the same Federal payment of $276 million for fiscal year 1978 as was appropriated for fiscal year 1977.

All I suggest is that we factor in 6 percent inflation, which would come to $16,560,000. So that is all we are talking about—$16,560,000.

I am sure every Member of the Senate is against inflation. I am against it, we are all against it.

But it is a fact of life that it has to be dealt with and the District of Columbia suffers the problem of inflation as well as everybody else. Now, that is the case.

The distinguished chairman of the subcommittee has argued that the District has very recently projected increased income for fiscal year 1978 from the various District taxes and that, therefore, they do not need this cost-of-living increase.

Well, we have urged them to tighten up their taxation. We have urged them to collect more aggressively. They have done that and they are making progress. But if we deny them the kind of cost of living increase that every place else in the Government has received, we will simply penalize them for trying to do better in what we have asked them to do.

That is the case, Mr. President. I submit it to the conscience and the good judgment of the Senate.

Mr. SARBANES. Will the Senator yield.

Mr. MATHIAS. Yes.

Mr. SARBANES. Mr. President, I just want to speak in very strong support of the Senator from Maryland's amendment.

Clearly, the government of the District of Columbia has to adjust its own budget with respect to inflation that is taking place, and it seems to be eminently reasonable that the Federal payment ought to carry the adjustment with it that has been proposed by the Senator from Maryland.

Otherwise, the Federal payment being extended represents nothing more nor less than a program cut.

There is no other way we can interpret it than it represents a program cut, and I do not think that is meeting our responsibilities as a Congress with respect to this important matter.

Mr. MATHIAS. I thank my distinguished colleague. It is exactly accurate. It does represent a program cut.

I just put the figures in context. This amendment would bring the payment for 1978 up to $292,560,000, which is $7,440,000 under the authorized amount for fiscal year 1978 and which is $2,790,000 under the amount voted by the House.

So we are not being spendthrift in doing this. We are still below the authorization and below the House.

It is only simple justice and I hope the Senate will approve the amendment.

Mr. LEAHY. Mr. President, I take exception to the words of my good friend and distinguished colleague, and distinguished minority leader on the District of Columbia Appropriation Subcommittee, when he says that today is a day that does not augur well for the District. I take strong exception to that comment.

I say it augurs very well for the taxpayers of the District of Columbia. I think we lose sight of the fact that they also pay Federal taxes. They have been saved from a $110 million, ill-conceived, ill-thought-out white elephant.

The amendment just offered by the Senator from Maryland is offered with good intentions and generosity toward the city. It is, however, both unnecessary and unneeded. I would like to take just one moment to expand on these points.

The budget for the District of Columbia that the committee recommends to the Senate is balanced and fully funded.

I question how many other budgets come before us and fall in that category. It represents an increase of over $180 million over the funds provided to the city last year. This $180 million increase is more than an ample amount to compensate the city for inflation. But more importantly, I would like to stress that the budget, as recommended, is balanced and fully funded and the additional Federal funds that Senator MATHIAS proposes to give the city are not needed to fund any of the programs that the committee recommends to the Senate.

The city's August revenue estimate shows that there have been recent large increases in local revenues. In fact, the committee estimates that local revenues available to the city are at least $40 million more than the city previously estimated in its April revenue estimate. This large increase in local revenues has already permitted the city to propose a $15 million tax relief measure for fiscal year 1978.

Personally, Mr. President, I see nothing wrong with trying to seek a budget that might allow some money to go back to the taxpayers instead of the other way around. The committee recommends approval of that measure in order to provide tax relief to the citizens of the District of Columbia. This large increase in local revenues also makes it possible to fund the city programs without increases in the Federal payment.

I would also like to note that the section 501(a) of the home rule charter says that the Federal payment "should operate to encourage efforts on the part of the Government to maintain and increase its level of revenues and to seek such efficiencies and economies as are possible."

We do not do that by constantly increasing the Federal money available to the city. It is not needed to balance the budget. It is not needed to fund the program we are recommending. It is not needed to compensate the city for the effects of inflation.

As I said before, Mr. President, I would rather see the money going back to the taxpayers than the other way around. Providing the city with an additional $17 million that are not needed to balance the budget would not be consistent with the intent of section 501(a) of the home rule charter that requires the Federal payment to be established in a way to encourage the city government to maintain and increase its own revenues.

In closing, I would only stress that the additional Federal subsidy that Senator MATHIAS has recommended for the city is not needed to balance the budget, it is not needed to fund the programs that the Appropriations Committee is now recommending to the Senate and it is not needed to compensate the city for the effects of inflation. Providing the city with these additional funds also would be contrary to the intent of section 501 (a) of the home rule charter.

The committee listened to Senator MATHIAS' arguments on this matter and rejected a similar amendment that he offered at the full committee markup. I urge the Senate to support the committee and to defeat the amendment.

Mr. SCOTT. Will the Senator yield?

Mr. LEAHY. I have already agreed to yield to the Senator from Missouri and I would be most happy to yield to the Senator from Virginia.

Mr. EAGLETON. I am glad to wait.

Mr. SCOTT. Mr. President, I thank the Senator for yielding.

I have listened to my distinguished colleague, the ranking Republican Member, speak of inflation.

I think one of the primary, if not the primary, causes of inflation is Government spending.

We have an opportunity not to add to the inflationary spark by defeating this proposed amendment.

Mr. EAGLETON. Mr. President, I oppose the Mathias amendment. I think this is the first time that Senator MATHIAS and I have disagreed on an issue on the District of Columbia that was brought to a vote on the floor of the Senate. I will make my case briefly.

There are 55,000 municipal employees in the District of Columbia. I have not misspoken. There are 55,000. There is no city in the world of comparable size that, in any way, shape, or form, has such a bloated payroll.

Time and again, we have had Mayor Washington and the Budget Director before our committee. I have said,

Gentleman, I cannot support any further increase in the Federal payment. You must bring that payroll down.

They have made little progress. Albeit, for certain purposes the District is a State and for certain purposes it is a county. Factoring all that into account, I ask any Senator here whose State has a city of, roughly, 600,000 to 800,000 population—the D.C. population is 702,000—if he has the same number of municipal employees. St. Louis, for example, has 7,000 employees—7,000 versus 55,000.

It is incredible, Mr. President. The only way we will get the attention of District officials is to keep the lid on the Federal payment, so that each year they will pinch a little harder, and then, finally, they will take the inescapably necessary steps to pare down this bloated payroll.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. JOHNSTON. Can the Senator tell me what all 55,000 do?

Mr. EAGLETON. Fifty-five thousand

is the sum aggregate of all municipal employees, the schoolteachers, plus the policemen and firemen, plus all the Metro employees. It does not include the Park Service or the Interior Department or any Federal entities. It is 55,000.

There are things with respect to the District budget that we find very, very difficult to defend. This has come as a continuing source of agony to me and to many others who have had some oversight responsibility with respect thereto.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. I yield to the distinguished senior Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the committee chairman and oppose the amendment offered by the Senator from Maryland, which I feel would neutralize the few positive steps taken by this year's District of Columbia appropriations bill.

This bill represents an effort to reduce the District's dependency on Federal support. The Mathias amendment, by indexing the "Federal share" to the cost of living, embodies the principle that Federal support should remain at its current level.

The District's independence under "home rule" implies responsibility for its own support, in addition to the freedom to make its own decisions.

If the District wishes autonomy, it must demonstrate that it is ready to put its own house in order.

The chairman of the subcommittee, Senator LEAHY, has told the Senate that the District of Columbia Government will cost $180 million more than last year, an increase of 16 percent.

The District Government is among the most wasteful in the country.

It has the highest per capita expenditure level of any city in the country of similar size.

The Washington spending rate of $2,203 per person is almost $400 per person higher than Boston, the class runner-up.

Washington's per capita debt of $1,860 is $50 per person higher than the figure for New York and is up $100 per person from last year.

While no other city has to function like a State government, none other has its parks and museums financed by the Federal Government.

Furthermore, the District has a dismal record of predicting the ability of capital projects to pay for themselves. It is already $1,300,000,000 in debt to the Federal Treasury and is borrowing another $92,000,000 in the upcoming fiscal year.

It is not generating adequate revenue from the operation of RFK Stadium to meet the $19,800,000 in principal payments coming due on December 1, 1976.

It has $2 billions of unfunded pension funds debts; and this figure, if left unchecked, will balloon to $17 billion by the year 2010.

The bottom line is that current District accounting practices are pushing the city toward the point where it will have to ask the Federal Government for enormous additional infusions of capital to meet foreseeable but unforeseen crises.

It now wants to build a $110,000,000 convention center. To rebut estimates that the District would lose $4 to $9 millions a year on the operation of the center, it produces estimates by a company with major landholdings in the area of the proposed center.

Senator LEAHY, chairman of the appropriations subcommittee of the Senate estimates operating deficits of $7 to $10 million annually.

The outcome of all of these projects should be readily apparent. The project is commenced on the basis of deflated figures. Once the project has reached the point of no return, the Federal Government will be called in to absorb the unanticipated overrun.

Unfortunately, too many people in responsible positions have responded defensively to repeated calls for fiscal responsibility, regarding such pleas as indictments of home rule. We have passed the point of mutual recriminations, and now must move toward reasonable solutions.

The District government is seeking to impose a commuter tax on residents of Virginia and Maryland who work for the Federal Government in Washington, D.C.

I have consistently opposed a commuter tax and will continue to do so. What the District needs to do is to economize—not seek more taxes, or more funds from the Federal Treasurv.

Mr. LEAHY. Mr. President, if the distinguished minority member is willing to yield back his time, I yield back mine.

Mr. MATHIAS. I yield back the remainder of my time.

Mr. LEAHY. I yield back the remainder of my time. The committee's position would be a "no" vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was rejected.

ADDITIONAL STATEMENT SUBMITTED

Mr. MATHIAS. Mr. President, I want to commend our able chairman, Senator LEAHY, for the very hard work and excellent job he has done as our chairman of the Appropriations District of Columbia Subcommittee. While we have not agreed on every item in this bill, I do support most of his recommendations and in those few instances where I do not, I am very aware that he has arrived at his conclusions after diligent work and consideration of the issues involved.

I was very pleased that in the full committee the Senator accepted my recommended add-on of $28,800 for the legal assistance to prisoners project. I believe this is a most worthwhile project and certainly it is not an expensive one. While we did not add additional funds for the child care center at the superior court, I am pleased that the committee has approved a reprograming of funds to continue that function.

I tried to add funds totaling $299,000 to the appropriation for the Board of Elections and Ethics Account to support an automated system of information recording, storage, and retrieval, and for the purchase of units for an automated ballot counting system. I believe it is very important that we provide the District with every means available to support accurate and speedy balloting and counting. The committee did agree, however, on the following language in the report:

> While the Committee has agreed with the House in denying funds for these two projects, the District is encouraged to resubmit budget requests for them when they have completed further study to determine exact total costs."

Finally, I am proposing an amendment which I discussed in the full committee meeting on this bill to increase the Federal payment over last year's amount by 6 percent to accommodate uncontrollable inflation in the District's expenditures. Again, let me say that it was a pleasure to work with Senator LEAHY, our chairman.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LEAHY. Mr. President, if there are no further amendments, I yield back my time on the bill and ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 9005) was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 9005.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LEAHY, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. MAGNUSON, Mr. INOUYE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG conferees on the part of the Senate.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I want to take this occasion to compliment the distinguished Senator from Vermont (Mr. LEAHY) who has managed his first District of Columbia appropriations bill, and who, as chairman of the D.C. Appropriations Subcommittee has performed a masterful job.

Having been chairman of that subcommittee for a period of 8 years myself, I think I know something about the work that is entailed. I just have to tip my

hat, figuratively speaking, to this fine Senator from Vermont who has so ably conducted the hearings and managed the bill on the floor.

I also want to compliment the ranking member of the subcommittee (Mr. MATHIAS) on the cooperation and the splendid work he has rendered in connection with the work through the committee hearings, markup, and the floor debate. Both Senators have demonstrated their skill and their great knowledge of the subject. May I say the Senate is in their debt.

Mr. LEAHY. Mr. President, I wish to thank the distinguished majority leader at this late hour. He has been very kind and overly generous.

I would point out that one morning when I had an 8 o'clock in the morning committee meeting, and there were a couple of people grumbling in the committee room, saying how that was an early hour for working the committee, somebody else said that it was an awful lot easier than when Senator ROBERT C. BYRD was the chairman. Then, he said they not only had weekday mornings but Saturday mornings, too.

So I know I have a very, very hard act to follow, and for the number of years I will be serving, I will try to perform as well as I can. It will be difficult.

Mr. SCHMITT. I would like to join with the distinguished majority leader in complimenting Senator LEAHY for his outstanding work. I have been very impressed by his persuasive discussion with respect to several of the issues that have come before his committee, and I hope in the future to discuss more of these in some detail and, perhaps, work out some alternative answers as to some of the problems he was presented with.

Also, since it is late in the day, and we have had a long day, long several weeks, I want to compliment the majority leader for his efforts in seeing that we did get through this day and also have a chance to work on other legislation. Obviously, it has been a very difficult time for him as well as others. But he bore a great deal of the load, and I want to compliment him on his efforts to reach a compromise. In a real sense, we have established a compromise, and at least we have established a position in which the Senate can reach a compromise with the other body.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from New Mexico is more than generous. It is all in the day's work. However, I am very grateful for his generosity.

Mr. LEAHY. It is day and night work. I think the Senate owes a great deal to our leadership and, having said that, I will now go to a PTA meeting with one of my four favorite constituents I have mentioned on the floor here. I thank the Senator.

Mr. ROBERT C. BYRD. May God speed the Senator on his way. I look forward to seeing him on the morning.

JOINT REFERRAL OF A BILL—S. 2173

Mr. MATHIAS. Mr. President, I ask unanimous consent that a bill I introduced earlier be referred jointly to the Committee on Finance and the Committee on the Judiciary. This request has been cleared on both the majority and minority sides with the chairmen and ranking members of both those committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, earlier today I testified before the Foreign Relations Committee on the provisions of the pending treaties that would give the Panama Canal Zone to the Republic of Panama. During my testimony opposing these treaties, I raised the point that Panamanian officials are putting a different interpretation on some of the treaty provisions from those interpretations expressed by U.S. officials who support the treaties.

I have now been handed a wire from the American Embassy in Panama to the U.S. Secretary of State. It was obtained by Senator ROBERT DOLE and corroborates my statement this morning about Panamanian interpretations of the treaties differing from those expressed by proponents in this country.

Mr. President, I ask unanimous consent that a news release on this matter by Senator DOLE and the wire to the Secretary of State be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

DOLE: "CONFIDENTIAL" CABLE PROVES PANAMA CANAL TREATY FLAWED

WASHINGTON, D.C.—Senator Bob Dole today released the text of a Confidential State Department cable which he said proves "beyond a doubt" that U.S. and Panamanian officials have far different interpretations of key defense provisions in the proposed Panama Canal Treaties. Dole has requested comments from Secretary of State Cyrus Vance on the contents of the cable, which the Senator recevied a copy of on Monday of this week. "This document demonstrates beyond a doubt the vast differences in interpretation of the most important part of these treaties—that portion which bears directly on our vital national defense interests," Dole said.

Senator Dole, who is due to testify before the Senate Foreign Relations Committee Wednesday morning, said that the Senate "must clarify our defense rights by Amendment, not by weak 'understandings' that have no legal and binding effect." Senator Dole is the only Senator to have introduced Amendments and Reservations to change the language of the Canal Treaties proposed by President Carter.

The State Department cable was received from the American Embassy in Panama last Thursday, September 29, and described Panamanian negotiators as "disturbed" over testimony by Secretary of State Vance and U.S. Ambassadors Ellsworth Bunker and Sol Linowitz before the Senate Foreign Relations Committee last week. One Panamanian negotiator confirmed that the U.S. would have no military intervention rights under the Treaty, and there would be no "preferential passage" for U.S. warships through the Panama Canal. Secretary Vance, along with several other Administration witnesses, indicated in his testimony last week that such American rights were "understood" within the language of the Treaties.

Senator Dole said it is "essential" that the United States retain unilateral authority to step in and defend the Canal militarily at any time it is threatened. He said it is also essential to have clear-cut rights to priority passage through the Canal during wartime. Senator Dole has already introduced Amendments to the Treaties which would guarantee both rights to the United States permanently.

In other remarks prepared for the Committee, Dole said defects and omissions in the Treaties must be corrected by Amendment or Reservation, both of which would be legally binding, rather than by Understanding or Declaration, which have only an interpretive purpose for the party that makes them.

Dole described in detail his six Amendments and two Reservations which, in addition to those described above, would cut U.S. payments to Panama in half; guarantee the U.S. right to construct a new interoceanic canal anyplace in the Western hemisphere; extend the transition period for transfer of U.S. jurisdiction over the Canal Zone; insist on human rights observance in Panama for U.S. and Panamanian citizens; and give the House of Representatives a right to act on the Treaty proposals.

STATE DEPARTMENT CABLE

Subject: negotiator's concern over hearings:

1. The political counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "preferential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for us and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that Article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The general was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Boyd, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical Senators. He pointed out that most of the difficulties in the Senate so far have come from uncommitted Senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no

matter how necessary in the American process, there were some things that no Panamanian Government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels. He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which deems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.—Gonzalez

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the able Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I have seen the wire to which the distinguished Senator from South Carolina refers. It is a wire from the American Embassy in Panama to our State Department.

It is a very significant statement. I am glad the Senator has put it in the RECORD. Earlier today, I inserted in the RECORD the testimony given by the Senator from South Carolina before the Foreign Relations Committee today. In that testimony, the Senator from South Carolina brought out many facts which I think are very important for the Senate to know.

Mr. THURMOND. I thank the distinguished and able senior Senator from Virginia.

QUORUM CALL

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF A BILL—S. 2161

Mr. JAVITS. Mr. President, I ask unanimous consent, and I will give my clearances in a moment, that S. 2161, the Regional Energy Development Act of 1977, be referred to the Committee on Governmental Affairs in addition to the Committee on Energy and Natural Resources and Banking, Housing, and Urban Affairs.

Mr. President, I have taken up the matter personally and orally with the chairman and ranking member of each of these committees and all have approved this course of action and, hence, I make the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2114

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2114, the public utility rate bill, is called up and made the pending business before the Senate, there be a time limitation of 4 hours on the bill to be equally divided between Mr. JOHNSTON and Mr. DOMENICI; that there be a time limitation on any amendments of 2 hours; that there be a time limitation on an amendment by Mr. GRIFFIN of 1½ hours; that there be a time limitation on each of two amendments by Mr. TOWER of 1½ hours; that there be a time limitation on an amendment by Mr. GLENN of 1½ hours; that there be a time limitation of 30 minutes on amendments to any amendments in the second degree; that there be a time limitation on any debatable motion, appeal or point of order of 20 minutes; and that the agreement be in the usual form.

Mr. STEVENS. There is no objection.

Mr. JOHNSTON. Did the Senator put a time limitation on the Johnston amendment?

Mr. ROBERT C. BYRD. There be a time limitation on an amendment by Mr. Johnston of 1½ hours.

Mr. JOHNSTON. Do we need 2 hours on all of those amendments?

Mr. ROBERT C. BYRD. Yes, at this time I think we would.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, excuse my interruption, but will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JOHNSTON. Can we get a germaneness limitation through?

Mr. ROBERT C. BYRD. It is included. It was in the usual form.

Mr. President, I ask unanimous consent that in connection with the time agreement on the utility rate reform bill there be a time limitation on an amendment by Mr. DURKIN of one-half hour, and a time limitation on an amendment by Mr. FORD of one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 2114 (Order No. 403), the Public Utilities Regulation and Policy Act of 1977, debate on any amendment in the first degree (except an amendment by Mr. Griffin, on which there shall be 1½ hours; two amendments by Mr. Tower, on which there shall be 1½ hours each; an amendment by Mr. Glenn, on which there shall be 1½ hours; an amendment by Mr. Johnston, on which there shall be 1½ hours; an amendment by Mr. Durkin, on which there shall be ½ hour; and an amendment by Mr. Ford, on which there shall be ½ hour) shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. Johnston) and the Senator from New Mexico (Mr. Domenici): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR THE CONSIDERATION OF S. 2114 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been consummated, the Senate proceed to the consideration of S. 2114, the utility rate reform bill.

The PRESIDING OFFICER. Without objection, it is ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, and following the recognition of Mr. ALLEN, the following Senators be recognized each for not to exceed 15 minutes, and in whatever order suits their convenience: Messrs. SCHMITT, GLENN, MATHIAS, GOLDWATER, BARTLETT, and CURTIS.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9354.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9354) to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to the immediate consideration of H.R. 9354.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish the record to show the bill is called up at the request of our minority leader to clear this. This is former President Ford's additional staff bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 9354) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 1 minute.

The motion was agreed to, and at 7:21 p.m. on Tuesday, October 4, 1977, the Senate adjourned until 7:22 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, OCTOBER 4, 1977

The Senate met at 7:22 p.m., pursuant to adjournment, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING COURTNEY C. PACE FOR 35 YEARS OF FAITHFUL AND OUTSTANDING SERVICE TO THE U.S. SENATE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EASTLAND and Mr. JACKSON, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 280) commending Courtney C. Pace for 35 years of faithful and outstanding service to the U.S. Senate.

Whereas the Senate wishes to express its appreciation to Courtney C. Pace who has occupied the post of Administrative Assistant to Senator James O. Eastland for three and a half decades;

Whereas the said Courtney C. Pace is now and has been for some time the senior Administrative Assistant employed by the Senate;

Whereas this true gentleman has, at all times, discharged the important duties and responsibilities of his office with efficiency and diligence, as well as with compassion and understanding; and

Whereas his exceptional service and his unwavering dedication to duty meet the highest standards of the Senate and have earned for him our esteem and affection: Now, therefore, be it

Resolved, That Courtney C. Pace is hereby commended for his long, faithful, and outstanding service to the Senate and to his State and Nation.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Courtney C. Pace.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR STAFF INVESTIGATOR TO GIVE TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 281) to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and be deposed and to present himself and give testimony at the trial in the matter of *Janine Perrignon, et al.* v. *Bergin Brunswig Corporation, et al.;*

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JACKSON. Mr. President, I report today a resolution to permit a staff investigator of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to present himself and be deposed and to give trial testimony in the matter of Janine Perrignon, et al. against Bergin Brunswig, et al., pending before the U.S. District Court for the Northern District of California.

By letter dated July 20, 1977, counsel for plaintiffs in the case formally requested that Mr. Vienna be permitted to testify in this civil action concerning an investigation conducted by the subcommittee into the medicaid management information systems. The trial is presently schedule to begin November 21, 1977.

On September 9, 1977, Mr. Vienna was served by defendants in this action with a subpena commanding that he present himself and be deposed on October 6, 1977.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such information, documentation and testimony may not be released without a resolution of the Senate.

Accordingly, I report the resolution, approved by the Committee on Governmental Affairs, and ask that this resolution be adopted.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 281

Whereas, counsel for plaintiffs has formally requested by letter dated July 20, 1977, that David Vienna, a staff investigator of the Senate Permanent Subcommittee on Investigations, be authorized to appear and give trial testimony in the matter of *Janine Perrignon, et al.* v. *Bergin Brunswig Corporation, et al.*, a civil action pending before the United States District Court for the Northern District of California;

Whereas, defendants have subpoenaed David Vienna to present himself and be deposed in the above captioned matter;

Whereas the subject matter of the trial and deposition pertains to information obtained by Mr. Vienna in the course of his employment as a staff investigator for the Senate Permanent Subcommitttee on Investigations; and

Whereas by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That David Vienna be authorized to present himself and be deposed and present himself and give trial testimony with regard to the public hearings of the Senate Permanent Subcommittee on Investigations on Medicaid Management Information Systems held on September 29 and 30 and October 1, 1976, and to take with him copies of public exhibits received for the record at said hearings; provided, however, he shall respectfully decline to be deposed or testify concerning any and all matters which would directly or indirectly disclose sources or matters involving materials or information received in confidence by him in his official capacity as a staff investigator for the Senate Permanent Subcommittee on Investigations.

SEC. 2. The Secretary of the Senate shall transmit copies of this Resolution to James Ware, Esquire, 321 Lytton Avenue, Palo Alto, California, 94302, and Theodore Russell, Esquire, 600 Montgomery Street, San Francisco, California, 94111.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate on tomorrow will meet at 9 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN, Mr. SCHMITT, Mr. GLENN, Mr. MATHIAS, Mr. GOLDWATER, Mr. BARTLETT, and Mr. CURTIS will each be recognized for not to exceed 15 minutes, after which the Senate will proceed to the consideration of the utility rate reform bill, S. 2114, which is the fourth in the series of five energy bills which is on the Senate agenda for this year and which constitutes the President's package.

Upon the disposition of the utility rate reform bill, looking down the road during the remainder of the week, the leadership would expect to take up the minimum wage bill, S. 1871, and other measures that have been cleared for action in the meantime.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and at 7:29 p.m., the Senate recessed until tomorrow, Wednesday, October 5, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1977:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982:

Gillian Martin Sorensen, of New York, vice Robert S. Benjamin, term expired.

Sharon P. Rockefeller, of West Virginia, vice Thomas W. Moore, term expired.

WITHDRAWAL

Executive nomination withdraw from the Senate October 4, 1977:

Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1979, vice G. Joseph Minetti, which was sent to the Senate on June 16, 1977.

EXTENSIONS OF REMARKS

SHERRILL C. CORWIN'S CAREER IN SHOW BUSINESS IS RECOGNIZED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, Mr. Sherrill C. Corwin of Los Angeles has been chosen to receive the 1977 "Pioneer of the Year" award by the National Foundation of the Motion Picture Pioneers. He will be honored at a gala dinner on November 14, 1977. Mr. Corwin desrves our commendation for his many contributions to his community and for his numerous accomplishments. Always interested in developing new talent for all segments of the motion picture industry, Mr. Corwin was one of the founding trustees of the American Film Institute and helped initiate the group's policy of offering grants to young filmmakers. He played a key role in developing the apprenticeship program by which major studios encourage college cinema graduates to take part in the industry. Mr. Corwin is also the sponsor of the annual Sherrill C. Corwin Awards at the University of California, Santa Barbara, for stage, screen and television writing, and for original musical composition.

Mr. Corwin's involvement in philantropic and humanitarian projects include his longtime trusteeship of the Will Rogers Respiratory Diseases Research Foundation in New York, and an active role in the Motion Picture Pioneers, a national organization involved in the distribution branch of the movie industry. He has repeatedly been chairman or co-chairman of the Entertainment Division of the United Jewish Appeal in Los Angeles. Mr. Corwin has long been a dominant figure in the affairs of Variety Clubs International, the organization best known as the worldwide charity arm of show business, having raised more than $300 million since its inception in 1927. Mr. Corwin has also been an active member of the Academy of Motion Picture Arts and Sciences, and the Friar's Club.

Sherrill's wife, Dorothy, with whom he has enjoyed a marriage of 46 years, has also been very active in community projects. She has served several terms as an officer of the United Jewish Appeal and of the Jewish Federation Council. Their twin children, Bruce and Bonnie, have carried out the family tradition of community and political service.

Sherrill Corwin's show business career spans more than half a century. He is currently chairman of the board of the Metropolitan Theatres Corp., in Los Angeles. He was one of the founders, and was the first president, of the National Association of Theatre Owners and remains a member of both its board of directors and executive committee. Mr. Corwin has long been interested in independent film production, and in addition to his theater holdings, is director of a bank and of a life insurance company and has owned and operated radio and television stations throughout California and Kansas.

For Sherrill C. Corwin's lifelong contributions to his community and his industry, he has earned our respect and admiration. I ask the Members to join me in honoring him.

ESTONIA LAID WASTE BY RUSSIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McDONALD. Mr. Speaker, the Daily Telegraph of London, on September 19, 1977, in a story datelined Stockholm, reported a protest by scientists relative to pollution created by the rape of natural resources in Estonia by the U.S.S.R. and this is certainly noteworthy. However, this is not unusual. The U.S.S.R. possessed of one of the greatest storehouses of natural resources in the world, has always been wasteful of its resources and is a johnny-come-lately to the environmental business.

In the case of Estonia, the rape of resources has been secondary to the attempt to populate Estonia with Great Russians, subvert the Estonian culture and religion, and, when necessary, ship Estonians to labor camps when they resisted Communism. As one of the Baltic nations, poor Estonia was invaded by both the Nazis and the U.S.S.R. during World War II again losing her freedom after gaining a painful independence following World War I. This is yet another sad aspect of her subjugation to the U.S.S.R. The news item follows:

[From the Daily Telegraph, Sept. 19, 1977]

ESTONIA "LAID WASTE BY RUSSIA"

(By Elga Eliaser)

A group of scientists may be in danger of arrest or lose their jobs after smuggling a warning out of Estonia that natural resources in the north of the country are being wasted by Russia.

The biggest threat is to oil shale and phosphorite. But soil, water and air are being excessively polluted, say the scientists, in a letter addressed to colleagues in countries around the Baltic Sea.

Scientists in Finland, Sweden, Denmark and West Germany have been told that heavily-polluted Estonian rivers are polluting the Baltic, a shallow, tideless, extremely vulnerable sea.

The letter was signed by "18 scientists of the Environmental Protection Society, now the Academy of Sciences of Tallinn Polytechnical Institute and of Tartu University of the Estonian SSR." Although their names were not published, it will be relatively easy to identify them.

LUNAR LANDSCAPE

They said Estonian oil shale was a valuable raw material for the chemical industry and ought also to be capable of producing oil and gas for export.

But most of the output was used for fuel in two large power plants, and the construction of a third was planned.

Excessive mining for oil shale, they said, turned large districts in Northern Estonia into a lunar landscape. "Large heaps of ashes and stones arise above a grey and dead land. Fertile soil and its flora have been killed over large stretches, air has been polluted by smoke and poisonous compounds.

"Rivers which earlier abounded with salmon and trout, are now completely lifeless and poison the sea. The pollution of the ground water has reached a dangerous level."

They appealed for their colleagues to help to save North Estonian resources and to stop

further pollution and environmental destruction.

JOINT STATEMENT ON ISRAEL RAISES DISTURBING QUESTIONS ON U.S. POLICY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COUGHLIN. Mr. Speaker, the joint United States-Soviet statement on the Middle East raises disturbing questions about the administration policy toward Israel.

By its use of the so-called big power leverage, the administration suddenly has thrust the Soviet Union back into a major world trouble area with renewed influence when its credibility with Arab States was waning greatly.

Whether out of naivety or on purpose, the administration appears to be abandoning key principles which I always have considered essential in working toward peace between Israel and her Arab neighbors:

First. It indicates it is willing to impose a settlement on Israel which represents a significant reversal of our longstanding policy;

Second. It apparently ignores the facts that Israel can survive only with secure borders which it has fought for, at great cost to its relatively small population, since its establishment as a state; and

Third. It jeopardizes Israel's bargaining position by imposing preconditions even before the Geneva Conference which leaves it to the negotiating mercy of the Arab States.

In sum, the administration's "grand design" for peace in the Middle East is a risk of monumental proportions and calls into doubt both the wisdom and influence of its architect, National Security Adviser Zbigniew Brzezinski.

Substitution of this strategy for the step-by-step diplomacy of former Secretary of State Henry Kissinger increases tensions in the Middle East. Rather than enhancing chances for lasting peace, it reduces them.

The problems of the Middle East, including Palestinian interests, are so tangled and profound that only an act of folly or a flight of ego would attempt to solve them by one great ploy. We should be encouraging responsible Israeli and Arab leaders to a realistic resolution of a number of delicate problems, not promoting a questionable panacea of sweeping magnitude that places more emphasis on hope than reason.

Obviously, the leaders of Israel are realists who recognize they will be called upon to make concessions if they are to achieve a lasting peace with the Arab States. A step-by-step progression affords all participants the maximum opportunities to bargain and to adjust positions. By taking away all of Israel's bargaining chips before the conference, the administration is committing a gigantic blunder.

President Carter's reassurances to Israel mean little in light of the joint United States-Soviet communique. Even more ominous are the cocksure statements of Brzezinski that, in effect, Israel has no place to go and will be forced to sit down at the peace table at any cost. Mr. Brzezinski's reading of history is as fallacious as his premise that he can dictate a Middle East settlement to the nation which has been the cutting edge of our policy there and has maintained the only stable government on which we could depend.

TWENTIETH ANNIVERSARY OF SPUTNIK I

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. TEAGUE. Mr. Speaker, today is the 20th anniversary of the orbiting of the world's first artificial satellite, Sputnik I, launched by the Soviet Union on October 4, 1957.

This major scientific accomplishment was not only a dramatic event, but was one that caught the world by surprise. Aside from the political effect upon world public opinion, the Soviet space accomplishment had grave implications for the security of the free world.

The success of the U.S.S.R. satellite led the world into outer space and the U.S. immediate response was that it must put forth a tremendous effort to insure its own preeminence in this new area. The race in space presented a whole new set of far-reaching and complex problems to Congress, the executive branch of the Government, and to the industrial and scientific communities.

Although the United States did not have an integrated national space program in 1957, it had plans to launch a scientific satellite in the International Geophysical Year, preparation for which had begun in 1954. The IGY was a scientific undertaking sponsored by an international organization of scientists and designed to promote a worldwide investigation of the Earth and its environment.

America's successful response to the Russian challenge came on January 31, 1958. On that day, this Nation successfully launched under its IGY program, Explorer I, the free world's first artificial satellite. Onboard instruments discovered the radiation belt which surrounds the Earth. Soon thereafter, there was established the Advanced Research Projects Agency within the Department of Defense to provide interim responsibility for the national space program.

With strong public support, both Houses of Congress quickly enacted into law the National Aeronautics and Space Act of 1958 that created a civilian space agency and gave it a broad charter for civilian aeronautical and space research. The National Aeronautics and Space Agency became operative on October 1, 1958, and with the help of many dedicated people, has guided our Nation's space exploration activities through the fastest moving technological revolution of all time.

Mr. Speaker, from the position of being a nation behind in space achievements in 1957, we have forged ahead and have witnessed many spectacular and amazing achievements including landing men on the Moon and returning them safely.

I think it is only fitting for all Americans to pause and reflect on this Nation's successful response to the challenge it faced 20 years ago and to appreciate the contribution our space program has made for the people of this Nation and of the world.

And, at the same time, Mr. Speaker, I believe it very fitting that all of us join in again congratulating the scientists and engineers of the Soviet Union for their historic achievement of 20 years ago today. They do deserve the whole world's appreciation for that first step into outer space.

CRUISE SHIP "ODESSA" SCHEDULES TWO SAILINGS FROM PHILADELPHIA IN 1978

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, the honorable Frank L. Rizzo, Mayor of the city of Philadelphia, has just announced that the cruise ship *Odessa* will make two sailings from the Port of Philadelphia in 1978.

Representatives of the ship operator are due to arrive in Philadelphia shortly for the official signing of agreements. The cruise coordinator is Joshua Davis-Baser of Glenside, Pa.

Mayor Rizzo has adequately expressed the view of the people of Philadelphia with his statement welcoming resumption of passenger service actively through our modern Port of Philadelphia.

One of the world's newst and most beautiful cruise ships, the *Odessa,* built in England in 1975, will sail from Philadelphia's Tioga Marine Terminal on a 3-day "cruise to nowhere," May 26–29, 1978 and a 5-day cruise to Bermuda, May 29–June 3, 1978.

With a capacity of more than 500 passengers, the *Odessa* features American and international cuisine, a casino, outdoor pool, sauna, gymnasium, professional entertainment, and movie theater.

ANDY SANTOR IS YOUNGSTOWN, OHIO, AREA GOLFER OF THE YEAR

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARNEY. Mr. Speaker, on Saturday evening, September 17, the Youngstown District Amateur Invitational Golf Association (YDAIGA) held its annual awards dinner-dance at Cherry's Top of the Mall in Niles, Ohio.

Mr. Andy Santor, who has been an outstanding golfer for many years, received this year's "Golfer of the Year"

award from association president Pete D'Alesio.

As an amateur golfer, Andy Santor has had few equals during his long and distinguished golfing career. A charter member of the YDAIGA, Penn-Ohio and YMCA leagues, he was the first golfer to win the YDAIGA match and medal championships in the same year, 1957; during that year, he also won the Champ of Champs golf tournament at the Trumbull Country Club.

Andy Santor's personal feats on the golf course are many; they include: set the course record of 65 at Sharon Leeland during a YDAIGA amateur tourney; led the Penn-Ohio League three times in low average and points won, plus maintaining a 74-stroke average over 27 seasons; seven-time winner of the Henry Stambaugh course; winner of the Ohio Publinx in Columbus, Ohio in 1965; four-time winner of Yankee Run best ball with Dr. Frank Bellino, and 1967 winner of New Castle best ball, also with Dr. Bellino; winner of the Trumbull County Amateur in 1963, his sons, Bob and Bill, tied for second; had low round of 32 on Mill Creek's second nine holes in 1975 YMCA League; shot a 63 on the Hubbard course in 1975, and shares the Stambaugh course record of 31 with four other golfers. A retired milk company truck driver, Mr. Santor served as the first president of the Metro Golf League last year.

Andy is married to the former Dorothy Hoover; they have three sons and two daughters: Bob Santor, a mathematics teacher, basketball coach, and cross-country coach at Cardinal Mooney High School, and an excellent golfer in his own right; Bill Santor, an employee of General Motors Acceptance Corp. and also an excellent amateur golfer; Ed Santor, head football coach at Liberty High School; and daughters, Sandy—Mrs. Sandy Mayerchak—and Cathy—Mrs. Cathy Marino.

Mr. Speaker, I have known the Santos for many years. They are a close family, wonderful athletes and public-spirited citizens. We are very fortunate to have them as members of our community. Andy Santor is a good and decent human being, and I am proud to call him my friend.

GO SLOW ON CAPITAL GAINS REPEAL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, it has been reliably reported that the Carter administration is seriously considering recommending that Congress repeal the current capital gains provisions of the Internal Revenue Code and thus treat all gains from the sale of real or personal property as ordinary income.

I recognize that such a major departure from historical taxing practice will be controversial and I would certainly hope the matter would have very thorough hearings and public analysis before any change is seriously considered. In fact, I strongly oppose the change.

If it were to come, it is obvious that farmpeople would be directly and adversely affected.

The price of farm land is now high. If sellers of farm land could not shelter at least half of the increased value of their land when they sell it, they obviously would have to ask more for it when selling.

This can mean only one thing—higher land costs to purchasers. This, of course, will hit young farmers the hardest since they already have difficulty in raising the needed capital to finance their entry into agriculture.

A second impact of repealing capital gains provisions comes in the futures market.

If profit from the sale of futures contracts becomes taxable as ordinary income, it could well result in many small speculators turning to other forms of investment income. This in turn could reduce the liquidity that futures markets need to reflect accurately commodity values and to provide a sound basis for hedging by farm producers and processors.

Finally, if capital gains are to be treated as ordinary income, what about capital losses? At present, capital losses must generally be offset against capital gains. If this system were to be changed and capital losses were counted against ordinary income the result might be enormous losses of revenue to the Federal Government which is already $60 billion in the red for this fiscal year.

In summary, the impact on land values, the effect upon commodity markets, and the possible loss of large amounts of revenue all add up to say "go slow" before making such a major change in our tax laws.

REPRESENTATIVE BOB POAGE ANNOUNCES HIS PLANS FOR RETIREMENT

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. HIGHTOWER. Mr. Speaker, on Saturday, September 24, 1977, our distinguished friend and colleague, W. R. (BOB) POAGE who has served the 11th Congressional District for 42 years wrote an open letter to his "family." He has a large "family." In this letter he stated that he and his wife, having no children of their own, have tried to do for their district what they might have done for their own family. Such a long tenure of service is evidence of the love and respect the people of his central Texas district have for BOB and Frances POAGE.

Mr. POAGE has announced that he will not be a candidate for the Democratic nomination in the 11th Congressional District next year. I know that his colleagues will have occasions at a later time to express their appreciation of his life and service, but I would not want them to miss the opportunity to take note of such a significant event as the announcement of his plans to retire.

TO THE PEOPLE OF THE 11TH CONGRESSIONAL DISTRICT

For more than half a century I have represented the people of my home county at Austin or at Washington. For 42 years I have sought as best I could to serve the people of the entire Eleventh District in the Congress of the United States.

During my years in Congress, I have been assisted by a great staff. More than 175 different individuals have at one time or another worked with me. Almost all of them have been from the Eleventh District. I am deeply indebted to my fellow workers. I want to thank each one of them.

The people of Central Texas are "my people." They think as I do on most issues. They value the same ideals of morality and hard work, which I value. I hope that I can always say I am one of these people. I was born in Waco. We have maintained our home in Waco all the years I have represented you in Washington. I expect to complete my years at 600 Edgewood, Waco, Texas; but I like to think that I have just as fine friends in Temple, Cameron, Glen Rose, Brownwood, and other communities as in Waco. Service in Washington would not have been so fascinating without these good friends at home. I shall always value these friendships.

My family has always been an inspiration to me. My father was an old-time cowman. I value the livestock tradition. My mother was a frontier homemaker. Her greatest pride was her children, and they knew that she could (and did) work miracles with very little to work from. My wife, Frances, has shared all my problems and disappointments. She has stood with me in failure and success. We regret that we have no children of our own, but we have tried to do for our District what we might have done for our own family.

We have been generously rewarded. Service in the United States House of Representatives is a privilege that comes to a very few (only 9058 since the founding of the Republic). We have enjoyed the privilege of living a number of months each year in the center of world activity. It has been a great experience, and it was made possible by the trust and confidence of the people of Central Texas. We are deeply grateful.

In recent years I have seen the sentiment of the country and of the country's Representatives change. Many people seem to believe that government can and should *give* them all of the good things of life. I cannot consistently represent such views. I believe government cannot change economic law. I believe we must *work* for a better life. I believe in the Biblical injunction, "In the sweat of thy brow shall you eat bread." I have seen what an overdose of socialism has done for a once proud people in Great Britain. I do not want to be a party to leading my country down that primrose path.

Our District is entitled to the most effective representation available. I have come to the conclusion that my efforts to move our country in what I consider to be the right direction may not be as effective as those of a new face would be. Several competent individuals have expressed an interest in assuming the responsibility when I lay it down. I have no desire to try to select my successor. I think that the people of this District have proven that they are quite able to do that. As a concerned citizen, I will, of course, vote for the candidate I consider best qualified; but I want to work with, and if I can, to assist anyone our people select.

I expect to serve for the full term to which I was elected; but Frances and I have long ago discussed the matter and agreed that we want to get home and live among those friends who have meant so much to us

throughout the years. I have a lot of unfinished work to do at home, and I would like to be at it.

So that each of you may understand my delay in making this announcement, I want to point out that any early announcement of retirement very directly reduces a Representative's influence in Washington. With such an announcement he becomes a "Lame Duck." I have, therefore, withheld any statement as long as possible. Congressional action on the Farm Bill, in which I was deeply interested, has been completed.

I think that the time has arrived when I must, in fairness to all prospective candidates, announce that I will *not* be a candidate for reelection. In doing so, I want to thank every citizen of the 11th Congressional District for your years of support and friendship. May God bless you every one.

MAINE IS PROUD OF WILLIAM ROGERS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COHEN. Mr. Speaker, on August 25, William J. Rogers of Maine stepped down as the national commander of the American Legion.

There is no question that Bill Rogers served the Legion well during his term as national commander. Indeed, he has served his Nation well and his State well. We in Maine are proud of the job Bill Rogers has done for American veterans, and I, for one, am confident that his strong voice will continue to be heard on veterans issues in the years to come.

The special feeling Maine veterans have for Bill Rogers was expressed in an editorial in the September issue of the Maine Legionnaire. I hope my colleagues will take time to read this moving tribute to a great American, Bill Rogers.

The editorial follows:

MAINE IS PROUD OF WILLIAM ROGERS

It was a moment of great pride for all of the citizens of Maine when on Thursday, August 25, 1977, our own William J. Rogers stepped down from his role of National Commander of The American Legion in the concluding session of the National Convention in the "Mile-High" City of Denver, Colorado.

Bill Rogers had become "Past National Commander William J. Rogers" and all of us from Maine and the Nation saluted a good and great national legion chief.

No man came to the office of National Commander of The American Legion with so many friends and supporters than Bill Rogers. When he stepped down from his lofty post, Bill Rogers continued, to enjoy that same fellowship and support that marked him in years past.

We salute you, Bill Rogers—fellow Legionnaire and Past National Commander . . . for your leadership and accomplishments. Few National Commanders faced the problem and heartaches that Bill Rogers confronted in his term of office. Yet among the perils and troubles of his administration, Bill Rogers walked "ten feet tall" with pride and dignity and with the air of a great leader. Great men do not have easy times or goals which are attained lightly. Bill Rogers never lost his sense of humor, his smile or warm personal greeting for friend and comrades. He never lost sight of the zest for leadership of the highest caliber. As National Commander, he gave the best that was within him in his leadership of the greatest veterans organization in the world.

Maybe it is because Mainers have a special sense of pride in Bill Rogers and that wonderful spirit that make this Legion so great. But everywhere you travel across the great areas of The American Legion, Bill Rogers is respected by the "blue cap" Legionnaires as well as officers of the organization.

We have come to end of a year of Legion history . . . and we in Maine were proud to be a special part of it. Walking down the path of Legion leadership with Bill Rogers, the citizens of Maine and the Nation join hands in a salute to a great man and a fine National Commander.

Bill Rogers will wear the title "Past National Commander" with great distinction and service to his fellow Legionnaires. When the shades of time come closing in on us all . . . and we warm ourselves with thoughts of great days and time, the men and women of Maine proud of our heritage will speak of Bill Rogers with a sense of pride. We will remember our National Commander and his leadership. But most of all, we will remember Bill and Connie Rogers for being truly wonderful people . . . the kind that makes our State of Maine a finer place to live in.

Bill Rogers . . . the Legionnaires and Auxiliary members of Maine, indeed all your fellow citizens salute you for a job well done.

STEVE BROIDY RECEIVES SHLOMO BARDIN MEMORIAL AWARD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, on Tuesday evening, November 22, 1977, Mr. Steve Broidy will receive the first Shlomo Bardin Memorial Award of the Brandeis-Bardin Institute. I should like to call to the attention of my colleagues in Congress and the general public some of the achievements of the distinguished honoree, Steve Broidy.

Few people in southern California have had as dramatic and long-lasting an impact on our major institutions as Steve Broidy has had. Every organization fortunate enough to have attracted Steve Broidy's interest has experienced directly his enormous energy, inventiveness, persistence, and, above all, sensitivity to people's feelings and needs.

He has been particularly dedicated to the unique Jewish communal and educational institution developed by the late Dr. Shlomo Bardin. Bardin, in whose memory the institute has been renamed, the "Brandeis-Bardin Institute" found in Steve Broidy the friendship, encouragement and like-mindedness that made it possible for them to overcome enormous barriers to the growth and well-being of the institute.

In addition to his work for the Brandeis-Bardin Institute, Steve Broidy also played an extremely active role in the development of the Cedars-Sinai Medical Center in Los Angeles. With the medical center, as with the institute, those actively involved cannot imagine these institutions being what they are today had it not been for the total involvement and dedication of Steve Broidy.

Despite deep involvement in the Jewish community, Steve Broidy has always found time and strength to contribute to the improvement of life for people of every faith and background. He has chaired United Way drives, served on the board of the Salvation Army, and of Claremont Men's College, and the Academy of Motion Picture Arts and Sciences. Space does not allow me to enumerate Mr. Broidy's other civic and philanthropic activities or to indicate even a portion of the numerous awards and symbols of recognition he has earned.

I know Steve Broidy's wife, Frances, and his children, Arthur, Stephen, and Mrs. Jack Sattinger, above all others, understand how deserving Steve Broidy is of the Shlomo Bardin award and how much the work of Dr. Bardin and the phenomenal success of the institute means to him. I know my colleagues in the House of Representatives join with Steve Broidy's numerous friends and admirers in congratulating him and in wishing him good health and continued strength to continue to play a central role in our community, and, indeed, our Nation.

EDUCATORS VERSUS SENIOR CITIZENS: WHO WILL BE THE WISER?

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SOLARZ. Mr. Speaker, a bill that I quietly introduced last February, the Senior Citizen Opportunity Act, H.R. 3542, has caused some sparks to fly between the senior citizens and the educators. The following excerpt from "Adult and Continuing Education Today"—September 5, 1977—was written by that very witty and articulate senior citizen, Sam Brightman. It is as lively a presentation of both sides of the issue as I have seen—

American Council on Education opposes Solarz bill, sees freeloading old folks as threat to academic freedom.

The American Council on Education has come out against the Solarz bill, which would require colleges and universities that accept a variety of Federal funds to admit qualified old people to classes on a space available basis without charge, other than administrative expenses. (See ACET, vol. VII, No. 14 and 15.) A somewhat patronizing letter sent to the bill's sponsor, Representative STEPHEN SOLARZ of New York, by assistant ACE staff counsel Laura C. Ford expressed this opposition. The ACE is the powerful voice of our colleges and universities and the letter reveals a lot about the higher education establishment's attitude toward all adult learners, not just toward the aged. Some key excerpts from the letter follow:

* * * The essence of academic freedom is often states (sic) as "who shall teach, what shall be taught, and to whom." We consider any attempt by the federal government to prescribe who shall be admitted into a course, and at what price, as an unwarranted intrusion into the academic affairs of individual institutions * * *

We believe that professional educators which learning can best take place. These conditions include the size of classes, the

teacher/student ratio, the presence or absence of nonparticipants, and the mode of inteaction between a teacher and students. Such matters are an integral part of the educational process, and should not be made the subject of federal legislation.

A third general concern is that of cost. We find unconvincing the argument that H.R. 3542 would not cost educational institutions any money * * * To the extent that senior citizens can be expected to enroll in higher education in the future on a tuition paying basis, H.R. 3542 would have a significant financial impact on institutions.

Also a cost item to colleges and universities would be the administrative burden of registering senior citizens, issuing identification and library cards (often needed for entry to campus buildings), and keeping the appropriate records. Unless an "administrative fee" were permitted, such paperwork could constitute a significant cost factor.

A final general concern is the potential conflict between H.R. 3542 and the Age Discrimination Act passed by Congress in 1975 (P.L. 94–135). The latter law forbids unreasonable discrimination on the basis of age in programs or activities which receive federal assistance. The U.S. Commission on Civil rights is currently conducting a study which will result in recommendations and proposed regulations for the elimination of age discrimination in admission, financial aid, and student services at virtually every accredited college and university in the nation. Separation of students into "paying" and "nonpaying" categories solely on the basis of age would seem to be a prima facie violation of the Age Discrimination Act * * *

This letter takes a lot of words to say that higher education institutions do not want any nonpaying customers and consider part-time students a nuisance. But the arguments are worthy of some response from the aged supporters of the measure, who make these points:

The fact is that the Federal Government interferes a lot in the operation of postsecondary institutions and whenever this interference is accompanied by grants of money, the institutions do not seem to find any big problem.

The position of ACE that academic freedom is the property of the colleges and universities and that it is none of the business of the citizenry or the Federal Government was breached a good many years ago when the Federal Government abridged the academic freedom of the University of Alabama to exclude blacks. Does our Constitution provide that only academics can have a voice in deciding "who shall teach, what shall be taught, and to whom?" That statement and the following statement that the teacher should have sole control over learning conditions—and that the learner should have no say—strikes at the heart of adult education and the concept of lifelong learning. It implies clearly that adults should have no voice in what they are taught or how.

Since the bill provides for administrative costs to be levied, all of the crying about the cost of issuing library cards is not relevant. As to loss of revenue from seniors who would pay if they could not get in for free, it is not likely to be as great as the loss of revenue to transit companies that issue half-fare cards to the aged or to pharmacies that give a 10-percent discount on prescriptions. All of these things are charity doled out to the aged in lieu of sufficient income to ride buses or to fill prescriptions at the regular price. The aged would rather be able to buy these things at the full rate than to accept charity, but when income suddenly drops to a half or a third or even less of what it has been, most of the aged swallow their pride and accept charity.

It is impossible to disagree with the argument that the Solarz bill proposes to discriminate in favor of the aged. But what about all of the discrimination against adults? What about universities that charge part-time adult students higher tuition fees for courses taught by their worst instructors? What about universities that lock up their libraries and student unions and eating places during the hours when employed adults go there to learn? What about the Federal programs of aid that discriminate against the part-time adult students? What about the student aid programs of the universities which do the same thing? It seems just a little hypocritical to carry on all of this discrimination against the aged for years and only take a position against discrimination when it would favor the aged.

The aged have far more pressing needs than a free pass for a few of those who have been to college to return and sit in the back of the classroom, so ACE will probably be able to block the Solarz bill without much trouble. Not to worry. There is always the senior center in the basement of the Elks Club and remedial basketweaving.

WILLIAM R. HULL, JR.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CONTE. Mr. Speaker, I appreciate this opportunity to join with my colleagues in saluting the memory of the late William R. Hull, for 18 years a distinguished Member of this body.

Bill Hull and I served together on the Appropriations Committee, where he was a diligent student of budgetary affairs. He was closely involved in legislation concerning the interests of his agricultural constituency and served with distinction on the Public Works and Interstate and Foreign Commerce Committees, as well as the Appropriations Committee.

The Hull family has played a prominent role in the political life of the community of Weston, Mo., for many, many years. I join the citizens of Bill Hull's hometown of Weston, and the residents of the 6th District of Missouri, whom he served with such dedication in the Congress, in mourning the passing of this fine public servant.

At this time, I would like to express my condolences to his son, William R. Hull, III, and his daughter, Mrs. Susan H. Hudson, and the entire Hull family.

MASSACHUSETTS SOLAR ACTION OFFICE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MOAKLEY. Mr. Speaker, as is becoming more obvious every day, most of the solar energy reaching the United States is grossly wasted. For despite the various technologies which can utilize this abundant and safe source of energy, we have failed in widespread commercialization.

But still this inexhaustible, safe source of energy may fuel the solar plate collectors for heating and cooling of buildings and for heating water and also provide the necessary sunlight for photovoltaic cells to produce electricity in the future.

An all-out effort to aid the growth of a national solar energy industry would not only decrease America's dependence on foreign oil but will also create jobs for construction workers, machinists, metal workers and other industrial workers.

A widespread growth in the solar industry based around research, construction, installation, and maintenance of solar-collecting products will help in our effort to cut unemployment and help our economy grow.

In an effort to encourage the development of the solar energy industry, I would like to bring to your attention a major State effort to accomplish just this: Gov. Michael S. Dukakis, of Massachusetts, recently announced the opening of a Solar Action Office in Boston.

I commend this action. With the United States seeking to conserve our dwindling fossil fuel resources, establishing this kind of facility to promote a clean, renewable energy source, such as the sun, is certainly a step in the right direction.

The office, which was established with funds from the U.S. Department of Housing and Urban Development, will be within the jurisdiction of the Department of Consumer Affairs.

The Governor also announced that Massachusetts will be the first State in the Nation to receive Federal funds for a series of conferences across the State to inform the public about the vast potential solar energy offers the general public at increasingly affordable costs.

This alternative energy source offers great hope in the future for each year, the sunlight reaching Earth supplies more than 25 times the energy than all the world's known coal, oil, and natural gas reserves.

By harnessing the sun's power, we have the chance to supply the needed energy for countless generations in the future. It is hoped that the proliferation of this kind of effort across the Nation will accomplish just that kind of end product.

MAURICE GLADMAN, TUSTIN, CALIF., PRESIDENT, KIWANIS INTERNATIONAL

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. DEL CLAWSON. Mr. Speaker, one of my longtime friends and fellow Kiwanians, Maurice Gladman, a Tustin, Calif., banker and association executive, started, on October 1, a 1-year term as president of Kiwanis International. In that capacity he will be official spokesman for this 62-year-old service organization which now comprises nearly 290,000 members in 7,000 clubs located in 61 nations around the world. Gladman was elected during Kiwanis annual convention in Dallas, Tex., in June.

I am proud of him and want to share my pride with you. I am also proud of my own Kiwanis membership which is duplicated by some 105 Members of the current Congress.

When Gladman made his acceptance speech in Dallas, he presented the Kiwanis theme which will guide the organization in all its community service efforts during his term of office. That theme is "Reach Out," and it is a dramatization of Gladman's own philosophy.

The theme is supplemented by five "objectives" which also were presented by President Gladman. Simple in wording, yet powerful in intent, they read:

Reach out for deeper understanding of the human and the spiritual values of life

For excellence of purpose and performance in community service

For greater effectiveness in safeguarding life and property by working directly with youth

For personal involvement with sponsored youth organizations

For sustained growth in numbers and in service and in fellowship throughout the world.

In addition, Gladman announced the Kiwanis "Major Emphasis Program" for the period of his presidency. Called "Safeguard Against Crime, Phase II," it is an extension of a program of information and indoctrination begun last year, aimed at advising all segments of society on the incidence of crime, the kinds of crime usually perpetrated against persons and property, and the steps that individuals can take to resist such crime. Phase II of the program will concern itself with crime as it applies to young people, both as its perpetrators, and its victims.

Maury Gladman is a veteran of 22 years in Kiwanis. They have been years crowded with service to the organization, and to his fellow man.

He served 7 years on the Kiwanis International Board of Trustees before becoming Kiwanis' president; and he has been governor of the California-Nevada-Hawaii District, and president of his home club, Santa Ana, Calif.

In private life, Gladman is executive secretary and manager of the Southern California Tire Dealers and Retreaders Association, and chairman of the board of the American State Bank of Newport Beach, Calif. He is prominent in the affairs of his association and in the American and Southern California Societies of Association Executives.

He has been active in civic and charitable affairs as well, both in his community and State, and in the Nation. On July 10 of this year he received the prestigious "City of Hope Spirit of Life Award." He is a colonel (retired) in the U.S. Army Reserve. His last tour of duty was with the Assistant Secretary of the Army for installations and logistics.

Maury and Rosabelle Gladman will travel widely during the coming year, visiting most of the 61 nations in which Kiwanis serves. His presidential year will be climaxed by the 1978 convention of Kiwanis International in Miami Beach, Fla., next summer.

Maury Gladman has my commendation for his willingness to assume the demanding duties of the presidency of Kiwanis International, and I join with his many friends in wishing him a successful administration crowned with growth and vital public service.

A TRIBUTE TO GEORGE W. MILIAS, AN OUTSTANDING PUBLIC SERVANT AND FRIEND

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BURGENER. Mr. Speaker, I know I am joined by the entire California congressional delegation in offering a solemn congressional tribute to a man many of us knew and deeply admired who passed away last Saturday.

George W. Milias, with whom so many of our delegation served in the California legislature, was truly an extraordinary individual, and we will all miss him deeply.

George Milias was not only an outstanding public servant, but he also brought to his public service career that extra dimension of mild-mannered perspective, quiet leadership, and compassionate devotion which summoned deep respect from nearly everyone he came in contact with.

Even though his leadership ability was exemplified by his outstanding tenure as chairman of the California State Republican Party, those of us who knew George knew that partisanship seldom accompanied his actions on behalf of the people of his district and the people of California. He led by quiet example and simple sensibility.

Long before the widespread public concern about our Nation's treasured natural resources, George Milias' personal concern led the way for an enlightened natural resources and conservation policy in California, which, as much as any facet of his outstanding public service, is his legacy. His upbringing in Gilroy, Calif., imbued him with a love for the land and a respect for the natural beauty God had surrounded him with, and George Milias always loved our natural heritage.

George Milias was a "doer," a participant all of his life and not a spectator. His confident yet concerned demeanor, his quiet competence in public life, and his simple forthrightness and friendship with so many of us will be a humbling loss. Our thoughts go out to Mary Ann Milias in her loss, which we certainly share deeply.

PHILADELPHIA SEEKS APPROVAL FOR FOREIGN TRADE ZONE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, the Philadelphia Port Corp. has filed an application with the U.S. Foreign Trade Zones Board to establish a general-purpose foreign trade zone at pier 78 south, pier 78 south annex buildings No. 1, 2 and 3, and pier 98 annex—all located on the Delaware River waterfront.

The Foreign Trade Zones Board will hold a public hearing on the application this week in Philadelphia. At that time, Mayor Frank L. Rizzo, and a number of Members of Congress, myself included, will submit statements endorsing the proposal. It is my understanding that labor, railroad, and trucking interests also will testify in favor of the proposal.

The city and its port are urgently in need of a foreign trade zone, which will create new jobs and new revenue for cur local economy," Mayor Rizzo has declared.

The Greater Philadephia Chamber of Commerce, the Philadelphia Industrial Development Corp., the Delaware River Port Authority, and numerous port-oriented organizations will join with the Philadelphia Port Corp. in its request. Prospective tenants for the foreign trade zone will be represented.

A total of 47 firms have expressed potential interest in the zone in a survey conducted by the Greater Philadelphia Chamber of Commerce.

Irvin J. Good, President of the Port Corporation, has said the principal advantages of a foreign trade zone are the manufacture and processing of imported materials without the usual formal Customs entry procedures and payment of duties until the goods leave the zone and enter the United States. Foreign materials are frequently combined with American materials in the manufacture of a finished product. Goods shipped overseas remain free of Customs duties.

"Importantly, a foreign trade zone will enable Philadelphia to attract the reverse investment flow from other nations," he has declared.

TASK FORCE ATTACKS EXPENSIVE HOUSE REFORMS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. COUGHLIN. Mr. Speaker, I would like to submit this statement on behalf of the Republican Task Force on Congressional Reform, of which I am honored to serve as chairman. Joining me on the task force are JOHN J. RHODES, JOHN B. ANDERSON, DEL CLAWSON, BILL FRENZEL, WILLIAM L. ARMSTRONG, ROBERT E. BAUMAN, M. CALDWELL BUTLER, JAMES C. CLEVELAND, THOMAS B. EVANS, JR., MILLICENT FENWICK, LOUIS FREY, JR., HENRY J. HYDE, ROBERT W. KASTEN, JR., JIM LEACH, DONALD J. MITCHELL, W. HENSON MOORE, JOEL PRITCHARD, RALPH S. REGULA, NEWTON I. STEERS, JR., WILLIAM A. STEIGER, and ROBERT S. WALKER.

STATEMENT OF THE REPUBLICAN TASK FORCE ON CONGRESSIONAL REFORM

House Resolution 766 presents the House of Representatives with an additional opportunity to consider meaningful institutional reform. This resolution, based on the recommendations of the Task Forces on Administrative Units and Work Management of the Commission on Administrative Review, proposes an extensive series of changes in the administrative structure and the internal operations of the House: We are acutely aware that our present administrative system is a complicated patchwork which has developed without the benefits of any rational planning, resulting in fragmented responsibilities and duties among a number of jealous and competing subunits. All Members of the House would agree that—A streamlined legislative bureaucracy; improved management in internal administration; greater degree of accountability in financial operation; and a more rational committee structure, are essential if the House is to be responsive to the demands of contemporary society. Although House Resolution 766 attempts to assuage these concerns, we would like to suggest several areas where the proposal must be strengthened:

I. PROTECTION OF THE MINORITY

While it is understandable that legislative matters of the House should be subject to control by the majority in proportion to its representation in Congress—administrative, investigatory, and judicial functions of the House should have adequate checks to protect the minority from discrimination.

The principal provision of H. Res. 766 is the creation, in Title I, of an extremely powerful House Administrator to direct, plan, and coordinate the day-to-day administrative and support operations of the House. As the resolution is drafted, the Speaker nominates the Administrator and the House must then vote to approve. As to dismissal, a majority of the Members of the Committee on House Administration must vote to remove the Administrator with Speaker's approval.

The minority party possesses negligible input in the selection and the removal of the Administrator. An important modification would be to require the concurrence of the Minority Leader in the appointment and the dismissal process. Only by providing the Minority with these safeguards can adequate protection be ensured. A bipartisan approach would prevent any compromise of the new system, and would guard against the misuse of this potent, centralized office.

II. ACCOUNTABILITY OF HOUSE FINANCES

The Task Force believes that independent, mandatory outside audits of the financial operations of the House are imperative.

As drafted, Title II of the resolution incorporates language allowing the House Administration Committee to employ outside audits, "as it deems necessary." An internal auditing process alone would be simply insufficient and would do nothing to regain public trust in the integrity of the financial operations of the Congress.

Since the purpose in creating the Commission on Administrative Review was to suggest mechanisms to avoid the financial scandals which beset the House in 1976, it seems incredible that a nonpartisan, independent audit was not adopted. If the system is to warrant public respect, there must be an independent auditing role.

However, if the House is to limit itself to an internal auditing procedure, the Task Force recommends that the Committee on House Administration establish an audit subcommittee to provide policy guidance to the House Auditor. This subcommittee proposal had been initially offered by the Commission on Administrative Review but was deleted during the final stages of deliberation. If the creation of the subcommittee were coupled with the requirement that it be divided equally between Republicans and Democrats, it would ensure an apolitical role for the auditor and provide another crucial safeguard to the minority.

III. DISCLOSURE

The members of the Task Force believe that disclosure is the key element in preventing impropriety. Previous recommendations of the Commission on Administrative Review have focused on regulation and disclosure of Members' personal finances, but neither these recommendations nor the provisions of this resolution pinpoint disclosure of the expenditure of public funds.

An essential amendment to Title I, in the section dealing with the House Comptroller, would be to make the expense vouchers of the House available to public inspection. Although the official allowances of the House are derived from public tax dollars, disclosure of the manner in which these funds are utilized is quite limited. Accessibility to the expenditure records is paramount to restoring public accountability in the financial operations of the House. Full disclosure is essential, not only to curb any potential abuse, but also to dispel any hint of impropriety in the use of public moneys. Since Members already afford public access to campaign reports and office salary records, disclosure of expense vouchers is a logical and important reform.

IV. THE BILLION DOLLAR CONGRESS

The cost of operating the Legislative Branch of Government has escalated at an alarming rate in recent years. In 1958, the legislative budget amounted to just over one hundred million dollars; by 1978, the legislative budget has soared to one billion dollars. This rapid increase has not resulted in a more effective Congress; it has merely served to subsidize incumbents.

H. Res. 766 has been introduced as the remedy for the administrative chaos which now besets this body. We have been promised that—with the creation of the new positions of Administrator, Comptroller, and Auditor, accompanied by untold numbers of support staff—an efficient and effective management will result. Yet it appears that this resolution merely superimposes another layer of bureaucracy over an antiquated administrative structure. The proposal does not describe what streamlining or consolidation of existing support units will occur following the passage of H. Res. 766. The new position of Administrator will assume many of the functions now parceled among a variety of subunits, yet we are still left with a clutter of subordinate offices including the Clerk and the Doorkeeper.

Although the current administrative enterprise needs rationalization, we must avoid creating an unwieldy bureaucratic empire within our own halls. Any hiring of staff or creation of new positions by either the Administrator or the Auditor should be subject to the close and careful review of the Committee on House Administration. Whatever new system is constituted, the primary concern is that it be accountable to the House and not a self-guided instrument, indifferent to the institution it serves.

V. MEMBERS' BONANZAS

Increases in congressional perquisites benefiting incumbents have also escalated at an astonishing rate in recent years. The House Republican Task Force on Congressional Reform believes that the underlying problem is the consolidated account system under which the House now operates. Established in 1976 in response to the House Administration Committee scandals, the consolidated account allows for almost unlimited transfers among specifically desigated accounts. This allows Members to maximize taxpayers' money to bolster the advantages of incumbency. The media is just becoming aware that transferability among Members' accounts has resulted in a bonanza.

The resolution proposes a new $12,000 computer allowance as a supplement to the untold number of allowance perquisites Members now receive. The cost to the taxpayer is substantial—over five million dollars per year. The cost to the political process is even higher—for it will further weight the scales on the side of the incumbent, thereby discriminating against any potential campaign challenger.

Even though it has been recommended that the computer allowance be nontransferable, we cannot ignore the recent splurge in expanded allowances. This proposed windfall follows closely on the heels of a $5,000 addition to office expenses granted each Member by the provisions of the March ethics resolution, which will be costing the taxpayer over two million dollars. In September, the House increased the district office rental allowance which, in dollars and cents, amounts to an average gain of approximately $7,900 per Member or an additional cost of nearly $3.5 million per year. All of these allowances will be effective in January of 1978, at the beginning of a new election year. The question can rightly be asked when, if ever, this avalanche of increased benefits is likely to stop.

VI. CRAZY QUILT COMMITTEE STRUCTURE

There exists a pressing need for the reorganization and realignment of committee jurisdictions in the House of Representatives. The rampant growth of subcommittees and the crazy quilt pattern of committee jurisdictions underscore the outdated nature of the current system.

The House Republican Task Force on Congressional Reform has long backed efforts to revamp the present antiquated committee structure. We join in strong support of a new select committee on committees. Major issues, such as energy and welfare, cannot be considered within the present structure but must be assigned to specifically created select or ad hoc committees. Comprehensive policy integration and coordination is almost impossible. This multitude of committee assignments results in neverending scheduling conflicts, wasting the time and energies of Members.

A new select committee would be confronted with an enormous and thankless task—but it affords the best possible vehicle to institute an agenda for change. Recent his-

tory indicates the difficulties facing committee reform. In the 93rd Congress, the widely-praised effort of the Bolling-Martin Select Committee on Committees was waylaid by a series of obstacles, most notably the interference of the Democratic Caucus. The costs of failure a second time would irreparably weaken the policy-making role of the House of Representatives.

In endorsing this proposal for a new select committee, the Task Force believes that the only avenue for success is a bipartisan approach. In this regard, the Task Force recommends that the select committee of 13 members, as proposed in Title VII of the resolution, be composed of 7 Democrats and 6 Republicans—an arrangement which will serve to enhance a bipartisan endeavor and to strengthen the final product.

VII. POLITICAL EXPLOITATION OF CONGRESSIONAL RESOURCES

One regrettable omission in H. Res. 766 is the lack of any provision to control the political misuse of congressional staff. In the final report, the Commission on Administrative Review suggested the following:

"The Rules Committee should review the existing provisions regarding the prohibition of payment of congressional employees with official funds for campaign purposes and should make such recommendations as they may deem necessary to enhance enforcement of existing rules and/or propose new rules, if necessary, for the protection of the employees and the public."

It is disappointing that the Commission avoided tackling this issue during their deliberations—for it is the political exploitation of congressional resources, including staff, which contributes to the low reputation of Congress in the media and among the general public. The Republican Task Force on Reform strongly recommends that the Rules Committee undertake this very difficult responsibility in order to provide a more coherent set of guidelines.

VIII. OPEN RULE

This resolution will affect each and every Member of the House in the performance of his or her duties. Regrettably the time constraints imposed on the consideration of this resolution has resulted in a hasty, and somewhat superficial review of its impact. It is important that, in light of this rapid-paced deliberation, Members be allowed the opportunity to debate fully the merits and defects of H. Res. 766 when it reaches the floor. An open rule, permitting all Members to offer amendments is the best assurance that comprehensive and meaningful reform will be achieved.

ENERGY AND NATURAL RESOURCES

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FOWLER. Mr. Speaker, the Congress has had under consideration the bills H.R. 8336 and S. 1791, to establish the Chattahoochee National Recreation Area. As a lifelong admirer of the Chattahoochee's natural and as yet unspoiled resplendence, I would like to offer the following remarks:

TESTIMONY BY REPRESENTATIVE WYCHE FOWLER, FIFTH DISTRICT, GEORGIA, TO THE PARKS AND RECREATION SUBCOMMITTEE OF THE ENERGY AND NATURAL RESOURCES COMMITTEE REGARDING S. 1791 AND H.R. 8336

The Chattahoochee River area is exceptionally beautiful. Even though its waters flow through the heart of metropolitan Atlanta, the Chattahoochee remains remarkably unspoiled by urbanization. We would be foolish to let the opportunity to preserve this area pass us by. Furthermore, if we do not act quickly we will lose that opportunity. Already the City of Atlanta has rezoned some of the affected area to allow commercial development.

As you know, H.R. 8336, the companion bill to S. 1791, would establish the Chattahoochee River National Recreation Area, a 48-mile segment of the Chattahoochee River in the State of Georgia from Buford Dam to Peachtree Creek. The Secretary of the Interior is authorized to acquire lands, waters and interests within the recreation area and to develop the area for public use. There are several aspects of this bill which deserve particular mention.

First, the Chattahoochee Recreation Area is of substantial Federal interest because of its recreational, historic, and natural values. The unique location of the River in and near a regional urban center, which is itself a transportation nexus for the entire Southeast, affords accessibility of the River to literally millions of people. Last year 2.5 million people used the River somewhere along the proposed 48-mile stretch. In other words, the number of people who used the River last year exceeded the number (2.4 million) who visited Yosemite National Park in 1974 or the number (1.9 million) who visited Yellowstone National Park in 1974. It is worth noting that this usage occurred even with the current very limited accessibility to the River. As the River is made into a national recreation park, its usage will probably multiply.

In addition to the recreational value of the River, which has already been discovered by millions of people, this is an area in which nationally significant historic and archaeological resources exist. These resources must be protected. Furthermore, it is in the national interest to preserve the outstanding geologic formations, as well as the ecological community which protects endangered species, for ourselves and for future generations.

Second, despite the compelling nature of this bill, there have been some objections raised to creating a national recreation area along the Chattahoochee. In particular, it has been charged that the area will be impossible to police and to administer properly, that it will hamper the water supply to the City of Atlanta, that it will work a hardship on those who own land along this 48-mile corridor, and that citizens have not had the chance to express their views on this legislation. I do not feel that any of these concerns are warranted by the facts.

The Chattahoochee River Area will consist of 14 separate nodes along a 48-mile stretch of land. The fact that these separate parcels are not contiguous has aroused some concern for proper policing and administration of the area. These fears are unfounded.

In a comprehensive letter to Chairman Udall endorsing this legislation, Secretary of the Interior Cecil Andrus made no mention of any policing problem. More positively, the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments found that "the Chattahoochee corridor more than met the established criteria for national recreation areas." At the present time, there are four sites which have been purchased by the State of Georgia, and they have posed no particular policing problems. In fact, the main problem in the area right now is that of trespass. In order to gain access to the River, users must cross through private property. The trespass problem would be virtually eliminated with the passage of this bill.

The charge that the establishment of the Recreation Area would hamper the water supply to the City of Atlanta is also without substance. Because the Chattahoochee River is the main source of water for the City of Atlanta, the concern for the effect of this legislation on Atlanta's water supply is a legitimate one. However, H.R. 8336 includes protective language which is not incorporated in S. 1791 but which I hope will be adopted by this Committee. Specifically, although the House bill protects the River from construction of any water resources projects which might have an adverse affect on the area, the House version excepts projects which the State of Georgia deems necessary and which are authorized by the Congress. This balance between recreational values and the provision for an adequate water supply for the City of Atlanta was developed after extensive consultation with local environmental groups, the Georgia Department of Natural Resources, and members of the Georgia delegation working on this bill. Moreover, the House version of the bill clearly states that it is not the intention of Congress by this legislation to manipulate the water levels in Lake Sidney Lanier, which draws from the Chattahoochee. As a consequence of these provisions, Atlanta's water supply will be protected.

Another concern which has been voiced on occasion is that the legislation might work a hardship on those who own land along the 48-mile corridor. I think that the facts of the matter lay this concern to rest.

Both the House and Senate versions of the bill address the question of the timing of land acquisitions to assure that area residents are not disadvantaged or inconvenienced. The Secretary of the Interior is directed in the House version of the bill to proceed as expeditiously as possible to acquire the lands and interests necessary to meet the requirements of the Chattahoochee Recreation Area. S. 1791 states the intent of Congress to be complete acquisition within five years.

In addition, landowners can sell or develop their property until the day the Park Service actually buys it. Typically, the designation of an area as a potential park increases land values somewhat. Thus, it is very likely that landowners will benefit from the legislation more than they will be inconvenienced.

Another protection for property owners is that the right of use and occupancy of most of the land to be acquired is retained by the landowner. The owner may elect to continue to use the property for residential purposes for 25 years or until the owner's or spouse's death, whichever occurs later.

Finally, the land must be purchased by the Park Service at current market prices. The aggregate effect of these provisions is to protect the landowner from undue uncertainty, to ensure use of the property by the landowner for those who wish to continue to live on their land, and to make certain that landowners will not suffer a financial loss.

A final concern is the question of whether local citizens have had an adeqaute opportunity to express their views on this legislation. Several points should be made here. First, the Bureau of Recreation identified the 14 sites as far back as 1970. These sites were identified with the aid of a Citizens' Advisory Board. Second, the Atlanta Regional Commission, which is itself made up of citizens and elected officials, again identified the 14 sites in 1972 at which time public hearings were held. Third, the Congress has conducted a number of hearings on this legislation both here in Washington and in Atlanta. Members of Congress have conducted on-site inspections of the Chattachoochee area. As Congress has been considering this legislation for over three years, the newspapers have prominently reported these activities.

In sum, we would be remiss not to move quickly on the Chattahoochee River Bill. The

Bill itself has been the result of extensive cooperation among the consultation with local governments, businesses, citizens groups, landowners, and individual citizens. We are not acting precipitously here. A decade of dedicated work is represented in this legislation. The Chattahoochee River Bill offers a rare opportunity to improve the quality of life in this country. I urge you to move swiftly to save the Chattahoochee for the Nation.

PASSIVE RESTRAINTS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Ms. MIKULSKI. Mr. Speaker, the Baltimore News American recently carried an extremely informative article on the topic of air bags and other passive restraint systems. I commend this article to the attention of my colleagues:

PASSIVE RESTRAINTS

(By Pamela Gray)

There is about a month left for Congress to accept or reject Secretary of Transportation Brock Adams decision requiring every automoble sold in this country to have automatic crash protection according to a phased-in schedule to be completed by model year 1984.

The decision would broaden the scope of possible restraint systems to be used to meet the higher standards of safety protection. Ralph Hoar, director of the National Committee for Automobile Crash Protection, stresses that Adams's decision is not a mandate only for air bags, "but for all technologies which meet the injury protection requirements."

Although it is the air bag system that is now under heavy scrutiny, the passive belts in Volkswagen Rabbits have proven successful in reducing road injuries and meeting the more stringent safety standards. There are 12,000 VW Rabbits now on the roads, and injury claims from crashes involving these cars have been reduced by 20 to 24 percent from previous cars without this system.

The voluntary seat belt system is now only 25 percent effective because 75 percent of the population is simply not using them.

During the first week in September, Susan P. Baker, associate professor in the Division of Forensic Pathology at the Johns Hopkins School of Hygiene and Public Health, will testify before Senate sub-committee hearings specially in favor of the air bags.

"I am convinced," Baker says, "that the safety and effectiveness of air bags warrants their wide-scale use as one design approach that would provide passive protection." She has been lobbying heavily for air bags since the spring, although numerous federal hearing have been conducted during the past three years.

Baker supports Adams's decision to phase-in automatic crash protection. Dept. of Transportation (DOT) estimates predict that if air bags are put in all cars, they will save more than 9,000 lives and prevent or reduce the severity of hundreds of thousands of injuries each year.

"The side crash is not the subject of the controversy," says Baker. "What the air bags are to be used for are front-end crashes which are 55 per cent of the fatal and serious crashes that now occur." She adds that along with the air bag system on the dashboard and steering wheel, lap belts would be required for extra protection in a rollover.

Testing of air bags began 20 years ago. Since 1972 about 12,000 cars with air bags have been on the road, in models of 1972 Mercurys, 1973 Chevrolets, 1974–76 Cadillacs, Buicks and Oldsmobiles, and 1975 Volvos. About 15 percent of these have been in business or government cars.

As of this August, it is not possible to purchase a new car equipped with air bags. No one is making them and it is not yet possible to fit air bags into used cars.

Estimated purchase prices for air bags vary according to the dealer, ranging from $90 to $235. But even though there is an increase in the cost of a new car, insurance industry testimony maintains that over the life of a car insurance premium savings will more than pay for any automatic restraint system. Some insurance companies already offer 30 per cent discounts on medical coverage for air bag-equipped cars.

The air bag passive restraint system has six basic parts—front bumper detector, dashboard sensor, passenger air bag and inflator, driver air bag and inflator, driver and passenger knee restraint, and lap belts.

When the car ignition is turned on, an indicator lamp on the instrument panel glows for four to six seconds. During this time a capacitator is charged to inflate the air bags in a crash even if the auto battery is destroyed. When the light goes out, the air bag system is operative.

The system is set in operation when there is a frontal crash. Sudden deceleration causes a pendulum in the dashboard sensor to move forward and close a circuit. The circuit sends a signal to the gas inflator which inflates the air bags instantly to restrain the occupants in a slow, soft manner (in combination with simultaneous deflation of the air bags.)

When a crash occurs at high speeds, the gas supply to the air bags is speeded up to provide faster protection. The bags inflate in about 1/25 of a second, so fast that if you blinked your eyes would miss the full inflation.

Today's technology has designed air bags to work just once to do their life-saving job. After use, the fabric bags, inflators and sensors must be replaced, the same as a "used" seat belt system must be replaced after a crash. In most cases insurance collision coverage pays for the air bag replacement as part of regular restoration of the auto to its pre-crash condition.

One of the greatest concerns challengers and investigators of the air bag system have shown is the possibility of accidental air bag inflation. DOT computations show that the chance of inadvertent inflation of present air bags due to system failure is about one in 3.3 billion vehicle miles traveled. Using this figure, one in 6,000 drivers might experience inadvertent inflation during 54 years of driving time.

In a report dated June 9, 1976, DOT recorded six inadvertent (non-collision) air bag inflations. One was set off by an explosion and the others by improper use. Except for one early experimental air bag, there has not been a single incident of inadvertent inflation caused by failure of the system itself.

Air bags cannot be inflated by a blow on the front of a stationary car. A vehicle must decelerate abruptly by at least 12 mph. Or, if standing still with its ignition switch on (and air bags activated), the car would have to be impacted frontally at 24 to 25 mph or more by a vehicle of the same weight and mass giving the air bag sensor the same signal as it would receive if the air bag car struck a fixed object.

Even if an air bag were to inflate inadvertently, tests have shown that the driver's vision would not be obstructed sufficiently for him completely to lose control of the steering mechanism.

A parked auto whose engine has been turned off for about 10 seconds will not inflate its air bags if hit in the front bumper area. This 10-second period is enough time for front seat occupants to leave their seating positions. During this time, the air bag capacitor discharges itself, neutralizing the system until the ignition switch is turned on again and the capacitor-charging process is repeated.

Besides the objections to air bags in terms of cost and accidental inflation, critics have most recently balked over the chemical, sodium azide, used in the air bag system. At the time of a crash cannisters of sodium azide ignite and chemically react producing nitrogen gas to inflate the air bags. Sodium azide is now widely used for medical purposes, both as a preservative agent and as a blood dilutant.

Sodium azide can explode if it comes in contact with lead or copper. However, Susan Baker explains that the chemical is secure in special steel cannisters. As far as the possibility of these cannisters being dangerously exposed in junked cars, Baker points out that old gas tanks and batteries in the junkyard are equally hazardous.

Air bags prove exceedingly valuable in the prevention of high speed crash injuries because belt systems are known to fail beyond 25 to 30 mph impacts. Shoulder belts actually begin inflicting chest injuries in higher speed impacts, and no belt system protects the head and neck from whiplash.

"In the final analysis," says Baker, "it is a societal obligation on the part of health officials to make a product so that it doesn't kill people. We've got the technology to do this now." If Congress vetoes Adams' proposed phased-in crash protection program, it will be another two years before the subject will be broached again.

STATEMENT IN SUPPORT OF HOUSE CONCURRENT RESOLUTION 60, AUTHORIZING A BUST OR STATUE OF MARTIN LUTHER KING, JR., TO BE PLACED IN THE CAPITOL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I am gratified to note that on September 26 the House passed House Concurrent Resolution 60, which authorizes the procurement of a statue or bust in honor of the late Dr. Martin Luther King, Jr., for display in the Capitol.

I personally find it deplorable that, despite the many rich contributions to the culture, science, history, and politics of the United States made by black citizens, not one of the 681 works of art displayed in the Capitol memorializes a black American. Dr. King, who gave his life for the cause of nonviolent progress toward the goals of liberty and justice, most surely deserves to be commemorated alongside those leaders who, like himself, placed their faith in the American Constitution and way of life.

I hope that this statue will be prominently displayed, where it can be seen and can serve as an inspiration to all those who admire Dr. King and what he stood for.

EMERGENCY LEGISLATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. STUDDS. Mr. Speaker, I am today introducing emergency legislation—legislation acceptable to all parties concerned—to extinguish all Indian claims to home-owned land of 1 acre or less in the town of Mashpee, Mass.

For 13 months, litigation has been pending in the U.S. District Court for the District of Massachusetts which has asserted a claim on behalf of the Mashpee Indians for most of the town of Mashpee. The existence of this suit has clouded title to individual residences in the town, and has resulted in severe economic hardships for hundreds of homeowners. In August, the Mashpee Indians amended their suit to indicate that no relief would be sought from any defendant respecting the right to possess any tract of land on which the dwelling of the defendant was located on the date the suit was filed.

Because of this recent Indian action, and because of the severe economic and human hardships which have resulted from the clouded titles to the homes in Mashpee, it now appears possible to win approval for this desperately needed legislation to clear title to the homes of the residents of Mashpee. It is my understanding that this measure is supported by all parties to the litigation, and that it is not opposed by the Interior Department or any other agency of the executive branch.

Federal law requires congressional action to extinguish the rights of Indians to file claims for land. This particular bill is not meant to alter, prejudice, or influence in any way the rights or obligations of any party to litigation related to this or any other Indian land claims, except as specifically cited in the legislation.

Interior Department officials have informed me, and legal counsel to the Mashpee Indians have agreed, that the language in the bill will not affect the right of the Indians to seek compensation for any valid land claims which they might have. The bill seeks solely to free the residents of Mashpee from the economic disruption caused by the cloud currently placed over all residences in the town, and it seeks to accomplish this in a manner satisfactory to all parties concerned.

Mr. Speaker, very little time is left in the current session of the Congress. It will be extremely difficult—even with the cooperation of everyone involved—to have this legislation approved before the end of the year. I would argue very strongly, however, that for more than a year the citizens of Mashpee have experienced unique and overwhelming hardships, and that Congress has a responsibility to do everything possible to ease those hardships. Given the noncontroversial nature of this bill, and given the severity of the problems faced by the residents of Mashpee, I am hopeful that a truly extraordinary effort in behalf of this humane proposal will be forthcoming.

YOUNG ISRAEL EMPLOYMENT BUREAU

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ZEFERETTI. Mr. Speaker, today, I join with my colleagues in wishing to insert into the RECORD a commendation by the Council of Jewish Organizations in Civil Service, Inc., to the National Council of Young Israel, whose record in on-the-job training program could serve well as a model for similar programs. I commend the statement to your reading:

STATEMENT

In times when critics arise to find fault with government sponsored programs designed to alleviate unemployment, it is incumbent upon us to state for the record those exemplary achievements that give credit to the United States Department of Labor. As an example of a viable outstanding program, we submit the record of the Young Israel Employment Bureau, a nonsectarian undertaking sponsored by the National Council of Young Israel with its national headquarters in New York City and branch operations in 17 states. It operates employment bureaus in five states: New York, Ohio, Michigan, Missouri, California, and Florida.

In 1929, it established its first Employment Bureau designed to find jobs for all people regardless of ethnic background. During and immediately after the war years, it added a Veterans Division to the Employment Bureau with the particular concern with the unique problems of the returning veterans, in the field of education, employment, and social adjustment. In 1966, the Employment Bureau applied to the United States Department of Labor and received its first federally funded On-The-Job Training Program (OJT). Subsequently, it has successfully executed 12 employment contracts under Ephraim H. Sturm, the founder and director of the program.

With the advent of CETA, they spun off their national programs in Los Angeles and in Dade County, Florida as independent CETA operations. Albeit, the records will clearly indicate that the local CETA programs are far more costly than the same operation when administrated as part of the national program.

This program called for placing 70 people in each of the above cities with reimbursement for training costs to be given for 35 slots in each area and the additional 35 slots in each area for non-reimbursable OJT. Each area was serviced by one job developer at $9,816.00 annual salary or $188.76 per week, and a secretary with the annual salary of $6,165.00 or $118.55 per week. This is far lower than the normal amount of $15,000 for a job developer and $8,500 for a secretary. In addition, there are the normal fringe benefits which amount to approximately 9 percent.

Reimbursement averages $600 per trainee. On a matching one to one basis this means actually that the reimbursement cost is only $300 per trainee. The normal amount of reimbursement nationally and under CETA is well over $1,500.

The National Program was continued with Detroit, Cleveland, and St. Louis as bases. On July 14, 1977, they completed the program with 120 percent record.

The entrance rate ranged from the $3 minimum requirement to $6 for reimbursable trainees and from $2.90 to $4 for non-reimbursable ones.

The trainees were placed in the type of program which will lead to the learning of a particular skill and talent. The following are examples of the type of positions in which trainees are placed: office machines, mechanics, carpet cutters, clerk-typists, orthopedic shoe fitter, auto-mechanics, secretaries, bookkeepers, metal fabricators, butchers, machinists, medical assistants, geriatric nurses, jewelers, store managers, security officers, etc. We note that in the forseeable future these areas will need workers.

This OJT Program including the reimbursable funds costs only $185,656.00.

One can't judge statistics without yardsticks. Let's, therefore, suggest the following: the average retention rate is approximately 60 percent, 70 percent is considered good. Their retention rate is over 90 percent.

The mean cost for reimbursement for training is $1,500, theirs is $300 with the training period being equal. CETA programs are happy with an 80 percent performance and theirs is over 100 percent, normally 120 percent.

On July 15, 1977, the United States Department of Labor once again recycled the Young Israel Employment Bureau National Program for the above mentioned three cities. It is to the credit of the United States Department of Labor for recognizing the Young Israel's national program service as a yardstick in evaluating the efficacy of the local CETA sponsored programs. We wish to acknowledge the astuteness of the Honorable Ernest Green, the Assistant Secretary for Employment and Training, and his staff for recognizing the uniqueness of dedication and achievements of the Young Israel National OJT Programs.

We enter this document in the CONGRESSIONAL RECORD to indicate the progress and achievement that can be obtained by experienced, dedicated employment service under the sponsorship of the United States Department of Labor.

CONSUMERS CHOICE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ABDNOR. Mr. Speaker, last week over 230 beef producers from the State of South Dakota came to Washington for the last in a series of hearings on meat imports before the International Trade Commission. They were asking the help of the Commission in correcting conditions which have made the United States the dumping ground for the world's surplus beef.

Quite frankly, Mr. Speaker, what they were asking was some moral support in continuing the economic viability of the cattle industry which has made it possible for Americans to become accustomed to plentiful supplies of reasonably priced meat in their diet.

The average consumer will find it hard to believe this supply could be seriously threatened, but unlike the Federal Government, if the cattle producer cannot make enough money to cover his expenses he is going to have to quit the business. And, quitting business is what a lot of producers are facing.

I have repeatedly pointed out 14 loopholes in the meat import laws which need to be tightened so that the law can do what it is supposed to: provide reasonable protection to domestic livestock producers from "unwarranted imports."

Note, I say "unwarranted" imports, because we all recognize that America must import if it is to export.

The Rapid City, S. Dak., Journal in a September 23, 1977 editorial stated the producer's argument well. I commend it to the attention of my colleagues as they strive to best serve their constituents—the consumers of meat.

The editorial follows:

BEEF IMPORT LAW FLAWS NEED TO BE CORRECTED

South Dakota's cattle producers and the state's congressional delegation have presented a strong case for changing laws which presently govern meat imports.

In a series of hearings before the International Trade Commission, begun in June in Rapid City and concluded Wednesday in Washington, the South Dakotans, and representatives from other meat producing states, pointed out flaws in the Meat Import Act of 1964.

Those flaws should be corrected to protect the cattle industry, a basic and important industry in South Dakota. The threat is real that continued depressed beef prices will force many cattle producers out of business.

The cattlemen and legislators listed a number of things in the current system that need correcting, but their No. 1 concern was with beef import quotas.

At present, when domestic beef supplies are high and prices low, imports are allowed to increase, to put even more beef on the market. And when domestic supplies are low and prices high, the import quota can simply be suspended to allow importation of a virtually limitless amount of beef.

If your first reaction is "huh"? you are likely to agree with the cattlemen that that system doesn't make much sense.

What makes more sense is the proposal that import quotas be tightened when domestic supplies are high, and expanded when domestic supplies are low. That would guarantee an adequate supply of beef and also allow the cattlemen a fair profit at the market price.

The Trade Commission, an independent agency created by Congress, will consider the testimony presented and report its recommendations to Congress.

That is when residents and legislators from the beef producing states will face their biggest challenge: persuading Congress that the statutes need revising.

And that won't be easy. Many congressmen, especially those from urban states, are under constant pressure from home to keep food prices down.

They must be convinced that relatively higher beef prices are preferable to the alternative: an uncertain supply of domestic beef.

WILLIAM BUCKLEY CRITICIZES EARNING LIMITATIONS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SIMON. Mr. Speaker, I am inserting into the RECORD the column of William F. Buckley, Jr. regarding the congressional earning limit.

There is no question that there are serious inequities in the present earning limitations. Like some others in the House, I voted for it only because complete in-detail disclosure of income—which I believe to be a better solution—was not part of the package.

In addition, the disclosure laws we have voted do not include a requirement for disclosure of income by a spouse and minor children.

A much more sensible answer for the House and the Senate is to require detailed income disclosure by the officeholder and by his spouse and minor children.

My colleague from Illinois, Congressman GEORGE O'BRIEN, and I are cosponsoring a measure which would call for the detailed income disclosure that ought to be required of all sitting Members of the House and Senate.

And that detailed disclosure must be exactly that: Detailed. That means if a Member of the House or Senate is practicing law, he or she must list the clients and the money paid by the clients. For those who immediately will try to hide behind the canon of ethics, this should be made prospective, and any lawyer can tell his or her clients in advance that he or she will be happy to serve them but he or she will have to list their names and the amounts paid to the lawyer. That violates no canon of ethics anywhere.

We have some disclosure, but not enough. We have some earnings limitations, but inequitable limitations. We say that if you inherit oil stocks and make $500,000 a year in dividends on those oil stocks, that is perfectly all right, but if you make 10 lectures at 10 universities at $1,000 apiece, that is somehow unethical.

The fundamental protection for the public is detailed disclosure, and anything beyond that, or less than that, is a less than happy solution.

I hope my colleagues will read the article by William Buckley:

CONGRESSIONAL EARNING LIMIT: 'TWAS A MISJUDGMENT

(By William F. Buckley, Jr.)

I wish to atone for what I now conceive as a misjudgment, namely my public support of that provision in the federal wage increase package last January which forbids members of Congress from earning more than $8,000 per year from extra-curricular activities.

Oh, the rationale sang sweetly to the ear. And, indeed, there was a philanthropic intention: Salaries at the highest levels of government were just too low, and it was becoming increasingly difficult to attract non-ascetic types who had obligations to their families to give them the kind of education and shelter which are not available in Washington at 44 grand before taxes. The practice, as we all know, had been for the most energetic congressmen and senators to eke out their living by doing other things.

Under the new law, they will be limited to earning 15 per cent beyond their current salaries (they were raised to $57,500) through extra-legislative activities. I think this wrong both in terms of what it does to congressmen, and what it denies congressmen the right to do for others.

The subject came up during a recent lecture trip when I learned from my hosts that it had become increasingly difficult to engage the services of interesting congressmen or senators to speak. The reason was obvious: after earning $8,000, a congressman may earn no more. He faces the alternative of going to Northwest Louisiana University to give a speech on his current preoccupations—or staying home.

It is the planted axiom of the Ethics Committee's bill that, staying at home, the congressman will devote the time he would otherwise spend talking to students and citizens at Natchitoches (La.) re-reading the *Federalist Papers*, or studying up more carefully for tomorrow's committee meeting.

This does not, of course, follow. All that is absolutely known about the effects of the interdiction is that (a) the students will not get a chance to hear and question Senator Smith; (b) Senator Smith will not get a chance to hear the questions of the students; (c) Senator Smith will be deprived of $1,000 of income (assume that the fee is $2,000); and (d) the taxpayers will be deprived of a thousand dollars of income.

That last point, by the way, is ironically relevant in respect of high-earning congressmen or public servants on the order of Patrick Moynihan, John Kenneth Galbraith, or all those congressmen who used to practice law: in many cases, by their extra-curricular activities they returned to the government sums of money in excess of that paid them for their work in government. In a way, the republic was getting their services for nothing.

In opposing the Ethics Committee bill, Senator James Buckley argued last December that it was objectionable on several grounds. For one thing it constituted a preemption of a property right. It is by no means obvious that anyone can contract for all of someone's services—there is an unhealthy feel to such a Faustian contract.

For another, Senator Buckley felt that the measure failed lazily to confront the relevant distinctions. It is one thing to frown on the senator who sits on the Maritime Committee and is offered a large fee to give a speech to the Seafarers' Union. It is another to serve on the Maritime Committee and appear as a lecturer at a series sponsored by Northwest Louisiana State College.

Senator Buckley's successor, Daniel Patrick Moynihan, opened the floodgates on his tumultuous emotions when his colleague, Senator Adlai Stevenson, proposed that excess campaign funds should not be permitted to be used for office expenses. The Stevenson proposal was defeated, but not before Senator Moynihan had railed against the Senate for desiring to make a "pauper" out of him, having already, earlier in the year, stripped him of an earning capacity as a lecturer that had fetched him $150,000 during his last year as a free agent. A poetic fine, perhaps, for depriving the nation of the services of his distinguished predecessor.

In the last analysis, there is no substitute for giving public servants the right to make their own decisions—and then spotlighting these decisions so that their ethical adequacy can be evaluated by their constituents.

One fears, looking back on it, that unpleasant motives figured in the devising of the bill. Rich congressmen are indifferent to the problems of poorer congressmen. And congressman whose oratorical gifts are never bid for by Northwest Louisiana College are adept at writing regulations governing the activities of those of their colleagues who are.

NATION'S POLLUTION CONTROL EXPERTS GATHER IN PHILADELPHIA FOR 50TH ANNUAL CONFERENCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EILBERG. Mr. Speaker, this week the Nation's leading experts on stream protection have gathered in Philadelphia for the 50th annual conference of the Water Pollution Control Federation.

City Water Commissioner Carmen F. Guarino is serving as the official host to

the 11,000 sanitary engineers, public officials, and scientists from the United States and abroad who are attending the convention at Philadelphia Civic Center. The experts are exchanging views and studying legislation designed to upgrade the Nation's water resources.

One of the highlights will be the keynote address by Douglas M. Costle, the new national Administrator of the Environmental Protection Agency, who will discuss the outlook for further improvement of the Nation's water sources. Also scheduled to speak at the conference is Ruth C. Clusen, national president of the League of Women Voters.

The conference will be highlighted by over 700 exhibits by American industries, showing the most advanced technologies for collecting, treating, and disposing of liquid wastes. There will be 34 technical sessions conducted by 340 wastewater experts.

Mr. Guarino predicts that "many important ideas will come out of the technical sessions," during which speakers will outline new technologies to convert digested wastewater sludge into new products, transform it into energy, or dispose of it safely either in the ocean or on the land, and to upgrade wastewater treatment plants, control industrial wastes, reduce storm overflow from sewers into streams, and computerize wastewater plants and sewer systems.

The conference will also take a close look at impending amendments to national water quality laws and at ways to pay the huge cost for improving lakes and rivers.

As one of the highlights of the weeklong conference, Water Commissioner and Guarino and visiting water pollution experts inaugurated a new technique designed to save money and improve sewage treatment at the northeast water pollution control plant.

With Horace L. Smith, president, and Robert A. Canham, executive secretary of the Federal pushing the starting lever, the department put into service 22 giant rotating rollers which will gently resolve in sewage flowing through aeration bays, as the first step in a $146 million modernization of the plant.

The new polyethylene rollers, 25 feet in length and 12 feet in diameter, have been installed in two bays of an aeration tank at a cost of $1,917,000. The Commissioner said the rollers represent "an efficient, low cost method" for upgrading old sewage plants. Guarino said:

Although variations of such rollers have been used by other communities, "Philadelphia's Surfact units will be used in a unique way that will require no additional energy, since they will rotate under the force of air already supplied to the aeration tanks. No other community has done this.

Guarino said that the Surfact units will also:

Produce less sludge than conventional treatment systems:

Remove nitrogen, as well as carbon, from sewage, without the expensive two-stage process required by conventional systems;

Require only a modest capital investment;

Combine with the biological process in aeration bays to unite two different methods for more effective treatment, and

Upgrade treatment by removing over 90 percent of pollution from sewage, as measured by biochemical oxygen demand, compared to 65 percent previously.

Guarino noted that the Surfact rollers operate on a well-established principle—as they rotate through the sewage flow, they pick up a film on which aerobic bacteria grow. The bacteria then oxidize the sewage, converting it into other elements.

The idea of operating such rollers by utilizing existing air in aeration bays—rather than powered mechanical drive in a different kind of tank—originated with Commissioner Guarino when he noted that energy supplied to aeration bays was not being fully utilized by aerobic bacteria.

"The units appear to fulfill our goal of improving the old plant, while saving the public as much money as possible," Guarino said. Pilot units were tested previously.

Guarino said that the city's plans include modernization of the existing northeast plant, and the construction of a new plant alongside the old one. The estimated cost for the new plant is $91 million and that for the old plant $55 million.

The 22 units put into service will treat about 20 million gallons of sewage daily. If the units prove successful, the water department will install similar units in all aeration bays at the northeast plant.

At present the plant receives about 190 million gallons of sewage daily. This, plus additional flows expected in the future, would be split between a new plant and an upgraded old plant. The two plants together will be able to treat up to 250 million gallons daily.

CARCINOGENS HAZARDOUS TO WORKERS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARTER. Mr. Speaker, I would like to include for the RECORD an article about a recently completed study for which the National Institute for Occupational Safety and Health had contracted to determine what carcinogens in which industries are most hazardous for workers.

As we in Congress support the very critical work of finding the causes of cancer and, if possible, eliminating them, I believe this information would be of interest to many others concerned about the on-the-job hazards for America's working men and women.

I offer for the perusal of the Members this excerpt from the September 23 issue of Science magazine:

CARCINOGENS IN THE WORKPLACE: WHERE TO START CLEANING UP

(By Thomas H. Mauch II)

The most hazardous industry in the United States, in terms of exposure of workers to carcinogens, may well be the manufacture of scientific and industrial instruments, according to a study prepared by John Hickey, James Kearney, and their associates at Research Triangle Institute for the National Institute for Occupational Safety and Health (NIOSH). The fabricated metal products industry was rated second most hazardous, and the manufacture of electrical equipment and supplies third. The chemical industry, which many people would consider an odds-on choice to head the list, was ranked a lowly 12th.

The study* was designed as a first step for controlling exposure of workers to carcinogens. But because of NIOSH's limited resources, it was first necessary to identify those industries where the potential hazard is the greatest, and therefore where the maximum effort should first be exerted.

The rankings in the study are based on two separate sets of data: the total amount of exposure to carcinogens, and the relative potencies of the carcinogens. The relative potencies of the carcinogens were estimated as accurately as possible from a comprehensive search of the available literature. The ranking for carcinogenic potential took into account the time required for tumors to appear after exposure to the carcinogen, the minimum amount of carcinogen required, and the method of administration. Some of the available data about individual carcinogens are contradictory and some are incomplete; most of the information, furthermore, is based on studies with animals. Each of these areas represents a potential pitfall of the study, particularly the need to extrapolate animal data to human exposures. But the data used, the report emphasizes, are the best now available.

The investigators ranked some 86 industrial chemicals according to their carcinogenic potential. The ten most potent chemicals, the report concludes, are N-nitro-sodiethylamine, thallium, chromium, asbestos, nickel, coal tar pitch volatiles, methyl methane sulfonate, acetamide, yellow OB, and ethylenimine.

Information about the exposure of workers to carcinogens was obtained primarily from NIOSH's National Occupational Hazards Survey (NOHS). For this $6-million, 3-year study—which has not yet been completely published—a group of engineers went to manufacturing facilities throughout the country to determine, among other things, how many workers in each type of plant are exposed to chemical agents, what those agents are, how the exposure occurs, and the length of the exposure. Data from this survey were then combined with data on carcinogenic potential to produce two new lists, one ranking carcinogens by a combination of exposure and potency and the second ranking industry by the amount of exposure to carcinogens and suspended carcinogens.

In the first case, the investigators combined potency, amount of exposure, and annual production to conclude that the ten most hazardous industrial chemicals are, in order, asbestos, formaldehyde, benzene, lead, kerosene, nickel, chromium, coal tar pitch volatiles, carbon tetrachloride, and sulfuric acid. Similarly, the potency of the materials and the amount of exposure to them was used to rank American industries.

The new results differ from the conclusions of previous studies. Hickey tells *Science*, because those previous studies generally considered only the volume of the carcinogens and not the amount of exposure. Previous studies have ranked the chemical industry very high, for example, because it manufactures hazardous materials in lots of tons or more. But the large quantities of materials may actually be manufactured by only a very

*The Development of an Engineering Control Research and Development Plan for Carcinogenic Materials (Government Printing Office, Washington, D.C., in press).

small number of people, so that consideration only of the volume of carcinogens grossly overestimates the potential hazard.

In contrast, Hickey says, the manufacture of scientific and industrial instruments requires relatively small amounts of carcinogenic materials. But these materials are used in the hand fabrication of devices, so the total exposure—and thus the total risk—is very high. The fabrication of metal and electrical products both rank high for the same reasons. Hickey emphasizes that the total amount of hazard is very similar in the top ten industries, and the actual rankings could be altered by undiscerned factors such as the discovery of previously unrecognized carcinogens. But there seems little doubt, he adds, that these are the industries where research and cleanup efforts should first be directed.

The single most severe problem in many industries, the report says, is the presence of carcinogenic dusts in the workplace. These occur in the dry mixing of paints and pesticides, for example, and in many other processes where solids must be mixed. A major effort is thus needed, according to the report, to develop new ways to enclose the entire system of dry materials production, mixing, and transfer.

Another severe problem that seemingly could be easily solved is better venting of areas where carcinogens are used. In many cases, the report says, the venting system now in place does little good and, in some instances, it even blows carcinogens back in the faces of the workers. More attention apparently also needs to be given to the use of masks and protective gear now used only infrequently.

It must be emphasized that the Research Triangle Institute report is basically a library study. The investigators neither visited factories nor tested potential carcinogens. They also did not use any data about occupational cancer in the studied industries; many of the most potent carcinogens, in fact, have not been in use for the 25 to 30 years that would be required for cancers induced by them to begin showing up. It is also possible that better controls have been established in some industries since the NOHS study was conducted. Nonetheless, the results will give NIOSH a good idea where to begin emphasizing control procedures. The study should also give pause to many executives who now think they run clean industries.

AIR BAG "12 MPH CRASH" IS NOT REALLY 12 MPH CRASH

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. SHUSTER. Mr. Speaker, I previously reported that in 230 towaway accidents of air bag equipped cars investigated by the National Highway Traffic Safety Administration (NHTSA), the air bag did not inflate in 97 crashes, or 42 percent of the time. This fact, even though confirmed and reconfirmed by NHTSA—the same agency pushing the air bag/passive restraint mandate—has been dismissed by NHTSA and the air bag lobby as insignificant, since they say that air bags were not supposed to inflate in those cases.

In a debate on the September 27, 1977, Good Morning America television program, air bag lobbyist Ralph Nader responded to my recitation of this fact by saying,

The fact is that the airbag is designed not to deflate (sic) in low collision impact crashes such as under 12 miles per hour.

He later stated on the same program,

The airbag has inflated in crashes where it was designed to inflate—above 12 miles per hour collisions it has worked perfectly.

Mr. Speaker, this statement by Mr. Nader—which I have quoted directly from a tape of the program—is simply not true, and it is time this is brought to the attention of our colleagues in the Congress.

The air bag sensor is designed to activate the air bag in crashes achieving 12 mph "rigid barrier equivalent impact speeds." This must not be confused with 12 mph crashes, because they are not the same thing. The "rigid barrier equivalent impact speed" can be defined as the speed at which the automobile stops, rather than the speed at which it is traveling at the time of impact. It is determined by the amount of kinetic energy that is absorbed by the automobile and the barrier—or second car—at impact.

A car crashing into a "rigid barrier"—that is, a concrete wall about 4-feet thick that absorbs no energy—head-on at 12 miles per hour, would have a barrier equivalent impact speed of 12 miles per hour. However, a car crashing into an identical parked car would have to be going 24 mph to achieve a barrier equivalent impact speed of 12 mph, since the parked vehicle would cushion the impact and absorb half the energy.

If a car were travelling down a freeway at 60 miles per hour, and hit the rear-end of an identical vehicle travelling 40 miles per hour, the kinetic energy would be evenly distributed between the two cars so that each would attain a barrier equivalent impact speed of only 10 mph.

Thus, it is clear that a car could conceivably be travelling at 50 or 60 miles per hour and above and, under certain circumstances, not achieve a barrier equivalent impact speed of 12 miles per hour, as required for air bag inflation.

Another excellent example is the crash in Virginia involving an air bag-equipped Cadillac, which was recently reported in several newspapers, including the New York Times. The Cadillac was traveling at about 25 miles per hour when it crashed into a parked truck. The air bag did not inflate, because the barrier equivalent impact speed was under 12 miles per hour. Nevertheless, the driver sustained severe neck and spinal injuries for which she is still being treated—2½ years after the accident.

Another example is a park police vehicle which was forced off the roadway travelling between 40 and 50 miles per hour. The cruiser hit nine trees in its path, the last of which was large enough to stop the vehicle and prevent it from being hurled into the river. The air bag did not inflate. Nonetheless, frontal damage to the car amounted to over $2,000 and the officer driving the car was taken to the hospital in an ambulance and sustained cracked ribs and back, neck, buttocks, and coccyx injuries which are still giving him trouble today—4 years after the accident.

Mr. Speaker, there are many other examples of accidents involving cars travelling well over 12 miles per hour in which the air bag "was not supposed to inflate" which nevertheless resulted in severe injuries. Should these accidents be dismissed because of a technicality? Should we find comfort in the fact that the air bag "was not supposed to inflate" in these crashes?

When the air bag lobby blithely dismiss the alarmingly high noninflation rate of air bags with the argument that air bags are not designed to inflate in crashes below 12 miles per hour, I urge you to keep in mind that an air bag "12 mph crash" is not really a 12 mph crash.

PRESIDENT CARTER'S ENERGY PLAN—A GOOD FIRST STEP

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues an address I delivered at a recent energy conference in Philadelphia. I believe the address is a useful document in explaining some of the more controversial provisions of the President's National Energy Act:

PRESIDENT CARTER'S ENERGY PLAN—A GOOD FIRST STEP

(Keynote Address of Congressman ROBERT W. EDGAR)

I appreciate the honor of appearing before this Conference to speak in favor of the President's Energy Plan. You, as opinion leaders and decisionmakers of the scientific, academic, business, nad governmental communities have already played an important role in shaping energy policy. Elected officials in Washington can enact the laws, but our energy problems will not be solved in Washington. They will be solved, to a great extent, only with a commitment from people like you and those you influence. It will not be an easy task for a majority of members of both Houses of Congress to agree word-for-word on language which will comprise the major share of a national energy policy. There are 535 Members of Congress, and they have 535 different solutions to our energy problems. Our representative democracy is a form of government which was not designed for efficiency. I know it will be as difficult for you as it is for me to accept the wisdom of every provision in the bill which eventually receives the signature of the President to become the law of the land.

This is an important opportunity for me to explain the need for the President's bill to those who I expect to look at this legislation critically. It isn't enough to say that the energy problem is the "moral equivalent of war" and expect you to accept legislation, without justification of its provisions. I know I can count on you to judge my support for these provisions with the "show me" critical attitude which you must have, or you wouldn't be the successful decision-makers that you are. I expect tough questions following my presentation and that of my colleague from New Jersey.

I would like to take a moment to thank the Conference organizers—Dr. Dees, Dr. Eidson, Dr. Eisenberg, Dr. Poziomek, and Dr. Ratchford—for inviting me. I'd like to mention that Dr. Eidson is an active member of my Energy Advisory Committee. I organized that group of energy experts earlier this year to help bring me up-to-date on

energy issues, and to help me weigh the pros and cons of the many policy options available in responding to our energy problems. This group has done an excellent job educating me about many aspects of our energy situation; the prospects of wind and solar energy, the economic impact of natural gas pricing, the environmental costs of increased coal production, and other issues which are part of the energy picture.

I point out the work of my Energy Advisory Committee as a way of saying that I do not consider myself to be an energy expert. I do not claim to know all the answers about how to solve the problems of meeting our energy demand. I rely heavily on the advice of my constituents, my staff, representatives from special interest groups such as industry, labor and environmental organizations, and my colleagues in the Congress to help me focus on what the problems are and how to solve them with a minimum of economic and social cost, and in a fair manner. I come frequently to my Congressional district to find out what is on the minds of those I represent. I have held both an energy public forum and an Energy Awareness Day to find out specifically what support there is for a creative and aggressive response to energy problems. I am gratified that most citizens are willing to make personal commitments. They are willing to turn down their thermostats, and to insulate their homes. They are willing to buy more fuel-efficient vehicles and appliances. But in exchange for this, those I represent demand that our energy policy be fair. They are outraged by the prospect of any single group benefiting from this crisis, or escaping their share of the burden of sacrifice. They do not want to see exemptions in this legislation unless those exemptions are clearly in the national interest, and not merely the price of political support from a special interest group. I am convinced that fairness is the most important asset of a national energy policy, and I believe the President's proposal gets high marks in this regard.

Most experts agree that our energy problems are real and growing. We have, during the last few decades, undergone a transition from a coal economy to an oil and gas economy. Oil and gas were cheap, abundant, and easily transportable. Our demand for these two fuels continues to accelerate. Yet at the same time, our domestic production of these fuels peaked early in this decade, and has been declining ever since. We began relying on cheap imports of crude oil to satisfy our need for cheap energy. We did not count on political developments which occurred four years ago which made these imports costly, and subject to supply interruption. Most of us remember not too fondly the impact of the OPEC embargo when lines at gasoline stations were almost as long as the Alaskan pipeline. Following that embargo, oil prices charged by OPEC nations quadrupled. OPEC oil not only fueled our furnaces but also fueled inflation. Our economy is still recovering from the recession caused in large part by the OPEC embargo and subsequent price increase.

Even without the political realities of the OPEC cartel, we are running out of oil. Every day, the world converts oil, which took hundreds of millions of years to form, to water, carbon dioxide, and smaller amounts of other products, at the rate of sixty million barrels per day. Oil consumption in the world is increasing at a rate of five percent each year. This means that the world has to increase supply by three million barrels per day just to meet the growth in demand. To do this, we would have to add the equivalent of another Texas, producing at its peak, every single year. There may be new Texas's in the short term—Prudhoe Bay, the North Sea, and Siberia are examples. But there is simply not enough oil out there undiscovered to meet demand in the long term, and certainly not at the prices we were accustomed to during the middle of this century.

As long as we rely on imported energy for a major portion of our needs, we will be vulnerable. Still, I understand that surveys show that most citizens aren't aware that we even import crude oil, let alone that we have imported as much as 50 percent of our needs during some weeks this year. Our bill for imported energy will exceed $40 billion this year. The present situation is totally unacceptable, and there is little reason to believe that the future will be brighter without strong leadership and a sustained national commitment by every citizen.

That brings me to the President's Energy Plan. This plan, in my opinion, is only a first step in meeting the challenges of providing the energy we need, while at the same time eliminating the energy waste which is so prevalent in this nation. Few, if any, of my colleagues in the Congress support every provision of the 283-page National Energy Act which President Carter sent to the Congress five months ago. I felt that the bill had major shortcomings. The most striking and disappointing one, in my view, was the fact that the bill neglected to revitalize our transportation system. Historically, moving people and goods in this country has been done with little regard for energy efficiency. Our public transit system is crumbling; billions of dollars are needed just to maintain existing service in our urban centers. A majority of our commuters drive alone in a two-ton vehicle to work. Many of these workers could form carpools and vanpools to save energy. Others could and would use public transit if it was available and efficiently run. The only people I know who benefit from our present transportation policy sit around the boardroom of the OPEC cartel.

A quarter of our energy is used in transportation. The President missed an important opportunity to reverse the national policy which elevates the concrete cloverleaf to the status of national flower, and which makes the suburban bus as rarely seen as an Edsel.

However, I generally support the spirit of the President's energy program. I worked with my colleagues in the House to improve and fine-tune some of the bill's provisions. On August 5th, I voted to approve the bill and send it to the Senate.

The National Energy Act is a comprehensive and coherent set of proposals with four major emphases:

(1) energy conservation and increased fuel efficiency;

(2) energy pricing which encourages new production at a price affordable by consumers;

(3) switching from scarce oil and natural gas to more abundant coal;

(4) expansion of nuclear power as a last resort, until solar and other renewable and high technology sources can be harnessed.

For each of these objectives, the President's bill combines a balanced set of proposals that includes the use of regulation, advanced technology, taxes, and voluntary efforts. It avoids the excessively high prices for energy which could result from allowing a foreign cartel to dictate market prices. It tries to avoid a climate of excessive regulation. And it calls for the achievement of seven national energy goals by 1985:

(1) reducing the annual energy growth rate to less than 2 percent;

(2) reducing gasoline consumption by 10 percent;

(3) reducing oil imports to six million barrels per day;

(4) establishing a billion barrel oil reserve;

(5) increasing coal production by two-thirds;

(6) insulating 60 percent of American homes and all new buildings; and

(7) using solar energy in more than 2.5 million homes.

I agree with many reports published since April that these goals are not achievable solely as a result of the President's energy bill, and perhaps not at all. Given our recent history of doubling oil imports in five years, just holding the line on these imports would be quite an achievement, but we must do better than that. There may not be the capacity in the coal and coal transportation industry to increase coal production by two-thirds, and burning this coal could bring with it environmental hazards. However, these goals are a good place to start. Some of the institutional obstacles to achieving these goals could be removed should we commit ourselves with the zeal that characterized the Apollo project. The President challenged us with his assertion that our energy problems should be faced with the "moral equivalent of war". It is certain that without strong leadership by opinion leaders and support by all citizens, these goals will not be reached regardless of the achievability of these goals.

Four of these seven goals involve energy conservation, which is the first part and the cornerstone of the President's bill. I agree with the President that conservation deserves the greatest concentration of effort, since saving a barrel of oil equivalent will almost certainly be cheaper and less destructive environmentally than producing a barrel of oil equivalent. The bill would make the United States a world leader in energy conservation, an area where we lag embarrassingly far behind other industrialized nations. At the same time, the bill would enhance economic growth, promoting job opportunities in the energy conservation industry, and maintaining our high quality of life. Without an effective conservation effort, a lower standard of living would be almost assured, as billions of dollars in purchasing power would be siphoned into energy production.

Business and industry have already embarked on ambitious programs to conserve energy. They are doing this for more than patriotic or public relations reasons. The fact is that conservation is good business. It is a high yield investment which promises significant dividends in a short period.

Today, much of our energy is used by individuals, especially in heating and cooling their homes, using appliances, and automobiles. Energy conservation in this area can have major and continuing benefits, and the energy bill proposed by the President tries to maximize this benefit.

The President proposed two separate taxes related to auto usage. The House endorsed the President's proposal for a tax on gas-guzzler automobiles to supplement existing fleet-average fuel-efficiency standards. The Senate Energy and Natural Resources Committee went a full step further last week by banning the manufacture of autos which do not achieve at least 16 miles-per-gallon by 1980. However, this week the Senate Finance Committee struck the Carter tax from the bill.

More controversial has been the gasoline tax. I opposed the President's standby gasoline tax, because I do not feel that a small tax will result in measurable gasoline conservation. A large tax, while more effective, would have devastating effects upon our economy. I did support a five cent non-rebatable gasoline tax to finance transportation programs which would have substantial energy conservation impacts. The House soundly defeated this tax, virtually guaranteeing that the United States will continue to have the best highway system in the world—and one of the worst transportation systems. This tax would have cost the average family $50 per year, a small price to pay to meet long-range national needs for public transit, bridge repair, and related programs. Right in this area, the citizens served by SEPTA would have been one of the prime beneficiaries of this gasoline tax.

The President's bill would also authorize an insulation tax credit for homeowners, require utilities to offer a weatherization service to their customers, and expand the existing weatherization program for low-income citizens. It would provide an additional 10 percent tax credit for businesses to invest in energy conservation equipment, provide grants to schools and hospitals to make energy conservation improvements, and accelerate energy conservation programs for federal buildings.

The Carter bill also proposes an expansion of existing conservation programs to set energy efficiency standards for major appliances, and it proposes a progressive utility reform proposal to end practices which encourage wasteful energy use.

The second and perhaps the most controversial portion of the President's program addresses the issue of energy pricing. The bill adopts a philosophy that energy should be priced at its replacement cost, should be fair to consumers and producers, and should not result in windfall profits for energy companies.

Consistent with this philosophy, the Carter bill would allow the price for newly discovered oil to rise, over three years, to the 1977 world market price, with allowances for inflation. The current return to producers for previously discovered oil would remain the same, except for inflation adjustment. The House and the President rejected proposals to lift price controls on already discovered oil because that would result in massive transfers of money from consumers to producers without a substantial increase in domestic oil supplies. The oil price in the Carter bill is more generous than that which has attracted exploration and energy production in the North Sea where production is costly. The philosophy of the President is to support higher prices for the development of energy in areas where costs are higher. But I should underscore that the House and the President have rejected decontrolling oil prices, a policy which would allow exorbitant profits on oil which has already been discovered.

The President's bill recognizes that high energy prices are desirable for conservation reasons, but highly undesirable for economic reasons. To reconcile these two competing interests, the President proposed a rebatable crude oil equalization tax at the wellhead for domestic oil, phased in over a three-year period, and equal to the difference between the present controlled price and the world price. The taxes collected would be returned dollar-for-dollar to consumers by reductions in withholding from paychecks and adjustments to existing income maintenance programs for those without paychecks.

The crude equalization tax would encourage conservation by making the apparent price of energy expensive. It would encourage switching from oil and natural gas to coal. It would end the administrative nightmare known as the entitlements program which seeks to minimize the competitive advantage of companies who have large stocks of artificially cheap domestic oil. The House approved this tax, but it faces stiff opposition in the Senate.

The bill also sets natural gas prices in a manner which removes the distortions in the marketplace which contributed to last winter's tragic supply shortages in the interstate natural gas market. The $1.75/1000 c.f. price ceiling for both interstate and intrastate new gas, based on the BTU equivalent of oil prices, reflects the replacement cost of the gas, provides true incentives for increased production, and provides a generous rate of return for natural gas producers. The House narrowly approved the President's proposal, which was helped by a compromise which increased the amount of natural gas which would be considered "new" natural gas supplies. The Senate by a tie vote in committee failed to defeat the President's proposal, but it is facing a stiff floor fight.

When I came to Congress three years ago, interstate gas prices were controlled at 52c/1000 c.f. The President proposes a price more than three times this price, more than adequate incentive to increase production. Thus equalizing competition between the interstate and intrastate markets will permit customers in the Delaware Valley to get their fair share of existing supplies, without the extortion of $3–$5 natural gas.

The third portion of the bill, and the one with perhaps the highest oil-saving potential, promotes the conversion by utilities and industries from oil and natural gas to coal. This nation is blessed with more energy in coal, on a BTU basis, than the Middle East has oil. The problem is that it is difficult to mine and transport the coal, and burn it in a manner which will not excessively damage the environment, or result in a threat to public health. The President proposes to achieve this fuel conversion by imposing a tax on the use of oil and natural gas by industry and utilities, with many exemptions, to take effect after a suitable transition period for the conversion process. The President proposes accelerated research and development to promote greater utilization of our vast coal reserves, and to minimize problems associated with transportation and the environment.

I should mention that Westinghouse Corporation in my Congressional district has played a major role in furthering greater efficiency in the burning of coal with their High Temperature Turbine Technology program, financed by a grant from the Energy Research and Development Administration. The termination of Westinghouse's participation in this effort is, in my opinion, not in the national interest. Those who recognize the contribution Delaware Valley industry can make to solving our energy problems should be interested in how to maximize the participation of our industry. We have many resources to offer. More can be done to make it attractive for our industry to seek and be awarded grants which save and create jobs for area workers.

Even if we are successful in maximizing conversions from oil and natural gas to coal, eliminating energy waste, and increasing production where it can be done responsibly, there will remain a gap between domestic supply and demand. Here is where the final of the four portions of the President's plan comes into play. Light water nuclear reactors will be needed to fill this gap between supply and demand. I have serious questions about the safety, security, and reliability of nuclear plants. But I also recognize that construction of more plants is necessary. For this reason, I support the President's view that the design of nuclear plants should be standardized as much as possible, that radioactive waste should be disposed of properly, and that safety standards should be strengthened. I also commend the President for supporting a streamlining of nuclear plant licensing procedures.

In his energy message, the President underscored the danger of proceeding with construction of the Clinch River Breeder Reactor demonstration plant. I agree with the President that the construction of this plant is premature on an economic basis, and serves as a roadblock to efforts to obtain international agreements which will promote nuclear non-proliferation efforts. I feel it was unwise for the House this week to approve construction funding for this project.

I have saved my comments on solar energy for last because I have great enthusiasm for the future of solar technologies. As a member of the Public Buildings and Grounds Subcommittee, I was active in ironing out a compromise which authorized the purchase of photovoltaic cells for the purpose of providing a market for private industry. I believe that this action will begin the development of the mass production of these cells, at a cost which may become competitive with conventional technologies. The Carter bill proposes a tax credit for the installation of solar heating equipment, provides a 10 percent additional tax credit for such installation by businesses, and commits $100 million over a three-year period for the installation of solar systems in federal buildings. In addition, the Carter Plan promotes a regulatory climate at the state and local levels which encourages solar energy development. Solar systems, unlike other conventional technologies, are clean and renewable. They are not yet cheap, but I have confidence that the accelerated research and demonstration approved during the last three years by the Congress will further the development of more efficient and cost-effective uses of our almost unlimited solar resources.

In summary, the President's Plan is not perfect, yet it is a good first step in the formulation of a coherent national energy policy. It encourages conservation through taxes, regulation, and voluntary efforts. It encourages production by allowing producers a high rate of return on their investment for new discoveries. It minimizes adverse economic impact by returning most of these taxes dollar-for-dollar to consumers.

Perhaps more significantly, it attempts to reach its goals by using strategies which call on all of us to make equal sacrifices. It protects the poor and those living on fixed incomes who cannot bear a heavy burden of sacrifice. It will avoid both unacceptable inflation and a loss of jobs. It will not result in unacceptable harm to our environment.

Not doing anything to solve our energy problems now will almost surely have grave consequences for the future of this nation. Even if every single provision of the President's legislation were enacted, an increasingly slim possibility, we will only put a brake on a worsening of the energy situation. Analyses by the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment point out correctly that the Carter bill will not meet the energy goals set by the President, which I described earlier. Only massive voluntary conservation efforts by all sectors of our society will have a decisive short-term impact in reducing the average of nine million barrels per day of petroleum and petroleum products we import each day.

I think that we need a new energy conservation consciousness. During testimony before the House Surface Transportation Subcommittee, on which I serve, Federal Energy Administrator John O'Leary pointed out that it was only a few years ago when it was not socially unacceptable to roll down a car window and throw out a Kleenex. Today, society frowns upon this action. Most people don't litter anymore, not solely because it is against the law, but because we have more sensitivity about the impact of litter on our environment. The same type of consciousness is needed for energy conservation. Many of us do not turn lights off when we leave our residences in the evening. There is little social pressure to comply with the 55 mile-per-hour speed limit on our highways. We reflexively turn on air conditioners when the outside temperature reaches 80 degrees or so.

It may only take a few years until we develop an energy consciousness in the same way we developed an environmental consciousness. It is not something that we can legislate in Washington. Only people like you can accelerate the process of forming this consciousness among our citizens.

I would like to reiterate that you as Delaware County leaders will be playing an important role in shaping energy policy. I urge you to closely follow the progress of the energy legislation as it makes its way

through all of the institutional obstacles which our system of government has placed in its way. Let your representatives in the Congress know where you stand on these issues. Participate in the process. Don't become cynical about the decision-making process in Washington. Your opinions really count.

Thank you for letting me share with you my perspective on the President's energy bill. I look forward to responding to your comments and questions following the presentation by Representative Forsythe.

AFTER A YEAR, LITTLE JON IS COMING HOME

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. CARTER. Mr. Speaker, on March 29 I brought to the attention of this august body the plight of a young family in my district.

At that time John and Debbie Benningfield were struggling under the double burden of whether their infant son would survive and whether, if he did live, they would be able to pay the awesome medical bills for his care.

Today I am happy to report that their son, Jonathan Lyle, finally has come home, 1 year after his birth. His twin, Jessica, had been able to come home at 6 weeks of age.

The anxiety about little Jon's survival has eased tremendously. But there has been little easing of the anxiety about the $125,000 hospital and doctors' bills incurred in helping him reach his first birthday, although the people of Campbellsville and Taylor County have demonstrated a tremendous generosity by raising $10,000 to help defray those costs.

As I noted in March, no family, rich or poor, is immune to the possibility that in the next moment a catastrophic accident or illness could strike and ruin the family financially.

While little Jon has come home, most citizens of this country remain unprotected against catastrophic medical costs. I urge once again that we move toward enactment of a national program to insure that needed protection.

Mr. Speaker, so that the other Members might know the details of little Jon's happy homecoming, I include for the RECORD an article from the September 19 edition of the central Kentucky News-Journal in Campbellsville, Ky.:

AFTER A YEAR, LITTLE JON IS COMING HOME

(By Steve Lowery)

Little Jon Benningfield is coming home.

After more than a year the little guy is going to be released from Louisville's Norton-Children's Hospital in about two to three weeks.

Jon, for those unfamiliar with his plight, has been in the hospital since birth. That was a year ago September 26.

He and his twin sister Jessica were born two and a half months premature. Both of the twins had underdeveloped lungs. They also were very small. Jon weighed 3.5 pounds. Jessica tipped the scales at 2.14 pounds.

Both babies were immediately put into isolation. They were both put on respirators to help them breathe and they both needed constant medical attention.

Jessica improved quickly. In fact, six weeks after her birth she was able to come home to Taylor County.

But Jon had to stay. His condition fluctuated. At times doctors for Jon thought that he might not pull through. He has though.

Jon's parents—John and Debbie Benningfield of Campbellsville—have spent countless hours driving to Louisville in the last year. They've stayed on the road to Norton's Hospital through rain, sleet and all of last winter's snow.

They've watched little Jon go through some rough times. And they've been through their own fair share of rough times worrying over their son.

It's no incidental matter that hospital bills alone for the twins have cost more than $100,000. That doesn't include doctor bills. And there will be doctor bills, most likely to the tune of $25,000 or more.

In the last six months individuals and organizations inside Taylor County have raised more than $10,000 to help the Benningfields.

There have even been contributions from outside Taylor. For instance, there was a little old man who sent $1 to the CKNJ to be put in the Benningfield Fund at Taylor County Bank. He recognized that it wasn't a large contribution, he just wanted to help.

Little Jon weighs about 11 pounds now. His sister weighs twice that much.

Little Jessica can say a few words now. She can take a few steps and she's as active as can be.

Jon was finally taken off of his respirator last week. He can hold his little head up and roll from side to side, but he has a lot of catching up to do before he's as healthy as Jessica.

Debbie Benningfield's last day of work—for a while, anyway—came Friday. She's taken a leave of absence as a nurse so she can help her boy if and when he needs it.

Both of Jon's parents are elated that he's coming home. They're a little worried, too. They hope he's healthy enough to stay at home for a while.

I haven't seen him in person, but I did see Jon's picture last week. He's as healthy looking as can be. He had a big smile on his face and he was hanging onto the side of his crib.

The picture was a sharp contrast to the picture I viewed of Jon five months ago. In that one, he was being fed intravenously, he was breathing with the help of a respirator, and he appeared to be very small and weak.

I can't wait to see what he looks like in person and what he looks like when he's a young man.

A TRIBUTE TO THE MOST REVEREND JOHN R. McGANN, D.D., L.H.D., BISHOP, DIOCESE OF ROCKVILLE CENTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of the Most Reverend John R. McGann in whose honor I recently attended a dinner dance at Molloy College.

As the spiritual leader of one of the largest dioceses in the United States, Bishop McGann has carried an awesome burden of leadership and authority. His love, comfort, and guidance have long been felt by those fortunate enough to have known him as both an educator and a friend.

In recognition of his long service and outstanding work as the college's chancellor, Bishop McGann was awarded the President's Medal of Molloy.

A man of great magnanimity, he has enriched the lives of millions through his tireless efforts to maintain the high levels of excellence he has brought to Molloy and to the entire religious community. It is my honor to pay tribute to such a distinguished and deserving individual.

TESTIMONY OF ADMIRAL MOORER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony of Adm. Thomas H. Moorer before the House Committee on International Relations. Admiral Moorer's remarks shed further light on the importance of the Panama Canal to American security and the numerous ambiguous statements in the treaties:

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Admiral, I want to compliment you also on your statement, and in furtherance of your colloquy with the Chairman about what happens after the year 2000, I would like to mention Article V of the neutrality treaty. It says after the termination of the Panama Canal treaty only the Republic of Panama shall operate the canal and maintain military forces, defense sites and military installations within its national territory. So the treaty makes it very plain that we are not allowed, at least by treaty, to have any troops in Panama after the year 2000.

I think if we want to have troops there after that year, we had better decide that now and not rely on some change in the future.

Admiral, I take it you would agree with, then candidate Carter, who said in the second televised debate with then President Ford, when he said "I would never give up complete or practical control of the Panama Canal Zone?"

Admiral Moorer. Yes; we have a perfect meeting of the minds on that one.

Mr. LAGOMARSINO. At that time?

Admiral MOORER. Yes, sir.

Mr. LAGOMARSINO. You quoted Mr. Escobar Bethancourt, who was the chief Panamanian negotiator, in his statements on neutrality, on the question of privileged as against preferred passage, or expeditious passage through the canal.

You might not be aware of a statement that General Torrijos made in Panama on September 15. This was a speech by General Omar Torrijos at the opening of the 10th Congress of the Panamanian Students Federation at the Augusto Samuel Boyd National Agricultural Institute in Divisa, Herrera Province, Panama, wherein he said: "I am not afraid nor am I denying that we signed a clause which if misinterpreted by future U.S. generations could give rise to intervention, but I am not afraid. I know the youth we are producing, and in order for there to be intervention there must be a people willing to accept intervention, and these people have no intention of accepting it." Then it says "applause."

So I think you are perfectly correct in pointing out that there is at least a very great ambiguity about what even the President and your successors claim is the most

important part of this treaty. There is ambiguity about it and I think it is absolutely imperative that that be cleared up and not just by some further statement made by the Panamanians. They can come back and make a later clear statement. I think if we are going to have a treaty there should be a reservation to the treaty or the treaty should be renegotiated to take care of that point specifically.

Admiral, do you think perhaps a bases agreement like we now have with Spain would take care of the problem of not having a base there in the future, assuming that the base agreement would be made either part of the treaty or negotiated at the same time?

Admiral MOORER. Yes, sir, I think something of that kind would, as I said, be certainly in order to give the Panamanians economic assistance, but again, I would delete completely Article V with respect to U.S. forces.

Mr. LAGOMARSINO. Right.

Admiral MOORER. And there is no way you can get around it. The canal is far more vital to the security of the U.S. than it is to the security of Panama. It is vital for the economic well being of Panama. It has nothing to do with the defense of Panama as a country, but it is vital to the security of the U.S. and it contributes heavily to the prosperity of the United States.

Mr. LAGOMARSINO. When asked to comment on the letter that you and the other Admirals sent to President Carter on June 8 of 1977, General George Brown and Secretary of Defense Harold Brown replied that they agreed with some of what you wrote; however, they said the fact that it was written before the treaty, before the treaty terms were revealed, indicates that the concerns raised were made without your having read the treaties and the assurances that they contain.

Now that you have had a chance to read the treaties, do they provide the needed assurances that you feel are needed for the concerns you expressed in that letter?

Admiral MOORER. Well, sir, in view of Article V, in view of the statements by Mr. Escobar Bethancourt, in view of the statements you just read from Torrijos, I have not in any way changed my mind because of the contents of the treaty.

As I say, my basic problem has to do with maritime aspects of global warfare and I just don't agree with the idea of the U.S. completely withdrawing and leaving the control and operation of that vital link between the two major oceans totally to a little country. And I am not saying this in disrespect, but a little country, as I said, the size of Detroit, Michigan, I don't think the city of Detroit can operate and insure that the canal is open all the time. And certainly in Panama where the technical capabilities are far less than they are in Detroit, I am convinced, I know they can't operate it.

Mr. LAGOMARSINO. Thank you, Admiral.

LOSS OF PUBLIC CONFIDENCE IN EQUITY INVESTMENT POSSIBLE UNDER NEW SEC RULES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RINALDO. Mr. Speaker, I rise today to address an issue which deserves the attention of the Members of this Chamber. The Securities and Exchange Commission has announced that it plans to take action, effective January 1, 1978, to allow stocks currently traded in the public stock exchange markets to be traded in the offices of dealers, an action which, in my opinion, could lead to the loss of public confidence in equity investment in the United States, with a corresponding difficulty of companies to raise capital and expand to create the jobs needed to promote economic growth in our Nation. One need not understand the complexities of the securities law or the arcane language of Wall Street to appreciate the implications of this proposal.

In view of the importance of this matter, I would like to explain briefly the background, and especially the legislative history of the law on which the SEC's proposed action is based. In 1975, in what was the first major overhaul in the securities laws in 40 years, Congress enacted, and the President signed, the Securities Acts Amendments of 1975. The centerpiece of this new law was the direction by Congress that the Securities and Exchange Commission "facilitate the establishment of a national market system for securities". It was expected that such a system should take advantage of electronic technology in linking the securities markets so as to protect investors, enhance competition, and generally serve the public interest.

While the law did not define the national market system, it did describe the characteristics it should possess, while setting forth a series of objectives which should guide the development of the system. While some significant steps have been taken by the securities industry and the SEC to put into place such a national market system, much more needs to be done to meet the objectives set forth in the 1975 amendments. It is in the midst of this transition to a national market system for securities that the Securities and Exchange Commission has proposed to take action which I believe—as do most of the witnesses testifying at the hearings the SEC held in August—is not only contrary to what Congress intended in writing this law, but potentially very disruptive to the Nation's economy.

First, a word about what the SEC has proposed and its likely impact, and then I will set forth the controlling legislative history. Our national stock exchanges historically have required exchange members to buy or sell on an exchange the stocks of those companies listed on the exchanges. The reasoning is simple and makes good economic sense for the investor: the more buyers and sellers coming together in a public exchange auction market, the more the competition among orders and the more efficient and fairer pricing of the stocks being bought and sold. When the national market system Congress envisioned is in place, the present separate competition in markets will be linked electronically, thus providing an even more efficient system through the entire Nation. Until such a system is operating, these basic rules—usually referred to as off-board trading rules—are necessary to prevent the markets for listed stocks from splintering or "fragmenting", and are appropriate to protect the interests of public investors.

Notwithstanding this background, the SEC has proposed to eliminate these off-board trading rules on January 1, 1978, thereby leaving investors vulnerable to the economic consequences likely to occur. What are these consequences? Mr. Speaker, if these off-board trading rules are repealed, it means that most brokerage firms will be allowed to trade listed stocks in their offices—or "in house"—both as dealers and as agents, instead of taking these trades to the exchanges. There is strong reason to believe that this would be followed by fragmented markets for these stocks as these firms trade internally—and largely as dealers—rather than trading through the auction market system of the public exchanges. The capital requirements inevitably needed for such internal trading likely will result in larger firms having greater competitive advantage, thereby driving the smaller securities firms out of business. Not only will public investors be severely disadvantaged from this demise of the auction-type markets, but the potential loss of the smaller securities firms has alarming implications in terms of the likely inability of small and medium sized businesses throughout our Nation being able to raise the capital needed to assure sound economic growth which in turn provides jobs for our people.

Mr. Speaker, when drafting and debating this legislation in 1975, Congress expressed what it wanted in the national market system, and perhaps more importantly it made clear it was keenly aware of the problems of fragmentation, concentration, overreaching of public investors and other consequences which should be avoided in the development of such a system. A review of the legislative history on this issue of a national market system, leaves little doubt as to what Congress had in mind when it directed the SEC to "facilitate the establishment of a national market system for securities."

The problem of potential fragmentation was the subject of considerable discussion in 1975, and it was recognized as a clear danger which must be guarded against prior to the national market system's development. As our House report noted "market fragmentation becomes of increasing concern in the absence of mechanisms designed to assure that public investors are able to obtain the best price for securities, regardless of the type or physical location of the market upon which his transaction may be executed. Investors must be assured that they are participants in a system which maximizes the opportunities for the most willing seller to meet the most willing buyer." The report went on to point out that the legislation did "define certain goals and principles to serve as a guide to the industry and the Commission in this evolutionary process—briefly stated, these embrace the principles of competition in which all buying and selling interests are able to participate and be represented."

Clearly, Mr. Speaker, these quotations reflect that the House intended that basic auction market characteristics be preserved as the securities industry moves toward a national market system. Moreover, the Senate report, mindful of the potential problems of market fragmentation, spoke to this issue in saying that "the national market system has as

a fundamental goal, the elimination of fragmented markets for securities suitable for auction trading," and went on to say in effect that an objective of a national linkage is to reduce or eliminate market fragmentation.

So Mr. Speaker, the benefits of the so-called auction system, in which buyers and sellers come together for their mutual advantage were well recognized in the 1975 legislation. The Senate report said so explicitly in observing that Congress is establishing "a clear congressional policy supporting the preservation and extension of the protections associated with auction type trading."

Moreover, our House report calls for the interlinking of markets in a manner that would enhance customer protection and auction market characteristics throughout the system. Those protections, I might add, will be weak indeed if the SEC has its way on January 1.

The conferees adopted with minor revisions those provisions of the Senate bill related to the national market system. The conference report notes the "Senate bill relied on an approach designed to provide maximum flexibility to the Commission and the securities industry in giving specific content to the general concept of a national market system," and the Senate report states the two paramount objectives of that concept; namely, the "maintenance of a stable and orderly market" and the "centralization of all buying and selling interests." Actions such as that planned by the SEC on January 1 certainly will not further those objectives.

To be sure, the SEC does have a role in the development of a national market system. It is, among other things, "to oversee the implementation, operation, and regulation of the national market system," as the Senate report reminds us, but at the same time it is charged "with a clear responsibility to assure that the system develops and operates in accordance with congressionally determined goals and objectives." As I have discussed, Mr. Speaker, and as can clearly be observed in light of our legislative history, these goals and objectives seem to be fading from the Commission's memory as it oversees this national market system development.

Mr. Speaker, the SEC's proposed action is contrary to the congressional objectives set forth in the 1975 amendments and it is also contrary to the overwhelming weight of the testimony at the public hearings the SEC held in August on its proposal. Of the 28 principal witnesses at the hearings, some 24 urged the SEC not to repeal the off-board rules until essential elements of a national market system are in place. The witnesses, I might add, represented not only the exchanges and the securities industry generally, but included witnesses speaking for the shareholder's point of view as well as the small businessman's point of view.

The SEC, in fact, Mr. Speaker, is not required to repeal off-board trading rules under the law. While the new law does provide for the Commission to "review any and all rules of the national securities exchanges which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges," it does not call for a change in those rules if it is found that they further the purposes of the act.

Mr. Speaker, Congress has directed the SEC to "facilitate" the establishment of a national market system for securities. Perhaps the SEC should be more diligent in responding to this directive. Perhaps the SEC should step in and expedite the process. Or perhaps, the SEC should assume generally a more aggressive leadership role in the development of a national market system. But, Mr. Speaker, the congressional intent as to what the SEC should not do is clear. It should not take the precipitate action now scheduled to become effective on January 1, 1978.

INDUSTRIAL PROGRESS AND WORKER SAFETY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MILLER of California. Mr. Speaker, as the article I am inserting into the RECORD indicates, the issue of workplace safety is one which deserves the very highest attention of the Congress. The task of insuring that American workers labor in safe factories and shops has been given to the Occupational Safety and Health Administration (OSHA). But that Agency has become a highly controversial one and has fallen under constant attack, because of its frequent focusing on seemingly petty issues. Fortunately, the Carter administration has refocused OSHA's attention onto the more serious perils which confront American workers.

The dangers in the workplace in this generation are unlike those of the past. Safe working conditions have long been among the primary reasons for which workers agitated and organized, and similarly were among those first of workers' rights recognized by Government. In the past, those dangers, such as exposed machinery, crowded tenement conditions, fire perils, and the like, threatened workers' safety daily. One major accident could, and periodically did, result in the deaths of dozens of workers.

The dangers which affect workers today go far beyond those of the last, and early parts of this century. The dangers of the workplace to which contemporary workers are subjected are carried home to their families, and passed on to future generations. The hazards in some workplaces endanger not only the employees at that site, but can even jeopardize the well-being of an entire community.

There is an obvious question here, that being, should workers be subjected to these kinds of risks in order to earn an income and provide for their families? But there is another extremely important issue, and that is, who decides that workers are to be subjected to occupational hazards? OSHA is not the answer, because in the several years of its existence, it has reviewed only about 2 percent of all workplaces. I find it extremely disturbing that someone is making decisions that there is an "acceptable level of risk" in some job, which in many cases really means that a decision has been made that some worker must risk his health and safety, and that of his family, in order that a particular business or industry operate under current design.

Who decides that a coal miner should work in a 30-inch seam? Who decides that an asbestos worker should be exposed to cancer-causing dust? And these questions can be asked repeatedly about many, many industries.

I really fear that a decision has been made that there must be some unhealthy industries in this countries, and that this decision presumes that there will be workers subjected to the health hazards associated with these jobs. I have no doubt whatever that the people who make those decisions are not the ones who subsequently ruin their health by working at the job.

One hundred years ago, as the labor movement was first beginning to command the attention it now enjoys, decisions were made that we were not going to permit young children to climb among the whirring machines in the silk mills, and that we were not going to permit tailors to be crammed into tiny spaces despite safety hazards. Then, too, some complained that sacrifice was the price of industrial advancement. The problem which I am addressing today is only the modern variant of that dilemma between the maximization of profits and production versus the cost of human life.

The article which follows raises these, and related issues concerning dangers in the workplace. I believe that we in Congress should direct a long look at these issues, focusing not only on the issue of OSHA overregulation, but on the little-addressed issue of worker safety:

WORKPLACE HAZARDS: NO WOMEN NEED APPLY

(By Dorothy McGhee)

Vicky Read, twenty-two, was working at the Beaver County Hospital for the elderly, not far from her home in Coraopolis, Pennsylvania. Her husband, handicapped by blindness in one eye, was having a hard time finding work. With a young child to support, the Reads were not getting by on the $2.50 an hour Vicky was paid at the hospital. When she saw an ad announcing that St. Joes Mineral, a zinc mineral plant in nearby Monaca, was hiring women, Vicky jumped at the chance to earn $4.70 an hour.

"They didn't tell us it might be dangerous," Vicky says, "and I just figured it was a chance to get a good job. I didn't know what I was getting into, really. All I knew was that my father worked there, and my uncle, and my grandfather before he died of lung cancer."

What Vicky Read was getting into was the hazard-infested American workplace, where millions of women—and men—are exposed each day to conditions that cause injuries, lingering illnesses, miscarriages and birth defects, and death.

At St. Joes, Vicky was assigned to what they call the roaster department, one of several processing plants in which the company uses lead to produce zinc and acid.

"It's very dirty and hot," Vicky says.

"They've got big roasters in there like ovens and it's over 100 degrees at all times. I never sweated until I went into that place. It's dirty up to your knees and it's all in the air. I don't understand how the men can continue to work in there. You have to wear respirators, but even that doesn't help a whole lot. You can smell the gas. It burns your nose and throat. It's common knowledge that you can get sick working in there, but no one likes to talk about it."

About three months after she started working in the roaster department, the company called together the seventeen women who were employed in the processing plants and told them they were being transferred because high exposures to lead in the plants could be dangerous if they became pregnant.

"Most of the girls weren't even planning to have children," Vicky recalls, "and I wasn't because we couldn't afford it. One girl at the meeting said that her husband was in Korea and asked if the move affected her. They said to her, 'Well, you can do it with someone else, you know. You've got to get out of the plant.'

"They told us," Vicky adds, "that if we wanted to have our tubes tied or have a hysterectomy or something like that, that would be perfectly all right and we could stay where we were. But we couldn't sign waivers, or say that we were on pills. The only way we could get in the plants any more was to have papers from the doctor saying we could not have children any more."

The women were told they would be transferred at the end of the month to the labor pool, where they would be assigned to janitorial and yard work at reduced pay.

"I was very upset," Vicky says. "It meant a reduction in pay and nowhere to bid (for upgraded jobs under the union seniority system), because there's not too many places to work in that mill that aren't exposed to lead. I really needed to work.

"I went back to my plant," she continues, "and I cried. I couldn't decide how we were going to afford to live, really. Jobs just aren't that easy to find around here. We have an 8 per cent unemployment rate in Pennsylvania. It's bad, really bad. I was hurt. I worked hard in that plant to show that I could do it. I was trying to be a good worker and they gave me the shaft."

Until she was transferred, Vicky Read was one of an estimated one million women in their prime child-bearing years who work amid potential exposure to chemical substances and processes that can cause birth defects and miscarriages. Now she is one of an untold number of women around the country who are losing their jobs, or being excluded from jobs, because they are pregnant or capable of becoming pregnant. Other women are undergoing tubular ligations or hysterectomies to keep those jobs.

"On our application forms now, they ask if you have had any operations, and if you can't put it down you won't get hired," says Vicky. "Really, they're not even going to look at you."

Current Federal laws supposedly assure Vicky and other women not only of the right to safe and healthy working conditions, but also of the right to work without being discriminated against because of their sex. But it isn't working out that way. Instead, tire companies, lead battery plants, certain chemical processors and producers, and laboratories simply will not hire women for some jobs. Rather than clean up the workplace so that it is safe for women who might become pregnant, companies are removing women from the work force.

As a result, scores of new cases of sex discrimination are cropping up around the country. In the lead and zinc industries and in virtually all smelters, fertile women are being transferred or dismissed from processing plants with high exposure levels to lead. Goodyear, DuPont, and General Motors have removed women from areas of high exposure in their battery plants. In Oshawa, Canada, thirty-four-year-old Norma Jones had a hysterectomy to ensure she could keep her GM job.

"I really didn't want to have the operation," she told a reporter for *Medical World News*, "but I had only thirty days to appeal my transfer or I couldn't get my job back."

In Muncie, Indiana, G.M. is being sued by a woman who was denied employment because she was capable of having children. At the Bunkerhill Foundry in Idaho and at St. Joes Mineral in Pennsylvania, at least four more women have undergone hysterectomies or tubular ligations in order to keep their jobs. Other women, preferring to remain fertile, have been transferred, often at a loss of pay and job seniority.

Exposure to lead is not the only problem. The petrochemical industry is becoming nervous about female employees who work with benezene. Exxon and Dow Chemical will no longer hire fertile women for jobs involving exposure to that chemical. At Amoco, women employees must immediately report a missed menstrual period to the company physician; one woman was fired at Amoco's Sugar Creek facility for failing to give timely notice of her pregnancy.

In the plastics industry, corporate managements are worried about the effects of vinyl chloride on fertile women. Laboratories using radiation have begun dismissing pregnant employes. In Texas, the Kleberg County Hospital is being sued by a woman who was fired because she became pregnant. A female research technician in a thyroid laboratory in Illinois was told to resign or take a maternity leave of absence without pay. Afraid to lose both her salary and unemployment benefits, she accepted dismissal.

What is emerging is a bizarre confrontation between working women's rights to a safe workplace under the broad provisions of the 1970 Occupational Safety and Health Act, and their rights to equal employment opportunities under the 1964 Civil Rights Act. A growing number of women are caught in the middle—denied unemployment or forced out of hard-won jobs, suffering pay cuts or loss of seniority or unemployment. Their plight is focusing new attention on an old problem that grows increasingly acute: the indifference of industry to the hazards that confront working men and women and the failure of Government agencies to curb those hazards.

Industry's sudden concern for the health and safety of developing fetuses is not prompted by a surge of humane altruism. More and more companies are, according to an industry lawyer cloaked in anonymity by The New York Times, "terrified about the prospect of having a deformed child bring suit." As one Dow Chemical official put it, "We'd rather face an action by the Equal Employment Opportunity Commission than a deformed child."

Workers' compensation, which acts as a sort of no-fault insurance for employes injured on the job by compensating them but limiting their right to sue, does not cover birth defects or spontaneous abortions. The fetus is not covered, so anyone can bring suit until the age of twenty-one, claiming to be deformed because his or her mother was exposed to a dangerous substance.

"The only redress of the damaged child would be a civil action, almost equivalent to medical malpractice," explains John Finklea, director of the National Institute of Occupational Safety and Health (NIOSH). "The mother can not sign a release for the fetus, and liability will accumulate as research is being done. This, it seems to me, will be a powerful lever for everyone to get to work on this problem." But industry's way of "getting to work" has been simply to exclude women from areas of risk.

Though many companies are becoming concerned about their potential liability toward a deformed fetus, the concern is not shared by all high-risk industries. Vilma Hunt, professor of environmental health at the University of Pennsylvania, asks a hard question: "So why are they suddenly worrying about only the jobs that women have just begun to move into? Obviously, if you work in an operating room you are going to have just as much trouble, if not more, than if you work in a lead plant. But they are not throwing women out of the operating room. I don't think that they're going to throw out all of the women nuclear technologists or x-ray technicians. It's no accident that many of us are questioning the policies of exclusion that are suddenly being vigorously enforced in some industries."

Dr. Jeanne Stellman of the Health Foundation in New York, an outspoken critic of workplace hazards, echoes Hunt's skepticism: "There's nothing new under the sun in terms of women's problems under industrial technology, because this is an exact repetition of early protective legislation which turned out to apply only in those areas in which women did not represent the major and most important part of the work force. In the areas in which women were needed for work, that's where the restrictions were never extended."

When the states began enacting special legislation early in this century to "protect" working women, Stellman explains, the laws were by no means universally applied. There were laws, for instance, prohibiting women from working at night, but waitresses and hospital workers were quickly exempted. There were laws restricting the weight women were allowed to lift (which effectively kept women out of male-dominated heavy industries), but the laws were amended to exempt female retail workers, waitresses, and nurses.

Women are in a vulnerable position in the labor force; in the last four years their earnings in relation to men declined by about 10 per cent. The most vulnerable of all are the estimated twelve million women in jobs that involve exposures to potentially dangerous chemical substances and processes. Most of them lack the protection of a union or work association, so they are left to the caprice of industry and minimal Government protection.

Since enactment of the 1964 Civil Rights Act, regulations designed to "protect" women have been considered illegal. According to a Fifth Circuit Federal Court of Appeals decision, "Title VII of the Civil Rights Act rejects just this type of romantic paternalism as unduly Victorian, and instead vests individual women with the power to decide whether or not to take on unromantic tasks. Men have always had the right to determine whether the incremental increase in remuneration for strenuous, dangerous, obnoxious, boring, or unromantic tasks is worth the candle. The promise of Title VII is that women are now to be on equal footing."

The risks of spontaneous abortion and deformed children faced by one million working women are only part of a rapidly growing problem of health hazards in the workplace. "If we had statistics from an in-depth medical survey of the nation's workers," says Representative Dominick Daniels, the New Jersey Democrat who heads the House Health and Safety Subcommittee, "they would paint a picture of disease and chronic illness as horrifying as conditions in the sweat shops of the last century." Amid the noise, dust, fumes, vapor, gases, mists, heat stress, vibrations, radiations, inadequate lighting and ventilation, and untested chemicals of the American workplace, literally millions of workers—men and women alike—are becoming casualties as they try to earn a living.

The Department of Health, Education, and Welfare estimates conservatively that 100,000

men and women will die this year as a result of work-related illness, and that another 390,000 will become seriously ill. The United Auto Workers' Washington representative, Frank Wallick, estimates that of eighty million working Americans, four million will come down with an occupational disease or illness.

Unlike occupational accidents, which are immediate and obvious, occupational disease affects its victims subtly and gradually. Such symptoms as persistent coughing, cramps, or dizziness are not immediately recognizable as related to the workplace.

"The chronic effects of industrial exposures," says Jeanne Stellman, "are insidious—they creep up on you. A chronically ill person often gets used to having mild symptoms, such as headaches or ringing in the ears. You may ignore these symptoms and be unaware that you are becoming ill."

Elaine House, who works at the Prestolite battery plant in Visalia, California, described in testimony to the Labor Department's Occupational Safety and Health Administration (OSHA), the chronic effects of working at high lead exposures: "You feel sick. You are tired, but it is not like you are tired from work. It is a completely different tired: it is exhaustion. It is altogether different than if I went out and mowed the lawn."

When she had been hired by Prestolite in 1970, the company had assured her that lead was not dangerous to her health, but she learned it was: "I had cramps in my stomach after I ate. I got pains. I have been off balance, and I have acquired a drooping eyelid. I have been nauseous and weak and tired. Sometimes I couldn't sleep; sometimes I slept too much."

OSHA is charged with making it possible for Vicky Read, Elaine House, and other working Americans to hold jobs that do not jeopardize their health. Through the development of standards called threshold limit values (TLVs), OSHA sets permissible levels of airbrone concentrations of harmful substances in the workplace—levels at which, according to available evidence, workers may be exposed day after day to toxic substances without adverse effect. Tony Mazzachi, the Oil, Chemical, and Atomic Workers representative in Washington, defines TLVs somewhat differently: "A TLV," he says, "is how much poison somebody else says you, as a worker, have to take on the job."

Despite OSHA's broad authority to establish "safe and healthy" working conditions, the agency has done little to create the health standards needed to protect millions of lives. Under recent Republican administrations, OSHA was flagrantly restrained from interfering with major corporate interests. When Secretary of Labor F. Ray Marshall came into office last January, he accused the Republicans of "sabotaging" the agency. In the Nixon Administration, OSHA attained notoriety for the vigor with which it pursued trivial violations while ignoring more serious and widespread occupational hazards. For example, it took thirty-two months for OSHA to come up with a manual on the proper construction of safety matches.

Moreover, OSHA was one of the Government agencies mobilized to further Richard M. Nixon's reelection campaign. In June 1972, the Assistant Secretary for OSHA, George Guenther, wrote to the then Under Secretary of Labor, Laurence Silber, "While [health standard] promulgation and modification activity must continue, no highly controversial standards (that is, cotton dust, etc.) will be proposed by OSHA or NIOSH. A thorough review with NIOSH indicates that while some criteria documents, such as on noise, will be transmitted to us during the reelection period, neither the contents of these documents nor our handling of them here will generate any substantial controversy."

Guenther concluded his memo with the loyal declaration, "While I have discussed with Lee Nunn the great potential of OSHA as a sales point for fund-raising and general support by employers, I do not believe the potential of this appeal is fully recognized. Your suggestions as to how to promote the advantages of four more years of properly managed OSHA for use in the campaign would be appreciated."

To date, OSHA has set TLVs for fewer than 500 of the 19,000 toxic substances in common industrial use, and for only sixteen of the 2,400 chemicals suspected to be carcinogenic by NIOSH. At the present rate, it will take more than a century, according to the Government Accounting Office, for OSHA to establish standards for substances already known to be toxic—without taking into account the new and potentially toxic chemical compounds which are introduced into the workplace at the rate of about one every twenty minutes. "I am ashamed to speak of Federal standards," says David Gore, a lawyer for the Steelworkers Union. "They're almost nonexistent."

In its six-year existence, OSHA has become conspicuous primarily for what it has not done and does not know. Few of the hundreds of thousands of chemicals currently in the workplace have been tested for their effects, singly or in combination with others, on the human organism. Philip Handler, former President of the National Academy of Sciences, says. "What each compound or what several or many compounds acting together are doing to man and especially to the complex interacting balance of life about us and including us is almost a complete mystery."

As of 1976, six years after the initial passage of the Occupational Safety and Health Act, Congress had provided funds sufficient for an inspection force capable of examining only 2 percent of the Nation's workplaces each year. Fewer than 4 percent of America's five million workplaces have had first-time inspections, according to Ralph Nader's Health Research Group. And only 400 of OSHA's 1,500 inspectors are trained to conduct sophisticated investigations that can pinpoint carcinogenic chemicals or those that cause birth defects.

In fact, the Federal Government has done virtually nothing about the exclusion of fertile and pregnant women from certain jobs. The Nuclear Regulatory Commission (NRC) is the only agency that has even attempted to deal with the problem. When evidence came to light linking radiation exposure to high incidences of leukemia and cancer in the offspring of female radiation workers, the NRC considered setting a separate standard of radiation exposure for women. But the Equal Employment Opportunity Commission said this would probably constitute a violation of Title VII of the Civil Rights Act. An alternative was to lower the radiation exposure standard so that the atomic industry would be safe for both men and women, but the NRC decided this would be too costly.

Instead, the NRC merely directed its licenses to inform women workers of the potential hazards. The NRC's instruction guidelines for women suggest they "delay having children" until they can work in low-exposure jobs, or seek reassignment to low-exposure jobs when they become pregnant. If this is not possible, say the guidelines, "you might consider leaving your jobs." NRC, in effect, offered women a choice of risking the health of their babies or giving up their jobs.

OSHA is now considering a revised standard for exposure to lead, since recent medical evidence suggests that the current standard allows concentrations of exposure that could cause miscarriages. The proposed revision, which is expected to be issued by the end of the year, allows for half the exposure level currently permissible, and it promises a substantially diminished risk of miscarriage. But the lead industry calls the proposed revision unduly restrictive and far too costly. Industry spokesmen maintain that smelters across the country will be forced out of business if the revision is adopted.

Proponents of the lower standard contend its adoption would signal the Government's commitment to equal opportunity for women. Olga Madar, president of the Coalition of Labor Union Women, testified at recent OSHA hearings, "Industry prefers excluding a group with a problem rather than dealing with it. After the fertile women are removed, who will be next? Black workers who carry the sickle-cell anemia trait in their blood? Older male workers who have the highest probability of heart problems? The list of groups with special susceptibility goes on and on, until a strain of superworkers has been bred."

Men, however, are not superworkers, and there is growing evidence that the reproductive organs of male workers might also be adversely affected by toxic substances and processes. Foreign studies suggest that an unusually high number of male workers have abnormal sperm test results after exposure to lead. Female operating-room personnel exposed to anaesthetic gases suffer increased risks of miscarriages and children with birth defects, and children of male operating-room personnel also show an increased risk of birth defects. Women whose husbands have been exposed to vinyl chloride have an unusually high incidence of stillbirths and miscarriages.

Andrea Hricko, an industrial hygienist at the University of California and an activist in occupational health issues, recalls a four-day training course in safety and health she taught for workers at an auto assembly plant in Fremont, California:

"At the beginning of the class," she said, "it was clear that they thought it was a very good thing that G.M. had been responsible enough and protective enough about women that they were not letting them work in the lead grind booth. But when we pointed out that there are indications that lead also affects the male reproductive system, they were totally astounded. There was one guy who has been working in the lead area for ten years and has been trying to have children for eight years. We don't know, of course if it's connected. His wife has been tested, but he's never been tested.

"The male workers were really appalled," Hricko continued. "They had been duped into thinking that the company was being responsible, when in fact what they were doing was discriminating against the women and not telling the men that there was a health hazard at all."

At St. Joes Mineral in Monaca, Pennsylvania, according to Vicky Read, the men are not so complacent. "The men are aware," she says, "that lead can hurt them, and it upsets them. They can't understand why the company is concerned about us women and not about them. Why don't *they* have a case of discrimination against the company? They have to work in the dirty places and we don't.

Ann Trebilcock, assistant general counsel for the United Auto Workers, believes the issue has been improperly defined from the outset. "By not considering the health of men," she says, "industry is only raising the questions which will get people all upset about deformed babies. Instead, they should ask the questions which will get people all upset about workers' safety and health, men and women alike. The company is using the prospect of deformed babies as a subterfuge to avoid making the place safe for either men or women."

At the Prestolite battery plant in Visalia, California, Elaine House says, "I would like to know maybe I can work without worrying. Half the time I hear, 'Well, what are you doing there? Why don't you leave the plant?" Because I am fooling myself and I am telling

myself, 'Hey, it is not going to happen to me. I am going to get out before I end up on a kidney machine or something.' So I would like to see health standards so I could work for a lot more years without having to worry, 'Is it too late? Do I get out now or what?' "

Workers like Elaine House will probably have to wait many years before they can work without worrying about their health. For the foreseeable future, these workers are the guinea pigs on whom the toxic substances and processes of industry are being tested. Their illnesses and deaths, and the defects among their offspring, provide the raw statistics which confirm the toxicity of the untested chemicals already in use in the workplace. So far, OSHA seems willing to set new or revised TLVs only when undeniable evidence of death, severe illness, or birth defects is documented.

OSHA reduced the TLVs for asbestos by 90 percent only after a Federal study indicated that the death rate among asbestos workers was three or four times higher than among the general population. George Wald, the Nobel laureate in biology, has predicted that one out of five asbestos workers will eventually die of lung cancer.

Only when NIOSH discovered that the incidence of leukemia among workers exposed to benzene was at least six times the normal rate did OSHA order a 90 per cent reduction in benzene exposures. When Allied Chemical and Dow Chemical came up with a study showing evidence of high rates of lung and lymph cancer among workers exposed to arsenic, OSHA finally reduced the allowable levels of that chemical by more than half. And only after a NIOSH study firmly established that the wives of men who work with vinyl chloride are twice as likely to have miscarriages or stillbirths, did OSHA set levels for that chemical.

Industry, on the other hand, complains that the Government is moving too fast, and corporations are enriching scores of Washington lawyers by challenging each step in the painfully slow standard-setting process. And industry spending for workers' health and safety actually declined by 10 per cent from 1974 to 1975.

No one can even hazard a guess as to how much it would cost to clean up America's workplace, because new information continually surfaces to condemn yet another chemical which had been presumed to be harmless. Given the profit-maximizing goals of business and the acquiescence of Government regulators, it seems unlikely that our existing economic structures can ever accommodate the changes necessary to make work safe. The pursuit of private profit leaves no room for concern about the health of workers. If Government regulators were to insist on strict enforcement, corporate costs would rise and corporate profits diminish. Industry would threaten to stop producing (as the auto companies did when Congress was debating air pollution standards) or to move production to the "better business climate" of the Third World.

The Occupational Safety and Health Act of 1970 is a prime example of potentially effective legislation that has been disarmed by lack of implementation and enforcement. The law does, in fact, recognize some important worker rights. It guarantees a "safe and healthy" workplace. It calls for inspections without prior notice to a company, and directs that a representative of the workers accompany the inspector on tour. It allows any worker to register a complaint and call for an inspection, while protecting that worker from reprisals. It imposes fines for violations and compels employers to maintain records of work-related deaths, injuries, and illnesses.

But as George Wald has said, "If the far-reaching provisions of the new health and safety legislation are to be realized, it will be only because workers insist upon them, organize for them, and participate in their enforcement. That is just what the legislation invites." In practice, it is difficult to protect workers from reprisals for demanding an OSHA inspection. Workers must wait months for a requested inspection, while dangerous conditions persist. The current health and safety standards don't go far toward defining safety in the workplace. The average fine levied by OSHA for safety and health violations is so small that there is little incentive for companies to maintain better working conditions; it is often cheaper to get caught than to clean up.

Without the backing of a vigorous union, it is especially difficult for a worker to take recourse in OSHA's provisions. And working women—83 per cent of whom are not affiliated with any union—are particularly helpless when it comes to dealing with health conditions at their jobs.

"A worker in a nonunion shop," says Steve Wodka of the Oil, Chemical, and Atomic Workers, "is not going to risk being fired by filing a complaint without the protection of a union. A lot of companies, to avoid union organizing campaigns, will pay union rates, but when it comes to issues of safety and health, getting representation in Washington at OSHA, prying information from management about the chemicals on the jobs, or getting conditions corrected, if there's not a union on the job that workers can use, bad conditions just go on and on."

With a handful of exceptions, unions themselves have displayed far less vigor in pursuing health and safety than in pursuing higher wages. But there is no substitute for the collective action available through a local union in seeking information from management about the chemicals used on the job, in seeking stricter safety measures, or in pressing OSHA to fulfill its mandate.

Until women are organized to demand safe working conditions, they will continue to be at the mercy of industry, risking their own health and lives and, in some cases, the health and lives of their offspring as well. "When they say women shouldn't be in the plant, I get a little aggravated," says worker Elaine House, "because I hate to say 'men' and 'women.' I would like to say 'humans.' I would like to see us safe as humans, not as male or female."

TODAY—THE 20TH ANNIVERSARY OF SPUTNIK

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FUQUA. Mr. Speaker, October 4, 1957, was the day the Soviet Union ushered in the space age with its successful launching of the world's first artificial satellite, Sputnik I. Heralded around the world as a major scientific achievement of a nation far ahead in science and technology, Sputnik I represented a major challenge to the nations of the free world.

The United States was quick to respond to this challenge as the free world leader capable of catching up to and surpassing the Soviet Union in a new space race. That period in history was one of adverse political relations between the United States and Russia and involved differing political ideologies. Political tensions and mistrust prevailed between the two nations and little cooperation could be expected in the exploration of space.

America's first artificial satellite was successfully launched on January 31, 1958, just a few months after the space race began. Named Explorer I, the satellite was launched with a Redstone missile modified by the Werner von Braun team and was built, managed, and tracked by the Jet Propulsion Laboratory in Pasadena, Calif. Scientific measuring instruments were on board.

Since that time, major advances have been made in the exploration of space. Our Nation has conducted its space missions in the open and the public has had the opportunity to see both the successes and defeats.

Since its beginning, America's space program has been courageous and one of many accomplishments. We have seen our astronauts confidently walking and riding on the surface of the Moon and also enjoying walks in space. Our scientific satellites have also made impressive discoveries for the benefit of mankind. In looking back over the 20 years since the inception of the space era, the sense of rapid scientific and technological progress is very real.

Today should, therefore, not only be remembered as an important anniversary of space age. It should also be appreciated as a day to honor the frontier spirit of man that has contributed so greatly in the last 20 years by acquiring new and beneficial knowledge for man's use.

Mr. Speaker, my hope is that as we look forward to continued progress in the field of scientific space exploration, we will remember that our national space effort has made a major contribution to the peaceful purposes of mankind and that its record is outstanding.

AIR BAGS FOR SAVING LIVES

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I am offering the following editorial from the San Francisco Chronicle for my colleagues to read and consider concerning air bags:

AIR BAGS FOR SAVING LIVES

Unless Congress sets it aside by October 19, an order of the Secretary of Transportation will then take effect requiring all new cars to be equipped with automatic seat belts or air bags (or possibly other crash-protection devices), beginning in 1982. The final month of the pro and con debate on this issue will no doubt be hot and heavy.

Secretary Brock Adams is being widely objurgated as Big Brother for having made the installation of crash restraints obligatory; his predecessor, William C. Coleman, had been content to leave the matter optional for 1980 and 1981 model cars.

We ourselves have in the past argued for the optional approach, but new considerations have caused us to change our minds. The most persuasive of these is that the public is buying more and more light cars and these need more effective crash protection for front-seat occupants from heavy cars.

A second persuasive reason is that polls show more of the public wants air safety bags required in all new cars than opposes them.

Finally, there is no denying that optional systems have failed—the evidence is that only 20 percent of front-seat occupants will wear a safety belt if its use is optional.

The air bags and automatic belts would protect drivers and front-seat passengers without their decision to hitch themselves in. The automatic seat belt wraps around the occupant as the car door is closed.

The air bag, a cushion hidden inside the instrument panel, inflates at the moment of impact above 12 miles per hour; it has been tested in 400 million miles of highway driving and is said to be four times as effective in preventing fatalities as most conventional safety belts.

The prediction of the Department of Transportation, endorsed by the insurance industry, which favors automatic restraints, is that 9,000 of the 46,000 American lives lost yearly in accidents will be saved and tens of thousands of injuries prevented if the Adams decision is let stand. How can resistance to automatic restraint systems be justified in the face of these figures?

DAY OF BREAD

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. THONE. Mr. Speaker, this is Harvest Festival Week and today, October 4, is the International "Day of Bread." In observing this event we join with all nations, creeds, and cultures around the world as the family of man in an autumnal tradition of spiritual kinship as old as civilization itself. It is a time to pause and give thanks for the annual bounty of nature; a time to assess our personal, national, and world food situation; a time to plan better how to feed ourselves and our fellow human being throughout the world.

Today, our granaries are stocked with more than 1 billion bushels of surplus wheat. Today, in spite of inflation, the price of wheat is the lowest in years—so low that many farmers are selling their grain for less than their cost of production. Today even with this glut in available food, many Americans go to bed hungry. Today, 12 percent of the world population—500 million people—is malnourished.

Clearly, the problem is not simply food quantity. There is an equation still unsolved of food economics, distribution, and nutrition education.

We may not solve this problem today. But we shall solve our larger problem, if we keep sight of our goals and our dedication to universal fellowship. In token of such values, and the role of bread as a hunger fighter and symbol of all foods for at least 60,000 years, American wheat growers, flour millers, bakers, and the many of the trades allied with these industries, have presented each one of you an extraordinary gift—a simple, yet marvelous loaf of bread. They join me in the hope that you will break bread together, as all men have for centuries, in a special act of universal brotherhood.

The "Day of Bread" is every day. Let us use our gift from nature wisely and with love. Thank you.

CONGRESSIONAL TRAVEL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LAGOMARSINO. Mr. Speaker, recent news reports concerning congressional travel have raised the legitimate question of both the function and the cost of overseas trips. As a member of the House International Relations Committee, I believe these trips serve a legitimate function, however, I agree with the commentators that the taxpayers deserve a full accounting. The enclosed article and editorial from the Santa Barbara News-Press touch on this issue and deserve the attention of the Members:

LAGOMARSINO HAS TRAVELED TO 23 NATIONS SINCE 1974

(By Jerry Rankin)

Congressman Robert J. Lagomarsino has visited 23 countries and spent two months on taxpayer-paid overseas trips in his 40 months in office, becoming one of the California delegation's leading world travelers.

In 1976, he spent 31 days on such trips, second highest in the 43-person California delegation, 17 of whom traveled outside the country. Lagomarsino, first elected at a special election in March 1974, is a Republican representing Santa Barbara and parts of San Luis Obispo and Ventura countries.

The cost to the taxpayers for such trips is thousands of dollars, but Lagomarsino says that in his case, as a member of the House international relations committee, the trips are logical, needed and worth it to the taxpayer.

In all, Congressmen and women spent $2.4 million on overseas travel last year, and as usual the trips sparked some protests by individuals and groups such as Common Cause that consider them as "junkets" of little or no value except to give the members, their spouses and some assistants lavish foreign tours at the expense of the folks back home.

Most of the figures were compiled by Congressional Quarterly, the independent weekly magazine considered the "bible" of detailed information about Congress and the government. CQ's Mark Gruenberg descended into the bowels of the State Department, Treasury and Defense Department as well as Congress to obtain the information. He told the News-Press he spent hours going through boxes of vouchers, bar tabs and so on to document his figures.

A News-Press check shows that Lagomarsino—who announces his trips in advance, and sends out reports on them afterwards—spent 16 days traveling outside the country in 1975, visiting seven nations.

Last year it was 31 days and 12 countries, exceeded only by Democrat Charles Wilson's 43 days among California members of Congress.

And in 1977, Lagomarsino has been out of the United States 15 days on visits to six countries.

In 1975, he was one of many, with 29 others in the delegation world-hopping, and at least 10 reported more time gone than he did. But in the election year of 1976 only 16 in addition to Lagomarsino traveled.

All his travel was when Congress was in recess, not in session; Lagomarsino has a nearly perfect attendance record for his time in Congress, and has made 100 percent of all roll calls in 1977.

Where has he traveled? Mexico, Germany, Belgium, Italy, Austria, Portugal, Greece, Egypt, Israel, Iran, Turkey, Yugoslavia, Taiwan, Peru, the Philippines, Indonesia, Australia, New Zealand, Colombia, Ecuador, Chile, Argentina and Brazil.

Much of the criticism of congressional traveling is aimed not just at its need, but—even in the cases where the justification is clear—at how it is handled and some of the "extras" thrown in by the military escorts.

Many stories have detailed over the years, and CQ's new survey reconfirms it, that such trips are carefully escorted by military officers well aware that the congressmen control the amount of money the Defense Department gets.

For example, the military planes the politicians and their parties travel on are well stocked with food and liquor, but the bill is paid by military congressional liaison money, not by the committee, which thus doesn't have to report it on official forms filed with the Houes or Senate.

Asked about the need for the liquor and food aboard planes, Lagomarsino told the News Press in a telephone interview from Washington that some food obviously is needed on the plane. As for the liquor, he feels the public shouldn't pay for it: "They ought to do it so that whoever uses it pays for it. You can pay for your own . . . I guess I missed out on my share."

When Lagomarsino and six other members of his committee toured the Mideast from Jan. 3 through 16 last year, their military VC–137 jet was stocked before it left with $422.30 worth of liquor and mix from Branchwood Liquors.

Another $372.49 was spent before leaving to stock the plane with frozen food, including chocolate eclaires, fruit, different types of cake and pies, vegetables, beef stroganoff, veal parmesan and pigs in blankets.

In all, the military laid out $1,690.38 just to stock the plane during the trip.

On the return leg, the plane landed in Naples Jan. 14 and supplies were made available by the Navy captain escorting the trip for consumption there and on the return journey. He paid $425.25 for:

Twelve bottles of Old Forester, 24 of Johnnie Walker Black Scotch, 12 of Tanqueray gin, 12 of Smirnoff vodka, 12 of Jack Daniels Black bourbon, one bottle of Martini & Rossi vermouth, one of Bacardi rum, a six pack of Old Milwaukee beer, plus mixers and nuts.

The previous night, the military spent $51 in Athens for 10 bottles of whisky, a case of beer, a case of Coke and three cartons of cigarets for the group.

In total, the military paid $4,838.46 on that trip, Jan. 3–16, for meals and beverages, in addition to money spent for regular meals by the congressmen out of their $75 daily living expense allowance.

There were 27 persons aboard the 78-passenger plane, including staff and wives. Among them was Lagomarsino's wife, Norma, but her expenses are paid entirely by Lagomarsino on such trips, including her air fare.

In addition, at most stops—such as Athens—the military provides with its own funds a "control room," at the hotel, where free liquor, snacks and so on are provided. It also can serve as a central communications point for those on the trip.

On a second trip Lagomarsino took Nov. 6–22 through Southeast Asia last year, the military tab for various items came to $5,392. That included $1,828 for food and beverages, $2,904 for "miscellaneous" and $662 for lodging—the control rooms, which critics of such trips consider a waste of money.

A major part of the cost of such trips is the military aircraft, and the amount of money spent varies according to whom you talk to.

The Navy's record, for example, put the total cost of using the plane for the Asian

tour at $134,345, based in $2,337 per hour in the air.

But the committee's report filed in Congress puts the total plane cost at $11,695, one-twelfth the Navy's estimate. Lagomarsino said he had nothing to do with figuring the plane cost and Gruenberg said the congressional committees' reports on such transportation costs always seem to be substantially below that reported by the services flying them.

On the Mideast tour, the committee reported a cost of $10.400 for the plane, but the military report $64,636 at $1,908 per hour airborne.

That helps account, CQ said, for the disparity between what Congress reports spending on overseas trips in a given year and what the apparent real cost is. For 1976, Congress reported spending $1.44 million—$1 million below the magazine's estimate, based on records it examined. Nor did Congress figure include the $75 per day each member got on the trips.

Lagomarsino said his records, based on the committee figures, show the taxpayers' cost for him to make the Asian tour was $3,506 and for the Mideast tour it was $3,-592, or $7,098 for the year. That would include a total of $1,050 in per day expenses for the Mideast trip and $1,275 for Asia. The cost of the plane trip to the Mideast was put by his committee at $953 per congressman, roundtrip, and $1,948 on the Asian tour. But Congressional Quarterly said the real cost was much higher when the actual expenses of keeping the plane in the air, as reported by the military, is calculated.

The official reason for the Asian trip was to study the post-Vietnam situation; for the Mideast trip, it was to study arms supplies, Cyprus and other matters.

Lagomarsino's international relations committee was the top spender on trips last year, reporting $236,111.

Asked how he would reply to a constituent complaining about such costly overseas ventures, Lagomarsino said:

"I would tell him that I'm on the committee that has the responsibility for international relations, foreign aid, military security—everything to do with our country's relations with other countries . . .

"It's right to take trips—it's to find out firsthand what's happening instead of relying on the secretary of state (or others) . . . With the money we're called on to look at and spend, it's well worth it."

He says he worked 12 to 14 hours a day on the Mideast trip, and noted that in 1976 at the time of the Mideast trip, "we had a bill calling on Congress to appropriate $3.6 billion for the Mideast . . . We felt it would be irresponsible to act without knowing what we were talking about."

Regarding the Asian trip, he said it was useful in gathering information concerning Taiwan and Red China and how other nations view that confrontation. The committee also obtained important firsthand information on the U.S. military bases in the Philippines, key installations whose continuation is an item of debate between the two nations.

Lagomarsino said his visit to Indonesia was valuable for his constituents especially because of the reliance on that country for natural gas and oil imports to California.

Citrus is important in California, and on the trip to Asia he was able to discuss the matter face-to-face with heads of several states, he recalled. "I brought to their attention that a lot of Californians were concerned" about trade restrictions in those nations, and asked them to review those policies.

In the Philippines, he talked to President Marcos "about the experience they'd had in a recent earthquake. I was interested in determining whether buildings built with what we were told were California earthquake standards withstood the shock. We had been told they did not. But (on talking to Marcos) we were told they did, indeed, stand up when actually built to those standards. . . ."

And, the "Mideast trip's importance was underlined by the fact that when we got back President Ford spent more than an hour listening to us, to our impressions," Lagomarsino added.

He agreed that "some taxpayers might have a different idea" about the real value of such journeys and said, "There are undoubtedly members who don't have very good excuses for doing it, members of committees who don't have international responsibilities."

But Lagomarsino noted he also turns down trips. "I was asked just this morning to go on a trip to the Mideast . . . and a trip is being put together to many of the same areas of the Far East this year."

Regarding the new Asian trip, the congressman said he thinks it would have value with regard to California products and trade, but he turned down both: "That would be kind of overdone."

Lagomarsino stressed that he announces his trips beforehand, and that his wife is going with him. And on returning, he sends out reports which go to newspapers in his district.

THE CONGRESSMAN'S TRIPS

In a roundup story in Sunday's News-Press, staff writer Jerry Rankin pointed out that Rep. Robert Lagomarsino of this district is one of California's most widely traveled House members: 23 countries visited on taxpayer dollars during his 40 months in office.

It was also noted that in his overall two months in various foreign lands, none of it occurred when Congress was in session. He had a near perfect attendance record and made 100 percent of all roll calls in 1977.

Further, the congressman announced his trips in advance to his constituents, reported on his findings at their conclusions, turned down several proffered treks, and paid his wife's expenses when she accompanied him.

Lagomarsino, as a member of the House international relations committee, says it is imperative for him to get a first-hand look at what's happening in foreign countries—particularly so considering the amounts of money the committee is obliged to act upon. He acknowledged, however, that the treks taken by some members of the House would be hard to justify.

It is unlikely that taxpayer disaffection with congressional travels would center much on cases such as Lagomarsino's. There are committee responsibilities involved here, and evidence that he and some of his colleagues dedicate long hours to their tasks when abroad.

But with public temper running high over the cost of government, the distinction between foreign treks which can reasonably be justified and extravagant "junkets" becomes blurred.

There is also the matter of care and feeding the traveling congressmen; how sumptuous it is, who picks up the tab, and in what manner the costs are recorded.

Sunday's article spells out how solicitous the military is in providing planes, amply stocking them with food and drink, assisting with lodgings, and setting up "control rooms" at some stops where free drinks and snacks become available along with communications facilities.

Estimates of the costs of these amenities vary widely according to the arm of the service involved. Also much of the tab is paid through military congressional liaison funds, relieving the committees of having to include them on official report forms. In a word, nobody knows really just what the expense may add up to.

We suspect that Lagomarsino might support the idea that a lot of unjustified congressional travel is still going on; that considerable economies could be affected in the mode of travel, and that committee reports on costs incurred should be revamped to bring them into closer touch with reality.

UPCOMING CONGRESSIONAL ADJOURNMENT SHOULD BE CONSIDERED

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. LUKEN. Mr. Speaker, I would like to speak on behalf of my constituents in Cincinnati, many of whom are concerned over the upcoming congressional adjournment. They are angry because action will be delayed on such issues as unemployment, soaring energy and health prices, inflation, welfare and social security, minimum wage, and the Panama Canal, only to name a few. I am sure these feelings are not exclusive to my district, and that people around the Nation hold these same views.

It is our responsibility as Members of Congress to act in the best interest of the people we represent. With energy, unemployment, inflation, health issues, and tax reform, all waiting to be acted upon Congress should not be away from Washington for what would be a critical 2½ months.

The 95th Congress has before it many of the most challenging and difficult problems of recent history. However, if we adjourn as suggested, this will be the shortest first session of Congress in 10 years.

I believe that the adjournment in October would be flagrantly irresponsible, and urge careful consideration of the adjournment decision.

WITH FRIENDS LIKE THE UNITED STATES, DOES ISRAEL NEED ENEMIES?

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. STEERS. Mr. Speaker, the weekend release of the Soviet-American statement on the Middle East confirms my fears, which I expressed in this House in June, that the Carter administration is attempting to dictate to Israel the terms of a Middle East peace settlement.

This policy is at the least unwise, since a peace settlement that has not been ironed out by the participants in the conflict cannot be expected to last. A dictated settlement might be enacted sooner, but the risks taken to achieve the quick solution are great, indeed. If Israel is forced successfully by the Carter administration to accept this proposal, and peace does not last, almost all the participants in the Middle East conflict will be convinced that peace is im-

possible. Peace is not impossible, but it cannot be rushed to suit the diplomatic suppositions of an American President or a Soviet General Secretary.

Furthermore, this statement must lead, not only Israel, but other allies of the United States, to wonder about the value of American support. It seems that the Carter administration feels that, since Israel depends on U.S. support, that the United States can treat Israel as it pleases. However, if the United States is willing to pressure its friends in this manner, it can only lead to a loss of American credibility in the eyes of America's allies throughout the world.

And I do believe this action is diplomatically unwarranted. By issuing this statement, President Carter has violated several pledges given to Israel in a 1975 memorandum agreement. I find it ironic that the President has joined forces with the Soviets to extract major concessions from an Israel that has recently made bold, conciliatory gestures to the Arab States involved, particularly Israeli permission of non-PLO Palestinian participation in the Geneva talks. The fact is that Israel does not want to recognize the PLO, an organization committed to the ultimate destruction of Israel, and I wholeheartedly support Israel in this matter.

The PLO should not be allowed to participate in the Geneva Conference, since it would be a tacit admission that the PLO represents a sovereign government, which it does not. How on Earth can Israel be expected to assist in the creation of a neighboring country committed to Israel's destruction? Instead of trying to pressure Israel into this one-sided plan for peace, President Carter should realize some of the harsh realities in the Middle East.

Furthermore, I question the advisability of this joint effort with the Soviet Union. The U.S.S.R. has never constructively assisted in peace efforts in the Middle East, and, at times, they have tried to aggravate the situation. The Carter administration's embrace of the Soviet Union at this point adds credibility to dubious Soviet intentions, strengthening the Russian position in the Middle East.

I will not list the broken promises that constitute the Carter-Soviet plan, since so many of my colleagues have done so very eloquently. I would like to point out to supporters of President Carter that I feel this action is a grave error, and I hope its damage can be undone in the tense months ahead.

NORTHEAST MIDWEST ECONOMIC ADVANCEMENT COALITION ON THE PRESIDENT'S WELFARE REFORM PROPOSALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RANGEL. Mr. Speaker, on Friday, September 30, 1977, I appeared on behalf of the Welfare Reform Task Force of the 204-member Northeast Midwest Economic Advancement Coalition. At that time, I presented the preliminary findings of the Northeast Midwest Institute's research on the President's welfare reform program.

Those findings indicate that the States which are the most heavily burdened by welfare will continue to bear the economic brunt under the new system. The institute also took note of the fact that since the cost of living is so high in coalition States, recipients will be relatively better off in those States which unlike coalition States currently provide benefits which are significantly less than the proposed national benefit.

As pertains to the jobs portion of the bill, the institute points out that because of the high rate of structural and cyclical unemployment in coalition States, it will be necessary to allocate more jobs to that area of the country. Additionally, the plan fails to address the questions of providing job-related benefits to those who work in public sector jobs, that the earned income tax credit will only apply to the private sector, jobs, and that there well may be more demand for jobs than the allotted 1.4 million.

Finally, the institute decrys the administration's blatant move to deny the wellhead tax rebate to welfare recipients. To deny these people a rebate which all Americans were intended to receive will place a disproportionate financial burden for our energy program on the poor.

The text of the institute's observations follow:

TEXT OF OBSERVATIONS

Congressman Rangel appears for the Welfare Reform Task Force on behalf of himself and Congress people Michael Harrington, Donald Fraser, Silvio Conte, Frank Horton, Edward Koch, Steven Solarz, Shirley Chisholm, Abner Mikva, James Oberstar, and Elizabeth Holtzman.

Mr. Chairman, and fellow subcommittee members, I am pleased to have this opportunity to appear before you on behalf of the Welfare Reform Task Force of the Northeast Economic Advancement Coalition. As you probably are already aware, the coalition was formed during the closing days of the 94th Congress in an effort to identify and address those Federal policies which have a significant fiscal impact upon the declining States of the Northeast and Midwest.

One of the more critical of problems which we in the coalition face is the one I am here to talk with you about today: welfare reform. Until recently migration patterns in this country had been from the rural South and Southwest to the industrialized Northeast and Midwest. These people came in the hopes of finding jobs and creating a better life for themselves and their families. But all too often when they got here, they found that either jobs weren't available or if they were available, they didn't have the skills to fill them.

With no job, no education, and no real prospect of improving their economic situation many of these people turned to public assistance in order to survive. Because of the high concentration of the poor and under educated in the Northeast and Midwest regions and because of the high cost of living, the fiscal burden for the taxpayers of these regions has become intolerable. While there is some Federal assistance, the amounts are too little when one considers the number of recipients and the need to supplement the meager Federal grant in order to provide those on welfare with anything close to a subsistence income.

Because of the profound impact of the inequities in the current program on coalition members, the welfare reform task force was formed. One of the major inequities is the heavy fiscal burden which is placed on such coalition States as Pennsylvania, Ohio, New York, New Jersey, Massachusetts, Illinois, Indiana, and Michigan. At our request, the Northeast Midwest Research Institute has undertaken to analyze President Carter's program for better jobs and income with an eye toward those issues which have uniquely regional concerns. I would like to share with you some of the findings of the institute.

1. COST OF LIVING VARIATIONS

There are numerous examples of the plan's failure to address the issue of regional cost differences.

First, the high benefit States, many of which are represented in the coalition, must pay more to their recipients to provide them with the same purchasing power as recipients in lower benefit States. The Federal Government, under the administration proposal, would only assist in this additional cost, leaving a large part of the additional amount to be paid by the States. Thus, the Federal share of the new welfare proposal would not provide an equal amount of purchasing power across States, leaving a number of States, primarily in the Northeast and Midwest, to bear the brunt of regional cost differences.

A second example of this problem involves the Federal income tax reimbursement requirement for States with higher cash assistance payments. The higher benefits States would be penalized under the administration plan for providing such benefit levels by the requirement that States must reimburse cash assistance recipients for any Federal income tax for which they are liable if the State's supplemental benefits are high enough to place the recipient above the income tax entry point.

Additionally, the flat $150 ceiling for deductible child care expenses does not reflect the regional cost variations for such services. The thirty percent Federal portion of the public service job subsidy for overhead also fails to be adjusted for cost of living.

While there are obvious methodological and data problems with present cost of living indices, preliminary studies by Guy Rosmarin and Associates in conjunction with the First National Bank of Boston, have indicated that dramatic cost of living differences are present across regions. These and other preliminary findings, while inconclusive, are strong enough to mandate the collection of more extensive cost-of-living data. Often the cost-of-living varies more within a State than between States. Therefore it is critical that figures be compiled for the cost-of-living for both between and within States. The failure to adequately focus on regional cost variations during the welfare reform dialogue could lead to a continuation of regional inequities.

2. DISTRIBUTION OF COST BURDENS

A second regional concern emerging from the administration's proposal is the question of the distribution of costs and fiscal relief. The financial burden of each level of government is an important issue to the northeast and midwest, given the present inequitable distribution of welfare cost responsibilities. Because of inequities inherent in the medicaid and AFD formula, the coalition States tend to be reimbursed at lower percentage rates than are States in the south and west. More States in the northeast and midwest are reimbursed at the minimum rate (50%) than in any other region. Consequently, the northeastern and midwestern States are bearing a larger portion of the financial burden of present welfare costs. The administration's plan does not address these present fiscal inequities.

Instead, the proposal uses the current fiscal effort of each State as a part of the base upon which to set new, across-the-board cost-sharing responsibilities.

3. FISCAL RELIEF

A primary regional concern is the minimum fiscal relief percentage.

The amount of fiscal relief accruing to States under the proposal is determined by such factors as the State's current AFDC matching ratio, its error rate, its benefit level and other factors.

The minimum rate of 10 percentage is rather small when one considers the fact that the northeast and midwest presently carry a larger share of the current welfare burden.

In addition the States which choose to supplement Federal benefit, located primarily in the northeast and midwest, would be required to supplement minimum wage public service jobs. This requirement would, once again, place a larger financial burden upon those regions which currently fund a large share of the welfare costs.

4. JOBS COMPONENT

Another welfare reform issue which comes immediately to the forefront of any regional discussion concerns the jobs component of Carter's proposal. The administration's plan fails to address a number of job-related issues of vital importance to the region.

One of the more import issues centers on the allocation of public service jobs. The high rate of structural unemployment and the limited potential for additional private sector expansion in the northeast and midwest will necessitate the provision of a larger number of subsidized jobs and training slots.

Additionally there must be some incentive for both public and private sector employers to fill future job vacancies with those who are in federally subsidized jobs. Further more the program fails to address itself to the necessity of providing normal job related benefits (excluding retirement) to those who are in federally subsidized jobs. This is of critical significance when one considers that those presently employed under CETA are eligible for such benefits.

The job component of the welfare reform plan offers some temporary assistance to the Northeast and Midwest but needs to be accompanied by a more comprehensive economic stimulus proposal. Public service jobs are ineffective steppingstones to private employment in the event of limited availability of private sector jobs.

The administration's plan does not seem to take account of a number of regional differences in economic circumstances. For example, the earned income tax credit (EITC) could only be applied to income earned in the private sector. This provision would de facto penalize persons in the coalition States which have limited private sector job opportunities.

The administration's plan also ignores the possibility of excess demand for jobs. The proposal outlined no provision for distributing additional jobs if excess demand occurred and offered no priority guidelines for filling an undersupply of public service jobs or training slots.

Another job-related issue concerns the capability of State employment service agencies to handle additional administrative responsibilities.

5. WELLHEAD TAX BENEFITS

The Wellhead Tax Rebate is another regional issue. Rather than using the $1.3 billion in revenue from the tax which was originally earmarked for energy rebates for the poor in order to compensate them for increased costs of petroleum and petroleum products, the administration now propcses to use those funds to finance welfare reform. This can only result in the cruelist of charades. With the imposition of the wellhead tax, energy costs for the poor in the coalition States will increase more than in Southern and Western States. Yet only those recipients in States which must raise benefits to a minimum of $4,200 as a result of the plan will gain as the Congress intends from the wellhead revenues. None of those States is in the coalition region. Yet the welfare reform proposal states as a goal providing recipients with grants which are equal to two-thirds of the poverty line. Since the vast majority of those who are not on welfare will automatically receive the rebate the increase cost in energy will not be nearly as great as for those who are welfare recipients. As a result any grant which represents two-thirds of the poverty line is not accurate because it is not an accurate reflection of the increase cost in energy.

6. MEDICAID COSTS

Additional cost distribution questions arise surrounding the medicaid issue vis-a-vis welfare reform and national health insurance. HEW officials have stated that in the coming months, the administration plans to submit a national health insurance program which would also seek to address the medicaid cost problems created by the welfare reforms. If welfare and national health insurance were consolidated into one program, the medicaid question would be less important. However, the administration tentatively plans to have a separate national health insurance proposal ready by early 1978. Yet HEW officials and others believe that medical cost containment will have to be made far more effective before the Federal Government can reasonably finance a national health insurance program throwing considerable doubt on the administration's ability to implement a NHI plan in the same time-frame as welfare reform. In view of this situation, the questions surrounding medicaid eligibility and increased State costs need to be resolved as part of the welfare reform debate. Since the coalition States must pay the same percentages of medicaid costs as of AFDC costs, any increases caused by additional demand for services will result in a significant added fiscal burden for the Northeast and Midwest.

Even if medicaid costs continue to increase at their present rate of growth (approximately 15–18% a year) States' medical costs may more than absorb any fiscal relief promised by the Carter proposal.

These increases in costs will occur in those States, primarily in the Northeast and Midwest, which have the lowest medicaid reimbursement percentages. Unless these percentages are upwardly adjusted, medicaid cost increases may substantially eliminate welfare reform fiscal relief.

WHITE HAT PAY PANELS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, the Fleet Reserve Association, an organization of enlisted naval personnel—retired and active—have recently sponsored a series of white hat pay panels, asking for suggestions from enlisted personnel about pay allowances and other problems of the military services.

I was fortunate enough to be asked to participate in one of the panels in San Diego and, at that time, received a letter from an outstanding serviceman, GMCM Clarence W. Chambers, USN. Because his letter made a lot of sense, I include it as a portion of my remarks:

SAN DIEGO, CALIF., *August 9, 1977*

Congressman BOB WILSON,

White Hats' Pay Panel Hearings,

San Diego, Calif.

DEAR CONGRESSMAN WILSON: My original Intentions were to listen to what others had to say and keep silent, however while getting ready to come to these hearings this morning I had different thoughts. I will not go into lengthy detail in this letter and will just hit the highlights of my thoughts and observations I have gained throught my 16 years of naval career.

Pay and allowances are only a minor problem encountered within the navy now days. This consideration means very little unless a man has pride in what he is doing a sense of belonging and personal worth, security and human dignity. My considerations for making the navy a career 16 years ago was not pay as we both know in those days sailors were payed below welfare levels. No sir what convinced me to make the navy a career was my pride in the organization, a sense of belonging and a feeling that people believed in me and therefore I believed in my personal worth.

What in my opinion can be done to bring back Esprit de corps, Human dignity and entice young people to make the navy a career and to retain our qualified Senior personell to remain in not only the navy but other Services as well? The following are but a few Suggestions:

1. Pay and allowances:

(a) Cut out all the Garbage pays such as clothing allowance, Selective Reenlistment Bonuses, Sea pay, Hazerdous duty pay, Basic allowance for quarters, Family Seperation allowance, etc. These pays are aimed at the few and only tend to dissatisfy those people who do not qualify or, Receive these pays. They are Completely disheartened at the Inaquality of this System.

(B) Develope a Salery system which is equal to a mans personal worth and qualifications, Based on his civilian counterpart, which will enhanse the equality of all people.

(C) When a man goes to duty which is considered ardous Such as Combat or Sea duty then don't give him token pay. Instead of token pay give him Such things as free Bed and board, mail Service etc.

(D) Guarantee that at Intervals during his career he will receive a large Salery raise based on his experience and worth. IE Don't give him a token Raise as is now the Case in Longevity raises as they now are.

(2) Advancement:

(a) Develop an apprenticeship program where a man enters the navy, goes through boot camp, and is Sent to Sea for Three years as an apprentice. While on apprenticeship training he can be deciding on what area of occupation he wishes to strike for and the navy can decide on his worth for retention at the same time. At the end of his apprenticeship if he does not measure up to required standards he is simply discharged. If he does qualify for Retention he is advanced guaranteed a School in his chosen field and given an open end career contract.

(B) After apprenticeship training those qualifing for retention on open end contracts must continue to maintain standards or after administrative warning they may be discharged.

(C) The other side of the coin is they may request to resign at any time period in their career. However no retirement or compensation will be received until after completion of either 20, 25 or 30 years of service. This must be based on the needs of the service and held in obeyance during times of war.

(D) Guarantee career personnel that at specific time frames they will be advanced through the ranks with a large raise in salary. (IE.)

(1) Completion of apprenticeship training (3 years) advance to E2 at $500 monthly.

(2) Completion of school and 8 years service advanced to E3 at $800 monthly.

(3) Completion of 12 years service advanced to E4 at $1.200 monthly.

(4) Completion of 16 years service advanced to E5 at $1.600 monthly.

(5) Completion of 20 years service advanced to E6 at $2,000 monthly. (Retirement at $1,000 monthly)

(6) Completion of 25 years service advanced to E7 at $2,400 monthly. (Retire at $1,400 month)

(7) Completion of 28 years service advanced to E8 at $2,600 monthly.

(8) Completion of 30 years service advanced to E9 at retirement of $2,000 monthly.

In conclusion make the military services a worthwhile career where a man can realize security, accomplishment, self satisfaction, equality and a sense of dignity. Make it an honorable profession that a man can be proud of and that is not looked upon as a necessary evil by our fellow man. Without the foregoing the military man and woman will be forced to unionize to protect themselves from the indignity shown them by their fellow Americans. I myself am not a believer in unions or how they operate but if eyes are not opened I will be forced also to seek that means to be heard.

Sincerely yours,

CLARENCE W. CHAMBERS,
GMCM, USN.

SOBER ASSESSMENT FROM TURKEY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, the distinguished journalist, C. L. Shulzberger, in the August 21, 1977, New York Times, presented a very sobering appraisal of U.S.-Turkish relations. I am impressed by his analysis and especially so by his call for an outsider, perhaps former German Chancellor Willy Brandt, to be the negotiator of a settlement on Cyprus. I have been urging a similar initiative, thinking however that a prominent U.S. personality like Gen. Lyman Lemnitzer, former NATO supreme commander, and still highly respected in both Ankara and Athens, could fill the assignment. In any event the legislated embargo against Turkey is turning our relationships very sour, indeed. I hope Congress will come to its senses and authorize the President to negotiate the best way out that can be found.

Text of article follows:

"CATCH-22" IN TURKEY

(By C. L. Sulzberger)

ANKARA.—The late Arnold Toynbee must have been thinking of the United States when he wrote, more than 50 years ago: "Western sentiment about the Greeks and the Turks is for the most part ill-informed, violently expressed and dangerously influential." He also said, with respect to this area: "The herd instinct can be relied on, as it cannot be in the West, to override the interest and judgment of the individual."

Toynbee's analysis is distressingly correct. It lies at the root of today's yawning crisis in United States-Turkish relationships. We have worked our way into a "Catch-22" situation which guarantees there can be no result but disaster for everyone concerned. Washington says that until Ankara shows signs of yield on Cyprus, the Defense Cooperation Agreement signed March 26, 1976 cannot be ratified by Congress. The Turks say they won't accept threats, and there can be no yield on Cyrus until the DCA is ratified.

If this situation is not compromised within about six months, Turkey will probably first evict United States caretaker forces from the idle bases once available to us here and most likely later, withdraw from NATO. It feels "betrayed" by the United States in particular and its Western allies in general. So we are well on the way to losing an ally with a unique strategic position, the largest NATO army outside our own, and 41 million people.

The economic situation is dreadful. Imports are grinding to a halt. About all Turkey buys abroad now is oil—which must be paid for because of the United States boycott. Although Turkey is an ally, it is embargoed in the same category as Cuba, Vietnam, Cambodia, Argentina and Ethiopia. Meanwhile, it has become the largest recipient of Soviet economic aid and credits.

The armed forces are gradually falling apart as equipment becomes obsolescent and spare parts remain unavailble. Anti-Americanism is noticeably growing among younger officers who blame air crashes on the lack of replacement parts and resent ammunition shortages that curb artillery practice. There are no more United States grants financing Turkish studies at United States military schools.

The stalled DCA provides for revived American use of former key bases here and a four-year payment of one billion dollars as quid pro quo. President Carter doesn't dare to try to push it through Congress now, fearing its rejection would be an unmitigated disaster and wishing first to test the political waters with the new Panama Canal treaty, by no means a cinch.

A few days ago Metin Toker, son-in-law of the late President Inonu and a prominent journalist, wrote: "Will the hand of America remain at the throat of Turkey, especially at the throat of the Turkish armed forces? Will the Turkish armed forces be forced to remain, in General Haig's [NATO commander] calculation, at half their capacity?"

Turks admit a switch from the United States and NATO would harm all parties including themselves but, at Toker says it "is not based on calculated interest but on a concept of dignity," and the United States has really replaced Greece as the most disliked country in Turkey today.

"The Greek lobby" in our Congress is seen as trying to isolate the Turks from Western connections. America has unwittingly but undoubtedly become an integral part of what used to be called the Greek-Turkish problem, originally involving only Cyprus and Aegean air and sea space.

We are now directly entangled. Clark Clifford, Carter's mediator, is unwelcome here and regarded as little more than a Greek agent. It is past high time for a new initiative.

This must be taken by an outsider, representing the West but bearing neither United States, nor Greek, nor Turkish passport. My own nominee is former West German Chancellor Willy Brandt, who is widely respected in the three capitals concerned: Ankara, Athens and Washington.

Prime Ministers Demirel and Caramanlis are just as worried as Carter at the prospect of NATO collapsing, but the problem has gotten out of hand. There is a machismo element of courage culture in this tough country which doesn't respond to threats. Moreover, there is a new rise of political anti-Westernism, neutralism and pro-Arabism which is visible on the internal political horizon.

If the United States doesn't move—quickly, subtly and effectively—to get a serious new diplomatic mediation started, including with its own Congress, that Congress will be demanding a few years hence: Who lost Turkey?

FEDERAL GUARANTEES FOR DELINQUENT RAILROAD TAXES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. GILMAN. Mr. Speaker, H.R. 8882, a bill introduced by my distinguished colleague from Ohio (Ms. OAKAR), is designed to correct the inequitable situation created by the bankruptcy of Penn Central and other bankrupt railroads and the resultant delinquent taxes owed our financially hard pressed local, county, and State governments.

H.R. 8882 amends the Regional Rail Reorganization Act of 1973, providing Federal guarantees for notes that the Penn Central Transportation Corp. proposes to offer to our local and State taxing districts in lieu of delinquent taxes owed by the bankrupt railroad and its lease lines.

As a cosponsor and active supporter of this bill, I testified on September 27, 1977, before the Subcommittee on Transportation and Commerce. In an effort to more fully familiarize my colleagues with the onerous burden to which local, county, and State taxing authorities have been subjected as a result of these bankruptcies, and to illuminate the judicious and well-reasoned legislative remedy offered by H.R. 8882, I am submitting for insertion in the RECORD my testimony before that subcommittee:

TESTIMONY BY MR. GILMAN

Mr. Chairman, I am grateful for this opportunity to appear before the Subcommittee on Transportation and Commerce in support of H.R. 8882, a bill to guarantee notes issued to secure the real property obligations owed by Penn Central and other railroads.

I have co-sponsored and supported this legislation introduced by my distinguished colleague from Ohio, Mrs. Oakar, because of the firm commitment in this bill to provide our financially hard-pressed local, county, and state governments optimum security for tax relief for the real property obligations owed by Penn Central and other railroads.

In sum, this bill amends the Regional Rail Reorganization Act of 1973 by providing federal guarantees for notes that the Penn Central Transportation Corporation proposes to offer to our local and state taxing districts in lieu of delinquent taxes owed by the bankrupt railroad and its lease lines.

The long and complicated litigation surrounding the Penn Central bankruptcy has ensnared local, county and state governments in a perplexing fiscal dilemma not of their own making. I speak of the approximately $500 million in delinquent taxes that these tax districts are attempting to secure from Penn Central. In my own 26th Congressional District in the State of New York, at least 17 taxing authorities report that Penn Central owes them collectively, over 1.7 million in unpaid taxes. For these financially hard-pressed towns and counties, struggling to maintain adequate municipal services, while at the same time attempting to stem the current upward spiral of local tax rates, Penn Central's tax debts continue to exacerbate the fiscal plight they are experiencing.

The legal imbroglio in which the current claim to Penn Central back taxes is rooted stems to a large degree from the Penn Central bankruptcy in June 1970, and the subsequent issuance of Order No. 70 by the Reorganization Court on October 26, 1970. That Order permitted Penn Central to defer payment of State and local taxes and enjoined state and local taxing authorities from taking any actions to collect these back taxes. From the date of entry of Order No. 70 to the end of 1976, numerous state and local taxing authorities engaged in extensive litigation.

In an effort to stem further suits contesting Order No. 70, the Trustes of the Penn Central Transportation Company entered a petition seeking authority to compromise payment of unpaid taxes. Over the objection of more than 25 taxing authorities—including

the city of New York, the Cleveland Board of Education, the City of Philadelphia, and the State of Maryland—the compromise was approved by the Reorganization Court on April 22, 1977 as Order No. 2922. Order No. 2922 is currently being appealed.

The key provisions of Order No. 2922 translate into the following: (1) on all tax claims for which the principal amount equals $10,000 or less, Penn Central trustees are directed to pay 100 cents on the dollar; and (2) payment of 50% of the post bankruptcy principal amount, or 44% of both post and pre-bankruptcy claims whichever is the larger amount—on all tax claims above $10,000.

Widespread dissatisfaction exists over this proposal. Indeed, a national coalition has been formed of local, county and state officials who are fighting this compromise in the U.S. District Court in Philadelphia. This coalition has lobbied extensively in support of H.R. 8882; and I might add that Mrs. Oakar's legislation has also received the endorsement of the U.S. Conference of Mayors and the American Federation of Teachers.

H.R. 8882 is the legislative complement to a settlement the proposal now before Judge John A. Fullam of the U.S. District Court in Philadelphia. This proposal would provide for an immediate 20 percent cash payment and would allow the remaining 80 percent to be paid through the issuance of Penn Central notes. H.R. 8882 would provide Federal guarantees for these Series C and Series D Notes.

What would passage of H.R. 8882 mean to those local, county, and state governments whose fiscal troubles have been compounded by Penn Central's delinquent taxes? As I indicated earlier, Penn Central owes taxing districts in New York's 26th Congressional District back taxes approximating $1.7 million. H.R. 8882 would provide these municipalities an optimal opportunity for securing full payment of these back taxes. Without this legislation, the majority of these taxing districts will be forced to settle for approximately half this amount—and in some cases less—under the terms of the Penn Central compromise.

I believe passage of H.R. 8882 to be a just and equitable solution to the matter of Penn Central's delinquent taxes. To further buttress this contention, I refer to the case of the Village of Maybrook in my home Congressional district.

The Village of Maybrook is owed $65,289.67 back taxes by the Penn Central Transportation Company. If the Village of Maybrook is forced to accept the Penn Central's offer in compromise, Maybrook stands to receive only 44% of the above mentioned amount, or $28,727.45. However, if Congress passed legislation such as H.R. 8882, providing for federal guarantees, the Village of Maybrook could elect to take 20% cash offered by Penn Central together with promissory notes for the balance of the $65,289.67, and then negotiate these notes in the market which would be created by virtue of the federal guarantee.

Moreover, the plight of the Village of Maybrook is particularly difficult when one realizes that as a result of the bankruptcy of the New Haven Railroad, the Village of Maybrook lost approximately $120,000 in unpaid taxes. The paper issued to the Village of Maybrook as a result of the New Haven bankrutpcy was completely worthless.

In considering the merits of H.R. 8882, there emerge two highly salient questions to which we must address ourselves: (1) Why should the Federal government intervene in this case, guaranteeing the large-scale tax debts of a private corporation? and (2) What is the likelihood that this Federal guarantee will if we were to assume that these delinquent taxes were not paid eventuate into a huge financial burden to be borne by the Federal government?

In responding to the first question, I would point out that the case for federal intervention can be tied in no small way to the Federal government's culpability for the existence of those delinquent taxes as a result of Washington's initiative in reorganizing the railroads. The Regional Rail Reorganization Act of 1978 created Conrail; the federally related corporation which has supplanted the old rail lines. Those railroads included in the Reorganization Act were required to continue operations until conveyance could be effected. Moreover, claims for repayment of federal grants and loans ("211(h) loans")—enabling railroad to continue operations were established as not subject to any reduction, and also superseded all other administrative claims—including state and local taxes—on the estate of the railroad in reorganization.

This arrangement, even allowing for good intentions, has created the anomolous situation of state and local taxing districts subsidizing, in effect, the reorganization of those railroads that had failed. This onerous burden has only intensified the already precarious fiscal situation of state and local governments seeking to maintain vital services and high quality school systems.

Correspondence I have received from David Gubits, the attorney representing the Village of Maybrook, illuminates not only the need for a federal guarantee, but also the glaring inequity that will continue, if such a guarantee is not forthcoming. As Mr. Gubits asseverates:

"We believe that the loss of the approximately $120,000 in unpaid taxes as a result of the New Haven bankruptcy is more than sufficient subsidy of the nation's railroads by the Village of Maybrook. It would only be fair at this time for the Federal Government to guarantee the Penn Central notes so that the Village of Maybrook can be assured of nearly complete payment of its tax claims.

"I know that I need not remind you of the devastating effect on the Village of Maybrook of the Poughkeepsie Bridge fire. Maybrook has borne much more than its fair share of carrying our nation's railroads. It is time for the Federal Government to give some minimal aid to the Village of Maybrook in the form of guarantees for the Penn Central notes."

We come now to the question concerning the possibility of such a federal guarantee of Penn Central's notes becoming actual obligations the Federal government would be forced to assume. Extensive research conducted by Mrs. Oakar reveals that the possibility of a guarantee costing the Federal government any money is quite small. Indeed, indications are that as the reorganization plan is concluded, and Penn Central properties are valued, the delinquent taxes in question will be paid in full. The guarantee would be activated in the instance of a shortfall, again, however, all key signs point to the possibility of a shortfall being slim. The United States Railway Association (USRA), which is representing the Federal government in the complex rail reorganization and litigation, has submitted that this litigation has made great strides. While the road ahead is long, and the end not yet in sight, the USRA nevertheless, expects progress at a good pace. Indeed, the trustees for Penn Central also indicate that there will be a successful reorganization.

In closing, I wish to point out that the guarantee provisions embodied in H.R. 8882 are both warranted and fiscally prudent. Our state and local taxing authorities should not be subject to the current, inordinately adverse effects surfacing, in part, as a result of the Rail Reorganization Act a product of Congressional design.

A federal guarantee would provide these Penn Central notes the credibility they would need in an investment marketplace. It is only through such a guarantee that state and municipal governments can be accorded an equitable adjustment to the fiscal injustice to which they have been subjected.

I thank the Subcommittee on Transportation and Commerce for this opportunity to appear before it, and I urge the Subcommittee to act favorably on H.R. 8882.

Thank you.

WETLAND ACQUISITIONS IN SOUTH DAKOTA AND THE NATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ABDNOR. Mr. Speaker, in May of last year I initiated correspondence with the Assistant Secretary Nathaniel Reed in an effort to learn of the wetland and wildlife management plans of the Federal Government for my State. My letter and Assistant Secretary Reed's reply were reprinted in the June 20, 1977, edition of the RECORD—page 19867.

In light of the ascendancy of the new administration and particularly President Carter's announcement of a $50 million budget increase to purchase waterfowl habitat, I wrote the present Assistant Secretary for Fish, Wildlife, and Parks, Mr. Robert Herbst, to inquire if Mr. Reed's comments were still valid, as well as to learn what the additional funds would mean to my State. Assistant Secretary Herbst's reply was reprinted in the June 29, 1977, RECORD—page 21639—and prompted my further inquiry as to whether planned wetland acquisitions would take place disproportionately in States like South Dakota.

For the benefit of those who have an interest in this matter, my letter of June 30 and Assistant Secretary Herbst's reply of August 18 follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1977.

Mr. ROBERT L. HERBST,
Assistant Secretary for Fish, Wildlife, and Parks, U.S. Department of the Interior, Washingon, D.C.

DEAR MR. HERBST: Thank you for your reply of June 24, 1977, to my inquiry of June 3, 1977, concerning wildlife management and habitat acquisition policies of the Carter Administration.

I appreciate being apprised of your estimate that about 5,000 acres of wetlands per year are being drained privately in South Dakota and a total of 48,900 acres during the period from 1964–1974. Can you tell me how many total acres of wetlands remain in my state as compared to how many would have existed without the activities of man?

Also, can you provide a state-by-state (or regional) tabulation of total acreages of wetlands—existing, drained, and planned for protection (in fee title and by easement) by the Department? Is it true, as we are given to believe, that the planned acquisitions of wetlands will occur disproportionately in certain states, like South Dakota?

Thank you for your consideration in responding to these questions.

Sincerely,

JAMES ABDNOR,
Member of Congress.

FISH AND WILDLIFE SERVICE,
Washington, D.C., August 18, 1977.

HON. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: This further responds to your June 30 letter to Assistant Secretary

Herbst requesting information on wetlands remaining in South Dakota, and on total acreages of wetlands in the United States—existing, drained, and planned for protection through acquisition by the Department of Interior.

The most recent figures we have on total wetlands in South Dakota were assembled early in 1975. About 1,381,000 acres of types 1, 3, 4, and 5 wetlands existed throughout the State of which 287,000 acres had been protected by the Fish and Wildlife Service. These four types include nearly all of the natural prairie wetland types that occur in South Dakota.

We cannot tell you how many wetland acres would have existed without man's activities, i.e., the original acreage that existed in the State. No wetland inventory comparable to our current data is available for the pristine condition. We can only estimate wetland losses during relatively recent times. As indicated in our earlier letter, some 48,900 acres were drained between 1964 and 1974.

The last comprehensive wetland inventory covering all the lower 48 States was conducted in the mid-1950's. The acreage estimates from that inventory are believed to be considerably lower than those actually existing because many areas were not surveyed and some wetland types were excluded in areas that were surveyed. Only natural wetlands that had been little altered by man's activities were included. Wetlands smaller than 40 acres were generally excluded as were many wooded swamps. The 1954 nationwide inventory estimated that about 74.4 million acres of wetlands were in the United States at that time. This represented a reduction of more than 40 percent from the 127 million acres estimated to have existed originally. Our best information on wetland losses indicates that at least 6 million acres have been destroyed during the past 20 years. About 19 million wetland acres are considered to be of moderate to high value to waterfowl for breeding, migration, and wintering habitat.

The most serious wetland losses during at least the past 25 years have been in the prairie pothole region and adjacent States of the upper midwest and in the lower Mississippi River bottomland flood plain, or Mississippi Delta, of Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, and Missouri. Several coastal areas, such as in Texas, have also experienced serious wetland losses or alteration, although destruction of coastal wetlands has been reduced significantly through various State and Federal regulatory programs.

I have tabulated below some of the more significant losses of wetlands that have occurred in certain regions of the United States during relatively recent times. The information is taken from several publications and other sources.

Total acres lost during period

Coastal [1]

Region and period:	*Acres*
North Atlantic, 1950–69	2,500
Middle Atlantic, 1950–69	77,000
Chesapeake Bay, 1950–69	5,000
South Atlantic, 1950–69	42,300
Biscayne and Florida Bay, 1950–69	21,100
Gulf Coast, 1950–69	426,700
California Coast, 1950–69	46,200
Oregon-Washington Coast, 1950–69	21,000

Inland

Region and period:	
Prairie Pothole (ND, SD, MN), 1964–74	295,000
Nebraska, as of 1958	90,000
Mississippi Delta (forested wetland), 1950–69	4,063,000

[1] Source: National Estuary Study, 1970. U.S. Department of the Interior, Vol. 2.

The Service plans to complete by 1979 a new nationwide inventory of wetlands using automated and remote sensing techniques. This inventory will provide better estimates of existing wetland acreages and locations on a State and regional basis. It will be updated to provide current information on wetland losses.

As for the Service's planned acquisition on a State or regional basis, I am enclosing a list of acquisition objectives for migratory waterfowl proposed to be accomplished over the next 10–15 years. A map is included which illustrates the general location of each of the top 15 priority categories where major acquisition is proposed. The numbers on the map coincide with the habitat priority categories in the table. Purchases in categories 16–33 will be limited almost exclusively to inholdings on existing refuges.

The major criteria used in establishing objectives and priorities for the Service's acquisition program are the relative importance of the habitat to waterfowl and the threats to that habitat. Since wetlands or high importance to waterfowl are not evenly distributed throughout the Nation, and major threats are somewhat limited to certain regions and wetland types, acquisition objectives are higher in some areas than others. The prairie pothole region contains the most important duck breeding habitat in the United States and is also highly threatened as demonstrated by continuing and unregulated drainage of a large acreage of wetlands each year. In order to address this problem it is necessary to carry out a larger program in this area, including South Dakota, than in many other regions where wetlands are either of less importance to waterfowl or have a greater degree of protection.

I hope this information is useful. I apologize for not being able to provide you with better data on State and regional wetland acreages, but adequate information on this is unavailable until our current national wetland inventory is completed. If I can be of further assistance, please feel free to contact me.

Sincerely yours,

_____,

Acting Associate Director.

Enclosure.

PROPOSED U.S. FISH AND WILDLIFE SERVICE MIGRATORY WATERFOWL HABITAT ACQUISITION PROGRAM, BY NATIONAL PRIORITY CATEGORY, FISCAL YEARS 1977–86

Priority	Flyway [1]	Geographic location	Habitat type [2]	Group/species	Primary habitat not protected by public agency	Minimum acres proposed for FWS preservation [3]	Estimated cost (1975 prices, millions)
1	C	Prairie Pothole (North Dakota, South Dakota, Montana)	B	Canvasback, redhead [4]			
2	C	do	B	Other ducks	1,000,000	(F) 275,000 (E) 550,000	$61.8 24.8
						825,000	86.8
3	M	Prairie Pothole (Minnesota)	B	All	200,000	(F) 150,000	37.5
4	P	California—Central Valley	W	All	63,000	60,000	11.0
5	A	Coastal (North Carolina to Massachusetts)	W	Black duck	50,000	40,000	11.5
6	P	Coastal, California	W	All	70,000	60,000	24.4
7	M	Mississippi Delta (primarily Arkansas, Mississippi, Louisiana)	W	Wood duck Mallard	2,000,000	200,000	15.0
8	C	Coastal (Nebraska, Texas Laguna Madre)	W	All	350,000	100,000	13.2
9	M	Coastal (primarily Louisiana)	W	All	1,300,000	100,000	25.2
10	P	Great Basin (Idaho, Utah, Nevada)	B	Redhead	60,000	40,000	10.9
11	M	General (Wisconsin, Michigan, some Iowa)	B	Ducks	100,000	100,000	24.6
12	A	Coastal (Chesapeake Bay, Delaware Bay, Georgia, North Carolina, South Carolina, Florida)	W	do	350,000	50,000	14.3
13	C	General (excludes glaciated prairie)	B	do	250,000	100,000	14.1
14	P	Coastal (Washington)	W	All	13,000	13,000	8.2
15	P	Coastal (Oregon)	W	All	9,000	5,000	2.5
		Subtotal, categories 1–15			5,815,000	1,843,000	299.2
16	A	Inland (primarily North Carolina, South Carolina, Georgia)	W	Wood duck	2,000,000	7,350	4.3
17	P	Inland (primarily California, Washington, Oregon, Idaho)	B	Ducks	6,000,000	26,750	4.6
18	A	Inland (scattered bogs, ponds, etc. New England)	B	do	150,000		
19	M	Inland	W	All	[5]	17,100	7.7
20	P	do	W	All	10,000	6,750	3.6
21	P	Great Basin	B	Geese	[5]	400	.1
22	A	Inland (mostly Virginia, south)	W	All	300,000	2,650	.8
23	C	Inland (Texas, Colorado, New Mexico, Oklahoma, Kansas)	W	All	[5]	1,900	.7
24	P	Coastal (Oregon, Washington)	M	All	6,000	2,050	1.2
25	A	Coastal (primarily New Jersey to Maine)	M	All	100,000	8,300	3.1
		Subtotal			8,566,000	73,250	26.1
26	M	Inland	B	Geese	[5]		
27	C	do	B	do	[5]		
28	C	Coastal	M	All	[5]		
29	P	Inland	M	All	[5]	1,600	.4
30	M	Inland (Upper Mississippi and Illinois River Valleys)	M	All	[5]	1,750	1.1
31	A	Inland	M	All	[5]	13,850	6.1
32	C	do	M	All	[5]	13,600	6.5

Priority	Flyway[1]	Geographic location	Habitat type[2]	Group/species	Primary habitat not acres protected by public agency	Minimum acres proposed for FWS preservation[3]	Estimated cost (1975 prices, millions)
33	All		R				
		Subtotal				30,800	$14.1
		Subtotal, categories 16–33			8,566,000	104,050	40.2
		Grand total:					
		Priority categories 1–15			5,815,000	1,843,000	299.2
		Priority categories 16–33			8,566,000	104,050	40.2
		Total, all categories			14,381,000	1,947,050	339.4
		Administrative overhead					67.9
		Total costs					407.3

[1] Flyway symbols = P—Pacific; C—Central; M—Mississippi; A—Atlantic.
[2] Habitat type = B—Breeding; M—Migration; W—Wintering; R—Recreation.
[3] Fiscal years 1977–86. Combined fee and, in some cases, easement. It is expected that some habitat shown in the lower priority categories (16–33), particularly those not yet approved by MBCC, will not be preserved by FWS during 10-yr period. Also, techniques other than fee purchase by FWS for maintaining habitat will be considered before FWS acquisition 1a.
[4] Canvasback and redhead habitat acres for priority No. 1 are included in priority 2.
[5] Acreage undetermined.

WORST CONGRESS IN YEARS—OR IS IT?

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. OBEY. Mr. Speaker, frequently the last few years when conversations lull, the stylish thing to say has been that Congress is "limp wristed" or "stupid" or even "no damned good!" There is not a person in this country who has not seen a continuous drumbeat of stories about the sad shape of Congress. To only a small segment of the American public has the story gotten through that, as the old song goes, "there've been some changes made."

One of the few stories I have seen lately which attempts to place today's Congress in historical perspective is an analysis in U.S. News & World Report by Thomas J. Foley, chief of U.S. News' Congress staff who has covered the House for more than 20 years. That analysis shows what we all know here: We are far from perfect but we are trying and for the most part the trying has been for the good.

I commend it to my colleagues and to anyone else who does not mind a bit of balance now and then in analyses of our effort to represent the American people in a fair and sensible way.

WORST CONGRESS IN YEARS—OR IS IT?

This Congress is proving as adept as any in memory at giving itself one black eye after another.

First came the pay raise. It was handled in a way that won lawmakers blame both for taking the raise and for initially refusing to vote on it.

Then came the disclosure that for years the House and Senate have been drastically understating the costs of overseas junkets, which have long been a sore point with taxpayers.

Next was the blowup over the South Korean bribery scandal, which has filled the air with charges of cover-up and foot dragging.

Eight months into the new legislative session, it is no wonder that opinion polls continue to show public confidence in Congress hovering near an all-time low. Many Americans clearly believe that their national legislature is worthy of ridicule and disdain.

Are they correct? Judging from the headlines alone, it would seem so. Yet when you stand back and look at Congress in broad perspective, you see a much more encouraging picture.

Taking 1967 as a point of comparison, you find sweeping changes over the last decade in the way the House and Senate operate. In at least six important ways, Congress today shapes up as a better institution.

1. Congress is more democratic.

Ten years ago, fewer than 50 of the 535 members of the House and Senate, the chairmen of the standing committees, held a near monopoly on legislative power.

Chosen by seniority and serving until retirement, the chairmen were largely a law unto themselves. They were elected to Congress by a tiny fraction of the national electorate, yet they could almost singlehandedly reshape bills to suit their fancy. Or they could kill a proposal altogether, thumbing their noses at junior legislators, party leaders and Presidents alike.

Today this has changed. The toppling of three veteran House chairmen in 1975 shattered the tradition of tolerance for dictatorial excesses. Chairmen remain important figures, but their powers now are constrained by the consensus on their committees, in Congress and in the country.

What does this mean for Americans generally? It means a Congress more responsive than ever before to the sweep of voter opinion and less prone to the throttling of popular legislation by parliamentary maneuvers.

2. Legislative leadership is more widely dispersed, with younger lawmakers now playing a bigger role.

A decade ago, committee chairmen usually held a hammer lock on chairmanships of key subcommittees, too.

One result: Younger members, no matter how talented, were generally excluded from even these secondary leadership positions until they had accumulated many years of seniority and often lost any desire to examine existing policies critically.

Another result: Aging chairmen often had their hands so full that they could not give their responsibilities the attention needed.

Today, the hoarding of subcommittee chairmanships by senior legislators is forbidden. In the Senate, 57 of the 61 members of the Democratic majority, including 7 freshmen, chair at least one subcommittee. In the House, 145 of the 289 Democrats are committee or subcommittee chairmen, including some in their second terms.

In short, Congress has "spread the action," as reformers term it. Voters who send a talented newcomer to Capitol Hill can expect to see their representative carve out a niche of some influence within a few years.

3. The secrecy surrounding lawmaking has been largely stripped away.

Ten years ago, when committees met to vote on legislation, they locked their doors to public and press. When legislation reached the House or Senate floor, important amendments often were decided in unrecorded votes.

This kind of secrecy worked against a basic democratic principle: keeping Congress responsive to the people. It was an open invitation to hypocrisy, deceit and special-interest lawmaking.

By contrast, the closed door now is the exception on Capitol Hill, the open door the rule. Committees mark up bills in open meetings, with the press and interested citizens looking on. What's more, it is rare for an important question to be decided in the House and Senate chambers nowadays without a roll-call vote.

There is no question that plenty of behind-the-scenes maneuvering by special interests still goes on. But it is harder than ever before for legislators to pull the wool over their constituents' eyes. With key decisions now spread on the public record, voters can better judge whether elected officials are properly using their powers.

4. Congress's ethical restrictions have been significantly beefed up.

In the late 1960s, both houses of Congress for the first time imposed codes of conduct on their members. The standards were weak, vague and ridden with loopholes.

The House had an anemic requirement for public disclosure of Representatives' outside income that often concealed more than it revealed. In the Senate, no public disclosure at all was required, except for speaking fees. In neither chamber were there any limits on the income legislators could earn outside of Congress.

In sum, Capitol Hill was an ethical wilderness. Whether the question involved a conflict of interest, an office slush fund rustled up by special interests or a mistress on the payroll, the rule for many seemed to be: If you can get away with it, it's ethical.

In today's situation, a tough new ethics code, approved last spring, is being phased in fast. It bars acceptance of private money for office expenditures and acceptance of anything from lobbyists beyond the most minor gifts. It requires almost total public disclosure each year of lawmakers' financial holdings, and it clamps sharp limits on all outside earned income.

How rigidly the standards will be enforced remains to be seen. But the new rules are likely to achieve two things:

Make it a lot tougher for legislators to sell out to special interests.

Give voters solid information for determining whether a Congressman is looking out for the public interest or some private interest of his own.

5. Congress is more responsible in fiscal matters.

Ten years ago, the House and Senate handled spending measures in a chaotic, head-in-the-sand fashion. Money bills were dealt

with piecemeal as they came up, with scant regard for the effects of each on total Government spending, the deficit and the economy.

Congress no longer flies by the seat of its pants in its spending decisions. Under a new budget-control system set up in 1974, a binding ceiling is placed on federal spending each year. Every money measure must be tailored to insure that the ceiling is not breached.

Under these procedures, Congress agreed in mid-September on a 458.2-billion-dollar spending ceiling for the fiscal year beginning October 1.

The system is no cure-all for deficits; it was not meant to be. But it insures that Congressmen will have as clear a picture as possible of the impact of their spending moves, and enables voters to call lawmakers to account for that impact.

6. Congress works harder.

A decade ago, the House and Senate were both following work schedules that smacked of the horse-and-buggy era. Congress ordinarily worked only three full days a week. Behind this truncated workweek was the habitual truancy of the so-called Tuesday-through-Thursday Club—the many lawmakers addicted to skipping home for long weekends in their districts.

Even when the legislators were in Washington, their pace was far from impressive. Committee meetings seldom were scheduled to begin before 10 a.m., usually began late and ended before noon. As for meetings of the full House and Senate, floor sessions started at noon and normally petered out after three or four hours, except during the end-of-session rush.

Such sleepy habits are now only a dim memory on Capitol Hill. While long recesses still are taken frequently, Congress puts in a full five-day work-week most of the time it is in session. Committees sometimes are gaveled to order as early at 7 a.m. Floor sessions often begin at 10 a.m. and stretch through the afternoon and into early evening or later. Thus, while congressional salaries—$57,500 per year—are at a level that many Americans consider outrageous, most legislators are working harder than ever before to earn their pay.

Not all of these changes in Congress' way of doing business are unmixed blessings. The unhorsing of autocratic committee chairmen and general dispersion of power are changes, for example, that have come at a price. They have complicated the tasks of both Congress' leaders and the White House in hammering out broad national policies.

Instead of consulting a handful of senior legislators, the norm only a few years ago, leaders now must cope with an often mercurial throng of 535 lawmakers. The result sometimes is delay and deadlock. It makes Congress look to many Americans like a headless and erratic force thrashing about wildly while national problems fester.

House Speaker Thomas P. ("Tip") O'Neill solved the problems on President Carter's energy legislation by naming an ad hoc committee to oversee work on the package. However, problems remain in the Senate.

What's more, the sweeping changes of recent years have left some big institutional problems yet to be solved.

One is the Capitol Hill bureaucracy. It has been growing hand over fist, and now numbers almost 20,000. Accompanying the staff explosion has been greater delegation of power, leading to worry that crucial decisions are being made by unelected officials.

No one would argue that Congress is about to lose the knack of getting under people's skin. In any body of elected politicians as diverse as the House and Senate, that is inevitable. But voters might find solace in the thought that Congress, after all, could be worse than it is.

Not so long ago, it was.

REPUBLIC OF CHINA (TAIWAN) MERITS OUR SUPPORT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLORY. Mr. Speaker, there is continuing apprehension that our Government may take action to reduce or eliminate our ties with the Government of the Republic of China on Taiwan. Mr. Speaker, in my opinion the relationship which we have maintained with the great people of the Republic of China and their political leaders during the past 30 years should be maintained—or strengthened.

Mr. Speaker, one of the great success stories of this era is the economic, social, and political progress which has occurred in Taiwan. The people of that island nation have united in a manner which should be an example to the entire world. From my personal observation, I can attest to the advancement of democratic principles, political freedom and economic progression flowing from individual and collective initiative.

Mr. Speaker, no one can question but that the Government and people of Taiwan have been both friendly and cooperative with the people of our Nation. We should work to solidify that relationship notwithstanding that we may wish to enlarge lines of communication and improved relations with the People's Republic of (Communist) China. Now, Mr. Speaker, an article by Franz Michael appearing in a recent issue of Policy Review published by the Heritage Foundation is most illuminating on the question of U.S. strategy as related to our China policy. Mr. Speaker I am pleased to attach that article for examination by my colleagues and for our leaders in the executive branch for their thoughtful consideration:

WHAT CHINA? WHAT POLICY?

(By Franz Michael)

There are the strong arguments on both sides of the speculation about the possibility of Sino-Soviet reconciliation. Those who hold that the gap is unbridgeable and that at the very most some civility in diplomatic relations between the two Communist powers may return, argue in terms of historical incompatibility, of national interests and pride, and of historical claims and problems along the Sino-Soviet border. The question is, how valid are most of these arguments in the world of 20th Century communism?

If one seriously considers the possibility of a Sino-Soviet realignment, the question has to be answered, on what basis the conflict could be overcome? On the positive side of Moscow-Peking relations there remains a common doctrinal basis and commitment to communist strategy. Both sides assert their belief in, and support of, world revolution, revolutionary wars, and wars of national liberation. Though, in line with the conflict, Moscow and Peking accused each other of betraying these common revolutionary goals, such accusations could be easily discontinued; there is no disagreement on the basic final goal of a communist world order. The conflict may have started largely as a move by Chairman Mao to counter the Soviet de-Stalinization policy, moving on from there to challenge the Soviet leadership of the socialist camp and to follow his vision of perpetual revolution; with the death of Mao, these policies could be quietly abandoned, indeed the change can already be discerned. But there are by now other obstacles in the way of Sino-Soviet reconciliation resulting from competitive policies that have hardened and have created entrenched positions on both sides, hurdles that might be more difficult to remove.

If the United States has "de-recognized" the National Government on Taiwan, and invalidated the security treaty, a Taiwan venture by Peking with Moscow backing could become a rationale for a new Sino-Soviet cooperation. It is in this light that the United States government should weigh the decision on the conditions for normalization of U.S. relations with Peking.

The United States' role as power broker has not increased the confidence of friends and allies. The United States has lost a great deal of credibility and trust because of weakness and retreat. We have to assert most emphatically that we are loyal to our commitments and alliances and that behind these commitments and alliances are principles for which we stand and which are stronger than the doctrinal games of the Marxist-Leninist world. United States relations with both Peking and Taiwan will be a test case of this policy and United States credibility and willingness to stand by commitments.

PEACE STUDY GROUP SUPPORTS ILO

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FRASER. Mr. Speaker, sentiment for the United States to remain in the International Labor Organization has been growing steadily in recent weeks. Just last week, the Commission to Study the Organization of Peace, a group of well-known scholars, civic leaders, and experts dedicated to analyzing problems of international organizations released a statement supporting continued U.S. participation in the International Labor Organization. The commission is chaired by Prof. Louis B. Sohn, Bemis professor of international law, Harvard Law School. The 76 members of the Commission who signed this statement have recommended that President Carter should rescind the 1975 letter of intent to withdraw from the ILO and have offered six reasons why we should work to strengthen ILO from within as a fully participating member. I commend this statement to your attention and insert it in the RECORD:

THE UNITED STATES AND THE INTERNATIONAL LABOR ORGANIZATION

On November 5, 1975, the United States in a letter to the Director-General of the International Labor Organization gave notice of its intention to withdraw from the Organization at the end of two years time—November 1977—which is the time required in the ILO Constitution for notice of intention of withdrawal. The United States can, if it wishes, rescind its notice prior to November 1977, and remain in the Organization. This statement is a review of the situation prompting the withdrawal notice, a comment about what is happening currently, and a summary of reasons why withdrawal at this time would not be in the interests of the United States and would not be consistent

with efforts to strengthen international cooperation on peace and human rights among the nations of the world.

The ILO, founded in 1919 at the urging of the United States and in particular of the leader of the American labor movement, Samuel Gompers, is mandated to promote the social and human rights of workers such as freedom of association and collective bargaining, the elimination of forced labor and discrimination in employment, and the improvement and protection of workers' conditions of employment. Although the United States did not join the ILO until 1934, it has participated in the Organization since that time. An American, David A. Morse, was the ILO's Director-General for over twenty years (from 1948 to 1970); and an American, John McDonald, is today a Deputy Director-General (1974–). The Organization is unique in many ways among international governmental organizations. Its General Conference has a tripartite structure with government holding two seats, management one seat, and labor one seat. As a consequence it is the only organization in the United Nations family which permits non-governmental representatives to participate fully in making policy. The ILO is also unique in the machinery it has developed for drafting international conventions and for monitoring compliance with these conventions.

In recent years, both the U.S. Government and the representatives from labor and management serving on the U.S. delegations, have felt that the tripartite principle was being eroded because so many countries belonging to the ILO did not permit independent labor and management organizations to exist. Moreover, the United States has charged that instead of focusing on its mandate to improve labor standards throughout the world, the ILO has tended to become embroiled in political issues, particularly those concerning the dispute in the Middle East between the Arab States and Israel.

The United States also has objected to what it believes is an abandonment of accepted ILO procedures, whereby fact-finding conciliation machinery has been undermined as many countries seem to have preferred taking votes on issues before such machinery has been allowed to be used. Finally, the United States has accused member countries of selective application of ILO conventions protecting human rights and decent working conditions.

These criticisms of ILO practices and decisions in recent years prompted the U.S. letter of notice of withdrawal. The letter indicated that the United States did not want to withdraw but that it believed that in order to rescind its letter genuine reforms should take place.

During the period from November 1975 until July 1977, a number of actions took place in the ILO, some of which were conciliatory toward the U.S. complaints and some of which were not. With respect to the latter, the United States was especially angered by a majority of countries abstaining on two resolutions, considered important by the United States, at the ILO Conference meeting in June 1977. The large number of abstentions meant that the resolution failed of passage. At this point the U.S. Delegates voiced their conviction that withdrawal was almost inevitable. The U.S. Congress, in passing the appropriations bill covering U.S. contributions to international organizations, made clear that the U.S. contribution to the ILO (which is 25 percent of the organization's budget) had been deliberately omitted a sign that withdrawal was imminent. President Carter is currently consulting his Cabinet and others on what should be his final decision in the matter. A Cabinet-level Committee, consisting of the Secretaries of Commerce, Labor and State and with representatives from AFL/CIO and the United States Chamber of Commerce, has been set up for this purpose.

Having examined many facets of the working of international organizations over the past thirty-five years, including the ILO, the Commission to Study the Organization of Peace recommends that the President should rescind the letter of his predecessor and make it clear that the United States will continue to work to strengthen the ILO from within as a fully participating member.

The Commission's reasons for this recommendation follow:

1. Of all the international organizations in the UN system, the ILO has the most impressive record of strengthening human and social rights. Over the years it has developed careful and elaborate procedures to investigate claims of violations of human rights, and as a result many countries have abided by ILO recommendations. Countries are required to report to the ILO about their observance of ILO conventions, including those on human rights; and it is this practice, while by no means perfect or universal in its application, that other UN agencies have been encouraged to emulate. If the United States withdraws at this time from the ILO, the effort to strengthen trade union, workers, and other human rights will have suffered a significant blow. Other countries in the ILO, such as Western European democracies, Japan, and India, will find it more difficult to continue their efforts on behalf of human rights without assistance from the United States.

2. The ILO has accomplished a great deal to raise labor standards throughout the world. It is to the interests of the American public, its workers and businesses, that cheap wages, foced labor, and poor working conditions be eliminated ultimately. American workers and companies suffer when they must compete against such bad and inhuman situations. Without the U.S. influence in the ILO, an important force for peaceful and constructive change will have been removed. The United States itself cannot be considered to be a model ILO member in striving to make the organization more effective; although scores of conventions to improve human rights and working conditions have been adopted the United States has only accepted seven, and these dealing only with one subject, maritime conditions.

3. At its Conference in June 1977, the ILO adopted an important strategy to work for upgrading and meeting basic needs—food, shelter and employment—of people in developing countries. All government, labor and employer delegates are pledged to develop and implement a program to this end. Actually, since World War II, significant ILO-administered technical assistance has enabled many workers, businesses, and governments of developing countries to improve their industrial, agricultural, and mining capabilities. The United States is better off pursuing these meritorious objectives in concert with other nations, rather than trying to accomplish them by itself acting outside the international community.

4. The Carter Administration has been in office less than nine months, but has during its tenure thus far adopted a new diplomacy. It wants to work with people and governments of developing countries and to reduce confrontations that have arisen owing to demands by the poorer nations to realize a better share of the world's wealth. It would be unfortunate, perhaps a tragedy, for the United States to leave the ILO before this new diplomacy has had an opportunity to show results. The Congress and the American people, in order to lessen tensions and to minimize confrontations, should encourage the President and his Cabinet and Ambassadors to pursue the new diplomacy vigorously. This requires that the United States remain in the ILO and pursue the new diplomacy there.

5. If the United States leaves the ILO, there is the possibility of adverse consequences, both in the ILO and in other UN bodies. Israel would find itself isolated in the ILO and the criticisms against it in the World Health Organization and UNESCO may increase, thus putting both Israel and the United States in an extremely difficult position in those bodies. To forestall unfortunate decisions in other UN bodies, the United States is more likely to succeed by staying in the ILO than by leaving.

6. Finally, it is not in the spirit of compromise, negotiation, peaceful change, and great-power status for the United States to leave an organization when it finds itself in a minority on a few issues during what thus far is a relatively brief period. The United States would not want other countries to behave in such a manner. We deplore the absence of France and China, for example, from disarmament negotiations. We want the Soviet Union to participate in international organizations, despite the fact that over the years that country has very often found itself in a minority. There is every indication that the vast majority of countries, including the Soviet Union, other communist countries, and Arab States do not want the United States to leave the ILO, and the Western democracies and Japan have strongly urged that the United States remain in the Organization. For these reasons it is imperative that the President's decision be that the United States remain in the International Labor Organization.

The following 76 members of the Commission approved the issuance of this statement. Concurrence means approval of the general principles underlying the Statement, but not necessarily of all the details:

Leonard P. Aries
David A. Baldwin
Abraham Bargman
Kathleen Bell
*Nelson Bengston
*Clarence A. Berdahl
Richard B. Bilder
Donald C. Blaisdell
Roy Blough
Thomas Buergenthal
Harrison Brown
Robert W. C. Brown
J. Michael Cavitt
*Daniel S. Cheever
Carl C. Christol
Francis T. Christy, Jr.
Joseph S. Clark
John R. Coleman
*Norman Cousins
Aaron L. Danzig
Oscar de Lima (1)
Samuel DePalma
*Clark M. Eichelberger
*Luther H. Evans
*Vernon L. Ferwerda
Lawrence S. Finkelstein
Roger Fisher
Annette Baker Fox
Gerard Freund
*Margaret E. Galey
Samuel Goldenberg
*Leland M. Goodrich
*James Frederick Green
*Donald Szantho Harrington
H. Field Haviland, Jr.
John Herz
Philip E. Jacob (2)
Harold K. Jacobson
Anne Hartwell Johnstone
Robert S. Jordon
Donald F. Keys
Walter M. Kotschnig
*Betty Goetz Lall

*Officers and Members of the Executive Committee.

Arthur Larson
Joseph P. Lash
Walter H. C. Laves
David A. Morse
*Raymond D. Nasher
*Leslie Paffrath
James Patton
*Mildred E. Persinger
Jean Picker
Josephine W. Pomerance
Charles C. Price
*Clinton A. Rehling
William R. Roalfe
J. William Robinson
Ruth B. Russell
Oscar Schachter
Enid C. B. Schoettle
*Louis B. Sohn
Eugene Staley
C. Maxwell Stanley
Alonzo T. Stephens
John G. Stoessinger
*Richard N. Swift
Howard Taubenfeld (3)
Paul W. Walter
Edward Wenk, Jr.
*Urban G .Whitaker, Jr.
Francis O. Wilcox
Sidney H. Wilner
Atwood C. Wolf, Jr.
Harris L. Wofford, Jr.
*Richard R. Wood
Christopher Wright

COMMENTS

1. I would omit, because it is irrelevant and not constructive, the last sentence of the Commission's "reason" listed in "2".

2. I support the Statement, but would greatly prefer omitting point #5 which introduces an element of special interest that deters from the otherwise powerful case for global concerns. In fact, it is so slanted as to virtually contradict the other points which emphasize the interests of mankind generally and not of particular countries.

3. I strongly suggest adding specific wording about the very important "equal pay for equal work: and anti-discrimination treaties." The Statement should be more specific in places; most do not really know much about the ILO.

THE MYTH OF ARMS CONTROL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, in my lifetime I have seen the technological and innovative advances that my grandparents read about in Jules Verne's novels—airplanes, men to the Moon, around the world in much less than 80 days, weapons with which to conquer the world. I am also aware of those innovative actions which the other kinds of scientists—political and social—have introduced into the American society. I am thinking of laissez-faire school curricula which produce children who cannot read, write, or do simple arithmetic calculations without electronic help. I am also thinking of that great political body, the League of Nations, which probably did as much to encourage World War II as any other human activity. And now there is the United Nations with 149 members. This proliferation of city-States which experience difficulty in surviving could lead to the chaos which prevailed in the dark ages.

Of all the nontechnological innovative myths perpetuated on the American people, the one called "arms control by unilateral example" is the most dangerous. SALT I was a step in that direction. SALT II could be worse. Being second best in a one-on-one confrontation means defeat, no matter what else you call it or how you pontificate about it.

Much has been written about learning a lesson from the pitfalls of SALT I, particularly how not to get trapped under a SALT II treaty. I am not certain that the U.S. negotiators understand what is being told them by those outside the administration. So that we might better understand these pitfalls, I request unanimous consent to include after my remarks a significant article from the October 3 issue of the Wall Street Journal entitled, "The Myth of Arms Control." I quote the last sentence:

With a [arms control] treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

Worrying about the national debt and social programs may be an exercise in futility in the long run, if we cannot defend ourselves. Unilateral arms control, or arms control agreements which cannot be policed and verified, will place us in that position very quickly. I recommend the message carried by the Journal article to my colleagues:

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT-I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in anti-missile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS-20, a modern ballistic missile with ranges that threaten our European allies. The SS-20 is the top two stages of the intercontinental SS-16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead. 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, with either nuclear or conventional warheads. In particular the cruise missile is the answer to the threat of the SS-20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT-I's interim agreement on offensive weapons; the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance stuck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT-I made more than a marginal difference, except perhaps in delaying U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT-II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS-20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT-I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT-I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. EDWARDS of California. Mr. Speaker, the case of the Wilmington 10 continues to weigh heavily on the conscience of this Nation. Americans continue to be outraged that a black minister and eight black high school students could be sentenced to a total of 282 years in prison for allegedly burning a white owned grocery store in Wilmington, N.C. That outrage is compounded by the fact that the primary witnesses in the case for the prosecution have admitted to committing perjury in exchange for gifts and leniency promised by the assistant district attorney.

Recently Vernon Jordan, Jr. of the National Urban League recapped these events in the Raleigh News and Observer. His story highlights the human rights issues involved in the case of the Wilmington 10. I commend Mr. Jordan's account to my colleagues:

HUMAN RIGHTS ISSUE CITED—ARGUMENT CONTINUES FOR FREEING "WILMINGTON 10"

(By Vernon E. Jordan, Jr.)

NEW YORK.—While the United States government maintains pressure on foreign countries that violate human rights and imprison people on politically-inspired, trumped-up charges, the Wilmington 10 are still behind bars.

Their continued presence in North Carolina's jails makes a mockery of our human rights pretensions. Our country has been forced onto the defensive by penny ante dictators who justify their own repressions by pointing to the fact that the Wilmington 10 have been sentenced to nearly 300 years' imprisonment under circumstances that smell of rigged trials and racial vengeance.

The story of the Wilmington 10 goes back to 1970, when court-ordered desegregation of New Hanover County's school system led to escalating racial tensions generated by diehards fighting the entrance of blacks into all-white schools.

The mounting troubles led to black boycotts and demonstrations and culminated in a full-scale riot in Wilmington in which two people died and millions of dollars of property was damaged. In March, 1972, about a year after the riot, the police arrested a number of people, including Reverend Benjamin Chavis, a civil rights worker sent to the area at the request of local blacks by the Commission for Racial Justice of the United Church of Christ.

Reverend Chavis came as a peacemaker, trying to cool a potentially dangerous situation, but local segregationists tagged him a troublemaker and decided to get him. Chavis and his co-defendants were charged with burning a store and conspiring to assault officers during the riots.

Their trial was shot full of errors—defense lawyers appealed on the basis of some 2,800 trial errors that were found. Some were quite important—errors in the jury selection process that resulted in a racially-unbalanced jury, cover-ups of evidence, hiding facts from both defense and jurors, and concealing favors to prosecution witnesses.

The jurors never knew that key witnesses were under criminal charges themselves, a major point since knowledge of that fact would have led jurors to consider whether they may be perjuring themselves to save their own necks.

After the conviction of the Wilmington 10, North Carolina courts knocked down their appeals. But in the meantime the prosecution's star witnesses came forward with stories about how their testimonies had been bought.

So the original trial stands revealed as a farce that violated the constitutional rights of Chavis and his co-defendants.

This is not just a down-home affair; it's something that concerns national integrity and the international drive for human rights.

AIR BAG ISSUE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RAHALL. Mr. Speaker, I would like to bring to the attention of my colleagues some information that I feel brings the controversial air bag issue into its proper perspective.

Although I am not a member of the Interstate and Foreign Commerce Committee, I wholeheartedly support Secretary Adams' June 30 decision regarding passive restraint systems. The fact that passive restraint systems will not only save lives, but they will drastically reduce maiming and crippling accidents, is reason enough to support this issue.

Opponents of the air bag argue that "big government" is forcing an unwanted device on the American consumer. However, "big government" has been responsible for life-preserving, life-saving devices such as pasturized milk, fire codes in buildings, collapsible steering columns, and safety plate glass. Some will argue that "free people have the right to choose to do foolish things even if it is harmful to themselves," and I wholeheartedly agree that free people should have the right to do foolish things—but only if it is harmful only to themselves.

Also, much has been said about the cost of air bags. However, it has been estimated that air bag systems would cost from $113—according to National Highway Administration figures—to $200—according to the automobile industry's volume production figures. Neither estimate seems extravagant when weighed against the thousands of lives that will be saved, and the serious injuries that will be reduced. In addition, insurance industry representatives have publicly testified that expected savings on bodily injury premiums will ultimately result in lower insurance rates.

Specifically, I want to call to the attention of my colleagues the following information that has been prepared by Allied Chemical Corp., the world's largest producer of seat belts. The following information succinctly and briefly answers many questions which have been raised as a result of the misinformation recently circulating in the Congress. I cannot state the potential benefits of air bags better by saying that the time and attention my colleagues give to this matter now may someday save their lives.

The material follows:

QUESTIONS AND ANSWERS

1. Q: Have seat belts been an effective safety device in the U.S.?

A: Seat belts, when used, are effective; but the majority of the citizens of our country choose not to wear them.

2. Q: What percentage of people uses seat belts?

A: 19% only. Take a look when you drive, starting with yourself and those riding in your car.

3. Q: Do laws mandating seat belt use in other countries work?

A: Laws mandating seat belt use do work in other countries; but usage rates vary considerably, depending on degree of enforcement.

4. Q: Is a passive restraint system more effective from a safety standpoint than an active restraint system such as a seat belt?

A: Laboratory tests prove unquestionably that air bags provide far better protection than seat belts in frontal crashes, where 55% of fatalities and serious injuries occur.

5. Q: Have air bags been tested?

A: Air bags have been tested thoroughly by suppliers and car companies. For example, Allied Chemical has conducted more than 8,000 tests on inflators and air bags and more than 3,000 tests on crash detectors.

6. Q: What will air bags cost?

A: In volume production, front seat air bags will cost the consumer anywhere from $198 to $250, according to the auto companies; $113 according to NHTSA.

7. Q: What is the replacement cost of an air bag?

A: The air bag system is a highly reliable device which must be replaced totally after deployment, resulting in a replacement cost equal to the initial cost plus bump shop labor to remove the used system and to install the new system, probably doubling the initial cost.

8. Q: Will insurance costs rise as a result of air bags?

A: The insurance industry has publicly stated that savings on bodily injury premiums over the life of a car would more than pay for the air bag insurance costs.

9. Q: How long does an air bag last in a vehicle before it needs to be repaired?

A: Air bags are designed, built and tested to last the lifetime of the vehicle. In addition, in case something does go wrong, a diagnostic system will indicate the air bag system should be checked.

10. Q: Who can repair a defective air bag system?

A: Any mechanic with a testing device, and training, can determine which part of the system is at fault, remove the faulty element and replace it in the vehicle, just as is done with numerous other devices in the vehicles of today.

11. Q: How fast does an air bag inflate?

A: An air bag inflates in anywhere from thirty to eighty thousandths of a second,

depending primarily on the size of the bag. Faster than you can blink your eye.

12. Q. Does the sound of an air bag inflating cause damage to the ear?

A: None of the real world air bag inflations has caused any known ear damage to the occupants of the vehicles involved. In fact, most people do not even remember hearing the air bag inflate.

13. Q: What happens to a child standing in the front seat when air bag inflates?

A: Special bag folding techniques can be utilized to minimize the adverse effect on a standing child to the point that, in dummy crash simulations, the deceleration on the child dummy is no worse than in a 30 m.p.h. barrier crash which, with an air bag, is very survivable.

14. Q: Is the air bag effective in double impact crashes?

A: Laboratory tests show that air bags do work in double impact situations; e.g., a vehicle strikes a parked vehicle, the air bag inflates, and the vehicle continues forward and impacts a barrier.

15. Q: Is the air bag effective in a rollover accident?

A: The rule issued by NHTSA requires that the test dummy remain in the vehicle during a rollover accident. This is best accomplished by using a lap belt. However, if the occupants are unrestrained (the majority are), air bags should provide improved protection as the occupants bounce around the interior of the vehicle.

16. Q: Does the air bag work on a side impact collision?

A: If the forward deceleration resulting from a side impact is sufficient to cause the crash detector to fire the air bag system, the occupants of the vehicle will move forward and be protected by the air bags.

17. Q: What's the story on sodium azide?

A: Sodium azide, in its raw form, is toxic but is not explosive. In the air bag system, the azide is completely sealed in an inflator housing. In a crash, the azide generates inert harmless nitrogen gas to fill the bag. When the vehicle is junked, the air bag should be fired or removed from the vehicle for controlled disposal.

18. Q: Is there an alternative to sodium azide?

A: Allied Chemical has a viable, tested, proven alternative to sodium azide; i.e., a hybrid inflator which uses a combination of stored inert argon gas and a small amount of non-azide propellant to inflate the bag.

19. Q: Would any gases or chemicals in any type of air bag inflator be accessible to the motorist?

A: No. Regardless of what kind of propellant is ultimately used, it will be in a completely sealed container and inaccessible.

20. Q: Should government force the driving public to buy safety devices against its will?

A: This is a matter of philosophy, but air bags are really no different than all other mandated passive safety materials and devices already in use in cars, such as the collapsible steering column, side door beams, safety windshield glass, recessed interior knobs, improved brakes, tires and so forth.

AGRICULTURAL TRADE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MATHIS. Mr. Speaker, on October 12, the Subcommittee on Oilseeds and Rice, which I chair, and the Subcommittee on Livestock and Grains, chaired by Congressman POAGE, will hold a hearing on problems and prospects for increased foreign sales of rice, soybeans, peanuts, grains, and livestock products, which now account for about two-thirds of our agricultural exports or 17 percent of total U.S. exports. Secretary of Agriculture Bob Bergland and Ambassador Robert Strauss, the special trade representative, are expected to appear to brief the subcommittees on international trade issues affecting these commodities. Various industry representatives have also agreed to testify.

With the United States now experiencing a record trade deficit and facing a continued devaluation of the dollar, the future of agricultural exports is an especially timely issue. Secretary Bergland outlined the importance of U.S. farm exports during a recent speech to the Agricultural Leaders' Trade Conference, sponsored by the National Council of Farmer Cooperatives. Furthermore, the New York Times on October 4 published an article entitled "Farm Exports: A Decline Likely After Record Year," which quotes the Department of Agriculture's new General Sales Manager, Dr. Kelly Harrison, as saying "We are concerned about the probable decline in agricultural trade."

Because agricultural trade is crucial to the well-being of the American economy, I am including the remarks of Secretary Bergland and the Times article in the RECORD:

REMARKS BY SECRETARY OF AGRICULTURE BOB BERGLAND

American agriculture and agricultural trade are playing a larger role than ever before in this country's economic life. The nonfarm public is more aware of agriculture than it has ever been. But too often this awareness stems from the wrong cause—a negative impact from such things as rising food prices and food-shortage scares in past years, cost figures on the new farm program bandied about, and publicity about milk and other marketing orders—things that farmers understand but the general public does not.

The public is aware that farm exports are good for agriculture and good for the nation, but few know why. The positive side needs to be told and retold by everyone of us who is interested in the American farmer.

Agriculture is a bulwark of the U.S. economy. Our 2.8 million farms constitute one-fifth of all the private business in this nation. Farmers this year will spend about $85 billion on production expenses and another $40 billion, earned on and off the farm, on family living. They operate more than 4 billion tractors and about 3 million trucks. They maintain assets of around $600 billion and pay interest on more than $90 billion in loans. The production, processing and distribution of food and fiber accounts for one-fifth of the U.S. GNP, and provides jobs for 15 million people—more than 15 percent of civilian workers.

Exports have become basic to U.S. farm growth and income. Farmers harvested 337 million acres last year—the most in two decades, and about 100 million of those acres produced for export. That is double the number in the late 1950's and half again the acreage for export late in the 1960's.

Exports this year will total about 100 million tons—double the volume of the middle 1960's. U.S. farmers have been exporting one-half or more of their wheat, soybeans and cattle hides; one-third of their cotton and tobacco; a fourth of their feed grains, and sizeable shares of many other commodities.

Farm export value this fiscal year is expected to be a record $24 billion. This is the fourth consecutive year of foreign shipments above $21 billion. It is triple the value of those exports just five years ago. Exports alone now bring in about one-fifth of farm income and generate more than one million jobs, on and off the farm.

Agriculture has contributed a surplus to the U.S. trade account every year since 1960. This has become of paramount importance since our petroleum import bill shot up after the oil embargo of 1973. It takes foreign exchange to pay for those imports, and agricultural exports have earned more than $20 billion in foreign exchange every year since the embargo. Agriculture's trade surplus—its positive contribution to the balance of payments—has been near or over $12 billion in each of those post-embargo years. (This year it will dip to around $10 billion, largely because of higher-priced coffee and cocoa imports.)

As U.S. agriculture has become more dependent on foreign markets, foreign countries have become more dependent on U.S. agriculture. In recent years, U.S. farmers have supplied about 16 percent of the value of agricultural commodities that move in world trade, compared with 12 percent in 1971. They supply about half the world grain exports, a third of the cotton, most of the soybeans and a fifth or more of the vegetable oils. U.S. food grains are important in sustaining life in developing countries, and U.S. feed grains support livestock production in developed nations as consumers strive to improve their diets.

There is no magic to the rapid rise in U.S. farm exports over the past five years. You are familiar with the story. Rising populations and rising incomes worldwide created demand for more food. Crop shortfalls in major regions dropped production below that demand. Here at home, more competitive pricing policies for U.S. farm products starting in the mid-1960's pointed agriculture toward the foreign market. When the big export opportunity came, U.S. farmers seized it, putting all their resources to work filling the gap between global supply and demand.

The grain situation has changed. Shortfalls gave way to record world grain production last year and what we estimate to be production not far short of that record this year. World grain stocks have increased by 45 percent the past two years, with almost 60 percent of the increase in the United States.

The trade situation has changed. Protectionism is rising. Oil-poor importers cut back on food imports to try to save foreign exchange. Food exporters distort trade to unload surpluses.

A sustained, active effort is required to keep farm exports moving, and the Administration has started such an effort. The domestic farm program is oriented to world markets; we have new flexibility in the use of P.L. 480; we are examining new uses for CCC credit, and are reorienting the total market development program toward countries and regions of greatest potential. At the same time, and most important, we have moved the Multi-lateral Trade Negotiations off dead center. You can't sell a product if you can't get it into a market on a competitive basis.

Freer agricultural trade is in the self-interest of American agriculture, for reasons I have described. But it is also in the self-interest of everyone, everywhere. The reason is that while the grain and trade situations have changed in two years, these things have not:

(1) National economies are in reality a single, global economy in which food is crucial to economic and political stability, as well as basic to human survival.

(2) No nation today can meet the expec-

tations of its people on its own—we are all interdependent on this planet.

(3) Short of conquest, trade is the only avenue by which these expectations can be fulfilled.

FARM EXPORTS: A DECLINE LIKELY AFTER RECORD YEAR

(By Thomas E. Mullaney)

WASHINGTON.—Almost obscured in the gloom that has enshrouded the nation's foreign-trade picture this year has been another outstanding performance by American agricultural exports. In the fiscal year ended last Friday, the value of this country's shipments of farm products to markets abroad reached a record level.

The flow, which exceeded official expectations of a year ago by about 5½ percent; has helped maintain the United States' favorable agricultural balance as a significant offset to the seriously negative figures resulting from other types of trade, notably high-cost petroleum imports. The $10 billion surplus for agriculture in the last fiscal year has helped to limit the overall American trade deficit, estimated at more than $25 billion for calendar 1977.

While Government officials have been heartened by the sustained strength of the agricultural sector through a fifth straight year, they are concerned about a possible decline in the value of export volume in the current fiscal year. The prospect is that the dollar value of American farm exports will drop by 5 to 10 percent. That could mean a significant narrowing of the agricultural surplus since the value of imported crops, which rose by $3.5 billion, or 33 percent, in the last year is expected to climb further in the next 12 months.

One new element that might enter the picture is the possibility of larger purchases of American wheat and corn by the Soviet Union than originally expected. There are trade reports that such buying has begun, based on a reduced estimate of this year's Soviet grain crop.

"Of course, we are concerned about the probable decline in agricultural trade," said Dr. Kelley M. Harrison, the nation's new general sales manager for agricultural products at the Agriculture Department in a recent interview. "Our resources are limited, but we'll do everything we can to try to minimize the decline."

He said that export-promotion efforts would be pursued as vigorously as possible through advertising, public relations and trade-fair promotions under the small $13 million budget the Agriculture Department has for such purposes, plus the similar amount put up by the private agricultural sector. The Government will also continue to push exports under the 1954 statute that set up Public Law 480, which allows the department to finance foreign Government purchases of American farm products with long-term concessionary-loans.

"We also have the Commodity Credit Corporation export sales credit program, a short-term plan under which the C.C.C. borrows money and they relends it to foreign buyers for the purchase of United States farm commodities," Dr. Harrison said.

"In the last year, our budget for that was $1 billion, and we'll use it all," he cautioned. "We never lost money on that financing in all the years we've had the program. Very shortly, we will request approval for a sizable increase in that borrowing authority."

Dr. Harrison, who recently left an agricultural economics professorship at Michigan State University to assume responsibility for the promotion and development of the nation's export potential in agricultural products, did not indicate the size of the additional borrowing ability he would like for the C.C.C. program. However, reports indicate the department's request is expected to be ready within the next few weeks.

What the Agriculture Department does not intend to do, several officials indicated, is to seek any reinstatement of the old export-subsidy program. The controversial program was ended in 1972 after many years of operation in which large amounts of direct payments—often as high as 50 cents a bushel on wheat and sometimes even higher for some products—were granted to producers to expand export activity. The peak year for payments was fiscal 1962, when $655.7 million was granted in subsidies, mostly for wheat.

An effort was recently made by one large grower group to seek reinstatement of the subsidy program, but the Agriculture Department, happily, wants to avoid that route. It would prefer to see surplus problems resolved by better management of world commodity stocks to avoid big price swings rather than through subsidies to make up for income losses to farmers from declining prices.

Wheat surpluses have built up the last two years under the influence of abundant crops and favorable weather in other growing areas of the world, which helped to moderate demand. It is estimated that the surplus of what equals 14 percent of world consumption.

Meanwhile, the export preformance by American agriculture this year has been highly surprising in the face of considerable difficulties.

The value of American exports of a wide range of farm commodities—particularly soybeans, cotton, animal feeds, hides, rice, vegetables, fats, poultry and dairy products—has increased by $1.25 billion in the last 12 months to a record $24 billion.

Meanwhile, shipments of wheat to foreign sources have dropped 26 percent in volume and 41 percent in value because of the vastly improved world supply picture and the substantial price drop.

As for the new fiscal year, the outcome will depend on things such as the 1977 crop harvests, the price impact of new farm policies in this country, the competitive actions of other producing nations, the outcome of discussions at the trade negotiations in Geneva and the general level of prosperity in both the industrialized and developing worlds.

AMERICAN CITIZENS BEING DETAINED IN SOVIET UNION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. MIKVA. Mr. Speaker, today is the opening of the Belgrade Conference. It is, therefore, a particularly appropriate time to bring to the attention of Congress and the American people the plight of two American citizens being detained in the Soviet Union. Abe Stolar and his son, along with Mr. Stolar's wife, a Russian national, are currently being subjected to punishment by bureaucratic redtape tactics that the Russian Government is using with increasing frequency. Mr. Stolar and his family would like to leave Russia and emigrate to Israel. Indeed, he obtained permission to do so at one time. That permission was revoked under plainly false pretenses just before the Stolar family was to depart, and has not been restored.

I am inserting in the CONGRESSIONAL RECORD, a copy of a letter which Members of Congress have cosigned to protest the conduct of the Soviet authorities. I urge my colleagues to carefully examine this case. I am convinced that pressure exerted by this body will help to stop the violations of the human rights of Mr. Stolar and his family, as well as so many others living in the Soviet Union:

WASHINGTON, D.C.,
September 20, 1977.

His Excellency LEONID I. BREZHNEV,
Chairman, Presidium of the Supreme Soviet of the U.S.S.R., Moscow, U.S.S.R.

DEAR CHAIRMAN BREZHNEV: We are writing to express our deep concern for the welfare of two American citizens, Mr. Abe Stolar and his son, Michael, and Mr. Stolar's wife, Mrs. Gita Stolar, a Soviet citizen. The Stolar family resides at Prospekt Vernadskogo 117, Apartment 151, Moscow, RSFSR, USSR.

Mr. Stolar was born in Chicago, Illinois, and his son, Michael, holds derivative American citizenship. Both Mr. Stolar and Michael hold valid American passports.

On May 27, 1975, the Stolar family was issued exit visas for Israel, where they hoped to join Mr. Stolar's sister, who is his only living relative. On June 19, 1975, the Stolar family was detained at the airport as they prepared to depart for Vienna. They were informed that they would be permitted to leave on the next flight, but instead, their exit visas were revoked by the Office of Visas and Emigration. Officials of OVIR informed the Stolar family that they would not be permitted to leave the Soviet Union because of Mrs. Stolar's alleged knowledge of state secrets. The Stolars know of no time when Mrs. Stolar had access to classified documents, and she has never had a security clearance.

The government of the USSR considers the Stolar family to be Soviet citizens since Soviet law does not recognize dual citizenship. However, Mr. and Mrs. Stolar had great difficulty obtaining state pension checks and were told they had no right to them because they were foreign nationals, yet when they request exit visas as foreigners, they are told they are Soviet citizens.

We would be very grateful if you could use your good offices to determine when exit visas might be issued to the Stolar family. We would be particularly pleased if visas could be issued prior to the opening of the Belgrade Conference. Please express our strong interest and concern in this regard to your government.

Sincerely,

Abner J. Mikva, Max Baucus, James J. Blanchard, William M. Brodhead, Phillip Burton, William R. Cotter, Christopher J. Dodd, Don Edwards, Robert F. Drinan, Mickey Edwards, Joshua Eilberg, Millicent Fenwick, Donald M. Fraser, Bill Frenzel, and Willis D. Gradison, Jr.

Elizabeth Holtzman, Jack F. Kemp, Edward I. Koch, John Krebs, Raymond F. Lederer, Parren J. Mitchell, Joe Moakley, Richard L. Ottinger, Melvin Price, William Lehman, Charles B. Rangel, Benjamin S. Rosenthal, Paul Simon, Stephen J. Solarz, Frank Thompson, Jr., Henry A. Waxman, Charles Wilson (Texas), Leo C. Zeferetti, Bill Archer, and Gladys Noon Spellman.

NATIONAL WATER RESOURCE POLICY

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. JOHNSON of Colorado. Mr. Speaker, once again I wish to bring to the attention of my colleagues a sampling

of reaction to the administration's current review of national water policy. The concerns of those of us who live in the West, where water is such a precious commodity, are well stated in the remarks of Mr. Robert N. Miller, district attorney for the 19th Judicial District in the State of Colorado. The statement follows:

STATEMENT BY ROBERT N. MILLER

I am Bob Miller, District Attorney for Colorado's Nineteenth Judicial District which covers a significant part of one of the finest, most productive agricultural areas of the United States—the South Platte River basin.

The strong economic base here, diversified with international industrial plants, institutions of higher education, commercial and recreational opportunities, affords its residents a fine way of life. This way of life would be impossible without the aggressive development and conscientious conservation of water.

I see many of Colorado's policies and laws reflected in the Option Papers in the July 15, 1977, Federal Register. For instance, Colorado was a leader in recognizing the relationship between surface flows and ground water. Colorado has enacted minimum stream flow legislation. Anti-waste laws have been with Colorado since statehood and the state's concern about water quality is shown by the activities of the Colorado Water Quality Control Commission. I believe the Issue and Option Papers are on the right track when they follow the Colorado pattern.

The earliest water resource development here was done entirely by individual effort and private enterprise. It was not until the Colorado Big Thompson Project of the 1930's/1950's that Federal assistance and cooperation was used. And what a fine plan to study: A reliable source of irrigation water for 750,000 acres, a hydro-electric power system generating 759 million kilowatt hours annually, ten major reservoirs affording multi-purpose recreational uses and it is financially solvent! Environmentalists should take note: the CBT project guaranteed a minimum stream flow on the upper Colorado River 30 years before it became "fashionable" to demand such.

Some of the July 15, 1977, Issue and Option Papers were drafted without knowledge of the Colorado water story. Had the writers been familiar with this system, some of the silly questions would not have been made.

For instance, there is no need to promote Federal condemnation of water rights and auction them to the highest bidder. Colorado water rights are property rights which can be (and are) sold and transferred readily. The development of new water rights in Colorado may be curtailed because of over-appropriation of the existing water supplies, but this is not what is stopping the energy development here. Existing water rights can be purchased and Colorado water law is flexible enough to accommodate changes of water use. Many Colorado Water Court decrees have been entered in recent years which recognize changes in existing water rights.

And the notion that water is too cheap is silly because it is out-of-date. Industry and municipalities have been into the water market actively. Costs of pumping, transporting and storing water all have risen sharply. In the last seven years since I became the District Attorney, the market value of water shares in the Colorado Big Thompson Project has quadrupled.

Which raises some serious questions about the Federal Reserved Rights Paper in the July 25, 1977, Federal Register. The western economy, certainly Colorado's strong economy, hinges on water availability. This economy did not develop overnight. A century of far-sighted planning, hard work, ingenious development, and cooperation with the Federal government and other states has led to Colorado's present water system. The recognition of any significant Federal Reserved Rights doctrine at this date (historically) could be disastrous to our economy and our fine way of life.

By Congressional approval of the many interstate water compacts; by federal cooperation on water projects based on state water rights; and by Federal inaction over nearly 100 years in developing any supposed reserved water rights; the Federal government should be legally—and certainly morally—estopped from claiming them now to the detriment of the citizens and the states. Colorado has conscientiously worked at developing and formalizing, through adjudication, a water rights system. In an analogy to my work in criminal law, the Federal government is guilty of an illegal "seizure" if it takes Colorado's water system with Reserved Rights.

Yes, there should be a National Water policy. I suggest you follow Colorado's lead and propose the fine aspects of its system as a plan for consideration in other states with regional coordination through the river basin commissions.

SOUTH AFRICA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, our policy toward South Africa continues to greatly concern me. The recent recognition of Vietnam adds another anti-U.S. vote in the United Nations, while our friends dwindle. South Africa is, despite our heavy-handed insistence in interfering in its domestic affairs and our refusal to extend recognition until it conforms to our idealistic standards of equality, one of those friends.

Far more important is South Africa's strategic location at the tip of Africa, dominating passage between the Atlantic and Indian Oceans, a route over which is carried the preponderance of the Free World's oil. To emphasize South Africa's value to us, I wish to include a letter to President Carter from one of my constituents, Charles D. Doerr, who warns that U.S. security requirements will be impaired by the continuation of our present attitude toward South Africa.

The letter follows:

QUANDARIES-EXPLORATION-DECISIONS,
La Jolla, Calif., August 17, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a civic group concerned about the national defense and security of our United States of America, we wish to express our deep concern about the deteriorating situation on the southern African continent. We therefore request your careful consideration of the following statement as a matter of urgency.

Success in carrying out your oath of office to "preserve, protect and defend the Constitution of the United States" obviously requires that the preservation of our independence, territorial integrity, and existing social, political, and economic systems constitute the primary and overriding objective governing our relations with all foreign nations, whatever their ideological or political orientation.

Our free institutions and our very survival as a nation are threatened by the spread of an alien political, social, and economic Marxist-Leninist philosophy, advocated and supported worldwide by the aggressive military and political leadership of Soviet Russia. These leaders, in common with their predecessors, have never deviated one iota from their declared purpose to extend their system to all the countries of the world.

In recognition of the community of interest among other nations similarly threatened, the United States has entered into various mutual security arrangements, foremost of which is the North Atlantic Treaty. In common with the United States, the European members of NATO depend for their economic well-being and military security on oil from the Persian Gulf area, most of which must be transported by sea, currently around the continent of Africa. Our own economy, the foundation and source of our military capabilities, is heavily dependent, not only on Persian Gulf oil but also on the importation of crtical raw materials from the continent of Africa. Soviet appreciation of this fact is evidenced by their continuing—and so far successful—efforts to set up Marxist-Leninist regimes throughout Southern Africa in order to obtain bases for present and future military operations which will substantially augment their present capability to interdict this flow of materials critical to the survival of the West.

The Republic of South Africa provides the optimum strategically-based area from which the sea lanes whose focal point is the Cape of Good Hope can be protected. It possesses well-trained and capable military forces suited to this purpose. Further, the Republic is ideologically oriented toward the NATO nations, sharing with them a common heritage and an economic system based on private ownership of property and free enterprise. It is an industrialized nation, possessing important deposits of critical materials required to sustain the economy of the United States. Under the present government of the Republic, these materials would not be subject to preemption or denial in emergency under pressure from the Soviet Union—in marked contrast to the situation in other African countries.

It is true the the Republic pursues policies with respect to its "non-white" populations which are disapproved of by your Administration and by a segment of our population. This has resulted in the application of diplomatic, political, and economic pressures intended to bring about, in the name of "majority rule", a transfer of political power in the Republic and a radical transformation of South African society.

We regard these actions as flagrantly discriminatory and most unwise.

They are discriminatory because an overwhelming majority of the nations with which the United States maintains friendly relations or formal military security agreements—including most black-ruled African countries—do not grant any meaningful political liberties to their peoples, being under dictatorships or single-party political systems. We make no effort to interfere with the internal affairs of these countries. Our policies toward the Republic contrast sharply with those toward the other countries which fail to meet our standards of democratic government, including those under Marxist-Leninist regimes which pose a potential direct threat to the security of the United States.

We deem these policies unwise because they obviously are based primarily on domestic political considerations rather than on enlightened self-interest regarding the vital requirements of our national security.

We therefore urge you to take the lead in reorienting the political and economic policies of the United States toward the Republic

of South Africa so that they support, rather than undermine, the obvious and compelling security requirements of the United States.

Speaking for the members of QED, I am,

Sincerely,

CHARLES D. DOERR,
Chairman.

OIL CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLOSKEY. Mr. Speaker, yesterday, Merchant Marine Chairman JACK MURPHY and I were privileged to debate the oil cargo preference bill before Members of the freshman and sophomore classes of the 95th Congress. Unfortunately, much of our debate came down to differing allegations of fact by Mr. MURPHY and myself. I think therefore it may be useful to examine one by one, some of the issues on which Mr. MURPHY and I disagree.

When I urged the necessity of subpenaing James Barker, president of the National Maritime Council—because he was named in a Federal indictment as having allegedly bribed former Committee Chairman Garmatz—Mr. MURPHY responded that Mr. Garmatz' alleged offense was one solely related to misuse of campaign funds and violation of the Federal election law.

Here, as in many of our disagreements, Chairman MURPHY is just plain dead wrong. The indictment of Chairman Garmatz was filed on August 1, 1977, in the U.S. District Court of Maryland, criminal action No. H–770379, and refers specifically to the bribery statute, 18 U.S.C. 201(g). Paragraphs 12 and 13 of the indictment read as follows:

12. From at least as early as September, 1971 and continuing thereafter until April, 1973, the exact dates being to the Grand Jury unknown, in the State and District of Maryland and elsewhere, the defendant Edward A. Garmatz together with other persons, did knowingly, willfully and unlawfully conspire, combine, confederate and agree to commit certain offenses against the United States in violation of Title 18, United States Code, Sections 201(g), that is:

A. Directly and indirectly, to ask, demand, exact, solicit, seek, accept, receive, and agree to receive a thing of value for the use and benefit of the defendant Edward A. Garmatz, being a public official of the United States, that is a member of the House of Representatives, otherwise than as provided by law for the proper discharge of his official duties, because of official acts to be performed by him, to wit: his sponsorship, support, vote, and decision on certain passenger ship legislation which might at any time be pending before him in his official capacity and in his position of trust and profit.

13. It was further a part of said conspiracy that on or about November, 1971, James R. Barker caused $5,000.00 in United States currency to be transported from New York, New York, to Washington, D.C. and delivered to Robert McElroy for the use and benefit of the defendant Edward A. Garmatz.

If we are to remove the cloud of public suspicion that understandably relates Congress to charges of bribery by maritime industry leaders, I hope the House will agree that we should not consider the cargo preference bill until Mr. Barker is required to appear and testify as requested by the Merchant Marine Committee.

The full indictment is here inserted in the RECORD.

[U.S. District Court, District of Maryland, Criminal No. H–770379, title 18, United States Code, Section 371]

UNITED STATES OF AMERICA VERSUS EDWARD A. GARMATZ

The Grand Jury in and for the District of Maryland, sitting in Baltimore, charges that:

1. At all times mentioned in this Indictment up to and including December 31, 1972, the defendant Edward A. Garmatz, was a United States Congressman and Chairman of the House Merchant Marine and Fisheries Committee and was a public official, as that term is defined in Title 18, United States Code, Section 210(a).

2. At all times mentioned in this Indictment Moore McCormack Lines, Inc. was a Delaware Corporation. Up to and including August 4 and August 21, 1972, respectively, it owned two American flag passenger vessels, the *S.S. Brazil* and the *S.S. Argentina*, which were constructed in 1958 with subsidies from the United States Government, under the terms of the Merchant Marine Act of 1936.

3. At all times mentioned in this Indictment, the Merchant Marine Act of 1936 required that vessels built with construction subsidies remain documented and registered under the laws of the United States.

4. At all times mentioned in this Indictment, James R. Barker was President of Moore McCormack Lines, Inc.

5. At all times mentioned in this Indictment, up to and including February 5, 1973, United States Lines, Inc. was a Delaware corporation that owned the *S.S. United States*, an American flag passenger vessel, which was constructed in 1952 with subsidies from the United States Government under the terms of the Merchant Marine Act of 1936.

6. At all times mentioned in this Indictment, Edward Heine was the President and Chief Executive Officer of United States Lines, Inc.

7. At all times mentioned in this Indictment, Robert McElroy was the Chief Clerk of the House Merchant Marine and Fisheries Committee.

8. At all times mentioned in this Indictment, up to and including their date of sale or transfer, the *S.S. Argentina, S.S. Brazil*, and *S.S. United States* had been laid up and taken out of active service as a result of operating losses incurred by Moore McCormack Lines, Inc. and United States Lines, Inc.

9. At all times mentioned in this Indictment up to and including May 16, 1972, Moore McCormack Lines, Inc. and United States Lines, Inc. sought legislation in the Congress of the United States which would authorize the sale or transfer of the *S.S. Argentina*, the *S.S. Brazil* and the *S.S. United States* to foreign ownership. Alternatively, United States Lines, Inc. sought legislation in the Congress of the United States which would authorize and direct the Secretary of Commerce to purchase the *S.S. United States* at its depreciated cost, less the unpaid principal and interest on the vessel's mortgage.

10. On or about February 12, 1971, Moore McCormack Lines, Inc. entered into a contract to sell the above mentioned ships to Nederlandsch-Amerikaansche Stoomvaart Maatschappij, N.V., a Netherlands corporation, for approximately twenty million dollars, which contract was conditioned upon appropriate legislation being passed by the Congress of the United States, exempting the above-mentioned ships from the terms of the Merchant Marine Act of 1936, thereby permitting their sale to the buyer and their transfer to foreign registry. On or about August 4, 1972, Moore McCormack Lines, Inc. transferred title to the *S.S. Brasil* pursuant to said contract to Cruiseship No. 7 N.V., a wholly owned subsidiary of Nederlandsch-Amerikaansche Stoomvaart Maatschappij, N.V., and on or about August 21, 1972, it transferred title to the *S.S. Argentina*, pursuant to the contract, to Cruiseship No. 6 N.V., another wholly owned subsidiary of Nederlandsche-Amerikaansche Stoomvaart Maatschappij, N.V.

11. On or about February 5, 1973, United States Lines, transferred title to the *S.S. United States* to the United States Government.

12. From at least as early as September, 1971 and continuing thereafter until April, 1973, the exact dates being to the Grand Jury unknown, in the State and District of Maryland and elsewhere, the defendant Edward A. Garmatz together with other persons, did knowingly, willfully and unlawfully conspire, combine, confederate and agree to commit certain offenses against the United States in violation of Title 18, United States Code, Sections 201(g), that is:

A. Directly and indirectly, to ask, demand, exact, solicit, seek, accept, receive, and agree to receive a thing of value for the use and benefit of the defendant Edward A. Garmatz, being a public official of the United States, that is a member of the House of Representatives, otherwise than as provided by law for the proper discharge of his official duties, because of official acts to be performed by him, to wit: his sponsorship, support, vote, and decision on certain passenger ship legislation which might at any time be pending before him in his official capacity and in his position of trust and profit.

13. It was further a part of said conspiracy that on or about November, 1971, James R. Barker caused $5,000.00 in United States currency to be tansported from New York, New York, to Washington, D.C., and delivered to Robert McElroy for the use and benefit of the defendant Edward A. Garmatz.

14. It was further a part of said conspiracy that on or about January 20, 1972, Edward J. Heine, on behalf of United States Lines, caused at least $5,000.00 in United States currency to be transported from New York, New York, to Washington, D.C., to be paid to the defendant Edward A. Garmatz.

15. It was further a part of said conspiracy that on or about January 21, 1972, Robert McElroy received $1,000.00 in United States currency from the United States Lines for the use and benefit of the defendant Edward A. Garmatz.

13. It was further a part of said conspiracy that on or about February, 1972, Robert McElroy received $5,000.00 in United States currency for the use and benefit of the defendant Edward A. Garmatz from James R. Barker in New York, New York.

17. It was further a part of said conspiracy that on or about August 11, 1972, United States Lines paid the defendant Edward A. Garmatz $4,000.00 in United States currency in Baltimore, Maryland.

18. It was further a part of said conspiracy that between September 1972 and April 1973, the defendant Edward A. Garmatz requested from Edward J. Heine, the payment by United States Lines of an additional $10,000.00 in cash or as a fictitious consulting fee.

19. It was further a part of said conspiracy that the defendant performed other and further acts in order to conceal the conspiracy and prevent detection thereof.

In violation of Title 18, United States Code, Section 371.

OVERT ACTS

In furtherance of the conspiracy and to effect the object thereof, the defendant committed and caused to be committed the following Overt Acts:

1. On or about November 3, 1971, at Washington, D.C., Edward J. Heine met with the defendant Edward A. Garmatz.

2. On or about November 8, 1971, Edward J. Heine had a telephone conversation with James R. Barker.

3. In or about November, 1971, Robert McElroy received $5,000.00 for the use and benefit of the defendant Edward A. Garmatz.

4. On or about December 9, 1971, at Washington, D.C., Edward J. Heine met with the defendant Edward A. Garmatz.

5. On or about January 17, 1972, Edward J. Heine had a telephone conversation with James R. Barker.

6. On or about January 21, 1972, Robert McElroy received $1,000.00 in cash for the use and benefit of the defendant Edward A. Garmatz.

7. In or about February, 1972, Robert McElroy received $5,000.00 in cash for the use and benefit of the defendant Edward A. Garmatz from James R. Barker.

8. On or about May 18, 1972, Edward J. Heine met with the defendant Edward A. Garmatz at Washington, D.C.

9. On or about August 11, 1972, the defendant Edward A. Garmatz received $4,000.00 in cash in Baltimore, Maryland.

10. On or about September 20, 1972, Edward J. Heine met with the defendant Edward A. Garmatz.

11. On or about September 20, 1972, Edward J. Heine met with Robert McElroy.

12. On or about October 4, 1972, Edward J. Heine spoke with Robert McElroy on the telephone.

13. On or about October 4, 1972, Edward J. Heine spoke with the defendant Edward A. Garmatz on the telephone.

14. On or about October 13, 1972, Edward J. Heine spoke with Robert McElroy on the telephone.

15. On or about January 8, 1973, Edward J. Heine spoke with Robert McElroy on the telephone.

16. On or about January 26, 1973, Edward J. Heine and Robert McElroy had breakfast at the Hay Adams Hotel in Washington, D.C.

17. On or about February 20, 1973, Edward J. Heine met with Robert McElroy and the defendant Edward A. Garmatz at the Lord Baltimore Hotel in Baltimore, Maryland.

18. On or about April 13, 1973, Edward J. Heine met with Robert McElroy for breakfast at the Hay Adams Hotel in Washington, D.C.

All in violation of Title 18, United States Code, Section 371.

WHAT THE TREATIES REALLY MEAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. DORNAN. Mr. Speaker, there are some Americans who are perplexed about the meaning of the Carter-Torrijos canal treaties.

These Americans know that the canal belongs to the United States and always has. They learned that in the first grade.

But these same Americans also learned something else in the first grade: to believe their Government and their President. It is these two lessons which are contradictory in this instance and which have led to the perplexity about the Carter-Torrijos treaties.

These perplexed Americans know that the canal is U.S. property and has never belonged to Panama. But their President has told them that the canal will be "returned" to Panama.

These perplexed Americans know that the Marxist strongman, Torrijos, is a close friend of Castro and is modeling his regime after the Cuban dictatorship. But their State Department has told them that Torrijos is a friend of the United States and not of Cuba.

These perplexed Americans know that Torrijos is anxious for closer ties to the Soviet Union and has just signed a long-range treaty with the Soviet Union. But their State Department has assured them that Torrijos is no friend of Communist Russia.

It is no wonder that there is confusion in some quarters and that some usually clear-thinking Americans are being misled.

To help these Americans understand what the Carter-Torrijos treaties really mean, I would like to have reprinted in the CONGRESSIONAL RECORD a recent address given by Mr. L. Francis Bouchey, Secretary, Council for Inter-American Security. I had the pleasure of sharing the dais with Br. Bouchey when he gave this address to the California Republican Assembly on September 24, 1977. It is one of the clearest explanations of what the Carter-Torrijos treaties really mean and how they will affect the U.S. presence in the canal, the zone, and in Panama itself.

It should clear some clouded eyes. The address follows:

SPEECH BY MR. L. FRANCIS BOUCHEY

Madam Chairman, distinguished guests, ladies and gentlemen.

The U.S. Canal at Panama, sometimes called the Panama Canal, and its future is a matter which is, and ought to be, troubling a good many people these days.

The treaty gives away a piece of our national patrimony, an American accomplishment which grade school teachers taught me was one of the 7 wonders of the modern world.

Building that canal was, in fact—technologically—the moon shot of its day. We bought it, we built it, we paid for it. We paid more for it than any other U.S. territorial acquisition. Now we are asked to give it away and pay the benefactors to accept it. That strikes many people as ludicrous! Still, a case might be made for some new arrangement concerning the control, status and operation of the U.S. Canal at Panama.

The 1903 treaty is not a divinely inspired document, and it is a mistake for opponents of the proposed Carter-Torrijos treaty to debate the subject as if there was no alternatives other than the original treaty arrangement or continuation of the 1903 based status quo. In other words, saying "no" to the treaty negotiated by Bunker, Linowitz, Carter and Torrijos does not and should not preclude a U.S. openness to exploration of alternative arrangements other than those which exist presently. Saying "no" to the Carter-Torrijos treaty leaves open the possibility of negotiating a different and better treaty, hopefully with a better and different Panamanian government.

The simple fact of the matter is that the treaty President Carter is asking the Senate to ratify is a bad treaty, which does not accomplish what the Administration and State Department purport. And it is that treaty which must be given close attention. The future of the U.S. Canal at Panama should be left aside as an open question—for the time being. Because that issue must not be confused with the particular treaty proposal now before the United States Congress and the American people.

Even if you hanker to give away the most expensive U.S. territorial acquisition and to pay—in McGovern fashion—every man, woman and child in Panama at least $1000, which is what the proposed treaty would do, there are compelling reasons to reject this Carter-Torrijos treaty.

What are they?

In the first place there are 2 treaties involved in the agreement which was signed in Washington, D.C. on September 7.

First, there is the canal transfer treaty. Secondly, there is the neutrality treaty. Finally, there is implementing legislation which will be necessary to effect the treaty provisions.

These are complex documents. I do not pretend to comprehend every nuance. However, the Council for Inter-American Security, together with a team of legal experts, has been analyzing these documents since they were made public. And we know enough to know that the agreements should be rejected.

Consider first the canal transfer treaty. It does two things. Upon the effective date of the treaty, which occurs 6 months after exchange of ratification documents at Panama City, actual and nominal sovereignty over the canal and Canal Zone passes completely, absolutely, and irrevocably to Panama.

From that date hence U.S. involvement in the operation and defense of the canal at Panama will be solely as a surrogate of the Republic of Panama. And that U.S. surrogate role would be subject to unilateral abrogation or cancellation by Panama.

The principal reason for the intricate provisions of the second part of this first treaty, providing for a 23 year long phased U.S. pullout, is a recognition by Panama that it currently lacks the technical expertise to run the canal. The other reason for the intricate second part of the first treaty is to facilitate the payment of U.S. taxpayers dollars to Panama.

The Administration's claim that this Panama Canal treaty was the product of long years of thoughtful negotiations is not credible to anyone who examines the document. For instance, what was supposed to be an exemption from dual taxation of U.S. citizens working for the canal—that is taxation of them by both Panama and the United States—turned out to read as an exemption from taxation by anybody. Why? Because the document was rushed to completion and the text was evidently never even carefully proof read.

That one is funny, but other ambiguities, unresolved issues and potentials for conflict are not. Article 11, which provides for the termination of the last vestiges of U.S. involvement in the year 2000 is so confused that it almost guarantees that final U.S. withdrawal would be exceedingly problematical.

Now, as I have already said, the United States gives up its sovereign rights, its exclusive control of the canal and Canal Zone upon the effective date of the treaty. It is not phased in over the next 23 years. What then happens between the effective date of the treaty and the year 2000, aside from the fact that Panama stands to collect slightly less than $2 billion? The U.S. Panama Canal Company is dissolved. In its place there is established a Panama Canal Commission with 9 members. For the first 13 years, only until 1990, the U.S. will have a majority on the Commission which will operate the canal. But in 1990—13 years from now—Panama will have a 5–4 majority on the Commission and the canal's chief operating executive will be a Panamanian.

After that, the U.S. will maintain some de-

fense forces in Panama, on a diminishing scale, until the year 2000. And, of course it will continue paying money to Panama.

Let us now consider the so-called neutrality treaty. What about the U.S. defense rights which President Carter assures us are provided in the treaty? Basically, there are none, aside from what Panama grants. There is no right, no right of U.S. intervention in Panama to protect the canal once our troops are removed, except by force of arms which would mean an act of war by the United States against Panama.

The best explanation of that second or neutrality treaty came from General Torrijos' chief negotiator, Romulo Escobar Bethancourt, in a news conference broadcast from Panama City on August 24:

"Now, there is the question of whether this does or does not give the United States rights to intervene in Panama.

"Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated and what is stated is that Panama and the United States will maintain a neutrality of the canal. What is the meaning of 'will maintain?' In practice, the meaning of 'will maintain' is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation."

Continuing on the subject of neutrality, Escobar maintained that "the neutrality pact *does not* provide that the United States will say when neutrality is violated. That is simply not provided there. There *is* an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not."

Turning to an equally contentious subject, the rights of passage, Escobar uses some very curious diplomatic language and notes: "As to the famous 'expeditious passage', which seems to be what concerns Panamanians the most, whether the gringos' ship is going to pass before the Venezuelans'. We are struggling for our independence and we recognize that there are problems of greater concern. As to 'expeditious passage' there is no confusion. When I say that the United States may use the term 'expeditious passage' as privileged passage, what I am saying is that they are using all the means available to sell a treaty which their people and their Senate do not want to swallow."

If a dispute were to arise over the question of expeditious passage and its meaning, then, as Escobar explains, "The provision would be brought up and in the provision it would be seen that expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage *was rejected* and it was pointed out quite specifically that expeditious passage means passage as quickly as possible. If after examining the provision that gringos with their warships say, "I want to go through first,' then that is their problem with the other ships waiting there."

As Escobar makes clear, the United States cannot, in any sense, be said to benefit from Panamanian control.

One final element in the neutrality treaty must be brought into focus in order to round out a picture of what Americans are being asked to accept.

The neutrality treaty states quite clearly in Article III(e):

"Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance."

I wonder if the Senate wants to assent to a treaty by which the United States would be required to insure the safe passage through the canal of warships of the U.S.S.R. at a time we would be at war with the Soviets? Do you want the Senate to assent to that?

We cannot forget that "neutrality" is a vague, abstract concept which is defined by the rules and regulations set forth by the sovereign or the authority that controls the waterway. Clearly, after year 2000, that will be Panama, exclusively. We have that exclusive right today. Even before 2000, Panama could give us trouble on this point since she will have very substantial authority over the canal.

Panama, after 2000 A.D., can define "neutrality" as meaning no U.S.S.R., no U.S.A., no anybody through the canal whose policies she does not like, should that be her whim.

What is the prospect that the Carter-Torrijos treaty will be rejected? The answer to that is not quite as complex as the treaty package, but almost. There are any number of factors at work. But before reviewing them let me anticipate my conclusion and tell you "yes" Carter and Torrijos, Linowitz and Escobar Bethancourt can be defeated. Why do I think so? For two reasons. The more closely the treaty is examined the worse it is found to be. In order to secure an agreement, the Carter negotiators made every conceivable concession. Men like Senator Robert Byrd are going to have trouble voting for it.

The facts of the treaty must be made known. And that is up to you. As the facts of the treaty are made known, popular outrage will grow as we go into the election year. The House of Representatives must vote on the disposal of the property of the United States. Article IV of the Constitution declares that only the Congress has the authority to dispose of "the territory or other property of the United States". Our elected representatives are going to be reluctant to vote for it, if we, as opponents of the Carter-Torrijos agreement, maintain constant, relentless pressure.

And that, ladies and gentleman, is up to you and countless other Americans.

AIR BAGS AND CHILD SAFETY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. WAXMAN. Mr. Speaker, I believe the current debate on the need for passive restraints has gotten off track. Attention seems to be focused on the proposition that the Department of Transportation regulation will somehow compromise the personal freedom of automobile purchasers. Little consideration seems to be paid, however, to the lifesaving qualities of these safety devices; particularly with respect to the safety provided small children.

Opponents of the ruling have suggested that individual automobile purchasers should have the right to select the acceptable standard of safety in their personal transportation. If auto makers were in fact willing to offer consumers a choice in crash protection, and if automobile purchasers were the only users of automobiles, this argument might be credible.

Experience has demonstrated that the automobile industry is seldom willing, in the absence of Government prodding, to incorporate lifesaving devices into automobile design. Even more significant than industry's historic reluctance to build crashworthy cars is the fact that the vast majority of automobile drivers and accident victims are not original purchasers, but the purchaser's family and friends. Even if optional safety systems were available, these individuals, particularly children, would have little input into the initial decision to forgo purchase of such automobile safety devices.

The communal qualities of the automobile make safe operation the responsibility of the driver and safe design the responsibility of the manufacturer. However when industry is unwilling to accept the responsibility for the structural safety of its products Government has a necessary obligation to accept the burden.

I recently received a letter from Dr. Thomas E. Reichelderfer, chairman of the Committee on Accident and Poison Prevention of the American Academy of Pediatrics. His comments cut to the heart of the passive restraint debate and provide one of the most convincing arguments in favor of these lifesaving devices.

Dr. Reichelderfer points out that more children between ages 1 and 14 are injured or killed in automobile accidents than any other disease or illness. In 1975 alone, 5,000 children became automobile fatality statistics and another 60,000 suffered serious injuries. A recent survey conducted by the Insurance Institute for Highway Safety revealed that 94 percent of children riding in automobiles either do not wear seat belts or are improperly restrained.

The most startling point raised by Dr. Reichelderfer was that for children under age 4 or who weigh less than 40 pounds, conventional seat belts, if worn, are ineffective and in some cases can cause serious abdominal injuries. For these children, the only effective crash protection are specifically designed restraint devices used in combination with passive restraints such as air bags.

Dr. Reichelderfer's comments have much merit. The passive restraint debate is an opportunity to exhibit one's support for personal freedom. It is an opportunity to support the right of every American to freedom from unreasonable risk of injury. I believe this a a freedom worth preserving and urge my colleagues to support Secretary Adams' decision.

Mr. Speaker, I insert the letter from the American Pediatrics Association in the RECORD at this point:

SEPTEMBER 23, 1977.

Hon. HENRY WAXMAN,
House of Representatives,
Washington, D.C.

DEAR MR. WAXMAN: The Committee on Accident and Poison Prevention of the American Academy of Pediatrics has long been concerned with automobile safety for infants, children and adolescents. In view of the large number of deaths and serious injuries incurred by this age group, you are asked to give your support to Secretary Adams' passive restraint decision.

More children between the ages of one and 14 years of age are injured or killed in automobile accidents than by any other disease or illness. In 1975, approximately 5,000 of

these deaths occurred with an estimated 60,000 additional serious injuries as a result of these accidents. Head injuries, the most common cause of epilepsy, are sustained more frequently than any other type of injury. Automobile accidents constitute the major disease entity threatening our children yet could be largely prevented by the use of suitable restraints. However, at the sufferance of adults, children ride in automobiles without the protection that car restraints provide. A survey by the Insurance Institute for Highway Safety has demonstrated that 93% of all children riding in cars are unprotected and another 1% are improperly restrained. Hence 94% of that population most likely to sustain serious injury or death are completely unprotected. In order to provide at least minimal protection for all children, passive restraints should be required as standard equipment in all cars.

Recent technical developments have made passive restraint measures available and practical. Cars equipped with air bag devices in which children were front seat passengers have demonstrated a remarkable ability to provide increased protection against death/severe injury. This ability was vividly recounted in a recent incident in Florida involving two children ages four and six, otherwise unrestrained, in a head-on collision. With the protection afforded these children by the air bag, the four year old sustained only a mild limb injury while the six year old escaped unharmed.

At particular risk of injury are infants and children under age four or 40 lbs. for whom standard seat belts are inappropriate. Lap belts alone exert too much pressure on the abdominal area of a small child and may cause injuries in a frontal crash. Children under four tend to occupy more hazardous seat areas than older children which compounds their susceptibility to death and serious injury. For maximum protection such children should be restrained in restraint devices specifically designed for this age group in combination with passive restraints.

Given the data cited above, it is imperative that at least passive restraint devices be required to afford these children some measure of safety. While use of the air bag alone with infants and small children has not been totally effective, the American Academy of Pediatrics is convinced of the superior effectiveness of passive restraints as protective devices for infants and children.

When the lives of children are concerned, cost effectiveness and societal costs deserve only secondary deference. There is no excuse, now that technical means are available to reduce highway carnage, that these measures should not be put to immediate use.

Sincerely yours,

THOMAS E. REICHELDERFER, M.D.,
Chairman, Committee on Accident and Poison Prevention.

CAUTION ON SALT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. FINDLEY. Mr. Speaker, I would like to pass along to my colleagues in the House the following note of caution urged upon us by the British weekly journal, the Economist: In concluding a SALT agreement with the Soviet Union, the United States must consider shared interests with our Western European allies. The United States can ill-afford to risk the confidence of our allies—a confidence that is intrinsic to the vitality of the North Atlantic Alliance—to reach an accommodation with our principal adversary.

An article follows:

CRUISE FOR EUROPE—THE UNITED STATES SHOULD NOT BUY A NUCLEAR ARMS DEAL WITH RUSSIA AT THE PRICE OF ITS ALLIES' CONFIDENCE

President Carter already has enough problems in reaching an agreement with Mr. Brezhnev over nuclear weapons not to want another; it is now highly probable that the October 3rd deadline originally set for a Salt-2 agreement will pass without one. But another problem has to be added to his list. The nuclear deal Mr. Carter eventually strikes with the Russians—if he does—should not include a clause preventing the United States from helping some of its European allies to make cruise missiles.

Britain, in particular, may need the cruise missile for its own nuclear armoury, and Germany is keen that it should also be deployed in Europe with non-nuclear warheads by the Nato alliance. These tiny super-accurate hedgehoppers will be a cheaper way of keeping the British nuclear deterrent in existence than building a new generation of missile submarines. But Britain's decision whether to replace its present Polaris submarines with cruise missiles some time in the 1980s will depend in part on how much it will cost to do so. That in turn will depend on how much of the technology can be obtained from the United States and how much of this particular wheel Britain will therefore not have to reinvest on its own.

For the United States to accept any limits at all on cruise missiles would be a large concession. Certainly its present willingness to offer a three-year moratorium on deployment, while development of this complex piece of technology continues, is the farthest its allies should agree to its going, and even that requires a matching moratorium on Russia's deployment of its huge new SS-18 missile. The Americans have always insisted that they will make no deal with the Russians about nuclear weapons actually deployed which cannot be checked by some sort of inspection. Successive American administrations have stuck to this principle through thick and thin, and Mr. Carter has reaffirmed it. But checking cruise missiles on the ground, when that time does come, seems likely to be almost impossible. They are easily hidden, and even if they are seen it is impossible to tell whether they have nuclear or nonnuclear warheads, or to guess their range to within a thousand miles. If the American government promises to obey certain rules about cruise missiles the New York Times and the Washington Post will make sure it honours its promise. When Russia too makes cruise missiles—as it eventually will—Pravda is unlikely to perform the same service.

The Russians also want a guarantee that the United States will not transfer cruise-missile technology to its allies. The Americans should have no truck with such a notion from a country which argues that its new Backfire bombers and its medium-range SS-20 missiles should not be included in the American-Soviet nuclear negotiations because they can reach only as far as western Europe. These weapons pose the problem Europe has to deal with. If Russia wants to talk about the problem, it will have to talk to the Europeans.

The Russians will not like this; it will at the least delay a new Salt agreement. But the United States is in the position of many great powers before it: it has to choose between an accommodation with its adversary and the confidence of its allies. It can stand ready to share the cruise missile, or it can run a very real risk of damaging the alliance on which its own security, as well as Europe's, depends.

TEXTILE WORKERS UNIONS MAKE J. P. STEVENS LOOK LIKE CHOIR BOYS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. ASHBROOK. Mr. Speaker, I got a little sick when I listened to the debate today on H.R. 8410. The bad guys are the employers, the businesses. None of the speakers on the Democratic side even made a passing reference to any of the long list of threats, violence, union fines to discipline members, and unfair labor practices on the part of the Textile Workers Union. They would have you believe the No. 1 bad guy in America is J. P. Stevens.

Well, look at some of the unfair labor practices which the Textile Workers have been adjudged guilty. Also read my speech on violence, particularly those portions that deal with the Textile Workers Union, also in today's CONGRESSIONAL RECORD. J. P. Stevens looks like a collection of choir boys when you compare their record to the union.

Here are some of the citations involving the Textile Workers Union:

LISTING OF LAW VIOLATIONS COMMITTED BY THE TEXTILE AND CLOTHING WORKERS UNION

1. *International Packings Corp.*, 221 NLRB 479 (1975) (Textile Workers Union unlawfully caused the discharge of an employee and threatened employee.)

2. *Altman* v. *Clothing Workers*, — F. Supp. —, 90 LRRM 2777 (S.D.N.Y. 1975) (Amalgamated Clothing Workers motion for summary judgment denied in action charging the union with discriminating against former union official by preventing him from obtaining employment and getting him discharged after he found employment.)

3. *Amalgamated Clothing Workers (Shutzer Mfg. Co.)*. 210 NLRB 831 (1974) (Amalgamated Clothing Workers Union violated its duty to bargain in good faith.)

4. *Kayser-Roth Corp.* v. *Textile Workers*, 479 F. 2d 525 (6th Cir. 1973) (Textile Workers Union was ordered to pay over one million dollars for damage caused during violent strike.)

5. *Hartner* v. *Joint Board*, 339 F. Supp. 1257 (D. Md. 1972) (Clothing Workers Union violated union member's right to be free of improper disciplinary action when union disqualified member from running for union office for one year.)

6. *NLRB* v. *Textile Workers, Local 1029*, 409 U.S. 213 (1972) (Textile Workers Union violated the law by interfering with the rights of employees.)

7. *Corder* v. *Clothing Workers*, 305 NYS 2d 739, 72 LRRM 2878 (N.Y. Sup. Ct. 1969) (Retired Clothing Workers Union member sued union for pension benefits alleging fraud on the part of the union.)

8. *Blue Jeans Corp.* v. *Clothing Workers*, 169 S. E. 2d 867, 72 LRRM 2661 (N.C. Sup. Ct. 1969) (Clothing Workers Union and union members held in contempt of court for disobeying restraining order. Union members engaged in intimidation and harassment of employees, blocked traffic, and used vulgar and insulting language toward employees, all in violation of court's order.)

9. *NLRB* v. *Amalgamated Cothing Workers of America*, 430 F. 2d 966 (5th Cir. 1970) (Clothing Workers Union violated the law when it threatened employees that they would lose their jobs unless they joined the union.)

10. *Clothing Workers (Canton Mfg. Corp.)*, 171 NLRB 641 (1968) (Amalgamated Clothing Workers violated the law by interrogating employees and refusing to process employee grievances in an attempt to discourage the employees from consulting the National Labor Relations Board.)

11. *Simmons* v. *Avisco, Local 713, Textile Workers Union*, 350 F. 2d 1012 (4th Cir. 1969) (Textile Workers Union was sued by one of its own members for damages caused by the union's unlawful suspension of the member during an investigation of alleged election fraud. The jury's award of $15,000 in damages was upheld on appeal.)

12. *Clothing Workers Union (Jaymar Ruby, Inc.)*, 151 NLRB 555 (1965) (Union violated the law when it threatened two employees that they would lose their insurance benefits if they failed to pay fines imposed for missing union meetings.)

13. *North Carolina* v. *Walker*, —— S.E. 2d ——, 47 LRRM 2981 (N.C. Sup. Ct. 1960) (Several members and officers of Textile Workers Union were found guilty of conspiracy to explode a bomb in a textile plant in order to make a strike there more effective.)

14. *Textile Workers Union (Charles Weinstein Co.)*, 123 NLRB 590 (1959) (Textile Workers Union business agent unlawfully restrained and coerced employees by threatening and kicking company vice president who was entering plant gate. Employees were threatened and assaulted by union members in violation of the law.)

15. *Taylor Fibre Co.* v. *Textile Workers Union*, 151 A. 2d 79, 44 LRRM 2110 (Pa. Sup. Ct. 1959) (Court properly issued injunction prohibiting Textile Workers Union from continuing to engage in illegal mass picketing, threats and intimidation during strike.)

16. *National Automotive Fibres*, 121 NLRB 1358 (1959) (Textile Workers Union violated the law when it caused employee to be discharged because he did not pay union dues while he was on layoff. Employee tried to withdraw from union when on layoff but union refused because employee owed the union a fine for not attending meetings.)

17. *Ex parte Evett*, 89 So. 2d 88, 38 LRRM 2287 (Ala. Sup. Ct. 1956) (Textile Workers Union held in contempt of court for disobeying the court's restraining order against unlawful picketing including coercion, intimidation and use of physical restraint against employees and job applicants. Strikers severely beat applicants so that medical care was required, called them abusive names, threatened them, and broke their car windows.)

18. *New Orleans Laundries*, 114 NLRB 1077 (1955) (Clothing Workers Union violated the law when its business agent threatened employees that they would be discharged if they continued to support rival union and engage in activity on behalf of rival union. Clothing Workers Union also violated labor law by refusing to process grievances of employees who were trying to get different union.)

19. *Wortex Mills* v. *Textile Workers Union*, 109 A. 2d 815, 35 LRRM 2132 (Penn. Sup. Ct. 1954) (Textile Workers Union was enjoined from engaging in unlawful mass picketing which the court found to be accompanied by threats and intimidation of employees. Union was also required to pay employer over $66,000 in damages caused by the unlawful strike.)

20. *Anniston Yarn Mills, Inc.*, 103 NLRB 1495 (1953) (Textile Workers Union violated labor laws by causing employer to cancel a nonunion employee's seniority because of her failure to participate in a strike and her nonunion status.)

21. *Royal Cotton Mill* v. *Textile Workers Union*, 67 S. E. 2d 755, 29 LRRM 2142 (N. C. Sup. Ct. 1951) (North Carolina Supreme Court upheld contempt of court citations against members of Textile Workers Union for wilfully and contemptuously disobeying court order prohibiting mass picketing and assault of nonstriking employees.)

22. *NLRB* v. *Acme Mattress Co.*, 192 F. 2d 524 (7th Cir. 1951) (International Union held liable for wrongful acts of Textile Workers Union representative who caused discharge of employee in return for calling off strike and signing contract.)

23. *Erwin Mills* v. *Textile Workers Union*, 67 S. E. 2d 372, 29 LRRM 2092 (N. C. Sup. Ct. 1951) (Textile Workers Union members were held in contempt of court for not obeying restraining order which prohibited mass picketing and acts of violence, force, coercion and intimidation.)

24. *Grist* v. *Textile Workers Union*, 82 A. 2d 402, 28 LRRM 2405 (R. I. Sup. Ct. 1951) (Textile Workers Union picketed nonunion plant during nationwide strike. Pickets used threats, insults and force to keep nonunion employees from entering plant.)

25. *Bloomsburg Mills* v. *Textile Workers*, 26 LRRM 2024 (Pa. Ct. Com. Pls. 1950) (Court issued injunction against Textile Workers Union engaged in unlawful picketing. Court found that picketing was accompanied by violence, threats, assault, intimidation and molesting of nonstriking employees. Pickets also found to have damaged employees' cars and trespassed on private property. Several employees, including women, were kicked and assaulted as they attempted to enter the plant.)

REVOLUTIONARY TEACHING SYSTEM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McKINNEY. Mr. Speaker, a constituent, Dr. Peter C. Goldmark, has developed an electronic teaching device that encompasses a number of significant technological breakthroughs. If fully utilized the system could serve to bridge cultural and educational gaps in this country and throughout the world.

The system, known as rapid transmission and storage (RTS) embodies several unique capabilities. Dr. Goldmark has developed a highly technological process that enables the "packing" of up to 30 hours—60 half-hour lessons—of audio and visual information onto a conventional 1-inch magnetic tape. The lessons consist of a continuous sound format accompanied by still pictures. The still pictures are used to conserve space on the tape, however, moving pictures can be used when it is necessary for clarity. The tape is played back on a small mobile piece of transmission equipment, similar to a portable tape machine. The machine when hooked up to conventional television sets can transmit the 60 different half-hour lessons simultaneously to as many as 30 different television monitors. An electronic coding method enables each professor to chose any one of the 60 different lessons.

The system can also be used in conjunction with an educational or commercial television station. During the 8-hour period when the station is normally off the air, over 240 different half-hour lessons can be transmitted and received for the next day's use in a designated learning center. The material can be used as many times as is desired. When a sufficient quantity and variety of instructional material is developed and available, the RTS system would permit the transmission and storage of 40 hours of instructional material to be received and shown on one's home TV set.

North Carolina's community college system is the first to put the RTS to work. Lesson material is in preparation for 10 study centers in the Charlotte area, and lessons will eventually be extended to the 57 other institutions in North Carolina's community college system. Other community colleges joining in the initial RTS program are in Chicago and Glen Ellyn, Ill., Costa Mesa, Calif., Eugene, Oreg., and Kansas City. It is hoped that these programs will be able to expand the ability of the community colleges to deliver educational services closer to where people live and work, without a large investment in additional facilities.

I would like to gratefully recognize the contribution of the Department of Housing and Urban Development (HUD) whose funding of the rural society project enabled Dr. Goldmark to develop the RTS system. It is my hope that the system will reduce the gap between the city and country, giving those in less populated areas access to the many cultural and educational advantages that exist in the more densely populated areas.

Dr. Goldmark is president of his own company, the Goldmark Communications Corp. of Stamford, Conn. He holds more than 160 patents and is responsible for the invention of the long-playing record and the color television.

SENATE—*Wednesday, October 5, 1977*

(Legislative day of Tuesday, October 4, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

The PRESIDENT pro tempore. Our guest chaplain this morning is the Reverend E. J. Singletary, Church of the Nazarene, Jackson, Miss.

PRAYER

The Reverend E. J. Singletary, Church of the Nazarene, Jackson, Miss., offered the following prayer:

Our Father, we thank You for present privileges and past blessings. We come to share with these men in a prayer for Your blessings upon the proceedings of this day.

Grant us that sincere humility which gives You entrance into our affairs. Help us to pray, for no other resource offers such promise, as the apostle reminds us in James 1: 5: *If any of you lack*

*wisdom, let him ask of God, that giveth to all men liberally * * *.*

We ask that the judgments here shall bear the scrutiny of time, that the solutions will not return to haunt us but to bless us. Wisdom too late is a luxury we cannot always afford.

Breathe upon us that our work may be done with diligence and dignity. Oil the machinery of these proceedings by Your spirit. Give the peace which attends men and women of good will.

Father, we pray for the personal needs of these here today. They are bone of our bone and flesh of our flesh. Where there is sickness, heal; where there is sorrow, comfort; and where there is disappointment, encourage.

Grant that we may lift our spirit to You. "The world is too much with us" (William Wordsworth), and we are not enough with You. Give us of yourself that we may give our best to those we serve. Amen.

RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, October 4, 1977, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on tomorrow, October 6, to consider judicial nominations, and recodification.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be permitted to meet until 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. ON THURSDAY, FRIDAY, AND SATURDAY.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, and Friday, it stand in recess, respectively, until the hour of 9 o'clock a.m. on tomorrow, Friday, and Saturday. Of course, this can be changed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time.

The PRESIDENT pro tempore. The Senator from Alaska is recognized.

MORATORIUM ON HUNTING OF BOWHEAD WHALES

Mr. STEVENS. Mr. President, the Eskimo people of Alaska need help in combating the adverse impact of the International Whaling Commission's ruling on a moratorium on subsistence hunting of bowhead whales.

I was delighted to learn that the Association on American Indian Affairs has joined those of us who have urged that the United States object to this moratorium.

In a well-reasoned statement, William Byler, executive director of AAIA, has urged our Federal Government to support the Eskimo people's continued utilization of the bowhead whale for subsistence purposes.

There are no people in the world who would seek the extermination of the bowhead whale less than the Alaskan Eskimo. They do not take these whales for commercial purposes; rather, as their forefathers have done since the beginning of Eskimo life, they have based a substantial portion of their culture and their social life on subsistence whaling.

I have urged that fears for the bowhead be met by enabling the Eskimo people to establish a voluntary self-imposed quota system. Any precipitate action by the Federal Government on a mandatory basis is doomed to failure.

I ask unanimous consent that Mr. Byler's statement be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM BYLER

The Association on American Indian Affairs urges that the United States object to the moratorium on subsistence hunting of bowhead whales by Alaska Eskimos voted by the International Whaling Commission. Our recommendation is based on the following consideration:

(1) The Commission has no jurisdiction over Alaska Eskimo subsistence whaling;

(2) The Eskimos possess aboriginal, constitutional, and statutory rights that would be abrogated by the imposition of a moratorium, and it is the duty of the United States as trustee to assert these rights;

(3) The United States and the Commission do not have the information necessary to support a conclusion that a moratorium should be imposed;

(4) The facts available to the United States indicate that a moratorium should not be imposed;

(5) Enforcement of any moratorium, in the absence of community consent, is likely to prove ineffective and could provoke serious social conflict;

(6) The imposition of a moratorium would have a devastating impact on Eskimo culture and society, on the mental health of the whaling villages, and on the psychosomatic wellbeing of the individuals affected; and

(7) A moratorium could produce a result opposite of that intended.

The work of the International Whaling Commission in the past has helped safeguard Eskimo life by protecting the bowhead from extinction through commercial exploitation. It would be senseless and tragic for the United States to succumb to the Commission's assault on Eskimo whaling and destroy the communities that have benefited most from the Commission's achievements.

The International Whaling Convention of 1946 is founded on the principles of voluntary compliance and self-regulation. These same principles should be permitted to operate in Eskimo villages today as in the past, because they have proven effective in protecting the bowhead whale.

The Eskimos of Alaska's whaling villages do not claim a right to exterminate the species. Such a proposition would be unthinkable to them since the bowhead is the basis of their unique culture and society, their identity. They claim a right to survive as a people.

ABORIGINAL RIGHTS AND JURISDICTION

The International Whaling Convention was designed to save the bowhead whale from extinction through the regulation of commercial whaling. It was not intended to regulate aboriginal subsistence hunting. Consistent with this interpretation, the United States has resisted any quota on bowheads taken by Alaska Eskimos for subsistence purposes until the 29th Session of the Commission, when it abstained.

It is a well-established principle of federal law that any limitation on aboriginal rights may not be lightly inferred from the acts of Congress, and these rights are presumed valid unless expressly taken. The convention contains no language authorizing the Commission to regulate or abolish Eskimo subsistence whaling. Congress, in ratifying the convention, had an opportunity to amend it to accomplish this purpose and did not do so. The inescapable conclusion is that Congress, with its plenary power over Indian affairs, chose not to delegate its power to the Commission and, therefore, the Commission lacks jurisdiction to limit the aboriginal rights of Eskimo whalers.

Since the acquisition of Alaska in 1867, the United States has acknowledged and respected the aboriginal rights of Alaska natives. The Treaty of Cession, the Alaska Organic Act of 1884 establishing a territorial government, and the Alaska Statehood Act of 1958 contain provisions prohibiting the disturbance of native populations in the use and occupancy of their lands in order to protect their aboriginal property rights and their subsistence activities. The Alaska Native Claims Settlement Act of 1971 is based on Congressional recognition of the continuing importance of subsistence hunting and fishing and conveyed to the natives title to forty million acres of land to protect their traditional economies and to permit them to develop their lands for income and employment.

Congress has repeatedly and expressly confirmed Alaska native hunting and fishing rights in its conservation legislation. For more than a century, acts of Congress limiting or prohibiting the killing of fur seals, wild animals, and wild birds and restricting fishing in Alaska have provided exceptions for subsistence use. International conventions ratified by Congress for the protection of the fur seal and migratory birds contain like exceptions.

Similarly, Congress exempted Eskimo subsistence whaling from the general provisions of the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. In so doing, Congress reaffirmed aboriginal rights and chose not to predicate them on the actions of the Commission.

Eskimo subsistence whaling is an integral and essential part of Eskimo culture and social structure, and these are constitutionally protected. Although the legal rights of Alaska Eskimos to cultural and social integrity are not absolute, the United States may subordinate these fundamental rights only upon a clear showing of a compelling and substantial government interest. This

interest cannot be pursued by means that broadly stifle personal liberties when the end may be achieved more narrowly.

The draft Environmental Impact Statement of August 1977 demonstrates no compelling and substantial interest of the United States that would be served by acceding to the Commission's action to justify truncating the fundamental liberties of its Eskimo citizens.

The DEIS suggests that, were the United States to exercise its legal right to object to the action, it "could lose credibility as a conservation force and its efforts in other international conservation forums may be compromised." To subordinate the constitutionally protected rights of Eskimo whaling communities to tactical considerations in international conservation negotiations is unworthy of the nation's high principles. The efforts of the United States to protect endangered species are successful because they are based on a strong ethical foundation and are supported by the American public. Its success and its public support could be eroded were the government to sacrifice the Alaska Eskimos to expediency in its efforts to limit internationally the commercial exploitation of species other than the bowhead whale.

The DEIS also states that objection to the Commission's action would contradict President Carter's public statements and actions. To the best of our knowledge none of these address the issue of the Commission's jurisdiction over Eskimo subsistence whaling. It is evident, however, that acquiescence to the Commission's ban on Eskimo whaling could compromise the President's campaign to strengthen human rights around the world and may impair our credibility with nations that view our national attitudes toward race and minorities with misgivings. Further, it would contradict the President's avowed support for policies that will strengthen rather than destroy Native American family and community life.

Congress did not intend that the Executive branch subordinate these vital government interests and the personal liberties of its Eskimo citizens to the actions of the Commission.

Failure to file an objection to the Commission's action would also violate the requirement that the United States must employ the least drastic alternative in seeking to preserve the bowhead whale. The Commission's action resorts to the most drastic alternative, and the United States would be called upon to enforce it against armed and unwilling village populations.

Under the Marine Mammal Protection Act and the Endangered Species Act, the United States has ample and unquestioned authority to halt any wasteful whaling practices and generally to regulate subsistence whaling if it is required to protect an endangered species. Regulation under these acts is likely to prove more temperate and humane.

Nevertheless this federal intrusion into the culture and society of Eskimo whaling communities is unwarranted. Community self-regulation, with federal encouragement and support, is the least drastic, most socially responsive alternative. It places the primary responsibility for preservation of the bowhead on those who have the most to lose by its destruction.

In light of the powers of Congress and its clear intent, compelling and substantial government interests, and the aboriginal and constitutional rights of the Eskimo, the United States is required to object to the Commission's action on Eskimo subsistence whaling.

THE EVIDENCE

The only possible justification for imposing a ban would be reasonable proof that the kill clearly and immediately threatens the survival of the species. That is, it must be shown that the Eskimos are a danger to themselves. This is not supported by the facts.

Before the United States can make an informed and valid judgment it is necessary to know with some reasonable degree of accuracy the abundance of the bowhead whale and its reproduction rate in order to assess the impact of Eskimo whaling and determine an acceptable level of harvest.

Estimates of current bowhead population abundance vary widely. Rice (1964) estimates a population size of 1,000; Harry (1973) between 1,000 and 3,000; Durham (1974) 2,500; Mitchell (1974) the high hundreds or low thousands; Fay (1975) about 1,000; and Scheffer (1976) 2,000. Marquette (1977) states, "A preliminary analysis of data obtained by OCSEAP surveys in 1976 suggests that as many as 800 bowhead whales may have migrated past Barrow during the spring survey period (25 April to June); given the protracted migration period (March until July) and the evidence of sightings and past catches of bowheads in the Chukchi Sea during the summer, it is unlikely that this number totally accounts for the current stock size."

Three 1977 reports by the Northwest and Alaska Fisheries Center of the National Marine Fisheries Services agree that present abundance estimates cannot now be made with the requisite precision and accuracy:

"Further examination of survey methodology will be required before the questions concerning precision and accuracy of estimates of total bowhead abundance might be answered."—Tillman.

"The question of bowhead population abundance remains unanswered. From data collected in 1976 a total estimate cannot be made."—Braham and Krogman.

"Reliable information on the natural history, numbers of animals, and migratory patterns with resepct to the bowhead population is not now available for proper evaluation of the biological effect of the Eskimo harvest and of the potential effect of oil spills."—Marquette.

The Marquette report indicates huge gaps in our knowledge of the natural history of the bowhead:

Little information on the biology of these animals is available;

Little is known about the reproduction and growth of bowhead whales;

The mating season for bowheads is not well defined;

The gestation and calving periods . . . are also not well defined for this species;

Information concerning fetuses and newborn calves of bowheads has been rarely recorded in the literature; and

We do not know how long the lactation period is nor how long calves remain with their mothers.

The DEIS confirms this glaring lack of information. With this as a basis for judgment, the Executive branch clearly has no scientific justification for acceding to the Commission's ban on Eskimo subsistence whaling or for imposing its own.

Available information on the Eskimo harvest past and present indicate that the United States should not impose limits on subsistence whaling.

A number of observers over the past fifty years note an increase in the bowhead population: Bailey and Hendee (1926), Rainey (1947), Mansfield (1971), Mitchell (1974), and Fay (1975). Marquette (1977) states Eskimo observers also report increased populations. Rice (1974) estimates that there was no population change during this century despite Eskimo whaling.

If, in fact, the population is increasing or stabilized—and there is no contrary indication—then contemporary subsistence hunting will not endanger the species, unless the kill is increased over time to the point of depletion. Concern has been expressed over recent increases in the number of bowheads harvested, those killed but lost, and those struck but lost. Available information suggests that the results of recent whale hunts probably fall within acceptable limits.

Data for the period 1973–75 indicate a 60% decrease in the number of bowhead whales harvested: 37 in 1973, 20 in 1974, and 15 in 1975. Eskimo hunters attribute the poor results in 1975 to ice conditions. The total harvest of 72 whales in this three-year period represents a 15% decrease over the period 1970–72, when 86 whales were taken.

Opposite to this trend is a sharp increase in the 1976 harvest when 48 whales were taken. Eskimo hunters attribute this to a greater abundance of whales and to good weather. A comparison of the harvest in the 1976 spring hunt (36 whales) and the 1977 spring hunt (26 whales) shows an overall decrease of 28 percent, despite a significant increase from 13 to 19 in the number of bowheads taken at Barrow.

The harvest of bowhead whales appears to have remained fairly constant throughout this century, except at Barrow. At Point Hope it has ranged between 0–10 for 53 of the 60 years reported and averaged 4.4 bowheads per year for the 60-year period. The most intensive harvest was during the four reported years in 1922 and 1924–26 when an average of 13 bowheads per year were taken. Over the past decade Point Hope has caught an average of 6.5 whales per year. In the three years 1975–77 it has taken an average of 6 whales and in 1977 it took only 2 whales. At Wainwright, the harvest has ranged between 0–3 bowheads for each of the 27 years reported and averaged 1.4 whales per year for a 27 year period. Over the past decade Wainwright has averaged 1.8 whales per year, and the result for the last three years falls slightly below this average. Kivalina has taken only 5 whales in the nine years reported and the one whale that it harvested in 1977 was its first whale in five years. Other villages harvested 0–3 bowheads in 27 of the 31 reports available and reported a total of only 71 bowheads taken since 1908.

The harvest at Barrow has been far more erratic over time than at other villages. In a number of years during the early part of this century, Barrow took fewer whales than Point Hope, but this has not occurred in the last 18 years. Since 1949 there have been 17 years when the harvest has ranged between 0–10 whales (including five years when no whales were taken) and 11 years when it ranged between 11–23 whales. Over the past decade Barrow has harvested an average of 13 whales per year compared with less than 6 whales per year for each of the two decades preceding it. However, during the years 1925–31, Barrow harvested an average of 10 bowheads per year and in 1925 took 19 whales, a harvest since exceeded only in 1976.[1]

The DEIS estimates that the harvest in the last decade is higher than at any other time. However, its data for the early years is based largely on reports from only two villages, Barrow and Point Hope, while in recent years, owing to improved monitoring, its data reflect results from nine villages. Our analysis of the data from these two villages indicated that the harvest falls within historic limits. The greatest annual harvests occurred in 1885 with 40 whales taken, 1896 with 39, and 1908 with 36. The greatest total harvest over two consecutive years occurred in 1908–09 when 60 whales were taken. (During this same year 10–12 whales were harvested at Icy Cape.) The decade when the most intensive harvesting occurred appears to be the 1920s.

[1] The results of the 1977 fall hunt are not available at this time.

There are undoubtedly many factors that determine year-to-year fluctuations in the harvest and the relatively constant rate of harvesting over time. A number of these are beyond the direct control of the whalers, among them: the exigencies of the weather, its affect on migration patterns, and the sheer luck of the chase. These would tend to balance out over time.

It appears that the most important human factor limiting the harvest is the level of effort, measured in the number of crews engaged in whaling. The evidence suggests that this, in turn, is governed by traditional, self-imposed community restraints on excessive hunting and that these restraints are directly related to community needs.

The DEIS suggests that the increased harvest in 1976 and the general increase in the past decade may be attributable to a sudden affluence resulting from the Alaska Native Claims Settlement Act of 1971 and from wage work, enabling more whalers to purchase boats and equipment. On the other hand, an increase in the cash economy could reduce community dependence on subsistence whaling, and time spent working for wages could reduce time available for hunting.

We suggest that one factor which most directly influences the number of crews whaling appears to be the result of the prior whaling season—that is, need.

The importance of the success of the prior season in determining the number of crews whaling is illustrated by the following table, which shows (a) the number of bowheads taken in the spring and fall seasons from 1973 to 1977 and (b) the number of crews whaling during the spring seasons.

	1973		1974		1975		1976		1977	
	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
St. Lawrence	6	....	2	8	1	23	8	....	2	....
Kivalina	0	....	0	5	0	5	0	3	1	....
Point Hope	7	11	6	10	4	13	12	14	2	....
Wainwright	3	6	1	2	0	4	3	8	2	....
Barrow:										
Spring	15	28	6	21	10	30	13	36	19	....
Fall	2	....	3	....	0	....	10	....	....	....

In the spring of 1973 Point Hope, Wainwright, and Barrow reported a total of 45 crews whaling and a harvest of 25 whales. Barrow took 2 whales in the fall. In the spring of 1974 each village shows a decrease in the number of crews, with the most significant decreases occurring at Wainwright and Barrow. In the spring of that year, 33 crews engaged in the hunt, a 27% decrease over the prior year, and they harvested 13 whales, a 48% decrease. Barrow took 3 whales in the fall. Then in the spring of 1975, apparently to compensate for the sharp decrease in the 1974 harvest, the number of crews from these three villages increased to 47—the 1973 level; but, owing to weather conditions, the results were poor and only 14 whales were taken. Barrow took none in the fall. In the spring of 1976, following this same pattern, the number of crews increased to 58 and the number of whales harvested rose to 28—twice the spring harvest of the prior year, but only slightly above the level for 1973. The fall harvest at Barrow rose to the unprecedented level of 10 whales. The experience at St. Lawrence Island shows a similar pattern: the number of crews rose 300% to 23 in 1975 following poor results in 1974 when only 2 whales were taken. The significance of reports from Kavalina are obscured by the fact that no whales were taken from 1973 to 1976, but they probably reflect a maximum level of effort by this small village.

The importance of factors of opportunity and chance beyond the hunters' control are reflected in the lack of direct correspondence between the number of crews whaling and the number of whales harvested. The following table shows the total number of boats operating at Point Hope. Wainwright, and Barrow in the spring hunts; the number of whales taken; and the average number of whales taken per crew:

	Crews	Whales taken	Harvest per crew
1973	45	25	0.55
1974	33	12	.40
1975	47	14	.30
1976	58	28	.48

This is most vividly shown by the results from St. Lawrence Island where 8 crews took 2 whales in 1974 and 23 crews took only 1 whale in 1975.

The number of crews whaling in 1977 appears to indicate an important change in the factors controlling need. Owing to the great harvest in 1976, it would be expected that the number of crews would decline; but preliminary reports indicate that approximately the same number of crews were engaged in the spring of 1977. A decline in the cash economy and/or restrictions on the hunting of other species probably account for this. Greater federal efforts to enhance and stabilize the cash economy of the villages and conservation management based on the human ecology of the region rather than by species should reduce this sudden increase in reliance on the bowhead.

What causes special concern is the recent sharp increase in the numbers of bowheads reported killed but lost and struck but lost. Barrow accounted for all eight animals reported killed but lost in 1976 and 11 of 13 reported between 1973–76. Barrow and Point Hope together accounted for 30 of the 35 whales reported struck but lost in 1976 and 75 of 99 reported in 1973–76. The number of whales struck but lost in the spring of 1977 rose alarmingly to more than twice the number for the prior year.

The DEIS suggests that one of the factors contributing to an increase in the number of whales lost may be increased hunting by inexperienced crews of young men. It is presently impossible to guage the impact of inexperienced crews.

Improved monitoring may account, in part, for the increase in the number of whales reported lost. This might help explain differences among observers on the ratio of whales harvested to whales struck. Johnson et al. (1966) estimates that the ratio is 1:4 and Durham (1974) estimates 1:4 or 1:5. Scott (1951) and Marquette (1977) estimate 50 percent of all whales struck are not recovered. But monitoring is inherently difficult. Eskimo hunters point out that there may be considerable duplication in the count of whales lost. For example, a wounded whale is more likely to be struck again; a mortally wounded whale as struck but lost may be counted again as killed but lost. Occasionally a whale counted as struck but lost is harvested in another season. Abnormal weather conditions, an abundance of whales, and chance undoubtedly are factors in animal variations in the number of whales lost. For example, the number of St. Lawrence Island crews engaged in the hunt in 1974 and 1975 increased from 8 to 23, but the number of whales lost only increased from 2 to 4. At Barrow, the number of crews whaling in the spring of 1974 and 1975 increased from 21 to 30, but the number of whales lost decreased from 20 to 11. In any case, the number of whales lost by new crews can be expected to decline with experience. Federal funds for a program to assist whaling villages in training new crews might accelerate the learning process.

There is general agreement that equipment failures and a change in whaling methodology at Borrow contributes to an unnecessarily large number of whales struck but lost.

Eskimo whaling communities are acutely aware of the hazards associated with any significant increase in the number of whales killed and are seeking means to limit this without impairing their culture and society, and their health and general wellbeing. They have invited the United States to assist them in their efforts.

Eskimo community restraints have worked effectively in the past to limit the number of whales killed and the species has survived and may be increasing. There is no reason to believe that they will not work in the future and no evidence to support the Commission's drastic action.

ENFORCEMENT

The key to international conservation efforts is agreement by governments and peoples that the regulations imposed are just solutions to international problems. To the Eskimo people of Alaska, the action of the Commission to ban subsistence whaling is capricious and arbitrary. For the United States to disregard its own laws and fail to object to the action can only help undermine Eskimo respect for our laws.

It is virtually certain that Eskimos will not comply voluntarily and will attempt to continue to hunt. Enforcement of the action on an unwilling population that feels betrayed would be extremely difficult, with grave poliitcal consequences. At a minimum, one can foresee massive civil disobedience. At worst, the federal government might have to resort to armed intervention against its own people and order military occupation of Native villages in order to compel obedience to an international ruling in violation of long-standing American principles.

CULTURAL IMPACTS

Opposite to the uncertainty surrounding the impact of Eskimo whaling on the survival of the species is the certainty that a sudden, arbitrary and capricious ban on whaling would seriously disrupt, and might destroy, a complex economic and social structure that has evolved over thousands of years. The federal government has had two centuries in which to observe the devastating effects of its intervention into Native American community life.

It has long been the policy, if not the practice, of the United States to recognize and respect the cultural integrity of minority populations. The thrust of federal programs for Indian and Alaska Native people has been based on the recognition that cultural pluralism is a source of national strength. Where, as here, governmental intervention is proposed into a matter that is of such profound consequence for the survival of a people, the government must examine carefully and critically the importance of and the rationale for its action.

The destructive impact of government intervention is indicated by Alexander H. Leighton, M.D.[2], a member of our National Committee on Indian Health, in his statement objecting to the Commission's action:

"Subsistence whale hunting is of the first order of importance in terms of traditional Eskimo culture. It is vital to the development of skills, dignity, and cooperation; and these are important values to the mental health and psychosomatic wellbeing of Eskimo whale hunters. Any interference with the opportunity to continue the traditional hunt is a very serious matter and would undoubt-

[2] Dr. Alexander H. Leighton is Professor of Behavioral Sciences Emeritus, Harvard University; National Health Scientists of Canada; and Professor of Psychiatry and Preventive Medicine, Dalhousie University Medical School.

edly have adverse affects on mental health in the whaling villages and on the self-image and personality structure of the people affected."

"Eskimo hunters are the first to acknowledge that protecting the whale is essential to the preservation of their culture. For thousands of years, community self-regulation has proven successful in safeguarding the species. It should be encouraged, rather than thwarted, by government action."

Calories are not culture. The solution reached by the Soviet Union—using state whaling vessels to harvest bowheads and deliver them to its Eskimo population—provides for Eskimo physical needs but undermines their cultural integrity. For the United States to resort to solutions such as this would begin the transformation of independent, self-reliant and self-sufficient American Eskimo communities to welfare ghettos. The caloric intake of Eskimo people from bowhead whales can be replaced; but the cultural fabric of Eskimo life that is woven around the whale hunt cannot be.

Federal intervention would undermine vital family and social structures. These would in turn contribute to the circumstances leading to the break-up of Eskimo families, already a widespread problem in Native Alaska. Children separated from their families may suffer such severe distress that it interferes with their physical, mental, and social growth and development. Government intrusion into the cultural life of the community disrupting its subsistence economy and its traditional mechanisms for self-regulation could ultimately lead to the creation of a "culture of poverty" where large numbers of people feel hopeless, powerless, and unworthy, and where state intrusion becomes the norm rather than the exception.

Government intervention apparently has already begun dismantling the Eskimo economy. Federal and state interference with the Eskimos' ability to harvest other foods—including caribou, walrus and migratory birds—seems to have caused the villages to become more dependent on the bowhead than before and this in turn may ultimately threaten the species.

IMPACT ON CONSERVATION

Since the Bering Sea stock of bowhead whales became the subject of special attention by the Commission's Scientific Committee in 1972, the Commission has encouraged the United States to study the population abundance and natural history of the bowheads and the impact of Eskimo whaling on the species. It has also sought to limit waste—that is, the number of whales struck but lost. The failure of the United States to act promptly and the sharp increase in the number of whales lost led to the Commission's drastic action in 1977.

This action, if enforced, would help to defeat the Commission's own goals. To impose a ban on Eskimo harvest before the results of the studies in progress are analyzed is unscientific and unjustified. To interrupt subsistence whaling now would seriously impair the validity of studies seeking to understand the changing Eskimo subsistence economy over time and the impact of Eskimo whaling on the species. Moreover, if the Eskimos believe, as they now have reason to fear, that the information they have generously shared with scientific investigators will be used against them, they may refuse to cooperate any longer. This would result in a loss of the best source of information for learning more about the bowhead's natural history.

Moreover, successful enforcement of the ban could lead to an increased harvest of other whales and marine mammals, possibly endangering these species.

The leadership role of the United States in world conservation agreements has been made possible by the support of the American public for such efforts. Acquiesence by the federal government in an action that is arbitrary, in violation of domestic law, and dangerous to the Eskimo people can only lead to an erosion of this support. If the United States is required to employ military measures to suppress a defenseless aboriginal people, which it has pledged to protect, on the pretext of saving them from themselves, the impact on world public opinion could be catastrophic.

CONCLUSION

For the reasons stated above, we urge that the United States exercise its legal right to object to the Commission's action to ban Eskimo subsistence whaling, and we further urge that the federal government encourage and support Eskimo community self-regulation.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

PANAMA CANAL TREATIES—NO. 12

Mr. ALLEN. Mr. President, this is the 12th speech in a series dealing with the proposed Panama Canal treaties. Yesterday I testified before the Senate Committee on Foreign Relations, and in lieu of full remarks in the Senate on the canal treaties, I obtained unanimous consent to have printed in the RECORD my testimony at the Foreign Relations Committee hearing. Today, Mr. President, I will discuss the historical background against which the United States negotiated the Hay/Bunau-Varilla Treaty, the treaty of 1903, which made possible the construction of the Panama Canal. Frankly, there is so much misinformation on this subject that perhaps the Senate will find advantage in a review of the facts as they actually occurred.

Although an isthmian canal had been contemplated from the time of Cortez, the first significant event leading to the construction of the canal was the treaty of 1846 with Colombia, then known as New Granada. Under the provisions of the treaty, New Granada guaranteed to the United States the exclusive right of transit across the Isthmus of Panama—the State of Panama, which was then a province of New Granada—"upon any modes of communication that now exist or that may be hereafter constructed."

So this language is really the forerunner of the rights and the property rights that the United States gained under the treaty of 1903 "upon any modes of communication that now exist or that may be hereafter constructed." In exchange, the United States guaranteed "positively and efficaciously" the "perfect neutrality" of the isthmus—I repeat, this sort of language goes away back, more than 100 years; the United States guaranteed "the perfect neutrality" of this area "positively and efficaciously," and further guaranteed New Granada's right of sovereignty in the isthmus. Pursuant to this agreement, the United States constructed the Panama Railroad, which now crosses the isthmus in the vicinity of the Panama Canal.

The discovery of gold in California in 1848 intensified the interest of the United States in a route across the isthmus. Ultimately, however, the single event which focused the full attention of U.S. citizens on the desirability of constructing a canal was the dramatic 1898 voyage of the battleship *Oregon* at the beginning of the Spanish-American War from the west coast of the United States around the Horn and into the Caribbean. Our first true modern battleship, the *Oregon* was in San Francisco when the *Maine* blew up in Havana Harbor. Victory over Spain in the Caribbean was dependent on the *Oregon's* presence. The warship was a beautiful and well equipped vessel, and with determined sailing, she did arrive off Cuba in time to play a crucial part in the battle of Santiago Bay. However, the trip took almost 70 days, highlighting the great necessity for an Isthmian Canal for expedited American naval operations. The long voyage of the *Oregon* was the great catalyst in firming American resolve to sever the continents.

Years prior, in 1850, as a first step, the construction of the Panama Railroad had begun. The railway was finished 5 years later at a cost of $8 million, six times the initial estimate. The world's first transcontinental railroad, its high construction cost which would just be a drop in the bucket compared to the costs today, of course, made it the most expensive rail line on Earth. Nevertheless, at a price of $25 in gold for a one-way ticket, it earned massive profits for its stockholders. Twenty-five dollars in gold, Mr. President, a high price in that day, was nevertheless considered quite a bargain inasmuch as a passenger could thereby reduce greatly the length of time required to remain in Panama during a transit from one ocean to the other. Panama was considered the most unhealthy region in the civilized world, and the less time spent there by a traveler, the better. During the construction of the railroad, for example, more than 6,000 construction workers died of cholera, dysentery, yellow fever, malaria, and smallpox—all diseases for which there was then no known cure.

So, Mr. President, thanks to this treaty of 1846 with New Granada and thanks to American initiative, the isthmus at Panama was spanned. So we have a long history of operations in Panama, in moving from one ocean to the other, then by railroad and now by canal. Under the terms of the treaty with New Granada, the United States was obliged to keep the railroad open and to protect it against any potential enemy, by force of arms if necessary. As a result, U.S. naval vessels were customarily stationed in the Caribbean off Colon and Panama City.

Way back then, Mr. President, we were given the right to defend the railroad and to keep the railroad open. So there is a parallel history between the situation regarding the canal today and the Panama Railroad of a century and a quarter ago.

That is one of the big objections to this treaty today, that it does not properly provide for defense of the canal. The construction of the terms of the treaty are in doubt, with Panama saying one thing and our negotiators saying another. I would say, Mr. President, that the express terms of the treaty would in-

dicate to my mind that the Panamanians have the proper construction of what the treaty means.

Way back 125 years ago it was provided that we would have a right to defend this method of going from one ocean to another, transiting the isthmus.

Now the point of recalling these facts, Mr. President, is to refute some of the present-day mythology surrounding the history of the efforts of our country in the Isthmus of Panama. The true facts are that the United States was deeply involved in Panama from a very early stage and that the work of the United States has been the critical element in establishing and maintaining safe routes of travel between the two oceans. A reexamination of the history of U.S. efforts in Panama confirms the tremendous investment of life and materiel required of the United States in its great national adventure in the Isthmus at Darien.

Most of us, for example, have forgotten the hard work of Admiral Ammen, who led seven expeditions to Central America between the years of 1870 and 1875 for the purpose of obtaining knowledge about where a canal should be built. Frankly, Mr. President, it was not at all obvious that the best route was the route ultimately taken, and much debate, as well as engineering surveys, ensued from the time of Admiral Ammen's initial expeditions until the time of decision to use the present route. The expeditions of Admiral Ammen were carefully done, and his results formed a basis for future efforts. Commenting on the Ammen expeditions, then President Grant commended the canal project to the American people with the statement, "An American canal, on American soil"—not a bad recommendation and certainly a sound concept.

To be sure, Mr. President, other nations attempted to compete with the United States in efforts to connect the oceans. Most notable of these was the effort made by the French under the leadership of Ferdinand de Lesseps. De Lesseps' claim to fame was considerable since he supervised the construction of the sea level canal at Suez. However, Suez had no relationship to Panama and de Lesseps met with no success when he tried to transpose the methods used at Suez to the pestilent-ridden jungles of Central America. The French effort collapsed in 1889 amid charges of embezzlement and corruption. Subsequent attempts to renew French construction succumbed rapidly to the returning jungle.

In 1899, after the events of the Spanish-American War, the United States established the Isthmian Canal Commission and placed the agency under the leadership of Rear Adm. John G. Walker. The Commission was charged with selecting a route somewhere across the isthmus and was given the further objective of recommending the type of canal to be built. Nicaragua, not Panama was recommended, and candidly, Mr. President, absent political considerations, the Nicaraguan route may well have been the proper choice and indeed may well be the proper choice now if the United States does choose to construct a sea level canal for the transit of major warships and supertankers.

So, Mr. President, Nicaragua was the preferred route; Nicaragua was viewed as a country with a healthier climate and a more stable government than Panama; Nicaragua had very strong support in the Congress, particularly in the Senate under the leadership of the great Senator from Alabama, John Tyler Morgan. Senator Morgan, of course, is known as the father of the Panama Canal, even though initially he supported the Nicaraguan route. Once the decision was made to construct a canal in Panama, Morgan, as chairman of the Senate Committee on Interoceanic Canals, threw his full energies into the Panamanian project.

But as I said, Mr. President, initially Nicaragua held the favored route; ultimately, however, at the culmination of what was then known as the Battle of the Routes, Congress on June 28, 1902, passed the Spooner Act to authorize the construction of an interoceanic canal in Panama.

This is in support of the discussion today, as to whether the entire Congress has to pass an act in addition to the Senate giving its advice and consent to the treaty.

You know, Mr. President, back in those days it was thought that the Congress had to authorize the President to take a major step in foreign policy, such as the initiative required to obtain canal rights in Panama. So they did pass this act called the Spooner Act to give to the President the authority to proceed. The Spooner Act involved the acquisition of territory, and we have certainly come a long way since those days because now we have an administration asserting, notwithstanding the clear language of the Constitution, that there is not even a need to obtain congressional authorization to cede U.S. territory to another nation. Yes, Mr. President, we are light-years removed from the way Government was conducted in 1902, even though only 75 years have elapsed.

The Congress gave the President authority in the Spooner Act to acquire from the Republic of Colombia "perpetual control of a strip of land" not less than 6 miles in width from the Caribbean Sea to the Pacific Ocean, and having obtained such property, thereafter to excavate, construct, and "perpetually maintain, operate, and protect thereupon a canal." So the Congress authorized the President to acquire this strip of land, and of course eventually President Theodore Roosevelt did acquire the strip of land. Yet the 95th Congress is being avoided entirely now that the administration wants to give this strip of land away.

But look at this, Mr. President. The Spooner Act contained some further provisions which should be of interest to the Senate. The President under the Spooner Act was further directed to maintain U.S. "jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as may be necessary to preserve order and preserve the public health thereon and to establish judicial tribunals as may be agreed upon thereon as may be necessary to enforce such rules and regulations."

The point I am making, Mr. President, is that this canal was no project lightly entered into by the United States. The Congress and people were deeply involved every step of the way. Great forethought went into the negotiations with Colombia and later with Panama. Great forethought went into the conditions under which the United States felt it would be acceptable for the United States to undertake the tremendous financial and human sacrifice that would be required to build this manmade wonder of the world. The matter was debated, studied, fought over, covered extensively in all the periodicals of the time, and only when great national consensus emerged was the project finally initiated.

How much different is the situation we face today. Our people are united in their resolve against these ill-advised, imperfectly drafted, and dangerous treaties, yet the administration and much of the national mass media have joined forces to attempt to ram these proposals down the throat of the Senate, to attempt to revise history, to attempt to reeducate our people—our people, Mr. President, understand already the history of the Panama Canal, because most of them grew up being told in their homes that its construction was perhaps our Nation's greatest peacetime accomplishment.

So, Mr. President, our people are going to have to be reeducated quite a bit if their resolve in opposition to these treaties is to be seriously shaken. It is going to take around-the-clock work by revisionist historians to convince our people that the construction of the Panama Canal was not a glorious achievement representing the very best of what is good about our country, a great work for peace and for humanity, an effort which produced benefits in medical science we are still enjoying today, and an achievement which lifted the Province of Panama from abject poverty, ignorance, and misery to a position of wealth and respect among Central American nations.

Efforts to revise history are well underway. For many months now and with greater and greater frequency, we hear accounts implying that the United States stole the Canal Zone from Panama and somehow, through intrigue, euchred the Panamanians out of their most valuable asset. These accounts conveniently overlook the simple fact that the only asset held by Colombia and later Panama was an accident of geography covered by a jungle into which only the brave or foolhardy dared to tread and from which few emerged.

Tomorrow, Mr. President, I plan to discuss the final events leading to the negotiation of the treaty of 1903, the Hay/Bunau-Varilla Treaty. My purpose will be to explain the circumstances under which the treaty was agreed upon and hopefully to refute the allegations of misconduct on the part of the United States in obtaining our rights in Panama. In my judgment, study of the history of

the treaty of 1903 is a worthy pursuit for all of us, because the American people are being told by many that we have something to be ashamed of in our acquisition of the Canal Zone. Mr. President, rather than shame, Americans should feel—and do feel—an immense sense of pride. A reexamination of the history of the period, rather than causing embarrassment, should reinforce our sense of appreciation for a great national achievement and should strengthen already strong resistance to any proposal which would tear down a work well done.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. SCHMITT. I yield.

AMENDMENT TO UNANIMOUS-CONSENT AGREEMENT—S. 2114

Mr. ROBERT C. BYRD. Mr. President, I am informed by Mr. MELCHER that he was unaware of the agreement entered into last night on the utility rate reform bill, S. 2114, and that he has an amendment he wants to call up. I, therefore, ask unanimous consent that a time limit of 1½ hours on the Melcher amendment be divided in accordance with the usual form.

Mr. BAKER. Reserving the right to object, and I will not object, Mr. President, Senator MELCHER spoke to me about this matter. We have no objection to amending the unanimous-consent request in that respect.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1863

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader and with the chairman of the committee and the ranking member.

I ask unanimous consent that at such time as S. 1863, Calendar Order 418, is called up and made the pending business before the Senate, there be a time agreement thereon of 3 hours to be equally divided between Mr. MCINTYRE and Mr. TOWER, that there be a time limit on any amendment of 30 minutes, a time limit on any debatable motion, appeal, or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1863 (Order No. 418), a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from New Hampshire (Mr. McIntyre) and the Senator from Texas (Mr. Tower): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

THE 20TH ANNIVERSARY OF SPUTNIK SATELLITE

Mr. SCHMITT. Mr. President, a number of Senators a few days ago had planned to enter into the RECORD statements related to the 20th anniversary of the first artificial satellite to be launched into orbit around the Earth; namely, the satellite of the Soviet Union commonly known as sputnik. That event occurred on October 4, 1957.

As a consequence of the activity surrounding the recent energy debates, we were unable to get together and suitably honor the beginning of the space age yesterday.

Today, individually, and I am sure for possibly several days, we will try to so honor that event.

It is hard for me to believe that it has only been 20 years for all that has happened to have happened as mankind has begun to move civilization off this planet and into space.

As with a few other historic events in our times, many individuals could remember exactly what they were doing and where they were when the announcement of the Soviet Union's success in space was made.

I happened to be on the west coast of Norway in a small farming community pursuing studies related to a line of research as a geologist that I was pursuing at the time, and living with a farm family in the area known as Sunnmörre. As I struggled through the use of Norwegian as the language of the area, I occasionally took a break from that effort to listen to the Voice of America. In so doing, I was informed of this great accomplishment by the Soviet Union and by mankind. I did not get much sleep that night as I reflected on something I had not thought about, other than in the reading of science fiction as a child. Then, as the days and months went by, during my year as a student at the University of Oslo, I began very quickly, I think, to realize the profound psychological impact that this event was having on the young people of the world.

The Oslo student community was not just Norwegians and Americans. It was Soviets, Polish, Indonesians, Africans, South Americans, young men and women from all over this world. There was almost no conversation during that time that I can remember that did not eventually end up discussing not only the event itself but the impact that space activities would have on the history of nations and the history of mankind. One could not be exposed to that interest in young people and not realize that the space era upon which we had entered would be a major, if not the major, influence on the future history of mankind.

Sputnik had great influence on the direction of science and the direction of engineering, technology, and education in the United States of America. We thought for some period of time that we were in a race, a very critical race, with the Soviet Union to reach the Moon. As it turned out, in 1968, for a variety of reasons, it was clear to most observers of the space scene that there was, in fact, no race; that the technological contest was unequal; that the United States was clearly capable of going to the Moon with men and returning those men safely to the Earth; that the Soviet Union was not, and I still believe today, is not capable of so doing.

That does not mean that the Soviet Union and other nations lack capability to operate in space with men and operated satellites, but the question of deep space travel and exploration and, in fact, civilization, is still largely a question that only the technological base of the United States can face. I think it more important, on, this 20th anniversary of the launching of the space age, that we should reflect on what history will think of this 20-year effort, largely dominated by the United States, what history, 100 years from now or 500 years from now or 1,000 years from now, will record as being the significant point or points during these two decades.

Mr. President, I believe very strongly that we can put ourselves roughly in the position of the historians of that future time and look back on the history of science, of technology, of nations and of mankind, and draw some general conclusions about what they will write. In the history of science, these historians will, I believe, view the effort to explore the Moon and to study space scientifically from space as a unique event in the history of science, an event that marked the time when scientists and man in general obtained their first-order understanding of a second planet. For the first time and only time could that be said.

The Moon offers a great insight into the early history of the Earth and now, for the first time, mankind could tap that insight. Man suddenly realized that his understanding of the Sun as viewed from the Earth was extremely primitive and that science now had a new platform outside the atmosphere from which to study the Sun, which drives this solar engine we call the Earth, around which we circle, and upon which we depend for our lives.

In the history of technology, these historians again, I think, will view the experience of the last 20 years as, roughly, a single event in time, for mankind, for the first time, vastly expanded the technological base on which we stand as a species to do new things, to do things that will solve crises such as energy crises, that will solve the crises of poverty, education, communications, disease, and so on; a technology base that, for the first time in human history, developed as a consequence of essentially peaceful activities and not the activities of war or activities related to war. To have another way of doing things, of developing a technology base should be taken, and I think will be taken, with great encouragement by future generations.

Those historians in that distant time that will look at the progress and history of nations also, I believe, will look upon the last 20 years as a unique event. They will record that the first truly spacefaring nation, the United States, was also the only nation of that time that was capable of defending, protecting, and replanting the very fragile seed of individual freedom—not only on the planet Earth, but elsewhere in space. That the United States, the only nation with both the idealism and the power to protect that fragile seed, should be, in fact, the first and leading spacefaring nation of the time will be a fact not lost on these future historians. In a very real, analogous sense, the United States has the same position in history that was maintained by the British nation for several centuries, when they were the dominant seafaring nation on this planet. It was through that dominance, directly or indirectly, that the seed of freedom came that our ancestors from all parts of the Earth planted on this land. It was through that influence and dominance that that seed was protected and grew and was nourished here.

We hold the same position in the broad scheme of things, I believe, with respect to space and the future of freedom, not only here on this planet, but elsewhere in the solar system.

But there are many, Mr. President, that would say the most critical element is, what will the long-term history of mankind record as a consequence of our efforts?

There I think we find the deepest and most psychologically impelling reason to honor this 20th anniversary and to continue to do so as time goes by, because mankind as a species through this 20-year period demonstrated that through the use of its technology, its minds, and its hope and dedication that it was willing to leave the planet Earth, to leave the planet of its origins, and commit itself to gravitational fields, to environment, completely alien to the evolutionary sequence through which mankind had evolved in the commitment to a representative or representatives of that species to orbit around the Moon.

A very fundamental bond was broken and new bonds were established in space.

Some day on the Moon, or on Mars, or somewhere in space, new civilizations will develop and those civilizations will tie their beginnings to the space era that beban 20 years ago.

Among the young people alive today, there are very probably the parents of the first Martians.

Mr. President, I reserve the remainder of my time.

Mr. GOLDWATER. Will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, it is a distinct honor for me to follow the previous speaker, the Senator from New Mexico (Mr. SCHMITT), who was one of the few men to stand on the Moon. In fact, it is rather unique that in this body of 100 men we have the Senator from Ohio (Mr. GLENN) who was the first American to orbit the Earth and Dr. SCHMITT—as I first knew him—one of the few men to have walked on the Moon.

But, Mr. President, I would like to say a few things about the 20th anniversary of Sputnik, which occurred yesterday.

The Soviets beat us to it. But it was more the fault of our people that this happened because a man we remember too lightly, Dr. Robert Goddard, had for many years out on the deserts of New Mexico, been testing his rockets, testing his theories of rocket propulsion.

Mr. President, these theories were later applied by our scientists to the problem of propelling a rocket that would leave the gravitational force of the Earth and be allowed to orbit and be allowed to go out of orbit and to travel to the Moon, to Mars, and now we have rockets on their way to further planets.

I will never forget the day, Mr. President, that we sat in joint session in the House and heard President John Kennedy say that we were going to the Moon. I imagine that 98 percent of the people in that room thought that the President was a little off that day. But, sure enough, he knew what he was talking about. He had his plans well laid, his thoughts worked out, and we eventually did just that.

But in the doing of that, we accomplished far more than just putting a man on the Moon, or men on the Moon. We accomplished far more than bringing back species of rocks that we found up there.

To begin with, we had to create an organization to make this possible. So NASA replaced the old NACA and went to work on the massive problem of solving the problems that had to be solved to allow us to do what we have done in space.

The first head of NASA was Mr. Webb, who put this together. Then he was followed by Mr. James Fletcher, who in my mind did a wonderful job on this because it was he who put it together in a way that made it work.

The problem immediately came up, not so much as how to get there, because our scientists knew what they had to do, they had Dr. Goddard's experiments to go on, but we then had the problem of assembling young men who could become astronauts. We, naturally, turned to the flying services of the Air Force and the Navy, and these men came to study at the established base, which was Cape Canaveral in Florida from which the launchings took place.

These were remarkable young men. They were very carefully selected. They went into the type of training that very few of us even in our younger days could have survived, leave alone survive and then do the job.

I might just say parenthetically at this point that Senator SCHMITT was, I believe, the only man who was not a pilot, who did not come out of the ranks of pilots. But I can say this to his credit, that he went to Williams Air Force Base near my home and there learned to fly jet aircraft without any previous experience or background and became a very proficient pilot.

I mention that because not many people know that.

Mr. President, the Senator from New Mexico has discussed the history and gone somewhat into what he sees in space.

I want to talk for a moment about what this means to America and, following up Senator SCHMITT's thoughts, what potential it has in its meaning to freedom and the creation of freedom around this world.

We have in space what we call the spinoffs. Many people have criticized the United States, the Congress, for having spent over $40 billion in the efforts in space. But already, Mr. President, the spinoffs, the developments from the inventions that were needed to make space exploration possible, spinoffs numbering in the tens of thousands, have returned this money to our Treasury.

I make this prediction, that within 5 years, with the operation of the Shuttle, the $40 billion will be returned every year and will continue to grow as we learn to apply more and more what the science of space has taught us.

I see particularly the payoffs in energy. I think I will live to see the day when petroleum will be used only to make medicine, and we will have solved the problem of the atom to the point that some place in the Capitol will be a black box, perhaps 8 to 10 inches square, out of which will come all the electricity this building will use forever. This also will apply to our homes, although the black box might be 2 or 3 cubic inches in size.

I think we will see whatever means of transportation we are using in 20 years propelled by fuel other than gasoline—some exotic fuel that today NASA is exploring.

With respect to the advent of the Space Shuttle, we already have more than 8,000 applications for the use of this Shuttle. When we complete other equipment, we expect to see perhaps a shuttle trip a week, continuing on and on and on, to satellites in stationary orbit, containing men and workshops, where we can do things that cannot be done on Earth.

I often have talked about one little thing that can be done in such a shop. We are limited on Earth in the manufacturing of crystals. You say, What is important about a crystal? Well, a crystal runs our radios; it controls our frequencies; it controls anything that depends on frequency. It also can change

alternating current to direct current and do it in reverse. But a crystal this size, about 14 centimeters in length, cannot be manufactured on Earth because of a gravitational force which would cause impurities in the crystal. These crystals can be manufactured in space.

You say, What good are they? These crystals, used in connection with a stationary satellite some 22,000 miles over any city in the world, placed there to collect the rays of the Sun, could change those rays into radio waves. Transmitted to the Earth and then changed into electricity, these crystals could change it from direct to alternating current, or in reverse. In fact, even today, if we had these crystals, it would be possible, with the existing electricity that New York City uses, to use crystals; and with a new technique of transmitting electricity at far below zero underground the present electricity would be more than New York ever could use.

We will find developments in medicine. We do not know what weightlessness will do for the human body. We will find out within a few years, and great advances will be made in medicine.

So, Mr. President, on this 20th anniversary of sputnik, it is not just the fact that we have orbited the Earth, that we have put men on the Moon, that we have put equipment on Mars that has enabled us to tell what Mars is like, that we are on our way to the outer reaches of what we know of space. Those are very important things. But the important thing to me is that this has given science, in this country and in the world, a great shot in the arm.

I sometimes wonder if history has not proved to us that man can go only so far with doing the things we have always done. Our governments do not seem to change much. Our society does not seem to change much. Our relation to each other does not seem to change much. There comes a time when freedom disappears because of the weakness of men. I think the future of freedom and the future of our country rest more in the continuation of the explorations of science, in the encouragement of young people to get into the fields of science. I believe that we can depend on the continuation of freedom if we will learn to learn more and to apply the learning, such as we are doing today, from what we have learned in space.

As a taxpayer, I do not begrudge one dime we have spent in space, because it is going to make my life better. It is going to make the lives of my children and my grandchildren and my great-grandchildren—and on ad infinitum—better. That is what we always should be striving for—the betterment of freedom and the betterment of life on Earth.

So I salute NASA today. I salute the genius of Dr. Goddard. I salute the farsightedness of President John Kennedy. I salute those men who made it possible to build the devices which have gone into space. I salute, probably as much as any of them, those men who have guided those devices into space and back to Earth.

The PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

Mr. MATHIAS. Mr. President, I associate myself with the remarks that have just been made by the distinguished Senator from New Mexico and the distinguished Senator from Arizona. They have spoken eloquently and accurately about the impact of this new space science on the world, a science whose birth is generally recognized, I think, from the time Sputnik climbed into the upper reaches of space around this planet.

As they have said, there have been heroes in this new field of space science; and it should be noted here that they, themselves, are two of the heroes of space science.

Senator SCHMITT, as an astronaut, as one of the men who actually has gone into space, who knows it not as an academic science but as a field of personal adventure and exploration, is one of the men whose names will be recorded as the pioneers of space science.

Senator GOLDWATER, who has been the ranking Republican member of the Space Committee, who has had a lifetime of dedication to advances not only in this field of science but also in science in general, has contributed by his strong support, his unwavering support, and by his deep personal interest which transcends simply his professional responsibilities in the Senate. This is obvious from the way in which he has educated himself in many of the fields of science.

So when they speak about the space age and space science, they are speaking about a subject with which they are intimately familiar and about which they know a great deal.

Of course, I am not only proud of them, I also am proud of the many thousands of Marylanders who have made a particular contribution to the space age through their work at the Goddard Space Flight Center. That has been one of the pioneer organizations which has helped to plan the strategy and to execute the tactics which have brought the United States into the forefront of space science.

I think we owe a great debt of gratitude to all of the people at NASA over the years, those who are there now and those who have gone before them, for what they have done for the United States. They have brought us from a position in which we were not first into a position where we are not only first but way ahead of all the world in this remarkable science.

Of course, the first steps in this direction were laid by a very far-seeing President of the United States, President Dwight D. Eisenhower, in whose administration the space age began with the launching of Sputnik.

But I wonder, in a philosophical way, what it is that these people who have worked at NASA over the years have given to their country. Well, they have given us some magnificent spectacles. Anyone who remembers that moment when man first reached the Moon has to thrill a little bit with the sense of participation in this tremendous spectacle which mankind, not only in the United States but all over the globe, gloried in. It was a great step for mankind, and the people at NASA gave us that spectacle.

Then, as the Senator from Arizona has suggested, they have given us lots of very practical things. They have given us the spinoff, things which are used in medicine today, practical, everyday, medicine; the healing arts have been advanced by the work of the people at NASA.

A commonplace but important thing like the transmission of electricity over long distances will be improved, I believe, by the work that has been done at NASA, something which could reduce the electric bills for the average household by 25, 30, 40 percent, because of what NASA has done.

So the spinoff at NASA has given us a lot of practical results whose economic benefits are becoming embedded in our society, and they are probably so varied and so widespread today that they would be hard to compute.

But I would suggest, Mr. President, that the people at NASA have given to the United States something more important than the spectacle, something more important than these practical benefits. They have given to this Nation the right to be confident about the 21st century. They have given us the right to say that we can find solutions to problems; that we can find new techniques, that we can find new frontiers, that we can be pioneers, that we can look to the 21st century with confidence.

I believe that.

I believe we can be confident about the 21st century. I think this Nation, with its knowledge, with its skill, with its remaining resources can find answers to even the tremendous problems that plague the world and plague us as a nation for the years immediately ahead. There is no more convincing evidence of this than the work of the people at NASA.

So I say, Mr. President, that of all the great contributions that the men and women of NASA have given to us no gift is greater than the sense of confidence that we, as a nation, can still surmount our problems, and face the future with a calm assurance that we still have the capacity to meet all the demands and all the challenges that may be laid upon us, and I express my deep appreciation to them.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. MATHIAS. I would be happy to yield.

Mr. SCHMITT. The Senator's remarks are extremely profound. I could not agree with him more. I think he is absolutely correct that we can face the next decades and the next century with extreme confidence.

I would only add slightly to that, and as a point only in confirmation, that during the period of time of the 1960's when this Nation's greatness was tested and verified by our activities in space we were undergoing as a nation tremendous other internal stresses, psychological as well as practical, with the war in Vietnam, the student unrest, and the other

problems our society was faced with at the time. But still for most evenings, on the evening news, television or radio, there was something having to do with the very positive course this Nation had chartered for itself. That course was in space.

I know we will never quantify the effect of that positive psychological influence on this country, but I happen to believe it helped us, if not insured, that we would survive those times, that we would see a brighter future not only for ourselves but for the rest of the world; and what the Senator says about the confidence we can have in the next century is not misplaced.

One aspect of that confidence, I think, comes from one of the first major applications of space technology, and that is in communications. Through the positive and, I believe, generally altruistic motives of this country we encouraged and have established global communications satellite systems, and the Goddard Space Center has played the commanding role in that activity, and still does today.

I think the Senator is to be complimented on his support of that center's activities, and of this Nation's activities in insuring that at the very least the world can communicate with each other and, in so communicating, hopefully, will find answers to the problems we face today and will face in the future.

I compliment the Senator on his remarks and also the Senator from Arizona for his, and I thank both of you for your kind remarks.

Mr. GOLDWATER. Mr. President, if the Senator will yield, talking about communications, it is my pleasure once in a great while to talk through our amateur radio satellite, which we call OSCAR, to different parts of the world. This goes on daily right around the clock. At one time I recall with great pleasure having a debate with a secretary of state counterpart in England and France, and I was sitting in New York, and I was trying to watch the monitor, as we always do. But the distance the signal had to travel was enough time so that there was a lip lag, and I had to quit looking at the monitor.

But the Senator is so correct. We are even doing it now on the desert of Arizona where we are using satellite television transmission to take care, in a testing way, of the Papago Indians, and we are doing it on the Navaho reservation.

So I agree with what both of you gentlemen have said about the future of this country.

While I do not think the future of this country can depend on mere man, I think it can depend on science. Thank you very much.

Mr. MATHIAS. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Nebraska is recognized for 15 minutes.

RESOLUTION CONCERNING A NATIONAL WATER RESOURCES POLICY

Mr. CURTIS. Mr. President, I am about to send to the desk for consideration a resolution concerning a national water resources policy, and later on will make a request for its immediate consideration.

This resolution, which is unprinted, has 35 cosponsors. Most of my colleagues should have had the opportunity to familiarize themselves with this proposal, and I hope we can have immediate consideration.

On September 22, seven colleagues and I sent a letter to all Senators which discussed the proposal. The cosponsors also have copies of the resolution as well as copies of resolutions and policies which I will discuss here briefly.

Mr. President, the resolution I am proposing today expresses the sense of the Senate with regard to establishment of a national water resources management policy.

My colleagues all should be familiar with the current activities and efforts by the administration to study and establish a new national water resources policy. The administration is proceeding with a study for a new policy under the authority delegated to it by the Congress in the 1965 Water Resources Planning Act, Public Law 89–80.

However, there has been considerable concern expressed by the States and the public because of the short time afforded them for input and comment on the administration's proposals to date. Indeed, from the first announcement of regional hearings to be held on the proposals the States and public had just 1 month in which to prepare comments and recommendations.

On June 28 the Water Resources Council announced that regional hearings would be held around the Nation on July 28–29, and August 1–2. But, it was not until July 15 that the administration's issues and options papers, which were to be the subject of those hearings, were first printed in the Federal Register. Thus, the States and the public had less than 2 weeks in which to prepare comprehensive responses.

Because of the many complaints about the short time for comment and input, the administration did extend the period for public comment; first from August 12 to August 20, then to September 15, and finally to November 20. The new timetable of the administration calls for final recommendations on a new national water policy by the President in February of next year. But, in spite of the recent extensions of time for the public to comment on the proposals, the administration has not seen fit to grant further opportunity for input, comment, and recommendations by the States on the final proposals.

Mr. President, I repeat that the administration does now have the authority to develop national policy in this area. We, the Congress, gave such power to the administration in the 1965 act.

However, because of the outcry of the States, and because of the importance of this matter to every State, and because it appears that the States are not being provided the opportunity to have real input, and because the administration appears to be going beyond the intent of Congress in the 1965 act, and because the ultimate responsibility for national policy rests with Congress under the Constitution, I believe Congress should act positively to bring this matter back before it.

The concern of the States is very real. Those of my colleagues whose States have experienced severe drought in the past 3 years are aware of the serious concern about water resources. For those who have been fortunate in having their States escape the drought I can only say that water resources are important for the entire Nation.

This is not a regional issue of the West or the South or of any other area. Drought has hit the West, the Midwest, the South, and some of the Atlantic Coast States. Furthermore, drought is not the only concern of water resources as it affects agriculture. Water is also of major concern for domestic consumption, for commercial and industrial uses, and for environmental, recreational and other purposes.

In the material distributed to the cosponsors today are resolutions and policy statements which oppose the current proposals and procedures of the administration to establish a national water resources policy. These documents were all adopted unanimously. On September 9 the National Governors' Association, representing all of the 50 States, adopted such a resolution. On September 2 the Western Governors' Conference adopted a policy statement, and on August 31 the Interstate Conference on Water Problems representing all of the States unanimously adopted such a policy.

Mr. President, the resolution we are introducing today does not pit environment against development. It does not address any single water resource project or development. It is not concerned with the merits or demerits of water resources developments, programs or projects.

But it is concerned with States' rights, and with historical precedence, and with public and State concerns, and with the authority and responsibility of the legislative branch of Government in the area of national policy.

While recognizing the authority of the administration to set water policy in accord with the Water Resources Planning Act of 1965, our resolution also recognizes the constitutionally based responsibility for national policy with Congress.

The resolution itself does not preempt or preclude any new national policy guidelines by the administration, but seeks to insure proper input and consideration for the States, as well as opportunity by Congress to review proposals before they are implemented with the impact and effect of law. As my colleagues know, once a law is passed or a regulation is put into effect it is very

difficult to change it. So, this resolution today will serve to insure against the need for later change by providing for full airing and input and consideration of new policy proposals by the States and the Congress and not just the administration.

Simply put, Mr. President, our resolution would establish a 6-month moratorium on implementation of any new national policy recommendations during which Congress is in session and from the time of publication of those final recommendations. It would also express the sense of the Senate that the States should be provided with copies of the proposals and the materials on which they are based, and that the States should then have 2 months in which to respond and make input and recommendations to the administration and the appropriate committees of Congress.

After that the States would have 1 more month in which to meet within regional and river basin commissions to make recomendations which would also go to Congress and to the administration. Finally, Congress would have 3 months in which to hold hearings on the matter.

I point out at this time that among the 34 cosponsors of my resolution we have majorities of both the Environment and Public Works and the Energy and Natural Resources Committees.

Mr. President, this should not be a controversial matter. It is simply a sense of the Senate resolution regarding the current activities and procedures of the Federal Government concerning national water policy. It recognizes the concerns and sentiments of the States as expressed in the resolutions adopted in opposition to the current efforts by the Federal Government. It insures the rights of the States and of the citizens to have input in matters of Federal legislation and regulation.

I have additional remarks which I shall make for the record. First, I will send a resolution to the desk, and I urge its swift approval by the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. CURTIS. I am happy to yield to the distinguished leader.

Mr. ROBERT C. BYRD. Did I understand the distinguished Senator from Nebraska to indicate he was going to call up this resolution for immediate consideration?

Mr. CURTIS. Yes. That is my intention.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator as to whether or not the chairmen of the committees involved have given their approval for the immediate consideration of this resolution?

Mr. CURTIS. I am happy to respond that the chairmen of both committees which would have jurisdiction of this matter have approved the immediate consideration and agreeing to of this resolution.

Senator JACKSON, who is chairman of the one committee, is a very great authority on water in his own right, and he is a cosponsor as well as most of his committee, and he has sent us a note authorizing the immediate consideration of the resolution at this time and agreeing to the resolution.

The other committee involved is headed by the distinguished Senator from West Virginia, Mr. JENNINGS RANDOLPH. He, too, has authorized us to go ahead and proceed with the resolution and agree to it at this time.

It is a sense of the Senate resolution and as I say it is not pro or con anyone's project, but it is to help work out an orderly timetable with little delay in developing a policy, and I think that it will serve all parties very well in that regard.

Mr. ROBERT C. BYRD. I have one further question. Does the distinguished Senator from Nebraska know of any opposition to the resolution on either side of the aisle?

Mr. CURTIS. No, I do not. It is something the Governors are interested in as well as the various interstate groups that consider these matters. It has been widely discussed by individual Senators on the State level.

The letter signed asking for cosponsors carried a list of seven bipartisan names, so it is something that has ample consideration and there is no opposition.

Mr. ROBERT C. BYRD. I do have one further question that just occurs to me. The Senator has no intention of offering any amendment to the resolution as it is now written?

Mr. CURTIS. No, not at all.

Mr. ROBERT C. BYRD. Very well.

I apologize to the distinguished Senator for interrupting him.

I have no objection to the introduction and immediate consideration of the resolution.

Mr. CURTIS. I thank the distinguished majority leader very much, and he need not apologize for interrupting me. I am always glad to be interrupted with good news, and I thank him for the good news.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CURTIS. Mr. President, at this time I wish to read into the RECORD the names of the cosponsors.

I have introduced this resolution for myself, Mr. JACKSON, Mr. HASKELL, Mr. LAXALT, Mr. GARN, Mr. GRAVEL, Mr. MCCLURE, Mr. HART, Mr. WALLOP, Mr. MCGOVERN, Mr. HANSEN, Mr. YOUNG, Mr. EASTLAND, Mr. TOWER, Mr. DOMENICI, Mr. HAYAKAWA, Mr. CHURCH, Mr. HATFIELD, Mr. STEVENS, Mr. GOLDWATER, Mr. DECONCINI, Mr. METCALF, Mr. CANNON, Mr. SCHMITT, Mr. BURDICK, Mr. HATCH, Mr. BARTLETT, Mr. HUDDLESTON, Mr. DOLE, Mr. PEARSON, Mr. FORD, Mr. THURMOND, Mr. BENTSEN, Mr. MELCHER, Mr. MOYNIHAN, and Mr. HELMS.

ESTABLISHMENT OF A NATIONAL WATER RESOURCES MANAGEMENT POLICY

Mr. CURTIS. Mr. President, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SASSER). The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 284) to express the sense of the Senate wiht regard to establishment of a National Water Resources Management Policy.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CURTIS. Mr. President, at this time I call the attention of my colleagues to the situation regarding administration efforts to establish a new national water resources policy.

I have a resolution prepared on this subject, and though it has not been printed, copies of the resolution have been distributed to each Senator's desk along with other materials which provide background information on this matter. Several other Senators have joined me in cosponsoring this resolution, which I will discuss in a short while.

Mr. President, I am bringing this matter before the Senate at this time because of the serious concerns I have heard expressed around the country regarding future water supplies and the current Federal procedures for establishment of a national water resources policy.

I need not remind my colleagues from the Western States and those others that have experienced drought problems in the past 3 years of the concern over water resources. But, for the benefit of those Senators who have been fortunate in having their States escape the drought, it is important that we all be reminded of the seriousness of the situation and of the importance of water generally. I believe that the issue of future water sufficiency for our Nation may be the most important domestic concern we will have to face, overshadowing even the energy shortage of this decade.

Mr. President, I am not here to argue the merits or faults of particular water resources projects, or to debate the tradeoff between water resources development and environmental concerns. My purpose is not to engage in argument over the specifics of water resources projects or of environmental protection programs. Rather, it is to call the attention of the U.S. Senate the basic problems concerning water resources policy generally, and to provide for affirmative action by Congress in this area.

While sides have developed over issues of specific water resources developments, and over Government positions and philosophies concerning water resources generally, there is no disagreement that I know of concerning a need for some new direction in water resources policy. The disagreement that does seem to persist within this understanding concerns priorities and levels of Federal control and authority. For that reason, I believe it is important that Congress take an active role in any Federal proposals and plans for a national water resources policy.

NATIONAL WATER POLICY

As my colleagues know, the administration is now in the process of developing a new national water resources policy. In this effort the administration is proceeding under the authority delegated to it for policy implementation under

the 1965 Water Resources Planning Act, Public Law 89–80.

However, in its efforts to date the administration has made some proposals and preliminary recommendations which appear to be far beyond the scope of policy authority intended by the Congress in the 1965 act. In the course of regional hearings and various meetings on these proposals, severe concern and opposition have been voiced by most of the States.

Thus, I feel it imperative that the Congress reinsert itself into the policy area of water resources and take up its responsibility in this area as provided under the Constitution. The action I am proposing here directly is to protect the States and to assure their autonomy in this area of natural resources.

To understand why the problem and controversy has come about in this matter we should review the developments by the administration to date.

On May 23 the President delivered an environmental message to the Congress in which he said that there would be a study made by the administration to develop a national water resources management policy. While not setting a date or time for the study, the President said that it would be directed by Interior Secretary Cecil Andrus as Chairman of the Water Resources Council, and that the study would be conducted by and coordinated among the Water Resources Council, the Office of Management and Budget, and the Council on Environmental Quality.

On June 28 the first public notice of such a study was made when the Water Resources Council distributed a press release announcing that eight regional hearings would be held around the Nation to solicit public comment and input. The press release announced that hearings would be held in some of the regions on July 28 and 29, and in others on August 1 and 2.

On July 6 the first published notice of the hearings appeared in the Federal Register, and it was not until July 15 that the Federal Register carried the issue and option papers on which the hearings were to be held.

From the published notices and information by the administration to date, it is clear that the administration intended the regional hearings to be the opportunity for the States and the public to comment.

I point out that the time for the States and public to prepare for the hearings was just 1 month from the first announcement of hearings by the Water Resources Council, and that it was less than 2 weeks from the publication of the issue and option papers. It is interesting that the administration gave the Federal agencies 6 months in which to develop a water resources management policy, but that it gave the States and public less than 1 month in which to comment and respond. I doubt that any of the States had the resources or capability for developing any comprehensive recommendations in such short time.

It later developed that there was some confusion about how long the administration would keep the record open for comment in this matter. The June 28 press release of the Water Resources Council said the record would be open until noon on August 9. The Federal Register of July 15 said the record would remain open for comments until August 20, and another press release of July 20 from the Water Resources Council said the record would remain open until the close of business on August 12.

If the discrepancies in these announcements are puzzling to my colleagues, think how they must have been regarded by the States and the public.

While regional hearings were being held around the Nation on the administration's proposals, I wrote Interior Secretary Andrus to protest the short amount of time the States and public had in which to comment, to urge extension of that time, and to request a followup opportunity for the States to comment on finalized recommendations once those were prepared by the administration. I am aware that many of my colleagues also wrote the administration on this matter, and most of the States also requested further hearings.

The result was that we had two further extensions of time. On August 19 the Water Resources Council published in the Federal Register a notice of extension of the time for public comment to September 15. Finally, on September 1 a Federal Register announcement extended the comment period to November 20, and set the deadline for recommendations by the President for February of next year.

STATES' CONCERNS

Mr. President, since the announcement of a national water policy study by the administration, and its activities in that area, there have been many concerns expressed by the States—Governors, legislatures, and water resources directors—individually and in meetings around the country.

In May of this year the Second National Conference on Water, sponsored by the Federal Government, was held in St. Louis. Some 500 State and local officials and private citizens representing various interests attended that conference. The results and conclusions of that conference were delivered to the President.

It is interesting to note that the findings and conclusions of that conference were the same as those expressed later by the Interstate Conference on Water Problems, by the National Governors' Association, by the Western Governors' Conference, and by various regional river basin and water resources organizations.

Principal among the conclusions voiced by these groups and individuals were that:

First, while there is a need to streamline, refine, and improve upon the present Federal structure and procedures involving water resources, there is no feeling of a need to change completely the existing institutional structure;

Second, there is a need to centralize water resources policy in a single Federal agency which is independent of all other Federal agencies, biases and influences; and

Third, there is a need to strengthen the roles, responsibility and authority of the States in water resources planning and policy, and to retain the autonomy of the States in the complex issues of water resources.

OPPOSITION

Mr. President, the administration received thousands of pages of testimony, statements and comments during the regional hearings which were held around the Nation in late July and early August In addition comments continue to pour into the Water Resources Council from the States and the public.

My colleagues may be interested to know that as of last week I was advised that the record of those hearings had not yet been transcribed, although the administration itself appears to be proceeding with development of its policy.

The Interstate Conference on Water Problems, which is an official organization sponsored by the 50 States concerned with water resources, attended and monitored those regional meetings. The ICWP on August 12 published a briefing paper on the hearings. The paper included general comments from the eight regional hearings and the Washington, D.C. hearing, and also had specific random comments of Governors and other officials of several States including Idaho, Wyoming, North Carolina, South Carolina, Ohio, Texas, Massachusetts, Arizona, California, and Georgia.

The statements and comments of all those officials reflected concern about the ongoing Federal procedures and administration efforts concerning a national water resources policy. Most of the State officials requested a time extension for further comment, and most also insisted that there be an opportunity for further State input.

At this point I cite in part the August 12 report by the Interstate Conference on Water Problems which summarized the administration's regional hearings:

> Many of the States and other hearings participants were unable to develop detailed comments in reaction to the issues and option papers for the July 28 and 29 and August 1 and 2 hearings. In fact, some States had not even received the second issue of papers published in the July 25 *Federal Register* before the hearing in their region. There was also an attitude by some States that the options and problems, as presented, were less than adequate statements of the situation as it relates to water resource management, with some misleading and erroneous descriptions and inferences.
>
> In addition to the simple lack of time available to develop input, the States also expressed concern over the procedures used to develop the issue/option papers. States indicated their willingness to assist and complained that their expertise was untapped because the study procedure did not allow for non-Federal input in formulating viable options. Some States thought that the involvement of existing regional entities, such as River Basin Commissions, should have been more involved in formulating the National Water Policy Option Papers.
>
> Nevertheless, there was some agreement that the Administration's overview of existing National Water Policy was welcome and that some measure of reform was to be expected.

The States were in common agreement in their testimony that the Administration's comprehensive review of water policy should differentiate sharply between a "National" water policy and "Federal" water policy. Issue papers should have been directed more at defining a National Water Policy, its goals and objectives, rather than focusing on administrative changes and procedural revisions.

States inferred from the option papers, and from the process that was used to develop the option papers, that there is an underlying Federal policy emerging. That policy is thought to be increased Federal guidance, regulation and direction, with a concurrent reduction in Federal funds to support state management programs and state and Federal projects.

Additionally, states inferred from the option papers a Federal attitude that does not recognize the capabilities of the States. Specifically, States believe that the Federal option papers reflect an attitude as follows:

1. That the States have not in the past effectively or appropriately managed their resources.

2. That the States are not now effectively or appropriately managing their resources.

3. That the States cannot (and/or will not) effectively and appropriately manage their resources without a massive infusion of Federal regulation, direction and guidance.

The States generally found the above inferences to be contradictory to their experiences, since all major Federal resource programs in recent years have been modeled after programs which were originally conceived and implemented in one or more States. States suggested that to deny their innovative and initiating role was to deny the history of the existing Federal programs.

Invariably, the States were aggressive in defining existing State prerogatives and responsibilities and stated that they be respected and maintained in the development of recommendations to the President. It was emphasized that water resource management is the proper responsibility of State governments. Many States are of the opinion that they are better prepared than the Federal agencies to solve problems which are unique or peculiar to the States. The proper role for the Federal agencies was viewed as support of State water management activities, whether in the development, management or use of the resource, through provision of financial and technical assistance and programmatic support. Also, through a more effective coordination of Federal agency efforts in conjunction with State water plans and activities, State management needs can be more adequately attended to. States indicated that Federal programs should not be competitive with State and other non-Federal programs.

Mr. President, among the materials I have distributed with this resolution are copies of resolutions and policy statements expressing opposition to the current administration efforts and activities toward development of a new national water resources policy. These resolutions and statements were all adopted unanimously, and include positions taken by the National Governors' Association, by the Western Governors' Conference, and by the Interstate Conference on Water Problems.

In summary, all positions make strong cases for continued State autonomy in water resources matters, policy and law; they take issue with the proposals made to date by the administration; and they protest the methods of the administration in pursuing its study to date, particularly with regard to the short amount of time for the States and public to prepare comments for the hearings and to respond to administration proposals.

CONGRESSIONAL ACTION

Mr. President, with all of the controversy now in this matter, and with the unanimous outcry from the States, it is clear that the time has come for the Congress to intervene and to reassert itself in the area of water policy.

The Committee on Environment and Public Works is aware of the seriousness of the situation and already this year has held several days of hearings around the Nation on a national water policy.

At the first day of hearings on March 31, the Subcommittee on Water Resources heard from the Acting Chairman of the Water Resources Council, Mr. Christopher Farrand. In his statement on past administration activities regarding national water policy, Mr. Farrand said "there has been an unwillingness or inability to work with the Congress during the development of recommendations". He went on to say that there "has been lack of full involvement of the States, and frankly, the attention of the Congress has not always focused on water policy development".

If we are to believe all of the statements emanating from the administration these days, it is clear that there is a recognized need for greater coordination by the Federal Government with the States. But, whether or not such a belief or feeling has converted into action is questionable.

As recently as September 9 of this year, in a statement on reform of the Federal grants-in-aid system, the President said there would be greater coordination by the Federal Government with States and local governments in the development of regulations at the earliest stage. I quote from the President's September 9 statement:

Early in my administration, I directed the heads of all executive departments and agencies to consult with State and local officials when Federal regulations, budgets, and policy and reorganizations proposals were first being formulated. This procedure, a sensible and long-overdue reform, is now becoming routine. I further directed each agency head to make specific senior officials responsible, full-time, for consulting with States and local leaders and for insuring that their views are reflected in the development of departmental policy. These senior officials are now on the job.

In mid-October, I plan to issue an Executive Order which will require agencies to take positive steps to improve the process by which regulations are developed and issued. This will include soliciting public advice, including that of affected State and local governments, early in the process of developing regulations. It will also call for the publication of a semi-annual schedule of significant regulations on which they plan to begin work.

Now, Mr. President, I am sure my colleagues share my endorsement of such a policy by the administration. We hear constantly from the States about problems they have with Federal agencies in the implementation of regulations, so it is welcome news that the administration will be seeking greater coordination with the States and input from them.

The President's statement, and those of other administration officials in recent months, do give me cause to wonder though, in the case of the current activities for establishment of a new water resources policy.

I have already pointed out that one of the major objections to this activity from the States has been the short notice given for comments after publication of the administration's initial proposals, and the lack of any real administration effort to have State input in the proposals themselves. To my knowledge there was no consultation by the administration with any of the States for their input. The President in his September 9 statement clearly says that he directed his agency heads to consult with State officials when policy proposals were first being formulated.

That being the case, I wonder why the administration had not consulted with the States before development of the policy proposals for a national water policy.

I would be interested to know, as I am sure all of my colleagues would, just who the full-time senior official is in the administration for consulting with the States on water policy. All of the statements made by the various States at the National Governors' Association Conference, at the Western Governors' Conference meeting, and at the annual meeting of the Interstate Conference on Water Problems indicated that the States had not had advance notice or consultation from the administration on its proposals for a new national water resources policy.

What we have here, Mr. President, appears to be a clear issue of a double standard. The administration is saying one thing but doing another. I seriously doubt the intentions of the administration to get State input where it has proceeded as it has on a national water resources policy.

If these words seem too strong for some of my colleagues, I would just point out one other action taken by this administration which speaks for itself. For the past several years the Interstate Conference on Water Problems has served as an official representative organization of the States to the Water Resources Council. The ICWP has been a voice of the States in Federal water policy. But this year the administration eliminated the ICWP in this role. We now have no voice of the States at the Federal level in water resources policy. Again I point out the President's statements, and ask where the States are being consulted or have the opportunity for input.

NEEDED INPUT

Mr. President, the fact is that the administration has not consulted with the States in the development of a new national water resources policy. If there had been any consultation the States would not have known about it. If there had been any consultation the States would have known about it. If there administration's activities. If there had been any consultation the views of the States would have been reflected in the

proposals, as the President himself has said such views should be included in Federal proposals.

It should be clear to all that in the case of the administration's proposals for a new national water resources policy, we have the Federal Government working to establish a national policy and regulations from the bureaucracy in Washington without regard to the States, localities, and regions of the country.

What we should have, Mr. President, is the administration pursuing a national policy based on the policies and positions of the States. Only in that way can a national policy for such a complex subject as water truly reflect the needs and peculiarities of the various States and regions of the country. That brings us to the resolution we have before us today and which I am introducing for myself and several of my colleagues.

SENATE RESOLUTION

Mr. President, my resolution would express the sense of the Senate regarding the current study and timetable by the administration for establishment of a new national water resources management policy.

The introductory part is self-explanatory. It gives the historical developments as a basis and need for the resolution. I would just point out that the introductory part begins with recognition of the authority of the executive branch for development of national water policy according to the 1965 Water Resources Planning Act; and it concludes with a statement of the vesting of responsibility for such national policy under the Constitution in the Congress.

The main body of the resolution carries two provisions, one regarding a moratorium on implementation of any new national water policy, and the other establishing a timetable for action on a national water policy.

Basically the resolution states that it is the sense of the Senate that no new national water resources management policy shall be implemented without congressional concurrence, and no proposed regulations for such a policy shall take effect for a period of 6 calendar months during which Congress is in session, from the time of publication of any proposed regulations in the Federal Register and notification by the administration of such proposals to Congress.

The resolution also provides that upon completion of any final proposals by the administration, the administration should transmit those proposals along with other documents and related information, to the States. The States would then be given 2 months in which to develop their responses to the administration proposals, and to develop their own recommendations. Those responses and recommendations would then be sent by the States to the Water Resources Council and to the appropriate congressional committees.

After the 2 months period alloted for the States to comment, there would be an additional 1 month period for the States to meet within river basin or regional commissions for recommendations of regional policies. The regional recommendations would also be sent to the Water Resources Council and to the congressional committees.

Finally, Congress would have 3 months in which to conduct hearings and develop any recommendations, policies, or legislative proposals.

Mr. President, the significance of this resolution is that it puts the administration on notice of the intent of the Congress and of the concern we hear expressed about the administration's activities to date in the development of a new national water resources policy. It is also significant because it represents the first official step by Congress to regain some of the policy authority from the administration which Congress delegated in the 1965 Act.

Beyond that this resolution shows the awareness by the Senate of the concerns expressed by the States, and it shows the firm intention of the Senate to do something positive. The resolution would provide the very input opportunity for the States which the administration has not provided in matters of national water policy, and the resolution puts the States on notice that if they want to have input they must respond accordingly.

Finally, the resolution states the intent of the Congress to act on the responses to the administration's proposals by conducting hearings toward development of any national policy.

Mr. President, if nothing else has been provided by the drought of the past 3 years it has at least been shown that water is our most precious resource. If nothing else has been learned about the procedures of the administration to date on a national water policy it has at least been shown that the States share a deep and serious concern about water resources and the rights of the States concerning policies regarding these resources.

I believe the States' rights should be considered in the development of any new national water resources policy; and that if they are to be considered it will be only as a result of congressional action. This resolution sets the stage for a thorough airing of the controversy over a national water resources policy, and I believe Congress has a responsibility to reassert its authority in this area.

Mr. HANSEN. Mr. President, it is with pleasure that I join with my very good friend, the senior Senator from Nebraska, in cosponsoring a resolution to assure a full hearing and input by the States and Congress before any national water resource policy is effected.

Ever since gold was panned in California, the concept of prior appropriations has been the system upon which the West has relied in the utilization and development of its water. Based upon this system and the State water laws developed around it, farms and ranches were created from the frontier. Based upon this system, industry developed. Based upon this system, cities and towns grew up. For over 100 years the arid West has relied upon this system and developed in accordance with it and grown strong and economically prosperous because of it.

Of the positions advocated and advanced in the issue papers promulgated by the Water Resource Council, the one of most concern to me is the one which appears to advocate a Federal takeover or at least the imposition of a heavy Federal hand to alter the system of prior appropriations as it exists in the West.

Despite the success which we as a State and as a region have enjoyed with our system of water law, and despite the constant improvements which we have made to that system, the WRC finds our system somehow deficient, somehow lacking, filled with, in the words of issue paper No. 3, "inflexibility, inefficiencies and inequities."

Mr. President, it is not necessary at this time to engage in a point by point refutation of the rather general imprecise and inaccurate conclusions drawn in the issue papers concerning the state of Western water law. Suffice it to say that, Wyoming water law does take cognizance of the relationship between ground and surface water, does allow for an expanded definition of beneficial use in order to meet public policy, does prohibit waste, does encourage conservation in the marketplace, does permit transfer of water rights and does provide for instream flow needs.

It is my belief that the concern of the WRC is less with the adequacy of State water laws than with the likelihood or ability of various States to achieve the objectives considered desirable by those in the administration. Thus I welcome the ability to cosponsor a resolution which will attempt to insure the full participation of Congress in ariving at a national water policy.

Mr. DOMENICI. Mr. President, I wish to state my support for Senate Resolution 284.

As the ranking Republican member of the Subcommittee on Water Resources, I believe that the consideration of a coordinated water policy must be a major undertaking of this Congress and the administration.

Such a national policy will only be effective when it is developed with effective and meaningful consultation by the States and in coordination with the Congress. Such a cooperative attitude is what this resolution seeks to encourage. I support that goal wholeheartedly, and I am proud to be a cosponsor.

I wish to commend our colleague from Nebraska (Mr. CURTIS) for his most effective leadership on this issue.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the 1965 Water Resources Planning Act authorizes and delegates to the Executive Branch the establishment of certain Federal water resources policies;

Whereas the Executive Branch has proposed establishment of a national water resources management policy;

Whereas procedures have been initiated toward establishment of such a policy;

Whereas the timetables set by the Executive Branch permit public comment only until November 20, 1977, on Executive Branch proposals, with final policy approval by February 28, 1978;

Whereas the States have expressed opposition to certain proposals and procedures of the Federal government in the policy study, and have expressed concern that States' needs and concerns have not been addressed or considered;

Whereas the Interstate Conference on Water Problems on August 31, 1977, unanimously adopted a water policy statement supporting the States' roles in water management policy and opposing the Federal proposals;

Whereas the Western Governors' Conference on September 2, 1977, unanimously adopted a policy statement asserting the rights of the States in management of water resources;

Whereas the National Governors' Association representing all of the 50 States on September 9, 1977, unanimously adopted a resolution opposing certain Federal policy proposals and supporting the roles of the States in water resources management;

Whereas most States have ongoing research, study and activities in water resources management which would be affected by or which would affect any national policy on water resources management;

Whereas management expertise in water resources now exists in most of the States and the authority and domain over most water resources in the United States has historically been vested in the individual States and is now so vested;

Whereas the proposals as published in the Federal Register to date show the intent of the Executive Branch to assume certain functions previously exercised by the States, and as such appear to be contrary to the intent of Congress as stated in the 1965 Act;

Whereas any national water policy must provide for differences in topography, geology, hydrology and other criteria concerning water resources in the various States and regions; and

Whereas the responsibility for and authority over Federal policy is clearly vested under the Constitution with the Legislative Branch: Now, therefore, be it

Resolved, That it is the sense of the Senate that no new national water resources management policy shall be implemented without Congressional concurrence, and no proposed regulations for such a policy shall take effect for a period of six calendar months, during which the Congress is in session, from the time of publication of proposed regulations in the Federal Register and of notification by the Executive Branch of such proposals to the Congress, provided further that—

(a) the Executive Branch shall cause to have all recommendations and proposals transmitted to the States, and shall make available transcripts, documents, and material collected and prepared at and as a result of regional hearings conducted on such proposals;

(b) the States shall be provided two months in which to develop their responses to the Executive Branch proposals, and to develop recommendations, which responses and recommendations should be transmitted to the Water Resources Council and the appropriate Congressional committees;

(c) the States shall be provided an additional month in which to meet within river basin or regional commissions for recommendations of regional water resources management policies which should be transmitted to the Water Resources Council and the appropriate Congressional committees; and

(d) the Congress shall have an additional three months in which to hold hearings on establishment of a national water resources management policy.

Mr. CURTIS. Mr. President, I wish to pay tribute to Mr. Jack Odgaard of my staff, who has worked long and hard and been in contact with the Governors, other officers, and many other people with regard to this resolution on national water policy, and I am very much indebted to him for his help.

Mr. President, I thank the Chair, and I yield the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has any time been yielded back by Senators under the orders previously entered?

The PRESIDING OFFICER. A number of Senators have not used all the time in their 15 minute orders.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may control the time that was not used by those Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without prejudice to any Senator under the orders entered, and I ask unanimous consent that the time be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, we will soon be confronted with a problem which demands a thorough investigation. That is the issue of the cargo preference legislation which the President has proposed. I believe, Mr. President, that the questions raised thus far about this legislation are sufficient to cause us to investigate it with all the intensity and vigor we can develop.

I therefore urge that the Commerce Committee schedule and hold such additional hearings as may be necessary to fully explore all aspects of the merits of the cargo preference legislation, as well as the means by which the decision of the administration to propose it was made.

As proposed by the President, "cargo preference" legislation would require that by 1982 at least 9.5 percent of our imported oil would have to be carried on American flag ships. Other legislation has been proposed in Congress which would require that as much as 20 percent or 30 percent of imported oil be carried on American ships.

At first blush, it does not seem altogether unreasonable for us to prefer American ships over those of other nations. But once you get past that first blush, the idea of a cargo preference requirement begins to look a whole lot less attractive.

To hear the proponents of cargo preference legislation tell it, the only significant effect which will result from this idea is more jobs for Americans in the maritime industries. Mr. President, the plain fact of the matter is that while there may be some increase in maritime jobs, the net result of this legislation is going to be a tremendous pain in the pocketbook for the American consumer.

The potentially staggering costs of this legislation are not merely figments of my imagination, Mr. President. Cost figures on this legislation have been amply documented by numerous agencies of government, including the General Accounting Office, the Federal Trade Commission, and others.

When the President first submitted his proposals to the Congress, the administration claimed that the price tag of the legislation would be about $110 million to consumers. Not long thereafter, the GAO and the Federal Trade Commission both came forward with studies that showed the actual cost would be closer to $240 million—more than double the administration estimates. Since that time, the GAO has come out with a new estimate showing the probable cost to be over $610 million—over five times the administration estimate.

The increased costs of energy to the consumer stem from the fact that American flag ships are significantly more expensive to build and to operate than are other vessels.

Examination of these cost figures clearly indicates that the American consumer is going to pay a tremendous price for the purpose of creating a few hundred jobs in the maritime industry. It has been estimated that the cost of each additional maritime job created as a result of this legislation would be a whopping $110,000. If creating maritime jobs is the objective, cargo preference legislation is obviously a terrible way to do it.

This is just another case of robbing Peter to pay Paul. The American consumer is getting robbed and the maritime business, with the willing support and cooperation of the administration, is doing the robbing.

In addition to the tremendous costs this legislation would shift to the American consumer, it is also likely to spark retaliatory, protectionist measures by other countries. Such a response by others would demonstrate most dramatically the counterproductive nature of cargo preference legislation. It is not difficult to imagine circumstances under which the Soviet Union, for example, might require that all American wheat shipped to Russia be carried in Russian ships. Then where would the maritime interests be?

Mr. President, when these factors are considered, it is indeed difficult to understand why the administration would persist in its determination to recommend cargo preference legislation. The decision has been rendered even more questionable by the revelation which has recently come to light that the Departments of State, Defense, and Treasury, as well as the President's own Council of Economic Advisors and the Office of Management and Budget, argued against this legislation on one ground or another.

Mr. President, the evidence mounts that this decision by the administration is little more than a blatant political payoff. An estimated $200,000 was pumped into the Carter campaign by

the maritime unions and related interests.

Various internal memorandums suggest that the decision by the administration was merely for the purpose of paying the President's political debts to the maritime interests.

The American people are entitled to know the real reasons for an administration policy that would cost the consumer millions in unnecessary costs. And they are entitled to know the extent to which such policies are the result of an unholy alliance between the President and the maritime unions, both of which may be seeking this legislation for reasons that have absolutely nothing to do with the public interest.

It is therefore essential that the Senate, through the appropriate committees, fully explore every aspect of the cargo preference decision. That consideration should include indepth discussions with many, if not all, of the key administration officials who played a part in this decision. It is essential that we know whether cargo preference will stand on its own merits or if it is just a political deal with a special interest group.

If we find, as I expect we will, that cargo preference legislation will not stand on its own merits, then we should insist that the President repudiate any deal with the maritime interests and withdraw this legislation. Given the President's willingness to repudiate promises made to the American people, such as the one he made last year regarding the deregulation of natural gas, I should think he would be most willing to reconsider an ill-advised private deal made with a special interest group, if that is the case.

I realize that some of my colleagues may have more enthusiasm for investigating the sour odors of a milk fund scandal than they do for investigating the bubbling bilge of a maritime bailout. But our responsibilities as Senators require that we fully and forthrightly address the issues which have been raised about cargo preference legislation before we even consider enacting it into law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2114, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Deborah Merrick, Marjorie Gordner, Mike Harvey, Dan Dreyfus, Ben Cooper, Jim Bruce, and Bob Szabo be accorded the privileges of the floor during consideration of S. 2114, the Public Utilities Regulatory Policy Act of 1977.

I also request unanimous consent that the following staff members be given floor privileges during the consideration of and voting on S. 2114:

Jack Odgaard, Fred Craft, Danny Boggs, Tom Imeson, Carol Sacchi, Faye Widenmann, Judy Foley, and Mary McKenna.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Erich Evered, of my staff, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Kathy Bruner, of Senator HAYAKAWA'S staff, have the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Tom Graham, of Senator DURKIN'S staff, have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. Will the Chair tell the Senator from New Mexico what the unanimous-consent agreement is on this bill?

The PRESIDING OFFICER. Time for debate on this bill is limited to 4 hours, to be divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Mexico (Mr. DOMENICI), with 2 hours on any amendment in the first degree, except for one amendment each by Mr. GRIFFIN, Mr. GLENN, and Mr. JOHNSTON, and on two amendments by Mr. TOWER, on each of which there will be 1½ hours, on one amendment by Mr. MELCHER, on which there shall be 1½ hours, and on one amendment each by Mr. DURKIN and Mr. FORD, on each of which there shall be 1½ hours, with 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order.

Mr. DOMENICI. I thank the Chair.

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

Mr. President, the Public Utilities Regulatory Policy Act of 1977 is the fifth and last major portion of President Carter's proposed National Energy Act reported by the Committee on Energy and Natural Resources this session.

S. 701, providing energy conservation assistance to schools and hospitals, was passed by the Senate on July 20, 1977;

S. 977, the coal conversion bill, was passed on September 8, 1977;

S. 2057, the omnibus energy conservation bill, passed on September 14, 1977; and

S. 2104, providing for a natural gas pricing policy, passed on October 4, 1977.

The Committee on Energy and Natural Resources completed action on the Public Utilities Regulatory Policy Act on September 19, 1977, and filed its report on September 20, 1977.

I ask unanimous consent that a summary of the bill and a copy of the cost estimate provided by the Congressional Budget Office be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2114: THE PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

S. 2114 requires State regulatory authorities and each nonregulated utility above a certain size to report biannually to the Secretary of Energy information about variations in the demand for electricity or gas among various classes of customers as well as information on the costs of serving these classes of customers. If the information requested is not already available in the files of these institutions, the Secretary must reimburse the authority or utility for the cost of gathering any additional information required.

The Secretary of DOE is authorized to intervene on his own initiative in any utility rate or rate design proceeding held before a State regulatory authority. However, the purpose of the intervention is limited to advocating: (1) energy conservation, (2) efficient use of facilities and resources, or (3) equitable rates to consumers. The Secretary would have the same rights as any other party in the proceeding, except that he could not initiate or join in an appeal using authority under this Act. Authority to participate in ratemaking proceedings granted to the Administrator of the Federal Energy Administration in Title II of the Energy Conservation and Production Act (which will be vested in the Secretary of Energy on October 1, 1977) is not affected by the bill.

In the case of a nonregulated utility, the Secretary could intervene in any convenient proceeding dealing with rates or rate design. If no such proceeding is available, the Secretary may review the utility's rates and make recommendations to promote the three purposes cited above.

The Act instructs the Secretary to examine the methods electric utilities use in determining rates in order to assess how well their rates reflect variations in cost of service due to daily and seasonal time of use as well as the relationship between rates and the marginal cost of providing service to customers. He is also to consider to what extent the three purposes cited above may

be furthered by various rate reform approaches listed in the Act.

The Secretary is to report annually to Congress on the progress of the State regulatory authorities and nonregulated utilities and to report recommendations for further Federal action to achieve the three purposes of the Act.

The Secretary is also to study and report to Congress on gas utility rate design and address the effect of specific rate reform approaches listed in the Act on various aspects of gas utility service. Based on the study the Secretary shall develop proposals on gas utility rate design and include any recommendations of the Federal Energy Regulatory Commission. The study is to include an analysis of projected savings in natural gas and likely changes in the price of natural gas if the proposals were to be implemented.

The Secretary shall also report on any financial burdens the Act will impose on State regulatory authorities and the views of these authorities on the need for and desirability of Federal financial assistance.

The Act establishes a National Regulatory Research Institute under the auspices of the National Association of Regulatory Utility Commissioners and authorizes $2 million for each of fiscal years 1979 and 1980 for the Institute.

In order to encourage cogeneration of electricity and the production of electricity from solid waste or renewable resources the Secretary is authorized to exempt cogenerators and small power producers (less than 30 megawatts) from the requirements of certain Federal laws applicable to utilities. The exemption applies only to persons not primarily engaged in generating or selling electric power. The Secretary shall also issue guidelines to State regulatory authorities on regulatory steps that will encourage development of these sources of power.

In addition, those low-head, hydroelectric demonstration projects authorized in the Senate bill authorizing appropriations are exempted from the licensing requirements of the Federal Power Act. $10 milion is authorized for guaranteed loans to fund feasibility studies for such small hydroelectric projects.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 23, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2114, the Public Utilities Regulatory Policy Act of 1977, as reported by the Senate Committee on Energy and Natural Resources on September 20, 1977.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SEPTEMBER 22, 1977.

1. Bill number: S. 2114.

2. Bill title: Public Utilities Regulatory Policy Act of 1977.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 20, 1977.

4. Bill purpose: This bill would amend the Energy Conservation and Production Act by promoting conservation, efficiency, and equitable rates in electric and gas utility systems. The bill would require three reports to Congress: (1) rate making and load management practices, (2) gas utility rate design study, and (3) financial burdens of state regulatory authorities. The bill would also establish and authorize appropriations for a National Regulatory Research Institute to provide state regulatory authorities with information. Lastly, the bill would authorize up to $10 million in loans for hydroelectric project feasibility studies.

5. Cost estimate

[By fiscal years, in millions of dollars]

Fiscal year 1978:	
Authorization level	[1] $15.8
Estimated costs	5.4
Fiscal year 1979:	
Authorized level	2.0
Estimated costs	8.8
Fiscal year 1980:	
Authorized level	2.0
Estimated costs	6.5
Fiscal year 1981:	
Authorized level	------
Estimated costs	3.7
Fiscal year 1982:	
Authorized level	------
Estimated costs	3.1

[1] Includes estimated cost of studies authorized in Sections 8, 9, 10 and 12.

The costs of this bill fall within budget function 300.

6. Basis for estimate:

Section 5: Information and Reports.—This section of the bill would allow the Secretary of Energy to reimburse utilities for the cost of obtaining information on shifts in electric loads and costs of consumption. No cost for this section is included in this estimate, since it is not possible at this time to project the likely data requirements of the Secretary of Energy, and the extent to which reimbursement of utilities will be required in order to obtain such information.

Section 6: Federal Participation.—This section would allow the Secretary of Energy to intervene in state regulatory proceedings. For the purposes of this estimate it was assumed that a staff of 40 would be necessary to carry out the purposes of this section. The estimated costs in fiscal year 1978 would be $1.5 million, increased annually thereafter for inflation.

Sections 8, 9, and 10: Studies.—These sections of the bill would require reports to Congress on (1) rate making and load management practices, (2) gas utility rate design study and (3) study of financial burden of this action regulatory authorities. For the purpose of this estimate, it was assumed that the first study on rate making would not require additional funds, since it falls within the scope of present FEA activities. The gas utility rate design study was estimated to cost $5 million, with a disbursement rate of 40 percent and 60 percent the first and second years, respectively. The last study on the financial burden on regulatory authorities was estimated to cost $300,000 with the entire amount spent the first year.

Section 11: National Regulatory Research Institute.—This section would establish a National Regulatory Research Institute under the auspices of the National Association of Regulatory Utility Commissioners. Section 15 would authorize the appropriation of $2 million in each of the fiscal years 1979 and 1980 for this purpose. It is estimated that these funds would spend out 90 percent the first year and 10 percent the second year, based on disbursement rates of similar organizations.

Section 12: Cogeneration Guidelines.—This section would require the Secretary of Energy to provide guidelines on requiring electric utilities to offer to sell and purchase electric energy to and from other cogenerators or small power producers. The costs of this section are estimated to be $500,000, with a disbursement rate of 80 percent and 20 percent the first and second year respectively. These costs are estimated to cover manpower requirements for developing these guidelines.

Section 14: Hydroelectric Projects Feasibility Studies.—This section would authorize the Secretary of Energy to make loans to municipalities, electric cooperatives, industrial development agencies, and non-profit organizations to assist them in studying the feasibility of utilizing a hydroelectric project for electric generation. It was assumed that the loan would begin to be paid back after five years, the interest rate would be 7 percent, and the entire $10 million authorized in Section 15 would be disbursed over a five-year period beginning in fiscal year 1978. One third of the loans are assumed to be cancelled due to infeasibility of the project. The net outlays are estimated to be $1.2 million in fiscal year 1978, $2.3 million in fiscal year 1979, $2.9 million in fiscal year 1980, $1.8 million in fiscal year 1981, and 1.3 million in fiscal year 1982.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 9, 1977, CBO prepared a cost estimate of H.R. 8444 as passed by the House of Representatives. Part V of H.R. 8444 is similar to this bill. The differences in costs are attributable to various provisions in H.R. 8444 for loans and grants for hydroelectric projects, and grants to state agencies.

9. Estimate prepared by Leslie Wilson.

10. Estimate approved by C. G. Nickols, for James L. Blum, Assistant Director for Budget Analysis.

Mr. JOHNSTON. Mr. President, the committee deliberations on this legislation were characterized by a strong consensus among members with respect to the basic policy reflected in S. 2114. This bill, which is supported by members of both the majority and minority of the committee, is fundamentally different from the proposed legislation submitted by the administration. The bill has even less in common with the House counterpart, H.R. 8444.

The committee is united in the belief that the policy direction taken by S. 2114 is a correct one. Let me explain why.

The legislation originally proposed by the administration, part E of S. 1469, contemplated a radical extension of Federal authority into the highly complex matter of the design of retail rates for electricity. These rates have been traditionally set at the State level, of 10 by persons elected for this purpose. Retail electric utility rate policy has in the past been shaped by a host of decisions arrived at on the local level, taking into account unique conditions of geography, climate, social and economic structure and the desire of the people of a State. The diverse character of rate structures in the various States in many respects reflects the diversity of the country.

The administration bill proposed to establish Federal policies with respect to the methodology of ratemaking and to superimpose these policies on the decisionmaking process at the State level. If, in the judgment of a single Federal official, the Administrator of the Federal Energy Administration, a State failed to implement Federal policy in designing rates, the Federal Government would then step in.

The committee felt strongly, and the committee hearing record clearly showed, that at present there is no clear justification for such an extension of Federal authority. At a later time, after more study and experimentation with alternative rate structures, it is conceivable that a case for enforcement of some sort of

Federal standards could be made. But that case simply cannot be made based on the record available at this time.

Accordingly the committee has reported a bill to the Senate which adopts a far more cautious approach than that contained in either the administration or House bills. The committee does recognize the need for a statement of Federal purposes in the area of utility ratemaking and for a means of conveying Federal recommendations to State regulatory authorities and nonregulated utilities. Therefore, the legislation reported sets forth as broad national purposes the encouragement of: First, energy conservation; second, the efficient use of utility facilities and resources; and third, equitable rulemaking, and authorizes the Secretary of Energy to intervene in rulemaking procedures before State commissions in support of policies which further these purposes.

Enactment of the committee bill would in no way foreclose stronger action by Congress at a later time. In fact, S. 2114 is specifically designed to bring about conditions under which intelligent decisions can be made with respect to a national policy on utility rates.

The bill contains broad Federal information gathering authority to permit assessment of State capabilities with respect to ratemaking, analysis of costs of providing utility service and identification of the factors which determine the demand for electricity and natural gas.

The bill provides for a vigorous advocacy role for the Federal Government in encouraging the adoption by State commissions of rate structures which are energy- and capital-conserving and which are equitable to consumers. This authority is established in addition to, and not in any way in limitation of, authority available in other law. However, the role of the Federal Government is one of advocacy only. The power to decide would remain where it is, in the hands of local officials.

The committee would oppose at this time any amendment to S. 2114 that would confer upon the Federal Government the authority actually to interfere and impose on a State government a Federal decision with respect to the rates in that State. Unless the Senate directs us otherwise, we intend to adhere to this principle steadfastly in conference with the House.

Mr. President, the committee bill is silent on one of the questions of policy raised by the administration in part E of S. 1469. This is the issue of the authority which should be granted to the Federal Energy Regulatory Commission to order—physical interconnection among electric utilities; the "wheeling" of electric power between two utilities across the transmission facilities of a third; and the pooling of the generation facilities of different utilities to assure the most efficient use of resources.

The committee felt that the issues in this area were particularly complex, and that difficult questions which have little relevance to energy conservation or the efficient use of facilities and resources are inextricably intertwined with these proposals. At the committee's direction my subcommittee held an additional hearing on these issues after S. 2114 was ordered reported. The testimony at that hearing confirmed the committee's judgment concerning the complexity of the issues, but also provided guidance concerning the nature of the limited authority which could be justified. As a result, I will offer an amendment which is cosponsored by Senators DOMENICI, JACKSON, and FORD addressing FERC authority to order the physical interconnection of utilities. The authority granted by the amendment is limited to the achievement of specific purposes, which I believe are justified. The amendment does not address the much more complex issues of wheeling and pooling, which really involve value considerations unrelated to the purposes of a bill dealing specifically with energy conservation and efficiency.

Mr. President, together with this amendment, I believe that we will have a good Senate bill that will lead to regulatory reform and thus result in the conservation of energy as well as in more efficient utilization of utility facilities and resources. And yet we will accomplish this without the transfer of a vast amount of regulatory power from the States to the Federal Government. It is a sensible bill, a bill we can defend in conference with the House. We recommend that it pass.

Mr. President, this has been energy year with the Energy Committee. We have held hearings beginning at 7 a.m. and 8 a.m., and we have had hearings lasting 6 hours at one time, all in an effort to get out the tremendous press of business which has come to the Energy Committee. We have dealt with all parts of the Carter energy program except those which dealt with tax. Indeed, even with the tax aspects of that energy program we have held hearings. To say that the workload was monumental is not an overstatement.

One of the bills of the Carter energy program has been utility rate reform. I would prefer "rate change," because the word "reform" does not always apply just because something is changed.

The elements of that program, as initially conceived, may well be reform and may well be in the interests of the American people, the American consumer. But, Mr. President, changes in electric rate reform are also very dangerous in that if changes are made at the Federal level to upset a longstanding superstructure and infrastructure of rules and regulations all of which are well-known and well understood by the utility industry, then by that change, and by the uncertainty which that change in Federal regulations will bring, we could well dry up the sources of funding for all of the utility expansions which need to be made over the next few decades.

For that reason, the Energy Committee felt it appropriate, indeed necessary, to go into this field of utility rate reform with the greatest degree of caution, and not to move unless we understood precisely what we were doing and precisely what the effects of what we were doing were on the utility industry, as well as on the American consumer.

We considered such things as lifetime rates, time of day rates, whether we ought to come up with Federal rules that require the State regulatory bodies to enact these kinds of rules.

We heard a great deal of testimony within those difficult time constraints we had. The overwhelming bulk of the testimony was that these things are in an experimental stage now, such things as time of day rates, lifeline rates, and all the other changes; that we should not proceed into those things now but rather do some experimenting before we move.

For that reason, the committee, I believe, was first of a mind just to kill the whole program and say, "Let us wait and come back next year, in an orderly manner when we have the time to consider it, and have the time to consider what the effects of doing some of these things will be."

After more mature consideration we thought that the best way to experiment, the best way to find out what these effects are, and to bring this whole matter out in public debate, would be to allow the Secretary to intervene on his initiative in State regulatory proceedings, and in that intervention to argue for the changes they ought to have, to argue for lifeline rates, if that happens to be the thing before the Secretary at that time, or time of day rates, or all the other things which can be viewed by the Secretary as reform. In other words, to put out these ideas, reinforced by the tremendous capacity the Secretary has to acquire facts and data, but to be able to go before the State regulatory commissions and argue for those changes. If they accept them, fine. If they do not, then we do not authorize any additional right of appeal of the Secretary, either in State court or in Federal court or, indeed, to even join in that appeal, the reason being that we do not want to create a whole new common law built up at the behest of the Secretary, and established on a case-by-case basis.

We want, rather, for the time being, to have the Secretary go to the marketplace of ideas, the forum being the State and regulatory bodies, and have them make the decision based on the force of the logic and persuasion that the Secretary has, rather than on the big Federal club which we refuse to give him.

So that, essentially, Mr. President, is the direction of this bill. I wish to emphasize that this is no defeat for the Carter administration. This is no battering in the head of an essential element of Carter's energy program. It is true that this is one of the five parts of the Carter energy program. But in making these changes, we have not, in my view, taken away one of the mainstays of the Carter program. The mainstays of the Carter program have to do with oil, gas and coal, and conversion to coal and whether we enact the crude oil equalization tax, promote insulation, and those sorts of things. This bill is but a small part of it.

We are not saying no to change and reform in utility rates, we are saying that it is too early. This is the first year we have had hearings in the Senate on utility rate reform. We are not ready to move. We feel very strongly that we are not ready to move.

Let me say one further thing on the question of the Carter energy program, and I think the administration would do well to take this unsolicited advice. That is to realize that their energy program was put together in a period of 90 days, from January 20 to April 20. It was a monumental job, calling for great courage, great ability, and a great amount of work, performed under huge constraints and pressure. I think it was performed very well. I think it was a great act of leadership for the President, not only to put together the program, but then to sell it to the American people in television broadcasts and tell them that they were going to be called upon for sacrifices and tell them that it is the moral equivalent of war. This was the act, I think, of a great President, to do that.

Having done that great work and having made those courageous acts, for the administration or the President now to say that that product, put together in a period of 90 days, must be enacted without change and must be enacted in all its substantial parts, I think, is not only wrong, but is unrealistic. I think it is wrong for energy, for conservation, and for the American public.

The committee acted in that spirit of cooperation with the President, but with the recognition that to move too far too fast too soon in some of these fields would be unwise for everybody, including the consumer, including those who are most interested in conservation. I know that last category includes the members of the committee.

So, Mr. President, we think we have a good start on utility rate reform. This is not the last chapter or the last word, but it is a start that we felt we could not step beyond on pain of taking great risks with the American public, with conservation, and with the future of the utility industry in this country.

I yield the floor to my distinguished friend from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

I rise to associate myself with the remarks of the distinguished junior Senator from Louisiana. I want to comment briefly on how I view what the committee did and where we are.

First of all, Mr. President, the goals of this legislation are clearly stated. They are to try to conserve energy and maximize the utilization of facilities. Those were the two prime goals of the President's package with reference to utility ratemaking in the United States. The committee added a third goal, to seek to do equity.

The only questions we had were, how do we accomplish these three goals and what is the Federal role with reference to the individual States and their utility ratemaking commissions? I think it is safe to say for the U.S. Senate that the committee, by a rather compelling majority, concluded that there are a couple of things that we did not want to do. Among those are that we did not want, at this time, to preempt the ratemaking role of the commissions in the individual States; that we did not know enough; that we might cause confusion and delays in an already fragile-capitalized industry, where delays would amount to less development, less building, less construction. So the committee, by a rather compelling majority, concluded that, whatever we do, we did not want to preempt and dictate to the ratemaking commissions in the country.

Second, we did not decide that the Federal Government knew how to tell each State to effect these new kinds of ratemaking schemes, whether it be marginal ratemaking or time of day, whether it be any of the three of four suggested approaches. We know they are good conceptually, but the committee, by a rather compelling majority, indicated clearly that we did not want the Federal Energy Office to be down at the State level at this point in time, imposing these new systems by operation of law. So I believe that, rather than do nothing, we came up with a rather good scheme.

The real inherent parts of this scheme are to indicate our goals with reference to electric energy production. They are that we have the goal to conserve, to maximize and utilize the facilities in this country, built now and built in the future, and to seek to do equity. Once having established those goals, we said that we thought it was appropriate for the Federal Government to make an effort to push the States ahead, to move them, to cause them to look clearly at these new approaches. We would give our Federal Government the right to intervene in rulemaking hearings at the local and State level, but this intervention is very clearly defined by the committee. It means that, as a matter of right, they can get involved and go before these tribunals and make the case for this new approach. They can participate, ask questions, submit their position, be very public, bring evidence and facts before them that encourage them to move in that direction, or call facts to their attention. At that point, this bill says, the Federal Government's intervention is finished. That means they do not take this cause and go through the court system, delay the procedings as if we had told each State, "That is what we want," because we do not know within that State whether that would end up being good in terms of our overall goals or whether it would, because of certain peculiarities in the State, cause harm.

As I view this, when we couple that part of the bill with the obvious efforts to bring facts to the National Government as we proceed through this kind of limited intervention, to bring backup to the Federal Government, and thus to Congress, what is happening with the State regulatory commissions in the next 2 or 3 years—when we couple those two, factfinding and limited intervention for these particular goals—I think we have a package that deserves the support of the Senate. It will, indeed, send a clear signal to those States that, through their commissions, do not care or appear to be calloused or think there is nothing new in the field of ratemaking, that this energy crisis has brought into focus something that they ought to consider. It will bring intervention there; it will bring public notoriety there; it will bring facts up to the National Government as to what and how they are doing this in the intervening years.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMENICI. I yield myself an additional 2.

This is certainly short of preemption. It is a cautious but firm approach. It signifies a genuine interest on the part of our National Government toward the utility industry and ratemaking bodies in this country, that we want conservation. maximum utilization of facilities, good planning, and equity, if possible.

I think the committee has done the right thing in being cautious, but firm.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, S. 2114, the Public Utilities Regulatory Policy Act, is the first legislation reported by the Committee on Energy and Natural Resources dealing with public utility rate policy. We received this jurisdiction earlier this session with the adoption by the Senate of Senate Resolution 4.

The committee has devoted more hearing time to this issue—6 days—than to other provisions of the President's energy bill because the issue is a complicated one and also because our experience with it is not extensive. The legislation we have presented to the Senate reflects the concern and caution our committee feels about the issue of electric utility policy. S. 2114 is not as far-reaching as the bill the administration proposed in April. However, to report more ambitious legislation dealing with this policy area, legislation in line with that proposed by the administration, it would be necessary to ignore both the committee's hearings, as well as our own collective judgment.

The overwhelming message of those hearings and the mail received by the committee and its members has been to warn of the danger of attempting radical changes in Federal policy with respect to public utilities without extensive additional study and analysis. S. 2114 as reported by the committee will insure that this learning and study process is accelerated. Through the gathering of information and data and through active participation in utility ratesetting procedures at the State level, the background for an intelligent and carefully thought-out Federal policy toward the Nation's public utilities can be developed.

I believe I speak for both the majority and minority when I say that we feel that S. 2114 is a good bill. It is an appropriate bill, one which faithfully reflects the clear preponderance of advice given the committee at its hearings.

The Nation's utilities have borne the brunt of the enery crisis. They have had no choice except to pass rising energy

costs on to their customers. Their construction programs have been devastated by inflation and their operating costs have been multiplied by the same acceleration in energy prices. Public utilities send each customer a monthly reminder of the crisis in energy costs, and each customer resents the utility for it. There is no more pervasive source of public discontent than the outrage Americans feel over utility bills.

It would be nice to say that we have reported legislation which will offer some relief from this widely detested increase in consumer cost. But no one has proposed such a bill. The administration proposal will not do it. The House bill will not do it; and S. 2114 will not do it. Utility rates are going to continue to rise, both because fuel prices will continue to rise and because national policy has been unable to bring down the rate of inflation.

There is no simple answer to these rising utility rates. We will be struggling to establish policies to deal with the problems of the Nation's public utilities in several future sessions of Congress. The bill we are considering today represents a responsible beginning of what will be a long-term responsibility for the Federal Government in encouraging the adoption of rate structures which are equitable, which encourage the efficient use of existing and proposed utility capital facilities and which slow the rate of growth in energy consumption without being economically disruptive.

The Committee on Energy and Natural Resources recommends that the Senate proceed cautiously in establishing new Federal utility policies, by gathering information, investigating innovative approaches and techniques and advocating enlightened utility regulation at the local level. S. 2114 reflects this view.

I strongly urge my colleagues to accept the committee's advice. I urge them to refrain from offering amendments which would carry Federal involvement in the regulation of utilities beyond the point of the prudent beginning set forth in the reported bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. BARTLETT. Will the Senator yield to me briefly?

Mr. CURTIS. Mr. President, I yield briefly to the distinguished Senator from Oklahoma (Mr. BARTLETT).

Mr. BARTLETT. Mr. President, I will be very brief, and I thank the distinguished Senator from Nebraska.

I want to congratulate the two floor managers for a lot of hard work and for doing a good job, taking a bill that I think would have definitely gone too far at this time and changing it after lengthy hearings and deep consideration to a bill that I think moves in the right direction. It provides the Federal Government an opportunity to present its case, to enter into the arena of debate, to have an opportunity to have its ideas heard, but not to be in a position of dictating or of establishing a new order in the utility ratemaking area.

I think the utilities, since they are based in a State and are subject to very close scrutiny by the press and the people of that State, because their activities affect virtually every consumer's pocketbook, are trying to do a very good job and that the regulatory bodies in the various States that control the utilities are also trying to do a very good job to protect the interests of the consumers and the interests of the citizens of that State.

So I think the steps that are taken here are steps that will be carefully watched. It will give the Federal Government a chance to present its ideas, but it will also retain the responsibility within the States of governing their own utilities, which I think at this stage certainly is called for, and it might be that it should be retained forever.

I would have to be convinced that the utilities were completely out of line and that the Government bodies in the various States had not done a good job before I would be convinced that the Federal Government should intervene.

I personally do not think that is the case. But we will have a chance to see. We will have an opportunity to observe just what the Federal Government has in its mind and then just what the governing bodies in the various States have done.

Commissions which do regulate the utilities are right under the gun of the consumers and the citizens of the State and, by and large, I think they have done an excellent job. Certainly in our own State I am convinced of that, and I think in the other States that undoubtedly is also true.

I thank the distinguished Senator for yielding to me. I withhold the remainder of my time, Mr. President.

Mr. President, would the Senator yield further for just a moment?

Mr. CURTIS. Yes.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mike Crisp of Senator BAKER's staff be granted privileges of the floor during consideration of this matter, and also Darla West and Ron Shiflet, of the staffs of Senators DOMENICI and MCCLURE, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Will the Senator yield?

Mr. CURTIS. I am happy to.

Mr. FORD. Mr. President, I ask unanimous consent that Jim Fleming and Mike Gatlieb of my staff be granted privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Senator.

UP AMENDMENT NO. 863

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment numbered 863.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add a new section:

"SEASONAL DIVERSITY ELECTRICITY EXCHANGE

"SECTION —. To encourage and expedite benefits to the public of the bulk exchange of electric power between certain areas having diverse peak demand seasons and thereby to increase fuel efficiency and to reduce use of natural gas and foreign oil, upon issuance of a Presidential Permit for transmission facilities at the international border with Manitoba, Canada, to exchange electric power among electric utilities which together provide service in Manitoba, Canada, and in North Dakota, South Dakota, and/or Nebraska the permittee or permittees shall be entitled to exercise the power of eminent domain of the United States to take and secure lands, easements, rights-of-way, and other interests for the construction, operation, and maintenance of electric transmission lines and appurtenant facilities to accomplish such exchange. The district courts of the United States in which such property interests are located shall have jurisdiction of proceedings to acquire such property interests under this section, and the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure, provided, however, that the petitioner or petitioners may exercise the right of the United States to file with the petition or at any time before judgment a declaration of taking in the manner and with the consequences, but in its or their name, provided by sections 258a, 258b, and 258d of Title 40, United States Code. This section does not supercede the authority of the State public utility commissions to regulate the transmission facilities within their respective States in any manner not inconsistent with the purpose of this section or supercede any right of any person to appeal a decision of such a commission in the courts of the State."

THE MANDAN ELECTRIC TRANSMISSION EXCHANGE PROJECT

Mr. CURTIS. Mr. President, this amendment is to authorize the use of Federal eminent domain for construction of the Mandan electric transmission line.

Mr. President, the Mandan project would involve construction of a 450/550 AC/DC transmission line from Manitoba, Canada, through the States of North Dakota, South Dakota, and Nebraska. The project would be the first international and interstate electric transmission exchange system built in the United States. It would provide an electrical transfer capability of 1,000 megawatts and is now scheduled for completion by 1984. The estimated cost of $550 to $600 million would be borne totally by the participating utilities. They include Manitoba Hydroelectric Board, the public corporation providing electrical service for the Province of Manitoba, Canada; and in the United States, four electric utilities including one private utility, Otter Tail Power Co. of Minnesota, and three public utilities: Minnkota Power Cooperative of North Dakota, Basin Electric Power Cooperative of North Dakota and South Dakota, and Nebraska Public Power District.

The Mandan partners provide retail and wholesale electricity for nearly 1 million customers. The project will be of primary benefit to the retail and wholesale customers and members of the for U.S. utilities in the States of North Dakota, South Dakota, Nebraska, and Minnesota; of direct benefit to other utilities

interconnected and with exchange agreements with the U.S. partner utilities in the States of Montana, Wyoming, Colorado, Kansas, Missouri, and Iowa; and of indirect benefit to a larger area of electrical customers who are interconnected with the U.S. utilities in the Mid-Continent Area Power Pool.

Mr. President, the Mandan project is not controversial. It involves no Federal funding or future Federal authorizations or appropriations.

The project will provide up to 40 percent more electrical energy for the participating utilities during their peak electrical demand periods. The project will operate by providing a transmission exchange with the southern utilities in Nebraska and South Dakota transferring excess electric generation to the northern utilities in Canada and North Dakota during their peak demand seasons in winter time; and with the northern utilities transferring their excess electrical generation to the southern utilities in South Dakota and Nebraska during their summer peak demand.

Mr. President, here is an unusual opportunity at a time that we have energy shortages and wish to conserve. A plan is worked out for us to exchange energy with Canada so that they may supply our needs here when we need it, particularly during the irrigating season, and we, in turn, can send to Canada excess power that they need in the winter time.

The Mandan project will provide for a substantial increase in electrical energy that would not otherwise be available except by huge capital outlays and construction of additional power generation facilities by the partner utilities in the United States. The winter excess generation from the summer utilities will be provided from generation facilities now existing or under construction in those areas. The excess winter generation for use during the summer peaking periods in the south would likewise come from generation facilities now existing or under construction in the north. The primary facility making this exchange transmission system possible is the new large hydroelectric transmission plant on the Nelson River in Canada.

The Mandan project will take advantage of nonpolluting clean sources of energy and of peak production capacity of the partner utilities to maximize efficient use of generation capacity, thereby providing a maximum conservation of electrical energy and natural resources.

Mr. President, my amendment to provide Federal eminent domain will insure timely completion of the project and maximum utilization of the available electrical energy. Although the U.S. utilities now have the authority for eminent domain in the States in which they are located, provisions of State law in those States could lead to lengthy delays in the acquisition of rights-of-way for construction of the line. My amendment provides for normal recourse and settlement in Federal district courts under the Federal eminent domain provisions.

The Mandan project will be the first of its kind providing for transmission exchange on an international and interstate basis. It will serve as a model project for possible future similar projects between Canadian and United States utilities across the northern tier of States from the east to the west coasts. The Mandan project could be the forerunner of a series of transmission exchange systems to provide a substantial increase in electrical supplies for the United States at a time when the Nation is facing a serious energy situation.

Mr. President, this is a good project. It is not controversial and requires no Federal funding or appropriations. The Mandan would be a model project for transmission exchange between the United States and Canada, and as such it can be the forerunner of a series of systems to help provide badly needed energy for our Nation.

I hope that my colleagues will see the value and potential from this project, and I ask that my amendment be accepted on the energy bill we have before us at this time.

Mr. President, I should like the attention of the distinguished Senator in charge of this measure, to see if he might agree to the adoption of this amendment.

I presented this matter in an earlier bill from the same committee. At that time, Senator JACKSON expressed no opposition to it but suggested that we take it up on this bill as a more appropriate vehicle.

Mr. JOHNSTON. I yield myself 1 minute.

Mr. President, this amendment, as we understand, has been cleared all around. It involves no Federal regulation or Federal money. It simply involves getting the power of eminent domain as adjusted by and consistent with State law. It will serve the ends of energy conservation and efficient use of generating facilities by combining about five different generating facilities and allowing them best to use their facilities.

For that reason, we will accept the amendment. I congratulate the Senator for offering it.

Mr. CURTIS. I thank the Senator.

In response to the question of the manager of the bill, as to the clearance of this amendment, I wish to advise him as follows:

The distinguished chairman of the committee, Senator JACKSON, knows of this amendment. I presented it on a previous bill and he asked me to withhold and present it on this bill. The distinguished Senator from Wyoming, the ranking minority member on the committee, approves of this amendment as does the minority manager of the bill, Mr. DOMENICI. The States of North Dakota, South Dakota, and Nebraska all favor this bill. It has been taken up with the Governors of each State. The utility districts have all been in on negotiations and there is no objection to the passage of the resolution by any of them.

The Senators representing North Dakota, South Dakota, and Nebraska have been informed what we are doing here. The Senators from the State of South Dakota expressed some questions about the amendment. It was for that reason that the last sentence of the amendment was added.

So in response to the question as to clearance, it has been cleared with everyone, so they know that it was to be taken up at this time and there has been no request to hold or delay or withdraw it.

Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CURTIS. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, for the minority, we concur in the remarks of the Senator from Louisiana. We have no objection.

Mr. CURTIS. I thank both distinguished Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

(Later the following occurred:)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote on the amendment offered by the distinguished Senator from Nebraska.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CURTIS. I thank the Senator.

Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 864 (PRINTED AMENDMENT NO. 1394)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposed an unprinted amendment numbered 864.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 18, insert a new section 15 as follows, and renumber succeeding sections accordingly:

INTERCONNECTION

SEC. 15. (a) Section 202 of the Federal Power Act is amended by adding a new subsection (g) to read as follows:

"(g)(1) Whenever the Commission, upon application of any State Regulatory Authority or any qualifying cogenerator as defined in the Public Utility Regulatory Policy Act of 1977 or any electric utility, and after notice to each State regulatory authority, qualifying cogeneration or electric utility affected and after opportunity for hearing, finds such action necessary or appropriate to carry out the purposes of paragraphs 2(a) or 2(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct an electric utility (other than a Federal agency)—to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenera-

tor; and to order such utility or qualifying cogenerator to sell energy to, to exchange with, and otherwise to coordinate with said parties only as necessary to effectuate the intent of the interconnection.

"(2) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties. *Provided*, That said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them. *And Provided further*, That if in the Commission's judgment, time is of the essence, the Commission may issue an order under the authority of this subsection prior to or during the negotiations among the parties.

"(3) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities for purposes of this subsection, or

"(B) take any action that would result in an uncompensated economic loss to the electric utility or its customers, place an undue burden on such utility, unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers,

"(4) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.

(b)(1) The first sentence of section 201(b) is amended by inserting "(other than section 202(g))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(g) shall apply to the electric utilities and other persons specified therein."

(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(g))" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95-91) the authorities vested in the Federal Power Act by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

(5) For the purposes of this subsection the term: "electric utility" means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electric energy;

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself, the distinguished Senator from New Mexico (Mr. DOMENICI), as well as Senators JACKSON and FORD. It deals with the question of interconnection.

Mr. President, in the House there was a very broad provision relating to wheeling, pooling, and interconnection. In the House bill, the Commission was given authority to order any of these things to a full and complete extent—either wheeling, pooling, or interconnecting—and to do so at its own motion or discretion or on application of any interested party.

Frankly, it sounded very appealing to us on the committee when we first heard it, and we came very close to enacting the provisions in the form it came from the House, without a hearing. But some of us on the committee, out of an abundance of caution, even though we had this huge press of work, decided that we should at least call 1 day's hearing on this matter.

We did, and we found how very complicated and controversial and difficult is the whole field of wheeling, pooling, and interconnection. So, after a hearing which was supposed to last 2 hours but which spilled over for 4½ hours, and after further consideration by the members of the committee, we have come up with a consensus of the committee, which is this amendment.

First of all, it does not deal with wheeling. The reason it does not deal with wheeling is that the committee did not want to use the power of the Federal Government, at least not on the basis of the record and the hearings we have had, to permit what some utilities regard as piracy—that is, to require a utility to wheel the power from some other utility's generating plant to one of its own wholesale customers; in effect, to require a utility to furnish the rope to hang itself or to risk losing some of its retail or wholesale customers.

We tried to deal with that question and tried to make the effect of wheeling neutral as between competing utilities or rural electric groups, and we found that neutrality language, first, was very difficult to draft. We did not have a sufficient hearing record to draft properly the language of neutrality—if, indeed, that is possible. Second, we found that it did not please anybody to try to enact language of neutrality. It does not satisfy any of the competing forces—the public power group that wants wheeling, the rural electrification people who want wheeling—and it does not satisfy the utilities, either. In effect, we found that the subject of wheeling is a very great subject in itself which justifies a whole series of hearings, and it is not necessary to achieve the purposes of energy conservation or of efficient utilization of generating facilities.

This bill deals with the triple goal of energy conservation, efficient use of facilities, and equitable rates for consumers. Wheeling has nothing to do with that. Wheeling does have something to do with competition among various generating groups.

So what we did was to construct a very narrow provision on interconnection, which provides that, on the application of the State regulatory commission or a qualifying cogenerator or an electric utility, the commission may order interconnection if it serves one of the three goals I have just mentioned—that is, conservation, efficient use of facilities, or equitable rates for consumers.

The Commission itself cannot on its own initiative order this interconnection, but it must be on the application of one of the three parties I have just mentioned. Upon the application of one of these three parties the Commission must give notice to the parties involved, setting a reasonable time for them to negotiate. During that time, they can negotiate all the terms and conditions of the interconnection and then present those back within a reasonable time for the Commission to approve. If they do not agree within a reasonable time, or if time is of the essence, of if their own provisions are unreasonable, then the Commission can proceed to order the interconnection.

Under this amendment, the Commission shall have no authority to compel enlargement of generating facilities or to take any action which would result in an uncompensated economic loss to the electric utility or its customers, or to place an undue burden on such utility or unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

Mr. President, except as provided in this amendment, compliance by any electric utility with an order issued under this amendment shall not subject any electric utility to regulation under the Federal Power Act, if any such electric utility is not otherwise subject to it. What this means is that in a situation such as in Texas, where the Texas utilities most probably will be ordered to interconnect with the central-southwest group, the order to interconnect will not otherwise, except to the extent provided in this amendment, subject them to regulation under the Federal Power Act.

In effect, what we are doing here is to take a very narrowly constructed amendment which gets to that basic purpose we are trying to consider here, and that is energy conservation. Where you have a conservation problem or where you have a problem of inefficient use of utilities, then you can get the commission to order that interconnection, with the attendant pooling necessary to carry out that purpose.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Did I hear the Senator state there was a situation in Texas and Louisiana that would most probably be ordered under this new section? I do not think you meant that if you said it. It may be, but they may work it out themselves without it ever coming to the Federal Power Commission.

You did not intend to say we are prejudging anyone who might apply as coming under the jurisdiction and being ordered?

Mr. JOHNSTON. Well, of course not. I do not mean to prejudge that decision.

I will say I think that an interconnection will result either under the terms of this bill or voluntarily. I would hope that they would do it voluntarily. But much of the testimony we heard about this was related to that specific situation and, as I say, I do not mean to prejudge where justice is and what the terms of any interconnection ought to be. But it seems clear to me that an interconnection will result, and I hope it will occur voluntarily.

Mr. DOMENICI. Mr. President, will the Senator further yield on this point?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Mr. President, we can take this out of my time. Let me say I concur that we heard substantial evidence on this particular dispute that has existed for a long time and, obviously, the testimony impressed this Senator favorably in terms of there being a need.

I would like to, however, make this point so that the rationale for this bill will be understood, and see if the Senator from Louisiana agrees with me on this point.

As I envision this, what we were doing was causing the gradual evolution of the Federal Power Commission's involvement in this kind of situation.

The old act clearly defined a limited area of jurisdiction, after which if they had jurisdiction they had very broad jurisdiction with reference to the companies. Then this situation comes along, and we are not willing to give the Federal Power Commission a broad jurisdiction for these kinds of cases over which they had no jurisdiction intrastate, totally intrastate distributors, for instance, as one; REA as one, municipally owned is another, but rather we are saying if that kind of nonjurisdictional situation exists the parties or a State commission can ask the Federal Power Commission to assume jurisdiction for the very limited purposes stated here, the interconnect we have described here so specifically.

As we debated this and discussed it, it was my thinking that because this jurisdiction might be called upon by some of these parties that heretofore could not call upon it because of jurisdiction, it was my hope this would force them to sit down and bargain and enter into their own agreements. I think the Senator from Louisiana, as chairman of the subcommittee, agreed with that premise.

The reason I raise it here is it could very well be that the particular companies we heard about, Texas, Louisiana, and Oklahoma, Houston, and another company, may very well now be able to iron out their disputes if this becomes law or their differences, because if they do not, then for the limited purposes stated here the Federal Power Commission may be in position to order them to do it.

Is that how the Senator understands the strength of this, and one of the possible ways it will be of assistance in the market place?

Mr. JOHNSTON. That is precisely correct

I think the real answer to that is found on the first three lines of subsection 2 which says:

> Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order, and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties.

So it is with precisely the spirit the Senator from New Mexico defines that we set about to effect this amendment; that is, that the Commission first gives notice, sets a reasonable time for negotiation and tells the parties to go adjust their own differences.

I think in that particular dispute between Louisiana and Texas utilities both parties recognize that it is in the interest of conservation and efficient use of facilities to have the interconnection.

I frankly think part of the reason that the Texas utilities resisted was because they did not want all the attendant Federal regulation that would be brought on them, and that is one of the reasons why we limited the scope of the act.

Mr. DOMENICI. Then, might I say to the Senator, on page 3 of the bill, line 16, you have alluded to the fact that if jurisdiction vests, if the Federal Power Commission is called upon by one of the parties, that can bring about the jurisdiction, and the committee in its report, and the Senate in its ratification of this, if they approve of this bill today, clearly intend that even after such jurisdiction vests, and even if such an order is effected, that the jurisdiction of the Federal Power Commission is still limited after that particular interconnect consortium to the powers granted to the Federal Power Commission by this section and not by the existing Federal Power Commission jurisdiction and authority; is that correct, Senator?

Mr. JOHNSTON. Precisely so. Subsection 4 sets that out in unmistakable terms.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT addressed the Chair.

Mr. HART. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Leigh McDermott and Peter Gold, of my staff, be accorded floor privileges during the consideration of this measure and all the amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Hal Brayman, of the staff of the Committee on Public Works, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BARTLETT. I congratulate the two floor managers of this bill on this amendment. I would like to associate myself with this amendment——

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield the Senator as much time as he desires.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that I be included as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I want to voice my support for the passage of the amendment to S. 2114 proposed by Senators JOHNSTON, DOMENICI, JACKSON, and FORD.

This amendment would provide limited jurisdiction of the Federal Regulatory Commission under section 202 of the Federal Power Act to order the physical interconnection of the facilities of electric utilities by authorizing the FERC to order, after an evidentiary hearing, a completely intrastate utility, now apparently beyond the FERC's jurisdiction, to establish such interconnection. They could also order a utility to sell and exchange power and to engage in other coordinating actions incidental to the interconnection, where this will further the overriding national interest in the conservation of scarce fuel resources and the most efficient use of facilities. In addition, reliability of service must be maintained.

This amendment will, among other things, provide a forum for effective resolution of the bitter interconnection controversy now going on in the Southwest, and open the door for the interconnection of utilities in that area, to the ultimate benefit of many thousands of consumers.

The amendment is carefully drawn so as to eliminate any possibility that the FERC might order an interconnection or coordinated action which will require the utility so ordered to enlarge its generating facilities, will impair its ability adequately to serve its customers, will expose it to uncompensated economic loss under standards currently applied by the courts, or will lower its reliability to an unreasonably low level.

Since the purposes that the FERC can pursue under this amendment are of critical concern to every electric utility customer in our Nation, and since the amendment likewise protects the legitimate interests of a utility with which an interconnection and coordinated action is sought, I believe that the amendment is in the public interest and should be passed.

I certainly like the idea of bringing the two sides together in the case where there is a desire to work out an interconnect and pooling, limited pooling, in connection with that interconnect, and I think it is desirable to see if the two parties can reach an agreement themselves.

I would like to ask the distinguished floor manager why, if they reach agreement, on page 2 in section 2 it would call for that agreement reached voluntarily by discussion between the two sides to be subject to the approval of the Commission? I can understand the second part of that passage which says that in the event the parties do not reach an agreement approved by the Commission the Commission may prescribe the terms and conditions.

I think if they have not reached an agreement I can see that the Commission then should be given the authority after the evidentiary hearing to prescribe the terms and conditions. But if they reach an agreement voluntarily, I wonder why section 2 would call for approval by the Commission?

Mr. JOHNSTON. Well, for two reasons: First, we would want to determine that that agreement is reasonable. But, secondly and more importantly, under this act the parties have it available to them to avoid FPC jurisdiction except to the limited extent of this act. So that by doing an act which would otherwise subject them to Federal Power Commission authority they are getting what amounts to a special exemption under this amendment. So if they are going to get that special exemption we feel the terms should be reasonable.

Mr. BARTLETT. It would seem to me if, without this provision, they today wanted to agree on an interconnect with limited pooling they could do so.

Mr. JOHNSTON. Well, no; they could do so only in pain of FPC jurisdiction.

Mr. BARTLETT. At the present time?

Mr. JOHNSTON. Yes; in other words, if you had a Louisiana and a Texas utility that interconnected, which would be interstate commerce, they would by that voluntary act be subject to FPC jurisdiction.

Mr. BARTLETT. Would that require FPC approval at that point?

Mr. JOHNSTON. I do not believe that interconnection would require approval, but they would come under the jurisdiction of the Federal Power Act 100 percent by making that voluntary interconnection.

Mr. BARTLETT. And this provides that they do not come under it?

Mr. JOHNSTON. That is right. In other words, if they want to use this act, they go to the Commission and ask the Commission to order it.

Mr. BARTLETT. And approve it, if it is a voluntary agreement.

Mr. JOHNSTON. That is right. Then they can avoid being subjected to any other regulation under the Federal Power Act if they are not otherwise subject to it.

Mr. BARTLETT. I see.

Mr. JOHNSTON. So that is the primary reason for having that approval.

Mr. BARTLETT. I thank the distinguished Senator.

Mr. JOHNSTON. Mr. President, I believe I am ready to yield back the remainder of my time, if my distinguished friend from New Mexico is also ready.

Mr. DOMENICI. Mr. President, I say to the Senator from Louisiana I know of no one who has any desire to be heard on this amendment.

This amendment was not filed previously, was it? It is an unprinted amendment, or was it a matter of record?

Mr. JOHNSTON. No; this amendment was introduced on September 27 and has been printed.

The PRESIDING OFFICER. It is printed amendment No. 1394.

Mr. DOMENICI. When the Senator was discussing the interconnect amendment, the Senator did not intend to state that the purposes for that amendment were the same three purposes as in the whole section 2 of this bill, conservation, efficiency and equity?

Mr. JOHNSTON. No; only the two, only conservation and efficiency. If I said conservation, efficiency and equity of rates, I misspoke myself. We include in this amendment only the A and B of the three purposes.

Mr. DOMENICI. I thank the Senator from Louisiana.

Mr. BARTLETT. I yield back the remainder of my time, and I am ready to vote on the amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ANDERSON). All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lie on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

UP AMENDMENT NO. 865

(Purpose: To exempt small hydroelectric projects of 15 megawatts or less on existing conduits from Federal Power Commission licensing requirements)

Mr. CRANSTON. I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 865:

On page 17, after line 11, insert the following—

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, after line 11, insert the following:

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall grant an exemption from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

Mr. CRANSTON. Mr. President, I am offering this amendment on behalf of Senator CHURCH, Senator HAYAKAWA, and myself. The amendment provides that the Federal Power Commission shall exempt small hydroelectric projects constructed on conduits from the provisions of the Federal Power Act, including the licensing provisions. The amendment is limited to projects which are located on non-Federal lands and which have an installed capacity of 15 megawatts or less.

Mr. President, there is a potential of nearly 700 megawatts of hydroelectric power in existing conduits throughout the United States. I am particularly interested in this matter as there is a potential of approximately 200 megawatts in my State alone. However, this small hydroelectric project's potential has not been fully developed because of the large costs involved in complying with the Federal Power Commission licensing requirements. I understand, for example, that the city of Portland recently spent $500,000 on its application for two small hydroelectric projects totaling 36 megawatts.

In addition, the application processing time is quite lengthy, sometimes taking as much as 6 years, and this discourages applicants for small projects. By waiving the licensing requirement, this amendment should encourage the development of the small hydroelectric power potential.

Mr. President, the amendment does not exempt these small projects from environmental or any other State or Federal law. It does subject the projects to the provisions by the U.S. Fish and Wildlife Service and the State agency responsible for fish and wildlife resources. The amendment requires that the projects be modified if so recommended by these agencies.

Mr. President, it has been erroneously stated that this amendment would be dispositive of the current case before the FPC involving the Escondido Mutual Water Co. et al. I would like to make clear that this is not the case as the amendment pertains only to non-Federal lands and the Escondido case involves Indian trust and Federal lands. It certainly is not the intention of the amendment to interfere with the important test case of the FPC licensing procedures when Indian lands are involved.

Mr. President, this amendment is identical to the Moorhead amendment already approved by the House of Representatives. I hope it can also be adopted by the Senate.

Mr. JOHNSTON. Mr. President, we have had no hearings on this amendment, and therefore in its present form we would have to oppose it. I would wonder, however, if the Senator would be willing to amend section 31(a) to read as follows:

Except as provided in subsection (b) or (c), the commission shall have authority to grant an exemption, in whole or in part.

In other words, amend the phrase by stating "have authority to grant" in lieu of "grant", and add after "exemption" the words "in whole or in part."

Mr. CRANSTON. That is perfectly satisfactory to me. I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified. Will the Senator send his modification to the desk?

The amendment, as modified, is as follows:

On page 17, after line 11, insert the following:

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall have authority to grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agriculture, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

Mr. JOHNSTON. Mr. President, with this modification we will accept the amendment. What it does in its present form is grant to the Commission the authority to consider the application on its merits, and to give them authority to grant in whole or in part the exemption.

We are informed that the present Chairman of the FPC has relayed word to the committee that if he is confirmed as Chairman of the Federal Energy Regulatory Commission, which I am sure he will be, he will take such action as is within his authority to see that the Commission will expeditiously consider whether the California aqueducts should be exempted, assuming, of course, that this amendment is enacted.

So, with this authority, they will move expeditiously, and they will give the matter consideration.

Mr. CRANSTON. I thank the Senator very much.

Mr. DOMENICI. Mr. President, could I ask the Senator from California and the Senator from Louisiana a question?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. By giving the Federal Power Commission the authority to to grant this exemption, as the Senator from California does now with the amendment, and then saying "in whole or in part," I am a little bit confused, because I thought we were granting them authority to make exceptions not only for the specific ones the Senator has enumerated, but also for any kind that fit this, that are a part of hydroelectric facilities that have these characteristics.

Are we talking about that generically, or just the Senator's particular projects?

Mr. CRANSTON. Nationwide, generally.

Mr. DOMENICI. And the Senator from Louisiana understood that and that is what he desires?

Mr. JOHNSTON. Yes. That is the reason for the amendment, to give them the authority. In the original form the amendment would have required this exemption. In its present form, it will simply permit it.

Mr. DOMENICI. But it gives them the power to make this exemption in a general way if they so desire for this kind of facility that fits this definition.

Mr. JOHNSTON. That is correct.

Mr. DOMENICI. I have no objection.

Mr. DURKIN. Will the Senator yield for a unanimous-consent request?

Mr. JOHNSTON. Yes.

Mr. DURKIN. Mr. President, I ask unanimous consent that Tom Grahame, Chris Burke, and Ed Tanzman, of my staff, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, could I discuss for a moment with the Senator from Louisiana——

Mr. PEARSON. Will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. PEARSON. Mr. President, I ask unanimous consent that Ron Johnson, of my staff, be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. DURKIN). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President. I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I want to thank both Senators.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

UP AMENDMENT NO. 866

Mr. STAFFORD. Mr. President, I have an unprinted amendment to the pending legislation, which I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes unprinted amendment numbered 866.

On page 16 after line 17, add the following:

"(c) In addition to the authority of this section and in those cases where a public agency or electric cooperative requests it, the Secretary of the Army, acting through the Chief of Engineers and in cooperation with the Secretary, is authorized to provide technical assistance for any proposed small hydroelectric rehabilitation project at an existing dam, former industrial site, millrace, or other type of existing facilities."

Mr. STAFFORD. Mr. President, I yield myself so much time as I may require.

The Senate, on June 22, adopted my proposal to include in H.R. 5885 a small hydropower section which directed the Army Corps of Engineers to make a careful, national survey of former industrial sites and other old hydropower sites for reuse as new publicly owned powersites, then to offer the local agency the technical advice necessary to rehabilitate the site. This means that the corps will do the plans and design for the new project, then turn it over to local officials to implement.

This section directs the Chief of Engineers, acting with the Secretary, to develop the potential for new hydropower projects by rehabilitating former industrial sites, where such potential exists at places such as millraces, gristmills, waterwheels, and dams. This section does not authorize the corps to build any such power facilities, but to provide engineering and design services to local public agencies so that such agencies can go forward on their own to provide such power. This section is intended to serve rural and small communities, because that is where I believe the potential is most likely to exist. But it does not preclude its application elsewhere.

As one example, there are estimated to be 3,000 old damsites in New England, of which up to 30 percent have been estimated by the Corps of Engineers as possibly adaptable for new hydropower use today. In New England, 60 percent of the electric power is produced by imported oil; New England industry pays an average of 67 percent more for power than industry elsewhere in the Nation.

Even if only a fraction of those sites proved economical, I believe that the use of several hundred such projects, built by local interests and providing clean power locally and economically, must offer a real benefit to the economy of the region.

It should be noted that this approach should have a valuable historical as well

as environmental benefit. By rebuilding some of these older industrial sites, this Nation will be preserving much of the heritage upon which our society is based.

Mr. President, it is the hope of this Senator that the managers of the bill, with whom we have consulted, will be willing to accept the amendment.

Mr. JOHNSTON. Mr. President, as I understand it, the Senator has taken the word "directed" out of the amendment.

Mr. STAFFORD. This is correct, I say to the distinguished manager of the bill.

Mr. JOHNSTON. Mr. President, we are pleased to accept this amendment, because it will have a real potential for restoring hydroelectric rehabilitation to many of the old sites that, in years past, did generate electricity and did provide power. We think this is an appropriate use of our Corps of Engineers' design capacity. The corps, under this amendment, is not directed to provide this, but is authorized to do so. We expect that the corps would use the full extent of their authorization in any project that they think is at all feasible. The corps' help will be of great assistance because that technical assistance will include design on some of these projects.

We are glad to accept this amendment, Mr. President.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, for the minority, we are willing to accept the amendment. We commend the Senator from Vermont. This is, in my opinion, not only a good amendment, but a very appropriate use of the corps. There is much discussion about what they ought to be doing. It seems quite obvious to me that, with the engineering skills and technical skills that they have, if they can assist local groups in determining whether such a project is feasible and, if so, how to do it, I think it is an excellent utilization of existing expertise and we are willing to accept it.

Mr. STAFFORD. Mr. President, I appreciate the statements of the managers of the bill. I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 867

(Purpose: To provide Federal guarantees of financing for small hydroelectric projects)

Mr. DURKIN. Mr. President, at this time I call up an unprinted amendment. I do want to note that this is not the amendment that I have the time reserved for on the consent agreement.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 867.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I ask unanimous consent that Senators HATHAWAY, STAFFORD, and GRAVEL be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, this amendment to the Public Utilities Regulatory Policy Act of 1977, would accelerate low-head hydroelectric development. As many know, low-head hydroelectric power is energy which can be derived from small existing dams by installing turbines and other generating equipment. A recent study by the Army Corps of Engineers, ordered by the President, concluded that the equivalent up to 727,000 barrels of oil per day could be saved if every one of the approximately 49,000 existing dams across the Nation were outfitted to generate electricity. Obviously, many factors could prevent development of all of this potential. But the fact remains that low-head hydroelectric power offers a chance to reduce our reliance on foreign oil imports without many of the environmental costs which so often accompany other alternatives.

It has become evident that our energy crunch demands a program to begin commercialization of every feasible existing technology at the earliest possible date. A national workshop on low-head hydroelectric power, sponsored by ERDA during the week of September 5, stressed that a comprehensive Federal effort is needed to assist low-head hydroelectric development. My amendment represents a carefully limited approach to do this.

The amendment is intended to reduce the risk associated with rehabilitation of low-head dams so that local towns, utilities, electric cooperatives, nonprofit organizations, individuals, and corporations can take advantage of this energy source in a manner which is appropriate to their needs. It does this in two ways:

First. It authorizes Federal guarantees over the next 3 years to cover up to 75 percent of the cost of outfitting dams with generating equipment. With respect to public agencies, it guarantees 90 percent. Guarantees will be issued only where necessary to assure financing.

Second. It directs the Secretary of Energy to simplify and expedite the process of licensing small hydroelectric development in existing dams to reduce the time and expense of getting necessary Federal clearances.

Thus, this amendment creates a limited Federal program to reduce bureaucratic obstacles and provide assurances necessary to induce private capital investment. Lack of experience in the financial community with this energy source would otherwise make lenders leery of risking their money. It is a carefully restricted program, much less ambitious than the direct construction grants and loans called for by a similar version which already has cleared the House. It is the minimum necessary to induce low-head hydro development.

The President's energy program, as well as most of the energy initiatives Congress has taken this session, all aim at the same basic problem: increasing energy supplies to the maximum and reducing demand to the minimum. Low-head hydroelectric development offers a way to increase supplies—the more desirable of these two goals—without the problems associated with many other alternatives. A Federal program is needed in the short run to get it off the ground to make electricity available at the earliest possible date and help the financial community gain experience with the associated risks so that future Federal assistance is not necessary. I urge the Senate to support me in adding this amendment to S. 2114.

This has import not just in New England. There are several other areas of the country, the Atlantic and Gulf region, Mississippi, Arkansas, as well as New England, plus the northwest, that have potential for this.

Just Sunday, we heard, quite to our shock, that the Secretary of Energy is going to propose a $5 a barrel tax on oil imported into New England. We are about 55 percent dependent on imported oil. That would be the equivalent of declaring economic war in New England. That is why we have to go down the road to low-head hydro.

Mr. President, I am happy to yield to the Senator from Vermont.

Mr. STAFFORD. I thank the Senator for yielding.

Mr. President, I want to take a brief moment to say that I strongly support the Durkin amendment.

I would like to call particular attention to the provision that calls for a 90-percent guarantee for projects by public agencies on which the Corps of Engineers has done the study work under the new section 14(c) of the bill.

The revival of small hydropower projects holds real potential for our Nation, particularly in the Northeast, which is the area of the Nation most dependent on imported petroleum products.

This amendment would assure all communities the opportunity to participate in the hydro revival effort with an added incentive for small communities and electric cooperatives.

Mr. PRESIDENT, I hope the amendment will be accepted.

Mr. DURKIN. I thank the Senator from Vermont and I appreciate his support.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DURKIN. I am happy to.

Mr. JOHNSTON. As I understand it, in general there is to be a 75-percent guarantee, based on the total cost of the project. But a publicly owned project, on which the study work is done by the Corps of Engineers, is to have a 90-percent guarantee, is that correct?

Mr. DURKIN. Yes; that was the suggestion of the Senator from Vermont, which I was happy to incorporate into our amendment, the feeling being that the public agencies in contemplation were small communities, municipal coops, and what have you.

Mr. JOHNSTON. My concern is this, and let me say at the outset that I support low-head hydroprojects. I think they offer great possibilities for generation of power in all kinds of parts of the country, even in my part of the country.

As the Senator knows, in committee I strongly supported him in getting the study which I believe is essential to build these. I do not believe we will be able to grant financing of them this year, anyway. I think we first have to study.

But my concern is with this amendment, if I understand it correctly, 75 percent of the cost of the total project can be loaned.

So, in effect, a private group could put together a corporation to build a low-head hydroproject, have no capitalization at all, and be able to borrow, with 100 percent Federal guarantee, 75 percent of the cost of the project without having any other assets, without taking any risk at all of private capital.

Now, am I correct in that?

Mr. DURKIN. No. Twenty-five percent, the loan guarantee to a nonpublic entity, municipal, co-op, whatever, would be a loan guarantee of a maximum of 75 percent.

So that the utility or the group organizing to utilize the low-head hydro would have to be on the hook, the 25 percent, so it is not——

Mr. JOHNSTON. My concern is this, let us say that a couple of engineers who are anxious to get some work decide it would be a good idea to dam up the creek over here.

Mr. DURKIN. If the Senator will yield, I think we can take care of the problem. The first thing we have to have is a dam. We are talking about, the major thrust of the program, existing dams that, for the most part, at one time or another did contain generating equipment.

The change is with the new type turbines. The much more efficient European turbines, and then hopefully the next generation of American turbines, which will be even better than the European ones, will be more efficient, where in the old days it was cheaper to import the oil than to utilize the water resources.

Now, in the existing dam site, in most of them, even if they have sold the dam, the community sold the dam or the utility sold the dam, they reserve the electricity generating rights, in some cases in perpetuity.

So I do not think we run into the problem that we have two or three engineers.

Mr. JOHNSTON. It applies only to existing dams?

Mr. DURKIN. Right.

The Senator made a point earlier that there would be trouble spending the money this year.

We do have $10 million for site-by-site feasibility studies, but there are some studies that have been going on. ERDA has been doing some work and there are sites that will be ready to go this year if that loan guarantee money is available.

I know of communities and I know of corporations that have old dams. They are ready to go if the loan guarantee money can come up this year.

Mr. JOHNSTON. What private corporation would own these dams?

Mr. DURKIN. In the old days, like in northern New Hampshire, the paper companies owned the dams on the rivers. That is the way, before trucks, they moved the logs.

Mr. JOHNSTON. Let me follow up and ask these questions.

Say we have a privately-owned dam and let us say we had the engineer, or whoever wanted to promote a project, so they form the ABC Corp. The ABC Corp. has no assets at all. They go to the paper company and say, "Gentlemen, we will build a dam on your project if you will give us"——

Mr. BUMPERS. I have a unanimous-consent request.

Mr. JOHNSTON. I will yield for the uanimous-consent request.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe, Richard Arnold, and Pat Moran of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Very well.

The engineers get together. They make a deal with a paper company whereby they say that for the first rights to use of the dam to generate electricity, they will pay the company x dollars per kilowatt hour of any electricity generated.

They have no assets in their corporation. They have a dam which would cost $5 million to build.

They then go to the Federal Government and say, "We have a good plan here. It will cost $5 million to build this dam. Would you lend us 75 percent of $5 million?"

At that point, can the Federal Government lend them 75 percent of $5 million?

Mr. DURKIN. First, it would not be a loan.

Mr. JOHNSTON. A loan guarantee. It is a 100-percent loan guarantee, is it not?

Mr. DURKIN. No, it is a loan guarantee of only 75 percent. It is a loan guarantee, as opposed to hard cash, and it is only 75 percent.

I point to page 2 of the amendment. Section (d) touches the area of the Senator's concern in a couple of places.

Mr. JOHNSTON. Permit me to interrupt.

I thought it was 100 percent of 75 percent of the project.

Mr. DURKIN. It is a loan guarantee.

Mr. JOHNSTON. It is a loan guarantee, but of 100 percent of 75 percent of the project.

Mr. DURKIN. That is correct.

Mr. JOHNSTON. So that in the situation I just presented to the Senator, these promoters——

Mr. DURKIN. No. If the Senator will look at page 2 of the amendment, in two places it touches the Senator's concern.

Subparagraph (d), in the middle of the page, gives the Secretary the authority to make the commitments and guarantees in such manner and subject to such conditions as he deems appropriate. That is the first part.

Second, one of the conditions the Administrator or the Secretary has is that there be an existent dam, that it has received all necessary licenses and other required Federal, State, and local approvals. I do not think the Secretary is going to authorize a license to a group of entrepreneurs who are sitting in a ski lodge and look out some day and see a dam and then pick up the Whole Earth Catalog in a neighborhood and say, "This is the way for us to skin the system." I think we have to take care of that by the requirement that the Secretary has set the conditions.

Mr. JOHNSTON. The point I make is that most of the loan guarantees I am familiar with are only for a percentage of each dollar, but this is a guarantee of 100 percent of the first 75 percent of the project's cost.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. I think what the Senator is saying is that if you take an SBA loan, you find 90 percent in there; but it is 90 percent of the loan, so that the applicants are responsible personally for part of a loan, whether it is 95 or 75.

The way the amendment is drafted, it appears that the Senator has used 75 percent of the project that can be the subject of the loan, so the loan would be 100 percent federally guaranteed, if you put in the old dam as your 25 percent equity. I think that is the question the Senator is raising. Am I correct?

Mr. JOHNSTON. There is no requirement here I can see of 25 percent equity.

Mr. DOMENICI. Of the project. I do not know whether it will have to be equity.

Mr. JOHNSTON. It appears to me that they could come in and say, "We have a million dollar project and we want $750,000," and they never would be liable for the last $250,000. That is my concern.

Mr. DURKIN. It is a loan guarantee. This is not unusual language. This is the loan guarantee language that is adopted in all the ERDA authorizing language prior to this time. We lifted that language, virtually word for word, from the existing ERDA loan guarantee programs currently authorized.

Mr. JOHNSTON. Which ERDA program? Does the Senator recall?

Mr. DURKIN. Fiscal 1978—alternate fuel source.

Mr. JOHNSTON. In other language, where we were going to make loan guarantees, we would require that there be some minimal risk, at least.

Mr. DURKIN. Would the Senator be agreeable to changing it to 90 percent? Would that solve the Senator's problem?

Mr. JOHNSTON. If the owners of the dam would have to put up something at risk, that would make me feel a great deal better.

Mr. DURKIN. If it is all right with my cosponsor, we would make it a 90-percent loan guarantee of that 75 percent portion. If this is agreeable to the Senator from Louisiana, I ask that the amendment be so modified.

The PRESIDING OFFICER (Mr. HASKELL). Does the Senator ask that his amendment be modified?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. DURKIN. I will do so in a moment.

The PRESIDING OFFICER. The amendment will be so modified, when received at the desk.

Mr. JOHNSTON. I should like to see the amendment when the Senator has prepared it. I will move on, in the meantime.

Why does the Senator pick the figure of $300 million? That is a great deal of money. What kind of basis does he have for determining that total sum?

Mr. DURKIN. Our research indicated that the loan guarantees might ultimately result in very little expenditure of Federal moneys. That would provide for 50 projects over a 3-year period. That would be roughly—I am sure it will not break down this way—one per State. By the time we have 50 projects coaxed along and encouraged by the Federal loan guarantee, with the increase in the price of oil and gas and the supply problem and the coal conversion problem, the European turbine will have proved itself, and there is money in the ERDA 1978 authorization to do studies and research upon even more advanced turbines than the American turbines. So by that time, with that combination of circumstances, the thing will fly by itself, and private financing will find it economically advantageous. But right now, it does need the boost of the Federal loan guarantee.

Mr. JOHNSTON. I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. First, I say to my good friend that I do not know much about this kind of energy production, but I understand that it is available. It certainly is going to be clean, and it is something we should attempt to develop. I just have a couple of basic questions.

Can the Senator explain to me why we need loan guarantees in this situation? I assume the Senator is saying that, but for this, some projects will not get ordinary marketplace funding, be it general obligation bonds or revenue bonds or private capital; that some of these kinds of projects will not find their way into feasibility and completion. I do not understand why.

Mr. DURKIN. That is correct. The language in the other body refers to hard loans—solid Federal cash. We adopted the loan guarantee approach because we felt that that gave the incentive, that gave the security, without putting up Federal cash per se, at least from the outset. We think most of these projects will be successful and that the loan guarantee will not be used. The reason why the Federal incentive is needed is that the utility companies, as a rule, turn up their noses at low-head hydro. So there is a disincentive in the utility industry to turn to low-head hydro.

That, combined with the reluctance of the banking community to bankroll something that some of the utilities frowned upon, has been one of the reasons why there is not more low-head hydro generation.

All the recent studies have shown that there is tremendous potential. Once we can demonstrate it to the utilities, demonstrate it to the environmental groups which have some concerns about this type of generation of power, as well as the financial community, and with the increase in oil and gas and coal conversion, this will take off by itself. This will have impact not just in New England but in the South and West as well.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Robert Lyon of my staff be allowed on the floor during the consideration of S. 2114.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Is the Senator saying because this is not very typical and has not been for quite a few years, that the typical marketplace is reluctant to recognize it and, therefore, we need some kind of guarantee program to get it started?

Mr. DURKIN. To demonstrate on-site generation of power at a lowhead hydrosite. That will convince the utilities, the banking community, and the public as a whole.

Mr. DOMENICI. On page 11 of the amendment——

Mr. DURKIN. Excuse me. There is tremendous potential here. When you take a remote site solar installation and a cogeneration installation, and take the paper industry which is on a stream, and then add a lowhead hydrodam with that paper facility, whether it be in New Hampshire or Maine or Georgia, or wherever, out in the Pacific Northwest, that will become almost energy self-sufficient with the combination of cogeneration, remote site solar, and lowhead hydro. We have to demonstrate to the financial community and others. Now it is a small band of people pushing it. But once we can demonstrate it is economically and environmentally sound—even the environmentalists are scared about it, putting another dam and Grand Coulee built on top of each other.

It is so that we can demonstrate to the environmental, economic and financial communities that this is a viable way to go.

Mr. DOMENICI. I am not opposed to all of these new approaches, and I think we will see 10 or 15 years from now precisely what you have said in many areas where there are just little localized, isolated ways to develop local energy which we have just completely abandoned in the last 30 years.

On the other hand, I am not adverse to Federal loan guarantees to develop new sources of energy. I just want to be sure that I, for one, am convinced it is needed, and that the marketplace will take care of it. Not because I do not want the Government involved, but I have a tendency to think when we do get involved we usually buy projects that do not work. We either accumulate an inventory of pink elephants, or whatever you call them, or we put our money in and they do not work. I just wanted the Senator's explanation of how this is it and why.

One technical question: On page 11 you talk about the "commission shall take such steps as are necessary," and then you say "within its existing authority to require," and then you enumerate "each utility within its jurisdiction will establish physical connection with all small hydropower projects; second, to establish conditions of service which require that any small hydroelectric project shall be provided with backup generation service from a utility at reasonable prices which do not discriminate," et cetera.

Do they already have that authority or not?

Mr. DURKIN. Well, the reason for that, Senator, is this is one of the problems. Again, the cogenerators, the small sources of generating capacity, whether they be remote sites solar or lowhead hydro, the utility will not buy the excess power for them or will not provide them backup power. That, plus the lack of assurance in the financial community, has left most of these programs with feasibility site studies. This does not abrogate State law because not only do I share the Senator's concern with another C–5A, and all the list of, the parade of, horribles the Federal Government has bought several times over, but I do not want to abrogate State law with respect to the regulation of utilities, at least not at this time, until we have given them a chance to reply and the Secretary to intervene.

So this does not get into the interconnection question. That has been raised before, that we were getting into the whole question of wheeling, pooling, interconnection, and all those exotic things we discussed in committee.

This just says if you have that—and we put this in the cogeneration and the other program as well, that they cannot, the utility cannot, deny the lowhead hydrosource backup power or they have to buy the excess power at cost, at not any subsidized rate.

Mr. DOMENICI. Well, the Senator did not answer my question. I understand the Senator's explanation. Does the Federal Power Commission have the authority to do these things now or are we giving them this authority in the Senator's amendment?

Mr. DURKIN. We do not give them any new authority.

Mr. DOMENICI. Why do we need it in the bill?

Mr. DURKIN. Because to get around the concern I mentioned before. If you have that lowhead hydrodam and turbine, and there is no place to peddle the power, and if the utility wants to cause difficulties, they will not buy it. We did not intend to give them any additional authority. But, to be honest with you, I am not sure of the extent of their authority today.

Mr. DOMENICI. I would say to the Senator I do not know whether I will end up supporting his amendment or not, but I might say I really would object to putting this kind of authority in as a mandate. I would support, if you would strike it, I would support the language that would indicate the extent of this power since this is a policy of our Government to encourage these, that we would expect the Federal Power Commission to see to it that they are not discriminated against in terms of their needs which, I think, is what the Senator is trying to get at.

Mr. DURKIN. I would have no objection to it, and I would be happy to accept the suggestion of the Senator

I ask unanimous consent that the amendment at the desk be modified in accordance with the suggestion of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it is so modified.

Will the Senator send his modification to the desk. The Chair is informed that the previous modification by the Senator from New Hampshire has not been received at the desk either.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, as I understand the modifications now made by the distinguished Senator from New Hampshire, he has limited the amount of the loan guarantee to 90 percent of the loan; in other words, the guarantee would extend only to 90 percent of the amount actually loaned and the amount guaranteed can be only 75 percent of the project. So in other words, you have 90 percent of the 75 percent. Am I correct on that?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON. As I also understand it, the Senator has reduced the total amount authorized to be guaranteed from $300 million total to $100 million total, that $100 million being available during the next fiscal year or until fully used and this act will be available for such additional amounts as Congress may authorize. Am I correct?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON addressed the Chair.

Mr. DURKIN. Mr. President, will the Senator yield 1 second?

Mr. JOHNSTON. Yes.

Mr. DURKIN. I ask unanimous consent to add Senator HART of Colorado as a cosponsor to the amendment that has been modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, if the Senator will yield for a further question before we complete this, is the third modification the one I requested that paragraph (p) on page 11 is stricken now from the modified amendment?

Mr. DURKIN. The Senator is correct.

Mr. DOMENICI. I thank the Senator.

Mr. DURKIN. I thank the Senator.

Mr. JOHNSTON. Mr. President, with these modifications we are constrained to accept this amendment and take it to conference. The House of Representatives goes a good deal further than this. Our hesitation has nothing to do with our enthusiasm for low-head hydro. We very much support that, particularly where there are existing dams and the principal amount of the investment has already been made.

A guarantee could not be made in the first place unless it appeared to the commission that it was going to be a financially feasible proposition providing substantial outlook for full repayment.

So we congratulate the Senator from New Hampshire. We think this may be a very, very significant step in energy conservation.

I am prepared to yield back the remainder of my time.

Mr. DURKIN. I thank both floor managers. I appreciate their help, and I think it is a better amendment as a result.

Mr. DOMENICI. The minority is willing to accept the amendment on the conditions stated by the floor manager, and I have no objection.

Mr. GRIFFIN. Mr. President, I support the objective of this amendment by the Senator from New Hampshire (Mr. DURKIN) to encourage the development of small hydroelectric projects in connection with existing dams which are not currently being used to produce electricity.

As David E. Lilienthal, former chairman of TVA and the AEC observed in a recent issue of Smithsonian magazine:

> This is a resource very substantial in volume, for more than half of it is still to be developed; it renews itself, unlike oil and coal and uranium; and its cost will not rise as the years roll on. It provides a form of energy which does not pollute the air, and need not make a violent impact on the environment; it is widely, though not uniformly, distributed throughout America, and is often available right where it is required.

Because development of hydroelectric plants at existing dams should be stimulated, I introduced an amendment (No. 1396) which in many respects, is similar to the amendment of the Senator from New Hampshire. However, my amendment would provide direct loans and grants rather than loan guarantees, the Durkin approach.

To be sure, the grants envisaged by my amendment would cost the Government more money. But the $50 million per year in grants and loans which my amendment would authorize is relatively a small amount compared, for example, with the nearly $8 billion that President Carter seeks to raise with his crude oil equalization tax.

I would prefer the direct grant approach because I know it would provide greater incentives. Furthermore, that is the approach taken by the House passed bill.

However, I recognize the handwriting on the wall. At this stage, I realize the Durkin amendment is preferred by those who are handling this bill for the committee.

Under the circumstances, I will support the Durkin amendment. It is a step forward, and its adoption should assure that some kind of a provision to encourage small hydroelectric projects will survive in the Senate-House conference agreement.

Frankly, I hope our Senate conferees will look closely at the House approach, and will be persuaded to provide some grant money for this very worthy purpose, particularly in situations where guaranteed loans would be of little or no assistance.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to, as follows:

On page 16, between lines 17 and 18 insert the following:

LOAN GUARANTEES

SEC. 15. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

(b) The Secretary of Energy (hereinafter referred to as the "Secretary") shall establish a program to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power.

(c) The Federal Energy Regulatory Commission (hereinafter referred to as the "Commission") shall establish a program to use simple and expeditious licensing procedures under the Federal Power Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

(d)(1) The Secretary is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this section) as he deems appropriate, the payment of interest on and the principal balance of bonds, debentures, notes, and other obligations issued by, or on behalf of any municipality, electric cooperative, industrial development agency, non-profit organization, or other person to finance not to exceed 75 per centum of the project costs of any small hydroelectric project which he finds—

(A) will be constructed in connection with any existing dam,

(B) has received all necessary licenses and other required Federal, State, and local approvals,

(C) will provide useful information as to the technical and economic feasibility of—

(i) the generation of electric energy by such projects, and

(ii) the use of energy produced by such projects,

(D) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

(E) will not have a significant adverse effect on any other use of the water used by such product.

(2) An applicant for financial assistance under this section shall provide information to the Secretary in such form and with such content as the Secretary deems necessary.

(3) Prior to issuing any guarantee under this section, the Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) Any loan guarantee under this Subsection shall be increased to up to 90 per cent on any project under which the Secretary of the Army, acting through the Chief of Engineers, has provided the technical assistance under the terms of Section 14 (c) of this Act.

(e) The Secretary, with due regard for the need for completion, shall guarantee or make a commitment to guarantee any obligation under this section only if—

(1) the Secretary is satisfied that the financial assistance applied for is necessary to encourage financial participation;

(2) the amount guaranteed to any borrower at any time does not exceed an amount equal to 75 per centum of the project cost as estimated at the time the guarantee is issued;

(3) the Secretary has determined that there will be a continued reasonable assurance of full repayment;

(4) the maximum maturity of the obligation is not more than 35 years;

(5) the Secretary has determined that, in the case of any facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location; and

(6) the obligation provides for the orderly retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Secretary. Prior to approving any repayment schedule the Secretary may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals.

(f)(1) Obligations guaranteed under this section, may at the option of an issuer which is a municipality or industrial agency, be subject to Federal taxation as provided in paragraph (2). In the event the taxable obligations are issued and guaranteed, the Secretary is authorized to make and to contract to make, to the extent provided in an appropriation Act, grants to or on behalf of the issuer to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the issuer. There are authorized to be appropriated such sums as may be necessary to make grants under this paragraph.

(2) With respect to any obligation issued by a municipality or industrial development agency which such municipality or industrial development agency has elected to issue as a taxable obligation pursuant to paragraph (1), the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(g) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligations, except as to fraud or material misrepresentation on the part of the holder.

(h)(1) If there is a default by the borrower, as defined in regulations promulgated by the Secretary and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Secretary. Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Secretary.

(2) If the Secretary makes a payment under paragraph (1) of this subsection, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Secretary to continue to pursue the purposes of the facility if the Secretary determines that this is in the public interest. The rights of the Secretary with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

(3) In the event of a default on any guarantee under this section, the Secretary shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (i) from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

(4) For purposes of this section, patents and technology resulting from the project, shall be treated as assets of such project. The guarantee agreement shall include such detailed terms and conditions as the Secretary deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Secretary to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the project shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as assets of such project for disposal purposes under this subsection, unless the Secretary determines in writing that it is in the best interests of the United States to do so.

(i) With respect to any obligation guaranteed under this section, the Secretary is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Secretary finds that—

(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

(2) the amount of such payment which the Secretary is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

(3) the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which are satisfactory to the Secretary.

(j) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section and any amendments thereto shall be issued in accordance with section 553 of title 5, United States Code.

(k)(1) The Secretary shall charge and collect fees for guarantees of obligations authorized by subsection (d)(1), in amounts which (A) are sufficient in the judgment of the Secretary to cover the applicable administrative costs, and (B) reflect the percentage of projects costs guaranteed. In no event shall the fee be more than 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

(2) All guarantee fees received by the Secretary shall be paid into the fund established under subsection (1) which shall be available for the payment of any claims pursuant to a guarantee made under this section.

(l) (1) There is hereby created within the Treasury a separate fund (hereafter in this section called the "fund") which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by this section.

(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Secretary as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Secretary under this section shall be paid from the fund subject to appropriations. If at any time the Secretary determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

(4) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities as authorized by this section, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the

Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

(m)(1) The guarantees or commitments to guarantee under this section shall not exceed an aggregate outstanding liability of $100,000,000 beginning in fiscal year 1978 and such further increments as may be authorized by Congress in subsequent Acts.

(2) No guarantee or commitment to guarantee may be made after September 30, 1981.

(n) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

(o) In issuing licenses for small hydroelectric power projects under the Federal Power Act, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

(p) Every licensee of a small hydroelectric power project licensed pursuant to the Federal Power Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

(q) Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

(2) shall consult with the Council on Environmental Quality, the Environmental Protection Agency, and the Department of Interior with respect to the environmenal effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

(r) Nothing in this section authorizes the guarantee of a loan or simple and expeditious licensing for construction of any new dam or other impoundment.

(s) For purposes of this section and section 14, the term—

(1) "small hydroelectric power project" means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(4) "project costs" means the cost of all facilities and services used in the design and construction of a project, including the cost of any feasibility studies;

(5) "utility" means any person engaged in transmission, or distribution, or both, of electric energy for profit;

(6) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501 (a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization); and

(7) "existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement (other than repairs or reconstruction) of impoundment structures in connection with the installation of any small hydroelectric power project.

On page 16, line 19, strike out "Sec. 15." and insert in lieu thereof "Sec. 16.".

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 7769 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7769, which has come over from the House of Representatives, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

UP AMENDMENT 868

(Purpose: To preserve competition)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 868.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4 following line 9, insert the following and renumber succeeding sections:

PRESERVATION OF COMPETITION

SEC. 5. (a) General Authority of Commission.—Section 205 of the Federal Power Act is amended by adding at the end thereof the following:

"(k) Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that an electric utility is engaging in any unfair method of competition, or that an electric utility has filed any contract, agreement, tariff, or method of competition, it shall issue an order prohibiting any such unfair method of competition, or reject such a filing.".

(b) New Bulk Power Facilities.—Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(h)(1) If any bulk power facility is proposed to be constructed in any regional district, any electric utility may apply to the Commission for an order under paragraph (3) if such utility is engaged in the generation, transmission, or sale of electric energy within the regional district in which such facility is proposed to be constructed. This subsection shall not apply to a utilization or production facility required to be licensed under section 103 of the Atomic Energy Act of 1954.

"(2) Whenever an application is received under paragraph (1), it shall be transmitted to the Attorney General, who shall, within a reasonable period of time (but not to exceed 180 days), advise the Commission as to whether (absent an order under this subsection) the ownership or use of such facility would create or maintain a situation inconsistent with the antitrust laws.

"(3) If the Commission, after giving consideration to the advice of the Attorney General and after public notice and an opportunity for hearing, determines that such ownership or use would create or maintain a situation inconsistent with such laws, the Commission shall issue an order conditioning the construction of such facility on compliance with such requirements as it determines appropriate to prevent or remedy such a situation (including providing for joint ownership of such facility). The Attorney General may participate as a party to any proceeding concerning such application.

"(4) The Commission may prescribe such rules as it determines appropriate to carry out this subsection.".

Mr. KENNEDY. Mr. President, I am sending to the desk an amendment to S. 2114—an amendment which would provide that antitrust considerations be kept in mind by the Federal Energy Regulatory Commission in its regulation of the electric utility industry.

Part of this amendment is substantially similar to a portion of the Electric Utility Coordination Act which was favorably reported a year ago by the Senate Commerce Committee. It is also modeled on provisions in the House bill but which were not carried forward when the House finally passed that bill. It had solid administration support in the House, and should clearly be included in the Senate version.

Basically, my amendment would do two things. First, it would require the Commission to examine contracts, tariffs, and other materials at the time of filing for provisions which might result in unfair competition. Where these offending pro-

visions are found, the Commission would hold an evidentiary hearing. If it then finds that unfair competition would result, the Commission may issue an order prohibiting the unfair competition or it may reject the filing completely.

The type of unfair practices I have in mind can be illustrated by taking an example of a group of utilities joining to form a power pool under conditions which would deny access to pool power on equitable terms to other smaller, municipal, and private utilities.

In other cases, large utilities have insisted on exclusive wholesale supply contracts with retail distribution utilities lacking their own generating facilities—saying in effect, that "if you want to get any of your power from us, you have to get all of it from us."

Other examples of unfair conditions can be found in the Antitrust Subcommittee's 1970 hearings on "Competitive Aspects of the Energy Industry."

In the past, the Federal Power Commission has been reluctant to exert any antitrust oversight, even when courts have on occasion said the agency should. With this amendment, the newly constituted Commission is presented with a clear congressional mandate to regulate in a way that preserves as much competition as possible. This amendment clarifies and emphasizes that mandate.

The second provision establishes procedures by which, under certain conditions, there may be antitrust review by the Department of Justice of proposed plans for the construction of nonnuclear bulk power generating facilities. As to this section, I would like to make two things clear right at the outset:

First. The review procedure would not be automatic in the case of nonnuclear facilities—as it is for nuclear facilities. It cannot be arbitrarily invoked by the Commission, the Department of Justice, or any other Federal agency.

Second. Where antitrust review does take place, the Attorney General's opinion to the Commission is advisory only. The Commission must take this opinion under consideration in arriving at its own decision—but, the antitrust opinion is never in any sense a veto of the proposal.

I emphasize these points because of misinterpretations of this provision among some Members.

To understand how it would work, let us assume that a large utility is going to construct a new bulk generating plant in a regional district. There are also smaller independent utilities in the area, some of which may have limited generating capacity and others which may be simply retail distributors of wholesale power.

Clearly, the extent to which the new bulk plant will meet growth requirements of the whole district, the willingness of the builder to permit participation by other utilities in the district, the conditions under which wholesale power might be sold from the new plant—these are all matters of enormous competitive consequence to the whole regional district.

Under the amendment I am offering, any of these other affected utilities in the district—not the Commission itself or the Department of Justice—would have the right to apply for an FERC order which would establish certain competitive standards under which the bulk facility could operate.

The application would be forwarded to the Attorney General for antitrust review and advice. The antitrust opinion would have to be given 180 days, as it is under the nuclear plant regulatory legislation. While this opinion would have to be considered by FERC, it would not be binding upon FERC.

FERC would then hold an evidentiary hearing, at which other utilities who might be affected by the proposed bulk facility could testify. If this testimony and the Attorney General's opinion persuade FERC—but only if this is the case—FERC is empowered to issue an order outlining competitive conditions which must be met by the new plan: sales of power to other utilities, and so forth. It could not, and would not, delay plant construction.

This provision was stricken from the House bill during floor debate. The reasons used were that a similar provision in the 1970 amendment of the Atomic Energy Act has caused horrendous delays in the construction of nuclear plants, and extension to nonnuclear facilities would cause similar delays in coal and oil-fired plants.

The allegations of extreme delays from antitrust review procedures with respect to nuclear plants are completely unfounded. Since the amendment was passed in December 1970, the Antitrust Division has reviewed 88 nuclear plant applications. There were no problems with the vast majority of these. In only 18 instances has the Attorney General recommended hearings on competitive aspects of the applications. Many of these are resolved without hearings; for example, Duke Power, involved in 3 of the 18 hearing recommendations, accepted NRC conditions before hearings. At this point three full hearings have been held, one very limited hearing, and one more full hearing is in progress.

We need this amendment because, even though they may have the power, regulatory agencies are notoriously reluctant to assume any procompetitive responsibilities. The December 1970 amendment to the Atomic Energy Act is a case in point. The original act had provided for antitrust review of commercial reactor projects. The distinguished Senator from Vermont, George Aiken, appeared before the Senate Antitrust Subcommittee in May 1970 to explain why the amendment he supported was necessary: The AEC was deliberately ignoring the basic act.

At the time Senator Aiken testified, there were 16 nuclear powerplants in operation, 48 more under construction, another 34 for which reactors had been ordered, and still 8 more in preliminary planning. They had to be commercially feasible, according to Senator Aiken, for the SEC to approve financing. Beyond this, the ones in operation were supplying commercial power and were in the utility rate bases. Yet, Senator Aiken told us:

It is shocking to learn that every plant in operation or under construction today has been licensed under the medical therapy section of the Atomic Energy Act as a research project.

It took another act of Congress to directly order the AEC to provide for antitrust review.

Similarly, the Federal Power Commission has been reluctant to consider competitive policies of any kind. The excuse was always that antitrust considerations were not in the agency's jurisdiction, or at least its expertise. Despite court decisions to the contrary in Otter Tail and several other cases, the FPC has all too often avoided any responsibility for structuring its orders to enhance rather than suppress competition. This amendment is essential to remedy that attitude—to inform the present commission that Congress takes a serious view of this matter.

As I mentioned earlier, just last October the Senate Commerce Committee reported out the electric utility coordination bill, S. 3311, with a provision relating to unfair methods of competition which appeared to be even stronger than the first part of my amendment. The Commerce bill had other sections designed to preserve competitive rights in interconnections, wheeling, and other interutility relationships.

The second part, preconstruction review of operating plans for nonnuclear bulk generating facilities, is similar in some respects to what Congress has already voted for the nuclear industry. The Department of Justice is firmly on the Record in support of the provisions in this amendment.

It seems to me that if we are really talking about public utility regulatory reform, we should show our faith in free, competitive enterprise by adopting my amendment.

Mr. MATSUNAGA. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MATSUNAGA. What is it that the amendment would prevent utilities from doing?

Mr. KENNEDY. There are a number of instances of potential anticompetitive acts which have been revealed in this industry in the past. For example, a contract requiring utility B to buy all its power from utility A or none at all; second, a contract in which utility A requires B not to sell to a third utility; and, a similar requirement not to sell to other utilities unless they grant concessions in their territorial areas. There have been these practices which have been evidenced in the past with which this attempts to deal. I think this would maximize the opportunities for actually increasing energy through promoting competitive access to bulk power.

Mr. MATSUNAGA. So the Anitrust Division will have 10 days to review each case?

Mr. KENNEDY. 180 days to make a comment on it, but it would not be empowered to halt construction. All it would be empowered to do is to review the agreements and contracts and to insure that they are not anticompetitive. The legislation itself provides that in a general way. This is somewhat more specific.

The legislation before us says that it authorizes nothing violative of the antitrust laws, but this makes it more specific in a way which I think has proven successful with the other regulatory agencies.

Mr. MATSUNAGA. I thank the Senator from Massachusetts.

Mr. DOMENICI. Mr. President, I have discussed the amendment briefly with the Senator from Massachusetts. I will have to object. I have talked with some members of the minority. This matter was not before the committee although it was reported by the Commerce Committee in the House. It was stricken on the floor of the House.

While the Senator from Massachusetts makes the point that a similar process has been used in the Nuclear Regulatory Commission, that is, to hold up construction while this kind of investigation occurs, I think there are some substantial differences.

First of all, the Nuclear Regulatory Commission has taken so long to approve nuclear powerplants that it probably does no harm to anyone to waste another 6 or 8 months, or at least to take that much time, whereas such has not been the case in this situation because the Federal Power Commission has not even had jurisdiction heretofore over the construction of nonnuclear new bulk sources.

While this might be a good amendment, it appears to me that we are asking for additional jurisdiction to be vested in the Federal Power Commission when most of the complaints we are getting are about the excessive delays which are occurring now.

I regret to have to object, but because many of the Members on my side have concerns, I will have to do that.

I say to the Senator from Massachusetts I believe the amendment is subject to a point of order under the time agreement. I do not want to raise the point of order until we are through discussing it. I would have to raise it based upon some of the Members on this side instructing me that they do not want to accept the amendment.

Mr. KENNEDY. Mr. President, if I understand correctly, there is an antitrust provision on page 4. It refers to the antitrust laws in section 4. The original bill contained similar provisions as the amendment I offer today.

Of course, the amendment is on the list of the amendments which the committee circularized. I was hoping that we would take this to conference and consider it in the conference.

Mr. DOMENICI. Mr. President, I want to say again to the Senator from Massachusetts when an amendment such as this comes along, I have to do my best to try and clear it or not clear it. In this instance, I cannot clear it.

Therefore, Mr. President, I will make the point of order that this amendment is not in order under the time agreement.

The PRESIDING OFFICER. The point of order is not in order until all time has either been yielded back or used up.

Mr. JOHNSTON. Mr. President, speaking for the committee, we are inclined to accept this amendment and take it to conference, notwithstanding some concern about delay and about the far-reaching nature of the remedies given to the Commission, such as ordering joint ownership of the facilities. Notwithstanding those concerns, we are prepared to accept this and take it to conference, with the understanding, of course, that we shall have to consider very carefully such evidence as we can determine between now and then, assuming that it survives the scrutiny of the point of order. On that basis, Mr. President, we are prepared to accept the amendment.

Does the Senator from Alabama wish time?

Mr. ALLEN. Yes, at the proper time, I want to join in the point of order the distinguished Senator from New Mexico has made. I wish to ask a question of the Chair.

Assuming that all time on the amendment is yielded back and a point of order is made, if the point of order is not sustained, would the amendment then be open to amendment in the second degree?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that it would be.

Mr. ALLEN. I thank the Chair.

I assume that the distinguished Senator from New Mexico will make the point of order after all time has been yielded back.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time. I appreciate the indication by the floor manager of his acceptance.

Mr. DOMENICI. Mr. President, I make the point of order that I made just a few moments ago, that the amendment is not germane and, under the present unanimous-consent agreement, it must be germane.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the bill deals with antitrust matters in a certain portion of the act, appearing on page 4. For that reason, I therefore indicate that the amendment is, in fact, germane.

Mr. DOMENICI. May I make further inquiry of the Chair?

Is the Chair referring to section 4 of the bill that says nothing in the act shall affect the applicability of the antitrust laws?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. And on that basis, the point of order is deemed not well taken?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield so I may take a couple of minutes at this point, without losing his right to the floor?

Mr. ALLEN. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, will the manager of the bill let me have 2 minutes?

Mr. WEICKER. Yes; I yield 2 minutes.

ANNOUNCEMENT OF APPOINTMENT OF AD HOC COMMITTEE ON RULE XXII

Mr. ROBERT C. BYRD. Mr. President, I am, today, appointing an ad hoc committee of Democratic Senators to study rule XXII in an effort to develop proposed changes to that rule to expedite the consideration and disposition of a measure once cloture has been invoked.

For the information of the Senate, I want to emphasize that this committee, composed of Senators NELSON, NUNN, MOYNIHAN, and the majority whip (Mr. CRANSTON), ex officio, will be requested to concentrate their study and recommendations solely on postcloture procedures in view of the difficulties encountered by the Senate on the Natural Gas Pricing Act, and the "filibuster by amendment" after cloture had been invoked.

During consideration of that bill, it may interest the Senate to note, before cloture was invoked, the Senate spent 6 days—including a Saturday—32 hours and 39 minutes in deliberation on that measure, conducting 5 live quorum calls and 18 record votes. After cloture was invoked, the Senate spent 3 days and 1 night, including a Saturday—94 hours and 27 minutes—with 35 live quorum calls and 114 record votes, before the bill was finally passed.

I believe these figures starkly illustrate the necessity of careful study of rule XXII to expedite final Senate consideration of a measure once cloture has been invoked.

The leadership is not unaware of the criticism which has resulted from the attempt by the leadership to establish precedents to expedite the Senate's business once cloture has been invoked. While that is not the primary reason for the appointment of this ad hoc committee to make recommendations to the Senate with respect to postcloture rule changes, it nevertheless makes clear that a way must be found for the Senate to have an opportunity, in a calm and deliberate atmosphere, to consider the course it wishes to take with respect to this issue.

I hope this appointment of the committee will meet with the approval of the Senate and that all Senators will provide the committee with comments, suggestions, and recommendations.

Mr. BAKER. Mr. President, would the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, as I announced on the floor recently, I, too, have appointed an ad hoc committee to consider and make recommendations for changes to rule XXII. At that time, I believe I announced the appointment of Senator MCCLURE, Senator MATHIAS

and Senator CHAFEE. I would like to add to that the distinguished minority whip (Mr. STEVENS) as an ex officio member of the committee.

It is my understanding our committee has already begun to solicit views and suggestions. I would hope that as matters progress a little further, in the balance of time here this year, the two committees might get together and compare notes so that when we arrive at the time when possible changes to rule XXII are to be undertaken, we could at least explore the possibility of finding common ground.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I say to the distinguished minority leader that I have instructed the members of the ad hoc committee on my side of the aisle to work with the ad hoc committee that was appointed by the distinguished minority leader so that we could have broad based, bipartisan support in this event.

Mr. BAKER. I thank the majority leader.

Mr. MORGAN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MORGAN. I wonder if the distinguished majority leader would be willing to ask the Parliamentarian to make a compilation of the rulings that were made during the debate this week, with regard to the precedents they may set for the future, and also a record as to whether or not there was precedent on these particular points before.

I think there were some that will have far-reaching effect and I think, in all fairness, we in the Senate ought to know what it is, or what they really were, and what the precedent for them will be.

Mr. ROBERT C. BYRD. Yes. I think that is a good suggestion. I am sure the Parliamentarians would do that in the normal course of things. But I certainly support the distinguished Senator from North Carolina in urging that the Parliamentarians proceed with this matter.

Mr. MORGAN. I wonder if the distinguished majority leader would ask the Parliamentarian to disseminate that to the Members of the Senate once he has made a compilation of it.

Mr. ROBERT C. BYRD. I will not do that at this time. I will discuss it with the Parliamentarian and I, personally, would have no objection to it.

But there were a good many precedents set during this debate.

Mr. MORGAN. I would assume as a Member of the Senate I would be entitled to it.

Mr. ROBERT C. BYRD. The Senator would.

Mr. MORGAN. I will ask the Parliamentarian here on the record if he would make such a list and furnish it to me.

Quite frankly, it happened so fast, I could not follow what was going on and I doubt seriously anyone else did.

Mr. ROBERT C. BYRD. Let us put it this way, the Parliamentarian does this in the normal course of things and, of course, it will be available to all Senators at their request.

Mr. MORGAN. Well, I am making a request as a Member of the Senate to the Parliamentarian and I trust he will fulfill my request. If not, I will come back.

Mr. ROBERT C. BYRD. That will be between the Senator from North Carolina and the Parliamentarian.

Mr. MORGAN. If he does not—does the majority leader feel, as a Member of the Senate, I am entitled to this?

Mr. ROBERT C. BYRD. I have not said otherwise.

Mr. MORGAN. I am asking if he does not feel that way.

Mr. ROBERT C. BYRD. If I did, I would say so. As I have indicated, the Parliamentarian does that in the normal course of things. It will be available to all Members, and if the Senator from North Carolina wants the Parliamentarian to provide him with those precedents, I am sure the Parliamentarian would carry out that instruction.

Mr. MORGAN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alabama for his courtesy.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. ALLEN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. INOUYE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask for a division of the amendment. I have a right to call for that.

The PRESIDING OFFICER. How does the Senator suggest that this bill be divided?

Mr. ALLEN. As to each separate item. I would say that section 5(a) is a separate item, and (b), (h)(1) is a separate item, (h)(2) is a separate item, (h)(3) is a separate item, (h)(4) is a separate item.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. KENNEDY. Would the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. KENNEDY. It seems to me it is appropriate to divide the amendment between subsections (a) and (b). The different divisions within (b) are all interrelated.

It seems to me that would be a natural point of separation, and I would think the Senator would be most concerned about these two sections.

I would hope, in regard to (a), we could at least get a voice vote and then rollcall the (b) portion.

I offer that purely as a suggestion.

The PRESIDING OFFICER. The Chair will advise the Senator from Alabama, according to the Parliamentarian, this amendment may be divided in two parts, 5(a) and 5(b).

Mr. ALLEN. I thank the Chair.

Now, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, the Chair has ruled that the amendment is germane, basing its ruling on section 4, on page 4, which says that nothing in the act shall affect the applicability of the antitrust laws as defined by the Energy Policy and Conservation Act.

The amendment does not seek to amend the Energy Policy and Conservation Act, but the Federal Power Act.

I feel that the Parliamentarian hastily advised the Chair in this regard, but I am not seeking to overturn that parliamentary response.

But I would like to make this parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. The amendment having been divided, would not a point of order lie as to each portion of the amendment separately, since separate issues have been brought into play by the amendment, would not a point of order now lie to section 5(a)?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the point of order was raised against the whole amendment and that divisibility has nothing to do with it. It just applies to acting on the amendment.

Mr. ALLEN. I did not quite understand the Chair's ruling.

The PRESIDING OFFICER. A new point of order will not lie against section 5(a) or section 5(b) just because the amendment is divided into two parts for action.

Mr. ALLEN. Would it not be possible to approve one and not approve the other?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. And would it not, therefore, be possible to approve a nongermane portion of the amendment?

The PRESIDING OFFICER. That is correct. The Senator demanded the division, and he has a right to do so.

Mr. ALLEN. Now we have section 5(a) before the Senate, and the yeas and nays have been ordered.

The PRESIDING OFFICER. On the whole amendment.

Mr. ALLEN. But the yeas and nays that have been ordered would apply to each separate portion of the amendment as divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Part (a), then, would be amendable in one degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent, on behalf of the sponsor of the amendment and on behalf of Senator ALLEN, that the pending amendment be set aside until 3 o'clock this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, as I understand, it will be called up then as the pending business. Am I correct?

The PRESIDING OFFICER. According to the unanimous-consent request, yes.

Mr. ALLEN. Mr. President, reserving the right to object, it would come back in exactly the same status that we now leave it. Is that correct?

The PRESIDING OFFICER. At 3 o'clock.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I thank the Senator from Massachusetts and the Senator from Alabama.

UP AMENDMENT NO. 869

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 869.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 23, add an "s" to the end of the word "Report."

On page 8, line 24, add "(a)" after "Sec. 8."

On page 9, line 4, strike "(a)" and insert in its place thereof "(1)".

On page 9, line 8, strike "(b)" and insert in its place thereof "(2)".

On page 9, line 13, strike "(c)" and insert in its place thereof "(3)".

On page 9, line 14, after the word "Act." insert the following new subsections:

(b) The Secretary of Energy is directed to study all major existing non-experimental utility rate reform programs in the United States in regard to time of day, load management, seasonal, and interruptible rates, and rates based on marginal costs. Six reports shall be made to the Congress; the first shall be made eight months after the enactment of his bill; the next five shall occur at intervals of six months.

The reports will address but not be limited to the following subjects:

(1) definition of the rates and a description of the process by which they were derived;

(2) the effectiveness of the rates immediately and over the course of a year in shifting lands from time periods of lower demand;

(3) the potential for additional shifting of loads in time periods of over a year;

(4) the reasonableness of the rates in regard to changes in the amounts of money paid by users;

(5) the effect of such rates on investor confidence in the utility;

(6) the effect of such rates on utility company revenues, including "excess revenues", if any, and the solutions to any revenue problems caused by such rates.

(c) The Secretary of Energy in consultation with the FERC is hereby directed and authorized to undertake two studies, with the participation of the electric power industry and an appropriate public advisory committee, to determine the most cost-effective methods of increasing electric service reliability.

These studies shall be completed within 18 months of the passage of this act. Reports shall be submitted to the Congress and the President.

(1) The first study shall consider the cost effectiveness of investments in each of the systems involved in providing electric service, including but not limited to generation, distribution, and transmission systems, and supplementary, protective, or mitigating measures at the consumer level.

In addition to cost-effectiveness, any other relevant differences (such as environmental differences) between the alternative systems shall be noted.

The study will examine utility systems typical of various types of generating capacity and various regions of the country and typical of various mixes of urban, rural, residential, industrial, commercial, and other customers. The conclusions will state what measures are most cost-effective for decreasing the number and severity of outages for each of these different systems.

In examining distribution and transmission systems, the study shall consider, at a minimum the following means of improving reliability:

Isolating faults by sectionalizing circuits through fuses and manual or automatic switches;

Provision of alternative distribution lines;

Increasing and improving maintenance of distribution networks;

Investment in improved substation equipment and power lines;

Placing power lines underground;

Dispersed generation and storage; and

Increased standardized construction.

In examining whether adding generating capacity is more or less cost-effective than improving reliability in distribution, transmission, and other parts of an electrical power system, this study shall consider the following alternatives to new generating capacity:

New inter-ties between systems;

Increasing capacity of existing inter-ties;

Energy conservation to reduce peak loads;

Power pooling arrangements;

Scheduling maintenance in off-peak periods;

Increasing investment in preventive maintenance;

Installing more reliable equipment to reduce component failure rates;

Improving in emergency operating procedures;

Interruptible loads;

Increasing capacity factors and reliability of existing plants by adding increased personnel, by better training, or by other means.

Load management devices.

The cost-effectiveness of increasing or decreasing the loss of load probability and thereby increasing or decreasing the reserve margin of a utility shall also explicitly be considered.

(2) The second study shall examine the cost effectiveness of increasing reliability by the provision of a number of smaller, decentralized conventional or non-conventional units rather than large units with the same or greater megawatt capacity. This study shall make conclusions regarding the mix of facilities of different sizes that will most cost-effectively improve reliability. This part of the study shall include all relevant cost parameters including the comparative costs of transmission and distribution lines under the different alternatives. Non-cost differences between the alternatives, such as environmental differences, shall also be noted.

Such small units may include but are not limited to medium (generally 100 to 400 megawatts) and small (generally less than 100 megawatts) conventional generators plus:

Wind, solar thermal, and photovoltaic units;

Fluidized bed combustion units;

Hydroelectric production from existing dams not currently producting electricity;

Solid waste combustion units;

Wind power in conjunction with storage facilities; and

Fuel cells.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Banta and Mr. Sussman have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Sneeley, of the Judiciary Committee staff, have the privilege of the floor during the consideration of and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the Senator's amendment included in the unanimous consent agreement?

Mr. DURKIN. No. Neither this amendment nor the next one I will offer is the amendment on which I have time reserved under the unanimous consent agreement. That amendment deals with synthetic natural gas.

Mr. President, the amendment at the desk is a relatively simple one. It has been discussed on both sides of the aisle, and there is no objection, according to my understanding.

The amendment simply requires the Secretary of Energy to report on existing experimental innovative rates and rate structures. The reports would address issues such as the actual rate structure, how it was derived, how much peak load was shifted, what the affects of these rates are on existing customers, small businessmen and women as well as the larger industrial sector.

The reliability aspect of the amendment asks that a study be done to identify the most cost-effective methods of improving reliability of electrical service. The amendment requires the Secretary to report on the existing innovative structures, such as off-peak load management, time of day pricing, seasonal pricing, interruptible service, and what have you.

For example, there was a movement in the committee and there had been legislation requiring that the Federal Government would mandate some of these innovative procedures. Seasonal pricing, for example, can be very helpful in some areas of the country, but it could increase substantially the cost of agricultural products in other areas of the country because some of the irrigation equipment utilizes electric power as its energy source.

So the committee felt that in many ways we were like the blind man feeling the elephant and not really knowing what we were up against in many of these rating questions and utility questions. That is why the committee position had been that we would not interrupt and not abrogate State law. We would ask the Secretary to intercede in the State public utility commission proceedings to raise these questions in the local context and force that utility commission to consider these innovative ratemaking suggestions in the context of the local situation.

The Secretary, under the committee bill, is empowered to go in and raise those questions in the State-by-State proceedings.

Furthermore, if we ever are going to solve the energy problem, if we ever are going to solve the electricity problem and the rate problem as applied to the interaction with the national energy picture, we need more information.

We do not have enough information, and we do not know what the nationwide impact would be.

As I say, some of these things will be excellent in my neck of the woods, and they may very well cause serious economic dislocation in other areas of the country.

So, Mr. President, if there are no questions, and I understand my friends on the other side of the aisle are willing to accept this amendment——

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. DURKIN. Yes.

Mr. BELLMON. As I understand it, this would require the filing of additional reports; is that right?

Mr. DURKIN. This would require the Secretary of Energy to file the reports, the reports on the existing ongoing experiments, with respect to rate structures in different parts of the country.

This does not directly contemplate that the utility itself will be required to make reports to Congress. This requires the Secretary of Energy.

The committee bill mandates, which is a change, that the Secretary of Energy appear at PUC or utility hearings all across the country to raise the many issues involved in reforming the rate structure. That is a periodic report contemplated there.

This requires him specifically to report on the existing. We tried to get, for example, a report on the experience in Wisconsin and the experience in New York with some of the newer ratemaking procedures, and the Library of Congress was only able to give us a very, very sketchy one, and they had to disclaim it because they said they did not have the time or the energy source.

Mr. BELLMON. Is it the intent of the these reports to move toward the involvement of the Federal Government in the ratesetting function?

Mr. DURKIN. Absolutely not; absolutely not.

Mr. BELLMON. What is the purpose of the report?

Mr. DURKIN. To get more information. I will give the Senator an example. A lot of people think that seasonal pricing is the answer to conserving fantastic amounts of electricity. The House bill mandates that this be a countrywide solution.

Well, I think you will find, and I am sure you are here and on your feet for that reason, that in the Southwest it is my understanding that an awful lot of irrigation equipment is run by electricity. The season is the growing season. If you were to increase the costs you might lower the costs of electricity in some other area, but the price of those agricultural products would be substantially higher when they get to that area.

So it is really just to get some more information as to what can be done, if anything, to streamline the ratemaking procedure.

You have the consumers on one side saying, some of the consumer groups saying, they want a sweeping mandate of Federal change. You have the utilities on the other side, saying, "Don't do anything, We are happy. We are laughing all the way to the bank."

Well, this is just to get some information to find out how much truth there is in the claims of both sides. But in no way, or I would not have introduced it, in no way is it intended nor does the implication lead to Federal intrusion.

I think the Senator from New Mexico fought alongside of me in committee not to get the Federal Government in. There is an amendment coming along later to give the Secretary the right to appeal in State proceedings. I hope the Senator from Oklahoma will be on the floor and join in fighting that measure. This in no way gets the Federal camel into the tent.

Mr. BELLMON. I am at a loss, Mr. President, to know what these reports are for. These States are presently able to consider the problems the Senator mentioned here. Why do we want the Federal authorities to be furnished information, unless we expect the Federal authorities to involve themselves in ratemaking processes? I am at a loss as to what good the reports are unless the Federal Government intends to do something with them.

Mr. DURKIN. One of the problems is the House has already done something. The act that is enacted has mandated some of these things, and it is no longer a question. Many of us on the Energy Committee, the majority by far, felt that that was moving too far, too fast, in an unknown area. In fact, many of the public utility commissions across the country have worn blinders, and it has been a major task to drag them into the 20th century. They refused to change their procedures since the days of the Salem witch trials, and they will not study anything. So I think there is a need for the study. They will not do the study.

This not only provides Congress with the information but it also provides, at least my intent is, pressure on those State commissions to do the job they are supposed to do. But we do not—and in my 5 years as insurance commissioner, we functioned best as insurance commissioners when the Federal Government was looking over our shoulders, much more effectively than had the Federal Government taken over the regulation. I think the situation is the same here.

Mr. DOMENICI. Let me say to the Senator from Oklahoma, I think had he been present and observed, as the good Senator from New Hampshire has indicated, the overwhelming majority of the Energy Committee itself, he would find a great skepticism on that committee as to what the Federal role ought to be with reference to moving ahead with better ratemaking schemes. The committee was pretty unanimous that we did not want the Federal Government doing that.

As we indicated earlier this morning, the bill as it comes to us from the House not only says these new schemes for ratemaking are good but, in a sense, puts the Federal Government in a posture where they may preempt and mandate that some of them occur to the delay of ongoing hearings, to the delay of the existing financing arrangements to get these plants built. I think what the Senator from New Hampshire is saying is that he has heard that some utility commissions have studied these various approaches, various parts of the Government may be studying and looking at parts of it, and I think his amendment is saying in lieu of moving ahead too fast, and since we have only gone a limited way in this bill, we ought to ask that the energy office of the United States do these two studies, put them all in one place so that we will know the effectiveness of State commissions in this area.

We may also find that some of these new approaches are not all that good. I think the Senator is simply saying that. The study might reveal very marginal ratemaking will not do any good.

Mr. DURKIN. Or only work in one area of the country, and then the pressure will be on the utility commissions in those areas, be it New England, the Southwest, or the South, to take that information and use it.

Mr. BELLMON. It seems to me the Senator is making my point exactly. From these reports it appears it is the intent of the author of the amendment to give the Federal authorities sort of a gun they can point at the head of the local regulatory agencies and say, "You either do these things or we, Uncle Sam, will move in and take over for you."

I frankly am not in accord with that kind of operation. It seems to me the States have this authority, and we have not shown that we are much smarter than the States at this level. So I do not know why we want to involve ourselves in something they have been doing ever since the days when utilities were set up in this country.

I frankly do not see why we need the reports unless we do something with them. If it is the intent to arm the Federal Energy Office with a weapon to use against the States, then I am not for the report.

Mr. DURKIN. Let me assure the Senator from Oklahoma that I am wearing two hats here, that of the manager, and that of the sponsor of the amendment. In neither capacity do I have any intention to get the Federal Government into the ratemaking process as far as utilities are concerned. But the fact is the States do not have the money to—a lot of the States, you cannot get a study that will take in an area. You cannot get a study that will take in the country.

For example, now, one of the things the study called for by the Federal Power Commission when the lights went out in New York, the Federal Power Commission found ConEd could have avoided the blackout, but no one knows which was the cost-effective way of avoiding such a blackout.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DURKIN. I would be happy to.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Joseph diGenova, of my staff, be accorded the privilege of the floor during the debate on this bill and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, may I say to my friend from Oklahoma this issue of whether the Federal Government is going to be involved in rates as far as utilities are concerned is going to be here in the Chamber. It is already on the other side and it is going to bounce back and forth across the courtyard for the next several years, I am sure.

I, for one, do not think that a case has been made that the Federal Government should get in. I do not know about the Senator's mail but according to my mail we have some of the highest electric rates in the country and people who fell for those electric heat ads pay more for their electric heat than they do for the mortgage.

Now we are going to say that we are going to put on the same blinders that the State commissions have worn. We are now going to share those blinders with them.

There is absolutely no intent to get the Federal Government into the regulation of utilities other than to the extent they are now through the Federal Power Commission for the wholesale power sales and what have you.

But I think we have an obligation to find out are these things just schemes written by the pilot, the skywriter, or do these things have potential to save energy in Oklahoma, New Hampshire, New Mexico, Ohio, and what have you?

Right now we do not know. We cannot tell our constituents whether we know. Are we going to vote to pull the curtain again and just walk around in blinders?

Mr. BELLMON. I thank the Senator.

Mr. DURKIN. I thank the Senator from Oklahoma.

Mr. President, I am prepared to yield back the remainder of my time. As I say, in my second capacity I am prepared to accept this amendment on behalf of the majority.

Mr. DOMENICI. Mr. President, in behalf of the minority we are prepared to accept the amendment.

Mr. DURKIN. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 870

Mr. DURKIN. Mr. President, at this time I call up my second unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself, Mr. MORGAN, and Mr. NUNN, proposes an unprinted amendment numbered 870.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 12, insert the following new section:

SEC. The Chairman of the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, is directed to conduct a study of the legal requirements and administrration procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act for the purposes of (a) providing for expeditious handling of on the record hearings consistent with due process (b) preventing the imposition of successive rate increases before they have been determined by the Commission to be just and reasonable and otherwise lawful, and (c) improving procedures designed to prohibit anticompetitive and/or unreasonable differences in wholesale and retail rates. The Chairman shall report to Congress within five (5) months from the date of enactment of this Act on the results of the study required under this section, on the administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid the purposes of this section.

Mr. DURKIN. Mr. President, I think the Senator from Oklahoma will be very interested in this provision.

It is a study, and it calls for the chairman of the FERC to undertake the study to study ways to shorten the process and resolve all the conflicts with respect to pancaking.

In the House of Representatives the House bill has an antipancaking provision that is very arbitrary. Friends and foes of the pancaking situation and the antipancaking provisions, off the record, both sides will admit that they do not know how to solve the problem and they really are not sure of the extent of the problem.

As one who again comes from a State where we have the highest electric rates in the country, and outside of the issue of the Panama Canal I think my mail runs greatest on the issue of electric rates.

But here is where the House of Representatives has moved, and in all due respect to the House of Representatives, they have moved rather rapidly in uncharted waters.

We looked and tried to find people who could help draft and help us draft an antipancaking amendment which would solve the problem and have it reducible to legislative language. I have to admit at this time we have been unable to find anyone with that wisdom and draftsmanship ability.

For the record, maybe I should talk about pancaking and make sure that everyone realizes it has nothing to do with anything but electric rates. Pancaking is the result of the fact that the Commission takes an average of 3 years to decide contested wholesale rate cases. The rates are in effect pending decision. Many utilities, therefore, have three or four wholesale rate cases pending decision before the FPC at the same time, and then that is the situation which leads to the term "pancaking." The rate requested pancakes one on top of another, and the consumer is paying for them all because they have all gone into effect.

On the average in each one of these cases the rate will be cut back substantially. Wholesale customers of such a utility are, therefore, paying more than they should at any one time because they are paying for three or four rate increases that will be found to a substantial degree as excessive, but quite rarely are there refunds because another rate request comes on top of that, and they always have three or four built up, three or four pancaked. So the refund is never returned to the municipality, the co-op, the public power people, or the investor-owned utilities.

Everyone admits it is a problem but no one knows how to solve it.

Mr. President, at this time I yield to my good friend from Nevada.

VISIT TO THE SENATE BY MEMBERS OF THE HOUSE OF COMMONS OF CANADA

Mr. CANNON. Mr. President, I call to the attention of my colleagues that we have distinguished Representatives here from the House of Commons in Canada, members of the Standing Committee on Management and Members' Services, who are visiting Washington and conferring with the Rules Committee and some of our appropriate staffs on the operation of our business here.

At this time, I ask them to stand, and I shall introduce them.

We have the Honorable Robert Carmen Coates, the Honorable Gérard Duquet, the Honorable John Raymond Ellis, the Honorable Bruce Halliday, the Honorable Leonard Donald Hopkins, the Honorable Joseph Adrien Henri Lambert, the Honorable Marcel Joseph Aimé Lambert, the Honorable Frank William Maine, and Ambassador Peter Towe. [Applause.]

RECESS

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might have the opportunity to say hello to our distinguished guests.

There being no objection, the Senate, at 1:39 p.m., recessed until 1:44 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. DOMENICI. I ask unanimous consent that an amendment to be offered by the Senator from Delaware (Mr. ROTH) be in order, and that he be permitted to have 1 hour on that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object——

Mr. DOMENICI. I suggest the absence of a quorum.

Mr. DURKIN. Will the Senator withhold that?

The PRESIDING OFFICER. Does the Senator from New Mexico withdraw his suggestion of the absence of a quorum?

The clerk will call the roll.

Mr. DURKIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I do not think we have any objection.

Mr. DOMENICI. I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico? Without objection, it is so ordered.

Mr. FORD. Mr. President, does the Senator from New Hampshire have an amendment up?

Mr. DURKIN. I have an amendment pending.

Mr. FORD. I beg the Senator's pardon.

Mr. DURKIN. Mr. President, picking up where we left off, I think everyone realizes that pancaking, that has caused the problem, is the price-squeezing effect where the wholesale customer of a utility pays more for electricity than does the retail customer. There are a lot of utility companies being sued because of the price squeeze, all tracing back to pancaking.

The House just said that all decisions have to be made in 12 months. That sounds good, but some decisions cannot be made in 12 months. That goes to the heart of the problem. That is why we are asking for the study, so that we can act, hopefully, in the near future, on the basis of sound information, rather than conjecture.

That, in effect, is the problem, and that is the case for the study amendment. I understand that my friends across the aisle are willing to accept it, and, as the committee is willing to accept it, if there is no further discussion, I am happy to yield back the remainder of my time.

Mr. DOMENICI. Mr. President, in behalf of the minority, we will accept the amendment. As the distinguished Senator from New Hampshire indicates, whether one is staunchly opposed to pancaking, or even if one might think it has some place in the utility ratemaking system, the point here is that by accepting this amendment we are not prejudicing their view, nor are we saying that the ratemaking commissions in the United States, as a mandate from Congress, have to rid themselves of this kind of episode within a given period of time.

We say we do not know enough about it, but this study should give us enough information as to what the role of the Federal Government should be, if any, and should be informative for the various State commissions as to the impact of this kind of situation. So we have no objection to the amendment.

Mr. DURKIN. I thank the Senator from New Mexico.

Mr. NUNN. Mr. President, I want to commend my distinguished colleague from New Hampshire for his leadership in bringing the very serious matter of what is popularly referred to as "pancaking" to the attention of the Senate with his amendment. I believe that it is a subject which is very important to any overall consideration of problems facing public utility systems, and I congratulate Senator DURKIN for his initiative in providing the Senate with an opportunity to go on record regarding this problem.

For some time now, I have been very disturbed with the question of electric power rate increases, particularly as they affect those consumers on fixed incomes. This problem has been compounded by the inordinately long delays by the then-Federal Power Commission in reaching final decisions on such increases that are filed with them. The resulting pancaking of rate increases must not continue. The Commission's inability to reach a solution to this problem continues to create undue burdens on both our Nation's consumers and on the efficient operation of public utilities which must be corrected.

In an effort to reflect my concerns, I cosponsored two measures in the 94th Congress, S. 3311 and S. 3483, which would have, in part, required that the Commission complete action on a schedule which seeks a rate or charge increase before any new schedules could go into effect. I also wrote to Senator MAGNUSON, as chairman of the Commerce Committee which had jurisdiction over these measures, indicating that, while I realized that the measures represented only one possible approach to the problem, I was hopeful that the committee would give this problem their most careful study, and provide a legislative approach that would be both effective in preventing delays, and the most equitable for all parties concerned.

Mr. President, I do not believe any of us who are familiar with the pancaking problem pretend that there is an easy solution. There are serious equities which must be balanced, and any response to the difficulties must be fair to all parties, and not give an advantage to either.

However, I do not believe that, simply because a problem is complex, and a solution is difficult, the Senate should avoid coming to grips with it. We cannot allow the present situation to continue.

We cannot continue to allow the situation whereby wholesale suppliers collect funds which are subject to refund and, therefore, cannot be used as a basis for equity or debt financing. Nor can we continue to allow wholesale purchasers to continue to be involuntary creditors of their suppliers by having to pay increased rates before they have been found to be "just and reasonable," thereby depriving these purchasers of capital which they could use for other necessary uses.

If we do not face up to the problem of pancaking, pricing situations will continue to exist whereby the wholesale rate is higher than the suppliers' retail rate, and yet both are paid for comparable service.

I am hopeful, therefore, that at the very least, we can require a careful study of this situation to be conducted by the new Department of Energy. Senator DURKIN's amendment would provide for this. The House has already attempted to address this problem in their energy bill. I think the Senate should take to conference a strong indication of our willingness to seek equitable remedies to a problem which has been with us for quite some time, which is causing hardships for the consumers of our Nation, and which must be solved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 871

(Purpose: End-user gas, purchase and transmission)

Mr. FORD. Mr. President, I call up my unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 871.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new section at the appropriate place:

"SEC. . (a) The Commission's present policies encouraging the transportation of natural gas owned by an ultimate consumer shall continue in full force and effect subject to terms and conditions the Commission deems appropriate to further these policies: Provided, however, That where the Commission approves the transportation of gas from reserves owned by an ultimate consumer, such transportation may be for a period of not less than the life of the reserves, or shorter period as provided by contract between the consumer and the transporter.

(b) Notwithstanding any other provision of law, nothing shall be deemed to preclude the sale and transportation of natural gas purchased by an end-user at a price in excess of any price established by law where it is established to the satisfaction of the Commission that—

(1) approval of the transaction is consistent with the public convenience and necessity; and

(2) such gas will be consumed by the purchaser solely for high-priority needs as defined by the Commission.".

Mr. FORD. Mr. President, I shall not take very long. I believe this amendment is cleared on both sides. It is called an end-user amendment.

Simply stated, what it does is give an industry an opportunity to buy natural gas under contract with the transmission line, have it transported to his distribution system, and then it will go to that end-user, provided, however, that other higher priorities do not need it, for example, home heating. If it is needed in that area, then the end-user will let it go into the system; otherwise it goes to him.

Last winter in my State, many of the industries, at least one in particular, were able to salvage some 20,000 jobs for people who were not put out of work. So

this is not only a usable concept, but it has been put to work for the benefit of people in various areas.

This is an extension of section 533 of the present law. It extends only that section, not the rest. I believe it is an important amendment, not only for the industry but for the workingman.

I have found support on both sides of the question from management and from labor.

I would be very hopeful that the floor managers of the bill would accept the amendment and we can have it agreed to by a voice vote.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would say to the distinguished Senator from Kentucky from the standpoint of this Senator, I have no objection. If the Senator does not mind, I will ask for a brief quorum call to consult with a few of the members of the committee on my side.

As I understand it, this merely indicates that the existing Federal Power Commission order, which I am told is commonly known as Order 533, basically has allowed this situation under its present powers and jurisdiction. What the Senator is saying is that since we are in the process of going through changes in the natural gas law, the Senator is merely reiterating that that is encouraged, and the Senator is saying that it was good and it should continue good and beneficial under any policy we adopt.

Mr. FORD. That is correct. The Senator has said it much better than I can. I appreciate his stating it.

Mr. DOMENICI. Having said that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I have conferred with the committee members on my side and have been informed that this amendment is acceptable. We have no objection to it.

Mr. JOHNSTON. Mr. President, on behalf of the committee we accept this amendment. We think it is a proper amendment to get natural gas where it is needed with no harm to the consumer. Therefore, we accept it with congratulations to the great Senator from Kentucky.

Mr. FORD. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. DURKIN. Is it in order for me to call up my amendment now?

Mr. JOHNSTON. I would say it would be in order.

AMENDMENT NO. 872

(Purpose: Eliminate discrimination in allocation of SNG feedstocks; make facilities that manufacture and transmit SNG subject to jurisdiction of F.E.R.C., with certain grandfathering and exemption)

Mr. DURKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 872.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

SEC. 16. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following:

"(f) In exercising the allocation authority granted under this section, the President shall provide at least as favorable treatment with respect to the allocation of feedstocks for the manufacture of pipeline-quality gas as that provided any other non-Federal user. The term "pipeline-quality gas" shall mean gas the principal ingredient of which is methane and which is interchangeable and compatible with natural gas.

SEC. 17. Section 1(b) of the Natural Gas Act is amended by adding a new paragraph to read as follows:

"(3)(A) Except as provided in subparagraphs (B) and (E), the provisions of this Act shall apply to—

"(i) any facility owned or operated, in whole or in part, by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption.

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline-quality gas, and

"(iii) any natural-gas company, companies or their affiliates engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the manufacture of such pipeline-quality gas.

"(C)(i) If before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture, transportation, or sale for resale, in interstate commerce, of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture, trasportation, or sale for resale, in interstate commerce, of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this paragraph the term 'pipeline-quality gas' shall mean a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) that is interchangeable and compatible with natural gas as determined, by rule, by the Commission.

"(E) The provisions of this paragraph shall not apply to any local distribution company, or to any facility owned or operated by any local distribution company, or to any transportation in interstate commerce or sale for resale in interstate commerce of pipeline-quality gas unmixed, or any mixture of pipeline-quality gas and natural gas, by any local distribution company, unless such local distribution company transports in interstate commerce or sells for resale in interstate commerce more than 10 billion cubic feet of pipeline quality gas during any calendar year. For purposes of this paragraph the term 'local distribution company' means any person: (1) primarily engaged in the local distribution of natural gas at retail, and (2) regulated or operated as a public utility by a state or local government.".

Mr. DOMENICI. Will the Senator further identify this amendment? Are there any additional copies?

The PRESIDING OFFICER. The Chair will advise the Senator that copies are being made at the present time.

Mr. DOMENICI. I wonder if the Senator would agree to let the clerk read it at this point while the copies are being prepared.

Mr. DURKIN. It is rather long. I would be glad to explain it while we are waiting for copies.

Mr. DOMENICI. I have now received a copy. I thank the Senator.

Mr. DURKIN. I apologize for not having copies.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, this is the amendment that I asked to be included in the consent agreement. This is two amendments that originally were contemplated for the natural gas bill. Due to the parliamentary snag, they never got out of the starting gate.

There are just two problems.

Mr. President, the purpose of this amendment is to extend the jurisdiction of the Federal Energy Regulatory Commission to synthetic gas plants and facilities to assure that the construction and operation of such facilities meet a public convenience and necessity test.

Such amendment is necessary to create a climate in which such projects are undertaken in the magnitude needed to help alleviate the natural gas shortage and to assure that, when undertaken, they are carried to successful conclusion in a manner most conducive to the public interest. Coal gasification is one of the

principal means of supplementing the supply. These plants are very costly to build and operate. Without the protection afforded by a certificate of public convenience and necessity authorizing their construction and operation, it is doubtful i. projects will be undertaken to the extent needed by the energy shortfall.

In adopting a national energy plan, synthetic gas is an important ingredient which cannot and must not be overlooked.

Mr. JOHNSTON. Will the Senator yield?

Mr. DURKIN. Yes.

Mr. JOHNSTON. Is the purpose of this amendment to grant to the manufacturers of synthetic natural gas the same kind of allocation that the Federal Natural Gas Act has?

Mr. DURKIN. That was amendment 1282. That is part of this amendment. That is the first part. The second part is the grandfathering provision which will cover the gas plant at Freetown, Mass.

Mr. JOHNSTON. Grandfathering what?

Mr. DURKIN. It grandfathers that Algonquin plant. All of the others in operation were grandfathered.

Mr. JOHNSTON. Grandfathered for what purpose?

Mr. DURKIN. Exempting them from the Federal Power Commission certificating process. There are plants that furnish vital gas supplies in New England. The others were grandfathered. As I understand the situation—I am not sure how it came to pass—the others were grandfathered and this one was left out.

Mr. JOHNSTON. I wonder if the Sentor would agree to temporarily withhold the amendment until we can find out about this Algonquin plant problem. We were familiar with the SNG part of this amendment but not the Algonquin part

Mr. DURKIN. I would be glad to set it aside for a half hour.

Mr. JOHNSTON. Well, until we have a chance to work it out, if it takes longer than that.

The PRESIDING OFFICER (Mr. CLARK). Without objection, the amendment is temporarily laid aside.

Mr. DOMENICI. Mr. President, we have not agreed on a time certain. How long will it be set aside?

Mr. JOHNSTON. Just temporarily.

Mr. DOMENICI. I will say to the Senator from New Hampshire we may need a half hour or so to check it out. Before it is called up, I would appreciate it if the Senator would check with us. That might save some time.

Mr. JOHNSTON. Mr. President, if there are no amendments to be called up at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JOHNSTON. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I will repeat briefly what this amendment does.

Two amendments were lingering around after the ox got out of the ditch yesterday, and by unanimous consent they are part of this unanimous-consent agreement.

They do two things: No. 1, in the event that the House language brings the SNG plants under jurisdiction—there are only 13 currently operating, to my knowledge—they would not have to go back through the very cumbersome and expensive FPRC certificating process. These plants are vital to the gas supplies of New England and eastern States, and we cannot risk the loss or the possible loss of their gas because they are caught up in a recertification provision. They have been functioning. There is no question about that. If the language of the House is adopted, it just eliminates the possibility that these very valuable plants would have to devote considerable time, money, and energy to getting recertified.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN. Mr. President, the second part of this amendment is to extend the jurisdiction of the Federal Energy Regulatory Commission to synthetic gas plants and facilities, to assure that the construction and operation of such facilities meet a public convenience and necessity test.

This works two ways. It protects the public, to make sure that adequate consideration is being given. It also makes it easier and cheaper in the long run to construct these very vital and necessary plants.

The third part of the amendment solves a problem that is designed to modify existing FEA policy during the allocation of feedstocks used in the production of synthetic natural gas. The present policy of the FEA discriminates against SNG production. FEA regulations presently limit existing plants to 1972–73 level in usage, whereas non-SNG uses of naphtha receive allocations of 100 percent of current requirements, without any regulatory hassle.

The third aspect of the amendment rectifies the imbalance created by the FEA and just gives the SNG equal chance, equal opportunity, to get feedstocks.

Again, this has a regional impact, and that is one of the reasons why I am interested in it.

As the President alluded in his April 20 statement, the SNG plays a vital role in this country, but especially in the Northeast. We would not have made it through the winter last year if we had some of the problems faced by the people in Ohio and in the Midwest, had it not been for SNG and the SNG plants. So this amendment solves those problems. It eliminates the need to go back through the recertification process for the existing plants. It brings the new plants under the Federal Energy Commission certificating process. Third, it gives the plants an equal shot at the feedstocks.

Mr. HATFIELD. Mr. President, I commend the Senator for bringing this matter to our attention. I believe we have had consideration of this matter during the long period of natural gas deregulation discussion, and I do not really feel that it belongs on this bill at this time.

In no way do I denigrate the importance of the amendment by indicating that I think we would have to oppose the amendment at this time.

Mr. JOHNSTON. Mr. President, the issues brought forth in this amendment by the distinguished Senator from New Hampshire are very important, and I think that after a hearing, we may well go along with these changes. But these are very fundamental changes.

Under the present law, plants making synthetic natural gas are not regulated by the Federal Power Commission for price in the sale of their natural gas. Under this amendment, as I understand it, these plants that would manufacture this synthetic natural gas would be subject to such price control. That means that in the building of these plants, the cost would have to be figured into the rate base and the rates determined in accordance with cost-based figures.

This, in fact, may be a very good thing. We may decide after hearings that that is what we want to do. But the one thing we do know is that it would have a very dramatic effect upon whether or not synthetic natural gas plants are going to be built. That simply is not a question that this Senator or the committee is prepared to rule on in a definitive way at this time.

It is, as I say, a very far-reaching amendment affecting synthetic natural gas and, for that reason, we would hope the distinguished Senator would be willing to defer this matter until the first of the year when we can have hearings on this and, at that time, hopefully, report it out. But at this time, with respect to that part of the amendment, we would have to oppose it.

Now, with respect to the Algonquin plant, the committee, I think, is in somewhat of a state of lack of information with respect to the Algonquin plant. The Algonquin plant, as I understand it, makes synthetic natural gas from naphtha, and under this amendment they would be deregulated and would not be subject to Federal Power Commission control.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DURKIN. I know the Senator from Kentucky is vitally interested in it as well as I, and we can both count, and with the combined opposition on both sides of the aisle I think we would have to be very persuasive in 15 minutes, and this probably is most likely to go down the drain.

I think that would be unfortunate because it might keep it down the drain for a longer period than would be the case if I could get assurances—and I think I speak for the Senator from Kentucky—that we could get a hearing on these very, very vital issues involved here, the three issues, because I am concerned about the equal allocation of feedstocks, as well as the grandfathering of the existing plants, and licensing of the new SNG plants.

I look at it from a safety point of view, and what-have-you, and if I can be assured that we will get full hearings and early hearings, early in January, I think my cosponsor from Kentucky has no objection, and we would withdraw this amendment at this time because of the assurance of early hearings in January.

Mr. JOHNSTON. I can assure the Senator that at our first opportunity—I cannot assure him January, but I would say, and undoubtedly not later than February—we could have full and complete hearings from the standpoint of the chairman of the subcommittee. I am not opposed to this amendment. We simply do not know enough about it. I think we would have those full hearings at our first opportunity after the first of the year, and we would be inclined fully and sympathetically to consider it at that time.

Mr. FORD. Mr. President, if I may, I agree with the Senator from New Hampshire that if we get early hearings, I am willing to join him in withdrawing this amendment.

I think a vote on this, when there will be more Senators to look at it and have an opportunity to know what it means, and think about it a little bit, even if it goes down the drain—and there are very few people listening here, and Senators walk in the back door and find out who is for it and who is against it—synthetic natural gas is important to New England, and the grandfather clause you have is important to your area, and I think you ought to fight for the best interests of the people in your area, and I think you are doing right.

But we are realists and we understand it. Both sides of the committee are opposed to us, and the numbers will be tough for us to get.

So, on the basis that we will get an early hearing, hopefully in January but no later than February, we will have the opportunity to bring this back. I see the chairman of the committee is here now, and I am hopeful he will concur in this request that the Senator from New Hampshire and I would agree to, and if it is agreed to we will withdraw this amendment.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. FORD. I am through.

Mr. DURKIN. The chairman of the full committee has just assured me that we would get early hearings.

Mr. FORD. On that basis, Mr. President, I will join with the Senator from New Hampshire in withdrawing the amendment.

Mr. DURKIN. Mr. President, so far as the withdrawal process is concerned, I ask that the record reflect that Senator FORD is a cosponsor, as well as Senator MCINTYRE from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that an additional amendment by Mr. DURKIN be allowed to be substituted for this amendment, as per the original unanimous-consent agreement on this bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, earlier in today's consideration, the distinguished Senator from Massachusetts (Mr. KENNEDY) offered an amendment relating to antitrust examination of new nonnuclear plants. At that time I had stated on behalf of the Democratic side of the committee that we were inclined to accept the amendment and take it to conference.

I did that even though we had sent out word informally that the committee did not feel inclined to accept any amendments that were nongermane to the bill, and that extended Federal control over State matters.

Since I made that statement on behalf of the committee, a great deal of opposition has come to my attention, and I have, therefore, sent word to the distinguished Senator from Massachusetts that we would have to object to this amendment.

As I understand it, it is scheduled to come up at 3 o'clock. I will tell that to the distinguished Senator from Massachusetts as soon as he comes on the floor. But I wanted to say it at this point to give other Senators who may be on the floor notice of that fact.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. HATFIELD. As the Senator knows, during the markup session I raised some questions concerning section 11 on page 12 of the bill which purports to establish a National Regulatory Research Institute.

What I would like the Senator to clarify for my understanding is what happened thereafter since I had a conflict of committee sessions.

At the time that I raised questions involving this National Regulatory Research Institute it was indicated by the committee record that this would be withheld until information that I had requested was provided.

I have not received such information subsequent to that action by the full committee, and I read in the committee report the language that is supposed to clarify this section and, frankly, I only find it more confusing because I would draw the Senator's attention to page 17 of the report language when it says:

> This section establishes an institute intended to provide economic and technical research to state regulatory authorities on utility regulatory policy issues. It is the committee's understanding that the National Regulatory Research Institute was established by the National Association of Regulatory Utility Commissioners (NARUC). The Institute is to be a nonprofit unit of the Ohio State University under the direction of a Board composed of members chosen from NARUC, the university and the general public. The institute is to carry out research and related activities directed to the needs of State regulatory commissioners, to assist the state commissioners with developing innovative solutions to State regulatory problems, and to address regulatory issues of national concern.

Is the institute in existence and, if so, what is its generic heritage? If it is to be established by this act then what is the report language as it indicates the fact that it was already established by the National Association of Regulatory Utility Commissioners?

I am frankly confused as to exactly the status of this particular institute, and I also object strenuously to appropriating $2 million to provide 80 percent of its costs, which means it would have a budget of some $2.5 million, when we know little about its structure or about its existence or about its responsibilities.

Could the Senator comment on these questions?

Mr. JOHNSTON. Yes. First of all, I would like to say that this was heard in full committee or at least it was considered in full committee. But, nevertheless, as the chairman of the subcommittee I was not aware of the Senator's concern. Perhaps I should have been, and perhaps it was even said at a time when I was present. But if it was I was not aware of the Senator's concern. If I should have been more observant, I apologize to the Senator. I was not at that time aware of it.

As I recall from memory, after the markup it was stated that this institute is in existence; that it is in existence at Ohio State University, and it is supported by the National Association of Regulatory Utility Commissioners.

Since that time we have found that the National Regulatory Research Institute is in existence only to the extent that it has bylaws that have been effected, but no ongoing structure; that it has no staff, and the director has yet to be selected.

It, as I say, does have bylaws that provide for a director, its relationship to the university, the powers of the board, the membership of the board, the chairman of the board and secretary, meetings of the board, nominating committee, quorum, manner of acting, amendments, and that Ohio State University and NARUC will make contributions. But it is not in existence in the sense that it does not have a staff and does not have a director.

Mr. HATFIELD. Is the Senator aware that 6 weeks ago in the Wall Street Journal there was an advertisement, asking and recruiting for a director for this Institute? My question then is who is governing the institute now and who is hiring, or who is recruiting a director? What is the governing body that is in existence?

Mr. JOHNSTON. The governing body is the National Regulatory Research Institute, established by the National Association of Regulatory Utility Commissioners.

Mr. HATFIELD. What is that body? Is that a board of regents, trustees, or

board of directors? Who appoints them because in this bill it indicates the Institute shall be governed by, and then it says who shall appoint? So this again leads to my question as to what are we really appropriating or authorizing here when we know so little about it.

Mr. JOHNSTON. I can tell the Senator from the bylaws how it is made up. First of all, the Institute is a unit of the university under the office of the provost. It shall have a director, who shall be a member of the university's faculty, and shall be responsible for managing the operations of the Institute.

The board is to advise the director on the policies and research programs to be carried out by the Institute and shall report to the Institute from time to time. There are three classes of members on the board with equal rights. There shall be university association and public classes of members with five members in each class.

Mr. HATFIELD. Is that board now chosen? Is that board now in existence?

Mr. JOHNSTON. I am advised that it is not in existence.

Mr. HATFIELD. Then who is recruiting the director?

Mr. JOHNSTON. I understand they have an ad hoc committee presumably made up of National Association of Regulatory Utility Commissioners, and a temporary director who is Dr. Donald V. Flower, dean of the Ohio State University College of Engineering.

Mr. HATFIELD. Mr. President, again I wish at some appropriate time when the author of this section, Senator METZENBAUM, I believe, is present——

Mr. JACKSON. He is on his way here.

Mr. HATFIELD (continuing). To have a chance to respond, but I would frankly like to have this section removed from the bill.

I speak from a little bit of experience when I say that establishing an institute that is to be an adjunct to a university with a separate board of governors and have funding from the Federal Government raises some very profound problems and questions. We can take and give examples from Stanford University's Food Institute and SRI, the Stanford Research Institute, the Hoover Institution of War, Revolution, and Peace. All of these are at one university, and I can cite other universities as well.

Until we have a clearly established definitive body it is premature for this Congress to authorize expenditures of public funds which in effect is really launching an institute rather than making a judgment on the validity and the capacity of that institute to perform a service because it is not other than on paper at this time. We have many Federal agencies that can perform all kinds of economic services for and render technological advice to various regulatory agencies, without buying this sort of nebulous concept before it has really been established and buying the headaches that go with it. The first thing that is going to happen is we are going to get in all kinds of regulations from HEW as it relates through the university administration, and we are going to have conflicts there that we are going to have to resolve because of these Federal funds.

I just feel very strongly that we should remove it, and I must say that if we do not see fit to remove it, I will have to put the Senate on notice that I will certainly fight, as a member of the Appropriations Subcommittee, at least funding it until we can get this kind of clarification of exactly what this institute is all about. I may be an enthusiastic supporter of the institute and public funding of it once it is established and clearly identified. But, right now, with this kind of rather vague proposal that we are really going into major support, with up to 80 percent of the funding—let us say it is 80 percent—$2.5 million can buy an awful lot of economists, and I am not sure that we want to buy that many or $2.5 million can certainly get an awful lot of technical people into some kind of a roundtable discussion. It seems to me we are moving much too quickly to support something that is yet to be really defined and established.

Mr. JOHNSTON. I must say to the Senator I was under the impression that it was further along in its creation than I am now advised. But I think it would be appropriate for the distinguished Senator from Ohio (Mr. METZENBAUM) to reply to the Senator.

Mr. HATFIELD. I agree, and I will withhold any motion until he arrives on the floor.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Is there another amendment to be called up?

UP AMENDMENT NO. 873

(Purpose: Expansion of cogeneration analysis)

Mr. HART. Mr. President, I send to the desk, on behalf of myself and Mr. SASSER, an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART), for himself and Mr. SASSER proposes an unprinted amendment numbered 873.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 21 and 22, insert the following:

WASTE HEAT ENERGY RECOVERY POLICY ANALYSIS

SEC. 14. (a) The Secretary is authorized and directed to conduct, in consultation with the Environmental Protection Agency, the Federal Trade Commission, and other appropriate agencies, a full and complete analysis of the economic, social, environmental, and technological feasibility and consequences of implementing, on a nationwide scale, various waste heat energy recovery and use techniques. The policy analysis shall include the development and application of industry-by-industry surveys of existing and projected patterns of steam- or heat-energy generation, according to steam pressure, size of installation, load curve characteristics and other appropriate criteria, to ascertain the national potential for recovering and using waste heat energy and for the development of industrial and utility site cogeneration systems. At or before the expiration of each six-month period following the date of the enactment of this Act, the Secretary shall submit to the Congress and to the President an interim report on the status of the policy analysis provided for by this section. A final report, in three parts, shall be prepared and submitted as hereinafter specified.

(b) PART 1. FEASIBILITY AND CONSEQUENCES.—At or before the expiration of the twelve-month period following the enactment of this Act, the Secretary shall submit to the Congress and to the president part 1 of the policy analysis final report. The scope of part 1 shall be the potential benefits and impact of a national policy promoting the recovery of waste heat energy and the development of industrial and utility site cogeneration systems. Part 1 of the final report shall include a thorough examination and assessment of at least the following subjects:

(1) the net potential energy, capital, and consumer savings realizable from maximum development of waste heat recovery systems and industrial and utility site cogenerators;

(2) the effects of industrial site electric power generation on the United States electrical network;

(3) the reliability and defense security of multi-source versus larger single-source systems;

(4) and and all air, water, solid waste, or other possible environmental problems associated with waste heat recovery systems and industrial and utility site cogenerators and with various coal-burning technologies such as fluidized bed combustors;

(5) the effect of existing public policies, including subsidies and economic incentives and disincentives, on efforts to recover and use waste heat energy; and

(6) waste heat energy conservation and recovery practices and policies in foreign countries.

(c) PART 2. COMPETITION IN THE ELECTRIC UTILITY INDUSTRY.—At or before the expiration of the eighteen-month period following the enactment of this Act, the Secretary shall submit to the Congress and to the President part 2 of the policy analysis final report. Prepared in consultation with the Bureau of Competition of the Federal Trade Commission, part 2 shall analyze the interrelationship between increased competition in the electric utility industry and the objective of promoting the recovery of waste heat energy and the development of industrial and utility site cogeneration systems. Part 2 of the final report shall include a thorough examination and assessment of at least the following subjects:

(1) appropriate ownership arrangements for equipment, transmission lines, and energy required or created by application of cogeneration and other waste heat recovery techniques;

(2) the feasibility and consequences, from a regulatory, economic, and technological standpoint, of separate ownership and operation of facilities for generating, transmitting, and distributing electric energy, and means to promote such separate ownership and operation;

(3) the effect on competition, and on the ability to compete, of tax and other public policies relating to the sale of electric energy;

(4) means to reduce legal and regulatory restrictions on entry into the business of generating, transmitting, and distributing electric energy;

(5) means to promote greater use of wheeling and sales of electric energy for resale; and

(6) the feasibility and consequences of separate ownership and operation of facilities for electric energy and for natural gas distribution.

(d) PART 3. PROPOSALS FOR GOVERNMENTAL ACTION.—At or before the expiration of the twenty-four month period following the enactment of this Act, the Secretary shall submit to the Congress and to the President part 3 of the policy analysis final report. Part 3 shall identify the legal, regulatory, economic, and social factors impeding the rapid development and implementation of industrial and utility site cogeneration systems and other waste heat energy recovery techniques. In addition, part 3 shall contain specific proposals for governmental action designed to reduce or eliminate existing impediments to such rapid development, and shall include a thorough examination and assessment of at least the following subjects:

(1) JURISDICTION.—Identification of the governmental authority or authorities most properly charged with regulating the development and operation of industrial site and utility site cogeneration and other waste heat recovery systems and related transmission, distribution, and other facilities, including specifically—

(A) the determination of rates or guidelines for rates for sales of electric power from industrial site cogenerators and other waste heat recovery systems to utilities and for sales of electric power from utilities to such cogenerators and systems; and

(B) the establishment of a forum and procedure for the fair and efficient resolution of disputes between generators, transmitters, and distributors of industrially generated electric power;

(2) REGULATORY MEASURES.—Identification of such regulatory action as may be appropriate to promote increased waste heat energy recovery and use, including:

(A) requiring that electric utility transmission facilities be deemed common carriers, with wheeling services available to all producers of electric power at a published tariff rate;

(B) reducing standby demand charges to industry in consideration of industrial assumption of a portion of the burden of providing electric power;

(C) granting industrial generation of electric power for sale to the utility system a priority use status in any national allocation of fuels;

(D) requiring industrial site cogenerators to provide auxiliary electric power generation capacity for use during industrial plant shutdown periods;

(E) assessing peakload pricing as a policy tool for encouraging waste heat recovery and use;

(F) evaluating the effect of proposed rate structure changes such as time-of-day pricing, life-line costing, marginal pricing, and constant industry and residential rates on extensive development of waste heat conservation and recovery practices; and

(3) INCENTIVES AND DISINCENTIVES.—Identification of measures calculated to encourage private action leading to increased waste heat energy recovery and use, including—

(A) amendments, addition or exemptions to or from those provisions of the Federal Power Act, Public Utility Holding Company Act, related Federal legislation, and State and local public utility regulations having the greatest effect on waste heat conservation, recovery, and use techniques;

(B) employing waste heat charges as a waste heat conservation, recovery, and use strategy;

(C) various tax incentives and disincentives such as an increased investment tax credit and accelerated depreciation for properties and equipment dedicated to waste heat energy conservation and recovery uses, and increased taxes on enterprises wasting excessive quantities of heat energy;

(D) regulatory disallowance, in determining just and reasonable rates, of capital costs for the construction of additional electric utility generating capacity where industrially generated electric power is available; and

(E) fuel taxes on enterprises requiring significant quantities of steam or heat energy that do not adopt measures to conserve, recover, and use that energy.

ANNUAL REPORT

SEC. 15. Beginning one year following submission of part 3 of the policy analysis final report and continuing at annual intervals thereafter, the Secretary shall report to the Congress and to the President on the progress made toward definition and implementation of an effective national policy promoting waste heat energy recovery and development of industrial and utility site cogeneration systems. The Secretary's annual reports shall include at least the following subjects:

(a) current forecasts of technological, economic, social, and environmental factors bearing upon effective implementation of the national policy;

(b) perceived trends and changed circumstances anticipated to affect the national policy;

(c) effectiveness of policy measures thus far adopted; and

(d) proposed additions or modifications to the national policy as then constituted.

ADDITIONAL PERSONNEL

SEC. 16. The Secretary and the Director of the Bureau of Competition of the Federal Trade Commission are each authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, to appoint and fix the compensation of such additional personnel as may be necessary to enable the Secretary and Director to carry out their functions under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated a sum not to exceed $3,000,000 during each of the fiscal years 1978, 1979, and 1980 to carry out the provisions of sections 14, 15, and 16 of this Act.

RESEARCH, DEVELOPMENT, DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM

SEC. 18. (a) The Administrator of the Energy Research and Development Administration shall initiate and carry out a research, development, demonstration, and technology transfer program for the purpose of (1) improving the efficiency and performance of industrial and utility site cogeneration and other waste heat recovery systems and (2) providing industrial and utility site cogenerators and other such systems a capability to use effectively coal or fuels other than natural gas or petroleum as the primary energy source. Such a program shall be formulated and carried out to effect a smooth transition from petroleum and natural gas to coal, and to a lesser degree, synthetic fuels derived from coal and oil shale, or alternate fuels derived from nonopetroleum sources, especially solar energy. Technology development shall focus on improving the cost effectiveness, performance, and efficiency of prime movers and ancillary equipment of the scale required for cogeneration and other waste heat recovery systems. Ancillary equipment development shall emphasize heat recovery components with a view to improving existing powerplants and providing the necessary technology base for optimizer heat recovery systems in new powerplants. To facilitate eventual replacement of present generation cogeneration and other waste heat recovery system prime movers that normally require distillate or natural gas as fuel, emphasis shall be placed on prime mover technology that will permit durable operation on lower grade heavy petroleum fuels with an ultimate capability for conversion to synthetic or alternate fuels when they are commercially available.

(b) Prime mover alternatives shall also be developed to permit future commercialization of more optimized cogeneration and other waste heat recovery systems. These shall include options such as external combustion engines capable of efficient operations with fluidized beds of all scales and other methods for environmentally acceptable coal utilization, fuel cells capable of operation with coal or gasified coal, and topping cycles that can extend the upper temperature operating limit and substantially increase the efficiency of cogeneration and other waste heat recovery systems while retaining the capability for virtually complete fuel source flexibility.

(c) The Administrator of the Energy Research and Development Administration shall take such action as may be necessary to assure that a reasonable proportion of the demonstration programs under this title are sited in electricity deficient areas of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated a sum not to exceed $5,000,000 during fiscal year 1979 to carry out the provisions of section 18 of this Act.

On page 15, line 23, strike out "Sec. 14." and insert in lieu thereof "Sec. 21.".

On page 16, line 19, strike out "Sec. 15." and insert in lieu thereof "Sec. 22.".

On page 17, line 11, strike out "14" and insert in lieu thereof "21".

Mr. HART. Mr. President, I offer this amendment to devise a comprehensive congressional approach to waste heat recovery.

Waste heat recovery quite obviously refers to recovering heat that we now waste for reuse for a number of purposes.

Heat is energy—a fact still taught in grammar school. If you merely use fuel once, you really only squeeze out about a third of its energy—the other two-thirds of that fuel is simply wasted. Right now, we are dissipating mass quantities of useful thermal energy into our skies, rivers, and streams.

Two-thirds of all the energy used by manufacturing firms and electric utilities—the equivalent of over 8 million barrels of oil a day—is unnecessarily thrown off as waste heat. Those two types of industries alone waste as much energy as we import—needlessly.

All over the world, people are recovering and reusing their energy waste to produce needed thermal, mechanical, and electrical power. Well over half of Denmark's home and other heating needs will be met by utility site cogenerators in 1985. Besides making electricity, these Danish utilities use their waste steam to heat people's houses—houses that can be cooled in the summer from the same, otherwise wasted, energy resource.

In this country, industrial firms wasted enough heat energy last year to meet 80 percent of all our electricity needs. But unlike Sweden, West Germany, and other countries, which produced over 20 percent of all their electrical needs from waste heat, less than a pitiful 4 percent of our electric power was cogenerated.

Cogeneration sounds technical, but the concept is very simple. About a fifth of our total energy budget is used by industry to make steam for manufacturing

products like paper, glass, chemicals, textiles, and petroleum. Again, two-thirds of this energy is wasted. But cogenerating industries use their waste steam to also generate electricity—at less than half the usual cost.

The amendment I offer now sets this country on a rational course for a better future in this regard.

First, a comprehensive series of policy analyses are required, with Federal Trade Commission and Environmental Protection Agency participation. The goal of these analyses is to propose within 2 years a range of alternative courses of action for establishing a national waste heat recovery policy.

Industrial cogeneration is only a part of any real effort to recover waste heat. My amendment provides for an analysis of not only cogeneration, but also district heating, energy cascading, and the concept of total energy systems. District heating lets us use otherwise wasted steam to heat homes and even farmland so that fields can be productive year-round. Total energy systems combine presently separate industrial processes in order to squeeze out the total energy value from fuel.

Second, an oversight mechanism is created within the Department of Energy. My amendment would direct the Secretary to make annual reports to Congress on the progress of the waste heat recovery policy, including proposals to improve it.

Third, my amendment gives specific statutory authority for the successor agency to the Energy Research and Development Administration to commence an intensive research, development, demonstration, and technology transfer program. The first year authorization for the program is $5 million—this figure is five one-hundredths of 1 percent of the annual savings from cogeneration alone in a decade.

This amendment has the full support of industry and environmental groups. It has the support of the National Rural Electric Cooperative Association. It is supported by the Governor of Tennessee, the scientific community, and even some State regulatory commission members nationwide.

This amendment does nothing controversial. It studies waste heat recovery—not just industrial electricity generation. It provides answers for us, and will give us a range of options from which to choose for enacting a national waste heat recovery policy. And it provides for an automatic oversight mechanism to make sure that what we intend to have happen does, indeed, happen.

To speed up the development and application of improved ways to use waste heat, the amendment provides for an extremely modest R. & D. program.

Mr. President, I hope the Committee will see its way clear to support this very straightforward amendment. One which will help pave the way for a very sound national policy in the very near future to help recapture some of this country's needlessly wasted energy.

I ask unanimous consent to have printed in the RECORD a statement setting forth further facts in support of the amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Cogeneration doubles the usefulness of fuel. A study for the Federal Energy Administration concludes that we can save 1.86 million barrels of oil-equivalent every day by 1985 if only 3 industries—paper, chemicals and petroleum—cogenerate. At $15 a barrel, that equals a savings of nearly $28 million dollars every day, or over $10 billion every year! And this $10 billion a year savings is in reduced fuel costs alone.

Cogeneration could cut the environmental damage of our present, wasteful practices substantially.

Cogeneration could alleviate the need for some additional nuclear powerplants. If only half of all the new industrial steam-raisers coming on-line in the next ten years also cogenerate electricity, the Library of Congress states that enough power would be produced to replace the need for between 10 and 14 giant new nuclear powerplants. Experts at Princeton University write that cogeneration can reduce ERDA's estimate for needed nuclear power capacity in the year 2000 by exactly one-half.

The cogeneration saves our capital resources. A study by Dow Chemical Company states that cogeneration can cut the need for new capital investments to make electricity by about $5 billion every year in the next decade.

Cogeneration can save consumers money. The same Dow Chemical study concludes that cogeneration can save household consumers as much as $3.6 billion every year in reduced utility bills.

Why are they cogenerating in Sweden, Denmark and every other industrialized country except the United States?

Fifteen years ago, 15 percent of our electricity was cogenerated. Today we are down to about 4 percent.

The reasons for this reduction fall into 4 categories:

First, there are technological barriers. Coal-burning cogenerators can produce only a quarter of the electric power that oil- or natural gas burners can make.

There are promising solutions to this problem, however.

Fluidized bed combustors have operated successfully in Europe, and even in this country. These combustors can burn coal or any other organic material for fuel, virtually pollution free. Connect a fluidized bed to a cogeneration system, and you match the electrical production of an oil-burner.

Is there any widespread effort to apply the fluidized bed concept to waste heat recovery? No, not in this country.

The artificially low price of energy means that it is not profitable for industry to develop waste heat recovery systems. It will be profitable in a few years, but can we afford to wait at a cost of $10 billion a year?

It is in the public interest to develop more and better ways to recover and re-use our waste heat energy resources—totaling over 8 million barrels a day. Clearly, the Federal government has a duty to help push fluidized beds and other promising waste heat recovery technologies to the marketplace. But there exists no statutory authority for such a development effort.

My amendment provides long-needed statutory authority, and authorizes a modest sum to begin an intensive waste heat recovery R&D effort—$5 million in fiscal year 1979. If we devoted as much money to find ways to recover and re-use waste heat as we will save in the future from cogeneration alone, the technological barriers to waste heat recovery would be eliminated in short order.

Second, there are economic barriers to cogeneration. Until we find a way to reflect the real benefits of conservation on corporate balance sheets, we cannot realistically expect industries or utilities to conserve.

The best way to resolve the economic barrier? We do not know, precisely. President Carter and I support granting an additional 10 percent investment tax credit for purchases of waste heat recovery equipment. My amendment to the energy tax bill would have the credit automatically expire at the end of 3 years. By that time, Congress will have absorbed the range of solutions that the study required by this amendment will have proposed.

Third, there are regulatory barriers to cogeneration. Industries are prohibited from cogenerating in some places. Federal laws are ambiguous about cogeneration, and some provisions of the Federal Power Act and the Public Utility Holding Company Act are too burdensome for small power producers to cope with. The bill, as reported by the Committee, addresses this problem by authorizing the Secretary of Energy to exempt cogenerators from those two Acts.

Fourth, and the most difficult obstacle to overcome, are institutional barriers.

The fact is that private utility companies have historically REFUSED to permit cogeneration in their service areas. Lower electricity and capital costs mean less gross profits.

The study required by my amendment will give us a broad range of choices from which to select for addressing the institutional barriers to cogeneration and other ways to recover and re-use waste heat.

But at a potential future cost of $10 billion a year, we cannot afford to delay addressing this critical issue. This can be best accomplished, on an interim basis, by a moderate amendment I support to the energy bill now pending in the Finance Committee.

COGENERATION

Mr. SASSER. Mr. President, I would like to express my strongest possible support for the approach to cogeneration advanced by my colleague from Colorado (Mr. HART). The reasons for adopting these amendments are compelling, and I would like to commend the Senator for his fine amendment.

First, let us consider carefully and judiciously how crucial the actions of the Federal Government are in promoting a greater degree of waste heat recovery and onsite generation of electricity. We should examine the issue from its broadest possible perspective.

A few statistics should make abundantly clear the centrality of waste heat recovery strategy to our national energy policy.

First, the production of steam for generating electricity and for use in industrial processes accounts for a staggering proportion of our national energy budget. Fifty percent of our Nation's energy consumption results from just these two energy intensive activities.

Second, due to the second law of thermodynamics, only one-third of the steam which industry creates is ever used for the purpose for which it is created. Two-thirds of this steam is literally wasted. The amount of this daily waste is about equal to the energy value of the foreign oil our Nation imports each day. Mr. President, on this day alone we are discharging into rivers and into the sky the thermal equivalent of 8 million barrels of oil.

Third, a moment ago I mentioned that utility and industrial generation of proc-

ess steam use roughly half the Nation's energy. This figure becomes even more startling when we consider that our country consumes about one-third of the world's energy. So the approach we decide to take to waste heat recovery today will have a significant influence upon global efforts to cope with energy supply depletion.

Fourth, the area of energy consumption to which these waste heat utilization amendments address themselves is fully 15 percent of the energy consumed by this entire planet, Mr. President.

The basic waste heat recovery concept is fairly well understood, but, we must take positive actions if industry is to tap this energy resource.

I would like to emphasize how some of the waste which takes place is in ERDA's own backyard. In Oak Ridge, Tenn., there is a gaseous diffusion plant which enriches uranium for subsequent sale to electrical utilities with nuclear powerplants. That gaseous diffusion plant uses fully 10 percent of the energy which our Tennessee Valley Authority generates. This one plant, one of four large energy wasters which ERDA runs, wastes the thermal equivalent of 1,400 megawatts an hour. The Senate recently debated, at length, the Clinch River breeder reactor when this committee brought the ERDA fiscal year 1978 nuclear authorization to the floor. The subject of that debate is a proposed nuclear plant which would generate, at full capacity, only one-quarter of the energy potential which is wasted by this one gaseous diffusion plant.

President Carter has called for recovery of the waste heat from this plant and from others at Portsmouth, Ohio; Paducah, Ky.; and Savannah River, S.C. I know that the people of Tennessee would like to see this energy reclaimed and used in industry, in agriculture, in fishponds, and in heating homes in the area of the plant.

A recent study by the Oak Ridge Chamber of Commerce showed the job-creation potential of recovering this waste heat. Using only 5 percent of this waste heat in such uses would produce 900 jobs in an area which needs to diversify its economic base. Even more jobs would be created if we could get full use of this waste heat potential.

But unless an appropriate emphasis is placed upon the development of the technology to make use of this uranium enrichment plant—waste heat—which comes out in the form of hot water in the range of 140° to 160° Fahrenheit, the heat will not be fully recovered for several more years.

I am sure the Members of the Senate realize the need for a strong research, development and technology transfer effort in the areas of waste heat recovery and cogeneration. This amendment begins the job.

Mr. President, I have discussed this bill from several perspectives—from world and national energy consumption, from the perspective of technology research, and from the interests of my State of Tennessee.

I would like to end on one final theme which also merits the attention of the Senate. We all know conversion to coal has a number of undesirable impacts about which we are only beginning to learn. There is widespread concern over increasing the level of carbon dioxide in the world, increasing pollution particulates, and possibly setting in motion a greenhouse effect which could raise global temperatures.

President Carter has asked for at least $1.5 million just to study the greenhouse effect. And other climatological research efforts are being stepped up.

My point in raising these concerns is this—to the extent that we recover waste heat energy and use it for productive purposes, we are reducing the amount of fossil fuel energy we shall have to burn. Coal combustion has far greater environmental effects than the combination of either natural gas or oil.

We should seek to maximize the amount of energy we produce whenever we use coal to fire a boiler or produce steam to turn a turbine. When we cogenerate electricity or otherwise utilize waste heat, we are preventing some very serious environmental effects. Cogenerated power causes only half as much pollution and uses half the energy as the most efficient central station powerplants.

Enacting these amendments would be a preliminary and prudent step toward full recovery of our waste heat energy. I would remind the Senate of the President's words:

> Our energy problems and our environmental problems have the same causes—wasteful use of resources.
>
> Conservation helps us to solve both problems at once.

I can think of no more succinct explanation of why these thoughtfully constructed amendments merit adoption.

Mr. JOHNSTON. Mr. President, we very much commend the distinguished Senator from Colorado for his leadership, not only in the area of cogeneration but in other forms of energy conservation, solar as well as any number of other initiatives in which he has taken the leadership in the Senate.

Cogeneration, as he states, is a very promising sort of energy conservation, to catch that waste heat which is ordinarily lost under present industrial and electric generating practices.

However, Mr. President, we must oppose this amendment. We do so, not because of opposition to cogeneration; quite the contrary. This amendment could, by calling for a 2-year study, actually delay, in some respects, the implementation of total cogeneration, because it could be used as an excuse to delay in the meantime.

I must say that the principal objection, however, is with the proliferation of Federal dollars. This study would involve some $14 million in all: $3 million for each of 3 fiscal years, 1978, 1979, and 1980, to carry out the study, together with $5 million for an ERDA program for research, development, and demonstration and technology transferring.

Mr. President, ERDA is already directed, under S. 2114, to recommend guidelines on cogeneration to State regulatory authorities. Implicit in that requirement is the necessity for the Department of Energy to study the problems associated with cogeneration.

In a word, the committee simply opposes given carte blanche authority to hiring and fixing compensation for more employees in the Department of Energy and FPC. I guess you would say our bottom line is too many employees and too many dollars; and while we support cogeneration, we believe this is too much at this time.

Mr. HART. First of all, Mr. President, I am not sure what it is that the Senator from Louisiana, the distinguished floor manager, contemplates would happen in the field of cogeneration in that 2-year study period.

Second, I point out that the study is divided into three parts, the first of which is to be completed in 12 months, the second in 18 months, and the third in 24 months. So it is spaced over a 2-year period.

The first part of that study would provide the kind of analysis that is necessary to indicate the major steps in determining the long-range policy directions that must eventually be taken. The study would provide a necessary information base to implement waste heat recovery programs nationwide, and would better insure that these programs will yield net energy and consumer savings. We can wish for this to happen and dream about it. But unless we take these rational and logical steps to provide us with the analysis that we need to legislate further, it is wishful thinking to believe that such an important energy conservation alternative will evolve by itself in the best possible way for the country. A 2-year study will not, logically, prevent us from enacting an interim program of incentives to encourage cogeneration. Of course, these incentives must be appropriate to the knowledge and understanding of the issue that we do possess.

This very modest legislative proposal shall improve our understanding of the major policy issues raised by waste heat recovery so that Congress can enact legislation which will get this country into the 20th century. It will also allow us to catch up with our other industrialized friends and allies.

Mr. JOHNSTON. Well, it is the position of the committee that the Department of Energy, which is required to recommend guidelines to the State regulatory authorities, will already do the necessary research.

Testimony before us, however, indicates that the main problem with cogeneration is not that we do not understand the techniques and the technology, but the reason why it has not been used in the past has been, for the most part, simply economic: Fuel was so cheap that you did not have to worry about locating facilities together so as to capture the wasted heat or wasted energy. As the price of fuel has gone up, that has become necessary not only from the standpoint of conservation but from the standpoint of economics.

So testimony before us has indicated that, yes, they might well need some tax incentives, and this Senator will probably be very kindly disposed toward those tax incentives; and if we had more of a problem with technology and more of a

problem with research, I might say an expenditure of $14 million for additional studies and additional employees might well be warranted. But since DOE is already required to recommend the guidelines and will have to do the necessary research and data commensurate with making those guidelines, the basic purpose of the Senator's amendment is already accomplished under the existing bill, without having the money and the employees and incurring the cost.

Mr. HART. First, I would merely point out to the Senator from Louisiana, that there is nothing in this amendment which requires hiring any additional employees. Many of these tasks can be contracted out to separate and private entities if the secretary desires. The argument concerning massive new employees is not really true.

Second, I believe the testimony before the Senator's committee also indicated the substantial regulatory, institutional, and even technological barriers to recovering and reusing our hidden waste heat energy resources.

UP AMENDMENT NO. 868

The PRESIDING OFFICER. The hour of 3 p.m., having arrived, the amendment of the Senator from Colorado is temporarily set aside, and the Senate will resume consideration of the amendment of the Senator from Massachusetts (Mr. KENNEDY) unprinted amendment 868. The yeas and nays have been ordered on division 1.

UP AMENDMENT NO. 874

Mr. ALLEN. Mr. President, I send an amendment to the Kennedy amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 874 to part 1 of the Kennedy unprinted amendment numbered 868.

At the end of Part 1 of the amendment add the following: "Any such order or any such rejection of such a filing shall be appealable by any such utility to the Federal District Court wherein the principal place of business of such utility is located and such order or such rejection shall not become effective until there has been a final adjudication of the issue in the Courts."

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, how much time is allotted to the Senator from Alabama?

The PRESIDING OFFICER. There are 30 minutes, and the Senator from Alabama has 15 minutes.

Mr. ALLEN. I thank the Chair. I send copies of my amendment to the desk, Mr. President. I might say the Kennedy amendment is not printed either. I believe few Senators have seen a copy of the Kennedy amendment. It injects something into the bill which is new, that is, in my judgment, nongermane.

It seeks to amend the Federal Power Act, which I believe is not referred to in the bill. It depends for germaneness, according to the Parliamentarian, on section 4 of the bill appearing on page 4, wherein it is provided:

SEC. 4. Nothing in this Act shall affect the applicability of the antitrust laws (as defined in section 3(9) of the Energy Policy and Conservation Act (42 U.S.C. 6202)) to utilities.

So this amendment to the Federal Power Act really is not germane to the bill.

Of course, we are under a time agreement of, I believe, 1 hour for each amendment. I am appealing the Chair's ruling on the germaneness of the amendment.

Inasmuch as the amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) is not printed, and I rather imagine there are few copies of the amendment—as a matter of fact, someone of the staff said a moment ago he thought I had one of the few copies of the amendment available—I thought it might be well to read at least a portion of the amendment.

The amendment is in two parts. At the request of the Senator from Alabama the amendment has been divided. What we are considering is only part I of the amendment. That is, section 5(a). It provides:

General authority of the Commission—

Section 205 of the Federal Power Act is amended by adding at the end thereof the following:

(k) Whenever the Commission determines on its own initiative or upon complaint—

I have a later amendment to add when this one has been voted upon, and either agreed to or rejected, to knock out the words "on its own initiative." I do not believe the Commission ought to be going around all over the country nosing into various aspects of the handling of the business of companies engaged in this business, but to leave it to a complaint. If anyone should complain to the Commission, they could have a hearing, but it should not be on the Commission's own initiative. I think that is just carrying it a little too far to do that.

I was not knowledgeable to this amendment being offered so I am somewhat at a loss to understand such a far-reaching amendment of this sort. We will get to the far-reaching part of the amendment when we get to division 2, I might say. Well, that is a far-reaching amendment which I will explain at a proper time.

I am advised that this amendment, and if I am incorrect in this assumption, I am sure the distinguished Senator from Massachusetts (Mr. KENNEDY) will correct me as to the facts—I do not serve on the Energy Committee but I have been informed, I hope correctly—was not considered by the committee.

To offer a far-reaching amendment here on the floor where Senators are not advised as to its content—I just wonder how many Senators here have seen this amendment. For the edification of the Senator from Alabama, I wish all Senators who have studied this amendment would raise their hand, just for the information of the Senator from Alabama. I wonder how many Senators have read this amendment.

I hope for the information of the Senator from Alabama, all Senators who have read this amendment would kindly raise their hand.

Mr. CULVER assumed the chair.

Mr. JOHNSTON. Will the Senator from Alabama yield?

Mr. ALLEN. No, I want to ask a question, first. I am just asking how many Senators have read this amendment. I see the Senator from Massachusetts reading something there. Maybe he is reading the amendment at this time.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. JOHNSTON. Yes.

Mr. LONG. Is it not correct that a similar provision is already in law with regard to existing nuclear plants? Is it not true that in some cases this amendment about antitrust has led to delays as long as 3 years, in one case, in the construction of a plant in Louisiana, as well as increasing the cost by somewhere around $200 million?

Mr. ALLEN. I understand that is correct. I did not have knowledge of the particular instance. I do have knowledge of something that happened in my own State where there was a long delay at a cost to the ratepayers of Alabama of some $10 million.

Something that is going to have such far-reaching effects, to be offered here on the floor of the Senate, without even being printed—when I asked for a show of hands of Senators who had bothered to read this amendment, had access to the amendment and read it, not one single Senator raised his hand.

Mr. LONG. Will the Senator yield for a further question?

Mr. ALLEN. Yes.

Mr. LONG. Is the Senator aware of the fact that an amendment similar or parallel to this one, relating to nonnuclear generating plants, was considered in greater depth in the House and rejected by a margin of 100 votes?

Mr. ALLEN. Yes, sir, it was defeated on the floor. My distinguished colleague from Alabama, Representative FLOWERS, led the fight, and it was soundly defeated on the floor.

I believe this amendment needs a little more consideration in committee. I think it might be well to initiate a move of this sort in committee. I am hopeful that we shall have the opportunity to have committee consideration of this important matter.

What section 2 does I shall get to later, if we ever get to it, but I fear we shall never get to section 2. That would apply to making fossil fuel electric generating plants subject to the same long delays that are applicable to atomic energy plants. We all know it takes some 10 years to get an atomic energy plant on line. I think that if we are going to try to put the same sort of delay over on fossil fuel, coal-powered generating plants, the person it is going to affect is the billpayer, the electric utility customer, because these charges are passed on to the consumer.

I do not know how it is in other States—I do, too. I know electric rates are going out the ceiling. That is the situation in Alabama. This $10 million cost that was added to the bills of the consumers of electricity in Alabama is something I do not want to see dupli-

cated here. That is what there is danger of having happen.

As I say, there are two parts to the amendment and this first does not seem to be nearly as bad as the second, but it is bad enough. The amendment of the distinguished Senator from Massachusetts, in part 1, provides that the Federal Power Commission, on its own initiative or upon complaint, can say that an electric utility is engaging in any unfair method of competition or that an electric utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, and it shall issue an order prohibiting such unfair method of competition or reject such a filing.

The amendment the Senator from Alabama has offered would provide an end to this amendment, this part 1, would add to the section that any such order or any such rejection of such a filing shall be appealable by any such utility to the Federal district court wherein the principal place of business of such utility is located, and such order or such rejection shall not become effective until there has been a final adjudication of the issue in the courts.

I do not believe, Mr. President, that the Federal Power Commission, sitting in august splendor in its ivory tower in Washington, should say that an electric utility in my State or in any Senator's State is engaging in unfair competition. Most of them are, more or less, monopolies, except for the REA co-ops. That is what a utility is; it is governed by a regulatory body and its rates are controlled. So I guess that, in some instances, it is a near monopoly. But if the Federal Power Commission, on its own initiative, made this finding after the evidentiary hearing we speak of here, it does not provide anything in here for an appeal. We might say, well, under the general law, an appeal is provided for. But I do not know if that is correct or not. All this amendment that I have offered would provide is that this order of the Federal Power Commission is stayed pending appeal. If it works out that the courts find that that was a proper finding on the part of the Federal Power Commission——

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. ALLEN. I am sorry, Mr. President. I had some other facts I wished to bring out, but I shall not ask for more time. Possibly on another amendment, I can bring out the same points.

I thank the Chair.

Mr. KENNEDY. Mr. President, I listened with some interest to the arguments of the Senator from Alabama about the consideration that has been given to this particular amendment by Members of the Senate. The Senator from Alabama neglected to mention that this issue was considered by the Committee on Commerce. A similar provision reported out of the Commerce Committee last year in its utility bill. So to suggest on the floor of the U.S. Senate that this is wholly new matter that has never before been considered ignores the work of one of the important committees of the U.S. Senate. And it ignores the fact that the provision was accepted by the members of that committee. And of course, the same language as my amendment was considered in the appropriate House committees.

I should like to consider the amendments that the Senator from Alabama offers. In part 1 of the amendment in which it strikes "on its own initiative," it seems to me that this would be acceptable. I should like to talk briefly about all three amendments and then get to some comment by the Senator from Alabama.

It seems to me that his first proposal retains the opportunity for independent utilities to raise the issues of competition, which they agreed were basically the issues in the Alabama case. There, the Alabama Power Co. refused to coordinate its bulk power supply with Alabama Electric, a cooperative, when it performs in coordination with other utilities. That is a clear violation, in terms of discrimination and refusal to deal, of the antitrust law.

Second, it attempted to get the cooperative to agree on territorial allocations, clearly an unlawful territorial allocation. The third was a requirement in the contract that all or none of the power purchased at wholesale come from Alabama Power—a sole source requirement—which the cooperative was unprepared to do.

All of those three incidents were actually clear violations that were determined by the Attorney General and NRC. But irrespective of those particular factual situations, directing attention to the amendment of the Senator from Alabama, I think his first recommendation, that strikes the words "on its own initiative," does not do injury to our objectives and could be accepted.

A second amendment suggests that any of the regulatory rulings of the Commission could be appealed to the Federal district court. I think that could be acceptable if it were to go to the court where Federal Power Commission appeals regularly go, which is not to the district court but to the courts of appeals. I would be willing to consider those two amendments of the Senator from Alabama acceptable.

The third one, of course, is his amendment that says that a Federal regulatory decision would be appealable to the State regulatory body.

Now, as the chairman of the Separation of Powers Subcommittee understands, that is not done in terms of any regulatory law. It basically offends the supremacy clause of the Constitution. So it would be unacceptable.

But I would be willing to accept those first two amendments and also to ask unanimous consent to include as an additional modification that would say, "nothing in this subsection would empower the Commission to require an electric utility to delay construction of any plant."

The fact of the matter is, Mr. President, that there is no power within the Federal Government to license the construction of nonnuclear facilities. So the argument that is made here that it will delay construction is basically a specious argument, because there is no Federal authority at the present time in existence.

So it is basically raising a strawman and then trying to dispose of it.

I think this could, in fact, expedite any question that might be raised in the whole area of competition by establishing a procedure where these issues can be resolved administratively. It could actually move the whole process much more expeditiously than protracted litigation.

So if the Senator from Alabama would consider this as a counterproposal, then I would be willing to ask that the amendment so reflects those two amendments of the Senator from Alabama, as well as my additional modification, and to ask that it be taken to conference and to permit the conferees to consider the proposal.

I would be glad to yield a couple of minutes to the Senator from Alabama if he needs it to reply to that proposition.

Mr. ALLEN. I appreciate the suggestion of the distinguished Senator from Massachusetts.

I think that the amendments that I have offered, and that seem, in general, to be acceptable to the Senator from Massachusetts, would improve part 1 considerably. I would feel that if part 1 were the only part involved that we could reach agreement on this.

I wonder if the distinguished Senator from Massachusetts would be willing to take Part 1 as so amended, and we could work out the amendment in proper language, and then if he would withdraw part 2 and take part 1 to conference.

Mr. KENNEDY. The fact is, Mr. President, although part 1 is a reaffirmation and probably a clearer statement of the antitrust authority presently in the Commission, the part 2 obviously provides new procedures by which it can be carried forward with no delay in construction.

It is always nice to see those words on competition and to breath some life into them, but part 2, obviously, provides the mechanism by which Commission authority can be implemented and, with the additional amendment that I was prepared to offer, I do believe that it meets the objection of delay, which is the concern of the Senator from Alabama.

Mr. ALLEN. That is one of the concerns.

I would like to inquire of the distinguished Senator, he states that this, similar language, was reported out of the Commerce Committee as part of some of its legislation. I would like to ask him what has become of it, if it was in that legislation, why is it necessary to encumber this bill with that language that was approved by the Commerce Committee and reported to the floor? Why duplicate the effort?

Mr. KENNEDY. I answer the Senator that, as the Senator understands, S. 3311 was never considered by the Senate. It was reported out in October 1976. The Electric Utility Coordination Act, S. 3311, to amend the Federal Power Act.

Mr. ALLEN. Is it still on the calendar?

Mr. KENNEDY. I do not believe that there has been action by the Commerce Committee this year.

Mr. ALLEN. I understood the Senator to say it had been reported out.

Mr. KENNEDY. By the committee last year.

Mr. ALLEN. I see.

Mr. KENNEDY. As the Senator understands, it is a new Congress.

But I would refer under this particular bill that was reported out, the provisions of section 205, regarding unfair methods of competition, where it spells out procedures which are virtually similar to the provisions which have been included in the first part of this particular amendment.

Mr. ALLEN. Obviously, the amendment did not have overwhelming support in the Senate if it died on the Senate calendar. I just do not feel——

Mr. KENNEDY. The Senator remembers the long discussion we had on antitrust legislation that took many weeks in this body and ate up a great deal of time. The Senator must remember that.

Mr. ALLEN. Yes.

Mr. KENNEDY. Informed and prolonged discussion and debate that we had on it.

Mr. ALLEN. In that bill, or another, not reached, because of that discussion?

Mr. KENNEDY. I think a few matters got prolonged discussion, and that was certainly one of the reasons that this bill was not considered.

But, in any event, it was considered and acted favorably upon by the Commerce Committee.

Mr. ALLEN. I appreciate the Senator's kind offer, but we will doubtless have other amendments to this same part.

But as soon as time has been yielded back, I am going to suggest the absence of a quorum, Mr. President, in order that we might have an opportunity to see which we might agree on and then go on from there.

But I am not saying other amendments will not be offered to part 1, and, certainly, a multitude of amendments need to be offered to part 2, if we ever get to that.

Mr. EAGLETON. Will the Senator yield?

Mr. ALLEN. I do not have any time.

Mr. JOHNSTON addressed the Chair.

Mr. EAGLETON. May I ask a question?

Mr. ALLEN. I was speaking on the time extended to me by the Senator from Massachusetts.

Mr. EAGLETON. When the Senator said he would suggest the absence of a quorum, in that time could I call up an amendment, and then I intend to withdraw it, and to use that time to advantage?

Mr. ALLEN. And then the Senator will put in a quorum call?

Mr. EAGLETON. Yes, but——

Mr. ALLEN. I would have no objection to that, if the Senator from Massachusetts would not.

Has all time been used?

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. There are 2 minutes remaining on the Allen amendment No. 874.

Mr. ALLEN. Has all time been consumed, Mr. President?

The PRESIDING OFFICER. Two minutes remain on the amendment.

The Chair would like to advise the Senate, in the event that perfecting amendments are accepted, it will require unanimous consent for such purposes in view of the fact that the yeas and nays have been ordered, if they are accepted as modifications.

Mr. ALLEN. Yes. But I suggest we have to decide the wording, if that has not been agreed upon yet, and I have no objection to continuing with the yeas and nays, for that matter.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, when this matter initially came up this morning, I advised the Senator from Massachusetts that, while we had had no hearings on this matter and while we were not intimately familiar with it, we were constrained to accept the amendment.

I also indicated sometime later, after having made that statement, that information had come to me that this amendment might work a delay on the contruction of powerplants. Indeed, I must say that some constituents from Louisiana who speak with a particularly persuasive voice indicated that it would work a great delay in my own State.

Mr. President, that may or may not be true, but it is at least persuasive evidence enough to convince me and I think the committee that at this time, without hearings, this matter should not be enacted. I hope the distinguished Senator from Massachusetts will be willing to consider pulling the amendment down and having early hearings on this matter, so that we can give full attention and full emphasis to the matter of antitrust, which presently governs the construction of utility plants.

I should not that S. 2114 has a specific provision saying that nothing in this bill shall affect the applicability of the antitrust laws to utilities. And nothing in this bill takes away power from the FPC with respect to the construction of electric powerplants or with respect to anything else pertaining to this bill.

So there is in the present law a definite authority and mandate to the FPC to monitor the construction of these plants. I hope that existing Federal authority would be sufficient, so that we could come back at a later time and have hearings on the matter and consider it fully.

However, for the time being the committee would have to oppose the amendment in chief. We take no position on the Allen amendments.

Mr. KENNEDY. Mr. President, I am glad that we are hearing from the various utilities, whether it is Alabama Power & Light or Louisiana Power & Light. The fact is that I speak also from experience, where we found the major utilities trying to squeeze out the smaller municipals and public power firms in our own region of New England.

I do not have the intention to delay this bill. I hope that, if we can get the changes on the first part——

The PRESIDING OFFICER. All time has expired on the Allen amendment.

Mr. JOHNSTON. Mr. President, I yield the distinguished Senator 3 minutes on the bill.

Mr. KENNEDY. I would be glad to make the change on the first part, according to two Allen amendments, and hope we could get a voice vote, if there is no objection, and have a yea and nay vote on the second part.

In the remaining time, I wish to indicate what the Commerce Committee said in terms of their section 230. This is in section 205, talking about the Federal Power Act:

Section 205 of the Federal Power Act (as amended by this Act) is further amended by adding thereto the following:

"(g) The Commission shall give due consideration to such evidence as may be provided in any proceeding before it with regard to whether the activities considered in the proceeding would create or maintain a situation inconsistent with the antitrust laws as specified in section 211 of the 'Electric Utility Coordination Act' and shall make a finding thereon. Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that a public utility is creating or maintaining a situation inconsistent with the antitrust laws, or is engaging in any unfair method of competition, or that a public utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, it shall issue an order remedying such situation inconsistent with the antitrust laws, or prohibiting such unfair method of competition, or rejecting such contract, agreement, tariff, or schedule. Section 201(f) shall not apply to this subsection.".

It was reported by the Commerce Committee.

We are not talking about NRC here, where utilities have to get Federal licensing. They do not where, for example, coal-burning plants are involved.

We want to get the Senate on record in terms of competition, and I am prepared to vote. I have no illusions as to what the outcome is going to be. I am prepared to vote. I have no interest in delaying the Senate, but these are the questions we will have to start dealing with in terms of competition.

It seems to me that we are either going to be serious about competition or we are not. We are going to have a number of opportunities to vote on this kind of issue over the next several years, and we might as well get used to voting on it.

I am prepared to expedite the handling of the matter. I appreciate the dilemma of the Senator from Louisiana, but I am prepared to see a vote, if the Members are.

Mr. ALLEN. Mr. President, will the manager of the bill yield me 3 minutes on the bill?

Mr. JOHNSTON. I yield the distinguished Senator from Alabama 3 minutes.

Mr. ALLEN. The distinguished Senator from Massachusetts spoke of hearing from the utilities involved. What he is hearing from is the consumers of this gas, because the Senator knows that a public utility is allowed to make a certain percentage of return on its investment. These added costs are not coming out of the companies' coffers, because they pass these costs on to the consumers, as the distinguished Senator knows.

So the imposition of a $10 million charge on the customers of the Ala-

bama Power Co., who are about 80 percent of the people of Alabama, on account of regulations such as this—that is the estimated cost of the delays under the atomic energy licensing bill, even though this particular installation in Alabama was grandfathered in and was not supposed to be subject to all these delaying tactics.

So, Mr. President, what we are appealing for is the people, rather than the companies. I certainly want that understood.

I yield back the remainder of my time, and I suggest the absence of a quorum.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

A vote now properly should occur on the Allen amendment.

Mr. JOHNSTON. Mr. President, I heard some suggestion that we vacate the order for the yeas and nays.

Mr. KENNEDY. On the first part of the Allen amendment.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Allen amendment.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, a point of inquiry: Are there to be back-to-back votes in this matter? Has an order been issued to that effect?

Mr. ALLEN. Not back-to-back votes, because the Senator from Alabama has a series of amendments to offer, and he probably is going to request the yeas and nays on all of them. So there will be an intervening period between votes, because part 1 needs to be amended in several particulars.

I hope the distinguished Senator from Massachusetts will follow the suggestion of the manager of the bill, that this bill not be encumbered with this provision and that the bill be allowed to proceed, so that it can go to the other body without this surplusage added.

Mr. KENNEDY. Mr. President, given the attitude of the Senator from Alabama, I feel constrained to object to intervening business until we are able to get consideration of these amendments.

I have indicated that I would take two out of three of his amendments and that I am prepared to vote. If we are going to get into a different situation, I would feel constrained to insist this particular issue, that we reach a final resolution of it.

Mr. JOHNSTON. Mr. President, has the Senator from Massachusetts agreed to accept the pending Allen amendment?

Mr. KENNEDY. I have indicated what the position would be, that I would be willing to accept two of the three Allen amendments and ask unanimous consent to modify the provisions with respect to the Commissions initiative and in terms of appeal of the decision to an appropriate court, the circuit court, and then offer my additional amendment.

I would be prepared to, but, obviously, we are not even then going to get to a vote. There is very little incentive on my part to agree with the Senator from Alabama because apparently it will not do very much good even if we make those kinds of adjustments.

Mr. ALLEN. I did not accept the generous offer, and I say that in all sincerity, the generous offer of the Senator from Massachusetts to accept two out of the three amendments and then add one of his own because I understood he would have tacitly, or if I had accepted it I would have tacitly, been agreeing to a final vote on part 1 of the amendment, and I was not willing to agree to that, I will say to the distinguished Senator from Massachusetts. Therefore, I did not accept his generous offer. I would ask for rollcall votes at the proper time on my amendment.

Mr. JOHNSTON. I wonder, Mr. President—I yield myself 1 minute on the bill—if the Senator from Alabama has considered the fact that both the majority and minority are opposed to the amendment and, with that in view, whether he thinks it might not be better to let the amendment as proposed to be amended by the Senator from Massachusetts go straight to a vote. I would suggest to him that that may be the best way to achieve——

Mr. ALLEN. The manager of the bill, of course, has it within his authority to move to table part 1, and I would hope he would do that. But the Senator from Alabama does not want to do that. I would feel that coming from the distinguished manager of the bill, supported by the distinguished minority manager, it would have a whole lot more weight with the Senate than coming from the Senator from Alabama.

Mr. JOHNSTON. Mr. President, parliamentary inquiry. The request for the division has been granted on part 1 and part 2?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. And that would adhere also to a motion to table which would have to be subject to a division as well?

The PRESIDING OFFICER. The Senator could only move to table on an individual basis due to the fact it has been separated.

Mr. JOHNSTON. I wonder if the Senator from Alabama would withdraw his request for a division and let us have a tabling motion on the entire thing?

Mr. ALLEN. It has already been divided, and I would not wish to recall the motion because if the motion to table fails then the Senator would not be allowed to ask for a division. It would just take two motions to table, I will say to the distinguished Senator. If he prevails in one he probably will prevail in the other.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to move to table parts 1 and 2 of the Kennedy amendment, and that the rollcall vote on part 1 be 15 minutes, followed by a 10-minute rollcall vote on part 2.

Mr. ALLEN. Reserving the right to object, the Senator seems to anticipate that his motion to table would not prevail. Why would he ask that there be rollcalls on the two parts if the motion to table carried? There would be no parts left.

Mr. JOHNSTON. If part 1 is tabled, then part 2 would still be in existence.

Mr. ALLEN. I understand the Senator asked to table both of them in one motion.

Mr. JOHNSTON. No. I really wanted a 10-minute rollcall on the second rollcall at the request of the Senator from Georgia.

Mr. ALLEN. On your motion to table, not on the amendment itself.

Mr. JOHNSTON. Yes. That is why I asked the Senator to withdraw his request for a division so that we could have one motion to table.

Mr. ALLEN. No, I would have no power to withdraw the request, and I would have no inclination to do so. The Senator would have the ability to move to table.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. No, I do not object to his request on the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, all you are asking is that you have two 10-minute rollcalls on your motions to table parts 1 and 2 of the Kennedy amendment; is that correct?

Mr. JOHNSTON. Fifteen-minute rollcall on part 1 to table and 10-minute rollcall on part 2.

Mr. ALLEN. Both your motions being motions to table?

Mr. JOHNSTON. That is correct.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Does the Senator from South Carolina desire to be heard before I move to table?

Mr. THURMOND. Mr. President, I yield myself such time as may be required on the bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this proposal by Senator KENNEDY, the distinguished Senator from Massachusetts, is an antitrust amendment.

There have been no hearings in the Subcommittee on Antitrust and Monopoly or in the Judiciary Committee on any bill containing the substance of his amendment.

First, I oppose his amendment as being prematurely brought to the Senate floor. It has not had the scrutiny of full and fair hearings by the institutions of the Senate established to do that job.

Second, I oppose it on the same grounds as were pointed out in the House of Representatives where it was stricken from the House energy bill, H.R. 8444, by a vote of 257 to 160.

Mr. President, I would like to read just a few excerpts from the statement by Congressman FLOWERS in the House:

Section 548—

Which is the same as the Kennedy amendment here—

provides that each time an electric utility company wants to expand its generating capacity, that company would be subject to

an anti-trust review by the Justice Department. The results of that investigation would then be turned over to the Federal Power Commission, which could take as much time as it wanted before making a determination.

At present such an antitrust review is required only when a nuclear powerplant is being proposed. This new section would provide for similar reviews for conventional fossil-fired electric generating plants, hydroelectric plants and even transmission lines.

It puzzles me, Mr. Chairman, that we are seeking to build in new delays into the construction process just at the time when we need the additional generating capacity as quickly as we can get it.

H.R. 8444 is a bill supposedly aimed at encouraging the conservation and production of energy. Why, then, should we include section 548—a section whose provisions would clearly inhibit the production of electric power?

Under the existing regulatory process, it takes from 7 to 10 years to build a fossil-fired plant. But if we add another layer of bureaucracy—together with a lengthy process of hearings and appeals—who knows how long it will take to build a plant?

I have not heard anyone promoting the present antitrust process in the nuclear area as a good model to follow. If section 548 remains in the bill and its provisions are enforced with the same degree of speed and efficiency as the current law affecting nuclear plants, we will all be in trouble.

I know firsthand of a case involving an electric utility company. This company first applied for permission to build a nuclear powerplant in 1969—a full year before the 1970 amendments to the Atomic Energy Act which established the antitrust review process.

Construction by the company was "grandfathered" in under these amendments, while the Justice Department's antitrust review proceeding for this one plant has dragged on for 7 years with no end in sight. Tens of thousands of pages of testimony and exhibits have been presented and nearly 200 days of hearings have been held but the issue still is not resolved.

The result is that this massive powerplant stands completed but unused. In the meantime, the company is spending nearly $2 million a week to buy power that otherwise would come from the plant.

Obviously, this delay is costing Alabama consumers dearly. I do not know which situation would be less costly—not to have constructed the plant—or to have constructed it under these circumstances.

Mr. Chairman, I think the case against section 548 is overwhelming. If we allow this section to remain in the energy bill, we will mandate long delays in the construction of powerplants, we will slow down energy production, we will sentence our people to paying even more for electricity, we will create unemployment in the construction industry and we will overburden our regulatory system.

Mr. President, those are some excerpts, as I stated, from Congressman FLOWERS' statement in the House.

An excerpt from a statement by Mr McCLORY of Illinois on this subject in the House of Representatives:

I hope and would expect that with respect to any substantial plant expansion the Antitrust Division would have information and could get information. They could utilize the civil investigative demands—CID's—for which we have provided. Of course, information is freely available as between the various agencies of the great bureaucracy. However, to require with respect to every substantial expansion of a utility that it would have to, first of all, wait and then be confronted with the suggestion that here is an antitrust violation or prospective antitrust violation would seem to me to be inconsistent with what we are trying to do.

Mr. President, an excerpt from a statement of Mr. WIGGINS in the House of Representatives:

Mr. Chairman, a long time ago it used to be lawful to engage in any conduct, commercial or private, unless it was explicitly against the law. That maximized our freedom. We could pretty well do whatever we wished unless the law made it illegal to do so.

However, in recent years, we have been moving in a different direction. It is now not enough that one should be in violation of the law. Now we are asking Government to take a look at our conduct prospectively and make a determination as to whether our plans—and now I quote those exquisitely vague words in the bill—"may create or maintain a situation inconsistent with the anti-trust laws."

Mr. President, another excerpt from Congressman WIGGINS' statement:

The language contained in this bill is not unique. It merely reflects a growing trend in other legislative areas to have prior review by the Attorney General with respect to the antitrust laws.

That is not good policy. People should not have to go to a police agency to expose their plans and ask for an advisory opinion as to whether or not it may be inconsistent with the law. If you do that, the chief of police, or, in this case, the Attorney General, will surely give his advice. He will say that the plan is all right, but—and then make some suggestions which, of course, one is afraid to disregard.

Mr. President, I think the excerpts from statements of the gentleman who handled this bill in the House of Representatives are self-explanatory. As I say, the House killed this amendment 257 to 160, and I hope the Senate will do likewise here.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, I suggest to the distinguished Senator from Massachusetts that what he wants to accomplish in this bill is basically provided for under the present law. Under the existing law in cases the FPC, from which the FERC derives its power, has authority and, in fact, the duty to take competitive matters into consideration right now, and we recognize that they have that power and duty. The FPC and, in turn, FERC can presently consider and take action to prevent unfair methods of competition and to maintain situations consistent with antitrust laws and policies.

The FERC should be sensitive to antitrust issues and sensitive to competition under the present law. The Antitrust Division and private parties may still sue under the Sherman Act to enjoin or seek damages for violations of the law. So the amendment of the distinguished Senator from Massachusetts, while it would clarify certainly the Commission's powers and duties and it would standardize its procedures, in terms of powers it really does not vastly expand what the Commission should and can do under present law. We recognize that and we have no opposition to what the Senator wants to achieve in terms of anticompetitive examination and requiring FERC to be sensitive to these matters. Our opposition is simply based on the fact that it may work in some instances a delay. We are not opposing at all what we consider to be the substance of the Senator's amendment because that is already provided for, I believe, as we interpret it under present law.

Was the Senator aware that we interpreted the present law in that way?

Mr. KENNEDY. I think that is very reassuring in terms of the legislative history. It seems to me that that is a very helpful commentary about the role of competition in the decisionmaking of the Commission and I think that that is very important. It obviously was not our intention to delay the process of moving forward on this bill.

I wish to see if the committee or the staff of the committee would do a review of what the potential delays would be if a procedure similar to this were followed. I think that it would be useful if the Energy Committee did such a study, since that is, as I understand it, the principal concern that has been voiced here today. If we could get the staff to do a study and work with the Antitrust Subcommittee, and if I had the assurances of the chairman that he would work closely with us on matters relating to the competitive aspects of the industry, this would be helpful.

The Antitrust Subcommittee, under Senator HART, held extensive hearings on utilities in 1970. He found during the course of those hearings widespread violations of the antitrust laws. It is really against that record that I concluded this kind of language would be extremely important, valuable, and useful.

With the strong commitment that the Senator from Louisiana has given in the legislative history about the role of FERC in insuring that antitrust laws will be followed, and with the review by the staff of the delay issue, I am prepared to withdrew my amendment. I want to work closely with the chairman of the Energy Committee on the competitive aspects of these issues, with obviously the clear understanding that we will be able to address this again in the future. It is very clear to me that even if we were successful in winning against the tabling motion, we are going to have amendment after amendment after amendment to confront. This is obviously a key part of the administration's program and I won't hold it up.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. Mr. President, will the Senator yield me another minute?

Mr. JOHNSTON. I yield the Senator another minute.

Mr. KENNEDY. It does seem to me, if that is agreeable with the Senator from Louisiana, I would be willing to ask consent to withdraw the amendment.

Mr. JOHNSTON. Mr. President, we would certainly be glad to work with the Senator and have the staff make that review and we would certainly work very closely with his staff in so doing.

I concur with everything the Senator says about the need for these antitrust examinations. I also concur that we have not done this very assiduously and consistently in the past. That has not been, in the view of the committee, because of

a lack of authority, but because of a lack of either resources or will to make those investigations and inquiries. So we would certainly first accede to what the Senator wants in terms of a study and, second, agree with him that the present law provides the framework within which this can be done, given the will to do it.

Mr. ALLEN. Mr. President, will the Senator yield me 1 minute?

Mr. JOHNSTON. I yield 1 minute.

Mr. ALLEN. I thank the Senator.

Mr President, I have the honor of serving with my distinguished chairman on the Antitrust Subcommittee of the Committee on the Judiciary, and I want to assure the distinguished chairman that I, too, will study this question in more detail, so that I will be able to discuss it more fully when the matter comes to the floor.

Mr. KENNEDY. I would expect no less, Mr. President.

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendments are withdrawn.

Mr. JOHNSTON. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The question now recurs on agreeing to amendment No. 873, offered by the Senator from Colorado.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1414

(Purpose: To reaffirm intent of Congress with respect to disposition of power and energy by the Southwestern Power Administration)

Mr. EAGLETON. Mr. President, I call up my amendment No. 1414.

The PRESIDING OFFICER. There is an amendment pending at the desk that has been called up. It would require unanimous consent to withdraw the amendment presently before the Senate.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Missouri be permitted to call up his amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an amendment numbered 1414.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

One page 16, between lines 17 and 18, insert the following new section:

"SOUTHWESTERN POWER ADMINISTRATION

"SEC. 15. The Congress hereby reaffirms and directs that power and energy marketed by the Southwestern Power Administration pursuant to section 5 of the Act of December 22, 1944 (16 U.S.C. 825s), shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual agreement. In no event shall agreed points of delivery be changed unilaterally.

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 16.".

Mr. EAGLETON. Mr. President, the purpose of my amendment is to clarify and reaffirm the intent of Congress with respect to marketing of Federal hydroelectric power by the Southwestern Power Administration under the Flood Control Act of 1944.

The act authorizes the Secretary of the Interior, in the alternative, to construct transmission lines "from funds to be appropriated by Congress" or to use the transmission lines of other utilities to transmit hydroelectric power, that is, the Secretary "is authorized to—acquire, by purchase or other agreement—transmission lines and related facilities."

In implementing the Flood Control Act and other similar acts, the policy of Congress always has been to encourage the Secretary to contract with other utilities to use their transmission lines, rather than to construct transmission lines with appropriated funds. And our policy always has been that rates to ultimate customers should be uniform and nondiscriminatory, whether the power is transmitted over Government-owned lines or lines made available by contract or lease. This is the concept of "postage stamp" rates—uniform rates for power delivered to load centers, regardless of the nature of the transmission lines' ownership.

The State of Missouri represents an example of the policy of Congress. In the 1950's and 1960's, Congress decided not to appropriate funds for constructing transmission lines in Missouri, but instead Congress directed the Federal marketing agency—the Southwestern Power Administration—to lease the transmission lines of privately owned electric utilities and rural electric cooperatives, paying rentals adequate to carry operating costs and debt service of the money which the cooperatives borrowed from REA. Thus, we were spared the necessity of appropriating millions and millions of dollars to construct transmission lines.

That is how the matter stood until 1970 when the Nixon administration, taking note of growing SPA deficits, ordered a special transmission charge levied on Missouri cooperatives above and beyond the basic SPA rate charged everywhere else.

The rationale was that the payments made by SPA for lease of the Missouri lines was a cost, and since the agency was charged by law to recover all costs, it was only appropriate to offset the lease payments by levying a transmission charge on the cooperatives receiving those payments.

The net effect of this circular argument is that Missouri cooperatives are providing transmission service free of charge to SPA. In the other States served by SPA, transmission lines either were built with Federal funds or leased from private power companies, but no special cost-recovery charge is levied on customers. Only in Missouri has that been the case.

To add to the inequity, Missourians continue to pay the basic SPA rate which is designed to recover all costs of the system, including amortization of the Federal investment in transmission lines outside of Missouri. In short, Missourians are helping to shoulder the cost of delivering power to other States but are being asked to assume the total cost of delivering SPA power in their own State.

The discriminatory transmission charge would increase the cost per kilowatt to Missouri cooperatives more than 60 percent above the price per kilowatt charged to users of peaking power in other States.

Commitments made by SPA to deliver power to all customers at the same basic rate without distinction as to whether the users were served over Government-owned or Government-leased lines were simply ignored. The long history of congressional approval of the arrangement between SPA and Missouri cooperatives was shunted aside.

With the imposition of the transmission charge, SPA effectively relieves itself of its obligation to compensate Missouri cooperatives for use of their transmission facilities. The cooperatives, however, remained obligated to repay the REA debt which they incurred to build the lines for SPA.

My amendment will remove this discrimination and assure equal treatment for customers in all States in the Southwestern Power Administration system.

Mr. JOHNSTON. Mr. President, we are conversant with the problem that the Senator from Missouri speaks of. It involves what at least on first appearance seems to be an injustice, and what appears to be the kind of ratemaking which is discriminatory against those within the postage stamp area by requiring to be included in their rate base the cost of delivering the power to them. On first impression, without looking deeply into the matter, it seems to be a case calling for some kind of legislative correction.

However, Mr. President, this matter has been in litigation, and because of that fact, and also because of the fact that we are not intimately familiar with all the facts, and we do feel that there should be a hearing within which all parties are allowed to explain their views, we would suggest to the Senator from Missouri that we would bring the matter up for hearings early next year. I would think we could do that in a 1-day hearing, and then I would guess that the committee would be inclined to react favorably to the legislative request.

So if the Senator would be willing to withdraw the amendment at this time, I can assure him that the committee will hold those hearings.

Mr. EAGLETON. Mr. President, I

thank the distinguished floor manager for being eminently fair. This is a complicated matter. To me it is a very inequitable situation, but it is not the kind of matter that can be gone into ab initio on the Senate floor. I realize the position of the Senator from Louisiana.

Thus, with his assurance that he himself, very early next year, would be willing to preside at a 1-day hearing where this matter could be ventilated with the Southwestern Power Administration and other interested parties, I think that is a very fair response, and since the Senator has been so obliging in that promise, I will withdraw amendment No. 1414.

Mr. JOHNSTON. I thank the Senator.

Mr. BARTLETT. Mr. President, will the Senator delay that withdrawal until I can be recognized to make a very brief statement?

The PRESIDING OFFICER (Mr. BAYH). The Senator from Oklahoma.

Mr. BARTLETT. It is my understanding that the problem the Senator addresses has been adjudicated in the courts, and that the different prices that have been charged by the Southwestern Power Administration in Missouri, and I think partly in Oklahoma, have been upheld by the courts.

I certainly have no objection to the hearing. I think that it would yield useful information. I am pleased the Senator is withdrawing the amendment, because I think it is a complicated issue. It does impact on our State and I certainly would otherwise have opposed the distinguished Senator from Missouri in his amendment.

I am not as familiar with this as I would like to be, but I did want to say that I certainly agree that it would be wiser for us to proceed rather slowly than to jump into this right now and adopt this amendment.

Mr. EAGLETON. The Senator is correct as far as this matter having been subject to litigation in the courts. The court found with the REA's. The court of appeals said they were not able to fully ascertain congressional intent and they did reverse the district court finding. We believe that congressional intent is clear. The district court is almost imploring us to, with greater specificity, detail through legislation what our actual intent is. That we would seek to accomplish early next year by the hearing and subsequent legislation which may come out of that hearing.

Mr. BARTLETT. I thank the Senator from Missouri. I am pleased that a hearing will be held.

Mr. EAGLETON. I thank my colleagues from Louisiana and Oklahoma.

Mr. President, I withdraw amendment No. 1414.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 873

The question recurs on amendment No. 873, an amendment of the Senator from Colorado.

Mr. HART. The amendment which I offered earlier, unprinted amendment number 873, was being discussed with the Senator from Louisiana when we were interrupted by a previous order. I merely want to summarize where we stand by saying that I do not believe the provisions of the committee-reported bill itself are specific enough to answer the questions which need to be answered—of a technical nature, of a jurisdictional nature, of an economic nature—to permit this country to enter into the kind of cogeneration and waste heat recovery to save literally tens of billions of dollars for the consumers in the next couple of decades—let alone the enormous amounts of energy we will save.

The specific direction which this amendment gives to the series of very nominally priced studies to be conducted by the Administration, the Federal Trade Commission and the Environmental Protection Agency is absolutely imperative to afford us the necessary detailed understanding of the issues so that we can enact a coherent, comprehensive National Waste Heat Recovery Policy, in a year or two that will be able to last for some time without major resolutions.

I believe that position is supported by documentation provided us by ERDA and by the Administration. I am hopeful that the Senator from Louisiana will accept this amendment. The Senator from Colorado, as sponsor of the amendment, is not absolutely adamant as to the amount of money contained in the amendment. I think if we got these studies underway and continued the funding in the next fiscal year, we would get the detailed understanding we need in order to legislate properly. I am completely amendable to suggestions from the floor manager as to what the dollar figure should be for the studies in the amendment.

Mr. JOHNSTON. Mr. President, as I said in my opening remarks, we very much support cogeneration and doing what is necessary. I have just talked to my Republican counterparts on the committee. After that conversation we are prepared to accept a total of $2.5 million, if that would be sufficient to the Senator from Colorado. That is, $.5 million for each of the three-year studies and $1 million for ERDA. In the opinion of the Senator from Colorado, would that be sufficient to get this matter going?

Mr. HART. I appreciate the cooperation of the manager of the bill, though his suggestion is certainly far short of what we had contemplated. To the degree this offer of compromise would not prejudice the future funding of these studies in the next fiscal year, or in any way suggest that they could be done solely for that amount of money, I think the Senator's suggested funding level would get the studies off the ground, get them going, and lead to the kind of data base which will be necessary to approach this problem in a comprehensive and long-lasting way in the future. Of course, I would like a few more dollars for this, but I think that the Senator's suggested modification is certainly better than nothing. I will accept it.

Mr. JOHNSTON. I thank the distinguished Senator from Colorado.

One of the things we need to study is how much proliferation there is of the studies of cogeneration throughout the various Federal departments. This amount of money will get started with those studies. If we find there is not too much proliferation we may well want to come back later and increase these amounts. This recognizes the principle of what the Senator wants to have done and allows for the structure of the study which he provides for. It does get those studies started. I thank the Senator from Colorado.

Mr. HART. I totally agree that the Secretary's first priority should be to compile and provide easy public access to the information that is already available. This problem is one we have all run up against on this issue, and I commend the Senator for his good sense of priorities.

Mr. BARTLETT. I would say to my distinguished friend from Colorado that I join with the manager of the bill. I am doing this a little reluctantly because I think it is important that the committee address matters such as this in great detail and after further study. I know the Senator contributes greatly on the committee when the ERDA authorization bill is before us. I think that is really the time and place to go into this kind of a problem, which is a very technical problem. It is hard to come up with any precise answer to the question he is presenting to us. I do join with the manager of the bill in supporting the $2.5 million.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to modify the amendment in accordance with the terms of the manager of the bill.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The request is granted. Please send the modification to the desk.

Mr. HART. Mr. President, I move adoption of the amendment, as modified.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. BARTLETT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado, as modified.

The amendment, as modified, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BARTLETT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Doug Logan, of Senator STEVENS' staff, be granted the privileges of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator from Louisiana suggest whether it would be in order for the Senator from Colorado to call up his other amendment at this point?

Mr. JOHNSTON. I would not tell the

Senator who should come first. I know the Senator from Massachusetts has a series of amendments.

Mr. HART. The Senator from Colorado is prepared to go forward with his other amendment, if the floor manager wishes.

Mr. JOHNSTON. I would have no comment.

Mr. HART. Mr. President——

Mr. BARTLETT. Will the Senator withhold that for a unanimous consent request?

Mr. HART. I yield.

Mr. BARTLETT. I ask unanimous consent that Eve Dublin, of Senator BAYH'S be granted the privileges of the floor during all debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1399

Mr. HART. Mr. President, I call up amendment No. 1399 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an amendment numbered 1399.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 2, strike out "and".

On page 2, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 2 between lines 4 and 5, insert the following new subsection:

"(d) to provide an interim solution for the subsistence residential electrical needs of the elderly while Congress attempts to construct an equitable electric utility structure which adequately meets the needs of all classes of consumers;

"(e) to promote equity in electrical costing; and

"(f) to demonstrate the effects of lifeline costing on electric utility rate structures, consumption patterns, and the operation of electric utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of our society.".

On page 16, between lines 17 and 18, insert the following new sections:

"LIFELINE RATES

"SEC. 15. (a) No rate of an electric utility shall provide for a rate under which the charge per kilowatt-hour to an elderly residential consumer for a subsistence quantity of electric energy in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour to any other electric consumer to whom electric energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rates shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric consumption in determining the subsistence electric needs of elderly residential consumers.

"(b) For purposes of sections 15, 16, 17, and 18 of this Act, the term—

"(1) 'subsistence quantity' means the number of kilowatt-hours per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric needs of elderly residential electric consumers at their principal place of residence for the following end uses: Heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

"(2) 'elderly residential electric consumer' means an individual who demonstrates to the supplying electric utility for such individual that such individual is—

"(A) (i) at least sixty-two years of age; and

"(ii) the head of a household or principal income earner; or

"(B) (i) is receiving social security benefits from the Social Security Administration; or

"(ii) is receiving railroad retirement benefits from the Railroad Retirement Board;

"(3) 'relevant regulatory authority' means the regulatory body which has ratemaking authority with respect to electric rate schedules within its jurisdiction.

"ENFORCEMENT

"SEC. 16. (a) No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved, or allowed to go into effect by a regulatory authority. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 15 of this Act.

"(b) If any person alleges that a regulatory authority's action, or failure to act, violates subsection (a)—

"(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

"(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

"(B) if there is no such statutory review proceeding applicable to such action or failure to act, by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

"(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

"(A) may be reviewed by any State court of competent jurisdiction, and

"(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

"(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than three months or both.

"FEDERAL ASSISTANCE

"SEC. 17. The Secretary shall provide technical assistance, including grants, or such other financial assistance as he deems necessary and appropriate to State and municipal regulatory authorities to assist these bodies in the establishment of subsistence electrical standards for the elderly.

"REPORTING REQUIREMENTS

"SEC. 18. (a) The Secretary shall submit a report to Congress within eighteen months after the date of enactment of this Act on the effects of this Act on electric utility rate structures, electric consumption, and the operation of electric utilities.

"(b) Additionally, the Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (including but not limited to long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity. In cases where the incremental costs will exceed the average cost of electricity, the Secretary shall study the extent to which subsistence quantities of residential electric consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

"(c) The Secretary shall also study the extent to which such a pricing schedule would alleviate the difficulties which low-income residences experience in paying electricity bills.

"(d) The Secretary shall also study the impacts of such a pricing schedule on conservation efforts of all classes of consumers.

"LIMITED AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 15, 16, 17, and 18 of this Act.

"EFFECTIVE DATE

"SEC. 20. The provisions of sections 15, 16, 17, and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.".

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21.".

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

Mr. HART. Mr. President, I call to the attention of my colleagues that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Rhode Island (Mr. PELL) are cosponsors and supporters of this amendment.

Mr. President, the spiraling cost of home energy in recent years has created severe economic hardships for America's elderly—many of whom exist on low, fixed incomes. This amendment would reduce this burden by extending seniors a basic amount of electricity at the lowest cost afforded to any class of consumer.

Additionally, this initiative would require the new Department of Energy to expand on efforts currently underway to design electric rate structures which promote conservation, equity and economic efficiency and, at the same time, provide users with low-cost electricity.

I commend the members of the Senate Special Committee on Aging and the committee's distinguished chairman (Mr. CHURCH) for conducting extensive hearings on the impacts of higher energy costs on the elderly. In regional hearings held by the committee last March in my home State of Colorado, witnesses testified that higher utility costs may now be the greatest concern of older persons in that part of the country.

America's elderly now number over 28 million, or 13 percent of our population. In 1975—the most recent year for which accurate information is available—over half of the families headed by an older person had incomes of less than $7,300. Ninety percent of the elderly households had incomes of less than $10,000.

A more poignant statistic is the fact that nearly 7 million seniors exist below the poverty level. In 1975, one-fourth of the elderly families in America reported

incomes below $5,000, as compared to less than one-tenth of younger families.

Social security and other retirement income sources have not kept pace with increasing home energy costs. Between 1973 and 1976, social security payments increased by 30 percent. At the same time, energy costs for seniors increased by as much as 61.4 percent in the North-Central region of the Nation. The West experienced the smallest increase—a substantial 44.8 percent. Currently, the elderly spend 30 percent of their disposable income on home fuel expenses, whereas younger families spend less than 10 percent of their income on home energy needs.

Nearly 85 percent of the noninstitutionalized aged have at least one chronic ailment. Recent studies indicate that the inability to absorb higher energy costs can intensify health problems, particularly for the infirm or frail.

In general, seniors tend to be more frugal than other segments of our society in their consumption of energy. Many already practice energy conservation techniques and can do little more along this line to compensate for the higher cost of electricity and other home energy needs. In this light, it is not surprising that many seniors are forced to reduce their food purchases in order to compensate for additional energy costs.

Mr. President, current electricity rate schedules are scandalous from the standpoint of equity. Residential consumers may pay 4 to 5 cents per kilowatt-hour for electricity needed for their health and welfare, while large commercial and industrial consumers pay, on the average, less than half the residential rate—around 2 cents per kilowatt-hour. The declining block rate structure—which charges quantity discounts to those consumers who use the most electricity and the highest rate to those who use the least—is regressive and needs to be changed. This practice promotes wasteful consumption by commercial and industrial users, while residential consumers must bear a greater burden for price increases necessary to increase the electric utility's generating capacity.

This amendment would require utilities to extend a subsistence quantity of electricity to elderly residential consumers at the lowest cost that the utility affords to any class of customer. A "subsistence quantity" of electricity would be the minimum amount necessary for cooking, lighting, heating, medical, and other essential purposes as determined by State and local regulatory authorities.

Lifeline rates, as they are called, would be equivalent to the lowest rates in the declining block rate structure. However, this amendment is not intended to validate this kind of electric pricing. Rather, it would provide an easily-administered, interim solution to the well-documented problems faced by seniors in meeting high home energy costs while Congress addresses the larger issue of electric utility rate reform in the coming months and years.

Although there are wide variations in the price that customers pay for electricity in different regions, the Library of Congress estimates that my lifeline proposal would save seniors a national average of 40.8 percent on their electric bills. If every eligible senior citizen were to sign up for lifeline rates, approximately 2 percent of utility revenues would have to be redistributed among other classes of consumers. Clearly, lifeline rates for seniors would not create a significant burden for utilities or other classes of customers.

I am certain that my colleagues are interested in knowing whether a lifeline for the elderly program would be easy to administer and acceptable to the nonelderly. Lifeline rates have, to date, been the most commonly implemented rate reforms at the State and local level, and various lifeline for the elderly programs have already been proven successful in both large and small communities. There have been demonstration projects in States such as Maine, and ongoing programs elsewhere.

The city of Los Angeles instituted a lifeline rate in 1975. Senior citizens who have an annual income below $7,500 are eligible for a 50-percent discount over the regular domestic rate for an amount of electricity deemed essential for two adults.

We have an assessment of this lifeline program by Dr. Jan Acton, an economist at the Rand Corp. in California, who served on Mayor Bradley's blue ribbon committee to review the water and power rate structure for Los Angeles. His assessment of the Los Angeles program is that it has been easy to administer; that the number of elderly who have participated is about what was expected; that the elderly have definitely been helped; and that the other electric consumers in Los Angeles have strongly supported the program.

Another example of the success of lifeline for the elderly is the experience of Aztec, N. Mex.

This community of 6,400 initiated a "senior citizens" rate for electricity in January of this year. Any resident who is 65 years of age, the head of a household and whose annual income from sources other than social security does not exceed $3,000 per year is provided an unlimited quantity of electricity at the same rate as the city government pays—30 to 40 percent below the average residential rate. Some of the 90 individuals who have been accepted in this program were living on monthly fixed incomes of less than $100. The Aztec city clerk, who is solely responsible for administering the senior citizens' rate, records a universally favorable response to this program by members of this small community.

More often than not, however, individual States cannot afford to risk rate structure reforms such as lifeline. As Gov. Brendan Byrne of New Jersey testified before the Energy Conservation and Regulation Subcommittee, reform usually means higher energy costs for industry, and all too often industry will abandon States with higher energy costs for those with lower costs. A national lifeline program would alleviate the possible competitive disadvantages which might result from piecemeal action.

The second part of this amendment would require the DOE to explore an alternative electric rate design—long-run incremental costing. This design would generate revenues sufficient to extend a subsistence quantity of electricity to all residences at significantly reduced rates. Under such a plan, all consumers—large and small, residential and commercial—would pay the same price for electricity per kilowatt-hour.

This price would reflect the cost of expanding electrical generating capacity, which is considerably higher than the low rates charged to high quality users and slightly higher than the rates charged to others. As a result, quantity discounts for large consumers would be discontinued. The higher prices paid by all users would result in total revenues which exceed the total current costs of expanding electric generating capacity. These excess revenues would be distributed to consumers by reducing the price per kilowatt-hour for a subsistence quantity of electricity for all residential consumers.

In addition to providing relief for low-income consumers, this new rate design would do much to promote conservation of electricity. Residential consumers would have two electrical prices: A lower one for an amount up to their necessary consumption and a higher one for any larger amounts. As a result of the higher rates above needed amounts, consumers will perceive a greater reward for conserving electricity than is currently the case. Business and industry would be similarly inclined to conserve.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1977–1978. Mr. President, we cannot in good conscience permit the elderly to endure another winter of cold and economic hardship. My electrical lifeline amendment addresses this critical need while Congress devises a comprehensive national utility rate reform policy.

Mr. President, because of a clerical error, Senator RANDOLPH's name was inadvertantly omitted from the list of cosponsors of amendment No. 1399, electrical lifeline for the elderly. This was a regrettable error and I would like to set the record straight.

Mr. President, Senator RANDOLPH has been an ardent supporter of the lifeline amendment adopted by the Senate earlier this week as part of S. 2114, the Public Utilities Regulatory Policies Act. I deeply appreciate his efforts on behalf of this proposal, which is certain to ease the financial burden that millions of senior citizens face in dealing with spiraling energy costs.

Senator RANDOLPH has long played a leading role in issues benefiting this Nation's elderly. Over the past many years, his accomplishments in this regard have won him wide acclaim both among his colleagues and the public at large. I commend him for his distinguished record and would again like to extend my gratitude for his strong support of the lifeline amendment.

Mr. President, I urge my colleagues in the Senate to support this amendment as a much-needed interim solution to what

is a substantial problem in this society among the senior citizens.

Mr. JOHNSTON. Mr. President, the subject of lifeline rates is fairly new in consideration in this country, but it is a subject and a concept which has received wide conversation and, I might say, among many groups, wide acceptance.

The concept is that elderly people, in the case of this bill, age 62 and older, in a day of ever-escalating utility costs should receive some relief.

With that concept, Mr. President, I, and I am sure the members of the committee, can very much agree, can enthusiastically agree.

But, Mr. President, the subject of lifeline rates when considered on a Federal basis, when considered on the basis of putting it in this bill, has two principal drawbacks.

The first drawback is the general strong feeling of the committee at this time that we should not depart beyond the bounds of energy conservation and consider other social ends, laudable though they may be, because we simply had so much work to do in the field of conservation during the past month that it was all we could do, having 7 o'clock and 8 o'clock hearings, to stay on top of the conservation issue, and that issue alone.

For that reason, we did not have hearings on the subject of lifeline.

The second feeling of the committee was that we were not prepared to inject the Federal Government into State regulation, not just because of the feeling of States' rights, but more importantly, because it would put a wild card into the proposition of ratemaking when we bring the Federal Government in and superimpose them on top of State regulatory authority.

State regulatory authority is a long way from perfect. It is full of fault, not only in its procedures, but in the substance of what they have ordered and in what many people regard as inequities in rates in various States around this country.

However, Mr. President, as many of the people involved in the bond market told us, when we inject Federal regulation, which makes the rate base of utilities unsure, as it would in this case, we might jeopardize the plans for expansion and for building of new plants.

For that reason, the committee took a very strong position that we did not want to inject ourselves at this time on the basis of the data which we had into the business of determining how States should regulate, I mean, what the rules should be for fixing their own rates in each State.

I think we will come back and consider that when we have more time to do so.

Is the Senator going to ask a question?

Mr. HART. If the Senator will yield, since we have some colleagues on the floor for that, I will ask for the yeas and nays.

Mr. JOHNSTON. Yes.

Also, Mr. President, on the motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on both at the same time?

The Chair hears no objection.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, that was the general philosophical view of the committee, philosophical and practical view of the committee, at the time when we were determining what to do about all kinds of different rate changes for State utilities.

When we get into the specific problem of lifeline rates, it is very appealing. But the Senator states in his amendment, for example, that people above age 62 would receive the lowest charge per kilowatt hour of any other electric customer to whom electric energy is sold by such utility.

Mr. President, there are all kinds of bulk rates by kilowatt hours for different customers. Some utilities have what are known as dump rates where they have, generally, an industrial plant which generates its own power, but which in times of excess power, unused power on the part of the utility, will take that utility's power at a very low rate and shut down its own generating facilities.

This would occur at times when there are offpeak hours, and that sort of thing, and would be on an interruptible basis.

These rates would be very low.

On its face, this has great appeal because, as I say, the old folks should not be charged any more than any other customer. But in this case, what the other customers might be taking is interruptible power, off peak power, and power that is sold in large bulk rates which would justify on a cost basis an extremely low rate.

Not only is that rate likely to be extremely low, it is likely to vary dramatically from utility to utility.

So what we would be doing here in this bill is telling each public service commission around the country that they have to adhere to that lowest rate, and they must give that low rate to these people 62 years of age or older and that then, in turn, they must charge all of their other customers 62 years of age and under a surcharge, in effect, to pay for the older people.

There are a lot of problems involved, Mr. President. There are a lot of these older folks, even though they are on social security, who might be very well to do and they would be getting a subsidization of their rates by people, say, on welfare, who would have to pay the increased charge.

What I am saying, Mr. President, is that the problem of lifeline rates is a difficult one which ought to be considered by each public service commission in each State, based on what they see is possible in their States.

They ought to make a study in their States as to what are the appropriate rates and who are the appropriate recipients.

I do not think at this time that this committee would be prepared to dictate to the various States that they come up with a requirement for a patchwork rate structure for lifeline rates that would result in the subsidization of people 62 years of age or older, whether they need it or not, by people 62 years of age and younger.

It is the kind of thing that really should be studied.

I ask the distinguished Senator whether he would consider changing this amendment into a study and perhaps have hearings on this subject in the Energy Committee next year. We simply do not have the data base to come in and require each State to go into these lifeline rates at this time. Would he consider such a study amendment?

Mr. HART. Let me respond to the Senator from Louisiana.

First, Mr. President, I cite the fact that endorsements of this proposal have come from the National Council of Senior Citizens, the National Association of Retired Federal Employees, the Urban Elderly Coalition, the Sierra Club, Environmental Action, the National Indian Council on Aging, the Seattle Department of Human Resources, and others.

Second, the Senator from Colorado is faced with a sort of Hobson's choice on the one hand in designing an amendment which would be simple to administer. Problems are raised of the sort which the Senator from Louisiana suggests as to elderly citizens who are well off. That is a small price to pay, I think, for giving absolutely necessary assistance to the more than 90 percent of the elderly who are not well off financially.

We could have designed a very complicated amendment that involved features of income levels and other factors that would have made this perhaps more equitable from the standpoint of windfalls to the wealthy elderly. However, at the same time, income requirements would have made lifeline extremely difficult to administer.

This is a straightforward qualification that can be met by a social security card or proof of age, which makes it easy for any State in the Union to adopt.

Second, by not establishing Federal standards except the age classification, the entire matter is left in the hands of the local and State utility commissions. So they can administer and apply this principle according to the rate structures of their own States. Of course, that makes a patchwork. Some people in one State will be paying less than people in others, and so on across the country. But this is the way our rate structure is applied now.

Rather than making a uniform rate structure, we have merely put the burden on the State utility and local utility commissions to permit those senior citizens to qualify for the lower rates.

The economic impact is not that great. It is 2 percent of all electric utility revenues, according to the Library of Congress. That 2 percent of possible lost revenue to utilities would be absorbed by the other 98 percent of the consumers.

I do not think that is going to be a substantial impact on the financial structure of utilities across this country. It cer-

tainly is not going to throw into doubt the rate structures of those utilities so that they cannot go out and have bond issues and float their financing for increased generating capacity, where necessary.

Consequently, I think the arguments which the Senator from Louisiana raises are interesting ones and might be important under other circumstances. But the fact is that as much as we might want to convenience the committee and not have it address issues which are outside the parameters agreed to in drafting this bill, old people are going to be cold this winter because they will not be able to pay utility prices. Just because it is easier to draw a boundary and say we are not going to adopt any amendments or proposals that affect the State utilities structures because it will be easier to get a bill through here, I do not think that is a valid justification to turn our backs on the senior citizens who are cutting back on their medical care, who are cutting back on their nutrition to provide enough electricity for their homes, their apartments, their cooking and other necessities of life.

These are real hardships, and I do not think it is appropriate for a Committee to decide that it is easier for us to set aside a whole category of issues to get a bill out of here, if we have to make people suffer another year or two in the process.

I think my lifeline proposal is a simple, straightforward approach to this problem. It will be easy to administer. It will not disrupt services. It will not disrupt financing of utilities, and it will not have substantial impacts on other consumers. Why not do it?

There are tens of millions of senior citizens in this country who are hardpressed, people to whom Congress and the Nation have an obligation.

I am not trying to get this amendment adopted on an emotional appeal. All of us represent the sovereign and individual States of the Union. We do not want to unduly influence State utility structures. But now is the time to act. We know this system and concept works in several States, in large and small communities. It is one that can be applied easily by every State or local utility commission in this country.

So my answer to the Senator's question about a study is that I prefer that we go forward and adopt this amendment, and I urge the committee to withdraw its opposition and not try to table this amendment.

I yield to my colleague from Colorado.

Mr. HASKELL. I thank the Senator. I congratulate him on putting forth this concept which, as he has stated, will benefit millions of elderly people across the country.

I particularly compliment him on the simplicity of the approach which is adopted here. I think we all realize—this is true in our State, and I assume it is true in other States—that the so-called fuel adjustment factor in the monthly utility bill sometimes exceeds the basic charge.

I believe we are all aware of the elderly people who have paid for their houses in the anticipation that they would live out their retirement in their homes. Now they find themselves, by virtue of utility charges, unable to occupy these houses and are forced to sell.

This is an economic problem, a social problem, and a human problem. Inasmuch as I am a member of the committee, I understand the desire not to place the Federal Government in a position of mandating rates to State utility commissioners. My colleague has adopted what I consider a very simple approach—one which leaves up to the PUC of each State the manner in which lifeline for the elderly is to be implemented.

Mr. President, I express my hope that the committee will find its way clear to accept the amendment. If it does not, I hope that a favorable vote will prevail in the Senate.

Mr. HART. Mr. President, I thank my colleague.

I ask unanimous consent to have printed in the RECORD a memorandum prepared by the Library of Congress, Congressional Research Service, dated October 5, 1977, directed to me, with respect to the modest economic impact of my lifeline proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., October 5, 1977.

To: The Honorable Gary Hart. Attention: Lee McDermott.

From: Economics Division.

Subject: Lifeline rates for senior citizens.

A lifeline rate is defined as a minimum charge for a basic amount of electric service needed to supply the minimum needs of a consumer. The minimum needs usually include lighting, cooking and refrigeration but many also include water heating and space heating. Thus the number of kilowatt hours (Kwh) included in a lifeline rate vary considerably depending upon the number and types of electric appliances owned by the consumer. The minimum need would also vary according to regional climatic conditions.

The Bureau of the Census reports that for 1975 the total number of persons in the U.S. age 62 and older was 27,808,000 or 13.05 percent of the total U.S. population (excluding military overseas).

The Edison Electric Institute reports annual sales and revenues for the U.S. electric utility industry.[1] Those figures are reprinted in the attached table for 1975, the latest year for which data is available. While the exact impact of a lifeline rate on the utility industry would obviously depend on the amount of price reduction implemented through a lifeline rate, some estimate of the impact can be derived through the figures shown in this table. It should also be noted that these figures are an industry average. The effect of a lifeline rate on each particular utility would vary greatly depending on the amount of service (in kwh) covered by the lifeline rate (which would presumably vary from location to location due to the reasons stated earlier) and on the number of persons 62 years and older in each utility's service area.

If it is assumed that all electric service consumed by persons age 62 and over is purchased through a lifeline rate, and that amount of service is proportional to the percentage of the aged in the population as a whole, then 13.05 percent of total residential sales would be purchased at the lifeline rate. Using the data supplied in the attached table, this amount would be 76,492,444,000 kwh.

If it is further assumed that the lifeline amount of service is purchased at the average price of 1.92 cents per kwh (which is the average price for large ligh and power customers, and a reduction of 40.18 percent as compared to the average price for all residential customers) rather than at the 3.21 cents per kwh average price for residential customers, then the revenue produced from these sales would be $1,468,654,900. If this same amount of kwh were sold at the average price for all residential customers, $2,455,407,400 of revenues would result. The "loss of revenue" to the electric utility industry as a result of a lifeline rate for persons 62 years of age and older would then be $986,752,500.[1]

Total electric utility industry—Total energy sales and revenues by customers class, 1975

Total sales (millions of kilowatt-hours):	
Total sales to ultimate customers	1,733,024
Residential	586,149
Small light and power	418,069
Larger light and power	661,558
Total revenues (thousands of dollars):	
Total sales to ultimate customers	46,853,456
Residential	18,803,156
Small light and power	13,486,624
Large light and power	12,707,490
Average revenue per kilowatt-hour (cents):*	
Total sales to ultimate customers	2.7
Residential	3.21
Small light and power	3.23
Large light and power	1.92

[1] Of course the revenue "loss" would be made up through increased charges to the other utility customers.

*Revenue per kilowatt-hour is calculated from the EEI figures by dividing total revenues by total kilowatt-hour sold.

Source: Edison Electric Institute. Statistical Year Book of the Electric Utility Industry for 1975; tables 19–S and 33–S.

Mr. BARTLETT. Mr. President, I have been listening to my distinguished friend from Colorado—in fact both of my distinguished friends—and they have referred to this bill as a simple bill, and I would agree that it is a simple bill. But I think it is a complicated subject, and I think it is difficult to deal with this problem from the Nation's Capital for all the States without creating a lot of extra unfairness.

As an example, the Senator from Colorado, the junior Senator, said the utility companies can afford this. Well, the cost, of course, is going to be borne by the customers.

The utilities in our State right now are appearing before the Corporation Commission, the commission which regulates them, and they are seeking increases in the rates they charge their customers, and they are receiving increases in those rates. So the costs here would be borne by the customers and passed on to them by the utility.

[1] Edison Electric Institute, Statistical Year Book of the Electric Utility Industry for 1975.

This amendment applies benefits to the wealthy as well as to the poor. It is a welfare proposal not financed by the taxpayers but financed by the consumers, and some of these consumers are poor. The poor who pay rent, for instance, and in their rent are paying for their utilities, would be paying their share of the cost of this program.

I would like to point out that a study was made by TVA on lifeline rates, and in the sample of that study the lifeline rate produced higher electrical bills for 26 percent of the low-income families, those already facing hardships under the conventional rates and, at the same time, meant reduced electric bills for 49 percent of high-income families. In other words, this lifeline rate would have resulted in 26 percent of the low-income families helping to subsidize 49 percent of the high-income families, clearly a self-defeating result.

It is my understanding that virtually all of the State utility commissions have rejected lifeline, although not all of them. I point out, too, that this would affect the elderly irregularly even if we were dealing just with those who were poor.

For example, a couple living in a trailer using electricity for all their uses, including heat, would be more or less a high consumer of electricity; whereas another person who might live in a very snug home that was well-insulated and heated by gas would be a relatively low consumer of electricity.

The bill provides that the lowest charge per kilowatt hour to any other electric consumer to whom electric energy is sold by such utility, or any electric utility which controls or is controlled by or under common control for such utility, would be the governing rate. It also says such rates shall not exceed the average of residential rates in effect on the date of enactment of this act. That would mean it would lock in a ceiling at that level no matter what happened to inflation and escalating costs, and I think that would not be a good provision.

But I would point out to the distinguished Senator from Colorado that one area might have located in it a huge consumer of electricity, for instance a copper concern, that would get a very, very low rate. Other areas might not have such a low rate, so the rates charged would vary from area to area.

Then, I think, there are a lot of other variables that need to be considered, the matter of climate, the matter of the number in the family, the size of the house. All these would vary the benefit that is received.

This is really a welfare program that would be financed by consumers of electricity, and it seems to me this is not the kind of way of financing such a program.

I would also point out that, I believe it is on page 3 of the Senator's amendment, section 16(a) says:

> No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved or allowed to go into effect by a regulatory authority.

Now, in some States some large municipals are not controlled or governed by a regulatory authority. In that particular case the way I read that language that utility would not be permitted to sell electric energy. I am simply drawing attention to a place where I think there needs to be a change in the language.

Mr. HART. Mr. President, I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Stuart Brahs of my staff and Robert Faust of Senator PELL's staff be granted privileges of the floor during debate and all votes on the Public Utilities Regulatory Policy Act.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HART. Yes.

Mr. PERCY. Mr. President, I ask unanimous consent for floor privileges during debate and vote on the pending measure for Chris Palmer and Ron Lanque.

Mr. MATSUNAGA. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that a member of my staff, Dr. Tak Yoshihara, may be permitted privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, let me respond as briefly as possible to the Senator from Oklahoma's comments.

He said this is a welfare measure. I do not know why, if we are going to offer favorable rates to bulk consumers, that is not considered a welfare measure, and when we offer it to senior citizens it is welfare. All this amendment asks is that senior citizens be treated the same way as bulk consumers.

Second, he says this will lock us into a specific rate structure. The amendment clearly says it is to last for a maximum of 3 years while Congress is considering a comprehensive utility rate reform policy. It will insure that we do not penalize the elderly people in our society during that period.

On the other hand, he says there are going to be varying rates, and elderly people in one State may end up paying more for their energy than elderly people in other States. Obviously. The managers of the bill have been urging us not to intervene in State utility rate structures, and what I am trying to do is accomplish a specific purpose here without doing that.

The whole purpose here is to let the States set up the system and operate it in the context of their ongoing rate regulations.

The Senator from Oklahoma says this is subsidization. If I said that it was going to cost the utilities money I did not mean to say that. Obviously, it is going to cost the consumers money.

The total economic and financial impact of this proposal is going to be a reduction of about 2 percent of the total revenues of the utilities in this country. Obviously, that is going to be spread among those who pay the other 98 percent. But that is a judgment, I think, that the U.S. Senate can make.

Finally, the Senator from Oklahoma talks about people in trailers as opposed to people in houses, and they use disproportionately large amounts of electricity. The amendment requires the State utility commissions to establish what constitutes a subsistence amount of electricity for all senior citizens, and every senior citizen, whether living in a castle or a trailer, would get the same subsistence amount of energy in that jurisdiction at the lowest amount. So I think that may help solve some of the problems raised by the Senator from Oklahoma.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Oklahoma.

Mr. BARTLETT. In the interest of time I am not going to cover every point. I would just like to cover really only one, and that is a point made about the large consumers of energy. In general, the larger companies and those engaged in some program that uses a lot of energy pay rates that are cost-related. It is not a welfare for the large companies. It is based on cost. This is how the rates have been established and maintained over the years.

I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, is the Senator from Colorado ready to vote?

Mr. BAYH. Mr. President, will the Senator yield to the Senator from Indiana?

Mr. HART. Yes.

Mr. BAYH. Having been in the Presiding Officer's chair I listened with a great deal of interest to the dialog here. I do not want to prolong it. However, I must say that I think the Senator from Colorado is opening a door that portends a great deal of equity for a lot of citizens who are otherwise passed by.

My comment here is relative to what might happen if his effort does not succeed. I would hope that the whole issue of lifeline of a unit rate structure would be studied carefully for all households. I want to help the elderly. But I hate to see poor people and middle-income people have to pay a much higher rate than industrial users. So I see the Senator from Colorado approaching this as a positive first step. But I would hope that in the relatively short period of time in the future we could have an assessment of how we say to the middle-income American or the poor-income American who is out there trying to pay rent or pay mortgage payments, "We are going to get you a rate that is more commensurate with equity rather than have you pay a significantly higher fee than industrial users."

Mr. HART. I would like to respond briefly to the Senator from Indiana. The amendment does exactly what he is proposing. It requires the Secretary to submit a report to Congress within 18 months after the enactment of this provision, studying the extent to which cost justified changes in electric rates will make possible the extension of a subsistence quantity of electricity to all residences at reduced rate. So although this amendment will not require the implementation of a program to solve that problem, it takes the first step in identifying options and obtaining information

upon which this Congress can legislate in the future.

Mr. BAYH. If the Senator will yield, and I am happy to hear this from the vantage point of the Presiding Officer's chair, the only thing I heard was assistance to older people over age 62 which I think we can say amen to, but when we talk about equity in the rate structure I think we all have to recognize there is a good deal of equity existing up and down the chronology of the life span and going to the burdens borne by homeowners and nonhomeowners of all age groups. I am glad that is in the amendment.

Mr. HART. The Senator is absolutely correct and, because the committee did not want to venture too far into that field, we merely put this reporting requirement in there to lay the groundwork for that kind of legislation in the future.

Mr. President, I am prepared to yield back the remainder of my time.

I emphasize that I do not think it would be fair to reach the conclusion that the committee, by opposing this amendment, is turning its back on the senior citizens. I understand the floor manager's problems. I understand the committee's problems. But I do believe, and I believe very strongly, that this is a step that can be taken without breaching the conditions which the committee laid down for itself. It addresses an immediate problem for a class of citizens in our society who are in tremendous difficulty. I think it can be adopted, and I hope it can be supported by the committee even in the context of its strong desire not to go too far in instituting utility rate reforms.

Mr. JOHNSTON. Mr. President, I appreciate the distinguished Senator from Colorado putting the opopsition of the committee in proper context, not overstating the basis of our opposition but stating it very accurately, that we are not insensitive to the old folks. We would like to do something in this field. We have serious doubts that this is the right approach but in any event, it should be studied after hearings.

For that reason, Mr. President, I am ready to move to table and yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. How much time does the Senator desire?

Mr. MATSUNAGA. Two minutes.

Mr. JOHNSTON. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. As the Senator from Colorado knows, while a Member of the House of Representatives, I was a member of the Committee on Aging and, as a member of that committee, I championed many a cause for the elderly citizen.

As a matter of fact, when I first came here the Stevenson amendment was about ready to dispose of the Committee on Aging here, and I joined with Senator CHURCH and was in the forefront to save that committee because I thought that committee would look after the affairs of the elderly.

As a member of the Energy Committee, however, I am troubled that this amendment is being offered to the pending measure. I was one of those in the committee who insisted that this bill, the utility rate bill, be limited to making the Federal Government an adviser, educator, and a promoter of good rate structure among the State utility and local utility companies.

While I fully appreciate what the Senator from Colorado is trying to do and I am in full sympathy with the plight of the elderly with reference to their energy needs, I am constrained to vote against the amendment because it would impose and it would require by Federal mandate the setting of rates for a special class of citizens, and I regret that this amendment is being offered to this bill. I will join with the Senator from Louisiana in saying, if the Senator would withdraw this amendment, we will immediately get into a hearing and establish the facts in the matter and perhaps bring out a bill which would take care of the problem which the Senator from Colorado so ably pointed out.

Mr. HART. Mr. President, the record of the Senator from Hawaii in this field is well known and his concern, I think, is documented throughout his distinguished career in Congress. I think all of the senior citizens in the country owe him a great debt in this regard.

I am hopeful that he will not oppose this measure. I think there are some things that transcend the simplicity of committee operations and the attempt to make our legislative lives clean and orderly. These are immediate and strongly felt human needs. I do not mean to imply that by voting against this amendment Senators are insensitive to those needs. I just want to emphasize that the senior citizens who are going to be cold this winter are not going to take much consolation in the fact that the committee tried to limit its jurisdiction on this bill. Whenever hearings are held, the problem is still going to be there and the idea of the Federal Government requiring States to adopt a simple and straightforward reform of this sort is still going to be before us. One more winter will have gone into the record books and into the lives of the people who are most hurt by our failure to act.

Mr. MATSUNAGA. If the Senator will yield, that is the exact point I am trying to make, that this is properly a State matter. The State of Hawaii has entered the field by payment of half of all the utility bills of those on welfare rolls. I am inclined to feel that that is where it belongs.

Since your State and my State have taken care of those who are really in need of this type of special treatment, then perhaps we can encourage the other States to do it without imposing a mandate, as we are inclined to do now; and, being an advisory agency, as the Office of the Secretary of Energy will be as provided in the bill, I would think that we should try this system first in an advisory capacity, in this bill, at least. Throughout the hearings and throughout the markup sessions, this was the thing that dominated the philosophy of the entire bill: That the Federal Government will serve in an advisory, educatory, and promotional capacity, not one of imposing mandates and absolute requirements upon the State facilities.

Mr. HART. Mr. President, today the Senate will have an opportunity to cast a vote for legislation which will greatly ease the economic hardship faced by many of our Nation's elderly in dealing with the spiraling cost of home energy.

America's elderly now number over 28 million—about 13 percent of the total population. Most of these individuals live on fixed incomes. But social security and other retirement income sources have not kept pace with increasing home energy costs. Between 1973 and 1976, social security payments increased by 30 percent. At the same time, energy costs for seniors increased by as much as 44.8 percent in the West, and 61.4 percent in the north-central region of the country.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1977–78. We cannot in good conscience permit the elderly to endure another winter of cold and economic hardship.

Mr. President, a number of organizations have endorsed this lifeline proposal, including the National Council on Senior Citizens, the Urban Elderly League, the National Association of Retired Federal Employees, the National Indian Council on Aging, Environmental Action, the Sierra Club, Seattle Department of Human Resources, and the National Association of Counties. In addition, the Colorado Congress of Senior Organizations, the city and county of Denver, and the Boulder County Lifeline are also supporters of the lifeline concept.

Mr. HART. Mr. President, I would only say in conclusion that the system of various States adopting their own proposals threatens to place them at a competitive disadvantage. To the degree that utility rates are raised for nonelderly consumers to help make up the difference in the lower rates paid by seniors, industries, and large commercial users may decide, because of that rate differential, to locate in States which do not have lifeline programs. This possibility is a strong disincentive for a State to enact this kind of law in isolation.

I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time, and I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table, on which the yeas and nays have been ordered.

Mr. HART. And also on the amendment itself.

The PRESIDING OFFICER. And also on the amendment itself. The pending question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado (Mr. HART). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—35

Allen	Garn	McClure
Bartlett	Glenn	Morgan
Bellmon	Goldwater	Moynihan
Bentsen	Griffin	Nunn
Bumpers	Hayakawa	Proxmire
Burdick	Hollings	Scott
Byrd, Harry F., Jr.	Huddleston	Sparkman
Chafee	Jackson	Stennis
Curtis	Johnston	Stevenson
Eastland	Laxalt	Talmadge
Ford	Long	Wallop
	Matsunaga	Young

NAYS—61

Abourezk	Hart	Pearson
Anderson	Haskell	Pell
Baker	Hatch	Percy
Bayh	Hatfield	Randolph
Biden	Hathaway	Ribicoff
Brooke	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Inouye	Sarbanes
Case	Javits	Sasser
Chiles	Kennedy	Schmitt
Church	Leahy	Schweiker
Clark	Lugar	Stafford
Cranston	Magnuson	Stevens
Culver	Mathias	Stone
Danforth	McGovern	Thurmond
DeConcini	McIntyre	Tower
Dole	Melcher	Weicker
Domenici	Metzenbaum	Williams
Durkin	Muskie	Zorinsky
Eagleton	Nelson	
Gravel	Packwood	

NOT VOTING—4

Hansen	McClellan	Metcalf
Humphrey		

So the motion to lay on the table was rejected.

Mr HART. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that the order for the yeas and nays on the amendment be withdrawn and I move the adoption of the amendment.

Mr. BELLMON. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Louisiana will state the point of order.

Mr. JOHNSTON. I am advised that this amendment pertains in part to financial assistance, that there is no financial assistance provision in the bill, and it therefore is not germane.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, this amendment does not relate to financial assistance, it relates to utility rates. It does not include any financial assistance whatsoever.

Further, it is the understanding of the Senator from Colorado that the unanimous-consent agreement which included this amendment was, in itself, an agreement that amendments under that unanimous-consent order were germane.

The PRESIDING OFFICER. Will the Senator forbear for a moment while the Chair consults as to the germaneness?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state the parliamentary inquiry.

Mr. HART. Will the Chair inquire of the Senator from Louisiana, or would the Senator from Louisiana advise the Senate, as to what part of this amendment is financial assistance?

Mr. JOHNSTON. Mr. President, the whole thrust of this amendment is for financial assistance to the elderly and it does not pertain to conservation. The whole thrust is inconsistent with that of this bill, which is a conservation bill.

Mr. HART. Mr. President, on its face, this amendment does not involve financial assistance and, therefore, is not out of order.

The PRESIDING OFFICER. It is the view of the Chair that the thrust of the amendment offered by the Senator from Colorado deals with the subject of ratemaking, which is the subject matter dealt with by the bill, and that the amendment is, therefore, germane. The point of order is not sustained.

Mr. JOHNSTON. Mr. President, in view of the fact that the Senator from Colorado won on the motion to table by an overwhelming margin, in view of the fact of the lateness of the hour and that we are trying to get out of here, I hope that we can suspend the rollcall vote. I, therefore, ask unanimous consent that this matter be allowed to go on a voice vote and that the order for the rollcall be vitiated.

The PRESIDING OFFICER. Is there objection to the request that the order for the yeas and nays be vitiated?

Mr. BELLMON. Mr. President, I renew my objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, is it in order for me to ask the Senator from Colorado a question at this point?

The PRESIDING OFFICER. If time is yielded to the Senator from Arkansas, which would have to be off the bill for that purpose.

Mr. BUMPERS. Does the Senator from Colorado yield to me?

Mr. HART. I have yielded back all my time on this.

The PRESIDING OFFICER. The time on the bill is under the control of the managers.

Mr. JOHNSTON. I yield such time to the Senator from Arkansas as he needs.

Mr. BUMPERS. Mr. President, I have some difficulty with this amendment and I voted to table it. It is the sort of amendment that any Member of this body would have a very difficult time voting against.

I was troubled about it for one reason: I could not see that there were any income limitations. For example, it provides that if you are over 62 and on social security, you are qualified for the best rate available.

Is that correct?

Mr. HART. The Senator is correct.

Mr. BUMPERS. Would that mean, for example, if a person were over 62, he would have to be on social security to be eligible?

Mr. HART. No, that is not correct.

Mr. BUMPERS. If he is over 62, he is eligible?

Mr. HART. That is correct.

Mr. BUMPERS. If he happens to be president of General Motors, he is still entitled to the rate?

Mr. HART. The Senator is correct. The debate on this issue went into rather elaborate detail. The reasons for that were for purposes of simplicity.

It was the view of many Members of the Senate that they do not want the Federal Government imposing conditions on the States in their rate structures. The managers of the bill and the Senator from Colorado debated that at some length. The statistics offered by the Senator from Colorado in support of the fact that the number of elderly who are not only not the president of General Motors but below the poverty line, are significant enough that, at least in the view of, apparently, close to two-thirds of the Senate, it is enough to justify encouraging a mandate on the existing State commission to adopt a rate structure which addresses that fact.

Mr. BUMPERS. Does the Senator have any figures on what it means to the utility companies in rates? Utility companies all have a lot of bonded indebtedness, and have a set rate of return. I assume this provision, which provides lower rates for everybody over 62, would mean that, in order for a utility company to maintain its present rate of return and also amortize its indebtedness, it would have to shift the burden of whatever benefits are granted to those people over 62 to all the others under 62?

Mr. HART. The Senator is correct and the Library of Congress study, which is in the record in the debate, was a study of some length, but to the Senator from Colorado, it was to the effect that if every citizen of this country over 62 enrolled for these benefits, the maximum impact on the revenues of utilities across this country would be no more than 2 percent and probably less. The burden would be paid by the 98 percent of those not covered.

Mr. BUMPERS. Is anybody covered except those persons over 62?

Mr. HART. No.

Mr. CHAFEE. Mr. President.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. Who yields time? The time is under the control of the manager of the bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. All time on the amendment was yielded back. The time must now be yielded from the bill.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Arkansas has pointed out a very good point.

The PRESIDING OFFICER. Will the Senator suspend for a moment until we obtain a little better order in the Senate? Would Senators please take their seats and clear the aisles?

Mr. JOHNSTON. Mr. President, I will be very brief. Let me just say that for those Senators who think that by voting for this amendment we can do something very politically popular and help the old folks, therefore, it will be very much appreciated, let me say that this is but the first step into Federal regulation of State regulatory processes.

If we do this, the next step, next week, next month, or next year, the poor folks will be in, and then after that I guess the young folks, then after that the whole panoply of Federal standards for State regulation.

Many people think we ought to have Federal standards for State regulation, but for those who do, let me say that they ought to proceed only after hearings. We have not had hearings on lifeline rates. There are many lifeline rates instituted by States already in operation.

This is going to throw those lifeline rates out and substitute a Federal rule that says that 62 years of age is all we have to have and we qualify for a lifeline rate. We get subsidized at 62 by a poor person who is under 62.

If that is the kind of Federal rule we want to declare, then I say that we ought to proceed only after hearings.

That is the only basis for objecting to this. Let us at least have a modicum of hearings before we impress Federal regulations on State regulatory proceedings.

Let me say just one more thing and I will sit down.

The most salient point that was made against Federal control of State regulatory proceedings is what it will do to the rate base in the State and, in turn, the ability of States to procure money on the bond markets.

Every one of the Wall Street people we had testify before our committee stated that to put this wild card in, Federal regulation with Federal delays and Federal uncertainty, in a field we know nothing about, is going to deprive utilities of the ability to go into the bond market and finance their—

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. JOHNSTON. Mr. President, I will yield 2 minutes to the Senator from Colorado, and we want to bring this to a conclusion.

Mr. HART. I was prepared several minutes ago.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado was recognized for 2 minutes by the Senator.

Mr. JOHNSTON. Mr. President, if I may first yield to the distinguished Senator from Rhode Island 2 minutes because he had asked before, then I will yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, just a couple of quick questions to the Senator from Colorado.

As I understand it, this bill, as it says, mandates that the States do this, is that correct, they have to do this?

Mr. HART. Yes, the Senator is correct.

Mr. CHAFEE. The second point, no matter how wealthy a person is at 62, he can get this?

Mr. HART. The Senator is correct.

Mr. CHAFEE. And under the Senator's statistics, that will increase the rates of everybody else, to some degree. How much is debatable, but to some degree.

Mr. HART. To a very slight degree.

Mr. CHAFEE. Well, 2 percent, or whatever it is.

And, therefore, am I further correct that this could well work out that an impoverished person who is less than 62 has his electric rates go up to pay for the president of General Motors who is over 62 who gets this benefit, is that correct?

Mr. HART. The Senator is correct.

But as I observed on the same question from the Senator from Arkansas, every senior citizen in our society is not the retiring president of General Motors.

Mr. CHAFEE. That is absolutely so.

Mr. HART. And 7 million senior citizens in this country, which is about 20 percent of the elderly population, live below the poverty level. The median income of elderly households was $7,300 in 1975. One-fourth of the elderly families in America received incomes below $5,000.

Now, if we want a simple proposal to take care of a serious problem in this country, then this is the way to do it.

If we do not want to hedge about it, and conform to the limited Federal regulation the Senator from Louisiana claims he wants, this is the way to do it.

Mr. STEVENS. Will the Senator yield?

Mr. CHAFEE. Of my 2 minutes, if I may ask, how much time have I got?

The PRESIDING OFFICER. One minute remains.

Mr. CHAFEE. Let me just say, this is a case in which the Federal Government is mandating that every State do something. He talks about the older people. While we are dealing with people over 62, we are imposing a higher rate on those who are younger and in many cases cannot afford this additional rate. It seems to me it is the ultimate in big brother, and the Federal Government telling States what they should do.

I thank the Chair.

Mr. STEVENS. Will the manager of the bill allow me to have 2 minutes on the bill?

Mr. BARTLETT. Yes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr. STEVENS. May I say to the Senator from Colorado, I voted not to table the amendment because I heard part of the discussion in which the manager of the bill urged that some sort of study be made concerning this proposition.

I say to the Senator from Colorado, I will vote against the amendment if I have to do so. I do think he has a very good idea, one we ought to pursue, but one we ought to know a little more about before it becomes law. I would hope that he would accept the suggestion of the Senator from Louisiana to have some sort of provision in the bill to start the process that will achieve the objective that I believe we mutually seek.

But I do not think that now is the time, or that I know enough about it, to impose it in this bill and make it mandatory to the States at this time.

I came back to this discussion to urge the Senator to accept the offer of the Senator from Louisiana. We did not want to see it tabled, nor the idea destroyed. but we want to see—for myself I would like to see—a greater amount of knowledge and more specific information concerning how it could be achieved.

For instance, I am not so far from the age of 62. My kids live in my house up in Alaska. But our utility bill is paid by me.

Now, they are working. Are they going to get a preferential rate on my place in Alaska when I am 62?

Mr. HART. That would depend on the Alaska Public Utilities Commission.

Mr. STEVENS. I think a lot more knowledge should be gathered on this, particularly in terms of its impact as to where this total rate readjustment is going to come.

Again, I think the Senator is right, that the older people in this country are facing higher and higher real property taxes, higher and higher taxes for energy, they are facing the problems of inflation on fixed incomes, and we need to do something to help them.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BARTLETT. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would like to point out to my colleagues that the bill for this welfare program is going to be paid by the consumers of electricity, not the utilities. The utilities, of course, in their rate-making appeals and applications through the various agencies of the State government that regulate them, will be granted this amount of money.

I also point out that there was a TVA study made, and in this sample, the lifeline rate, on the average, produced higher electric bills for 26 percent of the low-income families, those already facing the highest bills under conventional rates, and at the same time meant reduced electric bills for 49 percent of high-income families. In other words, this lifeline rate would have resulted in 26 percent of low-income families subsidizing 49 percent of the high-income families, clearly a self-defeating result.

I also point out that the poor who pay rent will have this in their rent, and they are going to be subsidizing—if their energy costs are in the rent—this along with all the other consumers.

So I think it gives very little leeway to the States. The State regulatory agencies, as I understand it, can only set the

amount of energy involved as a minimum subsidy for the elderly. I feel very strongly that this needs a lot of work before the Senate should pass on it.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was obtained: Senator HARRY F. BYRD, JR., Senator GLENN, Senator GRAVEL, Senator LEAHY, Senator JAVITS, Senator ZORINSKY, Senator BARTLETT, Senator HATCH, Senator HEINZ, Senator WALLOP, and Senator DANFORTH.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. There is time on the bill to be yielded by the managers, if they choose to do so.

Mr. ALLEN. Mr. President, will the Senator yield about 2 minutes, so that I can ask the sponsor of the amendment a question?

Mr. JOHNSTON. Yes, I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. ALLEN. I ask the distinguished author of the amendment what the meaning is of section 19, on page 7, which says that there is authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 15, 16, 17, and 18 of the act. Section 15, of course, is the one that mandates that this low rate shall be put into effect.

The question I ask is this: Does that mean the Government would provide a subsidy for the putting in of that rate?

Mr. HART. Mr. President, will the Senator yield me time to answer the question? I do not have any time.

Mr. JOHNSTON. The Senator has 2 minutes.

Mr. ALLEN. I have 2 minutes.

Mr. HART. Mr. President, the purpose of this amendment is not for the Federal Government to finance the rate changes, first, since they will be modest in any case and merely need to be changes made by respective State utility commissions.

Section 19 could be clarified, and I will be more than happy to clarify it, that its intent and purpose is to provide the necessary funding for carrying out the study provisions of this amendment, which are to look into the necessity of overall incremental pricing rate reforms.

Mr. ALLEN. Does not the Senator agree that the wording would indicate that the Government was going to provide a subsidy to provide for this low rate?

Mr. HART. No, that is not the intent, nor do I think it says that—necessary to carry out the provisions of the section. That should be altered only to reflect the study provisions of the amendment.

Mr. ALLEN. Will the Senator ask for permission to have a modification of that portion of the amendment?

Mr. HART. Yes.

Mr. President, I ask unanimous consent that it be in order to modify the amendment to delete, in section 19, sections 15, 16, and 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I thank the Senator from Alabama.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. HART. I do not have the floor.

The PRESIDING OFFICER. The 2 minutes yielded to the Senator from Alabama have expired.

Will the Senator send the modification to the desk?

The modified amendment is as follows:

"LIMITED AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 18 of this Act.

"EFFECTIVE DATE

"SEC. 20. The provisions of sections 15, 16, 17, and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.".

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21.".

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to amendment No. 1399, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. CANNON assumed the chair.)

Mr. GOLDWATER (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Illinois (Mr. STEVENSON). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Illinois would vote "nay."

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. HANSEN) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 57, nays 36, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—57

Abourezk	Gravel	Nelson
Anderson	Hart	Packwood
Baker	Haskell	Pearson
Bayh	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Riegle
Case	Javits	Roth
Chiles	Kennedy	Sarbanes
Church	Lugar	Sasser
Clark	Magnuson	Schmitt
Cranston	Mathias	Schweiker
Danforth	McGovern	Sparkman
DeConcini	McIntyre	Stone
Domenici	Melcher	Thurmond
Durkin	Metzenbaum	Tower
Eagleton	Moynihan	Weicker
Ford	Muskie	Williams

NAYS—36

Allen	Garn	McClure
Bartlett	Glenn	Morgan
Bellmon	Griffin	Nunn
Bentsen	Hatch	Proxmire
Bumpers	Hayakawa	Stafford
Burdick	Helms	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
	Huddleston	Talmadge
Chafee	Johnston	Wallop
Culver	Laxalt	Young
Curtis	Leahy	Zorinsky
Dole	Long	
Eastland	Matsunaga	

ANSWERED "PRESENT"—1

Goldwater

NOT VOTING—6

Hansen	McClellan	Scott
Humphrey	Metcalf	Stevenson

So amendment 1399 was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. BROOKE. I yield.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with Mr. BROOKE, the author of the amendment, and with Mr. NELSON, the manager of the bill.

I ask unanimous consent that each of the amendments by Mr. BROOKE be reduced in half as to time with the exception of the first one.

Mr. DURKIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Without objection——

Mr. DURKIN. No.

Mr. BUMPERS. Reserving the right to object.

Mr. DURKIN. Mr. President, there is a strong possibility that the Senator's amendment numbered 1404 is subject to a point of order in that it deals primarily with financial assistance and there is no financial assistance in the bill before us. As long as this unanimous-consent request will in no way impede anyone's ability to raise that point of order and to have that point of order sustained, if this unanimous-consent request in no way impacts on that, then I do not think I would have an objection.

Mr. ROBERT C. BYRD. Mr. President, could we except amendment numbered 1404 so that there will be no problem involved in my time request?

Mr. DURKIN. Mr. President, I have not had a chance to look at the other amendments. They might be equally deficient.

Mr. ROBERT C. BYRD. All right. I withdraw my request.

Mr. JOHNSTON. Mr. President, I wonder if the Senator will bring up that amendment at this time and have that ruled on before we have debate on it?

Mr. BROOKE. Mr. President, I shall call up my amendment and I wish that we proceed in the usual order. I think at

the appropriate time if the Senator wishes to raise the point of order he can raise the point of order. But I wish to proceed with my amendment.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. BROOKE. I yield to the Senator from Colorado.

Mr. HASKELL. Mr. President, I thank the Senator from Massachusetts for yielding to me.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 875

(Purpose: To prevent discrimination by utilities against certain energy consumers utilizing alternative energy sources)

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 875.

Mr. HASKELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 8, after "COGENERATION" insert a comma and "BACK-UP POWER,".

On page 13, between lines 16 and 17, insert the following new paragraph:

"(c) Not later than one year after the date of enactment of this Act, the Secretary of Energy shall, after consultation with representatives of State regulatory authorities, electric utilities, and alternative energy industries and consumers, recommend to State regulatory authorities guidelines for the purpose of preventing utilities from engaging in any conduct which results in unreasonable or discriminatory rate or pricing structures or practices against consumers that utilize power facilities other than those provided or otherwise supplied by any such utility including, but not limited to solar, geothermal, photovoltaic, wind, and other power sources as the Secretary may decide.".

Mr. HASKELL. Mr. President, a problem which is not addressed in the pending Public Utilities Regulatory Policy Act, S. 2114, is the matter of discrimination by utilities against certain energy consumers who utilize alternative energy systems. Although section 12 requires guidelines for prohibiting discrimination against cogenerators and small power producers, this section does not address the problem of discrimination against other alternative energy systems which require backup power for varying periods of time, such as solar hot water and space heating systems. Unless backup power is available for these systems at reasonable rates and under equitable conditions, the economic feasibility and marketability of many alternative energy systems will be inhibited. As a result, the widespread use of these alternative energy systems which have the potential to conserve large quantities of nonrenewable fuels will not be realized.

Although reports of discrimination are not widespread yet, they are numerous enough to cause concern, especially if we are serious about expanding the utilization of alternative energy systems in the near future. The most recent example of discrimination was reported in the September 30 issue of New Times in an article entitled "Sun Wars." In this instance a builder had installed solar units in a large residential complex and the local gas utility arbitrarily changed the development's classification to "nonresidential." In essence, this means that unlike other housing developments, this one would be subject to having its fuel supply interrupted or curtailed in times of shortages.

In addition to this instance, we have received information from a number of State energy offices recounting cases of alleged discrimination. While alternative energy systems which require backup power should pay their fair share, they should not be discriminated against. This amendment will require that the Secretary of DOE recommend guidelines for utilities which are designed to insure that practices and rate structures do not arbitrarily discriminate against these promising new technologies. The Secretary would develop guidelines for utilities, not rules, which would thus insure responsiveness to regional differences and be consistent with the position adopted by the committee in reporting S. 2114. Moreover, a provision similar to this one passed in the House.

Mr. President, it is my understanding that this amendment has been cleared with both sides of the aisle.

Basically what it does is say that the Secretary of DOE is required to recommend guidelines to State public utility commissions so that there will not be any discrimination in their ratemaking or other practices which has an adverse effect on alternate energy systems, such as solar hot water and space heating systems There have been examples of discrimination reported in California and Massachusetts and one close call in Colorado where the utility eventually rescinded its order.

I think we all agree that this goes directly against the national energy policy goals.

Mr. President, I, therefore, ask that my amendment be adopted.

Mr. JOHNSTON. Mr. President, this amendment is consistent with the general thrust of the committee's consideration of this bill. It provides for guidelines relating to nondiscriminatory practices. It does not put a Federal mandate on the State, but rather requires them to come up with their own guidelines.

Mr. HASKELL. That is correct.

Mr. JOHNSTON. We think it is an excellent amendment and we support it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BARTLETT. Mr. President, I shall make a very short statement.

I concur with my colleague who is managing the bill. This permits the Federal Government to make recommendations, but those recommendations are not binding on the agencies which regulate the utilities.

I think this is the understanding, and I support this amendment and accept it.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. BARTLETT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HASKELL. Mr. President, I thank my friend from Massachusetts very much.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I ask unanimous consent that Meg Powers, of my staff, be accorded the privilege of the floor during the consideration of the bill presently before the Senate and any and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, there is no longer any question that the availability and management of electric utilities——

The PRESIDING OFFICER. Who yields time to the Senator from Massachusetts?

Mr. DURKIN. Mr. President, how much time does the Senator need on the bill?

Mr. BROOKE. I need 30 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. DURKIN. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from Louisiana has 36 minutes, and the Senator from New Mexico has 57 minutes.

Mr. BROOKE. Mr. President, under those circumstances——

Mr. DURKIN. How about 5 minutes?

Mr. President, I reserve my right to object to any Senator's request.

The PRESIDING OFFICER. The Senator always has a right to object. No unanimous-consent request is pending.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BROOKE. I am very pleased to yield.

Mr. BARTLETT. Is the Senator handling the time or if he is not handling the time, I shall yield? I wish to make sure the Senator has time.

Mr. BROOKE. I was asking for 30 minutes.

The PRESIDING OFFICER. The Chair is inquiring who yields time to the Senator from Massachusetts.

Mr. BARTLETT. I yield 30 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. Thirty minutes is yielded to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, there is no longer any question that the availability and management of electric utility energy is a matter of national concern. Energy resources in general did not become a matter of public policy with the introduction of the President's energy program. For over 2 years, the Nation has been implementing laws whose sole

public purpose is the conservation and production of our domestic energy resources.

And electric energy in particular dominates a large part of the energy sector. Twenty-nine percent of our primary fuel resources are consumed by the electric utilities which produce therefrom 12 percent of the end-use energy consumed. Furthermore, electricity's share of our consumption is increasing and may well double before the end of the century.

And no one seriously questions that utilities have general problems whose impact falls on consumers across the Nation. Every Senator is aware that customers are begging for relief from escalating utility bills. Some of the price increases that horrified us so much in the last 3 years are now leveling off to a steady rate of increase rather than to the sudden upward swings to which we became so unhappily accustomed. But, in the past year, electric bills nationally rose more than 9 percent, almost 3 percent higher than the general cost of living. Indeed, since the Arab oil embargo, the average utility bill in the United States has increased over 70 percent. And in areas like my own where we depend on imported fuel for peak load power in our utilities we have seen those costs escalate even more. The northeast pays the highest electricity bills in the Nation, with Massachusetts being the highest cost State, second only to New York City, in its rates. This is in spite of the fact that we have taken the risks of relying more heavily on nuclear powered generation than has any other part of the country. In fact, we have three times the national average of nuclear baseload generating capacity. But there is virtually no region of the country, and there is surely no U.S. Senator, that has not identified utility prices as a major problem and a continuing dilemma.

Not only is it perfectly evident that managing electric power is of national interest. It is also clear that there are management strategies, particularly restructuring of rates, which can increase the efficiency of precious basic energy resources, save power, reduce the growth of energy demand, reduce the need for energy capital, and maximize economic and procedural justice to end-users of electricity.

Mr. President, I suggest, therefore, that the overall definition of the policy problem and even the nature of the most effective solutions to that problem are fairly obvious. The only thing that is not yet obvious is what the Congress of the United States is going to do about it. And those of us who have worked on these issues for some years are deeply disappointed. The apparent response of the Senate Energy Committee is to do simply nothing.

There is really no other way to interpret this legislation before us. The accompanying report characterizes development of standards as "an unnecessary intrusion" without any adequate explanation. Instead, we are presented with a bill which provides that the Secretary may collect information and make suggestions about rates to commissions, or to nonregulated utilities, which happen to be holding hearings. These suggestions are to be essentially ad hoc, based on no formalized body of Federal policy. And the Department's ability to be a presence at all depends on future appropriations for staff. Also, the Secretary's rights as a party in any proceeding are so limited by this measure that they are less than those of any other party to the case. The Secretary may not appeal even an arbitrary and capricious rate decision. Thus, nothing requires consideration of her or his recommendation. Indeed, there may be a bias against such consideration since regulators usually feel a need to protect their decisions against possible appeal. Finally, we are asked to enact a great many studies, including a continuation of the kind of research efforts we authorized 2 years ago precisely so that by this time we could make some policy determinations about appropriate Federal strategies.

I think if we are frank about what has happened in the course of consideration of this measure, we will be forced to admit that the timidity of this approach is a direct result of the emotional symbolic appeals that have characterized discussions of this issue.

A massive and expensive campaign of letters to stockholders following a format suggested by utilities' national trade associations has caused unwarranted fears among those who depend on utility stocks for income. The kind of rhetoric that is typical in the letters from the utilities to their owners include such threats as "the very survival of the United States as a free nation is threatened," or "this is a doomsday plan" or "this is an attempted power grab by Washington federalists"—a phrase which many companies seemed to fancy, and finally, "the free enterprise system will be doomed." I have some examples of this widely disseminated nonsense and I ask unanimous consent that they be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, no elected official wants to confront an electorate that has been frightened by such demagogic and simplistic appeals. But we in the Congress have a responsibility to provide leadership on these energy issues and if we had done so sooner it is very likely that this kind of reactionary and uninformed response would never have arisen at all. As things stand, I am sure we can establish a sound policy initiative and explain it to the American people who are entitled to all of the facts.

Of course, it is only natural that many elected officials see the problems of the utilities as so complex that they feel there will be no obvious political reward from the sophisticated, yet not highly visible, solutions that Federal action might advance. Indeed, most of us here realize that there is no magic answer to continuing increases in consumer electric bills. But that is no reason for the Congress of the United States to abandon the problem to the 50 States and to let State officials absorb the political reaction that utility regulation sometimes evokes. I appeal to all of my colleagues to realize that, if the utilities' problems of cost, inefficiency, growth rates, and dependence on fossil fuels are not resolved the Congress will eventually be required to find a solution anyhow. And we will be under far greater pressure than we now find ourselves. These issues will be coming right back here to us in the long run. We should not wait for a full blown crisis to take the responsibilities that are rightfully ours.

Mr. President, I submit that congressional passage of any half-way measure like the one before us today would send a clear and negative signal to regulators at the State level. It would say that the expectation of clear Federal policy guidance and direction under which State commissions have operated in the last 4 years, is not to be fulfilled. It will signal that there will be no minimal policy that could equalize ratemaking among jurisdictions. Thus, we would again be saying that progressive States which might act to establish policies which could further advance us toward our national energy goals will be penalized in competition for new industry. If the Federal Government's embryonic energy leadership is to be shackled by the Congress in the way this committee proposes, then the day when consumers can evaluate the true value of their energy demand and modify their behavior to reduce current wasteful practices has been indefinitely and unnecessarily delayed. The interjurisdictional competition to provide cheap electric power on convenient terms, regardless of the energy consequences, could well resume. And all this, Mr. President, at a time when we could instead be providing real guidance which would reduce future energy demands and save consumers money.

The committee's approach suggests that States can essentially do the job on their own. I think it is important to examine the record more realistically, as this is probably the fundamental dispute between the committee and the coalition backing my amendments.

To be sure, there is a new awareness on the part of State commissioners that there is a changing environment for utilities. There is a fair amount of studying underway. The National Association of Regulatory Utility Commissions is gathering data under the auspices of Electric Power Research Institute in the industry's first general attempt to analyze rate design improvements. DOE has funded various small demonstrations in 15 States. Overall, 25 States have studied or are studying rate redesign in serious evidentiary hearings.

On the surface, this seems to be progress. But the true test is whether a firm commitment is made to act. And 12 of those 25 States have already decided to take no action. It is essential to recognize that according to DOE in every case States have not made this decision, because they find rate reform inappropriate to the State's needs. Rather these commissions cite lack of data and inability to get it readily as their reason for not instituting change.

Only four States—New York, Cali-

fornia, Wisconsin, and Michigan—have ordered rate reforms into effect in selected service areas. Virginia will do so in PEPCO's service area in 1979. Pennsylvana and Vermont have optional time-of-day rates in effect in some areas. And only three more—Connecticut, Maryland, and North Carolina—have asked utilities to file time-of-day rates for certain industrial customers for specific commission consideration. This means 10 States have some rate reforms in effect in some areas. The rest are awaiting either further assistance and resources and/or further signals as to how other States are going to act.

There can be no question that commissions recognize they do not have the resources to proceed to reform their practices alone. One indication of their weakness is that on the average, expenditures by commissions for State utility regulation in the United States amount to less than one-tenth of 1 percent of the revenues of the regulated utilities. About half of all State commissions employ 20 or fewer staff, including part-time, clerical, and support personnel, for gas and electric utility regulation, and about half the larger commissions employ 50 or fewer. With such small staffs, commissions can do little more than react to the expensive and sophisticated presentations of utilities and their more active customers who are usually well represented by skilled counsel.

The fact that 23 commissions had to be turned away from funding they had applied for under ECPA title II on the first round of grants and that 27 were refused on the second round of grants shows the crying need at the State regulatory level. In the face of such demands for help, the committee cannot argue that all is well at the State regulatory bodies.

We are all familiar with the essentially conservative bias built into State regulatory processes. And that bias, explains the slow pace of change at that level.

First, the capital-intensiveness and traditional stability of utilities have created a very cautious, conservative industry, and regulatory system. Second, utility ratemaking has long been used to expand energy sales and to subsidize certain groups of customers, not always industrial customers, to be sure. Relatively little attention has been paid to overall "system optimization." Third, the recent public outcry over rate increases, nuclear plant siting, environmental protection, and other utility issues has made rational discussion of ratemaking almost impossible, especially in the absence of technical resources. And finally, most commissions are too cautious to act in such a manner as to harm major customers' competitive position when there is no guarantee other States will take any kind of similar action. Mr. President, this refusal by the committee to establish a Federal policy direction does not free the State commissions. It leaves them shackled to the status quo, without support or leadership.

This review of the continuing prospects for State inaction shows that a failure to establish a clear Federal policy on electric energy would plainly be irresponsible. On the other hand, I would agree with anyone who suggested that a Federal takeover of regulation would be equally, if not more, irresponsible. For it is perfectly true that no central authority today exists as is able to propose regulation for local situations. However, it is time to face honestly the fact that no bill considered by the Congress this session envisioned any such takeover as the rhetoric of the industry opponents tried to suggest. We may disagree among ourselves about the subjects and procedures concerning which there should be broad Federal standards. And we may reasonably argue what the legal force of those standards would be. But I feel strongly that we cannot question our responsibility at least to establish a general policy and to insure that it is taken seriously. And, although I have long personally favored a much tougher kind of Federal standard, my amendments are designed only to assure that a clear message about the importance of reform go forward from the Senate today.

In essence, the five amendments, which the bipartisan coalition supported by the administration is offering, taken together, would put the Senate on record as taking utility reform seriously. We propose to offer the States enough staff and financial support to do the difficult analysis required in any serious rate reform undertaking. We propose to make the Secretary's rights and thus the views of the United States equivalent to those of any other intervenor. Finally, we propose that the Secretary establish a written body of ratemaking policy guidelines for all States to draw on. And we will assure that every State gives those recommendations serious consideration as being the expression of a national policy of encouraging fair and efficient electric energy usage.

Mr. President, the Secretary of Energy has offered full support to our efforts to strengthen this measure. I ask unanimous consent that his letter to me be printed in full following my remarks. But I would like to quote the section in which Dr. Schlesinger writes:

> The amendments you and your cosponsors have proposed would aid the federal government and state utility commissions to ensure that regulatory policies promote conservation in accordance with unique needs and circumstances of each state.

I have previously inserted in the RECORD letters of support from the United Auto Workers, the Sierra Clubs, and Environmental Action. Today I ask unanimous consent that letters of support from the Public Citizen/Congress Watch, the American Public Power Association, and the National Association of Rural Electric Cooperatives be printed in the RECORD following my remarks, and also, editorials from the Washington Post and the Boston Globe supporting the position that the committee stand on this bill is as the Post said, "spurious."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROOKE. Mr. President, our amendments represent a very modest attempt to institutionalize a Federal policy on electric energy conservation. There has really been no serious opposition to this particular package, and a number of us wish it could be even stronger. Only those who wish to abdicate policy responsibility completely could oppose these improvements to the bill. I submit to my colleagues that the time to assume our rightful responsibilities is now.

EXHIBIT 1

ENERGY POLICY TASK FORCE,
Washington, D.C., October 5, 1977.

Re S. 2114 Public Utilities Regulatory Policy Act of 1977.

DEAR SENATOR: The Energy Policy Task Force of the Consumer Federation of America, the nation's largest consumer organization strongly urges you to support the proposed amendments to Senate Bill 2114, which address electric utility reform. These include amendments by Senators Sasser, Kennedy and Bayh to encourage utility reform for wholesale power suppliers and amendments cosponsored by Senators Brooke, Cranston, Percy, Hart, Riegle and Anderson on retail utility rate reform.

Specifically, we urge you to vote for the:

(1) Sasser Amendment to provide the Federal Energy Regulatory Commission with authority to order wheeling of bulk power and interconnections of electric utilities and cogeneration.

(2) Hart-Sasser Amendment to encourage cogeneration.

(3) Kennedy Amendment to provide for preconstruction antitrust review of non-nuclear fired power plants.

(4) Bayh Amendment to provide for equitable curtailment of service to retail customers of wholesale power suppliers and purchasers.

(5) Amendments prohibiting "pancaking" of wholesale electric rate increases.

The wheeling, pooling and interconnection amendments are indispensable in ensuring the efficient use of resources, in preventing duplication of transmission lines, and minimizing the number of new generating facilities. They will further help preserve the continued operation of smaller publicly owned utilities.

The antipancaking amendment will prevent undue regulatory lag in deciding wholesale rate increases, would eliminate problems involving refunds of overcharges, and would prevent the loss of working capital for wholesale purchasers.

(6) Brooke Amendment enabling the Secretary of the Department of Energy to prescribe voluntary guidelines concerning the determination of costs, load management systems and ratemaking methods to ensure that state regulatory agencies have the necessary information available for the determination of efficient rate structures.

(7) Brooke Amendment empowering the Secretary to issue advisory guidelines to reduce or eliminate master metering. Recent studies show that master metering consumes nearly 30 percent more energy than individual metering.

(8) Brooke Amendment to reform the present inequities and waste in the fuel adjustment clause.

(9) An amendment to require states to establish certain procedures before service to customers can be cut off. Last winter, many low income families suffered tragically when service was discontinued because they could not afford to pay their exhorbitant utility bills.

We believe that the above mentioned reforms are sorely needed. The electric utility industry has been saddled with increasing fuel costs, declining efficiency in the use of generating capacity, as well as steeply rising costs of expanding capacity. These circumstances have led to skyrocketing energy costs for all American families, as well as the un-

necessary consumption of valuable fuels. Declining efficiency has and could result in expensive and often unwarranted expansion of plant capacity.

None of the amendments mentioned above remove the power of the state regulatory authorities. They are intended to insure greater effectiveness and fairness by the state agencies to encourage more efficient use of our valuable natural resources, and to ensure more equitable rate-setting procedures.

The Energy Policy Task Force of the Consumer Federation of America strongly urges your support of these amendments.

Sincerely,

LEE C. WHITE,
Chairman.
ELLEN BERMAN,
Director.

COLUMBUS SOUTHERN,
Columbus, Ohio.

DEAR SHAREHOLDER: This quick note is written as a matter of extreme urgency. In order to protect your interests, it is imperative that you immediately write, call, or wire your Congressional Representatives in Washington and urge them to defeat any measure now being considered by the House Rules Committee to limit debate and amendments to the National Energy Policy Bill (H.R. 8444) which the House is expected to vote on the middle of this week (week of August 1).

It is vital that you do everything you can—and please urge your acquaintances to do likewise—to stop what amounts to a "railroading" of a national energy bill through the House that will effectively transfer regulation of all the electric utilities in the nation to the bureaucrats in Washington.

This House bill, as it now stands, will have the effect of raising electric rates by unsound rate re-structuring, needless regulatory delays at the federal level, and, most importantly, will thwart future economic and industrial growth by reducing or eliminating jobs for our people who will not have any—or not enough—electric energy to work with.

There are many aspects to this bill, but its essential thrust—and make no mistake about it—is an attempted power grab by Washington Federalists at the expense of the States.

Attached you'll find a summary of the National Energy Act as it now stands.

Perhaps the most damaging amendment calls for increasing control at the federal level . . . it endows the Federal Power Commission (FPC) with nearly all the responsibilities now being effectively managed at the state and local levels. We question what background the government brings to justify their taking over a predominant share of management authority of electric utilities in our state. Further, the reputation for efficiency and management expertise among Washington organizations leaves something to be desired.

Under these amendments, FPC would be supervising and reviewing ratemaking activities of the Public Utilities Commission of Ohio, significantly reducing the ability to address the problems of the people of the state of Ohio. FPC would have final decision on what kinds of power plants and what type of transmission lines are to be built and every other major factor that we believe is better decided by the people who built this state's electric service . . . decisions best monitored by a state regulatory body, like the Ohio Power Siting Commission or Ohio Environmental Protection Agency. Certainly one of our biggest concerns is that the regulatory process is too involved now. Building a generation station is about 60% paperwork and takes as long as 15 years to complete. With more federal control, more delays are inevitable.

Other amendments deal with stringent qualifications for directors of investor-owned utilities, subsidized residential rates, advertising suppression, et. al. Curiously enough, public-owned systems are all exempt from these amendments. We feel that these amendments do not coincide with the national energy objectives, and indeed are not compatable with President Carter's original proposal.

We feel that you should not be denied the right to have these issues given further examination.

Right now, this bill is in the hands of your Senators and Congressmen. We urge you to contact them and ask what purpose these proposed amendments will serve.

Do they fulfill the need for realistically priced energy or do they increase rates to pay for increased regulation?

Do these amendments effectively make local and state regulatory agencies into rubber stamp organizations?

Won't more regulatory delays cost jobs?

Are these anti-free enterprise amendments? We believe they are.

Your effort to discuss this matter with your Senator is of vital importance.

R. J. GRUESER.

MISSISSIPPI POWER & LIGHT CO.,
Jackson, Miss., July 22, 1977.

YOUR HELP IS NEEDED NOW! ENERGY PLAN THREATENS NATION!

To all Mayors of MP&L service area:

The very survival of the United States as a free nation is threatened by the administration's so-called "National Energy Act," now pending in the House of Representatives in H.R. 6831, "National Energy Act," and a companion piece of legislation in the Senate. It is a direct attack on a vast segment of the private enterprise sector of unbelievable magnitude!

Immediate contacts are needed now with Senators and Representatives in the Congress of the United States in opposition to this drastic legislation.

The proposals will result in energy famine for the United States, exorbitant prices, and ultimate nationalization of the energy industry. When this happens, the free enterprise system which has made our country great will be doomed! It is just that serious.

On the attached pages I have summarized briefly in my own words, but more importantly in the words of others, some of the implications of this legislation for you and for our country. You will note from parts of the attached materials that this program holds most serious dangers for the South and Southwest and should be vigorously opposed by people in these areas.

It is not a national energy plan; it is an energy famine plan; it is a doomsday plan.

Congress is going to act on this legislation in early August. (Because of this time consideration, it has not been possible to personalize this letter as I would have liked to do. Unless the American people are heard from, this legislation will become law.

I earnestly hope that you will contact Senators and Representatives in Congress in opposition to this legislation, and that you will communicate with friends, relatives and business connections in other parts of the country, urging them to do likewise.

Please reproduce the enclosed summary and send it to other officials and opinion leaders, if you think it will be helpful. In opposing these far-reaching proposals our company is not simply opposing the administration, but we are simply fighting for our customers and Mississippians as a whole.

Thank you for your efforts in helping to save your country.

Sincerely,

DONALD C. LUCKEN.

Enclosure.

EXHIBIT 2

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
Washington, D.C., September 30, 1977.

HON. EDWARD W. BROOKE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BROOKE: It has come to our attention that when S. 2114, The Public Utilities Regulatory Policy Act of 1977, comes to the Senate floor, you will offer an amendment which would provide and enlarge authority for Federal grants to assist regulatory commissions and non-regulated utilities such as electric cooperatives and municipally owned systems in improving rate design, load management techniques, and related energy conservation practices.

Rural electric cooperatives, together with the other segments of the electric utility industry are most anxious to cooperate with Federal authorities in conserving energy and in designing rate schedules, load management techniques, insulation programs, and other procedures calculated to achieve that purpose. The major difficulty, however, is that none of these concepts are susceptible to valid theoretical analysis. Therefore, the effectiveness of conservation oriented rate design and load management plans can only be proven by actual application in practice. In addition, there are very substantial differences between public response curves to various energy conservation techniques depending on the particular geographical locality and population mix to which they are applied. For all of these reasons we feel that the program which you propose for funding demonstration projects designed to measure the conservation effectiveness of various electric utility rate schedules, load management techniques and consumer premises insulation procedures would be extremely valuable.

The National Rural Electric Cooperative Association is the National service organization for over 900 non-profit cooperative type electric utility systems which serve more than 25 million consumers in the sparsely populated agricultural areas of 46 states. I am certain that our people will welcome your proposal and will be eager to participate in any program which it makes possible.

Very sincerely yours,

CHARLES A. ROBINSON, Jr.,
Deputy General Manager.

SEPTEMBER 30, 1977.

HON. EDWARD W. BROOKE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BROOKE: I understand that when S. 2114, the Public Utilities Regulatory Policy Act of 1977, comes to the floor of the Senate you intend to offer an amendment which would continue and expand authority for Federal funding of demonstration projects designed to improve rate design, encourage load management, and develop conservation practices. American Public Power Association, which represents more than 1,400 local public power systems in 48 States, supports this goal.

The amendment would (a) make it clear that local public power systems and rural electric cooperatives are eligible to participate in Federal rate, load management, and conservation demonstration projects, and to receive financial and technical assistance in carrying out such efforts; and (b) extend for another two years and raise the level of authorized appropriations for grants for this program.

During Congressional hearings on portions of President Carter's national energy plan related to electric rates and conservation, APPA testified that:

"Federal leadership in encouraging con-

servation-oriented rate structures should be based on operating data from experimental programs that have effectively demonstrated their success in reaching target conservation goals. We support a continuation and expansion of sound Federal and locally supported experimental programs to weigh the effectiveness of load management and/or time differentiated rates. The current programs for rate structure and load management experiments now partially funded by FEA and ERDA should be greatly increased in number, types of systems involved, geographical areas and resource, and load mix.

"A Federal rate information program could provide a neutral arena to display the results of all ongoing rate experiments. The current arguments which have raged over various rate structures and their possible contributions to efficiency, conservation, and equity, are extremely difficult to evaluate. Often proponents of special approaches toward rate structures have contributed to this confusion by overselling the virtues and downplaying the weaknesses of their special points of view—and often, in extravagant statements. Such active partisan promotion of these views has often been useful, for otherwise it is possible that these ideas might not have been given the attention they deserved. The Federal government could play a vital role in providing "hard" information to all segments of the electric industry and to the general public concerning the impact of various proposed rate structures on power use and power costs. The industry and consumers generally would benefit from this service. Such a Federal rate information service should be factual, timely and unbiased. Assumptions, when they are required, should be totally revealed. The material should be presented in a clear and objective manner. The information should be based on the statistics which are gathered as part of Federal and local programs and in conjunction with electric rates and use data generally gathered by the government."

APPA believes that your suggested amendment to S. 2114 would help achieve these aims.

Enclosed for your information is a resolution on retail rates approved by APPA members at the Association's 1977 annual conference.

Sincerely,

LARRY HOBART.

PUBLIC CITIZEN,
Washington, D.C., September 28, 1977.

DEAR SENATOR: Public Citizen strongly urges you to support the amendments to S. 2214, the Public Utilities Regulatory Policy Act of 1977, offered by Senators Brooke, Cranston, Percy, Hart, Riegle, and Anderson.

When President Carter unveiled his energy plan, only one part provided the potential for direct dollar savings for consumers—reform of electric utility rates. The plan, as originally conceived, could have provided the following benefits:

1. Elimination of wasteful competition between the states for industry; which led to anti-consumer rate schedules;

2. Savings of 250,000 barrels of oil per day;

3. 50,000 megawatt reduction in capacity requirements; this translates into a $13 billion net savings in the cumulative capital requirements for the utility sector (one new nuclear plant has a capacity of 1,000 megawatts).

Unfortunately, the Energy and Natural Resources Committee eliminated much of the legislation, thereby undercutting the impetus for rate reform by the states and consumer savings. The proposed amendments would put the legislation back on track.

The arguments for reform are overwhelming. In recent years the electric utility industry has been afflicted with a number of complex problems. These include declining load factors, increasing fuel costs, rapidly rising costs of new capacity, lower than expected plant reliability and a virtual end to the economies of scale associated with increasing the size of generating plants. Load factor, the ratio of average utility load to peak load, is a measurement of the efficiency with which a utility uses its existing generating capacity. Between 1965 and the present, the average annual load factor has been declining—reflecting a substantial reduction in utility generation efficiency. In the past five years the cost of fuel has risen approximately 400%. Plant capacity costs continue to rise steeply as evidenced by a 68% rise, between 1970 and 1975, in the costs per kilowatt of new plant capacity.

This presents three problems. First, higher costs have meant much higher electric bills for the consuming public. Second, increasing inefficiency has resulted in consumption of scarce fuels and increasing U.S. reliance on imported fuels. Third, declining efficiency has resulted in a costly, and unnecessary, expansion of capacity.

While some utilities and States have begun experiments to eliminate the waste and inefficiencies, many have not. Unfortunately, many states assume, whether correctly or not, that significant reform of their electric utility rate structure would jeopardize their economic base. This belief has been strengthened by lobbying and other efforts by large industrial corporations in recent State debate on the question. Additionally for rate reform to be accomplished sensibly, it should be accompanied by the kinds of cost data which many regulatory authorities have neither required nor been furnished. And, finally rate design reform needs adequate and trained staff. Many state regulatory authorities have been understaffed and unable to implement rate design reform. For example, as late as the end of 1975, Delaware had only 7 full-time employees at its regulatory commission.

The amendments begin to address some of these problems. With funding for state commissions, some of the staffing problems will be removed. Voluntary guidelines will provide the state regulatory authorities with the necessary base of information to properly construct new and efficient rate structures; and finally, the Secretary of Energy should have the right to be a true advocate for reform, and therefore the right to appeal from those regulatory decisions which are arbitrary, capricious or not based on substantial evidence.

There are other amendments that also deserve your careful consideration. During the past winter, some senior citizens were not able to pay their very high utility bills. As a result, their electricity and/or gas was shut off. Injury and occasionally death resulted. To insure that this winter does not provide more such horror stories, an amendment will be introduced to require states to establish minimum procedures before service can be terminated.

There is almost unanimous agreement that centrally metered buildings use more energy than buildings with individual meters. An amendment will be introduced which will allow the Secretary to establish voluntary guidelines regarding master metering. In comparison tests, buildings with master meters used approximately 30% more energy.

To insure efficient use of scarce fuels, an amendment may also be offered which would encourage more efficient use of fuel and limit the waste potential of the fuel adjustment clauses. We encourage your support of this amendment as well.

None of these amendments undermine state authority. Rather they provide information and financial assistance to the states, and the prod of federal advocacy to insure that minimum reform occurs. These amendments would help make state regulation effective, rather than the sham it now so obviously is, and they promote the kind of economical use of energy that we should all support. A vote against these amendments or against the bill, in our view, will be a vote for utilities, big business, efficiency and energy waste.

Sincerely yours,

MARK GREEN.
MARTIN H. ROGOL.

DEPARTMENT OF ENERGY,
Washington, D.C., October 4, 1977.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: In response to your request for comments, the Administration supports the amendments you and your co-sponsors are offering to S. 2114, the proposed Public Utility Regulatory Policy Act. These amendments provide for:

Financial assistance for State regulatory agencies;

Voluntary guidelines with respect to ratemaking, automatic adjustment clauses, and master metering; and

Appeal rights for the Federal Government in cases where it intervenes pursuant to S. 2114.

I welcome these efforts to strengthen the capability of the Department of Energy to assist State utility agencies and increase the potential effectiveness of utility rate modernization efforts.

State efforts are needed to achieve energy savings and protect consumer interests but only a few State and local authorities have the necessary manpower and financial resources. Your proposed amendment would help overcome this problem.

The voluntary guidelines amendments preserve the primacy of the States in utility regulation and assure that State policies will not be mandated by the Federal Government. They provide, however, that the Federal Government will propose new procedures and the States will consider them.

The final amendment provides for appeal rights in those cases where the Federal Government intervenes in State regulatory proceedings, pursuant to S. 2114. If the Department of Energy is to be effective, it should have the right to appeal adverse rulings to State courts like any other party.

The Administration proposed and the House supported a different approach to utility rate modernization. If, however, the approach contained in S. 2114 were to be favored by Congress, it should be implemented in as effective a manner as possible. Your amendments would significantly assist in achieving this goal.

The amendments you and your co-sponsors have proposed would aid the Federal Government and State utility commissions to ensure that regulatory policies promote conservation in accord with the unique needs and circumstances of each State.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

[From the Washington Post, Sept. 19, 1977]

THE ENERGY BILL

President Carter's energy plan is now halfway through Congress, and it's time to take stock. As the legislation now stands, it provides neither a complete strategy for the next eight years, nor any great protection in the interim against foreign disruptions and price rises. The President's plan has one primary purpose: to reduce this country's dangerous dependence on foreign oil. The bill, as the House passed it, does not promise to reduce oil imports. It would only hold

down the rate at which things are getting worse. That is the central thought to keep in mind, as the Senate now threatens to throw out large sections of the plan.

The history of this massive bill, over the summer, is interesting mainly as further demonstration of the very narrow limits of political possibility in regard to energy. Most of Congress understands perfectly well the need to cut down. But it is exceedingly difficult to persuade people to make provision for a shortage of which there is no visible sign yet. There is also great uncertainty among the experts over the effects of rigorous energy conservation on the national economy. With the unemployment rate back up over 7 percent, not many people in Congress are inclined to try anything that might interfere with economic growth.

As it passed the House, the legislation would cut oil consumption mainly by pushing industry and utilities more heavily onto coal as their primary fuel. Most of the rest of the gain would be picked up through conservation. The method is a series of carrot-and-stick devices, mostly imposing higher prices, sometimes accompanying them with tax credits for investing in insulation or more efficient machinery.

The legislation has serious flaws, but some of them were inevitable. It is, for example, far too complex and rambling. But that only reflects the reality that the country has not arrived at any consensus on energy policy. The authors of the bill have attempted, as usual, to splice together various irreconcilable ideas of efficiency and fairness. That can't be remedied. But the Senate is in a position to fix another defect, the lack of strong incentives for new oil and gas production in the United States. The administration drew up the bill on the assumption that it was impossible to raise domestic production much, and a waste of money to try. That rather pessimistic judgment may well prove to be correct, but it deserves to be tested more vigorously than the House bill permits.

The outlook for this legislation in the Senate, unfortunately, is not promising. Last week the Energy Committee voted to throw out the whole section on electricity rates in response to a spurious states'-rights argument. If the senators do not like the tangled provisions of the House bill, they can improve its language. But it is absurd to say that there is no national interest in reforming rates to discourage wasteful and expensive patterns of using power. Beyond that, and much worse, a number of senators are now organizing an attack on the crude-oil tax that is basic to the whole Carter plan. The tax would raise the price of most oil products—including gasoline, but not home-heating oil—by 7 cents or more per gallon over the next three years.

If the crude-oil tax is defeated, there will be little left in the energy program but a slow-moving effort to push industries into greater use of coal. The Carter plan has consistently underestimated the difficulties of a widespread expansion of coal production and use. Shifting oil-fired industrial boilers to coal is a necessary part of a national energy plan. But, by itself, it is very far from adequate.

For all of its shortcomings, the House energy bill is a creditable and, you could even say, courageous attempt to meet a national danger that is genuine. The chances of working out a better bill next year are very poor, since 1978 is an election year. If the Senate now throws out large pieces of the bill, the effect can be measured in increased vulnerability of the American economy to the shocks and surges of a radically unstable world oil supply.

[From the Boston Globe, Sept. 16, 1977]

SHORTCIRCUITING REFORM

The Senate Energy Committee has cut out an important innovation in energy management by excising from the Administration's bill a provision for national guidelines for the regulation of electric utilities. Unless the proposal can be restored by amendment on the floor of the Senate, the House version should prevail when the bill goes to conference.

The main thrust of the Administration proposal was to make electric utilities charge rates that reflect more accurately the actual costs of generating the electricity and getting it to customers. It would have banned automatic reductions in rates for large users except where actual economies of scale could be demonstrated. It would have encouraged higher rates for users during peak hours and peak seasons. And it would have expanded consumer-complaint opportunities and limited the domination by bankers and businessmen of the boards of directors of utilities.

Utilities have fought the proposal with great vigor. Their complaints have centered on the inability of a national regulatory policy to reflect local conditions that are well understood by state regulatory commissions. It is at least refreshing to hear words of support for state commissions—not often voiced in recent years.

But the important principle involved in the bill is one of treating electric-rate reform on a national rather than a state-by-state basis. Last year an attempt was made in Massachusetts to introduce flat rates. The Globe opposed that proposal on the grounds that it would tend to place Massachusetts industry at a disadvantage with industries in neighboring states. The Administration proposal gets around that problem by guaranteeing that no state would gain undue advantage over any other by structuring below-cost rates for business to lure it from other areas.

There are aspects of the bill that could be argued. The provisions for limiting directorships seem overblown, for example. But opposition from the utility industry is also overblown—a reflection of its conservatism and resistence to change. Congress has an opportunity to work real rate reform into the energy bill and it should reverse the Senate Energy Committee's stand as soon as possible.

EMINENT DOMAIN AND THE MANDAN PROJECT

Mr. McGOVERN. Mr. President, the Senate has approved the seasonal diversity electricity exchange amendment to S. 2114—the Public Utilities Regulation Policy Act.

This amendment, essentially, provides for the constructing authority to utilize the power of eminent domain to obtain right-of-way and construction rights for a transmission line running between Manitoba, Canada, and certain points in Nebraska. It is basically for an exchange of power between the Nebraska Public Power District and the Province of Manitoba.

This line, however, will run through the States of North and South Dakota. The two principal cooperatives in the direct area involved, Basin Electric Power Cooperative of Bismarck, N. Dak., and the East River Electric Power Cooperative of Madison, S. Dak., have taken an "officially neutral" position on this line which is known as the "Mandan project."

This neutrality, however, does not—and should not—imply total agreement at this point with the concept of the Mandan project. We are obviously concerned that the Dakotas have an opportunity to participate in this power exchange to the full extent we are capable of doing so.

Basin Electric, while taking part in the feasibility study of the project, has not, thus far, signed on as an active participant. East River Electric which, to a degree, depends on Basin generating capacity, is not taking part. To me, this means we granted the right of eminent domain to a power line crossing two States, when the States are not participants in the power exchange at this time. Beyond that, I am somewhat troubled with the proposed extension of eminent domain authority in a matter such as this. South Dakota has not, in recent years, had a very good experience with mandatory acquisition of private land and/or right-of-way privileges.

For example, the Oahe irrigation project, whose funding for the current fiscal year was denied by the Senate, lost some degree of local support because of eminent domain. The proposal by the Energy Transportation Systems, Inc. (ETSI), for eminent domain authority to construct a coal/slurry pipeline from the western coal fields to Arkansas has not thus far found favor in the Congress.

A compelling case can be made that if this line has merit, that it could be constructed under a "willing buyer—willing seller" concept rather than reverting to the extraordinary procedure of eminent domain.

I very much hope that the proponents of the Mandan Line will be prepared to make some accommodation with power interests in South Dakota and North Dakota. Unless this is done, it is certainly possible that this matter may, again, be brought before the Congress.

Mr. JOHNSTON. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. JOHNSTON. It is the feeling of the majority and minority that we should not have any votes after 7 p.m. I am wondering whether we would be in a position to vote on any of the Senator's amendments prior to that time. If not, with the Senator's concurrence, we could announce there would be no more votes this evening.

Mr. BROOKE. No, we would not be able to vote prior to 7 p.m. on any of my amendments.

Mr. JOHNSTON. Very well. Could the Senator tell us when we would be in a position to vote on his first amendment?

Mr. BROOKE. We have several Senators who want to speak. This is the first amendment that I would call up, the one for which I had mentioned to the distinguished majority leader I needed 2 hours.

Mr. JOHNSTON. Will the Senator repeat that, please?

Mr. BROOKE. The majority leader and I had entered into an agreement, which was subsequently ratified by the Senate, that I will cut the time for my amendments to 1 hour, those that had 2 hours, with the exception of one amendment which requires 2 hours. The one that I will call up first requires 2 hours. There are other speakers on that amendment.

Mr. JOHNSTON. Is the Senator saying he would prefer to vote tomorrow?

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. I wonder if we can set a time to vote on the amendment. Would 10 o'clock be satisfactory? We are starting on the bill at 9 a.m.

Could we vote on the Senator's amendment at 10?

Mr. BROOKE. What time will the distinguished majority leader convene the Senate tomorrow morning?

Mr. ROBERT C. BYRD. We will start on the bill at 9 a.m. We may have some special orders. In any event, those special orders will be pushed ahead of 9 o'clock so we would begin at 9 o'clock on the Senator's amendment.

Mr. BARTLETT. I understand there will be a meeting for western Senators at the White House the first thing in the morning. I wonder if we can back it up to 11 o'clock and then proceed with the amendments of the Senator from Massachusetts.

Mr. ROBERT C. BYRD. I do not want to hold up votes. We have already used some of the time tonight. I would hesitate to say no votes until 11 o'clock because surely those Republicans will not be at the White House until 11 o'clock.

Mr. BARTLETT. They will be there at least until 10:30.

Mr. ROBERT C. BYRD. I would hope that we could vote at 10 o'clock. They are having breakfast, are they not?

Mr. BARTLETT. This is a meeting of the Western Senators, not Republican Senators.

Mr. BROOKE. I am trying to be of assistance to the distinguished majority leader.

Mr. ROBERT C. BYRD. I was hoping to set a vote for 10 o'clock, but perhaps we should just take it as it comes.

Mr. JOHNSTON. May we assure Senators that there will be no more votes tonight?

Mr. ROBERT C. BYRD. Yes. We will begin at 9 o'clock tomorrow morning on this bill. Can we agree on that?

Mr. JOHNSTON. Yes.

Mr. BARTLETT. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. Would there be any objection, if some Senators cannot be here, that we would just put it off a little bit?

Mr. ROBERT C. BYRD. We certainly want to do everything we can to accommodate the Western Senators. I thought it might be possible to agree on a vote at 10 o'clock. If we cannot, we will not persist in the effort. I thank the Senator for yielding.

Mr. President, if the Senator will allow me, I will note that there will be no more rollcall votes this evening.

Mr. BROOKE. Mr. President, I yield to the Senator from Illinois for a question.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, there has been a reversal in the economics of electric power generation in the last decade. Ten years ago electric companies were still building powerplants bigger and bigger, reaping thereby the benefits of economies of scale. Plenty of low-cost imported oil seemed to be available. Electric rates continued their historic decline.

Today, oil and gas markets are both sellers' markets. Engineers seem to have reached the limit of improvements in powerplant efficiency to be derived from building them bigger. General inflation, and attendant rises in the cost of money, have hit capital-intensive industries especially hard. Environmental damage from powerplants is something we are now willing to prevent, added cost notwithstanding. Electric bills have soared accordingly.

The basic economies of the utility industry have been fundamentally altered. Unfortunately, political and institutional change often lags economic change. Policies governing the electricity business have not caught up with the hard facts. Electric rates still encourage volume use of power by charging less per unit as consumption increases. Moreover, utilities have been reluctant to adopt rate schedules which charge customers according to the time of day they use electricity which could help lessen the impact of peak loads, in addition to how much they use it.

State regulatory commissions have the authority to implement electric rate reform, but two powerful barriers obstruct action. Rate reform within one State is extremely difficult: some businesses which benefit from volume discounts could pack up and leave. In addition, State public utility commissions often lack the expertise and funding to perform the arduous task of redesigning electric rates.

The result, as Dr. Chichetti of the Wisconsin Public Service Commission told the Energy Committee recently, is that only four States nationwide have implemented or are about to implement electric rates which reflect the true costs of providing service to different classes of customers.

Mr. President, the distinguished minority members of the House Committee on Interstate and Foreign Commerce made the following comment when reporting out its version of the utility rate reform bill:

> The basic principle of . . . basing electric utility rates on the cost of providing electric service is an eminently sound one. The cost-of-service principle strikes the appropriate balance between the need to provide adequate funds for the generation of electricity and the need to provide adequate price signals to consumers to avoid the wasteful use of electricity.

Mr. President, we must change the presumption of the status quo. Some Federal levers are needed to promote rate structure reform in order to conserve both energy and investment capital. That is why I support the Brooke amendments to the Public Utilities Regulatory Policy Act, S. 2114.

Mr. President, I also wish to state that I am sympathetic with those who oppose the House version of this utility reform legislation. That bill would set explicit Federal standards for the entire country. It would authorize the Federal Government to take over State regulatory functions and also to deprive electric utilities of needed rate increases in cases of noncompliance.

It is possible that the challenge of rate reform will at some future time prove so difficult that a largely expanded Federal role will be warranted. Today, however, I cannot in good conscience support a Federal takeover of so many State prerogatives. I therefore oppose the House version of the reform legislation.

At the same time, the utility legislation as reported by the Energy Committee will generate only paper, not action. The Department of Energy is directed to make annual reports to Congress on rate designs and their financial implications. DOE is given the authority to submit testimony in State evidentiary hearings, and to pay State commissions to collect data. I realize that to mandate studies is a politically low-cost solution to issues on which there are strong opposing views, but in this instance, such studies are worse than no action. They will delay urgently needed rate reform pending the outcomes of the studies. Such a situation is intolerable.

Mr. President, the Brooke amendments establish a formula which allows a Federal role before State commissions, but prevents actual takeovers of utility commission and electric company rights. The Secretary of Energy would be allowed to intervene in State rate hearings, as he would be under the Energy Committee bill, S. 2114. The Secretary would also have the right to set guidelines for cost-of-service-based rates in individual States.

Judicial review of State commission decisions could be sought in State courts. The Secretary of Energy could not seek temporary injunctions against utilities or commissions. Any actions taken would be civil, not criminal.

These amendments, unlike the Energy Committee bill, allow the Secretary to step into State ratemaking processes. Unlike the House bill, they do not allow the Secretary to step on the State commissions. It is because of this distinction that I support these amendments. I hope that my colleagues will join in a recognition of the need for electric rate reform.

Mr. President, I should like to propose a few questions to the author of the amendments (Mr. BROOKE).

I ask him, first, how many States today have cost-of-service electric rates?

Mr. BROOKE. I say to my distinguished colleague that some claim that they do. DOE says none really has established cost of service according to true economic principles.

Mr. PERCY. How many States have moved to eliminate volume discounts in rate structures?

Mr. BROOKE. Many have improved their structures, but none has generally eliminated it.

Mr. PERCY. How many States have time-of-day electric rates?

Mr. BROOKE. They have mandatory rates in some areas—New York, Wisconsin, California, and Michigan. One will have it next year; that is Virginia. Two have voluntary time-of-day rates. Those are Pennsylvania and Vermont.

Mr. PERCY. How about time-of-day electric rates for residential consumers?

Mr. BROOKE. I say to my colleague, none that I know of.

Mr. PERCY. So that, really, even though the utilities have a tremendous problem of raising money now for additional plant capacity, we still are not doing anything through the pricing mechanisms to really move us toward minimizing the peak loads. It is the peak loads that require the capacity now.

My distinguished colleague confirms,

then, that very little is being done. So leaving it to the States simply is not an adequate answer. The States are not doing enough.

Mr. BROOKE. Precisely.

Mr. PERCY. The States have rights, but the States are sitting on those rights. Certainly, if we ever had a national problem, we have one in the energy problem. It us up to the Federal Government to say that this is now established national policy. The States must then conform to that and adapt their policy so it meets the national need. Is that right?

Mr. BROOKE. That is exactly correct. My distinguished colleague has stated the case very clearly and succinctly.

I might add to what he has said that we are not even trying, as some have said, to regulate at all. We are not trying to take the regulation away from the States. We are merely hereby establishing national guidelines that they can follow. They should take them under serious consideration, to be sure, but they are not even mandated under this amendment to take those national guidelines. But they must give them serious consideration.

That is the very least that can be done in order to get the States moving, because, as the distinguished Senator from Illinois has said, the States are not doing it.

Mr. PERCY. Has not the distinguished Senator from Massachusetts heard that same old refrain many, many times before—States' rights, leave those rights to the States, let the States, in their sovereign capacity, act? We have adopted a consensus that we have a national problem—certainly the Congress, the President, and every one else realizes that we have an energy problem. We have it, and it has been imposed upon us from the outside, by our own consumption, and by our failure to take into account that energy supplies are finite, not infinite. In times past, have we ever really moved on a problem until we said, "Look, we have a problem, now let us adopt a policy and have the States conform to that?" Is that not true in this very case?

Mr. BROOKE. Exactly.

Mr. PERCY. How many State public utility commissions have held hearings on rate structures, and then declined to implement them? And what were the reasons for the negative decisions?

Mr. BROOKE. I touched on this subject in my opening statement. Twelve States have refused to act after holding hearings on rate reform. They all pleaded lack of knowledge of the impact of their decisions.

Mr. PERCY. Can the distinguished Senator from Massachusetts give us any indication as to reports that have told us how much energy and money we would save from full implementation of rate reform? What is the potential saving?

Mr. BROOKE. Yes. The Project Independence energy information system says 250,000 barrels a day; that is $13 billion net savings.

Mr. PERCY. The distinguished Senator knows that both the Commerce Committee and the Committee on Governmental Affairs have been studying regulatory reform for the past year or so. One of the recurring problems that comes up is the delay involved in the whole regulatory process. I want to be absolutely certain that we understand the implications of the distinguished Senator's amendments, as to whether they would contribute to regulatory delay.

The investment community, for instance, is seriously worried that the Dingell-Moffett provisions in H.R. 8444 would delay rate proceedings and cause serious financing problems. This certainly is of great interest to a Senator representing the investment community in Boston. James O'Connor of Commonwealth Edison in Chicago informs me that his company considers delay in proceedings, and the financing problems that might result, to be very serious. Would the Senator's amendments cause any delay in regulatory proceedings?

Mr. BROOKE. Let me assure the distinguished Senator from Illinois that it would not. My answer is emphatically no. The Secretary would be just one more party in a scheduled proceeding. While consideration of rate policy issues may take longer than passing on simple increases, that hardly qualifies as redtape bureaucracy.

I think that would be an appropriately deliberate process, so I do not think we have to worry. I think the investment community should be relieved of its fears, because there is no necessity for it at all by this provision in the bill.

Mr. PERCY. Would the Secretary of Energy be allowed to become a party to a suit in which one of the parties asked for an injunction against an electric company?

Mr. BROOKE. No, the Secretary can only be a party to the appeal. I want to make that clear, because that question has been raised by some of my other colleagues. He is only a party to the appeal. He is not allowed to seek an injunction. If another party seeks an injunction, the Secretary cannot support the request.

The PRESIDING OFFICER. The Senator's 30 minutes have expired.

Mr. BROOKE. I ask for an additional 2 minutes.

Mr. BARTLETT. I yield an additional 2 minutes to the distinguished Senators.

Mr. BROOKE. The Senator from Illinois has had long experience in the business community, with a very distinguished record as an executive of Bell and Howell. He is very knowledgeable about business matters. I would like to ask how he feels about the economic effect of these statements?

Mr. PERCY. I have taken a look at this. Incidently, I wish to state for the record that I did not do this by traveling around in Bell & Howell corporate jets. They are nonexistent, I understand. But I have made a few surveys.

James O'Connor, whom I have mentioned already, of Commonwealth Edison, and other utility industry figures, oppose the House provisions because of concern about delay in regulatory proceedings. To allow the Federal Government to preempt State commissions, and to hold rate increases hostage, creates such problems.

But the Brooke amendments allow no injunctive relief, and no preemption. DOE would have no rights in a proceeding other than those granted any other intervenor. The Brooke amendment will not lead to delay, so far as the Senator from Illinois can determine.

Dr. Irwin Stelzer, vice president of National Economic Research Associates, a utility consulting firm says there can be no effect on utility financing if there is no delay. He feels the Brooke amendments are acceptable.

Mr. Tony Osborne, utility analyst with Salomon Bros., says since the amendments create no authority to affect a final determination in a rate case, they create no problems.

James McCabe and John Kellenyi, utility analysts from Donaldson, Lefkin & Jenrette, have written that the President's proposals, which go much further than the Brooke amendments, would have no adverse impact on utilities' ability to raise capital.

So I think the evidence is rather conclusive there would be no adverse effect whatever on raising capital.

Mr. BROOKE. I thank my distinguished colleague. I have always respected his business acumen, and those others who he cited in his remarks. It gives me encouragement.

I assure him and others that is my intent with these amendments. I am very pleased to have him say unequivocally this would not be an adverse economic effect.

So I am most pleased to have shared in this colloquy with my distinguished colleague from Illinois. I thank him for his original statement, for his responses, and for his questions.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BARTLETT. Mr. President, I ask unanimous consent that there be a quorum call with neither side being charged time.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. Will the Senator withhold that?

Mr. BARTLETT. Yes, I withold it.

Mr. BROOKE. Mr. Persident, I would like to say to the distinguished majority leader, in view of the fact that I have had a colloquy on the floor already with one of the Senators, I will enter into a unanimous-consent agreement for all of my amendments to be reduced to an hour, if that would be helpful.

Mr. ROBERT C. BYRD. May I say that I have been asked by Senator DURKIN to not enter into any agreement on any amendments while he was off the floor.

But I thank the Senator for his consideration.

The PRESIDING OFFICER. Who yields time?

Who yields time? Time will be charged to both sides.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 1522) to increase the appropriations authorized for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Res. 286. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 897. Referred to the Committee on the Budget.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 2100. A bill for the improvement of Roberts Field, Redmond, Oregon (Rept. No. 95-470).

By Mr. CRANSTON, from the Committee on Human Resources:

With an amendment:

S. 2108. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes (Rept. No. 95-471).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary: Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama.

M. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri.

Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado.

Edward N. Kelilkoa, of Hawaii, to be U.S. marshal for the district of Hawaii.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky, to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia.

Thomas Tang, of Arizona, to be U.S. circuit judge for the ninth circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Hugh H. Brownes, of New Hampshire, to be U.S. circuit judge for the first circuit.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the third circuit.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he presented the following enrolled bills to the President of the United States:

On September 30, 1977:

S. 1435. An Act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act; and

On October 5, 1977:

S. 667. An Act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 2174. A bill to permit the leasing and transfer of flue-cured tobacco allotments or quotas in certain disaster areas for the year in which such disaster occurred; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 2175. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Finance.

By Mr. STONE (for himself and Mr. CHILES):

S. 2176. A bill to provide for the establishment of a Veterans' Administration outpatient clinic in Broward County, Florida; and

S. 2177. A bill to provide for the construction of a Veterans' Administration hospital in Broward County, Florida; to the Committee on Veterans' Affairs.

By Mr. ZORINSKY:

S. 2178. A bill for the relief of Mrs. Maria Avola; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 2179. A bill to permit pharmacists to use generic drugs in the filling or refilling of prescriptions made by physicians; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 2174. A bill to permit the leasing and transfer of Flue-cured tobacco allotments or quotas in certain disaster areas for the year in which such disaster occurred; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. THURMOND. Mr. President, I am introducing legislation today which will allow the Secretary of Agriculture to permit the lease and transfer of Flue-cured tobacco allotments and quotas across county lines when farmers in certain areas have suffered a substantial loss to their tobacco crop. The bill is designed to assist producers of Flue-cured tobacco who have incurred damage to their tobacco crop from inclement weather or other natural disaster conditions. Under current legislation, transfer of Flue-cured tobacco allotments across county lines is prohibited under any circumstances.

Mr. President, a substantial loss in their tobacco crop places many farmers in a financial strain. They are in need of working capital for the next crop year, and can obtain some of this by leasing their unused poundage to some other producer who was fortunate enough to have produced excess tobacco. In some instances, such an arrangement may enable the farmers who have suffered a loss to continue their farm operations.

Mr. President, legislation was adopted in 1973, 1974, and 1976 which would allow the cross-county transfer of tobacco quotas or allotments for that year. Cross-county leases were allowed when one or more counties experienced a loss of 10 percent or more in the number of acres planted or expected production from the planted acreage and when the leases and transfer would not impair the effective operation of the tobacco marketing quota or price support program. Specifically, this legislation would give the Secretary of Agriculture the permanent authority to permit the transfer of Flue-cured tobacco quotas for any year when certain emergency conditions exist. It would allow owners and operators of a farm which has suffered a loss of 10 percent or more in the number of acres of tobacco planted or the expected production from the planted acreage in a qualifying county to make transfers. Transfers could be made to a farm in the same or any other county within the same State and to a farm having a current tobacco allotment or quota of the same kind of tobacco.

In the past, by the time the need for this type emergency legislation was established and legislation could be introduced and acted upon, it was not in time to be of any help to the farmers who needed it. For example, just this year legislation has been introduced in the House of Representatives, H.R. 9143, which would allow the cross-county transfer of tobacco quotas for 1977 for certain disaster areas in South Carolina. However, the tobacco markets in South Carolina will be closing in just a couple of weeks, and it does not appear the schedule in the House and Senate will permit passage of this legislation.

Additional impetus is given to the need and justification for the legislation I am introducing by a letter dated September 21, 1977, from the Secretary of Agriculture, the Honorable Bob Bergland, to the chairman of the House Agriculture Committee, the Honorable Thomas

S. Foley. The letter, in reference to the position of the Department of Agriculture on H.R. 9143, notes similar legislation was introduced in 1973, 1974, and 1976. In addition, the Secretary states:

In light of these experiences, it would appear more appropriate to enact legislation authorizing cross-county transfers under specified disaster conditions and not specify counties, States and crop years.

Mr. President, the legislation I am introducing offers a solution to the problems associated with enacting emergency cross-county leasing in certain years for specified areas while maintaining the intent and spirit of emergency cross-county leasing of tobacco. This legislation would be of great benefit, in years of disastrous weather conditions, to tobacco farm families by allowing them to transfer their unused tobacco quotas across county lines.

Mr. President, I send the bill to the desk, and ask unanimous consent that it be referred to the appropriate committee for prompt consideration, and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 316(1) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1314b(1)), is amended to read as follows:

"(1)(1) Notwithstanding any other provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines that with respect to any crop of flue-cured tobacco—

"(A) any county has suffered a loss of 10 per centum or more in the number of acres of such tobacco planted (or expected production from planted acreage), and

"(B) that a lease of all or a portion of the flue-cured tobacco allotment or quota of such county will not impair the effective operation of the marketing quota or price support program,

the Secretary may permit the owner or operator of any farm within any such county which has suffered a loss of 10 per centum or more in the number of acres of flue-cured tobacco planted (or expected production from the planted acreage) of such crop to lease all or part of the allotment or quota for such farm to any other owner or operator in the same county, or other county within the same State, for use in such same county or other county in such crop year on a farm or farms having a current flue-cured tobacco allotment or quota.

"(2) In no case may a lease and transfer be made under this subsection of all or part of a farm acreage allotment or quota between farms in two different counties unless one or both of such counties has suffered a loss as described in clause (B) of paragraph (1) of this subsection.

"(3) In the case of a lease and transfer by an owner or operator in one county to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.".

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 2175. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Finance.

Mr. DURKIN. Mr. President, ever since the first OPEC oil embargo, the economic life of new Hampshire and New England has hung by a slender thread, our industry and consumers forced to depend on unpredictable and expensive imports for over half our oil needs. We can neither live with nor without that oil.

Now, energy czar James Schlesinger threatens the administration will cut that thread by imposing $5 per barrel fee on imported oil if the Congress doesn't enact a tax on domestic crude oil. Secretary Schlesinger's threat, if realized, would be nothing less than a declaration of economic warfare on the people of New Hampshire and New England. That being the case, I hope to deny the administration the ammunition they need to fire the first shots across our bow.

Today Senator HATHAWAY and I are introducing legislation to amend the Trade Expansion Act of 1962, as amended, to prevent the administration from imposing additional fees on imported oil. Congressman MARKEY is introducing an identical measure in the House.

Because we in New Hampshire and New England import more than half our oil, and are more dependent on imports than any other region of the country, a proposal to cut oil imports is a proposal to cut our supplies. A proposal to add a $5 per barrel fee on imported oil is a proposal to increase our cost of gasoline, to increase our cost of home heating oil, and to increase our cost of electricity, which is already the highest in the country. It is a proposal to send shock waves of inflation rippling throughout our entire New England economy. With many New Hampshire and New England citizens going into debt to pay this year's energy bills, it is unthinkable to so substantially increase next year's energy bills.

Additionally, to do so would be to deny what has allegedly been a guiding principle of the President's energy program from its inception—equity. Addressing a variety of regional and economic differences between various energy consumers, the program purports to make all citizens bear equally the sacrifices we will be asked to make. I have been given the President's personal assurances that New Hampshire and New England would be asked for no more than any other region and that the disproportionate energy-cost burden we bear would be alleviated. This is essential to creating a comprehensive and effective energy policy which can unite the Nation around this critical issue. And yet, Secretary Schlesinger tells us the administration is considering a regionally discriminatory import fee, without even the benefit of congressional consideration.

Our amendment, which is in keeping with the equitable principles expressed by President Carter, would prevent the administration from imposing any tariff, duty, fee, or other exaction on imported oil.

Mr. President, this amendment merely says that if we are to enact a comprehensive national energy policy, it must be a policy which does not shift the economic burden to one region of the country but rather distributes it evenly throughout the country. This amendment represents fundamental fairness, and I urge its passage.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act may be cited as the "Imported Oil Tax Prohibition Act of 1977."

SEC. 2. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the President shall have no authority to impose any tariff, duty, fee or other exaction nor otherwise adjust imports of petroleum or petroleum products other than for periods for which—

"(A) the Congress declares war,

"(B) United States Armed Forces are introduced into hostilities pursuant to specific statutory authorization,

"(C) a national emergency is created by attack upon the United Sttaes, its territories or possessions, or its armed forces, or

"(D) United States Armed Forces are introduced into such hostilities, situations, or places, or are enlarged in any foreign nation, under circumstances which require a report by the President to the Congress pursuant to section 4(a) of the War Powers resolution (50 U.S.C. 1453(a)).

Mr. HATHAWAY. I am pleased to join with Senator DURKIN in introducing this bill to restrain the authority of the President to impose tariffs or duties on imported petroleum products.

On Sunday, October 2, Secretary of Energy Schlesinger threatened to impose a duty on imported oil if Congress failed to adopt the administration's proposed crude oil equalization tax. This is a case of political blackmail. It goes to the heart of New England. The proposed import duty would add $15 billion to the cost of energy in the Northeast, an area with energy costs 30 percent higher than the rest of the Nation.

The President currently has authority to adjust imports under the Trade Expansion Act of 1962, subject to a resolution of disapproval by the Congress. In 1976, the Supreme Court upheld the authority of President Nixon to impose a $2 per barrel duty on crude oil imports.

The bill I am introducing today would amend the Trade Expansion Act to prohibit any tariff, duty, fee or other exaction from being imposed on petroleum or petroleum products after September 30, 1977.

This legislation is necessary to protect the residents of Maine, of the Northeast, and of the country in general, from an arbitrary and capricious use of power by the President attempting to force us to adopt an energy plan which he and his advisers believe to be in the national interest. Clearly, there is room for differ-

ing opinions in energy; but there is no room for a railroad policy which is inimicable to the interest of our constituents and our States.

I ask that the text of FEA against Algonquin SNG, Inc. and the analysis of the joint committee concerning oil imports from the Finance Committee staff study No. 6 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

III. OIL IMPORTS

1. BACKGROUND

The Trade Expansion Act of 1962,[1] delegates to the President discretionary authority to adjust imports to the extent which he deems necessary so that they will not threaten to impair the national security.[2]

Adjustments to limit imports may take the form of either equantitative restrictions, called quotas, or monetary exactions, usually called tariffs, duties, or import license fees.[3]

Currently, specific import license fees of 21 cents and 63 cents are imposed on each barrel of imported crude petroleum or petroleum products, respectively. Statutory import duties of 5 or 10 cents per barrel, depending on the gravity of the oil, are also imposed. However, these duties reduce the amount of the import license fees.

Under the present crude oil entitlements program for U.S. refiners, the average price paid by domestic refiners for a barrel of crude oil is lower than the world price for oil because the entitlements bought and sold by the U.S. refiners results in their cost being an average of all prices paid for crude oil (both domestic and foreign) by all U.S. refiners. The foreign crude oil price used in determining the average price for the present entitlements program does not reflect the cost of the import license fees imposed on foreign crude oil brought into the United States. As a result, U.S. refiners of lower price domestic oil pay refiners of imported crude an entitlement which does not reflect U.S. import fees. Thus, refiners of domestic oil benefit more from the entitlements program than do U.S. refiners of foreign oil because the entitlement program does not require refiners of domestic crude to compensate refiners of foreign crude for the import fees paid by the latter.

The proposed crude oil equalization tax includes the import fees on imported crude in determining the world or market price. Thus, U.S. refiners of domestic crude would lose their current relative advantage vis a vis U.S. refiners of foreign crude.

Some domestic refiners contend that the proposed crude oil tax could put U.S. refiners, who would pay a price equal to the world price plus U.S. import fees for oil, at a disadvantage compared to their current position vis a vis foreign refiners. Some fear that this will result in an increase in foreign refining and more imports or refined petroleum products into the United States with a concomitant decrease in U.S. refining.

On an overall basis, the competitive position of U.S. refiners vis à vis foreign refiners depends on all costs, including, for example, transportation, labor, and taxes, and not just one expense item alone. Therefore, any effects of a crude oil tax on imported products is hard to predict, and even more difficult to measure. Moreover, the President might exercise his authority to adjust import fees, duties, and tariffs (or to impose quotas) if he determines that imports, such as refined petroleum products, threaten to impair the national security.

2. PRESENT LAW

In determining whether any imports threaten to impair the national security, the Trade Expansion Act of 1962 specifically requires the President to consider, without excluding other relevant factors:

(1) domestic production needed for projected national defense requirements;

(2) the capacity of domestic industries to meet projected national defense requirements;

(3) existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense;

(4) the requirements of growth of industries, supplies and services essential to the national defense, including the investment, exploration, and development necessary to assure such growth; and

(5) the importation of goods in terms of their quantities, availabilities, character, and use as those affect industries essential to the national defense and the capacity of the United States to meet national security requirements.

In administering actions taken under this authority, the President must also recognize the close relation of the U.S. economic welfare to national security, and must consider the impact of foreign competition on the economic welfare of individual domestic industries. In addition, any substantial unemployment, decrease in Government revenues, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports are to be considered, without excluding other factors, in determining whether such weakening of the U.S. internal economy may impair the national security.

[No. 75–382. Argued April 20, 1976—Decided June 17, 1976]

FEDERAL ENERGY ADMINISTRATION ET AL. v. ALGONQUIN SNG, INC., ET AL., CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Section 232(b) of the Trade Expansion Act of 1962, as amended by the Trade Act of 1974, provides that if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to "take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security." When it appeared that a prior program established under § 232(b) for adjusting oil imports was not fulfilling its objectives, the Secretary of the Treasury initiated an investigation. On the basis of this investigation the Secretary found that crude oil and its derivatives and related products were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security, and accordingly recommended to the President that appropriate action be taken to reduce the imports. Following this recommendation, the President promptly issued a Proclamation, *inter alia*, raising the license fees on imported oil. Thereafter, respondents—eight States and their Governors, 10 utility companies, and a Congressman—brought suits against petitioners challenging the license fees on the ground, *inter alia*, that they were beyond the President's authority under § 232(b). The District Court denied relief, holding that § 232(b) is a valid delegation to the President of the power to impose license fees on imports, and that the procedures followed by the President and the Secretary in imposing the fees fully complied with the statute. The Court of Appeals reversed, holding that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports, but encompasses only the use of "direct" controls such as quotas. *Held:* Section 232(b) authorizes the action taken by the President. Pp. 558–571.

(a) Section 232(b) does not constitute an improper delegation of power, since it establishes clear preconditions to Presidential action, including a finding by the Secretary of the Treasury that an article is being imported in such quantities or under such circumstances as to threaten to impair the national security. Moreover, even if these preconditions are met, the President can act only to the extent he deems necessary to adjust the imports so that they will not threaten to impair the national security, and § 232(c) sets forth specific factors for him to consider in exercising his authority. Pp. 558–560.

(b) In authorizing the President to "take such action and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," § 232(b)'s language clearly grants him a measure of discretion in determining the method used to adjust imports, and there is no support in the statute's language that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods, *i.e.*, quotas, as opposed to monetary methods, *i.e.*, license fees, of effecting such adjustments; so to limit the word "adjust" would not comport with the range of factors that can trigger the President's authority under § 232(b)'s language. Pp. 561–562.

(c) Furthermore, § 232(b)'s legislative history amply indicates that the President's authority extends to the imposition of monetary exactions, *i.e.*, license fees and duties, and belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to confine the President's authority to the imposition of quotas and to bar him from imposing a license fee system such as the one in question. Pp. 562–571.

171 U.S. App. D.C. 113, 518 F. 2d 1051, reversed and remanded.

Marshall, J., delivered the opinion for a unanimous Court.

Solicitor General Bork argued the cause for petitioners. With him on the briefs were *Assistant Attorney General Lee, Mark L. Evans, Leonard Schaitman*, and *David M. Cohen*.

Francis X Bellotti, Attorney General of Massachusetts, and *Harold B. Dondis* argued the cause for respondents. With them on the brief were *S. Stephen Rosenfeld* and *Thomas R. Kiley*, Assistant Attorneys General, *James S. Hostetler, William F. Griffin, Jr.*, and *William R. Connole*.*

Mr. Justice Marshall delivered the opinion of the Court.

Section 232(b) of the Trade Expansion Act of 1962, 76 Stat. 877, as amended by § 127(d) of the Trade Act of 1974, 88 Stat. 1993, 19 U.S.C. § 1862(b) (1970 ed., Supp. IV), provides that if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to

"take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security."[1]

All parties to this case agree that § 232(b) authorizes the President to adjust the imports of petroleum and petroleum products

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[1] Public Law 87–794 (as amended).

[2] Section 232(b).

[3] In *Federal Energy Administration* v. *Algonquin SNG, Inc.* 426 U.S. 548 (1976), the Supreme Court upheld as proper under section 232(b) of the Trade Expansion Act of 1962, Presidential action changing from adjustment of oil imports through quotas to adjustment through the imposition of monetary exactions called import license fees.

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by imposing quotas on such imports. What we must decide is whether § 232 (b) also authorizes the President to control such imports by imposing on them a system of monetary exactions in the form of license fees.

I

The predecessor statute to § 232(b) was originally enacted by Congress as § 7 of the Trade Agreements Extension Act of 1955, c. 169, 69 Stat. 166, see n. 21, *infra*, and amended by § 8 of the Trade Agreements Extension Act of 1958, Pub. L. 85–686, 72 Stat. 678. The advisory function currently performed under § 232(b) by the Secretary of the Treasury was performed by the Director of the Office of Defense Mobilization (ODM) under the 1955 and 1958 statutes. But, like § 232(b), those statutes allowed the President, on a finding that imports of an article were threatening "to impair the national security," to "take such action as he deem[ed] necessary to adjust the imports of [the] article. . . ." In 1959, President Eisenhower, having been advised by the Director of ODM that "crude oil and the principal crude oil derivatives and products are being imported in such quantities and under circumstances as to threaten to impair the national security,' " invoked the 1958 version of the provision and established the Mandatory Oil Import Program (MOIP). Presidential Proclamation No. 3279, 3 CFR 11 (1959–1963 Comp.). The MOIP, designed to reduce the gap between domestic supply and demand by encouraging the development of domestic production and refinery capacity, imposed a system of quotas on the importance of petroleum and petroleum products.

The program was not wholly successful, however, and in the face of domestic consumption which continued to grow faster than domestic production, Presidents Kennedy, Johnson, and Nixon each felt compelled to amend it by raising the permissible quota levels. App. 211–212.

In light of a Cabinet task force conclusion that the MOIP, as then constituted, was not fulfilling its objectives,[2] President Nixon, acting pursuant to § 232(b), radically amended the program in 1973. Presidential Proclamation No. 4210, 3 CFR 31 (1974). The President suspended existing tariffs on oil imports and provided "for a gradual transition from the existing quota method of adjusting imports of petroleum and petroleum products to a long-term program for adjustment of imports of petroleum and petroleum products through . . . the institution of a system of fees applicable to imports of crude oil, unfinished oils, and finished products . . ." *Id.*, at 32. This amended program established a gradually increasing schedule of license fees for importers. With respect to crude oil, the fee was scheduled to increase from an initial 10½ cents per barrel on May 1, 1973, to 21 cents per barrel on May 1, 1975. With respect to most finished petroleum products, the fee was to rise gradually from 15 cents per barrel on May 1, 1973, to 63 cents per barrel on November 1, 1975,[3] *Id.*, at 36. While initially some oil imports were exempted from the license fee requirements, the exemption levels were scheduled to decrease annually so that by 1980 the fees would be applicable to all oil imports.

President Nixon's 1973 program apparently did not wholly fulfill the objectives to which it was directed. Accordingly, the Secretary of the Treasury, acting pursuant to § 232(b), see n. 1, *supra*, initiated an investigation on January 4, 1975, "to determine the effects on the national security of imports of petroleum and petroleum products." Memorandum from Secretary of the Treasury Simon to Assistant Secretary of the Treasury MacDonald (Simon Memorandum), App. 154. While § 232(b) directs the Secretary "if it is appropriate [to do so, to] hold public hearings or otherwise afford interested parties an opportunity to present information and advice" as part of such an investigation, 19 U.S.C. § 1862 (b) (1970 ed., Supp. IV) the Secretary found that such procedures would interfere with "national security interests" and were "inappropriate" in this case. Simon Memorandum, App. 154. The investigation therefore proceeded without any public hearing or call for submissions from interested governmental parties.

The Secretary submitted a report on his investigation to President Ford on January 14, 1975. Intimating that the measures then in force under § 232(b) had indeed not solved the problems to which they were directed, the Secretary indicated that the United States' dependence on foreign oil had continued to increase since 1966 and that foreign sources currently accounted for well over a third of domestic consumption. The Secretary concluded that

"crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar are being imported into the United States in such quantities as to threaten to impair the national security [and] the foregoing products are being imported into the United States under such circumstances as to threaten to impair the national security." App. 133.

On the basis of these findings, the Secretary recommended to the President that

"appropriate action be taken to reduce imports of crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar into the United States. . . ." *Ibid.*

The President agreed with the findings of the Secretary's investigation and concluded that it was necessary and consistent with the national security to further discourage importation into the United States of petroleum, petroleum products, and related products. . . ." Presidential Proclamation No. 4341, 3A CFR 2 (1975). Invoking § 232(b), he issued a Proclamation on January 23, 1975, which, effective immediately, raised the so-called "first-tier" license fees that were imposed in 1973, see *supra*, at 553, to the maximum levels previously scheduled to be reached only some months later.[4] Presidential Proclamation No. 4341. The Proclamation also imposed on all imported oil, whether covered by the first-tier fees or not, a supplemental fee of $1 per barrel for oil entering the United States on or after February 1, 1975. The supplemental fee was scheduled to rise to $2 a barrel for oil entering after March 1, 1975, and to $3 per barrel for oil entering after April 1, 1975.[5] Finally, the Proclamation reinstated the tariffs that had been suspended in April 1973. Soon after issuance of the Proclamation, the Federal Energy Administration (FEA) amended its oil import regulations in order to implement the new program. 40 Fed. Reg. 4771–4776 (1975).

Four days after the Proclamation was issued, respondents—eight States and their Governers,[6] 10 utility companies,[7] and Congressman Robert F. Drinan of Massachusetts—challenged the license fees in two suits filed against the Secretary of the Treasury, the Administrator of the FEA, and the Treasurer of the United States in the United States District Court for the District of Columbia. Seeking declaratory and injunctive relief, they alleged that the imposition of the fees was beyond the President's constitutional and statutory authority, that the fees were imposed without necessary procedural steps having been taken, and that petitioners (hereinafter the Government) violated the National Environmental Policy Act of 1969 (NEPA) 83 Stat. 852, 42 U.S.C. § 4321 *et seq.*, by failing to prepare an environmental impact statement prior to the imposition of the fees.

The District Court denied respondents' motions for preliminary injunctions and filed findings of fact and conclusions of law which, at the request of respondents, it later declared to be final. See 171 U. S. App. D. C. 113, 124, 126, 518 F. 2d 1051, 1062, 1064 (1975) (appendix to dissenting opinion in Court of Appeals). The court found that § 232(b) is a valid delegation to the President of the power to impose license fees on oil imports. *Id.*, at 128–129, 518 F. 2d, at 1066–1067. It further ruled that the procedures followed by the President and the Secretary of the Treasury in imposing the license fees fully conformed to the requirements of the statute. *Id.*, at 130, 518 F. 2d, at 1068. Finally, the court held that "in view of the emergency nature of the problem and the need for prompt action," *id.*, at 131, 518 F. 2d, at 1069, the Government was not required to file an environmental impact statement prior to imposition of the fees and hence was not in violation of the NEPA. *Ibid.*

Respondents appeals from these judgments were consolidated with their petitions to the Court of Appeals for the District of Columbia Circuit for review of the FEA regulations implementing the license fee program. The allegations in the challenges to the regulations were substantially the same as those raised in the District Court actions, adding only a contention that the FEA had failed to follow certain procedural provisions of the Federal Energy Administration Act, 88 Stat. 97, 15 U.S.C. §§ 761 *et seq.* (1970 ed., Supp. IV). The Court of Appeals, with one judge dissenting, held that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports. 171 U.S. App. D. C. 113, 518 F. 2d 1051 (1975). According to the court, reading the statute to authorize the action taken by the President "would be an anomalous departure" from "the consistently explicit, well-defined manner in which Congress has delegated control over foreign trade and tariffs." *Id.*, at 117, 518 F. 2d, at 1055. In the court's view, § 232 (b)'s legislative history indicated that Congress' authorization of the President to "adjust the imports of [an] article" encompassed only the use of "direct" controls such as quotas and did not encompass the use of license fees. *Id.*, at 121, 518 F. 2d, at 1059. Finding no need to address any of the other issues that were raised, the court reversed the judgment of the District Court, instructed that court to enter appropriate relief for respondents, and set aside the challenged FEA regulations.

We granted the Government's petition for certiorari, 423 U.S. 923 (1975),[8] and now reverse. Both the language of § 232(b) and its legislative history lead us to conclude that it authorizes the action taken by the President in this case.[9]

II

A

Preliminarily, we reject respondents' suggestion that we must construe § 232(b) narrowly in order to avoid "a serious question of unconstitutional delegation of legislative power." Brief for Respondents 42. Even if § 232(b) is read to authorize the imposition of a license fee system, the standards that it provides the President in its implementation are clearly sufficient to meet any delegation doctrine attack.

In Hampton & Co. v. United States, 276 U.S. 394 (1928), this Court upheld the constitutionality of a provision empowering the President to increase or decrease import duties in order to equalize the differences between foreign and domestic production costs for similar articles. There, the Court stated:

"If Congress shall lay down by legislative act an intelligible principle to which the [President] is directed to conform, such legislative action is not a forbidden delegation of legislative power." Id., at 409.

Section 232(b) easily fulfills that test. It establishes clear preconditions to Presidential

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action—inter alia, a finding by the Secretary of the Treasury that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." Moreover, the leeway that the statute gives the President in deciding what action to take in the event the preconditions are fulfilled is far from unbounded. The President can act only to the extent "he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security." And § 232(c), see n. 1, supra, articulates a series of specific factors to be considered by the President in exercising his authority under § 232(b).[10] In light of these factors and our recognition that "[n]ecessity . . . fixes a point beyond which it is unreasonable and impracticable to compel Congress to prescribe detailed rules . . .," American Power & Light Co. v. SEC, 329 U.S. 90, 105 (1946), we see no looming problem of improper delegation[11] that should affect our reading of § 232(b).

B

In authorizing the President to "take such action, and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," the language of § 232(b) seems clearly to grant him a measure of discretion in determining the method to be used to adjust imports. We find no support in the language of the statute for respondents' contention that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods—i.e., quotas—as opposed to monetary methods—i.e., license fees—of effecting such adjustments.

Indeed, reading respondents' suggested limitation into the word "adjust" would be inconsistent with the range of factors that can trigger the President's authority under § 232(b)'s language. Section 232(b) authorizes the President to act after a finding by the Secretary of the Treasury that a given article is being imported "in such quantities or under such circumstances as to threaten to impair the national security." (Emphasis added.) The emphasized language reflects Congress' judgment that "not only the quantity of imports . . . but also the circumstances under which they are coming in: their use, their availability, their character" could endanger the national security and hence should be a potential basis for Presidential action. 104 Cong. Rec. 10542–10543 (1958) (remarks of Rep. Mills). It is most unlikely that Congress would have provided that dangers posed by factors other than the strict quantitative level of imports can justify Presidential action, but that that action must be confined to the imposition of quotas. Unless one assumes, and we do not, that quotas will always be a feasible method of dealing directly with national security threats posed by the "circumstances" under which imports are entering the country, limiting the President to the use of quotas would effectively and artificially prohibit him from directly dealing with some of the very problems against which § 232(b) is directed.

Turning from § 232's language to its legislative history, again there is much to suggest that the President's authority extends to the imposition of monetary exactions—i.e., license fees and duties. The original enactment of the provisions in 1955 as well as Congress' periodic reconsideration of it in subsequent years gives us substantial grounds on which to conclude that its authorization extends beyond the imposition of quotas to the type of action challenged here.

During congressional hearings on the Trade Agreements Extension Act of 1955, there was substantial testimony that increased imports were threatening to damage various domestic industries whose viability was perceived to be critical to the national security.[12] In an effort to deal with the problem, the Senate Committee on Finance considered several proposals designed to supplement the existing statutory provision, known as the Symington Amendment,[13] that barred reductions in duties "on any article if the President finds that such reduction would threaten domestic production needed for projected national defense requirements." Act of July 1, 1954, Pub. L. 464, § 2, 68 Stat. 360.[14] Among these amendments was one proposed by Senator Neely which provided in relevant part:

"[T]he President shall take *such action as is necessary* to restrict imports of commodities whenever such imports threaten to retard the domestic development and expansion or maintenance of domestic production of natural resource commodities or any other commodities which re determines to be essential to the national security. . . ." Hearings on H.R. 1 before the Senate Committee on Finance, 84th Cong., 1st Sess., 1033 (1955) (hereinafter cited as 1955 Senate Hearings) (emphasis added).[15]

In explaining what action would be authorized under the Neely Amendment, Senator Martin, one of its cosponsors, explained that it authorized the President "to take such action as is necessary, including the imposition of import quotas *or the increase in duties*, to protect the domestic industry concerned." 1955 Senate Hearings 2097 (emphasis added). Thus, the Neely Amendment clearly would have given the President the authority to impose monetary exactions as a method of restricting imports.

While the Neely Amendment was not reported out of committee, it is strikingly similar in language to the Byrd-Millikin Amendment—the substitute provision that was reported out and eventually enacted into law. The Byrd-Millikin Amendment authorized the President, after appropriate recommendations had been made by the Director of the ODM, to "take such action as he deems necessary to adjust the imports of [an] article to a level that will not threaten to impair the national security." S. Rep. No. 232, 84th Cong., 1st Sess., 14 (1955).[16] Given the similarity in the operative language of the two proposals, it is fair to infer that if, as Senator Martin stated, the Neely Amendment was intended to authorize the imposition of monetary exactions, so too was the Byrd-Millikin Amendment.

The debate on the Senate floor lends further support to this reading of the Byrd-Millikin Amendment. Senator Millikin himself stated without contradiction that the Amendment authorized the President "to take whatever action he deems necessary to adjust imports . . . [including the use of] tariffs, quotas, import taxes or other methods of import restriction." 101 Con. Rec. 5299 (1955). As a statement of one of the legislation's sponsors, this explanation deserves to be accorded substantial weight in interpreting the statute. *National Woodwork Mfrs. Assn.* v. *NLRB*, 286 U.S. 612, 640 (1967); *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–395 (1951).[17]

Senator Millikin's statement does not stand alone. Senator Byrd, another of the Amendment's sponsors, explained in colloquy with Senator Saltonstall that the Amendment put all commodities "on the same basis as agricultural commodities. It simply leaves to the President the power, in his discretion, to decide whether to impose a quota or to reduce the imports." 101 Cong. Rec. 5297 (1955) (emphasis added). The reference in the emphasized phrase is to § 22 of the Agricultural Adjustment Act, the subject of an earlier exchange between Senator Byrd and Senator Thye. 101 Cong. Rec. 5296 (1955). Section 22 allows the President under certain circumstances to "impose such fees . . . on such quantitative limitations" as he finds necessary to protect the domestic production of an agricultural commodity. 49 Stat. 773, as amended, 7 U.S.C. § 624(b) (emphasis added). Senator Byrd's comparison of § 22 and the Byrd-Millikin Amendment thus appears to reflect his understanding that Presidential authority under the Amendment extended to the imposition of fees.[18]

Finally, we note two other statments on the floor of the Senate which lend direct support to the Government's reading of the Byrd-Millikin Amendment. Senator Bennett stated that it was his understanding that the amendment would authorize use of "the entire scope of tariffs, quotas, restrictions, stockpiling, and any other variation of these programs in order to protect a particular industry." 101 Cong. Rec. 5588 (1955).[19] And Senator Barkley, a member of the Senate Committee on Finance, expressed his understanding that the Amendment would allow the President to "impose such quotas or take such other steps as he may believe to be desirable in order to maintain the national security." Id., at 5298 (emphasis added).

In the House debate following Senate passage of the Byrd-Milliken Amendment, *id.*, at 5655, and its acceptance with a minor modification by the House conferees, H.R. Conf. Rep. 745, 84th Cong., 1st Sess., 2, 6–7 (1955), we find further indications that the Amendment authorized the imposition of monetary exactions. In explaining the provisions of the Amendment, Congressman Cooper, chairman of the House Ways and Means Committee and a member of the Conference Committee, indicated his concern that *"any modification of a duty* on imports or a quota would [because of retaliation from abroad] inevitably result in a curtailment of exports by the United States." 101 Cong. Rec. 8161 (1955) (emphasis added). Furthermore, as part of his explanation of the Amendment, Cooper presented a letter he had received from Gerald D. Morgan, Special Counsel to the President, which expressed the Administration's understanding that under the Amendment, the President's action to adjust imports "could take any form that was appropriate to the situation." *Id.*, at 8162.[20] Thus, when Congress finally enacted the Byrd-Millikin Amendment's national security provision, 69 Stat. 166,[21] as part of the Trade Agreement Extension Act of 1955, not only had Members of both Houses indicated that the provision authorized the imposition of monetary exactions, but the Executive Branch, too, had advised the Congress of its understanding of the broad scope of the authority granted by the Amendment.[22]

Three years later, in the context of its consideration of the Trade Agreements Extension Act of 1958, Congress re-examined the Byrd-Millikin national security provision. In the course of its deliberations, the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee had before it a 1957 report submitted to it by the ODM, expressing the views of the Executive Branch that "the imposition of new or increased tariff duties on imports . . . [was] authorized by the language adopted."[23] Fully aware that the Executive Branch then, as in 1955, understood the provision as authorizing the imposition of monetary exactions, the Committee did not recommend any change in its wording to confine more narrowly the bounds of its authorization. On the contrary, the Committee in its report indicated with approval its own understanding that the statute provided "those best able to judge national security needs . . . [with] a way of taking *whatever action is needed* to avoid a threat to the national security through imports." H. R. Rep. No. 1761, 85th Cong., 2d Sess., 13 (1958) (emphasis added).

While Congress in 1958 made several procedural changes in the statute and established criteria to guide the President's determination as to whether action under the

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provision might be necessary, it added no limitations with respect to the type of action that the President was authorized to take.[24] § 8, 72 Stat. 678. The 1958 reenactment, like the 1955 provision, authorized the President under appropriate conditions to "take such action" "as he deems necessary to adjust the imports. . . ." *Ibid.*

When the national security provision next came up for re-examination, it was reenacted without material change as § 232(b) of the Trade Expansion Act of 1962. In its analysis the Court of Appeals placed great emphasis on the fact that in the course of Congress' deliberations the Senate passed and the Conference Committee deleted, H.R. Conf. Rep. No. 2518, 87th Cong., 2d Sess., 13 (1962), an amendment which provided:

"Notwithstanding any other provision of law, the President may, when he finds it in the national interest, proclaim with respect to any article imported into the United States—

"(1) the increase of any existing duty on such article to such rate as he finds necessary;

"(2) the imposition of a duty on such article (if it is not otherwise subject to duty) at such rate as he finds necessary, and

"(3) the imposition of such other import restrictions as he finds necessary." 108 Cong. Rec. 19573 (1962).

The Court of Appeals inferred from the rejection of this amendment that Congress understood the then existing grant of authority to be limited to the imposition of quotas. According to the court, the amendment would have "explicitly [given] the President the same authority he claims derives implicitly from § [232(b),]" 171 U.S. App. D.C., at 121, 518 F.2d, at 1059, and Congress' refusal to enact the amendment was tantamount to a rejection of the Government's interpretation of the statute.

We disagree, however, with the Court of Appeals' assessment of the proposed amendment. The amendment was in reality far more than an articulation of the authority that the Government finds to be contained in § 232(b). Unlike § 232(b), the rejected proposal would not have required a prior investigation and findings by an executive department as a prerequisite to Presidential action. Moreover, the broad "national interest" language of the proposal, together with its lack of any standards for implementing that language, stands in stark contrast with § 232(b)'s narrower criterion of "national security" and § 232(c)'s articulation of standards to guide the invocation of the President's powers under § 232(b). In light of these clear differences between the rejected proposal and § 232(b), we decline to infer from the fact that the Senate amendment was proposed, or from the fact that it was rejected, that Congress felt that the President had no power to impose monetary exactions under § 232(b).

Only a few months after President Nixon invoked the provision to initiate the import license fee system challenged here, Congress once again re-enacted the Presidential authorization encompassed in § 232(b) without material change. Trade Act of 1974, Pub. L. 93–618,, 88 Stat. 1993. Making no mention of the President's action, both the Senate Committee report and the conference report recited the language of the statute itself to reaffirm that under § 232(b) the President "may . . . take such action, and for such time, as he deems necessary, to adjust imports so as to prevent impairment of the national security." H.R. Conf. Rep. No 93–1644. p. 29 (1974); S. Rep. No. 93–1298. pp. 96–97 (1974). The congressional acquiescence in President Nixon's action manifested by the re-enactment of § 232(b) provides yet further corroboration that § 232(b) was understood and intended to authorize the imposition of monetary exactions as a means of adjusting imports.

Taken as a whole then, the legislative history of § 232(b) belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to limit the President's authority to the imposition of quotas and to bar the President from imposing a license fee system like the one challenged here. To the contrary, the provision's original enactment, and its subsequent reenactment in 1958, 1962, and 1974 in the face of repeated expressions from Members of Congress and the Executive Branch as to their broad understanding of its language, all lead to the conclusion that § 232 (b) does in fact authorize the actions of the President challenged here. Accordingly, the judgment of the Court of Appeals to the contrary cannot stand.

C

A final word is in order. Our holding today is a limited one. As respondents themselves acknowledge, a license fee as much as a quota has its initial and direct impact on imports, albeit on their price as opposed to their quantity. Brief for Respondents 26. As a consequence, our conclusion here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by § 232(b) in no way compels the further conclusion that any action the President might take as long as it has even a remote impact on imports, is also so authorized.

The judgment of the Court of Appeals is reversed and this case is remanded to that court for proceedings consistent with this opinion.

So ordered.

FOOTNOTES

*Peter Buck Feller, John D. Heckert, and David M. Repass filed a brief for McClure & Trotter as *amicus curiae* urging affirmance.

[1] Section 232(b) provides in full:

"Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the 'Secretary') shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security."

Section 232 (c) of the Act, 19 U.S.C. § 1862 (c) (1970 ed., Supp. IV) provides the President and the Secretary of the Treasury with guidance as to some of the factors to be considered in implementing § 232 (b). It provides:

"For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to asure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

[2] See Cabinet Task Force on Oil Import Control, The Oil Import Question 128 (1970).

[3] Under President Nixon's plan, the fee for motor gasoline was scheduled to reach its maximum of 63 cents on May 1, 1975. App. 97.

[4] The Proclamation did not alter the schedule by which exemptions from the first-tier fees were not to be eliminated until 1980.

[5] The supplemental fee increases scheduled to go into effect in March and April were twice deferred. See Presidential Proclamation No. 4355, 3A CFR 26 (1975); Presidential Proclamation No. 4370, 3A CFR 45 (1975). While the $2 fee finally went into effect on June 1, 1975, Presidential Proclamation No. 4377, 3A CFR 53 (1975), it was never increased to $3. Indeed, on January 3, 1976, President Ford eliminated the $2 fee. Presidential Proclamation No. 4412, 41 Fed. Reg. 1037. See n. 8, *infra*.

[6] The States joining in the suit together with their governors were Connecticut, Maine, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The State of Minnesota intervened as a plaintiff after the complaint was filed and is also a respondent here.

[7] The 10 utility companies are Algonquin SNG, Inc., New England Power Co., New Bedford Gas and Edison Light Co., Cambridge Electric Light Co., Canal Electric Co., Montaup Electric Co., Connecticut Light and Power Co., Hartford Electric Light Co., Western Massachusetts Electric Light Co., and Holyoke Water Power Co.

[8] Subsequent to our granting certiorari, the President signed the Energy Policy and Conservation Act of 1975, Pub. L. 94–163, 89 Stat. 871, 42 U. S. C. A. § 6201 *et seq.* (1970 ed., Supp. V). That Act is aimed at encouraging domestic oil production by gradually decontrolling the price of domestically produced crude oil. On January 3, 1976, indicating that "the purposes of the supplemental [oil import license] fee" will be served by the Act, the President announced the elimination of the supplemental fees imposed by Presidential Proclamation No. 4341, 3A CFR 2 (1975). Presidential Proclamation No. 4412, 41 Fed. Reg. 1037. He did not, however, eleminate the "first-tier" fees originally imposed by Presidential Proclamation No. 4210, 3 CFR 31

(1974). Since respondents seek to enjoin the first-tier as well as the supplemental fees, the question here whether § 232(b) grants the President authority to impose license fees remains a live controversy.

[9] Respondents' suits are not barred by the Anti-Injunction Act, 26 U. S. C. § 7421(a), which in relevant part provides that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person . . . ." The Anti-Injunction Act applies to suits brought to restrain assessment of taxes assessable under the Internal Revenue Codes of 1954 and 1939. 26 U. S. C. §§ 7421(a), 7851(a)(6)(A), 7851 (a)(6)(C)(iv). The license fees in this case are assessed under neither Code but rather under the authority conferred on the President by the Trade Expansion Act of 1962, as amended by the Trade Act of 1974. The fees are therefore not "taxes" within the scope of the Anti-Injunction Act.

[10] Respondents rely on our decision in *National Cable Television Assn.* v. *United States*, 415 U. S. 336 (1974, to support their delegation doctrine argument. But we find that case clearly distinguishable from the one before us today. In *National Cable Television*, we held that the fees to be imposed on community antenna television systems should be measured by the "value to the recipient" even though the language of the general statute allowing fee setting by federal agencies, 65 Stat. 290, 31 U. S. C. § 483a, permits consideration not only of "value to the recipient" but also of "public policy or interest served, and other pertinent facts." The Court's conclusion that the words of the last-quoted phrase were not relevant to the CATV situation was apparently motivated by a desire to avoid any delegation doctrine problem that might have been presented by a contrary conclusion. 415 U. S., at 342. But what might be considered the open-ended nature of the phrase "public policy or interest served, and other pertinent facts" stands in contrast to § 232(b)'s more limited authorization of the President to act only to the extent necessary to eliminate a threat of impairment to the national security, and § 232(c)'s articulation of standards to guide the President in making the decision whether to act. See n. 1, *supra*.

[11] The amount of oil exempted from the "first-tier" license fees, see *supra*, at 553, imposed in 1973 varies among five geographical districts within the Nation. See Presidential Proclamation No. 4341, 3A CFR 2 (1975), Presidential Proclamation No. 4210, 3 CFR 31 (1974). Respondents seize on this fact to argue that the "first-tier" fee schedule contravenes Art. I, § 8, cl. 1, of the Constitution which requires that import duties be uniform throughout the United States. But that issue is not properly before the Court. Sustaining respondents' Uniformity Clause argument would call, not for invalidation of the entire license fee scheme, but only for elimination of the geographical differences in the exemptions allowed under it. This would represent not an affirmance of the judgments below, which effectively invalidated the entire scheme and its implementing regulations, but rather a modification of those judgments. But since respondents filed no cross-petition for certiorari, they are at this point precluded from seeking such modification. See *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375, 381 n. 4 (1970).

[12] See, *e.g.*, Hearings on H.R. 1 before the House Committee on Ways and Means. 84th Cong., 1st Sess., 1006 (analytical balance industry), 1264 (petroleum industry) (1955); Hearings on H.R. 1 before the Senate Committee on Finance; 84th Cong., 1st Sess., 602 (lead and zinc mining industry), 721 (coal mining industry) (1955).

[13] The Symington Amendment is currently codified in somewhat modified form at 19 U.S.C. § 1862(a).

[14] In contrast to the Senate Committee on Finance, the House Committee on Ways and Means concluded that the Symington Amendment was adequate to deal with any potential threats to the national security posed by foreign imports. H.R. Rep. No. 50, 84th Cong., 1st Sess., 44 (1955).

[15] A separate portion of the Neely Amendment would have placed quotas on petroleum imports. 1955 Senate Hearings 1033.

[16] Unlike the Neely Amendment, see n. 15, *supra*, the Byrd-Millikin Amendment did not single out any named industries for protection by quotas.

[17] Differing with the Court of Appeals, we do not believe that the fact that Senator Millikin represented a State that might have benefited from an expansive reading of the statute "blur[s] [the] probative value," 171 U.S. App. D.C. 113, 120, 518 F. 2d 1051, 1058 (1975), of his explanation. Many if not most pieces of legislation are sponsored by Members of Congress whose constituents have a special interest in their passage, but we have never let this fact diminish the weight we give a sponsor's statements.

[18] Moreover, Senator Byrd's reference in the above-quoted exchange to the power of the President under the Amendment "to impose a quota *or* to reduce the imports," 101 Cong. Rec. 5297 (1955), also suggests that he understood that power to extend beyond the imposition of quotas. See Note, 89 Harv. L. Rev. 432, 435 n. 31 (1975).

[19] The Court of Appeals characterized Senator Bennett's remarks as going to "the entire bill and other existing laws". 171 U.S. App. D.C., at 119, 518 F. 2d, at 1057. Our examination of the context of his remarks persuades us, however, that they were more probably made with specific reference to the Byrd-Millikin Amendment.

[20] A copy of the Morgan letter was also sent to Senator Byrd, Chairman of the Senate Committee on Finance. See 101 Cong. Rec. 8162 (1955).

[21] As finally enacted the Amendment provided:

"In order to further the policy and purpose of this section, whenever the Director of the Office of Defense Mobilization has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President, and if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation, and the report to him of the findings and recommendations made in connection therewith, the President finds that the article is being imported into the United States in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust the imports of such article to a level that will not threaten to impair the national security."

[22] We are not unmindful that, as respondents point out, much of the congressional debate referred to the Byrd-Millikin Amendment in the context of giving the President the power to impose import quotas. See, *e.g.*, 101 Cong. Rec. 5572 (1955) (remarks of Sen. Humphrey); *id.*, at 5582 5584 (remarks of Sen. Douglas); *id.*, at 5593 (remarks of Sen. Monroney). But nowhere do the congressional debates reflect an understanding that under the Amendment the President's authority was to be *limited* to the imposition of quotas. In light of this fact, we feel fortified in attaching substantial weight to the positive indications discussed above that the authority was not so limited.

[23] Foreign Trade Policy, Compendium of Papers on United States Foreign Trade Policy, Collected by the Staff for the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee 643 (1958).

[24] Indeed, while under the 1955 provision the President was authorized to act only on a finding that "quantities" of imports threatened to impair the national security, the 1958 provision also authorized Presidential action on a finding that an article is being imported "under such circumstances" as to threaten to impair the national security. 72 Stat. 678. See *supra*, at 561.

By Mr. STONE (for himself and Mr. CHILES):

S. 2176. A bill to provide for the establishment of a Veterans' Administration outpatient clinic in Broward County, Fla.; and

S. 2177. A bill to provide for the construction of a Veterans' Administration hospital in Broward County, Fla.; to the Committee on Veterans' Affairs.

Mr. STONE. Mr. President, today I am introducing two bills to provide for the establishment of a Veterans' Administration health care facility in Broward County, Fla. The first bill calls for the establishment of a veterans' hospital, and the second bill would provide for a VA outpatient clinic.

On August 10, 1977, I wrote to Dr. John Chase, the Chief Medical Director of the Veterans' Administration, requesting that the VA conduct a study of the Broward County area in order to determine the need for a VA health facility. I have not received a reply to my letter. In response to several other letters to the VA requesting that it consider locating a health facility in Broward County, the only response I received is that there are no plans to establish such a facility. Mr. President, Broward County veterans can wait no longer for action by the Veterans' Administration.

As of December 31, 1976, there were 108,353 veterans living in Broward County, most of whom are elderly and served in World War I or World War II. The nearest VA hospital is in Miami, 24 miles away from Fort Lauderdale, the Broward County seat. The nearest VA outpatient clinic is 40 miles from Fort Lauderdale in West Palm Beach and it is more remote. Many of the veterans in Broward are unable to drive and the public transportation to these facilities is inadequate because local governments have not been able to keep up in recent years with the tremendous population growth. The veterans hospital in Miami is overcrowded so that veterans must often wait hours to see a doctor, and the treatment received is not always up to the high standards which veterans deserve. Furthermore, the need for a veterans' health care facility in Broward County becomes greater every day. Estimates are that between 800 and 1,000 veterans move to this county every month.

Recently, the Governor and the cabinet of the State of Florida adopted a resolution recognizing the critical need for a medical facility in Broward County and urging that the Veterans' Administration establish such a facility in an accessible location. I ask unanimous consent that this resolution be printed along with my remarks. I have received similar resolutions from the City Councils of North Lauderdale, Plantation, and Tamarac. I would also like to note that companion legislation has been introduced in the House by Representative J. HERBERT BURKE, who for years has

sought to have a facility established in Broward County to provide health care for the many veterans living there.

Mr. President, I hope that my colleagues agree with me that Broward County, Fla., veterans deserve better treatment from the VA and will join in support of this legislation.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the Governor and Cabinet recognize and appreciate the vital and honored services rendered to our state and nation by the many veterans of Florida who have protected our national defense and preserved our democratic institutions and way of life, and

Whereas, the Governor and Cabinet fully support proper and convenient medical care for veterans in this state and throughout the nation in recognition of their contributions and sacrifices for the defense of our people, and

Whereas, numerous veterans and veteran organizations such as the Broward County Veterans Council, representing mobile chapters of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Jewish War Veterans, the Retired Officers Association, Fleet Reserve, Paralyzed Veterans Association, World War I Barracks, and other veteran and auxiliary organizations, have expressed need for a Veterans Administration Out-Patient Medical Facility to be located in Broward County, and

Whereas, although there is a Veterans Hospital in Miami, travel by an out-patient from Broward County often represents great hardship because of the distance involved and extended delay at the Miami Veterans Administration Hospital which cannot accommodate the influx of ever-increasing Dade and Broward veterans requiring medical attention, and

Whereas, although Palm Beach County has an out-patient veterans facility in Riviera Beach, the population of Broward County is almost double that of adjoining Palm Beach County, and the facility at Riviera Beach is too distant for out-patient care for most Broward veterans, and

Whereas, Broward County has the second largest population of any county in the State of Florida and the number of veterans in Broward County exceeds 100,000 and is growing rapidly.

Now, therefore, be it resolved that the Governor and Cabinet:

1. Recognize a present need for a veterans' out-patient medical facility in Broward County.

2. Urge the Veterans Administration to establish such a facility in a readily accessible location in Broward County, giving consideration to population density and geographical factors and with the site selected in cooperation with the Florida Division of Veteran Affairs.

3. Direct that a copy of this resolution be forwarded to Senator Lawton M. Chiles and Senator Richard Stone, Congressmen Paul G. Rogers, J. Herbert Burke and William Lehman, and Congressman Ray Roberts, Chairman, Committee on Veterans Affairs.

Mr. CHILES. Mr. President, it is my pleasure to join with my colleague Senator STONE in sponsoring legislation for the establishment of a Veterans' Administration outpatient clinic in Broward County, Fla. Broward County, located on the southeast coast of Florida is one of the fastest growing areas in the State and in the Eastern United States. Included in this tremendous growth has been a sizable influx of veterans. Younger veterans have been attracted for business and occupational opportunities while retired veterans have chosen this area because of the climate and the many recreational opportunities. The veterans population in this county presently numbers well over 100,000.

Along with any rapid growth in the veteran population of a given area comes a responsibility to provide for their medical needs. While VA medical facilities exist in Dade County to the south and Palm Beach County to the north, it is often difficult for Broward County veterans and their dependents to utilize these facilities. Travel to the VA hospital in Miami or the outpatient clinic in Palm Beach County is difficult due to limited transportation facilities and once the veteran arrives at his or her destination, long waits often result. I have always felt we owe a tremendous debt of gratitude to the veterans of our country and the establishment of an outpatient clinic in Broward County would go a long way toward meeting the medical needs of the over 100,000 veterans now residing in this area.

By Mr. MATHIAS:

S. 2179. A bill to permit pharmacists to use generic drugs in the filling or refilling of prescriptions made by physicians; to the Committee on Human Resources.

Mr MATHIAS. Mr. President, the bill I have sent to the desk, the generic drug dispensing bill, is designed to eliminate excessive advertising, marketing, and promotion of brand name drugs.

The pharmaceutical industry spends an estimated $1 billion a year to promote brand names of prescription medicines. Those brands are commonly priced much higher than the same drugs marketed under generic names. Such intensive promotion is aimed at influencing physicians to prescribe brand names of drugs, even though the generic equivalents are as effective.

The cost of medicines is a substantial part of the cost of health care, especially among aged citizens and others who require prolonged medication. Disadvantaged Americans, such as the near-poor, the elderly, and the chronically ill will gain the most by the bill I am introducing, but all Americans will benefit. My bill will save the Nation's ill as much as $2 billion a year on prescription medicines.

Senior citizens comprise only 11 percent of the population but buy 25 percent of all prescription drugs. Elderly Americans spend up to 45 percent of their limited incomes for prescription drugs. These citizens must sometimes choose between medicine and food when money runs low.

My bill:

Requires pharmacists to fill or refill prescriptions with the least costly preparation of the prescribed drug in his inventory;

Allows the physician to direct the pharmacist to fill or refill the prescription only with the drug identified in the prescription;

Allows physicians to direct the pharmacist to fill or refill the prescription with a specific formulation of the prescribed drug; and

Allows patients to request the pharmacist to fill or refill the prescription with a drug other than the least-cost drug, except for those patients for whom medicare pays benefits for the prescription.

Mr. President, 32 of the 50 States in the Union have enacted drug substitution laws. It is time the U.S. Senate showed its concern for citizens who must purchase prescription drugs.

Mr. President, I ask unanimous consent that the text of the generic drug dispensing bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Generic Drug Dispensing Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) the cost of drugs is a substantial part of the cost of health care especially among aged citizens and other citizens who require maintenance doses for prolonged periods;

(2) drug costs are commonly not prepaid through health insurance;

(3) drug costs may preclude patients from receiving the health restoring benefits of the medical and pharmaceutical sciences or defer or prevent the attainment of other economic priorities; and

(4) physicians are subjected to intensive promotions of the proprietary formulations of drugs which are commonly priced much higher than the same drug marketed under the generic name and therefore may prescribe a drug by proprietary name when, in fact, they are concerned solely with the active ingredients and not with the proprietary formulation.

SEC. 3. (a)(1) Except as provided in paragraph (2), if a drug to be dispensed pursuant to a prescription of a physician, licensed by law to administer the drug, and such drug is identified in the prescription by a proprietary name or designation, any pharmacist shall fill or refill the prescription with a generic drug if—

(A) the physician does not specify in the prescription (in the case of a written prescription) or in transmitting the prescription to the pharmacist (in the case of a prescription ordered orally) that such prescription is to be filled or refilled only with the drug so identified; and

(B) the cost of the substitute drug to the patient for whom the prescription is made is less than the cost to such patient of—

(i) the drug so identified; and

(ii) any other generic drug in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved.

(2) A pharmacist may not select a generic drug to be used to fill or refill a prescription under paragraph (1) if the patient for whom the prescription is made requests such pharmacist to fill or refill such prescription with an available drug other than the generic drug selected by such pharmacist.

(b)(1) Except as provided in paragraph (2), if a drug to be dispensed pursuant to a prescription of a physician, licensed by law to administer the drug, and such drug is identified in the prescription by its generic name, any pharmacist who fills or refills the prescription shall fill or refill the pre-

scription with the generic drug whose cost to the patient for whom the prescription is made is less than the cost to such patient of any other drug in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved.

(2) The provisions of paragraph (1) shall not apply if—

(A) the physician involved specifies in the prescription involved (in the case of a written prescription) or in transmitting the prescription to the pharmacist involved (in the case of a prescription ordered orally) that the prescription is to be filled or refilled with a specific formulation which would be required under paragraph (1), except that, in any case in which more than one formulation of the drug conforms to the specification made by the physician, the pharmacist shall fill or refill a prescription with such formulation—

(i) which conforms to such specifications; and

(ii) whose cost, to the patient for whom the prescription is made, is less than the cost to such patient of any other formulation of the drug which would conform to such specification and which is in the inventory of the pharmacist at the time such pharmacist fills or refills the prescription involved; or

(B) the patient for whom the prescription is made requests the pharmacist to fill or refill such prescription with a drug other than the generic drug which would be required under paragraph (1).

(c) Any substitute drug used to fill or refill a prescription under subsection (a) or (b) shall be in the same quantity and dosage form as prescribed in such prescription.

(d) For the purposes of this section, a drug is a generic drug identified in a prescription (either by a proprietary name or designation or by the established name of such drug, if any) if such drug has the same established name as the drug so identified.

EXEMPT TRANSACTIONS

SEC. 4. In the case of any individual participating in the insurance program under part B of title XVIII of the Social Security Act, the filling or refilling of any prescription for such individual, with respect to which benefits are payable under part B of title XVIII of the Social Security Act, shall not be subject to the provisions of sections 3(a)(2) or (3)(b)(2) of this Act.

EFFECT ON STATE LAW

SEC 5. No State or political subdivision of a State may establish or enforce any law or practice which prohibits a pharmacist from taking any action authorized by section 3(a)(1), or any action required by section 3(b)(1) in connection with the filling or refilling of a prescription for a drug by a physician licensed by law to administer such drug.

ENFORCEMENT

SEC. 6. (a) Any violation of any provision of this Act (or any regulation promulgated hereunder), shall constitute a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) and shall be subject to enforcement under the Federal Trade Commission Act.

(b) Nothing contained in this Act shall be construed—

(1) to prevent or interfere with the enforcement of the provisions of any antitrust act or any act to regulate commerce; or

(2) to alter, modify, or repeal any antitrust act or any act to regulate commerce.

DEFINITIONS

SEC. 7. For the purposes of this Act—

(1) the term "act to regulate commerce" has the meaning given it by section 4 of the Federal Trade Commission Act (15 U.S.C. 44);

(2) the term "antitrust act" has the meaning given it by section 4 of the Federal Trade Commission Act (15 U.S.C. 44);

(3) the term "drug" has the meaning given it by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (g)(1));

(4) the term "established name" has the meaning given it by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)(2)); and

(5) the term "State" means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

EFFECTIVE DATES

SEC. 8. (a) Except as provided in subsection (b), the provisions of this Act shall take effect 6 months after the date of enactment of this Act.

(b) The authority of the Federal Trade Commission to prescribe regulations to carry out the provisions of this Act shall take effect on the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 961

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 961, to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and for other purposes.

S. 1245

At the request of Mr. GRIFFIN, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1503

At the request of Mr. THURMOND, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1503, relating to the ban on the use of Tris.

S. 1571

At the request of Senator MCINTYRE, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 1571, a bill to incorporate the National Ski Patrol System.

S. 1587

At the request of Mr. STONE, the Senator from North Carolina (Mr. MORGAN) and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 1726

At the request of Mr. BYRD, on behalf of Mr. HUMPHREY, the Senator from Colorado, Mr. HASKELL, was added as a cosponsor of S. 1726, a bill to amend the Small Business Act to declare a national small business economic policy, to provide for an ongoing program of advocacy and economic research and analysis for small business, and to increase the exchange of pertinent information and the level of cooperation between the Small Business Administration and other departments, agencies, and instrumentalities of the Federal Government.

S. 1928

At the request of Mr. CRANSTON, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1928, to amend the Social Security Act to strengthen and improve the program of Federal support for foster care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

S. 1974

At the request of Mr. CULVER, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act.

S. 2014

At the request of Mr. RIEGLE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2014, a bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers.

S. 2096

At the request of Mr. CRANSTON, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 2096, the Financial Privacy Act.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE CONCURRENT RESOLUTION 37

At the request of Mr. BARTLETT, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 37, disapproving Federal motor vehicle safety standard on occupant restraint system.

AMENDMENT NO. 849

At the request of Mr. CULVER, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of amendment No. 849, to be proposed to S. 1974, the Regulatory Flexibility Act.

AMENDMENTS NOS. 1010 AND 1020

At the request of Mr. TOWER, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of amendments Nos. 1010 and 1020, to be proposed to S. 1871, the minimum wage bill.

AMENDMENT NO. 1018

At the request of Mr. WILLIAMS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of amendment No. 1018, to be proposed to S. 1871, to amend the Fair Labor Standards Act.

SENATE RESOLUTION 285—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A REPORT

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 285

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with sections 313, 202, and 306(e) of Public Law 91-604, The Clean Air Act as amended) entitled, "Progress in the Prevention and Control of Air Pollution in 1976" be printed, with illustrations, as a Senate Document.

Sec. 2. There shall be printed one thousand additional copies of such document for the use of the Committee on Environment and Public Works.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 897

(Referred to the Committee on the Budget.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 286

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 897. Such waiver is necessary because hearings were delayed in order to accommodate the Administration in formulating its position on nuclear nonproliferation and to await its substantive testimony which did not occur until May 6, 1977. Furthermore, the Administration bill, S. 1432, was not introduced until April 29, 1977, and three committees were given jurisdiction over it. The number of hearings which were required in order to receive input from all necessary groups of witnesses made the May 15 deadline impossible to meet.

The effect of defeating consideration of the authorization will be to substantially reduce the program of cooperation and assistance to developing countries for the purpose of developing indigenous energy resources. In particular, a program to promote exchange of United States scientists, technicians, and energy experts with those of developing countries will have to be deferred.

The desired authorization will not delay the appropriations process and can be easily accommodated in a supplemental appropriation.

An authorization of this kind was contemplated in the congressional budget. There is a $5 million authorization for "international cooperation" in the Fiscal Year 1978 ERDA Authorization Bill. The present authorization raises this amount to $10 million.

This authorization is sufficiently small that it will not significantly affect the congressional budget. However, its impact in terms of nuclear proliferation will be considerable in relations to its size, it is therefore considered an important part of the Nuclear Nonproliferation Act of 1977.

AMENDMENTS SUBMITTED FOR PRINTING

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1417

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1418

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

AMENDMENT NO. 1420

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

ADMISSION OF CERTAIN INDOCHINESE REFUGEES—H.R. 7769

AMENDMENT NO. 1419

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. HUMPHREY, Mr. CRANSTON, Mr. HAYAKAWA, Mr. JOHNSTON, Mr. MOYNIHAN, Mr. PELL, Mr. INOUYE, Mr. MATSUNAGA, and Mr. BUMPERS) submitted an amendment intended to be proposed to the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

PUBLIC UTILITY REGULATORY POLICY—S. 2114

AMENDMENT NO. 1422

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself and Mr. DURKIN) submitted an amendment intended to be proposed to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

AMENDMENT NO. 1423

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2114), supra.

AMENDMENT NO. 1424

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON (for himself and Mr. FORD) submitted an amendment intended to be proposed to the bill (S. 2114), supra.

AMENDMENT NO. 1425

(Ordered to be printed and to lie on the table.)

Mr. SASSER (for himself, Mr. METCALF, Mr. NELSON, Mr. ZORINSKY, Mr. EAGLETON, Mr. KENNEDY, and Mr. ANDERSON) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2114), supra.

Mr. SASSER. Mr. President, on behalf of myself and others, I submit an amendment to S. 2114, the utilities rate bill. This amendment deals with interconnection and wheeling.

I ask unanimous consent that a fact sheet on this amendment be printed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET ON INTERCONNECTION AND WHEELING

1. What is interconnection?

Interconnection is where two utilities are hooked up so as to allow a transmittal of power between them. Interconnection under this amendment refers only to "bulk", or wholesale, power transfers.

2. What is wheeling?

Wheeling is where one system is paid for the use of its underutilized transmission lines to effect a transfer of electrical energy between others. The utility located in the middle of the diagram below is wheeling power.

UTILITY A—UTILITY B—UTILITY C

3. What are the benefits of wheeling and interconnection?

(a) Increased reliability of service.

(b) Achievement of economies of scale.

(c) Reduction in the need for reserve capacity.

(d) Reduction in capital investment requirements.

(e) Reduction in the rate base, and reduction in consumer utility bills.

(f) Competition in bulk power sales.

(g) Enhanced environmental protection.

(h) Less risk of blackouts and brownouts.

4. What about the environment?

Power lines crossing the countryside leave scars upon the landscape. Wheeling allows the maximum use of these transmission lines. Transmission lines require some ten to twenty acres of easements and condemnations per mile of line, and they often invade farmlands and pristine public lands. In North Dakota today, new 365 kv transmission lines require a capital investment of $175,000 per mile. This figure is in the lower range of capital costs because of relatively favorable terrain conditions in that State. Wheeling permits more efficient use of existing facilities.

5. What about energy savings?

While there is a dearth of information on national figures, regional examples show the energy savings available from interconnection and wheeling.

The Senate Subcommittee on Energy Regulation took testimony at hearings held in September, 1977 which revealed that if the Texas utility pool, ERCOT, was interconnected with Louisiana and with the five States which make up the Southwest Power Pool, the savings between 1975 and 1980 would have been between $600 million and $2 billion.

According to the Bonneville Power Administration, a contracted transfer of hydroelectric power from the Pacific Northwest to the Pacific Southwest results in an annual savings of 15 million barrels of oil. At today's prices, this amounts to about $216 million in OPEC oil.

6. Why should the Federal Energy Regulatory Commission (FERC) be able to order wheeling?

Because voluntary wheeling has not been fully effective. Utilities are sometimes reluctant to interconnect and to wheel because making the transportation of electricity more fluid tends to increase competition in the sales of bulk power from one utility to another. Some utilities will argue that wheeling can mean a loss of wholesale customers. The fact is they don't want the competition.

In 1973, the Supreme Court ruled that one such refusal to wheel was a violation of Section 2 of the Sherman Antitrust Act. The case was *Otter Tail Power Company* v. *United States*. It involved a private utility firm's refusal to wheel energy or to sell energy to four municipal electric systems. Writing from the majority of the Court, Justice William O. Douglas described the situation:

"The critical events centered largely in four towns—Elbow Lake, Minnesota, Hankinson, North Dakota, Colman, South Dakota, and Aurora, South Dakota. When Otter Tail's franchise in each of these towns terminated, the citizens voted to establish a municipal distribution system. Otter Tail refused to sell the new systems energy at wholesale and refused to agree to wheel power from other suppliers of wholesale energy."

The Court found that these extreme actions were taken solely to protect the company's monopolistic position. The Court's remedy was to order wheeling of power by Otter Tail to the municipal power systems.

7. What can a utility do now if it is the victim of an unreasonable refusal to wheel or to interconnect?

The Federal Power Commission cannot order wheeling, except in emergencies. It can order interconnections in certain circumstances. To rectify a refusal to wheel, a utility would have to initiate an antitrust suit under the provisions of the Sherman Anti-

trust Act, which is an expensive and lengthy process.

This is impractical for small municipal electric systems and rural electric cooperativs with limited resources. In the *Otter Tail* case, one of the four towns, Hankinson, N.D., reluctantly decided to renew Otter Tail's contract after Otter Tail refused to wheel.

Granting the Federal Energy Regulatory Commission the authority to order wheeling in such cases would at least provide an incentive for good faith bargaining between the parties involved.

8. Will the wheeling and interconnection amendment adequately protect utility companies which may be ordered to wheel?

Yes. Utilities already are assured a fair and reasonable return on their investment by virtue of several Supreme Court rulings dating back to 1898. These include: *Smyth* v. *Ames* (169 U.S. 466), *Wilcox* v. *Consolidated Gas Co.* (212 U.S. 19), *Bluefield Water Works* v. *West Virginia Public Service Commission* (262 U.S. 679), and *Federal Power Commission* v. *Hope Natural Gas* (320 U.S. 591).

Further, under the Sasser wheeling and interconnection amendment, the following rigorous requirements would have to be met before the Federal Energy Regulatory Commission could issue a wheeling or interconnect order:

(1) application by a State utility commission, utility or qualified cogenerator;

(2) public notice and notice to each utility commission, utility, and cogenerator affected;

(3) full hearing and investigation;

(4) demonstration that the utility or qualified cogenerator is ready, willing and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the utility or owner which is required to interconnect or to wheel; and

(5) allowance of sufficient time for regotiation between the parties involved.

Finally, the Commission would have no authority to order any of the actions provided for in the amendment which would result in either (1) the enlargement of generating facilities owned by the utility subject to such order, or (2) result in any undue burden on that utility, significantly impair the reliability of the system of that utility, or impair its ability to render adequate service to its customers.

9. What is the Administration position?

President Carter has proposed wheeling and interconnection authority for the Federal Energy Regulatory Commission. Wheeling and interconnection powers are included in S. 1469, the President's original energy bill. The April 29 National Energy Plan states:

"Utility interconnections and power pools make possible economies of scale, reduction in aggregate capacity requirements, and sharing of power during emergencies. Expansion of interconnections and achievement of maximum efficiency from pools are primarily the responsibility of the utility sector, which has been active in this area.

"The Federal Government will follow closely the further progress of the utility sector. A proposed amendment to the Federal Power Act *would remove a major gap in the authority of the Federal Power Commission by authorizing it to require interconnections* between utilities even if they are not presently under FPC jursdiction. *The FPC would also be authorized to require wheeling the transmission of power between two noncontiguous utilities across another utility's system.*" (Emphasis added.)

10. What precedents are there for the Senate to take this action?

Besides the Supreme Court's landmark decision in the case of the Otter Tail Power Company's refusal to wheel, there are other precedents:

(1) The House has already adopted the essence of the President's proposal on interconnection and wheeling, which goes considerably further than the Sasser amendment in granting ordering powers to the Federal Government.

(2) In 1976 the Senate Commerce Committee approved a measure on interconnections and wheeling S. 3311 very similar to the Sasser amendment. The bill was not considered by the Full Senate due to the press of other business at the end of the 94th Congress.

(3) Also during the 94th Congress, the Senate voted by a 47–23 margin to require wheeling of federal power by any utility which received a right of way for a transmission line over federal land.

(4) The Interior Department routinely requires companies which use government easements to construct their power transmission lines to wheel electricity over those lines.

(5) Since 1970, the Nuclear Regulatory Commission has 27 signed interconnection and wheeling orders and consent decrees under a pre-licensing antitrust review law. This law, passed by Congress in 1970, requires that the government as a prerequisite to the issuance of nuclear power plant permits be satisfied that utilities requesting such permits do not engage in anticompetitive practices. This policy reflects the same principle embodied in the Sasser wheeling and interconnection amendment.

MILITARY PROCUREMENT AUTHORIZATIONS—S. 1863

AMENDMENT NO. 1421

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR, COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor will hold 3 days of oversight hearings on the Employee Retirement Income Security Act of 1974 (ERISA). The dates of the hearings are Tuesday, October 11, Thursday, October 13, and Friday, October 14, 1977, in room 4232, Dirksen Senate Office Building, beginning on each day at 9:30 a.m. The hearings will include consideration of S. 2125—a bill to permit the Pension Benefit Guaranty Corporation to postpone mandatory termination insurance coverage for multiemployer plans for up to 18 months. Other matters to be considered by the subcommittee will include a proposal by the Pension Benefit Guaranty Corporation to raise premium rates for single employer plans, and certain administrative and substantive ERISA implementation issues, including dual jurisdiction, application of the Federal securities laws to ERISA-covered employee benefit plans, the effects of the prudent man rule on investment policy, the special problems of multiemployer plans and small employer plans, preemption of State law, and ERISA improvements. Further information may be obtained by contacting Steven J. Sacher, special counsel to the committee, (202) 224–1097.

POSTPONEMENT

Mr. CRANSTON. Mr. President, for the information of Senators, the Committee on Veterans' Affairs hearing originally scheduled for Thursday, October 6, has been postponed due to an unavoidable scheduling conflict.

The hearing has been rescheduled for Monday, October 17, at 10 a.m., in an as yet undetermined room and will be the second day of testimony on the National Academy of Sciences report, "Health Care for American Veterans" and the Veterans' Administration's response to that report. Witnesses will include representatives from the National Academy of Sciences, the General Accounting Office, the Association of American Medical Colleges, the National Association of VA Physicians, and the Veterans of World War I.

ADDITIONAL STATEMENTS

MIDDLE EAST PEACE SETTLEMENT

Mr. PACKWOOD. Mr. President, on Saturday, the United States and the Soviet Union issued a joint declaration outlining broad objectives for an Arab-Israeli peace settlement. Unfortunately, this latest attempt by the Carter administration to pull a diplomatic rabbit out of the hat may do much more harm than good to the prospects of bringing about a lasting peace in the Middle-East.

I am particularly concerned by the administration's blatant disregard for previous agreements between the United States and Israel. In September 1975, U.S. Secretary of State Kissinger and Israeli Foreign Minister Allon signed the United States-Israeli Memorandum of Agreement in which the United States pledged to "continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338. The United States Government will consult fully and seek to concert its positions and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the conference of any possible additional state, group or organization will require the agreement of all the initial participants."

Numerous statements in the latest proposal abrogate the spirit of that 1975 agreement. Of critical importance is the failure of the United States to consult closely on the issue of Palestinian "rights" with the Israel Government prior to its release of the document. According to press accounts, Israel was handed the text of the Soviet-American communique only 24 hours in advance and was asked only for comment. Only the most naive would call such actions by the United States in "concert" with the government of Israel.

The text of the Soviet-American statement also fails to reassert some of the

most basic understandings between the United States and Israel. There is no mention of U.N. Resolutions 242 and 338, long considered by all legitimate parties to be the formula for a lasting peace in the Middle East. This serious omission is further compounded by the failure of the communique to speak forthrightly of the necessity of a peace treaty between the parties, a basic prerequisite according to United States-Israel understandings. Instead, the agreement talks in vague terms of "the establishment of normal peaceful relations" between the parties.

I am also concerned, Mr. President, about what I believe to be a shift in the U.S. position toward the recognition of the Palestine Liberation Organization. Although the communique does not mention the PLO, neither does it affirm the traditional American policy that the PLO will not be recognized until it recognizes publicly Israel's right to exist and accepts Security Council Resolutions 242 and 338. Unfortunately, it is becoming commonplace for the administration to sidestep this most important issue by turning a phrase or retreating into ambiguity. Such a policy can only create misconceptions for Arab and Israeli alike and provide hope to a terrorist organization that its existence may soon be legitimized by actions of the United States.

Finally, Mr. President, I am concerned by the new foothold the Soviet Union has gained in the Middle East through the issuance of this joint statement with the United States. For years the Soviet Union has attempted to gain influence in the Middle East by supporting the most militant Arab groups. Only recently, Foreign Minister Gromyko met in Moscow with Yassir Arafat, head of the PLO. This policy has brought the Soviets mixed results.

Now, the United States welcomes a Soviet presence into this most volatile area with open arms. When he was Secretary of State, Henry Kissinger worked patiently and methodically to diminish the influence of the Soviet Union in the Middle East. His policy succeeded. Now, with one stroke, we undercut America's principal ally and the only democracy in the Middle East, we welcome back the Russian bear, and we even confound those Arab governments who had chosen to cease reliance upon Russian support. And what has the United States gained for this? Nothing. What has the Middle East gained? Nothing. What has Israel gained? Nothing.

Mr. President, I firmly believe that what is now needed is an American policy based not on ambiguity but one that insists on face-to-face negotiations between the legitimate states in the Middle East. Ambiguity in American policy only encourages the Arab belief that our Nation will acquiesce in the isolation of Israel and will pressure Israel into a precipitous retreat. Such an action is a formula for war, not peace.

PROGRESS IN SOLID WASTE MANAGEMENT IS REVIEWED—URGE MORE MONEY BE APPROPRIATED FOR NEW FEDERAL PROGRAM

Mr. RANDOLPH. Mr. President, recently, I called attention in remarks in the Senate to the progress being made in the drive for better solid waste management and resource recovery.

In that statement I stressed the important contribution being made to that effort by private industry, labor and business working in close cooperation with each other and with Government in a common cause. I can now add another chapter—and another element—to that report. It concerns the way individual citizens are becoming a part of that effort and how much their involvement can mean to its present and future success. That was attested to in the program and the kind of participation by a Clean Community System Seminar which I had the honor of addressing here on September 28.

The CCS concept was fostered by Keep America Beautiful as a means of ridding cities of trash and garbage. It has already spread across much of the country and even into some overseas areas.

Among those leaders with whom I shared the seminar luncheon were David Lewis, director-general of the Keep Britain Tidy Group, Brighton, England; and David Jackson, executive director of Keep South Africa Beautiful, Johannesburg. Other active participants were Robert Hobson, Charlotte, N.C., public works director; Lewis E. Reid, chief of environmental affairs, Bureau of Outdoor Recreation and chairman of the Steering Committee of the Keep America Beautiful National Advisory Council; Time Magazine Publisher Ralph Davidson; Mayor Buckner F. Melton of Macon, Ga.; and Mayor David Vann of Birmingham, Ala.

More than 340 persons representing a cross-section of business and labor, State and Federal agencies, congressional offices, solid waste specialists and environmental interest groups, were present. A seven-member delegation from Shizuoka-shi, Japan, gave further evidence of international interest in the theme of the event.

I was impressed by this program and by the promise it holds for future progress in the solid waste management field. To share information about the program with the Senate, I ask unanimous consent that sections of my remarks to the seminar luncheon be printed in the RECORD. I also include my letter to Chairman PROXMIRE of the HUD-Independent Agencies Appropriations Subcommittee asking that additional money be provided in the supplemental appropriations bill to more adequately fund solid waste management and resource recovery activities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COOPERATIVE EFFORT BUILDS A BEAUTIFUL AMERICA

I have faith in the ability and capacity of the American people to come to grips with their problems and to find ways of resolving them. Federal, State and local governments have a responsibility, of course, in providing guidance, leadership and assistance to the private sector in those instances where a major effort is required. But that alone is not enough.

The will, the enthusiasm, the cooperation and the active involvement of individual citizens in partnership with business, labor and industry are essential elements of the formula for success of such efforts. There is persuasive and even dramatic evidence of that fact in what is being done here.

It is evident that this seminar has a twofold purpose. It is intended to spotlight and underscore the true dimensions of a national dilemma—that of finding ways to rid ourselves of the trash, garbage and other solid wastes that have too often and in too many places blighted the face of America. For those of you not already familiar with the details, it is also intended as a graphic illustration of what a dedicated and informed business-citizen coalition can do in one very important aspect.

Credit for fashioning that coalition goes first to the Keep America Beautiful organization which conceived the Clean Community System on which today's seminar is focusing. The degree of the program's success is also a tribute to leaders like KAB President Roger W. Powers; Time Magazine Publisher and KAB Chairman Ralph Davidson; Director Lynn Greenwalt of the Fish and Wildlife Service who serves as Chairman of the National Advisory Council and Mrs. Pillana Desha, President of the National Federation of Business and Professional Women's Clubs and a member of the KAB Board of Directors. We are deeply concerned about the implications of the solid waste problem. I consider it a privilege to participate in today's program with them.

Mayors William Hudnut of Indianapolis and Buckner Melton of Macon typify the vision and dedication of authorities who have contributed so much to making the CCS concept a viable reality. They and their counterparts have been able to make it a "people program" in which garbage is a concern of everyone from the highest city official to the housewife and school child and the desire for a cleaner community becomes a common goal. The extent to which the idea has captured the public imagination is reflected in the almost explosive growth rate of the program. The statistics are impressive. They warrant mention now, even at the risk of possible repetition.

In the planning stage only since 1972 and initiated as a demonstration program in only three cities in 1974, CCS is now in full operation in 74 cities across our country and more than 100 additional communities are preparing for certification. Weirton, West Virginia, is high on that list of future qualifiers.

You will be impressed by the fact that virtually all of the areas where the program is in full effect have achieved very sizable reductions in the volume of litter—many from 25 to 50 percent and up to 70 percent in several instances. That, in itself, is a laudable achievement and, standing alone, would justify the effort.

There is also, however, the potential for other spin-off benefits. In the long run they may be fully as important as the original objective—perhaps even more so. Efforts to cope more effectively with trash and garbage are contributing to a better understanding of the nature and complexity of the solid waste problem as a whole, and of the inherent possibilities of converting it to some degree from a burden to a benefit.

Thanks to the professional guidance, technical information and educational materials being provided to operators of the CCS projects, these already are taking place to a significant degree in the more advanced city programs. The trend is expected to continue and widen in the immediate future.

In some instances, the cities are holding their own workshops on waste management. Operating committees are being called on to give technical advice and assistance to regional authorities and other cities where the program is not yet in operation.

In the process, the citizen and business participants in first phase of the drive for better solid waste management are securing the knowledge and motivation they need to form the nucleus of a strong moving force

in the effort to deal with the bigger and more complex aspects of the dilemma that require resolution.

Additional impetus can also be expected to come in the form of a new program launched only a few days ago by the United States Brewers Association. Called Positive Reduction, the concept calls for utilization of techniques tested in earlier Association campaigns. It is now proposed for use of municipal and county governments throughout the country. The plan is to be promoted through the Association's field staff after a series of five regional meetings which opened last week in Atlanta and will conclude in Boston on October 5.

Persons who have come face to face with the problem know better than others that there are no easy answers or quick solutions, with economic and social factors having to be weighed with environmental considerations in any decision on how to proceed. I am sure you are aware that those decisions must be made and we can ill afford to delay them for long. That necessity has become increasingly evident. Even with the significant progress achieved through CCS, too many areas are struggling with only limited success against excessive accumulation of trash and garbage.

Their efforts have been complicated by the difficulty in finding and maintaining environmentally acceptable sites for sanitary landfills or other disposal procedures. There is growing realization that much valuable materials is being thrown away which could be salvaged for re-use or even converted into a practical new energy source through advances in research and technology. It is conceded that until recently the solid waste problem was something of an environmental stepchild. Even with the passage of the Solid Waste Disposal Act of 1965 and the Resource Recovery Act of 1970, the subject was not adequately addressed because the Congress was preoccupied with development of comprehensive programs to control air and water pollution.

The necessity for more specific action was recognized, however, with enactment last October of the Resource Conservation and Recovery Act which became Public Law 94–580. I had the responsibility for sponsoring that bill which has the essential purpose of giving States a larger role in planning and coordinating local and regional resource recovery programs while providing Federal assistance in carrying them forward.

Within that general concept the measure addresses three major areas of concern. The first is research and demonstration projects relating to environmental problems associated with land disposal, particularly in management of hazardous wastes. The second concerns development of methods to reduce waste volume and to recover and recycle material. Thirdly, the program provides technical and financial help to States and local governments for development of most cost effective and environmentally sound solid waste management practices.

These objectives are consistent with, and a logical extension of, the goals of the Clean Community Systems. I have confidence in American ingenuity and motivation. Those objectives are wholly attainable, given the level of policy commitment and funding necessary to implement the provisions of the legislation.

The support has, unfortunately, not yet been forthcoming to anything like the required level. The Fiscal 1978 budget provided less than $15 million of the approximately $99.5 million which had been requested for first-year implementation.

I have asked the Senate Appropriations Committee to substantially increase this support for the solid waste program through the supplemental appropriations bill which will be developed before the end of this Congressional session. It is essential that adequate financing be provided in the crucial first years of the program. Without that support, a program start will be difficult, if not impossible. The Congress and the Administration should adequately implement the new Act.

It will take that kind of Federal involvement to realize the full potential for waste management and resource recovery. It is also important to understand that much progress has already been achieved through the initiatives of private industry and government agencies at State and local levels.

These gains could not have been achieved if there had not been a public and private partnership willing to explore new ground in the field of solid waste management and resource recovery and ready to invest time and resources. Even with those gains, we have much to do and a long way to go. It will take the combined best efforts of vital segments of our society and individual commitment to overcome what is a problem of staggering proportions. I do not doubt that it can and will be done and that the concept of resource recovery will one day produce rich wards for our economy and our environment.

U.S. SENATE,
Washington, D.C., September 28, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, HUD-Independent Agencies Subcommittee of Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR BILL: In the near future, the Committee on Appropriations will consider supplemental appropriations for fiscal year 1978. The regular fiscal year 1978 appropriations bill for Housing, Urban Development and Independent Agencies (H.R. 7554) recently approved by the Congress, provided only $36.5 million for activities by the Environmental Protection Agency under the Solid Waste Disposal Act.

I ask you to recommend that the supplemental appropriations bill increase the funding for this vital program by $38 million. This is far short of the authorizations contained in the 1976 amendments to the Act (P.L. 94–580), but such an increase is essential if the program provided in the law is to have any chance of realization.

The 1976 Act authorized $30 million in fiscal year 1978 for grants to States and local and regional agencies, for the development and implementation of solid waste management planning. I understand that the Agency's zero-base budgeting exercise indicates an increase in solid waste funding for fiscal year 1979. But a large part of this work must be done, or at least begun, during fiscal year 1978. The $12 million included for this purpose in the regular appropriations bill is not adequate to begin this work, particularly if such limited funds must also be used for the open dump inventory process and for Senate hazardous waste programs, as the Environmental Protection Agency apparently contemplates.

That limited funding level would hinder the development of State solid waste management planning, and allow nothing for support of local and regional solid waste management planning efforts. The 1976 Act contained a strong mandate to develop local and regional responsibilities at the same time as State capacity to deal with solid waste is enhanced. Without adequate funding in fiscal year 1978, this will be impossible. The additional funding for solid waste planning under the section 208 program is not adequate for this purpose.

For these reasons, I ask the Appropriations Committee to provide $30 million, the full authorization, for grants to States and local and regional agencies to support solid waste management planning and programs. In addition, I believe the Committee should increase the authorization for general program activities by $10 million to allow for the costs of the open dump inventory. This was supposed to be a Federal responsibility under the 1976 law; while it is fully appropriate to have it carried out by the States, the funds for the open dump inventory should not be taken out of limited program funds.

A third area for which I ask the Appropriations Committee to consider supplemental appropriations for solid waste activities is for grants to States for hazardous waste program development. The 1976 Act's most ambitious regulatory program is the management of hazardous waste disposal. The Congress strongly intended that program to be operated by the States. If they are not able in fiscal year 1978 to begin development of hazardous waste permit programs, that intention will be frustrated. Future costs to the Federal government may be much higher if it must begin implementation of this program. An appropriation of $10 million (only 40 percent of the authorization) would allow interested States to continue progress toward assumption of the hazardous waste management program.

I realize these recommendations call for substantial supplemental appropriations for solid waste activities over those recently passed. The total appropriation with the recommended supplemental increases, however, represents just slightly over 50 percent of the non-research authorizations for fiscal year 1978. Without this increased funding, the Act's push toward solid waste management and planning at the State and regional level, including hazardous waste disposal control, may be seriously impaired during fiscal year 1978. It may prove impossible to ever regain the necessary momentum.

I would appreciate your help in having these funds included in the fiscal year 1978 supplemental appropriation bill when it is considered by the Committee on Appropriations.

With kind personal regards, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

REMARKS OF HARRY BELL, PRESIDENT, SOUTH CAROLINA FARM BUREAU FEDERATION

Mr. THURMOND. Mr. President, this morning I had the great pleasure of meeting with members of the South Carolina Highway Users Conference. At this meeting, Mr. Harry Bell, president of the South Carolina Farm Bureau Federation, presented the energy policy statement of the conference in a very succinct and eloquent fashion. Such a direct and complete delivery is not unusual for a man of Harry Bell's stature and accomplishments. His tireless efforts on behalf of the farmers of my State have resulted in a very large and comprehensive federation in South Carolina which serves her many agricultural needs. In addition, Mr. Bell was a fitting spokesman for the conference with respect to its views on the many energy problems which face our Nation today.

I ask unanimous consent Mr. President, to have Mr. Bell's presentation printed in its entirety in the RECORD.

There being no objection the presentation was ordered to be printed in the RECORD, as follows:

PRESENTATION BY MR. HARRY BELL

President Carter has said that our country's energy situation is perhaps the biggest challenge of our lifetime. We couldn't agree with him more.

While many people seem to believe the energy problems facing this country are merely problems of the energy producing companies, we do not share this opinion. We believe the energy problems facing this na-

tion are the business of everyone—particularly highway users.

For highway transportation, the question of adequate petroleum supplies is a matter of survival of this industry and—consequently—to the lifestyles to which Americans have grown accustomed. Under present technology, there is no substitute for petroleum energy for highway transportation.

We are vitally concerned with the proposed energy program that has been before Congress for some time and have already corresponded with you on a number of its components.

There are a number of positive steps contained in the President's proposal. They include the belief that energy prices should reflect their true replacement cost; the concern over continuing dependence on foreign oil and its adverse impact on our balance of payments; the rejection of divestiture of the oil companies; the objective of making government energy policies and programs predictable and dependable; the strong emphasis on conservation; and, the spreading of the responsibility for energy problems across the entire economy. However, we have serious reservations about some parts of the proposed plan.

We supported the elimination of the proposed increase in the motor fuel tax to discourage consumption. It would take a huge tax to force conservation and the result would have been inflationary and damaging to the economy.

About two-thirds of all automotive travel is considered essential. Transportation costs are built into the costs of products and services. Right now for example, one-third of the price urban residents, in some areas of the country, pay for their food is in over-the-road transportation. Commerce and our food supply moves, not only by large trucks, but by an extraordinary number and variety of small vehicles. Medical services, utilities, plumbing, television, milk delivery and hundreds of other services move this way and there is no conceivable way they could be replaced by other modes. Increased fuel taxes would drive up the cost of these services to consumers unnecessarily. We do not disagree with the need for highway user taxes to provide needed roads for those who pay for them. But, we commend Congress for rejecting the punitive motor fuel taxes in the energy bill and we will continue this kind of taxation in the future.

Also, we are opposed to the so-called crude oil equalization tax. As you know, this would raise the price of all motor fuel by about seven cents per gallon without doing anything to increase our fuel supply. Highway users would rather see any increase in fuel prices go toward encouraging producers of oil to drill more wells—not for some proposed rebate system. The South Carolina Highway Users Conference has gone on record supporting speedy development of our nation's outer continental shelf for oil and gas production. We oppose any changes in the federal government OCS leasing system that would delay production of offshore petroleum.

We agree with the President that the energy crisis is one of the nation's greatest challenges. However, he has said nothing about relaxing some of the environmental laws which have caused much of this dilemma.

The emissions control equipment on cars is one of the most paradoxical situations which has developed. Paradoxical because, on the one hand, Congress and the Administration is working to solve our energy problems but, at the same time, is in the process of passing laws in the environmental area which greatly increase gasoline consumption. For example, the emissions control equipment on automobiles, in 1974, was estimated to be causing the consumption of an additional 600,000 barrels of oil per day. If all the new cars were 1974 or newer models, they would be contributing only about one-half of one percent of the totals of such chemicals as carbon monoxide and oxide of nitrogen to the atmosphere. Without the federally mandated equipment, automobiles would be producing less than five per cent of the total carbon monoxide and much less than one percent of the oxide of nitrogen. Nature produces 93 percent of the carbon monoxide in the atmosphere and 99 percent of the oxide of nitrogen.

We appreciate the part that the S.C. delegation played in the passage of the New Clean Air Act which freezes the present emission standards for the next two years and we believe any further application of automobile emissions control equipment is unnecessary.

Some of the changes brought about by the environmental movement have been positive—others only complicate our energy problems. We urge Congress to insist on proof positive for the allegations being made by these interests with respect to additional environmental rules and regulations.

There are other recommendations that we would make. First of all, we do not look upon this as an oil shortage or an oil crisis. There is plenty of oil at the present time, if we want to pay the price and rely on uncertain foreign oil imports for nearly half of our needs.

We feel that the United States should make every effort to develop all energy sources, but recognize that oil, gas and coal are the only ones that can possibly make a significant contribution to our needs in the immediate future, or, at least, in the next two decades. Therefore, we have no choice but to concentrate our efforts on hydrocarbons, especially oil and gas, until other sources of energy are able to share the load. But one thing is clear: we must have more production.

An essential part of this approach, would be the return to a free market situation for energy. We favor decontrol of crude oil and gasoline prices and deregulation of natural gas prices. If we decontrol the price of oil and natural gas, we will have higher prices. Although basically unpopular, higher prices would help correct our energy situation in two ways: first, they would, over a long period of time, slow our demand; second, they would spur domestic exploration drilling, which would eventually increase both our production and reserve.

Only about 35 percent of known oil deposits is recoverable using present technology. Higher prices would allow technological advances which, in turn, would contribute to improvements in recovery rate of existing oil reserves.

We must greatly increase the production and use of coal because it represents our most abundant and easily accessible source of domestic energy. Where possible, oil and natural gas users should be using coal. In some industries, conversion to coal will be difficult. For example, 38% of all energy used on the farm is natural gas. Most of this is processed gas for fertilizers, chemicals and plastics. Gasoline accounts for 27% of farm energy uses, diesel fuel 15%, LP gas 9%, distillate 5%, electricity 3% and coal and residual oil 1%. Coal for agricultural use will be limited. But, other industries can covert to coal and enable our vital farming industry to utilize needed oil and natural gas for production of food and fiber. For example, we should not use natural gas to make electricity because the conversion factor represents an energy loss over 30 percent.

Another environmental issue which has caused a waste of fuel is the elimination of lead in gasoline. Again, even though there has been no scientific evidence that this causes any serious health problems, lead has been banned as an additive to gasoline, resulting in far less efficient engines and a subsequent waste of gas. It is becoming increasingly apparent that we must all become reasonable about environmental constraints. We also need to review many questionable governmental regulations and take a more rational approach to the prudent use of nuclear energy. Finally, research must be increased to develop every practical energy source as rapidly as possible. In regard to the so-called "exotic forms of energy," we must also be realistic. Between now and the year 2000, these will only make a miniscule contribution to our overall energy production.

The development of our alternate energy sources is so compelling that we believe it borders on the absurd to restrain any company from entry into this endeavor. Such measures have been proposed for the oil industry. They are known as horizontal divestiture laws. They would prohibit many of the most experienced companies in energy production from developing coal, nuclear, solar, etc. We oppose horizontal divestiture proposals because they would hamper an all-out effort to solve the country's energy problems.

We support all reasonable and effective conservation measures. For instance, ride sharing is one of the most effective means of reducing rush hour energy consumption. Increasing commuter ride sharing by 20 percent would reduce gasoline consumption by as much as 250,000 barrels a day.

Toward this goal we recommend, as an incentive, an investment tax credit for employers against the capital costs of starting and operating vanpooling programs.

Employer-sponsored vanpooling has proven to be a cost-effective way of reducing rush hour automobile use. At the 3M Company—the pioneer in employer-sponsored vanpooling programs—more than a thousand employees now ride to work in 92 vans. Each van takes six or seven cars off the road. The company estimates that in 1976, vanpooling saved two million vehicle miles of travel and 165,000 gallons of gasoline.

Offering an investment tax credit would bring many more employers into vanpooling programs by allowing them to offset administrative costs and pass greater savings on to employee riders.

But transit, in some instances, can cost energy. Rail mass transit as any number of studies show, uses more energy than buses besides being prohibitively expensive. We believe Congress should discourage any further investment in fixed rail systems for mass transit without proof of a cost-effective relationship.

We would be remiss if we did not state the Conference's position on highway safety. The Conference is a strong supporter of federal and state highway safety programs. We believe that the 55 mph speed limit saves lives and fuel and should be strictly enforced.

We hope that our presence here today emphasizes our concern about the energy problems faced by highway users and all Americans.

DANGLING JUSTICE

Mr. GOLDWATER. Mr. President, for too long now, we have witnessed the ever-growing practice in the field of criminal law of "Trial by the media." Unfortunately, the news media have been aided and abetted by the various agencies which have the responsibility to investigate and prosecute any cases of criminal wrongdoing. In their unseeming haste to "right all wrongs," under their newly discovered code of morality, these agencies and their people have beaten a path to the doors of the news reporters with a handful of allegations, innuendoes, and half-truths.

The essence of this new morality is wrapped in the catchall "buzz-words" of "Rights of Americans." What this says is that we will forget the times and tem-

perament and the fact that honorable men were acting on direct orders of their superiors. Instead, we will destroy them all in the name of a new, vaguely defined code of morals and ethics.

The sad result of all of this is that the victims of this peculiar brand of justice have had their names and reputations forever damaged with little or no hope of rehabilitation. On top of this, instead of a quick resolution to the problem, the victims of this charade have been left to "dangle endlessly in the wind." In this regard, a very timely editorial appeared in the October 10 issue of U.S. News & World Report.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DANGLING JUSTICE

(By Marvin Stone)

Appointment of a free-man committee at the Justice Department to investigate whether Bert Lance violated any criminal laws means that the President's close friend has been added to a prize selection of present and former officials who have been hung out on the line to dangle endlessly in the wind.

A prominent example of what we are talking about is the case of Richard Helms, the former CIA Director, who has faced the possibility of indictment for perjury for well over two years now. He admittedly gave a misleading answer to a Senate committee in a public hearing in 1973. Yet two Attorneys General under two Presidents claim they have been unable to reach a decision on whether he should be prosecuted. So Helms is left to dangle.

Another example is former FBI Special Agent John J. Kennedy. He was indicted last April for his alleged use of illegal techniques in the pursuit of members of a terrorist group. More than a year ago, two former top officials of the Bureau said publicly that they ordered such activities. Attorney General Bell has said on several occasions that the possibility of further indictments was under consideration. But months have gone by without a decision. Meanwhile, those who face possible indictment dangle in the wind, and FBI morale sags.

Still another example: The indictment of Tongsun Park in the "Koreagate" case was delayed until Park had returned to Korea, which does not have an extradition treaty with the U.S., after a long stay in England, which does have such a treaty. For months, Justice officials were unable even to interview him, let alone return him to stand trial.

The Lance case fits the pattern—a grievous inability of the Justice Department to do its business in an expeditious manner. For a year, the U.S. Attorney's office in Atlanta had in its files a case involving possible illegal actions by Lance as a Georgia banker. The case gathered dust all that time. It was only when the appointment of Lance to top post in the new Administration seemed imminent that the Department brought itself to make a decision—to close the case. Whether or not the case should have been closed is now being debated.

With the possible exception of the Korean bribery investigation, where facts are still being gathered, each of these cases appears to present a fairly simple, straightforward situation, requiring a decision based on the law and the evidence already in hand.

A question to be asked is whether the Justice Department has become a morass where private reputations and public business simply disappear in the quicksand.

It is important to ask that question now because the Justice Department is fighting vigorously to keep the Government's legal business to itself—to be the lawyers for virtually all the executive branch. It has 3,689 attorneys on its staff, and does not like to see other agencies adding—as they have—their own lawyers by the thousands, and stealing its thunder.

The Department's latest struggle is with the Federal Energy Administration over who should prosecute cases involving several billions of dollars of alleged overcharges for oil in the aftermath of the Arab oil embargo of 1973. Some administrative Ping Pong is going on here, while justice is being delayed and taxpayers' money is being eaten up.

Government-reorganization studies now being made by the Office of Management and Budget show that at present 25 different agencies and departments have won the right to take their own cases to court. The study is seeking to determine whether greater responsibility should be concentrated in the Justice Department for conducting the nation's legal business.

If the Department is to be given such broad responsibility, we have a right to expect it to do a much more efficient and expeditious job than it seems to be doing.

A YOUTH OPPORTUNITY PROPOSAL

Mr. HATCH. Mr. President, shortly the Senate will start debate on minimum wage legislation during the course of which Senator SCHWEIKER and I, as well as others, will advocate the inclusion of a youth opportunity proposal. We view such a proposal as absolutely essential when one considers the mounting evidence establishing the causal effect between a reduction on entry-level job opportunities and raising the wage.

The recent looting which occurred in New York during the blackout has been blamed by many on the high rate of unemployment, particularly among young people and minority groups—where unemployment runs as high as 40 percent. I am positive in my own mind that the sense of despair existing among young people in that circumstance contributed to the shame of that evening. Of equal shame is the unwillingness of the Congress to provide, at least on a test basis, a program by which all youth, not just those students or those few who qualify for public service jobs or training have a chance for a permanent job in the private sector—where meaningful and lasting employment exists.

Increasingly, those who seek to to find entry-level jobs for teenagers have come to oppose any rise in the minimum wage at this time because of the rise in unemployment among the young which seems inevitably to follow all minimum wage hikes. Employer witness after witness who testified on this subject before the Labor Subcommittee recounted their experience with each rise in the minimum resulting in layoffs, with entry-level jobs usually the hardest hit, as well as curtailed hiring of entry-level personnel, and thus fewer job opportunities.

At a time when excessive unemployment concentrated among the young and minority groups is a critical national concern, the potential impact of raising the minimum and a youth opportunity differential should be studied extensively prior to enactment of this bill.

To aid my colleagues in their deliberations I will insert following my remarks the Labor Subcommittee testimony of two black economists who really told it like it is on the burdens assumed by minority youth when the minimum wage is legislatively increased. Prof. Walter Williams and Thomas Sowell are renowned experts in this area and in my view they lay to rest any theory that hiking the wage does not operate to the severe disadvantage of the already disadvantaged. I hope my colleagues will study and heed well their excellent testimony.

I ask unanimous consent that the testimony of Prof. Walter E. Williams and Thomas Sowell on S. 1871 be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

RESTRICTIONS ON ECONOMIC OPPORTUNITIES FOR YOUTH AND MINORITIES

(Statement by Walter E. Williams, Associate Professor of Economics, Temple University)

Persistently high rates of unemployment in several segments of the United States labor force is one of the most difficult unresolved economic problems of the post World War II era. The segments of the labor force that produce the most seemingly intractable problem are its youth and minority. Youths, particularly minority youths, face high rate of unemployment even when there are relatively prosperous times and when the adult segment of the labor experiences a relatively low rate of unemployment. This evidence shows that governmental efforts to reduce unemployment through vigorous monetary and fiscal policy produces disappointing results for the youth segment of the labor force. Furthermore, there is not much hope that future monetary and fiscal policy will substantially change the situation over what it has been for well over a decade. What is needed are institutional changes which will free markets, and hence employment opportunities, for the relatively disadvantaged worker.

High youth unemployment would not be such a critical problem if youth employment was considered only as a means to supplement family income or earn spending change. The absence or presence of early work experiences have effects which may spell the difference between a successful or unsuccessful future work career. Early work experiences, even in the most menial of tasks, aids the individual in the acquisition of skills and attitudes that will make him a more valuable employee in the future.[1] Early work experiences (1) teach individuals effective job search techniques; (2) teach effective work habits such as promptness, respect for superiors and other work habits; (3) provides self respect and confidence that comes from being financially independent or semi-independent; (4) provide the valuable opportunity to make mistakes at a time when mistakes are not likely to be as costly as they would be when the worker has dependents counting on him for a continuous source of income. The absence of early work experiences not only deny youths the acquisition of these skills, but may also act as distincentives to the continuation of their formal training. Moreover, the absence of job opportunities is likely to contribute to many kinds of anti-social behavior.

High youth unemployment has effects which are undesirable from both an individual and social point of view. Quite naturally, at least two questions arise: (1) Why are youths, particularly minority youths, so disproportionately represented among the unemployed and (2) what should government policy be with respect to the matter? The first question is one of cause and effect. Economic

Footnotes at end of article.

theory can readily approach this kind of question. On the other hand, what government should do about teenage unemployment opens up the potential for unending debate. This is because no theory, including economic theory, can answer questions that are essentially normative. That is, while economic theory can say who bears the burden of what policy, it cannot in any moral sense justify a policy or its distribution of burden and benefits. Therefore, what follows is the analysis of the factors that cause the high rate of youth and minority unemployment.

MINIMUM WAGE LAWS

The Congress of the United States has the power to legislate increases in the minimum wage at which a labor transaction can occur. However, the Congress, and for that matter no one else, can legislate an increase in worker productivity. Moreover, though the Congress can legislate the minimum wage at which a labor transaction can be made, it has not chosen to legislate that the transaction actually be made. To the extent that the minimum wage law raises the pay level to that which may exceed some workers' productivity, employers will make adjustments in their use of labor. Such an adjustment will produce gains for some workers at the expense of other workers. Those workers who retain their jobs and receive a higher wage clearly gain. The most adverse unemployment effects fall upon those workers who are most disadvantaged in terms of marketable skills, who lose their jobs and income. This effect is more clearly seen if we put ourselves in the place of an employer and ask: If a wage of $2.65 per hour must be paid no matter who is hired, who does it pay the firm to hire? Clearly the answer in terms of economic efficiency is to hire the worker whose productivity is the closest to $2.65 per hour.[2] If such workers are available, it clearly does not pay the firm to hire those whose output is, say, $1.50 per hour. Even if the employer were willing to train such a worker, the fact that the worker must be paid more than his output is worth, plus training costs incurred, makes on-the-job-training an unattractive proposition.

The impact of legislated minimum wages can be brought into sharper focus if we ask the distributional question: Who bears the burden of legislated minima? As I said earlier, workers who are most disadvantaged by minimum wage legislation are those that are the most marginal. These are workers who employers perceive as being less productive or more costly to hire in some sense than other workers. In the U.S. labor force there are at least two segments that share the marginal worker characteristic to a greater extent than do other segments of the labor force. The first group consists of youths in general. They are relatively low skilled because of their age, immaturity and lack of experience. The second group are some racial minorities, particularly the youth, who not only share the handicaps of youths in general but are further burdened by unusually poor schooling, racial discrimination and other socio-economic factors leading to lower skill levels. While low skills can explain low wages, low skills cannot explain unemployment absent some kind of market interference. It is no accident that teenagers, particularly minority teenagers, are disproportionately represented among unemployment statistics as shown in Tables 1 and 2.

Table 1 shows that for most of the years with an increase in the minimum wage law there was an associated increase in teenage unemployment relative to adult unemployment. Arthur F. Burns, in a study of the impact of legislated minimum wages, said:

"During the postwar period the ratio of unemployment rate of teenagers to that of male adults was invariably higher during the 6 months following an increase of the minimum wage than it was in the preceding half year. The ratio of female adults to that of male adults has behaved similarly. Of course, the employment of teenagers and women depends on a variety of other factors—certainly on business conditions as well as on minimum wage. I have tried to allow for this in a more refined analysis. It appears whether we consider the unemployment rates of teenagers or that of women, that its primary determinants are, first, the general state of the economy as indicated by the unemployment rate of adult males, second, the ratio of the minimum wage to the average in manufacturing. The influence of the wage ratio turns out to be particularly strong in the case of nonwhite teenagers." [3]

TABLE 1.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES

Year	Unemployment rates both sexes		Ratio teenage, general
	General	16–19	
	(1)	(2)	(3)
1948	3.8	9.2	2.42
1949	5.9	13.4	2.27
1950	5.3	12.2	[1] 2.30
1951	3.3	8.2	2.48
1952	3.0	8.5	2.83
1953	2.9	7.6	2.62
1954	5.5	12.6	2.29
1955	4.4	11.0	2.50
1956	4.1	11.1	[1] 2.70
1957	4.3	11.6	2.70
1958	6.8	15.9	2.34
1959	5.5	14.6	2.65
1960	5.5	14.7	2.67
1961	6.7	16.8	[1] 2.50
1962	5.5	14.7	2.67
1963	5.7	17.2	[1] 3.02
1964	5.2	16.2	3.12
1965	4.5	14.8	3.28
1966	3.8	12.8	3.37
1967	3.8	12.9	[1] 3.39
1968	3.6	12.7	[1] 3.53
1969	3.5	12.2	3.49
1970	4.9	15.2	3.10
1971	6.9	16.9	2.86
1972	5.6	16.2	2.89
1973	4.9	14.5	[1] 2.96
1974	5.6	16.0	[1] 2.86
1975	8.1	21.9	[1] 2.68
1976	7.8	19.0	[1] 2.66

[1] Year Federal minimum wage was increased.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition," p. 145.

A number of other studies have evaluated the impact of legislated minimum wages on unemployment. The conclusions of some representative studies are cited here.

David E. Kaun [4] using census data found that statutory wage minimums caused plant closures and the replacement of labor by other productive inputs. Also the most adverse effects of statutory minimums were concentrated among minorities, teenagers and families.

Yale Brozen [5] in two studies discusses the impact of the minimum wage law. First he shows that the rate of teenage unemployment relative to that of the general population rose and the ratio of nonwhite to white teenage unemployment rose following increases in the federal statutory minimum. In another study he concluded that workers adversely affected by the statutory minimum crowded into uncovered areas, such as domestic housework, increasing employment and depressing wages in the uncovered areas.

Kosters and Welch [6] conclude that the minimum wage law has had the effect of reducing job opportunities for teenagers during periods of normal employment growth and making their jobs less secure in short-term changes in the business cycle. They go on to conclude that a disproportionate share of the cyclical vulnerability is borne by nonwhite teenagers and the primary beneficiaries of shifts in employment patterns are white adult males.

Edward Gramlich [7] argues that a 25 percent increase in the minimum wage law lowers the employment of low wage earners by 10 to 15 percent. Furthermore, Gramlich finds a defect of other studies causing them to understate the true effects of the minimum wage law. Gramlich presents evidence that shows that a rise in the minimum causes a shift toward more part-time employment away from full-time employment. This loss in hours worked does not show up in many studies because they do not distinguish between an individual employed full-time and one employed part-time. Thus, the reduction in hours worked may be greater than the fall in employment alone suggests.

Jacob Mincer [8] reports the adverse effects of the minimum wage on youths and minorities:

The net minimum wage effects on labor force participation appear to be negative for most of the groups. The largest negative effects are observed for nonwhite teenagers, followed by nonwhite males (20–24), white males (20–24) white teenagers, and nonwhite males (25–64).

The net employment effects are negative with the exception of nonwhite females (20–0), for whom the positive coefficient is statistically insignificant. The largest disemployment effects are observed for nonwhite teenagers, followed by nonwhite males (20–24), white teenagers, and white males (20–24).

The weight of academic research by economists is that unemployment for some population groups is directly related to statutory wage minima.[9]

MINIMUM WAGE AND NEGRO YOUTH

So far my discussion has focused mainly on youth unemployment in general. Now I want to make some comparisons between black youth unemployment and white youth unemployment. Table 2 shows male black/white unemployment statistics by age groups over the past several decades.

TABLE 2.—COMPARISON OF YOUTH AND GENERAL UNEMPLOYMENT BY RACE

	General	White 16 to 17	Black 16 to 17	Black/white ratio	White 18 to 19	Black 18 to 19	Black/white ratio	White 20 to 24	Black 20 to 24	Black/white ratio
Year:										
1948	3.8	10.2	9.4	0.92	9.4	10.5	1.11	6.4	11.7	1.83
1949	5.9	13.4	15.8	1.18	14.2	17.1	1.20	9.8	15.8	1.61
1950	5.3	13.4	12.1	.90	11.7	17.7	1.51	7.7	12.6	1.64
1951	3.3	9.5	8.7	.92	6.7	9.6	1.43	3.6	6.7	1.86
1952	3.0	10.9	8.0	.73	7.0	10.0	1.43	4.3	7.9	1.84
1953	2.9	8.9	8.3	.93	7.1	8.1	1.14	4.5	8.1	1.80
1954	5.5	14.0	13.4	.96	13.0	14.7	1.13	9.8	16.9	1.72
1955	4.4	12.2	14.8	1.21	10.4	12.9	1.24	7.0	12.4	1.77
1956	4.1	11.2	15.7	1.40	9.7	14.9	1.54	6.1	12.0	1.97
1957	4.3	11.9	16.3	1.37	11.2	20.0	1.79	97.1	12.7	1.79

Footnotes at end of article.

	General	16 to 17	White 16	Black 16 to 17	Black/white ratio	White 18 to 19	Black 18 to 19	Black/white ratio	White 20 to 24	Black 20 to 24	Black/white ratio
1958		6.8	14.9	27.1	1.81	16.5	26.7	1.62	11.7	19.5	1.66
1959		5.5	15.0	22.3	1.48	13.0	27.2	2.09	7.5	16.3	2.17
1960		5.5	14.6	22.7	1.55	13.5	25.1	1.86	8.3	13.1	1.58
1961		6.7	16.5	31.0	1.89	15.1	23.9	1.58	10.0	15.3	1.53
1962		5.5	15.1	21.9	1.45	12.7	21.8	1.72	8.0	14.6	1.83
1963		5.7	17.8	27.0	1.52	14.2	27.4	1.93	7.8	15.5	1.99
1964		5.2	16.1	25.9	1.61	13.4	23.1	1.72	7.4	12.6	1.70
1965		4.5	14.7	27.1	1.84	11.4	20.2	1.77	5.9	9.3	1.58
1966		3.8	12.5	22.5	1.80	8.9	20.5	2.30	4.1	7.9	1.93
1967		3.8	12.7	28.9	2.26	9.0	20.1	2.23	4.2	8.0	1.90
1968		3.6	12.3	26.6	2.16	8.2	19.0	2.31	4.6	8.3	1.80
1969		3.5	12.5	24.7	1.98	7.9	19.0	2.40	4.6	8.4	1.83
1970		4.9	15.7	27.8	1.77	12.0	23.1	1.93	7.8	12.6	1.62
1971		5.9	17.1	33.4	1.95	13.5	26.0	1.93	9.4	16.2	1.72
1972		5.6	16.4	35.1	2.14	12.4	26.2	2.11	8.5	14.7	1.73
1973		4.9	15.1	34.4	2.28	10.0	22.1	2.21	6.5	12.6	1.94
1974		5.6	16.2	39.0	2.41	11.5	26.6	2.31	7.8	15.4	1.97
1975		8.1	19.7	45.2	2.29	14.0	30.1	2.15	11.3	23.5	2.08
1976		7.9	19.7	40.6	2.06	15.5	35.5	2.29	10.9	22.4	2.05

Source: Adapted from Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition" (Washington, D.C.; U.S. Government Printing Office, 1975), pp. 153-55.

While most people are knowledgeable of the current deteriorated market position of black youngsters relative to white youngsters, not many are aware of black/white youth employment statistics for earlier periods in our history. The most striikng feature of Table 2 is that in 1948 black youth unemployment was roughly the same as white youth unemployment. Only among black youths (20–24) was the unemployment rate significantly higher. *However*, for black youths age 16–17 their unemployment rate was *less* than of white youths—9.4 percent unemployment compared to 10.2 percent of white youths unemployed. Now, and for the last decade, black youths age 16–17 have suffered an unemployment rate considerably more than twice that of white youth. In fact for *every* age group among youths black youth unemployment is more than twice that of white youths. The statistics cited here understate the true nature of the problem by a wide margin. The reason is that they are national statistics and do not reflect the fact that much youth unemployment is concentrated in our major metropolitan areas. Black youth unemployment in some of those areas has been estimated to be as high as 60 percent!

Another part of this dismal picture is the labor force participation rate among black youth compared to white youth. Table 3 shows this comparison. In earlier periods, black labor force participation rates for *all* age groups exceeded that of whites. In fact, historically, black labor force participation has always exceeded that of whites. Until the mid-sixties blacks, as a group including black youth, had a labor force participation rate equal to or greater than whites.[10] For black youths age 16–17 their labor force participation rate is now slightly over one-half that of white youths. Black youths (18–19) the labor force participation rate is now three quarters that of white youths (18–19). Black youths (20-24) now have a labor force participation rate 90 percent of white youths (20–24). Not only are the labor force participation rates of black youth less than white youths but they are falling.

TABLE 3.—MALE CIVILIAN LABOR FORCE PARTICIPATION RATIO BY RACE, AGE

	Black/white males 16 to 17	Black/white males 18 to 19	Black/white males 20 to 24	Black/white males 16 and over
1954	0.99	1.11	1.05	1.00
1955	1.00	1.01	1.05	1.00
$1 per hour:				
1956	.96	1.06	1.01	.99
1957	.95	1.01	1.03	.99
1958	.96	1.03	1.02	1.00
1959	.92	1.02	1.04	1.00
1960	.99	1.03	1.03	1.00
$1.15 per hour:				
1961	.96	1.06	1.02	.99
1962	.93	1.04	1.03	.98
1963	.87	1.02	1.03	.98
1964	.85	1.01	1.04	.99
$1.25 per hour:				
1965	.88	1.01	1.05	.99
1966	.87	.97	1.06	.98
$1.40 per hour:				
1967	.86	.95	1.04	.97
$1.60 per hour:				
1968	.79	.96	1.03	.97
1969	.77	.95	1.02	.96
1970	.71	.92	1.00	.96
1971	.65	.87	.98	.94
1972	.68	.85	.97	.93
1973	.63	.85	.95	.93
$2 per hour: 1974	.65	.85	.95	.92
$2.10 per hour:				
1975	.57	.79	.92	.91
$2.30 per hour:				
1976	.57	.77	.91	.90

Source: Computed from U.S. Department of Labor, Bureau of Labor Statistics, "Handbook of Labor Statistics 1975—Reference Edition" (Washington, D.C.: U.S. Government Printing Office, 1975), pp. 36–37.

Faced with these facts one naturally asks why have labor market opportunities deteriorated so precipitously for black youths relative to white youths? Can racial discrimination explain this kind of reversal? Probably not. It would be very difficult for anyone to sustain an argument which held that business and society have become more racially discriminatory than they were in the past. The answer lies elsewhere as has already been suggested—the minimum wage law.

Earlier I said that economic theory predicts that when a wage is legislated that exceeds worker productivity firms will have inducement to make adjustments in its use of labor. Though not intended this adjustment which firms can rationally be expected to make has racial effects. That is, one type of adjustment is to hire not only *fewer* youths, relative to other inputs, but seek among those youths hired the ones with higher qualifiations. As it turns out for a host of socioeconomic reasons with which we are all familiar, white youths, more often than black youths, have better educational backgrounds. Therefore, as reflected in the unemployment statistics, increases in the minimum wage law can be expected to impose a greater unemployment burden on black youths than on white youths. Observations such as those that I have cited are those which prompted Milton Friedman, our economist Nobel prize winner, to say that the minimum wage law is the most anti-black law on the books.

CURRENT MINIMUM WAGE LAW PROPOSALS

The proposed 1977 amendments to raise the minimum wage and index it to the average wage of production workers in manufacturing will have serious unemployment consequences for youth. The rise in the minimum wage will raise youth unemployment. Gramlich has recently argued that a 25 percent increase in the minimum wage would lower the employment of low wage youth by 10 to 15 percent.[11] This calculation implies that a rise in the minimum wage from $2.30 to $2.85 per hour will decrease low wage youth employment by 9.6 percent to 14.4 percent.

Indexing the minimum wage will reinforce the unemployment effects of the rise in the minimum wage. Inflation has the effect of lowering the effective minimum wage. That is, inflation lowers the *real* wage, i.e., the money wage deflated by the price index. Therefore, if inflation can be said to have any beneficiary effects, it is that inflation erodes the legislated minimum wage and hence mitigates some of its adverse impact on youth. Indexing the minimum wage to the average wage in manufacturing will eliminate this effect and hence exacerbate youth unemployment.

One hope against the predicted large increase in youth unemployment, should the proposed amendment pass, is the inclusion of a significant youth differential. If Congress wants to reduce the expected unemployment effects of the proposed amendment, firms should be permitted to hire youths at rates considerably less than the adult rate.

Should the proposal pass as it is now the likely result is a mixture of the two following outcomes. Taxpayers are going to be called upon to tax themselves to support massive federal programs to provide income for the nation's disadvantaged who will not be employed by the private sector. The more tragic alternative is that millions of youths will become discouraged and permanently drop out of the labor force.

CONCLUSIONS

My testimony at these hearings could include many other federal regulations and laws that make it almost impossible for present disadvantaged minorities to enter the mainstream of American society as have earlier disadvantaged minorities. The point that I wish to make in the strongest fashion possible is that many laws, though well-intentioned, spell disaster for a large segment of black, Hispanic and other disadvantaged minority groups. The most tragic element of this is that society will come to view the difficulty that these groups have in fully entering the mainstream of American society (in spite of the billions of dollars spent, in spite of civil rights legislation, in spite of thousands of civil rights litigation cases) as group incompetence, and as such the most racist elements of society will have their prophecies realized. Hardly anyone acknowledges that many, if not most, of the problems encountered are neither due to group nor individual incompetence but due to the excesses of government influenced by politically powerful interest groups. Many of these groups in the pursuit of their objectives contribute to the enactment of laws which spell disaster for disadvantaged Americans.

FOOTNOTES

[1] Many argue that "deadend" jobs deny the individual career-related skills. However, many of the skills absent among many of our youth and hard-core unemployed can be obtained in any job. Furthermore to assign certain jobs as deadend is unfortunate because it creates false and unrealistic labor market expectations among our youth.

[2] Actually the compensation that employers have to pay is higher to the extent that Social Security and fringe benefits are paid.

[3] Arthur F. Burns, "The Management of Prosperity," (New York: Columbia University press, 1966), pp. 47–48.

[4] David E. Kaun, "Minimum Wages, Factor Substitution, and the Marginal Producer," *Quarterly Journal of Economics* (August, 1965), pp. 478–486.

[5] Yale Brozen, "The Effect of Statutory Minimum Wages on Teenage Unemployment," *Journal of Law and Economics* (April, 1969), pp. 109–122; Yale Brozen, "Minimum Wage Rates and Household Workers," *Journal of Law and Economics* (October, 1962), pp. 103–109.

[6] Marvin Kosters and Finis Welch, "The Effects of Minimum Wages on the Distribution of Changes in Aggregate Employment," *American Economic Review* (June, 1972), pp. 323–332.

[7] Edward M. Gramlich, "Impact of Minimum Wages on Other Wages, Employment and Family Income," *Brookings Papers on Economic Activity* (Washington, D.C.: The Brookings Institute, 1976), pp. 409–451.

[8] Jacob Mincer, "Unemployment Effects of Minimum Wages," *Journal of Political Economy* (August, 1976), pp. 87–105.

[9] Other studies showing these effects are: William G. Bowen and T. Aldrich Finegan, *The Economics of Labor Force Participation* (New Jersey: Princeton University Press, 1969); Thomas G. Moore, "The Effect of Minimum Wages on Teenage Unemployment Rates," *Journal of Political Economy* (July/August, 1971), pp. 897–902; Terrance Kelly, "Two Policy Questions Regarding the Minimum Wage," The Urban Institute, February, 1976, mimeo; Robert Golfarb, "The Policy Content of Quantitative Minimum Wage Research," Industrial Relations Research Association Proceedings, December, 1974, pp. 261–268. Many other references can be found in the bibliographies and footnotes of these studies.

[10] In 1910, 71 percent of blacks over 9 years of age were employed compared to 51 percent for whites. See U.S. Bureau of Census, *Negro Population, 1790–1915* (Washington, D.C.: U.S. Printing Office, 1918), pp. 166.

[11] American Enterprise Institute, *Minimum Wage Legislation* (Washington, D.C.: American Enterprise Institute for Policy Research, 1977), p. 15.

Minimum Wage Escalation

(By Thomas Sowell)

The presently proposed minimum wage legislation raises two major sets of issues: (1) the question of the real effects of minimum wages, as such, and (2) the effect of the new principle of automatically escalating minimum wage levels, tied to earnings elsewhere in the economy.

Because of inflation, minimum wage levels have been periodically reviewed, and therefore the general issues and growing evidence on the actual effects of the Fair Labor Standards Act have also been reviewed. What an automatic escalation provision means is that we stop looking at the evidence. And we would stop at a time when a growing body of research by independent economists around the country is documenting the negative effects of the minimum wage law—and particularly its devastating impact on job opportunities for minority teenagers.[1]

Minimum wage laws have been aptly described as "anathema to economists." [2] Even though 88 percent of academic economists supported the "war on poverty," 61 percent of those same economists opposed the minimum wage law.[3] In short, this is not opposition based on philosophy or political leaning, but on economic analysis and on the mounting factual evidence that the law increases unemployment among the very people intended to be benefitted. Moreover, economic research has also revealed a disturbing correlation between teenage unemployment and teenage crime rates.[4] In view of this, this seems like a particularly inappropriate time to stop looking at the evidence by putting in an escalator clause that will give the law a life of its own, independent of its effects on people.

The minimum wage law might be discussed in terms of philosophical, political, or economic theory, but the real issues turn on facts. The crucial factual question is whether eliminating wage rates below some designated level also eliminates jobs. As a realistic matter, few people of any philosophical, political, or economic persuasion would want to see either (a) job-seekers unemployed with a hypothetical right to a "living wage," or (b) people employed at very low wages when they could be equally fully employed at normal wages.

While facts are crucial, they are not easy to get, for a number of reasons which will be discussed. It will also be necessary to consider a number of standard (or stereotyped) arguments about the minimum wage effects which have persisted over the years. Finally, I would like to venture a few suggestions about the continuing need to assess the impact of the law and some ways that assessment might be improved.

I. Factual Studies

There are serious problems inherent in trying to study the unemployment effects of minimum wages, as well as other problems that derive from the way the U.S. Department of Labor chooses to approach the issue.

One problem that plagues minimum wage effects studies is getting statistical data for the specific workers directly affected by the minimum. Such workers are often only a small fraction of the total workforce. Even where a substantial proportion of the directed affected workers lose their jobs as a result of a minimum wage increase, this effect can be lost statistically in the random fluctuations in employment of the much larger number of workers whose wages were always above the minimum. The statistical extraction of the relevant changes is analogous to trying to receive an electronic signal through a heavy background of static noise. Different economists use different methods and devices to mute the background statistical "noise" in order to read the signal. As a result of their different procedures for grappling with this problem, economists' numerical estimates of the unemployment effect of the law differ—a variation seized upon by proponents of minimum wages [5]—but it is increasingly clear that the consensus of these studies is that the law does cause substantial unemployment, and that is more fundamental than the question of exact numbers.

One of the simplest ways of reducing the statistical "noise" in the data is by selecting some age-group which is known to receive very low wages, so that a relatively high percentage of the people in the category chosen are earning low enough wages to be directly affected by minimum wage changes. Teenagers are an obvious choice, and nonwhite teenagers even more so. Here the serious unemployment effect of minimum wage rates has been repeatedly demonstrated by economists operating independently of one another and using different statistical methods.[6]

Extremely high unemployment rates among black teenagers have been so highly publicized in recent years, and so automatically attributed to employer discrimination, that certain historical facts must be noted. Large racial differences in teenage unemployment are of relatively recent vintage. In the late 1940's and early 1950's, there were no such large differences, and indeed, black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets.[7] Surely no one is going to claim that there was less employer discrimination then than now. We all know better. What was the difference, then? Minimum wages had not yet begun the rapid rise and spreading coverage which has been the dominant pattern since then.[8]

The unemployment effect of minimum wages can also be seen in international comparisons of countries that do and do not exempt young people from the adult minimum wage. In countries where such exemptions are slight or nonexistent—such as the United States and Canada—youth unemployment is some multiple of adult unemployment. But where there are exemptions that are large and cover a number of working years—as in England, Germany and the Netherlands [9]—there are no significant differences between youth unemployment rates and adult unemployment rates.[10]

These findings may reflect the special vulnerability of teenagers as an inexperienced and relatively unskilled group—or they may reflect the greater statistical ease of determining the facts for this group. A recent survey of minimum wage studies notes "the lack of acceptable continuing data on low-wage adults." [11] The same things known to be happening to teenagers may also be happening to other very low-wage people, who happen not to be grouped together statistically. There are some scattered clues that this is in fact the case. For example, an older study of domestic servants, before they were covered by the Fair Labor Standards Act, showed that their ranks tended to be increased in the wake of minimum wage increases, suggesting the displacement of low-skill women from other employment that was covered by the Act.[12]

Factual studies by independent (usually academic) economists must be sharply distinguished from studies by the U.S. Department of Labor. The Labor Department itself has recently been forced to acknowledge the gap between its perennially optimistic conclusions and the consensus of independent studies, the latter "using advanced economic and statistical analyses." [13] The crudity of the Labor Department studies has been scathingly criticized by academic economists.[14] However, even so, the actual numbers appearing in Labor Department studies of minimum wage effects often show employment declines in the wake of minimum wage increases, even though the stated conclusions of these very same studies may be that the minimum wage did not cost people their jobs.[15] Congressman Dent is correct only in the narrowest sense when he asserts that "Not once in the history of the minimum wage has there been an adverse report" from the Labor Department about "the lessening of job opportunities." [16] In this context, such a statement is far from reassuring. It will hardly be the first clean bill of health given by an agency evaluating itself or the legislation on which its own appropriations and staff depends. This is especially unsurprising to me, as one who worked inside the Labor Department on minimum wage research, and who personally experienced the pressures to reach conclusions consistent with the Department's interests.

II. Assumptions and Claims

The economic analysis which concludes that minimum wages increase the unemployment of low-wage workers rests essentially on the belief that labor is no exception to the general rule that less is demanded at a higher price than at a lower price. Attempts to overturn this basic economic principle usually reduce to one of four assumptions or assertions: (1) there is a fixed number of workers demanded, more or less without regard to wage rates; (2) low-wage workers are victims of employer monopoly power rather than low productivity, so that raising their wage rates will not price them beyond their value to the employer and therefore will not price them out of a job; (3) higher wage rates will cause employers to use labor more efficiently, so that workers will then become valuable, and so will not lose their jobs; and (4) the increased "pur-

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Footnotes at end of article.

chasing power" caused by higher minimum wages will lead to a greater demand for goods, and therefore a greater demand for labor, offsetting any tendency toward unemployment. These arguments will be examined in order.

Fixed demand: The idea that an employer "needs just so many men"[1] is an old one, which dies hard. Factually, it can hardly stand up in face of declining employment after wage increases, or the virtual elimination of such occupations as Western Union messenger and elevator operators (despite the continued existence of telegrams and elevators). As a theory, it implies that the substitution of capital—and of higher priced labor—is impossible. The problem is not when the theory is stated directly and explicitly, but when it is implicitly assumed (and therefore insulated from critical scrutiny), as in the belief that more jobs for teenagers means fewer jobs for adults.

Employer monopoly power: Under special conditions, where there is only one employer in a labor market or a group of employers acting in concert, wages can be kept below what equally productive workers would earn otherwise. There is a special economic theory for such "exploitation" situations, and a minimum wage increase under those conditions would not produce unemployment.[17] Unfortunately, low-wage workers are very unlikely to be in such situations. All sorts of firms, industries, and even households employ unskilled workers, and collusion under these conditions is out of the question. Even such a staunch advocate of minimum wages as the late Senator Paul H. Douglas noted that the market for unskilled labor was one of "almost perfect competition."[18] The sad fact is that low-wage workers are not so much underpaid as underskilled, and there is no easy way around this problem without pricing them out of a job.

"Efficiency": Theories of offsetting rising wages by increasing efficiency have long been used to claim that minimum wage increases will not reduce employment. Unfortunately, those who argue this way have not distinguished real efficiency—larger output from given combinations of input—from a mere substitution of one input for another as their relative prices change. The examples they cite of "better" or "more efficient" methods of production after a minimum wage increase are methods well-known to employers before the imposed wage change, and were not used then simply because they were not the cheapest methods available under the previous input prices. If higher wage rates lead to the substitution of capital for labor, then by definition there will be more output per unit of labor, but it is mere word play to call this more "efficiency" if the product now costs more to produce and society has to support unemployed wokers as well.

Purchasing power: The doctrine that workers' increased purchasing power after a minimum wage increase will sustain employment has many problems with it,[19] but the most fundamental problem is that it assumes the very thing that is at issue: that the workers keep their jobs and work as many hours as before. If not, their hypothetical right to a higher wage rate will not buy anything. Workers can only spend real earnings, not hypothetical rights. Once this is realized, it is hardly necessary to go into the other deficiencies of the theory, such as the fact that inflationary increases mean that more spending power is not more purchasing power.

III. CONCLUSIONS

The minimum wage law addresses a serious social problem, but creates no new options for dealing with it. In fact, it simply reduces the set of existing options available to the parties—employers and employees—who must voluntarily agree if there is to be a job. Trying to make people better off by reducing their options seems questionable even as a theory. In practice, what has happened has been that fewer transactions (less employment) have taken place when there were fewer options open to the parties. It would be very surprising if it were otherwise.

The great unsolved problem remains of what to do about the poor in general, or the low-wage workers in particular. Low-wage workers are not changed by calling them higher-wage workers, any more than students are improved by calling them B students instead of C students. The tragic educational results from the process of upgrading by fiat is hardly a recommendation for extending this practice into the economic sphere. In both cases, it is of course much harder, much slower—and more heartbreaking—to try to create real skills and real achievements. And yet nothing else will really do the job.

Automatic escalation compounds the problems of the minimum wage law by making it possible to close our eyes to its effects hereafter. This seems unconscionable when those affected are poor, vulnerable, powerless, and inarticulate. If the Congress does not monitor what happens to them, there is no other power institution to do so. The set of incentives confronting the U.S. Department of Labor makes it unrealistic to expect it to critically evaluate minimum wage effects, and nearly 40 years of history makes it painfully apparent that it has no intention of doing so. Labor unions have their own imperatives and constraints. For them, the minimum wage law presents the same kind of opportunity that a tariff presents to a business firm. It is a way to price competitors out of the market. That this is accompanied by humanitarian statements may be a matter of rhetorical, or perhaps political, interest but it changes no economic fact. In the Union of South Africa, minimum wage laws were applied to native black Africans for the explicit purpose of stopping their competition with European workers.[20] In the days of the British Empire, British unions and manufacturers attempted to get minimum wages applied to India for similar reasons, though with different rhetoric.[21] American unions and businesses have been doing something very similar in Puerto Rico and other affiliated territories where minimum wages are set by tripartite boards of mainland Americans, often from competing firms.

The point here is not to depict anyone as particularly evil. The point is that powerful institutional incentives exist to use the minimum wage laws for purposes very different from those announced in the Act, and that these institutional incentives are likely to persist through turnovers of personnel in the future as in the past.

Special interests, recognized as such, may be kept within bounds. For the special interests revolving around the minimum wage laws, Congressional oversight seems especially needed, and therefore automatic escalation seems especially dangerous.

Finally, my hope would be that some way might be considered to have the statistical analysis of minimum wage effects performed by some organization other than the agency whose own fate is intertwined with that of the Fair Labor Standards Act.

FOOTNOTES

[1] Marvin Kosters and Finis Welch, "The Effects of Minimum Wages on the Distribution of Changes in Aggregate Employment," *American Economic Review*, June 1972; Thomas G. Moore, "The Effects of Minimum Wages on Teenage Unemployment Rates," *Journal of Political Economy*, July/August, 1971; Michael C. Lovell, "The Minimum Wage, Teenage Unemployment and the Business Cycle," *Western Economic Journal*, December 1972.

[2] Peter B. Doeringer and Michael J. Piore, *Internal Labor Markets & Manpower Analysis* (D. C. Heath & Co., 1971), p. 182.

[3] Jacob J. Kaufman and Terry G. Foran, "The Minimum Wage and Poverty," *Readings in Labor Market Analysis*, ed. J. F. Burton, Jr., *et al.* (Holt Rinehart & Winston, Inc., 1971), p. 508.

[4] See note 1 above.

[5] "...the estimated magnitude of these employment impacts and the distribution of these impacts vary among the studies." Statement of Assistant Secretary of Labor, quoted in *Minimum Wage Legislation* (American Enterprise Institute, 1977), p. 14.

[6] See note 1 above.

[7] *Employment and Training Report of the President* (Government Printing Office, 1976), pp. 242, 243.

[8] *Minimum Wage Legislation*, p. 2.

[9] U.S. Department of Labor, Bureau of Labor Statistics, *Youth Unemployment and Minimum Wages*, Bulletin 1657 (Government Printing Office, 1970), p. 138.

[10] Ibid., p. 149, Table 10.1. It should be noted that the Netherlands did not have a minimum wage before 1966, so the entry in the table for 1960–64 is misleading.

[11] *Minimum Wage Legislation*, p. 15.

[12] Yale Brozen, "Minimum Wage Rates and Household Workers," *Journal of Law and Economics*, October 1962.

[13] Quoted in *Minimum Wage Legislation*, p. 14.

[14] George Macesich and Charles T. Stewart, Jr., "Recent Department of Labor Studies of Minimum Wage Effects," *Southern Economic Journal*, April 1960. See also Thomas Sowell, "The Shorter Work Week Controversy," *Industrial and Labor Relations Review*, January 1965.

[15] Numerous specific citations of Labor Department studies are listed in Sowell, *op. cit.*; 243.

[16] Representative Dent quoted in *Minimum Wage Legislation*, p. 10.

[17] Albert Rees, *The Economics of Work and Pay* (Harper & Row, 1973), pp. 75–78.

[18] Paul H. Douglas, *The Theory of Wages* (Augustus M. Kelley, 1964), p. 78.

[19] See Sowell, *op. cit.*, pp. 241–242.

[20] P. T. Bauer, "Regulated Wages in Underdeveloped Countries," *The Public Stake in Union Power*, ed. Philip D. Bradley (Univ. of Virginia Press, 1959), p. 346.

[21] *Ibid.*, p. 332.

THE INADEQUACY OF THE OPPOSITION'S ARGUMENTS AGAINST THE GENOCIDE CONVENTION SUGGESTS IMMEDIATE RATIFICATION

Mr. PROXMIRE. Mr. President, the Genocide Treaty has been debated several times since its introduction in 1948. This delay in ratification of a treaty which outlaws the extermination of human beings, a crime abhorred by all, is very perplexing to many. It is difficult to comprehend any objections to such a seemingly necessary treaty.

During May of this year, the Committee on Foreign Relations held extensive hearings on this treaty. At this time the Honorable Arthur J. Goldberg, on behalf of the ad hoc committee on the human rights and genocide treaties, summarized and refuted the arguments offered by the opposition to the convention. I urge the Senate, upon reading Mr. Goldberg's remarks, to realize there is no substantial argument remaining that has not been answered. With that realization, I believe the Senate will finally act to ratify this important pact.

Mr. President, I ask unanimous consent that a portion of the testimony presented by Mr. Goldberg be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Let me comment on the arguments that have been given particular prominence by the opponents of ratification:

1. The contention that the Constitution prevents ratification of the Genocide Convention because genocide is a "domestic" matter is without foundation.

It would be a curious result if the United States were constitutionally barred from ratifying a Convention already ratified by 75 other countries, including such friends and democracies as the United Kingdom, Canada, France, Mexico, the Scandinavian Countries and Israel. Fortunately, there is nothing in our Constitution that imposes such a unique disability upon us.

By any objective standard, genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention, and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared genocide to be a crime under international law in 1949 and that 75 members of the United Nations are parties to the Genocide Convention is further evidence that genocide can no longer be considered a matter wholly within domestic jurisdiction.

The protection of human rights is a matter of international concern. The United States has shown that it agrees with this view by ratifying the World War II peace treaties, the United Nations Charter, the Slavery Convention of 1926, and more recently the Supplementary Convention on Slavery (1967) and the Supplementary Convention on Refugees (1968). In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, chaired by retired Supreme Court Justice Tom C. Clark:

"Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." I agree with my former colleague, Justice Clark, that there is no real basis for challenging the authority of our country under our Constitution to enter into the Genocide Convention. The constitutional arguments against the Convention are indeed, as the committee said, anachronistic and without foundation in law.

2. The contention that the Genocide Convention would alter the balance of authority between the States and the Federal Government is unfounded.

The Constitution specifically gives Congress the power to "define and punish . . . offenses against the law of Nations." Genocide is an offense against the law of nations and is thus within the power of Congress to outlay. Moreover, as the ABA's Section on Individual Rights and Responsibilities said in its report:

"Ratification of the Convention will add no powers to those the Federal Government already possesses."

3. The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Vietnam on trumped-up charges of genocide is wholly false.

There is nothing in the Genocide Convention that would provide warrant for charges by North Vietnam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of genocide. As the Foreign Relations Committee pointed out in its report, Hanoi can make trumped up charges of genocide against our servicemen, with or without reference to the Genocide Convention. In the words of the committee:

"Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."

Moreover, under the Genocide Convention, extradition would only take place in accordance with laws and treaties in force, and we have no extradition treaties with North Vietnam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. Moreover, we do not grant extradition in any event unless a prima facie case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law.

In reading the testimony of the prior hearings I have noted the discussion of concurrent jurisdiction under the Convention—jurisdiction of the state of which the offender is a national as well as the state in which the offense of genocide occurs. I noted the concern expressed on this matter by the senior Senator from Kentucky, Senator Cooper. Any expression from Senator Cooper deserves serious attention, and I have given it the serious attention that it warrants. I found in my own review of the legislative history that there was an agreed interpretation by the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state. The Foreign Relations Committee reached the same conclusion in its report. Nevertheless, I commend the committee for meeting this concern by recommending an appropriate understanding on this point. I note further from the testimony of administration witnesses that the Government could refuse to extradite where an accused American was standing trial in the United States or where the U.S. Government elected to try him here.

4. The argument that ratification of the Genocide Convention would subject the U.S. Government to irresponsible charges of Genocide arising out of Vietnam or our treatment of American Negroes is without foundation.

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even without ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the United Nations. If anything, ratification would improve our position, because the Convention requires an "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such." The tragic events in Vietnam and the terrible loss of life, both military and civilian, that has occurred there do not meet the treaty definition. Charges of genocide in relation to the treatment of the Negro community in the United States, which admittedly has suffered widespread discrimination for many years, also are not within the scope of the treaty. Ratification of the Convention would, if anything, help us rebut such charges by subjecting our behavior to a precise legal definition of genocide.

5. The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally amendment and unreasonably limit our sovereignty is without substance.

This charge also lacks substance. The Connally amendment applies only to our acceptance of Article 36(2) of the Court's Statute, the so-called "optional clause" providing for compulsory jurisdiction across-the-board. Cases arising as a result of our adherence to the Genocide Convention would come under Article 36(1) of the Court's Statute, which covers the Court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court as is contained in the Genocide Convention.

Among such treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified just last year. A list of these treaties is contained on page 215 of this subcommittee's 1970 hearings. Indeed, our country in the ratification of many treaties has proposed that the International Court have jurisdiction over disputes. Interestingly enough, our efforts in this direction have frequently been frustrated by the Soviet Union, not Congress, whose members on numerous occasions have advocated increasing resort to the International Court.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of genocide against us considered in a judicial forum like the International Court, rather than more politically motivated forums. Of course, by this provision we do undertake a commitment limiting our freedom of action in a limited sphere, as do the other parties to the Convention. This exchange of commitment is inherent in any treaty to which we become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

6. The argument that various provisions in the Convention—"in whole or in part", "mental harm," "direct and public incitement to commit genocide"—are loosely drafted and potentially harmful to our interests is without foundation.

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the Convention itself and by the records of the negotiation.

Thus "in whole or in part" does not mean that the killing of a single individual becomes genocide. As the negotiating history makes clear, substantial numbers must be involved, and the acts of homicide must be joined by a common intent to destroy the group, for the definition of genocide to be satisfied. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.

"Mental harm," in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics, because mental harm becomes an element of genocide only when done with an intent to destroy a group. Moreover, as the negotiating history shows, it was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as from the forcible application of narcotic drugs.

"Direct and public incitement to commit genocide" does not cover constitutionally protected speech. It covers speech which calls for the commission of mass murder, which is actionable under our Constitution as in other countries.

As the Supreme Court declared in *Brandenburg* v. *Ohio*, 395 U.S. 444, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.*" (Emphasis added.) In any case, no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention will be interpreted in accordance with the first amendment.

In conclusion, I find the objections to ratification of the Genocide Convention without

substance. The reasons for ratification, as I suggested earlier, seem to me compelling. Some cynics doubt that the Genocide Convention really "matters". Some say it ranks at the bottom of our foreign policy priorities. Some even say it is "an exercise in futility".

I do not agree. We have heard this argument now for over twenty years. I believe the time has come to devote more of our energies and resources to the long-term task of constructing some kind of decent world order. Ratification of a convention outlawing the most blatant crime against humanity will not by itself provide the answer. But it is surely a good place to begin. It should be one of the foundations of the rule of law among nations—a rule of law which, in the long run, is the only assurance of lasting peace.

THE MYTH OF ARMS CONTROL

Mr. GOLDWATER. Mr. President, the press in the last 2 days has been filled with statements made by President Carter as to the nearness of arms control agreements with the Soviets. This is wishful thinking stretched to its most dangerous point. Frankly, there is no such thing as arms control, and it can never be effective if only two countries are involved. The Wall Street Journal has a very fine editorial entitled, "The Myth of Arms Control," which I think should be read by every Member. Therefore, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE MYTH OF ARMS CONTROL

When the first strategic arms agreement was concluded back in 1972, we wrote that for the Soviet Union, "the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building." And as that agreement expires today, we look back on five years of a steadily mounting Soviet threat.

During this period of arms control, the Soviet Union expanded its missile submarine force by more than 60%, surging to 909 missiles from 560 while the U.S. remained constant at 656. To facilitate this surge within the terms of the agreement, the Soviets have retired a few land-based missiles, dropping their total to 1,477 from 1,530, while the U.S. remained constant at 1,054. The Soviet long-range bomber force is counted at 135 today compared to 140 five years ago, while the U.S. force has dropped to 441 from 552.

Out of SALT-I, we got the retirement of 53 obsolete Soviet missiles. This is the price we received for agreeing not to exploit the lead in antimissile technology we held in 1972. Our ABMs have now been deactivated, while the Soviets retain the older system they have around Moscow, and have expanded fixed air-defense missiles to 12,000 from 10,000.

As the agreement expires, further, the Soviet momentum shows anything but signs of slackening. They have only started to replace their land-based missiles with a more modern generation with multiple warheads and high accuracy. Defense Secretary Brown recently revealed that they have already started to develop four even newer missiles as follow-ons for the generation now going on line.

In addition they are deploying the mobile SS–20, a modern ballistic missile with ranges that threaten our European allies. The SS–20 is the top two stages of the intercontinental SS–16 and could easily be upgraded into a mobile intercontinental missile. The Soviets have upgraded their conventional forces in Europe and their navy. They are steadily deploying their new Backfire bomber, insisting it is not a strategic weapon though it could reach the U.S. In any event, the Backfire is a potent threat to Europe.

The U.S. force shows nothing like the same across-the-board surge. Measured in constant dollars, the U.S. defense effort fell through most of the five-year period, and has only now started to revive. Still, its force was improved in significant ways during the interim agreement. The most important development was the introduction of more multiple warheads for both land and sea forces. This has allowed the U.S. to retain a sizeable lead, 11,000 to 3,800, in deliverable warheads. This advantage is so far only partly offset by the larger size of Soviet missiles and warheads, but it will shrink as multiple warheads are installed on more Soviet missiles.

The U.S. also retains several technological advantages. It continues to lead in warhead accuracy. It is building its new Trident submarine, though the B1 bomber has been killed. The U.S. is developing a new mobile intercontinental missile, the MX. Its most promising development is the subsonic but highly accurate cruise missile. The cruise missile will be needed if the U.S. bomber fleet ever has to penetrate the heavy Soviet air defense. It will be even more important as a tactical weapon, with either nuclear or conventional warheads. In particular, the cruise missile is the answer to the threat of the SS–20 and the Backfire in the European theater.

This, then, is the balance at the expiration of SALT-I's interim agreement on offensive weapons; the defensive treaty against ABMs goes on in perpetuity. However optimistically or pessimistically one judges the current balance, it is a balance struck by the fears and ambitions, resources and will, of the two sides. It is hard to discern where SALT-I made more than a marginal difference, except perhaps in delayng U.S. recognition of the true magnitude of the Soviet arms-building thrust.

This experience begs to be recognized as we negotiate in SALT-II. In retrospect, the 1972 negotiations are best seen as a Soviet drive to stop U.S. ABM technology. The negotiations today are best seen as a Soviet drive to stop U.S. cruise missile technology. If they can constrain cruise missiles through SALT, this affects the cost-benefit calculations for the entire cruise missile program. If the constraints are tight enough the entire program could die, as the ABM did, for budgetary reasons. If this ever happens, we had better get a lot more in return than 53 obsolete ICBMs. In the wake of President Carter's decision to kill the B1, the cruise missile weighs much heavier in the strategic balance. Beyond that, there are two particular problems with limiting it by treaty.

The first is the European theater. The cruise missile is the key to reinvigorating the NATO alliance, though other steps are also needed. Under the treaty the Soviets want, land-based cruise missiles would be limited to a range of 600 kilometers, and we could not circumvent this by selling the technology to our allies. But the SS–20 would not be limited, though its range is some 4,000 kilometers. Our allies' subsonic weapons could not reach Russia, though they will be under the guns of ballistic missiles based there. Are we then to ask them to do more for the joint NATO effort?

The second problem is the impossibility of detecting Soviet cheating on any cruise-missile limits. We have had enough trouble monitoring their behavior under the SALT–I treaty, which concerned large and mostly stationary objects. The cruise missile is small and mobile. Range limits are particularly ludicrous, since range essentially depends on how much gas you put in the tank. The Soviets have large numbers of cruise missiles already deployed, and there will be no way to tell if the crucial guidance technology is installed in them. If a treaty limits the cruise missile, the only safe assumption is that the Soviets will have the weapon and we will not.

Yet such a crippling treaty, to judge from our experience in watching these negotiations, is by no means out of the question. Indeed, our experience makes us especially nervous when we hear optimistic talk about SALT from a President who badly needs a foreign-policy spectacular to obscure domestic political reverses.

There is driving force, as well, in the myth that arms control is the only route to safety in a nuclear world. With the offensive-arms agreement expiring today, the world will be no more or less dangerous tomorrow. Safety is maintained by a stable military balance, which treaties can impede as well as enhance. As we read the lessons of SALT–I, a safe military balance will depend only marginally on negotiated agreements. With a treaty or without one, a safe balance will depend primarily on whether or not the U.S. has the will to step up its own defenses to offset the growth of Soviet arms.

TRIBUTE TO KENNETH BOUSQUET

Mr. STENNIS. Mr. President, I have been very saddened to hear that Mr. Kenneth Bousquet died in his sleep in Sun City, Ariz., early on Wednesday, October 5. Until his retirement 5 years ago he had been for many years a key staff member of the Senate Appropriations Committee.

Ken became the subcommittee clerk of the Public Works Appropriations Subcommittee when it was chaired by the late Senator Carl Hayden, Subsequently he served in turn under the late Senator Allen Ellender, and during the early part of my chairmanship. He rendered distinguished and outstanding service to the subcommittee and to the Senate. He was truly an expert in the fields of water resources and atomic energy, and was a dedicated and valued assistant to all of us on the Appropriations Committee.

After Ken's retirement from service with the Government he worked in private industry, and again retired this year. He and his wife Margaret moved to Arizona less than 2 months ago.

My deepest sympathy and every condolence is extended to Mrs. Bousquet and to their two sons, in their sudden and tragic loss of this fine man.

UNITED STATES-MIDDLE EAST POLICY

Mr. DANFORTH. Mr. President, it was with disbelief that I read this past weekend of the latest American position on the Middle East, issued as a joint United States-Soviet statement. The joint statement, together with Dr. Brzezinski's interview on Canadian television, indicates a shift in the administration's position which will impede the cause of peace in the Middle East.

Although I am disturbed by the joint statement as a whole and by the Brzezinski interview, three concerns deserve special comment.

First, I am concerned about what the administration means when it calls for "insuring the legitimate rights of the Palestinian people." We are told by the administration that Palestinian "rights" are no different from Palestinian "interests" which America has said in previous statements must be recognized. The ad-

ministration maintains the exact nature of what constitutes "legitimate rights" could be worked out at Geneva.

Such explanations may suffice among those uninformed about the subtleties of Middle East diplomacy, but to believe that such an explanation could possibly be accepted by the antagonists in the Middle East reflects sophomoric thinking by the Carter administration. We all know that the language of diplomacy often contains code words which have meanings far beyond their dictionary definition. Just as the phrase Palestinian "homeland" has a meaning critically different from Palestinian "entity," so Palestinian "rights" are in no way comparable to Palestinian "interests."

To the PLO the "legitimate rights of the Palestinian people" means their right to exercise sovereignty over the land of Israel. Most simply put, this innocent sounding phrase means, in the language of the Middle East, the destruction of the State of Israel. The use of these inflammatory code words can only harden the positions of both sides, undermine any voice of moderation, and further delay a peaceful resolution of the conflict.

Second, the October 1 statement conspicuously omits any reference to Resolutions 242 and 338. Until last weekend, the Carter administration had affirmed the policy of the prior administration that these resolutions formed the foundation for a peace settlement, and that any recognition of the PLO depended on PLO acceptance of these resolutions and recognition of Israel's right to exist.

All these references are conspicuously missing in the new statement, and their absence strengthens the position of the PLO. Instead of referring to 242's "secure and recognized boundaries" which, by implication, could be defended unilaterally by Israel, we now find that the security of borders is to depend on international guarantees, with the possible introduction of Soviet and American troops. Under this kind of arrangement, the United States and the Soviet Union would be embroiled in the Middle East affairs indefinitely. I do not believe that this is the path to peace. Prior to the bizarre joint statement issued this past weekend, I am unaware of any responsible party who has seriously advanced the possibility of dispatching American troops to the Middle East, much less troops of the Soviet Union. Such a possibility is, to me, unthinkable.

Finally, the United States-Soviet agreement gives the clear appearance of an attempt by the great powers to impose a settlement on the parties to the dispute. This is a contravention to our 1975 memorandum of agreement with the Government of Israel to consult fully with it. It is also a sudden and totally unexplained reversal of previous public statements made by President Carter. Dr. Brzezinski gave additional credence to the possibility of an imposed settlement when he stated Sunday on Canadian television that:

> The United States has a legitimate right to exercise its own leverage, peaceful and constructive, to obtain a settlement.

The role of the United States should not be to exercise leverage for the purpose of imposing a settlement on our ally, Israel. Rather our steady support for Israel should provide the basis for a durable peace. Previous commitments aside, I would hope that history has taught the administration that imposed settlements cannot achieve a true and lasting peace—not when the causes of a conflict are rooted deeply in cultural and religious differences—and not when either side views the externally contrived "solution" not to be in its long-term interests.

Mr. President, this year has seen a dramatic change in the U.S. commitment to South Korea and a diminution in our commitment to the Republic of China. Now, as the administration has determined to play super power politics with the Russians, our commitment to Israel appears to be weakening.

In August 1976, candidate Carter said:

> One of the things that has aggravated the Mideast situation is the uncertainty lately about where our nation stands that makes the leaders of Israel and the people of Israel uneasy and that builds up false hopes in those countries that are probing for weaknesses in Israel or weaknesses in our commitment to Israel.

At best, this administration's policies are guilty of these charges. At worst, the hopes building in the Arab countries are not false. In either case, the position of this administration is wrong and invites disaster in the Middle East.

TASK FORCE ON HOUSING COSTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him on the convening of a Task Force on Housing Costs, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

I am pleased to advise my colleagues that on October 5th and 6th a Task Force on Housing Costs, appointed by Secretary Patricia Harris, will be convened at the Department of Housing and Urban Development. Secretary Harris has asked the Task Force, whose membership includes experts in a wide variety of housing-related fields, to recommend to her ways in which the Federal Government, particularly HUD, might act to reduce the cost of new housing to the consumer. Certainly the need for such an analysis is long overdue.

We are all painfully aware that housing costs have been escalating so fast in recent years that the goal of owning a home is now beyond the reach of an ever-increasing number of American families. The phenomenon is one that affects potential home buyers in many income brackets. Thus, wide segments of our constituencies are finding it increasingly difficult to afford the kinds of homes they could have purchased only a few years ago. Fortune magazine reported that in 1950, 70 percent of American families could afford the median priced new home; in 1975, the percentage had dropped to 40 percent. Time magazine reports the MIT-Harvard Joint Center for Urban Studies finding that the monthly cost of owning a new home has increased 102.3 percent since 1970, while median family income has increased only 47 percent in the same period.

Rising construction costs have placed a similar burden on apartment dwellers. The attainment of the goal of a decent, safe, and sanitary dwelling for all Americans is rapidly being impeded by the high cost attached to its achievement. Middle income residents who can no longer afford to purchase a home may soon find they can neither afford to move to a new apartment. Low income residents will find fewer subsidized units available as the higher costs of production will ensure a diminishing number of such units.

In recent decades, the Federal Government has consistently pursued a policy of encouraging home ownership through the adoption of a variety of measures such as tax incentives and mortgage insurance programs. These efforts have been successful in enabling a greater percentage of families in America to own homes than in any other nation in the world. The Federal Government has also provided housing subsidies to permit senior citizens and other lower income individuals to live with dignity in decent housing. Present circumstances threaten to thwart this established policy. I therefore believe the Federal Government has an obligation to assist in reversing this trend.

The factors responsible for the rising cost of new housing are varied and complex. We must seek to understand them. We must also recognize that it may not be possible for the Government to control some, while controlling others may threaten to undermine competing public policy objectives, such as the preservation of the environment. The solution will be no simpler than the problem, but this is no excuse for evading it. It is for this reason that the comprehensive approach contemplated by Task Force Chairman William J. White, HUD's General Manager of the New Community Development Corporation, is so appropriate.

Recognizing that the first task of government at every level is to assure that its own actions do not contribute unnecessarily to the price its constituents must pay for housing, Mr. White formed a working group of HUD officials to prepare a report for the Task Force's consideration focusing on Federal, State and local government regulations—such as environmental reviews, building codes, zoning restrictions, and FHA processing requirements—which affect the production and cost of new housing.

The second task will be to identify ways in which the government can encourage the private producers of housing to reduce their own costs and to pass these savings along to the consumer. As the first step in this effort, Secretary Harris has asked that the reasons for the skyrocketing costs of lumber and insulation be investigated. The input of Task Force members from the private sector should prove to be of great assistance in devising ways to cope with the rising costs of these and the other component commodities employed in housing construction.

The Task Force faces a difficult assignment indeed, and it may be years before its efforts will have an impact on the housing market. Nonetheless, its creation represents the first necessary step the Federal Government must take if it is to hope to exert some control on the rising cost of housing. The Secretary of the Department of Housing and Urban Development is to be commended for her leadership in this endeavor. I am confident that the Task Force under the competent direction of Mr. White will prove to be of great assistance to all concerned with combating the rising costs of housing.

SOVIET CIVIL DEFENSE

Mr. HATCH. Mr. President, in today's world everything that we do or every Soviet action attracts some amount of attention. It has become common knowledge in recent years that the Soviet Union has placed more and more emphasis on civil defense. Under the lead-

ership of Deputy Minister of Defense, Colonel General Alexander Attunin, the Soviet Civil Defense system has reached its peak. Immediately after World War II, the Soviets began an intensive program to protect civilian, military, and industrial centers. The Soviet Union has established a series of civil defense training centers in each of its major cities. These centers conduct intensive training to insure the survivability of the working people so that the Soviet industrial capacity will not be destroyed in time of war. Every major factory is now equipped with a giant underground shelter that will withstand the attack of nuclear weapons. Every new civilian apartment house is being built with a shelter underneath the building. This will protect much of the Soviet working force.

The people in the Soviet Union accept this as their way of life. Here in the United States we have tended to push aside the thought of nuclear attack. It has been over 150 years since the British brought warfare to the United States on its home soil. All of the succeeding wars in the world have been fought on foreign ground. Yes, the United States has fought in World War I and II, the Korean war, and even the Vietnam war, but we sent our troops abroad to fight. After World War II the United States had the advantage of being the only nation with the capability of carrying out atomic warfare. With the development of the B–36, the world's first intercontinental bomber, the United States had the ability to inflict total destruction upon any nation which it saw as an aggressor upon the security of our borders. Then Secretary of State John Foster Dulles, under the direction of President Eisenhower, stated that the United States would rely on a new strategic doctrine which would base, in an unprecedented degree, the Nation's security on a single weapon, the nuclear deterrent. This doctrine became known as "massive retaliation."

This approach by the United States prompted the Soviet Union to step up its civil defense and nuclear development programs. In 1957, just 20 years ago this week, the bubble of security of the United States was exploded. The Soviet Union launched Sputnik and served notice that it now had the capabilty to threaten the very heartland of America. The reaction in this country was one of panic followed by a wave of construction of residential bomb shelters. Gradually the scare diminished as we went from the cold war to the age of détente. Bomb shelters became playhouses for the kids, and the supplies in public civil defense shelters throughout the United States were stolen or ruined by neglect and improper storage.

In the Soviet Union, the civil defense program continued. The people there could not forget the horrors of the German blitzkrieg in World War II. When the Soviet Government ordered its citizens to prepare to endure warfare at any time, the people understood all too well. The Soviet population had grown up in a much rougher political climate than their counterparts in the United States. Many older Russians remembered the Communist Revolution of 1917 and even further back to the time of the Czars. They continued preparations for surviving an attack and today the Soviets have the world's most complete civil defense system. Our SALT negotiators must realize that the Soviet Union is ready to go to war at any time and if the Soviets feel that an advantage can be gained in talks with the United States by threatening war, they will do so. This Nation must take a tougher stand in the current SALT talks and at the same time make a strong effort to improve our own civil defense. I recently read an article that discusses this matter in detail in the October edition of the Air Force magazine. The article, entitled "Soviet Civil Defense and U.S. Strategy," by Thomas H. Etzold, professor of strategy at the U.S. Naval War College, raises some vital and interesting questions. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET CIVIL DEFENSE AND U.S. STRATEGY

(By Thomas H. Etzold)

Recently, Soviet civil defense and war survival programs have seemed fundamentally to threaten the strategies intended to ensure the security of the United States. Mutual assured destruction and associated ideas about the "sufficiency" of strategic nuclear forces in an era of parity have depended on the idea that, without terminal defenses against ballistic trajectory weapons, the citizens of the United States and the Soviet Union would be hostages, a situation that would enhance mutual deterrence. Yet, Russian developments in civil defense, as outlined in the February '77 issue of Air Force Magazine, have raised the disturbing possibility that soon only Western populations may be sufficiently vulnerable to deter their governments from effective political-military pursuit of national interests.

Indeed, Russian war survival measures have assumed impressive dimensions. The Soviet government has begun civil defense training for much of the population, and it has continued to train and equip troops for nuclear, biological, and chemical warfare. There are special "civil defense troops" and a civil defense academy in the Soviet military. The Russians are dispersing industry and hardening industrial and military sites including command, communications, and missile installations; they are storing grain; and they are endeavoring to protect high government officials and significant numbers of workers through a program of shelter building and city evacuation planning.

In the context of the Russian civil defense effort, three questions require attention. There is first the question of what problems Russian civil defense may raise for American strategy. Second, there is the deceptively difficult question of just what these programs may mean. And, finally, there is the immediate question of how the U.S. should respond to Soviet activities in this field.

THE PROBLEMS FOR AMERICAN STRATEGY

Most commentators on Soviet civil defense have concentrated on the problems it may pose for Western strategy. Three types of difficulties are evident. One relates to general nuclear war, a second to limited strategic options, and a third to ordinary political intercourse, sometimes known as diplomacy.

The implications of Soviet civil defense have been most alarming to observers who consider the possibility of full-scale nuclear war. Analysts cited in this magazine in February concluded that, as a result of civil defense measures, only about four percent of the Soviet population would perish from blast, fire, and initial radiation, vs. forty percent or more in the West. Similarly, these analysts estimated that the Soviet Union might be able to recover from nuclear war in two to four years, or three to six times faster than the U.S. They have reasoned that the United States is losing the ability to destroy the percentages of Soviet population and industry long thought necessary to deter Soviet leaders from initiating nuclear war or other major aggression. Coupled with the widespread misgivings about détente and trends in the overall strategic arms relationship, Soviet war survival measures have seemed palpably to menace American security.

However, the reasons for anxiety about Soviet civil defense in relation to a strategic nuclear exchange should be offset to some extent by several factors. One little-known fact or bearing on the problem is that in recent years plans for employing American strategic nuclear forces have not envisioned the kind of one-time strike usually used as the basis for calculating casualties and damage. As Gen. Maxwell Taylor has noted in his book, *Precarious Security* (W. W. Norton, New York, N.Y., 1976), in recent US strategy, assured destruction capability has meant the ability to kill X percent of the Soviet population and destroy X percent of Soviet industry *X times at intervals*. If general nuclear war should come, the Soviet Union would have to expect to be attacked on an assured destruction scale several times and at intervals varying from a few weeks to several months.

In succeeding strikes, due to reduced warning and political direction, depletion of emergency stocks, and damage to transportation and other facilities, the consequences of follow-on strikes would be severe. The more the Soviets concentrated population to begin reconstruction in the aftermath of a first or second phase of attack, the more effective further attacks would be. The more they dispersed to avoid such consequences, the slower recovery would go forward. In addition to the effects of concussion, firestorm, and radiation, there would be the incalculable toils of disease, infirmity, and disruption of complex communal life. There might also be unexpected consequences from the selfishness and violence that the initial survivors of holocaust could be expected to display.

In short, estimates of Soviet casualties and damage have been based on inadequate appreciation of American targeting doctrine and its implications. Understandably, Secretary of Defense Harold Brown has expressed confidence that Soviet civil defense efforts are insufficient to blunt significantly the effects of general nuclear attack by the United States.

The second strategic problem facing the US in connection with Soviet civil defense programs grows out of contemporary scenarios concerning crisis bargaining, coercion, and the attractiveness of possessing, perhaps using, limited strategic options. In the Nixon-Schlesinger years, officials argued that the absence of limited strike options eroded the credibility of American strategic deterrence, because it left a too-wide gap between all-out war and doing nothing in the face of limited attack or provocation.

Those concerned over the effects of Soviet civil defense have suggested that because the Soviets have dispersed and hardened industrial and military targets as well as increased the numbers of launchers and associated facilities, the effects of a limited strike would be trivial, and therefore, acceptable to the Soviet Union. But, because of the collocation of American military installations and cities,

and due to the lack of hardening and population protection measures, similar limited attacks on the United States would produce results by no means trivial or acceptable.

Further, in this view, the growing Soviet capability to evacuate and/or shelter the populations of major cities strengthens Russian immunity to the threat of a limited strike, say, against one or two cities. To trade New York for Moscow, or St. Louis for Leningrad, never seemed a happy prospect. Now, so the argument goes, in addition to being a catastrophe it may be a bad trade.

In the case of limited option strategy, as in that of general nuclear war, there are countervailing considerations. One is that the effects of using nuclear weapons have always been presumed to be both psychological and physical. There is a correlation between the two, to be sure; but it is probably not an exact correlation. This point is important because the leadership of the Soviet Union is uniquely sensitive—even vulnerable—to internal disruptions. It fears challenges to authority and potential losses of control even in the most minor contexts, as the interesting and pronounced reaction to recent explosions in the Moscow subway demonstrated. The detonation of a nuclear device on or over Soviet territory would pose an enormous hazard to the political stability of Soviet leadership, and is, therefore, something they would want to avoid.

Even more important in keeping the limited options open, however, are such easily available technological alternatives as dedicating a specific, small portion of US strategic forces to limited strike operations and fitting them with dirty warheads, or perhaps employing ground-burst weapons in limited strike situations. Indeed, there are many alternatives available to ensure that the consequences even of limited strike will not seem trivial to Soviet leaders.

The third category of strategic problem, that of ordinary political intercourse, may seem both out of place in this discussion of strategy and relatively minor by comparison with the foregoing two topics. But it is neither mislocated nor of small concern. Both general nuclear war and limited strike operations remain remote, though unpleasantly real, possibilities. In contrast, the difficulty of pursuing national interests in more or less peaceful competition with the Soviet Union is a daily problem, and it is a problem of strategy as well as of diplomacy. For the weight of a state's views has always depended in large measure on its ability to compel agreement. It may be true that, as the great diplomat Francois de Callieres wrote nearly 400 years ago, "Every Christian prince must take as his chief maxim not to employ arms to support or vindicate his rights until he has employed and exhausted the way of reason and of persuasion." It is no less true, in George Kennan's words, that "You have no idea how much it contributes to the general politeness and pleasantness of diplomacy when you have a little quiet armed force in the background."

The argument with regard to ongoing political relations is that if the Soviets believe they possess genuine capability to survive nuclear war, and if correspondingly they feel less than deterred, they may become politically more assertive, more willing to run risks. The result might then be many more of those individually marginal but cumulatively costly Soviet gains so typical of the cold war in the 1950s and 1960s. Of this possibility, more later.

WHAT THE RUSSIAN PROGRAMS MAY MEAN

The purpose of introducing this category of questions is to raise doubts, not to provide answers. As noted above, most American comment on Soviet civil defense programs has—perhaps rightly—focused on the problems of strategy. However, the unfortunate side effect of this focus has been the emergence of an unproven but widening conviction that the Soviets intend principally to affect the East-West strategic relationship, to bring opportunities and direct gains to themselves, and that, therefore, Russian civil defense immediately threatens the West.

As a result of the conviction mentioned above, too few questions about the Soviet effort are coming up for discussion. Many of the undiscussed issues are of pressing relevance to strategic circumstances. Is, for instance, the Soviet civil defense effort in fact an indication of Russian intention to "go to the brink" from time to time, and so to intimidate the West into concession? Or are war survival programs evidence of Russian pessimism regarding the ability of the powers to avoid nuclear war sometime in the future, no matter how hard they may try to do so? Is it a sign of concern over Western intentions, or over Chinese? To what extent is it related to Russian perception of the hazards of nuclear proliferation?

There is another extremely important set of questions. Is it possible that the Russian civil defense programs are more internal than external in their origins and implications? Could they be the result of bureaucratic politicking, as are many of our most costly and visible programs? Could they be designed to give the leadership enhanced control over the population, or the population increased dependence on and confidence in the leadership? Is the dispersal of industry a sign of Russian determination to complicate Western targeting, or is it merely a normal accompaniment to the development of Russia's still-primitive internal transportation system? Are grain stockpiles accumulated to anticipate holocaust, or are they a way of explaining perennial agricultural shortages and, possibly, hedging against price fluctuations in world commodities markets?

So far, the foregoing questions have received inadequate public attention. All of them, however, deserve careful analysis before one reaches conclusions on the meaning, implications, and requirements of Soviet civil defense for the West.

HOW THE UNITED STATES SHOULD RESPOND

With the issues of strategy and the possible meaning—or meanings—of Russian civil defense efforts clearly in view, what should the United States do in response to Soviet programs? An answer here must comprise three elements: one practical, one doctrinal, and one political, and in that order of importance.

First the practical element. As the editors of this magazine suggested in February, the U.S. should immediately augment its present meager efforts in civil defense. It is evident that the United States is not going to devote resources to such programs in amounts anything like those the Soviet Union has spent in recent years, and that the U.S. cannot really expect to attain equivalency in this area soon, if ever. Indeed, there is no reason to believe that equivalency in such measures is necessary either to stable deterrence or to adequate freedom of decision in political matters. There is, however, reason to think that both friends and enemies would consider increased attention to civil defense an indication that this country was determined to hold its own in working out inevitable conflicts of interest with the Soviet Union.

It is possible that, with further study, the U.S. could determine how to derive the most immediate benefits from moderate increases in civil defense spending. In practice, this would probably mean that protection of high government leaders, military communications and command facilities, and some additional strike forces or other military installations would take precedence over civilian shelter plans. In the short run, to be sure, this would be impressive to enemies, and, if adequately explained, tolerable to the American people.

Second, the doctrinal element. It is essential here to keep in mind that definitions of strategic sufficiency have always been arbitrary. There is no magic attached to such figures as the traditional requirement of killing twenty-five percent of Soviet population and destroying fifty percent of Soviet industry to achieve mutual assured destruction and thereby deter the Russians. Such figures were originally the result of "flat of the curve" reasoning; that is, they were the figures at which force planers of the early 1960s ran out of targets substantial enough to result in significant additional increments of damage. Forces then were sized to achieve redundancy for the sake of reliability as well as for the phased-attack plans mentioned above.

There is no evidence that the leaders of the Soviet Union are willing to risk casualties and damage in a nuclear exchange, even at much lower levels than the twenty-five to fifty percent formula. On the contrary, they give every evidence of fearing nuclear war and desiring to avoid it. As the New York *Times* noted in May 1977, the present Administration believes that the goals of mutual assured destruction, even as modified during the tenure of James Schlesinger as Secretary of Defense, were not only abstract and arbitrary, but imprecise.

Deterrence does not depend on equal security for each side, but on unacceptable insecurity for both. Increasingly, recent studies have pointed to the low level of nuclear damage either side may be willing to tolerate rather than to the high level of risk and sacrifice each may accept.

Finally, the political element, the most important of all. Here I return to the difficulties of the third category of strategic prolem, that occurring in the context of ordinary political intercourse and relating to the Soviets' potential as aggressive risk-takers.

It is essential to recognize that the more the U.S. makes of Soviet civil defense, the more political advantage it forfeits. By exaggerating the real threats and strategic challenges posed by these developments, Americans run the risk of talking themselves into weakness of will, and in that sense of doing the Soviets' work for them. As argued here, Russian civil defense is virtually without strategic meaning in terms of the actual difficulties raised in the event of general nuclear war; and the difficulties of the limited strategic options scenarios are relatively simple to overcome. But Russian efforts are politically meaningful if the United States scares itself and its friends to the point that if shows political timidity or weakness in bargaining.

The immediate response required of the U.S. by Russian civil defense and war survival measures is not to scurry about in frantic or futile attempts to redress the balance of capabilities, even if some gestures toward improved civil defense should be made for psychological reasons. Instead, the immediate requirement is to affirm that deterrence works. This country possesses adequate strategic systems today. The United States government and the American people ought, therefore, to behave with the confidence that, for the present, the Russians are fully as deterred as we are. They ought also to keep in mind that the continuation of mutual deterrence will depend on the coherence of the relationship between strategic systems and strategic doctrine. Both will require improvement in the coming years.

BLACK VOTING POWER

Mr. BAYH. Mr. President, some of our Nation's black leaders have expressed concern with my proposed constitutional amendment which would provide for the

direct election of both the President and Vice President of the United States. Their concerns are predicated on the hypothesis that minorities will be the biggest losers in the transition to direct election. This hypothesis, which I might add is totally untested, is an offspring of the premise that large urban areas elect Presidents because such areas are located in States with substantially large electoral votes. A second premise is that since a large proportion of the black population live in such areas, their vote, therefore, is often instrumental in the election of the President. Thus, it is argued if our system adopts the direct election in lieu of the electoral college, the minorities in the urban areas will sacrifice their relatively advantageous position in the electoral process for a much less position.

Mr. President, such is not the case. There is a growing body of research which indicates that, first, blacks do not enjoy an electoral advantage under the present system, and second, blacks will in fact be the losers if we keep the present system.

One reporter who has taken the time to logically examine the voting power of blacks within the electoral college is Tom Wicker. Because Mr. Wicker has presented a very coherent article on the question of black voting power within the electoral college, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

BLACK VOTING POWER

(By Tom Wicker)

Politically concerned blacks have usually opposed abolition of the Electoral College and the substitution of direct popular voting in Presidential elections. But now that the Senate Judiciary Committee has approved a constitutional amendment to that effect, black leaders owe it to their constituents at least to re-examine their position.

When Vernon Jordan, executive director of the Urban League, criticized President Carter last summer for paying too little attention to the needs of blacks, for example, one of his specific targets was Mr. Carter's support for abolishing the Electoral College. Mr. Jordan's position was amplified, as follows, in later testimony to a Senate subcommittee by Eddie N. Williams of the Joint Center for Political Studies:

"Blacks are ten percent of the national electorate; they are strategically concentrated in the metropolitan areas of key states with large numbers of electoral votes; historically they have tended to vote as a block; and they are widely regarded as being able to wield a balance of power in close elections in key states."

That view apparently was reinforced by last year's election, in which the Joint Center calculated that black voters were directly responsible for Carter victories in Ohio, Pennsylvania, Missouri, Texas, Louisiana, Mississippi and Maryland—more than enough states to account for Mr. Carter's slender 297-to-241 electoral-vote margin.

But that leaves out of account the fact that Mr. Carter lost Illinois, in which he had heavy black support, as well as Michigan, Indiana and Virginia, in each of which more than 90 percent of black voters supported Mr. Carter. The winner-take-all effect of the Electoral College nullified every one of those black votes; and it greatly diminished the electoral significance of hundreds of thousands more in states Mr. Carter won by wide margins (he'd have gotten the same number of electoral votes with a popular plurality of one vote).

Mr. Carter won the popular vote, moreover, by about 1.7 million votes. Therefore, it would have taken a switch to Gerald Ford of about 850,000 non-black votes to change the popular outcome. But just 9,245 non-black votes switching from Mr. Carter to Mr. Ford in Ohio and Hawaii would have given Mr. Ford an Electoral College victory, while hardly changing the popular-vote totals. What would all those black votes for Jimmy Carter—nearly six million—have been worth in that event?

Besides, since Senator John F. Kennedy defended the Electoral College in the 1950's on the ground that it increased the importance of minority voting, more sophisticated statistical studies have been made possible by computer techniques and game theory. They show as conclusively as statistics ever do that blacks actually are disadvantaged by the Electoral College and that suburbanites—who are mostly white—benefit most from electoral voting.

Lawrence D. Longley of Lawrence University has shown, for example, that only the six largest states are given added voting power by the Electoral College, with the others suffering from it; a California resident, for example, had 2,546 times as much potential for determining the outcome of the Carter-Ford race as a citizen of the most disadvantaged Electoral unit, the District of Columbia.

But only 37.1 percent of the black population lives in those six largest states. On the other hand, states where the percentage of blacks is higher than their percentage of the national population are generally Southern states where voters are most disadvantaged by electoral voting.

Working from such figures, Mr. Longley and a colleague, John H. Yunker, calculate that a black voter on the average has 2.4 percent *less* voting power in the Electoral College than the average American voter. And in a separate, unpublished study, Douglas H. Blair of the University of Pennsylvania also concluded that suburban whites consistently had the most weight in electoral voting, while blacks, were among the most disadvantaged groups.

The outlook now is for Senate and House debate on the Electoral College amendment to be delayed until next year, when there will be time to outlast the expected filibuster. Numerous other arguments will be made against the change; but as for black voting strength, much evidence appears to confound the old assumption. As Professor Blair put it in a letter to me, abolition of the Electoral College actually "would largely benefit those social groups now relatively deprived of both political and economic power in American society."

VIOLATION OF HUMAN RIGHTS IN LITHUANIA

Mr. HEINZ. Mr. President, in August, Soviet authorities arrested Lithuanian human rights activists, Viktoras Petkus and Antanas Terleckas in Vilnius, the Capital of Lithuania. Petkus is a member of a Lithuanian group to promote observance of the Helsinki agreements of the U.S.S.R. The aim of the group is to promote the observance and fulfillment of the humanitarian articles of the Final Act of the Conference on Security and Cooperation in Europe. The group concentrates on those articles which relate to human rights and basic freedoms, including freedom of thought, conscience, religion, and belief. It also seeks to obtain adherence to the agreement's protecting free contact between people in cases such as the reunification of families, meetings with relatives, residence in other countries. Terleckas is a longtime dissident—having been already imprisoned three times—the first time when he was only 17 for supposed participation in an anti-Soviet partisan group by the KGB.

In the spirit of the Helsinki accord, we all must vigorously protect such a gross injustice. This incident is just one in a long history of continuing disregard for human rights by the Soviets. The arrest of Viktoras Petkus and Antanas Terleckas is illustrative of the tragedy of the suppression of freedom of Lithuanians by the Soviet authorities.

Despite continued oppression, the dream of freedom still lives on in the hearts and minds of Lithuanians now living under Soviet rule, and in the hearts and minds of the over 1 million people of Lithuanian heritage now living in the United States. This constant reminder of the sustained struggle for freedom in Lithuania serves as an inspiration for all people.

We cannot remain silent—to do so would be to ignore our obligation to the Helsinki accords and to those struggling toward the realization of the dream of freedom. Because the arrest of Petkus and Terleckas is a violation of the Helsinki accord, we must protest this action by the Soviet Government.

LABOR REFORM ACT OF 1977

Mr. HATCH. Mr. President, at this moment the House is engaged in debating the Labor Reform Act of 1977 under a very restrictive rule which prohibits amendments to any section of the Taft-Hartley Act not included within the scope of H.R. 8410. It is indeed unfortunate that the rule as adopted will foreclose the opportunity to offer many of the provisions contained in H.R. 8310 and its counterpart S. 1855, the Employee Bill of Rights, which I and Senator TOWER have introduced in the Senate.

For the information of my colleagues, the Labor Subcommittee of the Human Resources Committee has commenced hearings on labor law reform and the hearing process will be continuing after the Senate recesses this session.

The entire subject of labor reform encompasses many technical issues which only labor lawyers seem to understand. One thing comes through loud and clear in our committee deliberations—labor reform is a subject which requires extensive education and study to really determine the impact of the changes proposed by S. 1883, the Labor Reform Act of 1977.

As evidence of what I am saying I refer my colleagues to the first editorial published in the Chicago Tribune on the labor reform bill. The tenor of that article was to support certain of the proposed changes called for in S. 1883 because they struck the editorial staff as fair. The text of that article will appear following the conclusion of my remarks.

A recent and more telling editorial dated October 4, 1977, clarifies the paper's position and announces support

for many of the provisions of my bill and opposition to many of the reprehensible features of S. 1883. A quote from the editorial that I believe summarizes the heart of the paper's apparent "about-face" is:

If in some instances unions deserve some protection against employer power, union members themselevs clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

The object lesson is, Mr. President, that with adequate study and reflection, people of reasonable objectivity can filter out what is, or is not, in the public interest. I trust this will be a subject where we can learn a lesson from the Chicago Tribune.

I ask unanimous consent that the text of the two Chicago Tribune editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

IN FAIRNESS TO LABOR

As powerful as organized labor has become, it still has some problems when, in striving for collective bargaining, it bumps heads with employers. The National Labor Relations Board, for example, has no time limit to force an election; this enables some employers to stall for up to a year with legal challenges to the validity of employe authorization cards.

The White House is expected to support compromise legislation to be introduced by Sen. Harrison Williams and Rep. Frank Thompson, both pro-labor Democrats from New Jersey. One provision would require such union-representation elections in small, uncontested cases within 15 days. For large, contested cases, the NLRB would have to act within 75 days. That would seem to give either side reasonable time to exercise its rights adequately. But because legitimate disputes in this area are complex, a limit of anything less than 2½ months would be unfair.

Another organizing problem for labor is that employers can fire key workers for engaging in union activities and thus intimidate other employes. Although such firings are illegal, the severest penalty now is likely to be the payment of back wages. Labor originally wished to triple the penalty. But that would probably produce a flurry of triple-pay suits regardless of merit.

It would also unduly inhibit employers from firing incompetent workers who might claim that they were being fired for union activism. Even the bill's compromise proposal to double back wages would be inhibiting, but to a lesser degree, while striking what seems to us as a fair balance between the rights of employers and employes.

The bill's proposal to help speed up cases by increasing NLRB membership to seven from its current five should benefit both sides, which is more than we can say for the notion of having "routine" appeals from NLRB hearing officers' ruling decided by only two board members. Appellants may not consider their cases any more routine than persons who appeal civil or criminal disputes to the Supreme Court, where having two justices out of nine decide would be more like legal lottery than constitutional review.

Automatic enforcement of NLRB decisions unless an appeal is filed within 30 days of an order, as proposed by the bill, also seems to be a way to expedite decisions without unduly restricting the ability of either side to respond.

More dangerous is the proposal to deny U.S. government contracts to employers who "willfully" violate labor laws.

This would do more than redressing a possibly legitimate grievance. It would tend to discourage employers from lifting a finger against intolerable employe actions for fear of losing the case before the NLRB and the courts and therefore of losing federal contracts upon which the livelihood of employers and workers alike may depend. That would represent the kind of unhealthy shift in balance between employers and employes that has got both sides into trouble in the sagging economies of other industrial nations.

We support certain of these proposed changes because they strike us as fair. If there has been an agreement whereby the Carter administration will support the Williams-Thompson proposals in exchange for labor's abandonment of its more obnoxious proposals such as prohibiting state right-to-work laws, good enough; many of these proposals remain what they always have been—monopolistic special interest schemes that penalize the average worker as well as the consumer.

THE LABOR REFORM BILL

Since expressing some sympathy two months ago for the labor law reforms proposed by the unions and endorsed by the administration, we have been overwhelmed by the affection of new-found friends in organized labor.

The truth is that our editorial "In fairness to labor" was considerably less than a profession of undying and unconditional support for the bill now before the House Rules Committee. So before this affair gets out of hand, and before the committee sends the bill to the House floor in a form which makes amendments difficult, as the AFL-CIO would like, let us repeat and emphasize what it is that we support about the bill and what we oppose.

What we support is the effort to make sure that our labor laws succeed in their proper purpose, namely to enable employes to form or join a union when it is clear that a majority want to do so, and to make sure that the employer deals with that union in good faith and without undue delay.

There have been too many instances in which organizing efforts have become bogged down in the obstructionist tactics of employers and their lawyers. The proposed bill, H.R. 8410, would generally require that union elections be held within 15 days, 45 days, or 75 days of the receipt of a petition by the National Labor Relations Board, depending on the nature of the case and the decision of the NLRB. For contested cases, we said in our earlier editorial and repeat here, 75 days is a fair maximum. Fifteen days is too short a period to enable both sides to present their respective cases—which is in itself a professed goal of the bill.

One unacceptable section would temporarily deny U.S. government contracts to employers who "willfully" violate labor laws. As we've said before, that would do more than redress a possibly legitimate grievance. It would, in fact, discourage employers from legitimately moving against intolerable employe actions for fear of losing the case before the National Labor Relations Board and the courts. The resultant loss of federal contracts, upon which the livelihood of employers and employes alike may depend, would mean that a punitive element had been introduced into U.S. labor law never intended to be there. Established unions, often already too powerful, would have their powers still further enhanced.

Another pseudo-reform that should be deleted from H.R. 8410 would, in effect, empower the NLRB to write a labor-management contract spelling out what the parties would have agreed to if they had completed negotiations. The idea is to assure financial relief for employes victimized by an employer's refusal to bargain. Such employer delaying tactics are more properly addressed by the traditional weapon that keeps the issue between the contracting parties and doesn't invite in Big Brother. That weapon is the strike.

Another employer-opposed provision would double the allowable penalty against employers who fire key workers for engaging in union activities. The severest penalty now is likely to be merely the payment of back wages. Labor originally wished to triple that penalty but accepted doubling it as a compromise. This strikes us as fair to both sides.

H.R. 8410 has, nevertheless, enough major imperfections to warrant its death in the House unless they are amended out of it. Among the measures that deserve inclusion, furthermore, are some of those in H.R. 8310, sponsored by Rep. John Erlenborn [R., Ill.] and in a similar Senate bill. These would guarantee secret-ballot union elections, limiting the fines unions themselves can levy against their members, and the judicial enforcement of no-strike clauses. If in some instances unions deserve some protection against employer power, union members themselves clearly deserve protection from the power of union leadership—a notion that lies at the very heart of industrial democracy.

NEW McCLELLAN COMMITTEE IS NEEDED

Mr. GRIFFIN. Mr. President, for several years, I have urged my Senate colleagues to reestablish a select committee to investigate abuses in the labor-management field, similar to the McClellan Committee of the 1950's.

Unfortunately, the Senate has taken no action on my proposal, (S. Res. 89) but the instances of corruption and abuse continue to increase.

Recently an article appeared on the front page of the September 14 issue of the Wall Street Journal which poignantly illustrates the situation. In that article Jonathan Kwitny and James Carberry report that, aided by some labor unions, the Mob has lifted millions of dollars from New Jersey banks. As a result of these developments four banks have folded.

I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIDED BY SOME UNIONS, THE MOB LIFTS MILLIONS AT NEW JERSEY BANKS

(By Jonathan Kwitny and James Carberry)

Back in the 1960s, Mafia big shots like Little Pussy Russo and Bayonne Joe Zicarelli used the influence of their allies in politics to help get millions of dollars in loans from major New Jersey banks to finance their shady enterprises and freewheeling life styles.

Now, after a series of anti-corruption prosecutions in the state during the 1970s, many of those political allies are out of office. So the Mob has come up with a new method for breaking the banks in New Jersey, And it has been working like the key to the mint.

The new method exploits the continuing power of one group of Mafia allies whom the anti-corruption prosecutions didn't touch: leaders of at least two big unions in the state, the Teamsters and the Retail Store Employees. It also exploits a state banking law passed in 1969. The legislation made it more profitable to start a bank, and thus

it has produced a plethora of new, small banks whose officers are drooling for a few heavy depositors who can launch them into the big time.

What happens is this: A union leader approaches a fledgling banker and offers to deposit hundreds of thousand of union dollars; the money may come from pension or severance funds, or the union treasury, or both, the interest rates are negotiable and secret. In return—sometimes by tacit understanding, sometimes even by a blatant formal agreement—the banker promises, apparently illegally, to approve loans for any "customers" recommended by the union leader. It is suspected that there is often some kickback money, too, to sweeten the deal for the bank executive—especially after he catches on to what's really happening and to the risks that he himself is running.

EXTENT OF LOSSES

Under such agreements, at least $10 million, and maybe much more since about 1973, has been lent to, and not paid back by, a parade of characters whose names read like the index to the Valachi hearings on organized crime. At least four banks have folded because of these dealings (three were taken over by larger banks and a fourth was liquidated), and there are indications of possible trouble at others.

The "borrowers" have included loan sharks, alleged murderers and ex-cons of all types.

One borrower, a reputed Mafiosi named Patrick Pizuto, a twice-convicted armed robber and a suspect in a gangland murder, got his loan from State Bank of Chatham (now closed) while serving a seven-to-10-year sentence in Trenton State Prison. He came into the bank and applied for the loan one day while out on a work-release program. Then, so he could spend the money he borrowed, he commuted his own prison sentence. He achieved this feat by having an accomplice slip him a blank form of the kind used in appellate-court decisions; then he forged three judges' names to it and mailed the "court order" for his release to the warden, who promptly released him. He picked up his loan money the same day.

Mr. Pizuto now is back behind bars, but his return to prison is just one of the reasons his loan is still outstanding. He "borrowed" only $2,500. Most of his criminal colleagues each have gotten some $30,000 to $40,000 (that tends to be the limit on an individual bank officer's authority to approve loans to one customer).

PHONY BUSINESS NAMES

Some hoods have incorporated themselves under a variety of phony business names so they could go back for numerous $30,000 to $40,000 loans. One set of loans from State Bank of Manville (now closed) reached about $750,000, all benefiting a firm run by Robert Gooding, a convicted extortionist and sometime partner of feared Mafia enforcer Anthony "Tony Tumac" Acceturo.

Some series of loans seem to have been arranged by a single loan shark or bookie, who appears to have been authorized—presumably in exchange for a cut of the take—to bring around his recalcitrant clients to borrow cash to pay their debts to him. Then the customers who were welching on the loan shark can welch on the bank instead.

The U.S. attorney's office and the Federal Bureau of Investigation in Newark have been investigating this situation for more than a year. They have achieved an impressive body count—45 persons have been indicted over allegedly fraudulent loans from seven banks—but the lawmen acknowledge they are a long way from winning the war. The investigation is continuing, and so, evidently, are the bank losses.

NOTING THE PATTERN

A pattern in the bank failures and criminal indictments regarding bank fraud in the past 18 months has been noted by PROD Inc., a Washington-based group of dissident Teamsters that has long been trying to clean up the Teamsters union. Earlier this year PROD prepared a long, detailed report alleging that the bank looting was the result of a carefully orchestrated plot being carried out by the old Genovese Mafia family. The report concluded that "labor racketeers . . . have taken over the loan policies of entire banks."

PROD submitted the report to the House Ways and Means Committee with a request for an investigation; the committee is involved in supervising enforcement of the 1974 pension-fund regulation law. Several weeks ago, without authorization from PROD, a committee staff member sent the report to several newspapers, including this one. The Journal began its own investigation, relying on thousands of pages of documents and testimony in civil and criminal court cases, other official state records and numerous interviews. While there appear to have been a few factual errors in the report sent out by the Ways and Means Committee aide, independent evidence overwhelmingly supports the gist of it.

Meanwhile, of the 45 persons indicted so far in federal court, 16 have pleaded guilty, eight have had charges against them dismissed, and 21 are awaiting trial. One, Robert Prodan, former president of the new defunct Bank of Bloomfield, underwent a nine-week trial earlier this year; the jury was hung, and he is to be retried this fall. In addition, Mr. Gooding, who isn't one of the 45, is under indictment in state court on charges that he bilked an eighth bank.

Punishment has been light. Of 10 persons who have been sentenced, only four have received jail terms—the longest being for one year.

But the Mafia may be imposing its own sentences on figures in the investigation who have cooperated with the government, welched, or otherwise gotten out of line. Two borrowers have been shot to death—one outside his produce store, the other in a Manhattan parking lot in what seem like classic Mob hits. One victim, according to acquaintances, was murdered hours after leaving the FBI office in Newark, where it is believed he opened up about his loan-shark friends.

One bank officer who was giving information to the government while under indictment in the case involving Mr. Gooding died in the crash of a small private plane he was flying—a crash that law-enforcement officers term suspicious. The death of a second bank officer who was involved was ruled a suicide.

And the FBI reportedly has a tape recording of a conversation in which the former president of State Bank of Chatham was told by a prominent lawyer who is connected both politically and to the Teamsters, "We're gonna lay you out alongside Hoffa." The recipient of the alleged threat, Alexander Smith, has pleaded guilty to conspiracy and was given three years' probation.

TWO UNIONS CITED

One union that deposited hundreds of thousands of dollars in various banks just before they started lending to mobsters is Local 1262 of the Retail Store Employees Union, based in Clifton, N.J. The local was put in trusteeship by its international in 1958 and again in 1967 because of alleged corruption among its leaders. Frank Rando, longtime kingpin of the local, pleaded guilty Jan. 11 to having an illegal deposits-for-loans deal with Mr. Smith at State Bank of Chatham. He got three years' probation and was fined $2,500. The union says he no longer is connected with it.

The other union whose money most frequently has gone into banks at about the time mobsters have taken money out is Local 945 of the International Brotherhood of Teamsters; this large union covers the New Jersey garbage-collection industry, in which the Mafia has long been involved. The key figure in the local is Ernest Palmeri, whose title is business agent—and who comes from a prominent Mafia family.

Like Local 1262, Local 945 was put into trusteeship by its international in the late 1950s because of a corruption scandal. To clean up the local, Teamster overlords sent in outside leadership: the notorious Mafia boss Anthony "Tony Pro" Provenzano. When Mr. Provenzano had the local running to his liking, he turned it over to the current leadership.

Disclosure statements of total bank balances and total interest income show that both Local 1262 and Local 945 have kept hundreds of thousands of dollars in low-interest or non-interest-bearing accounts. Disclosure of the terms of specific accounts isn't required.

DENIES KNOWING OF LOANS

Mr. Palmeri hasn't been accused of a crime in connection with his union's bank deposits. In a brief telephone interview, he said such matters were handled by the local's treasurer, not by him, although other people say Mr. Palmeri personally set up many deals. "I know nothing at all about loans given out to unions," he said in the interview. "I don't want to talk to you or anybody else about it. It's a crock of bull."

Another man whose name pops up prominently in the scandal, and who hasn't been accused of any crime, is George Franconero, former law partner of New Jersey Gov. Brendan Byrne. Mr. Franconero is close to Mr. Palmeri; according to the New Jersey Alcoholic Beverage Commission, they shared hidden ownership of a bar and restaurant in Bergen County and improperly employed an ex-con to run it.

Mr. Franconero, according to uncontroverted testimony at Mr. Prodan's trial, was attorney for a purported leasing corporation that arranged for phony documents to be used as collateral in a series of fraudulent loans at Bank of Bloomfield. The documents purported to show that industrial equipment that really didn't exist was delivered to companies set up by racketeers to receive loans to buy the nonexistent equipment. By this method, mobsters and alleged mobsters contributed to the apparent loss of some $4.7 million by the bank in bad loans.

Mr. Franconero also was attorney for a title company that, according to Mr. Smith, was used to channel kickbacks from Bank of Chatham to Mr. Rando of the Retail Employees Union. Allegedly, the company billed the bank for services the company didn't perform. Mr. Franconero also helped introduce banks to some of the bad borrowers.

One client of the law firm with which Messrs. Byrne and Franconero were connected in the early 1970s was mobster Thomas "Timmy Murphy" Pecora. The firm represented Mr. Pecora extensively in civil matters and successfully fought to get him freed from jail on reduced bail when he was arrested on gambling charges. Mr. Pecora's brother, Joseph, runs Teamster Local 863, also in New Jersey, whose pension fund had six-figure deposits in State Bank of Chatham just before the bank went under because of bad loans in 1975.

Mr. Franconero refers all questions now to his lawyer, Martin Greenberg, another former member of the Byrne law firm. Mr.

Greenberg, who is a Democratic state senator, says Mr. Franconero won't discuss the bank situation because he considers himself the "target" of a current federal investigation.

The question of whether Mr. Franconero will be indicted has added political overtones to the situation, because under the pressure of prominent Democrats in the state, President Carter is replacing the U.S. attorney, Jonathan Goldstein, with Robert Del Tufo, a Byrne appointee in the Democratic state administration. Several persons involved in the investigation have expressed fear that the switch in prosecutors may affect the fate of Mr. Franconero and others.

EASY TARGETS

What makes a bank officer go on approving crooked loans even after he realizes they are costing his bank more than it can make from union deposits? The presidents of some banks involved are easy targets for bribe proposals because their own salaries are surprisingly low—often under $30,000 a year, even though they are empowered to lend out more than that with a stroke of their pen.

Ralph Stein, a business associate of some Mafia loan sharks, has used many kinds of influence. He has been sentenced to jail for helping wreck Springfield State Bank last year by extracting more than $300,000 in phony loans. The Teamsters put several hundred thousand dollars into the Springfield bank, and Mr. Stein also bribed its president, Donald Spears, who has pleaded guilty and awaits sentencing.

Mr. Stein used blackmail to loot another bank, according to a knowledgeable banking-association official. Visiting a difficult loan officer, Mr. Stein is said to have casually walked off with the officer's briefcase. Inside he found love letters indicating that the loan officer, who was married, was having an affair with a woman employe of the bank, who also was married. The briefcase was returned without the love letters, and the loan officer suddenly became cooperative. The situation came to light, the source says, when the woman spoke up in a successful effort to forestall prosecution of the loan officer.

CASES OF TWO BANKS

The individual shady loans on record in the current scandal are numerous. What follows are brief accounts of how only two of the hardest-hit banks were moved in on and what happened to them.

Bank of Bloomfield—Soon after Robert Prodan arrived in 1973 to succeed the retiring president, he went looking for big depositors and pulled in at least $1 million from various Teamster groups, including Mr. Palmeri's Local 945. Then dozens of hoods—big-time and small-time, from New England to Michigan to Florida—signed up for deals that drove the bank into receivership by December 1975.

Mr. Prodan had met Arnold Daner—a key figure in these developments—in 1967 when both worked as young accountants in a small commercial finance concern. When Mr. Prodan took up a career with large banks in the New York area and Mr. Daner founded an import firm, they remained friends. Mr. Prodan invested heavily in Mr. Daner's business, which failed.

Mr. Daner moved to Florida in 1972 and started a company that financed leases (similar to financing installment purchases) of industrial equipment. He says Mr. Prodan stayed on as his partner; Mr. Prodan says he considered that but declined.

In 1973, a loan customer of Mr. Prodan's at Franklin State Bank in Newark, who also happened to be chairman of the much smaller Bank of Bloomfield, invited Mr. Prodan to fill the presidency of the Bloomfield bank. Mr. Prodan accepted, and, at about that time, Mr. Daner moved the leasing business to New Jersey, too.

CONSPIRACY CHARGED

Mr. Daner and the government say there was a conspiracy among him, Mr. Prodan and their Mafia buddies to loot the Bloomfield bank. Mr. Daner has pleaded guilty and has been relocated by the government for his protection. Mr. Prodan denies he was in a conspiracy or had any Mafia buddies—at least until Mr. Daner introduced them to him. The jurors at Mr. Prodan's trial this spring couldn't decide which man to believe; a new trial is set next month.

But aside from the questions of whether Mr. Prodan was in on the conspiracy and whether he got the tens of thousands of dollars in kickbacks that Mr. Daner and the government say he got, other facts are largely beyond dispute.

The hoods lined up at the leasing firm for equipment leases totaling $6 million. The leases then were discounted to Bank of Bloomfield, which shelled out $4.7 million in cash for the right to collect on the leases.

Millions of dollars of equipment supposedly being leased didn't exist. Equipment that did exist was inflated in value. In December 1975, the Federal Deposit Insurance Corporation took over the bank and is still winding up its affairs.

Much of the phony equipment was in the garbage-collection, disposal and recycling field. The private cartage business has long been infiltrated by mobsters, so there were plenty of Mafia-owned garbage firms ready to file phony leases. Moreover, Mr. Daner had lined up a garbage-equipment manufacturer in Florida to give him documents in blank, which he could fill in; thus he could make it appear that a piece of equipment was delivered to a company when actually it wasn't.

MOBSTERS MOVE IN

Two mobsters, Dominick Troiano and Charles Musillo, moved in as Mr. Daner's partners. Mr. Musillo, an ex-con, and his 21-year-old son, Michael, used vast sums taken in from leases on nonexistent garbage equipment to finance a loan-shark operation; they have pleaded guilty and await sentencing. Mr. Troiano, who also pleaded guilty and awaits sentencing, helped bring in customers, including his relatives, for the "leases."

Among the many Bank of Bloomfield lease patrons familiar to law-enforcement authorities are Thomas Milo, a Westchester County, N.Y., garbage carter whose father, Sabato, and uncle, Thomas Sr., were cited in the Valachi hearings as members of the Genovese Mafia family specializing in gambling, shylocking and narcotics; Anthony "Buckalo" Ferro, identified in the hearings as a Genovese soldier in gambling and shylocking; convicted felon Joseph Scappatone and his son, William "Skippy" Scappatone (who used $50,000 in bank funds to pay loan sharks, according to Mr. Daner); and a Detroit garbage firm, Central Sanitation Co., founded by Raffael "Jimmy Q" Quasarano and Dominick "Sparky" Corrado, whose respective narcotics and labor racketeering deals have been described in congressional testimony. (Thomas Milo says that he is paying back two loans and that papers for a third loan were forged and he never received the money.)

According to Mr. Daner's trial testimony, not disputed in Mr. Prodan's testimony, Mr. Palmeri had a part in some of these leases, including the one to Central Sanitation for $85,000. When Central Sanitation failed to make initial payments in the summer of 1975, outside directors became suspicious, and the entire scheme was threatened. Mr. Daner testified that Mr. Prodan brought him to Mr. Palmeri in a restaurant and "told me that Ernie was a very powerful man in New Jersey, told me that nothing goes on in the state in the garbage business without his blessing . . . told me that he (Mr. Palmeri) would be able to collect the money if he had to break the guy's head with a pipe."

IN BANKRUPTCY PROCEEDINGS

Still, the Central Sanitation lease wasn't paid, and the Detroit firm now is in bankruptcy proceedings. Many other leases were paid in part, though; some $500,000 in proceeds from the phony leases was used to keep up the payments to the bank on other leases, so the operation would seem to be working.

The Daner leasing company also financed $150,000 in equipment—apparently genuine—for the restaurant in which Messrs. Palmeri and Franconero are said to have an interest. Mr. Daner testified that Mr. Franconero, who won't comment, was a lawyer for the leasing firm.

In other Daner testimony not disputed by Mr. Prodan at trial, the two men met for dinner in New York's Little Italy with famed mobster Matthew "Matty the Horse" Ianello and other mobsters, including Mr. Musillo, to discuss forming a garbage company in Florida with New Jersey bank money. Mr. Prodan acknowledged cosigning a $20,000 loan at another New Jersey bank to help finance the garbage company. He said Mr. Musillo was involved in the firm, though he didn't mention Mr. Ianello.

Mr. Prodan's lawyer says that although the allegations weren't rebutted at trial, Mr. Prodan denies ever meeting Mr. Ianello or ever saying that Mr. Palmeri would hit someone with a pipe.

Mr. Daner also told how $25,000 in Bank of Bloomfield funds went indirectly, through loan sharks, to Carmine Galente, who some law-enforcement officers think is the most powerful Mafiosi in the country.

State bank of Chatham: Shortly after the bank opened on March 27, 1972, Mr. Smith, its president, was introduced to Mr. Rando, the Retail Employees official, by George Fiore, a bank director. Mr. Smith, who previously was a senior vice president at National Bank of North America in Manhattan, says he was delighted to learn over lunch that not only had Mr. Rando purchased a certificate of deposit at the Chatham bank, but also that he was prepared to line up prospective borrowers.

That same day, Mr. Smith recalls, he accompanied Mr. Rando to a jewelry store run by Anthony Cilli, a friend of Mr. Rando's. Mr. Cilli last November pleaded guilty to conspiracy in connection with the use of an estimated $100,000 of Chatham bank loans for loan-sharking. But at the time, Mr. Smith says, "I didn't think he was a Mafia type. He didn't look like a hardened person."

Subsequently, the bank agreed to make loans to Mr. Rando's friends in return for deposits of union funds in the bank. Shortly thereafter, Mr. Smith says, the union's deposits jumped to around $360,000 from $120,000. Mr. Smith says he made the rounds of other unions, trying to drum up deposits. His entree to the Teamsters local run by Mr. Palmeri was helped, he adds, by his acquaintance with Mr. Palmeri's sister. Ultimately, the union local became a major depositor at the Chatham bank. Money also poured in from other unions.

And Mr. Rando's friends started coming round for loans. One was Henry Rudnitsky, a produce-market owner, who is believed to have used more than $100,000 of bank borrowings to pay off debts to organized-crime figures. Mr. Rudnitsky was shot to death two years ago in what looked like a mob "hit" shortly after he had begun to cooperate with law-enforcement officials. Now the bank is trying to collect from some of his friends who guaranteed his notes.

BANK BEING LIQUIDATED

In 1975, Mr. Smith quit his $34,000-a-year Chatham bank presidency to become presi-

dent of another New Jersey bank, but he resigned that post when he learned that federal authorities had begun investigating his Chatham bank dealings. Last year, as a result of the Chatham bank's problem loans, another local bank, Chatham Trust Co., began liquidating State Bank of Chatham with FDIC support. Chatham Trust assumed the deposits and those loans of Bank of Chatham that it thinks can be worked out, says Frank Stetson, Chatham Trust's president. Attorneys for Bank of Chatham are trying to recover the bank's investments in the remaining loans.

Mr. Smith last November pleaded guilty to a federal indictment for conspiracy and was placed on three years' probation for his role in Bank of Chatham's demise. And Mr. Smith, Mr. Franconero and George Piccola, a business partner of Mr. Franconero, recently individually settled a lawsuit brought in a New Jersey state court by Bank of Chatham's attorneys. The suit accused them, among other things, of conspiring to defraud the bank by having it lend money beyond the amount permitted by law and by making loans that were financially unsound, inadequately secured and in disregard of the bank's interests.

The settlement requires Mr. Smith to pay the bank more than $1 million. How he will come up with the cash is uncertain, since he is currently unemployed and says he has exhausted his financial resources in attorneys' fees and other expenses.

In an interview, Mr. Smith depicts himself as a somewhat naive executive taken in by others. He says he was motivated simply by a desire to increase the loan volume and therefore the profits of a bank in which he, at the time, had a $45,000 equity interest. And, he adds, he didn't get any kickbacks from borrowers.

But in an affidavit filed as part of his settlement, Mr. Smith admits that he concealed from the bank's directors that he approved loans solely on the recommendations of the Retail Clerks' Mr. Rando and others to borrowers lacking good credit records. And, he concedes that "some of the loans were for illegal purposes."

Without admitting any wrongdoing, Mr. Franconero and Mr. Piccola, whose own business venture or those of their acquaintances obtained a number of Bank of Chatham loans, also settled with the bank. The terms of Mr. Franconero's settlement haven't been disclosed publicly, but Mr. Piccola has agreed to repay the bank nearly $129,000. Mr. Franconero declined to be interviewed, and Mr. Piccola couldn't be reached for comment; but some of their relationship with the bank have come to light in depositions filed in Mr. Piccola's bankruptcy proceedings in a federal court.

According to Mr. Franconero's deposition, the bank lent him $30,000 directly and also channeled another $13,000 to him through a shell corporation owned by Mr. Piccola. Mr. Franconero says Mr. Smith wanted the $13,000 loan made through a corporation so the bank could get a higher interest rate than that permitted on personal loans. But a bank attorney contends in the bankruptcy proceedings that loans were made to this and other shell corporations owned by Messrs. Franconero and Piccola to conceal "an illegal concentration of credit" in their hands in violation of state banking laws.

JUSTICE DENIED WILMINGTON 10

Mr. BAYH. Mr. President, the struggle of the Wilmington 10 has now evolved into a test of our judicial system. The question of the guilt or innocence of Ben Chavis and the other nine defendants has received national as well as international attention. In essence, our legal system is once again on trial. Because the final adjudication of this case essentially represents a test as to how far we have progressed since the Scottsboro case, I ask unanimous consent that Mr. Vernon Jordan's recent article concerning this trial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE DENIED WILMINGTON 10

(By Vernon E. Jordan, Jr.)

While the United States government maintains pressure on foreign countries that violate human rights and imprison people on politically-inspired, trumped-up charges, the Wilmington 10 are still behind bars.

Their continued presence in North Carolina's jails makes a mockery of our human rights pretensions. Our country has been forced onto the defensive by penny ante dictators who justify their own repressions by pointing to the fact that the Wilmington 10 have been sentenced to nearly 300 years' imprisonment under circumstances that smell of rigged trials and racial vengeance.

The story of the Wilmington 10 goes back to 1970, when court-ordered desegregation of New Hanover County's school system led to escalating racial tensions generated by diehards fighting the entrance of blacks into all-white schools.

The mounting troubles led to black boycotts and demonstrations and culminated in a full-scale riot in Wilmington in which two people died and millions of dollars of property was damaged. In March, 1972, about a year after the riot, the police arrested a number of people, including Reverend Benjamin Chavis, a civil rights worker sent to the area at the request of local blacks by the Commission for Racial Justice of the United Church of Christ.

Reverend Chavis came as a peacemaker, trying to cool a potentially dangerous situation, but local segregationists tagged him a troublemaker and decided to get him. Chavis and his co-defendants were charged with burning a store and conspiring to assault officers during the riots.

Their trial was shot full of errors—defense lawyers appealed on the basis of some 2,800 trial errors that were found. Some were quite important—errors in the jury selection process that resulted in a racially-unbalanced jury, cover-ups of evidence, hiding facts from both defense and jurors, and concealing favors to prosecution witnesses.

The jurors never knew that key witnesses were under criminal charges themselves, a major point since knowledge of that fact would have led jurors to consider whether they may be perjuring themselves to save their own necks.

After the conviction of the Wilmington 10, North Carolina courts knocked down their appeals. But in the meantime the prosecution's star witnesses came forward with stories about how their testimonies had been bought.

One key witness admitted he lied. He said the prosecutors tricked him into giving false testimony. Another witness, who was only 13 at the time, admits he lied too, and had been promised a bike by the prosecutor. Still another, also a teenager at the time, said he was pressured into lying and had been coached by the prosecution.

So the original trial stands revealed as a farce that violated the constitutional rights of Chavis and his co-defendants. Appeals in the state courts have proven fruitless, so now there are two basic ways in which the wrongs may be redressed.

One way is for North Carolina's governor to use his powers to free the defendants. The injustice of wrongful convictions would stand but at least the revolting state of continued imprisonment would be ended.

Another is for the federal courts to overturn the convictions. Appeals have been filed, but the federal government should intervene in the process by revealing the results of its investigation of the trial and filing a brief to overturn the convictions.

The Wilmington 10 case, along with the case of the Dawson 5 and similar apparent miscarriages of justice reveal the stain of the past on today's South. All the rhetoric about a New South will sound hollow so long as the region's jails house people railroaded for political and racial reasons.

This is not just down-home affair; it's something that concerns national integrity and the international drive for human rights.

PANAMA CANAL TREATIES

Mr. PERCY. Mr. President, our distinguished colleague from Virginia (Mr. SCOTT) has made a detailed study of the proposed Panama Canal Treaties and indicated a number of concerns with regard to various provisions contained in them. Senator SCOTT testified today before our Committee on Foreign Relation and, in light of his well-researched presentation, and also in viewing the fact that he testified in the afternoon when some of our colleagues had schedule conflicts, I ask unanimous consent that the statement made by Senator SCOTT be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILLIAM L. SCOTT

Mr. Chairman, I appreciate this opportunity to appear before the Foreign Relations Committee and to express my personal views on the important matter now under consideration. I am aware that the administration in urging ratification has stressed the long period of negotiations under four presidents, emphasized the support of Latin American countries and the need to yield to world opinion to relinquish the Canal Zone to Panama. However, in this country sovereignty resides in the people and not the president or the officials who negotiated the proposed treaties. Therefore, it would seem that the will of the people should be reflected in our decision. There is little doubt that the American people are opposed to the ratification of the treaties, and I have great faith in the collective will of the majority. My own mail is roughly 5 percent in favor of the treaties and 95 percent in opposition, and I expect each Senator's mail is quite heavy. So perhaps in the final analysis rather than the White House educating the American people, the President and the Department of State may receive an education in American Government. I would certainly hope that this will prove to be the case.

My views are based not only on mail from constituents. But upon two recent trips to Panama and South American countries, a thorough reading and rereading of the treaties and background information, independent investigations, listening to testimony before the Subcommittee on Separation of Powers of the Senate Judiciary Committee and studies made by the Library of Congress.

There appear to be many objectionable provisions in the canal treaty which should be eliminated or clarified, such as the prohibition against the United States constructing a new canal anywhere within the isthmus without the consent of Panama, and

the doubtful interpretation of "expeditious passage".

However, the beginning of article I of the Panama Canal Treaty, to my mind, is by far the most objectionable feature because it provides for the abrogation of all prior treaties with the phrase, "This treaty terminates and supersedes" the treaties of 1903, 1936, 1955 and "all other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal. . . ."

Under the 1903 treaty we guaranteed the independence of the new country of Panama, paid $10 million and agreed to an annual payment of $250,000 and obtained both title to the canal zone and sovereignty over it. Other actions taken by our government to perfect our title included the purchase of the French canal properties for $40 million; what was tantamount to a quitclaim and recognition of our title from Columbia for the sum of $25 million; and the purchase of private rights from owners and squatters expressly excluded from the 1903 treaty. All this, however, would be vitiated by the first sentence of article I of the present canal treaties.

It is true that under numbered paragraph 2 of article I, the Republic of Panama grants to the United States for the remainder of this century "the rights necessary to regulate the transit of ships through the Panama Canal and to manage, operate, maintain, improve, protect and defend the canal." But we would be managing, operating, maintaining, improving, protecting and defending property belonging to the Republic of Panama rather than American property as the situation is today.

Mr. Chairman, as you know, a valid contract must contain consideration. We speak of something of value flowing from one party to the other, mutuality but in my judgment these treaties are for the benefit of Panama alone. I find no new benefits for the United States.

It does not appear, Mr. Chairman, that there is serious concern within the executive branch of government to the role of the Congress under article IV of the Constitution. As you know, the second paragraph of section 3 of the article provides: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: . . ."

To determine the proper role of the House under article IV, I requested a study be made by the Congressional Research Service which responded with an excellent and objective legal memorandum dated August 4, 1977, concluding that precedent indicates Congress has exclusive power to dispose of property in the Canal Zone. I ask, Mr. Chairman, to include a copy of this memorandum in the record.

Attorney General Bonaparte, in an opinion dated September 7, 1907 (26 Att'y Gen. 376), stated that sovereignty over the Canal Zone was not an open or doubtful question and applied what he stated was the first rule of construction, "that plain and sensible words should be taken to mean what they say." The Attorney General added: "the omission to use words expressly passing sovereignty was dictated by reasons of public policy, I assume; but whatever the reason the treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars 'all the rights, power and authority' that belong to sovereignty, and negatives any such 'sovereign rights, power, or authority' in the former sovereign."

Now, Mr. Chairman, I realize that some of our people in the executive branch are attempting to convey the impression that we do not possess either title or sovereignty but this is contrary to the opinion of Secretary of State Hay in 1904 who stated, "that the grant accomplished by the treaty was a grant of land and sovereign right thereover, and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty; . . ." Later he said: "it cannot escape observation that the legislative branch of the government of the Republic of Panama by legislative enactment declared the zone to be 'ceded to the United States,' and dealt with accordingly." And still later he stated: "the United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the canal zone the exclusive jurisdiction to exercise sovereign rights, power and authority." Mr. Chairman, I ask that this entire letter of Secretary Hay be inserted in the RECORD.

The Supreme Court in the case of *Wilson* v. *Shaw*, 204 U.S. 24 (1907), stated that we hold a valid title to the canal zone and compared our title with the then Territory of Alaska. The court added: "It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Mr. Chairman, I ask that a copy of this unanimous opinion by the Supreme Court also be included in the RECORD.

In 1971, the Fifth Circuit Court of Appeals in *U.S.* v. *Husband R. (Roach)* 453 F. 2d 1054, cert den. 406 U.S. 935 (1972), stated: "The canal zone is an unincorporated territory of the United States." So, Mr. Chairman, the first article of the canal treaty is attempting to transfer United States property and sovereignty over the canal zone.

These are opinions of both cabinet officers and our highest court made near the time we acquired the zone and the exhaustive study of authorities made by the Library of Congress in its paper dated August 4, 1977. The only rationale I know for persons presently holding positions within the executive branch of government to deny that we hold title or sovereign rights in the canal zone is to close ranks in support of a treaty signed by the President.

I wonder if each Senator early in his school experience didn't learn that he United States acquired the canal zone, rid the area of disease, constructed the canal and has operated it under the American flag since the beginning of this century. At a time when world domination is being sought by a form of government entirely different from our own, it appears untenable to give away this vital artery of commerce, to pay Panama for taking it and to commit ourselves to defend it.

This view is shared by Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff from 1970 to 1974, who testified before the Senate Subcommittee on Separation of Powers. Toward the end of his testimony on July 22 of this year, Admiral Moorer made these statements: "Surrender of U.S. sovereinty over the canal zone would inevitably lead to the transformation of the entire friendly character of the Caribbean and the Gulf of Mexico. Everything would depend on the attitude of those who held sovereignty and ownership. . . I might say that in military affairs there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace."

Of course, Mr. Chairman, Admiral Moorer retired as our number one military officer and is in a position to candidly express his opinion at this time and I believe we can well understand the hesitancy of some active members of our military forces publicly disagreeing with their commander-in-chief. We need only to reflect on General Singlaub being called back from Korea and being reassigned because of a candid statement made by him and the rebuke of General Starry by the Secretary of the Army to realize that active duty officers and even civilian government officials are not entirely free to express opinions contrary to the administration's position.

Before these rebukes, however, on March 11, 1977, during a closed session of the subcommittee on manpower and personnel of the Committee on Armed Services, Admiral Maurice Weisner, presently commander-in-Chief, Pacific, or in other words, the commander of all of our armed forces for one half of the globe, with headquarters in Hawaii, responded to specific questions regarding the importance of the canal to the United States. This testimony is reported at page 2378 of the hearings on military procurement for the fiscal year 1978 and I ask unanimous consent, Mr. Chairman, to include the page in the record. He was asked for his views as to the importance of the Panama Canal; whether there would be any adverse effect on his command if the Panama Canal were not under the control of the United States. Let me quote his response: "I can see adverse effects, Senator Scott. It takes considerable time to move items by sea from the east coast to the Pacific. Without the Panama Canal, you are adding 3 weeks' time in shipping critical items such as ammunition from an east coast port rather than from a west coast port."

Then I asked the admiral if he would see a need for an increase in our naval strength if we did not control the Panama Canal. Admiral Weisner responded: "Yes; we would have to put these critical items being shipped by sea over a greater area." This, of course, is a response of an active duty military commander before the Singlaub affair.

Returning briefly now, Mr. Chairman, to the conclusion of the testimony by Admiral Moorer before the Judiciary Committee, he states, and I quote: "Anvone in this country who thinks that Soviet Russia is not staring down the throat of the Panama Canal is very naive, and I think it says something to note that the Soviets understand the importance of the Panama Canal apparently far more than many in our own country."

On September 8th of this year, retired Admiral John S. McCain, Jr., also testified before our subcommittee on separation of powers and I am quoting this 4-star admiral: "From my combined military experience which includes Europe, Asia, the Pacific, the Caribbean and the United Nations, it is my conviction that U.S. interests are best served by keeping the canal, by retaining undiluted sovereignty over the U.S. Canal Zone." He added, and again I quote: "Finally, I would like to re-emphasize the importance of the June 8, 1977 letter of the four greatly distinguished chiefs of naval operations to the president that was quoted in the testimony of Admiral Moorer. Their conclusions reflect a vast background, including combat experience, and are more pertinent today than ever. Retired military officers are completely free to voice their innermost convictions. Active duty officers have an obligation to support the policies of their commander-in-chief."

I would hope, Mr. Chairman, that this commitee will call more retired military officers in whom you have confidence and who are free of constraints from their commander-in-chief and ask their candid, personal opinions on the dangers of our government parting with title to the canal and the gradual turnover of full control to the republic of Panama.

Mr. Chairman, we sometimes hear that Latin America favors the transfer of title and control of the canal zone from the United States to Panama but I have taken two trips to Latin America this year and have had the opportunity to talk with chief

executives and other principal officials of a number of Latin American countries, with embassy personnel, with intelligence officers, with American citizens, as well as foreign nationals within the countries visited.

In Colombia I learned that because of kinship with an adjoining Latin country, Colombian officials do favor the transfer of the canal but are very much concerned about the contemplated increase in tolls, stating that the only practical way to transfer material from one part of their country to another is through the canal.

Brazilian officials didn't seem to have any real concern regarding the proposed transfer, referring to it as a matter between the United States and Panama. Perhaps this is because Brazil fronts on the eastern coast of the South American continent and is not among the prime users of the canal.

In Argentina, officials indicated that they did not make extensive use of the canal but expressed fear that it might come under Communist control.

Chilean officials were even more concerned of the possibility of Communist influence or control of the canal indicating that 95 percent of their commerce used the canal and that they could not afford an increase in tolls or to have this vital artery subject to direct or indirect control by Communists. Chilean officials indicated that our contemplated action in giving up the canal appeared to be contrary to the best interest of he world community and they would much prefer that we retain complete control of the canal.

In Peru, we again heard that Panama was a neighboring country and because of this they favored the transfer to Panama. However, officials indicated their country would suffer greatly if the tolls were raised as appears to be inevitable if the treaties now under consideration are ratified. Contrary to some suggestions, officials of every South American country visited indicated that there would be no repercussions from their country if the Senate failed to ratify the treaties.

Within the canal zone itself, we heard the strongest opposition and the greatest fear of Communism. American citizens complained of violation of human rights, they spoke of lack of expertise and management ability, of the differences between salaries within the zone and the Republic of Panama. Many indicated that they would not continue to work within the canal zone if it came under the control of Panama.

I inserted a detailed statement of the Panamanian trip in the August 4, 1977 Congressional Record and included a statement by the heads of various civic groups within the Canal Zone. Should any Senator have any doubt about the feeling of American citizens living in the Canal Zone, he might want to refer to this statement. It concludes, and I quote: "for ourselves as U.S. citizens living and working thousands of miles from our homeland, we can say, 'pack us up tomorrow. We're ready to go.' But for the sake of U.S. commerce and the U.S. national interests in general in the western hemisphere we urge you to examine the proposed treaty in minute detail. We urge you to visit here for more than three days, to observe the situation with your own eyes and not to depend solely on briefings by U.S. or Panamanian government officials. The new treaty with Panama will have long-range repercussions that coming generations will have to live with; we urge you not to ratify a new treaty solely because the State Department says that a treaty is the cure-all to problems with Panama. The Russia-Cuba axis and the American electorate are waiting to see which way the treaty goes. A hasty decision on the part of our Congressmen without giving deep and thoughtful study to the question would please the former and infuriate the latter."

Now, Mr. Chairman, on this question of Communist influence, Mr. Charles Conneely, a member of the professional staff of the Armed Services Committee, and myself talked privately in a number of Latin American countries with embassy officials, with military intelligence officers, with CIA officials, with both American citizens and foreign nationals about the possibility of Communist influence. We first visited in Panama and were somewhat skeptical, or thought perhaps Americans living within the zone might tend to exaggerate the question of Communist influence. Yet, the statements they made were verified in private conversations with the American intelligence community in various Latin American countries. In acting upon this treaty we may well be considering not only future control of the Canal Zone but future control of the Caribbean. Therefore, it would seem important enough to the defense of our own country and that of the free world to have military and civilian intelligence officials, both active and retired, to testify under oath in closed sessions regarding Communist influence, within Panama and other nations of Latin America. Time after time we heard the names of leading political figures in Panama identified as Communists and were told that there were strong Communist influences throughout the Panamanian government. I call these statements to the attention of the committee because of their repetition by so many people during our South American visit and suggest that the committee endeavor to ascertain the truthfulness or falsity of these allegations.

I believe the committee and the Senate will want to consider these factors in determining whether to advise and consent to the treaties.

My own opinion, Mr. Chairman, is that these treaties should be defeated. But I would hope that the administration could then be encouraged to negotiate an arrangement for joint control by the United States, Panama and a limited number of Latin American countries but with ownership of the Canal Zone remaining in the United States.

THE MIDDLE EAST

Mr. BROOKE. Mr. President. it is with deep concern that I feel compelled to speak critically of the recent administration initiatives regarding the Middle East. My concern stems not only from my dismay over the content and implications of the recent Soviet-American statement on the Mideast, but also from an abiding distress over the fact that our country continues to be an "uncertain trumpet" in the world. There is grave danger in the apparent tendency of the present administration to make marked departures in U.S. policy without properly consulting with the Congress beforehand. Lacking compatibility of purpose and views between the two branches of the Government, we erode our capacity to protect our interests and fulfill our commitments.

As far as I have been able to determine, no effort was made by the administration to enter into consultations with the Congress in a meaningful way prior to issuing the statement with the Soviet Union. Even if the statement had been nothing more than a bland reiteration of existing policy, such consultation should have taken place. But the joint statement was not such a reiteration of policy. It implies substantive modifications in U.S. efforts to encourage the Middle East negotiations process. It should not have been issued prior to full and extensive discussions with the Congress.

The defects in the statement are many:

First, no mention is made of resolutions 242 and 238, which form the only legal framework for negotiations on a Middle East settlement. A charitable assumption would be that this is an unintentional oversight. A less charitable but perhaps more tenable explanation is that the administration purposely is abandoning the framework for negotiations provided for by these resolutions. If such is the case, the basic unanswered question is "Why?"

Second, for the first time the United States, in a formal declaration, has used the phrase "insuring the legitimate rights of the Palestinian people" as a prerequisite to a settlement. On its face, the term "rights" appears innocent enough. Yet, anyone who has studied the Middle East conflict in any depth will recognize that word is rife with meanings in the Arab world, most if not all of which would be unacceptable as a basis for a settlement. I do not know of any official declaration by any Arab State that has defined exactly what is meant by the "rights" of the Palestinians". Indeed, I believe the most common response of Arab spokesmen when asked about the subject is to state that a definition of "Palestinian rights" is an issue for the Palestinians to decide. In this regard, as far as the PLO is concerned, its definition of such "rights" appears to encompass the "right" to replace the state of Israel with a nonsecular Palestine.

While I do not believe for one moment that the administration accepts that as a "Palestinian right," I do fear that by joining with the Soviet Union in using this loaded word in the Joint Statement, it has substantially compromised the credibilty of its commitment to oppose any solution that would increase the danger to Israel's survival as a Jewish homeland. Again the question—"Why has it done so?"

It should also be noted that the Palestinian view on "rights" includes the option for Palestinian refugees to settle in areas in what is now Israel or to receive compensation for properties lost, not by themselves in many cases, but by parents or relatives. Implicit in the joint statement's reference to "Palestinian rights" is a growing tolerance of this viewpoint. If the administration is receptive to the so-called "right of return," it is accepting the settlement in Israel of possibly 2 to 2½ million Palestinians who, advocating the right of self-determination, would then be in a position to agitate forcefully for a secular Palestine. Does the administration honestly believe that encouragement of such a "dream," indeed a fantasy, contributes to the negotiation process? No Israeli Government could accept or could be expected to accept such a threat to Israel.

There can be no question that compensation for individual Arabs who were the unwitting victims of the turbulence of the birth of Israel is a legitimate subject for negotiations. Similarly, those Jewish inhabitants of Arab lands at the time of upheaval or subsequent to that

time who also have suffered material losses have a just claim for compensation. Yet, in the joint statement, there is no implicit recognition and acceptance of this.

Third, the joint statement makes no reference to the necessity of a peace treaty as a precondition of a just settlement. It calls for the ". . . termination of the state of war and establishment of normal peaceful relations . . .," but offers no indication as to the proper sequence of events in achieving that goal. Past gyrations of the administration on the "timing-sequence" indicates a willingness to pressure Israel to make substantive concessions now regarding territory and "Palestinian rights" in return for vague promises of peace at some unspecified future date. The failure of the joint statement to state specifically that a peace treaty that conforms to the true meaning of that much-abused term will be brought into effect simultaneously with what will be asked of Israel is a further disquieting indication of the administration's willingness to risk the chance for true peace by "cutting corners" to reconvene Geneva regardless of whether or not the proper conditions exist to justify doing so.

Fourth, the joint statement contains no reference to such concepts as "termination of claims of belligerency" or "freedom of navigation of international waterways" for all States in the Middle East.

These concepts would be crucial elements in a settlement that it would be honorable for the United States to give its support to. Does failure to mention them constitute an administration willingness to compromise on these issues?

Fifth, implicit in the joint statement is the assumption that legal borders defining the State of Israel already exist. This simply is not the case. There are armistice lines extending back to the late 1940's. But there are no recognized borders. That is one of the crucial subjects for negotiation. Yet, the administration, in agreeing to the wording of the joint statement, weakens the basis for negotiations on this subject. I can discern no wisdom in or reason for doing so.

Sixth, the joint statement comes dangerously close to defining "security of borders" as meaning the establishment of demilitarized zones, the stationing of U.N. troops or observers and the provision of international guarantees of those borders. While these elements should not be excluded from consideration as possible components of a regimen for "secure borders," they certainly are not sufficient in and of themselves. The United States would never tolerate a security regimen based on such a shaky foundation. Is it any wonder that Israel feels compelled to resist an attempt to impose such an approach on it?

Finally, the joint statement and the manner of its genesis indicate an administration intent to abrogate the 1975 United States-Israel memorandum of agreement. There was no effort on the part of the administration to discuss the subject matter of the joint statement with Israel prior to its issuance. Yet, in the 1975 memorandum the United States and Israel agreed to:

> . . . concerted action to assure that the conference will be conducted in a manner consonant with the . . . declared purpose of the conference.

By no stretch of the imagination can one reasonably argue that the joint statement does not alter the assumption regarding the Geneva Conference that prompted the signing of the 1975 memorandum. Moreover, in the memorandum it was also agreed that—

> . . . [T]he Geneva peace conference will be reconvened at a time coordinated between the United States and Israel.

The joint statement calls for the reconvening of the Conference "not later than December, 1977." There is no evidence that the administration discussed this artificial and precipitous deadline with Israel.

There are other serious deficiencies in the joint statement. But overarching the justifiable concerns regarding the statement's contents is the question of why the administration felt it to be necessary to issue a joint declaration with the Soviet Union at this time. Does it have assurances that the Soviet Union is ready to abandon its traditional approach of "fishing in troubled waters" in the Middle East. Is Moscow ready to eschew a policy of "no war-no peace" in the Middle East? Will it abandon its effort to increase its influence in the area at the expense of the suffering of both Arab and Jew?

What did the administration receive in return for its willingness to accept, at least implicitly, the view that Moscow should play a role equal to that of the United States in the negotiations process? I pose these questions because the joint statement and what it indicates about present administration thinking portends a willingness on the part of the administration to not only compensate for Soviet action in the Middle East but to encourage actively an upgrading of the Soviet influence in the negotiations process, even to the point of contemplating a Soviet military presence on the ground in the Middle East. What has occurred to make such an approach a reasonable alternative?

Mr. President, the latest initiatives of the administration on the Middle East have certainly complicated an already complex situation. The question that recurs again and again upon a reading of the joint statement is why this particular step? The Congress and the American people have a right to a detailed answer to this question.

I fear we may have embarked upon a course of action fraught with danger, not only for our traditional ally in the Midle East—Israel—but also for the Arab countries and ourselves. The creation of excessive expectations in the Arab world that cannot be fulfilled without the United States dishonoring its values and commitments can only lead to Arab disillusionment with the United States. This, in turn, will increase the incentives for mischief from those in the Middle East and elsewhere whose goals are far different than that of peaceful and productive relations between Israel and her Arab neighbors. The United States inevitably would be increasingly drawn into such a worsening situation.

I do not defer to anyone in the desire for peace between Israeli and Arab. Each has much to offer the other. But I am convinced that the only peace agreement that will last is one that they hammer out together. One imposed from without will not be able to withstand the inevitable frictions that will characterize the Middle East situation for many years to come. The administration claims it is not seeking an imposed settlement. Its latest actions raise serious questions as to the sincerity of its claim.

RUGGED NEW VISTAS FOR THE HANDICAPPED

Mr. PERCY. Mr. President, I would like to share with my colleagues an article from the May/June 1977 issue of Scouting magazine which was recently brought to my attention by Mr. William McCahill, chairman of the National Advisory Committee on Scouting for the Handicapped. The article entitled, "Rugged New Vistas for the Handicapped," which was written by Scout Leader Paul Brozak, is about his handicapped Scout troop from Ottawa, Ill. It is a dramatic example of why our handicapped citizens are today winning the respect of every American. This troop of nine handicapped boys earned their own travel expenses to the "Philmont Scout Ranch and Explorer Base" in Cimarron, N. Mex., and covered 58 miles of mountainous hiking in 12 days.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUGGED NEW VISTAS FOR THE HANDICAPPED

(By Paul Brozak)

When you say "Philmont Scout Ranch and Explorer Base" you're likely to picture strapping kids rock hopping and threading Rocky Mountain trails 9,000-, 10,000-, 11,000-feet high. It's a place for Explorers and older Scouts who are used to working together and are self-dependent. The consequences of bringing any less-qualified kids could be for one of them to tumble down a graveled path, get lost in the wilderness or suffer acute homesickness.

So it would seem that Philmont is hardly the place to take a crew of physically and mentally handicapped youngsters—or is it?

If my experience with nine handicapped Explorers and two adult leaders is any indication, a trip to Philmont *can* be tailored to suit them. Our Sea Explorer ship is sponsored by Friendship House-Echo School, Inc., a work activity center for the handicapped located in Ottawa, Ill., about 80 miles west of Chicago. I serve as the Skipper.

When we asked Philmont's administrators about our Explorers coming to the New Mexico ranch, and assured them that no seriously physically handicapped Explorers would be climbing any mountains, they gave us an itinerary their planners felt our youngsters could handle. We were off and running.

After a car trip during which we tented out in private campgrounds or state parks, we arrived at Philmont. During our check-in, we met with Jeff Phipps and his parents. Some time before, Philmont had alerted Mr. and Mrs. Phipps that our ship would be attending. They asked if we would take Jeff, mentally handicapped, with us. We were flattered and

delighted to be able to say, "Yes, we'd love to have him."

Philmont ranger Kelly Reese was one key to our getting along well on the trail. He particularly asked to go with us. He helped us trim down our packloads by omitting unnecessary gear. His instructions, as for all rangers, were to remain with us until he felt we were doing well enough to continue on our own. Two days later he headed back to camping headquarters and we were alone.

The boys didn't disappoint us. They got organized into well-functioning crews. They pulled together as a team instead of acting as loners. This was a major accomplishment for them. We used Ponil camp in the north central part of the ranch as our base and set out on short trips from there.

Our Explorers tasted a variety of experiences. First, as we headed east to Indian Writings, we experienced a lofty elevation change of 800 feet after 1½ hours on the trail. Highlight of the day was the two burros along to help carry our gear. Our own wranglers, Rick Gaffney and Marne Cochran, took such gentle care of the animals that when we returned them, the staff reported that the burros were minus the usual cinch marks and sore spots. These injuries usually are the signs of greenhorns tightening the animals' straps too tightly or packing unbalanced loads on the burros.

We might have skipped the horseback riding as part of our Philmont adventure. But that would have cheated the boys. They had behaved so well that we took the chance. We were glad that we did. Jeff and all the other boys had the times of their lives—and no one got thrown from his mount.

Westward to Pueblano we headed. This campsite offers training in logging and pole climbing, use of the two-man saw and, as an extra, survival training where we learned about edible plants. Nobody leaves Philmont before he gets drenched by afternoon thunderstorms. We were no exception. The rain caused us to shorten our stay at Pueblano and to cancel our trip to Bent camp. On our return we were initiated into the Order of the Wet Boot. We forded swollen streams that the day before we had negotiated by jumping from rock to rock. Today the rocks were submerged.

Though we didn't hike much of the southern part of the ranch, we did tour it by van and short trips on foot. We even met the challenge of climbing Philmont's landmark, the 9,000-foot-high Tooth of Time. In five hours from our start we were atop the tooth, waving to tiny figures below.

We returned to camping headquarters after 58 miles of backpacking to check in our gear, clean up and prepare for our return home. While packing up we asked the boys how they felt about returning to Philmont. Marne Cochran's eyes sparkled as he thought of the highest peak on Philmont, the 12,441-foot-high, Baldy Mountain. Speaking for the whole crew he said, "Absolutely! Next year, Baldy Mountain!"

We capped the trip with an appearance at the adult training center. There our Sea Explorers decked out in dress white uniforms presented a formal boarding ship ceremony and reported on our trek to those attending the conference of Scouting for the Handicapped.

As we leaders reflected on our accomplishment of successfully helping nine handicapped Explorers through a rugged, delightful, 12-day-long Philmont experience, we arrived at several conclusions:

We consider that through our persistence and preparing our kids, another door had been opened to the handicapped.

Such a high-adventure trip helped immensely with our boys' social development. They advanced their self-confidence, and several showed that they were able to function well as crew leaders.

Our Philmont crew had worked hard to earn money for the trek. It was an excellent lesson for them to know they had helped pay their own way.

We hope that our success encourages other leaders to try those adventures that they once thought were impossible for the handicapped.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years vice Thomas A. Olsen.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 12, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee may have consent to meet daily inasmuch as it has the remaining legislation dealing with energy, and social security financing legislation, which has to be enacted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the General Legislation Subcommittee of the Armed Services Committee be authorized to meet during the session of the Senate on Thursday, October 6, to consider legislation on civil defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce may be authorized to meet until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD ASSEMBLY ON AGING AND WORLD YEAR ON AGING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 424.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 238) to express the sense of the Senate that the United States Delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The resolution, with the preamble, reads as follows:

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the thirty-second session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching opportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–458), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE ACTION

Senate Resolution 238 was unanimously approved by the Senate Foreign Relations Committee on September 19, 1977, and ordered favorably reported.

COMMITTEE COMMENTS

Aging is a worldwide phenomenon and will be one of the crucial social policy questions for the remainder of the 20th century. It is, therefore, important to recognize the social problems inherent in the increasing numbers of older people and their specialized needs. With the increasing emphasis on control of birth rates, better public health practices, and the increase in life expectancy, societies are being restructured by a disproportionate increase of older persons.

The purpose of this resolution is to urge the U.S. delegation to the United Nations (U.N.) to work with other member nations to convene a World Year on Aging and a World Assembly on Aging in 1982. The current General Assembly session is already scheduled to consider expansion of the U.N. research and information programs on aging.

Demographically, a revolution is underway. There will be both absolute and relative increases in worldwide aging populations. The U.N. notes there were 291 million people 60 years of age or older in 1970. By the year 2000 this population will increase to nearly 585 million people, an increase of 101 percent. However, the world's total population is estimated to increase only 80 percent, from 3.6 billion to 6.5 billion. The less-developed nations face a projected increase of 158 percent of those over 60 years of age as compared to their total population increases of 98 percent. Meanwhile, the developed countries will experience a total population increase of 33 percent, but the age 60 and older population will increase by 50 percent. Thus, there is a need for governments to consider the significant social and economic changes already taking place.

Although significant progress has been made in the relatively youthful science of gerontology, there has been, according to the U.N., "a lag in the application of the knowledge * * * to social policies." Thus, this resolution could provide the catalyst in bringing together the international community to cooperate on a universal problem.

A World Assembly on Aging, however, would not be simply an occasion for the exchange of research. Rather, political leaders, government specialists and citizens will gather to identify needs and resources, assist national governments in policy formulation, and better coordinate the actions of individual agencies of the U.N. system.

Cross-national policy discussions on aging, therefore, are desirable as the world approaches the 21st century. Existing social services and health practices will be drastically altered. Hence, a World Year and Assembly on Aging would enable nations to begin to confront this growing phenomenon.

Such international discussion on aging cannot take place until 1982 because other U.N. "international years" are scheduled in 1979 through 1981. "International Years" are a common U.N. practice and previous subjects have included population (1974), education (1970), women (1975), racism (1971), human rights (1968), and tourism (1967).

Specialized agencies of the U.N. have previously emphasized problems of the aging. The World Health Organization has examined the provision of health and social services. The International Labor Organization has stressed retirement and pension programs. The Food and Agriculture Organization has investigated the particular difficulties of the rural elderly. Three earlier U.N. General Assemblies have passed resolutions affirming concern about the elderly.

In addition, the U.N. Office at Geneva has held seminars on aging problems in various European countries since 1955.

The Department of State has stated that it:

"Fully believes the cause of the aging to be a worthy one and action by the U.N. in this area would be highly desirable. There is growing concern in the United States and elsewhere over the problems of the aging, and we support an exchange of views and information among countries on these problems in the U.N. context."

This resolution was unanimously supported by representatives of 15 private international organizations on aging at a meeting at the U.N. on September 8, 1977. Further the American Association of Retired Persons—the National Retired Teachers Association, the Association for Gerontology in Higher Education, the International Center for Social Gerontology, the National Council of Senior Citizens, Inc., the Urban Elderly Coalition, and the National Indian Council on Aging, Inc., have endorsed the resolution.

TRANSFER OF S. 1582 TO THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is a measure on the calendar that is cleared for action by unanimous consent. I ask, therefore, that the clerk transfer Calendar No. 425, S. 1582, to the Unanimous Consent Calendar.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

TRANSFER OF CERTAIN MEASURES FROM THE GENERAL ORDERS CALENDAR TO THE CALENDAR OF SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following calendar orders be transferred from the General Orders Calendar to the Calendar of Subjects on the Table, with the understanding that they will retain the same status that they would otherwise hold on the General Orders Calendar: Calendar Nos. 4143, 144, 279, 336, 369, and 395.

This is with the proviso that at the beginning of the next session, those calendar orders are restored to their place on the General Orders Calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DISCHARGE OF COMMITTEE ON FINANCE FROM CONSIDERATION OF H.R. 4018

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 4018 and that all after the enacting clause be stricken and that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that the last bill that was placed on the calendar was for the purpose of utilizing it for the utility rate reform bill.

Mr. ROBERT C. BYRD. Yes. H.R. 4018 has been placed on the calendar for the purpose of using it as the vehicle for the utility rate reform bill to be sent to conference. I am glad the Senator explained that for the record.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 10 seconds.

The motion was agreed to, and the Senate, at 7:07 p.m., on Wednesday, October 5, 1977, adjourned until 7:07 p.m., the same day.

AFTER ADJOURNMENT

WEDNESDAY, OCTOBER 5, 1977

The Senate met at 7:07 p.m., pursuant to adjournment, and was called to order by Hon. ADLAI E. STEVENSON, a Senator from the State of Illinois.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is morning business closed?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the utility rate reform bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, that bill is the unfinished business now, is it not?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POST-CLOTURE FILIBUSTERS AND THE ROLE OF THE MAJORITY LEADER

Mr. PELL. Mr. President, the Senate's most recent experience during the past 2 weeks with the filibuster as a parlia-

mentary tactic has underscored dramatically the necessity of coming to grips with the problem.

I have great respect and admiration for our majority leader. He bears the heavy burden and the exacting responsibility of assuring that the Senate as an institution meets its constitutional obligations to conduct its policymaking legislative function. He bears at the same time the responsibility of assuring that the rights and privileges of each Senator, as an elected representative of the people, are preserved and protected. We all know that our majority leader is acutely aware of both of those responsibilities.

That dual responsibility—to the Senate as an institution and to individual Senators—will sometimes come into conflict, as they did so dramatically and traumatically during this past week. In this regard, after 13 days of the Senate making a spectacle of itself, I will not fault our majority leader for his handling of a situation that had to be resolved.

I believe, too, it is patently unfair to place this burden of balancing the rights of the Senate against the rights of a Senator solely on the shoulders of the majority leader.

The truth is that this conflict, this dilemma, is an institutional one, and each of us shares the responsibility of resolving it.

In my view, it is unfair and wrong to place leadership requirements on our leadership without providing at the same time, through the rules of the Senate, the procedures through which the leadership can fulfill those responsibilities.

It is my view, and one which I believe is widely shared in the Senate, that once the required majority of the Senate has invoked cloture, the Senate should proceed expeditiously to vote on and resolve the issues before it. Once cloture has been invoked, the Senate rules should not permit a minority to thwart indefinitely the will of the majority.

In the issue of the natural gas regulation, the subject of this most recent post-cloture filibuster, I was among those supporting and voting with the minority of the Senate. But even as a member of the minority, on this issue, I believe very strongly that the majority must be permitted to work its will.

Let us give due credit to our majority leader. After some sad experiences in the second session of the 94th Congress, the majority leader made strong efforts through the Committee on Rules and Administration of which he is a member, to revise our Senate rules so that dilatory, post-cloture tactics would not be permitted. He did not receive the strongest and broadest support in that effort. It is wrong for those who failed to provide strong support for needed rules changes to now criticize the majority leader for doing the very best with the Senate procedures provided, to end a post-cloture filibuster. I hope we will now see a renewed effort to strengthen our rules to prevent post-cloture filibusters.

The majority leader is a man who is totally dedicated to the interests of the Senate as an institution and also a leader who is not fearful of making hard choices. I for one respect him very much for these qualities.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 8:45.

After the two leaders have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, after which, by unanimous consent, the Senate will resume consideration of the then unfinished business, the utility rate reform bill.

There will be rollcall votes throughout the day on that measure, and upon its disposition tomorrow, we hope to be able to go to the minimum wage bill, if indeed it is possible to pass that bill tomorrow evening. There is a possibility that the Senate would go instead of the DOD authorization bill, but that decision will have to be made tomorrow, upon the disposition of the Utility Rate Reform Act.

It is hoped by the leadership that before the week is out the Senate can complete action on those three measures, the utility rate reform bill, S. 2114; the minimum wage bill, S. 1871; and the Department of Defense authorization bill, S. 1863, in addition to other measures that may be cleared for action.

If action can be completed on all three of these bills by Friday night, there will be no Saturday session. In the event that is not possible, then there will be a Saturday session.

In any event, on Monday, which is Columbus Day, the Senate will be in session and doing business as usual with roll call votes.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:45 tomorrow morning.

The motion was agreed to; and at 7:10 p.m. the Senate recessed until tomorrow, Thursday, October 6, 1977, at 8:45 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 5, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

OCTOBER 5, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed is the nation whose God is the Lord. Let Thy mercy, O Lord, be upon us, according as we hope in Thee.—Psalms 33: 12, 22.

"God bless our native land!
Firm may she ever stand,
Through storm and night;
When the wild tempests rave,
Ruler of wind and wave,
Do Thou our country save
By Thy great might!

For her our prayer shall rise
To God, above the skies;
On Him we wait;
Thou who art ever nigh,
Guarding with watchful eye,
To Thee aloud we cry,
God save the state!

Not for this land alone,
But be Thy mercies shown
From shore to shore;
And may the nations see
That men should brothers be,
And form one family
The wide world o'er."

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. An act to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of The George Washington University.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is

requested, a bill of the House of the following title:

H.R. 9005. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 9005) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. BURDICK, Mr. DECONCINI, Mr. HOLLINGS, Mr. MAGNUSON, Mr. INOUYE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG, to be the conferees on the part of the Senate.

LEGISLATION TO NAME NEW DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE BUILDING IN HONOR OF SENATOR HUBERT H. HUMPHREY

(Mr. QUIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIE. Mr. Speaker, I am today introducing legislation in the House to name the new Department of Health, Education, and Welfare building in honor of Senator HUBERT H. HUMPHREY.

Two days ago, Senator BOB DOLE introduced identical legislation in the Senate, and I hope the Congress will act quickly on this legislation naming the new South Portal Federal Office Building, 200 Independence Avenue SW., Washington, D.C., in honor of the distinguished leader and friend.

Mr. Speaker, HUBERT HUMPHREY is one of the few men who gives the Nation a sense of the future. His vision, compassion, and service truly make him a giant among men.

HUBERT HUMPHREY's unselfish dedication to people spans three decades of public service, ranging from mayor of Minneapolis to U.S. Senator to Vice President of the United States to nominee of his party for President of the United States.

He is the kind of person who has strong feelings, gut feelings, who expresses sympathy, patience, and understanding for the poor, the old, the sick, the young, and the disadvantaged. He has touched and enriched the lives of millions of people through legislation he feels will help them.

Scores of "people programs"—the landmark 1964 Civil Rights Act, medicare, Head Start, the Community Mental Health Act among them—show a consistent pattern of compassion through action.

Education has become the primary ingredient in the Humphrey recipe for improving the quality of life. Even today, HUBERT in no way feels the need to be silent. For the past several weeks, he has been on the telephone to Washington, speaking to colleagues on issues he feels strongly about—indeed, on any issue he is asked about.

The author of Proverbs must have had a man like HUBERT in mind when he wrote, "He that hath mercy on the poor, happy is he."

Let us honor the "Happy Warrior" to whom we, as a nation, owe so much.

AUTHORIZING MARINE MAMMAL PROTECTION ACT APPROPRIATIONS, 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes, with Senate amendments to the House amendments, and concur in the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

(1) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 4. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.".

(2) Page 3, after line 5, of the House engrossed amendments, insert:

SEC. 5. (a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) It is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal lock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the State of Washington.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York that the Senate amendments to the House amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland objected to concurrence in these amendments last night because they contain a nongermane amendment dealing with Puget Sound in Washington limiting the size of oil tankers that can enter that body of water. That amendment was offered in the other body by the Senator from Washington, Mr. MAGNUSON.

I know that it is not within the rules to comment upon the other body, but it is within the rights of the Members of the House to use available parliamentary vehicles to express their feelings.

It is this Member's feeling that the continued deadlock over the HEW appropriation bill and the Hyde amendment in some way has to be broken. So far the other body has been intransigent in the face of repeated votes by this House.

The only reason I am withdrawing my objection today is because I have discussed the pending matter with the distinguished gentleman from Washington (Mr. CUNNINGHAM). He has explained to me that he was the author of a similar State law and this is very important to him and to the State of Washington. He is a very able Member and his arguments were most persuasive.

Mr. Speaker, solely for that reason and not because of the authorship of the amendment, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

LABOR REFORM ACT OF 1977

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentlemen from New Jersey (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic de-

vice, and there were—yeas 384, nays 5, not voting 45, as follows:

[Roll No. 626]

YEAS—384

Abdnor	Dornan	Krebs
Addabbo	Downey	Krueger
Akaka	Drinan	LaFalce
Alexander	Duncan, Tenn.	Lagomarsino
Allen	Early	Latta
Ammerman	Eckhardt	Le Fante
Anderson, Calif.	Edgar	Leach
	Edwards, Ala.	Lederer
Andrews, N.C.	Edwards, Calif.	Leggett
Andrews, N. Dak.	Edwards, Okla.	Lehman
	Eilberg	Lent
Annunzio	Emery	Levitas
Applegate	English	Livingston
Archer	Erlenborn	Lloyd, Tenn.
Armstrong	Ertel	Long, La.
Ashbrook	Evans, Colo.	Long, Md.
Ashley	Evans, Del.	Lott
Aspin	Evans, Ga.	Lujan
AuCoin	Evans, Ind.	Luken
Badham	Fary	Lundine
Badillo	Fascell	McClory
Bafalis	Fenwick	McDade
Baldus	Findley	McEwen
Barnard	Fish	McFall
Baucus	Fisher	McHugh
Beard, R.I.	Fithian	McKay
Beard, Tenn.	Flippo	Maguire
Bedell	Flood	Mahon
Benjamin	Florio	Mann
Bennett	Flowers	Markey
Bevill	Flynt	Marks
Biaggi	Ford, Mich.	Marriott
Bingham	Ford, Tenn.	Mathis
Blanchard	Fountain	Mattox
Blouin	Fowler	Mazzoli
Boggs	Fraser	Meeds
Boland	Frenzel	Metcalfe
Bonior	Frey	Meyner
Bonker	Fuqua	Mikulski
Bowen	Gaydos	Mikva
Brademas	Gephardt	Milford
Breaux	Gibbons	Miller, Calif.
Breckinridge	Gilman	Miller, Ohio
Brinkley	Ginn	Mineta
Brodhead	Glickman	Mitchell, N.Y.
Brooks	Gonzalez	Moakley
Brown, Calif.	Goodling	Moffett
Brown, Mich.	Gore	Mollohan
Brown, Ohio	Gradison	Montgomery
Broyhill	Grassley	Moore
Buchanan	Gudger	Moorhead, Calif.
Burgener	Guyer	
Burke, Calif.	Hagedorn	Moorhead, Pa.
Burke, Mass.	Hall	Moss
Burleson, Tex.	Hamilton	Motti
Burlison, Mo.	Hammer-schmidt	Murphy, Ill.
Burton, John		Murphy, N.Y.
Burton, Phillip	Hanley	Murphy, Pa.
Butler	Hannaford	Murtha
Byron	Hansen	Myers, Gary
Caputo	Harkin	Myers, John
Carney	Harrington	Myers, Michael
Carr	Harris	Natcher
Carter	Harsha	Neal
Cavanaugh	Hawkins	Nedzi
Cederberg	Heckler	Nichols
Chappell	Hefner	Nix
Clausen, Don H.	Heftel	Nowak
	Hightower	O'Brien
Clawson, Del	Hillis	Oberstar
Cleveland	Holland	Obey
Cochran	Hollenbeck	Ottinger
Cohen	Holt	Panetta
Coleman	Holtzman	Patten
Collins, Ill.	Horton	Patterson
Collins, Tex.	Hubbard	Pattison
Conable	Huckaby	Pease
Conte	Hughes	Perkins
Corcoran	Hyde	Pettis
Corman	Ichord	Pickle
Cornell	Ireland	Pike
Cotter	Jacobs	Poage
Coughlin	Jeffords	Pressler
Crane	Jenkins	Preyer
Cunningham	Jenrette	Price
D'Amours	Johnson, Colo.	Pritchard
Daniel, Dan	Jones, N.C.	Quayle
Daniel, R. W.	Jones, Okla.	Quie
Danielson	Jones, Tenn.	Quillen
Davis	Jordan	Railsback
de la Garza	Kasten	Rangel
Delaney	Kastenmeier	Regula
Dellums	Kazen	Richmond
Derwinski	Kelly	Rinaldo
Devine	Ketchum	Risenhoover
Dicks	Keys	Roberts
Diggs	Kildee	Robinson
Dingell	Kindness	Rodino
Dodd	Kostmayer	Rogers
Roncalio	Smith, Nebr.	Vento
Rooney	Snyder	Volkmer
Rose	Solarz	Waggonner
Rosenthal	Spellman	Walgren
Rostenkowski	Spence	Walker
Rousselot	St Germain	Walsh
Roybal	Staggers	Wampler
Rudd	Stangeland	Watkins
Runnels	Stanton	Waxman
Ruppe	Stark	Weaver
Russo	Steed	Weiss
Ryan	Steers	White
Santini	Steiger	Whitehurst
Sarasin	Stockman	Whitley
Satterfield	Stratton	Whitten
Sawyer	Studds	Wiggins
Scheuer	Stump	Wilson, C. H.
Schroeder	Symms	Wilson, Tex.
Schulze	Taylor	Winn
Sebelius	Thompson	Wirth
Seiberling	Thone	Wright
Sharp	Thornton	Wydler
Shipley	Traxler	Wylie
Shuster	Treen	Yates
Sikes	Trible	Yatron
Simon	Tsongas	Young, Alaska
Sisk	Tucker	Young, Fla.
Skelton	Udall	Young, Tex.
Skubitz	Ullman	Zablocki
Slack	Van Deerlin	Zeferetti
Smith, Iowa	Vanik	

NAYS—5

Bauman	Dickinson	Wilson, Bob
Broomfield	Lloyd, Calif.	

NOT VOTING—45

Ambro	Giaimo	Mitchell, Md.
Anderson, Ill.	Goldwater	Nolan
Beilenson	Howard	Oakar
Bolling	Johnson, Calif.	Pepper
Burke, Fla.	Kemp	Pursell
Chisholm	Koch	Rahall
Clay	McCloskey	Reuss
Conyers	McCormack	Rhodes
Cornwell	McDonald	Roe
Dent	McKinney	Stokes
Derrick	Madigan	Teague
Duncan, Oreg.	Marlenee	Vander Jagt
Foley	Martin	Whalen
Forsythe	Michel	Wolff
Gammage	Minish	Young, Mo.

Mr. TRAXLER changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 4, 1977, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Reform Act of 1977".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. There being no amendments to section 1, the Clerk will read.

The Clerk read as follows:

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Reform Act of 1977, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. No more than a simple majority of the members of the Board shall be members of the same political party. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Reform Act of 1977 establish a procedure, upon conditions stated in the rule, pursuant to which a quorum of a group designated pursuant to the first sentence of this subsection may, in appropriate cases, upon motion of the prevailing party in a decision of an administrative law judge after a hearing under section 10(b), summarily affirm such decision. A motion and the response thereto shall be filed with the Board and presented to a quorum of a group designated pursuant to the first sentence hereof within thirty days after the decision of the administrative law judge.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 16, line 11, delete the words " a quorum of". Strike page 16, line 16 through line 19 and substitute: "A motion for summary affirmance shall be filed within 10 days after the decision of the administrative law judge, any response shall be filed within 20 days thereafter, and the motion and response shall then be presented for decision to a group designated pursuant to the first sentence of this subsection."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, without prejudice to my distinguished colleague, I would like to express my concurrence with this amendment and the Committee will accept it.

Mr. QUIE. Mr. Chairman, first, I want to say I appreciate the gentleman from New Jersey indicating support for the amendment. With that indication of support, I will not take much time.

Mr. Chairman, section 2 of the bill provides for summary affirmation of decisions by administrative law judges by only two members of the Board, instead of three-member panels, and further provides that a motion and response for summary judgment be filed within 30 days.

My amendment would allow the Board to establish a summary judgment procedure whereby there would be review by a three-member panel of the Board with the motion for summary judgment to be filed within 10 days and the response within 20 days.

The time limits of my amendment have exactly the same time limitations of the committee bill, but clarify that the prevailing party has 10 days to file its motion, and the responding party has 20 days to respond. The time limits are clearly necessary, or else the prevailing party may wait until the last day, giving the responding party little or no time to respond. The reason the prevailing party has the lesser time is simply that the decision would be in his favor and he would need less time to meet his burden of showing that the case is proper for summary review. Obviously, the party who does not prevail will need more time to state his case.

The Board, under existing law, is authorized to delegate to a panel of three. Under existing law, a panel of three is a majority of the Board. The committee bill does not change the delegation to a panel of three. It is thought that three-member panels can continue even if the Board has expanded to seven. With more three-member panels, it seems logical that a delegation of powers, even under the summary judgment procedure, should be to all three-member panels. I do not think we should take this very important new procedure and allow only two of the members to review the case. For one thing, it is very possible to have many one-to-one splits. A third member may decide that division. Further, consideration by only two members in this procedure could cause some problems because the Board would be treating some cases differently—causing more appeals.

I do not think any case should be given cursory examination by the Board. Assuring that at least three members sit on a panel that is intended to speed up case processing assures that full examination will be given all cases.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, an additional portion of this section was to remove a party's right to review of these summary affirmations by the whole Board. Does the gentleman's amendment address that portion of the proposal in the bill to remove review by the whole Board?

Mr. QUIE. Now the bills says the motion and response shall be filed within 30 days, what that would have meant is they could have been held on the motion say 29 days, which would have left the respondent only one day for the response.

It now provides that 20 days shall be reserved for the response.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, if the three-member panel does affirm an administrative law judge's decision and one of the parties would like to have that reviewed by the whole Board, is that right maintained, as it is now, or is that right denied, as the bill would do it?

Mr. QUIE. It would be maintained.

Mr. ERLENBORN. They still would have the right to be reviewed by the Board?

Mr. QUIE. That is right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 15, line 8, strike section 2(a) and redesignate section 2(b) on page 16, line 5, as section 2.

Mr. ERLENBORN. Mr. Chairman, this amendment goes to section 2(a) of the bill, which is the provision to increase the National Labor Relations Board from its present five members to seven members. The thrust of this bill has been to speed up and make more timely the action of the National Labor Relations Board.

It has been the contention of the sponsors that tight time limits on representational elections and other things in this bill would have that effect. I submit that increasing the size of the Board from five to seven will have just the opposite effect. It is apparent from the testimony of the present Chairman of the Board, John Fanning, that he is also questioning this proposal, although he endorsed the basic concepts of the bill. He indicated in his testimony before the committee that the present practice of circulating the proposed decision of a three member panel with the entire Board would be continued, most likely, even though we would have a seven-member Board.

That means that in the event a panel decision is circulated to the Board, instead of having five members who devote the time to review and either concur or disagree, we now would have seven members. In addition, to get a quorum to agree, to have affirmation of the panel decision, it would take four members rather than the present three.

I believe that the increase in the size of the Board will do nothing to speed up the procedures, and will in fact most likely lead to further delay in the work of the Board. I would hope that this amendment would be adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the time it takes to get a decision in an unfair labor practice case is increasing. In 1976, the time from a charge to a Board decision was 358 days, on the average. By the third quarter of 1977, the figure was up to 374 days.

Now, a basic cause of this increase in time is the rapid expansion of the Board's case load. The number of contested cases decided by the Board has increased by one-third since 1960. Under existing authority, the present five-member Board can delegate its powers to panels of three or more members, with two members constituting a quorum. Increasing the Board to seven members, while maintaining the present panel system, would allow more panels to operate at any one time.

This would significantly augment the ability of the Board to handle its case load. The labor law section of the American Bar Association recommended expanding the Board to nine members. The Board's work has also been impaired by delays in the appointment of new members to replace those whose terms have expired, thereby causing any number of delays because of 2-to-2 deadlocks and the inability of the Board to function properly.

By increasing the terms of the numbers from 5 to 7 years, the Board would have fewer such disruptions. Section 2 would increase the Board to seven, extend the terms to 7 years, and establish four rather than the present three as a quorum of the full Board.

It also provides that no more than a majority of the Board can be members of the same political party, a practice which has been in existence since the very institution of the Board. I might say that the Board is one of the most effective of all the Federal agencies, and that the legislation as it is would make it even more effective.

I, therefore, respectfully ask my colleagues to defeat this amendment and to agree with the committee bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 28, noes 37.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read section 3.

The Clerk read as follows:

SEC. 3. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production, assure that if an employer or employer representative addresses

the employees on its premises or during working time on issues relating to representation by a labor organization during a period of time that employees are seeking representation by a labor organization, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization;

"(B) for classes of cases in which either the distance from the Board's regional office to the election site or the number of employees involved in the election makes it infeasible to comply with the time limits stated in subsection (c)(6)(a) of section 9, to extend to a maximum of fourteen days the period for directing an election stated in that subsection, and to a maximum of twenty-one days the period for the holding of such an election stated in that subsection;

"(C) to facilitate agreements concerning the eligibility of voters; and

"(D) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable only in a proceeding under section 10 of this Act and only on the grounds that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5, United States Code, or that a rule or regulation of the Board is arbitrary or capricious, contrary to a specific prohibition of this Act, or of the Constitution. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to grant appropriate relief.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to know whether the amendment has been printed in the RECORD.

Mr. ERLENBORN. Mr. Chairman, the amendment has been printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 17, line 5, strike all of subparagraph (A) down through line 15, page 17, and renumber the subsequent subparagraphs accordingly.

Mr. THOMPSON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) reserves a point of order against the amendment.

Mr. ERLENBORN. Mr. Chairman, for the information of the gentleman from New Jersey (Mr. THOMPSON), this is an amendment that would strike a proportion of section 3. I think it is clearly in order.

Mr. Chairman, the bill before us, in section 3, provides what is called equal access to the employees of a proposed bargaining unit prior to the representation election. At the present time, we have 42 years of precedents, built up through Board decisions and court decisions, that have established a fine balance of the rights of employees, employers, and the labor organization which is seeking the right to represent the employees.

The bill before us, in the section that I am seeking to strike, would change these ground rules in the name of "equal access." At the present time, as an illustration, an employer is prohibited from going into the home of an employee to talk about the issues of a pending representation election. The employer is prohibited from making certain statements or promises, whether it be in the plant, whether it be verbally or by written communication.

The careful balance of election campaign rights would be completely upset by this so-called equal access provision.

What this bill provides is that if the employer takes advantage of an opportunity of speaking to his employees at the plant during working hours, then the union will have the same right to come into the plant and speak to the employees during working hours on the property of the employer, probably at the expense of the employer. That has a superficial aura of fairness about it, but think how contrary this is to the other provisions of the bill.

As I pointed out in general debate yesterday, we have a 15-day election provision. That means that from the time the union files the petition or, as amended by the committee, from the time the employer is served with notice of the petition until the election is actually held, no more than 15 days may elapse. As a matter of fact, as I pointed out in colloquy with the gentleman from New Jersey (Mr. THOMPSON), the 15-day period is a maximum length of time, not a minimum length of time. So the election may be held within 5 days or within 2 days or within 10 days of notification being served upon the employer.

Let us take the example of a small businessman who is unsophisticated in the ways of the National Labor Relations law. He is probably living tens or hundreds of miles from the nearest lawyer who specializes in the National Labor Relations Act. This unsophisticated employer steps into the shop and says to his employees, "Fellows, what's wrong? I didn't know that we had any problem. If you want higher wages, let's talk about it, but I don't understand why you filed this petition for an election."

That action would trigger this equal access section, and there might be only 2 days or perhaps 10 days or 5 days left between that time and the election. In that event, how in the world are we going to have the union go before the Board and have a determination made? They are entitled to have equal access and have the Board enter an order establishing the time and the circumstances under which the union can come into the plant and make its presentation to those same employees.

I think, therefore, the equal access provision is totally unworkable, especially in the light of the time limits and the other restrictions imposed by the committee, and I think it is neither fair nor equitable to give the union the opportunity to come on the property of the employer to make a presentation to the employees during business or working hours.

It is not even clear in this provision whether that can be done during working hours, but I think it can be. If that happens, the employer will be paying employees for nonproductive time while the union is engaged in lobbying, if you will, or electioneering prior to the representation election.

I would exhort the Members to keep the law as it is today and uphold the 42 years of precedents. Let us not upset the law with this equal access provision.

Mr. Chairman, I hope the Members will support my amendment to strike this provision.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. First, the Chair would like to inquire whether the gentleman withdraws his reservation of a point of order against the amendment.

Mr. THOMPSON. I do, Mr. Chairman.

The CHAIRMAN. The gentleman withdraws his reservation of a point of order and is recognized for 5 minutes in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, this is an extremely crucial, albeit innocuous-looking section of the act; and before us is an ostensibly innocuous amendment.

Section 3 would require the National Labor Relations Board to develop reasonable and appropriate rules designed to give employees an opportunity to hear both sides before making their choice in a secret-ballot election. The provision mandates that the Labor Board formulate rules assuring that when an employer makes a campaign speech to employees on plant premises or during working hours, the union will be given an opportunity to communicate with the workers in an equivalent manner.

Mr. Chairman, this provision is triggered only in circumstances when the employer, with his employees in the plant, as is frequently done, shuts down the operation of the plant for a time, gathers his employees together, and makes a speech to a captive audience against the organization of the plant or against the collective bargaining agreement.

If the employer does not engage in a captive-audience practice, circumstances remain as they are; and the employee has no more rights than he has right now. The fact of the matter is that in many, many instances the employer, having really effective control over the workers in the plant, frequently, all too frequently, shuts everything down, makes a speech against the organization or against the collective bargaining agreement, and the employees are there. They are coerced in these circumstances to such a degree that in many instances they are afraid to get up and respond or are not allowed to respond.

Mr. Chairman, if the employer wants to take the chance of having a captive audience, then he is saying and we are saying that the employees should have the same opportunity to rebut right then and there, if necessary. Mr. Chairman, in the decision in the 18th or 19th Stevens case, which came down from the Second Circuit Court of Appeals less than a month ago, the court in that instance went far beyond this. In that instance the court gave the J. P. Stevens employees the opportunity not simply to have access, but in any circumstance—and although the court went that far, this does not go nearly that far—where the J. P. Stevens management has its workers as a captive audience and makes an antiorganization or anticollective-bargaining speech under that decision, the management representative must be accompanied by an employee, who has an immediate right of rebuttal.

Furthermore, the court went so far as to order J. P. Stevens to mail all of its present and past and prospective employees essential information which they had theretofore been denied.

Mr. Chairman, the bill itself is much more reasonable than that.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the chairman, the gentleman from New Jersey (Mr. THOMPSON) for yielding. I would simply like to ask the gentleman is there anything in the existing law that prevents or inhibits an employer, prior to the time of notification, or the filing of the petition, is there anything that inhibits an employer from addressing his employees and even going so far as discouraging them from unionizing?

Mr. THOMPSON. There is none.

Mr. RAILSBACK. In other words, even before there is any issue an employer does have the right to address his employees and speak to them on the company's premises, and so forth?

Mr. THOMPSON. The gentleman is exactly correct.

Mr. RAILSBACK. As I understand the bill before us it would limit employee access, or equal access, so as not to disrupt the continuity of the production on the employer's premises. Is that correct?

Mr. THOMPSON. That is correct.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, just quickly, I would like to tell the committee that the bill as it is currently written is in response to a rather extensive study as to elections held under this act. In that study they found that while most people, when they signed cards, had pretty much made up their minds that they wanted to join a union, or those that refused to sign cards had made up their minds that they did not want to join a union, the one activity that led to the changing of their minds was if they attended either an employer's meeting or a union meeting. Further, they found that there was a clear advantage to the employer having a meeting in that he held it on his premises and he gave time off to attend the meeting, or they were paid to attend the meeting, or their pay continued while they attended the meeting. Further, while only 36 percent of the employees attended a union meeting, 85 percent of the employees attended an employer's meeting.

So, what we are establishing in the law as it is written, as this bill is written, is an equality, whereby the employee can have the same access, the same time granted to him by the unions as he would have by the employer.

The thing that the committee should remember is that it is up to the employer as to how he wants to trigger this mechanism. If he wants to hold a 3-day seminar then he is going to have to give the union equality and equal access to the employees. If he wants to tack up a sign in the lunchroom, or if he wants to have an informal discussion during the lunch hour, that is all the union is entitled to. So the employer gets to make the choice. Because, if you read the bill as it is currently written, it says that:

> . . . the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organizations; . . .

So, it is really up to the employer. And this is not the extreme case of the employer dropping by and saying, "Hi, buddy, I hear there is going to be an election." The employer will have to calculate as to how they will approach their employees, and the union will have the same right, it will be as extensive or as limited as the employer chooses.

So, Mr. Chairman, I urge that we defeat this amendment and leave the language in the legislation which has been based on facts and on studies, and I believe we ought to go along with that provision.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think several things should be recognized concerning this whole problem of elections, electioneering, and access problems. In the first place, a union has many advantages, according to the Board's interpretations and rulings that management does not have.

Further, a union, during its organizing drive, can make all sorts of promises, whereas, if the employer makes any specific promise or similar promise on raising wages, then that is an unfair labor practice. Unions have many advantages in electioneering. They can make unreasonable statements and promises that cannot be kept, and that is not an unfair labor practice, they can violate them

Second, subsequent to the filing of a petition for an election, the unions have an additional opportunity to present their views through the use of the list that is supplied under the Excelsior case, which requires the employer to give a list of all of its employees to the union, which, in turn, can be used by the unions for mailings, or contact, and so forth.

This rule was established by the NLRB to balance the fact that unions do not have access to employees on company time and property. As I say, that was a balancing practice by the NLRB. Now all we are talking about is just one more process, one more tip on the scales on the union organizer's side. Armed with this list, the union representatives may go into an employee's home to present their case to the employees.

Under present Board decisions, management may not go into the home of the employee during his election drive but only at their peril. They can go in, but it can be held as something that constitutes conduct that can set aside an election. So that is the second area where it is unfair, where it is tipped in the area of the unions. Not only do they have the lists as provided by the employer, but they can go into the employee's home, make any promise they want, and the employer cannot under Board rulings present his case in the home of an employee. So it is obvious that there has been some balance.

This access provision would tilt that much more in favor of the union organizer. For example, what do they mean when they say the employee shall be assured equal opportunity to obtain in an equivalent manner. What do the words "equivalent manner" mean? I happen to think that is going to bring forward many more cases, many more interpretations by the Board. Maybe sometime they will say as a part of "equivalent manner" that means access to the company's house organ, their publication. I cannot say that will not happen the way Boards traditionally expand their interpretations to cover such situations. What do they mean by "equivalent manner"?

My contention is this section, No. 1, is not needed. There is that balance that the Board has given by its directives, by the Excelsior case and other rulings.

Secondly, this language has a number of traps that all of us on the floor today, including the sponsors and those of us against it, cannot look in a crystal ball and see how the Board will interpret it. I think this should be rejected. The equal time proposal contained in this bill is totally unnecessary, and it calls, secondly,, for rulemaking. It is not a precise definition of what shall or shall not be done, under what terms the employer or the employer's organization shall conduct itself. It gives the Board rulemaking authority to interpret such words "equivalent manner."

For all of these reasons I suggest that we support the Erlenborn amendment, leave the law where it is, and let the parties work out their elections in the process that has already been set out by the National Labor Relations Board.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words. I think the operative phrase in Mr. ASHBROOK's amendment is at the very end of his remarks. I think we should leave the law the way it is. After all of the years that this problem has been studied, that is the one thing that no one in this country who has addressed the problem, including the gentleman from Ohio (Mr. ASHBROOK) really wants to do. He spent most of yesterday, as a matter of fact, complaining that he could not go much further than this bill goes in changing the law from the way it is. He complained very bitterly yesterday that the rule under which we are operating does not permit him to open up the entire National Labor Relations Act so that he could rewrite the entire National Labor Relations picture and change the law very dramatically and drastically, without arguing about whether his proposals are wise or unwise. It is very clear in this record that he and those who support his position have wanted dramatic and drastic change in the law. Now when they come to a provision in the bill that bothers them a little bit, they say the logical thing to do is to strike the section from the bill and leave the law the way it is. I am surprised the gentleman in this early stage in this debate under the 5-minute rule is showing so much satisfaction with the present state of the National Labor Relations Act and the way in which it is administered. The really important thing that is involved in this section that has not been talked about is found in the language at the top of page 17, if the Members will address themselves to the bill.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And then one of the kinds of rules that we would direct the Board to address itself to and draw regulations for within 12 months would be a rule that would provide equal access on an employer's premises, once the question of unionization becomes in fact an issue.

As the gentleman from Illinois (Mr. RAILSBACK) so appropriately raised the point a few moments ago, this has nothing to do with the years of effort, with whatever method the employer might wish to use to convince his employees in advance that if anybody ever shows up around here and encourages the employees to join a union shop, here is why they should not do it. That is perfectly proper. They can open the door and they can begin business. Often they do. But once the employees have the question put to them in the form of a petitioning, at that point the provisions of the NLRA take over.

At present we are operating under rules which do today what we would expect the NLRB to do, but they have been sort of fashioned out of jungle warfare over a period of time. Someone seeks access and is denied and files a complaint. Someone actually goes onto the premises and is ejected. There are cases, for example, where the court has held that a company rule that prevents people from approaching fellow employees in the parking lot was enforced only when they approached fellow employees to sign a card to join a union, but it was not enforced when they were selling hot merchandise or numbers or whatever else was occurring in the parking lot. In that case, all the court said was that this was not a rule to limit the access to employees one to another on the premises, because it had not been equally applied but only was applied when there was a question of representation by the unions which was being considered by the employees and they were trying to deny employees their right to free speech.

The gentleman from California (Mr. MILLER) has already outlined very well the parameters of the rule we would expect by the Board. The parameters are set forth in this to provide a rule for equal access, but remember what we are saying is equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organizations.

If the employer determines that he is going to be satisfied with a mail campaign, this has no impact on it. If he wants to buy local television time, this has no impact on it. But if he wants to pay time and a half for overtime and have the employees go to the cafeteria and have some hot shot come in from outside to explain the evils and wickedness of organized labor, this would apply.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the law as it is today recognizes, and case law for a quarter of a century has recognized, that unions have and may properly use alternative means of contacting employees. Absent this amendment offered by the gentleman from Illinois (Mr. ERLENBORN) we are requiring the employer not only to finance his own employee relations efforts but also to subsidize the organizing efforts by the unions.

We need to keep in mind that the J. P. Stevens case is not a typical case in labor-management relations under the current law, and it is a mistake to change the entire labor-management relationship based on this one case.

Mr. Chairman, I yield to my friend, the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I think a point worthy of repetition has just been made. We have heard already that this is justified by the J. P. Stevens case. There has been talk, and I think we are going to continue to hear more of it today, that the justification for what we are doing is the J. P. Stevens case.

If we were writing a law applicable only to the J. P. Stevens Co., or applicable only to large employers, I might be willing to support a bill that is altogether different from what we are considering here today, which I oppose.

Last year the median size of the bargaining units in elections supervised by the NLRB was 49 employees. That means there were elections involving smaller units. We are talking about a law that is applicable to every employer in the United States. How are we going to explain to our constitutents, say the fellow that has a print shop and a dozen employees in the back room, who has never had labor problems before and does not have the benefit of a skilled labor lawyer? Suppose he is served with notice by an outside union organizer and he unwittingly responds to his employees in a fashion which will open him up to a law which will give the union organizer the opportunity to come into his shop or company and to try to organize his company shop. Can you imagine his sense of outrage and bewilderment?

We are not talking about the case where you have employees trying to convince their fellow employees of the wisdom of joining a union. You do not need equal access at that time. We are talking about outside, nonemployee, union organizers coming in for the purpose of instigating a union drive for which there is no support among employees.

Remember, what we are doing here is applicable to all employers, to the small employers of our districts. The equal access rule is only really applicable when it is an outside union agitator who wants to come inside the employer's work place and use the employer's time and the employees' time and the employer's property to try to organize that shop.

Be careful voting against this amendment. You may have to account for it later to your own constituents.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, with all due respect to my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN), the description that the gentleman gives does not square with my awareness of real life situations. The gentleman suggests that there are employers by great numbers throughout this country who have been conducting their own business and negotiating with their employees and have been aware of unionization and organization efforts through all these years inside and outside their own plants, but they are not going to be aware of the fact that a law has been passed which, in fact, allows equal access on the premises of the employer to the employees, seeking union organization as that which the employer has. It just simply does not square with the facts in the real world.

The fact is also, Mr. Chairman, that although J. P. Stevens has been the most notorious harasser of employees in the recent history of this country and has achieved a well-deserved reputation for evil conduct throughout this land, it is not the only employer who has engaged in this great effort to destroy unions and their employees' rights. With the legislation that is before us, what the amendment of the gentleman from Illinois (Mr. ERLENBORN) seeks to do is to place employees on an equal footing, at least as far as this particular aspect of employer-employee relations is concerned. It is not

giving an unfair advantage. It is striving to provide a fair balance.

Mr. Chairman, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I would like to ask the chairman of the committee a key question which concerns the issue of captive addressing. Realizing that the NLRB is going to issue rules, but also realizing that Congress will set the guidelines for those rules, as I understand it from the earlier remarks, addressing an audience in terms of this section means "verbally" addressing a captive-type audience, in a mass meeting type of situation.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, that is correct in the sense that the employer has the right to put out information in the mail or even in pay envelopes without it being captive, triggering the section.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, what if the employer wanted to talk to his employees on a person-by-person basis, without being in a captive situation?

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, this would not necessarily trigger it. He has that right and no doubt will exercise it, subject to the Blue Flash doctrine just as the organizers will stand outside the plant gates and gather where their friends and coworkers are and talk to them.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, one further question. I know it is implied, but until such time as the Board issues its equal access rules, until such time those rules are implemented, then these provisions do not become applicable; is that correct?

Mr. THOMPSON. The gentleman is correct.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I think it would be wise for the Committee to strike this portion of the bill, simply because there is a great misunderstanding about its provisions. It is loosely written. It can be interpreted in a varied number of ways. In fact, my experience with the bill so far is that the interpretation by the supporters of the bill and those who oppose it differ severely with those who would benefit from it.

I have spoken with people from labor organizations. It is their opinion that what they are seeking is an opportunity to have such a provision to be able to speak with a man in a parking lot, or be able to have some literature available to men in the plant, and so forth. I could support that type of provision if it was tightly drawn, but I think the gentleman from Michigan (Mr. FORD), in his support of this provision of the bill, mentioned his opinion, which is of most concern to me, that an employer may in fact find himself in the position of having to take some of his own funds in direct support of an organizing effort in opposition to him if he happens to choose to spend some of his money in a situation of having a meeting in which an employee is paid.

Mr. Ford believes, if an employer uses some of his money against an organizing effort, has a meeting and pays for time spent at a meeting on a voluntary basis, he will find himself required to do the same for the organizing effort. It seems to me there is a real question of violating property rights. We are dealing with individuals who are entrepreneurs, whether corporations or individuals, and they do have property rights. I think the Congress should concern itself as to what is the rightful position of the Government with respect to those individual property rights.

The courts have spoken, I believe, in precedents where organizing efforts have truly been blocked from adequate access to the employee, and have made available an access on the employer's premises during periods of times, either lunch time or prior to working hours or after working hours. I think that as long as the courts have those precedents, that does give protection to an adequate access.

I think it is quite obvious that the committee, in support of this portion of the bill, is not tracking well with those people who are lobbying for the bill when they come out with strong statements saying that the employer, if he decides to have a meeting, will have to pay for a meeting of the organizing effort. That is not what the labor organizations have said to me in my office. They have said, "We simply want to be able to talk to the employees so that we can get our side across to them. We do not want the employer to have to pay for facilities, to pay for overtime. That is not what we are asking for."

The major concern expressed to me by labor organizations and individuals was that, on a last minute blitz, an employer would bring people together, whether they pay for it or not, and thrust on them some sort of threat against them. I happen to think that is an offensive way for an employer to operate in an organizing effort. I could support an amendment, and I have an amendment ready should this one fail, which would tighten up the provision to a limited number of days as they near an election, but to have an open-ended situation where an employer could not choose how to spend his money while the organizing effort can spend its money any way it wishes, is unfair.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I think I should remind the gentleman and other Members on the floor—and I am sure the gentleman is aware—that present law prohibits the employer from making promises or threats, either express or implied, so that we really do not have to worry about that. That is already covered by present law. What we are really talking about here is giving an outside organizer the right to come into the plant

Mr. GARY A. MYERS. I am glad the gentleman mentions that, because in the same conversation I had with labor groups, they were not looking for outsiders. In some cases, they agreed that if a provision were put in that outsiders could not come into the plant under this provision, they would support that type of amendment. I would hope that at least we would be wise enough to protect the work place in any relationship we develop toward people who are either employers or employees of that facility.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I will say to the gentleman from Pennsylvania that I think we have to keep our eye on this: That we are not here in this bill trying to write into legislation a set of rules that would apply to all situations at the same time.

What we are trying to do is say to the Labor Board, "You will write a rule that the kind of small businessman that the gentleman from Illinois (Mr. ERLENBORN) is concerned about will be able to pick up and read, if he cannot afford to have a hot-shot labor lawyer telling him, that there are 52 court cases, each of them a little bit different, that will define what his rights are."

The way it is now, a small employer has no one place where he can go and determine what kind of access he has to give, what kind of restriction he can put on union organizers. He has to depend on whatever knowledge he has of the present existing virtually common law, because the rules by which the game is now played have not been made by the Board and put into some book which somebody with normal intelligence and limited experience can read and understand. They are made by a series of court cases arising out of first amendment rights decisions, and they are very complex. A labor lawyer who works at it all the time has no great difficulty telling his client, "You can do this; you can't do that; you can do this if you do it in the parking lot; and you can't do another thing in the parking lot." But the little guy that the gentleman from Illinois (Mr. ERLENBORN) is talking about does not have access to that kind of expertise. What we are saying is that the National Labor Relations Board should write a rule so that everybody understands how the game is to be played and the union and employer will know their rights.

Mr. GARY A. MYERS. Mr. Chairman, I am concerned about the National Labor Relations Board writing fair rules based on premises we have given them where there is a previous history. What concerns me is the statement that the gentleman made with respect to what our interpretation of this provision is. The gentleman stated earlier, in going to the point that if an employer paid some overtime in his effort in opposition to an organizing effort, it was the opinion of

the gentleman from Michigan that this provision of the bill would require the employer to do the same for the other side.

Mr. FORD of Michigan. No, no.

Mr. GARY A. MYERS. So that when the rules are written, we are giving them rather broad authority here. And if they come back to the legislative history that is being developed on the subject and they read those remarks, I want to say that I can in no way support that an individual employer will also have to spend money in support of that opposition effort. I think we have to be very careful. That is my concern.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has again expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. I do not have any disagreement where rules are clear and there is established a history of what is a fair situation and there has been an opportunity to challenge the development of the rules. What we are asking here is to have rules drawn up in a whole new area. What we are saying here today and what is being said and put in the record will in fact contribute to how those new rules are drafted.

Mr. FORD of Michigan. If the gentleman will yield, I call the gentleman's attention to the fact that the language, in section 8, which deals with equal opportunity to sustain an equivalent manner is actually a limitation on the ability of the Board to write a rule which gives unlimited access of union organizers or spokesmen of the union movement, because it says that the rule will be limited to provide for access to do something equal to or equivalent to or in the same manner as the employer does it, not to go beyond that.

Mr. GARY A. MYERS. I would like to say that I have heard a number of people speak on this provision, and that is a dilemma we are in, that we have different concepts of what is going to be the result of this provision.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I would say that we are listening to some Alice-in-Wonderland talk here by the gentleman from Michigan, who suggested that the Board is going to write rules that the layman can easily understand.

Most of these Board rules are hard for the labor lawyers to understand, to say nothing of the laity.

How is the small employer, who has never before heard of the act, going to get a copy of those rules and read them and understand them in the 5 or 10 days he has from the time he is served with notice of election and the time the election is held? He probably does not even know there is such a thing as the rules of the NLRB.

So I think it is a lot of hogwash when we suggest that every small employer is going to have a copy of these rules and will understand them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has again expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, this is a very serious matter, but I would like the record to show that my good friend, the gentleman from Michigan (Mr. FORD), who is a very ardent critic and a very able attorney, was smiling all the time he made his last statement.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the chairman of the subcommittee, the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, in response to the argument of the gentleman from Illinois (Mr. ERLENBORN) with respect to the small employer, the statistic he quoted in terms of the average number of employees is right. The average number of employees throughout the United States is under 50 or at about 50.

It is inconceivable to me that an employer, with so few employees working for him and with the advice of his supervisors and his foremen, is so totally ignorant that he is going to be absolutely unaware of any union activity. If that poor fellow is such a bungler, it is probably a miracle that he is still in business and is making a profit.

There is a protection provided here for him. Any employer has a right at any time to address his employees, speaking against a union or in any other way. Under this provision the employees have a right to respond. Under the law, that is the case up until the last 24 hours, during which period of time neither the employer nor the employee can continue to campaign. It is that simple.

Mr. Chairman, this amendment to strike should be defeated.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would like to emphasize what the gentleman from New Jersey, the chairman of this subcommittee, just pointed out.

I am probably one of the few Members in this room who has run NLRB elections, and I must point out the procedures we had at the NLRB after a petition was filed. There is this wonderful invention called the Government Printing Office, and the NLRB would write up "Do's" and "Don'ts," have it printed at the Government Printing Office and we made sure that every employer who had a petition filed got one immediately.

The employer got all this information as soon as possible at the time I worked for the NLRB. It was not as though we were waiting in the bushes ready to spring on employers. We wanted to give them whatever information they needed about Government rules.

I am sure that will continue to be the policy of the NLRB. I am sure the employers know the information is there, and they know the Board has information on policies.

So, Mr. Chairman, I think a lot of this talk about employers not being able to know what to do is being "drug" out here as just some kind of a "Bogeyman."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentlewoman from Colorado (Mrs. SCHROEDER) for her contribution, and I thank my colleague, the gentleman from Michigan (Mr. KILDEE) for yielding.

The rules and regulations will be published, they are published, and they will be available to any employer who can understand them. If he is bright enough to be an entrepreneur, if he hires employees and is making money, he is certainly going to have available to him in simple terms an explanation of what the rules and regulations are and what they are going to be. I believe he will be able to understand them.

I have great confidence in the small American employer, infinitely more confidence than has the gentleman from Illinois (Mr. ERLENBORN).

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think we are all aware of the fact that union membership around the country has apparently dropped off, and the word is that the union officials feel the need for additional tools in order to increase union membership.

So I suspect that, as the gentleman from Illinois (Mr. ERLENBORN) has indicated, what these small businessmen do not need—those who have been characterized as possibly unworthy of remaining in business because they may be unable to read rules issued by the NLRB and those who have been demeaned in this way—is to have some outside professionals come in and show them how to organize their plants and how to conduct their businesses.

I do not think that that is the wish of the small business community or of those who are part of our great private enterprise system, and who are trying to run these small businesses of 50 employees or less around the country.

My experience and my observation has been that when plants are organized, they are organized under the present system from the inside pretty much; the opportunity for employees to talk to each other during business hours or nonbusiness hours, or during lunch hours or whenever, is freely available. That is the way, it seems to me, that employees in a plant may be organized business or remain unorganized.

Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. ERLENBORN) whether or not there are any present restrictions on employees talking to each other with regard to what they consider to be in their best interests insofar as organization or nonorganization is concerned. Is there any limitation which impels us now to provide this kind of pro-organized-labor legislation so that we can enhance the numbers of labor union members by bringing in the outside professionals in order to organize these small plants?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman raises a valid point. Certainly, under the current condition of the law, fellow employees are quite free at the workplace or elsewhere to communicate with each other. If there is internal movement toward getting a labor organization to represent the employees, they will be able to communicate with each other, discuss the matter, and try to convince one another.

Mr. Chairman, the real thrust of this amendment, I would repeat, is to make it possible for the labor organizer from outside to come into the plant because the access of fellow employees is already there. I would agree with the gentleman with respect to that.

The thrust of this provision, as well as that of most of the provisions of the bill, is to reverse a current trend that has shown a reduction in the total numbers of labor union members, a trend showing that over half of the contested representation elections have been lost by the unions in recent years. They want additional advantages in order to reverse that trend.

Mr. McCLORY. Mr. Chairman, at the present time there is a much greater awareness on the part of employers to do the right thing by their employees and there is no compelling need to invite organized activity from outside in order to bring the employees the benefits of higher wages, better working conditions, and all of the things which contribute to a harmonious working relationship between management and labor.

Mr. Chairman, I am in general opposition to H.R. 8410, the so-called labor reform bill.

Two of the most onerous provisions of the bill are the contract debarment remedy and the equal access provision. The first injures the employees at least as much, and probably more, than the employer against whom it is directed for its violations. The second provision, equal access, is unnecessary and understandably disturbing to employers to require them to allow union organizing activities on company premises and company time. Especially is this so when unions, but not employers, can go to the employee's home. Hopefully this kind of inequity will be eliminated from the bill.

This equal access rule would place employers in the position of subsidizing or financing union election campaigns. Under present law, an employer need not grant company time or facilities to a union organizer to reply to a company speech, so long as the union organizer is not barred by the employer from communicating his views to employees at the union's expense during nonworking hours. The current law protects employees by assuring that they will have adequate access to information from both the employer and the union organizer so that an informed choice can be made regarding union representation. The proposed change would require the employer to permit strangers to come on his property and the employer will have to pay his employees while such strangers try to persuade them to become union members.

Furthermore, at the present time the Board looks extremely critically at any statements made during a union organization drive by employers and will often find careless employer statements to be unfair labor practices. This happens most often when statements are made anywhere but at carefully prepared addresses to employees. The practical effect of this provision may be to completely take away the ability of an employer to get across to employees his point of view. And remember, an employer's statement found to be an unfair labor practice during a union representation campaign has often led the Board to certify a union without even conducting an election.

Mr. Chairman, if an employer plans a party for employees the union immediately files unfair labor practice charges. Yet the union is allowed to visit employee homes as often as it wants and to hold meetings whenever and wherever it pleases. It also can solicit near the employer's property and use media contacts. It also gets the Excelsior list of names and home addresses of the employees involved. Would this amendment eliminate the need for the Excelsior list? Would it allow employer representatives to visit the homes of employees? Should not some thought be given to the property and free speech rights of the employer that are being invaded by this amendment under the guise that the section 7 rights of the employees are paramount? Another point to be considered is that this type of assistance to a labor organization has been found to be violative of section 8(a)(2) of the act.

The Federal contract debarment would permit the Board, upon its finding that a party is willfully violating a final Board or court order, to identify the person to the Secretary of Labor who could then take steps to prevent that person from being able to do any work for the Federal Government for a period of 3 years. There is no apparent right of appeal to the Board's debarment determination, which means the Board serves as prosecutor, judge, and jury.

This new punitive sanction is akin to killing a fly with a sledgehammer. The sole purpose of this provision is to punish the employer rather than to remedy a violation of the law. Furthermore, that punishment to the employer will probably be accomplished only at the expense of jobs for employees. For example, if an employer did a substantial amount of Government contract work and was subsequently debarred because of this provision it could mean the loss of hundreds or thousands of jobs to employees. The debarment order would apply to the entire company even if the willful violation occurred at only a single facility.

Finally this punishment flies in the face of the fact that there are remedies under the current law which can be used against willful violators. Court contempt procedures should be and have previously been used to go after willful violators. The Federal contract debarment provision is in reality a Government sanctioned boycott of a business.

The existing contempt of court proceedings available to the Board can clearly solve this problem, which only exists with a fraction of 1 percent of employers who appear before the Board. The contract prohibition has not been effective under the Office of Federal Contract Compliance and no reason exists to think it would work under the NLRB.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

I would just like to take this opportunity to ask a question of the gentlewoman from Colorado (Mrs. SCHROEDER), since she did work, evidently, for the NLRB.

Mr. Chairman, I ask the gentlewoman whether she found the NLRB was in a position of properly using their 15-day work time with respect to an employer's needs, so that the communications to which the gentlewoman referred, which went out to the employer were in his hands, not only in his hands within the 15-day time frame, but in his hands early enough in that 15-day time frame so that he could handle the matter adequately and could go to an attorney and get his side of the story in such condition that he could present it adequately.

Is that the position that the NLRB has been in?

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, my answer is absolutely; that was the position in our region.

We went all out to make sure that the employer had a booklet which contained very plain English. It was very simple. As I recall, it was 5 or 6 pages long. It told him the "do's" and "don't's" and so on and so forth.

We did everything we could to show that we were an independent party as between the two parties involved.

Mr. GARY A. MYERS. What would be the average time within which they would get all that information from the NLRB once the petition was filed?

Mrs. SCHROEDER. We would get it to them just as fast as we could.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, the gentlewoman from Colorado (Mrs. SCHROEDER) used the phrase "as fast as possible."

"As fast as possible" is rather ambiguous. I would like to have a figure.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, very often if they were in the area where I was, there was a majority. More often than not, the majority of the people affected were right in that area. They were rarely up in northern Wyoming.

Mr. GARY A. MYERS. There are some people up in northern Wyoming, too.

Mrs. SCHROEDER. That is right. They would come up and pick it up, so that they could be notified. We did it as fast as we could. We would mail it in the most expeditious manner possible. We tried to do our very best.

Mr. GARY A. MYERS. I thank the gentlewoman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 24, noes 38.

The CHAIRMAN. The Chair would like to advise all visitors in the gallery that there must be no applause. We are delighted to have you with us but no applause, please.

RECORDED VOTE

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote.

Mr. THOMPSON. Mr. Chairman, regular order.

The CHAIRMAN. The Chair will state that the gentleman was on his feet.

Mr. GARY A. MYERS. Mr. Chairman, I ask for a recorded vote.

The CHAIRMAN. A recorded vote has been requested.

Mr. THOMPSON. Mr. Chairman, I respectfully suggest that the gentleman was not on his feet and he is out of order.

The CHAIRMAN. The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that the Chair observed the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Pennsylvania (Mr. MYERS) on their feet at the time the division vote was announced.

Mr. THOMPSON. Mr. Chairman, I would withdraw my statement. I did see the gentleman from Illinois (Mr. ERLENBORN) on his feet, but he is usually in that position.

The CHAIRMAN. Will the gentleman from Pennsylvania (Mr. GARY A. MYERS) please restate his request.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote, and, pending that, make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and six Members are present, a quorum.

A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 247, not voting 19, as follows:

[Roll No. 627]

AYES—168

Abdnor	Ford, Tenn.	Mitchell, N.Y.
Alexander	Fountain	Montgomery
Allen	Frenzel	Moore
Andrews, N.C.	Frey	Moorhead, Calif.
Archer	Fuqua	Myers, Gary
Armstrong	Ginn	Myers, John
Ashbrook	Goldwater	Neal
Badham	Goodling	Nichols
Bafalis	Gore	O'Brien
Barnard	Gradison	Panetta
Bauman	Grassley	Pettis
Beard, Tenn.	Gudger	Pike
Bedell	Guyer	Poage
Bevill	Hagedorn	Pritchard
Boggs	Hall	Quayle
Bowen	Hammer-schmidt	Quillen
Breaux	Hansen	Rhodes
Brinkley	Harsha	Roberts
Broomfield	Hefner	Robinson
Brown, Mich.	Holland	Rogers
Broyhill	Holt	Rousselot
Buchanan	Huckaby	Rudd
Burgener	Hyde	Runnels
Burleson, Tex.	Ichord	Satterfield
Burlison, Mo.	Ireland	Sawyer
Butler	Jenkins	Sebelius
Byron	Jenrette	Shuster
Carter	Johnson, Colo.	Sikes
Cederberg	Jones, N.C.	Skubitz
Chappell	Jones, Tenn.	Smith, Nebr.
Clausen, Don H.	Kazen	Snyder
Clawson, Del	Kelly	Spence
Cochran	Kemp	Stangeland
Coleman	Ketchum	Stanton
Collins, Tex.	Kindness	Stockman
Corcoran	Lagomarsino	Stump
Crane	Latta	Symms
Cunningham	Leach	Taylor
Daniel, Dan	Lent	Thone
Daniel, R. W.	Levitas	Thornton
de la Garza	Livingston	Treen
Derrick	Lloyd, Tenn.	Trible
Derwinski	Long, La.	Tucker
Devine	Lott	Vander Jagt
Dickinson	Lujan	Waggonner
Dornan	McClory	Walker
Duncan, Tenn.	McDonald	Watkins
Edwards, Ala.	Madigan	Whitehurst
Edwards, Okla.	Mahon	Whitley
English	Mann	Whitten
Erlenborn	Marriott	Wiggins
Evans, Del.	Martin	Wilson, Bob
Evans, Ga.	Mathis	Winn
Flippo	Michel	Wydler
Flowers	Milford	Wylie
Flynt	Miller, Ohio	Young, Fla.

NOES—247

Addabbo	Clay	Ford, Mich.
Akaka	Cleveland	Fowler
Ambro	Cohen	Fraser
Ammerman	Collins, Ill.	Gammage
Anderson, Calif.	Conable	Gaydos
Andrews, N. Dak.	Conte	Gephardt
Annunzio	Conyers	Giaimo
Applegate	Corman	Gibbons
Ashley	Cornell	Gilman
Aspin	Cornwell	Glickman
AuCoin	Cotter	Gonzalez
Baldus	Coughlin	Hamilton
Baucus	D'Amours	Hanley
Beard, R.I.	Danielson	Hannaford
Bellenson	Davis	Harkin
Benjamin	Delaney	Harrington
Bennett	Dellums	Harris
Biaggi	Dent	Hawkins
Bingham	Dicks	Heckler
Blanchard	Diggs	Heftel
Blouin	Dingell	Hightower
Boland	Dodd	Hillis
Boiling	Downey	Hollenbeck
Bonior	Drinan	Holtzman
Bonker	Duncan, Oreg.	Horton
Brademas	Early	Hubbard
Breckinridge	Edgar	Hughes
Brodhead	Edwards, Calif.	Jacobs
Brooks	Eilberg	Jeffords
Brown, Calif.	Emery	Jones, Okla.
Brown, Ohio	Ertel	Jordan
Burke, Calif.	Evans, Colo.	Kasten
Burke, Mass.	Evans, Ind.	Kastenmeier
Burton, John	Fary	Keys
Burton, Phillip	Fascell	Kildee
Caputo	Fenwick	Kostmayer
Carney	Findley	Krebs
Carr	Fish	Krueger
Cavanaugh	Fisher	LaFalce
Chisholm	Fithian	Le Fante
	Flood	Lederer
	Florio	Leggett
	Lehman	Nowak
	Lloyd, Calif.	Oakar
	Long, Md.	Oberstar
	Luken	Obey
	Lundine	Ottinger
	McCloskey	Patten
	McCormack	Patterson
	McDade	Pattison
	McEwen	Pease
	McFall	Pepper
	McHugh	Perkins
	McKay	Pickle
	McKinney	Preyer
	Maguire	Price
	Markey	Pursell
	Marks	Quie
	Mattox	Rahall
	Mazzoli	Railsback
	Meeds	Rangel
	Metcalfe	Regula
	Meyner	Reuss
	Mikulski	Richmond
	Miller, Calif.	Rinaldo
	Mineta	Risenhoover
	Minish	Roncalio
	Mitchell, Md.	Rooney
	Moakley	Rose
	Moffett	Rosenthal
	Mollohan	Rostenkowski
	Moorhead, Pa.	Roybal
	Moss	Ruppe
	Motti	Russo
	Murphy, Ill.	Ryan
	Murphy, N.Y.	Santini
	Murphy, Pa.	Sarasin
	Murtha	Scheuer
	Myers, Michael	Schroeder
	Natcher	Schulze
	Nedzi	Seiberling
	Nix	Sharp
	Nolan	Shipley
		Simon
		Sisk
		Skelton
		Slack
		Smith, Iowa
		Solarz
		Spellman
		St Germain
		Staggers
		Stark
		Steers
		Steiger
		Stratton
		Studds
		Thompson
		Traxler
		Tsongas
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Volkmer
		Walgren
		Walsh
		Wampler
		Waxman
		Weaver
		Weiss
		White
		Wilson, C. H.
		Wilson, Tex.
		Wirth
		Wright
		Yates
		Yatron
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NOT VOTING—19

Anderson, Ill.	Johnson, Calif.	Stokes
Badillo	Koch	Teague
Burke, Fla.	Marlenee	Whalen
Eckhardt	Mikva	Wolff
Foley	Rodino	Young, Alaska
Forsythe	Roe	
Howard	Steed	

Messrs. UDALL, RANGEL, and KREBS changed their vote from "aye" to "no."

Mr. LEVITAS, Mrs. LLOYD of Tennessee, Messrs. O'BRIEN, ALLEN, COLEMAN, BOB WILSON, JONES of Tennessee, GORE, LONG of Louisiana, and BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman's amendment in the RECORD?

Mr. ASHBROOK. Yes, Mr. Chairman, on page 32063.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 17, line 5 through line 15, strike all therein and substitute therefor the following:

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production and the rights of a labor organization to conduct meetings without undue interference and of the employees to enjoy the privacy of their homes, assure that, subsequent to the filing of a petition pursuant to 9(c)(1), and 9(e) opportunity be afforded employees to obtain from their employer and such labor organization, in an equivalent manner, information relating to representation.

Mr. ASHBROOK. Mr. Chairman, it is obvious the membership does not want to reject the access provision, so I am going to give them an opportunity to make the access provisions fair and

equal. I think we should balance these access provisions, so one might call this the Even-Steven amendment and apply to all elections—representation and decertification—and all matters of access. Anything the employer can do, the employee union can do. Anything the employee union can do, the employer can do.

I would not say the situation would be exactly equal, because even with my amendment it is still going to be tilted, I would say, 60 to 40 in favor of the union and the union organizers. So even with my amendment, you would not have an equal situation. You would not, for this reason: When the employer speaks on his premises he pays his employees and, therefore, must pay his employees for the same time when the union organizing committee speaks, as part of the equal access.

On the other hand, if an employer goes into the union hall or the home of the employee, which balances off the union's basic right to address those forums, on those occasions, obviously, you do not have the same captive audience. The membership may show up; it may not. The union organizer may want to talk to them in the home; it may not want to talk to them in the home. So you really cannot equalize the situation.

As long as you are forcing the employer to pay for his communication to employees, you can never equalize the situation. But at least my amendment is part of the old American tradition of fair play. What is fair for one is fair for the other. I believe my amendment is eminently fair. It insists that the Board make rules and regulations to provide reasonable conditions which have due regard for the needs of the employer to maintain the continuity of production, the precise same language that is in H.R. 8410, on page 17; but it goes on to require the Board to make rules and regulations for the right of a labor organization to conduct their meeting without undue interference. In other words, the Board will lay down the guidelines. You just cannot charge in and say, "I want to speak." You will also lay down the guidelines to permit the privacy of the employee in his home. But at least whatever rules are laid down, there is some effort to have balance in the situation where the organizing union has the right to access and speech and the employer has the same rights to access and speech.

I do not see how the membership could fail to support this amendment. If we believe in balance, if we believe in fair play, and if we believe in free speech than I think my amendment should be adopted, and I certainly urge its adoption.

Currently, the rights of employers and unions to address employees concerning representation issues are governed by Board and court decisions that attempt to balance the employees' need for access to information against various competing interests the employer's need to maintain production, the union's interest in conducting free and uninterrupted meetings, and the employees' right of privacy. H.R. 8410 would change this balance by requiring rules that would give unions access to a forum now available only to employers—in-plant speeches. It would not, however, change the existing rules which bar employers from other forums now open only to unions—union hall meetings and visits to employees' homes.

This substitute amendment carries out the principle of greater access to information about representation issues, but does so more evenhandedly than H.R. 8410, by giving both parties fully equivalent means of communicating with employees. At the same time, it assures against undue intrusion upon the rights of the employer, the union or the employees. Also, this amendment unlike the subsection of H.R. 8410 which it replaces, applies equally whether the employees are seeking to bring a union in or vote out an incumbent union.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I can find little, if anything, to quarrel with in what the gentleman from Ohio (Mr. ASHBROOK) has said about his amendment. But that is not what the amendment says; that is not what it does.

If we will read the amendment, we find it says this: That we go to page 17 and strike all the language from line 5 through line 15, which is exactly what we just voted on; and then, having done that, we would substitute therefor a new provision which has a really extraordinary aspect to it, one that I find quite frightening. That provision would, as I read it—and this is what the gentleman from Ohio describes as "evenhandedness"—permit both the union and the employer to invade the private home of an employee, simply because there was an issue of a forthcoming election to determine whether or not there would be a union in the plant.

First of all, I do not see how constitutionally we can extend the Labor Act to permit the representatives of labor and the representatives of an employer, simply because that issue has been raised, to go into the homes of individual employees.

The gentleman from Ohio (Mr. ASHBROOK), in his explanation of the amendment, said that what he wanted was free access to go into the union hall and talk to the membership. I have no objection to that. I have no problem with that concept, but that is not what the gentleman's amendment says. It says, "and of the employees to enjoy the privacy of their homes, assure that." and the implication is that the gentleman is not talking about simply going into the union hall or anyplace where the employees are meeting on a regular basis to discuss the upcoming election, but he is talking about going beyond that and approaching the employees in their homes.

There is a type of unfair labor practice that we could conceive that might develop by this amendment. Would we want to have an unfair labor practice filed against an employee who refused access to his home?

Let us take the case of a man who may not have signed up for the union. Presumably, they do not have all the employees signed up in favor of the union when they start an election. This may be an employee who has had nothing to do with the organization, has had nothing to do with talking with anybody from the union, and he may or may not be interested in whether there is going to be a union in the plant. He is now going to be subjected to what the gentleman from Ohio (Mr. ASHBROOK) calls even handed treatment by being approached in his home. And would that employee be in danger of being accused of being involved in an unfair labor practice by refusing access to his home to somebody from the labor union or from the company? That is ridiculous, of course.

The gentleman from Ohio (Mr. ASHBROOK) is one of the best labor lawyers ever to serve in this body. He is also a strong orthodox conservative, one who has, in my 13 years of serving with him, consistently and incessantly fought for what he calls individual rights. I have been on his side in most of those fights.

I believe what is at stake here, in what I suggest is an inadvertently and hastily constructed amendment, is an amendment that invades the most basic right that people have in this country, and that is the security of their homes. I suggest that if the gentleman's amendment were to be adopted, we would have an awful lot of pressure presented against us in a couple of years because I suspect that at least in my part of the country, if somebody from the union or somebody from the company would break into a house and force their way in to talk to an employee, there would be a shotgun waiting for him.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, this really should be characterized as the "trick or treat" amendment or the "doorbell" amendment.

I think the concept of access to union halls is entirely acceptable, but in this area let us not lose sight of the fact that a tremendous number of employers own the very homes in which their employees live. Those employees have to pay rent in many cases, and they buy all their supplies at the company store.

In the Darlington case, when they closed the mill, although they had sold a number of the homes to the employees, the company actually had control over the water supply for the town, and they shut off the water.

Under this amendment, what are they going to have to provide for each house, a new doorbell or a new doorknocker and let them in? I just cannot see that concept.

Mr. Chairman, I oppose this amendment very strongly.

Mr. FORD of Michigan. Mr. Chairman, I might suggest to the gentleman that the gentleman from Ohio (Mr. ASHBROOK) has been a long-time, articulate advocate of the separate gate theory, and that was evident when we discussed situs picketing.

Perhaps he has in mind some sort of rule similar to the separate gate for access to be provided at people's homes.

I yield to the gentleman from Ohio (Mr. ASHBROOK).

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. THOMPSON and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Mr. Chairman, the gentleman already has yielded to me.

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I ask the gentleman which door is this, the back door, the front door, or all doors? Is it the cellar door?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, I do not know. I do not think we want it to apply to cellar doors.

Mr. THOMPSON. How about the windows? Can I knock on the windows?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I have several points on which I would like to comment.

First, the Board must make rules, as the amendment indicates, because it is in the Board rulemaking section, which are subject to reasonable conditions, without undue interference with the employees' right to enjoy the privacy of their own home.

Therefore, first of all, we are talking about rules; and we certainly are talking about the constitutional right of somebody in his own home to tell both the union and employer to go to blazes. Therefore, I do not think that anyone will ever have an unfair labor practice because he did not talk to a union representative.

Second, under the law the Board decisions as they now stand provide that the union organizer can go into the employee's home. I do not think that he can force his way in. He can go into the employee's home, but the employer, during the organizing drive, cannot go in.

Mr. FORD of Michigan. Mr. Chairman, let me reclaim part of my time.

That is precisely the point. We are operating on the assumption that every employee is willing to invite the union organizer into his home, and therefore, it should follow that the employer should have equal access.

What about the employee who does not want the union organizer to come into his home? Under the provisions of the gentleman's amendment, if he invites the employer in and says, "I have worked at your mill for all these years and under poor conditions," cannot the union organizer come in and unionize him in like fashion?

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, it would be subject to what the Board regulations prescribed.

I stand here fully aware in my own mind that the Board is going to write regulations to make impossible everything I am talking about. We know what kind of liberal Board it is going to be; but all of this is going to be subject to what the Board promulgates, with due consideration for the employees to enjoy the privacy of their homes.

They may negate the whole purpose of my amendment, but I think the concept that they are going to be able to force their way into the employees' homes so that there is some invasion of constitutional rights, certainly is the type of argument that cannot be advanced here.

I do not think that anybody contends that the employee does not have the right to say to the union organizer, "I do not want to talk to you" or to say to the employer, "I do not want to talk to you."

Mr. Chairman, all this does is to bring some balance into this matter and get around the Peoria Plastics decision and other decisions that favor the union organizer which in effect say, the employer cannot communicate with the employee in his home even though the union organizer may.

Mr. Chairman, the amendment has balance. I think it is equitable, and I urge its adoption.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, during the recess in August, the gentleman from Ohio, the chairman of the subcommittee, the gentleman from Michigan (Mr. KILDEE) and I had occasion to go to the fabled home of the J. P. Stevens mills in Roanoke Rapids, N.C.

We got some impression at that time as to what would happen or could happen, given an unscrupulous employer.

One evening we were at the Holiday Inn, and those of us who happened to be in our hotel rooms were subjected to the loudest of knocking. Some employee of either J. P. Stevens or of the hotel came bursting in with piles and piles of material. Those who happened not to be in their rooms had their rooms entered in any event, without any leave or permission of any kind.

Mr. Chairman, it seems to me that if J. P. Stevens is willing to do this to the rooms of Members of Congress, I can imagine what they would do to their own employees.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I was there that evening. When I came in I had the same material there. I also had a message from a member of the committee staff saying that he was at the bar and that I could meet him there.

I did not think they invaded my room. They simply left a message with the bellman who delivered the message like most bellman do.

Mr. WEISS. The gentleman has a greater tolerance than most of the Members of the House do.

Mr. FORD of Michigan. Now I will yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman from Michigan (Mr. FORD) for yielding to me, but I would prefer to seek my own time to ask some questions.

Mr. FORD of Michigan. I yield back the balance of my time.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my friend the gentleman from Ohio (Mr. ASHBROOK) some questions to make certain that the legislative history is clear. I might also say I am not at all sure that, even though I disagree with many of the amendments that the gentleman has had printed in the RECORD, that we are being entirely fair to the gentleman with respect to this particular amendment.

Let me ask the gentleman from Ohio, am I correct. it is not your intention to in any way negate the language that appears in the committee bill which would afford a union organizer his or her equal right with the employer, to talk about a potential union. It is not your intent, am I correct, to negate in any way the right of the union organizers to have equal access on the employer's premises?

Mr. ASHBROOK. Absolutely not; they should have opportunity for the same type of speeches, the same type of equal captive audience communications that the language in H.R. 8410 now provides. As a matter of fact, I have used the same language down to that point, merely adding the "union hall" and the "home".

Mr. RAILSBACK. Am I also correct that it is your belief and intent that if the Board promulgates rules, those rules will take into account employee privacy, as is stated in your proffered amendment?

Mr. ASHBROOK. That not only is my intent, but my overall understanding of the courts and the judicial system, and, even though a representation election is important, there is no situation under which I believe a court would say that an employee has to admit anyone to his home, even if it relates to a union election. I think that any determination that you are going to have to open up your home, simply because there is going to be an election, does not give away the constitutional rights that have been protected by our judicial system. The Board will promulgate rules to bring about equality. If the union organizer can go in that home at least the employer should have the same opportunity. Maybe the employee will not want either one of them in his home. No one alters that basic right.

So I think the fears of the gentleman from Michigan (Mr. FORD) are completely without merit.

Mr. RAILSBACK. May I ask? Suppose that an employee is willing to see the union organizer but for some reason or other he does not want to open his door to the employer. Subject to the conditions and standards promulgated by the Board, if he chooses to see one he does

not have to see the other if he does not want to, is that correct?

Mr. ASHBROOK. That is correct.

In the first instance we are talking about a certain privileged right of access, the right of access to the employer's property to address the employees. Second, we are talking about a privileged right of access to the union hall. But, when you come to a home, I do not think anybody has the privileged right of access, except, maybe the IRS man or a police officer with subpena, but certainly not a union organizer or an employer.

Mr. RAILSBACK. I am not sure that the IRS man has such a privileged right, either.

But, let me say in closing that I happen to believe that the gentleman is trying to provide equal access and I find it very hard to quarrel with the gentleman. I intend to support his amendment.

Mr. ASHBROOK. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, and members of the committee, I think you have got to understand that the last amendment we had under consideration was in response to the employer having a captive audience situation, where the inducement to come to a meeting is that you get time off, or you get paid to come to the meeting, and it was on the basis of a subtle intimidation that it was your employer who paid your wages, and he wants you to attend the meeting.

Now, in this amendment, if you invite a union organizer to come to your house, then you have also given the right to the employer to come to your house. I am not questioning, and I do not really care whether he can get in my door or not, because I suspect in my case he cannot do it if I do not want him to. I am concerned about the fact that he has a right to come and annoy me. I am concerned, just as we now have people who call on the phone. I have the right to hang up, but I would prefer that they do not get me up from what I am doing so that I have to answer the phone.

I think there is an invasion of privacy here, and there is because I am taking affirmative action to ask somebody else to come and give me some information that I have given another person the right to do. That is far different from the captive-audience case. Furthermore, I want to just challenge this Congress, do we really want this Board to promulgate rules based on an interpretation of what is an undue influence on their privacy, because I want to tell the Members something, that my belief about my privacy, and my constitutional right to privacy is far different from anyone else's here. And it also changes on Sunday afternoon. It changes after I have been in a fight with my wife. It changes after I come home from work and I am tired.

And I want to see the regulations that are going to be filed under this one. If the Members are concerned about paperwork, I want to see the unfair labor charges that are going to be brought on this one on the basis of what is a person's interpretation of what is an undue influence on their privacy.

I do not think this Congress ought to start giving people the right to go to people's houses to harass or harangue them because they have made a voluntary movement.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

The employer now has the right to mail materials to the employees' homes to make his pitch. That is an absolute right which he enjoys and which he can take full advantage of. He has access in that sense, and it ought to be limited to that. He can put leaflets in the pay envelopes. He can pamphlet. He can do anything under his first amendment right.

As the gentleman from California puts it, all of us have a different version or different view from time to time of our right of privacy. I do not want anybody knocking on my door and bothering me if I am in a humor like the gentleman from California is. I would not want to be his wife and have a fight with him. I think he is too big.

Mr. MILLER of California. I do not think the employers under the history of this act have ever run out of innovative ways to get the best of an employee in his privacy. The best one used by the employer is a message in his pay envelope. You figure out the connection.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from California has given a very eloquent argument why we need to offer protection against invasion of the right to privacy. I think we all agree with that. What he failed to mention was the fact that the unions do at this point have the power to do exactly the same thing that he wants to prevent the employer from doing.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I think through this debate that there has been an attempt to use a word that should not have been interjected. Members on the other side continually talk about the right of visiting a home. Nobody is talking about a right. As a matter of fact, I would propound this question to the gentleman from California or the gentleman from New Jersey: where in any law anywhere, anyplace, relating to labor law, any Board decision or regulation, does anyone have a right to go into anybody's home? What we are talking about, quite simply, is under Board regulations union organizers have the opportunity to go to the home of the prospective union member who is going to vote. They have the opportunity to go, not the right, not the right to knock on the door and say, "I am here. I am your friendly union organizer. You have to let me in." That is ridiculous. There is no such right. But the union organizer does have the opportunity to visit the home of the employee to present his case. If he is George Miller who says, "Don't come in," I would suggest he could punch him in the nose when he forces his way across his threshold. There is no law that says he can force his way in.

They have used the word "right" either because they have not read my amendment or because they are trying to spread on the record something to show a hidden intention I have in this amendment. All the amendment does is afford the employer the same opportunity, not the right but opportunity, to visit the home.

Secondly, we are talking about regulations that will be handed down by the Board. We are talking about a regulation that the Board will promulgate which is subject to reasonable conditions, including due regard for the privacy of their homes, to assure that subsequent to the filing of a petition, employees shall obtain from their employer, and such labor organization in an equivalent manner, information relating to representation.

The rulemaking probably will severely limit the employer's right and opportunity to go to the home no matter what we say, but at least we are talking about the opportunity, not the right. They cannot point to any section of any law that says an employer has any right to go to any employee's home. I would like to see it if they can.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I would like to say the gentleman from Ohio serves on the Judiciary Committee with me, and I know of no one in the House who has expressed more concern over his years of service than the gentleman from Ohio as to the right of privacy. There is no one who has any better record or reputation in that respect, so I am surprised that the gentleman from California has questioned the gentleman's amendment as to the right of privacy.

I think the amendment offered by the gentleman from Ohio is drafted to take account of the right of privacy. It is eminently fair to the union and to the employer. It says if the union organizer can go to the home on a Sunday afternoon, then the employer should have the same opportunity.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I draw a distinction—the House can make up its own mind—between the ability of the union organizer who has no control over an individual to approach him in the home and for a person who signs the paycheck to come to one's home and try to gain access and talk about one's job. There is a little difference in the pressure. The NLRB has found consistently that is undue influence and in any case intimidates the employee, and I am baffled, given the credentials of the

gentleman from Ohio, about his position on this.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I just do not think we improve this situation by compounding the felony. I do not agree that either side should be granted the privilege of accosting an employee at his home. Say my door is knocked upon and my wife answers and the gentleman says:

I am Mr. Ashbrook. I am president of Local so and so. I would like to talk to your husband about matters concerning his job.

Or the door is knocked upon and the gentleman says:

I am Mr. Ford. I am president of ABC company, and I am your husband's boss.

I think that puts undue pressure on the employee, his wife and the entire family. Such activity does not belong at the home. I think this is bad law on both counts.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(On request of Mr. O'BRIEN, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I simply want to respond to what the gentleman from Oklahoma said. The employer does not have the upper hand but we hear this. I do not want to get into intimidation but it is injected frequently into our debate. Say I work for a company and the very day before there had been violence at the plant, violence of the type I have had printed in the RECORD of yesterday at page H10587. There had been overturning of cars, an officer of the international union had ordered his henchmen to prevent people from going in even if it means stripping off their clothes, they had daily implantation and reimplantation of nails and broken glass on company driveways. That is more than just intimidation. I do not think the record should show it is one sided. The employer does not have all the cards. Say Mr. Benton who orchestrated this violent activity yesterday comes to my home, would not there be an intimidation in this case. Any number of union organizers resort to tactics which make it likely to have them admitted into the home. So on balance I think we are talking about an opportunity to come to the home by both the employer and the union organizer, both of whom have some cards to play, but it should not be left on the record that it is one sided, that only the employer has the upper hand and, in effect, intimidates the employee.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think it is correct to say that the union organizer can be at least as intimidating as the employer, and I think this amendment goes a long way toward making it equitable for both sides.

I would suggest that the gentleman from California might want to support the amendment because of the gentleman's great concern over intimidating persons coming to the front door.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Page 17, line 7, strike the word "assure" and substitute the word "provide".

Page 17, line 15, after the word "organization" and ", and, with due regard for the rights declared in Section 7, the right of such labor organizations to conduct meetings without undue interference, and the right of the employees to the privacy of their homes, provide also that the employees are assured an equal opportunity over-all to obtain such information from the employer and such labor organization."

Mr. FORD of Michigan. Mr. Chairman, the language of my amendment reads very much like the language of the amendment of the gentleman from Ohio (Mr. ASHBROOK), except that it is an addition to the language in the bill, rather than a substitute for the language in the bill. It acts to modify and further expand the rights of the employer and employee representatives with respect to equal access to employees, wherever they may be found; but it has the one salutary advantage, the fact that it is structured in a way that it does not create the legislative intent that the gentleman's amendment seems to create, suggesting that the Labor Board provides rules that get into the question of access to people's private homes.

What it does, in effect, is what the gentleman said he wanted to do: it provides that the employee and the employer organization will have equal access to the employees on premises used for the purpose of discussing a forthcoming election.

We then go on and provide further that the employees are assured an equal opportunity overall to obtain such information from the employer and from such labor organization.

For the record, it would be my belief that that means that if they are having a rally at the local Knights of Columbus hall or the Legion hall for the purpose of advocating people to vote yes on getting the union, that the company should have equal time to appear at that rally and speak out on why they should vote the other way.

I have no problem at all with my opponent in an election having the ability to meet with me in any kind of public forum or any place that people go voluntarily to assemble. I do have problems with the right of my opponent and my right to harass people in their homes or go beyond and approach them some place where they go voluntarily for the purpose of considering a political issue. I do not think that the union or the company ought to be able to pursue me into my church. They should not be able to pursue me into my lodge hall and they surely are not going to pursue me in my home. Of course since I have a free and uncoerced choice, I can permit a union representative into my home. So I am attempting to do what the gentleman said the gentleman wanted to do; that is to make sure that wherever there is an assembly point for the dissemination of information or propaganda in favor of the union, there will be equal access to that assembly point for those opposed to the union.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman, whom I will assume will be in favor of the amendment.

Mr. ASHBROOK. Mr. Chairman, the amendment does not go as far as mine goes. The membership should know, the way the gentleman's amendment is worded, it does not go across the board as my amendment does. It only applies to certification elections. It does not apply to decertification or deauthorization.

If the gentleman would accept the 9(c)(1) and 9(e) proviso contained in my amendment I would accept the amendment.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is telling me there is something here that I did not even know.

Mr. ASHBROOK. My amendment applies to all elections, certification, decertification, authorization and deauthorization. It applies to all employees and all employers.

The narrow purpose of H.R. 8410 is simply the certification elections, not decertification. I think we should have the same elements of democracy and the same elements of giving employees an opportunity to cast off their unions.

My friend, the gentleman from Michigan, would limit his amendment to only one of the three major areas of elections.

Mr. FORD of Michigan. My apologies to the gentleman from Ohio. My amendment is structured to accommodate the part that I can agree with, of what he said his amendment was intended to do. He is now indicating to me that his amendment went considerably further than anything we argued against up until this point.

Mr. ASHBROOK. I talked about all elections; we talked about all elections. I think applying the same standard on all elections, I do not think my friend from Michigan can say that we only ought to apply narrow standards for union certification where the union is trying to get a favorable vote as a bargaining agent, but we should not employ different federal standards where the employees might want to certify that union.

Mr. FORD of Michigan. The gentleman does understand my amendment does not touch the language on lines 1 through 4.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. THOMPSON and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. I believe the gentleman's concern was with the language on line 3. My amendment does not strike that. It leaves it the same way.

Mr. ASHBROOK. But 9(e) is what applies to decertifications. My amend-

ment says, "Subsequently to the filing of a petition pursuant to 9(c)(1) and 9(e) * * *"

That includes all three elections. What my friend is trying to do is limit it to just elections for certification. Maybe that is not his intention, but as I understand it, that is what the language will do.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. The difference in the substitute, which I endorse because I believe in granting access to the fullest possible extent short of invasion of privacy, is that the substitute is limited to the period up to the election, or under the 24-day rule. The gentleman from Ohio would go beyond that, so that visits to homes can continue virtually forever. I think this in an absolutely reasonable compromise, and it is a very definite improvement in terms of access rights of the employer.

Mr. FORD of Michigan. I thank the gentleman. I would like to observe that the problems we are trying to address with this section of the bill arise out of an election that takes place when employees petition the National Labor Relations Board for an election on the question of whether or not there shall be a union, and whether or not union A, B, or C will be selected as the collective bargaining agent. It does not attempt to get at all questions between the employer and his employees. I suspect that all during the previous discussion, the gentleman from Ohio was the only one on the floor—certainly I do not think anyone on our side was—who was aware that he wanted to go as far as he did.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mrs. FENWICK and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Will the gentleman yield?

Mr. FORD of Michigan. I yield.

Mrs. FENWICK. I thank my colleague for yielding to me. I am confused. I think this is an excellent amendment that the gentleman in the well has offered; but do I understand that he did not intend that this should apply to all three types of elections, but only to the certification for union members; or would he be perfectly happy to have this principle of equal time, equal access, apply to everything?

Mr. FORD of Michigan. What I said was that since the gentleman did not discuss it in the way it came through to me, and I did not discuss it with that in mind, I had not given any thought to anything except the question of representational election.

Mrs. FENWICK. But surely the gentleman is agreeable to the idea of equal time, equal access, equal justice for every type of election? Certainly, I am.

Mr. FORD of Michigan. Stated in the terms the gentlewoman uses, of course. However, I do not know when we start talking about time in the certification cases. I would be glad to discuss it with the gentlewoman.

Mrs. FENWICK. I meant "equal time" in the figurative sense. What I meant was, the equality the gentleman has described in his amendment, which is so fair and so just, it seems to me certainly should obtain, and I am sure it was the gentleman's intention that it should obtain, in all types of elections. I voted for the right of access on the employer's time in the previous vote, and I think this is a splendid amendment. But, I would like to make sure that the gentleman wants it to apply across the board.

Mr. FORD of Michigan. Let me put it this way. If the gentleman can suggest to me the amendment he would like to suggest to my substitute, which I gather would not be in order at this point, we can perhaps work it out. If my amendment is adopted, I would be glad to consider the issue that is now raised. Frankly, I am caught without being able to really understand the dimension, I will say to the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, first, I would like to note that, although the gentleman from Ohio (Mr. ASHBROOK) had tagged his amendment as the even-Steven amendment, I think it would more likely be called the even worse than J. P. Stevens amendment.

Second, I am not particularly satisfied with the clarity of the substitute amendment. I am wondering if the gentleman from Michigan would clear up one point for me.

It is not suggested, as I assume it is not, if the substitute is adopted, that the employer would have the right to station a representative at the union hall so that in fact he could be present, or his delegate could be present under all instances to see whether any employees are being spoken to about the upcoming election? That is not what is intended by this amendment; is that right?

Mr. FORD of Michigan. No, not at all. Nor do I expect that the union would be able to station someone inside the plant to watch every foreman as he talks to an employee. I think we would expect the Board to set up some rules, saying, "If you have some method of establishing a method of propagandizing issues on both sides, you play fair." That would have to fall within the language of the reasonable efforts to protect the rights of the employer with its access to the premises and reasonable right to protect the right of the union to carry on its position when it is not there. If they are having a debate on what the amount the dues ought to be, or electing officers, the company has no business involving in that. But if they are meeting for the purpose of encouraging people who have not signed up to come forward to see what a great idea it is that they have a union, they would have to invite the employer.

Mr. WEISS. If the gentleman will yield further, I thank the gentleman for his response. The reason for my concern is that I think there might be a chilling effect otherwise on those considering union participation.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment offered by Mr. FORD of Michigan: as a substitute for the amendment offered by Mr. ASHBROOK: Before the period at the end thereof, insert the following: *Provided*, the rule shall apply to elections conducted pursuant to sections 9(c)(1) and 9(e)".

Mr. ASHBROOK. Mr. Chairman, as hastily as I can, without the advantage of a fast reading course, I have gone over the language of the amendment offered by my colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I wish to reserve a point of order against the amendment.

The CHAIRMAN. The gentleman's request comes too late. The gentleman from Ohio had been recognized and had began debate.

Mr. FORD of Michigan. Mr. Chairman, I might call the Chair's attention to the fact that I do not have the gentleman's amendment. I am standing here, trying to work it out from what I hear from the Clerk. Nothing was presented to us in writing. I am trying to accommodate the gentleman, and I am standing here the whole time trying to see what the amendment says. As soon as I see what it says, I am reserving my point of order. I do not want to make a point of order on the ground that the gentleman did not present a copy of the amendment.

The CHAIRMAN. The Chair will advise the gentleman from Michigan that his reservation comes too late.

The Chair again recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, as I was saying, I do not see that much difference between the language of the amendment offered by my friend, the gentleman from Michigan (Mr. FORD), and my language, which is the amendment printed in the RECORD on Monday.

I do not like the inference that there is something in my amendment that all of a sudden just dropped down on everybody. My amendment was printed on page 10524 of Monday's RECORD.

As I indicated in my 5-minute remarks on this amendment, I wanted this to be even-steven so it would apply to all elections and would apply to all situations that relate to both the employer and the employee organization or union.

If the gentleman from Michigan (Mr. FORD) would accept my amendment to his amendment, since I have no pride of

authorship, I would be very glad to accept his substitute, as amended.

As my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), so ably pointed out, what is wrong with having the same provisions apply to all three classes of elections? If the Members on the majority side can give a good reason why these same provisions should not apply to all three types of elections, then I would assume my amendment should fail on its merits. But if we are just talking about the narrow area, as I have maintained all along—and this seems to prove the point—of reforming the National Labor Relations Act to assist organizing drives, if that is all we are talking about, then we should reject 9(c)(1) and 9(e) elections.

I do not believe that is what the majority of the Members of this body want, and I think all the good things that are going to come from equal access should apply to all three elections, whether it is in the union's interest, whether it is in the employees' interest, or whether it is in the employer's interest. That is all I am asking.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS to the amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election,".

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization".

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. The Chair will be glad to hear the gentleman on his point of order.

Mr. THOMPSON. Mr. Chairman, my point of order is that this amendment is inconsistent with the substitute as we have just amended it. It expands the substitute to include decertification and other matters which are not relevant.

The gentleman from Pennsylvania (Mr. GARY A. MYERS) had an opportunity earlier to perfect the amendment by offering an amendment to the substitute, and he did not avail himself of that opportunity. This, in my judgment, is out of order.

The CHAIRMAN. The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that, as the Chair observes the situation, the amendment that has been offered is an amendment to the substitute offered by the gentleman from Michigan (Mr. FORD).

Does the gentleman from Pennsylvania (Mr. GARY A. MYERS) desire to be heard?

Mr. THOMPSON. Mr. Chairman, may I be heard further?

The CHAIRMAN. The gentleman from New Jersey may proceed.

Mr. THOMPSON. Mr. Chairman, the amendment to the substitute is the language which appears in the amendment being offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) at this moment.

The CHAIRMAN. The Chair will be glad to hear from the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, my opinion is that this simply limits the provisions which the substitute would provide and that it does not affect the language of the substitute. On the contract, it expands upon it. It simply makes an addition to the substitute as a section of the bill.

The CHAIRMAN. The Chair is ready to rule.

The Chair would like to advise the gentleman from New Jersey (Mr. THOMPSON) that the Chair cannot rule on the consistency of the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the substitute amendment offered by the gentleman from Michigan (Mr. FORD).

Therefore, the Chair would have to state that the gentleman has not raised a proper point of order.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. I raise this parliamentary inquiry for the purpose of making sure that the gentleman's amendment, should it be adopted, in no way alters the amendment of the gentleman from Michigan and myself.

I note that when he drafted the amendment to H.R. 8410, as it stood then, it was to page 17, line 15. Since then there have been amendments.

Mr. Chairman, it is my understanding that the gentleman's amendment would come after the amendment that I have pending, if it were to be adopted; is that correct?

The CHAIRMAN. The Chair will state that that is the Chair's understanding.

Mr. ASHBROOK. I thank the Chair.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Chairman, this amendment simply gives the House an opportunity to accept the position that many of the labor lobbyists in support of this bill have said is their understanding of what would be provided.

First, a major concern was expressed that a last-minute blitz by a corporation or a company being organized would bring together their employees in a captive audience in such a way that the organizing effort would be precluded from answering any charges presented there.

Mr. Chairman, in order to prevent that from happening, this amendment simply would provide that the provision of this section of the bill would only take place in the last 7 days prior to an election, so that if a corporation did, in fact, have a meeting on their facilities within that 7-day period and make any charges, whatever they might be, this amendment assures the organizing effort the opportunity to have whatever the Board feels is equal access to the employees within that 7-day period.

Mr. Chairman, I think it is a fair provision and one which addresses the concern of those fearing a so-called last-minute blitz with erroneous material being presented.

Mr. Chairman, the second provision of the amendment is, again, putting before the House what a number of labor lobbyists have told me, and that is that it is not their intention to have the corporations pay money to employees to attend a meeting simply because they have done it on their own behalf. Their major objective is simply to be able to have the meeting and equal access to the men in the same way.

Mr. Chairman, they agreed with me—those who visited me—that it was not their interpretation of the bill that the people who attended the meeting would need to be paid by the corporation.

Again, Mr. Chairman, these are simply limitations, as I say, that are needed.

I do not think we should be requiring an individual, an entrepreneur, or a corporation to pay people to attend a meeting of an organization's efforts in opposition to them. I think this addresses the concerns many people, who might be organized, have about it. It seems to fit in well with the objectives of the bill.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, what really troubles me about this amendment is the first part of it which I will refer to as the 7-day rule. As I understand it, this would permit the employer to conduct anti-union campaigns without any time limit on company premises without any corresponding right on the part of union organizers. In other words, the union organizers would be entitled to equal access for only 7 days.

Mr. GARY A. MYERS. I am trying to address the concerns that the labor unions have told me that they have about the practice as it now stands. Their claims about the employer bringing the employees together in a captive way—if you can believe in that sort of a phrase—

brings them together at the 11th hour and presents them with some information which they do not have time to rebut.

It is my opinion that if we are going to run on the shaky ground of invading the privacy of individuals, their rights on their own property, that we should tighten it up.

Mr. RAILSBACK. May I just say, as I read this, that what could happen is you could have an employer, after a petition is filed, hold perhaps some 5 straight days of meetings without being required to give that equal access to the employees until that 7-day period began. I do not think that that is fair.

Mr. GARY A. MYERS. The assumption is that the remaining period of time is adequate for the organizers to have access to the employees.

What the labor unions have said to me is that they did not think, after this activity at the 11th hour took place, that they would be able to contact the employees. And I can see that in the last couple of days that to have a meeting could be difficult, for them to advise all employees of them individually. But I am admittedly trying to tighten this up, trying to provide a proper balance for the employees as well as the employer. I do not think there is anything unreasonable about that. I think that certainly it gives the House an opportunity to act in a more modified way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. THOMPSON Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, the gentleman from Pennsylvania (Mr. GARY A. MYERS), when he is talking about the 11th hour, has lost sight of the rule prohibiting activity within 24 hours by either the employer or the employee. So that is not really correct.

Mr. GARY A. MYERS. I have not lost sight of that, I have expanded it by 7 days in order to address the objections that the labor lobbyists who have visited my office said that they were most concerned about. I can understand that even within the last 24 hours, or if you go to 2 days, you can still have a difficult time, but to do it within a week's period of time you should be able to contact a significant number of individuals.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I am sure that the gentleman from New Jersey (Mr. THOMPSON) would want the record to be clear. The only rule prohibiting activity for the 24 hours preceding the election is the captive audience activity, not other activity that would relate to the election, but only the captive audience. I am sure the gentleman wants the record to be clear on that.

Mr. GARY A. MYERS. I thank the gentleman and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full 5 minutes.

In adopting the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) a few moments ago, we attempted, as I understood the will of the House expressed in that vote—and, very frankly, if I had been able to understand it more quickly and grasped it as quickly as the gentleman from Ohio is able to put these things together, I would have gladly accepted the amendment, and I have told the gentleman so.

But now the gentleman from Pennsylvania comes back with an amendment that applies only to representation elections and, notwithstanding the expected debate we are going to have later on, on the question of the time elements, pins the ability down to the last 7 days before a representation election. This would seem to take us back in the direction from which we came when the Ashbrook amendment was adopted.

For that reason I would oppose the amendment and at this point ask support for the adoption of my substitute.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I agree thoroughly with him. I just wanted to make the record clear with respect to the 24-hour rule. That has been the law since about 1960 in the Peerless Plywood case. It does restrict captive audiences by either side within the last 24 hours on the premises.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I would respond to my colleague that I do believe in consistency, and if I were to support the Myers amendment, I would want it to apply to all elections not just representation elections. The gentleman is correct. It only applies to representation elections and I think on that basis, and the House's will having been expressed only a few moments ago, this would run counter to that and should be rejected.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I would like the record to be clear. The gentleman stated that the Myers amendment would affect the Board in the last 7 days. That clearly is not true. What this does is the Board does not have to become involved in the last 7 days, so it is not a factor of becoming involved and making a decision. The rules would be promulgated so that this activity would be well known in the printed-out material that the gentleman spoke of earlier, and would be in the hands of the organizers and the employers, and they would know, if in fact something like this went on in the last 7 days, what their rights are.

Mr. FORD of Michigan. I realize that with a series of amendments these issues would sometimes get complicated. But I would remind the gentleman that what we are amending is that provision in the act that empowers and directs the Board to make rules and do certain things, and the gentleman is putting a limitation on the power of the Board that affects any period of time except the last 7 days before the election. That not only goes against the broadening effect of the Ashbrook amendment, but it even goes against my more narrowly construed and constructed amendment. Now that we have brought it out the way the gentleman from Ohio (Mr. ASHBROOK) suggested, it does not make sense to go back and concentrate all our efforts on a simple 7-day period before an election.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment to the amendment offered as a substitute for the amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS TO THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS to the amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK.

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization."

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order mainly because I have not seen the amendment. I would be pleased to reserve it until the gentleman has explained his amendment, if that would be helpful.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I think the gentleman from Michigan (Mr. FORD) probably in reading the amendment will clearly understand the intent. The intent here is simply to prohibit new rules which would require the employer to pay wages in support of an organizing effort which is being organized against him. In other words, the example to use is if an employer has a meeting and offers wages, to people attending, the employer would not be required to pay wages to employees while they attend a meeting which would be provided on the premises under the regulations, should this bill pass.

Here again I only say what the labor organizations said to me when they came to my office, which was that they had no intention to require small businessmen or larger businesses to pay wages while people attended the meetings which were provided under the equal

access provisions of an act. They agreed that the organizers as well as the employers do in fact spend funds during an organizing effort, and each one makes his priorities and allocations as to how he feels the funds are best spent. They seemed to agree if an employer decided spending funds for a meeting was his choice, and that that should not obligate him to spend money for employees to attend a meeting in opposition to the employer's position.

I think the amendment is clear and simple and relieves the financial burden on a number of small businesses in particular.

I think it happens to be the only rightful position the House could take with respect to what equal access means and what rights are and whether or not we invade the privacy of an employer.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) insist on his point of order?

Mr. FORD of Michigan. I do not, Mr. Chairman. I withdraw my reservation of a point of order.

Mr. Chairman, I would rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, at first blush the gentleman's amendment would appear to prohibit the payment of compensation for an employee while he was being influenced by someone to join a union, but in fact what he does is put a limitation on the ability of the Board to write a rule to do that sort of thing. But the final language really invites a mischievous situation. It says, "Reimburse employees for such time used to obtain such information from such labor organizations." If we are thinking only in terms of a formal, organized call to a meeting, this seems to make sense, but if we are thinking about the time on the way to a restroom that an employee stops to take a look at the employer's propaganda and the union's propaganda on the bulletin board and someone has some hard feelings developing toward some of the employees at the time, we might really be asking for a new and somewhat mischievous class of unfair labor practice allegations that we just do not need.

The employer does not need what purports to be protection afforded to him by this amendment for at least two reasons, the first being that he is in complete control as to whether the premises will be used for this purpose or not and the manner in which they will be used. If he restricts his activity to leafleting and posters and that sort of thing and broadcasts, that is the limit on the union. If he chooses to hold meetings he, the employer, decides what the forum for the exchange of ideas will be in any instance where that exchange of ideas is going to take place on his premises. And, furthermore, we have a provision already in the principal section of the act that will remain intact if we go forward as we were before this amendment, that guarantees that no rule that the Board makes will allow interference with production in the plant, that they will not make a rule that says they have to let them have a meeting or hearing on company time or affect the production schedules while they are ongoing.

If the employer chooses to ask employees to stay after work for a meeting he calls to discuss the forthcoming election, then he need only afford to the union an opportunity to meet after work in the same hall or something comparable for the other side to present their case.

Therefore I must oppose the amendment because I think it is buying for us a whole lot of trouble in the future that employers would not appreciate us giving them.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, if I understand correctly, if an employer calls a meeting during working hours to tell the employees he does not want them to join the union and puts forth the reasons therefor and pays them during that time, if this amendment passes, that the union would not have the opportunity of having a meeting during working hours and talking to the men and having the employees paid. It seems to me it would be grossly unfair if the boss is going to have a meeting, and that has some implication of "you better attend" attached to it, and pays them while they are there, to tell the union on the other hand if they call a similar meeting it has to tell the employees, "If you come you will not get paid."

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I would like to ask the gentleman from Colorado if in fact he believes it would be unfair for the employer if we address the issue of on-time meetings while production is going on, does it go to that time after as well?

The provision goes to that time afterward as well. If this amendment is not adopted, if the employer offers a meeting during a period of time which is not paid time normally or offers to pay time and a half or straight time or anything for attendance there, he will have to pay them for the organizing effort to have the same meeting. In that situation, what I am trying to get at, recognizing the fact that the organizers do spend money in behalf of their organizing effort, then in all fairness the employer should be able to choose how he wants to spend his money as well. Most employers would not address the issue on productive time. They would offer a meeting afterward, if they choose to. Is that not a legitimate right they have?

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, that is not the way I understand the gentleman's amendment, because the gentleman's amendment would allow the employer to call a meeting of his employees with the implicit suggestion that, "You better attend," and offering to pay straight time or overtime, while denying the equal paid time to employees for the purpose of hearing arguments in favor of the union.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, if the gentleman does not support the amendment, the gentleman will have to go back and tell the small businessman, those particularly who are hit hard by this, that if they choose to have a meeting with their employees on times other than production time, he will have to pay them also for an organizing effort.

I do not think that is a fair position to put a businessman in.

I think the gentleman from Michigan mentioned that it is mischievous. I do not have any intention of my amendment being mischievous.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, I will have no difficulty at all going back home and maintaining my position.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, I thank the gentleman. I just wanted to be sure the gentleman understands that the implications of the amendment are not the way the gentlemen stated.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, it looks like everybody in this debate is looking for fairness and equity. I would say the amendment offered by the gentleman from Pennsylvania would give us that. If the gentleman from Colorado and the gentleman from Michigan want complete fairness, they should have offered an amendment that the union pay the wages of employees. Then it would be evenhanded.

Mr. ASHBROOK. Mr. Chairman, I think what the gentleman is saying, I said I would hope it would be even-Stephen, but it is about 60–40 and the advantage is still on the side of the union organizer, because they will still address a captive audience that the opponents are paying for.

I guess 60–40 or 40–60 is pretty close to even-Stephen. Maybe I should settle for that.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, it is putting a strain on our friendship, I know, but I just cannot stay silent while the gentleman continually attacks the competence of corporate management in this country by suggesting they are totally incapable of understanding simple language in the law on the protection of their proper interests. The gentleman continually talks about all corporations involved by this law are populated by bubbling idiots, that they cannot understand English.

Mr. ASHBROOK. Mr. Chairman, I will almost stipulate that. I will not withdraw that comment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to point out a situation which the gentleman addressed only peripherally. If we do not adopt this amendment, management can have a meeting on its premises after working hours, offer no incentive in the way of pay, and the unions will, therefore, be able to come on the premises and have a meeting, but offer to pay the people who come to the meeting. There is no prohibition to prevent that from happening; so if the unions can pay as an incentive to bring people into a meeting on the premises, why should not the corporation be able to pay without the necessity of having to pay for the other side?

We have to recognize that what we are talking about is equal access. Even if the management does not pay for the employees to come to a meeting, it is possible once the meeting is established for an organizing effort, it is possible to have a very high incentive pay by the organizing group.

Mr. ASHBROOK. I think the record should show the part of my remarks where I attribute the ignorance of corporate management in this country comes not from representational elections, but other elections in which many of us have an interest.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I would like to join with the gentleman from Ohio and the gentleman from Michigan (Mr. FORD) in that one need look only at the Dow Jones average to realize the corporate management has been very good.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) to the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment, as amended, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The question was taken.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 408, noes 8, not voting 18, as follows:

[Roll No. 628]

AYES—408

Abdnor	Derwinski	Jones, N.C.
Addabbo	Devine	Jones, Okla.
Akaka	Dickinson	Jones, Tenn.
Alexander	Dicks	Jordan
Allen	Diggs	Kasten
Ambro	Dingell	Kastenmeier
Ammerman	Dodd	Kazen
Anderson, Calif.	Dornan	Kelly
	Downey	Kemp
Andrews, N.C.	Drinan	Ketchum
Andrews, N. Dak.	Duncan, Oreg.	Keys
	Duncan, Tenn.	Kildee
Annunzio	Early	Kindness
Applegate	Eckhardt	Koch
Archer	Edgar	Kostmayer
Armstrong	Edwards, Ala.	Krebs
Ashbrook	Edwards, Calif.	Krueger
Ashley	Edwards, Okla.	LaFalce
Aspin	Ellberg	Lagomarsino
AuCoin	Emery	Latta
Badham	English	Le Fante
Badillo	Erlenborn	Leach
Bafalis	Ertel	Lederer
Baldus	Evans, Colo.	Lehman
Barnard	Evans, Del.	Lent
Baucus	Evans, Ga.	Levitas
Bauman	Evans, Ind.	Livingston
Beard, R.I.	Fary	Lloyd, Calif.
Beard, Tenn.	Fascell	Lloyd, Tenn.
Bedell	Fenwick	Long, La.
Bellenson	Findley	Long, Md.
Benjamin	Fish	Lott
Bennett	Fisher	Lujan
Bevill	Fithian	Luken
Biaggi	Flippo	Lundine
Bingham	Flood	McCory
Blanchard	Florio	McCloskey
Blouin	Flowers	McCormack
Boland	Flynt	McDade
Bolling	Foley	McDonald
Bonior	Ford, Mich.	McEwen
Bonker	Ford, Tenn.	McFall
Bowen	Fountain	McHugh
Brademas	Fowler	McKay
Breaux	Fraser	McKinney
Breckinridge	Frenzel	Madigan
Brinkley	Frey	Maguire
Brodhead	Fuqua	Mahon
Brooks	Gammage	Markey
Broomfield	Gaydos	Marks
Brown, Calif.	Gephardt	Marriott
Brown, Mich.	Gibbons	Martin
Brown, Ohio	Gilman	Mathis
Broyhill	Ginn	Mattox
Buchanan	Glickman	Mazzoli
Burgener	Goldwater	Meeds
Burke, Calif.	Gonzalez	Metcalfe
Burke, Mass.	Goodling	Meyner
Burleson, Tex.	Gore	Michel
Burlison, Mo.	Gradison	Mikulski
Butler	Grassley	Milford
Byron	Gudger	Miller, Ohio
Caputo	Guyer	Mineta
Carney	Hagedorn	Minish
Carter	Hall	Mitchell, Md.
Cavanaugh	Hamilton	Mitchell, N.Y.
Cederberg	Hammer-schmidt	Moakley
Chappell		Moffett
Chisholm	Hanley	Mollohan
Clausen, Don H.	Hannaford	Montgomery
	Hansen	Moore
Clawson, Del	Harkin	Moorhead, Calif.
Clay	Harrington	
Cleveland	Harris	Moorhead, Pa.
Cochran	Harsha	Moss
Cohen	Hawkins	Mottl
Coleman	Heckler	Murphy, Ill.
Collins, Ill.	Hefner	Murphy, N.Y.
Collins, Tex.	Heftel	Murphy, Pa.
Conable	Hightower	Murtha
Conte	Hillis	Myers, John
Corcoran	Holland	Myers, Michael
Corman	Hollenbeck	Natcher
Cornell	Holt	Neal
Cornwell	Holtzman	Nedzi
Cotter	Horton	Nichols
Coughlin	Hubbard	Nix
Crane	Huckaby	Nolan
Cunningham	Hughes	Nowak
D'Amours	Hyde	O'Brien
Daniel, Dan	Ichord	Oakar
Daniel, R. W.	Ireland	Oberstar
Danielson	Jacobs	Obey
Davis	Jeffords	Ottinger
de la Garza	Jenkins	Panetta
Delaney	Jenrette	Patten
Derrick	Johnson, Colo.	Patterson
Pattison	Sarasin	Trible
Pease	Satterfield	Tsongas
Pepper	Sawyer	Tucker
Perkins	Scheuer	Udall
Pettis	Schroeder	Ullman
Pickle	Schulze	Van Deerlin
Pike	Sebelius	Vander Jagt
Poage	Selberling	Vanik
Pressler	Sharp	Vento
Preyer	Shipley	Volkmer
Price	Shuster	Waggonner
Pritchard	Sikes	Walgren
Pursell	Simon	Walker
Quayle	Sisk	Walsh
Quie	Skelton	Wampler
Quillen	Skubitz	Watkins
Rahall	Smith, Iowa	Waxman
Railsback	Smith, Nebr.	Weaver
Rangel	Snyder	Weiss
Regula	Solarz	White
Reuss	Spellman	Whitehurst
Rhodes	Spence	Whitley
Richmond	St Germain	Whitten
Rinaldo	Staggers	Wiggins
Risenhoover	Stangeland	Wilson, Bob
Roberts	Stanton	Wilson, C. H.
Robinson	Stark	Wilson, Tex.
Rodino	Steed	Winn
Roe	Steers	Wirth
Roncalio	Stelger	Wright
Rooney	Stockman	Wydler
Rose	Stratton	Wylie
Rosenthal	Studds	Yates
Rostenkowski	Stump	Yatron
Rousselot	Symms	Young, Alaska
Rudd	Taylor	Young, Fla.
Runnels	Thompson	Young, Mo.
Ruppe	Thone	Young, Tex.
Russo	Thornton	Zablocki
Ryan	Traxler	Zeferetti
Santini	Treen	

NOES—8

Burton, John	Dellums	Myers, Gary
Burton, Phillip	Mann	Roybal
Carr	Miller, Calif.	

NOT VOTING—18

Anderson, Ill.	Giaimo	Rogers
Boggs	Howard	Slack
Burke, Fla.	Johnson, Calif.	Stokes
Conyers	Leggett	Teague
Dent	Marlenee	Whalen
Forsythe	Mikva	Wolff

Mr. GARY A. MYERS changed his vote from "aye" to "no."

Mr. DIGGS changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just having adopted the amendment we did, guaranteeing access by employers to the union halls, I think we have made this legislation infinitely more fair.

I do hope, Mr. Chairman, since time is running and I do not intend to try to suppress debate or free speech, that we can move along as quickly as possible from now on.

I do hope that the Members will be so kind as to pay careful attention to the committee and support the remainder of this really splendid bill.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following: "A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amend-

ment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.".

The CHAIRMAN. The Chair would like to inquire whether the gentleman's amendment has been printed in the RECORD?

Mr. RAILSBACK. Yes, Mr. Chairman, it has.

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment in that the amendment is wholly extraneous to the bill before us, H.R. 8410. The amendment deals with the authority of the board to make rules. Nothing in H.R. 8410 even remotely deals with such authority. H.R. 8410, in the area of rules, deals only with procedural rules in the narrow area of election campaigns.

The CHAIRMAN. Does the gentleman from Illinois (Mr. RAILSBACK) desire to be heard on the point of order?

Mr. RAILSBACK. Yes, Mr. Chairman, may I please be heard on the point of order?

The CHAIRMAN. The Chair will be delighted to hear the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I expect to be supportive of the legislation that we have before us. My feeling is that the legislation generally has a very valuable thrust and is certainly going to, in my opinion, improve employees' rights and maybe eliminate some abuses that have occurred.

Let me just say, though, that I express a concern which has been expressed by many Members on this floor. Once again, the Congress is giving very broad and expansive authority, under this particular bill, to the National Labor Relations Board to promulgate rules and regulations.

Section 3 of the bill, which begins at the top of page 17 and runs all the way to page 18, really contains a litany of rulemaking mandates which could have a great effect on labor relations. What my amendment could do is what has been done by this House on many occasions, it would provide for congressional review of rulemaking and provide that if one House disapproves, then that rule would not be valid.

I think there there is no question but what, under the bill, there are broad rulemaking grants of authority and I cannot imagine that it would be subject to a point of order.

Mr. THOMPSON. Does the gentleman agree that this applies only to representation elections?

Mr. RAILSBACK. What it is limited to, it says:

A rule or regulation issued by the board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, . . .

Mr. THOMPSON. I respectfully will say to the gentleman that I withdraw my point of order.

The CHAIRMAN. The gentleman from New Jersey withdraws his point of order.

The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, generally speaking, I share the concern expressed by the chairman that we do not want to draw this out at all. I think in addressing the point of order I have kind of given my reasons for wanting some kind of congressional review. I would to my friends on the other side of the aisle simply say this, if they are worrying about any kind of arbitrary disapproval by the Congress, it would certainly be up to their side to see that that legislative veto was adopted. In other words, they have complete control.

My real reason for offering this amendment is that we give such expansive authority to the National Labor Relations Board, it makes sense to me that that Board know that whatever they do by way of rulemaking or regulationmaking is going to have to come back to Congress for review. I might add that it is a very limited 30-day review. I would hope, Mr. Chairman, that we would adopt this amendment. I think that maybe it would take a big step in trying to alleviate the concerns of some of the Members of the House.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have generally and strongly supported the idea of congressional review of rulemaking, but the form of the gentleman's amendment gives us some difficulty because he is very specific about what happens in the instance of a rule promulgated after the beginning of a regular session of Congress and while Congress is in session, but it leaves us with a real question of what happens to a rule that is promulgated when we are not in session. Moreover, the time limitation that is involved here creates a situation where the rule might be promulgated and no real opportunity for its examination is afforded by the schedules of the Congress, the time in which it comes to us, and in fact we are unable to act. We then find ourselves in the position of, by not acting, being subject to the interpretation by the American public that we have approved the rule. The way the gentleman has structured the amendment, he exposes us to that. If there were any inclination on the part of a person writing rules to escape the intent of the gentleman's amendment, it would in effect not only prevent the Congress from acting but create at the same time the impression that our failure to act was tacit approval of the proposed rule. For that reason I suggest that it just is not going to work for the type of rules that we are talking about.

As I understood the exchange between the gentleman from Illinois and the gentleman from New Jersey a few moments ago, they both understand that the very narrow application of this amendment would be to rules promulgated under subsections 1 and 2 of this section of this bill, which relate entirely to representation elections and would not get to any of the other general rulemaking powers of the Department of Labor, which in fact is what perhaps the Members would like to do.

I am reluctant to oppose the amendment because the principle the gentleman seeks is one that I cannot in good conscience argue against. But the gentleman's amendment is, in my opinion, fatally defective because it would create a situation that will prove, in my opinion, to be an embarrassment to the House.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

May I just say that if the gentleman is saying that he is willing to offer an amendment that would be more encompassing than the amendment that I have offered here, I will offer, because of my respect for the gentleman, to withdraw mine. In other words, if the gentleman would put it in any form he likes and make it cover the entire bill, I will withdraw my amendment, and I will support the gentleman's amendment.

Mr. FORD of Michigan. I would not encourage the gentleman to withdraw his amendment on the assumption that we can come to an agreement on language, because we have wrestled with this in the committee without success. But I would assure him that I am most willing to take the time now to try to work something out with him, if he has some staff over there who can come up with a better idea than we have been able to come up with.

Mr. RAILSBACK. I wonder if the gentleman from Michigan would yield to permit me to withdraw my amendment under those circumstances.

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 18 strike all of line 6 down through line 9.

Page 18, strike "or (2)" on lines 11 and 12.

Page 18, line 20, strike all after the comma down through the comma on line 22.

And renumber all subsequent subparagraphs accordingly.

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order against the amendment. I will withhold while the gentleman explains his amendment. We do not have a copy of the amendment.

Mr. ERLENBORN. Let me assure the gentleman from Michigan that not only

did we furnish him with a copy of the amendment which is at the desk, but as I recall the majority required us to print all these amendments in advance to make them in order, and I assure the gentleman from Michigan this also was printed in the RECORD. And not only that, but also we furnished the gentleman with an index, and this is No. 4, as numbered on the index.

Mr. Chairman, this amendment would strike from the bill the mandate that the Board engage in rulemaking to establish what proper units are for bargaining purposes.

Mr. Chairman, the Board has had broad rulemaking authority during just about all the time that there has been a Board and, under that broad authority, the Board has had the authority to adopt rules to designate what would be the proper units for bargaining purposes. The Board has consistently rejected petitions filed for the purpose of asking them or encouraging them to adopt such rules.

Rules that establish ahead of time in all cases what proper units for bargaining purposes would be are just not proper and cannot be drawn by the Board. As a matter of fact in reporting this bill the majority has relied heavily on the testimony of former members of the Board, former Chairmen of the Board, and the current Chairman of the Board. I think with one exception they have been opposed to this provision or certainly have not openly supported this provision for unit rulemaking.

Former Chairman McCulloch has said that rulemaking was a "cumbersome process * * * that necessarily impedes the law's ability to respond quickly and accurately to changing industrial practices."

In a petition filed in 1971 before the Board asking for rulemaking involving units in colleges and universities the Board said this in ruling against that petition:

> The Board considers that the Petition properly points out that the Board's unit determinations in this area should take into account certain practices and organizational structures which do not parallel the traditional practices and organizational structures in private industry. The Board's information to date, however, suggests that there is also a great variety in this regard within the academic community, and also that the practices and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluralistic and fluid set of conditions. Accordingly, the Board shall deny the Petition.

This is applicable to every situation covered by the National Labor Relations Act. In addition, the rules would have to be applied to a specific factual situation. Without question, there would be disputes on the facts, as well as on whether the proper rules apply in unit determination.

Again, the Members should understand that the decision relative to unit decisions is not appealable. It is not appealable. The only way the employer if he should want to contest that decision is after the election. In other words, upon a certification of the union as a bargaining agent, the employer must reject the bargaining agent in the first instance and then go before the Board and contest whether the unit determination was proper. If he is unsatisfied with that, he then would have access to the courts.

I think it is obvious that putting in inflexible rules relative to bargaining units has been rejected by the Board and has been rejected for good reasons. The Board should retain the discretion to make a decision of this very important and very touchy situation.

So I would urge that we support this amendment, support the Board's position.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

The CHAIRMAN. Does the gentleman from Michigan withdraw the point of order?

Mr. FORD of Michigan. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, if I understand the gentleman's amendment correctly, if I have the right one in my hand, if the gentleman will confirm it, this is the amendment to strike all the language on lines 6, 7, 8, and 9, on page 18.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, it does that. It is numbered 4.

Mr. FORD of Michigan. Is there anything beyond striking the language in the amendment?

Mr. ERLENBORN. If the gentleman will yield, there are conforming amendments on page 18, lines 11 and 12.

Mr. FORD of Michigan. Just renumbering the sections?

Mr. ERLENBORN. Yes.

Mr. FORD of Michigan. No substitute?

Mr. ERLENBORN. That is right.

Mr. FORD of Michigan. Mr. Chairman, the language that the gentleman seeks to strike is at the very heart of expediting the election process for determination as quickly as possible for all concerned, whether there is or not going to be a union bargaining unit for the employees of a given employer. This section is in the bill, as a matter of fact, at the request of members of the National Labor Relations Board, who point out that in the absence of their ability to write rules for those who recognize those clearly identifiable types of units once they go through the process they will be approved, anyhow, and what we end up with is the kind of unnecessary preliminary skirmish where, simply speaking to the construction of the unit that is to be represented, subjects the whole matter to a hearing by the Board before the Board can go to the next question of establishing a date and time for the next election.

It is not likely that the Board will be able to construct rules that would eliminate this kind of concern altogether, but it is likely that a very large number, I might say parenthetically that I believe this year there were over 40,000 cases brought to the National Labor Relations Board and by April of this year there were over 20,000 unresolved matters pending.

This is an attempt where everyone understands that you have a plant in a particular place and the description of the bargaining unit for that plant is everyone below the rank of foreman employed in that plant, they can go ahead and set the election without having a hearing over a question of what everyone knows before they go into the hearing.

It is absolutely essential if the expedited elections portion of this bill is to mean anything that we get rid of the frivolous redtape and jockeying for position that now rises as a temptation by permitting the Board to write some clearly understood rules for the types of units that there really is no serious argument about.

There is nothing in the language in the bill that prevents a challenge to the rule of the Board, because all of the rulings made by the Board remain subject to challenge. What it does prevent is this frivolous argument of whether all the employees in a particular plant be allowed to vote, or only those in certain departments, and so forth, where clearly under other provisions of the law the answer is a foregone conclusion.

For that reason I oppose the gentleman's amendment, and hope that it will not be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 18; noes 40.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:
>
> "(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FORD of Michigan. Mr. Chairman, the amendment offered is to section 3 of the bill, which in its present form amends section 6 of the National Labor Relations Act, which is the rulemaking authority of that act. Under section 3, the Board is directed to make rules that: First, affect union actions during representation campaigns; second, define classes of representation cases; and third, schedules governing the holding of elections.

The amendment proposed effectively

changes section 8(c) of the National Labor Relations Act, not before us in this bill, which deals with unfair labor practices. As such, it is not directed at the limited subject and scope of this bill in dealing with rulemaking amendments, as H.R. 8410 directs.

It is not in keeping with the act, and the bill, which provides broad discretion to the Board in its rulemaking capacity. Rather, it restricts absolutely the nature and substance of the rule the Board is directed to make.

The amendment deals not only with organization campaign and representation cases, which is the subject matter of this bill, but with strikes, lockouts, and other labor disputes which are not within the parameters of H.R. 8410, or section 3 of the committee bill.

Mr. Chairman, the amendment is therefore nongermane.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard?

Mr. ASHBROOK. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. ASHBROOK. Mr. Chairman, on page 17 of the bill, starting with line 1 of this act, it says:

> The Board shall within 12 months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And it goes on, as a matter of fact, on lines 3 through 15 in the subject matter we just dispensed with a few moments ago. We specifically dealt with the subject matter of both employers and employees attempting free speech, speaking to those employees, I think, going back again to page 16 and talking about making the regulations, referring to rules and regulations as may be necessary to carry out the provisions of this act.

Mr. Chairman, in the very preamble of this act it says:

> To amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

Mr. Chairman, I feel that this amendment, calling upon the Board to issue rules, in addition to the rules that are in H.R. 8410, is within the parameters of the debate and therefore the point of order should be overruled.

The CHAIRMAN. The Chair is ready to rule.

The Chair has carefully followed the remarks of both gentlemen. The Chair is of the opinion that the point of order made by the gentleman from Michigan (Mr. FORD) should be sustained.

The Chair would like to state that under section 3 of the committee bill that is now before the Committee it amends section 6 of the National Labor Relations Act and restates the existing authority of the NLRB to promulgate rules and regulations to carry out the provisions of the act, specifically including certain authority to make procedural rules governing elections and governing the period of initial stages of organizational activity. The section of the bill does not go to newly mandated directions to the Board to promulate regulations to implement section 8 of the act.

The amendment offered by the gentleman from Ohio (Mr. ASHBROOK), while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations, and the amendment would by its terms elevate those regulations to a position of substantive law, which regulations would conclusively pronounce what conduct shall or shall not constitute grounds for setting aside an election.

In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of whether conduct, for the first time, would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

Therefore, the point of order is sustained.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ERLENBORN: Page 18, line 13, insert a period after "Act" and strike all that follows through the period on line 18.

Mr. ERLENBORN. Mr. Chairman, my amendment is in the record, and it is an amendment that strikes language from the bill.

Mr. Chairman, first, let me say that I respect the ruling of the Chair on the point of order that has just been made. But I think it is quite obvious that, under the application of the rules, we on this side now are not only prohibited from offering amendments to other sections of the act, other than those that are amended in the bill. Even those sections of the act that are amended in the bill now seem to be immune from amendment except in the way they were addressed by the committee bill. This may be an affirmation of the rule of germaneness, but it certainly does amount to a more strict application than has been the rule in other cases in the past.

This amendment I am offering cannot be subject to a point of order on germaneness because it merely strikes language from the act. I guess it is a mark of tactics on the other side that a point of order on each amendment is reserved and each one is attacked, if possible, to prohibit as much as possible the consideration by this body of amendments other than those that the majority wants to consider.

Mr. Chairman, this amendment will strike language from the bill that changes the standard for review of rulemaking. At the present time the standard of review is, if you will, the standard standard; it is the one that is applicable to review of other administrative decisions, and that is the substantial evidence test. Is there substantial evidence in the record to sustain the decision of the Board or the rule that the Board has adopted after the rulemaking procedure under the Administrative Procedures Act?

The language in the bill will make it almost impossible for a court, with this new standard, to overturn a rule of the Board.

We have to think of this in the context of the bill. The bill directs the Board to do rulemaking, something that the Board has refused to do in the past because they thought it was too cumbersome and unworkable.

The bill will stack the Board with two additional members. Although on the surface there is a political balance, there is no philosophical balance, because the Board will have two new labor-oriented members. It will only take four of the seven members, the two new members and two of the old members of the Board, to constitute a majority for rulemaking and other decisional purposes, and now whatever they do will not even be subject to ordinary review. We are really making this a captive Board—not really captive, but a loaded Board—making decisions that will be almost impossible to overturn in the courts.

What is the new standard, other than the substantial evidence test which has historically been the test for this agency and all others? The only grounds would be that the Board prejudicially violated the requirements of subchapter II of chapter 5 of title 5 of the United States Code. They would not have to just violate them; they would have to prejudicially violate the requirements.

Another ground would be that a rule or regulation of the Board is "arbitrary or capricious, contrary to a specific prohibition of this act, or of the Constitution."

So it is going to be almost impossible, with this new standard of review, to overturn any of the rulemaking of the Board.

This is not the only place in the act, by the way, where standards of review are going to be changed. Later in the act there is another provision that makes a change in the making of decisions by the Board on unfair labor practices, and so forth. This standard is applicable to rulemaking.

Mr. Chairman, I think this kind of provision amply justifies the type of editorials we have been seeing this week in newspapers across the country. Yesterday there was read into the RECORD an editorial from the Washington Post. I read into the RECORD a portion of an editorial of the Chicago Tribune. Today I call the Members' attention to the Washington Star editorial: "Tilting the Labor Law." I am not going to read this editorial, but I do encourage all the Members to read it, because it points out exactly what provisions such as this are doing—tilting the labor law so prounion that editorial writers across the country cannot stomach what is going on in this Chamber and are calling on the Congress to reject a bill that is as one-sided as this.

Mr. Chairman, I hope my amendment will be adopted.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like to call the attention of the Committee to the language of the legislation. The standards are very simple. The language says that one has to show it is arbitrary, and if it cannot be shown that a rule is arbitrary, then it is not arbitrary.

The language also states that one has

to show it is capricious, and if it is not shown to be capricious, it is not capricious. One has to show it is contrary to specific law, but if they cannot show that, the assumption is that it is not contrary to specific law.

One has to show it is unconstitutional, but if they cannot show that it is, it is presumed not to be unconstitutional, and the rule stands. That is all the legislation says.

I do not think that that is a great threshold which would create any trouble in overcoming because if we look at the history of the courts, words like "arbitrary and capricious" and "contrary" and "specific provisions of the law" are liberally interpreted to protect people against arbitrary and capricious actions by regulatory bodies.

Mr. Chairman, I think it is very clear, and insofar as the threshold is concerned, it is nothing new in the provisions of the law.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I think it is also worth noting that although the gentleman from Illinois (Mr. ERLENBORN) has stated that the two new members are going to be prounion members, the legislation, on page 15 and the top of page 16, specifically states as follows:

No more than a simple majority of the members of the Board shall be members of the same political party.

Mr. Chairman, I think what the gentleman was doing was attacking things that are not in the bill because he cannot find enough within the bill to attack.

Mr. MILLER of California. I thank the gentleman.

I would also like to draw attention to the fact that regardless of the markup of the Board, the provisions put forth in this legislation prohibit them from being arbitrary and capricious or from working contrary to specific prohibitions of this act or of the Constitution.

Mr. Chairman, I suggest that everybody's rights are fully protected within the language as it is currently written in this legislation.

Mr. Chairman, I urge that we reject the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am going to yield to my friend, the gentleman from Illinois (Mr. ERLENBORN), but before I do, let me say that the gentleman pointed before to the editorial that was in the Washington Star. There are many similar editorials appearing across the country.

We have been told for quite some time now that when H.R. 77 went by the boards and H.R. 8410 replaced it we began dealing with a piece of legislation that was reasonable and fair and just and one that all reasonable men could agree with.

While that may or may not be debatable, I would say to my friends on the other side of the aisle, who I know to be reasonable people, that there reaches a point if we deny the right to judicial review that we begin to tilt the scales so far that it becomes no longer a question of a fair and reasonable bill in any manner, because if there is a basic right that the American people ought to have it is the right to go to the courts to review what is being done by the agencies that are governing them.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield at this point?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that in debating this amendment on the other side, there has been no indication that there was any evidence in the record that there is any problem with the present standard of review. I again reiterate that the present standard of review is the same standard that is applicable to other agencies in appealing their decisions.

Mr. Chairman, there is no reason for this change except to tilt the law in favor of the unions.

My colleague, the gentleman from New York (Mr. WEISS), says that there is a provision that the two new members must be from different parties, or that there should not, as the bill says, be more than a simple majority of four belonging to the same party. That is what it really says, "no more than a simple majority may belong to the same party," which means that we could have four Democrats, one Republican, on Liberal, and one Conservative; or let us leave the Republicans out altogether by having an Independent, a Liberal, and a Conservative as well as four Democrats.

Mr. Chairman, the question is not the political affiliation, as the gentleman indicates by his comment in saying that political affiliation obviously is the same as being pro or antiunion. That we know is not true. However, there is no reason, whether we are changing the numbers on the Board or appointing new members, to change the standard of review unless there has been some miscarriage of the law or some delay in operating under the present standards.

Mr. Chairman, there is not one bit of evidence in the record to indicate that there has been delay because of the present standard. Of course, we could even save more time if we would prohibit review altogether. Further, I imagine that if we had the kind of captive audience that some are looking forward to, some people might like to do that except that they might be going so far that they could not even get their side of the aisle to adopt that kind of provision.

Mr. Chairman, I hope that this provision, which is so obviously unfair, will not be supported on this side of the aisle either.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I wonder whether the gentleman from Illinois (Mr. ERLENBORN) will indicate whether or not it is not so that up to this point there has been a division between the Democratic and Republican parties on the basis of the simple majority between the two on the Board.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, yes, that has been historically the case, even though there has not been any requirement of the law that there be a political balance.

Mr. WEISS. That is right.

Mr. ERLENBORN. However, I am not concerned about political balance.

As a matter of fact, that obviously is not of concern to your side either because they adopted that amendment. It was only one of two that was adopted since the bill was introduced. So you are not worried about political ballots and neither am I. What I am concerned about are philosophical ballots. It makes no difference at all as to how a man registers with his state election agency, or as to which primary ballot he uses. That does not show a philosophical predilection when it comes to being in favor of or overly in favor of the labor movement, or whether he is prounion or antiunion. Politics simply have nothing to do with that at all.

Mr. WEISS. Mr. Chairman, is the gentleman stating that it has been his conclusion that the board members have been unduly partial and prounion? Is that what the gentleman is saying?

Mr. ERLENBORN. Obviously the gentleman is not listening or the gentleman would not ask that question, because I have not made that charge. What I am saying is that the opportunity is there.

Mr. WEISS. The answer is "No" then?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The Chairman would first inquire of the gentleman from Michigan (Mr. FORD) whether the gentleman has withdrawn his point of order?

Mr. FORD of Michigan. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Chairman, with all due respect to the very enlightening philosophical discussion to which we have just been treated, what is at stake here is a request by the gentleman from Illinois (Mr. ERLENBORN) to strike from the bill a very simple legal test on how you get into court in the event that you, for whatever reason, believe that a ruling by the National Labor Relations Board is not to your liking.

What the bill says is that all of the rulings made by the Board are judicially reviewable. But when you go to court you must allege that the Board prejudicially violated one of your rights under the Administrative Procedures Act, the whole array of administrative fairness that is protected by that act; or that the ruling that you got was arbitrary or that it was capricious, or that it is not in conformity with the law or that it is unconstitutional.

I would like to know if there is any lawyer in this body who can explain to me why anybody who cannot allege one

of these things has any business to take up the time of the courts?

The mischief that we are trying to get at is that a very small number of people in this country have chosen to subvert the process of constitutional due process by using it in the overcrowded Federal court system as a way to delay the inevitable.

So what would be the case in the event the gentleman's amendment was adopted? It would be, I suppose, the ability to argue before the court that a motion for summary judgment goes to a fact that the pleadings did not allege any one of these factors as a basis of fact, that the Board's decision could not be upheld by the court, because we would have said that this is not the test, this is not, in fact, the test that the courts would apply. Moreover, there are recent decisions that, since the intent and purpose of this legislation is to broaden the discretionary rulemaking power of the National Labor Relations Board in order to facilitate quicker disposition of these matters, that the court would take into account, in interpreting the provisions of this act, that the gentleman's amendment would most directly affect in the broadest form, which is to sustain the action of the Board.

So the question of whether a person is prolabor or against labor, or is a liberal, or not, is all nonsense, because the real question is what they decide on as a basis they had for a decision, and what a Federal judge decides when it comes before him, at least on the pleadings that are presented to him.

All we say is if you do not have a case, you simply cannot run down to the Federal court and pay a filing fee and throw the matter into the terribly overcrowded hopper of the Federal courthouse, and then have it sit there for 5 years while waiting for it to come to trial, while everyone who is affected by that, awaiting that progress day by day, is damaged, not by the ultimate outcome, because they win, but damaged, because it takes so long to get to the final outcome.

The effect of the gentleman's amendment would be really, in my opinion, Mr. Chairman, to grant the impression to the courts that we did not want them to examine people coming to the courts to determine whether or not they are coming with a legitimate matter of concern and controversy, or they are coming frivolously, using the availability of an appeal process for the sole purpose of delaying the final outcome of the dispute.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Let me just ask this one question: Since the gentleman indicates that the criteria set forth under the bill are adequate to get anybody into court at any time they properly should be in court, let me ask the gentleman if, under the criteria currently in the bill, the Board applies a rule improperly, if there is just simply an improper application of the rule, does the gentleman contend that under this language a party would have a right to appeal judicially?

Mr. FORD of Michigan. We are talking about the promulgation of rules here.

Mr. EDWARDS of Oklahoma. No; we are talking about the right to judicial review.

Mr. FORD of Michigan. The question is on the promulgation of a rule. That is what we are talking about on review, and our language goes to the condition or status of the rule itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. ASHBROOK. The amendment was printed in the RECORD on Monday.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 19, line 1, strike all after the comma on line 1 through line 5, and insert in lieu thereof the following: "may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.".

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, it should not take 5 minutes to explain this amendment. I would say with somewhat of an apology to my friend, the gentleman from Illinois, it seems as though he gets the hard one and I get the easy one on this section. I do not know how anybody could vote this one down. His, although it was appropriate, was difficult to understand, and probably we could not prevail. But what we are talking about is if we are not going to strike that provision, at least strike in a rifle shot the single provision that requires an aggrieved party to come to the District of Columbia for an appeal on these rules on timeliness. If one lives in Colorado or Idaho or elsewhere throughout the country, by what stretch of the imagination are we requiring his constituents to file their appeal before the Court of Appeals only—I underscore "only"—in the District of Columbia? H.R. 8410 says, and I quote:

. . . may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals for the District of Columbia Circuit. . . .

If you can argue back home, if you can go back home to New Mexico or Maine or Colorado or Idaho and stand up and say, "I have included in H.R. 8410 a provision that says you only can appeal in these limited rulemaking areas in Washington; pack up and go to Washington; there is only one forum for your appeal"—if you can justify that back home, then I would suggest you vote down my amendment. More than that because I concede this is of very limited interest, we have the more important concern of establishing a dangerous precedent in appeal of rulemaking cases.

My amendment in no way restricts any of the other provisions of this section of H.R. 8410. Nowhere does it restrict any of the procedures that we have discussed in the previous amendment. It only relates to where the rules can be reviewed, and I am saying they should be reviewed in any court of appeals in any district where the petitioner resides. If the Members will note at the end of my amendment it says: "Or the District of Columbia. * * *" It does not say "only." It says in the court of appeals where the petitioner resides or in the District of Columbia. I see no reason whatsoever for requiring every petitioner everywhere in the country to file his petition only in the Court of Appeals for the District of Columbia. It is a dangerous precedent.

Mr. Chairman, I yield back the remainder of my time.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if we were talking about the general question of the rights of parties to do judge shopping and forum shopping, which we know now occurs, some of what the gentleman says has a great attraction particularly to the lawyers. It certainly would spread the action around. But what we are talking about is judicial proceedings to review the rulemaking authority of the National Labor Relations Board. That is not scattered around the country and it is not situated in Colorado, which I think he used as an example. It is situated in Washington, D.C.

When one of these cases comes to the court, I might suggest to the gentleman as a great fiscal conservative, I think we ought to have an economic impact statement as to what it would cost to transport the proceedings and witnesses and records to Colorado and back. All of the people who would be appearing before the Board and all of the records are here in Washington. They are not elsewhere around the country.

Do not confuse this with the court of appeals actions that are now taken by a party with respect to other actions in the NLRB, which are permissible at the present time in a court where they can show that the circuit had jurisdiction because of the situs of the company, the citizenship of the company, or they can still come back here to Washington.

As a matter of fact, if one thinks the present law is not generous, I suggest what can be done is to read the litany in some of the cases about how many courts and how many different places the same company has been in. They already have virtually unlimited right to go forum shopping in that area.

Finally, Mr. Chairman, the whole purpose of the NLRB and the whole purpose of dealing as we are dealing here so specifically with the power of the NLRB to make rules that apply with equal force in all of the 50 States, is that there should be one set of rules, one predictable way that we resolve a conflict between labor and management with a

minimum of acrimony and delay, and that is all we are seeking to do.

If we permit parties feeling themselves aggrieved to go forum shopping in all 10 of the major circuits of this country, we might find ourselves with a situation where the rule in one part of the country is that the rule is good and that the rule in another part of the country is that the rule is bad, and someplace in the future where somebody with the money to do so gets to the U.S. Supreme Court, then we will have one labor relations law, but until then we will have a different interpretation in each of the 10 different circuits in the country, and certainly we do not want to expose ourselves to that possibility.

Therefore I must oppose the amendment offered by the gentleman.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, I just want to make sure that in this limitation to appeal to the court of appeals in the District of Columbia we are talking strictly and only about the rules promulgated by the National Labor Relations Board, is that correct, and not to individual cases?

Mr. FORD of Michigan. Yes. The gentleman is amending the part of this bill that deals in its entirety—and we have had points of order argued on the floor that clearly define how narrow this portion of the bill is. and what we are dealing with is the Board in its rulemaking capacity and not in the broader sense.

Mr. ALLEN. It has nothing to do with disputes that might arise all over the United States between management and labor?

Mr. FORD of Michigan. No. If one is looking for a ruling on a company in Georgia, he goes to his local judge and gets a decision.

Mr. ALLEN. I thank the gentleman.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, what is the applicability to other Federal agencies who issue rules, the Federal Trade Commission, the Securities and Exchange Commission? Are they bound by the limited jurisdiction of the District of Columbia Circuit Court or is this the first agency that is so bound, because I think all Federal agencies should be treated the same way.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the specific answer to the question of the gentleman from Kansas, I would say that the Barlow case coming up this year relates to an OSHA case in Idaho where across-the-board rules are challenged. I know of no other case that you can challenge a rule in the District of Columbia.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I am afraid we have here again an inability on the part of the gentleman from Michigan to read the amendment. Possibly the gentleman did not have time. The gentleman is talking about forum shopping as though the parties could go anywhere they wanted in the United States and choose the court of their appeal.

I would call to the attention of the Members the language of the amendment before us. It says that the appeal may be filed where the petitioner resides or has its principal office or the District of Columbia. There are only two places that are authorized under this amendment. It is where the petitioner or the aggrieved party resides or the District of Columbia.

Talking about forum shopping, it is the drafters of this bill, those folks down there at the AFL–CIO who have gone forum shopping and they found that they like the District of Columbia Appellate Court. Talk about forum shopping, they are telling your constituents they cannot have their cases heard in their own area. They have to have their cases heard here in the District of Columbia. Now, that is forum shopping to a fare-thee-well.

Let the AFL–CIO dictate to your constituents that if they live in Colorado they must come here to the District to contest a rule that affects them.

MR. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say, I thought the question asked by the gentleman on the other side of the aisle was extremely relevant and apt. I wonder whether we are being asked to treat the rulemaking by the NLRB in a different fashion than we treat rulemaking under other laws that grant rulemaking authority. If so, I am inclined to think we should not so limit it.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for bringing that up. I think the flip answer of the gentleman from Michigan was not an adequate response to the gentleman from Kansas.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in the second place, let me say in answer to the gentlemen from Michigan making it sound that rules are not that important, rules are the whole ball game. Just an hour ago we voted on a section of this bill that requires the Board to promulgate rules that relate to access. Now, if somebody wants to review those, they are going to affect virtually every union, every employee, every employer throughout the country. Are we going to say that is not important, that you have to pack up, come into the District of Columbia? It runs contrary to the gentleman's previous argument when the gentleman said we want them to issue rules that the little businessman can understand, rules that will be clear, that you do not have to go see a lawyer.

Now they not only have to get a lawyer, they have to get a Washington lawyer if this passes.

So to say that rules are not important, rules are the whole ball game by which unions, employers and employees play the game. To say the rules are insignificant and not important and, therefore, they have to come to the District of Columbia overlooks the basic thrust of this legislation.

Mr. ERLENBORN. Mr. Chairman, the gentleman raises an important point about our constituents having to hire Washington lawyers. Knowing how many of us are lawyers and how many, when we retire, stay in the District of Columbia to practice law, maybe we have some reason to have our constituents come here when we represent them in these cases.

I think that it is hardly sufficient reason to support this provision in the bill.

I would say this. The Board has offices throughout the United States. It is no big imposition on them to go where your constituent resides to have the case heard. I think if we are going to inconvenience the bureaucrats, let us inconvenience the lawyers for the Board. Let us not inconvenience your constituents and mine.

Mr. Chairman, I hope the amendment will be adopted.

Mr. BLOUIN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, this question of inconvenience is quite interesting. That presupposes that the only persons interested in the rule are one corporation from some remote part of the country, and the Board that is hearing it. When the Board is promulgating rules, and they have been published, people will be coming into one central place to testify before that Board and influence the outcome of their decision from throughout the United States.

Now, if a large number of people on the west coast and in the Northwest have a particular interest in the rule, and they can shop around and go down and appeal the matter in the Southeastern United States, whom are we inconveniencing? It is not the bureaucrats hauling the records to the court; it is the people coming from throughout the country.

The fact of the matter is that the situs of the rulemaking activity is here. It should be borne in mind that under the present rules, without the gentleman's amendment, a company can go to the circuit court of appeals where it resides, where they sit now, and question the rule. So, they are not stuck with just the court here in Washington. They have the power now to go. But, that is as far as they can go. They cannot go running all over the country looking for the best

place to get their answers, and use the pendency of these appeals to delay them.

What is at the bottom of all of this is the fact that, as the gentleman from Illinois (Mr. ERLENBORN) quite honestly puts it, the question of whether or not they are going to be able to keep poor people waiting for courts to unscramble procedural problems for years when they are not on the payroll and do not have a way to support their families. Let us not forget what we are legislating here. We are not legislating for the lawyers. I hope that was not an announcement by the gentleman from Illinois of his future plans, because I enjoy his company on the committee so much, and also I think he would be a terribly formidable Washington lawyer to deal with. But, even our friends practicing here in Washington have to have something. I know that none of the lawyer friends of mine in Michigan are going hungry.

But, there are an awful lot of workers going hungry because they have been out of work while the courts, in their wisdom, argue for years about whether they are in court.

Mr. BLOUIN. I think the gentleman states the case very well. Our friend from Ohio said that rules are the whole ball game. I agree with him completely. When we play the ball game, the rules ought to be the same no matter where we are in the country. The rules ought to be uniformly interpreted.

We have to realize, as the gentleman from Kansas I think is trying to get at, that we are dealing with one of the very few agencies in Government today that really serves as a referee between two competing parties. If that agency is going to operate properly, there has to be one person, one unit, interpreting consistently and uniformly the rules and regulations of that agency. If we end up with the conceivable situation of 10 different Federal courts interpreting a rule 10 different ways, we are going to defeat the purpose of the very section of the bill that we are trying to establish.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I just do not happen to agree. The Securities and Exchange Commission and the Federal Trade Commission, issue rules every day which are judicial in orientation. Nobody has answered my question yet; are there other Federal agencies whose rules are treated as they are in this bill? Do they have to go to one specific circuit court for interpretation? I want to know if we are treating this agency differently.

Mr. BLOUIN. We have differing opinions on that—we will try to get the gentleman an answer before the final vote. It is my understanding that there are some other Federal agencies that have this kind of approach, but even if there are not, I do not think we should create legislation on the basis of what we have done to other agencies. We ought to deal with them as they come up. If uniformity is the basis of this, and I think it is, I think we ought to do what we can in this act and move on from there.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. In one instance about which I feel quite sure, under certain sections of the Voting Rights Act, the precedent is established that they come to this District, to the Circuit Court in the District of Columbia.

Mr. BLOUIN. I thank the gentleman. I think I have a final point, Mr. Chairman.

Unlike the impression that is being left, we are not dealing with every case that comes before the NLRB. We are dealing with rules and regulations and their promulgation only.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. ERTEL and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Has anyone determined what the impact of this would be on the Court of Appeals for the District of Columbia? We are going to have all of the appeals going to that court. Are we going to be faced with the fact that we will have a backlog in that court, and we will not be able to get decisions?

Mr. BLOUIN. It is my understanding that the District is in line for two new judges so that they would be able to handle any case load increase that would come.

I will have to yield to the floor manager for further clarification of that, if the gentleman would desire that.

Mr. ERTEL. I would like to accept the answer that was informally given on the floor. But I have one other question. Is it not true that the court of appeals obtains a variety of opinions from across the Nation, and one of the reasons we have cases on appeal to the U.S. Supreme Court is because we have conflicts in the opinions of the courts of appeals? That is why we have the Supreme Court, to iron out the differences. It seems to me it is logical to have the Supreme Court make these decisions.

Mr. BLOUIN. Would it not be a lot quicker and simpler to have a disagreement with one district court and go right to the Supreme Court, rather than having to wait for decisions from 10 different courts?

Mr. ERTEL. The only difficulty with that is that you may not get a decision.

Mr. BLOUIN. If they turn that down, they would turn down a ruling from any bench.

Mr. ERTEL. One of the reasons to get a ruling from the court of appeals is that if there is a conflict in two circuits, there will be a final decision from the Supreme Court.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. We are dealing with that agency of the Federal Government that is charged with the responsibility of establishing Federal labor law policy.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. FORD of Michigan and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. If the gentleman will yield further, there may be a situation where you can find, out of 10 circuits, 1 circuit that, for whatever reason, does not like the makeup of the present Board, or the present chairman, or whatever, and waits for the chance to give them a kick in the pants whenever they can. You can be sure, the inconvenience to the contrary notwithstanding, that is where they will end up. If there happens to be a court in San Diego and that is the best place to take a crack with the new rules of the Board, that is where you will have the decision. That does not make any sense. I take it that the underlying suspicion is that Federal judges are different, although they are appointed by the same President, when they sit in one part of the country or the other. That may or may not be true.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am hoping to vote in favor of this, but I am confused by what the gentleman has said. The gentleman said earlier, if I understood correctly, that, as matters stand now, the company may either go to the district court in its place of citizenship or where it is located, or it may come to Washington.

Mr. FORD of Michigan. Right.

Mrs. FENWICK. It seems to me that we are removing only the phrase "Only in the District of Columbia." It would not change existing law. Where does all of this shopping around come in?

Mr. FORD of Michigan. I see the gentleman is smiling. I am sure he can explain it to the gentlewoman. The fact is we narrow it to jurisdiction in the district court only for rules and regulations, not to any dispute with the NLRB. All of the courts in the country are going to deal with those as they do now.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, before I yield to my friend, the gentleman from Ohio (Mr. ASHBROOK), I would first like to make one slightly political observation, because whenever we vote on labor legislation in this Chamber Members always seem to look at the political ramifications of what we are doing.

I would like to remind my friends in the majority that if they vote to say that those people who are in the business community in their districts are going to

have to foot the cost of coming to Washington, D.C., from California, from Michigan, from Iowa, and from Tennessee for this purpose, then those constitutents certainly have every right to remember that. I think this is an area where we are imposing a level of unreasonableness and I think it will come back to hurt some Members politically.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would simply like to say in response to my friend, the gentleman from Kansas (Mr. GLICKMAN), that the gentleman from Iowa (Mr. BLOUIN) promised, before we have a vote, that an answer would be forthcoming to the question the gentleman from Kansas propounded. The only answer that was given was a response by my friend. the gentleman from New Jersey (Mr. THOMPSON), who referred not to an agency but referred to the Voting Rights Act.

I would point out that OSHA, for example, which is one of the last major comprehensive labor laws enacted by this body, has in its provisions the provision that rules and standards are reviewable in any circuit court. Let me repeat that. Those rules and standards are reviewable in any circuit court.

So in answer to the gentleman from Kansas (Mr. GLICKMAN), I would say it is rather strange that in this particular area we are saying there is only this one review of these rules, narrow as they may be, and restricted to timeliness. And in this respect, the gentleman from Tennessee (Mr. ALLEN) was correct. We are not talking about unfair labor practices; we are talking about rules. To say that only in this area are we going to make them come to Washington does not make sense.

They do need more judges here, and as I understand it, there are two more court of appeals judges in the bill before us but as I understand it, there is a considerable backlog right now.

I do not think our constituents, be they unions, employees, or employers, should be told that "the Delphian oracle" is only in the District of Columbia. Never mind your own district court of appeals. Only in Washington can you ask for a review of rulemaking in this particular area.

So I think I should point out again that the answer to the question of the gentleman from Kansas (Mr. GLICKMAN) was not forthcoming. If any Member can name another area in labor law or pertaining to an agency where they do not have the right to challenge that in their districts, I think that should be put in the RECORD, because obviously we are going to be voting on this amendment very soon.

Moreover, this would be a precedent. A year from now when some other Member would ask a question similar to that propounded by the gentleman from Kansas, there would be a precedent. We do not need a limiting precedent like this to be expanded to other rulemaking bodies. Now is the time to stop this trend before it does become a precedent. The rulemaking here relates only to a small area but the precedent would be serious.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I agree with the gentleman from Ohio (Mr. ASHBROOK). I do believe this is an area where we have the potential, without doing great harm to what the majority is trying to do with this bill, to accept an amendment that will be very beneficial.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, some of us have been listening to the debate, and we thought it might be appropriate to draft an alternative amendment that might solve the problems of the gentleman from Michigan (Mr. FORD) and other Members on the other side. That would provide that the AFL–CIO will have to approve all judges sitting on labor cases in anyplace in the country.

Do the Members think that might solve the problem?

Mr. EDWARDS of Oklahoma. I would not advise that the amendment be offered. I am sure the majority would support it.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I am sure that would not be in order under the rule.

Mr. EDWARDS of Oklahoma. Probably not.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to my fellow Michiganite, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman from Ohio (Mr. ASHBROOK) will take out his copy of the bill and read through it with me, I think that might be helpful, because perhaps we have been having this agency dance on the head of a pin for nothing. As I read it, what we are talking about is where we go in the event the rule is not promulgated within the time prescribed by the law.

Turning to the bottom of page 18, the first full sentence on line 18 reads as follows:

> The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed at the behest of any aggrieved party only in the United States Court of Appeals . . .

The gentleman's amendment simply changes that language, and it is much ado about nothing. The only thing we are talking about as far as reviewing is concerned here is a situation where somebody wants a rule made and they do not act in a timely fashion, so they go over to the U.S. Circuit Court of Appeals for the District of Columbia and they say they want them to get busy on this rule.

It does not have anything to do with the substance of the rule at all, and I apologize to the gentleman because I do not think that either he or I have been talking about what his amendment really does.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, do I understand that, in essence, any issue relating to the substance of the rules and regulations, such as arbitrariness and capriciousness, still can be appealed to any Circuit Court of the United States and that the only issue we are talking about with respect to its being restricted to the District of Columbia Circuit Court is the issue of time?

Mr. FORD of Michigan. It would be any circuit court that otherwise would have jurisdiction because of the residen e of the party or something else of that nature.

Mr. PANETTA. I understand.

Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 30, nays 39.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 174, not voting 14, as follows:

[Roll No. 629]

AYES—246

Abdnor	Butler	Erlenborn
Alexander	Byron	Ertel
Ambro	Caputo	Evans, Del.
Ammerman	Carter	Evans, Ga.
Andrews, N.C.	Cavanaugh	Evans, Ind.
Andrews, N. Dak.	Cederberg	Fenwick
Applegate	Chappell	Findley
Archer	Clausen, Don H.	Fish
Armstrong	Clawson, Del	Fithian
Ashbrook	Cleveland	Flippo
Ashley	Cochran	Flowers
Badham	Cohen	Flynt
Bafalis	Coleman	Fountain
Barnard	Collins, Tex.	Fowler
Baucus	Conable	Frenzel
Bauman	Conte	Frey
Beard, Tenn.	Corcoran	Fuqua
Bedell	Cornwell	Gammage
Benjamin	Coughlin	Gephardt
Bennett	Crane	Gibbons
Bevill	Cunningham	Gilman
Boland	Daniel, Dan	Glickman
Bowen	Daniel, R. W.	Goldwater
Breaux	de la Garza	Gonzalez
Breckinridge	Derrick	Goodling
Brinkley	Derwinski	Gradison
Brooks	Devine	Grassley
Broomfield	Dickinson	Gudger
Brown, Mich.	Dornan	Guyer
Brown, Ohio	Duncan, Oreg.	Hagedorn
Broyhill	Duncan, Tenn.	Hall
Buchanan	Edwards, Ala.	Hamilton
Burgener	Edwards, Okla.	Hammer-schmidt
Burleson, Tex.	Emery	Hanley
Burlison, Mo.	English	Hansen

Harsha	Mann	Sebelius
Heckler	Marks	Shuster
Hefner	Marriott	Sikes
Hightower	Martin	Sisk
Hillis	Mathis	Skelton
Holt	Mazzoli	Skubitz
Horton	Michel	Slack
Hyde	Milford	Smith, Nebr.
Ichord	Miller, Ohio	Snyder
Ireland	Mitchell, N.Y.	Spence
Jeffords	Montgomery	Stangeland
Jenkins	Moore	Stanton
Jenrette	Moorhead, Calif.	Steed
Johnson, Colo.	Murphy, Pa.	Steers
Jones, N.C.	Myers, Gary	Steiger
Jones, Okla.	Myers, John	Stockman
Jordan	Neal	Stump
Kasten	Nichols	Symms
Kastenmeier	O'Brien	Taylor
Kazen	Pettis	Thone
Kelly	Pickle	Thornton
Kemp	Pike	Treen
Ketchum	Poage	Trible
Keys	Pressler	Van Deerlin
Kindness	Preyer	Vander Jagt
Kostmayer	Pritchard	Waggonner
Krebs	Quayle	Walgren
LaFalce	Quie	Walker
Lagomarsino	Quillen	Walsh
Latta	Railsback	Wampler
Leach	Regula	Watkins
Lent	Rhodes	White
Livingston	Rinaldo	Whitehurst
Lloyd, Calif.	Risenhoover	Whitley
Lloyd, Tenn.	Roberts	Whitten
Long, Md.	Robinson	Wiggins
Lott	Rogers	Wilson, Bob
Lujan	Rose	Wilson, Tex.
McClory	Rousselot	Winn
McCloskey	Rudd	Wirth
McDade	Runnels	Wydler
McDonald	Ruppe	Wylie
McEwen	Santini	Young, Alaska
McHugh	Sarasin	Young, Fla.
McKay	Satterfield	Young, Tex.
McKinney	Sawyer	Zeferetti
Madigan	Schulze	
Mahon		

NOES—174

Addabbo	Fascell	Moss
Akaka	Fisher	Motti
Allen	Flood	Murphy, Ill.
Anderson, Calif.	Florio	Murphy, N.Y.
Annunzio	Foley	Murtha
Aspin	Ford, Mich.	Myers, Michael
AuCoin	Ford, Tenn.	Natcher
Badillo	Fraser	Nedzi
Baldus	Gaydos	Nix
Beard, R.I.	Ginn	Nolan
Beilenson	Gore	Nowak
Biaggi	Hannaford	Oakar
Bingham	Harkin	Oberstar
Blanchard	Harrington	Obey
Blouin	Harris	Ottinger
Boggs	Hawkins	Panetta
Bolling	Heftel	Patten
Bonior	Holland	Patterson
Bonker	Hollenbeck	Pattison
Brademas	Holtzman	Pease
Brodhead	Hubbard	Pepper
Brown, Calif.	Huckaby	Perkins
Burke, Calif.	Hughes	Price
Burke, Mass.	Jacobs	Pursell
Burton, John	Jones, Tenn.	Rahall
Burton, Phillip	Kildee	Rangel
Carney	Koch	Reuss
Carr	Krueger	Richmond
Chisholm	Le Fante	Rodino
Clay	Lederer	Roe
Collins, Ill.	Leggett	Roncalio
Conyers	Lehman	Rooney
Corman	Levitas	Rosenthal
Cornell	Long, La.	Rostenkowski
Cotter	Luken	Roybal
D'Amours	Lundine	Russo
Danielson	McCormack	Ryan
Davis	McFall	Scheuer
Delaney	Maguire	Schroeder
Dellums	Markey	Seiberling
Dicks	Mattox	Sharp
Diggs	Meeds	Shipley
Dingell	Metcalfe	Simon
Dodd	Meyner	Smith, Iowa
Downey	Mikulski	Solarz
Drinan	Mikva	Spellman
Early	Miller, Calif.	St Germain
Eckhardt	Mineta	Staggers
Edwards, Calif.	Minish	Stark
Eilberg	Mitchell, Md.	Stratton
Evans, Colo.	Moffett	Studds
Fary	Mollohan	Thompson
	Moorhead, Pa.	Traxler
Tsongas	Volkmer	Yates
Tucker	Waxman	Yatron
Udall	Weaver	Young, Mo.
Ullman	Weiss	Zablocki
Vanik	Wilson, C. H.	
Vento	Wright	

NOT VOTING—14

Anderson, Ill.	Giaimo	Stokes
Burke, Fla.	Howard	Teague
Dent	Johnson, Calif.	Whalen
Edgar	Marlenee	Wolff
Forsythe	Moakley	

Messrs. BROOKS, KOSTMAYER, and BUTLER changed their vote from "no" to "aye."

Messrs. RICHMOND and SIMON changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Oklahoma: Amend Section 3 by inserting in Section 6(b)(3) thereof, after the word "Board" in line 16 of page 18 of H.R. 8410, as reported, the words "has been applied improperly,".

Mr. EDWARDS of Oklahoma. Mr. Chairman, I respectfully look to my colleague, the gentleman from New Jersey (Mr. THOMPSON) in the hope that the gentleman will rise in support of my amendment, which I know is consistent with the gentleman's understanding of fair judicial review.

Now that we have turned the tide and the steamroller is rolling on our side, as the gentleman will acknowledge.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield on that point?

Mr. EDWARDS of Oklahoma. On that one point, I will be glad to yield.

Mr. THOMPSON. Mr. Chairman, I readily concede that the steamroller is rolling in the gentleman's direction; but may I caution the gentleman to get out of the way before it rolls over the gentleman, because the gentleman from Oklahoma is a very nice fellow.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman from New Jersey.

Mr. Chairman, during the debate earlier we were talking about the right of judicial review. I made the point at that time that the language in the bill limits the right of judicial review to matters that are arbitrary or capricious and that we have omitted one area that should be open to judicial review. In its present form section 6(b)(3) of the bill would permit a reviewing court to consider only whether a rule promulgated by the Board is arbitrary, capricious or contrary to a specific prohibition of the act, but not whether the rule had been applied properly by the Board in the particular case before the court.

Mr. Chairman, all this amendment would do is correct this deficiency to insure that an affected party would be entitled to a court review of whether or not the Board has misapplied the rule.

I think it is an eminently fair and reasonable amendment and I hope my colleague, the gentleman from New Jersey (Mr. THOMPSON), will rise in support.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment. Whenever possible, I like to agree with my distinguished friend from Oklahoma, but in this case the gentleman has gone a little too far and essentially this is a bit of mischievousness.

It unnecessarily extends the normal scope of judicial review, the normal tests of judicial review, and those that are stated in the bill. The gentleman would extend them unnecessarily, and indeed mischievously. I therefore rather strongly urge that this amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS).

The question was taken; and on a division (demanded by Mr. EDWARDS of Oklahoma) there were—ayes 33; noes 55.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman's amendment printed in the RECORD?

Mr. ASHBROOK. It was printed in the RECORD on Monday, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. THOMPSON. Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. ASHBROOK), although in some ways meritorious, is offerred to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

The amendment offered, in effect, changes section 8 of the act relating to unfair labor practices. It is directed, therefore, at a subject not contemplated in the bill and establishes a new unfair labor practice, and is not germane to the committee bill or to section 3.

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) desire to be heard on the point of order?

Mr. ASHBROOK. Yes, Mr. Chairman.

I will give, in substance, my previous statement in support of my contention

that the point of order should not be upheld, in the hope that the Chair would not repeat the previous ruling.

I believe this does come under the general rulemaking. It is in section 6. Furthermore, when we refer to willful violations, on page 22, in section 7, this bill does refer to unfair labor practices, and I think under the previous precedents established, where we open up a section referring to unfair labor practices, it is now not timely for the chairman to say that this bill does not amend unfair labor practices. Section 7 clearly refers to unfair labor practices, as does my amendment to section 3, and I would hope the Chair would overrule the point of order.

The CHAIRMAN. The Chair is ready to rule.

The gentleman from Ohio (Mr. ASHBROOK) has offered an amendment that, while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations. The amendment would really reach issues of substantive law, since the regulations would conclusively pronounce that certain union conduct shall constitute an unfair labor practice under section 8. In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of conduct which for the first time would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

The reference of the gentleman from Ohio to the provisions of section 7 does not alter the fact that an amendment must be germane to the pending section.

For that reason, the Chair must sustain the point of order.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I reoffer the amendment that is at the desk which would amend this section, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. THOMPSON. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 18, line 10, strike out "A rule" and all that follows down through "Constitution." in line 18 and insert in lieu thereof the following: "A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection, and any amendment or rescission of such a rule or regulation, shall not take effect until such rule, regulation, amendment, or proposed rescission, as the case may be, is reported to Congress by the Board at or after the beginning of a regular session of Congress but not later than the first day of May in any calendar year, and until the expiration of 30 days after such rule, regulation, amendment, or proposed rescission, as the case may be, is so reported; but if either House of Congress within that time adopts a resolution stating in substance the disapproval by that House of that rule, regulation, amendment, or proposed rescission, as the case may be, then such rule, regulation, amendment, or proposed rescission shall not take effect.".

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for yielding.

The subject matter of this amendment, as the gentleman well knows, is before the Supreme Court of the United States on the question of the one-House veto. The House is an amicus in that case. Ultimately the decision will be made by the Supreme Court.

One never knows what the Court is going to do next, but I am willing to take my chances on what they are going to do, and the gentleman must recognize, of course, that if they rule a one-House veto to be not constitutional, then it would nullify the amendment. In the event they rule otherwise, the amendment would be law, and I have no objection to it.

Mr. RAILSBACK. Mr. Chairman, I appreciate the gentleman's comments very much.

Let me just say that there were some objections to the amendment that I had printed in the RECORD, and I have been negotiating with some of the Members on the gentleman's side who are more familiar with the traditional boilerplate language. I believe they are studying it right now, and it is my understanding that they are going to offer a substitute which would be acceptable to me. I am not sure if they have had quite enough time, and I am not sure that the gentleman from California (Mr. PANETTA) has studied it completely.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, it is my understanding that the gentleman from California (Mr. PANETTA), in order to at least attempt to clarify this issue, is prepared to offer an amendment for a two-House veto. In the event the Court comes down on that side, the gentleman's thesis will be supported in any event.

Does the gentleman from Illinois (Mr. RAILSBACK) not agree with that?

Mr. RAILSBACK. Mr. Chairman, the problem is that the amendments must have been printed in the RECORD or some Member can object, so I have to go through with this. As I understand it, even though I may have withdrawn my amendment, I have a right to reoffer it while we are still considering the same section. I have checked with the Parliamentarian on that.

Mr. THOMPSON. Mr. Chairman, I would suggest that the gentleman from Illinois (Mr. RAILSBACK) yield at this time to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, one of the problems we have with this matter is that in the form in which the gentleman's amendment is written, the amendment repeals the judicial review provisions in the bill. We would simply add the language to the provisions in the bill. If we can get the veto provisions without affecting the judicial review provisions, we would have no problem with it.

So, Mr. Chairman, I would ask unanimous consent, if it is agreeable with the gentleman from Illinois (Mr. RAILSBACK), that we be permitted to modify the gentleman's amendment so that the language is in addition to and would not strike the other language of the bill.

Mr. RAILSBACK. Mr. Chairman, it is not my intent to repeal the judicial review provisions of the bill, so I will join in the unanimous-consent request.

Mr. FORD of Michigan. Mr. Chairman, I think the gentleman should make that unanimous-consent request.

Mr. RAILSBACK. Mr. Chairman, I do make that unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. COHEN. Mr. Chairman, reserving the right to object, will the gentleman from Illinois (Mr. RAILSBACK) inform me as to what the intent of the proposed amendment would be? In other words, would it still retain the one-House veto as opposed to the two-House veto?

Mr. RAILSBACK. Yes, as I understand it, it would.

Mr. Chairman, if the gentleman will yield, the substitute for my amendment providing for a one-House veto would substitute what has become boilerplate language providing for a limited 30-day congressional review, plus the one-House veto. The benefit we would have with the substitute that is to be offered for my amendment is, I believe, the fact that they would make it more inclusive.

In other words, instead of applying only to subsections (1) and (2), it would make it apply across the board to all of the rulemaking provisions under the bill.

Mr. COHEN. Mr. Chairman, further reserving the right to object, it would still require only a single House veto; it would not require a joint veto?

Mr. RAILSBACK. Yes, that is correct.

Mr. Chairman, if the gentleman from Maine will yield further, may I just make an inquiry of the gentleman from California (Mr. PANETTA)?

The substitute still preserves the one-House veto provision, the boilerplate language?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I have reviewed the language of the amendment and, as I understand it, it is the boilerplate language for legislative review. It provides for a two-House veto rather than a one-House veto.

Mr. RAILSBACK. Then I was mistaken.

Mr. COHEN. Mr. Chairman, further reserving the right to object, is this what the gentleman from Illinois (Mr. RAILSBACK) is prepared to accept?

Mr. RAILSBACK. Mr. Chairman, that was certainly not my intent.

May I ask, is the majority adamant about this?

Mr. THOMPSON. Mr. Chairman, if the gentleman from Maine will yield to me, I would not characterize our position as "adamant." We are in sympathy with the gentleman's thought.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. THOMPSON and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. Mr. Chairman, if the gentleman from Maine will yield further, what we have thought out is, as I referred to earlier, the possibility that the Supreme Court may come down either way on this, and we want to protect the theory of the gentleman's amendment. We do think that a two-House veto is the safer course at this moment.

Mr. RAILSBACK. Mr. Chairman, I would like to tell the Members the way I feel about it.

Mr. COHEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Maine (Mr. COHEN) insist upon his reservation of objection?

Mr. COHEN. Is my reservation of objection still in order, Mr. Chairman?

The CHAIRMAN. The reservation is still in order. The gentleman may proceed.

Mr. COHEN. Mr. Chairman, further reserving the right to object, as I understand it, what the gentleman in the well is seeking to do is to have a one-House congressional veto, as opposed to a two-House veto, and the amendment that would be substituted for his amendment would provide for a joint review. That is not what the gentleman's intent was originally.

I am concerned, Mr. Chairman, because on two or three occasions this year this House has passed one-House review legislation. There was no objection, to my knowledge, raised about that at that time.

Mr. Chairman, it seems to me that just because the matter is pending we should not be encouraged to take a different course. Let the Supreme Court rule on the issue as it comes before it; but in the meantime, we should go forward with the gentleman's amendment as written.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I say to my distinguished friend, the gentleman from Maine (Mr. COHEN), that there are valid arguments on both sides of this matter.

It is true, as the gentleman has said, that we have passed some legislation with a one-House veto. I think they are in jeopardy, and I think that the intent of the gentleman from Illinois (Mr. RAILSBACK) can be best achieved if we adopt the Panetta substitute. I do not think that the gentleman could take issue with the argument that there ought to be a veto, be it by one or two Houses.

We cannot guess what the court is going to do. Perhaps I should say that we can guess, and the answer to that is that they might do anything.

Mr. COHEN. Mr. Chairman, I renew my reservation of objection.

Mr. RAILSBACK. Mr. Chairman, may I speak to the gentleman's reservation of objection.

The CHAIRMAN. The Chair would like to advise the committee that the matter before the committee at this time is the unanimous-consent request of the gentleman from Illinois (Mr. RAILSBACK) that his amendment be modified.

Before we proceed further, in order for the Chair to understand, the Clerk will report the first part of the amendment, the modification portion.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK. Page 18, immediately before line 10, insert the following:

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. COHEN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Maine (Mr. COHEN) reserves the right to object.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say to my colleague that the thrust of my amendment was to provide, as has been correctly suggested by the gentleman from Maine (Mr. COHEN), a limited, 30-day congressional review, with the right to disapprove by one or the other House.

As I understand it, Mr. Chairman, what had happened was that the gentleman from Michigan (Mr. FORD) indicated that he would prefer to make it more inclusive. I think he indicated he preferred to have the traditional, standard, boilerplate language. That made no difference to me because I think the beneficial effect of having congressional review is that the members of the Board, of the NLRB, are going to know that whatever they promulgate is going to have to come back to Congress for our consideration.

Mr. Chairman, I like the idea of that; but my feeling is that if somebody is going to offer a substitute which basically encompasses what I am trying to do, I am going to accept that substitute.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, may I offer a suggestion and that is that the gentleman substitute for his amendment the one-House veto, with the provision that if it is ruled unconstitutional, there will be a two-House veto, which will cover the gentleman in all instances, and he must also eliminate the striking out of the judicial review provision in the amendment.

Mr. RAILSBACK. Mr. Chairman, the only problem with that is that I cannot offer a substitute to my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. RAILSBACK) that his amendment be modified?

Mr. COHEN. Mr. Chairman. I still reserve the right to object.

The CHAIRMAN. The gentleman from Maine (Mr. COHEN) reserves the right to object.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

The CHAIRMAN. For the information of the Chair, would the gentleman's langauge which was agreed to by the committee be inserted on page 18 at line 10?

Mr. RAILSBACK. That is correct, Mr. Chairman.

The CHAIRMAN. The gentleman may proceed.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the language that I would be prepared to offer as a substitute is essentially the boilerplate language that has been offered on all other proposals dealing with legislative veto. That language does provide for a two-House veto, and it is that language that is subject to judicial review at the present time.

The purpose of my amendment, and it really follows along the lines, as I said, of the amendments that have been accepted by the House and proposed by the gentleman from Georgia (Mr. LEVITAS) is merely to enact the same language that we have enacted before.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I say to my friend the gentleman from Maine (Mr. COHEN), that it would be my hope that the gentleman would not insist upon his point of order because I think what we may end up with may provide a meaningful review regardless of whether it is a one-House veto or a two-House veto.

Mr. COHEN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. PANETTA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RAILSBACK

Mr. PANETTA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. PANETTA as a substitute for the amendment offered by Mr. RAILSBACK:

Page 18, immediately before line 10, insert the following: Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation, the National Labor Relations Board promulgating or repromulgating the

rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the National Labor Relations dealing with the matter of _____, which rule or regulation was transmitted to Congress on _____.', the blank spaces therein being appropriately filled; or

"(B) within 90 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1)(A).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved."

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

Mr. PANETTA. Mr. Chairman, the purpose of my substitute is essentially to deal with the same problem raised by the gentleman from Illinois (Mr. RAILSBACK). My amendment provides that the legislative review of rules and regulations be the same language adopted by the House in previous legislation dealing with the legislative veto. I concur with the objectives of the gentleman from Illinois in the sense that we are dealing with an area that involves complex issues that should not be left entirely in the discretion of a Federal agency. It is necessary for Congress to review the rules and regulations as they are developed by the National Labor Relations Board. For that purpose, I feel that it would be appropriate to enact our standard language on the legislative veto as normally proposed by the gentleman from Georgia (Mr. LEVITAS). That is what is contained in the amendment that I am offering as a substitute. I would urge the House to adopt that amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to understand as clearly as I can what is being proposed by my colleague from California. Is the language the gentleman is proposing, as a substitute, exactly the same as the congressional veto language we have added to other legislation?

Mr. PANETTA. That is correct.

Mr. LAGOMARSINO. Will the gentleman yield further?

Mr. PANETTA. I will be happy to.

Mr. LAGOMARSINO. I would like to very strongly urge adoption of the gentleman's substitute. I think that, especially when we are in an area as controversial and with as much need for exact and precise rules and regulations, Congress should keep a rein, the power of veto. I believe it is very appropriate to apply that particular qualification to this legislation.

Mr. PANETTA. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that I have had a chance to consider the substitute. I take it to be reflective of the intent that I had in offering the initial amendment, so I would urge adoption of the substitute.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

I would like to understand where we are now. Is it the gentleman's understanding that by the unanimous-consent request of the gentleman from Illinois his amendment, to which this substitute runs, was amended so it did not strike in any way any of the judicial review language of the bill, and that the substitute, if adopted, would be additional language to the bill and would not affect the judicial review section?

Mr. PANETTA. That is correct. It was certainly not my intent in any way to affect the judicial right of review.

Mr. FORD of Michigan. In that case, we have no objection to the amendment, and we accept it.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I want to be sure that we understand the parliamentary situation. Is it correct tha we will vote on the gentleman's substitute first? If that subsitute carries, then there will be joint House consideration?

Mr. PANETTA. That is correct.

Mr. BEDELL. If the gentleman's amendment fails, there would then be a single House veto of such rulings, and we would vote whether or not we accept it as a single House; is that correct?

Mr. PANETTA. The gentleman is correct.

Mr. BEDELL. I thank the gentleman.

Mr. PANETTA. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA) as a substitute for the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to this section?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

The CHAIRMAN. The Chair would like to inquire of the gentleman from Ohio (Mr. ASHBROOK) if this amendment which was reported by the Clerk is printed in the RECORD?

Mr. ASHBROOK. Mr. Chairman, I would say the amendment was printed in the RECORD. The Chair previously ruled it out of order and I have struck certain language to make it conform with the ruling of the Chair.

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make the point of order that the amendment was not printed in the RECORD, notwithstanding the attempt of my good friend to revise it in such a way as to indicate that it was.

The CHAIRMAN. Does the gentleman make a point of order against the amendment to that effect?

Mr. THOMPSON. I do.

The CHAIRMAN. The Chair would have to sustain the point of order.

Mr. ASHBROOK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Ohio will state it.

Mr. ASHBROOK. Mr. Chairman, is the Chair indicating an amendment that was printed in the RECORD on Monday and ruled out of order for parliamentary reasons cannot be revised and offered as a substitute?

The CHAIRMAN. The Chair would like to advise the gentleman that the amendment was not printed in the RECORD in

the form in which the gentleman now presents it as an amendment to the bill.

Mr. ASHBROOK. The gentleman from Ohio would concede that.

The CHAIRMAN. And the Chair would be constrained to sustain the point of order.

There being no further amendments to section 3, the Clerk will read.

The Clerk read as follows:

SEC. 4. Section 9(b)(3) is amended by striking ", or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards." and substituting "nonguard employees of the same employer at the same location, or if such organization is directly affiliated with any national or international labor organization which represents nonguard employees of the same employer at the same location".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk completed the reading of section 4.

The CHAIRMAN. There being no amendments to section 4, the Clerk will read.

The Clerk read as follows:

SEC. 5. Section 9(c) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition shall have been filed and served on the employer, in accordance with such regulations as may be prescribed by the Board, by an employee or group of employees or any individual or labor organization acting in their behalf alleging that their employer declines to recognize their representative as the representative defined in subsection (a) in a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, that a majority of the employees in that unit have designated that individual or labor organization as their representative defined in subsection (a), and that no individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the bargaining unit defined in the petition, the Board shall investigate such petition. If the Board finds that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6 or a decision in the applicable industry, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within seven days after the filing and serving of the petition direct an election by secret ballot not more than fifteen days after a petition is filed and served under this subparagraph and shall so notify the representative named in the petition and the employer.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than forty-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than fifteen days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than seventy-five days after the filing and serving of said petition.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall promptly serve the parties with a tally of the ballots.

"(D)(i) Any party to the election conducted pursuant to subparagraphs (A) and (B) of this paragraph may, within five days after such election, object to the election on the ground that conducted contrary to a rule relating to election declared by the Board pursuant to its authority under section 6 or conduct contrary to a rule of decision declared by the Board in a proceeding under section 10 did affect the result of the election.

"(ii) With regard to challenged ballots, the Board shall, where such ballots are sufficient in number to affect the outcome of the election, investigate the challenges and serve a report upon the parties on challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and to certify the results of the election: *Provided*, That an objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of section 5.

Mr. THOMPSON (during the reading). Mr. Chairman, I renew my unanimous-consent request that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ERLENBORN. Mr. Chairman, reserving the right to object, could I inquire what section is being read now?

The CHAIRMAN. Section 5.

Mr. ERLENBORN. Mr. Chairman, further reserving the right to object, I wonder if the gentleman from New Jersey would agree, if we allow the unanimous-consent request for section 5 to be considered as read, the gentleman would also agree to a unanimous consent request for the gentleman from North Carolina (Mr. ANDREWS) to offer an amendment to section 4, although we have passed that section. The gentleman just unfortunately was not on the floor and had been called off the floor.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, I regret that I cannot so agree.

Mr. ERLENBORN. Mr. Chairman, in all fairness, we ruled an awful lot of amendments out of order. We at least ought to let the gentleman offer an amendment that is germane and not use parliamentary tricks to stop the gentleman from offering the amendment.

Mr. Chairman, further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, it is a source of genuine regret to me, but no parliamentary trickery was pulled. The sections had been open. We have not tried to close debate. They have been read. They have been passed and it is with deep regret that I would object.

Mr. ERLENBORN. Mr. Chairman, it is with sincere and with deep regret that I object. I wonder whose concern is deepest?

The CHAIRMAN. Objection is heard.

The Clerk concluded reading the section.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to inquire if the amendment is in the RECORD?

Mr. QUIE. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 19, line 18, insert after the comma: "or a labor organization pursuant to subsection (C)(1)(A) or (e)(1) of this section 9,";

Page 20, line 6 insert after the comma: "or that a majority of employees in a unit currently certified or recognized designate that they no longer desire representation, or that a majority of the employees covered by an agreement made pursuant to section 8(a)(3) designate that such authority be rescinded,"; and

Page 20, immediately after line 7, insert: "unit covered by an agreement pursuant to section 8(a)(3), or is a unit where the certified or currently recognized representative is no longer desired, or is a".

Mr. QUIE. Mr. Chairman, section 5 of the committee bill provides for what has been termed as "quickie" elections. These elections are conducted within 15 days where a majority of the employees have designated a representative in a union ruled appropriate by the Board, or in a decision in the applicable industry. The committee bill does not provide for these quickie elections in other types of elections.

My amendment provides that an expedited election can also be held in other types of elections. These elections are decertification elections, which are elections where the employees want to vote the union out; the other one is the deauthorization election, which are elections where the employees no longer desire to have a union security clause applicable to them.

The amendment does not apply to petitions filed by the employer, for it would be very unlikely that the employer would know the desires of the majority of the employees. My amendment simply brings elections other than representation petitions under the expedited election procedure, and only affects elections where a majority of the employees have, in some way, expressed their desires.

This amendment then, if accepted,

would bring equity to the bill where we have the quickie election not only for the representation, but in decertification and deauthorization as well. I offer this amendment without any change in the quickie election, I might say to my colleagues who are looking over the amendment. That one will come later.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word. I would like to address a question to the author of the amendment.

It is my understanding from the gentleman's explanation of the amendment that he would apply the 15-day provision to a decertification election also.

Mr. QUIE. Decertification and deauthorization.

Mr. MILLER of California. And deauthorization?

Mr. QUIE. That is right.

Mr. MILLER of California. So that the provision in the bill as it is now outlined for the election process after the union has been determined is not touched?

Mr. QUIE. Not by this amendment. I have a subsequent amendment which will touch on that. That is what the gentleman from Wisconsin will want to offer a substitute for.

Mr. MILLER of California. The gentleman would broaden that provision to decertification and deauthorization?

Mr. QUIE. That is right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 5, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote"; and

Page 17, line 16 strike all of subparagraph (B) therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Mr. QUIE. Mr. Chairman, the committee bill not only provides for this expedited election of 15 days that we spoke of just a moment ago, but also, in the case that there is between 30 percent and 50 percent of the employees who have indicated the desire for an election, and then they have 45 days in the bill, then, in the case of an extremely complicated election, the maximum is 75 days, and that is the maximum in the bill.

I believe these time limits, which are maximum, I must point out, that the Board can set the election in a shorter time than 15 or 45 or 75 days, are too short. I believe we should extend them. Therefore, what this amendment does is to extend the time for holding the election to 28 days instead of 15; to 60 days instead of 45; and to 90 days instead of 75.

This is a compromise.

I indicated yesterday that I am still skeptical that the Board can comply with this. But it does appear that the elections have been held more expeditiously than they are doing right now.

While I question writing those mandatory time limits into the statute, if it must be done—and I can understand the problems we have had with some companies where they have dragged it out for a long period of time—that it may be necessary to put these limits on.

Therefore, I believe, however, if we are going to put the limits on, we should not have them on too short of a period of time. The great majority of elections are now held within 45 days and different forms of consent elections are held on a median time of 12 days to 44 days. I believe the Board can adequately cope with the time limitation in the compromise I have suggested. I further believe the limit extension of our amendment is enough to aleviate the management fears that the elections are going to be imposed without some protection to them. The extension is also needed to give the Board the necessary time to work out the consent and the stipulations for consent. These voluntary agreements must not be interfered with, or the Board would have a task which really would be impossible for them to perform. So what I have done is provide for 20 days to be used by the Board. And during this time there should not be any problem with investigating the situation and making their decision. So far as the Board is concerned, if they use the full amount of time. it will now be 20 days instead of 7 days, as in the bill, which still would leave 28 days in which the election could be held.

The last part of the amendment provides that if the Board finds that this 28 days or the 60 days was too short a period of time in order to afford a representation complement of employees an adequate opportunity to vote, they would then be able to extend that to 30 days, to give the time for the Board to work it out. I believe it would remove a tremendous amount of antagonism and hardship that would be imposed on the strict limitation of time that is provided in the bill.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I myself, personally, think there should be more time than what we have. But obviously the gentleman from Minnesota is adding time to what is in H.R. 8410, and I would also point out that this only applies to representation elections where 50 percent or more of the workers or employees have petitioned.

Mr. QUIE. That is right.

Mr. ASHBROOK. So, with that safeguard, I think this is a reasonable compromise, and I certainly support it. I thank the gentleman for offering his amendment.

Mr. QUIE. Mr. Chairman, I should also point out that in the bill it provided that you could extend for another 7 days because of the distance from the headquarters and the number of employees.

However, what I take care of with this amendment is to insure that an adequate complement of employees may be available for the vote, and I give them the additional 30 days in that regard. I believe that will still continue the principles that have been laid down by the proponents of the bill and at the same time provide more protection for fairness and equality in the bill.

AMENDMENT OFFERED BY MR. CORNELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUIE

Mr. CORNELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Cornell as a substitute for the amendment offered by Mr. Quie:

Page 17, strike line 16 through line 24.

Page 18, line 1, substitute "(B)" for "(C)".

Page 18, line 3, substitute "(C)" for (D)".

Page 20, line 14, substitute "seventeen" for "seven".

Page 20, line 15, substitute "twenty-five" for "fifteen".

Page 20, lines 22 to 23, substitute "fifty" for "forty-five".

Page 21, line 5, after the period add: "In computing the time limits stated in this paragraph the days of the week during which a majority of the employees involved in the election are on vacation shall not be included."

Page 19, line 18, after the word "employer" add "or the individual or the labor organization that is the representative defined in subsection (a) of this section."

Page 20, line 18, after the period add "(ii) Asserting that a majority of the employees in a unit appropriate for the purposes of collective bargaining do not wish to be represented by the individual or labor organization which has been certified or is being currently recognized by their employer as the representative defined in subsection (a), or do not wish to be covered by an agreement between their employer and a labor organization made pursuant to subsection (a)(3) of section 8, the Board shall investigate such petition. If the Board has reasonable cause to believe that a question of representation affecting commerce, or a question covering an agreement made pursuant to subsection (a)(3) of section 8, exists and that the other conditions specified in this subsection have been met, the Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer."

Mr. CORNELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to

the request of the gentleman from Wisconsin?

There was no objection.

Mr. CORNELL. Mr. Chairman, the proposal in H.R. 8410 for expedited elections is certainly one of the bill's most important changes in the current law. The committee bill provides that in representation cases in which a showing is made that a majority of the employees in a plainly appropriate bargaining unit have selected a union to represent them and in which their employer wishes to have that showing checked in a Board-conducted, secret-ballot election, the election shall be directed within 7 days after the election petition is served on the employer and shall be held within 15 days from the service of the petition.

The bill further provides that these time limits can be increased to 14 days for directing the election and 21 days for holding the election under certain circumstances. During our committee markup, the gentleman from Illinois (Mr. ERLENBORN) moved to give the Board 15 days from the service of the petition to direct expedited elections and a total of 30 days from service of the petition to hold such elections. That amendment was rejected. The gentleman from Minnesota (Mr. QUIE), in his amendment, now suggests 28 days.

It is my judgment that H.R. 8410's expedited election provision is basically sound but must be amended to correct three defects.

The proposal is sound in that it recognizes that Board elections are a means for settling an industrial dispute and should, therefore, be promptly held where there is good reason to believe that the employees wish to bargain and where the unit appropriate for bargaining has been clearly established. H.R. 8410, as reported by the committee, is, however, defective in the following respects:

First, the bill is overly complex in that it sets two time limits for the holding of expedited elections. Moreover, the shorter time limit may well prove to be too confining. In this regard I am particularly concerned about the Board's ability in only 7 days to make a proper investigation of a petition in order to determine whether the unit sought is as, alleged, plainly appropriate or whether a hearing on the unit question is required.

Second, H.R. 8410, as was pointed out by the gentleman from Minnesota (Mr. QUIE) in offering his amendment, does not recognize that where employees are presently represented, they may show a clear desire to remove that representative. The right of the employees in that circumstance to be free of their unwanted representative and to refrain from union activity without delay is just as legitimate as the right of employees who wish to organize to begin bargaining promptly.

Third, it has been pointed out that the expedited election provision would permit the filing of a petition just before a scheduled vacation period. This could limit the employee's opportunity to hear the views of the employer and the union.

In order to retain what is sound in the expedited election provision and correct the defects I have noted, my substitute amendment provides three things:

First, it provides that the Board shall have a 17-day period from the service of the petition on the employer in which to direct an election in a plainly appropriate bargaining unit and an overall 25-day period in which to hold the election.

This schedule is halfway between the two confining period included in H.R. 8410 and what I regard as the somewhat too long period suggested by the gentleman from Illinois (Mr. ERLENBORN) in committee and by the gentleman from Minnesota (Mr. QUIE) in his amendment.

Mr. Chairman, part 2 extends the expedited election procedure to employee decertification petitions as proposed by the gentleman from Minnesota (Mr. QUIE), and also provides the period of time as 25 days.

Part 3 assures that the days of the week in which the majority of the employees in a bargaining unit are on vacation are not to be counted toward the time limits for directing and holding representation elections, as scheduled in the bill.

What it comes down to is this, therefore, Mr. Chairman, that the bill provides 15 days for expedited elections.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. CORNELL) has expired.

(By unanimous consent, Mr. CORNELL was allowed to proceed for 2 additional minutes.)

Mr. CORNELL. To continue, Mr. Chairman, the gentleman from Illinois (Mr. ERLENBORN) has suggested 30 days, and that was voted down in committee. The amendment of the gentleman from Minnesota (Mr. QUIE) provides for 28 days. I believe that my proposal for 25 days is a reasonable compromise.

Mr. Chairman, there is a time-honored saying: "In medio stat virtus," which means, "Virtue stands in the middle."

Mr. Chairman, I urge my colleagues on both sides to join me on the path of virtue.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment offered as a substitute.

I would like to address a question to the gentleman from Wisconsin (Mr. CORNELL), if I may.

In the amendment, which I have at hand, it says,

> And in no event more than 4 weeks after the petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer.

I do not understand how that applies. As I understand, after 25 days, they have to have the election.

Mr. CORNELL. Mr. Chairman, if the gentleman will yield, the change was made to "17" and "8," and then the total would be 25.

Mr. QUIE. What is the "4 weeks?"

Mr. CORNELL. That was a mistake. The amendment has been corrected and changed.

Mr. QUIE. How does that read now?

Mr. CORNELL. "Twenty-five days."

Mr. QUIE. In the language just before that, is that "20" and "5"?

Mr. CORNELL. That is "17" and "8."

Mr. QUIE. That is so that they both conform; is that correct?

Mr. CORNELL. It reads:

> The Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot, which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served.

Mr. QUIE. Mr. Chairman, there are two basic differences here. One is that the gentleman has a shorter period of time, 25 days instead of 28; 50 days instead of 60; 75 days instead of 90, on the length of time, a much shorter period of time. I think we ought to have a longer period of time.

The second part is that the gentleman provides only that the time limits stated in the paragraph, the days of the week in which the majority of the employees involved in an election are on a vacation, shall not be included.

However, what my amendment provides is that the Board could extend 30 extra days to insure that a full complement of employees can vote.

Mr. Chairman, in many industries there is a seasonal time or there is a time when some of the employees are not available to work. Some of the plants in my district at times have a third of their employees absent.

It seems to me, Mr. Chairman, that the Board ought to be able to take into consideration that factor in election matters. That is why I give an extra 30 days, to the Board, so that it will be fairer to the employees who are normally working there, thereby giving them an opportunity to vote.

In that regard, therefore, my amendment would be more sensible and fairer to the employees who are normally working in the plant.

Mr. CORNELL. If the gentleman will yield further, Mr. Chairman, that would be quite less definite, though. It seems to me, in view of the fact that my amendment provides for a majority, that is not subject to interpretation.

As we know, of course, in many plants they take a vacation such as a summer vacation, and they close down the plant for a week or 2 weeks.

Mr. QUIE. I recognize that there are some plants which do that, but we cannot be that definite on how each plant operates.

If we give some latitude to the board, as I do in my amendment, then it seems to me they can reflect the peculiarities or the differences that exist. In my amendment it would in no way let the employer get by with what the proponents are trying to prevent by including the time limits on the election or in no way do I endanger the policy as developed by the proponents of the bill. But I do believe it is an unreasonable restriction in the latitude of the board in order to make their decision on when the election should be held, and in the most favorable and

equitable way for the employees in the plant.

Mr. CORNELL. As I stated, a majority of the employees in the bargaining unit may happen to be on vacation for a period of time but there is not going to be a majority through the whole period prior to the election, so employees will have an opportunity, of course, to be informed about the election.

Mr. QUIE. What the gentleman really has done is only add 4 days to what is in the bill, I would say to the gentleman when one considers the language on page 17 which would have extended the 15 days to 21 days in some cases.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to my colleague, the gentleman from Minnesota (Mr. QUIE) that I have had some time to review both of the amendments. Could the gentleman from Minnesota indicate the basic areas of difference between the gentleman's amendment and the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute?

Mr. QUIE. Mr. Chairman, if the gentleman will yield, as I indicated, there is a difference in time, where I have 28 days in the quickie election instead of 25, in the Cornell amendment and then my amendment provides 60 days instead of 50 days in the Cornell amendment in the cases of between 30 percent and 50 percent of the employees. And then in the case of a complex election, the substitute has 75 days instead of 90 days in my provision.

But, even more importantly, it seems to me that the only latitude beyond that is that they do not count the days when a majority of the employees are out on vacation. In my provision we permit the board to extend for up to 30 days if they find this necessary because a full complement of employees will not be able to participate in the election.

Mr. ASHBROOK. I thank the gentleman for his response. And during this discussion we have taken enough time to allow the gentleman from Illinois to draft an amendment. So I will yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered as a substitute.

Mr. Chairman, I would like to compliment both the gentleman from Minnesota (Mr. QUIE) and the gentleman from Wisconsin (Mr. CORNELL) for working as hard as both of them have, particularly since we considered this matter in the committee in an attempt to reach some sort of a reasonable compromise on the mandatory time provisions of this bill, inasmuch as there has been so much concern expressed by people on all sides of the question about what length the time limits should be.

Further, Mr. Chairman, I believe it is evident that there is something of importance involved when these two gentlemen of good will for labor have worked as hard as they have, and we now find them 3 days apart.

The important thing is that neither of them are talking about the extreme case that was proposed in the committee, nor are either of them talking about the specific time that was suggested in the committee bill which I think was a reasonable time. But that both Members have concluded and understand the probability that the election process could not work well in any short time frame.

There is, as I say, a 3-day difference between Mr. QUIE's compromise and Mr. CORNELL's compromise, but there is also the difference involved here that the Cornell compromise deals with the question of decertification elections, that are now a relative of and require adjustment as a result of the amendment that was adopted just a few moments ago. For these reasons, at this moment, the Cornell amendment is more comprehensive, and, while it does not seem that there is a great deal of difference between the 25 days of Quie and the 28 days of Cornell, at this point the committee would have to prefer the 28 days of Cornell.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. CORNELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUIE

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment:

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. CORNELL as a substitute for the amendment offered by Mr. QUIE:

Page 17, strike line 16 thru line 24.

Page 20, line 14, strike "seven" and insert in lieu thereof "twenty";

Page 20, line 15, strike "fifteen" and insert in lieu thereof "twenty-eight";

Page 20, lines 22 and 23, strike "forty-five" and insert in lieu thereof "sixty";

Page 21, line 4, strike "seventy-five" and insert in lieu thereof "ninety";

Page 21, line 5, immediately before the period insert: ": *Provided*, That the Board may extend the period for holding of a twenty-eight day election and a sixty day election for a period of up to 30 days if it finds that such extension is necessary to afford a representation complement of employees an adequate opportunity to vote"; and

Page 17, line 16, strike all of subparagraph (B) therein through line 24, page 17, and reletter the subsequent subparagraphs accordingly.

Page 21, line 5, after the period add: "In computing the time limits stated in this paragraph any day in which 30 per centum or more of the employees eligible to vote in the election are on vacation or on temporary layoff shall not be included."

Page 19, line 18, after the word "employer" add "or the individual or the labor organization that is the representative defined in subsection (a) of this section."

Page 20, line 18, after the period add "(ii) Asserting that a majority of the employees in a unit appropriate for the purposes of collective bargaining do not wish to be represented by the individual or labor organization which has been certified or is being currently recognized by their employer as the representative defined in subsection (a), or do not wish to be covered by an agreement between their employer and a labor organization made pursuant to subsection (a)(3) of section 8, the Board shall investigate such petition. If the Board has reasonable cause to believe that a question of representation affecting commerce, or a question covering an agreement made pursuant to subsection (a)(3) of section 8, exists and that the other conditions specified in this subsection have been met, the Board shall within 17 days after the filing and serving of the petition direct an election by secret ballot which shall take place within 8 days after such election is directed by the Board, and in no event more than 25 days after a petition is filed and served under this subparagraph, and the Board shall so notify the representative named in the petition and the employer."

Mr. FORD of Michigan. Mr. Chairman, I would like to reserve a point of order against the amendment and yield to the gentleman from Illinois while I ask him a question. I tried to follow the amendment, I will say to the gentleman from Illinois. Am I correct that his amendment simply restated the entire Cornell substitute with a change in the numbers on page 20, line 14, from 7 to 20?

Mr. ERLENBORN. If the gentleman would yield, what the amendment does is to adopt the time limitations in the Quie amendment of 15 days being changed to 28, 7 days being changed to 20, 45 days to 60, and so forth, and then leaves in the proviso for the extension as it was in the Quie amendment. Then after that it picks up the Cornell amendment and would make those times applicable to decertification and deauthorization as well. It was done in haste, I must admit, and in checking with the gentleman from Minnesota (Mr. QUIE), he has suggested that if the times are to be proper, on page 2 of my amendment—if the gentleman has a copy of it there——

Mr. FORD of Michigan. We do not have the amendment. That is why I ask.

Mr. ERLENBORN. I have a copy of it here. Mr. QUIE has suggested that to make these times track properly, the 17 days about the seventh or eighth line on the second page should be 20, and the 25 days on the third line from the bottom should be 28. There was in haste an error made there, but otherwise it would be a combination of the Quie and Cornell amendments.

If the gentleman would not object and if no one would object, I ask unanimous consent to amend my amendment to the Cornell substitute by changing the "17" to "20" and the "25" to "28" on the second page, as I pointed out.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, there is no objection, that is, as to the gentleman's most recent request.

Further reserving the point of order, Mr. Chairman, I have to confess to being somewhat confused now as to whether or not we are in fact dealing with an amendment to the Quie amendment or an amendment to the Cornell substitute.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, it is an amendment to the Cornell substitute and what it would be is a compromise between the Quie amendment and the Cornell substitute.

Mr. FORD of Michigan. That is a little bit more like a shotgun marriage.

Mr. ERLENBORN. If that pleases the gentleman, we could make it that.

Mr. FORD of Michigan. Mr. Chairman, I will reserve the point of order until the gentleman explains his amendment.

Mr. CORNELL. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Wisconsin.

Mr. CORNELL. Mr. Chairman, I certainly hope the gentleman from Illinois would not want to involve me in such a marriage.

Mr. ERLENBORN. If the gentleman from Wisconsin would like to officiate, perhaps that could be arranged.

Mr. CORNELL. I would like to comment on the gentleman's statement that it was a combination of Cornell and Quie. I find nothing but material from the Quie amendment, which is essentially the time element involved in the election process.

Mr. ERLENBORN. I can tell the gentleman from Wisconsin that in cutting and pasting we picked up his amendment beginning where it says "page 21, line 5" and it is his amendment with some small changes thereafter.

Mr. CORNELL. Relatively speaking.

Mr. ERLENBORN. Relatively speaking.

The CHAIRMAN. The gentleman from Illinois may proceed.

Mr. ERLENBORN. Mr. Chairman, I offer this amendment to the Cornell substitute in a spirit of compromise. Whether it be a shotgun marriage or not, it will extend the time period as suggested by the gentleman from Minnesota (Mr. QUIE) in his amendment.

I know that this has been one of the sections of the bill that has drawn the most criticism on both sides of the aisle. The 15-day limitation on elections where 50 percent of the employees have signed cards of intention has been viewed, I think, universally as being an unreasonably short time limitation. This would, as the Quie amendment suggests, extend those days to 28 days instead of 15, and the 45 days election would be extended to 60 instead, and the 75 would be extended to 90, and it would allow the Board even some additional discretion.

I think there is a willingness on the part of the majority on both sides of the bill to see these time periods extended to make the bill more appealing, and frankly it is a difficult decision for me whether to be a part of this procedure, but I suspect the bill will be amended in any event by either the Quie amendment or the Cornell substitute, which will make the bill more appealing.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

At this point the Chair would like to inquire of the gentleman from Illinois (Mr. ERLENBORN), in the modification already agreed to by unanimous consent, the last seven lines of the amendment, is the Chair correct in that beginning on the line that starts "the Board shall within," that would be 20 days?

Mr. ERLENBORN. That is correct.

The CHAIRMAN. Next, "within 8 days after such election," that figure would be "8"?

Mr. ERLENBORN. That is correct.

The CHAIRMAN. The next number would be "28" instead of "25". Is that correct?

Mr. ERLENBORN. The Chair is correct.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. Chairman, I hope that this effort at compromise between the two positions which have been staked out by my colleagues will be supported. It will make more reasonable the time limitations. I am still convinced that the evidence before our committee is not such that would indicate that we really need to force the Board to move more quickly. Representation elections have been held relatively promptly. The delays to Board procedure have been in unfair labor practice charges, rather than in the conduct of elections; but if we are to have time limitations, these would be more reasonable and would be more broadly supported.

As I say, I offer this with mixed emotions. It may make the bill more appealing. It may mean that the bill will be supported by more on final passage.

I hope my amendment will be adopted as an amendment to the Cornell substitute and then with that adopted, we can proceed with consideration of the substitute.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) insist on his point of order?

Mr. FORD of Michigan. No, I do not, Mr. Chairman. I withdraw the point of order.

Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, if we were in conference and we had the Quie and the Cornell proposals to deal with as a House and Senate provision, I have the feeling that the Erlenborn compromise, as the gentleman calls it, would be out of order, because it would be outside the scope of the conference.

I have the feeling that the gentleman picks up that part of the Quie amendment that we are separated on, picks up another part of it, and then the gentleman ends up with the part of the cow that gives the milk, but we get the part that eats.

Mr. Chairman, I think we would be better off if we rejected the Erlenborn amendment and then settled the question of 25 days or 28 days, upon which the entire history of this country must surely hinge, by voting on either the Cornell or the Quie amendment; my recommendation being that we vote for the Cornell amendment, but I think the Erlenborn amendment rather than providing a compromise between the two, just muddies them up.

I think it would be cleaner and quicker to reject the Erlenborn amendment and vote up or down the 25- or 28-day options left pending.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Chairman, first of all, I really cannot understand why my distinguished colleague is so afraid of allowing extra time for the Board to act. Is there some unseen reason that the time frames suggested by my colleague, the gentleman from Illinois, which are not unreasonable extensions beyond what the bill provides for, why is the gentleman so fearful of extending the time?

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I wanted to ask my colleague, the gentleman from Michigan, first, because I think I will get a better answer.

Mr. THOMPSON. Do not be too sure.

Mr. FORD of Michigan. Mr. Chairman, I think it should be apparent from the fact that two very powerful intellects, like the sponsors of the original amendment and the substitute therefor, have labored so many days and find themselves 3 days apart. They are both people of good will. They have worked very hard. Members of the committee conscientiously worked on this issue for a long period of time. I think the very fact that even this much length of time remains, there is still a 3-day difference, ought to be evidence to the gentleman from California and to the Members of the House that each day is fought for very bitterly by the respective factions that are concerned with the impact of this provision in the law on the future of organization efforts.

The fact is that the overwhelming majority of problems that arise do arise during the period after the time for the election and the petition for the election and the shorter we make that period, frankly, the less temptation there is for things to go wrong and things that ultimately lead to litigation to occur.

On the one side we have people saying 15 days is too long and on the other side people saying 2 months is not enough. I think we are left with two viable alternatives now, the 28 days of the gentleman from Minnesota (Mr. QUIE), and the 25 days of the gentleman from Wisconsin (Mr. CORNELL). If anybody can explain this later, I suppose the appropriate time of arrival is about this time in 1978, if anybody can explain what the significant difference was back in their districts, they are welcome to try.

The Erlenborn amendment just fogs the whole thing up and confuses the issue.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I might say to my friend from California that I served for a number of years with the gentleman from Michigan, and I have yet to see him be afraid of anything that is right. He is not afraid, nor are those of us who are supporting the Cornell amendment and advocating the defeat of the Erlen-

born amendment to it. It is simply a matter of independence.

The average number of days for an election is 45. We think that it is acceptable to extend from 15 days, as the bill does, to the period of time suggested.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. THOMPSON and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. THOMPSON. We have considered as utterly reasonable the amendment offered by the gentleman from Wisconsin (Mr. CORNELL). It is not a matter of fear at all. It is a matter of equity and speeding up the whole process.

Mr. ROUSSELOT. Will the gentleman yield briefly?

Mr. FORD of Michigan. I yield.

Mr. ROUSSELOT. I wonder if the gentleman could expand a little bit further on his fear that this would be beyond the scope of the conference we might face in the future. I did not quite understand that.

Mr. FORD of Michigan. I am unable to perceive the changes that Mr. ERLENBORN suggests as being something between a vote with QUIE and a vote with CORNELL. He tries to make it a part of both.

Mr. ROUSSELOT. He said it was an obvious compromise.

Mr. FORD of Michigan. I described it as a shotgun marriage. I strongly suspect it would probably be the kind of marriage prohibited by law.

Mr. ROUSSELOT. I doubt that, with Father CORNELL presiding at the wedding ceremony.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield.

Mr. ERLENBORN. I want the gentleman to know that I tried to be as fair as possible. I cut the amendment right in half and glued one on the top and the other on the bottom.

Mr. FORD of Michigan. Then I suggest that we vote against the Erlenborn amendment. That gives us a half vote against Quie and a half vote against Cornell, and Members can take their choice between the 25 and 28 days.

Mr. CORNELL. Mr. Chairman, I move to strike the last word, and I rise to oppose the Erlenborn substitute amendment.

First of all, I would like to point out, as Mr. FORD said, the objective of this part of the legislation is to expedite the elections. The committee bill provided for 15 days and 45 days. The Erlenborn-Quie amendment says 28 and 60 days. My proposal is for 25 and 50 days, so I think Mr. ERLENBORN is quite incorrect in characterizing his substitute to my substitute as a compromise. I believe that the term properly belongs to the Cornell substitute.

I would like to address a question to Mr. QUIE. As I understand it, in the gentleman's amendment the period for decertification would remain at 15 days. Is that right?

Mr. QUIE. No. In my amendment it would be the same as when we have a recognition election, so in decertification and deauthorization it will be the same as in the regular recognition election, 28 days.

Mr. CORNELL. Then I would like to know exactly what the difference is between the gentleman's amendment and the substitute amendment offered by Mr. ERLENBORN.

Mr. QUIE. I would say the difference is that it includes the vacation requirement, that they do not count the vacation time. That would be added to mine. It includes the provision in mine where I give the Board the authority to extend up to 30 days.

So, what the Erlenborn amendment does is to include both the vacation time and the period that I give to the Board in order to insure a representation complement of employees an adequate opportunity to vote.

Mr. CORNELL. So the extent to which it is a compromise is simply that it includes the vacation period that I have in my substitute?

Mr. QUIE. That is right. Let us take both of them, is the way it looks to me. I have no objection to taking both of them because I have no objection to the part of the gentleman from Wisconsin, but I do object to leaving out the part I have, leaving out the authority of the Board in order to make sure all the employees can vote. What it boils down to is a question of 25 or 28 days.

I started out thinking we ought to add 30 days to the 15, making it 45 days, because 82 percent of all of the elections are held within 45 days now. Why not have it within that period of time as is presently the case. But I recognize that that might be requiring the proponents to go too far. So I came down to 30 days. That had a little magic in it, because the 30 days was defeated in committee.

Mr. CORNELL. The whole objective is to expedite the election. If the gentleman says most of them are within 45 days, that does not mean we should extend it as long as we possibly can.

Mr. QUIE. I doubt the proponents of the bill thought the 45 days was the offensive part of it, but rather the 18 percent that went beyond 45 days—I suspect that was the case—where elections sometimes took 5 years and longer. What we are doing now in this bill, if we take my language, is, in 28 days, when 50 percent of the employees sign a petition, the election is held in that period of time. If there is between 30 percent and 50 percent, it will take 60 days, 2 months, which does not seem out of line. And in the event there is a real complexity to the election, it never will take longer than 90 days under any circumstances, even under the flexibility given to the Board.

Mr. CORNELL. The gentleman from Minnesota is willing to accept the compromise of the gentleman from Illinois (Mr. ERLENBORN). I am afraid I cannot. I do not think he would qualify to be called another Henry Clay.

Mr. STEERS. Mr. Chairman I move to strike the last three words and speak in favor of the amendment.

Mr. Chairman, I rise to clarify the record, primarily. I do not want my remarks to be interpreted as an attack on labor. I believe in their sincerity. But they have issued a booklet here, which they gave me, in connection with this bill, and it is entitled "Slowness and Delay in a Nutshell." It probably has been broadly disseminated. It has a subtitle, "What's Wrong * * * Why Labor Law Reform Is Needed." In the middle of that leaflet it says:

> In the vast majority of all cases involving efforts to get a union to represent the workers . . . it took over 45 days from the filing of a petition to the holding of an election.

I was given by management a statement in direct contradiction to that, in which they said:

> Of the more than 9,000 representation elections held by the NLRB in 1975, 7,466, or 82 percent, were held in a period between 12 and 44 days from the filing of the election petition.

So I went to the trouble of asking management to cite me the authority for their statement, and last night I received the citation orally. This morning they delivered it in printed form. And their citation is entitled "Oversight Hearings on the National Labor Relations Act. Hearings Before the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, House of Representatives, 94th Congress."

These hearings were held on February 17 and 19, on various dates in March, April, and May, and those hearings contained the following language:

> Consequently, 7,466 elections were conducted within a period ranging from 12 to 44 days after the petition was filed.

This 7,466 figure divided by the total of 9,000 comes to 82 percent.

The AFL–CIO has acknowledged to me verbally that they are talking about the same 9,000 contested cases, and they were unable in any way to show that the statement they had made that a vast majority of the cases took over 45 days was true. In effect they have acknowledged that it is very clear that 82 percent took fewer than 45 days. So I consider this a very vital piece of information.

I do not think that it is necessarily determinative, and I do not accuse organized labor of having intentionally misled anybody. However, I think they have in fact put out information which is misleading, and I wanted to correct the record.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. So our own hearings in this House by this Committee substantiate the fact that the overwhelming majority of cases have been settled in 45 days or less?

Mr. STEERS. The gentleman is correct, less than 45 days.

Mr. ROUSSELOT. Then what is all the hoop-de-do about? We should vote for the Erlenborn-Quie amendment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, there is no hoop-de-do. Some of the Members just do not understand the difference between ipsy-dipsy and hoop-de-do.

Mr. ROUSSELOT. Oh, I do. I have been listening to the gentleman all day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 28, noes 34.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 229, not voting 20, as follows:

[Roll No. 630]

AYES—185

Abdnor	Glickman	O'Brien
Ammerman	Goldwater	Pettis
Andrews, N.C.	Goodling	Poage
Andrews, N. Dak.	Gradison	Pressler
Archer	Grassley	Preyer
Armstrong	Hagedorn	Pritchard
Ashbrook	Hall	Pursell
Badham	Hansen	Quayle
Bafalis	Harsha	Quie
Barnard	Heckler	Quillen
Bauman	Hefner	Railsback
Bennett	Hightower	Regula
Bowen	Hillis	Rhodes
Broomfield	Holland	Roberts
Brown, Mich.	Holt	Robinson
Brown, Ohio	Ichord	Rogers
Broyhill	Jeffords	Rose
Burgener	Jenkins	Rousselot
Burke, Fla.	Johnson, Colo.	Rudd
Burleson, Tex.	Jones, N.C.	Runnels
Butler	Jones, Okla.	Ruppe
Carter	Kasten	Sarasin
Cederberg	Kazen	Satterfield
Clausen, Don H.	Kelly	Sawyer
Clawson, Del	Kemp	Schulze
Cleveland	Ketchum	Sebelius
Cochran	Keys	Shuster
Cohen	Kindness	Sikes
Coleman	LaFalce	Skelton
Collins, Tex.	Lagomarsino	Skubitz
Conable	Latta	Slack
Corcoran	Leach	Smith, Nebr.
Coughlin	Lent	Snyder
Crane	Livingston	Spence
Cunningham	Lloyd, Tenn.	Stangeland
Daniel, Dan	Long, Md.	Stanton
Daniel, R. W.	Lott	Steers
de la Garza	Lujan	Steiger
Derrick	McClory	Stockman
Derwinski	McCloskey	Stump
Devine	McDonald	Taylor
Dickinson	McEwen	Thone
Dornan	McHugh	Thornton
Duncan, Tenn.	McKinney	Treen
Edwards, Ala.	Madigan	Trible
Edwards, Okla.	Mahon	Vander Jagt
Emery	Mann	Waggonner
English	Marriott	Walker
Erlenborn	Martin	Walsh
Ertel	Michel	Wampler
Evans, Del.	Milford	Watkins
Fenwick	Miller, Ohio	White
Findley	Mitchell, N.Y.	Whitehurst
Fish	Mollohan	Whitley
Flowers	Montgomery	Whitten
Flynt	Moore	Wiggins
Fountain	Moorhead, Calif.	Wilson, Bob
Fowler	Murtha	Wilson, Tex.
Frenzel	Myers, Gary	Winn
Frey	Myers, John	Wydler
Gilman	Neal	Wylie
	Nichols	Young, Fla.

NOES—229

Addabbo	Fithian	Murphy, N.Y.
Akaka	Flippo	Murphy, Pa.
Alexander	Flood	Myers, Michael
Allen	Florio	Natcher
Ambro	Foley	Nedzi
Anderson, Calif.	Ford, Mich.	Nix
Annunzio	Ford, Tenn.	Nolan
Applegate	Fraser	Nowak
Ashley	Fuqua	Oakar
Aspin	Gammage	Oberstar
AuCoin	Gaydos	Obey
Badillo	Gephardt	Ottinger
Baldus	Gibbons	Panetta
Baucus	Ginn	Patten
Beard, R.I.	Gonzalez	Patterson
Bedell	Gore	Pattison
Beilenson	Gudger	Pease
Benjamin	Hamilton	Pepper
Bevill	Hammer-schmidt	Perkins
Biaggi	Hanley	Pickle
Bingham	Hannaford	Pike
Blanchard	Harkin	Rahall
Blouin	Harrington	Rangel
Boggs	Harris	Reuss
Boiling	Hawkins	Richmond
Bonior	Heftel	Rinaldo
Bonker	Hollenbeck	Risenhoover
Brademas	Holtzman	Rodino
Breaux	Horton	Roe
Breckinridge	Hubbard	Roncalio
Brinkley	Huckaby	Rooney
Brodhead	Hughes	Rosenthal
Brooks	Jacobs	Rostenkowski
Brown, Calif.	Jenrette	Roybal
Buchanan	Jones, Tenn.	Russo
Burke, Calif.	Jordan	Ryan
Burke, Mass.	Kastenmeier	Santini
Burlison, Mo.	Kildee	Scheuer
Burton, John	Koch	Schroeder
Burton, Phillip	Kostmayer	Seiberling
Byron	Krebs	Sharp
Caputo	Krueger	Shipley
Carney	Le Fante	Simon
Carr	Lederer	Sisk
Cavanaugh	Leggett	Smith, Iowa
Chappell	Lehman	Solarz
Chisholm	Levitas	St Germain
Clay	Lloyd, Calif.	Staggers
Conte	Long, La.	Stark
Conyers	Luken	Steed
Corman	Lundine	Stratton
Cornell	McCormack	Studds
Cornwell	McDade	Thompson
D'Amours	McFall	Traxler
Danielson	McKay	Tsongas
Davis	Maguire	Tucker
Delaney	Markey	Udall
Dellums	Marks	Ullman
Dicks	Mathis	Van Deerlin
Diggs	Mattox	Vanik
Dingell	Mazzoli	Vento
Dodd	Meeds	Volkmer
Downey	Metcalfe	Walgren
Drinan	Meyner	Waxman
Duncan, Oreg.	Mikulski	Weaver
Early	Mikva	Weiss
Eckhardt	Miller, Calif.	Wilson, C. H.
Edgar	Mineta	Wirth
Edwards, Calif.	Minish	Wolff
Eilberg	Mitchell, Md.	Wright
Evans, Colo.	Moakley	Yates
Evans, Ga.	Moffett	Yatron
Evans, Ind.	Moorhead, Pa.	Young, Alaska
Fary	Moss	Young, Mo.
Fascell	Mottl	Young, Tex.
Fisher	Murphy, Ill.	Zablocki
		Zeferetti

NOT VOTING—20

Anderson, Ill.	Giaimo	Price
Beard, Tenn.	Guyer	Spellman
Boland	Howard	Stokes
Collins, Ill.	Hyde	Symms
Cotter	Ireland	Teague
Dent	Johnson, Calif.	Whalen
Forsythe	Marlenee	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Dent against.

Mr. Anderson of Illinois for, with Mr. Howard against.

Mr. Beard of Tennessee for, with Mr. Stokes against.

Mr. Guyer for, with Mr. Cotter against.

Mr. Symms for, with Mr. Boland against.

Mr. JONES of Tennessee changed his vote from "aye" to "no."

Mr. CHARLES WILSON of Texas changed his vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE), as amended.

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CORNELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 418, noes 0, not voting 16, as follows:

[Roll No. 631]

AYES—418

Abdnor	Burton, John	Emery
Addabbo	Burton, Phillip	English
Akaka	Butler	Erlenborn
Alexander	Byron	Ertel
Allen	Caputo	Evans, Colo.
Ambro	Carney	Evans, Del.
Ammerman	Carr	Evans, Ga.
Anderson, Calif.	Carter	Evans, Ind.
Andrews, N.C.	Cavanaugh	Fary
Andrews, N. Dak.	Cederberg	Fascell
Annunzio	Chappell	Fenwick
Applegate	Chisholm	Findley
Archer	Clausen, Don H.	Fish
Armstrong	Clawson, Del	Fisher
Ashbrook	Clay	Fithian
Ashley	Cleveland	Flippo
Aspin	Cochran	Flood
AuCoin	Cohen	Florio
Badham	Coleman	Flowers
Badillo	Collins, Ill.	Flynt
Bafalis	Collins, Tex.	Foley
Baldus	Conable	Ford, Mich.
Barnard	Conte	Ford, Tenn.
Baucus	Conyers	Forsythe
Bauman	Corcoran	Fountain
Beard, R.I.	Corman	Fowler
Bedell	Cornell	Fraser
Beilenson	Cornwell	Frenzel
Benjamin	Coughlin	Frey
Bennett	Crane	Fuqua
Bevill	Cunningham	Gammage
Biaggi	D'Amours	Gaydos
Bingham	Daniel, Dan	Gephardt
Blanchard	Daniel, R. W.	Gibbons
Blouin	Danielson	Gilman
Boggs	Davis	Ginn
Boland	de la Garza	Glickman
Bolling	Delaney	Goldwater
Bonior	Dellums	Gonzalez
Bonker	Derrick	Goodling
Bowen	Derwinski	Gore
Brademas	Devine	Gradison
Breaux	Dickinson	Grassley
Breckinridge	Dicks	Gudger
Brinkley	Diggs	Hagedorn
Brodhead	Dingell	Hall
Brooks	Dodd	Hamilton
Broomfield	Dornan	Hammer-schmidt
Brown, Mich.	Downey	Hanley
Brown, Ohio	Drinan	Hannaford
Broyhill	Duncan, Oreg.	Hansen
Buchanan	Duncan, Tenn.	Harkin
Burgener	Early	Harrington
Burke, Calif.	Eckhardt	Harris
Burke, Fla.	Edgar	Harsha
Burke, Mass.	Edwards, Ala.	Hawkins
Burleson, Tex.	Edwards, Calif.	Heckler
Burlison, Mo.	Edwards, Okla.	Hefner
	Eilberg	Heftel

Hightower	Miller, Calif.	Sarasin
Hillis	Miller, Ohio	Satterfield
Holland	Mineta	Sawyer
Hollenbeck	Minish	Scheuer
Holt	Mitchell, Md.	Schroeder
Holtzman	Mitchell, N.Y.	Schulze
Horton	Moakley	Sebelius
Hubbard	Moffett	Seiberling
Huckaby	Mollohan	Sharp
Hughes	Montgomery	Shipley
Ichord	Moore	Shuster
Ireland	Moorhead, Calif.	Sikes
Jacobs	Moorhead, Pa.	Simon
Jeffords	Moss	Sisk
Jenkins	Mottl	Skelton
Jenrette	Murphy, Ill.	Skubitz
Johnson, Colo.	Murphy, N.Y.	Slack
Jones, N.C.	Murphy, Pa.	Smith, Iowa
Jones, Okla.	Murtha	Smith, Nebr.
Jones, Tenn.	Myers, Gary	Snyder
Jordan	Myers, John	Solarz
Kasten	Myers, Michael	Spellman
Kastenmeier	Natcher	Spence
Kazen	Neal	St Germain
Kelly	Nedzi	Staggers
Kemp	Nichols	Stangeland
Ketchum	Nix	Stanton
Keys	Nolan	Stark
Kildee	Nowak	Steed
Kindness	O'Brien	Steers
Koch	Oakar	Steiger
Kostmayer	Oberstar	Stockman
Krebs	Obey	Stratton
Krueger	Ottinger	Studds
LaFalce	Panetta	Stump
Lagomarsino	Patten	Taylor
Latta	Patterson	Thompson
Le Fante	Pattison	Thone
Leach	Pease	Thornton
Lederer	Pepper	Traxler
Leggett	Perkins	Treen
Lehman	Pettis	Trible
Lent	Pickle	Tucker
Levitas	Pike	Udall
Livingston	Poage	Ullman
Lloyd, Calif.	Pressler	Van Deerlin
Lloyd, Tenn.	Preyer	Vander Jagt
Long, La.	Price	Vanik
Long, Md.	Pritchard	Vento
Lott	Pursell	Volkmer
Lujan	Quayle	Waggonner
Luken	Quie	Walgren
Lundine	Quillen	Walker
McClory	Rahall	Walsh
McCloskey	Railsback	Wampler
McCormack	Rangel	Watkins
McDade	Regula	Waxman
McDonald	Reuss	Weaver
McEwen	Rhodes	Weiss
McFall	Richmond	White
McHugh	Rinaldo	Whitehurst
McKay	Risenhoover	Whitley
McKinney	Roberts	Whitten
Madigan	Robinson	Wiggins
Maguire	Rodino	Wilson, Bob
Mahon	Roe	Wilson, C. H.
Mann	Rogers	Wilson, Tex.
Markey	Roncalio	Winn
Marks	Rooney	Wirth
Marriott	Rose	Wolff
Martin	Rosenthal	Wright
Mathis	Rostenkowski	Wydler
Mattox	Rousselot	Wylie
Mazzoli	Roybal	Yates
Meeds	Rudd	Yatron
Metcalfe	Runnels	Young, Alaska
Meyner	Ruppe	Young, Fla.
Michel	Russo	Young, Mo.
Mikulski	Ryan	Young, Tex.
Mikva	Santini	Zablocki
Milford		Zeferetti

NOES—0

NOT VOTING—16

Anderson, Ill.	Guyer	Symms
Beard, Tenn.	Howard	Teague
Brown, Calif.	Hyde	Tsongas
Cotter	Johnson, Calif.	Whalen
Dent	Marlenee	
Giaimo	Stokes	

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. QUIE. Mr. Chairman, I have an amendment at the desk, but the gentleman from California (Mr. PANETTA) has a unanimous-consent request, and I will be glad to yield to the gentleman.

TECHNICAL AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I ask unanimous consent to offer a technical amendment to my amendment, beginning on page 19, after line 5, which has been previously agreed to.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would simply say that the gentleman from California (Mr. PANETTA) has very graciously showed his amendment to this side. I did speak with the gentleman from Illinois (Mr. RAILSBACK), who also worked with this amendment. We agree it is technical. It has nothing of substance.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Technical amendment offered by Mr. PANETTA: On Page 19, after line 5, add a new subsection "(4)" providing as follows: "'(a) Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation, the National Labor Relations Board promulgating or repromulgating the rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as providing in paragraph (2), the rule or regulation shall not become effective, if—

(1) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the National Labor Relations Board dealing with the matter of ————, which rule or regulation on was transmitted to Congress on ————, "the blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(b) If at the end of the 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1)(A).

"(c) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved."

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.'."

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued reading the technical amendment.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the technical amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. PANETTA)?

Mr. ROUSSELOT. Mr. Chairman, I do not think I have any great difficulty with this amendment offered by the gentleman from California and I think many of us on this side do not. However, we are in effect going back in to passed over sections of the bill and opening up elements on which we have already concluded action. Yet a moment ago, when the gentleman from North Carolina (Mr. ANDREWS) tried to get permission to offer an amendment that had been properly printed in the RECORD we did not allow him that same privilege.

I wish the gentleman could tell us what the difference is. I might ask that question of the chairman of the subcommittee.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I yield to the gentleman. Is the answer just that the gentleman favors this amendment but he did not favor the amendment by the gentleman from North Carolina?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will recall, earlier in the day the gentleman from Illinois (Mr. RAILSBACK) offered an amendment. I rose on behalf of the committee to oppose the amendment, and I said I was doing so reluctantly because I thought the principle the gentleman was trying to reach was a good principle. But I did not like the form of the amendment, and our counsel had some difficulty with it.

The gentleman asked for and received unanimous consent to withdraw that amendment, and then he negotiated with us to see if there was a common solution that could be reached. In an attempt to do that, the gentleman from California (Mr. PANETTA) came forward with a substitute that incorporated lan-

guage which has previously been adopted in other bills to accomplish the same purpose.

We put the amendment together on the floor as quickly as possible, with the Members trying to cooperate with other Members. In the process of doing that, we left a couple of rather technical gaps which the two principal proponents of the original amendment and the substitute amendment felt needed to be resolved.

It just makes good sense for us, rather than to wait for the conference where presumably we could clean this up, to put the bill in a proper form and show the American people that we have enough sense, when we make a little mistake, to solve it.

There is no substantive reason for not going back to do this, because there is no disagreement, as I understand it, in the House over the substance of what the two gentlemen on this side and the other side are trying to do.

In the case of the gentleman from North Carolina (Mr. ANDREWS), who asked to reopen a section of the bill that had already been passed over, there was a substantive difference of opinion involved, and we could have been here for over 2 hours arguing over that section. In any case, the gentleman's request was just not timely.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I think I have made my point. I really believe that the amendment offered by the gentleman from California (Mr. PANETTA) is a good one. I just think it is an interesting display of some partisanship and unfairness and I am sorry that we did not allow the gentleman from North Carolina (Mr. ANDREWS) to go back to that section and offer his amendment that relates to security guards.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, there was no partisanship involved in my action in objecting to the request of the gentleman from North Carolina (Mr. ANDREWS). I did it with great regret. The gentleman is a member of my party, and he is a member of the Committee on Education and Labor. My reason for objecting was, frankly, that there was a great deal of controversy about it.

It had been printed in the RECORD, and circumstances beyond his control kept that gentleman from being on the floor.

Mr. ROUSSELOT. We realize that.

Mr. THOMPSON. Will the gentleman yield further?

Mr. ROUSSELOT. Yes. Many of us do not understand why you have denied Mr. ANDREWS the chance to offer his amendment.

Mr. THOMPSON. Mr. Chairman, we are at a point now where it is getting late in the day, and we have not tried to limit debate at all. However, I would respectfully ask that we try to expedite debate from here on out although I would rather choose not to try to limit debate.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I appreciate the gentleman's comments that he will try not to limit debate.

Mr. THOMPSON. Mr. Chairman, I will do the best I can.

Mr. ROUSSELOT. Yes; I appreciate the great cooperation of the gentleman.

My disappointment is that many of us have read the amendment of the gentleman from North Carolina. We are familiar with it. It is a constitutional amendment. He asked for the simple cooperation of the gentleman so as to obtain a vote and allow it to be debated.

The gentleman knew in advance what the amendment was, even though he did not agree with it. I think it was too bad that we did not give the House the opportunity to vote on that issue.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, the fact is that had I not objected, any number of other Members would have.

Mr. ROUSSELOT. We should have tried it, in any event.

Mr. THOMPSON. If the gentleman will try it again. I will object to it.

Mr. ROUSSELOT. The gentleman may try to do it again.

Mr. THOMPSON. Then I will object.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. PANETTA).

There was no objection.

Mr. PANETTA. Mr. Chairman, I would like to say with respect to this nonpartisan matter that the changes which are at the desk are purely technical changes relating to the numbering of the amendment within the bill. Therefore, I would urge its adoption.

The CHAIRMAN. The Chair would like to advise the gentleman from California (Mr. PANETTA) that the unanimous-consent request has accomplished the change and that no further action is necessary.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chiarman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 21, line 8, after the word "shall" add: ", unless under a rule adopted pursuant to subsection (b)(1)(D) of section 6, the ballots have been impounded,".

Page 21, line 21, after the word "challenges" add "; *Provided*, That nothing contained herein shall preclude resolution of the eligibility questions raised by such challenges in a subsequent unit clarification proceeding,".

Mr. QUIE. Mr. Chairman, the committee bill provides that a tally of ballots will be served on the parties and implies that only challenges which affect the results of the election would ever be resolved.

My amendment provides that the Board resolve issues before it serves the parties with a tally of ballots where there are substantive issues yet to be resolved. Recently, the Board implemented a "vote and impound" procedure when certain substantive issues are left unresolved. The amendment I offer would allow the Board to continue with that procedure prior to serving a tally of ballots. I direct the Members' attention to page 98 of the appendix to the minority views for an explanation of the "vote and impound" procedure. This procedure allows the election to be held when scheduled, but likewise, allows the substantive issues to be resolved before the parties or the Board knows how the Board's determinations of the substantive issues will affect the results of the election.

I do not believe the intent of the sponsors was to eliminate the "vote and impound" procedure, but the way the bill is written would cause confusion. I offer this amendment to clarify that the "vote and impound" procedure should be given an opportunity to be implemented before it is discarded by legislative oversight.

This amendment also requires the Board to resolve the challenges where they do not affect the results in the manner it presently does. The committee bill would imply that challenges should only be resolved when they affect the results of an election. I feel that employees whose ballots are challenged should know whether they belong in or out of the unit, whether those challenged ballots affect the results or not. I also feel that the employer and union should know who is in or out of the unit they will be bargaining about. Therefore, I think challenges should be resolved at some time. The amendment allows the Board to entertain a unit clarification petition if the challenges do not affect the results of the election in the same manner it does now.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I might say to my distinguished friend and ranking minority member, the gentleman from Minnesota (Mr. QUIE), that the majority sees no objection to this amendment and would be pleased to accept it.

Mr. QUIE. Mr. Chairman, I thank the gentleman.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for his contribution. It is an additional constructive amendment, and I thank the gentleman for offering it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 5? If not, the Clerk will read.

The Clerk read as follows: Page 22, line 3:

SEC. 6. Section 9(d) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that no such certification shall be set aside unless the Board in issuing such certification prejudicially violated the procedural requirements of this Act or of subchapter II of chapter 5, United States Code, or acted arbitrarily or capriciously, or contrary to a specific prohibition of this Act or of the Constitution?.

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I think this is such a short section that we can listen to it.

Mr. THOMPSON. On the other hand, I think it is so short that we ought to let it just be considered as read.

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of section 6.

The CHAIRMAN. Are there any amendments to section 6?

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: Page 22, line 10, insert before the quotation marks, the following: ", or made findings with respect to questions of fact which are not supported by substantial evidence on the record considered as a whole".

Mr. RAILSBACK. Mr. Chairman, the amendment substitutes a standard of review of certification which is similar to the standard of review in section 10 of the act; that is, the "substantial evidence" test.

REASONS

The bill, H.R. 8410, provides that no certification can be set aside unless the Board "prejudicially" violated the "procedural" requirements of the APA, or contrary to the act or Constitution, or acted arbitrarily or capriciously. In effect, the committee bill changes the standard of judicial review (in the representation section of the act) from the current "substantial evidence" test (in the enforcement section of the act) to a test which will automatically sustain the Board's certification unless it acted arbitrarily or capriciously. This effect further narrows the already limited scope of NLRB determinations in representation proceedings. The committee bill is inappropriate because it: First, imposes on the courts the difficult task of applying two different standards in labor appeals, possibly conflicting standards; second, it deviates from a previously unquestioned uniform standard applicable to judicial appeals from all types of administrative hearings; and third, it creates a bad precedent.

My amendment would restore the substantial evidence test, and restore the ability of the courts to check the power of the Board.

In the *Universal Camera Corp* v. *NLRB* (340 U.S. 474 (1951)) case, the Supreme Court stated the substantial evidence test is identical to the substantial evidence test found in the APA, 5 USC 706 (2)(E). Cases disclose that the substantial evidence test has been applied to decisions of the Department of Agriculture, Civil Aeronautics Board, Civil Service Commission, Department of Defense, Federal Trade Commission, ICC, Veterans' Administration, HEW, Commerce, Interior and the SBA. The "substantial evidence" test has been applied to the NLRB, which conforms to the APA standard.

With the adoption of my amendment, the enormous body of law developed under the universal standard would not be overturned. Without adoption, it is possible that other agencies would seek to receive the relatively unchecked power the Board would have under the "arbitrary and capricious standard."

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I waited to listen to the gentleman's explanation. The amendment which he proposes has been discussed earlier with us. I thank him for his consideration, and we are delighted to accept it.

Mr. RAILSBACK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to section 6? If not, the Clerk will read.

The Clerk read as follows: Page 22, line 11:

SEC. 7. The first sentence of subsection (10)(b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section, prohibiting interference with, restraint or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization,

and that said violation occurred within three years of the entry of the order violated, the Board, or any agent or agency designated by the Board for such purposes, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, I am constrained to object.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield briefly.

Mr. ROUSSELOT. Yes, but do not talk to me about my stationery again.

Mr. THOMPSON. I hope the gentleman has the keys to his automobile in his pocket.

Mr. ROUSSELOT. I do. I do. Right here.

Mr. THOMPSON. If the gentleman will yield further, he will find when he goes to his office that the door has new locks and he has no telephone.

Mr. ROUSSELOT. I need a new key anyway. I will be pleased to have a new telephone.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. I object. I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded reading section 7.

The CHAIRMAN. Are there amendments to section 7?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment. It was printed in the RECORD Monday.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 22, after line 10, insert the following new section 7 and renumber the subsequent section accordingly.

SEC. 7. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided further*, That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further*, That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law".

Mr. ASHBROOK. Mr. Chairman, the purposes of the bill as stated are to expedite and to speed up the processes. I think we have a situation where an amendment of this type can easily speed

up the processes. In many cases we have grievances that can be settled by arbitration and yet we have a procedure where many of the parties will want it both ways. They will go to arbitration, and if the arbitration is not exactly what they want, they will take exactly the same subject to the NLRB.

What I am saying is very simple. Once a party has elected to take a case to arbitration or under the terms of their agreement could take it to arbitration, they may not, merely because they are dissatisfied with the results of the arbitration, seek a remedy in a different forum.

This provides for a selection of remedies, and when the remedies are agreed upon this election of remedies is binding and I think it should be binding only if the arbitrator before the moving party first elects to proceed with the case on its merits. Under the decisions as we have them in the Collyer Insulated Wire case in 1971 the NLRB referred to arbitration a dispute involving an employer's rights. The Board deferred. In subsequent cases sometimes they did and sometimes they did not. So we are really changing the basis of the Collyer law. We are simply saying forum shopping is not good form for the disposition of disputes in labor-management relations. Previous to Collyer, the dispute could be submitted to arbitration or to the Board concurrently.

I am saying that if the parties determine to use their procedures in the contract that they can freely enter into that and they should not forum shop. They should not want to have it both ways.

I do not think it is the province of the Board to tell the parties which way to go, but if the parties in their contract can or elect to go to arbitration, I do not think when it is about to be finalized they should say they want to go to the Board.

As I said earlier, this is in accordance with the objectives of the bill. I think it would help unclog some of the dockets and expedite the procedures under the act.

I urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the effect of the gentleman's amendment is to attempt to, I suppose we could say correctly, reverse the Collyer decision he is talking about in terms of the present interpretation. This amendment would write into the statute a Board doctrine which would say that the Board would not pass on unfair labor practice cases if the subject matter of that case was also the subject of potential arbitration under an arbitration agreement contained in a collective-bargaining agreement.

The gentleman's amendment says this would apply not only to an unfair labor practice case involving the union and company or a charge against either the union or the company but also to those cases where individual employees have a claim for violation in the nature of an unfair labor practice.

It would disqualify the Board from considering the unfair labor practices if the subject matter had been subject to arbitration.

Now, as a matter of fact, what it does is make arbitration under an arbitration arrangement contained in the collective bargaining agreement the sole remedy available not only to a union or to an employer, but to individual employees or groups of employees, whether the union is interested or not.

The effect of that, of course, is to reduce the options available to an individual to seek redress of the alleged violation.

Most importantly, arbitrators are not equipped to deal with unfair labor practice complaints in the text of an unfair labor practice. Their normal function is to settle contractual differences, interpretations of contracts, interpretations of data that would trigger particular relief in the contract or rights in the contract. It is not their job to be conversant with how to interpret the complaints of unfair labor practices as a violation of law.

Arbitration does not provide normally in an arbitration contract for investigators and people to do the necessary investigative work that the Labor Board does with its employees, nor would the arbitrator have access to subpena power to subpena records or subpena witnesses to gather information. The procedures, in other words, while the subject matter contained in both of them might be similar, there might be the same set of circumstances that give rise to both procedures, but it does not dictate that the result you get in both forums is the same or the method of arriving at the result is the same.

The effect of the gentleman's amendment would be to deprive both the employer and the employees of the option not only to submit to arbitration those parts or questions that are raised that are appropriately reached by arbitration, but, nevertheless, having done that, also seek the redress of their grievance by filing an unfair labor practice with the Labor Board and allowing the Labor Board in the normal course of their affairs to consider it.

Arbitration decisions are appealable to the courts, but there is where we start to get into a lot of procedural redtape again. If we force employers or employees into using arbitration as the only solution and the exclusive remedy, we are guaranteeing that an appeal from the procedure that either party takes is going to, first, have to go to the district court and then from there to the circuit court of appeals; while on the other hand if the matter if brought before the National Labor Relations Board as an unfair labor practice and the employer feels that the Board has been a little heavy on the employer, it does not agree with the decision, the employer can go directly to the circuit court of appeals and skip this whole duplicative court procedure.

One further thing I might say, the Board has the authority to enforce its decision to arbitrate. After arbitration, you must still resort to the courts for the enforcement of its determination. It is an inadequate remedy.

Mr. Chairman, I urge defeat of the amendment and at this point I would like to provide my colleagues with a few additional reasons, based on court decisions, for my opposition.

First. The Collyer doctrine was accepted by the courts not as a requirement of the act but as a permissible exercise of the Board's discretion over the processing of cases. Even at that, the acceptance was not without cautionary qualifications, e.g., *Local 2188 IBEW* v. *NLRB*, 494 F.2d 1087, 1091 (C.A.D.C.) cert. denied, 419. U.S. 835.

Second. The policy of the doctrine and the amendment is contrary to the basic theory of the act that the rights protected are public rather than private, for it subordinates statutory procedures and board remedies to private remedies. If a member of the public wants to submit his/her public law claim to the private justice system established in a bargaining agreement, that is one thing. It is something else entirely to force such a surrender of public rights and forums.

Third. The amendment, like the doctrine, reverses the accepted principle that where the same conduct gives rise to more than one basis for relief, the aggrieved party has a choice of which remedy to pursue. As Justice Holmes wrote,

> Of course, the party who brings a suit is master to decide what law he will rely upon . . ." (*The Fair* v. *Kohler Dye & Specialty Co.*, 228 U.S. 22, 55).

Fourth. In an analogous area—claims under title VII—the Supreme Court has upheld the opening of both public and private forums, stating as to the legal system created by the NLRA that "(t)here, as here [under title VII], the relationship between the forums is complementary since consideration of the claim by both forums may promote the policies underlying each. Thus, the rationale behind the election of remedies doctrine cannot support the decision below." (*Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36, 50–51).

Fifth. Arbitration proceedings are simply inadequate to protect statutory rights. They are created to deal with transgressions of a common agreement, not claims of bad faith and intentional deprivation of legal rights. They are significantly less able than the Board (if indeed they are able at all) to compel the production of information by one party at the demand of the other. And they are wholly incapable of preventing future violations. They are, moreover, expensive for the contracting party to pursue, and this in itself requires unions to be carefully selective as to which grievances will be pursued to arbitration. Arbitration proceedings are thus manipulable by employers to drain union treasures, and to discourage employees by requiring the filing of more grievances than can be pursued to the end.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, the gentleman from Michigan has given us a learned discourse on whether arbitration is a

good remedy or not. I am not going to challenge the statement of the gentleman. We might disagree on the validity of arbitration, but remember this, no one in this amendment by voting for it is going to force arbitration on anyone who has not agreed to it. This is not saying that any employer or union or employee must use arbitration without having agreed to do so.

As far as the employees are concerned, the gentleman said that they are losing some remedy. Remember, each employee is free to choose his own course and do for himself as he sees fit in seeking a level of wages, fringe benefits, remedies, and all other conditions of employment. But, when the employee chooses to be represented by a union, he gives up his individual rights. That is the whole thing in unionization, in collective bargaining. It is collective decisions for the collective good, and the individual employee gives up his right to bargain for the wage rate he wants or the fringe benefits he wants, and all other things. He no longer has the right as an individual to pursue his rights, but has given that up to the collective. That is collective bargaining.

What the gentleman from Ohio has provided here is an amendment that says that if one has a collective bargaining situation and the union has negotiated and reached an agreement with the employer, and that agreement provides the remedy to be arbitration, then we are going to see that the agreement is enforced; the collective decision of all of the employees to defer to arbitration rather than to go into courts, rather than to seek a remedy at the Board, will be enforced.

Now, if the employee does not like that, he can tell his union not to negotiate it. If the union thinks this is not a valid remedy, they need not agree to it when they bargain across the table; but if they have agreed to it, if a contract has been signed and the contract says that arbitration is the remedy, why should it not be enforced as the remedy? That is all the gentleman is suggesting, that we give full force and effect to collectively bargained agreements.

I think the gentleman from Michigan would not be here arguing against a provision that would say that the employees must give up their other rights, as they do in the collective-bargaining situation. Why should this one right be proscribed that is contrary to the contract, contrary to what the union has agreed to?

The other point to be made is this: The thrust of this bill is supposed to be taking the burden off the Board so as to permit the disposition of election contests and unfair labor practice charges in as rapid a fashion as possible. We will be taking a burden from the Board and from the courts if we enforce these collectively bargained agreements and have deferral to arbitration. Of course, what is done now is that very often there will be successive deferral to arbitration; if they do not like the decision, they go to the Board; if they do not like that, they go to the courts. We wind up with three actions instead of one. Or, they may bypass arbitration, because they think it is too expensive and too cumbersome, and violate the agreement and go directly to the Board.

I do not think we should let this happen. There should be sanctity of the contract reached between a union and the employer, and I would hope that the amendment offered by the gentleman from Ohio is adopted.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding to me.

I think the thing that surprises me the most about the statement of my friend from Michigan is that it runs away from the Collyer decision. It does not in any way separate itself from the Collyer decision; it implements it. My friend from Michigan (Mr. FORD) on numerous occasions has talked about sound labor-management policy and public policy.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. ASHBROOK and by unanimous consent Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. The essence of sound labor policy and sound public policy is to encourage settlement of contractual disputes by contract. Of course, the parties have rights in most cases for appeal to courts and to go to the National Labor Relations Board. We should encourage the resolution of differences under the terms of the contract, which is a part of the labor-management process. This is exactly what this amendment would do. It certainly is supported by public policy as well as expediting the remedy to both labor and management.

Mr. ERLENBORN. I thank the gentleman. Would not the gentleman agree that the only arbitration that would be required under the amendment is if the union representing the employees has entered into a contract on behalf of those employees calling for arbitration?

Mr. ASHBROOK. Absolutely. There would be no other instance where this amendment would even apply.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I am sure that both the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) are in agreement that we should encourage agreements between labor and management to arbitrate differences wherever that is possible. But I am afraid that the effect of the Ashbrook amendment is to fly in the face of that, because if you are going to draw a provision in a collective bargaining agreement between union and management that is going to set the parameters of those matters that they agree to submit to arbitration, you are going to be very cautious in the future, should the Ashbrook amendment be agreed to, so that you do preserve, by not having a broad commitment to arbitration, the right to preserve the public remedy.

There are two remedies involved, frequently, out of the same set of circumstances. There may be a set of circumstances under which the contractual relationship of the employer-employee, governed by a collective bargaining agreement, gives rise to a dispute that can be resolved by arbitration. But not all matters that give rise to a dispute subject to arbitration are by any stretch of the imagination unfair labor practices. They may be differences of opinion between the parties or a dispute over what the provisions of the contract mean. But that does not mean you go to the Board and file an unfair labor practice action.

The gentleman's amendment says that on those occasions when the transaction carries with it conduct by either management or an emplovee that amounts to an unfair labor practice, once they have determined that the transaction comes within the purview of arbitration, the complaint for the unfair labor practice goes out the window and the public remedy to assure that people are law abiding in their conduct is gone.

I do not know how one can construe this as a prolabor or promanagement sort of an issue, and I do not think the gentleman from Ohio (Mr. ASHBROOK) or I perceive it that way, because it is entirely possible that an employer would, given a course of conduct by employees, want to have available to him then the complaint for the unfair labor practice as a deterrent to a repetitious course of conduct on the part of an employee that he thought was particularly damaging and was not able to reach through arbitration under the collective bargaining agreement.

It narrows the choices available to both the employee and employer in such a way as to discourage in future collective bargaining agreements broad submission of issues to arbitration, and that is not what I think the gentleman and I would like to see happen.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, could I ask the gentleman from Michigan this question: What happens now? In other words, I understand that, as the gentleman says, this might limit the number of contracts that provide for arbitration. But is the gentleman proposing that, when the contract provides for arbitration, it may be broken?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield so that I may respond to the question of the gentlewoman from New Jersey?

Mr. KILDEE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. The gentleman's amendment would reverse the present practice. The present practice allows the person who has submitted to or is submitting to arbitration to nevertheless press his claim for unfair labor practice against the person they feel has committed the wrong.

Mrs. FENWICK After they have been through with arbitration?

Mr. FORD of Michigan. It does not have anything to do with arbitration.

Mrs. FENWICK. I am trying to find out what happens now.

Mr. FORD of Michigan. In the arbitration, I am trying to get you as my employer to pay up the overtime you owe me.

Mrs. FENWICK. Right.

Mr. FORD of Michigan. But in the course of the same transaction there is some conduct by you that I allege to be a violation of the act and, therefore, an unfair labor practice.

That is an entirely different remedy. We arbitrate over how much back pay I may have, but we do not arbitrate over your violation of the law. The gentleman's amendment would have arbitration over the back pay issue blocked, and there would be no consideration by the Board of the violation of law. That goes beyond my individual right. The public has the right to have the law enforced. My individual right to the wages should not preclude the public remedy which provides for punishment of somebody who is a public wrongdoer.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. KILDEE) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. KILDEE was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Michigan (Mr. FORD) is, of course, not only absolutely correct in his explanation, but the amendment really goes further than has been suggested. It would not apply only in those situations where the parties have agreed to submit a dispute to binding arbitration or where they have acted to submit it to binding arbitration; it would also apply in those situations where the contract said they could submit it.

So their right to go to the Board would be wiped out if the contract simply said they could have submitted it to binding arbitration. I think that is absolutely depriving people of their rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 19, noes 29.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 7?

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ERLENBORN. Mr. Chairman, I have amendments that amend both sections 7 and 8. The amendment to section 7 is technical and conforming in nature. The substance of the amendments is to section 8.

I would ask the chairman if I might offer my amendments now, or should I want until section 8 has been read?

The CHAIRMAN. The Chair will advise the gentleman from Illinois (Mr. ERLENBORN) that if the gentleman desires to offer his amendments as one amendment, he will have to obtain unanimous consent to do so, either now or when section 8 is read.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments to sections 7 and 8, and I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. FORD of Michigan. Mr. Chairman, reserving the right to object, will the gentleman tell us which amendments these are?

Mr. ERLENBORN. This is the one numbered 17. It has to do with debarments and it was printed in the RECORD on Monday.

Mr. FORD of Michigan. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: Page 22, line 14, strike "(1)"; page 22, line 15, strike "or" the second time it occurs and all that follows through line 5, page 23;

Page 23, line 22, strike all therein through line 7, page 24;

Strike "(3) by" on line 8, page 24;

Change "paragraphs:" to "paragraph:" on line 9, page 24;

Strike line 10, page 24 through line 6, page 25; and

Strike "(3)" on line 7, page 25.

Mr. ERLENBORN. Mr. Chairman, this amendment strikes the remedy contained in the bill which is a new remedy and is referred to as "debarment."

The remedy is, in my opinion, and in the opinion of many, too severe a sanction to be used in the labor-management relations field.

By the way, Mr. Chairman, it represents the addition of a punitive remedy to the Act, for the first time, an act that has in the past been remedial rather than punitive.

Mr. Chairman, as far as has been shown, the debarment remedy, where it is now available, has not proven to be effective, to achieve compliance, as an example, with the equal opportunity regulations or laws. Both in OFCC and in EEOC the remedy of debarment is available and has proven to be inadequate and not an efficacious remedy.

It is obvious that the debarment remedy was devised to deal with repeat offenders such as J. P. Stevens. However, this proposed remedy affects all who are found to have willfully violated an unenforced order of the Board or a court order. Besides failing to define what is "willful," the committee bill also fails to allow an appeal from the findings of debarment and removes any discretion on the part of the Board to determine whether debarment is an appropriate remedy.

Mr. Chairman, let me list some of the deficiencies of contract debarment.

First, it is a remedy which changes, as I say, the nature of the act from remedial to punitive.

It is a remedy which tends to punish the very employees whom the act is designed to protect, as Lou Poulten, the associate general counsel of the International Association of Machinists testified before the Congress last year and again in this Congress.

The debarment remedy selectively penalizes only employees working for employers who contract with the Government.

The proposed remedy is not applicable to possible flagrant violators of the law if they happen not to contract with the Government.

The proposed remedy is effective for an arbitrary period of 3 years, far longer than is necessary, probably in most cases to neutralize the violation, and far longer than required to neutralize otherwise more egregious conduct.

It would appear that such a remedy would cause employers to be reluctant to settle any first violations, because having been found guilty, even in an agreed situation that first time, the next time they are charged with a violation they would be subject to debarment as a remedy.

Further, it is alleged to be addressed against repeated or flagrant transgressors, but it could be directed against any respondent found guilty of any type of violation, even one that was minor and was settled.

In sum, Mr. Chairman, debarment is not a proper remedy in the way it is provided in this bill, which makes its application even worse.

If we are to have any debarment—and I submit that we should not—it ought to be applied at the discretion of the Board or of the Secretary of Labor; and the time of debarment ought to be discretionary rather than to have an arbitrary 3-year application of debarment.

Mr. Chairman, I would hope that this amendment would be supported and adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendments.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Chairman, the Erlenborn amendment would effectively strike the debarment section.

The debarment section has come about not only because of one violator, but because of a considerable number of chronic violators.

I hasten to concede that the great majority of employers in the United States, no matter where they are located, are law-abiding, reasonable, honest and de-

cent people. However, there are a minority who so flagrantly violate the law, who so flagrantly abuse the law and cause terrible hardships to so many people that the debarment remedy is necessary.

In the course of this, I will concede that on occasion—my friend, the gentleman from Ohio has enumerated—labor unions themselves have been in violation—and in those occasions the violators should be punished whether they be the union or the employer.

The debarment section, after careful consideration, I feel might adversely affect some people who could exculpate themselves, indeed might even affect a few employees here and there. Therefore, the gentleman from Minnesota (Mr. QUIE) will have an amendment, following the Erlenborn amendment—which I urge the defeat of—that the gentleman from Minnesota and I have agreed upon.

PARLIAMENTARY INQUIRY

Mr. THOMPSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr THOMPSON. Mr. Chairman, I wonder if it is possible parliamentarily for the gentleman from Minnesota (Mr. QUIE) to offer an amendment to the bill at this point.

The CHAIRMAN (Mr. NATCHER). The Chair would advise the gentleman from New Jersey (Mr. THOMPSON) that an amendment to or a substitute for the motion to strike would not be in order.

Mr. THOMPSON. But an amendment to the bill, rather than a substitute to strike, would be in order, Mr. Chairman?

The CHAIRMAN. The Chair would advise the gentleman from New Jersey that, as the gentleman knows, section 8 is not open for amendment at this time, other than the Erlenborn amendment, and perfecting amendments to that section are not yet in order.

Mr. THOMPSON. I thank the Chairman.

The CHAIRMAN. Unless the gentleman obtains unanimous consent to dispense with reading of section 8, then it would be open.

Mr. THOMPSON. I shall not make that attempt.

If I may conclude by saying that I urge the defeat of the Erlenborn amendment and the adoption of the proposed Quie amendment which would substantially reduce the impact of the penalty of debarment, which I consider absolutely necessary, but which would give an offending employer an opportunity, within a reasonable time, to clean his act up and, therefore, relieve himself of the penalty of debarment.

I consider that this is of enormous importance, Mr. Chairman, and members of the committee. At the appropriate time—and I assure the members of the committee that the time is coming soon—when the gentleman from Minnesota (Mr. QUIE) will introduce an amendment relating to debarment, in a sense softening it. I shall support it and I shall indeed add a proviso to soften that penalty even more for the law-abiding employers.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. THOMPSON. Under the proposal in H.R. 8410 the only circumstance under which an employer would be debarred would be if he is found guilty a second time of violating the law in the sense that he continued to do what he had been ordered to cease doing. We think that this is completely and utterly reasonable and necessary. However, the gentleman from Minnesota (Mr. QUIE) and I discussed this matter. We think that there might be unwitting violators a second time who would be debarred who then could clarify their situation and who could be reinstated if they cleaned up their act and abided by the law.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this amendment would strike the debarment remedy from section 8 of the bill. If this amendment is adopted the inequities and deficiencies inherent in the concept will wreak havoc with the lives of innocent employees and businessmen.

The provision is touted by the bill's sponsors as being intended to do nothing more than to preserve the integrity of the Federal contracting process. In reality, it would have no effect whatsoever on the integrity of that process, for the conduct to which the remedy is addressed has nothing to do with the process by which Government contracts are bid and awarded.

The debarrment remedy transforms the National Labor Relations Act from a remedial statute into a severely punitive one—a transformation which turns the 42-year-old purpose of the act on its head. There is no standard of willingness included in the measure, so that conduct of employers which leads to debarment is undefined.

Even though the remedy is severely punitive, it does not distinguish between employers who violate the act in a repeated, flagrant and severe fashion, establishing a pattern of contempt for the statute, and employers who commit a minor, isolated violation.

All employees, whether union or nonunion, would suffer under a debarment as much as any employer. The Office of Federal Contract Compliance programs estimates that 350,000 businesses either directly or indirectly do business with the Federal Government. These 350,000 business establishments employ, according to OFCCP, almost 40 percent of this country's labor force. A debarment remedy would have a serious effect on these business establishments and their employees. If debarment were to take place, employees who are supposed to be protected by the law would lose their jobs. Chairman THOMPSON, during markup, acknowledged the implications that the adoption of this proposed sanction would have upon employees who are employed by employers who have contracts with the Federal Government. It seems obvious that loss of employment is far more serious than the effect of any unfair labor practices.

Finally, the debarment remedy is so severe that its chilling effect will inhibit employers from exercising the rights under the act, rather than run the risk of mistakenly violating the act and having themselves declared "willful" violators under such vague criteria as contained in section 8 of the bill.

I ask my colleagues to vote with me in striking from this bill this ill-advised and potentially disasterous remedy.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the Chairman.

Mr. THOMPSON. I thank the gentleman for yielding.

The gentleman uses the phrase "chilling effect." A chilling effect on an employer will occur when a court first finds that he has violated the law. To some employers it will give a moderate chill; on others it will virtually freeze them. But there is a whole body of law as to what "willful" is.

I thank the gentleman for being kind enough to yield to me.

Mr. ASHBROOK. It does not necessarily have to be a court order. It may be an order of the Board, which might be entirely different.

Mr. THOMPSON. That is quite right, but there is a whole body of Board law which the gentleman supports very, very much.

Mr. ASHBROOK. That is true. What about a violation of posting an order? That certainly would not be a flagrant violation, but it could be a willful violation. Does the gentleman want that to be the subject for counting, No. 1, in this countdown process?

Mr. THOMPSON. If it is willful, yes.

Mr. ASHBROOK. It would be my hope the Board would not, but my point is we have no assurance whatsoever in how the Board will interpret willful violation. H.R. 8410 does not in any way indicate what we mean by willful violation.

Mr. THOMPSON. If the gentleman will yield further briefly, the report spells out very specifically the willful aspect which worries my friend, the gentleman from Ohio, so much. I thank the gentleman for yielding.

Mr. ASHBROOK. But as I understand it, in some fair interpretation of law willful can be any deliberate act. It does not necessarily have to be severe, flagrant, or the kind that is really abusive of employee rights.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

With regard to willful violation, in my home State there is a statute that uses that language. The gentleman from Illinois (Mr. ERLENBORN) is familiar with the structural wording of it. I always thought willful was close to intentional, but our courts interpret willful as know-

ing, and from knowing to should have known. That is a far cry from willful, but it gives us an idea of what that word can mean if somebody does not define it.

Mr. ASHBROOK. And a Board can mold decisions along whatever philosophical standpoint they desire in order to implement this act. I believe this will have an extremely chilling effect on employers. Maybe that is what is wanted. I hope not.

Mr. O'BRIEN. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. MILLER of California. Mr. Chairman, earlier today, this morning, we were told we should not look at the J. P. Stevens case when we were considering the legislation, that this applied to a lot of small businesses and little businesses and good people. Now we are told somehow this section of the law as written in this bill has a chilling effect.

Let me tell the Members what they have to do before they get chilled. They have to go out and violate in a willful manner an order of the Board or they have to go out and violate in a willful manner an order of the court. In fact they have to be in contempt.

Let me tell the Members what the court tells people when they tell them not to do something. They spell out very clearly what practices they were engaged in that the court thought was an unfair labor practice and the court says they must not do that in the future. That is very clear. All they have to do is have such respect for the court or Board as to read their orders.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, on page 45 of the report is this language in the bottom paragraph:

> The term "willful" under this bill simply means a voluntary, intentional violation of a known legal duty. (See *United States* v. *Pomponio*, 429 U.S. 10, 12.) Misconduct which is willful in this sense can result in imprisonment under the misdemeanor and felony sections of this Internal Revenue Code, see *id.* and this standard is fully adequate to protect employers against debarment for negligence.

I thank the gentleman for yielding.

Mr. MILLER of California. Mr. Chairman, I appreciate the comments of the chairman of the committee.

I think anyone here who has gone to law school understands very clearly what the term "willful" means. I think the courts understand.

Let me give the Members an example of why J. P. Stevens does not understand. They were told not to curtail the rights of the people who were trying to organize. So they were chilled. Their rights were chilled. Their rights were so chilled that they bugged the hotel room of the people holding these meetings in the hotel room because it was the only place they could find to hold their organizational meetings. They were so chilled as to say: "Our employees did it. We did not direct them to do that." Very clearly the court told them not to put surveillance on these people who were trying to hold a meeting in this facility.

Very clearly we find out this company has willfully and intentionally violated the order of the court time and time again. That is what this section speaks to. So before any of our good-intentioned employers or small businesses have their rights chilled, the first thing they have to do is to be in contempt of court and be in contempt of the Board.

If Members want to endorse that kind of practice and protect that kind of practice and somehow feel that we are somehow chilling the rights, and regardless of what the law of the country is, I do not think the Congress of the United States ought to endorse that, and we ought to reject this amendment.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, those on the subcommittee found our rooms were entered without our permission and J. P. Stevens literature was put into the rooms, which was rather chilling, and at the very same time they gave rise to a worry about bugging, for instance, Mr. ASHBROOK's rooms. I would not want that done because maybe he was watching the Redskins that evening, but at the same time, during that very time, our rooms were entered, we having paid for them, and on the very next day there was an announcement of a $3 million Federal contract for J. P. Stevens. They really were not even slightly chilled. The Second Circuit Court in the decision to which the gentleman is referring should chill them—and as a matter of fact should deep-freeze them.

Mr. MILLER of California. I thank the chairman.

In fact, I would just like to say that we hear about a lot of amendments that gut a bill. To take this provision out is to allow lawlessness on the part of this small number of rogue employers.

Mr. Chairman, if the Business Round Table or the Chamber of Commerce wants to throw their arms around these people, that is fine; but the U.S. Congress should not.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MILFORD, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I just suggest one remark about this chilling argument that has been going on. I admit the gentleman has some points, but the real chilling thing to me in this whole debate is those people working at that company. Taking their jobs away from them for 3 years seems to me to be the real life situation that is bothering me. There are some innocent people that are not big lawyers, big organizers, but will be innocent people that will get hurt.

Mr. MILLER of California. I think we will get into that when we get into the program, because you will find out if you take away this provision, you take away back pay, because it is cheaper to go to the courts, cheaper to be found in contempt and you can go along this road for 10 or 15 years and you find there is profit in it, just as there was profit in slavery in the old days and there is profit here in violating the law. That is what we have to stop.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, having read the report of this committee, and I suppose that is dangerous, I read on page 80 of the committee report the following:

> Mr. Louis P. Poulton, associate general counsel of the International Association of Machinists & Aerospace Workers, registered the organization's objection to debarment because of its potential—

Mr. Chairman, I want to get the attention of my colleague, the gentleman from New Jersey, because this is an important answer to the gentleman's question. I will repeat this. In the report it says:

> Mr. Louis P. Poulton, associate general counsel of the International Association of Machinists & Aerospace Workers, registered the organization's objection to debarment because of this potential for idling workers.

In other words, if I read what he said correctly, he talked about the job destruction possibility of totally innocent workers as a result of this particular provision in the bill.

Mr. Chairman, I would like to yield to my colleague, the author of the amendment Mr. ERLENBORN. Can the gentleman describe the concerns that this assistant general counsel of the Association of Machinists and Aerospace Workers had about idling workers? Could the gentleman explain that further?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield.

Mr. ERLENBORN. Mr. Chairman, obviously there is reason to be concerned about the provision in this bill. Just as one example, if you have a conglomerate corporation that has say 40 plants across the United States and in one plant they have been found guilty of this sort of willful violation and debarment, which is automatic——

Mr. ROUSSELOT. The debarment is automatic.

Mr. ERLENBORN. It is automatic, there is no discretion; disbarment is ordered against that corporation, not one of its 40 plants across the United States can do business with the Government because the parent corporation is debarred. Every one of its plants across the country is incapable of contracting with the United States.

Mr. ROUSSELOT. So if the debarment provision is automatic, those workers in all those plants can be thrown out of work, if they have Government contracts even if they are innocent bystanders.

Mr. ERLENBORN. Absolutely.

Mr. ROUSSELOT. Mr. Chairman, is that the intention of the gentleman from New Jersey, to throw all those people out

of work, all those innocent workers?

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield. I could not believe the gentleman would want to throw all those innocent people out of work.

Mr. THOMPSON. Mr. Chairman, the gentleman shows the most remarkable degree of compassion.

Mr. ROUSSELOT. I knew the gentleman would acknowledge that.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, in light of the gentleman's record of going against jobs bills, the gentleman has an utterly and wonderfully qualified record.

Mr. ROUSSELOT. I knew the gentleman would recognize my record in working to provide permanent jobs. I appreciate those compliments.

I have an International Association of Machinists Union local headquarters in my district. They are very concerned about this debarment provision, because there happens to be, incidentally, a substantial number of aerospace workers in California. Those workers are very concerned about the arbitrary nature of this provision in the bill.

Now, I would be delighted, unless my colleague, the gentleman from New Jersey, wants to comment on why he wants to throw these people out of work, I would be delighted to hear what my colleague, the gentleman from California (Mr. MILLER) has to say.

Mr. MILLER of California. I do not think anywhere in the law is there found, of a business, whether it is a conglomerate, a multi-national corporation, a small business or a partnership, a defense to violating the law.

Mr. ROUSSELOT. Of course not no one would defend anyone violating the law. But the gentleman knows that thousands of innocent workers could be imperiled because, as the author of this amendment has stated, the debarment proceeding in this bill is automatic. Is that not correct under this bill, is it not automatic?

Mr. MILLER of California. Yes, it is——

Mr. ROUSSELOT. The gentleman has answered my question, and I appreciate it.

Mr. MILLER of California. All that has to happen is that they have to obey the law.

Mr. ROUSSELOT. Nobody suggests that they should not obey the law. We are just saying that those innocent people who are not involved in abusing the law should not be thrown out of jobs, and I think the best answer was Mr. Poulton's testimony. I appreciate the gentleman recognizing that unfortunately under this bill disbarment is automatic.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the gentleman from California have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. THOMPSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KILDEE. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, you know, very often we complain that the left hand does not know or does not care what the right hand is doing, and we have a perfect example of that here in the Federal Government. For several years the Federal Government has been trying to get the J. P. Stevens Co. to obey the law. At the same time, the right hand of that same Federal Government has been enriching the J. P. Stevens Co. by giving them multi-million-dollar contracts. The left hand should be concerned about what the right hand is doing.

I think it is essential that we turn this gutting amendment down. We will have the opportunity to have a modified debarment provision as Mr. QUIE and Mr. THOMPSON have been discussing, but I think it is time that we show our concern that the left hand of government know and must be concerned about what the right hand of government is doing when it deals with lawbreakers.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. First, I would like to apologize to Mr. ROUSSELOT. It has not been my habit to object, but it is getting late and the objections from that side kind of get infectious. I am going to cleanse myself sometime later.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. THOMPSON. I do not have the floor.

Mr. ROUSSELOT. The other gentleman is not paying any attention anyway.

Mr. KILDEE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I just checked with my office, and the gentleman has not locked the doors. I appreciate it.

Mr. ROUSSELOT. I think the gentleman looked to see if his car is there?

Mr. ROUSSELOT. It is there.

Mr. THOMPSON. Check the tires.

Mr. ROUSSELOT. The tires are flat just like this bill.

Mr. THOMPSON. The only possibility to arrive at a decent and reasonable and honorable compromise. Mr. Chairman and members of the committee, is to defeat the Erlenborn amendment which is pending, and to support the Quie amendment which will be offered to make more reasonable the debarment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 32, noes 74.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 301, not voting 22, as follows:

[Roll No. 632]

AYES—111

Abdnor	Evans, Del.	Montgomery
Alexander	Flynt	Moore
Andrews, N.C.	Forsythe	Moorhead, Calif.
Archer	Fountain	Myers, John
Armstrong	Frenzel	Pettis
Ashbrook	Frey	Poage
Badham	Goodling	Preyer
Bafalis	Gradison	Quayle
Bauman	Grassley	Quillen
Bowen	Gudger	Rhodes
Brown, Mich.	Hagedorn	Roberts
Brown, Ohio	Hall	Robinson
Broyhill	Hammer-schmidt	Rose
Burgener	Hansen	Rousselot
Burke, Fla.	Harsha	Rudd
Burleson, Tex.	Holland	Satterfield
Butler	Holt	Schulze
Carter	Horton	Sebelius
Cederberg	Johnson, Colo.	Shuster
Clausen, Don H.	Jones, Okla.	Snyder
Cochran	Kelly	Spence
Collins, Tex.	Ketchum	Stangeland
Corcoran	Lagomarsino	Stockman
Crane	Latta	Stump
Cunningham	Leach	Treen
Daniel, Dan	Livingston	Vander Jagt
Daniel, R. W.	Lujan	Waggonner
de la Garza	McClory	Wampler
Derrick	McDonald	White
Devine	Mahon	Whitehurst
Dickinson	Mann	Whitley
Dornan	Marks	Whitten
Duncan, Oreg.	Marriott	Wiggins
Duncan, Tenn.	Martin	Wilson, Bob
Edwards, Ala.	Mathis	Winn
English	Michel	Wydler
Erlenborn	Milford	Young, Fla.

NOES—301

Addabbo	Cleveland	Ginn
Akaka	Cohen	Glickman
Allen	Coleman	Gonzalez
Ambro	Collins, Ill.	Gore
Ammerman	Conable	Hamilton
Anderson, Calif.	Conte	Hanley
Anderson, Ill.	Conyers	Hannaford
Andrews, N. Dak.	Corman	Harkin
Annunzio	Cornell	Harrington
Applegate	Cornwell	Harris
Ashley	Coughlin	Hawkins
Aspin	D'Amours	Heckler
AuCoin	Danielson	Hefner
Badillo	Davis	Heftel
Baldus	Delaney	Hightower
Barnard	Dellums	Hillis
Baucus	Derwinski	Hollenbeck
Beard, R.I.	Dicks	Holtzman
Bedell	Diggs	Howard
Bellenson	Dingell	Hubbard
Benjamin	Dodd	Huckaby
Bennett	Downey	Hughes
Bevill	Drinan	Ichord
Biaggi	Early	Ireland
Bingham	Eckhardt	Jacobs
Blanchard	Edgar	Jeffords
Blouin	Edwards, Calif.	Jenkins
Boggs	Eilberg	Jenrette
Boland	Emery	Jones, N.C.
Bolling	Ertel	Jones, Tenn.
Bonior	Evans, Colo.	Jordan
Bonker	Evans, Ga.	Kasten
Brademas	Evans, Ind.	Kastenmeier
Breaux	Fary	Kazen
Breckinridge	Fascell	Kemp
Brinkley	Fenwick	Keys
Brodhead	Findley	Kildee
Brooks	Fish	Kindness
Brown, Calif.	Fisher	Koch
Buchanan	Fithian	Kostmayer
Burke, Calif.	Flippo	Krebs
Burke, Mass.	Flood	Krueger
Burlison, Mo.	Florio	LaFalce
Burton, John	Flowers	Le Fante
Burton, Phillip	Foley	Lederer
Byron	Ford, Mich.	Leggett
Caputo	Ford, Tenn.	Lehman
Carney	Fowler	Lent
Carr	Fraser	Levitas
Cavanaugh	Fuqua	Lloyd, Calif.
Chappell	Gammage	Lloyd, Tenn.
Chisholm	Gaydos	Long, La.
Clay	Gephardt	Long, Md.
	Gibbons	Luken
	Gilman	Lundine

McCloskey	Panetta	Smith, Nebr.
McCormack	Patten	Solarz
McDade	Patterson	Spellman
McEwen	Pattison	St Germain
McFall	Fease	Staggers
McHugh	Pepper	Stanton
McKay	Perkins	Stark
McKinney	Pickle	Steed
Madigan	Pike	Steers
Maguire	Pressler	Steiger
Markey	Price	Stratton
Mattox	Pritchard	Studds
Mazzoli	Pursell	Taylor
Meeds	Quie	Thompson
Metcalfe	Rahall	Thone
Meyner	Railsback	Thornton
Mikulski	Rangel	Traxler
Mikva	Regula	Trible
Miller, Calif.	Reuss	Tsongas
Miller, Ohio	Richmond	Tucker
Mineta	Rinaldo	Udall
Minish	Risenhoover	Ullman
Mitchell, Md.	Rodino	Van Deerlin
Mitchell, N.Y.	Roe	Vanik
Moakley	Rogers	Vento
Moffett	Roncallo	Volkmer
Mollohan	Rooney	Walgren
Moorhead, Pa.	Rostenkowski	Walker
Mottl	Roybal	Walsh
Murphy, Ill.	Runnels	Watkins
Murphy, Pa.	Russo	Waxman
Murtha	Ryan	Weaver
Myers, Gary	Santini	Weiss
Myers, Michael	Sarasin	Wilson, C. H.
Natcher	Sawyer	Wilson, Tex.
Neal	Scheuer	Wirth
Nedzi	Schroeder	Wolff
Nichols	Seiberling	Wright
Nix	Sharp	Wylie
Nolan	Shipley	Yates
Nowak	Sikes	Yatron
O'Brien	Simon	Young, Alaska
Oakar	Sisk	Young, Mo.
Oberstar	Skelton	Young, Tex.
Obey	Skubitz	Zablocki
Ottinger	Smith, Iowa	Zeferetti

NOT VOTING—22

Beard, Tenn.	Guyer	Ruppe
Broomfield	Hyde	Slack
Clawson, Del	Johnson, Calif.	Stokes
Cotter	Lott	Symms
Dent	Marlenee	Teague
Edwards, Okla.	Moss	Whalen
Giaimo	Murphy, N.Y.	
Goldwater	Rosenthal	

The Clerk announced the following pairs.

On this vote:

Mr. Beard of Tennessee for, with Mr. Dent against.

Mr. Del Clawson for, with Mr. Stokes against.

Mr. Goldwater for, with Mr. Cotter against.

Mr. Guyer for, with Mr. Murphy of New York against.

Mr. Teague for, with Mr. Rosenthal against.

Mr. Lott for, with Mr. Moss against.

Mr. Symms for, with Mr. Whalen against.

Messrs. TUCKER, MILLER of Ohio, and BIAGGI changed their vote from "aye" to "no."

Mr. TREEN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. QUIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would like to advise the gentleman from Minnesota that the Chair understands the gentleman's amendment is to section 8, and the amendment is not open at this time.

The Clerk will read section 8.

The Clerk read as follows:

SEC. 8. Section 10(c) is amended by—

(1) inserting "(1)" after "(e)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding at the end thereof the following new paragraphs:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identification of that person to the Secretary of Labor. Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list to all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Notwithstanding any other law, no contracts shall be awarded to such person during the three-year period immediately following the date of the Secretary's certification, unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source for the material or services furnished by the person affected by the Board order.

"(3) In a case in which the Board determines that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employee are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, the measure of backpay for the period until a valid offer of reinstatement is made shall be double the employee's wage rate at the time of the unfair labor practice. In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may award to the employees in that unit compensation for the delay in bargaining caused by the unfair labor practice which shall be measured by the difference between (i) the wages and other benefits received by such employees during the period of delay, and (ii) the wages and fringe benefits such employees were receiving at the time of the unfair labor practice multiplied by the percentage change in wages and other benefits stated in the Bureau of Labor Statistics' average wage and benefit settlements, quarterly report of major collective-bargaining settlements, for the quarter in which the delay began. If the Secretary of Labor certifies to the Board that the Bureau has, subsequent to the effective date of the Labor Reform Act of 1977, instituted regular issuance of a statistical compilation of bargaining settlements which the Secretary determines would better effectuate the purposes of this subsection than the compilation specified herein, the Board shall, in administering this subsection, use the compilation certified by the Secretary.".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment. My amendment is printed in the RECORD. However, I want to change a few words in it, and I ask unanimous consent that it be offered in the revised form.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. QUIE

Page 24, strike the sentence beginning on line 24, through line 6, page 25, and substitute therefor the following:

"Unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source of material or services furnished by the person affected by the Board order, no contracts shall be awarded to such person for a reasonable, definitely stated period of time commensurate with the seriousness of the violation, as determined by the Secretary of Labor, but such period shall not exceed three years. A debarment may be removed or the period may be reduced by the Secretary of Labor upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, including without limitation compliance with the final order found to have been willfully violated, bona fide change of ownership or management, a fraud or misrepresentation of the charging party; *Provided*, That this subparagraph shall restrict the award of contracts solely to the products or service performed at the particular facility or facilities where the willful violation occurs or of the business entity legally responsible for the willful violation or to the local, intermediate, national or international labor organization legally responsible for the willful violation.".

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. ROUSSELOT. Mr. Chairman, I object. Since the gentleman has made changes, could we please have it read?

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. Is there objection to the offering of the amendment as modified?

There was no objection.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will very briefly explain the amendment so everybody understands it, but first I will yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I have read this very carefully, counsel has read it, the majority has read it. It is a very constructive and splendid solution

to the debarment problem. I urge its acceptance.

Mr. QUIE. Mr. Chairman, the committee bill inserts a new penalty of "debarment" into the law and that penalty applies to all "persons." As the word "persons" can be widely construed, I have offered this amendment that would apply the debarment remedy to those plants, facilities, or labor organizations which have willfully violated the act.

For instance, if one GM plant engaged in a willful violation, I do not think all the GM plants all over the country should be debarred from Federal contracts. Similarly, if one local of an international union engaged in willful violations, I do not think the international and the international's other locals should be refused apprentice funds.

The flagrant and repeated violator could still be covered under the debarment remedy. When we look at the Second Circuit's recent contempt citation against J. P. Stevens, we see that more than one plant or facility engaged in contempt of the court's order. I would expect that same type of consideration here.

The committee bill provides for debarment for a stated 3-year period.

My amendment allows the Secretary of Labor some discretion in the time the debarment applies.

Debarment is a harsh penalty. It may affect many employees as well as the employer and the public. Such a harsh penalty deserves some relief.

Since under Federal procurement regulations, the period of debarment may be reviewed and some relief granted—see page 8, Minority Views—I believe that penalty should be reviewed here and some relief granted.

Mr. Chairman, the debarment section was of deep concern to many of my colleagues and many Members voted against striking debarment with the expectation that this amendment would be offered. Let me state to the Members that the Secretary of Labor need not debar. He may debar for a shorter period than 3 years but not more than 3 years and he may reinstate.

The penalty shall not be necessarily against the entire corporation but only to the facility or facilities that engaged in the willful violation. However if the decision to violate occurred in the board room of the corporation, when they instructed the plant, then the entire business entity if it is legally responsible could be debarred.

The same would be true with the union. It would be limited to the local union if the violation occurred there, but if it was caused by the national or international union and they were responsible, then the debarment could go to them.

Also I would say to the Members, Mr. Chairman, that I shall ask for a record vote in order that Members might get on record on this.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I have some slight concern as to how we establish the proof of a decision being made in the board room.

Mr. QUIE. Using the words "legally responsible," they would have to be proven to be responsible. But in this case again if we use the J. P. Stevens case, where it occurred in various plants, then I do not think they would have any difficulty there. But for most of them the violation I understand occurred in the local plant or local plants and we would have to punish them.

Mr. ASHBROOK. Using J. P. Stevens as an example, has it been shown or proven that their violations occurred in a corporate board room?

Mr. QUIE. I do not believe it has been proven because the debarment provision was not in the present law so there never was a question of going into that, but this is a case where they would have to prove they were legally responsible for that.

Mr. ASHBROOK. I thank the gentleman for that explanation.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentleman from Minnesota (Mr. QUIE) is intended to soften the otherwise rather strict provision that is in the bill. In reading the amendment I am not certain that it does accomplish that. First of all the amendment still uses the word "willful." The U.S. Supreme Court has defined "willful" in at least one case as a word of many meanings, its construction often being influenced by its context. The word denotes an action which is intentional rather than accidental.

Those who practice in the labor law know that there is only one way to test a union determination under a bargaining order and that is to refuse to bargain for the additional contract, which then is intentional, not an accidental violation of the bargaining order that could well trigger the imposition of the debarment penalty, and so this could make them suffer a penalty which is wholly too harsh for the so-called crime of trying to have an opportunity to contest a union determination before the Board or the court.

In addition, the gentleman from Ohio was talking about decisions made in the board room. That is really not clear from the language of the amendment.

The amendment says debarment shall restrict the award of contracts solely to the products or services performed at the particular facility or facilities where the willful violation occurs, which is fine so far; but then it says:

> Or of the business entity legally responsible for the willful violation.

Now, under the doctrine of agency, if a corporation with 40 different plants has at one plant a violation committed by the plant manager, who is acting as the agent of the overall corporate owner, then the corporate owner is legally responsible for the actions of that plant manager. I think we are right back to the situation where a violation occurring in one part of the country will debar the corporation from contracting with the Federal Government at any one of its 40 facilities.

I am afraid that the intention of the author of this amendment will not be carried out in any kind of rational interpretation of the amendment and the amendment should be defeated.

The CHAIRMAN. The question is on the amendement, as modified, offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 394, noes 8, not voting 32, as follows:

[Roll No. 633]

AYES—394

Abdnor	Cleveland	Gephardt
Addabbo	Cochran	Gibbons
Akaka	Cohen	Gilman
Allen	Coleman	Ginn
Ambro	Collins, Ill.	Glickman
Ammerman	Conable	Gonzalez
Anderson, Calif.	Conte	Gore
	Conyers	Gradison
Anderson, Ill.	Corcoran	Grassley
Andrews, N.C.	Cornell	Gudger
Andrews, N. Dak.	Cornwell	Hagedorn
	Coughlin	Hall
Annunzio	Crane	Hamilton
Applegate	Cunningham	Hammer-schmidt
Archer	D'Amours	
Armstrong	Daniel, Dan	Hanley
Ashley	Daniel, R. W.	Hannaford
Aspin	Danielson	Hansen
AuCoin	Davis	Harkin
Badham	de la Garza	Harrington
Badillo	Delaney	Harris
Bafalis	Dellums	Harsha
Baldus	Derrick	Hawkins
Barnard	Derwinski	Heckler
Baucus	Devine	Hefner
Bauman	Dickinson	Heftel
Beard, R.I.	Dicks	Hightower
Bedell	Diggs	Hillis
Beilenson	Dingell	Holland
Benjamin	Dodd	Hollenbeck
Bennett	Dornan	Holtzman
Bevill	Downey	Horton
Biaggi	Drinan	Howard
Bingham	Duncan, Oreg.	Hubbard
Blanchard	Duncan, Tenn.	Huckaby
Blouin	Early	Hughes
Boggs	Eckhardt	Ichord
Boland	Edgar	Ireland
Bolling	Edwards, Ala.	Jacobs
Bonior	Edwards, Calif.	Jeffords
Bonker	Eilberg	Jenkins
Bowen	Emery	Jenrette
Brademas	English	Johnson, Colo.
Breaux	Ertel	Jones, N.C.
Breckinridge	Evans, Colo.	Jones, Okla.
Brinkley	Evans, Del.	Jones, Tenn.
Brodhead	Evans, Ga.	Jordan
Brooks	Evans, Ind.	Kasten
Brown, Calif.	Fary	Kastenmeier
Brown, Mich.	Fascell	Kazen
Brown, Ohio	Fenwick	Kelly
Broyhill	Findley	Kemp
Buchanan	Fish	Ketchum
Burgener	Fisher	Keys
Burke, Calif.	Fithian	Kildee
Burke, Fla.	Flippo	Kindness
Burke, Mass.	Flood	Koch
Burlison, Mo.	Florio	Kostmayer
Burton, John	Flowers	Krebs
Burton, Phillip	Flynt	Krueger
Butler	Foley	LaFalce
Byron	Ford, Mich.	Lagomarsino
Caputo	Ford, Tenn.	Le Fante
Carney	Forsythe	Leach
Carr	Fountain	Lederer
Carter	Fowler	Leggett
Cavanaugh	Fraser	Lehman
Cederberg	Frenzel	Lent
Chappell	Frey	Levitas
Clausen, Don H.	Fuqua	Livingston
	Gammage	Lloyd, Calif.
Clay	Gaydos	Lloyd, Tenn.

Long, La.	Oakar	Smith, Iowa
Long, Md.	Oberstar	Smith, Nebr.
Lujan	Obey	Snyder
Luken	Panetta	Solarz
Lundine	Patten	Spellman
McClory	Patterson	Spence
McCloskey	Pattison	St Germain
McCormack	Pease	Staggers
McDade	Pepper	Stangeland
McDonald	Perkins	Stanton
McEwen	Pettis	Steed
McFall	Pickle	Steers
McHugh	Pike	Steiger
McKay	Poage	Stockman
McKinney	Pressler	Stratton
Madigan	Preyer	Studds
Maguire	Price	Stump
Mahon	Pritchard	Taylor
Mann	Pursell	Thompson
Markey	Quayle	Thone
Marks	Quie	Thornton
Marriott	Rahall	Traxler
Martin	Railsback	Treen
Mathis	Regula	Trible
Mattox	Reuss	Tsongas
Mazzoli	Rhodes	Tucker
Meeds	Richmond	Udall
Metcalfe	Rinaldo	Van Deerlin
Meyner	Risenhoover	Vanik
Michel	Roberts	Vento
Mikulski	Robinson	Volkmer
Mikva	Rodino	Waggonner
Milford	Roe	Walgren
Miller, Calif.	Rogers	Walker
Miller, Ohio	Roncalio	Walsh
Mineta	Rooney	Wampler
Minish	Rose	Watkins
Mitchell, Md.	Rostenkowski	Waxman
Mitchell, N.Y.	Rousselot	Weaver
Moakley	Roybal	Weiss
Moffett	Runnels	White
Mollohan	Ruppe	Whitehurst
Montgomery	Russo	Whitley
Moore	Ryan	Whitten
Moorhead, Calif.	Santini	Wilson, Bob
	Sarasin	Wilson, C. H.
Moorhead, Pa.	Satterfield	Wilson, Tex.
Mottl	Sawyer	Winn
Murphy, Ill.	Scheuer	Wirth
Murphy, Pa.	Schroeder	Wolff
Murtha	Schulze	Wright
Myers, Gary	Sebelius	Wydler
Myers, John	Seiberling	Wylie
Myers, Michael	Sharp	Yates
Natcher	Shipley	Yatron
Neal	Shuster	Young, Alaska
Nedzi	Sikes	Young, Fla.
Nichols	Simon	Young, Mo.
Nolan	Sisk	Young, Tex.
Nowak	Skelton	Zablocki
O'Brien	Skubitz	Zeferetti

NOES—8

Ashbrook	Erlenborn	Ottinger
Burleson, Tex.	Holt	Rudd
Collins, Tex.	Latta	

NOT VOTING—32

Alexander	Goodling	Rosenthal
Beard, Tenn.	Guyer	Slack
Broomfield	Hyde	Stark
Chisholm	Johnson, Calif.	Stokes
Clawson, Del	Lott	Symms
Corman	Marlenee	Teague
Cotter	Moss	Ullman
Dent	Murphy, N.Y.	Vander Jagt
Edwards, Okla.	Nix	Whalen
Giaimo	Quillen	Wiggins
Goldwater	Rangel	

So the amendment as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. YOUNG of Missouri. Mr. Chairman, I would like to express my support for the Labor Law Reform Act of 1977.

For many years, congressional hearings have shown the need for the reforms contained in this bill. And now it is time for the House to act on these pressing problems.

The National Labor Relations Act of 1935 established the policy that American workers should be given a fair chance to organize into unions and bargain collectively with their employers.

Since that time, the Labor Relations Act has been amended twice—and both times, penalties against unions were added. The result is a law that allows some employers to delay or deny the rights of their employees to organize.

At the same time, the National Labor Relations Board has become so bogged down by a huge caseload and outmoded procedures that it sometimes takes 2 or 3 years just to process complaints and administer the laws.

These are the problems that we are addressing today. We will decide whether some unscrupulous employers will be allowed to continue to use weaknesses in the law to deny the rights of their workers. And I am confident that this Congress will give the workers the rights they so fully deserve.

H.R. 8410 will expand the National Labor Relations Board, set time limits for holding union elections, stiffen the penalties against those who violate labor laws or ignore NLRB orders, and allow the NLRB to affirm Administrative Law Judge decisions in unfair labor practice cases.

It will make Federal labor law an efficient, meaningful instrument that will allow worker democracy. It will redeem national promises made 42 years ago, and balance the scales to make the National Labor Relations Act work.

This bill is not meant to discriminate against employers. The majority of union organizing elections under present law are conducted within the time limits set by this bill. The election provisions of this bill will just prevent companies from dragging out the election process.

Another provision of this bill authorizes the NLRB to compensate employees for lost pay if the employer unlawfully refuses to bargain for an initial contract. This provision is extremely important, mainly because the present law often makes it more profitable for employers to defy NLRB orders to start bargaining procedures than to comply with those orders.

As it stands now, the only way that employees can stop this delay is to take their case to court and obtain an order. And in the meantime, the employees are denied their benefits. This bill would make such delaying tactics less profitable for employers, and help speed the bargaining procedures.

There are many other provisions of this bill, but the main goal of this package is to give workers the opportunity to decide—without unnecessary delays or harassment—whether they want to be represented by a union.

These changes are not radical, they are just overdue. Congress should have acted long ago on these matters, and now we have the opportunity to help make labor-management relations work more efficiently and equitably.

Once again, I urge my colleagues to vote in favor of this bill.

Mr. THOMPSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, chairman of the Committee of the Whole House on the Senate of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act, had come to no resolution thereon.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 8410.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute.)

Mr. BRADEMAS. Mr. Speaker, I have asked for this time for the purpose of explaining that I would like, after certain unanimous consent requests have been completed, to offer a concurrent resolution that would provide that when the House adjourns on Thursday, tomorrow, October 6, it stand adjourned until noon, Tuesday October 11, 1977.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding the plan of the majority is to adjourn tomorrow afternoon by 3:30; is that correct?

Mr. BRADEMAS. Mr. Speaker, I may say to the distinguished minority leader that I have not had that conversation with the Speaker, and therefore, I would not want to take that responsibility on myself. I would only express the hope that indeed the information of the minority leader is correct.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

ADJOURNMENT FROM THURSDAY, OCTOBER 6, 1977, TO TUESDAY, OCTOBER 11, 1977

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 372) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 372

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, October 6, 1977, it stand adjourned until 12 o'clock meridian on Tuesday, October 11, 1977.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8390, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr DELANEY from the Committee on Rules, submitted a privileged report (Rept. No. 95-664) on the resolution (H. Res. 815) providing for consideration of H.R. 8390 to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman assure us that this is for hearings only and that there will be no markup of any bills?

Mr. EILBERG. If the gentleman will yield, Mr. Speaker, it is for hearings only, hearings on the Prisoner Exchange Treaty.

Mr. ROUSSELOT. And this matter has been cleared with the minority, has it?

Mr. EILBERG. It has been cleared with the minority.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A WELCOME TO 147 GRADE SCHOOL STUDENTS

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, I simply want to make a point that today 147 young grade school students from the Great Falls School have visited the Capitol Building here to improve their education with respect to our system.

I simply want to applaud that effort and make that point for the record, Mr. Speaker.

REPUBLICAN LEADERSHIP CO-SPONSOR ROTH-KEMP TAX REDUCTION ACT AND SIGN DISCHARGE PETITION TO GET IMMEDIATE ACTION ON BEHALF OF AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, the American people need a 30-percent reduction in their tax rates to restore incentives for work and production and investment.

Rising unemployment and inflation in America today are unacceptably high, while real investment and aftertax incomes of Americans are lagging.

On top of this situation, some are proposing huge tax increases for social security and energy, the Internal Revenue Service wants to tax fringe benefits, and the administration's tax reform efforts are aimed at raising taxes on investment income and capital gains.

At the same time, inflation continues to increase everyone's taxes daily, as individual incomes are pushed up into higher tax brackets. This phenomenon has been calculated to raise individual income tax revenues 1.5 percent for every 1 percent rise in the Consumer Price Index. It will raise the real tax burden on the American people by approximately $5 billion this year alone, and will raise effective tax rates on all Americans by as much as 30 percent by 1980 if unchecked.

We believe that immediate, decisive action is needed to reduce taxes and get the economy moving again, and restore a high level of real growth and job creation without inflation. This can only be done by reducing the tremendous burden of taxation on the American people, which is discouraging incentives to work, production, saving, and investment. Increasing the aftertax reward for work and investment will lead to an increase in real output of goods and services, thus creating prosperity for the people and more revenue for all levels of government.

We cannot wait until 1979 or 1980 to see tax reduction implemented. The American people and the American economy need it now, particularly in the Northeast where the aftertax disposable income of the people, adjusted for cost of living and inflation, is among the lowest in the country. By lowering the Federal tax rates, the Northeastern States will receive tremendous economic benefits, without penalizing other areas of the country in the process.

Mr. Speaker, in the early 1960's President Kennedy initiated some of the most sweeping tax rate reductions in American history. Today, another Democratic President is initiating some of the most sweeping tax increases in American history.

The Republican Party believes that the American economy is already overtaxed and that now is the time for tax reduction, not tax increases. Therefore, I am today reintroducing the Tax Reduction Act of 1977 with the support of Minority Leader RHODES and Minority Whip MICHEL, and initiating a discharge petition to get this bill out of committee so that the Congress may vote on it as an immediate answer to the unemployment and inflation problems afflicting our economy.

This brings to 51 the number of Members who have joined me in this bipartisan effort to restore incentive to the American economy:

1. Mr. Rhodes.
2. Mr. Michel.
3. Mr. Rousselot.
4. Mr. Carter.
5. Mr. Robin Beard.
6. Mr. Cohen.
7. Mr. Cunningham.
8. Mr. Livingston.
9. Mr. Railsback.
10. Mr. O'Brien.
11. Mr. Badham.
12. Mr. Bafalis.
13. Mr. Burgener.
14. Mr. Cleveland.
15. Mr. Corcoran.
16. Mr. Derwinski.
17. Mr. Dornan.
18. Mr. Goldwater.
19. Mr. Guyer.
20. Mr. Hyde.
21. Mr. Kindness.
22. Mr. Lent.
23. Mr. Lott.
24. Mr. McClory.
25. Mr. Moore.
26. Mr. Austin Murphy.
27. Mr. Quayle.
28. Mr. Quie.
29. Mr. Spence.
30. Mr. Stockman.
31. Mr. Symms.
32. Mr. Walker.
33. Mr. Bob Wilson.
34. Mr. Levitas.
35. Mr. Winn.
36. Mr. Clarence Brown.
37. Mr. Cederberg.
38. Mr. Cochran.
39. Mr. Mickey Edwards.
40. Mr. Glickman.
41. Mr. Goodling.
42. Mr. Hagedorn.
43. Mrs. Holt.
44. Mr. Rudd.
45. Mr. Sarasin.
46. Mr. Trible.
47. Mr. Coleman.
48. Mr. Crane.
49. Mr. Lagomarsino.
50. Mr. McEwen.
51. Mr. Marks.

Mr. Speaker, this is a bipartisan strategy for economic prosperity without inflation. As President John F. Kennedy said in August 1962:

> The single most effective fiscal weapon available to strengthen the national economy is the Federal tax policy. The right kind of tax cut at the right time is the most effective measure that this Government could take to spur our economy forward. For the facts of the matter are that our present tax system is a drag on economic recovery and economic growth, biting heavily into the purchasing power of every taxpayer and every consumer.

I would only add that not only is our present tax system biting into the purchasing power of American taxpayers and consumers, but it is strangling the incentives for investment and saving that are so necessary to the production of goods and services.

To put a balanced budget ahead of full employment without inflation is not only cruel politics, it is poor economics.

Just as President Kennedy's tax reduction was enormously successful in the early 1960's, we believe that a tax rate reduction of similar magnitude will have similar results today.

Our bill is the exact replica of the Kennedy tax strategy and which had been used in the 1920's.

We want to:

Reduce all individual income tax rates by an average of 30 percent over 3 years. This will reduce the highest individual tax rate from 70 percent to 50 percent, the lowest rate from 14 to 8 percent, and all other rates in between by a comparable amount;

Reduce the corporate tax rate from 48 to 45 percent over 3 years; and

Immediately increase the corporate surtax exemption for small business from $50,000 to $100,000. By the way more than one half of all new jobs are created by smaller businesses in America, and they need our immediate help in capital formation.

Almost two-thirds of the tax reduction will go to families with adjusted gross incomes below $30,000, 40 percent will go to families with incomes below $20,000. As inflation has pushed more and more families into higher tax brackets in recent years, more incomes have been affected by the progressive nature of our marginal tax structure. For instance, in the early 1960's about 5 percent of all tax returns were subject to the marginal tax rate of over 30 percent. Today, nearly one third of all tax returns are in 30 percent tax brackets or above and it's increasing daily.

This increase in aftertax income can be expected to have a highly expansive effect on the economy, as the incentive to work, produce and invest is encouraged. The estimated effect on employment and gross national product is the following:

[In billions of dollars]

Year	GNP	Employment
1978	+$43.4	+1,218,000
1979	+$95.5	+2,547,000
1980	+$157.4	+4,000,000

Source: Norman B. Ture, Inc.

Because of this increase in employment and GNP, Government tax revenues will increase also. Indeed, within a short time the Government will be collecting more tax revenues than it would have in the absence of a tax cut, because the tax base itself will be expanded.

This is exactly what happened following the Kennedy tax rate reduction, as this table demonstrates:

	1963	1964	1965	1966	1967	1968	Total
Treasury-estimated revenue losses	−$2.4	−$5.2	−$13.3	−$20	−$23.7	−$24.4	−$89
Actual revenue gains	+7.0	+6.0	+4.0	+14	+19.0	+4.0	+54

Lower tax rates will not only provide incentives that encourage work effort and production, but to the extent that these tax reductions reduce the cost of labor to employers they will encourage additional job creation and employment opportunities. Lower tax rates will increase the supply of jobs, generate more taxable income, more tax revenues and lower Government deficits. Further, the reduction of tax rates will diminish the incentive of people to escape taxation and thus have the effect of raising additional taxes from the wealthy. Our proposed legislation maintains the tax rates in proportion to ability to pay. But experience shows that excessively high rates do not produce large revenues. Experience is all in the other direction because when the tax rates on large incomes become too high, revenues disappear, and capital is diverted into unproductive channels, production and investment are discouraged and the small taxpayers and workers are left to bear the entire tax burden of Government spending and borrowing. The only way to relieve the small taxpayer is by getting the largest possible taxes from people with large incomes.

But we do not need a tax rate reduction just for wealthy people, nor do we need it just for low and middle income people—we need to reduce tax rates for all the people to encourage employment, production and economic growth.

Unless the Tax Reduction Act is enacted this year, inflation will increase taxes on the American people by at least $6 billion this year alone. This is because inflation pushes people up into higher tax brackets such that they pay more than a proportional increase in taxes. By way of illustration, a married couple earning $12,000 per year pays 18.8 percent Federal income tax on that income. But every dollar they earn above $12,000 is taxed at the rate of 25 percent. This becomes a powerful discouragement for every taxpayer to work, invest and try to raise his standard of living.

As the following table shows, when one takes into consideration the effects of inflation and the tax increases proposed by President Carter for social security and energy conservation, the income tax burden on the American people will almost triple by 1982:

PROJECTIONS OF FEDERAL BUDGET RECEIPTS BY SOURCE

[By fiscal years; in billions of dollars]

Source	1976 (actual)	1977 (Third Concurrent Resolution)	Projections				
			1978	1979	1980	1981	1982
Individual income taxes	130.8	149.4	183	216	252	294	339
Corporation income taxes	41.4	54.2	58	65	71	78	85
Social insurance taxes and contributions	92.7	108.7	123	137	156	175	189
Excise taxes	17.0	17.9	18	19	19	20	20
Estate and gift taxes	5.2	5.9	6	6	7	7	8
Customs duties	4.1	4.7	5	6	6	7	8
Miscellaneous receipts	8.0	6.9	7	8	9	10	11
Total	299.2	347.7	400	457	520	590	660

Source: Congressional Budget Office.

With unemployment continuing at an unacceptably high rate and the economy at a standstill, the prospect of a tax increase of this magnitude cannot help but further depress the country. This is the basis for the Tax Reduction Act.

We are less concerned with the exact percentage of rate reductions than we are that a permanent cut in tax rates be implemented immediately. It's not only economically sound, but politically bipartisan. The people of America must understand that this is their fight, they alone can win it by making their wishes known to the administration and the Congress without regard to partisan politics. They must speak out now and not allow rhetoric to be a substitute for encouraging the industriousness of our free enterprise economy.

UKRAINIANS CONTINUE THEIR STRUGGLE FOR HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 4 the Belgrade conference began meeting to review the progress being made to implement the final act of the Conference on Security and Cooperation in Europe. I was glad to write to President Carter earlier this year on behalf of my constituents who are members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. USA urging his intervention for freedom in Ukraine, and a copy of that letter follows:

MAY 20, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On the request of my constituents who are members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. USA, I am writing

to convey to you their request that you bring up at the Belgrade Conference, in which you will be participating in the early future the four points listed in the attached correspondence, as follows:

1) Bring our matter to the attention of President Carter before his departure for the Belgrade Conference where Mr. Brezhnev will represent the USSR. We ask that President Carter put on the Agenda of this conference the situation in Ukraine.

2) Since the Helsinki Accords was made without any representation for Urkraine, and for other enslaved nations, using the precedent of the United Nations Palestinian problem we ask the President to initiate for the next Conference an invitation to the representatives of Ukraine and other enslaved nations to defend their rights where the violation of national and human rights exists.

3) To demand from Mr. Brezhnev the withdrawal of police control over the private and social family lives of the political prisoners and restore to them their constitutional rights.

4) To release from concentration camps Ukrainian political prisoners both men and women, particularly those who are sick, invalids, veterans of UPA (Ukrainian Insurgnt Army) and those who have served 25 years in concentration camps. We make a special appeal for the release of Jurij Shuchwych, Valentyn Moroz, Ivan Svitlychny, Swiatoslaw Karavansky, Wasyl Stuc, Vyacheslaw Chornovil, Evhen Swerstiuk. and Alexander Serhijenko.

I do hope you will find it possible during the course of the discussions in Belgrade to bring up the issues listed above which are of such grave importance not only to Ukrainian Americans in our own country but to freedom loving peoples everywhere. Your intervention and assistance to help insure the release of the Ukrainian Political prisoners and restoration of human and constitutional rights to them will be deeply appreciated. Thank you for your cooperation.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

Mr. Speaker, many Ukrainians are continuing their heroic struggle to free their nation and their people from the brutal tyranny of communism, and a newspaper article from the Svoboda Ukrainian Daily follows outlining the activities of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords. The aspirations of the Ukrainian people for freedom will never die, and we as Americans must continue to do all that we possibly can to encourage the Ukrainians in their struggle for human dignity.

The article follows:

KIEV GROUP APPEALS TO WORLD CONSCIENCE ON EVE OF BELGRADE CONFERENCE

WASHINGTON, D.C.—After a seven-month hiatus, interspersed by arrests of four of its leading members, the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, based in Kiev, transmitted to the West a batch of appeals and documents which call on the Western signatories of the Helsinki Accords to speak out in defense of human national and individual rights in Ukraine.

The documents are in the possession of the Washington based Helsinki Guarantees for Ukraine Committee, according to the "Smoloskyp" Ukrainian Information Service.

The Kiev group was formed last November, which led to the immediate establishment of the Washington committee.

The Kiev group had sent a declaration and Memorandum No. 1 to the West, which were subsequently published in the original Ukrainian and in English translation, and disseminated widely in this and other countries.

Upon announcement of the establishment of the group in Kiev, in the wake of the formation of similar groups in Moscow and Vilnius, Lithuania, the Soviet Secret Police (KGB) harassed its members and ultimately arrested its head Mykola Rudenko and members Oleksa Tykhy, Myroslav Marynovych and Mykola Matusevych.

These arrests, coupled with the previous incarceration of hundreds of Ukrainians, as well as other human rights activists in the USSR, generated an outpouring of protest in the West.

The most recently received documents include Memoranda Nos. 4 to 9 (Nos. 2 and 3 have yet to make their way to the West), appeals of Nadia Svitlychna, Oksana Meshko and Raisa Rudenko, Mykola Rudenko's wife, an autobiography of Osyp Terelia, a longtime political prisoner, an appeal of Oles Berdnyk to M. Shcherbytsky, first secretary of the Communist Party of Ukraine, a declaration of the Initiative Council of Alternative Evolution, which includes O. Berdnyk and Petro Kharchenko, a graduate student of biology from Kiev, appeals of the Kiev group to the Supreme Soviet of the USSR and to the U.S. Congress, and an appeal of M. Rudenko to the International College of Jurists, written prior to his arrest.

The Washington committee, said the press service, also received documents of the Lithuanian group, the Armenian organization for independence, and other materials on repressions in Ukraine and elsewhere in the USSR. The accompanying letters request that the materials be passed on to the governments of the Helsinki Accords signatories.

Members of the Kiev group, said the press service, have authorized the Washington committee to represent them in the West and before the governments of the Helsinki Accords signatories.

"It seems as if the KGB wanted to finish us before the Belgrade conference," said the letter, according to the press service. "Our group is experiencing hard times, but we believe in victory. It is of utmost importance to demonstrate our solidarity in conjunction with the arrests. Involve all Ukrainians in the world in this action, so that a tornado of protests bursts forth in defense of Rudenko and Tykhy."

The "Smoloskyp" Publishers are now readying the materials for publication in both the Ukrainian original and in the English translation. The Publishers say that the documentation will be ready prior to the Belgrade conference, scheduled to convene June 15th.

The Washington committee has called on all persons and organizations to return petitions in defense of human rights.

POLITICAL REPRISALS OF IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise only for the principal reason of saying that I have come across and uncovered a situation that is reminiscent of and raises profound questions concerning the period we associate with the Watergate period. This involves a very sensitive area of the Government, the Internal Revenue. I will document this tomorrow. I will do so because of the lateness of the hour. I just wanted to advise the Members that in the RECORD tomorrow it will be my hope to set forth, in a documented form, some of the things I have come across on the basis of the Freedom of Information Act, and some of the machinations of a very disturbing kind, on a political reprisal basis, on the part of the Internal Revenue Service, which they called Project Southwest. Which in essence, and in short, meant that the Southwest component of the Internal Revenue Service were to meet and did have a meeting of supervisors and district directors. They met in Washington. They met for a stated purpose, and kept minutes of the meeting, in order to pursue, for political reasons, taxpayers on a selective basis.

This is most reprehensible. It has caused me to write to the Secretary of the Treasury, Secretary Blumenthal, and to the chairman of the subcommittee in the House that has jurisdiction, the gentleman from Florida (Mr. GIBBONS). I sent them a copy of those documents over 2 weeks ago. I will set those forth because I am very much concerned that some of these practices are still very possible, even up to this time. That is the reason that I appealed to Secretary of the Treasury Blumenthal to make sure that he would be alerted and that he would assure us that this kind of thing will not be allowed under this administration.

THE PLEA OF THE POOR: AN ADDRESS BY PRESIDENT JULIUS NYERERE OF TANZANIA

The Speaker pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

Mr. DIGGS. Mr. Speaker, on August 5, 1977, one of the most respected and admired leaders of Africa visited our Nation's Capital, and addressed himself to the issues now facing his country and ours. President Julius Nyerere of Tanzania, at the invitation of President Jimmy Carter, shared with us his wisdom and experience on the world front. At an appearance at Howard University, where he was awarded the honorary doctor of humanities degree, President Nyerere gave an eloquent address which I would like at this time to share with my colleagues. His thoughtful approach to the major issues of developing countries is evident, and his analysis of the solutions open to us gives further proof of his stature as a world leader.

THE PLEA OF THE POOR: NEW ECONOMIC ORDER NEEDED FOR THE WORLD COMMUNITY

(By Julius K. Nyerere)

Tanzania has the doubtful distinction of being included among the United Nations list of the 25 poorest countries of the world. Perhaps it is not surprising, therefore, that I am one of those people who complain bitterly about the present world economic system and loudly demand that it should be changed. I will attempt to explain what—as we see it—the problem is, and why the poor nations are demanding fundamental changes.

Through contact with what are called the developed market economies, we in the Third World have become conscious of the 20th century world. During the Second World War, our soldiers—in Burma and in North Africa—were told they were fighting for freedom; in the colonial schools we heard of the demand, "No taxation without representa-

tion." These teachings made the anti-colonial struggle intellectually logical, and also reinforced our own instinct for self-government. The call for human equality and justice was—and is—incompatible with racism. Therefore, it backs up our national opposition to apartheid and the racial discrimination of which we have been victims for so long. Also, the demand for a welfare state, and the abolition of poverty, reverberated from the developed nations to the poor ones. A life of poverty and inequality was being rejected everywhere in the world.

The political demand for freedom leads to a separation of the colonized and the colonizer. But, economically, the situation is very different; our nations are locked together. It is not possible—much less desirable—for a newly independent nation to cut all economic links with its metropolitan trading partner or other developed nations. But a re-examination by the new state of the economic relationships which grew during the colonial period is inevitable. Experence, combined with analysis, quickly teaches the young and poor nations that the present international economic system works automatically and inevitably to their disadvantage. There is an automatic transfer of wealth from poor countries—where it is needed to provide the basic necessities of life—to rich countries, where it is spent on creating and meeting new wants.

This is not an ideological judgment. Capitalist and Socialist Third World countries recognize the same truth. Nor is it a comment, for example, on capitalism within the U.S.A., or socialism within Tanzania; each nation has the right to choose its own social and economic system. It is an assessment of the arrangements under which nations deal with each other on economic matters.

Nations which are rich and poor, Socialist and Capitalist, have an equal interest in economic matters, although the quantity of Third World involvement in international exchange is very unequal. International trade across the economic divide is important to America, which imports more than 30 percent of its oil, as well as many other raw materials, from underdeveloped nations. About a third of America's exports are sold to poor nations. Tanzania could probably survive at subsistence level without trade with the developed economies, but it could not do much more. Trade and investment relations between rich and poor nations are important to both. Therefore, both should participate in their regulation. At present, it is not so.

The complaint of poor nations against the present system is not only that we are poor, both in absolute terms and in comparison with the rich nations, it is that within the existing structure of economic interaction we must remain poor and get relatively poorer.

What poverty means for the poor countries is not understood in a country like the United States. It has been estimated that poor nations have more than 70 percent of the world's population and only about 17 percent of the gross national product. More important, this imbalance is getting progressively worse. The average per capita income in the poorest nations increased by roughly $2 per annum (in constant money terms) between 1965 and 1975, and the per capita income in the rich nations increased by about $130 per annum during the same period.

Tanzania's per capita national income is now $140; that of the United States is $7,100. And although there is no such thing as an "average" Tanzanian or American, figures expressed in these terms do illustrate the wealth which is available for use and distribution. On that basis, it would take the average Tanzanian—whose life expectancy is 45 years—more than 50 years to earn what the average American earns in one year.

What really matters, however, is not the statistics; it is what these contrasts mean for people's lives and the services which are available to them. In Tanzania, the infant mortality rate is about 152 per 1,000; in America it is about 18 per 1,000. My country, which is bigger in area and population than Texas and Oklahoma combined, has a total of 1,400 miles of tarred roads as against 31,000 in those two States. Our per capita consumption of sugar is less than a quarter of that in U.S.A.; malnutrition is still widespread; education and health care are—in world terms—an aspiration, not a fact.

This poverty does not arise exclusively from actions by Tanzania—or lack of them. A hard-working Tanzanian peasant family, if the weather is kind, can by a combined effort earn from farming just a little more than is needed for subsistence. It takes years of saving to buy a bicycle. A school-leaver in this country, [U.S.A.] who may work in the storeroom of a firm distributing the sisal Tanzanian peasants grow, will receive an income sufficient to run a car.

Such contrasting living standards are connected—they result from the distribution of the wealth produced by the combined efforts of farmer, shipper and distributor. And that distribution is arranged by men, i.e. by the systems of production and international exchange which men have created.

THE INTERNATIONAL ECONOMIC STRUCTURE

The present international economic and legal structure has developed gradually out of the interaction between the different nations of Europe, the United States and the British Dominions. Their cultures were basically similar, their knowledge—or their access to it—was never greatly different from one another. Even so, there were great economic conflicts—even wars—before the evolution of those conventions, institutions and practices which are now regarded as the normal—even natural—rules and mechanisms of international exchange.

In this process, the countries which are now known as Third World were not involved. They were either colonies of one or the other major powers, or were so weak or so far away from the mainstream of economic intercourse that they were ignored.

The dominant philosophy of international exchange which we met at independence—and which still prevails—is that of a "free market." In theory, this means unfettered competition and bargaining between equals, with prices being the result of the combined actions and wishes of sellers and buyers. In practice, international exchange does not operate in such a free manner, yet the theory continues to be taught and advocated, with young countries lectured on its virtues and admonished not to try to interfere with it.

Unfortunately, the theory bears little relation to fact. Equality between nations of the modern world is only a legal equality—it is not an economic reality. Tanzania and America are not equal. A man who needs to sell his labor in order to buy bread and the man who controls both his employment and the price of bread are not equal. Their relationship is one of dependence and dominance.

Also, it is not true that prices are determined by the operations of a free market—that is, by discussion and compromise between sellers and buyers. The price of manufactured goods is fixed by the producers and if any competition enters into the situation at all, it is between giant firms like Ford, General Motors, and Volkswagen. It is certainly no use for the Tanzanian Motor Corporation to try to argue with any of these firms about their prices. If it is not willing to pay what is asked, the vehicles will wait in stock and Tanzania will continue without transport.

Conversely, the price of primary products is fixed by the purchasers. The producers put on the market whatever they have managed to grow or mine; the goods are often perishable and in any case the poor nations are desperate for foreign exchange and have no facilities for storage—known facts which further weaken their bargaining position! A small number of purchasers then decide how much they will buy, and at what price. Only if natural disaster has made the year's supply unusually low will their competition push the price up.

The primary producing countries which need to import manufactured goods are thus price-takers—not price-makers, both as sellers and as buyers. We sell cheap and we buy dear, whether we like it or not. This is the position of most Third World countries—with the recent exception of the oil producers who now fix prices for the oil they sell. It is perhaps not surprising, therefore, that the terms of trade between the developing and developed countries have moved so steadily and consistently against the former. Taking 1963 as a base, the World Bank gives the commodity term of trade index as 87 for 1972. It was 122 in 1953! We in the poor countries don't think in such statistical terms. What we know is that we have to sell more and more sisal, cotton or copper, to get the foreign exchange needed to import identical machines in successive years.

To break out of this foreign exchange trap, and at the same time to benefit from the multiplier effect of expanded economic activity, the poor countries endeavor to build up their industrial sector, to become price-makers, even in a small way. Naturally, we start with the processing of our own primary products. It seems logical to export cloth rather than cotton lint, and twine or rope rather than sisal. Such simple manufacturing processes can provide a little platform for further industrialization. But having established these factories at enormous expense, we discover that processed commodities and manufactured goods are not so easy to export as raw products. They meet tariff barriers, quota regulations, or other devices intended to keep them out of the markets of the rich. The "free market" becomes less free! For these goods are said to be the products of sweated labor, although the employees in such factories have higher incomes than workers who produce the raw commodities. The president of the World Bank has estimated that the undeveloped nations could sell an extra $33 billion worth of goods to the developed world if existing trade barriers were lifted. Even allowing for the inevitable inaccuracy of such figures, it does appear that such actions could enable us to reduce our beggary to some extent!

Further, the poor nations have to ship both their imports and their exports in ships owned and managed in the developed countries. The freight rates are mostly fixed by a shipper's cartel (OPEC did not invent the idea of combining to fix the price of a vital commodity) which has an apparently ineradicable bias against carrying processed goods away from East Africa: for a ton, it costs $41 to ship raw sisal and $73 to ship twine from and to the same port, with similar differentials between cotton lint and textiles, hides and leather, and other goods.

POVERTY BREEDS POVERTY

Success breeds success and riches breed riches. Poverty also breeds poverty. It is easier and cheaper to start an industry or expand the saleable output of a crop when electricity and good roads exist; but infrastructure needs money before it can be created. The rich can supply security for loans and are a good credit risk; the poor are less educated, less experienced, therefore, more likely to fail in new enterprises. Also, they have little or no wealth to offer as collateral.

Further, poverty breeds inefficiency, corruption, and social unrest—all of which are in mical to economic development. For example, if a poor country gets desperately short of foreign exchange, it cannot buy and stock spare parts which may never be needed, and it does not have a spare transport capacity in case a crop is larger than normal. Also, such a country will usually be short of technicians to deal with mechanical breakdowns when they occur. Trying to husband scarce resources and allocate them in accordance with human needs means that licenses and permits abound, with all the temptations for corruption they bring. Nor are people suffering from endemic diseases famous for their hard work and initiative or their resistance to spurious promises of quick salvation.

The poor nations of the world remain poor because they are poor and because they operate as if they were equals in a world dominated by the rich. The tendency is not different within nations—the farming communities and the urban poor remain poor, and become progressively worse off relative to the rich because they operate within an economic structure dominated by the latter. But within nations—even within Capitalist America—counteracting steps are taken by the state. Progressive income tax, welfare payments, Medicaid, farm support programs, as well as antitrust legislation, may still be politically contentious issues; they may or may not be very efficient in fulfilling their purposes. But hardly anyone denies the need for some organized countervailing power, some method of counteracting the built-in tendencies for the rich to get richer because they are rich and for the poor to get poorer because they are poor.

There is no organized international mechanism designed to correct—or even ameliorate—the workings of the free market. On the contrary, such institutions and practices as do exist give further impetus to the growth of inequalities between nations, and to the misuse of the world's resources for high living by a few, rather than their use for the basic needs of the masses. Let me give just a few examples.

The international financial system is regulated by the I.M.F. [International Monetary Fund] and the World Bank, helped or hindered by unilateral actions of major powers like U.S.A., E.E.C. [European Economic Community], Japan, and a few other developed nations. Given that voting power in the governing bodies of the I.M.F. and the World Bank is determined by the proportion of the capital contributed by different nations, the results are perhaps inevitable. The richer you are—and the more you trade in the world—the greater the support you can get in times of crisis and the greater will be your allocation of international credit.

The low international purchasing power of poor nations is a factor in keeping them locked in their poverty. To expand output, we need plants, equipment and machines, as well as technology and the know-how embodied in the production and use of such goods. The developed countries have those goods and services to sell, but we cannot buy them because we are not entitled to more than our poverty-based "quota." Instead of facilitating growth in the world by enabling the poor to buy more—mostly capital goods from the rich—international credit has been used to promote trade between the rich countries.

It is very difficult for Third World nations to obtain by more orthodox means the foreign exchange needed for development. International aid is certainly not the answer, especially as it is offered by most countries as if it were charity for which we should be "deserving poor" in the best traditions of feudalism—also very grateful!

All the poor countries—including Tanzania—welcome capital and technical aid when it is given without political strings. But aid is unreliable and insufficient in quantity; it is frequently counter-balanced by the adverse effects of movements in the terms of trade between our imports and exports. In the 1960s, most developed countries committed themselves to using 0.7 percent of their national income for official development assistance to the Third World. Up to now, only three have done this—the Netherlands, Sweden and Norway. The United States (which has not even accepted the target) comes 13th on the list of 17 countries.

The whole idea of aid is wrong because it is both ineffective in dealing with the problem of poverty, and humiliating to the receiver. Within nations, we no longer think it proper to deal with the problem of poverty through the personal charity of the rich. Yet voluntary charity by the rich nations is what is being advocated as the method for dealing with the poverty of nations!

Like the workers of the industrialized countries, what poor nations need is the right to work, and a fair return for our labor. We want equity not charity. For we want to depend upon our own efforts and to plan on the basis of those efforts. At present we cannot do so. Thus, world commodity prices fluctuate violently; sensible development decisions are almost impossible for countries dependent for their export earnings on one or two products. All we know for certain is that the prices of what we sell will keep falling in relation to those we buy. Between January 1974 and now, the price of copper has danced about within a price range of £500 and £1,300 a ton [about $1,080 and $2,300], but mostly at the lower end of the scale. The current absurdly high price of coffee arose partly because the average coffee price before the boom discouraged new tree planting—and it takes four years for a tree to come into production. Coffee consumers need not worry very much because the price of coffee is bound to fall and that of tractors is bound to rise!

THE RESPONSIBILITY OF THE POOR

None of these things—indeed nothing at all—changes the responsibility of the poor to overcome their poverty. The demand for a new international economic order is a way of saying that the poor nations must be enabled to develop themselves according to their own interests, and to benefit from the efforts which they make. The poor should not find themselves trying to run up the down-escalator while the rich sail upwards on their up-escalator. They should at least be moving in the same direction—hopefully, with the poor moving faster!

The traditional remedies for poverty will certainly not—on their own—bring progress. Hard work is necessary, but an undernourished person cannot work hard for very long. With only a hoe as his tool, the peasant cannot cultivate large areas; nor does it help very much if he sweats to produce more cotton where there are no trucks to carry the cotton to the railhead, or where there are no passable roads between the village and the factory.

The poor nations are told to reduce their high birth-rate. But it is development which brings down the birth rate, not the other way round. The best contraceptives are a standard of living high enough for confidence that your children will not die before maturity, a reasonable level of education—and electricity: (I was reminded recently that nine months to the day after New York had its first major power-failure, the number of children born took a phenomenal jump!).

We are told to remove the beam in our own eye before we complain about inequalities between nations. For it is true that within the nations of the Third World the contrasts between wealth and poverty are frequently disgusting. Tanzania is one of the poor countries which endorses the demand for internal economic justice, and tries to implement it. We carry our land reform, or we end the exploitation of our workers and our nation by nationalizing the mines or major industries and financial institutions; we impose heavy taxes on the rich, and concentrate our public spending on services needed by the poor, and so on.

But such actions do not always receive the applause of the developed world, because, the individuals adversely affected are the educated citizens—the ones with international contacts, the ones whom American businessmen know to be pleasant, intelligent and hard-working people—or else they are foreigners who owned our land or our businesses according to past law and against whom no legal offence can be proven. The result of our reforming action—when it is not the kind of intervention we saw in Chile—is a hostile world environment for the poor nation. Sometimes World Bank loans, or Western aid, are refused on the grounds that we have nationalized without adequate and prompt compensation. A long history of exploitation is regarded as irrelevant.

That is not all. Change of organization or ownership—however beneficial in the long run—always has short-term costs. For example, if a country like Tanzania reorganizes its medical services and sends doctors to the rural areas, some of the doctors may emigrate; when we hold down the top salaries so as to reduce appalling wage differentials, some experienced managers and professional people will be tempted by higher incomes they can get in developed countries. The "brain drain" is another transfer of needed resources from the haves to the have-nots!

Again, the poor nations are told to invest more—to sacrifice present consumption for the sake of future development. Speaking of my own country, we try to do that. By deliberate government action, including strict foreign exchange control and high taxation on non-essential goods, we discourage unnecessary consumption so as to extract from current output the maximum for investment. The result is that 20% of our gross domestic product [G.D.P.] is devoted to gross fixed capital formation. The United States spends 18% of its G.D.P. on fixed capital formation. But whereas our 20% yields about $418 million, America 18% produces something like $244,000 million a year. Put differently, from his average annual income of $140, a Tanzanian sets aside $30 for development; an American sets aside $1,200 out of of $7,100. Yet that $30 means a greater sacrifice for the Tanzanian than $1,200 means to the American.

The poor countries are advised to encourage private investment as a means of promoting economic growth. For a poor country like Tanzania that means foreign investment—we never had any indigenous capitalists. Yet it is not only young and weak countries like Tanzania that find worrying the prospect of external control of their economics. I understand that in 1975 a Committee on Foreign Investment in the United States was established by the President to "guard against the potential problem of foreign investments"!

Quite apart from nationalistic considerations however, private capitalists are not generally very interested in development investment in poor countries which do not have oil. For poor countries do not have the economic and social infrastructure private investors require—and which is necessary for maximum efficiency and high company profitability. To attract foreign investors, we would have to spend money, offer tax and personnel privileges, and promise that even if our people starve because of a drought the investors will still be able to export their profits!

In any case, contrary to theory, foreign investors are not major exporters of capital to the developing nations—if they can avoid it—which they can if left untrammelled. In Latin America, between 1965 and 1968, about 78% of the manufacturing operations of U.S.-based transnational corporations were financed out of locally-raised capital, but 52% of the profits made from these activities were exported! And, private investors are rarely interested in projects designed to meet the needs of the poorest people or the rural areas, for these do not generate much profits to the firm.

There are two aspects to the fight against poverty in the Third World—the first is the responsibility of the undeveloped countries to work and organize for their own development and to build up self-reliant economies; the second is the world responsibility to re-structure the international economic order so that it facilitates rather than hinders the efforts made by the poor. Both these tasks need to be carried on at the same time. The inequities of the international economic arrangements do not excuse economic and social injustices within poor nations; and continuing exploitation of the poor within Third World states is no justification for the automatic depredations suffered by the poor countries through the present mechanisms of international exchange.

THE NEED FOR INTERNATIONAL ACTION

Very many economic experts and commissions have analyzed the current international situation, and there is widespread intellectual agreement in principle—as well as agreement among the poor—about what needs to be done.

First, and in some ways the most fundamental, is that the poor nations should have a greater voice in the world's economic decision making. The economic policy of the United States (including the creation of credit and matters relating to trade, transport patterns and costs, the powers of private firms, the environment, and so on) is dominated by the federal government, which represents all citizens and states. There is no comparable government in the world. But it is imperative the institutions like the I.M.F. and the World Bank should cease to be under the almost exclusive control of the rich and powerful states. It is absurd, if not immoral, that the representation of the poor on the governing bodies of these institutions should continue to be in proportion to their poverty!

Changes in the representation on major international economic institutions are not wanted for prestige purposes! The establishment of a link between development and the creation and distribution of international credit, and other actions to counteract the economic power of the wealthy, could be expected to follow. For the purpose of this demand for change is that the requirements of the war against poverty in the world, as well as the interests of all sovereign nations, should be considered in international councils as of right, and not simply out of charity or compassion.

It must be frankly admitted that this will require a deliberate transfer of resources from the rich countries to the poor on reasonable terms. But this need not be the only method.

On international trade, there is a need for measures to stabilize prices of primary commodities, in the short term by buffer stocks and in the longer term by assisting the poor to make long-term adjustments to changes in demand or supply. There is also need to make compensatory payments to poor nations which are affected by sudden changes in world demand or by natural disasters which decimate their export capability.

It is also necessary for the community of nations to agree on deliberate actions to hasten industrialization in the developing nations. The objective, that the share of Third World countries should be raised from its present 7 percent to 25 percent of world industrial production, will not happen through what are called the natural forces of the market! Bilaterally, by region, and multilaterally, the nations of the world have to sit together to work out the steps forward, and the adjustments which have to be made. The poor nations cannot overcome their poverty without industrialization and without trade in manufactured goods—some of them cannot survive without it.

The rich also have an interest in the poor having a greater share of the production and trade in manufactured goods, even although this will require lifting the barriers against the industrial exports of the Third World. For poor nations cannot forever buy goods without being able to sell their own products. On matters of industrial production and trade, co-operation and co-ordinated action between the two sides of the poverty divide is needed if unnecessary conflict and suffering is to be avoided in rich states as well as poor ones.

Nor is it only trade between the rich and the poor nations which has to be stepped up. Greater co-operation—both in trade and in production—is vital between the underdeveloped nations themselves. They can help each other to develop. To what extent this co-operation among the poor becomes a trade union of the poor—acting in combination against the rich—depends on the actions of the rich nations. Confrontation is not a desired strategy of the weak; but if reason, justice, and dialogue fail to bring the changes needed to win the war against world poverty, then economic conflict is bound to follow. The roots of OPEC were nourished by decades of gross exploitation and price-fixing by the major oil companies; its fruit jolted the whole world!

Economics is only a part of life. Political freedom, social equality and respect, freedom of worship, freedom to live in peace and harmony with your fellows—all these things are very important to mankind. People have been willing to kill for them, but economics is about the means of life—it is basic. In poor countries, if there is a clash between individual freedom and economic development, it is generally not possible to give priority to the former. For people are dying unnecessarily because they do not have clean water, enough good food, or basic medical care—which is what economic development means to us. The most basic human right of all is the right to life itself, and a life which is not made miserable by hunger, ignorance or preventable disease.

The present economic order governing international production, development, and exchange does not in practice ensure progress towards meeting those basic needs for all people, all over the world.

The plea of the poor is a new international economic order "which embraces for its objective the happiness of mankind."

AMENDMENT TO DEFENSE AUTHORIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LLOYD) is recognized for 5 minutes.

Mr. LLOYD of California. Mr. Speaker, I plan to introduce an amendment to H.R. 8390, the defense authorization bill. My amendment will cut funds in the amount of $20 million which have been earmarked for research and development of the FB–111H stretch version of the current F–111 fighter. I offer this amendment because I feel the funds are a backdoor approach to equipping the Air Force with a penetrating bomber. We heard this spring that such a bomber was unnecessary when a decision was made to halt production plans for the B–1 bomber. These FB–111 funds represent a decision in conflict with the B–1 production halt decision and I feel we should take a closer look at the whole issue through fiscal 1979 authorization and appropriations processes. If we are to have a manned penetrating bomber, let us get the best we can get. We need a competition. We do not need a hasty decision to go ahead on the FB–111H. My amendment follows:

Page 3, line 17 is amended by striking $306,500,000" and inserting "$286,500,000".

SENIOR CITIZENS ALUMINUM TASK COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, it gives me a great deal of pride to share with you a letter to the editor, published in the Hinton Daily News, a newspaper in Summers County, in West Virginia's Second Congressional District.

This letter sums up a very worthwhile project undertaken by the active Senior Citizens of Summers County.

This fine organization created the Senior Citizens Aluminum Task (SCAT) Committee, to collect all-aluminum cans. They were assisted by the Summers County Commission and the city of Hinton in furnishing collection boxes for the public to deposit their all-aluminum cans. The Reynolds Aluminum Co. buys them for 17 cents per pound. Thus the three basic needs of recycling are met. One, the public knows where to put their saved material; two, they have a method to pick up the material; three, they have a market for it.

This is an outstanding example of cooperation by our senior citizens, city and county officials, local business, and national industry in a project to conserve our resources and energy.

Much credit goes to the Reynolds Aluminum Recycling Co. in making a market for this material. The Reynolds Co. started the consumer recycling idea in 1967 and has paid recyclers more than $55 million for cans since that time.

This seems to be a project where everyone wins. Therefore, I recommend it highly to senior citizens and other groups who may be interested in such a project for their own home communities.

The letter to the editor follows:

DEAR EDITOR:

Response to our appeal for saving all-aluminum cans for recycling has been so great we feel recognition of businesses for this extra effort on their part should be publicly announced and thanked; and we are proud to name new businesses at the end of our already steady all-aluminum can savers:

Hinton Hot Dog Stand, L&J Billiards, Jimmy's TV, Guy's Lock and Fix It, YMCA, Park Avenue Exxon, Jane's Tavern, Pipestem Lodge (Mrs. Calvin Robbins); Bluestone State Park (Ms. Vest); Willow Wood Golf

Club, (Curtis Meadows); Pence Springs Flea Market.

New all-aluminum can savers: Persingers Store (Pence Springs); Mrs. Emmett Fox Store, Barksdale; Doyle's Grocery, 3rd Ave., Bluestone Tire-Laundramat, 3rd Ave., Gore's Autobody and Outboard Clinic, 109 Maple Street, Bellepoint, Carper Parts Co., (auto), Avis.

This is, indeed, a tremendous response by people who believe in saving, and our committee makes it possible. Please remember that all-aluminum cans sides will NOT stick to your magnet.

Nearly all beverage cans are coming out in all-aluminum, but Strohs is still just plain tin—so throw all Strohs cans in to your trash—as that is all it is—just plain trash.

C. B. RUSHFORD, Sr.,
SCAT Committeeman.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, legislative matters prevented me from voting on some recent rollcall votes. Had I been present on Thursday, September 29, for rollcall No. 607, a motion for the House to resolve itself into the Committee of the Whole House, I would have voted "yes." Had I been present on Friday, September 30, for rollcall No. 615, the Butler amendment to the Victims of Crime Act of 1977, I would have cast a "no" vote. Had I been present on Wednesday, October 5, for rollcall No. 627, the Erlenborn amendment, I would have voted "no," and for rollcall No. 628, on the amendment, I would have voted "aye."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORSYTHE (at the request of Mr. RHODES), for today until 5 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) and to revise and extend their remarks and include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. AKAKA) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. RUSSO, for 5 minutes, today.

Mr. LLOYD of California, for 5 minutes, today.

Mr. DIGGS, for 10 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. ARMSTRONG.

Mr. GRADISON.

Mr. SHUSTER.

Mr. STEERS in three instances.

Mr. WHALEN.

Mr. FREY.

Mr. EDWARDS of Oklahoma.

Mr. CAPUTO.

Mr. O'BRIEN.

Mr. WYDLER in two instances.

Mr. LENT in two instances.

Mr. VANDER JAGT.

Mrs. HOLT.

Mr. LAGOMARSINO.

Mr. CONTE.

Mr. FINDLEY.

Mr. PRESSLER.

Mr. ABDNOR.

Mr. SPENCE.

Mr. HANSEN.

(The following Members (at the request of Mr. AKAKA), and to include extraneous matter:)

Mr. MURPHY of New York.

Mr. CARNEY in two instances.

Mr. HAMILTON.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. BRECKINRIDGE.

Mrs. MEYNER.

Mr. JENRETTE.

Mr. MILLER of California.

Mr. WAXMAN in two instances.

Mr. NEDZI.

Mr. MCDONALD in five instances.

Mr. KASTENMEIER in three instances.

Mr. RUSSO.

Mr. ALLEN.

Mr. ROSENTHAL.

Mr. CORRADA.

Mr. LEHMAN.

Mr. PEASE.

Mr. ROGERS in five instances.

Mr. MANN.

Mr. EILBERG.

Mr. FLORIO.

Mr. MAZZOLI.

Mr. DOWNEY.

Mr. BROOKS.

Mr. MITCHELL of Maryland.

Mr. MINETA.

Mr. OTTINGER in two instances.

Mr. FRASER.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to the enrolled bills of the Senate of the following titles:

S. 1060. An act to amend the act of February 9, 1821, to restate the charter of The George Washington University; and

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act;

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs;

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. An act to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 4, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 5645. To raise the limitation on appropriations for the U.S. Commission on Civil Rights;

H.R. 6550. To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes; and

H.R. 9290. To increase the temporary debt limit, and for other purposes.

ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Thursday, October 6, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2513. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the second annual report on programs and activities under the Women's Educational Equity Act, pursuant to section 408(f) of the act (Public Law 93-380); to the Committee on Education and Labor.

2514. A letter from the Chairman, Federal Power Commission, transmitting the Commission's final report on its activities under the Freedom of Information Act, covering the period January 1 through September 30, 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2515. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of three new records systems for the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2516. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2517. A letter from the Records Officer, U.S. Postal Service, transmitting notice of four new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2518. A letter from the Attorney General, transmitting the annal report for calendar year 1976 on the administration of the Foreign Agents Registration Act of 1938, as

amended, pursuant to section 11 of the act; to the Committee on the Judiciary.

2519. A letter from the Deputy Staff Director, U.S. Commission on Civil Rights, transmitting a draft of proposed legislation to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes; to the Committee on the Judiciary.

2520. A letter from the Comptroller General of the United States, transmitting a report on the Farmers Home Administration's business and industrial loan program (CED–77–126, September 30, 1977); jointly, to the Committees on Government Operations, and Agriculture.

2521. A letter from the Comptroller General of the United States, transmitting a report on programs for the prevention of mental retardation (HRD–77–37, October 3, 1977); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

2522. A letter from the Acting Comptroller General of the United States, transmitting an evaluation of the administration's proposed nuclear nonproliferation strategy (ID–77–53, October 4, 1977); jointly, to the Committees on Government Operations, International Relations, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949 (Rept. No. 95–638, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana. Committee on Rules. House Resolution 766. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; with amendment (Rept. No. 95–651, Pt. II). Referred to the House Calendar.

Mr. SMITH of Iowa: Committee on Small Business. Report on allocation of budget totals to subcommittees for fiscal year 1978 (Rept. No. 95–660). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. House Resolution 688. Resolution to disapprove Reorganization Plan No. 1 of 1977 (Rept. No. 95–661). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Report on subdivision among subcommittees of budget allocation for fiscal year 1978 (Rept. No. 95–662). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 8681. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; with amendment (Rept. No. 95–663). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 815. Resolution providing for the consideration of H.R. 8390. A bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes (Rept. No. 95–664). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Concurrent Resolution 368. Concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games. (Rept. No. 95–665, Pt. I).

Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BYRON (for himself, Mr. BEILENSON, Mr. BOLAND, Mr. BRODHEAD, Mr. BROYHILL, Mr. CLEVELAND, Mr. CONTE, Mr. D'AMOURS, Mr. DUNCAN of Tennessee, Mr. HARRINGTON, Mr. KINDNESS, Mr. KOSTMAYER, Mr. MARKEY, Mr. MITCHELL of Maryland, Mr. PEASE, Mr. WHITEHURST, Mr. YOUNG of Alaska, and Mr. LAGOMARSINO):

H.R. 9442. A bill to amend the National Trails System Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.R. 9443. A bill to prohibit federally insured banks from making loans to provide for the purchase of bank stock, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HILLIS:

H.R. 9444. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. JENRETTE:

H.R. 9445. A bill to prohibit actions under certain antitrust laws against associations engaged in the export trade unless the Federal Trade Commission has given such associations a reasonable opportunity to readjust their business to comply with applicable law; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. McHUGH (for himself, Mr. WEAVER, Mr. BEILENSON, Mr. PANETTA, Mr. CORNELL, Mr. LAFALCE, Mr. HUGHES, Mr. VENTO, Mr. OBERSTAR, Ms. KEYS, Mr. LLOYD of California, Mr. EDGAR, Mr. MURPHY of Pennsylvania, Ms. HOLTZMAN, Mr. PATTISON of New York, Mrs. FENWICK, Mr. EDWARDS of California, Mr. RICHMOND, Mr. LUNDINE, Mr. NOLAN, Mr. SIMON, Mr. BALDUS, Mr. KILDEE, Mr. MAGUIRE, and Mrs. COLLINS of Illinois):

H.R. 9446. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committee on Agriculture, and International Relations.

By Mr. MILLER of California (for himself, Mr. AKAKA, Mr. LOTT, Mr. PATTERSON of California, Mr. ROE, Mr. ROGERS, and Mr. WHITEHURST):

H.R. 9447. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, serving, or sale of recreational boats; to the Committee on Education and Labor.

By Mr. PEPPER:

H.R. 9448. A bill to amend section 312(l) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. QUIE (for himself, Mr. FRASER, Mr. FRENZEL, Mr. OBERSTAR, Mr. HAGEDORN, Mr. NOLAN, Mr. VENTO, and Mr. STANGELAND):

H.R. 9449. A bill to name a certain Federal building in Washington, D.C., the Hubert H. Humphrey Building; to the Committee on Public Works and Transportation.

By Mr. ALLEN:

H.R. 9450. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, to amend the National Bank Act, to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, to establish a Federal Bank Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FINDLEY:

H.R. 9451. A bill to provide for the review of the behavior of individual justices and judges by three-judge panels; to the Committee on the Judiciary.

By Mr. ICHORD (for himself and Mr. TAYLOR):

H.R. 9452. A bill to amend title II of the Social Security Act, the Internal Revenue Code of 1954, as amended, and the Railroad Retirement Act of 1974 to permit combined reporting of wages by employers for old-age, survivors, disability, and health insurance and income tax withholding purposes on an annual basis, and for other purposes; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. RHODES, Mr. MICHEL, Mr. CUNNINGHAM, Mr. CARTER, Mr. ROUSSELOT, Mr. BEARD of Tennessee, Mr. RAILSBACK, Mr. O'BRIEN, Mr. COHEN, and Mr. LIVINGSTON):

H.R. 9453. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. WIRTH, Mr. REGULA, Mr. ABDNOR, Mr. AKAKA, Mr. AMBRO, Mr. BADILLO, Mr. BAUCUS, Mr. BROWN of California, Mr. CARR, Mr. CONYERS, Mr. DRINAN, Mr. ECKHARDT, Mr. EDGAR, Mr. EDWARDS of California, Mr. FARY, Mr. FISHER, Mr. FRASER, Mr. FRENZEL, Mr. GUYER, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HARRIS, and Mr. HEFTEL):

H.R. 9454. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. MOFFETT, Mr. BYRON, Mr. HILLIS, Ms. HOLTZMAN, Mr. JEFFORDS, Mrs. KEYS, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEGGETT, Mr. LEHMAN, Mr. MCCLOSKEY, Mr. MAGUIRE, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. ROE, Mr. RICHMOND, Mr. SIMON, Mrs. SPELLMAN, Mr. STUDDS, Mr. VAN DEERLIN, Mr. WHALEN, and Mr. WOLFF):

H.R. 9455. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. MARKEY (for himself and Mr. MOFFETT):

H.R. 9456. A bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself and Mr. STARK):

H.R. 9457. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. SARASIN (for himself, Mr. BLANCHARD, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. ERTEL, Mrs. LLOYD of Tennessee, Mr. JOHN T. MYERS, Mr. PEASE, Mr. SCHULZE, Mr. SEBELIUS, Mr. THONE, and Mr. WALKER):

H.R. 9458. A bill to improve the safety of products manufactured and sold in interstate commerce, to reduce the number of deaths and injuries caused by such products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself and Mr. KEMP):

H.R. 9459. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FLYNT (for himself, Mr. ADDABBO, Mr. BARNARD, Mr. BRINKLEY, Mr. EVANS of Georgia, Mr. GINN, Mr. JENKINS, and Mr. MCDONALD):

H.J. Res. 613. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.J. Res. 614. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service.

By Mr. DENT (for himself, Mr. PERKINS, Mr. GIBBONS, Mr. QUIE, Mr. ERLENBORN, and Mr. CONABLE):

H. Con. Res. 369. Concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans; jointly, to the Committees on Ways and Means, and Education and Labor.

By Mr. RYAN (for himself, Mr. BADHAM, Mr. BEDELL, Mr. BEILENSON, Mr. BONIOR, Mr. CONABLE, Mr. CORMAN, Mr. DINGELL, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Mr. FRASER, Mr. GILMAN, Mr. HARRINGTON, Mr. HEFTEL, Ms. HOLTZMAN, Mr. JEFFORDS, Mr. LENT, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MURPHY of Pennsylvania, Mr. ROE, Mrs. SPELLMAN, and Mr. STUDDS):

H. Con. Res. 370. Concurrent resolution urging the International Whaling Commission to implement a 10-year moratorium on the commercial killing of whales, and for other purposes; to the Committee on International Relations.

By Mr. RYAN (for himself, Mr. STARK, Mr. THOMPSON, Mr. ULLMAN, Mr. VENTO, Mr. WALGREN, Mr. WAXMAN, and Mr. YOUNG of Florida):

H. Con. Res. 371. Concurrent resolution urging the International Whaling Commission to implement a 10-year moratorium on the commercial killing of whales, and for other purposes; to the Committee on International Relations.

By Mr. OBEY (for himself, Mr. PRICE, Mr. MEEDS, Mr. HAMILTON, Mr. D'AMOURS, Mr. FRASER, Mr. EDGAR, Mr. BLOUIN, Mr. EILBERG, Mr. CORNELL, Mr. VENTO, Mr. MAZZOLI, Mr. FASCELL, Mr. BINGHAM, and Mr. BALDUS):

H. Res. 816. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; divided and referred as follows: Titles I, II, III, IV, V, and VII to the Committee on Rules; and title VI to the Committee on House Administration.

By Mr. PRESSLER:

H. Res. 817. Resolution to amend rule XXI of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. YATES:

H. Res. 818. Resolution disapproving proposed deferral of budget authority No. D78-19 in the amount of $12 million for Trust Territory of the Pacific Islands, Office of Territorial Affairs, Department of the Interior, for construction of an airport in the Kosrea District of the Trust Territory of the Pacific Islands; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Ms. MIKULSKI (by request) introduced a bill (H.R. 9460) for the relief of Marian Cybula; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9375

By Mr. OTTINGER:

Page 10, line 17, strike out "$167,000,000" and insert in lieu thereof "$186,000,000".

H. RES. 766

By Mr. FRENZEL:

On page 50, strike line 12 and all that follows through line 24.

Strike section 607 in its entirety.

EXTENSIONS OF REMARKS

LEGISLATION TO PROVIDE MEDICARE COVERAGE FOR HYPERTENSION SCREENING, DIAGNOSIS, AND TREATMENT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. PEPPER. Mr. Speaker, on July 21, the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, conducted a hearing to examine the problem of hypertension among the elderly. To some, high blood pressure may be an unexciting subject—nothing to make a fuss about. But to those who suffer from hypertension and its devastating consequences—stroke, heart attack, cardiovascular disease, and kidney failure—it is clearly a matter of life and death. Hypertension, or high blood pressure, affects some 23 million Americans. As its prevalence increases with age, a disproportionate number of Americans over 65 suffer from high blood pressure. While those over 65 comprise only 10.7 percent of the population, they account for almost 40 percent of the hypertensive population. It is also very discouraging to note that between 35 and 40 percent of the population over 65 suffer from high blood pressure.

Mr. Speaker, officials of the Department of Health, Education, and Welfare have estimated that hypertension causes at least 200,000 deaths a year because of its involvement with serious illness. And the Social Security Administration has indicated that high blood pressure and its consequences are responsible for the largest number of disability claims. Moreover, the costs to Federal medical programs and to private insurance of treatment and rehabilitation for heart attack and stroke victims is enormous.

Taken in hard, cost-effective terms, treatment of hypertension before it gets out of hand could save the Federal Government billions of dollars in disability benefits and medicare payments. The Social Security Administration estimates that the Federal Government made $3.4 billion in disability payments resulting from heart and kidney diseases in 1976. Some 175,000 new heart cases were added to the rolls that year alone. It is estimated that medicare will have paid out some $6.5 billion in 1977 for all kinds of care related to circulatory ailments. These figures do not even take into account the enormous expenditure that is made by Federal and State governments under medicaid.

On the other hand, screening, diagnosis, and treatment for high blood pressure can be relatively inexpensive. It has been estimated that the cost of detecting hypertension is 50 cents. According to the National Center for Health Statistics, the annual cost for treatment of hypertension averages $200 per person, including laboratory costs, physician visits, and medication. But expert testimony presented during the July 21 hearing placed the yearly cost of treatment at $95, and the first year, including an initial work-up, at $120.

This is a small sum for the Federal Government, when you take into consideration the overall cost-savings and social benefits of preventing serious illnesses.

In light of the prevalence of high blood pressure and its serious consequences among the elderly, and the cost-saving which could be realized by detection and treatment of hypertension in its early stages, I am today introducing a bill which would amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension.

It is my strong belief that the administration and the Congress should give early and favorable consideration to this legislation. I have been encouraged by President Carter's willingness to place greater emphasis on preventive health care. In a speech before the American Public Health Association last October, then-candidate Jimmy Carter said:

> Prevention is both cheaper and simpler than cure. But we have stressed the latter—cured—and we have ignored, to an increasing degree, the former—prevention.

We can translate this commitment into

solid progress by enacting the bill I introduce today. This bill will make it possible for individuals to obtain diagnosis and treatment under medicare. Witness after witness indicated that hypertensives would be likelier to seek treatment and remain on medication if the cost of these services was covered.

Mr. Speaker, the proposal I offer has been endorsed by the American Heart Association, the Citizens for the Treatment of High Blood Pressure, Inc., whose chairman is Michael E. DeBakey, M.D., renowned heart surgeon, and the American Nurses Association. I insert letters I have received from these organizations to be printed at this point in the RECORD:

[Mailgram]

DALLAS, TEX.,
July 29, 1977.

Hon. CLAUDE PEPPER,
U.S. Representative, Rayburn House Office Building, Washington, D.C.
Attention Lou Bracknell.

DEAR SIR: The American Heart Association would like to commend you for introducing a bill amending title XVIII of the Social Security Act to include coverage of preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension. As an agency dedicated to reducing premature death and disability from heart and blood vessel diseases. The Heart Association has placed the control of high blood pressure or hypertension among its foremost national priorities. Barring technical points with which we may be unfamiliar, your bill merits and shall receive our strongest support. As you are well aware, the population that could be reached through enactment of this amendment to the Social Security Act represents only a small portion of the over 24 million hypertensives in this country. In a substantial number of these persons, the disease is not adequately controlled. Leading to greater risks of coronary heart disease, stroke, congestive heart failure, and kidney failure. At your invitation, the American Heart Association would be delighted to work with you to design a more comprehensive approach to this major national health problem.

The Heart Association and its more than 100,000 lay and professional members are prepared to offer whatever support you may need in securing passage of this bill into law. Please advise us as to the actions that would best assist you.

Very truly yours,

HARRIET P. DUSTAN, M.D.,
President,
American Heart Association.

CITIZENS FOR THE TREATMENT OF
HIGH BLOOD PRESSURE, INC.,
Washington, D.C., August 12, 1977.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging, U.S. House of Representatives, New Jersey Avenue SE., Washington, D.C.

DEAR CONGRESSMAN PEPPER: Citizens for the Treatment of High Blood Pressure is a voluntary organization of people vitally interested in a national campaign to treat and control hypertension. I have the honor of being Chairman of the Board of Directors of the organization since 1972, when it was founded.

We heartily endorse the legislation which you have proposed to amend the Medicare law in order to provide coverage for the screening, diagnosis and treatment of hypertension. At the hearings which you held in July on this matter, your Committee received in testimony from both government officials and non-governmental witnesses a clear and devastating picture of the cost in lives as a consequence of his disease. Doctor Robert Levy, Director of the National Heart, Lung and Blood Institute, testified that high blood pressure is the most important factor contributing to the development of strokes which kill approximately 200,000 persons and disable over 250,000 each year in the United States. Doctor Levy also pointed out that hypertension is a major factor in 65 percent of the 650,000 heart attack deaths that occur each year in the United States.

The elderly are the hardest hit by this disease, since the prevalence rate of definite hypertension increases rapidly with age. Among those of our citizens in the 65–74 age bracket, approximately 40 percent or 5,600,000 have definite hypertension. Furthermore, in the age group above 74 years, an additional 40 percent—estimated at 3,200,000—have high blood pressure.

We can point to some solid successes in the five years since our organization along with other medical and voluntary health organizations joined forces in this campaign. Over six million previously undiagnosed patients have been detected. Since 1972, heart attacks in this country are down more than ten percent and deaths from strokes have declined by twenty percent. With these gains, the average life expectancy of Americans has increased by over one year in the past five years and we now have the lowest death rate in our nation's history.

However, despite these truly miraculous gains, we still have a long way to go. Of the approximately 23 million Americans with high blood pressure, seven million are unaware of their condition and another ten million, while aware that they have high blood pressure, are either not on treatment or they are on inadequate therapy to control their disease.

We, therefore, are in enthusiastic support of the proposed legislation and will do everything we can to insure its passage.

Sincerely,

MICHAEL E. DEBAKEY.

SEPTEMBER 6, 1977.

Hon. CLAUDE PEPPER,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN PEPPER: The American Nurses' Association (ANA) is pleased to endorse and comment on your proposed bill to include Medicare coverage for screening, diagnosis and treatment of hypertension. The ANA is represented on the Coordinating Council of the National High Blood Pressure Education Program and was a sponsor of the Task Force on Nursing in High Blood Pressure Control.

Registered nurses have been very active in the care of patients with high blood pressure, and many such special clinics are directed by nurses in consultation with a physician. As Dr. Frank Finnerty stated in his testimony before your committee on July 21, 1977, ". . . incorporating the nurse and paramedic into the long-range management . . . greatly enhances patient compliance and adherence. . . ." In addition, he said that "With a trained nurse effectively directing the clinic in consultation with a physician and assisted by two paramedics, 30 to 40 patients can be easily seen per day."

With the above in mind, we would recommend for your consideration the following minor additions and changes of language in your proposed legislation. These changes, we feel, will ensure that payment under Medicare would be provided where registered nurses are primarily directing the care of the hypertensive patient.

On page 2 of draft bill, Sec. 1861(s)(2), new subparagraph E, line 5, add after "physician," the words "or in consultation with a physician," and; "Sec. 1835(a)(2), new subparagraph E, second line from bottom of page 2, delete "physician" and insert "primary health care provider."

We believe these changes will not in any way detract from the intent of your proposed bill and should, in fact, broaden the covered services to many elderly patients.

The ANA appreciates the opportunity to comment on, and endorse, this proposed legislation and hope that we can continue to work with you on any aspect of health care for the elderly population. If we can provide you with further information on this bill, please contact Ms. Jackie Brunell of our office who is legislative coordinator.

Sincerely,

CONSTANCE HOLLERAN,
Deputy Executive Director, Government Relations Division (Washington Office).

INSTITUTE FOR POLICY STUDIES CONTINUES KGB AGENT LETELIER'S "HUMAN RIGHTS" PROJECTS ON CAPITOL HILL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McDONALD, Mr. Speaker, the Marxist intellectuals of the Institute for Policy Studies (IPS) and its Transnational Institute subsidiary have smoothly picked up the so-called "human rights" campaign begun by KGB agent Orlando Letelier despite some initial embarassment caused by Letelier's exposure following his death last year.

As my colleagues will recall from the text of the letters and other documents from Letelier's briefcase which I earlier placed into the CONGRESSIONAL RECORD Letelier's mission as an "agent of influence" of the Soviet KGB spy apparatus assigned to work with a Cuban case officer using diplomatic cover at the United Nations was to cultivate leading liberal congressional figures, administration officials and academics to use the "human rights" and "political repression" issues in such a way as to split the United States from its traditional allies in Latin America and other parts of the world.

Letelier's Washington, D.C., activities were being financed with money from Communist Cuba and from the Helsinki-based World Peace Council (WPC), the principal Soviet front urging disarmament of the West on one hand while providing logistical support to the many Soviet-sponsored terrorist movements on the other. Letelier used this money to pay for the expenses of congressional and private figures so that they would participate in WPC-initiated international Communist front activities.

A letter from Orlando Letelier to Beatrice Allende Fernandez, the wife of a top-ranking Cuban secret police official, CONGRESSIONAL RECORD, June 23, 1977, which was dated March 29, 1976, discussed a Human Rights Committee being run in Washington by his wife, Isabel Letelier. The letter said:

As you know, it was desired to maintain this Committee as an apolitical or non-partisan scheme, oriented solely to the problems of human rights. The object is to mobilize the "liberals" and other people who do not identify with us from an ideological point of view, but who do at least do so in matters of human rights. * * * It is incredible that Isabel and a small number of people have been able to put together an apparatus that

includes an office, a program of work, a lot of prestige, etc.

Letelier urged Mrs. Fernandez not to publicize Isabel Letelier's Human Rights Project from Cuba lest Congressmen and other prominent U.S. liberals associated with it should realize its link to Cuba, become suspicious and drop their support. He also stated in the letter that his wife would be writing directly to Beatrice Allende in Cuba "giving you the information about the Committee." Incidentally, Letelier's Cuban expense accounts, paid from Havana, list a monthly expense of $130 for "office rent."

Other Letelier letters to leaders of the Marxist Unidad Popular coalition living in East Germany described how useful Letelier's position as director of the IPS Transnational Institute was to his real work, providing him with travel money and "academic cover" for trips to meet with foreign revolutionaries, agents, and terrorists.

Did Orlando Letelier's coworkers at IPS reject his activities and projects after his role as a top Soviet agent was exposed? No, not at all. Instead IPS chieftains Richard Barnet, Marcus Raskin, and Letelier's replacement as TNI director Saul Landau formed a propaganda team to denounce divulgence of Letelier's documents and claim a "smear."

IPS then picked up itself the costs of Mrs. Isabel Letelier's "human rights" apparatus, as her husband so frankly termed it, and put her on the TNI payroll. For fund-raising purposes, IPS set up the "Letelier-Moffitt Memorial Fund" which then assumed sponsorship of the Human Rights Education Project (HREP) headed by Mrs. Letelier. HREP's initial offices were in the quarters vacated by the Indochina Resource Center (IRC) and Indochina Mobile Education (IMEP) Project which closed down in December 1976. Closely associated with IPS, the IRC and IMEP leaders were Fred Branfman, now active in California with IPS's National Conference of Alternative State and Local Public Policies (NCASLPP); Don Luce, now codirector of the "anti-imperialist" Clergy and Laity Concerned (CALC) and continuing his activities on behalf of the Vietnamese Communist regime; and D. Gareth Porter, again an IPS fellow and organizer of an anti-South Korea conference on Capitol Hill held September 19–20, 1977.

Gareth Porter and Jeff Stein imported as the principal Japanese elected for their conference on Capitol Hill, CONGRESSIONAL RECORD, September 26, 1977, 30995 and following pages, Hideo Den, a member of the House of Councilors elected on the Socialist Party ticket. Hideo Den is also a leader of the Japan-Korea Association, a front controlled by the North Korean Workers (Communist) Party and the North Korean Government. Mr. Den is helping to organize a 1978 international conference in support of Korean "reunification" that is being sponsored by the U.S.S.R.-run World Peace Council and which is to be held in Tokyo.

As a preliminary to the IPS Congressional Conference on Latin America, IPS/TNI sponsored a small award ceremony on September 19 at which Isabel Letelier, now a TNI fellow, and Michael Moffitt received the first Letelier-Moffitt Human Rights Award.

The award ceremony was also used to promote the commencement of HREP's first nationwide tour focusing on "repression of human rights" in the "Southern Cone" countries in Latin America—Argentina, Chile and Uruguay. It is noted that each of these countries has been engaged in fighting major Cuban- and Soviet-backed terrorist movements, and that these terrorist organizations—the Argentinian ERP, the Chilean MIR, and the Uruguayan Tupamaros—work together and coordinate their activities.

By "represention of human rights," the Castroites and U.S. revolutionaries are actually referring to the suppression of revolutionary terrorism and subversion in countries in which a de facto civil war existed.

Despite Letelier's exposure as a KGB influence peddler on Capitol Hill, the organizations with which he worked and developed his masters' scenarios such as IPS, the Council on Hemispheric Affairs (COHA), the Institute for International Policy of the Fund for Peace, the Fund for the New Priorities in America and the like are continuing the program Letelier established.

Attached is an account of the conference, "United States-Latin American (Southern Cone) Policy and Human Rights," held last week which appeared in the latest issue of the Information Digest, a newsletter on U.S. political and social movements:

(Article follows:)

SON OF LETELIER: CONGRESSIONAL CONFERENCE ON LATIN AMERICA

A conference entitled "U.S.-Latin American (Southern Cone) Policy and Human Rights" was held in the Dirksen Senate Office Building, September 27, 1977. The "Southern Cone" conference had its origins in plans for a virtually identical conference announced early in the summer by Laurence R. Birns, director of the Council on Hemispheric Affairs (COHA). However following COHA's exposure as a pro-Castroite pressure group established with the assistance of the late Orlando Letelier, a KGB agent active with the Institute for Policy Studies (IPS), the IPS' Transnational Institute (TNI), the Center for International Policy (CIP) and the network of Chilean Marxist exile and support groups, and after COHA was roundly condemned by Senator Jesse Helms (R–SC) and other Congressional figures for unethical and unauthorized use of their names, COHA was unable to maintain credibility or develop sufficient support. Thus overt sponsorship of the Latin American conference mainly reverted to those groups from which COHA had selected its trustees. These included:

Funds for New Priorities in America (FNPA), a New York based pressure group whose members are drawn from the McGovernite and Americans for Democratic Action (ADA) wings of the Democratic party and from the more "socially acceptable" Old Leftists from the trade unions, academia and business such as sponsor the National Emergency Civil Liberties Committee.

Institute for Policy Studies (IPS), a New Left Marxist think-tank based in Washington, D.C., developing scenarios for a radically altered America while doing what it can to hasten the collapse of the present society by a variety of tactics ranging from developing programs to dismantle and cripple the U.S. foreign and domestic intelligence-gathering capability through hiring members of terrorist and revolutionary organizations to making direct contacts with Administration and Congressional officials and staffers.

Americans for Democratic Action (ADA), a liberal political action organization now headed by Senator George McGovern (D-SD).

Clergy and Laity Concerned (CALC), a self-described "anti-imperialist" organization which has said its task "is to join those who are angry and who hate the corporate power which the United States presently represents" to help "liberate" both the Third World and the U.S. "from its reactionary and exploitative policies." CALC leaders include Don Luce, formerly of the Indochina Resource Center; Cora Rubin Weiss, daughter of IPS/TNI financial backer Samuel Rubin and wife of principal IPS trustee, Peter Weiss.

Center for International Policy (CIP), a project sponsored by the Fund for Peace and staffed principally by IPS associates of which Orlando Letelier was a director. The several FFP projects such as the Center for Defense Information (CDI) and Center for National Security Studies (CNSS) which are also staffed by IPS veterans have ties to the World Peace Council, an international Soviet front for mobilizing "world public opinion" on one hand while providing logistical support for Soviet sponsored terrorist groups on the other.

Washington Office on Latin America (WOLA), a "human rights" pressure group funded by several religious denomination administrative bodies which has sponsored Marxists supporting Castorite terrorist groups as experts on human rights abuses.

Amalgamated Meatcutters and Butcher Workmen of North America, a trade union whose international vice-president, Abraham Feinglass, an identified Communist Party, U.S.A. member, is one of the leading activists in the "Chile solidarity" movement in support of the Unidad Popular. Feinglass was a featured speaker earlier this year at an FNPA banquet in New York to honor Senator McGovern.

National Council of Churches, Human Rights Division.

United Methodist Church, Board of Church and Society.

United Federation of Social Workers.

American Public Health Association.

United Auto Workers (UAW), a trade union which provides COHA's Larry Birns with a headquarters and message center when he is in Washington, D.C. COHA head Larry Birns had lobbied heavily for the appointment of UAW Washington International Director Estaban Torres's appointment as Assistant Secretary of State for Inter-American Affairs, the position filled by Terence A. Todman. Although invited to participate in the conference, Mr. Torres did not attend: two weeks earlier he had been appointed U.S. delegate to UNESCO.

Conference moderator was Fr. Thomas Quigley of the U.S. Catholic Conference Office of International Justice and Peace. The opening speaker was Abelardo Valdez, Assistant AID Administrator for Latin America and Deputy Coordinator of the Alliance for Progress, who said that Latin American peasants were "catalytic agents of social and economic change." After stating that "polical systems where the people participate in economic and social decisions that effect their lives" needed to be developed in Latin America, the Administrator went on to describe several U.S.-funded legal aid programs for Latin American Indians and women which, he said, were already having an effect.

State Department Administrator of the Office of Humanitarian Affairs Patricia Derian described the step-by-step "consciousness raising" and manipulation of Latin American government officials on the "human

rights" issue. She predicted that "in the next few years we'll see some aggressive actions" by the Administration on human rights, but cautioned that "a lot will depend on continued pressure." Mrs. Derian's Deputy Administrator, Mark Schneider, a writer closely associated with IRS and Orlando Letelier who left Senator Kennedy's staff to take the State Department post, was slated to speak, but did not appear.

Rev. Brady Tyson, an aide to Ambassador Andrew Young at the United Nations, saw the U.S. entering a "post polemical" stage in which "ideological diversity" would be respected. Said Tyson, a founding incorporator of the North American Congress on Latin America (NACLA), "there are forms of dignity in socialist countries we need to learn about."

A luncheon meeting was keynoted by Senator McGovern who supported the new human rights policies as being "on the right track." Senators Gravel, Kennedy, Javitz and Mathias made brief appearances; however the principal Congressional speaker was Representative Tom Harkin (D–IA).

In an emotional opening, Harkin stated, "I defy anybody in this room, anybody in the Administration * * * to show me one military government at any time in history that respected human rights. They don't do it; it's not where their heads are. * * * It's not in their mind-set." He described his visit to Chile accompanied by Joe Eldridge of WOLA during which he met with Unidad Popular supporters, some of whom had been detained by the military junta. He then severely criticized the U.S. for not admitting large numbers of Chilean Socialist Party members on the grounds they were communists. Rep. Harkin appeared totally oblivious to the fact that the Chilean Socialist Party was in fact a Castroite communist (Marxist-Leninist) party that had worked for over a decade in intimate coalition with the more traditional Moscow-dominated Communist Party.

Ramsey Clark, who in 1975 with Peter Weiss tried to join the Baader-Meinhof defense team, attacked U.S. admittance of Vietnamese refugees as a "rip-off by the U.S. of Vietnamese resources," possibly indicating agreement with the Vietcong/Khmer Rouge view that "manpower" is a state resource.

Other speakers included:

* Roberta Salper, an IPS/TNI fellow who under KGB agent Letelier's direction ran the IPS/TNI Ad Hoc Working Group on Latin America of which staff members of the private Linowitz Commission were members. Salper in 1973 was a member of the U.S. Zone Central Committee of the Castroite Communist Puerto Rican Socialist Party (PSP).

Richard Fagen, Linowitz Commission consultant, IPS/TNI Ad Hoc Working Group member, COHA trustee, and sponsor since its 1967 founding of the U.S. Committee for Justice to Latin American Political Prisoners (USLA), a front of the Trotskyist communist Socialist Workers Party (SWP). Fagen has sponsored the Venceremos Brigade's 26th of July celebrations and other pro-Cuban endeavors. Fagen received Ford Foundation grants in 1967–68, 1969 and 1972–73, during which latter period he lived in Chile under the Allende regime. In 1969 he traveled to Cuba with a group of U.S. revolutionaries, most of whom were members of the SDS Weatherman faction, to meet with a group of Communist North Vietnamese and Vietcong officials. Mrs. Patricia Weiss Fagen, active in campaigns to bring into the U.S. Chilean "refugees," is now on the staff of the CIP, whose literature was extensively distributed during the conference and provided a basis for discussion. CIP credited its accounts of human rights violations in Argentina, Chile, Nicaragua and other countries resisting Castroite terrorist movements to assistance from the North American Congress on Latin America (NACLA), the Pacific Studies Center (PSC), CALC, WOLA, the Military Audit Project, Amnesty International, the Coalition for a New Foreign and Military Policy (CNFMP), Friends of the Filipno People (FFP), and the Argentine Commission on Human Rights (ACHR), headed by a U.S. citizen named Olga Talamante who was arrested in Argentina in the company of members of the terrorist Montoneros and ERP and who since her release has been working with a support group for the Chilean terrorist MIR called Non-Intervention in Chile (NICH).

William Goodfellow, CIP economist and former director of research for the Indochina Resource Center, until its demise at the end of 1976 a source of uncritically approving literature on the new communist regimes in Vietnam, Laos and Cambodia.

Leonel Castillo, Immigration and Naturalization Service Director, who assured the conference that ways were being developed to bring U.S. refugee admittance standards into alignment with the U.N. so that refugees from anti-Marxist governments could soon be freely admitted.

Laurence R. Birns, COHA director and ubiquitous figure during the day-long conference, taking a leading role in making sure the discussions stayed on the correct track—coordinating Congressional cut-off of military and economic assistance to Latin American countries allied with the U.S. who are fighting major revolutionary terrorist and subversive threats, and seeking Congressional restrictions on private investments in those countries.

Additional speakers and participants included Ruth Gage-Colby of the Women's International League for Peace and Freedom (WILPF); Sam Chavkin, FNPA; Joe Eldridge, WOLA; Juan Ferreira, a Uruguayan staffer at WOLA who also runs the Uruguay Information Center; Hector Sandler, "a leader of the democratic and progressive sector of the Peronist Movement, exiled in Mexico" since the 1976 Argentinian military coup; Chilean former Allende cabinet minister Sergio Bitar now living in Venezuela; Bolivian Socialist Party leader Marcelo Quiroga-Santa Cruz, teaching at Mexico's National University since 1971; Martin Rothstein, FNPA; Georgio Solimano, Columbia University College of Physicians and Surgeons; and William E. Lang, Deputy Director of the Defense Security Agency. It is noted that "Dear Colleague" letters circulated by Rep. Harkin and Senator McGovern netted some thirty-two Congressional cosponsors.

AIRLINE DEREGULATION DESERVES FULL ATTENTION OF CONGRESS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. RISENHOOVER. Mr. Speaker, the issue of airline deregulation deserves the full attention of Congress. In our consideration, the views of those who do the flying deserve full attention.

A veteran commercial pilot, Capt. John O'Donnell who is president of the Air Line Pilots Association, recently testified before the House Government Operations Committee on the impact of deregulation on aviation safety.

With my own 3,000 hours of flying time in the Air Force, I certainly have an open mind and keen interest in what Captain O'Donnell, with his 25 years of experience, has to say about deregulation and air safety.

I include Captain O'Donnell's statement to be included in the RECORD:

STATEMENT OF CAPT. JOHN O'DONNELL

Our concerns for air safety precipitated by the deregulation legislation can be organized into three major areas, namely, increased competitive airline activity by: 1) present certificated carriers, 2) uncertificated commuter airlines, and 3) new entrants into air transportation. Each of these presents a different set of circumstances relating to safety.

Before analyzing each, it is essential to briefly summarize the present day operational environment which currently influences the safety of air carriers. The Federal Aviation Regulations governing certificated carrier operations generally fall into Part 121 and represent *minimum* safety standards. Mr. Chairman, I stress the word *minimum*. The operating practices, training and procedures for cockpit crews, cabin crews, and ground crews are developed by manufacturers and airlines. Although basically approved by the FAA; in almost every case, they substantially *exceed* the minimum requirements of the Federal Aviation Regulations.

A few examples of where airlines have exceeded the minimum standard established by the FAA are:

(1) The FAA authorizes circling approaches to airports when the ceiling is 500 feet and visibility is 1.5 miles. TWA and Delta do not authorize these circling approaches unless the ceiling is at least 1,000 feet and the visibility is greater than three miles. This is a practice of most U.S. airlines.

(2) Some turbine engines experience surging. The FAA does not require an engine change after that engine fails the surge test. Most airlines require engine change within 50 hours after that engine fails the surge tests.

(3) In order to avoid in-flight engine shut downs some airlines, have a more stringent engine vibration limit test and turbine blade crack test than that allowed by the FAA.

In addition to the above examples, most airlines have a policy of incorporating safety changes and modifications prior to the time prescribed by the Airworthiness Directives of the FAA.

Operating in this manner is a very costly endeavor. It is naive to suggest that justification for incurring such costs would *not* be influenced by increased competition. It does not require an economist to predict that these extra costs will be among the primary cost-cutting actions carriers will be obliged to take in a cut-throat competitive environment.

In addition to the self-imposed high safety standards, the reality of the air transportation industry safety record is heavily dependent upon self-monitoring. The overburdened and understaffed FAA would be hard pressed to supervise compliance with operations and maintenance standards manated under Part 121 of the Federal Air Regulations (FAR's) without the aid of the certificated airlines. Self-monitoring by the industry has made it possible therefore, to achieve and maintain the enviable safety record which the public now enjoys.

In Miami, for example, one FAA Principal Maintenance Inspector (plus one back-up inspector), is responsible for the surveillance of Eastern Air Lines' primary maintenance base, employing 3,500 personnel. Another inspector is responsible for National Airlines' 1,000-man maintenance operation. In addition to his principal workload, this National Inspector is charged with supervising the on-line maintenance operations of Airlift International, United, Braniff, and Delta. This small FAA staff must also oversee the 129 odd-flying clubs operating large aircraft, as well as foreign owned, but U.S. registered aircraft.

Miami, is by no means an isolated case. One FAA inspector surveys the enormous 2,500-man Delta Air Lines' primary maintenance base in Atlanta, while the principal Southern Airways inspector has the primary responsibility for "only" 300 technicians. However, he also has the "secondary" assignment of overseeing 1,000 Eastern Air Lines personnel in addition to the smaller United, TWA and Piedmont maintenance operations.

Thus, the FAA's mandate of supervising safe maintenance procedures has evolved into one of monitoring airline's maintenance logs. Any vision of vigilant FAA inspectors checking the maintenance operations of every airplane is more myth than reality. In fact, the lion's share of maintenance necessarily takes place in the midnight shift, long after the "8–5" working inspectors have gone home. In effect, the responsibility for safe maintenance has been delegated to the airlines themselves. This essentially good faith system works only because the safety standards of today's air carriers almost always exceed those of the FAA.

This fragile airline-FAA relationship, in our view, cannot survive the effects of deregulation. Relaxed entry provisions are designed primarily to provide more opportunity for new companies to get into the airline business. Representatives of a number of them testified in support of deregulation in hearings before the Senate Small Business Committee last year, and before the House Aviation Subcommittee this year. There is no question that these entrepreneurs are anxious to get started, and they are looking to deregulation to provide them with their opportunity. It is equally certain that they will not bring with them into the business the enormous investments in safety facilities and programs, and experienced personnel which have been a major part of the overhead of established airlines for years.

The relative inexperience of the maintenance personnel of new airlines could very well cripple the current FAA inspection/monitoring system. Their lack of expertise will force the FAA to lessen its dependence upon airline personnel in order to adequately insure compliance with the FAR's. But, the FAA, already spread too thin, will not have the available manpower to substitute their personnel for airline personnel. The result will be an overall decline in maintenance surveillance—and as the pressure for competition escalates, this will most certainly mean an overall decline in safety.

A similar situation exists with respect to flight operations, where almost all check rides are conducted by the company check airmen. The only requirement for actual FAA involvement is to approve the initial Type Rating and to observe each Pilot in Command at least once a year.

The ability of the FAA to monitor operations and maintenance of air carriers becomes even more limited in the case of commuter airlines. In most instances, their operations and maintenance is under the jurisdiction of the local General Aviation District Office (GADO). GADO's do not have the manpower to assign a Principal Maintenance Inspector, Principal Avionics Inspector and Principal Operations Inspector to each air taxi and commuter airline. We are told that in regard to the 4,000 operators falling into this category, the FAA has sufficient resources to inspect only a handful of the larger operators, and then only at two-year intervals. We have also been told by the FAA that if there were a significant increase in the number of airlines, a proportionate impact on field resources would result. They went on to say that they were simply not staffed to cope with such an increase in the number of carriers. In addition, a considerable lead time would be necessary to secure and train any additional personnel authorized, before the FAA would be operationally geared to handle the increased workload generated by deregulation. This clearly predicts a staggering increase in FAA manpower and potentially more, not less, regulation.

Experience shows that the present air transportation system safety record is not achieved because of close, government surveillance, but rather by responsible industry employees, unions, and industry managements concerned for the safety of the travelling public. If our present regulatory framework is modified to place more demands on the FAA system and to discourage the present system of self-monitoring, one can only conclude that a serious degradation of safety is inevitable.

Let us return for a moment to the problem which might be presented by a substantial relaxation of entry criteria. First, for those airlines already established and certificated, relaxed entry clearly represents increased competition and a prospect of changing markets and competitors. Such an environment will greatly increase the pressure to reduce operating costs.

Deregulation, we believe, will lead to severe financial instability for a number of airlines And the degree of safety is inextricably related to financial stability. A 1972 National Transportation Safety Board study of commuter airlines discovered a direct connection between profitability and safe airline operations—there is no reason to believe that the situation is any different for certificated airlines. A marginal operation, facing stiff competition from other carriers, will be pressed to meet its schedule on every flight, even if that means flying substandard equipment. When the operations schedule takes precedence over the maintenance schedule, safety will suffer. Coupled with the inability of the FAA to adeqautely enforce the regulations it imposes, the flying public will no longer be able to take air safety for granted.

One of the obvious reactions to achieve this end would be a regression of operational procedures to the existing minimum FAA requirements. Further pressures will result in other reduced safety margins where FAA monitoring is difficult or non-existent. This trend will unquestionably lead to a deterioration of safety margins—a situation which ultimately translates into accidents.

The second byproduct of deregulation that will adversely affect the level of safety in air travel is the substitution of commuter airlines for certificated airlines in small and medium-sized communities. This has been heralded as a major reform which would reduce costs and increase the frequency of service to consumers in these communities.

Indeed, the basic operating costs for typical commuters are substantially below those of certificated carriers. This is not, however, entirely due to more efficient management, more efficient aircraft or lower labor costs, as some would have us believe. A large proportion of the operating cost difference between certificated carriers and commuter airlines stems from the fact that these operators of small aircraft are governed by a different set of Federal Aviation Regulations. Part 121 of the FAR's which governs certificated carriers establishes considerably higher minimum standards of safety than those dictated by Part 135, which governs the commuter airlines. Those differences not only reflect substantial difference in margins of safety, but also result in considerable operating cost disparity between these two members of the air transportation system. An increasing reliance upon commuters may increase frequency of service, and possibly even reduce costs, but not without certain tradeoffs in the level of safety.

Commuter airlines operate under a different, and less stringent, set of FAR's than certificated carriers—Part 135 rather than Part 121. Without engaging in an overly technical discussion of the discrepancies between Part 135 and Part 121 the following broad areas of differences can be identified:

(1) Higher workloads for commuter crews resulting in increased stress and fatigue.

(2) Lower qualifications for commuter pilots.

(3) Lack of safety equipment on commuter aircraft.

(4) No copilots required in commuters.

(5) No aircraft dispatchers in commuter operations.

(6) Much less stringent maintenance requirements for commuter aircraft.

These differences become especially significant in light of the findings of an August, 1976 Aviation Consumer Action Project study of Commuter Airline Safety. The study concluded that the basic accident rate of commuters was five times greater (per million departures) than that of trunk carriers. Furthermore, most of the commuter accidents could be directly attributed to the differences between Part 135 requirements and those of the more stringent Part 121.

The safety implications of the commuters' less stringent maintenance requirements are well illustrated by a PRINAIR accident of July 11, 1975. This non-fatal accident resulted from the separation of one of the aircraft's propeller blades. The NTSB investigation concluded that PRINAIR "did not follow, nor was it required under existing regulations to comply with, manufacturer's recommendations." Although the manufacturers of the Continental engines used in PRINAIR's DH–114's recommended that the engine be overhauled every 1,500 hours, PRINAIR had been operating the engine 4,500 hours between overhauls—despite the manufacturer's warnings that such prolonged operations could precipitate undue propeller stress.

Similarly, PRINAIR ignored the propeller manufacturer's recommendations to overhaul propellers every 1,000 hours instead of every 1,500. In fact, just two weeks before the accident, on May 30, 1975, the manufacturer had advised PRINAIR of the seriousness of the matter, explaining its rationale for the imposition of rigid inspection procedures.

The 1972 NTSB study of commuters and air taxi operators concluded that there was a direct connection between the profitability and safety of commuter operations. "The financial condition of commuters is very closely related to the level of safety at which they operate." The study further noted that "when a commuter air carrier's profitability becomes marginal, safety considerations and priorities are usually the first to be strained and compromised." This is an alarming statement because almost all commuter operations are marginal—there has been an extremely rapid turnover in commuter airlines. Furthermore, as PRINAIR tends to show, not even the largest of the commuter airlines approaches the level of safety of even the smallest of the certificated carriers. Finally, commuters suffer from a lack of adequate FAA surveillance—the oversight is even scantier than for certificated carriers.

Yet despite this substantial safety differential, the airline consumer is being asked to entrust the commuters with a growing share of the nation's air travel. This appears to be a fundamentally unfair, as well as unsafe, demand. The NTSB study noted that at least part of the commuters' problems could be associated with the rapid expansion of the scope of their operations: "The rapid expansion of the commuter airlines does not permit stabilization within the industry and could prove detrimental in the establishment of safe practices." And this rapid growth will come at a time when the FAA, according to an internal briefing memorandum, is "not staffed to handle the expected increase in certification activity, and, further, even an authorized increase in personnel,

would be largely unproductive over the near term due to the lead time required to obtain and train new inspectors."

It is also important to note that the actual FAA monitoring of commuter airline operations is quite different from that for Part 121 operations. We have pilot members who fly for commuter airlines and they have, what only can be described as horror stories to illustrate the inherent inability of the FAA to cope with the present level of operation. With further expansion of the operation, under an increased competitive environment, we have grave concerns for the total degradation of aviation safety in the United States due to the practical limits of manpower and finances available to the FAA.

OFFERING FOUR AMENDMENTS TO H.R. 1037

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. McCLOSKEY. Mr. Speaker, on H.R. 1037, the so-called oil cargo preference bill scheduled for floor debate tomorrow, it is my intention to offer the following 4 amendments:

AMENDMENT NO. 1

On page 7, line 6, after "both" add ": *Provided*, That any rate which is more than 50 per centum higher than the applicable rate for the most efficient non-preference vessels available may not be deemed fair and reasonable".

EXPLANATION

The sole Administration witness for the bill, Maritime Administrator, Robert A. Blackwell, testified that the additional costs of carriage of 9½ percent oil imports would not exceed $110 million, using an estimated oil import level of 8 million barrels of oil per day, current transportation charges for oil are $2.18 billion per annum, and for 9½ percent, approximately $220 million per annum. A 50 percent increase in this current additional cost would approximate the 110 million testified to by Mr. Blackwell. Therefore, if Mr. Blackwell's testimony is to be believed, cargo preference should not result in a rate increase of more than 50 percent of current transportation costs. This amendment would fix, as a matter of law, an obligation on the part of the Maritime Administration to assure that transportation costs did not increase more than 50 percent as the Administration has estimated.

AMENDMENT NO. 2

On page 6, line 18, after "shall" insert ", if the Secretary of the Treasury certifies that such steps will not reduce total national employment and gross national product,".

Explanation

The primary purpose of the oil cargo preference bill has been alleged to be the creation of additional jobs in the American maritime industry. The sole testimony in the record from the Council of Economic Advisors and the Treasury Department, however, indicates the possibility that imposition of cargo preference could decrease the total national employment as well as decrease the gross national product. The proposed amendment would require simply that the Secretary of Treasury certify that any steps taken to implement cargo preference will not cause either of these unfortunate results.

AMENDMENT NO. 3

On page 9, line 4, strike "(or if at" and all thereafter through "and" on line 8.

Explanation

This amendment simply deletes the requirement in the current bill that tankers used for oil import preference cargo need be constructed in the United States.

At the present time, there are approximately 32 million dead weight tons of unused tankers laid up around the world. Many of these tankers are fast, modern ships with far greater safety and anti-pollution features than many of the existing U.S. flag tankers which are presently being used on U.S. trade routes.

These new, modern tankers can be purchased for as little as $10 million compared to the construction cost for similar new U.S.-built tankers of $150 million or more (Congress recently authorized two new navy oilers at a cost of $161 million each).

AMENDMENT NO. 4

On page 6, line 18, after "shall" insert ", if the Secretary of State certifies that such steps will not violate any Treaty of Friendship, Commerce and Navigation with any nation which is a member of the North Atlantic Treaty Organization,".

Explanation

In 1974 Assistant Secretary of State, Raymond Waldman, testified: "Any measure by the U.S. government extending a preference to U.S. flag vessels for commercial cargoes . . . would cause us to violate those treaty obligations."

This year, in Secretary of Treasury Blumenthal's memorandum to President Carter dated June 17, 1977, Secretary Blumenthal said: "The bill would violate U.S. treaties with more than 30 countries."

TAX REFORM ACT

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1977

Mr. BOB WILSON. Mr. Speaker, I have received a number of letters from businessmen in my district regarding the change effected by section 1011 of the Tax Reform Act of 1976 relative to the taxation of income earned abroad by American citizens.

I would urge the House Ways and Means Committee to reconsider this action in the next round of tax reform hearings and, in the interim, commend to my colleages' attention a letter I recently received from Mr. O. Morris Sievert, president of Solar:

SEPTEMBER 23, 1977.

Hon. BOB WILSON,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR BOB: During our recent meeting in your office in Washington, we talked about the extremely serious nature of some of the provisions of the Tax Reform Act of 1976. You asked that we provide some specific information for you and we offer the following:

The Tax Reform Act of 1976 and recent Tax Court rulings relating to allowances paid to U.S. citizens abroad have seriously eroded the ability of U.S. firms to compete overseas.

The United States is the only major industrial nation in the world which taxes its citizens living and working abroad. In an endeavor to increase foreign trade, Congress, in 1925, allowed an exclusion from taxation of earnings of citizens employed outside the U.S.

This unlimited exclusion of foreign-earned income was later limited to $20,000 in 1953 to prevent the abuse of this tax-saving device by highly paid movie stars and entertainers. During the early 1960's, the exclusion was increased for employees residing overseas for three years or more.

The intent of Congress during the early years of this Section 911 exclusion was consistent with its objective of encouraging foreign trade, while eliminating abuses by those claiming residence abroad in order to escape income taxes at home.

A logical extension of this Congressional intent would dictate that the Section 911 exclusion should be increased to compensate for inflation which has occurred since the original limit of $20,000 was set in 1953. The general price level between 1953 and 1976 has increased by about 126 per cent. An exclusion of $20,000 in 1976 was the equivalent of an exclusion of only $8,850 in 1953. Had Congress maintained its original intent, the Section 911 exclusion would be $45,200 in 1977.

The Tax Reform Act of 1976 reflects a change in this traditional Congressional intent to encourage foreign trade. The result of this change will be increasing deficits in our balance of trade, loss of competitive position and influence overseas, and loss of jobs at home and abroad.

The Tax Reform Act of 1976 reduces the Section 911 exclusion to $15,000. In addition, the exclusion is credited at the lowest tax brackets. This results effectively for 1977 in a Tax Credit of $1,701 for a married individual filing a joint return. The Act also provides that such items as foreign taxes paid and relocation expenses on excluded income will not be allowed as a credit or a deduction. This means that an employee with large foreign taxes or relocation expenses could pay a higher tax than he would have, had there been no exclusion. If this individual elects not to have the Section 911 exclusion apply, he must receive approval from the IRS to have the exclusion later reinstated.

Because of inflation, the average American working abroad is directly feeling the impact of the revisions in Section 911. This situation is further compounded by the fact that benefits or allowances provided for the employee are taxed as income, even though the individual derives no real financial gain from them. In order to provide a level of services or standard of living similar to that available in the U.S., employers must frequently make reimbursements to Americans overseas to compensate for cost differentials in housing, schooling, relocation, and other living expenses. These reimbursements may easily cost $50,000 to $100,000 in addition to an average salary of about $22,000 in areas such as the Middle East and Far East. Recent court rulings interpret these items as includible in income for purposes of calculating income taxes.

If it is the intent of Congress to encourage foreign trade by Americans as promulgated in the original Act, then the current Section 911 must be changed. It is in America's best interest to provide an exclusion which will reduce the competitive tax advantage of our international competitors and to encourage Americans to accept the hardships of overseas assignments. Cost reimbursements provided to overseas employees from which the individual derives no financial gain should be excluded from income. Such items as housing, schooling, cost-of-living adjustments, relocation expenses, etc., paid by the employer to compensate for living cost differentials should be excluded from income and be free of tax to the employee.

The current tax law and recent Tax Court rulings impose an excessive tax burden on U.S. citizens working abroad. It is inequitable to assess an American overseas, away from most Government services which his taxes pay for, a tax burden far in excess of that which would be paid at home.

The net result of all of the above is that

exporters, such as we at Solar are, will have an extremely difficult time keeping our people in high-cost overseas locations. What may be more serious, however, is that Americans working for engineering and contracting firms will undoubtedly be returning to the U.S. en masse. The net result will, of course, be that their jobs will be filled by people from other parts of the developed world. Under those circumstances, I can assure you that it will be very difficult for American-made exports to be competitive on the worldwide scene.

Sincerely,

O. MORRIS SIEVERT.

HON. HENRY REUSS ON URBAN POLICY

HON. CLIFFORD ALLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ALLEN. Mr. Speaker, the chairman of the Committee on Banking, Finance and Urban Affairs, Representative REUSS of Wisconsin, has written a committee print titled "To Save a City." This publication addresses one of the gravest problems the country faces, the saving of the great American cities now in perilous decline. I can report myself in agreement with most of the recommendations therein and completely convinced by the logic of the case for action in that area. One of our great newspapers, the Little Rock (Ark.) Gazette, recently printed a most cogent editorial endorsing Representative REUSS' proposals and I include that editorial with my remarks:

A PLAN FOR URBAN AMERICA

An interesting and probably workable proposal for dealing with some specific problems of urban life in the United States has been advanced by Representative Henry S. Reuss of Wisconsin, chairman of the House Banking, Finance and Urban Affairs Committee. It is not yet in legislative form, perhaps awaiting the formal presentation of an urban proposal by the Carter administration.

What impresses about the Reuss plan in its tentative form, however, is the flexibility it would bring to addressing such specifics as high urban unemployment and the need to revitalize housing in the central city. It would use money, but it would not, in effect, shoot dollars in shotgun fashion and hope that some would hit the correct targets.

Spending money on urban problems, unfortunately, is getting to be unfashionable these days. Senator William Proxmire of Wisconsin, incidentally, joined in the litany of disapproval in a speech last week at the University of Arkansas at Little Rock.

But the issue is not whether federal money is needed. Instead it is how discerning we as a nation should be in applying what is available. A lot of federal money, probably more than that which is now being spent, will be necessary whatever remedies are sought. A nation that denies this is only kidding itself, engaging as it were in a wistful exercise.

Back to specifics.

In an effort to reduce unemployment Reuss would create a computerized national job bank so that the opportunities on a national basis could be readily identified. And with the jobs identified, Reuss' program would provide federal assistance to send the unemployed to the jobs' locations. Matching skills to needs in such a manner could be a helpful device in many cases, but there is no suggestion that it would provide a panacea. Unemployment is just too complicated to be addressed in broad strokes. For some, Reuss would provide national service jobs along the lines of FDR's Civilian Conservation Corps. Of course such programs would cost some money, but unemployment, in direct and insidious ways, can cost a great deal more in human travail and economic decline.

Instead of funneling federal urban aid money so broadly that much of it goes to communities with little real need, Reuss would have the federal government be more selective, directing what is available to the specifics of rejuvenating downtown areas so that they become more economically viable and more appealing as places of residence. The emphasis would be on rehabilitation of older housing near the city's middle instead of new housing, which only gives encouragement to more urban sprawl. Rejuvenation of Ameircan cities, in Reuss' view, "could be the great growth industry of the 1980s." Yes, it could be, and it really should be.

There are many other particulars in the Reuss proposal and there are indications that the Carter administration is thinking along parallel lines in some of these particulars. We hope that administration minds are ready to respond with such good will and sophisticated judgment that workable legislation can be fashioned with congressional leadership such as that offered by Representative Reuss. All of us are getting a pretty good idea of what should be done in America's cities. It is time to set shoulder to the task.

HELP FOR TROUBLED TEENAGERS

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ARMSTRONG. Mr. Speaker, I rise today to commend a volunteer group that is making significant progress in the fight against drug abuse and alcoholism among young people.

Ron Rubanowitz, Duane Geerdes, Peggy Pottenger, and their friends form the heart of a group called the Untouchables in Denver, Colo. They take their name from the "Untouchables" television show of some years ago, which featured Elliot Ness and his squad of incorruptible law enforcement officers. Their goal is to make the young people they help "untouchable" by alcohol or narcotics.

The Untouchables have been far more successful in their efforts to implement that goal than most of the agencies of Government seeking the same end, and the Untouchables do their good work at no cost to the taxpayers. If the Untouchables are able to realize their plans for the future, their group will become entirely self sufficient and be able to finance its good works without the need to rely on private contributions.

I insert into the CONGRESSIONAL RECORD at this point two newspaper accounts, one from the Rocky Mountain News of August 7, 1977, and the other from the Denver Sentinel newspapers of September 7, 1977, which tell the story of the Untouchables and their good works more completely than I could.

[From the Denver (Colo.) Rocky Mountain News, Aug. 7, 1977]

NEW UNTOUCHABLES OFFER HELP TO YOUTHFUL ADDICTS

(By Pamela Avery)

Remember Elliot Ness and the Untouchables, those combative good guys of television fame who struck fear into the hearts of the Chicago Maflosi?

Well, now there's Ron Rubanowitz and his Denver-area Untouchables. Only instead of striking fear, they offer youngsters hooked on drugs and alcohol a chance to get straight.

Rubanowitz, former manager of a Boulder Mister Taco restaurant, formed the Untouchables counseling service eight years ago after he became disturbed about the drug and alcohol abuse among his young clientele.

He rallied an army of young volunteers whose mission was to stake out teen-age meeting places—dance halls, pinball emporiums and amusement parks—and provide on-the-spot assistance to youngsters with drug, alcohol and family problems.

During the past eight years the Untouchables developed into a 60-member counseling squad with headquarters at 3422 S. Bannock St., Englewood.

They've served thousands of area youngsters—many of them in the 9 to 11 year-old age group, according to Rubanowitz' 16-year-old brother, Eric, the Untouchables assistant manager.

Young Rubanowitz, who sports the jeans and tattered sneakers of the teen-aged set, serves as publicity man and statistician for the counseling service.

Last year, he said, the Untouchables saw more than 4,180 youngsters and helped 400 kick their drug and alcohol habits.

Rubanowitz attributes the success of the program to the youth of the counselors—most are between 18 and 26—and their counseling approach.

"We don't badger the kids about their problem. And we don't talk down to them," said Rubanowitz, adding that he feels this is where professional drug and alcohol abuse counselers go wrong. "We let the kids come to us. The counselors are at all the places that the kids go."

The Untouchables also supply 160 temporary homes for young runaways. Last year 1,114 sought counseling; 875 of these eventually returned to their homes.

During their stay in temporary homes the runaways are exposed to "dirty work," said Rubanowitz. "They're asked to clean toilets and work on the grease pits. This is to show them what they can expect if they do not go back and get their high school diploma."

The Untouchables maintain a job placement service for teen-agers who return to high school, and provide more permanent foster homes for youngsters unable to return to their parents, Rubanowitz added.

Although the group has come a long way since setting up shop in a Boulder taco stand eight years ago, more needs to be done, the young manager pointed out.

"We'd like to see teen centers developed, places where kids and parents can go and not be exposed to drugs and alcohol," he said. "And we would like to establish some halfway houses for kids working on kicking their habits."

To do this the non-profit organization needs more paying sponsors, said Rubanowitz. He and others are conducting a fundraising campaign to finance the first teen center.

"Once we have that we can start to generate some of our own revenue," he added. "We can use what we earn to develop the rest of the programs."

An open house for Untouchables sponsors and potential sponsors will be 9 a.m. Sunday in the group's Englewood center.

[From the Denver (Colo.) Sentinel
Sept. 7, 1977]

OUT OF DANGER, BUT NEVER OUT OF TOUCH

(By Marlene Morton)

In a single recent weekend, 32 preteen girls sought medical attention, encouraged and aided by The Untouchables. Diagnosis—gonorrhea.

An Untouchables "street worker" discovered a 7-year-old San Antonio runaway on the streets of Denver. A telephone call to her home produced a drunken couple completely unaware that the child was missing. The Untouchables paid the youngster's fare to her grandmother's home in another Texas town.

A 9-year-old boy, drinking a six pack of beer a week and smoking a lid of grass every two to three weeks, dropped a $10 bill into the Untouchables donation pot.

"Why would you want to donate to us?" asked Ron Rubanowitz, founder and director of the non-profit organization. "We're against everything you like to do."

"I don't want to stop now," the lad replied, "but I want you to be around when I do."

The Untouchables have taken their name from Elliott Ness and his TV Untouchables. "Nobody could buy them out," explained Duane Geerdes, 21, assistant director of the youth counseling service. "And when kids get through our program, they're 'untouchable' by drugs."

The Untouchables are 8 years old, but only recently did they gain a roof over their heads. Last May 1 they moved into a small building at 3422 So. Bannock St., where they provide Mexican food, sandwiches, pinball games, listening ears and all the help they can give. Volunteer counselors continue to show up where the kids are, at fast-food and foosball joints, with an eye for the lost soul who appears to need what the Untouchables can offer.

The organization was sparked into life after a 10-year-old girl overdosed in a Boulder taco shop and nearly died.

"It was then that I decided to get involved," said Ron Rubanowitz, then-manager of the Boulder Restaurant.

Rubanowitz' volunteer crew has grown to 60 metro-area counselors, young people between 18 and 26, 75 to 80 pct. of whom are graduates of the Untouchables program.

Geerdes describes them as "people who care, who've been down the same road, who have the same 'street knowledge' as the kids."

They've also been through a rigid eight-and-one-half-month education program and have proved themselves with another eight and a half months of "clean living."

They know exactly how various drugs and alcohol act on their bodies, they learn that organized crime is making a heap of profit in the drug world, and they're trained in citizenship, responsibility, and leadership.

They've seen alcohol use and venereal disease climb among an increasingly younger set. When the Untouchables began, they were counseling 16- and 17-year-olds. Today, the average child aided is 13½ and counselors have seen children 12, 11, 9 and even 8 years old.

"Fifth and sixth-graders are dealing drugs," Geerdes said. The 7-year-old runaway was the youngest of their contacts.

"It's frightening," said Rubanowitz citing government reports that 10,000 kids a day are running away from home. "And if 32 girls under 13 years of age are coming in with gonorrhea in one weekend, how many are out there who don't know they have it?"

During 1976, more than 4000 youngsters from all over the metro area made contact with The Untouchables. (To be counted, one must "touch base" at least three times.) Among them were 1100 runaways, 975 marijuana users, 750 alcohol users, 600 hard drug users, 450 with venereal diseases and 30 pregnant girls. Problems of another 260 fell into the "miscellaneous" category.

Runaways get a heavy dose of "every crap job there is (for people) without education"—cleaning toilets, scrubbing floors. The medicine persuades most—875 out of 1100 in 1976—to return home.

"Most of the time they didn't appreciate what they had at home," Rubanowitz said. If home conditions are really so bad the youngster won't return, they'll work with social services agencies to get him in a foster home.

"In eight years, we've only had to put three in foster homes," Rubanowitz said.

Geerdes recollects a 14-year-old girl who came to them after she had run away from an Arapahoe County shelter care center.

It turned out she was scheduled to go home to an alcoholic mother who beat her, and of whom the girl was petrified.

The Untouchables talked to officials from the Dept. of Social Services. They thought they had persuaded the agency not to send the girl home—but before long, the girl appeared again. She was about to be returned home again.

They turned to the late Judge Phillip Gregg, who was very supportive of The Untouchables' work, and after appropriate legal proceedings, they arranged for her to live with an out-of-state relative.

"It all could have been avoided if she had been allowed to use the services the county was providing, but her social worker said, 'You're a strong girl—you can make it at home'." Geerdes said he doesn't blame the Dept. of Social Services, indicating it may be forced into decisions by funding problems.

Why are segments of today's youth turning to alcohol, drugs, child sex and other bad scenes? The reasons are admittedly complex, Rubanowitz said. But over and over, counselors hear tales of a hypocritical, materialistic older generation willing to give its children money and possessions—but too sparing of time and love.

Last year, 400 youngsters graduated from The Untouchables program. Another 83 completed the rigorous education course, but failed to keep the organization's high standards for the required eight and one-half months. If they want to become Untouchable, they have to start the program anew.

"There's one string attached to becoming an Untouchable", Rubanowitz said. "You have to commit yourself to helping others."

Some elect to work through the Untouchables organization, but many select a different route. "We have one kid that's working hard on the multiple sclerosis drive", Rubanowitz said. "I'm really proud of him."

The organization is endorsed by many businessmen, Denver Bronco Lyle Alzado, all state legislators, Reps. Tim Wirth (D-Colo.) and Bill Armstrong (R-Colo.), and Sen. Gary Hart (D-Colo.). Last week, The Untouchables had word that Armstrong will read their accomplishments into the Congressional Record.

Untouchables—including Geerdes and Rubanowitz—are unsalaried, but the organization would like to pay wages to some of its full-time workers. Currently supported by donations and profits from candy sales and sandwiches, Untouchables wants to open a nonalcoholic teen club, offering food and dancing to live bands, but no counseling. Profits would go for wages—and to support halfway houses for youngsters with nowhere to go.

In July, besides the $265 monthly rental for the Bannock St. building, The Untouchables spent $730 on food for runaways, $230 for pizza, $48 for milk and $48 for snacks. Another $210 went for clothing and shoes for down-and-out kids, and $118 went into the gas tank.

Their files contain a touching assortment of mail.

"You've made me realize that life will have its ups and downs. For me, it's mostly downs. . . ."

From a girl who had taken a bottle of sleeping pills: "I want to thank you for being there when I needed you . . . I was too scared to go to the hospital . . . I realize now that life isn't so bad, and I'm glad, now, that I'm alive."

BALANCE(S) OF POWER: PART VI (VII)(A) THE NAVAL BALANCE: THE ROLE OF THE MODERN SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BRECKINRIDGE. Mr. Speaker, in the September 27 issue of the CONGRESSIONAL RECORD, pages 31280–31282, I was privilegd to insert as a part of my ongoing Balance(s) of Power series the first part of Ruben Ainsztein's translation of Soviet Fleet Adm. Sergey G. Gorshgov's "The Sea Power of the State," as it appeared in the January-February 1977 issue of Survival magazine. I am inserting today, Mr. Speaker, the conclusion of Admiral Gorshgov's revealing look into the goals and priorities of the Soviet Navy. The conclusion of the article follows:

Parallel to the construction of intercontinental ballistic missiles, we proceeded at full speed to build an ocean-going navy which rapidly acquired all the features of a strategic factor in any future war. The building of an ocean-going navy capable of preventing the potential aggressor from attacking the Soviet Union from the ocean was complicated by the fact that our country does not have overseas territories and bases, which our navy could have used to ward off such an attack. The Western press regularly prints reports on the existence of Soviet naval bases on the territories of countries friendly to the USSR, but they are nothing but libellous inventions the purpose of which is to justify the attempts of the imperialist powers to widen their network of bases on foreign territory. At the same time one must emphasize that the Soviet Union, in pursuing her peace-loving Leninist foreign policy, does not attempt to acquire such bases. The solution of the problem of how to maintain our ships on the oceans over long periods without land bases was found in the application of the most advanced technology and naval construction. This now allows our squadrons to stay over long periods in the most distant areas of the World Ocean and satisfy all their requirements without having to sail to any land bases.

Our country now has a modern navy and has dispatched it into the oceans in order to safeguard her state interests and to defend her effectively from strikes launched from the oceanic vastnesses. The decisive turning point in the second stage was the liquidation of the United States nuclear monopoly. It is no longer a secret that already at the beginning of 1954 the Soviet Army and the Soviet Navy had nuclear weapons of varying power, including hydrogen bombs, and proceeded to explore the practical ap-

plications of these weapons under combat conditions. This opened a new stage in the development of the Soviet Navy—the stage when we created and developed a nuclear-powered ocean-going fleet armed with nuclear missiles, which consolidated the position of our country as a great naval power.

The basic directions followed in the qualitative transformation of our navy under the impact of the scientific and technological revolution caused by atomic power and nuclear weapons have been: (1) the building of a nuclear-powered submarine fleet; (2) the introduction of guided rockets and nuclear missiles and the creation of launching systems delivering ballistic missiles from submerged submarines; (3) the creation of a naval aviation capable of oceanic flights; (4) the introduction of aircraft carriers; (5) the qualitative changes in the methods and weapons used in anti-submarine warfare; (6) the introduction of the latest inventions in radio electronics, remote-control guidance of weapons and weapon systems, and the use of computers.

The experience of naval warfare has shown that the principal, most universal and most effective naval weapons are submarines and aviation. Today the chief branches of our navy are therefore its submarines and naval air force, and its chief weapons are ballistic and guided missiles with nuclear warheads. To give our submarines reliability in combat and all-round protection, our navy includes surface ships of various types and aircraft designed to deal with the enemy's submarine and anti-submarine forces and for other specific tasks. They are armed with torpedoes, rockets of various kinds, cannon and other types of naval weapons.

Soviet nuclear submarines constitute first-class modern ships, which can fight anywhere in the World Ocean. They are not only carriers of tactical weapons, but also form an integral part of the strategic nuclear shield of our homeland. This is known to the potential aggressors and they cannot but take into account the terrible retaliation that may reach them from the oceanic vastness should they dare to launch a nuclear war.

The technological perfection of modern submarines has made it possible to review completely the organization of their operational activities. In World War II submarines predominantly operated each on its own, and only in the operational sense acted together with surface ships and aircraft, the difficulty of mutual recognition and communication forcing the surface ships to avoid encounters with their own submarines. We now have a completely different situation: it is now possible to reach a state of close co-operation, both in battle and operationally, between submarines and surface ships, which will increase tremendously their battle effectiveness.

It must also be pointed out that our submarine force represents a highly advanced arms system that is being constantly improved and differs in many respects from that of other maritime powers. Its uniqueness stems from the fact that, apart from submarines carrying strategic nuclear missiles, it also comprises submarines armed with guided missiles and long-distance torpedoes.

Similarly our surface ships differ greatly from those built during World War II and in its immediate aftermath. New weapon systems have given our surface ships completely new battle capabilities and have widened their range of operational effectiveness through their combined armament of long-range guided missiles, guns and torpedoes. They are therefore capable of repulsing more effectively attacks by the enemy aircraft and beating off combined attacks by formations of enemy ships.

Surface ships therefore remain the essential—and often the only—combat weapon for securing the deployment of the chief striking force of our navy: its submarine fleets. World Wars I and II have shown that it was wrong to assume that the submarine, because of its concealment after leaving its base, could by itself ensure its invulnerability. Surface ships have one great advantage, which is that it is possible to maintain constant communications between the land-based command posts and themselves. This considerably facilitates the problem of command and ensures that the essential information and orders reach the ships in time, which is of the greatest importance in the pre-war period, when the time factor becomes of the greatest significance.

Surface ships also constitute an essential component of landing forces and provide essential support for landing operations. They play the major role in dealing with mines and in defending the communications of landing forces. In closed theatres of war and in coastal areas they can be used against the enemy's sea communications. Examples of such operations are provided by the actions of the guided-missile boats of the Egyptian Navy, which sank the Israeli destroyer *Eilat*, and those of the Indian Navy, which attacked the Pakistan Navy concentrated off Karachi.

Armed conflicts since the end of the war have shown that surface ships are capable of dealing with a number of operational tasks in local wars. They have been used extensively to provide artillery support for land forces, as was the case in Korea and Vietnam; for landing operations; and for establishing naval blockades. With the assistance of surface ships the US Marines were able to penetrate deep inside South Vietnam, using the rivers and canals. Most of our surface ships are designed to deal with the enemy's submarines. They are divided into ships capable of operating over long periods on the oceans and those operating in coastal areas. One must point out that our anti-submarine surface ships surpass similar ships in the Western navies by their construction, armament and power. At present the surface forces of our Navy, which consist of various ocean-going and coastal ships, are capable, by acting on their own or in combination with submarines and aircraft, to carry out a wide range of tasks on the oceans and in the closed sea theatres of war.

Until the appearance of guided missiles, aircraft were the essential and only deliverers of nuclear weapons. Therefore it was their task to demolish and destroy important targets on land and to wipe out the enemy's striking forces at sea and in their bases, which could not be effectively dealt with by other branches of the armed forces. With the creation of land-based and submarine-carried missiles, aircraft ceased to be the only means of delivering nuclear weapons.

This does not mean, of course, that naval aviation will not be used for attacking stationary land targets. But under present conditions one should not regard such strikes as being the basic task of naval aircraft, but as an exception to the general rule, for the tasks to be dealt with by naval aircraft under present conditions have changed. Naval aircraft will now direct their main efforts aganist the enemy's striking forces of surface ships, submarines, and troop and supply transports at sea and in harbours, as well as against small, highly manoeuvrable targets at sea. However, insofar as nuclear-powered submarines, including submarines carrying intercontinental rockets, are joining in ever greater number the navies of several powers, the chief task of naval aviation has become to deal wtih them. Consequently, the role and importance of antisubmarine aircraft, capable of effectively searching for and destroying submarines in the most distant theatres of war, have grown immensely.

Taking into account the importance of the tasks carried out by naval aviation, and considering the likely character of the war at sea, one may logically conclude that, compared with the last war, the importance of naval aviation in any future conflict will be even greater.

We may say that the relationship of forces on a world scale, as well as the unprecedented growth in the potential of modern navies to affect the outcome of every aspect of armed conflict, provide us with the grounds to state that the role of navies in any future conflict, both in absolute and relative terms, will indisputably be greater than ever in the past.

The arming of navies with nuclear rocket weapons has further strengthened the growing importance of naval actions against land targets. An analysis of the views of experts in various countries over the last ten-to-fifteen years concerning the development of naval capabilities and armaments leads one to conclude that under existing conditions the role of navy-against-navy operations, the purpose of which is to ensure the success of other types of operations, is continuing to grow. However, the course and outcome of a major war will be determined by events of a global nature and decided by decisive operations to achieve definite aims. The striking power of the navies will be used for precisely this purpose. In other words, forms and methods of naval warfare aimed directly against land targets will play an ever greater part in any future major conflict. The progression of naval warfare from an operational—tactical level to a higher strategic level places its actions against land targets in a future conflict in the category of actions of a decisive nature, which determine and subordinate all other kinds of operations, including those aimed at gaining the mastery of the seas. Therefore, whereas in the past the main efforts of a navy were directed against the enemy's navy, in a future conflict its chief objectives will be enemy land targets and the defence of its territory against the strikes of the enemy's navy.

As regards the navy's actions against land targets, one must bear in mind that they are as old in naval warfare as the actions of one navy against another. The most striking examples are those of the transportation of large armies and landing them on enemy territory under naval protection. At present the navies of the great powers in their operations against land targets possess the capabilities to carry out tasks whose purpose is not merely territorial occupation, but to exert a direct influence on the course and even the outcome of the war.

At present our navy, in its operations against land targets, possesses the capability not only to carry out tasks aimed at effecting territorial changes, but to affect directly the course of the war and even to determine its outcome. Because of this the operations of navies against land targets have assumed an overriding importance in naval warfare and to them are subordinated both the policies of naval construction and the development of the art of naval warfare. This is corroborated by the fact that in the US Navy nuclear missile-carrying submarines form part of the strategic force, whereas all the other ships are classified as of general purpose.

The new capabilities of navies against land targets, and the terrific threat of aggression from the oceans that has emerged as a result of these capabilities, will determine the actions of our navy in the struggle against the enemy navies. The most important task of our navy in this struggle will be to use our naval power against the enemy's seaborne strategic nuclear systems in order to prevent, or to weaken as far as possible, their striking power against our own land targets. For this reason the struggle between our navy and the enemy navies has become a secondary task compared with the tasks of our navy against land targets.

In the light of this, the importance of such traditional forms of naval action as attacks on the enemy's communication lines and the defence of our own sea lanes has undergone a change. These operations have now become for our navy one of its most impor-

tant tasks in the totality of its efforts aimed at destroying the enemy's military-economic potential. Operations directed towards interrupting and curtailing the enemy's sea communications, which in the past were directly achieved by using one's navy against the enemy's navy, have now assumed a new dimension. By forming part of the overall system of naval actions against land targets, they strengthen further the special capabilities of our navy, acquired as a result of modern armaments and technology: its ability to carry our offensive operations of a strategic nature by directly attacking the enemy's sources of military power.

Thus the traditional operations of navy against navy, which since antiquity have been typical of the struggle to interrupt or maintain sea communications, will take place in a new, decisive dimension of warfare: in naval actions against land targets. This new form of operational-strategic use of naval power is already dominating naval thinking and will become the principal element of naval warfare, all the other elements being subordinated to it on all operational levels.

LOOKING AT $10 MILLION SALES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, I would like to call attention to the accomplishments of John McIntire, chairman and chief executive officer of McIntire Hardware, Inc., and chairman of Chevy Chase Bank & Trust Co.

In these days of big business, Mr. McIntire's 28-year career can serve as an example of the rewards that can still be reaped by an individual's hard work and dedication.

I would like to take this opportunity to extend personal congratulations to Mr. McIntire. I cite a portion of an article from the Washington Star, August 16, 1977, "Business Profile—Looking at $10 Million Sales", by Rudolph A. Pyatt, Jr.:

BUSINESS PROFILE—LOOKING AT $10 MILLION SALES

(By Rudolph A. Pyatt Jr.)

John McIntire paused between bites of soft shell crab, then conservatively estimated that "within a year or so we ought to be looking at $10 million" in sales by his family's hardware chain.

McIntire's estimate is probably far more than George Washington McIntire ever dreamed of while operating his hardware store in Thomas W. Va. That first family hardware store, according to John McIntire, began as a partnership between his father, C. N. McIntire and his grandfather, G. W.

"The family was always in hardware. I grew up in a hardware store," McIntire remarked, as he traced the family's involvement in the business.

C. N. McIntire later bought out his father's interest in the company and moved his family across the state line to Oakton, Md., where he opened the Oakton Hardware & Furniture Co.

The first Washington area store was opened in 1949 in Kensington by John and a brother, Carl McIntire.

"I moved down here (from Oakton) and never went back home," said John, who is chairman and chief executive officer of McIntire Hardware, Inc.

McIntire is also chairman of Chevy Chase Bank & Trust Co.

Last month, McIntire Hardware, Inc., purchased 10 or 11 units from Peoples Hardware Stores, expanding the chain to 21 stores in the Washington area. The purchase price was not disclosed, but the chief executive of the surviving chain described it as "multimillion-dollar deal."

The acquisition of the Peoples stores also makes McIntire one of the largest independently owned hardware chains on the East Coast. And although McIntire insisted earlier that his chain will not attempt "to go head-to-head" with the larger chains in the sale of building products, he and other company officials disclosed in a recent interview that major expansion plans are under consideration.

KATHLEEN JOHNSON TESTIMONIAL DINNER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CARNEY. Mr. Speaker, on Sunday, October 23, 1977, a testimonial dinner will be held for Mrs. Kathleen Johnson of Youngstown, Ohio. The former director of the home-school visitation program—school social work—for the Youngstown public schools, Mrs. Johnson is being honored for her many years of dedicated service to the underprivileged children of our community.

Born in Cincinnati, Ohio, Mrs. Kathleen Williams Johnson moved to Youngstown shortly thereafter, and she has lived in Youngstown practically all of her life. She is married to Mr. Kenneth Johnson, Sr., an employee of Ohio Bell; the Johnsons have two grown children, Kenneth, Jr., and Mrs. Joy DeSalvo, and four grandchildren, Jeffrey and David Johnson and Matthew and Joy DeSalvo.

An honors graduate from North High School in 1939, Mrs. Johnson received a bachelor of science degree, cum laude, from Youngstown State University in 1966, and a masters degree in education from Kent State University in 1969. She did additional graduate work, primarily in the field of human relations, at eight other colleges and universities.

Some of the educational, civic, social welfare, and religious organizations in which this extraordinary woman has been active include: board member of the Methodist Community Center and chairwoman of the personnel committee; secretary of the Poverty Coalition; vice president of Altrusa, International Women's Service Group; board member of First Christian Church of Youngstown for many years; past chairwoman of First Christian Church Education Department and teacher in the church school for 10 years; Citizen's Advisory Board of EDATA; planning committee of Inter-Agency Communications and Staff Development; State education team of the Ohio First Christian Church; past president of the School-Community Human Relations Organization; past board member of: East Side Action Credit Bureau; Women in Community Service (WICS); Volunteer Service Bureau; Youngstown Reading Council; John White PTA; Voluntary Action Center.

Also, member of: McGuffey Center; International Institute; NAACP; North High Band Boosters—she and her husband helped form this group and headed the drive for new band uniforms; Christian Women's Fellowship; United Church Women; Kappa Delta Pi—Women's Honorary Education Society; Delta Kappa Gamma; Ohio Association of Elementary School Principals; Ohio Council of International Reading Association; Elementary, Kindergarten and Nursery Educators, and Ohio Visiting Teachers Association.

Her business and professional experience includes: 1940, General Fireproofing Co., advertising department, later, coeditor of its GF News; U.S. Government, Office of Price Administration, during World War II; 1949, First Christian Church, initiated and directed the first nonprofit nursery school in the Youngstown district, excluding Christ Mission, for 5 years a full-time paid staff member as the church's "associate in membership visitation," she and another woman were the church's first women elders; 1963, Youngstown State University, advisor to the international students, initiated its first faculty advisory committee, appointed by the President to assist in the compilation of YSU's original application to the National Accreditation for Teacher Education, which resulted in ongoing accreditation for YSU; 1966, appointed to the newly organized home-school visitation program of the Youngstown public schools, the first program to be funded under title I of the Elementary and Secondary Education Act of 1965—served as its director from April 1966 to September 1977.

While serving as director of the home-school visitation program, Mrs. Johnson went far beyond the normal requirements of her job. Through her leadership, hundreds of volunteers from Youngstown State University worked with children in the public schools. She helped make it possible for hundreds of poor children to attend residential summer camps.

Recognizing the need for coordination of social services to families with problems, and also realizing that good human relations is a prerequisite for effective social action, she initiated an outstanding in-service training program for those with whom she worked. More importantly, she has set an example of good human relations in her personal life through democratic leadership, shared decisionmaking, respect and empathy. Her profound belief in the basic worth and dignity of the individual human being, as well as her belief in the ability of every child to grow into a responsible, loving adult, manifests itself in her daily life, and provides an inspiration to all the people whose lives she has touched.

Mr. Speaker, Mrs. Kathleen Johnson is truly a pioneer in human relations. Children know when a person genuinely cares about them, so they know that Mrs. Johnson is such a person, and they have responded enthusiastically. Her love for children, her warmth, her sincerity, and her commitment, have had a positive, beneficial effect on the lives of countless children in the Youngstown area. Because of her efforts, our community is a better place in which to live. It is certainly fitting and proper that we recog-

nize the accomplishments of this wonderful lady. When her many friends join in honoring her, I plan to be there.

SAFEGUARDS AGAINST GOVERNMENT SURVEILLANCE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, at the recent annual meeting of the American Bar Association in Chicago, Vice President WALTER MONDALE discussed the administration's commitment to establishing stronger safeguards against the abuse of Government surveillance powers. I commend the Vice President's remarks to my colleagues:

REMARKS PREPARED FOR DELIVERY BY VICE PRESIDENT WALTER F. MONDALE TO THE OPENING ASSEMBLY OF THE AMERICAN BAR ASSOCIATION'S ANNUAL MEETING

CHICAGO, ILL., August 8—Following is the text of a speech prepared for delivery by Vice President Walter F. Mondale to the Opening Assembly of the American Bar Association's Annual Meeting at Orchestra Hall here:

In coming here this morning, I was thinking about the various ways the American Bar Association contributes to our society. And it struck me that beyond any specific program, the ABA and state and local bars throughout the country serve to remind all lawyers that we have special and unique responsibilities.

As members of the Bar, we're more than a trade group or a guild. We're officers of the courts—sworn to defend and uphold the Constitution and laws of the United States.

The ABA has helped meet those responsibilities in many ways—through your leadership on court reform under Justin Stanley and others, by screening judicial appointees and through correctional reform.

But there was no more important moment in the ABA's history than in the mid-sixties, when Sargent Shriver asked for your support for the first federal program of legal services to impoverished Americans.

I fought for that program in the United States Senate. And there is no doubt in my mind that without the unanimous endorsement of your House of Delegates, and the leadership of Lewis Powell, this vital program would never have gotten off the ground.

And when legal service attorneys began to become effective on behalf of their clients, and pressures grew to curtail the program, once again, it was the ABA which reminded the Congress of the meaning of our canons of ethics. You made it clear it would be a mockery of justice to tell a lawyer he could pursue the rights of a poor client only so far and no further.

Finally, when it became clear that this program had to be insulated from improper political pressure, the ABA provided the critical support to those of us in the Congress who were proposing an independent Legal Services Corporation. And today this vital program is moving forward with increased staff and funding.

All of these efforts have helped uphold the principles of law and justice in our society. But there is another important challenge to the rule of law in America, all of us have a stake in meeting, which I would like to talk to you about this morning—and that is the abuse of power by government itself.

I served for nearly two years on the Senate Select Intelligence Committee investigating abuses of power by intelligence and law enforcement agencies. I chaired the Subcommittee which investigated domestic intelligence activities. In frightening detail, we learned what happens when high government officials lose sight of the law and ignore our Constitution.

Much of the attention during that period was focused on the Watergate scandal. But our Committee discovered that those abuses were only the tip of the iceberg. And we have had a chilling reminder of that fact in the recent revelations of secret, behavior-control experiements carried out by the CIA in the 1950's and 1960's.

Our investigation found that the roots of many of these abuses could be traced back to a frame of mind born in the early days of the cold war—to the belief that America could not be defended without more deceit and illegality than democracy permits or more cynicism and hypocrisy than our beliefs would allow.

A 1954 report to the President put it this way: 'There are no rules in such a game. Hitherto aceptable norms of human conduct do not apply. . . . Long-standing American concepts of fair play must be reconsidered.'

Operating in secret, and freed from traditional legal and ethical restraints, some officials of U.S. intelligence agencies plotted to influence free elections, subvert popular governments and even plotted assassination attempts aimed at foreign leaders.

And before long the tactics adopted to fight our enemies overseas came back to haunt us at home. In Macbeth's words, 'The invasion returned to plague the inventor.'

Thus:

Agents of the CIA came home to launch 'Operation CHAOS'—a surveillance program directed against American citizens—even though that agency is forbidden from exercising internal security functions.

Army officials spied on groups ranging across the political spectrum—from Carl McIntyre's conservative Christian Action Movement and the John Birch Society, to the Urban Coalition, the Anti-Defamation League, and even the Chamber of Commerce.

Members of the FBI and CIA illegally opened over 300,000 first class letters of private citizens like John Steinbeck, Senators Church and Kennedy, and organizations like the Federation of American Scientists.

The National Security Agency obtained and read copies of all private telegrams sent overseas by American citizens and businesses.

In 1969, the Internal Revenue Service established a "Special Services Staff" to examine the tax returns of individuals—not because they had violated the tax laws—but because some people in government did not like their politics.

Eventually, officials in some of these agencies resorted to the commission of common crimes. Agents in the FBI and CIA illegally broke into the homes and businesses of American citizens—the so-called "black-bag jobs"—to obtain information they considered necessary. Official liaison even occurred with organized crime in undertaking assassination plots.

James Madison could have been speaking for our time when he wrote to Thomas Jefferson in 1778: "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger real or pretended abroad."

Perhaps the most dangerous and frightening abuse of power during this period was a program in the FBI called COINTELPRO.

This program went beyond illegal surveillance. Government officials set themselves up as a judge and jury to harass and punish anyone whose political views or activities were not considered proper. Tactics were employed to break up marriages, destroy reputations, cause innocent people to lose their jobs and sabotage political campaigns. Dr. Martin Luther King, winner of the Nobel Peace Prize, was bugged, wiretapped and photographed during the last five years of his life. And, in perhaps the most disgraceful episode, someone in the FBI sent a tape and an anonymous letter to Dr. King which he interpreted as an effort to induce him to suicide.

Throughout the investigation, our Committee kept trying to come back to the question why these abuses happened, and what was on the minds of the officials involved. And what we found was equally disturbing.

For example, when I questioned the individual who ran the FBI's intelligence division for over a decade, this is what he told me:

"Never once did I hear anybody, including myself, raise the questions: 'Is this course of action which we have agreed upon lawful . . . is it ethical or moral.' We never gave any thought to this line of reasoning, because we were just naturally pragmatic."

Or listen to an internal memorandum from the Deputy Director of the CIA justifying a program of secret tests of dangerous drugs on unsuspecting citizens—a program which cost the life of at least one American. It read:

"While I share your uneasiness and distaste for any program which tends to intrude on an individual's private and legal prerogatives, I believe it is necessary that the agency maintain a central role in this activity. . . ."

Implicit in these views was the belief that the law did not matter. Soon, we witnessed a President of the United States proclaim a doctrine that the President is a sovereign and has the implicit right to break the law. In a sworn statement to our Committee, former President Nixon said:

"There has been and will be in the future, circumstances in which Presidents may lawfully authorize actions in the interest of the security of this country which if undertaken by other persons, or even by the President under different circumstances would be illegal."

One high presidential aide was asked whether this claim of inherent authority of a President could include the right to murder. He answered, ". . . I don't know where the line is, Senator."

The first recommendation of our Committee for reform was to draw that line clearly by re-establishing the principle that there is no inherent constitutional authority for the President, or any intelligence agency, to violate the law.

This administration has rejected absolutely the doctrine that any government official, including the President, is above the law. President Carter has made it clear that he, and everyone who serves under him, has a duty to obey the law just like every other citizen.

To ensure adherence to the rule of law, we are committed to establishing clearer lines of authority within the Executive Branch, greater accountability of officials, and stronger safeguards against abuse. This will be done by:

Spelling out and strengthening the responsibility of the Attorney General to ensure lawful conduct by the FBI.

Involving the Department of Justice at every level in the policy making process for sensitive intelligence activities to ensure that these policies are consistent with the law.

Upgrading the stature of the Intelligence Oversight Board so that it will have greater capacity to prevent illegal or improper intelligence activities. The President has pledged that he will personally review the IOB's findings regarding abuses and take responsibility for ensuring that they are corrected.

And lastly, reorganizing management functions within the intelligence community to eliminate waste and duplication, but more importantly, to be sure that there is a clear need and policy justification for activities that are undertaken.

As part of this effort we are trying to end excessive secrecy which both conceals and fuels abuse;

By fully informing Senate and House Intelligence committees about the activities of the agencies they oversee;

By promptly reporting abuses as Admiral Turner did when new information came to light about past drug experiments by the CIA;

And, by upholding both the spirit and the letter of the Freedom of Information Act. Attorney General Bell has directed that requests for information should not be denied simply because a plausible legal justification can be found to do so, but *only* when it can be shown that demonstrable harm would result.

Each of these steps is important. But it would be shortsighted to think reforms within the Executive Branch, alone, can prevent abuse. It would imply that all of these abuses over several decades were caused by evil people and that all we have to do is change the cast of characters and the problem will be solved.

But the truth is, as our Committee found, most of the officials in these agencies were dedicated Americans who honestly thought what they were doing was in the national interest.

Part of the problem was that these agencies were given responsibilities impossible to fulfill. They were asked to predict or prevent every crisis, respond immediately with information on every question, act to meet all threats, and through it all, to anticipate the special whims and political caprice of Presidents—Democratic or Republican.

We now have a more realistic view of what these agencies should and should not do. But we continue to live in a dangerous world, and we would be kidding ourselves if we thought that the pressures these agencies faced could never reappear.

That is why the problem is more than the character of the people who are entrusted with power; the problem is power itself—if it is unchecked, unrestrained and unaccountable.

In searching for a solution, our Committee discovered one simple thing: that the best answer to this problem could be found by re-reading two documents—the Federalist Papers and the Constitution.

No one has explained and addressed this dilemma with greater genius than James Madison in Federalist Paper No. 51 when he said:

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions."

Madison's "auxiliary precautions" are the checks and balances within the Constitution, which in his own words, "correct by opposite and rival interests the defect of better motives." Lasting reform lies in restoring and strengthening those essential checks and balances.

President Carter, as one of his first actions in office, asked me to work closely with the Congress and officials in the Executive Branch to rebuild these critical institutional safeguards.

First, we are developing statutory charters for the FBI, CIA, and other intelligence organizations which spell out the appropriate responsibilities of these agencies and specifically what they are permitted to do under the law, and what they are not permitted to do.

Control of these powerful agencies cannot rest in one branch of government alone. Charters established by Executive Order, as proposed by the last Administration, are not enough. Binding statutes must be adopted that can be changed only with the consent of Congress and can be enforced by the full power of the courts.

These charters will:

Prohibit conduct such as the COINTELPRO program of covert harassment;

Stop "domestic security" investigations of the politics of people and concentrate instead on apprehending terrorists and foreign spies;

Prohibit any electronic surveillance, mail opening or searches of premises in the United States without a warrant based on probable cause;

Prohibit domestic spying against Americans by the CIA;

Provide a strong system to oversee CIA clandestine operations.

Next, we need legislation to protect the American people against improper use of electronic surveillance and to strengthen the power of Congress and the courts to halt abuse. A major Administration proposal dealing with electronic surveillance was submitted to Congress in mid-May.

This legislation contains three important protections. First, it eliminates by law any claim of inherent Executive authority to install a tap or bug within the United States without a warrant from a court. The test will no longer be whether it pleases a member of the Executive Branch to tap the phone of an American citizen, but whether it is found proper and necessary by a court of law. Second, this legislation would allow a court, for the first time, to examine and challenge a request for a warrant based on national security. The courts would have the power to ensure that warrants are based on the national interest, not the narrow interests of any person or political group. Third, it will make clear the operations of the technologically-powerful National Security Agency are subject to legal restrictions covering surveillance. Beyond this measure, new proposals are being developed to extend similar wiretap protections to Americans overseas.

Finally, the success of all these efforts depends on continuing and vigorous oversight by the Congress.

The creation last year by the Senate of a permanent Intelligence Committee was of crucial importance. The Administration has worked closely with Tip O'Neill and others in the House of Representatives to support and encourage the recent creation of the House Intelligence Committee as well. This Association should take special pride in the fact that bar groups and members suggested many of the procedures and guidelines which Congress adopted.

As you know, the effectiveness of these Committees depends upon three essential powers.

Access to Information. First, they need the full facts about intelligence programs, including timely notice of all covert operations. They will have this information.

Public Disclosure. Second, when disputes arise between the Executive and the Congress over questions of secrecy, remedies must be available. Procedural remedies have been established so that Congress will be able to expose abuse and uphold the public's right to know.

Power of the Purse. Third, the Committees must have accurate and detailed information about the budgets of the agencies they oversee. This is the only way Congress can exercise effectively one of its most important Constitutional checks: the power of the purse. These Committees will receive complete detailed information about the budget of each intelligence agency.

Our Administration is cooperating fully and willingly with the Congress to strengthen these oversight powers. But what is equally important is that these Committees do not depend on our good will, or that of any future Executive, to do their job. They will have the tools to detect, expose and stop abuses by government agencies on their own. And that is exactly what our founding Fathers had in mind when they devised the Constitution.

Each of these reforms is needed to ensure lawful government. But they are needed to make government effective as well. The dangers of the past abuses well deserve attention. But another striking aspect of what went on was the enormous waste, in spending the manpower and resources of these agencies spying on countless people like Eleanor Roosevelt and Helen Keller and dozens of legitimate organizations.

We need a tough, respected FBI to go after organized crime, combat terrorism and prevent espionage against the United States. We need a strong, effective intelligence community to protect America's vital interests in the world. That is why dedicated leaders and employees in these agencies are deeply involved in reform efforts. They know we can best pursue these goals within the law and in keeping with the values we share as Americans.

Our Constitution provides all the power government needs to defend our nation's interests and still protect the rights of the American people.

It set up a system of government, which in James Reston's words, "was shrewdly designed to be strong enough for leadership, but in which power was diffuse enough to assure liberty."

No other system of government has arrived at the almost blessed balance found in our Constitution between liberty and authority. Our system has shown itself stronger than the abuse of any demagogue or leader who is so certain of himself he thinks that the law and the public's attitude need not be considered.

We sometimes take this system for granted. And we would do well to recall John Gardner's words when he wrote:

"When our nation was founded, there was a Holy Roman Emperor, Venice was a Republic, France was ruled by a King, China and Japan by an Emperor, Russia by a Czar and Great Britain had only the barest beginnings of a democracy. All of these proud regimes and scores of others have long since passed into history, and among the world's powers, the only government that stands essentially unchanged is the Federal Union put together in the 1780's by 13 states on the east coast of North America."

Our Constitution and our system of government have been sorely tested in recent years. But we have met those tests as we always have in the past. And our country is stronger for it.

I have been privileged to represent our country on two extended trips abroad. And everything we've been through in our nation—the civil rights movement, struggles for social justice, and even the challenge to our Constitution by a President of the United States has made us stronger and more respected in the eyes of the world.

The public demonstration—that even the highest officer in the land must live under the law and be accountable to the people and if not, can be removed through our institutions, peacefully, and legally—has permitted our country to stand before the world and speak without hypocrisy once again on behalf of the great causes and values we believe in—liberty and justice and human rights.

It all comes back to that revolutionary doctrine which Chief Justice Marshall put so well, "The United States (is) a government of laws and not of men." All of us have a stake in upholding that law and no group understands the importance of that responsibility better than you.

Judge Learned Hand summed up the meaning of that law to us when he said:

"Without the law we cannot live; only with it can we ensure the future which by right is ours. The best of man's hopes are enmeshed in its success; when it fails they must fail; the measure in which it can reconcile our passions, our wills, our conflicts is the measure of our opportunity to find ourselves."

SOCIAL SECURITY REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. GRADISON. Mr. Speaker, if social security revenues and payments were to keep up at the current rates, the disability insurance fund would be bankrupt by mid-1979 and the old age and survivors trust would follow it in the early 1980's. How did we get in such bad shape?

In 1972, the Social Security Administration began the process of "coupling," which was designed to increase benefits in accordance with the cost-of-living increases. The problem is that when the formula for indexing was drawn up, a serious error was made, which resulted in the indexing of benefits twice. This mistake has been corrected in the social security reform bill, which is now before the House Ways and Means Committee. This correction, called "decoupling," allows benefits to be indexed once, as is just. This correction alone reduces the estimated deficit by 50 percent.

During the same period, 1972–77, our economy experienced high rates of inflation which caused social security benefits to rise greatly—and doubly, as I mentioned above. Thus, payments by the system increased above estimates. Finally, the high rate of unemployment reduced the expected number and size of wages that could be taxed to provide the necessary funds for benefit payments.

This, then, is where we stand. Due to a technical error and aggravated by the recession, the social security system is in deep trouble financially and in need of reform.

The bulk of new funding for the social security system should come from the existing payroll tax method. Small tax rate and wage base increases will be sufficient for a good deal of the deficit. These increases should, however, maintain the historical parity between the employer and employee. There is no need or reason to increase the burden on employers alone. The principle on which social security is based asserts that benefits are to be supplemental retirement income funded by the present production of goods and services. Sharing the burden equally is the strongest support of the mutual responsibility that both employers and employees have to provide this supplemental income to the retired elderly.

Finally, provisions should be made for universal coverage of social security. At present, Federal, State, and local government employees are not covered by social security. The historical reason for this is that when the Social Security Act was created, public employees had a strong pension plan and were not in need of supplemental retirement income. However, the authors of the act made it clear that one day all workers should be covered. The principle that social security should be funded by the generation of income by present production should include all workers, not all but public employees. It is unfortunate that universal coverage is not being proposed on its own merits, but also as a method of financing the short run deficit. But this does not negate the underlying principle of universal coverage.

Changes in the benefits provided are another important aspect of the Social Security Reform Act. Extremely significant, although minor in terms of outlay, is the elimination of all gender-based or discriminatory policy that existed in the Social Security Act. One provision would shorten the duration of marriage requirement for aged divorced spouse's benefits from 20 to 5 years. Another would provide that remarriage would not cause any reduction in the benefits paid to retired widows or widowers. I strongly support these revisions.

More substantial changes will come in the form of more liberalized ceilings on the earnings limit. I favor these increases simply because the present rates are too restrictive and insufficient in the face of the inflation we have experienced over the past few years. I also favor these measures because I feel any law that keeps Americans from working is wrong.

These reforms that I hope will come to the social security system are long overdue. the Subcommittee on Social Security has worked very hard to create a balanced, equitable approach to social security reform, and I hope that the final bill that emerges will be comprehensive and complete.

FOREIGN POLICY OR CHAOS?

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mrs. HOLT. Mr. Speaker, when I reflect on the foreign policy of the Carter administration, I am reminded of nothing so much as a strange contraption flashing many colored lights and roaring platitudes as it rolls toward the brink of a chasm.

We have watched the administration promoting Marxist terrorism in southern Africa, welcoming Communist Vietnam into the U.N., undermining the security of Japan by withdrawing American troops from Korea, planning to give away the Panama Canal in treaties with a leftist dictator, and awkwardly causing a new eruption to prominence of the old Red China-Taiwan controversy.

But the gravest and most immediate danger arises from the administration's heavy-handed ventures in the Middle East, where the most sensitive kind of diplomacy is required. Henry Kissinger, where are you now that we need you?

What the administration has succeeded in doing is dragging the Soviet Union directly into the Middle East peacemaking effort, opening the way for many varieties of mischief.

Worse yet, the joint American-Soviet statement calling for a Geneva peace conference in December represents a go-for-broke approach toward Middle East problems bringing the Soviets back into the area.

Mr. Speaker, I invite the House to recall the sensitive "step-by-step" progress toward a peaceful Middle East settlement initiated by Henry Kissinger. His method was to find a modest area of agreement between the adversaries that would enable each side to achieve something of value. When such agreement was ratified, he would move on toward another step, searching diligently for a point of agreement which would satisfy the adversary parties. It was a process of building peace one step at a time. The hostilities created over centuries cannot be erased in one big, flashy negotiation covering all points.

Kissinger also was extremely anxious to keep the Russians out of the game. Their goal is control of Middle East oil resources on which the Free World depends for economic survival. Their strategy is to use the Arab-Israel conflict to gain influence.

A Geneva conference would present the Soviet Union with a grand and gaudy opportunity to achieve its goals.

The Soviet intention is to disrupt the good relations we have carefully developed with Arab nations without sacrificing our commitment to the survival of Israel. A Geneva conference could enable the Russians to achieve this objective.

A Geneva conference could succeed only if the Arabs and Israelis had arrived at some reasonable foundation for a general settlement before the conference. This seems very unlikely to happen in the near future. There are many critical points that are unresolved, many "steps" to be taken before a general settlement would be even remotely possible.

A Geneva conference that failed would be much worse than no conference at all. The danger is a war that could threaten the security of the entire Free World and embroil the United States and the Soviet Union in direct military confrontation.

I admire Israel and have supported her right to existence, her right to recognition by her neighbors, and a nonnegotiable American commitment to her survival.

The Free World has developed a great admiration for Egyptian President Anwar Sadat, who courageously ended Soviet influence in his nation and has risked his own political survival in efforts to achieve peace.

Mr. Speaker, the only hope for settlement is long range, and can be achieved only by a step-by-step approach between the countries involved.

THE AIR BAG LOBBY'S FUNNY NUMBERS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SHUSTER. Mr. Speaker, the air bag lobby attempted to intimidate me

last week in a rather ingenuous fashion by reporting that seatbelts are worn by only 5 percent of the people in my congressional district, based on a study done by a Nader group with the high sounding name "Center for Automobile Safety." In typically strident language they said I was "working to insure that 45,000 people continue to die on the Nation's highways every year."

The problem with their study, aside from the viciousness of their rhetoric and the fact that they are obviously biased, is that the supposed 5-percent usage figure does not even come close to matching other studies quoted by the air bag lobby. For example, a recent national study they promote shows that about 20 percent of the people wear their seatbelts. That is the figure generally quoted by the National Highway Traffic Safety Administration.

There are two basic flaws even in the 20-percent figure. First, the studies were conducted at traffic lights in 11 cities. People buckle up less in city driving than they do in long distance driving, so the studies were not representative. Second, it is unfair to compare today's seatbelt usage with projected 1984 air bag experience. It is fairer to use the experience recorded by NHTSA on 1975 cars involved in towaway crashes, since 1975 cars have the better harness belt system and most do not have the buzzer-interlock, as it was repealed in October 1974. That usage according to NHTSA data is 44 percent.

It may not be accurate to suggest that 44 percent of the people buckle up today, as I thought when I first got into this issue. It is reasonable, however, to believe that 40- to 50-percent usage can be attained in future years as older, more cumbersome belt systems are retired and people are made aware of the importance of wearing seatbelts.

It should also be noted that the air bag lobby survey made 97 percent of its observations at traffic lights in Altoona and Chambersburg rather than on the open road, further biasing their results.

Volunteers from the Surface Transportation Subcommittee staff and my congressional office conducted a seatbelt survey in my congressional district On Saturday morning, October 1, 1977. They stationed themselves at the intersection of Interstate 70 and route 30 in Breezewood, Pa., and at the traffic lights in Everett, Pa. They recorded the actual observation of drivers in those cars equipped with the modern three-point lap and shoulder harness. They observed 143 such drivers, 46 wearing the belt and 97 not wearing the belt or 32 percent seatbelt usage.

Interestingly, the belt usage coming off Interstate 70 was 38 percent—23 of 60 observations—and 28 percent inside the borough of Everett—23 of 83 observations. While we make no claim at this survey being the scientific last word, the results are markedly different from those reported by the air bag lobbyists, but much closer to unbiased national studies.

FARM EXPORTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, October 5, 1977, into the CONGRESSIONAL RECORD:

FARM EXPORTS

Few people other than farmers understand that farm exports, which now capture the produce from one crop acre of every four in production in this country, have become a major national asset.

American farmers have been exporting more than one-half of their wheat, one-half of their soybeans and one-fourth of their feed grains. The average farmer depends on farm exports for about one-fifth of his net farm income.

Agriculture, which is the largest U.S. industry, depends on exports to sustain its production and for its only source of significant growth. Without exports there would be costly surpluses or chaotic cutbacks in farm production. The export dollars earned by the farmer, which may top $23 billion this year, move quickly through the economy, and generate an estimated several million jobs. Consumers benefit from exports because the exports allow farmers to be more efficient by maintaining full production at the lowest possible unit cost; taxpayers benefit from exports because the farmer can depend on the market and not the government for his income. Farm exports have brought about sharp reduction in the cost of government farm programs. Agriculture, which has contributed a surplus to the U.S. trade account for more than ten years, enables the country to import both oil and many other items, ranging from Toyotas to television sets. Exports are also a powerful influence in foreign affairs. Food aid has helped countries to build their economies, to provide stability after devastation, and to feed millions of hungry people.

A surge in farm exports began in late 1972 because of increased sales to the Soviet Union, an accelerating demand for livestock products, poor harvests abroad, and the devaluation of the dollar. In the decade prior to this surge, the U.S. agricultural trade surplus hovered around one to two billion dollars a year. Since then it has been around $12 billion annually.

In the past four years the United States could export almost every bushel of grain and pound of fiber that it had available, but today conditions are shifting toward greater competition in world trade. Although the total value of exports may exceed last year's total, reduced exports of wheat and feed grains are anticipated this year.

Part of the shift is due to the remarkable occurrence of successive years of favorable harvests around the world. Record harvests are expected again this year. Major exporting countries will be competing with the U.S. for export markets. Exports to South Asia and Latin America will fall about 15% this year. Around 10 to 15% of all U.S. farm exports go to communist countries, with the Soviet Union taking the largest part. But due to an exceptionally large grain harvest in the Soviet Union in the last two years, farm exports to the Soviet Union will drop about 45% this year. If diplomatic conditions improve between the United States and China, there is a possibility of larger exports to China, but that does not appear likely in the near future and sales are expected to be minimal. The potential exists for very large increases in farm exports with the communist countries of Eastern Europe and Asia, but there must be an improvement in overall relations before that is likely to happen. Progress in trade negotiations, which if successful could open up more markets for farm exports, has been stymied by the efforts of the European community to protect its small farmers.

All of these factors lead to increased competition for American farm products in world markets. To increase farm exports, the United States must take several steps. The government must avoid restraints on exports, which have been applied three times in recent years. It must improve its marketing techniques, insure quality control with careful inspection systems, and become more aware of the food preferences and marketing facilities in the countries of Asia. The U.S. must be prepared to deal with the market procedures of state trading nations, such as the Soviet Union, and insure the capacity to alleviate the shortages that occur after devastation. We must develop the best possible intelligence about world supply and demand, and improve the institutional framework for handling U.S. farm exports.

Since periods of high protected tariffs have inevitably led to restricted exports for U.S. farmers, the United States must push hard to reduce these barriers during forthcoming trade negotiations. American agriculture stands to benefit from a policy of expansion of trade.

NOW COMES THE CARTER YOUTH—TO SPY ON MOMMIES AND DADDIES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SHUSTER. Mr. Speaker, a WRTA radio editorial by Lou H. Murray, vice president, on Tuesday, September 18, 1977, put in proper perspective the Carter administration's "Youth Energy Program." I commend it to my colleagues:

NOW COMES THE "CARTER YOUTH"—TO SPY ON MOMMIES AND DADDIES

The Carter Administration has come up with a plan straight out of Nazi Germany. Hitler used the kids to spy on Mommie and Daddy . . . the Carter Company is considering using our kids to check up on our compliance with their energy edicts. It will be called "The President's Youth Energy Program" and it would recruit local youth groups and schools to send volunteers out to check on their neighbor's energy use practice. The "Team Manual" published with taxpayer funds, suggests that the youths start on the outside; checking off energy problems, like the tire pressure on the family car.

Then the little snoopers would knock on your door . . . tell you your "outside score" and offer to come in and check the inside of your house. In something between 45 minutes and an hour, Carter's Junior version of the Nixon plumbers will go over your house from top to bottom, including a check on the water level in your toilet tank. Since a great percentage of our crimes are committed by youth think of the excellent opportunity these young White House sponsored snoopers will have to "case the Joint."

The White House says the plan is not designed to turn the kids into government Snoopers, spying on their neighbors, or even their parents for the President.

Maybe and maybe not, but to us the whole idea of giving our kids a government check list is repulsive to everything this country stands for, and anyone who could think of such a scheme is someone to watch very carefully. The plan is scheduled to go into effect the first of the month . . . unless enough pressure from citizens forces the President to stop it. But Jimmy Carter isn't a man to listen to the voice of the people. The force-

feeding of the Panama Canal sell out is a typical example. But in this, if he fails to heed the voice of the people . . . then the parents of America should call a halt to this Carter Caper by refusing to allow their children to be used in such a manner.

MORE PANAMA CANAL TREATY INTERPRETATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LAGOMARSINO. Mr. Speaker, Senator BOB DOLE, Republican of Kansas, has submitted information which, as he says, proves "beyond a doubt" that United States and Panamanian officials have far different interpretations of key defense provisions in the Panama Canal treaties.

I submit that the information does prove the Senator's contention:

DOLE: "CONFIDENTIAL" CABLE PROVES PANAMA CANAL TREATY FLAWED

WASHINGTON, D.C.—Senator Bob Dole today released the text of a Confidential State Department cable which he said proves "beyond a doubt" that U.S. and Panamanian officials have far different interpretations of key defense provisions in the proposed Panama Canal Treaties. Dole has requested comments from Secretary of State Cyrus Vance on the contents of the cable, which the Senator received a copy of on Monday of this week. "This document demonstrates beyond a doubt the vast differences in interpretation of the most important part of these treaties—that portion which bears directly on our vital national defense interests," Dole said.

Senator Dole, who is due to testify before the Senate Foreign Relations Committee Wednesday morning, said that the Senate "must clarify our defense rights by *Amendment*, not by weak 'understandings' that have no legal and binding effect." Senator Dole is the only Senator to have introduced Amendments and Reservations to change the language of the Canal Treaties proposed by President Carter.

The State Department cable was received from the American Embassy in Panama last Thursday, September 29, and described Panamanian negotiators as "disturbed" over testimony by Secretary of State Vance and U.S. Ambassadors Ellsworth Bunker and Sol Linowitz before the Senate Foreign Relations Committee last week. One Panamanian negotiator confirmed that the U.S. would have no miliatry intervention rights under the Treaty, and there would be no "preferential passage" for U.S. warships through the Panama Canal. Secretary Vance, along with several other Administration witnesses, indicated in his testimony last week that such American rights were "understood" within the language of the Treaties.

Senator Dole said it is "essential" that the United States retain unilateral authority to step in and defend the Canal militarily at any time it is threatened. He said it is also essential to have clear-cut rights to priority passage through the Canal during wartime. Senator Dole has already introduced Amendments to the Treaties which would guarantee both rights to the United States permanently.

In other remarks prepared for the Committee, Doel said defects and omissions in the Treaties must be corceted by Amendment or Reservation, both of which would be legally binding, rather than by Understanding or Declaration, which have only an interpretive purpose for the party that makes them.

Dole described in detail his six Amendments and two Reservations which, in addition to those described above, would cut U.S. payments to Panama in half; guarantee the U.S. right to construct a new interoceanic canal any place in the Western hemisphere; extend the transition period for transfer of U.S. jurisdiction over the Canal Zone; insist on human rights obesrvance in Panama for U.S. and Panamanian citizens; and give the House of Representatives a right to act on the Treaty proposals.

NEGOTIATOR'S CONCERN OVER HEARINGS

1. The political counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "preferential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for U.S. and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that Article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The general was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Royo, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical senators. He pointed out that most of the difficulties in the Senate so far have come from uncommitted Senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no matter how necessary in the American process, there were some things that no Panamanian government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels. He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MILLER of California. Mr. Speaker, legislation to reform the serious shortcomings of the foster care system appears stalled, because of political posturing on wholly unrelated issues. The House approved H.R. 7200 over 3 months ago, in time for enactment during this session of Congress, and implementation of some of the major features of the program reform later this year.

Now, that timetable appears to have been pushed back considerably. The provisions of H.R. 7200, which have received such widespread support from virtually all sectors of the child welfare community, and which have been so overwhelmingly approved by the House, face a very uncertain legislative future.

But the tragedy which precipitated H.R. 7200 continues full scale, and failure to put the provisions of H.R. 7200 into effect as quickly as possible will result in many thousands of children needlessly entering or remaining in foster care this coming year.

The record of hearings, both in the House and Senate, indicate the workability of the reforms contained in H.R. 7200. Across the country, people are anxious to begin the work of putting its provisions into effect. The accompanying recent article from the Village Voice is just the latest piece of evidence indicating the continuing need for foster care reform by the Federal Government:

BIG BUCKS VERSUS LITTLE KIDS

(By Barbara Lovenheim)

Joanne von Graevenitz is a healthy, white, adopted, 17-year-old girl with above-average ability. At the age of six she was abandoned by her father and surrendered to foster care by her mother. Joanne has lived in one orphanage, two foster homes, one group home, and several temporary adoptive homes. In her second foster home, she and her younger sister were confined to their room for three years. They went out only for meals and school, ate frozen pot pies and "leftovers" when the family dined on steak, weeded the garden when others swam in the prefabricated pool, and rarely saw their natural mother. When the social worker from the St. Cabrini Agency visited them, they were afraid to speak out because their foster parents were always present.

Joanne's mother died in 1970 when she was 10. Under provisions of New York State law, Joanne became eligible for adoption at that time. The agency took no action to legally free her—a matter of obtaining the appropriate court papers—until 1973; one year later she was adopted. Joanne had spent eight years in foster care at an average cost to the city of $3000 to $4000 per year. One-half of that money went to her foster parents; one-half went to the agency to provide supportive services. Yet, during those years almost no attempt was made to help Joanne's mother, investigate her foster parents, free Joanne promptly, or find a permanent home for her.

Carol and Christian von Graevenitz have two other adopted children. Jennie age nine, is half-black and half-Jewish. Jennie was placed in a foster home when she was two months old. Two years later, her foster parents handcuffed her to her bed every night so that she couldn't get up and walk around. When Jennie wet the bed, they hit her. When she was adopted six years ago, she guarded her food judiciously and recoiled in fear when her new parents tried to touch or kiss her.

The youngest child, Michael, four, is also biracial. He was abandoned by his parents shortly after birth; he came to live with the von Groevenitzes when he was eight months old. They wanted to adopt him immediately. He has just been legally freed.

Joanne, Jennie, and Michael are lucky. Unlike the vast number of children in the city's overflowing reservoir of homeless youth, they have found a permanent home with parents who want them and love them. But they are still recovering from their painful experiences as the wards of a system which seems to thrive on the perpetuation of abuses it was designed to remedy.

Currently, there are 29,000 children in foster-care homes and institutions in metropolitan New York. Twenty-five thousand of these children are under the care of some 85 private voluntary agencies, most of which are affiliated with the major religious federations—the Catholic Charities of New York and Brooklyn, the Jewish Federation or Philanthropies, and the Protestant Welfare Federation.

The majority of children committed to foster care are black and Hispanic. They come from the streets, from juvenile courts, and from homes where parents are alcoholics; drug addicts, indigent, confined to institutions, serving prison sentences, on welfare, or simply not interested in raising children. The overwhelming number of these children will never find a permanent refuge.

A recent audit released by the New York City comptroller's office reveals that more than one-third of these homeless children—11,000—have been kept in foster care an average of 5.5 years longer than necessary at a cost of $233 million in public tax money. According to Dr. George H. Strauss, who directed the audit, "Agencies have fallen short of the goal of achieving permanent homes for foster children. The agencies and the city have a lot of reasons—or excuses—for this, but they don't hold up very well under examination."

A policy statement on permanence issued by the Human Resources Administration in December 1976 states: "If return [to natural parents] is not possible . . . the child [should] be freed for adoption as quickly as possible and placed in a suitable adoptive home." The policy concludes: "Given a proper mix of appropriate attitudes, efforts and resources, an adoptive home can be found for any child who needs one."

But agencies make little effort to free children on time or find permanent homes for them. And little pressure is imposed on them to do so. Policies are profuse; laws are loose. The wording in the contract between the city and the voluntary agencies is vague and filled with loopholes. Adoption in most agencies is the rare exception rather than the rule.

Fewer than one-half of the foster-care agencies have adoption departments. This past year, 1976, less than 3 per cent of the children in foster care were adopted. In Los Angeles, a city with a similar urban complexion where all foster children are in direct public care, the number of foster children has decreased dramatically from 15,000 in 1970 to under 10,000 at the present time. The rate of adoption is almost four times that of New York City.

The audit also revealed that agencies do not register all freed children with the New York State Adoption Service, a government office created one year ago to find adoptive homes for eligible children. It found that out of 498 freed children under the care of the five agencies audited, 117—23.5 per cent—were not registered with the adoption service. Under state law this constitutes a violation which can result in the withholding of state funds from the social service district responsible.

Despite these flagrant violations of law and public policy, agencies are not penalized systematically and the comptroller's office continues to pay them and overpay them. Agencies receive per diem payments for every child in foster care ranging from $13 per day for children in foster homes to $36 per day for children in institutions. Agencies retain most of this money and are responsible for disbursing it to foster parents (who receive half), institutions, suppliers, administrators, lawyers, social workers, and themselves. This past year the city paid voluntary agencies $228 million. The only ones being penalized are children who want permanent parents and parents who want permanent children.

Angel Guardian, the second largest foster-care agency in the city, placed 3.2 per cent of its children in adoptive homes in 1975. Sixty-five per cent of its children had inadequate plans for long-term care. That same year. Angel Guardian received over $9 million in funds to care for its 2054 children. It has a rich history of being overpaid by the city, in recent years it has received more than $1 million in overpayments and it is currently contesting $273,606 which the city is trying to recover.

But Angel Guardian is not the only fallen dicinity. Overpayments are Miltonic in scope. Another agency owes the city almost $1 million. Audits dating back to 1970 reveal that agencies have received $5 million in overpayments; some of this money has been returned, but not all. Yet the agencies have a combined net worth of $300 million. Why are these agencies getting fat when their children are eating frozen pot pies? Why are they continuing to receive public funds when they continue to defy public policy? Who is pulling the financial strings?

Ask Thomas J. Cuite, the second vice-president of the board of directors of the Angel Guardian Home and the majority leader of the City Council. Are permanent foster care and permanent foster-care payments a part of the permanent government? According to Marcia Lowry, the director of the Children's Rights Project at the New York Civil Liberties Union, these agencies are protected by the powerful political figures who sit on their boards. "Agencies are free to thwart public policies because they are autonomous. They have been protected from criticism because they have powerful people on their boards—people who may not be putting money into their own pockets, but people who have political connections which protect the agencies they govern from gerater inspection, control, and supervision."

Representatives from the voluntary agencies call the audit a "political" document, designed to make Comptroller Harrison Goldin shine in an election year. Joseph Gavrin, the executive director of the New York State Council of Voluntary Child-Care Agencies, disputes allegations that agencies are not doing their job. Charging that the audit is a "typical management study" which looks at "cost benefits only," he contends the report is idiosyncratic and not comprehensive. "It gives the impression of being a factual audit or research document, but has used facts selectively to prove a preexisting thesis. It presumes that children are like bags of potatoes."

According to Gavrin and other defenders of the foster-care faith, the major problem agencies face is finding suitable adoptive parents. "There is a problem in the imbalance between the desires of people who want to adopt and the types of children available," he asserts.

But evidence suggests the contrary. In 1976, a total of 1266 people made inquiries to the five test agencies studied by the audit. Of these, 40 per cent wanted a child age four or older; 8 per cent wanted a child eight or older; and 30 per cent wanted nonwhite children. In one agency, Brooklyn Catholic Guardian, 20 requests came in for Hispanic children. The agency wrote back stating that none were available, even though 37 per cent of the children in the agency were Hispanic.

Mary Walker, the director of Family Services for the Council on Adoptable Children (COAC), supports these findings. COAC, a private nonprofit service, receives numerous calls from black parents interested in adopting school-age children between the ages of eight and 12. The majority of these prospective parents earn between $8000 and $12,000; many earn more. Yet, typically they must consult three or four agencies before finding one which will even accept them into "home study"—the evaluative procedure performed by each agency on prospective parents. "One of the biggest problems we have is that parents calling us reported that adoption or foster-care agencies told them no children were available. Of the 900 adults calling us this year, 700 are still trying to get into home studies," Walker stated.

Many other critics charge that agencies use discriminatory policies to discourage interested parents. New York State law stipulates that children should be matched with parents of the same religion whenever "practicable." According to Judith Schaffer, the former executive director of COAC, this gives the Catholic agencies license to discriminate against black Protestant children as well as parents of different religious faiths. The von Graevenitzes say they were rejected by the New York Founding Home, the largest agency in the city, because they were not Roman Catholic.

Adults who are single, handicapped, hypertensive, and fertile also experience problems finding agencies which will serve them. A black veteran, disabled in Vietnam, states that he waited two years to adopt a child and finally went to a black agency (Harlem-Darling) after being rejected by several others because he knew it was the only one which would consider him. "I felt I wanted a child because I have a lot of love and a lot of time and there are a lot of other disabled vets, like myself, who have been discouraged by the rigid set up." James Green, a single businessman who is also black, says that he had to wait three years to adopt children because of the "old tradition that children had to have two parents." He now has three adopted sons.

Monsignor Robert Arpie, the director of child care for the Catholic Charities of the Archdiocese of New York, which oversees 22 agencies, claims that the failures in the system are symptomatic of the inevitable "people failure" that exists in every area of our social-service system. But ultimately, he charges, the responsibility lies with the government and its failure to develop a "successful accountability system."

Despite the monsignor's apparent desire for firmer governmental control, agencies have a history of resistance. In April 1976, an organization representing most of the city's child-care agencies protested a plan by Goldin to start strict "head count" audits of the children in foster-care homes. Two years before that, representatives from the

voluntary agencies tried to block the appointment of James Dumpson as HRA administrato because he supported a lawsuit charging the agencies with religious and racial discrimination.

Carol Parry, the assistant commissioner of Special Services for Children, the HRA division responsible for controlling the agencies and conducting audits, admits that their procedures have not been as rigorous as possible. She attributes this to the tremendous fragmentation of the foster-care system, the relatively recent concept of adoption as a viable alternative to foster care, and the lack of adequate computer facilities. She also admits that the financial self-interest of the agencies is a major obstacle. "I won't deny that there is an institutional interest in foster care—for agencies who are in the business of foster care, survival is the issue."

Money—and not moral welfare—is the key that unlocks the agencies' door. Foster-care children are big business. They provide salaries, jobs, rents, services, supplies, and even status. And this is essentially what the audit concludes: The causes of this deplorable—and avoidable—situation include a lack of effort by the agencies; lax monitoring by responsible city and state departments; and a fiscal incentive structure that pays agencies for keeping children in foster care, but does not reward them for discharging children or penalize them for not moving children out of foster care and into permanent homes when such plans are appropriate."

It's a Catch-22 situation. The better you do your job, the more likely you are to lose it.

The audit has shown how much money we have wasted and how many lives we have jeopardized by needless spending and lax controls. According to Peter Edelman, the state commissioner of youth, the whole system is geared wrong. "We pay heavily for taking children out of troubled families and placing them in artificial situations; we pay almost nothing for preventive services or rehabilitative ones." The real question now is: What is the city going to do? Are we going to continue to support a system that rewards people for keeping children in fragile and transient situations?

U.S. POLICY IN THE MIDDLE EAST

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LUKEN. Mr. Speaker, I rise to introduce into the RECORD the following letter which I sent to the President today. Some of my colleagues who share these sentiments are sending a similar letter to the President. I find nothing in the so-called accord or breakthrough on the Geneva peace meeting announced today by the President to allav the concerns I express in the following letter:

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want to express my grave concern at the joint U.S.-Soviet communique issued over the weekend on the subject of the Middle East.

Both in substance and in the sudden and unexpected manner of its issuance, the joint statement came as a shock. It is highly significant that the statement has been hailed as a victory by the P.L.O. and various Arab Governments, and has been met with dismay and a sense of betrayal in Israel.

The most disturbing aspect of the communique is that it suggests the United States and the Soviet Union are now moving in the direction of an imposed peace in the Middle East, instead of seeking to promote direct negotiations among the nations involved.

Through the use of the words "the legitimate rights of the Palestinian people," the United States has apparently accepted a phrase which has particular significance for the Arabs in sustaining a partisan Arab viewpoint. It has been asserted that this is "an important change in policy," and that is precisely what we fear.

We urge you, Mr. President, to continue to reaffirm that the United States continues fully to support U.N. resolutions 242 and 338, and will agree to no amendments that are not acceptable to all the nations involved. We trust also that you will reaffirm the basic commitment of the United States to the survival and well-being of Israel within secure and defensible borders, to the necessity for a genuine peace, and to the principle that the only road to such a peace is through direct negotiations among the nations involved.

Sincerely,

THOMAS A. LUKEN,
Member of Congress.

TEXTILE INDUSTRY FACES DEVASTATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MURPHY of New York. Mr. Speaker, the largest manufacturing industry in this country is in danger of devastation.

The textile and apparel industry is the employer of 2.3 million Americans, many of whom are minorities and women. Thcse jobs, and the industry as a whole, will be put in jeopardy if steps are not taken to regulate the flood of imported goods into this country.

The American textile industry has been on the losing end of this country's balance of trade for the last 20 years. According to the Department of Commerce, the U.S. trade deficit in textiles and apparel in 1975 was $1.658 billion. In 1976, this rose to $2.594 billion; a 1-year jump of 56 percent. For the first 7 months of this year our textile trade deficit has already reached $1.582 billion. We cannot allow this trend to continue.

In New York City there are currently 175,000 people employed in the textile industry compared to over 200,000 only a few short years ago. The loss of these jobs has further crippled an already limping municipal economy, reducing the tax rolls and increasing the welfare rolls.

While foreign trade is both desirable and necessary for the overall economic health of our country, this trade must not be allowed to continue unchecked when the survival of a domestic industry is at stake. Textile imports need not be halted nor arbitrarily reduced. However, any further international negotiations entered into by this country should make every effort to tie import quotas to developments in the domestic market. In addition, any attempt to reduce tariffs on goods imported into this country should specifically exempt the textile and apparel industry.

This latter step is necessary, because imported textiles are already entering this country at prices below domestic goods. This is true largely because of the cheaper labor costs abroad. Lowering the tariffs further will only increase the advantage that already exists and aggravate the stability of the industry.

While I certainly do not oppose foreign trade, I do oppose any trade policies which damage the well-being of heretofore prosperous U.S. industries. I urge the administration to give careful thought to its position on this matter during all future trade negotiations.

MOST STUNNING SCENERY

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mrs. MEYNER. Mr. Speaker, I am often reminded that the 13th Congressional District contains the most stunning scenery in New Jersey. An area of hills, farms, and rushing streams, the natural beauty of northwestern New Jersey is truly impressive. But there is another type of beauty in the State—the wild, silent, and lonely beauty of the Pine Barrens of southern New Jersey. This region, comprising one-fifth of the State's total land area, is among the greatest natural and historical resources along the Atlantic coast. Since the publication of Dr. Henry Charlton Beck's "Forgotten Towns of Southern New Jersey" in 1936, naturalists and historians have become increasingly aware of the fragile ecosystem that is the Barrens.

Those of us who cherish the varied environment of New Jersey recognize that immediate action is needed to preserve the Pine Barrens from urbanization. The greater Camden-Philadelphia metropolitan area continues to expand eastward, and the impending renaissance of Atlantic City will have a similar effect in the opposite direction. The consequences are clear. Lying between these two urban poles, the Barrens will be seriously compromised if we fail to act. New Jersey will at the same time lose a magnificent resource of national significance.

The Pine Barrens must be considered as a single organic entity rather than a park encompassing several dozen often competing municipalities. While regular consultation with local officials is necessary and desirable, strong direction must also be shown by the State and national governments. For this reason I have cosponsored H.R. 6625, a bill offered by my colleague Representative FLORIO which would enable New Jersey to develop and administer a plan for a Pine Barrens National Ecological Reserve. The bill would permit the Federal Government to acquire and grant to New Jersey the most ecologically critical area of the Barrens after the State has established a man-

agement study area and a management commission consisting of 12 individuals expert in resource technology and planning.

I am pleased that the Subcommittee on National Parks and Insular Affairs of the House Committee on Interior and Insular Affairs is currently holding hearings on this important legislation. I urge favorable action by the committee and hope that these hearings will underscore the urgency of preservation.

The Pinelands have traditionally been regarded as desolate, mysterious and forboding by those who know the region only from the monotony of superhighways crossing the Barrens. This perception is unfortunate, for the Pine Barrens are a land of people living in harmony with nature and history. This viewpoint is eloquently expressed in an article appearing in the September issue of the Sierra Club Bulletin. I commend this article to my colleagues and hope that through it they will come to appreciate a national treasure of great drama and beauty:

IT IS NOT SO BARREN IN THE PINES

(By John G. Mitchell)

If one were to lay a straight-edge along the axis of America's most densely inhabited supercity, the center point would fall on or about Jenkins, New Jersey. People once called the east-coast megalopolis "Boswash." But "Richport" seems more like it now, since the little boxes and all the urban demographics that go with them already sprawl from the Virginia hillsides of Richmond to the precincts of Portsmouth, New Hampshire, where Governor Meldrim Thomson to the contrary notwithstanding, the likes of God's Country do yet miraculously prevail.

As for Jenkins, New Jersey, its centrality to Richport is somewhat deceptive and strictly geographic. Jenkins sprawls nowhere. You pass through it on a two-lane thoroughfare in half a minute. The population is 45. Haines' cranberry bog is up the road a piece. Mick's Gulf station sits by the roadside, dispensing soda pop and aluminum canoes. The canoes are for rent. The canoes at Mick's outnumber the people of Jenkins four-to-one. Strangers from the more densely populated parts of Richport—say, from Philadelphia and New York—come to Jenkins to float the Wading River, or the Oswego, or the Batsto, or the Mullica. In the heart of Supercity, sweet water meanders to the sea through dense stands of Atlantic white cedar, red maple and black gum, through dangleberry and greenbriar, sheep laurel and turkey beard. And back from the watercourses, low sand hills roll in every direction under pitch pines and blackjack oaks. Philadelphia is only thirty-miles away, northwest. Manhattan is seventy miles, northeast. South twenty miles are the budding casinos of Atlantic City, New Jersey's Las Vegas-by-the-Sea. Yet here you are in Jenkins, epicentered on the largest, strangest, wildest, richest, most precious, most vulnerable, least protected, least celebrated body of open lands remaining in the eastern U.S. In short, the Pine Barrens.

In historic halcyon times, before Richport began to glue itself together with interstate highways, the Pine Barrens covered a quarter of New Jersey. There has been a good deal of shrinkage in recent years, but the unfettered area is still substantial. In the East one does not scoff at 1,500 mostly forested square miles, nearly one million acres. Or in the West either. Not when one could take Kings Canyon, Sequoia, and Arches national parks and drop them side by side into the Pine Barrens with room to spare. This is not to say that the Pine Barrens constitute a wall-to-wall wilderness. It would be more accurate to describe The Pines' pine-oak forest ecosystem as a set of scatter rugs, ranging in individual size from 1,000 acres to a 100,000 or more, the whole lot distributed generally across south-central New Jersey between the Garden State Parkway on the east and the industrial outskirts of Camden-Philadelphia on the west. Tucked away here and there in The Pines (a term preferred by local folk over the pejorative and inaccurate "Barrens") are a handful of mapped settlements not unlike Jenkins: Bulltown and Atsion and Tabernacle and Friendship and Retreat, among others; a few unmapped outposts such as Speedwell and Hog Wallow, and three or four truly operational villages such as New Gretna and Chatsworth, the latter of which is generally conceded to be the First City of The Pines. When *New Yorker* writer John McPhee visited Chatsworth a decade ago (with splendid results: *The Pine Barrens*, Farrar, Straus & Giroux, New York, 1968), he counted "three hundred and six people, seventy-four houses, ten trailers, a firehouse, a church, a liquor store, a post office, a school, two sawmills and one general store." To the best of my knowledge, no one has undertaken so comprehensive an inventory since then. And possibly no one needs to, for Chatsworth remains pretty much the same.

It is a different story on the edge of The Pines, for there the fabric of wild places and backwoods ways is fast unraveling. In Ocean County, northeasternmost of the six counties that make up the Pine Barrens, some eighty percent of the state's retirement communities are now located or a-building. On the west, pines are falling under the creeping exurbs of Camden. And on the south and east, tidewater communities are girding for the growth that is certain to come with onshore facilities supporting offshore oil development in the Atlantic's Baltimore Canyon. New Jersey is already the nation's most densely populated state, 953 humans to the square mile. In The Pines region, however—and this includes the larger towns on the edge—the density drops to about 135 per mile; in the interior, near Jenkins, it drops to fewer than fifteen. The people of The Pines want to keep it that way. They do not want to be stacked up like cordwood. They want Retreat, not Richport. And, not so curiously, a number of people who are not residents of The Pines want to keep it that way, too; they know that should Richport come to Retreat, the pines and the cedars, sweet water and salubrious air will be finished, and nothing to show for what now is the best-of-what's-left on the northeastern seaboard.

The Pines are unique. I know that is a hackneyed, shopworn claim too often bandied about in the rhetoric of landsaving. Some time ago I promised myself that I would eschew such hyperbole forever. I break the promise here because I have to. The Pines *are* unique. Nothing quite like this forest exists anywhere in North America, or in the world for that matter, though some travelers, discounting botanical differences, perceive a striking visual similarity between The Pines and certain areas of spruce-dominated taiga in the Alaskan interior. Surely, no other forest in eastern North America contains such a wide range of overlap between northern and southern plant species. Within The Pines more than 100 southern species have established the limit of their northernmost range; some twenty northern species have staked out limits heading the other way. Also within The Pines are at least two plants—sand myrtle and the Pickering morning glory—that grow nowhere else. The curly grass fern, a curiosity extant in only two other locations outside The Pines (Long Island and Nova Scotia), was first discovered by science in 1805 on the banks of the Batsto River, at Quaker Bridge. And not far from Jenkins is a place called "the Plains." The Plains encompass 27,000 acres of dwarf pines and oaks which, over the millennia, acquired stunted height (two to five feet at maturity) through adaptation to the cyclical ground fire that periodically runs through the forest and, in so doing, enables the dwarf pines to reproduce.

Among the region's notable wildlife are the white-tail deer, the beaver, and the gray fox, though perhaps they are not quite so notable as the Pine Barrens tree frog, the carpenter frog, and the northern pine snake. Beyond The Pines, the range of these three are said to be highly restricted. There are not many fish, a couple of dozen species—the water is too acid. Butterflies abound, though: ninety-one species in the region, with wonderful names like the Pearly Eye, the Lakehurst Satyr, the Southern Wood Nymph, the Variegated Fritillary, the Hoary Elfin, and the Copper Bog.

Through and underneath it all runs the water: pure, hard, cooled by springs that bubble to the surface at a constant temperature of fifty-four degrees Fahrenheit, clear after rain but at other times a rich reddish-brown from the leaching of bog-iron deposits and from tannin in the bark and roots of the riverbottom cedars. The color of the water is deceptive. One is reminded of root beer. Yet according to a study by the Interior Department's Bureau of Outdoor Recreation, the quality of The Pines' water approaches that of "uncontaminated rain water or melted glacier ice." Even more impressive is the quantity of it—an estimated 17.7 trillion gallons stored in a shallow aquifer known to geologists as the Cohansey Formation. To comprehend such a quantity of water, one must try to imagine a lake covering 2,000 square miles and 37 feet deep—a lake the size of Connecticut. The Cohansey is a valuable aquifer, and it prevails. It is also vulnerable. The overlying mantle of loose sandy soil that serves as a sponge to the rain is likewise capable of soaking up urban wastes. Which is another splendid reason why Richport has no business sneaking up on Retreat.

The Pines has been a retreat of one kind or another for more than 200 years. The area was not attractive to the earliest settlers. The forest did not beckon hospitably to homestead farming. So the region was left largely to a handful of charcoal colliers and others with reason to cherish the scant density of their peers. Over the early years, such types included fugitive Tories, Hessian deserters from His Majesty's Service, pirates and privateers, smugglers, highwaymen, rascals and thieves, not to mention a sizable contingent of Quakers who, for one reason or another, had failed to live up to the rigid codes of conduct expected of Quakers elsewhere.

BLUEBERRIES AND BOG IRON

Life in The Pines in Colonial times was not always as bucolic as some would have liked. Iron works appeared at Atsion and Batsto. Bog iron, mined in The Pines and forged over pine-oak charcoal, provided cannon and shot for General Washington's army. Jersey bog iron was resistant to rust. It would command much of the ferrous market in this country until the 1850s, when Allegheny ore became the favored raw material, and coal replaced charcoal under the nation's forges. Later and at various places in The Pines, sand and gravel were quarried and glass manufacturing enjoyed a certain vogue. But, by and large, after the iron works played out, the region's principal products were and are agricultural—mainly blueberries (in production of which, thanks to The Pines, New Jersey ranks first nationally), and cranberries (New Jersey ranks third).

Aside from these endeavors, the region's only other significant commercial enterprise over the years has been a wanton merchandising of land. For more than a century hucksters have painted The Pines as a veritable residential Eden, garnishing their sales pitch with such come-hither communities—existing on paper only—as Fruitland and Prosperity Park and Paisley. In his classic profile of the region, John McPhee describes how some prospective buyers were hoodwinked by promoters who "tied pears and apples to the limbs of pine trees and stationed fishermen in boats . . . with dead pickerel on the ends of their lines and instructions to pull the fish out of the water every ten minutes."

Meanwhile, the state of New Jersey in its wisdom proceeded to acquire vast tracts in The Pines; the Wharton Tract, for example, covers 96,000 acres and is managed as a state forest. Lesser state holdings comprise an additional 65,000 acres. And in the north, the federal government presides over substantial pineland acreage at the Fort Dix Military Reservation, McGuire Air Force Base and the Lakehurst Naval Air Station. Altogether, about one-quarter of the region is now in public ownership (if one is willing to stretch the imagination to embrace Defense Department lands as public). As for the rest of The Pines, they are still up for grabs.

Possibly the most ruthless grab ever proposed for The Pines was the 1964 scheme to bulldoze fifty square miles near Jenkins into a super jetport, with ancillary "new" cities housing a quarter-million people. Fortunately this plan found few friends within the Federal Aviation Administration or among the proprietors of New York City's existing airports and, after much public fuss, was ignominiously scrapped. No doubt historians will note a curious similarity between The Pines Jetport and The Everglades Jetport, which was laid to rest in Florida some four or five years later. In any event, there was a time in the 1960s when this singular threat to The Pines seemed quite real and imminent—so imminent, in fact, that environmentalists began to clamor for some measures of permanent protection for the place. But everyone's measure was not quite the same. Some friends of The Pines demanded national park designation. Others espoused monument status. By 1972, says one veteran of the preservation wars, "the Pine Barrens had been studied and rejected for just about everything the Park Service has to offer short of a national battlefield park. Considering all the sound and fury, maybe a battlefield park for the Barrens isn't such a bad idea."

No doubt the most realistic solution at present is Representative James J. Florio's effort to create a Pine Barrens National Ecological Reserve. Toward this end, the *Camden Democrat* last April introduced a measure without precedent—a bill that would establish a cooperative federal-state mechanism to protect and manage 970,000 pineland acres. Hearings are expected to be held soon by the House Subcommittee on National Parks and Insular Affairs.

Florio's measure is rooted in the "Greenline Parks" concept, an approach to preserving recreational landscapes first espoused in 1975 by Charles E. Little, environmental policy specialist for the Congressional Research Service of The Library of Congress (and coauthor of the 1973 Sierra Club Landform book, *A town is saved, not more by the righteous men in it than by the woods and swamps that surround it*). As Little defined them, greenline parks would help avoid overextending the resources of the National Park Service, would preserve significant natural areas through access agreements and land-use controls as well as by acquisition, and would place the federal government in the role of provider of front money and technical assistance to state commissions that would manage the "parks." The concept, Little noted, is "akin to national park practice in England and Wales," and, but for the lack of federal participation, is somewhat similar to the approach adopted in New York State's management of its Adirondack Park.

Specifically, the Florio bill would authorize expenditures of $50.5 million to establish the ecological reserve—$500,000 in planning grants to a management commission (to be appointed by the governor of New Jersey); $25 million for direct acquisition of up to 50,000 acres of critical land in The Pines, including the pygmy forest, with authorization for the Secretary of the Interior to transfer these lands to the state commission upon approval of its management plan; and $25 million in management grants to the state. Under the bill, the latter grants could be used to compensate landowners for access rights and to provide payments in lieu of taxes to local governments where acquisition of land would result in a loss of revenue.

Not surprisingly, the proposed ecological preserve enjoys wide support from the New Jersey congressional delegation as well as from local, regional and national environmental organizations. Two such organizations, in fact, have already launched their own effort to protect critical pineland areas: the North Jersey Conservation Foundation and The Nature Conservancy are engaged in a joint fund-raising drive to finance acquisition of some 20,000 acres.

Sentiments in The Pines regarding the bill are mixed, as they always are in home-rule backwoods places. Some residents of the region view the Florio plan as a federal "takeover." In Jenkins and thereabouts, a few people regard it as a thinly disguised scheme to steal the aquifer's water and pump it upstate to the burgeoning North Jersey suburbs. A substantial number of residents, however, agree with Mayor Floyd West of Bass River. "*Something* has to be done to protect The Pines," says West. "Development is out of control. Each municipality plans its affairs as if the ones next-door did not exist. And the outside interests, the absentee landlords from New York and Philadelphia, are taking advantage of that." West claims he represents a pinelands majority in supporting the concept of an ecological reserve. "I'm not a conservationist," he says. "I just happen to believe in common sense."

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LEHMAN. Mr. Speaker, last week I missed a number of votes because of my participation in the 64th Inter-Parliamentarian Conference in Sofia. Had I been present, I would have voted in the following way:

Rollcall vote No. 583, "yes."
Rollcall vote No. 584, "yes."
Rollcall vote No. 585, "yes."
Rollcall vote No. 586, "no."
Rollcall vote No. 587, "yes."
Rollcall vote No. 588, "yes."
Rollcall vote No. 589, "yes."
Rollcall vote No. 590, "yes."
Rollcall vote No. 592, "yes."
Rollcall vote No. 594, "yes."
Rollcall vote No. 595, "yes."
Rollcall vote No. 596, "yes."
Rollcall vote No. 597, "no."
Rollcall vote No. 598, "yes."
Rollcall vote No. 599, "yes."
Rollcall vote No. 601, "no."
Rollcall vote No. 602, "yes."
Rollcall vote No. 603, "yes."
Rollcall vote No. 604, "yes."
Rollcall vote No. 605, "yes."
Rollcall vote No. 607, "yes."
Rollcall vote No. 608, "yes."
Rollcall vote No. 609, "yes."
Rollcall vote No. 610, "yes."
Rollcall vote No. 611, "yes."
Rollcall vote No. 612, "no."
Rollcall vote No. 613, "yes."
Rollcall vote No. 614, "no."
Rollcall vote No. 615, "yes."
Rollcall vote No. 616, "yes."
Rollcall vote No. 617, "yes."

BIKEWAY TRANSPORTATION ACT

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KOCH. Mr. Speaker, today I am reintroducing the Bikeway Transportation Act of 1977, H.R. 955, and I am pleased to report that this legislation is now cosponsored by 50 Members of the House. This legislation will supplement and improve on the existing authority in the Federal-Aid Highway Act, which allows a limited amount of highway funds to be spent by the States for bicycle transportation improvements. The Bikeway Transportation Act would create a separate category for bikeways and related bicycle facilities authorizing up to $45 million in Federal funds annually for these purposes. State and local communities would be required to provide a 20-percent matching share for each bike facility or bike path constructed.

Under the provisions of the legislation I am introducing today communities of population 2,500 or larger as well as larger cities would be eligible to apply for bikeway funds. Bicycle paths could be constructed to facilitate commuting within towns and cities, to connect towns and cities with each other, or to link local, State or national recreation areas with population centers. As originally introduced, H.R. 955 would have provided funds only in larger cities and towns of population 50,000 or greater. Because a number of people pointed out that this would fail to address the need for facilities and the potential for increased bicycle use in less-populated areas, I have modified the legislation to allow Federal bikeway grants to be made in any community of population 2,500 or greater.

I believe that communities of every size will want to encourage the increased use of bicycles both for transportation and for recreation. It has been estimated that if only 5 percent of those who currently commute to work by automobile were to switch to bicycles, the United States would save over 780 million gallons of gasoline per year. In addition, the bicycle is a nonpolluting means of transportation which provides benefits to

bicyclists in the form of improved cardiovascular health.

Recently the Subcommittee on Surface Transportation of the House Public Works and Transportation Committee held a day of hearings on bicycle legislation, and I was pleased that H.R. 955 was discussed in some detail. I was interested in the testimony in favor of increased Federal funding of bicycle facilities which was presented by James J. Hayes of the Bicycle Manufacturers Association of America. I think that Mr. Hayes summarized some of the important statistics on bicycle use, and I was pleased that his organization chose to support the legislation that I have introduced. For the benefit of my colleagues, I am appending the text of Mr. Hayes' testimony:

SUBCOMMITTEE ON SURFACE TRANSPORTATION, HEARINGS TO CONSIDER TESTIMONY ON LEGISLATION FOR THE CONTINUATION OF THE HIGHWAY AND MASS TRANSIT PROGRAMS, INCLUDING H.R. 955

Thank you, Mr. Chairman, and members of the Committee. It is an honor to testify before this Committee of the House of Representatives, and a privilege to be allowed to comment on H.R. 955, one of the meaningful and far-reaching pieces of legislation this Committee has under consideration.

My name is James J. Hayes. I am Executive Director of the Bicycle Manufacturers Association of America, a trade association representing the producers of over 80% of all domestically manufactured bicycles. For nearly 40 years, one of the principal purposes for the existence of the Bicycle Manufacturers Association has been the support and promotion of programs that provide for the safer and more pleasant use of its products.

It is because this Committee is considering such a program—the Bicycle Transportation Act of 1977—that I have asked permission to testify, and I am grateful for the opportunity you have extended to me.

H.R. 955, and its companion bill in the Senate, S. 1495, are particularly deserving of favorable consideration at this time. For while they speak specifically to the need for expanded bicycling facilities, what millions of bicyclists, highway officials and traffic safety officers see in the passage of this legislation is the elimination of existing barriers to the safe and convenient use of the bicycle for commuting, short-haul transportation and recreation.

There are more than 80 million bicycles in the hands of the American public, ridden by more than 100 million persons. Eight million new bicycles were pumped into the traffic mix last year, and the industry expects sales to increase to nine million this year. Fifty-eight million bikes were bought by Americans in the last five years—that's 10 million more than the 48 million passenger cars that entered the market place during the same period.

While many continue to mistakenly think of the bicycle as a child's toy, the fact is that from 50 to 75% of all sales in the last five years have been lightweights—fully equipped touring bicycles designed expressly for transportation and recreation by young adults and adults.

A recent survey by a reputable research organization estimated that by 1980 bicycles sales will rise to 11 million annually and reach 19.2 million annually by 1990. The number of bicycles owned will grow dramatically from 379 per 1,000 persons in 1980 to 500 bicycles per 1,000 persons in 1990. Lightweights ridden by young adults and adults will be the chief beneficiary of this growth.

These millions of riders will be using their bikes on the nation's highways and byways for a variety of purposes—commuting to work, which we see growing evidence of here in Washington, cycling to schools, supermarkets, playgrounds, ballfields, parks, museums, and other places of scenic, historic and recreational interest. It is useful, utilitarian cycling. People riding bikes instead of driving cars—contributing to greater energy efficiency, reducing air and noise pollution, and providing positive health benefits to themselves.

In introducing H.R. 955, the far-sighted Mr. Koch and his co-sponsors, Congressmen Wirth and Regula, pointed out that if just five percent of the commuters now using cars converted to the bicycle, the saving in gasoline alone would add up to more than 780 million gallons.

Mr. Chairman, it's hard to put a price tag on that kind of annual energy conservation, compounded over the life span of the kind of cycling facilities H.R. 955 will fund. But it is obvious that bicycles are an untapped energy-saving resource already available to over 100 million Americans—with millions more looming in the future.

If energy conservation is, indeed, as President Carter has proposed, to have the moral equivalency of war, certainly the increased use of the bicycle for transportation and recreation is at least one of the weapons to be developed for the nation's energy arsenal.

This was the conclusion reached by the House when it adopted the recommendation of the Ad Hoc Energy Committee a few weeks ago. The precedent-setting amendment to the National Energy Act it adopted called for a major study by the Secretary of Transportation on how best to stimulate increased use of the bicycle by all Americans as an energy-saving device. The study will examine the legal, physical and personal obstacles involved in establishing a comprehensive program to meet such goals.

Coincidentally, we have been advised that Secretary of Interior Cecil Andrus on his own initiative has moved in the same direction. He has proposed a joint effort with the Department of Transportation and his agency to develop far-reaching programs which would intensify their activities in behalf of promoting bicycling and bikeways. A nationwide plan of action is being developed for joint implementation.

The cold facts, however, show plainly, as in the Federal Highway Administration program itself, that increased use follows, not precedes, increased availability of facilities. Just as more good Federally-assisted highways brought more and safer automobile use, so will more Federally-assisted bikeways, routes, lanes, parking and other facilities bring increased use of the bicycle.

Funds must be authorized and appropriated to exploit the vast potential of cycling as a transportation and conservation resource. When the Federal Aid Highway Act of 1973 authorized $40 million for independent bikeway and walkway projects, it failed to satisfy the growing need because funding was not exclusively designated for that purpose. Consequently, funds could and were diverted to other highway priorities. Despite Congressman Bob Edgar's amendment increasing the authorization to $45 million annually in the Federal Aid Highway Act of 1976, in the five years since Federal aid was sanctioned only a little more than $9 million has been spent on independent bikeway projects.

Last year, though, the Senate Appropriations Committee authorized an expenditure of $6 million for the Bikeway Demonstration Program proposed by Senator Bob Packwood. This resulted in the funding of 41 bikeway demonstration projects in 31 states. When the program was announced, 495 project applications with a combined Federal-State-Local cost in excess of $141 million flooded the Federal Highway Administration regional offices in 50 states.

The Packwood provision—important as it was—was a drop in the bottomless bucket of need, Mr. Chairman—like trying to harness the energy of the atom with a department store chemistry set. But it did demonstrate what those deeply involved in the bicycling movement in this country knew—that there is an insatiable demand for bikeways to assure a safer environment for bike travel in our country.

The $45 million annually authorized by this bill is not a massive proposal by any Federal standard. But it will be a positive step toward the construction of both on-road and off-road bicycle facilities so necessary if bicycling for transportation is going to take that quantum leap forward. Only then can this inexpensive, non-polluting vehicle become a positive factor in the nation's energy program.

While we strongly urge passage of Congressman Koch's legislation, we would propose one change which would tend to broaden its scope. We suggest that grants to States and municipalities for bikeway projects apply to those within an "urban territory," designated by the Bureau of Census as areas with populations of 2,500 or more.

It is our understanding that Congressman Koch and his co-sponors favor this change in their bill which presently refers to "urbanized areas," limiting grants to populations of 50,000 or more. Thus H.R. 955 would read exactly as S. 1495 is now written. This would eliminate any conflict when both bills have been approved and reach the conference for clearance.

Thank you for your time, your attention, and your consideration in this matter.

REPEAL OF NEW YORK STOCK EXCHANGE RULE 390, WHICH LIMITS OFF-BOARD TRADING

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. WYDLER. Mr. Speaker, the Securities and Exchange Commission recently concluded hearings in anticipation of taking action which will have a profound effect on this nation's securities industry and, in particular, on investor confidence in our securities markets.

Broadly stated, the SEC would nullify traditional stock exchange rules which require that a public customer's order in a listed security be sent to an exchange for execution.

Instead, the SEC proposal would allow brockerage firms to make markets in listed securities in their offices. Brokerage firms would acquire an inventory of stocks and, when a customer's order is received, they would execute that order against their own inventory.

The implementation of this rule would have a profound effect on the New York financial community, which has always been the linchpin of the New York area economy.

A thoughtful article on this proposal appeared recently in Financial World and I commend it to the attention of my colleagues:

KILLING THE AUCTION MARKET: A BAD EXECUTION

Why is it that dolphins, alligators and whales seem to have a bigger constituency concerned with their survival than does the auction market?

The traditional rules under which the major exchanges operate provide that all orders from the public come to the floor, where the highest bids are matched with the lowest offers on a first-come first-served basis. This auction market concept has always seemed to me to provide the best and fairest method for the orderly handling of securities purchases and sales. But now it's in danger of a fate akin to the buffalo—if not total extinction, certainly less prominence. And the only proffered reasons I can find to justify this travesty are ignorance and self-interest.

For years the public, by intuition, has put its faith more in the N.Y.S.E. than the over-the-counter market. While some of this is due to the nature of companies whose securities are traded in one market versus the other, that is not the primary or even the most compelling reason. The feeling is that a dealer's market, where orders are negotiated and where brokers can act as principals rather than agents, is not an environment in which the best execution can be structurally assured. This the public knows intuitively, if not technically. And when the newspapers report that the S.E.C. is suggesting the elimination of rule 390, it is not perceived in the public consciousness that this rule is the cornerstone of the auction market and without it the market may die. Rule 390 mandates that Member firms are prohibited from trading in listed securities off-board. The effect of this is to centralize orders on the floor of the Exchange; the sine qua non of the auction market. I'm sure if the public comprehended this, investors en masse would decry the elimination of this rule.

Members of the securities industry understand the implications and a group of 19 of them, in a rare meeting for the securities industry (one where they got together and agreed on something), issued a strong statement of warning that proposals which weaken the auction market system will mean an additional loss of public confidence and participation in the equity market—something this country is already experiencing and can further ill afford.

One firm was conspicuous by its absence at that meeting—the nation's largest securities dealer, Merrill Lynch. Either it is more concerned with self-interest (if the rule changes I would expect it would begin making an off-board market in listed securities), or it believes Charles E. Wilson's old saying that what's good for G.M. is good for the public and has applied it to Merrill Lynch, Pierce, Fenner & Smith Inc.

Where is the S.E.C. in all of this? As usual, in the forefront of advocacy. It feels that the most expeditious way to a national securities market is by breaking down the walls of the N.Y.S.E. Its recent proposals are designed to do this. Forgotten is the investor. The S.E.C. wants the public to get the best execution at the cheapest price and in a central market. The only problem is that every proposal it makes toward that end is backed by so little understanding that the net result is less efficient markets and higher costs to investors. Killing the auction market is a bad execution.

THE AMERICA WAY

HON. GUY VANDER JAGT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. VANDER JAGT. Mr. Speaker, yesterday I had the privilege of meeting and visiting with Mr. George C. Foerstner, president of the Amana Co., Amana, Iowa, manufacturers of appliances.

Mr. Foerstner left me with a very unique and an extremely interesting statement that he had just issued to all Amana employees. I want to take this opportunity to urge all my colleagues to read this very special memo which I am including with this brief statement. I hope, too, that President Carter and members of his administration will read it as well. And, more importantly, I would "adopt" the American way that Mr. Foerstner so well advocates. In light of the administration's present handling of the steel import difficulties, with thousands of American workers now or soon to be unemployed, it is doubtful that it would join in such a position. Nonetheless, perhaps they will be convinced that the Amana American way is the approach they should be considering rather than one of inaction.

Very briefly, Mr. Foerstner focuses on the serious difficulties confronting our steel industry and very logically suggests a good course of action.

He concluded his special employee memorandum by stating:

Amana's position is firm, too. We will continue to buy American steel exclusively, to help the U.S. economy and business remain strong.

Earlier in his memorandum he wrote relative to the Youngstown Steel shutdown:

This affects us at Amana in a variety of ways. We do a lot of business in Youngstown and other steel areas hit by layoffs and employee cutbacks. In addition to us not being able to buy their steel anymore, these people—who are jobless and with no income—can no longer be our customers. They don't have any money to buy Amana products.

I submit, Mr. Speaker, with many Members now joining the special steel caucus, that the administration not only heed Mr. Foerstner's logic but that they adopt it. It is the American way.

TO ALL AMANA EMPLOYEES

You've probably read or heard lately about the serious difficulties the steel industry is facing because of more and more foreign steel being purchased in the U.S.

In recent weeks, several steel companies have fallen victim to this increasing imported steel trend. For example, Youngstown Sheet & Tube Co. has discontinued plant operations, putting 5,000 employees out of work.

This affects us at Amana in a variety of ways. We do a lot of business in Youngstown and other steel areas hit by layoffs and employee cutbacks. In addition to us not being able to buy their steel anymore, these people—who are jobless and with no income—can no longer be our customers. They don't have any money to buy Amana products.

We've been in contact with Maytag Company and they have communicated a similar position to employees:

Import Woes. The steel industry, which employs about 417,000 people, is facing serious problems because of the rising tide of foreign steel being purchased in the U.S. Thousands of steel industry employees have found themselves out of work, plants have been closed, income is down and expansion plans have been halted.

Another problem is that an estimated 2.5 million Americans will buy foreign cars this year—a situation that hurts both the steel industry and one of its biggest customers, the auto industry.

Loss of business results in people being put out of work, and unemployment has an adverse effect on the nation's business climate. People without jobs don't have money to buy goods, like appliances and services.

Steel is the largest single raw material used by Maytag, and none is purchased from foreign companies. We buy steel from seven of the eight largest steel companies in the U.S.

Amana's position is firm, too. We will continue to buy American steel exclusively, to help the U.S. eeconomy and business remain strong.

GEO. C. FOERSTNER,
President.

October 4, 1977.

THIS IS NO TIME TO SELL OUT ISRAEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. LENT. Mr. Speaker, I have been shocked and dismayed by this weekend's Soviet-American declaration on joint objectives for a full Arab-Israeli peace settlement, followed by public remarks of President Carter's chief foreign policy adviser, Zbigniew Brzezinski, of U.S. intentions to "exercise its leverage" to obtain a settlement. These two statements signal a further deterioration in the support of this administration for Israel's interests, and a major step toward the imposed settlement the United States has long promised it would never let happen. This shift has been hinted at numerous times by members of the administration, but it is now abundantly clear where the President stands on the Mideast situation, and those of us who have supported Israel in the past—and that includes most of the Members of this body—should be deeply concerned.

On June 5, 1976, the Presidential candidate Carter stated, "I do not believe that the road to peace can be found by United States-Soviet imposition of a settlement." Indeed, the joint declaration is not only at direct odds with this statement but also with the platform of Mr. Carter's own party, which stated that the imposition of an externally devised settlement of the Middle East conflict should be avoided.

Much more important, however, than Mr. Carter backing down on promises made in the heat of a Presidential campaign is the fact that this declaration violates a commitment which this Nation made to Israel on September 1, 1975, as a part of the Sinai disengagement agreement. At that time, and in exchange for Israel's return of the captured Abu Rudeis oilfields to Egypt, the United States promised Israel to "consult fully and seek to concert its positions and strategy at the Geneva peace conference" with respect to the PLO question. That same memorandum gave Israel the U.S. Government's assurance that it would not approve of any alteration of U.N.

resolutions 242 and 338, which provide the framework for Mideast peace negotiations. These documents recognize the right of Israel to exist within secure borders and exclude the PLO as a party to negotiations. The U.S. Government has repeatedly given Israel assurances that these resolutions constitute the sole basis for the convening of a Geneva Conference.

The new United States-Soviet declaration, prepared in secret, and handed to Israel only 24 hours in advance of publication, makes no reference at all to resolutions 242 and 338. It clearly violates our pledge to Israel of "close consultations."

There are other broken promises to Israel:

First, the joint declaration calls for the "withdrawal of Israeli Armed Forces from territories occupied in 1967." This statement contravenes resolution 242, and takes on the meaning of requiring Israel to cede back all of the territory it occupied in 1967.

The thrust of this part of the joint initiative is that Israel will be required to make immediate concessions upon the promise that the Arab states will eventually seek normalized relations with Israel.

Second, the joint declaration calls for "insuring the legitimate rights of the Palestinian people." For years, this phrase has been a euphemism for the establishment of a Palestinian state under the domination of the PLO. The quoted language goes far beyond resolution 242, which speaks only of a "refugee problem," and presupposes a process Israel equates with its own destruction.

We continue to ignore the fact that Israel will not negotiate directly with the PLO, a terrorist organization which continues to take credit for acts of violence claiming many innocent Israeli lives. We continue to fail to make the distinction between the peaceful Palestinians whose situation cries out for settlement, and the PLO, which is dedicated not to peace but to Israel's destruction.

What is additionally puzzling is why the U.S. Government has taken this opportunity to enhance the influence of the Soviet Union in the Middle East. During the Ford administration, the role of the Soviets in the Middle East had been steadily declining as U.S. influence was on the rise. By our joining the Soviet Union in the joint declaration, we have succeeded in putting the Russians back into a position of influence where they will have increased opportunity to promote goals they have long favored and the United States has long opposed.

The Ford administration was roundly criticized for its policy of détente, because many people felt we were giving away too much to the Soviet Union. On the face of it, this Soviet-U.S. declaration represents a sellout of major proportions. Perhaps the President or Secretary of State could explain it. I, for one, wish they would.

Mr. Speaker, to be blunt, the Carter administration almost destroyed a chance for peace in the Middle East. We have truly backed Israel against a wall, exhausting its options and imposing unacceptable conditions. We should not be surprised if Israel never goes to Geneva. Worse, we have let down one of our oldest and truest allies in the world, and we have done so in a callous and deplorable way—by broken promises. I hope that President Carter will take the opportunity presented by the convening of the United Nations to reaffirm the commitment of the United States to the principles embodied in U.N. resolution 242.

RESOLUTION TO IMPEACH ANDREW YOUNG

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. McDONALD. Mr. Speaker, in order to clarify just what the resolution, House Resolution 805, introduced yesterday on Andrew Young says and does not say, I am today placing the entire text in the RECORD in order that no misunderstandings may arise. House Resolution 805 clearly sets forth why Ambassador Young does not and should not represent the United States in the United Nations or in any other diplomatic capacity. This is not a personal matter with me, but a matter of representing the United States, its principles and its best interests. It is my hope that those in the House, who agree with what is said in the resolution will join me in this effort and cosponsor this effort. The resolution and the list of cosponsors follows:

H. RES. 805

Whereas, the U.S. Ambassador to the United Nations has declined to oppose the admission of communist Viet Nam to the United Nations; and

Whereas, the U.S. Ambassador to the United Nations has sought to transfer the governing power in anti-communist Rhodesia to the pro-Marxist guerrilla coalition which calls itself the "Patriotic Front"; and

Whereas, the U.S. Ambassador to the United Nations has, while on official diplomatic business in the anti-communist nation of South Africa encouraged persons in that country to undertake economic boycotts; and

Whereas, the U.S. Ambassador to the United Nations has pledged to increase U.S. taxpayer funding for the Marxist government of Guyana from the current $1.1 million to $12.3 million over the next three years; and

Whereas, the U.S. Ambassador to the United Nations has characterized two recent Presidents of the United States, Gerald Ford and Richard Nixon, as racists; and

Whereas, the U.S. Ambassador to the United Nations has condoned the presence of communist troops in Africa from Castro's Cuba, as a "stabilizing force"; and

Whereas, the U.S. Ambassador to the United Nations has forecast that racial conflict in the United States would be predicated on events in Africa; and

Whereas, the U.S. Ambassador to the United Nations declared in Playboy Magazine that Alabama Governor George Wallace formerly, "was advocating bombings—of Black folks"; and

Whereas, the U.S. Ambassador to the United Nations has said, "It may take the destruction of Western Civilization to allow the rest of the world to emerge as a free and brotherly society"; and

Whereas, the U.S. Ambassador to the United Nations has harbored in his home members of the family of Robert Sobukwe, leader of the Communist-terrorist Pan Africanist Congress; and

Whereas, the U.S. Ambassador to the United Nations has said that the decent and democratic state of Israel must negotiate with the international terrorists of the Palestine Liberation Organization; and

Whereas, the U.S. Ambassador to the United Nations served as co-sponsor to the Communist Party promoted "National Coalition to Fight Inflation and Unemployment"; and

Whereas, the U.S. Ambassador to the United Nations has accused our British Allies of "inventing racism"; and

Whereas, the U.S. Ambassador to the United Nations has criticized the people of Sweden as "terrible racists"; and

Whereas, the U.S Ambassador to the United Nations has averred that Black American soldiers would not be willing to fight African Communist Forces if called upon to do so; and

Whereas, the U.S. Ambassador to the United Nations has stated "Communism has never been a threat to me"; and

Whereas, the U.S. Ambassador to the United Nations supported the action of his aide, Brady Tyson, who used his official position on the U.N. delegation as a platform for denouncing U.S. opposition to the Marxist Regime of Salvatore Allende; and

Whereas, the U.S. Ambassador to the United Nations actively supported the appropriation of a $100 million fund to assist a transition to Marxist rule in Africa; by supporting Red Forces in Tanzania, Mozambique, and Angola; and

Whereas, prior to his appointment, the present U.S. Ambassador to the United Nations, as a member of the "Gulf Boycott Coalition" evidenced his active support for a Marxist victory in Angola and worked for the election of Angela Davis and other avowed Communists to the Board of the Gulf Oil Corporation; and

Whereas, prior to his appointment, the present U.S. Ambassador to the United Nations, in 1975, was a co-sponsor of the Communist Party-backed second National Conference in Solidarity with Chile; and

Whereas, the U.S. Ambassador to the United Nations has worked to increase U.S. taxpayer subsidies to the Castroite Marxist Regime in Jamiaca;

Whereas, The sponsors of the resolution manifest deep concern regarding the performance of United Nations Ambassador Andrew Young and convey their lack of trust and confidence in his fitness to continue in that positions: Now, therefore, be it

Resolved, That—

(a) he shall be impeached under Article II, Section 4, of the United States Constitution.

ROCKVILLE: A THREE-TIME WINNER

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, I would like to bring to the attention of my colleagues Rockville, Md., an All-American City.

Founded in 1860, and located just 12 miles from Washington, D.C., Rockville was named an All-American City for 1976–77 by the National Municipal League. Cited for citizen involvement in community programs, this is the third

time Rockville has achieved this distinction in the 29-year history of this competition. Only two other cities—Worcester, Mass., and Philadelphia, Pa.—have received this award three times.

I would like to take this opportunity to salute the citizens of Rockville for their community spirit and to congratulate them for their achievements. I include an article from Municipal Maryland, July 1977, "Rockville: A Three-Time Winner," by Sue Patterson, Rockville public information officer:

ROCKVILLE: A THREE-TIME WINNER

(By Sue Patterson)

Citizen involvement in community development is a major reason why Rockville has maintained its sense of community and identity in spite of its location only 12 miles from the nation's capital and in spite of the mobility of its population.

It is also why Rockville was named an All-America City for 1976–77 by the National Municipal League (NML). A winner in 1954 and 1961, Rockville now joins only two other cities—Philadelphia and Worcester, Massachusetts—that have been named All-America Cities three times in the 29-year history of the competition.

Rockville was cited specifically by the NML for its citizen involvement program, ranging from publication of its bi-weekly newsletter delivered to all City households to development of citizen ad hoc task forces; for organization of a beautification awards program and initiation of the Bicentennial Wave a Flag with Flowers project, and for citizen-set priorities for the Community Development Block Grant program.

To celebrate winning the All-America City Award, almost 5,000 community residents participated in All-America City Day on May 1. Planned as a day for family renewal and community rededication, the event, which was sponsored by the City government, included a wide range of activities and events aimed toward all age groups. The formal ceremony of the event was the presentation of the All-America City Award to Rockville by Franklin P. Hall, member of the NML Board of Directors, and an ecumenical blessing of the City and its people composed by local religious leaders.

In a telegram to Rockville Mayor William E. Hanna, Jr., President Jimmy Carter commended the City for winning the award and noted that Rockville's "exemplary spirit as a community working together to solve common problems serves as an inspiration for all the cities of our nation."

According to Mayor Hanna, Rockville is a three-time winner of the All-America City Award because of "the successful blending by Rockville residents of such 'old-fashioned' concepts as sense of community, concern for one's neighbors, and civic responsibility to meet the diverse needs and goals of contemporary citizens."

Rockville's population of nearly 50,000 is a healthy mix of varied income levels, age groups, and races. Its people include long-time residents as well as many newcomers who arrive in the area for jobs with the federal government or new research and development industries. The City's neighborhoods reflect this diversity. They include streets with Victorian structures that have put Rockville in the National Register of Historic Place, high-rise apartments, contemporary developments, moderately-priced homes, and public housing.

It is citizen involvement that pulls these diverse elements together, that makes Rockville a community. The City's 18 citizen boards and commissions advise the Mayor and Council on important issues covering not only the traditional functions such as human rights, planning, and zoning, but also encompassing such functional service areas as traffic and transportation, senior citizens, recreation and parks, and economic development. Citizen ad hoc task forces have been established to provide initiative in such areas as the Bicentennial Year, energy, and alternative community service for first offenders. To ensure that the volunteer commissioners represent all segments of the community, openings on these bodies are widely publicized and members actively recruited.

Many residents also work as volunteers in a variety of City programs; their contributions range from physician services for the Rockville Free Clinic to assisting swim team instructors.

In Rockville, citizen involvement in City programs is only one of many facets of activism. Concern for the community starts at the grass roots, with the 24 civic associations that monitor their neighborhoods and inform City Hall of their needs and concerns. Another major resource for community participation in Rockville is its business community. In addition to working with the City to attract desirable new business and development to Rockville, the 450-member Chamber of Commerce is represented on the Economic Development Commission and annually sponsors an outing for senior citizens, provides prizes for a golf tournament, and publishes a Community Guide.

Rockville's Community Development Block Grant program is its major effort to preserve residential areas. The program includes code enforcement, low interest loans and grants for home improvements and historic preservation, and public improvement projects in target areas. When Rockville was awarded more than $6 million in federal funds for this program, it was natural that spending priorities be developed through a process of intensive citizen involvement. Projects were selected by area residents and their recommendations presented by neighborhood spokespersons before the Mayor and Council. All final citizen recommendations have been approved by the City, demonstrating that citizen participation in Rockville has a real impact.

Winning the 1976–77 All-America City Award is bringing both local and national recognition to Rockville for its accomplishments. In addition to coverage by area weekly and daily newspapers and radio and television stations, Rockville was the subject of articles in Southern Living magazine and NML's National Civic Review, a tabloid put out by the Montgomery County Sentinel and a special "7:30 Live" television program produced by a Washington metropolitan area television station.

Rockville's active citizenry will continue to be its strongest asset in maintaining community identity, solving community problems, and initiating community-wide activities. To cope both with the mobility of its population and the sense of rootlessness that is affecting much of the nation's population, Rockville works hard to offer a sense of "place" and "neighborhood." Long-time residents help newcomers to establish roots of their own, and all newcomers to the City now receive a "Welcome to Rockville" packet which includes information which eases transition into the community.

These are important steps toward drawing new residents into Rockville's community life, into becoming citizen activists. In this way, the Rockville experience can be passed on to succeeding generations.

A BILL TO IMPROVE OUR BALANCE-OF-TRADE DEFICIT

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. JENRETTE. Mr. Speaker, today I am introducing a very simple bill which could have enormous effects toward improving our country's balance-of-trade deficit and at the same time, stimulate trade and commerce among the average American producer.

The Webb-Pomerene Export Trade Act, enacted in 1918, provides a limited exemption from the antitrust prohibitions of the Sherman Act for cooperative export by U.S. producers to foreign markets through export trade associations. In practice, these associations are alternately described as "Webb-Pomerene Associations," "Webb Associations," or "ETA's." The act exempts export associations "entered into for the sole purpose of engaging in export trade and actually solely engaged in such export trade" from the prohibitions of the Sherman Act, provided that the association's acts are not "in restraint of trade within the United States" or "in restraint of the export trade of any domestic competitor of such association." The act contains the further provision that the association shall not enter into any agreement or understanding to do anything which "artificially or intentionally enhances or depresses" prices within the United States or "otherwise restrains trade therein."

The Webb-Pomerene Act was enacted because Congress believed an exemption was necessary to allow American exporters, particularly smaller companies, to meet foreign competitors on equal terms in international commerce. Congress felt that American firms needed the power to form joint export associations in order to compete with foreign cartels. The act was intended to help American firms compete in foreign markets by allowing the formation of selling organizations large enough to exact fair prices from foreign buying cartels and by allowing smaller firms to compete with foreign firms and selling cartels by permitting them to join together in an association for export purposes.

The Webb-Pomerene Act provides limited exemptions from both the Sherman Act and the Clayton Act. The Sherman Act prohibits contracts, combinations, and conspiracies that cause an unreasonable restraint of trade. The Sherman Act applies to foreign commerce, but the Webb-Pomerene Act enables companies to combine their export activities while keeping their domestic activities separate. The Clayton Act restricts mergers, but the Webb-Pomerene Act exempts export marketing organizations from these restrictions.

A Webb-Pomerene Association is permitted to engage in a number of restrictive practices that would otherwise violate the antitrust laws. The impact of the Webb-Pomerene Act is therefore to enable American companies to increase export profits through raising prices and reducing costs.

Webb-Pomerene associations are allowed to fix prices and other terms of sale—delivery, insurance, and credit. This authorization applies to all members of the association, but not to nonmembers. Consequently, it is advantageous to have a large portion of an industry included in a Webb-Pomerene association.

The provisions of the Webb-Pomerene

Act that I am concerned with here today are in the fifth section of the act and relate to the administration of the act itself.

The Federal Trade Commission under section 5 is permitted to conduct investigations into alleged misconduct and, if it appears the Webb-Pomerene provisions have been violated, recommendations may be issued. If the Webb-Pomerene association fails to comply with these recommendations, the Commission can refer its finding to the Attorney General for further action. In addition, the Commission has the powers given it by the Federal Trade Commission Act for enforcing the export trade provisions. Since 1944, the Justice Department has also exercised concurrent jurisdiction over Webb-Pomerene associations.

The Webb-Pomerene Act gives the Federal Trade Commission jurisdiction to enforce its provisions although that jurisdiction does not now preclude independent actions by the Department of Justice. It is this concurrent jurisdiction that has frightened off the potential member from forming a Webb association and entering into the export trade business. The fear of treble damages and intimidation in court by the Justice Department is too great a burden for the average businessman to overcome.

It is the purpose of my bill therefore to eliminate the concurrent jurisdiction of the Justice Department in regards to Webb-Pomerene associations by prohibiting action by the Justice Department unless the Federal Trade Commission has given such association a reasonable opportunity to readjust their position to comply with applicable law.

With the passage of this bill, I hope to see the reluctance of American businessmen, farmers, and manufacturers to enter into the export market disappear and the cost-cutting advantages of the Webb-Pomerene Act become available to members of Webb associations. This would stimulate the growth of foreign commerce and assure a more favorable balance of trade. Public awareness of a means available to them for entering the export market is necessary along with certain incentives for investment in foreign markets if our balance of trade is to ever return to a normal flow.

I insert a copy of my bill to be printed in the Extensions of Remarks:

H.R. —

A bill to prohibit actions under certain antitrust laws against associations engaged in the export trade unless the Federal Trade Commission has given such associations a reasonable opportunity to readjust their business to comply with applicable law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second full paragraph of section 5 of the Act entitled "An Act to promote export trade, and for other purposes" (15 U.S.C. 65) is amended by adding at the end thereof the following new sentence: "No action may be instituted under section 4, 4A, or 4C of the Clayton Act or under section 1 or 2 of the Sherman Act against any association of persons engaged solely in the export trade unless the Federal Trade Commission has made recommendations under this paragraph to such association for the readjustment of its business and has given such association a reasonable opportunity to comply with such recommendations.".

VETERANS RIGHTS IN FEDERAL EMPLOYMENT

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. O'BRIEN. Mr. Speaker, the legal right of American veterans to preference in Federal employment is again under attack. A most cogent and thorough discussion of this issue was presented to the House Subcommittee on Civil Service today by the American Legion. Speaking for the Legion was Mr. Al Keller of Kankakee, Ill., the chairman of the National Economic Commission of the American Legion.

Al Keller is especially well qualified to discuss the veterans preference rules that have been in effect since as far back as the end of the Civil War.

Al Keller is a past Illinois State commander of the Legion and has served as commander of Legion Post 85 in Kankakee. Mr. Keller is the administrative assistant to the Kankakee County board of supervisors and serves on the Kankakee city council as the alderman for the sixth ward.

I commend Mr. Keller's statement and resolution by executive committee of the American Legion to the attention of my colleagues:

STATEMENT OF AL KELLER, JR.

Mr. Chairman and Members of the Subcommittee:

My name is Al Keller, Jr., and I am Chairman of the National Economic Commission of the American Legion. On behalf of the 2.7 million members of The American Legion, I am pleased to have this opportunity to express the views of the Legion in connection with these oversight hearings on veterans preference in Federal employment.

Veterans preference in Federal employment dates back to 1865, when Congress passed legislation giving special consideration to disabled war veterans. In 1919 preference in connection with appointments in the classified service was extended to all honorably discharged veterans. In 1921 an Executive Order established "Reduction in Force" preference for "honorably discharged soldiers and sailors whose ratings were good." Another Executive Order two years later added 10 points to civil service examination source for disabled veterans and 5 points to honorably discharged nondisabled veterans. In 1944 the Veterans Preference Act, which was strongly supported by The American Legion, was passed by Congress with only one dissenting vote and has since been the basic Federal law regarding veterans' preference benefits in Federal Employment. A 1953 amendment to the Act enabled veterans sufficiently disabled to receive disability compensation to "float to the top" of civil service registers.

Congress, impelled by the high unemployment of Vietnam era veterans, has passed various measures to help them find employment in the private sector. Currently the administration is engaged in a three-point employment program to help Vietnam and disabled veterans find private employment or be placed in public service jobs or training programs under the Comprehensive Employment and Training Act of 1973 (CETA). Outside of amending the Veterans Preference Act to establish eligibility only for periods of conflict, Congress left the Act untouched. Only two Congressional mandates have been directed to encourage Federal employment of the most recent veterans, those of Vietnam, and these are not part of the Veterans Preference Act. The "Vietnam Era Veterans Readjustment Assistance Act of 1974" put into statute earlier measures by Executive Orders to provide special provisions for certain Vietnam era veterans who, it was believed, could not qualify for Federal employment under the regular merit system, to expire June 30, 1978, and also directed that affirmative action plans of Federal department and agencies for the hiring, placement, and advancement of handicapped individuals as required by concurrent legislation, should include a separate specification of plans to carry out such affirmative action for disabled veterans and Vietnam era veterans. The rate of hiring disabled veterans in both the private sector and the Federal government is disgraceful, and we believe much more effective action is necessary.

The American Legion's position on veterans' preference is that it should be restricted to those who serve in wartime, in peacetime campaigns, or in expeditions for which campaign badges or service badges have been authorized. This mandate justified the Legion's support for the elimination of veterans' preference for those entering the armed forces after 14 October 1976. The American Legion has in an oversight capacity opposed abuse of veterans' preference benefits by veterans themselves. As an example, in 1928 The American Legion was represented on a panel headed by the President of the U.S. Civil Service Commission, which recommended that 10-point preference be granted only when officially established by records of the armed services.

Mr. Chairman, as you are well aware, the very concept of special preference for veterans has come under attack from certain organizations. The Civil Service Commission's attitude was expressed in a recent "option paper.": ". . . Veterans' preference in the Federal Government unduly restricts management's flexibility to choose from among the best qualified candidates in filling jobs; introduces nonjob-related factors into the employment and retention process; has an adverse impact on certain groups, especially women; and impedes good personnel management practices." It also claims that "veterans' preference is perhaps the most extreme inhibitor of diversity within the Federal work force."

The American Legion takes exception to those conclusions.

First of all, we believe that it is necessary to bring certain aspects of the problem into perspective. A statistic often quoted by the Chairman of the Civil Service Commission is that "veterans comprise over 50 percent of the Federal service but only 22 percent of the total work force." That is simply not true. There are nearly 30 million veterans in this country, about 26 million of whom are employed, and at least 24 million of them full-time. The "total work force" includes members of the armed forces, both the employed and the unemployed, and full-time, part-time, and seasonal employees. The employed civilian work force amounts to about 85 million—51 million men and 34 million women. However, only about 70 percent of the men—about 36 million, are employed full-time the year around, and only 42 percent of the women—a little more than 14 million—fall in that category. Thus in terms of full-time employment, the only meaningful comparison to Federal employment, veterans account for nearly half of the national work force, which is approximately equal to the ratio of veterans in Federal service.

Another matter that should be put into perspective is how veterans are distributed within the Federal Government, for to say

that "veterans comprise over 50 percent of the Federal service" may give the impression that that ratio holds true "across the board." In fact, more than 75 percent of the veterans employed in the Government are employed by three agencies: the Department of Defense (DOD), the United States Postal Service, and the Veterans Administration. DOD, which employs 560,000 veterans—40 percent of the total—includes many military-oriented positions for which those with specialized military training and experience have a clear competitive edge over non-veteran job applicants, and employs more than 70 percent of the Government's 500,000 "blue collar" workers, almost all of whom are male and in many instances happen to be veterans. Although the Civil Service Commission claims that "veterans' preference . . . is not a job-related criterion," in the case of the DOD it clearly is.

The Postal Service employs 420,000 veterans, 30 percent of the total. Because of the nature of postal work, the Postal Service has not appealed to women as a career, so it is 85 percent male. Thus it is not surprising that 60 percent of its 680,000 employees are veterans. Finally, the VA employs about 88,000 veterans, about 40 percent of its 220,000 employees and 6 percent of all veterans employed in the Federal Service. Although the VA is hardly looked upon as a private preserve of veterans, as in the case of the DOD, prior military service is often a "job-related criterion."

Veterans thus account for only 37 percent of the Federal jobs outside those three organizations. That is a significant figure, but it is considerably lower than the ratio of veterans in the full-time national work force.

We should also mention a few salient facts about the employment of women and minorities in the Federal Government. Minorities, who account for about 15 percent of the nation's population, hold about 20 percent of all Federal jobs. Women hold nearly 35 percent of all Government jobs and more than 40 percent of the General Schedule jobs. That is lower than the ratio of women to the total population, but is significantly above the 20 percent of the full-time, year-round jobs they hold in the civilian work force, which includes Federal employment. In 1975, minorities held 28 percent of the Federal jobs at the GS 1–4 level; 22 percent of the jobs at the GS 5–8 level; and nearly 12 percent of the jobs at the GS 9–11 level. Women accounted for more than 65 percent of the GS 1–7 "white collar" jobs and 25.5 percent of the GS 7–12 "white collar" jobs.

In terms of total employment and the lower and lower-middle grade levels, minorities and women are reasonably well represented and, as the Civil Service Commission acknowledges, in some respects overrepresented. It is the upper-middle and upper grade levels, GS–12 and above, that are of most concern to the Civil Service Commission. It points out the fact that "veterans account for over 60 percent of those Federal employees in grades 15 and above" and that "The percentage of 5-point veterans grows rapidly as one goes up the grade and pay scale, reaching almost 65 percent of the GS 18's."

Once again, we believe that everything should be put in perspective. First, the great majority of people in the upper grade levels have more than 10 years of seniority on the job. Due to various socio-economic factors, there has traditionally been a higher turnover rate among female Federal employees than among males. Only 21 percent of the Federal employees with 10 years or more than 20 years of service are female. Most of the veterans in those positions are World War II and Korean War veterans who have many years of continuous service. Second, more than 60 percent of the Federal employees at the GS–15 level and above hold advanced degrees. Despite progress made by women in recent years, there is still a great disparity between males and females with regard to graduate education; the male-female ratio among those with more than four years of college is 2.5 to 1. That ratio is even higher in such Government-related fields as law, physical and life sciences, business administration and management, economics, and engineering. As recently as 1974 women earned only 6 percent of the 34,000 advanced degrees awarded in the business and management fields. In 1955 women earned only 3.5 percent of the law degrees conferred, and that ratio had increased to only 8 percent by 1973. The educational disparity between the majority and the minorities is even greater. Third, it should be pointed out that veterans' preference does not apply to promotions.

In fact, the dominance of males and thus veterans at the higher levels of the Government is reflected in our society as a whole. Some 65 percent of our Senators are veterans, as are 80 percent of the members of the House of Representatives. Two-thirds of the members of President Carter's Cabinet are veterans. In all probability, an analysis of the higher levels of most professional groups would show a preponderance of males and veterans. To say this is not to express approval or disapproval of domination by males and veterans in our society and Government, but to point out that it would be inaccurate to blame that situation on veterans' preference.

The General Accounting Office, we understand, in a recent report on the Federal government's equal employment opportunity program, pointed out that scarcity of women and minorities in some occupations and competition from private industry make it difficult to attract women and minorities.

The General Accounting Office report, of September 29, 1977, on the effect of veterans' preference on the hiring of women, concludes that veterans' preference does diminish employment of women since they seldom have veterans status. The main difficulty is because veterans are scoring too high on the examinations, and the addition of the five points puts them over other qualified persons. Some agencies reported all-, or nearly all-veteran registers. If the goal is hiring qualified persons, the present method of veterans' preference is successful. It is possible that some agencies are using veterans' preference as a scapegoat for not hiring more women. Certainly, the questionable procedures given as a way to bypass veterans on the registers in order to hire women are the same methods agencies have been using for years, although not for the purpose of hiring women. When asked why their hiring of veterans was low, most of the Federal agencies responded that most of their jobs were predominantly female oriented or too technical and professional for veterans.

Veterans are accused of being selected for jobs in the middle-level area out of proportion to qualified women. However, upon analyzing the statistics provided, its obvious that the real disparity is between nonveterans and veterans; nonveterans, both male and female, received 71 percent of the jobs, leaving 29 percent to the veterans. Some of the veterans' preference eligibles, of course, were women.

I believe I have shown that the Veterans Preference Act, in recognizing the debt this country owes its war veterans, has not harmed the employment of other qualified persons. There is no doubt that veterans' preference restricted management's flexibility; it was the *intention* of Congress to encourage Federal employment of qualified war veterans. Veterans' preference, as a "job-related criteria," is a recognition that it is for service to the country from which the preference flows. By not escalating an ending date, Congress also acknowledged that war veteran status never ceases. The impact of the experiences, the memories, never go away.

The American Legion would not only like to express its opposition to any alteration of veterans' preference benefits, except for limiting them to wartime veterans, but would also like to take advantage of this opportunity to point out the fact that veterans' preference laws already on the books are being increasingly ignored or circumvented. Over the past three years there has been a 4 percent decrease in veteran employment. During the last half of 1975, 43 percent of the new hires were women and veterans' preference appointments—including the women who used it—amounted to only 25 percent, with only 2.6 percent of the appointments going to disabled veterans. We have requested Civil Service statistics regarding the frequency at which it has permitted Federal agencies to "bypass" eligible veterans on Civil Service registers during the past several years, but have not yet received that information.

The Veterans Preference Act provides that selection for job vacancies shall be made from the three highest names on a certificate of eligibles. It is being recommended that this requirement be changed to achieve greater "flexibility." Such enlargement of the pool of eligibles would nullify the concept of selection of the basis of job-related qualifications; selections could be made of persons far down on the scale on the basis of whatever preference was currently fashionable. The American Legion has a specific resolution opposing any change in this "rule of three" which I am attaching to this statement.

Another instance of evasion of the Veterans Preference Act is the situation in the United States Postal Service in which the Civil Service Commission has not exercised the enforcement authority of the Act to stop the Postal Service from using a so-called "realignment" procedure which the Civil Service Commission itself had earlier recognized as a reorganization to which reduction-in-force procedures should apply. Another is the widespread use of contracting out of custodial and protective services which by law are to be restricted to veterans' preference eligibles as long as such applicants are available.

Still another is the Civil Service Commission extension—its third—to the Department of Defense of a waiver from veterans' preference in overseas hiring. I believe the Subcommittee is aware, also, of the widespread circumvention of veterans' preference in both hiring and retention rights in various Federal agencies.

I am attaching a copy of our Resolution No. 220 adopted at our National Convention in August. The American Legion pledges to strenuously oppose any and all attempts to weaken or reduce veterans rights or benefits in federal employment as provided in title 5, United States Code.

It has been traditional philosophy in this country, and in The American Legion, that, "those who were preferred to serve their Nation in the armed forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified." Removal of this preference is a matter that goes beyond any question of "flexibility," greater employment of other groups, or like concerns. It is really a question of whether this is a country that feels free, in time of national emergency, to call upon its very best to serve in its armed forces and face death, injury, disruption of normal life, and all the other conditions of that service, and then for the country to discard them as veterans, to announce they must compete "as equals" against all nonveterans, except for such nonveterans as may be given preference in recruiting, examination and selection. Right now we have no need for an emergency armed service, but if the need arises, the response will be forthcoming. However, the law should be there, needing only a slight amendment on qualifying dates of service, to acknowledge that the Nation that calls for sacrifice will also hire its veterans when qualified.

In conclusion, we believe that President Franklin Delano Roosevelt's endorsement of the Veterans Preference Act of 1944 is still appropriate today: "I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces that when they return special consideration will be given them in their efforts to obtain employment. It is absolutely impossible to take millions of our young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them."

Thank you for this opportunity to appear here today and express the views of The American Legion on this matter, which we see to be of equal importance to all war veterans and to the Federal merit system.

[National Executive Committee of the American Legion]

RESOLUTION NO. 28

OPPOSE ANY EXPANSION IN THE PRESENT "RULE OF THREE" IN FEDERAL CIVIL SERVICE

Whereas, The Veterans' Preference Act, now codified under title 5, United States Code, and the Civil Service Rules and regulations relating thereto, provided that when an appointing officer is to fill a vacancy by appointment of persons who have qualified through Civil Service examination, he shall ask for, and the Civil Service Commission shall certify from the top of the appropriate register of eligibles, a number of names sufficient to permit the nominating or appointing officer to consider at least three names in connection with each vacancy; and

Whereas, The nominating or appointing officer shall make selection for each vacancy from not more than the three highest names available for appointment on such certificate of eligibles, a method known as the "rule of three;" and

Whereas, There have been in the past, and continue to be from time to time, efforts to expand this "rule of three" into a system which would require a greater number of names, with suggestions ranging from four to as many as fifteen, to be provided from the appropriate register of eligibles; and

Whereas, The "rule of three" provides a selecting official with a discretionary choice among the top-rated applicants; and

Whereas, Expansion of the number of applicants to be considered would create untenable administrative burdens, such as increasing the number of applicants to be interviewed and evaluated and thereby increasing the length of time necessary to fill vacancies; and

Whereas, An increase in the number of applicants to be submitted to appointing officers would also nullify the concept of selection from those applicants most qualified, and would increase the possibility of selection on the basis of factors irrelevant to merit; and

Whereas, It has been traditional American Legion philosophy that "those who were preferred to serve their Nation in the armed forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified;" and

Whereas, In line with that philosophy, The American Legion supports the system of veterans' preference, as set forth in Title 5, United States Code, as an integral part of the Federal merit system, with the result that an action that damages the merit system also weakens and might destroy the present system of veterans' preference; now therefore be it

Resolved, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 4–5, 1977, that The American Legion strenuously oppose any expansion in the present "rule of three" system as stipulated in the Veterans' Preference Act of 1944, as amended and codified under Title 5, United States Code, and rules and regulations of the Civil Service Commission, which require the nominating or appointing officer to make selection for each vacancy from not more than the highest three names available for appointment on a certificate of eligibles.

TWO LAETRILE SUCCESS STORIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. McDONALD. Mr. Speaker, in recent months there have appeared a series of news stories relative to the possible harm of using laetrile. They have appeared to be in response to the nationwide drive to legalize the use of laetrile in the various States. And, of course, it is certainly true that no two people may react alike to the same substance, be it aspirin, penicillin or laetrile. However, that does not prove it should not be on the market, nor that it is useless. Laetrile, when properly used, is helpful in cancer cases. In that connection, I wish to call the attention of my colleagues to two recent success stories from the Rome (Ga.) News-Tribune of September 21, 1977, and the Register (of Santa Ana, Calif.) for September 7, 1977. The two items follow:

[From the Register, Sept. 7, 1977]

IN TESTS ON MICE—LAETRILE TRIGGERS CANCER REMISSIONS

CHICAGO.—A team of scientists at Loyola University here has succeeded in triggering a complete remission of breast cancer in laboratory experiments with mice by the use of Laetrile.

A formal announcement of the breakthrough and a complete outline, step by step, of the experimental procedure will be made here Saturday at the National Health Federation's annual convention by Dr. Harold Manner, 52, who headed the scientific team.

Dr. Manner is chairman of the Biology Department at Loyola University. The team members are five graduate students in Dr. Manner's department.

"We have been working with Laetrile for 4½ years," Dr. Manner said. "The first three years we spent in a low-profile investigation, covering the basic mechanisms of Laetrile—determining if it is toxic or not, where does it break down in the body, etc.

"We published our findings on toxicity in the Science of Biology Journal, and the enzyme data in the Missouri and the Illinois journals of science.

"We then duplicated the National Cancer Institute and the Sloan-Kettering Institute work on testing Laetrile, and came up with the same results as these two groups had determined, namely Laetrile (by itself) has no value in treating cancer.

"I gathered my five graduate assistants together and we evaluated our work.

"We decided that we were looking at the entire Laetrile question in the wrong light in a completely different light than we should.

"Let's consider cancer a nutritional disease . . . a nutritional deficiency disease . . . and see what Laetrile can do when applied in this light," we said.

Dr. Manner said the U.S. government has declared cancer to be a nutritional deficiency disease.

"So we began adding a lot of different things to Laetrile, such as vitamins and enzymes, and the results began to get better, but still not good enough.

"So we began experimenting with different combinations of enzymes and vitamins with Laetrile, and about 4½ months ago things really look off. "We were getting a complete remission of breast cancer.

"We didn't want to come out with our results at that time, so we repeated our experimental procedures a second time, and then repeated them a third time . . . with the same results each time.

"We knew, then, that our work can be reproduced," Dr. Manner said.

"I wish to make one point crystal clear," Dr. Manner said.

"I am in complete agreement with the rest of the science community on the necessity for reproductability of scientific results.

"Experimental data means nothing until some other experimental group or laboratory team repeats the original experiments and gets the same results.

"We want our experiments to be verified. That is why we are going to release a step-by-step outline of what we did.

"We know some other group will repeat our procedures and will validate our work."

[From the Rome News-Tribune, Sept. 21, 1977]

PATIENT IMPROVES AFTER TREATMENT WITH LAETRILE

TOPEKA, Kan. (UPI).—Harry Walker, who had been confined to a wheelchair with terminal lung cancer, walked unaided Tuesday to the surprise of his physician who had reluctantly consented to Walker's wish to try Laetrile treatment.

"This morning when I came into the hospital—at quarter to seven—he came down the hall, trotting," said Dr. Sidney Cohen. "He scared me to death."

Last week Walker, 43, was confined to a wheelchair when he met with reporters. He and Cohen said he could not walk. The giant tumor on the front of his right shoulder had not responded to radiation or chemical therapy.

Since then he has received five shots of the controversial cancer drug Laetrile, one each day since Friday. Cohen, who became involved in the Laetrile issue reluctantly at Walker's urging, said he still does not believe in Laetrile, but admitted his patient's improvement has been remarkable.

Even Walker said he doesn't know if the drug—an extract of apricot pits banned by the Food and Drug Administration—works.

"I believe something is helping me," said Walker. "I believe something is helping me tremendously. I don't know whether it's Laetrile, whether it's physical, psychological, or faith in the doctors or in the good Lord."

". . . or Harry Walker," Cohen added.

Whatever is causing it, Walker of Rossville, Kan., feels better. Wearing street clothes and sitting at a desk, Walker shook slightly from nervousness. He said he had less pain, was using fewer pain killers, and was sleeping better. He said he did not expect to be fully cured by the controversial drug, but only hoped to keep his condition from becoming worse.

Cohen said the improvement in Walker's condition has caused him to change his prediction that Walker had only two weeks to live.

"I didn't think it was possible," the doctor said.

ABRAHAM L. KAMINSTEIN

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, on September 14 I engaged in the sad duty of informing my colleagues about the recent death of Abraham L. Kaminstein, former U.S. Register of Copyrights. At this time I would like to share with the House several letters which I have received from representatives of organizations among whose members Abraham Kaminstein spent his professional life.

The letters follow:

ASSOCIATION OF AMERICAN PUBLISHERS, INC.,
Washington, D.C., September 15, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: I am writing on behalf of myself and the Association of American Publishers to express our feelings of loss over the death of Abraham L. Kaminstein, former Register of Copyrights.

Mr. Kaminstein was dedicated to the principles of copyright and made a significant contribution to beginning the revision efforts. Much of his drafting and work are reflected in the new copyright law of 1976. Mr. Kaminstein was an outstanding Register and he will be greatly missed.

Sincerely,

TOWNSEND HOOPES.

THE AUTHORS LEAGUE OF AMERICA, INC.,
New York, N.Y., September 14, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, Washington, D.C.

DEAR CHAIRMAN KASTENMEIER: Abraham L. Kaminstein, who died on September 10th, was a dedicated public servant and distinguished copyright expert who played a significant part in the creation of the 1976 Copyright Revision Act, by far the most important statute Congress has enacted to allow and encourage the production of literary, dramatic, musical, and artistic works by American authors.

The Authors League, on behalf of thousands of professional writers and dramatists, takes this opportunity of expressing to the Congress, through you, its sorrow at Mr. Kaminstein's passing, and its appreciation of his efforts to maintain effective protection for the rights of authors, composers, and artists.

As Register of Copyrights, during most of the decade in which Congress worked to fashion the new Copyright Act, Mr. Kaminstein labored mightily in this cause. Under his guidance, the Copyright Office produced multi-volumed studies of copyright law, held numerous hearings, prepared drafts of the complex Revision Bill, and frequently gave testimony before your Subcommittee.

Mr. Kaminstein's work in this important legislative process and in the day-to-day administration of the Copyright Act, touched every profession, craft, and industry engaged in the creation and communication of literary, dramatic, musical and artistic works. Mr. Kaminstein distinguished himself by his energy and devotion to these tasks, his professional ability, and—above all—by his fairness and coolheadedness in the face of often-bitter controversies that swirled about so many major provisions of the Copyright Revision Bill.

The Authors League and its members join with you and the members of your Subcommittee in paying tribute to this distinguished public official.

Sincerely,

JOHN HERSEY,
President.

THE COPYRIGHT SOCIETY OF THE U.S.A.
New York, N.Y., September 16, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, House Judiciary Committee, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: The name "Kami" bespoke the informality of a distinguished national and world leader in intellectual property, Abraham L. Kaminstein. His combination of scholarship, commitment and humanity made him a uniquely effective public servant. In honoring him last May, the Copyright Society noted his "inspiration, wisdom, time and unstinting efforts" invaluably contributing to the Copyright Act of 1976 with which you and your Subcommittee are so familiar.

He will be missed.

Sincerely yours,

E. GABRIEL PERLE,
President.

MOTION PICTURE ASSOCIATION OF AMERICA, INC.,
Washington, D.C., September 19, 1977.

Hon. ROBERT W. KASTENMEIER,
House of Representatives,
Washington, D.C.

MY DEAR MR. CHAIRMAN: "Life is a flame," said Ralph Waldo Emerson of a young contemporary poet. Abraham Kaminstein's life was a flame of splendor which warmed and illumined all areas he touched.

In his long and constructive years as Register of Copyrights, Kami was the guardian of the incalculable intellectual treasure of America. Himself an intellectual, he knew the true value of the mind, and respected the intelligence of others. He knew that knowledge sheds its abundance among all humankind.

His achievements as Register will always be writ large in the multi-dimensional spheres of art and communication and expression.

Kami was a good man who radiated goodness. His example is our legacy.

JACK VALENTI,
President.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS,
New York, N.Y., September 14, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Judiciary Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I write on the sad occasion of the passing of our mutual friend and colleague in the copyright vineyard, Abraham L. Kaminstein.

More than 20,000 composers, authors and publishers of music who comprise the American Society of Composers, Authors and Publishers held Kami in high esteem and had warm affection for him. Many people worked long and hard and contributed, in greater or lesser degree, to the 1976 Copyright Act. Very few contributed as much as Kami.

Kami's contributions were made at considerable personal sacrifice, including sacrifices in his health. It was fitting that you called on him to be the second speaker, after the Acting Librarian of Congress, John Lorenz, and the first copyright authority to support H.R. 2223.

Listening to Kami that day was a heartwarming experience. He spoke with wisdom and with modesty and it was typical of him to conclude his remarks with the hope that you, Mr. Chairman, would "feel the personal satisfaction that comes with a job well done."

Authors have lost a good friend. But not only authors. The entire intellectual and artistic community is the poorer today for the loss of Abe Kaminstein and that, of course, means the whole country has suffered a real loss.

Sincerely,

STANLEY ADAMS,
President.

BROADCAST MUSIC INC.,
New York, N.Y., September 21, 1977.

Chairman ROBERT W. KASTENMEIER,
Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: Abraham Kamenstein, or "Kammy" to his friends, was a true public servant, laboring earnestly for the rights of American creativity. His disconcerning intellect recognized early the meaning of "intellectual property" and he strove mightily for its increased protection. To him, as much as to any single individual, belongs credit for long-awaited revision of copyright law in the United States. It will be his monument.

Very truly yours,

EDWARD M. CRAMER,
President.

AMERICAN GUILD OF AUTHORS/COMPOSERS,
New York, N.Y., September 21, 1977.

Chairman ROBERT W. KASTENMEIER,
House Judiciary Committee,
Washington, D.C.

DEAR CHAIRMAN KASTENMEIER: The American Guild of Authors and Composers, representing over 3,000 songwriters expresses its condolences on the passing of the Hon. Abraham Kaminstein, former Register of Copyrights. It was through his untiring efforts while Register that our members have seen the fruits of his labors in the passage of Public Law 94–553. This long-needed legislation to whom our members owe a great debt to its many authors, including yourself and the present Register, Barbara Ringer, would still be a dream today if Mr. Kaminstein had not laid the groundwork for its enactment. We would appreciate the insertion of this letter in the Congressional Record to serve as a public notice to an estimable gentleman.

Sincerely yours,

ERVIN DRAKE,
President.

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.,
New York, N.Y., September 21, 1977.

Hon. ROBERT H. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, Washington, D.C.

DEAR BOB: In accordance with the memo from Irwin Karp, I am sending herewith a tribute to Kami. I think this is so very appropriate and I am sure that everyone is as pleased as I to have an opportunity to say pubicly what we feel so keenly individually.

NMPA as an organization and I as an individual share with all members of the world copyright community a feeling of deep sadness on the death of Abraham L. Kaminstein—a sadness tempered by a keen awareness and appreciation for that heritage which he has left. His contribution was by no means limited to his leadership, determination and intellectual influence in shaping our own new law, but also to his diplomatic participation in overcoming the international copyright crisis of the late 1960's and early 1970's.

We recall, too, the breadth of his interests his warm companionship and the pleasure of his company. We shall miss Kami, a rare good friend.

Sincerely,

LEONARD FEIST,
President.

A CLEARHEADED VIEW OF JUVENILE JUSTICE

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. NEDZI. Mr. Speaker, Jim Lincoln, of Wayne County's Juvenile Court, is not only Detroit's leading authority on juvenile justice but is one of the top people in the country on the subject.

Judge Lincoln has been on the bench for 17 years, during which time he has dealt with a vast number of juvenile problems, especially crime.

I have known Judge Lincoln for almost three decades. He came out of a small but remarkable law firm which produced G. Mennen Williams, Hicks Griffiths, Martha Griffiths, Horace Gilmore, and himself.

Williams became a six-term Governor of Michigan, Assistant Secretary of State for Africa, Ambassador to the Philippines, and now Michigan supreme court justice. Hicks Griffiths was briefly a probate judge. Martha Griffiths was a judge before becoming a distinguished Member of Congress for 20 years. Horace Gilmore is a circuit judge and author of a monumental treatise on civil procedure. And Jim Lincoln was on the Detroit City Council before becoming a judge. There was a sixth partner, Jack Schoen, who used to joke, "Somebody has to do the law work around here."

Recently, Don Ball, prize-winning reporter with the Detroit News, wrote a probing piece on Judge Lincoln in which the judge made shrewd, blunt, and acerbic comments based upon his experience. I agree with most of what Judge Lincoln said and believe that his reflections are worthy of our attention.

Under leave to extend my remarks, the article appears below:

[From the Detroit News, Sept. 18, 1977]

JUVENILE JUSTICE LAGS PERILOUSLY, SAYS RETIRING JUDGE LINCOLN

(By Don Ball)

James H. Lincoln hasn't changed much in his 17 years as judge of Wayne County's Juvenile Court.

But the whole field of juvenile justice has changed dractically—and not always for the better, says Lincoln, who is planning to retire some time before December.

Lincoln, 61, long an acerbic critic of society in general and the bureaucratic mind in particular, ran true to form in a recent interview. Leaning back in his chair, with feet propped on the desk, he mixed acid comments with nostalgic recollections about his years in the old red-brick Juvenile Court Building on Forest.

The 120,000 abuse, neglect and delinquency cases which have flooded Lincoln's court in 14 years have convinced him that Juvenile Court is a dumping ground for society's failures. "In my lifetime the physical sciences have gone from the horse and buggy to walking on the moon, but the social sciences are still in the alchemy era," he said. "There has been a continuous destruction of the traditional family unit in the past quarter century. This year the nation will have as many divorces as weddings. In the very near future, half the babies born each year in large cities will be illegitimate.

"Right now more than 35 percent of the children born in Detroit are born out of wedlock, and most of them to very young mothers. The state places these young, immature mothers on welfare with their babies, and it is a case of a child raising a child."

Schools are a particularly sore point with the judge. "This country has failed miserably in educating one-third of its citizens," Lincoln said. "About eight million youngsters will drop out of the nation's schools in the next decade and they will have few constructive activities to occupy their long, idle days.

"School failure is the common denominator among juvenile delinquents and prison inmates. Right now there are 40,000 juvenile school failures roaming the streets and raising hell in Detroit. They read at the fourth or fifth grade level, have no job opportunities—even if the law permitted them to work—and few recreational facilities. It's a measure of our times that we spend more in a single year for an expressway interchange than we do for recreational facilities for the young."

Lincoln said his juvenile judge experience has taught him that all reform movements invariably go too far. "I was among the pioneers in the early 1960's who worked to make 'emotional neglect' grounds for removing a child from the custody of his parents," he said. "It was enacted into state law a few years ago.

"Now, under the federal Child Abuse and Prevention Act, a mother yelling at her child in the backyard might be defined as mental injury or child abuse. The federal government is using grants of funds to persuade states to adopt such standards, and you known state officials go after grants like hounds after a rabbit.

"As a result, the federal government will play an ever-increasing role in determining state laws and practices . . . An army of social workers will be prying into family affairs. In my opinion, we can expect a massive invasion of privacy over the next decade under the guise of searching out and dealing with child abuse."

Sweeping changes have transformed juvenile courts into a close approximation of adult criminal courts, Lincoln said.

"When I started, the court was a paternalistic institution which held informal hearings to determine what was best for a youngster in trouble, as well as for society, without a lot of legal jargon," he said. "Today we have very nearly all the trappings of adult court. Some of them were needed, but we've gone overboard."

Lincoln gestured at a stack of paperbound books. "Those are the proposed new juvenile court procedures drafted by the American Bar Association," he said. "The trend in juvenile justice today is the same as in adult court—an overriding concern for procedures rather than substance. For instance, we spent $31,000 annually a decade ago for court-appointed attorneys to represent youthful offenders. This year we'll spend $1 million.

"I believe in treating youths with compassion and consideration, but there must be some balance. Our judicial system now gives more protection to the accused than any system ever devised, and it's time to enact legislation directed at giving more protection to the citizens who are being assaulted."

Lincoln lavished scorn on reforms proposed recently by the state Juvenile Justice Services Commission, especially the proposal to abolish juvenile code provisions prohibiting school truancy and running away from home. "The question is," Lincoln said, "shall the children of Michigan regardless of age be permitted to choose not to live with their parents even when the parents have not legally abused or neglected them? If the answer is 'yes' then we should also repeal all laws making parents responsible for either the acts or the support of their children. Those who advocate removing all legal control over runaways and truants while continuing parental responsibility for those children's acts propose a tyranny that exceeds anything King George III inflicted on the 13 colonies."

On a commission proposal to give juvenile courts jurisdiction over 17-year-old offenders, who are now tried in adult court, Lincoln said: "The commission proposal shows a certain detachment from reality. It doesn't even discuss the lack of state training school space for case-hardened delinquents and the additional facilities which will be needed for 17-year-old offenders, if we get jurisdiction over them. It is nonsense to give juvenile courts more problems requiring additional training school facilities."

On a commission proposal to merge northern Michigan counties into regional juvenile service authorities, Lincoln said: "I reached the firm conclusion from bitter experience some years ago that regional agencies with no taxing power are about as effective and efficient as the monkeys they used to keep in the Belle Isle Zoo. I suggest the commission get out of Alice in Wonderland and start being practical."

Lincoln said the state Department of Social Services has compounded the problems of juvenile courts by constant changing of policies for handling juvenile offenders.

"It's like women's dress styles, a new look every year," Lincoln said. "For instance, some years ago the department decided that putting delinquents into state training schools was wrong, so it decided to keep offenders in their communities. As a result, the state cut back sharply on training school spaces for delinquents.

"Now the policy has changed and the department is back to putting offenders in state institutions, but there's no room for them. The state needs at least 400 training school spaces, but legislators are saying, 'If we go ahead and spend this money for new facilities, how do we know you're not going to change your policy again?' I don't blame them."

Jim Lincoln looked, walked and talked like a farm boy when he appeared on Detroit's political scene a quarter century ago. The rustic appearance hasn't changed over the years except the corncob pipe is gone. At age 61, he still has a wrestler's neck and shoulders. He still wears open shirt collars and baggy sport coats—and still leans toward rustic humor.

"I grew up in a farmhouse lighted by kerosene lamps," he quipped recently. "The plumbing was out behind the lilac bush. The first part of my life was spent looking at the rear ends of horses—which was excellent training for politics."

Lincoln was born and reared on a farm near Harbor Beach in the Thumb area and plans to retire there with his wife, Kim.

He looked fresh off the farm on Aug. 1, 1953, when he strolled into Old City Hall, puffing on his corncob, and filed as a candidate in the mayoral primary election. But he held a bachelor's degree in history from the University of Michigan, where he earned varsity letters in football and wrestling. He also had been an aide to U.S. Atty. Gen. Frank Murphy, earned a law degree from Detroit College of Law, put in two years as executive assistant to a U.S. senator and spent five years as an assistant Wayne County prosecutor.

He finished second in the mayoral primary but was defeated in the runoff by the late Mayor Albert E. Cobo, Lincoln's first political victory came in 1954 when he was elected to the City Council. He served until May 5, 1960, when he was appointed probate judge of Juvenile Court. In later years he chose to stay a juvenile judge. He has gained a national reputation as a progressive judge, chaired a national committee to draft child custody legislation, served as president of the National Council of Juvenile Court Judges in 1971–72 and is in demand as a lecturer and speaker.

Lincoln once went to bat for a young man with a delinquency record. He had completed law school and needed the judge's support to be admitted to the bar. The man became a lawyer, real estate dealer, and certified appraiser. Later he was indicted for FHA fraud and convicted arson, and is now a fugitive. "That's one of the cases everybody hears about," Lincoln said. "Nobody is much interested in the thousands who made good when given a second chance. Recently I had a request from a young man to expunge his record of a sexual assault conviction when he was 16. He completed college, lived a clean life for seven years and needed a clean record to get a good job he has been offered. What would you do?"

The controversial judge isn't leaving the field completely. He expects to serve occasionally as a visiting judge.

Of his activities on the bench, Lincoln takes greatest satisfaction in the more than 30,000 adoptions he has granted. "There is no use pretending to be modest about it," he said.

Nothing, however, holds a candle to his pride in his wife and their two daughters, two sons and three grandchildren. "The family," he said, "that's what it is all about—isn't it?"

CARTER AND THE PLO

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ROSENTHAL. Mr. Speaker, many of us in Congress and across the Nation were very upset by the joint United States-Soviet statement last weekend on the Middle East. We saw it as a tilt to the Arab position, leaving Israel isolated and subject to immense pressure.

A key problem with that joint statement was its endorsement of the code words "legitimate rights of the Palestinians." As any knowledgeable observer of the Middle East knows, that phrase represents the twin goals of the terrorist Palestinian Liberation Organization: establishment of a PLO state on the West Bank and the eventual elimination of Israel.

It is sad that the Carter administration, knowingly or not, has embraced these code words as it seeks to elevate the role and importance of the PLO in any Geneva peace conference.

I commend to my colleagues an excellent column in today's New York Times by Rita E. Hauser on "Carter and the PLO." Ms. Hauser is an international lawyer and chairman of the Middle East Committee of the American Jewish Committee. The column follows:

CARTER AND THE P.L.O.
By Rita E. Hauser

The central thrust of President Carter's policy in the Middle East is the reconvening of the Geneva conference in the near future. This is a laudable and wise goal that should actively be pursued by the United States—provided the reconvening is not accomplished at a price that would make difficult, if not impossible, the achievement of peace agreements between the parties.

At present, the stumbling block to a renewed conference is the issue of Palestine Liberation Organization representation. Despite disclaimers, it is apparent that Mr. Carter believes the direct participation of the P.L.O. is an essential ingredient both to get the Arab countries to Geneva and for a successful outcome to the negotiations. The State Department is doing everything in its power to get the P.L.O. to the table, in one guise or another.

The joint American-Soviet statement on an approach to the Geneva conference on the Middle East is but another move in this direction, shortsighted and bound to be counter-productive.

Of course, Israel resists this approach, not merely for the obvious distaste it has in dealing with a terrorist group, but because P.L.O. representation will inevitably mean an Arab demand at the conference that the P.L.O. gain recognition and accomplish its goal: the domination of a Palestinian state that the conference would presumably establish. The battle now looming over P.L.O. representation is therefore far more than it appears, for, as is often the case at international conferences, who attends determines the substantive end result.

President Carter has been convinced, on the flimsiest of evidence, that the P.L.O. can be made to moderate its current stance, just repeated recently, that it will not recognize Israel and that it still pursues its stated goal of seeking the destruction of the Jewish state.

Despite the fact that renunciation of this goal by the P.L.O. was explicitly agreed to between the United States and Israel as the condition for any dealings with the P.L.O., this Administration appears quite ready to compromise the point. Almost any gesture will suffice to prove a change of heart on the part of the P.L.O. as far as the Administration is concerned, and, once it is found to exist, Israel inevitably will be asked to alter its stand and abandon its opposition to treating with the P.L.O. at Geneva.

This approach is both unsound and immoral, but, even more pertinent, it is clearly doomed to failure. The P.L.O. shows every indication that it will not make the slightest concession in its stated purpose of destroying Israel. Should it alter its posture, or should the Administration pronounce that it has, Israel nevertheless will insist on what it is entitled to: United States adherence to its commitment that the P.L.O. must renounce its destructive goal explicity and without condition before Israel can be expected to deal with this organization.

Israeli public opinion will not budge on this issue, no matter what pressure Mr. Carter may bring to bear, and friends of Israel in this country will stand behind Israel all the way. The Administration is seeking to cut corners on an essential issue, one that goes to the heart of peace in the Middle East, and it will not succeed if it persists in this foolishly simplistic approach.

The reality in the Middle East dictates another avenue to Geneva. The P.L.O. is at its nadir, because of the past and current price it is paying in the continuing conflict in Lebanon. The Arab states, by common accord, are far weaker militarily than Israel, and the Soviet Union seems unwilling for the time being to get sucked into another losing battle on behalf of the Arabs. The conference table is thus far more important to the Arabs than to Israel, and it is *they*, not Israel, who must seek a way around the P.L.O. dilemma.

Indeed, it has long been clear, as the recent fighting in Lebanon demonstrates, that the Arabs, much more than Israel, need to tame, if not exhaust, P.L.O. energies as a necessary condition for a lasting peace within a stable region.

This Administration is, wittingly or not, seeking to inflate and render durable the P.L.O., a mistaken policy and one that can only serve to prevent achievements of Mr. Carter's pursuit of a Middle East peace.

If the United States really wants a Geneva conference, it ought to be pressing for a conference limited to states. Palestinians residing in Jordan, Lebanon and Syria could of course be represented in the delegation each of these states would send to Geneva. When the issue of displaced persons is reached, then it is entirely proper for the P.L.O. to be heard as one among several spokesmen for the Palestinian refugees.

There is no historic precedent or sound reason to elevate the P.L.O. to the status of a representative delegation at a Geneva conference unless, of course, as many now suspect of the Carter Administration, it has already decided that the conference will create a state on the West Bank and that the P.L.O. will be anointed as its government.

Those who oppose this result are correct in joining issue now with Washington. Satisfying the P.L.O. would promote an era of conflict and destruction, and any peace conference premised on that result would be a hollow achievement for President Carter.

YOUNG AMENDMENT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. WHALEN. Mr. Speaker, this week the conference report on H.R. 7797, the foreign aid appropriations bill, will come before the House for further consideration. Permit me to discuss some of the House amendments which still remain in disagreement.

The first is the so-called Young amendment which would bar indirect as well as direct aid to seven specific countries—Uganda, Cambodia, Laos, Vietnam, Angola, Mozambique, and Cuba. This is not, despite some views to the contrary, the same as the Harkin-Badillo amendment to the international financial institutions authorization which passed the House earlier this session and is now on the President's desk. Whereas the latter was designed to establish a consistent U.S. approach to human rights issues, the Young approach, if approved, would force U.S. political judgments on multinational organizations to which our country belongs. No other nation has claimed the right to dictate beforehand how its individual contributions shall be used.

As our colleague, the gentleman from Iowa (Mr. HARKIN) stated on September 30:

Tying our contributions to these banks would set a dangerous precedent for other contributors . . . Furthermore, the banks maintain they cannot legally accept our tied dollars. The international banks need re-

direction, but they don't need to be destroyed.

Moreover, aid from multilateral lending institutions is targeted primarily at third world countries and efforts increasingly are being made to direct assistance to the "poorest of the poor" in those countries. Unless we delete the restrictive House language from this legislation, the United States effectively will be taking the lead in the politicization of developmental aid. In so doing, we would hinder efforts to guarantee the basic human right to a decent standard of living throughout the world.

In fact, by earmarking our contributions, we would precipitate the breakdown of U.S. relations with multilateral institutions and threaten the very existence of those institutions.

H.R. 7797's second controversial amendment bars use of U.S. contributions to initiate or expand in recipient countries the development of three specific commodities: Sugar, palm oil, and citrus. For the reasons previously stated, earmarking U.S. contributions can only have an unfortunate effect. Too, such a selective, protectionist provision surely is misplaced in cooperative international development efforts.

At this time I would like to direct my colleagues' attention to the League of Women Voters' statement on these two issues. In addition, I would like to share a letter from the U.S. Catholic Conference and a recent joint statement by seven former Secretaries of Treasury further enforcing the necessity for a foreign aid appropriations bill free of crippling amendments:

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C., September 1977.

To: All Members of the House of Representatives.
From: Ruth C. Clusen, President.
Re Restrictive amendments to H.R. 7797, foreign aid appropriations.

Within the next few days, the full House will be asked to provide further instructions to House conferees on two amendments to the foreign aid appropriations bill, H.R. 7797. The two amendments are the Young Amendment and the Moore Amendment. The League of Women Voters of the United States adamantly opposes these amendments. We urge you to vote against insisting upon these amendments which wil so seriously cripple U.S. efforts to provide economic development aid to the poorest of the poor.

The first amendment of concern to us was offered by Representative Bill Young (R FL). It prohibits U.S. funds from being used either directly or indirectly in certain selected countries. During their consideration, the Senate deleted the indirectly prohibition which would affect U.S. contributions tc multilateral institutions. The League of Women Voters supported the deletion of the indirectly prohibition. We oppose the Young Amendment for the following reasons:

(1) It is a restrictive amendment that subverts the multilateral aid process. Placing conditions on U.S. participation in multilateral institutions politicizes the process that was developed as a way of providing aid on a non-political basis. Because multilateral institutions are not governed by any one country, the U.S. and other donor countries can meet their aid obligations in a manner acceptable both to the donor and recipient countries. Viewed from this standpoint, the question is not a matter of refusing aid to certain countries, but whether the U.S. wishes to continue to participate in multilateral institutions.

(2) The Young Amendment violates the charters of the development banks. The IFIs cannot accept conditional contributions from any country. A precedent for the refusal of conditional contributions was set by the Inter-American Development Bank (IDB) in 1975 when the Senate Subcommittee on Foreign Operations earmarked $50 million of the appropriation to go to intermediary lending institutions in the recipient countries. Although the IDB was not opposed to lending to intermediaries, and in fact, ultimately provided more than $50 million to them, the IDB refused to accept the earmarked $50 million contribution because it violated the IDB's Articles of Agreement.

Moreover, in a letter to Secretary of the Treasury Blumenthal, Robert McNamara, President of the World Bank, stated that if the United States conditions its contribution, the Fifth Replenishment to the International Development Association (IDA)—the replenishment to which the FY78 appropriation is the first installment—cannot become effective. Mr. McNamara went on to say that conditional participation in the World Bank and the International Finance Corporation would also be unacceptable.

The second League-opposed amendment was offered by Representative Henson Moore (R. La.). Its provisions stipulate that none of the funds contributed by the U.S. to the IFI's shall be used to initiate or expand the production of palm oil, citrus and sugar. The League opposes the Moore Amendment for the following reasons:

(1) It is a restrictive amendment placing conditions on the banks and violating their charters in a way similar to the Young Amendment.

(2) It contradicts the purpose of the banks. On the one hand, the U.S. is supporting the development of developing nations by contributing to the IFI's. If the Moore Amendment is retained we are in effect undercutting that development, and denying them the means to compete on the world market. As developing nations expand their economies and begin to produce commodities for export, trade with other nations is the primary way in which they sustain that economic expansion. For the United States, liberal trade agreements with those developing nations are an integral part of our economic development programs. It secures markets for U.S. exports and at the same time stabilizes the world economy by providing developing nations the means for the necessary exchange of currencies.

Moreover, the IFI authorizing bill contains provisions addressing the concerns of those who fear an adverse effect on the U.S. economy because of increased imports. The authorization bill, H.R. 5262, instructs the U.S. representative to the banks to oppose loans for the production of palm oil, citrus and sugar when those products are to be exported to the United States and when they threaten a reduction in domestic production of like or competitive commodities. We believe that this is a far more reasonable approach, especially when considering the fact that, if retained, the Moore Amendment would apply in all cases—even when the commodities are not to be exported to the United States.

In summary, we urge you not to insist upon these amendments that will so seriously cripple and perhaps end U.S. participation in multilateral institutions.

THE CATHOLIC CONFERENCE,
September 30, 1977.

DEAR REPRESENTATIVE: The United States Catholic Conference wishes to convey to you our grave concerns about the threat to vital *multilateral economic assistance programs* posed by the House amendments to the Foreign Assistance Act of 1978 (H.R. 7797), which attach certain conditions to the use of U. S. contributions to international financial and other development institutions. As you know, the Conferees on H.R. 7797 could not agree on these amendments.

We urge you to carefully reconsider the serious implications of these restrictive House amendments and to support instead the Senate position which is opposed to the denial of U.S. contributions to multilateral aid agencies for (1) assistance to seven specified developing countries, and (2) projects to expand palm oil, citrus or sugar production.

These conditions would seriously curtail the activities of multilateral development agencies which legally cannot accept contributions subject to such constraints and would be very damaging to overall U.S. foreign policy. Hardest hit would be the International Development Association, which provides soft loans to the poorest nations and which would soon have to terminate its lending operations.

We fully support the application of human rights criteria to the operations of multilateral assistance agencies. However, we believe the appropriate way to do this is by requiring U.S. executive directors to international financial institutions to oppose loans or other assistance to countries guilty of gross violations of human rights, except for programs which clearly serve the basic needs of people, as provided by the Harkin amendment to H.R. 5262. H.R. 5262 also contains language to cover the interests of U.S. sugar, vegetable oil and citrus producers which does not raise legal problems for multilateral assistance agencies.

We also support the application of human rights criteria to U.S. *bilateral aid programs.* Prohibitions or reductions of bilateral aid to specifically designated countries we believe is an appropriate way to apply these criteria since such action has no adverse multilateral implications. We therefore support the House amendments to eliminate or curtail U.S. military assistance to such countries as Argentina, Brazil, El Salvador, Uruguay, and the Philippines. The severity of human rights repression in these countries is well documented. Moreover, since the aid is military, not economic, there is a strong presumption it will be used to support efforts to violate human rights.

With cordial good wishes, I am

Sincerely yours,

REV. J. BRYAN HEHIR,
Associate Secretary.

JOINT STATEMENT BY FORMER SECRETARIES OF THE TREASURY

As former Secretaries of the Treasury, we reaffirm our belief that United States participation in the international financial institutions—the World Bank and the regional development banks—is vital to American economic and political interests.

Continued U.S. participation in these lending institutions is now totally dependent on the Congress of the United States. The Fiscal 1978 Foreign Assistance Appropriations Act is pending before Congress. The restrictive amendments contained in the House version of this bill would effectively end U.S. participation in the Banks. The charters of these multilateral institutions simply would not permit them to accept funds so conditioned by individual members.

Such a result would gravely undermine the world economy and the future well-being of the American people. Indeed, our contributions of about $2 billion are essential to mobilize contributions of $5.5 billion—almost three times as much—from other donor countries.

If the institutions are cut off from these funds, lending that would benefit hundreds of millions of poor people throughout the world would cease. U.S. relations with the poor countries would be shattered. Our relations with the other donor countries—our closest allies in Europe, Canada and Japan—would be disrupted, for they have already decided to contribute their fair share of these institutions on the assumption that we would contribute ours. As a result, the international cooperation which is so critical to the stability and growth of our world economy would be severely jeopardized.

Over the past several decades successive Presidents of the United States—Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford—supported with strong bipartisan backing in the Congress, have encouraged the development and expansion of the role of the World Bank and the regional development banks.

As Secretaries of the Treasury during this period since World War II, we have consistently urged this feature of our foreign economic policy as an indispensable element of an effort to engage the other wealthy industrialized democracies in sharing our burden and responsibility to assist the poorer, less developed nations in providing some hope and progress for their peoples. We firmly believe that these multilateral financial institutions are essential to peace and prosperity. Continued U.S. support and participation in a leadership role is vitally necessary to a continuance of these organizations as effective instruments for international cooperation.

Therefore, we hope that the Congress will modify the restrictive amendments and vote out the appropriations so that the World Bank and regional development banks can accept the U.S. subscriptions.

ROBERT B. ANDERSON.
JOSEPH W. BARR.
JOHN B. CONNALLY.
DOUGLAS DILLON.
HENRY H. FOWLER.
DAVID M. KENNEDY.
GEORGE P. SHULTZ.
WILLIAM E. SIMON.
JOHN W. SNYDER.

CASIMIR PULASKI MEMORIAL DAY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FLORIO. Mr. Speaker, 198 years ago on October 11, 1779, Gen. Casimir Pulaski died of mortal wounds which he received while heroically leading a cavalry charge during the Battle of Savannah 2 days earlier. Thus culminated the brief, though remarkable, life of one of the most distinguished American patriots. Few men in history have devoted themselves as selflessly and diligently to the cause of freedom as General Pulaski. He and his family fought for this goal in Poland where he lost both family and fortune. Undaunted, he turned his attention to the noble struggle which General Washington was commandeering—the American Revolution.

Casimir Pulaski merited the immediate respect of General Washington and shortly was commissioned as a brigadier general. His exploits in the American cause took him throughout the Colonies from Brandywine to Savannah. General Pulaski was not content with rank and status alone but ardently desired to make a full and lasting contribution to the Revolutionary War. Never having his zeal for freedom diminished, he persisted before Washington and the Continental Congress for a more activist, substantive role in the fight for independence. He achieved his desire, ultimately giving of his young life.

It is with great respect and pride that I ask to join our Polish-American friends in the memory of Casimir Pulaski to celebrate Pulaski Day. We can never repay the debt owed to General Pulaski for his donation to democracy. By this small measure of recognition we hope to justly memorialize his life. But perhaps, more importantly, Pulaski Day is not merely recognition of a great patriot but of a great people—the Polish Americans. Our Nation and the world is enriched because of our Polish-American citizenry and I would like to offer a personal salute to them and to their admirable fellow countryman, Gen. Casimir Pulaski.

MIDDLE EAST DEBACLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. OTTINGER. Mr. Speaker, the joint United States-Soviet statement on the Middle East issued last weekend dangerously undermines our firm commitment to Israel, and marks a significant shift in U.S. policy by signaling the imposition of a peace settlement from the outside.

The clear conclusion one can draw from the statement is that it exhibits alarming pro-Arab tendencies, and calls into question the intent of the Carter administration and the credibility of the United States on the question of a meaningful and lasting peace in the Mideast.

By agreeing to the basic tenets of the joint statement, the Carter administration has moved to weaken the bonds between the United States and Israel.

The language of the joint agreement which calls for "insuring the legitimate rights of the Palestinians" in the design of a comprehensive settlement is very disturbing for several reasons.

First, never before has the United States recognized Palestinian "rights," as those rights have historically included the right to return to their homes in pre-1967 Israel and the right of self-determination, or a separate Palestinian state.

Second, by not making a distinction between the Palestinian Liberation Organization and other Palestinians, the United States has made a frightening shift in past policy.

In fact, the omission of such a distinction is in direct contradiction to another agreement signed in 1975 by the U.S. Secretary of State and the Israeli Foreign Minister which stated that the United States is pledged to "continue to adhere to its present policy with respect to the Palestinian Liberation Organization, whereby it will not recognize or negotiate with the PLO so long as the PLO does not recognize Israel's right to exist and does not accept Security Council resolutions 242 and 338." So far as I know, the PLO has never modified its expressed commitment to Israel's destruction.

The Soviet-American statement makes no specific mention of a peace treaty between the parties involved. This aspect of a peace settlement has always been a basic prerequisite according to past U.S.-Israeli understanding. I hope that the United States has not abandoned its commitment to such a treaty because without such an agreement chances for a meaningful and lasting peace in the Mideast are decreased significantly.

Last weekend's statement ignores another aspect of the 1975 U.S.-Israeli agreement under which the United States guaranteed to consult with Israel on the question of the participation of any "additional states" in the Geneva Peace Conference. The joint statement indicates that representatives of all parties involved in the Mideast conflict will participate in the conference, including those of the Palestinian people. This position on the part of the United States seems to enforce the pro-Arab implications of the statement, and certainly detracts seriously from our longstanding commitment to Israel.

Finally, last weekend's action injects the Soviet Union into the Mideast situation and into a role which it lost a long time ago. The U.S.S.R. has always been a destabilizing force in the Mideast conflict, and I do not believe that the Soviets' intentions bode well for the development of a constructive and lasting Mideast peace.

CONGRESSMAN STEVE SYMMS ON NATIONAL HEALTH INSURANCE

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, the August 1977 issue of Private Practice magazine contains an article by my colleague from Idaho, STEVE SYMMS. Congressman SYMMS makes an excellent case against government intervention in medicine and also described the politics of the issue on Capitol Hill by explaining why it is imperative that opponents of national health insurance and socialized medicine not compromise on this issue. Congressman SYMMS' article follows:

A CONGRESSMAN'S APPEAL TO THE AMA: "STOP HELPING MEDICINE'S OPPONENTS"

(By the Honorable STEVE SYMMS)

"If you like the US Postal Service, you'll love National Health Insurance." This comment that I saw on a bumperstrip is quite a message, one that proponents of National Health Insurance—including the AMA—should consider.

A Federalized postal service has been characterized by expensive inefficiency. Additionally, the postal workers became unionized and now only work specified hours under specified conditions. What happened to neither rain, nor snow, nor sleet, etc. . . .? During periods of heavy mails, the service becomes even more stymied—all mail slows down. Christmas cards and junk receive the same treatment as insurance forms, tuition payments, and car payments. Clearly the importance of the mail is not discerned by any-

one but you, the consumer. Only if you choose to pay a little more for special delivery or registered mail does your most important mail receive better service. Even then your choice is limited to one the US. Postal Service offers. And now there is talk of a 16 cent stamp.

Rumors fly that the postal service in smaller communities will have to be eliminated. Many cities now have only five-day mail service and there is talk about four-day mail service. All of this shows what a Federal postal service has accomplished.

In addition to the US Postal Service, when considering socialized programs, we can look to the nationalized medical systems of other countries.

Based on experience, what is likely to happen in a Federalized medical care system? Costs will zoom. This is a certainty based on a good deal of evidence, including the national budget and the trend of taxes. Also, with every American covered under a form of health insurance, and standardized rates, some Americans will be forced to pay more than they would have chosen to pay in a system governed by freedom of choice. Others will be receiving a lower quality health care than they would have chosen in a free system. Cost may well be standardized, but the healthy Americans will be forced to subsidize the unhealthy and hypochondriacal. The cost of medicine care in this country will substantially increase, and HEW projections of a comprehensive National Health Insurance program range from $77 billion to $167 billion for the first year.

These funds will come basically from the general revenues and it is the taxpayers of this country who provide the general revenue funds. Taxpayers will be faced with another Federal ripoff that will warrant a revolutionary attitude.

Cost, however, is not the primary argument against NHI, but rather what NHI will mean for the medical care of American citizens. America should have a system that provides the best medical care, allowing personal freedom of choice as to physician, hospital, clinic, etc. Additionally, competition in the medical profession should be encouraged. Patients should have the privilege of choosing a doctor or hospital because they want "the best."

To subsidize doctors is to invite those with little moral fiber to provide less than the best in treatment. These doctors know that they will receive their payment from the government regardless of the care they administer. Clearly this has been manifest in the Medicare and Medicaid systems. Yet those advocating a National Health Insurance plan that will drastically increase government subsidization of medical care use these abuses resulting from current government involvement as bases for advocating more government intervention. Completely subsidized medicine in this country already exists in several areas, most notably the armed services Do we really wish to force every American to submit to impersonal medical care comparable to that provided in the armed services?

In areas where HMOs operate, in over-extended emergency rooms, the idea of taking a number and waiting to be serviced has already begun in this country. While such situations are certainly limited in our present system (which has been Federalized to some extent), we need only to look to Britain for some examples of the situation which those patients in a national system of health care can expect. 1966 figures from Britain disclosed that over 100,000 elderly and chronically ill persons were on waiting lists (having taken their numbers) to get into hospitals. In 1975, the reported figure soared to 700,000 Britons on waiting lists for hospital treatment. A 1975 report disclosed that nearly 80,000 people are waiting at any one time for tonsillitis operations. These thousands of patients become little more than numbers to the GPs or consulting specialists. And numbers do not receive the compassionate, quality care from the doctor on duty that an individual would from his private physician.

That government bureaucrats advocate both government subsidization of the medical care system and the impersonalization of treatment is not surprising, for we have seen the empire-building attitudes pervading the bureaucracy. We who fight socialized medicine and growing government interference in all areas know that the bureaucrats and the advocates of a powerful centralized government are our adversaries We can battle the known enemy. The grave problem which we face is the attitude of the American Medical Association. The AMA has conceded a point which I refuse to concede, which the majority of private physicians refuse to concede, which many of my peers refuse to concede, and which has no factual basis: that a Federalization of the medical care system in this country will benefit our citizens. By accepting the premise that a) there is a health care crisis and b) a Federal solution is the only solution, the AMA has sided against a private medical system guaranteeing the maximum in personal, quality medical care.

The AMA is advocating its own version of mandatory medical care, HR 1818, with a strong emphasis on the national health care aspects of the plan. While the AMA would allow private heath care plans to continue, we need only check the record to observe the difficulty private projects have competing with government-subsidized projects. As with the postal service, competition will be quickly eliminated in some areas. Private services will be forced out of existence by being priced out of existence. Similarly, private physicians will become more regulated by PSROs, and more Medicare and Medicaid programs. Finally, retirement will be a superior alternative to cookbook medicine for committed, caring physicians.

The AMA has lost the will to fight to preserve the profession it purports to represent. It has failed the members of the medical profession who wish to serve patients to the best of their abilities, free from the dictates of Big Brother in Washington. What good is the AMA, except as another force seeking to deliver doctors into the clutches of the bureaucracy that demands socialism in the area most needful of individual care?

Under socialization, unionization of doctors and medical workers cannot be discounted as unlikely. The British system is controlled in part by union contracts. Hospital trade unionist-cooks, maids, laundry women, orderlies, etc. can disrupt the entire medical care system by striking. Specialists work for the National Health care system by contract By simply refusing to work beyond their contractual hours, these consultants can affect thousands of patients.

The family doctors in the National Health Service have threatened to resign as a body unless they receive salary increases. Who suffers when the trade unionists strike or the consultants adhere strictly to their contracts or the family doctors resign? Patients suffer—not the bureaucratic administrators nor the politicians. To propose submitting our elderly, our chronically ill, even our healthy citizens to such a system is outrageous.

With respect to the demand on such a system, and the resulting impersonal treatment, one can look to many examples in this country to determine the outcome. What happens when department stores have sales? The stores are jammed with shoppers there to take advantage of sale prices. Back in the days of gas price wars, the gas stations used to be jammed with consumers taking advantage of the lower prices. Offers for free trips, free products, free tickets all create a crush of contestants for the prizes. When consumers believe they are getting "a good deal" or someone else is "paying the tab," they are very likely to take advantage of the offer. Medical treatment will be in much greater demand if the consumer believes he will "get more than he pays for" or "someone else is paying the bill." To confirm such a theory, one can look at the British system once again. Consider that every GP in Britain is responsible for 3,000 National Health Service patients on the average. He may see 100 patients in his office daily plus house calls plus any private patients he might have. Contrast that with the recent U.S. figures that indicate the average American physician sees 169 patients per week. The crushing demand makes it physically impossible for British physicians to devote time for psychological as well as medical treatment for the average patient. Sick people need to believe that their doctor cares; psychological healing is often as important as physical healing. We in America need to guard this important aspect of care for our citizens. Further, our citizens need to reaffirm that attitude by voting against members of Congress who support the theory that everyone should have identical medical care, that socialized medicine is best.

While many persons believed that government control of natural gas prices would assure us a steady flow of cheap gas, last winter's shortages indicated otherwise. Clearly, the artificially low price of gas created a demand for that resource rather than encouraging further development of alternative sources of energy. Additionally, the low cost did not prompt frugality with the resource on the part of the consumer until the shortage was upon us. Further, fewer investors find development of gas wells profitable and turn to other, more profitable enterprises increasing the possibilities of shortages. These points are directly related to the medical situation. Artificially low costs for medical care will increase demand and make consumers less discriminating about their use of medical facilities and doctors. We will have shortages of both facilities and doctors, as physicians turn to other occupations for reasons of personal incentives, satisfaction, and reward.

The AMA has abandoned the battle against National Health Insurance, rejected the evidence that shows government to be a detrimental force in medicine, and joined the other side. It is possible that the members of the AMA could persuade the organization to rejoin the battle on the right side, beginning anew with the premise that the American system of private medical care is the best in the world?

As long as doctors, nurses, pharmacists, researchers, lab technicians, and others involved in our medical system are free to use their knowledge in making individual decisions, our system will remain outstanding in providing high quality, compassionate medical care. The AMA should begin by dropping its own National Health Insurance bill. The AMA's concessions, and the prestige they give to the NHI pushers, are among the worst problems we have.

Those of us in Congress who believe in private medicine will continue the battle to keep the medical profession and patients free from government control, allowing our people the freedom to choose freely the best medical care they wish. A vigorous AMA on the side of liberty could make all the difference.

STATE OF THE JUDICIARY/ACCESS TO JUSTICE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties

and the Administration of Justice, which I chair, recently held extensive oversight hearings on the state of the judiciary and access to justice. During these hearings we inquired into the problems posed by congestion in the Federal courts and the effect these problems have on access to the Federal judicial branch.

One of the salient concerns that emanated from our many illustrious witnesses was that a dual approach should be adopted: On one hand, we should attempt to reduce caseloads and make court procedures run more smoothly; on the other, we should provide access to the courts by passing legislation, in such areas as standing and class actions, to aid the maximum number of individuals. In this latter regard, we should especially be cognizant of the rights of the poor, oppressed, underprivileged; that is, those who have the most to gain from judicial relief.

I believe that these points were wisely and forcefully made by Mr. Vice President MONDALE in a speech on September 10, 1977, to the Second Judicial Circuit Conference. I therefore commend to the reading of my colleagues this excellent speech by the Vice President:

ADDRESS BY VICE PRESIDENT WALTER F. MONDALE

BUCK HILL FALLS, PA., September 10.—Following is the text of an address prepared for delivery by Vice President Walter F. Mondale to the annual meeting of the Second Judicial Circuit Conference, held at the Buck Hill Inn here.

Our meeting tonight, and this conference, mean, many things. It is a gathering of distinguished American jurists. It is an important contribution to the national debate on judicial reform. But perhaps, most importantly, this conference represents the triumph of an idea.

When our nation was founded, the belief that government exists to protect the rights of citizens and to establish justice was a revolutionary idea. It remains so today.

Alexander Hamilton put it plainly in the Federalist Papers:

"Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it can be obtained, or until liberty be lost in the pursuit."

We have survived for over 200 years as a free society, because, whatever our failings, the pursuit of justice of which Hamilton spoke has never ended. We have never allowed ourselves to become frozen into any permanent caste or class in America. We have never accepted the notion that there are two standards of justice for Americans. Despite the injustices suffered by many, the promise of justice has remained alive.

As federal judges, you have been on the cutting edge of the fight for social justice in our nation. In recent decades, your courtrooms have become the arena where black Americans and other minorities, the poor, women, and all those denied the full promise of America have come to claim their rightful place. These citizens and millions more continue to look to your courts for justice today.

That is why this conference on guaranteeing access to justice is so important. As federal judges, you understand perhaps better than anyone that the judicial crisis we face today is much more than an administrative problem.

The problems of overcrowded dockets; rising legal costs; and mounting delays are not just a headache for judges. They threaten to close the courtroom door on the very people who need judicial relief the most—the poor and the weak, middle income citizens, minorities and the powerless. The procedural logjam clogging our courts excludes millions of citizens for whom justice in the courts is the only hope of overcoming generations of prejudice and neglect. The inability to obtain legal services leaves millions more with no access to justice at all.

The challenge we face could not be more urgent. The task we face could not be more clear. That great jurist Learned Hand could well have been addressing this conference when he wrote:

If we are to keep our democracy there must be one commandment: Thou shalt not ration justice.

The dimensions of the problem we face are familiar to every judge in this room. In the last 15 years, alone, the number of cases filed in federal district courts has nearly doubled. Those taken to courts of appeals has quadrupled. Delays of two, three and four years are not uncommon.

There are no villains in this story. Neither the Congress, the Executive or the Judicial Branch can be blamed for the crisis in our courts today.

Instead, the problems we face remind me of the predicament of the man in one of Griffin Bell's favorite stories who was taken before the court on charges of drunkenness and setting his bed on fire. The judge asked the man how he pleaded. The man replied. "Your honor, I'm guilty of the first charge. I was drunk. But I'm innocent of the second. The bed was on fire when I got into it."

At bottom, the problem is simply that history has caught up with us. We operate under a judicial structure largely unchanged from the one designed 200 years ago for a handful of new Americans in 13 small states on the eastern seaboard. We expect the same system, today, to meet the needs of 210 million very different kinds of people spread over 53 separate jurisdictions in the most modern and complex society ever seen on the face of the globe.

There's nothing to be gained by searching for scapegoats; we must search for solutions.

This conference is an important step in the right direction. We must go on to tackle what Judge Kaufman calls the "twin demons" of cost and delay. We must reduce court congestion and overcrowded dockets.

But in all these efforts, it is important to keep in mind that our final goal is not simply to reduce caseloads or merely make our courts run more smoothly. Our goal is, and must be, to provide access to justice for all our people. Judicial reform—if it is to deserve our support—must preserve the courts, particularly the federal judiciary, as the forum where fundamental rights will be protected and the promise of equal justice under law will be redeemed.

The ABA Task Force on the administration of justice, which Griffin Bell chaired, stated that goal well:

"Neither efficiency for the sake of efficiency, nor speed of adjudication for its own sake are the ends which underlie our concern. . . . The ultimate goal is to provide the fullest measure of justice for all."

We are fortunate that today the author of those words is the Attorney General of the United States. As a distinguished federal judge Griffin Bell was one of the most respected leaders in our nation for progressive judicial reform. Today he has a few more resources at his command to continue the job. He has the full support of the President of the United States—and this entire Administration—to launch a far-reaching national effort to improve and upgrade our entire system of justice.

As one of his first acts, Judge Bell created a new Office for Improvements in the Administration of Justice—the first of its kind in the Justice Department. This office has a broad mandate to work with the federal judiciary, the Congress, the organized bar and the public. We want and need your ideas and support.

Under Judge Bell's leadership, this Administration is already moving forward on a wide variety of fronts.

To cut costs and delays and relieve overcrowded courtrooms.

To create new, imaginative alternatives for settling disputes.

To open up our judicial system to those denied an effective voice.

And to give the poor and the disadvantaged the resources to protect their fundamental rights.

As a first step, we're backing a series of reforms to provide quicker and less expensive ways to settle many of the disputes that have been languishing in our courts for years.

One new piece of legislation backed by our Administration would authorize federal magistrates to decide civil cases and try misdemeanors if the court and the parties agreed. This reform—which has already passed the Senate—could reduce the yearly caseload in District Courts by as many as 16,000 cases.

We are developing new legislation to allow experiments in District Court with compulsory non-binding arbitration in certain civil cases. In one state where arbitration is currently used, 95 percent of the cases have been settled before they have gone to trial.

Finally, we are making a long overdue effort to tackle the problem of diversity jurisdiction. Giving a citizen the right to sue someone from another state in federal court made sense at a time when rivalry between states and regions was sharp. Today it is the judicial equivalent of a dinosaur—a relic of a bygone age.

In 1976, nearly one in four federal cases was a delivery matter. That just doesn't make sense when so many burning public issues demand the court's attention. The Justice Department is backing a proposal to prohibit a plaintiff from filing a diversity suit in the state where he or she lives. If enacted it could reduce the number of diversity cases before the federal courts today by as much as half.

Secondly, we are looking beyond the courts to find new, alternative forums to deliver simple justice.

Shortly before the American revolution, Edmund Burke noted that more copies of Blackstone's Commentaries on The Law had been sold in the 13 colonies than in all of England. He concluded that Americans were a peculiarly litigious lot.

I'm a resident of Washington, D.C. the lawyer's capital of the world. So I can't dispute that claim. If you want to hold a bar association meeting in Washington all you have to do is to stop the first hundred people you see on the street and go find yourself a tent.

But despite our reliance on lawyers and law in this country, the fact remains that courtrooms aren't necessarily the best place to settle disputes.

To many Americans, a court of law is still an awesome, strange, and, often frightening place. Family squabbles, friction between neighbors, minor commercial disagreements usually wind up in court—if they're settled at all—because there's no other place for them to go.

As our society gets larger, and more complex, and more and more bureaucratic, we sometimes forget that people need personal, community forums where they can settle differences simply, directly, and even, sometimes part as friends. One of the most exciting experiments in alternatives to the courtroom are Neighborhood Justice Centers supported by the Justice Department. These

Centers will be run in, and by, the communities they serve. Neighborhood residents will be trained to mediate disputes, arbitrate differences and reconcile parties. Only if the dispute can not be settled will the parties be referred to a court or government agency.

We expect to fund three Neighborhood Justice Centers for trial periods in Los Angeles, Atlanta and Kansas City. We are hopeful they will become models for the nation of a new kind of justice in action.

Each of the reforms I have mentioned will cut back on the caseload in federal courts. They will provide quicker, less expensive ways, to settle many disputes. Most important of all, these proposals will free the time and resources of federal judges for the awesome responsibility the founders of our nation placed in your hands as the ultimate guardians of constitutional rights.

But clearing court dockets and freeing judges' time is only half the battle. We must make sure that those in need of justice receive their day in court. For many citizens today technical barriers increasingly bar the federal courthouse door to millions of poor and middle income Americans simply can not afford to go inside.

Access to Federal court is often the only way the individual consumer, the taxpayer and the ordinary citizen can effectively challenge the massive power of a modern corporation or the far-reaching power of government itself. Closing the courthouse door leaves them no other place to go.

President Carter and this administration are committed to opening up the judicial system to those in need of its support. In his recent consumer message the President asked the Congress to give citizens broader standing to sue government agencies to give the Federal courts more authority to reimburse legal fees and to expand opportunities for filing class action suits.

Nothing is more destructive to a sense of justice than the wide-spread belief that it is much more risky for an ordinary citizen to take $5 from one person at the point of a gun than it is for a corporation to take $5 each from a million customers at the point of a pen. Consumer class actions are one of the few ways a nation of individual consumers can defend itself against fraud and deceit in the marketplace today.

The Justice Department is working closely with the Office of Consumer Affairs to develop workable procedures to insure that class actions will be used responsibly. But we believe giving citizens access to justice must include this important tool.

Finally, this administration is committed to the principle that no American should suffer injustice because the price of justice is too high.

For all too many impoverished Americans, the promise of justice remains just that a promise. For the 16 million poor citizens who have no access to Federal legal services, it is a promise waiting to be fulfilled.

The justice these Americans are seeking is rarely the stuff of which headlines are made it will not often be carved in stone on our courtroom walls.

It is the justice sought by:

A 13-year-old girl in Maine whose teeth were so poor she could not eat who was denied treatment she deserved under Medicaid;

A 16-year-old mentally retarded child living with her disabled grandmother who was illegally denied entrance to school;

An elderly New York couple living on Social Security charged four times the going rate by a fraudulent home improvement scheme; and

Or a 64-year-old Mexican-American from California given a legal runaround for four years by a lumber company which hoped he would die before they had to pay him his pension.

For these and thousands of other clients of the Legal Services Corporation access to counsel has meant more than a vindication of their legal rights. It has meant a vindication of their humanity a vindication of their dignity and a vindication of their right to be something more than a victim the fate too often reserved for the poor.

I was a sponsor of the original legal services program in the Senate. Like many of you I fought for the establishment of the Legal Services Corporation. President Carter and I are deeply committed to this vital program. We supported a major increase of $50 million for legal services this year. With the additional support of the Congress, and the help of state of local bars, the Legal Services Corporation is well on its way toward reaching the goal of guaranteeing some access to legal help for every impoverished American by 1979.

Much more remains to be done to ensure access to justice, not only for the poor, but for millions of middle income and working families for whom an extended legal battle is an expense they cannot bear.

All of us in the Bar, in the executive, the Judiciary, and the Congress must continue to search for ways to deliver justice to all Americans at a price all Americans will be able to afford.

The reforms I have mentioned tonight are important steps forward. But they alone will not do the job. As Justice Cardozo has written.

"The process of justice is never finished, but reproduces itself, generation after generation, in ever-changing forms. Today, as in the past, it calls for the bravest and the best."

We can reform our judicial system, and we must. But in the end, the success or failure of our efforts will depend not on a system, but on the men and women who uphold it. It will depend, more than anything else on you.

For millions of Americans in recent years a courageous federal judiciary has been their last, best hope for justice. You remain their last, best hope today.

In the years to come we pledge our commitment and our support for your efforts, I am confident that working together the promise of justice in America will continue to be redeemed.

CONGRESSIONAL RETIREMENT BENEFITS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. PRESSLER. Mr. Speaker, I have just become aware that once again Congress is taking an increase in benefits without a rollcall vote. Last week a bill was slipped through the House which will allow a substantial increase in retirement pensions. Basically the bill will allow Members to base their retirement pensions on their single highest year of earnings rather than an average of the three highest. The civil service retirement program, which is separate, requires that a 3-year average be used. Why have hearings not been held? Why is the congressional retirement program so much more generous than any other?

Mr. Speaker, I am not against increases where they are needed—but I want to vote on them. I shall have more to say on this matter on the floor next week.

JUDICIARY NEEDS POWER TO POLICE ITSELF

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FINDLEY. Mr. Speaker, Congress is once again considering the need for additional Federal judgeship across the Nation. Chief Justice Warren Burger complains of a "near crisis situation" and congressional inaction on the judiciary's 4-year-old request for desperately needed district and circuit judges.

He charges that the need for new Federal judgeships has been caught up in the complexities of politics, elections and other irrelevant considerations and suggests that perhaps some other way ought to be found to provide the judiciary with additional judgeships. At issue in his proposal are 132 additional lifetime judicial appointments.

Few would quarrel with the fact that most Federal judges are hard-working, honest, and extremely capable. Yet few also would quarrel with the fact that not all Federal judges fit that description. There are exceptions.

For example, a Federal district judge in Philadelphia, Herbert A. Fogel, has invoked his constitutional right against self-incrimination before a Federal grand jury investigating the questionable 1971 award of a $78 million General Services Administration lease to his uncle, Philadelphia developer Mathew Weinstein. As reported in the Washington Star:

> The lease was given to Weinstein even though his bid was millions of dollars higher than two other bids and did not meet legal requirements, according to a study made later by the Government Accounting Office.

For some time, Justice Department officials have been trying to persuade Judge Fogel to resign, but currently there is nothing that anyone can do, but politely ask him. Under the Constitution, as Fogel is quick to point out, a Federal judge "is a lifetime appointee." Today there is no way that he can be forced to leave office short of impeachment.

A few years ago, a judge of the U.S. Court of Appeals continued to hold office and receive compensation for an extensive period of time while appealing a conviction for perjury and conspiracy. Once the possibility of appeal was exhausted, the judge wisely chose to resign. But the decision to resign was his own. Even in these circumstances no external authority forced him to leave the bench.

Just as not all judges are entirely honest, the hearings held on the Judicial Conference's request for 132 new judgeships indicate that not all judges are overworked, either. A senior judge from a Western State, who requested that another Federal judge be assigned to his court, admitted to the Senate Judiciary Committee:

> Our statistics here might not measure up. But the fact remains that we go to work early and quit late; we work hard. I get there at

8 o'clock in the morning and don't go home until 5.

Just what an additional judge would be expected to do under those circumstances was left unclear, but undoubtedly he would help ease the burdens of office that a Federal judge's salary of $54,500 is unable to meet. Perhaps it would even provide time for the senior judge to get in an afternoon of golf.

Another judge from a border State, attempting to show how overburdened he is, testified:

I keep a briefcase in the trunk of my car with three or four records in it. Instead of reading the evening paper in the length I would like, I read one of those every night.

Wisely, the House Judiciary Committee has not blindly accepted the Judicial Conference's recommendation and has deleted some of the less essential requests.

Still, these two examples indicate a much larger problem which the judiciary is currently unable to deal with effectively. Judicial appointments are for life and, except for impeachment, there is no external control over the behavior of Federal judges and no way that the judiciary itself can exercise even the slightest supervision of an individual judge's conduct and work on the bench.

Once appointed, U.S. judges are almost totally beyond discipline and review. They remain in office as long as they wish. While most may be hard working, some are lazy and do little to ease the ever-rising caseload. Others perform well in early years and later become incompetent. The only way a judge has been forced from the judiciary in the past has been by impeachment. But impeachment is a process far too cumbersome and time consuming to provide a satisfactory means of dealing with incapacity and incompetence in the judiciary.

Happily, a statutory correction to this problem is possible.

The Constitution does not require that impeachment be the only means of removal. It provides only that—

The Judges, both of the Supreme and Inferior courts, shall hold their offices during good behavior.

Congress has never tried to define "good behavior" except during those very infrequent moments when the Congress has decided that the behavior of a particular judge has been so errant as to justify the impeachment process.

I believe it would be reasonable for Congress to spell out in legislation the meaning of "good behavior" and provide a means through which the conduct of a judge can be measured. In the last Congress, I introduced H.R. 10439, a bill to do just that. Today, I am reintroducing the proposal to establish by law a mechanism through which the judiciary itself can pass judgment on the behavior of its members. Under this bill, the Chief Justice of the United States would be authorized, either on his own initiative or upon the request of two other judges, to establish a three-member panel of Federal judges for the purpose of reviewing the performance of any judge or justice whose behavior has been brought into question. If the panel were to decide the behavior of the judge does not meet the constitutional standard, the person involved would be removed from the bench. The panel's decision would be appealed only to the Supreme Court. The decision of that Court would be final. If the behavior of the Chief Justice is called into question, the most senior Justice on the Supreme Court would select the panel. No Justice of the Supreme Court could sit in review of his own conduct.

In evaluating the behavior of a judge or justice the panel should examine a wide range of questions: Physical capacity, moral turpitude, attentiveness to duty, quality of decisions, and any aspect of behavior unconnected with the judiciary but detrimental to an individual's performance.

The existence of this mechanism would improve the efficiency of the judiciary and encourage each judge to cooperate fully with the rest of his or her colleagues in the judicial system. Such cooperation is essential to the proper administration of justice. It would give appropriate authority as well as title to the Chief Justice of the United States. Yet, while the mechanism would enhance the power of the Chief Justice, it is adequately safeguarded against caprice and vengeance. Two members of the panel would have to agree that the conduct of the judge under inquiry was constitutionally deficient, and the decison could be reversed by the nine-member high court. At the same time, because this mechanism for removal is contained entirely within the judiciary, it would also be satisfactorily insulated from pressures by other branches of Government. Neither the President nor the Congress would have any role.

The chairman of the Subcommittee on Courts, Mr. KASTENMEIER, with bipartisan support, introduced similar legislation earlier this month which would empower the Chief Justice to establish a Judicial Commission comprised of seven Federal judges who would have the authority to remove a colleague from the bench for misbehavior. The b'll is a good one and deserves the support of all Members of Congress. I hope that the subcommittee will schedule hearings on it and similar proposals at an early date and report a bill to the floor of the House in time for the 95th Congress to send it to the President for signature.

Some have assumed that impeachment is the only means contemplated by the Constitution through which the performance of judges can be reviewed and measured. Such a concept is manifestly incorrect. Indeed, the Constitution of the United States provides no express means for removal of unfit judges. Only by defining the term "civil officers of the United States" in article II, section 4, to include Federal judges, has Congress been able to remove judges by the impeachment process in the past.

Classed by stature also as civil officers are officers of the Executive, who are subject to removal by the President as well as by impeachment. If this group of civil officers is subject to such summary removal in a manner not specified in the Constitution, there can be little foundation for the argument that Federal judges are removable exclusively by impeachment just because no other manner for their removal is specified in the document.

A study of the judicial system as it was in force in England and in some colonies when the U.S. Constitution was written, leads to the conclusion that the framers did not intend that removal of Federal judges be limited strictly to the impeachment process. Instead, they gave judges tenure during "good behavior" which was the same accorded many English jurists. In England, judges who were found to have violated the good behavior standard could be removed by the judiciary upon a writ of scire facias. Under that procedure, a complaint of illegal, unethical, or intemperant conduct would be heard either by a jury impaneled for that purpose or by the judges' fellow jurists. The accused judge would answer the charges levied against him and then the question as to whether he would continue to hold office would be decided by the normal judicial process—either by the jury or by his colleagues on the bench.

Based upon their understanding of the system in England, the framers probably did not specifically mention removal of judges, because they expected that the judiciary would police itself as was the custom. Consistent with this theory the Supreme Court has held that the President is capable of removing subordinate members of his branch and each House of Congress is given the power to "punish its members for disorderly behavior and, with the concurrence of two-thirds, expel a member." Surely the other branch of Government, the judiciary, should be expected to police itself also. The integrity of the separation of powers would be preserved untarnished. At the same time the burdensome and time-consuming process of impeachment would remain as a last resort in the system of checks and balances so ingeniously incorporated into the Constitution.

Now that Congress is undertaking a review of the needs of the judiciary for additional judgeships, it should also establish a mechanism to insure integrity and efficiency within the judiciary. In fact, it is hard to imagine how the Chief Justice or the Judicial Conference can make a fair evaluation of the needs of the judicial system for more judges in the absence of a system which permits review of the work of the individual judges. The bill I am introducing today provides such a mechanism:

H.R. —

A bill to provide for the review of the behavior of individual justices and judges by three-judge panels

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 462. Review of behavior of justices and judges

"(a) The Chief Justice of the United States may on his own initiative, or shall on the request of two other justices of the United States, or two judges of the United States, or one other justice of the United States and one judge of the United States,

establish and select a panel of three members to review the behavior of any justice (other than the Chief Justice) or judge of the United States whose behavior is being questioned under such initiative or request. If, after affording the justice or judge whose behavior is being reviewed by such panel an opportunity for a hearing, a majority of the members of such panel determines that the behavior of such justice or judge is not good, such justice or judge shall cease, as of the thirtieth day after that determination, to hold office as a justice or judge of the United States; except that if such justice or judge takes an appeal to the Supreme Court under section 1259 of this title within thirty days after that determination, such justice or judge shall cease to hold such office only upon the affirmation of that determination by the Supreme Court and as of the time of that affirmation.

"(b) The associate justice having precedence under section 4 of this title shall on the request of two associate justices of the United States, or two judges of the United States, or one associate justice of the United States and one judge of the United States establish and select a panel of three members to review, under subsection (a), the behavior of the Chief Justice of the United States whose behavior is being questioned under such request.

"(c) A panel of three members established under this section may consist of any combination of justices and judges of the United States but shall not include any justice or judge of the United States who initiated or requested the review by such panel or whose behavior is being reviewed by such panel.

"(d) For the purposes of an appeal to the Supreme Court under section 1259 of this title, the determination of a panel of three members under this section shall, to the extent practicable, be deemed to be a judgment of a Federal court.".

SEC. 2. The table of sections for chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following:

"462. Review of behavior of justice and judges.".

SEC. 3. Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Direct appeals from decisions of panels which review the behavior of justices and judges

"Any justice or judge of the United States, whose behavior is reviewed by a panel of three members under section 462 of this title may appeal the determination of such panel to the Supreme Court, if the appeal is taken within thirty days after such determination.".

SEC. 4. The table of sections of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following:

"1259. Direct appeals from decisions of panels which review the behavior of justices and judges.".

WAR AGAINST THE ATOM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CONTE. Mr. Speaker, I received a visit last week here in Washington from President John R. Silber of Boston University. Dr. Silber was in town to testify in support of an appropriation to establish a model intercultural center at the Fletcher School at Tufts University. It was typical of President Silber's graciousness and vision that he was here in Washington to assist a sister institution from the New England area. The Senate subcommittee has deferred without prejudice any action on the appropriation for the two model intercultural centers for which we recommended funding.

President Silber, during his visit, left with me an article written by his very able administrative assistant, Samuel McCracken, "War Against the Atom" which appeared in the September 1977 issue of Commentary. Mr. McCracken presents a very cogently argued analysis of a most important issue for our Nation. I commend this article to my colleagues as reasoned discussion of the controversy surrounding nuclear power. Copies are available in my office for anyone who might be interested.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The August 1977 list includes:

NATIONAL DEFENSE

Sharing The Defense Burden: The Multinational F-16 Aircraft Program. PSAD-77-40, August 15.

Civil Defense: Are Federal, State, And Local Governments Prepared For Nuclear Attack? LCD-76-464, August 8.

How The Army Planned For Three New Divisions And How This Can Be Improved. LCD-76-454, August 4.

Military Compensation Should Be Changed To Salary System. FPCD-77-20, August 1.

Shipbuilders' Claims—Problems And Solutions. PSAD-77-135, August 9.

The Operations And Financial Needs Of The United States Soldiers' And Airmen's Home. HRD-77-123, August 1.

Improvements Are Needed To Fully Recover Transportation And Other Delivery Costs Under The Foreign Military Sales Program. LCD-77-210, August 19.

Methods Used For Determining Conventional Ammunition Requirements. LCD-77-401, July 20.

Proposed Closure Of Kincheloe Air Force Base, Michigan. LCD-77-321, April 29.

Letter reports

Release of $126.2 million of impounded budget authority for the Navy's Patrol Hydrofoil Missile Program. OGC-77-24, July 29.

The Navy should have considered using naval shipyards to repair tactical data systems aboard ships before contracting with an outside firm. PSAD-77-149, August 11.

Potential problems in recruiting Reserve and National Guard personnel. FPCD-77-68, August 12.

How the Defense Department can improve the settlement of noncompliance with cost accounting standards. PSAD-77-158, August 17.

The Department of Defense should establish a single manager for the Military Affiliate Radio System. LCD-77-119, August 23.

Suggestions for improving the management of personnel involved in data processing activities at the Naval Sea Systems Command. FPCD-77-63, August 25.

Transfer of toolmaking, toolcutting, and grinding functions did not hurt operations of the Portsmouth Naval Shipyard in New Hampshire. LCD-77-435, July 11.

Assessment of Air Force comments on GAO report on planned consolidation of laboratories at Brooks Air Force Base, Texas. LCD-77-357, July 15.

Answers to questions on Defense and Army actions affecting the Military Ocean Terminal at Bayonne, New Jersey. LCD-77-318, April 25.

INTERNATIONAL AFFAIRS

Improvements In Charges and Settlements Of International Mail Accounts. ID-77-38, August 30.

Examination Of Financial Statements Of The Inter-American Foundation For The 15-Month Period Ended September 30, 1976. ID-77-43, August 12.

NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

First Federal Attempt To Demonstrate A Synthetic Fossil Energy Technology—A Failure. EMD-77-59, August 17.

Net Energy Analysis: Little Progress And Many Problems. EMD-77-57, August 10.

Federal Energy Administration's Contract With The Advertising Council, Inc., For A Public Relations Campaign On The Need To Save Energy. PSAD-77-151, August 31.

Trans-Alaska Oil Pipeline—Information On Construction, Technical, And Environmental Matters Through Spring 1977. EMD-77-44, August 12.

Tankers And Oil Transfer Operations On The Delaware River And Bay. CED-77-124, August 23.

Information On The Acquisition Of Lands For Redwood National Park. CED-77-122, August 16.

Farmers Home Administration Use Of Grant Funds For Water And Waste Disposal Systems. CED-77-109, August 17.

Unnecessary And Harmful Levels Of Domestic Sewage Chlorination Should Be Stopped. CED-77-108, August 30.

Letter reports

Estimates of the effect of the cargo preference bill on the cost of oil. PAD-77-74, July 29.

$13.4 million of impounded budget authority for an ERDA project to study the effects of high-level neutron irradiation on metals and insulators has not been reported to the Congress as required. OGC-77-23, July 28.

Impoundments of Forest Service funds not reported to the Congress as required. OGC-77-25, August 2.

The Department of Defense should place greater emphasis on developing fish and wildlife programs and public outdoor recreation on military lands. CED-77-106, August 3.

Evaluation of the Federal Energy Administration's system for monitoring heating oil prices. EMD-77-63, August 25.

AGRICULTURE

The Department Of Agriculture Should Be Authorized To Charge For Cotton Classing And Tobacco Grading Services. CED-77-105, August 2.

Supplement To Comptroller General's Report To The Congress, "The Food Stamp Program—Overissued Benefits Not Recovered And Fraud Not Punished," (CED-77-112, July 18, 1977.). CED-77-112A, August 31.

Management Of Agricultural Research: Need And Opportunities For Improvement. CED-77-121, August 23.

Letter report

Improvements needed in the Federal commodity distribution program in the Commonwealth of Puerto Rico. CED-77-120, August 18.

COMMERCE AND TRANSPORTATION

Improvements Needed In Regulating Household Goods Carries. CED–77–104, August 1.

Convincing The Public To Buy The More Fuel-Efficient Cars: An Urgent National Need. CED–77–107, August 10.

Effective Fuel Conservation Programs Could Save Millions Of Gallons Of Aviation Fuel. CED–77–98, August 15.

Why The Federal Airline Subsidy Program Needs Revision. CED–77–114, August 19.

Letter report

Problems in the Federal Maritime Administration's program of guaranteeing financing of U.S.-owned shipping. CED–77–68, May 16.

COMMUNITY AND REGIONAL DEVELOPMENT

Large Savings Possible In Mortgage Insurance Premium Payment System. FGMSD–77–12, August 24.

Examination Of The Government National Mortgage Association's Financial Statements For The 15-Month Period Ended September 30, 1976. FOD–77–11, August 9.

Education, training, employment, and social services

Collection Efforts Not Keeping Pace With Growing Number Of Defaulted Student Loans. CD–77–1, August 11.

Local Area Agencies Help The Aging But Problems Need Correcting. HRD–77–82, August 2.

HEALTH

Supplemental Secuity Income Overpayments To Medicaid Nursing Home Residents Can Be Reduced. HRD–77–131, August 23.

Information On Use Of Medicare Reimbursement Method To Determine Hospital Payments Under The Civilian Health And Medical Program Of The Uniformed Services. HRD–77–128, July 27.

Letter reports

Answers to questions about swine flu vaccine. HRD–77–102, June 27.

Program to control foot-and-mouth disease in Latin America must be improved before the Pan American Highway is completed. PSAD–77–154, August 15.

HEW needs to help States make sure that Medicaid patients receive proper care in intermediate care facilities. HRD–77–129, August 16.

GAO views on health care provided to veterans. HRD–77–138, August 30.

INCOME SECURITY

Legislation Needed To Improve Program For Reducing Erroneous Welfare Payments. HRD–76–164, August 1.

GENERAL GOVERNMENT

Federal Retirement Systems: Unrecognized Costs, Inadequate Funding, Inconsistent Benefits. FPCD–77–48, August 3.

Financial Disclosure For High-Level Executive Officials: The Current System And The New Commitment. FPCD–77–59, August 1.

Proposals Regarding The Federal Reserve Board's Financial Disclosure System. FPCD–77–46, August 12.

Government Agency Transactions With The Federal Financing Bank Should Be Included On The Budget. PAD–77–70, August 3.

Status, Progress, And Problems In Federal Agency Accounting During 15 Months Ended September 30, 1976. FGMSD–77–21, August 24.

Standardized Federal Regions—Little Effect On Agency Management Of Personnel. FPCD–77–39, August 17.

Progress In Improving Program And Budget Information For Congressional Use. PAD–77–73, August 30.

Financial Review Of The Navajo And Hopi Indian Relocation Commission, June 30, 1976. FGMSD–77–13, August 5.

Audit Of The Senate Recording Studio Revolving Fund For The Fiscal Year Ended March 31, 1977. GGD–77–77, August 17.

Letter reports

How can the Internal Revenue Service promptly locate taxpayers entitled to refunds? FGMSD–77–9, August 4.

Involvement of the New Orleans Legal Assistance Corporation in a lawsuit against the State of Louisiana on behalf of two women seeking medicaid reimbursement for abortions not performed in a State-licensed hospital. HRD–77–130, August 4.

GAO comments on proposed impoundments of budget authority. OGC–77–26, August 5.

Need to amend the Social Security Act to make the crediting of self-employment income conditional upon payment of the self-employment income tax. GGD–77–78, August 8.

How to improve the Postal Service's practices and procedures for resolving insurance claims on lost or damaged parcels. GGD–77–84, August 8.

Suggestions for more economical operation of the Advanced Record System—a record and data telecommunication system. LCD–77–108, August 8.

More supervision needed over preparation of financial statements in the Labor Department's Office of Accounting. FGMSD–77–31, August 17.

Comments on proposed impoundments of budget authority for the Departments of Defense and Commerce and the Energy Research and Development Administration. OGC–77–27, August 15.

Inconsistencies in Federal agencies' policies for releasing lists of names and addresses to "junk mailers" and other commercial operations. LCD–77–112, August 25.

How the Treasury's Bureau of Government Financial Operations can improve its recording and reporting of accounts receivable from the public. FGMSD–77–30, August 30.

Reasons for numerous errors in funding planning targets for local public works programs announced by the Economic Development Administration. CED–77–128 or –129, August 30.

Government expenditures for television, radio, and magazine advertising. LCD–77–434, July 12.

Actions of the Commerce Department's Consumer Affairs Division to promote passage of the Consumer Protection Act of 1977 did not violate Federal agency anti-lobbying laws. CED–77–110, July 27.

The monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, room 4522, 441 G Street NW., Washington, D.C. 20548. Phone (202) 275–6241.

PROMISES, PROMISES, PROMISES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. SPENCE. Mr. Speaker, in this age when such a great emphasis is, with good reason, being put on truth in Government—when we have elected a President who promised "I will never lie to you"—I am advising my constituents to take with a grain of salt anything they receive in the way of promises from any Federal agency. Why? Because time changes things; but, so many bureaucrats seem to regard their every pronouncement as eternal, unchangeable, and possessed of an intrinsic verity of its own.

In order that the public may be protected against such fantasyland, pie-in-the-sky, promise-making, it has seemed appropriate to me to place in the CONGRESSIONAL RECORD an example of the false and misleading promises of Government agencies. Perhaps, with a bit of "educating," the American public will begin to learn that they ought to question anything they are told by the Government, with this variation on the old song title—"How Can I Believe You When You Tell Me What You Tell Me When I Know You've Been A Liar All Your Life?" There would then be far fewer irate and disappointed people in the country. And, if and when the Government was really able to do something for us that did not cost us more than we benefited and really turned out the way its proponents said it would—well, think how sincerely delighted and pleasantly surprised we would be.

In what appears to be the first informational bulletin published by the Social Security Board, entitled "Security In Your Old Age," and issued by the Government Printing Office sometime prior to November 24, 1936, we find this statement, under the heading "Your Part of the Tax.":

> The taxes called for in this law will be paid both by your employer and by you. For the next 3 years you will pay maybe 15 cents a week, maybe 25 cents a week, mavbe 30 cents a week or more, according to what you earn. That is to say, during the next 3 years, beginning January 1, 1937, you will pay 1 cent for every dollar you earn, and at the same time your employer will pay 1 cent for every dollar you earn, up to $3,000 a year. Twenty-six million other workers and their employers will be paying at the same time.
>
> After the first 3 years—that is to say, beginning in 1940—you will pay, and your employer will pay, 1½ cents for each dollar you earn, up to $3,000 a year. This will be the tax for 3 years, and then, beginning in 1943, you will pay 2 cents, and so will your employer, for every dollar you earn for the next 3 years. After that, you and your employer will each pay half a cent more for 3 years, and finally, beginning in 1949, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

Note that last sentence:

> That is the most you will ever pay.

Now, "ever" is a long, long time.

Today, of course, fewer than 30 years later, the employee and employer each pay 5.85 cents on every dollar the employee earns, up to $16,500. That means some folks are now paying, not 15, 25, or 30 cents a week, but upwards of $18.50 a week. And the social security trust fund is on the verge of bankruptcy. To bail it out, the House Committee on Ways and Means has just approved another increase in the tax rate and maximum wage base. The tax rate will go up to 6.05 cents on every dollar and the wage base goes up to $19,000 on January 1, 1978. By 1986, only 9 years from now, the tax rate would be at 6.9 percent on a wage base of $37,500. That works out to nearly $50 per week in the top bracket. From 30

cents to $50 in less than 40 years—well, folks, if anybody tells you that is the most you will ever pay, try not to laugh in their faces.

GUNARS RODE PETITIONS TO BE RELEASED FROM SOVIET CITIZENSHIP

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. KOCH. Mr. Speaker, for some time I have followed with interest the situation of Gunars Rode, a Latvian dissident who has just been released from 15 years in prison. In 1962, Mr. Rode, who is now 43 years old, was sentenced by a Soviet court to 15 years imprisonment for alleged "nationalism and anti-Soviet agitation." In fact, this sentence resulted from Gunars Rode's participation in an informal Baltic organization which sought human rights and cultural autonomy for Estonia, Latvia, and Lithuania. Those countries were invaded by the Soviet Union in 1940, and have subsequently been annexed as republics in the Soviet system.

Throughout his imprisonment, Rode refused to repent his views on Latvian cultural rights, and there was some question whether the Soviet authorities would release Rode, when his sentence expired in 1977. Last May, along with 38 other Members of the House, I wrote Leonid Brezhnev, General Secretary of the Communist Party of the Soviet Union, asking him to intervene to assure Rode's release, when his sentence expired. I also placed a telephone call to the prison where Rode was held, attempting to ascertain Rode's health and whether he would be released on time.

Happily, the Soviets did finally release Rode in May, but I am now informed that he is under virtual house arrest in his home city of Riga. Despite his 15 years imprisonment, Gunars Rode still refuses to accept the Soviet domination of his native land, and he is now petitioning the Soviet Government to release him from Soviet citizenship. Rode became a Soviet citizen, when he was issued a mandatory internal passport and forced to sign papers "requesting" Soviet citizenship at the age of 16.

I have been given a translation of Gunars Rode's petition to General Secretary Brezhnev, asking to be released from Soviet citizenship. Because it effectively summarizes his predicament and eloquently restates the human rights situation of Rode and others who seek to retain their national heritage, I am appending it for the benefit of my colleagues. I hope others will read it and do all they can to help Gunars Rode, a Latvian patriot and dissident whose courage and conviction sets an example for all of us. In the spirit of the Helinki Accords, I call on the Soviet Union similarly to respect the character, person, and human dignity of Gunars Rode and others like him.

I am appending the petition:

PETITION

From: U.S.S.R. Dissident, Gunars Rode, Gramzdas iela 9–1, Riga 29, Latvia, U.S.S.R.

To L. I. Brezhnev, General Secretary, CPSU Central Committee:

I request that you free me from the citizenship of the Union of Soviet Socialist Republics, which without basis was forced upon me.

I have not been born in the USSR, since on my birthdate in 1934, Latvia was an independent nation and my parents—its citizens. Therefore, I was not born a citizen of the USSR.

The fact that in 1940 the Soviet Union forcibly occupied Latvia could not have been a reason for an automatic change of citizenship. In 1950, when, at the legal age of 16, I was issued my first internal Soviet passport, I was in fact "requested" to apply, in writing, to be granted the citizenship of the USSR. For my attempt to refuse to write such a request, the 7th security police district of Riga threatened me with arrest and repressions against other members of my family. Faced with such threats, I was forced to comply and write the request. Thus, I formally became a citizen of the USSR.

In the summer of 1958, after completing the fourth year at the Riga Teacher's Institute, I was expelled for unfounded political reasons; on May 15, 1962, I was arrested by the KGB for the same reasons. On December 28, 1962, again on unproven politically motivated accusations, Soviet Latvia's highest court, basing its actions on paragraphs 65, 15, 67 and 59 of the Soviet Latvian Criminal Code, sentenced me with taking away my freedom for 15 years, seven of which I spent at the Vladimir Maximum Security Prison. Also, during my imprisonment at Vladimir, I was refused the request to know the USSR Supreme Court's decision in my case, that court also judging "political" crimes. However, on the other court documents, those of Soviet Latvia's and of the Mordovian Republic's, the official seals were scratched off. Thus, I have spent my 15 years of imprisonment without an officially documented court decision.

Now, after 15 years of imprisonment, I am under official "observation" or house arrest for the maximum of one year, this having begun on May 16, 1977. Based on a July 27, 1966, order of the CPSU Central Committee, such observation periods can be extended for a period up to the original sentence of imprisonment. For me, this observation period could go on for 15 years.

Without delving into the contradictions between this Soviet observation policy and the innumerable human rights documents signed by the USSR, as well as the Soviet Constitution, I will mention only the limitations imposed on me by this policy:

(1) I am forbidden to leave my dwelling between the hours of 10:00 p.m. and 6:00 a.m.

(2) I am forbidden, without official permission, to leave the vicinity of Riga.

(3) Every month I have to register with the Riga security police.

(4) My hunting license has been revoked, again restricting my freedom of movement.

These limitations, which could possibly last my life time, in reality are similar to those which must be observed by all foreigners living in the USSR. Therefore, my situation is now practically that of a non-citizen.

While in imprisonment, I made ten earlier requests to be freed from Soviet citizenship. I requested nothing else—not to suspend my sentence because of unproven accusations nor to be allowed to leave the USSR. My only wish then—as now—is to have nothing in common with those who support and follow the policies of the USSR and who formulate the internal and external political status of the USSR which has nothing in common with internationally accepted human rights standards. I did not want, and do not want now, to have anything to do with those people who are transforming the Latvian people into a minority in their own land, who cripple the truthful Latvian historical and cultural values and people.

To all my requests for freedom from USSR citizenship, the answer was identical: "The matter can be dealt with after your sentence has been completed."

In response to this refusal of my constitutionally guaranteed rights, in January of 1965, I wrote to the General Secretary of the CPSU Central Committee that I flatly deny any further responsibility as a citizen of the USSR and no longer consider myself as such.

It is unknown to me whether this correspondence was actually received by the General Secretary. On my many inquiries while at Vladimir, I was told only that my statement had been taken into consideration.

Shortly before the ending of my imprisonment, I made another request to the Soviet Latvian KGB, to which a Major Kondrakov of that organization replied: "Well, then, simply don't accept a pass." According to the 193d paragraph of Soviet Latvia's Criminal Code, it is well known that one's freedom can be taken away for being without an internal passport.

Thus, since 1950, when I was unwillingly registered as a citizen of the USSR, there is a gross contradiction between that citizenship as exemplified in my documents, and citizenship as otherwise universally acknowledged, the latter which I support.

The aforementioned, as well as my life's experience, prove that I have never considered myself as a citizen of the USSR, thus, I request that my Soviet citizenship be annuled, that which in 1950 was forced upon me.

From this day on, please consider me as a non-citizen living in the territory of the USSR and also provide me with the opportunity to obtain the appropriate documents.

July 31, 1977, Riga.

GUNARS RODE.

AMERICAN LEGION ON INEQUITIES OF GI BILL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. DOWNEY. Mr. Speaker, during the past week there have been several responses in the CONGRESSIONAL RECORD to a Washington Post article on the inequities of the GI bill and the reluctance of the leadership of the House Veterans' Affairs Committee to accord meaningful and equitable readjustment assistance to many of our most needy and deserving veterans.

These remarks have implied that only a handful of people are concerned about the readjustment needs of Vietnam veterans and that support is lacking for readjustment program initiatives. These contentions are not supported by the facts.

I am proud to be among the 95 House cosponsors of H.R. 2231, Congressman LESTER WOLFF'S Comprehensive Veterans Readjustment Assistance Act. The most important feature of this bill would allow veterans who demonstrate need and can complete their education in less than their 45-month entitlement period to utilize their excess entitlement to pay education expenses.

The Senate Veterans' Affairs Committee unanimously reported a similar provision this week.

This accelerated tuition assistance concept is supported by the American Legion which includes approximately 700,000 Vietnam veterans in its ranks (by far, the largest concentration of Vietnam veterans in any veterans organization). The concept also has the support of Vietnam veterans groups, such as the National Association of Concerned Veterans, and the National Association of Veteran's Program Administrators.

Structural changes are necessary to make the GI bill meaningful and effective for all deserving veterans. Congressional intransigence toward these changes is a disservice to many of our nation's veterans.

I wish to submit for the RECORD an article, "The Sorry State of Vietnam Vets' Education—and What To Do About It," which was authored by Robert E. L. Eaton and appeared in the June 1974 issue of the American Legion Magazine. As national commander of the American Legion, General Eaton was an eloquent and purposeful advocate for the Vietnam veteran. His article is as timely today as when it first appeared:

THE SORRY STATE OF VIETNAM VETS' EDUCATION—AND WHAT TO DO ABOUT IT

(By Robert E. L. Eaton)

In recent months, newspapers and TV stations have begun to make the public more aware of the plight of thousands of Vietnam veterans in attempting to go to college under their GI Bill.

Many of them (typically those most in need of help) cannot go to school at all.

Their GI Bill benefits, which are far short of the WW2 benefits in the education they can buy, are too meager for them to make out.

Each Vietnam vet who wants to go to school on his GI benefits but can't, represents a failure of the program, but a windfall for the government.

Last year, the Vietnam GI Bill benefits for a full-time, single, college student came to $220 a month or about $55 a week—known as a subsistence allowance. For a normal nine-month college program, this came to $1,980. For each Vietnam veteran who could see no way to pay for his tuition, books, college fees, room, board and transportation on $55 a week for nine months, Uncle Sam simply saved himself the whole $1,980, while the Vietnam vet got no allowance and no education.

The chief difference between the WW2 GI Bill education program and the Vietnam benefits is that in addition to a subsistence allowance, the WW2 veteran got up to $500 toward his tuition, books, etc. In those days, this covered the entire cost of tuition and books at most colleges.

The American Legion estimates that a similar allowance, not to exceed the actual cost of tuition, fees, books, etc., and with a ceiling of $1,000 would serve fairly well under today's soaring education costs.

But Vietnam veterans get no such allowance at all. The subsistence allowance is their entire GI benefit. If they can't pay for their tuition, books, fees, etc. out of their $55 a week "subsistence" they can forget about school unless they have ample means from other sources.

The average cost for books and miscellaneous fees at most colleges today is put at about $216, or just about one month's Vietam GI "subsistence." Tuition fees range all up and down the scale, and are going up. In some state universities, tuition is free for veterans of that state, which is a real break for as many resident veterans as they'll accept. In others, it is as high as $890 for residents and $1,000 or more for non-residents. Private colleges and universities may charge up to $5,000 or more with no break for state residents. Some purely technical schools below college level charge over $2,000 in tuition. Tuition in the neighborhood of $700, which is quite common and due for a further raise next fall, would take every cent of 13 weeks subsistence allowance.

Small wonder that TV stations have had little trouble finding Vietnam veterans to put on the air to make cynical remarks in the order of: "Yeah, I could make it to college if I didn't eat, and slept in the gutter."

Nevertheless, the program has worked "well" enough to permit a large number of rosy statements from government sources citing its success". Large numbers of Vietnam veterans have been able to use their GI benefits. But citing the raw numbers hides the discrimination against the neediest veterans that is built into the meagerness of the Vietnam education program to date.

The $55 a week has been of great value to those veterans who have enough money of their own to make up for its inadequacy or whose parents can afford them substantial help, or who have been able to qualify for substantial scholarships or loans, or who are lucky enough to live in those states with the most progressive state university programs for their young citizens.

State aid seems to account for a large percentage of college attendance by Vietnam veterans for which the federal government has tended to credit the Vietnam veteran's GI benefits. California, with an excellent state university program, seems to have a veterans enrollment of about 37%. Vermont, whose state program is no match for California's, shows about 14.2% veteran enrollement. West Virginia, Indiana and quite a few others don't show a great deal more. This situation has been continuous since the first substantial number of Vietnam veterans began to be discharged nearly ten years ago.

Many borderline Vietnam veterans (financially) are going to college but can hardly be considered a success for the GI program. They have made it by shopping around for the cheapest course in the cheapest college, often abandoning the course of study they preferred because it wasn't offered in the schools they could afford to attend. Any WW2 vet who was accepted for admission could have made it to Harvard Business School financially, in 1946, granted he would take the usual student jobs if he was personally on his uppers. His GI Bill was sufficient to scratch through somehow. This is impossible for a Vietnam veteran if his chief asset is his GI benefits.

The worst situation by far, however, is the plight of the Vietnam veteran without other resources, who simply cannot go to school at all.

It is remarkable that a nation which expresses a great concern for the needy has for years gone along with a GI education program whose workings favor those veterans with the most means and deny any benefits at all for those with the least.

I am hopeful that the sudden interest of the news media will help push forward a speedy reform. The Legion has been seeking improvement for some years but without much support from other segments of the public. Two years ago the Harris poll took an interest. It reported, after a survey, that 59 percent of Vietnam veterans didn't apply for GI school benefits, and as many as 83 percent of these indicated that there was no point in applying because there was no way they could afford college even with their GI benefits.

The media have as yet largely failed to pinpoint where the trouble has been or what the remedy is. Some TV programs have done an excellent job of portraying the plight of the veterans, but have then explained that it was the fault of the public, of the viewers, of you and me, because we just had too little sympathy for Vietnam veterans and were "turned off" on their war.

The nub of the problem is quite simple. Vietnam veterans need a tuition and book allowance on top of their subsistence payments. The TV viewers never did anything to prevent it. Only the Congress and the President can provide it. Neither President Johnson nor President Nixon ever gave Administration support for GI tuition and book allowances. News programs sometimes blame the Veterans Administration. The VA has consistently opposed tuition payments while issuing statistics about the success of the present benefits. It does this as an arm of an Administration which is opposed to tuition aid. But the VA cannot grant tuition allowances until the Congress enacts authorization, and if it does, the VA then must pay the allowances. The Congress has never approved tuition allowances and has rejected the appeals of Vietnam students and the Legion, working together.

Not until the 7th of April of this year have I seen any of the media indicate where the center of resistance has been in Congress. On that day, William Greider reported in the Washington Post that Rep. Olin E. Teague, of Texas, has opposed veterans' tuition allowances since 1950 when, as a young member of the House Veterans Affairs Committee, he led an investigation of the rackets which colleges, universities and their faculties made of the tuition and book allowances granted WW2 veterans.

This is an old story to the Legion Rep. Teague rose to be Chairman of the House Veterans Affairs Committee, and held the chairmanship until quite recently, when he voluntarily left it to head a different committee. During his years he did a great deal for veterans, but he became a stone wall of oppocition to tuition allowances for Vietnam veterans. In his powerful position he refused to report out any bill authorizing them.

In 1971, Gil Moody, the state Legion Commander in Rep. Teague's own state of Texas, wrote him beseeching him to report out some kind of tuition payment to Vietnam veterans. The answer was a flat no, because the colleges had cheated the government after WW2 by abusing the tuition allowance as it was then administered.

In 1972, when Legion National Commander John Geiger was trying desperately to get tuition payments authorized, the Legion's Director of Rehabilitation and Veterans Affairs, Edward Golembieski, advised in a letter of Jan. 2, that there was almost no point of the Legion even putting in a tuition bill "in view of the Chairman's adamant opposition." We did put it in, and, as predicted, it was never reported out.

What we were able to get was a gradual increase in the subsistence allowance to the $55 a week in effect last year. The House of Representatives has recently approved a 13 percent increase for next year, bringing the weekly allowance for a single, full-time student to about $62. Though any increase would help, this would hardly solve the problem. In fact, its chief effect would be to keep the present situation from getting worse in the face of mounting educational costs, every aspect of which is rising faster than the cost of living.

It is ironical to think that it was the sins of the colleges and universities a generation

ago which have been invoked to deny an education to the Vietnam veterans who need help the most—and not the nature of the Vietnam war, as many have said.

It is entirely possible for Congress to devise a program granting tuition which the colleges could not so easily abuse, and I am happy to report that the Senate Veterans Affairs Committee is now considering several bills to provide a tuition allowance to Vietnam vets.

Since there is no such provision in the House bill—while the President and the Veterans Administration actively oppose tuition—I hope that the public will now get in the act and write vigorous letters to their Representatives and Senators to support such a measure. I hope the media will keep it up, too, and will do more to spell out what their audiences can do to help. It isn't very hard to do. Demand reasonable tuition and book allowances for Vietnam veterans, so that the neediest veterans can benefit as much as those with more ample resources.

VIOLENCE ON TELEVISION

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FREY. Mr. Speaker, I would like my colleagues to be aware of a significant report adopted by the House Subcommittee on Communications on September 29 condemning the excessive use of violence on television. The report, entitled "Violence on Television," reflects the efforts of the subcommittee to address the increasing and continuing problem of the portrayal of violence on television and its possibly harmful effects on the viewing public.

As one of the authors of "Violence on Television," I realize that this report will be subject to close scrutiny and debate by those on all sides of the issue. I am hopeful that our subcommittee, in serving as a forum for those concerned about television violence, has helped to bring about new approaches and new solutions to the problem. Obviously, as I am sure my colleagues will agree, there are many different approaches and solutions to the very complex issue of television violence, and, in view of the very clear restraints of the first amendment on broadcast programing content, finding answers is a difficult task.

Although the Subcommittee on Communications, after 2 years of involvement with the subject, has adopted a report on television violence it is my hope that the Congress will continue to maintain close oversight on the problem of excessive and needless violence on TV. With this oversight, as well as increased public concern and scrutiny, the pressure can, and should, be kept on those responsible for violence to do a better job than they have done in the past.

Since our subcommittee's report is too lengthy to reprint here, I am taking this opportunity to restate the five conclusions which we have reached in the report.

CONCLUSIONS

First. The level of violence on television continues to be a cause for serious concern. Although it may be impossible at this time to "prove" a precise cause-and-effect relationship between televised violence and aggressive behavior, excessive viewing of violence may have harmful effects.

Second. Responsibility for the present level of violence on television rests largely with the television networks, which exercise substantial control over the programing that they purchase and make available to their affiliates and, to a lesser degree, with broadcast licensees, program producers, advertisers, and the viewing public.

Third. Parental supervision is probably the most effective way to curb the negative effects of excessive viewing of televised violence by children.

Fourth. Industry self-regulation is a potentially effective way to limit the level of televised violence, and, indeed, to adjust broadcast content of any kind to the tastes and concerns of the general public, or segments of that public. The subcommittee, however, is concerned with the results to date of the industry's efforts to regulate itself.

Fifth. There are avenues through which the subcommittee, the Federal Communications Commission, and the public can address the problem of televised violence consistent with the first amendment.

THE OPTICAL DELUSION—PART I

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a major investigative series written by the New York Daily News examining the $2 billion retail eyeglass industry. The main writer of the series was William Sherman, assistant to metropolitan editor. He was assisted by Hugh Wyatt and Kiki Levathas.

Part I of the series focuses on the extent to which prices for basic eyeglass equipment such as lenses and frames varies from store to store. The article paints a picture of rampant consumer exploitation to the tune of $400 million annually in excessive prices. The News actually sent their reporters to stores to purchase equipment. The results were at best astounding. The article states—

Although both reporters asked for the same model glasses at each store, the prices from place to place varied by as much as 155%.

The article also points to insufficient eye examinations and inaccurate prescriptions for eyeglasses. This series, which I will insert in its entirety, merits close attention by all Members. Some 112 million Americans wear eyeglasses. An estimated 94 percent of Americans over 65 wear glasses. Our elderly Americans as well as all consumers must be protected from the type of fraud that is discussed in this article.

Part I of "The Optical Delusion" follows:

[From the Daily News, Monday, Sept. 26, 1977]

THE OPTICAL DELUSION

(By William Sherman)

The retail eyeglass industry is robbing the American public blind.

If you are one of the 112 million Americans who wear eyeglasses, the chances are they don't fit properly, you aren't seeing as well as you might, and you probably paid five or six times their actual cost.

An investigation by News reporters in New York City and federal studies conducted around the nation have found that in most instances, eyeglasses are sloppily prescribed and fitted.

Instead of good eye care, eyeglass retailers emphasize the sale of high-fashion frames and lenses with a hyped promise of sex appeal.

Prices run as high as the unsuspecting market will bear. Frames costing $5.50 wholesale, for example, are routinely peddled on Madison Ave. for $40. The consumer, with little basis for comparison shopping, is left a sucker.

National standards for prescribing and dispensing ophthalmic goods rarely are adhered to. Neither the federal nor state governments have made any major effort to inform the public of the many intricacies in buying glasses.

The industry itself according to economists who testified before the Federal Trade Commission, left the consumer in the dark in order to keep prices high. In most states, there are full or partial bans against advertising eyeglass prices. And the bans are usually supported by local optometric associations.

To get at the facts, two News reporters were examined at length by optometrists at the State University of New York's optometric center. Then, as consumers, they visited more than 30 optometrists and opticians in the five boroughs. Most of the places visited were large commercial establishments.

The prescriptions and the glasses they received from these practitioners were evaluated by the optometrists at the center and checked against the original examinations. These findings were later double-checked by another optometrist.

In addition, the prescriptions written by the optometrists in the survey were checked against the prescriptions of the glasses that were bought.

Reporter Hugh Wyatt, who is nearsighted and astigmatic, visited 20 stores ranging from the cheapest discount houses in Brooklyn to the elegant shops on Manhattan's Madison Ave. At each store, where he was examined, he asked for the identical frame, an American Optical Co. "stadium" frame which wholesales for $5.50. The lenses, left up to the retailer's discretion, cost no more than $5—complete package, $10.50 wholesale.

Reporter Kiki Levathes, who is very mildly astigmatic, visited 20 stores. She asked how much it would cost to duplicate her own Bausch and Lomb Ray Ban aviator glasses, a total wholesale package of about $16.

Both reporters' prescriptions are common and the lenses were all prefabricated or "stock"—punched out by the thousands and ready for fitting into frames with no special grinding necessary.

Their findings:

Not one pair of the 20 glasses Wyatt purchased matched his prescription as determined by the doctors at the Optometric Center. In many cases, the stores apparently

ignored their own examinations and simply used his old glasses to make duplicates, but the resulting duplicates bore no resemblance to the old pair.

Fifteen pairs of glasses that Wyatt purchased had defects. Frames were improperly stretched, and every pair of lenses was either too weak or too strong for his prescription. In one case, the dispensing opticians confused the prescription of his left eye with his right eye.

In many cases, he was rammed through the examinations and prescribed glasses in 10 minutes. Many eye tests that should have been conducted weren't. Doctors at the optometric center said a thorough eye examination takes at least 45 minutes.

Although both reporters asked for the same model glasses at each store, the prices from place to place varied by as much as 155%. Levathes' Bausch and Lomb Ray Ban sold from a low of $36 to a high of $83.50 for the identical glasses. Breaking up the total tab into separate prices for lenses and frames, the lenses varied from a low of $14 to a high of $46.50 and her frames varied from a low of $22 to a high of $48.50.

Prices for her glasses also varied at different stores in the same chains. In one instance, two sales people in the same store quoted her different prices for duplicating her glasses—same frames, same lenses.

Prices for tinting lenses—a process the optometric center described as "something you could do in your kitchen sink with a brush and a bowl of $2 dye" ranged from a low of $6 to a high of $50.

There appeared to be no correlation between the quality of glasses purchased and the price paid. In fact, some of the most expensive glasses turned out to be the worst quality, according to the evaluations at the optometric center.

In many of the stores, both Wyatt and Levathes were pressured to buy higher priced glasses by sales personnel. Every hustle and appeal to personal vanity were applied. Levathes was told she should wear the "more comfortable" soft contact lenses even though that type of contact lens is not appropriate for astigmatics. In other cases, when she asked questions about the price of her glasses, sales-people became suspicious and asked her why she was so curious.

One Manhattan optician read the prescription from her own glasses—a simple two-minute procedure where the glasses are placed under a calibrated viewer called a lensometer—and then refused to tell her the result unless she bought glasses.

Wyatt, a fashionable dresser, had an equally tough time getting what he wanted. He was repeatedly urged to buy a flashier, more expensive model than the relatively plain "stadium" frame. Some stores refused to order this frame for him and instead substituted what they called their "cheapest model."

In some stores, Wyatt had to demand his inexpensive "stadium" frame. After several conversations with a reluctant salesgirl named Jill he called her on the telephone.

"I want those frames. I ordered them," he began.

"They're creepy," Jill replied. "I hate them."

"But that's what I want."

"You look too old in them."

"Listen," Wyatt persisted, "I only need them for reading; nobody will ever see me in them."

"They have no class."

"Please," Wyatt pleaded.

"We have so many other nicer models," she countered.

Finally, Wyatt gave up on her, asked for the manager and got his stadium frame.

Both reporters had been wearing glasses since adolescence and were baffled by their experience. In fact, according to the optometrists at the optometric center, the glasses they had been wearing for several years were also inaccurate.

After examining Kiki Levathes, the center optometrist told her, "You don't really need glasses at all . . . or maybe every other Tuesday. The prescription is very mild. But since you've been wearing them so long, it's okay."

Hugh Wyatt's old glasses, a $52 pair, were also inaccurate. Not just a little bit, but every way you could imagine. The lenses were too big, the prescription was too weak in both eyes, the correction for astigmatism was wrong and the distance between the centers of both lenses were off.

He had continued to wear them through occasional headaches and blurred vision, because it was too much bother to have them checked.

"Anyway," Wyatt said, "I thought it was something wrong with my eyes, not my glasses. After all, I have bad vision to begin with."

The reporters' experiences were not unusual. Earlier this year, the FTC asserted that "various industry practices may cost American consumers as much as $400 million a year in excessive prices." This amounts to 20 percent of the $2 billion a year Americans spend buying eyeglasses.

In various southern and western states, investigators found sophisticated forms of price rigging that combined to produce retail markups of 500 percent on lenses and frames.

And while News reporters found prices high in the metropolitan area, they are even higher in the South, where there is less competition between retailers. For example, comparing the same pair of glasses priced in Mississippi and New York City, 19 out of 28 retailers in that southern state charged more. The average price in Mississippi was $51.88 for the pair—25 percent higher than the average New York City price, $41.38.

The quality of glasses surveyed in other states was as eratic as the prices. In Alameda County Calif., for example, 14 pairs of lenses were purchased from retailers and one nationally known wholesale lens producer. The lenses were tested independently by two laboratories for conformance to prescriptions according to standards developed by the American National Standards Institute. The laboratory analysis found that 12 of the 14 pairs did not meet the standard and that there was no correlation between price and quality.

Theoretically, however, what happened to Levathes and Wyatt and the results of the other surveys could not have been expected. The eyeglasses industry, which nationally supports 50,000 retail practitioners, is almost fully automated from the top, where manufacturers produce frames from molds and stamp out finished lenses by the thousands, to the bottom, where examining optometrists use the most sophisticated equipment to measure vision and test for eye diseases.

HOW IT ALL CAME TO LIGHT

Until the beginning of this century, peddlers roamed the country with trial lenses and test kits with frames asking customers only whether they could see through the sample pair. Those early specs were bulky imprecise affairs and there were no regulations as to who could prescribe and dispense eyeglasses. Opthalmology, the study of the eye and the treatment of its diseases by medical doctors, did not exist.

But with the development of precision instruments for refraction, a process where lenses are ground to a specific prescription, specs became eyeglasses and an industry was born.

Practitioners were roughly divided into three fields: optholmologists, medical doctors licensed to diagnose and treat all eye conditions ranging from complex surgery to prescribing glasses; optometrists, licensed to examine eyes for vision problems and prescribe glasses, but not allowed to make definitive diagnoses of disease or practice surgery; and opticians, technicians who grind lenses and fit eyewear who are not allowed to examine or treat eyes in any fashion.

For years, members of the three professions have been feuding over who has the right to do what. In some states anybody can practice opticianry without a license; in New York, an examination and licensure is a prerequisite. Opthalmologists and optometrists have been quarreling over who has the right to detect diseases of the eye.

Despite the spats between the groups, the industry, with technological advances, had grown into a multibillion-dollar-a-year business. Two years ago, 52.6 million pairs of corrective lenses were manufactured for domestic consumption. The two giants of the industry, the American Optical Co. and Bausch and Lomb, share about 70% of the domestic wholesale frame and lens business.

AND HOW IT SHOULD BE

Asked to comment on the results of The News survey, Charles W. McQuarrie, president of the American Optometric Association said, "There will always be a variation among optometrists on judging the right prescription for an individual. But when the glasses come back with the prescription improperly filled as in your cases, that is inexcusable, just sloppy work . . .

"I would never perform an examination in less than 45 minutes. A first visit should take an hour. In five minutes you can hardly take a case history. Anybody who does that kind of testing and who doesn't check the finished glasses to see if they match the prescription written isn't doing his job."

THE PLO: ITS GOALS HAVE NOT CHANGED

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. EILBERG. Mr. Speaker, President Carter and Secretary of State Vance have been told by Egyptian President Sadat and other Arab leaders that the Palestine Liberation Organization has moderated its stance toward Israel.

Sadly, recent events have not confirmed this judgment, and I think it would be helpful to set the record straight on the PLO's failure to demonstrate that it seeks a true peace with Israel. I commend to the attention of my colleagues the following analysis prepared by Dr. Michael Curtis, of Rutgers University, for the American Professors for Peace in the Middle East:

[From the Middle East Review, Fall 1977]

THE MYTH OF THE MODERATION OF THE PLO

(By Michael Curtis)

For some time the myth has been propagated that the Palestine Liberation Organization was becoming more moderate in its attitude toward the Arab-Israeli conflict, was prepared to enter into a peace settlement based on compromise and was no longer determined to destroy the State of Israel. In February of this year President Sadat of Egypt had assured Secretary of State Vance that the PLO was moderating its position. In August the same view was presented to Secretary Vance during his mission to Saudi Arabia.

The myth of moderation has been dispelled by the outcome of the meeting of the

Central Council of the PLO in Damascus on August 25 and 26, 1977. The statement issued after the meeting constituted not only a rejection of the attempts currently being made by the United States and moderate Arab states to introduce moderation into Middle Eastern affairs, but also an affirmation of the basic aims of the PLO as laid down in its Charter.

The United States had hoped that the PLO would accept President Carter's proposal for talks, but the Council rejected "all the United States and Zionist maneuvers." President Carter had also hoped that the PLO would accept United Nations Security Council Resolution 242 as a basis for a peaceful solution of the conflict. But the Council refused to accept Resolution 242 which "ignores the national rights of our people and which deals with our cause as a refugee case."

The statement of the Central Council rejected any attempts "aimed at liquidating the resolutions of the Palestine National Council" or efforts to "change the Arab attitude . . . as far as the rights of our people and their representation are concerned." It refers back to the resolution of the Palestine National Council at its March 12–20, 1977 meeting in Cairo and to the 15-point political program which was adopted at that time.

In the organization of the PLO, the Central Council is the intermediate body between the National Council, the highest policy making body, and the Executive. It therefore clearly expressed the view of the leadership of the organization and in August 1977 it reaffirmed all the resolutions adopted by the National Council.

The March 1977 meeting of the National Council stressed that the PLO continued to adhere to the Palestine National Covenant which denies Israel's right of self-determination and statehood, which calls for the "liberation of Palestine" in a number of articles, which claims in article 19 that the establishment of the State of Israel is fundamentally null and void, and which in article 15 states that it is a "national duty" to purge Palestine of the "Zionist presence." The March 1977 statement reaffirmed pursual of armed struggle as well as political and mass struggle to reach its objectives.

The Central Council statement of August insists on the importance of increasing the continuous armed struggle against "Zionist occupation." The true meaning of this becomes apparent with the related statement that the Council "highly praises the heroic and struggling role of the masses of our people in the occupied territories and its national leadership in Galilee, West Bank and Gaza." Clearly, it is the whole area of the West Bank, including Israel, which is to be the battleground for the armed struggle. The emphasis on terror in the statement was given almost immediate expression on August 26 by the bombs in the market of Gaza and at the Jaffa Gate in Jerusalem.

It is sad to conclude that the PLO continues to oppose all attempts to resolve the Arab-Israeli conflict by negotiation, regarding these attempts as "plots aimed at striking against the Arab liberation movement and at liquidating the Palestinian cause." It is disappointing that the PLO has not moderated its position in any fashion, refusing to make peace with or to recognize the State of Israel, that the PLO continues to emphasize armed struggle as the means of liberating Palestine, and that it refuses to accept Resolution 242, the one international agreement approved by both Israel and the Arab states as a basis for negotiation. Instead it appeals to UN General Assembly Resolution 3236 of November 25, 1974 which, passed by the Soviet-Arab inspired majority, refers to the "inalienable rights" of the Palestinian people to self-determination. The PLO insists that it will determine the nature of those "rights." The continuing rejection of the Security Council Resolution 242 at the August 1977 meeting and the adherence to the basic program and objectives of the Palestine Covenant and to the resolutions of the Palestine National Council indicate that the ultimate aim of the PLO remains the destruction of Israel.

SOUTH DAKOTA WETLANDS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ABDNOR. Mr. Speaker, in attempting to become familiar with Federal wetlands acquisition plans for my State I have corresponded with Mr. Rolf L. Wallenstrom, manager of the South Dakota-Nebraska area office of the U.S. Fish and Wildlife Service.

His responses have been enlightening to me, and I would like to publish them in the RECORD for the benefit of others who may be interested in South Dakota's wetlands and their possible acquisition by the Fish and Wildlife Service:

FISH AND WILDLIFE SERVICE,
Pierre, S. Dak., August 17, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN ABDNOR: Your letter of July 28, 1977 asked for specifics of Carter's program in relation to wetlands acquisition in South Dakota. We assume you are talking about his Bicentennial Land Heritage Program (BLHP) and proposals that have been made to increase land acquisition for wildlife purposes. While on a national basis, the BLHP calls for an increased emphasis on wildlife protection through the National Wildlife System, as far as we know, there is no program at this time to step-up acquisition in the prairie pothole states. Most of the increased emphasis in land acquisition under the BLHP is from the Land and Water Conservation Fund and there is no scheduled acquisition under this fund in South Dakota in either fiscal years 1978 or 1979. The Small Wetlands Program operates with money from the Migratory Bird Conservation Fund. This fund receives its money from the sale of duck stamps and advances currently authorized under the Wetlands Loan Extension Act of 1976. The information we have is that there will be less money available for acquisition under the Migratory Bird Conservation Fund in the North Dakota, South Dakota, and Montana portions of the Central Flyway in fiscal year 1978 than there was in fiscal year 1977.

We understand that you have also written to our Washington office and you will probably be receiving additional information about the specifics of current land acquisition programs in South Dakota from those sources. If you have further questions in the meantime, I will be glad to provide whatever information is available.

Your letter and several news releases we have seen lately have discussed hearings scheduled in early October regarding the Wetlands Acquisition Program. I would appreciate it if you would notify me as soon as you know the exact dates of those hearings and where they will be held. This will allow me sufficient time to ensure that I can be present to address any technical questions that may arise.

Sincerely yours,

ROLF L. WALLENSTROM,
Area Manager.

FISH AND WILDLIFE SERVICE,
Pierre, S. Dak., September 7, 1977.

Hon. JAMES ABDNOR,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN ABDNOR: Your letter of August 24, 1977 asks for additional information on the overall plan for acquisition of small wetlands in South Dakota. I have enclosed the current inventory figures available for South Dakota wetlands. These figures were compiled in 1964 and statistically updated during the winter of 1974–75. They reflect the current knowledge on the extent and types of wetlands in the State. A new National Wetlands Inventory is currently being conducted and should be available in two or three years.

The inventory data can give you an idea of where acquisition may be greater in future years. However, there is not a one-to-one correlation between the total number of wetland acres in a given county and how much may eventually be acquired. For example, you will note that in Day County there are 14,180 acres of Type V wetlands but only ten wetlands comprising those acres. These are large, open-water lakes which would not be considered suitable for the Small Wetlands Program. In general, we attempt to purchase Type IV and smaller Type V wetlands to serve as nucleus brood areas. Wetland easements are used to compliment these nucleus areas.

There are many other factors which will influence where we work in the future. Some of these factors include local acceptance, willingness of landowners to sell, other programs which may protect suitable acreages, and the availability of qualifying land.

Perhaps a review of our program the last few years can give you a better understanding of this. For example, in Day, Edmunds, and Marshall Counties, three counties with large acreages of wetlands, only 110 acres of fee title land have been optioned since 1973. This breaks down as follows:

Edmunds County, no fee options since 1973.

Marshall County, no fee options since 1973.

Day County: 39 acres of fee options in 1974; 71 acres of fee options in 1975; 0 acres of fee options in 1976; 0 acres of fee options in 1977.

Your letter indicates you have heard that a large number of landowners have expressed an interest in offering wetlands for sale. The Fish Wildlife Service has no waiting list of people who wish to sell qualifying land under the Small Wetlands Program. In the 17 years since the Small Wetlands Program became operational, 845 landowners have willingly participated in the fee program and an additional 5,082 have participated in the easement program. We are presently handling about 25 fee and 250 easement cases a year.

Once again, I am hopeful that this information will meet your needs. Part of the problem in conveying our ideas accurately is the difficulty in expressing the questions and answers adequately on paper. I feel it would be most beneficial to meet with you personally to discuss the future of wetlands conservation in South Dakota.

Sincerely,

ROLF L. WALLENSTROM,
Area Manager.

Enclosure.

INVENTORY OF TYPES I, III, IV, V, WETLANDS IN SOUTH DAKOTA

[Revised 1964 inventory with correction factor to add Type I wetlands]

County	Total Type III, IV, V, wetland acres	Type I correction factor [1]	Total Type I, III, IV, V wetland acres
East River counties:			
Aurora	19,151	1.667	31,925
Beadle	23,989	1.667	39,990
Bon Homme	3,198	1.667	5,331
Brookings	17,804	1.250	22,255
Brown	24,176	1.667	40,301
Brule	15,839	1.333	21,113
Buffalo	2,010	1.333	2,679
Campbell	21,537	1.333	28,709
Charles Mix	21,235	1.667	35,399
Clark	49,669	1.250	62,086
Clay	314	1.667	523
Codington	33,755	1.250	42,194
Davison	4,561	1.667	7,603
Day	71,974	1.250	89,968
Deuel	20,151	1.250	25,189
Douglas	11,864	1.667	19,777
Edmunds	59,990	1.667	100,003
Faulk	55,107	1.667	91,863
Grant	10,431	1.250	13,039
Hamlin	30,677	1.250	38,346
Hand	36,981	1.667	61,647
Hanson	6,596	1.667	10,995
Hughes	3,834	1.333	5,111
Hutchinson	6,649	1.667	11,084
Hyde	19,344	1.333	25,785
Jerauld	7,708	1.667	12,849
Kingsbury	55,889	1.250	69,861
Lake	29,936	1.250	37,420
Lincoln	1,487	1.667	2,479
Marshall	38,587	1.250	48,234
McCook	14,776	1.667	24,632
McPherson	61,517	1.333	82,002
Miner	16,274	1.667	27,129
Minnehaha	9,047	1.250	11,309
Moody	3,134	1.250	3,918
Potter	11,655	1.333	15,536
Roberts	40,398	1.250	50,498
Sanborn	16,942	1.667	28,242
Spink	13,384	1.667	22,311
Sully	17,378	1.333	23,165
Turner	3,910	1.667	6,518
Union	1,794	1.667	2,991
Walworth	9,810	1.333	13,077
Yankton	2,985	1.667	4,976
Subtotal, East River counties	927,447	[2] 1.423±	1,320,062
West River counties:			
Bennett	9,504	1.111	10,559
Corson	5,961	1.111	6,623
Dewey	10,724	1.111	11,914
Haakon	2,571	1.111	2,856
Jackson	230	1.111	255
Jones	3,912	1.111	4,346
Lyman	10,121	1.111	11,244
Stanley	1,859	1.111	2,065
Todd	920	1.111	1,022
Tripp	5,817	1.111	6,463
Ziebach	3,660	1.111	4,066
Subtotal, West River counties	55,279	1.111	61,413
Grand total	982,726	[2] 1.406±	1,381,475

[1] Correction factor estimates are uniformly applied to counties occurring in specific physiographic regions of South Dakota (using South Dakota Game, Fish, and Parks inventory as a base from which estimates were established): 1.111 represents 10 percent of wetlands being Type I, 1.250—20 percent, 1.333—25 percent, 1.667—40 percent. (SD) Type I total 398,749 acres (average 29 percent of total wetlands). (ER) Type I total 392,615 acres (average 30± percent of total ER wetlands). (WR) Type I total 6,134 acres for 11 counties (average 10 percent of total WR wetlands).

[2] Average.

Note: Projections of inventory totals based on drainage surveys and acquisition program accomplishments: Estimated drainage losses (all wetland types), 1964 through 1974 equals 48,913 acres. Wetland acres protected by the acquisition program through 1974 equals 286,602 acres. Current, January 1975, wetland inventory (including protected wetland acres) equals 1,332,562 acres. Current, January 1975, unprotected wetlands equals 1,045,960 acres.

INVENTORY OF TYPE III, IV, AND V WETLANDS IN SOUTH DAKOTA (REVISED 1964 INVENTORY—DECEMBER 1974)

County	Type III		Type IV		Type V		Total	
	Number	Acres	Number	Acres	Number	Acres	Number	Acres
East River counties:								
Aurora [2]	1,341	7,585	112	5,615	25	5,951	1,478	19,151
Beadle [2]	4,195	16,720	249	5,220	4	2,049	4,448	23,989
Bon Homme [1]	400	1,946	56	1,132	4	120	460	3,198
Brookings [1]	432	4,034	158	7,760	8	6,010	598	17,804
Brown [4]	3,359	18,310	62	5,282	4	584	3,425	24,176
Brule [1]	1,064	10,240	39	5,599			1,103	15,839
Buffalo [1]	229	1,442	6	568			235	2,010
Campbell [3]	5,552	12,526	328	5,225	24	3,786	5,904	21,537
Charles Mix [1]	1,852	10,535	204	5,670	21	5,030	2,077	21,235
Clark [3]	5,608	22,200	492	22,239	48	5,230	6,148	49,669
Clay [1]	29	191	7	123			36	314
Codington [4]	2,437	8,648	503	12,969	77	12,138	3,017	33,755
Davison [1]	584	3,486	64	1,075			648	4,561
Day [1]	7,166	29,733	966	28,061	10	14,180	8,142	71,974
Deuel [1]	4,032	7,329	604	10,862	8	1,960	4,644	20,151
Douglas [2]	1,136	10,113	39	1,751			1,175	11,864
Edmunds [3]	17,188	48,239	548	11,108	4	643	17,740	59,990
Faulk [3]	16,636	52,713	192	2,394			16,828	55,107
Grant [3]	3,436	6,313	248	4,118			3,684	10,431
Hamlin [2]	1,279	5,278	234	8,966	18	16,433	1,531	30,677
Hand [2]	7,544	26,655	196	9,771	16	555	7,756	36,981
Hanson [1]	648	4,982	33	1,614			681	6,596
Hughes [1]	381	3,646	4	188			385	3,834
Hutchinson [3]	820	5,900	20	273	1	476	841	6,649
Hyde [1]	3,568	15,377	39	3,967			3,607	19,344
Jerauld [1]	1,040	4,280	58	2,914	1	514	1,099	7,708
Kingsbury [4]	4,022	23,579	245	23,664	16	8,646	4,283	55,889
Lake [4]	1,779	16,137	221	10,819	19	2,980	2,019	29,936
Lincoln [2]	227	1,188	9	198	1	101	237	1,487
Marshall [4]	7,051	15,330	821	14,227	82	9,030	7,954	38,587
McCook [6]	1,378	7,478	425	5,806	17	1,492	1,820	14,776
McPherson [3]	19,408	39,576	1,212	21,008	16	933	20,636	61,517
Miner [6]	1,884	7,432	368	5,924	55	2,918	2,307	16,274
Minnehaha [5]	452	3,760	96	4,418	5	869	553	9,047
Moody [2]	242	1,470	42	1,349	5	315	289	3,134
Potter [3]	1,756	8,293	32	3,362			1,788	11,655
Roberts [3]	12,840	21,711	876	17,663	16	1,024	13,732	40,398
Sanborn [1]	2,832	13,878	132	2,538	6	526	2,970	16,942
Spink [1]	4,728	10,520	68	2,864			4,796	13,384
Sully [1]	1,920	13,826	36	1,552	4	2,000	1,960	17,378
Turner [1]	421	2,929	36	794	1	187	458	3,910
Union [1]	28	304	4	1,291	2	199	34	1,794
Walworth [3]	2,364	5,346	28	2,864	4	1,600	2,396	9,810
Yankton [5]	252	2,087	52	898			304	2,985
East River Subtotal	155,540	533,265	10,164	285,703	522	108,479	166,226	927,447
West River counties:								
Bennett [1]	184	1,390	25	4,812	12	3,302	221	9,504
Corson [3]	1,856	3,705	124	2,256			1,980	5,961
Dewey [1]	413	3,621	229	7,103			642	10,724
Haakon [1]	152	1,276	64	1,295			216	2,571
Jackson [1]	4	30			1	200	5	230
Jones [1]	168	3,435	16	477			184	3,912
Lyman [1]	356	9,077	36	890	1	154	393	10,121

Footnotes at end of table.

County	Type III		Type IV		Type V		Total	
	Number	Acres	Number	Acres	Number	Acres	Number	Acres
Stanley [1]	141	1,397	12	462			153	1,859
Todd [1]	131	640			2	280	133	920
Tripp [1]	520	2,498	84	3,071	1	248	605	5,817
Ziebach [1]	85	3,660					85	3,660
West River subtotal	4,010	30,729	590	20,366	17	4,184	4,617	55,279
Grand total	159,550	563,994	10,754	306,069	539	112,663	170,843	982,726

[1] Original 25 percent survey, 1964—USFWS.
[2] Original 100 percent survey, 1964—USFWS.
[3] Corrected 25 percent survey, 1964 done in 1972—USFWS.
[4] 100 percent survey by SDGFP.
[5] Corrected 25 percent survey, 1974.
[6] USFWS projection of GFP raw data in 1964.

RECOGNITION OF WOMEN AIR FORCE SERVICE PILOTS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. STEERS. Mr. Speaker, yesterday, I met with 4 of the 12 women Air Force Service pilots (WASP's) who reside in Maryland's Eighth Congressional District to discuss legislation (H.R. 5171) to provide for recognition of their service to our country during World War II. This legislation would deem such service to have been active duty in the Armed Forces of the United States and, thus, entitle these women to benefits accorded to all veterans.

I am a cosponsor of this legislation because I am convinced that the WASP's are entitled to veterans' benefits. As a World War II veteran, I have firsthand knowledge of the dedication of these women and of the importance of the services they rendered.

The program whereby 1,097 women pilots served in the Army Air Corps was a military program. Although the WASP's were volunteers and joined under the civil service program, the civil status of the WASP's was intended to be temporary. The WASP's anticipated militarization, in a program similar to that for the WAC's and the WAVES.

This program was formed during World War II when women pilots were employed to release military pilots for combat. These women pilots were militarized in every aspect of training and operational procedure. The WASP's flew more than 60 million miles on operational flights. Military activities were required of, and accorded to, WASP personnel. Flight activities, not assigned to other civil pilots, assigned to WASP's included the ferrying of pursuit aircraft, flying radio controlled aircraft in a "restricted" project, towing targets for antiaircraft firing live ammunition, towing targets for air-to-air gunnery practice, test flying new jet aircraft, graudating from pursuit and bomber flight school, and assignment as pilots to Air Force bases with "restricted" projects. It should be noted that 38 of these women lost their lives during the course of the war.

Other civilian organizations made significant contribution to the war effort; however, none operated under the military pay system and the military disciplinary system with the exception of the WASP's. No other civilians were recommended for militarization by the War Department. If legislation had been introduced in the 78th Congress in 1944 only to militarize the WASP's then on active duty, it is probable, I believe that such a measure would have been passed. Legislation was not introduced, and the WASP's were denied militarization.

One reason the WASP's were not militarized was their sex. The law allowed the Army Air Force to commission only men as flight officers. The question of legality of commissioning women pilots directly into the Army on the basis of their qualifications was first raised in 1944. But, the Comptroller General decided that the authority extended only to men and could "not be regarded as authority for commissioning women as officers in the Army of the United States."

At the same time, in May 1944, Henry L. Stimson, Secretary of War, told the press that—

> The War Department believes that presently qualified women pilots should be commissioned in the Army of the United States and that provisions should be made for additional appointments as the need arises. It is believed further that provision should be made for the appointment of qualified women as aviation cadets who, upon completion of training, may be commissioned as second lieutenants or flight officers in the Army of the United States.

Interest in providing WASP's veterans' benefits has been revived in view of concerns for "equal pay for equal work" and related issues. We cannot continue the discriminatory practice of denying WASP's veterans' benefits because the only reason they were not initially taken into the service was their sex.

If enacted, this legislation is projected to cost only $80,000 to $120,000 a year to entitle the approximately 850 WASP's known to be living at this time to enter a veterans' hospital and to provide some scholarship money for their children.

I enthusiastically endorse this legislation and the recognition of the role the WASP's performed for America during World War II. Passage of this legislation would supplement the WASP's de facto Army Air Force and aviator status and entitle them to veterans benefits.

I urge prompt and favorable action by the House Veterans' Affairs Committee on this important legislation in order to bring it before the House for a vote.

STOCK EXCHANGE—OFF-FLOOR TRADING PREMATURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. OTTINGER. Mr. Speaker, I have followed with interest the Securities and Exchange Commission's recently concluded hearings on off-floor trading restrictions and am concerned that precipitous action by the SEC on this front might cause irreparable harm to our securities market. I am particularly concerned about the possible impact on the small investor if off-floor trading rules are rescinded before a national market system is in place.

The individual is still the backbone of the American capital system. Yet, the SEC's contemplated action would devastate public confidence in our capital markets. The New York Times recently expressed its distress with this situation. So that my colleagues may have the benefit of their comments, I am inserting the September 19 editorial:

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now drawing on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business.

Even Merrill Lynch, the largest firm and likely to be the biggest, beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry, has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

JAMES HAYWOOD HARRISON

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. MITCHELL of Maryland. Mr. Speaker, on the evening of September 27, 1977, the Faith Baptist Church in Baltimore was filled to overflowing. No standing room was left in the aisles, in the church gallery, nor in the church basement. The crowd spilled out on the pavement surrounding the church. We were there for Haywood Harrison's funeral.

He was not an elected or appointed city official. He was a man who lived life so well that all of us wanted to pay tribute to him. The resolution which follows, tells the story well. He will be missed in my community:

[Omega Psi Phi Fraternity, Inc., Pi Omega Chapter]

A RESOLUTION

Issued by the Brothers of Pi Omega Chapter, Omega Psi Phi Fraternity, Inc. Upon the passing of Brother James Haywood Harrison, B.S., M.A., Ed.D.

The lights dimmed and finally faded, and the final curtain has now fallen on the Serene and Extraordinary beautiful life of our beloved fraternity brother and friend, James Haywood Harrison . . . Gentleman, Professional Educator, Scholar and Lecturer, Creative Statesman, Christian Servant and Friend to All.

The members of The Omega Psi Phi Fraternity, Inc. are fully aware of the fact that we are poorer and impoverished and suffered an immeasurable loss as a result of the triumph of our dear brother over the toils of this complicated life. James Haywood Harrison became a member of our Brotherhood in December, 1950 while a student at Morgan State College, Baltimore, Maryland, and the impact of his initiation was felt immediately. He charged and challenged the Fraternity to a commitment to Excellence and to the service to others. Throughout our more than twenty-seven years of association with him, he was a model Brother, who always demonstrated the real meaning of brotherly love, and genuine human decency and concern.

Upon being graduated from Morgan State College with honor and distinction, he completed his post graduate studies at the University of Chicago, the Johns Hopkins University and the University of Maryland. Armed with impeccable academic qualifications, he affiliated with Pi Omega Chapter and proceeded to carve out for himself an enviable profile of selfless services to this community and to the Fraternity. It was in Pi Omega Chapter that his life style, strong, imaginative, and creative ideas served as an early barometer that his would be a life of sterling and unstinting service to the Omega Psi Phi Fraternity. He remained active with our Brotherhood until the time he expired, September 24, 1977 at the place closest to his heart. Morgan State University.

It will be extremely difficult to visualize Omega without Haywood. We will remember Brother Harrison for his scholarly oratory, humorous, witty, glibe, sometimes pungent and direct, but always in the spirit of one of our Cardinal Principles, "Uplift." We will further remember Brother Harrison for the singular dignity and responsibility which he brought to the fulfillilment of all tasks asked of him during his membership in our Fraternity. His devotion to Pi Chapter at Morgan State University as advisor for more than 15 years, and the mental, moral and physical support that he gave to all students, earned for him the Distinguished Service Award from the Second District. He was again named Outstanding Citizen of the Year in 1976, because he had significantly touched the lives of so many people in so many positive ways. Who among us has not been inspired by this giant among men?

Brother Harrison was an instigator of thought and innovator of programs. Consequently, it was by no mere happenstance or political maneuver that he was elected 2nd Vice Grand Basileus of our beloved Fraternity, a distinction sought by many but achieved only by a few. He gave unstintingly of his time, personal resources, and he gave of himself. He gave, and he gave, and he gave, and then, he gave somemore, always with refreshing efficiency and dedication. When the High Court of History sets in judgment on this dear brother and friend, when the jury has deliberated and reached a verdict, they will conclude that he was truly a man of integrity, truly a man of exceptional good judgment, and truly, truly a man of phenominal dedication.

In spite of his effervescence and charisma of his own distinction, in his life the men of the Omega Psi Phi Fraternity, Inc. see a real challenge. For in his daily bearing was the embodiment of gentleness, the paragon of human decency, the epitome of love, devotion and kindness. Haywood demonstrated, "that order is better than Chaos, creation better than destruction, and that gentleness is to be preferred to violence, forgiveness to vendetta." His was an inspiring life, an example encompassing our Cardinal Principles . . . Manhood, Scholarship, Perseverance and Uplift.

The unquestionable respect for Haywood, the faith in him, that extends far beyond the narrow confines of our Fraternity, can be attested by the overwhelming popularity that he enjoyed all over this nation. For we saw in him that spark of dignity that is innate to all men, and so crucial to the sense of community and goodwill that civil men champion. It is because of his life, his splendid and extraordinary example, his devotion and love for the Fraternity, that the men of Phi Omega Chapter, Omega Psi Phi Fraternity, Inc. would have it Resoved:

That the members of Brother James Haywood Harrison's family, his mother, Mrs. Maggie Harrison Jones, his brothers, Miles and Jerome, his sister Bettye, his uncles, aunts, nephews, nieces, cousins, and in-laws, know that we share your grief, and express our deepest sympathy in the loss of Our dear Brother and Friend, whose love for him we share with you.

Be it further resolved that the members of the Omega Psi Phi Fraternity and the Morgan State University Community take particular note of his devotion to cause, and his scholarly deeds: these accomplishments represent a significant turning point in the History of the Fraternity, the History of this City and the History of this State.

Be it further resolved that the members of the Omega Psi Phi Fraternity pledge themselves to appropriately taking note of the passing of Brother Harrison in order to assure that his excellent example will be forever enshrined in the hearts and minds of all of us who have been the beneficiaries of his christian living, strength of character and warm friendship.

Be it finally resolved that we once again find in Brother Harrison's life the real meaning of our beloved Brotherhood, and so involve ourselves in the struggle for Excellence and Service to mankind, that our lives will be more viable and responsive, and like that of Brother Dr. James Haywood Harrison will not be in vain.

May the Supreme Being of the Universe send down devine blessings and compassions to comfort all of those who mourn this tremendous loss.

THE BWCA PROBLEM: PASSIONATE SUITORS FOR A WILD PARADISE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. FRASER. Mr. Speaker, most of our offices have heard, in one form or another, from people concerned with the fate of the Boundary Waters Canoe Area in northern Minnesota. The House Interior Committee's Subcommittee on National Parks has held 5 days of hearings on the BWCA: two in early July in Minnesota to take local testimony, one in early August to receive comments from the U.S. Forest Service, and two in the middle of September before the full Washington subcommittee. The subcommittee is now faced with the unenviable task of sorting through the information and advice it has been given and formulating a bill that will settle, once and for all, the disputes that have plagued the area for over 75 years.

The October 10 issue of Sports Illustrated included an article on the controversy entitled "Passionate Suitors for a Wild Paradise." Bill Johnson, the author, visited the BWCA this summer, observed the September hearings, and discussed the situation at length with the principal parties. His article captures the complexity and emotion of the issue. Quoting Sigurd Olson, a naturalist and chronicler of the great northwoods, Johnson draws attention to the timeliness of our deliberations:

I have been in this fight since I was a very young man, and others were in it long before me. If we lose now, if the Boundary Waters Canoe Area is dismembered, we will never get it back. This is it. The issues have never been so clearly cut before: do we want to dismantle this wilderness or is it precious enough to save? That is the crux of it.

I commend the article and the publisher's forward to my colleagues' attention. The article follows:

LETTER FROM THE PUBLISHER

(By Jack Meyers)

Senior Writer William O. Johnson, whose article about the controversy surrounding Minnesota's Boundary Waters Canoe Area begins on page 50, has a special and long-term interest in that great wilderness.

"I was born in southern Minnesota," Johnson says, " a land of farms and small towns, straight roads and church steeples on the horizon. It was rolling or flat terrain, cultivated about as far as the eye could see, with endless rows of corn or fields of wheat. In short, where I grew up was in no way wild. But there was always the country 'Up North,' the north woods, where most of the state's celebrated 10,000 lakes are located.

"When I was a small boy, in the 1930s and early 1940s, my father, mother, brother and I would make an annual summer trek Up North—to Lake Mille Lacs, Cross Lake, Lake Superior, Gull Lake—to fish for northern pike, bass and walleyes. This country of tall, dark green trees and the purest fresh-water lakes imaginable seemed to a little boy to be a forest primeval. When we went fishing, we rarely used a canoe, preferring big wooden rowboats—no motors in those days, they were luxuries, not common—and we would spend hours on those grand lakes. It was always cool or cold at night. During the day, the water was chilly for swimming, but we swam a lot anyway. And I remember the scent of the woods, the pine needles and the almost indefinable smell of decay and of new things growing on the forest floor.

"Of course, all this wasn't the splendid pristine stuff of the Boundary Waters. What I knew was relatively tame even then. There were roads and gas stations, electricity in most places, tourist cabins, roadside grocery stores. But compared to southern Minnesota, it was an impressively uncivilized place. The possibility of getting lost was quite real, and there were bears and wolves and eagles. It was certainly enough to engender the idea in me, and at a very early age indeed, that there was something unique about the wilderness.

"But the wilderness has come to be an 'artificial' part of American life in the 20th century, something that must be carved out and protected, as carefully planned and designed as man's cities or his monuments. Much of the north woods that used to be so enthralling in my childhood, so seemingly remote, has been settled and logged and commercialized. The town of Ely, now "Canoe Town USA," has an eyesore of a main street, with signs and bars and sporting-goods hucksters. It is almost as ugly at 42nd Street in New York. All through the former villages and camping clearings of the north woods are superhighways, Burger Kings, shopping centers, snowmobile shops, motorboat rentals. The lakes are abuzz day and night with the snarl of motors.

"It is not a total wasteland. The woods are still there, as are the smells, although a whiff of gasoline is no surprise. But Up North in Minnesota now is not as different from the rest of the state, the rest of the world, as it once was.

"I've never been an avid, hard-working environmentalist, but the idea of BWCA preserved from loggers and motors appeals to me as a native Minnesotan, recalling, as it does, the north woods I knew as a child."

PASSIONATE SUITORS FOR A WILD PARADISE

(By William Oscar Johnson)

It is a conflict of immense bitterness, a classic battle that combines the fanaticism of a religious war with the deep and indelible passions of an ancient feud between families. It is a controversy with roots that reach back 100 years and, some think, might well continue for another 100. The fight is over a million acres of land that are among the most beautiful on the planet—the Boundary Waters Canoe Area, a lake-dotted wilderness along the Minnesota-Canada border. Among its treasures are the famous Ely Greenstone, one of the oldest rocks on earth, having been formed 2.75 billion years ago, and some of the world's most majestic stands of red pine, some of which were seedlings in the 16th century, years before the doughty voyageurs canoed through the area.

The dispute is over the future of this land: Will it be a wilderness protected against incursion by commerce? Or will huge tracts of it be permanently open to all manner of activity—logging and logging roads and God only knows what forms of motorized mass recreation?

There is anger and intransigence on both sides, harsh accusations and huge exaggerations. Yet there can be no doubt that this is a critical point in the history of the Boundary Waters wilderness. Sigurd Olson, 78, the author-guru of the Minnesota north woods, put it this way: "I have been in this fight since I was a very young man, and others were in it long before me. If we lose now, if the Boundary Waters Canoe Area is dismembered, we will never get it back. This is it. The issues have never been so clearly cut before: do we want to dismantle this wilderness or is it precious enough to save? That is the crux of it."

True enough. But though the issues may be clear and the crux plain to see, the resolution of the controversy is by no means easy to predict. Last week the fate of the Boundary Waters Canoe Area, of its lakes, its Greenstone, its red pine, its bald eagles, timber wolves and beavers was bound up in the intricate machinery of the U.S. Congress—held hostage, as it were, to politics.

This is nothing new, for over the years the BWCA has come to be as much an appendage of politics as the defense budget or the interstate highway system. There may be no other section of wilderness in America that has been more frequently threatened with various forms of damage or destruction—and that has been more consistently rescued by the enlightened acts of politicians. Indeed, the current status of the BWCA is no more than a logical—perhaps even inevitable—extension of its history as a political by-product.

At the turn of the 20th century, this region included one of the last large areas of true wilderness in the U.S. In 1902 a farseeing Minnesota forestry commissioner named C. C. Andrews persuaded the U.S. Land Office to set aside as public domain vast tracts of it. In 1909 Teddy Roosevelt issued Presidential Proclamation 848 making the area—1,019,000 acres—part of the national forest system. In 1926 Secretary of Agriculture William Jardine, who was an otherwise all but anonymous public servant, issued an executive order designating it a "wilderness area," thereby excluding roads from 1,000 square miles of the best canoe country anywhere. Nevertheless, the notorious timber baron E. W. Backus declared he was going to begin large-scale logging in the area and, more than that, he planned to build a series of hydroelectric dams in the hitherto pristine chain of lakes along the border. After a bitter fight in Congress, a bill was passed that blocked all of Backus' schemes. In the late 1940s there was another threat to the region: bush pilots began regularly flying fishermen to lakes deep inside the forest. A thriving resort industry burgeoned. Sigurd Olson, among others, protested that the wilderness was becoming polluted, ruined by these squads of flying fishermen.

In 1948 Congress passed an act allowing the government to buy up and destroy the resorts. The following year Harry Truman was persuaded to sign an executive order that banned all flights into the BWCA. Steadily over the years there have been various executive orders, acts of Congress and lawsuits that tightly controlled lumbering in the area, limited the use of motorboats and reduced and ultimately forbade mining. In 1973 a federal court issued an injunction against all logging until an environmental impact study could be made. The injunction was overturned last year, but the logging companies agreed to a temporary moratorium. In 1976 the Secretary of Agriculture issued an order banning all snowmobiles, which were originally allowed in as "winterized motorboats."

By and large, the wilderness has been well served by politics and public officials. However, at one point in 1964 the BWCA became the subject of a legislative compromise. and all the troubles of today rise from that compromise. When Congress passed the 1964 Wilderness Act—a tough law stating that any areas designated as wilderness were to be off limits to anything mechanized and to any kind of commerce—a last-minute loophole removed the BWAC from full protection.

It continued to suffer incursions that other designated wildernesses did not, and its status became ambiguous. The current conflict has to do with clarifying that status once and for all. That is what proposed legislation in Congress is attempting to resolve.

Two contending bills have been written, almost exactly opposite in their substance, by two Congressmen from Minnesota. James L. Oberstar, of the congressional district that includes the BWCA, drafted a bill that would transfer 319,000 acres into a National Recreation Area, for multiple use, open to logging and motors. Although the other 700,000 acres would remain a designated wilderness, tranquil and untouched, the huge bite the Oberstar bill would take for motors and logging could open up a wedge for further commercialization, and this is what has enraged environmentalists so much. They prevailed upon an interested Congressman, Donald Fraser of Minneapolis, to draft some opposing legislation—a bill that flatly defined the entire million-plus acres, plus several new tracts, as wilderness, all to be absolutely free of motors, commerce and development. The two bills were submitted to the Interior Committee of the House and wound up in the Subcommittee on National Parks and Insular Affairs.

Upon the introduction of the contending bills, all of the long-standing emotionalism and bitterness between the opposing factions—and philosophies—then broke loose. Preservationists were pitted against developers, motor men against pure canoeists, little-government advocates against big-government supporters, small town against big city, economics against esthetics. There was even a basic class conflict that matched blue-collar motorboat men and snowmobilers with a white-collar elite which seeks an abstraction called "the wilderness experience." About the only factions not in head-on battle over the bills were the two political parties: Oberstar and Fraser are both Democrats.

In the towns located on the edge of the Boundary Waters, residents were aroused over attempts by "outside agitators" to come in and dictate the use of the land, in Ely, the village sometimes called Canoe Town USA, bumper stickers appeared saying Sierra Club Kiss My Axe. At one point a Forest Service building was burned, tires were slashed on vehicles owned by pro-wilderness people and an outfitter who leaned toward the Fraser bill had the display window in his store broken a couple of times. During hearings last summer in Minnesota over the bills, there was much shouting and finger point-

ing. People claimed that making the BWCA a full wilderness would deplete the local tax base to a critical degree. Resort owners swore they would go bankrupt. Loggers said they would not have enough softwood if they were banned from the BWCA. An organization was formed called the Boundary Waters Conservation Alliance and its slogan was keep the BWCA Open to Everyone.

On the other side, a group was formed called Friends of the Boundary Waters Wilderness. Its campaign included a poster with a magnificent photograph of canoe country and two lines of small white type: "The Boundary Waters Wilderness—Take a Long Last Look Before It Vanishes." The group enlisted backing from the national environmental establishment and managed to get 53 members of the House to cosponsor Fraser's full-wilderness bill. Intense lobbying went on. A number of pro-wilderness editorials appeared around the country. The *Chicago Tribune* said, "Failure to enact the policy of the Fraser bill would subject the BWCA to immediate diminution. . . . In our increasingly crowded, polluted, noisy and paved world, legislative changes affecting the Boundary Waters Canoe Area should defend rather than impair its wilderness status."

In Washington, during two days of hearings in mid-September, a good deal of heat was generated—but there was also some light. The Carter Administration introduced a third proposal for the BWCA that delighted environmentalists by disallowing logging, snowmobiling, and mining in the BWCA, but disappointed them enormously by opening up several new areas to motorboats. The governor of Minnesota, Rudy Perpich, testified. He, too, pleased the pro-wilderness crowd by outside the BWCA, but he, too, crushed their hopes by insisting that motorboats and snowmobiles be allowed.

The chairman of the subcommittee is Phillip Burton of California, who ranks only a step or two below Speaker Tip O'Neill in terms of making things happen the way he wants them to happen. Despite 10-hour hearings on both days, without so much as a break for lunch, Burton displayed a remarkably calm and well-focused presence. He sat patiently and politely through a number of emotional and basically uninformative harangues from both sides, but he repeatedly fired sharp questions at witnesses.

Whatever bill finally comes out of the subcommittee, it will bear Burton's name—as well as his idea of what it should say. One thing is certain—he has no intention of reclassifying any part of the BWCA as a National Recreation Area; he declared this unequivocably during the September hearings. Thus Congressman Oberstar's plan to take 319,000 acres out of the wilderness and open it to "multiple use," with all its inherent ambiguities and commercial potential, will certainly fall by the wayside. However, there are still some serious questions which must be answered about which sections of the BWCA will be open to motors, and whether there is to be a gradual phasing out of logging or an immediate ban.

There is a sense of urgency about getting a bill out of the subcommittee soon. The self-imposed moratorium on logging had been kept in effect by timber companies since December 1976, but on Sept. 15 it came to an end. Unless legislation is passed in both chambers of Congress the timber companies could begin logging again in parts of the BWCA in early November. The consensus is that the big companies will continue that moratorium voluntarily, but no one is certain what some smaller firms may do.

Ultimately, the question is: Where is the middle ground between Oberstar and Fraser? In August, Oberstar had submitted a new version of his bill that set a limit on the horsepower of allowable motors in the area (10 hp on most small lakes, 25 on the largest) and closed more sections to logging than the earlier bill had. At the same time, Fraser declared that *his* bill could be altered by adding clauses that would provide federal funds to improve snowmobile routes and to enhance Forest Service management of areas outside the BWCA that might aid softwood logging. He also suggested that funds be made available to buy resorts on lakes bordering the BWCA if owners wish to sell and offered to "give serious attention" to including a 10- to 15-year phaseout of motors on certain peripheral lakes and possibly keeping others open to motors permanently. Obviously, both sides were yielding ground.

At the same time, neither side is willing to speak openly about further compromises. And Burton has been preoccupied with other legislation and has not come up with any way of resolving the impasse. One of Burton's problems is that any pro-wilderness bill must be composed in a way that saves face for Oberstar, a fellow Democrat.

It is possible that some legislation can pass the House this term, that is, before it adjourns for the year on Oct. 27. But as each day passes that possibility becomes dimmer. The Senate, which intends to adjourn on the 15th, would also have to act, and that, too, appears unlikely. The pro-wilderness forces are more amenable to putting off the issue until 1978 because they feel public opinion is probably on their side and they would be compelled to make fewer compromises as time passes. Also, the snowmobile ban would be in force for still another winter.

Still, if Burton does come up with a version of the bill that satisfies both sides, it would be possible to suspend the rules of the House and get it to the floor for an immediate vote in a very short time. There is pressure on everyone to do something, particularly from canoe and wilderness buffs who regard the BWCA with almost religious veneration. Some kind of victory for the wilderness seems almost a historical imperative, considering what has happened in the past. As Sigurd Olson says, "We have had to win *all* of the battles we fought over the BWCA. If we hadn't won *all* of them, there would be no BWCA today."

GEORGETOWN UNIVERSITY HONORS ROSE FITZGERALD KENNEDY

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. ROGERS. Mr. Speaker, on Saturday, October 1, Mrs. Rose Fitzgerald Kennedy was doubly honored, by a university and by a son. In a ceremony at Healy Hall, Georgetown University conferred upon Mrs. Kennedy an honorary degree in recognition of her work on behalf of the mentally retarded and their families. From her son, Senator EDWARD M. KENNEDY, she received tribute in recognition of her work as a mother.

Rose Kennedy has been a leader in the field of mental retardation and medical ethics; through her initiatives we have seen great strides in the recognition of this disease and its treatment. Thousands of families across the country have benefited from her work, and it was most fitting that Georgetown University should honor her in this special degree conferring ceremony.

There were other messages, from the President of the United States, from the Queen of England, from Pope Paul. But those of us who were present were most touched by the words of son for mother, words which embody the American family ideal, words with which many of my colleagues must feel a kindred spirit.

I therefore insert in the RECORD the remarks of Senator KENNEDY, followed by the program for the degree conferring ceremony. I know I join all of my colleagues in extending our congratulations and thanks to Mrs. Kennedy, our appreciation to the university for its thoughtful recognition of this strong and tireless woman, and our admiration for the Senator's eloquent statement of family love.

REMARKS OF SENATOR EDWARD M. KENNEDY

Four score and seven years ago, our Fitzgerald ancestors brought forth on this continent, in the North End of Boston in the Commonwealth of Massachusetts, a daughter whom they christened Rose, the Queen of Flowers, whom we honor on this proud occasion.

On behalf of my mother, I am honored to accept the degree that Georgetown University has so graciously and eloquently conferred on her this morning. Speaking for the three generations of the Kennedy family who are gathered here, I express the deep gratitude of all the Kennedys and Fitzgeralds and Shrivers and Smiths and Lawfords—and unto the 29th grandchild—for this extraordinary honor and recognition the university has given to our mother.

No mother more richly deserves this place in the sun. As the Fourth Commandment that Moses brought down from the mountain teaches us, "Honor thy father and thy mother."

Her children's pride in the honor she receives today is exceeded only by the pride we know our often-honored father would also share in this occasion, as her husband and lifelong partner in the shaping of our lives and works.

Others, could they be here, would also share the pride:

Joe, her first born, who gave his life in war, and for whom she proudly wore the Gold Star of our country.

Jack and Bob, who fulfilled so well the mission she instilled of excellence in serving others.

Kathleen, who gave us all such joy in our early years.

Rosemary, her oldest daughter, named for the founding grandmother, the immigrant from County Wexford—our Rosemary, whom we love and whose courageous life has been the inspiration for so many efforts by mother and others to push back the frontiers of knowledge about her disability.

Because of mother and her devotion to our sister, America is shedding its degrading medieval attitudes toward the retarded. Because of Rose, a black child in Bedford-Stuyvesant has hope beyond the ghetto. Because of Rose, a Spanish Jesuit with a degree from Georgetown is teaching ethics and child development at the University of Barcelona. Because of Rose, hundreds of thousands of retarded children have won the right to play, as they swim and run and jump and skate and throw a ball in their own Olympic Games in their own communities.

Our family is especially proud of the close ties we have established with Georgetown University. The Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics, established on this campus, is the culmination of mother's dream. The Institute is bringing help and hope to those who are mentally retarded. It is breaking new ground in dealing with the complex scientific, medical and ethical

challenges involved in the care and prevention of this affliction.

Three distinguished scholars of philosophy, theology, and medicine hold the Georgetown University chairs that are named for my parents and my sister Rosemary. We are proud of the Kennedy Institute and its emerging role in building better bridges between science and the humanities. For us, this university is the ideal setting for the Institute, with its outstanding facilities for medical care and research and its equally outstanding religious tradition.

In our lives, mother means many things to all of us. As Henry Ward Beecher wrote in Proverbs from Plymouth Pulpit, "The mother's heart is the child's schoolroom." Rose is the finest teacher we ever had. She made our home a university that surpassed any formal classroom in the exciting quest for knowledge. With her gentle games and questions, she could bring the farthest reaches of the universe to our dinner table, or transform the daily headlines into new and stimulating adventures in understanding.

She was also the quiet at the center of the storm, the anchor of the family, the safe harbor where little ones could tow their capsized boats and set their sails again, confident her hand was on the rudder.

She could diagram a sentence, bisect an angle in geometry, or conjugate a Latin verb. She could spot a hole in a sock from a hundred yards away. She could catch an error in our grammar, or sense a wandering eye at the grace before our meals. She could recite the ride of Paul Revere, name the capital of any nation in the world, and bring alive the history of every place we went. Woe be to her child who did not have a map of Africa or the Declaration of Independence in a prominent place in the front hall.

She did everything nine times. And now she's doing everything twenty-nine times again. For half a century in ways like these, she has been gently stretching each child and grandchild toward her goal of excellence. And always, she mixed her tonic of education and self-improvement with a dose of love so overflowing that her potion was irresistible.

Wordsworth wrote that "The rainbow comes and goes/And lovely is the rose." Jack called her the "glue that held the family together." To Bob, she was "the stabilizing influence, performing all the functions that a mother can for children."

For all of us sons, and daughters, she has been the rock and foundation of our lives, making our family standards both livable and reachable. She has shaped our dreams and goals, supported our public and private causes, encouraged us in our service to others in return for the many blessings we have had.

Her children have been doubly blessed. We have had our father's drive and our mother's grace, our father's love of action and our mother's love of history and scholarship, our fathers' gift of athletics and our mother s gift of politics.

Her pre-eminence in politics is secure. Rose has always been the mayor's daughter, the best campaigner any of us ever had. Her thirty-three teas in Jack's Senate race in 1952 became a legend. Henry Cabot Lodge gave her perhaps her greatest campaign tribute, when he said, "It was those damn tea parties that did me in."

Above all, our mother has been a keeper of her faith, a witness for the work of God on earth. Her religion is the sun that lights her world. As the Irish poet Thomas Moore wrote:

"What would the rose with all her pride be worth.

"Were there no sun to call her brightness forth?"

She instilled her faith in us. Because of her, the Rosary, the Meditations of Cardinal Newman, and the Stations of the Cross are meaningful in our lives.

We have shared the joy and sorrow, the times to laugh and the times to weep. She taught us early that the birds will sing when the storm is over, that the rose must know the thorn, that the valley makes the mountain tall. By her example, we more easily endured together the shocks and the tragedies of recent years, and have carried on where others might have faltered or retreated.

Mother has received fine tributes in the past, but none perhaps as fine as the tributes she receives today. She is honored by this degree. She is honored that His Holiness Pope Paul has taken this occasion to praise the faithful daughter of his church. She is honored by a special greeting from the Queen Mother of Great Britain, renewing once again the friendship they established in the Ambassadorial years. And she is also honored by a handwritten letter from President Jimmy Carter, expressing the nation's love and admiration for mother and her achievements.

For us, Rose Kennedy is Everywoman, America's Irish Rose, the Queen Mother of America. She is a symbol of the best in us, a constant inspiration that helps us meet the challenges of the future.

As these messages from the distinguished leaders of Church and State reveal, the strength and character that her family knows so well are admired and honored now by millions in our own nation and throughout the earth. In a world of doubts and shifting values, she has become an eternal flame, a symbol of the timeless virtues like faith and family that are at the root of civilization for so many different peoples in so many different lands.

Now, at 87, mother's work goes on. Age has not withered her, nor dimmed the power of her spirit. She had already reached the age of three score years and ten when her son took office as the Thirty-Fifth President of the United States. Because of her, millions of older Americans have understood that life can begin at 70. In so many ways, she is the fulfillment of the ancient wisdom of the poet Pindar, who wrote, "A graceful and honorable old age is the childhood of immortality."

In honoring Rose today, we honor all who share her ageless youth and faith and spirit. With affection and admiration, we express our appreciation to all of you, as we join now in this great tribute to the Rose of all roses, the Rose without thorns, Rose of Old Boston.

HONORARY DEGREE CEREMONY FOR MRS. ROSE FITZGERALD KENNEDY

I. Opening of the ceremony, Rev. Aloysius P. Kelley, S.J., Executive Vice President for Academic Affairs.

II. Invocation: Veni Creator, Georgetown University Glee Club.

III. Reading of the University Charter, Virginia M. Keeler, Secretary of the University.

IV. Reading of degree citation, André E. Hellegers, M.D., Director, Kennedy Institute for the Study of Human Reproduction and Bioethics.

V. Conferring of the degree, Rev. Timothy S. Healy, S.J., President of the University.

VI. Remarks, Senator Edward M. Kennedy.

VII. Benediction, Rev. Joseph Kadlec, S.J., Kennedy Institute.

THE PRESIDENT AND DIRECTORS OF GEORGETOWN COLLEGE: TO ALL WHO SHALL VIEW THESE PRESENTS: GREETINGS AND PEACE IN THE LORD

Ours is an age in which many people, seeing evil in the world, have lost hope in the future—and have translated that lack of hope into a reluctance to bring children into the world. Today it is important that we look at those who have throughout history had no such doubts. This morning we honor such a person in Rose Fitzgerald Kennedy of Boston, Massachusetts.

Born and raised in an age and family where the title of "Child of Mary" was the greatest badge of honor that could be conferred on young ladies, she became a true "Child of Mary." Later she married and raised a large family. Mrs. Kennedy devoted to that task an intensity of parenting, which in this more technical age might well be called "intensive care." This care, freely given, was not devalued by being considered a duty as well.

In the course of time, Rose Fitzgerald Kennedy came to be the wife of an Ambassador, the mother of a President of the United States, the mother of three United States Senators, the mother of one son who gave his life for his country in war, and she came to be the animator of a philanthropy, whose work was to be carried out by her daughters.

As a result she has consistently been voted one of the most admired women in the world.

Yet, while recognizing these badges of honor, this University wishes to pay her special tribute for her leadership in another area.

Faced with the grief—shared by many millions of other parents—of knowing one of her children to be mentally retarded, she chose, unlike so many of her contemporaries, not to hide the fact. Rather she turned this affliction into the occasion for beginning a crusade on behalf of all others similarly afflicted. It is this crusade which this University particularly wishes to honor today. Through the establishment of institutions for care and research and institutions reflecting on ethical problems relating to such care and research, Mrs. Kennedy has given hope to countless millions here and abroad. Today we see school children and college students, sports stars and public figures no longer shying away from the mentally retarded, but working on their behalf in Special Olympic games, in legislatures, in hospitals and in homes. They have derived inspiration from her quiet leadership.

Because Mrs. Rose Fitzgerald Kennedy has shown us how, in the words of Rudyard Kipling, "to meet with triumph and disaster and treat those two imposters just the same" and how "to fill the unforgiving minute with sixty seconds worth of distance run," the President and Directors of Georgetown University, in virtue of their Charter from the Congress of the United States, proudly and respectfully name as a daughter of Georgetown forever Rose Fitzgerald Kennedy, Doctor of Humane Letters, Honoris causa.

In testimony whereof they have issued these their formal letters patent, under their hand and the Great Seal of the University at Georgetown in the District of Columbia, this first day of October, nineteen hundred and seventy-seven.

TIMOTHY S. HEALY, S.J.,
President.
MICHAEL P. WALSH, S.J.,
Chairman, Board of Directors.
VIRGINIA M. KEELER,
Secretary.

SALUTE TO THE HENRY S. RICHARDS BOYS CLUB

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. CAPUTO. Mr. Speaker, I would like to take this opportunity to salute the Henry S. Richards Boys Club—of

which I was myself a proud member 20 years ago—for winning the 1977 Yonkers Little League Baseball Championship. The players and coaches exhibited dedication and sportsmanship in the finest tradition of American sports. Yonkers is proud of these young champions: Ronnie Moellentine, RF; Tommy Giordano, RF; John Falco, CF; Vinnie de Maria, P; Emil Pellino, C; Billy Agatone, 1B; Frankie Della Camera, 1B; Eddie Delmarter, 2B; Jay Gorstein, 2B; John Cioffi, LF; Brian Dimple, LF; Bobby Manzi, SS; Alex Mirante, 3B; John Cioffi, manager; Tom Mirante, coach; Dom Malandro, coach; John Falco, coach; George Manzi, coach; Ray Alfini, president, and Anthony Romeo, commissioner.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 6, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 7

9:00 a.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 2093, to require that Treasury Department administrative expenses be covered by regular appropriations; and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.
6226 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
457 Russell Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on OPEC surpluses, and U.S. contribution to the "Witteneen Facility" of the IMF.
4221 Dirksen Building

Human Resources
To continue hearings to receive testimoney from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building

Select Indian Affairs
To mark up S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes; S. 661, to restore Federal recognition of certain Oklahoma Indian Tribes; and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
6202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortage instruments.
5302 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings to explore the function of prisons in society, with emphasis on rehabilitation.
2228 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1202 Dirksen Building

10:30 a.m.

Appropriations
To mark up proposed supplemental appropriations for fiscal year 1978.
S–128, Capitol

OCTOBER 10

9:00 a.m.

Governmental Affairs
Permanent Investigations Subcommittee
To hold hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

9:30 a.m.

Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To begin oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 11

9:00 a.m.

Governmental Affairs
Permanent Investigations Subcommittee
To receive testimony concerning labor union insurance programs.
3302 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agriculture and Rural Electrification Subcommittee
To hold hearings on S. 312, S. 2126, and S. 2146, providing for changes in the farmer loan programs of the FHA.
322 Russell Building

Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Judiciary
To hold hearings on the nomination of Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit.
2228 Dirksen Building

10:30 a.m.

Judiciary
To hold hearings on the nominations of Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation, Department of Justice.
2228 Dirksen Building

OCTOBER 12

9:00 a.m.

Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1114 Dirksen Building

9:30 a.m.

Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2103, to require the additional labeling of explosive materials for the purpose of identification and detection.
1224 Dirksen Building

10:00 a.m.

Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Rules and Administration
To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.), to hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate, to be followed by a business meeting on pending committee business.
301 Russell Building

Conferees
On H.R. 9005, making appropriations for the District of Columbia for fiscal year 1978.
S-207, Capitol

OCTOBER 13

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2152, to authorize U.S. participation in the supplementary financing of the International Monetary Fund.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee.
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Investigation Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Room to be announced

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and ex-

pedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
*Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

*Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4332 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, October 6, 1977*

The House met at 10 o'clock a.m.

Rev. D. Charles Elson, senior pastor, First United Methodist Church, Decatur, Ind., offered the following prayer:

Eternal Spirit, so high above us that we cannot comprehend You and yet so deep within us that we cannot escape You, make Yourself real to us now. Seek us out, everyone, in the special circumstances that each soul faces and speak to the needs and hungers of our hearts.

We thank You for Your love and mercy that surrounds our lives. We thank You for companions and children in our homes who love and believe in us far beyond any of our deserving. O God be merciful to us as we pray for our families. May Your love sustain them.

And we pray for ourselves. We are needy people. Walk through the secret corridors of our souls. Make us to be better than we are. Forgive our sins. Strengthen us in temptation. Steady us in the midst of our anxieties. Give us indignation against things that are base and vile.

O God bless this land of our inheritance. Save us from the pitfalls of selfish pride and misused power. Guide those who are entrusted with the leadership of our Nation. Grant them stability and inner resources of spiritual strength. Deepen their faith and lead them in the way everlasting.

We ask in the name of Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. BRADEMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Without objection, the Journal stands approved.

Mr. BRADEMAS. I object.

The SPEAKER. The Chair understands the gentleman objects. The question is on the approval of the Journal.

Mr. BRADEMAS. I object——

The SPEAKER. The gentleman objects on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Mr. BRADEMAS. Yes, Mr. Speaker.

The SPEAKER. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

Does not a motion have to be made to approve the Journal before the gentleman can object to the vote on the ground of no quorum? If so, I will be glad to move the approval of the Journal.

The SPEAKER. The Chair put the question.

Mr. BAUMAN. The gentleman from Maryland was listening carefully, and he missed that completely.

The SPEAKER. Would the gentleman like the Chair to run through that scenario again? He feels as though he did it. He did back up and did it in the proper manner, but if there is an objection, he will do it again.

Mr. BAUMAN. The gentleman from Maryland has implicit trust in the Chair and would not so ask.

The SPEAKER. The Chair respects the gentleman.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 16, answered "present" 1, not voting 53, as follows:

[Roll No. 634]

YEAS—364

Abdnor	Cornell	Hanley
Addabbo	Coughlin	Hannaford
Akaka	Cunningham	Hansen
Alexander	D'Amours	Harkin
Allen	Daniel, Dan	Harrington
Ammerman	Daniel, R. W.	Harris
Anderson, Calif.	Danielson	Hawkins
	Davis	Hefner
Anderson, Ill.	de la Garza	Heftel
Andrews, N.C.	Delaney	Hightower
Andrews, N. Dak.	Dellums	Hillis
	Derrick	Holland
Annunzio	Derwinski	Hollenbeck
Applegate	Devine	Holt
Armstrong	Dickinson	Holtzman
Ashbrook	Dodd	Horton
AuCoin	Dornan	Howard
Badham	Downey	Hubbard
Badillo	Drinan	Huckaby
Bafalis	Duncan, Oreg.	Hughes
Baldus	Duncan, Tenn.	Hyde
Barnard	Early	Ichord
Baucus	Edgar	Jeffords
Bauman	Edwards, Ala.	Jenkins
Beard, R.I.	Edwards, Calif.	Jenrette
Bedell	Edwards, Okla.	Jones, N.C.
Benjamin	Eilberg	Jones, Okla.
Bennett	Emery	Jones, Tenn.
Bevill	English	Jordan
Biaggi	Erlenborn	Kasten
Bingham	Ertel	Kastenmeier
Blanchard	Evans, Colo.	Kazen
Blouin	Evans, Del.	Kelly
Boland	Evans, Ga.	Kemp
Bolling	Evans, Ind.	Keys
Bonior	Fary	Kildee
Bowen	Fascell	Kindness
Brademas	Fenwick	Kostmayer
Breaux	Findley	Krebs
Breckinridge	Fish	Krueger
Brinkley	Fisher	LaFalce
Brodhead	Fithian	Lagomarsino
Brooks	Flippo	Le Fante
Broomfield	Flood	Leach
Brown, Calif.	Florio	Lederer
Brown, Ohio	Flowers	Leggett
Broyhill	Flynt	Lehman
Burgener	Foley	Lent
Burke, Calif.	Ford, Mich.	Levitas
Burke, Fla.	Ford, Tenn.	Livingston
Burke, Mass.	Fountain	Lloyd, Tenn.
Burleson, Tex.	Fowler	Long, La.
Burlison, Mo.	Fraser	Long, Md.
Butler	Frenzel	Lujan
Caputo	Frey	Luken
Carney	Fuqua	Lundine
Carr	Gammage	McClory
Carter	Gaydos	McCloskey
Cavanaugh	Gephardt	McCormack
Cederberg	Giaimo	McDade
Chappell	Gibbons	McDonald
Clausen, Don H.	Gilman	McEwen
	Ginn	McFall
Clay	Gonzalez	McHugh
Cleveland	Gore	McKay
Cochran	Gradison	McKinney
Cohen	Grassley	Maguire
Coleman	Gudger	Mahon
Collins, Ill.	Guyer	Mann
Collins, Tex.	Hagedorn	Markey
Conable	Hall	Marks
Conte	Hamilton	Marriott
Corcoran	Hammer-schmidt	Martin
Corman		Mathis
Mattox	Pike	Spence
Mazzoli	Poage	St Germain
Meeds	Pressler	Stangeland
Metcalfe	Preyer	Stanton
Meyner	Price	Stark
Michel	Pritchard	Steed
Mikulski	Pursell	Steers
Milford	Quie	Stockman
Miller, Calif.	Quillen	Stratton
Miller, Ohio	Rahall	Studds
Mineta	Rangel	Stump
Minish	Regula	Taylor
Mitchell, N.Y.	Reuss	Thompson
Moakley	Rhodes	Thone
Moffett	Richmond	Thornton
Mollohan	Rinaldo	Traxler
Montgomery	Risenhoover	Treen
Moore	Roberts	Trible
Moorhead, Calif.	Robinson	Tsongas
	Rodino	Ullman
Moorhead, Pa.	Roe	Van Deerlin
Moss	Rogers	Vanik
Mottl	Roncalio	Vento
Murphy, Ill.	Rooney	Volkmer
Murphy, N.Y.	Rostenkowski	Waggonner
Murphy, Pa.	Rousselot	Walgren
Murtha	Rudd	Walsh
Myers, Gary	Runnels	Wampler
Myers, John	Ruppe	Watkins
Myers, Michael	Russo	Waxman
Natcher	Ryan	Weaver
Neal	Satterfield	Weiss
Nedzi	Sawyer	White
Nichols	Schroeder	Whitehurst
Nix	Schulze	Whitley
Nolan	Sebelius	Whitten
Nowak	Seiberling	Wilson, C. H.
O'Brien	Sharp	Wilson, Tex.
Oberstar	Shipley	Winn
Obey	Shuster	Wirth
Ottinger	Sikes	Wolff
Panetta	Simon	Wright
Patten	Skelton	Wydler
Patterson	Slack	Wylie
Pattison	Smith, Iowa	Yates
Pease	Smith, Nebr.	Yatron
Perkins	Snyder	Young, Mo.
Pettis	Solarz	Zablocki
Pickle	Spellman	Zeferetti

NAYS—16

Aspin	Jacobs	Sarasin
Brown, Mich.	Latta	Walker
Forsythe	Lloyd, Calif.	Wilson, Bob
Glickman	Mitchell, Md.	Young, Fla.
Goodling	Oakar	
Heckler	Quayle	

ANSWERED "PRESENT"—1

Skubitz

NOT VOTING—53

Ambro	Dicks	Rosenthal
Archer	Diggs	Roybal
Ashley	Dingell	Santini
Beard, Tenn.	Eckhardt	Scheuer
Bellenson	Goldwater	Sisk
Boggs	Harsha	Staggers
Bonker	Ireland	Steiger
Buchanan	Johnson, Calif.	Stokes
Burton, John	Johnson, Colo.	Symms
Burton, Phillip	Ketchum	Teague
Byron	Koch	Tucker
Chisholm	Lott	Udall
Clawson, Del	Madigan	Vander Jagt
Conyers	Marlenee	Whalen
Cornwell	Mikva	Wiggins
Cotter	Pepper	Young, Alaska
Crane	Railsback	Young, Tex.
Dent	Rose	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PASTOR D. CHARLES ELSON

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I am pleased that today's opening prayer has been given by Pastor D. Charles Elson of the First United Methodist Church of Decatur, Ind.

Pastor Elson has served Methodist congregations in many Hoosier communities including North Manchester, Ft. Wayne, New Albany, Kokomo, and Muncie before going to Decatur. His father provided many years of service in the Methodist ministry throughout Indiana also. Pastor Elson and his wife Betty have been an inspiration to many Hoosiers, including my wife and me. They have served selflessly in the church and in the many communities where they have lived.

I want to thank the Chaplain, Dr. Edward G. Latch, for making it possible for us to hear Pastor Elson.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5289. An act for the relief of Joe Cortina, of Tampa, Fla.

CONGRESSMAN BURKE OF MASSACHUSETTS DENIES RETIREMENT STORY

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to call to the attention of the Members an inaccurate story that appeared today in the Washington Post, a story written by a Mr. Walter Pincus. He said in his story, "Meanwhile, back in the House, several Members * * * have announced their retirements." The story went on to say that among those is one, Congressman JAMES BURKE, Democrat of Massachusetts, a close friend of Speaker O'NEILL.

The only accuracy about that story is that I am a close friend of the Speaker.

I have not announced my retirement. I come from a family of long livers. Of my two grandfathers in Ireland, one lived until he was 92 and the other lived until he was 93. My grandmothers on both sides lived until they were over 95.

Over in the Senate, there is a newly elected freshman Senator who was elected when he was 70 years of age, and when there was some question raised about that, he said,

I don't know what you are getting concerned about. It's only a 6-year term.

It is my intention to stay around here as long as I am physically able to do the work. Since I came out of the hospital, I have attended every committee meeting and answered every rollcall. I have a 99-percent record of attendance in my legislative service of almost 30 years. If I could not keep that record up, I would not run for reelection.

I have not announced my retirement. I intend to wear out; I am not going to rust out like some would have me do. They are not going to put me out to pasture as long as I keep the fighting spirit that I have. I believe in accentuating the positive.

Mr. Speaker, I hope that Mr. Pincus will have the decency to print this denial. I will announce my own retirement; Mr. Pincus will not.

REPUBLICAN TAX REDUCTION PROPOSAL

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I think that the entire Washington press now realizes there is a sign out that says: "Do not tread on JIMMY BURKE."

Mr. Speaker, I rise today to urge my colleagues to join me in an extraordinary effort—to cut the taxes of all American taxpayers.

H.R. 8333, the Tax Reduction Act, has languished in committee since last July and there is no sign that it will ever be given consideration by the majority. I ask the Members of the House to sign the discharge petition for H.R. 8333 and allow the overburdened taxpayer to have a vote in the House on reducing taxes for all Americans.

H.R. 8333 was introduced by Congressman JACK KEMP and Senator BILL ROTH. It is designed to reduce all individual tax rates by an average of 33 percent over 3 years. The legislation is weighted to give lower and middle-income taxpayers the greatest tax relief—to retrieve their earning power from the jaws of inflation which has steadily pushed them into higher brackets and eaten away after-tax purchasing power.

We all feel the impact of higher taxes and its incessant erosion of our disposable income. It is time we ended this economic hardship on American taxpayers and gave them the relief they need and deserve. If the Committee on Ways and Means will not move on its own, then we owe it to our taxpaying constituents to do whatever we can to force action on this essential legislation.

A tax cut will not only provide relief for individuals, but will be a strong shot in the arm for our economy—stimulating production and creating more jobs.

President Carter has clearly shown his intention to increase the tax burden on individuals by "indirect" taxes—such as on energy, waterway user fees and through higher social security taxes. The House has always been considered the "peoples" branch of Congress. I think Members ought to be aware of the growing revolt over taxes and should act positively to reduce the already heavy burden.

Sign the discharge petition on H.R. 8333. I commend Congressman KEMP for initiating this needed legislation, urge all my colleagues to carefully review it, and call upon them to sign the discharge petition now—before the voters ask them why they did not in November 1978.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate my friend, the distinguished minority leader, yielding. I thank him for his outspoken leadership on this issue.

I just want to point out to the Members of this body that the whole purpose of reducing the tax rates for the American people 30 percent across the board on a permanent basis is to reintroduce into our economy the principle of incentive for the American people for work, for savings, investment, and production.

Let me give some examples of how our steeply graduated income tax rates are counterproductive to a growth economy.

A married couple with $12,000 taxable income face an 18.8-percent tax rate, But every dollar they earn over $12,000 is taxed at a 25-percent tax rate. This is the marginal tax rate and which is discouraging the incentives for effort and production so important to the health of our Nation.

The same couple with a $20,000 income is taxed at the rate of 21.9 percent. But every dollar they earn over $20,000 is taxed at the rate of 32 percent. This discourages and in fact inhibits savings and investment.

A couple earning $44,000 is taxed at the rate of 31.9 percent but taxed at 50 percent for every additional dollar, thus encouraging tax shelters rather than productive investment in job-creating enterprises.

Mr. Speaker, lower tax rates will today as it did in the early 1960's not only increase Government revenues, but it will raise more revenue from wealthy people. This strategy is not bipartisan, it is equitable and more fairly based upon people's ability to pay.

When John Kennedy used this strategy in 1962 and 1963, he said "a rising tide would lift all boats," and I want to join with my minority leader in this bipartisan effort to get the economic tide rising again. The American people have a direct stake in the economic tide of America, and I suggest that this Congress will go a long way in helping the American economy by encouraging people to work and save and produce and invest by increasing the after-tax reward for those activities through lower tax rates. If we do not lower the rates, in the next 3 years each American taxpayer will have a one-third increase in their income taxes without so much as a vote by this Congress. That is a real scandal.

Mr. RHODES. Mr. Speaker, I appreciate the remarks of the gentleman from New York (Mr. KEMP) and I thank him for having introduced a most important piece of legislation, which I hope will become law.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be permitted to meet today during the 5-minute rule for the purpose only of holding hearings.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us that the reason for this request is only for the purpose of holding hearings and that there will be no attempt to conduct markup sessions?

Mr. MOFFETT. Mr. Speaker, if the gentleman will yield, I can assure him that the request is made for the purpose of hearings only. The hearings are being held to hear witnesses brought by the minority.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REVELATIONS VIS-A-VIS RECENTLY CONCLUDED PANAMA NEGOTIATIONS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, revelations in the other body yesterday with respect to the recently concluded Panama negotiations sent shock waves through the minds of the uninitiated. They came as no surprise to those of us who have been aware of the duplicity and deceit of those involved.

How long will it take our State Department to learn that you cannot do honorable business with dishonorable men?

SUPPORTING LOS ANGELES BID TO HOST 1984 SUMMER OLYMPIC GAMES

Mrs. BURKE of California. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 368) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 368

Whereas the Olympic games further the cause of world peace and understanding; and

Whereas the nation that hosts the games performs an act of international goodwill; and

Whereas the summer Olympic games have not been held in the United States since 1932: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the International Olympic Committee be advised that the Congress of the United States would welcome the holding of the 1984 summer Olympic games at the city of Los Angeles in the State of California, the site so designated by the United States Olympic Committee; and be it further

Resolved, That the Congress of the United States expresses the sincere hope that the United States will be selected as the site for the 1984 summer Olympic games, and pledges its cooperation and support toward their successful fulfillment in the highest sense of the Olympic tradition; and be it further

Resolved, That the Secretary of State is requested promptly to transmit the text of this resolution to the United States Olympic Committee and to the International Olympic Committee.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I appreciate the effort of the gentlewoman from California (Mrs. BURKE) to make sure that the concurrent resolution brought before the House would not embody any financial burden on the Treasury.

I compliment her on her willingness to write this House concurrent resolution in such a manner so that it would not place an extra burden on the already overloaded taxpayers.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the concurrent resolution was reported unanimously from the Committee on Interstate and Foreign Commerce. The concurrent resolution does not carry with it any authorization of appropriations. If that were to occur, it would have to be done by other action of the committee.

Mr. ROUSSELOT. Mr. Speaker, anything that could come to the House unanimously out of the Committee on Interstate and Foreign Commerce must have something right about it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. BURKE of California. Mr. Speaker, this resolution is an outgrowth of House Concurrent Resolution 318, which was introduced with a host of cosponsors on July 29. The U.S. Olympic Committee, on September 25, selected the city of Los Angeles to be the American nominee before the International Olympic Committee for the right to host the 1984 summer Olympic games.

This resolution expresses the hope of the Congress that the United States will be selected as the site for the games, and pledges the cooperation and support of the Congress toward the successful fulfillment of the games. A resolution of this kind is required under International Olympic Committee rules which state that "every candidature must be supported by the government of the country in which the (host) city is located."

The difference between House Concurrent Resolution 368 and House Concurrent Resolution 318 is that the earlier resolution called for Federal financial assistance and did not specify the American bid city. House Concurrent Resolution 368 pledges the "cooperation and support" of the Congress and reflects the selection of Los Angeles as the bid city.

Each resolution was referred jointly to the Committee on International Relations and to the Committee on Interstate and Foreign Commerce. House Concurrent Resolution 318 was reported favorably by the Commerce Subcommittee on Transportation and Commerce chaired by Mr. ROONEY. On September 27 the full Commerce Committee reported the resolution favorably by voice vote. I wish to thank Committee Chairman STAGGERS and Subcommittee Chairman ROONEY for their time and effort in considering the resolution.

In the International Relations Committee, House Concurrent Resolution 318 was referred to Chairman FRASER's Subcommittee on International Organizations, which held 2 days of hearings. Although the resolution was neither an authorization nor an appropriation, Mr. ROSENTHAL of the subcommittee objected to the words "appropriate financial assistance." The words "cooperation and support" therefore were substituted.

However, as the hearing record makes clear, no member of the subcommittee would object to Federal financial assistance for the 1984 summer Olympic games if the need for such assistance is shown and if the request for assistance is subject to the regular procedure for authorization and appropriation.

Although this resolution in no way bypasses any step in the appropriation process, Chairman ROONEY of the Commerce Subcommittee on Transportation and Commerce indicated that when a request comes before his subcommittee, he will give every consideration to the financial needs of the 1984 summer Olympic games.

The Department of State, in an executive comment to Chairman ZABLOCKI of the International Relations Committee, expressed its support for the resolution and indicated that the Office of Management and Budget had no objection to the resolution.

I wish to thank Mr. ZABLOCKI and Mr. FRASER for their assistance and time in considering the resolution.

In order to accommodate Mr. ROSENTHAL's request in the International Relations Subcommittee, I introduced House Concurrent Resolution 368 on October 4. It was reported favorably by the Committee on Interstate and Foreign Commerce. In order to expedite passage of the resolution, Mr. ZABLOCKI stated in a letter to Mr. STAGGERS that the International Relations Committee would have no objection to the consideration on the House Floor of the resolution as reported by the Commerce Committee.

I would like to thank Mr. STAGGERS for his further assistance and for his consent in allowing me, in his absence, to bring up this request for unanimous consent.

The United States has not hosted the summer Olympics since 1932 in Los Angeles, and there is a feeling worldwide that it is our turn.

It should be pointed out that there are recent precedents for Federal support of international athletic events. Congress appropriated funds for the 1960 Winter Olympics in Squaw Valley, Calif., for the 1979 Pan-Am Games in San Juan, Puerto Rico; and for the 1980 Winter Olympics in Lake Placid, N.Y.

Labor, business, and industry all would benefit directly from the staging of the 1984 summer Olympic games. The benefits are not restricted to the host city, since the prestige of the entire Nation would be enhanced. Athletes from every State participate in the games, and for the first time in 52 years would enjoy the advantage of competing in their own country.

The 1980 games will be held in Moscow and promise to be spectacular. If the United States is selected as the site of the 1984 Olympics, world attention will focus on our efforts to stage the games. The time is approaching when only countries with existing Olympic facilities will be permitted to act as hosts, and in the future the games may be rotated among the five or six existing international sites.

The International Olympic Committee is considering such a decision in order to expedite the staging of future Olympics. As a result, 1984 may be our last chance to be the host country.

I hope we can take advantage of this chance.

I urge Congress to favorably consider House Concurrent Resolution 368.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BURKE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4297, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 798 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 798

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. All points of order against the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. Under the rule, the gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 798 provides for the consideration of H.R. 4297, a bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of this act for fiscal year 1978. The resolution provides for an open rule with 1 hour of general debate, to be equally divided between the majority and minority.

H.R. 4297 is a simple 1-year extension of authorization, with one exception.

Title I of the act provides for mandatory regulation of the dumping of harmful wastes into the ocean. The authorization provides $4.8 million in fiscal year 1978 for this purpose.

Title II of the act provides for research by the National Oceanic and Atmospheric Administration into the long term effects of ocean pollution. The bill authorizes $6 million for this purpose in fiscal year 1978.

Title III, the Marine Sanctuaries program administered by NOAA "NO-AH" is authorized at $500,000 for fiscal year 1978.

The Committee on Merchant Marine and Fisheries added an amendment to the 1-year authorization provisions of H.R. 4297. This amendment adopted by the committee could possibly be construed as nongermane to a 1-year authorization extension because it requires the termination of dumping municipal sewage sludge into ocean waters as soon as possible but no later than December 31, 1981. The Committee on Rules granted a waiver of points of order against this committee amendment on the basis of nongermaneness.

Mr. Speaker. It is most important that we protect our Nation's vital ocean and coastal resources from contamination. I therefore urge the adoption of House Resolution 798 so that the House may take up this important bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us is a 1-hour, open rule providing for the consideration of H.R. 4297, a bill authorizing fiscal year 1978 appropriations for the Marine Protection, Research, and Sanctuaries Act of 1972. The rule waives all points of order against the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill for failure to comply with clause 7 of rule XVI, the germaneness rule.

H.R. 4297 was referred to the Committee on Merchant Marine and Fisheries and later was sequentially referred to the Committee on Science and Technology. The Merchant Marine and Fisheries Committee version authorizes a total of $11,300,000 for fiscal year 1978 to carry out the provisions of the Marine Protection, Research and Sanctuaries Act. In addition,the legislation provides that the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment be ended as soon as possible, and in no case be continued beyond December 31, 1981.

The Science and Technology Committee amended the bill to increase from $6,000,000 to $6,500,000 the amount to be used for research. The total figure authorized by that committee's version of the measure is $11,800,000.

To my knowledge, Mr. Speaker, there is no opposition to the rule; and I urge its adoption at this time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. BRADEMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 2, not voting 44, as follows:

[Roll No. 635]

YEAS—388

Abdnor	Butler	Evans, Colo.
Addabbo	Byron	Evans, Del.
Akaka	Caputo	Evans, Ga.
Alexander	Carney	Evans, Ind.
Allen	Carr	Fary
Ammerman	Carter	Fenwick
Anderson, Calif.	Cavanaugh	Findley
	Cederberg	Fish
Anderson, Ill.	Chappell	Fisher
Andrews, N.C.	Chisholm	Fithian
Andrews, N. Dak.	Clausen, Don H.	Flippo
		Flood
Annunzio	Clay	Florio
Applegate	Cleveland	Flowers
Archer	Cochran	Flynt
Armstrong	Cohen	Foley
Ashbrook	Coleman	Ford, Mich.
Aspin	Collins, Ill.	Ford, Tenn.
AuCoin	Collins, Tex.	Forsythe
Badham	Conable	Fountain
Badillo	Conte	Fowler
Bafalis	Corcoran	Fraser
Baldus	Corman	Frenzel
Barnard	Cornell	Frey
Baucus	Cornwell	Fuqua
Bauman	Coughlin	Gammage
Beard, R.I.	Crane	Gaydos
Bedell	Cunningham	Gephardt
Benjamin	D'Amours	Giaimo
Bennett	Daniel, Dan	Gibbons
Bevill	Daniel, R. W.	Ginn
Biaggi	Danielson	Gonzalez
Blouin	Davis	Goodling
Boggs	de la Garza	Gore
Boland	Delaney	Grassley
Bolling	Dellums	Gudger
Bonior	Derrick	Guyer
Bonker	Derwinski	Hagedorn
Bowen	Devine	Hall
Brademas	Dickinson	Hamilton
Breaux	Dicks	Hammer-schmidt
Breckinridge	Diggs	
Brinkley	Dingell	Hanley
Brodhead	Dodd	Hannaford
Brooks	Dornan	Hansen
Broomfield	Downey	Harkin
Brown, Calif.	Drinan	Harrington
Brown, Mich.	Duncan, Oreg.	Harris
Brown, Ohio	Duncan, Tenn.	Hawkins
Broyhill	Early	Heckler
Buchanan	Eckhardt	Hefner
Burgener	Edgar	Heftel
Burke, Calif.	Edwards, Ala.	Hightower
Burke, Fla.	Edwards, Calif.	Hillis
Burke, Mass.	Edwards, Okla.	Holland
Burleson, Tex.	Emery	Hollenbeck
Burlison, Mo.	English	Holt
Burton, John	Erlenborn	Horton
Burton, Phillip	Ertel	Howard
Hubbard	Minish	Santini
Huckaby	Mitchell, Md.	Sarasin
Hughes	Mitchell, N.Y.	Satterfield
Hyde	Moakley	Sawyer
Ichord	Moffett	Schroeder
Ireland	Mollohan	Schulze
Jacobs	Montgomery	Sebelius
Jeffords	Moore	Seiberling
Jenkins	Moorhead, Calif.	Sharp
Jenrette		Shipley
Johnson, Colo.	Moorhead, Pa.	Shuster
Jones, N.C.	Moss	Sikes
Jones, Okla.	Mottl	Simon
Jones, Tenn.	Murphy, Ill.	Skelton
Jordan	Murphy, N.Y.	Skubitz
Kasten	Murphy, Pa.	Slack
Kastenmeier	Murtha	Smith, Iowa
Kazen	Myers, Gary	Smith, Nebr.
Kelly	Myers, John	Snyder
Kemp	Myers, Michael	Spence
Ketchum	Natcher	St Germain
Keys	Neal	Stangeland
Kildee	Nedzi	Stanton
Kindness	Nichols	Stark
Kostmayer	Nix	Steed
Krueger	Nolan	Steers
LaFalce	Nowak	Steiger
Lagomarsino	O'Brien	Stockman
Latta	Oakar	Stratton
Le Fante	Oberstar	Studds
Leach	Obey	Stump
Lederer	Ottinger	Symms
Leggett	Panetta	Taylor
Lent	Patten	Teague
Livingston	Patterson	Thompson
Lloyd, Calif.	Pattison	Thone
Lloyd, Tenn.	Pease	Thornton
Long, La.	Pepper	Traxler
Long, Md.	Perkins	Treen
Lujan	Pettis	Trible
Luken	Pickle	Tsongas
Lundine	Pike	Tucker
McClory	Poage	Udall
McCloskey	Pressler	Ullman
McCormack	Preyer	Van Deerlin
McDade	Price	Vanik
McDonald	Pritchard	Vento
McEwen	Pursell	Volkmer
McFall	Quayle	Waggonner
McHugh	Quie	Walgren
McKay	Quillen	Walker
McKinney	Rahall	Walsh
Madigan	Railsback	Wampler
Maguire	Rangel	Watkins
Mahon	Regula	Weaver
Mann	Reuss	White
Markey	Rhodes	Whitehurst
Marriott	Rinaldo	Whitley
Martin	Risenhoover	Whitten
Mathis	Roberts	Wilson, Bob
Mattox	Robinson	Wilson, C. H.
Mazzoli	Rodino	Winn
Meeds	Roe	Wirth
Metcalfe	Rogers	Wright
Meyner	Rooney	Wydler
Michel	Rose	Wylie
Mikulski	Rostenkowski	Yatron
Mikva	Rousselot	Young, Fla.
Milford	Rudd	Young, Mo.
Miller, Calif.	Ruppe	Young, Tex.
Miller, Ohio	Russo	Zablocki
Mineta	Ryan	Zeferetti

NAYS—2

Roncalio	Runnels

NOT VOTING—44

Ambro	Gradison	Sisk
Ashley	Harsha	Solarz
Beard, Tenn.	Holtzman	Spellman
Beilenson	Johnson, Calif.	Staggers
Bingham	Koch	Stokes
Blanchard	Krebs	Vander Jagt
Clawson, Del	Lehman	Waxman
Conyers	Levitas	Weiss
Cotter	Lott	Whalen
Dent	Marks	Wiggins
Eilberg	Marlenee	Wilson, Tex.
Fascell	Richmond	Wolff
Gilman	Rosenthal	Yates
Glickman	Roybal	Young, Alaska
Goldwater	Scheuer	

The Clerk announced the following pairs:

Mr. Dent with Mr. Beard of Tennessee.
Mr. Stokes with Mr. Gradison.
Mr. Cotter with Mr. Whalen.
Ms. Holtzman with Mr. Beilenson.
Mr. Eilberg with Mr. Del Clawson.
Mr. Bingham with Mr. Gilman.
Mr. Richmond with Mr. Lott.

Mr. Rosenthal with Mr. Harsha.
Mr. Wolff with Mr. Marlenee.
Mr. Staggers with Mr. Glickman.
Mr. Koch with Mr. Krebs.
Mr. Ambro with Mr. Johnson of California.
Mr. Fascell with Mr. Goldwater.
Mr. Roybal with Mr. Lehman.
Mr. Scheuer with Mr. Levitas.
Mr. Yates with Mr. Sisk.
Mr. Conyers with Mr. Vander Jagt.
Mr. Weiss with Mr. Ashley.
Mr. Waxman with Mr. Blanchard.
Mrs. Spellman with Mr. Marks.
Mr. Charles Wilson of Texas with Mr. Wiggins.
Mr. Solarz with Mr. Young of Alaska.

Mr. RUNNELS changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 9005, DISTRICT OF COLUMBIA APPROPRIATIONS, 1978

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us what this is all about?

Mr. NATCHER. The request, Mr. Speaker, is to send the District of Columbia appropriation bill for fiscal year 1978 to conference. The bill, as the gentleman from California knows, has passed the House. It passed the Senate this week. We are now ready to go to conference.

The conference will be held after the recess, and sometime after Tuesday of next week. The Senate has requested a conference. That is the purpose of the request this morning, to send it to conference.

Mr. ROUSSELOT. Why is it necessary to send this bill to conference by unanimous-consent request instead of asking for an appropriate rule?

Mr. NATCHER. That is the usual procedure in all matters where we send bills to conference.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I say to the gentleman that I had considered the possibility of offering a motion to instruct the conferees against the funding of the D.C. Civic Center, but in view of the decision of the other body overwhelmingly rejecting the funding by a wide margin, I see no point in doing that. I would suggest that the request is proper.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and, without objection, appoints the following conferees: Messrs. NATCHER, GIAIMO, CHARLES WILSON of Texas, McKAY, Mrs. BURKE of California, Messrs. BENJAMIN, MAHON, BURGENER, KEMP, and CEDERBERG.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 8309, NAVIGATION DEVELOPMENT ACT

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 776 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 776

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendment to title II of said substitute, and no amendment in the nature of a substitute changing title II of said substitute shall be in order, except amendments offered by direction of the Committee on Ways and Means, and said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. DELANEY) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 776 provides for the consideration of H.R. 8309, the Navigation Development Act.

This is a modified, open rule, allowing amendments to titles I and III of the bill and prohibiting amendments to title II except by direction of the Committee on Ways and Means.

Two hours is to be granted for general debate. The time is to be divided equally between the Committee on Public Works and Transportation and the Committee on Ways and Means with majority and minority allotted time in the usual manner. The rule also provides for one motion to recommit with or without instructions.

The bill is to be read for amendment under the 5-minute rule by title rather than by section. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation and now printed in the bill as an original bill for purposes of amendment. No amendment to title II including an amendment in the nature of a substitute would be in order except amendments offered by direction of the Committee on Ways and Means, and such amendments would not be subject to amendment.

The resolution waives points of order under clause 7, rule XVI, relating to germaneness, for the amendment in the nature of a substitute. This is necessary because H.R. 8309 as introduced did not contain the provisions of title II which are included in the substitute.

The resolution further provides for a waiver of section 402(a) of the Budget and Impoundment Act so that the bill might be considered. This waiver is necessary because the bill contains an authorization for fiscal year 1978. The Congressional Budget Act would prohibit the consideration of any authorization for fiscal year 1978 which had not been reported on or before May 15, 1977. The bill H.R. 8309 was reported on July 28, 1977. Due to the unusual circumstances surrounding the consideration of this measure, the Budget Committee recommended and the Committee on Rules granted a waiver of section 402(a) of the Budget Act.

The specific budget violation in H.R. 8309 pertains to an authorization of $432 million for the construction of a new Locks and Dam 26 on the Mississippi River. Previously, H.R. 5885, a bill containing an authorization identical to that found in H.R. 8309, was passed by the House on May 17, 1977. In the Senate this bill was amended on June 22, 1977, to provide for certain waterway

user fees. When the bill was sent back to the House, it was tabled. Since article I of the Constitution requires all revenue measures to originate in the House of Representatives, it was considered inappropriate to proceed with further action on the measure. H.R. 8309 was introduced on July 14, 1977, and jointly referred to the Committee on Public Works and Transportation and the Committee on Ways and Means. The two committees worked closely on the bill, and it was reported on July 28, 1977, by the Committee on Public Works and Transportation with an amendment in the nature of a substitute including title II as adopted by the Committee on Ways and Means.

Mr. Speaker, H.R. 8309, authorizes $432 million for the construction of a new Locks and Dam 26 on the Mississippi River. It would impose a tax on fuel used by commercial vessels on the inland waterway system. The fuel tax would total four cents a gallon beginning in October of 1979 and rising to six cents a gallon in 1981. The bill also requires a joint study by the Departments of Commerce and Transportation to investigate the various types and levels of user charges that could be imposed on waterway traffic in future legislation as well as the impact of user charges on carriers, shippers, consumers, and regions affected.

Mr. Speaker, H.R. 8309 is an important bill, and I urge my colleagues to adopt House Resolution 776 so that we might proceed to its consideration.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I think it should be emphasized at the very outset that what we are considering in House Resolution 776 is a modified closed rule providing for the consideration of H.R. 8309, the so-called Navigation Development Act.

The fact that I would like to call to the attention of the Members of the House this morning is that the rule is even more closed than the one the Committee on Ways and Means had requested in the letter which it sent to the Committee on Rules under date of July 6, 1977. That was a letter from the chairman of that committee. The Committee on Ways and Means had asked for a rule prohibiting any amendments to its section of the bill, which is title II, the tax on fuel used in commercial transportation on inland waterways, except it was willing to accept one motion to strike the entire title.

What the Committee on Rules did, instead, was to adopt a totally closed rule on that title, and this rule will bar even a motion to strike the title.

It was a Member from this side of the aisle—and I am pointing, of course, to the Democratic side of the aisle—the gentleman from Iowa (Mr. BEDELL), who appeared before the Committee on Rules and requested that the title be opened up, at least to the extent that he could offer a single amendment, an amendment that would raise the users' fees over a phased-in, 5-year period to recover ultimately 25 percent of the cost of operation and maintenance of the Inland Waterway system, and then also to recover new construction costs.

At the same time the Committee on Rules received a letter containing a petition that was signed by 46 Members of this body, Members from both sides of the aisle, supporting that request on the part of the gentleman from Iowa (Mr. BEDELL).

Notwithstanding the facts that I have just recited, the Committee on Rules voted for a totally closed rule, on the very specious ground that opening that title to amendment would somehow open up the entire Internal Revenue Code. We got the same argument from that committee that we have traditionally received on tax bills that come before this body, the argument being that we cannot open up the entire code.

I think the time has come, Mr. Speaker, to lay that bugaboo to rest. An open rule on title II would not open up the entire Internal Revenue Code to amendment. There is no Member who can successfully defend that statement on the floor of this House today.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to support what the gentleman from Illinois (Mr. ANDERSON) has said.

It seems to me that a well-drawn rule permitting amendments to the code that are related only to this particular subject would certainly avoid the problems brought up by the Committee on Ways and Means, and unless such an amendment is in order, I will certainly vote against the rule and I will vote against the bill, because I think we must establish the principle that the inland waterways are to carry some reasonable portion of the cost of constructing and operating them.

Without that, I think we are simply undermining other forms of transportation such as highways and railroads, and then when they are adversely affected, we will turn around and subsidize them some more. This bill provides us with the opportunity to start getting away from that ridiculous posture.

Mr. Speaker, I support the gentleman's position.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Ohio (Mr. SEIBERLING). He has stated precisely the position that I hold.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would just like to commend the gentleman in the well for his statement and for articulating the position which I hope to articulate later.

The gentleman in the well, I think, made a good point before the Committee on Rules in terms of pointing out that in the process of studying waterway user fees, we should take a look at the existing studies.

Since 1936 or so, we have had a series of reports that have indicated that we probably should move in the direction of the policy issue of imposing waterway user fees. I think the rule before us today excludes our opportunity to have that full and open debate here on the floor of the House of Representatives.

Mr. Speaker, I think the gentleman in the well carefully notes the fact that this is not opening up a Pandora's box and that we can, as reasonable people, deal with an issue like title II in a reasonable way, without impacting negatively on the total tax code.

Mr. Speaker, I thank the gentleman for his comments.

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the gentleman's contribution and the point that he and the preceding speaker have just made is quite true, that an open rule on title II of this legislation would make possible amendments to the proposed section 4042 of the Internal Revenue Code dealing with fuel taxes for commercial transportation on inland waterways.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I want to thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman in the well.

I want to commend the gentleman from Illinois (Mr. ANDERSON) for the courage he has in standing up to try to see that the House has an opportunity to openly debate issues of this nature so that we might give the public an opportunity to know how we vote, why we vote, and what we believe.

Again, Mr. Speaker, I want to associate myself with the remarks of the gentleman from Illinois (Mr. ANDERSON), and I thank him for his courage.

Mr. ANDERSON of Illinois. Mr. Speaker, I think it was the gentleman from Iowa (Mr. BEDELL) who pointed out in his testimony before the Committee on Rules that the 4 to 6 cents a gallon that is provided for under the committee bill, under title II of the committee bill, would permit the recovery actually of only about 7 percent of the operation and maintenance and the new construction costs of these waterways.

The other body has already passed a bill that would call for user fees sufficient to recover 100 percent of the operation and maintenance costs and 50 percent of the new construction costs.

The amendment which the gentleman from Iowa (Mr. BEDELL) wanted the Committee on Rules to make in order, and which the committee refused to do, would have been a compromise in two areas which are obviously very far apart. It would simply compromise those two extreme positions by eventually permitting the recovery of 25 percent of both the operation and the maintenance and the new construction costs.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I appreciate the gentleman yielding. While it is not my intention to engage the gentleman in debate—I do not feel that I can let the statement stand without explanation—that this tax will only yield 7 percent of the operation and maintenance

of the inland waterways. While I am sure that figure is correct—it is not true that all of that O. & M. is chargeable to navigation of commercial vessels.

The study provided for in title 3 should allow the Department of Transportation and the Department of Commerce determine how much of the O. & M. is chargeable to commercial navigation.

Let me tell you just some of the benefits included in the Corp. of Engineers O. & M. expenses which I do not believe are chargeable to navigation of commercial vessels.

INCLUDED IN O. & M. EXPENDITURES

WATER QUALITY MANAGEMENT

Water Supply.
Low Flow Augmentation.
Public Use Plan Studies (Great).
Rainfall Gauging.
Stream Flow Gauging.
Water Quality Investigation.
Silt Reduction.

RECREATION

Small Boat Channel Dredging & Maintenance.
Dredging To Small Boat Ramps.
Visitor Facilities At Dams & Other Areas:
a. Toilet Facilities & Sewage Treatment;
b. Paving Maintenance; and
c. Clean-up.
Safety Shelters For Small Boats.
Use of Locks (Many Not Used By Commercial Craft).
Beach Erosion.
Aquatic Plant Control.
Fish & Wildlife Habitat Enhancement.
Dredging For Ecological Enhancement.
Stable Calm Water Pools.

AGRICULTURE PRODUCTION

Silt Reduction.
Bank Protection.
Drainage & Run-off Control.
Fishing Enhancement:
a. Commercial; and
b. Game.
Stream Flow Reduction Reducing Erosion.

OTHER O. & M.

Area Redevelopment.
Salinity Control (i.e. Old River Lock & Dam).
Maintenance Of Bridges Across Navigable Structures.
Bank Stabilization:
Protects Roads.
Protects Cities.
Protects RR Right of Way.
Regulatory Costs:
Permits.
Contract With Local Law Enforcement (Protection of Visitors).

Recently, the Ways and Means Committee eliminated fuel tax from mass transit on the theory that mass transit is the most energy efficient way to move passengers. It seems inconsistent that we now want to penalize consumers by adding an additional tax on the most energy efficient way of moving commodities.

Mr. ANDERSON of Illinois. Mr. Speaker, I think what the gentleman has just said illustrates the point that I am really trying to make.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 additional minutes.

Mr. Speaker, I had not intended to get into a debate on the substantive merits of this legislation. As a matter of fact, I support completely my friend the gentleman from Illinois (Mr. FINDLEY) who believes that it is important that we have an authorization, as we do in title I of this bill, for the construction of a new 1,200-foot long lock on the Mississippi River near Alton, Ill., to replace the present locks and dam 26. I think it is a badly needed new facility that would permit an increase in the capacity and alleviate some of the delays that are presently caused by double lockages at the existing facility. I object to the provisions of title I for the same reasons, if we adopt this rule in its present form, under the procedure under which we will be operating, we simply are not going to have the opportunity to get into the kind of full discussion of title II that we should. I know it is October. I know we have other legislation pending on the floor, and all of that, but this is a terribly important principle, whether or not the users of our inland waterway system of this country, on which we annually expend hundreds of millions of dollars, ought to pay a more equitable share of the cost of maintaining those waterways. I fear—indeed, it is more than a fear, it is a realization that we are simply locked in under the terms of this rule to the point where we could not even strike the title, let alone do as the gentleman from Iowa (Mr. BEDELL) sought to do, offer an amendment.

So, despite my willingness to accept the position of my friend, the gentleman from Illinois (Mr. FINDLEY) that we ought to get on with the authorization of the new 1,200-foot long lock on the Mississippi River, I do not like the procedure that the Committee on Rules has ordained under this particular resolution. I think we should vote against the rule and we ought to come back with an amendment—and, let me say, if we defeat the previous question, I would offer an amendment to the rule. The amendment would simply provide that:

On page 2, at line 14, insert the following words after the comma: "and an amendment printed in the Congressional Record of September 19, 1977, beginning at page E5657, by Representative Bedell,".

We are not going to open it all the way, so do not have any fears that we are going to be bogged down here for many weeks considering all kinds of amendments. But I think it is fair that we have one opposing point of view to the position taken by the Committee on Ways and Means opened for debate on the floor when we do debate this bill.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, I thank my colleagues for yielding.

I just noted that three of the Members on the other side who are opposing this modified closed rule today, voted contrary to that position last week on the rule on H.R. 8410 when they all voted for a modified closed rule that day.

Mr. ANDERSON of Illinois. Mr. Speaker, as the gentleman from Indiana (Mr. JOHN T. MYERS) well knows, consistency is a virtue that is not always practiced in this body.

I repeat, Mr. Speaker, that when the question is put, I shall ask for a no vote on the previous question, simply so that I may then have the opportunity, if we prevail, to offer the amendment that would make in order the amendment by the gentleman from Iowa (Mr. BEDELL).

Mr. DELANEY. Mr. Speaker, I yield 12 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. I rise in opposition to House Resolution 776, the rule on H.R. 8309, the Navigation and Development Act of 1977.

H.R. 8309 provides for a new lock and dam at Alton, Ill., as well as for a user tax. House Resolution 776 would permit floor amendments to titles I and III, but would grant a closed rule on title II—the section of the bill which would impose a 4 cents per gallon tax on diesel fuel used by cargo vessels on our inland waterways.

I object to the adoption of a closed rule on title II. By prohibiting floor amendments and thus effectively precluding meaningful consideration of alternative user fee proposals, House Resolution 776 does a great disservice to the House and to the American people. It assures that the current policy of Federal subsidization of commercial barge traffic, which is no longer justifiable on policy grounds and which costs taxpayers millions of dollars each year, will continue.

Allow me to put the user fee issue into better perspective.

The Federal Government currently builds, maintains, and operates a network of inland waterways that are used by barge operators to carry about 11 percent of our domestic freight. This policy of providing inland waterways free of user charges dates back to the early days of the Republic when it was the intent of the Government to create a viable water transportation system by protecting canal operators against other forms of competition.

This Federal policy has proven quite successful. Today, the Federal Government maintains more than 15,000 miles of inland waterways which are deep enough to accommodate commercial traffic. In many cases, these waterways are navigable only because the Federal Government has invested billions of dollars over the years in locks and dams and dredging operations.

These waterways have greatly facilitated commercial water transport. The success of this Federal effort was documented in a study released by the General Accounting Office in the fall of 1975. This study reported that since 1950 the large industry—

Has enjoyed rapid growth and profit. Cargo tonnage has doubled and ton-miles have increased almost fivefold. Since 1960, the industry's investment and percentage of return on total investment nearly doubled and carriers' revenues have gone up more than 120 percent.

It is important to note that, at present, the users of our Nation's waterways enjoy the use of a Government built and maintained river system without having to pay anything for the privilege. At the same time, competing forms of trans-

portation do pay charges. Trucks pay fuel taxes, permit fees, and tolls to operate the Nation's highways. Aircraft pay fuel and ticket taxes plus landing fees. And railroads pay substantial property taxes and provide their own railbeds. This situation has given the barge industry a competitive advantage over other forms of transportation in movement of bulk commodities—and not an insignificant advantage at that. In fact, a recent Congressional Budget Office study on the user fee issue reported that:

Federal subsidies are equal to about 42 percent of all barge revenues, compared with 3 percent for railroads, 1 percent for trucking companies, and no subsidy at all for pipelines.

Also, the cost to the Government has been substantial. Over the history of its involvement with domestic water transportation, the Federal Government has spent more than $14 billion to subsidize the barge companies. Our inland waterway system is currently prospering, and massive Federal subsidies for waterway traffic continue.

In my judgment, the question of whether the operation of the inland waterway network should continue to be financed out of general revenues or whether the users of our waterway system should be required to pay all or part of the cost is an important public policy issue which should be an integral component of any discussion of the user fee issue. House Resolution 776 would foreclose meaningful consideration of this important aspect of the issue.

There are those who would challenge my assessment of this situation by pointing out that title II would implement a user charge—a 4-cent tax on diesel fuel. My response is that there are several important aspects to the user fees issue which title II totally ignores. It does not adequately resolve the question of sufficiency of revenue which a 4-cent tax would raise, this year and over succeeding years.

It does not allow consideration of the issue of whether current Government policy, which provides waterway users with a substantial advantage over competing modes of transportation, is justifiable in light of present realities. And, most importantly, it does not address the essential question of how much of the maintenance and construction cost of our inland waterway system commercial users can reasonably be expected to bear. All it does is allow for passage of a fuel tax which would recover only about 6 percent of Government spending on construction and operation of our inland waterway facilities.

In short, the House is being called upon to make a significant policy decision without being afforded an opportunity to consider all the factors and options which should form the basis of that decision. House Resolution 776 has made sure of that.

At this point, I think that it is important to point out that the Senate has already passed a waterway user charge which would require that users pay 100 percent of operation and maintenance costs and 50 percent of construction costs at the end of a 10-year phasein period. The administration is on public record as supporting the Senate-passed provision. In fact, in testimony before the House Public Works Committee on July 18, 1977, Secretary of Transportation Brock Adams, stated that:

The President has made clear . . . that he will not sign an authorization bill for a 1200 foot lock at Alton unless Congress also enacts legislation that provides for waterway user charges that will recover a substantial amount of the government spending on construction and operation of inland waterway facilities. I believe that a substantial level would be 100% of operating and maintenance costs and at least 50% of the costs of new construction. Obviously, user charges that lead to this level of recovery should not be imposed overnight. A phase-in period of up to ten years is acceptable to the Administration.

Yet, despite the Senate action and the administration's testimony in favor of "substantial" recoupment, the bill we will consider today, H.R. 8309, will result in recovery of only 6 percent of Government spending on construction and operation of inland waterway facilities.

Mr. Speaker, last week I appeared before the Rules Committee to request that I be allowed to offer one amendment to title II of H.R. 8309 which would constitute a compromise between the committee bill and the Senate-passed user fee provision and which would provide the House with an opportunity to debate and vote on a stronger user fee proposal. My proposed amendment would have provided that users pay 25 percent of construction, operation, and maintenance costs, phased in over a 5-year period at 5 percent per year, through a combination user charge and fuel tax. Such a plan would not have committed us to 50 percent or 100 percent cost share as is provided in the Senate bill, but it would have given us an opportunity to try out the concept of a given percentage user charge. It would also have allowed us to review its practical application before reaching a definitive judgment on the user fee issue. Unfortunately, the Rules Committee denied my request and granted a closed rule on title II.

I believe that the concept of given percentage user charges is crucial to any meaningful recoupment plan, for whenever a user of Government services is required to pay a set percentage of the cost of such services, that party will serve as a watchdog to prevent unnecessary waste. Why? Because such waste would come directly out of that user's pocket.

Mr. Speaker, the President of the United States supports higher user fees. The United States Senate favors higher user fees. And, there is significant support in the House of Representatives for higher user fees. Yet, under House Resolution 776, this body will only be able to consider a 4-cent fuel tax.

I fully understand the rationale for limiting amendments on tax legislation. I did not ask for an open rule on title II. However, I do think that it is appropriate to grant a rule which would permit a vote on a single amendment, such as I proposed, which would require that users pay a set percentage of the cost of construction, operation, and maintenance of our inland waterway system, phased in over a given period.

I personally believe that the time has come to impose equitable and meaningful cost sharing. And I do not feel that the fuel tax provision in H.R. 8309 would accomplish this objective.

But, beyond that, I think that the refusal of the Rules Committee to allow the full House to decide the issue for itself is extremely unfortunate. The House should have an opportunity to consider alternative user fee proposals, and to then work its will. House Resolution 776 denies us this opportunity, and I cannot support it.

Mr. Speaker, I believe it is very important that the House understand exactly what the issue is as we consider this rule. First of all, we should be aware of the fact that the legislation that was passed in the other body called for 50 percent of the construction costs to be charged to the barge industry and 100 percent of the operations and maintenance to be phased in over a 10-year period.

Secretary Adams in testifying testified in effect that that was supported by the administration. His testimony also indicated that there was even a question as to whether a bill that did not contain such language would even be signed by the President. It was my desire, as I went to the Committee on Rules, that we have an opportunity to consider one amendment.

My request, as has been explained by the gentleman on the other side of the aisle, was that we have permission to consider one amendment which would have phased in 25 percent of those costs over a 5-year period. My request was that the House have a chance to debate and consider this important issue. I am not here to debate the merits for or against the issue at this time. I do not think that is the proper thing. I only ask that the House in public debate have a chance to debate and be recorded on this matter, which I consider to be a special interest matter, as we consider it herein.

I believe the problems that we have with special interests in this House of Representatives can only be attacked when we debate them fully, in the open, in front of everyone, and where we all vote for it. Indeed, I think I could have phrased an amendment in such a manner that I probably could have gotten around this rule and brought it forth, but I believe we are arguing something much more important here today than what type of a user fee we have on our barges. I think we are debating today whether or not we are going to continue to have rules in the House which say that important issues will not be debated here on the floor of the House but will be determined by committees.

I am well aware of the fact that this rule will probably pass. I am well aware that this will probably be the way things will happen here today, but I would hope that we would start to move, at least as we face these issues, toward the time when the Members of this House would say, if we were elected, let us consider and discuss the issues that affect our people, and we are going to bring those matters

up in the House of Representatives, so that important issues such as this, which are important policy issues of our country, will, indeed, have an opportunity to be debated on the House floor.

Mr. Speaker, I yield back the remainder of my time.

Mr. DELANEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I think that it is an important and historic moment when we come before the House to ask for a rule. The committee asks for that rule to be closed simply because it wants to not allow a full and open discussion of policy issues. I think that it is necessary for this House to look closely at the rule that is being put forward here, because the rule suggests that no amendment can be offered to title II.

The gentleman from Iowa (Mr. BEDELL) has provided this House a great service. He has constructed a compromise amendment. He placed that amendment in the CONGRESSIONAL RECORD so that everyone could have access to the wording of that amendment. He simply requested that a modified rule be brought forward so that the policy issue of waterway user fees and taxes could be one of open discussion.

I would suggest to my colleagues that it looks to me, from the outside looking in, that an agreement has been reached among the chairman of the Committee on Public Works and the chairman of the Committee on Ways and Means and the Speaker to approve as little a waterway user fee as possible. I would remind the House that a 4-cent imposition of tax would have only the slightest impact to the waterway industry.

In fact our estimates are that it will only recover about $32 million annually of an annual authorization and appropriation of somewhere in excess of $400 million in this area. Brock Adams, our Secretary of Transportation, came before both the Public Works Committee, on which I serve, and the Ways and Means Committee and pleaded with the Members of both groups to move towards the recovery over a 10-year period of 100 percent of the operation and maintenance and 50 percent of the construction costs of our inland waterways. He was reflecting what was in virtually every report that has been brought forth out of the executive branch of the Government since Franklin Roosevelt was President of the United States.

I brought here this morning just a few of the reports that have been put together, some of which in the last 10 years have looked at and analyzed and computerized the impact of the waterway user fees phased in over a 10-year period. Some Members suggest it is too soon; that the 25 or 30 or 40 years of reports are somehow insufficient and that we should wait for the Transportation Policy Commission report or wait for the report in title III.

I suggest if we allow the amendment by my colleague, the gentleman from Iowa (Mr. BEDELL), to be placed before us and if in fact we vote "yes" on that amendment, it would be phased in so gradually that by the time those reports came before us we would have an opportunity to alter whatever taxes or fees were imposd.

I further suggest that even if those reports come back, as all the other reports have done, and say that the imposition of fees should take place, this body, this House and the Senate and the administration are not compelled to abide by what those studies indicate.

I think the evidence is in. I think the waterway users' fees should be phased in over a long period of time. I think we should start balancing our transportation policy and I would urge my colleagues to read the reports, leaf through the executive summaries, and move quickly to defeat the rule, and accept the modified rule which will be offered by the gentleman from Illinois (Mr. ANDERSON).

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the acting chairman of the Public Works Committee.

Mr. ROBERTS. Mr. Speaker, I appreciate the gentleman yielding. The gentleman is a member of the Public Works Committee and the gentleman from Iowa is not a member of that committee. The only section in question is the section of the Ways and Means Committee. It has been 200 years and we have had no tax on the waterways. This is the first time we have ever instituted any form of tax there. The Public Works Committee has gone through it over a long period of time, but of course, the only section or title in controversy here is title II from the Ways and Means Committee.

Mr. DELANEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I thank the chairman for yielding.

Our waterways are absolutely necessary to the operation of this country. My distinguished colleague; the gentleman from Pennsylvania, did not bother to say that the railroads, the trucks, all of the industries so far as I know are in support of this bill as it comes before this group. It is something that is absolutely necessary.

If there is one failure of that existing 600-foot lock, all of the balance of the Mississippi River and all of the area above Alton, Ill., is that the river is going to be closed to barge transportation.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I appreciate the gentleman's statement. I would have to say from my own conversations with the truckers and the railroads, the only reason they are accepting this bill is that they think they can win the battle on the Senate side. I think it would be inaccurate to say to the House that everyone is satisfied with what we have done on this side.

Mr. ROBERTS. I think when the bill came out of the committee there were two or three votes against it. I do not know what the situation was on the other side. I was in receipt yesterday of a letter from the Secretary of Transportation wholly endorsing the bill although he was opposed to it in the original form. It is a good bill and I hope my colleagues will support the Rules Committee.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I thank the chairman for yielding.

I think it is very interesting that the gentleman from Philadelphia is here arguing for more of a tax on shallow draft vessels and he has not said a thing about deep draft. I think if we are going to do it we ought to do it all the way.

Mr. EDGAR. If the gentleman will yield, the gentleman knows in the full committee I indicated my willingness to look at that issue.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I confess a particular interest in this bill because Lock and Dam 26, which has become the most celebrated lock and dam in all the world, lies within my district; but that fact gives me, perhaps, a special perspective. I doubt if there is anyone in this Chamber who is more conscious of the difficulty that has been encountered over the years by those who would seek to establish a user fee. It has not been an easy task.

I do not often disagree with my esteemed colleague, the gentleman from Illinois (Mr. ANDERSON), but I do rise in strong support of the rule. I think the modification of the rule in this case is thoroughly justified. I say that for two reasons. First of all, because I agree with the acting chairman of the Committee on Public Works that this is truly an historic decision that the House has before it. Never before in the history of the Republic has a user fee been established upon barge traffic. Frankly, I share the view of those who feel it is long overdue, but getting the various interests involved in dealing with this very contentious issue together to agree upon a package that they can live with has been a very difficult task.

I think those who believe in the user fee as a concept should rejoice that the House has before it this modified rule and ought to enthusiastically embrace it.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the distinguished gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, in view of what the gentleman has described as an historic decision, should it not be a decision made by the whole House?

Mr. FINDLEY. Yes, of course.

Mr. ANDERSON of Illinois. And under the terms of the rule, we cannot even strike title II and that is more than even the Committee on Ways and Means asked for in their letter requesting the rule. The Committee on Rules by requesting this kind of rule has eliminated this entirely from the historic decision of which the gentleman speaks.

The SPEAKER pro tempore. The time

of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. FINDLEY. Mr. Speaker, this body has several options. It can reject or accept the rule, it can approve the bill or approve it in modified form; so I do not think the House is denying itself any important options in approving the modified rule, assuming the House really wishes to move forward on the issue of a user fee.

Now, I realize that there are those who would like to have a higher user fee and I am sure the opportunity will come along at some later date for a consideration of higher user fees. I am sure the issue will not die, but I repeat what I said earlier, that those who really believe in the concept of the user fee have cause for rejoicing in the presence of this modified rule before the Chamber at this time.

Mr. Speaker, there is another reason why I feel that this is an important issue. The Lock and Dam 26 is truly the bottleneck in our giant vital river transportation system. It has been held up, it has been snared by the user fee controversy now for 3 years. I know full well, because I have been involved in all these proceedings. Therefore, I think on both counts, on the need for improvement of this bottleneck and on the need for a breakthrough on the user fee concept, we should rejoice that the modified closed rule is before us. I think the rule deserves the support of this whole body.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to say to the gentleman, it seems to me what we are talking about is an industry-oriented tax that will do the least amount of damage. When they came before the committee they said, "Don't kill this one now, because we have one that will nauseate us a little bit," and we are actually imposing just that one.

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I just cannot allow that statement to stand, because I know out of my experience year after year of the diligence with which the barge lobby has been able to resist user fees. For them to come to the point where they can accept the adoption of the user fee concept is truly a historic advance.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I thank the gentleman for this statement. I know no one knows this problem better than the gentleman from Illinois knows it. I subscribe fully to what the gentleman has told the House this morning. I hope the House will support the committee action.

Mr. SHIPLEY. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. SHIPLEY. Mr. Speaker, we know that sometimes we have rules that we do not all agree on, but in this case I happen to be for any rule or vehicle that will give us an opportunity in Illinois, Iowa, and Missouri, to be able to do something to move the products we need to have moved that we cannot do with other modes of transportation.

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. Mr. Speaker, we need some type of vehicle to solve the problem. Throughout the Midwest, we have been able to grow and produce more corn, more soybeans, more wheat than we can use in this country, but everywhere at harvest time there are not enough trucks, not enough railroad cars, to ship what we produce. We can feed the world, but we have to have some method of transportation to move what we produce.

Illinois has enough coal to last this country 300 years, but we cannot move it on the highways and on the trains we have today. We simply cannot move it. So, I am for any type of rule that will give us a chance to move forward in that part of the country to produce and ship what we produce and make them available to the whole world.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I would like to thank the gentleman from Illinois for yielding to me. I think what we have before us today is a carefully crafted rule which, as one Member mentioned earlier, is going to establish a historical precedent in putting a user fee on the waterway transportation system.

There are two things, as far as I am concerned, that we should consider. If we are going to move ultimately in this direction, we ought to do it bilaterally, on both the deep draft navigation system as well as the shallow draft navigation system. Also I find it surprising that some people propose to lay on a much higher shipping cost on the American farmer. Because farmers and agribusiness use about 75 percent of the shipping capacity, I think, is reason enough to reject the change in the rule which they are proposing in trying to put this increased cost on farmers.

So, to lay on an increase in transportation costs, even if it is only 1 or 2 cents per bushel, is not good national policy. How much do the Members think the farmer can afford at a time when we have a depressed farm economy in the country? Farmers are going broke across the nation, in every county and State. I think that is the real issue right now. We ought to accept the rule, establish the precedent and move forward with this legislation as quickly as possible.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Has the gentleman heard of another oppressed group called the American taxpayers?

Mr. HAGEDORN. I am very surprised to hear the gentleman from Ohio talk about the oppressed taxpayers, because they are getting the benefits of the result when the grain moves down the Mississippi River and into our foreign export markets where $24 billion of farm commodities went in the last fiscal year.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of the rule. I would like to associate myself with the remarks of the gentleman from Illinois. This is indeed precedent-establishing and properly so.

I would also like to commend the chairman, the gentleman from Texas (Mr. ROBERTS) for his skill in bringing forth this piece of legislation, which is delicately balanced and accomplishes the almost impossible. The users at long last are willing to pay user fees, after decades of traditionally resisting any imposition of such fees, have seen the error of their ways and have realized that they have a responsibility that is comparable to the responsibility of the shippers in the Oil Liability and Compensation Act which this House passed.

They too resisted any imposition of fees. But they realized that there was a greater objective and hence agreed to pay. We should not lose sight of the greater objective. In the Oil Liability Compensation Act there was a question of seeing that the oil spills were dealt with and that those who reported damages were compensated. Here we also have an opportunity to address ourselves to a greater objective.

I urge my colleagues to vote for the rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Speaker, I rise in support of the efforts of the gentleman from Illinois (Mr. ANDERSON) to defeat the rule and to allow the House to debate this important issue.

Mr. Speaker, I have been supporting the proposal to repair locks and dam 26. That is not an issue with me. I have continuously voiced my opinion that this proposal should not be held hostage to the waterway users fee. But I also believe the House should be able to benefit, with its ability to cope and allow all of the Members to debate the issue and put on the record as to where they stand.

As I listened to the debate to this point, most Members are saying they will support 4 to 6 cents that should be levied on the industry. I think if we face that particular position we are saying that we will guarantee at least 4 to 6 cents. I think we should give the Members an

opportunity to debate at least an alternative above that.

The gentleman from Ohio has mentioned a very important element here. It is not a question of whether or not we are going to raise revenues with no intention of where we are going to spend them. The question is whether or not the people who use the waterways are going to share a fair responsibility of keeping those waterways useful and their customers supporting them.

Mr. Speaker, I come from a region that does a lot of shipping, the steel industry. I know I have been severely criticized by some of my constituents for supporting any waterway users tax. I think we should at least be subjected to a legitimate debate on the floor of the House as to whether or not they are paying their fair share of the tax burden that we are encumbering.

Mr. Speaker, I heartily support the efforts of the gentleman from Illinois (Mr. ANDERSON), and I ask that we come back with an open rule to allow open debate on this issue.

Mr. PICKLE. Mr. Speaker, I am in opposition to the rulemaking in order H.R. 8309. I hope that my colleagues will not accept this rule which does not allow for full debate and consideration of the waterways user fee in title II of the bill.

The issue of imposing a waterways user fee has been seriously considered for the past four decades and now that we have finally reached the point where the full House of Representatives will vote on this issue, we find ourselves with a take-it-or-leave-it situation.

I personally believe that the amount of tax that we will be asked to vote on in this bill is much too low. The 4-cent tax in 1979 and the 6-cent tax in 1981 will come nowhere near the revenue recovery level that we should have from our Nation's inland and intracoastal waterways. I also recognize that the figure recommended by the administration is way too high. But somewhere we need to find a fairer approach.

I have no objection to the replacement of Locks and Dam 26 on the Mississippi River. I think that this is probably a very good project that will ease a major bottleneck on the Mississippi River. However, it is obvious that this improvement, along with all of the other maintenance and operation costs that the Government pays for, goes to benefit one sector of the transportation industry. I think it is time that the barge industry begin to share these costs with the Federal Government and a mere 4 cents per gallon is not a large enough share.

I do not know how many of my colleagues agree with my position that the tax should be greater than the amount in the bill. I know that there are many Members who would like to see no tax at all on the barge industry. But my point is that this issue is too important and has been brewing for too long for us to consider it under such a restrictive rule. I think we should at least have the option to consider some of the various proposals that have been offered over the past 40 years rather than have the choice between an inadequate tax or no tax at all.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I could not help but wonder where I was when I listened to this debate. There is no doubt in my mind that this rule is going to pass, and it is going to pass for one simple reason: The people who are objecting today have not objected when closed rules have been rammed down their throats in the past. If Members are going to vote for closed rules or semiclosed rules on October 4, they should not come in on October 6 and protest basically the same thing. They should at least have the decency to leave the body in the grave a week or two before all of a sudden raising the question of the rights they did not worry about on Tuesday. I can hardly bear the crocodile tears of these Members. I have been on the floor for 2 days and I have not been able to offer the amendments I wanted to offer. Members on this side were not able to offer the amendments they wanted to offer. I think four or five Members now protesting a gag rule would like to have the RECORD corrected. Their votes for gag rules appear on page H10550, rollcalls No. 623 and No. 624.

There is an old saying around here, "Play ball with us and we will hit you over the head with the bat." Members have played ball on the closed rules in the past. Do not come in now and talk about all of those areas where you want to offer amendments. At least have the decency to wait a week or two. We went through this exercise a few days ago and you did not worry then. Gag rules and closed rules are a leadership tool. We all know that. If you want to be used Tuesday do not complain on Thursday.

This is going to pass because the four or five Members who have objected today did not object before. I am a Member who has always been against closed rules. I have even voted against closed rules when they were against my interests. I remember voting against a closed rule when the antiwar people wanted to offer an amendment which they proposed. Although I was against their amendment, I voted to open up the rule so they could offer their amendment. I have been consistent.

If we are going to object to closed rules, we should be consistent; they should not just do it once in a while. They should not object on Thursday when they would not object on Tuesday.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman does not want to tell us who those Members are, does he?

Mr. ASHBROOK. They know who they are. There are so many, as I read the RECORD, that it would take 5 minutes to read their names.

The SPEAKER pro tempore. The Chair will inform the gentleman from Illinois (Mr. ANDERSON) that he has 4 minutes remaining.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I take this time only to suggest to the gentleman from Ohio (Mr. ASHBROOK) that I am not one of those Members of whom he was speaking.

Mr. ASHBROOK. Absolutely. I understand that.

Mr. ANDERSON of Illinois. Mr. Speaker, I have demonstrated consistency. On Tuesday of this week I opposed a closed rule on the legislation in which the gentleman from Ohio (Mr. ASHBROOK) is particularly interested at the moment, the so-called labor reform bill, and today I oppose making a decision which has been characterized as a historic decision on the basis of a closed rule, which in effect means it is a decision of one committee of this House rather than a decision of all 435 Members.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would just like to make this one point for the benefit of all these Members who are complaining about not being able to have their amendments considered.

Just look at the narrow interpretation I got. Yesterday I had to rewrite an amendment to make it conform to the rule. The Chair ruled that it did not conform. I struck the language from the amendment that would make it conform, and when I offered it, what did the Chair say?

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, to continue my thought, the Chair said: "The Chair would like to advise the gentleman that the amendment was not printed in the RECORD in the form the gentleman now presents it as an amendment to the bill."

I said, "The gentleman from Ohio concedes that."

But just think of that. All the words that were in my second amendment were printed in the RECORD, but because they were not printed in the RECORD exactly in the manner as they appeared in the amendment, the Chair ruled against me. I deleted the sentence that was out of order, and I was then told I could not offer that amendment because the amendment was not in the exact language as it appeared in the RECORD.

They talk about a gag rule, but I say, "Don't make me gag." That is the point I want to stress to the Members.

Mr. ANDERSON of Illinois. Mr. Speaker, I sympathize with the gentleman from Ohio (Mr. ASHBROOK), and I urge the Members to cast a "no" vote on the rule.

The SPEAKER pro tempore. The time

of the gentleman from Ohio (Mr. ASHBROOK) has expired.

The gentleman from Illinois (Mr. ANDERSON) has 2 minutes remaining, and the gentleman from New York (Mr. DELANEY) has 16 minutes remaining.

The Chair recognizes the gentleman from New York (Mr. DELANEY).

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

As many as are in favor of the adoption of the resolution will vote "aye," as many as are opposed to the adoption of the resolution will vote "no."

Mr. ANDERSON of Illinois. Mr. Speaker, on that question, I ask for a recorded vote.

The SPEAKER pro tempore. A recorded vote has been requested.

Does the gentleman from Illinois (Mr. ANDERSON) ask for the yeas and nays?

Mr. ANDERSON of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The yeas and nays have been requested.

As many as are in favor of taking this vote by the yeas and nays will stand.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ANDERSON of Illinois. Mr. Speaker, is my understanding correct that the question before the body is on ordering the previous question?

The SPEAKER pro tempore. No, the Chair will state to the gentleman that the question is on the adoption of the resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, I was on my feet seeking recognition in order to get a recorded vote on ordering the previous question. I made it clear throughout his debate that that was the object of this exercise.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. ANDERSON) ask unanimous consent to vacate the order under which the previous question was ordered?

Mr. ANDERSON of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, so ordered.

There was no objection.

The SPEAKER pro tempore. The question now is on ordering the previous question.

As many as are in favor will vote "aye," as many as are opposed will vote "no."

In the opinion of the Chair, the noes have it.

Mr. DELANEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Does the gentleman from New York (Mr. DELANEY) ask for the yeas and nays?

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. DELANEY) object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present?

Mr. DELANEY. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York (Mr. DELANEY) objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Evidently a quorum is not present. A rollcall is automatic.

Those in favor of ordering the previous question will vote "aye," those opposed to ordering the previous question will vote "no."

Members will cast their vote by electronic device.

The vote was taken by electronic device, and there were—yeas 241, nays 169, not voting 24, as follows:

[Roll No. 636]

YEAS—241

Abdnor	Eilberg	Leach
Addabbo	English	Lederer
Akaka	Ertel	Leggett
Ammerman	Evans, Colo.	Lehman
Anderson, Calif.	Evans, Ga.	Levitas
	Evans, Ind.	Livingston
Andrews, N.C.	Fary	Lloyd, Calif.
Andrews, N. Dak.	Fascell	Lloyd, Tenn.
	Findley	Long, La.
Annunzio	Fithian	Luken
Applegate	Flippo	McCormack
Aspin	Flood	McFall
AuCoin	Florio	McKay
Baldus	Flowers	McKinney
Barnard	Flynt	Mahon
Baucus	Foley	Mann
Beard, R.I.	Ford, Mich.	Mathis
Beard, Tenn.	Ford, Tenn.	Mazzoli
Bennett	Fountain	Meeds
Bevill	Fowler	Metcalfe
Biaggi	Frenzel	Milford
Blouin	Fuqua	Miller, Ohio
Boggs	Gammage	Minish
Bolling	Gephardt	Moakley
Bowen	Giaimo	Mollohan
Brademas	Gibbons	Montgomery
Breaux	Ginn	Moorhead, Pa.
Breckinridge	Gonzalez	Moss
Brinkley	Goodling	Mottl
Brodhead	Gore	Murphy, Ill.
Brooks	Gradison	Murphy, N.Y.
Brown, Calif.	Grassley	Murphy, Pa.
Buchanan	Gudger	Murtha
Burke, Calif.	Hagedorn	Myers, Michael
Burke, Mass.	Hall	Natcher
Burlison, Mo.	Hamilton	Nedzi
Carney	Hammer-schmidt	Nichols
Carter		Nix
Cavanaugh	Hanley	Nolan
Cederberg	Hannaford	Nowak
Chappell	Hawkins	O'Brien
Chisholm	Heftel	Oberstar
Clausen, Don H.	Hightower	Obey
	Hillis	Patten
Clay	Holland	Patterson
Cleveland	Holt	Pepper
Cochran	Horton	Perkins
Collins, Ill.	Howard	Pettis
Conable	Hubbard	Poage
Corman	Huckaby	Pressler
Cornwell	Ichord	Preyer
Danielson	Ireland	Price
Davis	Jeffords	Quie
de la Garza	Jenkins	Quillen
Delaney	Johnson, Colo.	Rahall
Dickinson	Jones, N.C.	Railsback
Dicks	Jones, Okla.	Rangel
Diggs	Jones, Tenn.	Reuss
Dingell	Jordan	Risenhoover
Dodd	Kastenmeier	Roberts
Duncan, Oreg.	Kazen	Rodino
Duncan, Tenn.	Kelly	Roe
Eckhardt	Krueger	Rogers
Edwards, Ala.	Le Fante	Roncalio
Rostenkowski	Steed	Weaver
Roybal	Steiger	White
Runnels	Stump	Whitley
Santini	Taylor	Whitten
Sarasin	Teague	Wiggins
Schulze	Thompson	Wilson, Bob
Sebelius	Thone	Wilson, C. H.
Shipley	Thornton	Winn
Shuster	Trawler	Wright
Sikes	Treen	Wylie
Simon	Tucker	Yates
Skelton	Ullman	Yatron
Slack	Van Deerlin	Young, Alaska
Smith, Iowa	Volkmer	Young, Mo.
Smith, Nebr.	Waggonner	Young, Tex.
Snyder	Walgren	Zablocki
St Germain	Walsh	Zeferetti
Stangeland	Watkins	

NAYS—169

Allen	Fish	Moorhead, Calif.
Anderson, Ill.	Fisher	
Archer	Forsythe	Myers, Gary
Armstrong	Fraser	Myers, John
Ashbrook	Frey	Neal
Badham	Gilman	Oakar
Badillo	Glickman	Ottinger
Bafalis	Guyer	Panetta
Bauman	Hansen	Pattison
Bedell	Harkin	Pease
Bellenson	Harrington	Pickle
Benjamin	Harris	Pike
Bingham	Heckler	Pritchard
Blanchard	Hefner	Pursell
Boland	Hollenbeck	Quayle
Bonior	Holtzman	Regula
Broomfield	Hughes	Rhodes
Brown, Mich.	Hyde	Richmond
Brown, Ohio	Jacobs	Rinaldo
Broyhill	Kasten	Robinson
Burgener	Kemp	Rooney
Burke, Fla.	Ketchum	Rosenthal
Burleson, Tex.	Keys	Rousselot
Burton, John	Kildee	Rudd
Burton, Phillip	Kindness	Ruppe
Butler	Kostmayer	Russo
Byron	Krebs	Ryan
Caputo	LaFalce	Satterfield
Carr	Lagomarsino	Sawyer
Clawson, Del	Latta	Scheuer
Cohen	Lent	Schroeder
Coleman	Long, Md.	Seiberling
Collins, Tex.	Lujan	Sharp
Conte	Lundine	Skubitz
Corcoran	McClory	Solarz
Cornell	McCloskey	Spellman
Coughlin	McDade	Spence
Crane	McDonald	Stanton
Cunningham	McEwen	Stark
D'Amours	McHugh	Steers
Daniel, Dan	Madigan	Stratton
Daniel, R. W.	Maguire	Studds
Dellums	Markey	Symms
Derrick	Marks	Treible
Derwinski	Marriott	Tsongas
Devine	Martin	Udall
Dornan	Mattox	Vanik
Downey	Meyner	Vento
Drinan	Michel	Walker
Early	Mikulski	Wampler
Edgar	Mikva	Weiss
Edwards, Calif.	Miller, Calif.	Whitehurst
Edwards, Okla.	Mineta	Wirth
Emery	Mitchell, Md.	Wolff
Erlenborn	Mitchell, N.Y.	Wydler
Evans, Del.	Moffett	Young, Fla.
Fenwick	Moore	

NOT VOTING—24

Alexander	Goldwater	Sisk
Ambro	Harsha	Staggers
Ashley	Jenrette	Stockman
Bonker	Johnson, Calif.	Stokes
Conyers	Koch	Vander Jagt
Cotter	Lott	Waxman
Dent	Marlenee	Whalen
Gaydos	Rose	Wilson, Tex.

The Clerk announced the following pairs:

Mr. Dent with Mr. Goldwater.
Mr. Cotter with Mr. Lott.
Mr. Koch with Mr. Marlenee.
Mr. Jenrette with Mr. Harsha.
Mr. Stokes with Mr. Stockman.
Mr. Ambro with Mr. Whalen.
Mr. Gaydos with Mr. Vander Jagt.
Mr. Alexander with Mr. Bonker.
Mr. Ashley with Mr. Conyers.

Mr. Waxman with Mr. Sisk.
Mr. Staggers with Mr. Charles Wilson of Texas.
Mr. Rose with Mr. Johnson of California.

Mrs. KEYS and Messrs. D'AMOURS, BINGHAM, and BROWN of Ohio changed their vote from "yea" to "nay."

Mr. DICKINSON and Mr. BARNARD changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 766, PROVIDING FOR REFORM OF ADMINISTRATIVE ORGANIZATION AND LEGISLATIVE MANAGEMENT SERVICES OF HOUSE OF REPRESENTATIVES

Mr. LONG of Louisiana, from the Committee on Rules, submitted a report (Rept. 95–667) on the resolution (H. Res. 819) providing for consideration of House Resolution 766 providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the day and for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, it is the plan now to go immediately back into the Committee of the Whole House on the State of the Union to complete consideration of the bill, H.R. 8410, the Labor Reform Act of 1977.

When that bill has been completed, it is the plan of the leadership that we will adjourn for the day and for the week. It is hoped by the leadership that that will occur by approximately 3 o'clock or 3:30. We do not intend to stay in session today beyond 4 o'clock at the very latest. We hope it will be earlier than that.

When we adjourn today, we will adjourn to meet at 12 o'clock noon on Tuesday next. On Tuesday we have no bills scheduled on the Suspension Calendar. We expect to have general debate on two pieces of legislation, those two for which rules have just been voted, H.R. 4297, marine protection authorization, and H.R. 8309, the Navigation Development Act. That is the program for Tuesday, with general debate only.

On Wednesday, the House will again meet at noon and take up the conference report on the bill H.R. 7797, foreign assistance appropriations. Then we will take up House Resolution 766, the administrative reform resolution, that is the Obey Commission report. It comes under a modified open rule, with 2 hours of general debate. It is our plan to conclude that debate and that action on Wednesday, however late it may require us to go.

On Thursday and Friday we will come in at 10 a.m. First, we expect to consider the conference report on the bill H.R. 7555, Labor-HEW appropriations. We will then take up H.R. 9375, supplemental appropriations. From there we will go to H.R. 3816, FTC amendments of 1977. We plan to vote on amendments and the bill.

Thereafter we will consider H.R. 8309, Navigation Development Act, voting on amendments and the bill.

Then we will consider House Resolution 688, Government Reorganization Plan No. 1. That is the reorganization plan that concerns the Executive Office of the President.

Then, time allowing, we will take up H.R. 2176, Federal Banking Agency Audit Act, voting on amendments and the bill.

We will then consider H.R. 4297, marine protection authorization, voting on amendments and the bill.

The House will adjourn by 3 o'clock p.m. on Friday of next week and by 5:30 o'clock p.m. on all other days, except Wednesday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I would like to know if there is any agreement between the majority and the minority that there will be no rollcall votes on Tuesday next?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, do I understand the gentleman's request to be whether or not there are expected to be rollcall votes on Tuesday?

Mr. OTTINGER. That is right.

Mr. WRIGHT. Mr. Speaker, the program does not anticipate any. The plan is merely to conclude general debate on these two bills for which rules have just been granted. Of course, the majority leader is not able to give the gentleman absolute assurance that there will be no votes demanded on such things as the approval of the Journal or whether there will be questions on going into the Committee of the Whole or things of that kind, procedural type matters.

But, as to substantive matters, it is planned that there will be no votes.

Mr. OTTINGER. I thank the gentleman.

Mr. PRICE. Mr. Speaker, will the gentleman yield for the purpose of addressing a question to the majority leader?

Mr. RHODES. I yield.

Mr. PRICE. I note in the announcement of the program that the gentleman has not scheduled consideration of H.R. 8390, defense supplemental authorization. Yet, he has scheduled for action the Appropriations Committee bill on the same supplemental.

Mr. WRIGHT. If the gentleman would yield further, I would respond to my distinguished friend simply by saying that we have attempted to take these matters in the order that they already have been announced on various programs. There is not any disposition on the part of the leadership to delay unduly the authorization committee.

Mr. PRICE. The only thing is, it is more orderly to take the authorization bill in advance of the appropriation bill on the same subject.

Mr. WRIGHT. If the gentleman will yield further, there is no argument about that. That is the ordinary procedure, and usually it is done in that way, But, in this instance, because of certain urgencies and the request of the Appropriations Committee and the fact that appropriations are always privileged items on the floor, we have scheduled the appropriation bill to be heard first.

Mr. PRICE. I think it would be more orderly to put the authorization in advance of the appropriation. Since the authorization bill is ready and has been reported out, I assure the gentleman that it would not take more than an hour to consider it.

Mr. RHODES. As I am sure the majority leader is aware, there are other matters in the supplemental appropriation bill. It is not completely a supplemental appropriation which has defense as its subject. I think there are some five or six other subcommittees of the Appropriations Committee which have possibly urgent matters. It is apparently out of order.

Mr. WRIGHT. Of course, I certainly agree with what the gentleman from Arizona has said, and I am sorry that I did not mention that fact to the gentleman from Illinois. I think that fact does dictate this decision with respect to the order of the two bills.

PERMISSION TO FILE REPORT ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978, BY MIDNIGHT TOMORROW

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, October 7, 1977, to file a report on the Senate bill S. 1811.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LABOR REFORM ACT OF 1977

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the

Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 8410, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, October 5, 1977, section 8 had been considered as read and open to amendment at any point.

Are there further amendments to section 8?

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 25, line 19, strike all after the period through line 17, page 26.

Mr. ERLENBORN. Mr. Chairman, the amendment that has just been reported is a very simple amendment, but it is very important. It will strike the so-called make whole remedy that is contained in the bill.

Mr. Chairman, I would like to describe what the make whole remedy is. It is giving the Board in effect for the first time the power to write the contract for the parties, to determine for the employer and the employees wage and fringe benefits that have not been collectively bargained. The make whole remedy is available in the event that the Board would find that the employer has been guilty of refusal to bargain for the first contract. And it is only applicable in that situation. The Board is directed, if they so find, to make retroactive wages and fringe benefits that the parties have not been able to agree upon, and a formula is directed. The Board is to look at a quarterly report of the Bureau of Labor Statistics as to any major collectively bargained contracts, involving units having in excess of 5,000 employees during that quarter and to utilize the average percentage increase in those major collectively bargained contracts to determine what the wages and fringe benefits should be for the parties. Having calculated the increased rate of wages and fringe benefits, the Board then retroactively computes the wages and benefits back to the date the Board finds the refusal to bargain in good faith began.

What is wrong with this? First of all, the formula that is dictated in the act refers to an index, published by the Bureau of Labor Statistics, involving just major contracts, of units of 5,000 or more employees. Any employer against whom the make whole remedy is sought may have 5 or 10 or 20 employees. And certainly the kind of wages and fringe benefits paid in small units of employees have no relation at all to the kinds of wages and fringe benefits paid in large untis of 1,000 to 5,000 employees.

What else is wrong with it? It is another example of how one-sided this bill is. If the drafters of the bill really were serious in having a remedy that would be fair, they would have also provided some means for an employer to appeal a decision relative to the determination of the unit for purpose of the first union election.

Under the law as it is today, a unit determination is not a final order and is not appealable, which means that once the Board has made that determination and they have ordered an election, the election must go ahead without any intervening appeal as to the decision and composition of the unit.

After the election, if the union has been successful, the only way the employer can test the validity of the Board's decision as to the size and composition of the unit is to refuse to bargain, and this is a common way of getting an appeal on that question. This is not a refusal to bargain because the employer refuses to recognize the union or is being intransigent. It is the only legal device whereby the employer may get to the Board and, beyond that, to the courts to question the Board's determination as to the unit.

Under this provision there is no new appellate avenue which the employer can utilize. If he does follow the current practice of refusing to bargain, he stands the risk, if he loses the appeal, of having the Board write the contract. Besides that, he also runs the risk of debarment, as we found out yesterday, because refusal to bargain in this case is willful; it is not accidental.

The only way the employer can test this question is by a willful refusal to bargain. It is a common device, and it has been used very often in the past.

I suggested in subcommittee that if we were to have this so-called make whole remedy removed, we should provide a legal remedy which allows the employer to test the Board's decision as to the size and composition of the unit so the employer would have an alternative route. But as we know, nothing has been done.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, as we know very well, nothing was done in subcommittee to mark up this bill. No attempt at any compromise for making the bill fairer was engaged in.

I must say that even though we did have amendments offered and considered in the full committee, the effect was the same. No amendments were seriously considered by the majority, and the bill still came out of the committee in a very one-sided form. I might at this point say that with the amendments adopted so far, the bill continues to be as one-sided as was described in the Washington Star editorial last night.

Mr. Chairman, if there is any sense of fairness in the House, if there is to be any attempt at having a bill that makes some sense without being completely one-sided and that was meant for the private relief of union organizers, I would think that this amendment should be adopted.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 8 minutes in opposition to the amendment.

Mr. THOMPSON. Mr. Chairman, the issuance of a certification is intended to put an industrial dispute to rest if the employees have voted for representation to start the collective bargaining process. At present, however, there is no incentive at all for the employer to recognize the union. If he does not, a bargaining order issued months or years later merely requires him to do what he should have done originally—open good-faith negotiations.

Section 8 of H.R. 8410, therefore, provides that the Board may, as a remedy for a refusal to bargain prior to the entry of the first agreement, award the affected employees compensation for delay in bargaining caused by unfair labor practices; and they must be so established as unfair labor practices.

The measure of such damages is an objective one. It consists of the difference between the wages and other benefits received by the employees during the period of unfair delay and the wages and other benefits they were receiving at the time of the unfair labor practice, multiplied by a factor which represents the change in such wages and benefits elsewhere in the same industry, as determined by the Bureau of Labor Statistics.

The need for a remedy to compensate employees for delay in bargaining was recognized by all the members of the Board in Ex-Cell-O Corp., 185 NLRB 107, the case in which the majority determined that it presently lacked authority to grant such a remedy, and the majority wrote this:

> We have given most serious consideration to the Trial Examiner's recommended financial reparations order, and are in complete agreement with his finding that current remedies of the Board designed to cure violations of section 8(a)(5) are inadequate. A mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of 2 or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the Union from a loss of employee support attributable to such delay. The inadequacy of the remedy is all the more egregious where, as in the recent NLRB v. Tidee Products, Inc. case, the court found that the employer had raised "frivolous" issues in order to postpone or avoid its lawful

obligation to bargain. We have weighed these considerations most carefully. For the reasons stated below, however, we have reluctantly concluded that we cannot approve the Trial Examiner's Recommended Order for monetary losses incurred as a consequence of Respondents' determination to refuse to bargain until it had tested in court the validity of the Board's certification. (185 NLRB at 108).

The dissenting members of the Board agreed that a remedy for the losses resulting from bargaining delay was essential to effectuate the purposes of the act, and argued that the Board presently has authority to grant such a remedy.

Even a hasty examination of the proposal should make it clear that the Board would create no contract but would rather order the payment of a sum of money to employees. The remedy is an essence a backpay award to employees which in no way creates a "union contract" or any other kind of contract. The terms of the actual first contract between a union and an employer would remain to be bargained out between them.

The proposal provides for an award only for the period of delay in reaching that contract caused by the unfair labor practice. Indeed, the employer's obligation would be cut off before the first contract was reached, since it would run only until he begins to bargain in good faith. Thus, there is no inconsistency whatsoever between this remedy and the national labor policy that the Government should not intrude into the substance of collective bargaining.

Second, if the employer's objection to the bargaining order, including the underlying representation case determination, is well taken, no remedy will be imposed. But, if that objection is not well taken it is entirely fair to place the risk of loss attendant to the appeal of the employer. A failure to provide the remedy would be at the expense of the employees who would suffer the delay without compensation even if the employer turns out to be wrong.

Under the present law an employer can litigate any issue relating to the propriety of the bargaining order, regardless of its inherent practical importance or unimportance. If he wins, he avoids bargaining entirely. If he loses he avoids bargaining during the period it takes to litigate. It is therefore the current law which is manifestly unfair. The controlling principle was succinctly stated by the unanimous Supreme Court in *Consolo* v. *Federal Maritime Commission*, 383 U.S. 607, 624–625. The Court said:

(I)t has never been the law that a litigant is absolved from liability for that time during which his litigation is pending. *Labor Board* v. *Electric Cleaner Co.*, 315 U.S. 685; *Louisville & Nashville R. Co.* v. *Sloss-Sheffield Co.*, 269 U.S. 217. During this time Flota was able to postpone the predictable demise of its discriminatory contract and Consolo continued to suffer injury.

Mr. Chairman, this is desperately needed. Referring, again, to the J. P. Stevens experience—and it is not alone in J. P. Stevens; it exists in Monroe Auto, in Florida Steel, and in a number of other cases—the union won an election.

The employer is under statutory obligation to bargain and has refused for a period of at least 2 years to bargain. The courts have held the J. P. Stevens Co. in contempt. The second court of appeals less than a month ago called them the most recidivist employer.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. The purpose of this action which the gentleman from Illinois would strike is to do economic justice to the workers who have won an election, following which there is an order to bargain and the employer unlawfully refuses to bargain. These people should be and must be compensated for that period of delay.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman putting the air back in my tires last night.

Mr. THOMPSON. Thank you. We will check your battery today.

Mr. ROUSSELOT. I believe my battery is all right. Thank you for yielding.

I know that the gentleman believes in constitutional concepts. Unless we pass the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) is it not true that we could be going contrary to the constitutional guarantee that ex post facto laws shall not be passed.

Let me explain my concern:

Under the committee bill this pre-first-contract remedy would require that an employer who refuses to bargain with a union retroactively pay his employees wages and fringe benefits from the time they would have received benefit increases had the employer bargained and reached agreement with the union, the amount of payment to be determined by a nationwide survey of bargaining settlements in employee units of 5,000 or more employees. Again, this remedy applies only in first contract bargaining situations.

The remedy is, of course, punitive and seeks to threaten employers with massive retroactive payments in order to deter them from refusing to bargain a first agreement with a union.

In reality, however, this so-called remedy will operate to coerce employers to keep them from exercising their right to court review of Labor Board decisions in representation cases. Indeed, an employer's refusal to bargain a first contract with a union is not a serious Labor Act violation—rather it is his only means of obtaining court review. Thus, it has long been held that the Board's decisions in a representation case are not immediately appealable to the courts of appeals. Therefore, in order for an employer to legally contest the Board's determination of unit or other representation issues, it must refuse to bargain with the union. Thereafter, the General Counsel issues a complaint alleging the refusal to bargain by the employer, the Board issues an order finding that the employer has refused to bargain and the case then goes to the court of appeals. At that time, the employer is free to argue that the Board's determinations in the representation case were wrong. That is the only way in which such Board orders are court reviewable. To impose a penalty upon an employer merely because he seeks to pursue his only avenue for court review is, at best, unfair.

And the remedy as proposed is particularly unfair, for it requires payments by small businesses determined by bargaining agreements in big business units of 5,000 or more employees. Again, 75 percent of all Board elections last year were held in units of less than 50 employees, 98 percent were held in units of less than 400 employees, and in 1976 the Board reported no election in a unit of 3,000 or more employees.

Therefore, we are compelled to conclude that the so-called make-whole remedy provisions set forth in this bill is intended to secure union election victories by threat of punishment to an employer who seeks legitimate court review, and retroactively at that.

Mr. THOMPSON. No, it does not, absolutely not.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. THOMPSON was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. I do not know where the gentleman dredged up that theory.

Mr. ROUSSELOT. This is not a dredged up theory it is a very real problem. Let us say the negotiations go on for 6 months, which, in some cases, they do, why does the gentleman want to have the retroactivity concept imposed?

Mr. THOMPSON. It is not retroactive, it goes back to the time of the unfair labor practice. It is perfectly constitutional. If this is passed and if it is unconstitutional, it will be challenged. I am sure a distinguished gentleman, such as my friend the gentleman from California would do so.

Mr. ROUSSELOT. But there is no reason to go ahead and write into law something on which there might be a question of constitutionality, and I know that the gentleman does not favor the concept of ex post facto laws.

Mr. THOMPSON. I am in favor of the Constitution and therefore I urge a vote against the Erlenborn amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

Mr. Chairman, I would like to make three quick points in support of the amendment. I suppose the die is already cast but let us take a look at what we are being asked to support.

In the first place, section 9(d) of the National Labor Relations Act says specifically:

. . . but such obligation does not compel either party to agree to a proposal or require the making of a concession. . . .

That is precisely what they are doing in this so-called "make whole" or "imposed" agreement. The majority members are requiring employers to accept something that is handed down to them, not in negotiations, not through their contract, but simply ordered by bureaucratic fiat.

Also, it runs completely counter to existing constitutional law as it has been interpreted by the courts, and I am reading directly from the syllabus of H. K. Porter Co. against National Labor Relations Board:

Though the NLRB has power under the Act to require employers and employees to negotiate, it does not have the power to compel either to agree to any substantive contractual provision of a collective bargaining agreement.

Again, is that not precisely what we would do if we support H.R. 8410 and this so-called make whole or imposed agreement section?

Third, and this will be the last point I will make, it is strange that my friends on the other side of the aisle would take a "make whole" provision and apply it to employers but they make no effort whatsoever to apply a "make whole" or "imposed" agreement on the unions.

I could fill the record with cases where the NLRB says:

We are powerless to act, the NLRA simply does not give us the authority to make whole the employer.

Take the case of Roofers Local No. 30. It is in 94 LRRM 1624. I have a copy in front of me. As recently as January 24 here is what the court found—these are not my words—

Local union violated LMRA by (1) engaging in mass picketing and blocking entry to industrial park, (2) physically assaulting employees and supervisors, (3) making threats as to assault and inflict bodily harm on employees, employers, supervisors, and their wives and families, (4) chasing and pursuing employees and supervisors with threats of bodily harm, and (5) damaging and destroying employers' materials, equipment, and property.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I really respectfully do not see that what the gentleman is saying is relevant to this section, but if he would be kind enough to yield, I would like to clarify a point. If this becomes law, it does not take effect until the signing of the law and would not go back even in the J. P. Stevens case. It would begin at that point.

Mr. ASHBROOK. It would only apply to employers, though.

Mr. THOMPSON. They are the only ones who, in reality, can refuse to bargain.

Mr. ASHBROOK. There are a number of situations where a person should be made whole. Many employees have been put out of work, have not been able to work, have a legitimate right to sue their union, or come before the National Labor Relations Board to be made whole. They can. The gentleman wants to make whole certain employees when it relates to their employer, but he does not want to make whole workers when it comes to their unions.

What did the NLRB find in the Roofers case in January of this year—the same as it has always stated:

Local union will not be ordered to make employers whole for any repairs or replacements of equipment or supplies or rehabilitation of building necessitated by unlawful acts of local's agents.

See the double standard in a couple of isolated instances where the employer has been guilty of unfair labor practices or violating the law. Pass a bill that will make whole the employees in that situation, overlook the broad area of making whole employees across the board, whether it be because of a union or whether it be because of the employer. This is just one more aspect of this bill which shows its tilt to one side. It is tilted only toward the union, which we are going to make whole. Why do we not at least make whole across the board? It is a dangerous remedy. It runs counter to the National Labor Relations Act policy at the present time; it runs counter to the case law. In addition, it is one sided.

I wholeheartedly support the amendment of the gentleman from Illinois.

I support the Erlenborn amendment which strikes the "make whole" or the "imposed agreement" remedy of H.R. 8410.

The "make whole" remedy of H.R. 8410 is clearly a governmental intrusion into the substance of collective bargaining, contrary to the statement of Secretary of Labor Marshall, who stated the administration does not "believe in interferring directly in collective bargaining . . ."

This governmental intrusion into the substance of collective bargaining constitutes a total departure from our national labor policy. The intrusion of the Government into labor-management relations historically has been to bring the parties to the bargaining table—not to write a contract for them. It seems that both employers and unions should be opposing this new approach to federally mandated final and binding arbitration.

Besides inserting the Government directly into the collective bargaining process by setting the terms of the partys' so-called agreement during an interim period this proposal is subject to the following criticisms:

First. The proposal to impose the terms of a contract on the parties is another drastic change in labor laws that changes the direction or philosophy of the Act from remedial to punitive.

Second. The "make whole" proposal operates to coerce employers from exercising their legal rights to seek legitimate review of Board decisions in representation cases. An employer's refusal to bargain is his only way of seeking Court review in representation matters. Under this "make whole" proposal, an employer may be deterred from exercising his due process rights because it will subject him to a harsh and unfair penalty.

Third. The ruling in H. K. Porter versus NLRB, 397 U.S. 99, would be substantially overruled. In that case the Court held that the Board could not dictate the terms of a contract nor compel a party to accept any particular proposal. The ruling in that case is compatible with the aims of our basic national policy. The ruling of that case is compatible with the rule of law that an agreement or contract is reached only after a "meeting of the minds." Thus, the imposition of contract terms, in any way, is incompatible with historical contract law.

Fourth. The proposed remedy is a little like the "indexing" proposal in the minimum wage bill since it is linked to BLS statistics governing major collective bargaining agreements. Why is this arbitrary index picked? Who is to say what the parties would have agreed to? Often a union will retreat from an economic demand to secure a more important union security clause. Furthermore, the only way the bargain will go will be up, based on the settlement imposed by the arbitrary proposed penalty.

Fifth. The index that the "make whole" proposal is linked to is inappropriate for the great majority of bargains. The Average Wage and Benefit Settlements of Major Collective Bargaining Settlements covers wage and benefits settlements for units 5,000 or more. However, the great majority—75 percent—of units found appropriate under the NLRA consist of less than 50 employees.

Sixth. This proposed remedy was not endorsed by either the present Chairman of the NLRA nor by all the previous Secretaries of Labor for whom Mr. Dunlop spoke—including both Republican and Democratic secretaries.

In sum, the "make-whole" suggested remedy should be rejected. There does not seem to be an area of compromise about this proposed penalty. It should be struck from the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count; 46 Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further

proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote. Does the gentleman insist upon his request?

Mr. ERLENBORN. Mr. Chairman, I do.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 250, not voting 22, as follows:

[Roll No. 637]

AYES—162

Abdnor	Fountain	Nichols
Andrews, N. Dak.	Frenzel	O'Brien
Archer	Frey	Pettis
Armstrong	Fuqua	Poage
Ashbrook	Giaimo	Pritchard
Badham	Gibbons	Pursell
Bafalis	Gilman	Quayle
Bauman	Goldwater	Quie
Beard, Tenn.	Gradison	Quillen
Bennett	Grassley	Railsback
Boggs	Guyer	Regula
Bowen	Hagedorn	Rhodes
Breaux	Hammer-schmidt	Rinaldo
Breckinridge	Hansen	Robinson
Broomfield	Heckler	Rogers
Brown, Mich.	Hollenbeck	Rousselot
Brown, Ohio	Holt	Rudd
Broyhill	Horton	Ruppe
Burgener	Hughes	Sarasin
Burke, Fla.	Hyde	Satterfield
Burleson, Tex.	Johnson, Colo.	Sawyer
Butler	Jones, Okla.	Schulze
Carter	Kasten	Sebelius
Clausen, Don H.	Kazen	Shuster
Clawson, Del	Kelly	Sikes
Cleveland	Kemp	Skubitz
Cochran	Ketchum	Smith, Nebr.
Cohen	Kindness	Snyder
Coleman	Lagomarsino	Spence
Collins, Tex.	Latta	Stangeland
Conable	Leach	Stanton
Conte	Lent	Steiger
Corcoran	Livingston	Stump
Coughlin	Long, La.	Symms
Crane	Lujan	Taylor
Cunningham	McClory	Teague
Daniel, Dan	McDade	Thone
Daniel, R. W.	McDonald	Treen
Derwinski	McEwen	Trible
Devine	McKinney	Waggonner
Dickinson	Mahon	Walker
Dornan	Mann	Walsh
Duncan, Tenn.	Marks	Wampler
Edwards, Ala.	Marriott	Watkins
Edwards, Okla.	Martin	Whitehurst
Emery	Michel	Whitley
Erlenborn	Milford	Whitten
Evans, Del.	Miller, Ohio	Wiggins
Fenwick	Mitchell, N.Y.	Wilson, Bob
Findley	Montgomery	Winn
Fish	Moore	Wirth
Fisher	Moorhead, Calif.	Wydler
Flynt	Myers, John	Wylie
Forsythe	Neal	Young, Fla.

NOES—250

Addabbo	Bevill	Carr
Akaka	Biaggi	Cavanaugh
Alexander	Bingham	Chappell
Allen	Blanchard	Chisholm
Ambro	Blouin	Clay
Ammerman	Boland	Collins, Ill.
Anderson, Calif.	Bonior	Conyers
Andrews, N.C.	Bonker	Corman
Annunzio	Brademas	Cornell
Applegate	Brinkley	Cornwell
Ashley	Brodhead	D'Amours
Aspin	Brooks	Danielson
AuCoin	Brown, Calif.	Davis
Badillo	Buchanan	de la Garza
Baldus	Burke, Calif.	Delaney
Barnard	Burke, Mass.	Dellums
Baucus	Burlison, Mo.	Derrick
Beard, R.I.	Burton, John	Dicks
Bedell	Burton, Phillip	Diggs
Beilenson	Byron	Dingell
Benjamin	Caputo	Dodd
	Carney	Downey
Drinan	Krueger	Rahall
Duncan, Oreg.	LaFalce	Rangel
Early	Le Fante	Reuss
Eckhardt	Lederer	Richmond
Edgar	Leggett	Risenhoover
Edwards, Calif.	Lehman	Rodino
Eilberg	Lloyd, Calif.	Roe
English	Lloyd, Tenn.	Roncalio
Ertel	Long, Md.	Rooney
Evans, Colo.	Luken	Rose
Evans, Ga.	Lundine	Rosenthal
Evans, Ind.	McCloskey	Rostenkowski
Fary	McCormack	Roybal
Fascell	McFall	Runnels
Fithian	McHugh	Russo
Flippo	McKay	Ryan
Flood	Madigan	Santini
Florio	Maguire	Scheuer
Flowers	Markey	Schroeder
Foley	Mathis	Seiberling
Ford, Mich.	Mattox	Sharp
Ford, Tenn.	Mazzoli	Shipley
Fraser	Meeds	Simon
Gammage	Meyner	Skelton
Gaydos	Mikulski	Slack
Gephardt	Mikva	Smith, Iowa
Ginn	Miller, Calif.	Solarz
Glickman	Mineta	Speliman
Gonzalez	Minish	St Germain
Gore	Moakley	Stark
Gudger	Moffett	Steed
Hall	Mollohan	Steers
Hamilton	Moorhead, Pa.	Stratton
Hanley	Moss	Studds
Hannaford	Mottl	Thompson
Harkin	Murphy, Ill.	Thornton
Harrington	Murphy, N.Y.	Traxler
Harris	Murphy, Pa.	Tsongas
Hawkins	Murtha	Tucker
Hefner	Myers, Gary	Udall
Heftel	Myers, Michael	Ullman
Hightower	Natcher	Van Deerlin
Hillis	Nedzi	Vanik
Holland	Nix	Vento
Holtzman	Nolan	Volkmer
Howard	Nowak	Walgren
Hubbard	Oakar	Waxman
Huckaby	Oberstar	Weaver
Ichord	Obey	Weiss
Ireland	Ottinger	White
Jacobs	Panetta	Wilson, C. H.
Jeffords	Patten	Wilson, Tex.
Jenkins	Patterson	Wolff
Jenrette	Pattison	Wright
Jones, N.C.	Pease	Yates
Jones, Tenn.	Pepper	Yatron
Jordan	Perkins	Young, Alaska
Kastenmeier	Pickle	Young, Mo.
Keys	Pike	Young, Tex.
Kildee	Pressler	Zablocki
Kostmayer	Preyer	Zeferetti
Krebs	Price	

NOT VOTING—22

Anderson, Ill.	Johnson, Calif.	Sisk
Bolling	Koch	Staggers
Cederberg	Levitas	Stockman
Cotter	Lott	Stokes
Dent	Marlenee	Vander Jagt
Fowler	Metcalfe	Whalen
Goodling	Mitchell, Md.	
Harsha	Roberts	

Messrs. YOUNG of Texas, AMBRO, and JACOBS changed their vote from "aye" to "no."

Messrs. STUMP, LONG of Louisiana, and RINALDO, and Mrs. HECKLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 25, line 9, after "(a)(3)" insert the following: ", (a)(1), (b)(1)".

Mr. QUIE. Mr. Chairman, the committee bill provides for double backpay for violations of section 8(a)(3), which is employer discrimination, and also 8(b)(2), which is causing an employer to discriminate during organization and prior to an initial contract.

It appears to balance this new remedy then between the employers and the unions but, as a practical matter, there is no balance. It cannot be denied that seldom, if ever, does an 8(b)(2) violation occur during organization or prior to an initial contract. So, in effect, this remedy is directed at the employers only.

My amendment gives this new remedy a little balance by providing that double backpay will be provided when a union engages in an 8(b)(1) unfair labor practice, that is where a union restrains or coerces an employee in the exercise of his section 7 rights. It seems to me where a union unlawfully keeps an employee from working by mass picketing, threats, or the like, then the union, too, should be responsible for double backpay during those times stated in the bill.

Then in order to make certain that it is balanced again I included 8(a)(1) as well.

I believe that this will make the double back pay provision more of a fair and balanced situation than presently is the case.

AMENDMENT OFFERED BY MR. THOMPSON TO THE AMENDMENT OFFERED BY MR. QUIE

Mr. THOMPSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON to the amendment offered by Mr. QUIE: Page 25, line 19, after the word "practice" add "less the wages the employee has earned during that period".

Mr. THOMPSON. Mr. Chairman, if this amendment to the amendment offered by the gentleman from Minnesota (Mr. QUIE) is accepted, it is our intention to express our gratitude to the gentleman from Minnesota (Mr. QUIE), and to accept the amendment as amended. This addition to the Quie amendment would further soften the double backpay provision.

The law now provides for backpay less such amount earned or the amount that should have been earned. Now, that is the rub, the speculative amount that should have been earned. This gives a handle to the employer to litigate for years denying all remedies while they argue the amount that "should have been earned" which is the present law. Was there a job available 20 miles away, 2 years ago, which the employee should have tried for? That is the kind of issue which cannot be answered.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Minnesota.

Mr. QUIE. I understand the gentleman's amendment is different from mine in that my amendment would have included the words "could have been earned with reasonable diligence during that period."

Mr. THOMPSON. Exactly, that is it.

Now if I may finish?

Mr. QUIE. Well, I did not offer that as my amendment. All I offered is that we add (b)(1) and (a)(1) to the amendment that now includes 8(a)(3) and 8(b)(2), if the gentleman would take a look at my amendment.

Mr. THOMPSON. The gentleman's

amendment is to page 25, line 19, after (a)(3) you refer to (a)(1) and (b)(1).

And I added page 25, line 9, after "(a)(3)" insert the following: "(b)(1) and 8(a)(1)."

After the word "practice" add "less the wages the employee has earned during that period". So all my emphasis is on line 9, not line 19, after (a)(3) insert (a)(1) and (b)(1). That is the extent of it. The gentleman may be referring to an amendment that I was thinking of offering which would have also added in line 19, "less any wages the employee earned or could have earned with reasonable diligence during that period." I did not offer that. It sounds as though the gentleman is offering his amendment in opposition to one I did not offer.

Mr. THOMPSON. That was not my intention.

PARLIAMENTARY INQUIRY

Mr. QUIE. Perhaps I could ask a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. QUIE. If I had offered an amendment which included (a)(1) and (b)(1), and then another amendment is offered which adds the language in 19 as an addition which reads after the word "practice" "and less the wages the employee has earned during that period", and then also an amendment which does the same thing as mine which says, "after (b)(3) insert the following (b)(1) and (a)(1)", is that an amendment to my amendment, or is that a substitute for my amendment?

The CHAIRMAN. The Chair would like to advise the gentleman from Minnesota that the Chair is not in a position to be able to speculate on the effect of the amendment to the amendment. The Chair does not know the answer to the gentleman's question, but it would appear that in any event the gentleman's original language will remain intact if the amendments are agreed to.

Mr. THOMPSON. In that case, why do we not proceed?

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. As I was saying, the amount under the law that "should have been earned" is an enormously difficult determination. This is the kind of an issue that cannot be answered but is argued time and time again for purposes, I submit, of delay. I refer, of course, to the famous Darlington case, where the Deering Milliken Co. closed a textile plant in Darlington, S.C., in the mid-1950's when the employees voted for a union.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. In 1961 or 1962 the Supreme Court ruled that the plant closing was illegal. It chilled unionism in other plants owned by the same company, and the Supreme Court ordered back pay for the workers who had been laid off in violation of the law.

Believe it or not, at our recent hearing in North Carolina, Darlington workers testified that they had yet, after all those years, to receive anything for the period of 20 years which has expired since they closed the plant illegally, moved it, and laid them off. The company was still arguing the question of what they should have earned.

I favor mitigation of damages, and we mitigate by deducting the amount of wages—and this is the intent of my amendment—actually earned and easily proven. But that is a far cry from Darlington and is, in my judgment, a rather happy solution to virtually an insoluble problem. It does admittedly soften the double back pay, but makes much easier to determine by the employer the amount that he actually would owe as a result of this unfair labor practice.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I will be glad to yield to the gentleman.

Mr. QUIE. I will be glad to accept the amendment.

Mr. THOMPSON. I thank the gentleman, and I will be glad to accept his.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) to the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to this section, section 8?

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could ask the chairman of the committee some questions about the provisions which we are dealing with right now. I think many Members are concerned that we may have small businessmen who are unionized that may then have imposed upon them rather large wage benefits settlements as a result of the remedy provisions in the bill. I am wondering if the gentleman has any idea, for instance, as far as the percentage increases by the Bureau of Labor Statistics, whether in fact there is a great difference between percentage increases in respect to the larger industries as compared to the small businesses. I am just curious.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, I think not, in answer to the gentleman.

Mr. RAILSBACK. Mr. Chairman, I wonder if anybody on the gentleman's side of the aisle has any information that would be supportive of his answer. Would the gentleman from Michigan (Mr. FORD) have that?

Mr. FORD of Michigan. I am sorry, I was distracted.

Mr. RAILSBACK. I will tell the gentleman what my concern is.

As I understand the remedy provision, we are going to be using the quarterly Bureau of Labor Statistics to determine what wage and benefit increases may be imposed as a penalty, and I am wondering how that would interact between large business increases compared to small business increases.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, we do not have BLS statistics, but as the gentleman knows, this is a remedy. The percentage is applied to the actual amount that the employee is earning, the amount, whether it be in a large manufacturing institution or a small shop.

Mr. RAILSBACK. So what the gentleman is saying is the percentage is applied upon the salaries in the particular business, the salaries paid in that particular business.

Mr. THOMPSON. Yes.

Mr. RAILSBACK. I think it would be very comforting to a lot of us if in the general BLS statistics showing the percentage increases for quarterly wage and benefit increases, there really would not be a great difference between big business and little business. I kind of think that might be the case, but I am not certain.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I have discussed with the gentleman a proposed amendment that he had which would have added to the end of the section language to that effect.

Mr. RAILSBACK. In a comparable industry.

Mr. FORD of Michigan. I think it is in a comparable industry.

Mr. RAILSBACK. Right.

Mr. FORD of Michigan. And I expressed to the gentleman my concern that the present state of the labor statistics is not such that I believe we could with any degree of certainty make the kind of distinction he would like to make. However I draw to the attention of the gentleman the language of the bill on line 9, page 26, which says:

> If the Secretary of Labor certifies to the Board that the Bureau has, subsequent to the effective date of the Labor Reform Act of 1977, instituted regular issuance of a statistical compilation of bargaining settlements which the Secretary determines would better effectuate the purposes of this subsection than the compilation specified herein, the Board shall, in administering this subsection, use the compilation certified by the Secretary.".

It contemplates that the Secretary will in fact develop a statistical base not now available to us that would go in the direction the gentleman intended.

Mr. RAILSBACK. So it would be the gentleman's hope and even his belief that information like that can reflect the breakdown in the kinds of industries and maybe the size of the industry—that is his intent, that there then be authority to apply that kind of figure.

Mr. FORD of Michigan. It is my very strong belief that is why the Secretary of Labor wanted us to put that language in the bill, because he does intend to develop that kind of base.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, I would like to add for the purpose of legislative history that it is our intention that the record should show that the compensation received is a function of the size of the wages actually received. I can assure the gentleman that is our intent.

The CHAIRMAN. If there are no additional amendments to section 8, the Clerk will read.

The Clerk read as follows:

SEC. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end thereof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within thirty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within fifteen days of service on it of said petition, file a further petition for review".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c)."

Mr. ASHBROOK. Mr. Chairman, I would inform the Members that this is probably one of the last amendments. We have two more major amendments left and we can probably conclude consideration of this bill very shortly.

This amendment would amend section 9 of H.R. 8410 to insure that employees will no longer be deprived of their right to a secret ballot election in representation cases. Under existing law a union is certified as the exclusive representative for purposes of collective bargaining when it has been determined that a majority of employees in an appropriate bargaining unit desire to be represented by a labor organization. Of great concern is the fact that the National Labor Relations Act does not expressly require that the will of the majority of employees be determined in a secret ballot election. As a result, the Board and the courts have interpreted the act to permit the majority will to be determined by methods other than secret ballot elections.

Under the U.S. Supreme Court's 1969 decision in *N.L.R.B.* v. *Gissel Packing Co.*, (395 U.S. 575), the NLRB is permitted to decide whether the employees in a particular unit are capable of making their own free choice in an election. If the Board finds that they are not, then it may impose the choice on them, forcing the employees to accept a union, simply because at some point during the organizing period the union was able to obtain signatures of a majority on "authorization cards." Practically everyone familiar with the use of such cards has agreed that they are not a reliable indicator of the employees' wishes. Indeed, a Federal court of appeals has described them as "notoriously unreliable." *N.L.R.B.* v. *Flomatic Corporation*, 347 F. 2d 74, 78 (2d Cir. 1965).

Our national labor policy is founded upon majority rule, and the Board's decision regarding representation is binding not only on the employer, but also on any nonconsenting portion of the employees within the bargaining unit. Thus, it is vitally important that the process through which the majority makes its selection be fair, effective and reliable. My amendment, by requiring secret ballot elections in all cases, modifies the Gissel decision to assure that employees are given the opportunity to accept or reject union representation with the least amount of interference by employers and union organizers.

Strict use of the secret ballot would also help to overcome the Board's occasional problems of delayed decisionmaking for exclusive reliance on secret ballot elections provides the most expeditious, as well as the fairest, means of settling questions of representation. As one observer has commented:

The utility of elections lies in final, definitive and unchallenged results; elections become useless when the results are challenged, uncertain or rejected. Elections are intended to establish and stabilize representation, not leave it unsettled and in dispute. Samoff, *N.L.R.B. Elections: Uncertainty and Certainty*, 117 U.Pa.L.Rev. 228 (1968).

However, where the unions majority status is sought to be determined by authorization cards, litigation often arises because of the inherently unreliable nature of authorization cards. Because of the nature of such litigation, it is particularly time consuming and results in needless delay of the Board's processes.

In conclusion, under my amendment the NLRB could no longer impose union representation on units of employees who never had the opportunity to vote on the matter in a secret ballot election.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan as a substitute for the amendment offered by Mr. ASHBROOK: Amend section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive: *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with subsection (c) of section 9 or has been determined to be a representative defined in subsection (a) of section 9 by the Board in an order entered pursuant to subsection (c) of this section: *Provided*, That no such order shall be entered where the employer has not engaged in conduct, unlawful under this Act, which undermines a free and fair election under subsection (c) of section 9: *Provided further*, That any representative designated or selected prior to the effective date of this Act shall remain such representative under this provision unless such designation or selection is withdrawn by the employees in the unit appropriate for the purposes of collective bargaining in an election under subsection (c) of section 9: *And provided further*, That where the employer agrees to recognize an individual or labor organization as a representative defined in subsection (a) of section 9 on the basis of proof of majority support other than a Board certification and such support is in fact demonstrated, the individual or labor organization so chosen shall be considered to be a representative for purposes of subsection (a) of section 9.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. ASHBROOK. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, at some risk I am attempting to fashion another Ashbrook-Ford amendment. I do not know whether the career of either of us can survive very many more of these, but this substitute accepts the principle embodied in Mr. ASHBROOK's amendment presently before us, but is intended—because we did have an opportunity in advance to anticipate the amendment—to correct what we think are three difficulties that the amendment, perhaps inadvertently, creates.

First, the principle of the amendment and of my substitute, for that matter, is to codify the rules stated in Linden Lumber Division against NLRB, that, "Unless an employer has engaged in an unfair labor practice that impairs the electoral process, a union with authorization cards purporting to represent a majority of the employees, which is refused recognition, has the burden of taking the next step in invoking the Board's election procedure."

We all favor that principle; Mr. ASH-

BROOK, I am sure, and those of us on this side of the aisle.

The first proviso in the substitute codifies also the exception recognized in Linden Lumber, and that is a previously declared principle from the unanimous Supreme Court in the Gissel Packing case. As a matter of fact, the history of this principle goes back long before the Gissel case to Labor Board against Franks Brothers, and stands for the purposes that the Board has the authority to require an employer to bargain without a Board certificaton where the employer's unfair labor practices undermine the election processes. In other words, absent this kind of an exception to the Ashbrook amendment, an employer who engaged in a continuing series of unfair labor practices that prevented the holding of an election could never be brought to the bargaining table, and there would be no jurisdiction in the Board to deal with the problem. To encourage employers to discharge union sympathizers or to otherwise interfere with their employees' section 7 rights by allowing such employers to benefit from their own wrongdoing would, unfortunately, be the result of the adoption of the Ashbrook amendment without my substitute.

The second and third provisos in the substitute recognize that, historically, many unions have lawfully been recognized by employers on the basis of a majority showing other than a Board certification. It should not come as a great surprise that there are many employers in this country, once they are approached by their employees and informed that they wish to form a union, are satisfied to sit down right there at that point and accept that union, and that union can be in existence; collective bargaining agreements can be reached, and the process can go on for years.

Without my proviso, the effect of Mr. ASHBROOK's amendment is that that relationship that starts off and, for whatever reason, runs onto the rocks and shoals of the future, would be dissolved automatically by law, regardless of the fact that it is the kind of relationship that really should be protected.

Under the amendment without our proviso, all the bargaining relationships which were created in the past on the basis of this kind of acquiescence and good will would come to an end. This, in my opinion, would result in chaos in labor-management relations, and certainly is not good Federal policy to encourage people not to settle their differences amicably and in a friendly manner.

The final proviso in my substitute codifies the rule that is presently in effect, that where an employer agrees to determine whether the union has been selected by a majority by means other than an election he cannot thereafter say, "Aha, you did not have the election, so therefore it is not legal." That is not something we should encourage. If an employer wants to use a different device, and has only 25 members and knows most of them personally and wants to sit down in a meeting and ask them, "Do you want a union," and abide by their oral indication that they want a union, we should permit him to do that and not make him go through a series of elections.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) insist upon his point of order?

Mr. ASHBROOK. I do, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ASHBROOK. Mr. Chairman, I raise the point of order on the basis of the Chair's previous construction of H.R. 8410 and amendments offered thereto.

I point out to the Chair the amendment offered by the gentleman from Michigan (Mr. FORD) is not within the scope of the bill. It refers in three places to section 9(a) of the National Labor Relations Act. Section 9(a) is not opened up, as the Chair can determine, by H.R. 8410. It is nongermane to my amendment. It goes beyond the scope of my amendment. The gentleman from Michigan himself has indicated that what he is trying to do is codify a principle in case law. That in effect is a substantive effort

Mr. Chairman, for these three reasons I think the point of order should be sustained.

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) desire to be heard?

Mr. FORD of Michigan. I do, Mr. Chairman.

Mr. Chairman, I agree with the gentleman that I am attempting to codify the case law, but I thought that I was agreeing with his attempt to codify the case law because we are both citing the same case as authority for the language we would now have as a part of the statute.

As to that part of the change in the amendment that is common to both his amendment and mine, the basis of the case law we have cited is exactly the same. Mine certainly could not be found not to be germane, inasmuch as we rely on exactly the same basis for the language. Moreover, there is nothing in my substitute that makes substantive changes in the law with respect to the rights of employers and employees. It has to do only with procedural practices in keeping with the entire thrust of this bill to improve and streamline and codify for that purpose past practices and procedures.

With respect to section 9 of the act, while it might be said that these procedures refer to section 9 of the act, for that matter they refer to all of the act. But they are limited, and this amendment is limited to affecting the method by which these improvements achieve the end of the act and not intended in any way to effect a substantial change in the sections of the act that are subject to this procedure.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I would merely want to reiterate that the gentleman's amendment clearly refers to section 9(a). Section 9(a) has not been opened up by this act. It is not a proper substitute. The Chair on several occasions has taken a very strict interpretation of H.R. 8410 as it relates to the National Labor Relations Act, and I do not believe it can be opened up at this point inconsistent with those rulings.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Michigan (Mr. FORD) as to how his substitute would affect section 9(a) of the act.

Mr. FORD of Michigan. 9(a) of the bill?

The CHAIRMAN. In a manner not affected by the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. FORD of Michigan. Did the Chairman say 9(a) of the bill or 9(a) of the act?

The CHAIRMAN. 9(a) of the act.

Mr. FORD of Michigan. And the question is: How do I affect 9(a) of the act different from the gentleman from Ohio?

The CHAIRMAN. The gentleman is correct.

Mr. FORD of Michigan. Mr. Chairman, I do not believe that I do. I believe that the gentleman limits the method by which a collective bargaining arrangement can come into being, and we simply return to the existing law.

If the gentleman would make a change in existing law, we stay with the existing law.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The question, of course, pertains to the germaneness of the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK). That is the test.

The substitute amendment offered by the gentleman from Michigan (Mr. FORD), down to section 9, in the middle of the first page, contains the same language of the amendment offered by the gentleman from Ohio (Mr. ASHBROOK). From that point in the substitute, the Chair is of the opinion that the substitute sets forth exceptions to the Ashbrook amendment and incorporates definitions contained in section 9(a) of the act without amending other sections of the law, and it seems to be related to and is germane to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Therefore, the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Michigan (Mr. FORD) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The amendment as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to section 9 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 10. The first sentence of section 10(1) is amended to read as follows:

"(1) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of—

"(1)" subsection (a)(3) or (b)(2) of section 8 which deprives an employee of employment while employees in a bargaining unit which includes that employees are seeking representation by a labor organization or during the period after a labor organization has first been recognized as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining contract is entered into between the employer and the representative, or

"(2) subsection 4 (A), (B), or (C) of section 8(b) or section 8(e) or section 8(b)(7), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.".

Mr. THOMPSON (during the reading). Mr. Chairman, I respectfully ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there amendments to section 10 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 11. Section 10(m) is amended by inserting "under circumstances not subject to section 10(1)," after "section 8,".

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

POINT OF ORDER

Mr. THOMPSON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. THOMPSON. Mr. Chairman, this amendment amends the Norris-LaGuardia Act of 1932 prohibiting Federal courts from issuing injunctions in labor disputes.

It also amends title II, the National emergency dispute provision of the Labor Management Relations Act of 1947. It eliminates the 80-day cooling-off period provided in title II. It rewrites the definition of what constitutes an emergency to be any situation in which "the public interest would be served."

H.R. 8410 is limited to the subject of remedies and procedures relating to the right of employees to organize and bargain collectively. Amendments to Norris-LaGuardia and Taft-Hartley are not germane.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) desire to be heard?

Mr. ERLENBORN. I do, Mr. Chairman.

Mr. Chairman, in all honesty, I do not recognize my amendment because of the way in which the gentleman from New Jersey (Mr. THOMPSON) describes it.

My amendment, as I think the Chair is aware, amends section 10 of the National Labor Relations Act. Section 10 is amended in the bill before us.

This amendment would add section 10 (n) to that act. It is remedial, it is procedural, and it is consonant with the bill before us as reported by the committee.

Mr. Chairman, I think it is clearly a remedial, procedural amendment to a section of the act which has been amended by the committee bill and is in order under all of the previous rulings of the Chair.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from Illinois (Mr. ERLENBORN) adds a new section to the bill. The bill as a whole does not deal exclusively with the period of initial organizational activity as it relates to remedies. Certain remedies in the bill go to post-organizational conduct. The amendment adds a new remedy.

In the opinion of the Chair, the amendment is germane to the bill as a whole and the point of order is overruled.

The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN) for 5 minutes.

Mr. ERLENBORN. Mr. Chairman, I think this is a most important amendment; and I wish we had more Members in attendance to hear the debate.

This amendment is one that is described as a remedy against stranger picketing and wildcat strikes.

It provides the Board with the authority to seek injunctive relief in the Federal courts to enforce agreements providing for no strikes and to stop wildcat strikes where members of a workforce, contrary to their agreement and contrary to the instructions of the union that represents them, go out on strike.

Mr. Chairman, it prevents some of the activity that we have seen all too often, particularly in the coal fields, of strangers coming in and setting up picket lines at the workplace, and because of the time-honored tradition of unions not to cross picket lines, even though these are strangers who are not employees at that workplace, the employees refuse to cross those picket lines; and the workplace is shut down.

Mr. Chairman, there have been all kinds of stranger picketing situations in West Virginia and Kentucky in the coal fields, situations where stranger pickets come into a mine and set up a picket line because they are unhappy about the contents of school textbooks that their children are using in the region. The mine is shut down and coal is not produced.

Pickets are set up because you see pickets being thrown up by strangers who are unhappy about a new imposition of a gas tax, for instance in the State of West Virginia, over which the employer, the union and the employees have no control. The result is that the employees refuse to cross that picket line and the workplace is shut down.

Mr. Chairman, just recently in the coal fields whe have had rampant wildcat strikes contrary to the wishes of the union representing the employees over the question of benefits in the United Mineworkers health and welfare fund. These strikes in the coal fields have exacerbated the situation because the United Mineworkers health and welfare fund is supported by a so many cents-per-ton contribution to the fund based on every ton of coal that is mined. When the mine is shut down, coal is not mined and the funds stop flowing into the health and welfare fund.

Mr. Chairman, in 1974 there were over 1 million man-days lost as a result of this kind of activity in the coal mines of the United States, payroll losses of $53 million and the trust fund of the United Mineworkers lost some $10 million dollars that it otherwise would have received. It has grown every year since. In 1975, 1,400,000 man-days were lost, and almost 2 million man-days in 1976 were lost. And so far this year alone, and the year is not completed, we have had 5,800,000 man-days lost as a result of this kind of illegal activity.

There is no remedy. I repeat there is no remedy. There is no authority on the part of the employers to go into the Federal courts or the State courts to seek relief. There is no remedy for the National Labor Relations Board to go into the Federal courts to seek relief.

This amendment, if adopted, will give us relief. It will allow the Board, when they think it is proper, to go into the Federal courts to obtain an injunction to stop this kind of illegal activity so as to keep our coal mines open and therefore make it more possible for us to be energy independent and to have that coal that we will be so desperately relying on in the coming years. Keep the coal mines open so that funds can flow into the United Mineworkers Health and Welfare Fund, so that the miners can

receive the benefits they have been promised.

Mr. Chairman, I think this is a most important amendment. I am pleased that the chairman has ruled this amendment in order. I would hope that I would receive the support of the majority managers of the bill. There were even private expressions of support in the committee when I offered the same amendment, though they said they could not support it in the committee. They said that they did understand the seriousness of the situation and the fruitlessness of having no relief available.

I would hope that the amendment would be adopted.

AMENDMENT OFFERED BY MR. THOMPSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. THOMPSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON as a substitute for the amendment offered by Mr. ERLENBORN: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

SEC. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, the Board, if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person not authorized by a representative of employees of the employer being struck or picketed within the meaning of subsection (a) of section 9 from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

Mr. THOMPSON. Mr. Chairman, for reasons already stated I believe the pending amendment before us to be unsound. I do not want to go back, all the way back to Norris-LaGuardia, but since the mood of the House is to move on, I am offering this substitute which corrects the two most serious defects in the proposal. My substitute provides that only the Board will have the power to seek an injunction, for I am convinced that section 10, which is designed to vindicate public rights, should not be expanded to create remedies in favor of private parties. My proposal also provides that only true stranger picketing that causes a strike in breach of a contractual no strike commitment that is, picketing not authorized by a union representing the employer's employees, is subject to being enjoined. This merely confines the pending amendment to its stated purpose.

It seems to me that the gentleman from Illinois finds himself in disagreement with the Supreme Court's decisions.

The substitute of mine, I reiterate, provides that only true stranger picketing, not authorized by a union representing an employer's employees, is subject to being enjoined. That is what should be done. It should be stopped, and under my substitute it will.

Mr. ERLENBORN. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, let me first say that the whole procedure on this bill I have found to be very strange. The majority side is protected under the rule by having our amendments printed last Monday, and they have had all that time to look at them, and then they have come up with amendments of their own and we have not even seen them until they are offered. And we only get copies very often if we run over to the other side and ask for them. It makes it very difficult to legislate properly. The majority wants their rights protected by having our amendments printed in the RECORD days ahead of time, and then do not give us the courtesy of letting us even know when they are going to offer amendments or what is going to be in them.

Mr. Chairman, I am not certain that the gentleman from New Jersey has properly described his amendment. I am not certain that I want to oppose his amendment either, because the way I read it, it is not too bad. The way the gentleman from New Jersey has described his amendment it says that it will only stop stranger picketing. I do not think that is really true. It will stop wildcat strikes as well, because the only one who will be protected, as I read his amendment, in strike activity is one who has been authorized by a representative of the employees of the employer being struck or picketed. So it appears to allow relief against the true stranger picket coming in from outside and in addition, appears to allow relief against wildcat strikers who are employees of the employer being struck, but who have not been authorized to engage in that strike by their union.

Really, the only thing that this amendment appears to change is who may petition for relief, whether it be one of the parties involved or only the Board.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman.

Mr. THOMPSON. First, I would like to commend the gentleman for a very accurate, albeit quick, study of the Thompson substitute. He is obviously a splendid lawyer.

The gentleman from Michigan (Mr. FORD) and I have been discussing the situation over here, and we find ourselves both pleased and somewhat amazed by the number of Ford-Ashbrook agreements and Thompson-Erlenborn agreements.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I do not think they should be called agreements. They were somewhat like, in union bargaining, forced agreements.

Mr. ERLENBORN. Mr. Chairman, as suggested yesterday, it may be more like a shotgun marriage and Father CORNELL, of course, is here. He can officiate.

Mr. THOMPSON. I will pay for the license.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) as a substitute for the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. There being no further amendments to the section, the clerk will read section 12.

The clerk read as follows:

SEC. 12. Except as otherwise specifically provided in this Act, the amendments made by this Act shall take effect sixty days after the date of enactment of this Act.

Mr. DERWINSKI. Mr. Chairman, despite the fact that there have been a number of amendments adopted, I do not believe that H.R. 8410 in its final form is in such a condition that I could vote for it.

This bill is intended to aid the unions, not the rank and file union member. Certainly, any "labor reform" should be balanced, objective, should benefit rank and file members and protect the general interest of the public who, after all, is to be the ultimate beneficiary of the product or service involved.

Unfortunately, this is not the thrust of the bill since its clear purpose, as I indicated, is to increase the muscle of labor unions. Government administration of labor laws should not reflect the political bias that obviously motivates this measure.

Mr. LEGGETT. Mr. Chairman, in 1853 Charles Dickens' novel "Bleak House" sparked a reform movement in England with his exposure of the failures of the English legal system. Dickens' story described in robust detail how the English legal system was collapsing under its own weight. He revealed a grossly inadequate case law system, overburdened courts, and cumbersome procedures which failed to provide efficient and equitable justice. "Bleak House" described a legal action that was often incomprehensible to the parties of interest and which failed to resolve the dispute in anything approaching a timely fashion. In fact, years dragged by before a judgment was rendered, and the plaintiffs were financially destroyed by the delays themselves. In the world Dickens' described, delaying

tactics were routinely and effectively used to thwart the most elementary notion of justice.

An examination of the history of labor-management relations since the enactment of the Wagner Act in 1935 leads me to conclude that many of the problems Dickens identified in the English legal system are with us today in the administration of the National Labor Relations Act. The legislation we will vote on this afternoon addresses these problems forcefully and deserves the support of the House of Representatives.

President Franklin D. Roosevelt signed the Wagner Act in 1935. Since that time the Congress has adopted only two laws modifying the original legislation, the Taft-Hartley Act of 1947 and the Landrum-Griffin Act of 1959. However, neither of these acts addressed the body of law governing the conduct of union representation elections. These sections of the Wagner Act are at the heart of a fair labor-management policy in our country because they concern the initial selection of a union and the beginning of the collective bargaining process.

Needless to say, the nature of labor-management relations has changed and matured over the past 42 years. H.R. 8410 addresses these long-ignored provisions of the Wagner Act, and presents a well-thought-out adjustment of the balance between employer and employee that is long overdue.

The Wagner Act has served our country well; it has fulfilled its goal of bringing peace and orderly procedures to the relationship between labor and management. A dispassionate examination of the history of labor-management relations since 1935 reveals that most employers and employee organizations have voluntarily complied with both the letter and the spirit of the Wagner Act. However, a minority of employers have continuously taken advantage of the procedural failings of the Wagner Act to behave as though the National Labor Relations Act never existed. It is the abuses of the law by such employers that H.R. 8410 justifiably seeks to eliminate.

The well-drafted legislation reported by the Committee on Education and Labor incorporates the three elements essential to insure meaningful reforms of the Wagner Act; provisions providing for procedural fairness for all parties, while prohibiting unreasonable delays; remedies for injured parties; and penalties to deter those who would abuse the law.

In the area of procedural reform, H.R. 8410 requires the NLRB to establish rules to govern the union representation election process, thus ending the much criticized case by case system now in place. Fixed deadlines are provided to insure that elections are not unreasonably postponed for tactical reasons or to consciously thwart the law. Existing provisions which allow three Board members to operate as a panel are expanded so that the panel can affirm Administrative Law Judge rulings, thus removing one of the more glaring causes of the unacceptable delays we have experienced under the provisions of the 1935 act. The membership of the NLRB is expanded from five to seven members to help the Board cope with the increasing workload. A wise safeguard is built into this section of the act to insure that no more than a majority of the members can be from the same political party. These provisions go far in eliminating the bleak House conditions that now inhibit effective administration of the Wagner Act.

Effective remedies are a major improvement in the Wagner Act offered by this bill. H.R. 8410 provides that workers may seek a court injunction to force the employer to reinstate them if they have been illegally fired because of their efforts to organize a union. The right to seek injunctions is available to the employer under the current provisions of the Wagner Act, and it is appropriate that employees have access to this avenue of redress also. Lastly, the bill provides adequate compensation for economic losses suffered by an employee improperly fired because of his union activities.

Strong deterrents are provided to discourage employers from failing to bargain once ordered to do so by the courts. Lastly, flagrant violators of the National Labor Relations Act face the possibility of losing their eligibility to compete for Federal contracts.

H.R. 8410 is a well-designed and moderate proposal which goes far in addressing the faults of the Wagner Act that we have identified over the past 4 decades. I fully agree with the assessment of the veteran NLRB member, John Fanning, that this legislation does not favor one interest over another in the labor-management area. Rather, this is a balanced bill which will significantly help fulfill the promise of the National Labor Relations Act adopted in 1935. This legislation is a long overdue, carefully considered compromise that deserves the support of the House.

Mr. BRADEMAS. Mr. Chairman, I am sure that Members of the House will read with great interest a prayer that was delivered 2 nights ago at a labor law reform dinner sponsored by Americans for Justice on the Job. The invocation, which was offered by the Reverend Monsignor George G. Higgins, secretary for research, U.S. Catholic Conference, follows:

INVOCATION

(By the Rev. Msgr. George G. Higgins)

O God, our Father, we ask You to bless all here present and to grant them perseverance and steadiness of purpose in pursuing the worthy objective which has brought them together in such great numbers. Their common objective, which is altogether right and just, is to call upon their elected representatives to amend our nation's basic labor legislation in such a way as to guarantee—more than forty years after the enactment of that legislation—the right of workers to organize for the purpose of collective bargaining. Exercising their constitutional right freely to petition their government for greater equity in the field of labor-management relations, they have come here this evening to dramatize their determination to correct the procedural delays and other defects in the present law which make it difficult, if not impossible, for millions of workers freely to exercise this basic human right. Encouraged by the forthright support of the President of the United States, they are here to remind the Congress that justice delayed is justice denied and to call upon that body to remedy this situation which, to a degree which can no longer be tolerated, serves to thwart the original purpose of the National Labor Relations Act and the official policy of our government with regard to collective bargaining. As clearly stated in the preamble to the Act, it has been the policy of our government for more than forty years "to encourage the practice and procedure of collective bargaining . . . by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

We ask You to bless our Chief Executive and his Vice President, Walter Mondale, who has honored us with his presence this evening. We ask You to bless the members of the President's Cabinet, our legislators, judges and administrative officers. Theirs is a noble calling. May they exercise their constitutional authority with diligence, honor and unimpeachable integrity and may we, the American people, accord them in turn our full cooperation.

Almighty God, our Father, you have charged us with the task of building on their earth a home where all nations may dwell in unity, with liberty and justice for all. We pray for peace and all that makes for peace, for the generosity to share the goods of this earth with those less privileged than ourselves, and for the steadfast courage to overcome the barriers that stand in the way of peace, justice, and human solidarity.

Blessed be Your name, our God and our provider, for the food that we are about to receive from Your gracious bounty. Bring us together in this sharing. Let this occasion nourish us with faith in Your providence and with care for one another, especially for those less fortunate than ourselves. We know that we can only thank You with a good conscience if our sharing reaches out to all who are in need.

And so we pray, in the words which You have taught us.

Our Father, who are in heaven, hallowed
be thy name;
thy kingdom come, thy will be done on
earth as it is in heaven.
Give us this day our daily bread;
and forgive us our trespasses as we forgive
those who trespass against us;
and lead us not into temptation, but deliver
us from evil.
For the kingdom, the power, and the glory
are yours,
now and forever. Amen.

The CHAIRMAN. There being no further amendments to the bill, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures

under such act, pursuant to House Resolution 799, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. Mr. Speaker, if the rule still allows me, I am very much against it.

The SPEAKER. The Chair presumes from the gentleman's remarks that the gentleman is opposed to the bill.

Mr. ASHBROOK. Mr. Speaker, I think that would be in order.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK, of Ohio, moves to recommit the bill, H.R. 8410, to the Committee on Education and Labor with instructions to report the bill forthwith back to the House with the following amendment:

Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement or the dissemination thereof, whether in written, printed, graphic visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

Mr. ASHBROOK. Mr. Speaker, we have waited two days to get an amendment that cannot be watered down or revised or substantially changed by amendment. Whether that is good or bad, I guess the Members will have to withhold their judgment until later.

Mr. Speaker, my motion to recommit would amend section 3 of H.R. 8410 to direct the Board, through rulemaking, to protect freedom of expression which does not contain a threat or promise, by ensuring that such expression would not result in the invalidation of a Board-conducted election. The NLRA provides that the expressing of any views, arguments, or opinion in written, printed, graphic or visual form shall not constitute or be evidence of an unfair labor practice if such expression contains no threat of reprisal or force or promise of benefit.

Although Congress added this requirement in the Taft-Hartley Act of 1947 to protect the free speech rights of all parties involved in labor disputes, subsequent NLRB and court decisions have seriously eroded this protection. The decisions have had the regrettable effect of intensifying the regulation of both employer and union campaign activities. I refer to *General Shoe Corporation*, 77 *NLRB* 124 (1948), *Celanese Corp.* v. *NLRB*, and *Allis-Chalmers Mfg. Co.* v. *NLRB*, 261 F. 2d 613 (7th Cir. 1958).

Holdings such as these subvert the purpose of the NLRA to insure that employees have the necessary information to make an informed decision concerning representation. This amendment would rectify this situation and reaffirm the original intention of the act to protect freedom of expression which does not contain a threat or a promise of benefit. It would eliminate the Board's sanction of setting aside elections solely on the basis of noncoercive communications. At the same time, the Board would still be allowed to set aside an election if the communication was in fact coercive, the test being whether the expression contained a threat of reprisal or force or promise of benefits.

The amendment would also have the effect of making the Board's case handling process more efficient. Studies of NLRB election processes have found that the Board's readiness to intervene and set aside elections has had a destructive impact on the handling of representation questions where prompt resolution demands high priority. For the Board to intervene and invalidate elections unnecessarily not only has an adverse effect on the interest of the parties immediately involved, it also diminishes the overall ability of the Board to provide effective regulation of the election process where it is needed.

Mr. THOMPSON. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I am sure that my very, very good friend from Ohio does not really want to take this whole thing back to the committee and come back here again.

This proposal would be an unnecessary and inappropriate interference with the NLRB's oversight of the election process.

Much of what is proposed by this amendment is already current law as a result of the NLRB's recent decision in the Shopping Kart case. It would be inappropriate, however, to freeze that decision into the statute. The NLRB ought to have enough flexibility to set aside elections where it determines that deliberately false statements have seriously corrupted the election process.

If this provision became law, either side in a representation election could lie to their hearts content, secure in the knowledge that no matter how wild or egregious their falsifications, they would be absolutely immune from negative consequences. It would put a premium on falsehood.

Furthermore, this provision would apparently eliminate the 24-hour rule and other regulations of the NLRB which attempt to guarantee the fairness of the election process. This is a matter much better left to the careful administration of the NLRB.

I strongly oppose the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 139, nays 279, not voting 16, as follows:

[Roll No. 638]

YEAS—139

Abdnor	Forsythe	Pressler
Anderson, Ill.	Frenzel	Pursell
Archer	Frey	Quayle
Armstrong	Goldwater	Quie
Ashbrook	Gooding	Regula
Badham	Gradison	Rhodes
Bafalis	Grassley	Risenhoover
Bauman	Guyer	Roberts
Beard, Tenn.	Hagedorn	Robinson
Bennett	Hall	Rousselot
Breaux	Hammer-schmidt	Rudd
Broomfield	Hansen	Runnels
Brown, Mich.	Holt	Santini
Brown, Ohio	Huckaby	Satterfield
Broyhill	Hyde	Sawyer
Burgener	Ichord	Schulze
Burke, Fla.	Jeffords	Sebelius
Burleson, Tex.	Jones, Okla.	Shuster
Butler	Kasten	Sikes
Byron	Kazen	Smith, Nebr.
Carter	Kelly	Snyder
Chappell	Kemp	Spence
Clausen, Don H.	Ketchum	Stangeland
Clawson, Del	Kindness	Stanton
Cleveland	Lagomarsino	Steed
Cochran	Latta	Steiger
Collins, Tex.	Leach	Stockman
Conable	Lent	Stump
Corcoran	Livingston	Symms
Crane	Lujan	Taylor
Daniel, Dan	McCory	Thone
Daniel, R. W.	McDonald	Treen
de la Garza	McEwen	Trible
Derrick	Mann	Waggonner
Derwinski	Marriott	Walker
Devine	Martin	Walsh
Dickinson	Mathis	Wampler
Dornan	Michel	Watkins
Duncan, Tenn.	Miller, Ohio	Whitehurst
Edwards, Ala.	Montgomery	Wiggins
Edwards, Okla.	Moore	Wilson, Bob
English	Moorhead, Calif.	Winn
Erlenborn	Myers, John	Wydler
Evans, Del.	O Brien	Wylie
Evans, Ga.	Pettis	Young, Fla.
Findley	Poage	Young, Tex.
Flynt		

NAYS—279

Addabbo	Baucus	Brodhead
Akaka	Beard, R.I.	Brooks
Alexander	Bedell	Brown, Calif.
Allen	Bellenson	Buchanan
Ambro	Benjamin	Burke, Calif.
Ammerman	Bevill	Burke, Mass.
Anderson, Calif.	Biaggi	Burlison, Mo.
Andrews, N.C.	Bingham	Burton, John
Andrews, N. Dak.	Blanchard	Burton, Phillip
Annunzio	Blouin	Caputo
Applegate	Boggs	Carney
Ashley	Boland	Carr
Aspin	Bolling	Cavanaugh
AuCoin	Bonior	Chisholm
Badillo	Bonker	Clay
Baldus	Bowen	Cohen
Barnard	Brademas	Coleman
	Breckinridge	Conte
	Brinkley	Conyers

Corman	Jenkins	Pease
Cornell	Jenrette	Pepper
Cornwell	Johnson, Colo.	Perkins
Coughlin	Jones, N.C.	Pickle
Cunningham	Jones, Tenn.	Pike
D'Amours	Jordan	Preyer
Danielson	Kastenmeier	Price
Davis	Keys	Pritchard
Delaney	Kildee	Quillen
Dellums	Kostmayer	Rahall
Dicks	Krebs	Railsback
Diggs	Krueger	Rangel
Dingell	LaFalce	Reuss
Dodd	Le Fante	Richmond
Downey	Lederer	Rinaldo
Drinan	Leggett	Rodino
Duncan, Oreg.	Lehman	Roe
Early	Levitas	Rogers
Eckhardt	Lloyd, Calif.	Roncalio
Edgar	Lloyd, Tenn.	Rooney
Edwards, Calif.	Long, La.	Rose
Eilberg	Long, Md.	Rosenthal
Emery	Luken	Rostenkowski
Ertel	Lundine	Roybal
Evans, Colo.	McCloskey	Ruppe
Evans, Ind.	McCormack	Russo
Fary	McDade	Ryan
Fascell	McFall	Sarasin
Fenwick	McHugh	Scheuer
Fish	McKay	Schroeder
Fisher	McKinney	Seiberling
Fithian	Madigan	Sharp
Flippo	Maguire	Simon
Flood	Mahon	Skelton
Florio	Markey	Skubitz
Flowers	Marks	Slack
Foley	Mattox	Smith, Iowa
Ford, Mich.	Mazzoli	Solarz
Ford, Tenn.	Meeds	Spellman
Fountain	Metcalfe	St Germain
Fowler	Meyner	Stark
Fraser	Mikulski	Steers
Fuqua	Mikva	Stratton
Gammage	Milford	Studds
Gaydos	Miller, Calif.	Teague
Gephardt	Mineta	Thompson
Giaimo	Minish	Thornton
Gibbons	Mitchell, Md.	Traxler
Gilman	Mitchell, N.Y.	Tsongas
Ginn	Moffett	Tucker
Glickman	Mollohan	Udall
Gonzalez	Moorhead, Pa.	Ullman
Gore	Moss	Van Deerlin
Gudger	Motti	Vanik
Hamilton	Murphy, Ill.	Vento
Hanley	Murphy, N.Y.	Volkmer
Hannaford	Murphy, Pa.	Walgren
Harkin	Murtha	Waxman
Harrington	Myers, Gary	Weaver
Harris	Myers, Michael	Weiss
Hawkins	Natcher	White
Heckler	Neal	Whitley
Hefner	Nedzi	Whitten
Heftel	Nichols	Wilson, C. H.
Hightower	Nix	Wilson, Tex.
Hillis	Nolan	Wirth
Holland	Nowak	Wolff
Hollenbeck	Oakar	Wright
Holtzman	Oberstar	Yates
Horton	Obey	Yatron
Howard	Ottinger	Young, Alaska
Hubbard	Panetta	Young, Mo.
Hughes	Patten	Zablocki
Ireland	Patterson	Zeferetti
Jacobs	Pattison	

NOT VOTING—16

Cederberg	Koch	Staggers
Collins, Ill.	Lott	Stokes
Cotter	Marlenee	Vander Jagt
Dent	Moakley	Whalen
Harsha	Shipley	
Johnson, Calif.	Sisk	

The Clerk announced the following pairs:

Mr. Dent with Mr. Vander Jagt.
Mr. Moakley with Mr. Whalen.
Mr. Stokes with Mr. Lott.
Mr. Staggers with Mr. Cederberg.
Mr. Koch with Mrs. Collins of Illinois.
Mr. Cotter with Mr. Harsha.
Mr. Shipley with Mr. Marlenee.
Mr. Sisk with Mr. Johnson of California.

Messrs. JONES of Oklahoma, PRESSLER, and POAGE changed their vote from "nay" to "yea."

Messrs. LONG of Maryland, DICKS, McHUGH, and RUPPE changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 257, nays 163, not voting 14, as follows:

[Roll No. 639]

YEAS—257

Addabbo	Flippo	Moffett
Akaka	Flood	Mollohan
Alexander	Florio	Moorhead, Pa.
Allen	Foley	Moss
Ambro	Ford, Mich.	Motti
Ammerman	Ford, Tenn.	Murphy, Ill.
Anderson, Calif.	Fraser	Murphy, N.Y.
	Frenzel	Murphy, Pa.
Annunzio	Gammage	Murtha
Applegate	Gaydos	Myers, Michael
Ashley	Gephardt	Natcher
Aspin	Giaimo	Nedzi
AuCoin	Gibbons	Nix
Badillo	Gilman	Nolan
Baldus	Glickman	Nowak
Baucus	Gonzalez	Oakar
Beard, R.I.	Gore	Oberstar
Bedell	Gradison	Obey
Beilenson	Hamilton	Ottinger
Benjamin	Hanley	Panetta
Bennett	Hannaford	Patten
Biaggi	Harkin	Patterson
Bingham	Harrington	Pattison
Blanchard	Harris	Pease
Blouin	Hawkins	Pepper
Boggs	Heckler	Perkins
Boland	Heftel	Pike
Bolling	Hillis	Price
Bonior	Hollenbeck	Pritchard
Bonker	Holtzman	Pursell
Brademas	Horton	Quie
Breaux	Howard	Rahall
Breckinridge	Hubbard	Railsback
Brodhead	Hughes	Rangel
Brooks	Jacobs	Reuss
Brown, Calif.	Jeffords	Richmond
Burke, Calif.	Jones, Okla.	Rinaldo
Burke, Mass.	Jones, Tenn.	Risenhoover
Burton, John	Jordan	Rodino
Burton, Phillip	Kastenmeier	Roe
Caputo	Keys	Roncalio
Carney	Kildee	Rooney
Carr	Kindness	Rosenthal
Cavanaugh	Kostmayer	Rostenkowski
Chisholm	Krebs	Roybal
Clay	Krueger	Ruppe
Cleveland	LaFalce	Russo
Cohen	Le Fante	Ryan
Collins, Ill.	Lederer	Sarasin
Conte	Leggett	Scheuer
Conyers	Lehman	Schroeder
Corman	Lent	Seiberling
Cornell	Lloyd, Calif.	Sharp
Cornwell	Lloyd, Tenn.	Shipley
Cunningham	Long, La.	Simon
D'Amours	Long, Md.	Skelton
Danielson	Luken	Slack
Delaney	Lundine	Smith, Iowa
Dellums	McCloskey	Solarz
Dicks	McCormack	Spellman
Diggs	McDade	St Germain
Dingell	McEwen	Stark
Dodd	McFall	Steed
Downey	McHugh	Steers
Drinan	McKay	Steiger
Duncan, Oreg.	McKinney	Stratton
Early	Maguire	Studds
Eckhardt	Markey	Thompson
Edgar	Marks	Thornton
Edwards, Calif.	Mattox	Traxler
Eilberg	Mazzoli	Tsongas
Emery	Meeds	Tucker
Ertel	Metcalfe	Udall
Evans, Colo.	Meyner	Ullman
Evans, Ind.	Mikulski	Van Deerlin
Fary	Mikva	Vanik
Fascell	Miller, Calif.	Vento
Fenwick	Mineta	Volkmer
Fish	Minish	Walgren
Fisher	Mitchell, Md.	Waxman
Fithian	Mitchell, N.Y.	Weaver
Weiss	Wolff	Young, Alaska
Wilson, Bob	Wright	Young, Mo.
Wilson, C. H.	Wydler	Young, Tex.
Wilson, Tex.	Yates	Zablocki
Wirth	Yatron	Zeferetti

NAYS—163

Abdnor	Flowers	Myers, Gary
Anderson, Ill.	Flynt	Myers, John
Andrews, N.C.	Forsythe	Neal
Andrews, N. Dak.	Fountain	Nichols
	Fowler	O'Brien
Archer	Frey	Pettis
Armstrong	Fuqua	Pickle
Ashbrook	Ginn	Poage
Badham	Goldwater	Pressler
Bafalis	Goodling	Preyer
Barnard	Grassley	Quayle
Bauman	Gudger	Quillen
Beard, Tenn.	Guyer	Regula
Bevill	Hagedorn	Rhodes
Bowen	Hall	Roberts
Brinkley	Hammer-schmidt	Robinson
Broomfield		Rogers
Brown, Mich.	Hansen	Rose
Brown, Ohio	Hefner	Rousselot
Broyhill	Hightower	Rudd
Buchanan	Holland	Runnels
Burgener	Holt	Santini
Burke, Fla.	Huckaby	Satterfield
Burleson, Tex.	Hyde	Sawyer
Burlison, Mo.	Ichord	Schulze
Butler	Ireland	Sebelius
Byron	Jenkins	Shuster
Carter	Jenrette	Sikes
Chappell	Johnson, Colo.	Skubitz
Clausen, Don H.	Jones, N.C.	Smith, Nebr.
	Kasten	Snyder
Clawson, Del	Kazen	Spence
Cochran	Kelly	Stangeland
Coleman	Kemp	Stanton
Collins, Tex.	Ketchum	Stockman
Conable	Lagomarsino	Stump
Corcoran	Latta	Symms
Coughlin	Leach	Taylor
Crane	Levitas	Teague
Daniel, Dan	Livingston	Thone
Daniel, R. W.	Lujan	Treen
Davis	McClory	Trible
de la Garza	McDonald	Waggonner
Derrick	Madigan	Walker
Derwinski	Mahon	Walsh
Devine	Mann	Wampler
Dickinson	Marriott	Watkins
Dornan	Martin	White
Duncan, Tenn.	Mathis	Whitehurst
Edwards, Ala.	Michel	Whitley
Edwards, Okla.	Milford	Whitten
English	Miller, Ohio	Wiggins
Erlenborn	Montgomery	Winn
Evans, Del.	Moore	Wylie
Evans, Ga.	Moorhead, Calif.	Young, Fla.
Findley		

NOT VOTING—14

Cederberg	Koch	Staggers
Cotter	Lott	Stokes
Dent	Marlenee	Vander Jagt
Harsha	Moakley	Whalen
Johnson, Calif.	Sisk	

The Clerk announced the following pairs:

Mr. Dent with Mr. Marlenee.
Mr. Cotter with Mr. Johnson of California.
Mr. Stokes with Mr. Lott.
Mr. Koch with Mr. Vander Jagt.
Mr. Moakley with Mr. Whalen.
Mr. Staggers with Mr. Cederberg.
Mr. Sisk with Mr. Harsha.

Mr. LEVITAS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 8410, just passed.

The SPEAKER. Is there objection to

the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I would like to take this opportunity to thank the Members in the minority for their courtesies. I deeply appreciate them.

PERSONAL EXPLANATION

Mr. MOAKLEY. Mr. Speaker, I unavoidably missed the vote on the final passage of H.R. 8410 due to being at the Department of Transportation receiving word that Massachusetts Mass Transit Authority had been granted over $100 million for expansion of the mass transit system. I would have voted "aye."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 3, 1977:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. An act to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes;

H.R. 6111. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; and

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

On October 4, 1977:

H.R. 7554. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 9290. An act to increase the temporary debt limit, and for other purposes.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9090, EXEMPTING DISASTER PAYMENTS IN CONNECTION WITH CERTAIN CROPS

Mr. DELANEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–669) on the resolution (H. Res. 820), providing for consideration of H.R. 9090 to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE A REPORT

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tomorrow to file a report on the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961, as amended, with respect to the activities of the Overseas Private Investment Corp.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PARLIAMENTARY INQUIRY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, I propound this parliamentary inquiry to the Chair. The gentleman from Maryland for the last 4 days has been seeking permission from the Clerk of the House to examine the report of the Clerk of the House covering January through June 1977 which was submitted to the Speaker 2 months ago. The report includes official expenditures of all Members, committees, and others.

It is my understanding that this report was to have been printed within 60 days of its submission and is in galley form and could be made available for my inspection. On at least four occasions I have been told by the Clerk of the House or his staff that I would be able to examine the report, most recently that it would be available this afternoon.

I have just been informed that it is still not available. I ask the Chair what right a Member of the House has to an official report, and whether or not the Chair might consider interceding on behalf of all Members to allow them to examine a copy of this report prior to consideration of the Obey Commission proposals next week.

The SPEAKER. The Chair would like to inform the gentleman of this point: That it is his understanding that it is presently in galley form. There are approximately 600 different pages which are looseleaf, some of which would have to be cut and folded. It will be available to all Members on Tuesday next.

Mr. BAUMAN. Mr. Speaker, the Government Printing Office Assistant Printer, Mr. Boyle, informed me yesterday that copies now are available for my inspection and would be sent to my office. The Clerk subsequently vetoed that and told me that there would be a copy in his office available this afternoon. I have again been refused access to this, and have further been told that bound copies will not be available to Members or the public until next Thursday, after consideration of the Obey Commission resolution.

The SPEAKER. While there has been some confusion, it is the policy that a document should not be available to just one Member of Congress alone, but it should be available to all Members at the same time. For that reason, while it would have been available to the gentleman, it would not have been available to all Members.

The Chair would say that the Clerk has acted within his rights. He has not tried to refrain from giving the gentleman a copy, but is working in the interests of the House and doing what he thinks best for the House and all of its Members.

Having been aware of this, the Chair ordered that it be handled in an expeditious manner. It is the understanding of the Chair that it will be ready on Tuesday next for every Member of the House.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. RHODES. Would it not be possible, since the gentleman from Maryland has repeatedly expressed his interest in this particular report, for the gentleman from Maryland to be allowed, as an individual Member, to go to the office of the Clerk or wherever the report now is, to look at the report in whatever form it now is in, rather than to await the time that might be available for the inspection of all Members?

The SPEAKER. It is my understanding that the copy is not available in the Clerk's office, and it is at the Government Printing Office.

The Chair will make a request to the Printing Office that a copy be sent to the Clerk's office and remain in the Clerk's office, available for any Member who so desires to look at it. The Chair will direct the Parliamentarian to call the Office of the Printer and have them deliver it to the Clerk's office. It will be available to any Member who wishes to peruse it in the Clerk's office.

Mr. BAUMAN. I thank the Chair.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 11, 1977, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 11, 1977, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, October 12, 1977, may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROPOSALS TO STRENGTHEN PUBLIC BROADCASTING SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-239)

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

—Devote more resources to high-quality national programing.

—Set long-range goals by which its progress can be judged.

—Plan how public television and radio signals can be brought within reach of all citizens.

—Provide greater accountability to the public.

—Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programing.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the 10 years since the Public Broadcasting Act first provided Federal funds for programing, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, State, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

—Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

—Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

—Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programing, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

—Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

—Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

—Increase employment, training, and ownership opportunities for minorities and women.

—Support local, State, and regional programing. Programing of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in

light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programing in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fundraising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programing staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

—Reduces CPB's effectiveness as a political insulator.

—Reduces its ability to focus on long-range planning and new educational services.

—Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programing. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

—CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

—Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

—CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25% of funds appropriated to CPB in future years shall be used for a National Programming Fund for bloc grants for such productions. This will insure that by FY 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programming. These programs will continue to be produced on a decentralized basis, by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have leveled off.

As a former Governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise $2.50 for every $1.00 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that

could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

—Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

—Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

—Make regional networks and other groups of stations eligible for facilities funds.

—Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. publice television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decisionmaking levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, Blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and State productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1977.*

FIRST BAPTIST CHURCH OF HOMER, N.Y., CELEBRATES 150TH ANNIVERSARY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, I would like to take a moment to bring attention to an historic occasion for some residents of New York's 32d Congressionl District. They are celebrating the 150th anniversary of a beautiful community landmark, the First Baptist Church of Homer.

Cortland County historical records indicate that the First Baptist house of worship was built on the site of the present Cortland Memorial Hospital in 1811. Sixteen years later, in 1827, due to crowded conditions, a branch was established in the Village of Homer with 25 members. The pastor of the mother church, the Reverend Alfred Bennett, served as first pastor of this new branch.

The first church was built on the site of the present parsonage, and served until the present church was constructed in 1893. Prior to its dedication, the church was organized under the new State centennial law, and took the name of the First Baptist Church of Homer.

Additions and remodeling have taken place over the years. New equipment, such as a pipe organ, electric lights, and steam heating, were added as needed. One can understand the contribution the First Baptist Church of Homer has made to mankind, let alone the village of Homer, when one learns that the church has been a missionary church throughout the years. Since 1829, when Cephas Bennett, son of the first pastor, went to Burma as a missionary, the church has continuously, to the present time, had a member on the active mission field. The latest example is Dr. Dan Fountain, who was commissioned as a missionary in 1960, and is now serving as a physician in Zaire.

In 1880, Almon Bacone, a member of the church, founded Bacone College in Oklahoma, which was the first college established to educate the American Indian. Over the years, the church has produced at least 15 men who have gone into the Christian ministry.

These are but a few examples of the work that members of the First Baptist Church of Homer have performed for their fellow man. I am certain that my colleagues join with me in offering heartfelt thanks and congratulations to the Reverend Max T. Wiant and his congregation on this most historic and joyous occasion for the First Baptist Church of Homer.

CIVIL RIGHTS FOR THE HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. O'BRIEN) is recognized for 30 minutes.

Mr. O'BRIEN. Mr. Speaker, 1977 is supposed to be the Year of the Handicapped. The White House Conference on Handicapped Individuals was held in June. The long-awaited section 504 antidiscrimination rules were finally issued by the Department of Health, Education, and Welfare.

The record of the House in the Year of the Handicapped has been modest. More than 449 bills affecting the handicapped have been introduced. Only eight have been passed into law. None of the eight can be described as major initiatives.

H.R. 3477 provides tax deductions for the portion of a person's home used for trade, business, or as a day care center involving handicapped individuals;

H.R. 4877 included an additional $958,000 for Gallaudet College, the national college for the deaf;

H.R. 6692 extended and renewed the Education for the Handicapped Act;

H.R. 7557, the transportation appropriations bill, carried a new provision protecting the rights of handicapped persons under the Urban Mass Transit Act; and

H.R. 11, the Local Public Works Act, required that the funded projects be designed and constructed to permit access by handicapped individuals.

All in all, not record of great distinction. Certainly a record not to be denigrated, but hardly the clarion call for action that we might have expected at the beginning of 1977, the Year of the Handicapped.

The record of the Carter administration in the Year of the Handicapped is less than enthusiastic.

The 504 antidiscrimination regulations as finally issued by the Department of Health, Education, and Welfare are, at best, a mixed blessing to America's 35 million handicapped citizens.

The administration's decision to not seek funding for implementation of the antidiscrimination rules leaves somewhat hollow the high-sounding declarations by the Cabinet Secretaries addressing the White House Conference.

Secretary Califano now proposes to extend the diluted blessing of his section 504 antidiscrimination regulations to all Federal departments and agencies.

The Departemnt of Housing and Urban Development has created a new Office of Independent Living to push development of more housing available and accessible to handicapped persons.

The Transportation Department has decided to require all mass transit buses purchased with DOT funds—that is, all new mass transit buses after September 30, 1979—to be accessible to the handicapped and elderly.

Secretary Califano has created a HEW Administration for Handicapped Individuals by rearranging five existing offices, boards, administrations, and committees significant to handicapped persons.

The Department of Labor has begun prosecution of only three cases involving employment discrimination against handicapped persons since January.

The Department of Transportation has not exactly been a stern taskmaster in modernizing the airline rules that discriminate against the blind and disabled in air transportation. Significantly, two of the three cases involving employment discrimination against the handicapped pushed by the Department of Labor are against TWA and United Airlines.

Taken together, the Carter administration has not exactly declared the "moral equivalent of war" on behalf of America's handicapped citizens.

The bright promise of January, when the Year of the Handicapped began, has dimmed to the hazy prospect of October. The House has a disjointed and desultory record at best. The Carter administration has acted in fits and starts.

The Year of the Handicapped can yet be saved. The Congress could, with one, simple, dramatic act make 1977 truly a landmark year.

The Congress should extend the protections of the Civil Rights Act of 1964 to the handicapped. In one decisive action the House should say to the millions of handicapped Americans whose hopes were raised by the ambitious language of the White House Conference on Handicapped:

It is the national policy of the United States of America that no person shall be discriminated against on the basis of a physical handicap.

That is what H.R. 1107 does. In section 703 of the Civil Rights Act of 1964, where it says, "It shall be unlawful . . . to limit, segregate, or classify . . . because of such individual's race, color, religion, sex or national origin," add "physical handicap." That is all.

None of the problems of Secretary Califano's herky-jerky anti-discrimination (sec. 504) rules. No legalistic sleight of hand to define alcoholics and drug addicts as handicapped.

Just the clear, unmistakable, direct statement that no American shall be denied any of his rights because of the presence of a physical handicap.

No American will ever again be evicted from his rented apartment because his handicap is "unsightly and offensive." No American teacher will ever again be dismissed from teaching because his wheelchair makes a bad impression on the students.

I ask my colleagues in the House today to join with me and the cosponsors of H.R. 1107. Let us add those two words to the Civil Rights Act. Let us say that it shall be unlawful to limit, segregate, or classify because of such individual's race, color, religion, sex, national origin, or physical handicap. Let us make it clear national policy.

Let 1977 be the year that Congress extended the full coverage of the Civil Rights Act to America's 35 million handicapped citizens. Let 1977, in truth, be the Year of the Handicapped.

I yield to my good friend, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and rise in support of legislation being introduced today by my esteemed colleague from Illinois, Mr. O'BRIEN, which I am cosponsoring and which amends the Civil Rights Act of 1964, making illegal employment practices which discriminate against the handicapped solely on the basis of a physical handicap.

This legislation is long overdue. It is the responsibility of the Congress to insure that every American be given equal opportunities to pursue the most fulfilling life that is available to them. For too long, the handicapped have been exempt from this right, having been passed over by employers who have chosen not to look beyond the individual's physical handicap and who have allowed physical handicaps to interfere in professional relationships. This is an unfair practice, and I cannot stress how crucial it is that this prevailing thought be abolished from employment practices.

With the advent of section 504, which modifies the Rehabilitation Act of 1973, Americans have become increasingly aware of the need to create an atmosphere which is both acceptable to and accepting of the handicapped. This legislation would reinforce the mandate of section 504, by including the handicapped under the provisions of the Civil Rights Act—a document which, in recent years has become the "ticket to freedom"

for millions of men and women. This freedom should be extended to the handicapped immediately, as the debilitating effects of discrimination persist, and lessen the quality of life for the handicapped and for the American people as a nation.

An article appearing in the Washington Post this morning illustrates a positive experience in the employment of the handicapped. The article entitled "Chain of Photo Service Kiosks Employs Mostly the Handicapped" explains the experience of a handicapped individual who operates almost 60 photo service kiosks in the southeast region of the United States, employing 180 handicapped employees. The chain of photograph equipment stores has grown tremendously within the last year, and the company represents a $1.4 million investment by the owner, Gerald Crowder, and several bankers. Crowder's "Handi Photo" chain is, in many respects, a model enterprise, employing individuals with a range of handicaps from paraplegia to epilepsy.

The article points out the problems that handicapped persons experience with insurance and employment opportunities, and illustrates the anticipated success that many others may look forward to when the physically handicapped are given the same protections as others under the Civil Rights Law.

We have heard many new phrases coined in the past few years in reference to the handicapped, and we have had the opportunity to translate those phrases from mere language to reality. One of those phrases "a barrier-free environment" has been used to describe the ideal, but realizable conditions which would improve the quality of life for the handicapped. Let us take this phrase one step further and extend the barrier-free environment to attitudes.

The most significant barrier for handicapped individuals is, indeed, attitudes—the stigma that pervades all facets of life for the handicapped. Discriminatory practices and attitude are most prominent in employment. It is time that such a stigma be lifted from the millions of handicapped individuals.

Accordingly, I urge our colleagues to join with us in supporting this legislation, and in joining the fight against discriminatory practices in employment and all areas of handicapped participation.

CARTER PLAYS INTO HANDS OF RUSSIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, I fear that the new Carter Middle East policy through which the United States and Russia are jointly trying to force Israel to negotiate directly with the PLO plays into the hands of the Russians by enhancing their stature in a region where they had been discredited, and had lost most of their friends.

After we have spent many years and many billions of dollars in a successful exorcism of Russian influence in the Mideast, our new policy almost invites the Russians to replay their former role of disruption.

I believe the President has made a serious policy error which carries the unnecessary risks of a renewed Soviet hegemony in the area.

Our previous policy in which the United States stood by as a staunch ally of Israel and as a trusted mediator for all of the countries in the area was a successful one. To abandon it entails grave risk without compensating advantages.

PERSPECTIVE ON PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 30 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, I wish to present today to my colleagues, a matter of great concern—a "Perspective on Panama" as I see it.

I do so in the hope that my sharing some of my experiences in the "negotiating process' relating to political status questions during my service on the territories subcomimttee of the House and as a member of the Ad Hoc Advisory Group on Puerto Rico wil be helpful to the congressional process.

I will attempt to relate where I have seen the negotiating process fail in the course of the Puerto Rican negotiations and also comment on the lessons to be learned from the very successful negotiations with the Marianas covenant which were carried on with the full support and knowledge of the Members of the House and Senate having jurisdiction over and responsibility for the legislative matters that were to be involved.

The Panama Canal and the proposed treaty are the subject of much discussion, confusion, distortion, dissension, concern, and debate—throughout the country and in the halls and cloakrooms of Congress.

While the ratification of international treaties is the traditional and constitutional responsibility of the U.S. Senate, there is a growing body of opinion in our country, as reflected in the communications to my office, that the American people want and, indeed, expect the full Congress—the House and the Senate—to be involved in the Panama issue. A very emotional issue, I might add, both here and throughout Latin America. You have heard and read multitude of comments such as: "We bought and paid for it, don't give it away" or "If the Treaty isn't approved—there will be guerrilla warfare all over the Western Hemisphere."

These are but two examples representative of the extreme points of view.

Tonight, I would like to share a few thoughts with you and, hopefully, give you a little different "Perspective on Panama".

I would like to share some thoughts and concerns I have with regard to the "negotiating process," some chronological and historical data; what some of the people in Washington are saying; what the alternatives are if the treaty is not approved in its present form, and; finally, why I think we need a new approach to our relations with Panama and all of Latin America—including the resources, security, and stability of the Western Hemisphere.

The "negotiating process" on the Panama question, really "leaves me cold" and in my view is the major contributor to the problems we face in dealing with this controversial issue.

This process started in the Johnson administration, in response to the riots in Panama during the midsixties, and was carried forward through the Nixon, Ford, and Carter administrations.

My fundamental disagreements with the "negotiating process" are, I believe, consistent with expressions most often heard from the American people.

What are they saying?

(1) As my elected representative in Congress, don't give away the canal.

(2) What are we doing negotiating with a nonelected military dictator?

(3) What do the *people* of Panama really want and have to say about their future destiny and political status?

(4) What do the people of the United States really desire in the way of a relationship with Panama?

What do I read from all of this? My people want me to be involved in the process so as to express their concern and point of view.

They find it difficult to accept a "negotiating process" that regulates the U.S. House of Representatives to a followup role of having to vote to "pay the bills" for a vital economic and security package which was drafted by others and which the House had no opportunity to approve or reject.

The bitter experiences of Vietnam, starting in the early sixties and escalating in the midsixties by unilateral Presidential action is another case in point where the Presidents of that era took the action and then said to Congress "pay the bill."

This costly experience has caused the American people to demand a check and balance effort from the Congress.

They want us to be consulted and more involved in the total process.

They want us to be fully involved in the process during the negotiations and not be put in the position where: "you've got to accept what has been negotiated by the Executive because, to reject it, would cause embarrassment to the President and the country."

I say it is ridiculous even to suggest that the Congress must accept a position the executive branch has announced just because someone might be embarrassed.

I have seen successes and failures in the negotiating process.

The failures occur when Presidents try to go it alone without adequate consultation, advice, and involvement in the negotiating process with the Congress.

Our most successful ventures in foreign policy are those that had maximum involvement and cooperation between the Executive and the Congress—because

all know they would be held accountable to the people that elect them.

Panama has the potential for failure unless they revise and/or establish this type of joint negotiating process.

I am in the process of communicating my strong concerns to the Members of the Senate.

For one experienced in Washington politics, the current dissension on Capitol Hill over the ratification of the new Panama Canal Treaty was fully predictable. My committee assignments in the House of Representatives—Public Works and Interior and Insular Affairs—provide an opportunity for me to participate actively in international negotiations and to deal with Inter-American affairs. I know that international political negotiations are apt to succeed only when both branches of Government act as coparticipants.

For example, in 1972, the President appointed me to the Ad Hoc Advisory Group on Puerto Rico. The President charged us to meet with our Puerto Rican counterparts to hammer out a new political status for the island. Three years later, hard work, a draft compact of free association was developed and presented to the U.S. Congress for enactment. Unfortunately, from the start, the compact was doomed to fail. Although the document was sensitive to the political and cultural aspirations of Puerto Rico, the details—especially the intricacies of tax, trade, and immigration matters—were hazy at best. Why? Throughout the negotiations, the executive branch failed to supply the mainland negotiators with the expert advice and administrative experience necessary to fashion a compact in consonance with legal precedent and Federal practice. Accordingly when put to the scrutiny of various congressional committees and Federal agencies, discrepancies emerged of sufficient magnitude to kill the draft compact. In other words, of the two pillars upon which successful negotiations must stand—political sensitivity supplied by the Congress and administrative expertise afforded by the administration—input from the executive branch was absent.

In addition to the inadequacy of the administrative expertise furnished by the United States, the makeup of the Puerto Rican delegation clearly was not representative of the major established political interests in Puerto Rico at that time.

In spite of the good faith of all concerned and the importance of the issue, the Puerto Rican compact could never get off the ground. Although the American system of government is the finest in the world, it is like any other delicate mechanism. To be effective, all components must be operable.

But all negotiations undertake by Washington do not end so abysmally. Once again, let me draw again from personal experience.

Following World War II, the United States agreed under the U.N. Charter to administer those Pacific islands, known as Micronesia, which were wrested from the Japanese by American amphibious forces during the war. Many of these island names—Kwajalein, Truk, Peleliu, Saipan, Tinian—will be familiar to many of you, especially if you served as a member of the Armed Forces in those bloody Pacific battles. As a carrier pilot, the Navy first introduced me to the Mariana Islands—one of the three archipelagos that comprise Micronesia. Ironically, and proudly, I might add, it was these same islands—the Marianas that became the ones I assisted, in the determination and development of their own political future, 30 years later as a Member of Congress.

Under the U.N. trusteeship agreement, the United States is obligated to "promote development toward self-government or independence in accordance with the wishes of the people * * *."

The story of the negotiations—the give and take on both sides, the integrity and sincerity displayed by all participants—is too long to relate to this forum. Let it suffice, that in my political experience, I have never witnessed a better example of "working democracy." Within the Federal Government, a special White House office was established to undertake the ramifications of negotiations. Dedicated American officials from the Defense, State, Justice, Treasury, and Interior Departments were brought together to work out the details of this new, innovative approach in American federalism. Within Congress, we were continuously kept abreast of progress in the negotiations. Congressional input into the negotiating process was conspicuous. Following a plebescite in the Marianas, wherein nearly 80 percent of the people endorsed the covenant's provisions, the President submitted the pact to the Congress for approval. The Congress, having been consulted and kept fully informed from its very inception, had no doubt of the covenant's contents. Here was a negotiated document to which all parties concerned had access—a document freely chosen by the people. Congressional passage was assured. On July 1975, on the floor of the House, I stated:

> Mr. Speaker, although the population of the Mariana Islands is small and the amount of Federal expenditures envisaged is relatively small, the political, legal, and social precedents to be established with approval of the Marianas Covenant are salient. Foremost, a new sytem of local government, unique in the annals of U.S. history, will be enacted. Secondly, new patterns of economic and social advancement for the undeveloped world will be launched; and finally America's leadership in the Pacific basin takes on a new and very constructive dimension.
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> Regarding the negotiating process, I wish to commend highly, Ambassador Haydn Williams, the President's personal representative for Micronesian political status negotiations, for the diligence he displayed in keeping members of the Interior Committee informed on progress made throughout the negotiating process. * * * In my 13 years as a Member of Congress, I have never witnessed a closer or more cooperative relationship established between the Congress and the Executive Branch.

On March 24, 1976, there was no one in the East Room of the White House with more pride than I as I stood behind President Ford and watched him sign the covenant into law.

At this point, you may be saying, all very interesting, but how does this concern the new Panama Treaty? Although the political status of Puerto Rico, the Marianas and Panama may differ; in all three instances, vital U.S. interests were at stake; namely, America's leadership role in the Pacific and the Caribbean. Moreover, U.S. economic ties with the underdeveloped world hung in the balance. Also, national security interests, specifically, the preservation of air and sea lanes, upon which this Nation is dependent, were in jeopardy. But even more importantly, the lives of people—their freedom of choice were—cogently involved. American citizens, as well as aliens, were dependent upon the good auspices of the U.S. Government to protect their individual rights.

Therefore, with the understanding of the delicacy of international negotiations, it becomes clear that the negotiations of the United States and Panama over the past 13 years have been too narrow in scope in at least two ways.

First, the two groups deliberating as representatives of Panama and the United States were not truly representative, in any sense of the word, of the people of the two nations. For our part, as I have mentioned, the bargaining was done by career diplomats without sufficient input from the legislative branch of our Government let alone the views of the many people and groups in our country who have an interest in the canal issue.

Similarly, the existing regime in Panama has operated its side of the negotiations with a combination of bluff and threat. It needs a broad-based negotiating team that could represent the people of Panama rather than its dictator.

It is rather paradoxical that on the one hand this dictator, who holds his position through power rather than popular support threatens that failure to ratify the treaty will lead to insurrection, sabotage, or guerrilla warfare while on the other hand we are being asked to entrust long-range security interests of future American generations to the good intentions and stability of this regime. If Panama is to have an increased role in the canal, then that role must be one which the Panamanian people understand and are willing to accept.

The Panama Canal is an asset of the Western Hemisphere and should be considered in that context rather than the exclusive property of either the United States or Panama. In my view, the Organization of American States was afforded no more opportunity to influence the contents of the Panama treaties than America's elected representatives in Washington or the people of Panama. To exclude multinational participation in determining the political and economic future of the Hemisphere is inexcusable.

This short-sightedness in the negotiating process—this callous disregard for the concerns of the people of both Amer-

icas—has raised a storm of protest over Capitol Hill. The likelihood of attaining the two-thirds majority in the Senate necessary to ratify the treaties becomes less likely with each day. But if the treaties fail, what next?

Obviously, the relations between the United States and Panama are strained; tensions can be eased only through open and forthright discussion. In the next round of negotiations, we must be assured of a broad base.

There is a very important principle involved. The United States is the major advocate of a free and open society, and has raised concepts of human rights to a level unprecedented in history. We are a government of, by, and for the people. Whatever we do in the negotiating process should reflect and project that principle.

As demonstrated in the Northern Marianas negotiations, the United States can no longer rely exclusively on the State Department to conduct proceedings which are politically sensitive at home. Rather an administrative task force—composed of the best political, economic, and military talent available—must be established under the President's personal direction and charged with formulating an agreement that truly reflects the desires of the American people. In the process, both Houses of Congress must be active participants. Similarly, members of the OAS should also be invited to join in. As for Panama, strong international pressure must be placed on the Torrijos' regime to insure that all factions of the Panamanian society are represented at the negotiating table.

One option might be to form closer political and economic ties with Panama. The concept of "free association" is one receiving more and more attention as nations, whose economies and histories are inextricably intertwined, seek to maintain national identity in a world of ever expanding complexity. Free association involves the recognition of the political dependency of one national entity upon another but simultaneously maintains a discrete legal identity recognized by international law. Such a status becomes increasingly important for small states which have been drawn into a power struggle between the great powers or have an insufficient economic base to support its population. At this moment, for example, the United States and Micronesia are involved in negotiations which, if successful, will establish the free associated State of Micronesia, wherein Micronesia will retain its sovereignty for internal matters while the United States assumes responsibility for the islands' foreign affairs and national defense. It is conceivable that a similar arrangement could be worked out with Panama. In any event, this option should not be overlooked. Of course, any such change in political relationships would require the consent of the Panamanians, freely expressed at the polls.

Beyond the procedures of the talks on the future of the canal, however, lies the fact that the canal is not simply an issue affecting Panama and the United States—its strategic and economic importance affects every nation in the hemisphere.

This is not just a Panama-United States problem but rather an inter-American problem and requires an inter-American solution.

My suggestion is that we begin new and expanded negotiations on the future of the canal and all related economic, political and security matters. These negotiations should be bilateral between the United States and Panama on economic, political status, and operational matters. The security matters should be inter-American in scope and solution, and every interested nation of the Western Hemisphere should be offered the opportunity to participate. The canal is very important to some Latin nations, like Mexico, Chile, and Peru, and is relatively less important to others. The special concerns of each nation should be represented in an inter-American solution.

Until such time as a solution satisfying the security interests of the immediately concerned nations, as well as the special interests of Panama and the United States is concluded, the United States can continue to operate on a free access basis just as it has for over 70 years.

This concept recognizes the legitimate economic and security interests of the North, Central, and South American countries, and it is the only course that can offer a final, permanent, and acceptable solution.

It would permit decisions to be made in a constructive atmosphere of give and take rather than under the threat of another so-called "revolution" in Panama, because its rights are supposedly ignored.

My principal objection at this time is the manner in which the treaty was drawn. In this case, it has led us to the position where our only choice is confrontation. What we really must strive for is coordination, communication, and cooperation between all the countries of the Americas, but in particular we need to communicate to the people of Panama the advantages that will accrue to them through a more mature, fair, and strengthened partnership with the United States.

As I mentioned in relation to the Puerto Rican compact, successful negotiations hinge upon two propositions: First, administrative expertise, and second, political awareness. In the case of the Panama Treaty, we had an over-abundance of technical advice with little sensitivity demonstrated for political questions.

And what of the people—Americans and Panamanians alike? Do the provisions of the treaty meet with their desires? Or, like the Congress, are they merely being handed a fait accompli with all options closed.

Congress has a vital role to play in such proceedings. The President can and should expect the American Congress or the American people to revamp this outmoded style of international negotiations—to endorse procedures similar to those evoked by the previous administration in formulating the Marianas' Covenant—to open the international negotiating process to the will of the people through their elected congressional representatives.

I am not sure if we know specifically how the people of Panama feel about the treaty or what they really would like to see evolve in the way of an economic and political relationship with the United States.

When you are dealing with a military dictatorship that got its power by force, you cannot be certain what the feelings of the people would be if they were free to express them.

I believe we can move ahead to an improved relationship with the people of Panama through a modernization of the canal which could allow the investment of large economic resources into our future ties with Panama.

This is the message we can and should take to the people of Panama. If we adopt the "negotiating process" I have outlined, we can assure them that our diplomacy will have the necessary institutional stability to insure equitable, fair, and just results.

While this would be an investment in our own interest, it would allow participation from Panamanians that would benefit them in every social, economic, and cultural way.

The gospel I preach—and one many of you have heard me on before—is that the nations of North, Central, and South America have the potential to be totally self-sufficient as a group.

Hemispheric self-sufficiency would be in our best interest and, in my judgment. ought to be one of our primary goals.

In a nuclear age in which security needs and economic values are so closely intertwined and so absolutely vital to our future, and when the requirement for a coordinated, integrated, and balanced international transportation system has never been greater, the United States must plunge ahead, not pull back.

We have a responsibility to demonstrate bold, innovative leadership in our relationship with our hemispheric partners.

The Santa Rosa Press Democrat editorialized that—

> We need a new approach to our relations with Latin America, we need more trade agreements and exchanges of technical assistance.

I could not agree more with this statement.

In discussing U.S. policy toward Latin America, I have often said:

> We do not wish to be looked upon as your fathers; we prefer to be your brothers.

Behind this phrase, there is a long history of continuing debate as to what the proper relationship should be between us and our neighbors to the South. That debate spans long periods of our history from the Monroe Doctrine, through the good neighbor policy, and the alliance for progress, up to the present. Each phase of our evolving policy toward Latin America responded both to an assessment of U.S. interests and of

the realities of our relationships in the Hemisphere.

The change in our desired role from being "fathers" to "brothers" goes to the very core of our concept of the "mature partnership" we wish to have with our Latin American friends. As I have observed our working relationship during the sessions of the Pan American Highway Congresses I have attended, I have come to the firm conclusion that we are all proud of our national heritage, yet we are also willing to share ideas that will be helpful to all.

Why must we move to this new policy and new diplomatic style?

We have realized that our Latin American neighbors have made great strides in recent years in the complicated tasks of nation building and economic and social change. These nations are increasingly flexing their "muscles of maturity" as they develop their self-confidence, as they thrust ahead in their efforts to modernize, and to bring the benefits of economic growth and social progress to more of their people.

We, too, have assessed our national interests and the realities of contemporary Latin America.

We have come to the conclusion that the special relationship we seek with our Latin American friends must be such, as to assist the processes of change in an atmosphere of mutual respect, confidence, and cooperation.

As this partnership develops and mellows with time, we not only help each other, but strengthen the quality of our political, social, and economic institutions that bind us together in the inter-American system.

In presenting my personal assessment of our relations of the past, I am of the firm opinion that we must all accept a proportionate share of the blame for the problems that have not been resolved in an orderly manner.

Why has this occurred?

In my view, we have all wavered from one extreme to another—all the way from "benign neglect" on the one hand to the "bear hug" on the other.

When we needed each other desperately, we would join together to meet a common threat to our respective interests.

After the threat had passed, we would fail to communicate adequately, to "keep in touch," thereby neglecting to recognize or deal with promptly the increasing problems associated with the challenges of change in this jet-space-technological age.

The result has been smothering paternalism wrapped in a blanket of immaturity, misunderstanding, unfulfilled promises, and mounting uncertainty.

The sweeping changes in world economic conditions imply a sharp increase in U.S. economic interests in Latin America.

In facing these U.S. interests, what is the position of Latin America? What are its goals?

A chief Latin goal remains the modernization and diversification of their economies, via industrialization, including increased processing of raw materials. Latin America's needs for capital and especially technology suggest that it will certainly continue to want foreign investment. But the terms must be right: The investment must be perceived to promote their own goals of industrialization, better balance-of-payments positions, reduced unemployment, technological advance, and the like.

The new economic strength of Latin America has led to a dramatic improvement in its bargaining position vis-a-vis the United States. But it has also laid out the continued needs of the Latins for external markets, especially for their manufactured products, and for infusions of capital and technology.

There is a wide array of options available to the United States and to Latin America.

The special relationship between the United States and Latin America now needs to be a new kind of special relationship, in which each works together to promote global programs of joint benefit to both. A vision of such expanded and diversified progress together should animate United States-Latin American economic relations in the new world economy and policy of the late 1970's and beyond. And since economic issues will almost certainly lie at the heart of the overall United States-Latin relations for the foreseeable future, the realization of such progress could provide the basis for stability and progress throughout the Western Hemisphere for some time to come.

The time has come for all Americans, North, Central, and South, to stand up and be counted on a man-to-man basis—treating each other with mutual respect in a true spirit of brotherly love, as intended originally by our Creator.

We are all constructive, creative, dedicated, and determined individuals and nations.

We must all realize, however, that by maximizing our economic organizational and institutional interdependence, we can greatly enhance our individual and cherished goals of independence. This is, in truth, what has happened in our United States of America. The lessons we have learned in the course of our experiment in functioning democracy have relevance, purpose, and potential application to all the Americas. I sincerely believe the nuclear age and the long term security interests of the United States and our inter-American friends make an improved relationship necessary—the potential for resource self-sufficiency make it desirable, and the projection of economic and political solidarity, coupled with security, organizational cooperation among the Americas will have a very sobering and stabilizing influence on the entire world community.

A new, expanded, and updated "negotiating process" can make this a reality.

The concerned, confused, uncertain, and fearful people of the world are "hungry" for this type of bold and imaginative leadership from the recognized "champion of freedom and justice."

I hope and pray the United States will rise to meet this challenge. The potential for action is unlimited. The consequences of inaction can be devastating to the hopes and aspirations of free men and women in every corner of the globe.

CONGRESSMAN KEMP INTRODUCES LEGISLATION TO AID THE ARTS AND HUMANITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, on Thursday, September 29, I introduced H.R. 9379, a vitally needed piece of legislation that would aid the financially strapped arts and humanities throughout the United States. These institutions are faced with inflationary increases in expenses and corresponding decreases in private, corporate and foundation donations to the arts and humanities. The situation is fast approaching the critical level.

The survival and growth of the arts and humanities should not solely depend on the generous givings of philanthropic people and institutions. The private sector should be urged and encouraged to povide a steady source of supplementary income.

THE LEGISLATION

The bill I introduced provides a tax credit equal to 50 percent of the contribution or gift to any qualified organization whose primary purpose is the support of the arts and humanities. This credit is limited to $200 per person per year and may not exceed an individual's total tax liability.

What this means is that a person could give up to $400 per year to the arts and humanities and it would only cost him $200.

Clearly, this method will be of especially great benefit to moderate income taxpayers who would like to support the arts and humanities but cannot afford to give as much as they would like. In effect, it will enable them to double their financial support.

The benefit of a tax credit, however, is generally limited to low income taxpayers. In order to encourage corporations, foundations, and higher income individuals to also support the arts and humanities in greater number, I am also proposing a tax deduction equal to 120 percent of the contribution to these organizations.

In other words, for every dollar contributed an individual or business could deduct $1.20 from its taxable income. So no matter how much money you make, be you rich or poor, a foundation or a corporation, H.R. 9379 will provide an opportunity to give to a favorite college artistic effect, opera, ballet, or museum and receive either a tax credit or an additional tax deduction.

This legislation takes the Federal Government out of the giving process. No longer will an institution have to rely on the National Endowments for the Arts and the Humanities for the bulk of their financial support. A person may

give to whatever institution he or she wishes. The arts would receive a significant commitment from all sectors of the society, from individual donors, the corporate sector, and through public funding.

Private colleges, symphony orchestras, dance and ballet companies are all experiencing severe financial strains. Just read the headlines of recent news stories in the New York area. The Joffrey Ballet has cancelled its entire spring season. The Metropolitan Opera succeeded in salvaging its 1977 season by raising $12.5 million dollars in emergency funds and now needs just $11 to $14 million more to open annually.

Joseph Papp announced his decision to withdraw from New York's Lincoln Center, and to close down all operations of the New York Shakespeare Festival at the Vivian Beaumont Theatre. The Saratoga Performing Arts Center cut down its orchestra season by one quarter this summer. The American Shakespeare Festival at Stratford, Conn., did not open for its 1977 season and its future is in serious doubt. These organizations are only a handful of organizations throughout the country that face similar woes.

A perfect example is our Buffalo Philharmonic Orchestra which is the envy of most cities' symphony orchestras for its creative achievements in the past few seasons under the skillful direction of Michael Tilson Thomas. The philharmonic has raised the number of series subscribers by an amazing 150 percent from 3,000 to 7,500 and it has enjoyed increased ticket sales at the box office. But the economic position of the orchestra has not shown any improvement.

Last season the orchestra ended up with a deficit of close to $600,000. The accumulated deficit for the philharmonic is more than $1 million. The reasons for the deficit are many, including sharply declining Government grants with State and county cutbacks totaling $192,975. The labor costs for the 1976–77 season resulted in $184,000 in increased costs and the nonrecoverable income and expenses as a result of the blizzard amounted to $50,000. However, the most costly factor that influenced the philharmonic's plight was inflation, and the same is true for our great art gallery, Albright-Knox Studio-Arena Theatre, and others.

An already difficult situation for the arts and humanities is exacerbated by inflation which has risen according to the Consumer Price Index by 25 percent over the last 3 years. The arts as an industry are faced with the same budgetary squeeze that threatens other industries in the country. Arts and humanities organizations cannot easily lay off musicians, dancers, actors, singers, stage hands, curators, and technicians without seriously jeopardizing the very quality the public has come to expect and demand from these institutions. There is a danger in raising ticket prices because the arts may price themselves out of reach of their new-found public.

THE GROWTH OF THE ARTS AND HUMANITIES

The new-found public is very large and arts expansion in the United States is very genuine. A survey of leisure time activity published in the May 23, 1977 issue of U.S. News and World Report showed that 62 million persons attended a live theater performance at least once in 1976; 78 million people went to a museum; 54 million went to popular music performances; 27 million went to classical music performances and 24 million attended the ballet or another form of dance.

The large attendance figures are paralleled by the growth of arts and humanities organizations in the last 12 years. From 1965 to 1977 professional orchestras grew from 58 to 125; museums from 1700 to 1900; developmental theaters from 10 to 200; community arts agencies from 175 to 1200; professional theaters from 15 to 70 and small literary magazines grew from 450 to 1106.

We are thus faced with the paradox of a healthy state of the art form but an unhealthy state of the arts situation. The arts and humanities have been encouraged to grow and expand, yet the necessary help is being withdrawn or withheld.

According to a National Endowments for the Arts economic survey, many artistic organizations have been forced to put their new programs into cold storage until the funds to implement them are found. Few new programs are being introduced unless they are totally underwritten in advance or can meet their own costs from earned income. Fiscal discipline remains tight and has virtually become a way of life for arts organizations.

The net artistic effect of prolonged economic stringency is to postpone the plans of many artistic groups to extend or diversify programing in response to public demand. There is little evidence of specific damage to the quality of current programing, but a large majority of the sample surveyed by the National Endowments reported a backlog of well-considered plans waiting for the money to put them into production. Many groups are in danger of artistic stagnation. These groups have the potential to grow stronger, but their primary energies must go toward the negative goal of meeting already present economic pressures that have hit the arts.

The economic pressures have been evident in increased costs for salaries of artists and administrative personnel, utilities—increases even more by this January and February's severe cold—production expenses, exhibition materials, transportation, printing, postage, shipping, advertising, supplies, and insurance. For most institutions sampled, the increases were anticipated, although some reported rises in pension costs, health benefits, production expenses, and utility and insurance rates caught them off guard.

ARTS AND HUMANITIES ORGANIZATIONS ARE CUTTING CORNERS TO MAKE ENDS MEET

Arts and humanities organizations now are searching for ways to cut as many corners as they can. Staff salaries are in some cases being held at previous levels or decreased in order to balance rising costs in other areas. Some organizations are deferring the acquisition of needed equipment, while others are undertaking cooperative efforts to raise funds for the purchase of vital supplies and services. In the opinion of most organizations that were surveyed, these cutbacks have been virtually exhausted so that the emphasis has been shifted to generate more earned and unearned incomes.

The net effect of rising costs is more the curtailing of efforts to expand or to achieve higher artistic goals than damage to the quality of current programing. Some institutions continue to cut public service programs—like providing low-cost tickets for the young, underprivileged, the handicapped, and the elderly—judged to be marginal, and others report they are now at the edge with no margin left.

However, many institutions have made some additions to their activities. For performing groups, the number of performances rather than the number of productions have been increased in an effort to make existing resources go further in generating earned income.

Most groups report an increase in earned income this year due to a rise in attendance and higher ticket prices. In some cases, increases were effected by reducing or eliminating discounts or subscriptions. Some organizations are expanding revenues by altering seating plans to expand the number of seats in the higher price ranges. There remains a reluctance in principle to raise prices, but most institutions say they will continue to pass along at least part of the future inflationary increases to the audiences.

NEW SOURCES OF SUPPORT ARE VITALLY NEEDED

New sources of support must be found to meet the increasing costs of presenting really first rate exhibitions, drama, music, and dance. The arts are an essential part of American life. Their influence is not solely limited to the museum or the concert hall or the theatre. They are not the product of just a composer, a painter, or an actor. They grow from the spirit and creativity of the whole American people and in one way or another they touch and enrich the lives of everyone. Therefore, it would be incorrect to think of the arts and humanities as a luxury to fill the idle time of the wealthy. They are a necessary part of every community in the country and should be extended in influence and enlarged in their accessibility. Therefore, I urge my colleagues to support this legislation.

TOWARD A COMPREHENSIVE PROGRAM FOR FOREIGN SALES OF AMERICAN AGRICULTURAL COMMODITIES

The SPEAKER pro tempore (Mr. BRADEMAS). Under a previous order of the House, the gentleman from Mary-

land (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, I have today introduced a joint resolution on behalf of myself and the gentleman from Virginia, Mr. WAMPLER; the gentleman from Kansas, Mr. SEBELIUS; the gentleman from Illinois, Mr. FINDLEY; the gentleman from Nebraska, Mr. THONE; the gentleman from Idaho, Mr. SYMMS; the gentleman from Vermont, Mr. JEFFORDS; the gentleman from Iowa, Mr. GRASSLEY; the gentleman from Louisiana, Mr. MOORE; the gentleman from North Dakota, Mr. ANDREWS: the gentleman from Virginia, Mr. ROBINSON; the gentleman from Indiana, Mr. JOHN T. MYERS; the gentleman from Minnesota, Mr. STANGELAND; the gentleman from Ohio, Mr. ASHBROOK; and the gentleman from California, Mr. LAGOMARSINO.

The joint resolution orders the President of the United States, the Secretary of Agriculture, and officials of the Foreign Agricultural Service and the Department of State, to develop and implement a comprehensive program for foreign sales of American agricultural commodities.

Mr. Speaker, this year the American agricultural community is suffering the worst depression in 41 years, in fact, according to statistics released by the U.S. Department of Agriculture. When adjusted for inflation, the net income our American farmers will receive is the lowest since 1936. This means that the 2,750,000 American farmers sharing a net income of only $10.7 billion, are averaging a net income of $5,721 if you base this on 1967 dollars. Many will have no net income at all. At the same time, in those 41 years the Consumer Price Index has quadrupled from 41.5 to 182.6. All of us realize that the farmers have suffered enormous increases in production expenses, including all commodities that are necessary for farming, seeds, fertilizer, machinery, herbicides, labor, and energy.

Mr. Speaker, it is also well that while we note the plight of American agriculture, that we should remember that the debts of American farmers have increased from $81 billion in 1974 to an estimated $102.1 billion currently. The result is that American farmers have had to sell fixed assets, borrow heavily against future income, and many face bankruptcy. At the same time the international balance of payments of the United States is facing an enormous deficit in 1977 of approximately $25 billion, according to Government estimates, and, as we all know, American agricultural exports have been the major export commodity that has held down this deficit in the balance of payments.

Mr. Speaker, I believe that most American farmers would prefer a free market approach to farming and the economy. I think it is also well to note that there exists abroad numerous opportunities for sales of American agricultural commodities which, if pursued and properly developed by the administration, could result in an enormous reduction of existing surpluses of wheat, corn, feed grains, rice, and many other commodities.

The result of that, of course, would be a badly needed increase in prices for American agriculture. It is, therefore, the intention of my colleagues and myself that this resolution will direct the President and the Secretary of Agriculture, and other appropriate officials of the U.S. Government, to formulate plans for the expansion of sales of American agriculture commodities abroad, including increased food for peace sales under Public Law 480 and private international sales as well.

The resolution would direct that agricultural attaches and officials at all American embassies abroad seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located.

Lastly, it will direct the President to report to the Congress of the United States of the plans formulated and implemented under the authority of the resolution no later than January 30, 1978.

Mr. Speaker, the genesis of this resolution comes from a number of comments made by members of the agriculture community in my district, in the State of Maryland, and all across the United States, including officials of the American Farm Bureau. I would hope that the appropriate committees of the House, the Committee on International Relations and the Committee on Agriculture, can consider and expedite hearings and action on this resolution, and that the administration will respond with the comprehensive plan that we seek.

I will be circulating this resolution next week for cosponsorship of other Members of the House, and, hopefully, we will obtain a great many such sponsors in order to show the congressional support for American farmers in their time of need.

H.J. RES. —

Joint resolution ordering the President of the United States, the Secretary of Agriculture and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas American agriculture and the production of food and fiber, worth $82 billion last year, constitute the most basic and indispensable industry in the economy of the United States, without which the Nation's domestic and international position would be seriously jeopardized; and

Whereas historically the economic distress of American agriculture has preceded and deepened national and international economic dislocations and depressions; and

Whereas the net income after cost of production for American farmers in 1977 is projected by the U.S. Department of Agriculture to be less, when adjusted for inflation, than farmers received in 1936, the lowest net income in 41 years, with 2,750,000 American farmers sharing a net income of only $10.7 billion, or an average net income worth $5,721 for each farmer in 1967 dollars; and

Whereas the consumer price index has more than quadrupled since 1936 from 41.5 to 182.6 and production expenses in recent years have increased enormously for all farming necessities, including seed, fertilizer, machinery, herbicides, labor and energy, while farm income has declined; and

Whereas the total debt owed by American farmers has increased from $81.8 billion in 1974 to an estimated $102.1 billion currently, causing many thousands of farmers to sell fixed assets, borrow heavily against future income, and many to face bankruptcy; and

Whereas the deficit in the U.S. balance of international payments is expected to be nearly $25 billion in 1977 and American agricultural exports are the major export commodity of the Nation; and

Whereas the majority of American farmers prefer a free market approach to farming and the economy; and

Whereas there exists abroad numerous opportunities for sales of American agricultural commodities which if pursued and properly developed could result in a reduction of existing surpluses of wheat, corn, feed grains, rice and other commodities, thus producing a rise in agricultural commodity prices which have plunged below actual costs of production: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States hereby directs the President of the United States, the Secretary of Agriculture, and all appropriate officials of the U.S. Department of Agriculture, the Foreign Agricultural Service and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad, including increased Food for Peace (PL 480) sales as well as private international transfers of food:

Further Resolved that the Congress hereby directs agricultural attaches and officials at United States embassies to seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located;

Further Resolved that the President of the United States shall transmit to the Congress a report of plan formulated and implemented under the authority of this concurrent resolution no later than January 30, 1978.

THE TRIBLE SMALL BUSINESS EXTENSION AGENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE), is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, I believe that the small business community is on the verge of being taxed, inflated, and regulated out of existence by the Federal Government. We need to reverse this trend. I am convinced the Federal Government must do all it can to encourage increased participation of small business in our economy. It is time to do something for—instead of to—small business.

Recently, the Small Business Administration estimated that 400,000 small businesses fail each year, while big businesses prosper because they can afford in-house experts or expensive outside consultants. The large number of small business failures indicates many small businessmen and businesswomen do not have access to the management and technical assistance which they need.

This is especially true for minority businesses.

It is for this reason that I am today introducing the Trible Small Business Extension Agent Act. Patterned after the U.S. Agricultural Extension Service, this program will make small business extension agents available to offer small businessmen and businesswomen the technical and general assistance needed to cope with a mountain of Government redtape and a rapidly changing business environment.

As you know, the tremendous success of the Agricultural Extension Service places the United States in a position as a leading world food producer. I think this success with the small farmer is worth duplicating.

The Small Business Extension Service Agent could improve the quality of management currently practiced by many independent owners of these businesses. The key elements in the agent's job will be: First, working directly with businessmen and businesswomen to solve their individual problems; and second, serving as a supporting specialist and advocate in government for small business.

As an employee of the Small Business Administration, the agent would be trained and experienced in both general and specific fields of business management and Government procurement, contracts, and regulations. By working directly with local businesses on a regular basis, the agent would be a friend and advisor of the businessman and businesswoman. Hopefully, this relationship would reduce the number of business failures, increase profitability, foster community development, and cut redtape. All this will mean real economic growth and the development of jobs for Americans.

As a traveling consultant expert, the agent would offer free knowledge to businessmen and businesswomen within a defined geographical area. The extension agent would be capable of aiding the business novice as the "wiley" veteran. In carrying out this primary concern—that of solving business problems, the agent would use proven business techniques to help small businessmen and businesswomen acquire additional knowledge, make sound economic decisions, and plan wisely for the future.

In addition, the agent would also be responsible for reducing the burden of redtape on small businesses. The agent would be trained to advise small businessmen and businesswomen on how to complete the almost endless stream of Government forms which now plague them.

This should at least permit the small businessman and businesswoman to reduce the amount of time wasted filling in the blanks on Government forms and allow time for people to run their businesses. In the long run, the extension agent should be able to identify unnecessary paperwork which can be eliminated and further free businessmen and businesswomen from the tangle of Government redtape.

For too long, I believe the thrust of Government programs has been to do something to the small business. My bill would develop a Government program to do something for the small business.

THE TAXMAN—OR THE POLITICAL AXMAN?

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last night I gave notice that I would today document political abuses of the Internal Revenue Service during the Nixon administration. I do this because the case I have learned of has not been disclosed before, because it is one of immense importance, and because we need to ask whether this kind of abuse can occur again. That is precisely the question that I raised in a letter to Secretary Blumenthal on September 12, and again in a letter to my distinguished friend, SAM GIBBONS, whose subcommittee has oversight of the Internal Revenue Service.

By way of background, let me say that I was profoundly disturbed to find that within 60 days of the inauguration of Richard Nixon, I found clear evidence of official misconduct. This case was the very first documented evidence of corruption in the Nixon administration. The matter involved a special assistant to the Administrator of the Small Business Administration, who connived to obtain an interest in a business that sought a loan from SBA. At first, this corruption was stoutly denied, but in the end those involved were convicted and sent to prison.

During the course of that situation, I had the feeling that the Justice Department would not prosecute the case, if it could be at all avoided. But finally, it became clear that the administration would be more embarrassed if it failed to act, than it would be if justice was done. At that point I got a call from the Assistant Attorney General, Will Wilson, who assured me that proper action would be taken. Reassuring as it was to hear from such a lofty figure, I could not help but be disturbed that any official would feel compelled to assure anyone that justice would be done. I soon found out why.

Mr. Will Wilson was an ex-Democrat, and a passionately partisan man, in the manner of those who have been frustrated in earlier ambitions, and been converted to a new persuasion. I learned that Wilson had ordered that all Federal agencies having any adverse information about prominent people in Texas should make that information available to Wilson.

As it happened, Wilson himself was a Texan. The first fruit of this was a minor indictment against three Texas banks for violation of an obscure 1907 statute that has since been repealed. The banks were acutely embarrassed, for they were made to appear as having given special favors to certain political figures. Nothing ever came of the charges, but the banks no doubt became exceedingly sensitive about doing business with people who were running for office. It was clear that the charges had been more political in nature than anything else, an early sign to me that Nixon and his friends meant to use every conceivable lever of power. All this became manifest only years later.

We saw the signs first in Texas. I have mentioned the Small Business Administration case, and the banking matter—situations that I warned about, but which most people dismissed as being minor aberrations rather than evidence of a pattern of abuse.

Not long after that banking case, a Houston banker by the name of Frank Sharp found himself immunized against Federal charges arising from the abuse of his bank, the Sharpstown State Bank, and manipulation of other interests. I charged at the time that Sharp had been given immunity because Assistant Attorney General Wilson was an old friend and associate of his. I proved it, and Wilson was forced to resign on October 15, 1971. He was the first major Nixon appointee to resign as the result of scandal, well before Watergate.

The important thing about Wilson was that he typified the Nixon pattern. He used his office to further political ends. He wanted to embarrass those in political office who were opposed to Nixon, or who might support someone other than the Republican administration. He wanted especially to do this in Texas, because it represented a possible source of great new power for the Republican Party. It was years later before Watergate revealed how pervasive this pattern was—encompassing, as it did, everything from Malek's effort to politicize the civil service, to the channeling of community action money to friendly hands.

It is significant to remember that in the articles of impeachment reported by the Judiciary Committee, the first specification of the abuse of powers article charged corruption of the Internal Revenue Service. These are the exact words of that charge:

(1) He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner. (House Report 93–1305)

Unknown to the Judiciary Committee at that time, there had been at least one, and documents indicate more, elaborate Internal Revenue Service projects directed against political targets. In Texas, the operation was known as Southwest Project, or sometimes Project Southwest.

The existence of this project came to light through a Freedom of Information Act suit.

Southwest Project was clearly a political operation. One IRS document stated the purpose in these words:

. . . to learn as much as we can about Texas political relationships, influence and possible pay-off (sic).

Its No. 1 target was defined in another document as the "Texas State Power Structures."

Interestingly enough, the project started with a meeting in the Dallas conference room of the regional Internal Revenue Service Commissioner, February 15, 1972—months before the famous Watergate breakin, and timed well ahead of the national election. In that meeting, according to the minutes, Regional Commissioner Brisbin had a message: The district offices were not "program oriented." They did not "have the feel of possible political corruption in Texas." Brisbin reminded his subordinates of successes elsewhere in political corruption cases. He warned that the National Office wanted the Texas IRS to become "program oriented." It was a shorthand way of saying that Nixon's people wanted some action against Texas Democrats.

That very day, Southwest Project was set up as a top priority item, with, the minutes say—

. . . our sights, aimed on high level state positions or in areas such as County Commissioners or other areas that would lead upward to state offices.

Project Southwest was off and running.

By the time of the 1972 election, IRS had 24 revenue agents assigned to the project, plus 6 special agents, a force which the project leaders hoped to see doubled in size. They wanted no less than 13 revenue agents and 9 special agents assigned to cover the "Texas power structure" target alone.

Nothing in the record shows that the massive array of manpower assigned to this project ever produced any results that justified the elaborate, high-powered scheme employed. That it was a large operation is beyond question; one key participant warned that careful planning was essential to keep the operation from becoming too unwieldy. Documents show that by November 1972 the project involved 164 audits. Nor is there any question that from beginning to end it was a politically oriented project, as indicated by one person who asked whether he should limit his work to State officials, or include members of the Texas congressional delegation as well. He was told to go after everybody, "be aware of the names of Federal officials and watch for any payments to these officials."

It was a classic case of the abuse of governmental power—deliberate, and with malice aforethought. We need to ask ourselves whether such abuses of the IRS can take place today. Is there any safeguard against the use of this powerful agency to intimidate political opponents, to embarrass or penalize or punish those an administration happens to have political differences with? That is the importance of this case. It was not a case alone; it was a project among many, all with political malice in mind. It was part of a pattern of general abuse and corruption. Could it happen again? We need to know.

In order that the House can have documents to consider, I am offering for the RECORD certain papers related to Project Southwest, all of which were obtained through a Freedom of Information Act case. I also offer for the RECORD my letters to Secretary Blumenthal and Chairman GIBBONS, together with a brief response from the Secretary.

Despite the assurances from Secretary Blumenthal, I have knowledge of recent questionable actions by IRS, obviously politically motivated—and even involving Members of Congress.

I intend to speak out on this.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1977.

Hon. W. MICHAEL BLUMENTHAL,
Secretary, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: Lord Acton commented trenchantly on the corruption that arises from excessive power. A less exalted, but also worthy warning is carried in a folk saying, which goes to the effect that a grant of power to the government ought to be made only on the understanding that Satan might one day exercise the power.

The Internal Revenue Service, needless to say, has immense powers over individual citizens. My purpose in writing is to remind you that past administrations have allowed that power to be abused, and to ask what actions you have taken, or would recommend be taken, to prevent a recurrence of such blatant abuse.

It was little noticed at the time, but Article II of the Resolution of Impeachment against Richard Nixon proposed by the House Judiciary Committee (the abuse of powers article) mentioned first the abuse and the misuse of the Internal Revenue Service. The specification was this:

(1) He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner." (House Report 93-1305)

The abuses mentioned, included actions against Governor George Wallace and Democratic Party Chairman Lawrence O'Brien. I have recently learned that the abuses apparently went far beyond that, and in fact may have been nationwide in scope.

The famous Watergate break-in took place on June 17, 1972. Months before that, however, the Internal Revenue Service had been deployed to take actions against political figures. Among the actions not listed in the impeachment report was a program called Project Southwest, which was initiated on February 15, 1972.

On that date, according to a document from the IRS, a meeting convened in the Dallas regional commissioner's conference room to hear Mr. Al Brisbin, representing the IRS National Office, say that the two Texas IRS districts "were case oriented rather than program oriented." Brisbin complained that the Texas districts "do not have the feel of possible political corruption in Texas."

In other words, the National Office program was to begin a wide scale investigation of Texas political figures—anyone in any important political office, or anyone who could help make a case against anyone in a high office.

Brisbin elaborated in a March 21 memo:

"Our aim is to learn as much as we can about Texas political relationships, influence and possible pay-off . . ." (sic)

By November, 1972, the IRS had 24 revenue agents and 6 special agents assigned to Project Southwest, and projected a need for 40 more people—altogether, 47 revenue agents and 22 special agents. Of these, 13 revenue agents and 9 special agents were supposed to work on something called the "Power Structure."

The documents that are available to you relating to Project Southwest will indicate the full extent of the effort undertaken, and the results, which, so far as I know, were minimal, and in no way sufficient to justify the immense effort and high priority invested.

It seems very likely that Project Southwest was, in fact, a political effort, aimed either at intimidating or embarrassing anyone who opposed the Nixon reelection effort or who might be a contributor to the Democratic Party.

I believe that you should undertake every effort to learn how the IRS was abused in the Nixon years, and why efforts like Project Southwest were undertaken. Was it in fact a political project, an abuse and corruption of law enforcement? What did Brisbin mean when he accused the Texas districts and regional offices of not being "program oriented?" What was the program? Was it political?

Second: I believe that if you do find that Project Southwest and others like it were political abuses, you should determine who was responsible and take appropriate action against those persons, to the extent that any may remain in offices of real responsibility.

Third: Most important, you should learn whether such abuses continue today, or whether it is possible to mount such actions today. Any misuse of the IRS should never be tolerated, and if the integrity of law enforcement is to be insured, every possible administrative precaution should be taken to prevent future abuses like those cited in Article II of the impeachment resolution, and others which Project Southwest seems to represent. If you see need for changes in our statutes, I hope that you will not delay in making the necessary recommendations.

I am enclosing a copy of two Project Southwest documents I have cited, for your ready reference. You will have in your files a complete set of the documents, which will contain information not available to me, owing to limitations on the disclosures of certain private information.

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

MINUTES OF MEETING

Re: Southwest Project.

Time and Place: 10:00 A.M., February 15, 1972, Regional Commissioner's Conference Room, Dallas, Texas.

Present: Al Brisbin, A. G. Weaver, Bob Phinney, John Potchernick, Howard Longley, Bob Elledge, George Stephen, Sid Lynch, Jim DePrato, Jim Kean, John Byrne, Hugh Loyd, Tom Fontecchio, Bernie Vice, Gene Boren.

Mr. Brisbin opened the meeting stating that the National Office felt that because we have two districts in Texas, which causes problems of coordination, that we do not have the feel of possible political corruption in Texas. He said the National Office referred to successes in this area. Also, he

said the National Office felt we were case oriented rather than program oriented.

Mr. Phinney said he disagreed with the National Office thoughts; however, he would support the proposed project as long as the District Directors and the Chiefs were not taken out of the picture with the project being run out of the region. He said he was glad for Gene Boren to see what was done in the past in this area.

Mr. Elledge stated that the object of the program was to pull all background data and work done in the past together and add new information developed in order to have one gathering point to be used in a program oriented concept in the political corruption area.

Mr. Brisbin said his idea included an operation under a Board of Directors made up of the two District Directors, their staffs, and the Regional staff. It was agreed that line authority would remain with the districts with Gene Boren responsible for the coordination. Boren said he would need the help of the districts in accumulating the past and current information.

Several areas of possible inquiry were set forth by Mr. Elledge:

(a) Kickbacks from sales of voting machines;

(b) The state insurance commission;

(c) The possibility that we may have to take a new look at the matter;

(d) Deposit of state funds in no-interest accounts;

(e) Construction kickbacks;

(f) Political contribution area;

(g) Vending machine legislation;

(h) Railroad Commission activities;

Staffing for the project was reported as follows: Gene Boren—Intelligence; Jim Kean—Audit; Tom Fontecchio—Counsel; Ralph Bradbury—Counsel.

Inquiries were being made for a secretary for Boren. George Stephens stated that one clerical position was available from the Austin district and could be used by the ARC-Intelligence. Boren will physically be located in the office of ARC-Intelligence.

Initially, the project would be operated under the Joint Compliance Program using the facilities of the Information Gathering Teams in both districts to accumulate information and obtain returns. The project will be included in the Joint Compliance Program quarterly reports. A special report may be required periodically. In obtaining information from the various state agencies, Boren should contact George Stephens.

It was brought out that we should be alert point of specific investigations, manpower needs and the source of manpower will be determined.

It was brought out that we should be alert for Title 18 violations, including bribery and extortion, since the Department of Justice may want Internal Revenue Service to make these investigations.

The project will be called "Southwest Project". Another meeting of the "Board" will be held in approximately 90 days to review progress, discuss any recommendations and to determine needed manpower.

Mr. Phinney suggested that our sights be aimed on high level state positions or in areas such as County Commissioners or other areas that would lead upward to state offices.

After discussion, it was decided that Boren would make on site and on-going type reviews before cases in this area are closed.

Mr. Phinney suggested that we continue our present policy in that unless overriding fraud issues occur on a case involving a current political candidate, we will not make third party contacts. All agreed.

MEMORANDUM

MARCH 21, 1972.

To: District Directors, Austin and Dallas Districts.

From: Regional Commissioner Southwest Region.

Project: Southwest project.

Initial exploration of past and current information pertaining to possible political corruption in Texas reveals that a number of the potential central figures are currently under examination as a result of the Scrutiny of the transactions and relationships in cases appears to be one of our best sources of insight into political corruption.

If we are to gain a meaningful understanding of any patterns that may exist, it will be necessary to make in-depth examinations of the principals and the corporations they control. There is immediate need for close coordination between examiners in the two districts. It now appears there are five or six cases located in the Dallas area that should be opened as soon as possible under the

I've asked Jim Kean and Gene Boren to serve as Region's Audit and Intelligence coordinators for the cases. Please designate district coordinators to serve as points of contact for Jim and Gene.

We'd like for District and Regional representatives to meet in Room 511 in the Regional Office at 9:00 a.m. March 27, 1972 to agree on the initiation of examinations not presently planned and to set up the lines of coordination on cases involving related persons and transactions.

If this time is not convenient please let us know.

It is not our intent to bring the cases under control of the Southwest Project. Our aim is to learn as much as we can about Texas political relationships, influence, and possible pay-off by a very close analysis of the questionable transactions coming out of the District Directors, Austin and Dallas Districts.

Please do not close any cases that are related to without first clearing with Jim Kean. He has previously made some informal requests of your people for the sake of expedience.

ALBERT W. BRISBIN.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1977.

Hon. SAM M. GIBBONS,
Chairman of Subcommittee on Oversight, Committee on Ways and Means, Rayburn House Office Building.

DEAR SAM: I have learned of a most disturbing Internal Revenue investigative effort mounted prior to the 1972 elections. This project which was code named "Project Southwest" was aimed at, among other things, the Texas "power structure." All of this is detailed in the enclosed copy of my letter of September 12, to Secretary Blumenthal.

Judging from the documents I have seen, "Project Southwest" was not the only one of its kind. It is possible, and I think quite likely, that a considerable number of other IRS projects also existed at that time, and the evidence points toward more of a political motivation than anything else.

I believe an investigative effort by your Subcommittee is warranted in order to determine extent of IRS abuse during that period, or any subsequent time. I suggest this, not because of any desire on my part to stir old ashes, but because the IRS is the last government agency Congress should tolerate abuse of, and especially political abuse. If the scope of misuse of the IRS can be determined, it would then remain to ask could something like this happen again? What assurance do we have that the IRS will not once again, at some future time, become a political instrument.

You would be doing a great service if your Subcommittee were to raise these questions and develop safeguards against any future perversion of the enormous powers of our tax service.

With best wishes.

Sincerely yours,

HENRY B. GONZALEZ, M.C.

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 23, 1977.

Hon. HENRY B. GONZALEZ,
House of Representatives,
Washington. D.C.

DEAR MR. GONZALEZ: Thank you for your thoughtful letter dated September 12, 1977. I was not previously aware of the information that your letter calls to my attention, and I will of course have it looked into promptly.

I can assure you that from the day I assumed office I have made it clear in public statements and privately to Treasury officials that the Internal Revenue Service must act independently and free from all political influence. Commissioner Kurtz and Deputy Secretary Carswell have both made similar strong public and private statements. We are doing everything we can to see that this commitment is lived up to. However, as you rightly point out, the possibility for abuse of power always exists, and you have my further assurance that if it should develop that we need additional legislation in this area, I will be zealous in proposing it.

With best wishes,

Sincerely yours,

W. MICHAEL BLUMENTHAL.

CHICAGO'S 1977 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, On Monday, October 10, the people of the city of Chicago will celebrate the discovery of America by Christopher Columbus in our traditional grand style with a gigantic parade on State Street. The extravaganza will be televised live by WGN-TV.

The Vice President of the United States, Honorable WALTER F. MONDALE, will be the guest of honor at the great event, along with the Italian Ambassador to the United States Roberto Gaja, and Jeno Paulucci, a Duluth industrialist, humanitarian, and chairman of the board of the Italian American Foundation, Inc.

Each year, Chicago celebrates Columbus Day with a series of specially planned events culminating in the spectacular parade on State Street. The theme for this year's parade is "20th Century Italians." The parade will not only honor Christopher Columbus, but also the achievements of 20th century Italian-Americans who have worked to make America a land of freedom and greatness.

Christopher Columbus dared to explore unknown parts of the Earth and led in the opening of the new world for future generations of immigrants. The United States and all of the ethnic groups who are part of America have benefited by this heritage of bold imagi-

nation and perseverance, and this inheritance has made our Nation a beacon light of inspiration for the world.

Mr. Speaker, the President of the United States has issued a proclamation in celebration of Columbus Day 1977, and a copy of that proclamation follows:

PROCLAMATION 4527, COLUMBUS DAY, 1977

On October 10 we once again pay tribute to the great Italian mariner and explorer whose historic voyage of discovery led to the permanent settlement of the New World by the Old.

With the support of the Spanish Crown, Columbus journeyed across uncharted waters to open the way for future generations of immigrants who would found the new nations of the Americas.

As his heirs, we take pride in commemorating the spirit of Christopher Columbus as part of our national heritage.

In tribute to the achievement of Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Monday, October 10, 1977, as Columbus Day and invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of the great explorer.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

In witness whereof, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

Mr. Speaker, Monday's Columbus Day celebration will begin with a concelebrated Mass at Our Lady of Pompeii Church at 9 a.m. The principal celebrant will be His Eminence The Most Reverend John Cardinal Cody, Archbishop of Chicago. The concelebrants include Very Reverend Monsignor Edward M. Pellicore, Very Reverend Monsignor Armando Rotondi, M.D.; Very Reverend Umberto Rizzi, C.S.; Reverend Valentino Alberton, C.S.; Reverend Lawrence Biondi, S.J.; Reverend Angelo Canadra, C.S.; Reverend Lawrence Cozzi, C.S.; Reverend Peter Corbellini, C.S.; Reverend DaiZovi, C.S.; Reverend Gino Dalpiaz, C.S.; Reverend Salvatore DeVita, C.S.; Reverend Charles V. Fanelli, Reverend August Feccia, C.S.; Reverend Louis Gandolfi, C.S.; Reverend August Lovatin, C.S.; Reverend Leonard Mattei, Reverend Daniel F. Montalbano, and Reverend Alex Peloso, C.S. The homily will be given by Angelo Calandra, C.S., Pastor of Our Lady of Pompeii Church, and the Master of Ceremonies is Reverend Bruno Massacavollo, C.S., assisted by Deacon Joseph Tofanello, C.S.

Following the mass, there will be a laying of the wreath ceremony across the street at the Columbus statue in Arrigo Park, and I shall be proud to present Vice President MONDALE with a plaque on behalf of Chicago's Italian-American community in appreciation for his efforts in making our Columbus Day extravaganza a success. At 3:30 p.m., following the parade, the Order Sons of Italy in America will lay a wreath at the Columbus statue in Grant Park.

Chicago's monumental Columbus Day parade will step off from the corner of State Street and Wacker Drive at 1 p.m. and will include 154 floats and marching units depicting the theme of the parade. Some of the floats will be dedicated to Judge John Sirica, Congressman PETER W. RODINO, Guglielmo Marconi, Enrico Fermi, Amadeo P. Giannini, Rocky Marciano, Vince Lombardi, Rocco Petrone, and Rose Basile Green. Traditional native costumes of Italy will be worn by participants in the parade representing the culture of various parts of the Italian peninsula. Theme coordinator Mrs. Frank R. Petrone, authentic Italian costume chairman Dr. Mary Ellen Batinich, and float personnel committee chairman Lawrence Spallitta have done an outstanding job on their parts in making the pageantry of the parade a stunning success.

In addition to our honored guests, the parade will be led by the Honorable Michael A. Bilandi, mayor of Chicago; the Honorable James R. Thompson, Governor of Illinois; the Honorable George W. Dunne, president of the Cook County Board of Commissioners; Anthony Paterno, president emeritus of the Joint Civic Committee of Italian Americans; virtually every Italian American political leader in the Midwest, the Italian American War Veterans of Illinois, and many other political dignitaries, civic leaders, members of the judiciary businessmen from the community, labor leaders, and others too numerous to mention.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day Parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this community-wide tribute to Columbus, and Anthony Sorrentino, consultant for the Joint Civic Committee, has helped to coordinate the various activities of the parade for many years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, one of my constituents from the 11th Congressional District I am honored to represent, Donna Marie Errera, 5048 North Ottawa, was chosen to reign as queen of the Columbus Day Parade. I extend to Miss Errera my heartiest congratulations on this honor.

Judged on her beauty, poise, and personality, Donna Marie Errera, as winner of the Columbus Day Queen Contest, received an all expense paid weekend in New York City from the Daprata Travel Service; a Columbus Day necklace, a Queen's Crown and Trophy, and $500 from the Joint Civic Committee of Italian Americans; $100 from Mr. Jerome Cosentino, the Parade's General Chairman for 1977, and a bouquet of roses.

The queen has also made an appearance on the Louis Farina Show, and will make appearances on the Ray Raynor Show, at the Sons of Italy Columbus Day Banquet, and at Chicago's Holiday Folk Fair.

The members of the Queen's Court are Janice Angela Ruggiero, 2836 South Emerald Avenue, Chicago; Laura Sferazo, 1216 Elsie Drive, Melrose Park; Mary Antoinette Anzalone, 8618 West Berwyn, Chicago; and Debra Ann DiMaggio, 6044 Elston Avenue, Chicago.

Judges for the final Columbus Day Queen Contest were Franz Benteler, a violinist; Joseph Caliendo, a designer and furrier; Don Case, director of D.A.C. Enterprises; Robert Clementi, an attorney and former National Commander of Italian American War Veterans; Bob Del Giorno, a disc jockey for radio station WIND; Celeste Del Giudice, passenger sales clerk for Northwest Orient Airlines; John DoCurro, consultant on union fringe benefits; Rose Farina, producer and coordinator at the Daley Civic Center; Adrienne Levatino, author and consultant; Carol Lopez, coowner of Flare Nail Creations; and the Honorable Philip Romiti, a justice of the Illinois Appellate Court.

The Columbus Day Parade in Chicago is one of the highlights of the year and as many as 1 million people will view the parade in person and one to 3 million will watch it on television. The parade will be sponsored over WGN–TV by Anthony Paterno, of Paterno Imports; Frank Armanetti, of Armanetti Liquor Stores; Dominick Di Matteo, of Dominick's Finer Foods, and Alphonso Di Benedetto, of the Banco di Roma. The telecast of the parade will be narrated by Domenick Di Frisco and Vince Lloyd, narration prepared by Mrs. Frank R. Petrone, and the reviewing stand commentators will include James L. Coli, Louis Farina, and Charles Porcelli.

The massive Columbus Day celebration will close with a reception at the Fontana D'Or, 6425 West Grand Avenue, in honor of all of the guests, the officers, subcommittee chairmen, and members who participated in making this event a success.

As honorary parade chairman on this eighth celebration of Columbus Day as a national holiday, I commend the members and officers of the Joint Civic Committee of Italian Americans for their dedication, hard work, and resourcefulness that went into the creation of a tremendous civic and patriotic event such as the Chicago Columbus Day Parade Our city and our people are proud of these outstanding citizens.

Mr. Speaker, the officers and members of the 1974 Chicago Columbus Day Parade Committee are as follows:

COLUMBUS DAY PARADE COMMITTEE

Jerome A. Consentino, general chairman 1977.

Congressman Frank Annunzio, honorary parade chairman.

Tony Judge, grand marshal.

JCCIA Officers:

James E. Coli, President.
Dr. James F. Greco, 1st Vice President.
John C. Porcelli, 2nd Vice President.
Joseph Tolitano, 3rd Vice President.
Jerome N. Zurla, 4th Vice President.
Rudy L. Leone, 5th Vice President.
Anthony Morizzo, Treasurer.
Charles Carosella, Secretary.

President Emeritus, Anthony Paterno.
Honorary chairman:
Hon. Michael A. Bilandic.
Hon. George W. Dunne.
Hon. James R. Thompson.
Past Presidents:
Joseph Barbera*.
Peter R. Scalise.
Dr. Mario O. Rubinelli.
Vincent E. Ferrara*.
Victor J. Failla.
Anthony Bottalla.
Charles C. Porcelli.
Anthony J. Fornelli.
Consultant: Anthony Sorrentino.
Past parade chairmen:
Martin Buccieri.
Dr. Mario O. Rubinelli.
Anthony Paterno.
Honorable Frank Annunzio.
Victor J. Failla.
Nello Ferrara.
Frank Armanetti.
Fred Bartoli.
*Arthur Pullano.
Anthony Botalla.
Dominick DiMatteo.
James E. Coli.
Anthony Terlato.
Honorable Frank Annunzio.
John C. Porcelli.
Rudy L. Leone.
Pasquale M. De Marco.
Joseph Lizzardo, Jr.
Tony Judge.

SUBCOMMITTEES

Chaplain: Reverend Armando Pierini, C.S.
Television sponsors:
Anthony Paterno, Chairman.
Frank Armanetti.
Alfonso Dibenedetto.
Dominick Dimatteo.
Theme coordinator: Mrs. Frank R. Petrone.
Religious Program and Organizations:
Rev. August Feccia, C.S.
Joseph Pope, Chairman.
Louis Moretti, Co-Chairman.
Rev. Armando Pierini, C.S., Advisor.
Rev. Lawrence Cozzi.
Chief Anthony Pilas.
John Spatuzza.
Authentic Italian Costume:
Dr. Mary Ellen (Mancina) Batinich, Chairman.
Mrs. Mary Spallitta, Co-Chairman.
Mrs. Tena Amico.
Mrs. Norma Battisti.
Mrs. Stella Boschelli.
Mrs. Gene Bruno.
Mrs. Maryann Cervi.
Mrs. Edda D'Amico.
Mrs. Elena Frigoletti.
Mrs. Judy Guzaldo.
Miss M rlene Leonardi.
Mrs. Mary Mento.
Mrs. Ann Parisi.
Mrs. Marie Pedi.
Mrs. Annette Salvatore.
Mrs. Phyllis Schoene.
Mrs. Aurelia Tornabene.
Mrs. Ann Yelmini.
Mrs. Angeline Tufano.
Finance and souvenir book:
Rudy Leone.
John C. Porcelli, Chairmen.
Frank N. Catrambone, Sr., Co-Chairman.
Sam Cerniglia, Co-Chairman.
Mathew J. Alagna.
Anthony Apa.
Charles Carosella.
Marino Mazzei.
Salvatore Palandri.
Laura Raymond.
Michael R. Rosinia.
George Salerno.
Joseph Scilabra.

*Deceased.

Ann Sorrentino.
Virginia Page.
Business and Professional:
Carl De Moon, Co-Chairman.
Jack Cerone, Co-Chairman.
Vincent Lucania, Co-Chairman.
Anthony Terlato, Co-Chairman.
Achille Chiappetta.
James L. Coli.
John Curielli.
Peter Ingraffia.
Albert Litterio.
John Natale.
Paul Paterno.
Lawrence X. Pusateri.
Dr. Mario O. Rubinelli.
Louis Ranieri.
Dr. Joseph J. Sirchio.
Amedeo Yelmini.
Jerome N. Zurla.
Labor Committee:
James L. Coli, Chairman.
James Caporale.
James Chairo.
Edward Coco.
Angelo Fosco.
Tony Judge.
John Parise.
John Serpico.
Thomas Siracusa.
Joseph Spingola.
Bands, Marchers and Transportation:
Luis H. Rago, Chairman.
Dr. James F. Greco.
Jordan Canzone.
Program and Arrangements:
Domenick Difrisco, Co-Chairman.
Mrs. Frank R. Petrone, Co-Chairman.
James L. Coli.
Louis Farina.
Dr. Joseph H. Dileonarde.
Charles Porcelli.
Anthony Sulla.
Jerome N. Zurla.
Queen Contest:
Fred Mazzei, Chairman.
Mrs. Josephine Bianco, Co-Chairman.
Ms. Anita Lo"ise Bianco, Special Assistant.
Norma Battisti.
Sam Bruno.
Joseph Caliendo.
Anthony Morizzo.
Mrs. Marie Palello.
Mrs. Aurelia Tornabene.
Floats:
Sam Tenuta, Chairman.
Sam Cerniglia, Co-Chairman.
Vincent R. Lucania, Co-Chairman.
Joe Rio.
Float Personnel:
Lawrence Spallitta, Chairman.
Nick Bianco.
Jeff Garzonetti.
Jeanine Hucklenbroish.
Joe Livingston.
Mike Palello.
Joseph Pantaleo.
Mrs. Mary Spallitta.
Parade marshals:
Marco DeStefano, Chairman.
Alex Batinich.
Ray Colagrossi.
Ettore Divito.
Neil Francis.
Mario Lombardi.
Sam Messina.
Chief Anthony Pilas.
Ronald Marra.
Reception Committee:
Mrs. Norma Battisti, Chairman.
Mrs. Gene Bruno, Co-Chairman.
Mrs. Auerlia Tornabene, Co-Chairman.
Miss Marlene Abruzzini.
Mrs. Louise De Bartolo.
Mrs. Elena Frigoletti.
Mrs. Lillian Mastro.
Miss Angeline Passarella.
Mrs. Charles C. Porcelli.
Mrs. Ann Sorrentino.
Miss Diane Torti.
Mrs. Ann Yelmini.
Public officials:
Congressman Frank Annunzio.
Congressman Martin Russo.
Senator John D'Arco, Jr.
Hon. Alexander Adduci.
Hon. John F. Aiello.
Hon. Frank Belmonte.
Hon. Ralph C. Capparelli.
Hon. Frank Chesrow.
Hon. Elmer Conti.
Hon. Jerome A. Cosentino.
Hon. John D'Arco, Sr.
Hon. Carl De Franco.
Hon. Lawrence DiPrima.
Hon. Marco Domico.
Hon. Louis P. Garippo.
Hon. Frank Giglio.
Hon. Richard Giudice.
Hon. Anthony Laurino.
Hon. William Laurino.
Hon. John A. Maloni.
Hon. Vito Marzullo.
Hon. John Merlo.
Hon. Michael Nardulli.
Hon. Lawrence Petta.
Hon. Sal Pullia.
Hon. Paul Ross.
Hon. Fred Roti.
Hon. Ronald Stearney.
Hon. Louis Viverito.
Women's Divsion Mrs. Norma Battisti, President.
West Suburban Chapter, Women's Division, Mrs. Aurelia Tornabene, President.
Young Adult Division, Joe Rio, President.

AFFILIATED ORGANIZATIONS

Amerital Unico Club of Chicago.
Club Calascibetta Lodge No. 75, IANU.*
Columbian Club.
DuPage Italian American Civic Committee.
Father Louis Pilgrimmage to the Mother Cabrini Shrines Society.*
Filippo Mazzei—Post No. 1 (Illinois).
Filippo Mazzei Women's Aux. Post No. 1.
Furlan Family of Chicago.
Good Fellowship Club.
Italian American Executives of Transportation.
Italian American Labor Council of Chicago.
Italian American Police Association.
Italian American Political Education Committee of Illinois.
Italian American War Veterans of the U.S. (Ladies Auxiliary).
Italian American War Veterans of the U.S. (Dept. of Illinois).
Italian Bi-Lingual Association.
Italian Catholic Federation.
Italian Chamber of Commerce in Chicago.
Italo American National Union.
Fraternal Life Insurance Society.
Italo American Soccer Club "Maroons".
Italian Women's Club.
Justinian Society of Lawyers.
Lake View Betterment Club.
Lodge Aetna No. 1—I.A.N.U.
Maria Adelaide Club.
Mazzini Verdi Club.
Norwood Park Chapter of Unico.
Our Lady of Grace Senior League.
Saint Francis DePaola Society.
Scalabrini League.
Society of Italian American.
Musicians of Greater Chicago.
The Georgians.
The Italics.*
Unico Chicago West Suburban Chapter.
V. E. Ferrara Lodge No. 19—I.A.N.U.
Vicari Social Club.
Victor Arrigo Post (Italian American War Veterans).
Villa Rosa Lodge No. 67—I.A.N.U.
Vizzinese Soicety.

*Life Membership

THE PRESS AND "KOREAGATE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PIKE) is recognized for 5 minutes.

Mr. PIKE. Mr. Speaker, if anyone had ever told me that Jerry Landauer of the Wall Street Journal would be taking on the media and talking up the Congress, I would have been incredulous. Mr. Landauer has made a pretty fair career out of "investigating," "exposing," and otherwise needling the Congress. Accordingly, the following man bites dog story just might deserve to be considered as credible:

[From the Wall Street Journal, Oct. 6, 1977]

THE PRESS AND "KOREAGATE"

(By Jerry Landauer)

WASHINGTON.—For months, starting early last year, newspapers, television and radio carried endless allegations of influence-peddling in Congress by agents of the South Korean government.

In recent weeks, however, the South Korea scandal faded from the front pages and the TV news shows—bumped for a while by a new subject for saturation coverage, Bert Lance. The Korea story may well heat up again. But except for occasional flurries, as when the U.S. Government indicated Korean businessmen Tong Sun Park and Hancho C. Kim for illegally conspiring to influence members of Congress, the media's interest in "Koreagate" seems to be flagging. All of this suggests some significant lessons about the power and the priorities of the press.

To begin with, in the capital these days a scandal isn't a scandal until important segments of the media "discover" it. Once perceived, a scandalous situation is likely to dominate the news, for no newspaper editor or television executive wants to miss another Watergate. Then, as more news people pounce on the story, competitive pressures can overshadow fair play, resulting in overstated coverage that may not end until another "scandal" comes along to divert the media's attention.

Obviously, this doesn't mean that a foreign effort to subvert Congress isn't a legitimate subject for tough, incisive reporting. But so far the available facts about South Korean influence schemes seem to cast doubt on whether the lavish media attention has been warranted.

Attorney General Griffin Bell said in a recent interview in the Los Angeles Times, for example, that the Justice Department still hasn't uncovered proof of widespread misconduct by members of Congress. He said "very few" criminal charges are anticipated, and Justice Department officials add that the cases currently contemplated are against former Congressman only. Asked about newspaper stories that a "very broad scandal" may be in the making with "a lot of Congressmen involved," Mr. Bell replied, "Well, if there is evidence, we haven't found it."

Notwithstanding such pronouncements, the Korean lobbying story may yet turn out to be a major scandal. But a close examination of the coverage up to now suggests that the media often has shot from the hip with speculative charges that could unfairly tarnish Congress as a whole.

SLIPPING $100 BILLS

Ironically, the chronology of the news media's handling of the Korean affair begins with the silence that greeted testimony to a House International Relations subcommittee more than two years ago by Jal Hyon Lee, a defector from the South Korean diplomatic service. Mr. Lee alleged an "overall scheme of clandestine operations" in the U.S. by the South Korean Central Intelligence Agency, including payoffs to American politicians. In vivid detail he described how his boss the ambassador had slipped $100 bills into unmarked envelopes just before journeying to Capitol Hill.

By any journalistic standard here was a matter worth pursuing. But though Mr. Lee appears to be a responsible person (ironically, too, he teaches journalism now at Western Illinois University) the media ignored him. For at least six months South Korea failed to catch the fancy of the press.

Then The Washington Post reported in February 1976 that two members of Congress were being investigated by the Justice Department for taking South Korean bribes. By October 15, on the Post front page, the number of representatives under investigation had swelled to 22. On Oct. 27 The New York Times struck, saying the bribery investigation is "focusing on the possible involvement of 90 members." And in July this year a lead article in the Times said as many as 115 former or current Congressmen might be "involved" in unethical conduct. The 115 figure subsequently turned up in other reports, including the "World-Wide" column on this newspaper's front page.

Officials at the Justice Department and the special investigating staff of the House ethics committee are mystified by the escalating numbers. "Whatever the 115 number was meant to represent, it is exceedingly misleading," says John W. Nields Jr., a lawyer who works under special counsel Leon Jaworski.

The sums of money assertedly disbursed by South Koreans likewise kept growing. In one front page story last November, The Washington Post cited "allegations" that Seoul's agents had dispensed "$500,000 to $1 million a year since 1970 in cash, gifts and political contributions to U.S. Congressmen and other officials." By Dec. 9 these anonymous charges had hardened to "substantial evidence" in the Justice Department's possession. On Jan. 29, the Post credited Mr. Park alone with spending $500,000 to $1 million a year to influence Congress, and in April the vast sums he supposedly spread became a matter of "previously assembled evidence."

By contrast, the government's multi-count indictment against Mr. Park last month lists campaign contributions, slush fund donations and other suspicious payments totaling $144,500 in eight years to former and current members of Congress. Most of the lawmakers who received Mr. Park's campaign donations recorded them on public records, in accordance with law.

Most of the contributions were made prior to 1974 when it was legal to accept political donations from foreign nationals unless the recipient knew the donor was a foreign agent. The law was revised in 1974 to basically prohibit contributions by anyone other than U.S. citizens, although still permitted are donations by permanent resident aliens. Contributions by agents of foreign governments, of course, remain illegal.

Along with numbers games, newspaper readers were treated to premature visions of accused politicians being hauled into court. On Feb. 17 this year the Post reported that indictments naming four to six former or current Congressmen were expected "within the next few months." More than five months and no indictments later, on July 25, the Los Angeles Times settled on five indictments "soon" against five former Congressmen; the next day, Scripps-Howard News Service shortened the waiting period to "days." (To date, no indictments have been issued.)

SLICK AND HOT STORIES

"These kinds of stories generate tremendous pressure on other reporters" to beat the competition, explains Brit Hume, a correspondent for ABC. "When I worked for Jack Anderson we wrote our stories slick and we wrote them hot. But I've never seen hyped-up stuff like this," Mr. Hume adds, speaking of the Korean coverage generally.

Indeed, competitive pressures intensified once the broadcast networks were fully mobilized to chase the South Korean story.

In one attention-getting series of broadcasts, ABC-TV reported that top Democrats such as House leader Jim Wright of Texas "may be guilty of unethical conduct." The network also issued a press release trumpeting its scoop. But when ABC's "authoritative" source sent Rep. Wright a telegram denying what had been attributed to him, the network shunned responsibility; in broadcasting the denial ABC referred not to its original account but merely to some unidentified "report."

On CBS, House Democratic Whip John Brademas of Indiana was said to have "publicly acknowledged" the receipt of campaign contributions from Tong Sun Park—contributions that Mr. Brademas had disclosed on public records years ago. And NBC erroneously suggested to millions of listeners that five members of the House ethics committee "may have taken" South Korean favors. "In retrospect I don't think I should have used that story," says the NBC correspondent who prepared the report. "I should have waited until I did what I did later on—that is, check it out first."

Soon the rash of news accounts suggesting or asserting widespread corruption in the House reached the Senate, for scandals must always seem to be "growing," "spreading" or "widening," lest they appear stale.

Scripps-Howard kicked off the Senate coverage on July 20, with a story saying unnamed members were "implicated in the spreading Korean influence-buying scandal." Next the Post chimed in with "mounting evidence being accumulated by the Senate ethics committee." The Times reported new "evidence of senatorial misconduct," and raised to 50 the number of former or current Senators "mentioned" in connection with the Korean investigation. The Washington Star cited "solid evidence of Senate involvement." And The Christian Science Monitor, venturing numbers that were flashed across the country by United Press International, said perhaps a dozen incumbent Senators were "seriously involved."

Scripps-Howard completed the cycle by disclosing that the Senate committee's chairman—Democratic Sen. Adlai Stevenson of Illinois—has "secretly briefed" President Carter about misconduct by "top Senators." Mr. Stevenson's press aide, Harold Levy, says the Senator didn't discuss the committee's work, much less "spell out details," for the President.

In short, after a week of what is called investigative reporting, the media had cast an unsavory scent over the entire Senate, without identifying a single questionable act by even one named member. Other stories have put politicians on the front page and then let them twist slowly in the wind.

UNDER FBI INVESTIGATION

For example, one day in February 1976 Democratic Rep. Joseph Addabbo of New York found his smiling picture in the Post, over a headline saying he was under FBI investigation for pocketing South Korean bribes. On Oct. 15, the newspaper said the government's case "has progressed furthest on allegations involving" Mr. Addabbo, among other lawmakers. On Oct. 26, federal agents were said to be "far along in probing" Mr. Addabbo's suspected bribery. Still another story later on identified the New Yorker as the target of several "investigations," all far advanced. Last spring, the Post, without explanation, dropped Rep. Addabbo from its listing of current or former Congressmen "generally believed to be the subjects of greatest scrutiny."

It should be emphasized, of course, that

many newspapers and broadcast reports tracking the South Korea story have been balanced and accurate. The Washington Post has won a major journalism award for its coverage. And there is no question the press should vigorously pursue any evidence of influence-buying in Congress. But what should be questioned is the scandal-happy trend of post-Watergate journalism. in the rush to be first, reporters and editors should not forget that it's more important to be fair.

TOWARD FURTHER IMPROVEMENT OF UNITED STATES-CUBA RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, the visit to Washington this week of Cuban Minister of Foreign Trade Marcelo Fernandez Font, the highest level Cuban officials to visit the United States since Castro was last here more than 16 years ago, was an occasion for reflection on the progress we have made in recent months toward improving United States-Cuban relations.

I have a longstanding interest in Latin America and particularly Cuba, dating back to 1939, when I visited the island, the first of five visits to Latin America. As chairman of the Subcommittee on International Trade and Commerce in the 94th Congress, I conducted extensive hearings on resuming trade relations with Cuba based on legislation which I and others introduced to lift the U.S. embargo of Cuba. My visit to Cuba in February of this year, and my talks with Trade Minister Fernandez, Vice President Rodriguez, and President Castro have been credited with stimulating progress in United States-Cuban relations. While I think the impact of that visit has been exaggerated, I like to think it was at least helpful in prompting the improvements that have been achieved.

The bulk of the credit must go to the leaders of the two Governments. To date, the Carter administration and the President himself have demonstrated courage, realism, and imagination with respect to United States-Cuban relations, and I hope and believe that that will continue. Similarly, President Castro and the other officials of his government have demonstrated a really remarkable lack of bitterness and willingness to take a fresh approach to their giant neighbor to the north.

There are, of course, selfish interests among the motives of both governments. But there is also, I think, a feeling and realization on both sides that it simply no longer makes sense for two nations only 90 miles apart, whose people have no animosity toward each other even now, to continue hostile and isolationist policies. That attitude exists despite the fact that each of the nations can survive and go on perfectly well without the other, and despite the deep differences in the two social and political systems.

The steps that have been taken to improve United States-Cuban relations—the removal of U.S. travel restrictions, the signing of a fishing agreement to clarify the effects of the 200-mile limit claimed by both countries, increased cultural and sports exchanges, and finally the opening of diplomatic "interest sections" in Havana and Washington on September 1—were not easily achieved. They required concessions by both sides.

One gesture on the part of the United States which was not widely publicized, but which I think is most commendable and significant, is the sharing of information with the Cuban Government on anti-Cuban terrorists known or believed to be operating against Cuba. Such sharing of information, which I hope will continue, should go a long way toward dispelling any lingering suspicion that the United States is in any way supporting or furthering such acts against Cuba. In the past, both the United States and Cuba have trained and supported terrorists, and now it has become a plague on both our houses. I am persuaded from my conversation with President Castro that he realizes this, and that his own attitudes and policies with respect to promoting terrorism have changed over what they once were. On our part, we must—as I recommend in the report I issued on my visit to Cuba—do everything possible to deter, through strong laws and vigorous prosecution, all forms of terrorism, including anti-Cuban terrorism which might occur within our legal jurisdiction.

The U.S. business community has been a target of some of this terrorism—for example the bombing of Mackey Airlines in Florida when it announced flights to Cuba—so it should certainly support stepped-up U.S. efforts against terrorism.

Such incidents, of course, have occurred many times against Cubans themselves. My visit in February came 6 months after 57 Cubans had been killed when terrorists bombed an Air Cubana plane leaving Barbados. Cuban leaders considered the United States responsible for that bombing as part of an ongoing pattern of terrorist activities against Cuba. U.S. responsibility, in their view, stems both from the fact that many of the individuals allegedly responsible for these acts had at least former ties to the CIA, and from the fact that U.S. enforcement of its own laws against terrorism has been lax. While I assured Cuban officials that, to the best of my knowledge, the United States no longer adheres to any policy of harassment or terrorism against Cuba, I expressed my personal condolences over this tragic loss of innocent lives. I think it is deplorable that the United States made no official statement of sympathy at the time the Cubana incident occurred. To my knowledge, it has still not done so, at least publicly. While it is now very late, such an official expression of sympathy would still be appropriate and helpful in improving United States-Cuban relations.

Difficult as the progress in improving United States-Cuban relations has been to date, the next steps seem to me even more so. With lines of communication now open, we come face to face with the toughest issues that separates us—on the Cuban side, the U.S. trade embargo—or, as it is more graphically called in Cuba, the blockade—on the American side, compensation of U.S. claims for expropriated American property, American prisoners in Cuba, questions of human rights in Cuba, and some aspects of Cuban foreign policy, especially in Africa.

I continue to believe, as I have for some time, that the U.S. trade embargo of Cuba should be lifted without preconditions. If the embargo ever made any sense, it no longer does. It has not brought down the Castro Government, and there is no evidence it will. It has not been effective in denying Cuba needed goods, virtually all of which are available from other sources. It is no longer multilateral. Since it no longer applies to foreign subsidiaries of U.S. corporations, we have the absurd situation of American workers being deprived of the opportunity of work to provide goods that foreign employees of American companies are providing and benefiting from.

The U.S. embargo now serves only as an outdated and embarrassing monument to American economic interventionism. It is a vestige of a tradition of U.S. paternalistic policies toward the Caribbean which we are trying to reverse. It gives credence to charges at the U.N. and elsewhere of American imperialism. It is particularly senseless in view of the fact that we have removed our embargo of China, and never even attempted one against the Soviet Union. It simply no longer serves any U.S. interest.

With that in mind I have reintroduced in the House, the bill which I first introduced in 1975, a bill (H.R. 9402) to lift the embargo. I have not reintroduced it hitherto in this Congress in view of the progress that was being made at the initiative of the new administration, and the view which I still hold that the executive branch should take the initiative and exert the leadership to improve United States-Cuban relations. I feel it appropriate to reintroduce the legislation now not because I feel that there is sufficient support in the Congress, or that it would even be appropriate, to direct the President by law to lift the embargo. Rather, I reintroduce it as an indication and reminder to the administration that there is support in the Congress for further Presidential action.

There remains, of course, a vociferous minority in this country opposed to lifting the embargo. That minority poses a serious political obstacle to action by the Congress or by the President. The President, particularly, does not need another fight when he has controversies like the Panama Canal Treaty to resolve.

Faced with changes in American attitudes toward Communist countries reflected in the U.S. policy of détente, there has been a shift in the emphasis of the anti-Castro minority away from opposition based on representing Castro and Cuba as Soviet puppets, to opposition based largely upon a human rights appeal. Such an appeal, of course, finds considerable sympathy everywhere along the political spectrum. I have, myself, strongly supported human rights measures in the Congress, as well as the human rights policies enunciated by the Carter administration. I have had direct contact on several occasions with Cuban

exiles here who have family members in Cuban jails, including the family of Huber Matos, the best known Cuban prisoner who has been in jail since 1960 for allegedly leading a counterrevolutionary effort after having been one of Castro's most trusted lieutenants.

The concerns of these families, as well as individuals and businesses that suffered losses through expropriation in Cuba, cannot be taken lightly. At some stage in the process of improving relations with Cuba, these and other issues must be dealt with and satisfactorily resolved. The essential question, really, is at what stage.

Opponents of lifting the U.S. embargo argue that there should be a concrete quid pro quo—settlement of claims, release of political prisoners, and a removal or schedule for removal of Cuban troops from Africa.

In my view, that is simply not going to happen. I do not believe Castro will pay such a price in advance for a lifting of the U.S. embargo, though I think he will negotiate at least some of these issues seriously after the embargo is lifted. While lifting the embargo guarantees nothing, I believe it will vastly improve chances of a reasonable and successful resolution of claims and other United States—Cuban disputes. Without a lifting of the embargo, those disputes will simply continue to fester.

It is of interest, I think, that Cuba has settled its claims with Canada, France, and other countries, though the amount of those claims was substantially less than the $1.8 billion in American claims, and Castro just last week stressed huge counter claims Cuba is prepared to press to recover the costs to Cuba of past U.S. "aggression."

In view of all this, some form of step-by-step approach to further improvement of United States-Cuban relations seems needed. One way to break the deadlock would be partially to lift the embargo—perhaps to allow trade in food stuffs and medicines, as has been suggested by Senator McGovern. Even that, however, may be politically difficult for the President to initiate.

I suggest another alternative; namely, that the U.S. initiate discussions that might lead to a Helsinki-type agreement, on a bilateral basis between the United States and Cuba, or possibly even on a multilateral basis aiming at accords to which all nations of the Western Hemisphere could become signatories.

The Helsinki accords were signed by 30 countries of Eastern and Western Europe, plus the United States and Canada, in 1975. They set forth agreed principles and common goals to be pursued in three areas known as baskets: Respect for borders and "confidence building" measures; economics and trade; and questions of human rights, freer travel, and communications.

Similar areas of concern and disagreement exist between Cuba and the United States, as well as among various nations of the Western Hemisphere. Just as the Helsinki agreement has served—and is serving—as the basis for discussion and gradual cooperation between East and West Europe, so might such an agreement for the Western Hemisphere be a basis for cooperation between the United States and Cuba. It would, I believe, provide the kind of political reassurance and building of confidence that should satisfy all but the most extreme skeptics with respect to lifting the U.S. embargo of Cuba.

In "Helsinki" terms, basket 1 would provide a framework for discussions of issues like curbing terrorism—both Cuban and U.S. inspired—and status of our naval base at Guantanamo. Discussions of specific problems of trade and claims might be undertaken within the general goals and principles of basket 2. And basket 3 would serve as a basis for discussion of improved travel and visitation rights, as well as other questions of human contacts and freedoms.

As in the case of the Helsinki agreement, a similar agreement with Cuba and other Western Hemisphere countries would involve no expectation or commitment to solve all these problems at once—only to discuss them, in a two-way dialog, within certain understandings and guidelines spelled out in the agreement.

Real resolution of some of these issues might take years. But a Helsinki-type agreement would provide improved assurance and guidance toward such ultimate solutions.

Such an approach may seem disappointingly cumbersome and time-consuming, especially to businessmen who look at Cuba as a promising market for the near future. But if there is real desire on the part of both the Cuban and the American Governments, as I think there is, to create an atmosphere in which the embargo can be lifted and trade resumed, then such an approach offers hope of progress within a reasonable time. The alternative, I am afraid, is no progress at all.

Mr. Speaker, these remarks are similar to those I made earlier this week at a conference in Washington on United States-Cuban trade prospects sponsored by the East-West Trade Council, a nonprofit organization devoted to improving East-West trade. Cuban Minister of Foreign Trade, also appeared and spoke. His statement reflects a rather demanding position by the Cuban Government with respects to claims and Cuban counterclaims, but at least indicates a willingness by Cuba to acknowledge and begin to address this essential question. The text of Trade Minister Fernandez statement follows:

REMARKS OF THE HONORABLE MARCELO FERNANDEZ FONT, CUBAN MINISTER OF FOREIGN TRADE, BEFORE THE EAST-WEST TRADE COUNCIL, OCTOBER 3, 1977

Gentleman: First of all, we wish to thank the East-West Trade Council for the opportunity of participating in this conference on the outlook of trade between the U.S. and Cuba. I am sure that this initiative represents a positive step towards a better understanding between our two countries.

I will begin by giving a brief rundown on Cuba's foreign trade, as well as an explanation of how our Ministry is structured and how it works.

The Ministry of Foreign Trade emerged as a necessity of our economy's planned direction, imposed by the development of the revolutionary process.

One of its main tasks is to implement the trade policy formulated by our government.

Another of our Ministry's important tasks is to carry out the Foreign Trade Plan and see that the foreign trade enterprises fulfill it. These enterprises are divided into import and export enterprises, depending on their functions; we also have an enterprise for the control and supervision of shipping.

The scope of the enterprises has been determined by the common characteristics of the products they handle.

I must explain that there are some foreign trade enterprises that do not fall under the Ministry of Foreign Trade, from an administrative point of view, although functionally they operate as such, as is the case with some importing and exporting enterprises that import complete plants and equipment.

In addition to most of the foreign enterprises, the Chamber of Commerce of Cuba also belongs to our Ministry, and one of its main functions is to facilitate communication between national and foreign enterprises, as well as to participate in both domestic and foreign fairs and commercial exhibitions.

We also have 32 commercial offices abroad and carry out operations with more than 80 countries, including the most industrialized ones except for the United States.

The Ministry's structure and organization has been changing to adapt to the development attained by our trade exchange over the years. As an example, here are some figures that describe this development.

In 1959—first year of revolutionary power—total trade amounted to 1,310.8 million pesos; seventeen years later, in 1976, it rose to 5,765.5 million pesos, i.e., it more than quadrupled in spite of the economic blockade imposed by the United States Government and the so-called "black list" that covered all ships carrying goods to or from Cuba, and prohibited them from entering US ports from the moment they were put on that list.

Cuba's almost total dependency on one market, the United States, and that country's application of economic blockade against our country, led to a total geographic redistribution of Cuban foreign trade. At present, most of our trade relations are with the socialist countries, mainly the Soviet Union.

The following data will give you an idea of the geographic spread of our foreign trade in 1976:

Total trade: 5,765.5 (million pesos).
Socialist countries: 3,922.0 (68%).
Capitalist countries: 1,843.5 (32%).

This same year, 75.5 percent of our exports and 61.6 percent of our imports were to and from socialist countries.

The importance of foreign trade for a country with an "open economy" like ours is indisputable. Especially a country that is poor in natural resources, underdeveloped and practically monoexporting, as a result of an economic structure deformed by long years of colonialism first and then neocolonialism which means that every peso of national production or every export peso will have a high imported content.

Cuba is a great importer of foodstuffs, fuel, industrial raw materials, chemicals, metals, and machinery and equipment.

Its main exports are, in first place sugar, and then minerals, tobacco, fish products, rum and citrus.

Where trade is concerned, our country has adopted the maxim of the apostle of our independence José Martí, who said that Cuba should trade with the whole world and not just a part of it.

As we already mentioned our country has trade relations with more than 80 countries.

Following this policy, our trade has developed with all geographic regions.

Thus, important trade and economic co-

operation agreements have been signed with the USSR and the other socialist countries, as well as with Spain, Canada, France, Italy, the United Kingdom, and Belgium, among others.

In spite of the difficulties that arose, in some cases because of the isolation imposed and in others because of the so-called "competitive nature" of similarly structured economies, trade with Latin American and Caribbean, African and Asian countries has gradually developed in recent years.

Along with the other underdeveloped countries, Cuba has participated in different international conferences of economic organizations called in recent years, such as the UNCTAD and other United Nations specialized organizations, GATT, the International Sugar Conferences, and has actively participated in the creation of new organizations for defending common economic interest in the Latin-American sphere, such as GLACSEC, SELA, NAMUCAR and others.

Although this is a summary explanation, we should not overlook the special economic relations of cooperation that have developed between Cuba and the Soviet Union over these years. Numerous trade agreements and protocols as well as economic collaboration accords have been signed with that country guaranteeing long-range planned and uninterrupted trade in both directions based on fair prices for our exports, correlated in turn with prices on products imported from the Soviet Union, so that price changes on import products do not cause trade terms to deteriorate and Cuba is guaranteed a favorable exchange relationship.

It is not hard to imagine how economically advantageous this is to a country like ours which basically exports sugar and imports some nine million tons of oil a year, at a time when the world price of oil has reached levels that are prohibitive for the underdeveloped non-oil producing countries and create serious financial problems in their balance of payments.

Gentlemen: We would like to end this explanatory section on our foreign trade and move on to a subject which undoubtedly interests you all, trade between Cuba and the United States.

At this moment and for reasons that are beyond our control and yours as well, we are sure, there is no direct trade between Cuba and the United States. There is, at this moment, some trade between U.S. subsidiaries and our country following the partial modification of the blockade, which has allowed U.S. companies operating in third countries to make certain trade transactions with us under specific conditions. But this trade is far from the volume that could be achieved if there were direct trade between our countries.

Historically, let us remember that, before the triumph of the Revolution, 67 percent of our exports went to the United States and 70 percent of our imports came from this country, although it must be recalled that these percentages represented a total of 1,510.6 million pesos in trade, the figure reached in 1958.

Taking into account that Cuba's total trade has quadrupled since then, we say that—with the lifting of the blockade—the United States could be an important trading partner for Cuba among the non-socialist countries. We are talking in absolute terms of an annual volume of imports and exports worth several hundred million pesos.

But it cannot be overlooked that Cuba has diversified its sale and purchase markets in other non-socialist countries over these years, and has made commitments to continue trading with those countries. It is no less true that the reopening of the United States market is going to mean the appearance of a strong competitor for all those countries as far as Cuba is concerned.

Cuba does not and will not apply any type of trade or political discrimination against any country; commercial and economic factors alone will determine the geographical orientation of our trade with the non-socialist countries and our sale and purchase policy, based mainly on price, quality, delivery, credit facilities, etc.

It is a principle of international trade that in order to buy one must sell. Cuba's income in freely convertible currency depends on the export of one basic product—sugar—which is subject to great price changes on the international market. It is logical that, in the case of trade with the United States, a partial lifting of the blockade in one direction only will not contribute to the development of trade between the two countries, because if Cuban products are not sold in the market, we can't acquire the monetary resources to cover our purchases of US agricultural and industrial products.

Should the blockade be lifted, Cuba would be prepared to purchase a broad range of US products, specifically: foodstuffs, raw materials for animal feed, drugs, ferrous and nonferrous metals, chemicals, fertilizers, industrial raw materials, textile yarns, machinery, equipment, industrial plants, etc. In exchange, we could sell you sugar, molasses, nickel, copper, chrome, tobacco, cigarettes, coffee, fruits and vegetables, rum and shell fish.

A factor that will play a very important role in the development of future trade relations between Cuba and the United States is the matter of tariffs. It would be fair to offer Cuba the same preferences granted exporters to the U.S. market whose state of economic development is comparable to ours.

It should not be forgotten that Cuba and the United States, as founding members of the General Agreement on Tariffs and Trade (GATT), granted each other mutual favored nation treatment. In addition, preferential trade agreements exist between the two countries and were incorporated into the General Agreement under which the two countries granted each other more than favored nation treatment.

Both treatments, that of most favored nation and of preferential, were unilaterally abrogated by the United States in violation of international law. Any of you, out of curiosity, can go over the United States Tariff and Customs provisions and you will easily find the preferences we have mentioned, product by product.

We must also mention the existence of the 1974 Trade Law that establishes very rigorous requirements for granting a socialist country such as Cuba most favored nation treatment and including it in the General System of Preferences. Even after the lifting of the blockade these obstacles must be overcome if we really want to develop our trade relations.

Gentlemen: We are certain that during the following session, your questions will complete any matter of interest to you that we may have omitted in our presentation.

Many thanks.

QUESTIONS AND ANSWERS

(The following are staff notes of questions asked of Mr. Fernandez, and his responses. They have not been edited or reviewed by Mr. Fernandez, and should therefore be regarded only as a general and partial reflection of the question and answer discussion.)

Q. If the U.S. Government permits the sale of foodstuffs and medicine to Cuba but will not purchase Cuban goods, would this be acceptable? (Sorenson)

A. Trade should be done on a reciprocity basis. They would agree to a partial lifting of the blockade but only if it was in both directions.

Q. What will be done regarding claims? (Castle & Cooke)

A. They believe claims are important, not only U.S. claims but Cuban claims. Cuba should be compensated for damages the economy has received because of the economic blockade these many years. This includes damages due to aggression during this period—Bay of Pigs. A recent declaration of Castro's has mentioned the possibility that Cuban side should be compensated by U.S. Government and the Cuban side would then be permitted to compensate U.S. firms. We must think in both directions. "This is not a problem just for the U.S. side." Castro's declaration opens the possibility.

Q. What about a Helsinki Accord type of arrangement between the U.S. and Cuba to resolve issues. Is this a constructive suggestion or a waste of time re Bingham's suggestions?

A. Cuba is not a member and does not participate in the Helsinki Agreements but both countries could discuss these matters in light of the Helsinki Agreement. Trade limitations and human rights should be in agenda of discussions.

Q. What is the magnitude of counterbalancing claims?

A. Damages suffered in Cuba are of a higher magnitude than U.S. claims against Cuba.

Q. Regarding the sale of tobacco and liquor, does Cuba feel it will get a better price in the U.S. than other countries?

A. Trade has been so far away for so many years. There is interest from the U.S. public to obtain these products. It would be sensible to buy directly from Cuba. They would have to explore the U.S. market regarding prices. One firm has done a market study for Cuba.

Q. Cuba maintains a sales organization in other countries to sell Cuban products. If the embargo is lifted would Cuba deal with U.S. importers or maintain a Cuban sales organization? (Gellert)

A. The sales organizations are part of the Cuban system. When enterprises from every country and interest wish to promote products from Cuba they come to Cuba and sign agreements. Commercial offices abroad are basically for Cuban interests. It can be done both ways. Cuba has an import plan and a export plan. They are divided by areas—socialist and capitalist. Trade for the whole year is specifically stated for socialist countries. In practice there is high flexibility for capitalist countries. There is a definite number for imports and exports.

Q. In which products might you be able to expand if you have greater markets?

A. There is a margin for increasing all products except possibly tobacco. Cuba will not increase productivity if quality must suffer. They expect a harvest of 7 million tons of tobacco. Nickel production will increase. They are building a new plant with a 30,000 ton capacity. This product is of interest to the U.S. market. A new rum factory is also being completed.

The blockade should be lifted not dependent upon anything else. Cuba maintains no blockade against the U.S. The U.S. could export to Cuba today. The blockade was a unilateral mission and should be lifted unilaterally.

Q. How do you see tourism?

A. This is a very important field. Not so much economically but politically. Tourists would explain to their friends that Cuba is not so bad. Earnings from tourism is $50 million. This could increase to $300 million. This would be an economically and politically good move. They are building hotels and tourist facilities. They may have an increase this year in tourists.

Q. How will Cuba finance its exports?

A. This is something that worries us.

1. U.S. must lift blockade.

2. This is a serious limitation that must be resolved before real normalization of trade.

3. MFN must be restored. Under the regulations of the Trade Act of 1974, once the embargo is lifted there will be no MFN.

4. This is a disadvantageous position for Cuba.

5. Sugar tariff was 1.875 cents per pound with MFN. Sugar tariff is 1.9875 cents per pound without MFN. Tobacco tariff with MFN was 1.98 per pound. Tobacco tariff without MFN is 4.50 per pound.

Almost all foreign trade is financed. This does not mean the buyer is paid immediately. The National Bank might obtain loans like any other country. Tariffs and financing are problems. When they are resolved trade will be normalized.

Q. What tariff treatment would American products receive in Cuba?

A. This would be on a reciprocity basis. Cuba is hoping for MFN and U.S. products would receive the same.

Q. Will private companies be allowed to open offices in Cuba after the embargo is lifted?

A. We already have other countries represented in Cuba and hope that this is the same situation for the U.S.

Q. Will Cuban representatives in U.S. offices in Cuba be necessary?

A. A Cuban commercial office would be established here in the U.S. They would receive U.S. entrepreneurs in Cuba depending upon U.S. firms' interest in promoting trade. There are trade opportunities for exports to Cuba in 1979 of $290 million and $350 million by 1980. Total imports are 1.2 billion pesos from capitalist countries. Trade between Cuba and the U.S. could reach $300 to $350 million in the first year of normal trade.

THE INDEPENDENT LOCAL NEWSPAPER ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing legislation that recognizes the public interest in and importance of maintaining independent local newspapers. For this purpose, the bill provides estate tax relief to the owners of such newspapers as an inducement not to sell their newspapers to the giant group organizations. The benefits in this bill are available to owners of daily and weekly newspapers, as long as they are not a part of a chain—two or more newspaper publications—or publicly traded corporations.

At this time, almost two-thirds of the daily newspapers in the United States are owned by chains. Because of the diminishing numbers of available independent local newspapers, chains have been buying other chains. One of the major reasons for the decline in the number of independent local newspapers is the devastating effect of estate taxes upon the owners of such newspapers. More and more newspaper owners, in contemplation of the fact that their estates will not be able to both pay the estate taxes and maintain their newspapers, have opted to sell their newspapers in tax-free exchanges for the stock of chains and other publicly traded corporations.

The proposed legislation will provide a means to set aside sums during the lives of newspaper owners for payment of their estate taxes, and also to defer payment of estate taxes for a reasonable period after the deaths of the owners of such newspapers.

The bill allows the owners of an independent local newspaper to establish an advance estate tax payment trust, to be funded by corporate earnings with not more than 50 percent of pretax income of the newspaper in any year. The contributions to and income of the trust may be invested solely in obligations of the United States. Excess funding of the trust is expressly prohibited. The funds accumulated in the trust may be used only to pay the estate taxes of the owners of the newspaper.

This advance estate tax payment trust offers major tax benefits to owners of independent local newspapers. The funding is with pretax income of the newspaper, and sums in the trust are not a part of the owner's estate for tax purposes. If, however, owners of the newspaper having established such a trust sell their newspaper, the bill provides for penalties which would amount to some 118 percent of the moneys in the trust. Thus, there is a "carrot" to induce maintaining independent local newspapers, and there is also a "stick" to preclude an attempt to take advantage of this proposal.

In addition, the bill provides for an extension of the time for payment of estate tax where the estate includes the interests in an independent local newspaper. Such extensions would be subject to payment of interest as now provided under the tax laws.

In April of this year I spoke before the National Press Club and expressed my deep concern about the social implications if local independent newspapers continue to be absorbed by the chains. The trend toward bigness and absent ownership signifies a very real loss to our society—the publisher with roots in the community. In the course of discussion about this issue I have repeatedly said not all independent newspapers are good, not all chains are bad. But we are in a situation where the family-owned, independent newspaper is an endangered species. I believe it is an institution in this Nation worth preserving from extinction.

We changed the tax code to protect the family-owned farm. We can also do it to save the local independent newspaper.

COMMON CAUSE REPORT ON SUNSHINE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, just over 1 year ago the Government in the Sunshine Act—Public Law 94-409—was signed into law. The act, which became effective on March 12, 1977, was a major effort toward openness and accountability in Government. According to a report recently issued by Common Cause, however, the high expectations at the time of its passage were not fully met during the first 3 months of operation under the act. I believe that the high number of meetings which remained closed to the public during this period—39 percent—is, for the most part, the result of the sweeping change in the mandated open manner in which regulatory agencies must now do business, rather than widespread or deep-seated recalcitrance. Nonetheless, the figure indicates there is a clear need for vigorous oversight by the Congress.

In this regard, I urge my colleagues to keep the Subcommittee on Government Information and Individual Rights, which I chair, apprised of all concerns they may have over the actions taken by agencies to close meetings. The subcommittee will utilize these materials in its oversight of the Government in the Sunshine Act. We plan to hold detailed hearings early next year.

I commend to my colleagues the following summary issued by Common Cause on its report:

COMMON CAUSE STUDY SHOWS EXECUTIVE BRANCH AGENCIES CONTINUE TO OPERATE IN SECRET

In the first three months of operation under the Sunshine Act, a majority of federal agency meetings have remained closed to the public, a Common Cause study has found.

The study released today reveals a strong tendency on the part of federal agencies to close their meetings under one of the Sunshine Act's ten exemptions despite the Act's clear presumption in favor of openness.

Calling the implications of the study "plainly disturbing", Common Cause President David Cohen said, "Despite enactment of the Sunshine law mandating openness in Executive Branch agencies, despite President Carter's call for a new era of Executive Branch openness, the prevailing pattern is secrecy as usual—decisions made behind closed doors."

"When, in the first three months under the Sunshine Act, far fewer than half of all meetings are fully open to the public, serious questions are raised about the extent of agency compliance," Cohen continued. Cohen urged the Congress to begin in-depth oversight hearings on compliance with the Sunshine Act, saying, "Agency witnesses must be brought to testify before Congress to determine whether the exemptions set forth in the Act are being abused."

The Common Cause study—"Shadows Over the Sunshine Act: A Common Cause Study of Federal Agency Compliance With the Government in the Sunshine Act of 1976"—is based on a survey of the 47 agencies covered by the legislation. Common Cause monitored the number of open, closed and partially closed meetings held by these agencies during the first quarterly period since the legislation took effect—from March 12, 1977 to June 12, 1977. The study found that:

39 percent (or 232) of 591 meetings held during the quarterly period were entirely closed to the public;

24 percent (or 143) of 591 meetings held during the quarterly period were partially closed to the public;

37 percent (or 216) of all 591 meetings were entirely open to the public;

exemptions relating to financial information accounted for 38 percent of the closed meetings;

national security accounted for 1.5 per-

cent of the exemptions used to close meetings; and

unwarranted invasion of privacy accounted for 9 percent of the exemptions used to close meetings.

"A suspiciously high percentage of meetings have been closed to allegedly protect financial information," Cohen said. "Congress should move quickly to examine the manner in which these financial exemptions are being used."

The Government in the Sunshine Act, enacted September 13, 1976, aims to make government more accountable by opening to the public the decision-making process within executive branch and independent agencies. However, many of the agencies seem to view the Act as "a procedural burden to be circumvented when possible," Cohen said. The resulting secrecy makes it extremely difficult, if not impossible, for citizens to compete with the behind-the-scenes influence of special interests," Cohen noted. "Secrecy perpetuates abuse of power, thwarts citizen participation, and diminishes the accountability and responsiveness of government."

The study cites the Federal Reserve Board and the Interstate Commerce Commision as two agencies that appear to have misused the exemptions of the Sunshine Act. Of some 37 meetings held by the Federal Reserve Board, 30 were entirely closed to the public. The fact that the Board closed one of its meetings to consider a proposed office furniture design as well as the Board's building renovation project raises serious questions about the Fed's willingness to comply with the spirit and meaning of the Sunshine Act, Cohen said.

Although not reflected in the study data because it occurred after June 12, the Interstate Commerce Commission closed its June 28, 1977 meeting at which it was scheduled to determine tariff rates on the transportation of oil in the Alaska pipeline. "Certainly a question of such national importance should have been considered in open session," Cohen remarked.

Cohen called on President Carter to take steps to insure meaningful compliance with the Sunshine Act. "President Carter has an obligation to establish uniform standards of openness in the Executive Branch in order to carry out the theme of openness he has set for his Administration," Cohen recommended that the President:

Issue a directive to the agencies covered by the Act affirming the Administration's commitment to openness in government and requiring that agency regulations conform not only to the letter but also the spirit of the Act; and

Direct the Office of Management and Budget to review each agency's regulations to ensure that they meet the Administration's high standards of openness.

Cohen urged that the Congress and the Carter Administration work to determine if:

The exemptions in the Act are being properly used;

The presumption of openness is being ignored;

The existing exemptions, especially those relating to financial matters, need to be more narrowly defined; and

The expedited closing procedure, which allows agencies to dispense with notification of meetings in the Federal Register, is being abused by the agencies.

The Government in the Sunshine Act provides that meetings of multi-member federal agencies—a majority of the members of which are appointed to their positions by the President with Senate confirmation—be open to the public. The Act provides ten defined exemptions to the openness rule under which agencies may close meetings. Included among these exemptions are meetings concerned with: classified national security; personnel rules; trade secrets; formal censure or accusation of a crime; invasion of privacy; law enforcement investigatory records; regulation of financial institutions; and subpoenas or civil actions. The Act also sets forth a clear presumption of openness.

METHODOLOGY OF STUDY

The Common Cause findings in this report were based on the number of open, closed, and partially open/closed meetings held by the affected agencies during the first quarterly period under the Act. Partially closed meetings were those in which a portion of the meeting was closed to the public under one of the Sunshine Act's ten exemptions. Much of the data contained in the study was taken from the Sunshine Act meeting notices section of the Federal Register and reflects the information submitted by each agency.

Agencies were contacted by Common Cause and asked to review the list of meetings for any omissions or errors and to provide any corrected information. Where appropriate, corrections offered by the agencies have been incorporated in our data.

Copies of the complete study—"Shadows Over the Sunshine Act: A Common Cause Study of Federal Agency Compliance With the Government in the Sunshine Act of 1976"—are available from the Common Cause press office.

ANNOUNCEMENT OF HEARINGS ON GRAND JURY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Thursday, October 13, to consider H.R. 94.

This bill would establish certain rules with respect to the appearance of witnesses before grand juries in order to better protect the rights and liberties of such witnesses, to require notice to a grand jury of its rights and duties, to provide for independent inquiries by grand juries, to require periodic reports to Congress, and for other purposes.

The hearing will be held in room 2237, Rayburn House Office Building and will commence at 9:30 a.m.

Testimony will be received from: Gary Naftalis, Esq., coauthor of a book on the grand jury system; David Rein, Esq., Coalition To End Grand Jury Abuse; Rod Sager, Esq., former U.S. prosecutor; Hon. William B. Sessions, U.S. district judge, El Paso, Tex.; and Hon. Bruce Babbitt, attorney general, State of Arizona.

LEGISLATIVE GOALS OF NONCOMMISSIONED AND PETTY OFFICERS ASSOCIATION OF U.S.A.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, it is my privilege today to bring to the attention of my colleagues the legislative goals of the Noncommissioned Officers Association of the U.S.A., the largest group of quasi-military organizations representing active duty noncommissioned and petty officers of the armed services in this country.

As a few of my colleagues probably know, this organization has recently seen fit to name me to be the 1977 recipient of its "L. Mendel Rivers Award for Legislative Action," an award made in remembrance of one of the finest chairman the Armed Services Committee has ever had.

It is an honor to share with you the goals of the NCOA. I hope they will receive the careful consideration of this body:

NON COMMISSIONED OFFICERS ASSOCIATION OF USA 1977–78 LEGISLATIVE GOALS

PREAMBLE

In continuity of the Association's understanding of a patriotic responsibility to the United States of America, we the delegates assembled in convention at San Antonio, Texas, this 28th day of June 1977, rededicate ourselves to the common defense of our beloved Nation and to our fellow comrades-in-arms; the Noncommissioned and Petty Officers of the United States Armed Forces on active duty, retired, or in the reserve or guard, or in a veteran's status; and to the men and women who have served, are serving, or will serve these United States as members of the Army, Navy, Marine Corps, Air Force, or Coast Guard.

In renewing this dedication, we the members of the Non Commissioned Officers Association pledge our devotion, loyalty, and honor toward the fulfillment of these goals.

NATIONAL DEFENSE

In the year subsequent to the Non Commissioned Officers Association of the USA (NCOA) convention assembly of 1976 many national and international events and developments transpired that have placed new and undue stress on further detente with the Soviet Union.

Relations with the U.S.S.R., our most probable adversary, are at a critical level, the coolest since the 1962 Cuban crisis. The incumbent Administration's demand from all world nations to adopt a policy of human rights is not acceptable to the Soviet Union. This has caused a confrontation with the Soviets who believe their internal affairs are their own and not the concern of the United States of America.

The Soviets are denouncing United States' policies and continue to warn American officials that they will reject a compromise in the nuclear arms race. They also continue to amass greater strength in conventional forces while the United States haggles over the high cost of defense, manpower and the necessary production of strategic and conventional weapons. Meanwhile, the Soviets provide an urgent threat in both Africa and Europe.

The overall ambitions of the Soviet Union, coupled with other alarming worldwide factors such as nuclear proliferation, dwindling energy resources, over-population, economic instability, and racial conflict, place greater emphasis on the United States to maintain a military defense second to none.

Therefore, the Non Commissioned Officers Association of the USA (NCOA) commits itself to increased efforts in urging the Congress and the President of the United States to rebuild U.S. military strength to a position of relative superiority.

MILITARY PERSONNEL

The Non Commissioned Officers Association of the USA (NCOA) again this year sounds a warning to the Nation that the unwar-

ranted and unnecessary attacks on military personnel have reached a dangerous level.

Although officials of the Department of Defense and the military departments are promising to do what they can to halt the erosion of pay, allowances, and benefits, Congress, with some suggestion from the incumbent Administration, continues to act to reduce or terminate certain emoluments.

We are concerned and alarmed that the Commander-in-Chief of the U.S. Armed Forces has demeaned honorable service in the military by commissioning acts of pardon or forgiveness to persons who failed to give their best to the Nation and their fellow countrymen.

We are concerned and alarmed that despite overwhelming support for military commissary subsidies there exists a determined effort by certain elements to phase-out these appropriations. The justification is that military commissaries add nothing to the defense of the Nation; however, Com-Stores continue to be of value in strengthening the morale and welfare of our military personnel—and military manpoyer is the lifeblood of our Nation's defense.

We are also concerned and alarmed that military medical and dental care and CHAMPUS programs lack the support of Congress. More and more military retirees and their dependents are being denied these benefits that are of a moral obligation on the part of the federal government.

We are also concerned and alarmed that the Commander-in-Chief of the U.S. Armed Forces and certain elements of Congress are critical of retired military personnel now employed by the federal government and are suggesting or proposing inequitable legislation that denies military retired pay to future federal employees.

For the first time in three decades, young men turning 18 years of age no longer need to register for possible military service. Full reliance is now on the success or failure of the All Volunteer Force (AVF) concept.

Yet, larger appropriations for personnel recruitment programs are becoming questionable. The AVF has scored a shortfall not only in the active forces numbering some 30,000 but in the Reserve and National Guard for more than 80,000.

Today the U.S. Armed Forces are at their lowest strength since the Korean War. Shortages and reductions in manpower place greater demands on fewer people. Between this and the steady erosion of benefits, more real than perceived, U.S. military personnel are thinking more and more of possible relief and protection through unionization.

Therefore, the Non Commissioned Officers Association of the United States of America (NCOA) commits itself to actively oppose any and all efforts to further erode pay, allowances, and benefits promised to or earned by personnel of the U.S. Armed Forces whether active, retired, or in the Reserve or National Guard.

Further, the Association is charged to petition the incumbent Administration and the Congress and to actively work: to maintain adequate military force strengths; to provide equity in the law as it pertains primarily to military enlisted personnel and to military personnel in general; to oppose unionization of military personnel; to support legislation that fulfills the moral obligations of the government to its military community; to terminate any further actions to demean or profane honorable service in the U.S. Armed Forces or to erode additional emoluments for those who are serving or have served in the U.S. Armed Forces.

Also, the Association shall initiate, propose, enjoin and program its legislative activities to fulfill its commitment to the men and women of the U.S. Armed Forces.

VETERANS AFFAIRS

The Non Commissioned Officers Association of the USA (NCOA) continues to support the veterans' community by providing assistance to those who seek its available services. Additionally, the Association will concern itself with veterans' affairs legislation that is related to its eligible and existing membership.

Therefore, the Non Commissioned Officers Association of the USA (NCOA) is committed to the pursuit of necessary and equitable legislation for the veterans' community.

VETERANS EMPLOYMENT

The Non Commissioned Officers Association of the USA (NCOA) shall continue to support the veterans' community by providing assistance to the veteran, his or her family and other eligibles, by advocating a strong stand in retaining the veterans' preference in Federal, State, and Local governments those programs of employment activity through the U.S. Department of Labor's Veterans Employment Service (VES) that are mandated by legislation and pursuant to Title 38, U.S. Code, Chapters 40, 41 and 42 as pertains to CETA, HIRE, and the National Outreach and Public Information program.

And further, that the Association shall support the recent legislation to upgrade the U.S. Department of Labor's VES and provide for the position of a Deputy Assistant Secretary of Labor for Veterans Employment whose authority and responsibility is commensurate with other Deputy Assistant Secretaries within the U.S. Department of Labor.

Therefore, the Non Commissioned Officers Asosciation of the USA (NCOA) resolves to support its veterans' employment goals with every resource available to the Association's employment and legislative departments.

GENERAL

The membership assembled commits the Association to continue its efforts in behalf of previous conventions' legislative goals and resolutions that are still active and necessary for the well-being of the membership; the Noncommissioned and Petty Officers Corps of the U.S. Armed Forces and the military and veterans' community.

Further, the Association shall have the mandate of this assembly to actively support or oppose any legislation, where convenient and necessary but not in competition with priority commitments, that is or is not in the best interests of the Association, its membership and/or the military and veterans' community.

THE CHARITIES DISCLOSURE BILL

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, very early in the year, our distinguished colleague from California, the Honorable CHARLES WILSON, introduced H.R. 41, the charities disclosure bill. It is now late in the year. Unfortunately, the bill has not advanced. It is still in the House Committee on Post Office and Civil Service to which it was referred. It appears that no further action is anticipated this session. A similar lack of support was received by H.R. 10922, introduced in the last Congress with the same goals. It would require organizations soliciting charities to disclose some basic information on how the money is to be spent. It would protect the American public and the responsible charities from money-making schemes and operations. It has been estimated that in a large percentage of such organizations, less than 10 percent of the money raised goes to those which the organization claims to benefit.

There are hundreds, even thousands of large and small charitable organizations in this country. The number is growing. It is estimated that contributions solicited by these organizations now total more than $30 billion a year. A large percentage of these organizations have worthwhile goals and are operated in a sound manner. Unfortunately, in the case of some organizations, fraud and misrepresentation creeps into their programs. H.R. 41 has such fraud and misrepresentation as its target. without subjecting legitimate charities to unnecessary and expensive reports or procedures.

In essence, H.R. 41 would require a solicitation to be accompanied by a statement telling how the donation will be used, the proportion of the money collected which will be spent on administrative costs, versus the proportion which will actually go to the charity itself, and an offer to provide further information if requested. Clearly, such disclosure gives the potential donor a greater ability to choose those charities which he or she feels are deserving of support.

The public should have the protection this bill would permit. It would protect the public and reputable charities from unscrupulous charity operators who have given philanthropy a bad reputation in recent years. It has been strongly endorsed by a number of well-known charitable organizations.

TILTING THE LABOR LAW

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House is in the process of approving legislation which significantly changes a number of labor laws now on the statute books. It has particular application to the National Labor Relations Board and it makes major changes in the method of operations of that organization. I have serious concern regarding this bill and I am particularly disturbed by constant reference to it as an "anti-South" bill.

Unquestionably, it would tilt NLRB more toward organized labor. Organized labor deserves fair and equal treatment, but considerable harm could be done to free enterprise and the competitive system if the laws affecting labor were too strongly oriented to benefit organized labor.

The bill was discussed in a candid and comprehensive manner by the Washington Star in an editorial published October 5. It is entitled, "Tilting the Labor Law." I insert it in the CONGRESSIONAL RECORD:

TILTING THE LABOR LAW

The National Labor Relations Act was passed 42 years ago, in the midst of the Great Depression, to give industrial workers the right to organize to bargain collectively. It

was not intended to be a lever to force employes into unions.

But a "reform" package currently under consideration by the House might well tilt the law in the direction of forced unionism.

This is the bill that leaders of organized labor want above all others in the 95th Congress. Why? Because they believe it will make it easier to organize non-union industries, particularly in the South.

The main thrust of the bill is to speed elections among workers on whether they want to unionize and to penalize employers severely for violations of labor laws.

Elections would have to be held within 15 days after petitions are filed by a majority of workers, and within 45 days after petitions are filed by 30 to 50 percent of workers. Employers, of course, should not be allowed to drag out the election process unduly but the deadlines proposed hardly give adequate time for employers to argue their side and for employes to make considered judgments.

Among the bill's penalty provisions is one that would require double back pay, rather than the straight back pay provided by existing law, to workers deemed by authorities to have been fired illegally for union organizing activity. Opponents argue, correctly in our opinion, that the law is not intended as a deterrent or to provide recompense for suffering but as a means of making an illegally fired employe financially whole.

Another provision would authorize the National Labor Relations Board to bar companies that willfully violate final NLRB orders from government contracts for three years. Such a procedure not only would penalize employers but would defeat the purpose of the bill, which is to protect employes. Fewer contracts mean fewer jobs.

Opponents argue that a major shortcoming is that the bill does not address coercive and illegal union activities. Alternate legislation introduced by Rep. John Erlenborn, R-Ill., and supported by business groups, would require secret ballots in determining whether employes want union representation and on whether to call or maintain a strike, would sharply restrict a union's ability to fine its members, would bar union payroll check-off for political purposes and would broaden the range of unfair labor practices by unions.

Not only has the Erlenborn bill been shuffled into oblivion but House leaders sent the labor-backed bill to the floor under a "closed rule" to prevent any such amendments being offered. Amendments were limited under the "closed rule" to issues addressed specifically in the bill before the House.

The bill before the House was written by friends of organized labor, and some of its supporters make no bones about their hope that it will lead to the end of open shops. Frank Thompson Jr., chairman of the House Labor subcommittee and sponsor of the bill, was quoted recently as saying: "I hope this bill will . . . protect workers . . . by doing away with open shop havens which entice industry with the siren song of cheap and docile labor."

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

REINSTATING DETAILED MINUTES OF THE FEDERAL RESERVE SYSTEM'S OPEN MARKET COMMITTEE.

(Mr. HANNAFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANNAFORD. Mr. Speaker, today along with my distinguished colleagues Representatives JOHN J. CAVANAUGH, JIM HANLEY, JIM MATTOX, PARREN MITCHELL, MARY ROSE OAKAR, JERRY PATTERSON, and BRUCE VENTO, I am sponsoring legislation to reinstate detailed minutes of the Federal Reserve System's Open Market Committee. The Federal Open Market Committee (FOMC) serves as the monetary policy formulating body of the central bank and its decisions affect every citizen in the Nation.

With the FOMC's decision to discontinue these minutes in May 1976, the Board announced that its brief summaries of FOMC activities—the records of policy action—would be expanded somewhat and that their release would be expedited. The prompt release of FOMC records of policy action should be encouraged and the Board is to be commended for that decision.

However, these summaries do not suffice as complete records for future research on monetary policy decisions. This aspect of the termination of detailed FOMC minutes is a justifiable concern of the academic community and of congressional oversight committees involved in analyses of monetary policies. Additionally, these minutes can serve as useful references to individual Open Market Committee members. Furthermore, Mr. Speaker, such documentation promotes accountability on the part of the officials who serve on one of the Government's most vital economic policysetting units.

Mr. Speaker, the merits of this legislation, therefore, are evident; and its provisions in no way attempt any politicization of the Federal Reserve System. Required detailed minutes of FOMC meetings would be protected in our legislation from premature disclosure by delaying their release until 3 years after the date of the meetings to which they relate. However, the FOMC would not be prohibited from the disclosure of any part of the minutes prior to the expiration of the 3-year period.

Mr. Speaker, this legislation is clearly in the public interest and encourages accountability on the part of policymakers in the Federal Government. Equally important, this measure asserts that responsible public officials should be willing to go on record and to be held accountable for their decisions.

HEALING THE SCARS OF THE VIETNAM WAR

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WEISS. Mr. Speaker, with the arrival in New York City of Vietnam's new delegation to the United Nations, another step has been taken toward healing the scars remaining from the Vietnam war. It is with deep regret, therefore, that I read a September 28 statement in the CONGRESSIONAL RECORD by the gentleman from Illinois (Mr. MICHEL) and a September 29 "Dear Colleague" from the gentleman from Florida (Mr. YOUNG).

Both men were unfairly critical of a September 26 ceremony in New York that welcomed the new Vietnamese U.N. delegation to the United States and called on President Carter to offer financial assistance for Vietnam's reconstruction. The gentlemen were especially unhappy because Mr. Sam Brown, the Director of ACTION, attended the ceremony and spoke in favor of aid to Vietnam.

In discussing the ceremony, the gentlemen's comments were ill-timed, unfriendly, and inflammatory, and served only to open old wounds. I believe their actions reflect poorly on our country. Individual Americans, such as the 2,500, including Mr. Brown, former Attorney General Ramsey Clark, and myself who attended the New York reception, were extending the American hand of friendship and attempting to fulfill a national commitment our country made near the end of that tragic war when the Nixon administration promised to help rebuild that war-torn country.

The Vietnam war was a horrible chapter in American history. Attacks such as those engaged in by Mr. MICHEL and Mr. YOUNG are only a painful reminder of all the destruction that took place during those years, not only to the country of Vietnam but to the American conscience. Now is a time for rebuilding, not tearing down, Vietnam and our ties to its people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. DENT (at the request of Mr. WRIGHT), for an indefinite period on account of medical reasons.

To Mr. COTTER (at the request of Mr. WRIGHT), for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 5 minutes, today.

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. BAUMAN, for 5 minutes, today.

Mr. TRIBLE, for 10 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PIKE, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. HOLTZMAN, for 15 minutes, today.

Mr. PREYER, for 5 minutes, today.
Mr. EILBERG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. COLLINS of Texas.
Mr. ARCHER.
Mr. BOB WILSON.
Mr. DERWINSKI in two instances.
Mr. CUNNINGHAM in two instances.
Mr. ANDERSON of Illinois.
Mr. ASHBROOK in three instances.
Mr. WYDLER.
Mr. SAWYER.
Mr. RUDD.
Mr. FRENZEL in three instances.
Mr. FINDLEY.
Mr. RUPPE.
Mr. WHALEN.
Mr. CARTER.
Mr. ABDNOR in three instances.
Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. CORNWELL) and to include extraneous matter:)

Mr. CORRADA.
Mr. MONTGOMERY.
Mr. OTTINGER.
Mr. RODINO.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MAZZOLI.
Mr. THOMPSON.
Mr. BLANCHARD in two instances.
Mr. SIMON.
Mrs. SPELLMAN.
Mr. MINETA.
Mr. DRINAN.
Mr. THORNTON.
Mr. PEASE.
Mr. KOSTMAYER.
Mr. BEDELL.
Mr. LLOYD of California.
Mr. FORD of Michigan.
Mr. PICKLE.
Mr. HANNAFORD.

RECESS

The SPEAKER pro tempore. The Chair will observe that the House has completed its business and, without objection, the House will stand in recess subject to the call of the Chair to await a message from the Senate.

There was no objection.

Accordingly (at 3 o'clock and 24 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 o'clock and 42 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 372. Concurrent resolution providing for an adjournment of the House from October 6 until October 11, 1977.

ADJOURNMENT TO TUESDAY, OCTOBER 11, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution 372, 95th Congress, the Chair declares the House adjourned until 12 o'clock noon on Tuesday, October 11, 1977.

Thereupon (at 3 o'clock and 43 minutes p.m.), pursuant to House Concurrent Resolution 372, the House adjourned until Tuesday, October 11, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2523. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting notice of the Defense Department's intention to obligate funds available in the Army Stock Fund for additional war reserve inventories, pursuant to section 735 of Public Law 94-419; to the Committee on Appropriations.

2524. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-83, "To enact Regulation 73-22, A Regulation Governing Human Rights," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2525. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the views of the Canadian Government on section 602 of the Tax Reform Act of 1976, concerning the deductability of expenses for conventions held outside the United States; to the Committee on Ways and Means.

2526. A letter from the Comptroller General of the United States, transmitting a report on the U.S. Great Lakes commercial fishing industry (CED-77-96, September 30, 1977); jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. Report on allocation of budget totals to subcommittees (Rept. No. 95-666). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 819. Resolution providing for the consideration of House Resolution 766. Resolution providing for the reform of the administrative, organization, and legislative management services of the House of Representatives, and for other purposes (Rept. No. 95-667). Referred to the House Calendar.

Mr. TEAGUE: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1978 (Rept. No. 95-668). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 820. Resolution providing for the consideration of H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. (Rept. No. 95-669). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL (for himself, Mr. HEFNER, Mrs. LLOYD of Tennessee, Mr. WHITEHURST, Mr. SATTERFIELD, Mr. ROBERT W. DANIEL, Jr., Mr. DAN DANIEL, and Mr. GUDGER):

H.R. 9461. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. CUNNINGHAM (for himself, Mr. KINDNESS, Mrs. SPELLMAN, Mr. BADHAM, Mr. GUYER, Mr. PRITCHARD, Mr. EILBERG, Mr. ROE, Mr. DERWINSKI, Mr. PANETTA, Mr. STANGELAND, Mr. BEVILL, Mr. MURPHY of Pennsylvania, Mr. CRANE, Mr. HARRINGTON, and Mr. BURKE of Florida):

H.R. 9462. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. KETCHUM, Mr. WALGREN, Mr. SPENCE, Mr. MARRIOTT, Mr. KINDNESS, Mr. BUCHANAN, Mr. DAN DANIEL, Mr. WALKER, Mr. EILBERG, Mr. CORCORAN of Illinois, and Mr. MANN):

H.R. 9463. A bill to assure that the policies of the executive branch of the Government of the United States protect employment opportunities for U.S. citizens, and for other purposes; jointly, to the Committees on Education and Labor, and Government Operations.

By Mr. DON H. CLAUSEN (for himself, Mr. JOHNSON of California, Mr. HARSHA, Mr. ROBERTS, Mr. SNYDER, Mr. ANDERSON of California, Mr. ROE, Mr. BREAUX, Mr. GINN, Mr. OBERSTAR, Mr. NOWAK, Mr. STUMP, Mr. WALSH, Mrs. PETTIS, and Mr. LAGOMARSINO):

H.R. 9464. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. HANNAFORD (for himself, Mr. CAVANAUGH, Mr. HANLEY, Mr. MATTOX, Mr. MITCHELL of Maryland, Ms. OAKAR, Mr. PATTERSON of California, and Mr. VENTO):

H.R. 9465. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings be released to the general public 3 years after the date of the meeting to which they relate; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KEMP:

H.R. 9466. A bill to reaffirm the use of our national motto on currency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KETCHUM:

H.R. 9467. A bill outlining procedures by which a change in status may be considered for any member of the uniformed services who is in a missing or POW status after the year and a day mandatory review under sections 555 and 556 of chapter 10, title 37, United States Code while serving in Southeast Asia; to the Committee on Armed Services.

By Mr. LAFALCE:

H.R. 9468. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, and to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9469. A bill to amend the Emergency School Aid Act with respect to eligibility for assistance; to the Committee on Education and Labor.

By Mr. LEDERER (for himself, Mr. BADILLO, Mr. RANGEL, Mr. EDGAR, Mr. CORRADA, Mr. GUYER, Mrs. HECKLER, Mr. DAN DANIEL, Mr. EILBERG, Mr. SCHULZE, Mr. BEDELL, Mr. MICHAEL O. MYERS, Mr. VENTO, Mr. MURPHY of Pennsylvania, Mr. COHEN, Mrs. SPELLMAN, Mr. MCCORMACK, Mr. RINALDO, Mr. ERTEL, Ms. HOLTZMAN, Mr. WAXMAN, Mr. BUCHANAN, Mr. DUNCAN of Oregon, Mr. D'AMOURS, and Mr. MAGUIRE):

H.R. 9470. A bill to amend the Tariff Act of 1930 with respect to the marking of wearing apparel assembled abroad from U.S. products exported for purposes of such assembly; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. NIX, Mrs. SPELLMAN, Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. FORD of Michigan, Mr. LEHMAN, Mr. HARRIS, Mr. SOLARZ, Mr. HEFTEL, Mr. HOWARD, Mr. RYAN, Mr. LEACH, Mr. ROUSSELOT, and Mr. GILMAN):

H.R. 9471. A bill to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. HEFNER, Mr. RAHALL, Mr. LLOYD of California, Mr. RONCALIO, Mr. MCFALL, Mr. YOUNG of Missouri, Mr. SNYDER, Mr. DON H. CLAUSEN, and Mr. GOLDWATER):

H.R. 9472. A bill to amend the Federal Aviation Act of 1958 to authorize U.S. international air carriers to carry domestic traffic between U.S. cities on flights operated in foreign air transportation; to the Committee on Public Works and Transportation.

By Mr. MINISH:

H.R. 9473. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MITCHELL of Maryland:

H.R. 9474. A bill to amend the Davis-Bacon Act to provide that a laborer or mechanic hired by a contractor shall be paid appropriate mechanics' or apprentices' wages for periods during which such laborer or mechanic uses the materials, equipment, or tools of the trade involved, and for other purposes; to the Committee on Education and Labor.

By Mr. NEDZI (for himself, Mr. LE FANTE, Mr. MCKAY, Mr. TSONGAS, Mr. MCDADE, Mr. GAYDOS, Mr. KETCHUM, Mr. LEHMAN, Mr. LEGGETT, Mr. WALGREN, Mr. HANLEY, Mr. MCFALL, Mr. WALSH, Mr. SARASIN, Mr. MOAKLEY, Mr. FASCELL, Mr. EDGAR, Mr. WOLFF, Mr. RINALDO, Mr. LLOYD of California, Mr. MARKEY, Mr. CHARLES H. WILSON of California, Mr. FLOOD, and Mr. RYAN):

H.R. 9475. A bill to amend the Local Public Works Capital Development and Investment Act of 1976 to authorize funds for certain smaller cities and townships; to the Committee on Public Works and Transportation.

By Mr. NEDZI (for himself, Mr. EARLY, Mrs. HECKLER, Mr. FISH, Mr. HARRINGTON, Mr. OTTINGER, Mr. DANIELSON, Mr. MARKS, Mr. MILLER of California, Mr. WEAVER, Mr. CUNNINGHAM, Mr. BEARD of Rhode Island, Mr. PEPPER, Mr. HANNAFORD, Mr. MOFFETT, Mr. KAZEN, Mr. THOMPSON, Mrs. MEYNER, Mr. ST GERMAIN, and Mr. BURKE of Florida):

H.R. 9476. A bill to amend the Local Public Works Capital Development and Investment Act of 1976 to authorize funds for certain smaller cities and townships; to the Committee on Public Works and Transportation.

By Mr. O'BRIEN (for himself, Mr. BURGENER, and Mr. GILMAN):

H.R. 9477. A bill to amend the Civil Rights Act of 1964 to make it unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 9478. A bill to amend title 18 of the United States Code to provide penalties for certain activities relating to the taking of children by parents from legal custodians; to the Committee on the Judiciary.

By Mr. SEIBERLING (for himself, Mr. BONKER, Mr. BRECKINRIDGE, and Mr. WALGREN):

H.R. 9479. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 9480. A bill to amend the act of August 31, 1965 commemorating certain historical events in the State of Kansas; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR:

H.R. 9481. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Mo.; to the Committee on Interior and Insular Affairs.

By Mr. THORNTON:

H.R. 9482. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. TRIBLE:

H.R. 9483. A bill to amend the Small Business Act to establish in the Small Business Administration a Small Business Extension Service; to the Committee on Small Business.

By Mr. UDALL:

H.R. 9484. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 9485. A bill to amend title 5, United States Code, to credit time spent in the Cadet Nurse Corps during World War II as creditable service for civil service retirement; to the Committee on Post Office and Civil Service.

By Mr. BINGHAM (by request):

H.R. 9486. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on International Relations.

By Mr. BAUMAN (for himself, Mr. WAMPLER, Mr. SEBELIUS, Mr. FINDLEY, Mr. THONE, Mr. SYMMS, Mr. JEFFORDS, Mr. GRASSLEY, Mr. MOORE, Mr. ANDREWS of North Dakota, Mr. ROBINSON, Mr. JOHN T. MYERS, Mr. STANGELAND, Mr. ASHBROOK, and Mr. LAGOMARSINO):

H.J. Res. 615. Joint resolution ordering the President of the United States, the Secretary of Agriculture and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on International Relations.

By Mr. HYDE (for himself and Mr. SCHULZE):

H.J. Res. 616. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. WALKER):

H.J. Res. 617. Joint resolution designating the week in each year during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT (for himself, Mr. RHODES, Mr. BEDELL, Mr. JOHN T. MYERS, Mr. PREYER, Mr. MONTGOMERY, Mr. BRINKLEY, Mr. ROUSSELOT, Mr. QUIE, Mr. BONKER, and Mr. SKELTON):

H.J. Res. 618. Joint resolution to express the sense of Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the National Day of Prayer for the year 1977, and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a National Day of Prayer for the Year 1977; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. BEARD of Tennessee, Mr. BLOUIN, Mr. BYRON, Mr. ROBERT W. DANIEL, Jr., Mr. DELANEY, Mr. DORNAN, Mr. DEVINE, Mr. EILBERG, Mr. FISH, Mr. KETCHUM, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Ms. MIKULSKI, Mrs. MEYNER, Mr. PRICE, Mr. QUIE, Mrs. SPELLMAN, Mr. SKUBITZ, Mr. SPENCE, Mr. STANGELAND, Mr. TREEN, Mr. WHITE, Mr. CHARLES WILSON of Texas, and Mr. WYDLER):

H. Con. Res. 373. Concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia to the Committee on International Relations.

By Mr. GILMAN (for himself, Mr. BOB WILSON of California, Mr. YOUNG of Florida, and Mr. ZEFERETTI):

H. Con. Res. 374. Concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia; to the Committee on International Relations.

By Mr. MOTTL (for himself, Mr. APPLEGATE, Mr. LUNDINE, Mr. MADIGAN, Mr. BRODHEAD, Mr. QUIE, Mr. MURTHA, Mr. NEDZI, Mr. FRENZEL, Mr. FARY, Mr. BROOMFIELD, Mr. HYDE, Mr. TRAXLER, Mr. BLANCHARD, Mr. ANNUNZIO, Mr. MURPHY of Illinois, Mr. DERWINSKI, Mr. METCALFE, Mr. ZABLOCKI, Mr. DINGELL, Mr. GUYER, Ms. MIKULSKI, Mr. BROWN of Ohio, Mr. ASHBROOK, and Mr. LATTA):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

By Mr. LONG of Louisiana (for himself, Mr. SISK, and Mr. BROOKS):

H. Res. 821. Resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House; to the Committee on Rules.

By Mr. THOMPSON:

H. Res. 822. Resolution dismissing the election contest of Elsa Debra Hill and Felix J. Panasigui against William Clay; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

276. The SPEAKER presented a memorial of the Legislature of the State of California, relative to workers' compensation; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 9487. A bill for the relief of Edward J. Shea; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 9488. A bill for the relief of Roselyn Garcia Veloria Capriano; to the Committee on the Judiciary.

By Mr. STOCKMAN:

H.R. 9489. A bill for the relief of Pik Yee Tang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

285. The SPEAKER presented a petition of Local 103 of Greater Boston, International Brotherhood of Electrical Workers, Dorchester, Mass., relative to the Labor Law Reform Act, which was referred to the Committee on Education and Labor.

SENATE—*Thursday, October 6, 1977*

(Legislative day of Wednesday, October 5, 1977)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God who rulest from everlasting to everlasting, we thank Thee that Thou hast given us a part in shaping the future of this Nation and the world. Give us the needed grace and the wisdom to do what must be done. Spare us from doing the wrong things.

When we cannot see the distant scene help us to do with courage and faith what can be done.

Keep us hopeful, resolute, and steadfast. Confirm our trust in the triumph of justice and the invincibility of love. Grant us to know that amid the uncertainties of our time, Thine alone is the kingdom, the power, and the glory forever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 6, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, October 5, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 5 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, the Senate at 8:48 a.m., on Thursday, October 6, 1977, adjourned until 8:48 a.m., the same day.

AFTER ADJOURNMENT

THURSDAY, OCTOBER 6, 1977

The Senate met at 8:48 a.m., pursuant to adjournment, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routinue morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If there be no further morning business, morning business is closed.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Now, Mr. President, do we have some special orders?

The ACTING PRESIDENT pro tempore. After the leaders have been recognized, the Senator from Alabama (Mr. ALLEN) is to be recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not have any need for my time and I yield it back.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BAKER. I thank the Chair for recognizing me. I have a request for part of my time under the standing order by another Senator who is not now in the Chamber. If there is no problem, I would like to suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I would like to have my time returned to me and I will assist the distinguished minority leader in the utilization of that time for the quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

PRIVILEGE OF THE FLOOR—S. 2114

Mr. BAKER. Mr. President, I ask unanimous consent that during the continuation of the pendency of this measure and any rollcall votes on it two members of my staff, Mr. Everett Wallace and Mr. Rick Garrett, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Kansas such time as may remain to me under the standing order.

The ACTING PRESIDENT pro tempore. The Senator from Kansas (Mr. DOLE) is recognized.

Mr. DOLE. I thank my distinguished colleague.

THE PANAMA CANAL TREATY CABLE

Mr. DOLE. Mr. President, I want to take just a few minutes to comment on a matter of grave concern to me and—

I hope—to many of my colleagues. That is the question of just how far this administration is prepared to go to protect itself from embarrassment over the proposed Panama Canal Treaties.

On Monday of this week, I was handed a copy of a September 29 State Department cable which gave me great cause for concern. The cable contained information—previously unavailable to either the Senate or the general public—which conflicted with testimony presented by key administration witnesses on the canal treaties last week. That was testimony on American rights under the proposed treaties to protect our defense interests.

The cable verified what many of us suspected all along: That American and Panamanian negotiators have far different interpretations of just what rights we would keep under the permanent neutrality treaty provisions.

Since this vital question bears directly on the Senate's decision as to whether the treaties should be ratified, I felt it should be brought to the attention of the Foreign Relations Committee. And since the administration has been promoting an entirely different interpretation of these treaties before the American people, I felt they were entitled to know the full story, as well.

Yesterday, State Department sources contacted the Ethics Committee staff to inquire as to whether my action in releasing the cable might have violated some Senate rule or ethic. I resent and reject that clear effort at intimidation.

A "CONFIDENTIAL" CABLE

My copy of the cable indicated it had been classified "confidential" and for "limited distribution." Why it was classified in this way, I cannot begin to understand.

The cable contained no military secrets. Instead, it described a Panamanian negotiator as "disturbed" over descriptions of the treaties being promoted by American officials. It was obvious that its release would in no way endanger our national security. In fact, its release appeared more likely to enhance our national security by revealing just how much the treaties jeopardize our interests in the Panama Canal passageway.

So why was this cable—which directly contradicted administration testimony on treaty "protections"—to be so carefully guarded from Congress and the public?

I am forced to conclude that this cable was classified for narrow, short-term political advantage. Contradictory information about America's defense rights under the treaties was being concealed under a questionable "confidential" classification. If this was not intentional misuse of a "national security" cover, then it was at best an error in judgment that deserved correction.

Whatever became of the "open government" that our President promised during his campaign last year? If there is one thing that the people of this Nation have learned from the mistakes of the past, it is that political coverups at the highest levels of Government are themselves hazardous to our national security. Indeed, we should ask: Just whose confidence was at stake in this "confidential" cable? Was it the administration's, or was it the confidence of the American people in the integrity of administration spokesmen?

Whether intended to advance a cause, or to prevent political embarrassment, government coverups have no place in the American system.

PUBLIC ACCESS TO FACTS

What else do we not know about the proposed Panama Canal treaties? What else is being "glossed over," because full disclosure might embarrass the Carter administration? I believe the State Department should provide the Senate with copies of all documents, memorandums, and cables, I might say, as requested by the distinguished minority leader on more than one occasion, anything exchanged between our two countries during the negotiations. And I commend the Foreign Relations Committee and the distinguished minority leader, Senator BAKER, for their repeated efforts to obtain these materials.

In my opinion, the greatest danger that could arise from the Panama Canal issue would be in giving the public too little information about these treaties, not too much.

I challenge the Carter administration to lay all its cards on the table, and let the American people judge for themselves whether or not the Panama Canal treaties are worthy of their support. Only then can the Senate proceed confidently in its ratification responsibilities next year.

Mr. President, I yield.

Mr. BAKER. Mr. President, I commend the distinguished junior Senator from Kansas for his statement this morning, for his interest in this matter, and for his service to the country.

On the first day of the hearings before the Foreign Relations Committee I indicated that I had decided not to decide how I will vote on those treaties until those hearings were finished.

At that time Secretary Vance, Ambassador Linowitz and Ambassador Bunker testified. I brought to the attention of those three gentlemen certain statements attributed to high Panamanian officials which seemed at variance with their interpretation, the American interpretation of the treaties, particularly the neutrality treaty as suggested by the Senator from Kansas.

At that time I suggested that the Foreign Relations Committee and indeed the Senate itself as a full constitutional partner in this matter should have full access to the negotiating transcripts, the minutes, the cable traffic, the Presidential review memoranda, and any other document in the possession of the executive department that would aid and assist our reconciling the apparent difference in the interpretation between the American point of view and the Panamanian.

I also said then that if that information was not forthcoming I felt it would seriously prejudice and jeopardize the final advice and consent of the Senate to the ratification of these treaties.

Mr. President, the disclosure yesterday of this cable by the Senator from Kansas, which I think was appropriately brought to the attention of the Senate Foreign Relations Committee, intensifies the absolute requirement that the Senate be given access, on whatever reasonable conditions the executive department may require, to the source material that will enable us to decide how the Panamanians view the interpretation of these treaties, particularly on two points:

One, the expeditious passage through the canal of American war vessels—whether or not that is privileged, priority, or routine; and, two, the right of the United States to intervene unilaterally to protect the regime of neutrality after the year 2000 as contended by the U.S. negotiators and interpreted by the administration.

Mr. President, I believe the Senator from Kansas has done a great service in highlighting this problem.

Moreover, I believe that now, in the face of this new information, it is imperative that the administration give the Senate full access, freely and voluntarily and without any concern for separation of powers or executive privilege or any other legalism, to the source data and material that will permit the Senate as a constitutional partner to make its judgment on these treaties.

Mr. President, I have still not made up my mind on how to vote on these treaties. I am not threatening. I deplore the action of the administration in contacting the Ethics Committee yesterday and I say to them now that if that is the game they are going to play, these treaties are going to be in for a tough time.

I have still not made up my mind, but unless the President of the United States and the Secretary of State decide to give the Senate the material we need to make an honest judgment, now that this matter has been brought to our attention, I believe there is no chance that these treaties will be approved.

Mr. DOLE. Mr. President, I thank the distinguished minority leader, and I will say that I do not understand why the State Department finds it necessary to contact the Ethics Committee to see if the Senator from Kansas may have violated something. It seems to me that they may have violated the confidence of the American people by not disclosing the very documents the Senator from Tennessee has been trying to obtain for 2 or 3 weeks.

Mr. BAKER. I thank the Senator.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, if I have time remaining I am happy to yield to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. ALLEN. Mr. President, if there is no objection, this can come out of my allotted time.

I commend the distinguished minority leader, the Senator from Tennessee, (Mr. BAKER) and the distinguished Senator from Kansas (Mr. DOLE) for the expression of their views with respect to the differing interpretations placed upon the language of the treaty by the Panamanians and by our negotiators.

I believe, however, I differ somewhat from what I perceive to be the position of the distinguished Senator from Tennessee with respect to the method of curing this grievous wound to the treaties. I do not believe it will be sufficient to exchange notes or exchange correspondence between the negotiators. What we have before the Senate is the wording of the treaties, and any extraneous matter, any interpretation that we gather by exchange of notes or exchange of correspondence is not going to remedy the defect in the conflicting interpretations that the negotiators place on it.

This treaty has been faulted. It contains this serious fault, and the only way to cure the fault would be to amend the language of the treaty—not a reservation, not an understanding, but an amendment of the treaty.

We all know the instability of the Panamanian dictatorship; and whereas we might have some sort of understanding in correspondence and exchange of notes between Panama and the United States as to the meaning of the treaty, suppose there is a change in the government down there. Suppose another dictator comes in. Suppose the force of public opinion down there requires them to repudiate any understanding that is reached as to the meaning of this treaty. Why must we have each nation interpret the meaning of a treaty? The meaning ought to be plain and explicit in the language of the treaty itself.

So to suggest that possibly this needs to be straightened out by statements and correspondence is not going far enough. It cannot be straightened out through exchange of notes by the parties. This treaty must be amended.

What happens after the amendment? It goes back for further negotiations. A new treaty has to be entered into. It has to go through the same process this treaty is going through. But in my judgment it would be folly indeed for us to give our advice and consent to the treaty relying upon an exchange of correspondence or notes between the parties. An out and out amendment, stating exactly what the understanding is, must be insisted upon. I believe that the treaties have been faulted beyond repair. I do not believe that the treaty can recover from the damage that has been done by the disclosure of this conflicting interpretation by the parties.

Mr. BAKER. Mr. President, if I have any time remaining under the standing order, I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES—NO. 13

Mr. ALLEN. I thank the Chair. I have already commented on my views as to the conflicting interpretations placed upon the language of the treaty.

The disclosure of this cable is not the first time that it has been apparent that there is a difference of opinion between the interpretation that the Panamanians place on the treaty and the interpretation that the U.S. negotiators place on the treaty, because Dr. Escobar, their chief negotiator, reported to the Panamanian legislative body these very two points of difference of interpretation: That is, first, on the right of the United States to send in troops to defend the canal, the right of the United States to determine when the neutrality of the canal is in danger, Dr. Escobar says that right is not given under the treaty. Second, Dr. Escobar says that the interpretation we place on the expeditious passage of our warships is not the interpretation they place on that. Dr. Escobar says that our ships would just have to get in line with other ships that might be wanting to transit the canal.

Minister Barletta of Panama also raises the same point, and gives a differing interpretation to the language of the treaty. So throughout their government, it is quite obvious that they place a different interpretation on the treaty from that which we place on it.

Suppose they do say, "Well, we are wrong in our interpretation. The gringos," as Dr. Escobar calls us, "are right in their interpretation."

Well, that is not going to stand up. You cannot amend a treaty by exchange of notes. That is just not possible.

Even though the negotiators, the separate teams of negotiators, worked for 13 years on this treaty, I will have to say they did not do a very good job of drafting the language, if it is susceptible of so many different constructions. I believe we can wait another 13 years, Mr. President, while they give attention to redrafting these treaties, and then submit them back to us here in the Senate.

How could there not have been a meeting of the minds? We all know that in a contract—and a treaty is a contract; it is a high level contract, but it is a contract, and as in all contracts, there has to be a meeting of the minds. There has to be an understanding, where both parties have the same understanding, for it to be valid.

A treaty is the same way. If one party leaves the negotiating table and says that the treaty means this, and the other party to the negotiations leaves the negotiating table and says the treaty means something diametrically opposite, we have not had a meeting of the minds. It is elementary as to a contract—and as I say, a treaty is a contract—that you must have a meeting of the minds, and since there has been no meeting of the minds, the treaty has been faulted, as I see it.

So it is going to be necessary to amend this treaty in many particulars. We have got to amend the provision that says that for 23 years we cannot even negotiate with another nation on the building of another canal. Well, we certainly do not want to build another canal in Panama, because we are having to give them this canal, and I assume they would want the other canal. If we cannot negotiate with Panama, whom are we going to negotiate with? Well, we cannot negotiate with anybody under this treaty for 23 years.

I do not know whether the present canal will take care of the traffic for the next 23 years. As I say, we certainly do not want to build Panama another canal at the expense of the American taxpayers. So that has got to be changed.

This treaty needs to be changed in at least seven or eight major particulars.

What would be the effect then? Well, even if the treaty is approved with these major changes in it, it could not then be agreed to by Panama by accepting our amendments. It would require renegotiation of the treaty. The treaty, if amended in these particulars, would be a nullity insofar as being a treaty is concerned. This document so amended, while not valid as a treaty—and Panama could not breathe life into it—would serve as a guideline.

We hear a lot about guidelines here in the Federal Government. This document would serve as a guideline to our negotiators.

They could take this treaty draft as amended by the Senate and they would be armed with the view of the United States Senate in further negotiations.

Well, the Senate ought to have been in on this anyhow, Mr. President. For 13 years, the negotiators negotiated without any consultation, so far as I know, with Members of the U.S. Senate. Nobody knew what was in the provisions. Nobody knew the progress that was being made in the negotiations. It was a carefully-kept secret. That is one of the failures in this negotiating process, that the U.S. Senate, which is supposed not only to consent but to advise, was not given any opportunity to advise in the treaty negotiation process.

President Wilson, at the end of World War I, fell into this very same trap. We have not learned any lessons from the history of the Versailles Treaty. I am a great admirer of President Wilson, but he took upon himself to negotiate the Versailles Treaty. He did not have Senators involved in the negotiations, and when it came back to the Senate, the Senate felt that it was something that they had no part in, and they were just asked to consent to the treaty rather than to advise and consent.

So, Mr. President, after this treaty is amended in these particulars that I speak of, then the Senate would have given some advice to the executive department as to what the people of the United States, speaking through their U.S. Senators, speaking through the Senate of the United States, are willing to accept. So the amendment process is what we need to follow in the Senate with respect to this treaty and let that document, as so amended, serve as the guideline to our negotiators as they negotiate again.

I would be perfectly willing, as a Member of the Senate, to see this annuity that we pay Panama—something like $2.3 million a year now—increased tenfold or even more out of the canal revenues. But I feel that we definitely must keep sovereignty over the Canal Zone. We must keep the operation and management of the canal. We must keep the rights to defend the canal. So I would not object to an overall amendment of this treaty, raising this annuity, but leav-

ing all other provisions of the 1903 treaty in full force and effect. I could conscientiously vote for that.

I do not think we need to pinch pennies. It is not a question of the money involved, though I do not look with favor on this multibillion dollar subsidy that is being arranged in the manner of loans, plus the addition to the annuity. But I do not think we should be too much concerned about the cost of raising the annuity. As I say, I would be willing to see it raised tenfold or more. Let us keep the sovereignty of the zone. Let us continue to operate and manage the canal. Let us continue to defend the canal.

Mr. President, yesterday I reviewed in some detail the events leading up to the passage of the Spooner Act, which directed the President to acquire from the Republic of Colombia perpetual control of a strip of land not less than 6 miles in width from the Caribbean to the Pacific and instructed the President to excavate, construct, and perpetually maintain, operate, and protect an interoceanic canal. Today, I will trace the history of our negotiations with Colombia and with Panama for the purpose of making plain the fact that the United States did not behave improperly in acquiring the Panama Canal Zone and for the further purpose of demonstrating the folly of ratifying these dangerous treaties out of some misplaced feeling of obligation to Panama or out of some vague desire to correct a past wrong which is more imagined than real.

After adoption of the Spooner Act, several months of arduous negotiation ensued between then Secretary of State Hays and Tomas Herran, chargé d'affaires of Colombia. The result was a canal treaty very favorable to the United States. The treaty was concluded and signed by both parties on January 22, 1903, and consented to by the U.S. Senate on March 17 of that same year. The Colombian Senate was called into session on June 20, 1903, to consider the treaty. However, the Colombian Senate declined to give its assent.

Many have assumed that Colombia failed to ratify the Hay-Herran Treaty out of motives of patriotism and national pride. Although to be sure those elements may well have been factors in the debate at Bogotá, careful students of the matter recognize that foremost in the minds of a majority of Colombian senators must have been the fact that the rights of the French company, the so-called New Panama Canal Co., were due to expire in the course of several months and as a result the Colombians would be eligible to receive a $40 million payment scheduled by the United States for payment to the French company for the purchase of its rights, all with the result of increasing Colombia's take from $10 million to $50 million.

So, Mr. President, Colombia, motivated at least in part by greed, decided to gamble by rejecting the Hay-Herran Treaty in the hope that in a few months a better deal, a more lucrative deal, would result. Of course, from Colombia's point of view, the unfortunate outcome was the secession of Colombia's province, Panama, and the negotiation of the treaty of 1903.

A web of outrageous misinformation has been spun by the Department of State and supporting propaganda has been shrilly proclaimed by Panama's dictator, all for the apparent purpose of creating the impression that the United States instigated the Panamanian secession in order to seize control of the Panamanian canal route. I would not be surprised, Mr. President, if even a majority of the Senate has adopted the false belief that the U.S. Navy landed troops and seized the Canal Zone from the Panamanians under duress.

The opposite is the truth. Panama seceded from Colombia under leaders who understood exactly what they were doing. Panama seceded from Colombia entirely out of motives of self-interest, seeking enrichment and the vast benefits destined for the new nation if the United States could be induced to undertake the canal project. Panama argued hard against the Nicaraguan route and actively sought the support and protection of the United States for her secession from Colombia. The United States, on the other hand, did not intervene, did not land troops, and did not prevent the landing of troops from Colombia sent to quash Panama's secession.

Why was the Panamanian revolution entirely bloodless, and why did Colombian troops in Panama rapidly make terms with insurgent forces and in some instances even change sides? The principal reason was near unanimity among Panamanian leaders in their desire to conclude a treaty with the United States for the construction of a canal. These leaders, who effectively controlled Panamanian politics, were Jose Augustin Arango, Dr. Manuel Amador, Frederico Boyd, Nicanor de Obarrio, Carlos C. Arosemena, Manuel S. Espinosa, Tomas Arias, and Ricardo Arias. They each understood that rejection of the Hay-Herran Treaty by the Colombian Senate meant the United States would switch to the favored Nicaraguan route. Panama, in short, would remain a jungle pesthole.

The first meeting of the secession movement was held on July 25, 1903, soon after the rejection by Colombia of the Hay-Herran Treaty. Panamanians always had held the government in Bogota in low regard, but its rejection of the Hay-Herran Treaty was the final straw and animated the secession conspiracy. The uprising occurred on the evening of November 3, 1903, and was conducted entirely by the Panamanian insurgents. The presence of U.S. Naval vessels off Panama City and Colon did, to be sure, inhibit Colombian actions in attempting to retake the province of Panama, but effectively the coup d'etat was accomplished within 24 hours, making Colombian efforts largely unavailing. Many Colombian troops joined the rebels, many others withdrew, and at no time were shots fired by either side.

Thereafter, the successful conspirators formed a provisional government and designated Bunau-Varilla as the new country's negotiator for a canal treaty. Bunau-Varilla was named to this important post because the Panamanian leaders believed correctly that Bunau-Varilla would be in a position to persuade the United States to stand by the Panamanian route, notwithstanding the continued efforts of Senator John Morgan and others in the American government to urge negotiation of a treaty with Nicaragua.

The Treaty of 1903 was signed by Secretary of State Hay and Bunau-Varilla on November 18, 1903. Its provisions were quite similar to the provisions of the Hay-Herran Treaty, save that they contained many amendments offered by Senator Morgan when the Herran Treaty was under consideration in the Senate. These amendments were included in the text of the Treaty of 1903 to preclude Morgan's objections. In any event, the text of the treaty was cabled immediately to the provisional government in Panama and was unanimously approved by the new Republic of Panama on December 2, 1903, before the U.S. Senate acted to give its own assent to the treaty's ratification.

Mr. President, the Republic of Panama was born under the protection of the United States. The Panamanians received from the United States what they most desired: construction of an interoceanic canal by perhaps the only country in the world capable of undertaking that task successfully. The Panamanian economy boomed; the new nation received a tremendous good endowment and was assured of regular gold annuity payments and the benefits of massive U.S. investment.

The lesson taught by this history is simple. Men tend to forget what is convenient to forget and to hold fast to that which is of present value. I trust that the people of the United States will hold fast instead to the facts, will recognize the great and good role our country played in constructing the Panama Canal, and will reject totally the concept that we should adopt these treaties, dangerous to our own national economy, out of motives of shame.

I yield back the remainder of my time.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today, for the purpose only of considering one nomination for the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2114, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

The Senate resumed consideration of the bill.

(The following proceedings occurred later in the day and are printed at this point in the RECORD by unanimous consent.)

NEW YORK CITY TEACHER ASSIGNMENTS

Mr. JAVITS. Mr. President, I wish to comment on a matter of great concern and importance in the city of New York.

Last month the New York City Board of Education and the U.S. Department of Health, Education, and Welfare signed an agreement which alters the method of assigning teachers to the public schools. I have reviewed this agreement and the background and facts which led to its signing. In my view, the agreement represents a difficult but necessary resolution to an extremely grave situation. New York City had Federal school aid funds at stake of $35 million in 1977 and at least as much in succeeding years. Considering New York City's financial condition, these moneys were vital to the city's educational system.

Working together, representatives of the board and the Office of Civil Rights of HEW overcame what had appeared earlier this year to be an insurmountable obstacle. There has been no validated claim that the New York City Board of Education has acted intentionally to discriminate by race in hiring teachers. But an examination of actual assignments in individual schools showed that assignments had resulted in a segregated faculty. As this violates constitutional protections and civil rights laws, it was imperative that a remedy be sought and achieved.

I can understand the outrage expressed by my colleague, Senator MOYNIHAN, about a week ago in this connection, in connection with this agreement between HEW and the New York City Board of Education. He has great experience both as a teacher and a Presidential adviser on these sensitive issues. Thus, it is understandable and he had every reason to express distress at the assignment of teachers on the basis of race. The provisions of the agreement are indeed offensive to some of our most basic concepts of individual and civil rights. I, too, am repelled by the idea that otherwise qualified individuals would be designated on the basis of race.

Likewise, I can appreciate the comparable view taken by the President of the United Federation of Teachers, a big New York City teachers union, President Albert Shanker, who signed the agreement between the city, the board, and HEW under grave protest. But, the problem was that we were reaping the results of longstanding policies in New York City which had the unintended effect of segregating our public school faculty. The law required New York City to correct it to be entitled to Federal aid to education; the question was how. We were faced with a question if the cure is worse than the disease. Here I must aline myself with the proposition that the cure (the agreement) has a limited application and duration and therefore was to be preferred to the disease. Our task now must be to assure that New York City never again finds itself in a situation which segregates its public school faculty.

Now that the Federal aid is assured, a new New York City mayor should be able to review the case and construct an alternative which is within the legal requirements. I will gladly lend myself to such a course. But as I see no alternative right now, I do not presently see that city authorities or the union of teachers had any other choice than to enter into the agreement which was made.

THE AGREEMENT

Along with new methods of teacher assignments, the agreement maintains some significant safeguards.

The major provisions are:

First. Through affirmative action, the assignment of teachers will reflect the racial composition of teachers in the entire system. Schools have a 3-year period to attain this goal.

Second. The Board must seek a change in State law governing teacher hiring. Testing methods of teacher qualifications will be validated, and hiring lists of qualified applicants will be merged without regard to application date and rank.

Third. The Board will study the relevant qualified labor pool of teachers, and by September 1980 must attempt to have the number of minority teachers and supervisors within the range of existing qualified labor pool.

Fourth. The Board will undertake affirmative action programs for hiring women in supervisory positions.

Fifth. The Board must submit a plan to HEW with annual interim objectives for hiring teachers and supervisors, and report periodically on its progress under this plan.

The safeguards to individuals are equally important.

The Board is not required to lay off any teacher already assigned.

No unqualified teacher may be hired.

The agreement specifically states that it does not establish quotas.

Because of the terrible budget cuts of the last 2 years which stripped the school system of 1 of every 5 teachers, the initial plan is based on the reassignment of 3,500 previously laid off teachers.

Unlike other faculty desegregation agreements in major cities like Chicago and Los Angeles, teachers in established positions were not reassigned in New York City. In order to comply with Office of Civil Rights requirements, other cities agreed to reassign hundreds of teachers from their present positions to new assignments in other schools.

So the agreement did have the result of reassigning 3,500 previously laid off teachers, and this was a development devoutly to be wished. It is one of the reasons why the teachers' union signed the agreement, even under great protest.

RESULTS OF AGREEMENT

First, the HEW Office of Civil Rights has carried out its legal responsibilities, with a voluntary agreement, and without resorting to the final cutoff of Federal funds to the school board.

Second, the Board will act to redesign the selection process for teachers and supervisors to eliminate those aspects which produced a segregated effect. This is to be done within reasonable safeguards as outlined above.

Third, the New York City Board of Education will receive Federal funds previously blocked by alleged noncompliance with civil rights law. At stake was a total of $35 million in Federal funds from the Federal manpower and desegregation assistance programs (Comprehensive Employment and Training Act—CETA; and the Emergency School Assistance Act—ESAA). The New York City schools were entitled to these funds only if they met all legal requirements. Compliance with the Federal civil rights laws is a legal requirement. Thus, the funds were blocked until the Board and HEW could resolve questions about compliance with these laws.

Fourth, the agreement places the New York City school system fully in compliance with Federal civil rights laws regarding assignment of teachers.

LEGAL BASIS

In enforcing civil rights laws, Federal officials are guided by both statutes and relevant court decisions. In the landmark Singleton case, the Federal Fifth Circuit Court of Appeals determined that where previous teacher assignments had resulted in a segregated faculty that affirmative action to restore racial balance is required. This Singleton principle has been upheld by many Federal courts and affirmed by the U.S. Supreme Court in several desegregation decisions, including cases in the North, such as Denver, Colo., and the South, such as Montgomery, Ala. The Office of Civil Rights advises me that this Singleton principle is the legal basis for their agreement in New York.

Mr. President, in conclusion, none of the parties considered this a pleasant situation—and I certainly did not. But segregation is ugly and rooting out its vestiges requires trying decisions by the responsible public officials. That is what happened here.

An editorial of October 1, in the New York Times, sustains the view I have expressed.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD, at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 1, 1977]

THE RACE LOTTERY FOR TEACHERS

The 3,500 recently rehired teachers in New York City are being assigned to schools through two doors, one marked "whites," the other "black and Hispanics." This normally offensive, stigmatizing routine is necessary, according to the Board of Education, to make certain that more whites are assigned to schools with heavy black and Hispanic enrollments and that more blacks end up teaching in schools with mostly white students. The teachers union is complying reluctantly. The deplorable assignment by race is necessary, they add, to satisfy a Federal order for greater integration of teaching staffs and to avoid a cutoff of Federal funds.

The Federal Office of Civil Rights says the order was necessary because the city had for too long hired and assigned teachers by means that either discriminated against minorities or had a segregating effect. The Board of Education denies discrimination,

acknowledges imbalances, wishes it had time to apply less distasteful remedies but acquiesced in a three-year schedule of correction—markedly less onerous than any imposed on other cities—to keep the Federal money coming.

The news of this racial lottery brought an intemperate shout from Senator Moynihan that Federal bureaucrats were imposing Hitlerian race laws. Albert Shanker, for the teachers union, railed against a breach of President Carter's promise to oppose racial quotas. The Board of Education writhes in discomfort.

Responsible leadership would have made two things plain. First, that the only issue between Washington and New York is whether past practices sanctioned racial segregation and separation. If so, a remedy is imperative; if not, the Federal finding should have been disputed in court. Second, the choice of remedy was left to the board and union leaders. It was they who decided to deal racially with the relatively few returning teachers instead of subjecting large numbers of them to truly random reassignment and the system to major disruption.

The available evidence suggests that New York schools have not done as well as other cities in recruiting teachers from the pool of qualified minority applicants. It also suggests that minority teachers, once hired, were disproportionately assigned to schools with large minority enrollments. And the situation was aggravated by decentralization. Some of the imbalance was caused by arcane assignment procedures, rigid seniority rules and artificially precise interpretations of test results. And some was caused by the decision to let predominantly black and Hispanic schools hire (mostly black and Hispanic) teachers out of turn and on the basis of a national rather than local test.

The results aroused Federal civil rights officers and they forced the Board of Education to agree to the three-year corrective program. It requires that the number of minority teachers be raised to a range representative of the relevant labor pool—from about 16 percent to more than 20 percent, with plenty of leeway for defensible shortfalls. It also stipulates that the assignments be judged by whether elementary and junior high school staffs are integrated in proportion to the total teacher pool, give or take 5 percent—or a fair excuse.

To meet these targets, the Board of Education decided wisely not to abandon merit testing—although it has not resolved the question of whether its tests impose severe or irrelevant standards, as charged; minority spokesmen prefer examinations of the Educational Testing Service, which schools with mostly minority students have been allowed to use instead. The board also decided wisely not to deprive laid-off teachers of their seniority in favor of minority recruits. That left a choice of reassigning huge numbers of teachers at random, reassigning a smaller number by race, or, as finally decided, reassigning only the returnees by race and calling on other teachers to volunteer for transfer.

That remedy is unpleasant but it is not a quota and certainly not a Nuremberg law. It is distasteful but defensible, since to a considerable degree New York did bring the problem upon itself.

Mr. President, I fully support Senator JAVITS' proposal that the next mayor of New York City, as he put it, "review this case and construct an alternative which is within the legal requirements." I will certainly join in that effort.

I have not the least difficulty with the finding that the previous teacher assignment procedure in New York was not free of ethnic bias, and that a remedy is in order. My own preference would be for a "random" assignment process, or as close thereto as possible, one in which an individual's "race" plays no part.

Let me state four principles which will guide me in this matter.

First, I am for diversity in our schools, as elsewhere. In 1970, Nathan Glazer and I issued a second edition of "Beyond the Melting Pot." We observed that ethnic relations in our city were growing more rigid as national influences were brought to bear. In place of the variegated and shifting pattern of our long and surprisingly successful experience of diversity, we were succumbing to a crude division of mankind into two categories. The Federal bureaucracy has been called many things. It has never been called subtle.

Second, I believe in affirmative action. I was Assistant Secretary of Labor under President Johnson when the Civil Rights Act of 1964 was passed. I participated in the drafting of Executive Order 11246 which established the affirmative action program. The basic assignment of responsibility was to the Department of Labor, which in turn delegated educational matters to the Department of Health, Education, and Welfare. I have consistently supported this principle, though it is often misunderstood, and sometimes distorted.

Third, I am against quotas. I do not believe that a successful affirmative action program, intended to equalize opportunity and to move us toward a truly "color blind" society, permits a quota system, whether in the assignment of teachers or in other matters. If quotas enter the elementary and secondary school system, the Federal bureaucracy will implacably extend them, first to the City University, then to the other institutions of our city. I believe this would be unfortunate.

Fourth, I expect the unexpected. Government actions almost always produce a result different from the predicted one. There is a sense in which government never knows what it is doing. The only thing it can be certain about are the principles upon which it is proceeding. What arouses me in this matter is that thought that the Federal Government may be accepting the principle that access to the learning and teaching professions can be circumscribed by reason of "race"—whatever that may be. The Federal Government must surely know that any day now, it will be called upon in some tribunal or other to come up with a biological definition of what it means by "black," "white," "Hispanic" and such like. An appalling thought. I will not be satisfied by the predictable protestation by the Federal Government that it means nothing of the sort.

My comments of September 23 have brought many responses from New York citizens. I have been encouraged by the total agreement of these correspondents with my point that teachers in our school system should not be labeled by race.

(This concludes proceedings which occurred later.)

The ACTING PRESIDENT pro tempore. The time for the debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Mexico (Mr. DOMENICI); 2 hours on any amendment in the first degree, except on one amendment each by Mr. GRIFFIN, Mr. GLENN, and Mr. JOHNSTON, on two amendments by Mr. TOWER, on each of which there shall be 1½ hours, and one amendment each by Mr. DURKIN and Mr. FORD, on each of which there shall be one-half hour; with 30 minutes on any amendment in the second degree; and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, for Senator STEVENS' staff, I ask unanimous consent that Steven R. Perles may have the privilege of the floor for today during debate and rollcalls.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to suggest the absence of a quorum, to be charged equally against the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I ask unanimous consent that my colleague may have 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New York is recognized for 5 minutes.

Mr. MOYNIHAN. I thank my colleague from New York, the majority leader, and the Chair.

MINE SAFETY AND HEALTH ACT OF 1977—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Williams, I submit a report of the committee of conference on S. 717 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining

industry, to prevent recurring disasters in the mining industry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1977.)

Mr. WILLIAMS. Mr. President, I am privileged to bring to the Senate the conference report on S. 717, the Federal Safety and Health Amendments Act of 1977. As chairman of the committee of conference, I wish to commend my fellow conferees from the Senate and especially Senator RANDOLPH as well as the leader of the House conferees, the gentleman from Kentucky (Mr. PERKINS) and the manager of the bill in the House, the gentleman from Pennsylvania (Mr. GAYDOS), for their dedication and commitment to improving the safety and health of our Nation's miners.

Mr. President, it is time for us to enact comprehensive new legislation for the protection of our Nation's miners. The United States has one of the worst mine safety and health records of any major mining nation. We have, for too long, paid for our energy and minerals in a dreadful currency of human suffering and death.

However, this new mine safety law, which we are about to enact, will go a long way toward assuring the safety and health of our miners.

Our Nation is now turning to the intensive development of its energy and natural resources. Therefore, it is of the utmost importance that we act now to provide for improved safety and health conditions.

Mr. President, this legislation combines the best features of Senate bill 717 and the House amendment to that bill. Most of the much-needed changes in procedures under the Federal Coal Mine Health and Safety Act of 1969, which were passed by the Senate, have been adopted by the conferees.

I would like to mention some of the principal improvements to our mine safety and health laws which are accomplished by the conference substitute:

An expedited procedure for the development and promulgation of standards:

In the past, standard making has been slow and complicated. The conference report will go a long way toward speeding up and streamlining this process. Time limits are placed on each step of the process consistent with the need to develop a complete understanding of the issues. And, once the need for a standard is recognized, it can be developed and promulgated within a reasonable period of time.

Requirements for the development of comprehensive standards to insure the health of miners:

Mining disasters grab the headlines, but thousands of miners also suffer from diseases and illnesses which result from mining employment. In the past, our national effort has not adequately addressed the problems of mining-related diseases.

This conference report, therefore, contains provisions insuring the development of comprehensive standards.

An independent mine safety and health review commission to adjudicate matters under the act:

In the past, the Secretary of the Interior was given the responsibility both for the enforcement of the act and for the administrative review of enforcement actions. Parties displeased with the Secretary's enforcement actions could take an appeal to the same Secretary. The conference report adopts the provisions of the Senate bill which establishes an independent commission to review enforcement actions. This will insure fairness and due process, and will also encourage the development of a sound and definitive body of case law which will enable the Secretary, the miners, and the mining industry to adopt a consistent course of conduct in every case.

Expedited procedure for the assessment and collection of civil penalties and review of orders and citations:

Under the current Coal Act, the administrative procedure for the assessment and collection of civil penalties, and for the review of orders and citations is so complex and slow moving that it often takes months to complete a case. This long delay between the citation of a violation and the collection of the penalty severely limits the effectiveness of penalties. If a penalty is to be an effective inducement to compliance with the act, it must be proposed, assessed and collected with reasonable promptness. The conference substitute adopts many of the provisions of the Senate bill and will assure a fair and fast procedure for review of penalties and orders.

Parties are provided every opportunity to obtain administrative and judicial review, yet the procedure is designed to permit a final decision as rapidly as possible.

Mr. President, the conference substitute contains numerous other provisions which, in the opinion of the conferees will result in a vastly improved national commitment to the safety and health of our miners. Enforcement responsibilities are assigned to the Secretary of Labor. There will be a single mine safety and health law and a uniform commitment to safety and health throughout the mining industry. A minimum number of inspections of each mine is mandated each year; but the Secretary is permitted to intensify enforcement at problem mines. New sanctions are provided to deal with grave dangers, and with chronic violators of the law.

I commend the conference report to the Senate. The conferees have put together a comprehensive bill, which will greatly improve our mine safety and health program. Our Nation and our Nation's miners and the mining industry deserve no less.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided between both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 876

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. LEAHY). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 876.

The amendment is as follows:

On page 17, after line 11, add a new Section 22 as follows:

"To encourage voluntary conversion from natural gas to heavy petroleum fuel oils in major fuel burning installations and electric powerplants.

"Section 22. (a) In order to assure that electric powerplants and major fuel burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than ninety days after the date of enactment of this Act, promulgate regulations which:

"(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

"(2) provide, for a period of not to exceed five years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

"(A) the cost of heavy petroleum fuel oil substituted for natural gas,

"(B) the cost of fuel transportation, handling and storage,

"(C) costs resulting from powerplant op-

erations and maintenance and decreased fuel efficiency, plus

"(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however,* That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further,* That in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

(3) provide that,

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) the rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractural provision

(1) prohibiting the sale or comingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section

(1) the term "heavy petroleum fuel oil" includes No. 4, 5 or 6 fuel oil, petroleum pitch and other similar heavy petroleum refined products.

(2) the term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) the term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

Mr. JOHNSTON. Mr. President, this is an amendment relative to conversion from fuel oil or heavy residual oil to natural gas. It was added to the Johnston substitute to the natural gas bill and adopted in the Senate by a vote of 74 to 18 on Wednesday, September 28. It allows utilities to sell natural gas under contract on a voluntary basis and to get for that sale the replacement cost of heavy fuel oil.

In other words, if they have a supply of natural gas which they are now burning and if they have the ability to burn heavy fuel oil in their facilities, they can use the heavy fuel oil, sell the natural gas, and get for the price of that natural gas the cost of the heavy fuel oil, together with the cost of transporting the fuel oil to them and those minor costs of the difference in efficiencies of burning the heavy fuel oil and natural gas.

Mr. President, I ask unanimous consent that an excerpt from the RECORD of Wednesday, September 28, 1977, containing the colloquy and votes in relation to amendment No. 1058 be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

AMENDMENT NO. 1058

(Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants)

Mr. JOHNSTON. Mr. President, I call up my amendment No. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

"The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment No. 1058."

Mr. JOHNSTON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

"Add a new section 28 as follows:

"TO ENCOURAGE VOLUNTARY CONVERSION FROM NATURAL GAS TO HEAVY PETROLEUM FUEL OILS IN MAJOR FUEL-BURNING INSTALLATIONS AND ELECTRIC POWERPLANTS

"SEC. 28. (a) In order to assure that electric powerplants and major fuel-burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than 90 days after the date of enactment of this Act, promulgate regulations which:

"(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel-burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

"(2) provide, for a period of not to exceed 5 years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel-burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters, or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

"(A) the cost of heavy petroleum fuel oil substituted for natural gas,

"(B) the cost of fuel transportation, handling, and storage,

"(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

"(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however,* That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further,* That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

"(3) provide that—

"(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

"(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

"(b) The rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

"(A) low-priority users served by such pipeline, and

"(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

"(c) In order to implement this section only, any contractual provision—

"(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

"(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling.

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

"(d) For purposes of this section—

"(1) The term 'heavy petroleum fuel oil' includes number 4, 5, or 6 fuel oil, petroleum pitch, and other similar heavy petroleum refined products.

"(2) The term 'local distribution company' means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

"(3) The term 'pipeline company' means

any person engaged in the transportation of natural gas in commerce."

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes. If my colleagues will give me their attention. I think I can explain very simply an amendment which is being introduced on behalf of myself and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Let us hear the Senator from Louisiana.

Mr. JOHNSTON. This is a very, very far-reaching amendment, which is very important for the energy crisis—and it is very simple. It is the kind of amendment about which one might think, "Why did we not think of it before?" Here is the situation.

We have in the States of Louisiana, Oklahoma, Texas, and New Mexico, some 12,636 megawatts of electric generating capacity which is burning natural gas, but has the capacity to burn residual fuel oil. That is over 12,000 megawatts of electric generating capacity. Translated into natural gas, that consumes about 1.3 trillion cubic feet of natural gas per year. Under the coal conversion bill, that we have passed earlier in this session, those plants do not have to convert to coal until 1990. In the meantime they will continue to burn natural gas. Coincidentally we have some 500,000 barrels of (unused) Alaskan heavy crude arriving off the west coast each day. We have a glut or a surplus of heavy crude which is uniquely suited to the production of residual fuel oil. The President has said we cannot exchange this Alaskan crude with Japan, so we must use it in this country. Yet we presently have no use to which this heavy crude may be put. To give you an example of what this Alaskan heavy crude excess can mean, a barrel of South Louisiana sweet, light crude, when refined in a normal gasoline-type refinery yields about 5.5 percent of the barrel as residual fuel oil. When west Texas intermediate crude is used, you get about 10 percent of the barrel as residual fuel oil. But Alaskan heavy crude, when used in an ordinary gasoline refinery, yields 26 percent of the barrel as residual fuel oil. If you confine a refinery to yield a maximum amount of heavy crude, a barrel of Alaskan crude oil will yield 55 percent residual fuel oil.

Mr. BUMPERS. Is the Senator using heavy crude and residual fuel oil as being synonymous?

Mr. JOHNSTON. Excuse me. Residual fuel oil is produced from heavy crude. Heavy crude is a thick viscose oil such as we have in Alaska. I might add that an excess of Alaskan crude will be greater when we go to full capacity on the Alaskan pipeline. So here we are. We have almost 1.3 trillion cubic feet of natural gas being used where residual fuel oil could be used and we have a surplus of the type of crude oil which is uniquely suited to residual fuel oil production. All this amendment does is authorize those industries which have a supply of gas but can use residual fuel oil, voluntarily to sell that gas for the replacement cost of the residual fuel oil.

That gas is going to be expensive because buying and transporting the residual fuel oil to their factories or to their generating plants is going to cost probably in excess of $3 per thousand cubic feet of gas sold. Hence, we have made our program entirely voluntary. But the proposal can release enough gas to make the difference between shortages in future winters and no shortages. Specifically, shortages in the winter of 1977 were 936.4 billion cubic feet, and we have 1.3 trillion cubic feet which could be released under this proposal.

Mr. President, I also point out that this amendment is very environmentally sound. It is much cleaner to burn this residual oil than it is to burn coal. This amendment, however, is not going to retard the conversion to coal because, first, coal conversion is not mandated until 1990, and, second, this amendment authorizes the sale of gas only for a period of 5 years. This amendment is aimed at the short-term problem and the next 5 years is going to be the most critical in terms of natural gas.

Mr. NELSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. Let me say one thing before I do, and then I will yield to my distinguished colleague from Wisconsin.

I must tell you that we have been in contact with the new Chairman of the Federal Power Commission, which will change because the Federal Energy Regulatory Commission—FERC for short—and we are advised that the amendment needs some fine tuning. We are perfectly willing and anxious and happy to do that. The fine tuning will be made when we get to conference in this amendment. We will have to make it clear that the gas that could be sold under this amendment cannot be that gas which is subject to FPC curtailment orders because this in turn would conflict with the problems of the FPC or with FERC. We are perfectly happy to do that.

We also want to make perfectly clear that the incremental pricing scheme under this amendment is limited to the gas released under the amendment.

So. Mr. President, I think that this can be one of the most significant amendments that we have considered during this whole gas bill. This provides a way to permit gas to be released voluntarily to those who need the gas—and hopefuly avoid the problems we had last winter.

I will yield to my distinguished colleague from Wisconsin.

Mr. NELSON. I just had two questions.

Mr. JOHNSTON. Yes.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator has used his time. Each Senator now is charged with the time he uses in answering questions; is that right? Is that the procedure?

Mr. JACKSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I think it is charged to the Senator.

The PRESIDING OFFICER. All right. The Chair understands it better now. All right.

Mr. JACKSON. Mr. President, what price would be allowed for the released gas? Could the Senator give an indication?

Mr. JOHNSTON. Yes; the price is not specifically stated, but rather is to be fixed by the FPC based upon the cost of burning that individual fuel oil. The price will include the cost of buying the resid, the cost of transporting the resid, and minor modifications to the oil-burning capacity.

Mr. JACKSON. But not capital, large capital investment?

Mr. JOHNSTON. Not capital expense, no. Absolutely not.

Mr. JACKSON. Are we talking about $3, or what is the ball park figure?

Mr. JOHNSTON. The ball park figure would be over $3 and less than $4. I would guess $3.50.

Mr. JACKSON. Let me ask, Would interstate pipelines be able to buy the released gas?

Mr. JOHNSTON. Yes.

Mr. JACKSON. This becomes very important. If so, what impact would this have on the curtailment plans? The Senator started to allude to that.

Mr. JOHNSTON. We want to make perfectly clear, and I am willing to fine tune the amendment to make it perfectly clear, that the amendment has no impact on curtailment plans. In other words, we would not want to allow an industry that is going to be subject to curtailment next month to sell its gas at this premium price when next month it would not have the gas because it would be curtailed. So we are perfectly willing and anxious to fine tune it accordingly.

Mr. JACKSON. The whole purpose of the Senator's amendment is to provide an incentive and an inducement for the large utilities and industrial users, as I understand it, who are now burning natural gas, to turn to resid.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. This is especially true in connection with the large amount of oil that will be coming down from Alaska by way of the canal. Is this not correct?

Mr. JOHNSTON. That is correct.

Mr. JACKSON. And the Alaskan oil is a heavy oil and the resid content runs percentagewise very large. Is that correct?

Mr. JOHNSTON. That is right. We have to do something to get some incentive for domestic refiners to obtain the capacity to refine this heavy crude. Over two-thirds of our domestic refiners cannot now do so. One of the great things about this amendment is that it will help create a market for the heavy crude.

Mr. JACKSON. Is this limited to intrastate users that are now using intrastate gas, or is it both? What gas would be eligible?

Mr. JOHNSTON. In its present form it is not limited to intrastate gas. But we want to fine tune the amendment in conference to make sure that it is either limited to intrastate gas or, if we include interstate gas, then that gas is not subject to curtailment because it is not the intent of his amendment to avoid any curtailment jurisdiction.

Mr. JACKSON. As I understand it this would not have an adverse impact on curtailment plans as I understood the response earlier.

Mr. JOHNSTON. Absolutely not.

Mr. JACKSON. Is that correct?

Mr. JOHNSTON. That is the intent of the amendment.

Mr. JACKSON. There is a rather large amount of gas, so we all understand, I think we are talking here—I do not know whether the figure includes interstate, or just intrastate—but it is close to a trillion cubic fee.

The PRESIDING OFFICER. Let us have quiet. Senators go outside and carry on their business.

Mr. JACKSON. What is the approximate estimate of the gas that would be eligible under this amendment?

Mr. JOHNSTON. We calculate 1.3 trillion cubic feet is eligible. It is a voluntary program.

Mr. JACKSON. That is out of a total of about 20 trillion cubic feet or at least that is the demand factor.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. At least the use factor last year or this year has run about 19 point something.

Mr. JOHNSTON. That is right. If all eligible gas is released under this amendment, more gas would be released than was curtailed in 1977.

Mr. JACKSON. Mr. President, because of the restrictive rule that we are operating under, it is not possible to modify the Senator's amendment here on the floor. I would be willing, if this matter is in conference, to see if we could not work out a solution which will provide the incentives that we seek in moving from gas to the residual oil, which will appear in substantial quantities over and above what is now in the Gulf State market area. I would be willing to accept the amendment.

Mr. METZENBAUM. Will the Senator yield?

Mr. EAGLETON addressed the Chair.

Mr. JACKSON. I understand the same matter impacts on the State of Missouri.

Mr. EAGLETON. Mr. President, I am pleased to join the distinguished junior Senator from Louisiana (Mr. JOHNSTON) in sponsoring this amendment.

Last winter, industries across this country, including some in my own state of Missouri, were forced to shut down or eliminate shifts because of shortages of natural gas. Regardless of what Congress does about the pricing of gas, shortages of this kind are going to continue for many years to come. I think it is imperative to take advantage of every cubic foot of gas that can be diverted from nonessential use to help meet such shortages. It has been estimated that more than a trillion cubic feet of gas could be made available to the interstate market by the amendment now before the Senate, more than the total of last winter's shortages. The companies that have this gas under contract cannot be expected to give it up out of altruism, even though they have the capability of switching to heavy heating oil. It has to make cents—dollars and cents—for them to do so and that is what this amendment provides.

Briefly, it would allow utilities and other major users which have supplies of natural gas under contract but which have the capability of burning heavy fuel oils to offer that gas in the marketplace at a price calculated to offset the added cost of burning oil. Without such an assurance of covering conversion costs these companies will certainly take advantage of the low-cost gas available to them even for such wasteful practices as firing boilers.

A second benefit of this amendment is that it would create a market for heavy residual fuels which are the unavoidable byproduct of refining gasoline and diesel oil. In many parts of the country today these residual oils are in surplus. That surplus will grow in the years ahead as a larger and larger proportion of domestic oil production will be made up of sour crude. Usually, the higher the sulfur content of oil, the heavier the gravity of that oil and thus the greater the amount of residual oils produced. Alaskan oil, for example, is expected to produce 25 percent residuals compared to less than 10 percent for low sulfur Louisiana sweet crude.

Mr. President, I think this is an excellent amendment which will help us weather the gas shortages that are inevitable in winters ahead. It is not an answer to our energy problem, but it can buy us time while we seek to provide those long range solutions. I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. SCHMITT. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I do not have the floor, but I shall be happy to yield for a question only, if the Senator can get the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Will the Senator from Louisiana say again what the inducement is for the utility or any other user to shift to the use of residual fuel oil?

Mr. JOHNSTON. These utilities or other users have a supply of natural gas now, but also have the ability to burn oil. Under the amendment, they can sell that natural gas at the replacement cost of residual fuel oil. In other words, let us say it costs the utility or user the equivalent of $3.50 a thousand cubic feet of gas to burn the residual fuel oil. Then, an amendment would allow him to sell his gas for $3.50, buy residual fuel oil, and burn it in his oil-burning boilers.

Mr. SCHMITT. I just wanted to be sure that incentive was clear.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I understand that the proposal by the distinguished Senator from Louisiana would provide that the Federal Energy Regulatory Commission would make these different computations that are called for on pages 2 and 3 under A, B, C, and D, among other factors, in arriving at the replacement cost of the natural gas that might be released if an alternate fuel were to be burned.

My question is, suppose the clerk went through that exercise and concluded that the replacement cost of natural gas would be $3.50 a thousand. Let us assume further that no interstate pipeline is willing to pay that amount. My question is, may the utility or whatever it is that is switching over from one fuel to another under this proposal, negotiate whatever sort of price might be mutually arrived at between the fuel-burning installation and the pipeline company?

Mr. JOHNSTON. Well, so long as they negotiate this price below $3.50, if that is the price that the FPC has determined.

Mr. HANSEN. That is in my question, of course.

Mr. JOHNSTON. Yes, they can do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I raise a point of order. I do not believe this amendment is germane. It covers a different subject than that which is covered in the original amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). the Chair reads the amendment as having the prime purpose of converting from natural gas to residual fuel oil. There is nothing in the bill or either of the substitutes dealing with conversion. Therefore, this amendment introduces a new subject and the point of order is sustained.

Mr. JOHNSTON. Mr. President, this is a pricing amendment. It deals with the price of natural gas and the deregulation of the price of gas sold by industrial users because they switch to residual fuel oil.

Mr. METZENBAUM. Regular order, Mr. President. The Chair has ruled.

Mr. JOHNSTON. Mr. President, I ask the Parliamentarian to reconsider. I think the ruling is just dead wrong.

Mr. METZENBAUM. Mr. President, regular order. The Chair has ruled.

The PRESIDING OFFICER. The Chair will read the purpose of the amendment as stated by the drafter himself "Purpose: To encourage voluntary conversions from natural gas to heavy petroleum fuel oils by electric powerplants." The point of order is sustained.

Mr. JOHNSTON. Mr. President, I ask for the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Ohio may think he has accomplished something very nice by having this amendment ruled out of order. The State of Ohio suffered more, I guess than any other State by last winter's curtailments. Mr. President, we are trying in the Senate to achieve a natural gas policy and an overall energy policy. The rules of the Senate can be stretched all over the lot if we want them to be. But I suggest to the Senator from Ohio that he ought to start thinking about the State's supply of natural gas and how he is going to get natural gas in Ohio. This is one way he could have gotten it from people in Louisiana.

I am not going to seek to overrule the Chair, although I think the Chair was dead wrong. But I can say that if we do not do something, people are going to be unemployed in Ohio. I do not know whether the Senator saw the New York Times article of yesterday. It shows that 20 to 40 percent curtailments in Ohio are predicted for next winter. I do not know what the Senator is going to do about that. I had an amendment here that was designed to help. It may not have been a perfect amendment but it was designed to help. I offered to go to conference and try to fine-tune it if there were some objections to it.

I think it is time for the Senator from Ohio to think about what he is doing here and what he is trying to accomplish. I think it is time to accomplish something for natural gas supply in this country and not just a time to stretch the rules to try to stop any legislation.

Mr. EAGLETON. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NUNN. Mr. President, will the Chair state the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment?

Mr. HANSEN. Will the Chair repeat that, please?

The PRESIDING OFFICER. Should the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment, which the Chair held was not germane?

Mr. BUMPERS. Mr. President, before the rollcall starts, for the edification of all Members, will the Chair state what the ruling is and what it is based upon?

The PRESIDING OFFICER. The Senator from Ohio made the point that the amendment of the Senator from Louisiana was not germane and therefore, not in order under rule XXII, since cloture has been invoked.

Mr. Bumpers. Will the Chair state what the ruling was that is being appealed?

The PRESIDING OFFICER. The Chair held it was not germane because of the primary purpose of the author of the amendment, himself, which is stated as "To encourage conversion by powerplants." There is nothing in the bill or either of the substitutes dealing with conversion.

Mr. EAGLETON. One further question: An aye vote would sustain the ruling of the Chair; a nay vote would reverse the ruling of the Chair.

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 22, nays 70—as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—22

Abourezk, Bayh, Biden, Brooke, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Culver, Hatfield, Huddleston, Inouye, Kennedy, Long, McGovern, Metzenbaum, Moynihan, Proxmire, Ribicoff, Talmadge, Wallop, Weicker.

NAYS—70

Allen, Anderson, Baker, Bartlett, Bellmon, Bentsen, Bumpers, Burdick, Chafee, Chiles, Church, Clark, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Durkin, Eagleton, Eastland, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hathaway, Hayakawa, Heinz, Helms, Hollings, Jackson, Javits, Johnston, Laxalt, Leahy, Lugar, Mathias, Matsunaga, McIntyre, Melcher,

Muskie, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Riegle, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Scott, Sparkman, Stennis, Stevens, Stevenson, Stone, Thurmond, Tower, Williams, Young, Zorinsky.

NOT VOTING—8

Goldwater, Humphrey, Magnuson, McClellan, McClure, Metcalf, Morgan, Stafford.

So the ruling of the Chair was rejected.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Louisiana, amendment No. 1058.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 25, nays 67, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—25

Abourezk, Brooke, Case, Clark, Culver, Durkin, Hathaway, Hollings, Inouye, Javits, Kennedy, Mathias, McGovern, McIntyre, Metzenbaum, Moynihan, Muskie, Proxmire, Ribicoff, Riegle, Sarbanes, Sasser, Scott, Talmadge, Weicker.

NAYS—67

Allen, Anderson, Baker, Bartlett, Bayh, Bellmon, Bentsen, Biden, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chafee, Chiles, Church, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Eagleton, Eastland, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hatfield, Hayakawa, Heinz, Helms, Huddleston, Jackson, Johnston, Leahy, Long, Lugar, Magnuson, Matsunaga, Melcher, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Roth, Schmitt, Schweiker, Sparkman, Stennis, Stevens, Stevenson, Stone, Thurmond, Tower, Wallop, Williams, Young, Zorinsky.

NOT VOTING—8

Goldwater, Humphrey, Laxalt, McClellan, McClure, Metcalf, Morgan, Stafford.

So the motion to lay on the table Mr. JOHNSTON's amendment (No. 1058) was rejected.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. JOHNSTON. Mr. President, I suggest that the call for a quorum is dilatory in view of the fact that a quorum was just established by the past vote.

Mr. LONG. It is dilatory to suggest the absence of a quorum.

The PRESIDING OFFICER. The point of order of the Senator from Louisiana is well taken.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table that appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to lay the appeal on the table.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. There has been intervening business since the last quorum call.

Mr. LONG. Mr. President, a quorum is present. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. LONG. Mr. President, we have voted on this previously. When there is clearly a quorum present, and we have voted on this, then it is dilatory to suggest the absence of a quorum.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The point of order is well taken.

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I seek recognition on this.

The PRESIDING OFFICER. It is not debatable.

Mr. ABOUREZK. The point of order is debatable.

Mr. LONG. A point of order is not debatable.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and requests a division.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor will stand.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I anounce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 74, nays 18, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—74

Allen, Anderson, Baker, Bartlett, Bayh, Bellmon, Bentsen, Biden, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chafee, Chiles, Church, Clark, Cranston, Curtis, Danforth, DeConcini, Dole, Domenici, Eagleton, Ford, Garn, Glenn, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hatfield, Hayakawa, Heinz, Helms, Huddleston, Jackson, Javits, Johnston, Laxalt, Leahy, Long, Lugar, Magnuson, Matsunaga, Melcher, Moynihan, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Randolph, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Scott, Sparkman, Stennis, Stevens, Stevenson, Stone, Talmadge, Thurmond, Tower, Wallop, Williams, Young, Zorinsky.

NAYS—18

Abourezk, Brooke, Case, Culver, Durkin, Hathaway, Hollings, Inouye, Kennedy, Mathias, McGovern, McIntrye, Metzenbaum, Muskie, Proxmire, Ribicoff, Riegle, Weicker.

NOT VOTING—8

Eastland, Goldwater, Humphrey, McClellan, McClure, Metcalf, Morgan, Stafford.

So Mr. JOHNSTON's amendment (No. 1058) was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I have just been advised of the amendment. This is the amendment we passed earlier when we were considering the natural gas matter as an amendment to the Jackson substitute; is that correct?

Mr. JOHNSTON. That is correct. The vote was 74 to 18.

Mr. BARTLETT. I supported it then and I support it now.

I yield back the remainder of my time.

Mr. JOHNSTON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 876.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I might say at this point there was some slight interest in another amendment I had relative to crude oil pricing. I might say for the benefit of those who were out frantically working for that—I know no one could have been working against it—but for those working for it I may say they may defer their efforts to another day. I had permission to bring up one nongermane amendment, and we just adopted it, and it is not one relative to crude oil pricing. So they may get word to all our beavers out there who are working for passage of my bill. [Laughter.]

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that suggestion?

Mr. JOHNSTON. Yes.

Mr. ROBERT C. BYRD. Mr. President, the two cloakrooms have been asked to alert Senators to bring their amendments to the floor, to call them up, so that the Senate will not be delayed un-

duly in reaching a final decision on this bill.

I will say to the distinguished manager of the bill I hope Senators will appear shortly to call up amendments.

Mr. JOHNSTON. Mr. President, does the majority leader think we might be ready to move to third reading very quickly if no one shows up?

Mr. ROBERT C. BYRD. Eventually I would think that would be the case.

Mr. JOHNSTON. I would think about another 10 minutes would be sufficient.

Mr. ROBERT C. BYRD. In another 10 minutes we ought to get some amendments stirring. I would hope shortly we could reduce the time on amendments. The general time has been limited to 2 hours. I would hope that could be reduced to 1 hour and thus shorten the work on the bill. But for now, Mr. President, I suggest the absence of a quorum, and ask that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ALTERATION OF TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the time limitation on amendments in general on this bill was 2 hours. I ask unanimous consent that that general time provision be altered to provide for 1 hour on each amendment rather than 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. Pres. ent, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, will the Senator withhold that?

Mr. ROBERT C. BYRD. I withdraw that suggestion.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Did not the distinguished Senator from Massachusetts (Mr. BROOKS) want 2 hours on the first amendment?

Mr. ROBERT C. BYRD. This would not affect that.

Mr. BARTLETT. It would not? I have no objection.

The PRESIDING OFFICER. Who yields time?

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

INTERCONNECTION

Mr. DOMENICI. Mr. President, from reading unprinted amendment No. 864, adopted yesterday, it appears that the intent was to specifically not include any provision which would provide Federal authority to order wheeling and pooling, as well as interconnections, as was the case in the administration bill.

Mr. JOHNSTON. The distinguished Senator is absolutely correct. We feel that in order to effectuate the purposes of the bill, the Federal Government should have the authority, after an evidentiary hearing, to order an interconnection. Of course, a mere interconnection would not necessarily serve those purposes, so we specified that sales and exchanges of energy over the interconnection could also be ordered where appropriate. It is hoped that under the provisions of the amendment, the details regarding such sales and exchanges would be worked out among the parties affected. However, the amendment does provide authority for the commission to prescribe the terms and conditions where the parties are unable to reach agreement.

Mr. DOMENICI. I note, however, that in what would become section 202(g)(1) of the Federal Power Act, the amendment goes further than discussing physical connection of transmission lines or "interconnections," and even beyond a discussion of sales and exchanges of energy. The phrase "and otherwise to coordinate with" is used. I am uncertain as to what this phrase could mean.

Mr. JOHNSTON. As used in this amendment, "coordinate" refers to the practice by which two or more interconnected electric utility systems may establish planning and operating standards generally relating to service reliability; they exchange information on system additions, retirements, modifications and maintenance schedules and, by periodic review of such matters, they assure that the interconnected systems meet the standards they have so established. A grant of authority to the commission to compel transmission service or wheeling was contained in early drafts of this legislation; but the committee deleted such authority and did not mean to reinsert it through use of the different term "coordinate with." In fact, in my introductory statement on September 27, when this amendment was printed in the RECORD, I stated that as a result of the information generated at the special hearing held by my subcommittee on September 20 on the issue of interconnection, wheeling and pooling, that we had determined that new authority with respect to interconnections should be granted to the Federal Energy Regulatory Commission. I further stated, "We have further concluded that any legislation respecting the more complex economic issues associated with wheeling and pooling should be deferred until in-depth hearings and study can be completed."

This amendment would not change the status quo with respect to the absence of authority to order wheeling and pooling, which, under existing law, are voluntary arrangements entered into by utilities for their mutual benefit and for that of their customers. Nor would the authority in this amendment be used to remake the structure of any utility system.

At the same time, there was no intent for this amendment to affect the existing authority of the Federal Government under section 202 (c) and (d) of the Federal Power Act under which the Federal Government may order temporary interconnections and transmission of electric energy which, in the judgment of the commission, is required to meet emergency situations.

Mr. DOMENICI. I thank the distinguished Senator from Louisiana for clarifying this important point.

"LIFELINE RATES"

Mr. BUMPERS. Mr. President, yesterday I voted to table Hart amendment No. 1399 to the pending utility rate reform bill, S. 2114. After the motion to table failed, I voted against the amendment. This is the so-called "lifeline" amendment, which forbids any electric utility to charge rates in excess of its lowest rate per kilowatt hour to "elderly residential consumers."

Mr. President, these were extremely difficult votes for me to cast. There is no question that our elderly citizens are in need of some kind of help against the rising tide of inflation, manifested most cruelly in the increasing costs of heat and light. As is well known to all of us, these citizens are typically on fixed incomes and are not usually affluent. Only the strongest considerations of policy could have led me to oppose the amendment, and I would like to take this opportunity to explain my reasons.

Utility rates have traditionally been based on cost of service. That principle of ratemaking is almost universally agreed to. As a matter of fact, S. 2114 itself is based upon this concept. Another provision of the bill strongly recommends that State public utility commissions adopt marginal cost ratemaking principles, which represent perhaps the purest form of the cost of service concept. The amendment of the Senator from Colorado, of course, has nothing to do with cost of service. It simply commands a certain level of pricing for certain types of consumers, without regard to the cost of serving them. As a matter of fact, the cost of serving elderly consumers is obviously no greater and no less than the cost of serving consumers who are younger.

Second, the Hart amendment is not limited to those who need help. The term "elderly residential consumer" is defined to include all persons who are at least 62 years old and are heads of households or principal income earners. If the president of General Motors or, for that matter, the president of Consolidated Edison Co., is 62 years old, he gets the low rate. The welfare client or working mother down the street who is 61 does not. Indeed, the amendment even goes farther than that. It extends to any person re-

ceiving social security benefits or railroad retirement benefits, whatever his age. I understand that 8 million people are in this category. That is, they are less than 62 years old and receive either social security benefits or railroad retirement benefits. Quite obviously, the amendment goes far beyond aid to the elderly. The author of the amendment did insert in the RECORD a memorandum from the Library of Congress estimating the cost to the electric utility industry from enactment of the amendment. This estimate is $986,752,500, or almost $1 billion. That figure is by no means negligible, of course, but we must also consider that it includes only the cost of low rates for persons 62 or older. It does not include the eight million other people who would be covered by the amendment.

Mr. President, under the Hart amendment, it would not be unusual for an affluent 30-year-old widow drawing social security for herself and minor children, to get the most beneficial utility rate, while a widow drawing AFDC benefits would not. This would constitute a gross injustice.

These costs will have to be borne by someone, Mr. President, and the natural consequence of the Hart amendment will be for utility rates to go up for consumers who are not in the favored class. I seriously question whether this kind of choice should be made by Congress on a national basis. Utility rates have traditionally been fixed by commissions in the several States. Some of these commissions are considering lifeline rates, some have approved them, and some have not. There may come a time when the concept is so well worked out as to be nationally acceptable, but the period of experimentation with this kind of rate structure has, in my view, not yet run.

Certainly I would be prepared to consider a more narrowly drafted proposal to help our older citizens meet the crushing burden of increased utility costs. Perhaps a study of the concept by the Department of Energy, or a direction by Congress to State utility commissions to consider the concept and adopt it unless they find a compelling reason not to, would be a fruitful approach. But I cannot in conscience at this time support the nationwide imposition of a utility rate favoring a particular class of customers.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 877

Mr. DURKIN. Mr. President, I have an unprinted amendment which I send to the desk and ask to have it considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 877.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 13, strike "so."

On page 13, line 14, strike "exempted:" and insert in lieu thereof "exempt from the Federal Power Act:"

On page 13, line 20 and on page 14, line 11, after the word "power" insert "(other than in connection with the ownership or operation of cogeneration facilities or small power production facilities)."

On Page 14, line 12, between "-duces" and "electric" insert "only."

On Page 14, line 14, strike "thirty" and insert in lieu thereof "eighty."

Mr. DURKIN. Mr. President, this is not the amendment that I have reserved, the nongermane amendment which I have reserved under the terms of the consent agreement.

Mr. President, this amendment is a clarifying amendment. It is a very simple amendment, that has been cleared on both sides of the aisle.

Basically, what it does is clarify the language of the bill so that it is clear that cogenerators and small power producers, not customarily in the business of selling electricity, will be eligible for streamlined regulations in section 12 of S. 2114. As the Presiding Officer knows, just the other day, in the State of New Hampshire, there was a conference on low-head hydrocogenerators with the small producers of power, which involved people from the State of Vermont and people from the State of New Hampshire on one of the impediments to developing alternative sources of electricity, that small sources, not major generating sources, but cogenerators—and the other people who are interested in small site utilization of existing heat and what have you, from burning waste from small-site power productions, are not inundated with redtape, not inundated with Federal reports.

One of the gentleman at the panel—the two-State Vermont-New Hampshire panel—indicated that for just one little aspect of the low-head hydro operation, they had to fill out a series of forms 88 to 90 pages apiece. That paperwork is drowning what should be an alternative source of electricity that is important not just to New England, not just in those two States, but also all across the country.

This amendment allows small power production facilities of up to 80 megawatts, if owned by people not customarily in the business of selling electricity, to be available for section 12 exemptions from the provisions of the Public Utility Holding Company Act. This prevents a nonutility company that is experimenting with large biomass generators of 60 or 70 megawatts from facing the possibility of being divested under the PUHCA.

As I say, I believe there is no conflict. this has been cleared on both sides of the aisle. If the distinguished floor managers of the bill concur, as was the position last night, I would be willing to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, we understand the Durkin amendment. It permits exemption from the Public Utility Holding Act for up to 80 megawatts of generating capacity. It does not exempt from the Federal Power Act any facility over 30 megawatts. Am I correct?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON. What it really does—the real purpose—is to protect an existing facility in New Hampshire from dismemberment under the Public Utility Holding Act, and thereby really promotes the ends of energy conservation.

Am I correct in that?

Mr. DURKIN. That is correct. But it is not a New Hampshire site. It is not a generating site in New Hampshire. It is a New Hampshire corporation which has been one of the leaders in the conservation of such sources of energy.

Mr. JOHNSTON. Mr. President, this amendment serves energy conservation very well. More facilities are involved, the amount of fuel which they save can be significant, and they should not be dismembered under the Holding Company Act. If they were, that would mean they would have to go to more expensive means of producing power.

We accept the amendment.

Mr. BARTLETT. Mr. President, I concur in the remarks of the distinguished floor manager of the bill and in his decision that this amendment by the Senator from New Hampshire is acceptable.

I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DURKIN. Mr. President, if the managers are willing, I have another very short amendment, my nongermane amendment, that I can call up at this time and keep the ball rolling.

Mr. JOHNSTON. I have no idea what the Senator's amendment is.

Mr. DURKIN. The amendment would provide $10 million for the offices of consumer services in the States so that they may be funded adequately to represent the various consumer offices in the particular States, in appearing before the various public utility State commissions.

In essence, it is section (b) of the amendment of the Senator from Massachusetts (Mr. BROOKE). As I understand, the Senator's amendment, No. 1404, will be impaled on a point of order.

I share the concern of Senator BROOKE that there be adequate funding so that the State regulatory commissions will have consumer representation in the office of consumer affairs in the various States and will have adequate funding to argue these issues at the State level, where I think they should be argued, rather than transferring, either impliedly or directly, such responsibility to the FEA or the successor organization in Washington.

One of the reasons I am here is that the people of New Hampshire bought the major thrust of my campaign, which was that we were going to reduce the Federal involvement in our daily lives. To get the Federal Government into the utility regulating business, I think, would be a gross mistake and would run directly counter to the major thrust of my campaign promises to the people of the State of New Hampshire.

Mr. BARTLETT. Mr. President, will the Senator yield for a question?

Mr. DURKIN. I yield.

Mr. BARTLETT. Is the purpose of this amendment to increase the appropriation to the State consumer offices?

Mr. DURKIN. The Senator is correct. The reason for that is quite simple and quite basic.

The thrust of the energy committee has been to force the various public utility commissions around the country to consider innovative ratemaking procedures, to consider ways of making electric generation more efficient, and possibly, thereby, to reduce the peak load demand which gives rise to the tremendous capital expenditures involved in some of the new generating plants.

What the committee wanted to do was to raise these issues, and that is the reason why the committee gave the Secretary of Energy the mandate to go into these State rate proceedings and raise these issues, so that the PUC could consider those under local conditions.

I, for one—at least at this time in history—feel that the electric rate reform proposals are regional at best and not national; because what may well appear to be an innovative reform of the ratemaking procedure in the State of Oklahoma may increase the cost of electricity to a substantial number of small business people in the State of New Hampshire or any other New England State or, for that matter, in any State in the northern tier—and vice versa. There are innovative ratemaking suggestions that may help one area. However, like seasonal pricing, it sounds good; but the Southwest seasonal pricing may raise the cost of agricultural products because a lot of irrigation is powered by electricity.

So the committee felt, and I strongly felt, that what we should be doing is forcing some of the public utility commissions, which have not considered any change in rates or rate structures since the days of the Salem witch trials, to consider in their own local area the applicability of these procedures. Therefore, we would get a basis for further consideration at a later date.

So this would increase the appropriation to the offices of consumer services, or consumer affairs, whatever they are called in the States, and given authority to go in at the State level to do this.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire that in order to have time to debate his amendment, he will have to call up the amendment. Otherwise, time will have to be yielded to him on the bill. Does the Senator wish to call up his amendment?

Mr. DURKIN. I will be happy to.

UP AMENDMENT NO. 878

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 878.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 22 and 23, insert the following:

Financial Assistance for Consumer Representation

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for such fis- years not to exceed $10,000,000."

Mr. BARTLETT. Mr. President, will the distinguished Senator from Massachusetts answer a question?

Is the division in the bill as outlined by the Senator from New Hampshire similar or the same as that outlined in the bill the Senator discussed last night?

Mr. BROOKE. In response to the question of my colleague, I have looked at the amendment of the Senator from New Hampshire. It is identical with section (b) of section 207 of the amendment that I introduced.

Mr. BARTLETT. I thank the distinguished Senator.

Mr. DURKIN. Mr. President, in light of the fact that amendment No. 1404 of the Senator from Massachusetts inevitably will be impaled on a point of order, this is one part of that amendment that I think the Senator from Massachusetts has a valid concern with. Because I did have the nongermane amendment engrafted on the consent agreement for the bill, I was hoping, with the support of the Senator from Massachusetts, we could resurrect and salvage at least this part of that amendment which goes to a very real concern, a very real issue.

That is, giving the offices in the States the adequate funding to go in and raise these issues in the State context, in the various States, before the State public utility commissions.

It really strengthens the function of State regulation of utilities. There is no way it can be construed to be the precursor of federalization of the whole utility question, inasmuch as we do not give the Secretary of Energy the right to appeal, because if we give the Secretary of Energy the right to appeal in these cases when he intervenes, giving the Secretary that right, really, starts us down the road to having decisions made in one of the concrete marble palaces downtown, rather than made in the State capitals where it should be made.

I will resist efforts to give the Secretary of Energy the right to appeal in the State proceedings.

But this gives the State consumer offices the right to adequately represent their interest in the State proceedings and it gives them the right to appeal as well.

I know, for example, a consumer group in the State of New Hampshire not too long ago could not even get a transcript from the State public utilities commission. After many months of haggling they finally allowed them to look at the one copy of the transcript between 1 a.m. and 3 a.m. in the morning, or some ridiculous set of circumstances.

So this would eliminate that. It would let the State consumer offices go in and aggressively represent the interests of the consumers at the State level, give them the necessary funding, give them the funding to bring in experts, their own experts, and give them the funding to take those cases up to the State courts by way of appeal, all in the State context.

But I really want to stress, there is no effort, expressed or implied, to get the Federal Government in. In fact, we really want to strengthen the State's consumer offices so they can perform.

I can distinguish this between the other section of amendment 1404 which would provide $40 million for the States to beef up the public utility commissions.

The problem there is that in most States, the office of public utility commissioners, or whatever we want to call it, has the authority to assess the utilities for the operational expenses of their office.

So the fact that certain States do not adequately fund the Public Utilities Commission is not the reason for Federal funding. It does not provide an adequate justification, because if the States are going to regulate the rates, and I think they should, then they ought to do it on the basis of State funds and not a Federal care package, because that Federal care package will have strings and what we will have is the situation analogous to the State blue sky law.

When I was commissioner of insurance it was one of the best kept——

Mr. JOHNSTON. Will the Senator yield?

Mr. DURKIN. I am happy to.

Mr. JOHNSTON. Does the Senator know how much was in the House bill?

Mr. DURKIN. I will in just a minute.

I believe it is an identical sum in the House bill, but that is three-quarters intuition at this point. We are looking it up.

Mr. JOHNSTON. We are advised it is $5 million.

Quite frankly, Mr. President, we feel that this function really ought to be played, under our bill, played by the administrator who is given the right to intervene in State regulatory proceedings.

However, this does already exist in the law. this right of consumers to be represented, and it is funded at $2 million in the law at present.

Mr. DURKIN. Will the Senator yield?

Mr. JOHNSTON. Therefore, if the Senator would like to modify his amendment to provide $5 million, we would be inclined to accept it at that figure.

Mr. DURKIN. Mr. President, my intuition has been reinforced by research. The House language, page 236 of the House bill, says that there is not to exceed $40 million and not to exceed any

$5 million in any fiscal year. So that the House language is, in effect, $5 million.

Mr. JOHNSTON. Would the Senator be inclined to modify his amendment to $5 million?

Mr. DURKIN. Would the Senator from Massachusetts (Mr. BROOKE), who in many ways has led this, be willing to modify the amendment to $5 million inasmuch as he has been the moving force in this area up, until a potential point of order?

Mr. BROOKE. I thank my colleague.

Mr. President, I do have serious problems with such a modification.

First of all, if I may propound a parliamentary inquiry on this matter.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, the Senator from New Hampshire has introduced section (b) of section 207 of my amendment 1404 of the bill.

I first ask, is that subsection germane?

The PRESIDING OFFICER. The amendment is not germane, but, at the same time, it is not subject to a point of order because of the previous unanimous-consent agreement.

Mr. BROOKE. I ask further does the Chair's ruling also apply to the entire section 207?

The PRESIDING OFFICER. The Chair was ruling only on the pending amendment by the Senator from New Hampshire which is only section 7A.

Mr. DURKIN. Mr. President, may I make a statement? The net effect of what my amendment has done is to lift section (b) on lines 21 through 23 of Senator BROOKE's amendment and reintroduce it as a new amendment sponsored by myself and Mr. HATHAWAY, and that new amendment is protected under the nongermane provision that I have in the consent agreement. Otherwise it would be impaled on the same parliamentary point of order that threatens amendment 1404 of the Senator from Massachusetts.

Mr. BROOKE. I thank the Chair and I thank my colleague from New Hampshire.

What the Senator from New Hampshire will do then is to deny assistance to PUC's, is that not correct?

Mr. DURKIN. That is correct.

Mr. BROOKE. That is the Senator's intent.

Mr. DURKIN. Could I yield for a unanimous-consent request to the Senator from Ohio?

Mr. GLENN. Mr. President, I ask unanimous consent that Len Bickwit, of my staff, be permitted floor privileges during the consideration and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Judy Heffner of Senator LEAHY'S staff have the privileges of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, in response to the Senator from Massachusetts, the effect of my amendment is not to deny aid to State public utility commissions. That is not part of my amendment. The problem is that the amendment 1404 is most likely impaled on a procedural snag inasmuch as it is not germane and does not have any relation to the unanimous-consent request that is before us today.

So the effect of my amendment, and ultimately I would hope the Senator from Massachusetts would be a cosponsor, is to provide $10 million for the Office of Consumer Affairs in 50 States so they can go in and keep the toes of the utility commissioners to the fire and adequately represent the Consumer Affairs Office in the States, and have the right to appeal so that you have a meaningful administrative position in the States and the right to appeal, thereby not only strengthening State regulation but protecting the consumers on a State-by-State basis.

Mr. BROOKE. Mr. President, if the Senator will yield, I should be the last to object to the Senator's amendment. In fact, the Senator has already said it is identical with a portion of the amendment which I introduced.

However, it only covers one part, and I certainly am interested not only in the purpose of the Senator's amendment, but I am also interested in assisting rural cooperatives, municipal and other nonregulated utilities, and gas utilities, and I am also interested in helping PUCs as well. All of those, of course, would be covered under my amendment.

So strongly do I feel about it that if I do get an adverse ruling on germaneness from the Chair, it is my intent to appeal that ruling of the Chair and have a vote on that.

So it would incorporate what the Senator is trying to do by his amendment. I can certainly understand in his effort to salvage a part of it, since he feels the rest of it is going to fall. But I would prefer to have the Senator stand with me and fight on the amendment itself even on an appeal from the ruling of the Chair if it is adverse, so that we could include assistance for rural cooperatives, and municipal and other nonregulated, and gas utilities, and PUCs, as well.

Mr. DURKIN. Mr. President, how much time do I have left on the amendment?

The PRESIDING OFFICER. The Senator has 7 minutes remaining on his side. There are 15 minutes on the opposition's side.

Mr. DURKIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. DURKIN. The difficulty I find, while I wholeheartedly endorse the effort of the Senator from Massachusetts to give the Office of Consumer Affairs in the various States the actual tools to do their job to protect the consumers on a State-by-State basis, and to keep the big fat toes of the utility commissioners to the fire, I have to part company with him on the basis of a Federal care package going back to the State utility commissions.

I feel strongly that the States, at least for now, can better regulate utilities than the Federal Government. The last thing we need is another new concrete and marble palace downtown housing the Federal Utilities Commission or whatever you want to call it.

But with that States' rights argument and with the States' rights approach I think it is the right of the States to raise the money to regulate the utilities on a State-by-State basis, and most States have that authority today inasmuch as they can assess the utilities operating in their States an amount necessary to adequately carry on the functions of that office.

I really think it is going the wrong way in this day and age, where my mail, as I am sure the mail of everyone in this Chamber, is arguing against further Federal encroachment, for the Federal Government to say to the States, "You regulate it but we are going to send you a Care package so you can regulate it adequately," because what is going to happen, just as it happened in the securities industry, as I was saying earlier, one of the best-kept secrets of State government is that there is a State securities commissioner in most States.

You have the SEC regulating on one level. You have the State blue sky law commissioners regulating on another level. You have dual regulation, and what happens most of the time is most of the energy is expended in fighting jurisdictionally between the States and the Federal entity to see who is going to prevail. So I am afraid if we have Federal money going to the States to help the States regulate utilities, we are backing into a dual regulation situation which is not going to help anyone's problem. You are going to increase the problem. And where two people think they have the responsibility for the job, neither will do it adequately, so we will not have the regulation of utilities that consumers need, but we will have dual expenditures of State and Federal funds, and we would be going down that path we have been going down in this country for the last 25 years where every problem that becomes a bit sticky in a State capital will be farmed out to Washington, "send it to Washington" and, hopefully, get it lost in the Tidal Basin.

I would hope, I think the fact that I am standing on the Senate floor is testimony to the fact that the people of New Hampshire are fed up with that approach, and I think all across the Chamber the mail reflects that people are fed up with the Federal Government's sticking its nose into everything.

This is just a precursor. If we are going to send them money we are going to end up with dual regulation. That is why I have to part company with my good friend from Massachusetts, although I do applaud his efforts to help strengthen the Consumer Affairs Offices so they can go in and argue State by State the issues of regulatory reform, rate reform, adequate rates on a State-by-State basis in State proceedings, and they can appeal that to the State court.

The PRESIDING OFFICER (Mr. CHILES). The Senator's 2 minutes have expired.

Mr. BROOKE. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The substitute will not be in order until all time has expired on the original amendment.

Mr. BROOKE. I withdraw my request.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I repeat the question I asked earlier: Would the Senator be willing to modify his amendment by reducing the amount to $5 million?

Mr. DURKIN. Inasmuch as there is only $2 million in this year's appropriation, and inasmuch as I can see we are running into what could be classified as not completely smooth seas, I would be willing to modify the amendment to $5 million. I gather that would make it much easier for the distinguished floor managers on both sides of the aisle to accept that.

Mr. JOHNSTON. Mr. President, has the Senator so modified his amendment?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. The Senator has modified his amendment.

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Is the modification at the desk?

Mr. DURKIN. It is en route.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 8, between lines 22 and 23, insert the following:

FINANCIAL ASSISTANCE FOR CONSUMER REPRESENTATION

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $5,000,000."

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield myself 2 minutes, Mr. President.

There is presently in the law at 42 U.S.C. 6805, section 205, a provision for grants for an Office of Consumer Services which is now funded at $2 million. What the Senator would do would increase that to $5 million, and we have no objection to that, Mr. President, because it is an existing program.

We would have had objection to the figure of $10 million. It was the idea of the committee that the Secretary would have the right to intervene in State proceedings and to fight for "equitable rates to consumers" of both natural gas and electric energy. So what we are doing here is not proliferating the efforts at intervention but simply funding the amount for these independent consumer efforts at the State level.

So we will, therefore, accept the amendment as modified.

Mr. BARTLETT. The minority accepts the amendment and I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

UP AMENDMENT NO. 879

Mr. BROOKE. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

Mr. DURKIN. Mr. President, a point of order. All time was not yielded back.

The PRESIDING OFFICER. All time was just yielded back.

Mr. DURKIN. He cannot yield back my time.

The PRESIDING OFFICER. Does the Senator from New Hampshire have time remaining?

Mr. DURKIN. I have 5 minutes remaining.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes remaining.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire does not have sufficient time remaining to ask for a quorum call, he having only 5 minutes remaining. Where there is less than 10 minutes of time remaining a quorum call will not be in order. The Chair rules the call for a quorum is not in order.

Mr. DURKIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Massachusetts.

Mr. JOHNSTON. Mr. President, a point of order. The substitute amendment of the Senator from Massachusetts is not in order, being nongermane to the main bill.

The PRESIDING OFFICER. The point cannot be raised. The clerk has not stated the amendment.

Mr. JOHNSTON. I am sorry.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. CRANSTON, Mr. PERCY, Mr. METCALF, Mr. RIEGLE, Mr. ANDERSON, and Mr. HART proposes as a substitute amendment an unprinted amendment numbered 879.

In lieu of the language proposed by the Senator from New Hampshire insert the following——

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 22 and 23, insert the following:

FINANCIAL ASSISTANCE FOR CONSUMER REPRESENTATION

SEC. 7A. Title II of the Energy Conservation and Production Act is amended by adding the following new paragraph at the end of section 202:

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000."

"(8) the term 'nonregulated utility' means a utility which is a public agency or privately organized cooperative not subject to the ratemaking authority of a utility regulatory commission.".

(b) Such title II is amended by amending section 204(1) to read as follows:

"(1) assist utility regulatory commissions and nonregulated utilities in improving rate design, load management, and related energy conservation practices by providing (A) financial assistance, through contracts and grants, and (B) technical assistance, including voluntary guidelines.".

(c) Such title II is amended by amending section 207 to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for each of the fiscal years ending September 30, 1978, and September 30, 1979, not to exceed $45,000,000 of which not more than $5,000,000 may be used for purposes of section 204 (2) and (3).

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000.".

(d) Such title II is amended by adding a new section 208 to read as follows:

"APPLICABILITY TO GAS UTILITIES

"SEC. 208. The provisions of this title, with the exception of section 203, shall apply to the activities of any person, State agency, or Federal agency, with respect to the retail sale of natural gas in the same manner as such provisions apply to activities relating to the retail sale of electricity by electric utilities.".

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The point of order would not lie, because we are under a time agreement, until all time has expired. If the point of order did lie, the Chair would be disposed to rule that the amendment is in order, that it is germane, but the Senator can raise that point after the time of the Senator from Massachusetts has expired.

Mr. JOHNSTON. The Chair would rule it is germane?

The PRESIDING OFFICER. That is correct.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, in early 1975, the Federal Energy Administration (FEA) began providing assistance to utility regulatory commissions to promote the improvement of utility rate design, load management, and conservation practices.

Assistance to commissions initially took the form of funding for experiments and studies. The financial assistance strategy was later expanded by the Energy Consumption and Production Act of 1976 to include intervention in State or local regulatory proceedings upon invitation. The objective of such intervention was to be helping the commission build an evidentiary record for regulatory decisions. Finally, an expert technical assistance capability is now being added to the program, drawing upon both DOE and an independent resource center—the National Regulatory Research Institute.

Through the history of FEA's rate design program, the policy position advocated by the United States has been that rates should be based upon an accurate application of cost-of-service principles, including time of day pricing. FEA policy has been designed to increase overall efficiency and eliminate rate discrimination. This policy, which differs markedly from the narrower perspectives of most intervenors, will, I am told, be continued under DOE.

Mr. President, I ask unanimous con-

sent that the 1976 annual report of FEA on electric utility rate design initiatives be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, the importance of the FEA interventions can best be understood when we consider that every one of the States I listed in my opening remarks as having adopted or suggested rate reforms held a proceeding to which the FEA was a party. And in these final rulings, FEA's testimony was invariably cited. The need for future DOE assistance and intervention is mostly clearly evident in the States own requests for assistance, requests which could not be met under the low annual authorizations of $10 million which expired last Friday.

For example, only $2 million was available in fiscal year 1977 to fund Utility Consumer Offices to assist underrepresented utility customers in ratemaking proceedings. Over 41 States applied for this money, and of these only the top 12 could be funded. Similarly, of the 33 States applying for experimental demonstration funds in fiscal year 1976, only 6 could be funded. Even with the much stiffer eligibility requirements of the fiscal year 1977 pilot demonstrations, which required a written commitment to action—not just studies—nearly one-third of the State applicants could not be funded.

Mr. President, I ask unanimous consent that the lists of States still awaiting funds be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROOKE. In addition, there must be a continued strengthening of DOE's staff capability in this area. Although the staff doubled in size in fiscal year 1977 and substantially broadened its technical base, with only 24 professional positions it cannot meet the growing States' needs for quick-response technical assistance. The existing staff does include a broad mix of both training—engineering, economics, law, business administration—and experience—utility, regulatory, Federal program management—and is expert in the full range of assistance activities contemplated in Public Law 94–385, S. 2114, and our proposed amendment.

Our amendment continues authority given the Secretary under ECPA to make grants to assist utility regulatory commissions in improving rate design, encouraging load management, and developing other related energy conservation measures and practices such as forcasting long-range load demand. It also clarifies the Secretary's authority to provide technical assistance directly from the Department of Energy. It confers new authority for making such grants and providing assistance to nonregulated utilities and cooperatives as well as to natural gas utilities.

This measure extends the ECPA grant making authority from its present expiration date of September 1977 to December 1980. And it authorizes appropriations of up to $45 million per fiscal year, of which $40 million goes directly to the States and nonregulated utilities, instead of the $12 million currently authorized. $5 million will be spent for the intervention program of the Department before State regulatory commissions instead of the $1 million currently authorized.

In addition, $10 million is authorized for consumer representation at the State level instead of the $2 million currently authorized.

I hope the distinguished floor managers will recognize that, whether or not the committee bill is amended, the final version will put a great burden on the States and on the Secretary of DOE to undertake sophisticated analysis and argument. The public power and cooperative utility associations are firmly behind this amendment as are most State governments. We cannot impose major responsibilities on the States and nonregulated utilities and leave them to fend for themselves. I trust this amendment can be accepted by the committee.

EXHIBIT 1

ELECTRIC UTILITY RATE DESIGN INITIATIVES

(Annual report for 1976)

BACKGROUND

The purpose of Title II of the Energy Conservation and Production Act of 1976 (Pub. L. 94–385) is to require the Federal Energy Administration (FEA):

1. To develop proposals for improvement of electric utility rate design and transmit such proposals to Congress;

2. To fund electric utility rate demonstration projects;

3. To intervene or participate, upon request, in the proceedings of utility regulatory commissions; and

4. To provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

Section 206 of the Act requires FEA to submit an annual report to the Congress with respect to activities conducted under Title II, together with recommendations as to the need for and types of further Federal legislation.

RATE DESIGN PROPOSALS

Section 203 of the Act requires FEA to develop and transmit to Congress, within 6 months of enactment, proposals to improve electric utility rate design. The proposals are required to cover, at a minimum:

Cost-effective load management techniques;

Rates reflecting marginal cost of service or time-of-use of service, or both;

Ratemaking policies which discourage inefficient fuel use and encourage economical fuel purchases; and

Policies which encourage equipment and system reliability.

Analysis of these proposals is required to consider energy savings, capacity or capital savings, and changes in costs.

On March 4, 1977, FEA submitted to Congress an extensive Interim Report on Electric Utility Rate Design Proposals. The Interim Report, prepared by FEA staff with the assistance of several contractors and in conjunction with an independent *ad hoc* advisory group, represents the first comprehensive, objective assessment of the full range of rate design concepts currently under consideration nationwide.

A copy of the Executive Summary of the Interim Report accompanies this first annual report. The final report, to be submitted later in 1977, or early in 1978, will include a more quantitative and detailed analysis and specific recommendations for further action, if justified.

RATE DEMONSTRATION PROJECTS

Funds needed to implement the requirement for rate demonstration projects have not yet been appropriated. Thus, such projects have not been funded under the Act.

Prior to enactment of Public Law 94–385, however, FEA had initiated a number of electric rate demonstrations under the more general provisions of the Federal Energy Administration Act of 1974. A total of 16 such projects have been initiated, seven in Fiscal Year 1975 and nine more in Fiscal Year 1976. Funding for these demonstrations is summarized below, in chronological order of initiation:

[Funding ($000)]

Regulatory jurisdiction	Fiscal year 1975	Fiscal year 1976
1. Vermont	360	----
2. Connecticut	230	130
3. New Jersey	160	555
4. Ohio	220	168
5. Arkansas	210	160
6. Arizona	210	----
7. Los Angeles	170	350
8. Wisconsin	----	200
9. Michigan	----	200
10. New York	----	237
11. California	----	355
12. Puerto Rico	----	357
13. North Carolina	----	533
14. Edmond, Okla	----	203
15. Washington	----	281
16. Rhode Island	----	----
Total	1,560	4,004

The purpose of these projects is to prove the feasibility of time-of-use rates, and to gather experimental data with respect to conditions under which cost-effectiveness is uncertain, i.e., for residential customers. Several of the experiments have yielded tentative findings, as presented in the Interim Report.

When appropriations are forthcoming pursuant to Title II of Public Law 94–385, FEA plans to use these funds in two quite distinct ways. First, continuation support will be provided for experimental projects initiated in previous fiscal years. Second, a limited number of new projects will be initiated not for experimental purposes, but to demonstrate the feasibility of permanently adopting new rate forms for an entire class of customers within a utility service area or regulatory jurisdiction. Federal funds will be used to defray the front-end costs of analysis rate design, customer education, and transition period rate adjustments.

RATE REFORM INITIATIVES

Section 204(1)(B) of Public Law 94–385 authorizes FEA to fund regulatory rate reform initiatives of a non-demonstration nature, as contrasted with the demonstration funding authorized by section 204(1)(A). Pursuant to this authority, FEA plans to undertake a comprehensive technical assistance program to help utility regulators develop and implement energy conservation programs to be pursued through the regulated utilities.

Utility conservation programs to be mandated by regulatory commissions would be grounded upon rate reform, specifically the elimination of declining block energy charges, but would also feature any one or more of the following ancillary measures:

Customer education;

Energy audits;

Conservation/loan management financing;

Elimination of master metering;

Energy efficiency criteria for new service hookups;

Penalty charges for energy inefficiency in existing facilities.

Given the great diversity of utilities, it is important that any utility conservation program be sensitive to the particular local characteristics of the utility in question. FEA's technical assistance activities will be designed to help each regulatory commission carefully assess its needs, formulate a utility conservation program which effectively meets these needs, and implement the program in a reasoned, practical manner.

FEA resources for pursuing these objectives will include agency personnel, contracted technical assistance teams of the highest professional caliber, volunteer help from exemplary utilities and commissions, and various educational and analytical "tools." Examples of such tools include instructional case studies, computer simulation models, and information systems.

REGULATORY INTERVENTION

Section 204(2) of Public Law 94-385 authorizes FEA, at the request of a State, a utility regulatory commission, or any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, to intervene and participate in such a proceeding. Pursuant to this authority, FEA participated in utility rate proceedings in three States as of December 31, 1976. Prior to the enactment of this Act, FEA had participated in rate cases in 13 States under the general authorization of the Federal Energy Administration Act of 1974.

The purposes of the intervention activities, initiated in 1975, are (1) to advocate utility rate structures that provide consumers and distributors of utility energy the incentive to use energy more wisely; and (2) to provide assistance to utilities and their regulators in the practical implementation of utility rate reform and allied conservation activities. The intervention activities are also designed to support the demonstration projects, by ensuring that the results of the demonstration projects are considered in those forums where most ratemaking decisions are finally made, i.e., in State utility rate proceedings.

In some jurisdictions, FEA has been a full party to the proceedings while in others it has participated in an *amicus curiae* capacity. FEA has participated in both generic rate cases and specific rate application hearings. A list of proceedings that FEA has participated in through December 31, 1976 is shown below.

SUMMARY OF REGULATORY PARTICIPATION

Docket No. and utility	FEA status	Testimony filed	Brief filed
California PUC No. 54279 et al (Pacific Gas and Electric).	Amicus		Apr. 2, 1975.
California PUC No. 56408 (Southern California Edison).	Party	Aug. 30, 1976	Dec. 16, 1976.
Colorado PUC No. 935 (Colorado Public Service).	Amicus	Oct. 8, 1975	
Connecticut PUCA No. 760204 (Generic Hearings).	Party	Oct. 1, 13, 1976	
Dallas, Tex. (undocketed) (Dallas Power & Light).	Amicus	Feb. 14, 1976	
Delaware PSC No. 829 (Delaware Power & Light).	Party	Feb. 2, 1976	
Maryland PSC No. 6808 (Generic)	Limited party	Feb. 27, 1976	Sept. 2, 1976.
Massachusetts DPU No. 18810 (Generic Ratemaking).	do	Sept. 15, 1976	
Minnesota PSC No. ER2-1 (Northern States Power).	Amicus		Sept. 23, 1975.
Nevada PSC No. 579 (Sierra Pacific Power.	do		May 17, 1976.
New Hampshire PUC No. DR 75-20 (Generic Party Hearings).	Limited party	Jan. 20, 1976	
New York PSC No. 26806 (Generic Hearings).	Party	Aug. 11, 1975; Jan. 27, 1976.	Mar. 20; Apr. 9, 1976
North Carolina UC No. E-100, Sub. 21 (Generic Hearings).	do	Dec. 10, 16, 1975	
South Dakota PSC No. F-3062 (Northern States Power).	do	Apr. 26, 1976	July 12, 1976.
Tennessee Valley Authority (Generic Invest.).	Participant	June 7, 1976	
Wisconsin PSC No. 01-ER-1 (Generic Ratemaking).	Party	Sept. 6, 1976	

In addition, FEA has begun participation this year in regulatory proceedings in Pennsylvania, Arizona, Oklahoma, Hawaii and Colorado.

FEA's influence on State utility rate decisions cannot be precisely gauged, because of the difficulty of imputing a cause and effect relationship between the submissions of any party to an adjudicatory proceeding and the outcome to that proceeding. However, many observers familiar with the current regulatory environment nationally have suggested that FEA's intervention activities have played a key role in accelerating and guiding rate reform decisions in at least several key jurisdictions.

GRANTS FOR OFFICES OF CONSUMER SERVICES

Section 205 of the Act authorizes FEA to make grants to States, or to an office of consumer services established by the Tennessee Valley Authority, to provide for the establishment and operation of the offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Grants made pursuant to this section shall be provided only for consumer service offices which operate independently of such utility regulatory commissions and must be made available only in addition to, and not in substitution for, funds made available to consumer services offices from other sources.

The offices of consumer services must be empowered to:

Assess the impact of proposed rate changes and other regulatory actions on all affected consumers;

Assist consumers in their presentations before utility regulatory commissions;

Advocate a position which it determines represents the position most advantageous to consumers.

Although implementing funds for Section 205 have not yet been appropriated, FEA is proceeding in the development of guidelines for the disbursement of grants under this section. It is anticipated that these guidelines will serve as the basis for selection of applicant jurisdictions.

RECOMMENDATIONS AS TO FEDERAL LEGISLATION

Section 206 of the Act requires that the annual report required under this provision include recommendations as to the need for and types of further Federal legislation. The Executive Office of the President, with staff assistance from FEA, is currently preparing comprehensive recommendations for Federal legislation in this area. These specific recommendations, if adopted by the President, will be included in the President's Energy Message of April 20, 1977, and are not presently available.

EXHIBIT 2

Utility conservation pilot project: Round II

SUMMARY SHEET

State/municipality:	*FEA funds requested*
Minnesota	500,000
South Dakota	297,383
Iowa	296,000
Springfield, MO	231,500
Ohio	338,400
Connecticut	395,860
Grand River Dam Authority	160,200
Oklahoma	
Seattle, WA	477,641
California	499,960
North Carolina	442,485
NOT FUNDED	
Massachusetts	398,229
Wisconsin	441,405
Rhode Island	193,006
North Dakota	191,700

OFFICES OF CONSUMER SERVICES: GRANT PROGRAM

Applicant:	Requested level of funding
Arkansas	185,913
Indiana	200,000
Massachusetts	199,974
Guam	59,928
Idaho	200,000
Georgia	196,000
New Hampshire	40,000
Illinois	196,462
New York	200,000
District of Columbia	126,495
Michigan	200,000
New Mexico	200,000
NOT FUNDED	
Texas	200,000
Alabama	200,000
Pennsylvania	200,000
Kansas	202,681
South Dakota	164,000
Utah	120,000
Colorado	199,259
Connecticut	124,200
Montana	83,100
Delaware	131,325
Arizona	200,000
West Virginia	200,000
South Carolina	200,000
California	200,000
Rhode Island	199,999
Kentucky	197,146
Virginia	200,000
Hawaii	200,000
North Carolina	174,351
New Jersey	200,000
Missouri	182,232
Washington	183,121
Louisiana	200,000
Oklahoma	200,000
Ohio	200,000
Minnesota	177,311
Maine	65,000
Vermont	109,964
Maryland	Nonresponsive

Mr. BROOKE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, we oppose this amendment. It is a proliferation of Federal spending in an area where we have already provided that money.

We have just agreed to accept the Durkin amendment, which increases by $5 million the amount that consumers can have to intervene in State regulatory proceedings. We also invest the Secretary with the authority and the duty to intervene in State regulatory proceedings to fight for equitable rates.

Mr. President, what this amendment does is further proliferate Federal expenditures and Federal employees, which, in turn, proliferates the efforts. We ought to try to get some kind of centralized effort in this respect. One Federal agency and one State agency ought to be enough, but we are talking, in this amendment, about $45 million, plus $10 million under section 205. We think that is much too much, and we strongly oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, just a brief remark. I associate myself with the remarks of the distinguished floor manager, and would point out that during the hearings on this matter, a number of the PUCs, and also the States, were represented at those hearings, and they did not register a desire for increases in these areas.

So this is not a response to a request to fulfill a need by the States, but I feel that it is a proliferation of Federal control and Federal bureaucracy in an area that has been, until fairly recently, wholly the domain of the States. I feel that the further intrusion is not in the best interests of fiscal responsibility or in the best interests of the management of consumer affairs.

Mr. DURKIN. Mr. President, will the Senator from Louisiana yield me 2 minutes?

Mr. JOHNSTON. I yield the Senator from New Hampshire 5 minutes.

Mr. DURKIN. Mr. President, I, as I say, hate to speak out in opposition to the substitute amendment of my good friend from Massachusetts. He has spent a lot of time, energy, and effort, as all of us from the committee have.

We in the Northeast face the highest electric rates in the country. The people who fell for those electric heat ads pay more for their electricity that they do for their mortgages, in many areas of my State and the northern part of Massachusetts.

But as much as I agree with the Senator from Massachusetts on the problem, I have to oppose this amendment or this substitute, because I do not think the answer is sending a $40 million CARE package addressed to the public utilities, to do with what they want. The public utilities commissions in the States have adequate powers to generate sufficient revenue to represent the consumers and also carry out their obligation to the stockholders of the utility companies.

I think we can strengthen the PUC's efforts and resolve the problem on a much more realistic basis and a cheaper basis by giving the State offices of consumer affairs the money that is provided in my amendment, so that they can go in and aggressively argue their cases State by State, and appeal to the State courts.

I feel that to go down this road is really starting us down the road to at least a dual regulation of the utilities, with all the inherent problems that would involve, and worse yet would be to have the Federal Government trying to regulate the utilities in 50 different States, with a myriad of different problems. I think the American public is fed up with Washington deciding they can solve all the problems and usurping jurisdiction from the States. For that reason, I have to oppose the substitute of my good friend from Massachusetts, and urge that it be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I yield myself 3 minutes to respond to my colleagues.

Let me assure them that it is not my intent to have Federal regulation of the utilities. Nothing could be further from my intent, and certainly nothing is further from the intent of the committee, because the committee certainly went as far as it could in getting away from any Federal presence at all, so far as the regulation of utilities is concerned.

The committee intent would appear to be that they want to let the States do it. The fact is that in many instances the States are not doing it, and consumers are being injured. The States do not have regulatory agencies with sufficient staffs that have the necessary expertise, because they do not have the money to do the job.

Mr. President, you cannot have it both ways. If you want the States to do it, you have to give the States something with which to do it. Oftentimes we mandate things for the States, and then we do not give them the money to do them. In the field of education, we have said to the States, "We want you to educate all handicapped children," and then do not give them money to do it. Many of the States are reeling; they do not have sufficient funds, the cities and towns do not have sufficient funds, and the States are faced with the mandate and no funds to carry out that mandate.

We are not trying to run the States. We are letting the States regulate the utilities, without any question about it. But when they fail to do so, the consumer is injured. In my State, for example, some people are paying more for their electricity than for their mortgages, and it is going up and up and up. We have to find ways of conserving. We have to find ways of testing to find out the best thing to be done in order to bring that price down for the consumer. If we do not provide the funds for the State agencies with which to work, the job will not be done.

I am not suggesting that we do it ourselves. I am suggesting, we let the States do it, but I am suggesting that many States lack sufficient funds. The Senator from New Hampshire has said he would want this in certain instances, but he does not want it in certain other instances. I am just saying, see that they have sufficient funds.

To say that this is a great expansion of Federal bureaucracy is just not right. This is not any expansion of Federal bureaucracy at all. It is just to provide funds to help the States do what they should do, and help them do it properly.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. BROOKE. On the Senator's time, because I am running out of time.

Mr. DURKIN. Mr. President, I do not have any.

Mr. BROOKE. I think the floor manager has time.

Mr. DURKIN. Will the Senator from Louisiana yield to me?

Mr. JOHNSTON. I yield the Senator 2 minutes.

Mr. DURKIN. In our political system, with the Massachusetts State government, which has a budget of approximately $1 billion, is it not much more likely that the consumers in northern Massachusetts and the consumers in southern New Hampshire who are paying those electric rates that are higher than their mortgages, does the Senator not think they have a better chance of rectifying that injustice if they have a State agency, funded by State revenue, that can be an issue in the gubernatorial races in those States, rather than having it down here where we are walking down that path to Federal regulation, where it will be done by those impersonal, faceless bureaucrats whom no one knows, who will identify with no concern for the people of northern Massachusetts or southern New Hampshire?

If you have Federal dollars, you will have a Federal presence, and then Federal regulation. I served 5 years as State insurance commissioner of my State. Just as in anything else, there are good State insurance commissioners and there are bum State insurance commissioners, but the State commission function, and they began to rebuild their staffs all over the country when the Federal Government expressed an interest in the regulation of insurance, and they had a much more effective impact on the regulation of insurance than would the usurpation of regulation insurance companies by the Federal Government.

I am afraid that when we start sending a $40 million CARE package to addressee unknown, State capitol, any State capitol across the country, we are just going down the road which will lead, if not to Federal regulation, to dual regulation, which is yet worse.

Mr. BROOKE. Mr. President, I certainly understand and respect the concern of the distinguished Senator from New Hampshire. I shall not repeat what I said previously, but I hope that I have, in some degree, allayed his fears. I assure him that I am not concerned with having Federal regulation of the State utilities. That is far from what I want. I want to be sure that the States are able to carry out their responsibilities. I find that rural cooperatives and municipal and other nonregulated utilities and gas utilities are just not covered and that is just not the case. I hope that the Senate will recognize that this is not an attempt at Federal regulation.

UP AMENDMENT 880

Mr. BROOKE. Mr. President, I send to the desk a modification of my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes a modification, unprinted amendment numbered 880, to unprinted amendment numbered 879:

On page 1 after "amended by" insert "striking the period at the end of section 202(7) and adding the following "or any State agency given the authority under State law to study and develop various forms of ratemaking techniques and rate designs for use by the agency with ratemaking authority," and by".

Mr. BROOKE. Mr. President, this is a simple modification, if I may have the attention of the manager and Mr. Durkin.

Mr. DURKIN. Mr. President, does that require unanimous consent in order to be considered?

The PRESDIING OFFICER. The Senator has the right to modify his amendment. There has been no action on it.

Mr. DURKIN. I have no objection, anyway.

Mr. BROOKE. I just wanted to explain to the distinguished Senator from New Hampshire that, a while ago, I learned that the authority to conduct studies under this section has been transferred to a new agency in the State of New Jersey. The modification makes it clear that they are covered by this measure and eligible for these grants. I do not know that it applies to any other State, because I do not know that any other State has changed its agency that recently. This just qualifies New Jersey, together with the other States.

Mr. President, I am prepared to yield back the remainder of my time, but I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there a sufficient second? There is not a sufficient second.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, on whose time?

The PRESIDING OFFICER. Under the precedent, the Senator from Massachusetts does not have sufficient time to call a quorum. He may wait until all time has been used or yielded back and then ask for a quorum.

Mr. BROOKE. I am prepared to yield back my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, for reasons previously stated, we oppose the amendment. If no one else has anything to say, I shall yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. JOHNSTON. Mr. President, I move to lay the amendment on the table.

Mr. BROOKE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—54

Allen	Gravel	Nelson
Baker	Hansen	Nunn
Bartlett	Hatch	Packwood
Bellmon	Hatfield	Pearson
Bentsen	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Roth
Cannon	Huddleston	Schmitt
Chiles	Inouye	Scott
Church	Jackson	Sparkman
Curtis	Johnston	Stennis
Danforth	Laxalt	Talmadge
Domenici	Long	Thurmond
Durkin	Lugar	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Young
Ford	Metzenbaum	Zorinsky
Garn	Morgan	
Goldwater	Moynihan	

NAYS—43

Abourezk	Glenn	Muskie
Anderson	Griffin	Pell
Bayh	Hart	Percy
Biden	Haskell	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Heinz	Sarbanes
Burdick	Javits	Sasser
Byrd, Robert C.	Kennedy	Schweiker
Case	Leahy	Stafford
Chafee	Magnuson	Stevens
Clark	Mathias	Stevenson
Cranston	McGovern	Stone
Culver	McIntyre	Williams
DeConcini	Melcher	
Dole	Metcalf	

NOT VOTING—3

Humphrey	McClellan	Weicker

So the motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted staff members: Mr. METZENBAUM: Roger Berliner; Mr. CASE: Jack Vandenberg; Mr. SCHMITT: Dick Burdette; Mr. MELCHER: Bill Wetzel, Ben Strong, and Janine Volsky; Mr. SASSER: Paul Clark and Dave Johnson; Mr. STONE: Bill Morris.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New Hampshire.

COMMITTEE MEETINGS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Financial Institutions Subcommittee of the Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate today to conduct oversight hearings on alternative mortgage instruments.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Rural Housing Subcommittee of the Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate today to consider legislation on rural housing, S. 1150.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from New Hampshire.

Mr. JOHNSTON. Mr. President, I think all time has been yielded back.

The PRESIDING OFFICER. The Senator is correct. All time has been yielded back.

Mr. DURKIN. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. The Senate will be in order. The Senator cannot continue until there is order.

Mr. JOHNSTON. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Mr. BAYH be added as a cosponsor of my amendment, and that the amendment be conformed to the modification I have at the desk which inserts instead of "such", "1978 and 1979".

The PRESIDING OFFICER. Is there objection to the modification?

The Chair hears none and it is so modified.

The amendment as further modified is as follows:

On page 8, between lines 22 and 23, insert the following:

Financial Assistance for Consumer Representation

Sec. 7A. Title II of the Energy Conservation and Production Act is amended by amending section 207(b) to read as follows:

"(b) There are authorized to be appropriated to carry out section 205 for fiscal years 1978 and 1979 not to exceed $5,000,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire, as modified.

The amendment, as modified, was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment—the Senator from Massachusetts.

Mr. JOHNSTON. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BROOKE. I yield.

Mr. JOHNSTON. Will the Senator yield for a small colloquy between the Senator from Illinois and myself?

Mr. BROOKE. I yield.

Mr. PERCY. Mr. President, on August 1, I introduced an amendment to the administration's utility bill.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. BROOKE. Mr. President, I yielded to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. I thank my distinguished colleague. We will just have a short colloquy on small power producers.

Mr. President, a tremendous transformation is occurring in the way this Nation obtains its electric energy. Fuel shortages may ultimately make obsolete the oil- and gas-fueled powerplants which are our mainstay today. Nuclear and especially coal will supply much of our future capacity. But it is also important that we experiment with a variety of new technologies in order to keep our options open.

Electric companies have fueled the growth of our economy in the last few decades. They have provided electrical energy at rates among the most favorable in the world. They built increasingly larger powerplants to reap the benefits of economies of scale.

But today the cost curves have shifted. The potential of small-scale powerplants, using solar power, wind, and small water turbines, has suddenly blossomed as the cost of traditional powerplants has rocketed.

Mr. President, I do not claim that windmills or wood-fired generators will solve our energy problems. Known technology cannot provide such easy solutions. All I claim is that we should not inadvertently foreclose our options.

There are thousands of small inventors around the country. These persons are conducting their own energy R. & D. program right now, often with no outside money or technical help. They are testing the windmills, solar electric cells, and other systems which too many here in Washington mistakenly believe to be only on the drawing board.

Mr. President, how many of us for instance are aware that more than five dozen small electric systems of this type are now in operation feeding small amounts of power back into electric company lines? This work is underway and we should take its potential into account.

We are somewhat more familiar with the case of small hydroelectric dams. The tireless efforts of Dr. David Lilienthal have inspired many to explore the potential of abandoned mill dams, aqueduct dams, and flood control dams. Within the next 4 years we could see hundreds of these dams restored to service. Now no one claims that small hydro sites will ultimately add more than a percent or two to our electricity supply. But for some medium-sized towns a small hydroelectric project could mean that they can attract a new industry, or keep several hundred jobs at a declining mill. Incidentally, I commend the Senator from New Hampshire (Mr. DURKIN) and the Energy Committee for having included in S. 2114 $10 million for loans to conduct feasibility studies of small dam rehabilitation.

Mr. President, three important stumbling blocks face the various small producers. First, the electric rates they face for sales and purchases of power determine the economics of these systems. It is possible that a local electric utility might be unnecessarily apprehensive about the long-term implications of small producers, and would either refuse to serve them or charge discriminatory rates. This has indeed happened in a few cases.

Second, there is the threat that small power producers could have to file mountains of paper with State and Federal regulators because of public utility laws. Most State public utility commissions would of course be likely to treat a rancher with a windmill differently from a multibillion-dollar electric company. Unfortunately, the threat of mountains of paperwork is still there, and may hinder use of innovative technologies.

Finally, small producers face a potential threat of antitrust prosecution under the Public Utility Holding Company Act. Under that act it is difficult to both sell electricity and, at the same time, engage in another line of business.

On August 1, I introduced an amendment to the administration's utility bill to protect small producers. I am very pleased that Senator DURKIN of New Hampshire introduced, and the Energy Committee passed, a version of my amendment. This section of the bill, section 12, allows for guidelines on rates, and actual exemptions from Federal utility laws. It goes a long way toward answering the problems which cogenerators and small producers face.

However, I have decided not to call up this amendment for the following reasons:

First. The bill already allows the Secretary of Energy to intervene in any proceeding before a State utility commission.

Second. The Energy Conservation and Production Act of 1976, section 204, allows the Secretary to join in any appeal of a rate proceeding to which he is a party, provided one of the other parties involved so requests.

I have some question for the Senator from Louisiana on the issue of small power producers:

First. Is there any reason why the Secretary of Energy would not be allowed to use the powers I just mentioned to assist cogenerators and small power producers?

Mr. JOHNSTON. Absolutely not, because section 2 of the act specifically states that the purpose of the act is to encourage overall conservation in electric and gas utility systems, to encourage the optimization of the efficiency of use of facilities and resources by electric or gas utility systems, in addition to fostering equitable rates for consumers.

Those are the purposes for which the Secretary can intervene in addition to the other provisions of law outside of this act.

So I would say that small cogenerators would fit precisely into that category. So that in order to preserve and foster energy conservation and optimization of facilities, the Secretary certainly could intervene.

Mr. PERCY. I thank my colleague for that interpretation.

Does the Senator agree that the Federal guidelines in section 12 of the bill are needed to insure that cogenerators and small power producers receive fair treatment from electric utilities?

Mr. JOHNSTON. Yes. I certainly think so.

Under section 12, the Secretary of Energy is required to recommend guidelines to the State regulatory authorities.

Clearly these guidelines ought to protect and foster cogeneration.

Cogeneration can save a great amount of energy and we hope the States will follow those guidelines under section 12.

Mr. PERCY. I thank my colleague.

The Department of Energy will soon have an Office of Small-Scale Technology to promote decentralized energy sources. Would the distinguished floor manager of this bill say that such an office can and should play an important role in the promotion of certain small power producers, such as solar and windmills?

Mr. JOHNSTON. Yes. I believe it should.

Mr. PERCY. Finally, is it the intent of the Energy Committee that the Secretary of Energy shall use the powers granted him in this bill and in the Energy Conservation and Production Act to promote cogenerators and small producers?

Mr. JOHNSTON. Absolutely.

Mr. PERCY. I thank my distinguished colleague from Louisiana very much, indeed, and I thank my distinguished colleague from Massachusetts for yielding.

I am deeply disappointed that the amendment the Senator from Massachusetts offered was tabled. I felt it was a major step forward and would have insured that State utility commissions have adequate staffing and funding to correct many of the abuses that we pointed out in our colloquy last night. But I trust Senator BROOKE will offer additional amendments now, and will afford the Senate another opportunity to move forward in this direction.

Mr. BROOKE. I thank my colleague.

I share his disappointment, but I hope that since we got such a good vote in the conference between the House and Senate that will be corrected.

AMENDMENT NO. 1400

Mr. BROOKE. Mr. President, I call up my amendment numbered 1400 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. CRANSTON, Mr. PERCY, Mr. ANDERSON, Mr. RIEGLE, and Mr. HART, proposes an amendment numbered 1400.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 6, line 7, strike out ", except that nothing in this Act shall authorize him" and substitute "and is authorized".

Page 6, line 10, before the period insert: ", except that the Secretary may not—

"(1) seek or obtain any injunctive relief respecting the effectiveness of any rate in any such appeal or other proceeding for judicial review of any such decision, or

"(2) seek or obtain any relief respecting the effectiveness of any rate which would apply for any period before the final determination of such appeal or other proceeding.

Mr. BROOKE. Mr. President, the Committee on Energy and Natural Resources has reported a bill which sharply limits the role of the Secretary in matters of rate design to one of advocacy. I think that my colleagues will agree that if we place such limitations on the Secretary that we should not prevent her or him from being an effective advocate. But the committee bill, in flatly prohibiting the Secretary from seeking judicial review of the decisions of regulatory authorities in rate and rate design proceedings, has seriously undercut the ability of the Secretary even to serve as an effective advocate of energy conserving rate design improvements. The right to appeal the final decisions of administrative bodies is a basic right enjoyed by every other party to State regulatory proceedings. Indeed, I would say that the possibility of parties exercising this right of appeal provides incentives for administrative bodies to render well-considered decisions. But, if this committee language were enacted, a regulatory authority would know from the start that the Secretary is powerless to seek judicial review of its decisions. Such an authority, therefore, would have a strong incentive to lean toward the views of the parties which could precipitate an appeal.

Furthermore, passage of this language would tend to weaken the Secretary's existing authority. The ECPA permits appeals from proceedings to which the Secretary is a party. While this does not repeal that authority, it is a later expression of the apparent intent of Congress. Any opposing attorney could certainly argue against a Secretary exercising the mandate given in ECPA to intervene in appeals there. This seems to me to be just one more example of the Senate trying to cut the heart out of any general Federal commitment to the serious purpose of electric energy conservation.

My amendment would strike the bar to judicial review sought by the Secretary. However, it attaches important limitations to the remedies which the court may grant the Secretary. First, the Secretary would not be permitted to seek injunctive relief respecting the effectiveness of any rate. Second, any fiscal relief sought by the Secretary may only be prospective in nature. As such, no refunds of past rates may be occasioned by relief granted the Secretary upon appeal. In addition, the Secretary must pursue her or his appeal in State courts. No Federal cause of action is created which would allow the Secretary access to Federal courts. Fourth, the court would be reviewing the compliance of the authority or utility with State laws and regulations. My amendment contains no enforceable Federal standards or rulemaking authority.

What this means in simple terms is that only when the State body either acted in an arbitrary or capricious manner or it did not act on substantial evidence could there be grounds for appeal. And any appeal could be based on only the record of the proceedings, not on the substance of Federal policies or advisory guidelines.

I think that, with these limitations, appeals taken by the Secretary to State courts could not be regarded as potentially obstructions or as a "power grab." I think my amendment is the minimum we can do to permit the Secretary to be an effective advocate of national energy conservation policy as such policy relates to generating and supplying gas and electricity.

Mr. President I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I sent to the desk an amendment——

The PRESIDING OFFICER. The Chair would advise the Senator from Arkansas that an amendment is not in order at this point.

Mr. BUMPERS. A parliamentary inquiry Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Why is it not in order?

The PRESIDING OFFICER. There is an amendment pending.

Mr. BUMPERS. This is a perfecting amendment to the amendment offered by Senator BROOKE.

The PRESIDING OFFICER. The Chair would advise that that amendment would not be in order until all time on this amendment has been used or yielded back.

Mr. BUMPERS. I am sorry. I did not understand there was time.

Mr. JOHNSTON. Mr. President, there is already a right to appeal in ECPA, section 204, which provides that the Administrator, on the request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and third, on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

So that there is that right of appeal already in the law.

Mr. President, the committee specifically discussed this amendment during markup sessions. The committee has a very strong feeling we should not supplant State regulation with Federal guidelines.

We do believe these ratemaking innovations all the way from lifeline rates to time-of-day rates to declining block rates, all of these things are very interesting, and they, in sum, might offer great promise to State regulatory commissions to try to experiment with and eventually to adopt.

But there is one thing that came through very loud and clear in our hearings, and that was we do not know enough at the Federal level to supplant the efforts of State regulatory people on the State level, and to attempt to do so simply adds uncertainty and adds delay to the State regulatory process, and it is upon that State regulatory process and the surety of it that the ability of utilities to get money for new plants depends.

To the extent that you make it uncertain, to the extent that you delay it, you make it that much more difficult to build new generating plants. And the need for new generating facilities in this country is something close to a crisis in itself.

Now, somewhere we had to draw the line to determine at what point the Federal Government is actually interfering with this process. Well, at this amendment is where we drew the line, because if you give the Administrator the right not only to intervene but then to appeal on his own motion you give the Administrator the right to eventually set up what you might call a federally established common law relative to regulatory proceedings.

So he would have the right then to go into a State commission and push for a certain point of view, and if they did not accept that point of view he could then appeal up through the courts and sooner or later he would get a court that was friendly and would order that, and you would have a precedent, and he could selectively set up a whole series of precedents of a Federal ratemaking, federally inspired ratemaking, to supplant that of the States, and, in the process of that, we would have delay.

The committee very carefully considered that and rejected it, and keeping in mind we still have the right of appeal which presently exists in ECPA.

So. Mr. President, the committee has considered this and rejected it very strongly, and I would urge the Senate to reject it.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield to me for some discussion?

Mr. BROOKE. I would be glad to yield.

Mr. BUMPERS. It was my intention, Mr. President, to offer an amendment this morning which would be offered as a perfecting amendment to the amendment of the Senator from Massachusetts,

the effect of which would provide that if the Secretary intervened in the public service commission hearings in the original hearing, he could appeal a decision with which he disagreed, but that if he did not intervene in the original proceedings he would not be eligible to appeal.

I am now advised that, perhaps, that was the Senator's intention with his amendment, without a perfecting amendment; is that correct?

Mr. BROOKE. The Senator from Arkansas is correct. That is my intention, yes.

Mr. BUMPERS. Let me say this: I understand the parochial interest of some of the people here in the fear that ratemaking is going to start emanating from Washington. I do not share that fear. Ratemaking is a very independent process, at least in my State, and I have no reason to assume it is less independent in other States.

But I do think the bill that came out of the Senate committee is not quite rigid enough. I do think the voluntary guidelines are satisfactory, and that the Secretary ought to issue voluntary guidelines to cover, for example, time-of-day pricing, and that sort of thing.

But I think they become empty unless the Secretary at least has the opportunity to go into a hearing at the local level and tell the public service commission of that State why he thinks one or more of those guidelines would be applicable to that particular rate case.

Further, I think if he chooses to appeal from a decision, he ought to have the authority.

As I say, I recognize all of those apprehensions and reservations that Members of this body have about ratemaking occurring here. But if this is going to be the moral equivalent of war we cannot have one set of guidelines in one State and another set of guidelines some place else, if a guideline happens to be patently correct and ought to be adopted in a particular State.

So for my concern, if the answer of the Senator from Massachusetts is "yes," then that satisfies this Senator, and I will not offer the amendment either by itself or as a perfecting amendment.

Mr. BROOKE. I thank my colleague from Arkansas. The Secretary does have the right to appeal. I think it has been stated sufficiently well, but I think this colloquy between us clarifies any ambiguity that may arise as to the differences between us.

Mr. BUMPERS. I thank the Senator.

Mr. DURKIN. Mr. President, will the Senator yield? I realize this might not be the most popular position at this particular time in history, and it is not a parochial interest. I do have a certain amount of experience in the State regulatory ranks. I spent 5 years as insurance commissioner in the State of New Hampshire, and some of these things, innovations we started in the State of New Hampshire, have been adopted all across the country, and have been clearly recognized as tremendous advances for the consumer. So it is not a parochial interest.

I am not trying to preserve the domain of three public utility commissioners in the State of New Hampshire. For the most part, I have been at odds with them all along. But the bill mandates that the Secretary intervene, so he has to intervene in every case.

An official from downtown in the new building of the energy czar called me the other day. He thought I was on his side, and he said:

> You know, if we do not have the right to appeal we cannot push those State utility commissioners around to make them adopt the things we want them to adopt.

So what we have here is dual regulation heavily weighted in favor of that same faceless bureaucrat hidden in a concrete palace downtown, who is going to dictate to every utility commission across the country.

Fifteen or so of the utility commissions are elected, and the Federal bureaucracy will go in there in an election year and say, "If you do not adopt the scheme we think is best from Washington," having no consideration for the situation in the local community, the local area, "we are going to appeal, and we are going to mess you up in your reelection campaign."

What we are going to have is the same pressure even in States where the utility commissioners do not run for office.

The Senate bill, the committee bill, says the energy czar is mandated to go in and raise these issues in the local context, so that time-of-day, offpeak, marginal pricing, all of these things can be raised in the context of the local situation. But if we give them the right to appeal, we give them a blackjack. We give them a hammer to coerce every utility regulatory commissioner in the country. Then what we have is we have the worst of Federal regulation. We have responsibility vested here, and we found over the years that it is very, very——

Mr. BROOKE. Mr. President, will the Senator yield for an inquiry?

Mr. DURKIN. Just 1 second.

Mr. BROOKE. Is the Senator talking on the time of the opposition, or is he talking on my time? I just want to be sure.

Mr. DURKIN. I think I am talking on the floor manager's time.

Mr. DOMENICI. Mr. President, I will yield the Senator time on the bill on our side so there will be no misunderstanding.

Mr. BROOKE. I thank the Senator.

Mr. DURKIN. Again, I repeat, I came to this Chamber on the basis and thrust of my campaign that the lowest level of government that can get the job done should be the highest level of government to have that responsibility. That discontent and that feeling is rampant all over the country.

Here we are sitting down in this lovely Chamber talking virtually to ourselves, deciding that we are going to vitiate the will of most of the people in this country that they do not want the Federal Government sticking its nose into everything, and we are going to have the Federal Government forcing the hands of the utility commissions based on policy which is decided downtown.

I think it is a serious mistake. I think it goes too far. I think it is really dual regulation which is heavily weighted in favor of the Federal Government and it is going to produce more uncertainty. We know now you cannot budge the Federal Power Commission unless you have a satchel full of dynamite at their head.

So we are going to wind up where half of the agencies downtown have been seduced by the industries they are supposed to regulate and no average citizen can have any impact whatsoever, and we are going to do the same thing with utility rates and utility regulation if we give the Secretary the right to appeal because we have mandated that he appear. So if we give him the right to appeal in those cases where he appears we should take into consideration that appearance is mandated and we have given him a blackjack and a hammer to coerce the States into adopting things that may well be detrimental to the interest of the particular State.

I think it is another step down the wrong path at the wrong time.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time remains in opposition to the amendment?

The PRESIDING OFFICER. The Chair advises 24 minutes remain.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the time of the Senator from New Hampshire be charged against that rather than against our time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield me 5 minutes in opposition to the amendment?

Mr. JOHNSTON. I yield the Senator from New Mexico such time as he desires.

Mr. DOMENICI. First, Mr. President, I might say to the good Senator from New Hampshire that I commend him for his astute observation of what this amendment, appearing on its face to be rather than innocuous, really means.

If the Senate wants to put the new Energy office in a position of getting its way across this land in terms of utility ratemaking processes, then adopt the amendment of the Senator from Massachusetts.

There can be no doubt that if the Federal Government, in addition to appearing before these tribunes that are setting rates for the consumers and people of their State, has the added option of going into the courts of the State or the Federal system to appeal a ruling adverse to its position we might just as well today have adopted the approach that the Federal Government shall preempt ratemaking across this land, for that is basically the effect. And it is even worse because it is done under vague guidelines that were intended as goals because the

committee did not even know whether, in many instances, those would be good for the consumers or bad for the consumers in respective States.

This will end up as regulations by intimidation. Make no doubt about it. Almost every Senator in this institution from time to time comes to the floor and talks about the faceless bureaucracy and talks about how they are usurping everyone's rights and how they are taking advantage of the laws by which we vested authority in them. Let me assure you that in 2, 3, or 4 years Senators supporting this amendment will be down here complaining about the lawyers in the Department of Energy who are intimidating the States by this right which they have for incessant delay and threats to go to court. All they will have to do is take a few of them to court and you will see who will control the ratemaking process in our States.

I tell Senators who are interested that they will have a right to appeal even if the State regulatory commission thinks they are wrong, even if every consumer group in that State thinks they are wrong, because all of those groups think in that State what the State regulatory commission thought was best is by some lawyer in the Department of Energy thought not to be in the interest of carrying out some national goal that he or the Department of Energy for the United States thought should be the rule of law.

It appears innocuous, but let me assure Senators that this is the time to make sure we do not give this kind of authority to super regulators, not 2 or 3 years from now and those who support it should know that they stand responsible for this broad open-ended authority and when it gets abused in some State they may be reminded that we warned them here today so they do not have to come down and blame the then-Secretary of Energy for usurping his authority because under this bill, as modified by this amendment, the authority implicit and implied is absolutely incredible. If this Senate wants to push the ratemaking commissions into new approaches as the bill came out from committee, then make no bones about it. With this amendment that is not a gradual push. That is putting the Federal Government right into the ratemaking in each of the 50 States of the Union when we do not know what is right but we are going to trust some faceless bureaucracy to determine in courts of law what is right.

I close by saying the evidence before the committee is absolutely conclusive that what already is wrong with ratemaking are delays. We cannot get utilities financed because of delays and uncertainties. It is costing more because of that. The market in terms of financing new facilities is fragile because of that. If you want to add another layer to that already fragile one, then put the Federal Government in the posture that this amendment will put them and you will have uncertainty compounded. You will have delays at the whim of the Department of Energy.

In the final analysis, the ratemaking commissions, the Governors and the consumers in a State have all kinds of rights to intervene and appeal and that will be buttressed by our bill, without this amendment, by the Federal Government coming in and helping with factfinding and interrogation. If you do not think that is enough to protect the consumer, then give the Department of Energy the right to appeal and go to court, perhaps take it to the Supreme Court, and let that new ratemaking process, which will determine whether we have a new facility, sit around with incessant delays while they decide as lawyers how far they want to take their position.

I honestly believe this could even work ultimately to the detriment of consumers and what is best for any State because we are trusting the Deparment of Energy and its lawyers with making decisions as to what is right for citizens of States, for utility ratemaking commissions, for Governors, and for State legislatures, and I do not think we should do that. I think that the bill is one step forward but with this one it is four steps backward.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, may I say this to my dear friend from New Mexico: I think some of us may have fallen into the pit which has been set by some of the utility companies, rhetoric and propaganda. I just want to assure him that there is nothing in this amendment which gives the Secretary of the Department of Energy the right to appeal in any Federal court. The Senator from New Mexico said go all the way to the Supreme Court. How can they go through the courts when they are not even in the Federal system?

Mr. DOMENICI. I do not know whether they are or not. I am not expert enough to say so.

Mr. BROOKE. But the Senator said so. In his statement he said carry it all the way to the Supreme Court. How can you carry it all the way to the Supreme Court?

Mr. DOMENICI. If that is significant in my argument then I will strike it. I do not believe that there is any more or less chance of delay whether you are using the Federal or the State system. So I will strike all the reference to Federal courts from my argument. Where I implied the U.S. Supreme Court, I will substitute the supreme courts of the States.

Mr. BROOKE. The highest court of the State.

What we are talking about is appeal to State courts on purely State law which is the governing law insofar as these Regulatory issues to agencies are concerned and the appeal can go only to the record of the original proceedings. There was never any intention or any attempt, and there is nothing here which allows new issues or Federal laws or guidelines to be the subject of appeal, and I ask my friend fom New Mexico to show me anything here that gives the Secretary of Department of Energy the right to go to any Federal court.

Mr. DOMENICI. I tell the Senator that if he is talking about delays we might have been more right if we were talking about the Federal system because, as a matter of fact, other than to the U.S. Supreme Court, litigants would get through the Federal system quicker than through most State courts. So I think my argument is still valid.

Mr. BROOKE. I did not know the Senator was talking only about delays. But at any rate it is State law that governs these laws permit appeals only from an arbitrary decision or incomplete or improper proceding.

I just want to make that clear for the RECORD, and I thank the Senator from New Mexico for correcting his statement to show that the Federal courts are not involved.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I just have another minute. I also wish to point out that where there are arbitrary or capricious holdings, the Secretary would go in anyway with an appeal. That ought to be made clear.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. JOHNSTON. Is the Senator saying that the Federal Government has no right to raise any Federal questions in the State proceedings?

Mr. BROOKE. I am sorry; I did not hear the Senator.

Mr. JOHNSTON. Is the Senator saying that the Federal Government, under the intervention or under the appeal, has no right to raise any Federal question; any 14th amendment question, for example?

Mr. BROOKE. All I am saying is that whatever the State law is, that would govern. The State law would govern; that is all we are concerned with here, the State law. We are not concerned with the Federal law at all.

Mr. JOHNSTON. Is the Senator saying that under the right of intervention and under the appeal——

Mr. BROOKE. Right.

Mr. JOHNSTON. There is no right to raise any Federal constitutional question, that only the State law furnishes the basis for the intervention and the appeal?

Mr. BROOKE. All I have stated is that the State law governs the proceedings before the rate commission.

Mr. JOHNSTON. The procedural law?

Mr. BROOKE. Yes.

Mr. JOHNSTON. And the substantive law would be governed by——

Mr. BROOKE. By State law as well. You can raise an issue of the Federal Constitution in the State courts, as my colleague very well knows; but other than that, I am saying that the procedural law would be governed by the States.

Mr. JOHNSTON. I just want to establish that when you say State law governs, you mean State law governs as to how to

perfect your appeal and your delays. But the Federal law governs under this act, and what you have a right to raise in that appeal and what you can end up with is federally inspired common law, as a sleeve over the State regulatory bodies that are governed by this whole body of common law brought about by these appeals.

I might also point out that you do have an appeal to the U.S. Supreme Court from the highest court of the State.

Mr. BROOKE. If you have a constitutional question involved, you can appeal from the State courts.

Mr. JOHNSTON. A constitutional or a Federal question; and a Federal question is presented right under this act itself.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. BUMPERS. Lest this have an appearance of an intraparty concern, let me say to the Senator from New Mexico, the Senator from Louisiana, and my fellow Senators, I would like to point out that the amendment of the Senator from Massachusetts does not go much farther than present law. I doubt whether there are very Members of this body who realize that right now the Admininstrator has a right to participate in any ratemaking case where he is invited by any participant. That could be the utility company, the Attorney General, or anyone who is a bona fide participant who invites him.

I quote the law because I want it to go into the RECORD to slow what the Senator from Massachusetts is proposing.

Under section 204 of Public Law 94–385:

> The Administrator may—
>
> (1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,
>
> (2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commisison which relates to electric utility rates or rate design, intervene and participate in such proceeding, and
>
> (3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under Paragraph (2), intervene and participate in such action.

So the only difference between what the Senator from Massachusetts is offering now and the present law is that the Administrator may on his own initiative intervene, and under present law he simply has to be invited. I would say that one would not have to be very ingenious to get an invitation.

Mr. BROOKE. Mr. President, the Senator is absolutely correct. To me, it appears that what the committee has actually done is try to weaken that part of the present law by now denying the Secretary the right to take an appeal under this new act in cases where she or he has intervened on her or his own initiative.

The Senator is absolutely correct. Under the present law, the Secretary has that right if invited. What we are proposing here is that he can intervene on his own motion, and, this is the point that this Senator wanted to correct, that only if he or she is a party to the original proceeding can there be an appeal. Certainly if there is an intervention, he or she would have the right to go all the way with an appeal as can every other party to the case. So I think the Senator is absolutely correct; we are not really very far from existing law. But the committee, by its action, may raise questions.

Mr. JOHNSTON. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. I do not have the floor, Mr. President. The Senator from Massachusetts yielded to me.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, we were aware of those provisions. I quoted those earlier in the debate, and stated that we had no intent to vary them, and pointed out those provisions as a reason for defeating the amendment and not as a reason to pass it, which I think it is.

Mr. President, I think the case has been made against the amendment, and I think that to the extent a case can be made for the amendment, it has been made, and we are ready to yield back the remainder of our time.

Mr. BROOKE. Mr. President, the Senate has previously passed favorably on the question of the Secretary's right to intervene and appeal on his own motion. We passed it and, as I understand, it was dropped as a result of a compromise in conference with the House of Representatives. This is nothing new nor revolutionary; it is a question on which the Senate has already acted last year. I am prepared to yield back the remainder of my time, and I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I shall move that the amendment be laid on the table, and ask for the yeas and nays on that, and if we do not prevail, I am prepared to abide by the result of a voice vote on the amendment.

Mr. BROOKE. I beg the Senator's pardon?

Mr. JOHNSTON. I say I plan to move to table, which we can get the yeas and nays on, and I would plan to abide by the results, after that, of a voice vote.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. I move that the amendment be laid on the table.

Mr. BROOKE. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts (Mr. BROOKE). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—59

Allen	Goldwater	Metcalf
Baker	Gravel	Morgan
Bartlett	Hansen	Muskie
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Burdick	Hatch	Proxmire
Byrd, Harry F., Jr.	Hatfield	Randolph
	Hathaway	Roth
Cannon	Hayakawa	Schmitt
Chiles	Helms	Schweiker
Church	Hollings	Scott
Curtis	Huddleston	Sparkman
Danforth	Johnston	Stennis
Dole	Laxalt	Stone
Domenici	Leahy	Talmadge
Durkin	Long	Thurmond
Eagleton	Lugar	Tower
Eastland	Matsunaga	Wallop
Ford	McClure	Young
Garn	Melcher	Zorinsky

NAYS—37

Anderson	Griffin	Pearson
Bayh	Heinz	Pell
Biden	Inouye	Percy
Brooke	Jackson	Ribicoff
Bumpers	Javits	Sarbanes
Byrd, Robert C.	Kennedy	Sasser
Case	Magnuson	Stafford
Chafee	Mathias	Stevens
Clark	McGovern	Stevenson
Cranston	McIntyre	Weicker
Culver	Metzenbaum	Williams
DeConcini	Moynihan	
Glenn	Nelson	

NOT VOTING—4

Abourezk	McClellan	Riegle
Humphrey		

So the motion to lay on the table amendment No. 1400 was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Who seeks recognition?

Mr. JOHNSTON. Mr. President, are there further amendments to be offered?

The PRESIDING OFFICER. If there are no further amendments, third reading.

Mr. BUMPERS. Mr. President, have all amendments now been offered?

Mr. JOHNSTON. I think Senator GLENN has an amendment.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will please take their seats. Staff members will please take their seats in the rear of the Chamber.

Does the Senator from Louisiana desire to be recognized?

Mr. JOHNSTON. No.

Mr. MELCHER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Will the Senator furnish the Chair with the number of the amendment?

Mr. MELCHER. The one I just handed in at the desk.

The PRESIDING OFFICER. Is it an unprinted amendment or is it printed?

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, will the Senator withhold that?

Mr. MELCHER. I withhold.

Mr. McINTYRE. Mr. President, I ask unanimous consent that William Donovan, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, yesterday the Senate adopted unprinted amendment No. 870 to S. 2114, sponsored by the distinguished Senator from New Hampshire, Mr. DURKIN. This amendment called for the Chairman of the Federal Energy Regulatory Commission "to conduct a study of the legal requirements and administrative procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act." Among other things, this study would involve an investigation into the so-called pancaking of wholesale rate increases; that is, the imposition of second and subsequent rate increases before the Federal Power Commission has passed on the first such request for an increase.

I fully supported this amendment. Indeed, there is much merit in the much stronger provisions contained in the House bill, which I shall discuss shortly.

In the past several years, because of inflation and rapidly rising fuel costs, wholesale suppliers have been requesting higher rates with increasing frequency. The Commission has not acted upon these rate applications in an expeditious manner and regulatory lags of 3 and 4 years have not been uncommon, giving rise to numerous problems. For example, funds collected by wholesale suppliers subject to refund cannot serve as the basis for equity or debt financing and in some cases must be excluded for purposes of meeting the interest and preferred stock coverage tests necessary to further debt and preferred stock financing. Wholesale purchasers, on the other hand, by paying increased rates before they have been found to be "just and reasonable" become the involuntary creditors of their suppliers, and are deprived of capital which they could use for other purposes. The purchaser must also attempt to establish new retail rates based on the inherently uncertain wholesale rate schedule. Once the case is resolved and the refund is made, they must attempt to distribute the refund in an equitable manner.

The most recent FPC data indicates that at least 14 wholesale suppliers have two or more applications pending at the same time, affecting approximately 371 wholesale purchasers. The regulatory lag and resulting pancaking of rates frequently gives rise to a price squeeze whereby the wholesale rate being paid is in fact higher than the supplier's retail rate for comparable service, a situation which is inequitable and which can have an anticompetitive effect.

In North Carolina, for instance, there are currently three "pancakes" on the plate. On January 2, 1975, Carolina Power & Light requested a 97-percent wholesale rate increase. On May 1, 1976, an additional 34 percent was requested on top of the requested 97 percent. In December of this year, another 7.5 percent increase request is contemplated. This represents a total of 184 percent increase from the pre-1975 rate. Yet the Commission has issued no final order on any of these increase requests.

There is little disagreement in the electric utility industry that the regulatory lag, payments subject to refund, and pancaking, works to the detriment of all parties—purchasers and sellers alike. This is a very real problem. Often, when the FPC finally renders its decisions, a great portion of the requested increase is denied. Mr. President, I ask unanimous consent that a sample list of requested rate increases, showing, in many cases, great differences in the amount requested and the amount granted, be printed at this point in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

Comparison of settlement increases approved by the Commission and requested increase

[In thousands]

Docket No.	Increase requested	Increase approved by Commission
E-7705	$1,140	$742
E-7711	879	879
E-7726	1,100	1,100
E-7742	1,700	1,400
E-7769	1,700	1,500
E-7803	1,715	1,030
E-7929	509	140
E-8052	934	934
E-8159	479	230
ER76-110	8,200	6,850
E-8424	1,200	1,200
E-8815	293	200
E-8823	1,833	1,664
E-8882	943	943
E-8927	975	975
E-8949, E-8445	487	410
E-8997	195	154
E-8999, E-9000, E-9001	528	406
E-9091	31,200	31,200
E-9521	325,000	325,000
E-9140, E-9136	25,200	13,000
E-9145	271	230
E-9147	20,600	13,000
E-9148	2,219	1,794
E-9155	994	994
E-9198	5,000	4,000
E-9200	287	200
E-9216	1,756	1,450
E-9294	7,700	4,400
E-9388	5,658	3,496
E-9407	826	736
E-9446	955	783
E-9496	14,700	10,000
ER76-45	5,000	4,000
ER76-46	8,200	6,900
ER76-150	1,186	540
ER76-157	200	158
ER76-206	1,400	1,100
ER76-209	4,500	2,900
ER76-211	7,200	4,269
ER76-221, ER76-788	1,800	1,300
ER76-301	9,500	5,200
ER76-308, ER76-386	328	328
ER76-331	4,100	1,500
ER76-505	4,400	3,900
ER76-818	1,450	1,250
ER76-496	175	101

Mr. HELMS. The challenge, then, is to devise a system which is equitable for all parties without giving advantage to either, while providing an incentive to all parties to seek as rapid a resolution of the case as possible. Section 543 of H.R. 8444, passed by the House on August 5, 1977, contains such a solution.

Section 543 would prevent rates from going into effect until the Commission had rendered a final order—thus eliminating the rebate problem—but would require a final order within 12 months from the time the application was accepted—thereby preventing regulatory lag. Specifically, the section provides that the applicant provide 30-days advance notice to the Commission and its wholesale purchasers of its intent to file for a rate increase. Once filed, the Commission would be required to hold an evidentiary hearing and reach a conclusion within 10 months. If the Commission has not acted within that time, then the Chairman of the Commission would be required to conclude the evidentiary hearing, if necessary, and issue a final order within 2 months.

It may be true, as some argue, that the House solution is too simplistic and a 12-month cutoff too arbitrary. My experience with the bureaucracy, however,

has taught me that in their view any deadline is arbitrary and without a deadline nothing ever gets resolved. In any case, perhaps prudence does indictate that studies be first conducted, and that is the rationale of the Durkin amendment. But the call for a study should not indefinitely postpone decisive action on a problem which demands a quick solution. I am hopeful that the Senate-House conferees, if they do not adopt some variation of the House language, will at least reach some understanding in regard to an expeditious solution.

AMENDMENT NO. 1395

Mr. GRIFFIN. Mr. President, on behalf of the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. HAYAKAWA), and myself, I ask that amendment No. 1395 be called up and made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN), for himself, Mr. WILLIAMS, Mr. MOYNIHAN, Mr. JAVITS, Mr. BROOKE, Mr. BIDEN, and Mr. HAYAKAWA, proposes an amendment numbered 1395.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 16. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however,* That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The PRESIDING OFFICER. Is this the amendment which has a time limitation of 1½ hours?

Mr. GRIFFIN. I am advised it is 1 hour. Either will be sufficient.

The PRESIDING OFFICER. There is a special order for the Senator from Michigan to have one amendment with a 1½-hour limitation.

Mr. GRIFFIN. Either will be fine, Mr. President.

The PRESIDING OFFICER. The Senator has 1½ hours under the unanimous-consent agreement.

Mr. GRIFFIN. Mr. President, this amendment was offered during consideration of the National Energy Conservation Policy bill. At that time, the floor managers of the bill were ready and willing to accept it. Senator METZENBAUM, of Ohio, raised some questions, and because of those questions we agreed to offer the amendment again during the consideration of another energy bill. This amendment and this procedure conforms with an understanding reached with the distinguished Senator from Louisana (Mr. JOHNSTON) and also the Senator from Ohio (Mr. METZENBAUM).

Furthermore, there have been modifications in the amendment which are intended to respond to some of Senator METZENBAUM's concerns.

The amendment is intended to provide an extra incentive, in addition to those in the energy conservation bill, to conserve natural gas by assuring that a local gas distribution company will be able to keep for use in its service area the gas which results from conservation efforts within that area.

The precise use of that gas would remain subject to the authority of State public service commissions. The end use of any gas resulting from conservation efforts would continue to be regulated by State public service commissions. State and local authorities are uniquely equipped to do this. They are the only regulatory bodies fully acquainted with local supply and demand conditions, the utilities' load profiles, and the local impacts of energy distribution.

Without a provision such as this, local natural gas distribution companies and their customers who conserve natural gas would be adversely affected in two significant ways. First, and most obviously, those conserving distribution systems could very well lose the gas resulting from their own efforts to other distribution systems in other parts of the country served by the same pipeline and which have not promoted and cooperated in the program to conserve gas.

Second, if conserved volumes of gas are taken from the conserving distribution system, the price of the remaining gas to that system's customers will rise because fewer volumes would be available to cover the cost of utility service.

Accordingly Mr. President, without an amendment such as this, conserving systems would essentially be penalized by higher consumer costs and by the loss of gas to systems which do not cooperate in the effort to conserve gas.

Now, emergency supply problems are, of course, another matter and would remain subject to emergency supply provisions such as those in the Emergency Natural Gas Act of 1977.

This amendment would not affect emergency situations. Accordingly the utility's right to retain access to any gas volume saved would be subordinated in a time of severe emergency where human needs and utility service are seriously threatened.

So, Mr. President, I would hope that considering the time we have had to reflect on this, the cosponsorship we have for this amendment, and the earlier acceptance by the managers of the bill, that the Senate will adopt this amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that two staff members, Mr. Nedelman and Mr. Holtz, be granted the privileges of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment has been shown to several staff attorneys from the FPC, which has responsibility for administering the program, and the Bureau of Natural Gas of the FPC urges us to oppose this amendment in toto.

However, on the chance that we would not be constrained to oppose it, I understand that the FPC has gotten together with groups that support the amendment and come up with a substitute amendment which embodies virtually the identical language with some changes.

For example, "to the extent practical" is put in, which, while they do not like it even as redrafted, they like it more than they do the original version.

So we would feel constrained to accept the substitute, if the Senator would so offer it. We will accept the substitute.

Mr. GRIFFIN. I would respond by saying that it is a sad day when we let the Federal Power Commission write our legislation around here.

The very reason we are offering this amendment is to make sure the Federal Power Commission does not penalize the local gas distributing companies and their customers that cooperate and engage in the very conservation practices that we are encouraging them to undertake.

The FPC version, as I understand it, would just throw it right back to the Federal Power Commission and give them so much flexibility that they could continue to do just exactly what we are concerned about.

So I would urge the manager of the bill not to be hoodwinked by the Federal Power Commission and I urge that we adopt this amendment.

Mr. JOHNSTON. I can give the Senator all the arguments of the Federal Power Commission for opposing the whole amendment.

I believe the American Gas Association and the FPC attorneys have both gotten together and worked out the substitute amendment. I think it gives the Senator about 95 percent of the loaf. I would urge him to accept it.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, in its present form, we would have to oppose the amendment. Reluctantly—I am sorry the Senator would not go along with a substitute—we would oppose it in its present form.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "yea."

The result was announced—yeas 73, nays 19, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—73

Allen	Eagleton	Nunn
Anderson	Ford	Pearson
Baker	Garn	Pell
Bartlett	Goldwater	Percy
Bayh	Griffin	Proxmire
Bellmon	Hansen	Ribicoff
Biden	Hart	Riegle
Brooke	Hatch	Roth
Bumpers	Hatfield	Sarbanes
Burdick	Hathaway	Schmitt
Byrd, Robert C.	Hayakawa	Schweiker
Cannon	Heinz	Scott
Case	Helms	Sparkman
Chafee	Hollings	Stafford
Chiles	Javits	Stennis
Church	Leahy	Stevens
Clark	Lugar	Stone
Cranston	Magnuson	Talmadge
Culver	Mathias	Thurmond
Curtis	McClure	Tower
Danforth	McGovern	Weicker
DeConcini	Melcher	Williams
Dole	Morgan	Young
Domenici	Moynihan	
Durkin	Nelson	

NAYS—19

Bentsen	Huddleston	Metzenbaum
Byrd, Harry F., Jr.	Jackson	Muskie
	Johnston	Randolph
Eastland	Kennedy	Sasser
Glenn	Long	Stevenson
Gravel	Matsunaga	Zorinsky
Haskell	McIntyre	

NOT VOTING—8

Abourezk	Laxalt	Packwood
Humphrey	McClellan	Wallop
Inouye	Metcalf	

So amendment No. 1395 was agreed to.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 881

Mr. GLENN. Mr. President, I have an unprinted amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GRAVEL). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 881.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, after line 11, add a new section to read as follows:

"EMERGENCY CONVERSIONS OF UTILITIES AND OTHER FACILITIES

"SEC. 16. (a) During a natural gas emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —), the Secretary may, by order, prohibit any electric utility powerplant or major fuel-burning installation from burning natural gas if the Secretary determines that:

"(1) such electric utility powerplant or installation had on September 1, 1977 (or at anytime thereafter) the capability to burn petroleum products without damage to its facilities or equipment and without interference with its production processes;

"(2) an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792(a)) has not been issued with respect to such electric utility powerplant or installation;

"(3) significant quantities of natural gas otherwise burned by such electric utility powerplant or installation are expected to be saved prior to the termination of the emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —); and

"(4) petroleum products will be available during the period the order is in effect.

"(b) The Secretary may specify in any order issued under this section the periods of time during which such order will be in effect and the quantity (or rate of use) of natural gas that may be burned by an electric utility powerplant or major fuel-burning installation during such period, including the burning of natural gas by an electric utility powerplant to meet peak load requirements. No such order may continue in effect after the President terminates the emergency declared under section 3 of the Emergency Natural Gas Act of 1977 (15 U.S.C. —).

"(c) The Secretary shall exempt from any order issued pursuant to this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility.

"(d) The Secretary shall modify or suspend any order issued pursuant to this section to the extent necessary to alleviate short-term air quality emergencies or other danger to the public health, or welfare.

"(e) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued under this section.

"(f) For purposes of this section, the term 'electric utility powerplant' means a fossil-fuel-fired electric generating unit, including a gas turbine unit or a combined cycle unit, that produces electric power for the purposes of sale or exchange.

"(g) For purposes of this section, the term 'major fuel-burning installation' means a unit other than an electric utility powerplant consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(A) has a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination of two or more such units (excluding, if determined appropriate by the Administrator, any such unit having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming such fuel at a fuel heat input rate of 250 million Btu's per hour or greater."

The PRESIDING OFFICER. The Chair asks the Senator from Ohio if this is the amendment on which he has a time limitation of 1½ hours?

Mr. GLENN. That is correct.

Mr. President, I do not anticipate I will use more than a few minutes of that time. I believe we have it worked out so that this can be accepted by the floor managers of the bill.

Basically, under present Department of Energy authority, mandatory conversions from natural gas to coal can be ordered where coal-burning equipment is available and other specified conditions are met. DOE, however, does not presently have authority to mandate such conversions from gas to oil even in an emergency situation and even where tanks, burners, and equipment are in place available for use and where oil is available to replace critically needed gas. My amendment would provide that authority.

This amendment was earlier offered to S. 977, the coal conversion bill, but was defeated. The only argument which was raised against the amendment at that time was that it would be more suitable as an amendment to the natural gas legislation then about to be reported to the floor. In fact, the floor manager of S. 977, Senator HASKELL, while opposing the proposal as an amendment to the coal conversion bill, did agree to support it as an amendment to the gas legislation. Of course, because of the parliamentary situation on the natural gas bill, it was not possible to offer the amendment at that time.

The administration strongly supports this amendment. The Department of Energy believes it is a valuable addition in the implementation of its winter emergency plans. The proposal was strongly endorsed by the Ford administration in 1975 and was, in fact, passed by the Senate as part of the natural gas legislation which was considered that year. That legislation, however, died in the House of Representatives, and the amendment was, therefore, not enacted.

We have gone through the details of this with the floor managers of the bill, and I believe it is acceptable. I am glad to respond to whatever comments the floor managers might make and hope we can get this amendment agreed to in a few minutes.

Mr. JOHNSTON. Mr. President, this is sort of a sister amendment to that amendment adopted earlier today relating to switching from natural gas to heavy fuel oil. Earlier today we agreed to an amendment which had, in turn, been

adopted as part of the natural gas bill earlier which provided that an industrial plant which had a supply of natural gas but which also had the capability of burning fuel could sell that natural gas at the replacement cost of the fuel oil and thereby voluntarily switch to fuel oil.

What this amendment does is provide that in times of emergency when they do not do it voluntarily they can be required to do so, and in times of emergency we think that should be done.

Mr. President, to conform this amendment to the amendment of earlier today and to be sure that those who are required to switch get the full replacement costs of the fuel oil which they are required to burn, I ask unanimous consent that at this time it be in order to send up an amendment to the Glenn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 882

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 882 to amendment No. 881. At the end of the amendment add a new section to read as follows:

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add a new section to read as follows:

"(h) The Commission shall, not later than ninety (90) days after the date of enactment of this Act promulgate regulations which shall provide for just compensation to all parties involved in the sale and transportation of natural gas made available as a result of any order issued under this section. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to,

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however,* That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles made in connection with conversion from natural gas to heavy petroleum fuel oil capability, provided further that, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service."

Mr. JOHNSTON. As I understand it, Mr. President, what the amendment does is give to the owner of that gas the full replacement cost of his heavy fuel oil which he would burn in lieu of natural gas, and it conforms it to the amendment adopted earlier today.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. RANDOLPH. I want to hear again the reference to coal.

Mr. GLENN. Mr. President, I will be glad to reply to the distinguished Senator from West Virginia. Under existing Department of Energy authority, the Secretary may order facilities capable of burning coal, but burning alternate fuels, to convert to coal in order to free up natural gas for more critically needed purposes.

This amendment would, pursuant to a Presidential declaration of natural gas emergency, provide the Secretary with similar authority to require conversion of facilities from gas to oil as he has with respect to conversions from gas to coal. In such natural gas emergency situations where the burners are in place, where tanks, perhaps, are in place, and a fuel truck is outside ready to deliver, the department could mandate that that change would be made. The Department of Energy does not have that gas-to-oil conversion authority at the present time.

What the amendment of the Senator from Louisiana would do is conform it to his earlier amendment that passed today. It insures that those who are required to convert their facilities from gas to oil during a natural gas emergency are sufficiently compensated for the natural gas freed up so as to offset the higher cost of heavy petroleum fuel oil substituted for the gas.

Mr. JOHNSTON. Mr. President, if the Senator will yield, this amendment has nothing to do with coal.

Mr. RANDOLPH. I know, but the Senator talks about coal when he discusses his amendment.

Last winter in Ohio you had periods of time—perhaps several weeks—when, had this provision which the Senator proposes been in effect, your State would have been helped; is that correct?

Mr. GLENN. That is correct; it could have helped us last winter at a time when we had gas-related unemployment in the United States of 1.4 million. There was one period of several weeks in Ohio when we had a half million of that number just in our State. This conversion authority would have been of substantial help at that time.

Mr. RANDOLPH. For that reason, Mr. President, I want to endorse the approach of the amendment. I think it is reasonable and valid, and gives us the necessary flexibility at a time when we have severe weather, such as you had last winter in Ohio.

Mr. GLENN. I appreciate that.

Mr. RANDOLPH. You have participated in helping Ohio and perhaps other States this winter, when we could not have done it last winter.

Mr. GLENN. Yes. It would also, I might say, affect the State of West Virginia.

Mr. RANDOLPH. I realize that. Our need is reflected in the fact that during 4 months last winter curtailments of natural gas totaled nearly 12 million cubic feet. This was 20 percent of the need of our glass, steel, and other industries. I ask to be a cosponsor.

Mr. GLENN. Mr. President, the Senator from West Virginia (Mr. RANDOLPH) has asked to be a cosponsor, and I am happy to add his name to the roll of cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I am happy to yield back the remainder of my time if there is no further discussion on each of these amendments.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Have we voted yet on the amendment of the Senator from Louisiana?

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the amendment to the amendment offered by the Senator from Louisiana.

Mr. JOHNSTON. I yield back the remainder of my time on that amendment.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Ohio.

Mr. DOMENICI. Mr. President, let me state for the minority, the amendment having been amended by the Johnston amendment, we have no objection to the amendment of the Senator from Ohio. In fact, we think it is an excellent amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio, as amended.

The amendment was agreed to.

UP AMENDMENT NO. 883

Mr. ALLEN. Mr. President, I have an amendment at the desk which I call up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following at the end of the bill:

SEC. 2. Section 2 of the Act entitled "An Act to provide for the disposition, control, and

use of surplus real property acquired by Federal agencies, and for other purposes" (49 Stat. 886) is amended—

(1) by inserting "(a)" immediately after "SEC. 3."; and

(2) by adding at the end of such section the following new subsection:

"(b)(1) The Administrator of General Services is authorized, notwithstanding any other provision of law, or any opinion of the Comptroller General of the United States, or any opinion of the Attorney General of the United States to the contrary, to renegotiate the provisions of any contract to which the Administrator or the United States is a party, and with respect to which the Administrator exercises any function as agent for the United States, for the lease of real property for the benefit of the United States in order to pay adequate compensation to the lessor of such property for increased costs in connection with the operation or use of such property arising out of increased utility costs, including, but not limited to, natural gas, electricity, or other fuels.

"(2) The Administrator may require payment for such increased costs in accordance with the provisions of subsection (a) of this section.

"(3) Paragraph (2) of this subsection shall be applicable to any lease agreement in effect on or after January 1, 1973.".

Mr. ALLEN. Mr. President, this is a minor amendment. It does not require that anybody do anything. It is permissive in nature.

What it provides is that the GSA shall have the right to renegotiate leases in hardship cases, where the amount of the lease does not cover the cost of the services required of the lessor under the lease.

I have particular reference to a situation in Alabama where a constituent leased a building to GSA for the Soil Conservation Service, and the lease provided that the lessor would furnish the utilities, including the gas and electricity. It was an unwise provision, but nevertheless it was made.

I have a letter here from my distinguished colleague over in the House of Representatives, Mr. BILL NICHOLAS, pointing out that this man, who is also his constituent, is losing $1,500 a month as a result of the high rise in utility rates, and all this amendment would do would be to make it permissive that the GSA may, if it sees fit, renegotiate the lease in this hardship case.

It is of general application, not just applicable to this particular matter.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ALLEN. I am happy to yield.

Mr. JOHNSTON. As I understand it, the only ground on which the GSA can renegotiate a lease would be because of the increased cost of fuel?

Mr. ALLEN. Of utilities, yes.

Mr. JOHNSTON. I mean of utilities.

Mr. ALLEN. Yes, that is right.

Mr. JOHNSTON. He could not renegotiate other parts of the lease?

Mr. ALLEN. Taxes, upkeep, and maintenance are not covered, as the amendment provides. It is based on utility costs.

Mr. JOHNSTON. Mr. President, this is a nongermane amendment, but it appears to be simple and equitable, and this may be "the last strains of Georgia" this year, so we feel inclined to accept it.

Mr. ALLEN. I appreciate that.

Mr. DOMENICI. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. Yes.

Mr. DOMENICI. As I understand it, in addition to the limitation expressed by the Senator from Louisiana, this is totally permissive?

Mr. ALLEN. Entirely permissive.

Mr. DOMENICI. It is not directive to anyone to do anything, but simply says if they find it equitable, this is their authority to do it?

Mr. ALLEN. That is exactly right.

Mr. DOMENICI. For the minority, Mr. President, we will not object to taking it to conference. During the intervening time, there will be an opportunity to explore it with the conferees, to see if this is the appropriate vehicle. Certainly the justifications are there; the Senator from Alabama has made a real showing. This is a real problem for the constituent, and for the minority we accept it.

Mr. ALLEN. I thank the Senator from New Mexico and floor manager.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I ask unanimous consent that certain documentation in support of the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL PROPERTY LESSOR ASSISTANCE ACT

The Arab oil embargo of 1973 triggered the national energy crisis for which we are now still seeking a solution. Certainly, all in this chamber are hopeful that the national energy program to be announced by the President will provide a basis for resolution of the crisis. But, Mr. President, many thousands of additional problems have arisen as an indirect result of the energy crisis in areas not specifically associated with energy production and distribution.

So, Mr. President, I am hopeful that the President's program will provide a framework in which we can seek remedies for the dilemma we now face. But, Mr. President, there is one problem which I do not believe the President intends to address and which ought not to wait any longer for Congressional attention. Although thousands of individuals are not involved, the injustice suffered by those few who are involved is so great that I believe Congress should act to provide specific relief.

Mr. President, the General Services Administration has taken the position that it is prohibited by an opinion of the Comptroller General, 26 Comp. Gen. 365, from renegotiating the provisions of a fixed-term office space lease notwithstanding the fact that the lease terms are ruinous to the lessor as a clear result of the unforeseeable utility rate increases which have occurred since the Arab oil embargo. As I am sure most Senators recognize, leases now negotiated with the General Services Administration ordinarily contain an escalation clause to protect the lessor from the erratic and skyrocketing costs of utilities. Unfortunately, prior to the oil embargo many leases were negotiated without a provision permitting such escalation. As a result, the unforeseeable action of these foreign states has brought many of those involved to the brink of bankruptcy.

I am convinced the General Services Administration has misapplied existing statute and case law in refusing to consider a renegotiation of office space leases in order to take account of these radically changed circumstances; however, inasmuch as the General Services Administration has taken that somewhat obdurate position, I believe Congress ought to clarify the matter and ought to give to the Administrator clear-cut authority to take the action he now asserts he is not authorized to take.

Accordingly, I am today introducing a bill which, if enacted, ought to make crystal clear the Administrator's authority to renegotiate federal property leases in order that the changed circumstances which have occurred in the past years and months could be taken into account. The bill would thereby help to correct a major injustice by taking from the shoulders of a few individual citizens the concentrated and heavy burden of massive utility cost increases which in the last analysis were caused primarily by an unforeseeable foreign response to the international policies of the same federal government on whose behalf the Administrator now refuses to act.

JULY 27, 1977.

Hon. JAMES R. SASSER,
Chairman, Subcommittee on Civil Service and General Services, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN SASSER: On April 7, 1977, I introduced S. 1273, the Federal Property Lessor Assistance Act. The bill is designed to aid lessors of federal property who are suffering tremendous financial losses as a result of unforeseeable recent increases in utility rates. The bill was referred to the Committee on Governmental Affairs and thereafter to your Subcommittee on Civil Service and General Services. As you may know, many lessors of buildings to the federal government throughout the country in the early 1970's negotiated fixed-term office space leases covering a period of years without provision for renegotiation. In many instances these lease terms have become ruinous to the lessor as a direct result of the massive unforeseeable utility rate increases which have occurred since the Arab oil embargo. Of course, since that event, leases now negotiated with the General Services Administration ordinarily contain an escalation clause to protect the lessor from the erratic and skyrocketing costs of utilities.

Although I personally am of the opinion that the General Services Administration already has authority to renegotiate leases of the type described above, the terms of which now border on being unconscionable, the GSA has taken the somewhat obdurate position that it is prohibited by an obscure opinion of the Comptroller General (26 Comp. Gen. 365) from conducting such renegotiations. Therefore, legislation is apparently necessary to convince the GSA that the Administration is authorized to relieve lessors of the onerous burden now placed on them as a result primarily of the action of foreign states in denying oil and other energy products to the United States. I might add parenthetically that many of the lessors involved will face bankruptcy if they are held to the terms of existing leases through the coming winter season.

Although the number of lessors involved is not great, the injustice down to them is of considerable magnitude, and I therefore do respectfully request that you hold hearings on S. 1273 at the earliest practical date following the end of the August recess of the Senate.

With kindest personal regards, I am

Very truly yours,

JAMES B. ALLEN.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 16, 1977.

Mr. TOM COKER,
Administrative Assistant to Hon. JAMES B. ALLEN, *State Capitol, Montgomery, Ala.*

DEAR TOM: During my day's visit in my Opelika office last week I had a visit from our mutual friend, Monk Wright, relative to the possibility of changing his contract with GSA for the rent on his building which houses the Soil Conservation Service. Monk tells me that he has spoken with you about this and that he is losing approximately $1,500 per month due to the increase in utilities and other items which go into the maintenance and upkeep of the building.

I have a similar situation with GSA on the Sylacauga Post Office which is owned by the City of Sylacauga and I was unable to effect any reconsideration on the part of GSA.

If you know of any way that we could prevail on GSA to provide some relief to our friend Monk during the remaining 55 months please advise.

With best wishes,
Sincerely,

BILL NICHOLS, M.C.

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, without objection, the amendment is agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 884

Mr. BENTSEN. Mr. President, I have an amendment at the desk which I ask be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 884: On page 17, after line 11, insert the following new section 16 as follows:

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17 after line 11, insert the following new section 16 as follows:

"HEARING REQUIREMENT

"SEC. 16. Rate schedules prepared under authority of section 5 of the Flood Control Act of 1944, 58 Stat. 890, as amended, shall be confirmed and approved by the Federal Energy Regulatory Commission on the record after opportunity for an agency hearing.".

Mr. BENTSEN. Mr. President, under the Flood Control Act of 1944 as amended, the Secretary of the Interior is authorized to sell surplus power and energy generated by Federal dams. However, in carrying out this act the FPC and the Department of the Interior have failed to grant adversary hearings. It has resulted in a number of lawsuits, all of which are still pending. These suits, which have proven very costly to both the Federal Government and the customers, challenge rates approved by the Federal Power Commission. Most of these suits could have been avoided by having adversary hearings on the record. That is what I am trying to do by this amendment.

Mr. JOHNSTON. I wonder if the Senator would agree, if we could have hearings on this question early next year?

Mr. BENTSEN. Let me say what I would really like to have: An assurance from this committee that it will push the appropriate agency to provide for an adversary hearing on the record. I understand we are in a transitional period with the reorganization of the energy agencies, and I do not want to see this work duplicated. But once that is accomplished and the consolidation brought about, all I am seeking is an assurance that there will be such hearings at the appropriate time and at the appropriate level.

Mr. JOHNSTON. In the Federal regulatory agency?

Mr. BENTSEN. Yes, in the process of setting the rate, that adversary hearings be held and that the matter be of record. That is all I am asking, and that the committee push for that.

Mr. JOHNSTON. I think the Senator's request is entirely reasonable. I can assure the Senator that we on the committee will use our influence to see that these hearings are held. I think they ought to be held.

Mr. BENTSEN. With that understanding, Mr. President, I withdraw the amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 885

Mr. MELCHER. Mr. President, I call up an amendment that is at the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 885.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE II

DEFINITIONS

SEC. 104. As used in this title.

(a) The term "Secretary" means the Secretary of the Department of the Interior.

(b) The term "Northern Tier States" means Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(c) The term "Inland States" means those States other than a Northern Tier State and other than California in the continental United States.

(d) The term "crude-oil transportation system" means a crude oil pipeline within and subject to the jurisdiction of the United States, and including, but not limited to, the port, terminal, tank farm, pumping stations, off-take points, and other related facilities, associated with moving volumes of Alaskan crude oil by pipeline to Northern Tier or inland States.

(e) The term "Northern Tier project" means that proposed crude oil transportation system referred to in section 102(f)(i) of this Act and generally described in an "Application for Right-of-Way Across Federal Lands" filed by the Northern Tier Pipeline Company with the Department of the Interior, Bureau of Land Management, on April 18, 1977.

(f) The term "Long Beach-Midland project" means that crude oil transportation system referred to in section 102(f)(ii) of this Act and which was the subject of and generally described in the "Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior at 42 Federal Register 28008, June 1, 1977.

(g) The term "applicant" means the person or entity who has applied for some or all of the Federal, State, or local permits, rights-of-way, or other authorizations necessary for or related to the construction, operation, and maintenance of one of the crude oil transportation systems referred to in subsections (e) and (f) of this section.

EXPEDITED DECISIONMAKING ON CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 105. (a) Upon any applicant's written request that is filed with the Secretary within fifteen days of the date of enactment of this Act, the Secretary shall review the status of that applicant's rights-of-way, permits, leases, and other authorizations necessary for construction, operation, and maintenance of a crude oil transportation system from the west coast to any of the Northern Tier States or inland States. The Secretary shall establish a schedule for the preparation, in consultation with the Environmental Protection Agency, by January 15, 1978 of any draft environmental impact statements and by March 1, 1978 of any final environmental impact statements which may be required, if not already completed.

(b)(1) Following the Secretary's review of applications and the completion of any required environmental impact statement, the Secretary, after consultation with, and approval of, federal agencies that under federal law must authorize, issue, or enforce permits or authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system, shall determine no later than April 1, 1978 with respect to the Northern Tier project and no later than November 15, 1977 with respect to the Long Beach-Midland project whether the crude oil transportation system proposed by the applicant shall be approved under this Act.

(2) The Secretary shall make his decision for each project subject to this Act upon its own individual merits. The Long Beach-Midland project and the Northern Tier project are not and shall not be considered as mutually exclusive crude oil transportation systems.

SEC. 106. The Congress hereby authorizes and directs the Secretary of the Interior and other Federal officers and agencies to issue, no later than thirty days from the date of the Secretary's decision to approve, and take all necessary actions to administer and enforce rights-of-way across Federal lands, Federal permits, Federal leases, and other Federal authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system approved by the Secretary pursuant to this Act.

SEC. 107. Actions seeking judicial review of the approval of the Secretary or the actions of the Federal officers under Sections 105 and 106 concerning the issuance of the

necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of any crude oil transportation system approved by the Secretary may only be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or the District of Columbia, shall have jurisdiction of any claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceedings shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

ANTITRUST LAWS

SEC. 108. Nothing in this title, and no action taken hereunder shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

SEPARABILITY

SEC. 109. If any provision of this title, or the application thereof, is held invalid, the remainder of this title shall not be affected thereby.

The PRESIDING OFFICER. The Chair asks if it is understood that this is the amendment on which there is an hour and a half limitation?

Mr. MELCHER. That is correct, Mr. President.

Mr. President, more than 30—almost 40—of us have cosponsored a bill which is, in effect, the amendment I am offering at this point. I shall read through the cosponsors alphabetically: ABOUREZK, BARTLETT, BAYH, BELLMON, BENTSEN, BURDICK, CANNON, CHURCH, CURTIS, DECONCINI, DOMENICI, EAGLETON, FORD, GARN, GRAVEL, HANSEN, HASKELL, HATCH, HAYAKAWA, HUMPHREY, JOHNSTON, LAXALT, LUGAR, MCCLURE, MCGOVERN, myself, METCALF, PEARSON, RIEGLE, SCHMITT, STEVENS, STEVENSON, TOWER, WALLOP, WEICKER, YOUNG, and ZORINSKY.

There is no money involved in this amendment, Mr. President. It is an amendment that seeks to satisfy the problem we have with a surplus of Alaskan crude now on the west coast. Remember, in the Trans-Alaska Pipeline Act, the line itself was designed to carry 1.6 million barrels of oil daily down to Valdez, to come by tanker from Valdez to the lower 48 States, and to be used within the lower 48 States for our refining needs here. In protection of that, we made it extremely difficult for any sales to foreign governments. If the Alaskan oil were to be sold to Japan, for instance, we would require that the President make a finding that such is in the national interest or that crude oil available from Alaska is surplus to domestic needs. The President has emphatically stated that he will not make a finding that it would be in the national interest to sell Alaskan crude oil to Japan. That, of course, meets with emphatic approval of Congress and the country. We need the oil here in the United States.

We further stated, in the Trans-Alaska Pipeline Act, that the crude oil from there must be equitably distributed within the lower 48 States. We followed that up last year in section 18 of the Alaskan Natural Gas Act, in which the President was directed, within 6 months of enactment of that act, to review the situation for Northern Tier States on oil.

We put a section 18 in that act that dealt with oil supplies for the Northern Tier States, taking note that the oil that had been coming from Canada was being phased out and that refiners in Northern Tier States were running out of crude oil supplies. We told the President to come back within 6 months' time and suggest remedies for that situation. The 6 months ended in April.

The Federal Energy Administration reported that, indeed, there was a problem, that some pipelines would have to be constructed within the United States, particularly in the northern tier area, to correct the lack of supplies for those refiners. Subsequent to that time, we introduced the bill that is represented here by this amendment. We consulted with the administration, with the new Secretary of Energy, even prior to the time that he became Secretary of Energy. We consulted with the Federal Energy Administration; we consulted with the Department of the Interior. At all points, we made clear what we hoped could be done to expedite the construction of pipelines from the west coast to inland States.

We have had one hearing on this bill in the Commerce Committee, almost a month ago. We reviewed then the recommendations of the administration. We heard from refiners that were involved. We heard from the people who would like to construct these pipelines.

At this point, we are offering this as an amendment to this bill because, in the limited time remaining this year, there will be no opportunity for the committees to complete action on the bill and bring it out in the regular fashion.

The reason for bringing it up at this time is that this is the last energy bill that the Energy Committee will bring before the Senate this year. So we are hitching it onto what may be the last horse that is available for consideration of the issue this year. It is necessary to have consideration this year. I will describe briefly the contents of the bill.

This amendment does two things to try to speed resolution of the dual problem of surplus oil on the west coast and the prospect of other parts of the country facing shortages of gasoline, heating oil, and other products or being locked into a foreign supply that is both expensive and subject to being cut by some future embargo.

First, it requires expedited consideration of applications filed by those seeking Federal permits or Federal authorizations they need in order to build pipelines within the United States to bring oil from the west coast into the northern tier and inland States. And second, it provides for expedited court consideration of any legal challenges which may result from the decisions made under the act. I will explain these provisions in greater detail but I first must emphasize that it in no way affects State authority.

Mr. President, I yield to the distinguished chairman of the Energy Committee.

Mr. JACKSON. Mr. President, this bill was referred jointly to the Commerce Committee and the Committee on Energy and Natural Resources. Hearings have been held by the Commerce Committee. Unfortunately, with the heavy legislative schedule we have in the Senate on energy, it has not been possible to pursue the hearings during the last 2 or 3 weeks.

Holding hearings during the next couple of weeks is going to be rather difficult, in light of the conferences we will be scheduling, starting next week, in connection with the various energy bills. This is the fourth one that will be in conference.

I recommend that we take this amendment. I ask this of the Senator from Montana: It is similar, is it not, to the bill he introduced?

Mr. MELCHER. Mr. President, if the Senator will yield, the answer to that is "yes." It is similar in substance and does not vary from the intent of the bill introduced.

Mr. JACKSON. As I understand the amendment, within the time specified, it will be necessary for the Secretary of Energy to report back to Congress with recommendations. Is that not correct?

Mr. MELCHER. No, that is not correct. The Secretary is directed to expedite the procedures of determining whether or not the permits can be granted, and he must consult with and get the approval of other Federal agencies before he can make a decision that the permits should be granted.

Mr. JACKSON. As I understand it, the Senator's bill has been amended so that the Secretary of Energy is to determine, no later than April 1, 1978, with respect to the northern tier project, and no later than November 15, 1977, with respect to the Long Beach Midland project, whether the crude oil transportation proposed by the applicant shall be approved under this act. Is that correct?

Mr. MELCHER. That is correct, except that it is the Secretary of the Interior who shall make the determination.

Mr. JACKSON. On the land permits. These permits relate to the public domain.

Mr. MELCHER. That is correct.

Mr. JACKSON. I ask this of the Senator: What is the administration's position on the bill or the amendment at this time?

Mr. MELCHER. If the Senator will yield, I will read from page 9 of a state-

ment by Douglas G. Robinson, Alaskan Oil Project Coordinator, Department of Energy, in testimony he gave to the House Interior Committee this morning.

Mr. JACKSON. I understood that the FEA Administrator, Mr. O'Leary, in behalf of the administration, opposed the pending bill at the hearing of the Commerce Committee.

Mr. MELCHER. The testimony of Mr. O'Leary, speaking for the administration, at that hearing in mid-September, was to the effect that the administration supported the concept of the bill but would recommend some amendments to the proposal.

I read from Mr. Robinson's statement this morning:

> Coupled with the urgent necessity for a solution to the northern tier supply problem which has led us to support the concept of expediting legislation . . .

Their position at our hearing at the Commerce Committee was that they supported the concept and that they would recommend some amendments. They testified this morning before the House Interior Committee that they still feel that way and they would work up a proposal which they hope to have before that committee before markup, presumably next week.

Mr. JACKSON. I would be willing to take the amendment to conference, if it is revised to provide that, in addition to the two routes that are mandated in the bill, the administration would have the option of selecting another route or, rather, recommending another route. In that way, they will have the flexibility to deal with the overall problem of transportation of petroleum from Aslaska. I think they need that flexibility, and I assume the Senator would accept that.

Mr. MELCHER. I would have to see the specific language. However, I have to be very emphatic about the fact that the proposition we are presenting here, in this amendment, has nothing to do with Canada. If a proposal is made that we should be directing our attention to Canada, I have to state that Kittimat, the only viable Canadian proposal that is acceptable to both Senators from Washington, is not one that is before the Canadian National Energy Board. They have withdrawn their application. There is not consideration within the Canadian Government of the Kittimat proposal because the application has been withdrawn. It is at this time not a viable proposal.

Mr. JACKSON. I am not getting into other routes. I just want to give to the executive branch of the Government sufficient discretion to make a decision not limited to these two alternatives. If there is another pipeline route—I do not know whether there is—they should have the discretion to make that recommendation. What is wrong with that?

Mr. MELCHER. I would only say this: The time for definitive action is upon us now. If we do not have action that expedites the clearance of these Federal permits at this point, a whole year's construction will be lost.

We have waited a long time to get this far. Any further delay in expediting this would only further delay the time when construction would start. Our aim is clear that we want the redtape cut so approval of permits can come quickly and construction start next year.

Mr. JACKSON. What is the Senator's position on that amendment? I will say if he does not want to give the administration that discretion, which I think they have, I will have to move to table the amendment. I just do not think it is fair to try to mandate with incomplete hearings two routes and no others in this proposed amendment.

Mr. MELCHER. Might I ask the chairman if he is aware that that opportunity would be available to them under any circumstances?

Mr. JACKSON. Not under the Senator's amendment. He makes findings here.

Mr. MELCHER. I should advise the Senator that the findings are not part of the amendment.

Mr. JACKSON. I have the amendment right here, unless I have the wrong amendment.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that this amendment be temporarly laid aside to consider a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 886

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 886.
>
> On page 12, line 2: Strike out "A" insert "The Secretary is authorized to provide financial assistance to the".
>
> Line 2: add a comma at the end of the line.
>
> Line 3: strike out "shall be".
>
> Line 4: add a comma after "commissioners".

Mr. JOHNSTON. Mr. President, this amendment is purely technical and nonsubstantive.

Mr. McCLURE. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Will the Senator yield for a unanimous-consent request?

Mr. BAYH. I am glad to.

Mr. HART. Mr. President, I ask unanimous consent that Peter Gold of my staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I shall not take much of the Senate's time.

The PRESIDING OFFICER. Who yields time to the Senator from Indiana?

Mr. BAYH. Will the Senator from Montana yield?

Mr. MELCHER. I will yield such time as he may consume.

Mr. BAYH. I appreciate that.

Mr. President, I shall not take an inordinate amount of the time of my colleagues. But I do want to address myself to the amendment of the Senator from Montana which I have had the good fortune to be able to support in its present form, as an amendment, as well as to cosponsor as an original bill.

We have had a rather extensive debate over the past few years relative to the disposition of natural resources that exist in our largest State—Alaska. They are extremely valuable to the Nation and I think it is in the national interest that they be distributed as equitably and expeditiously and economically as is possible.

Some, of course, were concerned at the time the oil pipeline route was being debated on the floor of the Senate that to proceed with the proposed Alaskan route would lead to a glut of oil on the west coast, thus denying the Midwest and Northeast—the areas with the shortest energy supplies—the areas with the greatest need for energy—any access to the important natural resource which would be shipped through the pipeline.

That battle has been fought, and those of us who were trying to pursue the trans-Canadian alternative which would have brought oil into the heart of the country, so it could be shipped east or west, lost the battle.

I do not intend to refight that battle now, because oil is moving through that pipeline and it is in the national interest to keep it moving. Hopefully we will find new supplies and they, too, will be made available to the entire country.

This summer, I had the opportunity to be on official business in Alaska and discussed Alaskan energy reserves with the distinguished junior Senator from Alaska. He is convinced that, indeed, we have just seen the beginning of the development of Alaskan oil and gas. I am hopeful he is right because it will be helpful to Alaska and helpful to the entire country.

But unfortunately, Mr. President, while the battle over the route of the Alaskan oil pipeline is behind us, the problem of equitable distribution of Alaskan oil has not been resolved. The west coast glut, which was predicted back

in 1973, exists and we have not been able to find a way to efficiently move that large quantity of oil into the heartland of the country.

The proposal of the Senator from Montana, it seems to me, presents a reasonable solution to the distribution problem and should be acted on quickly, as part of our energy package.

I think the proposal of the Senator from Montana, which would facilitate the construction of one or more pipelines to transport this oil east is the best solution I have seen.

We must act quickly to find an alternative to shipping Alaskan oil through the Panama Canal, which adds unnecessarily to consumer costs. We must move quickly to get this sorely needed crude out into the heartland, to the industries, schools, homes, factories, and farms of Middle and Northeast America which desperately need it.

I urge the Senate to adopt this amendment.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JACKSON. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

Mr. DOMENICI. Reserving the right to object—very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL REGULATORY RESEARCH INSTITUTE

Mr. HATFIELD. I expressed concern yesterday on the establishment and viability of the National Regulatory Research Institute. I would like to know what level of Federal funding is expected to support this institute in the future.

Mr. METZENBAUM. Section 15c authorizes $2 million in each of fiscal year 1979 and fiscal year 1980 to support the Institute. Beyond that it is hoped that a declining level of Federal support will be needed, with the balance to be taken up by State regulatory agencies and grants from foundations. By 1983 the total budget may be about $3 or $4 million.

Mr. HATFIELD. What is the present level of funding?

Mr. METZENBAUM. An FEA contrac tof fiscal year 1977 funds to be spent in fiscal year 1978 covers $1,070,000; Ohio State University support is $118,000 for fiscal year 1978; and the National Association of Regulatory Utility Commissioners (NARUC) support is $15,000 for seed money, to help with recruiting and so forth.

Mr. HATFIELD. What is the present level of staffing?

Mr. METZENBAUM. The acting director is Dr. Donald Glower, dean of Ohio State's College of Engineering; the associate director is John Cuddy; there are four full-time professionals plus about a dozen graduate students, making up the equivalent of about seven full-time personnel.

Mr. HATFIELD. How do you anticipate spending the Federal authorization of $2 million in each of fiscal year 1979 and fiscal year 1980?

Mr. METZENBAUM. During fiscal year 1978 the Institute will grow substantially through the addition of new staff, and a broadening of the range of studies to include transportation, communications, and other areas that the Institute is not now active in. Next spring, the fiscal year 1979 budget of the Department of Energy will be reviewed by the Senate Appropriations Committee, at which time the level of support appropriate to the Institute can be defined more precisely.

Mr. HATFIELD. How will the Institute remain free of Federal domination if 80 percent of it's funding comes from the Federal appropriation?

Mr. METZENBAUM. This question has been considered in structuring the bylaws of the Institute. The governing board of the Institute will be composed of five Ohio State professors, five members appointed by the NARUC, and five members from the public sector jointly chosen by Ohio State and the NARUC. It is their job to make sure that the Institute remains an independent body, responsive to the needs of the State regulatory commissions. I share with the Senator from Oregon his concern that the Institute remain an independent organization and not become an adjunct of the Federal Government.

Mr. HATFIELD. Section 11 mentions two distinct activities: technical analysis and an improved data base. What is the expected split between these two activities at the institute?

Mr. METZENBAUM. About 2 to 1 in favor of technical analysis. The overall goal of section 11 is to support an institute that will help the State regulatory agencies to carry out the objectives outlined in section 2 of this bill.

AMENDMENT NO. 1425

Mr. SASSER. Mr. President, yesterday an amendment offered by the Senator from Louisiana, the distinguished floor manager of this bill, was adopted. It authorizes the Federal Power Commission to order interconnections between utilities. An amendment I have considered offering today strengthens that authority to grant to the FPC, and its successor agency, the Federal Energy Regulatory Commission, the authority to order wheeling of electricity sold at wholesale, as well as ordering interconnections as the Johnston amendment proposes.

The PRESIDING OFFICER. If the Senator will yield, in order to continue, he would have to call up his amendment.

Mr. JOHNSTON. I will yield to the Senator. Does he have an amendment?

Mr. SASSER. I am not going to offer an amendment. I need about 10 minutes.

Mr. JOHNSTON. I yield 10 minutes on the bill.

Mr. SASSER. I thank the distinguished Senator from Louisiana.

Mr. President, I believe it is necessary that this authority be granted to this new Federal body which is to regulate wholesale electric power. Wheeling, as my colleagues know, is simply a tranesportation service. It means that utility A, which is purchasing bulk power from utility B not located adjacent to its service area, would use the transmission lines of utility C to transport the power. This would occur only, of course, if there was excess capacity to transmit the power on utility C's lines. There are other protections also in my amendment for the utility subject to the wheeling order.

First, however, I would like to point out some of the benefits of wheeling. Where utilities within a given region are interconnected, and there exists an agreement to wheel electricity and exchange energy, significant economic and environmental advantages can be anticipated. Within such an interconnected district, there is an incentive for several electric systems to join together in the construction of powerplants. Since the energy can be delivered anywhere within the interconnected system by using wheeling, the generating unit may be built at the most environmentally appropriate site in the district.

Thus, such systems facilitate appropriate land use planning, since, in addition to environmental considerations, generating units may be located at sites within a district to take maximum advantage of existing transmission lines and to decrease losses of electricity resulting from transmission over long distances. The number of transmission lines which ribbon the country would be minimized in the future, and benefits of economies of scale of large electric generating units would be available to all types of utilities.

Mr. JOHNSTON. Mr. President, will the Senator yield? I wonder if the Senator would send his amendment to the desk so that we can get time on it.

Mr. SASSER. Mr. President, I call up my amendment No. 1425.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER), for himself, Mr. METCALF, Mr. NELSON, Mr. ZORINSKY, Mr. EAGLETON, Mr. KENNEDY, and Mr. ANDERSON, proposes an amendment numbered 1425.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

INTERCONNECTION AND WHEELING

SEC. . (a) Notwithstanding any other provision of this Act, section 202 of the Federal Power Act is amended by adding a new subsection (h) to read as follows:

"(h)(1) Whenever the Commission, upon application of any State commission or of any electric utility or any qualifying cogenerator (as defined in the Public Utility Regulatory Policy Act of 1977), and after public notice and notice to each State commission and electric utility and qualifying cogenerator affected, and after opportunity for hearing, finds it necessary or appropriate to carry out the purposes of paragraphs 2(a) and 2

(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct an electric utility (other than a Federal agency) to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator, to sell energy to or exchange energy with, or provide wheeling for such utility or cogenerator. For purposes of this paragraph, the term 'wheeling' means an electric operation wherein the transmission facilities of one electric utility are used to transmit the electric energy generated by another electric utility to effect the delivery of electric energy to an electric utility or qualifying cogenerator: *Provided*, That such term does not include the transmission of electric energy to an ultimate consumer (other than to a qualifying cogenerator for purposes of providing backup power, as determined by the Commission).

"(2) The Commission may not issue an order under paragraph (1) upon application of any electric utility or any qualifying cogenerator to direct an electric utility to establish physical connection or to provide wheeling services unless the electric utility or qualifying cogenerator which makes an application for such connection on wheeling demonstrates to the Commission that such electric utility or qualifying cogenerator is ready, willing, and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the electric utility or owner which is requested to make physical connection or to wheel electric energy.

"(3) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order the authority of this subsection prior to said parties: *Provided*, That said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them: *And provided further*, That if in the Commission's judgment, time is of the essence, the Commision may issue an order under the authority of this subsection prior to or during the negotiation among the parties.

"(4) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities, or

"(B) take any action that would place an undue burden on such utility, significantly impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

"(5) Nothing in this subsection shall affect the application of any Federal statute governing the disposition of electric energy generated by a Federal agency.

"(6) For the purposes of this subsection the term 'electric utility' means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electricity energy.

"(7) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.".

(b) (1) The first sentence of section 201(b) is amended by inserting "(other than section 202(h))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(h) shall apply to the electric utilities and other persons specified therein."

(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(h)" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95-91) the authorities vested in the Federal Power Commission by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

Mr. SASSER. Mr. President, my amendment would fully protect all electric systems. I should note that the Federal Energy Regulatory Commission could not unilaterally order a utility to wheel or to interconnect. As in Senator JOHNSTON'S interconnection amendment, wheeling could not be ordered on the Commission's own motion, but only on application to the Commission by an electric utility, a State utility commission, or a qualifying cogenerator. Even then the Commission could not mandate interconnection or wheeling except after an opportunity for a hearing which results in a finding that such an order is necessary or appropriate in the public interest. The public interest would be judged according to standards such as the savings of energy to be anticipated and the ultimate savings in costs.

No such order could be issued if it would place "an undue burden on a utility, significantly impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers." To prevent a utility or qualifying cogenerator from using a wheeling agreement to "pirate" retail customers within the service area of another utility, "wheeling" is specifically defined to exclude the "transmission of electric energy to an ultimate consumer." Further, it is not intended that any utility will receive a "free ride" through the issuance of Commission orders to interconnect or wheel electricity.

Before such an order may issue, the Commission must find that the applicant is ready, willing and able to provide reimbursement reasonably due for the costs incurred by the party required by the order to provide such connection or to wheel. In addition, the Commission is specifically authorized to "prescribe the terms and conditions of the arrangement—including the apportionment of cost" between the parties and the "compensation and reimbursement reasonably due to any of them" if the parties cannot reach agreement within a reasonable time.

The Commission could not, under this section, require any utility to enlarge its generation capacity or to take any other action which would diminish its ability to serve adequately its own customers.

The adoption of my proposal would have a procompetitive effect. Electric utility systems purchasing wholesale power for all or part of their needs are frequently islands within the service area of a larger utility system. Absent an agreement by the larger utility to wheel power—transmit electricity from a distant source across its own lines for delivery to another system—these wholesale purchasers of electricity are captive customers of the larger system with no opportunity to "shop" for power. The refusal to wheel has in the past been used as a means of retaining customers while charging more than a just and reasonable price for wholesale sales. Such anticompetitive practices can be eliminated if the Commission is granted the authority to require wheeling.

Mr. President, in 1973, the Supreme Court considered an antitrust case in which a utility refused to wheel power to four small town electric systems in the States of Minnesota, North Dakota, and South Dakota.

Justice William O. Douglas wrote, in Otter Tail Power Co. against United States:

> The critical events centered largely in four towns—Elbow Lake, Minnesota; Hankinson, North Dakota; Colman, South Dakota; and Aurora, South Dakota. When Otter Tail's franchise in each of these towns terminated, the citizens voted to establish a municipal distribution system. Otter Tail refused to sell the new systems energy at wholesale and refused to agree to wheel power from other suppliers of wholesale energy.

The Court found that these extreme actions were taken solely to protect the company's monopolistic position.

The Court's remedy was to order wheeling of power by the Otter Tail Power Co. to the Municipal Power Systems.

The Federal Power Commission cannot today order wheeling, except in emergencies. It can order interconnections in certain circumstances. To rectify refusals to wheel, a utility still has to initiate an antitrust suit under the provisions of the Sherman Antitrust Act, which is an expensive and lengthy process.

This is impractical for small municipal electric systems and rural electric cooperatives with limited resources. In the Otter Tail case, one of the four towns, Hankinson, N. Dak., reluctantly decided to renew Otter Tail's contract after Otter Tail refused to wheel.

Granting the Federal Energy Regulatory Commission the authority to order wheeling in such cases would provide an incentive for good-faith bargaining between the parties involved.

Where refusals to wheel have occurred, they have generally been the refusal of large systems to wheel power to small systems. Such small systems can only realize economies of scale, in most cases, by pooling resources and power.

Finally, let me emphasize what I view as the primary benefits of granting the Federal Energy Regulatory Commission the authority to "wheel" bulk power as well as order interconnections. Such authority would insure equality of opportunity to all electric utilities to engage in transactions which allow access to economies of scale in electric power generation and transmission. It would aid in slowing down rate increases to consumers, help protect against possible power shortages, and, most importantly, save resources by making better use of existing facilities and by encouraging more comprehensive planning for future facilities.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. SASSER. One moment and I will yield.

Mr. President, I would note that the

Senate has not taken a position on wheeling ordered by the Federal Power Commission or the prospect of wheeling being ordered by the Federal Power Commission.

I would most respectfully differ with my able and distinguished colleague from Louisiana on this particular score. I note in remarks which he made yesterday he indicated that, perhaps, the committee had taken a position on this particular matter. In conversation with other Senators I have been unable to ascertain that a position has been taken.

I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Tennessee.

I rise to commend the Senator from Tennessee. I think his amendment will be very beneficial to the cooperatives in our State and the co-ops around the country.

I have argued quite strenuously today on the floor that the lowest level of government that can get the job done should be the highest level to get the responsibility. But this is one area, I think, where the Federal presence is required. It is a problem that can only be solved by the Federal Government, and I believe it is consistent with the approach I have taken to the utility regulatory reform proposals that we have been wrestling with in the past couple of days.

It is an area where only the Federal Government can solve this problem. It does not unduly increase the presence of the Federal Government. In fact, it is a beneficial presence of the Federal Government. In fact, it is a beneficial presence, and it is one that in many respects, in my mind, is long overdue.

I thank the Senator from Tennessee for giving me the time, and I commend him for this amendment, and I hope that before this bill gets to the President's desk the essence of the amendment of the Senator from Tennessee is incorporated in the final package.

Mr. SASSER. I thank the distinguished Senator from New Hampshire for his kind remarks.

Mr. NELSON. Mr. President, today I am pleased to cosponsor an amendment to S. 2114, the Public Utilities Regulatory Policy Act.

Under current law, the Federal Power Commission is generally not required to order interconnections of electric power transmission lines between electric utility companies or wheeling—whereby one electric utility company is paid for the use of its spare transmission capacity lines to effect a transfer of electric energy between two other utilities. These services may only be undertaken on a voluntary basis.

This has worked to the detriment of many small cooperatively and municipally owned electric utilities. The record is replete with evidence of large utilities refusing to provide some of these services on a voluntary basis when they are indeed capable of providing them. The result is that many small utilities have been cut off from essential power supplies. The net effect of refusal to provide some of these vital services is that cooperatives and municipally owned systems may have to go out of business and thus what little competition there is in the industry is reduced.

Alternatively, the utility requesting the wheeling or interconnection service may have to build facilities duplicating already existing ones. And if the requesting utility does not construct its own generating facility, it is forced to purchase power from the large utility companies at exorbitant wholesale rates. The fact of the matter is that the large electric utility companies simply do not want the competition from the small cooperative and municipally owned electric companies.

The amendment which Senator SASSER has offered and which I have cosponsored, would amend the Federal Power Act to provide an opportunity for systems requesting interconnection and wheeling services to have recourse to the FPC. The FPC would be required to order interconnection and wheeling services where efficiency and necessity dictate. These orders would be applicable to virtually all types of utilities—municipally, cooperatively, and investor-owned. They would apply only to the transmission of wholesale electric service, not to any retail sales of the wholesale customer. In other words, one electric utility company could only wheel electric power to another company, not to retail customers. This prohibition prevents a utility from raiding the retail customers of another company.

Opponents of this amendment argue that it might place an unfair burden on utilities ordered to provide wheeling and interconnection services. This is not the case. Under this amendment the FPC must find in an evidentiary hearing, that the order would be in the public interest. This is a standard which the FPC now uses in much of its decisionmaking.

Moreover, under the provisions of this amendment, the FPC must find that there is spare capacity on an existing line if it is to order wheeling, that system reliability will not be impaired and that, in the case of an interconnection, a utility requesting such interconnection is ready, willing, and able to pay for it. The costs determined by the FPC are to include both capital and operating costs.

This legislation is long overdue. Today, the FPC only has the authority to order interconnections, for purposes of selling or exchanging energy, upon the filing of a complaint, and then only if certain conditions are met. Making explicit the power to require transmission and coordination services as specified in this amendment is a very logical extension of the Federal Power Act in light of current conditions.

The control of electric transmission rights can provide a utility with a make-or-break grip over another utility which seeks support or access to other suppliers. By setting arbitrary conditions or unreasonable prices, the utility controlling transmission can extract excessive rates from the purchasing utility, thus forcing unreasonable rates upon its customers. Transmission control can be employed to kill or cripple a competing utility. FPC responsibility to initiate action to solve these problems and to assure fair answers is needed.

Utilities are granted and entrusted with special powers by Government to condemn land for transmission rights-of-way and they use public thoroughfares to move electricity. It would, therefore, seem abundantly clear that the public has a significant interest in insuring that these powers are not abused to promote monopolistic practices.

Finally, I would note that voluntary arrangements will not be precluded by this amendment. In fact, it may be that this amendment will provide companies with the necessary incentive to enter into more voluntary agreements. However, the protections embodied in this amendment are needed in the event that such arrangements cannot be made.

Mr. SASSER. Mr. President, I wish at this time to withdraw my amendment 1425.

Mr. JOHNSTON. Mr. President, will the Senator withhold that just one moment?

Mr. SASSER. I will withhold it.

Mr. JOHNSTON. Mr. President, I commend the Senator for his interest in this matter.

Originally the Senate bill had wheeling as part of the amendment. After having a 1-day hearing on the matter of wheeling we decided, informally to be sure to put in the amendment with only interconnection and such pooling as was necessary to carry out the purposes of the interconnection, leaving wheeling to another day. It was not a formal committee position, and I want the Senator to understand that. If I gave the impression yesterday that it was a formal committee position with a committee vote, that is not correct. But it was an informal one with, I think, all of the members of the committee aware and most joining in the action. We decided to put in the amendment with only interconnection and such pooling as was necessary to carry out the purposes of the interconnection, leaving wheeling to another day. And as I explained yesterday, the reason for that is that wheeling is an extremely complicated subject involving great moment not only in the field of energy conservation and efficient use of energy generating facilities but also on the question of competition, and it became quickly apparent to us that we could not deal adequately with all the parties interested and all the issues involved in the short period of time that we had to deal with that.

For that reason, we left the question of wheeling out of this amendment and that does not mean that the committee has, as a committee, a mind set against wheeling. It does not mean that at all. It means that at this late date in the committees' hearing process we simply did not have time to deal with it, and we welcome the Senator's interest in that for another day at another time.

Mr. SASSER. Mr. President, I thank the distinguished manager of the bill for his remarks. I hope that we may be in a posture to take a closer look at wheeling in the very near future.

Having said that, Mr. President, I withdraw my amendment No. 1425.

The PRESIDING OFFICER. The amendment of the Senator is withdrawn.

The question now recurs on the amendment offered by the Senator from Montana which was temporarily laid aside.

Mr. JOHNSTON. Mr. President, they are still working on that amendment. I ask unanimous consent that it continue to be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, is any further amendment going to be proposed?

Mr. BAYH. Mr. President, the Senator from Indiana wishes to advise his colleague that he has an amendment which he had discussed with my friend from Louisiana. I hope to offer that in the near future.

Mr. JOHNSTON. We are ready to take it at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). On whose time?

Mr. JAVITS. That will be for the managers to decide.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the quorum call proceed without being charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ANDERSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS

Mr. ANDERSON. Mr. President, at the request of the chairman of the Committee on Armed Services, Mr. STENNIS, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1339.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate the amendments of the House of Representatives to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes.

(The amendments of the House are printed in the Houte proceedings of the RECORD of September 29, 1977.)

Mr. ANDERSON. Mr. President, on September 29, the House of Representatives passed the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, with amendments. I move, Mr. President, that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to; and the Presiding Officer appointed Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. NUNN, Mr. HART, Mr. TOWER, Mr. THURMOND, and Mr. BARTLETT conferees on the part of the Senate.

DEFENSE DEPARTMENT REORGANIZATION

Mr. ANDERSON. Mr. President, at the request of the chairman of the Committee on Armed Services, Mr. STENNIS, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1372.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1372) entitled "An Act to amend titles 10 and 5, United States Code, to disestablish one of the positions of Deputy Secretary of Defense and establish an Under Secretary of Defense for Policy, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) section 134 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "There are two Deputy Secretaries" in the first sentence and inserting in lieu thereof "There is a Deputy Secretary", and by striking out "a" in the second sentence immediately before "Deputy Secretary";

(2) in subsection (b), by striking out "Deputy Secretaries" in the first sentence and inserting in lieu thereof "Deputy Secretary" and by striking out "Deputy Secretaries, in the order of precedence, designated by the President" in the second sentence and inserting in lieu thereof "Deputy Secretary";

(3) in subsection (c), by striking out "The Deputy Secretaries take" and inserting in lieu thereof "The Deputy Secretary takes"; and

(4) in the section heading, by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(b) The item relating to section 134 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

SEC. 2. (a)(1) Subsection (a) of section 135 of title 10, United States Code, is amended to read as follows:

"(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.".

(2) Subsection (b) of such section is amended by striking out "The Director performs" and inserting in lieu thereof "The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform".

(3) Subsection (c) of such section is amended by striking out "Director" and inserting in lieu thereof "Under Secretary of Defense for Policy", by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary", and by adding at the end thereof the following new sentence: "The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.".

(4) The section heading for such section is amended by striking out "Director of Defense and Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

(b) The item relating to section 135 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

SEC. 3. (a) Section 136(e) of title 10, United States Code, is amended to read as follows:

"(e) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.".

(b)(1) Clause (2) of section 171(a) of title 10, United States Code, is amended by striking out "a" and inserting in lieu thereof "the".

(2) Clause (6) of such section is amended to read as follows:

"(6) the Under Secretaries of Defense;".

(c) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(d)(1) Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretary of Defense.".

(2) Section 5314(32) of such title is amended to read as follows:

"(32) Under Secretaries of Defense (2).".

Amend the title so as to read: "An Act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.".

Mr. ANDERSON. Mr. President, on September 19, the House of Representatives passed the bill, S. 1372, with an amendment in the nature of a substitute, and an amendment to the title. The bill, as originally passed by the Senate, would eliminate one of the two positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy, and change the title of the Director of Defense Research and Engineering to that of Under Secretary of Defense for Research and Engineering. The amendment of the House is technical in nature and relates to the form of the bill.

I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. ANDERSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Minnesota make the unanimous-consent request that the time for the quorum call not be taken out of the time on either side?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I ask unanimous consent to modify my amendment now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 885—AS MODIFIED

Mr. MELCHER. Mr. President, at the suggestion of the chairman of the Committee on Energy (Mr. JACKSON) the amendment has been modified, taking into consideration his recommendations. That modification is now at the desk.

A parliamentary inquiry, Mr. President: Should I seek reading of that modification at this point?

The PRESIDING OFFICER. The modification to the amendment has already been made.

The modification is as follows:

At the end of the bill add the following new Title.

TITLE II

DEFINITIONS

SEC. 104. As used in this Title

(a) The term "Secretary" means the Secretary of the Department of the Interior.

(b) The term "Northern Tier Estates" means Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(c) The term "Inland States" means those States other than a Northern Tier State and other than California in the continental United States.

(d) The term "crude oil transportation system" means a crude oil pipeline within and subject to the jurisdiction of the United States, and including, but not limited to, the port, terminal, tank farm, pumping stations, off take points, and other related facilities, associated with moving volumes of Alaskan crude oil by pipeline to Northern Tier or inland States.

(e) The term "Northern Tier project" means that proposed crude oil transportation system referred to in section 102(f)(i) of this Act and generally described in an "Application for Right of Way Across Federal Lands" filed by the Northern Tier Pipeline Company with the Department of the Interior, Bureau of Land Management, on April 18, 1977.

(f) The term "Long Beach-Midland project" means that crude oil transportation system referred to in section 102(f)(ii) of this Act and which was the subject of and generally described in the "Final Environmental Impact Statement, Crude Oil Transportation System, Valdez, Alaska to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior at 42 Federal Register 28008, June 1, 1977.

(g) The term "applicant" means the person or entity who has applied for or applies in the future for, some or all of the Federal, State, or local permits, rights-of-way, or other authorizations necessary for or related to the construction, operation, and maintenance of one of the crude oil transportation systems referred to in subsections (e) and (f) of this section, or any other such system.

EXPEDITED DECISIONMAKING ON CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 105. (a) Upon any applicant's written request that is filed with the Secretary within fifteen days of the date of enactment of this Act, or, if the application is filed after the date of enactment of this Act, within 60 days after filing the application, the Secretary shall review the status of that applicant's rights-of-way, permits, leases, and other authorizations necessary for construction, operation, and maintenance of a crude oil transportation system from the west coast to any of the Northern Tier States or inland States. With respect to applications for the crude oil transportation systems referred to in subsections (e) and (f) of Section 104, the Secretary shall establish a schedule for the preparation in consultation with the Environmental Protection Agency, by January 15, 1978 of any draft environmental impact statements and by March 1, 1978 of any final environmental impact statements which may be required, if not already completed. With respect to applications for any other such systems, the Secretary shall establish such a schedule so as to complete a final environmental impact statement within one year after filing the application.

(b)(1) Following the Secretary and the Secretary of Energy's review of applications for the systems referred to in subsections (e) and (f) of Section 104 and the completion of any required environmental impact statements, the Secretary and the Secretary of Energy, after consultation with, and approval of, federal agencies that under federal law must authorize, issue, or enforce permits or authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system, shall determine no later than April 1, 1978 with respect to the Northern Tier project and no later than December 15, 1977 with respect to the Long Beach-Midland project whether the crude oil transportation system proposed by the applicant shall be approved under this Act.

(2) The Secretary and the Secretary of Energy shall make their decision for each project subject to this Act upon its own individual merits. The Long Beach-Midland project and the Northern Tier project are not and shall not be considered as mutually exclusive crude oil transportation systems nor as the only alternative systems to be considered. Each decision made by the Secretary and the Secretary of Energy shall consider pipeline and terminal safety, environmental and land use considerations, cost and timing of construction, and the net national economic benefits to be realized through alternate methods of crude oil and petroleum product distribution.

SEC. 106. The Congress hereby authorizes and directs the Secretary of the Interior and other Federal officers and agencies to issue, no later than thirty days from the date of the Secretary's decision to approve, and take all necessary actions to administer and enforce rights-of-way across Federal lands, Federal permits, Federal leases, and other Federal authorizations that are necessary for or related to the construction, operation, and maintenance of each crude oil transportation system approved by the Secretary pursuant to this Act.

SEC. 107. Actions seeking judicial review of the approval of the Secretary and the Secretary of Energy or the actions of the Federal officers under Sections 105 and 106 concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of any crude oil transportation system approved by the Secretary may only be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceedings shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

ANTITRUST LAWS

SEC. 108. Nothing in this title, and no action taken hereunder shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

SEPARABILITY

SEC. 109. If any provision of this title, or the application thereof, is held invalid, the remainder of this title shall not be affected thereby.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. It is my understanding that the unprinted amendment previously offered has been substantially changed. I want to be sure that the most recent revision is at the desk. There is no need to read it.

The PRESIDING OFFICER. The Senator's amendment was modified by unanimous consent. The effect of that modification is placed before the Senate, in the modified version.

Mr. JACKSON. My only point was that I think this is the second modification, so I just want to make sure.

Mr. MELCHER. I shall briefly describe the modification.

Mr. DURKIN. Will the Senator yield for a parliamentary inquiry?

Mr. MELCHER. Yes, I yield.

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. Is the modified amendment which is now at the desk subject to further amendment?

The PRESIDING OFFICER. It is in the first degree and, therefore, is subject to further amendment.

Mr. MELCHER. Mr. President, the modifications refer to the points that the chairman of the Energy Committee, Senator JACKSON, made—that is, the allowance for other alternative routes to be considered by the Secretary of the Interior and the Secretary of Energy. Those modifications have been incor-

porated in the amendment as it is now drafted.

The Secretary of the Interior and the Secretary of Energy shall also base their decision on considering such factors as pipeline and terminal safety, environmental and land use consideration, cost and timing of construction, and the national economic benefits to be realized through ultimate methods of crude oil petroleum products distribution.

My amendment recognizes that at present there are two specific pipelines proposed to bring Alaskan and other crudes from the west coast eastward into other areas of the country. One is the northern tier project which would involve some 1,500 miles of pipe between Port Angeles, Wash.—which is outside Puget Sound—through the northern tier States to connect with existing pipeline systems at Clearbrook, Minn. Close to 1 million barrels of oil daily could be made available through this line for refineries in the northern tier, Midwest, and as far east as Buffalo, N.Y.

The other pending project is the one proposed by Standard Oil Co. of Ohio to use an abandoned gas line with some new construction in order to provide a system capable of carrying approximately 500,000 barrels of oil each day from Long Beach, Calif., to Midland, Tex. There, the oil could be made available to gulf coast area refiners or put into existing pipeline systems for delivery into the midcontinent. This is clearly of benefit to Northeastern and Atlantic States which depend upon products which are refined along the gulf from foreign oil and then are shipped north. These pipelines would reduce foreign dependency for the Southern, Central, and Northeastern States.

The amendment makes it clear that these two proposals are not to be considered mutually exclusive—that both are needed. It is also pointed out that, while these proposals are to be viewed on their own merits, they are not the only systems which may be considered. Others may be proposed although none is presently pending.

Within 15 days following the signing of my amendment into law, the two applicants I have mentioned could seek review by the Secretary of the Interior of the status of their applications. Future applicants seeking Federal approvals would have 60 days for such review. After reviewing the applications, the Secretary would be required to establish time schedules for their consideration. In the case of northern tier, the Secretary would have to set a schedule for completion, in consultation with the Environmental Protection Agency, of a draft environmental impact statement by January 15, 1978, and a final environmental impact statement by March 1, 1978.

Then the amendment requires that no later than April 1, 1978, the Secretaries of Interior and Energy jointly make a decision as to whether the northern tier project shall be approved, after consultation with, and approval of, all Federal agencies which have related responsibilities under other Federal laws. I want to emphasize that the time schedule provides adequate time for these considerations, although on a compressed schedule, and is necessary in view of the urgency of the oil supply situation in the northern tier.

In the case of the Long Beach-Midland project, a decision is required by December 15 of this year. However, the environmental impact statement is completed on that project and it is only awaiting final approval of such major items as a natural gas line abandonment proposal before the Federal Power Commission, rights-of-way grants issued by the Department of the Interior, and Corps of Engineers port facility construction and dredging permits, all of which are expected to be forthcoming within the deadline period. The same Federal agency consultations and approvals are required.

Within 30 days of any approval of a pipeline system under the amendment, all Federal rights-of-way, leases, or other authorizations necessary for the construction, operation, and maintenance of the system would have to be issued.

The amendment also sets up the expedited judicial review process I mentioned earlier. It says that any suits seeking judicial review of an approval by the Secretaries of Energy and Interior or actions by other Federal officials under the amendment's provisions must be filed in a U.S. district court within 60 days of the approval or action. That court is to move any such cases to the head of the docket and expedite them to as great an extent as is possible. Appeal would be directly to the Supreme Court without the right of injunction in the meantime.

I want to stress here that in no way do we intend to prevent any parties from exercising their right to go to court if they feel that Federal laws have been violated or their rights denied because of some action taken under our amendment. Our sole purpose is to have such court challenges expedited so that decisions can be made promptly.

Mr. President, I have attempted to outline the intent and the provisions of my amendment. In doing so I stress once again the urgent national need to use our Alaskan oil as a key to solving the crude oil supply problems we are presently facing. With the Federal Energy Administration projecting possible petroleum product shortages as high as 35 percent in my State of Montana and 12.5 percent in eastern Washington as early as next year, I am convinced, as I am sure all 35 other sponsors of this amendment are, that we must act promptly to move off dead center on this issue. By shuffling available crude supplies and perhaps shipping expensive products into crude-short areas we may be able temporarily to postpone refiner shutdowns, gasoline shortages, and cold homes in the northern tier. But the long-term supply of oil to these States must be assured as we are attempting to do under this amendment by clearing out Federal redtape so construction of these lines can begin next spring or summer.

State siting permits or other approvals are a separate matter not addressed in my amendment, and I hope they will be acted upon promptly as well by the States involved.

We urge approval of this amendment as a crucial first step toward an end to the west coast oil surplus, equitable distribution of Alaskan oil, and having a stable oil supply.

In addition these lines will be built in the United States with American labor and American steel. The Northern Tier and Sohio proposals amount to almost $2 billion of construction for nationally needed oil distribution. A half billion dollars of American steel is needed and almost a billion dollars for American labor will be spent.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. Do I correctly understand that this amendment only provides for a study of the subject and then a report back to Congress before any final action is taken, or does this amendment make it possible for the pipeline to be built without any further congressional action?

Mr. MELCHER. This amendment would make it possible for the issuance of the permits in an expedited fashion and would set time frames for expediting those permits. It does not require coming back to Congress for issuance of such permits.

I say to the Senator from Ohio that we have no provision in law that requires the Secretary of the Interior or the Secretary of Energy to come back to Congress for the issuance of such permits, except in the general provision of law now, that approval of permits for an oil or gas pipeline, greater than 24 inches in diameter, that crosses public lands, must be reported to the appropriate committees in the House and in the Senate. That is existing law and applies to all oil and gas pipelines that cross public lands.

Mr. BAKER. Mr. President, will the Senator from Montana permit me to interrupt for a moment to take care of a necessary housekeeping matter?

Mr. MELCHER. I yield to the Senator from Tennessee.

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM OCTOBER 6 UNTIL OCTOBER 11, 1977

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 372.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 372, which will be stated.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 372) providing for an adjournment of the House from October 6 until October 11, 1977.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. BAKER. Mr. President, I thank the Senator from Montana for permitting me to do this, which probably prevented us from being hung in effigy by

our friends and colleagues in the other body.

Mr. MELCHER. I was delighted to yield.

PUBLIC UTILITIES REGULATORY POLICY ACT OF 1977

The Senate continued with the consideration of S. 2114.

Mr. MELCHER. Mr. President, in further answer to the question posed by the Senator from Ohio, I point out that the existing law does require the Secretary of the Interior, at the time he agrees to issue permits for oil and gas pipelines 24 inches in diameter or greater to cross public lands, to notify the committees of the House and the Senate that the permits will be granted. Existing law, then, gives the opportunity for consideration within those two appropriate committees and a possible resolution of the objection. That is the law as it is now, and it would not be changed by this amendment.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I yield.

Mr. DURKIN. My question is this: Would the Senator from Montana be willing to accept a further modification of his proposal? I agree with his proposal. We in the East have to get that Alaskan crude as far East as possible. For that reason, I commend the Senator for pushing very diligently this important measure—important not only to the northern tier but also to the Midwest and the east coast.

Would the Senator be willing to accept an amendment which would prohibit an all-events tariff being used to finance this pipeline or any interstate gas and oil pipeline? The Federal Energy Regulatory Commission now could allow an energy company to charge an all events tariff, which is charging consumers for gas or oil whether or not they receive any oil, whether or not the project is completed, whether or not it is interrupted. In effect, the all events tariff is a form of involuntary consumer financing and risk-sharing.

If a project is worthwhile, there is no difficulty in obtaining financing in the private sector.

However, if a project is marginal then there is a possibility, with the all-events tariff, that the consumer who never gets an ounce of gas or an ounce of oil can be called on to finance that project.

I ask the Senator from Montana if he could accept this amendment. I think it not only would expedite the oil to the east coast and the Midwest but also would eliminate the possibility for all time, in connection with this pipeline—which surely is going to receive more than adequate private financing—that the Federal energy officials could stick the consumer with projects that otherwise would not fly because they were not economically feasible.

Mr. MELCHER. I say to my friend from New Hampshire that the amendment we have before us has been modified to take care of the objections and the constructive suggestions of the chairman of the Energy Committee, Senator JACKSON. I am not knowledgeable in the subject matter that the Senator from New Hampshire proposes. I should think that the two committees that might be involved with this, both of which the Senator from New Hampshire serves on, would want to consider that proposal. I reluctantly decline to accept a further modification of my amendment.

I ask Senator JACKSON, the chairman of the Energy Committee, whether the committee can accept my modified amendment.

Mr. JACKSON. Mr. President, I should like to state briefly what the particular issue is about.

The Secretary of the Interior does have authority to grant permits across the public domain for the construction of pipelines. When he proposes to grant the permits for the pipelines, over 24 inches in diameter—notice of his intent is sent to Congress. I think we have one pending at the present time in connection with the so-called pipelines from the west coast to the east.

Mr. President, what is involved here is legislation that will expedite the procedures under which the Department of the Interior and the Department of Energy would move in connection with the applications for Federal permits for pipelines designed to move crude oil from Alaska from west to east.

When this matter came up earlier in the day, the way the amendment was drafted it was pretty well limited to the so-called Sohio route or the northern tier route. I suggested, in a colloquy, that the Secretary of the Interior and the Secretary of Energy should have an opportunity to look at the alternative routes so that the executive branch of the Government would be in a position, if they did not like either one of the applications, to pick another route.

The point that has to be made, I suppose, is that we have or will have a surplus of 600,000 to 700,000 barrels of oil a day on the west coast.

Mr. President, that oil has to be moved east. Currently, it is being transported by tanker from Valdez, Alaska, down to the Panama Canal, offloaded into smaller tankers to pass through the canal—big tankers cannot be taken through the canal—and then brought into the Gulf of Mexico where it is refined.

Mr. President, what we are trying to do here is to act expeditiously so a decision can be made without delay regarding the possibility of another pipeline from the west coast going east to meet the needs of the Eastern States, including the northern tier States.

I would point out, Mr. President, that, in addition to possible transfers on the west coast of the United States, there is also the possibility of a route through Canada. One which has been discussed is Kitimat, British Columbia. There may be other routes.

All I am suggesting is that in the amendment we worked out with the modifications I suggested, the administration would have the option of looking at more than just the two which were in the original amendment. It is that simple. I would hope it would be approved.

With reference to the Durkin amendment, I would point out that the issue of tariffs is not involved here. This is a matter the Commerce Committee will look into. It would not be involved at this stage of the proceeding. I commend the Senator from New Hampshire for bringing out this particular point, but I would say to him that the Melcher amendment would not affect in any way the procedures which have to be followed in connection with the authority vested in the Interstate Commerce Commission or under the new Department of Energy Act, in the Federal Energy Regulatory Commission.

Mr. DURKIN. That is correct. It would not in any way impede the authority today or in any way impede the very notable motive of the Senator from Montana. I share his motive. We want to get that oil east, as much as possible and as fast as possible.

Mr. JACKSON. The Senator is correct.

Mr. President, I would hope the Senator would withdraw his amendment in light of the colloquy. I hope that the Melcher amendment could be taken to conference so we can have an opportunity to review with the House the proposals as outlined in this amendment. This will give the administration time to go over it so we can act in an expeditious manner. I believe that is the main issue.

Mr. MELCHER. Mr. President, might I inquire of the chairman of the Energy Committee, does he accept the amendment?

Mr. JACKSON. Mr. President, I recommend approval of the amendment as most recently modified.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Montana, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 887

(Purpose: To exclude use of "all events tariff" on oil and gas pipelines.)

Mr. DURKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 887.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

SEC. (a) Notwithstanding any other section of this statute or any other provision of law, the Federal Energy Regulatory Commission shall not permit any tariff, or recommend the allowance of any certificate or proposed certificate which permits tariffs, regarding any interstate pipeline or proposed interstate pipeline, unless such tariffs provide for the termination of payments or obligations to pay for any natural gas or petroleum product

not delivered in the event delivery of such natural gas or petroleum product is interrupted or reduced for any peri d.

(b) For purposes of this section (1) "natural gas" shall have the same meaning as in the Natural Gas Act.

(2) "Petroleum product" shall have the same meaning as in the Energy Policy and Conservation Act.

Mr. DURKIN. Mr. President, I would like to briefly explain the amendment and then suggest that this amendment be set aside until later in the proceedings on this bill so we may touch base with the chairman of the Commerce Committee. This does impact on the Commerce Committee as well as the Energy Committee.

Mr. FORD. Will the Senator yield?

Mr. DURKIN. Yes.

Mr. FORD. Since the Senator is going to set his amendment aside, I have an amendment which I believe would be agreeable to both sides. I would like to go forward with my amendment.

Mr. DURKIN. Mr. President, I ask unanimous consent that the amendment I have called up be set aside, with the opportunity to get back to it no later than 5 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

AMENDMENT NO. 1424

(Purpose: Provision of office space for National Association of Regulatory Utility Commissioners)

Mr. FORD. Mr. President, I call up amendment No. 1424 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 1424.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 7, insert the following at the end of line 7: "Section 205(f) of the Interstate Commerce Act (49 U.S.C., 305(f)) is amended by inserting 'without charge' between the words 'assign' and 'for' in the last sentence.".

Mr. FORD. Mr. President, the Congress in enacting the Federal Motor Carrier Act of 1935 required the General Services Administration (GSA) to furnish the National Association of Regulatory Utility Commissioners (NARUC) with office space in or close to the Interstate Commerce Commission building to strengthen Federal-State cooperation in the regulation of utilities and carriers. The NARUC has continuously occupied such office space without charge for over 40 years.

However, the GSA is now seeking to charge the NARUC with annual rental of approximately $25,000 for such space pursuant to the 1972 amendments to the public buildings law.

The NARUC contends that there was no congressional intent in this law to repeal the 1935 law under which the NARUC receives Federal office space without charge. It is a cardinal rule of statutory construction that repeals by implication are not favored, and that a specific statute will not be controlled or nullified by a later general statute unless there is a clear congresional intent to the contrary.

The NARUC is a quasi-governmental nonprofit organization founded on March 5, 1889. Within its membership are the governmental agencies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of utilities and carriers. Also included as members are the CAB, DOT, FCC, FPC, ICC, NTSB, NRC, PRC, and SEC. The chief objective of the NARUC is to serve the consumer interest by seeking to improve the quality and effectiveness of public regulation in America.

Mr. President, we have been giving this office space rent free. By language, we are inadvertently going to charge them. All this amendment does is revert back to its present position of no charge to this distinguished agency. If there are any questions, I would be glad to answer them. If not, I think it is acceptable to both sides and I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, they say that possession is nine points of the law. This commission has been in possession of these premises for 40 years, and that which has been going on for 40 years we do not want to abruptly change with this act. We thank the Senator from Kentucky for recognizing the justice of that position.

Mr. DOMENICI. We concur in the remarks of the Senator from Louisiana. We think this is justified. Congress would always retain the right to change it. We have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 888

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 888.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"SEC. . Rates made available to elderly residential electric consumers by Section 15 of this Act shall, notwithstanding the provision of that section, be available to persons within 125% of the poverty level as defined by the Office of Management and Budget and to no other persons.

Mr. BUMPERS. Mr. President, let me say first of all to the Senators on the floor that this amendment is designed to correct what I personally feel is an omission in the Hart amendment which we adopted yesterday dealing with lifeline rates for the elderly.

I think everybody knows that I bring this amendment up with some reservation because the Senator from Colorado has pointed out a very serious problem in this country. The elderly are having a problem, not only paying their utility bills, but keeping body and soul together.

Yet, while the amendment has a great deal of merit, I think it is also flawed to the extent we ought to correct it before we send this amendment and this bill to conference.

I think there was some misunderstanding about the amendment. For instance, I heard one Senator say there were income limitations, and there are not any.

I have talked to a number of Senators today who had similar misconceptions about the bill. One did not realize, for example, it covered all of the people in this country under 62 years of age who are on social security or drawing railroad retirement.

Mr. President, I would like to say as cogently and as precisely as possible why I think the Hart amendment should be further amended and what I think the basic problem with it is.

The Hart amendment provides the best utility rate that any utility company provides its best customer.

In my State, for example, the aluminum industry uses 15 percent of all electricity used in the State of Arkansas. Everybody who knows anything about the manufacturing of aluminum knows it is the most energy-intensive industry in the country.

Arkansas Power and Light Co., based on a cost-of-service rate, gives them a very advantageous rate because they use such massive quantities, and, once the capital investment is made, it does not cost them a great deal to service the plants.

Under the Hart amendment, this would mean that everybody in the State of Arkansas who is over 62 years of age will be entitled to that rate.

Mr. President. I would like to pause just a moment to point out that one of

the purposes of this whole bill is to try to encourage State public service commissions to base rates on cost of service. Yet we move away from that with this amendment.

That is not my main quarrel. However, everybody in the State of Arkansas over 62 years of age will get the rate that the aluminum industry in my State gets based on cost of service.

I still have no quarrel with that because there is not anybody in his right mind who does not know these people are having a tough time. If the Hart amendment stopped at that point, I might not be here right now. But it does not.

It also says that everybody under the age of 62 who is on social security or railroad retirement is also eligible for that same rate.

Mr. President, let me point out some of the more egregious problems this is going to create.

That old saw that is so popular nowadays that Government cannot be all things to all people is a very good one. It is worth repeating from time to time. Yet, I think that the highest duty of the U.S. Congress is to tell the American people that we are going to be even-handed and balanced in our approach to the energy problem and will do our very best to see those people who need help will get it.

But let me give the example I raised on the floor yesterday afternoon. If the President of General Motors is over 62 years of age, he is going to get this rate.

The argument can be made that he is also entitled to Meals-on-Wheels if he wants to go down to the center to get them.

Mr. JOHNSTON. Will the Senator yield?

Mr. BUMPERS. I am happy to.

Mr. JOHNSTON. Do I understand by this amendment that a person age 62 or older would not be eligible for this unless they were within 125 percent of the poverty level?

Mr. BUMPERS. That is what my amendment to the Hart amendment would be.

Mr. JOHNSTON. Very well.

Someone within 125 percent of the poverty level means the poverty level plus 25 percent?

Mr. BUMPERS. That is correct.

Mr. JOHNSTON. And that would have to be as designated by OMB?

Mr. BUMPERS. If the Senator will let me continue, I think I will explain it to everybody's satisfaction.

Mr. JOHNSTON. Very well.

Mr. BUMPERS. Under the Hart amendment, everybody, regardless of economic status, who is over 62 years of age will be entitled to the lifeline rate. It does not make any difference what his income is or what his net worth is. He is entitled to it if he is over 62 years of age. He does not even have to be on social security or the railroad retirement. Just anybody.

I still have no big quarrel with that. But it goes further than that.

It says that all those people under 62 who are on social security are also entitled to it, and that raises this problem.

Let us assume for hypothettical purposes—and I hasten to say hypothetical because the figure is not relevant—but let us assume that I die today—and there may be a school of thought that would be in favor of that—but let us assume I die and leave a $1 million estate to my widow after taxes.

Let us assume further that her pension benefits and other retirement benefits, plus income from the $1 million, would give her a monthly income of $5,000.

I use that because my minor daughter will make my widow eligible for social security, and my wife and my daughter will both draw social security until my daughter reaches her majority or is a full-time student and under 21.

This would mean that my widow would be one of the more affluent people in the community, yet she would be entitled to this rate, and somebody living down the street and receiving AFDC payments for the benefit of children would not.

My principal objection to what we did yesterday, my colleagues, is that it does not reach the poorest of the poor. I recognize it would be an administrative burden, and I know the Senator from Colorado feels strongly that we do not want to set up another bureaucracy. You can administer the Hart amendment by simply saying everybody on social security gets this rate.

Mr. President, 33 million people in this country draw social security. The Hart amendment does nothing for those people who are drawing aid for dependent children, who are striving desperately to keep body and soul together. I think it is a terrible injustice and a terrible inequity that ought to be corrected before we let this bill out of here.

Finally, Mr. President, although I am not opposed to the concept, I have some difficulty with the U.S. Senate solving social problems by legislating utility rates. Some people in my State work for $2.30 to $3 an hour, in a shoe factory, for example. It is not always the most pleasant place in the world to work, and it is not always the highest-paying place in the State. Who subsidizes the benefits that all the people get under this amendment? Some of those people who are struggling to support themselves are going to have to subsidize it because the utilities must have the same income they have right now in order to amortize their bonded indebtedness.

I have a problem with that, and I think some of the poor people of my State, which is 49th in per capita income, will have trouble with it.

But I feel strongly about this amendment, and I believe that the Senator from Colorado is trying to redress a problem that certainly does exist. It exists in my State, and in the past few years, because of the number of retirees moving into my State, we are second only to Florida in the percentage of our people over 65, so I would need a political saliva test if I were opposed to this, and I am not.

All I am saying is let us tighten it up. There will be administrative problems with it, but if we abdicate our responsibility to the people of this country who really need help, because it creates an administrative problem, we might as well fold up the tent and steal away.

Now, Mr. President, those are essentially my arguments on behalf of my amendment, which simply says that everybody in the country, whether they are over 62 or under 62, receiving an annual income of less than 125 percent of the poverty level, will be entitled to these rates. It gets to the heart of helping the people who really need it.

The Senator from Colorado this morning said or asked, "Are you against rich people getting it? Are you in favor of poor people getting it?"

My answer is both. I do not want the president of General Motors or anybody else who does not need the kind of help we are talking about here getting it. I recognize that may be only 10 percent of the people over 62, but that is 10 percent, and I do not believe the argument of an administrative burden is enough to offset giving it to 10 percent of the people who do not need it and neglecting about 20 percent of the people under 62 who do need it.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be happy to yield.

Mr. BURDICK. One of the problems I saw with this legislation yesterday is that during a rough survey of the community in which I live I find that many of these senior citizens are renters. In fact, I believe a majority of them are renters. They have a room or they live in a highrise or in a low-cost home or elderly home of some kind, and there are no electric meters in these homes or in their apartments.

How would they get any benefit from this?

Mr. BUMPERS. I am not sure they would, Senator.

Mr. BURDICK. I thank the Senator.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. The Senator refers to persons within 125 percent of the poverty level as defined by the Office of Management and Budget. Does that mean the Office of Management and Budget is free to set their own poverty standards or are they meant to adopt the same poverty standards that are found elsewhere in the law?

Mr. BUMPERS. Senator, this definition of 125 percent of the poverty level is currently used to determine the eligibility of the Community Services Administration, the weatherization program, and is used to determine eligibility for food stamps. It is a determination made periodically for almost every program in the United States, and it would be keyed to this very simply.

Mr. JOHNSTON. All right. I thought that is what the Senator meant. But that standard, as I understand, is not set by OMB, is it?

Mr. BUMPERS. I believe it is, Senator.

Mr. JOHNSTON. Whether it is or not, at least——

Mr. BUMPERS. It may be set by HEW. But I believe that OMB, based on certain economic indicators that they get, actually sets this rate. It is published by the Department of Commerce.

Mr. JOHNSTON. Yes, the Department

of Commerce, right. It is intended to be consistent with that standard?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. All right.

Now, the standard used by the Department of Commerce, as I understand it, defines poverty in terms of a family of one, two, and multiple numbers.

Mr. BUMPERS. The Senator is correct.

Mr. JOHNSTON. Did the Senator mean to have this interpreted in terms of a family or in terms of individuals?

Mr. BUMPERS. Both.

Mr. JOHNSTON. As far as eligibility.

Mr. BUMPERS. The poverty level standard is set on families of one through six persons. For example, the present poverty level is $7,770 for a family of six.

Mr. JOHNSTON. What I have reference to——

Mr. BUMPERS. Senator, under my amendment, the eligibility level would be 125 percent of the poverty level, and this is approximately $10,000 for families of six.

Mr. JOHNSTON. My question is this: If a person had an income of $7,500 which, as an individual, would be above the poverty level, but he has a family of multiple persons which would bring him below the poverty level, you mean to use the family definition?

Mr. BUMPERS. Oh, yes, absolutely.

Mr. JOHNSTON. Is the same true for eligibility—I mean for subsistence amounts because the amendment in its original form speaks in terms of a subsistence amount of electricity, and you mean to use that as a unit? In other words, if you slip below this poverty level, you get one unit of subsistence electricity, even though you may be a family of 10?

Mr. BUMPERS. I am not certain. On the amendment we adopted yesterday it covers everybody on social security. As the Senator knows, you may have a husband and wife both drawing social security, and I do not know whether that provides them with two units or one living together. I think it would be one.

Mr. JOHNSTON. It is a customer, and if a customer lives in a house with a family of 10 it is still one?

Mr. BUMPERS. Right; that is correct.

Mr. JOHNSTON. Did I understand the Senator to say it is all persons within 125 percent of the poverty level regardless of age?

Mr. BUMPERS. I am sorry, Senator. Would you repeat the question, please?

Mr. JOHNSTON. I did understand the Senator to say it is all persons within 125 percent of the poverty level regardless of age?

Mr. BUMPERS. That is correct.

Mr. JOHNSTON. In other words, you do not have to be 62 and above to get this amount.

Mr. BUMPERS. If I may respond to that point, and I will let you continue with your questioning, but there are 33 million people in this country on social security and railroad retirement under 62 who would be eligible for this benefit under the Hart proposal.

Mr. JOHNSTON. And under the Senator's proposal they would not be eligible?

Mr. BUMPERS. Some of them might be. That is right. Some would and some would not.

Mr. JOHNSTON. Can the Senator tell me how many people would be eligible under this amendment?

Mr. BUMPERS. 14 million.

Mr. JOHNSTON. Under the Senator's amendment?

Mr. BUMPERS. 14 million.

Mr. DOMENICI. 14 million families.

Mr. BUMPERS. 14 million households, not 14 million people. But this would be essentially 14 million meters that would be affected.

Mr. JOHNSTON. I see.

Mr. BUMPERS. I cannot tell the Senator how many households are affected under the Hart amendment. I know there are 33 million social security recipients. I do not know how many railroad retirement beneficiaries there are.

Mr. JOHNSTON. Under the Hart amendment, as I understand it—and perhaps the Senator from Colorado can further elucidate on this—in setting the subsistence amounts under the Hart amendment there is intended to be a subsistence amount per utility meter and those are not intended to vary by the number of people in the family.

Mr. BUMPERS. That is my understanding. The Senator from Colorado can address that.

Mr. JOHNSTON. Perhaps I could ask the Senator from Colorado.

Under his amendment he defines a subsistence amount of electricity. It is his intent that each State regulatory commission would set a subsistence unit available, in effect, for a utility meter, and they are charged a low price for that subsistence amount whether the household is two or more?

Mr. HART. The Senator is correct.

Mr. JOHNSTON. Or no matter how many people are in the family.

Mr. HART. The Senator is correct.

Mr. JOHNSTON. And as adopted by the Senator from Arkansas that same definition would exist, is that correct?

Will the Senator from Arkansas yield for a question?

Mr. BUMPERS. I yield.

Mr. JOHNSTON. And that is consistent. The Senator would agree with the explanation just given by the Senator from Colorado.

Mr. BUMPERS. That is correct.

Mr. HART. Mr. President, will the Senator from Louisiana yield to me 5 minutes on his time on the amendment to respond to some of the argument?

Mr. JOHNSTON. I yield 5 minutes to the Senator from Colorado.

Mr. BUMPERS. Mr. President, if the Senator will withhold a second, I wish to say that Senator MUSKIE, Senator HATFIELD, Senator SASSER, and Senator CULVER all join as cosponsors of this amendment.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Colorado is recognized for 5 minutes.

Mr. HART. Mr. President, for the 95 of our colleagues who do not hear the presentation of the Senator from Arkansas I think they will find the record available to them tomorrow very interesting because it is literally impossible to tell from the arguments that he made whether he favors this proposal or not.

He made a lot of arguments against the Hart amendment and then proceeded to try to amend it by expanding it dramatically.

So it is going to be extremely important, I think, for Senators who may eventually have to vote on this to find out whether the Senator from Arkansas, who proposes this amendment, likes it or does not like it. Most of the arguments I heard in support of his amendment were opposed to the concept. Now the Senator says that a lot of Senators will vote against who misunderstand what is going on.

I only point out to our colleagues that the amendment which the Senator from Colorado presented was available to them for a period of a week or two in a Dear Colleague letter with factsheets and all the information available. There was a great deal of staff contact explaining what its provisions were. So I think it ill behooves people after a 20-vote margin agreeing to the amendment now to say they did not know what they were voting on. If that is the case no one came up to me and explained that to me.

If in fact the arguments which the Senator from Arkansas offers in support of his amendment and against mine are valid, why expand the program?

The Senator from Arkansas makes all these arguments as to why this is bad, why it is unfair, and why it is the wrong approach to solve the problem, and then attempts to dramatically expand the program by offering his amendment. He says he is concerned about unjust enrichment of wealthy people. The fact of the matter is, Mr. President, there are something like seven-tenths of 1 percent of the households in this country over the retirement age that have incomes of $50,000 or more. He talks about rich widows and the retired presidents of General Motors. It is a fraction of a percent.

We are talking here about 95 to 99 percent of the elderly people in this country. There are fewer than 10 percent of the people of retirement age who have incomes of above $10,000.

The Senator points out that there are, in fact, a lot of programs which do not have a means test particularly for the elderly. He is absolutely right. Almost all the legislation which Congress enacts does not impose a means test for the elderly for a variety of reasons, not the least of which is the ease of administration.

For example, the Kennedy-Thurmond proposal on the national prescription drug costs program has no means test. It is available to all senior citizens. Centers which offer health care and meals have no means tests. They are available to all senior citizens. Information referral services under the Older American Act and nutrition and feeding

programs have no means test. You do not have to demonstrate that you are poor to get under those programs.

I assume the retired president of General Motors and the rich widows can go in and get those meals as well.

If the Senator from Arkansas is so concerned about that, he should repeal those provisions and put a means test in so the old people who benefit from these programs have to demonstrate they are impoverished. That is what he wants to do with this amendment.

How much is a retired president of General Motors going to be enriched? About $6 or $8 a month. That is how much he is going to be enriched. How much is it going to cost to administer the program which the Senator from Arkansas proposes to cut out this unjust enrichment? We have no idea.

I would expect it is going to be quite a few millions of dollars just to make sure that the retired president of General Motors, the thousands of retired presidents of General Motors out there, do not get a break on their utility bill every month of $6 or $8 for a subsistence amount of energy. That is the issue here.

I do not frankly know whether the amendment of the Senator from Arkansas expands this program or reduces it. He says it does both. What is the cost of expanding the program?

The Senator from Louisiana objected to my amendment yesterday because it was welfare legislation.

I wish to know whether this is welfare legislation or not. The Senator from Colorado offered his amendment in the way that it was offered because it was identifying a class of people, the senior citizens in this country, whom we have tried to help in a variety of ways, and it was a demonstrated need, and it was easy for those people to demonstrate that they were above the retirement age.

The Senator from Arkansas wants to expand the program to all poor people, and he wants to put a means test in for the elderly, contrary to all the older American legislation that has gone before this Congress for the last 10 years. He is worried about a subsidy.

The city of Los Angeles has this system, and the Rand Corp. has studied it. They demonstrated that the increased rates to all other consumers did not exceed 1 percent increase to their bills, and there has been no citizen opposition to

The citizens of Los Angeles, the bulk that program in Los Angeles.
consumers and the pool consumers, are not afraid of helping the senior citizens of Los Angeles out at a fraction of the cost to them. That is what is at stake here.

Finally, Mr. President, for the 56 Senators who voted for that amendment yesterday, if they want that amendment to become law they better not support the Bumpers amendment. The best way I know for that amendment to be defeated in conference is to add the provision which the Senator from Arkansas provides.

For the 36 Senators who voted against the amendment which the Senator from Colorado offered yesterday, if they want to stop that amendment, I suggest that they vote for the amendment of the Senator from Arkansas because that would be exactly the effect.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I commend the Senator from Colorado for his remarks, and I will not repeat any of them.

But I wish to discuss here a myth that is presented by the Bumpers amendment. Our Government has historically in the past and will for many years to come be taking care of the poor people in our country, whom the Senator is addressing, under welfare programs, whether they be the present ones or reformed welfare programs that are much needed.

Where does most of that money come from for helping our poor people? It comes from the graduated income tax. That is a very important point as contrasted with what the Senator from Arkansas is going to do to the average working family in this country.

You talk about the rich people who are going to get helped by the Hart amendment. Let us talk about the average Americans who are going to have to pay higher utility bills so that we can put into effect his amendment to let their next-door neighbor get some of their money because they are going to have a reduced utility bill.

It appears to me that is absolutely the wrong approach in this country. If we want to help our poor people, then we should not do it by subsidizing their utility bill by charging the average working man and woman in America a higher utility bill. That is what is going to happen.

The Senator can get up and say it will not happen. But if it is not going to happen then there is a Santa Claus around because if the total cost of utilities to our homes is anywhere right in terms of a total level of income then I would ask where is the extra money going to come from for reducing the rates of those who are poor, other than by raising the rates of their next-door neighbors who may only make $500 more than them and may have five children.

One neighbor will be getting a reduced rate because he fits this definition. I submit that this will be the beginning of absolute canabalizing in America: taking things like utilities and using them for a welfare system; soaking the middle income and distributing the money to the poor through utility rates.

The approach of the Senator from Colorado is consistent with all of the laws that we put on the books to help the senior citizens. We have not considered them to be part of the welfare system. Social security is not welfare. All of the programs put in there say, "You have reached a status in this society when everyone is willing to pay to help you," if I understand his reasoning correctly. That is what his amendment is predicated on.

Now we are turning it on its head and saying, "Let the average homeowner in America who is not within the poverty level pick up the difference between this reduced rate that we are going to give to the poor, who we all know are having a hard time with utility rates, and the rate which he must pay."

I think this is absolutely the wrong approach, in addition to the management problem which the Senator from Colorado so eloquently describes, and I do hope that Senators will not vote for it, because I think it witnesses the demise of the Hart approach, whether it comes out of conference permissive or mandatory. I believe if we start building onto the utility system, a subsidization of the welfare system in our country, we will get nothing, permissive or mandatory, with reference to helping the older people in our country.

I thank the Senator from Louisiana for yielding me time.

Mr. BUMPERS. Mr. President, I yield such time as he may require to the Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. Mr. President, I have listened with interest to the righteous indignation expressed by the Senator from New Mexico and other Members of this body. I do not suppose there is a Member of this body who indulges in righteous indignation more than does the Senator from Maine. I am not going to do so in connection with this amendment, or the Hart amendment.

I voted for the Hart amendment yesterday, because I recognized the problem that it sought to address, but not because I thought it had resolved all the questions raised about its effectiveness, about the precision of its targeting, and so on.

The Hart amendment is not my first exposure to the so-called "lifeline" approach to utility ratemaking. I have had occasion to consider it before. It has been considered by the Maine Legislature; it has been considered by the Maine Public Utilities Commission; and its objective is one with which no one in this body can quarrel. I certainly do not.

My principal concern about it, or one of my concerns about it, is the one so eloquently expressed by my good friend from New Mexico (Mr. DOMENICI). We are not dealing, in this lifeline amendment, with public funds. When you are dealing with public funds and public programs, to know whether or not you have a means test is a legitimate question. A lot of these programs have no means test, because a means test, when used in connection with a public program of assistance to groups whose case has struck us as meritorious, can often be used to deny assistance to people who, under the merits of a particular case, deserve assistance. So means tests, we have found, are two-edged swords, and we tend to go against means tests for programs to fit situations in which our so-called senior citizens find themselves and in which other citizens find themselves.

What troubles me about the Hart amendment is not its purpose. I voted for it because I applaud its purpose. But I am concerned about it, first because it is financed by rates paid by users of electricity, whoever they are. It is not Government funds we are talking about. We

are talking about shifting the cost of service from one group of ratepayers to another group of ratepayers.

I am not expert enough on the rate structures of all 50 States to assure myself that each of those 50 commissions will make that shift in an equitable fashion. I have seen that sort of shift made in inequitable ways too many times to believe it is going to be done in an equitable fashion. I find it difficult to comprehend the possibility that a general mandate of this kind by the Congress of the United States will result, in each of those commissions, in an equitable distribution of the cost of the utility system in each of the 50 States. I just find that very difficult to comprehend.

Mr. HART. Mr. President, will the Senator yield?

Mr. MUSKIE. I will not take more than another minute. Not all of those who are burdened by unacceptably heavy utility costs will be benefited by the Hart amendment. Rather, they are going to have the carry the rate burden of the Hart amendment.

Senators may say it is insignificant. But if it is insignificant for the poor who will not be benefited, then the argument should be made that it is insignificant for the elderly whom it would seek to help. Again, it cannot be significant for the poor who are beneficiaries and insignificant for the poor who have to carry the burden. I find that a very difficult kind of a balance to strike, on any scale.

Because of the unknowns as to what will happen, I am deeply troubled about whether or not the Hart amendment is the best way to deal with the problem, which, ought to be dealt with.

Last year I was the originator of a program called SCIP. SCIP means "special crisis intervention program." Sometimes we get off the bench in the titles we designate for these programs.

Congress provided $200 million last year to help the poor with the cost of keeping warm last winter. We were so long in approving the program that it actually did not come on until spring; yet it was used, and on the whole used very effectively, to help about 2 million Americans with unexpectedly high utility bills and other fuel bills. I ask unanimous consent to have printed in the RECORD a State by State and region by region worksheet which shows how these funds were distributed to the poor.

There being no objection, the worksheet was ordered to be printed in the RECORD, as follows:

REDEFINED REGION—STATE WORKSHEET

[Oct. 6, 1977]

FIPS Code No.	State	Total allocation	Households certified	Individuals served	Households request service	Obligated funds	Percent of total	Unobligated funds	Percent remaining
	Region I (Boston):								
09	Connecticut	3,020,000	20,100	54,320	22,900	3,020,000	100.0	0	0
23	Maine	3,140,000	23,000	82,000	26,000	3,140,000	100.0	0	0
25	Massachusetts	5,120,000	24,500	79,625	31,000	5,000,000	97.7	120,000	2.3
33	New Hampshire	1,880,000	9,807	39,200	12,007	1,880,000	100.0	0	0
44	Rhode Island	1,620,000	10,259	35,500	14,000	1,620,000	100.0	0	0
50	Vermont	1,680,000	5,532	22,128	5,808	855,000	50.0	825,000	49.1
	Total	16,460,000	93,189	313,179	111,715	15,515,000	94.3	945,000	5.7
	Region II (New York):								
34	New Jersey	5,080,000	29,000	101,500	35,000	5,080,000	100.0	0	0
36	New York	21,140,000	55,102	168,205	59,000	17,000,000	80.4	4,140,000	19.6
72	Puerto Rico	830,000	15,000	60,040	10,250	280,000	33.7	550,000	66.3
78	Virgin Islands	50,000	303	1,556	374	30,000	60.0	20,000	40
	Total	27,100,000	99,405	231,301	94,624	22,390,000	82.6	47,710,000	17.4
	Region III (Philadelphia):								
10	Delaware	840,000	3,300	9,000	4,500	840,000	100.0	0	0
11	District of Columbia	980,000	4,331	10,820	8,330	764,594	78.0	215,406	22
24	Maryland	2,540,000	8,000	20,000	8,998	2,540,000	100.0	0	0
42	Pennsylvania	14,160,000	57,370	143,425	68,152	13,803,758	97.5	356,242	2.59
51	Virginia	3,280,000	13,000	31,000	21,500	3,280,000	100.0	0	0
54	West Virginia	2,920,000	15,000	30,000	32,000	2,920,000	100.0	0	0
	Total	24,720,000	101,001	244,245	143,480	24,148,352	97.7	571,648	2.9
	Region IV (Atlanta):								
01	Alabama	2,380,000	16,568	66,272	20,801	2,373,867	99.7	6,133	.3
12	Florida	1,540,000	13,000	40,000	17,000	1,400,000	90.9	140,000	9.1
13	Georgia	2,840,000	19,500	58,000	20,400	2,840,000	100.0	0	0
21	Kentucky	4,600,000	15,200	65,000	22,300	1,360,000	29.6	3,240,000	70.4
28	Mississippi	1,820,000	35,000	132,000	37,500	1,700,000	93.4	120,000	6.6
37	North Carolina	4,020,000	40,713	130,000	45,000	4,020,000	100.0	0	0
45	South Carolina	1,640,000	9,000	36,000	9,900	750,000	45.7	890,000	54.3
47	Tennessee	3,480,000	16,854	66,000	22,800	3,181,800	91.4	298,200	8.6
	Total	22,320,000	165,835	593,272	195,701	17,625,667	79.0	4,694,333	21
	Region V (Chicago):								
17	Illinois	13,640,000	75,000	215,000	225,000	13,440,000	98.5	200,000	1.5
18	Indiana	5,740,000	41,392	91,062	49,670	4,013,632	69.9	1,726,368	30.1
26	Michigan	13,260,000	80,033	184,075	240,033	13,260,000	100.0	0	0
27	Minnesota	8,500,000	33,248	80,044	46,792	8,500,000	100.0	0	0
39	Ohio	13,300,000	37,067	56,671	37,067	9,000,000	07.7	4,300,000	32.3
55	Wisconsin	7,980,000	32,178	102,969	45,800	7,111,466	89.1	686,534	10.9
	Total	62,420,000	298,918	729,821	644,362	55,325,098	88.6	7,094,902	11.4
	Region VI (Dallas-Fort Worth):								
05	Arkansas	1,980,000	8,500	23,800	9,200	1,115,677	52.3	864,323	47.7
22	Louisiana	1,420,000	8,107	24,321	8,900	1,350,000	95.1	70,000	4.9
35	New Mexico	1,160,000	7,884	29,565	10,656	1,160,000	100.0	0	0
40	Oklahoma	2,180,000	18,444	24,321	19,369	1,275,122	58.5	904,878	41.5
48	Texas	4,080,000	23,583	90,000	50,000	4,080,000	100.0	0	0
	Total	10,820,000	66,508	192,007	98,125	8,980,799	82.3	1,839,201	17.7
	Region VII (Kansas City):								
19	Iowa	4,300,000	17,000	42,000	20,000	4,240,000	98.6	60,000	1.4
20	Kansas	2,120,000	23,000	46,000	25,000	1,140,000	53.8	980,000	46.2
29	Missouri	5,800,000	40,000	80,000	43,000	4,800,000	82.8	1,000,000	17.2
31	Nebraska	2,300,000	6,400	20,000	10,000	1,424,000	61.9	876,000	38.1
	Total	14,520,000	86,400	188,000	98,000	11,604,000	79.9	2,916,000	20.1

FIPS Code No.	State	Total allocation	Households certified	Individuals served	Households request service	Obligated funds	Percent of total	Unobligated funds	Percent remaining
	Region VIII (Denver):								
08	Colorado	2,680,000	11,261	39,414	13,138	2,530,000	94.4	150,000	5.6
30	Montana	1,480,000	1,703	6,642	1,863	234,068	15.8	1,245,932	84.2
38	North Dakota	1,760,000	2,250	4,960	2,981	523,031	29.7	1,236,969	70.3
46	South Dakota	1,620,000	1,160	1,740	1,295	250,000	15.4	1,370,000	84.6
49	Utah	1,280,000	5,581	23,324	6,080	900,000	70.3	380,000	29.7
56	Wyoming	540,000	106	343	167	10,321	19.1	529,679	80.9
	Total	9,360,000	22,061	74,423	25,524	4,447,420	45.5	4,912,580	54.5
	Region IX (San Francisco):								
04	Arizona	560,000	1,500	1,600	1,600	160,000	28.6	400,000	71.4
06	California	3,380,000	4,905	15,359	15,000	251,131	74.5	3,129,269	25.5
15	Hawaii	300,000	2,512	10,044	3,169	288,386	96.1	11,614	3.9
32	Nevada	520,000	1,500	4,500	2,000	307,711	59.2	212,289	40.8
75	Trusts								
	Total	4,760,000	10,417	36,003	21,769	857,228	64.6	3,753,172	35.4
	Region X (Seattle):								
02	Alaska	1,200,000	486	2,468	625	87,000	7.2	1,113,000	92.8
16	Idaho	1,380,000	5,100	17,850	7,700	850,000	61.6	530,000	38.4
41	Oregon	2,080,000	2,700	10,800	3,200	200,114	9.6	1,879,886	90.4
53	Washington	2,860,000	986	3,451	1,108	100,248	35.1	2,759,752	64.9
	Total	7,520,000	9,272	34,569	12,623	1,237,362	16.4	6,282,638	83.6
	Nationwide, grand total	200,000,000	953,015	2,638,920	1,441,923	161,857,526	80.9	38,142,474	18.1

Mr. MUSKIE. I would hope, Mr. President, that that program might be continued in the winter that is coming, because the predictions are that this coming winter will be colder than normal, although not as cold as last year. The problem will be with us next year, and the SCIP program is one way of meeting it.

In addition, the administration has only recently proposed to provide assistance to low-income persons through the Department of HEW. That proposal would expand the existing emergency assistance program under title IV of the Social Security Act. Currently, title IV emergency assistance is available only to needy families with dependent children. It provides only short-term assistance, 30 consecutive days in any 12-month period, and requires a 50-percent State match. Beyond that, 30 States currently do not participate in the program.

The administration proposes to modify the eligibility criteria and include low-income families without children, and also individuals.

That program is designed to become another approach to the problem of assisting low-income persons, whether elderly or not, to help meet these unprecedently high utility bills which are such such a burden on them.

The Hart proposal is another legitimate proposal. I do not quarrel with its legitimacy. I joined with Senator BUMPERS in this amendment because it strikes me that the Bumpers amendment goes some way—not totally; I am sure refinements could occur to us indefinitely—toward targeting the Hart amendment to those who are really needy, excluding those who are not. The Hart amendment would include me, I say to the Senator from Colorado. I am 63. I assume I am eligible under the Hart amendment. My heating bill in Maine in June of this year was $200, so I could use some help. I would be eligible.

On the other hand, the intent of the Bumpers proposal is to exclude those who do not need this kind of assistance and, since the purpose of the Hart amendment is to focus on those who do need such assistance, to include others who also need it.

It does complicate the administration, of course, in the sense that some more thought has to be given to the guidelines for the rate structure, and that may not be possible. It may not be possible to administer a rate structure in such a way as to focus rates precisely to need, as the Bumpers amendment attempts to do. But as long as we are attempting to make this kind of approach work, I am sympathetic to the Bumpers objective, just as I am sympathetic to the Hart objective. It is for that reason that I join in this amendment.

In joining in it, I have no intention whatsoever to denigrate Senator HART's objective, his proposal, or his heart. He knows that. I voted with him yesterday in spite of my objections, because I am sympathetic.

Mr. JOHNSTON. Mr. President——

Mr. HART. Will the Senator from Louisiana yield so I may ask a question of the Senator from Maine?

Mr. JOHNSTON. I yield to the Senator from Colorado for one question.

Mr. HART. The Senator from Maine, as I understand it, with all the reservations he has both ways, principally argues that he is concerned about the Hart amendment because it might skew the rate base. Does he understand that the dual effect of the Bumpers amendment, as I understand it—and I am still very confused—would be not only to target, presumably, arguably, to target on impoverished older people, which I think most of us agree is the vast majority of older people, but also all impoverished people, and therefore would dramatically expand the effect of this proposal and therefore dramatically skew the rate base that he is concerned about?

Mr. MUSKIE. On that score, as I understand the Bumpers amendment, there are 14 million households it will affect. Senator HART's proposal is for 33 million individuals who are recipients of social security. I do not know how 33 million individuals can be compared to 14 million households, but the effect would seem to me to be at least equal, if not greater. But, I do not have that figure.

Mr. HART. I do not think even the sponsor does, because it has not been offered to me. But we have no idea what the Bumpers proposal would mean to consumers. The Library of Congress study I spoke of yesterday indicated that my amendment would affect 2 percent of the people.

Mr. MUSKIE. I suspect the Bumpers amendment would be no greater.

Mr. BUMPERS. The Congressional Research study the Senator speaks of did not include the 8 million people under 62.

Mr. JOHNSTON. Mr. President, yesterday, when the Hart amendment was pending, one of my colleagues came up to me and said, "Bennett, you dare not oppose this; this is election year and this is goodies to the old folks." I proceeded to oppose it and got voted down. I suppose what I am going to do now is expiate my guilt with the old folks and tell them why I did it, and tell them why I oppose this amendment. I think I am right, and I think the old folks will understand.

Mr. President, the President of the United States sent down a message earlier this year, talking about the hodge-podge, about the mess that we have in welfare now. The President said that we have a mess in welfare; why? Because we have a proliferation of programs, for one thing, where some people, who are drawing up to $16,000 a year, as I recall, are eligible for food stamps. There are all kinds of different programs, from housing allowances to medical care to food stamps, to aid to dependent children, and all the other welfare programs. The President and Mr. Califano and all the rest say that is bad, that we ought to have a uniform approach, we ought to consolidate these so that a person is given what he needs, based on his income, and so that we can have some control over that. Everybody agreed with that and we heard praise for the concept across this country. Yet, every time one of these

programs comes along, we have some new patchwork put on the welfare program. And that is what this is.

To be sure, everybody is for the old folks. But the Bumpers amendment points out a very glaring fault in the Hart amendment. That fault is that it goes to everybody 62 years of age or older, whether they need the help or not. It goes to a number of our colleagues in the Senate—not very many, because most of us are very young. But it goes to one or two of us in this Chamber. Senator BUMPERS recognizes that that is wrong.

Mr. President, what we are doing here is not only voting a benefit, under the Hart amendment for people under 62 and under the Bumpers amendment, for everybody within 125 percent of the poverty level. But we are not having to pay for that. That, to a politician, is very appealing, you vote the benefit and let somebody else pay for it. As Senator DOMENICI says, all the next-door neighbors are going to pay for it.

Do we really have the wisdom to supplant our knowledge for that of the State regulatory bodies? Many of the State regulatory commissions now have lifeline rates adapted to their States, their communities, their life styles, what they perceive to be their needs. Yet we are supplanting that; saying, "No, whatever test you have is not good enough; you have to have this Federal test to supplant that."

The first question is, Why 62? If a State wants to use the age of 70, for example, that the House of Representatives just used on the retirement bill—they said 65 is too young, they wanted to put it to 70 for mandatory retirement. Why should a State not be able to say 70 or 65 or 78, or some other age? Why do we have such wisdom in this body to dictate 62, inconsistently with what we have done in other areas?

Why only the poor? Why not include rich old folks? Can we say in this body that rich old people ought to be included and that their poor neighbors, people on welfare, ought to pay for the rich old folks?

Mr. MUSKIE. Will the Senator yield for a question?

Mr. JOHNSTON. In just a moment, if the Senator will let me make a couple more points.

Mr. MUSKIE. The Senator might cover my question in his succeeding points.

Mr. JOHNSTON. I yield for one question.

Mr. MUSKIE. I just want to have it clear in my own mind what the distinguished floor manager's preferences, what his druthers, are—neither the Hart nor Bumpers amendment, one; or, two, the Hart amendment rather than the Bumpers amendment if he must have one or the other?

Mr. JOHNSTON. I do not like either one of them. We have the Hart amendment. I, frankly, toyed with the idea of accepting the Bumpers amendment because it illustrates very well that neither one is very sound because it shows that we are groping around, trying to find a formula to help people who ought to be helped. But we have not had any hearings.

Not only have we not had any hearings, but we have not made these hard choices; why 62? Why only old people who have electric meters?

Mr. MUSKIE. If the Senator will yield, I think those are legitimate questions. The purpose of the Bumpers amendment was to try to narrow the area of concerns. It does not at all eliminate all of the questions the Senator is phrasing now.

So I simply am wondering what the Senator's recommendation to the Senate would be when we come to vote. The Bumpers amendment would allow us to modify what the Senate already has done. I wonder whether the distinguished Senator from Louisiana is going to give us the benefit of a recommendation.

Mr. JOHNSTON. I will come to that in a minute. I will move to that conclusion.

Mr. President, the next question is, why should the only people to benefit be those who have electric meters? Most of the old folks in this country live in rented homes, I understand. Most of the poor people live in rented homes. Most of the rented homes do not have meters. The tenants are charged through a master meter for the whole apartment house. So those who are poorest do not get any help. Why is that? Should we say that is what we want the Federal Government to dictate to the States? We freeze the rates at today's levels; so that if this bill stays in effect for another 30 years, they still will be getting today's rates, not affected by inflation.

If the rates 10 years from now should be the same as they are today, why not lower them today and let them gradually creep up? In effect, they are frozen today, and they will go down from here on, because inflation goes up.

What effect will this have on minimum rates? The eligible customers can be charged no more than the minimum rate charged to the lowest industrial customer. That is going to be different from State to State and from utility to utility.

If we know so much, why not fix a minimum rate? Or, if we do not know how to do it, why do we not let HEW do it?

The point is, Mr. President, that we really do not know what we are doing in this matter other than we are helping some people who need some help. I believe the best way to help them is to let the States do it until we at least have time to have hearings, and that will give us some information on this matter. What is the cost? What is the appropriate age? Should it be rich or poor; and if poor, how defined? What are the appropriate rates? All these questions need to be answered.

Mr. President, I really oppose both amendments. I must say that the Bumpers amendment seeks to correct a good bit of the fault I find in the Hart amendment but adds some faults of its own.

So, speaking for myself, I oppose both amendments with equal fervor.

Mr. BUMPERS. Mr. President, I am almost prepared to yield back the remainder of my time. I want to make a few observations.

This thing boils down to a very simple proposition: Is the specter of the administrative expense of my amendment sufficient to say that we are going to give 33 million social security recipients the benefit of the Hart amendment, whether they need it or not—and many of them do not—to the exclusion of millions of people in the country who do need it?

If Senators are going to base their votes solely on the cost of administering the program, let us make it easy. Let us just raise social security benefits by $6 each. Who is going to pay for it? Precisely the same people my distinguished colleague from Maine mentioned a moment ago—the working people. They are going to subsidize through higher utility rates the cost of the Hart amendment or who, through increased social security deductions, will subsidize the $6 increase. But if it is a question of administration, let us just raise the payment to social security recipients by $6 per household, and—voila—it is all over.

Mr. President, I did not come to the U.S. Senate to abdicate my responsibilities to the poorest of the poor. It has gotten to the point mentioned by the Senator from Maine. When we discuss welfare, food stamp recipients, or AFDC, it is enough to chase every Member of this body under his desk. It is most unfortunate that that is the case.

There has been some suggestion here that I may be for this amendment or I may be against it. Of course, I am for helping the elderly poor of this country who need help. My amendment would give them help.

The Senator from New Mexico talked about welfare earlier. In the great State of Arkansas, we pay the sum of $240 a month to a couple who are 61 years of age. What do they get out of the Hart amendment? Not a thin dime.

Senator HART says he has not talked to anybody who is confused about his amendment. I was on the floor yesterday about 2 minutes and I said, "Senator HART, is anybody covered under your amendment except persons over 62?" Answer: "No." I was confused. This is the RECORD from yesterday.

Mr. HART. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. HART. I apologize to the Senator, because I misconstrued it.

Mr. BUMPERS. I would not have mentioned that, except that some Senators were confused. It is only normal.

Mr. HART. I apologize. I said that no Senators came to me who were confused because all the facts were available for a large number of days, and what the Senator was asking about, after the motion to table, had been addressed during the debate.

Mr. BUMPERS. Mr. President, I am simply saying that if this body wants to take the position that in the future we are going to help the people who come in a category to which it is easy to administer benefits, if that is going to be the criterion in the future, I would like to resign my Senate seat now. On the other hand, if our criterion here is going to be to try to help the people in need, I will be happy to stay and take pride in being a Member of this body.

I am for my amendment. I am for

most of the Hart amendment. I offer this amendment with serious trepidation.

Everybody knows that the Senator from Colorado and I have enjoyed a great, close relationship since we have been here, and I applaud him for bringing this to our attention. By the same token, I think we would be seriously remiss if we did not redress the most serious flaws in this program.

Mr. President, if the managers are ready, I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDENT OFFICER. The question is on agreeing to the amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. KENNEDY). The Senate will be in order. Senators will take their seats.

The Senate is still not in order.

The second assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until the Senate is in order. The Senate is not in order. Senators will clear the well.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—34

Baker	Glenn	Muskie
Bayh	Gravel	Nunn
Biden	Hatfield	Packwood
Brooke	Hathaway	Percy
Bumpers	Javits	Ribicoff
Burdick	Magnuson	Riegle
Cannon	Mathias	Stevens
Case	Matsunaga	Talmadge
Chafee	McClure	Weicker
Culver	McGovern	Williams
Dole	McIntyre	
Durkin	Metzenbaum	

NAYS—59

Allen	Byrd, Robert C.	Domenici
Anderson	Chiles	Eagleton
Bartlett	Church	Eastland
Bellmon	Clark	Ford
Bentsen	Cranston	Garn
Byrd, Harry F., Jr.	Curtis	Goldwater
	Danforth	Hansen
Hart	Leahy	Schmitt
Haskell	Lugar	Schweiker
Hatch	Melcher	Scott
Hayakawa	Morgan	Sparkman
Heinz	Moynihan	Stafford
Helms	Nelson	Stennis
Hollings	Pearson	Stevenson
Huddleston	Pell	Stone
Inouye	Proxmire	Thurmond
Jackson	Randolph	Tower
Johnston	Roth	Wallop
Kennedy	Sarbanes	Young
Laxalt	Sasser	Zorinsky

NOT VOTING—7

Abourezk	Humphrey	Metcalf
DeConcini	Long	
Griffin	McClellan	

So UP amendment No. 888 was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CLARK. I move to lay that motion on the table.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk.

UP AMENDMENT NO. 887

The PRESIDING OFFICER. The Senate now resumes consideration of amendment No. 887 offered by the Senator from New Hampshire.

Who yields time?

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order. The Senator will withhold that inquiry until the Senate is in order.

The Senate is not in order. Senators will take their chairs or retire to the cloakrooms for conversation.

The Senate still is not in order. Conversations by staff members will cease or they will be asked to retire from the Chamber.

The Senator from Colorado will state his parliamentary inquiry.

Mr. HASKELL. Mr. President, my parliamentary inquiry, is there an amendment of the Senator from New Hampshire pending?

I had assumed that this amendment of the Senator from Arkansas was an amendment in and of itself.

The PRESIDING OFFICER. Under the agreement, this was to be laid aside temporarily and would automatically be brought up at the conclusion of the earlier amendment.

Mr. HASKELL. I thank the Chair.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. DURKIN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. It is my understanding that unanimous-consent agreement contemplates returning to my amendment any time prior to 5 o'clock this evening.

The PRESIDING OFFICER. It would be no later than 5 o'clock.

Mr. DURKIN. Under that set of circumstances, I think it would be best to go back to that amendment now and not be foreclosed in my own unanimous-consent request.

The PRESIDING OFFICER. The Senator from New Hampshire has 27 minutes remaining. The Senator from Louisiana has 30 minutes.

Mr. DURKIN. I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from New Mexico?

Mr. DURKIN. For what purpose?

Mr. DOMENICI. I would like to inquire of the Chair what the last ruling was; I did not hear it.

Did I hear the Chair say something about germaneness at this point?

The PRESIDING OFFICER. The Chair made no ruling about germaneness.

Mr. DOMENICI. And there has been no issue put to the Chair about this amendment in the last 2 minutes?

Mr. DURKIN. No.

Mr. DOMENICI. I thank the Chair, and I thank the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is entitled to be heard. The Senate will be in order.

Mr. DURKIN. Mr. President, if the Senator from New Mexico is going to make a point of order on germaneness, I think we could expedite the work of the Senate if he would make it now. I know this is all interesting, but it is taking up time. If he is going to make a point of order, I ask that he make it now, rather than listening to all this.

Mr. DOMENICI. It is my understanding, Mr. President, I could not make a point of order at this point without unanimous consent in that time remains on the amendment.

Mr. DURKIN. To expedite the work of the Senate in this issue, so we will get it done and to conference——

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senator from New Mexico be permitted to make a point of order at this point which would be with regard to this amendment.

Mr. DURKIN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object, Mr. President, that this unanimous consent in no way impacts on my ability to call up this amendment if his point of order is ruled without merit.

The PRESIDING OFFICER. If the point of order is well taken the amendment is not germane.

Mr. DURKIN. Mr. President, I ask for the basis of the ruling inasmuch as the amendment is an amendment to an amendment that was protected.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. If the amendment would not have been germane under the basic bill but the amendment was adopted, would an amendment to that amendment be germane?

The PRESIDING OFFICER. The Chair will consult with the Parliamentarian.

The Chair is advised that the amendment was not covered in the unanimous-

consent agreement, and there has been no special protection in terms of germaneness.

Mr. DOMENICI. Mr. President, I make the point of order that this amendment is not germane.

Mr. DURKIN. Mr. President, point of order. I think I can help the Chair.

The PRESIDING OFFICER. I think the Senator probably can help the Chair, too. But before the Senator does the Chair will say it would take unanimous consent for the point of order to be made before the time has expired, and I want to ask whether the Senator from New Mexico was asking for a unanimous-consent request to be able to make the point of order at this time.

Mr. DOMENICI. Mr. President, I thought I did, and I thought the Senator agreed. But I repeat that request.

The PRESIDING OFFICER. Is there objection to the Chair's considering the point of order made by the Senator from New Mexico?

Mr. DURKIN. Mr. President, reserving the right to object, and I will not object, as long as we agree that it does not impact on the basic issue that my amendment is in order because it is an amendment to a nongermane amendment which was covered by the consent agreement and covered by the unanimous-consent request I made when I asked to set aside to yield to the Senator from Kentucky and call it up at 5 o'clock. I think the fact that I got unanimous consent to call it up no later than 5 o'clock eliminated any procedural impediments, and eliminated the possibility of it being ruled out of order.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire that his interpretation is not correct. If he does not reserve the right to object to the unanimous-consent request, then the Chair will rule on the issue of germaneness prior to the time having expired.

Mr. DURKIN. Reserving the right to object, and I will not object, because if the point of order was going to be sustained half an hour from now or an hour from now, whatever the time agreement, even though I think it is a very important issue, it is a vital issue, if the point of order is going to be sustained after we go through the exercise of debating it, in a sense it will drag the Senate through an extra hour of debate, so I will not object to the unanimous-consent request because a point of order will be inevitable at the time, and it will save a half hour of the Senate's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. Is the Senator making a point of order?

Mr. DOMENICI. I have made the point of order, Mr. President.

The PRESIDING OFFICER. The amendment does introduce new subject matter and, therefore, it is not germane and the amendment falls.

Mr. DOMENICI. I thank the Chair.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 889

(Purpose: To amend the Energy Policy and Conservation Act to clarify reporting requirements contained therein)

Mr. HASKELL. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 889.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 12, insert the following:

ENERGY POLICY AND CONSERVATION ACT REPORTING REQUIREMENTS

SEC. 16. Section 503 of the Energy Policy and Conservation Act is amended by adding a new subsection to read as follows:

"(d) This section 503 is intended to apply only to the development of accounting practices required for the preparation of the reports to be filed with the Department of Energy for use in compiling a reliable energy data base; nothing contained in this section 503 shall be construed to establish or to affect the establishment of generally accepted accounting principles for financial reporting purposes.".

Mr. HASKELL. Mr. President, this amendment is designed to clear up some confusion that apparently has arisen in connection with section 503 of the Energy Policy and Conservation Act of 1975. That provision requires uniform accounting by energy companies in order to arrive at a reliable and consistent data base.

I will ask to be printed in the RECORD correspondence between myself and the chairman of the Securities and Exchange Commission, Mr. Williams. This correspondence is relevant to the proposed rulemaking filed by the SEC, which has apparently utilized section 503 of the EPCA as a basis for developing and requiring uniform financial accounting and reporting standards for oil and gas producing activities.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 29, 1977.

Hon. HAROLD M. WILLIAMS,
Chairman, Security and Exchange Commission, Washington, D.C.

DEAR MR. WILLIAMS: As you may know, I have a certain amount of interest in the provision of the Energy Policy and Conservation Act (42 USC 6383) which requires the Securities and Exchange Commission, for purposes of developing a reliable data energy base, to assure the development and observance of accounting practices to be followed by firms engaged in the production of crude oil or natural gas. I have consistently favored initiatives intended to provide the Congress, the Executive branch and the public with reliable and understandable energy information, including, especially, information relating to the economics of the energy industry. To this end, as a member of the Conference Committee which reported the Energy Policy and Conservation Act, I strongly supported the decision of the conferees to direct the SEC to prescribe rules respecting financial accounting practices applicable to producers of crude oil or natural gas or to recognize (or by other appropriate means make effective) practices developed by the Financial Accounting Standards Board, a private professional accounting organization. Recognition of, or reliance on practices developed by the FASB, would be authorized under the Act if the SEC is assured that such practices will be observed to the same extent as would result if the SEC prescribed such standards by rule.

My intent, and I believe that of a majority of the conferees, was that the accounting practices developed under this authority be used to provide the Federal government with financial information which would permit comparison among firms engaged in crude oil or natural gas production on a uniform and consistent basis. Such comparison is needed, indeed is essential, in my opinion, if an effective energy policy is ever to be developed or administered.

It has come to my attention that the SEC may be considering requiring firms producing crude oil or natural gas to observe accounting practices developed under the EPCA authority for the purposes of preparing financial reports to the stockholders of such firms and the public required by other law. This may or may not be a practice which is helpful to the firms, investors and the public. In any event, these matters were not within the purview of the Conference Committee and no judgment on this issue should be read into the bill the Committee reported. The legislation specifically states that Commission action pursuant to the Act be "for the purposes of developing a reliable energy data base related to the production of crude oil and natural gas". The attainment of this limited goal was the only reason for specific authority granted respecting accounting practices.

Because of the concern which has been expressed to me that the SEC contemplates use of EPCA authority to require reporting of financial information to investors and the public using standards recently developed by FASB, I would like a prompt and definitive reply describing the relationship between the accounting practices developed by FASB in response to EPCA and the requirements of the SEC which will be used for such firms for reporting to investors or the public. In particular, this response should review your statutory authority in this area, and identify the source of SEC's legislative mandate to require crude oil and natural gas producers to follow a given accounting methodology in reports to investors and the public. Because of the strength of concern in this matter I would hope your reply would be available by noon Friday, September 30, 1977.

Yours truly,

FLOYD K. HASKELL,
Chairman, Subcommittee on Energy Production and Supply.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., September 30, 1977.

Hon. FLOYD K. HASKELL,
Chairman, Subcommittee on Energy Production and Supply, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR HASKELL: Thank you for your letter of September 29 asking the Commission to comment on the relationship between the accounting practices developed by the Financial Accounting Standards Board in response to Energy Policy and Conservation Act of 1975 and the reporting requirements applicable to reports of public company's registered with the Commission. The Commission shares your concern over the importance of these practices.

The FASB's mandate is generally to de-

velop financial reporting standards to be followed by all companies preparing financial reports in accordance with generally accepted accounting principles. Accordingly, while the FASB is cognizant of EPCA, it is addressing the issue on the basis of good financial reporting for oil and gas companies.

Various acts give the Commission statutory authority for determining the practices to be used in preparing financial statements required to be filed with the Commission. See, *e.g.*, Sections 9, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) of the Securities Exchange Act of 1934. Adoption of EPCA does not change those responsibilities. As your letter stresses, the EPCA did give the Commission the additional mandate of developing accounting practices necessary for oil and gas producers to report certain financial and operating data to the Federal Energy Administration "for the purposes of developing a reliable energy data base related to the production of crude oil and natural gas." The Commission expects to adopt appropriate rules in this area by the end of the year.

The question of appropriate public financial reporting for oil and gas companies has been under consideration for several years. The passage of EPCA made it clear that this question had to be addressed currently. In accordance with its policy announced in Accounting Series Release No. 150, the Commission will rely, in the first instance, on the ongoing consideration by the FASB for determination of accounting principles for public financial reporting for oil and gas companies. Because of the relation of these issues to the EPCA, the Commission expects to publish the final standards adopted by the FASB and to request public comments as to whether it should rely on those standards for purposes of public financial reporting. Thus, anyone who believes the Commission should *not* rely on those practices will have an opportunity to present their views.

In the interest of meeting your need of a response by September 30, we have not attempted a detailed description of the actions taken by the Commission regarding this matter during the past two years. We would be happy to furnish additional information if you so desire.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5861, 34-13910, 35-20158]

ACCOUNTING PRACTICES—OIL AND GAS PRODUCERS—FINANCIAL ACCOUNTING STANDARDS

Proposed amendments

Agency: Securities and Exchange Commission.

Action: Proposed rules.

Summary: This release is a rulemaking proposal which would amend the Commission's regulations to incorporate certain financial accounting and reporting standards required by the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA"), to be developed by December 22, 1977. The Commission is proposing these rules pursuant to authority granted it by the EPCA and the accounting practices required to be developed will be applicable to persons engaged in the production of oil and gas who will be required under the EPCA to file reports with the Department of Energy, including those who are not subject to the filing requirements of the Federal securities laws. The amendments are proposed to place the Commission in a position to adopt by December 22, 1977, financial accounting and reporting standards for oil and gas producing activities. The proposed amendments are the same as the standards contained in the proposed Statement of Financial Accounting Standards. "Financial Accounting and Reporting by Oil and Gas Producing Companies," issued on July 15, 1977, by the Financial Accounting Standards Board.

Date: Comments should be submitted on or before October 14, 1977.[1]

Address: Comments should refer to File S7-715 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. All comments will be available for public inspection.

For further information contact:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1671).

Supplementary information: For purposes of developing a reliable energy base related to the production of crude oil and natural gas, the EPCA requires the Commission to assure the development by December 22, 1977, and observance of accounting practices to be followed by persons engaged in the production of crude oil or natural gas in the United States. The authorizes the Commission to prescribe rules with respect to the accounting practices to be developed pursuant to the Act or to make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board if the Commission is assured that such practices will be observed to the same extent as would result if the Commission had prescribed such practices by rule. The FASB, the private sector body responsible for establishing financial accounting and reporting standards, has recently published an exposure draft of a proposed Statement of Financial Accounting Stanards (the "FASB Exposure Draft") entitled "Financial Accounting and Reporting by Oil and Gas Producing Companies." The FASB Exposure Draft would require oil and gas producing companies to follow a form of the successful efforts method of accounting. This release proposes amendments to Regulation S-X (17 CFR Part 210) to incorporate the FASB's proposed standards as rules of the Commission.

The Commission's proposal of these amendments is not indicative of any change in its policy regarding its relationship with the FASB. The timing of this action is necessitated solely because of the need for the Commission to ensure that it can comply with the deadline imposed by the EPCA in the unlikely even the FASB does not adopt final standards by December 22, 1977.

BACKGROUND

In Accounting Series Release No. 150 (39 FR 1260), the Commisison issued a statement of its policy on the establishment and improvement of accounting principles and practices. The policy provides that the Commission will continue to look "* * * to the private sector for leadership in establishing and improving accounting principles and standards through the FASB with the expectation that the body's conclusions will promote the interest of investors * * *"

The EPCA requires the Commission to assure the development of accounting practices to be followed in the preparation of accounts by persons engaged in the production of crude oil or natural gas in the United States. A deadline of December 22, 1977, was established for the development of these accounting practices.

The EPCA explicitly recognizes the Commission's policy with respect to the FASB. The Act provides that the Commission is authorized "* * * to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule * * *." The EPCA further provides that the Commission shall afford interested persons an opportunity to submit written comment with respect to whether the Commission should exercise its discretion to recognize or otherwise rely on such accounting practices developed by the FASB.

In anticipation of the enactment of the EPCA, the FASB added to its technical agenda in October, 1975, a project entitled "Financial Accounting and Reporting in the Extractive Idustries." In connection with that project the FASB appointed a task force of 18 persons to advise it in preparing a Discussion Memorandum analyzing issues related to this project. The staff of the Commission prepared part of one of the chapters in the Discussion Memorandum to discuss certain issues relating to the SEC's responsibilities under the EPCA. The Discussion Memorandum was issued on December 23, 1976.

The Commission in Securities Act Release No. 5801 (42 FR 8237) called attention to the publication of the FASB Discussion Memorandum and encouraged interested parties to comment on the issues presented therein and to participate in the FASB's public hearing on this project. In that release the Commission indicated that "* * * consistent with its policy most recently expressed in Accounting Series Release No. 150, (the Commission) contemplates that the Financial Accounting Standards Board will be providing the leadership in establishing financial accounting principles and standards for producers of oil and gas." The FASB received 140 position papers, letters of comments, and outlines in response to this Discussion Memorandum and held a public hearing on this project on March 30 and 31 and April 1 and 4, 1977. Thirty-nine presentations were made at the hearing.[2]

The Commission has followed closely the deliberations of the FASB in connection with this project. A member of the Commission's staff served as an observer of the FASB's task force. The Commission's staff received and reviewed all written responses to the FASB Discussion Memorandum, and a member of the staff of the Commission attended the FASB public hearing. Since the public hearing, an active liaison between the FASB and the Commission has been maintained to exchange views on different issues involved in the project.

Purpose of the Release

This release is issued for two purposes: (1) To propose amendments pursuant to the EPCA which would be applicable to persons filing reports with the Federal Energy Administration[3] and (2) to propose concur-

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[1] However, comments on the FASB Exposure Draft are due September 22, 1977. See the discussion below at "Comments to FASB."

[2] Transcripts of the public hearing and copies of the response to the FASB Discussion Memorandum are available for inspection or purchase from the Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.

[3] Section 505(a) of EPCA amends the Energy Supply and Environmental Coordination Act of 1974 by adding a provision that the Federal Energy Administrator (in the future the Deparment of Energy) require by rule" * * * that persons engaged in whole or in part in the production of crude oil or natural gas—(A) Keep energy information in

rently amendments pursuant to the Federal securities laws. These proposed rules would incorporate the provisions of the FASB Exposure Draft.

The Commission does not generally adopt statements of the FASB as its rules. It is proposing rules in this case to ensure that it can comply with its responsibilities under the EPCA. The EPCA provides that the Commission can extend the December 22, 1977, deadline for the development of the accounting practices to allow for a meaningful comment period with respect to whether it should determine to rely on the accounting practices promulgated by the FASB. The FASB has informed the Commission that it expects to issue a final standard prior to December 22, 1977. However, in the event that the FASB does not adopt a final standard prior to December 22, 1977, the Commission will be in a position to adopt the proposed standards, revised as it considers appropriate on the basis of comments submitted in response to this release and to the FASB Exposure Draft.

In this release, it is the intention of the Commission to propose rules which are the same as the provisions of the FASB Exposure Draft. The provisions of the Exposure Draft have been rearranged to facilitate adoption as rules of the Commission. Comments are specifically requested on any matters where these rearrangements resulted in possible deviations from the provisions of the FASB Exposure Draft.

Disclosure Matters

The proposed rules do not include the provisions of the FASB Exposure Draft (paragraphs 42–55) pertaining to disclosure of financial and operating data. The EPCA requires that oil and gas producers report to the Federal Energy Administrator (the reporting responsibilities under the EPCA have been since assigned to the Department of Energy) certain financial and operating data, some of which are similar in many respects to those proposed for disclosure in financial statements by the FASB. The Commission in Securities Act Release No. 5837 (42 FR 33135) requested comments from interested parties relating to the reporting of these financial and operating data. In that release, the Commission also indicated that it is considering revising its disclosure requirements related to these types of data in filings under the Federal securities laws. Comments on that release were due August 12, 1977.

The Commission intends to propose rules relating to reporting these supplemental financial and operating data after reviewing the responses to its request for comments in Securities Act Release No. 5837. In connection with the development of these reporting requirements, the Commission will consider and coordinate its proposed requirements with those set forth in the FASB Exposure Draft.

Mr. HASKELL. Now it may be that the SEC probably does have this rulemaking authority based upon other statutes and nothing in this amendment is intended to indicate whether these rules are just or not. I merely wish to emphasize, by way of this amendment, that the purpose of section 503 was to arrive at a reliable and uniform energy data base for the purposes of national information. It had nothing to do whatsoever with what might be considered proper internal corporate accounting. This amendment merely clarifies the original intent of this section.

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accordance with the accounting practices developed pursuant to Section 503 of the Energy Policy and Conservation Act, and (B) Submit reports with respect to energy information kept in accordance with such practices."

I understand the managers of the bill are familiar with this amendment, and I would ask for their reaction.

Mr. DOMENICI and Mr. JOHNSTON addressed the Chair.

Mr. JOHNSTON. Mr. President, this amendment is consistent with what we tried to do, I think, with the bill in 1975, and we would accept it.

Mr. DOMENICI. Mr. President, the minority finds the amendment acceptable and we have no objection.

The PRESIDING OFFICER. The question is on agreeing to amendment 889.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Colorado for introducing this amendment, and I ask unanimous consent that I be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, the purpose of developing accounting standards under the provision of the Energy Policy and Conservation Act of 1975 resulting from an amendment by the Senator from Colorado, was to enable the Federal Government to compile a national energy data base, and not to control the financial reporting of individual companies.

The Federal Accounting Standards Board has issued a proposal which will unfairly discriminate against many companies, and even force some of them out of business. They have proposed that all oil and gas companies be required to adopt the "successful efforts" method of accounting.

Adoption of the successful efforts accounting method industrywide will unfairly work a hardship on the smaller, more aggressive independent operator.

Mr. President, this amendment will help prevent unfair discrimination due to accounting procedures.

I ask unanimous consent that a copy of the proposal be printed in the RECORD.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

FASB PROPOSAL ON FINANCIAL ACCOUNTING BY OIL AND GAS PRODUCING COMPANIES

A provision of the Energy Policy and Conservation Act of 1975 requires the Securities and Exchange Commission to assure the development and observance of accounting standards for oil and gas producing companies. As allowed under the Act, the SEC has relied on the Financial Accounting Standards Board to propose these practices. The purpose of developing these standards was to enable the Federal Government to obtain a National Energy Data Base and not to control the financial reporting of individual companies to their shareowners.

The FASB has proposed that all oil and gas producing companies be required to adopt the successful efforts method of accounting which is more applicable to larger and more mature operators than to smaller and more rapidly growing exploration and production companies. Under the "successful efforts" method proposed b ythe FASB, all oil and gas producers are required to write off most geological and geophysical expenses and the cost of dry holes as incurred, even though the company's overall exploration program is successful.

In contrast, most growing exploration companies, including a majority of independent producers, use the "full cost" accounting method under which all exploration and development expenditures in a successful exploration program are capitalized and then amortized against oil and gas revenues as reserves are produced and sold, thereby achieving a proper matching of costs to revenues.

Most independent oil and gas producers, who account for more than 80 percent of the exploratory wells drilled in the United States, will be seriously hurt by the FASB's proposal. For most independent producers, the change from full cost to successful efforts accounting would

Result in an arbitrary and misleading reduction in the reported earnings, asset carrying values, and net worth;

Create the unwarranted and incorrect impression that past earnings and balance sheet values were inflated;

Penalize companies for expanding their exploration programs;

Increase the difficulty of financing independent oil and gas producing operations; and

Understate the earnings of successful, growing exploration and production operators.

The consequences of requiring all oil and gas producing companies to adopt "successful efforts" accounting would be anti-competitive and run counter to the national goal of increasing domestic energy supplies and availability. The mandatory adoption of successful efforts accounting would

Raise serious barriers to the expansion of many successful producers by penalizing earnings and increasing the difficulties of financing exploration operations.

Discourage the entry of new competitors into oil and gas exploration because the FASB's accounting rules would force them to report operating losses (and prevent them from reporting reasonable earnings) for an extended period of time even on programs which are clearly successful in terms of the quantity and value of reserves discovered.

UP AMENDMENT NO. 890

(Purpose: To eliminate certain conditions in connection with the establishment of university coal research laboratories)

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 890.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 16. Section 801(a) and 801(b)(1) of the Surface Mining Control and Reclamation Act of 1977 are deleted and in lieu thereof, the following is inserted:

"SEC. 801. (a) The Administrator, Energy Research and Development Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering is authorized to and directed to designate fifteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made in fiscal year 1979 and the remaining five shall be made in fiscal year 1980.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) Those ten institutions of higher education designated in fiscal year 1979 shall

be located in a State with abundant coal reserves."

Section 806 of the Surface Mining Control and Reclamation Act of 1977 is deleted and in lieu thereof the following is inserted:

"SEC. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 and $22,500,000 for the fiscal year ending September 30, 1980 (including the cost of construction, equipment, and startup expenses), and $11,250,000 beginning with the fiscal year 1981 and each fiscal year thereafter through the fiscal year ending September 30, 1984, to carry out the provisions of this title."

Mr. ROTH. Mr. President, this amendment is also sponsored by Senator THURMOND, Senator CRANSTON, and Senator BIDEN.

I am offering an amendment to the Surface Mining Control and Reclamation Act of 1977 which was enacted earlier this year. The amendment is very straightforward and would provide for five additional coal research laboratories.

Under the strip mining bill in section 801(b) of title VIII, the administrator of ERDA was authorized to designate 10 institutions of higher education as coal research laboratories. However, section 801(b)(1) of the act requires that the designated institutions be located in a State with abundant coal reserves.

This requirement, together with one in 801(c), precluded institutions in States with moderate or negligible coal reserves from competing for the ERDA research grants.

Many of the States, like Delaware, have institutions with ongoing coal research programs which would be ineligible for the special designation under the Strip Mining Act.

Mr. President, I have been consulting with a number of people, including the distinguished senior Senator from West Virginia, the Senator from California, and a number of others, including Senator FORD, and it seems to me it is very important that we utilize the other institutions, the other universities, that already have ongoing studies and research programs in the area of coal, but which are not located in coal rich States.

As I say, my amendment would provide for 15 institutions instead of 10, but the additional 5 would not be initiated until fiscal year 1980, which is 1 year later than the first 10 are started. At that time 5 new schools would become eligible for the same kind of financial support that the original 10 now on the books are eligible for.

Mr. DOMENICI. Mr. President, will the Senator yield at this point?

Mr. ROTH. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. If this amendment is adopted in 1980 when five more come on board, is there more money for the then 15 to split among themselves or is it the same amount that the 10 would have had?

Mr. ROTH. No. I am happy to say to the Senator from New Mexico that there would be additional funds so that we are not diluting the funds that would be available to the original 10 institutions. What we are trying to do is put the new five in the same status, so additional funds would be offered in 1980.

Mr. DOMENICI. I thank the Senator.

Mr. ROTH. I might say that I think this is an important amendment for a number of reasons. As a member of the Finance Committee trying to arrive at a program that will enable this country to become at least semi-independent of foreign oil, I think all of us have to recognize that the one practically unlimited resource we have is coal. It offers the greatest hope to this country of obtaining a relatively independent position in the not too distant future. I think it is perfectly obvious that the more coal we use the less oil we are going to have to import from abroad. There is no question, however, that many problems remain in the utilization of this vast resource. For example, coal gasification offers great hope and great promise, but much remains to be done before it becomes a reality. So it seems to me of extreme importance that we put more effort in our research and development in these areas and that we utilize those higher institutions that are already making major efforts in this area, but that could do a great deal more if they were given assistance from the Federal Government. So that is what I am proposing by this amendment.

I point out to Senators that under the present law it would appear that roughly only 10 States would be eligible for such a coal institution. They include, Colorado, Illinois, Indiana, Kentucky, Montana, North Dakota, Ohio, Pennsylvania, West Virginia, and Wyoming.

What I am trying to do by my amendment is to give the opportunity to the other 40 States to participate in this program and to provide some much-needed research and development.

I think one of the advantages is institutions like my own University of Delaware are already involved in this kind of work, and I think it would be a terrible mistake for this country not to take advantage of this valuable resource.

At this stage I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment by the distinguished Senator from Delaware (Mr. ROTH) upon which I was pleased to join as a cosponsor.

In my home State, there currently exists at the University of South Carolina a number of coal research laboratories and programs.

These laboratories have three regular faculty members, two post-doctoral fellows—which are the equivalent of faculty—and 16 graduate students currently engaged in the various aspects of coal research. The programs operate on a budget of approximately $400,000 per year with funds derived from the university, the Federal Government, and private industry, and currently have ongoing projects in Pennsylvania, West Virginia, Virginia, Kentucky, Colorado, and Wyoming. Their expertise in this field is well known and documented, and the laboratories are constantly called upon by Government and industry to contribute to solutions in coal mining and exploration problems. These laboratories are among the leaders in the study of roof control problems in underground coal mines, computer treatment of coal exploration data, treatment of surface mined areas, and coal land evaluation. South Carolina is in the unique position of having peat deposits—precursor to coal—within the State, and the study of such deposits leads to more effective exploration and development of coal deposits. If such a connection appears tenuous, it can be pointed out that two major coal companies have requested short courses with the laboratories concerning this particular topic.

Mr. President, to further support this claim for recognition as a State institution outside the coal field which is contributing to coal research, I should like to list those agencies which have supported their work or have especially requested program graduates for employment:

United States Bureau of Mines.
United States Environmental Protection Agency.
Alabama Geological Survey.
Kentucky Geological Survey.
Tennessee Geological Survey.
Virginia Geological Survey.
West Virginia Geological Survey.
Atlantic Richfield Company.
Bethlehem Steel Corporation.
Carter Oil Company (Exxon Coal).
Consolidation Coal Company.
Island Creek Coal Company.
New Jersey Zinc Company.
Penn Virginia Land Company.
Pocahontas Land Company (N. & W. RR.).
Rochester and Pittsburgh Coal Company.
Rock Mountain Energy Corporation (Union Pacific RR.).
United Pocahontas Corporation.
United States Steel Corporation.
Utah International Coal Company.
Westmoreland Coal Company.
Zapata Coal Company.

Therefore, Mr. President, this institution is an example of one with ample evidence of achievement and potential in coal research which was nevertheless excluded under the provisions of the Surface Mining Act which set up coal research laboratories only in States with large coal reserves. I should emphasize that placing funds within States with ample coal reserves is a good idea relative to solving problems in that particular State. It should also be emphasized that such institutions tend to be limited to the activities within that State. In contrast, institutions such as the one at the University of South Carolina which are geographically near coal producing areas and which have special expertise or experience, can apply these talents on a national level and thereby contribute on a nationwide effort.

Therefore, Mr. President, I respectfully urge my colleagues to give this amendment their favorable consideration.

Mr. President, the University of South Carolina is an example where they have done good work, they are now doing good work, and we feel that such an institution should not be excluded but should have a chance. I say have a chance. We do not say they be selected but they should have the opportunity to be selected for this important coal research.

And I mentioned all of these agencies now, Government agencies and private companies, for which they are doing coal research at present.

We hope this amendment will be adopted. We think it is reasonable. We think it is in the national interest, and we think it is important to the energy situation and the energy problem in this Nation.

I commend the able Senator from Delaware for sponsoring this amendment, and I was very pleased to join him on it.

Mr. ROTH. Mr. President, I wish to add to that list I mentioned earlier four other States including New Mexico, Alaska, Missouri, and Utah.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, when I came to the Interior Committee in 1973, one thing was perfectly obvious about the energy efforts in this country, and that was that they were proliferated in too many areas, with too many fingers in the pie, too many different agencies involved in energy research and energy development, as well as in energy regulation.

So we created first, the Department of Energy Research and Development, and then the Department of Energy, in order that we might have some coordination of all of the energy efforts in this country.

Now, the Energy Research and Development Administration, which has a centralized administration for energy research and development, has been generously funded, and they have been particularly generously funded in the area of fossil fuel. This year, Mr. President, the Energy Research and Development Administration is spending $700 million on fossil fuel. About two-thirds of that goes to coal. That is almost half a billion dollars we are spending on coal research in this country right now.

Let me say that again: Half a billion dollars being spent in this country right now by ERDA for coal research.

ERDA can subcontract that out to universities or any other private groups that they want to. They set the priorities, and determine whether they will do it in-house or contract it out.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. Not just yet.

In addition to that, when we went to the strip mining conference, made up largely of Senators and Representatives from coal mining States, we provided for 10 different universities in coal producing areas to engage in coal research. I am not going to say whether that was needed or not needed; I am simply saying that was a product of the strip mining conference back, as I recall, in 1975.

We brought that forward in this year's strip mining bill. It is a part of the law now. We do not seek to disturb that law. I am sure they are doing a marvelous job.

But to expand that program from $5 million this year up to $22.5 million, when we already have half a billion dollars under ERDA, in my opinion, is wasting the taxpayers' money. As my senior colleague (Mr. LONG) said about another program on another occasion, it is like getting up on top of the Washington Monument and throwing out hundred-dollar bills.

In this case, million dollar grants are going to some universities that can use them, and I am sure we would all like to have them. It is great for the universities, and I am sure they have wonderful professors, and I am sure they can give excellent pay raises to their professors and have nice programs, and all that. But the question is, are we going to spend our dollars for research and development in the best way?

If we are, we ought to do it out of the half billion dollars we have now, and not have any more proliferation of these Federal programs. It seems to me that half the amendments we have had come along on this bill, Mr. President, are to create new programs, to provide new grants, new employees, and new burdens on the taxpayer. It is time we realized, Mr. President, that this is not a free lunch, that it is not free money, that it comes out of the taxpayers, and that we must begin to stop this proliferation.

As much as we love the University of Delaware and the University of South Carolina—in fact the universities in my State would probably be standing in line for this money if we would give it to them. They would be able to spend the money; we would have more laboratories, more new Ph. D.'s with more study papers, theses, and grant applications than you could shake a stick at.

But, Mr. President, let us come down to earth. Let us realize that we created ERDA to spend half a billion dollars for coal research. Let them do the job, and we ought not to try to give some goodies to every deserving university in the country.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. THURMOND. The Senator said that the choice could be made among institutions. If that were the case, that might be all right, but that is not the case.

Mr. JOHNSTON. No, I was talking about the half billion dollars for ERDA. I am not talking about $7.5 million presently in the law, which must be spent in universities in coal producing areas.

Mr. THURMOND. Under the Surface Mining Act, only the States with large coal reserves now have these laboratories. In other words, the University of South Carolina might have one of the best in the Nation—and we do have; I just read all these agencies that are dealing with them now, the U.S. Bureau of Mines and all those others, and yet they are not even allowing us to apply.

Mr. JOHNSTON. Let me tell you why: Because we had that strip mining conference back in 1975, and I was on that conference. We had mainly coal-producing area Senators and Representatives on that conference, and, with the best of motivations, they saw the chance to get the money for their local universities. As I say, I am not trying to rib them on that program. It is a great program, I am sure. All we are saying is, just because we did it back in 1975, let us not do it any more.

The universities are all eligible, the University of South Carolina, the University of Delaware, LSU, and all the rest are eligible for some of the half billion dollars that ERDA gets. If ERDA feels they can best spend some of that money by giving it out to these universities, there is no impediment. It is true that under this strip-mining bill they cannot get any of the money; that goes to universities in the coal-producing States.

Mr. ROTH. Mr. President, will the Senator yield at that point?

Mr. JOHNSTON. I yield.

Mr. ROTH. That figure of $7.5 million the Senator has been using is not correct. The first year the 10 schools presently authorized receive $30 million.

Mr. JOHNSTON. For starter costs, that is correct.

Mr. ROTH. For each following the present 10 would get $7.5 million. I propose an extra $15 million, which is equivalent to half the $30 million, so we can start five new centers.

Mr. JOHNSTON. The Senator is correct. All I am pointing out is that the amendment would, any way we cut it, be adding $15 million—$15 million this year, and I forget how much next year. The program is not going to end there. I just think we do not need it, and I think ERDA, with half a billion dollars, has enough money.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. THURMOND. It is clear now that some States are not classed as States with large coal reserves, and thus are not eligible; although they may have one of the best teams in the Nation to do this research, you are excluding them. You exclude them now. All we are asking is an opportunity for them to come in under this program if they see fit to select a university that is not in a coal producing State. Is that not fair?

Furthermore, I want to say that with the shortage of energy today, we have to do more and more with coal. We have to do research to bring oil out of that coal. We have to do research along the line of the pollution problem with coal. We have a lot of research to do. It is said that we have hundreds of years of coal supplies in this country; why not spend a reasonable amount of money on research to determine all the purposes for which this coal can be used, and the best manner in which it can be utilized to conserve the energy supplies of this Nation? It seems to me that just by spending a few million dollars more there, we can accomplish a lot that would help this Nation in the end.

Mr. JOHNSTON. I thank the Senator. Mr. President, I am prepared to yield back the remainder of the time.

Mr. DOMENICI. Mr. President, I need some time yielded to me.

Mr. JOHNSTON. Yes; I yield the Senator from New Mexico such time as he may need.

Mr. DOMENICI. I thank the Senator. May I say to the Senator from Louisiana, I am not going to totally agree with him, but first I ask if he will yield 5 minutes to me.

Mr. JOHNSTON. Yes, I yield.

Mr. DOMENICI. First let me ask the Senator from Delaware if I correctly understand what he is saying. If I understand what he is saying, it is "All right, the Senate has seen fit to conclude

that the best universities and institutions to do coal research are in coal-abundant States." If I understood him correctly, he is saying we already did that.

Mr. ROTH. That is correct.

Mr. DOMENICI. But he is saying he is not so sure that is a totally right decision. Is that what the Senator is saying?

Mr. ROTH. I say to the Senator from New Mexico, that is absolutely correct.

Mr. DOMENICI. So he is saying there just may be a very good institution or university that is not in a State that has coal abundance. Is that correct?

Mr. ROTH. That is absolutely correct.

Mr. DOMENICI. And the Senator does not like the idea that all of this money for these institutes is coming from coal use and coal extraction all over America and we have already written them out.

Mr. ROTH. That is absolutely correct.

Mr. DOMENICI. It seems to me that the Senate may not even know that all but 10 States have been written out. Is that what the Senator might be suggesting here today?

Mr. ROTH. I think that is the difficulty. I think that is correct.

Mr. DOMENICI. And with the Senator's amendment, he is going to let them know that only the States with coal abundance are going to get any of this money, is that correct?

Mr. ROTH. That is correct.

Mr. DOMENICI. And he is saying that the appropriate officials should be permitted to pick some State universities or institutes where there is not a coal abundance if they find them to be as good as the other ones that are in coal-abundant States, is that right?

Mr. ROTH. I think it is in the national interest that be done.

Mr. DOMENICI. I wonder if it would not be appropriate to consider amending the Senator's proposal so that there would be at least two or three such institutes that are not in coal-abundant States for consideration. Would the Senator consider changing his 5 to 3 and leaving all the others the same?

Mr. ROTH. I would be willing to consider that.

Mr. DOMENICI. What would the Senator from Louisiana say if we accomplished that?

Mr. JOHNSTON. It goes from 5 to 3 and from $15 million to what?

Mr. DOMENICI. Whatever three-fifths is. I guess that is nine.

Mr. THURMOND. Mr. President, I hope the Senator will agree to that.

Mr. JOHNSTON. Mr. President, having just been warmed by my own rhetoric to the idea that we do not need any of this, I hate to agree to any of it, but I can go with two.

Mr. HUDDLESTON. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. HUDDLESTON. I do not think we ought to leave the impression that the Senate acted without knowledge of what it was doing. There was a very logical reason for limiting the research to those States that have an abundant supply. That is a key factor in whether or not an institution can conduct the proper kind of research. It was not a question that some institutions are better than others and that institutions outside of this area are not qualified and could not perform adequate research. A key factor of the whole program was that the research laboratories should be located where there is an abundant available supply. That is the reason it was written that way. I think it was a very logical reason, as a matter of fact, Mr. President.

Mr. ROTH. I point out that there was very little debate at the time it came up on the Senate floor. What we are talking about is not only involving those States with an abundance, but it is a national issue. The thing that concerns me the most is that we need to make some major breakthroughs in this area. I think the State of Delaware can take great pride that it has led in many areas of research and development. It is known for what it has done in chemicals. To me, what we do not want in research is centralized research. We want to give the opportunity to as many institutions as possible which are equipped to contribute in this area.

I point out that I know that there are a number of institutions, including my own in Delaware, that are well able to provide some very valuable contribution to this most serious problem. I think it is a mistake to try to limit it to those areas that have what they call an abundance of coal, or 10 States.

Mr. JOHNSTON. Mr. President, I think we are moving to a consensus here of two and six. Will my friend from Delaware agree with that? I am engulfed here with an overwhelming number of Senators who are saying two and six are the right figures. I wonder if the Senator from Delaware would agree with that.

Mr. DOMENICI. It is two institutes with $6 million funding that is the proposal.

Mr. THURMOND. Mr. President, as a cosponsor of the bill, I had hoped that that would not be done, but, realizing the practical circumstances here, I agree to that as a last resort.

Mr. ROTH. If I may make a suggestion, I would prefer to have three institutions at $2 million.

Mr. JOHNSTON. In other words, have the $6 million, but have it——

Mr. ROTH. Available for three institutions.

Mr. JOHNSTON. Up to three institutions with $6 million?

Mr. ROTH. Yes.

Mr. THURMOND. Mr. President, I agree to that amendment.

Mr. JOHNSTON. Mr. President, with that modification, which will take us just a couple of minutes, we agree to accept that.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. DOMENICI. Mr. President, while that is occurring, I commend the Senator from Delaware for his efforts. I have worked on this legislation from the outset, as well as other legislation relating to coal and coal research. I know that absent the coal reserve "abundance" requirement the University of Delaware would almost certainly have been designated as one of the original 10 research centers.

Delaware has already made great contributions to our coal gasification research and will now be able to expand and amplify on its fine program. The noncoal States owe the Senator their thanks.

While the senior Senator from Kentucky is here, let me say I do not disagree to the present dominant research being done in coal-abundant States. I think ours will be one of those States. But let me remind the Senator that Massachusetts Institute of Technology is in Cambridge, and it probably knows more about oil and gas than many State universities that are located in the middle of natural gas and oil deposits. So I assume there is a good point being made by the Senator from Delaware that we ought to let them try a little bit.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. JOHNSTON. Mr. President, while we have this consensus, may we get this amendment passed?

Mr. RANDOLPH. Mr. President, just a moment. I have a statement I want to question.

I do not want it to be indicated that Massachusetts Institute of Technology knows more about oil and gas and coal than some other universities in this country.

Mr. JOHNSTON. I want to associate myself with that statement.

Mr. DOMENICI. Let me say "as much as."

Mr. THURMOND. Mr. President, I express my appreciation to the able Senators from Louisiana and New Mexico for the consideration they have given to this matter.

Mr. JOHNSTON. Mr. President, the Senators from Delaware and South Carolina are very persuasive to get me to do what we really did not want to do. But their case is so persuasive that we have gone along with them.

Mr. ROTH. Mr. President, I shall take only a minute to express my appreciation to Senator RANDOLPH for his help and advice in this area.

I also want to thank the Senator from New Mexico. I know that his university has one of the outstanding programs in the country and gives some support to the original contention.

I appreciate also the help from Senator JOHNSTON and the others who have helped.

I yield back the remainder of my time.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Will the Senator send the modification to the desk?

The PRESIDING OFFICER. Without objection, the amendment is modified.

The modification is as follows:

Sec. 16. Section 801(a) and 801(b)(1) of the Surface Mining Control and Reclamation Act of 1977 are deleted and in lieu thereof, the following is inserted:

"Sec. 801. (a) The Administrator, Energy

Research and Development Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering is authorized and directed to designate up to thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made in fiscal year 1979 and the remaining five shall be made in fiscal year 1980.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) Those ten institutions of higher educiation designated in fiscal year 1979 shall be located in a State with abundant coal reserves."

Section 806 of the Surface Mining Control and Reclamation Act of 1977 is deleted and in lieu thereof the following is inserted:

"Sec. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979, and $13,500,000 for the fiscal year ending September 30, 1980 (including the cost of construction, equipment, and startup expenses), and $9,750,000 beginning with the fiscal year 1981 and each fiscal year thereafter through the fiscal year ending September 30, 1984, to carry out the provisions of this title."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION OF S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this bill, the Senate proceed to the consideration of Calendar Order No. 400, S. 1871, the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. While I have the floor, I should state that the Senate will be in rather late this evening, working on that measure, because it is hoped that, if the Senate can complete consideration of this measure and the DOD authorization bill tonight and tomorrow, there will then be no session on Saturday.

Mr. BAKER. Mr. President, reserving the right to object.

I am happy to say that we have agreed on this sequence of activity for the Senate. There is no objection to proceeding next to the consideration of the minimum wage bill. I hope, if the majority leader can share his thoughts with me for a moment, that we might get some estimate of how late "late" might be tonight. I understand it may be tomorrow before we are able to finish the minimum wage bill, in any event. Without jeopardizing the avoidance of a Saturday session, I wonder if the majority leader could give us some estimate of how late "late" is.

Mr. ROBERT C. BYRD. I really do not have any idea, because I do not know how many amendments will be called up to the minimum wage bill. There is a time agreement on the bill. I would expect several hours to be spent on that bill. But the more work that is done on that bill this evening, the less work will remain to be done tomorrow. I would expect the session to go fairly late today, and possibly late tomorrow, in order to complete the work, and thus avoid a Saturday session.

Mr. BAKER. The majority leader expects that we will have to continue with the minimum wage bill on tomorrow?

Mr. ROBERT C. BYRD. Yes. I do not think we could finish it tonight. I would love to see that happen, but I doubt that we can, inasmuch as we already have reached 5 p.m. I think there is one more amendment to the pending bill.

Mr. JACKSON. Yes.

Mr. BAKER. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC UTILITIES REGULATORY ACT OF 1977

The Senate continued with the consideration of S. 2114.

UP AMENDMENT NO. 891

(Purpose: To provide for reports regarding shortages of electric energy)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 891.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. CONTINUANCE OF SERVICE.

(a) CONTINUANCE OF SERVICE.—Section 202 of the Federal Power Act is amended by inserting the following new subsection at the end thereof:

"(g) In order to assure continuity of service to customers, of utilities presently regulated by the Commission, the Commission—

"(1) shall require, by rule, each presently regulated public untility to report promptly any anticipated shortage of electric energy which would affect such utility's capability of serving its customers, and

"(2) shall, by rule, require each presently regulated public utility to submit contingency plans respecting electricity supply shortages, which plans shall give due consideration to the public health and safety and shall provide that such utility's customers will be treated without undue prejudice or disadvantage to any person in the event of such shortages."

Mr. BAYH. The amendment is quite simple, Mr. President. It amends the Federal Power Act to require a public utility to promptly report to the Commission any anticipated electric energy shortages which would affect its ability to serve its customers and to submit contingency plans to deal with energy shortages should they arise. The contingency plans would give consideration to the public health and safety and would provide that the utility's customers would be treated in a nondiscriminatory manner.

The amendment is necessary, Mr. President, because there has been a threat by large electric utilities to cut off power to certain cities and small electric distributors that buy power from the utilities at wholesale, for distribution to city residents, and industries at retail. Eleven cities in Indiana and Michigan, six cities in Virginia, and one in Nevada were threatened with cutoffs by suppliers projecting power shortages in their systems. Henderson, Nev., is served by a small private power company which buys power from Nevada Power Co. The other cities have municipally owned electric systems which have long purchased power from subsidiaries of private utilities.

If any of these cities could be successfully cut off from its source of power, the end result could be its elimination as an independent electric system, for it may have no alternative supplier, or no access to wheeling or transmission from an alternative supplier on affordable terms, and neither the financial resources nor the lead time to build a generating plant. The system may have no option but to sell out to its supplier.

There is no energy saving to the Nation in this case, Mr. President, and ironically there may ultimately be no energy saving to the supplier—for with the purchasing systems eliminated, their customers would fall into the service area of the supplier, which would again have to manage any shortages through equal sharing by all customers. The supplier would, however, have succeeded in eliminating competition in the area and in increasing the size of its own service area.

Furthermore, if these cities, the first to be endangered by cutoffs, could be successfully curtailed, then so can any other city in the country that buys power at wholesale from a power company which can plausibly project a future electric energy shortage. There are over 1,000 such cities and other local public power systems in this country, located throughout the States. In fact, nearly 70 percent of the total number of U.S. electric utilities buys all or part of its power at wholesale, including 65 percent of municipal systems, 93 percent of rural electric cooperatives, and 29 percent of private power companies.

The Virginia and Nevada curtailment cases were finally settled with agreements between the utilities providing for continued services. But the 10 Indiana cases and 1 Michigan case remain before the FPC, with the outcome unknown. As long as their cities' power supply is in jeopardy, the power supply of an unknown number of other cities is in potential jeopardy. If we do not take the necessary action now, we may have to live with the likely consequences, the vitiation of competition, of pluralism, and of a critical yardstick for comparing price, service, and responsiveness in the electric utility industry.

The Federal Power Act does not say explicitly that curtailments of power must not discriminate between customers. Nondiscrimination is implicit in the Federal Power Act, but the Commis-

sion has made no ruling as yet. There have been conflicting rulings by two FPC administrative law judges: in one case, an ALJ held the supplier had a higher responsibility to retail than to wholesale customers; in another an ALJ held that public utilities must serve all customers without discrimination. The split of decisions is a clear indication that the Congress should address the situation.

My amendment would require utilities to submit contingency plans for power shortages. Those plans would have to provide that customers would not be discriminated against. Under its plan, a utility would not be able to curtail services to wholesale customers unless it curtailed services to its other customers in the same manner. The amendment would also require prompt reporting of shortages as they become more imminent in order that the Commission could give close attention to the implementation of the contingency plan.

Mr. President, I would add that the question of service curtailment to wholesale customers is currently under the sole jurisdiction of the Commission. The issue, as I said before, is before the Commission at this time. This amendment would simply make clear that discrimination should not be permitted. It will in no way extend Federal authority to matters previously regulated by the States.

I hope my colleagues will support this amendment. It is of vital importance to communities across the country which are served by wholesale suppliers of electricity.

Mr. President, during the last several hours, the Senator from Indiana has discussed this matter with the distinguished floor managers of the bill, and I understand we have an agreement on the thrust of what we are trying to do.

To be succinct, this amendment is directed at some rather unfortunate and discriminatory practices that have taken place throughout the United States, and, in particular, in my State. It is designed to prevent large private utilities from discriminating against smaller public utilities, municipal utilities, and rural co-ops in the event of a power shortage.

The language is designed to assure that in the event there is a shortage of power, major suppliers, major private utilities, would have to distribute power in a nondiscriminatory manner.

Frankly, Mr. President, I think that is what the act says right now, but I want to make this intent absolutely clear for future reference, since we are now addressing a number of issues touching the electric utility industry.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. As I understand it, the Senator from Louisiana is prepared to accept the amendment of the Senator from Indiana. It is my understanding that it was agreed to accept the amendment because it has been modified and the language "in a nondiscriminatory manner" has had substituted for it language that is presently in the Federal Power Act: "any undue prejudice or disadvantage."

Is that correct?

Mr. JOHNSTON. It is my understanding that the amendment now reads, in its last line:

Customers will be treated without undue prejudice or disadvantage in the event of such shortages.

The phrase "without undue prejudice or disadvantage" does appear presently in the Power Act.

As I understand it, the Senator from Indiana believes that the phrase "without undue prejudice or disadvantage" means the same as "in a nondiscriminatory manner." On the face of it, the words appear to have a similar ring to me. I do not know whether they are words of art or whether there is any difference. On its face, it certainly appears that way to me. We certainly would be willing to accept the amendment on that basis.

Mr. DOMENICI. Does the Senator from Indiana concur in the statements made by the manager with reference to the modification?

Mr. BAYH. The amendment was not modified, because it had not been sent to the desk. The original text of the amendment before the Senate is as the Senator from New Mexico described it—"without undue prejudice or disadvantage."

Mr. DOMENICI. So there need be no modification to get to the point.

Mr. BAYH. No modification. I honestly do not see how people with reasonable judgment can look at that language and come to a different conclusion than the one I have stated. In instances of a power shortage, it seems clearly prejudicial and disadvantageous to me to cut off all services to the customers of smaller wholesale purchasers before taking any action at all against customers of the private, larger utilities. Indeed, shortages should be dealt with in a nondiscriminatory manner. If there is going to be some hardship, it should be handled in an equitable manner, across the board. Citizens in a town served by a municipal utility should not lose their light and heat and other essential services just because they are served by a public utility.

Mr. JOHNSTON. The argument of the Senator from Indiana is not without logic. Therefore, we accept the amendment.

Mr. DOMENICI. I say to the Senator from Indiana that the minority has no objection to the amendment, and we are willing to accept it.

Mr. BAYH. I appreciate the consideration of my two colleagues.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

INTERCONNECTION

Mr. HUDDLESTON. Mr. President, I wish to make a statement which pertains to the colloquy appearing in the October 5, 1977, CONGRESSIONAL RECORD regarding the antitrust amendment which was offered and then withdrawn by Senator KENNEDY.

It has long been recognized the only efficient way to provide electric service to any given geographical area is through a single electric system. This avoids the duplication and waste of overlapping supply and delivery systems. This recognition led to the regulation of the utilities permitted to operate these systems.

The purposes of S. 2114 are conservation, efficiency, and equitable rates. Consideration has been given to the promotion of competition amongst electric utilities by mandating the wheeling of electric power. This concept would be contrary to the purposes of the legislation and against the public interest. It tion and the inefficient use of facilities and the waste of resources essential to the construction of those facilities.

We commend the committee for its decision to limit the new authority of the FERC to ordering interconnection for the purposes of conservation and the efficient use of facilities and resources. To have gone further and order wheeling would be to promote consumption and the inefficient use of facilities and resources.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, H.R. 4018 is the House vehicle which has been chosen to carry out the unanimous-consent order that was entered into some days ago.

Mr. JOHNSTON. Mr. President, I understand that, consistent with the previous unanimous-consent agreements, the amended bill will: First, include the text of part 5 of title I of H.R. 8444, page 173, line 1, through page 266, line 7, as passed by the House, to become a new title II of the amended bill; and, second, add the following language as a new section at the conclusion of the amended bill:

UP AMENDMENT NO. 892

SEC. . The provisions of Title II of this Act shall not be effective so long as the provisions of title 1 remain law.

The PRESIDING OFFICER. Under the previous order the text of S. 2114, as amended, the pertinent text of H.R. 8444, and the new section, referred to by the Senator from Louisiana, are added as amendments to H.R. 4018.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that H.R. 4018 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 4018.

The PRESIDING OFFICER. Without objection, it is so ordered.

The House bill will be read the third time.

The bill was read the third time, as follows:

A bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 86, nays 7, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—86

Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Hansen	Nunn
Bayh	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Hollings	Riegle
	Huddleston	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schweiker
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stafford
Church	Leahy	Stennis
Clark	Long	Stevens
Cranston	Lugar	Stevenson
Culver	Magnuson	Stone
Curtis	Mathias	Talmadge
Danforth	Matsunaga	Thurmond
DeConcini	McClure	Tower
Domenici	McGovern	Wallop
Durkin	McIntyre	Weicker
Eagleton	Melcher	Williams
Eastland	Metzenbaum	Young
Ford	Morgan	Zorinsky

NAYS—7

Bellmon	Helms	Scott
Garn	Laxalt	
Hatch	Schmitt	

NOT VOTING—7

Abourezk	Humphrey	Pearson
Dole	McClellan	
Griffin	Metcalf	

So the bill (H.R. 4018), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. I move to lay that motion on the table.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to commend Senator JOHNSTON, the manager of S. 2114, the regulatory rate reform bill for his skillful handling of this important legislation.

I also commend Senator DOMENICI, the minority manager of the bill for his able assistance in the passage of this bill.

I would like to point out that this is the second bill dealing with the President's energy package successfully floor managed by Senator JOHNSTON, who also guided S. 2057, the energy conservation bill through its passage in the Senate.

The bill passed today, S. 2114, is the last part of the President's energy package which will come out of the Committee on Energy and Natural Resources, and the fourth of the five-part total energy package; only the tax provisions of the package remain for Senate action.

I believe the distinguished chairman of the Energy Committee, Senator JACKSON, and the ranking minority member, Senator HANSEN, deserve the Senate's gratitude for their dedicated efforts to bring these complex bills to the floor and their untiring efforts in securing their ultimate passage.

I also wish to commend the able staff of the Energy Committee—Gren Garside, Mike Harvey, Dan Dreyfus, and all the professional staff of the committee who have worked extremely long hours in committee and on the Senate floor in assisting the chairman and the managers of these bills.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1871, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE AND AUTOMATIC ADJUSTMENT IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) during the period beginning on January 1, 1978, and ending December 31, 1978, not less than $2.65 an hour; during the period beginning January 1, 1979, and ending December 31, 1979, not less than 52 per centum of the average hourly earnings (excluding overtime) of production and related workers on manufacturing payrolls for the twelve-month period beginning with the first pay period after June 30, 1977, and ending with the last pay period beginning before July 1, 1978; and during the year beginning January 1, 1980, and during each succeeding calendar year not less than 53 per centum of the average hourly earnings (excluding overtime) of production workers on manufacturing payrolls for the twelve-month period beginning with the first pay period after June 30, and ending with the last pay period beginning before July 1, preceding such year; except as provided otherwise in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture during the period beginning on the first day of January 1978, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages of the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective on and after the first day of January 1978, not less than the minimum wage rate in effect under subsection (a)(1).".

(d) Section 6(a) is amended by adding after and below paragraph (5) the following:

"The Secretary shall each year round the amount of the wage rate specified in paragraph (1) of this subsection to the next highest amount which is divisible by 5. Not later than November 1 of each year the Secretary shall publish in the Federal Register the hourly earnings (excluding overtime) of production and related workers on manufacturing payrolls during the twelve-month period ending with the last pay period beginning before July 1, of the preceding year".

(e)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and substituting the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each suceeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendation of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by section (a)(5) of this section would otherwise apply, and whose hourly wage increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increase prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in

effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended—

(i) by striking out "subsections (a) and (b)" and substituting "subsection (a)(1)",

(ii) by inserting "(A)" before "heretofore", and

(iii) by inserting before the period the following: ", and (B) which prescribes the wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended—

(i) by striking out "subsection (a) or (b)" and substituting "subsection (a)(1)", and

(ii) by striking out "such subsection" and substituting "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(A) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(B) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum".

(b) Effective January 1, 1979, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum".

(c) Effective January 1, 1980, such section is amended by striking out "40 per centum" and inserting in lieu thereof "35 per centum".

(d) Effective January 1, 1981, such section is amended by striking out "35 per centum" and inserting in lieu thereof "30 per centum".

(e) Effective January 1, 1982, such section is amended by striking out "30 per centum" and inserting in lieu thereof "25 per centum".

(f) Effective January 1, 1983, such section is amended by striking out "25 per centum" and inserting in lieu thereof "20 per centum".

PENALTIES

SEC. 4. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation, employment, reinstatement, or promotion or the payment of wages lost, and an additional equal amount as liquidated damages.".

(b) Section 16(b) is further amended by—

(1) inserting "(1)" after "section 17 in which"; and

(2) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

EFFECTIVE DATE

SEC. 5. (a) The amendment made by section 2 of this Act shall take effect on the first day of January 1978, except that on and after the date of enactment of this Act the Secretary of Labor shall take such administrative action as may be necessary.

(b) The amendment made by section 4 shall take effect on January 1, 1978.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CLARK. Mr. President, I ask unanimous consent that Marge Baker of my staff be granted the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a similar request for Lora Hartson and Jane Yanulis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. A similar request, Mr. President, for Charles Peck.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. The same request for Bonnie Jean Mathieson and Bob Hunter of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Hamilton Horton of my staff be granted privilege of the floor during the discussion and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the same request for Judy Heffner of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, a similar request for Romano Romani.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. May we have order in the Senate? Will Senators in the rear of the room please clear the Chamber?

The Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that the following may be granted privilege of the floor during consideration of this bill: Mike Roush of Senator BARTLETT's staff, Tim Smith of the Human Resources Committee staff. Don Zimmerman, John Rother, of the Human Resources Committee staff, and Chris Brewster of the staff of Senator DANFORTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

Mr. WILLIAMS. Mr. President, a similar request for Stephen Paradise, Darryl Anderson, Michael Goldberg, Michael Forscey, Gerald Lindrew, and Martha Woodman.

The PRESIDING OFFICER. Without objection, it is so ordered.

The privilege of the floor was also requested by the following Senators for various staff personnel, for which unanimous consent was granted: Mr. WALLOP and Mr. SCOTT.

Mr. WILLIAMS. Mr. President, it is always with resolve and conviction that I bring to the Senate floor proposed legislation to increase the minimum wage.

Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and, when agreed to, be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I think I ought to take the floor at this time to state it is the intention of the leadership——

Mr. STENNIS. Mr. President, may we have order? We would like to hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished manager of the bill for allowing me to make this statement at this time. I feel constrained to take the floor to state to Senators that it is the intention of the leadership to stay in session tonight until 10 o'clock so that Senators may make their plans accordingly. I say this because it is desirable to complete action on this bill and on the DOD authorization before the close of business tomorrow evening. That will spare us a Saturday session. Otherwise we will have to be in Saturday to complete the work.

A good many Senators have been wondering how late we would stay tonight. So I think that statement might be helpful.

Mr. STENNIS. Mr. President, will the Senator yield to me for one sentence?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. It is certainly important that we get this military authorization bill moved on out this week. There is nothing complicated about it, as I see it now. It will not take a great deal of time. But if we get it moving, then the appropriations can move. Otherwise we are in a jam. I thank the Senator for passing on it tomorrow.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I wonder if there is a possibility, or whether we could explore the possibility, of reducing the time allocated under the unanimous-consent order for amendments?

Mr. JAVITS. Mr. President, will the Senator yield? I think the two main amendments are the indexing amendment Senator WILLIAMS and I are sponsoring, removing indexing, and Senator BARTLETT has an amendment. I think in view of the fact that there is an amendment to our amendment, I would seek a reduction from 2 hours to 1½ hours. But I would point out the unanimous-consent order gives 2 hours on all amendments in the first degree, so I do not think we would want to reduce ours unless it was done across the board.

Mr. BAKER. Mr. President, why do I not try to inquire on our side to see what reaction I get to that. Perhaps if any Members on the floor have views on that subject they can express them to me for a moment.

Mr. ROBERT C. BYRD. Very well, that would be helpful.

Mr. SCOTT. Mr. President, if the Senator will yield, I do have an amendment respecting older Americans where I would be agreeable to 1½ hours, but I feel that if the distinguished Senator from New York does require an hour and

a half for his amendment, that all of us ought to have equal time.

Mr. JAVITS. I said an hour or an hour and a half. I think Senator WILLIAMS concurs, and we will agree to an hour.

Mr. SCOTT. I would be willing to agree to whatever time the distinguished Senator from New York and the distinguished Senator from New Jersey agree to.

Mr. BAKER. I thank both the Senator from New York and the Senator from Virginia, and we will use that as a point of departure and see if we can improve on this.

Mr. ROBERT C. BYRD. Very well. I hope we can agree on that.

Mr. MORGAN. Mr. President, I ask unanimous consent that my staff assistant, Alfred Pollard, be allowed the privileges of the floor during the consideration and vote on the bill pending

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent——

Mr. MAGNUSON. Mr. President, there was some unanimous consent on a time limitation, and I was on the telephone, but I was hearing it on the speaker. The Senator from Maine has an amendment and he is not here, and I thought I would protect him because I want to join with him.

The PRESIDING OFFICER. Will the Senator from Washington use his microphone?

Mr. MAGNUSON. I reserve the right to make a request.

Mr. ROBERT C. BYRD. We have not made the request.

Mr. MAGNUSON. But we will ask for some time.

Mr. CHILES. Mr. President, I ask unanimous consent that Mr. Rick Farrell of my staff be given the privilege of the floor pending debate and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, the minimum wage has been raised many times since 1938; and it is our purpose and intent, as the preamble to this legislation stated in 1938, to find ways of eliminating from our commerce and industry "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of our workers."

As President Franklin D. Roosevelt stated in his 1937 message to the Congress:

> Our Nation, so richly endowed with natural resources and with a capable and industrious populaton should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work. A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reasons for chiseling workers' wages or stretching workers' hours.

The legislation which we are considering today has been given full and careful consideration by the Human Resources Committee. In the course of our consideration, we have studied numerous alternative proposals; and we have modified and refined our own ideas in accordance with the information and views which we have received.

The bill as it was introduced, and as it was reported by the Labor Subcommittee, contained three basic provisions. First, it would increase the minimum wage to $2.65 per hour effective January 1, 1978.

The present minimum wage is $2.30 per hour. It yields an annual income of only $4,800 per year to a full-time, year-round worker. This falls far short of providing even a poverty-level income for a nonfarm family of four. The Department of Labor estimates that, for the head of a family of four to have earned the nonfarm poverty income, the minimum wage would have had to have been $2.78 per hour in 1976 and $2.90 per hour in 1977. By these standards, this bill is quite modest.

A second major provision of this bill concerns the credit which some employers are permitted to take against the minimum wage for gratuities which are paid to their employees. This so-called "tip credit" allows employers with tipped employees to pay them only 50 percent of the otherwise applicable minimum wage. This provision was inserted in the Fair Labor Standards Act when that act's protections were first extended to the employees of hotels and restaurants in 1966.

It is a glaring exception to the general principle that every covered employer should be required to pay his employees at least the minimum wage.

In addition to the fact that the tip credit contravenes the general principle that employers should be required to pay a minimum wage, it has the effect of denying employees the benefit of tips which customers intend to bestow upon them. Under present law, the first $1.15 per hour which is earned by an employee in tips does not go to the employee, as the customer intends, but to the benefit of the employer instead.

No fewer than 26 States have recognized this inequity by limiting the tip credit to a greater extent than under Federal law. This legislation will, over a 5-year period, gradually reduce the tip credit to a level of 20 percent. As the committee report shows, this amount places Federal law in line with those States which have already legislated.

Finally, we have explored, through this legislation, the possibility of maintaining the minimum wage at its customary level in our economic system, relative to other wages. This could be done by indexing the minimum wage to the average straight time, hourly wage paid to production workers in manufacturing.

Indexing the minimum wage is not a novel concept. The Congress considered indexing the minimum wage to other wages as long ago as 1949. Since that time, the indexing of benefits or wage rates has become accepted throughout our economy. The Federal Government, for example, uses the Consumer Price Index (CPI) to adjust the level of benefits under several Federal programs. And many privately negotiated wage agreements include a concept of automatic adjustments in response to changes in the economy. The index included in this bill was carefully considered and selected to meet the needs of minimum-wage workers without generating any significant pressure in other sectors of the economy.

This was done by selecting a wage index which would not include a substantial number of minimum wage workers; thus, we avoided the possibility of creating a self-generating upward spiral. As the committee report explains, the indexing formula provided in the bill would keep the minimum wage at approximately 47 to 49 percent of current manufacturing wages. This is precisely in line with our experience over the past 25 years.

Neverthcless, it is recognized that there have been many concerns expressed about the concept of indexing. These concerns include the automatic manner in which indexing would operate, and the resulting difficulty we might have if we chose to depart from the wage schedule which would be established through indexing.

Recently, the House of Representatives voted to delete the indexing mechanism provide in its bill and to replace it with a series of specific minimum wage increases.

I recognize the sincereity and the depth of concern over indexing the minimum wage. It has been, and continues to be, personally my view that the indexing proposal in this bill is a reasonable and important step toward providing adequate minimum wages for our workers. Nevertheless, in light of the concerns which have been expressed, I am proposing and I will be joined in this by my colleague from New York, the ranking minority member of the human resources committee, (Senator Javits) to forego the establishment of indexing for the minimum wage, at least for the next few years.

I have, therefore, sponsored an amendment which will replace the indexing provision of the bill with minimum wage increases in specific amounts. These amounts approximate the rates which would have been set if indexing had been established. However, after 4 years, it will be necessary for Congress to return to the consideration of minimum wage legislation.

The rates which we propose are $2.65 per hour beginning January 1, 1978; $2.90 per hour beginning January 1, 1979; $3.15 per hour beginning January 1, 1980; and $3.40 per hour beginning January 1, 1971. These increases will not bring our minimum wage workers completely up to to a poverty-level wage. However, it is the least we can do to provide a fair wage for these workers and to prevent them from suffering a further reduction in their already meager standard of living.

As may colleagues are aware, the theoretical economic import of this legislation has been the subject of vigorous debate. We will have more to say on this subject during the course of our deliberations on this legislation. But I do want to make several observations at this time. First, I observe that the opponents of minimum wage increases have rather blatently distorted the economic arguments. The highest cost estimates which the committee has received appear to be inflated several-fold.

Even the most carefully reasoned economic arguments against the minimum wage have proven to be no more than theoretical models which do not reflect the reality of our economy. As one distinguished economist stated:

> We have 40 years of experience with the Fair Labor Standards Act. No one has been able to demonstrate with any degree of certainty that maintaining the minimum at 50 percent of the average industrial wage has led to inflation, unemployment, or any other economic catastrophy. On the other hand, there have been considerable benefits to many people at the lowest income levels of our society. There is no reason to believe that the amendments proposed in S. 1871 will produce effects different from those of similar amendments in the past.

This is the statement of Prof. Walter Galenson, of Cornell University.

This year, even more than in the past, we have heard from the proponents of special subminimum wages which would discriminate against particular segments of our economy. The entire concept of singling out groups, or segments, of workers to pay them less than the minimum wage is contrary to the purposes of the Fair Labor Standards Act. It is unjust and discriminatory to assign a value less than the minimum wage to any person's labor.

I understand that amendments will be offered to this legislation which would establish a subminimum wage for young workers. This will be strongly opposed. These proposals are not only unfair, and discriminatory in their effect on the young workers to whom they would apply, but they also pose a substantial threat to adult workers. The same economic models which are used as the theoretical underpinning of a youth subminimum would also lead to the conclusion that the youths who might be hired would replace full-time adult workers.

I can see no justification for replacing an employed adult worker, with family responsibilities and the necessity of supporting himself and other people, with an unemployed teenager. I have over the years sponsored and worked for legislation to help our unemployed teenagers; but I do not regard it as sound social policy to adopt an approach to minimum wages which would employ them at a subminimum at the expense of full-time workers.

Mr. President, your committee has examined the economic arguments surrounding these issues and we are convinced that the minimum wage, and these minimum wage increases, pose no threat to our economy. The minimum wage has proven to be a sound economic concept over the past 40 years, and it will, I am sure, with the enactment of this legislation continue to improve the lot of our working poor.

Mr. HANSEN. Mr. President, some years ago I listened with great interest to the testimony presented before the Finance Committee on several welfare issues. During the course of that testimony, the witness, Dr. PAT MOYNIHAN, now the distinguished Senator from New York, suggested that increasing the minimum wage was actually one of the most counterproductive things we could do if we actually intended to improve the lot of the poor people of this country. He showed quite conclusively that an increase in the minimum wage works against those individuals who have the fewest skills to bring to the marketplace. If employers must pay their workers higher wages, they expect to get more productivity and service from their employees. Accordingly an individual with few skills cannot be as productive as other individuals, and so it is not economically beneficial for the employer to hire that individual with the limited skills. He went on to say that the same argument held true for young people. Now, Mr. President, it has always been my understanding that the objective of the minimum wage was to provide a decent standard of living for all American workers. If that is the objective of the minimum wage, then it certainly seems to me that we are not well advised to enact legislation which assures the continuation of poverty and unemployment.

I am certain, Mr. President, that there are among my constituents some individuals who believe that my opposition to the minimum wage is simply a concession to big business and to the ideologies of conservative rhetoric.

Let me assure my constituents and my colleagues that this is not the case. I can cite many local examples. For instance, one pharmacist who lives in a small town of about 1,000, called me to tell me that if the new minimum wage standards went into effect without a youth differential, he would be forced to lay off one of his six employees. Now one out of six people does not sound like too many, except that if you think in percentage terms that is a 16-percent increase in unemployment in his particular business. If you extend that decrease across town to the local hamburger stand, to the grocery store, to the service station, and to the mom and pop grocery store, you can see that just in one little town in Wyoming, there could be substantial unemployment increases. This pharmacist who called me also told me that it would be awfully hard to train a teenager and make his work profitable if he were forced to pay that teenager the new minimum wage. He went on to say that he really would like to employ teenagers, because their youthfulness gives them energy and vitality that older workers sometime lack. Furthermore, no one can argue against the merits of training our young people to know the dignity of having a good job.

That is one specific example that comes from Wyoming. Let me cite to my colleagues here in the Senate some interesting studies I have read recently on youth unemployment. The May 1977 issue of the Harvard Review of Economics and Statistics carries a lead article on minimum wages and the youth labor market. Let me quote the conclusion of that study:

> The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, . . . aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth unemployment rate 3.8 percentage points lower. . . . In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

A 1976 Brookings Institution study draws similar conclusions. The Brookings study particularly emphasizes the need for a youth differential. The Brookings study asserts that minimum wages are either too low or about right for adults, but that they are just too high for teenagers. Nonetheless, the Brookings study asserts that a youth differential is a desirable goal, because it has the effect of evening out teenagers and adult wages and thus reducing unemployment rates.

I am not unmindful of the dilemma that a youth differential raises. The practical problem of course is that a differential seems to have built into it an incentive for employers to lay off high-wage adults and hire teenagers. Some people feel that this would particularly discriminate against adult females. I do not deny that this is a potential difficulty. Nonetheless, I reassert vigorously my own belief that a youth differential is essential.

One reason I make this assertion is that I believe that the greatest service we could perform for the young people of America is to teach them the dignity of good hard work. The first time I met Senator SAM HAYAKAWA, another learned and scholarly Member of this body, he and I discussed the issue of young people working. His broad background as an educator and as a university professor and as a student of anthropology, had led him to believe that one important cultural phenomenon was the passage of youth into adulthood. He noted that in many instances our culture deprives young people of this right. No young person today goes out and kills a bear, or performs a ritual dance, or goes through any similar rites of passage. He suggested, and I have to believe he is right, is that one rite of passage we could grant to our young people is the opportunity to have a job. If a young person has a job, he has money to spend, and he learns the duties and responsibilities that having an income generate. He has the privilege of contributing to his own support, and sometimes even the support of a family. He learns responsibility in following direction and making a contribution in the way of valuable service to others. He learns that it is better to labor than to be idle, always in search of some relief of the boredom of joblessness. Finally, he sets into his own lifestyle a pattern of productivity which, hopefully, would stay with him for the rest of his life.

The future of our country requires that we train our young people to labor and work. Indolence and idleness did not build this country. Hard work did. Accordingly based on the reputable scholorship of others, the first-hand examples provided by my own constituents, and the desire I have to assure the security of this country by teaching our young people to work, I will oppose any increase in the minimum wage, and will wholeheartedly support a youth differential.

Mr. BAKER. Mr. President, today the Senate is considering the fifth major re-

vision in the Fair Labor Standards Act since this measure was enacted in 1938. Over the years, the Congress has provided for successive increases in the minimum wage in order to maintain the purchasing power of low-income workers, and it has expanded coverage of the law to include more and more workers within the minimum wage umbrella.

One of the major issues raised in connection with minimum wage legislation during this session of Congress has been whether or not we should provide for future automatic increases indexed to a percentage of the average hourly wage in manufacturing. While I appreciate the humanitarian motivation of those who support indexing, I believe that such a provision would result in built-in inflationary pressures and provide little incentive for management and labor to hold the line on prices which affect all Americans, regardless of income.

The aspect of the indexing proposal which I find most disturbing is the likelihood that it would most harm those people least able to cope with rapidly accelerating prices—the young, minority groups, and those in the lower economic strata of our society. Moreover, there now seems to be a consensus in both the House and Senate that indexing is not an appropriate means of computing future minimum wage increases and that it would hinder the long-range efforts of the Congress to avoid a repetition of the serious economic difficulties which we have experienced during the last few years.

For these reasons, I am pleased that Senators WILLIAMS and JAVITS have introduced an amendment to the bill which will provide for minimum wage increases through 1981 without indexing. I intend to support this amendment, for I believe that the Congress must remain faithful to the goal it established almost 40 years ago in enacting the Fair Labor Standards Act. That goal—to insure the working poor a minimum standard of living which would provide them with an income adequate to obtain the basic economic necessities without relying upon public assistance—can only be attained through regular increases in the wage floor designed to keep pace with rising living costs.

We are all aware, Mr. President, that the earnings of an employee working year-round at today's minimum of $2.30 per hour amount to less than the poverty-level for a nonfarm family of four. More than 3 million workers are now paid at the minimum wage, most of them women who work out of economic necessity. There seems little point, in my view, for the Congress to attempt welfare reforms designed to make working more attractive than being on welfare if we, at the same time, fail to provide the minimum wage levels needed to insure that working will produce at least a subsistence income. While the minimum wage increases contained in the amendment will still fall short of poverty-level income standards, we will have narrowed the gap which now exists to a considerable extent.

There are several other issues raised by this legislation which I hope the Senate will address today—all relating to the impact of minimum wage increases upon specific groups in the workforce. One of these is the impact of minimum wage increases upon youth employment. The unemployment rate among teenagers in the United States today is 17.5 percent—among black teenagers it is 40.4 percent. Historically, each time the minimum wage increases, so does youth unemployment, both in the aggregate and as a percentage.

Many of the 1.6 million teenagers who are in need of work today have never worked before. Without work experience and skills, they are poor competitors in the job market, and they often require costly training which potential employers must bear in addition to the cost of their wages. I would strongly recommend, therefore, adoption by the Senate of a "youth opportunity wage" which will give employers an incentive to hire young people by permitting them to pay less than the minimum wage for a limited period. As skills and experience increase along with age, the rate of remuneration should be increased. By providing penalties to insure that employers do not replace older workers with young ones or hire and fire young workers just to take advantage of the lower minimum, I believe we would be able to provide an effective mechanism to reduce youth unemployment and prevent teenagers from being frozen out of the labor market, because employers find it economically impossible to hire them at an increased minimum wage.

Another amendment which I urge my colleagues to approve would retain the 50-percent tip credit contained in current law. The tip credit, which permits employers of tipped employees to count tips toward payment of up to 50 percent of the minimum wage, is vitally important to both employers and employees in the restaurant industry. In the Southeastern United States; for example, restaurants which provide table service at moderate prices face tough competition from fast-food operations. An increase in labor costs such as that which would result from repeal of the tip credit could well make the difference for many restaurants between retaining tipped employees and reducing the labor force, placing many tipped employees out of work.

An additional matter which I expect will be considered today relates to the impact of minimum wage increases upon small business. In recognition of the unique needs and character of small businesses and the positive contributions which small businessmen have made in the American economic community, Congress has, for the last 10 years, provided an exemption from the minimum wage provisions of the Fair Labor Standards Act for independently owned and operated retail and service establishments. The exemption currently applies to those businesses with annual gross sales under $250,000.

While this figure may have been adequate some years ago, Mr. President, inflation has steadily eroded it so that, today, the exemption is worth only $115,000 in 1967 dollars. Small businesses, however, have seen their dollar volume of sales increase substantially because of rising prices while the value of the exemption has been reduced. As a result, many businesses which qualified for the exemption 10 years ago no longer qualify—even though they are no larger or richer than they were before. In my view, equity demands that the Congress restore the dollar value of the small business exemption, and I hope that an amendment will be approved to that effect.

Mr. President, I am confident that all of these issues will be discussed in depth as consideration of S. 1871 proceeds. I believe that, with adoption of amendments such as I have outlined, the Senate will have fashioned an equitable and a responsible minimum wage bill that will serve the country well during the next few years.

Mr. MUSKIE. Mr. President, I support this bill, which provides an increase in the minimum wage from $2.30 to $2.65 per hour, both as a needed boost to the earnings of low-wage workers and as a matter of economic policy. As chairman of the Budget Committee, I want to explain the reasons for my support of this bill.

One of the major responsibilities of the Budget Committee is the formulation of appropriate fiscal policy to deal with unemployment and inflation. The committee is concerned with national economic policies which provide for, in the language of the Budget Act, the "balanced growth and development of the United States." The level of the minimum wage is a major economic policy issue and, therefore, has important significance for the Budget Committee.

The major effect of the increase in the minimum wage will be to raise the incomes of many of our poorest workers. It is estimated that about 4½ million workers would be affected in 1978 if this legislation were adopted.

The proposed increase in the minimum wage does no more than restore the average relationship between the minimum wage and earnings in manufacturing which has existed since 1960. The minimum wage has failed to keep up with manufacturing earnings in the 1970s, because of the high rate of inflation. It is distinctly unfair to force the lowest paid workers in society to bear a greater burden from inflation. Even at the proposed level of $2.65 per hour, the minimum wage would provide only $5,512 in earnings per year, which is below the projected 1978 poverty level of about $6,200 for a family of four. It is often said that public policy tends to discriminate against the working poor in our society. We should not compound this difficulty by allowing the continual erosion of the real value of the minimum wage.

Mr. President, I would now like to deal with several objections to raising the minimum wage which have been offered by opponents of this legislation, and which are of interest to the Budget Committee. Specifically, I wish to address the argument that an increase in the minimum wage will raise labor costs and thereby increase unemployment and inflation.

Let me be very candid. Obviously raising the minimum wage will increase total wages and labor costs—that is the

objective of the policy. Higher labor costs are likely to have some negative effect on the level of employment and the price level. This should surprise no one. Policy decisions almost always involve difficult choices between competing goals. But the relevant policy issue is the size of these effects. Are the effects on unemployment and inflation large enough to make a 15-percent increase in the minimum wage undesirable?

The available evidence indicates that this increase in the minimum wage would have only small effects on unemployment and inflation. These economic effects were anticipated by the second budget resolution and are consistent with the economic assumptions of the resolution.

The committee staff estimates that the increase might add 0.2 percent to the unemployment rate, and some recent research by Prof. Edward Gramlich of the University of Michigan implies that the net job loss might be even smaller. In any case, the employment effects of the minimum wage will be dwarfed by the effects of fiscal and monetary policy, by changes in consumer spending, by swings in housing and business investment, and by fluctuations in U.S. exports. The minimum wage is simply not an effective instrument for solving the unemployment problem.

The inflationary impact would also be small. The increase from $2.30 an hour to $2.65 might add as much as 0.5 percent to the price level by 1979. But this would be a one-time change resulting from the restoration of the real value of the minimum wage—it would not add to the rate of inflation in subsequent years. I believe the 15-percent increase in the minimum provided in this legislation is moderate and responsible in terms of its impact on prices.

Mr. President, there is a more fundamental point to be made about the costs of fighting inflation and unemployment. Those who would fight unemployment and inflation by holding down the minimum wage while other wages and prices are rising are asking the lowest wage workers to bear the entire cost of the fight. Such a policy is both unfair and inefficient. Our goals of full employment and lower inflation should be pursued by appropriate fiscal and monetary policies which apply to all citizens, and by jobs programs targeted on the unemployed. The way to reach those goals is to make sure our fiscal and monetary policies maintain the economic recovery. Reducing the real wages of many of our poorest workers is not sound policy.

Mr. WILLIAMS. Mr. President, I have mentioned that there is an amendment at the desk that I am honored to have cosponsored with the ranking minority Member, the Senator from New York. That amendment deals with indexing and it reflects our thoughts as we refined them during the hearing and in consultation after the report of this bill. The amendment is at the desk.

AMENDMENT NO. 1018

Purpose: To provide for an increased minimum wage at a fixed hourly rate.

Mr. WILLIAMS. Mr. President, I call up the amendment No. 1018 and ask that it be stated.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. JAVITS. We wish to have the amendment stated first.

Mr. BAKER. All right.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. JAVITS proposes an amendment numbered 1018.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on line 9, page 6, strike through line 5, page 7, and substitute the following:

"INCREASE IN MINIMUM WAGE

"SEC. 2. (a) Section 6(a)(1) is amended to read as follows:

"'(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.15 an hour during the year beginning Janunary 1, 1980; and not less than $3.40 an hour after December 31, 1980, except as otherwise provided in this section;'".

Beginning on line 18, page 7, strike through line 3, page 8.

On page 8, line 4, strike "(e)" and substitute "(d)".

On page 8, line 13, strike "and".

On page 8, lines 14 and 15, strike "and January 1 of each succeeding year, by $0.30" and substitute "by $0.25".

On page 8, line 17, strike "committee." and substitute "committee, and".

On page 8, insert between lines 17 and 18 the following:

"(ii) effective January 1, 1980, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.".

On page 8, after line 24 add the following:

"(ii) effective January 1, 1979, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and".

On page 9, line 1, strike "(ii) effective January 1, 1979," and substitute "(iii) effective January 1, 1980,".

Mr. BAKER. Mr. President, will the Senator yield 2 minutes?

Mr. JAVITS. I yield 2 minutes to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the distinguished Senator from New York, and I apologize for the interruption, but this deals with the matter at hand.

I advise the majority leader that since our last colloquy I have done an inventory of requirements on this side, and I am happy to report that we can improve on the unanimous-consent agreement in this respect:

Senator SCHWEIKER's amendment, 1 hour; Senator HELMS' amendment, 1 hour; Senator TOWER's two amendments, 1 hour; Senator GARN's amendment, one-half hour; Senator BARTLETT's amendment, 1 hour; Senator SCOTT's amendment, 1 hour; Senator STAFFORD's amendment, one-half hour; Senator CURTIS' amendment, 1 hour; and Senator HATCH's amendment, 1 hour.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. If it is agreeable then with the distinguished manager of the bill and the ranking minority member, perhaps we could reduce the time on all amendments in the first degree from 2 hours to 1 hour and leave in the exceptions the minority leader has mentioned as being willing to take a half-hour. If that is agreeable, I make that unanimous-consent request.

Mr. WILLIAMS. All right.

Mr. JAVITS. That is agreeable.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. TOWER. Mr. President, if the Senator will yield, reserving the right to object, and I shall not object, I think both of my amendments will be offered. I have two amendments, and I wish to have an hour on them.

Mr. JAVITS. That is provided.

Mr. TOWER. That is provided?

Mr. JAVITS. An hour in the first and second degree.

Mr. TOWER. All right.

Mr. JAVITS. Equally divided, Mr. President.

Mr. BAKER. Mr. President, I thank the majority leader and I especially thank the distinguished managers of the bill.

Mr. JAVITS. Mr. President, equally divided, if the Senator will yield, equally divided as provided in the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLLIAMS. Mr. President, as was stated in the opening debate on this legislation, we are fully cognizant of the many expressions of concern which have been voiced about the indexing provisions included in this bill.

During committee consideration of this legislation, many responsible business leaders indicated that they could understand and accept the necessity of increasing the minimum wage; but they were, nevertheless, very concerned about the concept of indexing the minimum wage to provide for an automatic adjustment in the future. We have also heard sincere and thoughtful expressions of concern from some of our Senate colleagues, including the Senator from New York (Mr. JAVITS), who is a cosponsor of this legislation. As I am sure Senators know, the House of Representatives deleted the indexing provisions from the House bill before it was passed on September 15th of this year.

I will not belabor the arguments, pro and con, about indexing at this point. I am convinced that the indexing provisions in the bill are sound and would contribute substantially to our efforts to provide a fair and adequate wage to our working poor, and to our efforts to eliminate poverty in this country. However, in recognition of the concerns which have been expressed over the indexing provision, I proposed to delete it from this bill and to substitute wage increases in specific amounts for the next 4 years.

The amendment I am proposing, which is cosponsored by Senator JAVITS, provides a minimum wage rate of $2.65 per hour beginning January 1, 1978. Thereafter, the minimum wage rate would go to $2.90 per hour beginning January 1, 1979; $3.15 per hour beginning January 1, 1980; and $3.40 per hour beginning January 1, 1981.

The amendment also changes the rate

at which minimum wage levels in Puerto Rico and the Virgin Islands must be increased. This change will insure that the mandated wage increases there are not unduly rapid, given the elimination of the indexing provision from this legislation.

I would like to emphasize that the wage levels proposed here are reasonable, I suggest, even modest, given the economic facts of life which we face for the next 4 years.

The Department of Labor predicts that the poverty-level income necessary for a nonfarm family of four will be more than $7,400 per year by 1981. This assumes that the poverty level will increase at a rate of 5 percent a year. The wage increases which will be provided by this amendment will, nevertheless, fall almost 5 percent short of the poverty level in 1981.

For those of us who are striving to insure to all our able-bodied working men and women a fair day's pay for a fair day's work, it is very difficult to accept the fact that we are still consigning full-time, year-round workers to an income below the poverty level.

Nevertheless, I recognize, just as I did when the bill was introduced last July, that there are practical limitations on the with which we can solve these problems. That is why Senator JAVITS and I are proposing this compromise today.

I would also like to emphasize that the schedule of minimum wage increases which we propose, including the increase to $3.40 per hour in 1981, is a high priority objective of the administration. Minimum wage rates are very important to the administration's welfare reform program, which was written to take advantage of the rates which would have been set through indexing.

One key aspect of the welfare reform proposal is that workers should have some incentive to work rather than to receive welfare payments. This is a general principle which advocates of the minimum wage have understood for a long time. It is particularly apposite, however, when we are legislating minimum wage increases in the context of a comprehensive effort to reform and improve our welfare system. Thus, it is necessary to have the 4th year of minimum wage increases legislated early, and at the proper level, to assure that the welfare reform proposal can properly include this important provision.

The wage levels which we propose by this amendment are, in my view, more than reasonable. They are the least which we must do for our poverty-level workers. For the reasons which I explained in my opening statement on this legislation, and for the reasons which I have just stated, I certainly urge that this amendment be agreed to.

Mr. JAVITS. Mr. President, will the Senator yield me time on the amendment?

Mr. WILLIAMS. I am happy to yield the Senator such time as he needs.

Mr. JAVITS. Mr. President, Senator WILLIAMS and I have again joined in urging the Senate to approve labor legislation, reporting it out of the Human Resources Committee.

This bill, to increase the minimum wage to make it compatible with the economic situation we face in the country today and the price situation, has the strong backing of the administration as well as of a broad coalition of organizations concerned with the condition of working Americans at the very bottom of the wage scale.

Mr. President, to put the matter in focus, we ought to know how many people are affected. There are, in round figures, 4.5 million Americans below $2.65 per hour today. That is 8.7 percent of the labor force covered by the Fair Labor Standards Act.

That figure is very critical, for two reasons. First, it shows how many human beings are involved. Second, it shows that this does not represent, by any means, the totality of the American employment system. In short, it does not fly in the face of the fears of those who feel inflation, and at the same time it fits the human requirements of those who deal with the minimum wage as an underlying subsistence level wage, below which we should not ask any human being in this country to work.

I hope, Mr. President, that Senators will take those figures very seriously, because they are the key to this debate: 4.5 million people affected; 8.7 percent of the working force.

The last minimum wage legislation, enacted in 1974, did not anticipate the extraordinary increases in living costs that have since taken place. As a result, million of Americans are being paid minimum wages which, even if they work full-time, do not provide a poverty level standard living for an urban family of four. These low minimum wage levels do not fulfill the basic congressional purpose of enacting the Fair Labor Standards Act, which is "the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers."

Mr. President, to support a family at the poverty level today, a minimum wage of $2.95 per hour is required. And even under our amendment, Mr. President, on January 1, 1978, we are setting a minimum wage of $2.65. It will not go to $2.90 until January 1, 1979.

Mr. RANDOLPH. Mr. President, will the able Senator yield?

Mr. JAVITS. Yes, of course.

Mr. RANDOLPH. I would not break the continuity of the Senator's thorough discussion. However, as we consider a minimum wage of $2.65 per hour, I can think back to 1938, when it was my responsibility to help write the first Fair Labor Standards Act of that year.

At that time, we were attempting to provide a 25-cents-an-hour minimum wage an interstate commerce—not intrastate commerce—employment. That shows the tremendous inflationary spiral that has continued through the years, as we have worked to bring the original law into conformity with the times of which we are a part. Oppressive child labor, in dimly lighted lofts, also had to be stopped. And we did it.

I commend the Senators from New Jersey and New York for speaking of the need to have a wage applicable to these times, just as we were trying, in those pioneering days, to have a breakthrough of 25 cents an hour.

We had strong opposition, even then, as certain selfish interests argued that business could not pay increased wages and survive. But business did continue, creative and energetic business, and America as a whole was strengthened.

Mr. JAVITS. I recall it very well.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. YOUNG. Mr. President, would this proposed minimum wage level apply to a farmer who hires one or two people?

Mr. JAVITS. It would not. There is a minimum 500 man-day provision with relation to the applicability of the minimum wage to the employees of a farm.

Mr. YOUNG. How about a small restaurant, with two or three employees?

Mr. JAVITS. We have a small business exemption, which is $250,000 in volume, and most small restaurants do not have that volume. I think some effort is going to be made to increase that figure; in fact, I am informed that the figure now sought by amendment is going to be $500,000. I am not sure the Senator from New Jersey and I are willing to go quite that far. But certainly a small restaurant will not be affected.

Mr. YOUNG. I thank the Senator.

Mr. JAVITS. Certainly, a small restaurant will not be affected.

Mr. YOUNG. I thank the Senator.

Mr. JAVITS. Mr. President, I want my colleagues to know that I opposed indexing very strongly in the committee. Though I was beaten on a vote in the committee, it is a tribute to the objectivity and the general fairness of the chairman of the committee that when he recognized that this was the wrong way to go in terms of adding rather than subtracting from inflationary thrusts, he came with me on this amendment, which eliminated indexing. I was not put in the position of having to go it alone. But I opposed it very strongly in the committee.

Mr. President, our amendment steps up the minimum wage in 25 cents-per-hour steps in 1979 and 1980, and again in 1981. This will just about keep step with the effects of a 6- to 7-percent inflation.

(Mr. DECONCINI assumed the Chair.)

Mr. JAVITS. Our proposed amendment also has the important advantage, which to me was critical, of a time limit. In our amendment, it is 4 years. Under the indexing mechanism which was in the bill as originally introduced, the trend would have been self-perpetuating without any regard to the general economy of the country. The uncertainty of the nature of our economy and of the future of inflation, in my judgment made it essential that there be a time limit no matter what we did. I am very pleased to see that Senator WILLIAMS has now joined me in that regard.

Mr. President, there are a good many other amendments to this bill. There will be those seeking to roll back some of the protections offered under the Fair Labor Standards Act. It is very difficult for me to see how, considering the minimal nature of this increase, we can lend ourselves to these rollbacks. Those that particularly affect me, Mr. President, are those relating to children, to youth, to small business and, to domestic workers.

We must remember that we are dealing here with a rock-bottom minimum and that today's minimum wage of $2.30 per hour means $4,784 a year gross wages for a full year of full-time employment. There is nothing rosy or easy about that.

I beg my colleagues to bear in mind the figures I gave on the number of human beings affected and, at the same time, their percentage of the work force, showing that it is not that overwhelming a proposition in terms of the total economy. I ask that they will also keep in mind, in terms of the individual, where he stands and that the streets of the United States are not paved with gold on any such minimum wage.

Also, Mr. President, I understand we shall be considering a child labor amendment respecting agricultural workers, with the usual romance about the question: How does it hurt kids to get out there in the field to pick some berries or to pick some other fruit or vegetable? Mr. President, we are talking about children under 12 and we are talking about work which is classed as one of the most hazardous among all the classifications of labor.

The proper place for such children of such a tender age is in school, not working long hours in fields where pesticides are used, where stoop labor is an absolute requirement, where trucks and tractors and various farm machinery are employed.

Also, Mr. President, I shall be very unhappy if domestic workers are excluded from the protection of the law. The present law exempts only casual babysitting. But for those who perform either child care or other domestic services as a way to earn a living, surely no one can argue that such workers do not deserve even the most rudimentary protections of the Fair Labor Standards Act when helping us care for our young and our elderly. These are people we want very much to keep these jobs. It seems very hard to justify a reduction for them in terms of the minimum wage.

The various proposals to establish subminimum wages for youth all suffer, in my judgment, from the fatal defect of adult substitution. Regardless of what controls are used, any subminimum wage that is low enough to encourage substantial new youth employment will also have the effect of depriving some adults of employment opportunities. Although youth employment is now unacceptably high, it is no answer to simply substitute unemployed adults for unemployed teenagers. We cannot rob Peter to pay Paul. Adult minimum wage workers are much more likely to head families, and to live on poverty level incomes, and to be more dependent upon steady work, than are teenagers. In view of the other job training and youth employment programs—for which I have been an indefatigable champion—that are answers to the problem of teenage unemployment, it is simply bad social policy to choose a course that tries to cure one economic ill only at the risk of aggravating a much more serious malady.

Also, Mr. President, we shall have to look with a very careful eye at an effort to increase the small business exemption. The present definition of a quarter of a million dollars covers the truly "Mom and Pop" operation for which compliance with the Fair Labor Standards Act would be a hardship.

Again, the protective purposes of the act, which benefit all employees, regardless of the size of their employer, require a narrow interpretation of the small business exemption. We should not withdraw the protections of the act for as many as 4 million working Americans in the name of small business beyond the definition which today seems to me a very reasonable one.

Mr. President, there is a lot of thought about the working poor in this country and how we should deal with them. There is no measure which affects them more directly. This is for the working poor. It represents a vital increase in the income of those who must labor at the bottom of the wage scale. In light of the economic condition of these workers, we certainly must not exclude them from coverage or ask them to work for less, based on their age, occupation, or on their employer's size.

I hope very much, Mr. President, that this bill will be looked at in the terms which I describe, that we shall start on the right foot with the adoption of the amendment which the Senator from New Jersey and I are sponsoring and which is now before the Senate.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I just make this observation. Over the years, the Senator from New York and I have been, on measures that came from our committee, in almost perfect harmony. On this question of indexing, we were not, but now we are. I should have known at the beginning, I suppose, that we would end up where my colleague is and, back at this point of harmony. We have recognized the sentiments of our colleagues as well as the community that reached us and have eliminated indexing. I hope that this amendment will be favorably received.

Mr. SCHMITT. Mr. President——

Mr. JAVITS. If the Senator will wait just 1 second, I want to emphasize, Mr. President, the salient point that not only have we eliminated indexing, but we have put a term upon whatever we have done. This is a very critical difference from the original bill, which made automaticity apply to the minimum wage on an indexing basis. If anything, I regard the term aspect as even more important than removing indexing.

Mr. President, I yield the floor.

Mr. SCHMITT. Will the Senator yield 5 minutes on the bill?

Mr. JAVITS. Of course, I yield 5 minutes on the bill to the Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from New York, who deserves the Senate's compliments, as does his colleague on the committee (Mr. WILLIAMS) for their part in this bill and their diligent work in this area. We may not always agree on basics, but we can certainly agree on the diligence and strong efforts needed to produce a minimum wage bill that will be acceptable to the Senate.

Mr. President, I shall be brief in my opening comments, and I hope to be brief in all other comments on this measure.

I am extremely sympathetic to what I believe is the fundamental pressure upon us to raise the minimum wage, that pressure being inflation. Inflation is the most insidious tax upon our population. It is what hurts the old, the young, the middle aged, all economic groups. Everyone in this country, including the Federal Government, is suffering from inflation.

As a consequence of inflation, the pressure to raise the minimum wage will continue until we conquer that monster that seriously damages our ability to progress economically as a Nation.

Having said that it is a response to inflation and, as a corollary, that so long as minimum wage increases are no greater than inflation they would not be fundamentally inflationary in themselves, I must, however, say that that is not the only issue that faces us.

Unfortunately, the consequence of raising the minimum wage is to increase unemployment. We must balance those two desires—that is, to have a wage that keeps up with inflation as well as a wage that does not increase unemployment.

The effect on my own State of New Mexico will be considerable. It has been in every instance in which the minimum wage has been raised. The estimates vary, and I will not go into that; but, there is no question that those people at the lower end of the wage scale suffer at every point and every time the minimum wage is increased. It is particularly harmful among the youth. I hope we will have a very free, open, and stimulating discussion as to the effect of the minimum wage increases on youth unemployment.

If there is anything that we can do to hurt the unskilled and the inexperienced young person, it is to increase the minimum wage and, not to provide a differential or youth opportunity wage for the young people who are just entering our job market.

We must, in some way, give the young people of this country, the millions of unemployed teenagers in the very formative years, a hand with which they can grasp their future.

Mr. President, a great deal of thought must be given to this effort. I share the concern of my colleagues for the high level of unemployment among our youth, and especially among our minority youth. It is for this reason that I have cosponsored the youth opportunity wage (youth differential) being offered by Senator SCHWEIKER.

The fact that in February of this year 1.6 million of our teenagers, the equivalent of more than three congressional districts, were unemployed is a national disgrace. We must, however, consider more than just the numbers. The other factors involved in this dangerously high level of unemployment are more difficult, if not impossible, to measure but are of grave importance.

First, we must keep in mind the effect that unemployment has on the individual. The first attempt of many teenagers at finding a job to feel useful and to receive training and experience ends in failure. This rejection cannot but have

a deep psychological effect on these young people.

Second, most employers seek individuals with at least the basic job skills. Young people are thrown into a vicious cycle of not being able to find a job due to lack of experience and inability to gain experience because of a lack of a job. We must face the fact that most teenagers are not as interested in the money that they earn as much as the experience, the training, and the skills which they learn and which will influence their future earning ability. The fact is that 95 percent of the teenagers 16 to 19 years old are not heads of households. This does not mean that their earnings do not contribute to the family income. It does, but studies by Edward Gramlich of the University of Michigan show that only 7 percent of the young people with minimum wage jobs are from low income families, 47 percent are high income, and the rest are at the middle income level.

Third, as individuals become disillusioned with the system because they cannot find a job, they are more apt to turn to crime. Statistics show that crime among unemployed teenagers is higher than among any other segment of society. Perhaps it is for this reason that many mayors who must deal with these problems on a daily basis have endorsed a youth opportunity wage. Included in this list are Mayor Tom Bradley of Los Angeles and Mayor Ken Gibson of Newark.

Last, we must look at the costs to both the individuals and to society. The disillusionment at an early age may have lasting consequences. The vicious cycle of lack of experience and, therefore, no jobs does continue into later life. Society pays a dear price for this situation in terms of both increased welfare costs and the even greater cost of increased crime.

Often we talk about the statistics: 20 percent unemployment, 40 percent unemployment, or 1.6 million unemployed. Often the fate of the individual becomes lost in these figures. We must deal with the individuals who are denied the opportunity to reach the first rungs on the ladder; to get their first job; and to learn the skills which will permit them to get better jobs at higher wages later in life.

Numerous studies indicate a definite correlation between increases in the minimum wage and youth unemployment. A Brookings' study indicates that when the minimum wage increases approximately 25 percent, there is a 3 to 6 percent increase in youth unemployment. The New York Federal Reserve study indicates that the increase in the minimum wage in 1966 resulted in a 3.3 percent loss in teenage employment. According to Kansas State University's James Ragan, "only" 225,000 teenage jobs were involved in that 3.3 percent. Those 225,000 teenagers make-up about 14 percent of the teenage unemployment total.

This elimination of teenagers from the workforce hits minority youth greatest. The respected black economist, Dr. Walter Williams, in testimony before the Senate Human Resources Committee, stated that the minimum wage has been especially devastating to job opportunities for minority youth. The unemployment statistics which shows that unemployment among minority youth has remained at about twice the level of that for white youth substantiates Dr. Williams' position.

We cannot combat youth unemployment by passing legislation that creates public service jobs for a limited number of young people on the one hand and then destroy the incentive for the training of young people by the private sector on the other hand. The fact is that people just entering the job market often do not even have good work habits much less other skills. These young people require greater supervision and training than experienced workers. It has been brought to my attention that in one industry there is an average of one supervisor for every 200 adult workers, but an average of one supervisor for every 25 teenage workers. This involves greater expense for the business. We must face the fact that jobs for young, inexperienced job-seekers will not be created in the private sector unless there is an economic incentive; otherwise, the cost is just too great for the employer.

Concern has been expressed that teenagers at the youth opportunity wage will displace older workers. This amendment has provisions to insure that this does not take place. In addition, States and other countries which do have youth opportunity wages have not experienced this problem. The Bureau of Labor Statistics reports that adult employment has not been affected adversely by lower than minimum wage rates for teenagers in countries such as Great Britain, the Netherlands, and Japan. In these countries and other European countries we are not talking about a 75-percent youth differential; we are talking about a 60-percent and even a 30-percent differential.

Mr. President, I urge my colleagues to consider the fate of the individual looking for his first job and unable to find one. If we are seriously concerned with helping him, then we must offer business the incentive to hire and train this young person. The intentions of some of my colleagues to provide all people with a higher income is well meaning but counterproductive. As Dr. Paul Samuelson of MIT said about the proposed 1971 minimum wage increase to $1.60:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Mr. President, I urge the adoption of this youth opportunity wage amendment for our young people. During the past few months I have received considerable mail from both young and old, employers and employees in New Mexico urging my support for a youth opportunity wage. Just 2 weeks ago, a high school teacher called my office alarmed at the prospect of his students being unable to find part-time and summer jobs without such a differential. In addition, Students, Inc., a nonprofit youth employment program in New Mexico, has endorsed a youth opportunity wage. I ask unanimous consent that their letter be included in the RECORD.

Mr. President, with such strong support for this amendment from all segments of society, it is important that we give our teenagers and students an opportunity to work. I urge passage of this youth opportunity amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STUDENTS INCORPORATED,
Las Cruces, N. Mex., August 5, 1977.

Hon. HARRISON SCHMITT,
Senate Building,
Washington, D.C.

DEAR SENATOR SCHMITT: I recently heard your comments on the new minimum wage law increase and was pleased by your position on a lower wage scale for young people.

Students Incorporated is a private nonprofit youth employment program serving Dona Ana County and parts of Southwestern New Mexico. Every day we are faced with the contention of many small businessmen that they cannot afford to pay a youth $2.30 per hour. In most cases, the employer would like to hire a youth, but minimum wage and lack of experience or a proven work record makes them hesitant at taking a chance and instead they will hire a working mother or a retired person.

Young people, especially at high school and college age, need to work and develop work records if they are to be successful and productive in the job market later in their lives. Anything you can do to influence your fellow congressmen to vote in favor of a lower youth wage scale and enable young people to have the chance to work will be appreciated.

Sincerely,

HUBERT QUINTANA,
Director.

Mr. SCHMITT. Mr. President, I say to Senator JAVITS and Senator WILLIAMS that I hope that in the process of examining the various amendments and coming to a final decision on this bill, we will remember the very delicate balance that our economy lies upon, the delicate balance upon which the future of this country depends. That future is our young people, who, as we all realize, need something more than just another decision by Congress that reduces their chance for a future.

Mr. President, I yield the floor.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. STONE, Mary Repper; Mr. HELMS (for Mr. WALLOP) Deral Wiley; Mr. TOWER, Pam Turner; Mr. STAFFORD, Michael Francis; Mr. HAYAKAWA, Dr. John Becker; Mr. SCHMITT, Eugene Iwanciw.

Mr. BARTLETT. Mr. President, I inquire of the distinguished floor manager, Mr. WILLIAMS, whether he plans to continue discussing his amendment. It is my understanding that my amendment, which I plan to offer as a perfecting amendment, is not proper until the Senator uses up all the time or yields it back.

Mr. JAVITS. Mr. President, I will see if we have any speakers who wish to speak, either for or against the amendment which Senator WILLIAMS and I have offered, or if any member of the committee—there are two members on the floor—desires to engage in general debate. I inquire of my two colleagues on the minority if they wish any time to engage in general debate.

Mr. HATCH. I will speak to the youth opportunity amendment.

I compliment both the Senator from New Jersey and the Senator from New York for withdrawing the indexing provision of the original bill. I think it is a very wise and judicious decision and one which will tend to deter the inflationary spiral in our society—at least from this standpoint.

Mr. JAVITS. I thank my colleague.

Mr. STEVENSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Gary Welch and Phil Davis, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have canvassed to see if any Members want to speak to the pending amendment at this time, and they do not.

In order to move ahead with amendments that will be offered—the Senator from Oklahoma has the next amendment that would be offered to this, in terms of a perfecting amendment—I yield back the remaining time of the proponents on the pending amendment.

Mr. JAVITS. Mr. President, I am a cosponsor. No one has claimed the opposition time. Therefore, I yield it back.

The PRESIDING OFFICER. Mr. STONE). All time is yielded back.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Rick Sloan, a member of my staff, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 893

(Purpose: To establish a fixed hourly minimum wage)

Mr. BARTLETT. Mr. President, I send to the desk my amendment to amendment No. 1018.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 893 to amendment numbered 1018:

On page 1, line 6, strike all through page 2, line 5 and substitute the following:

"'(1) not less than $2.50 an hour during the year beginning January 1, 1978, not less than $2.70 an hour during the year beginning January 1, 1979, and not less than $2.90 an hour after December 31, 1979, except as otherwise provided in this section;'.".

Mr. BARTLETT. Mr. President, I advise my colleagues that the unprinted amendment that was just offered and read is the same as my amendment 1420, except that it is made a perfecting amendment to amendment 1018, rather than being a substitute to the bill.

Mr. JAVITS. I thank my colleague.

Mr. BARTLETT. Mr. President, this perfecting amendment to amendment 1018 of Senators WILLIAMS and JAVITS is offered in an effort to prevent the Senate from passing what I believe would be a counterproductive measure.

The increases in the minimum wage that I propose are approximately 8 percent increases over the next 3 years. The present minimum wage for most workers is $2.30 per hour. Under my amendment, this would be increased to $2.50 per hour on January 1, 1978; to $2.70 per hour on January 1, 1979; and to $2.90 per hour on January 1, 1980.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield.

Mr. WILLIAMS. I am not sure that I heard the Senator accurately when he said that the amendment he is now offering carries the same rates as another amendment.

Mr. BARTLETT. The same rates as amendment No. 1420. The amendment I presented to the Senator earlier was an unprinted amendment, but it was an alteration of amendment No. 1420 by the Senator from Oklahoma.

Mr. WILLIAMS. So we are dealing with amendment No. 1420, and the Senator from Oklahoma is not referring to any other printed amendment?

Mr. BARTLETT. We are dealing with 1420 as altered, as I presented it to the Senator. The Senator will notice that it is an amendment to amendment 1018, and it amends on page 1, line 6, to strike all through page 2, line 5, and substitute the following. Then it relates the figures and the language on lines 6 and 7 of amendment 1420 and on lines 1, 2, and 3 of the second page.

Lines 6 and 7, page 1, of 1420 and on the reverse side.

Mr. WILLIAMS. Two dollars and 50 cents, $2.70, and then $2.90?

Mr. BARTLETT. That is correct. Does that answer the question of the Senator?

Mr. WILLIAMS. That answers my question. I thought I heard reference to another amendment.

Mr. BARTLETT. I thank the Senator.

Mr. President, this perfecting amendment to amendment 1018 of Senators WILLIAMS and JAVITS is an effort to prevent the Senate from passing what I believe would be a counter-productive measure. The increases in the minimum wage that I propose are approximately 8-percent increases over the next 3 years. The present minimum wage for most workers is $2.30 per hour: under my amendment this would be increased to $2.50 per hour on January 1, 1978; to $2.70 per hour January 1, 1979, and to $2.90 per hour on January 1, 1980.

I am pleased to see that the indexing provision of the bill is stricken by Senator WILLIAMS' amendment, yet the increases he proposes remain as high as, or higher, than what would have prevailed under the original indexing provision. I believe his increases to be so large as to be counter-productive, so large that there will be substantial disemployment effects, especially among teenagers, so large that consumer price levels will be forced up, so large that any supposed benefits will not go to the poor who are most in need. In short, I feel that my proposed increases in the minimum wage will better retain the benefits of a fixed wage floor without calling forth the negative effects that Senator WILLIAMS's large increases would.

If we were discussing an increase to, say, $5 per hour, I think most everyone would admit we were going too far and could readily see the potential for economic mischief. Everyone could see that many people would be priced out of the labor market, that inexperienced and unskilled workers would have extreme difficulty finding a job, that the number of people forced on welfare would increase, and that consumer prices would be forced upward. Senator WILLIAMS' amendment, though not as drastic as my example, calls for increases that will have the same effects. As Dr. Edward M. Gramlich concludes in a recent study for the Brookings Papers on Economic Activity, 2:1976, entitled "Impact of Minimum Wages on Other Wages, Employment, and Family Incomes," "At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum." I recommend the study to all those interested in this issue, but since it is rather long I will not request that it be put in the RECORD in its entirety. I do, however, request that its conclusions be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLICATIONS

Two important questions arise in the determination of minimum-wage policy. The first is obviously how high the minimum should be set. While the results here do not give a precise answer because one cannot put utility weights on all the outcomes, the basic facts are clear. As the minimum wage is increased beyond its historical range of 40 to 50 percent of the median wage, more and more workers confront the grab-bag combination of a higher wage but a reduced probability of having a job. This uncertainty is not innately disturbing, but it magnifies many of the undesirable implications of minimum wages that have appeared throughout this paper; compliance difficulties will no doubt intensify; more workers will either lose their jobs or have to take part-time jobs; more of the benefits will go to high-income families; and the impact on factor costs and product prices will grow disproportionately. At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum.

The second important policy question is whether the minimum should be differentiated according to the age of the worker. The results here suggest casting a moderately strong vote for a differential. If anything, minimum wages seem too low or about right for adults and too high for teenagers. The practical problem in introducing a differential has been the fear of internal substitution: What is to prevent employers from laying off high-wage adults to hire teenagers? The employment-deemed relationships estimated here suggest some existing substitution of this sort between low-wage teenagers and adult females, though the prevailing low elasticities estimated here and in most other studies of labor demand also provide evidence to the contrary.[36] Whatever the case, the "youth differential" seems a desirable goal—in effect evening out teenage and

[36] Some indirect evidence supporting the idea that teenager-adult substitution elasticities are not terribly high is given in Philip G. Cotterill and Walter J. Wadycki, "Teenagers and the Minimum Wage in Retail Trade," *Journal of Human Resources*, vol. 11 (Winter 1976), pp. 69–85; and Alan A. Fisher, "Adult Disemployment Effects of a Youth Minimum Wage Differential" (U.S. Department of Labor, Office of the Assistant Secretary for Policy, Evaluation and Research, June 1976; processed).

adult wages less and unemployment rates more; and it seems eminently feasible to introduce this differential gradually, monitoring the internal substitution and stopping when and if adult disemployment becomes too great.

While the results for adults are sufficiently mixed that different observers would arrive at different conlusions, my own view is that as long as minimum wages are kept low relative to other wages, they are not terribly harmful and in fact even have slightly beneficial effects both on low-wage workers and on the overall distribution of income They are far from the best way of redistributing income, however, and there are definite limits to how high the minimum can be raised. Usually, the important limit is the disemployment effect, but in my results this limiation is overshadowed by others. On balance, disemployment does not seem sufficient to negate the benefits to low-wage workers of higher minimum wages. But a whole series of other complications does cause problems; employers resist paying the minimum in the first place; the minimum can have noticeable impacts on overall wages and prices; it can produce undesirable changes in the composition of jobs for teenagers and some adults; and it can provide income support for families who do not need it. These, more than the disemployment impact, make the most persuasive empirical case against raising the minimum wage too sharply.

Mr. BARTLETT. Mr. President, we have seen in recent years how the definition of full employment in our economy has changed. At first some people thought that zero unemployment was the proper definition, then 3 percent unemployment, then 4 percent, then 4.9 percent, and now some people are even saying that our current 7 percent unemployment is as good as the economy can do. I reject anything near 7 percent unemployment as an acceptable full employment level.

Personally, I do believe that it could be considerably lower. It is actions of Government, however, like increasing the minimum wage too much, which create such conditions as to make it difficult for the economy to operate at an acceptable full employment level.

We cannot afford to accept 7 percent or even 5 percent unemployment as the best we can do—but we, in Congress, must stop causing the problems ourselves.

I consider it a dangerous logic that says that government public works jobs will be the answer to our unemployment problems when the Government is one of the big causes of the problem in the first place.

I would point out that, of all the workers, the young and the inexperienced, including the blacks and others, are generally the last hired and the first fired. Public works jobs are not the solution to their problems. In most cases, I believe the solution is a job in the private sector. In the private sector they can have the opportunity of learning the kind of work habits expected in the private sector, and also build up seniority which, I would like to point out, is very important to all inexperienced workers in continuing their employment during a recession.

I do not think there is any opportunity for us to build an economic system with reasonable employment levels unless it is strong and unless it provides the jobs in the private sector and gives the opportunity for the inexperienced and the young to gain experience and to gain seniority.

With the unemployment rate of white teenagers in the neighborhood of 20 percent and in the neighborhood of 40 percent over minority teenagers, I cannot understand the rationale for sharp increases in the minimum wage at this time. I believe that almost all studies on the effects of the minimum wage on teenagers bear out the conclusion of James F. Ragan, Jr., "That minimum wage legislation reduces youth employment rates. The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate." This conclusion appears in a study, "Minimum Wages and the Youth Labor Market," that Mr. Ragan published in the "Review of Economics and Statistics." I ask unanimous consent that the full text of Mr. Ragan's study appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, I ask unanimous consent that a portion prepared for the use of the Joint Economic Committee, which recommends substantially the same thing, also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BARTLETT. Mr. President, other Senators will argue for a special teenage minimum wage. All I wish to add to my remarks concerning teenagers is that all the arguments that will make for such a wage differential can be made for the moderate minimum wage increases that I am proposing. I hope my colleagues will recognize this and support my amendment.

One of the main arguments of those advocating large increases in the minimum wage is that by doing so we can help raise the incomes of the poor. It sounds obvious and appealing, but I have not seen any evidence that it is true. In fact, the evidence that exists on the question supports the contentions that minimum wages will never be effective antipoverty measures and that minimum wage legislation has no place in a plan to eliminate poverty.

Two recent studies on the income redistribution effects of minimum wage legislation undercut the assertion that increases in the minimum wage will "give the poor a raise." The first, by Terence Kelly for "The Urban Institute," concludes that the relief of poverty by raising the minimum wage is "amazingly small." The second, part of the same paper by Dr. Gramlich mentioned earlier, concludes that "The generally loose correlation between wages and family incomes implies that minimum wages will never have strong redistributive effects."

The reasons that minimum wage increases do not give the poor much of a raise, if any, are because minimum wages have their primary effects on teenagers, because a large proportion of low-wage teenagers are members of average- to high-income families; because many poor families have no working members or have members who work only occasionally, so that wage raises do not much help their income levels; that as minimum wages increase, it pays employers to obtain the services of employees who are better qualified, often leaving the currently poor out in the cold and still poor; and because increases in the minimum wage force the whole wage structure upward and leave the poor in the same relative position. This latter result forces the inflation rate upward.

Mr. President, I ask unanimous consent that three editorials dealing with the relationship between poverty and the minimum wage be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 25, 1977]

SENSE AND NONSENSE

Remember the story about the woman who asked for a pound of butter, and when the grocer charged a dollar she complained that it cost only 75¢ down the street. "Then why don't you buy it there?" the grocer asked. "Because they're out of it," she replied. Whereupon he said, "Oh, well when I'm out of it, I sell it for 50¢."

If that explanation sounds reasonable, then you're well equipped to grapple with the underlying logic of the minimum wage law. For while it is advertised as a boon to low paid workers, its principal effect is to deprive many of those workers of employment of any kind. Notwithstanding, its principal support has come from politicians who pride themselves on being friends of the poor.

Economists of every stripe have long understood the relationship between higher minimum wages and higher rates of unemployment among teenagers and other low productivity workers. But recently other important folks have stopped talking about "compassion" long enough to examine the record, and they are increasingly discomfited by what they see.

For example, Labor Secretary Ray Marshall now admits that minimum wage increases can have an adverse effect on teenage unemployment. To be sure, he defends those increases anyway, arguing that their bad effects can be more than offset by the administration's youth employment program. Even if that were not largely wishful thinking, it would be a costly way of trying to solve an avoidable problem. But what is most important here is that Mr. Marshall's candid admission marks perhaps the first time that a Secretary of Labor, Democrat or Republican, acknowledged that minimum wages had any shortcomings at all.

Then there is the study prepared last year for the liberal Brookings Institution. University of Michigan economist Edward Gramlich concluded that as the minimum wage is increased beyond its historical range of 40% to 50% of the median wage, "more and more workers confront the grab bag combination of a higher wage but a reduced probability of having a job." He also found that an increase in the minimum wage had a particularly disproportionate effect on teenagers.

A recent New York Times editorial cogently explained to any Doubting Thomases among its readership why increased minimum wages have nothing to do with compassion but a great deal to do with making it "more diffi-

cult for unskilled workers to find employment on their own." The editorial's very title—"The Cruel Cost of the Minimum Wage"—speaks volumes.

Finally, Harvard Prof. Andrew Brimmer, former governor of the Federal Reserve, last year told a Senate committee that unemployed teenagers would benefit more from a lower minimum wage than from public works jobs. His testimony is especially important in that Prof. Brimmer, a black, realizes that the crushing burden of unemployment falls heaviest upon blacks and especially black teenagers (whose unemployment rate, say some economists, is probably closer to 65% than the 40% figure usually given).

Notwithstanding this recent shift in intellectual opinion, however, Congress is again preparing to raise the minimum wage—from $2.30 to $2.65 an hour. It isn't that it doesn't understand the baneful effects of minimum wages. It's just that so many Congressmen are beholden to organized labor, and George Meany is calling in his markers.

What's worse, Congress is not merely raising the minimum wage once, but mandating a whole string of increases in the future. The proposals before it would peg the minimum wage at 52% of the national straight-time manufacturing wage. In other words, just when more and more people are becoming aware of the damage wrought by minimum wages, Congress intends to tie them to an escalator clause. Even if the new awareness should spread to Mr. Meany's successors, the minimum would be virtually impossible to remove.

The timing just does not make sense. But then not much about the minimum wage bill does make sense. Even our friendly grocer mentioned above would have no trouble seeing through the illogic of preferring large numbers of teenagers and low skilled workers unemployed at a high minimum wage, rather than gainfully employed at a lower wage.

[From the New York Times]

THE CRUEL COST OF THE MINIMUM WAGE

The Democratic Congressional leadership and the President are struggling to design effective job programs. How then can they support new minimum wage legislation that will make it more difficult for unskilled workers to find employment on their own?

Next month the House will vote on an Administration-backed plan to raise the minimum wage from $2.30 to $2.65 an hour, with a provision to maintain it in the future at 53 percent of average manufacturing wages. The plan is a compromise, adopted in the face of strong opposition from the President's economic advisers; organized labor pushed hard for $3.00. Even at $2.65, though, most economists expect that the new minimum will cost jobs. Those affected will be workers on the lowest rung of the employment ladder—the very young and old, minorities, and the handicapped.

A higher minimum wage, to many, is a simple matter of economic justice. People who work hard 40 hours a week deserve their share of the good life. Yet a full-time job at the prevailing $2.30 minimum—$4,600 a year—hardly pays for food and shelter, let alone first-run movies or weekend barbeques. The working poor could indeed use more than they now earn. But to raise incomes by raising the minimum wage means that some would lose their chance to work altogether.

A business hires workers only if their labor produces earnings at least equal to their wages. If the business is compelled to pay $2.65, it cannot hire those whose work produces less than that. So although a $2.65 minimum would improve the lot of many who work below that wage today, it would at the same time destroy the jobs of those at the very bottom. Any increase in the minimum wage would be a mistake.

Even those who favor raising the minimum wage are having second thoughts about its impact on teenagers. Unemployment among the young seeking their first jobs already hovers around 20 per cent; black teenage unemployment is probably closer to 40 percent. A hike to a $2.65 minimum could eliminate jobs for about 100,000 of the five million 16-to-19-year-olds now in the labor force.

These doleful statistics have led a number of House members to propose exemptions for teenagers. Illinois Republican John Erlenborn's amendment to set the wage floor for teenagers at 75 percent of the adult minimum was narrowly defeated in the House Education and Labor Committee. Proponents are expected to try again when the House debates the minimum wage bill next month.

If there must be any increase in the minimum wage at all, at first glance, some form of youth differential does seem attractive. As a group, teenagers are most adversely affected by minimum wages because a high percentage of them have no skills or experience. But on closer examination, there is no compelling case for a special break for teenagers. It is individuals, finally, not groups, who suffer from unemployment. A 40-year-old textile worker with a family has just as much right to a job as a 17-year-old high school dropout. There is no justification for Congress to give employers incentives to hire the young at the expense of others.

Michigan economist Edward Gramlich's research provides another argument against treating young workers differently. A large proportion of poorly paid, unskilled teenage workers come from middle-income homes. Fully 40 percent live with families whose incomes exceed $15,000 per year. Thus a minimum-wage exemption designed to aid Harlem teenagers is as likely to provide jobs for suburban 18-year-olds. And they may displace adult workers who support families.

The basic effect of an increase in the minimum wage, then, would be to intensify the cruel competition among the poor for scarce jobs. If we are serious about insuring a decent income for those willing to work, let us do so directly by creating jobs through government programs and subsidizing the labor of those who are unproductive. Minimum-wage legislation has no place in a strategy to eliminate poverty.

[From the Wall Street Journal]

LABOR'S HIGH PRICE

George Meany was furious about the defeat of the common situs picketing bill in the House. His temper was improved not at all when the President proposed a watering down of the minimum wage bill now before Congress. Mr. Meany is no doubt wondering what labor is getting for all the money and effort it spent to elect Democrats last fall.

But if labor feels it is being short-changed, there is a simple reason why: It is asking too much.

The minimum wage bill is the salient example. If Mr. Carter could operate in a political vacuum, simply following the advice of eminent economists on what would be best for the American economy, he would call for elimination of the minimum wage. There are few serious studies of this law which do not show that it generates unemployment, particularly among teen-agers. Teen-age unemployment is regarded by Mr. Carter, quite accurately, as one of his foremost economic problems.

But Mr. Carter is not operating in a political vacuum. He recognizes a debt to organized labor and is trying to pay it. Thus, he is ignoring expert advice and proposing that the federal minimum wage be raised initially to $2.50 an hour from $2.30. And he has embraced a very dubious labor concept, in principle at least, by proposing that the minimum wage be indexed, so that it would climb automatically as wages rise generally. Mr. Carter would set the minimum at 50% of the average straight time wage in industry. His Labor Secretary, Ray Marshall, figures it would then jump from the $2.50 level to $2.73 on July 1 next year and $2.92 by July 1, 1979.

While some of us think that this is a very generous price for the American public to pay to make organized labor happy, labor doesn't think it generous at all. It wants a $3 minimum to start and 60% indexing thereafter. Now it is up to Congress to mediate between Mr. Carter's bad minimum wage law and labor's really rotten one.

Labor's arguments on behalf of the minimum wage have always been cloaked in the superficial logic that the minimum wage benefits the lowest paid workers in the economy. If you pass a law raising their wages, they will live better and the entire economy will benefit from their increased purchasing power. They will no longer earn less than what the government regards as a poverty level.

But the real reason for labor's advocacy is somewhat different, as labor itself comes very close to admitting at times. The real reason is that it is hard for unions to bargain for substantial pay increases when it is possible for employers to get labor at substantially lower prices. If the minimum wage is allowed to lag behind the growth of the average wage in manufacturing it becomes a drag on union bargaining. The minimum wage is a protection not for low-paid unskilled workers but for organized labor. If labor can win the indexing provision, the protection will be that much stronger.

But what about that low-paid worker? In a Brookings paper last year, Michigan economist Edward M. Gramlich concluded that:

"As the minimum wage is increased beyond its historical range of 40% to 50% of the median wage, more and more workers confront the grab bag combination of a higher wage but a reduced probability of having a job. This uncertainty is not innately disturbing, but it magnifies many of the undesirable implications of minimum wages . . . : compliance difficulties will no doubt intensify; more workers will either lose their jobs or have to take part-time jobs; more of the benefits will go to high-income families, and the impact on factor costs and product prices will grow disproportionately. At some point these complications make it unwise to boost the minimum wage any more, and that point is likely to be not much above the present minimum."

When a public policy is attacked with such devastating understatement by someone who does not oppose it in principle, it should be in serious political trouble. It is clearly not in the general public interest to have a law on the books that will contribute towards the growth of those twin ogres, inflation and unemployment. This appropriate policy for these times would be either to leave the minimum wage alone or, better yet from the point of view of unskilled workers, repeal it altogether. If not that, at least provide a lower minimum for teen-agers.

Mr. Carter's proposal hardly does that. He has gone a long way to humor labor. Mr. Meany has nothing at all to be furious about but the rest of us do have.

Mr. BARTLETT. In summary, I do not believe any of the arguments for such large increases in the minimum wage as are contained in Senator WILLIAMS' amendment are valid or can be validated. I should point out that the increases proposed in my perfecting

amendment are almost identical to what would have been in effect if the President's initial proposals on minimum wage legislation had been accepted.

Large increases in the minimum wage will increase unemployment, particularly among the young and unskilled. Large increases in the minimum wage will increase inflation by moving the whole wage structure upward and by increasing consumer prices. Large increases in the minimum wage will not help the poor, and, in fact, will make their conditions worse.

Mr. President, I ask unanimous consent that the results of a Chamber of Commerce study of the inflation and unemployment effects of increasing the minimum wage as proposed by Senator WILLIAMS be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—LOSS OF EMPLOYMENT, INCREASE IN LABOR COSTS AND CONSUMER PRICE EXPECTED FROM THE PROPOSED INCREASE IN THE MINIMUM WAGE AS ADVOCATED BY THE CARTER ADMINISTRATION AND THE AFL-CIO (H.R. 3744 AND S. 1871)

State (Senators), congressional district, Congressman	Impact of minimum wage increase from $2.30 to $3.15 in 3 steps through January 1980			Impact of automatic escalator (indexing) (assuming no youth differential)			Impact of youth differentia teens (16 to 18) (assuming an automatic escalator), jobs preserved by imposing a differential of—	
	Job loss (thousands)	Labor cost increase (percent)	Consumer price increase (percent)	Job loss (thousands)	Labor cost increase (percent)	Consumer price increase (percent)	15 percent (thousands)	25 percent (thousands)
Alabama	35.0	4.8	3.2	21.0	2.8	1.8	6.0	11.0
Alaska	1.0	2.7	1.8	1.0	1.6	1.0	1.0	1.0
Arizona	21.0	4.1	2.7	13.0	2.4	1.6	4.0	7.0
Arkansas	24.0	5.5	3.7	14.0	3.2	2.1	3.0	6.0
California	142.0	3.8	2.5	109.0	2.2	1.5	32.0	54.0
Colorado	27.0	3.9	2.6	16.0	2.3	1.5	5.0	9.0
Connecticut	31.0	4.1	2.8	18.0	2.4	1.6	6.0	10.0
Delaware	6.0	3.9	2.6	4.0	2.3	1.5	1.0	2.0
District of Columbia	3.0	3.6	2.4	3.0	2.1	1.4	1.0	1.0
Florida	79.0	4.9	3.3	47.0	2.9	1.9	13.0	22.0
Georgia	51.0	5.1	3.4	30.0	3.0	2.0	8.0	14.0
Hawaii	9.0	4.3	2.8	5.0	2.5	1.7	2.0	3.0
Idaho	9.0	4.2	2.8	5.0	2.5	1.7	2.0	3.0
Illinois	102.0	3.7	2.4	61.0	2.2	1.5	20.0	33.0
Indiana	50.0	3.6	2.4	30.0	2.1	1.4	9.0	16.0
Iowa	28.0	3.7	2.4	17.0	2.2	1.5	6.0	9.0
Kansas	27.0	4.2	2.8	16.0	2.4	1.6	6.0	10.0
Kentucky	31.0	4.2	2.8	18.0	2.4	1.6	6.0	10.0
Louisiana	33.0	4.1	2.7	19.0	2.4	1.6	5.0	8.0
Maine	13.0	5.2	3.5	8.0	3.1	2.0	3.0	4.0
Maryland	42.0	3.9	2.6	25.0	2.3	1.5	7.0	12.0
Massachusetts	59.0	4.4	2.9	35.0	2.6	1.7	12.0	20.0
Michigan	80.0	3.2	2.1	47.0	1.9	1.3	16.0	27.0
Minnesota	49.0	3.9	2.6	29.0	2.3	1.5	11.0	18.0
Mississippi	25.0	5.6	3.7	15.0	3.3	2.2	3.0	6.0
Missouri	46.0	4.1	2.8	27.0	2.4	1.6	8.0	14.0
Monta na	7.0	3.7	2.5	4.0	2.2	1.5	1.0	2.0
Nebras ka	17.0	4.4	2.9	10.0	2.6	1.7	4.0	7.0
Nevada	7.0	3.7	2.5	4.0	2.1	1.4	1.0	2.0
New Hampshire	9.0	5.0	3.3	5.0	2.9	1.9	2.0	3.0
New Jersey	44.0	4.0	2.7	34.0	2.3	1.5	10.0	17.0
New Mexico	12.0	5.4	3.6	7.0	3.2	2.1	2.0	4.0
New York	139.0	4.0	2.7	83.0	2.3	1.5	22.0	37.0
North Carolina	71.0	5.6	3.7	42.0	3.3	2.1	12.0	20.0
North Dakota	8.0	4.6	3.0	5.0	2.7	1.8	2.0	3.0
Ohio	97.0	3.6	2.4	58.0	2.1	1.4	18.0	30.0
Oklahoma (Bellmon, Bartlett)	25.0	4.5	3.0	15.0	2.6	1.7	5.0	8.0
1. James R. Jones (Democrat)	4.0	4.7	3.1	2.4	2.3	1.9	.8	1.3
2. Ted Risenhoover (Democrat)	4.1	4.6	3.1	2.5	2.7	1.8	.8	1.3
3. Wes Watkins (Demcorat)	4.3	4.6	3.0	2.6	2.6	1.8	.9	1.4
4. Tom Steed (Democrat)	4.3	4.6	3.0	2.6	2.6	1.8	.9	1.4
5. Mickey Edwards (Republican)	4.0	4.7	3.1	2.4	2.8	1.9	.8	1.3
6. Glenn English (Democrat)	4.2	4.6	3.0	2.5	2.7	1.8	.8	1.4
Oregon	19.0	3.6	3.0	11.0	2.1	1.4	3.0	6.0
Pennsylvania	108.0	4.0	2.7	64.0	2.4	1.6	19.0	33.0
Rhode Island	11.0	5.1	3.4	6.0	3.0	2.0	2.0	4.0
South Carolina	33.0	5.5	3.7	20.0	3.2	2.1	4.0	7.0
South Dakota	8.0	4.7	3.1	5.0	2.8	1.8	2.0	3.0
Tennessee	41.0	5.0	3.4	24.0	2.9	1.9	6.0	10.0
Texas	125.0	4.3	2.9	74.0	2.5	1.7	22.0	37.0
Utah	16.0	4.9	3.2	10.0	2.9	1.9	3.0	6.0
Vermont	5.0	4.8	3.2	3.0	2.8	1.8	1.0	2.0
Virginia	52.0	4.9	3.3	31.0	2.9	1.9	8.0	13.0
Washington	28.0	3.4	2.3	17.0	2.0	1.3	5.0	9.0
West Virginia	14.0	3.9	2.6	8.0	2.3	1.5	2.0	4.0
Wisconsin	53.0	3.7	2.5	32.0	2.1	1.4	11.0	19.0
Wyoming	5.0	3.9	2.6	3.0	2.3	1.5	1.0	2.0
United States	1,977.0	4.1	2.7	1,208.0	2.4	1.6	364.0	617.0

Mr. BARTLETT. Mr. President, Senators will note that this is a State-by-State study so that they can see the possible effects of amendment No. 1018 on their own State. The totals for the entire United States are 1,977,000 jobs lost and a 2.7-percent increase in consumer prices.

America cannot afford the large increases in the minimum wage contained in amendment No. 1018; small businesses cannot afford them; teenagers cannot afford them; and the poor cannot afford them. Therefore, I commend my compromise increases to my colleagues and earnestly hope for their adoption.

EXHIBIT 1

MINIMUM WAGES AND THE YOUTH LABOR MARKET

(By James F. Ragan, Jr.*)

Teenagers[1] have in recent years experienced increased difficulty in obtaining work,[2] something which many authors attribute to federal minimum wage legislation. The effect of a minimum wage remains very much in contention, however, with empirical studies often contradicting one another.[3] Using a richer specification than previous authors and an unexploited set of data, this study will examine the impact of the minimum wage on youth employment, unemployment, and labor force participation.

To the extent it forces firms to pay higher wages for youths, minimum wage legislation reduces the demand for youths and, therefore, youth employment.[4] Because coverage is incomplete,[5] some youths displaced from the covered sector may obtain employment with uncovered firms; but, as long as others do not, the fraction of youths employed will decline. Barring a commensurate drop in youth labor force participation,[6] youth unemployment rates will rise. Therefore, it is

* Mr. Ragan is Assistant Professor of Economics at Kansas State University. This article is based on a doctoral dissertation completed at Washington University in St. Louis, Missouri. The author has benefited from comments by Edward Kalachek, Frederic Raines, Murray Weidenbaum, and an anonymous referee.

Footnotes at end of article.

hypothesized that minimum wage legislation reduces the fraction of youths employed and increases youth unemployment rates.

I. THE EQUATIONS

To test these hypotheses, a two-equation empirical model is developed. Dependent variables are the fraction of the youth population employed and the fraction in the labor force. Coefficients from these regressions are then used to construct unemployment rate elasticities.

The minimum wage variable is defined as the nominal minimum deflated by average hourly earnings of production workers and weighted by estimated youth coverage.[7] This variable was chosen for both its sophistication and its wide acceptance in the literature. It is similar to the variables of Kaitz (1970), Lovell (1972), Mincer (1976), Welch (1974), and Kosters and Welch (1972). The average hourly earnings measure standardizes for the erosion, due to rising prices and growing productivity, of a minimum wage's effectiveness; the coverage factor forces recognition that the fraction of a group covered by minimum wage legislation is as important as the level of the minimum wage.

If the minimum wage variable is to be successful, the influence of other forces must be netted out; therefore, a number of standardizing variables are added to the equations. The first is a set of seasonal dummies.[8] Next comes a cyclical variable, U, the unemployment rate of males aged 25–54, lagged one quarter.[9] In both equations the predicted sign of U is negative; employment and labor force participation should be greater in tight than in slack labor markets. There is, however, no reason to believe the coefficients of U will be identical for each demographic group. Given downward wage rigidities, if nonwhites are discriminated against, or if they tend to be less productive, they will display a greater cyclical sensitivity than whites. Likewise, students, because of a lesser commitment to the labor market, may be more cyclically sensitive than nonstudents.[10] There may also exist different cyclical response by age or sex. These hypotheses will be tested.

If manpower programs employ (draw into the labor force) individuals who would not be employed (in the labor force) in their absence, an expansion of manpower programs should be associated with an increase in employment (labor force participation), i.e., manpower enrollment should exert a positive influence on both the employment and the labor force ratios.[11] Included, therefore, is a manpower variable, NYC, which is defined as one plus the percentage of the youth population enrolled in the Neighborhood Youth Corps—in the in-school Neighborhood Youth Corps program for student groups and in the out-of-school program for nonstudent groups.[12] Since the variables are in log form, the value "one" is necessary if this variable is to be defined in the pre-1965 period when there were no manpower programs. The manpower variable is based on Neighborhood Youth Corps enrollment for two reasons: (1) For youths enrolled in manpower programs, the vast majority were in the Neighborhood Youth Corps. (2) Data for the Neighborhood Youth Corps were more reliable and easier to obtain than data for other manpower programs.

The ratio of a group's population to total population sixteen and older serves as the supply variable. If the youth population bulge has created employment problems for youths, the supply variable should have negative coefficients. A negative coefficient in the employment equation would indicate that youth employment has been unable to keep pace with the growing youth population—that an increase in the youth population share is associated with a reduced rate of youth employment.[13] If the coefficient in the employment equation does have a negative sign, so should the coefficient in the labor force equation; a reduction in relative employment opportunities can be expected to discourage labor force participation. Nonnegative coefficients would imply that increases in the youth share of the population should not have resulted in labor market difficulties.[14]

$$N/P = AU_1^{\alpha} MIN_2^{\alpha} NYC_3^{\alpha} POP_4^{\alpha} \times \exp(\alpha_5 SEAS1 + \alpha_6 SEAS2 + \alpha_7 SEAS3)\epsilon \quad (1)$$

$$L/P = BU_1^{\beta} MIN_2^{\beta} NYC_3^{\beta} POP_4^{\beta} \times \exp(\beta_5 SEAS1 + \beta_6 SEAS2 + \beta_7 SEAS3)\epsilon' \quad (2)$$

where

N/P = Employment ratio (fraction of the youth subgroup employed).
L/P = Labor force ratio (fraction of the youth subgroup in the labor force).
U = Cyclic variable.
MIN = Minimum wage variable.
NYC = Manpower variable.
POP = Supply variable.
$SEAS$ = Set of seasonal dummies (fourth quarter the excluded one).
ϵ, ϵ' = Error terms.

The equations are estimated over the period 1963I–1972IV for each of 16 youth subgroups.[15] Demographic characteristics are age (16–17, 18–19), race (white, nonwhite), sex, and school enrollment status.[16, 17] The estimating technique is ordinary least squares.[18]

I. THE FINDINGS

Initial estimation revealed that for females the Durbin-Watson statistics were unacceptably low. Since this suggested that an important explanatory variable had been omitted, an exponential time trend was added. Once it was, the Durbin-Watson statistics took on acceptable values. The trend was therefore retained. Although the Durbin-Watson values for males were good to begin with, a time trend was also tried in their equations. It was insignificant and contributed nothing to the explanatory power of the equation; consequently, it was dropped.[19]

Estimates of the male employment and labor force equations are presented in tables 1 and 3; estimates of the female equations, in tables 2 and 4. Three general observations are in order. (1) The R^2 and Durbin-Watson statistics are in most cases quite good. The F-statistic of the regression, used to test the hypothesis that all coefficients are zero, exceeds the critical value (at the 0.05 significance level) in every equation. Although some Durbin-Watson statistics are in the inconclusive range, only once is a value below the lower limit (for the 0.05 significance level). (2) Consistent with previous studies, more of the variance can be explained for white groups than for nonwhite. No doubt, this is partially a result of better data for whites. (3) Variables in the male equation display a slightly greater tendency towards significance than do variables in the female equation. Perhaps, because of factors like changing home productivity, the relations between the independent variables and population ratios are less stable or less important for females.

Footnotes at end of article.

TABLE 1.—MALE EMPLOYMENT REGRESSIONS

Class	U	MIN	NYC	POP	C	SEAS 1	SEAS 2	SEAS 3	R^2	D.W.
MEA	−0.26	−0.12	0.12	0.25	−0.073	−0.096	0.12	0.23	0.909	1.92
	(7.52)	(2.26)	(2.64)	(1.40)	(.11)	(5.63)	(2.39)	(1.18)		
MNA	−.10	−.018	.10	.41	2.11	−.075	−.52	−.94	.848	2.21
	(2.96)	(.23)	(2.64)	(8.05)	(6.98)	(3.51)	(9.92)	(10.18)		
MEB	−.65	−.69	.069	−1.56	−10.76	−.17	−.42	−1.66	.762	.97
	(6.33)	(2.96)	(1.05)	(3.45)	(4.01)	(2.53)	(3.26)	(4.03)		
MEB [1]	−.61	−.75	.088	−1.76	−11.99	−.14	−.45	−1.83	.838	1.73
	(4.18)	(2.24)	(1.37)	(3.62)	(4.26)	(3.00)	(3.41)	(3.99)		
MNB	−.096	−.41	.021	.14	.34	−.14	−.25	−.42	.428	1.63
	(1.46)	(2.60)	(.64)	(.62)	(.20)	(2.78)	(1.38)	(1.27)		
MEC	−.27	−.051	.074	.015	−.86	−.011	.11	−.19	.814	1.56
	(4.43)	(.39)	(.35)	(.12)	(1.54)	(.33)	(2.65)	(1.34)		
MNC	−.076	−.10	.018	−.0019	−.18	−.040	−.037	−.062	.705	1.73
	(4.67)	(2.54)	(.51)	(.05)	(1.09)	(3.93)	(3.36)	(3.12)		
MED	−.59	−1.02	.021	−.49	−4.95	.033	−.013	−.68	.594	1.59
	(5.13)	(2.69)	(.14)	(1.95)	(2.93)	(.42)	(.15)	(3.12)		
MND	−.15	−.11	−.0054	−.25	−1.89	−.072	−.020	.029	.742	1.81
	(5.28)	(1.05)	(.35)	(2.85)	(3.48)	(4.03)	(1.10)	(.79)		

[1] Cochrane-Orcutt technique for 1st-order autocorrelation was used.

Notes: (1) Variables except the constant (C), seasonal dummies, and (for females) time trend are in natural logarithms. (2) M = male, F = female; E = enrolled in school, N = nonenrolled; A = white 16- to 17-yr olds, B = nonwhite 16- to 17-yr olds, C = white 18- to 19-yr olds, D = nonwhite 18- to 19-yr olds. (3) Absolute values of t-statistics are in parentheses. For a 1-tailed test, critical values are 1.70 (α=.05) and 2.45 (α=.01).

TABLE 2.—FEMALE EMPLOYMENT REGRESSIONS

Class	U	MIN	NYC	POP	TIME	C	SEAS1	SEAS2	SEAS3	R^2	D.W.
FEA	−0.25	−0.23	0.059	0.33	0.0088	−0.17	−0.13	−0.060	0.18	0.895	1.70
	(4.53)	(2.09)	(.69)	(1.46)	(5.41)	(.19)	(5.22)	(1.01)	(.75)		
FNA	−0.14	.26	.055	.93	.0042	4.53	−.054	−.91	−1.60	.885	1.75
	(.23)	(1.83)	(.57)	(6.07)	(1.50)	(4.76)	(1.44)	(6.26)	(5.84)		
FEB	−.46	−.59	.24	−1.38	.013	−10.82	−.18	−.48	−1.34	.708	1.92
	(3.18)	(2.12)	(2.89)	(2.65)	(1.48)	(3.40)	(2.42)	(3.64)	(2.66)		

TABLE 2.—FEMALE EMPLOYMENT REGRESSIONS—Continued

Class	U	MIN	NYC	POP	TIME	C	SEAS1	SEAS2	SEAS3	R^2	D.W.
FNB	−.12	−.025	−.023	.33	.0075	1.11	−.094	−.38	−.48	.405	2.77
	(1.00)	(.10)	(.30)	(1.01)	(1.31)	(.46)	(1.18)	(1.80)	(1.11)		
FEC	−.091	.021	−.061	−.14	.011	−2.19	.001	.005	−.51	.834	1.89
	(.94)	(.78)	(.04)	(.69)	(4.39)	(2.26)	(.03)	(.10)	(2.42)		
FNC	−.080	−0.13	−.044	.27	.0024	.73	−.039	−.10	−.16	.895	1.35
	(4.54)	(.17)	(.73)	(2.40)	(3.72)	(1.36)	(3.36)	(7.57)	(4.04)		
FED	−.27	.53	.14	−.86	−.012	−6.92	−.015	−.14	−1.20	.716	1.27
	(1.70)	(1.25)	(.61)	(2.06)	(1.30)	(2.28)	(.14)	(1.41)	(3.40)		
FND	−.19	.040	.062	−.099	−.0012	−1.29	−.088	−.13	−.098	.623	.179
	(3.37)	(.29)	(1.41)	(.45)	(.55)	(.95)	(2.46)	(3.38)	(1.26)		

Turning to the employment equation, one is struck with how cyclically sensitive youth employment is. The regression coefficient for *U* is negative in all 16 equations and is significant (at the 0.05 level) in 12 of them. In addition, there is evidence that the employment of students and nonwhites is more responsive to cyclical conditions than is the employment of non-students and whites. In all 8 cases a_1 is greater in absolute value for students than for nonstudents of the same age, race, and sex; and in all but one instance the difference in regression coefficients is significant. With only one exception a_1 is more negative for nonwhites than for whites from the same age, sex, and enrollment class; this difference is significant 4 times.[20] There is no discernible difference in cyclical response for sex or age characteristics.

The coefficient of *MIN*, a_2, is less than zero in 12 of 16 runs, significantly so in 7. The impact of this variable is especially conspicuous for males. For them the coefficient is negative all 8 times and signficant 5. This is strong support for the hypothesis that federal minimum wage legislation reduces youth employment. To obtain some indication of the magnitude involved, the coefficients from tables 1 and 2 were used to estimate the employment loss in 1972 attributes to the 1966 minimum wage amendment. This amendment extended coverage and, in five steps (the first occurring in February 1967, the last in February 1971), raised the minimum wage to $1.60 per hour. According to our model, aggregate youth employment would have been 225,000 or 3.3% higher had the 1966 amendment not been implemented. Nonwhite employment would have been 13.8% higher; white employment 2.4% higher.[21]

For 16–17 year olds the manpower coefficient is positive seven of eight times and significant (at the 0.01 level) three times. Hence, manpower programs provide work for some young teenagers who would not otherwise be employed. For 18–19 year olds, on the other hand, their impact is nebulous; the coeficient is positive in five equations but never significant. Virtually all 16–17 year-old manpower participants were in the Neighborhood Youth Corps, but for 18–19 year olds other programs were also important. The inferior performance for the older group could result from the failure to consider these other programs. To test for this we tried replacing for 18–19 year olds "percentage of the group enrolled in the Neighborhood Youth Corps" with "percentage enrolled in the Neighborhood Youth Corps", JOBS, on the Job Training, or Public Employment Program." For no groups did this change lead to significance of the manpower variable. This suggests that the manpower programs may simply be more important for young teenagers, who have fewer alternative sources of employment.

Footnotes at end of article.

TABLE 3.—MALE LABOR FORCE REGRESSIONS

Class	U	MIN	NYC	POP	C	SEAS1	SEAS2	SEAS3	R^2	D.W
MEA	−0.087	0.055	0.17	0.17	−0.32	−0.089	0.11	0.15	0.762	2.18
	(1.85)	(.74)	(2.87)	(.69)	(.35)	(3.86)	(1.66)	(.59)		
MNA	.032	.084	.087	.16	.74	−.015	−.25	−.52	.909	1.91
	(1.44.	(1.64)	(3.62)	(5.09)	(3.90)	(1.14)	(7.40)	(8.99)		
MEB	−.36	−.62	.10	−.97	−7.21	−.18	−.31	−1.01	.662	1.20
	(4.20)	(3.15)	(1.87)	(2.54)	(3.19)	(3.22)	(2.84)	(2.92)		
MNB	−.0035	−.23	.34	.064	.062	−.072	.13	−.34	.517	1.72
	(.01)	(1.82)	(1.32)	(.35)	(.04)	(1.84)	(.88)	(1.28)		
MEC	−.15	.018	.13	−.041	−1.05	−.017	0.98	−.21	.793	1.71
	(2.95)	(.17)	(.73)	(.40)	(2.31)	(.60)	(2.99)	(1.81)		
MNC	.011	−.021	.0007	−019	−.19	−.013	−.017	−.054	.792	1.86
	(.98)	(.79)	(.03)	(.82)	(1.70)	(1.92)	(2.28)	(4.07)		
MED	−.32	−.38	.12	−.58	−5.11	−.006	−.046	−.70	.533	1.77
	(3.41)	(1.25)	(1.000)	(2.84)	(3.76)	(.09)	(.69)	(4.01)		
MND	−.37	−.11	−.0099	−.18	−1.31	−.025	.016	.026	.635	1.51
	(1.70)	(1.35)	(.80)	(2.60)	(3.08)	(1.77)	(1.09)	(.91)		

TABLE 4.—FEMALE LABOR FORCE REGRESSIONS

Class	U	MIN	NYC	POP	TIME	C	SESA 1	SESA 2	SESA 3	R^2	D.W.
FEA	−0.14	−0.16	0.046	0.22	0.0092	−0.54	−0.15	−0.030	0.074	0.864	2.40
	(2.36)	(1.37)	(0.51)	(0.91)	(5.35)	(0.57)	(5.72)	(0.48)	(0.29)		
FNA	0.041	0.26	0.11	0.80	0.0022	3.92	−0.067	−0.74	−0.45	0.898	1.77
	(0.83)	(2.29)	(1.39)	(6.47)	(0.98)	(5.14)	(2.23)	(6.43)	(6.56)		
FEB	−0.34	−0.34	0.16	−0.65	0.0085	−5.91	−0.19	−0.22	−0.63	0.602	2.17
	(2.42)	(1.25)	(1.93)	(1.25)	(1.02)	(1.87)	(2.62)	(1.72)	(1.26)		
FNB	−0.029	0.021	−0.0045	0.34	0.0039	1.61	−0.11	−0.25	−0.59	0.394	2.36
	(0.33)	(0.11)	(0.08)	(1.21)	(0.89)	(0.79)	(1.92)	(1.44)	(1.61)		
FEC	0.019	0.0027	−0.10	0.044	0.0099	−1.27	−0.029	0.075	−0.29	0.774	2.33
	(0.17)	(0.01)	(0.22)	(0.19)	(3.50)	(1.14)	(0.53)	(1.27)	(1.19)		
FNC	−0.020	0.10	−0.034	0.30	0.0019	1.00	−0.024	−0.075	−0.16	0.896	1.60
	(1.45)	(1.65)	(0.72)	(3.33)	(3.55)	(2.33)	(2.63)	(6.84)	(5.11)		
FED	0.0087	0.61	0.13	−0.58	−0.0031	−5.05	−0.080	−0.22	−0.82	0.456	1.67
	(0.06)	(1.49)	(0.65)	(1.45)	(0.36)	(1.75)	(0.88)	(2.48)	(2.40)		
FND	−0.023	−0.030	0.020	0.51	−0.0007	2.63	−0.055	−0.067	−0.20	0.520	1.51
	(0.51)	(0.27)	(0.58)	(2.20)	(0.39)	(1.84)	(1.95)	(2.26)	(2.64)		

For nonwhites the coefficient of the supply variable, a_4, is negative in six of eight cases and significant in five. The increasing population share of nonwhite teenagers has apparently contributed to their employment problems. In terms of coefficient size and *t*-statistics, the impact is especially deleterious to nonwhite students. For whites the story is different. For them a_4 is negative only twice and in neither case significant. It seems that demand for white teenagers has been growing as rapidly as their supply, i.e., white teenagers have not, as a result of their expanding population, experienced increased difficulty in obtaining employment.

Why have white youths been able to withstand an increased population share when nonwhite youths have not? First, their

population grew only two-thirds as fast over the sample period as the nonwhite youth population. Second, white youths were concentrated in occupations and industries with faster than average employment growth; nonwhite youths were concentrated in slow-growth occupations (see Stevenson, 1973). Finally, since many employers prefer white workers, an increasing supply of youths may induce substitution of youths for nonwhite. If so, increase in the minimum wage, which aggravates excess labor supply, should reduce employment of nonwhite youths proportionately more than employment of white youths. It does.

As predicted, labor force participation varies procyclically (see tables 3 and 4). The coefficient b_1 is negative in 11 of 16 equations and significant in 7, including 6 student equations. This difference in significance suggests that market tightness is more important for students; so does the finding that in 6 of 8 cases b_1, is more negative for students than nonstudents. In addition, though the difference is sometimes quite small, b_1 is without exception more negative for nonwhites than whites. Thus, the findings in the employment equations of cyclical sensitivity and, more specifically, differential student-nonstudent, white-nonwhite sensitivities are duplicated in the labor force equations.[22]

For whites the minimum wage coefficient in the labor force equation is negative twice and positive six times, once significant (based on a two-tailed test at the 0.05 significance level). For nonwhites the coefficient is negative six times, once significant, and positive twice. The low values of the t-statistics indicate that minimum wage legislation has not markedly affected labor force participation. The difference in signs is of some interest, however. The implication is that if there has been any impact, it has been one of encouragement for whites and discouragement for nonwhites.

From the coefficients of the employment and labor force equations, a_2 and b_2, unemployment rate elasticities were constructed for the minimum wage variable. These elasticities are presented in table 5. The elasticities in column I are computed using the estimated value of β_2, i.e., b_2. The elasticities in column II are likewise based on b_2 provided that the coefficient's t-statistic, in absolute value, exceeds unity; otherwise, β_2 is assumed to be zero. For both series the elasticity is positive twelve times, zero twice, and negative twice. This demonstrates that minimum wage legislation, in addition to reducing youth employment, raises youth unemployment rates.

TABLE 5.—UNEMPLOYMENT RATE ELASTICITIES FOR MINIMUM WAGE VARIABLE

Class	Males		Females	
	I	II	I	II
EA	0.99	0.69	0.40	0.40
NA	.54	.54	0	0
EB	.31	.31	.42	.42
NB	.47	.47	.08	.05
EC	.43	.32	−.11	−.13
NC	.68	.85	.86	.86
ED	1.67	1.67	.16	.16
ND	0	0	−.16	−.10

Note: (1) Estimates in col. I are based on the minimum wage coefficients of tables 3–4. In col. II these coefficients are replaced with the value zero if their t-statistics do not exceed unity in absolute value. (2) See note 2, table 1, for class definitions.

Presented in table 6 are estimates of the degree to which the 1966 minimum wage amendment altered youth unemployment rates. Overall, it is projected that the teenage unemployment rate in 1972 was 3.8 percentage points higher than it would have been without this amendment. Mean values of the increase were the same for students and nonstudents but differed for other demographic characteristics. Males were affected much more than females and 16–17 year olds slightly more than 18–19 year olds. Finally, unemployment rates were raised a greater amount for whites than nonwhites—something which results from minimum wage coefficients in the labor force equation being positive for whites but negative for nonwhites.

NYC's performance in the participation equation mirrors its performance in the employment equation. For 16–17 year olds b_3 is greater than zero seven of eight times and significant (at the 0.05 level) four times. The coefficient for 18–19 year olds, although positive five times, never attains significance. Thus, 16–17 year olds are drawn into the labor force by manpower programs, but apparently 18–19 year olds are not.

For whites the coefficient of the population variable is negative twice but insignificant both times. For nonwhites it is negative five times and significant three. Consistent with the findings of the employment equation, it seems that only for nonwhites has market activity been adversely affected by a relative increase in population.

TABLE 6.—ACTUAL YOUTH UNEMPLOYMENT RATES, 1972 AND THE RATES PREDICTED IN THE ABSENCE OF THE 1966 MINIMUM WAGE AMENDMENT

Class	Actual	Predicted[1]	Difference
MEA	20.6	15.1	5.5
MNA	12.7	7.7	5.0
MEB	46.5	42.1	4.4
MNB	29.0	21.3	7.7
MEC	15.1	13.0	2.1
MNC	11.8	7.4	4.4
MED	33.5	11.7	21.8
MND	25.0	25.0	0
FEA	16.8	13.1	3.7
FNA	17.2	17.2	0
FEB	44.5	33.6	10.9
FNB	33.6	32.4	1.2
FEC	14.0	14.9	−.9
FNC	11.9	6.9	5.0
FED	48.9	46.3	2.6
FND	36.9	38.5	−1.6
White	14.2	10.3	3.9
Nonwhite	33.5	30.5	3.0
Enrolled	19.5	15.7	3.8
Nonenrolled	14.8	11.0	3.8
Male	15.8	11.3	4.5
Female	16.7	13.8	2.9
16 to 17	18.4	14.4	4.0
18 to 19	14.6	11.0	3.6
Total	16.2	12.4	3.8

[1] Unemployment rates predicted in the absence of the 1966 amendment—based on estimated minimum wage coefficients from tables 1–4. As in table 5, col. II, the estimated coefficient in the participation equation is replaced with zero if its $|t| < 1$. For greater elaboration, see Ragan (1975, p. 113).

III. CONCLUSIONS

The minimum wage has little effect on labor force participation, however. There is the hint that a higher minimum attracts additional white youths into the labor market while discouraging nonwhite youths, but these forces are quite weak. The employment loss is at best partially offset by a decline in labor force participation—which means youth unemployment rates rise. The policy implications are obvious: with less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, our model indicates that aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth unemployment rate 3.8 percentage points lower.

The finding that minimum wage legislation adversely affects youths is not novel.[23] This study does, however, strengthen that finding. In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

Other empirical findings include the following. Employment and labor force participation are more cyclically sensitive for students (nonwhites) than for nonstudents (whites). Manpower programs increase employment and labor force participation of 16–17 year olds but apparently have little effect on 18–19 year olds. For nonwhites a higher population share is associated with lower rates of employment and labor force participation; for whites it is not.

Footnotes at end of article.

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FOOTNOTES

[1] The terms "youth" and "teenager" are used interchangeably to describe the 16–19 year-old population.

[2] Folk (1968), Kalachek (1969), Gavett (1970), and Fisher (1973) all demonstrate that, apart from cyclical movements, youth unemployment rates contain upward time trends.

[3] For a review of previous empirical studies, see Ragan (1975).

[4] Other low-productivity workers will also be affected; but, for data reasons, the minimum wage's impact is examined only for youths.

[5] Currently, one out of five nonsupervisory employees works for uncovered firms, i.e., firms exempt from the federal minimum wage. Prior to the 1966 minimum wage amendment, the figure was two out of five.

[6] Labor force response to a decline in employment should be less than proportional. According to Tella (1965), an employment reduction of ten youths leads to a labor force reduction of four. In fact, because of higher wages in the covered sector, labor force participation may even rise.

[7] Operationally, this variable is defined as

$$MIN \equiv \sum_i (I_i(p_i MP + n_i MN))/AHE$$

where

MP = Minium wage for previously covered workers.
MN = Minimum wage for newly covered workers (workers covered by the most recent minimum wage amendment).
AHE = Average hourly earnings of nonsupervisory employees in the private nonfarm economy.
I_i = Fraction of youth employment coming from industry i.
p_i = Fraction of nonsupervisory workers in industry i covered by previous minimum wage legislation.
n_i = Fraction of nonsupervisory workers in industry i covered by the most recent minimum wage amendment.
i = Major industry division (wholesale trade and retail trade considered separate divisions)

This variable is lagged one quarter. Alternative lags yielded similar results, but short simple lags performed best. The minimum wage and coverage data came from *Minimum Wage and Maximum Hours Standards* and earnings data from *Employment and Earnings*.

[8] Seasonally unadjusted data have an advantage, as explained by Kaitz (1970, p. 35): "Since our methods of seasonal adjustment allow for changing patterns of seasonality, we may perhaps be removing, via adjustment, some aspects of labor force behavior that should have been retained. This suggests that some other labor force models be examined separately for the in-school and out-of-school youth, and possibly not-seasonally adjusted data." Previously, the only author to use seasonally unadjusted data was Welch (1974).

[9] The source of this data is *Employment and Earnings*.

[10] One contribution of this study comes from breaking down the youth population according to enrollment status. If the responses of students and nonstudents differ, correct estimation calls for separate student-nonstudent equations. Until now, the only time-series studies to do this were those of Folk (1968) and Easley and Fearn (1969). Unfortunately, because the authors used dummy minimum wage variables and data solely from the month of October, little confidence can be placed in their findings.

[11] The importance of manpower programs has been emphasized by the Labor Department (1972, p. 95): "Over a million youth 16 to 21 years of age were first-time enrollees in Federal manpower programs during fiscal 1971. . . . These programs almost certainly had a significant effect in preventing even higher rates of unemployment than have prevailed . . . (I)f the manpower programs represented an alternative to unsuccessful jobseeking for only two-thirds of the enrollees, the jobless rate for Negro youth would have been 43 percent in July 1971 without the programs instead of the actual 28 percent." Manpower variables have, nevertheless, appeared in only two studies—those of Kaitz (1970) and Welch (1974), and Kaitz used dummy variables.

[12] Quarterly data are available for both the in-school and out-of-school Neighborhood Youth Corps programs. Data for 1965–67 come from Cohen (1969), and later data, unpublished, from the U.S. Department of Labor, Manpower Administration. Although these data are available separately by age, race, and sex breakdowns—see the *Manpower Report of the President*—there are no cross tabs to indicate the fraction of enrollees from a particular age-race-sex subgroup. This is estimated as the product of three numbers: the fraction of enrollees that age, the fraction that race, and the fraction that sex. This approach is valid as long as the distributions of age, race, and sex characteristics are independent of one another.

[13] Although an increase in the relative supply of youths may make it more difficult for youths to find jobs, especially if youths and adults have low substitutability, many studies neglect the supply variable. In studies containing the unemployment rate as the dependent variable, the most common type, there is a controversy over whether or not a supply term is appropriate. If wages are sufficiently flexible—and in uncovered firms they may be—an increase in relative youth population need not increase unemployment rates. A decline in labor force participation should be the only effect. An advantage of using population ratios as the dependent variables is that, even if youth unemployment rates remain unchanged, the population ratio should pick up any reduction in youths' rates of unemployment or labor force participation. Thus population ratios provide a more detailed picture of how youths' labor market activity is affected.

[14] A linear version was also tried. Its t-statistics and R^2 were somewhat lower, but its general performance was quite similar.

[15] A longer sample period would be desirable, but detailed data for these subgroups do not exist prior to 1963. The data—civilian noninstitutional employment, labor force, and population—were based on the monthly *Current Population Survey* and obtained from the Bureau of Labor Statistics. Although these data were available through 1973IV, the decision was made to fit the equation over the period ending 1972IV and then, using the estimated coefficients, to predict in the final four quarters. Prediction results, presented in Ragan (1975), indicate a reasonably good fit, especially for white youths.

[16] The term "in school" is used to describe those individuals whose "major activity" is going to school. In the monthly *Current Population Survey*, individuals are classified according to major activity. A person who goes to school but works full time has work as his major activity and, consequently, is not counted among the in-school group. Data on whether or not an individual attends school, regardless of wheher this is his major activity, are available only for the month of October. To obtain quarterly observations, it is therefore necessary to use "major activity: school" as the enrollment variable. The two concepts are quite similar however. In October 1963 (the only month for which we have both types of data) 97% of the 16-19 year-old males in school and 100% of the 16-19 year-old females had school as their major activity.

[17] Although age, race, and sex characteristics are independent of market conditions, enrollment status may not be. In particular, there is the possibility that enrollment and labor force decisions are made jointly. In that case, enrollment should be a function of the key determinants of labor force participation. To test for this enrollment rate equations were estimated as a function of *U*, *MIN*, a time trend, and seasonal dummies. Other variables were also considered, including one attempting to capture the effects of the draft. There was no tendency for *U*, *MIN*, or other key variables to be significant or take on the expected sign. It is possible that enrollment varies with market conditions, but of a more narrowly defined market—e.g., that for recent college graduates. Alternatively, enrollment relationships may have been masked by a variable response pattern: the decision to enter or leave school may not be carried out until the next semester or next academic year. But, whatever the case, no systematic relationship was found between market variables and the enrollment rate—which justifies treating the enrollment decision as given.

[18] Zellner's seemingly-unrelated technique was also considered. The intergroup correlation of error terms was quite low, however, indicating that this technique would actually reduce the efficiency of estimation.

[19] There remains the question of what the time trend is capturing. The increase in female employment and labor force ratios may be partially due to changes in social, cultural, and legal conditions. It is likely, however, that economic factors are also important. Marginal productivity of home work relative to market work has been declining over time (see Kalachek, 1973). For teenage females this is undoubtedly important; but for teenage males, who devote a smaller portion of their time to home work, it is probably not. This suggests that the relative decline in home productivity has led teenage females to substitute market work for home work, thereby contributing to the observed increase in their market activity.

[20] Tests of significance are reported in Ragan (1975).

[21] The estimated employment loss by demographic group is reported in Ragan (1975) or can be obtained from the author.

[22] Despite the tendency for b_1 to be negative, labor force ratios are less cyclically sensitive than employment ratios. For each youth subgroup $a_1 < b_1$, implying that the unemployment rates of teenagers and adults move together.

[23] Mincer (1976) and Welch (1974) found that federal minimum wage legislation reduces youth employment while Burns (1966), Adie (1971, 1973), and Moore (1971) concluded that it increases youth unemployment rates. These findings and ours are broadly consistent, although there remains some discrepancy as to the quantitative impact. In particular, this study found the unemployment sensitivity of nonwhites to be less than reported by Adie and Moore.

EXHIBIT 2

YOUTH AND MINORITY UNEMPLOYMENT

(A Study Prepared for the Use of the Joint Economic Committee, Congress of the United States)

(By Walter E. Williams)

MINIMUM WAGE LAWS

Federal and State minimum wage laws are an act of governmental intervention in the labor market that are intended to produce a pattern of events other than that produced in a free market. In practice minimum wage laws specify a legal minimum hourly wage to be paid. Certain industries and worker classes are exempted from the law. Among the major exceptions are highly seasonal amusement area workers, restaurant employees who re-

ceive part of their wages in gratuities, employees in small firms (less than $500,000 in annual sales), some agricultural employees and college students doing summer work.

The debate over the desirability of the minimum wage law has continued for well over 50 years, producing little agreement between advocates and opponents. However, most economists agree on a number of issues concerning wage rates in general which can be helpful in evaluating the effects (not desirability) of governmental intervention in the labor market.

The minimum wage law raises the wage to a level higher than that which would have occurred with uncontrolled economic forces. Legislative bodies have the power to legislate a wage increase; this much is clear. But when they legislated a wage increase, have they also legislated a worker productivity increase? That is entirely unlikely. To the extent that the minimum wage law raises the pay level to that which may exceed some worker's productivity, employers will make adjustments in their use of labor. Such an adjustment by employers will produce gains for some groups of workers at the expense of other groups. Those workers who retain their jobs and receive a higher wage clearly gain. The most adverse employment effects fall upon those workers who are most disadvantaged in terms of marketable skills, who lose their jobs and their income. This effect is more clearly seen if we put ourselves in the place of an employer and ask the question: If a wage of $2.30 per hour must be paid no matter who is hired, who does it pay the firm to hire? Clearly the answer, in terms of economic efficiency, is to hire the worker whose productivity is the closest to $2.30 per hour. If such workers are available, it clearly does not pay the firm to hire those whose output is, say, $1.50 per hour. Even if the employer were willing to train such a worker, the fact that the worker has to be legally paid more than his output is worth plus training costs incurred makes on-the-job training an unattractive proposition.

The impact of legislated minimum wages can be brought into sharper focus if we ask the distributional question: Who bears the burden of legislated minima? As we said earlier, workers who are the most disadvantaged by minimum wage legislation are those that are most marginal. These are workers whose employers perceive them as being less productive or more costly to hire, in some sense, than other workers. In the U.S. labor force, there are at least two segments that share the marginal worker characteristic to a greater extent than do other segments of the labor force. The first group consist of youths. They are low-skilled mostly because of their age, immaturity and lack of work experience. The second group, which contains members of the first group, are some ethnic groups such as Negroes, who as a result of racial discrimination and a number of other socio-economic factors are disproportionately found among marginal workers. Other segments of the labor force represented among marginal workers in disproportionate numbers are women, the uneducated, and the physically handicapped. Unemployment statistics showing a comparison of teenage and general employment rates for the period 1948 to 1975 are presented in table 3.

TABLE 3.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES

Year	Unemployment rates both sexes		Ratio teenage general
	General	16–19	
	(1)	(2)	(3)
1948	3.8	9.2	2.42
1949	5.9	13.4	2.27
1950	5.3	12.2	[1] 2.30
1951	3.3	8.2	2.48
1952	3.0	8.5	2.83
1953	2.9	7.6	2.62
1954	5.5	12.6	2.29
1955	4.4	11.0	2.05
1956	4.1	11.1	[1] 2.70
1957	4.3	11.6	2.70
1958	6.8	15.9	2.34
1959	5.5	14.6	2.65
1960	5.5	14.7	2.67
1961	6.7	16.8	[1] 2.50
1962	5.5	14.7	2.67
1963	5.7	17.2	[1] 3.02
1964	5.2	16.2	3.12
1965	4.5	14.8	3.28
1966	3.8	12.8	3.37
1967	3.8	12.9	[1] 3.39
1968	3.6	12.7	[1] 3.53
1969	3.5	12.2	3.49
1970	4.9	15.2	3.10
1971	6.9	16.9	2.86
1972	5.6	16.2	2.89
1973	4.9	14.5	[1] 2.96
1974	5.6	16.0	2.86
1975	8.1	21.9	2.68
1976	7.8	19.0	2.66

[1] Years when there were changes in either the amount or coverage of the Federal minimum wage law.

Source: U.S. Department of Labor, Bureau of Labor Statistics "Handbook of Labor Statistics 1975—Reference Edition," p. 145.

Columns 1 and 2 show the unemployment rates for the general labor force and the teenage labor force. Column 3 expresses teenage unemployment as a ratio of the general labor force's unemployment rate.

Table 3 shows that with increases in the Federal minimum wage the teenage unemployment rate relative to adult unemployment usually rises, i.e., the ratio increased (with the exception of 1956, 1968, and 1973). In each year, except 1956, 1968, and 1973, adult unemployment declined relative to that of teenagers following an increase in the Federal minimum. Arthur F. Burns, in a study of the impact of legislated Federal minimum wages, said:

"During the postwar period the ratio of unemployment rate of teenagers to that of male adults was invariably higher during the 6 months following an increase of the minimum wage than it was in the preceding half year. The ratio of the unemployment rate of female adults to that of male adults has behaved similarly. Of course, the unemployment of teenagers and women depends on a variety of factors—certainly on business conditions as well as on minimum wage. I have tried to allow for this in a more refined analysis. It appears whether we consider the unemployment rates of teenagers or that of women, that its primary determinants are, first, the general state of the economy as indicated by the unemployment rate of adult males, second, the ratio of the minimum wage to the average in manufacturing. The influence to the wage ratio turns out to be particularly strong in the case of nonwhite teenagers."

While most studies agree on the affect of the minimum wage law on youth unemployment, there is some disagreement on the magnitude of the effect. The U.S. Department of Labor conducted an investigation of the impact of the minimum wage law on youth unemployment. It reached the conclusion that—

"Increases in the level and coverage of the Federal minimum wage may have contributed to the employment problems of teenagers, but it is difficult to disentangle such effects from numerous other influences. * * * The long run rise in the unemployment rate of teenagers relative to that of adults—especially marked since 1962—appears to have been associated with many factors. Compounding problems have been the increase in the relative size of the teenage population, the increase in the proportion of youth enrolled in school, and the shift of employment out of agriculture."

One response to an increase in the minimum wage law is not to hire fewer teenagers but to hire teenagers with higher productivity. The Bureau of Labor Statistics found some evidence that this was occurring. They found that whenever an employer raised age or education requirements for any group, the most common reason given was increased costs of training and hiring and the second most common reason was the minimum wage.

Perhaps in recognition of the adverse effects of the minimum wage legislation on youth employment, most States have established a differential wage minima for youth based on age, education, or work experience. Most have a youth minima ranging from 75 to 85 percent of the adult minima. The Bureau of Labor Statistics findings are mixed on the impact of youth wage differentials on youth unemployment. Some of the States surveyed report that the youth differential is irrelevant to hiring decisions while others thought that youth unemployment would be higher without the differential.

Other factors play a role in reducing job opportunities for youth. Factors such as child labor laws which restrict hours of work, the tedious process of employers and employees to get work certificates, and the attitudes and conduct of some youth.

STATISTICAL STUDIES OF THE MINIMUM WAGE

A number of other important studies have tried to evaluate the effect of legislated wage minima on unemployment. The conclusions of some representative samples of these studies will be summarized in this section.

David E. Kaun using census data found that statutory wage minimums caused plant closures and the replacement of labor by other productive inputs. Also the most adverse effects of statutory minimums were concentrated among minorities, teenagers and fameless.

Yale Brozen in two studies discusses the impact of the minimum wage law. First he shows that the ratio of teenage unemployment to that of the general rate of unemployment rose and the ratio of nonwhite to white teenage unemployment rose following increases in the federal statutory minimum wage. In another study he concluded that workers adversely affected by the statutory minimum crowd into uncovered areas, such as domestic household work, increasing employment and depressing wages in the uncovered areas. See appendix tables at the end of the study for data supporting Brozen's conclusions.

Kosters and Welch conclude that the minimum wage has had the effect of reducing job opportunities for teenagers during periods of normal employment growth and making their jobs less secure in short-term changes in the business cycle. They go on to conclude that a disproportionate share of cyclical vulnerability is borne by nonwhite teenagers and the primary beneficiaries of shifts in employment patterns are white adult males.

That increases in statutory legal minimum wages reduce employment opportunities for youth is not without dissenters.

Hugh Folk, using Department of Labor data statistically analyzes the impact of minimum wages on youth unemployment and youth labor market participation rates. The study concludes that in no instance was the minimum wage variable statistically significant in explaining either teenage unemployment or labor market participation rates. Folk's study, however, finds a significant relationship between the overall trend of teenage unemployment and the minimum wage law.

Michael C. Lovell, in an analysis of the minimum wage law and teenage unemployment stresses the importance of the size of

the teenage labor force, which grew as a share of the total labor force by over 50 percent between 1954 and 1968, as a cause of high teenage unemployment. Lovell feels that since teenagers are not perfect substitutes for adult workers, the increase in the teenage population would have pushed unemployment rates up in the absence of any change in the minimum wage.

Bowen and Finegan, in a statistical study of the 100 largest metropolitan areas, report:

To state the most important conclusion first: Metropolitan areas with high wage levels for teenage males tended to have relatively low activity rates for all three groups, although the coefficient for males 20–24 is small and just shy of significance at the 10 percent level. These are important findings because they provide strong support for the hypothesis that a generally high level of wages deters participation via a reduction in employment opportunities.

In addition to the finding that low labor market participation rates are associated with high teenage wage levels, this study also finds that the intercity differences in teenage unemployment is associated with artificially high wage levels. The study points out that wage level differentials *are not* caused by strictly market forces such as systematic productivity differences or high demand for teenagers. The differences are more likely to be associated with institutional forces such as legislated wages, community and union pressures.

The weight of academic research is that unemployment for some population groups is directly related to statutory wage minima. As mentioned earlier, the debate on the effects and the extent of those effects continues without full consensus. However, a consensus reached implicitly in all minimum wage studies, those of opponents and supporters, is that increases in statutory minimums do not increase job opportunities for the marginal or disadvantaged segments of the labor force.

REDUCTION OF RESTRICTIVE PRACTICES IN THE LABOR MARKET

The major thrust of this study is that market restrictions exacerbate employment problems of youth and minority workers. As I have said earlier, the fact that the 2:1 black/white unemployment ratio, and the 3:1 teenage/adult unemployment ratio are not very responsive to high aggregate demand shows that improved performance of the national economy is not a sufficient prescription. The reduction and elimination of these ratios will require changes in the structure of the labor market. This means that revision in the institutional structure of the labor market must be the primary emphasis of Federal policy to reduce unemployment among the youths and minorities in this country.

The focus of these changes should be to promote voluntary and free exchange between workers and employers in a manner consistent with our democratic values. Such a change should include a reduction in the influence held by powerful interest groups over labor legislation and labor policy in the United States. More specifically, I recommend the following changes in labor law:

1. Abolition of Federal and State minimum wage laws. Failing this, there should be amendments in both Federal and all State laws to provide for a substantial wage differential for persons under the age of 21.

2. Revision of child labor laws and a reduction in the school leaving age. This will allow many youth, to whom school is nothing more than a day care center, to begin their careers, gain maturity and perhaps at a later time continue their education.

3. Radical modification of the National Labor Relations Act and its subsequent amendments to allow for the possibility (in practice) of independent work contract negotiation between the individual worker and employer. This recommendation in no way should be interpreted as being against voluntary associations (such as labor unions). In fact this recommendation serves to reinforce the right of voluntary association.

4. Reevaluation of current licensing and certification requirements are necessary not only to promote opportunities for on-the-job training but to improve market opportunities for individuals who already possess requisite skills. There are many areas of employment and/or business that are licensed solely for the purposes of entry restriction in order to protect the incumbent practitioners from increased competition. These should be abolished.

These policy recommendations are no doubt radical and will touch on the sensitivities and nerves of many vested interest groups. They do so because, if implemented, sharing in the Nation's resources would depend less on political power and affiliation and more on individual initiative and ambition. However, these are changes that are necessary to make the dream of equality of opportunity a reality for all Americans.

APPENDIX TABLES

TABLE 1.—COMPARISON OF TEENAGE AND GENERAL UNEMPLOYMENT RATES (AVERAGES OF MONTHLY SEASONALLY ADJUSTED DATA)

	Unemployment rates (percent)		Ratio teenage/general	Minimum wage
	Ages 16–19	General		
February 1949–January 1950	13.9	6.2	2.2	$0.40
February 1950–January 1951	11.6	5.0	2.3	.75
March 1955–February 1956	11.0	4.2	2.6	.75
March 1956–February 1975	11.0	4.1	2.7	1.00
September 1960–August 1961	16.4	6.6	2.5	1.00
September 1961–August 1962	15.4	5.8	2.7	[1] 1.15 (1.00)
September 1962–August 1963	16.4	5.6	2.9	1.15. (1.00)
September 1963–August 1964	16.6	5.4	3.1	1.25 (1.00)
September 1964–August 1965	15.6	4.8	3.3	(1.15)
September 1965–August 1966	13.2	3.8	3.5	(1.25)
February 1966–January 1976	12.6	3.8	3.3	1.25
February 1967–January 1968 [2]	12.9	3.8	3.4	1.40 (1.00)
February 1968–December 1968	12.7	3.6	3.6	1.60 (1.15)

[1] Minimum wage figure in parenthesis is for jobs not currently covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: Yale Brozen, "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment," Journal of Law and Economics (April 1969), p. 116.

TABLE 2.—COMPARISON OF TEENAGE UNEMPLOYMENT RATES, NONWHITE AND WHITE (BOTH SEXES, 16–19)

	Teenage unemployment rates (percent)		Ratio, nonwhite/white
	Nonwhite	White	
February 1949 to January 1950	17.4	13.4	1.3
February 1950 to January 1951	14.8	11.2	1.3
March 1955 to February 1956	15.8	10.2	1.5
March 1956 to February 1957	18.1	10.0	1.8
September 1960 to August 1961	27.4	15.0	1.8
September 1961 to August 1962	25.3	13.9	1.8
September 1962 to August 1963	29.2	14.9	2.0
September 1963 to August 1964	28.4	15.0	1.9
September 1964 to August 1965	26.1	14.2	1.8
September 1965 to August 1966	26.5	11.9	2.3
February 1966 to January 1967	25.1	11.1	2.3
February 1967 to January 1968 [1]	26.3	11.0	2.4
February 1968 to December 1968	25.4	11.0	2.3

[1] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: Yale Brozen, "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment, "The Journal of Law and Economics (April 1969), p. 118.

Mr. BARTLETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. BARTLETT. I thank the Chair.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. JAVITS. Mr. President, as one of the managers of the bill, I am constrained to oppose the amendment. The amendment to $2.50 an hour simply increases the minimum wage 20 cents an hour from the present wage and does not begin to keep track of even the accumulated past increases in the cost of living. It will simply perpetuate the present injustices of the low minimum wage.

Even if we figure a minimal 6 percent inflation, and the President hopes by 1981 to bring it down to 4 percent, but, in the meantime, the estimate is around 6 percent, the minimum wage worker is going to fall behind further than he is today under this amendment.

Our report to the Senate on this bill makes that very clear. He is already today falling, if he earns the minimum and works full time, $1,285 per year short of the 1975 poverty level.

Mr. President, this is simply intolerable for us to think that represents any measure of justice for those who are in this particular bracket.

Mr. NELSON. Will the Senator yield for a unanimous consent?

Mr. JAVITS. Certainly.

Mr. NELSON. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. Sawall of my staff be granted privilege of the floor during the course of consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, one other thing that is important, as I see it. Senator BARTLETT has put into the RECORD a table prepared by the Chamber of Commerce of the United States on the impact of the minimum wage analyzed by States.

I just cannot understand, Mr. President, how these conclusions can possibly be valid.

In the first place, we are told that the impact of the minimum wage with the indexing, that is, with the automatic escalator clause, is going to mean a lesser loss of jobs according to the Chamber of Commerce than the fixed minimum, which is specified in our particular amendment, and that only two-thirds of the number of jobs will be lost, according to their estimate, compared to the number of jobs which would be lost at these fixed rates.

These fixed rates are strictly based upon the anticipated inflation, which there does not seem to be any great argument about, and I just cannot understand how their figures can be supported.

We have a Labor Department analysis which shows the annual wage bill increase to be increased by four-tenths of 1 percent if our amendment carries, and that goes for the years 1978, 1979, and 1980.

Yet, we find in Chamber's table an alleged increase of 4.1 percent in labor costs.

Again, on the face of it, it seems to be unreasonable and I do not know how it can be explained, 4.1 percent being 10 times as much as four-tenths of 1 percent.

So, Mr. President, they are basing the amendment upon these calculations which simply do not, in my judgment, lend themselves to reason. We simply cannot just blindly accept such figures just because they are written on a chart by an economist of the Chamber of Commerce of the United States which is dead set against any increase in the minimum wage.

It seems to me Mr. President that on that record alone let alone the humanitarian record, the effect upon the total wage bill of American business, and the number of employees affected the amendment should definitely be rejected.

This is very important Mr. President at the lowest end of the scale. I can hardly see how Members, in conscience, could completely frustrate justice for the poorest element of our population that works, that has the will and the desire to earn its way.

We are always talking about that. I could not think of anything which would be more discouraging or depressing than if the Senate voted this kind of an amendment.

I hope very much the Senate rejects it.

Mr. BARTLETT. Will the Senator from New York yield on my time?

Mr. JAVITS. Of course. I yielded the floor.

Mr. BARTLETT. Let me comment, Mr. President, on the question raised by the distinguished Senator from New York. He wondered why there was as much difference between the job loss in the impact of the wage increases of the amendment No. 1018 and the impact of indexing at 45 percent.

The impact of the wage increases advanced by amendment No. 1018 would be the same as indexing at 53 percent. The other indexing is at 45 percent of the average manufacturing wages, and that does make that much difference in the consumer price increase, labor cost increase, and the job losses.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I yield myself time.

It impresses me that the compelling arguments against the amendment; the arguments for the rejection of the amendment offered by the Senator from Oklahoma, have been advanced by my colleague from New York.

There are a couple of concerns, though, that I think are properly raised in response to this schedule that is offered by the Senator from Oklahoma.

I said several times earlier that the schedule we propose of hourly increases over the next 4 years would at every level still not bring a full-time minimum wage worker up to an income that is described by our Government as the poverty-level income. At every stage in the 4 years the minimum wage earnings would be below that.

Under the amendment that is before us, this perfecting amendment, a full-time workers' income would be substantially further below the poverty level.

It just strikes me as the greatest lack of wisdom to be legislating a minimum wage that falls further and further behind a wage that people need for just the barest, the barest necessities of life. This $2.50, $2.70, $2.90 would just perpetuate for the lowest paid workers, a life of true deprivation.

I ask unanimous consent, Mr. President, to include here a schedule for the years from 1959 through the last year covered by the amendment 1018, that compares poverty level over the years, together with the income return at the minimum wage.

I note that the last year that is included in 1018, the poverty level income for a four-person family, nonfarm, is $7,429.

The closest we get to the poverty level under amendment 1018 will be in 1981, and that will still be $300 below poverty at $7,072.

I ask unanimous consent to include this table from the Employment Standards Administration, Division of Evaluation and Research, Department of Labor, in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 5.—RATIO OF MINIMUM WAGE WORKER INCOME AND RATES PROVIDED IN S. 1871 TO THE POVERTY LEVEL INCOME OF A 4-PERSON FAMILY, 1959–77 AND PROJECTED ESTIMATES FOR JAN. 1, 1978–JAN. 1, 1983

Year	Consumer price index (all items 1963=100)	Poverty level income 4-person family		Minimum wage earnings [1]									Ratio of minimum wage to poverty level income		
				Old coverage			New nonfarm coverage			Farmworkers					
		Nonfarm	Farm	Hourly rate	Effective date	Annual earnings	Hourly rate	Effective date	Annual earnings	Hourly rate	Effective date	Annual earnings	Old coverage	New nonfarm coverage	Farmworkers
[2]1959	95.2	$2,973	$2,539	$1.00	March 1956	$2,080							70		
[2]1960	96.7	3,022	2,576	1.00	do	2,080							69		
[2]1961	97.7	3,054	2,602	1.15	Sept. 1961	2,392	$1.00	September 1961	$2,080				78	68	
[2]1962	98.8	3,089	2,632	1.15	do	2,392	1.00	do	2,080				77	67	
[2]1963	100.0	3,128	2,664	1.25	September 1963	2,600	1.00	do	2,080				83	66	
[2]1964	101.3	3,169	2,701	1.25	do	2,600	1.15	September 1964	2,392				82	75	
[2]1965	103.1	3,223	2,750	1.25	do	2,600	1.25	September 1965	2,600				81	81	
[2]1966	106.0	3,317	2,831	1.25	do	2,600	1.25	do	2,600				78	73	
[2]1967	109.1	3,410	2,906	1.40	February 1967	2,912	1.00	February 1967	2,080	$1.00	February 1967	$2,080	85	61	72
[2]1968	113.6	3,553	3,034	1.60	February 1968	3,328	1.15	February 1968	2,392	1.15	February 1968	2,392	94	67	79
[2]1969	119.7	3,743	3,195	1.60	do	3,328	1.30	February 1969	2,704	1.30	February 1969	2,704	89	72	85
[2]1970	126.8	3,968	3,385	1.60	do	3,328	1.45	February 1970	3,016	1.30	do	2,704	84	76	80
[2]1971	132.3	4,137	3,527	1.60	do	3,328	1.60	February 1971	3,328	1.30	do	2,704	80	80	77
[2]1972	136.6	4,275	3,643	1.60	do	3,328	1.60	do	3,328	1.30	do	2,704	78	78	74
[2]1973	145.1	4,540	3,871	1.60	do	3,328	1.60	do	3,328	1.30	do	2,704	73	73	70
[2]1974	161.1	5,038	4,302	2.00	May 1974	4,160	1.90	May 1974	3,952	1.60	May 1974	3,328	83	78	77
[2]1975	175.8	5,500	4,695	2.10	January 1975	4,368	2.00	January 1975	4,160	1.80	January 1975	3,744	79	76	80
[2]1976	185.9	5,820	4,970	2.30	January 1976	4,784	2.20	January 1976	4,576	2.00	January 1976	4,160	82	79	84
[2]1977	[3]195.2	6,111	5,219	2.30	do	4,784	2.30	January 1977	4,784	[4]2.20	January 1977	4,576	78	78	88
Estimated rates under S. 1871:															
1978	[3]205.0	6,417	5,480	2.65	January 1978	5,512	2.65	January 1978	5,512	2.65	January 1978	5,512	86	86	101
1979	[3]215.3	6,738	5,754	2.90	January 1979	6,032	2.90	January 1979	6,032	2.90	January 1979	6,032	90	90	105
1980	[3]226.1	7,075	6,042	3.15	January 1980	6,552	3.15	January 1980	6,552	3.15	January 1980	6,552	93	93	108
1981	[3]237.4	7,429	6,344	3.40	January 1981	7,072	3.40	January 1981	7,072	3.40	January 1981	7,072	95	95	111
1982	[3]249.3	7,800	6,661	3.65	January 1982	7,592	3.65	January 1982	7,592	3.65	January 1982	7,592	97	97	114
1983	[3]261.8	8,190	6,994	3.90	January 1983	8,112	3.90	January 1983	8,112	3.90	January 1983	8,112	99	99	116

[1] Minimum wage earnings based on earnings of full-time year-round workers (2,080 hr) at minimum wage.

[2] Ratio of farmworker minimum wage to poverty level income for families residing on farms.

[3] Based on an estimated 5 percent annual increase.

[4] Beginning Jan. 1, 1978, $2.30 an hour effective under FLSA amendments of 1974 for farmworkers.

Note: Annual poverty level incomes were derived from the revised method of adjusting the Social Security Administration's 1963 poverty thresholds for changes in the CPI (all items).

Mr. WILLIAMS. I believe it has been said that under the minimum wage schedule that is proposed in the amendment that the Senator from New York and I have introduced will create the risk of increased unemployment; that this somehow will be a disemployment factor In other words, it will cause unemployment.

This has been said every time Congress has dealt with a minimum wage bill, and has increased the minimum wage. The same argument has been made since the beginning of time, at least the beginning of the time of a minimum wage legislated here.

I will go back as far as 1950, when the same argument was advanced. In January 25, 1950, when the proposal under debate was to increase the minimum wage from 40 to 75 cents; the argument was made that this would result in unemployment, more unemployment. It was argued, then, that people will not be able to get jobs because of an increase in the minimum wage.

When we look at the employment figures of the year prior to that minimum wage increase and the year after that minimum wage increase, we find not that there was increased joblessness because of this, but that there was a substantial increase in employment. This same result follows all through the years right down to the last time the minimum wage was increased. The figures show not a reduction in total employment but an increase in total employment every time there was an increase in the minimum wage.

So, the suggestion that the minimum wage is causing unemployment it is purely speculative. It is on somebody's model, but that model is unrelated to reality. I suggest that is exactly what we are hearing now. It is almost as if the wage is the only factor that is involved and, therefore, if we increase the wage employers will decrease the employment.

There are many factors that go into these decisions: managers' judgments of how many workers they need on the job, and the minimum wage is evidently a minor factor because over the years, 27 years that I have noted, employment has gone up and it has gone up right after a minimum wage increase.

So I would just hope this great institution will do its best to get the minimum wage up to almost the poverty level. We are not asking more than that. We are asking to advance a little so that we do not fall farther and farther behind. Our measure deals with the poorest, the lowest income workers in our country.

I hope this perfecting amendment, which would have a devastating effect, I think, on our lowest income workers, will be rejected. Disemployment is a hard word. Rather I would hope the minimum wage that we would establish will encourage people to be on the job.

Mr. HANSEN. Mr. President, I wonder if the distinguished Senator from Oklahoma might yield to me a little time to make some observations?

Mr. BARTLETT. Mr. President, I yield—how much time would the Senator want?

Mr. HANSEN. Five minutes.

Mr. BARTLETT. I yield 5 minutes to the dintinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I have nothing but the greatest respect for the distinguished floor managers of this bill, but I must say the information I have does not support the contention just made by my good friend from New Jersey, if I understood him correctly in what I thought he said that there was nothing to support the contention that increasing the minimum wage contributed to unemployment.

In the May, 1977 issue of the Harvard Review of Economics and Statistics the lead article on "Minimum Wages and the Labor Market" makes these observations:

> The policy implications are obvious. With less stringent minimum wage legislation or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement cannot be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was, and the youth unemployment rate 3.8 percentage points lower. In particular, the adverse effect remains even after the impact of manpower programs and the changing youth supply are accounted for.

I would like to say in supporting the amendment offered by the distinguished Senator from Oklahoma that it seems to me to make good sense. As a former Governor of the State of Wyoming I recommended to the State legislature that our State law provide that the minimum wage at that time in Wyoming be increased from 75 cents to $1 per hour. On the basis of my recommendation, the legislature passed the necessary legislation, and the minimum wage thus was increased, certainly in part by my recommendation, 33⅓ percent.

I have listened very carefully to what one of our outstanding freshmen Senators from the State of New York, the distinguished junior Senator said when he was testifying a few years ago before the Committee on Finance on some of the welfare proposals that were offered by the Nixon administration.

While I cannot quote him precisely, I refer as well to what he and I visited about as do I refer to his precise testimony before the Finance Committee. In a word, what he was saying was that it was his observation that raising the minimum wage tended to make it more difficult for young people with fewer merchantable skills to get jobs than would otherwise be the case, that raising the minimum wage adversely impacted upon young people and upon minority groups.

I am not trying to quote Senator MOYNIHAN specifically, but I think I am fairly relating the essence of the message that he brought to the Finance Committee and to me personally.

All of us would hope that everyone in this country might live better. We certainly have particular concern for poor people, but in supporting the amendment of the distinguished Senator from Oklahoma I do so firmly and fully believing raising the minimum wage is the wrong way to try to achieve the goal that all of us could embrace.

I think that the amendment offered by the Senator from Oklahoma is meritorious as I compare those provisions with others in this bill, because it would seem to me to have the smallest negative impact upon employment in the United States of any of the proposals before us.

So I will support that amendment and I would hope that my colleagues might be persuaded by the logic of his statement in order to support it.

Mr. BARTLETT. Mr. President, I would comment on the remarks recently made by the distinguished floor manager, the Senator from New Jersey, and quote from the Gramlich study that I previously put in the RECORD and did previously refer to and quote from. He says in part, paraphrasing.

> What is happening can be seen more clearly in table 6 that high minimum wages produce unemployment among teenagers, or may force many of them into part-time employment.

He also says that:

> If one of the goals of minimum wage legislation is to eliminate sweatshop low-wage jobs for teenagers the law appears to be counterproductive.

Almost all studies show some disemployment among teenagers as far as substantial or large increases in minimum wages are concerned. Among adults there is no convincing empirical study showing increase in adult employment.

So, I feel that the statements that were made by the distinguished floor manager are disagreed in by any studies on the subject.

Mr. GOLDWATER. Mr. President, will the Senator yield so I may ask a question?

Mr. BARTLETT. I yield to the Senator from Arizona.

Mr. GOLDWATER. I listened with great interest to the remarks made by the Senator from New Jersey, and I wonder if he has any statistics on what percentage of the labor force would fall in the brackets that he was discussing. I think we have now over 90 million people employed in this country at the highest per capita income in the history of the country and if he has the number of people that he has referred to as falling under the so-called poverty level I think it would be nice to have that in the RECORD.

Mr. WILLIAMS. Yes. In response to the Senator from Arizona, as to the number of covered workers, we have the documentation.

The number of employees affected in January of 1978 would be 4,530,000; in January, 1979, 4,992,000; in January, 1980, 5,541,000; and in January 1, 1981, 5,541,000, the same figure. That is the number that would be affected by the minimum wage.

Mr. GOLDWATER. Roughly 5 percent.

Mr. WILLIAMS. It runs at 4 percent, about 4 percent.

Mr. GOLDWATER. The Senator from Arizona is a little puzzled as to why there is a long history of minimum wage in-

creases. This situation has not bettered itself. I have heard the same arguments made all the years that I have been here. We have not caught up with the so-called poverty level.

Mr. WILLIAMS. Why we have not?

Mr. GOLDWATER. I say I have heard the argument used that we have not caught up with the poverty level and this is used to argue for an increase.

Will this increase erase this problem?

Mr. WILLIAMS. The problem is that the increases that are in the amendment that the Senator from New York and I have introduced will not bring wages at the minimum wage level up to the poverty level. The perfecting amendment offered by the Senator from Oklahoma would insure a still larger gap between the earnings of a full-time worker at the minimum wage and the poverty level. The reason is, of course, that it has not been generally accepted here that these workers, the minimum-wage workers, should advance to that level by action of law. Other workers who may often bargain for their increases with their employer have been able, probably, to stay a lot closer to the increases in the cost of everything they need to live.

We have not been able to do that for the minimum wage earner. I had subscribed to the indexing that would relate the minimum wage worker to the wages in another sector, manufacturing. We can compare over the years manufacturing average wages and the minimum wage. And what we see is that after a minimum wage bill is passed by the Congress, the minimum wage comes up to about 51 percent. Very briefly, it comes up to 51 percent of the average manufacturing wage. Then there will be the 3-year period before Congress again deals with the minimum wage and that percentage of minimum wage as it relates to average manufacturing wage drops down. As a matter of fact, when we last dealt with the minimum wage, it was about 30 percent of the average manufacturing wage. We are always behind in legislating for that group that is not in a position or has not been in the position to bargain for itself, and keeps itself closer to a decent living wage. Once again the minimum wage is as it has always been—below the poverty level, the level that has been defined as that income which is sufficient for a family of four to have the barest necessities of life.

Mr. GOLDWATER. Mr. President, I appreciate what the Senator has been saying. In fact, he uses pretty much the same argument that I have used against the minimum wage in my years here. The minimum wage is a triggering device. You can argue for it or against it. But in my years in business when the minimum wage was increased it was increased all the way up the line, so that the person whom we are trying to help with the minimum wage remained in the same position.

I know that the Senator is disturbed about this, and it disturbs the average businessman. The argument I have heard on the floor—again, this is repetition, I know—is that it affects employment. I can tell you from my personal experience in a field that is probably affected as much by the minimum wage as any other, which is the retail business, that when the minimum wage goes in, the retail business has to let out the very kind of people that the Senator would like to see remain employed, namely, members of older groups who do not want to work fulltime, and younger people who do not have the necessary skills.

I wish this were not true, but it is. A businessman can only pay a certain percentage for salaries. If he goes above it, he is in trouble. This is the reason why I have always opposed minimum wages, because I have found through experience in the field that it just has not worked, and if it has not worked in all of these years, I would think that the legislative bodies should be looking at some other way.

Of course, there is always, as the Senator has suggested, the possibility of bargaining, but bargaining is becoming less and less popular in this country. The unions are losing members.

So I would hope we could find some better way to solve this problem that the Senator sees in reaching a so-called poverty level, whatever that may be.

I yield to my friend from Texas.

PRIVILEGE OF THE FLOOR

Mr. TOWER. Mr. President, I ask unanimous consent that Joanne Snow of Senator GARN's staff and Ned Kelly of Senator SCHWEIKER's staff be accorded the privilege of the floor during the debate on this measure and amendments hereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Lucius Webber of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I make the same request for Alan Boyd of Senator CASE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 3 minutes in opposition to the amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, there are two points I would like to make. First, a point about youth and youth unemployment. The fact is that while about half of the unemployed are youth, a very much smaller portion of the employed are youth. When we are dealing with 4.5 million affected by the minimum wage, the youth quotient in that may be as 1 to 5 with relation to the number of youth who are unemployed. Therefore, what we are asked to do in the name of youth which has become an unemployment problem is to destroy the wage base for the vast number of people who have no relationship to it.

Mr. President, we have done something, not nearly enough, about youth unemployment. We must do more. We have a youth employment bill, we have big public works bills, we have a special provision for municipalities hard hit by unemployment. I am very much for special ways to train and educate youth, and to use the necessary resources for that purpose in inducing private enterprise to do it.

But the way to accomplish it is not to destroy the wage base for millions of people who have no relationship to that particular problem, any more than any other citizen.

The next point, Mr. President, is that the figures that Senator WILLIAMS gave respecting the number of employees affected and the percentage of the "work force" relates not to the total work force—millions in the work force are self-employed or otherwise exempted from the Fair Labor Standards Act—but he was talking about the percentage of covered employees, that is, those who are actually affected by the Fair Labor Standards Act, and the percentage is, for 1978, an estimated 8.7 percent.

As I have pointed out before, that indicates a relatively small relationship of the problem, but in numbers of human beings affected so very adversely, it is a very large portion of the problem we are dealing with here.

So I hope we will reserve our arguments about youth for the youth differential or whatever else Members wish to bring up about it, but will not plead that the whole wage base for millions unrelated to the youth problem should be the base, because we do have a youth problem.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, I yield 2½ of my 3 remaining minutes to the distinguished Senator from California (Mr. HAYAKAWA).

Mr. HAYAKAWA. Mr. President, I would like to read a passage from Prof. Thomas Sowell, at present with the Hoover Institution and whose regular job is with UCLA. I mention him because he is black. I quote a few words from a statement by him on this subject:

> Automatic escalation compounds the problems of the minimum wage law by making it possible to close our eyes to its effects hereafter. This seems unconscionable when those affected are poor, vulnerable, powerless, and inarticulate. If the Congress does not monitor what happens to them, there is no other powerful institution to do so. . . . Labor unions have their own imperatives and constraints. For them, the minimum wage law presents the same kind of opportunity that a tariff presents to a business firm. It is a way to price competitiors out of the market. That this is accompanied by humanitarian statements may be a matter of rhetorical, or perhaps political, interest but it changes no economic fact. In the Union of South Africa, minimum wage laws were applied to native black Africans for the explicit purpose of stopping their competition with European workers. In the days of the British Empire, British unions and manufacturers attempted to get minimum wages applied to India for similar reasons, though with different rhetoric . . . . The point here is not to depict anyone as particularly evil. The point is that powerful institutional incentives exist to use the minimum wage laws for purposes very different from those announced in the Act, and that these institutional incentives are likely to persist through turnovers of personnel in the future as in the past.

I thank the Senator for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, we have no further requests for time in opposition.

Mr. BARTLETT. Mr. President, I understand I have 30 seconds.

The PRESIDING OFFICER. The Senator has one-half minute left.

Mr. BARTLETT. Oh, I have one-half minute? I would like to thank the distinguished Senator from Wyoming for his kind remarks, and also to express my gratitude for the very fine remarks of the Senator from Arizona and the Senator from California.

I am ready to yield back my remaining seconds.

Mr. JAVITS. Mr. President, we yield back the remainder of our time in opposition.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 17, nays 72, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—17

Bartlett	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Talmadge
Curtis	Hayakawa	Thurmond
Danforth	Helms	Tower
Goldwater	Laxalt	Wallop
	McClure	Young

NAYS—72

Allen	Clark	Heinz
Anderson	Cranston	Hollings
Baker	Culver	Huddleston
Bayh	DeConcini	Inouye
Bellmon	Domenici	Jackson
Bentsen	Durkin	Javits
Biden	Eagleton	Johnston
Brooke	Eastland	Kennedy
Bumpers	Ford	Long
Burdick	Garn	Lugar
Byrd, Robert C.	Glenn	Magnuson
Cannon	Gravel	Mathias
Case	Hart	Matsunaga
Chafee	Haskell	McGovern
Chiles	Hatfield	McIntyre
Church	Hathaway	Melcher
Metzenbaum	Proxmire	Sparkman
Moynihan	Randolph	Stafford
Muskie	Ribicoff	Stennis
Nelson	Riegle	Stevens
Nunn	Roth	Stone
Packwood	Sarbanes	Weicker
Pell	Sasser	Williams
Percy	Schweiker	Zorinsky

NOT VOTING—11

Abourezk	Leahy	Pearson
Dole	McClellan	Scott
Griffin	Metcalf	Stevenson
Humphrey	Morgan	

So Mr. BARTLETT's amendment (No. 893) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was granted: Mr. HEINZ, Mr. DANFORTH, Mr. BROOKE, Mr. THURMOND, Mr. KENNEDY, Mr. HARRY F. BYRD, JR., Mr. GLENN, Mr. RIBICOFF, Mr. MCCLURE, Mr. HELMS, Mr. JAVITS, Mr. PACKWOOD, Mr. PERCY, Mr. DOMENICI, and Mr. ROTH.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question recurs on amendment No. 1018.

The Senator from Texas.

UP AMENDMENT NO. 894

(Purpose: To establish a 3-stage increase in the minimum wage)

Mr. TOWER. Mr. President, I send to the desk an amendment to the pending amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) (for himself, Mr. DOLE, Mr. GOLDWATER, Mr. HAYAKAWA, and Mr. SCHMITT), proposes an unprinted amendment numbered 894 to amendment No. 1018.

Mr. TOWER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 7, beginning with "$2.90", strike out through "1980" on line 4, page 2, and insert in lieu thereof the following: "$2.85 an hour during the year beginning January 1, 1979, and not less than $3.05 an hour after December 31, 1979".

Mr. TOWER. Mr. President, I applaud my colleagues, the chairman and ranking minority member of the Human Resources Committee, for seeking to eliminate from S. 1871 that provision which sets up an automatic indexing procedure for annual wage increases. As the senior Senator from New York so aptly stated in his additional views to the committee report on this bill:

Congress needs to have the opportunity to examine from time to time the appropriateness of the Federal minimum wage level from the standpoints of equity and the economy.

Although I fully agree that no indexing vehicle should be legislated to establish minimum wage rates, I cannot agree with the specific wage rates which my colleagues suggest as an alternative to indexing. The fact that these rates were determined by the very process which my colleagues acknowledge to be undesirable simply underscores the fact that what we have here is back-door indexing.

We eliminate the formula, but keep the results. And these results, I might add, will guarantee an inflation rate of at least 7 percent a year.

In reading through the committee's report on the bill, I notice that a good deal of attention is focused on the various economic projections concerning wage rate increases. I noted with particular interest the comments of Labor Secretary Marshall. Mr. Marshall, it appears, would have us believe that those economists who predict increased unemployment as a result of increased wages simply fail to understand the complexities of the issue. In his words, "the people who do oppose the increase in minimum wages are likely to be those who know the least about it." It is only his labor economists, he tells us, who understand, and are concerned about, the world we live in.

If Mr. Marshall is sincerely concerned about the "real world", then maybe he should spend a little more time among the folks back home in Texas. He would find out very quickly, I think, that the real world has some real problems with this proposed wage hike. During my recent travels through well over 50 cities and towns in Texas, the message I have received is that proposed increases in the wage rate will cause layoffs, higher prices, and a general reduction in services available to the public.

For example, a rental service employer in Lubbock says:

We are needing to hire two or three additional employees. If this bill is passed, we will not be able to do this, plus we will be forced to lay off two more workers presently in our employ.

Another comment from El Campo, Texas—

In my own small business the first increase will mean $700 to $800 per month more wages. With a volume derived from a small town, there is no way to increase prices that much . . . if we're able to survive at all, it would mean a reduction of two or three employees.

And from a department store president in El Paso comes this observation:

Speaking generally, the point is that an arbitrary artificial increase in the minimum wage, when it has nothing to do with productivity, automatically reduces individual productivity and increases the cost of the individual. Such increases cannot be borne whether by the large or the small employer, and the ultimate result has to be less job opportunity than if wages were set by the market instead of by the government.

I have no doubt that many of my colleagues have been receiving similar reports from their constituents in my view, the real "experts" in this matter are the people back home who will have to live with these new rates, and not the Federal bureaucrats here in Washington.

Leading economists warn up that steep increases in the minimum wage will fuel inflation. This warning is implicit in the study conducted by Edward M. Gramlich. And in a recent issue of Time magazine, Arthur Okun was vivid in terming price boosting regulatory and legislative actions such as this minimum wage boost "self-inflicted wounds". In the view of both Okun and Gramlich, even the initial increase to $2.65 is considered too high. I might add here, that neither of these economists are considered "conservatives".

Now let me turn here to the subject of compromise. Quite frankly, I would prefer an initial wage boost to $2.50, as originally proposed by President Carter before he was persuaded, shall we say, by organized labor to support a higher figure. As I recall, organized labor wanted an immediate increase to $3. So the amendment I propose, with an initial rate of $2.65, is a compromise.

My amendment, which would set rates of $2.65 for 1978, $2.85 for 1979, and $3.05 for 1980, represents the compromise between the earlier, lower proposed rates of $2.50, $2.73, and $2.92, and the higher rates proposed by my colleagues here of $2.65, $2.90, $3.15, and $3.40. The Williams-Javits amendment would sanction excessive inflation for the next 4 years. I would hope that my colleagues will reject this unwise move, and support the less inflationary rates I propose.

I would point out also that my amendment sets three rates, rather than the 4 years in the Williams amendment. I think it is unwise for the Senate to make a value judgment about what the economic situation will be 4 years from now. Four years is a long time, and we can only speculate what our economic condition will be then. While that speculation can be useful, I do not think it provides a sound base for establishing pay rates for people.

What if, 4 years from now, we are in a big depression? We will really exacerbate the problem, even if we are in a minor recession, by this substantial increase in the minimum wage.

I am aware of the keen interest which my colleague from New York has in this inflation issue, and we have worked together on many occasions to seek constructive remedies. As he states in his additional views on this present bill, "I believe our economy has entered upon a very sensitive and delicate state in its recovery from the 1974–75 recession, during which inflationary expectations easily may be rekindled, and a new wage-price spiral unleashed upon our country. If, indeed, our economy has entered a watershed in its evolutionary process, we will witness over the next 2 to 3 years either a return to a stable, long-term noninflationary economic growth or a recurrence of erratic spasms of inflation and recession."

I agree. The next 2 to 3 years will be telling ones for our economic situation, and it makes little sense to go beyond that in setting new wage rates. As I see it, the only advantage in setting a 4-year increase would be to relieve the Senate from having to act on a complex and sensitive matter. Ducking the issue is hardly a responsible action.

That is what we are doing. We are assuring that we can duck the issue for 4 years.

I urge rejection of the fourth year of rates in the Williams-Javits amendment. That fourth year is simply a subterfuge for indexing rates far into the future. As legislators with a responsibility to make periodic value judgements on this subject and be accountable to our constituents, we cannot shirk this duty by putting minimum wage rates away for the next 4 years. I urge the adoption of a 3-year rate structure as proposed in my amendment.

In my State of Texas, the "general store" is not only a charming part of our colorful past, but, in several areas, is a vital part of our modern way of live. There are 53 operators of small, general merchandise stores in Texas. These people have anywhere from 2 to 12 stores in small Texas towns. Since they do have more than one store and do a combined volume of business in excess of $250,000, they are covered by minimum wage. These people have told me that these proposed wage increases will mean the elimination of jobs—and what is even worse, the closing of low volume stores in rural communities.

While those stores are not very big, they are a significant factor in a town of 1,400 to 2,000 people, they provide that community with a service which, if not locally available, would force the residents to travel a good many miles to buy the goods they need. What I am saying is that large increases in the minimum wage not only create unemployment, but also work to the disadvantage of the consuming public in rural areas.

Of course we have concern for the consuming public, but George Meany says this is what organized labor wants, and then the interests of the consumer are generally subordinated to that desire.

Those who favor high wage rates make the claim that these rates are needed by a wage earner who is supporting a family of four, and that even with those rates, that family lives in poverty. We all have a great deal of sympathy for citizens who fall into this category. That is why we have enacted welfare programs, to relieve this suffering.

However, I think the committee report on this bill is somewhat misleading when it alludes to the predicament of those wage earners who are at the minimum-wage level. The report states that roughly 3 million people earn the minimum wage, presently $2.30. This wage rate provides an annual income of $4,784 which is below the $6,111 poverty-income level for an urban family of four. It is, however, considerably above the poverty-level income for an individual, which is $2,797.

What the report implies is that all of those 3 million people are the sole support for an urban family of four. I would suggest that this is far from the case. According to the Labor Department, and other sources I have contacted, there are no accurate figures to answer this question. I think it is safe to say, however, that the majority of these people are secondary wage earners, students, and individuals who do not have families to support.

In his study, Edward Gramlich points out that for every $1 billion increase in minimum wage payments, only $350,000 goes to people in the poverty category. The rest goes to teenagers and middle-income families, operating as a supplement of these family incomes. The minimum wage is not doing its job. It is not putting more money in the pockets of the very poor. What it is doing is paying inflated wages to a large majority who are not in dire need. And worse, it is drying up job opportunities for the young, the unskilled, and minorities.

In the marketplace, rates of pay are calculated on the base of the productivity of the worker. Retail and service industries, which employ most of the minimum wage workers, commonly provide entry into the job market for young workers. What is happening now is that Congress will be pricing these people right out of the labor market.

I think that Stanford University economist Thomas Sowell—and he is, I might add, a labor economist, which would fit with Secretary Marshall's requirement for expertise in this area—sums the problem up very well. He says:

> Talk about people being unemployable is just so much rubbish. Everybody is unemployable at one wage rate, and everybody is employable at another.

In a similar vein, from a Dallas Morning News editorial last March comes this comment:

> If the cost of hiring an unskilled worker is more than he can add to the business firm's revenues, the firm will use a machine, allocate the work to other employees or take some other alternative to hiring a new worker. The plain fact is that there are jobs to be done in our economy that are not worth $3 an hour.

I simply wish to point out to the Senate that we are treading a dangerous path in legislating high-wage rates. I would prefer to begin with an increase to $2.50, as the President originally considered appropriate. I will have to confess I would prefer no increase at all.

My amendment represents a compromise between the smaller, and in my view more sensible rates, and the rates proposed by my colleagues from New Jersey and New York. I urge the Senate to support this compromise position.

I want to add one further thing, Mr. President.

It seems ridiculous to me that we try to control costs and prices by applying ceilings, but we have never tied increases in the cost of labor to the increases in productivity or related them at all to laws of supply and demand.

Organized labor can demand and get, because of its unique power, increases that operate outside the marketplace. As a matter of fact, they can get increased wages for reduced productivity in many instances.

Let us look at the hospitals and health care costs. The President wants to put a cap on hospital cost increases of 9 percent. Last year, in a survey of the Dallas area hospitals—and I would imagine

they are not untypical—the payroll costs of the Dallas area hospitals were $140,765,000.

The higher minimum wage will increase this cost to $162,161,000, a gain of 15.2 percent.

This could mean an increase of $12 per patient per day expense, for an $87 additional cost for admission.

It does not make any bloody sense at all to try to put a 9-percent cap on hospital costs when we, by this legislation, are going to increase their cost 15 percent.

So let us think about these things when we pass this minimum wage, supposedly to give people more money. It, in fact, gives fewer people a little more money, raises costs, precipitates unemployment at a time when we face an unemployment problem in this country.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, just a few minutes.

I think the debate that we had in connection with the Bartlett amendment could be read in connection with this amendment.

Again, we have a rate suggested by the Senator from Texas that will just insure that minimum wage workers will stay well below the poverty level.

It would seem to me that as we are trying to focus on the poorest people in this country, and we are relating welfare to wages, we should use every opportunity we have to encourage people to work for a living, rather than having to collect welfare for the necessities of life.

If we stay at the wage that is suggested here, we will have a wage earner, whose family depends upon him, and who is not making enough to take care of his family even by staying on the job. So he will still have to cue up for welfare later, any way.

That seems unconscionable to me.

Mr. TOWER. The solution is to put more people on the unemployment rolls by raising the minimum wage to an extent the small businessman cannot afford to pay.

Mr. WILLIAMS. I suggest to my good friend from Texas this argument has been used over the decades now.

Mr. TOWER. And historically proven to be true.

Mr. WILLIAMS. I refer to the record, as we have it in our report, around page 4, which shows that following minimum wage increases there was no loss of employment in this country. As a matter of fact, for a variety of reasons, and I am not saying the minimum wage was the reason for increased employment; but after the minimum wage increased, employment went up every single time. I must dispute the supposed great inflationary effect of increases in the minimum wage.

I am not going to take the time now. It is here in the report and I will include it in the RECORD. It shows that after minimum wage increases, unemployment did not increase.

There is not a close relationship between the minimum wage and unemployment.

This has been the record over the years.

I know the argument is raised each time we have a minimum wage bill. I thought maybe that might appeal to the Senator when we had the indexing, that we would not go through this debate time after time.

But we are eliminating indexing so we will have this debate tonight and maybe again in years to come.

Mr. TOWER. The committee report shows employment rose up in numbers. It shows nothing about unemployment. It completely left out the unemployment figures that followed in the wake of the increase in the minimum wage.

Mr. President, I am prepared to yield back the remainder of my time if my friends on the opposite side are prepared to do so.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. The points made by Senator TOWER have been partially answered in the debate on the Bartlett amendment. But also a few things need to be noted.

One, the figures which Senator TOWER has given us are the House figures. If we adopt these figures there is no negotiation between the House and Senate of any kind on the amount of the minimum wage. That is the end of it. They were contained in the Erlenborn amendment, and the arguments made are exactly the same arguments, in substance, as were made for Bartlett, with one exception, and that is the fourth year. Why the fourth year?

Now, in the first place, the House adopted 3 years. Why the fourth year? One reason is that it provides on attractive alternative proposal in order to dispense with the indexing. I could not see indexing as remotely reasonable. So as a reasonable approach to the elimination of the index we picked 4 years.

Another reason, Mr. President, was that it is only in the fourth year that we approach 95 percent of the poverty level even if we pay the $3.40. Then we approach something like the poverty level. But it takes 4 years to do it. Right now we only start at about 80 percent of the poverty level and that, it seems to me, is a very conclusive reason why we should go to the fourth year.

Lastly, Mr. President, the argument has raged, as Senator WILLIAMS has said, for years about whether employment has increased or diminished or whether there is opportunity or not opportunity.

The point I make is that the overwhelming mass of the people have to live on this minimum wage. They are not unemployed or looking for a job. They have to live on a minimum wage, and they cannot. So if we really mean it when we want to encourage people to work rather than not work, at least let us have a realistic base figure which will induce them to work.

That is what this really comes down to. So, Mr. President, we are at the rock-bottom minimum. The 4 years are needed even to approach the poverty level, and the figures given are simply realizing actuality, to wit, what is the poverty level for living.

The reason for the difference between 3 million that Senator TOWER speaks of who get the minimum wage today, and 4.5 million who are affected by the increase in the minimum wage is precisely that. There is an increase in the minimum wage. Therefore, those who are getting a minimum between $2.30 and $2.65 are going to be increased to that minimum, and that means another 1.5 million people. That these additional millions will be helped is a very good reason for enacting the amendment which Senator WILLIAMS and I have proposed.

So I hope very much the Tower amendment is rejected, as the Bartlett amendment was, and for very much the same reason.

Mr. WILLIAMS. We are prepared to yield back our time, as the Senator from Texas is.

Mr. TOWER. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Vermont (Mr. LEAHY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 32, nays 60, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—32

Allen	Hansen	Roth
Bartlett	Hatch	Schmitt
Bellmon	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
	Hollings	Stennis
Chiles	Johnston	Stevenson
Curtis	Laxalt	Talmadge
Danforth	Lugar	Thurmond
Domenici	McClure	Tower
Eastland	Morgan	Wallop
Goldwater	Nunn	Young

NAYS—60

Anderson	Brooke	Case
Baker	Bumpers	Chafee
Bayh	Burdick	Church
Bentsen	Byrd, Robert C.	Clark
Biden	Cannon	Cranston

Culver	Jackson	Pell
DeConcini	Javits	Percy
Durkin	Kennedy	Proxmire
Eagleton	Long	Randolph
Ford	Magnuson	Ribicoff
Garn	Mathias	Riegle
Glenn	Matsunaga	Sarbanes
Gravel	McGovern	Sasser
Hart	McIntyre	Schweiker
Haskell	Melcher	Stafford
Hatfield	Metzenbaum	Stevens
Hathaway	Moynihan	Stone
Heinz	Muskie	Weicker
Huddleston	Nelson	Williams
Inouye	Packwood	Zorinsky

NOT VOTING—8

Abourezk	Humphrey	Metcalf
Dole	Leahy	Pearson
Griffin	McClellan	

So Mr. TOWER's amendment (No. 894) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on amendment No. 1018. All time has expired.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. Are further amendments to the amendment in order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from New Mexico will state his parliamentary inquiry.

Mr. DOMENICI. Is a further amendment to the amendment in order?

The PRESIDING OFFICER. It is in order. Does the Senator have an amendment?

UP AMENDMENT NO. 895

(Purpose: To provide a 3-stage increase in the minimum wage under the Fair Labor Standards Act of 1938)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 895:

On page 2, line 2, beginning with "during" strike out through "1980" on line 4 and insert in lieu thereof the following: "after December 31, 1979".

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. HATFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Jack Robertson of my staff be accorded the privilege of the floor during the consideration and voting on this measure and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, this is a very simple amendment which strikes from the pending amendment the last year's increase in the minimum wage.

Mr. President, could I have order, please?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment before the Senate goes through the year 1981, and raises the minimum wage, at that point, to $3.40.

The House of Representatives did not go through the year 1981, but stopped at the preceding year. What this amendment does is merely remove from the amendment that is pending the last year, which mandates a minimum wage of $3.40. The bill passed by the House of Representatives stopped in 1980 and established a minimum wage of $3.05. Amendment No. 1018 would establish $3.15 in lieu of the House passed $3.05 in the third year. I do not seek to change that. I merely want to limit the Senate bill to 3 years instead of 4.

I would submit to the Members of the Senate that since the notion of indexing has basically been discarded by both Houses, the Senate ought to go with 3 years instead of 4 years, with the clear understanding that the Williams-Javits proposal is higher than the House proposal. If we are discarding the notion of indexing, then it appears to me, from both sides of the concern—whether the minimum wage is too high or too low—that we ought to stop at 3 years, and not project our supposed wisdom into the fourth year.

My amendment would delete the last year of the pending amendment and leave it at 3 years, while retaining the minimum wage figures contained in the Williams-Javits proposal.

Mr. TOWER. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. TOWER. Let me point out that if we do not adopt the amendment of the Senator from New Mexico, what we have done here is stop indexing, because what they have done in the Javits-Williams amendment is simply achieve the result without the formula. So if you want indexing, you will vote against Mr. DOMENICI, but do not try to tell anybody that you have voted against indexing if you fail to support the amendment of the Senator from New Mexico, because that is precisely what the Javits-Williams amendment is: It is back-door indexing. It is the same result without the formula. What you will have done is saddle us with a 4-year increase in the minimum wage through indexing. I think that should be made clear.

Mr. DOMENICI. I thank the Senator from Texas.

Mr. President, I want to say to the Senate in all honesty, I do not think the Domenici amendment prejudices the minimum wage at all. If Congress is going to opt for determining the minimum wage in lieu of something automatic, such as indexing, then I would submit that, with the economic times being what they are, we are really playing with the economic future of our Nation in a way that we should not be, by setting the minimum wage for 4 full years.

I am merely saying that I think we ought to leave it as flexible as possible for future legislative input. Why set a fourth year at $3.40, when we do not even know what the economic times are going to be? Why not go with 3 years, with the Williams-Javits' figures amendment, but limit it to 3 years as the House did?

Both bodies have indicated they do not want indexing. I agree with the Senator from Texas that if you go 4, 5, or 6 years you have just about gone to indexing.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JAVITS. I would like to answer the last question first. Why to 4 years instead of 3, 5, or 6? And I could add, 7, 8, 9, or 10. But we are not going to 3, 5, 6, 7, 8, or 9; we are only going to 4, and there is a good reason for it. The reason, as I have explained before—we have now had two debates in which this is half the issue—the reason is that it is only in the fourth year that we approach, with the minimum wage, the poverty level. We attain, in the fourth year, with the $3.40 rate, a wage equal to 95 percent of the poverty level. This is from an analysis by the Employment Standards Administration, Division of Evaluation and Research, of the Department of Labor.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. DOMENICI. The poverty level as determined when?

Mr. JAVITS. As projected forward, the same as anybody has got to do. We have to project forward by the estimated rate of inflation, which is roughly 6 percent.

The rub in what the Senator has said is that it is not even a good business angle, because what business wants beyond anything else is certainty.

By the way, I am very flattered by my colleagues calling this the Javits amendment. I do not know why; maybe there will be fewer votes for it.

Mr. CASE. Oh, no; the Senator knows better than that.

Mr. JAVITS. But as a matter of fact, it is Senator WILLIAMS', the chairman of our committee, and mine, and really it is the Williams-Javits amendment. I acknowledge that with pleasure.

But, Mr. President, to get down to the merits, that is the essence of the thing. The essence is that it is the only way that we could, without indexing, get nearer than we are today to the poverty level. We do not know whether that will

run away or not. But on the President's calculations and everybody else's calculations that deal in the economic future, that seems to be the indicated position: we shall get to 95 percent of the poverty level in the fourth year.

Finally, my colleague argues, well, we are looking in a crystal ball; who knows what is going to happen? Well, who knows for certain what is going to happen in 3 years or 2 or 1? We simply do the best we can based on reasonable projections.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield 5 minutes to the Senator in opposition.

Mr. PERCY. I would like 5 minutes on this amendment and also to comment on the Williams-Javits amendment.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. PERCY. Mr. President, I want to say to my distinguished colleague why I intend to oppose this amendment. A month ago, I would have felt that 3 years would be just as good as 4. But I finally became convinced that indexing the minimum wage was such a disastrous idea that it ought to be killed once and for all, now and for as long as we can.

I have always supported reasonable increases in the minimum wage level and I intend to do so again whenever it is necessary. I was deeply disturbed, however, when I learned about some features of this legislation when it was originally proposed. Not only would it have provided for an increase in the legal minimum wage paid to American workers but it called also for a change in the method by which future increases in the minimum wage would be determined, a proposal which I felt was damaging to both the average worker, particularly the skilled worker, and the economy as a whole. I decided to take my case to the State of Illinois AFL–CIO convention a week ago Monday in Peoria. I discussed it first with all the members of the executive council at a luncheon, with the executive board, and then with the 1,700 delegates.

I indicated to them at that time that I generally supported an increase in the minimum wage level but I also told them that I was deeply disturbed by the idea of indexing it to the average of all other hourly wages.

I felt—and I told them quite frankly—that this is a blow to the skilled worker. It is a blow to the worker who has a skill, an ability, based on education, training, and experience on the job. If we simply index the minimum wage to that level, in a sense then, we would not be working on behalf of the uncommon man—the person with real ability. We would be working, in a sense, to level wages and to have a commonality here that I did not think was in the interest of the average worker.

At that time, I took the position that if they would drop this idea of indexing, and I hoped for good, that I could and would support, and cosponsor, the Williams-Javits amendment, to extend the minimum wage for 4 years.

Though I did not take indexing to a vote at the convention or ask for a vote—I would not ask them to vote against a position taken by their own international union—I felt it was a sober discussion we had, both in the closed conference and in the open convention.

As originally proposed and as reported by the Committee on Human Resources, S. 1871 stipulated that increases in the minimum wage be calculated as a percentage of the average hourly rate—originally proposed at a 60-percent level, later reduced to 55 and 52 percent—being paid to American manufacturing workers at any given time. It is understandable that some workers would initially find this attractive and it is understandable why such a method would be perceived to give some assurance that minimum-wage-level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The first minimum wage was based on the need to establish a floor for wages for the undereducated and the unskilled and I believe this premise is still valid. My fear was that by indexing, we would frustrate this original purpose of establishing a floor by putting a ceiling on wages instead. Under an indexing system, I feel there would have been stronger resistance on the part of management to agree to wage increases for production workers at all levels simply because they would know it would precipitate a broad ranging series of increases throughout the economy.

The PRESIDING OFFICER. The Senator's 5 minutes are up.

Mr. JAVITS. I yield 2 additional minutes.

Mr. PERCY. I find it hard to believe that a person at the bottom of the employment ladder, unskilled and undereducated is actually worth in terms of productivity 60 percent, 55 percent, 53 percent, or even 52 percent—as has been suggested—of the average hourly wage paid to American factory workers, which includes in its scale tool and die makers, automatic screw machine operators, punch press operators, quality control, and inspection personnel and assemblers.

In our market-oriented economy, there has to be a logical relationship between pay received and value of output. Indexing one person's pay as a percentage of someone else with entirely different skills and abilities is arbitrary, even irrational. The one to be most hurt by such a system is the most highly skilled worker.

In addition I felt that the inflationary effect of such indexing would impose a penalty on all of us—but especially the low-income worker—in the form of higher living costs. Recent Department of Labor statistics indicate that the level of increases in the hourly wages in this country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs is beginning to be a cause for concern. If these fears are well founded—and I believe they are—then unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power, and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an indexing provision into law that is diametrically opposed to and inconsistent with the U.S. position in international negotiations against indexing. We have opposed the demands of developing countries to index the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke to the Shah of Iran personally about this and to the heads of other oil-producing nations—the proposal by the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot in good faith tell the rest of the world this is no good and then turn around and index wages for the American worker.

The Federal Government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits are indexed to the cost of living. This was done especially for the elderly who frequently have nowhere else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in this minimum wage bill is entirely different. Rather than preserving purchasing power in "real" economic terms, this indexing contributes to the continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries which have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when deflationary policy becomes necessary.

For all of these reasons, Mr. President, I am pleased to join the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS) in their attempt to strike the indexing provisions of the bill and substitute a gradual increase in the minimum wage level, retaining for the Congress the responsibility of periodically reviewing the level within the context of prevailing economic conditions.

Mr. President, what I had hope to do in Peoria, by appealing to organized labor itself, directly at its convention, was to convince them that this idea really was contrary to the interests of the average worker. We ought to pay a person what he is worth and not artificially set wages. We have enough trouble here in Congress figuring out what a person is worth at the bottom of the scale.

I ask unanimous consent to have printed in the RECORD at this point an article that appeared in the Business

and Economic Research Division publication of the First National Bank of Chicago. I think it will be helpful to everyone considering the minimum wage issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINIMIZING THE MINIMUM WAGE

Every few years, the U.S. goes through the ritual of adjusting minimum wage laws. And just as regularly, the business and labor communities engage in exaggerated discussions about either the dire consequences or marvelous benefits that can be expected as a result. In fact, increases in the minimum wage have typically been quite modest, compared with increases in other wages or prices, and the effects have been fairly innocuous.

To judge by the hyperbole surrounding minimum wage legislation, one might suppose that the fate of the Republic would be decided by a change of a few cents in one direction or another. A prominent business economist claims that an increased minimum wage would add two million to the ranks of the unemployed and 3 percent to consumer prices. A labor leader suggests that failure to increase the minimum wage would swell the welfare rolls. Someone else tells us that a higher minimum wage would boost consumer purchasing power, and thus increase employment.

Consider the simple idea that higher minimum wage rates must mean higher wage rates in general, and therefore more inflation. Evidence does not support this contention that overall wage rates rise any faster than they otherwise would in years that the minimum wage is increased. Nor is there logic to show why employers would (or how they could) raise everyone's pay just because the minimum wage was increased. Moreover, the complaint that an increase in the minimum wage will increase total wages paid ("labor costs") is somewhat inconsistent with the simultaneous claim that many fewer workers will actually get those higher wage rates.

Finally, although prices might ultimately have to rise in a few industries in which low-wage workers are an important part of costs, such a relative price increase is not inflation. If people pay more for hamburgers, they will have a little less money left with which to buy other things—total demand and overall inflation remain unaffected.

Arguments about the employment effects of a minimum wage rate have likewise been exaggerated. The minimum wage could not cause much unemployment for the simple reason that very few workers are affected by the law and increases have been small and infrequent. On the other side, however, the argument that a higher minimum wage increases consumer purchasing power depends on the questionable assumptions that an increase in wages per hour is not offset by a reduction in hours of work offered, and that the income gain of those who receive the higher wages is not offset by the income loss of the consumers who ultimately pay the higher wage.

At the present time, a little over three million workers (out of more than 90 million) are directly affected by the minimum wage. Nearly half of all employees were not even covered by the federal minimum wage law before 1961—40 percent until 1966, and 20 percent since—so that the effect of the law on total employment was even smaller in the past than it is today.

The portion of the work force that might possibly experience adverse employment effects from a higher minimum wage is tiny in comparison with cyclical causes of variations in employment.

A legislated increase in the wage floor would ultimately have to be recovered in higher prices in the few affected low-wage industries. Hamburgers in fast food franchises, for example, would be a bit more costly. If that resulted in fewer hamburgers sold, then job opportunities in that business would grow less rapidly.

The size of such employment effects however, remains unclear. If minimum wages are little higher than what would naturally result from employers bidding for labor, then there would be little employment effect. If there was little effect in one year, then a subsequent increase in the minimum wage that just kept pace with the rise in the affected prices would still have no appreciable effect.

Estimated effects of the minimum wage on teenage unemployment have not adequately accounted for the enormous growth in the number of teenagers that the civilian job market has had to absorb. The population aged 16–19 soared from 9.2 million to 17 million in the past two decades, and the shrinkage of the armed forces since the Vietnam era has reduced a major source of teenage employment. Still, the leading studies only attribute 13 percent to 17 percent of teenage unemployment to the largest past increases in the minimum wage.

To keep things in perspective, it is important to recognize the high turnover of teenage employment. In June, for example, 69 percent of the teenage unemployed had been out of work less than five weeks.

There has nonetheless been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled. Bending the law to aid teenagers at the expense of adults might create more problems than it would solve.

On the other hand, the fact that the minimum wage mainly affects teenagers undercuts the argument that it is an effective tool against poverty, since teenage workers are rarely family heads and are not necessarily from poor families.

Many of the discussions of an increase in minimum wage lose sight of a simple fact: those currently working at the minimum wage rate would get a raise in pay. Since such people far outnumber most extreme estimates of the number who might find it harder to find work at the higher wage, they deserve some consideration in a balanced assessment of the net effect.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. PERCY. If I may have another minute.

Mr. JAVITS. I yield another minute.

Mr. PERCY. When we look back 4 years from now, the effect of this minimum wage increase—35 cents the first year, 25 cents for each of the subsequent 2 years—will be innocuous. It is not going to justify all the fears that have been expressed, nor is it going to be a panacea. But people can at least live at the poverty line if they are working. There ought to be an incentive for work over welfare and not a disincentive. That is why I support the minimum wage and the reasonable levels that have been set for that minimum wage, in the Williams-Javits amendment and that is why I am proud to cosponsor it. I hope that the idea of indexing is finished.

Mr. JAVITS. I thank my distinguished colleague.

Mr. DOMENICI. How much time do I have left on my amendment, Mr. President?

I ask this question of the managers of the bill: Is it preferable to them that we vote on this amendment this evening or would they rather vote tomorrow?

Mr. WILLIAMS. We are going to be here until 10 o'clock. The Senator has 25 minutes. I think all the arguments have been made against it. I am about ready to suggest that we yield back our time, and if the Senator will yield back his time, we can vote very shortly.

Mr. DOMENICI. It is going to take me a little while to apologize for not including the name of the Senator from New Jersey as a prime cosponsor.

Mr. WILLIAMS. I have acknowledged that my wounded feelings have been assuaged by the Senator, and I feel fine. If he is ready to yield back his time, I will do so, and we will have a vote.

Mr. DOMENICI. I want to use a few more minutes, but I will not use all 25 minutes.

I would like to ask Senator JAVITS, with reference to his stated position that, if we stay on the 4-year schedule and get to the $3.40, we will move minimum wage earners above the poverty line. I am informed—and perhaps you can confirm whether I am informed correct or incorrect—that you are using as your basis statistics that relates to an urban family of four where the wage earner, receiving the minimum wage, is the head of the household. I could be wrong, but I understand that is what you are referring to when you say we will move people above the poverty level 4 years hence.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JAVITS. To answer that, that is the standard of comparison. I will put the whole table in the record. It is table 5, ratio of minimum wage worker income and rates provided in S. 1871, with the poverty level income of a 4-person family $5,977, and projected estimates for January 1, 1978–January 1, 1983.

The figure I have goes as follows: The poverty level is estimated on January 1, 1981, to be $7,072, and the $3.40 coverage will realize 95 percent for the kind of family which I have described. It will realize 95 percent for a nonfarm family which I have described, and it will realize 111 percent for a farmworker. The farmworker is the ratio of farmworker minimum wage to poverty level income for farmers residing on farms. Of course, we are very much an urban country, so this represents very much a minority of the population.

Mr. DOMENICI. I thank the Senator.

The only point I want to make to my fellow Senators is that I hope no one is voting for a minimum wage, whether it be for the next 3 years or the fourth year that I seek to eliminate, on the basis that it should be the minimum wage for heads of households in the United States. I do not.

The minimum wage in the United States has very little relevancy to heads of households, much less heads of households of urban families with four members.

I raise that point because Senator JAVITS has indicated that it is important in terms of why we should go forward with the fourth year. I will not raise it

now but I will raise it tomorrow, when we talk about a youth opportunity provision that I and others will offer.

I do not think it is at all relevant in America any more to talk about minimum wage as if it were the wage for heads of households. I do not have exact statistics, but I venture a guess that 90 percent of the minimum wage earners in America are young people who are unwed or people who are second-jobholders and not heads of households.

Actually, I do not believe that the argument that we should stay on this 4 year schedule because we will get close to the poverty level as described by the Department of Commerce is at all relevant.

Having said that, I have several comments. I hope those who vote on this amendment will not consider this amendment to be for or against the minimum wage. Rather, this amendment says that we should not try to predict what the minimum wage should be 4 years in advance. It may be wrong at $3.40, in that it might be too low. It may be wrong in that it might be too high. It is conceivable that in a couple of years we might even find that the whole notion of minimum wage is irrelevant in the country.

In any event, the House only voted in favor of 3 years. We, in the third year, are higher than the House. I see no reason to go to conference with a fourth year at $3.40.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 32, nays 58, as follows:

[Rollcall Vote No. 536 Leg.]

YEAS—32

Allen	Goldwater	McClure
Bartlett	Hansen	Nunn
Bellmon	Hatch	Roth
Bumpers	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Heinz	Stevenson
	Helms	Stone
Chafee	Hollings	Thurmond
Chiles	Johnston	Tower
Curtis	Laxalt	Wallop
Danforth	Long	Young
Domenici	Lugar	Zorinsky

NAYS—58

Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bayh	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser
Cranston	Magnuson	Schweiker
Culver	Mathias	Stafford
DeConcini	Matsunaga	Stennis
Durkin	McGovern	Stevens
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Metzenbaum	
Garn	Morgan	

NOT VOTING—10

Abourezk	McClellan	Sparkman
Dole	Metcalf	Talmadge
Griffin	Pearson	
Humphrey	Scott	

So unprinted amendment No. 875 was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which UP amendment No. 875 was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JAVITS. Mr. President, can we have action on our amendment?

The PRESIDING OFFICER. The question recurs on amendment No. 1018. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—76

Allen	Eastland	Matsunaga
Anderson	Ford	McGovern
Baker	Glenn	McIntyre
Bayh	Goldwater	Melcher
Bentsen	Gravel	Metzenbaum
Biden	Hart	Moynihan
Brooke	Haskell	Muskie
Bumpers	Hatch	Nelson
Burdick	Hatfield	Nunn
Byrd, Robert C.	Hathaway	Packwood
Cannon	Heinz	Pell
Case	Helms	Percy
Chafee	Huddleston	Proxmire
Chiles	Inouye	Randolph
Church	Jackson	Ribicoff
Clark	Javits	Riegle
Cranston	Johnston	Roth
Culver	Kennedy	Sarbanes
Danforth	Leahy	Sasser
DeConcini	Long	Schweiker
Domenici	Lugar	Stafford
Durkin	Magnuson	Stennis
Eagleton	Mathias	Stevens
Stevenson	Tower	Williams
Stone	Wallop	
Thurmond	Weicker	

NAYS—14

Bartlett	Garn	McClure
Bellmon	Hansen	Morgan
Byrd, Harry F., Jr.	Hayakawa	Talmadge
	Hollings	Young
Curtis	Laxalt	Zorinsky

NOT VOTING—10

Abourezk	McClellan	Scott
Dole	Metcalf	Sparkman
Griffin	Pearson	
Humphrey	Schmitt	

So amendment No. 1018 was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 963—AS MODIFIED

Mr. HELMS. Mr. President, I have an amendment at the desk, No. 963, which I call up and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) for himself and Mr. CRANSTON proposes an amendment numbered 963, as modified.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert the following between lines 17 and 18:

"RELIGIOUS OR NON-PROFIT EDUCATIONAL CONFERENCE CENTERS

"SEC. 5. Section 13(a)(3) is amended by inserting after 'recreational establishment,' the following: 'organized camp, or religious or non-profit educational conference center,' ".

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

On page 12, after line 25, add the following:

"(c) The amendments made by section 5 shall take effect on January 1, 1978.".

Mr. HELMS. Mr. President, if I understand, the managers will accept this amendment and I do not intend to consume much of the Senate's time.

Mr. President, the minimum wage law provides an exemption for seasonal workers in amusement or recreational establishments. The purpose of this exclusion is to permit high school and college students, schoolteachers, and other supplemental wage earners, who are not in the labor market, to be employed during the summer. For years it was assumed——

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. The Senate will be in order.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, for years, it was assumed that this exclusion included the 50,000 or so workers at religious and YMCA conference centers, who, just as summer camp counselors, usually enjoy room, board, and outdoor recreation as part of their employment.

Recently, however, the Employment Standards Administration of the Department of Labor has ruled that these conference centers, since they are more "educational" than amusement and recreation oriented, do not fall within the exemption.

So, we have an anomalous situation where young people employed as seasonal merry-go-round and shooting gallery attendants are exempted, but young people assisting at religious conference centers are not. Moreover, since summer camps are, in a very real sense, educational, the American Camping Association is fearful that their 360,000 seasonal employees—counselors, and so forth—will be next to be interpreted as coming under the Labor Standards Act.

I am confident that when the Congress permitted the seasonal "amusement and recreational" exemption, it intended that summer camps and religious conference centers would be included within the exemption.

To cure this situation, my distinguished colleague, Senator CRANSTON, and I are offering amendment No. 963 to S. 1871 which would add organized camps and religious or educational conferences to the exempt categories.

I might mention, Mr. President, also cosponsoring this amendment are Senators MORGAN, BAKER, SPARKMAN, HARRY F. BYRD, JR., STONE, MCCLURE, and HAYAKAWA.

Mr. HATCH. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. HATCH. Mr. President, I also wish to be added as a cosponsor of this amendment, and I would hope that the distinguished floor leaders of this matter would accept this amendment. I think it is a reasonable one.

I had Boy Scout leaders from all over the country call in and suggest that this is something that we just have to have.

It is an opportunity for young people, and I just commend my distinguished friend and colleague from North Carolina for offering this amendment. I think it is excellent. I think it is the type of amendment and the spirit in which I know both of my friends who are the floor leaders on the bill will consider it. I suggest that they seriously consider this.

Mr. HELMS. I thank the Senator.

Mr. President, Mr. CRANSTON, who is principal cosponsor of amendment 963 to S. 1871, joins me in asking unanimous consent that Mr. MORGAN, Mr. SPARKMAN, Mr. BYRD of Virginia, Mr. STONE, Mr. HAYAKAWA, Mr. MCCLURE and Mr. HATCH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I would emphasize: We are not seeking an exemption from the minimum wage and hour regulations for permanent staff members who rely on this income for their living. Rather, we are talking about supplemental wage earners; such as, teenagers, students, teachers, and retired persons. The young people particularly have difficult times finding summer employment. Since many of these temporary jobs have uncertain hours, and since room and board and recreation are really a large part of the experience, the hours of work restrictions, overtime requirements for such personnel as cabin counselors, as well as hourly wages, simply do not fit the camp and conference reality.

In short, this amendment simply makes clear what we believe the intention of Congress to have always been: That seasonal employees, earning supplemental income, in our Nation's religious, YMCA and YWCA conference centers and in our summer camps, should be exempted from the Federal wage-hour law.

I urge adoption of the amendment.

Mr. CRANSTON. Mr. President, I am pleased to have joined with the distinguished Senator from North Carolina (Mr. HELMS) in working for successful passage of his proposal to include organized summer camps and religious and nonprofit educational centers in section 13(a)(3) of the Fair Labor Standards Act.

Section 13(a)(3) exempts employers who operate "amusement or recreational establishments" on a seasonal basis. The Department of Labor in administering this provision of the wage-hour law has determined that a nonprofit conference center does not qualify as an "amusement or recreational establishment." A summer camp does qualify but a conference center, apparently, does not.

This interpretation may be within the letter of the statute. But it appears to me to turn public on its head for Congress to exempt carnival employees from the law, but not counselors and staff of religious and educational conference centers. Therefore, I have joined with Senator HELMS in offering his amendment.

I am grateful that the distinguished floor managers, Mr. WILLIAMS and Mr. JAVITS, will accept the amendment as modified. I thank them both.

Will the Senator yield for a question?

Mr. HELMS. I am happy to yield to the distinguished Senator.

Mr. CRANSTON. Camps are now excluded from the operation of the Fair Labor Standards Act. Why do we need a specific exclusion for them?

Mr. HELMS. Because the educational emphasis in camping might be interpreted to take them outside the present exemption. Also, specialized camps are becoming more and more numerous, and are built around academics, art, science, ecology, learning disabilities, and other such programs. These would almost certainly be considered "educational," in spite of the fact that they offer the other advantages of conventional camping.

Mr. CRANSTON. I thank the Senator, and ask whether he would define the phrase "organized camp" used in the amendment.

Mr. HELMS. An "organized camp" is one with a program of activities, sustained supervision, provided for a set fee. Organized camps characteristically provide room and board in a rustic setting, over a sustained period of time and thus are distinguished from a personally embarked-on camping trip. The American Camping Association defines a "camp" as "a sustained experience which provides a creative recreational and educational opportunity in group living in the out of doors. It utilizes trained leadership and the resources of natural surroundings to contribute to each camper's mental, physical, social, and spiritual growth.

Mr. CRANSTON. Am I correct in supposing that this definition would include day camps?

Mr. HELMS. These would be included under the exclusion inasmuch as the only difference between day camps and the conventional residential camp, is that the "group living" aspect is only during the day, with the campers returning to their homes at night.

Mr. CRANSTON. Let me say that I am fully in support of this amendment. But I think it would be helpful if the Senator were also to define a "religious or nonprofit educational conference center."

Mr. HELMS. I thank the distinguished Senator. Let me say that these have been in existence for nearly 70 years. They have been built usually in secluded and scenic areas, and are used as meeting centers for religious, educational, and leadership growth experiences for both youth and adults. They often provide residence accommodations, meal service, and meeting and recreational facilities. Ninety to 95 percent are under the sponsorship of religious denominations. We know of none that are not operated on a nonprofit and tax-exempt basis.

Mr. CRANSTON. Will the Senator also explain why seasonal employees in camps and conference centers should be exempt from minimum wage and hour requirements?

Mr. HELMS. These seasonal employees are usually in residence and receive meals and room, as well as educational programs and recreation as a part of the employment. Moreover, counselors, and employees at camps and conference centers often choose these jobs, because of the opportunity to serve their church, or because of the opportunity for summer vacation in the out-of-doors, with wholesome food, sports, the chance to learn new skills, and to simply have a great time. It should be emphasized that these are not family breadwinners. Besides, why should carnival workers and beach lifeguards be exempt, and church conference and camp workers not? Finally, those workers who are in housekeeping, kitchen, office duties, and other work not associated with the educational and recreational activities of the camp or center will be paid, as a practical matter, the "going rate" for their work. This is almost invariably more than the minimum wage. I think that it should be pointed out that under this amendment other wage and hour regulations would be excluded. One of these would be the overtime pay requirements. These requirements for cabin counselors in camps, for example, who are literally "on duty" 24 hours a day, are unrealistic. Another difficulty involves the fact that conference center loads differ from week to week: 1 week may have 50 to 60 hours of work, the next only 20 to 25. These regulations were not designed for, and do not fit, the realities of the camp and conference cen-

ter situation. We should also note that this amendment also excludes the full-time employees of organized camps and conference centers. But this is just as the present law excludes the full-time employees of "amusement or recreational establishments" which operate no more than 7 months or whose average receipts for 6 months are no more than one-third of the average receipts for the other 6 months. The fact is, however, that the full-time employees, according to the American Camping Association and the International Conference Center Administrators, receive considerably more than the minimum wage, because the demand for their skills in the labor market is so great. Therefore, practical application of the exclusion will be only to purely seasonal and supplemental employees.

Mr. CRANSTON. I thank the Senator. How about kitchen employees?

Mr. HELMS. It is axiomatic at camps and conference centers that the cooks and the nurses are invariably the highest paid employees. Dishwashes and other kitchen help also have to be paid more than the minimum wage, according to the American Camping Association and International Association Conference Center Administrators, because the market forces higher pay for these jobs. In practice, again, virtually the only ones affected by this amendment will be the seasonal, supplemental wage earners.

Mr. CRANSTON. Can we be sure that the "conference center" exclusion will not be misused by operations which are really resorts?

Mr. HELMS. The intention of this exclusion is quite narrow and the language is no more broad than the terms "amusement or recreational establishments." We can rely on the Wage and Hour Division of the Department of Labor to insure that the salutary intent of this amendment is not subverted.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN addressed the Chair.

Mr. WILLIAMS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. HELMS. I yield the floor, yes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. I yield myself a few minutes?

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. I just wish to clarify the meaning of the present law, particularly in light of the language of the amendment, if I might ask the Senator from North Carolina.

I observe that the exemption language in this amendment includes organized camping.

Mr. HELMS. Yes.

Mr. WILLIAMS. It is acceptable to me to include that in the amendment as long as it is understood clearly that under present law organized camping is exempt.

I do not want anyone to read this amendment, as it becomes new law, to suggest that in times past organized camping was covered, because it is not. This would not create any cause of action for back wages because organized camping is not included as it is now.

So if that is crystal clear, the rest, of course, is less clear in law. This would be the clarification of the law to include educational, religious, conference, seasonal, and nonprofit activities.

Mr. HELMS. That is correct.

Mr. WILLIAMS. All of those elements.

Mr. HELMS. The Senator is correct.

Mr. WILLIAMS. That certainly fits well within the traditions of the exemption.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HELMS. I yield.

Mr. JAVITS. I notice the word "nonprofit" is inserted before educational, because it is assumed that religious conference centers are nonprofitable.

Mr. HELMS. That is correct.

Mr. JAVITS. So if there is any question about that within the context of the law of the statute the Senator will understand that we may have to work that out in conference.

Mr. HELMS. That is correct.

Mr. JAVITS. Similarly, with the fact that Senator WILLIAMS says organized campers are included in the law now and, therefore, this may be redundant, but the thrust of the amendment is acceptable to me, and we will work out whatever technical changes need to be made.

Mr. HELMS. I thank the Senator.

Mr. HATCH. Mr. President, I wish to thank my colleague.

I urge that the distinguished floor managers of the bill accept this amendment because it is in the spirit of appropriateness.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Has the Senator from New Jersey yielded the floor?

Mr. WILLIAMS. Yes, I have yielded the floor.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield to my able colleague from North Carolina, Mr. MORGAN.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I am pleased to cosponsor amendment No. 963 to Senate bill No. 1871. This amendment, I am happy to report, does not seek to expand or restrict the coverage of the minimum wage bill, rather its purpose is to clarify the law and reaffirm the congressional intent of past legislation.

In 1966, an exemption for the employees of amusement and recreational establishments which operate on a seasonal basis was added to the law. The intent of the exemption was to allow seasonal, primarily summer operations to hire young people at less than the minimum wage. This provision remains in the law today and I feel it is a worthwhile exemption with many benefits.

For years, educational and religious camps have operated summer programs to provide training for young people in religion or special fields of study. These camps often provide room and board for these young people. To help defray the cost of the tuition and room and board, the summer students are allowed to work around the camps in diverse occupations. They are paid for their work, though not the minimum wage. Through this arrangement the camps can operate more effectively, providing housing and food for more people, and the young people are able to attend the camps at a reduced cost and have some spending money for their efforts.

These camps have resumed, and I feel correctly, that they fit under the exemption for recreational organizations which operate on a seasonal basis. The Department of Labor has ruled that they cannot claim an exemption and continue the arrangement that has worked so well in the past. I believe that amendment No. 963 will clarify for the Department what the congressional intent is and allow these camps to continue to provide the most benefits for the most people.

It is proper that these seasonal establishments be exempted from the law, not only because of congressional intent, but for several other reasons as well.

Traditionally these educational and religious camps are seasonal in nature. They are nonprofit and tax exempt. They provide room and board for young people in attendance. They are the training ground for moral living and they develop a work ethic through the program of "pay as you go."

I must emphasize that these camps pay the full minimum wage to their full-time employees. Allowing summer students to be paid at less than the minimum wage displaces no heads of households and allows young people to attend camps they could not otherwise afford.

The State of North Carolina has seen fit to exempt these temporary employees from the State's minimum wage law. I think the Congress should clarify the law and reaffirm congressional intent by the enactment of this amendment. It is ironic that the result of past congressional action is to exempt the temporary workers of amusement parks but not the young people, teachers and retired persons who come to religious and summer camps to spend an enjoyable summer in a worthwhile endeavor. I do not think that is what we intended or desire and I feel that amendment No. 963 will resolve this unfortunate oversight.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS and Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 896

Mr. STAFFORD. Mr. President, I have an unprinted amendment at the desk.

I ask for its immediate consideration and that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for himself, Mr. RANDOLPH, Mr. WILLIAMS, Mr. JAVITS, and Mr. INOUYE proposes an unprinted amendment numbered 896.

On page 11, strike lines 7 through 24 and insert in lieu thereof the following:

"SEC. 3. (a) Effective January 1, 1978, section 3(m) (20 U.S.C. 203(m)) is amended by striking out '50 per centum' and inserting in lieu thereof '45 per centum.'

(b) Effective January 1, 1979, such section is amended by striking out '45 per centum' and inserting in lieu thereof '40 per centum.'

(c) Effective January 1, 1980, such section is amended by striking out '40 per centum' and inserting in lieu thereof '35 per centum.'

(d) Effective January 1, 1981, such section is amended by striking out '35 per centum' and inserting in lieu thereof '30 per centum.' "

The PRESIDING OFFICER. By previous order, the Senator from Vermont is recognized for 15 minutes.

Mr. STAFFORD. Mr. President, what this amendment does is to eliminate the last two gradients of reduction in the tip credit, the one on January 1, 1982, which would reduce the tip credit to 30 percent, and the one effective January 1, 1983, which would have reduced the tip credit to 20 percent.

Mr. President, my amendment is a compromise with respect to the issue of the tip credit. It has been worked out with a number of my colleagues who, like me, are concerned both with the needs of workers and the needs of business. I offer this amendment as one who throughout his public life has opposed the repeal of the tip credit and still do so. But I believe we have an opportunity today to bring some degree of relief to gratuity employees without causing any adverse impact on any employers, indeed, without causing any impact on many employers in a majority of States.

Under the Federal law as it now exists, employers may take a credit against their employees' wages of up to 50 percent of the Federal minimum wage, $1.15 per hour, if their employees actually receive that amount in tips and if the taking of the credit is permitted by State law.

When first introduced, S. 1871 would have repealed the tip credit in five steps by 1983. During the deliberations on the bill in the Senate Human Resources Committee, Senator RANDOLPH and I, with other members, urged our chairman to consider more moderate alternatives. As always, Senator WILLIAMS responded to what he recognized as the legitimate felt needs of Members on both sides of the aisle. He offered the amendment to bring the tip credit gradually down to 20 percent but not to repeal it. The amendment was overwhelmingly endorsed while one amendment to retain the status quo was convincingly rejected.

The amendment which I offer today is cosponsored by Senator RANDOLPH, the chairman of the committee, Senator WILLIAMS, the ranking minority member, Senator JAVITS, and Senator INOUYE. It would reduce the tip credit by 5 percent a year until it reached 30 percent in 1981. In dollars and cents, it would permit the maximum tip credit to rise to $1.19 on January 1, 1978, then go to $1.16 on January 1, 1979, $1.10 on January 1, 1980, $1.02 on January 1, 1981.

Mr. President, there are many States where my compromise would not have any impact. They include Alaska, California, Idaho, Nevada, North Dakota, Oregon, and Washington, where no tip credit is permitted at all; and Connecticut, Minnesota, New York, South Dakota, Vermont, and Wisconsin where the maximum tip credit is less than provided in my amendment. In addition, in States such as Massachusetts and Rhode Island, the tip credit permitted by my amendment is higher than the tip credit now permitted under State law. Finally, in Montana, Hawaii, Michigan, Utah, West Virginia, Indiana, Kansas, and Nebraska, my compromise will have no impact on the small businessmen who are already covered by reduced tip credit laws in those States. For the rest of the employers of gratuity employees, my compromise will have a barely perceptible impact. For the first 2 years they will be able to take a tip credit slightly higher than now permitted. Thereafter it will be slightly lower than now permitted.

I hope my amendment will be agreeable to the floor manager and to my colleagues.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. JAVITS. Mr. President, will the Senator allow the Senator from Vermont to yield first to me?

Mr. STONE. I yield.

Mr. STAFFORD. I am glad to yield to my colleague the ranking minority member.

Mr. JAVITS. Mr. President, I merely wish to make one point.

When the bill was introduced, I thought it was going much too far to eliminate the tip credit, even by stages.

The point I wish to make with the Senator is not a forensic one. Analysis indicated that the ones hurt would be the very low paid employees. They are the ones most injured by diminution of the tip credit.

Upon analysis in detail, we believe that at the 30 percent level they will be helped rather than hurt. That, to me, was the breaking point; and I am very pleased that our colleague from Vermont is supporting it, and I hope very much the Senate will support this compromise.

Mr. STAFFORD. Mr. President, I appreciate the contribution of the ranking minority member of the committee. I am happy to yield to the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. President, I applaud the Senator for presenting this amendment to us. As is known, my position on the tip credit began when the bill provided for the ultimate elimination of a credit. I think that when people get gratuities, they are given for a reason; people appreciate service, and they like to give a gratuity, that is, a tip, to the person serving them and not to the employer.

As it is now, the first $1.15 that the employee receives, unknown to the person granting this gratuity, is not to the individual worker, but to the employer. I just think, in all equity, because we are dealing here in large measure with lower income employees, that when someone grants a gratuity, the person receiving it should be able to have it.

I could see that my approach was not getting the kind of consensus that we need in this body, so I did agree, in committee, that we would not phase it down and out, but would stop at 20 percent. Realistically, I can see that in those few situations where a hardship would be felt, it is more realistic to come to 30 percent; and I join the Senator from Vermont and hope that he will get an overwhelming vote of support.

In this regard, Mr. President, I would like to pay a special tribute to Senator RANDOLPH. No one has worked harder over the years for America's workers than Senator JENNINGS RANDOLPH. His contributions to this legislation both in committee and on the Senate floor are well known to us all, and I wish to take this opportunity to commend him for his efforts, both on this issue and on the entire bill.

Mr. STAFFORD. Mr. President, I appreciate the words of the distinguished chairman of the committee. I am happy to yield to our distinguished colleague from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I think it is encouraging that the chairman of our Committee on Human Resources and the ranking minority member of that committee, Senators WILLIAMS and JAVITS, men who took a somewhat different position, frankly, have been convinced, and they have been very frank to say here tonight that they believe the pending amendment strikes that balance which I think aids the employee and frankly does no harm to the employer. I am happy to be joined with the Senator from New Hampshire in this matter.

It has been a concern of mine over a long period of years, and I think tonight we do well, with a well-reasoned approach, in the amendment now pending

Mr. STAFFORD. Mr. President, I appreciate the statement of the distinguished Senator from West Virginia.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Who yields time?

Mr. STAFFORD. Unless there are other speakers on this amendment, I am prepared to yield back the remainder of my time on the amendment.

Mr. WILLIAMS. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back——

UP AMENDMENT NO. 897

Mr. STONE. Mr. President, I have at the desk an amendment in the nature of a substitute, and I ask that the clerk report the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 897 to the unprinted amendment (No. 896) of the Senator from Vermont (Mr. STAFFORD):

In lieu of the language proposed to be inserted by the Senator from Vermont, insert the following:

"The Secretary of Labor is directed to conduct a study on the impact of reducing the tip credit in section 3(m) on employment and the effect on wages and tipped employees."

Mr. STONE. Mr. President, in addition to the other cosponsors listed on the printed amendment, which is the basic amendment, somewhat modified, amendment No. 1410, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of this substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, in 1966 Congress included in section 3(m) of the Fair Labor Standards Act a provision that employers may credit tips received by employees toward their obligation to pay the minimum wage. This tip credit was set at 50 percent of the minimum wage. The figure represents a compromise reached by Congress between those who contended that tip income should not be considered at all and those who argued that tips are remuneration for employment and should be offset against the minimum wage in their entirety. This compromise was reached after lengthy hearings, careful deliberation, and extensive debate. Nothing has occurred in the intervening years to controvert the original soundness and fairness of that agreement and that legislation.

The original underlying purpose of the minimum wage law was and is—and we have heard it stated here this evening that the purpose remains—to place a floor under earned income, not to set a ceiling or establish an average, but to fix a guaranteed minimum remuneration for work. A Bureau of Labor Statistics survey shows that the income of tipped employees averages more than the statutory minimum. The purpose of the law is therefore being met.

The argument that a tip is a private matter between the employee and customer and should therefore not be counted as wages overlooks the significant contribution the employer makes toward the production of tip income. All tips are earned on the premises, using the employer's equipment and serving his food. The employer pays all the overhead and operating expenses, determines the price of the meal and its quality, determines the general atmosphere of the establishment, and assigns work shifts. All these factors contribute significantly to the level of tip income.

Congress, the courts, and Government agencies have consistently held that tips are remuneration for employment and taxable income of the employee. As such, it would be totally illogical to exclude them in determining whether a tipped employee's wages meet a statutorily prescribed minimum level.

Under the tip credit provision, an employee who receives tips can, in effect, never earn less than the minimum wage. The present law also has built in safeguards—the amount of the credit cannot exceed 50 percent of the minimum wage; it cannot exceed the amount of tips actually received; it must be clearly shown on the payroll records; and it cannot be used at all unless its application and limitations are first explained to the employee. Any employer who might cheat on the tip credit is the same employer who will cheat on the minimum wage rate itself. These are enforcement problems which cannot be corrected by legislating higher rates. In fact, throughout the debate no evidence of testimony has been offered to suggest that total earnings are ever less than the minimum wage.

Those who would repeal the credit have not given any solid reasons or evidence of the need to change the current system. Tipped employees, both union and nonunion, have testified before the Senate and House Committees on Labor asking that the tip credit not be reduced. The waiters and waitresses maintained that a repeal of the credit would not be enough to compensate them in wages for what they would lose in tips.

Mr. President, waiters and waitresses were not alone in their opposition to the tip credit reduction. Both President Carter and Secretary of Labor Ray Marshall have expressed similar sentiments. Economists have also given support to the current system of compensating tipped employees.

As we all know, if the employer is forced to pay higher wages through a phase-down of the tip credit, someone is going to have to pay. It is not the tooth fairy—the price of that phase-down will be borne by employees and consumers alike.

California, which last year went to a $2.50 minimum without tip credit, bears watching as the best example of what can happen when costs are raised beyond the point of being absorbed through price and labor adjustments. Although restaurant industry employment went up in the State, the evidence suggests that the growth was experienced by the nontipped section of the industry while tipped employees were experiencing reduced hours and layoffs.

In summary, I would stress that any repeal of the current tip credit will fuel inflation and add to youth unemployment. The food service industry employs 5.4 million people. It is the largest single employment sector in the United States. Reducing the tip credit will increase the costs of wages to the food industry which in turn will inevitably reduce employment in that industry. Increased charges at food service establishments will, in short, add to inflation and further reduce employment.

Mr. HANSEN. Mr. President, will the Senator from Florida yield me 1 minute?

Mr. STONE. I yield.

Mr. HANSEN. I think the points made by the distinguished Senator from Florida are accurate, they are persuasive, and I think they should chart the course that we ought to follow in trying to expand the opportunities for employment in this country or, rather, to see that they are not diminished or decreased.

I think that the evidence clearly indicates that a picture is made that will surely follow if we change this tip credit.

Mr. STONE. I thank the Senator. I want to add a personal note. In South Florida, the resort industry, both hotels and restaurants, is in serious difficulty.

Repealing the tip credit would, over the course of its several years of existence, increase the cost to the industry over 107 percent. That would devastate a tottering industry, at least in a major part of my own State.

Finally, among States which have phased down the tip credit, the State of Michigan is now phasing it up. The State of Vermont is now phasing it up. The State of Wisconsin is now phasing it up because of the experience that those States have had.

So, Mr. President, I ask that we keep the present law by adopting this substitute amendment which strikes the language proposed as a substitute and which orders, instead, a study of the effects anticipated by the reduction of tip credit.

I reserve the remainder of my time, or I am prepared to yield back the remainder of my time.

Mr. STAFFORD. Mr. President, the distinguished Senator from Florida mentioned my State, Vermont. I would like to point out that they did in fact raise the credit allowance there from 75 cents to 80 cents, which is substantially below the tip credit here under the percentages in the compromise, in any of the 4 years for which the compromise figures have been set. There has been some discussion of the adverse effect of recent experience in reductions in tip credits. There has been a recent experience in California in this field, in which we know of no adverse impact.

We have heard much talk about a potential adverse impact on employment which the restaurant industry says would result from even a slight reduction in the tip credit. On the basis of the recent experience in California, we know that there will be no adverse impact.

These projections of no adverse effect are supported by the Secretary of Labor's 1968 reports to Congress with respect to the 1966 Fair Labor Standards Act Amendments. In 1968, the Secretary reported to Congress on the economic impact of covering large segments of the food service industry and the hotel and motel industry under the minimum wage laws for the first time.

The Secretary concluded as follows:

Employment rose by an estimated 500 workers to almost 265,000 in covered hotels and motels during the 6-month period spanning the effective date of the $1.00 minimum wage. *The largest regional increase was a gain of 4,000 workers in the south. This was of particular significance since southern establishments were the only ones in which the minimum wage has a significant impact.* (Emphasis added.)

With respect to eating and drinking places, he concluded that:

Nationwide employment in *noncovered* establishments *declined* by 2,600 workers between October 1966 and April 1967 as contrasted with an *increase* of 3,900 in *covered* establishments. (Emphasis added.)

Finally, the Secretary of Labor has most recently testified that:

We can show from a gross point of view that when tip credit has been changed in states like California, that from an aggregate point of view, it has no apparent adverse effects.

Mr. President, I am prepared, like the distinguished Senator from Florida, if he still is, to yield back my time.

Mr. STONE. If the distinguished Senator will permit me 1 minute, then I am prepared to yield back my time.

I have two points. One is that the restaurant industry in this country, under the compromise minimum wage amendment that we have overwhelmingly voted here tonight, would have moderate cost increases to pay. Under this proposal, the restaurant and hotel accommodations industry would be paying 26 percent more this coming year, 50 percent more the year after that, 78 percent more the year after that, and a total of 107 percent in the fourth year. That is highly unfair and arbitrary against this particular industry.

Finally, Mr. President, I repeat that the surveys show that the tipped employes now make more on the average than the minimum wage. Therefore, the purpose of the law is being served by the existing law.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. STONE. I yield.

Mr. HATCH. Mr. President, the Senator from Vermont (Mr. STAFFORD) mentioned the comments of the distinguished Secretary of Labor. I think it would be essential at this point in the RECORD to mention some of the things that the Secretary of Labor said about this. He said:

Your bill would phase out this tip credit by 1983. The House bill would gradually reduce the maximum allowance for tips to $1.00 an hour beginning January 1, 1981. Our opposition to these provisions is based on two factors.

That is very persuasive to me, when the Secretary of Labor opposes this, because I think ordinarily his inclinations would be the other way.

One is the lack of information about whether this change would actually result in an increase in combined wage and tip earnings. A reduction in percentage terms of the tip credit may induce some employers to replace tips with a service charge. This could lower the combined wages and tips of these employees.

The other problem is the substantial additional costs to employers of tipped workers, particularly in the restaurant, hotel, and motel industries.

I believe the distinguished Senator from Florida is complaining about that as having a major impact in his State, and I think we would find that in most other States:

Taking into account the proposed new minimum wage levels, we estimate that these increased costs will run into the millions of dollars. Our figures project a cost of $65 million in 1978, $114 million in 1979, $172 million in 1980 and $185 million in the fourth year after the effective date. As a result, we oppose any change in current law.

Mr. STONE. The Senator is correct.

Mr. HATCH. I commend him for that stand, because I think it means loss of jobs, more pressures on industries in Florida and all over America. I think it would be disastrous to the restaurant business throughout America.

I ask unanimous consent that my name be listed as a cosponsor of the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Senator.

I yield to the distinguished Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Florida.

Mr. President, I support the substitute amendment. In New Hampshire, tourism is a very important industry. It is one of the major industries in the State. I have talked to people who are vitally involved in the tourist industry all across the State, and they unanimously do not want any change in the tip credit.

I am happy to cosponsor the amendment with my friend the distinguished Senator from Florida, and I hope the Senate will agree.

Mr. STONE. I certainly thank the distinguished Senator from New Hampshire.

Mr. President, I ask for the yeas and nays on this substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STONE. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. We yield back the time in opposition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 42, nays 46, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—42

Allen	Domenici	Hollings
Baker	Durkin	Huddleston
Bartlett	Eagleton	Johnston
Bayh	Eastland	Long
Bentsen	Garn	Lugar
Bumpers	Glenn	McClure
Byrd, Harry F., Jr.	Goldwater	McIntyre
	Hansen	Morgan
Chafee	Haskell	Nunn
Chiles	Hatch	Percy
Curtis	Hayakawa	Roth
Danforth	Helms	Sasser
Schmitt	Tower	Zorinsky
Stone	Wallop	
Thurmond	Young	

NAYS—46

Anderson	Hathaway	Nelson
Bellmon	Heinz	Packwood
Biden	Inouye	Pell
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Laxalt	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Schweiker
Clark	Mathias	Stafford
Cranston	Matsunaga	Stevens
Culver	McGovern	Stevenson
DeConcini	Melcher	Weicker
Gravel	Metzenbaum	Williams
Hart	Moynihan	
Hatfield	Muskie	

NOT VOTING—12

Abourezk	Humphrey	Scott
Dole	McClellan	Sparkman
Ford	Metcalf	Stennis
Griffin	Pearson	Talmadge

So unprinted amendment No. 897 was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, to help get Members away, I ask unanimous consent that the yeas and nays on the Stafford amendment be vacated.

UP AMENDMENT 898

Mr. ALLEN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 898.

On page 1 of unprinted amendment numbered 896 strike sections 3(c) and 3(d).

Mr. ALLEN. Mr. President, this amendment would be the exact middle between the Stafford amendment and the Stone amendment. The Stafford amendment would cut the tip credit down eventually to 30 percent, whereas the Stone amendment would have left the credit at 50 percent. The amendment I have offered would allow the stages of the Stafford amendment to be operative but it would stop at 40 percent.

That is exactly a midway position between Senator STONE and Senator STAFFORD. That is the long and short of it.

SEVERAL SENATORS. Vote! Vote!

Mr. ALLEN. Mr. President, I ask for the yeas and nays, unless it is agreed to.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, we have already compromised. The figure was to phase out the tip credit entirely. Then the figure of Senator WILLIAMS was 20 percent. We finally have gotten this at 30 percent, which was the compromise that united most of us.

I respectfully submit we have already compromised. This compromise on the floor is a compromise on a compromise and it does not amount to all that much, either, in the sense it is only a 20-percent

reduction of the tip credit which has been a thorn in the side of many of these employees.

Mr. President, I hope the Senate will defeat this amendment.

Mr. ALLEN. It is quite obvious there is no compromise except as between people of the same mind because the distinguished Senator from Florida offered the 50-percent amendment. So it is quite obvious there is no compromise.

Possibly Senator JAVITS and Senator WILLIAMS compromised it, but that is the only compromise.

Mr. JAVITS. Mr. President, 1 minute.

Fifty percent is the present law. There is nothing in that. Fifty percent is what the law is today.

Mr. ALLEN. That was the Stone amendment.

Mr. JAVITS. It is not an amendment. That is the law. Just keeping it today as it is. There is no amendment in that. No amendment and no compromise.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ALLEN. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to unprinted amendment No. 898 of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana(Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—42

Allen	Garn	Morgan
Baker	Glenn	Nunn
Bartlett	Goldwater	Percy
Bentsen	Hansen	Roth
Bumpers	Haskell	Sasser
Byrd, Harry F., Jr.	Hatch	Schmitt
	Hayakawa	Stone
Chafee	Helms	Talmadge
Chiles	Hollings	Thurmond
Curtis	Huddleston	Tower
Danforth	Johnston	Wallop
Domenici	Long	Young
Durkin	Lugar	Zorinsky
Eagleton	McClure	
Eastland	McIntyre	

NAYS—47

Anderson	Burdick	Clark
Bayh	Byrd, Robert C.	Cranston
Bellmon	Cannon	Culver
Biden	Case	DeConcini
Brooke	Church	Gravel
Hart	Mathias	Randolph
Hatfield	Matsunaga	Ribicoff
Hathaway	McGovern	Riegle
Heinz	Melcher	Sarbanes
Inouye	Metzenbaum	Schweiker
Jackson	Moynihan	Stafford
Javits	Muskie	Stevens
Kennedy	Nelson	Stevenson
Laxalt	Packwood	Weicker
Leahy	Pell	Williams
Magnuson	Proxmire	

NOT VOTING—11

Abourezk	Humphrey	Scott
Dole	McClellan	Sparkman
Ford	Metcalf	Stennis
Griffin	Pearson	

So unprinted amendment No. 898 was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to amendment No. 896 proposed by the Senator from Vermont.

The yeas and nays having been previously ordered, the clerk will call the roll.

Mr. ALLEN. Mr. President, I understand the yeas and nays ordered were going to be rescinded on this. I have no further amendments. I ask unanimous consent that the order be rescinded.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last vote tonight. We will start early tomorrow morning at 9 o'clock.

(Mr. DURKIN assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 81, nays 7, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—81

Allen	Clark	Hathaway
Anderson	Cranston	Hayakawa
Baker	Culver	Heinz
Bartlett	Curtis	Hollings
Bellmon	Danforth	Huddleston
Bentsen	DeConcini	Inouye
Biden	Domenici	Jackson
Brooke	Eagleton	Javits
Bumpers	Eastland	Kennedy
Burdick	Garn	Laxalt
Byrd, Harry F., Jr.	Glenn	Leahy
	Goldwater	Long
Byrd, Robert C.	Gravel	Lugar
Cannon	Hansen	Magnuson
Case	Hart	Mathias
Chafee	Haskell	Matsunaga
Chiles	Hatch	McClure
Church	Hatfield	McGovern
Melcher	Randolph	Stevenson
Metzenbaum	Ribicoff	Talmadge
Morgan	Riegle	Thurmond
Moynihan	Roth	Tower
Muskie	Sarbanes	Wallop
Nunn	Sasser	Weicker
Packwood	Schmitt	Williams
Pell	Schweiker	Young
Percy	Stafford	
Proxmire	Stevens	

NAYS—7

Bayh	Johnston	Zorinsky
Durkin	McIntyre	
Helms	Stone	

NOT VOTING—12

Abourezk	Humphrey	Pearson
Dole	McClellan	Scott
Ford	Metcalf	Sparkman
Griffin	Nelson	Stennis

So Mr. STAFFORD'S amendment (No. 896) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1393

(Purpose: to waive section 12 of the Fair Labor Standards Act of 1938, relating to child labor, with respect to certain agricultural hand harvest laborers under specified conditions)

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1393.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine, Mr. HATHAWAY——

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"AGRICULTURAL HAND HARVEST LABORERS

"SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"'(i) (1) The minimum wage and overtime exemption provided by subsection (a) (6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"'(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"'(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"'(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"'(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"'(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"'(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"'(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.'."

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

On page 12, after line 25, add the following new subsection:

"(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.".

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

PUBLIC BROADCASTING—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

—Devote more resources to high-quality national programming.

—Set long-range goals by which its progress can be judged.

—Plan how public television and radio signals can be brought within reach of all citizens.

—Provide greater accountability to the public.

—Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programming.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the ten years since the Public Broadcasting Act first provided Federal funds for programming, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

—Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

—Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

—Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

—Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal and fewer than two-thirds can receive public radio.

—Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

—Increase employment, training, and ownership opportunities for minorities and women.

—Support local, state, and regional programming.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programming in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fundraising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programming staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

—Reduces CPB's effectiveness as a political insulator.

—Reduces its ability to focus on long-range planning and new educational services.

—Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programming. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

—CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

—Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

—CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25 percent of funds appropriated to CPB in future years shall be used for a national Programing Fund for bloc grants for such productions. This will insure that by fiscal year 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programing. These programs will continue to be produced on a decentralized basis by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have levelled off.

As a former governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requries the system to raise $2.50 for every $1 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

—Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

—Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

—Make regional networks and other groups of stations eligible for facilities funds.

—Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decisionmaking levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and State productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER

THE WHITE HOUSE, *October 6, 1977*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 8:49 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of The George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under the Act for the expenses of the Department of Justice in carrying out that Act.

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs.

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

H.R. 9354. An act to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HARRY F. BYRD, JR.).

At 10:15 a.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has agreed to the concurrent resolution (H. Con. Res. 372) providing for an adjournment of the House from October 6 until October 11, 1977, in which it requests the concurrence of the Senate.

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 9005) making appropriations for the government of the

District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. GIAIMO, Mr. CHARLES WILSON of Texas, Mr. MCKAY, Mrs. BURKE of California, Mr. BENJAMIN, Mr. MAHON, Mr. BURGENER, Mr. KEMP, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC–2116. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, modifications to provisions of law concerning desalting equipment for the Yuma Desalting Plant of the Colorado River Basin (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2117. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the Federal Energy Administration Quarterly Report for the period of April through June 1977 concerning imports of crude oil and other oil related matters (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2118. A letter from the Chairman of the International Trade Commission transmitting, pursuant to law, the eleventh quarterly report on trade between the United States and the non-market economy countries (with an accompanying report); to the Committee on Finance.

EC–2119. A letter, dated September 28, 1977, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–2120. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Computer Auditing in the Executive Departments: Not Enough is Being Done" (FGMSD–77–82, September 28, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2121. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "An Organized Approach to Improving Federal Procurement and Acquisition Practices" (PSAD–77–128, September 30, 1977) (with an accompanying report); to the Committee on Government Affairs.

EC–2122. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Federal Agencies Can Do More to Promote Energy Conservation by Government Contractors" (EMD–77–62, September 30, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2123. A letter from the Mayor of the District of Columbia transmitting, pursuant to law, his response to the Comptroller General's report (PSAD–77–86) entitled "The District of Columbia's New Detention Center: Careful Planning Essential for Adequate Addition" (with accompanying papers); to the Committee on Governmental Affairs.

EC–2124. A letter from the Chairman of the Civil Service Commission transmitting, for the information of the Senate, comments concerning the Presidential Management Intern Program (with accompanying papers); to the Committee on Governmental Affairs.

EC–2125. A letter from the Chairman of the Committee on the Process of Determining Student Loan Special Allowances of the Department of Health, Education, and Welfare transmitting, pursuant to law, a report containing the findings and recommendations of the Committee with respect to an improved method for determining the special allowance paid to eligible lenders under the Guaranteed Student Loan Program (with an accompanying report); to the Committee on Human Resources.

EC–2126. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report analyzing the use of achievement test scores to allocate Title I funds to states and school districts (with an accompanying report); to the Committee on Human Resources.

EC–2127. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report describing the effects of compensatory education services on the development of low-achieving children (with an accompanying report); to the Committee on Human Resources.

EC–2128. A letter from the Director of the National Institute of Education transmitting, pursuant to law, a report describing the changes in the population served and the services delivered by title I in 13 demonstration districts (with an accompanying report); to the Committee on Human Resources.

EC–2129. A letter from the Commissioner of Education transmitting, pursuant to law, a report entitled "Report on Expanding Student Financial Aid Information Services via Part-Time Personnel" (with an accompanying report); to the Committee on Human Resources.

EC–2130. A letter from the Deputy Director of the Administrative Officer of the U.S. Courts transmitting a draft of proposed legislation to make certain technical amendments with respect to the pretrial services agencies established under title II of the Speedy Trial Act of 1974 (with accompanying papers); to the Committee on the Judiciary.

EC–2131. A letter from the Deputy Director of the Administrative Officer of the U.S. Courts transmitting a draft of proposed legislation to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the Courts of the United States (with accompaning papers); to the Committee on the Judiciary.

EC–2132. A letter from the Acting Secretary of the Interstate Commerce Commission transmitting pursuant to law, notice that the Commission has approved the agreement concerning railroads per diem and mileage rates for trailers and containers within the statutory time period; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. Res. 287. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands, and for other purposes. Referred to the Committee on the Budget.

S. 280. A bill for the relief of Ludwik Kikla (Rept. No. 95–472).

With an amendment:

S 200 A bill for the relief of Bharat M. Parekh (Rept. No. 95–473).

S. 1551. A bill for the relief of In Hea Kim and Myung Sung Kwon (Rept. No. 95–4474).

With amendments:

S. 2149. A bill to create the District Court of the Northern Mariana Islands, implementing Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (preamble amendments) (Rept. No. 95–475).

Without amendment:

H.R. 1934. An act for the relief of Doctor Laurence C B. Chan (Rept. No. 95–4760).

H.R. 4836. An act to extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works (Rept. No. 95–477).

By Mr. MATHIAS, from the Committee on the Judiciary:

Without amendment:

S.J. Res. 80. A joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day" (Rept. No. 95–478).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MAGNUSON. Mr. President, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 30, 1977, at the end of the Senate proceedings.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 6, 1977, he presented to the President of the United States the following enrolled bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of the George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND (for himself and Mr. BENTSEN):

S. 2180. A bill for the relief of certain aliens; to the Committee on the Judiciary.

By Mr. HART (for himself and Mr. THURMOND) (by request):

S. 2181. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on Armed Services.

By Mr. CHILES (for himself and Mr. STONE):

S. 2182. A bill to provide for a Veterans' Administration outpatient clinic at an appropriate location in northwest Florida; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself and Mr. THURMOND (by request):

S. 2181. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; to the Committee on Armed Services.

Mr. HART. Mr. President, today, at the request of the administration, I am introducing a bill to authorize the contribution of up to 5,000 tons of tin to the International Tin Buffer Stock from the current strategic stockpile.

I want to emphasize that I have no position on this legislation, but as chairman of the Subcommittee on Military Construction and Stockpiles of the Armed Services Committee, which has jurisdiction over this matter, I am introducing the bill at the request of the State Department.

I do not anticipate that there will be any legislative action on this bill during this session of the Congress, but I feel that by introducing this legislation now, any interested party can review and comment on the provisions before the next session and I invite such comment.

I ask unanimous consent that the communication from the Department of State requesting this proposed legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., September 19, 1977.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: I have the honor to submit for your consideration the attached proposed bill, authorizing a contribution of tin metal by the United States to the buffer stock established under the Fifth International Tin Agreement.

As you know, the United States provisionally became a Party to the Fifth International Tin Agreement (The Agreement) March 11, 1976, and, with the advice and consent of the Senate, ratified the Agreement on October 28, 1976. The Agreement entered into force definitively on June 14, 1977, and will continue in force until June 30, 1981, unless extended or earlier terminated by agreement of the Parties.

The fundamental objective of the Agreement is to stabilize international tin prices within an agreed band, avoiding sharp fluctuations in prices which are harmful to both producers and consumers. A buffer stock is intended to be the primary mechanism to accomplish this objective. The buffer stock manager buys tin on the world market when prices fall, and sells when prices are high. Export quotas and production controls may also be employed, in the event that buffer stock purchases are inadequate to prevent prices from falling sharply.

The resources of the buffer stock under the Agreement consist of mandatory contributions by producing countries of 20,000 metric tons of tin metal or its cash equivalent, and voluntary contributions up to the same amount by consuming members. Six consuming members, Belgium, Canada, Denmark, France, The Netherlands, and the United Kingdom, have thus far made voluntary contributions, or have committed themselves to do so. Such voluntary contributions will total the cash equivalent of about 4,000 metric tons of tin metal.

Our experience under the Agreement indicates that the current resources of the buffer stock are not adequate to fulfill its intended function. The lack of adequate buffer stock resources, both in this and predecessor agreements, has led to excessive reliance on export and production controls. Such controls are a cumbersome mechanism in the tin industry, as there is a relatively long lag time between the initiation or relaxation of controls and the actual effect on supply and price. The effect of tight controls introduced when prices are low may be felt at precisely the same time demand has accelerated, creating shortages and high prices. This problem is exaggerated by the lack of tin metal in the buffer stock.

For these reasons, we believe that it is in the best interest of the United States to make a voluntary contribution of tin metal to the Buffer Stock. Such a contribution, particularly in the form of tin metal, will better enable the buffer stock to protect against price rises, and further may encourage those consuming members who have not done so to make a contribution.

The proposed bill will authorize a contribution of no more than 5,000 long tons of tin metal to be made out of tin already held by the Government and determined to be excess to the needs of the strategic and critical materials stockpile. This bill will not affect GSA disposal programs for tin.

Our contribution would give us a proportional right to the proceeds from liquidation of the buffer stock upon termination of the Agreement. Although there is no assurance that we will receive the full amount of our contribution upon such liquidation, at the conclusion of past International Tin Agreements (to which we were not a party) contributors have received substantially more than the amount of their contributions. The attached proposed bill provides in section three that cash proceeds will be treated as proceeds from the sale of tin excess to the Strategic Stock Pile. Any tin accruing to the United States would be added to the strategic and critical materials stockpile, if necessary, or treated as excess to the need of that stockpile.

The enclosed bill authorizes the President to attach conditions to our contribution. Article 22 of the Agreement permits consumer contributions to be made subject to conditions agreed to between the contributor and the International Tin Council (composed of all parties to the Agreement). In order to assure that our contribution of tin metal is valued for purposes of the Agreement no less favorably than those contributing cash, we intend to require that our contribution of tin metal be valued on the basis of the price received by the buffer stock when it sells the tin which we have contributed. The exact amount of our contribution will be determined such that the cash value of our contribution at the market price is proportional to our voting rights in the International Tin Council, but we do not intend to contribute more than 5,000 long tons.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation for the consideration of the Congress and that its enactment would be consistent with the Administration's objectives.

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

By Mr. CHILES (for himself and Mr. STONE):

S. 2182. A bill to provide for a Veterans' Administration outpatient clinic at an appropriate location in northwest Florida; to the Committee on Veterans' Affairs.

Mr. CHILES. Mr. President, I am introducing for myself and Senator STONE a bill providing for the establishment of a Veteran's Administration outpatient clinic in the Northwest Florida area.

We are proposing the construction of such a clinic in response to the very pressing and real needs of veterans living in the Florida Panhandle area. At the present time there are no VA medical facilities in this extensive region of Florida. I hear more and more from veterans who are experiencing an increasing difficult time in securing needed medical attention. This problem can only worsen as the population of the area continues its expanding growth rate.

Northwest Florida is primarily a rural area with only a few large population centers. Distances are great and transportation resources are limited. Right now numerous Florida veterans are having to journey to Mississippi and Alabama to receive medical services as there is no Florida facility within a reasonable travel distance. Even when the travel difficulty is overcome, the veteran is then faced with an often crowded facility and long waiting periods.

The veteran in need of the services of a physician should not be faced with this kind of obstacle course in trying to avail himself of the health care promised by law. I know from talking with veterans living in the Florida Panhandle that many are foregoing treatment they very much need because of these difficulties. For the older veteran, as with all older Americans, it does little good for them to be promised assistance and services if such help remains inaccessible.

Such is not what I think the Congress wants for our veterans. They have served our country well and deserve fair and respectful treatment. The cost involved in setting up a veterans outpatient clinic is small indeed when compared with the good it will accomplish. It represents an honoring of our commitment to the veteran and I hope that the Congress will act expeditiously and favorably on this legislation.

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall establish and maintain a facility for outpatient medical services and treatment at an appropriate location in northwest Florida in the area comprised of the following counties: Madison, Taylor, Jefferson, Wakulla, Leon, Gadsden, Jackson, Calhoun, Liberty, Franklin, Gulf, Holmes, Washington, Bay, Walton, Okaloosa, Santa Rosa, and Escambia.

Mr. STONE. Mr. President, it is my pleasure today to join my senior colleague, Senator CHILES, in introducing a bill to establish a veterans' outpatient clinic in northwest Florida.

Mr. President, northwest Florida is far removed from the population centers of my State. The nearest veterans' medical facilities are in Mobile, Ala., and in Gainesville and Lake City, Fla. These facilities are hundreds of miles away from the far reaches of northwest Florida. Veterans who live in this region can not receive the medical treatment from the VA they have honorably earned without traveling unreasonably long distances from their homes. I do not believe that this lives up to the commitment we made to these veterans when Congress established the veterans' health care system to meet the needs of those who suffered service-connected disabilities while serving our Nation.

This bill would direct the Veterans' Administrator to establish and maintain a clinic for outpatient treatment of veterans in an area comprised of the counties of northwest Florida. It does not specify the location for such facility. That decision would be left to the Veterans' Administrator to be made on the basis of VA demographic studies of the area. It is my understanding that the VA is currently conducting such a study and the results will be known by October 31, 1977.

Mr. President, one has only to glance at a map of Florida to appreciate the great distance which veterans in the northwest counties must travel to receive treatment from a veterans' health facility. The need for an additional facility in the northwest is clear and pressing. I hope that my colleagues will join in support of this bill to assist our worthy veterans.

ADDITIONAL COSPONSORS

S. 1585

At the request of Mr. CULVER, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. HELMS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Pennsylvania (Mr. SCHWEIKER) the Senator from Florida (Mr. STONE), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1585, the Protection of Children Against Sexual Exploitation Act.

S. 1623

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1623, to amend the Energy Reorganization Act of 1974.

S. 2099

At the request of Mr. WEICKER, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2099, to amend the Regional Rail Reorganization Act of 1973.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2142, the Tuition Tax Credit Act.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Resolution 264, authorizing additional expenditures for the Select Committee on Nutrition.

AMENDMENT NO. 963

At the request of Mr. HELMS, the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. BAKER) the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. HARRY F. BYRD), the Senator from Florida (Mr. STONE), the Senator from California (Mr. HAYAKAWA), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Amendment No. 963, to be proposed to S. 1871, to increase the minimum wage.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Amendment No. 986, intended to be proposed to the bill (H.R. 8444) to provide for a comprehensive energy policy.

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2149

(Referred to the Committee on the Budget.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 287

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands. Such waiver is necessary to permit consideration of the bill in order to implement the Covenant to establish the Commonwealth of the Northern Mariana Islands.

On March 24, 1976, the President approved Public Law 94-241 which approved the joint resolution of the Congress approving the Covenant to establish a Commonwealth of the Northern Mariana Islands. Pursuant to that Covenant certification was made to the President that the Mariana Islands District Legislature and a plebiscite of voters domiciled in said islands had approved the Covenant. On April 21, 1977, the Constitution of the Commonwealth of the Northern Mariana Islands was submitted to the President for approval pursuant to section 202 of the Covenant. It is anticipated that prior to, or on or about, January 9, 1978, the President will proclaim the date or dates which terminate the Trusteeship Agreement and establish the de facto government of the Commonwealth under said Constitution and the Covenant.

Under Article IV of the Covenant, the United States agreed to establish a court of record to be known as the "District Court for the Northern Mariana Islands." S. 2149 is a bill to create such court.

Since the government of the Commonwealth will require a period of time, after the date to be proclaimed by the President, within which to legislatively create the local courts required by the Commonwealth Constitution, it is imperative the S. 2149 be enacted by the 1st session of the 95th Congress in order that the federal court required by Article IV of the Covenant can exercise judicial authority at the earliest date after the said date to be proclaimed by the President.

Enactment of S. 2149 will authorize the expenditure of funds during fiscal year 1978 from budget function 750 in an amount estimated at $418,000.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2149, as reported by the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION 49—SUBMISSION OF A CONCURRENT RESOLUTION REVISING COVERAGE SCHEDULE OF EMPLOYEE RETIREMENT INCOME SECURITY ACT

(Referred jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.)

Mr. WILLIAMS (for himself and Mr. JAVITS) submitted the following concurrent resolution:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on September 23, 1977.

Mr. WILLIAMS. Mr. President, since enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the premium rate charged by the Pension Benefit Guaranty Corporation (PBGC) to single employer pension plans covered by ERISA's plan termination insurance program has been maintained at the rate that was established by ERISA is 1974, $1 per plan participant per year.

Section 4006 of ERISA provides that revision in the statutorily established premium rate may be accomplished only with the approval of both Houses of Congress to a concurrent resolution favoring a revision that has been requested by the PBGC.

By letter dated September 23, 1977, the PBGC has requested congressional approval of a new premium rate for single employer pension plans—$2.25 per participant per year. Subsequently, on September 29, 1977, PBGC transmitted a detailed analysis explaining the need for the increase, and a summary justification for its request.

Based on my review of these documents, I have concluded that the new rate is necessary to make up an already existing deficit in the single employer basic benefits program and to avoid further future deficits. According to PBGC, the increase should not have a significant impact for employers who maintain plans covered by termination insurance because it represents an increase in annual pension costs of between 0.1 percent and 0.5 percent and an increase in an-

nual payroll costs of less than 0.01 percent.

Therefore, I have today submitted a Senator JAVITS, the ranking minority concurrent resolution, cosponsored by member of my Human Resources Committee, favoring the premium PBGC has requested. During the ERISA oversight hearings that will be conducted by the Subcommittee on Labor next week, we will hear testimony from PBGC and other witnesses concerning this request, as well as other subjects I mentioned in my statements of September 15 and 21, 1977.

Mr. President, I ask unanimous consent that the PBGC letter of September 23, 1977 and its enclosed revised premium schedule, and the PBGC letter of September 29, 1977 and the summary justification be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION BENEFIT
GUARANTY CORPORATION,
Washington, D.C., September 23, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN WILLIAMS: Section 4006 (a) of the Employee Retirement Income Security Act of 1974 ("ERISA") authorizes the Pension Benefit Guaranty Corporation ("PBGC") to change the premiums for coverage of basic benefits under ERISA's pension plan termination insurance program, with Congressional approval. Pursuant to § 4006(b) of ERISA, I hereby transmit to the Senate Committee on Human Resources a proposed revised schedule of premiums to be prescribed for the PBGC's guarantee of basic benefits under plans that are not multiemployer plans.

Under the proposed revised coverage schedule, which would be effective for plan years beginning on and after January 1, 1978, the applicable premium rate would be $2.25 per participant. At present the PBGC's non-multiemployer basic benefits guarantee program is in a deficit position. Analysis of the policy alternatives and financial projections indicates that a $2.25 per capita premium, instituted January 1, 1978, is likely to enable the program to become fully funded within a reasonable period of time, without unduly burdening the premium-payers. I would be happy to explain the basis for this conclusion in greater detail and to provide the Committee with any other information that would be useful in its consideration of this matter.

Early approval of this request is needed to enable us to control the deficit mentioned above. Consequently, though we regret the unavoidable lateness of this request, we would very much appreciate your taking any action you can to insure its early approval by the Congress.

Sincerely,

MATTHEW M. LIND,
Acting Executive Director.

Enclosure.

PROPOSED REVISED COVERAGE SCHEDULE UNDER SECTION 4006 (a)(2)(A)(ii) OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subject to Congressional approval, the Pension Benefit Guaranty Corporation proposes to prescribe a premium rate of $2.25 per participant, to be charged to pension plans that are not multiemployer plans for the coverage of basic pension benefits under Section 4022 of the Employee Retirement Income Security Act of 1974. This proposed revised coverage schedule will be effective for plan years beginning on and after January 1, 1978.

PENSION BENEFIT
GUARANTY CORPORATION,
Washington, D.C., September 29, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On September 23, 1977, I transmitted to you the formal request of the Pension Benefit Guaranty Corporation to obtain Congressional authorization to increase the premium for the non-multiemployer basic benefit program to $2.25 per participant, effective January 1, 1978.

I am now forwarding to you copies of the Corporation's analysis of the Premium Requirement for the Single Employer Basic Benefits Insurance Program. This analysis is presented in two parts. Part I contains the Summary Report and Part II, the Detailed Analysis. I will, of course, be pleased to provide any additional information which your Committee desires.

As I pointed out in my earlier letter, early approval by Congress of the request is needed if the PBGC is to bring the deficit in the single employer basic benefits program under control. Accordingly, your assistance in obtaining prompt action on this matter would be very much appreciated.

Sincerely,

MATTHEW M. LIND,
Acting Executive Director.

Enclosure.

SECTION I. MANAGEMENT SUMMARY

A. PURPOSE

The Corporation has received formal authorization of its Board of Directors to request Congressional approval of an increase in the premium for the single employer basic benefits program to $2.25 per participant effective January 1, 1978. This staff document summarizes the background and basis for the Corporation's request that was formally transmitted to Congress by the Acting Executive Director on September 23, 1977.

B. BACKGROUND

ERISA initially established the premium for the single employer basic benefits program at $1.00 per participant. This rate has been continued to date because, prior to completion of the Corporation's current analysis, sufficient experience was not available to determine what premium was needed to support the program.

This analysis now indicates that at the end of the first two years of operations (September 2, 1974 to September 30, 1976) a deficit of $41 million had been incurred in the single employer program. This deficit occurred because the current premium of $1.00 was not sufficient to finance the estimated net claims of $82 million that had resulted from plan terminations. Furthermore, projections by the Corporation indicate that, if the premium is not increased, this deficit will continue to grow. By January 1, 1978 (the date on which the Corporation is requesting that the increase be effective) the projected deficit will have increased to approximately $60 million. Without a premium increase, this deficit is expected to continue to grow at the rate of $25 to $30 million per year. Thus, by the end of 1981 (the end of the period being analyzed by the Corporation) the deficit would be almost $170 million.

C. TIMING OF PREMIUM INCREASE

It is important that the recommended increase be effective by January 1, 1978. January 1 is a critical date, since over 50% of all premium revenue is collected from plans whose plan year begins on this date. Thus, any delay beyond January 1 would result in the loss of the majority of the year's revenue derived from the increase in the premium. In order to finance the additional deficit caused by even a one-quarter delay, the future premium would have to be increased from $2.25 to $2.40.

ERISA requires Congressional approval for any premium increase in the form of a concurrent resolution and further provides that any such premium increase must receive Congressional approval at least 30 days prior to the end of the plan year to which it may apply. Thus, in order for the premium increase to be effective on January 1, Congressional action must be completed before the end of the current session.

D. BASIS FOR REQUEST

1. Forecast of Future Claims

The Corporation's recommendation for a premium increase to $2.25 is based upon an analysis of insufficient plans that have terminated to date, as well as projections of the likely number and characteristics of future insufficient terminations, based upon that experience. In brief, the results of this analysis show that the rate of termination of plans with insufficient assets to pay guaranteed benefits (which are the only plans which result in a claim on the premium) do not appear to have increased since the enactment of ERISA.[1] Rather, 80% of the claims resulting from these insufficient terminations have occurred because of the closing of a business entity and, therefore, are the result of a business decision which was made independent of the existence of ERISA. Furthermore, the number of insufficient terminations since ERISA does not appear to have occurred at a materially different rate than can be inferred from 1972 and 1974 studies of pre-ERISA terminations. For these reasons, the Corporation feels that it already has sufficient experience to provide a valid basis for projecting future claims.

The Corporation's analysis shows that a statistically valid relationship exists between the number of insufficient terminations per quarter and the unemployment rate. The $2.25 premium requirement is based upon this relationship and the official administration forecast that the unemployment rate will decrease to 4.7% by the end of 1981. The sensitivity of the required premium to this latter assumption can be seen by assuming no future improvement in the current unemployment rate of 7%. In this latter case, the required premium would be $2.65.

2. Current Funding

The Corporation is basing its request for a premium increase on the premise that its claims should be "currently funded" when they occur.[2] This means that the Corporation shall attempt to have on hand at any point in time, assets which, together with the return that can be achieved on their investment, will be sufficient to pay all benefits guaranteed by it at that same point in time. By requiring plans insured during a given period to bear the cost of claims incurred during that period, "current funding" avoids, to the maximum extent possible, having pension plans in the future assume the burden for financing the cost associated with current insufficient plan terminations. It also keeps future premium increases to a minimum and, thereby, minimizes their potential destabilizing influence on the continuation of private pension plans.

Under a "pay as you go" approach, the Corporation would be funding its liability in a manner completely inconsistent with the philosophy of ERISA. From a programmatic

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[1] This is in contrast to the rate of total terminations, the vast majority of which are sufficient.

[2] This is in contrast to assuming that the program should be funded on a "pay as you go" basis which would only require that assets on hand be sufficient to pay specific monthly pension benefits when they fall due.

point of view, this funding policy would shift the responsibility for the claims of today's plans to future generations of plans. This, in PBGC's judgment, is not equitable. Furthermore, it would become increasingly more difficult to get the eventual premium increase approved, because the longer it is delayed the greater the ultimate increase would have to be. This in turn increases the likelihood that the Corporation would have to exercise its borrowing authority from the U.S. Treasury and/or have its liabilities financed from general tax revenues rather than premium income.

3. Other Key Program Assumptions

The Corporation's analysis of the premium requirement is based upon the following additional assumptions concerning the future of the single employer basic benefits program:

i. The assessability of employer liability under Section 4062 will be upheld by the courts. This Section is already the subject of active litigation. The Corporation currently projects (based on terminations to date) that 40 percent of plan asset insufficiency for all terminating plans will be collected from employers. The prospect of employer liability has discouraged termination of insufficient plans by many plan sponsors. It has caused others to make their plans sufficient prior to termination. If no employer liability can be assessed, the required premium would increase to about $3.35, given the current claims rate.

More importantly, any limitation on the Corporation's ability to assess liability is likely to induce additional insufficient terminations and, therefore, to further increase the premium needs of the program.

ii. The expected deficit of $60 million by the proposed date of the premium increase will be recovered by amortizing it over a 10-year period. A significantly shorter period was not selected in order to avoid increasing the premium by a substantial amount. However, use of a longer period would not significantly reduce the premium because of the need to continue to pay interest on the unrecovered balance.

iii. The program will not be funded so as to accumulate planned reserves for contingencies such as higher than expected claims or adverse investment performance. The mandatory nature of the program makes such reserves unnecessary.

iv. The current policies of the Corporation, including the investment of trust assets and transfer of assets from the revolving fund to the trust fund will be continued.

It should be noted that while the Corporation believes all of the above assumptions are valid, a change in any of them would cause the premium to be higher. Therefore, it is very unlikely that the Corporation's request for a premium of $2.25 per participant represents an overstatement of its actual needs.

E. SUMMARY

The $1.00 premium is not adequate to finance claims of the single employer basic benefits program on a current basis. It is the Corporation's recommendation that a premium increase to $2.25 be approved in time to become effective January 1, 1978. The sooner an increase is implemented, the lower the ultimate premium that will be required. The very large ultimate increase needed under the "pay as you go" approach presents such a great risk to the continuation of a self-financing program as to make it clearly unacceptable.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL RIGHTS IMPROVEMENTS ACT—S. 35

AMENDMENT NO. 1426

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. MATHIAS. Mr. President, I send to the desk an amendment in the nature of a substitute to S. 35, The Civil Rights Improvements Act of 1977.

On January 10, 1977, Senator BROOKE and I introduced S. 35, which is aimed at insuring the continued vitality of The Civil Rights Act of 1871 (42 U.S.C. § 1983) which has been a principal tool in this Nation's efforts to fulfill its commitment to the protection of the civil rights and civil liberties of the American people. Shortly thereafter, Congressman PARREN MITCHELL introduced an identical bill in the other body.

In the intervening months I have received many thoughtful and constructive comments with respect to S. 35, and several of these suggested changes have been incorporated in the amended version of S. 35 I now send to the desk.

Later this month, the Senate Judiciary Subcommittee on the Constitution will hold hearings on the Civil Rights Improvement Act of 1977. Given the significant changes that S. 35 would make in § 1983—Perhaps our most important civil rights statute—and the great interest the introduction of this legislation has generated nationwide, I believe it imperative that this improved version of S. 35 be introduced at this time, well in advance of the upcoming hearings. I am hopeful that the timely introduction of this substitute will insure that the scheduled hearings are both informative and productive, by allowing interested parties ample time to review the bill prior to the hearings.

Mr. President, I ask unanimous consent that the text of the amended version of S. 35 I now submit be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1426

Strike out all after the enacting clause and insert in lieu thereof the following:

"This Act may be called 'The Civil Rights Improvements Act of 1977' ".

SEC. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended to read as follows:

(1) by inserting "(a)" immediately before "Every"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, 'person' means any natural person, any association or combination of natural persons, any partnership, corporation or other legal entity, any State or Territory, any municipality, county, parish, or other state, territorial, or local governmental subdivision, unit, or agency, the District of Columbia, or any agency of the District of Columbia; and 'State or Territory' shall include the District of Columbia.

(c) A State, municipality, or any unit of government or agency thereof shall be liable for the conduct actionable under paragraph (a) of this section of any officer, employee, or agent of, or other person clothed with the authority of, such State, municipality, or or unit of government or agency thereof, when—

(1) for purposes of damages or other monetary relief—

(A) the conduct was authorized or required by a statute, ordinance, policy, or practice of the entity, unit, or agency, or was undertaken by a person or persons appointed or elected to make such policy;

(B) the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engaged in such conduct at the direction or with the encouragement of a supervisory officer;

(C) a supervisory officer, with the authority to act, knew or should have known that an inferior officer, employee, agent, or other person clothed with the authority of the entity had previously engaged in such conduct or similar conduct and failed either to halt such conduct or to take reasonable steps to prevent the recurrence of such conduct;

(D) one or more officers, employees, agents, or other persons clothed with the authority of the entity, unit, or agency, engaged in such conduct and the person seeking relief under this Act cannot by reasonable effort identify such officer, employee, agent, or other person or prove causation with respect to a particular officer, employee, agent, or other person clothed with such authority;

(2) for purposes of injunctive or declaratory relief—the officer, employee, agent or other person clothed with the authority of the entity, unit, or agency engages in such conduct. Specifically, the court shall direct the State, municipality, or any unit or agency thereof, to adopt disciplinary or other remedial measures in order to prevent the recurrence of such conduct, or, when otherwise appropriate.

(d)(1) In suits against an entity, unit, or agency pursuant to subsection (c), it shall not be a defense for such entity, unit, or agency that the officer, employee, agent, or person clothed with the authority of the entity, unit, or agency, is personally immune from liability under this Act because of the existence of a common law or statutory immunity attaching to such officer.

(2) Supervisory officers having command responsibility superior to any person engaging in conduct actionable under this Act, shall be jointly and severally liable with such persons whenever under subsection (c) of this Act the State, municipality, or unit or agency thereof, would be liable.

(3) A plaintiff may join to a claim under this Act any other claim or claims arising under the laws of any State, Territory, the District of Columbia, or of the United States, against the same defendant, additional defendants, or both, if the latter claim or claims and any one claim under this Act derive from a common nucleus of operative fact; and a court of the United States shall proceed to hear all such claims, as well as any additional claims under this Act that may be joined in the action.

(e) A prosecuting attorney who prosecutes any citizen of the United States or other person within the jurisdiction thereof, under color of any statute, ordinance, regulation, custom or usage of any State or Territory, or of the District of Columbia, shall be liable for monetary damages to any aggrieved party, on account of his actions or omissions in the course of the prosecution, if, but only if—

(1) He conducts the prosecution in a manner that would have violated the criminal defendant's rights to due process of law under the fifth or fourteenth amendment to the Constitution, or, would have violated such rights if the defendant had been convicted, or, sentenced, but was not or by mesne process therein;

(2) He knows or reasonably should know that his conduct would deprive the criminal defendant of due process of law under the circumstances described in subsection (a) of this section; and

(3) His conduct consists of suppressing, concealing, destroying, altering, or failing to make timely disclosure of evidence or investigative leads to evidence.

(4) This subsection shall not be construed as affecting in any way either—

(A) the liability of a prosecuting attorney for acts or omissions that are not within the scope of his functions in the course of a criminal prosecution, or

(B) the liability of any other person than a prosecuting attorney—

under any other provision of law.

(f) Every person, except one holding an elective office, who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, or of the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to injury to reputation without good cause therefor shall be liable to any aggrieved party in an action for legal or equitable relief or other proper proceeding for redress.

(g)(1) In any action brought under this Act, a court of the United States may certify to the highest court of a State a question of state law if—

(A) the State has established a procedure by which its highest court may answer questions certified from such court of the United States;

(B) the question of state law may be controlling in the action and cannot be satisfactorily determined in the light of the state authorities; and

(C) the court expressly finds that certification will not cause undue delay or be prejudicial to the parties. Except as provided in this subsection, no court of the United States shall stay or dismiss any action under this Act for the purpose of obtaining a decision as to the law of the State from a state court.

(2) No court of the United States shall stay or dismiss any civil action brought under this Act on the ground that the party bringing such action failed to exhaust the remedies available in the courts or the administrative agencies of any State, Territory, or the District of Columbia, or subdivisions, units, or agencies thereof.

(3) In the absence of extraordinary circumstances, no court of the United States shall enjoin a pending criminal prosecution under the law of any State, Territory, subdivision of any State or Territory, or the District of Columbia, if such prosecution—

(A) was commenced prior to the time of filing of the action in the court of the United States;

(B) is maintained against the party who brings the action in the court of the United States or against a person who is in privity with such party; and

(C) provides a full and fair opportunity for the presentation and resolution in the courts of such State, Territory, subdivision thereof, or the District of Columbia, of every claim of deprivation presented in the action in the court of the United States.

For purposes of this subsection, 'extraordinary circumstances' include but are not limited to the existence of a criminal prosecution commenced or maintained in bad faith or to enforce a statute, ordinance, or regulation, that is, in whole or in part, facially unconstitutional.

(4) In an action brought under this Act, a court of the United States may enjoin a pending criminal prosecution under the law of any State, Territory, subdivision of any State or Territory, or the District of Columbia, that was commenced subsequent to the time of filing of the action in the court of the United States, and shall enjoin such prosecution if it finds that the prosecution was initiated in response to a suit under this Act.

(5) In an action brought under this Act, a court of the United States may enjoin a proceeding in the courts of any State, Territory, subdivision of any State or Territory, or the District of Columbia, which is noncriminal in nature, even if such proceeding is in aid of and closely related to the enforcement of a criminal statute, ordinance, or regulation, irrespective of whether the proceeding was commenced prior to or subsequent to the action.

(h) In an action brought under this Act, the prior judgment of a court of any State, Territory, subdivision of a State or Territory, or the District of Columbia, shall be given merger and bar effect, and no other effect, as against any claim presented by a plaintiff in an action in a court of the United States, but such effect shall be given to that prior judgment only if it—

(1) was rendered on the merits of the same claim,

(2) following a full and fair hearing,

(3) in an action commenced by the present plaintiff:

Provided, however, That when a court of the United States hears a claim not so barred, it shall not grant as relief the modification or setting aside of any judicial order with respect to damages, irrespective of whether the order has been executed.

SEC. 3. Nothing contained in this Act shall be construed to constrict the availability of relief under any other provision of federal law or impair the availability of any other remedy for denials of any rights, privileges, or immunities secured by the Constitution or laws of the United States in the courts of the United States or of any State, Territory, subdivision thereof, or the District of Columbia.

SEC. 4. In evaluating the need for relief under this Act, no court of the United States shall consider the availability of a remedy under the laws, ordinances, or regulations of any State, Territory, subdivision thereof, or the District of Columbia.

SEC. 5. This Act shall apply in any action arising as a result of any deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States—

(a) with respect to the amendments made by Section 2 (b) through (f) of this Act, to any deprivation occurring after the date of enactment, and

(b) with respect to the remaining amendments herein made, to any action pending on the date of enactment of this Act and to any action subsequently brought.

INCREASE IN MINIMUM WAGE—S. 1871

AMENDMENT NO. 1427

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under the Act, to provide for an automatic adjustment in such wage rate and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

AMENDMENT NO. 1428

(Ordered to be printed and to lie on the table.)

Mr. LEAHY (for himself, Mr. MCINTYRE, and Mr. GARN) submitted an amendment intended to be proposed to the bill (S. 1871), supra.

AMENDMENT NO. 1429

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

AMENDMENT NO. 1430

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 1871), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a hearing on October 17 at 9 a.m. regarding the activities of the General Services Administration and giving specific consideration to S. 1265, S. 1267 and S. 1273.

ANNOUNCEMENT OF MEETING

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a meeting in room S-210 of the Capitol on Tuesday, October 11, at 10 a.m. to consider matters before the subcommittee, including markup of S. 1133, S. 865, S. 386 and H.R. 5054 which deal with repeal of apportionment requirements; and S. 666 which concerns retirement for Non-Indian employees of B.I.A. and I.H.S.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will begin consideration next week of S. 991, and four related bills, which would create a separate, Cabinet-level Department of Education in the Federal Government.

Representatives of the education community, labor, and State and local governments across the country will testify before the committee in 3 days of hearings, beginning Wednesday, October 12.

For the convenience of Members of the Senate, their staff, other interested individuals, and organizations, I ask unanimous consent that the schedule of witnesses and their affiliation be printed in the RECORD:

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION HEARINGS

9:30—Wednesday, October 12:

Panel I—Senator Claiborne Pell, Senator Pete V. Domenici, Senator Henry Bellmon.

Panel II—Citizen's Committee in Support of a Department of Education: James A. Farmer, Executive Director, Coalition of American Public Employees; Carl Marburger, Senior Associate, National Committee for Citizens in Education; Representative from Urban League.

Panel III—Academic Authorities: Dr. Rufus Miles, Woodrow Wilson School of Public Affairs, Princeton University; Dr. Stephen K. Bailey, Harvard Graduate School of Education.

10—Thursday, October 13:

Panel I—"Big Six"—Education Organizations: John Ryor, President, National Education Association; A representative of the Chief State School Officers; Grace C. Baisinger, President, National Congress of Parents and Teachers (PTA); Will D. Davis, President, National School Boards Association; Wesley Apker, Executive Secretary, National Association of State Boards of Education; Frank Dick, Immediate Past President, American Association of School Administrators (Superintendent of Schools, Toledo, Ohio.

Panel II—Former U.S. Commissioners of Education: Terrel H. Bell, Commissioner of Higher Education, State of Utah; Harold Howe, II, Vice President, The Ford Foundation; Francis Keppel, Director for the Program on Education, Aspen Institute Humanistic Studies; Sidney P. Marland, President, College Entrance Examination Board; Ster-

ling M. McMurrin, Dean, Graduate School, University of Utah.

10—Friday, October 14:

Panel I—State and Local Representatives: New Haven, Connecticut Mayor Frank Logue; Charles McDaniel, Georgia State Superintendent of Education; Jeannett F. Reibman, Pennsylvania State Senator; Joseph Cronin, Illinois State Superintendent of Education.

Panel II—Clark Kerr, Chairman, Carnegie Council for Policy Studies in Education; Albert Shanker, President, American Federation of Teachers.

Panel III—Higher Education: Charles Saunders, Director of Government Relations, American Council on Education; Dr. Donald L. Robinson, American Association of University Professors, Chairman of the Task Force on a Separate Department of Education; Dr. Helena Howe, Chairwoman, National Board of Directors, American Association of Community Colleges (President, Mesa Community College, Mesa, Arizona); Lawrence S. Zaglaniczny, National Director, Coalition of Independent College and University Students.

ADDITIONAL STATEMENTS

DOUBTS ABOUT THE CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, several weeks ago the chief Panamanian negotiator of the Panama Canal Treaties, Romulo Escobar Bethancourt, addressed his National Assembly.

In that address he described the terms of the treaties and gave his interpretation of the meaning of several controversial provisions.

Mr. Escobar's interpretations do not square with those of the Carter administration and this divergence of interpretation has become a major focus of Senate concern.

An article in the October 8 issue of Human Events discusses the effects of the Escobar statements and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SENATE REMAINS SKEPTICAL ABOUT PANAMA CANAL TREATIES

The Senate Foreign Relations Committee kicked off the hearings on the Panama Canal treaties last week, but the Administration, despite trotting out its heavy artillery—Secretaries Cy Vance and Harold Brown and Joint Chiefs Chairman George Brown—ran into some serious skepticism, even from such liberals as Senators Claiborne Pell (D.-R.I.) and Clifford Case (R.-N.J.).

Both Pell and Case are up for reelection next year, so that may help to explain their attitude, but there is no question that important doubts about the wisdom of the new treaties exist among many of the senators who have been called upon to give their approval.

What clearly bothers senators the most are the astonishing interpretations placed upon the treaties by Panama's chief negotiator, Romulo Escobar Bethancourt, who is clearly emerging as the Administration's No. 1 hurdle to ratification. In close to half-a-dozen instances—many of them disclosed in these pages previously—Escobar has directly contradicted our own negotiators on crucial points.

Indeed, so alarming have Escobar's statements been—and so unsatisfactory the responses of Secretary Vance and negotiator Sol Linowitz—that both Pell and Sen. Howard Baker (R.-Tenn.) have now demanded to see the negotiating minutes and other written documents for the purpose of finding out whether the Panamanians actually place the same interpretation upon these pacts as does the United States.

Baker, in fact, told Linowitz that he should get the current government officials in Panama to repudiate Escobar's explanations of the treaties, hinting that his decision to vote for or against them may hinge on such a repudiation.

The Administration, however, has not been eager to meet Baker's demands in any area of his concerns, and whether it will do so is problematical.

Just how evasive the Administration was in regard to the Escobar matter was brought out in the give-and-take between the senators and U.S. officials.

Sen. Case, for instance, raised with Vance the meaning of the "expeditious" passage provision in the neutrality treaty. Vance said it meant that U.S. vessels of war and auxiliary vessels will be entitled to go through the Panama Canal ahead of ships from other nations. But Case pointed out that Escobar specifically denied this to the Panamanians.

Linowitz then cut in: ". . . I think too much is being made of a statement that was made by the negotiator in Panama which has not been repeated. . . ." In other words, Linowitz thought "too much" was being made of the words of none other than Panama's chief negotiator!

When Baker pressed Linowitz later on in the day about Escobar, Linowitz shifted ground somewhat, this time saying he and other Administration officials had been "disturbed" by what the Panamanian was saying.

Following up on Case's point, Baker read a statement on "expeditious passage" which Escobar had given at an August 22 press conference. At that time, Escobar said "expeditious passage" did not mean "privileged passage." "As a matter of fact," said Escobar, "the concept of privileged passage was rejected" and the Panamanians did not agree that U.S. warships could go through first. "We cannot go that far," he emphasized.

Baker also read to Linowitz Escobar's statements on the neutrality provisions. While both Vance and Linowitz insist the U.S. has the unilateral right to intervene militarily to ensure that the canal remains open and is not closed off to any country, Escobar flatly stated: "The neutrality pact does not provide that the United States will say when neutrality is violated." Unless both sides concur in what the neutrality treaty means, said Baker, "there is no agreement."

Linowitz's response was hardly reassuring to Baker. "We know of these statements." Linowitz said, "We are disturbed by them. We have discussed them with our Panamanian colleagues. I don't think you will hear such statements again."

But will "we hear a repudiation of them?" asked the Tennessee lawmaker.

Sidestepping the question, Linowitz responded: "The circumstances under which they were made were that he was trying to build the kind of attitude [in Panama] toward support. . . . His colleagues with whom we have discussed his comments, and these include some people very high in the Panamanian government, have assured us that we will not hear similar statements in the future."

"Were you told," said Baker a bit later on, "that those statements were not the position of the Panamanian government?"

Linowitz again evaded: "We were told that those positions would not be asserted again in the future."

Baker also asked Linowitz: "Do you think you could successfully get a communication in writing from the Panamanian government saying this statement by Mr. Escobar in the August 22 press conference is not the position of the Panamanian government, and it does not take that position with respect either to expeditious passage or intervention . . .?"

Never promising anything, Linowitz replied: "We will try. We will ask for it."

Baker actually seemed put out with the struggle he and others had in trying to pin down the Administration on the Escobar matter. ". . . I might say," Baker finally told Linowitz, "that unless we can have a clear understanding that these [Escobar] statements are not the interpretations placed on these treaties by the Panamanians, I think the chances for advice and consent are greatly diminished."

But Baker wasn't the only one exasperated with Linowitz & Co. In discussing our rights—and the Panamanian interpretation of those rights—under the neutrality treaty, Sen. Pell told Linowitz: "The thing that concerns me the most is whether we have in perpetuity the right to ensure that our vessels, our war vessels and Merchant Marine vessels, have the right of passage through the canal. I understand from Article IV of the second [neutrality] treaty is that this right is understood by us. . . . But where is the evidence that the Panamanians have the same understanding? . . ."

Linowitz: "Senator, we wrote the language; they know how to interpret it. . . . They are certainly aware of what we are telling you today. . . ."

Pell: "The language itself does not really say that as I read it. Therefore, I would hope it would be abundantly clear [that we have the perpetual right to intervene to ensure our ships' passage through the canal]. . . . I doubt from reading the treaty that a Panamanian citizen would understand that we have this right. . . ."

Pell then pressed for a clarification of this point. "Do you have any notes from the negotiating sessions relaying the Panamanian viewpoint that would reinforce your view that this is Panama's understanding as well as ours?"

Failing to respond directly, as so often seemed to be the case, Linowitz said: "Certainly it was discussed in the course of the negotiation and certainly they know the interpretation we are placing upon the words. . . ."

But "I wonder," Pell pressed, "if there would be any way" of making those negotiating notes and transcripts "available to us in the committee"? At this point Secretary Vance leaped in, saying he would "take that under consideration and respond to you promptly."

Pell closed off his questioning: "I think this is really the key issue, the gut issue that bothers me and I think bothers many of my compatriots the most—do we have the right to [maintain the canal's neutrality] in perpetuity under their interpretation as well as under ours."

Both Case and Baker, sensing a reluctance by Administration officials to furnish the negotiating documents urgently requested by Pell, joined in the demand. Case said he would hope that "on all key matters" of this sort, "there would be no question" but that the Administration would furnish applicable material. Sen. Baker said it is "absolutely vital."

Throughout the first week of hearings, the Administration continued to duck, bob and weave about in dealing with the looming importance of the Escobar statements and the demands of the senators that there be some clear language from the Panamanians about U.S. rights under the neutrality treaty.

When senators began to talk of adding

reservations to the treaties, the State Department appeared adamant against any such strategy, contending that such clarifying provisions would force the negotiations to be reopened.

And so by the end of the week many senators were wondering: How solid can these treaties be, if even our own negotiators can't readily produce any substantive evidence that the Panamanians accept the U.S. position on the pacts' most vital clauses?

OREGON'S BOTTLE BILL—THE 1977 REPORT

Mr. HATFIELD. Mr. President, when Oregon's returnable beverage container legislation became law in 1972, it was thought that the primary function of the law was to reduce unsightly roadside litter. It is an overwhelming success in that respect. It was only later, however, as energy and resource conservation consciousness began to increase, that we determined that the Oregon law was a useful tool for instilling in people a "conservation ethic." The law then became even more than just a litter prevention statute.

Currently the Resource Conservation Committee, an interagency task force created by Congress to study the returnable container issue from a national perspective, is in the process of collecting data for their report. It is my understanding that President Carter has asked that the report be released prior to the end of the year. As my colleagues are well aware, this issue has been comprehensively studied at the local, State, and Federal level in the past. The upcoming report of the Resource Conservation Committee, however, will be valuable in that it will be a compilation of information from several Federal departments and agencies, all of whom have some interest or expertise in this area.

I am awaiting the release of this report with the hope that it will once again clarify many of the issues involved in my national returnable beverage container legislation, S. 276, now pending before the Senate Commerce Committee. After having had the opportunity to review the report, I am also hopeful that the Carter administration will recognize the importance of this legislation, and endorse a legislative proposal such as the one I have offered.

In order to provide my colleagues with the latest information on the Oregon experience, I ask unanimous consent that the latest report compiled by the Oregon Department of Environmental Quality appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, as I have stressed so often in the past, the concept I am proposing is not a new one. It was not too long ago that a high proportion of beer and soft drinks were sold in returnable containers. Moreover, it is not as if I am proposing that the beverage industry embark on some untried, hare-brained experiment. It is working in Oregon and Vermont, and will soon be tried in Michigan and Maine. Furthermore, no evidence has been presented suggesting that a deposit system would not work on a national scale.

EXHIBIT 1

OREGON'S BOTTLE BILL TODAY: OUTLINE OF LAW

[ORS 459.810 to 459.890]

The basic provisions of the Oregon law, commonly called the "Bottle Bill" are:

1. "Beverage" is defined as beer, malt beverage, mineral water, soda water, and carbonated soft drinks.

2. All "beverage" containers must have a minimum refund value clearly marked, paid by distributor to dealer, and by dealer to consumer.

3. Dealers and distributors may not refuse to accept and refund the deposit on empty "beverage" containers of the kind, size, and brand which they sell.

4. A "certified" beverage container is reusable by more than one manufacturer; capacity and shape may be set by the Oregon Liquor Control Commission.

5. Minimum refund value of each container is 5¢, except for "certified" containers, for which the minimum refund is 2¢.

6. Metal "beverage" containers with pull tabs that are detachable without the aid of a can opener may not be sold or offered for sale.

7. Redemption centers may be established by any person in order to accept returned containers.

(See Appendix for copy of law.)

SUMMARY

The Bottle Bill works in Oregon. The evidence that it is valid and effective is overwhelming. There is no basis for the rumors and misinformation continually circulated by Bottle Bill opponents across the country as they attempt to discredit the Oregon success and to stop other states' legislation. A few facts should dispel these distortions; formidable data backs our statements. Among these facts are:

Beverages sold in returnable containers cost less, as they always have, not only in Oregon but all through the nation. Post-Bottle Bill beverage price increases, associated with runaway sugar prices and general inflation, occurred in Washington and California as well as in Oregon.

Sales have not fallen. They have increased. Weather and the availability of disposable income have their usual effects on beverage sales.

Employment has increased as a result of this legislation. A study sponsored by the Federal Energy Administration projects increased employment nationwide as a result of a proposed national Bottle Bill.

State highway department expenditures for litter collection remain stable. And litter has been reduced. Clerical errors involved in the 1972–74 highway department litter survey, long since corrected, are still being trotted out by the beverage industry as evidence against the Bottle Bill.

The aluminum can has not disappeared from Oregon, nor has any container been banned. After an initial slowing in sales, beverage cans are once again claiming their share of the market in Oregon.

Oregonians support the Bottle Bill with an enthusiasm usually reserved for popular sports, motherhood and the flag. They are not disenchanted or embittered, as some industry representatives would have us believe.

The Bottle Bill gives some Americans a chance to demonstrate their real priorities: a good life and clean environment based not on consumerism but on conservation. The public does not demand a throwaway economy; it has merely responded to aggressive advertising and marketing techniques which promote waste of natural resources.

The existence of a Bottle Bill, with its high public support and participation, has greatly enhanced community awareness of and commitment to environmental concerns. It has facilitated recycling and resource recovery operations in the state, as well as public acceptance of solid waste management programs, public involvement in community air quality standards, and public protection of open spaces.

EFFECT ON SOLID WASTE AND ROADSIDE LITTER

380 million fewer beverage containers are disposed of in Oregon each year because of the Bottle Bill. It has been calculated that the number of containers entering the solid waste stream has been reduced by 88% as a result of the law. A Portland garbage hauler commented that the volume of household garbage on his route diminished by 7–10% when the law went into effect.

NUMBER OF BEVERAGE CONTAINERS PER YEAR IN SOLID WASTE

Type of container	Prebottle bill conditions	Postbottle bill conditions	Reduction
Bottles:			
Beer:			
Nonreturnable	89,910,000	458,800	
Returnable	26,692,500	17,556,600	
Soft drink:			
Nonreturnable	18,000,000	0	
Returnable	36,000,000	21,840,000	
Total bottles	173,602,500	39,855,400	133,747,100
Cans:			
Beer	161,320,000	3,478,000	
Soft drink	102,000,000	8,100,000	
Total cans	263,320,000	11,578,000	251,742,000
Total beverage containers	436,922,500	51,433,400	385,489,100

Source: Oregon State University botile bill survey.

Oregonians take great pride in the beauty of their state. They are especially proud when tourists remark that there is noticeably less roadside litter in Oregon than in neighboring states. This fact has been substantiated by several surveys. One of these was carried out in late 1976 by an Oregon newspaper, collecting and comparing litter from Oregon highways and those of its neighbor, Washington. They found 7.5 times more bottle and can litter in Washington. Roadside litter reduction was the original goal of the law and is also the most obvious result.

To document the level of the law's success, a survey of roadside litter amount (by volume and piece) and content was carried out on highways throughout the state, as provided in the bill. The survey was conducted by the State Highway Division along 30 randomly selected one-mile sites in Oregon, for one year before and two years after the law went into effect. When all the figures were in and comparable factors were checked for accuracy, they showed a significant reduction in beverage container litter. The reduction after one year was 72 percent, after two years 83 percent. The trend was clear: the Bottle Bill was indeed producing the desired result. There was no necessity for, nor had provision been made to continue the survey beyond these three years; costs of recording and analyzing masses of data made its continuation impractical.

The Oregon State Highway Division continues its normal highway program of roadway maintenance, right-of-way maintenance, litter collection, and so on. Over the past five years, litter collection costs have risen only 1.5 percent annually, well below the rate of inflation, from $589,076 in 70/71 to $633,353 in 75/76. These figures include the costs of the Oregon Youth Litter Patrol, which is funded through the sale of "vanity" license plates.

The dramatic reduction in visual pollution

along Oregon highways is a result of the greatly reduced volume of beverage container litter. The number of bottles and cans found on comparable test sites before the law amounted to 22,639; after the law had been in effect for two years, the count on the same sites was down to 3,748. Not only are cans and bottles the most visible sort of litter; are also the least biodegradable. Natural conditions can recycle a tin can to dust in 100 years, an aluminum can in 500 years, and a glass bottle in one million years.

LITTER COMPOSITION ON OREGON'S HIGHWAYS BEFORE AND AFTER THE BOTTLE BILL

	1971–72				1973–74			
	Item count	Percent of total litter	Cubic feet	Percent of total litter	Item count	Percent of total litter	Cubic feet	Percent of total litter
Deposit beverage containers	2,829	4	NA	NA	2,099	4.3	NA	NA
Nonreturnable containers	19,810	25	NA	NA	1,649	3.4	NA	NA
Total beverage containers	22,639	29	678	42	3,748	7.7	112	13
Other items	56,605	71	928	58	44,862	92.3	735	87
Total	79,244	100	1,606	100	48,610	100	847	100

Source: Oregon Highway Division.

ENERGY SAVINGS DOCUMENTED

The critical need to conserve energy has begun to receive national attention from both press and government. Bottle Bill proponents have long been aware of the need to look at all energy costs of container reuse, accounting for raw material acquisition, manufacturing and cleaning processes, and transportation at each stage. Taking into account total resource patterns, energy savings resulting from the shift to returnables have been significant. A net saving of 1.4 trillion BTU's per year has been realized in the new system in Oregon alone, enough to supply the heating needs of 50,000 Oregonians. Much higher savings would be realized with a national bottle bill. A Federal Energy Administration-sponsored study projects a savings of 144 to 169 trillion BTU's annually, equivalent to 70,000 to 80,000 barrels of oil per day saved nationally.

Higher return rates result in higher energy savings, of course. In Oregon, returnable soft drink bottles are reused about 24 times and beer bottles about 20 times. At this rate, the returnable bottle system uses one third the energy consumed in the throwaway system. Added energy savings are obtained from recycling those bottles that are not refilled. The return rate for cans in Oregon is very high, at 80%; the recovered metals are recycled, for additional savings. According to industry figures, the manufacture of aluminum from virgin materials requires 20 times the energy needed for recycling aluminum.

ENERGY SAVING CALCULATIONS—OREGON 1974

	Percent recycled (percent)	Container energy per gallon consumed [1] (Btu)	Container size (ounces)	Container energy per filling (Btu)	Container mix, 1971 (percent)	Total container for 1974 with 1971 mix (millions of fillings)	Container mix, 1974 (percent)	Total containers for 1974 with 1974 mix (millions of fillings)	Difference in container use (millions of (fillings)	Energy requirement change (millions of Btu)
Beer:										
Returnable bottles	95	30,730	12	2,880	36	144	96	384	+240	+691
Nonreturnable bottles	0	64,380	12	6,040	31	124	0	0	−124	−749
Can:										
Aluminum	[2] 15	75,030	13	7,620	33	132	0	0	−132	−1,006
Aluminum	[3] 70	38,630	13	3,920	0	0	4	16	+16	+63
Subtotal, beer					100	400	100	400		−1,001
Soft drink:										
Returnable bottles	96	11,230	16	1,404	53	159	91	273	+114	+160
Nonreturnable bottles	0	53,010	10	4,141	7	21	0	0	−21	−87
Can:										
Bimetal	[4] 4	53,220	12	4,989	40	120	4	12	−108	−538
All steel	[2] 70	31,340	12	2,937	0	0	5	15	+15	+44
Subtotal, soft drinks					100	300	100	300		−421
Total energy consumption change										−1,422

[1] Based upon data from Resource and Environmental Profile Analysis of 9 Beverage Container Alternatives.[17]
[2] National average percent recycled of 15.[17]
[3] Gudger and Bailea.[1]
[4] Although the percent returned to retailers is approximately 70 percent very few are recycled.

Source: Oregon's Bottle Bill 2-yr later—Oregon Environmental Council, 1974.

PUBLIC HEALTH AND SAFETY

According to all government agencies charged with inspection and enforcement of health and sanitation standards, no problems related to the Bottle Bill have been reported, nor has any new staff been added to implement the law. Distributors and dealers are managing the flow of returned containers, efficiently sorting and handling them, with no adverse effect on health and safety standards in stores or other outlets.

Public health is protected by this law as it outlaws metal beverage containers with pull tabs. The result has been to make Oregon's recreation areas cleaner and safer. Oregon has fine public beaches that run the entire length of the coast; the Bottle Bill has helped to keep them and our campgrounds and wilderness areas free of sharp metal and broken glass which are a hazard to the health and safety of people and animals.

IMPROVING THE EMPLOYMENT PICTURE

Employment in Oregon increased as a consequence of the Bottle Bill. New jobs were created in brewing, soft drink bottling, transportation and retail sales, while bottle and can manufacturing positions were reduced as the demand for containers dropped. An estimated net increase of $1,600,000 in annual payroll ensued, with its accompanying economic benefit to the community.

A study by Gudger and Bailes estimates a gain of 365 jobs, calculated from all segments of the economy. The lowest estimate, 135 jobs gained, is from a study by ADS which was based on inadequate data, having failed to elicit enough responses from enough industry sectors.

Improving the employment picture in Oregon was not the initial goal of the Bottle Bill but has been a welcome effect.

EFFECT OF BOTTLE BILL ON OREGON EMPLOYMENT

Production labor (decrease)	350
Truck driving (increase)	140
Warehouse and handling (increase)	575
Total employment (increase)	365

Source: Oregon State University bottle bill survey.

THE ECONOMY: SALES UP, PRICES DOWN

The net economic effect of the Bottle Bill on Oregon consumers and beverage-related industries has also been positive. Excise tax records show increased beer sales. Soft drink manufacturers, distributors, and retailers reported a sales increase in 1973 over 1972 of over 10%. This figure is well above the national trend for this economically depressed period. Total operating income for all beverage-related business sectors combined was increased by $3.93 million per year in the two years following the effective date of the law. Beverage sales and price fluctuation are dependent on many factors other than refund legislation, factors which have always influenced the market, such as weather, sugar prices, spendable income, inflation, and labor costs.

Oregon consumers save money with the shift to refillable containers. The price for beverages in cans has traditionally been as much as 50% per ounce higher than for the same beverages in refillable bottles. These prices of beverages in refillable containers were compared with non-reused containers in an EPA-sponsored study in 24 states. Beer and soft drinks in refillable bottles were shown to be definitely cheaper, from 5% to

58% less, depending on the size of the container, with greater savings going to larger sizes.

Nationally, the manufacture of disposable beverage containers has grown eight times faster than the consumption of beer and soft drinks. The beverage industry believes that convenience packaging is largely responsible for sales growth; they resist refund legislation, fearing it will cut into sales volume. However, in Oregon none of these grave economic consequences predicted by the beverage industry has occurred; Oregon's economy is the better for the Bottle Bill.

OREGON BEER CONSUMPTION

Fiscal year	Gallons (millions)	Population (millions)	Consumption (gallons per capita)
1964	27.8	1.856	14.97
1965	30.0	1.906	15.73
1966	31.7	1.972	16.07
1967	33.7	2.001	16.84
1968	35.1	2.006	17.49
1969	35.7	2.055	17.37
1970	39.4	2.081	18.93
1971	40.6	2.091	19.41
1972	44.8	2.143	20.90
1973	46.3	2.183	21.20
1974	46.5	2.224	20.90
1975	48.5	2.266	21.40
1976	52.3	2.299	22.74

Source: Oregon Liquor Control Commission.

ENFORCEMENT

The Oregon refund law is self-sustaining and self-implementing, a popular law which is in effect publicly administered.

There have been no enforcement problems associated with the refund law. Its highly efficient design, based on positive reinforcement, creates built-in incentives for complying. The 18-month phase-in period, between passage and implementation, gave retailers and consumers time to understand the law's mechanisms. Complaints are rare, usually resolved informally. No state or local government agency has added staff or incurred significant added expense for enforcement of this law. Enforcement power was charged to the Oregon Liquor Control Commission; they report only five retailers prosecuted in as many years since the law went in to effect.

RECYCLING AND RESOURCE RECOVERY

Recycling centers, both commercial and non-profit have continued to flourish in Oregon since the law went into effect. Since 1970, the number of recycling programs in the state has risen to 325. Bottle Bill opponents had predicted that it would cut into voluntary recycling and discourage the harvest of other recyclable waste products. In fact, the reverse is true; the public has been educated by the Bottle Bill to recycle other items. Public participation is the basis for recycling; beverage containers are not essential to economic operation of recycling centers.

Eighty percent of beverage cans are returned in Oregon; while they are not refilled, they are recycled. Several recycling companies service beer and soft drink dealers, collecting the returned aluminum, steel, and glass containers and processing them in preparation for recycling.

The Bottle Bill has not hindered the planning or implementation of resource recovery processing facilities as part of solid waste management in Oregon. Today's technology allows recovery of energy and some materials from municipal wastes; as it develops, it must become complimentary to the concepts of recycling and reuse, if it is to conserve self. Resource recovery from solid waste cannot rely on any one source of waste, such as beverage containers, and remain economi-resources rather than serve as an end in itcally viable.

The Recycling Information Office of the Oregon Department of Environmental Quality has served as an information exchange for the public and recyclers throughout the state since 1973. Their Recycling Switchboard lists all recycling and resource recovery operations in the state; a monthly bulletin, guides for recycling projects, fact sheets, and market lists are available for recyclers, legislators, environmental groups, educators, public officials, and interested citizens.

PUBLIC ACCEPTANCE

Public acceptance is the real measure of the Bottle Bill's effectiveness. In Oregon 90% of the population approve of the law, and 95% participate in its implementation, as illustrated by the high container return rate. Energy is saved; money is saved; bottler, consumer and environment gain.

Convenience plays an important role in the Bottle Bill's popularity; containers are commonly returned to the store where they were bought, making returns easy for the consumer and the retailer. Another advantage is reduction of household garbage volume and collection cost. And, of course, pride in a cleaner landscape continues to inspire Oregonians to prefer the refillable container system.

The public opinion surveys underscore the persistence of the Bottle Bill's popularity. One, conducted by Applied Decisions Systems in 1973, showed that 95% of those interviewed had an opinion of the law and, of those, 95% approved the law. The second survey, by the Seattle Post-Intelligencer in 1975, showed 90% in Oregon in favor of the bill, and in Washington, a neighboring state, 68% in favor of an Oregon-type refund law for their state.

Oregon retailers and distributors have cooperated and supported this new law from the start, making the transition smooth. Retailers continue to handle the returns themselves rather than requesting the creation of redemption centers as provided for in the law.

Government officials and politicians look favorably on the Bottle Bill. There has been no attempt to repeal this popular piece of legislation; instead, modifications to increase its scope in various ways have been proposed in each session of the state legislature. The fact that the Bottle Bill has not increased the costs of government nor expanded the bureaucracy enhances its popularity with public and officials alike.

APPROVAL/DISAPPROVAL OF BOTTLE BILL

[In percent]

	Approve	Disapprove	No opinion
1973 All Oregon respondents	90.8	4.7	4.5
1973 Oregon soft drink consumers	90.8	4.6	4.6
1973 Oregon beer consumers	90.3	5.0	4.7
1975 All Oregon respondents	89.9	4.1	6.0
1975 All Washington respondents	68.0	23.6	8.4

Sources: Applied Decisions Systems Study 1973; Seattle Post-Intelligencer 1975.

Note: Additional information available. See bibliography.

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For more information, call or write: Oregon Department of Environmental Quality Recycling Information Office, 1234 SW Morrison Street, Portland, Oregon 97205.

* Availability varies.

COMPARISONS OF BEVERAGE PRICES IN OREGON AND WASHINGTON, OCT. 18, 1976

	Safeway Store		Vancouver Food Cntr., Vancouver, Wash.	Thriftway, Portland, Oreg.
	Vancouver, Wash.	Portland, Oreg.		
Blitz:				
6-pack, 11-oz bottles	$1.58	$1.58	$1.59	$1.58
6-pack, 12-oz cans	1.68	1.69	1.69	(1)
32-oz quart	.58	.56	.63	.56
12-pack, 11-oz bottles	3.08	3.14	----------	3.14
12-pack, 12-oz cans	3.28	3.35	3.35	(1)
Olympia:				
6-pack, 12-oz bottles	1.58	[2] 1.58	1.59	[2] 1.58
6-pack, 12-oz cans	1.68	1.69	1.69	(1)
32-oz quart	.58	.56	.63	.56
12-pack, 12-oz bottles	3.08	[2] 3.14	----------	[2] 3.14
12-pack, 12-oz cans	3.28	3.35	3.35	(1)
Ranier:				
6-pack, 11-oz bottles	1.58	1.58	1.59	1.58
12-pack, 11-oz bottles	3.08	3.14	----------	3.14
Budweiser:				
6-pack, 12-oz bottles	1.68	[2] 1.72	1.69	[2] 1.72
6-pack, 12-oz cans	1.78	1.84	1.79	1.82
32-oz quart	.68	.65	----------	(3)
12-pack, 12-oz bottles	3.48	[2] 3.39	----------	[2] 3.39
Coca-Cola:				
6-pack, 12-oz cans	1.49	1.49	----------	----------
8-pack, 16-oz bottles	1.85	1.85	----------	----------
26-oz bottles	3/1.09	3/1.09	----------	----------
7-Up:				
6-pack, 12-oz cans	1.49	1.49	----------	----------
8-pack, 16-oz bottles	1.85	1.85	----------	----------
28-oz bottle	3/.99	3/1.09	----------	----------
Pepsi Cola:				
8-pack, 16-oz bottles	1.85	1.85	----------	----------
26-oz bottle	3/.99	3/1.09	----------	----------
Tab:				
8-pack, 16-oz bottles	1.85	1.85	----------	----------
32-oz bottle	3/1.09	3/1.09	----------	----------
Cragmont: 12-oz cans	6/.99	6/.99	----------	----------

[1] No cans.
[2] 11 oz.
[3] No quarts.

Note: Vancouver prices do not include the 5.1-percent Washington sales tax. Portland prices do not include the minimum deposit.
Source: Oregon Department of Environmental Quality Recycling Information Office.

OREGON JOURNAL ROADSIDE LITTER SURVEY, 1976

Oregon highways	Average daily cars	Beverage containers in litter	Days since last pickup	Days since last pickup	Beverage containers in litter	Average daily cars	Washington highways
0-1	3,200	27	65-74	[1] 156	343	3,275	W-1
0-2	915	13	100	[1] 217	339	980	W-2
0-3	9,300	11	78-108	[1] 217	306	5,000	W-3
0-4	2,650	85	365+	[1] 217	591	2,300	W-4
0-5	3,800	48	86	[2]	423	3,900	W-5
0-6	6,500	34	111	[2]	232	6,300	W-6
0-7	1,200	23	66	[1] 139	149	1,300	W-7
0-8	3,400	97	74	73-80	144	3,000	W-8
0-9	1,050	17	78-108	[1] 217	253	990	W-9
0-10	2,500	30	65-74	[1] 217	155	1,300	W-10
Totals for 10 mi	34,515	385	----------	----------	2,935	28,345	----------
Averages per mile	3,452	38.5	----------	----------	293.5	2,835	----------

[1] Estimates only.
[2] Undetermined.

Source: Oregon Journal Oct. 25, 1976.
Appendix p. IV Oregon's Bottle Bill, 1977 report.

BEVERAGE CONTAINERS

459.810 Definitions for ORS 459.810 to 459.890. As used in ORS 459.810 to 459.890 and subsections (5) and (6) of 459.992, unless the context requires otherwise:

(1) "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(2) "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar, or carton containing a beverage.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459.880.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "In this state" means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.

(8) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.

(9) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(10) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

[1971 c.745 s.1]

459.820 Refund value required. (1) Except as provided in subsection (2) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents.

(2) Every beverage container certified as provided in ORS 459.860, sold or offered for sale in this state, shall have a refund value of not less than two cents.

[1971 c.745 s.2]

459.830 Practices required of dealers and distributors. Except as provided in ORS 459.840:

(1) A dealer shall not refuse to accept from any person any empty beverage containers of the kind, size and brand sold by the dealer, or refuse to pay to that person the refund value of a beverage container as established by ORS 459.820.

(2) A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor, or refuse to pay the dealer the refund value of a beverage container as established by ORS 459.820.

459.840 When dealer or distributor authorized to refuse to accept or pay refund in certain cases. (1) A dealer may refuse to accept from any person, and a distributor may refuse to accept from a dealer any empty beverage container which does not state thereon a refund value as established by ORS 459.820.

(2) A dealer may refuse to accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the commission approving a redemption center under ORS 459.880.

[1971 c.745 s.4; 1973 c.758 s.2]

459.850 Indication of refund value required; exception; certain metal containers prohibited. (1) Every beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, or by a label or other method securely affixed to the beverage container, the refund value of the container.

(2) Subsection (1) of this section shall not apply to glass beverage containers designed for beverages having a brand name permanently marked thereon which, on October 1, 1972, had a refund value of not less than five cents.

(3) No person shall sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

[1971 c.745 s.5]

459.860 Certification of containers as reusable by more than one manufacturer. (1) To promote the use in this state of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the commission may certify beverage containers which satisfy the requirements of this section.

(2) A beverage container may be certified if:

(a) It is reusable as a beverage container by more than one manufacturer in the ordinary course of business; and

(b) More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

(3) The commission may by rule establish appropriate liquid capacities and

shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (1) of this section.

(4) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name.

[1971 c.745 s.6; 1973 c.693 s.1]

459.870 Decision upon certification applications; review and withdrawal of certifications granted. (1) Unless an application for certification under ORS 459.860 is denied by the commission within 60 days after the filing of the application, the beverage container shall be deemed certified.

(2) The commission may review at any time certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under ORS 459.860, the commission determines the container is no longer qualified for certification, it shall withdraw certification.

(3) Withdrawal of certification shall be effective not less than 30 days after written notice to the person who filed the application for certification under ORS 459.860 and to the manufacturers referred to in subsection (2) of ORS 459.860.

[1971 c.745 s.7]

459.880 Redemption centers. (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center and the names and addresses of the dealers to be served by the redemption center. The application shall include such additional information as the commission may require.

(3) The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the commission approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to insure the redemption center will provide a convenient service to the public as the commission may determine.

(4) The commission may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with its order approving the redemption center, or if the redemption center no longer provides a convenient service to the public.

[1971 c.745 s.8; 1973 c.758 s.3]

459.890 Certification and withdrawal procedures. The procedures for certification or withdrawal provided for in ORS 459.860 to 459.880 shall be in accordance with ORS chapter 183.

[1971 c.745 s.9]

THE LABOR LAW REFORM ACT

Mr. HATCH. Mr. President, in my continuing effort to keep my colleagues informed on developments relating to labor law reform, I noted with great interest two recent Washington newspaper editorials on the subject. Both the Washington Star and the Washington Post, papers of often divergent viewpoints, conclude that H.R. 8410—and by implication S. 1883 in the Senate—the Labor Reform Act of 1977, were written by friends of organized labor and address only the concerns of big labor. The Post states in part and I quote:

But if the legislation passes in anything like its present form, Congress will only have strengthened the labor laws partially and selectively and will have left a great deal undone. That is not what you would call a decent job of reforming the nation's labor laws.

And the Star explains:

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

In spite of these valid admonitions, the House seems to be intent upon doing big labor's bidding by enacting a law which deforms our national labor relations policy, a policy which has worked remarkably well for the past 40 years, to punish a few so-called flagrant violators.

I trust that the Senate will be more deliberative prior to modifying this delicately balanced labor law which has worked effectively in the public interest so as to reject those statutory changes which in themselevs would make unionization irresistible and from which there would rapidly flow into the hands of union leaders, unchallengeable power.

I ask unanimous consent that the two editorials I have referred to be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 5, 1977]

TILTING THE LABOR LAW

The National Labor Relations Act was passed 42 years ago, in the midst of the Great Depression, to give industrial workers the right to organize to bargain collectively. It was not intended to be a lever to force employes into unions.

But a "reform" package currently under consideration by the House might well tilt the law in the direction of forced unionism.

This is the bill that leaders of organized labor want above all others in the 95th Congress. Why? Because they believe it will make it easier to organize non-union industries, particularly in the South.

The main thrust of the bill is to speed elections among workers on whether they want to unionize and to penalize employers severely for violations of labor laws.

Elections would have to be held within 15 days after petitions are filed by a majority of workers, and within 45 days after petitions are filed by 30 to 50 per cent of workers. Employers, of course, should not be allowed to drag out the election process unduly but the deadlines proposed hardly give adequate time for employers to argue their side and for employes to make considered judgments.

Among the bill's penalty provisions is one that would require double back pay, rather than the straight back pay provided by existing law, to workers deemed by authorities to have been fired illegally for union organizing activity. Opponents argue, correctly in our opinion, that the law is not intended as a deterrent or to provide recompense for suffering but as a means of making an illegally fired employe financially whole.

Another provision would authorize the National Labor Relations Board to bar companies that willfully violate final NLRB orders from government contracts for three years. Such a procedure not only would penalize employers but would defeat the purpose of the bill, which is to protect employes. Fewer contracts mean fewer jobs.

Opponents argue that a major shortcoming is that the bill does not address coercive and illegal union activities. Alternate legislation introduced by Rep. John Erlenborn, R-Ill., and supported by business groups, would require secret ballots in determining whether employes want union representation and on whether to call or maintain a strike, would sharply restrict a union's ability to fine its members, would bar union payroll check-off for political purposes and would broaden the range of unfair labor practices by unions.

Not only has the Erlenborn bill been shuffled into oblivion but House leaders sent the labor-backed bill to the floor under a "closed rule" to prevent any such amendments being offered. Amendments were limited under the "closed rule" to issues addressed specifically in the bill before the House.

The bill before the House was written by friends of organized labor, and some of its supporters make no bones about their hope that it will lead to the end of open shops. Frank Thompson Jr., chairman of the House Labor subcommittee and sponsor of the bill, was quoted recently as saying: "I hope this bill will . . . protect workers . . . by doing away with open shop havens which entice industry with the siren song of cheap and docile labor."

The danger in the bill is that it could so overload the National Labor Relations Act on the side of the unions that employers might decide it simply would not be worthwhile to resist unionizing efforts. If employers find it easier to deliver their employes to unions than to argue the case against them, where then is there freedom for workers to join or not to join a union?

[From the Washington Post, Oct. 4, 1977]

THE LABOR BILL

Both business and labor have been cranking up their supporters for today's debate in the House on a bill to amend the National Labor Relations Act. Listening to labor representatives describe the legislation, you might think it justly punished genuinely evil employers and gave workers their just entitlements and rights. Listening to business people describe it, you might think this was a simple power grab by unions out to destroy employers who get in their way. As in most matters of this kind, not all virtue is on one

side. The bill is neither as good or as bad as it has been depicted, and it falls far short of providing the comprehensive reform that the labor laws need.

The bill has two valid central themes. One is that the procedures of the NLRB, especially those concerning union representation elections and enforcement of NLRB orders, are too cumbersome and time consuming. Anyone who watched the NLRB with a degree of detachment knows this is true, the possibilities for delay seem endless and the most simple issues can become incredibly complex. The other theme of the legislation is that the penalties now imposed on employers who defy the law are inadequate. This also is true; the need to strengthen penalties was underlined recently in the J. P. Stevens case when a federal court said it had "grave doubts" about its ability to enforce the labor law against those who persistently break it.

But we have doubts about the way in which the bill before the House attempts to remedy those problems. It would impose, for example, fixed and short waiting periods before representation elections—a useful idea—but it would not give the NLRB enough flexibility to extend those periods in extraordinarily difficult cases. And it would make the loss of government contracts the ultimate sanction against employers who are persistent and flagrant violators of the law. While it is true that the government should not be doing business with a persistent law-breaker, there ought to be other ways to compel compliance. Taking away government contracts punishes workers as well as companies and may sometimes leave untouched the corporate officers who are responsible for the wrongdoing.

Beyond all this, the legislation being debated today doesn't consider the other side of the coin. Employers are not the only malefactors in labor disputes. Unions, too, sometimes break the law. This bill, put together by the administration, its friends in the labor movement and their friends in the House, addresses only half of the problem. Perhaps some of its shortcomings can be cleaned up as (and if) it progresses through Congress. (But if the legislation passes in anything like its present form, Congress will only have strengthened the labor laws partially and selectively and will have left a great deal undone. That is not what you would call a decent job of reforming the nation's labor laws.

THE MIDDLE EAST

Mr. RIEGLE. Mr. President, a few days ago I received an invitation to address a meeting of concerned Jewish leaders and other citizens today in Lafayette Park here in Washington. I did attend that meeting and made some remarks which I want to share with my colleagues and other readers of the RECORD.

Mr. President, I ask unanimous consent that the remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD as follows:

STATEMENT OF SENATOR DONALD W. RIEGLE, JR. ON THE MIDDLE EAST

When the invitation was extended to me to address this group today I was pleased to accept. At the same time I am very troubled about circumstances that have caused you to gather here at this time.

As people deeply committed to justice—to human rights—to the security and safe future of Israel—to policies by the United States consistant with our values and moral interests—I can understand why recent events concerning U.S. policy in the Middle East have been a cause of great concern to you.

As a member of the U.S. Senate—and one who served for ten years in the House of Representatives on foreign policy committees—I am here to say that I share your deep concern of recent days.

As a member of the Democratic Patry—and as one who has supported President Carter—I would hope that he would not misunderstand our purpose in gathering here. It is not for purposes of confrontation. It is for purposes of clarification and to allow the proper and clear expression of urgent concern about American policy in the Middle East.

We here in the U.S. are a diverse nation of many people. In the end, our national policies must be based upon the collective will of our people. The President has important foreign policy responsibilities—and yet so do the rest of us. Each Senator, each Member of Congress—every concerned citizen has an obligation to weigh these profound national questions and to speak out about them.

So we are here to participate. To let our viewpoints be expressed and heard. It is the wish of all of us to work with the Administration, and this meeting takes place in that spirit.

To understand the intensity of today's concern, one must recall the savage history faced by Jewish people. Centuries of homelessness, persecution, and then the holocaust of World War II. Finally, after centuries of suffering and misery beyond accounting, the state of Israel was created. But there has been no peace since. Wars—terrorist attacks—pressure of every form has continued against the state of Israel.

No friend of Israel over these difficult years has been better or stronger than the United States. That is as it should be. We are here to see that it continues—to reaffirm and emphasize the bond of human values, democratic principles, and yearning for justice that bind these two nations—these two peoples—together.

We come then not as dissident voices, but as an expression of reaffirmation and continuity that comes directly from the center of sound, long-established American policies and from the very core of the American system of human values.

And so we wish to be heard and will persist until we are heard.

The immediate concern that brings us together centers around the meaning and content of the U.S./Soviet guideline statement recently released. Dozens of unanswered questions arise from this new development—and we must persist in finding the answers to these questions.

Like many others, I was astonished at the timing and content of the U.S./Soviet statement. I am deeply concerned about it, as are many of my congressional colleagues on both sides of the aisle.

Many alarming implications spring from that statement. The Washington Post columnist George Will offered a stark interpretation today, and I quote Mr. Will:

"By collaborating with the Soviet Union, Israel's principle enemy, on a declaration of objectives for a Mideast settlement, the United States took a giant step toward imposing a settlement agreeable to Israel's enemies. The United States has undermined the Geneva Conference, transformed the Soviets from passive to active participants in the diplomatic process, resuscitated a terrorist organization (the Palestine Liberation Organization), hardened Arab negotiating positions and emboldened those Arabs who say negotiations are unnecessary because eventually, Israel's friend will sell her cheap.

"The most pernicious U.S./Soviet stipulation is for 'insuring the legitimate rights of the Palestinian people.' The world (including the Administration) knows, and jubilant PLO and Arab leaders know, that is a catchphrase used invariably and, until now, exclusively by Arabs who insist that the PLO must define those rights. The PLO invariably does so in terms of the extinction of Israel."

These sharply worded concerns are similar to those I am hearing from many other people.

Apparently, even Secretary of State Vance has been "surprised" by the dismay this joint communique has caused.

At best, the U.S./Soviet statement is confusing and a cause of new concern and apprehension to many of us. At worst, it has the potential, in my opinion for very great harm. So we must now seek frank answers to some very troubling questions:

(1) Does the U.S./Soviet communique stand by itself as a new policy statement on settling the Middle East conflict, or does it somehow fit into a larger U.S./Soviet arrangement that might include SALT and Helsinki, and other issues?

I am sure that I am not alone in my surprise that President Carter's second U.N. speech somehow omitted the mention of the Human Rights issue, the central focus of his first U.N. speech. It seems a conspicuous omission.

(2) Is there some negotiating deadline that has been established? Are the parties being forced to meet a scheduled date on the calendar without regard to other factors?

(3) What new facts exist that would show the U.S.S.R. to be a trustworthy party to arranging or maintaining a peace settlement in the Middle East?

Why, after so many difficult years of isolating Soviet influence in the Middle East, are we now reversing policy and appearing to reintroduce an enlarged Soviet influence in the Middle East?

(4) Why did the U.S./Soviet communique fail to call for a formal peace treaty?

(5) Why was there no mention of U.N. Resolution 242 or 338?

(6) In choosing the word "rights" to replace the word "interests" with reference to the Palestinians, did the U.S. clearly understand that to the Soviets and the PLO, that word "rights" means the elimination of the state of Israel? Does the Administration intend now to use the phrase "rights" or will it return to the previous use of the word "interests"?

(7) During the 1975 Sinai Agreements, the U.S. and Israel reached a specific agreement which stated: ". . . the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states, group or organization."

Did the U.S. keep this agreement and consult fully with Israel before signing the joint communique with the Soviet Union?

(8) Does the joint communique in any way mean that the super powers intend to impose a solution in the Middle East, or will a final settlement be left for the direct participants to work out between themselves?

These are the main questions. And there are others.

Let our gathering here underscore our collective concern and our determination to get unambiguous answers to these questions.

We have met before at moments of great urgency. We will continue to meet—as often as necessary until we understand exactly the content and basis of U.S. policy in the Middle East.

I expect all of you at any such future gatherings. And you can count on me to be there too.

CYPRUS: ESSENTIALLY A MORAL QUESTION

Mr. PERCY. Mr. President, it is 3 years since the upheaval on Cyprus which was

followed by the Turkish invasion. Since then Turkey has maintained its grip on the northern half of the island. Despite all efforts to persuade Turkey to withdraw its armed forces from Cyprus and to allow the many tens of thousands of displaced Greek Cypriots to return to their homes, Turkey remains adamant.

We are well aware of the internal political difficulties of the Turkish Government which tend to delay the hard decision on troop withdrawal from Cyprus. Likewise we are aware of the difficulties of the Carter administration in seeking Turkish movement on the Cyprus issue while endeavoring to protect American security interests in Turkey.

Nevertheless, justice requires Turkish action in this matter. Turkish forces have no right to be in Cyprus. The displaced Greek Cypriots have every right to return to their homes. It is essentially a moral question.

At a time when human rights have become a world concern, Turkey should respect the human rights of the people of Cyprus. Turkey should withdraw its Armed Forces from Cyprus without further delay.

THE RISING COST OF HIGHER EDUCATION

Mr. PELL. Mr. President, the rising cost of higher education is a matter of grave concern to all of us who share the conviction that postsecondary education is of vital importance to Americans as individuals and to the economic and cultural life of our Nation.

The impact of the rising costs, of course, are felt most dramatically, and painfully, by young people now attending or entering college, and by their parents. Even more painful is the prospect confronting parents who nourish the dream of helping their children attend college 5 or 10 years from now.

Recently, the Providence, R.I., Sunday Journal published an article which clearly indicates the problem being faced today by parents of college-aged children, and the problems that parents of younger children face during the coming decade, as their children reach college age.

A few statistics from that article show the dimensions of the problem. Today, in Rhode Island, the annual cost for a student attending Brown University is almost $7,000, for a student attending Providence College it is more than $4,600, and for a student at the University of Rhode Island, the major State university in my State, it is $2,600. Those costs alone are sobering, but is estimated that 10 years from now, the annual cost at Brown University will be $15,000; at Providence College, $9,500, and at the University of Rhode Island, $5,600.

Middle-income families are being painfully squeezed by college costs today. How many middle-income families will be able to bear the costs that are projected for the next decade?

Mr. President, as chairman of the Subcommittee on Education, Arts, and Humanities of the Senate Human Resources Committee, I am dedicated to the broadening of educational opportunities for all Americans. In the years that I have chaired the subcommittee, I have had the satisfaction of initiating legislation that is today providing assistance to students who have the greatest need through the basic educational opportunities grants program.

More recently, I sponsored an expansion of that program and its income limits so that more of our middle-income families can qualify for these assistance grants. And, we in the Congress have assured continuation of the direct student loan program, to assist middle-income families, by insisting on appropriations for that program.

With these efforts, I believe we have succeeded in broadening educational opportunities, in making it possible for young people who consider a college education beyond their financial reach, to go on to higher education.

Mr. President, we cannot now permit the tide to be turned. We cannot now permit escalating college costs to narrow the educational opportunities we have struggled to broaden. And, in our society, we should not permit conditions to develop in which a middle-income family must destitute itself to provide education for their children.

As the Providence Journal article notes, the situation is not entirely bleak. Although college costs in the past decade have increased by 100 percent, the general Consumer Price Index during the same period increased by 82 percent. So while educational costs have increased more rapidly than general consumer prices, college costs have not reached the runaway rates of cost increases for health care and for fuels and energy.

There is no question that college costs, combined with sharply increased costs of fuel, energy, health care, and State and local taxes, have made gaping holes in the budget of the average family.

The gap is being filled now in several ways. Many colleges and universities are doing an excellent job of increasing their own financial assistance programs, of providing work opportunities for students, and by initiating their own loan programs for families ineligible for Government assistance.

Federal Government assistance, as I have noted, has been increased, helping to fill the gap. And, the families and students themselves have dug a little deeper, worked harder, and sacrificed more to realize their goal of higher education.

We must make certain that in the coming years the gap between costs of college, and what families can afford, is not allowed to grow, but rather is narrowed.

To achieve that goal will require efforts by all involved. Our institutions of higher education, I believe, must and will seek innovative ways of providing quality postsecondary education, at lower costs.

Students, who are determined to attend college have traditionally been enterprising, hard working and ingenious in finding ways to achieve their goals, and American parents have been willing to make many sacrifices to help them. I know we can count on a continuation of that spirit in the future.

Clearly, however, the Federal Government representing all of the citizens and the taxpayers, must also play its part in assuring that higher education does not become an impossible dream. All of our society benefits when our young people have the opportunity to realize the full potential of their creative and productive abilities through higher education, and I think we are all willing to share in the costs.

I am committed to working for additional increases in Federal higher education assistance. There are a wide variety of alternative ways of providing this assistance, and in the coming months I believe we must examine all of the alternatives to determine which measures are most responsive to the problems we face.

Mr. President, I ask unanimous consent that the article from the Providence Sunday Journal of September 29, 1977, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pennsylvania Sunday Journal Aug. 28, 1977]

HOW MUCH DO YOU NEED TO SAVE TO GO TO COLLEGE?

Present age of child	Public university		Private college	
	Projected 4-yr cost [1]	Annual savings required [2]	Projected 4-yr cost [1]	Annual savings required [2]
1	$47,380	$1,570	$82,830	$2,750
2	44,660	1,610	78,160	2,820
3	42,150	1,660	73,760	2,910
4	39,770	1,710	69,600	2,990
5	37,530	1,780	65,680	3,120
6	35,420	1,860	61,990	3,260
7	33,000	1,930	57,750	3,380
8	30,710	2,010	53,740	3,520
9	28,940	2,140	50,650	3,750
10	27,270	2,300	47,720	4,030
11	25,690	2,500	44,960	4,380
12	24,200	2,760	42,350	4,830
13	23,110	3,160	40,440	5,530
14	22,090	3,720	38,660	6,510
15	20,840	4,500	36,470	7,880
16	19,660	5,800	34,910	10,150
17	18,550	8,420	32,460	14,740
18	17,500	16,220	30,630	28,390

[1] Cost assumed at 6 percent annual inflation rate.
[2] Savings at 5 percent interest, compounded.

Source: Oakland Financial Group, Inc.

WHAT WILL AREA COLLEGES COST 10 YEARS FROM NOW?

[Yearly total of tuition, room, and board]

College	1967–68	1977–78	Percent change	Projected, 1987–88
Brown	$2,970	$6,625	123	$14,774
R.I.S.D	2,750	5,425	97	10,687
Providence College	2,250	4,632	106	9,542
Roger Williams	2,020	4,170	106	8,590
Bryant	1,975	4,075	106	8,395
Salve Regina	1,900	4,010	111	8,461
Barrington	[1] 2,060	4,125	100	8,250
Johnson & Wales	[1] 1,300	3,450	165	9,142
University of Rhode Island	1,240	2,636	113	5,614
Rhode Island College	1,075	2,114	96.7	4,158
Rhode Island Junior College	220	360	64	590
Bristol Comm. College [2]	200	300	50	450
S.M.U. [3]	200	480	140	1,152
University of Massachusetts	940	2,118	125	4,766
Wheaton	3,300	6,300	91	12,033

[1] Estimated.
[2] Tuition only, no resident students.
[3] Tuition only, no resident students in 67–68.

Note: Like other middle class families, Richard and Rosemary Harrison and their children Lee Ann and Kirk face enormous college education bills. The charts show how much will be needed by other families in the future.

CAN THE MIDDLE CLASS AFFORD TO SEND ITS CHILDREN TO COLLEGE?

(By Carol J. Young)

Half way through her senior year at Toll Gate High School in Warwick, Lee Ann Harrison made a decision that will cost her parents at least $30,000. She decided to enroll this fall at Wheaton College, a private liberal arts school for women in Norton, Mass.

Although they wholeheartedly endorse their daughter's decision, raising the $30,000 won't be easy for Richard and Rosemary Harrison. With an after-tax combined income of just under $25,000, they fit neatly into the mold of the middle-class family said to be squeezed the tightest by the spiraling costs of sending children to college.

Richard Harrison knows that better than most. A director of guidance at Cranston High School East, he has watched from a front row seat as the costs of both a public and a private college education have increased roughly 100 percent during the last decade.

And, he knows better than most that he and Rosemary, a pediatrics nurse, are too "rich" to qualify for financial aid to ease the burden. Nevertheless, their savings for Lee Ann's education were virtually wiped out by the first two bills from Wheaton.

Lee Ann applied to Wheaton after she had spent some time "looking around," a ritual most college-bound students go through. She visited campuses, read course catalogues, talked to guidance counselors, discussed schools with her parents and decided that the best vibrations were coming from the small school 17 miles from Providence.

On Dec. 1, 1976, Wheaton notified Lee Ann, 21st in Toll Gate's senior class of 548 students, that she had been accepted. Discarding applications to three other private women's colleges, ready for mailing if her "first choice" rejected her, Lee Ann told Wheaton to expect her as a freshman in September.

Lee Ann's father backed up her intentions by sending a $350 deposit to the Norton campus. On August 15, he made a second payment: $4,725. In January, a third payment of $1,500 will be due.

Lee Ann's first year at Wheaton is expected to cost $6,885, a figure that includes tuition, room and board, a Massachusetts meal tax, a student activity fee, transportation, books, and personal expenses. Harrison decided to invest another $110 in a tuition-refund insurance policy in case Lee Ann drops out.

If costs climb six percent a year, as Harrison expects, Lee Ann's undergraduate education will cost $30,119. It could be more if she sticks with her plan to take Wheaton's special management science program. Under that program, she could earn both a bachelor's and a master's degree by spending three years at the Norton campus and two years at the Georgia Institute of Technology.

"It was apparent probably by the eighth grade that Lee Ann was definitely college material," Harrison said the other day as he, his wife Rosemary, and Lee Ann sat in the family's bright yellow kitchen and talked about how they will survive the financial storm of the next few years.

It was equally apparent, even then, that the cost of sending Lee Ann to college, particularly a private one, was going to require sacrifice. Beyond that, the Harrisons knew that it was just a matter of a few years before their other child, Kirk, a tenth grader at Toll Gate this year, would be considering college.

The Harrisons are not complaining. "I don't resent having to pay the way," he says. "But," he adds quickly, "buying what is tantamount to a house over a four-year period is going to be tough."

The Harrisons started putting away money for Lee Ann's education in 1973, right after they made the last major investment in the suburban home they bought seven years earlier. "The house was leaking so we decided we needed a new roof. At the same time, we modernized the kitchen," Harrison explained.

He says they would have started saving sooner if typical household expenses like the leaky roof, mortgage payments, a new heating system and medical bills for orthopedic problems had not gobbled up their earnings. With a dual income—Rosemary works at Kent County Hospital—the Harrisons live comfortably, but they can not be said to have frittered away their money.

Before buying the home in Warwick, the four-member family lived in a rented three-room, third floor Providence apartment for six years. They drive economy cars, take short vacations, and have postponed buying a dining room set and new carpeting for years.

What do they do for a fling? "I save sand," Rosemary says, nodding toward bottles of multi-colored layers of sand standing on a kitchen counter. They are reminders of future travel plans. "Whenever friends go on trips to places where I would like to go, I ask them to bring me some sand. Some day I'm going to take each one of those samples back," she says.

Richard Harrison was about $6,000 in debt when he was graduated from Brown University in 1959. Newly married, he became a high school biology teacher (salary: $3,600) and planned to pay off his college loans and enter medical school, a goal that never materialized.

Rosemary, a graduate of the Newport Hospital School of Nursing, has worked throughout their 18-year marriage. She says she wishes she could quit "every night" when she leaves for her 11 p.m. to 7 a.m. shift. But, retirement will not come until the children are both through college.

"When it was clear that Lee Ann was accepted and that she really wanted to go, I sat down and worked out what we had ($4,700, as of April 6) and what we would need to save over the next four years. Basically we are saving $100 a week right now; in the last two years, we will probably go up to $150," Harrison says.

Seventeen-year-old Lee Ann, who has held several part time jobs, also plans to contribute. As third-runner up in Warwick's annual Miss Gaspee Day contest last summer and second runner-up this year, she has won $200 in scholarships. She also has a $100 scholarship from the local Elks Club.

In May, she was named an "honorary" winner in the state scholarship program. That's the state's way of rewarding students for being bright enough to make the finals, but not poor enough to win some money.

Harrison is trying to avoid college loans. "Because of my own experience, I am very reluctant to have Lee Ann graduate from college with a big loan. I am also reluctant to borrow ourselves with another child coming up."

If Kirk goes to college, he will be a freshman during Lee Ann's senior year. "In that first year, we could have both in college simultaneously. And, if he doesn't get any aid, through his athletic ability, we will probably have to borrow extensively."

"Realistically," he says, "we have not faced that head-on yet."

The Harrisons will not be alone if they have to resort to borrowing to pay college bills. The increasing reliance on loans has become nearly as frightening to some higher education officials as the prospects of having classrooms filled only with the very rich and the very poor.

"Many are getting head over heels in debt," says Charles A. Dunn Jr., veteran financial aid director at RISD.

"It's not a pretty picture, particularly for fine arts majors. They have a heck of a time finding anything when they get out just to keep body and soul together. Holy cow, a guy starting a career with a bachelor's degree and $8,000 in debt is madness. It's got to be paid back. You can't welsh on Uncle (Sam), you know," he says.

At RISD this year, a barebones budget for room, board and tuition; supplies and miscellaneous expenses stands at $5,950 for freshmen and $6,300 for upperclassmen.

In all, 171 RISD students, 13 percent of the undergraduate study body, will receive financial aid in the coming school year. The aid packages will be worth an average of $2,842 each. Hundreds of students seek aid, but don't get it, Dunn says.

Students attending Bryant College this fall can expect to spend $4,925 if the live on campus, and $4,350 if they commute. More than 2,000 filed aid applications.

Students with a financial "need" of $1,500 or less are urged to go right to a bank, according to Fred C. Kenney, financial aid director. For others, Kenney puts together a financial aid package of grants, loans and jobs to meet roughly 60 percent of the need.

How do the students make up the difference? "Too many go to a bank and get an additional loan. We really can't control it," Kenney says.

Kenney says he doesn't have the "foggiest idea" how families will manage to cope in the future. "I don't know where this is all going to end. Not only is the cost of a college education going up, but everything else is going up also. I don't know where the end is, or how soon it will get here."

The growing fear that more and more children of middle-income families will not even apply to private schools has spurred a new kind of aid program at some of the nation's most prestigious and most expensive campuses. It's a special loan program for parents who can't meet the bills but do not qualify for federally-subsidized bank loans.

Pioneered by Harvard University in the last academic year, the approach will be launched this year at several more high-priced schools. Others, including Brown University, are considering it.

At Harvard, the 8 percent loans were available in 1976–77 to families with incomes between $15,000 and $50,000. Approximately 150 parents took out loans averaging $4,000. They are repayable over a six-year period.

The ceiling was raised to include parents in the $60,000-income bracket this year because "that's where all the interest was," says R. Jerrold Gibson, director of the office of fiscal services at Harvard. "I didn't receive a single inquiry from anybody with an income under $15,000."

For many families, the problem is not the amount of money needed but the fact that it must be paid in lump sums twice a year, according to Richard J. Ramsden, executive director of the Consortium on Financing Higher Education. "If we had to pay for houses in four years, we'd all be living in trailers."

Striking a more optimistic note than many, Ramsden maintains the burden is being eased by the spread of the new kinds of payment and loan plans. He adds that federal student aid has been increasing annually since 1972, in part because of the Basic Educational Opportunity Grant program fathered by Sen. Claiborne Pell of Rhode Island.

A recent government report saying that one out of every six students is defaulting on college loans distorts the problem somewhat, Ramsden continues. Unemployment, lax loan collection efforts, and the speed with which a bank can declare a loan in

default make the problem look greater than it is, he says.

"We have learned to live with student loans in this country. It's not a runaway problem. The program had some bugs and it has taken a while to work it out."

The consortium, formed in the early 1970s to help a small group of private institutions, including Brown, better handle financial aid and other matters, has grown to about 30 private colleges and universities.

Approximately 40 percent of the students at the consortium institutions receive financial aid of some kind, he says. "There's aid up to the $30,000-plus categories. In large measure, it's jobs and loans," he says.

VJ-Day morning was bright and sunny, perfect for having breakfast on the screened-in sunporch of the suburban home of the Tenser (not the real name) family. From the porch, one can see a meticulously-kept yard stretching like a smooth, green carpet toward a vegetable-flower garden at the rear of the lot. If things had gone differently for the Tensers a few years ago, the view would have included a swimming pool.

But, in the summer of 1973, Tenser's relatively new business venture failed. Almost overnight, the well-to-do family's lifestyle changed. Plans for installing a private pool switched to talk of how to avoid losing the house. Rather than declare bankruptcy, the Tensers remortgaged their home, consolidated their debts, borrowed from relatives, and started over.

If there was a silver lining the dark financial clouds over the Tenser home, it came in the form of college financial aid. The Tensers fell so heavily into debt that both of their children qualified.

Even with Mrs. Tenser working full time and her husband working part time, the strains are enormous. An income of $21,000 dipped to $6,000 when adjusted for taxes and debts.

The disaster hit just two months before the Tensers' son Mark was scheduled to enroll as a freshman at Brown University. College savings accounts for both Mark and his sister, Sarah, then in high school, has been invested in the business. "I was so sure about the success of the business, it was like borrowing it for a year. We got caught," Tenser says.

"It seemed like the house had fallen down on us," Mrs. Tenser says. "I remember the day I called the financial aid office at Brown. I was in tears because I knew Mark was not going to be able to go. The man said, 'Well, now, take it easy. We'll take a look at it, and if we can help, we will.'"

Brown came through with a renewable $1,500 scholarship, loan money, and job options. In addition, Mark retrieved a state scholarship. The Tensers have contributed what they could. But, mostly, they say, Mark has paid the balance on each year's Brown bills from his own summer and school year earnings.

During the four years Mark was at Brown, the cost of room, board and tuition went from $4,700 to $6,275.

He graduated in June. He has $7,600 in loans to pay back.

"Isn't that a great way to walk out the door of school?" Mrs. Tenser asked.

When it became time for Sarah to consider college, the Tensers lobbied earnestly for the University of Rhode Island, a public school with lower fees. Sarah was eyeing Tufts University, a high-priced private school.

Mark says he was "furious" with his parents. "I thought it was outrageous. Sarah's a lot brighter than I am. If I had been able to go the school I wanted, I thought she should be able to, too."

Since Sarah was considering both veterinary science and marine biology, "we thought URI would be a nice place for her to kick off from," explains Mr. Tenser. "It wasn't just a money issue."

Sarah will enter Tufts next month. Total cost per year: $6,758.

"When my guidance counselor called Tufts to find out how much, if any, financial aid I would be getting, I just sat there and stared when she wrote down the figures," Sarah says.

Her aid package: a $1,000 state scholarship; $3,100 Tufts scholarship; $400 in jobs; and a $1,000 loan. She and her parents will make up the $1,258 balance.

According to the College Scholarship Service (CSS), attending a private, four-year college this fall will cost families an average $4,905 for students living away from home. The total costs at some private colleges, including Brown, will exceed $7,500. The average for a public college or university will be $3,005 for in-state students choosing to live away from home.

The CSS is the branch of the College Entrance Examination Board responsible for establishing the generally accepted standards on financial-aid eligibility. Millions of confidential financial statements are filed and analyzed each year.

Students entering most public and private colleges in the area next month will be paying about twice as much for room, board and tuition as their counterparts did ten years ago.

During the same period, the Consumer Price Index rose 82 percent.

Operating a campus includes things like energy, books and food, all of which have been high inflationary items, says Ramsden. "The predominate cost, of course, is people. We can hold down salary increases for periods of time, but not for ever. You'll just have strikes or lose your best people to the competition."

Overall, he says, higher education's "true costs have not gone up much more over time than most other things in society."

The problem has been that some of higher education's key sources of revenue dwindled during the same period costs were hit by inflation. "Look what happened to our endowments. The fact that endowment and gift support and certain areas of governmental support didn't grow as rapidly over the last five to ten years has meant that we had to rely to a much greater degree on tuition," Ramsden says.

"Because tuition is the one thing the colleges theoretically control, the consumer has been paying for more of the total pie than he or she had to pay ten years ago.

Ramsden's assessment is built on a series of optimistic "ifs." If there is a lot of growth in annual gift support; if financial aid continues to grow; if endowment funds do well, "it will not be as bleak as everyone makes it out to be."

The Oakland Financial Group Inc., of Charlottesville, Va., an investment counseling firm, estimates that the total price of a private college degree for today's 11-year-olds will be just under $45,000, assuming a six percent inflation rate.

To cover these costs a family would have to save almost $4,400 a year for the next seven years, assuming a five percent after-tax return, the firm says.

Von R. Smith, an Oakland vice president, says he prepared tables estimating higher education costs for children from age 1 to 18 because he wanted to alert clients about the need to make concrete plans for financing their children's educations.

"I don't want people to assume that they will be able to do it all when they get there," he said. "The middle-income people really receive the royal vise. They bear the real burden in our society and don't have anywhere to turn," Smith says.

Smith says he thinks more people are "throwing up their hands" in frustration, rather than saving or trying to take steps such as remortgaging their homes to foot the college bills of their children.

"Most parents are about 45 when their children reach college age and the idea of stretching out the mortgage payments for another 20–30 years is not too appealing because they are beginning to think of their own retirements," he says.

Would middle-income people be better off not saving and hoping that their children will qualify for aid? "I wish I had an answer for that," Smith remarks. Some people refuse to save because they think the government will be paying for everything by the time their children get to college.

"That would just burden people more with taxes, and the middle-income people might end up worse off than they might have been."

Robert Bouchard-Hall, an assistant librarian at Brown University, pulled the lining out of his pockets to demonstrate a point. "I can walk around all day with nothing in my pockets and I get along just fine."

Robert and Jeanne Bouchard-Hall have two sons, Derek, 7, and Robert, 9. The Oakland firm estimates that they should be saving $4,000 a year, starting right now, if they intend to send both children to a public university.

To Bouchard-Hall, that's not a shock. It's a joke. The amount he should be saving for college bills is nearly half of his $8,648 salary at Brown.

"The reason we don't sit down and worry about it is because we can't worry about anything of that sort. We live hand to mouth, year to year, spending slightly more than we earn, borrowing, and not knowing what the future will bring.

"To try to guarantee the future would be an impossible task, so we don't even start."

Both college graduates themselves, the Bouchard-Halls expect their children to follow the same path.

"If my kids go to college, it'll be business as usual. They will spend just as much on clothes as they do here; they'll eat as much there as they do here. It shouldn't cost anymore than what goes on anyway, other than books and tuition.

"They'll buy books, instead of junk, so the only additional expense will be tuition. I'm sending them to a place that charges low tuition, or to a place where they get enough scholarship aid that the balance is minimal.

"I'm basing this optimism—or maybe stupidity—on what we have done ourselves. We piece together whatever works."

THE U.N. AS OUR GUIDE

Mr. PROXMIRE. Mr. President, the preamble to the U.N. Charter includes the following basic objectives of the organization:

To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . .

The Universal Declaration of Human Rights, which was adopted by the U.N. General Assembly on December 10, 1940, gave form to the general statements of the charter and set forth a common minimum standard of achievement for all people.

In pursuance of these charter objectives and in order to implement the Universal Declaration, the United Nations has drafted and adopted a number of international treaties relating to human rights. There are 19 major multilateral human rights treaties in respect of which the U.N. Secretary-General performs the depository function.

The United States has so far ratified or acceded to the following five treaties: First, Slavery Convention; second, protocol amending the Slavery Convention signed at Geneva on September 25, 1926; third, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; fourth, protocol relating to the status of refugees; and fifth, Convention on the Political Rights of Women.

The Convention on the Prevention and Punishment of the Crime of Genocide was signed in 1948 and submitted to the Senate in 1949. It has not yet been acted upon by the Senate.

When considering the basic goals of the organization as described by the U.N. Charter, it is incredible that the Genocide treaty has not been ratified. Everything the U.N. values, fundamental human rights and the dignity and worth of the human person, is protected by this convention. No other treaty considers this most fundamental human right—the right to life.

After 28 years of waiting, I feel it is time for the United States to support those ideals it became a party to when it joined the U.N. I urge immediate ratification of the Genocide Convention.

THE WOMEN PILOTS OF WORLD WAR II HAVE EARNED VETERANS RIGHTS

Mr. GOLDWATER. Mr. President, on January 14, I introduced S. 247, to grant veterans status to the WASP's, women pilots who served with the Army Air Corps in World War II. Their official title was "Women's Air Force Service Pilots."

Since January, as word of the legislation got around, I am pleased to report, there are 28 Senators who have joined me in cosponsoring the bill.

Hearings have now been completed in both the Senate and House Veterans' Affairs Committees, and I am hopeful Congress will soon proceed to pass the bill.

Mr. President, the WASP's have attracted an unusual amount of interest in the news media, which is natural when one considers the extreme unfairness of treatment these ladies have received under our laws compared with their great achievements and de facto military status during wartime.

Prominent newspapers in at least 40 States have printed numerous articles about the contributions of the WASP's and their struggle for recognition as veterans. Several magazines have joined in heralding the women pilots and proving that their performance as aviators was every bit as competent as that of male pilots.

The myth that designation of these ladies as veterans would set a precedent for other civilian groups to claim veterans' rights has been exposed time and again. The girl pilots were denied commissions as military officers for one reason alone—their sex.

A law which the Air Corps wanted to use to bring women pilots into the service as regular officers was ruled by the Comptroller General as not applying to women.

Horror of horrors, the interpretation of the law needed to authorize the commissioning of women would have required considering them to be "persons," since the law permitted the Army Air Corps to grant temporary commissions to "qualified persons."

The Comptroller General's ruling stated that it would be "revolutionary" to include women as "persons" and so the female pilots had to remain civilians.

Now, if there was any other group who was up against a unique and discriminatory law like this one, I would like to hear about it. I doubt if there are any, which pretty well demonstrates the fact that correction of this past injustice, whereby women could not even be considered as "persons" in the eyes of the law, would not open the gates to a flood of similar claims.

Mr. President, as I mentioned, there is a growing surge of support for the WASP's in the public media. I would like to take this opportunity to bring just one of the most recent items to the attention of my colleagues.

Therefore, I ask unanimous consent that an article entitled "WASP's: The Forgotten 'Warriors'" from the October 1977 issue of Air Line Pilot magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASP's: THE FORGOTTEN "WARRIORS"

(By William G. Holder)

It's a sign of the times.

Some military pilots now wear lipstick instead of moustaches, just as some 18 women are now flying for 10 major U.S. airlines.

They aren't the first women to enter the world of professional aviation; only the first to be recognized for it.

During the black years of 1942–1944 women pilots were the forgotten warriors. This unique group of aviators was known as the WASP's, which stood for Women's Airforce Service Pilots. They were not actual members of the service, but contract employees—a status they fought then and are still fighting today. The 850 surviving WASP's want recognition and full veterans' rights for their wartime exploits.

There were 1,074 WASP's performing the often dull and mundane—and sometimes dangerous—flying missions at home. Although they wore military flying gear while piloting the latest aircraft of the Army Air Forces and logged some 60 million air miles ferrying a myriad of aircraft types to and from ports of embarkation, the law at that time prohibited women from being commissioned as pilots. They had a choice of being commissioned in the WAC's and limited to desk jobs or of becoming WASP contract employees in order to fly for their country.

It was Sept. 25, 1942, when the Army Air Forces set up the first squadron of women civilian ferry pilots at the Fifth Ferrying Group just outside Washington. Famous aviatrix Jacqueline Cochran was appointed director of the unit.

Training of the initial group of women pilots began in Houston, Tex., and later moved to quarters at Avenger Field, Sweetwater, Tex. Flight training, ground school, physical education, Morse code and radio techniques instruction, military conduct and military drilling of the women was identical to that of male cadets. But they did not receive gunnery, bombardment or other combat-related training.

Pay was nothing to brag about—$175 a month during training and $250 a month after. They paid for their own room and board and purchased their own uniforms.

Duty assignments were varied. The women flew everything from hot fighters to lumbering cargo planes, twin-engine bombers to the B–29 Superfortress. A WASP even checked out in one of the first jet fighters.

But the flying ladies did more than just ferry aircraft. They towed gliders, flew training missions for navigation and bombardier students, and for searchlight and tracking missions. Others served as engineering test pilots on military training bases.

While General H. H. "Hap" Arnold started the WASP program as an experiment, he concluded that the women pilots had indeed contributed during the country's pilot shortage and were capable of actively flying as part of the military forces.

A bill sponsored in 1944 by Congressman John Costello of California to recognize the WASP's was defeated by a mere 19 votes, due to the well-supported efforts of members from male civilian-pilot organizations who were facing the draft.

Thus, the WASP's, although serving under military discipline and flying military aircraft, received no military benefits of any kind. They had no insurance, no hospitalization, no educational grants (GI Bill) and no veterans' benefits. The 38 WASP's who lost their lives while in service did not receive military burials. The final blow was that the WASP's were presented an honorable certificate of service as opposed to an honorable discharge.

Through the efforts of Jacqueline Cochran, who worked for recognition of the WASP's from time of their deactivation in December 1944, the Air Force (created during unification of the services in 1947) offered to all former WASP's commissions as officers in the Air Force Reserve in 1949. Rank was commensurate with time in WASP service. However, military aircraft flying was no longer permitted.

A number of women applied for commissions—some went on active duty to become career Air Force officers; others remained in the reserve forces. These women received credit for their actual Air Force participation time, active or reserve, but not for WASP time.

Some 33 years after the first WASP bill was rejected the controversy still rages. Last year, the Senate voted to militarize them, but the bill bogged down in the House. But the former WASP's haven't given up. They've launched a letter-writing campaign to garner support. Sen. Barry Goldwater, a retired Air Force general, introduced Bill S. 247 along with two bills, HR. 3277 and 3321, introduced in the House. The results of all three of these will be known by the end of the year.

Today, things have changed in the military for the aviation-oriented female. Women are taking to the air as fully qualified military pilots, but the no combat aspect of their edict is still in effect.

The Air Force began its women pilot program during the summer of 1976. Ten women officers entered Air Force pilot training/flight screening at Lackland AFB. Of the 10 women, nine came from the active-duty force, and one from the Air Force Reserve.

In January an additional 10 women officers—nine active duty and one from an Air National Guard unit—entered pilot training. Additional female officers entered navigator training in March. No special training was designed for the women participating on an equal basis with male students.

The enactment of legislation to admit women to the service academies was the impetus which prompted consideration of Air Force pilot training for women. With the initial groups of trainees the Air Force hopes to identify any training or operational problems associated with women in previously all-male programs.

Academic and flight instruction at Lackland is aimed at screening out students unlikely to finish all-jet undergraduate pilot training (UPT).

Academic courses include flight principles and aircraft systems. The T-41, a military version of the Cessna 172, is used for flight instruction. Those who complete the three-week screening program report to Williams AFB, Ariz., for 49 weeks of UPT. During that time the students log 210 hours in the T-27 and T-38 jet aircraft. The average 12-hour duty days are crammed with 15 academic courses, physical training, flying and mission briefings. Those women who win wings are assigned to a variety of noncombat aircraft.

The Navy got an earlier start than the Air Force. It began its test in 1973. At the present time there are 12 designated female Navy pilots with eight more in training. Upon completion of flight training, the female pilots are normally assigned to support aircraft like the C-130, P-3, T-39 and C-9.

Federal law precludes Navy women from serving in aircraft which could engage in combat missions or on seagoing Navy ships, other than hospital ships and transports; their participation in naval aviation is limited accordingly. However, the Navy is developing a career path for women aviators that will enable them to fill managerial positions in aviation squadrons, positions which require flying duties. It will also allow them to compete with male officers for transport squadron commands and other shore commands not necessarily related to the aviation community.

The Army has eight commissioned female officers and 10 warrant officers who completed the Initial Entry Rotary Wing (IERW) program. One of each completed transition training in fixed-wing aircraft. More females of both ranks are now in rotary-wing training.

Maybe these recent achievements will bring the WASP's the recognition they so richly deserve.

RHODE ISLAND'S OUTSTANDING YOUNG WOMAN FOR 1977

Mr. PELL. Mr. President, it is indeed on honor to pay tribute to Mrs. Maureen Hallal Maigret of Warwick, R.I., who has been named Rhode Island's Outstanding Young Woman for 1977.

Mrs. Maigret, representing Rhode Island, will be considered along with 50 other candidates from each State and the District of Columbia for the Ten Outstanding Young Women of America Awards to be announced at a special presentation in Washington next month. The award program, honoring women between the ages of 21 and 36 for civic and professional achievement, is held annually by leaders of women's organizations.

Mrs. Maigret is a particularly well-suited candidate for this award. She is not only a professional nurse and member of several State and national nurses associations, but also a State representative for the 37th District to Rhode Island's General Assembly. She is the first female deputy majority leader in the State Assembly; chairman of the House Rules Committee; and a member of the House Judiciary and Government Operations Committees.

In addition to these numerous activities, Mrs. Maigret is actively involved in many women's groups including local, State, and National Women's Political Caucus and the Governor's Advisory Commission on Women.

Mrs. Maigret is an exceptionally talented and energetic young woman, and it is with great pleasure that I bring her many accomplishments to the attention of my colleagues.

PANAMA CANAL TREATY TESTIMONY

Mr. SPARKMAN. Mr. President, yesterday the Committee on Foreign Relations continued its hearings on the Panama Canal Treaties hearing as witnesses Senators GRAVEL, LAXALT, DOLE, SCOTT, and HELMS, and Congressmen JOHN M. MURPHY, LARRY MCDONALD, DONALD M. FRASER, and ROBERT L. LEGGETT. For the information of the readers of the RECORD, I ask unanimous consent that the prepared statements of the witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE GRAVEL

Mr. Chairman and Members of the Committee. Thank you for this opportunity to appear before you in support of the newly negotiated Panama Canal treaties.

You have already heard from numerous expert witnesses on these two treaties. You have been told of their importance to the continued efficient operation of the canal, of how they preserve the U.S. interest in nondiscriminatory access, and of how they provide the surest guarantee that the military significance of the canal will be protected. You also have heard the lasting effect Senate action on these treaties will have on the whole of Latin America, and the role they can play in realizing long-standing and legitimate Panamanian aspirations.

JUSTICE

You also doubtless have heard one other reason for ratifying these treaties: Justice. We sought to ratify them because it is right to do so.

I happen to think that's one of the best reasons of all. And I don't accept the label "bleeding heart" that some would try to pin on this conviction. Justice is not, after all, out of fashion. It has always been a characteristic of the noble and the strong—not the mean and the weak—to set their injustices right.

And there can be no real doubt that the 1903 treaty with Panama fell somewhat short of complete justice. The historical record is unequivocal on that point.

On June 2, 1902, the Congress authorized the President to acquire a specified strip of land and additional rights and territory from Colombia (of which Panama was then a part) for the construction and operation of a ship canal. But when negotiations with Colombia fell apart, President Roosevelt took things more into his own hands and sent gunboats to stand off-shore while the Panamanians declared their independence. Only three days later the administration hastily recognized the new republic and immediately set about negotiating a canal treaty with a Frenchman named Philippe Bunau-Varilla, who consistently acted purely in his own self-interest and who repeatedly engaged in deceit to win approval for actions detrimental to the Panamanian national interest.

What is more, U.S. officials at the time were aware of, and therefore complicitous in, these injustices. President Roosevelt so characterized it himself in 1911 when he stated, "I took the isthmus . . ."—a statement upon which he later elaborated by explaining he took it "because Bunau-Varilla brought it to me on a silver platter."

Having ignored his instructions to consult at all points with the Panamanian government's official delegates, Bunau-Varilla drafted a treaty which was described at the time by Secretary of State John Hay as "vastly advantageous to the United States" and "not so advantageous to Panama." This document was signed at Hay's home on the evening of November 18, only 15 days after Panama had declared its independence. Not a single Panamanian was present, or had ever even laid eyes on the document. No member of the Panamanian ruling junta spoke or read English.

That same evening Panama's delegates arrived in Washington and attempted to reopen negotiations with the Department of State. They failed. Both the Department and Bunau-Varilla were now intent upon getting the treaty ratified. This they did by suggesting darkly that if Panama did not act with dispatch the Colombians might make a better treaty offer, leading the United States to withdraw its support from the new nation.

Although the Roosevelt administration had no such intention, rumors were abroad in Panama that Colombia might yet try to regain its lost territory, and the government feared for the worst. On November 26 they cabled their willingness to ratify the treaty as soon as it arrived by boat from New York. Six days later, on December 2, they did so after having the 31-page document only 20 hours, and only an English version besides.

Almost from the start, the Panamanians have been dissatisfied with the treaty. This is not hard to understand. Its terms grant to the United States "in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection" of a canal "of the width of 10 miles." The treaty further grants to the United States "all the rights, power, and authority within the zone mentioned. . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." In return for these generous concessions the United States agreed to pay the Republic of Panama $10 million and an annuity during the life of the treaty of $250,000 (raised to $1.9 million in 1955 and subsequently adjusted for inflation in 1971 to $2.3 million).

We must try to put ourselves in the Panamanians' shoes, to see it as they do. They best way I know to do this is to cite an analogy which has great currency in Panama. It goes like this:

"Imagine a strip of land extending 5 miles on each side of the Mississippi River within which a foreign power, by virtue of treaty rights granted under suspicious circumstances in 1773, exercises complete control as "if it were sovereign" and through which a resident of Illinois must pass to go to Missouri, during which passage he is subject to arrest by a foreign power and trial in a foreign court under a foreign system of laws."

Of course, we would not tolerate such a situation within our borders. The Panamanians have no choice. The United States is a superpower and they are one of the

world's weakest countries. Our military forces stationed in the Canal Zone are equal in size to Panama's entire National Guard. It is no match at all.

On their side the Panamanians have only logic. They ask us to ratify a new treaty. They point out that total U.S. control over a portion of Panamanian territory is a vestige of colonialism. They ask us to understand how it offends their national honor and pride as a people to have a U.S. police force, U.S. courts, and U.S. jails enforcing U.S. laws on Panamanian citizens within their own country. They show us how total U.S. control over land area in the Canal Zone limits the urban growth of their two largest cities, how U.S. control of all deepwater port facilities restricts the productivity of their country, and how U.S. commissaries unfairly compete with local businessmen.

How do we answer these charges?

The most common way of justifying the present treaty arrangements is to cite the benefits which have accrued to Panama. The most important of these, it can be conceded, is her independence. Without the United States she would not have had it. Admittedly, a certain turpitude may attach to the United States motives in guaranteeing it, but to the Panamanians, who had hankered after their freedom for some three quarters of a century, it is certainly a great blessing.

What is doubtful is that this justifies an arrangement under which she signed away "in perpetuity" the most important part of her birthright. To say that it does is like saying that the United States should be forever indebted to France, without whom her revolution could never have succeeded.

This is history now. The relevance of that history for today is that it shows the very structure of the relationship from the beginning was one in which we consciously took advantage of the Panamanians. All the real sacrifices were on their side. They yielded up, forever, their nation's greatest resource—the land over which the canal was constructed. What should have been theirs has become ours.

Some would suggest that Panama has been adequately compensated for this "use" of her territory by the $10 million the United States paid when the treaty was signed, plus the annuity she has been granted since. The facts belie the truth of this assertion, however. The annuity, for years set at $250,000 per annum, is today only $2.3 million per year. This is a mere pittance when compared, for instance, with the Panama Canal Company's fiscal year 1976 total operating revenues of more than $250 million. That is more, the U.S. Government has always set Panama Canal tolls at a breakeven level. The Panama Canal Company does not lose money, but neither does it make a profit.

According to a study by International Research Associates (IRA) of Palo Alto, California, the effect of this policy has been to produce a surplus to users of an amount equal to the difference between the maximum possible revenues recoverable under an alternative tolls policy and the breakeven costs actually recovered. The IRA study projects that for 1975 the magnitude of the surplus would be equal to approximately 55 per cent of the revenue recovered under present toll structures. Applying this to the IRA-projected 1975 toll revenue figure of $119.5 million, we see that the surplus which could have been recovered was on the order of another $65.5 million.

The benefits of this surplus, rather than going to the people of Panama, now accrue to three groups: (1) those who purchase commodities that pass through the canal; (2) those who produce such commodities; and (3) those who move the commodities from producers to purchasers; and (3) those who move the commodities from producers to purchasers. Rightfully, this $65.5 million should have gone to Panama as its earning on its fundamental resource.

It can, of course, be argued that Panama has reecived extensive indirect economic benefits from the canal, as well as improved health conditions, sanitary facilities, etc., all of which must be taken into account in assessing the present treaty. All these things are indisputably true, but they completely miss the point. They alone cannot make the arrangement either just or unjust. It is unjust by the fact that it prevents Panama from reaping the economic advantage of her primary resource. Moreover, it does so almost gratuitously. Panama can be returned the control over her resource without it materially affecting our own economic or strategic interests. In truth, our strength and greatness will lie not in continuing to demean ourselves by insisting upon some legalistic interpretation of our "rights," but in recognizing that an injustice has been done and acting to correct it.

What, indeed, are the United States interests in the Panama Canal?

ECONOMIC IMPORTANCE

Despite widespread impressions to the contrary, the canal is not of any great economic significance to the United States. It is often said that approximately 70 percent of canal traffic either originates or terminates in U.S. ports, thus making the canal vital to the U.S. economy. While this figure is correct, the manner in which it is usually presented tends to misrepresent the truth. The "approximately 70 per cent" figure is derived by adding the 40 per cent of cargo tonnage originating in the United States to the 28 per cent terminating here. But it is incorrect then to conclude that the United States accounts for 68 per cent of the tonnage passing through the canal. The United States, both as shipper and receiver, is on only one end of the transaction. Therefore this figure must be halved, revealing that only 34 per cent or one-third of all canal cargo is U.S. oriented.

But even this figure does not provide a proper measure of the economic importance of the canal. We have to ask, 34 per cent of what? If the Panama Canal is largely not used, then the fact that 34 per cent of its use is attributable to the United States becomes rather meaningless.

The United States is, in fact, the major user of the canal, but many alternative trade routes now exist for the most important products and commodities, and more would become economically competitive if the canal were closed. In terms of overall importance, the canal is much more significant to certain Latin American countries, particularly those on the west coast of South America, than it is to the United States. For instance, in 1972 only 16.8 per cent of U.S. waterborne commerce passed through the canal. For Nicaragua the figure was 76.8 per cent, for Panama 29.4 per cent, for Peru 41.3 per cent, for Chile 34.3 per cent, and for Colombia 32.5 per cent.

Increasingly, the Panama Canal is becoming outmoded. Larger and faster ships, as well as innovations such as container technology, are making alternatives to the canal more and more attractive. The shipbuilding industry—in constructing supertankers—increasingly discounts the canal, which cannot handle their size. More than 1,300 vessels are now too large to pass through the canal, and another 1,700 can use it only when not fully laden. Ely Brandes, president of International Research Associates and an economic adviser to the canal, has put it succinctly: "When it was in its financial heyday, nobody paid much attention. But now that people are fighting not to give it up, the thing isn't worth arguing about."

The most meaningful perspective from which to view the economic value of the canal is an assessment of the impact it has on the total U.S. and world economy. At present only 5 per cent of total annual world seaborne trade transits the Panama Canal. According to the IRA study on "The Economic Value of the Panama Canal," if the canal were to be closed through an act of sabotage or some other means, the total impact on the world economy for the decade 1975–85 would be only $100 million per annum. Of this amount, the U.S. share would be only $34 million annually. In our trillion dollar-plus economy, which exports in excess of $100 billion a year, this impact is utterly trivial.

This minimal impact of complete loss of the canal must be counterpoised against the harm which this volatile issue can cause in our relationship with all of Latin America, and in fact the entire Third World. The minor economic benefit which accrues to us from the canal would certainly be more than offset by the hostility we would engender by failing to resolve the canal issue in a way viewed as equitable by the world community. Even the strictly economic effect alone would surely be in excess of $34 million. Last year our exports to Latin America were on the order of $15 billion. And as was clearly demonstrated by the gathering of heads of state on September 7th, these nations have placed their prestige on the line in support of the treaties.

I do not mean to imply that the Panama Canal is of no economic importance. It is now and will continue to be for some time into the future a convenient means for waterborne transport. But in the words of the IRA study, "it cannot in any sense be regarded as either overwhelming or crucial."

MILITARY VALUE

Much the same may be said of the military value of the canal. While certainly of military significance, the Panama Canal is by no means vital to our national defense. Its primary military value lies in its contribution to strategic and logistical mobility—the ability easily to shift military forces and supplies between the Atlantic and Pacific Oceans, and to offset the shortage of U.S. port facilities on the Pacific coast.

The availability of the canal gives us an elasticity for rapid expansion of our maritime capability. Without it we could be delayed months if not years in developing the major thrust of a war effort. The capital investment to build this versatility into existing ports and other elements of our transportation network would run into the billions of dollars, and its use, except in terms of emergency, would be uneconomic. The canal is certainly the preferable alternative.

Military planners point out, however, that any fixed facility such as the canal must be considered quite vulnerable to attack, and its availability therefore discounted. U.S. strategy has, in fact, proceeded on the assumption of the canal's nonavailability, and has maintained two virtually separate navies in the Atlantic and the Pacific. The changed nature of naval vessels over the years has also significantly reduced the strategic value of the canal. Our aircraft carriers are too large to pass through, and submarines must surface to transit it, which makes it totally impractical for them to use in the event of hostilities in this hemisphere.

The vulnerability of the canal arises from the fact that it laces for 50 miles through the jungles of Panama and could be rendered inoperative for as long as 2 years by such simple means as landslides or the destruction of locks or dams. A submarine launched missile with conventional warhead could

achieve this purpose in the event of hostilities with a major world power, but it could just as well be accomplished by a single saboteur with a few sticks of dynamite. In the words of the Department of Defense, "the Panama Canal . . . can be defended, even in a hostile environment," but "the continuous operation of the canal could not be insured in that environment." This would remain true no matter what force levels were deployed in the Canal Zone.

For this reason, the good will of Panama is crucial to our ability to defend the canal. The security of the canal is most effectively safeguarded in a friendly environment through a cooperative relationship between the United States and Panama.

SEA-LEVEL CANAL

Once the emotional aura is stripped away from the Panama Canal, perhaps its most striking feature is how fast it is obsolescing. It is already of only marginal economic value to the United States, and trends in world shipping will rapidly make this true for other nations as well. Militarily the canal is important but not vital. Its vulnerability to attack severely limits its reliability, and its strategic significance is clearly not what it once was.

The most striking evidence of the dated character of the Panama Canal is its inability to handle economically the transshipment of Alaskan oil. By next spring Alaska's North Slope will be producing oil at the rate of 1.2 million barrels per day. Within a relatively short time this will be increased to 1.6 million barrels. Even at the lower 1.2 million barrel level, this will produce a West Coast surplus of 500,000 barrels per day.

This surplus oil must be moved to the nation's population and industrial heartland in the East and Midwest. At present the only way to do so is through the Panama Canal or around the tip of South America. The latter, Cape Horn route is prohibitively expensive, so that leaves only the Panama Canal. This alternative in itself is far from desirable, however.

Alaskan oil will be delivered in tankers ranging in size from 70 to 190 thousand deadweight tons (dwt). But since the present canal cannot handle ships larger than 65,000 dwt, the oil must be lightered to smaller vessels for passage through the canal and up to the Gulf Coast. Needless to say, this is a very inefficient, and costly, operation.

Where I visited Panama last March, as an Alaskan Senator I was particularly sensitive to these high costs of transporting our oil. When I sat down with the Panama Canal Company's economists I inquired about the feasibility of a new sea level canal. It was then that I learned that in 1964 President Lyndon B. Johnson appointed the Atlantic-Pacific Interoceanic Canal Study Commission to assess the practicality of building a sea-level canal.

In 1970 the Canal Study Commission completed its exhaustive, $22 million examination of the issues and reported that the construction of a sea-level canal is physically feasible. It estimated the cost of construction to be approximately $2.88 billion at 1970 price levels. In their letter of transmittal to the President, the Commissioners explained that the possibility of amortizing this cost from toll revenues would depend upon (1) growth in traffic, (2) the time when the canal would become operative, (3) interest rate on indebtedness, and (4) payments to the host country. They further emphasized that the national defense and foreign policy benefits of such a canal would justify a substantial financial risk.

In spite of these generally positive findings, action on a sea-level canal was not taken. The reasons are varied and complex, but undoubtedly the most important was that the Panamanians had no interest in becoming involved in a new canal until the dispute over the present one was resolved. This was especially true since the Commission had envisioned that the new canal would be owned and operated by the United States. It is hardly imaginable that the Panamanians could accept such terms after their years long battle to win control of the existing canal.

I believe that new attention to a sea-level canal is warranted by the following five facts:

1. Present and projected discoveries of oil and gas in Alaska have the potential of vastly improving the economic viability of a sea-level canal.

2. A new sea-level canal, fully owned by the Panamanians, has the potential of defusing the controversy over the present canal.

3. Construction of a sea-level canal will give the United States needed flexibility to avoid increasing dependence on foreign energy sources.

4. The availability of a sea-level canal will give the United States billions of dollars of investment in new energy transmission infrastructures.

5. At relatively marginal costs, a sea-level canal would greatly enhance U.S. defense capabilities.

Each of these reasons alone probably constitutes justification of further examination of the sea-level canal possibility. Together they certainly do.

Any final decision to construct a sea-level canal will be arrived at only after balancing a number of factors. The temptation is always to assume that the only matter to be evaluated is the strict financial feasibility of such an undertaking: Namely, will a sea-level canal pay for itself in a reasonable number of years? But as the Canal Study Commission pointed out, other factors, such as defense and foreign policy considerations, must enter into the equation. A sea-level canal might, all things considered, be a good buy even it we were certain it could never pay for itself in conventional economic terms. Nonetheless, its financial feasibility will be central in the decision to build a sea-level canal, if for no other reason than to determine what portion of costs might have to be written off for other purposes.

According to the Canal Study Commission's report, a reasonable basis for assessing financial feasibility is to determine if construction costs can be amortized over a 60-year period. To make this determination it is necessary to find those combinations of operating costs, payments to the host country, interest rates, canal opening dates, traffic levels, and toll rates which would permit recovery of capital costs from toll revenues.

The Commission found that the preferred canal route is financially feasible at reasonable toll rates, assuming a construction cost of $2.88 billion and a high potential traffic growth rate. While this would seem to suggest that a sea-level canal is financially feasible in its own right, certain caveats are in order.

First, inflation in this type of construction has been approximately 80 per cent since the Commission issued its report in 1970. According to the Army Corps of Engineers, the original $2.88 billion estimate must be raised to $5.29 billion. This means that toll revenues must be increased substantially to amortize costs. Of course, inflation will also have affected the level of sustainable tolls. Presumptively inflation rates will be comparable and construction costs will not seriously have outstripped the ability of tolls to amortize these costs.

Second, there is some question whether we may reasonably expect traffic growth rates at the higher level projected by the 1970 study. Traffic levels in the past six years have not, in fact, borne out this high projection. This shortfall is arguably due to the worldwide recession of the early 1970s, from which we are only now beginning to emerge. This is strongly suggested by the upward turn of canal traffic in the past year. A more thorough analysis is needed to establish that this will be a long-term pattern.

An important factor in any reassessment of a sea-level canal's feasibility will be potential traffic growth deriving from new discoveries of oil and gas in Alaska. As I have already mentioned, by next spring Alaska will be producing 1.2 million barrels of oil a day, creating a surplus of 500,000 barrels a day on the West Coast.

There is every likelihood that these figures, as high as they are, will at least double in the next several years. The probability that large quantities of oil will be recovered from the Alaskan Gulf, National Petroleum Reserve No. 4, and other areas of Alaska, both on and off shore, is very high. According to conservative projections by the U.S. Geological Survey (USGS), recoverable reserves in Alaska may be five times as large as already demonstrated reserves.

I believe it is a conservative estimate that Alaska will be producing an additional two million barrels of oil per day within 2 to 5 years, and yet another two million barrels per day within 5 to 10 years. Figures of this magnitude are confirmed by an Atlantic Richfield Company estimate that the West Coast oil surplus could be as high as 2.4 million barrels per day in 1990.

As these Alaskan oil reserves are brought to production, a sea-level canal becomes increasingly attractive. It would require 120 million tons of canal traffic per year to move a surplus of 2.4 million barrels per day through the canal. This represents almost exactly one-half of the Commission's entire potential tonnage forecast for 1990. They included in their 239 million tons per year estimate only 41 million tons of petroleum, or about one-third the volume that now appears likely to materialize.

If this oil and the accompanying gas is to reach U.S. markets where it is needed, it must be transported by tanker to the Gulf of Mexico and the East Coast, or else it must be moved inland by pipeline from the West Coast.

The pipeline alternative has considerable drawbacks. The nation's pipeline infrastructure for the delivery of oil and gas runs south to north, fanning out from the Gulf Coast States to serve the Midwest and Northeast. The explanation for this pattern in simple. Historically, oil and gas was discovered in the Gulf region and was moved to the nation's population and industrial center.

This infrastructure represents a $7 billion capital investment in the case of oil lines and $12.7 billion for gas lines. There is also an investment of approximately $19 billion in Gulf Coast refining capacity. If it were to become necessary in the next several years to move our energy supplies from west to east, rather than from south to north, much of this infrastructure would have to be replaced at capital costs much higher than the original investment.

For at least the next 2 to 3 years there is no real alternative to using the existing canal for transporting West Coast surplus oil to regions of the country which have a crude oil deficiency. But because of the inefficient lightering operations that are involved, transit charges on this route are sufficiently high that pipeline alternatives become attractive even though new pipeline investment costs would be required.

A number of such projects have been proposed to deliver surplus oil to markets in either the Central or Gulf States. (See Table

4.) The most important of these are as follows:

Trans-Mountain Pipeline. This is an existing line which at present carries oil east to west from Edmonton to the Vancouver area. Atlantic Richfield Company (ARCO) proposes a partial reversal of the flow to move 165 thousand barrels per day of Alaskan crude from Cherry Point in Washington to the so-called Northern Tier refineries in Montana, North Dakota, Minnesota, Wisconsin, and upper Michigan. The capacity of this line would satisfy the needs of these refineries. Capital investment costs would be a relatively minimal $115 million and transportation costs into Chicago would be $2.30 per barrel of oil. This project has, however, run into stiff environmental opposition in the State of Washington and may not get the necessary permits.

Northern Tier Pipeline. This proposal calls for the construction of 1570 miles of new pipe at a capital cost of $1.6 billion. It would move 600,000 barrels per day of Alaska crude from the Port Angeles area in Puget Sound to Clearbrook, Minnesota, thus serving the refineries in the Northern Tier States. It would deliver to the Chicago area at a cost of $2.78 per barrel. It faces environmental objections in the State of Washington at least equal to those confronting the Trans-Mountain project.

Kitimat Pipeline. This project would involve the construction of 753 miles of pipe from the town of Kitimat in British Columbia to Edmonton, Alberta. It would there interconnect with existing lines to serve the Northern Tier States and the upper Midwest. It would have a capacity of 525,000 barrels per day and would entail an investment of some $696 million. Transportation costs to Chicago would be $2.38 per barrel of oil. At present the sponsors of this project are inactive, but it could be revived if competing proposals fail.

Sohio Pipeline. Standard Oil Company of Ohio (SOHIO) proposes to convert to oil service existing gas lines running from Midland, Texas to Redlands, California. With the construction of an additional 219 miles of pipe, this would allow Sohio to move Alaskan crude from Long Beach to Texas at a rate of 500,000 barrels per day. This is the most economical of all the proposed pipeline projects, as it would transport the oil to Chicago for $2.29 per barrel and into Houston for only $2.06 per barrel. The Sohio project faces two major hurdles. First, the State of California has been extremely reluctant to issue the necessary permits because of concern that further degradation of air quality in the Los Angeles area might result. Second, both Federal Power Commission and California Public Utilities Commission approval are required for conversion of the existing gas lines to oil service. This approval may not be granted due to new discoveries of gas in the Mexican Yucatan. Mexico could very economically move its gas into Texas and then transport it through the existing system to California.

Trans-Guatemala Pipeline. The Central American Pipeline Company proposes to transport Alaskan crude 227 miles across Guatemala for marine delivery to the Gulf Coast. Investment costs would be $934 million for a 1.2 million barrel per day pipeline. Transportation costs would be $2.52 into the Chicago market and $2.16 into Houston. The major drawback to this proposal is that it involves the effective export of Alaskan crude, which is currently not permitted. To change this policy would require that difficult political hurdles be cleared.

To summarize, existing pipeline systems in the United States are designed to deliver oil and gas from the Gulf Coast to the Midwest and Northeast, where the nation's energy needs are the greatest. Now that our major source of domestic supply is shifting from the Gulf region to Alaska, we must either build new pipeline infrastructures at large capital costs and potentially significant environmental costs, or else we must find an economical marine delivery route that will enable us to bring Alaskan crude into Gulf Coast ports for transport through existing lines. Although a number of new pipelines have been proposed, each has severe political or financial hurdles to overcome. Moreover, even should one or two of these projects be built, their capacities would not be sufficient to handle the surplus supply of Alaskan oil expected on the West Coast ten years from now.

This set of facts, taken into conjunction with the generally positive findings of the Canal Study Commission, appear to make a sea-level canal a very attractive option. To further check this out I compared the oil transportation costs via the combined pipeline-marine routes I have just been discussing with an all marine route through a sea-level canal.

The pipeline costs vary from $2.06 to $2.73 per barrel of crude, and to be competitive transport costs through a sea-level canal would have to fall within this range. Apparently they do.

I asked Arthur D. Little, Inc., using the same computer model from which the pipeline transport costs were derived, to calculate costs between Valdez and Houston via a sea-level canal. Here is what they found:

$1.74 per barrel for 160,000 dwt vessels;
$1.35 per barrel for 225,000 dwt vessels;
$1.31 per barrel for 265,000 dwt vessels.

To these figures must be added a reasonable toll figure, which I have calculated to be 44¢ per barrel of oil. (This compares with a toll of 27¢ per barrel of oil through the present canal.)

This means that transport costs through a sea-level canal may be preliminarily estimated to fall somewhere within a $1.75 to $2.18 range. As can readily be seen the low end of this spectrum is 31¢ less, and the high end 60¢ less, than the respective low and high ends of the cost range for combined pipeline-marine routes.

Clearly, if these figures are sustained upon a more thorough analysis, a sea-level canal is a highly competitive alternative for transporting surplus West Coast oil. If we assume an oil surplus of only 500,000 barrels per day (the amount we definitely will have next spring), a sea-level canal would in ten years save the American public $1.3 billion as compared with the existing canal. Over a similar period of time, the savings would be $565 million when the sea-level canal is compared with the most economic of the pipeline routes, the Sohio projects. (See Chart 2.)

In addition to the capital investment costs for pipeline and refinery infrastructures which may be offset against the cost of construction of a canal, there are extremely important military and foreign policy values to be realized through a sea-level canal. Under agreements already entered into or soon to be concluded, much of the east coast of the United States will in the near future be dependent upon Algeria, and possibly the Soviet Union, for its natural gas supplies. Although such an arrangement is satisfactory at the present time, the desirability of long-term energy dependency on these two countries is questionable at best. The severe harm which could be done to the economy of the eastern seaboard by a cut-off of these foreign supplies is truly inestimable, but we may be certain it would run into the billions of dollars. A sea-level canal would enable us to meet these domestic energy needs with Alaskan gas, and thus provide us a great deal more foreign policy flexibility.

From a more strictly military point of view, a sea-level canal offers quite significant strategic and logistical advantages over the present canal. It would be almost totally invulnerable to long-term interruption by military attack, whereas the present locks canal can be incapacitated for as long as 2 years with relative ease. This means that the canal's important role in providing logistical support to military operations in the Pacific area would be wholly dependable. To get some sense of what this would be worth in dollar values, we may observe that since its inception in 1904 the U.S. Government has expended $5.31 billion—or approximately six times the net civilian investment in the canal—to defend the canal. These defense expenditures, as important as they are for the present locks canal, could be greatly reduced for a sea-level canal because of its invulnerability.

In addition, a sea-level canal could be transited by our aircraft carriers, which are too large for the present facility. At present, a Carrier Task Force moving from one ocean to the other must send part of its force around South America while the remainder transits the canal, only to lie idle for 10 days while the rest of the force catches up.

As an example of the strategic shortcomings and military inefficiency of the present canal, let us assume there is an emergency in the Mediterranean which calls for reinforcement from a Carrier Task Group stationed on the West Coast.

Under present conditions, the Task Group's cruiser and 15 of its destroyers would sail through the canal, reaching Gibraltar in 15 days. Meanwhile, the carrier and an additional 10 destroyer escort would steam the additional 5,000 miles around Cape Horn, not reaching Gibraltar for 25 days.

If a sea-level canal were available, the entire Carrier Task Group could reach Gibraltar in 15 days, at a savings of 47,000 barrels of fuel and $870,000. The strategic flexibility this would provide our Navy would be equivalent to adding an entire Carrier Task Group to our arsenal. In effect, this would provide us an additional $20 billion in defense capability at no extra cost to the taxpayers.

As the Committee knows, President Carter has taken a strong interest in a sea-level canal. Specifically, he instructed our negotiators to seek provisions relating to a sea-level canal in the new treaty with Panama. This was accomplished in Article XII. Unfortunately, there has been some misunderstanding of these provisions. I would like to attempt to clarify them for the Committee, as I have been involved with this issue perhaps more closely than anyone else.

Those individuals critical of this part of the treaty have centered their objections on paragraph 2(b) of Article XII. That paragraph reads as follows:

"During the duration of the Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree."

The hue and cry has gone out that in this provision the United States has given away its right to consider other countries than Panama for a sea-level canal, and that it has done so without getting anything in return.

First, I would point out that the United States did get something in return. Critics have generally overlooked or not understood the meaning of paragraph 2(a) of this same article, which reads as follows:

"No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provision of this Treaty, or as the two Parties may otherwise agree."

The effect of this language is to provide the United States a right of first refusal to be involved if a sea-level canal is built in Panama. In other words, Panama has agreed

that it will not build a new canal in cooperation with Japan, OPEC, the Soviet Union, or any other third party unless we concur.

Second—and this is equally as important—the concession we made to Panama not to build a canal in any other Central American country is of no practical consequence because Panama is the only place it makes any sense to build a canal in any case.

The Canal Study Commission initially examined 30 possible routes, one or more of which would have traversed Mexico, Nicaragua, Costa Rica, Panama, and Colombia. This field was then narrowed to 8 routes—the only ones the Commission judged sufficiently feasible to warrant in-depth investigation. Of these 8 routes, 4 were entirely within Panama, and a fifth was partially within Panama. One of the 4 routes outside Panama involved construction of a lock (not a sea-level) canal, and was studied only for comparative purposes.

The remaining 3 non-Panamanian routes were: Route 8 in Nicaragua and Costa Rica; Route 23 in Panama and Colombia; and Route 25 in Colombia.

Of these 3, routes 8 and 23 were eliminated by the Commission because they required excessive excavation. They were also longer, considerably more costly, and located in areas where no harbors to accommodate deep draft vessels were available.

The third non-Panamanian route, No. 25 through Colombia, was selected by the Commission as feasible only if nuclear excavation were employed. Otherwise it would be prohibitively expensive. But the Commission also rejected nuclear excavation as both technically and politically unacceptable. Consequently, they also rejected Route 25 as not viable.

Of the remaining 4 Panamanian routes, the Commission narrowed its choice to Routes 10 and 14, giving first nod to Route 10. (See Map 4.) This preferred route involves relatively small excavation quantities; retains the full Panama Canal capability at minimum risk during construction and for as long as desired after construction; and has good s upporting facilities available. It lies approximately 10 miles west of the existing canal, just outside the present Canal Zone. Construction of a canal on Route 10 would not require a shift in Panama's metropolitan centers.

SUMMARY

Taken together, the military and foreign policy values, the savings from retaining existing energy delivery infrastructures, and the reduced transportation costs of a sea-level canal would appear to justify such a project even in the absence of strict financial feasibility, which, as we have seen, is not itself obviously lacking. But there is even one further advantage of a sea-level canal. It has the potential of defusing the controversy over the present canal.

The United States—perhaps in conjunction with other interested parties such as the State of Alaska, the international oil companies, Japan, Mexico, Venezuela, and countries on the west coast of South America—could guarantee the bonds to finance a new sea-level canal fully owned and operated by the Panamanians. It would be strictly a business arrangement with a Panamanian guarantee of access and reasonable tariffs as the only quid pro quo. This would provide Panama the economic control over her resources she demands, and would at the same time defuse the present controversy. The United States, for her part, would obtain the economic advantages already pointed out, and would achieve her ultimate goal of a defensible canal available to all at reasonable rates.

These advantages which would accrue to the United States through construction of a sea-level canal make it well worth our while to maintain the good will of the Panamanians, which I feel certain can be done if we ratify the treaties now before us.

TABLE 4.—TRANSPORTATION ALTERNATIVES ALASKAN CRUDE WEST COAST SURPLUS (JANUARY 1977)

Project	Thru-put [1]	Pro-jected start-up	Captial invest ment [2]	Transport costs by route [3] Chicago	Houston
Trans-Guatemala	1, 200	1/81	934	2. 52	2. 16
Transmountain	165	1/79	115	2. 30	.....
Northern tier:					
Phase I	600	1/81	1, 630	2. 78	.....
Phase II	800	1/84	[4] 118	.....	.....
Sohio: Phase I	500	1/79	472	2. 29	2. 06
Panama trans-shipment	.....		([5])	2. 83	2. 46
Cape Horn	.....		([5])	3. 53	3. 14

[1] Thousands of barrels per day.
[2] Millions of dollars.
[3] Dollars per barrel.
[4] Incremental.
[5] Immediate.

CHART 2

SEA-LEVEL CANAL SAVINGS

	Cost of transportation [1]	Total per day [2]	Total per year	Total for 5 yr	Total for 10 yr
Existing canal	$2. 46	$1, 230, 000	$448, 950, 000	$2, 244, 750, 000	$4, 489, 500, 000
Sea-level canal	1. 75	875, 000	319, 375, 000	1, 596, 875, 000	3, 193, 750, 000
Savings	.71	355, 000	129, 575, 000	647, 575, 000	1, 295, 750, 000
Sohio line	2. 06	1, 030, 000	375, 950, 000	1, 879, 750, 000	3, 759, 500, 000
Sea-level canal	1. 75	875, 000	319, 375, 000	1, 596, 875, 000	3, 193, 750, 000
Savings	.31	155, 000	56, 575, 000	282, 875, 000	565, 750, 000

[1] Dollars per barrel.
[2] At 500,000 bbl/day rate.

STATEMENT BY SENATOR LAXALT

Mr. Chairman, I am pleased to appear before this distinguished Committee to offer my views on the proposed Panama Canal treaties. Let me say at the outset that I oppose these treaties and I intend to vote against ratification when they are submitted to the Senate.

My objections range from what the treaties represent to specific problems with what they actually say. In addition, I am quite concerned about how the Carter Administration is going about "selling" them to the American people.

WHAT THE TREATIES REPRESENT

The proposed treaties pose a grievous risk of loss within 22 years and constitute a certain loss after that time of a vital strategic and economic asset for the United States. To my mind, they also set a defeatist tone for our overall foreign policy which is unworthy of our people.

For me, the crucial question to be considered in assessing the treaties for possible ratification is one of trust. In hard practical terms, how much confidence should we as one Nation put in even the most solemnly pledged word of another nation when our vital national security assets are at stake? And, in this case with respect to Panama, does the nature of its government and the character of its leader add credence to the proposed undertaking?

Mr. Chairman, I suggest in this uncertain world that we need to be very careful in selecting those upon whom we rely in basic security matters. What is more, insofar as international partners are concerned, the present Panamanian government is hardly one in which I would repose a lot of confidence much less the guardianship of a vital U.S. asset.

We must remember as we consider these treaties that in the international arena each sovereign state is the ultimate judge of its own actions. We can and we should discuss in detail precisely what is in the treaties. But, we also need to look beyond the treaty language. We need to evaluate above all the credibility of the present Panamanian government.

How close is General Torrijos to Havana and Moscow? How secure is his tenure? Is he likely to demand rapid renegotiation before the ink is dry on these pacts? Would his potential successors? As a law-abiding Nation, we tend too frequently to assume that the word of other nations is as good as our own once pledged. Many times it is. But memories of Yalta, Potsdam, and Suez, should teach us to look beyond the specific language in international negotiations to the character of our potential partners before trusting them with important assets under even the most tightly written treaty. I suggest, Mr. Chairman, that General Torrijos' Panama will fail to withstand this test if this Committee chooses to apply it with its customary rigor.

As important as the credibility of the Torrijos regime in assessing the context of the treaties is the message which Senate acceptance of them would send to our allies and adversaries around the world. I agree fully with Secretary Vance who said in his statement opening these hearings. "How we respond to an issue such as the Panama Canal will help set the tone for our relations with the rest of the world for some time to come."

Where I differ with the Secretary, of course, is in the kind of tone which I believe these treaties set for our foreign policy. In my judgment, the domestic debate on the acceptability of the treaties is between those who see them as an expression of historical generosity and those who view them as a rather abject lesson in capitulation. I am afraid that to me they represent much more of the latter and as such are decidedly unworthy of our people.

Since the end of World War II, the United States has played an active role in maintaining the balance of power throughout the world. Out of a renunciation of prewar isolationism came ANZUS, NATO, bilateral relations with Japan, Taiwan, and Israel; all of which have served our Nation very well.

In my judgment, the great architects of post-war U.S. foreign policy, General Marshall, President Truman, and Senator Van-

denburg, are owed a real debt of gratitude for this. They recognized that pre-war isolationism was not healthy either for this country or the world at large. They knew that our prosperity, our security, and even the future of our democratic institutions were all intimately bound up with the fate of other democratic nations.

I personally feel that the Panama Canal treaties pose a direct threat to the multilateral security structure created by these far-seeing visionaries. Not necessarily in isolation, but as part of a larger mosaic of U.S. hesitancy and withdrawal, serious questions will sooner or later occur to our allies and essential confidence will be impaired. Because it is this confidence which binds our security structure, that structure can only be impaired when serious discussion begins to "de-recognize" Taiwan, when proposals are made to abandon development of important strategic missile systems, and now when we propose to give away an important piece of real estate for the pure and simple reason that when push comes to shove, we do not think we can hold it?

To me this is precisely what the proponents' position boils down to. They cite fears of sabotage, guerrilla warfare and the alienation of Latin American opinion. The military leaders among them even draw distinctions between concepts of possession and use of the Canal. But, the essence of the proponents' position is that because the United States is not physically able to maintain its sovereignty over the Canal Zone, we should relinquish it before it is taken away from us.

This to me is a rather sorry spectacle. Although Santayana did say that those who do not learn from history are condemned to repeat it, I believe that we should not be frightened into giving up important strategic assets by scary specters of our own creation.

The violence argument is thus worthy of detailed comment. Ambassador Linowitz stated it in perhaps the clearest way when he said in a Voice of America broadcast:

"Expectations have been raised so high in Latin America that failure to get the treaties ratified could bring a whole range of consequences including violence."

I do not believe that the issue of potential violence should be ignored, but I do feel that we need to inquire closely as to its origins. To me, the treaties represent the worst possible way of dealing with potential security threats to the Canal from within Panama. The expectations of Panamanian extremists have certainly been raised by the prospect of taking over the Canal. But treaty proponents need to ask themselves whether those expectations will be satisfied by asking extremists to wait 22 years, or whether violence and sabotage are now possible, irrespective of Senate ratification, simply because of the atmosphere of heightened expectations which the treaties create without really satisfying.

In view of this tinderbox situation, I see Senate refusal to ratify as providing at least some deterrence to violence by demonstrating that the power of the United States remains behind its legitimate interests. Ratification of a half-way house treaty, on the other hand, because it represents a clear capitulation under threat of force without satisfying extremist expectations, would be a signal to potential rioters and saboteurs that they need not wait 22 years. All they need do is push just a little harder because the United States would have clearly demonstrated its willingness to treat with violence. Then it would be open season for extremists to attack not only the Canal but the property and persons of U.S. nationals throughout Latin America.

The Administration's eagerness to conclude a Canal agreement, under these circumstances, is of serious concern to me. A fundamental decision was made at the end of World War II that the United States could not retreat into itself and maintain its security unilaterally for long. Granted, there is a certain weariness resulting from a prolonged land war in Asia. But, that weariness has not occasioned any lack of will among our people to maintain U.S. sovereignty in an area much closer to home. Quite the contrary. Recent polls indicate that a vast majority of the American people favor keeping the Canal.

In truth, the weariness is on the part of this Administration. I believe our people without being bellicose, do want to play an active role in the world. I believe our people do recognize certain areas beyond our borders as vital to our national interests. And, I think they will decisively reject a foreign policy which falls short of their standards. President Carter has promised to give this Nation a government as good as its people, but his Panama Canal treaties simply fail to measure up.

WHAT THE TREATIES SAY

The terms of the treaties are no better than the overall tone which they set for American foreign policy. I am opposed to the front-end concession of the key principle of sovereignty. I believe the rapid turn-over of crucial support services to the Panamanians bodes ill for the effective operation of the Canal. I think the human rights of Americans left in the Zone and our ability to guarantee the neutrality of the Canal are inadequately protected. And, it is to me an absolute scandal that we are proposing to pay the Panamanians to take the Canal off our hands.

1. Sovereignty

The main purpose of the treaty is hardly concealed. The preamble to the agreement opens by "acknowledging the Republic of Panama's sovereignty over its territory." Quite clearly at the very core of the nature of the present relationship between the United States and the Panama Canal is our own sovereignty over the Canal and Canal Zone. In my judgment, it would be bad enough if this new treaty confined itself to passing sovereignty to the Panamanian government. But, as I read the existing language, it recognizes that Panama already has sovereignty. Thus, the Panamanians could presumably exercise their right to expel the United States from their country whenever they desire. Accordingly, we are not only giving away our Canal, we are asserting that we have never had it.

2. Effective canal operation

Despite some obvious disputes over the running of the Canal, particularly reflected in demands by Panama over the years for more revenue and control of the Canal, nearly everyone agrees that the Panama Canal Company has operated an extraordinary safe, fair, and efficient operation. It has made a major contribution to the development of world trade and maintained our own security interests in the Western hemisphere.

In scrutinizing the terms of the new agreement, I cannot help but wonder whether the operation will continue in the same equitable and efficient manner in the future. Article X requires that the American work force must "within five years ... be at least 20% less than the total number" of those working there at present. And, under section four of the same Article, now non-Panamanian employees can only work for terms of five years duration (aside from some special circumstances). Thus, discrimination is mandated in the treaty against the very personnel whose qualifications are necessary for the continued operation of the Canal.

Quite simply, Panama does not now have, and cannot have within the short period of time required, the skilled personnel to fill adequately the jobs of those who will leave their present jobs, whether voluntarily or under duress. Jobs such as the ships' captains that navigate the vessels through the Canal now require twenty years of training and experience. Panama does not have such qualified people. At present, only two out of the two hundred ships' captains are Panamanians. Until recently, no school even existed in Panama to train ship's captains and the country has virtually no navy. Nonetheless, the treaty requires that Panama assume control of an increasingly large portion of the skilled jobs in the operation of the Canal.

To make matters worse, the United States does not even have the option of building an alternative Canal if the proposed arrangement with Panama does work out in practice. Under Article XII, the United States is prohibited from negotiating "with third states for the right to construct an interoceanic canal ... in the Western hemisphere" without the consent of the Panamanian government. Thus, regardless of how poorly this agreement may work out, Panama holds an absolute veto power over the United States pursuing an alternative route for the next 22 years.

3. Human rights

The worst fears of the workers who now live in the Panama Canal Zone are fully realized under the terms of the proposed treaty. In all the discussion of alleged grievances and rights of Panama, we have curiously ignored the rights of the American citizens who live in the Canal Zone. In the treaty, we consciously expand Torrijos' authoritarian rule to include the Zone without ever raising a question about the abysmal human rights record of this regime and its consequences for the Americans who live there.

Under Article XI, section 2, Panama does permit the United States to continue to have the "primary right to exercise criminal jurisdiction over United States citizens employees" of the Canal, their dependents and other American military forces. But this protecton is limited to only certain areas and, most importantly, lasts only for the transition period of thirty months. After this period of time, these people fall completely under Panamanian legal jurisdiction.

The human rights question must be squarely faced. The Zonians have lived under the mantel of freedom provided by the United States in the Panama Canal Zone. Are they now to be abandoned? Simply in anticipation of the new agreement, many employees have already left the area and in a three year period this emigration could turn into a flood.

One specific provision of the treaty reveals most conspicuously the rapid deterioration of the rights of Americans remaining in Panama. Under Article V, rather innocuously titled "Principle of Nonintervention", American nationals must "abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama". This requirement appears rather reasonable until one realizes that under the treaty the definition of Panama includes the Canal Zone area where these people live and work. Naturally, the Republic of Panama will have the right to determine what constitutes intervention and thus the definition could easily be broadly construed to include even union activities and ordinary grievance procedures, or any kind of public or private meetings even in one's own home.

4. Security guarantees

Presumably, to protect the United States' vital security interests, a separate treaty provides for the permanent neutrality of the Canal. Thus far, this entire section has

been enveloped in a conflict of interpretations between American and Panamanian negotiators. If disputes have arisen before the agreement is even ratified, this certainly bodes ill for its prospective implementation.

In the discussion thus far concerning American rights under the Permanent Neutrality Treaty, the Panamanians have made a much more convincing case for their position. Rather than a genuinely joint declaration, the Panamanians have insisted that since the main treaty acknowledges their sovereignty over the Canal, they alone can declare the neutrality of the waterway. And, under Article I for the second treaty, the language indicates only that "The Republic of Panama declares that the Canal . . . shall be permanently neutral". Thus, if Panama alone can declare neutrality, then unless other specific language indicates otherwise, the United States has no right under the treaty to proclaim unilaterally a threat to that neutrality and intervene to thwart such a threat.

In testimony before this Committee last week, Article IV of the neutrality treaty has been cited as a basis for the American right of intervention. This article does allude to both the United States and Panama agreeing "to maintain the regime of neutrality established under this Treaty". The last four words of this quote clearly mean the kind of neutrality that Panama has declared already in the treaty and not an American right to determine this. Thus, it is entirely understandable that the chief Panamanian negotiator has told his own national assembly that "The treaty does not establish that the United States has the right to intervene (that is send in troops) in Panama". Similarly, earlier this year, General Torrijos himself stated that after 31 December, 1999, "the duties and responsibilities will be assumed by our country solely and exclusively". The language of the Panamanian view of what this agreement does could hardly be more specific.

On this point, as well as many others, the most lucid discussion that has thus far appeared of the nature and direction of the negotiations has derived from the Panamanians. They have indicated that the original language proposed by American negotiators was unacceptable to them and, ultimately, on the crucial issues they have prevailed. I cannot help but conclude, as the Panamanians have, that the United States under the terms of the Permanent Neutrality Act has sacrificed all meaningful rights to maintain the security of the Canal.

5. The high cost

While most Americans oppose giving the Canal to Panama, they are literally livid at the prospect of paying Panama to take the facility off our hands. Thus, the economic arrangements require special attention by this Committee and some plausible justification must be provided to explain why, in the course of transferring this multi-billion asset to Panama, we must at the same time provide for payments to Panama of upwards of $50 million per year.

Of course, under the language of the treaty, the United States does not directly pay this money to the Panamanian government, but the net result is the same. Under Article XIII, dealing with the Economic Participation by the Republic of Panama, the agreement provides for Panama receiving $.30 per ton for each vessel transiting the Canal. Moreover, five years after the new treaty goes into effect, this figure will be adjusted upward each two years to reflect changes in the American wholesale price index.

Some have contended that this provision places a ceiling on the amounts that the tolls may rise for the next 22 years. But, more likely, the effect will be a rising floor for future toll increases. Coupled with the per ton figure, the United States also quadruples the annuity payment to Panama to $10 million and promises another $10 million if Canal revenues exceed expenses. This last provision may seem to provide an incentive for the efficient operation of the Canal, but more likely, this will simply encourage a rise in tolls that will permit the $10 million to be extracted.

All of this money derives from the revenues collected by the new Panama Canal Commission. The estimates of the total amount varies depending on the volume of cargo. But, on the basis of last year's volume of 117 million tons of cargo, this would have meant approximately $45 million, or about twenty times as much as Panama receives under the 1903 treaty. If the Canal has its anticipated rise in traffic this coming year, but still runs a deficit, this figure would rise to over $50 million.

In order to compensate for this huge new expenditure by the operators of the Canal, Ambassador Linowitz has already indicated that tolls will have to rise by 25% to 30% upon ratification of the treaty. This would represent the single largest increase in tolls since the Panama Canal began operations in 1914. This rise relates largely to compensation being provided the Panamanian government. But, as indicated in the analysis above, probably larger incentives will have to be provided to skilled workers to remain in Panama under the new treaty.

Despite the fact that the revenues going into the Panamanian treasury derive from the general operation of the Canal, the actual expense shall be borne by those ships that transit the Canal and through them the producers and consumers of the goods shipped. This could have severe repercussions on some products, such as American agricultural goods being exported from the Gulf Coast to the Orient or oil flowing from Alaska to our Gulf Coast. Therefore, although the payments to Panama are indirect, the American taxpayer will bear much of the burden of the increase which presumably will rise each year due to the indexing procedures.

Overall this constitutes a radical alteration of the concept of the Panama Canal. While the United States has always viewed the Canal as facilitating world commerce, the Panamanians clearly view the waterway as their own OPEC in miniature, their monopoly over travel from one ocean to the other. And, given the veto power they hold over the American right to negotiate building another canal, Panama can effectively stymie any prospective competition.

Having expended an estimated $7 billion over the past 74 years in order to bring into existence and operate the Canal and all its related facilities, the American people have a right to ask why they must pay to have this enormous asset, run so efficiently and fairly for so long, taken off their hands by the Panamanian government. This is particularly true when sales of only several million dollars to other nations in Latin America have been suspended due to criticisms of the nature of their government.

Yet, with respect to Panama, no concern surfaces over the nature of the military dictatorship in the country that the United States will in effect be rewarding with one of the largest gifts ever bestowed voluntarily upon another nation. If the government of Panama appeared as a reliable friend of the United States, perhaps some justification for this enormous behest might be offered on foreign aid grounds. Instead, the Torrijos regime has constantly extolled Fidel Castro as a great Latin American leader and proceeded on its own social revolution that has substantially destroyed the Panamanian economy. In my judgment, if these treaties were to be ratified, the United States would be rewarding the wrong government, in the wrong place, at the wrong time, and in the wrong manner.

THE SALES JOB

In addition to my concerns about what these treaties represent and what they say, in closing, I would also like to express my concern about the manner by which they are being sold to the American public. Governor Reagan rightfully termed the whole affair a "medicine show." And, I can only accuse President Carter's chief political strategist, Hamilton Jordan, of understatement when he told the Baltimore Sun: "We are going to spend a tremendous amount of political capital to get the treaty ratified."

I have found one of the most intriguing developments resulting from the Panama Canal treaty issue to be the negative approach most proponents have adopted in their efforts to "sell" the document to the American people. Actually, "intriguing" is not a graphic enough description of the sales effort being promoted. "Insulting," although harsh, is probably a much more accurate description of a campaign which is calculated to frighten people into accepting a bad agreement by attempting to persuade them that because the Canal is vulnerable to attack by elements within Panama, this facility can only be insulated from destruction through acceptance of the current treaty.

This "argument" is the most prominently mentioned of the reasons for relinquishing control of the waterway. According to this line of reasoning, since the Canal is susceptible to attack, and the Panamanian government has raised the spectre of guerilla warfare unless we deliver—either our country accepts the treaty negotiated and turns the Canal over or it will be put out of commission with everyone losing in the process. Upon largely this basis, the Canal treaty proponents are mounting what they refer to as an "educational" program to apprise Americans of the purported dangers.

Of all the approaches, those who favor ratification could have chosen to "educate" the people with, in my opinion, this is the least likely to succeed. It won't succeed because the American people will reject it. Treaty supporters have maneuvered themselves into the unenviable position of attempting to convince the American public that they should forego a valuable strategic asset because violent actions have been threatened if we don't knuckle under.

I personally do not believe that an "educational" program heavily resting on the foundation of the "violence argument" when there is ample evidence that the document itself is faulty, dangerous and inequitable will have any chance of success. Possibly this is the only really viable avenue of approach for treaty proponents because the treaty is so poor as to be indefensible on most other grounds.

Mr. Chairman, the whole concept of a propaganda campaign is disturbing in our American context. It is quite obvious that the Canal treaty is uniformly unpopular with the public. Polls show this to be the case as do recent political developments with the ratification vote being put off until sometime next year, maybe, when it is hoped more votes are found somewhere in the Senate.

Certainly, the Administration has the right, indeed even the obligation, to take its case to the people. But, the vehemence of their propaganda effort must be a function of the recognition that they have an uphill battle since the Panama Canal agreement certainly will not sell itself. This approach will, without doubt, be found wanting by our people. But what concerns me is the arrogance of those who, again, underestimate the capacities of the people and assume the role of pedagogue. What we have is the same tried, old coalition of elitists in government, business, and labor purporting

to prescribe to the masses for their own good while each is determined to "sell" the document for its own reasons.

There is almost a feeling of deja vu today as, one after the other, familiar names and faces of those who ran our foreign policy in the 1960s reenter the scene to bless the Panama Canal treaty. I get the distinct impression they have once again found it comfortable returning to the arena where many programs they designed a decade ago are now being carried out. Yet, this is not particularly comforting since the era of "the best and the brightest" was not one renowned for its foreign policy successes.

It looks like Big Business is concerned enough about ensuring its investments in Panama to back the treaty. It is no secret that the Torrijos regime is teetering close to the edge of financial collapse. If the walls caved in on this government, American dollars heavily invested in the country would be lost. With this treaty and its extravagant pay-off plans, the Panamanian economy would be pumped up and many American businessmen saved from a financial drubbing. Additionally, I think the business community has bought the "violence argument" and is willing to have taxpayer dollars bail them out of imagined Latin difficulties.

The third leg of the establishment triad offering support for the Panama Canal treaty is Big Labor. There is so much politics tied in with their endorsement that I am not sure the merits of the treaty were a consideration. But then, I have never been close enough to labor circles to be party to their concerns. Suffice to say that George Meany has found ways to thank the Carter Administration for its support of the labor reform package.

So, what we have it seems to me is a classic case of establishment arrogance. The power blocs which deal in this town have decided to "educate" the massess on the necessity of ratifying the Panama Canal treaty. Such patronizing is insulating to the American people.

Mr. Chairman, I sincerely doubt that any propaganda campaign, no matter how skillfully handled, could "sell" this very dangerous and inequitable treaty to the American people. The fact that there is nothing really positive to commend it has led to a campaign based largely on simple scare tactics. Mr. Chairman, Americans will not buy it. We have responsibilities which must be met now and in the future and such responsibilities will not be dismissed by threats of blackmail which carries with them undesirable precedents. It will be impossible to "educate" our people to accept something that is wrong.

STATEMENT BY SENATOR BOB DOLE

Mr. Chairman and Members of the Committee: I appreciate this opportunity to appear before the Committee today, to comment on the two Panama Canal Treaties now pending before the Senate.

You gentlemen have already had an opportunity to hear from a series of Administration witnesses on this important issue. As one who shares the responsibility of deciding whether or not these two Treaties should be ratified, I can appreciate your desire to gain as many perspectives on the issue as possible.

I, too, hope to learn a lot more about all that is involved here in the weeks ahead. But I cannot agree with many of the key assessments and conclusions about these Treaties which the Administration's spokesmen offered to you last week.

I cannot agree, for example, that our ability to continue to use the canal, and to defend the canal, is adequately guaranteed under the provisions of these Treaties. I cannot agree that our nation's economic interests are protected by granting exorbitant annuity payments to Panama, and by giving Panama a major chunk of toll revenues. I cannot agree that the United States Canal Zone territory should be turned over to Panama without the express consent of both Houses of Congress. I hope to offer some helpful perspectives at this time on how we should properly approach these Treaties in order to protect our vital interests.

On September 23, I became the first Member of the Senate to introduce amendments and reservations to the Panama Canal Treaties. I want to explain why I feel this is a responsible approach to this Treaty issue. In doing so, I will review the details of the Treaty modifications I have proposed, and explain why I disagree with the Administration's spokesmen on these critical points.

A SENATE RESPONSIBILITY

Article II of the United States Constitution gives the President the power to make treaties with other nations "by and with the advice and consent of the Senate." Our advisory role is clear. And our responsibility to scrutinize treaties before giving our consent is evident.

Yet, the Administration seems bent upon forcing the Panama Canal Treaties through the Senate without modification. We are told that anything less than "unqualified" Senate approval will jeopardize the Treaties. General Torrijos takes the same narrow view. "The negotiations are over," he says. "The Treaties have been signed. I'm not interested in what is said."

The Treaties have been signed, but the debate has only started. Our Constitution guarantees that we, on behalf of the American people, will have the final say on Treaty proposals, and I don't think we should shirk our responsibility.

MAKING MODIFICATIONS

The State Department tells us that amendments or reservations to the Canal Treaties would be fatal. It is likely that legally binding modifications like these would require renegotiation, at least on those particular portions of the Treaties.

But I do not think that proposing amendments should be equated with efforts to "kill" the Treaties. In fact, it is not an effort to destroy, but to improve these documents which bear so heavily on our national interests. I studied both Canal Treaties in detail, and found them grossly unacceptable in certain areas. I have offered reasonable proposals to modify those portions, in line with our Constitutional responsibility.

The Panamanians have understood our ratification system all along. They were aware of the Senate's responsibilities of review, and its right to modify, if necessary.

I say that we should amend if necessary, and register reservations if necessary, and at that point the ball is in Panama's court. If they refuse to reconsider these points, then the blame is theirs, not ours. But I suspect that they will be ready to renegotiate rather than to lose these Treaties which give them so much.

BEGGING OUT WITH "UNDERSTANDINGS"

One thing should be made very clear: simple "understandings" by the Senate will have no legally binding effects on the Canal Treaties. Understandings merely constitute interpretations of this or that point in the Treaties, and do not necessitate renegotiation.

However, they are *our* interpretations, not Panama's. When an issue or dispute arises in years to come, we will point in vain to our "understanding." The Panamanians will say: "That may be the way your Senate interpreted it, but this is what the Treaty says, and we interpret that differently."

If we really feel strongly about weaknesses or ambiguities in these Treaties, we should be bold enough to correct them in a straightforward and non-apologetic manner. If we must amend a Treaty provision to remove all doubt about its meaning, then so be it.

If we simply "buy time" now by deceiving ourselves with "understandings" that have no binding impact, the next generation may have to bear the consequences. It will, of course, be easy to soothe our consciences by attaching weak "interpretations" to the Canal Treaties. Politically, it may be a very easy thing to do.

But I say this: If we end up next year ratifying these Treaties with nothing more than a bunch of meaningless, half-baked "understandings" attached, we will have failed our Constitutional duty to the national interest and the American people.

Mr. Chairman, I would ask the Committee's permission to insert, at the end of my prepared statement, excerpts from several authoritative sources comparing the effects of Treaty amendments, reservations, and understandings.

AMENDMENTS TO TREATY

Mr. Chairman, in accord with my feeling that the Senate has a responsibility to modify these Treaties where necessary, I have introduced a series of six amendments and two reservations. The amendments would directly modify, or add to the language of the Treaties, while the reservations express specific conditions under which our agreement to ratify would be made. All of these would, in my opinion, better protect the nation's vital interests and substantially improve upon both the basic Canal Treaty and the Treaty on permanent neutrality.

I will not spend a lot of time describing these proposals, since I believe you have all had an opportunity to review the statement I made on September 23, at the time of introduction. I do want to emphasize, however, that I feel very strongly about the Treaty defects which prompted each of these proposals. My amendments and reservations represent sincere and earnest efforts to correct these problems, in a manner that is legally binding. Without these corrections, I think both treaties jeopardize our interests and are therefore unacceptable.

MILITARY INTERVENTION AND PRIORITY PASSAGE

Mr. Chairman, I am positively convinced of the Canal's importance to the United States' defense interests. If there was ever any question in anyone's mind about this importance, I would think that the letter to President Carter last June, signed by four former Chiefs of Naval Operations, would remove that doubt. One of those officers, Admiral Thomas H. Moorer, testified persuasively on this point before the House International Affairs Committee last week, and I would commend his testimony to the attention of this Committee.

Therefore, with respect to the Treaty on permanent neutrality, I propose to amend Article IV to specifically guarantee our authority to intervene militarily whenever we determine the Canal's neutrality to be threatened. In addition, I propose to amend Article VI to guarantee that U.S. vessels of war will have "'priority passage" rights through the Canal whenever our nation is at war. Both of these points are ambiguous within the Treaty, and have been interpreted differently by American and Panamanian negotiators. It is clear that clarification of the language is badly needed. An "understanding" will not do the job.

Last week, Secretary of Defense Harold Brown testified that "we felt strongly [during Treaty negotiations] that the United States should take whatever action was necessary to maintain neutrality," and U.S. Ambassador Sol Linowitz insisted that "it is for the United States to make the determination as to how we should respond and how we should defend our rights . . ."

However, the Chief Panamanian Negotiator, Escobar Bethancourt was quoted in an

interview on August 24 as saying that the United States will not determine when neutrality is violated, and that the Treaty "does not establish that the United States has the right to intervene in Panama."

Secretary of State Cyrus Vance testified to you that, "in practical terms, as I understand it, our ships can go to the head of the line" in gaining passage through the Canal. This is under the 'expeditious passage' clause in the Treaty. The Panamanian negotiator, on the other hand, specified that "expeditious passage does not mean privileged passage," and that if "the Gringos with their warships say 'I want to go through first,' then that is their problem with the other ships waiting there."

EMBASSY CABLE

Despite efforts by the Secretary of State, Secretary of Defense, and others in the Administration to "smooth over" these discrepancies, there is no question that serious differences in interpretation still exist.

This was brought clearly to my attention earlier this week when I was handed a copy of a confidential cable sent to the State Department by our Embassy in Panama. This cable reveals just how widely our interpretation of the "intervention" and "expeditious passage" clauses differs from that of Panama's negotiators. I have already asked the Secretary of State to comment on the contents of the cable.

Rather than read it verbatim, I will summarize its contents:

"Our political counselor at the American Embassy in Panama found one of the Panamanian Treaty negotiators 'disturbed' last Thursday morning by testimony that had been presented before the Senate Foreign Relations Committee.

"Specifically, the Panamanian Negotiator, Carlos Lopez Guevara, was said to be troubled by testimony presented on Monday regarding the Carter Administration's interpretations of the 'expeditious passage' clause, and of our rights to defend the Canal's neutrality. That would be the testimony by Secretary Vance, and Ambassadors Ellsworth Bunker and Sol Linowitz.

"NO 'PRIORITY' OR 'INTERVENTION' RIGHTS

"Guevara is said to have stated that 'preferential' treatment for American ships was specifically rejected during the negotiations, in favor of the term 'expeditious'—and as having a far different meaning.

"Furthermore, Guevara told our political counselor on Thursday that Article IV of the Treaty on Permanent Neutrality does not give the United States the right of military intervention to protect the Canal. He is quoted as follows: 'Panama cannot agree to the right of the U.S. to intervene.' He further urged that U.S. officials stop using the term 'intervention' in describing our rights under this Treaty.

"According to the cable, our counselor at the Embassy then told Guevara that certain statements by Panamanian negotiators—and I assume this refers to remarks by Escobar Bethancourt which I quoted above—are proving 'difficult to explain to skeptical Senators.' In response, Guevara is said to have stated that no matter how necessary in the American process, there were some things that no Panamanian government could accept.

"The cable ends with a notation by our Embassy that Guevara 'is influential' within his government. It is advised that the Administration is likely to be faced with 'increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged' by Panamanians."

WE CANNOT ACCEPT AMBIGUITY

Mr. Chairman, I have decided to include this cable as part of my testimony for a very important reason. It demonstrates beyond a doubt the vast differences in interpretation of the most important part of these Treaties—that portion which deals directly with our vital national defense interests.

It appears that the Panamanian officials are trying to sell one version of the Canal Treaties to their people, and that the President is presenting a totally different picture. This may be good strategy for gaining ratification, but where does it leave us in years to come during a period of crisis?

From the standpoint of our national defense interests, it is essential that the United States have unilateral authority to step in and defend the canal militarily at any time. It is also essential that we have a clear-cut right to priority passage through the canal, especially during wartime.

We cannot accept ambiguity on these points. The Senate must clarify our defense rights by *amendment*, not by weak interpretations that have no legal and binding effect. Otherwise, we will be haggling over "understandings" at some critical point in the future when our national security is directly at stake. I believe my amendments will provide the best acceptable assurance for our defense needs.

NO RESTRICTIONS ON LOCATION OF NEW CANAL

Treaty Amendment #1 ensures that the United States will not be committed to construct a new sea-level canal in Panama. If we should decide at some point that a new interoceanic route is desirable, Article XII of the Panama Canal Treaty would, in fact, bind the United States to construct such a canal in Panama. Yet, there is no commitment on the part of Panama to agree to permit construction of the canal—we are only prevented from constructing one elsewhere.

I certainly don't suggest that we rush right down and build a new canal in Central America. That project may or may not be vital to U.S. defense and economic interests at some point in the distant future. But the President has been talking a good deal lately about a new sea-level canal, and I suspect that the vast majority of American people will want to know first why we are giving up one canal in order to build another. They want to know why we would commit ourselves to build another in the same country that is now demanding possession of the old one.

My amendment will strike that section of Article XII which would foreclose our options, and substitute in its place a clause specifically rejecting any restrictions on U.S. negotiations with other countries, for the right to construct a new canal somewhere in the Western Hemisphere. In my opinion, it is absolutely necessary that this freedom of choice is maintained.

REDUCE PAYMENTS

My second amendment would reduce Panama's share of the canal operating revenues, as outlined in Article XIII of the basic Treaty. The payment provisions concern many Americans, because we already seem to be giving up so much under this Treaty.

I really think this "pay-away" plan is a puzzle. Are we providing rent, ransom, or "conscience" money?

The United States currently pays the Panamanian government an annuity of $2.3 million. By State Department estimates, Article XIII will provide Panama with between $60 and $70 million per year. Panamanian estimates place the figure at between $70 and $80 million per year. It is a windfall in any case, particularly when we consider the value of real estate and equipment that will be given without charge to the Panamanian government under the Treaty terms.

CUT PAYMENT IN HALF

The amendment I am proposing would reduce the payments provided in Article XIII by more than one-half. First, it would reduce Panama's share of the canal's annual operating revenues from 30¢ per-net-ton to 15¢ per-net-ton for each vessel transiting the canal. Second, it will eliminate altogether the biennial adjustment of this rate according to changes in the U.S. wholesale price index, as is mandated in the Treaty. Finally, my amendment will strike that provision supplying Panama with "up to" $10 million per year depending upon revenues. Although this provision is billed as contingent upon the profitability of the canal in any given year, it in fact guarantees payment of the full annuity "from operating surpluses in future years" whenever annual revenues are insufficient.

Even with this amendment, the Panamanians are still provided a fixed annual annuity of $10 million, plus an equitable share of canal revenues, plus receipt of U.S. loans and zonal property. No one, I think, can seriously dispute the generosity of this arrangement.

MINIMIZE SHIPPING COSTS

By reducing Panama's share of canal revenues, we reduce the pressure for immediate toll increases. The canal is already operating at a deficit, and the Governor of the Canal Zone testified before this Committee last week that the Treaty provisions will probably add to the need for an immediate toll increase of twenty-five to forty percent. Of course, any significant increases in shipping costs will adversely affect our ability to compete for foreign markets and could have serious negative effects on the American farmer.

Much of midwestern grain supplies, for example, are shipped to the Orient through the canal. Higher tolls would decrease American agriculture's ability to compete with Australia, Canada, and other exporting nations for Asian markets. Thus, we help protect our economic interests by assuring only reasonable and equitable payments to Panama.

NO PAYMENT IF CANAL IS CLOSED

Finally, my amendment provides that the fixed annual annuity will cease during any period in which the canal is inoperable. It would be unfair and irresponsible to continue that payment during a time in which the canal is closed, whether due to natural catastrophe, functional breakdown, or intentional sabotage. The United States would be expected to bear the major economic burden of reopening the canal in any case. It simply does not make sense for the U.S., through the Panama Canal Commission, to continue paying Panama for a passage route that is out of order. My amendment will protect the United States on this point.

EXTENSION OF TRANSITION PERIOD

Consistent with the intent of Article XI of the basic Panama Canal Treaty, to provide for an "orderly transition" of jurisdiction over the Canal Zone, I propose an amendment which would extend the period for transfer of jurisdictional arrangements. This Treaty is being marketed by the Administration as a "23-year" transition document. Careful reading of the Treaty provisions, however, suggests that this is not a 23-year transition treaty—it is a 30-month transfer of title.

Article XI returns full jurisdiction over the Canal Zone to Panama as soon as the Treaty enters into force, and transfers all U.S. judicial, administrative, and regulatory authority to Panama within 30 months. After that, American citizens will be subject to Panamanian law, and subject to Panamanian civil and criminal justice as well.

This does not constitute "orderly transition." I don't know of many Americans who are willing to subject themselves to Panamanian justice and authority. This provision

will drive Americans out of Panama. I believe we will see a mass exodus of U.S. engineers, pilots, and other canal personnel within the next two and one-half years if this provision prevails.

My amendment will permit the Panama Canal Consultative Committee to study the issue after the Treaty takes effect and, with the benefit of actual experience, make a recommendation as to when the period of transition should formally end. However, in no case will this be prior to January 1, 1990. This date coincides with transfer of the administration of the Panama Canal Commission from U.S. to Panamanian leadership. It is logical that primary U.S. authority over both the canal and the Canal Zone should expire at about the same time. By doing so, we will allow for a more orderly and gradual phase-out of American employees in the area, and of judicial and administrative control over them.

HUMAN RIGHTS

I have proposed both an amendment and a reservation to address the human rights question. My amendment would protect the civil and political rights of those who live and work in the Canal Zone region. My reservation conditions Treaty ratification on the understanding that the Panamanian government will make "significant progress" towards observing the human rights of all its citizens during the basic Treaty period.

For an Administration which has made the subject of human rights a basic element of its foreign policy, particularly towards Latin America, the White House has been strangely silent on the issue with respect to the Panama Canal negotiations. President Carter calls General Torrijos "an enlightened dictator." I'm not sure I understand exactly what that term means, but most of us are familiar with the extremely poor human rights record in Panama as identified by "Freedom House" and by Panamanian exile groups.

Why have we ignored the human rights issue altogether in Panama, while the Administration lambastes other Latin American nations on this point? I don't know the answer. Buit in the interest of moral principle, as well as consistent foreign policy, it's important that we address the subject of human rights observance within Panama. My amendment and my reservation will do this for the benefit of both U.S. citizens in Panama and for Panamanian citizens.

TRANSFER CANAL ZONE PROPERTY

Finally, my second reservation reaffirms the constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Canal Zone territory. Without reviewing all of the historical precedents and court decisions which support this argument, I will simply say that disposal of Canal Zone "territory and property" clearly falls within the realm of Article IV, Section 3, paragraph 1 of the United States Constitution. As such, not only two-thirds of the U.S. Senate but a majority of the U.S. House of Representatives must approve the proposed Treaties.

My reservation clearly states that, before the Canal Treaty enters into force, "The Congress" must adopt appropriate legislation to transfer the Canal Zone to the Republic of Panama. This would protect the right and the responsibility of the House of Representatives to participate in this significant decision.

NO APOLOGIES

Mr. Chairman, I want to say that the people of the United States owe Panama no apologies for our involvement with the canal. The generosity of our government in building the canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Free of any sense of guilt, we should proceed to analyze these Treaties in an objective and responsible manner.

But the Panamanian government must know that we will never relinquish our presence in the Canal Zone because of veiled threats or direct pressures. They must know that we expect priority passage for our ships during periods of crisis. They must be told that we expect to see substantial progress in the area of human rights, and that we expect to share a reasonable, but not exorbitant amount of the canal tolls with them.

I have outlined the reasons why I cannot support the Panama Canal Treaties in their present form. I have offered reasonable proposals for amending the Treaties to protect our vital national interests.

You gentlemen will have an influential voice in determining the final form of these Treaties that is voted on by the Senate. It's my opinion that the Treaties will not be approved unless modified. It's my own opinion that they *should not* be approved unless modified in a way that is truly effective—that is, by direct amendment or reservation.

STATEMENT BY SENATOR WILLIAM L. SCOTT

Mr. Chairman, I appreciate this opportunity to appear before the foreign relations committee and to express my personal views on the important matter now under consideration. I am aware that the administration in urging ratification has stressed the long period of negotiations under four Presidents, emphasized the support of Latin American countries and the need to yield to world opinion to relinquish the Canal Zone to Panama. However, in this country sovereignty resides in the people and not the President or the officials who negotiated the proposed treaties. Therefore, it would seem that the will of the people should be reflected in our decision. There is little doubt that the American people are opposed to the ratification of the treaties, and I have great faith in the collective will of the majority. My own mail is roughly 5% in favor of the treaties and 95% in opposition, and I expect each Senator's mail is quite heavy. So perhaps in the final analysis rather than the White House educating the American people, the President and the Department of State may receive an education in American Government. I would certainly hope that this will prove to be the case.

My views are based not only on mail from constituents, but upon two recent trips to Panama and South American countries. A thorough reading and rereading of the treaties and background information, independent investigations, listening to testimony before the subcommittee on separation of powers of the Senate Judiciary Committee and studies made by the Library of Congress.

There appear to be many objectionable provisions in the canal treaty which should be eliminated or clarified, such as the prohibition against the United States constructing a new canal anywhere within the isthmus without the consent of Panama, and the doubtful interpretation of "expeditious passage".

However, the beginning of article I of the Panama Canal treaty, to my mind, is by far the most objectionable feature because it provides for the abrogation of all prior treaties with the phrase, "this treaty terminates and supersedes" the treateies of 1903, 1936, 1955 and "all other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal. . . "

Under the 1903 treaty we guaranteed the independence of the new country of Panama, paid $10 million and agreed to an annual payment of $250,000 and obtained both title to the Canal Zone and sovereignty over it. Other actions taken by our government to perfect our title included the purchase of the French canal properties for $40 million; what was tantamount to a quitclaim and recognition of our title from Columbia for the sum of $25 million; and the purchase of private rights from owners and squatters expressly excluded from the 1930 treaty. All this, however, would be vitiated by the first sentence of article I of the present canal treaties.

It is true that under numbered paragraph 2 of article I, the Republic of Panama grants to the United States for the remainder of this century "the rights necessary to regulate the transit of ships through the Panama Canal and to manage, operate, maintain, improve, protect and defend the canal." But we would be managing, operating, maintaining, improving, protecting and defending property belonging to the Republic of Panama rather than American property as the situation is today.

Mr. Chairman, as you know, a valid contract must contain consideration. We speak of something of value flowing from one party to the other, mutuality, but in my judgment these treaties are for the benefit of Panama alone. I find no new benefits for the United States.

It does not appear, Mr. Chairman, that there is serious concern within the executive branch of government to the role of the Congress under article IV of the Constitution. As you know, the second paragraph of section 3 of the article provides: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: . . ."

To determine the proper role of the House under article IV, I requested a study be made by the Congressional Research Service which responded with an excellent and objective legal memorandum dated August 4, 1977, concluding that precedent indicates Congress has exclusive power to dispose of property in the Canal Zone. I ask, Mr. Chairman, to include a copy of this memorandum in the record.

Attorney General Bonaparte, in an opinion dated September 7, 1907 (26 Att'y Gen. 376), stated that sovereignty over the canal zone was not an open or doubtful question and applied what he stated was the first rule of construction, "that plain and sensible words should be taken to mean what they say." The Attorney General added: "The omission to use words expressly passing sovereignty was dictated by reasons of public policy, I assume; but whatever the reason the treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars 'All the rights, power, and authority' that belong to sovereignty, and negatives any such 'sovereign rights, power, or authority' in the former sovereign."

Now, Mr. Chairman, I realize that some of our people in the executive branch are attempting to convey the impression that we do not possess either title or sovereignty but this is contrary to the opinion of Secretary of State Hay in 1904 who stated, "that the grant accomplished by the treaty was a grant accomplished by the treaty was a and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty; . . ." Later he said: "It cannot escape observation that the legislative branch of the Government of the Republic of Panama by legislative enactment declared the zone to be 'ceded to the United States,' and dealt with accordingly." And still later he stated: "The United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the Canal Zone the exclusive jurisdiction to exercise sovereign rights, power and authority." Mr. Chairman, I ask that this entire letter of Secretary Hay be inserted in the Record.

The Supreme Court in the case of *Wilson* v. *Shaw*, 204 U.S. 24 (1907), stated that we hold a valid title to the Canal Zone and compared our title with the then territory of Alaska. The court added: "It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Mr. Chairman, I ask that a copy of this unanimous opinion by the Supreme Court also be included in the record.

In 1971, The Fifth Circuit Court of Appeals in *U.S.* v. *Husband R.* (*Roach*) 453 F. 2d 1054, cert. den. 406 U.S. 935 (1972), stated: "The Canal Zone is an unincorporated territory of the United States." So, Mr. Chairman, the first article of the canal treaty is an attempt to transfer United States property and sovereignty over the Canal Zone.

These are opinions of both cabinet officers and our highest court made near the time we acquired the zone and the exhaustive study of authorities made by the Library of Congress in its paper dated August 4, 1977. The only rationale I know for persons presently holding positions within the executive branch of government to deny that we hold title or sovereign rights in the Canal Zone is to close ranks in support of a treaty signed by the President.

I wonder if each Senator early in his school experience didn't learn that the United States acquired the Canal Zone, rid the area of disease, constructed the canal and has operated it under the American flag since the beginning of this century. At a time when world domination is being sought by a form of government entirely different from our own, it appears untenable to give away this vital artery of commerce, to pay Panama for taking it and to commit ourselves to defend it.

This view is shared by Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff from 1970 to 1974, who testified before the Senate subcommittee on separation of powers. Toward the end of his testimony on July 22 of this year, Admiral Moorer made these statements: "Surrender of U.S. sovereignty over the Canal would inevitably lead to the transformation of the entire friendly character on the Caribbean and the Gulf of Mexico. Everything would depend on the attitude of those who held sovereignty and ownership . . . I might say that in military affairs there is no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace."

Of course, Mr. Chairman, Admiral Moorer retired as our number one military officer and is in a position to candidly express his opinion at this time and I believe we can well understand the hesitancy of some active members of our military forces publicly disagreeing with their Commander-in-Chief. We need only to reflect on General Singlaub being called back from Korea and being reassigned because of a candid statement made by him and the rebuke of General Starry by the Secretary of the Army to realize that active duty officers and even civilian government officials are not entirely free to express opinions contrary to the administration's position.

Before these rebukes, however, on March 11, 1977, during a closed session of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, Admiral Maurice Weisner, presently Commander-in-Chief, Pacific, or in other words, the Commander of all of our Armed Forces for one half of the globe, with headquarters in Hawaii, responding to specific questions regarding the importance of the canal to the United States. This testimony is reported at page 2378 of the hearings on military procurement for the fiscal year 1978 and I ask unanimous consent, Mr. Chairman, to include the page in the RECORD. He was asked for his views as to the importance of the Panama Canal; whether there would be any adverse effect on his command if the Panama Canal were not under the control of the United States. Let me quote his response: "I can see adverse effects, Senator Scott. It takes considerable time to move items by sea from the East Coast to the Pacific. Without the Panama Canal, you are adding 3 weeks' time in shipping critical items such as ammunition from an East Coast port rather than from a West Coast port."

Then I asked the Admiral if he would see a need for an increase in our naval strength if we did not control the Panama Canal. Admiral Weisner responded: "Yes; we would have to put these critical items being shipped by sea over a greater area." This, of course, is a response of an active duty military commander before the Singlaub affair.

Returning briefly now, Mr. Chairman, to the conclusion of the testimony by Admiral Moorer before the Judiciary Committee, he states, and I quote: "Anyone in this country who thinks that Soviet Russia is not staring down the throat of the Panama Canal is very naive, and I think it says something to note that the Soviets understand the importance of the Panama Canal apparently far more than many in our own country."

On September 8th of this year, retired Admiral John S. McCain, Jr. also testified before our Subcommittee on Separation of powers and I am quoting this 4-star Admiral: "From my combined military experience which includes Europe, Asia, the Pacific, the Caribbean and the United Nations, it is my conviction that U.S. interests are best served by keeping the canal, by retaining undiluted sovereignty over the U.S. Canal Zone." He added (and again I quote: "Finally, I would like to re-emphasize the importance of the June 8, 1977 letter of the four greatly distinguished chiefs of naval operations to the President that was quoted in the testimony of Admiral Moorer. Their conclusions reflect a vast background, including combat experience, and are more pertinent today than ever. Retired military officers are completely free to voice their inner-most convictions. Active duty officers have an obligation to support the policies of their commander-in-chief."

I would hope, Mr. Chairman, that this committee will call more retired military officers in whom you have confidence and who are free of constraints from their commander-in-chief and ask their candid, personal opinions on the dangers of our Government parting with title to the Canal and the gradual turnover of full control to the Republic of Panama.

Mr. Chairman, we sometimes hear that Latin America favors the transfer of title and control of the Canal Zone from the United States to Panama but I have taken two trips to Latin America this year and have had the opportunity to talk with chief executives and other principal officials of a number of Latin American countries, with embassy personnel, with intelligence officers, with American citizens, as well as foreign nationals within the countries visited.

In Colombia I learned that because of kinship with an adjoining Latin country, Colombian officials do favor the transfer of the canal but are very much concerned about the contemplated increase in tolls, stating that the only practical way to transfer material from one part of their country to another is through the canal.

Brazilian officials didn't seem to have any real concern regarding the proposed transfer, referring to it as a matter between the United States and Panama. Perhaps this is because Brazil fronts on the Eastern coast of the South American continent and is not among the prime users of the canal.

In Argentina, officials indicated that they did not make extensive use of the canal but expressed fear that it might come under communist control.

Chilean officials were even more concerned of the possibility of Communist influence or control of the canal indicating that 95% of their commerce used the canal and that they could not afford an increase in tolls or to have this vital artery subject to direct or indirect control by Communists. Chilean officials indicated that our contemplated action in giving up the canal appeared to be contrary to the best interest of the world community and they would much prefer that we retain complete control of the canal.

In Peru, we again heard that Panama was a neighboring country and because of this they favored the transfer to Panama. However, officials indicated their country would suffer greatly if the tolls were raised as appears to be inevitable if the treaties now under consideration are ratified. Contrary to some suggestions, officials of every South American country visited indicated that there would be no repercussions from their country if the Senate failed to ratify the treaties.

Within the Canal Zone itself, we heard the strongest opposition and the greatest fear of communism. American citizens complained of violation of human rights, they spoke of lack of expertise and management ability, of the differences between salaries within the zone and the Republic of Panama. Many indicated that they would not continue to work within the Canal Zone if it came under the control of Panama.

I inserted a detailed statement of the Panamanian trip in the August 4, 1977 CONGRESSIONAL RECORD and included a statement by the heads of various civic groups within the Canal Zone. Should any Senator have any doubt about the feeling of American citizens living in the Canal Zone, he might want to refer to this statement. It concludes, and I quote: "for ourselves as U.S. citizens living and working thousands of miles from our homeland, we can say, 'pack us up tomorrow. We're ready to go.' But for the sake of U.S. commerce and the U.S. national interests in general in the western hemisphere we urge you to examine the proposed treaty in minute detail.

"We urge you to visit here for more than three days, to observe the situation with your own eyes and not to depend solely on briefings by U.S. or Panamanian Government officials. The new treaty with Panama will have long-range repercussions that coming generations will have to live with; we urge you not to ratify a new treaty solely because the State Department says that a treaty is the cure-all to problems with Panama. The Russia-Cuba axis and the American electorate are waiting to see which way the treaty goes. A hasty decision on the part of our Congressmen without giving deep and thoughtful study to the question would please the former and infuriate the latter."

Now, Mr. Chairman, on this question of Communist influence, Mr. Charles Conneely, a member of the professional staff of the Armed Services Committee, and myself talked privately in a number of Latin American countries with Embassy officials, with military intelligence officers, with CIA officials, with both American citizens and foreign nationals about the possibility of Communist influence. We first visited in Panama and were somewhat skeptical, or thought perhaps the Americans living within the zone might tend to exaggerate the question of Communist influence. Yet, the statements they made were verified in private conversations with the American intelligence community in various Latin American countries. In acting upon this treaty we may well be considering not only future control of the

Canal Zone but future control of the Caribbean.

Therefore, it would seem important enough to the defense of our own country and that of the free world to have military and civilian intelligence officials, both active and retired, to testify under oath in closed sessions regarding Communist influence, within Panama and other nations of Latin America. Time after time we heard the names of leading political figures in Panama identified as Communists and were told that there were strong Communist influences throughout the Panamanian Government. I call these statements to the attention of the committee because of their repetition by so many people during our South American visit and suggest that the committee endeavor to ascertain the truthfulness of falsity of their allegations.

I believe the committee and the Senate will want to consider these factors in determining whether to advise and consent to the treaties.

My own opinion, Mr. Chairman, is that these treaties should be defeated. But I would hope that the administration could then be encouraged to negotiate an arrangement for joint control by the United States, Panama and a limited number of Latin American countries but with ownership of the Canal Zone remaining in the United States.

STATEMENT OF SENATOR JESSE HELMS

Mr. Chairman, and distinguished members of the committee: I come before you today not to give you some pre-set opinions of my own, but to raise some questions which I have not yet seen fully answered by the distinguished witnesses who have appeared before you. I would not be candid if I did not admit that the texts of the treaties have done little to convince me that the basic principles of the Kissinger-Tack agreement of 1974, upon which the treaties are based, are themselves adequate to support the national interest. But no one can prudently adopt an attitude of a closed mind. Indeed, should the treaties pass—and I hope they do not—it will still be best that all aspects of the treaties and their implications be fully aired, and fully understood by all concerned. I therefore raise these questions today in the hope of creating an intelligent dialogue.

QUESTION NO. 1: THE REAL ISSUE

Let us take the slogan, frequently heard, "our true national interest is in the continued use of the Canal, not in ownership." Is not the real question rather whether the continued use of the Canal will be better protected by the present treaties or by the proposed new treaties? Will we be better able to keep the Canal open, safe, and efficient under the present system where we exercise exclusive command and control over a clearly demarcated area, or will it be easier to keep it open, safe, and efficient under the mixed administrative system with a combined defense and interlocking, overlapping areas of responsibility?

QUESTION NO. 2: U.S. SOVEREIGNTY IN THE CANAL ZONE

Let us now take the question of what kind of control we actually have there. Is it really true that the United States does not exercise the full rights of a sovereign in the Canal Zone? I am distinguishing the rights of a sovereign from the rights of a property-owner. Sovereignty is not some abstract concept like title. It means power. The 1903 Treaty is quite explicit. We exercise absolute power in perpetuity; Panama specifically quits claim to any exercise of power in perpetuity. I would like to ask the distinguished Committee if it has found any statement by the United States Congress, by any U.S. President, or by any U.S. Secretary of State—or any international agreement with Panama, previous to the Kissinger-Tack Agreement of 1974—which specifically abrogates our rights to the exercise of sovereignty as found in the 1903 Treaty. Is there a single statement of this kind?

QUESTION NO. 3: U.S. OWNERSHIP OF THE CANAL ZONE

There is a similar problem with regard to ownership. As you know, this is a separate problem from sovereignty. Many people today are making statements that we do not even own the Canal Zone. But that is obviously not true. Does not the record show that we acquired property in the Canal Zone by four different methods:

First, by a grant in perpetuity of national lands of the Republic of Panama, for which we paid $10 million;

Second, by purchase from the bankrupt French canal enterprise of lands held in fee simple, improvements, equipment, concessions, and stock in the Panama Railroad, $40 million.

Third, purchase in fee simple of individual tracts held by private owners, as well as payments to squatters who held rights through adverse possession, $4 million.

Fourth, recompense to Colombia for her reversionary rights in the French concessions, $25 million.

Is it therefore not true that we bought it and paid for it? Did not the U.S. Supreme Court in 1907, in a holding which has never been reversed, declare that it was hypocritical to contend that our title was imperfect? Did not the Court say, and I quote:

"The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial. Such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions east was not settled until within the last two or three years. Yet no one ever doubted the title of this Republic to Alaska." (204 U.S. 32–33)

I would further point out to this distinguished Committee that the United Staes Congress has always treated the Canal Zone as U.S. territory within the meaning of its authority in Article IV, Section 3. Congress serves directly as the legislature for the Canal Zone. Under Article IV, it has erected a District Court, and a Canal Zone Code. The laws which we make for the several States apply or do not apply to the Canal Zone as we see fit. Congress has the right to determine that under Article IV. For example, the question of citizenship for persons born in the Canal Zone was raised here the other day as though that were a test of U.S. sovereignty. The fact is the Congress has the authority to determine the requirements for citizenship. And if you look at 8 U.S.C. 1101 (a), you will find that the definition of the term "United States" specifically includes the Canal Zone for the purposes of the law of citizenship.

QUESTION NO. 4: WILL WE HAVE REAL CONTROL

It is of course clear that Panama will exercise complete sovereignty in the area of the present Canal Zone as soon as the treaty goes into effect (except for a few transition items). But is not the effect of the treaty upon U.S. ownership nothing other than a scheduled timetable for nationalization of U.S. property—nationalization, incidentally, without compensation? We turn over some properties immediately; we turn over others on schedule. We receive nothing in return.

Even though the last parcel is not turned over for 23 years, is it really true that we will have any effective control over those properties and their operation? I note that according to the terms of the treaty, there will have to be a reduction of some 20% of U.S. citizen employees within five years. At present we have 3,395 U.S. citizen employees; 567 of these are in so-called "security" positions necessary to the preservation of civil order and to the continuity of canal operations under emergency conditions. Many of the civil order positions will be abolished and the duties turned over to the Panamanian National Guard; others are among the high-salaried, skilled and executive positions that will be most sought by Panamanian nationals. Will not practical control, as distinguished from theoretical control, rapidly diminish simpy through attrition?

And as for the legal structure of the proposed Panama Canal Commission, I note that it will be an agency of the U.S. government, but that its board of directors will be composed of five U.S. nationals and four Panamanian nationals. I have been unable to find any precedent for an operating agency of the United States government with such a strong participation of foreign nationals. Perhaps this Committee can find some; if they exist, they should be studied carefully. Will the United States be able to maintain objective control of the Commission's operations when foreign nationals are privy not only to all decisions, but also to all proprietary information and financial accounting?

In addition to the Board of Directors, the treaty and its annexes provide at least six other boards: The Combined Defense Board, the Joint Commission on Environment, the Panama Canal Consultative Committee, the Coordinating Committee for the Implementation of Article III (Operations and Management), the Coordinating Committee for the Implementation of Article IV (Combined Defense), and the Ports and Railroads Committee. There may be more that I overlooked. In each of these, the representation on both sides is equal. The U.S. does not have a majority on any of them. Is this not setting up a situation where there could easily be a stalemate over policy, or even a diplomatic incident? Do we really control these operations?

QUESTION NO. 5: DEFENSE

The same situation exists with regard to defense. The Senate Armed Services Committee is already studying the many problems which abound in this area very carefully, and I will not take the time of this committee with specific issues. But is not the very concept of combined defense the fatal flaw that makes these treaties untenable? The fundamental premise of the proposed treaties is that our present status is no longer viable because of the threat of sabotage from disgruntled Panamanians. But after we surrender our sovereign command and control, retaining only an undefined "primary responsibility" for defense, will we not be totally indefensible against the sabotage of dissidents? The treaties make our supposed vulnerability worse, not better. Will that improve our defense?

QUESTION NO. 6: THE TORRIJOS REGIME

A second fundamental premise is that the treaties will eliminate or reduce Panamanian dissidence, giving us the cooperation of a friendly Panama. But human nature is not so tractable. The treaties make us partners with a regime that is seriously flawed in many respects. There is a serious body of evidence that General Torrijos and his immediate family are heavily involved in controlling the flow of cocaine and other drugs from South America to North America and other markets. The General wields enormous personal power; he is not responsible to anyone. Although there are many military regimes in Latin America, most are composed of military juntas who took power reluctantly in the midst of social and economic chaos.

There was no such overwhelming reason when President Arias was thrown out after ten days of office. If you look at Article 277 of the 1972 Constitution of Panama, you

will see the full extent of just those powers to which Torrijos admits to having. In practice, the Torrijos government is arbitrary and corrupt. By becoming a full partner, indeed, even the guarantor of this regime, do we not open the door for future agitation. particularly when the mixed administration and combined defense arrangements offer so many opportunities for misunderstandings and agitation? There is fruitful ground here for infiltration, subversion, and the overthrow of the Torrijos government by outside forces determined to control Panama and, through Panama's sovereignty, the Panama Canal.

Moreover, the background of Torrijos himself is not encouraging. Although he is probably too undisciplined and self-seeking to submit directly to Communist control, it is well known that his parents were active Communists, and that he and his brother and sister were active members of the Communist youth movement. Perhaps that is why he has gathered men around him of the same stripe: mercurial, Marxist, anti-American. Several of the negotiators themselves have been in and out of the Communist Party. Torrijos and his advisors continue to express admiration for the Cuban revolution and for Libya's Qaddafi. They have formally aligned Panama with the so-called Third World group. Even if the Torrijos regime is not overwhelmed by Communists, is this the kind of government that is going to be cooperative and friendly to our interests and our interpretation of the treaties?

QUESTION NO. 7: THE U.S. EMPLOYEES

Even those who believe that the Canal should be given to Panama will admit that the Canal's outstanding record is attributable to the dedication, loyalty, pride, and morale which the employees of the Canal have shown in their work. This is particularly true of the U.S. citizen employees. Even if Panamanians are to be phased into their jobs, we still cannot operate the Canal and train Panamanians without their assistance. Yet a recent poll indicated that 62.8 percent say that they will not remain under Panamanian jurisdiction.

These are the Americans who know the Torrijos government best. A substantial percentage of them are intermarried with Panamanian families and understand too well what will be in store for them. Some of our diplomats charge that the Zonians are a privileged caste, reluctant to give up a privileged way of life. In a sense they are privileged—in that same sense that all Americans are privileged to live under the U.S. Bill of Rights, with competent policemen, fair courts, and equal taxation. By forcing them to give up these rights if they wish to continue their jobs, we are breaching the terms of their employment contracts. The treaty does not protect their rights if they choose to leave; they get transfer rights only if their jobs are eliminated. Would it not be sensible to offer a reservation to extend diplomatic immunity to every U.S. citizen employee? The treaty provides for 20 top officials to get immunity: if it is necessary for those 20, why not for all? Including dependents, it would affect 9,400 U.S. citizens in a country of 1.6 million people.

This compares with a total of 18,879 people with diplomatic immunity in the Washington, D.C. area, with a population of 3 million. If this treaty is ratified, the U.S. will become a co-conspirator to deny these employees the civil rights they deserve as Americans. Do our diplomats think that they are the only ones who need privileges and immunities while living in a repressive society?

QUESTION NO. 8: OUR POSITION IN THE WORLD

It is often said that all of Latin America is demanding that we give back the Canal Zone to Panama. But the available evidence is rather scanty. Panama's immediate neighbors, and those Latin American countries given to Marxism, socialism, and expropriation of American investments have found the issue one more excuse to denounce the gringos. But I have been in several Latin American countries—some of the largest and most important ones in South America. I have talked to Presidents, Foreign Ministers, and Joint Chiefs of Staff. Without exception they all told me that they were deeply disturbed by the thought of the Canal going to Panama, not only for their economic interests, but because of Torrijos' Marxist leanings. They have told other of our colleagues the same thing. They are all disturbed by the lack of leadership and our apparent surrender of important international interests to a weak country. If we are so concerned about Latin America, why have we not consulted the Inter-American Defense Board with regard to this treaty? The IADB is the only independent multilateral organization concerned with the defense of the Western Hemisphere. It was organized in 1942. Would it not be wise to consult with Latin American defense experts before changing the status of a strategic defense installation?

QUESTION NO. 9: THE BY-PASSING OF THE ROLE OF CONGRESS

The final question relates to the State Department's handling of the treaty negotiations. We have a situation where the overwhelming majority of the American people are opposed to giving away the Panama Canal. It has also been clear that substantial portions of both houses of Congress are opposed and have been opposed. Yet instead of dealing honestly with the problem, the State Department has taken the position that Congress can be bypassed. Would it not have been better, given the political problem, for the State Department to have worked through Congress, rather than by-pass Congress?

For example, on the Article IV, Section 3 issue, why did not the State Department go the last mile and seek Congressional authority to dispose of the Canal Zone, instead of denying that authority was needed? For example, why wasn't the Kissinger-Tack agreement submitted to Congress as a joint resolution? It would have required only a majority vote, and the negotiators would have had a clear mandate. Why is the Administration now stating that the House of Representatives need not play a role? Why is Panama being paid benefits out of tolls, bypassing the appropriations process? Why are major military and economic benefits being funnelled through military credits and loan guarantees, by-passing the authorization process? These techniques are not calculated to reassure the American people. They will continue to ask questions and to demand answers.

STATEMENT OF THE HON. JOHN M. MURPHY

Mr. Chairman, Members of the Committee, I greatly value the opportunity to appear before this committee which has had such an important role in the history of the conduct of foreign relations of the United States.

Let me begin by emphasizing that as chairman of the House Committee on Merchant Marine and Fisheries, I do favor the concept of a new treaty relationship with the Republic of Panama with respect to the Panama Canal. For example, I indicated as long as seven years ago, when I chaired the House Subcommittee on the Panama Canal, that real estate adjustments can be made in Canal Zone boundaries. I also think we can find a way to bring additional economic benefits to Panama from the Canal, although we cannot demean the gigantic benefits that Panama has reaped from the waterway over the years. Further, every assistance should be afforded to Panamanian private enterprise to take advantage of the economic opportunities which the Canal Zone offers.

While I agree with President Carter that there is a need for a new treaty relationship, the haste and self-imposed deadline that characterized the most recent phase of the negotiations has resulted in defective treaties which do not achieve the objectives they sought to attain—"an open, safe, efficient, and neutral Canal" under a treaty relationship that "protects the national security interests of the United States". Neither will the said treaties help to endear us with our Latin American neighbors, nor will they better protect the Canal against sabotage.

I want to make clear that my observations on the treaty today are not meant to reflect in any way on the dedication and patriotism of our fine negotiators, Ambassadors Bunker and Linowitz. They worked hard in attempting to resolve one of the most difficult foreign policy questions that has ever faced this Nation. Perhaps they have come up with as good a set of documents as could be permitted by the time limitations that were imposed by Ambassador Linowitz's six-month appointment, but I submit that such haste and failure to seek the assistance and guidance of many Members of Congress has resulted in a fatally defective treaty which will create more problems than it will solve.

In this statement I will briefly outline some of the defects in these treaties which make them unacceptable in present form, and then discuss those matters with respect to the documents which, in my view, are in need of special analysis. I will also address the overstatements and inaccuracies that have unfortunately served as somewhat faulty premises for adoption of the proposed treaties.

The circumstances which attended negotiations in recent times have led to the following flaws in the Panama Canal Treaty and the Treaty for Permanent Neutrality of the Canal:

1. The bypassing of the House of Representatives in the matter of disposal of U.S. property and territory;

2. The bypassing of the House in the matter of appropriations;

3. The absence of clear and unequivocal language to allow U.S. action to protect the canal in times of hostility;

4. The absurd prohibition until the year 2000 precluding the U.S. from negotiating for a new sea level canal with any country other than Panama, a prohibition which places the U.S. in a totally dependent position without any logic or reason;

5. The formulation of an overgenerous economic compensation package which will likely ruin the economic viability of the canal as a self-sustaining operation and result in enormous U.S. subsidies to run the canal in future years;

6. The location of many key items with respect to control of the canal in accompanying executive agreements rather than in the body of the treaties, thus allowing for piecemeal erosion of the tenuous and limited rights found in the treaties themselves;

7. The pervasiveness of vague and ambiguous language, and, in fact, the absence of language, with respect to many important subject areas, including:

(a) The U.S. rights of intervention;

(b) The boundaries of the properties being immediately taken over by Panama;

(c) The taxation of canal properties by Panama;

(d) The obligation to turn over the canal to Panama in the year 2000 free from debt and in good operating condition;

(e) The Panamanian takeover and the U.S. use of docks, housing, railroad, etc.

8. The failure of the treaties to address the disposition of other relevant canal agreements such as the U.S.-Hay-Pauncefote Treaty of 1901 which sets forth the international obligations in connection with the neutral operations of the canal, and the Thomson-Urrutia Treaty of 1914, which gives to Colombia certain privileged rights with respect to transit.

In terms of precedents, the most harmful aspect of the entire treaty process could be the circumvention of the House of Representatives in disposing of the properties belonging to the United States in the Panama Canal and Canal zone. This circumvention results from the administration's incorrect interpretation of what should be the appropriate constitutional process in this matter.

You have recently heard administration officials state that the congressional power to dispose of U.S. territory and property is a concurrent Constitutional power that does not override the treaty-making powers of the President, and that the power of the Congress to legislate for the Canal Zone does not preclude the disposal of this territory by treaty. The support for this view is based on cases involving Indian treaties, boundary treaties and a few instances of congressional acquiescence which are fundamentally different from the transfer of Canal Zone properties comprising a major U.S. territory and a seven billion dollar investment.

Cases involving Indian treaties are fundamentally different from the disposal of the Canal Zone because:

1. They involve a recognition of the existing Indian rights over the particular territory.

2. In each instance the Indian tribes conveyed by treaty to the U.S. enormous tracts of land and selected members of the tribe were allowed to retain small reservations for their own use. Thus, it could be readily argued that there was no disposition of U.S. property.

3. The U.S. retained residual rights in connection with the lands reserved to the Indians and, of course, maintained its rights of eminent domain.

4. Even if such reservations could be deemed disposals, the Congress authorized the same and acquiesced to executive action over a long period of time.

5. More than a century has passed since Congress withdrew its acquiescence to transfers of property by treaty, and the Senate concurred.

6. The status of the American Indians interest in land in the U.S. is unique and entirely different from that which would entail a transfer of the Canal property to a foreign sovereign.

The boundary treaties which are put forward as one of the chief precedents for the disposal of the Canal Zone by treaty are distinguishable by reason of the fact that they involved property that, for purposes of jurisdiction, was in dispute and entailed an exchange of, rather than a disposition of, property.

If the practice of disposing of U.S. territory and property has followed various procedures, as the executive contends, then past practice with respect to the disposition of Canal property and Canal Zone territory ought to be the key to a decision with respect to relinquishing the Canal Zone. The past practice is clear. The House of Representatives has tenaciously asserted its role, and the general rule has been that the disposal of property is accomplished only by a legislative enactment of Congress. In 1932, 1937, 1942 and 1955, property was transferred to Panama after the House and Senate authorized it. If the House as well as the Senate played a key role in the process of divestment of relatively minor assets in the Canal Zone, it seems only logical to obtain House approval in the determination of the fate of the entire Canal Zone and Panama Canal and the disposition of billions of dollars of U.S. properties.

The case for the involvement of Congress under the property clause in the Constitution (article IV, section 3, clause 2) rests, of course, upon U.S. property interests in the Canal Zone. It is indisputable that we do have such property interest. On August 17, Ambassador Bunker acknowledged that interest before the committee I chair. It is sufficient for our purposes here to state that the United States holds much of the land in the Canal Zone in fee simple, that deeds to such lands were obtained, and that Panama ceded even reversionary rights to the French canal company assets and property purchased by the United States.

All of the U.S.-owned property with respect to the Panama Canal and the Canal Zone constitute property interests of the U.S. within the purview of the congressional powers vested under Article IV of the Constitution. Such ownership, of course, includes the waterway, appurtenant installations, buildings and other structures in the zone, as well as the assets of the Panama Canal organization and military departments and U.S. government agencies in the zone.

With all due deference to the Honorable Griffin Bell, I should like to respond briefly to the statements made by him on September 29th before this committee.

Attorney General Bell places great emphasis on some selected references to the constitutional debates which indicate that territorial disposal rights were of major concern in connection with treaties. This, of course, begs the question, since it could be argued that the insertion of article IV, section 3, clause 2 in the Constitution giving such powers of disposal to the Congress obviated the concern of authorizing the President to dismember the Republic by treaty.

In Elliot's Debates, p. 501, James Madison responded to Patrick Henry's concern that two-thirds of a quorum could make a treaty and "relinquish and alienate territorial rights." Mr. Madison stated:

"He thinks that, by the power of making treaties, the Empire may be dismembered in time of peace. The King of Great Britain has the power of making peace, but he has no power of dismembering the Empire, or alienating any part of it. Nay, the King of France has no right of alienating part of his dominions to any power whatsoever. The power of making treaties does not involve a right of dismembering the Union."

Article IV, section 3, clause 2 of the Constitution gives to the Congress not only the "power" to dispose of, but also the power to make "all needful rules and regulations respecting the territory or other property belonging to the United States . . ." The use of the word "all" clearly indicates that such power is exclusive.

The Percheman case, cited at page 10 of this committee, involved an attempt to confirm title to property claimed by virtue of a grant from Spain in 1815 before the 1819 treaty in which Florida was ceded to the U.S. The court held that the cession of property from one sovereign to another cannot interfere with private property. It does not explicitly or implicitly stand for the proposition that Congress' power to make all rules and regulations respecting American territory could be implemented by self-executing treaty. Nor did the court rule that power to be concurrent. The case involved statutory construction—not constitutional interpretation.

Moreover, Congress did act in connection with the 1819 treaty with Spain and authorized the President to take possession of the Spanish cessions and to provide rules for their government. By implication, it is obvious that by expressly accepting the territories of Florida, the Congress also acquiesced in the fixing of the boundary line between the two countries to the east and west of the Mississippi.

Furthermore, we are again dealing with an adjustment of a boundary line dispute which, even absent congressional approval, would be quite different from the proposed transfer to Panama.

The Congress has limited the President's power under the Panama Canal Zone Code to acquisition of additional land or exchange of land. No authority was granted by Congress to the President to dispose of land in the zone and prior practice in connection with property disposals in the Canal Zone clearly indicate that no such authority was ever intended.

It would also appear that the treaty provisions for transfer of property of the United States with Congressional approval runs counter to the language contained in the last sentence of article IV, section 3, clause 2, namely: ". . . nothing in this constitution shall be so construed as to prejudice any claims of the United States." Clearly, the United States has "claims" in the Panama Canal Zone and the treaty clause should not and must not be construed to prejudice such claims.

Governor Randolph, during the debate in the 1788 Virginia convention, in specifying the limitations and restraints of the President and the Senate under the treaty-making authority, stated:

". . . will not the last clause of the 4th article of the Constitution secure against dismemberment? It provides that 'nothing in this Constitution shall be construed as to prejudice any claims of the United States, or of any particular State.' And if this did not constitute security, it follows from the nature of civil association, that no particular part shall sacrifice the whole." (*Elliot's Debates*, pp. 504–5).

Attorney General Bell shrugs off the fact that the U.S. Supreme Court has consistently, in literally dozens of cases over two centuries, ruled that the power of the Congress under article IV, section 3, clause 2 *is exclusive*. Because these cases related to the authority of the executive and judicial branches does not diminish the relevance or impact of such clearly established authority just because "none of them dealt with the . . . power of the treaty-making authority to make such disposition." The fact is that the Supreme Court has never held that the powers of Congress under article IV are not exclusive and certainly none of the decisions dealing with Indian treaties could be so construed.

The dictum of *Holden* v. *Joy* is not controlling because of its irrelevance to the case as stated by the court in its opinion ". . . but it is not necessary to decide the question in this case, as the treaty in question has been fully carried into effect, and its provisions have been repeatedly recognized by Congress as valid."

Furthermore, the decision of the Supreme Court in a much more recent case, *Sioux Tribe of Indians* v. *United States* (316 U.S. 317) (1942) appears to be controlling. In that case the court stated:

"Section 3 of Article IV of the Constitution confers upon Congress exclusively 'the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States' . . . .

"Concededly, where lands have been reserved for the use and occupation of an Indian Tribe by the terms of a treaty or statute, the tribe must be compensated if the lands are subsequently taken from them . . .

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in these lands must be traced to Congressional delegation of its authority." (316 U.S. 317, at 342).

In *Youngstown Sheet and Tube Company* v. *Sawyer* (343 U.S. 579) Mr. Justice Jackson noted that opinions of Attorney Generals are partisan comments. Justice Jackson was, of course, a former Attorney General fully aware of the atmosphere in which the attorney General opinions are written. The

attorney general is, in fact, the President's lawyer. But, if we are to look to opinions of Attorneys General in this matter, then may I refer you to an extract from an opinion rendered by Attorney General Harlan Stone in 1924 to the Secretary of the Navy:

"The Constitution (Art. IV, Sec. 3, Cl. 2) gives to Congress the power to 'dispose of . . . property belonging to the United States' and Mr. Justice Thompson, sitting in Circuit in *U.S.* v. *Nicoll* 27 Fed. Case 15879 (pp. 149–50) said:

"'No public property can therefore, be disposed of without the authority of law either by an express act of Congress for that purpose, or by giving the authority to some department of the government, or subordinate agent.'

"It follows then that property once acquired by the Government may not be sold, or title otherwise disposed of, except under the authority of the Congress, and in the manner provided by law, and this prohibition extends to any attempt to alienate a part of the property or in general, in any manner to limit or restrict the full and exclusive ownership of the United States therein . . ." (34 Op. Att. Gen. 320, 322).

In summary, the text and history of the Constitution, case, law, and prior practice in connection with disposal of property in Panama all support the proposition that the disposal of territory and property belonging to the United States requires congressional approval.

The 1903 treaty with Panama was entered into by virtue of the powers granted by Congress (the Spooner Act of 1902). No less than full congressional approval should be required for the annulment of this historic treaty.

I hope that this committee will uphold the view that one of its previous chairmen took in 1942 when, concerning a dispute over the role of the House in disposing of canal property, Senator Connally said:

"Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.

"Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because 'the Congress' means both bodies. The House of Representatives has a right to a vote as to whether any transfer of real estate or other property shall be made either under treaty or otherwise

"Another reason why it is not necessary to embody the provisions of the joint resolution in a treaty or treaties is that so far as Panama is concerned, most of the results sought to be attained by means of the joint resolution have already been accomplished. We already have the sites; we already are occupying them; we already are putting installations upon them for the proper defense of the Canal Zone. The instrumentalities involved comprise not only airfields, but detector stations, searchlight stations, and all the other various instrumentalities for the proper protection of the Canal and its approaches." (88 Con Rec. at 9257).

Now we are dealing with much more than sewer and waterworks systems or navigation aids or airfields. We are dealing with our entire property interests on the isthmus. I therefore urge that the only treaty the Senate ought to accept is one which includes congressional authorization for disposal of U.S. canal property as one of its provisions. Absent that provision, the treaties should be remanded to the negotiators.

I sincerely believe that we as members of Congress are trustees for the powers vested in us by the Framers of the Constitution, and as such, have the duty to preserve and protect such powers. With your permission, Mr. Chairman, I would like to submit for the record several documents, including a memorandum of law, which more fully discuss the interpreation of article IV, section 3, clause 2 of the Constitution. Also, if the committee wishes to make inquiry into the boundary treaties, the Indian treaties, or other contentions with respect to the property clause, I will be happy to address those matters.

There is another constitutional question here of great importance—and that involves the constitutional requirement that "no money shall be drawn from the Treasury, except in consequence of appropriations" (article-I, section 9, clause 7).

In spite of these requirements, the proposed treaty requires the payment of billions of dollars to Panama without specific approval by the House of Representatives.

The provisions of the proposed treaty for payment to Panama "out of canal operating revenues" are appropriations of public funds that under the constitution require prior action by the Congress.

The proposed Panama Canal treaty provides that the United States will operate the canal "by means of a United States Government agency called 'The Panama Canal Commission' which shall be constituted by and in conformity with the laws of the United States." The functions to be assigned to the new agency are now performed by the Panama Canal Company and by the Canal Zone government.

The treaty does not purport to further specify the form of the government agency to be established for the indicated purpose and the Congress might well establish the agency either as a government corporation, such as the Panama Canal Company, or as a non-corporate establishment, such as the Canal Zone government. In either case, the canal operating agency would be subject to the laws of the United States applicable to the disbursement of public funds, and payments of expenses by the new agency, including the payments to Panama, would have to be provided by appropriations. Provision for such payments out of canal operating revenues without appropriation by the Congress is clearly in contravention of Article I, Section 9, Clause 7 of the Constitution.

In addition to the paramount constitutional questions, I must, as chairman of the House committee which oversees canal operations, voice my concern as to the economic compensation package provided in the Panama Canal treaty.

The Panama Canal's commercial value rests upon the provision of efficient service at reasonable toll rates. As one financial expert said, the reliability of user charges and open disclosure of financial results are the key to the financial worth of the canal. The increase in tolls of approximately 40 percent or more that will be required immediately under the new treaty, and the inflationary indices that will cause future toll increases, will inevitably result in diversion of traffic from the canal and strike a mortal blow at the concept of operation of the canal on a self-sustaining basis. The required toll increases will simply be beyond the capacity of the canal to handle. I find it difficult to understand how we can aggressively pursue minimizing tolls at the St. Lawrence Seaway and maximizing them at the Panama Canal.

The U.S. will be forced inevitably to directly subsidize theoperation of the canal through appropriations. This result, of course, does not comport with the frequently made assertion that there will be no additional burden on the taxpayer as a result of these treaties. The discontinuance of the payment to the Treasury of interest on the investment of the U.S. in the canall, which is implicit in holding a tolls increase to 40 percent, will itself diminish the Treasury of the United States by a half-billion dollars by the year 2000, and in effect, result in payment to Panama of interest on funds invested by the United States.

In summary, the abrupt changes in canal finances that will result from the proposed treaty will have irreversible consequences that will pose a threat to use of the canal and the economies of the U.S., our allies, and nations in Latin America.

While my testimony to this point has addressed the organic defects of the proposed treaties, it is clear that the underlying premises for these treaties are a major part of the on-going debate. In very brief fashion, I would like to address the three premises upon which approval of the treaties is suggested. All three of the premises have been so overstated or inaccurately drawn that they often bear little resemblence to reality.

It is said that the Panama Canal is of diminishing and minor importance to the United States both commercially and militarily. This is incorrect. Commercially the canal is of major and continuing importance to the United States and militarily the Panama Canal and Canal Zone remain major military assets of our country, and in essence, constitute the southern flank of our defenses.

There are many statistics which point to an increasing rather than decreasing role for the canal in our commerce and security. I have appended some of those statistics to this statement and ask permission that they be inserted for the record.

It has also been said that should the treaties fail to gain approval there will be violence and sabotage of the canal. Selling these or any treaties that must endure for generations on the basis of response to a threat of violence does great injury to the conduct of our foreign relations. This issue is not a proper one for consideration.

Threats always cut two ways. If we are going to respond to threats, could that provoke disgruntled canal employees or fanatic superpatriots to proclaim they will sabotage the Panama Canal if the United States can no longer own and control it? The General United States policy to resist threats from terrorists has worked well. We must apply it in this debate on the treaties. To support or oppose a treaty because one side or another is more prone to violence is most unwise.

The Panama Canal is only one of many major facilities that are vulnerable. The U.S. Capitol was vulnerable to the Weathermen several years ago.

Finally, it is said that the Panama Canal treaties are the top issue on the Latin American agenda, and that the U.S. would face hostility from Latin America if the treaties are rejected.

This overstatement is contradicted by the experience of many of our officials in Latin America. None of us can believe that the countries on the west coast of South America or the countries in Central America will be happy about the tolls increase that is implicit in the treaty. In fact, at the gathering of the Organization of American States in Grenada this year, that organization voted 19 to 0 (The U.S. abstained, Panama did not vote) for a resolution stating that canal tolls should reflect only the actual operating costs of the waterway.

The success that Panama has had in garnering support in Latin America should be juxtaposed against the fact that Panama has consistently failed to obtain the degree of Latin American support she has sought for her position in reference to the Panama Canal. With respect to the treaties themselves, in September, despite some pressure salesmanship from the U.S. the Latin countries refused to endorse the agreements and signed only a watered-down resolution.

In conclusion, the proposed treaties should be accepted or rejected on the basis of whether they serve the best interests of the United States, not on the basis of who is supporting or opposing them, not on the basis of party, or region. A properly-conceived treaty arrangement may serve U.S. and Panamanian interests, but I do not believe the treaties should be accepted in their present form. Above all, I think we should be realistic enough to recognize that because of the manner in which these treaties were negotiated, an atmosphere has been created in which violence or stoppage of the canal will probably occur regardless of approval or disapproval of the treaties.

Thank you.

APPENDIX

DATA IN SUPPORT OF THE CONTENTION OF THE CONTINUING IMPORTANCE OF THE PANAMA CANAL AND CANAL ZONE

COMMERCIALLY

The Panama Canal is a U.S.-oriented Canal because two-thirds of the vessels transiting have a port in the U.S. as a point of origin or destination.

The Maritime Administration estimates that by the year 2000 U.S. exports through the Canal will have doubled and U.S. exports will be at 2½ times today's levels.

The percentage of the total dollar value of U.S. ocean foreign trade transiting the Panama Canal has steadily increased in the last generation, and is expected to increase in the future.

96% of the U.S. fleet and 92% of the world's merchant fleet can transit the Canal today. The great majority of those supertankers which cannot transit the Canal were built for trade routes which do not come near the Isthmus of Panama.

70% of all the cargo that has transited the Canal has done so in the last 25 years.

MILITARILY

The lack of a true two-ocean navy while the U.S. has commitments in five oceans makes the Canal's availability for transit ever more important.

98% of our naval fleet can transit the Canal. Only our Nimitz class aircraft carriers cannot transit. The trend toward naval ship design is toward a smaller and faster vessel.

The Canal has been a major resource in hostilities and confrontations that occurred in World War II, Korea, the Cuban Missile Crisis, and Vietnam.

The Canal Zone has the only major ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side.

The Canal Zone also has the only U.S.-controlled air base within 1,000 miles, and it is a military and communications crossroads of the hemisphere.

The only existing trans-Isthmian pipeline for ship bunker oil and aviation fuel are in the Zone.

The lack of adequate West Coast port facilities for the loading of supplies and ammunition makes the Canal crucial to U.S. military efforts, especially those in the Pacific theater.

TESTIMONY OF REP. DONALD M. FRASER

Mr. Chairman, I appreciate the opportunity to appear today to give my full support for the approval of the Panama Canal treaties. In my statement I will concentrate on the implications of your action for Panama and the other countries of Latin America.

Geography and history determined that the United States and Latin America share a hemisphere. Both North and South America were objects of European exploration and exploitation. Both found independence from Europe through wars of revolution. Both retained in their independence the culture and politics of the parent continents.

But geography and history have also destined different developments for North and South America. The United States became a world power in the 20th Century in part through its involvement in two world wars. Latin America remained largely isolated from those conflicts and from the industrial revolution. But geography continued to link these increasingly disparate continents.

Panama is the actual and the symbolic link between these two objects of European colonization. The Isthmus of Panama not only ties us together but also blocks access to the Pacific and to the Far East. The United States, in a vigorous and determined effort, broke that barrier with the unprecedented achievement of a lock canal through the jungles and mountains of the Isthmus. It was an achievement that drew the admiration and respect of South as well as North Americans. No country is more proud of the canal than Panama itself.

But as the United States grew more powerful in the world, its enclave traversing Panama became a symbol of another kind. Why, the Panamanians asked, should our country be forever in two pieces, separated by foreign territory? Latin America waited also for the answer to that question. The continuing poverty and political instability of Latin America makes that question much more urgent for its citizens than for our own. Even today, with the treaties before the Senate, this question concerns Latin Americans much more than it does our own people.

Despite efforts to create more interest in the canal treaties in the United States, our people are much less interested in who owns the Canal Zone than they are in whether or not the canal will continue to function. In Latin America, there is a reversal of priorities. Latins assume the canal will always operate but that the territorial presence of a superpower, even a friendly one, is intolerable. We may not fully understand that intolerance, but how we deal with it may well influence our relations with Latin America for the next century.

Most of the Latin American countries are under some form of military government. But the future of political development in Latin America is uncertain. These countries have also had some experience with democratic governments. Political movements, some of them associated with European democratic parties, exist in every Latin country. There are significant pressures toward a resumption of democracy in most Latin countries. These pressures are deep and broad.

Our country has not done nearly enough to encourage these democratic tendencies in Latin America. For too long we over-valued stability and neglected the nourishment of democratic development. Happily we seem today to be on a corrective course. This Administration's attention to human rights as an important element in our foreign policy has had a strong impact in Latin America. As both the Congress and the President restated our commitment to human dignity, the Latin American countries watched carefully. They are watching today.

The Panama Canal treaties are a test of this country's sincerity. If the treaties are approved, Latins who aspire to emulate the democratic ways of the United States will be reinforced. The United States model of political and industrial development will gain new strength. A major test of fairness and open-mindedness will have been met by the United States.

Approval of the canal treaties will not solve the problems of Latin America nor of its relations with the United States. But without that approval we will forfeit a large measure of our constructive influence.

I do not know how much influence we can exert in the coming years for democracy and human rights in Latin America. But the best opportunity for influence will come if we show Latin America and the rest of the developing world that we are capable of fair play despite our great power. When that test is met, Latin America will be far more impressed with the United States than it has been in the past. If we fail that test, we would tell Latins something about ourselves that we should be reluctant to concede.

I urge, therefore, the Committee to see this issue as not a matter of the canal, whose worth and utility is unquestioned. The issue is, rather, how the United States can adjust its responsibilities in a world still seeking models of political and industrial development. It is a test and a responsibility that we ought to meet honestly, openly and affirmatively.

STATEMENT OF THE HONORABLE LARRY P. MCDONALD

Mr. Chairman. I appreciate the opportunity to testify against the give away of the United States' Canal in Panama. I say that because, after reading the proposed treaty that is before this body, there are no possible benefits for the United States. The United States is simply leaving and paying the Panamanian Dictator Omar Torrijos to take the Canal off our hands. It is a bad treaty and should be rejected forthwith.

The presentation of this Treaty to the United States Senate is the culmination of a long process that started in 1946 when Agler Hiss, then head of the Office of Political Affairs at the State Department, sent to the United Nations a list of so-called "U.S. occupied territories" which included the Panama Canal Zone. The concept was presented to the world by Hiss that this country is renting that land in Panama and some day, inevitably, America would have to give it back.

From the beginning, this was the wrong premise. Those payments to the Panamanians are in annuity, not a rental fee. The United States' sovereignty has been affirmed in repeated court decisions. All the relevant court cases are cited in the hearings held by the House Committee on Merchant Marine and Fisheries Subcommittee on the Panama Canal entitled: "Panama Canal Finances" April 6, 7, and 9, 1976. The Canal is not leased territory for which we pay Panama a rental fee but a "grant in perpetuity" for which we pay an annuity. The only real right Panama has to this land and property is a reversionary interest should the United States ever cease to exercise its treaty rights in the areas designated, nothing more.

Therefore, contrary to the ponderous announcements by the Department of State, this is United States land and property, thus requiring under Article IV, Section 3, Clause 2, of the United States Constitution that the House of Representatives concur in any transfer of land or property. In this connection, I should mention that I am a party to two law suits on this matter now before the U.S. Supreme Court, and it is my fervent hope that the Justices rule in favor of the U.S. Constitution for a change and permit the Representatives of the people to participate in this decision. The people of Panama live under a dictatorship. Their voices cannot be heard on this issue. The voice of the American people should be heard.

Now I would like to go to the question of the Canal's strategic importance. The President and the Department of State are attempting to mislead the American people on this issue. The facts are that this country now has a one ocean Navy with two ocean responsibilities. The Carter Administration

has turned its sole attention to Europe. Dangerously neglecting the rest of the world. If another war were to break out in Asia, this country would vitally need control of the Canal in Panama. The United States cannot depend on the whims of a hostile leftist dictatorship when its Navy needs to move through the Canal.

I would remind the Committee that 94 percent of the world's merchant ships can transit the Canal and so can all our warships, except the supercarriers. Let us also remember that the Canal Zone is the southern and western anchor of our position in the Caribbean, a Caribbean with Soviet nuclear submarines now prowling about. Together with Guantanamo Bay in Cuba, Roosevelt Roads in Puerto Rico and the Florida Keys area, the United States can prevent the Caribbean from being turned into a Soviet lake. Abolish our Panamanian bases and the task becomes difficult.

Thirteen major trade routes funnel through the Caribbean Sea-Gulf of Mexico-Panama Canal region. It carries all of our commerce from the prosperous sun belt, and increasingly, it carries Alaskan oil to the east coast.

Even our right to expeditiously use the Canal in wartime has been challenged under the treaty by the Chief Panamanian negotiator, Romulo Escobar Bethancourt. He told newsmen in Panama on August 24th, "The United States wanted privileged passage through the canal as a means to seek support from the Pentagon in the negotiations with Panama. This is the truth . . . And when they saw that there was no way we would allow privileged passage, then they told us: We have to seek a formula so that the Pentagon will see that we are somehow taking them into consideration.

"This is how the expeditious passage came about. Now, I do not believe that when they explain the 'expeditious passage' term they are entitled to go through first.

"They have to sell their merchandise. It is the same merchandise, but with different wrappings because they do not think as we do. They have to sell this treaty to their country, and for this reason you see that both of us give different information on the same provision."

Administration spokesmen say that this country has a right to defend the Canal after the year 2000. However, nowhere in the so-called Neutrality Protocol is this stated. President Carter has been misleading to the American people, because he has not mentioned that in the present state of international law, the word "neutrality" can be given almost any meaning.

Escobar knows that the treaty does not give this country the right to intervene. Escobar told the National Assembly of Panama on August 19th, the the Americans, "proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality.

"Panama was opposed to this concept, explaining that we did not want that with the excuse of neutrality, the United States would maintain a guarantee over the state of Panama. This was another cause of discussion that kept the negotiations detained until the United States gave up on the idea of its having a guarantee of neutrality over the canal."

Escobar's statements clearly represent the view of the Panamanian dictatorship. This was confirmed by the State Department document released by Senator Dole yesterday.

Our right to defend the Canal is nonexistent after 2000. The Senate will be derelict in its duty if it ignores this fact.

While examining provisions for the defense of the Canal after the year 2000, the distinguished Senators should not overlook the fact that most aspects of the treaty come into force much sooner than the year 2000. Only six months after ratification, the treaty will enter into force and Panama will assume technical sovereignty. At that time, Panama then grants to the United States only certain specified rights until the year 1999. Most of the treaty provisions go into full force in 30 months.

In that connection, it should be noted that after 30 months of the treaty being in effect, the Americans in the Panama Canal Zone have essentially no more rights than Panamanians, in other words none, since Panama's respect for human rights is rated on a level with the Soviet Union and Cuba. In fact, Panama has the lowest rating according to Freedom House of any non-communist nation in the Western Hemisphere.

This treaty gives Dictator Omar Torrijos control over the canal: He can close it at any time, and under the Treaty we cannot negotiate with any other country to build a canal anywhere else without his permission (until the year 2000). Thus the United States will be dependent on Dictator Torrijos or whatever or whoever replaces him.

The cost of this treaty should also be of great concern. Section 4 of Article XIII provides that from the date of the inauguration of the new agreement, Panama will henceforth receive 30 cents for every ton of cargo passing through the Canal. But beyond this, we find that this amount "will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods" every two years. Thus, the 30 cents per ton figure only remains in effect for five years and thereafter every two years it will rise by the amount of change in the American wholesale price index. This agreement will be reflected in large toll increases.

If these tolls had been in effect in 1976 on the 117 million tons of cargo that passed through the Canal, the Panamanian Dictatorship would have extracted a total of $35 million. This amount could easily be projected to $46 million by 1980. A 60,000 ton American oil tanker passing from Alaska to the American Gulf Coast would thus pay Panama $18,000. By 1985, the expected cargo of 184 million tons would give Panama $55.5 million.

The proposed treaty in effect gives Panama an OPEC style transportation cartel for the next 22 years. Beyond the termination date even more exorbitant charges can be expected. Some Panamanians have already spoken of raising tolls by 400 percent. Even former Ambassador Linowitz has acknowledged that the Treaty will entail an immediate rise in tolls of 25–30 percent—the largest increase in the history of the Canal.

Can we expect Panama, even if its outlook were not Marxist, to smoothly operate the Canal? There are 202 men qualified to pilot ships through the Canal. Only two of these are Panamanians. Only ship captains can qualify for this position and they must have 20 years active experience to qualify. Panama does not produce ship captains and it only recently opened its first navigational school, yet Panamanians must replace those Americans who resign rather than work for the dictatorship.

A lot has been said about Omar Torrijos. He is unquestionably a dictator and a fervent admirer of Fidel Castro. However, our Department of State says that if you do not conclude a treaty with him, the leaders who may replace him are even worse. Mr. Chairman, I submit that neither Torrijos or those "worse" should have control of our shipping life line.

Cuban Communists wield enormous influence in Panama. Torrijos at one point hailed Castro as "an example and a light". The Communists have consistently demanded that the U.S. give up the Canal. Then Assistant Secretary of Defense Califano, referring to the 1964 riots said that "known and identifiable Communists, members of the Communist Party of Panama and people who belonged to the vanguard of National Action, which is . . . the Castro Communist Party in Panama," participated in these riots in which 23 Panamanians and four U.S. soldiers were killed. Reports of Cuban cadres in Panama, training selected persons in guerrilla warfare and sabotage, are too frequent to be ignored.

There is also the question of Torrijos himself. Brig. Gen. Omar Torrijos Herrera has ruled Panama since 1968 when he led Panama's National Guard in an armed uprising which overthrew the elected government. After taking power, Torrijos dissolved all political parties and exiled 20 members of the Communist Party, including Ruben Dario Sousa and the rest of the Party's top leadership. The Communist Party of Panama is officially called Partido del Pueblo and is directed by Moscow. After exiling the top leadership, Torrijos made an agreement with the remaining Communist Party functionaries that as long as they supported his policies, they could continue to function. The agreement was made with Moscow's approval, and in 1973, the exiled leaders were readmitted to Panama.

Communist Secretary-General Dario Sousa wrote in the official international Communist journal, World Marxist Review, for March 1973, that Panama is, "another weak link in the chain of imperialist oppression, one of the fronts in the great struggle for liberation." Dario Sousa expressed support for the activities of the Torrijos government in pressing for the takeover of the Panama Canal.

Torrijos maintains a personal dictatorship and has suppressed the free press. He has appointed members of his family to positions of power, including his 3 brothers and 8 sisters. One brother Moises Torrijos, also known as "Monchi", has a currently pending indictment in the United States for trafficking in narcotics. Nevertheless, Omar Torrijos appointed "Monchi" as the Panamanian Ambassador to Spain.

While Torrijos, himself, is not an ideological Communist, despite press stories to that effect, he is extremely pro-Communist and relies upon his close associate, Romulo Escobar Bethancourt, to serve as his liaison with both domestic Communists and foreign Communist governments.

Torrijos is a heavy drinker who becomes uncontrollable and incoherent while drunk. He is hardly a stable type of person and should never control a vital world sea way like the Panama Canal.

Mr. Chairman, recent history has shown the results of allowing irresponsible demagogs to control vital international waterways.

We should not forget the history of the Suez Canal following its nationalization. The Suez Canal has been closed twice since Egypt took it over, once for 8 years. Contemplate the increased costs to the American consumer if this should take place in Panama.

Who besides the Communists would benefit by our giving up the Canal? Only the banks who have loaned Torrijos money to the point where 40 percent of the Panamanian national budget is absorbed by debt service. I submit that there was a serious conflict of interest for Mr. Sol Linowitz who served as co-negotiator while retaining connections with a bank that had made large loans to Torrijos. What was the role of these New York banks in these negotiations? What have they been promised? Are the American taxpayers going to be asked to pay increased prices for their goods because we are giving Torrijos carte blanche to raise tolls in order to pay off his debts? The Senate has been disinclined to investigate these questions. I think it should investigate these

areas lest these questions forever cloud the Treaty.

Lastly, I want to discuss the alleged threat of violence used as an argument for surrender of the Canal by Administration spokesmen. It is clear that there will be violence whether or not the Treaty is approved.

Chief Panamanian negotiator Escobar incited violence against the United States during an August 12, 1977, address to the Federation of Panamanian Students, an organization with a long history of extreme anti-American violence. Escobar said, "There are still theories that we can get more, much more, through confrontation. I believe this is true . . . We are not asking for confrontation, but neither will we give permission to anybody for a confrontation. Whoever wants to start a confrontation can do so himself.

"In the past, when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. You have never asked anyone for permission. . . .

"When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation. This is not written in any book. If one triumphs, one wins, and if one does not triumph, he dies."

After Escobar's speech, the radical students were harangued by their Secretary-General Robert Gomez. He said that while the treaties, "resolve part of the problem . . . much remains to be done to totally eliminate the last symbol of the overwhelming presence of U.S. imperialism. The banners of the FEP will not be lowered in the struggle, because this struggle will be continuous and prolonged until the last invading soldier leaves.

"Contrary to what many think, the new agreement will not, and cannot, signal the end of the process or of the struggle for national liberation. . . . Hail the unity of the patriotic forces and support for the liberating process! The struggle against imperialism and its internal allies will be continuous and prolonged. Liberation or death! The FEP is on the move! No one and nothing can stop it!"

Romulo Escobar Bethancourt is the closest associate of Dictator Torrijos. He was appointed by Torrijos as Chief negotiator of the treaties now before this Committee of the Senate. Escobar is the main foreign policy advisor to Dictator Torrijos and is his personal emissary to Communist Cuba. Escobar says he was a close personal friend of Ernesto "Che" Guevara, the Communist revolutionary who helped Castro take power and who later organized Marxist terrorist groups throughout Latin America and in Africa.

Escobar was a leader of the Communist Party unit at the University of Panama and an organizer for the Party. In 1949, he violated Communist Party discipline by accepting a scholarship to leave the country and attend school in Brazil. Despite his expulsion he remained a Marxist-Leninist and in recent years has served as Torrijos' liaison with both the Panamanian Communists and with foreign Communist governments.

If the United States cannot defend the Canal against Communist guerrilla attacks and sabotage, how can we expect to defend it in wartime? The position of the United States is that it will never submit to terrorist demands. Even when the lives of American diplomats are at stake, the United States does not pay ransom. Why then should this country submit to the extortionist threats of terrorism from such tin horn bandits as Torrijos and Escobar. To yield to their extortion demands for control of our Canal will only encourage other terrorists or tyrants through out the world to view the United States as an easy target.

It is the duty of the President of the United States to protect the lives and property of Americans, terrorist threats notwithstanding. If the President were to neglect to exercise this duty he would be derelict in his duty as Commander-In-Chief.

I urge this Committee to reject these treaties, which are against the interest of the people of the United States and would only benefit our Communist enemy and those bankers that put profit above patriotism.

This concludes my formal statement.

STATEMENT OF THE HONORABLE ROBERT L. LEGGETT

As a Member of Congress concerned about this nation's posture in the world, I have been a serious student of U.S.-Panamanian relations for several years. I served as Chairman of the House Panama Canal Subcommittee during the 93rd Congress, and have been the Ranking Majority Member of the Subcommittee subsequent to that Congress. I have conducted several inspection visits of the Canal Zone since 1973, and have had occasion to discuss the Panama Canal issue with high officials of the Republic of Panama as well as individual Panamanians.

During the time I have been conversant with Canal affairs, I have tried to serve as a catalyst for new thinking and needed change in U.S. operations of the Panama Canal and Canal Zone. For example, I pushed for an end to the vestiges of discrimination which have been badges of colonialism for the U.S. in Panama. I supported the first necessary tolls increases. Finally, the knowledge that I gained convinced me of the need for serious negotiations between the U.S. and Panama respecting Canal matters.

As an indication of my support for serious negotiations, I point out my efforts in the House in 1975 and 1976 to defeat the so-called Snyder amendments to discontinue funding of the treaty negotiations. When I spoke in the House Chamber in those years in opposition to the Snyder Amendment, I colored my support for negotiations with a warning that a treaty negotiated strictly under the "8 Points" as signed by Secretary Kissinger in 1974 would not be acceptable to me or many other Members of Congress. I also stated that I was supportive of negotiations but should there be negotiated a treaty arrangement with Panama that did not adequately protect legitimate U.S. interests, I would come before the Senate Foreign Relations Committee and so indicate.

In my judgment the proposed treaties do not adequately protect U.S. interests. They do not provide the United States with adequate power to restrain Panama's desire to use the Canal to promote its own economic ends. They do not contain in any depth provisions to protect U.S. security interests. They do not provide for a continuing U.S. role in the Canal's management, and they are especially irritating in that they really foreclose without necessity the opportunity for the U.S. to have a presence after the year 2000. These are some of the problems with the two treaties and their implementing documents.

So I appear here today as a self-styled representative of a number of persons in the U.S. who are qualified to speak on the subject of U.S.-Latin American relations and who believe we should have a new treaty with Panama but not these pacts that have been negotiated. As the public becomes more educated with respect to the Panama Canal, I expect the numbers in this group to expand.

The toll levels and structure of the Panama Canal are the financial mechanisms by which that waterway either lives or dies. The attractive rates under which the Canal has operated for more than 60 years have benefited the shipping industry, Canal employees, Panama's economy, and consumers worldwide. Consumers and producers in the United States have in the aggregate a larger interest and have especially benefited by the Canal's toll rates because one-third of all the ports of origin and destination in connection with Canal transits are U.S. ports. Japan and many Latin American countries also greatly benefit from moderate stable toll rates.

There is every indication that reasonable tolls essential to the Canal will end under the proposed Panama Canal Treaty. This appears certain as a result of several factors: the reprehensible indexing provision in Article XIII for royalties; the policy likely to emerge from repeated references made by many Panamanian officials to the need for increases in tolls in the hundreds of percents; the Panamanian Government's desperate need for cash flow; and the comparative uneconomical structure of the new Panama Canal Commission.

I will handle these four factors in reverse order.

Because the present Panama Canal operation involves hundreds of separate special operations, and because it produces for itself many of the items it uses, the Canal enterprise has certain similarities to the U.S. multinational corporation—that is, the pricing policies will allow it to value the products it produces at a cost lower than that of the outside competitive market. If the proposed treaties are ratified and the Panama Canal Commission loses many of those ancillary services the Canal Company now runs, you will find an increase in the cost of some of the individual items to be purchased for the Canal.

Additionally, you will have a net loss of funds because some of the profitable ancillary activities now run by the Canal Company will be transferred to Panama.

There also may be a slight increase in overhead costs for the Canal operation because some of the supervision interrelated with the Canal now done by the Canal Zone Government will have to continue under the new treaty arrangement.

Clearly, there will be financial difficulties associated with setting up the new Panama Canal Commission, especially during the thirty-month transition period. So you would think that the Panama Canal Treaty would seek to unburden the Canal Commission of more financial commitments.

Of course, this is not the case and the money out of Canal tolls to Panama will go from $519,000 to almost $60 to $70 million immediately. One reason for this, I believe, is the fact that without immediate additional revenues, the Panamanian Government will have to roll-over more of or reschedule some of its debts.

The economic compensation package in the negotiated Panama Canal Treaty underscores the tendency of Panama to turn toward the Canal to solve its financial problems. With Panama's debt service now approaching 39 percent of its national budget, the Canal is seen as the lever for prosperity. Will Panama turn to the Canal again under the new proposed treaty to meet its debt obligations or finance politically popular projects? In my judgment it will, which is the reason we need more tolls protection.

There is a tendency with some sectors in Panama to blame the Canal for all of Panama's problems. There is a belief that there is some sort of infinite wealth there, which of course is incorrect. Unfortunately, some Administration officials now seem to be buying this same argument. Mr. Solomon, for example, in his prepared statement for this Committee, indicated that a "major cause of Panama's economic slowdown (in the 1970's) was the uncertainty over the future of the Canal." The thrust of this statement does not stand up against the facts. Accord-

ing to a report of the U.S. Embassy in Panama in 1976, high cost output and lack of private investment opportunities are the chief reasons for Panama's economic troubles. "Uncertainty", per se, over the Canal is not even mentioned by the Embassy as a problem for the Panamanian economy.

The initial factor I mentioned with respect to tolls policy was the indexing factor. It is difficult for me to understand why the U.S. negotiators accepted in Article XIII this idea of indexed royalties for Panama on Canal tonnage rather making Panama subject to same kind of risk-taking to which the U.S. is subjected in operating this waterway. We face the unsettling prospect under the Panama Canal Treaty of the U.S. taxpayer being forced to subsidize the Canal in the event that tolls revenues are decreasing and our payment to Panama increasing at the same time. Furthermore, the inflationary index provision is a terrible international precedent for the U.S. if, as the Administration says, the whole world is watching the Canal Treaty fight.

In answer to the prospect of tolls increases, it has been said that the Panama Canal can withstand the initial tolls increase of 40 percent as well as subsequent increases that will be necessary under the proposed treaty. I do not agree with this. In the short run of a year or so you may not lose much traffic tonnage, but the long-range effect of the initial increase could be a loss of up to 50 million tons from the initial increase.

That kind of loss will mean sooner or later we will be subsidizing the Canal because we must have it in good working condition for our naval vessels in the future even if much of the commercial traffic has been diverted.

One of the aspects of the Panama Canal Treaty which bothers me is the structure of the Panama Canal Commission. The five United States and four Panamanian Commissioners who sit to oversee Commission operations will have an enormous amount of power and I wonder who will balance that power.

The Congress of the United States, the present legislature for the Canal Zone, will have to implement the Panama Canal Treaty if it is ratified and will continue to affect Canal affairs. But the existence of executive agreements to carry out the purposes of the Treaty will take a considerable amount of authority from the Congress with respect to Canal operations and U.S. Isthmian military operations. That authority will instead be with the Panama Canal Commission and the Combined Board for defense.

Under the terms of Article III of the Panama Canal Treaty, it is clear that the Government of Panama will determine those Panamanians who will sit on the Commission. Given the nature of the present Government in Panama, that is, a military dictatorship, there is no doubt the Commission Members from Panama will be completely responsive to the dictator. I wonder whether the U.S. representatives will be as responsive to the U.S. Government. If even one is not, could the position held by a majority of the U.S. Commissioners be consistently overridden.

Perhaps this question of Commission behavior can be partially handled through U.S. legislation. But I do not think that we can underestimate the control problems associated with the majority partner being a democracy with a capital about 2000 miles away and the other partner a dictatorship on the spot.

As legislators we are deeply aware of the division in this country over the Panama Canal issue. In addition to the obvious lack of concensus in the United States that makes a long-term agreement on the Canal very difficult, I want to sugest that the consensus in Panama may not be as monolithic as perceived or as cohesive as is necessary to make these new agreements work. There are reasons why the proposed treaties have not been greeted with overwhelming enthusiasm in Panama. Even if almost all Panamanians want some sort of new treaty relationship, they may not want these treaties.

The economic compensation package to the Panamanian Government will come at the expense of the users of the Canal and Canal employees. I know that Panamanian employees in the Canal Zone, who comprise about five percent of the Panamanian national work force, are extremely concerned about the proposed agreements because many of them will be dismissed and will cease to have reasonable employment or their terms of employment will deteriorate considerably under the new arrangements. I wonder whether these Canal employees, who have worked and many of whose forefathers have had careers in the Canal Zone, will not feel some bitterness at the United States for the deterioration of their personal position. Perhaps they will be persuaded to offer it all up for the good of the greater Panama, but I do not think so.

In addition to some of the Canal employees who may not like the agreements, there is a group in Panama that considers the absence of civil liberties and human rights to be pre-eminent issue at this time. For this group consummating a treaty which expands Panama's national property is an endorsement by the U.S. of dictatorial rule in a country which has seen greater liberty in the past. Regardless of the motives of this group that opposes the dictator, whether the motives be ones of political opposition or genuine human rights concern, the U.S. would be remiss not to evaluate the presence of this group in Panama.

Also, a portion of the student community in Panama does not appear to be enthralled with the proposed treaties. I doubt that any agreements that preserve U.S. presence in any form will be endorsed by these students.

If, as has been suggested, the consent of Panama and the Panamanian people is the key to the continued safe operation of the Canal, then it seems to me we have to undertake a penetrating study of the possible effects of the proposed treaties on the attitudes of the Panamanian people as well as officials of the Government.

We should take a look at whether we are helping ourselves or whether we are in fact alienating some segments of the Panamanian populace by these tereaties. I suspect that we will find that the answer is not that simple.

Irrespective of the other issues raised by the proposed Panama Canal treaties, there is one issue which must not be ignored in the deliberations on these agreements. This issue concerns the National Environmental Policy Act's requirement for an environmental impact statement for all "proposals for legislation and other major Federal action significantly affecting the quality of the human environment."

The very fact that the Administration and treaty proponents have cited the need for a new treaty relationship in order to improve the operating environment for the Canal is reason enough to reference the importance of a good impact statement. I see the environmental impact statement raising both a hazard and an opportunity in the context of the deliberations of the Committee.

As you know, the purpose of an environmental impact statement is to ensure that the effects of major Federal actions on the human environment are considered in the formulation of policy for such actions. Unfortunately, all evidence indicates that the effects of the treaties on the human environment were given no formal consideration under N.E.P.A. by the Administration in the negotiation of the proposed Canal treaties. Surely the negotiators for the U.S. and Panama must have been constantly aware of the political ramifications of their decision, but in no event were the environmental ramifications of the treaties formally considered at the appropriate time.

According to the governing laws and regulations, a draft environmental impact statement should have been prepared when negotiations were reinitiated with Panama in 1971 or 1973. A final environmental impact statement should have been prepared and filed with the Council on Environmental Quality 30 days before the signing of the treaties on September 7. Neither of these requirements were fulfilled. It is clear that the Executive Branch has been acting in violation of N.E.P.A. and N.E.P.A.-inspired regulations to this point in time.

The Department of State's attention to these requirements may be improving, however. The deadline for comments on the draft impact statement issued a week before the treaty ceremonies has been extended. Hopefully a final adequate impact statement will be available in the future.

I stress the need for an adequate final environmental impact statement because it is possible that the courts, should they find the requirements for environmental consideration lacking, might enjoin implementation of the treaties or their effectuation upon ratification. It would be unfair to Panama and its people as well as the people of our own country to debate or pass upon a treaty which would possibly be laid aside by the courts. It would be insensitive and destructive of good relations to raise expectations and then have them dashed.

I urge the Committee to exhort the Department of State to prepare the best impact statement possible. I believe that the only adequate statement would be one that properly addresses all aspects of the treaties, including employment conditions, water quality and pollution considerations, sea-level Canal effects, the inspection of transiting vessels, and so on. If the Department of State knew the Senate would not consider the proposed treaties until a proper assessment has been completed, that would increase their attention to the task.

The environmental impact statement in connection with the treaties need not take on the hue of just an onerous obligation because the courts could be involved. It can be one of the most useful tools available to the Committee on Foreign Relations to assess the real impact of a new treaty on the Isthmus. Detractors of the treaties have said that the presentation of the agreements has been rife with hypocrisy and deceit. Since an adequate statement must be credible and take into account all relevant input, the impact statement requirement can stand as one test of the sincerity of the presentation. *If* those groups which are knowledgeable of the situation on the Isthmus will contribute their most puissant observations and *if* the Department of State makes a good-faith effort to write a responsible impact statement, then the Committee and the Senate will have available to it a body of knowledge which only months of hearings could have otherwise accumulated.

In addition to its usefulness in Senate consideration of the treaties, an impact statement would have major relevance to any Congressional consideration of the transfer of U.S. property in accordance with Article IV, Section 3, Clause 2 of the Constitution.

For your consideration, I request that several documents relevant to the environmental impact statement requirement be inserted in the record of these hearings.

In conclusion, although I have highlighted only a few of my major areas of concern, there are many other areas of the treaties that require amendment. Given the outspoken opposition of Panama's Chief of Government to any amendment of the treaties, the most practical course may be for the U.S. and Panamanian negotiators to

return to the negotiating table and attempt to fashion a new agreement, one that does not follow the "8 Points", one which may do less for some of Panama's objectives, but one which will have a much greater chance of acceptance in the United States.

In future years, as the perceptions of national interest change in the U.S. and Panama, perhaps terms similar to those embodied in these proposed treaties can be agreed upon. At the present time, however, to consent to agreements that will probably never be accepted by major sectors of the populations in the U.S. and in Panama is in my view dangerous.

IOWA'S LAKE RATHBUN FISH HATCHERY

Mr. CULVER. Mr. President, the State of Iowa has had a long and bright history in the development of fish and wildlife conservation practices, and the recently opened Lake Rathbun Fish Hatchery exemplifies Iowa's pioneering work in this field.

Located near the Rathbun Dam in southern Iowa, this $6 million facility is the largest fish hatchery in the United States. It is also the only hatchery in the Nation which uses trout culture techniques to produce warm-water fish such as channel catfish, striped bass, and large-mouth bass. The hatchery's catfish production will amount to 1 million fish per year, and 100,000 large-mouth bass will also be reared at this facility annually. Fish hatched at Rathbun, which permitted the closing of several less-efficient hatcheries in Iowa, will be stocked in streams throughout the State.

As a recent article in the Iowa Development Commission's Digest explained, this hatchery is one of the few in the United States that has been built with the visitor in mind, and over 200,000 people are expected to tour this plant annually. A gallery with a minitheater and slide presentation area, four large aquariums, and an outdoor viewing pond are among the arrangements that have been provided for visitors. Visitors will be able to view all fish culture practices and watch workmen tending the spawning tanks. In addition, the hatchery will serve as an education center for in-service training for Iowa Conservation Commission personnel.

Last August I had the opportunity to visit this remarkable facility with my family and can personally attest to what a remarkable experience a trip to that hatchery can be.

The project, which was dedicated June 11, 1977, has been in the planning stages since December 1970. Construction actually began in 1974, and funding for this facility was the joint venture of both Federal and State governments. The Iowa General Assembly appropriated $2.3 million, the U.S. Corps of Engineers provided $700,000, and another $3 million came from the sale of hunting and fish licenses, for work on the hatchery.

As chairman of the Senate Resource Protection Subcommittee, which oversees fish and wildlife issues, I believe the Lake Rathbun fish hatchery deserves recognition not only for its exceptional fish-producing capacities but also for its dedication to public education, its provisions for personnel training, and the enjoyment it provides for thousands of Iowans. An article in the Iowa Development Commission's Digest fully describes the significance of the Lake Rathbun Fish Hatchery, and I ask unanimous consent for the article to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAKE RATHBUN'S FISH HATCHERY

Of the thousands of people that will visit Lake Rathbun this year, about 200,000 may find themselves touring one of the most modern and most concentrated warm water fish hatcheries in the world.

Located southeast of the lake and just below the dam, the Rathbun fish hatchery is the only one in the U.S. using trout culture techniques to produce warm water fish such as channel catfish, large-mouth bass and stripped bass, according to Terry Jennings, supervisor of Iowa hatcheries.

"Most other hatcheries produce only about 20,000 fish in a one-acre pond, while we are producing 80,000 in 8,000 cubic feet of water," he said. At that rate, the hatchery's annual catfish production, the primary emphasis, amounts to one million fish or 100,000 pounds per year. In addition, 21 million young walleye were produced this spring, and 100,000 largemouth bass are being reared.

Although the facility was dedicated June 11, 1977, the project has been in the planning stages since December, 1970. "We knew we had to upgrade our hatchery system, so the Conservation Commission authorized a feasibility study and the Rathbun hatchery was the result," Jennings said. In turn, a number of small hatcheries and rearing ponds in the state were closed because the larger Rathbun facility was more efficient, he explained.

The hatchery, in addition to being the central one in the state, is one of the few in the U.S. built with the visitor in mind, and Jennings is expecting about 200,000 people to tour the facility this year.

The hatchery's busiest season lasts from the end of March to the end of November, when catfish and walleyes are spawning, but visitors can see the fish and watch them eat and hatch almost any time. Tour guides are available to groups if requested in advance, and there is no admission charge. Visiting hours are 7:30 a.m. to 8:30 p.m. Wednesday through Sunday and 7:30 a.m. to 4:30 p.m. Monday and Tuesday. After Labor Day, hours are 7:30 a.m. to 4:30 p.m. daily.

VISITOR CENTER

In one wing of the building, a visitor center features a gallery with a mini theater and slide presentation. Visitors should soon be able to view native Iowa fish in four aquariums to be installed in the main lobby. Jennings also anticipates that a collection of the largest fish caught in Iowa and a list of records will also be on display in the gallery.

Outdoors, a viewing pond has been designed exclusively so visitors can see various fish. "In the future, we may have peanut machines or something so visitors can feed the fish," Jennings said.

Adjacent to the viewing pond is an aeration basin, which takes in water from the lake, adds oxygen and screens out wild fish. The water in the aeration basin then goes to 20 outside ponds, each capable of holding 80,000 fish.

Indoors, an elevated ramp through the start tank room and an exterior balcony were built especially so visitors could watch workmen below tend the tanks and ponds. Many of the 40 start tanks contain hundreds of young fish at various growing stages, but some tanks have been reserved for spawning catfish indoors, a practice unique to the Rathbun hatchery, according to Jennings. "We produced quite a few catfish indoors in a controlled environment this year, and we hope to produce about 750,000 by this method next year," he said.

CATFISH PRODUCTION

The catfish began spawning May 31 and will be on the hatchery grounds until fall of 1978, he said, explaining that it takes about one and a half years to produce an 8-to 10-inch catfish.

The Rathbun hatchery began producing channel catfish July 1, 1975. "We started with 149,310 four-inch catfish, about 80,000 eight-inch catfish and 600,000 fry, or newly-hatched catfish," Jennings said. Costs for those fish amounted to over $16,700, a thin slice of the total operating expenses.

For 1977, the operating budget totaled $196,000 and was financed by sales of hunting and fishing licenses. Initial costs of the hatchery amounted to $6 million, with $3 million of the total being provided by hunting and fishing licenses. In addition, the U.S. Army Corps of Engineers provided $700,000 and the Iowa legislature voted $2.3 million from Iowa's general fund.

Jennings said he would like to have more general funds to beef up the education aspect of the visitor center, and he hopes that an appropriation from the legislature will soon make that possible. The hatchery in addition to being a good site for travelers, also serves as a fish management station and an education center for in-service training programs administered to Iowa Conservation Commission personnel.

LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, in July, after 3 years of tedious meetings, the sixth session of the 150-nation U.N. Law of the Sea Conference staggered to an indecisive conclusion. Although the Informal Composite Negotiating Text (ICNT) produced at the session shows marginal progress on a number of issues, there are provisions dealing with the international seabed area which are fundamentally unacceptable to the United States.

Because of the seriousness of these sections, the U.S. Government is undergoing an extensive review of its negotiating goals, including the question of whether or not the United States should withdraw from the Conference.

It is my personal hope that the decision of our Government will be to put forth further effort to salvage this Conference. It is in the world's best interests to foster international mechanisms for peaceful change and to further the global development of accepted rules of international law dealing with the increasingly competitive interests in the oceans.

I ask unanimous consent that an excellent article written by Margaret L. Dickey be printed in the RECORD. This article was prepared for a panel at the Manila Conference of World Peace Through Law (August 1977). It should be noted that Mrs. Dickey, a member of the Bar of New York and the District of Columbia, has served on the National Security Council's Public Advisory Committee on the Law of the Sea and the U.S. Delegation to the Law of the Sea Conference 1974–76. Her article, "Should the Law of the Sea Conference Be Saved?" provides an incisive analysis of problems facing the Conference.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHOULD THE LAW OF THE SEA CONFERENCE BE SAVED?

(By Margaret L. Dickey)[1]

Three years after its opening session in Caracas, Venezuela in the summer of 1974, the sixth session of the 150 nation Law of the Sea Conference seesawed to an inconclusive halt at United Nations headquarters in New York in July. Its results were two: a call to still another session in Geneva next spring and an "Informal Composite Negotiating Text"—a revision of two previous drafts of 303 Articles on ocean issues, ranging from passage through straits, to pollution control, to new jurisdictional claims for purposes affecting more than one-third of the world's oceans and most of its fisheries and oil and gas, to the extraction of lumps of minerals (principally nickel and copper) from the ocean floor.

In a hastily summoned press conference after the new text appeared, Ambassador Elliot Richardson, head of the U.S. delegation, took passing note of some "true progress" but on the intensely ideological issues of the mining of the deep ocean floor called the result so "fundamentally unacceptable" as to require him to recommend to the President a review of U.S. interests in the continued negotiations.

It was a long way from the "new constitution for the oceans" described in Caracas as the goal of the Conference by the then Chairman of the U.S. delegation, Wall Street lawyer John R. Stevenson. For other and different reasons, former Maltese Ambassador Arvid Pardo, "father of the oceans," and others who ten years ago called for such a conference to create a new era of cooperative development of the economic wealth of the oceans, had long since decried the events at the Law of the Sea Conference as a territorial "smash and grab" by coastal states rivalling, said Britain's Lord Ritchie Calder, any colonial conquest in Africa and Asia.

The failure of the current session of the conference to make any real breakthrough on either of the two most fundamental issues on its agenda increases substantially the prospect that no comprehensive treaty is obtainable which would satisfy the majority of participating nations and meet the essential requirements of the major ocean powers. Some conference critics contend that a treaty along the lines of greatest agreement would be far worse than no treaty at all; others fear that the legal void in the absence of a treaty would lead to an uncontrollable territorial scramble in the oceans that cover two-thirds of the Earth.

The question is, can or should this lengthy and difficult effort to agree on new fundamentals of ocean law be saved? Should it instead be quietly shelved before further damage is done to the fabric of existing law, however inadequate? What is the price of success . . . and the cost of failure, for the United States, and for others? Is there an alternative to "success" or "failure"?

In fact, the Informal Composite Negotiating Text which represented three years of difficult negotiations during the least happy hours of the North South confrontation includes an impressive body of agreement on a large number of issues from minor to some of fundamental importance. But from the beginning there was little progress on the points that would determine the basic acceptability of this novel effort to anticipate and to forestall future conflict over ocean uses: the undisputed exercise of common high seas rights of navigation over the broad reach of the oceans, and an agreement on how nations shall undertake to mine the valuable mineral resources of the ocean bed declared by the United Nations to be the "common heritage" of mankind.

At the end of the fifth session, whose dilatory pace was laid at the door of the impending U.S. Presidential elections, Ambassador Christopher Pinto of Sri Lanka, a leader of the third world forces said, accurately, that the conference had proceeded to build what agreements it could, sidestepping the fundamental decisions that could no longer be avoided. For the United States such decisions involve a difficult to assess measure of the benefits of widely known and agreed rules particularly those affecting navigation rights as an alternative to challenge and uncertainty. The question is whether these benefits are worth the apparent cost of accommodation to a numerical majority of states which are waging an ideological battle on the single issue of ocean mining in circumstances where events and the passage of time have removed the meat and potatoes bargaining issue of the conference—jurisdiction over offshore coastal resources—from the table, leaving fewer serious players and considerably fewer cards to play with.

For developing nations, many of whose immediate interests in offshore resources and related rights are likely to be satisfied with or without a treaty, the central issue has become that of "accepting" as Ambassador Pinto put it, a right of access by developed states, about to engage in ocean mining in any case, to at least half of the potential mining areas of the deep oceans. In return for such an agreement, there would be established an international mining "Enterprise" for the other half, a venture which would in fact represent a real departure in international economic arrangements, and perhaps a significant benchmark for the future.

Considering that future mining sites cover potentially literally millions of square miles (one field of nodules running from west of Mexico to southwest of Hawaii covers 2 million square miles) and that the demand for greatly increased supplies of these particular minerals in the next two decades is not anticipated to be dramatic, it would not seem unrealistic to settle for a modest beginning. What appeared, however, to be substantial progress toward reasonable compromise at the last session was abandoned at the last minute by the Chairman of Conference Committee. One dealing with ocean mining, leaving the Conference in most respects no further ahead than it was a year ago.

Whether or not a "comprehensive" treaty can be obtained or ought even to be attempted further, the process of the negotiation alone has, for good or ill, altered irrevocably the ancient rules of the sea in ways which will affect relations between nations for years to come.

Historian Arnold Toynbee long ago predicted that the end of the twentieth century would be marked by a struggle for control of resources. The magnitude of resources of the oceans both in terms of dollars and in terms of the fundamentals of power in the modern world are reason enough for an attempt to avoid conflict over their use, and to improve upon longstanding maritime rules of law ill adapted to the new age of resource exploitation.

Petroleum reserves in the submerged offshore continental margin, extending in some places several hundred miles seaward, have been estimated in excess of 2 trillion barrels, recoverable at ever increasing depths and supplying a dramatically rising percentage of the world oil and gas requirements. World fish catch has quadrupled in a single generation from 16 million tons in 1950 to 69 million tons in 1974 with resulting pressures on fish stocks. Merchant tonnage also quadrupled in the same period. Some 200 billion dollars worth of cargoes pass annually through U.S. ports alone. In the deep oceans, beyond the continental margin, enormous resources of nickel, copper, cobalt, and manganese are found in nodules scattered like charred potatoes on the ocean floor. Commercial development of these resources is predicted variously to result in anything from an economic bust in terms of cost competitiveness, to a cornucopia of all the world's future needs. There the nodules have lain for eons of time. Modern technology has now made possible their recovery from depths of 15,000 feet and more.

The process of deciding how and by whom all of these resources should be used energizes all the fundamental forces on the late twentieth century political stage—the control of resources and resource politics, the balance of nuclear power, the division of rich nations and poor, the unifying imperatives of a shrinking globe and the centripetal forces of a latter day nationalism unloosed in an age to which it is dangerously ill-suited.

It well could be concluded that the Law of the Sea Conference was the wrong subject, in the wrong place, at the wrong time, but since what it has wrought is unlikely to go away, it is well to look at what it has done, how it got there and how the current prospects might be improved.

The central issues of the Conference, as they emerged in 1974, were not addressed to the vision of the "common heritage of mankind" but to the more mundane task of juggling competing forces: to devising a balance of navigational rights and resource rights inherently at odds, to agreeing on the extent of national control of other activities in the proposed exclusive economic zone, and to devising a means of reconciling the remains of the "common heritage" of the deep seabed, with the practicalities of who had the money and technology before ocean mining could begin at all.

Looking seaward from the land, the Conference was fairly successful in dealing with traditional rights of navigation but the tentative agreements reached were, as treaty texts, contingent upon acceptance of other parts of the "package" of greater interest to developing countries. The conference agreed on a limited extension of the territorial sea—the traditional "three mile limit" in which states exercise sovereign jurisdiction—to 12 miles, and with it to establish a new arrangement for narrow international straits to recognize continuing rights of transit through and over them. For the United States the straits provisions were the sine qua non of any treaty. Under the old three mile limit, high seas corridors existed in many narrow but vital waterways like Gibraltar, which, with an extension to 12 miles would be overlapped by coastal waters of the bordering states affecting both rights of submerged transit and of overflight. Neither are accorded by the right of "innocent passage" customarily granted foreign states in the territorial sea.

While the secrecy value of submerged transit of submarines may have limited life in the future as new subsonic detection systems illuminate the oceans, there is something to be said in any case for being out of sight, out of mind. Rights of overflight remain vital, however, in circumstances where permission to overfly land may be denied for political reasons. The last Middle East war was triggered by the closing to Israel of the straits of Tiran, and subsequently a U.S. airlift of supplies required routes of

[1] Margaret L. Dickey, a member of the Bar of New York and the District of Columbia, is a member of the National Security Council Public Advisory Committee on the Law of the Sea, member of the U.S. Delegation to the Law of the Sea Conference 1974–76, and former Adviser, Legal and International Organization Affairs, of the United States Mission to the United Nations (1965–68).

flight that did not entail permission necessary to overfly land territory of foreign states.

Beyond the territorial sea, the companion piece to acceptance by much of the conference of the relatively narrow territorial sea, and the regime of straits, was recognition of an additional 188 mile "exclusive economic zone" granting to coastal states exclusive rights to both the living resources, fish, and the nonliving resources, principally oil and gas. What was not agreed was the very nature of this zone. Was it something entirely new—*sui generis* as the Latin American lawyers called it—or did it represent only a modification of existing law by granting specific additional resource rights to coastal states and preserving otherwise the traditional rights of the high seas open to all? The distinction is not legalistic. It is fundamental.

Around the world the proposed 200 mile economic zone would encompass more than one-third of all the world's oceans, cross all of its major waterways, include the areas of greatest interest to the infant science of ocean life (and of greatest susceptibility to damage from marine pollution) and, most importantly, enfold perhaps more than 90 percent of the resources of oil and gas and fish. In terms of money and in terms of national interest, the importance of this coastal zone far exceeds the most optimistic prospects of a bonanza in ocean mining. Of this none remains to the "common heritage," with the possible exception of some revenue sharing from future development of resources on the far edges of the continental margin in those areas where it extends beyond 200 miles. For some sixty nations with small coastlines or none at all, the zone serves to exclude them from areas of the oceans to which they previously had access and affecting most importantly their fishing rights: a right of escalating magnitude as the world faces the prospect of famine where population pressures consume economic gains.

The principal beneficiaries of this territorial largesse were those who resisted it longest: the United States and the Soviet Union. Add to these a handful of others which include: Canada, Japan, Norway, Australia, New Zealand, Mexico, Brazil, and India, and collectively they will acquire one-third of the area and probably at least one-half of its resources. Add another dozen countries of similarly privileged geography and the percentage figures rise over one-half the area and considerably more of the known resources. Never have so many given so much to so few.

Such a result does raise the question as to whether, written or unwritten, this kind of thing is conducive to world stability. Inevitably the result will be to widen the gap between North and South and to accelerate the gap between what has become known as the third and fourth worlds—those raising themselves out of the poverty level, often by reason of possession of important resources, and those remaining on the knife edge. In an era of diplomatic tunnel vision on the part of nations large and small, this result must surely win an award for diplomatic myopia.

The satisfaction with which the inevitable result was greeted and anticipated by U.S. resource interests, particularly by New England fisheries, was tempered in official quarters by the difficulty in imposing limits on the grasp of coastal state control in the oceans which was the principal and compelling reason for United States participation in a comprehensive ocean negotiation in the first palce. It was an effort made far more difficult by the U.S. Congress, which preempted the Conference and legislated a 200 mile fishing zone for the United States, so destroying the credibility of U.S. willingness to impose limits on its own claim of rights when its own interests—and not very major ones at that—were involved.

Another consequence of the virtually instant agreement on the principal of the 200 mile zone, reinforced by 200 mile fisheries legislation enacted in 1976, has been to remove from the bargaining table the most readily apparent interests of the majority of the participants who are coastal states. It soon became clear that so overwhelming was the support by coastal states for an economic zone that it would become instant "customary law" even without a treaty. This leaves the major maritime powers concerned with agreements relating to freedom of navigation in relative isolation at one end of the spectrum, and at the other end, the "Group of 77" united in pursuit of an ideological triumph for a new economic order through the creation of an elaborate International Seabed Authority and an Enterprise to manage seabed mining.

What is the fuss over seabed minerals all about? There is no doubt that the known quantity of nickel, copper, cobalt and manganese contained in the manganese nodules strewn on the surface of the ocean floor are more than sufficient to meet known or anticipated requirements for generations to come. What is not so clear is if, or when, their taking will be cost-competitive with present or potential land based producers of the same minerals.

One rationale for the development of ocean sites despite the enormous initial investments would be to create an alternative to an OPEC-type consortium of land producers controlling the market. But in the case of these minerals, such a combination is highly unlikely. Copper is in oversupply anyway and efforts of producers to coordinate to stabilize world prices of copper have failed. Most of the nickel imported by the United States comes from Canada. With the exception of cobalt produced in Zaire, other minerals are available from a number of alternative sources and cobalt can be produced as a by-product of nickel. Developing countries, most severely affected by rising prices of essential industrial materials would have an interest, it would be thought, in new sources of materials. The problem here is that their negotiating forces are led by land based mineral producing countries whose chief concern is writing into a treaty a formula for controlling seabed production.

What has happened is that a highly speculative economic venture in its initial stages has become the central focus of a legal and political negotiation singularly ill-equipped to deal with it. The obvious solution would be to separate the "package" and proceed with what can be agreed upon with respect to navigation and the economic zone. The rationale for the package approach, however, was that only in such a manner would a sufficiency of differing interests be satisfied to reach an acceptable agreement on all issues. The inducement to industrial states to negotiate at all on seabed mining has been that of attaining wide acceptance of other provisions more important to industrial states.

In the spring of 1976 a revised proposed text of the Law of the Sea Conference dealing with ocean mining that would have permitted reasonably automatic access to half of seabed mine sites by seabed miners who met pre-established conditions as to site, duration and financial terms, was immediately denounced by the 114 member "group of 77" as a sell out of the "common heritage." What they wanted, they said, was not only an international body, but an Enterprise which would be its operating arm to mine the seabed directly or in combination with other countries or companies, a view that had been incorporated in the first Conference text in 1975, and rejected by developed states.

A new avenue of compromise had then appeared: there could be a dual system in which countries and companies would have direct access to half the seabed mining sites subject to objective terms and conditions in the treaty itself, and the Enterprise would have the right to manage, as it chose, the mining of the other half. Quality of sites would be equalized by an arrangement whereby an applicant would choose two mining sites without knowing which site it would be granted, the other being "banked" for the Enterprise.

A further step offered late in the session resumed in the summer of 1976 by former U.S. Secretary of State, Henry Kissinger, was to guarantee on some international basis, the financing of the initial venture of the Enterprise so it might begin operations on relatively equal terms with commercial ventures. Mr. Kissinger's offer, had it come earlier and with more financial specifics attached, might have had far greater effect. This negotiation, in fact, may have been one the former Secretary had in mind, when, in a recent speech, he sharply criticized the shortsightedness of American business interests in international negotiations. In 1975 and 1976 the influence of the mining companies on the conservative and business oriented Treasury Department in the Nixon and Ford Administrations successfully resisted any U.S. diplomatic moves to resolve the seabeds impasse. By 1977, unrelenting lobbying efforts in Congress by the American mining interests had created such concern about mining "rights" by an increasingly inward looking and resource scared Congress, that the regime for seabed mining took on an importance out of all proportion to its real place in the longer view of ocean interests.

The relative scale of expected mining is illustrated by projections which anticipate that by the year 2000, not more than 10 to 20 mine sites will be operational out of an estimated number of first generation mine sites ranging from 250 to 400. Of the minerals themselves the most valuable is nickel of which the reasonably consistent growth in the world market over the past two decades has been in the vicinity of 6%. An ocean bonanza, if there is one, is at least a generation down the road when any agreement reached today might reasonably be expected to be modified by time and circumstance. In short, the developing countries for ideological reasons, and the developed states for reasons that might come under the same heading, created an overblown situation in which it was virtually impossible to deal with the mining issue on economic rather than political terms.

Despite these inhibitions, however, a small negotiating group representing all the principal factions met before and during the last session of the Conferenec under the chairmanship of Norwegian Minister of State, Jens Evensen, to work out a compromise text on the basic arrangements of a dual system of access, financing an international Enterprise, establishing the scale of production controls keyed to the nickel market for the protection of land based miners, and a system of voting in the executive body, the Council of the International Seabed Authority, which would reasonably reflect the real distribution of interests. It was this text which at the last hour the Committee Chairman, Paul Engo of The Cameroon, failed to include and instead substituted an apparently similar, but substantially different text worked out in secret with a few representatives of third world countries with the result that was, as Ambassador Richardson described it, "fundamentally unacceptable."

Insofar as seabed mining was concerned the Conference was at ground zero or worse. Among the many unacceptable features of the new text, it appeared to require transfer of mining technology to the International Authority as a condition of application to mine. Another provision would prejudge the outcome of the proposed 20 year review of the system if no new agreement were reached within a five year period, thus open-

ing the way to attain the single ocean management system desired by the Group of 77 by the mere process of non-negotiation if the negotiations were not satisfactory. Together with other conditions, including a substantially increased production limit on seabed mining, it is difficult to assume that Chairman Engo intended any serious effort at compromise.

Several explanations of this unexpected diversion of the work of the negotiating group are possible, but none have much validity. One hindrance to compromise has been a continuing misjudgement by a number of developing countries of the degree to which the United States could or would move on seabed issues to protect rights of navigation. To many, the United States has appeared so anxious to obtain a treaty that would protect these rights that it would ultimately, as the Wall Street Journal would say, "give away" the seabed. This widespread impression was fostered unfortunately, by the high visibility of military advisers attending some of the U.S. negotiators in the early stages of the Conference and by American exhortations to haste which made time itself appear to be a bargaining card. In fact, time, on seabed issues, now works the other way. Whether or not a tradeoff might ever have been considered—and the argument can be made that the developed countries, with possession of the technology and the financing, would be able to negotiate acceptable arrangements on the basis of economic benefits—and whether or not a more statesmanlike approach by the United States to the ideological trappings of the seabed issue would have produced a better result in the rest of the draft treaty text, is by now academic. Even were such a value to be placed upon other parts of the text, acceptance of the present mining proposals of the Group of 77 is not now politically acceptable in the Senate. If the Carter Administration is seeking to improve relations with the third world, the Congress is clearly in less global a frame of mind.

What now are the gains and losses in a treaty and for whom? Does the text achieve, in any substantial measure, its intended purpose of avoiding future conflict or does it merely institutionalize the seeds of conflict? Would the less certain but more pragmatic process of building a new body of law on a case-by-case basis decrease or increase the hazards of ocean conflicts?

These are simple questions to ask but difficult ones to answer. For the United States and for all maritime states there are definite gains on the navigational issues of original concern—the territorial sea of 12 miles coupled with provisions that preserve satisfactory rights of transit and over flight of straits. Critics of a treaty point out that the realities of power are such that these rights in any event would be maintained and this is undoubtedly so, but at some cost. Even with a treaty it is conceivable that some straits states may not ratify it absent other benefits; and even if they do, it is not unprecedented, as in the case of bases and other concomitants of modern peace keeping, that the United States will find it necessary to dispense some additional incentives to smooth its path. Nevertheless, a clearly established statement of rights is obviously preferable to a process of test and response in an area of ocean rights involving such highly charged matters as the deployment of submarines, or navigation in crowded seas like the Mediterranean which for thousands of years has been a bloody avenue of the ebb and flow of power.

The next question is whether these same treaty articles retain their value when linked, as they must inevitably be linked in a treaty, to the kind of economic zone now descirbed in the text. In this equation the answer is less clear. The problem is described in terms of negotiating the "legal status" of the zone. Does the coastal state exercise the kind of extensive control which, with the exception of specified navigational rights, could lead to a territorial sea? Or, instead, does the area remain high seas—open to all—for non-resource purposes?

For many nations "high seas" are political trigger words. They carry with them the freight of empires past, and great powers present. Neither are popular. This makes it more difficult to create the kind of flexible balance of rights and duties which, while desirable from a strategic view, should also be desirable from the point of view of all nations which participate now or expect to participate in the future in ocean commerce. Some 60 nations, for example, will be "zone locked"—unable to reach the seas beyond a zone without transiting the zones of one or more foreign states. The opportunities for disputes are obvious.

The new text incorporates a partial compromise on the high seas question, but like many such compromises it is one which largely reserves the options of both sides by preserving the possibility of both interpretations. The economic zone is no longer described as sui generis or unique, but neither is it described as high seas. Canada, in urging the inclusion of the compromise text at the end of the last session, noted that it preserved the "special status" of the zone, while the U.S. urged the same, noting the protection of high seas rights. In other words, and given other articles which grant to coastal states extensive rights with respect to non-resource activities and with limited avenues of appeal to dispute settlement procedures, it is a very close question as to whether the danger of creep" is any more or less with or without a treaty. The best that can be said for the compromise text—and it is a worthwhile gain—is that if the conference itself fails, then the ongoing process of establishing future law by reference to the legislative history of the conference will not support an argument that there was widespread agreement that the economic zone was not high seas. This is, however, of greater comfort to lawyers than it can be expected to be a restraint upon nations and politicians.

The argument can be made that the nature of the economic zone has gone too far in the direction of national jurisdiction to serve the long term interests of most states; that the text is not substantially remediable; and that the ultimate limits of the economic zone might better be left to some reflection and to the more pragmatic approach of time and circumstance. To this is replied that the only future restraint on the grasp of coastal states will be by treaty—or by force.

To this point, if for no better reason than the concept that "the devil you know is better than the devil you don't", the treaty text, with the exception of its seabed mining provision, can probably be judged a minimal net gain for the U.S. and other maritime powers.

From a longer view world of world order it is not at all certain that the creation of new domains over the richest area of the oceans will contribute to the objective of conflict avoidance. Since, however, that possibility seems inevitable in any case, such speculations do not alter the equation.

At this balance point the weighting factor becomes the outcome of the deep mining issue. In making this judgment gains and losses are difficult to measure for they are most likely to be felt in areas unrelated to oceans, shadowing the future course of North South relations, and even of the United Nations itself.

At the present moment it appears likely that seabed mining will proceed, with legislative endorsement in the United States which will probably be followed by reciprocal legislation by other countries with mining technology, many of whom are already associated in consortiums with U.S. companies.

At the time that legislation is enacted, (and unless miraculously the chief pillars of the treaty text can be agreed at the scheduled 1978 spring session) whatever adverse effects such legislation unloose upon U.S. foreign policy objectives generally will come about in any event. Thus the principal remaining inducement for the United States to remain an active planner in seeking a further compromise will fade.

One further, and possibly in the long run the most important effect of failure might well be to set the United Nations along the way toward the fate of the League of Nations, if it proves an ineffective instrument of dealing with global problems of real and global consequences for generations to come.

What then can be done to retrieve the treaty text and make possible the kind of broad agreement which, if it falls far short of a constitution for the oceans, will at least establish an international framework for future ocean arrangements?

Substantively it is possible to attain essential improvements in the text if a majority of nations are persuaded of the benefits of a treaty. It is not, however, clear that a great many nations, having attained recognition of rights are willing to abide by their concomitant duties. Procedurally, it is likely that any further improvement can be agreed only by escalating the basic decisions from the level of conference negotiations to that of foreign ministers. This would involve shifting the negotiating process to a forum which minimizes the political influence of nations with no stakes in the outcome or with a preference for no agreement.

On the two outstanding substantive issues the shape of a workable agreement is apparent. With respect to the perservation of high seas rights in the economic zone the compromise incorporated in the new text represents some progress but not enough. It is likely that "high seas" itself is so loaded a phrase that the issue probably cannot be dealt with head on. But if it is necessary to accept an outcome which does not explicitly recognize the economic zone as being high seas for purposes other than rights accorded in the treaty, the substantive effects of the compromise can and should go further toward a genuine balance of interests. As one example, the insistence of the developing coastal states on control of scientific research in their areas is more directed at military activities of the major powers than it is at marine science.

On ocean mining the burden of compromise is now, however unfairly it may appear, largely upon the developing countries. If the cost of "recognizing the rights of a few states to half the seabeds" as Ambassador Pinto put it, seems high, even higher in the long run would be the loss of the opportunity to establish, with broad support from all participants, an effective beginning for an international mining enterprise. Still higher would be the future cost of failure of this first global effort to reach binding agreement on issues of common concern.

If the next session fails to produce acceptable compromise on the two key issues then the conference will face failure. If the chances are not good that compromises will materialize by then, are there any alternative routes to avoid either breakdown or stalemate? One alternative would in the past have seemed so antithetical to the asserted requirements of all participants as to be dismissed out of hand. That is to create under the aegis of the Conference President, veteran UN diplomat Ambassador Hamilton Shirley Amerasinghe of Sri Lanka, one or two small negotiating groups, similar to the two that were formed during the past session of the conference, and representing all major

factions in the negotiation. Their task would be to produce a recommended compromise text as a whole in a series of meetings that could require a year or more while the conference itself recessed. The objections are several and from all sides.

From the outset the United States has urged haste upon the conference lest the passage of time legitimize coastal claims and make more difficult their restraint in a treaty. This in fact has already occurred. Developing countries have feared that only an on-going Conference seemingly without end could, like the Chinese water torture, induce a compromise on ocean mining more to their liking as the price of a treaty. Still other nations object to being non-participants in the process. Finally, the Committee chairmen, who in this session successfully resisted any exercise of powers by the President to make his own changes in the text, would obviously object to the termination of their authority.

None of these objections should prevail. The passage of time has already made inevitable a 200-mile economic zone. A delay in the conference process could serve a real purpose in testing the waters of actual claims and adjustments without diminishing the prospect of obtaining a treaty acceptable to the diverse negotiating states much more than such prospect has already been diminished. Insofar as mining is concerned, if the U.S. legislation passes, ventures will be commenced regardless of the UN resolution and a differing view of the legal ownership of the minerals. Since, however, the lead time on commercial operations—time to build processing facilities and other necessities—is figured at three years, a treaty is not necessarily pre-empted. Much of the proposed legislation contemplates an eventual treaty.

Insofar as the small group negotiating process itself is concerned it has proven productive in the last session when one group produced at least a somewhat improved text on the status of the economic zone and the other, dealing with seabed mining, made progress had its results been included in the new text. The fact is that the deal must be struck between those with real interests at stake and not among those who divert the conference for political ends.

Lastly, the committee process has in most cases well served its purpose. With the exception of mining, the basic texts, subject to the nuances and adjustments required by decisions about the economic zone, have been completed. In the case of mining no procedural devices yet tried have produced any effective result. If other aspects of the conference have proceeded successfully by sidestepping the fundamental choices, it is clear that the details of a mining regime could be quickly worked out if, but only if, the decision to compromise is made first on a genuine parallel system, including its decision making processes, which can command ratification by the principal participants. Such a negotiating arrangement would also have the additional benefit of preserving the presently substantially completed sections of the text from erosion by the conference at large.

The basic requirement of any comprehensive oceans treaty is that it provides benefits for each of the major interests involved sufficient to make other less appealing provisions acceptable within its overall framework. Much time and money has been spent on an effort unique in history. It is arguable that an effort of such difficulty and complexity should not be hastened, but as each month passes the inexorable march of events tends to remove, one by one, the stuff of the negotiations. If the conference does not produce what amounts to an acceptable draft treaty text at the next session, it is not likely to do so at all. And then, as Santayana said, those who will not learn from history may well be doomed to repeat it.

If in the long view none will be the winners if the bloody history of land borders is replayed in the world's oceans, the losers are certain to be those whose voice is heard least outside an international forum such as this one. But the cost to all, great and small, can only be gauged by the awesome measure of a struggle for two-thirds of the planet earth in the 21st century. A treaty, if there is to be one, must be more than a mirror image of that uneasy prospect.

A PERSONAL SALUTE TO HALL OF FAMER LOU ATHANAS

Mr. McINTYRE. Mr. President, I was pleased to read in a recent issue of the Manchester, N.H., Union Leader that a fellow townsman and an old friend has been named to the University of Lowell Hall of Fame.

Lou Athanas, of my hometown of Laconia, N.H., will be inducted into his alma mater's hall of fame this Friday, and a more fitting honor I cannot conceive.

As the article noted, selection for the university's hall of fame was made on the basis of athletic prowess while a student, integrity, sportsmanship, character, contribution to the team or teams on which the person played, and to the university in general.

At Lowell, Lou starred as a quarterback on the football team, a first baseman in baseball, and a forward in basketball. In his senior year, he was the country's leading scorer on the basketball court, at times scoring more points individually than the competing team scored collectively. It is little wonder that he is regarded as a living legend in the history of the university.

But his record in athletics—as a college star, and later as an official, New Hampshire's State athletic commissioner for three terms, as organizer or director of countless sports programs for youth, including the phenomenally successful junior pro basketball league—is only part of the Lou Athanas' story.

He combines the jobs of clerk of the Laconia District Court and local probation officer, and in the latter role, he has exhibited admirable sensitivity to the needs of young people, particularly those disadvantaged by uncaring homes.

He not only gives fully of himself to these troubled youngsters, he enlists other adults in the Laconia community to serve not just as probationers, but as surrogate parents who provide the support, affection, and counsel these boys and girls do not get at home.

It has been said of Lou Athanas that there is not a better known sports figure in the entire State of New Hampshire. And it has also been said of him that no other man in the State has made his positive influence felt among so many youngsters over so many years.

Mr. President, I take this opportunity to salute Lou Athanas for his many contributions to my State, to congratulate him upon his much deserved induction in the University of Lowell Hall of Fame, and to ask unanimous consent to have the Manchester Union Leader article about him printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATHANAS NAMED TO HALL OF FAME

(By Earl O. Anderson)

LACONIA.—One of New Hampshire's best known athletic officials, Lou Athanas of this city, has been named to the Hall of Fame being established at the University of Lowell.

Athanas is one of but nine persons—and the only one from the Granite State—to be initially honored.

The induction ceremonies are scheduled for Oct. 7.

The Lake City man was graduated from the former Lowell Textile Institute in 1936, when it had an enrollment of under 300.

The university enrollment is now approximately 8,000. Old Lowell Tech was merged some years ago with Lowell State College to form the university.

The whole life of Athanas has been devoted largely to athletics in some capacity.

He is regarded as a "legend" in the history of athletics at the university, officials said in announcing his selection.

During his career at Lowell Tech, he was said to have excelled as a quarterback in football, a first baseman in baseball and a forward in basketball.

During his senior year, he led the country in scoring in basketball.

"On several occasions," noted the university, "Athanas scored more points than the combined efforts of his opponents. In the Greater Lowell area, collegiate stars and the name of Athanas are synonymous."

Selection for the Hall of Fame was made on the basis of playing ability while attending the university, integrity, sportsmanship, character, contribution to the team or teams on which the person played, and to the university in general.

Notification to Athanas was made by Dr. James Ciszek, director of physical education and athletics at the university.

"Members of the selection committee," he wrote the Laconia man, "after reviewing your accomplishments in athletics, are extremely proud to have had a part in honoring your 'significant' contributions to our university."

Athanas is a native of Lowell, and has lived here for many years. He met his wife, Laura, in Washington, D.C., while refereeing a hoop game in which she was playing. They have a son, Lou Athanas Jr., 16, who plays the same position in the same sports as his father, and a daughter, Felipita Athanas, 15.

Lou was appointed by three governors of New Hampshire to serve a term each as state athletic commissioner.

A fourth governor issued him a commendation.

Athanas served four years with the U.S. Marines during World War II, attaining the rank of sergeant. He captained both the basketball and baseball Marine teams in the nation's capital.

He has officiated at many college grid, hoop and diamond games throughout New England; also many high and prep school athletic games in New Hampshire.

He has served as director of the N.H. State American Legion Junior Baseball program, and also managed the Laconia City Baseball team.

He has been active in the Laconia youth sports programs, as the Little League and Babe Ruth League, and the Pop Warner football program. More recently he organized and supervised the Junior Pro basketball league, consisting of 200 boys and girls.

He is in his 13th year as clerk of the Laconia District Court, and has been a local probation officer since 1958. On one occasion he served as acting special judge.

PIPELINE COMPETITION ACT—S. 1879

AMENDMENT NO. 1397

Mr. HASKELL. Mr. President, I submitted amendment No. 1397 for print-

ing on September 28, 1977, and asked that it be printed in the RECORD. In the confusion associated with the natural gas debate, the printing of the amendment was somehow omitted. I, therefore, ask unanimous consent that the amendment be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1397

That this Act may be cited as the "Pipeline Competition Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) the Nation's energy needs require a petroleum pipeline system which is accessible to all shippers on equal terms;

(2) the Nation's energy needs require a pipeline system which operates under an incentive to quickly provide adequate capacity to meet the transportation needs of all shippers;

(3) pipelines operated by integrated petroleum companies have neither the incentive to provide access to all shippers on equal terms nor the incentive to provide adequate capacity for the transportation needs of all shippers; and

(4) the present system of regulation of petroleum pipelines is incapable of assuring access on equal terms or adequate capacity.

(b) It is the purpose of the Congress in this Act—

(1) to promote the operation of interstate pipelines as an efficient common-carrier system with open access to all shippers and adequate capacity;

(2) to require the separation of pipeline ownership and operation of petroleum pipelines from other petroleum industry operations; and

(3) to prohibit shipper-ownership of petroleum pipelines.

DEFINITIONS

SEC. 3. As used in this title the term—

(a) "person" means an individual or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated. It does not include any authority of the United States or of the several States;

(b) "control" means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, or contractual relations which substantially impair the independent business behavior of another person;

(c) "affiliate" means a person controlled by, controlling, or under or subject to common control with respect to any other person;

(d) "asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

(e) "commerce" means commerce among the several States with the Indian tribes, or with foreign nations;

(f) "petroleum" means crude oil, condensate, natural gas liquids, and refined petroleum products;

(g) "refine" means to change by any operation the physical or chemical characteristics of petroleum or petroleum products, exclusive of burning out of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

(h) "refined product" means any product, whether liquid or gas, which is produced by a petroleum refinery;

(i) "marketing asset" means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

(j) "production asset" means—

(A) natural deposits of crude oil, or condensate and natural gas liquids;

(B) any asset used primarily in the exploration for, development of or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped;

(C) geological and geophysical information;

(k) "refinery asset" means any asset used in the refining of petroleum;

(l) "pipeline" means any asset used in the transportation of petroleum in commerce within the United States by pipeline or gathering line;

(m) "Outer Contnential Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(n) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, and the Outer Continental Shelf.

(o) "Commission" means the Federal Energy Regulatory Commission; and

(p) "prohibited asset" means any pipeline the retention of which is prohibited by section 4 of this Act.

PROHIBITION

SEC. 4. (a) Notwithstanding any other provision of law, three years after the date of enactment of this Act, it shall be unlawful—

(1) for any person who owns, or controls, any interest in any refinery asset, production asset or marketing asset to own or control any interest in a petroleum pipeline; or

(2) for any person who controls any pipeline to receive for transport, store, transport or deliver, any petroleum in which such person, or any affiliate of such person, holds an interest; except for such bailment interest normally incident to a common carrier transport operation.

(b) In order to facilitate the purposes of this Act, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Clayton Act (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

EXEMPTIONS

SEC. 5. The Commission may, upon application by any person required to divest interests in assets under section 4(a) or prohibited from using assets by section 4(b), exempt any such person from the operation of section 4 with respect to any pipeline upon a finding—

(1) that such pipeline is so integral a part of other assets, the retention or use of which is not prohibited under section 4 that no public purpose would be served by the divestment of or prohibition of the use of any such pipeline; and

(2) that the retention or use of any such pipeline will not tend to injure competition or otherwise subvert the purposes of this Act.

REPORTS

SEC. 6. Each person subject to section 4 of this Act shall, within thirty days from the date of enactment of this Act, file with the Commission a report listing their prohibited assets. The Commission may order subsequent reports from persons subject to section 4 and may order reports from such other persons as it requires.

PROHIBITION ON SOLICITATION

SEC. 7. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corporation or affiliate thereof subject to the requirements of section 4.

ENFORCEMENT

SEC. 8. (a) The Commission, in accordance with such rules, regulations, or orders as it deems appropriate to carry out the purposes of this Act, shall require each person subject to the provisions of section 4 to submit to the Commission within twelve months of the date of enactment of this Act, a plan or plans for the divestment of the prohibited asset. Such plan must—

(1) be fair and equitable to all affected persons;

(2) substantially accomplish the required divestiture within three years of the date of enactment of this Act;

(3) provide that each person owing prohibited assets shall form a separate corporate corporation and shall transfer the prohibited assets to the new corporation in exchange for the new corporation's stock which shall be distributed to the stockholders of the divesting corporation in proportion to such stockholder's holdings in the divesting corporation.

(b) The plan required under subsection (a) of this section shall be devised by each person subject to the provisions of this Act, with respect to their own interests only, in consultation with the officers and employees of the Commission and the Securities and Exchange Commission under guidelines which the Commission, with the advice and counsel of the Securities and Exchange Commission, shall promulgate.

(c) The Commission shall institute suits or actions for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitory injunctive relief, interim equitable relief, and the appointment of temporary or permanent receivers or trustees.

(d) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation, interim approval or disapproval, and final approval of the required divestiture plans.

(e) In carrying out the provisions of this Act, the Commission and the Securities and Exchange Commission are each authorized to utilize all powers conferred upon them separately, and all sanctions associated therewith, by any other provision of law.

FAIR AND EQUITABLE

SEC. 9. Not later than ninety days after the submission of each plan, or modification thereof, under section 8(a) of this Act, the Securities and Exchange Commission shall separately and independently submit to the Commission an analysis of the conformity of each such plan and modification thereof with general standards of fairness and equity with respect to the holders of debt and equity interests of any corporation affected by the provisions of section 4 of this Act or otherwise affected under each such plan.

ADJUDICATION

SEC. 10. Pursuant to section 554 of title 5, United States Code, not later than two years and four months after the filing of each final and approved plan, the Commission shall issue orders causing the implementation of the plans in such a matter as will be fair and equitable to all persons affected and will accomplish the purposes of the Act within three years of the date of enactment of this Act.

ADMINISTRATIVE SUPPORT

SEC. 11. Notwithstanding any other provision of law, the Commission and the Securities and Exchange Commission may contract for the services of such persons including lawyers, economists, accountants, appraisers, securities analysts, neutral experts, and such other personnel as may be necessary to expeditiously carry out the responsibilities vested in each of them respectively by the provisions of this Act.

SANCTIONS

SEC. 12. (a) Any person or any officer, director, or partners thereof, who violates any provision of this Act shall forfeit and pay to the United States a civil penalty of not more than $100,000, in the case of an individual, or not more than $1,000,000 in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission.

(b) Any person or any officer, director, or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall forfeit and pay to the United States, for each violation, a civil penalty of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense.

REGULATIONS

SEC. 13. (a) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to require that any plan or plans for divestment of prohibited assets shall provide for the maintenance of competitive conditions in capital markets for the sale of notes, securities, or assets pursuant to such plan or plans.

(b) The Commission shall require that the size, timing, and other conditions of sale of such notes, securities, or assets shall be such as to encourage broad participation by underwriters and potential purchasers.

(c) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to assure that competitive conditions are maintained in capital markets when loans, leases, and other financings are entered into by persons required to submit a plan or plans required pursuant to this Act during the pendency or in conjunction with such plan or plans.

AUTHORIZATION

SEC. 14. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SOUTH DAKOTANS EXCHANGE FARM VIEWS

Mr. McGOVERN. Mr. President, a recent exchange of correspondence between two distinguished South Dakotans, both knowledgeable in the affairs of agricultural policy, and both exceptionally close friends of mine, is to me significant in reflecting views in the farm community and a defense of the Food and Agriculture Act of 1977.

The initial letter is written by Mr. Loren Zingmark, the general manager of East River Electric Cooperative, Inc., of Madison, S. Dak. Mr. Zingmark heads one of the country's outstanding rural co-ops. He is close to farmers and knows their frustrations. His letter is directed to Mr. James C. Webster, Director of Congressional and Public Affairs at the U.S. Department of Agriculture. Mr. Webster recently was the Chief Clerk of the Senate Committee on Agriculture and Forestry where he served with distinction. Prior to that he worked as a key aid in my Senate office. Bob Bergland wisely asked him to come down to the Department shortly after his nomination. Both Mr. Zingmark and Mr. Webster are long time personal friends.

I know that Loren Zingmark's letter reflects the thinking of many farmers, particularly in South Dakota who after 3 dry years are now faced with depressed commodity prices. On the other hand, I think that the broad brush explanation to the farm problems so well articulated by Mr. Webster is one of the finest expository pieces on the contemporary farm situation I have read.

For purposes of perspective, Jim Webster's letter focuses sharply on the genuine efforts of Mr. Bergland to reclaim for American farmers a decent deal for the long run. Bob Bergland at the very least deserves our patience and our cooperation.

Since both letter writers furnished me copies of their correspondence, I ask unanimous consent that the text of their letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EAST RIVER ELECTRIC
POWER COOPERATIVE, INC.,
Madison, S. Dak., August 2, 1977.

Mr. JAMES C. WEBSTER,
Deputy Under Secretary for Congressional & Public Affairs, U.S. Department of Agriculture, Washington, D.C.

DEAR JIM: I read an interesting speech the other day which was dated August 25, 1976. One of the paragraphs reads as follows: "If I am elected, we will make sure that our support prices are at least equal to the cost of production. That will not guarantee a profit—no real farmer wants that—but it will give the determined farmer a chance to stay in business."

You are correct—that statement was made by then-Candidate Jimmy Carter at the Iowa State Fair Grounds in Des Moines, Iowa.

As the Assistant Secretary of Agriculture for Congressional and Public Liaison, would you please explain to me what has happened between the time that promise was made and the deplorable prices which the farmers are now receiving for their grain. Example: Last year, here at Madison, oats was being sold by the farmers for $1.65 a bushel. Today it's 79¢. Is this "at least equal to the cost of production"? No farmer in our area believes that.

Sincerely,

LOREN A. ZINGMARK,
General Manager.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 18, 1977.

Mr. LOREN A. ZINGMARK,
General Manager, East River Electric Power Cooperative, Inc., Madison, S. Dak.

DEAR LOREN: Your provocative letter of August second arrived while I was off for a few days trying to recuperate from three sometimes hectic weeks of legislative battles—eight days on the House floor and five days, up to 12 hours each, in Conference Committee on the farm bill.

Although your letter makes it sharp and clear that you're disappointed with a major element of our farm and food policy—the price and income support levels we've advanced—I'm delighted to have the opportunity to organize some of the thoughts I've had over the past few months as this political fire has threatened to go out of control.

First, let's look at the background—the price and supply situation leading up to the 1976 campaign; the farm issues in the campaign itself, where I played a bit part; the development of 1977 farm legislation through the Conference Committee week before last; and, finally, the economics and politics of it all.

So here goes; bear with me.

You remember, better than I, in the years leading up to 1972; dollar corn and dollar-and-a-quarter wheat were the rule, day in and day out, without a great deal of variation. Many years, Government-owned surpluses exceeded a billion bushels each of wheat and corn, and in some years they topped two billion.

All of a sudden, God and the Kremlin smiled simultaneously on Earl Butz and the American farmer: the carryover was wiped out and the taste of $3 corn, $5 wheat, and $9 soybeans was as sweet to farmers (and those of us who work for farmers) as 60-cent sugar.

But there were dangers in this, too: in the campaign we coined such clever phrases as, "Bust follows boom as surely as night follows day." This is nice campaign rhetoric, and it's also true.

Nine- and ten-dollar soybeans, and an unnecessary embargo, gave the Japanese the incentive they needed to invest in soybean production and handling in Brazil.

Record corn and wheat prices drove up the sale price of farmland as never before; in 1975, the average sale price of farmland in the Northern Plains States (Kansas, Nebraska, North Dakota and South Dakota) rose 36 percent in a single year. The higher crop prices were capitalized quickly into land prices; they've stayed there and are compounding.

Those cash prices also brought about an incredible amount of new production; last year's corn crop was the biggest in history, and our wheat acreage harvested was the greatest ever. It's politically fun to say that farmers planted fence-to-fence because Earl Butz asked them to, or that they did it to feed a hungry world, but the fact is that simple American profit incentive brought out production never before seen on this planet.

Right at the peak of prices, I recall a conversation with a Soil Conservation District official in western South Dakota, who told of farmers plowing up Class 4 and Class 5 grazing land for wheat—land that was a prime candidate for serious erosion without grass cover—and another conversation with an irrigation specialist at the University of Nebraska who described irrigated and fertilized corn on an acre of soil with almost no natural nutrients, compensated for by 150 pounds of nitrogen on each acre.

(We should keep in mind that all this happened with almost no recognizable Government assistance or even Government involvement; the 1973 farm bill, then in effect, started target prices at $2.05 a bushel for wheat and $1.38 a bushel for corn, and had minimum loan rates of $1.37 a bushel for wheat and $1.10 a bushel for corn.)

Those were some of the elements in the drama that was building by the time of the Iowa State Fair—August of last year. We had the August crop report by then—the first generally accurate estimate of 1976 corn production—but the 1977 winter wheat crop that's now overflowing elevators from Houston to Rapid City wasn't even in the ground.

What's more, the best minds in agriculture and the grain trade at that time were guessing wrong (and as smart as all of us like to think we are, in this game about the best we can do is guess) about the volume of exports for the rest of 1976 and 1977.

So here we are—staring at record large supplies of wheat and corn—hoping for an-

other act of God and the Comintern to bail us out one more time. But this time, they're not cooperating: the Soviet grain crop is in the neighborhood of 220 million metric tons (it was 132 million in 1975), their third largest ever Even India and Bangladesh, chronic importers, have had good crops.

But that's all background, and it can only set the stage for an answer to your question.

As farm issues developed a clearer focus last summer and fall, you'll recall, we adopted several general themes that fit together. We pledged to level the booms and busts, to protect farmers on the low side and consumers and export customers on the high end, but mostly to restore a little predictability to one of the biggest business gambles devised by the mind of man. The key elements of this were supports at least equal to production costs; vigorous export promotion activities; a farmer-owned, farmer-held grain reserve; and a new open door at USDA so farmers and consumers could have the influence that the grain companies and agribusiness giants then held exclusively.

These are pretty far-reaching goals, and they involve some pretty drastic changes from what's been happening here the previous eight years. I think this Administration, in its short span, has made some impressive progress toward achieving those goals.

Item. On April 4, Secretary Bergland implemented the farm-stored reserve program for at least 300 million bushels of wheat, more than one-fourth of the carryover at the end of the 1976/77 marketing year.

Item: By his selection of Secretary Bergland, Assistant Secretary Foreman and several others, the President already has delivered on his pledge to open up the Department to all Americans—a move that is paying dividends already in a far broader base of support for USDA and farm programs.

Item: Assistant Secretary Hathaway is implementing significant reorganization of USDA's overseas market development efforts, working with producer groups to design the most effective export promotion program effort ever. This isn't a one-shot effort, and it takes time.

Item: On June 22, Secretary Bergland announced that farmer cooperatives would be able to obtain price support loans on their members' wheat and feed grains, a significant alternative marketing tool for farmers who want the economic advantages of pooling their production with other farmers.

Item: On March 23, the Secretary presented to the Senate Agriculture Committee the first administration farm bill in a dozen years, with target price payments based on full planted acreage rather than historic allotments, to cover all variable production costs (fuel, seed, machinery, labor, etc.), plus a 7 percent return for management and a 1½ percent return to land based on current values.

After months of hard work and negotiation between the Administration and the Congress, the Conference Committee agreed on August 5 to a workable four-year farm bill that will protect farmers' incomes at average production costs—$2.90 a bushel for wheat, $2.00 a bushel for corn, and equivalent levels for other feed grains, in the 1977 crop years.

Frankly, Loren, I think that's a pretty good record of fulfillment of campaign promises in a half year—one-eighth of the first term of the Carter Administration.

It troubles me to see such a gaping difference of opinion between us and so many of our traditional friends and fervent supporters over what narrows down to an interpretation of that single phrase, "cost of production."

Ben Stong once told me of a meeting of wheat growers in Nebraska, many years ago—at which farmers were asked to estimate their production costs per bushel—that there were as many answers as there were farmers in the room.

Today, the debate seems to be narrowed even further—to how the cost of land is computed in production cost estimates. Senator Talmadge's bill, S. 275, used a 9 percent return to the average acquisition cost over 35 years, weighted with cash rent and share rent to reach $2.91 a bushel for wheat in 1977. The basic data he used, taking land at current market value and assigning a 3 percent return, gives you $2.90 a bushel for the same wheat.

The bill ultimately produced by the Congress (and which we at USDA find positive) sets income support payments (target prices) at a level that returns about 4 or 4.5 percent to current land values.

There are a lot of elements in our program, Loren, that will make it a great deal more popular once it's fully understood. That, of course, is a chance; it doesn't make us a great deal more popular today, but I'm convinced that it's going to work out over the next year or so.

For instance, wheat farmers are upset that their average market price last month was only $2 a bushel. So am I. But they're not selling much wheat at that price—(77 per cent of the new wheat crop is being retained by farmers). And the critics are not taking into account the deficiency payment coming in December or January—22 cents a bushel, based on existing law (the difference between the $2.25 loan and $2.47 target), or 65 cents a bushel, if the 1977 bill becomes law in September (the difference between the $2.25 loan and the $2.90 target). That could be almost $1.2 billion to farmers this year, depending on a lot of variables.

Although the change doesn't take effect until the 1978 crop (this year's crop is covered by the existing 1973 law), we're going to base deficiency payments on full planted acreage, rather than historic allotments, from here on. For most South Dakota grain producers, this is a real, but still little-known, bonus in hard cash.

The Government could, of course, support the *price* at production costs and guarantee a 9 percent return to current land value, with a wheat loan rate of $3.73 per bushel, rather than guaranteeing *income* at the level in the 1977 farm bill, as it does with target prices. But what would be the consequences?

First, it would guarantee that the U.S. would be the supplier of last resort for importing countries; the importers would buy every other exporting country dry before returning to the U.S. to make only essential purchases.

Second, it would guarantee that our farmers and taxpayers would once again hold the reserve stocks for the world, demolishing any incentive for other countries to help carry the load. The prime objective of the wheat talks in London this year are to develop a shared international system of holding stocks, and we have high hopes that agreement can be reached.

Third, it would guarantee that the Government gets back in the storage business in a big way, leading again to the political heat that farmers caught in the 1960s when taxpayers spent $1 million a day to store the surplus.

Fourth, it would guarantee a new explosion in land prices ($5,000 an acre for Iowa corn land would be commonplace), attract heavy outside investment, and practically assure that the ownership of farmland is transferred from working farmers to absentee landlords. I don't want this and neither do you.

That is precisely what the President had in mind during the 1976 campaign when he constantly qualified his pledge for support levels to cover production costs by saying he would not guarantee a profit, as he said in the Iowa State Fair speech which you quoted.

Finally, Loren, a direct response to your closing question: is a market price for oats, at 79 cents a bushel in Lake County, "at least equal to the cost of production?" Of course not, and that's precisely one of the things we're changing.

Under the existing 1973 law, there is no target price for oats. There will be under the 1977 bill, and we intend to have a target price for oats for the 1978 crop year, based on exactly the cost-of-production standard used to reach $2 a bushel for corn. Our preliminary estimate is that the 1978 oats target price will be $1.81 a bushel.

The length of this epistle is, perhaps, such as to invite criticism that I am being excessively defensive.

But the fact is that your letter expresses on one page a feeling that we've heard increasingly from farmers and farm leaders. Without question, we have sustained some political damage.

In the long run, I am convinced, we have arrived at almost final agreement on legislation that sets out a new charter for farm and food policy: one that will allow us, if we do the job right, to live up to our goal of a policy that works in the lean and fat years, too. It will allow us to put more than a billion dollars—in wheat target price payments alone—into the rural economy late this year and early next; it will provide the flexibility this country needs to stay competitive in world trade and will keep our farmers from bankruptcy.

Obviously, no one in this Department hopes that market prices remain below target prices; all of us will work for exactly the opposite—the improvement of market prices to the point that farmers can earn a decent profit and live the kind of life that we all want.

With best personal regards, I am,
Sincerely yours,

JAMES C. WEBSTER,
Director, Congressional and Public Affairs.

EAST RIVER
ELECTRIC COOPERATIVE, INC.,
Madison, S.D., September 1, 1977.

Mr. JAMES C. WEBSTER,
Director, Congressional and Public Affairs, Office of the Secretary, Department of Agriculture, Washington, D.C.

DEAR JIM: I appreciate your reply to my letter, which was rather critical of the Administration's efforts in the agricultural area. Because you took the time to explain in detail the agricultural program, I am much better versed and have a much better understanding than I have ever had in the past.

It's difficult, however, Jim to sit in the rural area and watch the farmers' crops dry out—in some cases for three years, and then when they finally get a crop, the prices are so low that they don't even get the cost of their production back. I was rather lenient when I said 79¢ a bushel for oats, now it's 61¢ and elevators don't want it.

I'm sure many farmers are still on the farm today because their land has appreciated, thereby giving them additional credit, but some day that will also run out.

Again, Jim I appreciate your letter and sincerely hope this Administration can do something for the one who tills the soil. He's never asked for a hand out, only a fair chance in the market place; he's the only person in this Nation who has no guarantee that he will get anything for his labor.

Sincerely,

LOREN A. ZINGMARK,
General Manager.

PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, on October 4, I inserted in the RECORD a State Department cable which corrob-

orated my earlier testimony on the numerous differences in the Panamanian and U.S. interpretation of treaty provisions.

Today, I would like to call attention to an article appearing in the October 5, 1977, edition of The Washington Post entitled, "Canal Treaties Get a Jolt," reported by John M. Goshko, and also an article appearing in the October 5, 1977, edition of the New York Times entitled, "Dole Says U.S. Cable Shows Differences With Panama on Treaties," reported by Graham Hovey.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1977]

U.S., PANAMA DIFFERENCES CITED: CANAL TREATIES GET A JOLT

(By John M. Goshko)

The campaign to win Senate approval of the Panama Canal treaties was given a severe jolt yesterday by disclosure of a document indicating that Panama does not recognize U.S. claims to future military rights in the canal.

A confidential State Department cable made public by Sen. Bob Dole (R.-Kan.) revealed what appear to be major differences in U.S. and Panamanian interpretations of the treaties' provisions for defending the canal.

These provisions refer to the period after the year 2000, when the treaties would transfer control of the canal to Panama. At issue are questions of whether the United States will have the right to intervene militarily against threats to the canal and a right of priority passage for U.S. warships in time of national emergency.

These questions have become crucial to the Carter administration's quest for the 67 votes—two-thirds of the Senate—necessary to get the pacts approved by that badly divided body. Several uncommitted senators have said their votes will depend on whether they are convinced that the treaties secure these rights for the United States.

In testimony last week before the Senate Foreign Relations Committee, Secretary of State Cyrus R. Vance and the two U.S. treaty negotiators, Ellsworth Bunker and Sol M. Linowitz, said repeatedly that these rights are safeguarded by the language of the treaties.

Specifically they said that treaty language pledging the United States and Panama "to maintain the regime of neutrality" over the canal gives Washington a permanent right of intervention if it considers the canal threatened.

They also asserted that the provisions calling for "expeditious passage" for U.S. vessels in wartime mean that American ships would "go to the head of the line." The U.S. interpretation of these provisions was fully understood by the Panamanian government, they added.

However, their testimony seemed to be contradicted by the cable released by Dole. It was a message sent to the State Department last week by Ray Gonzalez, deputy chief of the U.S. embassy in Panama. It reported a conversation between the embassy's political counselor and Carlos Lopez Guevara, one of the Panamanian treaty negotiators.

The cable describes Lopez Guevara as being disturbed by Vance's testimony about U.S. intervention rights, and quotes him as saying: "Intervention is simply forbidden by international law. Panama cannot agree to the right of the United States to intervene."

Lopez Guevara also is quoted in the cable as taking exception to statements by Vance and other U.S. officials that Panama's military ruler, Gen. Omar Torrijos, tacitly recognized U.S. intervention rights when he said at the treaty-signing ceremonies that the agreements could place Panama under the defense umbrella of the Pentagon.

The cable quoted Lopez Guevara as saying that U.S. officials "had made too much of Gen. Torrijos' statement . . . 'The general was stating a fact not giving the United States any right to intervene.' "

On the question of what the "expeditious passage" clause means, the cable said Lopez Guevara disagreed that it allows U.S. ships to "go to the head of the line." He is quoted as saying that Panama tentatively had accepted the idea of preferential treatment for U.S. vessels early in the negotiations, but later had rejected it specifically in favor of the word "expeditious."

The cable concluded by warning Washington: "We are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost certain to be challenged here."

That referred to the fact that the treaties have extremely sensitive domestic political implications in Panama as well as in the United States. State Department officials say privately that the language of the neutrality clause and other touchy points was deliberately left vague by both sides to protect the Torrijos regime from charges within Panama that it had surrendered too much to the United States.

However, that has also enabled the treaties' foes in the United States to seize on these ambiguities.

In hammering at this theme, the American critics have been aided by statements of high Panamanian officials—of which Lopez Guevara's remarks are the latest example—that appear to contradict Vance's assurances directly.

That prompted several senators to warn Vance that the treaties' chances of getting past the Senate would be jeopardized unless the divergences in interpretation are clarified. Several said yesterday that the Lopez Guevara statements are further proof of the need to establish that Panama's understanding of the treaties conforms to that stated by the Carter administration.

That, some senators suggested, could be done by a public statement from the Torrijos government or by the Senate attaching legally binding amendments or reservations to the treaty.

Although they have promised to seek clarification, State Department officials privately express unhappiness about both ideas. Torrijos, they note, would find it very difficult from a domestic political standpoint to come out publicly in agreement with the U.S. interpretations; and any amending of the treaties by the Senate would require reopening the negotiations to obtain Panama's consent.

The State Department confirmed the existence of the cable, and issued a statement saying "We are assessing the effects of all these statements in the light of the treaty language and a statement of Gen. Omar Torrijos when the treaties were signed on Sept. 7, with the view to determining whether further clarification may be required."

[From the New York Times, Oct. 5, 1977]

DOLE SAYS U.S. CABLE SHOWS DIFFERENCES WITH PANAMA ON TREATIES

(By Graham Hovey)

WASHINGTON, Oct. 4.—Senator Robert Dole, Republican of Kansas, made public today a confidential State Department cablegram that he said demonstrated "vast differences of interpretation" between the United States and Panama on key points in the new canal treaties.

The cablegram, sent from the American Embassy in Panama last Thursday, reported that one of Panama's negotiators took sharp exception to the Carter Administration's interpretations of the right of the United States to help defend the canal after 1999 and of the "expeditious" passage through the waterway that would be guaranteed to American and Panamanian warships.

Secretary of State Cyrus R. Vance and other officials, including military leaders, have told the Senate Foreign Relations Committee that under the separate neutrality treaty the United States could do whatever might be necessary to insure access to the canal and its neutrality indefinitely.

They have testified that the "expeditious" passage guaranteed in that treaty meant that United States warships could when necessary "go to the head of the line" for transit of the waterway.

According to the cablegram made public by Senator Dole, an opponent of the treaties "in their present forms," Carlos Lopez Guevara, a veteran Panamanian negotiator, took issue with the head-of-the-line thesis, insisting that expeditious passage did not mean "preferential" transit, which he said the American side had originally demanded.

Mr. Lopez also said, according to the cablegram, that American officials should stop using the term "intervention" to describe this country's rights under the neutrality treaty. "Intervention is simply forbidden by international law," he was quoted as having said. "Panama cannot agree to the right of the U.S. to intervene."

When Brig. Gen. Omar Torrijos Herrera, Panama's Chief of Government, said at the signing of the treaties in Washington Sept. 7 that the neutrality pact left Panama "under the Pentagon's defense umbrella," he was "stating a fact, not giving the U.S. the right to intervene," said Mr. Lopez, according to the cablegram.

Administration witnesses at the Senate Foreign Relations Committee hearings have repeatedly quoted General Torrijos's statement as confirmation of their claim that under the treaty the United States could always act to protect the neutrality of the canal.

State Department specialists said today they believed Mr. Lopez had meant only to draw a distinction between the right to intervene in Panama's internal affairs, which Washington does not claim, and action to defend the canal's neutrality and accessibility.

"This is a negotiated treaty," an official said. "There is an obvious difference in approach to the same set of words. But I think this is natural and not fatal, and I believe the differences will promptly be narrowed."

But Senator Dole, who did not disclose how he obtained the secret cablegram, said Mr. Lopez's interpretations meant that the Senate "must clarify our defense rights by amendment, not by weak 'understandings' that have no legal and binding effect."

The Kansan, who was the Republican Vice Presidential candidate in 1976, will introduce six amendments and two reservations to the treaties when he testifies tomorrow at the sixth day of hearings by the Foreign Relations Committee.

Administration officials have warned that, although "understandings" of treaty clauses, attached by the Senate to the instruments of ratification, might be acceptable, amendments or formal reservations would require reopening negotiations with Panama.

Mr. Dole's disclosure somewhat overshadowed the fifth day of hearings, which were marked by heated exchanges about the integrity of Gen. George S. Brown, Chairman of the Joint Chiefs of Staff.

Senator Strom Thurmond, Republican of South Carolina, leader of a coalition opposing the treaties, said General Brown and the other service chiefs, who have strongly en-

dorsed the Panama treaties, were "under the gun," with their careers at stake, and would be inclined to go along with the President whatever their personal opinions of the pacts.

Senator Paul S. Sarbanes, Democrat of Maryland, a member of the Committee, said with some heat that this constituted a denigration of the Joint Chiefs and an attack on the integrity of the opinion expressed by General Brown before the committee. It was "not a contribution to the debate," Mr. Sarbanes said.

THE WASHINGTON POST AS A FARM CREDIT ANALYST

Mr. McGOVERN. Mr. President, an editorial in the Washington Post for September 27, 1977, proves that if the Nation's farmers were to rely on big city newspapers as journals of farm policy, they would be in pretty bad shape. The Post editorial is entitled "The Disaster That Wasn't" and is critical of the Department of Agriculture for declaring large areas of the United States disaster areas when in fact reasonably good crops prevailed nationally during the current growing year. The Post takes issue with the Department for making emergency loans available at the beginning of the crop year instead of at the end. The writer, however, has obviously not been in the Midwest and the far West for the last several years. If he were, he would know that in many areas drought conditions had prevailed for 2 and 3 years before this growing season started. Many of these farmers were almost flat broke and could not have put a crop in the ground this year were it not for the early loan that enabled them to meet ever expanding pre crop expenses such as gasoline, seed, fertilizer and hired help that must precede actual crop growth. Citing the end result as the sole basis for legitimate credit needs is not only shortsighted but indicates a fundamental misconception of what farmers' financial problems are.

The Post editorial writers could profit well from a September 22, 1977, report in the Aberdeen (S.D.) American News entitled "Bankers Say Farm Credit Crisis is Real." Bankers, especially in Nebraska and Oklahoma, are virtually loaned out of conventional credit money. To a lesser degree this is also true in the Upper Great Plains States. Bankers loan money at high interest rates and require substantial collateral. Farmers with 3 bad years are not the most welcome loan applicants at commercial banks and must rely on Federal Government assistance to keep going. If commercial credit sources are exhausted, and the Washington Post is critical of supplemental credit policies from the USDA, indications are good that farmers are not well off. New figures of debt to equity ratios for farmers show debts alarmingly high. Many farmers because of low prices continue to live on land appreciation and building and machinery depreciation. It would serve city readers well if the city newspapers would do more than put a scratch in the surface before they pen editorials on fundamental issues of farm credit.

Mr. President, for reasons of public policy, I ask that the two articles to which I have referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE DISASTER THAT WASN'T

The corn crop this year is the largest in the country's history. The wheat and soybean crops are huge and come close to setting records of their own. California's vegetable production is up. It's been a big year on the farm.

Now consider this curiosity: Two-thirds of the country is currenty designated a drought disaster area by the federal government. There are 3,044 counties in the United States, and some 2,100 of them are Emergency Drought Impact Areas. They include everything west of the Mississippi except parts of Texas and Washington. They also include much of the Midwest and a swath of the South from Virginia's Shenandoah Valley down to the Gulf Coast. A farmer in a drought area is eligible for special loans at interest rates as low as 3 per cent.

The weather this year has been, once again, eccentric. It was the dry winter that induced President Carter and Congress to collaborate on drought-aid legislation last spring. Then rain came—not enough to end all of the shortages in communities around the country, but enough to produce a tremendous harvest.

Drought aid has now degenerated into a kind of general relief for farmers, extended in the form of cheap credit. Most of the beneficiaries are currently threatened not by drought and shriveled crops, but by precisely the opposite condition: crops so magnificently bountiful that prices have dropped dramatically. Some of these farmers, you could argue, genuinely need help. But it's a bad practice to bend an aid program covertly from one purpose to another. That generally results in a lot of aid going to people who don't need it.

The emergency-drought program ends on Sept. 30, and the question at the Agriculture Department is whether to do it again next year. The danger of drought is certainly real. It is necessary to think carefully about the possibility that the climate—and in particular the rain pattern—may be shifting. While this summer's rain was enough for the corn and wheat, it wasn't enough to fill reservoirs and restore water tables. If next winter is as dry as last winter, a much larger number of communities will feel the water shortage. A dry summer next year would certainly justify federal aid to farmers.

But the drought aid needs to be tied to the actual effect of weather on individual farmers' final harvests. The Carter administration has been doing it the other way, providing aid on the basis of regional rainfall at the beginning of the season. As this year's experience shows, that can mean an expensive program of disaster aid when, as it turns out, there was no disaster.

BANKERS SAY FARM CREDIT CRISIS IS REAL

WICHITA, KANS.—Bankers in the Great Plains States can provide convincing rebuttal to skeptics who discount rumblings of a farm credit crisis as just another case of farmers crying "wolf."

The financial difficulties facing thousands of farmers and ranchers in the nine-state area can be seen in black and white on balance sheets of institutions ranging from the Federal Reserve Bank of Kansas City to the Kingfisher, Okla., Bank & Trust Co.

Surveys of hundreds of bankers by the U.S. Department of Agriculture, the Federal Reserve and a Kansas bankers group reveal the scope of the difficulties created by the pinch of low market prices and growing inflation.

—The USDA survey of 400 bankers in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Colorado, Montana and Texas found that one-third of farmer-borrowers, or 73,000, were being forced to refinance loans and borrow on their assets to remain afloat. The survey, taken in the spring, also found 6 percent, or 14,000, would not be able to meet their obligations.

—A July survey by the Federal Reserve Bank of Kansas City of 177 bankers in its seven-state district revealed a heavy demand for farm loans. Yet because loan volume was out-pacing deposit growth by 2-to-1, 25 percent of the banks reported they were refusing or reducing farm loans due to lack of loanable funds.

—A Kansas Bankers Association survey of 309 state banks this summer found that 45 percent of Kansas farmer-borrowers were in "serious trouble"—meaning 36 percent had to undertake major refinancing of their assets and 9 percent were unable to repay current debts. Further, it found 86 percent of Kansas' wheat producers would lose money this year because of low prices.

"I don't think a lot of city people understand the gravity of the situation and I'm not sure they do in Washington," said Odd Williams of Lawrence, Kan., who manages or owns farm property in Kansas, Oklahoma and Colorado.

"I think they think that when wheat prices were good, farmers really got wealthy and accumulated capital, and they see them driving good model automobiles and see a nice home, and they say, "Those people are not in trouble."

But although a farmer's economic outlook is cyclical fraught with ups and downs—those closest to his situation, the bankers, understand the severity of the current predicament. One need look no further than the market price listings to find out way.

Wheat sold in Kansas three years ago for as much as $5.39 a bushel; now it sells for a cash price of about $2.10, about two-thirds of what farmers say it costs to produce a bushel. Corn farmers have faced a less drastic but costly price decline and claim the present cash price of $1.60 a bushel doesn't approach their cost of production.

The financial situation could be even worse, were it not for a steady improvement in cattle prices during the past year, said Edward Harshbarger, an agricultural economist with the Federal Reserve in Kansas City.

The farmers' reliance on further borrowing and refinancing is simply "a stay of execution," Harshbarger contends.

"It's a good way of relieving some of the pressure on cash flow, but implicit in it is that things will get better down the road and the farmer can meet his obligations," he said.

The Federal Reserve economist says it will be at least 12 to 18 months before prices will improve sufficiently, barring some unexpected event such as the 1972 Russian wheat sale. Bankers who deal directly with the farmers share that prediction.

In Kingfisher, Okla., the self-proclaimed buckle of the Wheat Belt, banker Wayne Hasenfratz says a continuation of low wheat prices would eliminate as many as half of the farmers in his area.

"There is just no way that bankers or financial institutions can loan money to people who are losing money, have lost it for several years on the same crop and have little promise of recouping their losses in the foreseeable future," said Hasenfratz, president of Kingfisher Bank & Trust Co.

Hasenfratz, who calls the crisis the worst he has seen in 25 years of banking, said its height is rapidly approaching and that "somewhere down the line, I'm not going to have money to loan out. If we don't make the deposits, making loans will be difficult."

Richard Barnes, a vice president of the

North Platte, Neb., First National Bank & Trust Co., agreed that the continued high demand for agricultural loans and slackened deposits threaten the solvency of many rural banks.

Because grain farmers are being encouraged by the federal government to hold on to their crop and wait for an improvement in prices, he said, spending is down and cash needed to make loans for future operations is in short supply.

"Our bank has about loaned out what we can of deposits without undermining our liquidity," he said. "We've had to borrow through the funds market to meet loan demand and cash requirements. I would say as a general rule, everybody has a 5 to 10 per cent higher loan-deposit ratio than they've been or want to be."

The bankers agreed that continuing improvement in cattle prices will help level off the crisis, as will liberalization of government assistance programs, such as increasing the wheat target price.

Rep. Keith Sebelius and Sen. James Pearson, both Kansas Republicans, introduced emergency farm credit bills last January to improve the Farmers Home Administration's ability to assist farmers with loans. But Congress' attention was focused on the new farm bill, and the credit measure probably will not come up before the Senate and House until next year.

Most wheat farmers are placing their near-record 1977 wheat crop in storage under a USDA program allowing them to borrow money on their wheat. Corn producers are doing likewise. And the USDA is extending repayment terms and encouraging on-farm storage construction as further incentives to hold on to the grain.

For many farmers—particularly those under 35 who got into farming when grain and livestock prices were high and who borrowed heavily to start their operation—the next two years will bring hard times.

"The younger guy just can't afford to lose $1.46 a bushel and have his living expenses on top of that," Hasenfratz said. "He just doesn't have the equity built in his land to carry him, so consequently, he has either got to have one of two things: a father or father-in-law who will help carry him or a pretty glorified outside job."

One of the most common fears is that the financial crunch will eliminate the family farm, drive off the young farmers and see the entrance of large businesses into farming.

Don Pretzer, an economist with Kansas State University, recommends that with prospects for lower farm income in the year ahead, planning for 1978 production means again "farming the government programs."

"Income calculations for crops involve market price, loan price, deficiency payments and disaster payments," he said, adding that livestock prospects appear favorable as liquidation of large herds continues.

In the USDA survey, bankers indicated that more than 9 in 10 farmer-borrowers will be able to get further financing, either as additional loans or funds to refinance existing loans. But some may find the doors shut in their face. The bankers noted that in Oklahoma, for instance, additional credit could not be supplied to 18 per cent of the current borrowers.

While farmers hang on, awaiting an improvement in prices, other industries and main street businesses in the Great Plains agriculture-oriented areas will suffer with them.

The Federal Reserve survey found that two-thirds of the bankers reported both deposits and loan repayments of their agribusiness customers in rural areas have been adversely affected.

"In most rural banks," Nebraskan Barnes said, "80 per cent of the loans are based directly to agriculture and the other 10 to 20 per cent are related indirectly. That's where dollars are spent on Main Street."

HOSPITAL COST CONTAINMENT

Mr. TALMADGE. Mr. President, next week the Subcommittee on Health will hold hearings on various hospital cost containment bills, including the administration's proposal as reported by the Committee on Human Resources.

The Finance Committee has been concerned with approaches to contain hospital costs since the inception of the medicare and medicaid programs. We have been able to enact over the years a number of amendments designed to moderate hospital costs under medicare. In all honesty, those approaches have not been particularly successful.

Joined by many of my colleagues, I introduced S. 3205 in the last Congress and S. 1470 in this Congress. Both of these proposals, among other matters, deal with establishing a new approach to the reimbursement of hospitals under medicare and medicaid. In the simplest terms, our effort involves comparing each hospital with similar hospitals to determine the reasonableness of its costs and then reward efficient institutions and reduce payments to hospitals with significantly above average costs.

During hearings on S. 1470 in July of this year, the administration witnesses and others, while generally endorsing the approach, argued that what was needed was constraints on all hospital costs, not just those related to medicare and medicaid.

I then requested the staff to determine whether the S. 1470 approach could be expanded to cover more hospitals and more hospital costs. The staff has just submitted to me their outline of a possible way to expand the so-called Talmadge bill.

Mr. President, I ask unanimous consent that the material summarizing the alternative hospital cost containment approach, as well as a brief summary of the objectives, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. Hopefully, the suggestions on hospital cost containment will prove helpful in our consideration of the various proposals. My purpose in releasing the outline at this time is so that informed and concerned parties may comment on the suggestions. Following the receipt of those comments, we will then be in a position to decide whether some or all of the approach might be feasible. It may be that some of the suggestions could be used to modify other proposals, or this alternative proposal may be the way to go. In any event, I look forward to receiving constructive testimony and suggestions during our hearings next week.

EXHIBIT 1

BASIC DESCRIPTION OF HOSPITAL COST CONTAINMENT APPROACH

1. Establishes two general limitations—(1) on overall hospital revenues for inpatient care; and (2) within the overall limits, additional limitations on hospital reimbursement under Medicare and Medicaid.

2. Both the overall revenue limitation and the Medicare and Medicaid reimbursement limits are designed to ultimately determine the reasonableness of hospital revenues and costs on the basis of classification and comparison of similar hospitals.

3. Hospital inpatient costs are divided into two parts—routine costs (room, board, routine nursing, etc.), and ancillary costs (laboratory, X-ray, pharmacy, operating room, etc.).

4. Pending development and application of the uniform cost reporting and allocation of costs required under other legislation, as well as development of additional methodology, revenue limits based upon comparison of hospitals would initially be limited to adjusted per diem routine costs. (Adjustments would include taking out of routine costs highly variable expenses such as energy, malpractice premiums, capital-related items and medical staff.)

5. As the methodology for cost reporting and allocation of costs is made more precise, the system of comparing hospital cost centers to determine "reasonableness" would be expanded to include all or some ancillary service departments.

6. Ancillary services revenues would be limited on an interim basis to annual percentage increases per admission which would be calculated based upon market changes in the wages and prices which hospitals must pay.

7. To the maximum extent possible, price changes would be based upon national patterns while wage changes would, to the maximum extent feasible, be related to general wage changes in the area in which a given hospital is located.

8. Adjustments would be made in allowable revenues for: intensity of service; approved contraction or expansion of services; changes in number of admissions; and other appropriate factors.

9. State hospital regulatory activities could be accepted in lieu of the Federal limitations where they apply to at least the same hospitals and services as the Federal program and where they are determined, in the aggregate, to limit hospitals in a State to the same or less revenues than in the Federal plan.

10. Medicare and Medicaid reimbursement would move into a system of incentive payments for hospitals with lower-than-average costs and reduced payment for hospitals with costs significantly above the average.

ALTERNATIVE APPROACH TO HOSPITAL COST CONTAINMENT

OVERVIEW

The proposal would establish annual limits on the amount of revenue for the care of patients which short-stay hospitals could collect and retain. The revenue limits would be applied to hospitals' accounting periods which begin on or after July 1, 1978. The limits would apply to a hospital's inpatient care revenues from all payors.

The routine revenue limitation would be applied on a per diem basis while the ancillary revenue limitation would apply on a per admission basis. Separate revenue limits would be calculated for the hospital's routine services (bed, board, routine nursing and supplies, etc.) and for its ancillary services (X-rays, laboratory tests, drugs, etc.). If a given hospital's revenue exceeded only one of the two limits, the excess revenues could be reduced to the extent they fell below the other limit.

Hospitals exceeding the sum of the limits placed on annual revenues for routine and ancillary services would be subject to a new excise tax equal to 100 percent of the taxable excess. Excess revenues would be netted over two consecutive years to enable hospitals to

adjust for excessive revenues received in one year by moderating revenues below limits in the other. However, excess revenue greater than two percent in any year would be immediately subject to the full excise tax. The amount taxed would be available as a rebate in the following year to the extent that the hospital's revenues in that year are under the program's limits.

The proposal would direct the Secretary of H.E.W. to utilize the uniform functional cost reporting and costs allocation system (required to be established under other legislation) for hospitals to assist in assuring that the proposed cost controls would be applied on a reasonably comparable basis to all hospitals.

The Secretary of H.E.W. would be authorized to exempt from the Federal revenue limits, hospitals in a State which has a revenue control program meeting certain requirements. These include: the State system must apply at least to the same hospitals and revenue sources as the Federal program; that the State demonstrate to the satisfaction of the Secretary that, using the State's program, total retainable revenues for hospitals would not exceed those under the national program.

Sections 1 and 2, below, describe how the two revenue limitations would be calculated and applied. Section 3 explains how Medicare and Medicaid payments to hospitals would be affected by the revenue control program and how incentive payments would be made to hospitals with routine costs below the average for similar hospitals.

1. LIMITS ON ROUTINE SERVICE REVENUE

The proposal, as the Medicare-Medicaid reimbursement proposals sponsored by Senator Talmadge in the past, would compare routine service costs of similar hospitals by: (a) grouping hospitals; (b) computing an average cost per diem for each group; and (c) then comparing the per diem cost of each hospital within the group to the group average. The routine service revenue limit would apply with respect to all items of inpatient expense except for revenues attributable to capital-related costs; costs of education and training programs; costs of interns, residents and non-administrative physicians' medical services; energy expense for heating and cooling; certain costs unique to proprietary institutions; and, malpractice insurance costs. Unlike the earlier legislation, however, this proposal would utilize this approach to determine the limit on the amount of routine services revenue a hospital may receive and retain from all sources.

The per diem, routine service revenue limit for a hospital whose annual accounting period began on or after July 1, 1978—the first month of the proposed program—would be equal to 120 percent of the average estimated daily routine service costs for the July, 1978–June, 1979 period for the hospitals in its group. (The revenue limits for hospitals whose accounting years begin later in the July, 1978–June, 1979 period would be adjusted to reflect estimated increased costs which would be incurred during these later accounting years.)

Example: Based on Medicare cost reports from hospitals, and data on current general wage and non-wage price changes and trends, the Secretary of H.E.W. determines that the routine costs (disregarding capital costs and other excluded items) of hospitals in Hospital X's group will average $50 per day during the period July, 1978–June, 1979. Hospital X's accounting period begins July 1, 1978, so that the initial calculation of the routine revenue limit for Hospital X would, subject to further adjustment as described below, be $60—i.e., 120 percent of $50.

The portion of a hospital's revenue limit attributable to wages would be adjusted if it was located in an area where general wage levels were higher or lower than the average for the hospitals in its group. (It would be assumed that the revenues are distributed between wages and non-wage items in the same proportion as the hospitals' costs for these items are divided.) The objective of this wage differential adjustment is to help in reasonably assuring that a hospital is not disadvantaged because of local wage level differences. The Secretary could initially construct wage level indices utilizing Department of Commerce county manufacturing or service industry wage data. The Secretary could, by appropriate sampling, keep such data reasonably current.

Example: Hospital X (referred to in the previous example) is located in an area with wage levels 10 percent above the average for its group. Of the revenue limit of $60, 50 percent—or $30—is attributable to salary expenses. This salary component would be increased by the 10 percent wage differential, thereby increasing the routine revenue limit by $3 (10 percent x $30)—resulting in a revenue limit for Hospital X of $63.

The routine services revenue limit for the second and subsequent years of the program would be increased by 103 percent of the estimated increase in the group average routine costs over the previous year as adjusted to take account of any wage differential.

Example: Hospital X's routine services revenue limit for the first year of the program was $63. It is estimated that routine hospital costs will increase $7 a day during the second year of the program. Of the $7 increase, $4 is attributable to wage costs. Moreover, Hospital X is located in an area whose wage levels are 10 percent above the average for its group. Therefore, Hospital X's routine service revenue ceiling for the second year will be $63 plus 103 percent of $7.40—i.e., $70.62.

The routine service revenue limit would be applied to each hospital on an annual basis: the routine per diem service revenue limit would be multiplied by the total number of days of hospital care provided in the year; the resulting amount would be compared to the hospital's total revenue from the routine services (excluding, of course, revenues for capital items and other revenues to which the controls are not applicable).

Example: Hospital X's routine services revenue limit for a year, in which the hospital provided 60,000 days of care, is $80 per day. Thus, the hospital's aggregate limit for the year would be $4.8 million. If the hospital actually received $5 million in routine service revenues, it would exceed the limit by $200,000 for the year.

Provision would be made for an exceptions process for hospitals which exceed the routine service revenue limits, as in Senator Talmadge's earlier reimbursement plans. Exceptions would be made for a hospital which demonstrates that its routine costs exceed the limit because of: (a) under-utilization of beds or facilities where such beds or facilities are necessary to meet the needs of an underserved area, or (b) an unusual patient mix which results in a greater intensity of routine care. Exception requests properly filed by hospitals would be deemed approved if not acted upon within 45 calendar days.

2. LIMITS ON REVENUES FOR ANCILLARY SERVICES

The proposal would adopt, on an interim basis, the Administration's general approach to setting limits on ancillary service revenues until a more permanent solution can be developed and applied. The base amount to which the ancillary limit would apply would be the individual hospital's average ancillary revenues per admission in its first accounting year beginning after June 30, 1976, with certain adjustments to update the base to the effective date of the program. The adjustments would be made as follows:

(a) The individual hospital's average revenues per admission for ancillary services would be calculated for its first accounting year beginning after June 30, 1976.

(b) This ancillary services revenue figure would be updated to its next accounting year (beginning after June 30, 1977) by adding 103 percent of the increase in the cost of ancillary services the particular hospital experienced between the two years. (Since revenue data for years after the base year are not available, cost increases are used as a proxy.)

(c) The same increase factor described above in (b) would also be used to update the hospital's ancillary services revenue to its next accounting period (that beginning after June 30, 1978). The average ancillary services revenue per admission, as so calculated, would serve as the limit applicable to the hospital's revenues for ancillary services for the first year the proposed program would be in effect.

Example: A review of Hospital X's Medicare cost reports indicates that in its accounting year that began July 1, 1976, it had revenue of $600 per admission from ancillary services subject to the proposed limits. The cost of providing these services increased $60 over the next accounting year so that 103 percent of this amount—$61.80—would be added to the $600 for each of the next two years to update the figure to its accounting year that begins July 1, 1978. Thus, the ancillary services revenue limit for the first year that Hospital X would be subject to the proposed controls would be $600 plus $61.80 plus $61.80—i.e., $723.60.

Beginning with the second year of the revenue control program (hospital accounting years that began after June 30, 1979), each hospital's ancillary services revenue limit would be updated annually to take account of changes in general wage levels in the hospital's locality and national changes in the prices which hospitals pay for equipment, supplies and other goods reasonably representative of ancillary departments' purchasing patterns and overall costs. (Exceptions would be allowed to adjust the ancillary revenue limit for a hospital which increases or decreases its services for such reasons as consolidation or sharing of services among hospitals.) To make this adjustment, the hospital's ancillary revenue limit for the previous year would be divided into two components—the portion attributable to labor costs and the portion attributable to the purchase costs of non-labor inputs. It would be assumed that the revenues are distributed between the labor and non-labor inputs in the same proportion as the hospital's costs for the two kinds of inputs are distributed.

As with routine costs, appropriate provision for exception would also be made to adjust for the atypical cost and revenue patterns of newly-opened hospitals.

The labor-cost component would be increased by the annual average percentage by which general wage levels in the hospital's geographic area rose during the most recent two-year period for which data is available. As noted in the discussion of the routine services revenue limit, the Secretary could initially construct such indices utilizing Department of Commerce county manufacturing or service industry wage data. The Secretary could, by appropriate sampling, keep these data reasonably current. Where the wage structure and the pattern of wage increases of the local work-force does not permit application of reasonably comparable data to the labor force of hospitals, reasonably comparable data from other areas could be used. Exceptions could be made for hospitals which demonstrate that they exceeded revenues limits because they paid their employees larger wage increases than those received by other workers in the area because the hospital employees' wages were below the level prevailing locally.

The annual increase in the non-wage component of the ancillary services revenue limit would be based upon a national index devised by the Secretary which would measure changes in the prices hospitals pay for a "market basket" of goods such as X-ray film, drugs and comparable items which hospitals purchase in order to provide ancillary services. The increase in a hospital's ancillary revenue service limit for any year would be equal to the average annual increase in the index over the previous two-year period. Beginning with the second year of the program, the Secretary could further refine the index to further take account of any differences among hospitals because of their size or type.

Example: The limit placed on Hospital X's total ancillary revenues per admission during its accounting year beginning July 1, 1982 would be based upon the limit applicable in its accounting year which began July 1, 1981, when the ancillary services revenue limit was $1,000. Of this amount, $600 was attributable to labor. During calendar years 1979–1980, the latest two-year period for which overall wage data were available, wage levels in Hospital X's area increased at an annual rate of 8 percent. Therefore, the labor portion of the ancillary services revenue limit would be increased from $600 to $648. The $400 non-labor component of the previous year's ancillary limit would be adjusted in a similar manner. Assuming the Secretary's ancillary services index for non-labor ancillary service inputs increased at an average annual rate of 6 percent over calendar years 1980–1981, Hospital X's non-labor ancillary component would be increased to $424. Thus, its revenue limit for its accounting year beginning July 1, 1982, unless adjusted further as described below, would be increased from the previous year's limit for $1,000 to $1,072 ($648 plus $424).

While the ancillary services revenue limit has been explained in terms of revenues per admission, it, like the routine service limit, would be applied on an annual, aggregate basis. Where the volume of hospital admissions fall between 90 percent and 102 percent of the previous year's level, the hospital's ancillary services revenue limit for the year would be determined by multiplying the per admission limit by the number of admissions. However, for each hospital admission beyond 102 percent, the aggregate ancillary revenues limit would be increased by one-half of the per admission limit.

Example: Hospital X had an ancillary revenues limit of $1,000 per admission in a year in which it had 10,000 admissions. It had 9,000 admissions in the previous year. Hospital X's annual limit, unless adjusted for intensity as described below, would be equal to: (a) 102 percent times 9,000 admissions (i.e., 9,180 admissions) times $1,000; plus (b) 820 admissions (i.e., the admissions beyond 102 percent of the previous year's level) times $500 (i.e., one-half of the per admission limit)—i.e., $9,590,000.

A hospital with less than 90 percent of its previous year's admissions would have its aggregate ancillary revenue limit decreased by one-half of the per admission revenue limit for each admission below the 90 percent level.

Example: Hospital X had an ancillary revenue limit of $1,000 per admission in a year in which it had 8,000 admissions as compared to 10,000 admissions in the previous year. Since 90 percent of the previous year's admissions would equal 9,000 admissions, Hospital X is 1,000 admissions below the 90 percent level. For each of these 1,000 admissions, the annual limit that would apply otherwise (8,000 admissions times $1,000—or $8 million) would be reduced by $500. Thus, the $8 million aggregate limit would be reduced by $500 times 1,000 admissions—or by $500,000.

An exception would be allowed for unusual (such as consolidation of services in one hospital) admissions increases above 102 percent or decreases below 90 percent which cause a hospital to exceed its ancillary revenue limit. Exceptions properly filed would be deemed approved if not acted upon the Secretary within 45 calendar days.

In addition, adjustments would be made in the ancillary revenue limit to accommodate approved expansion in patient care services:

(a). Operating costs directly associated with capital expansion would be disregarded, but only if the project received the prior approval of its health planning agency. The planning agency could decide on the amount or percentage of the "pass-through" at the time of approval, reducing administrative problems.

(b). A fixed percentage increase of one percent times the total ancillary revenues limit would be included to accommodate all other intensity increases, such as small capital projects or more skilled personnel, for which no approval process currently exists.

3. REIMBURSEMENT LIMITS AND INCENTIVE PAYMENTS UNDER FEDERAL PROGRAMS

The reimbursement provisions applicable to the Medicare, Medicaid and Maternal and Child Health programs would be modified. Hospitals with routine costs below the average for their group (after adjustment for any wage differentials) would receive, starting in the first accounting year beginning on or after July 1, 1979, the actual costs plus bonus payment of one-half of the difference between actual costs and the average for their group (as adjusted); the maximum bonus would be five percent of the adjusted group average. The Federal program's reimbursement for a hospital whose routine costs are significantly greater than the average for its group would have the excess costs denied.

NUCLEAR WASTES: POPULAR ANTIPATHY NARROWS SEARCH FOR DISPOSAL SITES

Mr. McGOVERN. Mr. President, earlier this year, the Senate considered an amendment, which I submitted, designed to allow individual States a voice in the placement of nuclear waste repositories within that State. It was pointed out at that time, that several State legislatures had already taken action to keep the repositories out of their States. In each case, this action came as a result of negative citizen response based on the many doubts about the safety of long-term storage facilities. Science magazine detailed the history of accidents involving the temporary storage facilities in a February 1977, article by Luther Carter. That article went on to explain the problems remaining for the Energy Research and Development Administration—soon to be transferred to the Department of Energy—before site selection and construction can begin.

The September 23, 1977, issue of Science follows up the initial radioactive waste disposal examination with a report on both the current ERDA investigations and the political impact of antipathy for the possibility of a local repository.

I ask unanimous consent to have printed in the RECORD the article titled "Nuclear Wastes: Popular Antipathy Narrows Search for Disposal Sites" by Luther Carter.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR WASTES: POPULAR ANTIPATHY NARROWS SEARCH FOR DISPOSAL SITES

Local political attitudes now loom as large as geological criteria in the government's increasingly troubled attempt to find sites for the permanent disposal of radioactive wastes. In fact, the strong popular antipathy aroused in some regions by the possibility that a waste repository might be built there seems to have led the Energy Research and Development Administration (ERDA)* to pin much of its hopes on the still sympathetic attitude found in three western states that have long been intimately involved with the atom—Washington, New Mexico, and Nevada.

Two of the states previously regarded as possible candidates for deep geologic repositories to receive "commercial" wastes from the nuclear power program have let ERDA know in no uncertain terms that all such wastes would be unwelcome. Governor William Milliken of Michigan, who had been made keenly aware through a series of hearings of a strongly negative citizens' response to ERDA's plans to investigate Michigan salt deposits for a repository site, notified the agency in May that he wanted his state dropped from the list of those in which exploratory activities were to be carried on. Then, this past summer, the legislature of Louisiana, responding to strong local sentiment, forbade the establishment of waste repositories in any salt domes within the state—and, although it did not try to stop the fieldwork ERDA had begun (and which still continues), it held out little hope that the prohibition would ever be lifted.

South Dakota, another state in which ERDA had indicated a considerable interest, also has a legislative resolution on the books telling the agency to stay out. Even little Vermont decided last spring to throw up a legislative hurdle should there be any federal move to establish a radioactive waste repository in that state.

At the same time that ERDA's commercial nuclear wastes program has received these rebuffs, there have been renewed indications—of great political potency—that any attempt to use the bedrock formation underlying the agency's Savannah River Plant (SRP) near Aiken, South Carolina, for ultimate disposal of the locally produced "military" wastes will get nowhere.

The governors of both South Carolina and Georgia fear that the important Tuscaloosa Aquifer, which overlies the bedrock, could be contaminated. And, as Governor George Busbee of Georgia pointed out in a letter to ERDA early this year, his state's position with respect to this matter was first established 5 years ago by his predecessor, one Jimmy Carter. ERDA and the SRP are now reconciled to disposing of the Savannah River wastes elsewhere despite costs of $6 billion or more. Another catch besides the extremely high potential cost is that, for the moment, there is no offside repository either in existence or definitely identified and approved for construction.

But the government may have a better than even chance of establishing repositories to receive military or commercial wastes (or perhaps both) in Washington, New Mexico, and Nevada, or at least in one or more of these states.

The search continues in a small number of states for deep-lying salt beds or domes that would be suitable for commercial waste repositories, but there is now an increased emphasis on finding out whether the basal-

tic rock formation underlying the Hanford reservation in Washington and the argillaceous rock formation beneath the Nevada Test Site would not lend themselves to repositories. (While ERDA's immediate concern is to identify sites in Washington and Nevada for commercial repositories, such sites, once found, could also be developed to receive military wastes.)

But New Mexico appears to be the state where the first permanent repository for high level wastes may be established. The Sandia Laboratory at Albuquerque, an ERDA facility run by the Western Electric Company, is far along with its exploratory efforts—which have included extensive field-work and preparation of conceptual designs—for a military waste repository 30 miles southeast of Carlsbad. Until recently ERDA's plans did not call for this proposed Carlsbad facility, known as the "WIPP," or Waste Isolation Pilot Plant, to receive the radiologically and thermally hot "high level" wastes, but only transuranic and intermediate level wastes; such high level wastes as might be received were to be used for experimental or demonstration purposes.

But now ERDA is thinking of having the WIPP licensed by the Nuclear Regulatory Commission as a high level waste facility—with the first regular shipments perhaps coming in the late 1980's from the Savannah River Plant. In fact, with this in mind, the agency is having Battelle Northwest at Hanford design a demonstration project in which, by 1980, a small amount of Hanford wastes—made up to match chemically the wastes at Savannah River—would be solidified in glass, packaged in a few canisters, and transported to the WIPP.

That the commercial and military waste programs should now show what seems a growing dependence on Washington, Nevada, and New Mexico may be regarded as an entirely natural evolution. For, after all, the business and political establishments which run these states have long since grown accustomed to nuclear activities, including some that might seem a lot more threatening than burying radioactive wastes deep underground.

The production of plutonium began at Hanford in 1944, and the people of Richland, Washington, have been living near a growing inventory of radioactive wastes for 30 years. There are now some 50 million gallons of high level wastes buried at Hanford in scores of underground tanks, with the total inventory there being 2½ times the size of the one at Savannah River. Yet, despite the large leaks that have occasionally occurred, there has never been any storm of complaint.

Moreover, Washington has chosen for its governor Dixie Lee Ray, a former chairman of the Atomic Energy Commission. Two members of its congressional delegation. Senator Henry M. Jackson and Representative Mike McCormack, have been members of the now-defunct Joint Committee on Atomic Energy and are strong proponents of nuclear power development.

New Mexico can claim even greater distinction as a nuclear state inasmuch as the first atomic bomb was of course detonated there at the Trinity Site near Alamogordo, in 1945. Moreover, two of the nation's major nuclear weapons facilities, the Los Alamos and Sandia laboratories, are in New Mexico and make a significant contribution to the state's economic life.

SWAYING CHANDELIERS

As for Nevada, it has experienced an almost inexpressible intimacy with the atom. For two decades now, nuclear weapons tests at the Nevada Test Site, including some powerful shots of up to 1 megaton, have been making the chandeliers sway over the gaming tables of Las Vegas.

In none of the three states does there seem to have been much of an outcry against storage or disposal of nuclear wastes, although there are antinuclear groups in all of them (the 1976 ballot initiative to curb the growth of nuclear power in Washington was rejected by the voters by more than 2 to 1). Substantial opposition could eventually develop, but those who are already opposed to waste repositories do not have the head start in mounting a campaign that like-minded individuals appear to enjoy in states such as Michigan, Georgia, and Louisiana.

Besides the apparent political acceptability of waste disposal in Washington, New Mexico, and Nevada, there are some plausible physical, demographic, and economic reasons for ERDA to investigate carefully the feasibility of establishing repositories in one or more of these states. The particular areas now being investigated are all sparsely populated desert regions that have no major freshwater aquifers or lakes in the vicinity.

(The fact that the Hanford reservation is bordered by the Columbia River could of course become a matter of concern; but ERDA officials describe the basalt formation in which the wastes would be emplaced as a "very dense, dry, tight structure" in which wastes would not be expected to migrate.)

The situation with respect to the areas of interest in the three western states is certainly far different from that in South Carolina and Michigan. For instance, in Michigan, ERDA contractors were planning to do test drilling at a site near Lake Huron.

Whatever the future of nuclear power, waste disposal is an urgent matter because of the wastes already created (Science, 18 February). There are 75 million gallons of high level military wastes alone and a smaller but radiological potent inventory of commercial wastes. The high level wastes at Hanford are of particular importance; should it be necessary to solidify them in glass or cement and ship them in steel canisters to an offsite repository, the ultimate cost of disposal could be several times greater than the $6 billion required to dispose of the Savannah River wastes.

George W. Cunningham, ERDA's director of waste management, speaks hopefully of finding a relatively low-cost way to dispose of the Hanford wastes. One possibility he mentions is to mix the wastes in a grout that could be injected into caverns created deep within the basaltic rock formation beneath the reservation. Any high level commercial wastes disposed of in this formation would of course have to arrive in solidified form and be packaged in canisters.

No geologic repository, military or commercial, will be fully operational anywhere in the United States before the late 1980's. (A stopgap solution for some commercial wastes could be provided before then with construction of one or more surface repositories for retrievable storage of spent unreprocessed fuel.) And, if ERDA were not giving a new emphasis to investigating possible repository sites in the three western states most comfortable with the atom, there might be little chance of having even one geologic repository by sometime in the next decade.—Luther J. Carter.

IRAN'S POLICY OF INDUSTRIALIZATION

Mr. GOLDWATER. Mr. President, last week, the Iranian Ambassador to the United States, Ardeshir Zahedi, delivered an address at the Electronic and Aerospace Systems Conference held in Arlington, Va., at which he discussed recent and current efforts of his people to lift themselves into a strong, self-sustaining economic system.

As Ambassador Zahedi said, Iran, the world's second largest exporter of oil, recognizes that oil, being a limited and nonrenewable natural resource, cannot finance its economic development indefinitely.

Therefore, the Ambassador stated, Iran has been pursuing a policy of industrialization since at least 1949. In his words, the cornerstone of his government's strategy is to replace Iran's "oil-based economy with a diversified, self-sustaining system."

Ambassador Zahedi emphasized:

This system must be fully operational by the time (Iran's) oil reserves and revenues are depleted.

He said:

That, according to the best available estimates, could mean within the next 30 years.

Thus, Iran is undertaking a spectacular effort to build from the start such major industries as chemicals and petrochemicals, steel, aluminum, machine tools, automobiles, farm machinery, and electronics.

In moving toward its future of an independent, balanced economy, Iran has relied upon a tremendous degree of imported technology from abroad, particularly from the United States, which is its No. 1 trading partner.

In fact, Ambassador Zahedi informed his audience, Iran has signed an agreement with the United States for the purchase over a 5-year period of $52 billion worth of goods and services. At the same time, the Ambassador assures us, our technology "no matter how sophisticated," has always been and will always remain safe with Iran.

Mr. President, in view of the importance of Ambassador Zahedi's remarks, both as a sign of the great progress being made by one of our country's best friends and as a reminder to Americans of the advantageous economic ties we have with Iran, I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

"THE DEVELOPMENT OF TECHNOLOGY IN IRAN

(An Address Delivered by His Excellency Ardeshir Zahedi, Ambassador of Iran to the United States of America, on September 28, 1977)

Mullah Nassredin, the hero of countless tales in Persian folklore, once approached a master flute player and asked him how much it would cost to take lessons so that he too could enchant his audience.

"Five pieces of silver for the first lesson", the master informed the Mullah, "and two pieces of silver for each lesson thereafter." "In that case", replied the Mullah "I shall begin with the second lesson."

Fortunately, not all Iranians are like the wily Mullah.

Today, I hope to show that we are endeavoring not to skip any first lessons as we strive to bring our country into the forefront of economic and social development.

Iran's concern for social, for economic and for political rights in fact dates back to the time when Cyrus the Great first issued his declaration of human rights.

It is said, and rightly so, that Iran was the cradle of civilization.

As part of the silk route from China to Europe, it was the bridge between east and west.

Iran was not only a center for commerce, but because of its unique location, it also evolved into a center for scientific and cul-

tural exchange, as attested to by the writings of Avicina and Birooni, and of Sa'adi and Omar Khayyam.

Subsequently, however, periods of historical upheaval, of invasion and of foreign intervention pushed Iran into a condition of relative obscurity from which she only really began to emerge again at the beginning of this century.

After World War II, the determination and the vision of my beloved sovereign provided the needed direction and impetus to a nation ready for progress.

Through the 19 principles of our Shah-people revolution of 1962, individual, social and economic rights are being enhanced.

The land has been given to those who cultivate it, a profit sharing system has been provided for those who produce goods and services, and enlarged educational opportunities and a system of social insurance have been afforded.

Today, Iran, with a population of over 34 million and an area one-fifth that of the United States, which is also equivalent to the total combined areas of England, France, Germany, Italy, Belgium, Holland and Denmark, is the world's fourth largest producer and second largest exporter of oil.

We recognize, however, that oil—a limited and nonrenewable natural resource—cannot finance our economic development indefinitely.

For this reason, from the initiation of the first plan in 1949, we have purposefully pursued a policy of industrialization. The cornerstone of our strategy is to replace our oil based economy with a diversified, self-sustaining system. This system must be fully operational by the time our oil reserves and revenues are depleted. That, according to the best available estimates, could mean within the next 30 years. Iran is now building its foundation for the future on industries such as chemicals and petrochemicals, steel, aluminum, machine tools, automobiles, farm machinery and electronics.

Over the past 15 years we have enjoyed a spectacular average annual industrial growth rate of 20%, including the construction industry. The per capita income, which was $160 in 1961/62, increased to $2,000 in 1975/76.

The rapid rate of growth of our entire economy, and the industrial sector in particular, has demanded a greater degree of importation of technology from abroad.

The transfer of technology has been going on for thousands of years and science and technology, as we know them today, are the fruits of the contributions of countless nations, among which I am proud to include my own.

Thus no country can claim a monopoly on science and technology.

Let me just mention as well at this point that your technology, no matter how sophisticated, has always been and will always remain safe with us.

In Iran, we are aware that the sharing of technological information among nations cannot consist simply of the rigid application of one country's method to another's situation. The successful transfer of technology is dependent upon the adaptation of foreign know-how to the specific needs and characteristics of the importing country. The ability to adopt, to apply and to build upon imported technology lies at the very heart of Iran's strategy for continued growth and prosperity.

Now let me review the development of technology in Iran since the 1950's. Iran's early efforts in industrialization were directed towards developing basic production techniques and were aimed at import substitution. During these early stages of development, all aspects of planning, construction, installation and the operation of industrial plants were carried out by foreign specialists. These were government to government package arrangements in which only limited transfer of technology took place.

Even at this level, however, the availability of skilled local manpower can impose a major constraint upon the capacity to absorb technology. In Iran, we soon learned the lesson that for technology to be viable, its transfer must include the training of local personnel. Subsequent agreements for the transfer of technology have been based, therefore, on joint ventures, selective licensing, technical service contracts, and training programs.

Since the requirements for trained, skilled manpower still exceeds the scope of specific joint ventures, efforts have been made to create professional cadres at all levels of the public and private sectors. For this reason also, we have placed stress on education and technological training, both at home and abroad. And to this end, a multitude of agreements have been made with governments, universities, research institutes and industrial enterprises throughout the world. One of the tangible fruits of such agreements is the Iran Center for Management Studies, which was established in Tehran in collaboration with the Harvard Graduate School of Business Administration.

The impact of imported technology in the field of defense is probably of interest to you. In such programs, the transfer of technology, with its important spin-off effect, plays a broader role than is often appreciated. The extensive training programs and auxiliary support which accompany defense hardware purchases are making significant contributions to our industrialization process. A major portion of our defense budget is earmarked for support equipment and infrastructure.

Thousands of young Iranians are being trained in mechanical, technical and managerial skills to operate and maintain our equipment. Entire new communities are being developed in less populated regions of the country, bringing roads, water supply, electricity, ports, housing and communications to these remote areas. Young Iranians, after completing their military service, join the private and public sectors, bringing with them the skills they have acquired through the defense training programs.

After almost three decades, we have now reached an important point in our economic and technical expansion. The accent has changed from importing basic operating technology to building up our own capacity to conceive, design, and implement industrial facilities and services.

In the shift of emphasis towards developing maintenance capability and a domestic technology, an agency of the government, the Industrial Development and Renovation Organization of Iran, (IDRO), and its affiliates, Technolog and Technicon, have a direct hand in the selection of foreign technology. IDRO also plays an important role in the field consulting and engineering services. Through its affiliates, it is directly involved in joint ventures with many leading American and European companies such as Kaiser Engineers of the United States, Krupp of the Federal Republic of Germany, and Italimpianti of Italy. Aryamehr University is engaged in the development of indigenous technology, and is carrying on advanced industrial research.

I would now like to turn to some specific areas of the development of technology in Iran. I could not talk to you on this subject without citing the remarkable case of Iran Air, which I know will be of interest to those of you in the field of aviation.

The original company, the Iranian Airways Company, was formed by a group of Iranian businessmen after the second world war. It operated only limited domestic and medium range services. In the 1960's, however, many more international companies were granted air traffic rights to Iran. In order to strengthen our own air transportation system, the airline was reorganized into an entirely publicly owned company, Iran National Airlines, (Iran Air). Since that time, Iran Air has pioneered the longest direct flight between New York and Tehran. It is one of the few airlines to fly into Peking and it offers the fastest service from Tehran to Tokyo, via Peking.

In the maintenance area, Iran Air can perform the complete overhaul of its 737's in Tehran, and it holds the U.S. Federal aviation agency's certificate, authorizing American carriers to avail themselves of its technical support and facilities.

In common with most international airlines, Iran Air now uses computers for reservations, accounting, crew scheduling, inventory control, aircraft life control and management planning. Finally, you should know that, since its inception, Iran Air has been self-supporting and has always shown a healthy profit.

Let me briefly mention the scope of technology in Iran's electronic industry. This can be divided into three main sectors—consumer goods, communications systems, and the defense sector.

Our private sector manufactures consumer electronic goods, primarily through licensing agreements with foreign companies. There is an ever increasing demand in Iran for these products. In communications, emphasis has been placed on the design, development and production of a vast array of equipment over the entire spectrum of the communications and telephonic fields. The defense sector has established extensive capabilities, not only in training for the maintenance and use of electronic systems, but also in their design, development and production.

It is worth noting that, through a series of government affiliated organizations, Iran manufactures electronic components, computer terminals and displays, and is to satisfy its computer software requirements. The major portion of our electronic industry is presently concentrating on assembly and manufacture of electronic products in collaboration with foreign companies. While we have made considerable progress in this area, the future scope and capabilities of the industry depend upon the further transfer of technology.

As my final area of consideration, I have chosen the oil industry, which is also a good example of how we are now contributing to the development of a specific technology in other parts of the world.

As a result of our long experience in this industry, we are building and even operating oil refineries in other countries. At the same time, we recognize the need for further advanced technology in the oil, gas, and petrochemicals industries. Improved methods of recovery, gas processing, and refining will require the application of more complex and sophisticated processes. Wider use of natural gas and LPG for domestic consumption, and the emergence of LNG as a significant contributor to the world's energy supply will broaden the scope and increase the complexity of gas industry development and operations.

Iran shares with the United States the awareness and knowledge that we live in an interdependent world. The Marshall Plan and the Point IV Program, which I was privileged to initiate and direct in Iran, are good examples of the outward looking approach of the United States to economic cooperation and the transfer of technology. Happily, in recent years, we too have been in a position to embark upon programs of mutual assistance. So far, out of a total of $13.5 billion allocated for mutual assistance, we have disbursed $6.7 billion.

In order to implement these programs, Iran is a member of 41 economic and technical

commissions, and is thus associated with other nations in projects and protocols whose total value exceeds $86 billion.

We have recognized that the pursuit of progress and of technological advance cannot be limited by national boundaries, and the benefits can be shared by all concerned.

The initial seed of $500,000 worth of technical assistance sown in Iran by the U.S. Government in 1950, under the Point IV Program, has born a bountiful harvest.

In 1975, Iran was able to sign a protocol with the United States, its number one trading partner, for the purchase over a five-year period, of $52 billion worth of goods and services covering energy, housing, agriculture, transportation and education.

While acknowledging that there is still scope for additional areas of cooperation, we must not forget to nurture our existing ventures.

We in Iran are determined to gear our development to the particular needs of our country and people, and to the natural resources we have available. Not only must the technology we use fit our specific needs and be in harmony with our social goals, but it must be the best that is available.

NOMINATION OF RAPHAEL E. JUAREZ

Mr. HASKELL. Mr. President, on October 5, the Committee on the Judiciary reported favorably the nomination of Raphael E. Juarez to be the next U.S. marshal for the district of Colorado. I here today recommend his confirmation.

In one sense Mr. Juarez represents what our Nation stands for: He is a naturalized citizen of Cuban birth who has managed to adapt himself to our country, build an admirable career, and raise a fine family in the best tradition. He has accomplished this without losing the fine cultral background of his Cuban heritage.

When Raphael's name was raised as a potential nominee for the position for which he is now before us, I looked closely at his background and was delighted to see that, in his nomination, we would be not only choosing someone who bears the requisite qualification but would also be letting those involved in law enforcement know that one of their own was being selected. Mr. Juarez knows what it is to be a patrolman. He spent 5 years on a beat. Raphael also represents, to those in the U.S. marshal's service, a recognition of the unique experiences they share; he served as deputy U.S. marshal for 6 years. These qualifications speak well for him and others who serve in professional law enforcement.

Even if his qualification were limited to those I have mentioned, he would be eminently qualified for our confirmation. But they go beyond that. He has some very special qualifications which tell us much about him and about the direction the new breed of law enforcement officers are headed.

Mr. Juarez spent 2 years as an investigator and conciliator for the Equal Employment Opportunity Commission and 2 years as an investigator and conciliator for the fair housing and equal opportunity section of the Department of Housing and Urban Development. This experience is consistent with the recognition that the traditional role of law enforcement has been expanded beyond strict enforcement of penal codes. The new breed has accepted the responsibility of fair treatment of all our citizens.

Mr. President, on behalf of my fellow Coloradans, I take particular pleasure in urging the confirmation of Mr. Raphael E. Juarez. Muy bien hecho, Señor Juarez y buena suerte.

THE PANAMA CANAL

Mr. McGOVERN. Mr. President, we have already read and heard a great deal of public comment on the proposed new Panama Canal Treaty. Certainly there will be more to come. The issue is both controversial and emotional. Regardless of the position we take, every Member of the Senate will be obliged to weigh his position carefully and to provide detailed answers to his constituents.

In that context, I think my colleagues might find useful a brief response written by Lawrence Brown, editor of the Nation's Center News, published in Buffalo, S. Dak., to a reader who wanted to enlist Mr. Brown and the News in the effort to prevent the give away of the Panama Canal.

This is not one of the best known newspapers in the country, and Mr. Brown, who is in the sheepherding as well as in the news business, makes no claim to being an authority on the subject. He does, however, make one argument that I have not seen explained so lucidly or sensibly in all of the other commentary and official documentation I have seen on the subject. He writes:

> . . . neither Panama, Russia nor any other country have any plans to move the canal to any other part of the world. So it is quite apt to remain where it is, and we still have the option to negotiate or fight our way through it regardless of whether we keep title or not.

Mr. Brown then suggests that there just might be several more important issues on which South Dakotans could better spend our energies and talents.

Because I think it will be helpful to my colleagues both in reaching a judgment on the Panama Canal issue and in explaining their positions, I ask unanimous consent that this exchange—both the reader's letter and the Nation's Center News response—be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Nation's Center News, Sept. 16, 1977]

LETTERS TO THE EDITOR

Dear Lawrence,

I am writing concerning the proposed "give away" of the Panama Canal to which I am totally opposed. To ratify this treaty the administration is going to need a ⅔ majority vote in the U.S. Senate. Our two Senators must hear our voices regarding this insane abandonment of U.S. property. For this reason I am urging you to join me in the Citizen's Committee to Save OUR Canal.

Our initial objective is to obtain signatures opposing the ratification of this treaty. I am enclosing for your effort, a petition to our Senators which I hope you will circulate in your area immediately and return it to me as soon as possible. Also, you will find enclosed some facts that will explain my concern over the Canal's "give away". If you should want more information or need additional petitions please contact me immediately at the above number.

Lawrence, the message we have simply got to get to those people in Washington is that regarding our canal, "we bought it, we paid for it, we built it, and we damned well intend to keep it."

Let me hear from you soon!

Your friend in the cause of freedom, Dale Bell, Box 315 Tinton Rd., Spearfish, S.D. 57783.

P.S. Lawrence, any amount of financial assistance you or any of the petition signers could help us out with will be most appreciated.

Dear Dale,

For the past 3 or 4 months there has been an article on one side or the other of this Panama thing in nearly every paper you pick up. I have never been to Panama and have no particular hankering to go now, so I'm certainly not an authority on the subject.

But from what I have read, it appears to me that Panama is like an ole hound dog that used to catch rabbits but now, only wants to eat and bite at the fellow that owns it. If we give it away we haven't lost much, and if we keep it, we can expect more problems than dividends.

The big new cargo ships can't go through the canal and its foreign trade importance to us has declined to 1% of our gross national product. Our own East Coast-West Coast trade is about 7%, and it is not a big strategic thing to our 2-ocean navy.

Besides that neither Panama, Russia nor any other country have any plans to move the canal to any other part of the world. So it is quite apt to remain where it is, and we still have the option to negotiate or fight our way through it regardless of whether we keep title or not.

South Dakota and agriculture across the nation has an economic and strategic problem 10 times as big as Panama, and if we have time and desire to raise money and circulate petitions we should be working for our bread, butter and future.

The nation has an energy shortage. American agriculture has a grain surplus that could easily be converted to energy via grain alcohol. What better food bank could this country have than maximum ag production with the surpluses going to alleviate as much of world hunger as the world is willing to pay for, and the balance going to alleviate our independence on overseas oil?

Dale, in reply to your last paragraph I say, "To Hell with Panama. Let's do something for the industry that feeds this country the best and cheapest in the history of humanity and has the added ability to solve part of our energy problem and serve some of mankind in other parts of the world.

U.S. SENATE CHAPLAIN GIVES VITAL ADDRESS

Mr. HANSEN. Mr. President, the Reverend Edward L. R. Elson, Chaplain of the U.S. Senate, recently delivered an exceptionally fine address to the annual convention of the Society of Former Special Agents of the Federal Bureau of Investigation, Inc., in Kansas City, Mo.

Because I believe the address, "At America's Heart—One Nation Under God," is of such high quality and carries such an important message it is my hope that its publication in the RECORD will make it available to a number of interested and concerned citizens.

The convention of the Society of Former Special Agents of the FBI is an organization of more than 7,500 members who do a great deal of excellent charitable and patriotic work.

I hope that its appearing in the RECORD may make its message a useful one for the times in which we live.

I ask unanimous consent that the text of the address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AT AMERICA'S HEART—"ONE NATION UNDER GOD"

(By The Rev. Edward L. R. Elson)

May I pause briefly to acknowledge that I am able to keep this long-standing engagement because Senator John C. Danforth of this state is substituting for me by offering the convening prayer at an unusual Saturday session of the United States Senate? Senator Danforth is not only a lawyer but also an ordained clergyman of the Episcopal Church and a direct descendent of the Rt. Rev. John T. Claggett, the third Chaplain of the Senate and the first Protestant Episcopal Bishop of Maryland. I assured Senator Danforth that if he would pray in my place I would say only good things about him in his state and so far as I know only good things can be said about the distinguished Senator.

One of the most satisfying aspects of my ministry of more than thirty years in Washington derives from the fact that Mr. J. Edgar Hoover was a member of the National Presbyterian Church and I was his pastor.

Not everyone knows that he sang in the Church Choir as a boy, taught in the Sunday School and was Assistant Superintendent of the Junior Department in his youth. He was a close friend of Dr. Donald MacLeod, the Nova Scotia born Scot, who was Pastor of the Old First Church when it was on John Marshall Place.

On several occasions he told me of the tension in the pull both toward the law and the ministry. We all know which choice was made. The gain of the legal profession was a loss to the ministry.

In the days of my pastorate he served as a Trustee of the Church, was regular in attending its meetings and was a valuable committee member. For many years I made a call on him at his home on New Year's Day which was his birthday. This pastoral relationship gave me a wide acquaintance with assistant directors, agents and employees everywhere. For fifteen or more years it was my joy to act as Chaplain for the graduation exercises of the FBI Academy.

For several decades J. Edgar Hoover and the G-Men were the heroes of growing boys. And we need such heroes.

Whatever else the long long history will say, it will be true forever that J. Edgar Hoover created, recruited, trained and directed the most idealistic, competent, dedicated and patriotic corps of civil servants ever brought together in one organization in all our history. To a man (or woman) the people were self-sacrificing, self-abnegating, sincerely religious, disciplined and industrious. That body and that leadership raised a standard to which we might rally in every generation.

It is good of you to invite as your luncheon speaker a man with an FBI record.

You see, when I was a young clergyman in La Jolla, California, in 1936—one year before the founding of this Society—I made a trip to Russia with a small group of writers and lecturers. One man in our party had been a candidate for Lieutenant Governor in New York on the Communist Party ticket. There were several other Marxists in the party and, of course, we met many Marxists in Russia and elsewhere. In preparation for the trip, I had read some forty books.

That trip confirmed as nothing else has done, my belief in American Democracy and the free enterprise system.

But I gave many lectures all over the West, partly to pay for the trip which was taken during the Depression. And the FBI began a file on me. In the circumstances of that period the FBI would have been recreant not to have done so. It never occurred to me to worry for one moment over that file. If a person's loyalties are where they belong and he believes what he ought to believe as an American and if the FBI is manned by upright and trustworthy people, as it is, there is no need for any person to be concerned about the FBI carrying out its responsibilities.

On Flag Day, June 14, 1954, President Dwight D. Eisenhower stood on the steps of the Capitol Building and with his fellow citizens, for the first time, recited the pledge to the flag as it had been amended only a few days earlier.

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands, *one nation under God* indivisible, with liberty and justice for all".

To include the phrase "under God" Senator Homer Ferguson of Michigan introduced a resolution in the Senate on March 10, 1954. The House adopted its own resolution on June 7 and the joint resolution was agreed to by both bodies on June 9 and became public law 83-396 on Flag Day, June 14, 1954.

But this public law only attests what had been true about America from the beginning.

America's story opens with the first words of the Bible "In the beginning, God ——"

Before going ashore the men on the Pilgrim ship "Mayflower" assembled in the cabin and drew up a solemn Covenant which was to be the first instrument of government in the English language on the continent, across the top of which they wrote "In the name of God, Amen". The Virginia settlement was for the glory of God and the spreading of the Christian religion. Other settlements followed with quests for religious and civil freedom.

On September 7, 1774, nearly two years before the Declaration of Independence, by invitation of the Continental Congress, the Rev. Jacob Duche offered the first prayer in Congress. History has it that he appeared in his canonicals, read the 35th Psalm and then launched into a prayer which John Adams described as being the most moving experience of his days in the Continental Congress. Since that day prayers have been offered regularly in the Congress, in legislatures and civic events.

When the Constitution was adopted and Congress convened in April 1789, under its provisions, one of the first officers elected was the Chaplain of the Senate, a bishop of the Anglical Church, the Rt. Rev. Samuel Provoost. I am the forty-ninth clergyman to hold that position which has been occupied by clergymen of nine different religous denominations. And when the first amendment was adopted, containing the phrase "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof", the Congress continued its practice of electing its own chaplains and praying in its chambers. The First Amendment was intended to shelter religion not to hamper it. Thousands of chaplains have served in the Military Forces, and in legislative bodies and thousands of prayers have been uttered as part of civil ceremonies but no one religious denomination has become the established or official Church of this Nation. And that, is the crux of the "establishment" clause.

The separation of the organized institutions of religion from the institutions of government is a conspicuous reality in American life. The government is neutral as between the specific denominations but never neutral about God. Even the Supreme Court opens its sessions with an ascription to God. When the gavel sounds and the black robed Chief Justice and Associate Justices stand in their places, the Marshall gives the Court Cry which concludes as the Marshall calls out "God save the United States and this honorable Court."

The first act really uniting all the colonists into one people was the first Continental Day of Prayer. On June 7, 1775 the Second Continental Congress summoned the "inhabitants of all the English Colonies on the Continent" to a day of fasting and prayer on Thursday, July 20, 1775 "to confess our sins and offer supplications to the merciful disposer of all events". When July 20th came, the Congress set the example for the people. In the morning the members assembled in their hall then walked as a body four blocks to Christ Church where they not only prayed but heard a sermon probably twice as long as my luncheon talk. That night, they repeated their morning action by walking to the First Presbyterian Church where they prayed and listened to another sermon. It is recorded that about two million of the nearly three million people in the thirteen Colonies kept the fast and prayed in their churches and homes on this Day of Prayer. One historian wrote that this was the day the colonies became one nation. Since that day there have been 190 officially proclaimed National Days of Prayer. Last year, during the Bicentennial, President Ford issued four such proclamations:

(1) May 14, under public law 324 which requires that a day, other than a Sunday be declared a day of prayer.

(2) May 31, Memorial Day to pray for permanent peace.

(3) July 2, Bicentennial Day for Thanksgiving and divine guidance.

(4) November 25, National Thanksgiving Day (Public Law 77-379).

This synopsis attests a profound truth about America. What that phrase "Under God" summarizes is the clear historic and contemporary reality that this Nation is not founded upon atheistic, humanistic or even secular presuppositions, but upon theistic presuppositions—Faith in the transcendent God, not God as a tribal deity, but the Universal God who while being the God of all men and all nations guides, guards and judges those who seek to know Him, obey Him and to do His will.

To be a nation "under God" means that the nation is not God, not equal to God, nor a substitute for God. That would be idolatry. Only God himself is God. To keep this concept and mean it, is the surest defense against the Nazification of life as it occurred in Germany—the absolutizing of the State, investing it with the values of deity, giving the State the final, complete, absolute value and authority. To be "under God" means having a sense of God's presence, guiding and strengthening a people but also keeping them under his higher judgment.

Many streams of thought and action flowed together at the confluence of history when our nation was born. The Founding Fathers were heirs of the Renaissance, the Enlightenment, the teaching of John Locke, the Industrial Revolution, the cataclysmic 16th Century Protestant Reformation the 18th Century American Religious Awakening (only twenty-five years before our War for Independence). They were steeped in Biblical history. God's hour had struck for them "The God who gave us life, gave us liberty" wrote Jefferson. Freedom was not an attainment but an obtainment, the gift of God to man as part of his createdness. They would fight, if need be, to claim their "ancient rights".

Jefferson and Franklin were deists. Deism was a rationalistic reduction of Christianity to Old Testament moralism and natural theology. The deists believed in the eternal transcendent God as Creator, Redeemer and Judge. They believed in the moral law and the immortality of the soul. It was at least this amount of theology which was implicit in the Declaration of Independence.

Faith in God was in the public philosophy and faith in God's providential guidance was the consensus of the people.

The Declaration of Independence, the Constitution and the Bill of Rights rest upon Biblical religion—the Bible's view of reality, of God, of man, his duty and his destiny. Beyond question is the fact that our spiritual kinsmen at the beginning of our nation were profoundly influenced by the theology of the great 16th Century Reformer, John Calvin. Four-fifths of all the Colonial clergy at the time of the Independence in every denomination were tutored in the teaching of this tremendous teacher, whose message has helped shape human life and institutions for four hundred years. Our instruments of government reflect what he taught about the sovereignty of God (God great enough to be God—the only universal absolute), and the sinfulness of man—man's state of imperfection, perverseness and except when repentant and redeemed, his alienation from God.

The deists taught that man could master his own life, was capable of goodness, of self-government, self-fulfillment and self-elevation. The Calvinists insisted that because of man's sinfulness power must be limited with the result that civil government provided for checks and balances, and a series of appellate courts.

These two currents of thought—deism and Calvinism—always in tension, were synthesized in the Constitution and the Bill of Rights. The truths implicit and sometimes very explicit on which our government and our institutions are erected is the Judeo-Christian revelation and our government is the logical culmination in political terms of the Biblical record.

And this truth is deepy imbedded in the American consciousness. We are imbued with a sense of God and righteousness which is both our glory and our agony. In some, religious faith and life is intimate and personal, in others, an attitude of life derived from the social climate and cultural atmosphere produced by religion. But we are a God-infected people. At the base we are a God-motivated and God-inspired people. Our life everywhere is saturated with this concept.

Recently, we have reaffirmed what it means to be a nation "under God." Only in a nation where the people and their institutions are viewed as being "under God" would experiences described as "Watergate" be produced. The permanent significance of that event is not the revelation of what was wrong with a few people, but rather how it reveals what is right with America, its people and its institutions. Has it ever occurred to you that it is precisely because Americans have such an innate sense of what is right in God's eyes that we are pained and incensed by evil. Whatever else may be said of Watergate, one thing is clear to all who read the signposts of history, God was judging us in the historical process.

The hearings of the Senate Committee were in the Caucus Room above my office and I attended part of each day's hearing for some thirty-six days.

Day after day we saw the Ten Commandments reaffirmed—If you lie, if you cheat, if you steal, if you covet (especially power), if you bear false witness you destroy human personality just as surely as bullets destroy the body. The laws of God are as inexorable as the laws of nature. Break the moral law and you break yourself. We saw there the brokenness of men and the certainty of the law of God.

Justice Oliver Wendell Holmes said, "The Ten Commandments will not budge". We are children of that truth, steeped in Biblical truth in a nation agonizingly "under God".

And this concept helps mitigate the two greatest human sins—idolatry and ego-centricity or pride. The nation which is "under God" cannot itself *be* God. To absolutize the State, invest some aspect of its reality with the values of deity, is idolatory. The first law says, "Thou shalt have no other God's before me." Only God is God.

All other sins seem to have an animal ancestry, but the ego drive comes straight from hell. Pretentions to perfection, to profess to live and act by super-human standards, is to pretend too much. The only sinless, selfless man went to a Cross. Only God is God. Precisely because man is man the sinner, and not God—that nation is blessed when it remembers it is "under God".

If there is any kind of ethical excellence attainable by human beings it is the refinement of moral choice, choosing the higher over the lower moral alternatives. And from the point of view of the Scriptures it is the only tenable position.

Sometimes international diplomacy fails, peaceful procedures are no longer effective and a nation goes to war, often for high and noble reasons,—to assure national survival, to destroy tyranny, to liberate captive peoples, to protect the weak. In the prosecution of the war people are killed, property is destroyed, truth is tarnished by propaganda. In the achievement of a high objective sinful acts are performed by good men. The moral choice is always there and to choose not to use force is to allow a greater evil to prevail than war itself. Wars are sometimes fought for noble objectives and with high motivation but by actions which would be sinful and immoral under other circumstances, circumstances without sanctions. Thus, in the pursuit of a criminal, good men do what must be done to protect the public and to punish wrong doing. Power is abused when men do not make the higher moral choice, when they employ sinful acts for selfish ends.

Reinhold Niebuhr described man's predicament in the title of his book, Moral Man and Immoral Society.

Michael Novac recently wrote that "Creative action, in any field is always action in the darkness (this sinful world), partly evil and partly good. Businessmen create goods only by being willing to dirty their hands. So are great nations created, and great works of art. Nothing is worth doing without a touch of evil. The world is thoroughly enmeshed in evil. There is no pure place within it."

Men who play God, by impossible pretensions, sooner or later fall before the absolute perfection of God. Can it be that strength, real strength in this imperfect world is somehow an alloy compounded of much goodness and some evil?

The Founding Fathers understood this. They did not pretend to be perfect, to play God or set up a nation which they could make their God. God was God. At the end of the Declaration of Independence they wrote "appealing to the Supreme Judge for the rectitude of our intentions"—The only Judge who mattered to them was God and they proceeded to erect this nation "Under God."

And for two hundred years this basic premise has carried us through times of prosperity and adversity, peace and war. It has enabled us to lift the life of people everywhere, to enhance the lot of the black man who has advanced more in the last one hundred years than any other group similarly placed in all history, liberated and elevated the position of women, provided universal education and civil rights, and achieved the highest level of life for the greatest percentage of the population in any nation in all history. We have many problems yet to solve, but most of the problems are problems of success, not failure.

America thus committed has become great and strong, not simply because of vast natural resources, secured behind broad oceans and friendly frontiers but because of a creative spirit mediated to American life by a wide variety of religious denominations, each freely practicing the particularities of its own confession, and guaranteeing those of other faiths and of no religious designation to do the same.

When Americans are most truly themselves they are a people, "under God", their ideals are religious ideals, their goals religious goals, their standards, religious standards, their motivations, religious motivations. America is so much the product of this spirit that if we allow it to diminish or to be distorted the whole structure will deteriorate.

Do you remember the mighty man, Samson of ancient days, whose prodigious strength enabled him to perform astounding feats, which made him a hero to all the people? In his youth, the story goes, he killed a lion with his bare hands, later dispatched a whole battalion of enemy troops using the jawbone of an ass for a weapon. Once he tied the tails of three hundred foxes together and set them loose in the Philistines corn. Another time he stole the gates of Gaza, an ancient version of a Halloween prank by an over-grown boy. Fighting was Samson's forte.

But he had another qualification not so obvious as his strength. Samson was a man dedicated to his God, however primitive the concept. He belonged to the order of Nazarites, whose symbol of religious dedication was the long uncut hair and flowing beard. Samson, with his vast strength, his complete and disciplined dedication made him an ideal member of the ruling oligarchy.

His first marriage to a Philistine girl ended in disaster.

The years passed and Samson became a scourge in the flesh of his enemies, hated and feared by them. By and by he fell in love a second time with a Philistine woman, Delilah, and we have the magnificent love story, dramatized by Milton in poetry, Handel in music, and DeMille in the movie.

Delilah sought the secret of Samson's strength, for she was really a Philistine spy. You see her wheedling and toying with the mighty man and you want to cry out, "Don't be a fool, Samson." But she persisted and finally he disclosed the secret of his strength, that it was in his hair and beard. What this meant, of course, was that only so long as he was faithful to his God and kept his vows as a Nazarite would he retain his strength. His power would be gone when his hair was cut for that would mean that he was no longer a servant of God, but a servant of himself.

The end is familiar. Delilah cut his hair as he slept. Delilah's confederates swarmed upon him. He sprang to his feet, but was impotent, then uttered the tragic words, "He wist not that the Lord had departed from him." He was taken easily. They chained him, blinded his flashing eyes, made him do a beast's work. Finally, his hair grew back and he renewed his vows. And during a party when his enemies were doing obeisance to their God, Dagon, Samson called upon his God for help, snatched the great pillars sustaining the palace and the building collapsed, killing all its occupants.

What a lesson! So long as Samson kept close to God, he was strong, unconquerable. Does it sometimes happen that suddenly we find our strength gone—gone before we know the Lord has departed from us? It is possible

for us to awaken and find ourselves weak when all the while we thought we were strong. The strength of a man or a nation may diminish when betrayed by some Delilah of the spirit.

Among the nations of the earth, America is the one symbolized by Samson. We are rich in resources, strong in citizenry, and carry in our hands the hopes of many peoples.

The secret of our strength has been living as a people "under God". If we become rich and powerful and like, Samson, more concerned to protect and conserve the good things of life for ourselves, rather than to serve the God of our fathers, His Spirit will depart. If the shining glory of a people "under God" is shorn, we will find ourselves one day attacked by enemies we ourselves have made and the tragedy of misused power will be manifest for all history to see. A giant in strength can only preserve that strength by continuous cleansing and reanointing of the national soul and conscience.

Let us then be joined together in a fresh dedication to bring to fulfilment the words of the psalmist, "Blessed is the nation whose God is the Lord and the people whom he has chosen for his inheritance."—(Psalm 33:2)

SUPPORT FOR BEEF IMPORT LEGISLATION

Mr. McGOVERN. Mr. President, on September 20, 1977, the International Trade Commission heard over 30 witnesses urge the commission to make legislative recommendations to the Congress to strengthen the provisions of the 1964 meat import law. These hearings were conducted under authority created by section 332 of the Tariff Act of 1930.

Former majority leader Mike Mansfield and I were the principal authors of the 1964 act and at the time of its passage it was generally accepted in the cattle country as an effective answer to then-troublesome imports. Since enactment of the 1964 law, imports have more than doubled. At the recent ITC hearings, I was the lead off witness in recommending methods to strengthen the 1964 act, now 13 years old and in many respects out of date.

The September 23, 1977, edition of the Rapid City (S. Dak.) Journal carries an editorial entitled "Beef Import Law Flaws Need To Be Corrected." The editorial endorses the testimony I submitted to the commission and points out that failure to act affirmatively might present Americans with the negative alternative of an uncertain supply of domestic beef.

Mr. President, I ask unanimous consent that the text of the editorial to which I have referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BEEF IMPORT LAW FLAWS NEED TO BE CORRECTED

South Dakota's cattle producers and the state's congressional delegation have presented a strong case for changing laws which presently govern meat imports.

In a series of hearings before the International Trade Commission, begun in June in Rapid City and concluded Wednesday in Washington, the South Dakotans, and representaitves from othe. meat producing states, pointed out flaws in the Meat Import Act of 1964.

Those flaws should be corrected to protect the cattle industry, a basic and important industry in South Dakota. The threat is real that continued depressed beef prices will force many cattle producers out of business.

The cattlemen and legislators listed a number of things in the current system that need correcting, but their No. 1 concern was with beef import quotas.

At present, when domestic beef supplies are high and prices low, imports are allowed to increase, to put even more beef on the market. And when domestic supplies are low and prices high, the import quota can simply be suspended to allow importation of a virtually limitless amount of beef.

If your first reaction is "huh?" you are likely to agree with the cattlemen that that system doesn't make much sense.

What makes more sense is the proposal that import quotas be tightened when domestic supplies are high, and expanded when domestic supplies are low. That would guarantee an adequate supply of beef and also allow the cattleman a fair profit at the market place.

The Trade Commission, an independent agency created by Congress, will consider the testimony presented and report its recommendations to Congress.

That is when residents and legislators from the beef producing states will face their biggest challenge: persuading Congress that the statutes need revising.

And that won't be easy. Many congressmen, especially those from urban states, are under constant pressure from home to keep food prices down.

They must be convinced that relatively higher beef prices are preferable to the alternative: an uncertain supply of domestic beef.

MIDEAST: "AN ERRATIC SWERVE IN U.S. POLICY"

Mr. PACKWOOD. Mr. President, the recent accord reached by President Carter and Israeli Foreign Minister Dayan provides hope that for the moment a severe crisis in United States-Israel relations has been averted. Nevertheless, this agreement does little to undo the damage that Saturday's joint United States-Soviet communique has done toward the dream of a true and lasting peace in the volatile Middle East. Saturday's abrupt departure from traditional American policy not only welcomes the Soviet Union back into the Middle East but also locks the United States into an untenable bargaining position during future negotiations.

Mr. President, columnist George Will in today's Washington Post provides an extremely insightful look into the consequences of the new Carter administration Middle-east policy with regards to the Soviet Union. Because of the importance of this issue to our colleagues, Mr. President, I ask unanimous consent that Mr. Will's comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

MIDEAST: 'AN ERRATIC SWERVE IN U.S. POLICY'

(By George F. Will)

It is unclear whether the Carter administration's diplomatic pressure on Israel is characterized more by recklessness or incompetence. But the latest erratic swerve of U.S. policy suggests the transformation of the United States from a reliable friend of Israel into a problem for Israel.

By collaborating with the Soviet Union, Israel's principal enemy, on a declaration of objectives for a Mideast settlement, the United States took a giant step toward imposing a settlement agreeable to Israel's enemies. The United States has undermined the Geneva conference, transformed the Soviets from passive to active participants in the diplomatic process, resuscitated a terrorist organization (the Palestine Liberation Organization), hardened Arab negotiating positions and emboldened those Arabs who say negotiations are unnecessary because, eventually, Israel's friend will sell her cheap.

The most pernicious U.S.-Soviet stipulation is for "insuring the legitimate rights of the Palestinian people." The world (including the administration) knows, and jubilant PLO and Arab leaders know, that is a catchphrase used invariably and, until now, exclusively by Arabs who insist that the PLO must define those rights. The PLO invariably does so in terms of the extinction of Israel.

President Carter, who has a strange theory of representation, says the PLO, a dictatorial cabal, represents a "substantial part" of the 3 million Palestinians. (Never mind that most of them are citizens of Jordan and other nations.) Now Carter has revived and legitimized the shattered PLO.

Until 1967 the PLO could attack Israel from Gaza, Jordan, Syria and Lebanon. In 1967, the PLO was expelled from Gaza. In 1970, Jordan crushed the PLO. (Jordan's army includes many Palestinians and has killed far more PLO members than have been killed by Israeli patrols.) Syria cleared the PLO from the Golan region in 1973 and fought the PLO in Lebanon in 1976. Recently the PLO has been losing its last military base in southern Lebanon. Now the United States and the Soviets want to compensate the PLO with a diplomatic base at Geneva.

The policy of the preceding administration, though flawed, rested on an obvious truth: The Soviets should be eased out of, rather than catapulted into, a central role in the diplomatic process. The Carter administration's sudden and severe tilt in the Soviet direction (just when Egypt is completing its disengagement from the Soviets) reverses U.S. policy in several significant areas.

It reverses the policy of negotiating with Arab states without involving the Soviets directly. It embraces proposals ("international guarantees"; U.N. troops and observers with Soviet and U.S. participation) that have been rejected by Israel for many sound reasons, one of which is that they are recipes not for real peace, but for mischief. With the clumsiness that is becoming its trademark, the administration reversed policy without consulting Congress.

The U.S.-Soviet declaration does not mention and seems destined (and perhaps designed) to supplant U.N. Resolution 242. That resolution has been the basis of the Geneva conference. Yet the United States probably will be indignant about Israeli "intransigence" if Israel becomes more reluctant to attend a Geneva conference that can be so abruptly manipulated by an unreliable ally and an implacable enemy.

There is a dismaying new rhythm to U.S.-Israeli relations. First the United States takes a step—either calculated or blundering—away from Israel, toward Arab positions. An uproar ensues, so Israeli officials are summoned for soothing "clarifications." But when the dust settles, what is clear is that U.S. policy is another step closer to Arab policy.

Having now provoked another predictable storm, the administration is even more flustered than usual, claiming in effect not to have known what it was doing and not to have meant what it was saying. The Israelis, as usual, are minimizing differences. But the damage is done.

Suppose a resolution echoing the U.S.-Soviet declaration is introduced in the United Nations. The United States will have to support it. Suppose the PLO then endorses it. The United States might accept this as an adequate substitute for PLO endorsement of 242, and would begin negotiating with the PLO. The "rehabilitated" PLO would have embraced U.S. (and Soviet) policy and been embraced by the United States, without abandoning its commitment to destroy Israel.

Israel's friends must ask if an administration this reckless or incompetent (or both) can be compatible with Israel's security. Another question is whether U.S. security is compatible with an administration that so foolishly collaborates with this nation's most dangerous enemy, against a nation that is among our closest friends.

What can Israel do on its own? It should immediately discover a trillion barrels of oil beneath Galilee. Israel has nothing else to offer the United States except friendship and shared values, and the United States can't burn either in its Buicks.

THEOLOGIANS JOIN TOGETHER TO SUPPORT ABORTION RIGHTS

Mr. PACKWOOD. Mr. President, over the years that we have been debating the subject of abortion, I have always found the number of religious groups that support the right to obtain these medical services highly impressive and persuasive. It has become clear that views on when life begins, or the morality of abortion, differ widely between this country's established religious organizations. Many religious groups recognize that the quality of life for those already born can be equally, and sometimes more, important than the potential life of the fetus. The truly "prolife" concerns of these groups extend far beyond the stages of fetal development and birth to encompass "life as a whole," and the existing family unit.

I consider it extremely significant that over 200 prominent theologians have recently joined together to express their support for the right of every woman, regardless of financial status, to obtain an abortion. They are also calling upon other religious leaders to take a more active role in supporting this right.

This is the first time since the Vietnam war that such a large and diverse segment of the religious establishment has joined together on any single issue. I request unanimous consent that this list of theologians who are both prochoice and prolife be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Bob E. Adams, Southwestern Baptist Theological Seminary.
James Luther Adams, Harvard Divinity School.
James E. Allen, School of Public Health, University of North Carolina.
Joseph L. Allen, Perkins School of Theology, Southern Methodist University.
Alan B. Anderson, Wilberforce University.
Grover C. Bagby, United Methodist Board of Church and Society.
Robert C. Batchelder, Trinity College.
Waldo Beach, Duke University Divinity School.
Rabbi Jack Bemporad, Southern Methodist University.
John C. Bennett, Union Theological Seminary (NYC).
Walter F. Bense, University of Wisconsin.
Elizabeth Bettenhausen, Lutheran Church in America.
Robert W. Blaney, University of the Pacific.
Sheldon H. Blank, Hebrew Union College.
Joseph L. Blau, Columbia University.
Richard Bond, Ramapo College of New Jersey.
Jack S. Boozer, Emory University.
Eugene B. Borowitz, Hebrew Union College—Jewish Institute of Religion.
Howard H. Bright, Jr., West Virginia Wesleyan College.
Charles S. Brown, United Theological Seminary (Dayton).
Glenn R. Bucher, The College of Wooster.
Carol F. Chase, Elon College.
Henry B. Clark II, University of Southern California.
W. Royce Clark, Pepperdine University.
Don F. Colenback, Episcopal Divinity School (Cambridge).
James H. Cone, Union Theological Seminary (NYC).
Wilmer A. Cooper, Earlham School of Religion.
Warren R. Copeland, Wittenburg University.
John P. Crossley, Jr., University of Southern California.
Dwight W. Culver, The College of St. Catherine.
Paul Deats, Boston University School of Theology.
Richard L. Deats, Fellowship of Reconciliation.
Alvin L. Denman, Antioch College.
L. Harold DeWolf, Wesley Theological Seminary.
John F. Dietz.
Herbert O. Edwards, Duke University Divinity School.
J. Ronald Engel, Meadville/Lombard Theological School.
Marvin D. Erisman, Los Angeles Baptist City Society.
Charles W. Fisher, Metropolitan State College.
John C. Fletcher, Clinical Center, National Institutes of Health.
Newton B. Fowler, Jr., Lexington Theological Seminary.
George L. Frear, St. Lawrence University.
E. Clinton Gardner, Emory University.
John M. Gesell, School of Theology, University of the South.
Alan Geyer, Churches' Center for Theology and Public Policy.
Ray Gibbons, Council for Christian Social Action, U.C.C.
Boyd Gibson, Susquehanna University.
William E. Gibson, Centre for Religion, Ethics and Social Policy.
J. Herbert Gilmore, Jr.
Rabbi Ronald B. Gittelsohn.
David M. Graybeal, Drew University.
Ronald M. Green, Dartmouth College.
William A. Greenlaw.
Elly H. Haney, Concordia College.
Beverly Wildung Harrison, Union Theological Seminary (N.Y.C.).
Paul M. Harrison, Penn State University.
Hideo Hashimoto, Lewis and Clark College.
Roger D. Hatch, Central Michigan University.
H. Katherine Havice.
Arnold W. Hearn.
Karl H. Hertz, Hamma School of Theology.
Carter Heyward, Episcopal Divinity School (Cambridge).
Richard A. Hoehn, Texas Christian University.
Clyde A. Holbrook, Oberlin College.
Clint Hopkins, Virginia Baptist General Board.
Joseph Hough, School of Theology at Claremont.
William H. Jennings, Muhlenberg College.
Major J. Jones, Gammon Theological Seminary.
Mark Juergensmeyer, University of California (Berkeley).
Loyle Shannon Jung, Virginia Intermont College.
Charles L. Kammer, III, St. Olaf College.
George D. Kelsey, Drew University.
Patricia A. Kendall, Pennsylvania Commission of United Ministries in Higher Education.
Huber F. Klemme.
Hugh A. Koops, New Brunswick Theological Seminary.
Clark A. Kucheman, Claremont Men's College and Claremont Graduate School.
Joseph A. LaBarge, Dept. of Religion, Bucknell University.
William H. Lazareth, Department for Church and Society, Lutheran Church in America.
Karen A. Lebacqz, Pacific School of Religion.
Paul Lehmann, Union Theological Seminary (N.Y.C.), (Professor Emeritus).
Murray H. Leiffer, Professor Emeritus, Garrett-Evangelical Theological Seminary.
Edward LeRoy Long, Jr., Drew University.
Harold L. Lunger, Brite Divinity School, Texas Christian University.
Charles P. Lutz, The American Lutheran Church.
Marjorie Reiley Maguire.
R. Kenneth Manning, Jr., Cumberland School of Law.
Richard M. Martin, Medical College of Georgia.
Margaret N. Maxey, University of Detroit.
Hayden McCallum, Episcopal Divinity School.
Dennis McCann, Reed College.
Robert McFadden, Bridgewater College.
Thomas R. McFaul, University of Houston.
Daniel B. McGee, Baylor University.
Russell L. McIntyre, College of Medicine and Dentistry of New Jersey.
Stuart D. McLean, Graduate Seminary, Phillips University.
M. Douglas Meeks, Eden Theological Seminary.
John Giles Milhaven, Brown University.
Donald E. Miller, University of Southern California.
Haskell M. Miller, Wesley Theological Seminary.
Howard M. Mills, United Church of Canada.
Robert C. L. Moffat, University of Florida.
Roy D. Morrison II, Wesley Theological Seminary.
Stephen Charles Mott, Gordon-Conwell Theological Seminary.
Phillips P. Moulton, University of Michigan.
Eric Mount, Jr., Centre College.
Walter G. Muelder, Dean Emeritus, Boston University School of Theology.
James A. Nash, Massachusetts Council of Churches.
F. Burton Nelson, North Park Theological Seminary.
Gordon L. Nelson, Augsburg College.
Randy A. Nelson, Luther-Northwestern Seminaries.
N. Leroy Norquist, Lutheran School of Theology at Chicago.
Russell Bradner Norris.
Victor Obenhaus, Professor Emeritus, Chicago Theological Seminary.
Thomas W. Ogletree, Divinity School, Vanderbilt University.
Richard P. Olson.
David B. Parke.
David Parks, Oklahoma City University.
Jane Cary Peck, Andover-Newton Theological Seminary.
Edwin L. Plowman, High Point College.
William Puffenberger, Elizabethtown College.
Terry A. Purvis-Smith.
John C. Raines, Temple University.
William W. Rankin, Durham, N.C., County Department of Social Services.
Guy H. Ranson, Trinity University.

Larry L. Rasmussen, Wesley Theological Seminary.
Janice G. Raymond, Five-College Faculty, Amherst.
Robert D. Reece, Wright State University.
Darrell Reeck, University of Puget Sound.
George C. Reese, Thiel College.
Rosemary R. Reuther, Garrett-Evangelical Theological Seminary.
Charles H. Reynolds, University of Tennessee.
Dan D. Rhoades, School of Theology at Claremont.
Francis E. Ringer, Lancaster Theological Seminary.
Michael Germinal Rivas.
J. Deotis Roberts, Sr., Howard University.
Keith A. Roberts, Bowling Green State University.
D. B. Robertson, Syracuse University.
Isabel Rogers, Presbyterian School of Christian Education.
Charles J. Sabatino, Daemen College.
Richard E. Sanner, Wheaton College (Massachusetts).
Harold M. Schulweis, Hebrew College, Los Angeles.
Steven S. Schwarzschild, Washington University.
Lee Osborne Scott, Denison University.
Timothy F. Sedgwick, Blackburn College.
Harvey Seifert, Professor Emeritus, School of Theology at Claremont.
Robert Paul Sessions.
Talbert O. Shaw, Howard University School of Religion.
Earl E. Shelp, Texas Medical Center Institute of Religion.
Robert L. Shelton, University of Kansas.
Franklin Sherman, Lutheran School of Theology at Chicago.
Roger L. Shinn, Union Theological Seminary.
Morton Siegel, United Synagogue of America.
Donald W. Shriver, Jr. Union Theological Seminary (N.Y.C.)
Paul D. Simmons, Southern Baptist Theological Seminary.
Ervin Smith, Methodist Theological School in Ohio.
Kenneth L. Smith, Colgate Rochester/Bexley Hall/Crozer Seminary.
James F. Smurl, Indiana University.
David J. Snider.
T. Richard Snyder, Inter-Seminary Theological Education for Ministry.
Howard F. Sohn, Mount Holyoke College.
A. McLean Spaulding, Hood Theological Seminary.
Charles M. Spring, West Virginia University.
Glen H. Stassen, Southern Baptist Theological Seminary.
Dave Steffenson, University of Wisconsin—Green Bay.
Robert L. Stivers, Pacific Lutheran University.
Ronald H. Stone, Pittsburgh Theological Seminary.
Jack L. Stotts, McCormick Theological Seminary.
Carl Benton Straub, Bates College.
Maynard H. Strothmann.
Douglas Sturm, Bucknell University.
Stanley J. Sutphin, Elizabethtown College.
John M. Swomley, Jr., St. Paul School of Theology.
Charles Teel, Jr., Loma Linda University.
Richard Tholin, Garrett-Evangelical Theological Seminary
Foy Valentine, The Christian Life Commission of the Southern Baptist Convention.
William Vander Marck, DePaul University.
Philip W. Van Vlack, The Educational Center of Hartford.
Elizabeth Lam Vieg, Retired Administrator, International Education Exchange.
Kenneth Watson.
John R. Warner Jr., West Virginia Wesleyan College.
Joseph C. Weber, Jr., Wesley Theological Seminary.
Robert F. Weir, Oklahoma State University.
Edwin H. Welch, Lebanon Valley College.
Charles C. West, Princeton Theological Seminary.
L. Elbert Wethington, Lebanon Valley College.
Stephen W. White, East Tennessee State University.
Walter E. Wiest, Pittsburgh Theological Seminary.
Dana W. Wilbanks, Iliff School of Theology.
Herman Will, Board of Church and Society of The United Methodist Church.
James E. Will, Garrett-Evangelical Theological Seminary
Wallace A. C. Williams.
Robert E. Willis, Hamline University.
Gayraud S. Wilmore, Colgate Rochester/Bexley Hall/Crozer Theological Seminary.
Gibson Winter, Princeton Theological Seminary.
J. Philip Wogaman, Wesley Theological Seminary.
Wilson Yates, United Theological Seminary of the Twin Cities.
George D. Younger.
Bruce Boston.
Leonard Kravitz, Hebrew Union College—Jewish Institute of Religion.
Robert Rue Parsonage, National Council of Churches.
Rabbi Lawrence Hoffman, Hebrew Union College—Jewish Institute of Religion.
Leo Pfeffer, American Jewish Congress.
Rabbi Ludwig Nadelmann, Jewish Reconstructionist Foundation.
Thomas A. Bland, Southeastern Baptist Theological Seminary.
Max D. Ticktin, B'nai B'rith Hillel Foundation.
Lynn N. Rhodes, Boston University School of Theology.
Balfour Brickner, Union of American Hebrew Congregations.
James Reynolds.
Levi A. Olan, Central Conference of American Rabbis.

NATIONAL WATER POLICY MEETING

Mr. WALLOP. Mr. President, this morning 23 Senators from Western States met with President Carter, Vice President Mondale, and Secretary of the Interior Andrus to discuss water policy as well as other matters.

I feel that the meeting was fruitful for both the Western Coalition and the President. We left with his assurances that a final national water policy will not contain a Federal takeover of State water rights, and that there is no hard deadline for issuing a final proposal. Arbitrary time frames will not lead to sound recommendations or the best public policy.

As a spokesman for the Western Coalition, I ask unanimous consent that the following remarks which were submitted to the President be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WATER RESOURCE POLICY STUDY, WESTERN COALITION PRESENTATION TO THE PRESIDENT, OCTOBER 6, 1977

The Western States which we represent have common interests in water policy which transcend their individual boundaries, the separate drainages, and our political party lines. That common interest has been forged of necessity and predates federal water development and even statehood. The special significance of water and its use in the West is not taken for granted. That common interest and concern is manifested in our presence here.

It is important that you are aware of the depth of our interest in water policy and the necessity for total state involvement. Unanimous resolutions in support of states' roles in water policy have been adopted by the Western Governors Conference, and the Interstate Conference on water problems. Twenty-three of us, Senators representing thirteen western states most dependent on water resources, were concerned enough to call for extended comment time and for this meeting, and we thank you for granting both.

In addition to individual statements which we have or will make concerning the study, we as Senators representing Western States, subscribe to the several principles which we believe should be reflected in any national water policy.

It is imperative that upon announcement of national water policy decisions, that states be given adequate opportunity to review and comment on them prior to their implementation. Our federalism, and practical necessity, have resulted in strong state roles in the development and implementation of water policy. Our water policies are complex, and cannot be dealt with in a cursory manner. Both the time frame and exclusive nature of the federal forum for this study will work against the quality of the finished product.

In this regard, most western Senators have cosponsored S. Res. 284 which was adopted yesterday. The resolution does not seek to hinder the development and announcement of water resource policy decisions. But once announced, it recommends that the implementation of those policies be held in abeyance pending limited further review and comment by States, river basin commissions, and the appropriate congressional committees. Some State comment has already been provided for. However, the scope of the issues and options presented is so broad, that more narrowly focused review is essential to the development of a sound policy. Twenty-five problem statements and 111 options have been difficult and frustrating to analyze. Many who wished to comment have, out of necessity, been forced to focus on these concepts they considered most flawed and the options most dangerous to implement. While this may prevent the adoption of the worst case options, it will not provide sound recommendations for the development of the best public policy.

The assurance of adequate and fair opportunity for comment, and a proper forum for discussion is our primary concern. We also hold in common, principles of water resource policy which we view as vital.

We believe that any national water policy must take into consideration geographical differences. It must in particular recognize the special circumstances of water-short regions. For too long, Federal water policy has been formulated by eastern people who think they live with a surplus, and are unaware they live with different water law.

Before contemplating any conformation of State water law with Federal, there is clear need for clarification and improvement in coordination of Federal water policy among the Federal agencies. This coordination can and should be effected without unwarranted intrusions into the affairs of States and State agencies.

The principles and rules governing the appropriation and use of water in the western States have evolved over a long period as a

natural and inevitable outgrowth of conditions and needs in the west. As representatives of the people of the western States, we are unified in our determination that the principles and rules of western water law as administered by the several States, upon which the people of the States have come to rely, and have every right to rely, shall not be precluded or abridged.

We have been assured by Secretary Andrus that it is not the administration's intention to interfere with State systems of water allocation. We are gratified to hear this and hopeful that the final water resource policy decisions reflect that principle. But we remain concerned.

The option and issue papers published in the Federal Register have been the public's only indication of the direction which Federal water policy might take. Throughout them, the bias is clearly toward coercing States, requiring States, leading States, and ignoring States.

One problem statement in the papers indicated that the States' water rights systems have developed without regards to the relationship between groundwater and surface water. This is a statement which would be questioned by many of us present here today. But of the four options presented for discussion on the perceived problem, three involved Federal involvement in changing State water allocation systems, and the fourth required Federal review of all licenses, contracts and permits to ensure that they were consistent with a federally perceived "integration" of ground and surface water resources.

Another problem statement charged that the concepts of "beneficial use" and "diversion" which are integral to most Western States' water law systems, impaired superior environmental values. Once again, the options presented were slanted toward increased Federal control. This included the development of Federal sanctions to require states to adopt strategies, as well as the establishment of a new institution at the Federal level which might discontinue valid state water rights and provide compensation for those deprived.

In addition to states' systems for the allocation of their water resources, we are no less concerned with the States traditional role in determining the priority of water uses within their boundaries. While I am not familiar with the constitutions of other Western States, I do know that Wyoming's constitution States, "The water of all natural streams, springs, lakes or other collections of still water, within the boundaries of the State, are hereby declared to be the property of the State." (Art. 8 Sec. 1) pursuant to that power, we have developed water use priorities based upon local needs and desires. Options which suggest that the Federal Government might acquire water rights by emminent domain and reallocate them to the "most socially desirable or economically productive use," are directly counter to almost one hundred years of state law and practice. We urge you to scrutinize the overall social consequences of such a policy, with the utmost skepticism. It is a license to steal. Small towns, agriculture and other small users would fall victim to large population centers and heavy industrial users.

And finally, Mr. President, is the matter of Federal reserved, and Indian water rights. Though not identical, the principles of Federal reserved water rights and Indian water rights are so similar that any policy cannot be developed or implemented without a coordinated policy development of Indian water rights. They do co-mingle. Any quantification of water under either doctrine separately, would give the impression of a complete and final determination of a limited resource, any later doctrine would again divide up the whole of the remaining water. Holders of private water rights perfected under state systems, often before the enunciation of either doctrine, would almost certainly be the losers. If it is your intention not to consider policy toward Indian water rights in this study, Federal reserved water rights should be similarly excluded.

While we believe that the time frame for the completion of the study and the announcement of a National water policy is unreasonably short, we compliment you and secretary Andrus for the extension which was granted and your willingness to make yourselves available for additional public and congressional comment.

WORLDWIDE ATTENTION TO AGING

Mr. CHURCH. Mr. President, the Senate has approved Senate Resolution 238, which calls for the President to instruct the U.S. delegation to the United Nations to work with other U.N. delegations toward a World Assembly on Aging and a World Year on Aging not later than 1982. I welcome this action on my resolution—cosponsored by Senators CHILES, BROOKE, DECONCINI, PERCY, MATSUNAGA, and GLENN—because I believe that the time is ripe for extensive attention to the worldwide implications arising from the "aging" of entire populations, if by "aging" we mean significant increases in the proportions of persons past age 60 or 65.

As I said in my remarks when I introduced S. 238 on August 3, the 291 million persons of age 60 or over throughout the world in 1970 will increase to nearly 585 million by the year 2,000, a gain of more than 100 percent. In the same time period, the percentage of the population of persons 60 and over will increase by 50 percent in the more developed nations, and 158 percent in the less developed regions.

Such dramatic projections tend to cause apprehension about impact on programs for retirement income, health insurance, housing, and social services, even in nations which have such systems well in place. An international exchange of information among nations can help us measure such impact more accurately and can suggest additional lines of international communication and cooperative action. What is needed, in addition to apprehension, in my view, is the realization that a growing proportion of older persons can become a rich source of talent and experience which can be tapped for a wide array of worthy purposes.

The Senate action is timely because the United Nations will soon consider a question to expand its research and information program on aging. The forum thus provided should serve as an appropriate vehicle for discussion of a World Year and a World Assembly on Aging.

Senate Resolution 238 has received the support of the Association for Gerontology in Higher Education, the Gray Panthers, the International Center for Social Gerontology, the National Association of Counties, the National Council of Senior Citizens, the National Indian Council on Aging, the National Retired Teachers Association-American Association of Retired Persons, and the Urban Elderly Coalition.

ORDER FOR JOINT REFERRAL

Mr. WILLIAMS. Mr. President, I send a concurrent resolution to the desk dealing with the Pension Benefit Guaranty Corporation (S. Con. Res. 49). I ask unanimous consent that it be jointly referred to the Committees on Human Resources and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered, and the resolution will be jointly referred.

Mr. BAKER. Mr. President, could the Chair restate what the unanimous-consent agreement was?

Mr. WILLIAMS. It was that the pension benefit guaranty measure go to both committees. Both committees have jurisdiction.

The PRESIDING OFFICER. It deals with a subject which came out of both committees.

Mr. BAKER. Mr. President, I just inquired, because I was not aware that it had been cleared on this side, but I have no objection to it.

Mr. WILLIAMS. It is a standing request from the Committee on Finance.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW, AND FOR RESUMPTION OF THE UNFINISHED BUSINESS THEREAFTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow morning, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes, that the Senator from Alabama (Mr. ALLEN) then be recognized for not to exceed 10 minutes, and that the Senate then resume the consideration of the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR UNDER SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I believe there is one measure on the calendar that I would like to ask unanimous consent be placed on the calendar under Subjects On The Table. It is the bill that was passed by the Senate today, S. 2114, and the text of which was attached to a House vehicle.

I ask unanimous consent that S. 2114, the public utilities rate bill, be placed under Subjects On The Table, with the understanding that it retains the same status which it presently holds on the General Orders Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION TO MEET DURING SESSIONS OF SENATE ON OCTOBER 18, AND 19, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet during the sessions of the Senate on October 18 and 19 to hold hearings on the Amateur Sports Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR EXTENSION OF TIME TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation have until midnight Saturday, October 8, 1977, to file reports on Senate Concurrence Resolution 31 and Senate Concurrence Resolution 37.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be rollcall votes throughout the day tomorrow, and the Senate will proceed to work on the minimum wage bill until it completes action on that measure.

Following action on that bill tomorrow, the Senate will take up the Department of Defense authorization bill, S. 1863, on which there is a time agreement, and votes are expected on that bill.

It is important that the Senate complete action on the DOD authorization bill tomorrow, so that the Appropriations Committee may proceed, following action on the authorization bill. If action is completed on both those bills tomorrow, Mr. President, the Senate will not then be in on Saturday.

So I would suggest that Senators be prepared for a reasonably late session on tomorrow, and I hope we can get a good running start in the morning, and get action on amendments. I hope Senators who have amendments will come to the floor early and be prepared to call them up, so as not to delay action on the minimum wage bill and the followup bill.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and, at 10:40 p.m., the Senate recessed until 8:30 a.m. on Friday, October 7, 1977.

EXTENSIONS OF REMARKS

LAW ENFORCEMENT OFFICERS POLLED ON GUN CONTROL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ASHBROOK. Mr. Speaker, the Second Amendment Foundation has completed a comprehensive survey of America's law enforcement officers on the issue of gun control. Approximately 14,000 chiefs of police, sheriffs, and police officers received questionnaires, over 6,000 of whom responded.

The results of this survey indicate strong support for the private ownership of firearms. More than 86 percent of the officers responding said they would keep a firearm for their own protection if they were ordinary citizens. Over 83 percent expressed the opinion that criminals rather than citizens would benefit the most from the banning of handguns. Almost 64 percent stated their belief that an armed citizenry serves as a crime deterrent.

For the information of my colleagues I am including a press release issued by the Citizens Committee for the Right to Keep and Bear Arms that discusses the survey and its results in more detail.

RECENT SURVEY SHOWS POLICE WANT GUNS FOR PERSONAL PROTECTION

WASHINGTON, D.C.—A recently completed professional survey indicates that more than 86% of America's law enforcement officers would keep a firearm for the protection of their family and their property if they were ordinary citizens, John M. Snyder, Director of Publications and Public Affairs of the Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) and Treasurer of the Second Amendment Foundation (SAF), announced today.

The survey, the Crime Control Research Project, conducted by GMA Research Corporation, was prepared for the Second Amendment Foundation.

Questionnaires were sent out to 14,000 Chiefs of Police, Sheriffs and Rank and File Police Officers in the United States. Responses were received from over 6,000 of them.

The survey also showed that nearly 80% of the law enforcement officers surveyed thought gun control legislation currently in effect had had no effect on crime in their area.

More than 47% indicated they believed that if a Federal law were enacted prohibiting the importation, sale, purchase, transfer receipt, possession, or transportation of handguns by the general American public, it would have no effect on crime.

Two-thirds indicated they believed that if a Federal law were passed calling for the registration of all firearms, it would have no effect on crime.

Nearly 54% indicated they believed that if a law were passed calling for the Federal registration of all firearms, it would remove no guns from criminal access.

Nearly 82% indicated they felt that if a law were passed demanding a mandatory prison sentence for persons convicted of committing a felony with a firearm, it would reduce crime somewhat amongst repeated offenders.

Nearly 64% indicated that they felt that armed citizenry serves as a deterrent to crime.

More than 83% indicated they felt criminals rather than citizens would benefit the most from the banning of handguns.

Copies of the 200-page report, which cost $10,000 to produce, will be presented to every Member of the Senate and House of Representatives, Snyder said.

A MILLION DOLLAR HOUSE TV NETWORK?

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, question: What if the House established its own million dollar TV network to cover its debates at public expense, and the public could not watch?

Answer: No problem since Members could still use the costly closed-circuit broadcast system to monitor floor proceedings on TV sets in their offices.

Mr. Speaker, the situation I just described might be funny if the prospects of its happening were not so real. If things do turn out that way I, frankly, cannot imagine people chuckling while filling out their tax returns next April or their ballots the following November. And make no mistake about it, I strongly favor broadcasting our proceedings, a majority of our Members do, and a majority of the American people do. But what we all have in mind is making coverage of our debates available to the public, not simply to ourselves.

Mr. Speaker, the Select Committee on Congressional Operations has just released its report, "Televising the House," in which it proclaims its 90-day broadcast test of our proceedings, "successful," and recommends "the establishment of a permanent system of television and radio coverage of the daily proceedings of the House," utilizing House-owned, state-of-the-art, remotely controlled and computer programable, minicameras.

While the select committee has recommended that this coverage be made available to the public "following the extension of the closed-circuit House broadcast system throughout the House, but not later than the beginning of the 96th Congress," it apparently failed to check with any technical experts or policy personnel from commercial broadcast networks and stations to determine whether the coverage would be usable or used by them. I would think that before we make an investment of this magnitude we would want to find out if there is, indeed, a market for our product beyond these walls, unless, of course, all we really have in mind is dealing ourselves another cushy perk.

Mr. Speaker, last spring when this whole broadcast test was taking shape

I took a special order on March 8 and raised a question of privilege on March 15, in which I questioned whether our ultimate objective was to provide a service for Members or a service for the public. I expressed the belief that "the public interest should be our primary objective" because "the public has already become cynical enough about self-serving actions by this Congress." I went on to express the hope that the test be "conducted from the outset with a view to producing the type of quality broadcast coverage which will be suitable for commercial use by our networks and stations."

It was with this in mind that I had earlier written to the Speaker on March 7 recommending that he invite the executive committee of the House Radio and Television Correspondents Gallery "to appoint a technical advisory group to work with you in determining which equipment and techniques used during the test period will insure the best broadcast quality coverage should the House later decide to make this coverage available for public use."

And yet, to my amazement, there is no indication in the select committee's report on the test that commercial broadcasters were ever consulted or brought in to view any portion of the live coverage or evaluate any of the videotapes made of it. Moreover, there is no discussion of the policy question raised by a House owned and controlled broadcast system, and that is whether broadcasters would use coverage controlled by the very people being covered. While I am neither a philosopher nor a journalist I would think this raises a serious question of journalistic ethics.

Instead of consulting with broadcasters on these major technical and policy questions, the select committee has taken it upon itself to unilaterally declare that its proposed system "make it possible to obtain a broadcast quality—if not studio quality—picture, suitable both for closed-circuit and public broadcast purposes"; and House management of the system "need not and should not imply in any way the imposition of editorial control or any form of censorship of the content of televised coverage of House proceedings," and "by its nature allows(s) untrammeled exercise of editorial judgment by the users."

Mr. Speaker, all this reminds me of a former Senator's proposal to win the war in Vietnam: declare that we have won and get out. By the same token, the select committee is saying, "We've provided you with a broadcast quality picture and editorial freedom, by our definitions, therefore, we have provided coverage to the public." While that solution did not work for Vietnam since people could see on their TV's what was really happening, it just might work in the House since people will not be seeing on their TV's what they are missing—unless, of course, they wander into their Congressman's office some day.

SOUTH AFRICA'S JUDICIAL SYSTEM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BONKER. Mr. Speaker, the death of 21 people while in detention in South Africa over the past 18 months is cause for great concern to those favoring a peaceful resolution to conflicts in South Africa. The recent death of Steve Biko has focused world attention on South Africa's judicial system, its laws concerning political dissent, and the treatment of detainees.

The Carter administration's expression of concern regarding the circumstances surrounding Mr. Biko's death, while laudable, did not address some troublesome questions.

I would like to insert for the record a letter I recently sent to the South African Ambassador to the United States on this matter. In addition, I would like to insert a letter I transmitted to President Carter containing recommendations concerning further actions which need to be taken as quickly as possible.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1977.

His Excellency DONALD SOLE,
Ambassdaor of South Africa, Embassy of the Republic of South Africa, Washington, D.C.

DEAR MR. AMBASSADOR: I am writing to express my deep concern over the circumstances surrounding the death of Stephen Biko while in detention in your country. I appreciated the opportunity to talk with Mr. Herbert Beukes, an official in your embassy, who made a visit to my office late last week. Mr. Beukes' responses to my questions were helpful in gaining an idea of your government's perspective on this matter. However, in my judgment there remain several additional concerns associated with this case.

I have enclosed a copy of a letter to the President which sets forth recommendations which I feel represent effective responses to several lingering questions. The death of Stephen Biko has brought substantial international attention to South Africa's treatment of political dissidents. At an early mutually convenient date, it may be helpful for us to discuss these recommendations.

Sincerely,

DON BONKER,
Member of Congress.

Enclosure.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express my support for the concern your administration has demonstrated about the circumstances surrounding the death of Mr. Stephen Biko while in detention in South Africa. However, as a member of the House African Affairs Subcommittee I feel there are certain recommendations which our government should make which in my judgment have compelling merit. Acceptance of these recommendations by the government of South Africa might serve to improve understanding between our two countries as well as serve as a constructive response to the reasonable concerns expressed from several sources in the international community.

Recommendation 1: That the International Committee of the Red Cross be allowed to conduct an autopsy of the body. There is great concern that the case of Mr. Biko's death has become so politicized that it will be very difficult for the pathological examinations conducted thus far to proceed in an impartial manner. There is also a possibility that the three pathologists who have been involved in the case thus far may not agree on their findings. The I.C.R.C. is an internationally recognized humanitarian organization capable of performing a pathological examination in an impartial manner. If I am not mistaken, the I.C.R.C. has an office in Pretoria and visits South African prisoners from time to time. I.C.R.C. involvement at this time would not constitute any kind of judgment on the capabilities of the South African medical profession. Rather, the I.C.R.C. approach would in my judgment be an effective means of de-fusing concern about pressures, political and otherwise, currently operating on the South African pathologists involved in the case.

Recommendation 2: That there will be a full investigation into the death of Mr. Biko and twenty others who have died over the past eighteen months while in detention. This investigation should occur with international observers who can attest to the impartiality and thoroughness of the findings. Full efforts should be made to prosecute those found responsible, possibly, for any foul play which might have occurred in connection with these deaths. I am troubled by the equivocal and rather callous remarks of Justice Minister Kruger concerning the death of Stephen Biko. Such remarks do little to dispell the concern of many in the international community for the treatment accorded political detainees in South Africa.

Recommendation 3: That certain safeguards be established to prevent deaths occurring under similar circumstances in the future by repealing the Terrorism Act of 1967 and the Internal Security Act of 1976, among others, or at the very least, removing measures contained in these acts which do not appear to be consonant with the decent Western-style democracy South Africans claim exists in their country. Issues of particular concern are inter-alia: the detention of a person indefinitely without charge or trial, holding a detainee incommunicado without visitation rights accorded to close members of the detainees families, lawyers, and clergy, and finally, the presumption of guilt of those detainees found by administrative officials to have probably engaged in acts of "terrorism". Such wide divergencies from Western legal norms do little to further the cause of developing international understanding for South Africa's position.

The death of Stephen Biko has brought substantial attention both domestically and in other parts of the world to South Africa and its treament of political dissidents. In my judgment the recommendations offered above for inclusion as part of official U.S. policy would constitute a reasonable and constructive approach to the legitimate concerns evoked by the Biko case.

Mr. President, your concern for human rights and decency in government serves as an inspiration for those members of Congress responsible for overseeing the policy of the U.S. vis a vis South Africa. Again, allow me to reaffirm my support for the position which has been expressed thus far concerning the death of Stephen Biko, as well as to express my sincere hope that this position can be expanded to incorporate the recommendations described above.

Sincerely,

DON BONKER,
Member of Congress.

VETO OF THE ERDA AUTHORIZATION BILL RECOMMENDED BECAUSE OF THE CLINCH RIVER BREEDER REACTOR PROJECT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BROWN of California. Mr. Speaker, the President will receive much advice about the fiscal year 1978 ERDA authorization bill, and how he should view the conference committee language on the Clinch River breeder reactor project. I would like to stress that the conference committee report did not change the basic issue with Clinch River, which is should we proceed or curtail this project? The conference report says proceed, and although the dollar amount is reduced, the CRBRP still has enough funds to proceed with little, if any, delay.

The editorial in today's New York Times gives the view, which I know is widely shared in the Congress, that the ERDA bill should be vetoed as long as the Clinch River funds are in it.

The editorial follows:

[From the New York Times, Oct. 6, 1977]

THE RIGHT REACTION TO CLINCH RIVER: VETO

The Clinch River Breeder Reactor, a demonstration power project that could become the Edsel of the nuclear industry, appears to have survived its latest journey through Congress. House and Senate conferees have agreed to authorize about $80 million for the project in fiscal 1978. That figure is being described as a compromise to avoid a veto by President Carter, who has staked considerable prestige on stopping the project. But the proposed funding would only give momentum to a probable technological and diplomatic fiasco. If the Clinch River item remains in the bill authorizing energy research, as seems all but certain, it would make an excellent target for Mr. Carter's first veto.

The justification for the Clinch River project is no longer valid. It was originally deemed desirable to demonstrate the commercial feasibility of a breeder reactor, a highly efficient nuclear plant that would greatly increase nuclear fuel supplies. But the slower growth of nuclear power and an increase in estimates of uranium resources push back the day when a breeder would be needed, probably into the next century. Meanwhile, the design of the project was essentially frozen—at a size that the Government's own experts now consider too small, and at a level of technology that many consider already outdated.

It is not just the rabid opponents of nuclear energy who consider the project a technological turkey. The Carter Administration's top energy experts oppose it, and even Edward Teller, a nuclear advocate nonpareil, calls it "obsolete before it has been started."

The Clinch River reactor would not be high technology; it would be high pork—a make-work project that would eventually cost an estimated $2.2 billion to demonstrate a technology that probably will never be marketable.

The cost to our diplomatic efforts to curb nuclear proliferation could also be great. Mr. Carter pledged to halt the American rush toward a commercial breeder as a symbol of our willingness to forgo dangerous technologies that produce not only energy but also the material for bombs. Capitulation to Congress now would open the entire policy to charges of hypocrisy. Fortunately, through quirks in legislative procedure, Mr. Carter could veto the bill without disrupting most other energy research. The Administration has made it clear that it endorses nuclear power and will continue to explore better breeder reactor designs. But this particular project would demonstrate the wrong design at the wrong time and send the wrong international signal. It should be abandoned.

FILL-UP RIGHTS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MINETA. Mr. Speaker, for years now our U.S. international air carriers have been trying to obtain the right to carry domestic traffic between U.S. cities on flights operated in foreign air transportation. This issue, referred to as "fill-up rights" is not simply an issue which would benefit those international carriers. It cuts across many of the major philosophical issues the Congress is currently dealing with in the matter of aviation regulatory reform, like carrier management decisions, efficiency of operation, fuel conservation and accommodation of the travelling and shipping public.

The closed-door restrictions of the current law have denied passengers and shippers access to convenient services and have penalized everyone by forcing seats and cargo space to go to waste. Despite the obvious public benefits and good economic sense in the proposal to open the doors of existing flights to domestic traffic, U.S. international carriers have generally been unable to obtain such authority from the CAB. It is a compelling example of the damage which can result from the interference of unnecessary CAB regulation in our aviation system.

I believe these restrictions are grossly inefficient and inequitable and there is simply no justification for continuing them. The impact of fill-up rights on domestic carriers will be minimal. These flights are keyed to international departure and arrival times and their domestic segments fly at off-peak hours. The one-way nature of the flight further reduces their competitive position vis-a-vis domestic carriers.

Both the House and Senate versions of aviation regulatory reform legislation contain provisions to correct the "closed door" problem. Both versions would permit U.S. international airlines to carry local U.S. passengers and cargo on the domestic segments on their international flights.

The provision contained in the House bill is, however, more restrictive than the Senate version. It would provide authority for fill-up rights on one flight per day in three markets the first year and in two markets in subsequent years. In addition, these fill-up rights would be substituted for any option under discretionary entry authority. I believe this additional restriction denies an essential and deserved flexibility to our U.S. international carriers.

The bill I am introducing today directly parallels the unlimited fill-up rights contained in the Senate bill. It authorizes carriers to transport persons, property, and mail between points served in any State on one roundtrip flight per day in each city-pair market, without the additional burden of requiring that the fill-up rights be substituted for discretionary entry. I believe fill-up rights and discretionary entry are separate issues and should be treated as such. The choice of one should not prejudice a carrier's option to utilize the other. Only in this way will we eliminate any potential discrimination against our U.S. international carriers.

This legislation will serve to emphasize the importance of fill-up rights in the comprehensive regulatory reform bill. It will furthermore emphasize to the House Committee the concern of myself—and my colleagues who joined as cosponsors—that fill-up rights should be treated separately and without discriminatory restrictions.

U.S. POLICY MUST NOT FORSAKE ISRAEL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, a sense of real apprehension continues to pervade the Jewish community following the issuance of the joint, United States-Soviet statement on the Middle East. While some of the feelings of betrayal have been minimized by yesterday's talks between President Carter and Foreign Minister Moshe Dayan, some fundamental questions remain unanswered.

To what extent will this Nation advocate participation of the Palestine Liberation Organization in Middle East peace talks? To what extent will the United States promote the concept that the PLO has "rights" in a Mideast settlement? To what extent should we allow ourselves to form a coalition with the Soviets for a Middle East peace?

Without any doubt, the PLO matter is the thorniest issue with which we must deal. How can we expect to achieve a Middle East peace involving Israel, when one of the parties to the negotiations is committed to the destruction of the nation of Israel? Further, can this Nation, which denounces terrorism throughout the world, so compromise itself as to align with the PLO—one of the most organized terrorist groups in the world—in a Mideast peace?

What kind of Mideast peace can we hope for with the PLO participating in its formation and the Soviet Union playing an integral role? Unless this Nation unequivocally reaffirms its support for the maintenance of Israel's sovereignty, peace will result in a greatly weakened Israeli position. Implicit in the Soviet Union's deep involvement, is their promotion of Arab interests in a Mideast peace. Any weakening of U.S. ties

with Israel will encourage the Arabs to demand more concessions from Israel.

These are troubling times for Israel. They find themselves in the paradoxical position of being railroaded by the United States. I believe it is time for the Carter administration to reassess its position. We must bargain for peace from a position of strength for Israel. Rapprochement with the PLO should be used as a last resort, rather than an essential ingredient for achieving peace. How can we ask the nation and people of Israel to forget the horror of Munich—the massacre at Lod Airport—the killing of innocent children at Ma'alot? These acts were committed by units of the PLO; the very same group we are expecting the Israelis to negotiate with.

From Israel's historic inception in 1948, the United States has been its strongest ally. Now, as Israel approaches her 30th birthday, the nation's future remains uncertain. Peace in the Mideast is hoped for by all. Certainly a resumption of fighting would have ominous consequences for the security of the world. Yet peace cannot come at the expense of weakening Israel's position as a nation. It is a diplomatic tightrope we must walk, but our ability to do so will result in a balanced and peaceful Middle East.

BANKING REGULATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DERWINSKI. Mr. Speaker, I direct the attention of the Members to an editorial broadcast by Chicago Radio-TV Station WGN, on September 21, which discusses the adjustments taking place in the financial regulatory arena.

This editorial certainly dramatizes the fact that the Congress, affected industries, and the general public are too often caught in the grasp of the self-perpetuating bureaucracy. This often adds to the problem rather than the solution which it attempts to address:

BANKING REGULATIONS

Bureaucracy, it seems, breeds more bureaucracy. Legislation has been introduced on Capitol Hill to consolidate the three major agencies which regulate banking in this country, the Federal Deposit Insurance Corporation, the Federal Reserve Board and its dozen regional Federal Reserve Banks . . . and the Comptroller of the Currency. These three agencies regulate only banks, leaving to other parts of government regulation of the savings and loan associations which, to many consumers, are just like banks.

The three agencies involved in the proposed merger are, as could be expected, opposed to the merger. They agree that there could be better coordination of banking regulations. But, they have another way to do it. They want to create another agency, the Federal Bank Examination Council, to provide uniform rules and procedures for bank examinations.

To us, this is ridiculous. There is obvious need for bank regulation. But, the idea of three bank regulating agencies proposing a fourth is just too much.

Perhaps if we had a single regulating agency, with a single set of rules, we wouldn't be devoting so much public attention and energy to the banking policies of Bert Lance.

BUYING YOUR WAY IN GOVERNMENT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1977

Mr. HANSEN. Mr. Speaker, as an American citizen concerned over national security and a representative of a rural Western State whose economic well-being depends heavily on the successful marketing of sugar crops, I have for some time expressed deep concern for the inordinate influence on U.S. business and foreign policy exerted by a handful of highly paid, highly placed American attorneys and law firms in behalf of foreign governments and commercial interests.

This influence has been spectacularly evident in the financial provision proposed in the new Panama Canal Treaty, particularly with regard to negotiator Sol Linowitz, a Washington, D.C., attorney. Mr. Linowitz was given a special short-term appointment by President Carter which allowed him to bypass the legal and legitimate scrutiny of the U.S. Senate for such positions with regard to possible conflict of interest and unusual political campaign contribution involvement.

Thus the Senate could never get the lowdown on Linowitz before he pulled off his 6-month sleight-of-hand sellout of the Panama Canal—this remarkable ripoff of American taxpayers and consumers consummated just hours before his appointment expired.

Early revelations by myself and other Members of the House and Senate showed Mr. Linowitz to be heavily involved financially in Latin America directly as a registered foreign agent representing various nations and special interest groups and indirectly as a member of the boards of directors of prominent international firms such as Marine Midland Bank of New York and Pan American Airways.

Whether his membership on the board of directors of Time magazine had any effect on the ability of his critics to demonstrate his blatant apparent conflict of interest in representing the U.S. Government in areas where he and his colleagues stand to gain financially is probably not provable.

Nevertheless it is a fact that Mr. Linowitz resigned from the board of directors of the Marine Midland Bank which has large loans to the Government of Panama which can likely be serviced and repaid by extravagant, financial windfalls to Panama proposed in the treaty. This amounted to a tacit admission of the untenable position of Mr. Linowitz attempting to serve two masters.

The same kind of financial funny business has been going on to the detriment of agricultural producers and processors in sugar beet, sugar cane, and corn sweetener areas. An insensitive administration under great pressure from special interest groups represented in high places by the legal elitists in the lobbying world has allowed a glut on the Nation's sugar market with resultant depressed prices and severe damage to key farm production interests of the Nation.

The legal lobbyists have "hogged" a disproportionate share of the sugar market and are jockeying for position to even further complicate the situation by promoting renewed trade ties with sugar-exporting Cuba. It is unfortunate that American agricultural organizations are not sufficiently organized and financed to be able to successfully bid with foreign governments and special interest groups for the high-powered, high-paid legal lobbyists who are capable of exerting such an inordinate influence in high places of government.

To bolster my statements I submit for the RECORD an article in the October 3, 1977 Washington Post by Stuart Auerbach which discusses how law firms give foreign clients many services. It is interesting to note that the article finds that 70 American lawyers and law firms who have registered with the Department of Justice as agents of foreign governments or businesses have collected $3½ million during the latest 6 months reporting period.

This amounts to an average of $50,000 each and gives some idea of the kind of competition domestic interests are up against. It is interesting to note how the pyramiding of retainers from a number of interests plus regular charges can amount to huge sums.

The article is most interesting and goes into some detail with regard to several firms but conveniently and noticeably it does not include Mr. Sol Linowitz or his firm of Coudert Bros. The article follows:

LAW FIRMS GIVE EXTRA SERVICE TO FOREIGN CLIENTS

Frederick G. Dutton performs lots of odd jobs for his $200,000-a-year legal retainer from the government of Saudi Arabia—including finding doctors to treat members of the royal family and buying chairs for King Khalid. He even gives legal advice.

While Dutton's fee is on the high side, the variety of work ranging from pure legal representation to more personal services is typical of the almost 70 American lawyers and law firms who have registered with the Justice Department as agents of foreign governments or businesses.

These lawyers collected $3.5 million during the latest six-month reporting period, according to documents submitted to the Justice Department and compiled by the New York Law Journal.

Dutton is not the only lawyer to move out of his usual orbit on behalf of foreign clients. Clark Clifford's high-powered and high-priced law firm, which generally stays out of police matters, investigated for Algeria a Nevada traffic accident in which one Algerian student was killed and another injured.

Other Washington firms that generally deal with U.S. government agencies handled real estate transactions for their clients—including the construction of the new residence for the Japanese ambassador.

Beyond that, many lawyers hired by foreign governments said they try to explain U.S.

policy to their clients. "I try to bridge the cultural gap and tell the Saudis what is on America's mind," said Dutton.

In the 1960s, the high filers were lawyers representing sugar-producing nations angling for a larger share of the nation's sugar imports, especially when trade with Cuba ended and its quota was thrown up for grabs. Indeed, the wide-open lobbying of the sugar lobby brought about stiffer reporting requirements in 1966.

Now, however, the fight to win American landing right for the Concorde, Saudi Arabian and Algerian gas and oil interests, and Japan are producing most of the foreign business for American law firms.

Three firms, for example, have made more than $1 million in less than two years from the Concorde flight—and that figure excludes the legal costs of the court suits, which do not have to be listed.

The New York firm of Rogers & Wells, with former Secretary of State William P. Rogers as senior partner, has been paid $646,654 in the past two years for representing Air France. In Washington, Hydeman, Mason & Goodell—the firm of former Sen. Charles P. Goodell—has been paid $336,949 in the last two years for representing the French government. Recently, the Winston & Strawn, with Democratic political power John R. Riley as a partner, has been hired by France. It has made $21,552 so far.

Algeria has paid more than $4 million since 1971 to three American law firms, including $1.7 million to Clark Clifford's firm, and the Saudis have paid more than $300,000 to two firms, including the one that former Senate Foreign Relations Committee Chairman J. William Fulbright is associated with.

While not paying the highest fees, the Japanese have hired the most law firms—15—including one—Vorys, Slater, Seymour & Pease—that was paid $3,000 for a study on the effects of withdrawing U.S. ground forces from Korea.

Moreover, the Justice Department filings revealed that former Interior Secretary Stewart L. Udall, known for his pro-environment positions, received a $30,000 retainer to get American support for a pipeline to carry natural gas across Canada from Alaska to the lower 48 states. He apparently succeeded: President Carter and Canadian Prime Minister Pierre Elliott Trudeau announced it would be built.

His $200-an-hour fee was the highest reported. The top Wall Street law firm of Milbank, Tweed, Hadley and McCloy, for example, reported its fees as $100 to $150 an hour for work done by partners and $45 to $85 an hour if it is done by associates.

The Washington firm of Danzansky, Dickey, Tydings, Quint & Gordon listed its fees as $70 to $150 per hour, depending on the qualifications of the attorney, whereas Winston & Strawn and Hydeman, Mason & Goodell charge $80 an hour.

The Justice Department files provide one of the few authentic peeks at how the nation's largest law firms earn their money.

Under the Foreign Agents Registration Act, lawyers along with other representatives here of foreign governments must list their income and expenses on behalf of foreign governments; report what they do to earn that money, and tell what government officials they dealt with on behalf of their foreign clients.

This kind of information is as closely guarded as state secrets by law offices in most situations.

Take Clark Clifford, for example. The hottest item of gossip among Washington lawyers recently is how much he got paid by Bert Lance, but that's a secret few people know for sure—maybe only Clifford, his accountant and Lance.

Its no secret, though, how much Clifford's firm—Clifford, Glass, McIlwain & Finney—were paid by their two foreign clients, the government of Algeria and the Australian Meat Board. It's all listed clearly in the Justice Department files.

Since 1971, Clifford's firm has been paid $1,725,000 by the Algerian government. The contract calls for a $150,000-a-year retainer.

The Australian Meat Board has paid the firm $930,000 since 1969. It is on the books for an $8,000 annual retainer.

Algeria also uses the giant Wall Street firm of Shearman & Sterling for legal business in this country—mostly regarding oil and gas exploration contracts for its New York corporation, Sonatrach Inc. That firm has received $2,154,563 from Sonatrach since April, 1975, including a half-million dollar fee for the six months that ended last January.

In addition, Algeria paid former Attorney General Richard C. Kleindienst $260,000—about $10,000 a month—from November, 1973, to July, 1976, soon after he left the Nixon administration.

Not all the big money comes from well-known foreign clients. Myron Solter, for instance, is a Washington lawyer who was paid $142,000 from November to March for representing a range of Asian business and trade groups before American agencies setting tariffs on such imports as mushrooms, bikes, handbags, television sets and footwear.

Millbank, Tweed, Hadley & McCloy received $185,000 from 18 foreign clients, including the government of Zaire ($64,498) and Nippon Telegraph and Telephone Public Corp. ($59,538) in the six months ending last July. In the previous six months, the firm took in $191,623 from foreign clients.

What do law firms do for their money?

Dutton, a former assistant secretary of state for legislative affairs in the Kennedy and Johnson administration, said his work for Saudi Arabia mixes legal advice with personal services and political counseling.

But he said he stays away from lobbying on Capitol Hill or in the State Department. He was involved in the attempt of Prince Saud Faisal, the Saudi foreign minister, to buy a New York co-op apartment.

His biggest legal assignment, he said, is negotiations with major American corporations to build petrochemical plants in Saudi Arabia. For these jobs he has hired other lawyers to help him, including his wife Nancy ($35,000) and his partner, Nick Zumas ($21,190).

He also helps the 5,000 to 6,000 Saudi students in this country with any legal scrapes they may get into—auto accidents and broken leases for example.

He also finds himself involved in some very unlawyerlike situations—such as the time Ambassador Ali Alireza asked him to find top medical specialists to fly to Europe to take care of a member of the Saudi royal family or to buy $2,400 worth of chairs for the king. One expense account item is $1,570 to buy a clock.

The Saudis don't depend on Dutton for all their legal advice. Last year the government hired Hogan & Hartson, paying a $50,000 yearly retainer "for counsel and guidance in connection with the laws and policies of the United States, possible congressional or other action affecting those as well as commercial and other ventures . . ."

According to a letter from Ambassador Alireza to Fulbright, "It is understood you will personally be in charge and handle the work done for us."

Fulbright, considered a supporter of the Arab cause who was defeated when supporters of Israel sent money to his opponent, Dale Bumpers, in the 1974 Democratic primary in Arkansas, also pulled the United Arab Emirates into the Hogan & Hartson firm for a $25,000 a year annual retainer.

Some of the most detailed reporting on what they do for their foreign clients comes from the lawyers in the Clifford firm.

On May 24, 1976, for example, Paul Warnke, a Clifford partner now the Carter administration's chief arms control negotiator, took Col. Malcolm MacArthur of the Australian Meat Board to see Federal Maritime Commission Chairman Karl E. Bakke "to enable Col. MacArthur to become acquainted with Mr. Bakke."

Warnke met in 1971 with State Department officials to help get permission for El Paso Natural Gas to import natural gas from Algeria. And when Richard Parker, present U.S. ambassador to Lebanon, was sent to Algeria in 1974 he asked to meet with Clifford.

Other well known firms with foreign clients include:

Sidley & Austin of Chicago, which has been paid $289,984 since last August by the Canadian Pacific Railroad and Canadian National Railroad.

William C. Cramer, the former Florida congressman and general counsel to the Republican National Committee, and his law firm have been hired by Nicaragua at $100,000 a year, half for expenses, to fight a threatened cutoff of U.S. aid. The firm has been paid $55,000 since 1974 to represent Nicaragua's industrial development organization.

The Japanese Embassy paid the law firm of former Maryland Sen. Joseph Tydings a $10,000 yearly retainer for advice on trade, food and population problems. The firm—Danzansky, Dickey, Tydings, Quint & Gordon—also gets a $10,000 a year retainer from Antiqua.

Patton, Boggs & Blow was paid $33,855 to help Korea determine its fishing rights near the Alaska coast. The firm also represents the Central American Sugar Council, which paid it $38,677. Thomas Boggs is the son of the late House majority leader Hale Boggs. His mother, Lindy Boggs, is a congresswoman from Louisiana.

Former Massachsetts Gov. Endicott (Chub) Peabody is being paid $2,000 a month to represent the government of Haiti. "I have also expressed my interest in the problems of human rights and you stressed the interest of your government in this area as well," Peabody wrote Haitian Ambassador George Salomon in a letter accepting Haiti as a client.

Former Congressman James V. Stanton was paid $8,000 to advise the Korean ambassador, Pyong-Choon Hahn on the congressional and Justice Department investigation of Korean influence peddling.

SPANISH VISIT WORTH $45,000

Here's an example of what one Washington law firm did to earn its $45,000 fee to coordinate the visit of Spain's king and queen to America last year.

According to documents on file with the Justice Department, the O'Conner and Hannan law firm prepared briefing papers on:

"Rules that prevail when high personages or officials talk with the media in the United States, differentiating between 'on the record", 'off the record' and 'not for attribution.'

"An advance memorandum on the backgrounds, political orientation and any-special attitudes toward Spain that have been expressed by journalists who will attend the breakfast in Washington."

"A similar memorandum describing the backgrounds and, where known, any special views held by the media executives who will attend the breakfast in New York."

A memorandum on the Senate and House foreign relations committees."

THE ISSUE IS JOBS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CUNNINGHAM. Mr. Speaker, every American citizen needs to have the opportunity to work, to produce, and to participate in our free enterprise economy. Unfortunately, too many of our citizens are now losing jobs or being threatened with the loss of employment. These people want to contribute, to pay their own way, and to be a vital part of our Nation's economy.

Since my election to Congress, I have been attempting to find out why jobs are being lost to American citizens in the face of foreign competition, trade and tariff policies, the proposed amnesty of illegal aliens, environmental laws that may be too strict, and other factors. Mr. I. W. Abel of the industrial union department of the AFL–CIO has pinpointed some of the causes of this job leakage in a recent issue of Viewpoint magazine.

Building on those thoughts and the reactions of people in my own congressional district, I have authored H.R. 9119, the Jobs Protection Act of 1977. It is not a perfect bill but I believe it is a step in the right direction. It determines that policies of the U.S. Government are costing jobs in the private sector of the economy. And it mandates a short-term, low-cost study by the General Accounting Office to bring recommendations to the Congress to turn around these policies. That is the best way to guarantee jobs to our own people.

I might add that I am pleased to see the founding of the steel caucus and the active work of the gentleman from Ohio (Mr. CARNEY) as its chairman as well as dozens of other Members from all over the country. The American steel industry suffers more than most from Government policies that discourage modernization and seem to be playing into the hands of foreign competitors. I have joined the steel caucus, but it only looks to problems in one industry.

The Jobs Protection Act (H.R. 9119) goes beyond one industry, one section, one problem. We can take positive steps to protect the employment of American citizens. Today, I am reintroducing the Jobs Protection Act with cosponsors. I invite other Members to join in this effort to keep America working.

For the benefit of those Members who are not familiar with H.R. 9119, I ask that the bill be made part of the permanent RECORD:

H.R. 9119

A bill to assure that the policies of the executive branch of the Government of the United States protect employment opportunities for United States citizens, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Jobs Protection Act of 1977".

FINDINGS

SEC. 2. Congress finds that—

(a) the American economy is currently suffering from dangerously high rates of unemployment in the private sector;

(b) one of the major factors causing unemployment for American citizens is an unfavorable climate to protect the jobs of United States citizens by the executive branch of the Government of the United States; and

(c) the Congress of the United States and the executive branch of the Government of the United States have the responsibility to assist in assuring the prosperity of citizens of the United States by assuring that their jobs are protected.

JOBS PROTECTION STUDY TASK FORCE

SEC. 3. (a) The General Accounting Office shall create a Jobs Protection Study Task Force. This Task Force shall be made up of representatives of the Office of Management and Budget; the Environmental Protection Agency; and the Departments of Labor, Treasury, Commerce, State, Defense, and Agriculture.

(b) No later than twelve months following the passage of this Act, the Jobs Protection Study Task Force shall report to the Government Operations Committee of the United States House of Representatives and the Governmental Affairs Committee of the United States Senate, and to the American people on the policies of the executive branch of the Government of the United States which are costing citizens employment in the private sector of the economy.

(c) The Jobs Protection Study Task Force shall report, at the same time, its suggestions for specific alternative policies to be carried out by the Government of the United States to provide protection of employment for citizens in the private sector of the economy. This report may include suggested changes in legislation, by repeal, addition, or amendment better to guarantee jobs for citizens of the United States.

(d) Factors to be considered in the preparation of the study by the Jobs Protection Study Task Force shall include, but not be limited to—

(1) the effect of arms sales prohibitions;

(2) export of technologies to other countries;

(3) the presence of large numbers of illegal aliens in the United States and their effect on jobs which could and should be held by citizens;

(4) tariff and trade policies of the United States which encourage the production and importation of goods into the United States which are produced by manufacturers in the United States;

(5) the exportation of raw materials for processing outside the United States into manufactured items or processed goods which are then imported to the United States;

(6) the drawing down of strategic stockpiles which, if produced in the United States, would protect jobs of citizens;

(7) the effect of environmental legislation, if any, in costing jobs of American citizens by the creation of higher costs or other deleterious conditions;

(8) the effect of required Government paperwork on the job climate in the private sector of the economy, especially when such paperwork may cost jobs in small business;

(9) the effect of the Government rulemaking process in costing jobs to citizens;

(10) and other policies not enumerated which cost jobs to American citizens.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Such sums as are necessary to carry out and disseminate the report of the Jobs Protection Study Task Force are hereby authorized to be appropriated.

(b) Any unexpended sums which have been authorized shall be returned to the Treasury of the United States.

ST. FRANCES DE CHANTAL CHURCH—50 YEARS IN SERVICES TO GOD AND THE COMMUNITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, it is my pleasure to take note of an important religious celebration; namely, the 50th anniversary of the Church of St. Frances de Chantal, located in my home district in the Bronx, N.Y.

The history of the St. Frances de Chantal Parish is as rich as it is long. The origins of the church could best be described as humble. Its initial facility consisted of a tent with an altar, and folding seats for the congregation. At that time, which was prior to its formal establishment, St. Frances was part of the Holy Family Parish of the Bronx.

In 1927, Cardinal Hayes decided to establish the new parish of St. Frances de Chantal. A short 3 years later, the "tent" parish had grown tremendously, and to meet the need, a three-story church building was opened. Later that year, the school was opened for 150 students in grades 1 through 4.

The early successes of the St. Frances Parish were due to the tireless efforts of its pastor, Rev. William J. Jordan. Combining a sense of future vision with a commitment to meeting present needs, Pastor Jordan transformed St. Frances de Chantal into one of the most dynamic parishes in the entire city of New York. The church recognized his efforts by elevating him to the rank of monsignor. As one of his last deeds, Monsignor Jordan built a convent for the Sisters of Divine Compassion who worked in the school and church. Monsignor Jordan's death in 1955 brought deep mourning to the St. Frances community. Yet, the legacy of service and commitment he established endures today. St. Frances de Chantal remains a vibrant parish, providing spiritual guidance to thousands.

In 1955, the parish leadership was assumed by Father John J. Halpin. At this point in history, St. Frances was again experiencing enormous growth, and the community was undergoing major changes. It was apparent that changes in the parish would have to be made. Father Halpin was acutely aware of this and provided the necessary direction. Plans for a new, larger church were finalized, and the number of classrooms in the school were doubled. On October 25, 1970, 40 years after the first church was opened, the new church was formally dedicated. It was praised as one of the most beautiful religious facilities in the entire city. The parish was characterized as "young and mighty." For the parishioners, it was a joyful day, especially those who saw it as the fulfillment of the dreams of the two pastors.

In 1973, after 18 years of service and guidance, Monsignor Halpin retired. He, too, was honored for his work by being bestowed with the rank of domestic prelate and the designation of right reverend monsignor by Cardinal Spell-

man. Fortunately for the parish, Monsignor Halpin has not left; he remains as its pastor emeritus, continuing his service.

Presently, the Church of St. Frances de Chantal is under the able leadership of Msgr. Joseph F. Devlin. Prior to his assignment at St. Frances, Monsignor Devlin served with distinction as the first pastor of St. Aedan's Church in Pearl River, N.Y. He brought his considerable talents to St. Frances at an especially important juncture in its history. From its lowly origins, St. Frances has grown to a parish with more than 3,000 families. Its school services more than 1,000 children. In addition, Monsignor Devlin provides the spiritual direction for a large group of priests and nuns, as well as more than 20 different religious, social, and athletic organizations and clubs.

Monsignor Devlin has assumed this challenge with the same dedicated and innovative leadership as his predecessors. The success and longevity of the Church of St. Frances de Chantal is due in large part to its active response to the growing needs of the people. It has taken on the role of the modern day church—which does not limit its service to Sunday Mass—but goes into the community to provide guidance and spiritual direction. The priests of St. Frances are true servants of God in total dedication to serving their fellow men.

The ability of a religious institution to survive for 50 years is a reflection on the stability of a community. The Church of St. Frances de Chantal has been a central force in the lives of several generations of people.

I pay tribute to the priests and nuns at St. Frances, as well as the loyal supporters in the community. This anniversary is most significant. However, the history of St. Frances dictates that they will not be content to rest on past laurels. Another half century of work lies before them. They deserve commendation for what they have done, and support for what they have yet to do.

At this point in the RECORD, I wish to insert the message sent to St. Frances by His Eminence, Terence Cardinal Cooke, Archbishop of New York:

AUGUST 17, 1977.

Rev. Msgr. JOSEPH M. DEVLIN,
Pastor, Church of St. Frances De Chantal, Bronx, N.Y.

DEAR MONSIGNOR DEVLIN: On the occasion of the celebration of the 50th Anniversary of St. Frances De Chantal Parish, I wish to congratulate you, the priests of the parish, the devoted religious and the loyal parishioners.

I join with all of you in thanking God for the many blessings and graces that have come to this parish from the bountiful hands of Our Heavenly Father, through the powerful intercession of St. Frances De Chantal throughout the past half century.

It is my prayer that Almighty God may continue to bless the priests, religious and parishioners of St. Frances De Chantal Parish in order to enable them to continue to work for their own sanctification, the glory of God and the welfare of our beloved country.

With best wishes and kind personal regards, I am,

Faithfully yours in Christ,
TERENCE CARDINAL COOKE,
Archbishop of New York.

VOTER REGISTRATION—POTENTIAL FOR FRAUD?

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FRENZEL. Mr. Speaker, on Saturday, September 24, the Minneapolis Star ran an editorial interview with Minnesota Secretary of State, Joan Anderson Growe, about our election day registration system.

I invite your attention to the secretary's responses to the questions relating to proper identification. I believe they illustrate the weakness of the current identification system.

Also, I believe it proper to point out that in Minneapolis, after years of experience with instant registration, and after training sessions for precinct election officials, 48 percent, or nearly half of walk-in voters were found to be registered illegally. These figures do not represent the total city, but only about three-fourth of the wards that have been reviewed in the 9 months since the last election.

I commend the article to my colleagues:

VOTER REGISTRATION—POTENTIAL FOR FRAUD?

ALNES. Richard Smolka's report on election-day voter registration, written for the American Enterprise Institute, came to the conclusion that voter turnout was slightly increased in Minnesota, and that the potential for fraud was quite large—although it didn't really nail down an instance where fraud occurred. What was your reaction to the report?

GROWE. I think you're talking about two aspects of the report. First, whether election-day registration increases voter turnout, and I won't disagree with Dick Smolka's statistics, but he uses a different base than we do. We concluded that 75 percent of eligible voters turned out at the polling place in 1976. Voter turnout was better in Minnesota than the rest of country, where it went down 1 or 2 percent in most places. We had about 454,000 who registered and voted on election day in Minnesota in 1976.

ALNES. What about potential for fraud?

GROWE. You have to view that in a very large picture. There's potential for fraud in the system Minnesota has now; there was potential for fraud in the system we had before 1973. Before then, in cities of 10,000 or more voters had to pre-register. In all communities less than 10,000 anyone could walk in on election day, sign the poll register and vote.

But if you talk about voter fraud, you have to look at where we've been historically. We have not seen fraud in Minnesota, and if you look around the country where voter fraud has occurred—we all think of Cook County, Ill., I guess, and the recent revelations in Texas and the case in Louisiana—you find that voter fraud was perpetrated by election administrators, not by voters.

WEHRWEIN. But they need the help of voters to do it, don't they?

GROWE. Sometimes they do and sometimes they don't. Sometimes an election judge or administrator can do it all by themselves.

WEHRWEIN. By just cooking up the numbers?

GROWE. That's right. Sometimes there's been collusion with voters. If some individuals in Minnesota decided they were going to fraudulently register and vote, I think they could figure out a way to do it.

WHITING. Are you saying that this system could work as well in other places, such as Cook County, as it does here?

GROWE. I say the system works well in Minnesota. I think it could work in most of the country. Some Chicago officials I heard testify were crying "fraud," but what they in fact were saying was this: We know 30 days before the election names and addresses of everyone who's registered, so we know who to go out and get to the polls. If people could go in and register on election day, those people could determine the outcome of the election.

Well, I thought that's what elections were all about—citizens voting to determine the outcome.

ALNES. Are there, nonetheless, any things that Minesota could do to reduce the potential for fraud with same-day registration?

GROWE. Since the law was passed in 1973, we've seen some changes, some fine-tuning, in response to concerns of election judges, citizens, etc.

A new law passed in 1977 will require that a precinct map or precinct finder be present in every precinct on election day. We found in the past that people were registered and voted in the wrong precinct. They didn't do it on purpose, and the judges didn't know where to place them.

Another change is that the affidavit that a voucher signs for an election-day registrant will now be attached to that election-day registrant's voter registration card until it has been verified. Those were two specific changes made, and I'm in the process of proposing other changes.

WEHRWEIN. Bill Frenzel's point was that the real key to the problem was proper identification. Would you agree?

GROWE. That's basically true. It's interesting that no one has raised the question that before we had election day registration—even now—anyone who registers ahead of time, doesn't have to show any identification.

If you mail in your registration card, you don't have to have it notarized, you don't have to prove who you are at all. It's only on election day we go that additional step and require identification.

The state of Wisconsin allows identification geared especially to students. They require two pieces of identification per student. We're going to explore those possibilities.

ALNES. Can people now be registered to vote merely by having somebody stand there and say "I know that person, and he does, in fact, live in this district," and he does not have to provide further identification?

GROWE. Yes.

ALNES. Isn't that outrageous?

GROWE. I don't know if I'd use that term.

WEHRWEIN. Would you cash his check?

GROWE. Yes. I guess I've done that for some people.

ALNES. OK, but people have to present identification to cash a check, in some cases to go into a bar at some ages. You have to present identification if the highway patrol stops you or if you want to buy travelers' checks. Why shouldn't you have to do the same in order to vote?

GROWE. We've never had to in Minnesota.

ALNES. I realize that, but why shouldn't we have to? Can we assume that Minnesotans will always be honest when we go to the polls?

GROWE. I would like to assume so, but I don't think we can realistically.

ALNES. Then why not require identification?

GROWE. The identification that's now required is the body who is there vouching for you, who then signs the affidavit. We're pro-

posing that the person who vouches be pre-registered. Right now you can go in and register and then turn around and vouch for your neighbor behind you.

I'm in the middle of a series of public meetings around the state with local election people and judges. I have 25 meetings scheduled this fall. At these meetings we get input about what they think of the system and suggestions for changes.

WEHRWEIN. For all the merits of same-day registration, the real purpose is to get out as many people to vote as possible. Shouldn't the real focus be on registering as many people in advance of the election as possible? That really solves all these problems: Whatever identification, whatever procedure, it would be far simpler to put new steam behind getting people registered, period, and then some of these other questions on election day will become very minor.

GROWE. You're absolutely right, and I think the intent of the law was that the focus would be on pre-registration. Some counties don't allow pre-registration. We have different systems going on within our state now.

ALNES. Why get out the vote? If people want to be apathetic, why not accept that?

GROWE. Voting is a right, not a privilege of a select group of people, and I believe it's government's responsibility to help citizens in exercising that right.

We know the U.S. has the lowest voter turnout of any western democracy, but those who are not voting may not necessarily be apathetic. They simply may not know how to register, where to register, what is necessary or who to call to get the proper information. Election officials have to take responsibility to see that the public has information they need to vote.

ALNES. You've told us that on election day the judges work long hours at the polls handling dozens of tasks, why add one more job to that picture by asking them also to register voters?

GROWE. Elections are run for the benefit of citizens, not for the benefit of government or election officials. That's not to say we shouldn't make the election judges' jobs easier. At regional meetings I've been holding around the state, election judges say they want and need more training. The state has a responsibility to see to it that judges are trained so they are comfortable with their jobs, that they have the information they need and the proper tools to administer elections.

MICHAEL VITULLI TO BE HONORED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. OTTINGER. Mr. Speaker. I am pleased that Mike Vitulli, court officer with the Yonkers Family Court, has been selected as this year's recipient of the Columbus Day Humanitarian Award. He will be honored on Sunday, October 9, at the Yonkers Columbus Day dinner dance at the Polish Community Center.

Mike served in World War II as an aerial gunner and radio operator, having completed 31 missions in the European theater of operations. He is a member of AmVets, Rauso Post No. 40, St. John's Holy Name, and serves on the Yonkers Board of the American Cancer Society.

Fifteen years ago, Mike assembled a dozen of his friends and formulated plans for the now widely acclaimed Enrico Fermi Scholarship Fund. He was the first Yonkers chairman of the Boys Town of Italy Concert and was instrumental in setting up a Yonkers Citizens Committee to aid the renaissance drug rehabilitation program. Mike played a role in the benefit for the Florence Flood Relief Fund and in 1969 received the ACIM Community Service Award. For the past 5 years, he has cochaired the sale of daffodils in Yonkers to benefit cancer research and education along with Ann McDonald, Jeanne D'Apice, Delores "Dee" Del Bello, Jeanne Martinelli, and Fanny Piemontese.

Mike is one of the outstanding citizens of the city of Yonkers and it is most fitting that he should be honored by that city on Columbus Day.

CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. McCLOSKEY. Mr. Speaker, the cargo preference bill we take up next week gets its primary support from two maritime labor unions, Paul Hall's Seafarers' International Union (SIU) and Jesse Calhoon's Marine Engineers' Beneficial Association (MEBA). In 1976, MEBA contributed $539,771.25 to Federal election campaigns. This figure amounted to $56.81 for each MEBA member, over 500 times the average given by nationwide members of the AFL–CIO, who contributed $0.11 per member. The second-ranking per capita union was the SIU, which contributed $348,720.32, or $29.06 per member. The next largest per capita contributor was the United Transportation Union, at only $2.52 per member, less than one-tenth of the SIU per capita rate, and less than one-twentieth of the MEBA rate.

The Village Voice recently published an article on the SIU's fundraising activities which provides some enlightenment as to the means by which political contributions are raised and the purposes for which these contributions are intended.

As the Baltimore News American pointed out last Sunday, October 2, some activities of the maritime or waterfront unions have helped make our U.S.-flag merchant marine unable to compete with foreign merchant marines. A careful reading of the following article by Phil Tracy may give some indication why:

THE STREET SMARTS OF A SEAFARING MAN

(By Phil Tracy)

MIAMI—A few weeks ago Fred Dent, the secretary of commerce, paid a visit to the Senate Commerce Committee to explain how the President's suggested oil import fees would affect the U.S. tanker fleet. What Dent told the senators in essence was that yes, the oil import quotas would screw the tanker companies by cutting down the amount of oil the U.S. imports, but that this didn't matter much, since their asses were already in a sling as a result of the depressed tanker market worldwide. When asked, Fred told the committee that the Ford administration's plan for dealing with the layoffs and shutdowns in the oil tanker industry was thoughtful prayer and a set of worry beads. As far as Ford was concerned, the tanker companies, and the sailors, and the shipbuilders who worked for them, were on their own.

Among the hundred or so lobbyists who showed up to watch Fred write off about half the maritime industry was a squat baldheaded guy who stood out in the crowd; looked like he had spent the night in the back of his car. What also set him apart was the fact that the outfit he works for has about half of Congress in its pocket. With any luck, before the year's end it will make mincemeat out of everything poor old Fred was sitting up there saying. You see, the guy was from the Seafarers, and when it comes to the U.S. maritime industry, the man who really calls the shots is Paul Hall, whose Seafarers International Union of North America pays cash on the barrelhead for every piece of legislation that concerns the shipping industry. It's been that way for 20 years.

Last year, for example, a fairly obscure piece of legislation came down the congressional pipeline which would have required at first 20 per cent and later, in 1977, 30 per cent of all oil imported into the U.S. to be carried in American-built ships manned by American seamen. To the average person that sounds like a fairly reasonable proposition; but then, the average person isn't aware that currently U.S. oil tankers only carry about 6 per cent of our imported oil, and we'd have to build close to 40 new tankers in order to meet the bill's requirements. Or that because of the Arab oil price hike people all over the world have cut own on oil consumption, and as a result there's a glut of oil tankers sailing around the world with half-empty tanks. And this bill would have added substantially to that pool of unused or underused ships.

Nor is the average person aware that the government spent $305 million to subsidize the shipbuilding industry in 1974, and plans to spend $281 million in 1975. Or that it spent some $219 million to subsidize seamen's wages in 1974, and will spend about the same again in 1975. Or that the ultimate cost of the bill in terms of higher prices would have run anywhere from $5 billion to $60 billion, depending on whose figures you use.

But there were 435 congressmen and 100 senators who were quite aware of all of these considerations, and the majority of them went ahead and voted to pass the bill anyway. They called it the Energy Transportation Security Act. It's a congressional tradition to try and work some national defense angle into a bill's title whenever it carries a particularly pungent odor. What they really should have called it was the Paul Hall Full Employment Act for Friends.

There were several truly aesthetic twists to this particular piece of legislation that only a connoisseur could appreciate. Big U.S. oil companies own a majority of the world's tankers, but most of them were built elsewhere—in Japan or Germany— and they are registered in places like Liberia or Panama, in order to avoid U.S. taxes. When profits on oil get too high, the oil companies simply have their shipping subsidiaries raise the price of hauling the stuff to the U.S. Then when it comes time to report profits in the U.S. the companies don't look quite so greedy. They don't pay as much in taxes, either. It's called transfer profits. One of the side benefits of the Paul Hall Full Employment Act would have been the gradual curtailment of this practice.

A bill could have been written requiring the curtailment of transfer profits without the necessity of building 40 or so tankers at an unknown cost to U.S. taxpayers. All they had to do was allow the oil companies to

reregister the tankers in the U.S. But that wouldn't have done much good for the shipbuilders, who are part of Paul Hall's power bloc. So instead the bill required that ships involved in the hauling of the preferential oil had to have been built in the U.S. It further demanded that even if the ships had been built in the U.S., but had been registered in another country, they had to go through a three-year "sanitizing" period before sharing in the preferential oil cargo.

Paul says he backed the bill written in this way because "Seamen can't go it alone. We have to help our friends in the shipbuilding industry or else they won't help us." I like to think he did it because he knew the oil companies would scream bloody murder (they'd have to buy the new ships) and their howls would give liberal legislators a populist rationale for this stone-cold giveaway. It allowed Senator Adlai Stevenson III, for example, to claim, "I support this bill because I represent American consumers, workers, and taxpayers, and oppose more oil industry rip-offs." Or Representative Shirley Chisholm, who told Fred Dent she opposed his position because "I have a tendency to look at things through humanistic eyes."

Faced with such bewildering complexities, Congress opted to do the one thing it does well: it lined its pockets. The legislators who had sold out to the Seafarers squared off against the boys who had sold out to the oil companies. The Seafarers won because, obviously, they owned more congressmen. And not just any old congressmen, but the key ones. In the House, for example, Frank Clark, a Democrat from western Pennsylvania, got $18,500 from Hall's maritime lobby last year, which alas wasn't enough to reelect him. Clark was chairman of the maritime subcommittee that reported out Hall's bill. The chairman of the full committee, Leonor Sullivan, got $5,500 in 1974. Other committee members who voted for Hall included John Murphy (New York), $6238.81; John Dingell (Michigan), $4000; Bob Eckhardt (Texas), $2500; Joel Pritchard (Washington), $2500; and David Bowen (Mississippi), $2000. Tip O'Neill, the House majority leader, got $16,000, even though he didn't have a Republican opponent last year. O'Neill gave the money to other congressmen, which helped increase his power in the House. All told, the maritime unions—Hall's Seafarers and the Marine Engineers Benevolent Association, principally—spent some $226,000 just on races in the House. With a handful of exceptions, all the money went to congressmen who voted Hall's way.

On the Senate side, the maritime boys were even more generous. Mike Gravel of Alaska clearly led the pack, with $46,300 in gifts or loans from the Seafarers and the Marine Engineers. He was followed by Russell Long, chairman of the commerce subcommittee that reported out Hall's bill. Long got $22,000. Long was also the floor manager for the bill in the Senate. Warren Magnuson, chairman of the full Commerce Committee, got $12,900. Magnuson sponsored the bill. The other Senate luminaries who voted for the bill and shared in the wealth included Alan Cranston ($18,000); Charles McC. Mathias ($19,000); Adlai Stevenson III, opposer of oil ripoffs ($12,500); the list goes on and on. The best mark of how bad things were is that Jack Javits gave back $8500 two days before he voted against the bill. The final vote in the Senate was 44–40; in the House, 266–136.

The only thing truly exceptional about the Energy Transportation Security Act, as far as the Hall's Seafarers Union is concerned, is that Ford vetoed the bill on December 30. Hall is accustomed to having even presidents do what he wants. The unique thing about Paul Hall and the seamen he represents is that the vast amount of power they wield on Capitol Hill is all out of proportion to the size of their international union. The SIU has a membership in the area of 35,000. Yet in 1974 it and its close ally, the Marine Engineers (13,000 members) spent close to one million dollars in Senate and House races. In 1938, Hall's union alone raised an incredible $1,028,458 for political contributions.

"Politics is porkchops" says the little ad that appears throughout the Seafarers monthly newspaper, Seafarers' Log. And indeed it is. Last year the government spent $501 million to keep the ailing maritime industry afloat. Yet year after year our legislators—the same congressmen and senators who voted to kill the Lockheed subsidy and scoffed at one for Pan Am—pass bills that hand millions to the maritime industry. Over the last 10 years it has been estimated that the government has poured $3.2 billion into our merchant marine. The money is used to subsidize shipyards like that in Brooklyn and the salaries of seamen who are members of the SIU.

The rationale is that since the U.S. Merchant Marine can't complete with the low salaries paid to foreign seamen or ship construction workers, the government must help offset costs by paying differential subsidies. It's not a new philosophy. Dumb and costly to the taxpayers, yes, but it goes on in other U.S. industries all the time. It's just that with the merchant marine it's become a way of life, and for Hill's Seafarers, it's nothing less than a great mandala.

Consider if you will: The government pays subsidies to the seamen. The seamen "give" contributions to the SIU political fund. The political fund, with Hall in the driver's seat, then gives the money to Congress, which in turn votes to give even bigger subsidies back to the seamen. The seamen profit. The Congress profits. And Paul Hall profits by growing stronger and stronger every day.

Of course there are a few problems. A lot of people don't recognize porkchop (Hall says it's an old sailor's term for "good eats") when they see one. Jerry Landauer of the Wall Street Journal has written a series of articles over the years about the methods Hall's Seafarers Union has used to convince seamen to contribute their part to the endless circle. He's shown how in 1974 seamen wanting to ship out were assessed "fees" to the political action fund before being given their shipping papers. The Marine Engineers prefer, according to a 1971 Landauer story, to solicit their pensioners, even though most of the retirees Landauer spoke to didn't even know their money was going to political campaigns. A lot thought they were contributing to a dental fund. And back in the late '60s, Landauer found dozens of Filipinos and Norweigian sailors working on American ships at high American wages, joyously contributing to the campaigns of American politicians. One is supposed to believe that no threat of firing or promise of employment was connected with these "donations." One can also believe in the tooth fairy.

The last example proved to be too much even for Richard Nixon's Justice Department, and in 1971 Hall and 17 other SIU officials were indicted under the Corrupt Campaign Practices Act. Then a strange thing happened. The Justice Department dragged its feet for two years and didn't prosecute the case. And in April of 1972 Judge Mark Costantino threw out the indictments because, he claimed, the Justice Department "was seeking an unfair advantage over the defendants" by not providing them certain materials: i.e., the names of their accusers. The good judge, who Bill Sherman of the Daily News revealed last fall was under investigation by the same Justice Department for possible underworld connections and an absolutely hilarious reversal rate came to his job on the federal bench by way of the Staten Island Civil Court. This is roughly equivalent to jumping from chief busboy at Blimpie's to head chef at Lutece. His appointment was arranged by Republican cronies, who pressured Javits into backing Costantino, even though the American Bar Association had found him unqualified for the post at first.

Then in October of 1972 the Justice Department decided not to appeal Costantino's ruling, reportedly at the behest of higher-ups in the Nixon administration. Three weeks later Hall's union kicked in $100,000 to the Committee to Reelect the President. The same day it made the donation, it borrowed $100,000 from Chemical Bank of New York, whose executive committee chairman, Harold Helm was also co-chairman of the Nixon Reelection Finance Committee. The loan was unsecured and reportedly given at a rate one-quarter or one-half a percentage point above the prime interest rate. Hall claimed the loan had nothing to do with the dropping of the indictments. Compared to this, the tooth fairy suddenly becomes eminently believable.

Just for the record, certain cynical reporters are of the opinion that the whole indictment, justified as it may have been, was nothing more than a sophisticated blackmailing operation designed to get Hall into Nixon's corner. The idea may have been planted in the collective head of the Nixon crowd back in 1958 when they watched the Seafarers contribute $100,000 to the Democratic party's campaign coffers only days after then Secretary of State Rusk refused

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Seafarers Union official, who was wanted up in Canada on charges of assault. The one thing about the Nixon crowd was that they bowed to no one when it came to recognizing a good shakedown.

If the cynics are right, the efforts of the Nixon crowd paid off in more than money. When the executive council of the AFL–CIO in November of 1973 called for the resignation or impeachment of Nixon, Paul Hall's was the one lone dissenting vote. Says Hall, "He (Nixon) was a good maritime President, and as I told you, we always stick with our friends."

"We're a kind of small group," Hall had said about the strength of the Seafarers, "so we need an awful lot of friends. If I want something from you, the best way for me to get it is to be the very best friend you have, and if we have to, your worst goddamn enemy." We were sitting together in a cabana facing the pale blue Atlantic. Hall was in Miami to chair the annual winter meeting of the Maritime Trades Department of the AFL–CIO, and he was giving me one of the most effective PR jobs I have ever received. A lot of writers call Hall gruff and crusty. They must be talking about some other guy. He's smooth as bonded whiskey, playing Alabama cracker or shipping industry expert, depending which is called for. Most other union presidents make it a general rule to tell reporters to go to hell. Hall is smarter. That's why he's one of the two or three people who get mentioned whenever there's speculation about who will succeed George Meany (if the AFL–CIO head doesn't go on living forever).

Take, for example, the thing Hall was saying about his friends. It's true. The Maritime Trades Department has some 44 unions affiliated with it, most of which have little or nothing to do with the maritime industry. But they join out of friendship with Hall, friendship won when Hall sent them some money during a strike, or threw up a picket line that shut off the supplies of the offending company. I asked Hall for some exam-

ples. He mentioned a steel strike in Bay City, Michigan, where Hall's seamen had thrown up a floating picket line of small boats. He also mentioned a strike by oil company employees that Tony Sabatine, of the Oil, Chemical, and Atomic Workers, had acknowledged the day before would have been disastrous "if you fellas hadn't pitched in and helped us." The next time Paul Hall calls for a favor, like not backing some offending politician, the steel workers and the oil workers will think twice before saying no. Even if they like the politician.

Nor does it end there. The Maritime Trades Department is divided up into Port Councils sprinkled around most major American cities. Thanks to the Army Corps of Engineers, even midwestern cities are now reachable by a connecting grid of inland waterways, all built at government expense—a subtle subsidy to the maritime industry, like the highway fund was a subsidy to the truck companies. The Port Councils don't have much money for politics but they have workers who can distribute campaign literature. All of this is designed to make friends for Hall's friends. And friends of his friends friends. Which in turn leads to things like Public Law 480, which says all of the Defense Department's supplies shipped overseas must go in American ships and was quite handy, friendshipwise, when the Vietnam War got going. That in turn led to the joyous contributions of the Filipinos and Norwegians who were sailing American ships because there weren't enough American sailors to fulfill Public Law 480's requirements. Or the 1970 Merchant Marine Act, which increased shipbuilding subsidies by $58 million in one year and operating subsidies by $97 million at the same time. Friendship is a powerful tool.

There is a chance the whole superstructure could crumble. Leon Jaworski's office looked into the $100,000 Nixon gift, and while stating he could find nothing to link it to the Justice Department's actions or Judge Costantino's decision, the former Watergate prosecutor suggested the Justice Department reinvestigate the case. It is doing that right now.

"We're hotter than a whore in church," says Hall. At one time, he said, "we had four different grand juries investigating us." Currently, Hall claims, Justice is looking into the Seafarers' Maritime School, located in Piny Point, Maryland, to see if the union's bos'un program also includes instruction on how to shake down sailors coming off the ships.

Yet Hall is confident, and why shouldn't he be? In the last five years no one has been found who was willing to stand up in court and point a finger at him. The maritime industry doesn't have its rough reputation for nothing. Besides, for every penny collected for politics, the Seafarers give receipts. And right on the receipt it says the contribution must be voluntary. Imagine what a good defense lawyer could do with something like that.

So the winter meeting of the Maritime Trades Department was far from gloomy. The Florida weather was good; the speeches and discussions brief. Addressing the Executive Board, Hall said of his Full Employment bill, "We want to take it on the slow bell and light up the guns and go again." The bills to do just that have already been introduced to both houses. And despite all the blather about the wonderfully reformed new Congress we have, Hall's chances this year are just as good, if not better, than they were in 1974. John Glenn of Ohio and Gary Hart of Colorado got $20,000 and $8,000 respectively from the maritime lobby. Each of them represents inland states. Will they extend the hand of friendship to the poor, lonely sailors of America? Let's wait and see.

DEFINITION OF INLAND FRESH WATER WETLAND TYPES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ABDNOR. Mr. Speaker, because of the large acreages of wetlands present in South Dakota, my staff and I have endeavored to become more familiar with Federal policies and programs affecting them.

Basic to an understanding of the issues surrounding wetlands is a clear definition of what they are. Although it is acknowledged that wetlands do not fit neatly into definite type classifications, the U.S. Fish and Wildlife Service has provided the following definitions for inland fresh water areas. It is felt these definitions are sufficiently distinct to serve satisfactorily in evaluations of wetlands:

Type 1.—Seasonally flooded basins or flats (pl. 1). The soil is covered with water, or is waterlogged, during variable seasonal periods but usually is well drained during much of the growing season. This type is found both in upland and depressions and in overflow bottom lands. Along river courses, flooding occurs in late fall, winter, or spring. In the uplands, basins or flats may be filled with water during periods of heavy rain or melting snow.

Vegetation varies greatly according to the season and the duration of flooding. It includes bottom-land hardwoods as well as some herbaceous growths. Where the water has receded early in the growing season, smartweeds, wild millet, fall panicum, tealgrass, chufa, redroot cyperus, and weeds (such as marsh elder, ragweed, and cocklebur) are likely to occur. Shallow basins that are submerged only very temporarily usually develop little or no wetland vegetation.

Upland depressions included in the inventory are confined largely to the three Lake States, the two Dakotas, Montana, and the Panhandle of Texas. In the northern States the presence of this temporary water stimulates high waterfowl production by providing greater area for the establishment of territories by breeding pairs. When water occurs abundantly in the Panhandle, the temporarily flooded basins (playas) are used extensively by migrating and wintering waterfowl.

The overflow bottom lands in the southern part of the Mississippi Flyway provide a major wintering area for ducks as well as good shooting sites for hunters. Particularly in good mast years, feeding ducks use bottom lands when they are flooded. Although there remain more than 10 million acres of overflow lands in Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana, most of the wintering waterfowl in this flyway concentrate in certain key areas.

Flyway area:	*Acres*
1. Pacific north	102,600
2. Pacific south	143,400
3. Central north	357,700
4. Central south	2,856,400
5. Mississippi north	1,134,000
6. Mississippi south	11,945,400
7. Atlantic north	1,200
8. Atlantic south	6,551,400

Type 2—Inland fresh meadows. (pl. 2). The soil usually is without standing water during most of the growing season but is waterlogged within at least a few inches of its surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants. In the North, representative plants are carex, rushes, redtop, reedgrasses, mannagrasses, prairie cordgrass, and mints. In Florida, cordgrasses and various species of paspalums and breakrushes are common. Meadows may fill shallow lake basins, sloughs, or farmland sags, or these meadows may border shallow marshes on the landward side. Wild hay oftentimes is cut from such areas.

Fresh meadows are used somewhat in the North by nesting waterfowl, but in most of the country their value is mainly as supplemental feeding areas. If shallow water can be impounded on them, their value can be increased considerably.

Flyway area:	*Acres*
1. Pacific north	43,200
2. Pacific south	289,500
3. Central north	578,800
4. Central south	40,700
5. Mississippi north	2,383,300
6. Mississippi south	68,700
7. Atlantic north	30,700
8. Atlantic south	4,083,700

Type 3—Inland shallow fresh marshes (pl. 3.) The soil is usually waterlogged during the growing season; often it is covered with as much as 6 inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. Common representatives in the North are reed, whitetop, rice cutgrass, carex, and giant burreed. In the Southeast, maidencane, sawgrass, arrowhead, and pickerelweed are characteristic. These marshes may nearly fill shallow lake basins or sloughs, or they may border deep marshes on the landward side. They are also common as seep areas on irrigated lands.

Marshes of this type are used extensively as nesting and feeding habitat in the pothole country of the North Central States and elsewhere. In combination with deep fresh marshes (Type 4), they constitute the principal production areas for waterfowl. Florida and Georgia are the only States where the majority of the shallow fresh marshes are considered to be of lesser importance to waterfowl. Florida alone contains more than 2 million acres of this type.

Flyway area:	*Acres*
1. Pacific north	33,700
2. Pacific south	64,100
3. Central north	817,600
4. Central south	84,600
5. Mississippi north	758,500
6. Mississippi south	15,300
7. Atlantic north	35,900
8. Atlantic south	2,159,900

Type 4—Inland deep fresh marshes (pl. 4). The soil is covered with 6 inches to 3 feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wildrice. In open areas, pondweeds, naiads, coontail, watermilfoils, waterweeds, duckweeds, waterlilies, or spatterdocks may occur. Waterhyacinth and waterprimroses form surface mats in some localities in the Southeast. These deep marshes may almost completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.

Deep fresh marshes constitute the best breeding habitat in the country, and they are also important feeding places. In the Western States they are heavily used by migrating birds, especially diving ducks. Florida and Texas are the only States in which the vast majority of these marshes are not rated as being of primary importance to waterfowl.

Flyway area:	Acres
1. Pacific north	92,500
2. Pacific south	62,500
3. Central north	686,500
4. Central south	46,800
5. Mississippi north	427,700
6. Mississippi south	21,500
7. Atlantic north	25,700
8. Atlantic south	984,100

Type 5 Inland open fresh water (pl. 5). Shallow ponds and reservoirs are included in this type. Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation (mainly at water depths of less than 6 feet) includes pondweeds, naiads, wildcelery, coontail, watermilfoils, muskgrasses, waterlilies, spatterdocks, and (in the South) water-hyacinth.

In the pothole country of the North Central States, Type 5 areas are used extensively as brood areas when, in midsummer and late summer, the less permanent marshes begin to dry out. The borders of such areas are used for nesting throughout the Northern States. Where vegetation is plentiful, they are used in all sections of the country as feeding and resting areas by ducks, geese, and coots, especially during the migration period.

Flyway area:	Acres
1. Pacific north	40,500
2. Pacific south	51,900
3. Central north	676,800
4. Central south	87,100
5. Mississippi north	1,000,200
6. Mississippi south	186,500
7. Atlantic north	12,000
8. Atlantic south	541,500

Type 6—Shrub swamps (pl. 6). The soil is usually waterlogged during the growing season, and is often covered with as much as 6 inches of water. Vegetation includes alders, willows, buttonbush, dogwoods, and swamp-privet. Shrub swamps occur mostly along sluggish streams and occasionally on flood plains. They are used to a limited extent for nesting and feeding in the North and for roosting and feeding in some of the Mississippi Alluvial Valley States. Elsewhere, shrub swamps are little used except in a few special situations.

Flyway area:	Acres
1. Pacific north	11,900
2. Pacific south	800
3. Central north	700
4. Central south	23,500
5. Mississippi north	2,912,400
6. Mississippi south	164,300
7. Atlantic north	77,800
8. Atlantic south	622,100

Type 7—Wooded swamps (pl. 1). The soil is waterlogged at least to within a few inches of its surface during the growing season, and is often covered with as much as 1 foot of water. Wooded swamps occur mostly along sluggish streams, on flood plains, on flat uplands, and in very shallow lake basins. In the North, trees, include tamarack, arborvitae, black spruce, balsam, red maple, and black ash. In the South, water oak, overcup oak, tupelo gum, swamp black gum, and cypress are dominant. In the Northwest, western hemlock, red alder, and willows are common. Northern evergreen swamps usually have a thick ground covering of mosses. Deciduous swamps frequently support beds of duckweeds, smartweeds, and other herbs.

Wooded swamps often occur in association with shrub swamps, and waterfowl often use the two types interchangeably. In the Southeast, Type 7 swamps become particularly important in years when lack of sufficient fall and early winter rains leave overflow areas dry. At such times, wooded swamps represent the only shallow water available over wide areas. This type is particularly useful to the wood duck throughout the range of this species.

Flyway area:	Acres
1. Pacific north	18,200
2. Pacific south	2,100
3. Central north	----------
4. Central south	39,000
5. Mississippi north	2,905,700
6. Mississippi south	2,813,800
7. Atlantic north	556,000
8. Atlantic south	10,473,200

Type 8, Bogs (pl. 8). These are often called pocosins, bays, and savannahs in the South. The soil is usually waterlogged and supports a spongy covering of mosses. Bogs occur mostly in shallow lake basins, on flat uplands, and along sluggish streams. Vegetation is woody or herbaceous, or both. Typical plants are heath shrubs, sphagnum moss, and sedges. In the North, leather-leaf, Labrador-tea, cranberries, carex, and cottongrass are often present. In the South, cyrilla, persea, gordonia, sweetbay, pond pine, Virginia chainfern, and pitcher-plants are common. Scattered, often stunted, black spruce and tamarack may occur in northern bogs.

Bogs have the lowest waterfowl rating, countrywide, of all the 20 types. In northern New England, however, they assume considerable significance. In Maine alone, 25,500 acres are classed as being of primary importance to waterfowl.

Flyway area:	Acres
1. Pacific north	1,400
2. Pacific south	1,500
3. Central north	100
4. Central south	300
5. Mississippi north	477,300
6. Mississippi south	46,100
7. Atlantic north	87,600
8. Atlantic south	2,733,500

INTERNATIONAL WOMEN'S YEAR: CALIFORNIA REPORTS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DORNAN. Mr. Speaker, on September 14 and 15, ad hoc hearings were held to look into the activities of the National Commission on the Observance of International Women's Year and its State and regional IWY conferences. A bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's IWY activities. All the witnesses who presented testimony were participants at IWY meetings or had attempted to participate. At these conferences women have adopted resolutions for the elected delegates to the upcoming National Women's Conference to be held this November 18 to 21.

The activities of the National Commission, including these conferences, have been funded with $5 million of Federal taxpayer's money. Because the Commission and the national conference will submit recommendations regarding the status of women to Congress and the President, Federal law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Unfortunately, there are increasing complaints that IWY officials are not complying with the "fairness" requirement of Federal law. Recently, IWY officials described the national conference as a "political convention" which must be used to "build momentum" for certain partisan interests. The information brought out during the ad hoc hearings point to a substantial misuse of Federal funds in regard to the State IWY meetings.

I am pleased that Mary Schmitz of Corona Del Mar was concerned enough with these activities which so deeply affect American women to travel to Washington, D.C. at her own expense to share her report on the California State conference with Congress. I commend to the attention of my colleagues her fine report:

CALIFORNIA TESTIMONY FROM MRS. MARY SCHMITZ

Mr. Chairman: I attended the entire four day IWY California Meeting. I have with me today notorized testimonies of over 100 women who also attended the meeting and were so shocked and concerned about the misuse of our tax moneys that they prepared these statements and collected funds to send our committee here today. We also have over 30 tapes of the workshops and the pictures on these posters for documentation.

The California meeting was completely controlled, manipulated, and used exclusively by a small segment of women representing the radical "women's lib" and lesbian points of view only. This was first exhibited in the selection of the Coordinating Committee. There was not one of the 81 members appointed by the National IWY who spoke against ERA, against federally financed abortions, or against the demands of the homosexuals.

Insurmountable barriers were created for those of us holding a different view.

Women's lib groups such as N.O.W. were informed in February of the June meeting. Anti-ERA, Pro-Life, religious and philanthropic womens groups never were notified. Out of a budget of $100,000, this committee proposed to spend only $900 for publicity even though all California women were to be invited to participate. Surveys of complete communities showed no knowledge whatsoever of the California meeting prior to the conference. Even a woman reporter for an Orange County TV station never heard of its happening until it was over.

We wrote a letter asking for a balance in point of view on the ERA. Not one effort was made to give those opposing ERA any official recognition or voice.

Those for ERA, such as N.O.W., were granted their demands for financial aid and specific workshops. If you stated you were from N.O.W. and wanted financial aid, your $5 registration fee was waived. I have such a receipt here. They were given paid bus transportation for the Saturday voting.

Huge "N.O.W." and "Lesbians Fight for Rights" banners covered sides of the official registration tent.

The lesbians had display tables of their unique equipment such as female masturbating wands, clitoral vibrators, vaginal speculums for self examination, suction devices for extraction of the menstrual discharge or for performing a self abortion. One pregnant woman looking at the devices was offered instruction on how to perform an abortion on herself. There were also rubber ——— for sale.

Also displayed and worn were buttons and tee-shirts with slogans such as "Clit Power", "Anita Sucks (with a graphic display of 3 oranges)", "Anita Sucks Other Things Besides Oranges", "——— Phyllis", "Stop Phyllis", "I Have Come Out Of The Closet—Now Get The Government Out of My Bedroom", "How Dare You Presume I'm Heterosexual", "Pray to God, She Will Help You", "Jesus Was a Lesbian", "Warm, Fuzzy Dyke", etc. Pornographic literature, such as a feminist coloring book with sketches of female genitalia to be colored, feminist newspapers, lesbian newspapers, Marxist literature, and socialist books were in abundance. "Cut the U.S. Defense" and "Stop the B-1 Bomber" leaflets were widely distributed. Arrangements in advance were not permitted for pro-life, pro-family or pro-America displays. A pro-life table was set up during the meeting but destroyed by a group of radicals who threatened bodily harm.

Not one person of our point of view was permitted to participate on any of several panels or to moderate any of the more than 100 workshops. Several workshops were available for lesbians and were titled as such in the agenda. "The National Women's Strike for Peace" had a workshop.

A workshop entitled Self Help Skills showed slide after slide of the female genitalia in larger than life size and instructed how to examine yourself. Several women left in disgust. A volunteer was requested for a live demonstration, but the audience did not respond.

Many facilitators were not qualified to run workshops. Their vulgar, 4-letter word language was offensive to most women. Others followed no rules. When too many of our women attended a workshop, some facilitators changed rooms and titles after the workshops began, which resulted in confusion and dispersion of participants. Lesbians and radicals were permitted to flock in, blocking the door and sitting on the floor, outnumbering us so we could not pass resolutions. Some of us were followed from workshop to workshop by crowds of lesbians for the stated purpose of not allowing us to have a majority. Beepers and runners were used to call great numbers of radicals to a session where they were needed to outnumber us.

Those holding traditional views were harrassed and threatened. One young man taking pictures of lesbians flocking into a session was given a count of 10 to leave. The counting mob quickly moved to surround him, blocking aisles and climbing over seats and people to advance on him.

One woman was actually kicked by a monitor to keep her from the microphone.

Presiding officers were biased in conducting Plenary Sessions. They disregarded Parliamentary procedure and made up rules to fit their needs. Nomination for delegates from the floor were closed illegally without the ⅔ vote.

No unbiased, paid professional parliamentarian was provided. The "Federal Officer" was an obvious sympathizer of the feminist IWY Commission.

Resolutions passed at the closing plenary session included:

1. Elimination of all veterans preferences in employment.
2. Sex Integration of prisons.
3. Federally financed free 24 hour child care for everyone, regardless of their ability to pay.
4. Federally funded lesbian mothers legal defense fund.
5. Wages for housework paid for by the government.
6. Alternative sex education to teach homosexual sex education in the schools without parental consent.

The day we voted for delegates, people were permitted to vote from out of state illegally and at least 4 bus loads of N.O.W. women were brought in and moved ahead of other participants to vote. Could the $4,000.00 in the financial statement used for busing have gone for the N.O.W. busing?

A list of names titled "Official Nominating List With Eleven Gay Substitutes" was distributed. Ninety-six delegates were elected to represent Calif. Women at the National IWY meeting in Houston this November. All except one of the delegates are from the "Gay" list.

Mr. Chairman, these women cannot represent Calif. women and the resolutions passed no way reflect the view of Calif. women.

We urge you to cancel the Houston meeting because the results can have no real meaning for Congress or the President.

With this experience with IWY, we strongly oppose any further public funding for IWY in the future.

NEWSPAPER POLL SHOWS CONGRESS ON RIGHT TRACK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, I wish to submit into the RECORD a recent poll conducted by the New York Daily News on several key issues related to the elderly.

While two-thirds of those surveyed opposed mandatory retirement at 65, the House's opposition was even more resounding. The vote on H.R. 5383, legislation curtailing mandatory retirement was a lopsided 359 to 4.

The House Ways and Means Committee yesterday voted down a proposal to increase to age 68 the time when persons could receive full social security benefits. This, too, was overwhelmingly opposed by the poll.

It is always gratifying to see Congress reflecting the views of the people. I submit the poll as clear evidence:

POLL: TWO-THIRDS OPPOSE RETIRE-AT-65

(By Mark Andrews)

Two thirds of the residents of the New York area oppose forced retirement at 65, The Daily News Opinion Poll shows.

Eight out of 10 of those interviewed said they oppose a proposal before the Carter administration to withhold full Social Security benefits until 68. And almost two thirds said they favor permitting some Social Security benefits to be paid at 60.

The poll conducted Aug. 15, 16 and 17, was a scientific random telephone sampling of 400 adults in the city and in Westchester, Rockland, Nassau and Suffolk counties. Richard F. Link of Artronic Information Services Inc. was consultant.

While the survey was being taken, Congress was considering several proposals to bar employers from requiring workers to retire at 65. On Sept. 23, the House approved and sent to the Senate a bill to prohibit mandatory retirement at any age in the federal government, and to raise the private sector's mandatory retirement age from 65 to 70.

As a companion measure to the pending bill, the administration is studying a proposal to withhold payment of full Social Security benefits until recipients reach age 68. Under current law, partial benefits may be paid at age 62 and full benefits begin at 65.

CITIES PENSION BURDEN

If people could work until they are 68 and then start receiving Social Security, the administration says, a tremendous burden could be lifted from the nation's pension system.

Respondents in the poll were asked: "Do you favor or oppose the present policy in many businesses of mandatory retirement at age 65 for employes?" The answers were:

	Percent
Favor	29
Oppose	67
Don't know	4

Forced retirement at 65 was opposed by 72 percent of those interviewed who were 50 and older, by 69 percent of those from 35 to 49, and by 60 percent of those from 18 to 34.

Those questioned were also asked: "The administration is considering withholding full Social Security benefits until age 68. Would you favor or oppose this?" The replies were:

	Percent
Favor	14
Oppose	81
Don't know	5

Another question was: "Do you think the present law allowing partial Social Security benefits at 62 and full benefits at 65 should be revised to permit some benefits at age 60?" The response was:

	Percent
Yes	65
No	27
Don't know	8

Do you favor or oppose mandatory retirement at 65?

	Percent
Favor	29
Oppose	67
Don't know	4

NATIONAL DAY OF PRAYER FOR THE YEAR 1977

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BEDELL. Mr. Speaker, I am today joining with the distinguished majority and minority leaders in introducing a joint resolution which would designate the third Thursday of December as the "National Day of Prayer for the Year 1977."

This year, the third Thursday in December is the 200th anniversary of the first congressionally designated day of Thanksgiving by the Continental Congress—December 18, 1777. This date marked the first time that a congressional sponsored day of Thanksgiving was celebrated in the United States.

I think that it is entirely appropriate for the Congress to proclaim December 18, 1977—the date of our Nation's first Thanksgiving—as a National Day of Prayer for 1977, and I am pleased that last Thursday, September 22, the Senate passed a resolution which would do just that. I hope that the House will concur with this Senate action without any unnecessary delay.

A copy of the resolution follows:

H. J. RES. —

Joint Resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977"

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Thanksgiving on the fourth Thursday of November (Public Law 77-379), and

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Prayer on a day other than a Sunday (Public Law 82-324), and

Whereas the third Thursday of December in the year 1977 marks the two hundredth anniversary of the first proclaimed Day of Thanksgiving by the Continental Congress, and

Whereas such a proclamation on this date has the support of the leaders and presidents of twelve national religious bodies in the United States, and

Whereas such date is already historic, patriotic, and sacred in the life of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that, in light of history, December 15, 1977 (such date being the third Thursday in December 1977) would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and the President is hereby respectfully requested, under Public Law 82-324, to issue a proclamation designating such date as a "National Day of Prayer for the Year 1977", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

AMENDING THE PACKERS AND STOCKYARD ACT

HON. RAY THORNTON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. THORNTON. Mr. Speaker, I am today introducing a bill to amend the Packers and Stockyards Act, 1921. It will provide that small rural auction barns operating in competition with one another will no longer be subjected to the needless burden of Federal regulation as public utilities, under which rates and charges can only be established after elaborate and costly application of Federal ratemaking machinery. However, it will not disturb the jurisdiction of the Secretary of Agriculture over the rates and charges of stockyards which operate without effective competition.

When the act was passed in 1921, the then-existing 71 terminal stockyards were, in effect, monopolies and, as such, properly amenable to regulation as public utilities. Congress therefore, appropriately gave the Secretary of Agriculture extensive jurisdiction over their rates and charges. However, by 1958 livestock marketing patterns had changed and a great volume of livestock was marketed through smaller stockyards known as auction barns, which were not subject to regulation by the Secretary. In fact, the industry had expanded to include some 1,600 such auction barns. Therefore, Congress amended the Packers and Stockyards Act in 1958 to bring the rates and charges of these auction barns under regulation by the Secretary. Unfortunately, Congress did not at that time, review the manner in which this jurisdiction should be exercised, which left in effect the old rigid, burdensome, public utility standards, standards which were entirely inappropriate in the new competitive marketing circumstances.

The decentralization of livestock marketing has continued and there are today more than 1,980 auction barns throughout the United States. Only 25 to 30 of these are of the type which Congress considered in 1921 and subjected to regulation as public utilities. In many instances, competition for business between these auction barns is fierce and these facilities serve assembly and exchange functions for a majority of the 1,437,000 farmers selling cattle and calves. The burdensome and costly Federal ratemaking procedures and standards which presently apply to the auction barns will drive many of these needed markets out of business.

The provisions of the Packers and Stockyards Act prohibiting discriminatory practices at all stockyards have served the small livestock seller and the industry well and should not be disturbed. However, there is, in my judgment, no valid reason for the Secretary of Agriculture to continue to regulate the rates and charges of small rural auction barns.

Accordingly, I am today introducing legislation to restrict the Secretary's authority to rates and charges at stockyards which either have annual sales volumes in excess of 100,000 animal marketing units or have annual sales volumes in excess of 20,000 animal marketing units and are located more than 75 miles from the nearest independently owned and operated stockyard. This bill will lift the burden of public utility ratemaking standards from small locally owned auction barns but will at the same time leave undisturbed the jurisdiction of the Secretary of Agriculture over the very large facility and the isolated facility at which there is no effective competition. In this way, the needs of the small livestock seller and the rural auction barns, will be served and the Secretary's jurisdiction preserved in those circumstances in which it is appropriate.

D.C. RETIREMENT REFORM ACT WOULD HAVE PREVENTED MASS EXODUS OF D.C. POLICE OFFICIALS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MAZZOLI. Mr. Speaker, I was disturbed to read in Wednesday's Washington Post that over 70 high ranking police and fire officials of the District of Columbia were retiring.

The Post noted that the retirements were prompted by a quirk in the police and fire retirement rules that make it profitable for employees to retire immediately before a pay increase is granted.

Under these congressionally enacted rules, a retiree's annuity is computed by averaging his highest year's pay and multiplying this base by various factors derived from length of service and disability. This annuity is then increased each time a pay raise is granted.

Thus, a policeman or a fireman retiring on September 30 would have his annuity increased by 7.05 percent on October 1. If the same policeman or fireman retired after October 1, his annuity would not be increased by the 7.05 percent.

If the other body passes the District of Columbia Retirement Reform Act, H.R. 6536, which passed the House on September 26 of this year, then this problem will be corrected.

This bill, which I sponsored, "decouples" retirement increases from current pay, and provides for annuity adjustments to be given based on increases in the consumer price index. Also, as in civil service, the increase in annuity will be given to those who retire immediately after an adjustment as well as to those who retire immediately before an adjustment.

This quirk is one of many bad practices and anachronisms in the current law that will be corrected by enactment of H.R. 6536. In view of these improvements, as well as the badly needed pension funding provisions of the bill, I hope the other body acts quickly on this measure.

I would like to insert the Washington Post article for my colleagues' information:

POLICE, FIRE VETERANS OPT OUT EARLY—MOTIVATED BY SPECIAL RETIREMENT BENEFIT

More than 70 veteran police officers and fire fighters in the District, many of them high-ranking officials, retired en masse last Friday to take advantage of a special retirement pay boost provided in recent City Council legislation.

The sudden exodus of deputy chiefs, inspectors and other officials has produced visible gaps in the hierarchy of the D.C. Police and Fire departments, U.S. Park Police, Capitol Police and the Executive Protective Service. Those officials remaining, including D.C. Police Chief Maurice J. Cullinane, say there is no reason for concern, and plenty of aggressive younger officers are eagerly awaiting promotions to fill the gaps.

The exodus, timed to beat an October 1 deadline for eligibility for an immediate 7.05 percent increase in retirement pay, includes 28 officers from D.C. Police, 22 from the D.C. Fire Department, nine from Park Police, nine from Executive Protective Service and four from Capitol Police.

Among those retiring were a deputy chief, two inspectors and two captains from D.C. Police and a deputy chief, an inspector and the only assistant chief of the Park Police.

The rash of retirements leaves the 4,185-member D.C. Police Department with only 140 officers who have 20 years or more experience.

"I'm not in the least bit worried," said Cullinane. "I've never seen the department

at a loss to function . . . It will require some reshuffling of men, but) it will give some younger men a chance for promotions."

Those who will be promoted, Cullinane said, "have had in-service training, and I think the younger men will do as well as if not better than (the retirees)."

He said the retirements will give "incentive to younger men to do better."

The pay bill that triggered the retirement stampede is emergency legislation enacted recently by the City Council to give police and firemen a pay raise comparable to the 7.05 percent boost just approved by President Carter for regular GS employees of the federal and District governments.

The City Council measure provided additionally that police officers and firefighters who were eligible for retirement (20 years or more service) could tack the 7.05 percent increase directly to their retirement annuity if they retired before Oct. 1.

This arrangement proved more attractive to some officers than staying on. If an officer continued in active service after Oct. 1, the 7.05 percent increase would be applied to his salary. Under the existing formula for determining retirement pay, it could take several more years of active duty before he could reach the same retirement pay he would get immediately by retiring before Oct. 1 and having the 7.05 percent increase applied directly to his annuity.

Straight on "voluntary" retirement pay by the police on fire department is computed at 50 percent of the highest 12-month period of active duty pay for the officer.

The fire and police pay raise bill has not yet been signed by Mayor Walter E. Washington and could conceivably be vetoed by him. He has until Oct. 13 to act on the measure.

On the one hand, he is under pressure to bring police and firemen into parity with GS employees. On the other, he has an opinion from Corporation Counsel John Risher, the mayor's chief legal adviser, saying the pay bill violates an earlier act of Congress that requires collective bargaining with fire and police unions, rather than direct legislation, on pay and other compensation matters.

The mayor was faced with a similar situation last year and let a fire and police pay bill go into effect by neither signing nor vetoing it, in effect, doing nothing.

Among high-ranking D.C. police officials who opted for the Oct. 1 retirement are Deputy Chief Arthur F. DiGennaro, head of community relations; Insp. Thomas J. Wolfrey, records division commander, and Insp. George R. Suter, head of the police and fire clinic.

Fire Department officials include Deputy Chief Scott L. Seymour, head of the training division, and Battalion Chiefs Lawrence Leary and Weldon L. Crider.

In the Park Police, both Assistant Chief Franklin A. Arthur and Deputy Chief Milton R. Lomax retired.

In the Executive Protective Service, retiring officials include Chief Earl Drescher, who went out on medical disability, and Deputy John B. Brophy, head of EPS operations.

SUNSET REVIEW—AN UPDATE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BLANCHARD. Mr. Speaker, the "sunset" concept as expressed in legislation awaiting consideration in both the House and the Senate has drawn considerable attention within Congress and by editorial writers during the past year.

As the principal sponsor of "sunset" in the House and in view of the regularity with which the term, "sunset" is used, I hope it will be useful for me to outline the status of "sunset" and its objective.

I submit for the RECORD a copy of my statement about "sunset" made today before the House Budget Committee.

Mr. Chairman and Members of the Budget Committee, the "sunset" concept as expressed in legislation awaiting consideration in both the House and the Senate, is continuing to grow and evolve with time. I urge you to give it your careful consideration and support in the weeks and months ahead.

In 1975 I introduced the "Truth in Budgeting Act" which had as its goal a regular review and audit of all federal spending programs from zero dollars up. In February of 1976 I was joined by Mr. Mineta of California when we introduced the "Government Economy and Spending Reform Act" which contained a "sunset" provision in order to force the periodic audit and review of all federal spending programs. An updated version of that bill which has 140 cosponsors in the House and 60 cosponsors in the Senate now awaits consideration by the Congress. In view of the evident popularity of "sunset" and the attention it has received in the news media, I think it is useful to outline its current status and its qualities. There has been some misunderstanding and misapplication of the sunset concept in the House, with some seizing upon it as a "gimmick" to terminate programs without any real review of them or, more importantly, without review of a program in relation to other similar federal spending programs. Therefore, it is also to clarify the purpose of sunset that this testimony is offered.

The "Sunset Program Evaluation Act", H.R. 8783, which is very similar to our earlier version, H.R. 85, was approved in the form of S. 2 by the Senate Government Affairs Committee in July.

The primary goal of this legislation is to bring about a rational system for evaluating all federal spending programs on a regular basis. "Sunset", in other words, in a constructive device to bring about that review.

With this legislation, we hope to do for congressional oversight and program review what the Budget and Impoundment Control Act of 1974 did for the setting of budget ceilings. In fact, I view "sunset" as a logical step in budget reform. How can we effectively deal with the setting of overall budget ceilings if we do not review and debate the component parts of that budget on a regular basis?

With this proposed legislation we aim to:

1. Establish a regular and systematic framework for reviewing all federal spending programs.

2. Establish a review of those federal spending programs of a related nature at the same time and in relation to each other.

3. Encourage communication between different committees which are dealing with similar programs.

4. Increase Congress's ability to choose between priorities and, by so doing, to put tax dollars to work more effectively.

5. And finally, by providing a more efficient structure, to give the American people a sense that government can be controlled and managed.

The need for program oversight is obvious. The federal budget and tax burden have reached a point where they can no longer increase at the same rate as in years past. If we are to deal with new problems, we must make better use of the funds we already have.

The "Sunset Program Evaluation Act" has as its core two simple concepts. First, that all federal programs should be reviewed periodically. And second, and extremely important, that programs in the same or similar areas should be reviewed at the same time so that duplication can be avoided.

Like all simple ideas, these can become extremely complex as soon as they are exposed to the legislative process. But they are the heart of sunset.

At present, federal programs have budget authorizations ranging from a single year to indefinite or permanent. This means that in any given year, a group of major programs can come up for reauthorization, leaving the committee which oversees them no time to deal with new legislation, and often, in fact, not even enough time to decide whether they are worth reauthorizing in the first place.

Likewise, programs within a single budgetary function may come up for reauthorization at different times, be administered by different departments of the federal government, and be under the jurisdiction of different committees. Under such a system, the chance for duplication must be, and is, high.

Thus, the justification for "suset", which seeks to force periodic review of related programs.

A brief summary of the major provisions of H.R. 8783 follows.

Review: All federal spending programs are reviewed once every three Congresses.

Functional groupings: The bill provides for review of programs within a single budget function during the same year.

Termination: If a program does not undergo review and reauthorization under the process set up by the bill, its funding would end automatically. This would not, by the way, affect the substantive laws which have given rise to a program—sunset is limited to the funding authorization.

Authorization and Termination: The termination provisions are tied to authorization, since it is the authorizing committees which are supposed to be responsible for oversight. Increasing use of "permanent" and "indefinite" authorizations has resulted in steady weakening of this oversight function, which "sunset" aims to strengthen.

Intensive Evaluation: In addition to the termination and review process, the bill contains a means for Congress, and individual committees, to select individual programs for a complete, top to bottom evaluation. This provision is similar to the zero base review concept which earlier bills would have applied to all programs, and which was eventually dropped because of the enormous work load which would have resulted. By setting forth standards for such an in-depth evaluation selective basis, the bill provides more flexibility for dealing with a wide variety of possible situations. The authorizing committees retain most of the responsibility for selecting programs to be evaluated, in keeping with their oversight function.

Inadvertent Termination: H.R. 8783, like the new Senate bill, contains a safeguard against inadvertent termination which I first suggested in my original sunset bill in 1975. It provides a method by which a program can be extended without going through the full reauthorization process, but at a level of funding no greater than the previous physical year. Such a provision is necessary to prevent "back door" termination by means of filibustering, refusing to hold hearings, or other tactics which would prevent Congress from being able to vote on a program.

Review Standards: Like its predecessors, the bill sets forth criteria by which reviews are to be conducted, so that some measure of standardization can be achieved. These standards are minimums rather than maximums, so that individual committees can add them if desired or needed.

Mr. Chairman, I believe the sunset review approach to the federal budget is not only essential, but long overdue. I urge you to take this into account in your deliberations.

Mr. Speaker, I believe the "Sunset Program Evaluation Act" and its predecessors offer a logical, needed and useful extension of the budget process. I com-

mend it to the attention of my colleagues in the hope that they will share my view.

SANTA MONICA MOUNTAINS NATIONAL PARK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, the Santa Monica Mountains are a unique natural resource which southern California is very fortunate to have. This coastal mountain range neatly bisects the city of Los Angeles before reaching the Pacific coast and becoming the Channel Islands several miles offshore.

Although development in our heavily urbanized metropolitan area has made inroads into the mountains, the Santa Monicas retain large areas of untouched land, harboring a vast array of scenery, wildlife, and untouched beauty. They represent an unparalleled opportunity to create a national park located virtually downtown in one of our Nation's greatest cities.

Along with my distinguished colleague from California, Representative ANTHONY BEILENSON, I have cosponsored legislation aimed at making the dream of a completely protected Santa Monica Mountains National Park a reality. Mr. BEILENSEN is to be congratulated for the efforts he has made to insure passage of the bill, and I certainly hope that we in Congress can enact this legislation during the current 95th Congress.

At this time, I would like to insert the following article from the Los Angeles Times into the CONGRESSIONAL RECORD. It gives an excellent account of the natural beauty of the Santa Monica Mountains, and of the efforts being made to preserve them:

[From the Los Angeles Times, Oct. 6, 1977]

SANTA MONICAS: U.S. PARK? THINGS ARE LOOKING UP

(By Robert A. Jones)

The Santa Monica Mountains begin at the intersection of Figueroa St. and Riverside Drive in Los Angeles and run westward for about 50 miles, through Hollywood, then Beverly Hills and finally into wilderness above the Malibu Coast.

They are neither the highest nor the most spectacular mountains in this country; in fact, they are not even close. But in one sense the Santa Monicas are unique: They are the only mountain range in this country to bisect a major American city.

Though most of the range has been heavily developed—the Hollywood Hills, for example are part of the system—the Santa Monicas still contain huge sections of open land, chaparral-covered hills, canyons filled with groves of live oaks, savannahs and mountain meadows. For 20 years the idea of a national park in the mountains has been promoted by conservationists and several government agencies. And for 20 years the idea has met with frustration and failure.

While other cities, most notably San Francisco and New York, have acquired large federal parks within or near their borders, efforts in Los Angeles have been stymied. A major problem has been price. Congress on several occasions has looked at the projected cost—now estimated at $100 million—and sent the park supporters home with their plans in their lap.

But now, almost unexpectedly, the Santa Monica Mountains have become one of the hottest federal park prospects in the nation. An ambitious proposal for a national park and seashore has been submitted by Rep. Anthony Beilenson (D-Calif.), and conservation organizations are predicting that some form of the bill will be passed by Congress next year. Perhaps more importantly, several key congressmen agree.

"I think it's gonna go," said Rep. Phillip Burton (D-Calif.), chairman of the House subcommittee on Parks and insular affairs. "We have this valuable open space in Los Angeles, it's right there waiting for us, and we should move as quickly as we can to preserve it. The mountains won't stay unspoiled forever."

The overall change in the prospects for a federal park in the Santa Monicas has not been produced by any single factor but rather by the accumulation of several smaller events. Among them are these:

New leadership in several critical congressional committees has brought congressmen sympathetic toward urban parks into positions of influence. Most important for the Santa Monicas was the appointment of Burton to head the House subcommittee on parks and insular affairs. In addition, the idea of a national park is receiving the active support of several Southern California congressmen, including Reps. Barry Goldwater Jr. (R-Calif.) and Robert Lagomarsino (R-Calif.).

The creation of the Santa Monica Mountains Comprehensive Planning Commission. Though the state commission has no authority to limit development in the mountains, it has served as a forum on the future of the Santa Monicas and focused attention on the prospects for a federal park.

A commitment by the Carter Administration to renew the federal government interest in urban parks.

A growing realization that the mountains, if not protected soon may not be worth protecting at all. "We must move quickly," Los Angeles Mayor Bradley told a congressional subcommittee recently, "(The Santa Monicas) have been preserved because the economics of development made building impracticable. That will not always be so."

In its present form, Beilenson's proposal would establish the Channel Islands and Santa Monica Mountains National Park and Seashore. Though no acreage figure is specified in the bill, it has been estimated that 30,000 to 40,000 acres would be acquired on the mainland using $100 million authorized by the bill.

Another $50 million would be used to acquire Santa Cruz and Santa Rosa islands in the Santa Barbara Channel. The bill currently has 31 cosponsors in the House, and similar legislation has been submitted in the Senate by Sen. Alan Cranston (D-Calif.)

According to Beilenson, the national park also would incorporate the 27,000 acres of three existing state parks—Malibu Creek, Topanga and Point Mugu—established in the Santa Monicas over the past decade. With the combined federal acquisitions and state parks, the total mainland acreage in the national park could reach 70,000 acres.

With the exception of the state parks, all lands for the park would be acquired from private holdings. While no precise boundaries have been established, conservationists have estimated land costs at $1,000 to $4,000 per acre.

In a recent interview, Beilenson noted that the concept of a federal park has received nearly unanimous support from local and state officials. So far his bill has been endorsed by the City Council, the county Board of Supervisors and Bradley. And at a recent committee hearing on the proposal California Resources Secretary Huey Johnston said the state "cherishes" the idea of a federal park in the Santa Monicas.

"I don't think we should take this support for granted," Beilenson said. "It's here now and we should use it. It seems to me we are in a now-or-never situation."

In part, support for the park also stemmed from a growing realization that the Santa Monicas offered a wide range of recreational opportunity.

Once considered—and still thought by some—to be a region of dusty roads and inpenetrable, brush-covered hills, the Santa Monicas are increasingly recognized as a far more complex area. The oak-covered canyons can offer refuge from the summer heat; the open savannahs are often warm and sunny, even in the winter when other recreation areas are closed.

"Most people get their impression of the mountains from driving along the major roads. Unfortunately these roads pass through some of the least-interesting areas," said Joseph Edmiston, executive director of the Santa Monica Mountain Planning Commission. "You have to get off the roads to appreciate the real quality of the mountains."

Amazingly, some of the mountain areas remain nearly pure wilderness, even though they may be less than an hour's drive from 6 million people. Several families of mountain lions roam the remote hills, along with golden eagles, great blue herons and ospreys. Some of these areas have rarely if ever been visited by man.

Nonetheless, creation of a federal park in the Santa Monicas does face problems. The Carter Administration has not endorsed the plan and some local conservationists fear that a study by one federal agency, the Bureau of Outdoor Recreation, might suggest other approaches to federal recreation areas in the Los Angeles area.

"There is concern that the Bureau of Outdoor Recreation does not see the Santa Monicas as an urban park," said Susan Nelson, president of Friends of the Santa Monica Mountains. "If they regard the Santa Monicas as competing, in terms of funding, with Central City parks, they may decide to deemphasize the mountains."

Lost of support by the Carter Administration could be crucial, but Bureau of Outdoor Recreation officials deny that their report alone will form Administration policy. "We are looking at the Los Angeles area and will make some suggestions," said planner Meg Mequire of the agency report which is due next January. "But I doubt the suggestions will be that definite. They will probably be in the form of a number of alternative approaches."

The critical question before the Carter Administration, conservationists believe, is whether the Santa Monica park would effectively serve the urban poor. "We believe the mountains are crucial to Central City needs," Mrs. Nelson said, "In 25 years the Santa Monicas could very well be within the Central City themselves. They should not be seen as competing with downtown parks and high-intensity recreation."

To help insure that the poor will not be excluded from park use, Beilenson has included in his bill a directive to the Secretary of Interior to develop a regional transportation plan for park use. Such a system likely would involve the use of regular bus service to the park from the city.

The Beilenson bill also could face problems from other members of the California delegation. Reps. Goldwater and Lagomarsino, while endorsing the concept of a federal park, both support a somewhat different approach to the park's funding and management.

The two congressmen have introduced in Congress their own proposal for a National Santa Monica Urban Park which would require matching funding by state and local governments. And the park itself would not

be managed by the National Park Service—as specified in the Beilenson bill—but rather by a local park commission.

This play has only the tepid support of conservation organizations and even less from subcommittee Chairman Burton, but aides to Lagomarsino point out that it may more closely resemble the approach to urban recreation areas taken by the Carter Administration. If so, they say, approval could more easily be won from Congress.

In fact, Beilenson appears to have lost the first skirmish over the final design of the park plan. Under the Beilenson bill, the Santa Monicas would be linked to an expanded number of federally owned islands in the Santa Barbara Channel. These additions were opposed by Lagomarsino on the grounds that it would complicate passage of the bill and his arguments appear to have won over Burton.

While stating that he has no "negative disposition" toward the islands, Burton noted that the Nature Conservancy last week moved on a private basis to acquire and preserve Santa Cruz, one of the target islands in the Beilenson bill. That action, he said, has removed much of the urgency for federal protection. "The islands will have to be handled on a separate basis," he said. "I just think we are well advised to get what we can now and deal with the islands at a later time. Sometimes these things are best dealt with incrementally."

Finally the proposed national park faces a possible obstacle from the state of California. While supporting the park idea, Resources Secretary Johnston has indicated the state may insist on compensation for state parklands included in the national park, either in cash or in the form of a land trade.

While conceding that such a demand could create a wariness in Congress toward the park plan, Johnston insists that such compensation would result in additional parklands for Southern Californians through further state acquisitions.

Additionally, Johnston argued that Los Angeles area residents presently have received only about 88 cents per capita in the form of federal open-space monies. Statewide, he says, the average is closer to $5 per capita. "Los Angeles deserves better treatment than they have received in the past," Johnston said.

Though some hope that the state will not insist on compensation for its park land, local conservationists have long made arguments similar to Johnston's. Los Angeles, they say, is one of the poorest park regions in the nation. A study by the Friends of the Santa Monica Mountains showed, for example, that only about 4 percent of the city's total area is devoted to parks, as opposed to about 14 percent in New York and 16 percent in San Francisco.

"This situation is finally sinking in," Mrs. Nelson said. "We think people are becoming conscious that Los Angeles needs far more room for recreation. We think our time has come."

FB–111 MODIFICATIONS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. LLOYD of California. Mr. Speaker, I will be offering an amendment to H.R. 8390, supplemental defense authorizations. The amendment will strike $20 million in funds for FB–111 modifications. The amendment follows:

Page 3, line 17, is amended by striking "$306,500,000" and inserting "$286,500,000".

WE ARE THE ARMS MERCHANT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. KOSTMAYER. Mr. Speaker, I rise today to share with my colleagues the words of a Pennsylvanian concerned about the United States' role in the international arms market.

In recent debates on the floor of the House—including the debates on the Clinch River breeder reactor project and the ERDA authorization for the "neutron bomb"—the subject of nuclear arms proliferation has been subjected to close scrutiny. We must not forget, however, that over the recent years there has been a dangerous proliferation of sales of so-called "conventional weapons." This trend is just as frightening.

Mr. Eric Prokosch of NARMIC (National Action and Research on the Military Industrial Complex) has eloquently stated this problem in a recent article in the Philadelphia Inquirer. I commend this article to my colleagues and hope that the Congress can act responsibly when we take up the subject of arms control in the future:

WE ARE THE ARMS MERCHANT

(By Eric Prokosch)

When U.S. Senator Hubert H. Humphrey's Subcommittee on Foreign Assistance meets this month for hearings on President Carter's new arms sales policy, one problem they will want to consider is the proliferation of cruel and inhumane nonnuclear, or "conventional" weapons.

The President's recent study of U.S. arms sales policy singles out "napalm, flamethrowers and certain incendiaries, fuel air explosives (and) cluster bombs" as "weapons, the misuse of which are (sic) particularly sensitive from a political, humanitarian, or diplomatic point of view."

According to the study, proposed sales of these weapons are currently "subjected to special examination" under "informal guidelines" which "serve to retard the export of these sensitive items." But Defense Department records reveal that there have been many sales of these and other "sensitive" items.

The records are in the form of "case listings" of arms sales under the Foreign Military Sales program and were obtained under the Freedom of Information Act by the Military Audit Project in Washington and by NARMIC, the Philadelphia-based Quaker research group.

According to the case listings, which cover the years 1970–76, flamethrowers went to such diverse countries as Argentina, Spain, and Venezuela. Taiwan bought service kits for portable flamethrowers and Australia got an order of "fuel thickener," presumably for incendiary devices. Italy bought U.S. 750-pound napalm bombs.

Riot control equipment is another category well represented in the case listings. Tear gas grenades were sold to Austria, Norway and Taiwan. Australia bought 40mm. chemical projectiles and Colombia contracted for repair of portable gas dispensers. Argentina in 1975 bought "chemical agent rockets" from the United States.

The flechette, a small nail with fins, is one of the more gruesome weapons of our time. In Vietnam they were reported to have torn attackers to shreds and nailed enemy soldiers to trees. Artillery shells packed with thousands of flechettes have been sold, according to the case listings, to Spain and Israel. Shells of this type are reported to have been used in the Middle East war in 1973.

Antipersonnel cluster bombs, first used in Vietnam, are now being exported as well. These are containers filled with hundreds of small grenades or "bomblets" which are dropped from aircraft and spread to cover wide areas of ground. With hundreds of bomblets exploding into lethal high-velocity slivers of metal over an area the size of nine or ten football fields, the innocent are bound to suffer along with whatever soldiers may be in the area.

According to the Defense Department's case listings, Greece, Turkey, and Iran have been sold the CBU–58 cluster bomb—an "improved" variety of the "guava" bomb whose use in Vietnam aroused much protest.

Turkey, Iran, and Israel have bought the "Rockeye," an antitank cluster bomb that has an antipersonnel "fringe benefit" in the words of a Navy witness at a 1966 Congressional hearing: the bomblets burst into fast-moving fragments and "if you have a concentration of personnel, would be damaging to the personnel" as another Navy witness stated at the hearing.

President Carter's courageous decision last February to ban the sale of the fuel air explosive or "concussion" bomb is an important step toward the ultimate goal of ending all arms aid and trade.

It remains to be seen whether the President will take the next step by extending this ban to other weapons that are particularly abhorrent from a humanitarian point of view.

In the meantime, Senator Humphrey's subcommittee would do well to investigate the adequacy of existing controls in the light of the numerous questionable sales shown in the Defense Department case listings.

PANAMA CANAL TREATIES

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CORRADA. Mr. Speaker, Tuesday, I testified before the Senate Foreign Relations Committee which is currently considering the provisions of the proposed Panama Canal Treaties.

In my testimony I expressed my support for these treaties as I believe they are a fair and equitable resolution to this long-continued standing controversy while assuring our national security. In addition, I am convinced the treaties are in the best interest of our Nation.

Mr. Speaker, I welcome the national debate on the ratification of these treaties and would like to include my testimony for the RECORD:

TESTIMONY OF THE HONORABLE BALTASAR CORRADA

Mr. Chairman, Members of the Committee: My name is Baltasar Corrada, Resident Commissioner of Puerto Rico to the United States Congress, and members of the House of Representatives. I am very pleased to be given the opportunity to testify today on the proposed Panama Canal Treaties. I have a short statement that I would like to read and I will then answer any questions that you may have.

I have asked to be heard by the Committee because it seems to me that we Puerto Ricans are in a very unique position as citizens of the United States as well as residents of the Caribbean of hispanic heritage, to understand the significance of these treaties for our nation and for our relations with Latin

America. Puerto Rico lies halfway between the U.S. mainland and the Canal. From our particular vantage point, I will share my views with you.

Although I am aware of the concern of some people about a possible threat to our national security, I do not believe that our safety is imperiled as a result of the ratification of these treaties. I would like to state from the outset that the proposed treaties have my full support as well as the endorsement of the Governor of Puerto Rico, the Honorable Carlos Romero Barceló. Governor Romero was one of the first governors to encourage the ratification of these treaties at the recent Southern Governors Conference held in San Antonio.

We realize and share in the strong belief that these treaties represent a fair and just resolution of a long standing and delicate dispute between our nation and the Republic of Panama. A dispute, may I add, that has become an issue in terms of our relationship with all the nations of Latin America who will judge our actions in this matter to view us as fair and open-minded or as recalcitrants who insist in perpetuating an old agreement not morally justified on the basis of today's standards for international relations.

A major question and one which I find people are most concerned about revolves around what they perceive to be a giving away of something that is rightfully ours. A close examination of the provisions of the Hay-Bunau-Varilla Treaty, particularly Articles II and III, however, will show that while the words "in perpetuity" were used in granting the United States control over the land for the purpose of the construction of the canal, and that Article III provides that "the United States would possess and exercise all the rights, power and authority (as) if it were the sovereign of the territory," the United States has never asserted sovereignty in one very important characteristic inherent to a claim of full territorial jurisdiction: the citizenship of persons born within its boundaries. Children of non-U.S. nationals which are born within the boundaries of the Canal Zone are not considered U.S. citizens. I believe this to be a very important point as we have extended our citizenship to those persons born in places where we have full jurisdiction; the absence of that policy in this case shows that we never intended to assert full sovereignty over the Canal Zone.

In addition, there are two other points which we need to emphasize in order that our people will fully understand the purpose of these treaties. First, the continued protection of our national security interests are ensured by the provisions in the treaties which continue our exercise of control over the defense of the Canal until the year 2000 and guarantees the neutrality of the Canal into the 21st century and beyond. Moreover, the United States is guaranteed passage of its ships during a time of war regardless of the nature of their cargo, and the United States will continue to supervise the access to the Canal area on both the Atlantic and Pacific ends. We are thus assured that, should the need arise, the uninterrupted use of the Canal would be guaranteed.

A third main point concerns the commercial use of the Canal. In recent years our use of the Canal has declined as it is not equipped to handle the super-tankers used today. Many people are not aware that only about 4 percent of the trade between the East and West coasts of the United States is handled through the Panama Canal today. Even so, this commercial navigability is not endangered or precluded by the ratification of the Canal Treaties; on the other hand, both the United States and Panama commit themselves to a joint study to determine the feasibility of a new sea-level canal. Such a study and possible construction, I submit, would not be possible without an overall evaluation of the 1903 Treaty. Looking at it pragmatically, by the enactment and ratification of these treaties we are ensuring the possibility of increased use of the canal by our ships and tankers through the expansion of the existing Canal or the construction of a new one, something which would otherwise have been extremely difficult, if not impossible under the terms of the existing treaty.

Lastly, we must remember that Ambassadors Bunker and Linowitz are men of vast experience dedicated to the achievement of a mutually equitable treaty. If people would read and analyze the provisions of these treaties, the notion that this is a one-sided deal, beneficial to the other party at the detriment of our interest, would be dispelled. Our interests and security have been and will continue to be protected by the ratification of these treaties.

This brings me, Mr. Chairman, to what I consider to be a significant consequence of these treaties; to enhance our reputation in the world community, particularly amongst our neighbors in Latin America. The 1903 Treaty has long been considered a blot in our international reputation. While one can understand and sympathize with the pressing need in the United States during the early 1900's for a route connecting the Atlantic and Pacific oceans, one cannot help but be critical of the 1903 Treaty. It seems inconceivable that a fair and equitable treaty could be worked out within days of the proclamation of the new Republic of Panama. It is not surprising that the Panamanians later resented and resent the terms of the treaty. The 1964 riots exacerbated an already smoldering situation and determined without question that a solution had to be reached in order to avoid a major crisis. It was impossible to maintain the status quo but it would have been foolish to undertake any precipitous agreements. The fact that the negotiations spread over a thirteen year period under Presidents Johnson, Nixon, Ford and Carter attest to the thorough deliberations that took place. We can be justly proud and sure that the ratification of these treaties will result in a better appreciation and support of our intentions in the area and in Latin America.

Mr. Chairman, the United States has traditionally been the defender of the interests and rights of other people. Here we are putting our words to action by correcting a situation which concerns our friends and allies offered grounds for criticism to our enemies. We had entered into a treaty where the two parties had not been equal in the fullest sense of the word; we can remedy that situation by the ratification of these treaties and I urge the Senate to act favorably on them.

Thank you.

PROTECT PENSION PLAN EARNINGS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. CUNNINGHAM. Mr. Speaker, several weeks ago, I received a letter from Washington Governor Dixy Lee Ray which pointed out that the Internal Revenue Service is now requiring public pension plans to file cumbersome forms to qualify for tax exemption under the law. She then said that IRS is also threatening to tax the deposited funds based on the interest earned by them if they are found not to qualify for exemption under the law.

Governor Ray referred me to legislation in the Senate sponsored by Florida Senator DICK STONE which would exempt the earnings of public pension plans from taxation until they were paid out to the fund participants. Since there was no primary sponsor in the House for this legislation, I contacted Senator STONE and have introduced identical legislation in the House, H.R. 9118.

Such legislation is favored by the National Governors Conference, the Municipal Finance Officers Association, and other organizations. In addition, I have been in contact with the National League of Cities and the National Education Association. They have expressed an interest in exempting the fund earnings of public pension plans from the threat of taxation.

If a pension fund is on a pay-as-you-go basis, it is considered exempt from taxation if it is supported by a governmental unit such as a State, a city, or a teacher retirement program. However, if a governing body has determined that the funds would better be administered by a semiautonomous body, it is very possible that the IRS may treat these public pension plans the same as private plans and seek to tax the earnings of the plans before they are paid out to participants.

Mr Speaker, I am told by the Congressional Research Service that all public pension plans are subject to the threat of taxation and the burden of filing IRS form 5500 as well as detailed antidiscrimination forms. It is possible that all of these plans filing such forms may be considered liable for taxation under the law. Already Missouri has felt the sting of this tax burden and is appealing the IRS ruling from the argument of simple equity. How can the taxpayers of a governmental unit be expected to pick up the tab for the additional taxes is might take to replenish the loss of accumulated income, drained off by such taxation? How can a retirement fund be expected to maintain its actuarial soundness if it is constantly being drawn upon for the payment of Federal taxes? Finally, Mr. Speaker, how can we expect public employees to bear the burden of double taxation of their fund contributions and earnings both while they are in the fund and when they are paid out?

H.R. 9118 simply exempts such public pension funds from taxation. There are currently 15 co-sponsors of Senator STONE's legislation in the Senate. Today I am reintroducing with cosponsors this important bill. I believe it potentially affects all public pension plans in the country.

I am pleased that more and more Members are joining me every day in support of this idea whose time has come. I am particularly appreciative of the support of Mr. KINDNESS, Mrs. SPELLMAN, Mr. BADHAM, Mr. GUYER, my colleague from Washington Mr. PRITCHARD, Mr. EILBERG, Mr. ROE, Mr. DER-

WINSKI, Mr. PANETTA, Mr. STANGELAND, Mr. BEVILL, Mr. AUSTIN J. MURPHY, Mr. CRANE, Mr. HARRINGTON, and Mr. J. HERBERT BURKE of Florida and I welcome other sponsors of this legislation.

For the interest of Members, here is a copy of H.R. 9118:

H.R. 9118

A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501(c)(11) of the Internal Revenue Code of 1954 (relating to teachers' retirement fund associations) is amended to read as follows:

"(11)(A) Retirement systems, trusts, or funds of a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision or a State.

"(B) Teachers' retirement fund associations of a purely local character, if—

"(i) no part of their earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

"(ii) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect to investments.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after September 2, 1974.

SEC. 2. (a) Section 6058 of the Internal Revenue Code of 1954 (relating to information required in connection with certain plans of deferred compensation) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) EXEMPTION.—This section shall not apply with respect to plans maintained by a State, a political subdivision of a State, or an agency or instrumentality of a State or a political subdivision of a State.".

(b) The amendment made by subsection (a) shall apply with respect to plan years beginning after September 2, 1974.

SEC. 3. (a) For purposes of the Internal Revenue Code of 1954, a retirement system, trust, fund, or fund association described in section 501(c)(11) of such Code shall be treated as if it met all requirements for qualification under section 401 of such Code.

(b) This section applies with respect to plan years beginning after September 2, 1974.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. WYDLER. Mr. Speaker, our responsibility as legislators includes not only the enactment of laws, but also oversight and periodic reevaluation of the actual effect these laws are having in practice. All too often, I am afraid, the measures we enact either do not "work" the way Congress intended, or have a range of deleterious side effects that offset whatever good the act may be accomplishing.

In considering enactment of a measure we, of course, hear testimony from many interested members of the public. It is perhaps even more important that, in the oversight and reevaluation process, we listen to informed members of the public who are familiar with the way an act is actually working day by day.

The Subcommittee on Compensation and Health and Safety of the Committee on Education and Labor has been holding oversight hearings on the Longshoremen's and Harbor Workers' Compensation Act, and in this connection I would like to call to my colleagues' attention the following article, written by Albert J. Millus and Joseph F. Manes, entitled "The Longshoremen's and Harbor Workers' Compensation Act—A Statutory Disaster and Administrative Nightmare." This article appeared in the Insurance Advocate in April of this year.

Mr. Millus is executive director of the State Insurance Fund of New York, and also has considerable academic experience in the insurance and compensation law field. He recently testified before the Compensation Subcommittee during their hearings on this act. Mr. Manes is a practicing attorney with 25 years of specialization in the field of Federal and State compensation claims. Mr. Millus and Mr. Manes have done thorough research on this matter, having collaborated on a text book, to be published in October, entitled "The Longshoremen's and Harbor Workers' Compensation Act and Its Extensions." Their article on this subject follows, and I commend it to my colleagues:

THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT—A STATUTORY DISASTER AND ADMINISTRATIVE NIGHTMARE

(By Albert J. Millus and Joseph F. Manes)

This year marks the golden anniversary of the Longshoremen's and Harbor Workers' Compensation Act. Conceived with the best of intentions it was signed into law on March 4, 1927. But between the laying of the keel and the launching of the ship, there were many a slip so that what floated off the dry dock, in retrospect, should have been dismantled before it hit the water.

Following the passage of the original Act.[1] there had ensued a plethora of litigation for the next 35 years which defeated the concept of a self-executing statute which was intended to provide speedy medical and monetary benefits to an injured employee or his representatives with a minimum of litigation.

If legislators ever set out to write legislation which would keep judges and lawyers fully occupied for 35 years unraveling what was put together, they could not have drafted a more effective piece of legislation for this purpose than the Longshoremen's and Harbor Workers' Compensation Act.

To put the Act in proper perspective, it is necessary to review the legal history influencing the passage of the original Act and the leading decisions thereafter. The tortured tale starts with the much criticized decision in *Jensen* v. *Southern*[2] *Pacific Co.* in 1917 in which the Court[3] denied benefits under a state compensation law to a widow of a longshoreman, leaving her without a no-fault remedy. During the next ten years as Jensen-type cases came before the Court, many of which on the basis of Jensen could have been decided adversely to the claimant, the Court would hold either that the matter was purely of "local concern", and hence not being "maritime" could not affect the uniformity of admiralty law or that even though "maritime," was "maritime but local." In either case, a state compensation act could validly be applied.

Not only the Court, but Congress too recognized the harsh results of Jensen. Congress tried to circumvent it by two statutory enactments which allowed the states to apply their compensation law to maritime accidents on navigable waters. The Court held both statutes unconstitutional in *Knickerbocker Ice Co.* v. *Stewart*[3] and *State of Washington* v. *W. C. Dawson & Co.*[4] In Dawson however, it told Congress how it could constitutionally provide a compensation remedy for longshoremen injured on navigable waters. Congress rose to the suggestion.

This then in a nutshell was the legal and legislative background when Congress began to hold hearings on a proposed federal longshoremen's and harbor workers' compensation act in 1926, one year before passage of the Act.

Almost immediately, the wording of the statute in regard to state compensation acts became a fertile source of litigation. Bearing in mind that the Court already allowed state acts to apply in matters of "local concern" or "maritime but local," earlier drafts of the proposed Act specifically permitted the application of state compensation acts in such cases. However, the Act, as passed, contained the clause "if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law," as a substitute for this phraseology. For the next 35 years, various district and appellate courts, including the Supreme Court, debated the meaning of this phrase. Were the federal and state compensation acts mutually exclusive? No sooner had the "mutual exclusivity" theory become generally acceptable, whereby a state's compensation act applied in maritime but local matters, than the Court established a "twilight zone" in *Davis* v. *Department of Labor* N *Industries of Washington*[5] in which either a state or federal act could apply. Apparently, the federal and state acts were either never mutually exclusive or were no longer mutually exclusive.

Congress created another fertile source of litigation when, bowing to demands of representatives of seamen, it excluded them from the no-fault compensation remedy. Claimants in most cases would seek to be adjudged seamen in order to benefit from the more favorable remedies available to seamen, i.e., a negligence action under the Jones Act (1920) or an action under the unseaworthiness doctrine. In both of these actions there is no statutory limitation on damages.

The troubled waters engulfing the Act were considerably calmed by the Court's decision in *Calbeck* v. *Travelers Insurance Co.* in 1962.[6] Calbeck in effect "repealed" the restriction in the Act that it applied only if recovery for the disability or death may not validly be applied by a state compensation law. It now applied in spite of the applicability of a state compensation act as long as the accident happened on navigable waters and the employer had one or more employees employed in maritime employment. Calbeck established the concept of "concurrent jurisdiction" between state compensation acts and the Longshoremen's Act. Seven years later in *Nacirema* v. *Johnson*,[7] the Court refused to extend the Act to maritime accidents on land. Federal jurisdiction stopped at the water's edge! Litigation was virtually brought to a standstill.

Against this background Congress in 1972 set out to amend the Act in order to upgrade the benefits, extend coverage, eliminate

Footnotes at end of article.

third party over actions against a stevedore and eliminate a longshoreman's right to sue a shipowner under unseaworthiness doctrine of no-fault liability. The end result was a trade-off of increased benefits for the relinquishment of established rights. However, saddled with the deficiencies in the original Act and overwhelmed by the monetary consideration involved in the trade-off, the final product was a poorly drafted statute, and a confused set of rules and regulations to implement it.

Confusion and uncertainty reign in every important phase of the Act such as coverage, administration, benefits, administrative decisions and, of no small significance, availability of insurance. In short, the 1972 amended Act was a statutory disaster and the rules and regulations promulgated by the Department of Labor became an administrative nightmare.

I. COVERAGE

The tranquility in litigation under the Act which took 35 years to accomplish, was shaken in one fell swoop by the 1972 amendments extending coverage landward by including within the "situs" test of navigable waters, which also included a dry dock, "any adjoining pier, wharf, . . . terminal, building way, marine railway or other adjoining areas customarily used by an employer in loading, unloading, repairing or building a vessel."

The practical results of this extension were obvious when considered in the light of the increase in compensation benefits provided by the 1972 amendment, whereby compensation under this Act exceeded that of every maritime state other than Alaska. It means that every land based accident which by any stretch of the imagination could qualify under the new amphibious Act would result in a federal claim. The myriad of cases that followed was inevitable.

Aware of the potential increase in claims under the amended Act because of land based accidents, Congress thought it advisable to state that the amended Longshoremen's Act was to apply only to "maritime" accidents. It thus established a "status" test in addition to the "situs" test. The 1972 amendments defined "employee" as a person engaged in "maritime employment," but not including a master or member of a crew of any vessel or a person engaged by the master to load or unload or repair any small vessel under 18 tons net.

Now the courts are faced with litigating 1. what Congress meant by "maritime employment" and 2. what are the parameters of accidents on land? Superimpose on these yet undefined and uninterpreted (by the Supreme Court) areas the concepts under the old Act of "twilight zone" and "concurrent jurisdiction," and the tranquility brought about by *Calbeck-Nacerima* is chured into turbulence, certainty into uncertainty, and litigation into a way of life on the waterfront.

While the Office of Workers' Compensation Programs of the Department of Labor is keenly aware of the coverage problems created by the 1972 amendments as noted in its 1974 proposed coverage guidelines,[8] more than two and a half years have elapsed and no final guidelines have been issued. Thus the maritime industry had to wait more than a year and a half for even temporary guidelines from the OWCP and is still waiting for finalization. A task force of the OWCP formed in June, 1976 recommended that general guidelines on questions of coverage be issued by the OWCP to its district offices.[9]

The absence of finalized standards has been one of the causes leading to similar fact situations regarding coverage of the Act being treated differently in different Circuits. The end result is and continues to be a geometric proliferation of cases that threatens to sink the already floundering vessel launched to provide prompt relief to injured maritime workers.

But the "standards" promulgated should be in keeping with the intent of Congress in passing the legislation being "standardized". A comparison of the pre 1972 amended Act with the post 1972 Act makes it clear that the latter established a "status" test of "maritime employment" which was not required under the original Act.[10] Thus the new Act did not cover all employees covered under the old Act. It covered only those engaged in "maritime employment". Yet the proposed guidelines of the Department of Labor[11] stated that "in amending the Longshoremen's Act Congress did not exclude any employees or areas previously covered . . ." This statement is clearly erroneous.

II. ADMINISTRATION

Statistics gathered by the OWCP prior to the passage of the 1972 amendments, indicated that approximately half of all accidents to longshoremen occurred on land. This fact alone when coupled with the increased benefits made it obvious that claims would double as a result of the 1972 amendments. As expected claims did increase tremendously after the passage of these amendments.

Injuries to covered longshoremen and harbor workers increased from 72,087 in the Government's 1972 fiscal year to 151,274 in fiscal year 1974, a 110 percent gain. In the same period, OWCP's claims activity, or case workload, rose from 19,283 to 38,358, about a 100 percent increase, and the backlog of claims increased from 2,663 to 9,772, a 265 percent increase according to a report of the U.S. Comptroller General.[12] Yet the staff of the OWCP was expanded over the same period by only 24 positions which was only a 24 percent addition to its staff.

In 1975 OWCP compounded its administrative problems by ruling that recreational boat builders and marina operators were "employees" under the Act.[13] This rule encompassed some 175,000 employers with an undisclosed number of employees thereby further adversely affecting its ability to administer the Act. The number of claims increased in subsequent years. The number of injuries reported in fiscal year 1975 rose to 166,367 and OWCP's backlog was 14,039. OWCP projected a backlog of 16,000 cases by the end of fiscal year 1976.

Injuries to longshoremen and harbor workers totaled 176,301 in fiscal year 1976 of which 101,051 or 57 percent resulted from the extended coverage under the Act.

The ancient maxim, "Justice delayed is justice denied", is not inappropriately applied, when one considers that it may well take 3 years for the claimant, in a contested case, to receive benefits.

The Comptroller General also found that: 1. The OWCP district offices are not effectively monitoring claims to assure that proper and timely compensation payments and other benefits are being provided to injured workers as required by the Act. 2. Some injured employees are not receiving payments in the amounts of time periods mandated. 3. Penalties for late reports and late benefit payments were not being assessed. 4. There were long delays in the informal processing of contested claims by the District offices and in the formal adjudication by the Administrative Law Judges (ALJ), resulting in hardships to some injured employees. 5. There were no effective programs to assist claimants processing claims or to actively supervise medical treatment as the Act intended. 6. Claimants were not being provided with legal assistance as provided for in the Act. It noted that the IWCP did not intend to establish such a program. 7. OWCP's program for vocational rehabilitation had a low priority and few claimants were enrolled in the program. 8. OWCP had failed to follow published procedures to assure adequate insurance coverage by employers for compensation payments and 9. OWCP national office had to provide more effective guidance and monitoring of the districts' program operations.[14]

Some concrete examples of the failure of OWCP to perform its assigned task are, at this point, appropriate for comment. The Second Compensation District, embracing only the States of New York and New Jersey, services as an example. In 1975 this district had a backlog of 3,799 cases, which represented an increase of 540 percent over the backlog in 1972.

The regulations governing the Act provide in part: "The Director, OWCP, through the deputy commissioners and their designees, shall actively supervise the medical care of an injured employee covered by the Act".[15] The supervision is directed to frequency, necessity, character and sufficiency of such treatment. The Director, OWCP, is responsible for the authorization of physicians to render treatment under the Act.

In a Special Report of the Waterfront Commission of New York Harbor,[16] the Commission's investigation found that a sizeable portion of the high compensation costs was due to fraudulent and exaggerated claims participated in by lay claims representatives and physicians.

One physician whose practice is largely composed of workers' compensation claimants, billed over $400,000.00 in one year for such treatment. He too, treated a fraudulent claimant and refused to testify on grounds of self-incrimination.

No disciplinary action was taken by the OWCP in any of the cases mentioned in the Report of the Waterfront Commission.

A word should be said about the view of OWCP toward the non-lawyer claims representatives. These are laymen who are not subject to any control by OWCP. At a recent conference in Washington, D.C., a representative of industry suggested that these laymen be licensed by OWCP. The suggestion was dismissed out of hand by the office of the Assistant Secretary of Labor and it is apparent that OWCP plans no action in that regard. The inability to take disciplinary action can only serve to encourage the kind of conduct outlined in the aforesaid Report.

III. BENEFITS

The 1972 amendments to the Act have enhanced, quite generously, benefits to the injured worker, his dependent survivors and others.

One of the most serious problems facing both federal and state workers' compensation boards is the issue of awards for permanent partial disability, commonly called a "schedule loss". Oft-times the disability does not result in a decrease in wages and the employee returns to work a short time after the injury. Depending on the determination of the percentage of disability, the injured worker will receive a certain sum of money for a definite number of weeks. In case after case, superficial soft-tissue injury is classified as a permanent partial disability and an award is made. These highly questionable awards for permanent partial disability where no reduction in wages results (in actual wage-reduction cases the injured claimant would be entitled to receive two thirds of the difference between his former and present wage), sap the vitality of the Act, depriving seriously injured workers of ade-

Footnotes at end of article.

quate and equitable compensation. Valuation of a permanent partial disability varies depending on the physician and encourages "shopping around" for a physician in the hope that a greater degree of disability will be found. To a large extent, evolution of disability depends on whether the physician is representing the carrier or claimant.

Pursuant to the regulations the deputy commissioner may appoint an impartial specialist to resolve disputed medical questions. One deputy commissioner took the position that he would have to discontinue the use of such specialists although it was perhaps the best current method of assuring that the injured worker receives all he is entitled to under the Act because referring the claimant to an impartial specialist consumed too much time. This, in spite of the fact that the same deputy noted that the use of such method did in fact reduce the overall time in handling controverted cases.

In spite of the importance of the role of the impartial specialist, the Department of Labor has issued no guidelines to objectively measure permanent disability. The American Medical Association has published such guidelines. Neither are there Department of Labor guidelines for supervising medical care or determining if an injured claimant should be transferred from the care of one physician to another.

The death benefit provided for qualified survivors, obviously inadvertently due to hasty draftsmanship, failed to include any limiting factor and directed payment to a widow or dependent widower at the rate of 50% of the decedent's average wage. One Court, in construing that question decided that the same limitation applicable to disability compensation applied to the death benefit, thereby, taking it upon itself to correct an obvious legislative oversight. Careful draftsmanship would have avoided this tour de force of correcting legislative mistakes.

In a novel approach to workers' compensation benefits the amendments now provide for death benefits to be paid to those who survive an injured worker who has a permanent total disability or a permanent partial disability and dies thereafter from any cause whatsoever. This section has been deemed to apply to those cases which arose even before the effective date of the 1972 amendments. This represents a venture into the field of life insurance not previously considered a feature of workers' compensation laws.

The rehabilitation aspects of the Act have been sorely neglected. The lack of supervision and the neglect of the rehabilitative provisions of the Act have added monumental and unnecessary financial burdens to employers doing business in the various compensation districts.

IV. ADMINISTRATIVE DECISIONS

A. Administrative law judge

The 1972 amendments and the Rules promulgated in conjunction therewith removed from the Deputy Commissioners the duty of holding formal hearings in connection with disputed claims for benefits.

While certain time frames have been set for the hearing process to be completed and an order issued, in practice this has fallen far behind schedule. It is not uncommon for a number of years to elapse between the initial claim filing and reference to the ALJ. It is also not uncommon for another year to elapse between the completion of the hearing before the ALJ and the issuance of his formal order.

B. Benefits Review Board

The 1972 amendments to the Act established another body with power to review ALJ decisions and orders. This was denominated the Benefits Review Board. This Board is comprised of 3 members appointed by the Secretary of Labor and has the duty of reviewing decisions and orders of the ALJ's office in conjunction with the Act and with similar statutes. From the number of decisions handed down by the Board, it is obvious that three individuals could not actively participate in the judicial process of deciding these cases or composing the opinions of the Board.

V. INSURANCE AVAILABILITY

But the extension of coverage was not limited only to a drastic increase in the number of claims generated. This extension in the light of increased benefits has resulted in serious problems of availability of insurance especially for small firms and marginally profitable companies. The difficulty and expense of obtaining insurance under the Act poses a serious threat to this entire industry. Due to the high benefit levels many insurance carriers have ceased writing Longshoremen's Act coverage. The problem of availability became so serious in California that a law was passed in 1976 permitting the California State Compensation Insurance Fund to write such coverage even where it was not incidental to a statewide operation, but only for a two year period which will expire July 10, 1978. The State of Washington is expected to pass similar legislation.

POSE OWN PROBLEMS

The unavailability of coverage has forced some employers into self-insurance which poses its own special problems.[17] Self-insurance, however, was never meant to be a solution to unavailability of insurance. Under those circumstances, it is like a drowning man grasping for a straw. The OWCP Task Force in its December 1976 report, suggested that recreational boat builders seek group self-insurance as a solution to the scarcity of carrier coverage. This merely emphasizes the desperate nature of their plight.

Another problem of self-insurance concerns the security bond. The uncertainty surrounding the amount of the bond to be posted and the discretionary powers vested in the OWCP in regard to the size of this bond makes the employer beholden to the OWCP.[18]

CONCLUSION

The 1972 amended Act merely compounded the defects in the 1927 Act and vitiated thirty-five years of effort by the Supreme Court ending with Calbeck, to bring harmony and order to this specialized field of maritime law. The failure of Congress to draft a statute which would clearly set out the parameters of the landward extension opened a Pandora's box of litigation and discord. Congress set forth new "situs" and "status" tests of coverage without the slightest attempt to define these concepts. But not all the blame lies with Congress. Each House set forth identical statements as to its purpose and intent. Yet, many of the decisions to date seem to totally ignore those guides. Much of the blame for the confusion and uncertainty in this field must be placed at the doorstep of the Office of Workers' Compensation Programs of the Labor Department.

OWCP was not, under the circumstances, prepared to properly administer the Act as amended. It should have been aware of the fact that the advancement of the jurisdictional limits shoreward would result in an avalanche of cases not previously subject to coverage. The elimination of the unseaworthiness doctrine as a basis for a longshoreman's claim against a shipowner and the insulation of the stevedore from a claim over by the shipowner, should have provoked an awareness on the part of OWCP that claims would substantially increase. It failed to publish adequate and finalized guidelines on the expanded coverage of the Act. It failed to provide for adequate personnel to handle the anticipated onslaught and waited some four years before establishing a Taskforce to remedy the deficiencies of the Act and its regulations.

The intent of any workers' compensation statute is to provide quick payment of benefits and afford speedy and competent medical assistance, at little or no expense, legal or otherwise to the injured worker. This goal has not been met. The OWCP has been egregiously remiss in the adjudication of claims. The adjudicative process must be speeded up. Today it takes the OWCP 270 days to process a claim. An efficiently run Bureau could do the job in one-third the time. We should demand no less from the Federal Government. OWCP must promulgate the necessary rules and regulations to accomplish this purpose.

In regard to the rehabilitative aspects of the Act, the patent incongruities of the statute and the OWCP rules and regulations should be eliminated. Rehabilitation provided for under the Act should be vigorously implemented. OWCP is on notice as to the abuses in some jurisdictions chargeable to claims representatives. A licensing program should be instituted immediately so some degree of control over the actions of these individuals can be maintained.

It should encourage and expand the utilization of the impartial medical examiner system. Steps should also be taken to withdraw the authorization of those physicians who have demonstrated their unfitness to treat or examine injured workers.

The amount of litigation in this field is directly traceable to the disparity in benefits between the Act and the state compensation laws. As long as the benefits under the Act are far superior to all states but Alaska, a multitude of claims will be brought under the Act.

Therefore, it is imperative to fix the boundaries of the landward extension and what constitutes "maritime employment." Congress failed to do so within the Act itself. As a result of the increase in litigation, the Administrative Law Judges have not been able to keep pace with the avalanche of cases and the Benefits Review Board, consisting of only three individuals cannot possibly give this voluminous number of cases the attention they merit.

Unless the Supreme Court sets a reasonable boundary on both the "situs" test and the "status" test the disparity between the benefits under the Act and those of all the states other than Alaska, will lead to unprecedented litigation under the Act everytime a worker with only a slight and remote connection with maritime activities is injured. France was once known as a nation of shopkeepers. America is fast becoming, if it is not already, a nation of litigants. The Longshoremen's and Harbor Workers' Compensation Act should not become a popular vessel for such litigation.

The Labor Department, OWCP, aside from addressing itself to the specific problems raised herein can immediately take the following steps to bring under control, a program that is now totally out of control:

1. Adequately train OWC employees in the handling of claims.

2. Through increased productivity and increased personnel where appropriate, reduce claim processing time to ⅓ of that presently required.

3. Preparation of a manual of operations to effectuate uniformity throughout the country.

4. A specific time table from the time of the filing of a claim, to the time of hearing

and the time of decision to speed up adjudication.

5. Exclusion in inland recreational boat builders as long as no work is done on navigable waters.

6. A retraining of all AL's to develop a uniform approach within the framework of congressional intent and the law's interpretation by the Courts so that awards are within the range of reason consistent with injuries suffered and not rewards.

7. The Benefits Review Board should be reformed or eliminated.

The implementation of the reforms suggested herein by no means guarantee the success of this Act, but will cure many of the defects resulting from the haste with which the Act was drafted and the indifference with which it was executed.

Finally, no discussion of the reformation of the Longshoremen's and Harbor Workers' Act would be complete without mentioning the disparity of benefits between the Act and the laws of all of the states except Alaska. The disparity is the root of all coverage disputes involving on-the-job injuries. It goes to the heart of the problem of availability of insurance as well.

Congress in passing the Amendments in 1972 gave little thought to their ultimate cost.

In the final anaylsis, assuming appropriate reforms are instituted, such as the scheduling of permanent partial injury benefits, the success or failure of the Act will depend on how it is applied by the adjudicating bodies. Obviously, success or failure will also depend on whether the employers subject to the Act are able to absorb the costs of the increased benefits and the overly liberal awards.

The fate of the shipping industry in America is indeed hanging in the balance.

FOOTNOTES

* All references to the "Supreme Court" or "Court", should be read as United States Supreme Court.

[1] Public Act No. 803—69th Congress, 33 U.S.C. Sec. 901 et seq.

[2] 244 U.S. 205, 37 S. Ct. 524(1917).

[3] 253 U.S. 149, 40 S. Ct. 438 (1920).

[4] 264 U.S. 219, 44 S. Ct. 302 (1924).

[5] 317 U.S. 249, 63 S. Ct. 225 (1942).

[6] 370 U.S. 114, 82 S Ct. 1196 (1962).

[7] 396 U.S. 212, 90 S. Ct. 347 (1969).

[8] Federal Register, Part III, Vol. 39, No. 101, May 23, 1974. (20 CFR Part 710).

[9] U.S. Department of Labor, OWCP Task Force Report, December 1976.

[10] Pennsylvania R. Co. v. O'Rourke, 344 U.S. 334, 73 S. Ct. 302 (1953).

[11] Note 8 supra, at 20 CFR 710.2(c).

[12] Report to the Senate Committee on Labor and Public Welfare by the Comptroller General of the United States, January 12, 1976.

[13] U.S. Department of Labor, Office of Workers' Compensation Programs, Notice No. 21, June 6, 1975.

[14] Note 12 supra.

[15] 20 CFR 702.407.

[16] Special Report of the Waterfront Commission of New York Harbor to the Governors and Legislatures of the States of New York and New Jersey, December 1976.

[17] See A. Millus and R. Tarangelo, Self-Insuring Workmen's Compensation—Fact and Fiction, Risk Management—May 1974.

[18] 20 CFR 703.301,2,3.

PERSONAL EXPLANATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. YOUNG of Alaska. Mr. Speaker, on Wednesday, October 6, 1977, I was participating in the unveiling program for the late Senator Ernest Gruening in the Rotunda of the Capitol. I missed rollcall No. 627, an amendment offered by Mr. ERLENBORN to the Labor Reform Act, H.R. 8410. Had I been present, I would have voted nay.

THE 1977 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ARCHER. Mr. Speaker, earlier this year, all of the residents of the Seventh Congressional District of Texas were asked to respond to a series of 20 questions regarding legislative issues before the Congress.

The high degree of interest in these issues among my constituents resulted in my receiving responses from 43,010 people. I would like to share the results of my 1977 legislative questionnaire with our colleagues in the Congress, so that they might, too, benefit from this input from so many concerned citizens:

QUESTIONNAIRE RESULTS

GENERAL LEGISLATION

1. Should the U.S. provide financial assistance to Vietnam?

	Percent
Yes	6.8
No	93.2

2. Do you favor production of the B–1 bomber?

	Percent
Yes	71.5
No	28.5

3. Should the use of marijuana be decriminalized?

	Percent
Yes	41.5
No	58.5

4. Do you favor "instant voter registration" at the polling booth on election day?

	Percent
Yes	17.4
No	82.6

5. Should Congress restrict the power of the FDA to ban food additives such as saccharin?

	Percent
Yes	61.6
No	38.4

6. Do you support Section 14(b) of the Taft/Hartley Act, which permits states to pass "right to work laws?"

	Percent
Yes	88.7
No	11.3

7. Should the federal government impose penalties on employers of illegal aliens?

	Percent
Yes	77.1
No	22.9

8. Should members of our armed forces be allowed to unionize?

	Percent
Yes	3.5
No	96.5

9. Do you agree with the Carter Administration's overall handling of foreign affairs?

	Percent
Yes	37.3
No	62.7

10. Should the Hatch Act be changed to permit federal government employees to participate in partisan political activities?

	Percent
Yes	22.6
No	77.4

ENERGY ISSUES

11. Should Congress adopt President Carter's energy plan without changes?

	Percent
Yes	8.7
No	91.3

12. Do you favor the proposal to increase gasoline taxes?

	Percent
Yes	23.6
No	76.4

13. Do you approve of the proposal to assess taxes and give rebates, based upon the EPA fuel efficiency rating of new cars?

	Percent
Yes	39.5
No	60.5

14. Should natural gas be deregulated?

	Percent
Yes	83.0
No	17.0

15. Do you favor rapid mandatory conversion to coal as the chief energy source for electric utilities and industry?

	Percent
Yes	59.6
No	40.4

16. Would the break up of major oil companies help ease the energy shortage (vertical divestiture)?

	Percent
Yes	11.3
No	88.7

17. Should oil companies be prohibited from entering into the development of other energy sources (horizontal divestiture)?

	Percent
Yes	11.3
No	88.7

18. Do you agree with the President that his conservation program is "fair and equitable" to all sections of the country?

	Percent
Yes	14.0
No	86.0

19. Do you favor continued construction of nuclear power plants in the U.S.?

	Percent
Yes	85.8
No	14.2

20. Do you favor development of the fast breeder nuclear reactor?

	Percent
Yes	75.7
No	24.3

CONGRESSMAN WILLIAM D. FORD LAUDS EFFORTS OF EDUCATION COMMISSIONER TO REDUCE PAPERWORK

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FORD of Michigan. Mr. Speaker, as chairman of the Subcommittee on Postsecondary Education and the ranking member of the Subcommittee on Elementary, Secondary and Vocational Education, I am acutely aware of the paperwork burden that Federal regulations

place on institutions and on individuals, both in terms of time and money.

The Carter administration, I am pleased to report, has been extremely responsive to this problem and has taken a number of steps to alleviate the burden.

This week, in fact, Commissioner of Education Boyer announced important steps which will complement earlier actions aimed at reducing the amount of paperwork the Office of Education has been requiring of fund recipients.

Specifically, the Commissioner ordered that the amount of paperwork required of school officials be reduced by 50 percent and announced a new, simplified application process for discretionary grant funds.

The actions follow several significant earlier efforts which include:

The establishment of a Bureau of Student Financial Assistance to consolidate the management of Federal student assistance programs;

A major reorganization of the Office of Education to increase efficiency and accountability;

The implementation of a simplified procedure for applying for student aid by eliminating the necessity of some 2.5 million families to file Federal forms;

The introduction of a common date for applying for such assistance; and

The establishment of a simplified procedure governing institutional application for campus-based student assistance funds and considerably reducing the length of the application form.

Mr. Speaker, certainly Commissioner Boyer deserves the commendation and applause of all of us concerned with the "redtape" issue for his leadership. I am also extremely impressed with the supportive role Secretary Califano has played and with his announced commitment that HEW make an exemplary contribution to the President's goal of reducing unnecessary regulation and intrusion by the Federal Government .

At this point, I would like to insert in the RECORD the HEW news releases explaining the most recent actions of the Secretary and the Commissioner:

HEW Secretary Joseph A. Califano, Jr., commended Commissioner of Education Ernest L. Boyer today for actions reducing the Federal paperwork burden and instructed the heads of all other HEW agencies to speed up their attempts to identify and eliminate unnecessary paperwork.

"President Carter committed to reduce the Federal paperwork burden by 7 million hours," the Secretary said. "With this action, HEW alone will have reduced this burden by 6.1 million hours. By the end of this year, HEW will order other paperwork reductions that alone will fulfill the President's commitment."

"Dr. Boyer is taking major steps to relieve institutions and individuals of unnecessary and duplicative reporting," Califano said.

In an action taken today, Commissioner Boyer ordered an overall 50 percent reduction in reporting required of most Office of Education grant recipients—reducing by an estimated 300,000 hours a year the time needed by grant recipients to prepare OE reports.

In May, Boyer had announced a simplified student aid procedure eliminating the need for more than 2.5 million students and their parents to file duplicate Federal forms requiring at least two hours work each, or a total of 5 million hours work. In a separate action, the Office of Education has also reduced the required amount of information on 17 other OE forms, with estimated savings of 800,000 hours work for those required to fill them out.

"This is an excellent example of what can be done in this area," Califano said.

Secretary Califano asked HEW agency heads to report back to him within 45 days specifying those reports and forms which can be eliminated, submitted less frequently, or shortened.

"President Carter is committed to reducing unnecessary regulation and intrusion by the Federal Government. I intend for HEW to make an exemplary contribution to this goal," Califano declared.

Califano emphasized that a certain amount of reporting was necessary to monitor program performance and to prevent fraud, abuse, and error.

"Only reporting that is clearly related to effective, honest program administration should be required," added the HEW Secretary.

HEW NEWS

U.S. Commissioner of Education Ernest L. Boyer today ordered an overall 50 percent reduction in the paperwork that HEW's Office of Education (OE) has required of school officials.

The paperwork reduction order was the third such action this year taken by Dr. Boyer. Last May the Education Commissioner announced a simplified student financial aid procedure that eliminated the need for more than 2.5 million students to file duplicate Federal forms. OE has also reduced the amount of information requested on 17 other forms.

The Office of Education now collects 67,000 reports and forms each year to administer 108 programs for elementary and secondary schools and institutions of higher learning. The preparation of the reports and forms in the 1976 fiscal year took an estimated 600,000 work hours. Dr. Boyer's proposal will cut the number of items required to about 31,000, and reduce the number of work hours involved in their preparation to an estimated 300,000 hours. Also a regular schedule for reporting will be established.

"In the past," Dr. Boyer said, "each program within OE decided how many reports it wished to collect. Some programs collected reports once a month, others three or four times a year. School districts with several OE programs seemed always to be filling out forms of one sort or another.

"The time and money spent by schools and colleges on the excessive reporting process can now be turned back to help students get a better education. This is what Federal aid was intended for and we are determined to see that the intent of the law is carried out. Further we should not be collecting more forms than we can read and evaluate with care."

As an example of the current paperwork burden that has been placed on school officials, Dr. Boyer pointed to the Arts and Humanities Program, which administered 89 grants in Fiscal Year 1976. These grants produced 712 reports, which the Commissioner said will now be reduced by at least 445 reports. This in turn will save nearly 5,000 work hours of report processing on the local and State levels.

"It is time," Dr. Boyer said, "for less quantity in paperwork and more quality in education. While we've made a start, I am still not satisfied. I believe more paperwork reductions can be achieved. Our goal is just one program report annually, one financial and administrative report annually, and a final report when the project is completed."

He pointed out that there may be some exceptions to the rule because of laws mandated by Congress or special requirements by the program. But he said that the number of exceptions will be very few. Commissioner Boyer said OE will announce soon which programs will be limited to annual reporting requirements and which will be allowed, because of special circumstances, to collect information more frequently.

CURRENT GRANTS/REPORTS STATUS

Offices/bureaus	Total grants processed, fiscal year 1976	Total reports received	Proposed frequency of reports reduction	Reports saved
IOC:				
Arts and Humanities	89	712	267	445
Teacher Corps	249	2,988	747	2,241
Women's Program	66	792	198	574
Career Education	109	654	327	327
Right to Read	280	2,423	840	1,583
Bilingual Education	715	4,120	2,060	2,060
Subtotal	1,508	11,689	4,439	7,250
Higher and Continuing Education	5,070	14,287	6,471	7,816
Indian Education	1,455	5,494	2,747	2,647
Occupational and Adult Education	715	1,698	715	983
Education for the Handicapped	1,419	2,153	1,419	734
Elementary and Secondary Education	14,832	31,702	15,523	16,179
Total	24,999	67,023	31,314	35,709

HEW NEWS

For the first time, HEW's Office of Education will publish a single notice of closing dates to apply for discretionary grant funds under a majority of its programs, U.S. Commissioner of Education Ernest L. Boyer announced today.

The published announcement covering nearly all of its 108 programs for Fiscal Year 1978, Dr. Boyer said, will appear in the Federal Register within the next few days. However, he added the announcement will not cover aid to students attending postsecondary schools.

"Most grants have previously been made late in the fiscal year, often after the school year begins," Commissioner Boyer explained. "Our new procedure will speed up the process and the majority of grants will be awarded by the end of June each year."

OE has been operating on a fiscal year, set up by Congress, which closes on September 30.

Under the new procedure, an applicant will receive 60 to 120 days to fill out an application, as compared with the previous 30-day requirement. The new procedure also

will provide one key source for information and one publication announcing the frequency of reports and other grant requirements.

This is another move to cut down on the paperwork OE had been requiring of its grant recipients.

The single notice will also:

Provide an early notice to applicants.

Allow applicants more time to develop proposals.

Provide grantees with early notice of approval so that they would have more time to recruit and hire project staff.

"These steps" Dr Boyer said, "represent a major improvement in the OE grant process that will be very valuable to the education community."

Closing dates for application filing will be based on an applicant's need to receive an award by a specific date. If the date is April 1, for example, the closing date will be set early enough to process the application and respond to that particular date.

The single notice will also allow OE program managers to schedule their workload and eliminate the end-of-the fiscal year crises, provide more time to the OE Grants and Procurement Staff for negotiations, and equalize the number of grants awarded each quarter of the fiscal year.

The only programs planned for omission from the single notice are those for which regulations, which govern the applications, are still being developed. Closing dates for these programs will be published as soon as possible.

NEW GRANT APPLICATION PROCESS

1. Publish list of all OE programs—Oct. 1.
2. 60 day preparation versus current 30 day requirement.
3. Deadline dates for filing aplications.
4. Most grant awards announced—June 30.

ALPHA DELTA KAPPA SORORITY

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mrs. SPELLMAN. Mr. Speaker, just last year, it was my great honor to have been selected by the Alpha Delta Kappa Honorary Sorority for Women Educators to be its Honorary Member from the State of Maryland. I am especially proud to have been so singularly designated, because this organization, comprised of over 400 educators in our state and over 69,000 internationally, sets as one of its primary goals the improvement and strengthening of education for all children.

Alpha Delta Kappa was organized in 1947, and has grown past its national status to become international in its scope. The 19 Alpha Delta Kappa Chapters in the State of Maryland have directed the energies of its members toward providing incentives for the completion of educations through charitable and benevolent projects, developing programs for enrichment of the daily lives of our citizens, and promoting high and professional standards in education.

Mr. Speaker, as a former teacher and one who is committed to excellence in education, I feel privileged to be a part of an organization which believes that through education, our Nation can lead the way to a more peaceful world for all people. The period between October 9 to 15, 1977, is Alpha Delta Kappa International Week, and I am certain the Members of this House join me in recognizing the great contributions this organization has made toward the advancement of education, and in saluting those who care enough about our country's future to believe that the enlightenment of our children must be our highest priority.

MRS. HELEN POTEPAN—A CIVIC STAR

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. HANNAFORD. Mr. Speaker, it is my pleasure to spend the next few moments speaking of a lady I look upon with warm regard. Her name is Helen Potepan, and she is to a large degree responsible for my interest and involvement in the governmental process.

She will be packing her bags and retiring from the political scene this month, and when she does the Long Beach-Lakewood area of California will be losing one of its greatest civic activists.

It was Helen Potepan, native of Long Prairie, Minn., and Californian since 1941, who first encouraged me to "Walk a precinct" for a local office-seeker back in 1954. Of course, I have since performed that function a number of times for many other candidates and on my own behalf. Her political enthusiasm has similarly infected others in the Southland, many of whom have pursued careers in public service.

Helen first exercised her right to vote in 1942 and has not missed a Federal, State, or local election since. More important, though, is the fact that she has worked in every national and State campaign starting with the Truman-Dewey contest of 1948, and she has held both elective and appointive political party offices during nearly all of these years.

Mr. Speaker, Mrs. Potepan and her partner of 30 years, Allan, have been active in community affairs for the same length of time. Helen has been particularly helpful to the American Red Cross and the American Cancer Society, though various political groups have always wondered how she finds time for such important social causes when so many of her hours are devoted to area politics.

In addition to the aforementioned pursuits, the hard-working Mrs. Potepan has been a deputy registrar of voters since early 1960 and can claim responsibility for the registration of thousands of eligible citizens.

I say goodbye to Helen Potepan reluctantly, but with the assurance that her new neighbors in another part of California will stand to gain from her vast experience and her selfless desire to share it. I wish her and Allan well.

CONTROL OF NUCLEAR TECHNOLOGY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DERWINSKI. Mr. Speaker, there is much controversy across the country and between the majority in Congress and the administration on the subject of nuclear technology.

An editorial, carried in the Chicago Daily News of September 28, very properly makes the point that there should be more effective control of nuclear technology, since logically, we cannot ban nuclear development.

The editorial follows:

NUCLEAR SPREAD: CONTROL IT, DON'T KILL IT

It takes little imagination to see that nuclear technology spread to generate power for an energy-hungry world could end up producing bombs for the arsenals of every two-bit tyrant. But, as we noted yesterday in an editorial about breeder reactors, Americans do not have to sacrifice the atom at the altar of apprehension.

The fact is that attempts to prevent development or dissemination of nuclear technology are ineffective. The effort should be to control its use, not to bar its spread.

A step in that direction came last week when the United States and 14 other nations signed a pact that would make it possible to export nuclear technology and materials with adequate safeguards against misuse.

It is a hopeful development

We need similar realism at home. Fears about health and safety have led to multiple layers of regulations that make it almost impossible for a nuclear power plant to go into operation in less than 10 years. A coal-fired plant takes only six years.

Utilities are, therefore, beginning to go for coal. There is a steep decline in new orders for nuclear reactors. Some pessimists even say the industry may disintegrate if the trend continues.

President Carter, who opposes the plutonium breeder reactor but acknowledges we must use more conventional reactors, is aware of the unfair competitive handicap imposed on the nuclear industry. He is working on legislation to reduce the lead time to six years. This would be done by streamlining procedures, not by weakening necessary safety requirements.

Under any reasonable scenario, we will be forced to depend on more and more nuclear power for at least the next two decades. So it's only reasonable that we remove unreasonable obstacles.

The question that ultimately needs to be settled is not whether nuclear power is safe. The hazards exist; they must be dealt with. Beyond that, it is really a question of weighing benefits against risks, and then deciding how much risk, if any, is acceptable.

If nuclear power fizzles out, it should fizzle out because the cost is too high, or because the environmental impact is unmanageable. It shouldn't have to go out strangled by red tape or lynched by irrational emotion. We must keep all our energy

options alive—including the nuclear one—until we can make a decision commensurate with our needs at home, our responsibilities abroad and our hopes as a nation devoted to peace. To do otherwise would be premature, foolish and dangerous.

COLUMBUS DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, on Monday, October 10, the people of the United States will celebrate a national holiday honoring a man whose mission, courage, and perseverance became responsible for a major turning point in world history. For it was on October 12, 1492, that the arduous 33-day voyage of the *Nina, Pinta,* and *Santa Maria* finally came to an end. Christopher Columbus, the navigator from Genoa, had discovered the New World.

Traditionally, Columbus Day has been celebrated by our citizens of Italian descent to honor their brave countryman. And in our Nation of immigrants, Columbus is seen as the original traveler to our shores. Certainly, it is a day which can be shared by all Americans, because it was Columbus who set into motion the events which marked the age of exploration, the colonization of the New World, and eventually the birth of a new world order.

When we look back at Columbus' discovery, we can only wonder at the sheer bravery he exhibited in setting sail across the Atlantic Ocean. Convinced that the world was round, Columbus believed he could establish a new trade route to the Orient by sailing across the sea directly to India. In effect, he set out to prove a theory which was far from accepted by the pundits of his day.

His voyage has been compared to those of the astronauts as they broadened the boundaries of man's knowledge. Yet in many respects, the achievement of Christopher Columbus was even greater. He did not know what he would find on the other side of the sea; he could not know how far he had to travel, or how long the voyage would last. By modern standards, his ships were small and poorly equipped. But he set forth with his conviction that the world was round, and in doing so opened up a new world for his growing civilization.

Columbus was the first person to reach the New World when man had the capability to explore, colonize, and exploit it, although earlier explorers had sighted its coast. Thus, he can truly be regarded as the discoverer of the Americas.

He has become a symbol as well. Certainly, the day celebrated in his honor is a time to recall the many contributions made by Italian Americans throughout our history. I am honored to have a sizable Italian-American community in the Congressional District I represent, and I know that in many ways Columbus Day has a very special meaning for them. Throughout the birth and development of the United States, men and women of Italian descent have played an important role. One of the signatories to the Declaration of Independence, William Penn, was the great-grandson of an Italian immigrant who was one of the original settlers of Maryland.

We are all descended from immigrants, and certainly Columbus symbolizes the spirit and drive that brought our forefathers to this Nation. This is why Columbus will always remain a very special figure in our history, for the qualities that led him across an uncharted ocean are the same which have marked our development as a nation and as a people.

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RODINO. Mr. Speaker, once again I come before my colleagues who represent every place in America to talk about the national holiday we will all celebrate on October 10. Columbus Day, as most of you know, is a time very close to my heart. In the year I entered Congress, 1949, I introduced legislation to make the day that Christopher Columbus discovered the New World a national holiday. Nearly 20 years later, on June 28, 1968, Lyndon Johnson signed the Monday Holiday Act into law with my bill included as one of the 2 days of the year honoring only one man.

Christopher Columbus was a complex man, courageous and eager for action and adventure, yet he was also a very sensitive man of deep faith. It was his faith and self-determination which enabled Columbus to obtain support for what so many considered an improbable or impossible venture. With his prayer upon departure, "Jesus and Mary be with us on the way," this undauntable man of faith began the voyage on September 9, 1492, that was to benefit future ages and to change the course of human civilization.

To celebrate Christopher Columbus the man is sufficient reason, in and of itself, to justify a national celebration. However, this coming Monday America will celebrate much more than the discovery of our continent. It is the timeless spirit of Columbus that has meaning for us in 1977. Columbus was the prophecy of America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many people have since turned for refuge and hope.

We are truly a nation of immigrants, and on Columbus Day, we pay tribute to the virtue of perseverance against the paralysis of baseless fear. I remind my American friends of Italian descent during this joyous celebration of Columbus Day, that were it not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various Europeans who manned his ship, the great Italian explorer would never have made his famous discovery. And his lasting accomplishment was his inspiration to those who came after him—those people of every race, color, and, creed who landed on our shores and became responsible for our country's growth and greatness.

Columbus Day should make us ever more proud of our roots and respect the ways of life of other peoples. The more we learn about each other's heritage, the more American we truly become. This past week, Mrs. Mondale and I had the great pleasure of opening the American Folklife Festival in Washington, which celebrates all the traditions of ethnic America. By honoring America's various cultures, we honor the spirit of discovery, invention and exploration exemplified by Columbus.

It is not difficult to update the story of Columbus to make it meaningful for our own lives. That explorer fought tenaciously to distill truth from myth and once he found truth, to make it triumph. At a time when we are faced with the fears of domestic crime and the possibility of international nuclear holocaust, of the deprivation of our urban poor, of the bitter hardships of the unemployed and the neglected elderly and disadvantaged, we must rededicate ourselves toward a voyage of progress, to improve our human condition, to eliminate the undenied inequities which exist in our country and to find means to eradicate the sources of poverty, unrest, and divisiveness. These are goals not unlike those set by the immigrants who have made America great.

Like the Italian navigator who pressed onward in his quest for the New World, let us find a resurgence of the spirit of Columbus to meet the challenges of our times.

NGAUS POSITION PAPER ON U.S. MILITARY POSTURE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MONTGOMERY. Mr. Speaker, the National Guard Association of the United States has recently developed a position paper on the U.S. military posture and the short war strategy. In view of the ongoing consideration and changes in our national security and international relations policies, I feel we should have the benefit of all responsible views. Because of its timeliness, I include the following position papers on military posture by the NGAUS for the information of my colleagues:

A POSITION PAPER BY THE NATIONAL GUARD ASSOCIATION OF THE UNITED STATES ON U.S. MILITARY POSTURE AND THE SHORT WAR STRATEGY

It has long been the practice of this Association to stand shoulder to shoulder with our national leadership on the broad outline of the United States military posture. From time to time we have differed with the Department of Defense on the avenues of approach, but only rarely have there been serious differences as to the objective.

However, it has never been the policy of this Association to forego the opportuntiy for dialogue on major issues confronting us, especially when those issues have significant implications not only for our own membership and their special interests, but for the vital interests of the nation at large.

We have watched, with mounting concern, the emergence of a military strategy which, for the want of a better name, is most commonly referred to as "the Short War strategy." We have seen it develop from one of several alternate strategies to become, in effect, the strategy.

Or, at least, "the strategy" for the employment of United States conventional forces—a subject which represents our primary concern. Today, it appears that the short war strategy is totally accepted, embraced not only by Defense systems analysts, but by military theoreticians in quasi-governmental think tanks and even by many members of the Congress.

We believe the time has come to challenge the wisdom, the efficacy, the viability and even the political propriety of the short war strategy. Obviously, we do not know all of its ramifications. But what we have been able to glean from published literature on the topic, and through countless conversations at the unclassified level, leaves us totally uncomfortable. It is a strategy which appears to commit the United States to the peculiar premise that we may have to squander our most precious resources in order to obtain a dubious stalemate, in the event of a war in Europe.

With respect to our conventional forces, current Defense thinking is clearly dominated by the perceived requirement that we be prepared to fight in Europe against the Warsaw Pact in a war which would be concluded in 30, 60, or 90 days—depending upon which Defense expert you listen to.

The short war strategists describe two basic contingencies. The first is a no-warning or short-warning attack initiated by deployed and ready Warsaw Pact divisions currently located in East Germany, Czechoslovakia and Poland. The other is an attack by those same forces but reinforced, primarily from the USSR, after a short period of mobilization and deployment.

These possible cases, it was noted in the "FY 1978 Annual Defense Department Report," "continue to be the most appropriate for the purpose of generating the United States conventional [forces] posture." The Report states that as far as can be determined "the Soviets plan for a short, violent, fast-moving attack on NATO which, if not successful, would burn itself out in a relatively short time."

We find it hard to believe that the Soviet strategy would call for launching an attack which they did not believe they could sustain to a successful conclusion.

In fact, the Russians have an impressive land force capability. They have maior troop concentrations close to what might be termed the potential main battle positions. They have the advantage of relatively secure interior lines of communications to enhance their reinforcing capability.

What this suggests to us is that if their initial thrust failed to shatter the NATO defense, they would be in an excellent position to phase into more protracted warfare.

Assume, on the other hand, that they drove their initial thrust home and destroyed our deployed forces or drove them off the continent. What next? Would we attempt to return? With what? Would Soviet occupation—or domination—of all Europe satisfy their imperialistic thirst? They need raw materials and resources. Would the Middle East and Africa soon go the way of Western Europe?

Where we would be left if the short war strategy failed, is a chilling prospect to contemplate.

The conventional military forces of this nation are tailored—and constrained—by the fact that it has become economically and politically expedient to put all of our land force resources in the short war basket.

This short-war theorizing has given rise to the theme that it is now pointless to sustain forces, active or reserve, which cannot be "on the line," in Europe within 30, 60, or 90 days.

This notion has a substantial impact upon the future of the National Guard. It has, we submit, a profound meaning for the American people.

We and many of our military colleagues believe it is fallacious, perhaps even suicidal, to sell ourselves on a risky military strategy that cannot offer a good assurance of victory and may even be incapable of achieving anything more than a stalemate.

How did we arrive at the short war strategy? Is it a viable strategy or is it lulling the nation into a false sense of security? It may be the path of least resistance to contemplate at the worst a war that will be over and done with in 30, 60, or 90 days!—but is it a rational strategy on which we want to stake the survival of the nation?

In the aftermath of Vietnam, to think of protracted warfare is to think of the unthinkable. Is it any more unthinkable than a stalemate . . . or worse?

A respected former director of the Defence Intelligence Agency, Lieutenant General Daniel O. Graham, recently wrote of the effects of what he terms "an eclipse of strategic thinking *per se* in the United States." We share his concern. We also find another comment by the now-retired General Graham as relevant to this discussion. He identifies a "basic point" upon which "doves" and "the bulk of the hard-liners" agree.

This "basic point" of agreement is that "the Soviet Union has not been building up its military power for the inherent purpose of launching an unprovoked attack against Western Europe." He goes on to ask, "doesn't their pursuit of overall superiority portend a vigorous strategy of political, economic, and small-war action backed by an intimidating military establishment?"

This appears to us to be another way of saying that the Soviet Union is expanding its potential array of military options, while we foreclose on every one but the most improbable. We think that the short war strategy is an artificial solution, superimposed upon the mood of the Nation in the wake of the war in Southeast Asia. We find ourselves in agreement with General Graham and those who are suggesting that we are confronted with a broad enough range of issues "to form the base for a sensible dialogue on national strategy."

The short war strategy has brought about a sort of revolution within the military. Its most worthwhile by-product is the sense of urgency which it has instilled at all levels. Military people talk about the importance of being ready to fight and win the first battle. They talk about the array of forces we need to "be prepared to fight outnumbered, and to win."

It has given a real sense of meaning to the evolution of the Total Force policy and the conviction that the Guard and Reserve would be used alongside the Active forces to provide rapid reinforcement capabilities.

It has caused the Services to seek new ways to improve the readiness of the Guard and the Reserve. They have launched high-visibility programs that are costly in terms of Active manpower and time: affiliation, roundout, mutual support. There has been an interface of active military people with Guard and Reserve counterparts on an unprecedented scale.

On the negative side, however, the near-obsession with the short war theory has created a very clear understanding that Defense is interested only in those units which can be deployed in accordance with one of the early deployment scenarios. We constantly hear talk of the need to "purge" the system of those units which contribute only marginally to the NATO requirement—and that requirement is neatly tailored to short-war thinking!

It is this sort of discussion which leads us to conclude that the short war strategy is strewn with pitfalls for the Guard. More important by far, it is a no-win strategy that fails to serve the best interests of the nation.

What if the short war strategy is put to the test—and fails? The warring sides, we are told, could well batter away at each other for several weeks to no decision. Both would be spent and shattered. Manpower losses and equivalent shortages would be staggering. The Reserves presumably would have been mobilized, deployed and expended along with the Active force in this short, violent encounter. Since there would be little left in the United States to mobilize (and not nearly enough time to turn on the Selective Service pipeline), the emphasis would move from the battlefield to the bargaining table, according to short war proponents.

Efforts then would be launched to negotiate a political settlement. This, it might be observed, is a case of putting the Clausewitzian cart before the Stranglovian horse! Until now, in the course of world diplomatic history, it has been the traditional practice to engage in all possible political negotiations before nations resort to combat. Warfare was regarded as the extension of the diplomatic process, not the precursor.

The obvious question which suggests itself is what happens if we allow ourselves only the resources to fight a 30, 60, or 90 day war? What would be the effect upon us if the war were to turn into a more protracted affair?

Senator George L. McGovern, with whom we differ on many issues, has noted that "in the event of protracted war, even the relative economic vitality of the United States and its adversaries could easily be the decisive factor." We think the Senator put his finger on an issue cogent to a discussion of the shortcomings of the short war strategy.

Circumstances have forced us to contemplate what the Army leadership has sloganized in an effort to put the best possible face on a tough situation—the possible need for U.S. forces to engage in a "come as you are" war. This has been forced upon us by dwindling defense production lines, by the long lead time to procure new items of equipment, by the staggering loss of modern equipment in Southeast Asia, and by the stream of weapons and machines preempted by foreign military sales and/or foreign military aid programs.

As a result, units are being told to expect to go to war, if called, with whatever equipment is actually in their possession in peacetime.

Shattered is the Guardsman and Reservist's long-cherished dream of being issued shiny, new, modern equipment upon mobilization. There is a simple explanation for this: it is impossible to issue what you do not have. And so communications and electronics experts have been called in to explain how, with ingenuity, old-family radios can be made to net with new-family radios. The refurbished 20-year-old M48 tank has been upgraded by "rebuild" to become a combat asset alongside the standard M60.

The "short war" can be fought only as long as the equipment, the spare parts and the ammunition holds out. It would be an unprecedented war for the United States forces in that it would have to be fought with whatever materiel we have on our shelves. Whether it is 30, 60, or 90 days, there would be no time to gear up the industrial production base, no opportunity to produce new armaments or equipment in time to influence the action.

This strikes us as being like having a champion boxer fight a title bout with one arm tied behind his back. For what it denies to the U.S. is the capacity that has always been the long suit of the U.S.—our unparalleled ability to expand a normal peacetime industrial production base to wartime assembly and production lines capable of staggering output.

The advantages of this unique capability are denied to us in the short war strategy. Is this a prudent, acceptable risk?

The history of the past three decades forces us to conclude, along with many others, that the military strategy of the United States must be made more flexible. Its intense fixation on the "worst possible case" NATO defense requirement is a major flaw because it appears to exclude all possibilities. It has been ably pointed out by Professor Eugene V. Rostow that "there is no way for the United States to draw a Maginot line" around favored areas such as Western Europe while we "let the rest of the world go hang."

Clearly, the USSR has demonstrated in Angola and elsewhere in Africa, that it has the capacity to outflank such a strategy. The emergence of "Eurocommunism"—the specter of strong, native Communist parties capable of seizing power legally in Italy, Portugal and France and in several of the Scandanavian nations as well—suggests to us that the real nature of the Soviet threat is far more complex and dangerous in some respects than the idea of a Russian frontal assault across the German plains.

This leads us to ask how we can justify sustaining a military strategy which does not at least contemplate, and plan for, the serious possibility of protracted warfare, of multiple small wars, of operations in places and under circumstances which seem to be the logical consequences of the imperialist thrust of Soviet energy.

It appears to us that pathological dedication to the short war strategy is to base a major segment of the national defense posture on a scheme that has scant likelihood of success—and if this is indeed the case, we should design a more promising military strategy.

Having expressed the conviction that it is in the best interests of all concerned to reexamine our national military strategy, we are sufficiently pragmatic to recognize that the short war scenario may nevertheless persist. As dangerous as we find this concept to be, we feel obligated by the charter of this Association to state some of the minimum conditions that must be met if this strategy is to be anything but foredoomed to failure.

First of all, we must be willing to support active forces in being, fully capable of deterring war by providing a loud and clear signal to the Soviet Union that they will not be allowed to claim a quick and easy victory.

We must maintain forward deployed forces that are strong enough to back up this posture. Trip wire forces will not work.

We must, in the next order of priority, convince NATO allies that it is in everyone's best interests for trained *European* reserves, said to be over one million strong, to be capable of rapid deployment in organized, trained units. It is doubtful that this is within their capability at the present time but, at least, the potential exists.

We should be able to expect that our forward-deployed Active forces be strong enough to deny the enemy an early victory, to deter and slow the attack so as to win the minimum time for the rapid, yet realistic mobilization and deployment of National Guard and Reserve forces. We are told that it will be necessary to be able to mobilize and deploy our Reserve elements in a time frame so short as to be unprecedented in American history.

If the National Guard (and the Army Reserve) is indeed to be effective as the means of filling the gap between the actual force in being and the combat objective force, then a serious and significant commitment must be undertaken by the Defense Department also on a scale unprecedented in American history. Slogans and study groups are not the answers.

The fact is that up to this moment—despite valiant efforts by the Services within severe budgetary and manpower restraints—the necessary resources have been denied to the Guard and Reserve to the extent that they are virtually precluded from being ready enough to be committed to combat in the initial stages of a NATO war.

By serious and significant commitment, we mean not only incentives on a par with those available to the Active forces, but also the availability of enough equipment to enable units to be classified as deployable.

Early deployment units should be maintained at high, even intense, levels of readiness for stated periods. No unit should be held in this category for more than three years at a time. Rotational roundout or affiliation is a must if we are to keep from burning our people out.

A way must be found to dispense with "by the book" requirements for postmobilization training, which always tends to downgrade the readiness of Guard units to be deployed. Commanders and staffs at the battalion level and higher, can be trained in control techniques without having to make excessive use of troops as "training aids."

Flexibility needs to be inserted into basic training opportunities, and enlistment options need to be widened beyond the flat six-year enlistment contract, to give the Guard and Reserve an opportunity to recruit from the widest possible base of individuals who do not desire to join an active service.

Mobilization and deployment field exercises need to be programmed to include Guard Reserve participation, and there needs to be an assurance that the "lift" is available to add a sense of realism to the idea that ARNG and USAR troop units should be part of early deployment packages.

In his FY 1978 statement to the Congress, General George S. Brown, Chairman, Joint Chiefs of Staff, noted quite realistically that "readiness costs money." He noted that many dollar-savings devices actually "cause our ultimate costs to increase and fighting capability to diminish."

He said, in reference to reserves, that "forces in our current Reserve establishment—the National Guard and Reserves—exist to satisfy wartime requirements. We cannot allow their readiness to erode. When they are needed, they must be ready."

We would agree that this is and must be the ultimate objective. What remains to be validated is "when they are needed." That's what is at the very heart of the short war question. When this question is settled, it will be possible to determine what levels of support are needed from the Active establishment, the Congress and from the American people. The conclusion that "they must be ready," is not mere rhetoric provided that all of the interested parties agree that that is how it is going to be.

HOUSE ACTION NEEDED NOW ON PREGNANCY DISABILITY BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial which appeared in the September 18 Louisville Courier-Journal.

I was very concerned by the Supreme Court judgment that women are not entitled to compensation for pregnancy leave.

Although pregnancy is not a disability as such, it is imperative that Congress take appropriate steps to enable women to "afford" a family.

I endorse the statements in the following Louisville Courier-Journal editorial. And, as a cosponsor of legislation to prohibit discrimination on the basis of pregnancy, I urge prompt House consideration of this needed legislation.

The article follows:

HOUSE ACTION NEEDED NOW ON PREGNANCY DISABILITY BILL

Last December, when the Supreme Court ruled that the denial of pregnancy-related disability benefits did not constitute the kind of discrimination against women barred by Title VII of the 1964 Civil Rights Act, women's groups, labor leaders and legislators chorused their agreement that the flaw in law should be remedied.

The Senate finally acted Friday. The House also has a bill in the works, which, like the Senate measure, has broad backing. But unless the House moves quickly, there isn't much hope of the amendment becoming law before the proposed October adjournment. Yet to delay its effects another year would be a shame.

It's true that many American companies are already moving to include pregnancy in their disability-insurance program; an estimated 40 percent have already done so. But many will doubtless resist to the end, unless the courts or the law insist that they do so.

Not that all firms would be required to act. Those that don't offer any disability programs at all would not be affected. But companies that do provide benefits for temporary disabilities would no longer be allowed to exclude pregnancy or any pregnancy-related condition.

The Supreme Court's 6-3 ruling that, in excluding pregnancy, businesses were not discriminating against women, was patently unjust. It was particularly inappropriate in the context of the case under review, a suit against the General Electric Company. As Justice Brennan pointed out in his dissent, it was misleading for the majority to affirm

that under the General Electric program "there is no risk from which men are protected and women are not," when such specific and solely male disabilities as prostatectomies were included.

Moreover, as Justice Brennan also observed, modern disability programs are not created in a social vacuum. The notion that most women consider work a fringe activity, subordinate to child-bearing and child-rearing, persists among many employers. Yet 70 per cent of all women who work are either the sole wage-earner or are married to men who make $7,000 or less a year.

In today's world, childbirth is for many women not the end of a working career, nor even the beginning of a long hiatus between one career and the next. Rather it is a brief interruption, a temporary disability that keeps her from her job no more than a matter of weeks. Yet unless she's protected by a disability plan, she stands to lose not only income for the weeks away from work and help with medical costs, but often seniority and vacation rights too.

Senate consideration of this bill last week was diverted for a while into a debate on whether or not disability payments would have to be made under this law for abortions. The senators eventually rejected a proposal to prohibit any such payments.

In fact, the provision of disability benefits for women who want to carry their pregnancies through to term could be a valuable disincentive to abortion. No one knows how many women presently choose abortion because they can't afford the lost income that a pregnancy leave without disability benefits would impose on them. The House should now move swifty to pass the bill.

FEDERAL LEGISLATION TO HALT CHILD SNATCHING

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. SAWYER. Mr. Speaker, I am today introducing legislation to address one of the most serious and unpublicized crimes being witnessed in modern society, child snatching.

Often unreported, the action of a parent abducting his own child against the will of the child or of the guardian or other parent who has legal custody is an increasing phenomenon in the United States. Presently, no effective sanction exists against parental kidnaping, since the Federal Kidnaping Act excludes parents from its sanction. Absent Federal legislation combined with rising divorce rates, the number of child snatchings in recent years has skyrocketed. Estimates say 25,000 to 100,000 children were taken last year alone.

The legislation which I am proposing will protect the personal rights of children against the actions of their parents. My bill will amend the Federal kidnaping law to provide penalties for the taking of children by parents from legal custodians. Specifically, it would be a Federal offense:

First, when a parent transports a minor in interstate foreign commerce taken without consent from the parent who has legal custody at the time of taking.

Second, when there is willful failure by the parent to return a minor after the period of legal custody.

Third, where a parent induces or persuades the minor to leave the parent who has legal custody.

A person found in violation of this new law can be fined up to $1,000 or imprisoned for 1 year, or both for the first offense. For second time offenders the penalties are increased to $2,000 fine or imprisonment for 2 years, or both.

At present, only civil remedies are available for the parent seeking the return of an abducted child. This can result in a heavy economic drain upon the parent's resources. Before getting the child back the parent is likely to pay the cost of detectives, attorney fees, and travel fees to another State or sometimes to a foreign country. As a result, the battle of custody is reduced to little more than a war of attrition. The parent giving up attempts to locate his child after prolonged frustration and accumulation of heavy financial burdens.

The increasing mobility of Americans since World War II along with the increasing rate of family breakup and other social changes have added to the problem of parental kidnaping. Last year in the United States for every two marriages, one divorce was granted. An increase of over 50 percent in the number of divorces issued in 1965.

The tragic case of an Oklahoma family where a divorced father kidnaped his 4-year-old son highlights the emotions and determination involved in child snatching. The mother, who was legal custodian saw the incident and gave chase to the fleeing kidnapers. During pursuit the kidnaper's car went out of control, rolled over twice and finally smashed into a tree. The child was dead on arrival at the hospital; his father died a few days later.

The real victims of squabbling parents are the children who already have suffered the effects of a broken home and are later subjected to interstate warfare over custody which is waged by parents. There is a clear need to preserve the best interests of the child and to establish effective penalties against forcible abduction of children by their parents. I hope prompt consideration can be given to this legislation which will spare children the horrible effects of this crime.

IN DEFENSE OF LEGAL ALIENS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, a most thoughtful and timely editorial appeared recently in the New York Times and I wish to bring it to the attention of my colleagues. It discusses the so-called overlooked aliens—those men and women who immigrated to this Nation in compliance with our laws, and who are now attempting to gain permanent legal status.

The attention being focused on the illegal alien has prompted some unnecessary and unwarranted stereotyping of all aliens. The illegal alien problem is completely distinct, and should be dealt with forcefully and immediately by Congress. Those here illegally must not be confused with aliens who enter our Nation legally, in accordance with our laws.

The fact is, this Nation has grown strong by the hands of the millions of legal immigrants who came to this Nation and worked with citizens for a better America. Yet the article points out that those aliens seeking to make their status permanent, are experiencing problems. The backlog of applications filed with local immigration service offices is straining their resources. If the President's plan to grant temporary legal status to millions of illegal aliens is enacted, the INS will certainly face even greater strains on its limited resources. A massive increase in INS personnel must be provided.

It is important that the distinction between legal and illegal aliens be recognized. It is simply the difference between law abiders and law violators. More importantly, legal aliens work, pay taxes and merit better treatment.

The article, "Overlooked Aliens," by Kem Balani follows:

OVERLOOKED ALIENS

(By Kem Balani)

So much exposure has been given in the news media in recent months to illegal aliens that *legal* aliens—specifically, those seeking permanent-resident status through the normal legal process—have been virtually forgotten.

At present, there are hundreds of thousands of aliens who have entered the United States legally as non-immigrants who have fulfilled their purpose in coming and who subsequently have decided that they want to stay permanently and have applied to the Immigration and Naturalization Service for adjustment of their status from nonresidents to residents. Most of these applicants have had to wait an unreasonably long time before they can be granted a green card, the document certifying permanent-resident status.

It is appalling that the proposed immigration bill that Carter has submitted to Congress—while it would grant permanent legal-alien status to those who have lived continuously in the United States since Jan. 1, 1970, temporary legal-alien status to those who entered this country between that date and Jan. 1, 1977 and deport illegals who arrived after Jan. 1, 1977.

Why hasn't President Carter said even a word about what to do with these large numbers of legal, documented aliens desiring to be residents? Why does he propose to bypass them and grant permanent-resident status to illegal aliens? Where is his sense of justice?

Legal nonimmigrant aliens have spent a lot of time, money and effort retaining lawyers, obtaining job offers and sponsorships from employees for permanent residence, or they have invested life savings in self-owned businesses and thus qualified themselves to apply for change of status to immigrants.

For most nonimmigrant aliens, the whole process of obtaining green cards is long, tedi-

ious, costly, time-consuming and exasperating. And the Carter bill, while suggesting strong measures to curb the flow of "illegals" and imposing penalties upon employers of illegals, does not propose any means to reform and speed up this vital process, which is an important part of immigration policy.

While immigration personnel say that they are overworked and underfunded and that their offices are understaffed, applicants for permanent residence endure long years of patient waiting, deferring plans to visit their families in their countries of origin and sometimes freezing career and business plans.

During this waiting, many have sleepless nights, severe tension and no peace of mind until an immigration office finally makes a decision on their application. And if the decision is negative, the appeal process takes several more years.

When the President's bill comes up for debate in Congress, it should be amended to include a broad provision granting green cards to all nonresident aliens seeking them legally—as a first priority—before tackling the problem of illegals.

Legal nonresident aliens have shown their sincerity and faith in the American system by choosing to go through the process of law in obtaining permanent residence. The plan must, therefore, first grant permanent-resident status to legal, documented, nonimmigrant aliens before it grants any form of amnesty to illegal, undocumented aliens.

TRADE BAN WITH UGANDA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. PEASE. Mr. Speaker, 2 weeks ago I introduced legislation in the House to establish a trade ban with Uganda. In part, my action was prompted by my belief that many Americans share my deep concern about Idi Amin's genocidal policies and the role that U.S. companies are playing in supporting Amin's reign of terror.

It is heartening to have received expressions of support for my legislation from all over the country. My correspondence has been overwhelmingly favorable. I want to share with my colleagues excerpts from some of the letters I have received.

From a businessman in Sandusky, Ohio:

It has recently come to my attention that you have suggested a boycott of Ugandan coffee as an economic move against Amin. I heartily endorse your proposition.

Regardless of long term political or diplomatic consideration which may arise because of any potential successor to Amin, the inhumanity of his regime must not be permitted to continue.

From a man in LaJolla, Calif.:

Congratulations on your proposal to shut off Ugandan coffee exports to the U.S. Along with millions of other Americans, I had no idea we were providing such a large percentage of Uganda's foreign exchange.

From a man in Fort Walton Beach, Fla.:

I am in total agreement with your proposed legislation to shut off the U.S. imports of coffee or any other economic sanction against Uganda's bloody dictatorial system. President Carter's human rights policy appears distinctly hypocritical when we allow Idi Amin to slay thousands of innocent people without any official reprimand or sanctions from the U.S.

From a man in Hillside, N.J.:

I am glad to see that someone had the sense to introduce a bill to boycott coffee from Uganda. Why must we support this tyrant when we preach humanity?

From a former missionary to Uganda, now living in San Francisco, Calif.:

I want you to know that many of us who are concerned with the situation in Uganda strongly support the bills you have introduced banning coffee bought from Uganda. This action is one of the very few which might force Amin from power. While worldwide boycott is needed, even an American boycott can have favorable results.

I have a great personal interest in this, having been a missionary in Uganda from 1968–1973, including two years under Amin's regime. The wholesale killings (which I estimated at 100,000 when I left in 1973) and the persecution of the Church in Uganda, plus the deep involvement of Russia and Libya in the present government, cry out for some action from America.

From a woman in Palo Alto, Calif.:

Idi Amin's vicious regime should not be kept in power by American dollars.

From a university professor in Illinois:

The United States should in no way help prop up this disgraceful regime which has cost so many black lives and promises to continue its bloody and erratic repression.

From a man in Bellaire, Texas:

I was very heartened to read in the paper of your proposed bills to ban imports from and exports to Uganda. It is the most common sense and proper piece of "today" foreign policy that has been brought up in quite awhile.

Moralizing and evangelism are not tools for the exercising of foreign policy. We must act out of our own sense of what is right and fair.

President Carter and Ambassador Young have made headlines (and little else) about Rhodesia and South Africa but haven't seemed to bothered about what surely is the greater tyranny in Uganda. There is no need to try to talk to Uganda and Amin or other African leaders about conditions in Uganda—we should just about subsidize it.

I thank you for the direction you are attempting to give our country's actions. . . . It's about time and a good deal more important than the Bert Lance affair.

From a man in San Francisco, Calif.:

I welcome and support your bills to impose a trade boycott with Uganda. If by reducing our coffee consumption by a fraction we can help rid the world of Idi Amin, by all means let's do it.

From a teacher in the Peace Corps in Nairobi, Kenya:

I am amazed any American has finally realized what is going on over here. We are all very sensitive to the Uganda "mess". Buying coffee or anything from Amin only encourages him.

Someone in the States is not only interested in the $ but is showing an active interest in human rights in Uganda. I hope your bill passes. It is very important over here.

Mr. Speaker, I am led to believe that there is public support for the Congress taking action to halt our Nation's commercial trade with Amin's government. Meanwhile, work continues around the clock in New York City to put the finishing touches upon the lavish new (8-story) building that will house Idi Amin's representatives to the United Nations. It is abundantly clear who is providing much of the money to pay for the construction of this monstrosity.

We must not continue to allow American companies to subsidize Amin's government. We must take a stand and refuse to trade with Uganda.

CONGRESSMAN BILL GOODLING OF PENNSYLVANIA SPEAKS HIS MIND ON PANAMA CANAL CONTROVERSY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. SIMON. Mr. Speaker, one of our colleagues who has shown great courage on the Panama Canal issue is Congressman BILL GOODLING, of Pennsylvania.

If this Nation is to make the right decision on the Panama Canal treaties, there will have to be people like BILL GOODLING who have the courage to put the national interest clearly ahead of what is, at least temporarily, a popular position.

I hope my colleagues will take a page from his book and follow his courageous example.

PLAIN TALK

(A weekly commentary written by U.S. Rep. Bill Goodling of Pennsylvania's 19th District)

WASHINGTON.—I will not have an opportunity to vote for or against the Panama Canal Treaty since only the Senate will have that opportunity. Nevertheless, the House could be called upon to vote on implementing legislation if any is required. Like every issue that comes before Congress, there are no simple answers. I've read numerous articles and letters people have sent me indicating that there is a simple solution. Unfortunately some of my colleagues who are apparently politically motivated have indicated the same.

I do not become disturbed with those colleagues who truly believe the canal is ours, we paid for it, and we are not going to talk about it. But I am very disturbed with many of my colleagues who are trying to make political hay from the canal treaty issue. I am afraid some of them are being politicians, not statesmen. They realize that few people fully understand the Panama Canal picture, and they also realize that many people have taken a stand against any new treaty and therefore, they find it politically expedient to jump on the band wagon.

I believe that it is our responsibility to study the whole issue and try to bring the issue in its entirety before the American public. However, I realize that in the 19th District it would be politically expedient just to join the crowd who are clamoring against any new treaty.

As I presently understand the treaties which will come before the Senate, they will do the following: First of all, the U.S. will be able to guarantee the security and defense of the Panama Canal. The U.S. will have the right to defend the neutrality of the Canal from any threat for an indefinite period. U.S. warships will have the permanent right to transit the canal expeditiously and without conditions for indefinite period.

The economic factors in relationship to the canal as I understand them are as follows: Panama will receive exclusively from canal revenues a share in tolls—30¢ per canal zone ton, $10 million a year from canal revenues and up to an additional $10 million per year only if canal traffic and revenues permit. I'm told that these arrangements will not involve any Congressional appropriations.

It is my belief there are three important factors and very necessary elements that must be in a new Treaty: One, our permanent right to defend the neutrality of the canal from any threat with the permanent right of our warships to transit the canal expeditiously without any conditions, and secondly, our investment must be considered when any financial arrangements are concluded . . . with *no* tax dollars involved. As I presently understand the two treaties these two concerns are satisfied. The third concern that I would have would be for the future security of the United States employees in the Canal Zone, and it is my understanding that they will be guaranteed U.S. Government jobs until retirement. They will enjoy the rights and guarantees extended to all U.S. Government employees.

These treaties are the result of 13 years of negotiations under four Presidents. There is a far greater significance to these treaty discussions than just the ten square miles of land and water under U.S. control in the middle of Panama. The future cooperation between all of the nations in Latin America with the United States rides in my estimation, on how successful we are in this negotiating process. If we fail then I truly believe we will be pushing Central and South America into Castro-communist Russia's hands.

In the foreseeable future it is my belief that we are going to need Central and South America, Mexico and Canada as very strong allies in order to secure the Western Hemisphere from forces who would like to see our way of life collapse. All Latin American nations are very concerned and closely watching the treaty development. If we are to spread the American way of life through Central and South America rather than the Castro-Communist Russian idealogy, we must develop a much better relationship with our neighbors whom we have neglected and taken for granted for too many years.

ON COOPERATION BETWEEN WATER CARRIERS, TRUCKERS, AND RAILROADS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RUPPE. Mr. Speaker, at a time when there is heightened discussion about both the import and impact of waterway user charges, it often appears that we have contestants at opposite poles with no possibility of achieving a cooperative relationship.

It is helpful to hear a refreshing advocate of a degree of intermodalism that seeks to improve the efficiency of all transportation modes. In a recent address before the Council of Lake Erie Ports, Mr. John J. Dwyer, president of the Oglebay Norton, Co. of Cleveland, spoke of the cooperative climate of water carriers, truckers, and railroads that had much to do with the successful passage of the Railroad Rehabilitation and Regulatory Reform Act of 1976 as exemplary of what understanding cooperation can achieve.

He also reported on recent progress in Great Lakes transportation matters and the development of a much more helpful attitude on the part of the Interstate Commerce Commission toward rail-water service.

Mr. Dwyer, whose remarks were introduced into the CONGRESSIONAL RECORD of September 7 by Congressman OBERSTAR of Minnesota, also reported on recent progress in Great Lakes transportation matters and the development of a more helpful attitude on the part of the Interstate Commerce Commission toward rail-water service.

Supportive of Mr. Dwyer's discussion are the following excerpts from the American Shipper magazine of August 1977 accredited to Mr. William A. Kernan, vice president of the American Commercial Barge Line Co.:

The vice president of a major domestic barge line sees a softening of attitude on the part of at least one railroad in coordination of rail/bargs movements of coal.

William A. Kernan, vice president-traffic of American Commercial Barge Line Company, reported the change in attitude at a transportation conference on the campus of Princeton University July 27.

The railroad involved in the Louisville and Nashville (L&N), the same railroad which filed a suit last fall to block further construction of the Tennessee-Tombigbee Waterway on grounds that it would deprive the railroad of about 29,000,000 tons annually of coal business—maybe more. At the time it intervened, L&N officials said they would be willing to drop the suit if Congress imposed suitable toll or user charges against barge shipping. Such toll or user charges now seem certain following House Ways and Means Committee approval of fuel tax and lockage fees to be paid by commercial users of the nation's waterways.

Kernan foresees new rail-barge movements involving eastern coal for Gulf state electric utilities and steel moving from the Ohio Valley to Texas to meet competition of foreign steel in the Texas oil fields.

Kernan told the Princeton audience that his company is "helping eastern coal compete in the Gulf region" with the cooperation of the L & N, which is a subsidiary of Seaboard Coast Line Industries.

Kernan said the rise of marketing professionals in the railroads who have a better command of profit maximizing and energy conservation is leading to new interests in intermodalism. Railroads are beginning to consider connections with barge lines in order to get maximum utilization of equipment.

Barge lines would like to help the steel mills in the Ohio Valley meet foreign steel competition at the Gulf, Kernan said.

We are currently working with the Ohio River area steel mills to help make them more competitive at the Gulf against their foreign import rivals. Bargeload quantities of steel products assembled at Ohio River ports by connecting rail services could help make possible steel service distribution centers at Gulf ports to compete with steel service distribution centers set up for import steel.

Reduced transport costs resulting from rail-water coordination may be a large enough factor, in certain instances, to overcome the import advantage. If so, this would mean new business for railroads and barge lines as well as improved utilization for railroads on their connecting service to the Ohio River ports, Kernan said.

Kernan said the ICC had not encouraged water-rail coordination in the past but now is much more "neutral" in rail-barge cases involving coordination of service and this had proved helpful in setting guidelines.

Even traditional railroad resistance may be weakening, Kernan said.

I think there is so much pay-dirt in terms of improved profits, improved utilization of equipment and last, but not least, reduced overall rates to the customer to be achieved in the promotion of intermodal coordination, particularly rail and water, that we should all develop continuing projects to look for new movements, he said.

ATTACKING AGE DISCRIMINATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, last Wednesday, September 28, I was honored to represent the House Select Committee on Aging before the U.S. Civil Rights Commission as they continued their comprehensive hearings into age discrimination. These hearings have been conducted around the country. The distinguished chairman of the Aging Committee, Senator PEPPER testified at one hearing in Miami. Their purpose is to determine the best methods of implementing the Age Discrimination Act which takes effect in January.

Discrimination against the elderly is a national disgrace which cannot be tolerated. Whether it be subtle or obvious, it has the same result—it promotes inequality against the senior citizen. The fact that age discrimination exists in the delivery of Federal service programs is especially reprehensible and the efforts of Congress must continue until we are rid of this plague.

At this point I wish to submit my testimony for the RECORD.

HON. MARIO BIAGGI BEFORE THE CIVIL RIGHTS COMMISSION

Good morning Commissioner Flemming and Members of the Civil Rights Commission. I am Congressman Mario Biaggi and as Chairman of the Subcommittee on Federal, State and Community Services, I am representing the House Select Committee on Aging at this hearing on age discrimination in federal programs. As you recall, the distinguished Chairman of our Committee, Mr. Claude Pepper, testified before a similar hearing in Miami. I support the comments and suggestions he made during his presentation. Today I will offer additional remarks on the subject of age discrimination.

For all of my public life I have fought dis-

crimination. It is an evil which affects many groups. While much publicity has been centered on sex, ethnic and racial discrimination, age discrimination has only recently received attention.

While "age" is not limited to any particular group or segment of our population, I believe Congress wished to draw special attention to this nation's older population by attaching the Age Discrimination Act of 1975, which authorizes your study, to the Older Americans Act. It is this group which I particularly wish to discuss today.

Age discrimination, or Ageism, is as vicious as any form of discrimination this country has known. It is a deplorable state of affairs when this discrimination is allowed to exist in the administration of federal programs. It is a situation which must be rectified. Certainly the Age Discrimination Act of 1975 is an important first step. Yet unless it is rigidly enforced, it will amount to nothing more than window dressing and will only serve to embitter our senior citizens.

One of the functions of these hearings is to develop the policies which will allow for full implementation of the age Discrimination Act. I welcome the opportunity to offer suggestions.

My efforts to combat age discrimination are by no means new. In 1970, I successfully offered the elderly and handicapped transportation access amendment to the Urban Mass Transportation Act. The intent of the amendment was clear. It states:

". . It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to the elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportaiton (including the programs under this Act) should contain provisions implementing this policy."

At the heart of my amendment was my knowledge that discrimination against the elderly with regards to transportation was in the form of inaccessibility. The result was the same as the deprivation of a fundamental right.

For six years the elderly and the handicapped of this nation waited for the for the Department of Transportation to implement the guarantees of my amendment. The regulations state that beginning in 1979, federal subsidies for buses may only be used for the purchase of low-floor, wide-door, ramp equipped buses which are accessible by the elderly and handicapped. While these regulations are an important first step, they do not totally implement my amendment, which covers all forms of mass transportation.

During the House consideration of legislation to extend the life of the Legal Services Corporation, I again detected discrimination against the elderly in the existing program and offered a legislative remedy. A survey conducted by the Legal Research and Services for the Elderly, a research arm of the National Council of Senior Citizens, showed that of 10 states surveyed, persons over 65 comprised 21.7% of their poor population yet represented only 7.2% of the Legal Services caseload. A good deal of this was due to lack of outreach by the programs and accessibility to the programs. In an effort to guarantee the elderly their fair share of legal services, I sponsored an amendment, which was approved, giving the legal service needs of the elderly priority consideration by the Corporation. Justice is for all in this country, however it can never be achieved if some are denied access to legal services.

Last week the House of Representatives overwhelmingly passed legislation which I cosponsored and fought for—legislation which eliminates mandatory retirement in the federal government and extends protection from mandatory retirement to age 70 in the private sector. This measure is an important step in guaranteeing the elderly of the nation a fundamental right—the right to work as long as they are willing and able.

During your hearing on this subject, you have heard testimony on a number of federally financed programs that discriminate against the elderly, one of the more glaring is the Medicare program, a program that is meant to benefit primarily the elderly citizens of this country. This program fails to meet the real medical needs of older persons. Covered services are more in tune with acute, short term illnesses that younger persons might experience and yet, one must be 65 years of age or totally disabled for 24 consecutive months to be eligible for medicare. Long term care for chronic illnesses, prescriptions, eyeglasses, hearing aids, dentures, items of special importance to the elderly, are not covered. As a result, even a program established for the elderly discriminates against the elderly.

I realize that most employment related activities are not within the scope of the study mandated by the 1975 Act. Public service employment under CETA, however, is specifically covered and I believe the record in this area demonstrates extensive unreasonable discrimination based on age.

The Committee on Aging has devoted particular attention to the level of services received by older persons from employment programs funded by Federal dollars. The Committee's findings indicate that older persons receive an extremely low level of services in comparison to other age groups—a level not justified by the facts. For example, the statistics at the time of our review last year showed that those 55 and over constituted less than 3.4% of the 1.5 million job holders under CETA. On the other hand, the over 55 age group represented 8.9% of the unemployed and had an average period of unemployment 2 to 3 times as long as younger workers. Since then, some small improvement has been registered but when you are starting near zero, small improvements leave an unacceptable situation.

When our Committee was undertaking this review of funding of Federal programs that benefit the elderly in the employment area and others, we ran into a major problem. Namely, there is a dirth of age related data for most federally funded programs and activities. While some agencies try to maintain some sort of records that indicate the age of the beneficiaries, most do not. Those that do, do not have similar systems that allow comparison. Perhaps one of the best recommendations that your study could make would be for the development of an age related reporting system that would provide the data base needed to determine the existence and extent of age discrimination in federally financed programs.

I would like to suggest the use of an "age audit" that would demonstrate how funds in service programs are distributed among different age groups. Like any other audit, this method would seek to account, in detail, how resources are expended. The difference is that "age" is the major independent variable and that all the others, including money and program services are related to it as dependent variables. In such an audit, a matrix is established with age variables along the vertical axis and program services or monetary allocations variables along the horizontal axis.

An age audit could become an important part of the management information system utilized by Federal agencies so that policies and programs can be assessed and modified to assure that no age discrimination occurs against older Americans in federally financed programs. Moreover, such a procedure would provide the basic data needed by Congressional Committees which may be responsible for legislative changes in our programs. By having a standard age reporting system, the various committees and federal agencies would be able to talk the same language.

Once the existence of age based discrimination in federally financed programs is detected, and I believe it will be, I feel that strong, affirmative steps must be taken to eliminate this form of discrimination. In particular, I would advocate the establishment of an affirmative action type program for older persons to insure that they receive their fair share of programs meant to serve the people of this country. I would seem to be within the spirit of the 1975 Act to require those responsible for the operation of programs and activities financed in whole or in part with Federal funds to make an age analysis of their programs and to submit an annual report which would include the findings, goals, and timetables for action to correct inbalances and discrimination.

I believe it is time for the rights of this Nation's elderly to have the same status as rights based on sex or race. The abuse or neglect of these rights over the years more than justifies the need for such an affirmative action program for the elderly.

The 1975 Act uses the term "unreasonable age discrimination" and I am sure that such a phrase may cause you and the future enforcement of the Act some problems. Should we judge the severity of discrimation? I say we should direct our efforts toward weeding it out entirely. I am hopeful that your study will recommend a very limited interpretation of what constitutes "reasonable discrimination". In fact, I hope you second the opinion of our Committee Chairman, Claude Pepper, and myself that any age discrimination is unreasonable.

Allow me to conclude with two observations. When we think of age discrimination, let us focus in directly on the elderly person being discriminated against. Consider if this person is a member of an ethnic or racial minority and has suffered discrimination all their ilves. Must they now meet up with a new fom of discrimination for their remaining years? Is it not in our best interest to eliminate all discrimination before individuals must endure a lifetime of it?

Finally, Mr. Chairman, yesterday my subcommittee conducted a hearing examining aging in the world of tomorrow. We held these hearings to help determine our policies for dealing with a rapidly aging society. Yet these hearings today may help pave the way of the future for the elderly of this nation. If we are successful in rooting out discrimination against the elderly in Federal service programs, we will provide the elderly with greater opportunities to receive services in the future. Therefore, the impact of these hearings will be felt now and in the future. Let us proceed.

MOVING MILITARY INSTALLATIONS REQUIRES 60 DAYS ADVANCE CONGRESSIONAL NOTIFICATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. STEERS. Mr. Speaker, I would like to bring to the attention of my col-

leagues a situation which has caused me—and two of my Maryland colleagues—a great deal of concern in the past several weeks.

Under Public Law 94–431, the Department of Defense is required to give Congress 60 days notification of any large-scale relocation of a military installation. On August 5, the day on which Congress recessed for 30 days, the Defense Department notified Congress of its intent to relocate over 700 employees from the Hydrographic Center at Suitland, Md., to the Topographic Center at Brookmont, Md. This is a distance of only 10 miles or so—as the crow flies. But the net impact of the relocation on the 750 employees and on the area to which they will be relocated is significant. Yet, DOD blithely announced this action on the eve of a congressional recess, failed to give notification to the two planning agencies most involved in planning efforts for that part of the metropolitan area, and did not tell any of the Brookmont residents about the planned intensification of land use at Brookmont. On top of all of that, DMA has indicated that there is no public opposition to the move. They also indicated that the appropriate governmental agencies did not interpose any objections to the move. Of course they did not—neither the public nor the local planning agencies were even told about the consolidation!

I want to share with my colleagues the testimony which I submitted to the Armed Services Subcommittee on Military Installations about this situation. I have included with this statement the observations of some of the local citizen leaders who contacted me about this matter and the manner in which the Defense Department has so cavalierly demonstrated its contempt for Congress and the people, and a letter to Chairman PRICE from Royce Hanson, chairman of the Montgomery County Planning Board. A similar letter is being prepared for Chairman PRICE by the National Capital Planning Commission, which also was not even notified of this action by the Defense Department. Finally, I am enclosing a copy of a telegram sent by Congresswomen HOLT and SPELLMAN and myself, to the Secretary of Defense setting forth the reasons why this move violates the letter and the spirit of several laws, DOD regulations, and Executive orders.

Mr. Chairman, I hope that my colleagues on both sides of the aisle will take time to review this material—for the attitude of the Defense Department in this matter transcends party affiliation and regional representation. The Department of Defense has subverted the will of Congress in this matter—and the Congress in this matter—and the Congress has been unable to "persuade" DOD at this point to reverse its decision. It is apparent to me that present law is inadequate to insure that the Congress, local officials and governing units, and affected citizens have input to DOD decisions. Therefore, I am introducing legislation which will require more thorough notification of facilities moves such as the one recently announced by the Defense Mapping Agency. Thorough notification—for complete planning—is the least which we can expect of the Department of Defense in matters which so seriously affect citizens and communities.

The testimony follows:

TESTIMONY OF THE HONORABLE NEWTON I. STEERS, JR.

I appreciate the opportunity to join my distinguished Maryland colleagues, Marjorie Holt and Gladys Spellman, to indicate my very serious concerns about the Defense Department's compliance with Section 612 of PL 94–431 in the consolidation of the Defense Mapping Agency at Brookmont, Maryland—which is located in my Congressional District. Mrs. Holt has set forth the specific actions which DMA is presently taking—irrevocable actions toward implementing the decision to consolidate—and Mrs. Spellman has told you of the cavalier attitude of DoD which the Washington Area Congressional Delegation has encountered in regard to one particular military realignment. I would like to associate myself with the remarks of both of these fine Members of Congress—for I agree entirely with their analyses of the problems we have encountered with DoD.

I find myself in a rather unusual situation in testifying before you in opposition to a move of a federal facility *into* my Congressional District. Not many Members of Congress do that. But, after reviewing the facts underlying this particular action and, in particular, on reviewing the actions of DoD in supposedly "complying" with the requirements of Section 612—I *must* take this position.

Like Mrs. Holt and Mrs. Spellman, I am concerned with the manner in which DoD notified Congress of its decision to move 750 employees from the Hydrographic Center at Suitland, Maryland to the Topographic Center at Brookmont, Maryland. We learned, in spite of repeated requests for periodic progress reports on the status of a decision, only hours before the August District Work Period, that the facilities would be merged at Brookmont. The pertinent law specifically states that no funds may be used to effect a relocation of personnel unless—

"(C) the Secretary of Defense . . . submits to the Committees on Armed Services . . . his final decision to close or significantly reduce such installation. . . ."

and that

"(D) a period of at least sixty days expires following the date of which the justification . . . has been submitted to such committees. . . ."

As Representative Holt testified, DoD began renovations of the DMA site well before the 60 days had expired and in spite of a request of the Chairman of this Committee that no such action be taken. In addition, the Congressional Notification states that the public would only be given 30 days to comment on the proposal.

We have a situation here in which Congress was given notification on the eve of a 30 day recess—effectively cutting Congressional review time in half. If DoD is permitted to establish this back-door approach as an acceptable standard of Congressional notification, the work of the Congress in adopting Section 612 is for naught. It will, for all intents and purposes, be worthless and Congressional control of the vital activities and locations of our defense installations will be forfeited to the Defense Department. I believe, and hope that this Subcommittee concurs, that the Department of Defense should be told—in no uncertain terms—that the notification period required by Section 612 was intended to mean 60 days while the Congress is in Session.

The effect of DoD's thirty day breach became clear to me just last Thursday when a delegation of citizens from the Brookmont area met with me in my office to share their concerns about this consolidation. The citizen leaders are *very* well informed individuals who work as attorneys, executives and lobbyists and who are generally very much aware of their rights. They are also very concerned about the effects of urban growth on their sylvan neighborhood. These people only heard of this proposed action last week. Vice Admiral Cramer certified that he had found "no significant public controversy" in regard to this consolidation. This is plainly untrue—as revealed in a letter to me from the Potomac Valley League which stated that "once neighbors were belatedly made aware of the proposal, considerable controversy ensued". The Glen Echo Heights Citizens Association likewise pointed out that "there has been a lack of communication which has kept this question on a low profile so far".

Similarly, Glen Echo Heights points out that the DMA statement that "county agencies invited to comment have voiced no concern" rings hollow, because two of the major agencies were never notified. The National Capital Planning Commission, which has authority over all federal planning moves in the District of Columbia and has an advisory opinion on federal actions in the Maryland and Virginia suburbs, only heard of the action—by happenstance—last Wednesday. Similarly, the Maryland-National Capital Park and Planning Commission, which is the planning agency for the Maryland suburbs, received no notification—in either their Prince George's County or Montgomery County branches—until last week—again through happenstance.

Likewise, I do not believe that the Congress was given sufficient notification. The intent is to allow Congress—especially the Members who are directly affected by any particular action—an opportunity to thoroughly review the plans and the effects of those plans. In the Consolidation Study done by DMA, Defense states there was no public opposition. And as I stated, the reason for this is that DoD did not inform certain essential government agencies—nor did it notify any of the citizen groups. My impression therefore, was that the citizens viewed DMA as a good neighbor and would not object to the additional employees and activity. But as I learned last week, this was not the case. Serious question has been raised about the effect of an increase of 25% in the number of employees working at Brookmont, which is zoned entirely residential and has a strongly rural atmosphere even though it is located directly adjacent to the District of Columbia. DMA will be operating heavy map making presses and, in essence, developing a large industrial set-up. As the Potomac Valley League's letter points out, "(t)he present . . . facility . . . was established during World War II, as a 'non-conforming use.' To *expand* the non-conforming use in the residential zone to the extent proposed . . . should require, we submit, the most exhaustive justification. . . ."

If a private company were to seek permission from the County government to establish a 700 employee printing plant anywhere *near* Southwest part of the county, permission would be vigorously denied on two grounds. First, it would violate the County Master Plan as well as the Metropolitan Growth Policy Statement of the Council of Governments. Second, it would be viewed as a serious negative impact on

the Potomac Palisades—which is an historical and ecological system, recognized by the federal government—deserving preservation—not desecration.

The actions of the Department of Defense, in withholding notification to the two planning agencies which have direct jurisdiction over this area, in withholding notification to the Congress until hours before a thirty day recess—in spite of personal assurances to affected Members, as Marjorie Holt described in her statement—and the blatant disregard of the public—all combine to demonstrate to me that Section 612 has not been complied with by the Defense Department I also believe that there is a need to expand the notification procedure to insure that any federal action affecting a large number of federal employees are made known to the appropriate state, local, and regional governing authorities so that they—if not the federal government—can hold appropriate public forums to truly discuss the implications and effects of these federal moves.

To allow the federal government so greatly to impact on the lives of its employees, and its neighbors, without sufficient public consideration and Congressional notification, is far less than the people of this country deserve of their government. I hope that this committee will review the nature and purpose of Section 612. It may, as I have said, need amendment to *insure* that adequate and proper notice is given, not only to the Congress, but to the other levels of government and to the people.

Section 612 should also be reviewed as it has been "applied" to DoD in this particular instance. It is obvious to me that DMA has violated the purpose and intent of Section 612. I hope that the committee will do all in its power to halt DMA's proposed move—immediately and in no uncertain terms.

Again, I would like to thank you for the opportunity to present my views. I would like at this time to present some of the correspondence which I have received from the Brookmont area citizens and citizen groups and ask that they be inserted into the record.

SEPTEMBER 21, 1977.

Re Expansion of Defense Mapping Agency Topographic Center at Brookmont.

Hon. NEWTON I. STEERS, JR.,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STEERS: The undersigned individual citizens and seven (7) citizens associations would like to request that you oppose, on our behalf, the proposed expansion by the Defense Mapping Agency (DMA) of its Brookmont Topographic Center by adding to its operations those of the DMA Hydrographic Center now located in Suitland, Maryland.

The Brookmont DMA facility now employs approximately 2500 persons. The addition of well over 500 employees from the Suitland location constitutes an increase of over 20% in the work force and consequent operations. Since the role of the Suitland facility is different from that of the Brookmont facility (the Suitland DMA makes maps mainly for the Navy and for sale to the Merchant Marine while Brookmont makes maps of land areas, many of a secret nature), the merger of the two functions will be very difficult without some expansion of the facilities at Brookmont. Thus, there is every likelihood that this consolidation, if allowed, would shortly be followed by requests for further building expansion at Brookmont.

Any of this, if allowed, would drastically affect the character of the Brookmont residential neighborhood. The increased work force and activity will necessarily result in a large increase in traffic congestion, in noise, and in air pollution from automobile exhausts. In addition, we understand that full-time night work would begin at the Center which would have a detrimental effect on the character of the surrounding neighborhood due to increased nighttime traffic, lights, and decreased security from the influx of strange automobiles at night.

Although the environmental effects of the expansion of the Topographic Center are evident, DMA has failed utterly to follow the requirements of Federal and local law designed to protect the interests of affected citizens. Most importantly, DMA has ignored the requirement of the National Environmental Policy Act (NEPA) that an Environmental Impact Statement be prepared to allow a thorough study of the effect of the proposed expansion. To the contrary, they have prepared a brief Environmental Assessment which glosses over the detrimental effects of the proposal and, quite frankly, misstates the impact of this move on the overall area, and the fact that there is no significant controversy related to the environment associated with this action.

Indeed, the Regulations of the Department of Defense (32 CFR Part 214) recognize that an activity which is conducted near a residential area and which affects the comfort of the residents over an extended period is a specific example of a major action significantly affecting the quality of the human environment sufficient to trigger the need for an Environmental Impact Statement. The Regulation (§ 214.7(b)(3)) specifically states that in such cases:

"In keeping with NEPA, no decision should be made to take any actions until those residents have been given an opportunity to present their views and their views have been carefully considered."

Moreover, the proposal violates local zoning and planning principles. As you know, the Brookmont area is essentially residential and is so zoned. The Topographic Center is a nonconforming use and the proposal amounts to a susbtantial expansion of that nonconforming use. Inquiries which have been made to regional planning authorities disclose that DMA has failed to comply with standards for the area or to inform accurately the local authorities of the scope and effect of their proposal.

In addition to ignoring its responsibilities under NEPA and local law, DMA has also apparently attempted to avoid full compliance with the spirit—if not the letter—of Section 612 ("Base Realignments") of the Military Construction Authorization Act of 1977 (Public Law 94-431). This law requires at least a sixty (60) day notice to the Armed Services Committees of Congress in the case of a proposed closing of any military installation. However, the notice of this move was sent to Congress in the closing moments before the August recess in an apparent effort to shorten the time that the proposal would be subjected to careful review.

In short, we believe that DMA has attempted to expand its Brookmont facility in a manner which will have a severe impact on the immediate neighborhood. Most importantly, DMA has proceeded in a fashion which, if successful, would have denied Congress and citizens who are most seriously effected their legal opportunity to fully understand and comment on the proposal. Were DMA to be allowed to succeed in this manner, we feel that the precedent which would be established would prove a serious threat to the rights of others located, as we are, in the vicinity of government facilities throughout the area.

Accordingly, we ask your help in demanding that DMA postpone implementation of the proposed expansion at Brookmont at least until it has met its legal obligations to the citizens of the area.

Very truly yours,

Mrs. Howard K. Smith, Mr. Howard K. Smith, Brookmont and Vicinity Civic League; By: Robert McNulty, President, The Sumner Citizens Association; By: Nancy Davis, President, The Sumner Village Community Association; By Leonard Klingsberg, Vice President, The Glen Echo Heights Citizens Association; By Casper Seline, President, The Westmoreland Hills Citizens Association; By: Polly Bloedorn, President; The Fort Sumner Citizens Association; By Jim Lovett, Vice President, The Glen Mar Park Community Association; By: John C. Jones, Vice President.

POTOMAC VALLEY LEAGUE
OF MONTGOMERY COUNTY,
Bethesda, Md., September 21, 1977.

Re Relocation of the Defense Mapping Agency Hydrographic Center.

Hon. NEWTON STEERS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STEERS: The Potomac Valley League of Montgomery County represents 23 civic associations located in the Potomac Palisades area, bounded by the Potomac River and River Road. The League, responding to the requests of our member associations, wishes to express grave concern about the Defense Mapping Agency's proposal to transfer its Hydrographic Center to the Brookmont facility off MacArthur Boulevard at Sangamore Road.

In essence, between 500 and 700 employees will be added to the MacArthur Blvd. location, along with all the printing presses and paraphernalia required to do all the government's maritime map printing, including maps commercially sold. Were an ordinary corporation to seek Montgomery County's permission for the first time to locate that sort of commercial/industrial establishment in the residentially-zoned area off MacArthur Boulevard, public outcry and the law would prevent its being granted. It would clearly be contrary to Montgomery County's Master Plan for the area, and in contravention of the regional Metropolitan Growth Policy Statement of the Council of Governments.

The present federal mapping facility off MacArthur was established there in World War II, as a "non-conforming use." To expand the non-conforming use in the residential zone to the extent now being proposed by the Defense Mapping Agency should require, we submit, the most exhaustive justification—one which on balance would satisfy such an expansion by an ordinary commercial corporation in similar circumstances.

No such justification has been forthcoming. To the contrary, the League is informed that the policy rationale for the move has been thoroughly questioned by a majority of the employees concerned, the cost justification has been rebutted by comptrollers within the Defense Mapping Agency, and the entire transfer is being opposed by Representative Majorie Holt, in whose District the the Hydrographic Center is now located.

As a matter of principle applicable to all federal facilities now lying within the Potomac Palisades area, the Potomac Valley League believes that any substantial change in the nature or intensity of their use should conform to the local and regional master planning for the area, and that no deviation therefrom should be permitted absent truly extraordinary justification. No such justification has been shown us for the Defense Mapping Agency's proposal to transfer the Hydrographic Center to Brookmont.

Moreover, the Defense Mapping Agency has, in our view, failed to comply with the requirements of the National Environmental Policy Act. Its "Environmental Assessment" concluded that no Environmental Impact Statement was required. But the rationale used is faulty on its face in many respects, as is being pointed out in protests filed by the Civic League of Brookmont and Vicinity and by the facility's next-door neighbors, Mr. and Mrs. Howard K. Smith. And one key finding—that "no significant public controversy related to the natural environment has been generated"—is plainly untrue. Once neighbors were belatedly made aware of the proposal, considerable controversy has ensued. Under the circumstances, the Defense Department's regulations seem clearly to require the Defense Mapping Agency to prepare a full-scale Environmental Impact Statement.

We understand that the statutorily required notification of Congress was also belated, being accomplished only on the day Congress recessed for a month, a matter being taken up by Congressman Nedzi's Subcommittee on Military Installations and Facilities.

In these circumstances, the Potomac Valley League respectfully requests that you (and hopefully the other Members of Congress from our area) will—

Emphasize our concerns to Congressman Nedzi's Subcommittee on Military Installations and Facilities;

Seek Department of Defense delay of any implementation of the plan until further DOD review and justification in light of regional and local (as well as federal) planning efforts; and

Insist on proper preparation by DMA of a full Environmental Impact Statement, with appropriate opportunity for concerned citizens to supply relevant materials.

If these measures are taken, they may disclose the legitimate justification for the transfer that is now sorely lacking. We believe it more likely, however, that the proposed move will be abandoned.

We believe your assistance in dealing with the Department of Defense is justified here, and we hope that you see fit to lend your help.

Respectfully submitted,

KY P. EWING, Jr.,
President.

GLEN ECHO HEIGHTS
CITIZENS ASSOCIATION,
Glen Echo Heights, Md., September 21, 1977.

Re Defense Mapping Agency Consolidation.

Hon. NEWTON STEERS,
Member of Congress, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN STEERS: The residents of Glen Echo Heights wish to enlist your aid in opposing the proposed DMA consolidation of the Hydrographic Center with the Topographic Center at Brookmont, because we find that this move in no way compensates for the trauma it creates at every point. You have been fully informed with all the data both pro and con before you; it distresses us to note that you quote from the Environmental Assessment as though all is well. This statement has a number of errors which are obvious to residents in this area, and we will comment on these later in this letter.

Since this consolidation can be ranked as a "major federal action" involving more than 500 persons, we feel we have a right to expect the more complete and accurate treatment given in an Environmental Impact Statement. The full impact of the consolidation will be felt by all the surrounding communities through which the additional traffic will feed, incurring with it the concomitant pollution. Therefore it certainly is not a situation which is non-controversial, nor an "insignificant modification," but a matter of greatly intensified industrial use of a facility occupying a site which is in conflict with the masterplan for the Bethesda area. That the federal government could embark on a "major federal action" with only a faulty Environmental Assessment and not be challenged could set a precedent with possible future harmful consequences to the palisades, as there also exists within our environs the Navy's David Taylor Model Basin with its enormous acreage. As you know, this installation is situated along MacArthur Blvd. immediately within the Potomac palisades.

Additionally we expect the state to enact the Critical Areas legislation this October. The Brookmont site falls well within the designated strip paralleling the Potomac set aside as a conservation area. In this particular category only low density residential use would be permitted at most, otherwise only uses compatible with conservation goals. Here then is another reason to oppose the consolidation, the result of which we foresee as an ever erosive force on the area of the palisades.

It is important to emphasize that there has been a lack of communication which has kept this question on a low profile so far. Upon investigation I discovered that the Maryland National Capital Park and Planning Commission was not notified of the consolidation, nor was the National Capital Planning Commission, both of which will submit statements, but now need time to study the material. That "county agencies invited to comment have voiced no concern . . . etc." has now a hollow ring.

Now to be specific about the points we question in the Environmental Assessment, taken more or less as they appear.

a. That there are 400 unassigned parking spaces simply means that these are without specific designation; they are not necessarily unused. At the moment many employees choose to park along Sangamore Road, Sentinel Drive and in the Little Falls Mall Shopping Center.

b. "Current utilization of the Brookmont site is in complete accord with existing federal, state, and local land use plans, policies, and controls for the area . . . etc." Not necessarily true. The present federal installation constitutes an uninvited *industrial* use in a residential zone. This was imposed on the area during World War II, and in a spirit of patriotic cooperation accepted. This time however, the necessity of increasing operations by about 30% is not required by a national emergency, and its rationale, even economy-wise, is open to question. Although the Study says that no additional land will be required, more building and parking spaces will eventually be needed as the work force for HC is brought back to the its quota of 700, predicted within several years after the move.

c. The Assessment's claim that there has been no public controversy is due strictly to this before-mentioned lack of notice. Community leaders were not notified by our County Executive but learned of the impending move via the Hydrographic Center. Small wonder that the public reaction is slow or intermittant.

d. The distance between the two TC facilities at Brookmont is given as 1¼ miles, but actually is .6 mile via MacArthur Blvd. and Sangamore Road. Thus the traffic impact is more concentrated than shown.

e. Traffic division is disputed. HC claims all 500 vehicles will travel via MacArthur instead of the noted 400. At any rate this traffic moves via Sangamore to Massachusetts, then to MacArthur.

f. That the use of flextime will diminish to an unnoticeable degree the additional traffic does not solve the problem. So far flextime has had a damaging effect upon our community as traffic begins to roar through the Heights shortly after 6 A.M., and again picks up in the afternoon because the no-left-turn signs designed to preclude this traffic have not been readjusted to flextime hours. Although the county was approached with this request this summer, their response has been a stalling tactic. Apropo of the subject, it took three years of negotiating to get these signs installed in 1971.

Now the 3 P.M. flextime coincides with the hour of dismissal for the adjacent Brookmont Elementary School. Flextime also drags out the traffic in the morning to the hour that school begins.

Topo Command traffic has caused the need for two lights to be installed on Sangamore Road. A series of no-left-turn signs along Sangamore were required to restrain the 300 autos (by actual county traffic count) which sped through the Heights during the morning and evening rush hours, each way. However these signs also impede residents. It is the considered opinion of those who know at H C that there will very likely be a night shift required due to lack of space T C. If this occurs additional hours then due to flextime and the night shift will make the situation intolerable for residents.

g. The increased cost of housing is quoted as being 10 to 20 percent. We are sure this is far from accurate, being likely more than twice that figure. The 5000 new dwellings per year constructed in Montgomery county are mostly up-county, twenty or more miles north of Brookmont, presenting no advantage in moving.

Another matter of local concern would be the necessity to defend the present zoning in our area where there are several undeveloped acreages close to the Brookmont site. We expect that the proposed consolidation would create pressure for denser zoning, probably for apartments. In short, the consolidation will have a chain effect in a number of areas; the need to widen Sangamore Road being yet another likelihood.

Mr. Steers, we do not oppose government actions which actually do accomplish what they claim regarding benefits and economy, but this particular move will do not only socio-economic damage to the H C employees, but will have an erosive effect on one of Montgomery county's finest residential areas. We wish you to oppose this proposed consolidation and to demand of Defense Mapping Agency a full Environmental Impact Statement.

Resolution to oppose the DMA consolidation at the Brookmont site was passed at an executive board meeting of the Glen Echo Heights Citizens Association on September 12.

Very sincerely yours,

NORMA DANIS SPIEGEL,
Chairman,
Ad Hoc Committee on DMA Consolidation.
BETHESDA, MD.

SEPTEMBER 23, 1977.

Congressman NEWTON I. STEERS, Jr.,
U.S. House of Representatives,
Cannon House Building,
Washington, D.C.

DEAR CONGRESSMAN STEERS: I would like to reiterate in writing some of the points I made to you in your office yesterday, September 22. The Brookmont and Vicinity Civic League is basically concerned that proper and careful attention be given to any substantial changes at the Army Map Service facility.

MacArthur Boulevard, the hills that overlook it, and the river-way and canal that parallel it are unique resources both for their scenic and historic value. The Bethesda and Chevy Chase master plan recognizes this in

its transportation plan and its land use plan. Therefore, it is a special area that deserves special care.

When the Department of Defense does an environmental assessment on one of its thousands of facilities around the world, economy mandates that they develop some form of percentile standards regarding increases in traffic, noise level, water runoff, etc. to determine if a "major Federal action substantially affects the quality of the environment." This is I am sure a management device to give their field officers guidance on whether an Environmental Impact Statement is required. But as I have said earlier, this is a special area that deserves special consideration as the value found in the MacArthur Boulevard corridor goes beyond our own time and current short-term property uses and even beyond the people of Montgomery County. It is a national resource, adjacent to our nation's capitol, providing a discovery experience for the people throughout the United States who visit the Washington, D.C. area.

Thus, the Brookmont and Vicinity Civic League is asking that true consideration be given to the details of this proposed change at the Army Map Service and how it would have an impact upon the MacArthur-Potomac corridor. We feel an Environmental Impact Statement is required and will provide for an in-depth view of alternatives.

ROBERT MCNULTY,
President,
Brookmont and Vicinity Civic League.

WASHINGTON, D.C.,
September 30, 1977.

Hon. NEWTON I. STEERS, Jr.,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN STEERS: Thank you for this opportunity to register our protest against the proposed expansion of the Brookmont Topographic Center (DMATC).

Our home has existed at its present location for approximately 100 years. The area is zoned only for residences but, in World War II, as an emergency measure, the Army requisitioned a 40-acre farm next door to build the Army Map Service. For reasons that defy logic, they jammed, and are still jamming, all their most polluting and noisiest operations right up against the side abutting our house, and not on any of the other three sides where they have no neighbors.

For many years we got on amicably, and a mere phone call to them was enough to alleviate nuisances to us. However, lately the Map Service has begun expanding. Their activities continue just outside our windows, and in ways that not only are unreasonable, but illegal. Here are three examples:

1. The Map Service has polluted the water table of our property by installing a fuel tank too near our well in flagrant violation of local codes and common sense. As a result of sloppy maintenance, they spilled so much oil that the ground became saturated and our only source of domestic water was irremediably polluted. For two years we have been without potable water at our house. Incidentally, that area is immediately adjacent to the MacArthur Boulevard water conduit which dates back to the Civil War and which still carries the city's main water supply. Because the conduit is constructed of brick, it, too, is sensitive to ground pollution.

2. The Map Service's south sewer was installed in violation of the local code since it was constructed of tile, with open manholes, in an area which had wells. Again, no one in charge bothered to check the code governing such installations near wells in residential areas.

3. The Map Service recently installed three air conditioning towers right next to our home, again without checking the law and the codes. We are informed that these are the noisiest commercial towers available and consume the most energy. When we pointed out that there is a noise code, and that they were about to violate it, the DMA made minor changes in the installation, but are still not in compliance with the noise code.

We have cited our personnel problems merely to illustrate the callousness of a military bureaucracy in flagrant disrespect of the law. However, we are supported in our protest by more than 30 civic organizations which are equally concerned that the manner in which this proposed expansion has been planned and executed poses a threat to their interests both in the context of the immediate impact of this expanded facility and the fact that other facilities in the area could be expanded in an equally undesirable fashion.

We, therefore, respectfully request that you and the U.S. Congress do the following:

1. Insist that an environmental impact statement be prepared by the Defense Mapping Agency as required by law (the National Environmental Policy Act) in order to identify fully the consequences of the proposed action. Indeed, this is also a requirement under the Regulations of the Department of Defense (32 CFR Part 214). Section 214.7 of those Regultaions states that a major action significantly affecting the quality of the human environment requiring an environmental impact statement is an activity to be conducted near a residential area, which might seriously affect the comfort of residents of the area over an extended period. In such case, the Regulations state that no decision should be made to take any such action until those residents have been given an opportunity to present their views and their views have been carefully considered.

The same DOD Regulation also states that:

"Certain types of actions require close environmental scrutiny because of the possibility that they may either affect the quality of the environment or create environmental controversy. It may be desirable in such cases to have a complete presentation of the environmental aspects of the proposed action available for any interested party. For these reasons, consideration shall be given to documenting the environmental effect of . . .

"Any action which, because of real, potential or purported adverse environmental consequences, is a subject of controversy among people who will be affected by the action, or which although not the subject of controversy, is likely to create controversy when the proposed action becomes known by the public."

DMA has attempted to avoid its obligation to prepare a full environmental impact statement by writing a brief environmental assessment which concludes that no environmental impact statement is necessary. However, the Regulations provide that (Section 214.7(e)):

"Even though a written assessment supports the conclusion that an action is not a (major action significantly affecting the quality of the human environment), *an environmental impact statement is to be written on a proposed action which is highly controversial because of environmental aspects.*" (Emphasis added.)

For the reasons outlined in our letter to you dated September 21, 1977, we submit that the proposed Brookmont expansion requires a full environmental impact statement.

2. Insist that the entire proposal for expansion be submitted for comment to both the National Capital Planning Commission and the Montgomery County Planning Board.

3. Take steps to prevent DOD from undermining proposed plans for creating a civilian mapping agency. We suspect that, in fear of President Carter's proposed reorganization plans, the Department of Defense seeks to retain control of all map making by mixing civilian and military mapping functions and thus creating an "omelet" that no one shall be able to take apart or take away from military control.

In this connection, we note that there is evidence that the consolidation plans "won't fly." Serious doubts as to the feasibility of the proposed consolidation have been voiced by a number of high DMA officers. For example, DMA Comptroller, R. E. Malinowski, has commented on the consolidation study and said that there is an "obvious lack of suitable working spaces (at Brookmont) and the appropriate environmental control type of buildings to accommodate the much talked about drastic changing technology soon to overtake chart/map production within DMA."

In brief, we believe that the planned amalgamation of the Suitland and Brookmont DMA facilities will not work, at least, not without additional physical expansion at Brookmont. Soon, therefore, it can be anticipated that if this consolidation is allowed, the DMA will ask for more facilities, bringing more noise and pollution—in an area along the Potomac designed as a park area.

In closing, we cite to you the President's Executive Order 11752 of December 17, 1973, which states that "the Federal government in the design, construction, management, operation and maintenance of its facilities, shall provide leadership in the nationwide effort to protect and enhance the quality of our air, water and land resources."

This sets a higher standard of conduct than just obeying the letter of the law—yet DMA does not even satisfy that minimum standard. The planned amalgamation will be an irreversible step towards the critical mass that will change and damage our residential and parkland areas beyond repair. We hope for your help in stopping it, now.

Sincerely,

BENEDICTE SMITH,
HOWARD K. SMITH.

STATE OF MARYLAND,
Annapolis, Md., October 3, 1977.

Hon. NEWTON I. STEERS, Jr.,
House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR NEWT: The Defense Mapping Agency must not be permitted to move 750 employees from Suitland to the Topographic Center at Brookmont. Neither Congress nor our local planning officials have been given sufficient time to assess the impact of this enormous transfer of personnel.

The Center is in a residential community near the Potomac Palisades. Insufficient justification has been given by the Department of Defense for the proposed shift into this neighborhood.

The employees involved are opposed to the move as are our local communtiy leaders. Many streets will be adversely impacted by substantially increased congestion and pollution.

Your testimony in opposition to the move is very helpful. Let's keep pushing.

Sincerely,

HOWARD A. DENIS,
State Senator.

[TELEGRAM]

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: Based on testimony presented before the Subcommittee on Military Installations and Facilities of the House Armed Services Committee on September 26, 1977, we urge you, in the strongest possible terms, to delay any actions whatsoever toward achieving a consolidation of Hydrographic and Topographic functions of the Defense Mapping Agency.

At the Hearings, it was revealed that your Department has not complied with the Congressional intent of Section 612, P.L. 94–431 inasmuch as "notification" was given on the day immediately preceeding a 30 day Congressional Work Period. We do not find that to be within the spirit or intent of Section 612.

In addition, we are very concerned about the callous manner in which DoD addressed the requirements of the National Environmental Policy Act, (P.L. 91–190), DoD regulations relating to environmental review (32 CFR 214 *et seq.*), the mandate of the Noise Control Act of 1972 (42 USC 4901) and Executive Order No. 11752 of December 17, 1973. The Hearings revealed that there is significant public controversy over this proposal and that this controversy developed as soon as the proposed consolidation became known to the Brookmont community. It is also known that present operations at the site do not meet local noise standards, and that an increase in activity will only make the situation worse. Finally, we know that two of the major planning agencies for the Brookmont area, the National Capital Planning Commission and the Maryland-National Capital Park and Planning Commission, did not receive any notification of the proposed consolidation, and were thus unable to review and comment on the plans.

The intent of the Congressional notification provision of P.L. 94–431 clearly has not been met, and we urge you to insure that the spirit as well as the letter of the law, (P.L. 94–431), and all other pertinent laws is complied with in this matter.

11TH ANNUAL FOLK FESTIVAL

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. THOMPSON. Mr. Speaker, as those of us who are fortunate to serve in Washington are aware, the 11th Annual Folk Festival sponsored by the Smithsonian Institution is now under way on the Mall.

The festival has become enormously popular for reasons which were beautifully stated at the opening ceremonies by Mrs. Joan Mondale, the lovely wife of our Vice President, and by our distinguished colleague, the Honorable PETER W. RODINO, Jr. of New Jersey. I am pleased to share with you their comments:

JOAN MONDALE'S REMARKS TO THE OPENING OF THE FOLK LIFE FESTIVAL

Why a Folk Festival? After the Air and Space Museum, after the Hirshhorn and the Portrait Gallery, the National Collection and the Natural History Museum, and all the other wonders of the Smithsonian—why a Folk Festival too?

Because for all that museums can teach us, even they have limitations.

Standing here, in the shadow of the Museum of History and Technology, where our craft heritage is locked securely away in humidity controlled cases, the Folk Festival reminds us that the crafts are living art forms. What is more alive than a potter at the wheel, a weaver at the loom, an ironsmith at the forge? Every crafts objects is the result of a perfect orchestration of human and natural energies—and it is only when we see the crafts in process, not just locked away in cases but actually in the process of coming into being—only then can we completely appreciate the value of the crafts in our own lives.

In this age of mass-produced, machine-made products, the crafts put us in touch with our own individuality. They affirm our sense of taste, and they inspire that spirit of communication between creator and user that is affirmed and re-affirmed each time we use a mug, a plate, a copper kettle, or a musical instrument made by one person for another.

Part of the wonder of this country's craft life is that it is so diverse.

For ten years now, the Smithsonian's Folk Festival has been able to portray the great pageant that is our Native American, Afro-American, Euro-American, and Oriental American cultures. This Festival reminds us in the most vivid way imaginable that our nation's creative and spiritual strength is rooted in the pluralism of our culture. Over the next six days, we will have the opportunity to marvel at our differences, to delight in the range of talent and the variety of vision with which this country is blessed.

I am here to thank all of you who make this experience possible.

First, the Smithsonian staff who, with intelligence and enormous energy each year turn the Mall into a microcosm of America.

And then there are the two hundred festival participants who have come here from all across the country. You have a very special assignment, for you are here to represent the creative energies of this nation.

It is an honor to welcome you to Washington and to remind you that without your work we would be a poorer nation—less colorful, less tuneful, and infinitely the poorer for the absence of the specialness you bring into our lives.

REMARKS BY PETER W. RODINO, JR., AMERICAN FOLKLIFE FESTIVAL

I am proud and honored to join you in this uniquely American event, an event in which we celebrate not just our ties to one another—but our ties to many other nations of the world. As Americans we share in the appreciation of such an event—and Mrs. Mondale, I know how keenly and deeply you feel.

Each year, for ten years now, The Smithsonian Institution has sponsored on this Mall a festival which provides us with the occasion to see within ourselves and take note of the stock from which we come. Whether you are an American of Italian descent as I am, or German, Chinese, Irish, Polish, Latvian or African or other heritage—or whether your people were here with Will Rogers' ancestors to greet the boats as they docked—there is about this festival a mood and a character which touch us all and make us proud.

And right we are to exalt these traditions, for they are derived from the most cherished cultures from all over the globe. Some people have said that "America does not have a culture of its own, that it has borrowed its culture from others." Well, it is true that when we opened up our shores to those who came from different lands, we were borrowing, But I think that this has given us a distinct, unique culture—what we call American—and it is unlike any other in the world. It is a rich heritage which combines the very best that the world has to offer. In what other country can one experience such diversity along with such harmony? It is a beautiful blending of different traditions, experiences and peoples—native American and immigrants.

As Americans, we know the value of such diversity, and I suspect we are the envy of the world because of it. I remind my American friends of Italian descent—especially during the celebration of Columbus Day—that were it not for the Spanish monarch who supported his venture, the Portuguese map-makers who guided him, and the various Europeans who manned his ship, the great Italian explorer and never have made his famous discovery, and his lasting accomplishment was an inspiration to those who came here after him—instilling courage, faith and a spirit of discovery—those peoples of every race, color and creed who landed on our shores became responsible for our country's growth and greatness.

Columbus was the prophecy of the America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many turn for asylum and hope.

There was a time when immigrants to America sought to shed their old identities and take up new ones which they felt would make them more American, make them fit in with the rest of the people of this still young country. And now—happily—we have come full circle, and men and women instead are searching out the past to find their roots—their precious heritages and stand tall and proud in that discovery. And as we rediscover our roots, we better understand ourselves. And we know that the greatness of this nation lies in the fact that it is a nation forged from so many nations and so many people.

Walt Whitman told us: "I celebrate myself and sing myself, and what I assume, you shall assume, for every atom belonging to me as good belongs to you."

And while we are here celebrating ourselves, we can also learn that what belongs to me does indeed belong to you.

Today, I salute your display of America's ethnicity—a nation of many people—a nation truly of immigrants. For the more we learn about each other's heritage, the more American we truly become—more understanding, more caring, more loving—of all peoples and of our common humanity. Each heritage is a priceless strand woven into the rich resplendent tapestry of American folklife. To be American is to appreciate all humanity and to strive for international cooperation and brotherhood and peace. The American Folklife Festival will help to preserve this important concept for future generations—strengthening our ties to each other and all nations.

Thank you.

THE CONSEQUENCES OF AN AMERICAN PULLOUT FROM THE ILO

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. DRINAN. Mr. Speaker, the magazine America, the national Catholic

weekly, published in its October 8 issue an excellent article detailing the unfortunate consequences of an American pullout from the International Labor Organization. As a strong supporter of continued American participation in this organization, I commend to my colleagues the America article, written by two distinguished Jesuit social scientists, Father Joe Molland and Father Peter J. Menriot:

A NEW CHALLENGE FOR WORLD LABOR

In November of this year, the United States may withdraw from the International Labor Organization (I.L.O.). This action would mean an unprecedented break with the U.S. commitment to the United Nations. The I.L.O., which was awarded the Nobel Peace Prize in 1969 for its work, is a specialized agency for labor affairs within the United Nations system. If the United States does withdraw from the I.L.O., it would be a great setback for the future of a human world order and for the ability of workers' movements to shape that order.

A tripartite organization of government, employer and labor delegates, the I.L.O. grew out of liberal reform efforts closely tied to European Catholic social movements to relieve the injustices of early industrial capitalism. Beginning as the International Labor Office of the European-focused International Association for Labor Legislation, it was taken into the League of Nations under the Treaty of Versailles in 1919, and later absorbed into the United Nations system in 1946. Historically, it started as an agency concerned with fair labor standards ratified across national boundaries in international conventions. Since the mid-20th century, however, with the spread of industrialization beyond the North Atlantic community, it has also supplied technical assistance to third-world development projects. In most recent years, the I.L.O. has begun to raise fundamental questions about the nature of development, focusing on the rubic of "basic human needs," through an ongoing World Employment Program and a 1976 World Employment Conference.

Unfortunately, these important questions about the nature of development have been obscured in the United States because of the overriding issue of withdrawal.

THE WITHDRAWAL ISSUE

On Nov. 5, 1975, Secretary of State Henry A. Kissinger filed a formal letter of intent informing the I.L.O. that the United States planned to withdraw from the organization. The withdrawal process requires a two-year waiting period, which ends this November. The driving force for the action reputedly came from the leadership of the A.F.L.–C.I.O.

Four areas of fundamental concern were voiced in Mr. Kissinger's letter: 1) the erosion of genuine tripartite representation (growing government domination of worker and employer delegates within many national delegations); 2) selective concern for human rights (resolutions condemning violations by the regimes of the right while reputedly ignoring those of the left; 3) disregard of due process (by passing of regular channels and procedures for political motives); and 4) increasing politicization of the organization, which is a diversion from the real tasks of the I.L.O.

What must be recognized is that behind all these charges expressed by the United States is the larger fact that the world political situation has, in recent years, changed dramatically. The United Nations and the I.L.O. are no longer organizations in which the United States can automatically expect that its way will predominate. To the concome together with increasingly effective power. Made up of much of the third world, the Arab nations and the Communist nations, this so-called anti-imperialist block frequently stands against the United States and, to a lesser degree, against its Western allies.

This new geopolitical situation has been building up since World War II, with the emergence of the former colonies as newly-independent states. It has received its most creative expression in the call for a new international economic order in 1974. The Arab and Communist drive to attack Israel throughout the United Nations system is its most destructive expression. Understandably, some U.S. defenders of Israel have countered with a similar attack against the Arab nations, the Communist nations and the third world in general. This is unfortunate, because the survival of Israel and the creation of a new international economic order are both defensible goals.

THE HISTORIC CONTEXT

To gain some historical perspective on this debate, it may be helpful to put the present world situation and the crisis of the I.L.O. within the context of the stages of modern industrialization and the development of the trade-union movement. The industrialization process and the consequent evolution of the I.L.O. can be viewed in three separate stages.

1. Early Industrialization. This stage was characterized by ruthless, laissez-faire capitalism. Technologically primitive, labor-intensive productive bases within the global economic system's geographic center (the Western powers) were supported by a formal colonial periphery (Asia, Africa and Latin America), which provided raw materials and limited markets for finished goods. During this stage, there were no competing socialist systems, nor were there any real challenges from the system's periphery. Out of the viciousness of this phase grew the struggling trade-union movements of the industrial centers of Europe and North America. With them grew up also the I.L.O. in its first phase of negotiating international labor standards, primarily in a first-world setting.

2. Middle Industrialization. This stage was characterized in the industrial centers by more rational, corporate, social-welfare capitalisms. These were equipped with more technologically developed productive bases, which created a prosperous capital-labor balance and financed benevolent social policies. In this stage, however, the system shifted to an informal neocolonial relationship with the developing world, which increasingly provided fresh industrial bases for more labor-intensive operations in an international division of labor as well as enlarged markets for finished goods.

During this phase, separate socialist systems also appeared. At first technologically trailing the capitalist centers, these socialist systems rapidly appropriated the industrial revolution. (The Soviet Union serves as a prime example.) The socialist systems perhaps responded more holistically, although at a lower standard, to the socioeconomic needs of their people, but were also marked by repressive premodern forms of authority that denied the individual civil and political rights of the person (e.g. Stalinism).

The trade unions of Western Europe and North America grew in strength during this period and emerged as accepted bodies. As major political forces, however, they tended to polarize along ideological lines. This generally meant support of the foreign policy of either the Soviets or the United States. (The exceptions within the trade-union movement were the small Christian trade unions, which attempted to be nonaligned.) The trade unions of the developing world, moreover, began to grow as industrialization deepened its hold.

In this stage, the I.L.O. came to echo cold-war tensions along the East-West axis over the real meaning of trade-union rights. But it also vigorously expanded along the North-South axis with sophisticated technical assistance to the industrializing periphery.

3. Late Industrialization. This is the most recent phase and is only now beginning. Projected into the future, this phase suggests a world in which the heritage of Western colonialism and neocolonialism will be greatly diminished. But, with this postcolonial age, there could possibly come, not universal justice, but a new and brutal form of global competition. This takes the form of the so-called national-security state, a state system that appropriates the worst elements of existing capitalism (large-scale unemployment, poor social services, etc.) and of existing socialisms (government by military- and police-intelligence forces.)

As the center and periphery distinction weakens and the East-West poles become less farther apart, the world may find itself with a homogeneous but vicious laissez-faire, transnational capitalism, assimilating the first, second and third worlds. Its structures would be shaped mainly by the power struggles between transnational capital and competitive national-security states of various ideologies. In addition, as the productive base swiftly moves into an automated-cybernetic (technocratic) form, the capital-intensive style marginalizes large percentages of the human family and, in fact represses many existing trade-union movements. This whole phenomenon is more advanced in the periphery (one thinks, for example, of the Brazilian "development miracle"). It is also seminally present, however, within the center (see, for example, the growing struggle of unions in the southern United States, exemplified by the organizing effort at J. P. Stevens) and in the socialist bloc (consider the recent repression of Polish workers). The unemployment rate in the United States, unofficially, runs close to 10 percent worldwide, when linked with underemployment, it probably exceeds 30 per cent.

In this new period, the only strong United Nations coalition is the short-run Communist-Arab-third world thrust, which remains united in its "anti-imperialist" goal. But, should parts of that goal be achieved through trade concessions, higher prices for raw materials, etc., the coalition would probably fragment over competing self-interests. While united in its posture of being "anti-," it holds no common, positive or cohesive social vision. Meanwhile, the United States finds itself marginalized in the United Nations system, both by the hostile "anti-imperialist" coalition and by the fragmenting of the traditional Western alliance.

During this new period, the I.L.O. has already been responding creatively with a fundamental critique of the industrialization process, namely, through its World Employment Program and its call for a development strategy focusing on "basic human needs" (see the 1976 report, Employment, Growth and Basic Needs: A One World Problem). This strategy would emphasize the three clusters of goods, services and participation of all people. The I.L.O. critique is as yet immature and perhaps too naively accepts the "international division of labor" model from the second period of industrialization. But, ultimately, it contains important resources for a powerful challenge to the development models of the first, second and third worlds.

The traditional style of the I.L.O. in this third period is confused, however, by the new

role played by states that do not operate on the liberal model (many new African states, for example). But, even more so, it is confused, as already mentioned, by the reckless and one-sided attacks on Israel, which are matched in turn, at times, by a similar counterattack by Israel and its friends. These factors are precipitating a crisis in the I.L.O. and have, in fact, led to the situation in which the United States is taking steps to withdraw from the organization. The central question to be addressed, however, is whether withdrawal is indeed the most creative and effective way to deal with these problems.

Obviously, the I.L.O. could not become a very significant organization in this new stage of a ruthless transnational and technocratic capitalism. It could provide an important force for rationalizing labor standards in the transnational market system and for helping to build a world order responding to the basic human needs of workers and the poor. And it could continue to serve, as noted labor expert Msgr. George C. Higgins has recently observed, as an important promoter and protector of the basic human rights of workers. It seems particularly sad, therefore, in the light of these possibilities, that the A.F.L.–C.I.O. would push so strongly for U.S. withdrawal from the I.L.O.

THE POSITION OF THE A.F.L.–C.I.O.

The A.F.L.–C.I.O. is, in fact, the key group in the whole withdrawal debate. The Carter Administration apparently would prefer to remain in the I.L.O.—especially in the light of the Administration's commitment to the United Nations system and its desire for forums in which to push the human-rights issue. But it may not feel so strongly about the issue as to fight the A.F.L.–C.I.O. on the point. The Chamber of Commerce, the employer-side delegate, is active in the I.L.O. to defend U.S. business interests and to balance the influence of labor, and would reputedly just as soon see all official labor voice in the United Nations system disappear. Why, then, should the A.F.L.–C.I.O. leadership be urging withdrawal?

One answer could be that the A.F.L.–C.I.O. leadership is viewing the world through the analytic eyes of the second phase of industrialization and not fully recognizing the dangerous third phase that has come upon us. The A.F.L.–C.I.O. strategy presently being pursued did, indeed, have some national foundation in the post-World War II era (during the second stage), when the A.F.L.–C.I.O. abandoned the World Federation of Trade Unions (W.F.T.U.) because of its Communist domination. It was then able to help create in its place the non-Communist International Confederation of Free Trade Unions (I.C.F.T.U.). More recently, however, the A.F.L.–C.I.O., in a strategy that anticipated what it would urge regarding the I.L.O., withdrew from the I.C.F.T.U. over ideological disputes. This presently leaves American labor without direct ties to the central body of any of the large international trade-union federations.

It is unlikely that the I.L.O. will collapse without the A.F.L.–C.I.O. or other U.S. participation. The United States and the white Western world is increasingly becoming a minority sector of the human family, and, in the future, some of its technological advantage could prove short-lived at a time of global resource scarcity. Further, the 25 percent of the I.L.O. budget that the United States pays annually (approximately $20 million) is not a large sum in a world of petrodollars. Presumably, the I.L.O. could continue as a major actor within the United Nations system even without the presence of the United States—perhaps under control of Arab-Soviet leadership.

The serious problem to be faced, therefore, is that the stance taken by the A.F.L.–C.I.O. would thereby convert what is now only a procedural victory for the new United Nations coalition into a full political victory. The United States would be driven out of a key United Nations organization. And this act could very well have a ripple effect on other sections of the United Nations family and other international institutions.

The real victim in all this would be the worldwide labor movement—including U.S. workers—since one of the world's largest trade-union bodies, the A.F.L.–C.I.O., would have lost its one official voice in the United Nations system. One significant result would be that transnational capital, including the giant transnational corporations, would have a much freer hand in bending international political institutions to its will.

The worldwide labor movement would also be the loser, because some of the important questions that the A.F.L.–C.I.O. has consistently raised about trade-union rights in the Arab nations, the third world and the Communist nations, would go unasked. The questions of trade-union rights in the Eastern Communist bloc, for example, which might at times appear to many liberal internationalists as an outdated cold-war question, actually takes on a new meaning as Communist governments deny the need for international labor solidarity when capitalist-based, transnational corporations enter into joint ventures with socialist states.

And, most important on the domestic front, the A.F.L.–C.I.O. could lose further credibility with the new-politics constituencies that have been growing in strength in this country since the mid-1960's. The A.F.L.–C.I.O. leadership now recognizes how much it lost in public esteem over its vigorous support for the war in Vietnam. It is already having difficulty communicating its insights and interests in the area of planned world trade to the liberal internationalist community and is unable to build a real dialogue beyond the polarized stereotypes of free trade versus protectionism. Pushing vigorously for the I.L.O. withdrawal might place one more very serious obstacle in the path of cooperation between the many internationally oriented social-action networks and the A.F.L.–C.I.O. That would, of course, be tragic for both sides. Labor needs the support of other social-action constituencies in its new vulnerability on the domestic and international fronts. And the new social-action constituencies need to learn from labor-movement experience and to deepen their working-class roots and contacts.

It seems very important, therefore, that social-action groups begin an immediate, thorough and sympathetic dialogue with the A.F.L.–C.I.O. leadership over the I.L.O. issue. Such groups should be open to dispel their stereotypes about U.S. labor and to learn from the treasury of experience-based insights surfacing in the labor movement today. And these groups must not naively neglect to criticize the sometimes obstructionist and destructive tactics of the Soviet and Arab blocs within the I.L.O. On the other side, it could be hoped that labor leadership would be open to reevaluating its analysis and strategy in the new global situation, and be willing to try new political initiatives to salvage the important work of the I.L.O.

In criticizing the I.L.O., the A.F.L.–C.I.O. leadership needs to listen to the answers it itself has given to recent criticisms of the U.S. labor movement for not being perfect and for containing many injustices. The easiest and most honest response has been to acknowledge shortcomings, but to insist that any labor movement is better than no labor movement. The very existence of organized labor supplies ordinary working people with a potential instrument to struggle for justice, if not with the justice itself. To abandon the labor movement because of its imperfections is to abandon the best instrument of this struggle for justice. The same argument holds true in the I.L.O. dispute.

Thus, a withdrawal by the United States from the I.L.O. at this historical stage could become, not the protest of righteousness, but the flight of surrender. Reappraising the withdrawal strategy and the analysis that undergirded it, however, could become a gesture of statesmanship. It could be the beginning within the I.L.O. of a long and fresh struggle for workers' rights in the new and dangerous stage of industrialization.

THE PRIMARY INSTRUMENT CONCEPT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. WHALEN. Mr. Speaker, a number of times this year I have used the CONGRESSIONAL RECORD as a forum for a discussion of the issue of competition in telecommunications. In my opinion, this issue is second only to energy in its potential impact on the shape of our future style of life in this country.

The subject of competition in telecommunications involves a headon clash between two conflicting trends in American policy. On the one hand, we have a tradition of encouraging and fostering responsible competition within and between industries. On the other hand, we have a specific history of regulated monopoly in the provision of telephone and certain other telecommunication services.

In recent years, many companies in the equipment and specialized common carrier lines have sought to compete with the American Telephone and Telegraph Company as well as with other governmentally authorized monopoly companies. The Federal Communications Commission and the Federal courts generally have encouraged this trend, but the movement towards limited competition in the telephone industry is being threatened by the proposed Consumer Communications Reform Act—CCRA.

In January of this year I opened my continuing discussion of telecommunications competition by placing in the RECORD a lengthy analysis of the CCRA. This was followed by a statement in support of the so-called pro-competition resolution, which I introduced along with Mr. WIRTH and Mr. OTTINGER.

Later, I placed in the RECORD a statement calling into question certain arguments made in support of the CCRA by the chairman of AT&T. And earlier this month I made a series of three statements on the issue of competition in telecommunications.

Mr. Speaker, it is no secret that I am a strong proponent and supporter of responsible competition in the telecommunications industry. Similarly, it should be evident by now that I am op-

posed to passage of the CCRA in its present form.

However, I must say that the CCRA has served one useful purpose in that it has forced an examination and discussion of the issue of competition. And I commend my colleagues on the Communications Subcommittee in the House for their ongoing hearings on the broad policy questions in the communications field.

At a recent hearing, the subcommittee listened to a new proposition, the so-called primary instrument concept. A telephone industry representative has given me a position paper that lays out the arguments in support of this idea.

I think the paper is helpful, in that it stimulates further thought on this relatively new concept. Although I continue to have serious reservations about the logic of some of the points made in the background paper, it is heartening to see the movement the telephone companies have made toward acknowledging the role to be played by other suppliers of telecommunications equipment and services.

At this point, I wish to insert in the RECORD the briefing paper on the primary instrument concept. The text follows:

THE FCC'S REGISTRATION PROGRAM AND THE PRIMARY TELEPHONE INSTRUMENT

BACKGROUND

For over a century telephone companies have been providing full telephone service to their customers. In the last few years, however, equipment suppliers, both domestic and foreign, have sought to expand their markets for communications hardware, including telephones. To accommodate this trend the Federal Communications Commission (FCC) adopted a policy (Docket 19528) which will allow telephone customers to buy and own all of their telephones. This program providing for "registration" of equipment, however, is devoid of any manufacturing and quality control standards or basic equipment operational requirements. It contains no provision for repair of equipment and no assurance that purchased telephones will work. As such, the program represents a radical change in this country's telephone service.

The entire national telecommunications policy issue is before the Congress for review. Pending a final Congressional redetermination of policy, the public's need for continued reliable telephone service must be adequately considered together with the FCC's program advancing the connection of telephone apparatus provided by non-regulated suppliers. Clearly, there is a public interest in having telephones which work properly.

EXEMPTION FOR CARRIER PROVIDED EQUIPMENT

Significant costs will have to be borne by telephone customers if carriers are required to register their equipment, which is already subject to regulation. The industry estimates that the first year cost of this regulation will be approximately $100 million. That the regulation was unnecessary was recognized by the FCC itself in grandfathering all existing equipment. The obvious solution to this is not to require such unnecessary registration.

THE PRIMARY TELEPHONE INSTRUMENT

To resolve the problem, telephone companies should be required to provide at least one "primary" telephone instrument to each single-line customer. The telephone company would continue to be held responsible for providing and maintaining telephone service to each single-line customer. All other telephone terminal equipment could be obtained from any qualified supplier.

There are demonstrable advantages to single-line customers, as well as to the quality of service for all customers, in a system where the telephone company provides the main station: it will help to assure continuity of service; it will facilitate the making of repairs needed to maintain high quality service; it will permit orderly introduction of technological change; and it will help to promote universal service.

SERVICE

Assume, for example, that a customer owns his only set, and it needs repairs. If he disconnects it, he is without service for as long as it takes to get the set repaired. But he will have every incentive to put up with defects—a noisy set, an occasional misdialing, a set that sometimes does not ring—because he either does not want to be totally without service or because repairs are simply too expensive or inconvenient to get. Telephone companies cannot be held liable for the quality of service unless they are providing it. Under the "primary instrument" approach, however, they would continue to be responsible for not only providing, but properly maintaining the instrument as part of the price of furnishing basic telephone service.

REPAIRS

If the telephone company provides a "primary instrument" the present system of testing and repairing will continue to work, since the company would know the technical characteristics of at least that instrument. If the line and telephone company station test "OK" from the remote testing location, then any trouble would be on the customer's ancillary equipment. The customer could then solve his own problems while continuing to have quality service over the set provided by the telephone company. If the trouble proved to be on the "primary instrument", of course the company would fix it at no additional cost.

AFFORDABILITY

The provision of the primary telephone instrument by the telephone companies will further the goal of universal availability and affordability of telephone service. Today the rates for basic telephone service do not cover all the costs of all the facilities needed to provide the services. The rates for nonbasic services are set at levels sufficient to cover their direct costs and also to contribute towards recovering the common costs of providing residential basic service. Basic service rates are then set to recover only the remaining costs. If the primary single-line instrument continues to be provided by the telephone companies as part of basic telephone service, residual pricing can still be used to keep the price of the complete basic service affordable to the largest number of customers.

A TRIBUTE TO WILLIAM L. GILBERT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. ANDERSON of California. Mr. Speaker, William L. Gilbert has long been one of the most outstanding figures in the leadership of Southern California organized labor. On October 1, 1977, Bill—as he is known to his many friends—retired after dedicating more than four decades of active leadership to the union movement.

Born in Pelham, N.Y. in 1915, Bill attended New York University night school and earned a bachelor of science degree in industrial engineering and business administration in 1936. A toolmaker by trade, he began his long association in organized labor in 1936, holding international and local positions in the International Association of Machinists and Electrical Workers from 1936 to 1940.

During the decade between 1940 and 1950, Gilbert served in several positions for the United Furniture Workers, including that of the Midwest Regional Director. Also in 1940, Bill was married to the lovely Margaret R. Holmes. Their first daughter, Joann, was born in 1942, and their second, Virginia, in 1946.

In 1950, Bill Gilbert moved to California, in order to work as an organizer for the CIO in Los Angeles and the Midwest States. The Gilbert family moved permanently to our State in 1952, and in 1955, Bill became field representative for the AFL–CIO in Los Angeles.

When the AFL–CIO, Los Angeles-Orange County Organizing Committee was formed in 1963, Bill Gilbert was appointed as its director. Under his leadership, the committee has become a model of success as the first major cooperative organizing campaign of the AFL–CIO. It is still functioning, and has served as a model for similar committees across the nation.

Bill Gilbert became AFL–CIO assistant regional director in 1968, with jurisdiction over the States of California, Arizona, and Nevada. In April, 1974, he was appointed to the position of National AFL–CIO regional director for California, Washington, Oregon, Idaho, Utah, Arizona, Nevada, Alaska, and Hawaii. Bill held this important post until his retirement, traveling extensively throughout the massive region to help further the effectiveness and growth of organized labor.

Although much of Bill's life has been devoted to union activities, he has managed to remain active in his own time as well. He has served on many public and government agencies, including wage labor board panels, wage stabilization board, and Los Angeles and California law enforcement advisory bodies.

As an active participant in political circles, Bill is a past secretary of the Los Angeles County Democratic Central Committee, was either a delegate or an alternate to the Democratic National Conventions in 1960, 1964, and 1972, and serves on the AFL–CIO Committee On Political Education (COPE).

In addition, Gilbert is a past president of the Southern California Industrial Research Association; is active on the executive committee of the American Trade Union Council on Histadrut; and has sat on the executive board of the Catholic Labor Institute. A member of the advisory and executive committee of the Jewish Labor Committee of Los Angeles, Bill also is a member of the National Association for the Advancement of Colored People; The United Nations Association; and the board of directors

of the Institute of Industrial Relations' Alumni Association, University of California at Los Angeles.

Mr. Speaker, it has been my privilege to know Bill Gilbert for many years. Few persons in my experience have combined the warmth, energy, and leadership which are the hallmarks of his personality. Now that he has retired, I understand that he plans to remain active, engaging in travel and his favorite hobbies of fishing and snorkeling.

My wife, Lee, joins with me in expressing our best wishes to Bill and Margaret Gilbert in the years ahead. His leadership and ability will certainly be missed by the labor community of the Western States, but we are positive that the years ahead will be happy and productive for him.

CLOSED-CIRCUIT RADIO READING SERVICES—COPYRIGHT EXEMPTION FOR DRAMATIC WORKS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. FRASER. Mr. Speaker, on June 29 Congresswoman GLADYS SPELLMAN and I introduced H.R. 8098. The purpose of the bill is to amend the copyright law by adding an exemption for closed-circuit radio reading services for the blind and physically handicapped. Our amendment would allow these services, without obtaining copyright clearance, to transmit a performance of a dramatic work more than 1 year old, to transmit this performance twice, and to make three copies for lending (at no cost) among themselves.

Public Law 94–553, passed last session, provides that, effective January 1, 1978, these radio reading services may transmit one live performance of a dramatic work at least 10 years old without obtaining copyright clearance.

Some 17 closed-circuit channels now operate across the country, and more are developing. These closed-circuit channels operate on the SCA channels (Subsidiary Carrier Authorization) of commercial or educational stations. Several additional radio reading services operate on regular, open channels. The bill would not pertain to these, but only to the SCA channels.

In order to receive SCA transmissions, listeners must have special receivers that unscramble the SCA transmission. Services have varying requirements for listeners to receive these sets one or a combination of the following tests are used: Satisfactory certification by the Talking Books program of the Library of Congress, medical certification that the person is unable to read or use standard printed materials, or certification by a State agency.

Since only the blind and physically handicapped are eligible to listen to the SCA, transmissions over SCA would not reach the general public.

The services have found the task of obtaining copyright clearance for dramatic works a tedious and often fruitless one. Most of the services operate on small funding programs that combine State, Federal, corporate, foundation, and individual contributions. Staffs are therefore small, and the services depend heavily on volunteers. Staff sizes for services range from about 6 to 26, with 52 to 350 volunteers per service. Most volunteers are readers who read newspapers, magazines, books, entertainment calendars, or who emcee local programing. Yet with small funding and mostly volunteers, the services reach from 400 to 4,000 listeners.

Although the Division for the Blind and Physically Handicapped of the Library of Congress provides tapes of fiction and nonfiction, the program does not provide much dramatic material. And the blind and physically handicapped do not have the same access to dramatic works that other citizens enjoy. They may be hindered by architectural problems or social pressures. Further, some blind persons are not able to appreciate the full experience of a play because they cannot see action on stage even though they can hear the dialogue. And though some dramatic works are available on record or tape, few persons served by the radio reading services have the funds to buy these recordings for one-time use.

The Library of Congress views radio reading services as community-oriented services, to link the blind and the physically handicapped more closely to the life of their communities. Transmission of current dramatic works is one way to achieve this link. Much drama fades fast in relevance. Allowing the radio reading services that transmit over SCA channels to transmit performances of dramatic works more than 1-year old would involve blind and physically handicapped citizens more in the cultural life of the community, while not harming the profits of copyright owners.

My own State of Minnesota began the first radio reading service for the blind in 1969. This revision in the copyright law would be very useful to Minnesota's services and to the services of many other States.

RECENT MIDEAST DEVELOPMENTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BLANCHARD. Mr. Speaker, I rise to state my disagreement with, and disapproval of, President Carter's recent joint declaration with the Soviet Union on joint objectives for a peace settlement in the Middle East.

It is understandable that the President might wish to encourage a rapid, seemingly simple, solution to the problems of that area. The diplomatic process is often painfully slow, particularly in this instance where great differences separate the two sides.

The fact remains, however, that problems which have developed over several decades will not be solved rapidly. And more to the point, they will never be solved if the United States, the Nation with the greatest ability to make a positive contribution to the problem, gives an impression of vacillation and untrustworthiness. That we must avoid at all costs. Along with several of my colleagues, I intend to discuss this with the President today.

The problems which I have with the joint declaration can be summarized straightforwardly:

It is the first major U.S. pronouncement on the Middle East which does not specifically mention U.N. resolutions 242 and 338. It thereby creates the impression that we no longer consider those resolutions as the fundamental prerequisite for a settlement.

It uses the phrase "legitimate rights of the Palestinian people" rather than "legitimate interests," and thereby again breaks with traditional phrasing, giving the impression that we are more favorable toward the idea of a Palestinian state than we have been in the past.

It was issued in concert with the Soviet Union. It thereby undermines our previously carefully organized efforts to establish ourselves as the sole good faith intermediary in the Middle East, and grants the Soviet Union an influence in the area which it does not merit.

It was issue, according to press reports, without anything resembling the kind of consultation with Israel which we have employed in the past, and which we have given Israel assurance that we would continue to employ. It thereby gives a distinct, and I do not believe erroneous, impression that the administration is seeking to put distance between itself and the Israel Government.

Adding these together, its overall affect is to create further uncertainty where trust previously has existed—in an area of the world in which sensitivity to such changes is already phenomenally high.

It will not even lead toward peace—and that is the most unfortunate aspect of all—because it encourages intrasigence and the lack of moderation on the Arab side. If we were to succeed in pushing Israel toward the Arabs, their natural response would be to move a little farther back. Distance between hard bargainers is not so easily reduced.

Finally I cannot but state my profound concern and disquiet that the President may have chosen to chart a course toward attempting to make a client state of Israel, by implying a link between its future security—which depends on our military aid—and its government's foreign policy. In a region where so much blood has been spilled, and distrust and hatred are so deep, this seems to me to be most unwise. Such a course can only result in the United States and its prestige becoming ever more deeply committed in the Middle

East, in the same manner in which it was once committed in Southeast Asia. Unlike Southeast Asia, however, Israel is a democracy in the fullest sense of the word. Israel does not want to be a client state. In Israel we have a democratic ally that understands that ultimate freedom can only be guaranteed by the people who breathe it and desire it, not by well meaning cousins across the oceans. For the United States to impose or circumscribe the conditions under which another democracy should exist in freedom is a very questionable policy.

I therefore sincerely hope that the President will reconsider this position and reaffirm our previous policy in the Middle East. I believe our support of Israel must remain to be support for a sovereign and independent Israel. And finally, our support for Israel should be understood by all to be firm and unremitting if a lasting peace is ever to be achieved.

I also sincerely hope that I have misunderstood the administration's position and eagerly await today's meeting with the President.

FOREST SERVICE WILDERNESS—RARE II

HON. JAMES ABDNOR

OF SOUTH DAKOTA

Thursday, October 6, 1977

Mr. ABDNOR. Mr. Speaker, I have received a copy of the text of a speech delivered by USDA's Assistant Secretary M. Rupert Cutler before the annual meeting of the Society of American Foresters on October 5, 1977, in Albuquerque, N. Mex.

Dr. Cutler's remarks will be of great interest to many of my constituents as I am sure they will also be to other readers of the RECORD:

WILDERNESS AND THE POLITICAL LANDSCAPE

The topic I bring before you this afternoon not only aptly fits the theme, "The Political Landscape," *it is* the political landscape! This recognition is more than a mere play on words; it is a basic truth which we are going to have to deal with if we successfully resolve the wilderness classification issue.

There are among us some who lament that wilderness classification has become political—overlooking the fact that this has been the case for fifty years. Assistant Regional Forester Aldo Leopold probably engaged in a bit of personal "political persuasion" right here in Albuquerque, when he convinced his superior to set aside three-quarters of a million acres as the Gila Wilderness some 53 years ago. Certainly the pressures for competing uses were nowhere near what they are in this day, but Leopold and his boss must have felt some of the same apprehension experienced by the first man to bite into a tomato.

During that same era, Forest Service Landscape Architect Art Carhart was up against some competing land use situations. At Trappers Lake in Colorado, he convinced the Regional Forester to abandon creation of a subdivision of summer homes, thus permitting eventual inclusion of the area in the Flattops Wilderness. He kicked a hornet nest in northern Minnesota when he devised a management plan, approved by Secretary Jardine in 1926, which said that no roads would be built, that the waterways would serve as the transportation arteries. And he made today's debate over the proper boundaries for a million-acre Boundary Waters Wilderness possible.

As Bob Marshall, the Forest Service's first Director of Recreation and Lands, developed the regulations which formed the initial "system" of wildernesses, wild areas, primitive areas, and roadless areas, he was working in a "hot kitchen" but he did not get out. Instead, he saw his dedication to natural area management adopted by many others, and his efforts place the Forest Service in the preeminent position it enjoys to this day in the wilderness field. I've had the privilege of knowing Bob Marshall's brothers, George and Jim, through my Wilderness Society activity and feel that I've been exposed to Bob's philosophy through them.

For nearly two decades after Bob Marshall's death in 1939, we didn't have much time to think about wilderness matters. World War II and the Korean conflict, with attendant burgeoning technology and economic growth, held the Nation's attention. In the late '50s and early '60s, the great debate on the Wilderness Act was waged, culminating with passage in 1964. Conservation giants such as Howard Zahniser and Henry Clepper strode the stage then, debating the merits of the proposed legislation.

Many thought the issue settled in 1964, except for the Congressional actions resulting from the studies the Wilderness Act mandated. The ten-year study of specified areas was only partially completed when the Forest Service acknowledged that there were areas of National Forest which really should be managed for wilderness values but which were not mandated for study. The 1972 Roadless Area Review and Evaluation, which we now refer to as RARE I, was a bold step by former Chief Ed Cliff toward setting the priorities for wilderness study—and which was intended to close the traverse. This was not to be.

RARE I had some shortcomings. Inventory criteria were too general, some resulting inconsistencies and overlooked areas from region to region—and failure to include eastern forests—clouded the generally good aspects of the review. The public was not made a full partner in the process at an early stage of RARE I.

In jig time, the Forest Service found itself in court, challenged, in the Sierra Club vs. Butz suit, to give fuller consideration to wilderness potential for all the inventoried roadless areas. The policy adopted in late 1972 to again assess the wilderness potential of each inventoried area during the land management planning process, with the public given opportunity through the environmental statement process to comment, partially calmed the troubled political waters.

The calm following Judge Conti's dismissal of the suit was short-lived, however. The land management planning process proved incapable of jointly handling the national political nature of the wilderness question in context of the local evaluation which was the hallmark of the unit planning effort. Soon, the planning process was being impacted with appeals and court challenges. This had the effect of slowing the delivery of goods and services the American people need and expect from the National Forests. The Congress, reflecting dissatisfactions of its constituencies, began taking more aggressive action in the wilderness designation process, "piecemealing" the question out of context with comprehensive land management planning.

When the Carter Administration took office, a number of these "piecemeal" legislative proposals were on the Congressional front burner. This Administration, which favors full and prompt development of a quality National Wilderness Preservation System, was compelled to go on record early this year on several proposals without adequate time for analysis of the entire situation. This was an awkward, uncomfortable situation for me.

Working with Chief McGuire, I decided that the Nation would be best served if we could somehow bring the whole National Forest System wilderness designation process to a timely resolution, using a planned and, insofar as it can be, controlled process. There are real payoffs to all concerned if we can get this job done.

The concepts for this special planning project, which we now call RARE II for want of a better name, are straightforward. First, a completely new run must be made at the national inventory, eliminating all the inconsistency which can be accomplished within the timeframes. The public is to be made a full partner in each of the steps from the initial inventory through to final selection of alternative courses at the end of the project. There must be payouts at each end of the spectrum—wilderness and nonwilderness. Of great importance is our determination that the project be completed in a timely fashion. We are completely committed to carry RARE II to a prompt conclusion.

The two primary aims of RARE II are to determine which roadless and undeveloped areas are needed to round out a quality National Wilderness Preservation System and to determine which roadless areas should receive no further wilderness consideration but be devoted to other uses. We are not so naive as to believe that during such a short time frame each and every roadless area can be successfully dropped into one or the other of these neat categories. Some areas will have to be remanded to more traditional, but more time-consuming, planning and study processes The measure of success, however, must be judged by how small we can keep the unresolved group of areas.

Most of you are well-versed in the methodology the Forest Service is using for RARE II, so I won't take your time to repeat it all. There are several elements, however, which I know you find bothersome. One is the criteria the Forest Service developed for the initial inventory done before the public workshops began. Before RARE I, the Congress had been generally accepting the Forest Service's relatively strict judgment as to the marks of man's activities which were not acceptable in an area to be designated wilderness—this has been dubbed the "purity" position. For the past half dozen years, however, Congress has strongly indicated that it considers minimal marks of man's activities acceptable in classification actions. The definition of "roadless area" and the criteria for developments used in RARE II are derived from study of these later expressions of the Congress. Certainly it is prudent to use criteria which are as close as possible to those being accepted by the only authority currently empowered to designate wilderness.

Another bothersome element is that there is bound to be some degree of impact on regular forest activities and programs for the duration of the review. The Forest Service, for instance, has determined that probably RARE II inventory will carry the potential to cause shortfall of timber sale volume offered in Fiscal Year 1978 of a maximum of 307 million board feet. We believe that we have the capability to reduce this maximum potential to a minimal effect through aggressive reprogramming of areas, location of alternative sale areas within the same working circles, and other positive action steps and we will use this capability.

If I get no other message across today, I

want to make certain you understand that I intend to: (1) Carry this project to its proper and final conclusion, as promptly as possible, and (2) to hold adverse impacts to absolutely the lowest level possible.

Many of you are concerned about the plans for the next steps in RARE II. Later this month, the Chief will be announcing the final inventory list. The list will be published in the Federal Register with an invitation for public suggestions on the final list. Immediately thereafter, the evaluation phase will begin. This will be an open process in which the public must be kept abreast of progress and given opportunities to provide advice and counsel. The evaluation will involve a two-step screening of all the roadless areas. First, the areas will be screened to determine which possess the attributes needed to round out a quality Wilderness System. This will include such attributes as representation of major ecosystems, and landforms, availability to visitors, distribution in relation to population centers, and several other selection criteria. The roadless areas including those which seem likely candidates to fill gaps in the existing Wilderness System will then undergo socioeconomic tradeoff analysis, performed at the regional level. Alternatives will be cast up in a nationwide programmatic environmental statement accompanying localized draft environmental statements—possibly state-by-state recommendations and alternatives.

We intend in the late summer of 1978 to have another round of formal public comment. This is the time the people will be asked for opinions on whether or not specific areas should be recommended for wilderness designation. This will provide a full field season for persons to get into and study the areas on which they wish to provide comment. At the end of 1978, we will be concluding RARE II with a final report and environmental statement, after which draft legislation to implement our recommendations will be made available to the Congress.

I want to reemphasize several points relating to the entire wilderness classification issue as well as the specific review currently underway. First and foremost, we as a Nation should resolve the issues now. Procrastination today may mean that otherwise-deserving areas will be irretrievably committed to uses that preclude them ever becoming wilderness. Continued debate and controversy over the issue is debilitating and devisive. Persons and industries depending upon goods and services from the National Forests and National Grasslands must be able to look to the future with greater assurance that the needed products and amenities will be there and available on a sustained-yield basis.

The energies of the managing agencies, whether the Forest Service, Bureau of Land Management, National Park Service, or Fish and Wildlife Service, are needed in managing the lands, some for wilderness and the rest for the various other multiple uses.

Until the National Wilderness Preservation System is rounded out to a level acceptable to the American people as a whole, all of us lose because of the static in the system—the energy wasted in coping with controversy. I pledge my efforts to move the process as close to completion as I can, as quickly as possible. All of us should capitalize on any consensus we can find for areas considered in RARE II, rather intrasigent about the honest differences some of us may have. We should fulfill the promise given the American people by the Congress in the 1964 Wilderness Act, to deliver ". . . an enduring resource of wilderness." Then we can optimize our investments of dollars, public and private, and manpower paid and volunteer, to gain full measure of public benefit from the National Forest System.

THE PANAMA CANAL TREATY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BOB WILSON of California. Mr. Speaker, I am privileged to bring to the attention of my colleagues the remarks of Senator BOB DOLE of Kansas.

The distinguished combat-disabled veteran of World War II recently addressed the Non Commissioned Officers Association of the USA (NCOA) Eastern Regional Symposium, Arlington, Va.

On hand were nearly 200 officers and trustees of the association's chapters in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Tennessee, Florida, North Carolina, South Carolina, New Hampshire, and Maine.

Also some 50 guests from military departments and associations and veterans organizations.

Senator DOLE addressed a most timely issue—the Panama Canal Treaty. His remarks are as follows:

REMARKS BY SENATOR BOB DOLE BEFORE THE NON COMMISSIONED OFFICERS ASSOCIATION

In his short time in office, President Carter has managed to throw our entire foreign policy structure into a state of disarray. Where there was once stability, we now have chaos. This administration's attitude towards our allies in Western Europe, Latin America, and Asia, and towards our adversaries in Cuba and Vietnam, has managed to confuse just about everyone.

In the same short span of time, the Carter Administration has jeopardized the fabric of our national security system by undermining the B-1 bomber program and casting doubt upon our national resolve in Western Europe and on the Korean Peninsula.

When this administration came to power, the United States was militarily strong and universally respected. A new SALT agreement was 90 percent completed with the Soviet Union. In the Middle East, the tinderbox of world affairs, we were respected by all parties to the conflict as an impartial friend in the search for peace. In Japan, in West Germany, and elsewhere in Europe our allies said that their relationships with America had never been stronger. In short, our foreign policy was as sound in practice as it was consistent in principle. And throughout most of the world, America was looked upon as a firm, steady partner in the quest for a just and lasting peace.

Eight months have passed now—and look what we have:

To the South, they're cuddling up to Castro.

To the East, they're still looking for a face-saving device to withdraw relations from the Government of Taiwan.

Not too far away from Taiwan, they're trying to retreat from our security position in Korea, and to embrace the communist government of Vietnam.

In Europe, should war come, recent accounts say we are preparing to surrender one-third of West Germany.

In the Middle East, we have managed to confuse nearly everyone, by insisting that Israel accept preconditions before going to the bargaining table.

THE PANAMA CANAL CAPER

The latest in the Administration's foreign policy fumbles is its effort to saddle the American people with a weak-spined Panama Canal treaty. This Administration has backed down on nearly every major point of contention between U.S. and Panamanian negotiators in its haste to capture a dazzling foreign policy accomplishment.

But the American people are not easily blinded by the tinsel and glitter of pomp and ceremony. The Canal treaties which President Carter sent to Capitol Hill are full of serious defects, and the American people know it. An Associated Press public opinion poll conducted after the treaty signing in Washington on September 7 shows that fully 50% of adults surveyed oppose Senate ratification of these treaties. Only 29% favor the accords, while about 21% express no opinion. The opposition cut across regional, party, age and income lines. Those who identified themselves as Democrats oppose the treaty by a margin of 44% to 34% and even the residents of Carter's home region—the South—objected to the treaties by 49%, with only 26% in favor.

TREATIES UNACCEPTABLE

I can understand the public's disenchantment with the pacts. During the past several weeks, I have made an active effort to familiarize myself with all the details of the Panama Canal Treaties, and I find them sadly lacking in logic and guarantees for our future national security. After having discussed the treaties with President Carter, former President Ford, Governor Reagan, and a variety of diplomats and scholars, I arrived at certain specific conclusions.

First, I cannot support the two Panama Canal Treaties in their present form. Both the basic treaty, and the treaty concerning permanent neutrality contain serious omissions and defects which make them unacceptable. In my opinion, the treaties leave us "high and dry" in the event of future international conflict or regional instability.

I believe it is time to move beyond the point of blind emotion on this controversial issue. I believe it is time to focus attention upon specific weaknesses in the Canal Treaties.

Just this morning, I introduced six amendments and two reservations to the Panama Canal Treaties. Each of them was carefully considered and formulated to protect the national interests of the United States against inherent risks in both treaties. When the Senate Foreign Relations Committee opens hearings on the accords next Monday, I am hopeful that each of the points raised by my proposals will be thoroughly examined. Neither the Congress nor the American people can afford to be "bulldozed" on this vital issue.

REDUCE PAYMENTS

Probably no other aspect of these treaties causes as much concern among so many Americans as the payment provisions. This "pay away" plan is a curiosity. Are we providing rent, ransom, or "conscience" money? President Carter's treaty would guarantee payments of between $70 and $80 million dollars per year to Panama out of our Canal revenues. This is a windfall by any standard, particularly when we consider the value of real estate and equipment that will be given without charge to the Panamanian Government under the treaty terms. The amendment I introduced this morning will reduce Panama's share of canal revenues by more than one-half.

Furthermore, should the canal become inoperable for any period of time, the fixed annual payment would cease for a proportionate period of time. This will protect us against canal closings by natural catastrophe, functional breakdown, or intentional sabotage. A second amendment will guar-

antee our authority to intervene militarily in the canal's defense whenever we determine it to be threatened by any source. In my opinion, this amendment is absolutely necessary to the protection of our national security interests. We cannot count on Panamanian agreement in every instance where we see the operation of the canal to be in jeopardy, so we must retain the right to intervene whenever we see fit.

Another absolute necessity is to guarantee that the United States Navy be given priority passage through the canal during periods of crisis. President Carter's treaty contains a clause granting us "expeditious passage", but the Panamanians have already told us that this means we get in line like everybody else and wait our turn to get through the canal.

Our national defense has never been short-circuited by a traffic jam before, and I don't think we should let it happen in the future.

OTHER POINTS OF CONCERN

Other modifications I have proposed would guarantee our right to build a new canal in any country in the Western Hemisphere, despite the provision in the President's treaty which would require that a new canal be placed in Panama. I also propose to extend the transfer period for U.S. jurisdiction over the Canal Zone far beyond the 30 month period proposed in the treaty. And my modifications will ensure that the civil liberties of U.S. Canal employees and the human rights of all Panamanian citizens are observed by the Torrijos Government in years to come.

For an administration which has made the subject of human rights a basic element of its foreign policy, particularly towards Latin America, the White House has been strangely silent on this point in the Panama Canal negotiations. But I believe that, in the interest of moral principle as well as consistent policy, it is important that we address the subject of human rights within Panama for both Panamanian and U.S. citizens.

NO APOLOGIES

If there is one message that the American people want delivered to General Torrijos and his buddies in Panama, it is that the United States will never reduce its presence in the Canal Zone because of veiled threats or direct pressures. Panamanian officials must know that we intend to reserve all rights to intervene when the security of the canal is threatened, and we expect priority passage for our ships during periods of crisis. They must be told that we expect to see substantial progress in the area of human rights and, above all, we do not intend to pay exorbitant amounts of money for the purpose of turning over control of the Canal and Canal Zone. I believe my amendments and reservations will speak for the American people in this respect. We should settle for nothing less.

Finally, I want to say—without any reservation—that the people of the United States owe Panama no apologies for our involvement with the Canal. The generosity of our Government in building the Canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Without any implication of guilt, the Senate should proceed to analyze these treaties in an objective and responsible manner.

But we need the informed opinion and the sound advice of the American people at every step of the way. Whether the Panama Canal issue becomes a victory of principle or just another step along the road of retreat may well depend upon two things: the responsible and non-partisan attitude of the members of Congress, and the trend of public opinion on the matter. I am convinced the American people will not agree to a "sell-out" arrangement in Panama, and I will do my best to see that that never happens.

BAD PAPER UPGRADE

There is another matter of importance to the Non Commissioned Officers Association that I would like to discuss briefly. That is the legislation we have been considering in Congress recently to insure that veterans with a record of less than honorable service in the Armed Forces should not automatically receive veterans benefits as a reward.

As you will recall, earlier this year, President Carter pardoned all Vietnam era draft evaders. He then created a special discharge review program to upgrade the discharges of a great many Vietnam era veterans who were discharged under less than honorable conditions. This action created a situation where veterans benefits were made available to those who may have deserted or otherwise failed to meet their obligations of services to their country. In short, dishonorable service would be rewarded with veterans benefits.

HIGH STANDARDS ESSENTIAL

As professional leaders in the Armed Forces, you are well aware of the importance of maintaining high standards of service. We cannot have a strong national defense if the duty and responsibility of every citizen to serve their country is ignored. We cannot have an effective military organization if discipline and the other requirements of military service are flagrantly violated.

The Non-Commissioned Officers Corps is the backbone of our armed services. Because of your high level of professionalism and your standards of conduct, our defense establishment is the finest of the world.

But, as you well know, there could not be the high standards of performance if your subordinates knew that dishonorable conduct would be not only forgiven but even rewarded as well. To reward substandard and dishonorable service with full veterans benefits is to undermine the entire structure of the Armed Forces.

That is why the Congress acted promptly to enact legislation barring automatic eligibility for veterans benefits to individuals whose discharges have been upgraded as a result of the Carter special discharge program. Yesterday, the Senate passed the final version of this bill. Today the House approved it and sent it to the President.

This act will require that before any veteran who goes through the special discharge upgrade program can receive veterans benefits, he must meet the standards of honorable service that would have allowed him to obtain a discharge upgrade under the traditional standards that existed prior to the Carter special review program. This will require that any veteran who receives veterans benefits must meet the traditional standards of honorable service.

The one exception to this is for veterans who sustained a combat injury or an injury in the line of duty. In these cases, they will be eligible for medical benefits from the V.A. but will receive no other V.A. benefits unless they otherwise meet the traditional standards of honorable service.

This bill is essential to retaining the high standards of our Armed Services, which you have done so much to establish and maintain. The Non Commissioned Officers Association of the United States played a very significant role in developing and passing this legislation. Successful passage of this bill would have been much more difficult without your strong support.

I commend you for your dedication and your patriotism. I know that as long as we have a strong professional Non-Commissioned Officers Corps, the freedoms and human liberties we hold to be so vital will be protected from foreign enemies everywhere.

UNITED STATES SHIFT IN THE MIDDLE EAST

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BINGHAM. Mr. Speaker, on September 29 I sent a letter to the President outlining my concern about the direction of U.S. policy in the Middle East. Last Sunday's joint Soviet-United States communique only confirmed these fears and I would like to take this opportunity to share my letter to the President with my colleagues and other readers of the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing because of my growing concern about the direction of U.S. policy in the Middle East. I have not written until now in the hope that a seeming tilt in U.S. policy was merely illusory or that, if real, it would be corrected. But unfortunately a series of recent policy pronouncements and casual statements have left me convinced that U.S. policy is shifting away from forthright support of Israel and her goal of peace through direct negotiations with her neighboring states to a more equivocal stance.

The most recent evidences of this apparent movement are the State Department announcements that "Palestinians must be involved" in the peacemaking process and that the United States does not share Israel's position that PLO members must be excluded from any mixed Arab delegation at Geneva. These statements, coupled as they are with Administration insistence upon a Geneva conference this year, are widely and, I think, correctly interpreted as pressure on Israel to agree to the participation at Geneva of the PLO. This marks a retreat from the 1975 U.S. commitment to Israel which bans any U.S. recognition of or dealing with the PLO so long as the PLO rejects U.N. Resolutions 242 and 338 and denies Israel's right to exist.

My concern is on two counts. First, I have never understood the Administration's emphasis on the necessity for a reconvened Geneva conference this year or its repeated calls for substantial progress toward a settlement in 1977. There is nothing magic about 1977 and the establishment of artificial timetables can only arouse false hopes and needless fears. A thirty year stalemate is not going to end overnight or in the next 90 days. The attainment of peace will require a revolution in attitudes and modes of conduct throughout the Middle East. I see no signs that that kind of revolution is underway. I see no concrete evidence that any Arab leader, with the exception of King Hussein, is ready to commence the normalization of relations with Israel. The much proclaimed "moderation" of Anwar Sadat and Hafez Assad consists of little more than a willingness to end the state of belligerence in return for Israeli withdrawal from "every inch" of territories held since 1967. This should be welcomed as a step in the right direction but hardly indicates that peace is at hand.

Nevertheless I do believe that we should promote progress toward a peace agreement, so long as we do not sacrifice vital U.S. interests in the process. That is why I am both alarmed and puzzled by your Administration's apparent support of, or at least acquiescence in, a PLO presence at Geneva. American support for a PLO role not only undermines our goal of meaningful negotiations but it erects a roadblock in the way of such negotiations.

The position of the Israeli government is clear. On Sunday, Foreign Minister Dayan only reiterated a position held by the Meir and Rabin governments (and, incidentally, supported by the overwhelming majority of Israelis) when he said that Israel will never agree to parley with an organization which has as its sole objective the eradication of the State of Israel. Questions about whether or not the PLO will endorse the U.N. Resolutions 242 and 338 are irrelevant. The PLO's raison d'etre is, as its reaffirmed covenant states, "to purge the Zionist presence from Palestine." Dedicated to the destruction of Israel, what role could it possibly play in negotiations designed to finding a way for Israel and its neighboring states to live together in peace? Israel will not yield on this point—nor should she—and U.S. insistence on it will doom negotiations before they begin.

Moreover it hardly behooves the U.S. to bolster the PLO by alluding to ways it might win U.S. acceptance at the very time the PLO is on the wane in the Arab world. Vanquished in Jordan and weakened in Lebanon, enjoying little support among Arabs in or outside Israel, it is at its lowest point of influence in years and might be eclipsed altogether except for the occasional encouraging statements from the U.S. U.S. flirtation with the PLO is precluding the emergence of more moderate Palestinian voices which will not be heard so long as it appears that the PLO has any chance of winning U.S. recognition. We have here a situation where the U.S. is encouraging an organization which would, if it could, destroy the United States' two most steadfast allies in the Middle East, Israel and Jordan; an organization which has sown two civil wars, in Jordan and Lebanon, and which is responsible for the Munich Olympic murders, the massacre of the children at Ma'alot, and the executions of two U.S. diplomats, among hundreds of such murderous incidents. This is indefensible.

I agree that the Palestinian issue should be resolved in the peacemaking process. The Jordanian delegation, which could include Palestinians not affiliated with the PLO, is the proper place for Palestinian representation. Israel has agreed to the inclusion of non-PLO Palestinians in a mixed Arab delegation and this also makes sense. But the actual negotiating must be between the states that were involved in the four Middle East wars, Israel, Jordan, Egypt and Syria.

The Palestinian issue is not the cultural issue here. Is there any reasonable person who would claim that the wars of 1948, 1956, 1967, and 1973 were fought over the so-called t"rights of the Palestinians"? The Arab states sh wed their disregard for any such rights when they rejected the U.N. Partition Resolution of 1947 which would have established a Palestinian Arab state. Nor did the Arab states concern themselves with the need for a Palestinian homeland on the West Bank during the 19 years prior to 1967 when the West Bank was in Arab hands. Neither are the territories captured by Israel in 1967 at the core of the conflict. The Arabs went to war with Israel three times before any territories were "occupied." The central issue today, as it has been for 30 years, is the right of Israel to exist and to exist in peace in secure and defensible borders. Negotiations between Israel and her neighbors must have as their goal normalized relations between the parties—diplomatic exchange, trade, travel, commerce, and cessation of all forms of warfare. In the context of negotiations with those objectives. Israel's leaders have said repeatedly that everything is negotiable. Though Israel cannot be expected to return to the insecure borders of 1967, there is room for arrangements dealing with the West Bank, Gaza, and the Golan. In the context of a real peace, even Jewish settlements on the West Bank should pose only minor problems. Surely a negotiated settlement could allow Jewish settlers to live in the West Bank regardless of what kind of arrangement is ultimately worked out. Given a commitment to peace, everything is possible.

All these questions could be resolved in the negotiating process. But they cannot be resolved in advance. It must be said that our goal of negotiations is not being furthered by U.S. statements on the necessity of a "Palestinian homeland" or "entity" or by suggestions that Israel must give up all but minor portions of the territories gained in 1967. I find the constant U.S. demands on and chiding of Israel while Arab actions and statements go unmentioned most troubling.

There is a striking imbalance between the Administration rebukes so often leveled at Israel for various alleged provocations and the silence that greets intemperate Arab statements or moves. The State Department called Israel's legalization of existing settlements in the West Bank "illegal" and "obstacles to peace." It calls new settlements "obstacles to constructive negotiations." It has labeled various statements by Israel on the necessity of keeping occupied territories "not helpful".

Yet there was no criticism of Syria's invasion of Lebanon. There was no rebuke of President Assad when he said that there is no way to force one nation to recognize another. The U.S. took no notice when President Sadat said that "neither Jesus nor Mohammad" could persuade Arabs to open their borders with Israel. There was no U.S. condemnation of an August PLO attack on an Israeli bus. When asked to comment, State Department spokesmen refused. This borders on a solicitousness toward the Arabs that I find incomprehensible. Just what have the Arabs done to merit such sensitivity and concern on our part? It is not fair to chastise Israel for her preoccupation with her peoples' security while we commend the Arab leaders for their "moderation" in coming around to tentative acknowledgment of Israel after 30 years and four wars of aggression.

This Administration must and should encourage Arab leaders to come to terms with Israel. But that will not be accomplished by U.S. endorsement of Arab demands or one-sided criticism of Israel. Rather than promote Arab moderation these statements lead the Arabs to believe that they will accomplish their maximalist goals through U.S. pressure on Israel and that there is no need for them to make significant concessions for peace. Conversely, Israel will stiffen her negotiating posture if she feels that the U.S. commitment to her is wavering. Israeli faith in U.S. intentions is essential. Israel's knowledge that the U.S. stands behind her—economically, militarily, and diplomatically—can give her the confidence to negotiate freely with nations which have attacked her four times in thirty years. An Israel that feels abandoned cannot have that kind of confidence.

Mr. President, I share your determination to see peace achieved in the Middle East but I believe that our goal must not be a mere settlement, a quick fix which can delay war but not end it. In Clinton, Massachusetts you described the peace to which we must aspire. At that time you said:

"I think one of the finest acts of the world nations that's ever occurred was to establish the State of Israel."

"So, the first prerequisite of a lasting peace is the recognition of Israel by her neighbors, Israel's right to exist in peace. That means that over a period of months or years that the borders between Israel and Syria, Israel and Lebanon, Israel and Jordan, Israel and Egpyt must be opened up to travel, to tourism, to cultural exchange, to trade, so that no matter who the leaders might be in those countries, the people themselves will have formed a mutual understanding and comprehension and a sense of a common purpose to avoid the repetitious wars and death that have afflicted that region so long. That's the first prerequisite of peace."

That is a vision we all can share. It is a peace that region needs and it is a peace that the people of the region deserve. We must settle for nothing less.

With best wishes,

Sincerely,

JONATHAN B. BINGHAM.

THE OPTICAL DELUSION—PART II

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the second in a series of investigative reports into the retail eyeglass industry written by the New York Daily News' William Sherman.

This article spotlights how incomplete and inaccurate examinations and prescriptions result in thousands of persons being fitted with wrong glasses. In addition to obvious hazards to vision—this problem results in great expense to the consumer as the average cost for eyeglasses is nearly $80.

I am especially concerned about the effects of this consumer rip-off on the elderly. As a member of the House Select Committee on Aging, I intend to conduct hearings into this problem. Our committee led by the distinguished gentleman from Florida (Mr. PEPPER) has a deep concern for reducing the high costs of medical appliances needed by the elderly.

The second article follows:

[From the Daily News, Sept. 27, 1977]

ONE PAIR OF EYES GETS 20 PRESCRIPTIONS

(By William Sherman with Kiki Levathes and Hugh Wyatt)

Let's say you had acute appendicitis, but the doctor examined you so hurriedly, he diagnosed nothing more than a mild stomach ache and prescribed an antacid. Then the druggist filled the prescription wrong and gave you aspirin.

This kind of thing is happening to people who buy eyeglasses. They are rushed through examinations so quickly that many crucial tests are omitted and they wind up with glasses that are incorrectly prescribed.

Even if the prescription happens to be right, lab technicians who fill prescriptions often fail to follow instructions. A ;ain, ' ? buyer winds up with inaccurate glasses.

These were among the findings of a News investigation into the $4.1 billion a year American eyeglass business.

Half of New York City wears corrective lenses and News reporter Hugh Wyatt bought glasses at 20 retail stores to find out what happens to people with vision problems. Two of the stores were opticianries where his old glasses were duplicated.

Before he began his tour, Wyatt was given an hour-long battery of tests by optometrists at the State University of New York's optometric center. There, Wyatt was found nearsighted and astigmatic, problems solved with single vision lenses.

But at many retail stores Wyatt was rushed through tests in six minutes and one optometrist whisked him through in three minutes flat.

Alden Haffner, president of the optometric center said, "The tests and the workmanship were terrible."

And the results were glasses that were too strong or too weak, frames that were stretched to the breaking point, lenses that were improperly set, and in one instance, a pair where the right eye lens was switched with that meant for the left.

Optometrists at the university center who evaluated the prescriptions and purchases said it is impossible to do a thorough eye examination in less than 45 minutes.

The examination, they said, should include a lengthy case history of vision problems and tests of the cornea and retina, depth of vision, field of vision, eye reflexes, sight at near and far distances, and a scan for disease.

Here is what happened at the 20 stores Wyatt visited:

Only one optometrist asked for a case history.

None of the optometrists agreed with the university center's findings that Wyatt needs prisms in both lenses to improve his binocularity—that is to help both eyes see as a team and on the same vertical plane.

At the same time none of the shops tested for binocularity, Wyatt's particular problem. Meanwhile, one store put a prism into his lenses although it was not called for on their prescription. It was the wrong prism for Wyatt.

Many of the stores where he was examined used Wyatt's old glasses as a reference and essentially did little more than copy them. Still the copies didn't match the orignals. Some were too weak, others were too strong.

Sixteen of 20 stores didn't test for glaucoma. Ten of the stores didn't examine the retina or cornea in detail.

In 16 cases, the distance between the centers of the lenses didn't match the actual distance between the pupils of Wyatt's eyes. When this measurement is off, the eyes will "pull" to see through the actual centers. Eyestrain and headaches result.

In 11 of the 20 glasses Wyatt bought, the axis in the prescription was incorrect. Considering a lens as a clock face, the axis is that hour of the clock where the power should be placed to correct of astigmatism.

In many of the glasses, frames were improperly stretched and the wrong size lens was put in.

The total result was that none of the optometrists in the survey wrote prescriptions that would accurately correct Wyatt's vision problem, according to the center optometrists. In addition, 15 of the 20 prescriptions were incorrectly filled. And the resulting glasses did not meet tolerence levels by the Americans Optometric Association.

"Had he worn many of the glasses he bought," said university center president Haffner, "he would have been seeing incorrectly—with one eye looking up and one eye looking down—just considering that they didn't do the test for binocularity. That was just one of the problems."

At some stores, Wyatt was rushed through his examiantions so quickly, he hardly had time to say anything at all. Often, his questions were brushed aside or answered with nonsense.

At Sight 'N Style Optical, 447 Fulton St., Brooklyn, optometrist Aaron Friedland manipulated a testing device called a phoropter so fast, Wyatt became confused.

"You're not giving me a chance to accurately read the letters," he complained.

"That's the idea," Friedland replied. "When you're on the outside using your glasses, you've got to be able to see everything around you very quickly."

Wyatt's examination there was over in eight minutes. The glasses were later evaluated and the distance between the optical centers was off.

In addition, the axis correction for astigmatism was ten degrees off in the left eye according to the center optometrists' finding.

At Korvette's Optical World, 1293 Broadway, optometrist Robert Ring had six people waiting on a line behind Wyatt and Ring hustled Wyatt through in three minutes.

The university center's evaluation later showed that Ring's prescription was too weak and the axis was five degrees off. In any event, that prescription was incorrectly filled.

Optometrist Bernard Rosett of 37-03 Main St., Flushing Queen was one of those who provided a thorough examination. He spent nearly an hour with Wyatt, chatting and asking questions.

But the resulting glasses were too weak for both eyes, the optical centers were off, and the axis was five degrees off. The prescription was improperly filled.

In their evaluations of the eyeglass purchases, the optometrists at the center noted that the technical work of lenses and placing them properly in the filling the prescriptions—cutting the frames—was done by lab technicians.

Optometrists have four years training and are licensed by the state to examine eyes, and opticians are trained and licensed to fit glasses and check prescriptions. Lab men receive no formal training and, although they are not licensed, they are the technicians who do the actual work of filling prescriptions.

Usually they work in the back room of an eyeglass store where, according to the optometrists at the center, "They receive their training on the job." These "lab men," or "bench men" as they are called, average about $220 a week.

When told of the survey, Charles W. McQuarrie, president of the American Optometric Association, said that in writing a prescription, variations are understandable.

"You can go to five different optometrists and get five different prescriptions."

"But," he said, "There is no excuse for a short examination and no excuse for failing to perform the necessary tests. When a new patient comes into my office I will not spend less than 45 mintues with him. After all, it's his eyes."

"When a prescription is filled and the glasses are in hand, I always check the numbers to see if they are accurate. Anybody who doesn't isn't doing their job. That's all I can say."

HOW THE EYE MEN SAW IT

If you want a pair of perfect glasses, glasses that fit and are correctly prescribed, the following should happen: After a 45-minute exam an optometrist will write a prescription. You choose a frame. If the lenses are "stock" finished to your prescription, which they usually are, the prescription order will be given to a "lab man." He generally works at the rear of the store.

The lab man will fill the prescription, choosing the right power lenses. He will mark the lenses so the optical centers will match the centers of your eyes and he will mark the axis so the power will be in the right position after the lenses are placed in the frame.

The lenses will be cut and edged so they fit into the frame properly. When the job is done, the retailer will check to see if the prescription has been properly filled. If it isn't the retailer will make corrections.

Usually this doesn't happen, according to the News survey. Reporter Hugh Wyatt bought 20 pairs of glasses at stores around the city. All the lenses were stock and at each store he asked for the same frame, an American Optical Co. "stadium" model.

Optometrists at the State of New York's optometric center evaluated Wyatt's purchases. They checked to see whether the retail stores' prescriptions matched their own prescription for Wyatt. They also checked to see if the prescriptions written in the retail stores were filled properly.

To determine whether the retail prescriptions were properly filled, they used standards of tolerance set by the American Optometric Association and the American National Standards Institute. Those standards allow for the following margins of error in filling a prescription: three degrees in the axis and a quarter of a diopter in the power. No margin of error is allowed for the correct distance between optical centers of the eyes, according to Allan Haffner, president of the university center.

Here is a store by store evaluation of Wyatt's purchases by the university center that was double-checked by another optometrist:

Cohen's Fashion Optical Co., 767 Lex. Ave.—Totally inaccurate. Left eye reversed with right eye. Shape of lenses put into frames was wrong. Distance between lens centers off. Too weak in the left eye, too strong in the right.

Cohen's Fashion Optical, 50 East 42nd St.—Distance between lens centers 11 millimeters off. Frames too small for patient's head. Temples were each a quarter of an inch too long. Prescription too weak for both eyes. Filled prescription didn't match written prescription.

Community Opticians, 509 Willis Ave., Bronx.—Wrong shape lenses, frame stretched improperly. Distance between optical centers off. Too strong in the right eye, too weak in the left. Axis off five degrees.

Conovitz Optometrists, 37-03 Main St., Flushing.—Prescription incorrectly filled. Optical centers three millimeters off. Too weak for both eyes. Axis five degrees off.

Euphoropia "Optical Boutique," 1109 Kings Highway, Brooklyn.—Shape of lenses wrong for frame. Optical centers correct. Prescription filled accurately, but the lens power was too weak for both eyes.

Grand Central Optical Co., Inc., Grand Central Sta.—Prescription incorrectly filled. Distance between optical centers of lenses five millimeters off. Wrong shape lenses put into frames. Power too strong for both eyes.

Hillman Kohan Vision Center, 247-22 So. Conduit Ave., Rosedale—Prescription incorrectly filled. Correction for astigmatism 15 degrees off. Bridge of the frame one size too small. Distance between optical centers three millimeters off. Power too weak in both eyes.

Kalmus Optical Co., 229 E. 86th St.—Prescription incorrectly filled. Bridge on frame one size too small. Distance between optical centers two millimeters too small. Power too weak in both eyes.

Korvette Optical World, Herald Square—Three minute eye examination. Prescription incorrectly filled. Power too weak in both eyes. Axis five degrees off.

Lugene Opticians, 38 E. 57th St.—Old glass-

es duplicated, but copied totally incorrectly. The wrong prism was induced. Correction for astigmatism in left eye 15 degrees off. Distance between optical centers 14 millimeters off.

Macy's, Herald Square—Prescription filled correctly, but the lens power was too weak for both eyes. Correction for astigmatism five degrees off in left eye.

Meyrowitz Inc., 555 Madison Ave.—These opticians duplicated Wyatt's old glasses perfectly. Temples on frames were short.

Nassau-Fulton Group Optical Plan, 87 Nassau St.—Prescription incorrectly filled. Power too weak in both eyes. Correction for astigmatism five degrees off. Wrong shape lenses for the frame used.

Pildes Opticians, 147 E. 86th St.—Filled prescription, included an incorrect prism for left eye, written prescription did not. Correction for astigmatism 15 degrees off in left eye, four degrees off in right eye. Lense power too weak for both eyes.

Sandow, 665 Lex. Ave.—Grossly incorrect. Lens put in frame incorrectly. Axis correction for astigmatism found 84 degrees off in right eye, three degrees off in left eye. Distance between optical centers, six millimeters off. Prescription incorrectly filled.

South Shore Opticians Inc., 225 W. 34th St.—Distance between optical centers four millimeters off. Frame at temples one size too small. Written prescription had astigmatic correction in right eye two degrees off. Filled prescription mysteriously corrected the mistake.

Sight N' Style Optical, 447 Fulton St.—Distance between optical centers three millimeters off. Power too weak in both eyes. Axis correction for astigmatism 10 degrees off in left eye.

Sterling Optical Co., 795 Lex. Ave.—Correction for astigmatism 10 degrees off in left eye, four degrees off in right in filled prescription, although the written prescription was correct for the astigmatic component for the right eye. Power too weak in both eyes. Prescription incorrectly filled.

Ultimate Spectacle Inc., 1032 Third Ave.—Temple size in frames one size too large. Bridge of frame one size too small. Frames overheated by lab man resulting in small indentations. Distance between optical centers seven millimeters off. Prescription much too weak for both eyes. Astigmatic correction two degrees off in filled prescription, correct in written prescription.

Vision Fashion Eyewear, 6 E. 46th St.—Axis correction for astigmatism five degrees off in left eye. Lens power too weak for both eyes. Prescription incorrectly filled.

CONGRESSMAN BRADEMAS TESTIFIES ON AGE DISCRIMINATION

HON. JOHN M. MURPHY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. MURPHY of New York. Mr. Speaker, my colleague JOHN BRADEMAS, the majority whip, has been one of the most effective champions of the vulnerable citizens in our society, particularly older Americans, through his work as chairman of the Subcommittee on Select Education.

He was the sponsor of the Age Discrimination Act of 1975. In addition to prohibiting unreasonable discrimination based on age in federally assisted activities, the act directed the U.S. Commission on Civil Rights to undertake a study of the problem of age discrimination. The Commission's study will aid the Secretary of Health, Education, and Welfare in formulating regulations to enforce the act. These regulations will take effect no sooner than January 1, 1979.

As part of the Commission's study, Congressman BRADEMAS testified at the Civil Rights Commission's hearing on age discrimination on September 26. At this point in the RECORD I insert Congressman BRADEMAS' eloquent statement as well as the introductory remarks by Arthur Flemming, the Chairman of the U.S. Commission on Civil Rights:

Chairman FLEMMING. Congressman Brademas. We are honored at this time to have with us Congressman John Brademas from Indiana, majority whip of the U.S. House of Representatives, Chairman of the Subcommittee on Select Education, Committee on Education and Labor. I know that if it were not for the leadership of Congressman Brademas, with the able assistance of his staff director, we wouldn't be here today. We wouldn't be holding hearings on the aged Discrimination Act of 1975. I just want to say to Congressman Brademas, how much I personally appreciate the leadership that he provided in the Congress which made it possible for this particular Act to be included in the older Americans amendments of 1975.

Its just one additional illustration of how indebted all of us who have been working in the field of aging are to you and to the quality of your leadership. We do appreciate and we're so grateful that you have found it possible to come here and be with us at the opening of these hearings. I know you have a hearing on the Hill very shortly and we will be delighted to hear from you at this time.

Congresesman BRADEMAS. Thank you very much, indeed, Chairman Flemming and distinguished members of the Commission on Civil Rights. Allow me at the outset to express my own very warm appreciation for your generous comments and to salute you and your colleagues on the Commission for the leadership that you have given in this and other fields important to securing equal opportunity for all of the people of our country.

I am delighted to be able to appear before you today to testify at your national hearings on Age Discrimination. It is perhaps appropriate that as sponsor of the Age Discrimination Act of 1975, I begin by reviewing some of the history that brings us here this morning.

As you know, the Age Discrimination Act of 1975 provides that "no person in the United States shall, on the basis of age, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance."

The Act further provides that this prohibition against age discrimination shall be implemented pursuant to regulations promulgated by the Secretary of Health, Education, and Welfare. These regulations may not take effect before January 1, 1979.

The Act also specifies that it is not a violation reasonably to take age into account when necessary in order to achieve the objectives of Federal programs.

Finally, the Act charges the Commission on Civil Rights with undertaking, "a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance."

Mr. Chairman, this law, like most laws that chart new legislative territory, was the product of compromise. My House colleagues and I were persuaded that age discrimination was a serious and shameful problem and that it should be prohibited immediately. Our Senate colleagues agreed that there was a problem, but they were troubled by the unanticipated dangers that might exist in the uncharted territory into which we were forging.

The outcome of our deliberations was the creation of a multi-staged process. We set forth immediately the principle of non-discrimination on the basis of age. We provided for the study which the Commission is now conducting and, finally, we delayed enforcement of the prohibition against age discrimination in Federally assisted programs until January 1, 1979.

Thus this Commission and your study will play an important role in the realization of the goal of ending discrimination based on age. You are a link between the recognition and enunciation by Congress of the principle that age discrimination is repugnant to the ideal of human justice in our nation and the implementation through specific regulations of that principle in day to day practice.

Your study will provide a data base and detailed analysis that will help the Secretary of Health, Education, and Welfare to formulate regulations that will be effective in ending age discrimination while at the same time producing regulations that are not arbitrary, capricious or unnecessarily burdensome in their impact.

Mr. Chairman, I would like to commend the Commission for the thoroughness and diligence with which you have undertaken your complex and difficult assignment. I am particularly impressed because you have taken your inquiry to the people. You have sought information and counsel from officials at all levels of government. You have received the views of advocate groups and representatives of a wide variety of citizens affected by age discrimination. You have aggressively pursued your investigations and research at 6 sites throughout the nation rather being a passive instrument to receive whatever constituents could find their way to Washington.

In my view, the sweep of American history as reflected in public policy reflects the unfolding of a basic theme. This theme is the progressive lowering of barriers that deny to some citizens full access to the opportunities and benefits of our society. One can trace this history from the elimination of religous qualifications for voting in the early nineteenth century, to the Thirteenth, Fourteenth, and the Fifteenth Amendments to the Constitution following the Civil War, to women's suffrage and to a national policy encouraging collective bargaining and providing workers the opportunity to have a voice in shaping their destiny in the work place.

In the last two decades this movement has accelerated.

Title VI of the Civil Rights Act of 1965 prohibits discrimination based on race, religion or national origin. Title IX of the Education Amendments of 1972 prohibits discrimination based on sex. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against the handicapped persons. The Age Discrimination in Employment Act of 1967 prohibits age discrimination in matters such as hiring, job retention and compensation. Legislation to strengthen and broaden this Act is currently pending before Congress. And most recently there is the Age Discrimination Act of 1975 which complements the Age Discrimination in Employment Act.

I believe that all of these are basic civil rights laws. They are all based on the prin-

ciple that every individual should be judged on his or her merits and not on the basis of irrelevant factors like race, religion, national origin, sex, handicap or age. Each of these civil rights laws affirms that judgments about people should be based on their abilities and performance and not on stereotyped assumption and prejudices. These are legislative enactments all founded on the belief that it is a fundamental injustice to deny to any individual access to the fruits of our society based on such arbitrary criteria as age.

It was in response to the self-evident justice of the proposition that there should not be age discrimination and it was in concert with the tide of the history of American public policy that Congress enacted the Age Discrimination Act of 1975.

We also, of course, on the subcommittee which I chair, heard testimony illustrating in great detail age discrimination in education, health programs, social services, transportation, housing and nutrition programs. So we acted not only on the basis of principle but also in response to evidence of pervasive and unconscionable age discrimination in our society.

I very much hope that the Age Discrimination Act will become the national example to combat ageism in our country, for no longer can we deprive our society of the special contribution offered by older adults. I would also emphasize that the problem of age discrimination is not confined to the elderly. As you well know, even someone in his thirties can be discriminated against on the basis of age, if, for example he or she is applying for admission to medical school.

We have made some significant strides in combatting age discrimination. We still have a long way to go. But we are headed in the right direction, and I believe that we are swimming with rather than against the tide of American history. My commitment to Federal policy that enhances the dignity and civil rights of every citizen remains unwavering.

I shall not take more of your time this morning because in a sense my appearance is only ancillary to your central task of gathering hard evidence and doing careful analysis that will serve as a foundation for effective implementation of the Age Discrimination Act of 1975.

I do, however, want to take this opportunity to:

First, commend you for a job that has, thus far, been very well done;

Second, express my own continuing commitment to and support for the objective of ending ageism in our nation; and

Third, to indicate the importance that I attach to your report and my eagerness to see the finished product in the near future.

Finally, Mr. Chairman, let me just add one other word as this is the first time that I've ever had the privilege of appearing before your Commission, just to say a general word about it, I believe, there are extraordinary valuable contributions which this Commission, its present members and your predecessors have made to wider understanding of the whole range of civil rights problems to which I referred in my statement. I have a particular interest in this Commission in a personal sense, I suppose, because one of your distinguished, predecessors, Mr. Chairman, is my friend and constituent, the Reverend Father Theodore Hesburgh, the president of the University of Notre Dame. I have been deeply impressed by the contributions that Father Hesburgh has made as Chairman of this Commission. I have been equally impressed, Mr. Chairman, by the contributions that you yourself have made so I'm all the more pleased to have had the chance to appear before you this morning.

POSTAL SERVICE

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. HARKIN. Mr. Speaker, the U.S. Postal Service brass in Washington seems to have forgotten that its primary purpose for being is to provide an essential service to all Americans.

Their primary goal is profit, it is clear, and they seem ready and willing to sacrifice service to meet that goal.

They have proposed massive closings of small town post offices, elimination of 6 day deliveries, and have piled rate hike upon rate hike, regardless of the consequences, in their effort to turn a profit.

The saddest part of all this is that the Postal Service was never intended to make a profit, just as police and fire departments are not expected to show a profit. They are all basic services, provided to all Americans. They are not moneymaking propositions.

Dottie Graham, copublisher of the Beacon-Enterprise, of Tabor, Iowa, has written an excellent editorial on just what this misguided attitude of the Postal Service brass in Washington may mean for rural Americans, if it is allowed to persist.

She concludes with a ringing endorsement of H.R. 7700, an endorsement with which I wholeheartedly concur.

I commend her article to the attention of my colleagues, and insert it to be printed at this point in the RECORD:

[From the Tabor (Iowa) Beacon-Enterprise, Aug. 17, 1977]

DOTS . . . . & DASHES — — — — FROM DRG

I am not a fan of the U.S. Postal Service. For a small town weekly newspaper publisher to be a fan of the U.S. Postal Service is akin to a 19th century English prostitute being in love with Jack The Ripper.

Compared to the U.S. Postal Service, I think dove hunters are terrific.

That's how much I like the U.S. Postal Service.

Which is not to say that I am going to run down to the Tabor Post Office and bite Lyle Van Scyoc.

My quarrel is not with our local postal employees. They are as much victims of the system as anyone else.

Remember the Postal Service wants to eliminate their jobs too. They want to eliminate their jobs, my job and anyone else's job that depends on the delivery of mail in the U.S. of America.

No, my quarrel is not with the employees, those people still struggling against all odds to give service. "Service" is the last thing that the postal bureaucracy is interested in giving.

What it is interested in is something of a mystery. Perhaps what it really has is a death wish. A death wish that will certainly be fulfilled if nothing is done to change the structure of this behemouth created by the Nixon Administration.

In the last five years the second class postal rates, (for newspapers and magazines) have risen over 500 percent.

And now, with a twenty percent increase only last month, the Postal Service has filed for a new thirty percent increase.

In addition the postal service is seeking to impose a surcharge in the amount of two cents per copy for all publications receiving "newspaper treatment" or "red tag" delivery.

All of this is outrageous. But that isn't enough for the postal service. In addition to the rate increase the postal service plans to cut back on service.

You may think you already know about this part, the elimination of Saturday delivery. Hope, that's not it. One new plan calls for three-day delivery. Another plan offered calls for the slowing of overnight processing of mail—the peak period of mail volume—to save money.

As rates skyrocket and service deteriorates, more and more large volume mail users will find alternative delivery systems. And the postal service will shrink and shrink, until it is no more.

What does all this mean to the average American citizen? It means that he (and she) will be at the mercy of private delivery mail companies and the telephone companies. There will be no alternative. There will be no way to communicate except by these methods.

What does this mean to a large segment of this country's free press? Absolute disaster.

The small weekly newspaper will be a thing of the past. In fact the only newspapers that will survive will be those large enough to afford private carriers.

Out of county and out of state delivery will be so expensive that it will be prohibitive. Besides, it will take so long for delivery that it would hardly be worth it at the present price.

And when your small newspapers go, what will replace them?

Who will gather the local news, write it and present it in a permanent easy to understand form?

Who will put legal notices before the public?

How will you know when there is a special meeting of the school board or the town council, or any other governmental body, club or group?

How will you learn what the county, school and town budgets are to be?

Where will you see referendum, and ballots, biographies of local candidates and their stands on the issues of the day? How will you inform yourself as a voter?

Where will you find the birth, marriage and death notices? Sure, you can go to the courthouse, but will those records tell you what color the bridesmaids gowns were—or the contributions to the community made by the deceased? Each story, in its own way, is important, to the families involved, to the people of the community who want to be kept informed of the important moments in the lives of their neighbors and friends.

Where will the local merchants of the town advertise? With the death of the postal service, with the death of the local print media—radio and television will have eliminated a major competitor and the cost of their advertising will increase dramatically. Your local businessman may very well be shut out of the market, unable to advertise his wares, unable to compete against large chain stores, with high advertising budgets.

The small town newspaper is the voice of the community. In one issue it tells more about the high school sports program, the 4-H achievements, the honors bestowed on its citizens, the tragedies that befall them, the happiness they may be experiencing, than you could gather by yourself in a month.

And all this is being threatened. Why? Because the so-called reform of the postal

service has created a bureaucracy that cares nothing for service. It has been commissioned to consider only "cost" in setting postal rates and in carrying out mail delivery.

Now everyone wants to be aware of cost, but the postal bureaucracy is not accountable for the cost it creates—such as the huge salary increases it granted to postal workers, salaries beyond even the generous schedules of the federal civil service.

It is not accountable for its fat administrative costs or for the inefficient use of its equipment and personnel.

We have to stop the postal service from destroying itself. The only way to do that is to 1) insure continued and increased appropriations from the public treasury to maintain the basic system and ensure continuation of adequate public service, 2) overturn a federal appeals court ruling that sets postal rates according to "cost accounting" techniques exclusively, and to establish rates which reflect public policy judgments and realistic market factors and 3) we must restore postal service public accountability.

Congress should have some say in major rate and service matters, and the President should have some mechanism for input into basic management of the postal system.

We certainly don't advocate return to the old political postal system but we should have, must have, some control over the service and the decisions made by the service which will have such dramatic effects on our American way of life.

Help save your post office; help save your local newspaper; keep the "service" in postal service.

Write to your congressmen and senators and tell them you support H.R. 7700, a bill now before the house, which will accomplish those three steps just listed.

If you don't have time to write, clip this article and send it.

Do it now, while you can still mail a letter and expect it to arrive before the end of the month.

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